

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Joseph M. Strickland, Master-in-Equity Judge

Case No. 2014-CP-40-3950
Appellate Case No. 2016-001895

RECEIVED

OCT 31 2017

SC Court of Appeals

First Citizens Bank and Trust Company, Inc., successor by merger to
Community Resource Bank, N.A.,.....Respondent,

v.

SOH Properties, LLC, Ivan A. Roldan, and Eugene G. McDonald a/k/a
Eugene G. McDonald, III, Defendants,

Of whom Eugene G. McDonald a/k/a Eugene G. McDonald, III, is the Appellant.

RECORD ON APPEAL

Eugene G. McDonald
4533 Ivy Hall Drive
Columbia, SC 29206
Pro se Appellant

Stanley H. McGuffin
Mary M. Caskey
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Columbia, SC 29211
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INDEX

PLEADINGS

Page

Summons and Complaint (June 20, 2014).....	1
Answer and Crossclaim of SOH Properties, LLC and Eugene G. McDonald, III, Individually (August 28, 2014).....	41
Summons to Defendant Ivan Roldan (November 26, 2014).....	45
Notice of Motion and Motion to amend Answer of SOH Properties, LLC and Eugene G. McDonald, III, Individually (November 26, 2014)	46
Notice of Motion and Motion to Strike Answer of Defendant SOH Properties, LLC, Motion for Entry of Default Judgment as to SOH Properties, LLC, and Memorandum of Law in Support (January 27, 2015)	48
Notice of Motion and Motion to Amend Answer of Defendant McDonald (February 25, 2015)	55
Order on Motion for Leave to Amend Answer of Eugene G. McDonald III and SOH Properties, LLC (February 27, 2015).....	63
Order Granting Motion to Strike Answer of Defendant SOH Properties, LLC (March 2, 2015).....	66
Motion for Order of Reference (March 13, 2015)	69
Plaintiff's Memorandum in Opposition to Defendant McDonald's Motion for Leave to Amend His Answer (July 27, 2015).....	71
Affidavit of Eugene Grissom McDonald, III, individually (July 28, 215)	78
Affidavit of Default Against Defendant Roldan by Defendant McDonald (August 31, 2015)	79
Order Granting Plaintiff's Motion for Order of Reference and Denying Defendant McDonald's Motion for Leave to Amend Answer to Assert Counterclaims (November 13, 2015).....	80
Master in Equity's Order and Judgment of Foreclosure and Sale (August 2, 2016)	83
Order of Deficiency Judgment (December 13, 2016).....	93

TRIAL TRANSCRIPT

Pre-Trial Motions/Opening Statements	96
--	----

Witness: Mr. Walker	
Examination by Respondent	107
Examination by Appellant	116
Reexamination by Respondent	122
Appellant: Eugene G. McDonald.....	128
Examination by Respondent	142
Witness: Mr. Davies	
Examination by Appellant	148
Examination by Respondent	162
Reexamination by Appellant.....	165

EXHIBITS

Appellant's Exhibits 1-8	185
Respondent's Exhibits A-H	205
Certificate of Counsel	247

COPY

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

Case No. 2014-CP-40-

First Citizens Bank and Trust Company,
Inc., successor by merger to Community
Resource Bank, N.A.,

Plaintiff,

vs.

SOH Properties, LLC, Ivan A. Roldan,
and Eugene G. McDonald aka Eugene G.
McDonald III,

Defendants.

SUMMONS
Mortgage Foreclosure
Deficiency Demanded
Non-Jury

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2014 JUN 20 11:15:15
JANET T. FORTNEY
CLERK, CC

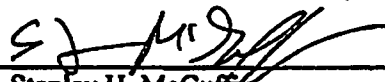
(01798.1203)

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, or otherwise appear and defend, and to serve a copy of your Answer to the said Complaint upon the subscriber at his offices, 1201 Main Street, 22nd Floor (29201-3226), Post Office Box 11889, Columbia, South Carolina 29211-1889, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time period aforesaid, or otherwise appear and defend, the Plaintiff in this action will apply to the Court for the relief demanded therein, and judgment by default will be rendered against you for the relief demanded in the Complaint.

YOU WILL ALSO TAKE NOTICE that should you fail to Answer the foregoing Complaint, the Plaintiff will move for a general Order of Reference of this cause to the Master-in-Equity or Special Referee for this county, which Order shall, pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, specifically provide that the said Master-in-Equity or Special Referee is authorized and empowered to enter a final judgment in this cause.

HAYNSWORTH SINKLER BOYD, P.A.

By:


Stanley H. McGuffin

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Attorneys for Plaintiff

June 18, 2014

COPY

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

Case No. 2014-CP-40-

First Citizens Bank and Trust Company,
Inc., successor by merger to Community
Resource Bank, N.A.,

Plaintiff,

vs.

SOH Properties, LLC, Ivan A. Roldan,
and Eugene G. McDonald aka Eugene G.
McDonald III,

Defendants.

COMPLAINT
Mortgage Foreclosure
Deficiency Demanded
Non-Jury

2014 JUN 20 11:15
CLERK OF COURT
RICHLAND COUNTY
SOUTH CAROLINA

(01798.1203)

Plaintiff First Citizens Bank and Trust Company, Inc., successor by merger to Community Resource Bank successor by merger to Florence National Bank, ("Plaintiff"), complaining of the above-captioned defendant(s), alleges as follows:

1. This is an action for foreclosure of certain mortgages upon certain real estate in Richland County, South Carolina.
2. Plaintiff is a state banking association organized and existing under the laws of South Carolina.
3. On information and belief, defendant SOH Properties, LLC, is a limited liability company with its principal place of business in Richland County, State of South Carolina.
4. On information and belief, defendant Ivan A. Roldan is a citizen and resident of Richland County, State of South Carolina.
5. On information and belief, defendant Eugene G. McDonald aka Eugene G. McDonald III is a citizen and resident of Richland County, State of South Carolina.

6. The real property hereinafter described, that is the subject of this foreclosure action, is situated and located in the County of Richland, State of South Carolina; therefore, this Court has proper jurisdiction over the subject matter of and the parties to this action.

**FOR A FIRST CAUSE OF ACTION
(Foreclosure of 2007 Mortgage)**

7. Plaintiff reincorporates and realleges each of the foregoing allegations as fully as if repeated herein verbatim.

8. For valuable consideration given, on or about April 20, 2007, Defendant SOH Properties, LLC ("SOH") executed and delivered to Plaintiff a South Carolina – Universal Note in the original principal amount of Seventy Four Thousand Five Hundred and No/100 (\$74,500.00) Dollars ("Note-1"). A true and correct copy of the Note-1 is attached hereto as Exhibit A, and its terms thereof are incorporated herein by reference.

9. To secure the repayment of the Note-1, and the debt evidenced thereby, SOH executed and delivered unto Plaintiff a certain Real Estate Mortgage dated April 20, 2007 ("Mortgage-1"), whereby SOH mortgaged to Plaintiff the real property described in the Mortgage-1 ("Mortgaged Property"). The Mortgage-1 was recorded on April 26, 2007, in the Office of the Register of Deeds for Richland County in Book 1306 at Page 3670. A true and correct copy of Mortgage-1 is attached hereto as Exhibit B, and its terms thereof are incorporated herein by reference.

10. The Mortgaged Property is more fully described as follows:

All that certain piece, parcel, or lot of land, with improvements thereon, situate, lying and being in the County of Richland, State of South Carolina, described as Lot Nine (9), Hutto Court as shown on a plat of Hutto Court and showing Hutto Court Extension by William Wingfield, dated July 10, 1952, recorded July 25, 1952 in Book 'O' at Page 130, Slide 14, having the following boundaries and measurements to wit: on the Northwest by Lot Eight (8) whereon it measures for a distance of 115.2 feet; on the Northeast by property now or formerly of "Bayview" whereon it measures for a distance of 120.0 feet; on the Southeast by Lot No. 10 whereon it measures for a distance of 145.1 feet; on the Southwest by the right-of-way of Hutto Court whereon it fronts and measures for a distance of

50.0 feet, all as more fully shown on a said plat, to which reference is hereby, all as more fully shown on said plat, to which reference is hereby craved, be all measurements a little more or less.

This being the same property conveyed unto SOH Properties, LLC, by deed from Ivan A. Roldan and Shannon M. McDonald, dated September 15, 2004, recorded September 17, 2004, in the Register Deeds Office for Richland County in the Record Book 978 at Page 1709, 1710, 1711, and 1712.

TMS No: 14107-04-25

Property Address: 52 Hutto Court, Columbia, SC 29204

11. SOH is the legal owner of the Mortgage-1 Property.
12. Mortgage-1 is a valid first priority mortgage lien on the Mortgaged Property.
13. Plaintiff is the current owner and holder of Mortgage-1.
14. The mortgage loan is NOT owned, securitized or guaranteed by the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac) and is not subject to modification under the Home Affordable Modification Program (HMP). Plaintiff is not a participant in the HMP.
15. Note-1 and Mortgage-1 will hereinafter be referred to as the "Loan Documents-1" unless individually referred to.
16. Loan Documents-1 provide that upon SOH's failure to make payments thereunder when due, the entire outstanding balance under Note-1 shall at the option of Plaintiff, become immediately due and payable, and Plaintiff may foreclose Mortgage-1.
17. SOH is in default under the terms of the Loan Documents-1 by failing to make payments when due.
18. Plaintiff has and does hereby elect to declare the total unpaid balance of principal and interest on Note-1 due and payable and does hereby elect to foreclose its Mortgage-1 on the Mortgage-1 Property, reserving, however, any and all other rights and remedies Plaintiff may

have under the Loan Documents-1 including the right to a deficiency judgment and the right to judgment against any other person or entity liable for the debt.

19. There is due and owing on the Loan Documents-1, as hereinafter described, as of April 1, 2014, the sum of Seventy Six Thousand Eight Hundred Seventy Five and 87/100 Dollars consisting of:

Current Principal Balance	\$	66,330.98
Accrued but unpaid interest	\$	3,060.05
Late Fees	\$	64.00
Taxes	\$	6,595.84
Appraisal Fees	\$	<u>825.00</u>
Total balance on Loan Documents-1	\$	76,875.87

Interest continues to accrue at Note-1's current rate of 8.250% *per annum* (which is currently \$16.90 *per diem*). In addition to these amounts due as of April 1, 2014, other interest charges and fees may be due and owing.

20. Despite demand, SOH has not paid the aforesaid amounts due under the Note-1.

21. The Note-1 provides an award of attorneys' fees and costs, stating, "I agree to pay all costs of collection. . . if you hire an attorney to collect this note, I also agree to pay any fee you incur with such attorney plus court costs . . ."

22. Plaintiff has placed this matter with the undersigned attorneys for collection.

23. That upon information and belief, certain costs for inspecting and securing the subject property have been incurred by the Plaintiff as a result of this delinquency and Plaintiff is informed and believes it is entitled to reimbursement for such charges, if any.

24. If Plaintiff secures the premises being foreclosed herein, Plaintiff's costs of securing said premises should be added to any judgment rendered on its behalf. If Plaintiff pays any utility charges constituting a lien on said premises, Plaintiff's costs should be added to any judgment rendered on its behalf.

25. Plaintiff does not waive, but specifically demands judgment against SOH for the full amount found to be due to Plaintiff on the Loan Documents-1 held by Plaintiff, with the right to enter a personal deficiency judgment against SOH for any deficiency in this action remaining after the sale of the Mortgage-1 Property.

FOR A SECOND CAUSE OF ACTION
(Foreclosure of 2009 Mortgage)

26. Plaintiff reincorporates and realleges each of the foregoing allegations as fully as if repeated herein verbatim.

27. For valuable consideration given, on or about August 31, 2009, SOH executed and delivered to Plaintiff a Commercial Note in the original principal amount of Fourteen Thousand Nine Hundred Thirty Seven and 37/100 (\$14,937.37) Dollars ("Note-2"). A true and correct copy of Note-2 is attached hereto as **Exhibit C**, and its terms thereof are incorporated herein by reference.

28. To secure the repayment of the Note-2, and the debt evidenced thereby, SOH executed and delivered unto Plaintiff a certain Mortgage of Real Estate dated August 31, 2009 ("Mortgage-2"), whereby SOH mortgaged to Plaintiff the Mortgaged Property. Mortgage-2 was recorded on September 3, 2009, in the Office of the Register of Deeds for Richland County in Book 1553 at Page 2704. A true and correct copy of Mortgage-2 is attached hereto as **Exhibit D**, and its terms thereof are incorporated herein by reference.

29. Mortgage-2 Property is more fully described as follows: *See ¶ 10 supra.*

30. SOH is the legal owner of the Mortgage-2 Property.

31. Mortgage-2 is a valid mortgage lien on the Mortgaged Property.

32. Plaintiff is the current owner and holder of the Mortgage-2.

33. The mortgage loan is NOT owned, securitized or guaranteed by the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac) and is not subject to modification under the Home Affordable Modification Program (HMP). Plaintiff is not a participant in the HMP.

34. Note-2 and Mortgage-2 will hereinafter be referred to as the "Loan Documents-2" unless individually referred to.

35. The Loan Documents-2 provide that upon SOH's failure to make payments thereunder when due, the entire outstanding balance under Note-2 shall at the option of Plaintiff, become immediately due and payable, and Plaintiff may foreclose Mortgage-2.

36. SOH is in default under the terms of the Loan Documents-2 by failing to make payments when due.

37. Plaintiff has and does hereby elect to declare the total unpaid balance of principal and interest on Note-2 due and payable and does hereby elect to foreclose its Mortgage-2 on the Mortgage-2 Property, reserving, however, any and all other rights and remedies Plaintiff may have under the Loan Documents-2 including the right to a deficiency judgment and the right to judgment against any other person or entity liable for the debt.

38. There is due and owing on the Loan Documents-2, as hereinafter described, as of April 1, 2014, the sum of Sixteen Thousand Two Hundred Forty Three and 09/100 Dollars consisting of:

Current Principal Balance	\$	12,737.06
Accrued but unpaid interest	\$	3,456.03
Late Fees	\$	<u>50.00</u>
Total balance on Loan Documents-2	\$	16,243.09

Interest continues to accrue at Note-2's current rate of 7.000% *per annum* (which is currently \$2.47 *per diem*). In addition to these amounts due as of April 1, 2014, other interest charges and fees may be due and owing.

39. Despite demand, SOH has not paid the aforesaid amounts due under Note-2.

40. Note-2 provides an award of attorneys' fees and costs, stating, "I agree to pay all costs of collection. . . . if you hire an attorney to collect this note, I also agree to pay any fee you incur with such attorney plus court costs . . .".

41. Plaintiff has placed this matter with the undersigned attorneys for collection.

42. That upon information and belief, certain costs for inspecting and securing the subject property have been incurred by the Plaintiff as a result of this delinquency and Plaintiff is informed and believes it is entitled to reimbursement for such charges, if any.

43. If Plaintiff secures the premises being foreclosed herein, Plaintiff's costs of securing said premises should be added to any judgment rendered on its behalf. If Plaintiff pays any utility charges constituting a lien on said premises, Plaintiff's costs should be added to any judgment rendered on its behalf.

44. Plaintiff does not waive, but specifically demands judgment against SOH for the full amount found to be due to Plaintiff on the Loan Documents-2 held by Plaintiff, with the right to enter a personal deficiency judgment against SOH for any deficiency in this action remaining after the sale of the Mortgage-2 Property.

FOR A THIRD CAUSE OF ACTION
(Suit on Guaranty)

45. Plaintiff reincorporates and realleges each of the foregoing allegations as fully as if repeated herein verbatim.

46. As set forth herein, to further induce Plaintiff to enter into Loan Documents-1 and Loan Documents-2, and as additional security for the payment of the debt evidenced by Note-1 and Note-2, and for valuable consideration given, Defendants Ivan A. Roldan and Defendant Eugene G. McDonald aka Eugene G. McDonald III (collectively, the "Guarantors"), made, executed and

delivered unto Plaintiff, those certain Guaranty items dated April 30, 2007, October 30, 2007, June 18, 2008, and August 31, 2009 ("Guaranties"). True and correct copies of the Guaranties are attached hereto as Exhibit E, F, G, H and I, and the terms of each thereof are incorporated herein by reference.

47. Pursuant to the terms of the Guaranties, Guarantors guaranteed to Plaintiff the prompt payment when due of the entire indebtedness evidenced by Loan Documents-1 and Loan Documents-2.

48. SOH is in default under the terms of Loan Documents-1 and Loan Documents-2 by reason of, *inter alia*, its failure to make payments under Loan Documents-1 and Loan Documents-2 when due.

49. Neither SOH nor Guarantors have made payments of the amounts due under Loan Documents-1 and Loan Documents-2. Therefore, the Guaranties are in default.

50. The Guaranties provides in part, an award of attorneys' fees and costs.

51. Plaintiff has been forced to place the Guaranties with the undersigned attorneys for collection.

52. There is due and owing on Loan Documents-1 and Loan Documents-2 the total sum as more particularly described in paragraphs 18 and 36 *supra* plus attorneys fees and costs.

53. Guarantors have waived notice of presentment and demand for payment or performance, and have waived notice of dishonor.

54. Plaintiff has placed this matter with the undersigned attorneys for collection.

WHEREFORE, Plaintiff prays:

1. That the indebtedness due on the Loan Documents-1, Loan Documents-2, and Guaranties be computed, ascertained and established by this Court, together with all accrued

interest, all costs of this action and other costs of collection incurred by Plaintiff, and reasonable attorneys' fees, and that Plaintiff be granted judgment of foreclosure against Defendants SOH Properties, LLC, Ivan A. Roldan, and Eugene G. McDonald aka Eugene G. McDonald III, in that amount;

2. This Court issue its order:

- (a) Declaring Plaintiff's Mortgage-1 to be a valid first priority mortgage lien upon the Mortgaged Property;
- (b) Declaring Plaintiff's Mortgage-2 to be a valid lien upon the Mortgaged Property;
- (c) Directing that Plaintiff's Mortgage-1 and Mortgage-2 described herein be foreclosed and the Mortgaged Property hereinabove described be sold in accordance with the law and practices of this Court, and that the Defendant(s) and all other persons claiming by, through or under them, be barred and forever foreclosed of all right, title, interest and equity of redemption in and to the said Mortgaged Property or any part thereof;
- (d) Directing that out of the proceeds of the sale of the Mortgaged Property, after the costs of this action and of such sale have been deducted, Plaintiff be paid in full the amount due on its Loan Documents-1 and Loan Documents-2 with the interest thereon and attorneys' fees as set out above, and all amounts that it may hereafter and prior to such sale have to pay pursuant to the provisions of its Mortgage-1 and Mortgage-2 with the surplus, if any, to be distributed according to law; and

(e) Granting Plaintiff a personal judgment against Defendants SOH Properties, LLC, Ivan A. Roldan, and Eugene G. McDonald aka Eugene G. McDonald III, and

3. That the costs of this action be taxed against the Defendants; and
4. Granting Plaintiff such other and further relief as this Court may deem just and proper.

HAYNSWORTH SINKLER BOYD, P.A.

By: 

Stanley H. McGuffin

1201 Main Street, Suite 2200
Post Office Drawer 11889 (29211-1889)
Columbia, South Carolina 29201
(803) 779.3080 Tel
(803) 765.1243 Fax

Attorneys for Plaintiff

June 18, 2014

SON PREPENTER, LLC P.O. BOX 61672 COLUMBIA, SC 29260	COMMUNITY RESOURCE BANK N.A. MIDLANDS REGION POST OFFICE BOX 8 ROOSEVELT, SC 29130	Loan Number <u>4801</u> Date <u>05-20-2007</u> Maturity Date <u>05-20-2012</u> Loan Amount <u>\$ 74,500.00</u> Renewal Of _____
BORROWER'S NAME AND ADDRESS "i" includes cash advances, jointly and severally.	LENDER'S NAME AND ADDRESS "You" means the lender, its successors and assigns.	

For value received, I promise to pay to you, or your order, at your address listed above the **PRINCIPAL** sum of **SEVENTY FOUR THOUSAND FIVE HUNDRED AND NO/100** Dollars \$ 74,500.00

☒ **Single Advance:** I will receive all of this principal sum on 05-20-2007. No additional advances are contemplated under this note.
☐ **Multiple Advances:** The principal sum shown above is the maximum amount of principal I can borrow under this note. On _____ I will receive the amount of \$ _____ and future principal advances are contemplated.
Conditions: The conditions for future advances are _____

☐ **Open End Credit:** You and I agree that I may borrow up to the maximum amount of principal more than one time. This feature is subject to all other conditions and expires on _____

☐ **Closed End Credit:** You and I agree that I may borrow up to the maximum only one time (and subject to all other conditions).

INTEREST: I agree to pay interest on the outstanding principal balance from 05-20-2007 at the rate of 1.750% per year until 05-20-2012

☐ **Variable Rate:** This rate may then change as stated below.
☐ **Index Rate:** The future rate will be _____ the following index rate: _____

☐ **No Index:** The future rate will not be subject to any internal or external index. It will be entirely in your control.

☐ **Frequency and Timing:** The rate on this note may change as often as _____
A change in the interest rate will take effect _____

☐ **Limitations:** During the term of this loan, the applicable annual interest rate will not be more than _____ % or less than _____ %.

Effect of Variable Rate: A change in the interest rate will have the following effect on the payments:
☐ The amount of each scheduled payment will change. ☐ The amount of the final payment will change.

ACCRUAL METHOD: Interest will be calculated on a ACTUAL/360 basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:
☒ on the same fixed or variable rate basis in effect before maturity (as indicated above).
☐ at a rate equal to _____

☒ **LATE CHARGE:** If a payment is not made within 10 days after it is due, I agree to pay a late charge of 5.00% OF THE LATE AMOUNT WITH A MAX OF \$100.00

☒ **ADDITIONAL CHARGES:** In addition to interest, I agree to pay the following charges which ☐ are ☒ are not included in the principal amount above: LOAN FEE (\$50.00)

PAYMENTS: I agree to pay this note as follows:
56 MONTHLY PAYMENTS OF \$140.64 BEGINNING 05-20-2007 AND 1 BALLOON PAYMENT OF \$28,324.36 ON 05-20-2012.

ADDITIONAL TERMS:

☒ **SECURITY:** This note is separately secured by (describe separate document by type and date): MORTGAGE DATED 02/20/2007 RECORDED HEREWITH

(This section is for your internal use. Failure to file a separate security document does not make the agreement null and void on this note.)

Signature for Lender _____

RECALLER _____

PURPOSE: The purpose of this loan is REFINANCE FROM

SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE INCLUDING THOSE ON PAGE 21. I have received a copy on today's date.

SON PREPENTER, LLC
Eugene D. Prenter, Jr.
EUGENE D. PRENTER, JR., MEMBER
Wah A. Roldan
WAH A. ROLDAN, MEMBER

EXHIBIT A

14

4801

This document was prepared by (name, address, phone):
COMMUNITY RESOURCE BANK N.A. MIDLANDS REGION
POST OFFICE BOX 8
RIDGEWAY, SC 29130
(803) 337-2252

Book 1308-3670
2007030700 04/20/2007 15 0457-070 Mortgage
Fee: \$14.00 County Tax: \$0.00 State Tax: \$0.00
2007030700 Richard W. Radden Pitkin County REC

State of South Carolina Space Above This Line For Recording Date

REAL ESTATE MORTGAGE
(With Future Advance Clause)

1. **DATE AND PARTIES.** The date of this Mortgage is 04-20-2007 and the parties and their addresses are as follows:

MORTGAGOR: SOH PROPERTIES, LLC, A SOUTH CAROLINA CORPORATION
P.O. BOX 61072
COLUMBIA, SC 29260

☐ Refer to the Addendum which is attached and incorporated herein for additional Mortgagors.

LENDER: COMMUNITY RESOURCE BANK N.A. MIDLANDS REGION
ORGANIZED AND EXISTING UNDER THE LAWS OF THE UNITED STATES OF AMERICA
POST OFFICE BOX 8
RIDGEWAY, SC 29130

2. **MORTGAGE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (hereafter defined), Mortgagor grants, bargains, conveys and mortgages to Lender the following described property:
SEE ATTACHED EXHIBIT A

The property is located in RICHLAND at 52 KUTTO COURT
(County)
COLUMBIA, South Carolina
(Address) (City) (Zip Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property"). The term Property also includes, but is not limited to, any and all water wells, water, ditches, reservoirs, reservoir sites and dams located on the real estate and all riparian and water rights associated with the Property, however established.

SOUTH CAROLINA - AGRICULTURAL/COMMERCIAL REAL ESTATE SECURITY INSTRUMENT (NOT FOR AGRICULTURAL USE, AND NOT FOR RECORDING PURPOSES) (page 1 of 8)
EXP-1094 2001 Southern Systems, Inc., St. Cloud, MN Form AGCO-R254-SC 10/17/2003 *elm D.A.L.*

EXHIBIT B

3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount of the Secured Debt (hereafter defined) secured by this Mortgage at any one time shall not exceed \$ 74,500.00. This limitation of amount does not include interest, loan charges, commitment fees, brokerage commissions, attorneys' fees and other charges validly made pursuant to this Mortgage and does not apply to advances for interest accrued on such advances made under the terms of this Mortgage to protect Lender's security and to perform any of the covenants contained in this Mortgage. Interest under the Note will be deferred, accrued or capitalized; however, Mortgagor shall not be required to defer, accrue or capitalize any interest except as provided in the Note. Future advances are contemplated and, along with other future obligations, are secured by this Mortgage even though all or part may not yet be advanced. Nothing in this Mortgage, however, shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment would need to be agreed to in a separate writing.

4. **SECURED DEBT DEFINED.** The term "Secured Debt" includes, but is not limited to, the following:

A. The promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all extensions, renewals, modifications or substitutions (Evidence of Debt) (e.g., borrower's name, note amount, interest rate, maturity date):

B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Mortgage whether or not this Mortgage is specifically referred to in the evidence of debt.

C. All obligations Mortgagor owes to Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.

D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Mortgage, plus interest at the highest rate in effect, from time to time, as provided in the Evidence of Debt.

E. Mortgagor's performance under the terms of any instrument evidencing a debt by Mortgagor to Lender and any Mortgage securing, guarantying, or otherwise relating to the debt.

If more than one person signs this Mortgage as Mortgagor, each Mortgagor agrees that this Mortgage will secure all future advances and future obligations described above that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. This Mortgage will not secure any other debt if Lender fails, with respect to such other debt, to make any required disclosure about this Mortgage or if Lender fails to give any required notice of the right of rescission.

5. **PAYMENTS.** Mortgagor agrees to make all payments on the Secured Debt when due and in accordance with the terms of the Evidence of Debt or this Mortgage.

6. **WARRANTY OF TITLE.** Mortgagor covenants that Mortgagor is lawfully seized of the estate conveyed by this Mortgage and has the right to grant, bargain, convey, sell, and mortgage the Property and warrants that the Property is unencumbered, except for encumbrances of record.

7. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, fees, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Mortgage. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses which Mortgagor may have against parties who supply labor or materials to improve or maintain the Property.

8. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property and that may have priority over this Mortgage, Mortgagor agrees:

A. To make all payments when due and to perform or comply with all covenants.

B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.

C. Not to make or permit any modification or extension of, and not to request or accept any future advances under any note or agreement secured by, the other mortgage, deed of trust or security agreement unless Lender consents in writing.

9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of any lien, encumbrance, transfer, or sale, or contract for any of these on the Property. However, if the Property includes Mortgagor's residence, this section shall be subject to the restrictions imposed by federal law (12 C.F.R. 601), as applicable. For the purposes of this section, the term "Property" also includes any interest in all or any part of the Property. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Mortgage is released.

10. TRANSFER OF AN INTEREST IN THE MORTGAGOR. If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if (1) a beneficial interest in Mortgagor is sold or transferred; (2) there is a change in either the identity or number of members of a partnership or similar entity; or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity. However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Mortgage.

11. ENTITY WARRANTIES AND REPRESENTATIONS. If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Mortgagor makes to Lender the following warranties and representations which shall be continuing as long as the Secured Debt remains outstanding:

- A. Mortgagor is an entity which is duly organized and validly existing in the Mortgagor's state of incorporation (or organization). Mortgagor is in good standing in all states in which Mortgagor transacts business. Mortgagor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Mortgagor operates.
- B. The execution, delivery and performance of this Mortgage by Mortgagor and the obligation evidenced by the Evidence of Debt are within the power of Mortgagor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.
- C. Other than disclosed in writing Mortgagor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Mortgagor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.

12. PROPERTY CONDITION, ALTERATIONS AND INSPECTION. Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor will give Lender prompt notice of any loss or damage to the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor will not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restriction limiting or defining the uses which may be made of the Property or any part of the Property, without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor or any other owner made under law or regulation regarding use, ownership and occupancy of the Property. Mortgagor will comply with all legal requirements and restrictions, whether public or private, with respect to the use of the Property. Mortgagor also agrees that the nature of the occupancy and use will not change without Lender's prior written consent.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Mortgage. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

13. AUTHORITY TO PERFORM. If Mortgagor fails to perform any of Mortgagor's duties under this Mortgage, or any other mortgage, deed of trust, security agreement or other lien document that has priority over this Mortgage, Lender may, without notice, perform the duties or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance, if any construction on the Property is discontinued or not carried on in a reasonable manner. Lender may do whatever is necessary to protect Lender's security interest in the Property. This may include completing the construction.

Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Mortgage. Any amounts paid by Lender for insuring, preserving or otherwise protecting the Property and Lender's security interest will be due on demand and will bear interest from the date of the payment until paid in full at the interest rate in effect from time to time according to the terms of the Evidence of Debt.

14. ASSIGNMENT OF LEASES AND RENTS. Mortgagor assigns, grants, bargains, conveys and mortgages to Lender as additional security all the right, title and interest in the following (Property).

- A. Existing or future leases, subleases, licenses, guarantees and any other written or verbal agreements for the use and occupancy of the Property, including but not limited to, any extensions, renewals, modifications or replacements (Leases).
- B. Rents, issues and profits, including but not limited to, security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement.

Mortgagor will promptly provide Lender with copies of the Leases and will certify those Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Mortgagor may collect, receive, enjoy and use the Rents so long as Mortgagor is not in default. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Upon default, Mortgagor will receive

any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Amounts collected will be applied at Lender's discretion to the Secured Debt, the costs of managing, protecting and preserving the Property, and other necessary expenses. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment.

As long as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance.

Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional torts. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases.

15. CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS. If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

16. DEFAULT. Mortgagor will be in default if any of the following occur:

- A. Any party obligated on the Secured Debt fails to make payment when due;
- B. A breach of any term or covenant in this Mortgage, any prior mortgage or any construction loan agreement, security agreement or any other document evidencing, guarantying, securing or otherwise relating to the Secured Debt;
- C. The making or furnishing of any verbal or written representation, statement or warranty to Lender that is false or incorrect in any material respect by Mortgagor or any person or entity obligated on the Secured Debt;
- D. The death, dissolution, or insolvency of, appointment of a receiver for, or application of any debtor relief law to, Mortgagor or any person or entity obligated on the Secured Debt;
- E. A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
- F. A material adverse change in Mortgagor's business including ownership, management, and financial conditions, which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
- G. Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

17. REMEDIES ON DEFAULT. In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure, mediation notices or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Mortgage in a manner provided by law if this Mortgage is in default.

At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the Evidence of Debt, other evidences of debt, this Mortgage and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether expressly set forth or not. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require full and complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.

18. EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS. Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Mortgage. Mortgagor will also pay on demand all of Lender's expenses incurred in collecting, insuring, preserving or protecting the Property or in any inventories, audits, inspections or other examination by Lender in respect to the Property. Mortgagor agrees to pay all costs and expenses incurred by Lender in enforcing or protecting Lender's rights and remedies under this Mortgage, including, but not limited to, attorneys' fees, court costs, and other legal expenses. Once the Secured Debt is fully and finally paid, Lender agrees to release this Mortgage and Mortgagor agrees to pay for any recordation costs. All such amounts are due on demand and will bear interest from the time of the advance at the highest rate in effect, from time to time, as provided in the Evidence of Debt and as permitted by law.

19. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES. As used in this section, (1) "Environmental Law" means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601 et seq., all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) "Hazardous Substances" means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has

characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law. Mortgagor represents, warrants and agrees that, except as previously disclosed and acknowledged in writing:

- A. No Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
 - B. Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.
 - C. Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.
 - D. Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.
 - E. Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.
 - F. There are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.
 - G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.
 - H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.
 - I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.
 - J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.
 - K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Mortgage and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Mortgage without prejudice to any of Lender's rights under this Mortgage.
 - L. Notwithstanding any of the language contained in this Mortgage to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Mortgage regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.
20. **CONDEMNATION.** Mortgagor will give Lender prompt notice of any action, real or threatened, by private or public entities to purchase or take any or all of the Property, including any easements, through condemnation, eminent domain, or any other means. Mortgagor further agrees to notify Lender of any proceedings instituted for the establishment of any sewer, water, conservation, ditch, drainage, or other district relating to or binding upon the Property or any part of it. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims and to collect and receive all sums resulting from the action or claim. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Mortgage. This assignment of proceeds is subject to the terms of any prior mortgages, deed of trust, security agreement or other lien document.
21. **INSURANCE.** Mortgagor agrees to maintain insurance as follows:
- A. Mortgagor shall keep the Property insured against loss by fire, theft and other hazards and risks reasonably associated with the Property due to its type and location. Other hazards and risks may include, for example, coverage against loss due to floods or flooding. This insurance shall be maintained in the amounts and for the periods that Lender requires. What Lender requires pursuant to the preceding three sentences can change during the term of the Secured Debt. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Mortgage.
- All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "lender loss payee clause." Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor.

Unless Lender and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the Secured Debt, whether or not then due, with any excess paid to Mortgagor. If Mortgagor abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay the Secured Debt whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of scheduled payments or change the amount of the payments. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

- B. Mortgagor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against claims arising from any accident or occurrence in or on the Property.
- C. Mortgagor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing), under a form of policy acceptable to Lender.

22. NO ESCROW FOR TAXES AND INSURANCE. Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.

23. FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS. Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem necessary. Mortgagor warrants that all financial statements and information Mortgagor provides to Lender are, or will be, accurate, correct, and complete. Mortgagor agrees to sign, deliver, and file as Lender may reasonably request any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Mortgage and Lender's lien status on the Property. If Mortgagor fails to do so, Lender may sign, deliver, and file such documents or certificates in Mortgagor's name and Mortgagor hereby irrevocably appoints Lender or Lender's agent as attorney in fact to do the things necessary to comply with this section.

24. JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND. All duties under this Mortgage are joint and individual. If Mortgagor signs this Mortgage but does not sign the Evidence of Debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. Mortgagor agrees that Lender and any party to this Mortgage may extend, modify or make any change in the terms of this Mortgage or the Evidence of Debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Mortgage. The duties and benefits of this Mortgage shall bind and benefit the successors and assigns of Mortgagor and Lender.

If this Mortgage secures a guaranty between Lender and Mortgagor and does not directly secure the obligation which is guaranteed, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation including, but not limited to, anti-deficiency or one-action laws.

25. APPLICABLE LAW; SEVERABILITY; INTERPRETATION. This Mortgage is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Mortgage is complete and fully integrated. This Mortgage may not be amended or modified by oral agreement. Any section or clause in this Mortgage, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section or clause of this Mortgage cannot be enforced according to its terms, that section or clause will be severed and will not affect the enforceability of the remainder of this Mortgage. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Mortgage are for convenience only and are not to be used to interpret or define the terms of this Mortgage. Time is of the essence in this Mortgage.

26. NOTICE. Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Mortgage, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.

27. WAIVER OF HOMESTEAD. Except to the extent prohibited by law, Mortgagor waives all homestead exemption rights relating to the Property.

28. U.C.C. PROVISIONS. If checked, the following are applicable to, but do not limit, this Mortgage:

- ☐ **Construction Loan.** This Mortgage secures an obligation incurred for the construction of an improvement on the Property.
- ☐ **Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.
- ☐ **Crops; Timber; Minerals; Rents, Issues and Profits.** Mortgagor grants to Lender a security interest in all crops, timber, and minerals located on the Property as well as all rents, issues, and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs all of which shall also be included in the term "Property".

[Handwritten signature]

- ☐ **Personal Property.** Mortgagor grants to Lender a security interest in all personal property located on or connected with the Property. This security interest includes all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Mortgagor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property. The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.
- ☐ **Filing As Financing Statement.** Mortgagor agrees and acknowledges that this Mortgage also suffices as a financing statement and as such, may be filed of record as a financing statement for purposes of Article 9 of the Uniform Commercial Code. A carbon, photographic, image or other reproduction of this Mortgage is sufficient as a financing statement.

29. OTHER TERMS. If checked, the following are applicable to this Mortgage:

- ☐ **Line of Credit.** The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Mortgage will remain in effect until released.
- ☒ **Waiver of Appraisal Rights.** The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may, within thirty days after the sale of the mortgaged property, apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. **THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.**
- ☐ **Separate Assignment.** The Mortgagor has executed or will execute a separate assignment of leases and rents. If the separate assignment of leases and rents is properly executed and recorded, then the separate assignment will supersede this Security Instrument's "Assignment of Leases and Rents" section.
- ☐ **Additional Terms.**

SIGNATURES: By signing below, Mortgagor agrees to the terms and covenants contained in this Mortgage and in any attachments. Mortgagor also acknowledges receipt of a copy of this Mortgage on the date stated above on Page 1.

☐ Actual authority was granted to the parties signing below by resolution signed and dated _____.

Entity Name: SDX PROPERTIES, LLC

Eugene G. McDonald, III (Signature) (Date) (Seal)
EUGENE G. McDONALD, III, MEMBER

Ivan A. Roldan (Signature) (Date) (Seal)
IVAN A. ROLDAN, MEMBER 4-26-07

Signed, Sealed and delivered in the presence of:

Harrela W. Elliott (Witness)

Charles S. Smith (Witness)

☐ Refer to the Addendum which is attached and incorporated herein for additional Mortgagors, signatures and acknowledgments.

PROBATE:

STATE OF SOUTH CAROLINA, COUNTY OF Richland) ss.

Personally appeared before me the undersigned witness who, being duly sworn, deposed and said that (s)he saw the Mortgagor (and each Mortgagor if more than one) sign, seal and deliver the foregoing Mortgage and that (s)he, together with the other witness whose name appears as a witness, witnessed the execution thereof.

Sworn to and subscribed before me this 20TH day

of APRIL, 2007

Barbara W. Elliott
Notary Public for South Carolina

Charles E. Smith

My commission expires: 3-12-2011

EXHIBIT "A"*(Mortgage from SOH Properties, LLC to Columbia National Bank)*

All that certain piece, parcel or lot of land, with improvements thereon, situate, lying and being in the County of Richland, State of South Carolina, described as Lot 9, Hutto Court as shown on a plat of Hutto Court showing Hutto Court Extension by William Wingfield, dated July 10, 1952, recorded July 25, 1952 in Book O at page 130, Slide 14, having the following boundaries and measurements to wit: on the Northwest by Lot 8 whereon it measures for a distance of 115.2 feet; on the Northeast by property now or formerly of "Bayview" whereon it measures for a distance of 120.0 feet; on the Southeast by Lot 10 whereon it measures for a distance of 145.1 feet and on the Southwest by the right-of-way of Hutto Court whereon it measures for a distance of 50.0 feet, all as more fully shown on said plat, to which reference is hereby craved, be all measurements a little more or less.

This being the same property conveyed to Ivan A. Reidan and Shannon M. McDonald by deed of Stonegate Properties, Inc. dated June 2, 2004 and recorded June 8, 2004 in the Office of the Register of Deeds for Richland County in Book 943 at page 3622.

TMS# 14107-04-25

This document is not to scale

First Citizens

COMMERCIAL NOTE

AUGUST 11, 2009

COLUMBIA, SC

LOAN PURPOSE

I agree that the primary use of the loan proceeds is RENEWAL OF COMMERCIAL LOAN which is for Business or (if checked) ☐ Agriculture and not primarily personal, family, or household purposes.

CONDITION OF LOAN

You, First Citizens Bank and Trust Company, Inc. have loaned me \$ 14,227.27 (Principal) and I will comply with the provisions of this note which I have signed and I will comply with any other conditions to which we have agreed.

INTEREST

Interest is computed daily on the entire unpaid Principal balance and the scheduled payments are due precisely on the due dates. To the extent that payments are late or early, greater or less interest may be due over the life of the loan. Interest will be calculated on the basis of a 360 day year for the actual number of days elapsed. The per annum interest rate used in the calculation will be: ☒ 7.000 % Fixed ☐ First Citizens Prime + _____ %

☐ Wall Street Journal Prime + _____ % ☐ One (1) Month LIBOR + _____ % ☐ Three (3) Month LIBOR + _____ %

☐ If checked, my variable rate loan will have a minimum interest rate of _____ % and a maximum interest rate of _____ %.

Variable rate interest adjustments will be made based on the applicable rate index chosen. I recognize and acknowledge that you could make loans in certain situations below the applicable rate index. See additional variable rate provisions on reverse side of this Note. My rate will change as checked below:

First Citizens Prime changes will take effect ☐ daily or ☐ monthly on the first calendar day of the month following First Citizens Prime change. First Citizens Prime is an index used to price loans and is established by you at your discretion.

Wall Street Journal Prime changes will take effect ☐ daily based on the Prime Rate effective date as quoted in the "Money Rates" section of the Wall Street Journal or ☐ monthly on the first calendar day of the month based on the Prime Rate quoted in the "Money Rates" section of the Wall Street Journal, which section is dated for the last publishing day of the month prior to each interest rate change.

☐ One (1) Month and Three (3) Month LIBOR changes will take effect on the first calendar day of the month. The One (1) Month and Three (3) Month LIBOR indexes are the London Interbank Offered Rates quoted in the "Money Rates" section of the The Wall Street Journal, which section is dated for the last publishing day of the month prior to each interest rate change.

PAYMENT SCHEDULE

Principal and interest due in 11 equal consecutive MONTHLY payments of \$226.16 beginning SEPTEMBER 30, 2009 with one final balloon payment of principal plus accrued interest due AUGUST 11, 2010.

LATE CHARGES

A late charge of the higher of \$50 or 0.5% will be assessed for any single payment loan not paid, renewed, modified or extended within 10 days of its due date. Loans having more than one payment will be assessed a late charge of the higher of \$50 or 0.5% of the unpaid balance of any payment not paid, renewed, or modified or extended within 10 days of the due date of the payment.

OTHER CHARGES

I agree to pay the following Prepaid Finance Charges and Other Charges: Origination Fee: N/A Processing Fee: N/A Other Charge: N/A. At my request, Prepaid Finance Charges and Other Charges totaling N/A have been added to the Principal Amount listed above.

PLEDGE OF COLLATERAL

I am giving you a security interest in collateral described in the additional security section on the reverse side and to any collateral described below:

SECOND REAL ESTATE MORTGAGE ON PROPERTY LOCATED AT 52 HUNTO COURT COLUMBIA, S.C. COUNTY OF RICHLAND AND MORE FULLY DESCRIBED IN FIRST MORTGAGE DATED APRIL 4, 2007 AND RECORDED IN BOOK 1306-3670 ON APRIL 26, 2007 BY THE REGISTER OF DEEDS FOR RICHLAND COUNTY

FUTURE ADVANCES

☐ If checked, this is a future advance loan subject to the terms and conditions set forth in a Loan Agreement dated _____ which terms and conditions are incorporated herein by reference.

PROMISE

To repay my loan, I promise to pay to the order of First Citizens Bank and Trust Company, Inc. the Principal shown above plus interest accrued on the unpaid balance of the Principal for the actual number of days outstanding, at the interest rate described above, all according to the Payment Schedule shown above plus insurance and any other charges to which we may have agreed. If I have agreed to pay periodic interest payments or payments of equal principal plus interest, as shown in the Payment Schedule above, I understand that actual payments billed to me may vary from those shown in the Payment Schedule. Such differences may be due to more than one month to the first payment, or due to a difference in the number of days in each month, etc. This interest rate shall continue after default and/or judgment and shall remain in effect until all sums owing hereunder are paid.

PREPAYMENT

If the term of the loan exceeds one (1) year, the following prepayment penalty will apply to all business purpose loans. If within ten (10) years from the date of this note, I make any prepayment in any twelve (12) month period beginning with the date of this note or anniversary thereof ("Loan Year") I shall pay you a prepayment fee of four percent (4%) in years one or two, three percent (3%) in years three, four, or five, two percent (2%) in years six, seven, or eight, and one percent (1%) in years nine or ten of the amount by which the sum of prepayments made in any Loan Year exceeds the scheduled payments under this note. At bank's option, prepayment fees will be due and payable one month after the end of the Loan Year for partial prepayments or due at the time of prepayment when the amount is prepaid in full.

CO-BORROWER LIABLE

If I sign this agreement with another Borrower, I will individually be bound for the full amount owed and agree to the granting of one or more extensions without notice or demand of any kind. I also agree to the release or substitution of any collateral which secures this note.

REVERSE SIDE

Additional terms and conditions contained on reverse are a material part of this note and agreement.

ORGANIZATIONAL BORROWER - NAME AND ADDRESS

TAX ID NO. BORROWER(S)

S.S. NO.

BOH PROPERTIES, LLC
P.O. BOX 61073
COLUMBIA, SC 29260

Signature

BY: Raymond McDonald, III Member & SM
RAYMOND O. McDONALD, III, MEMBER

Address

BY: Ivan A. Roldan
IVAN A. ROLDAN, MEMBER

Signature

Address

☐ See Signature Addendum for additional signatures of Borrower(s).

RECEIVED 501/24858

Form 1234567 (1/02)

EXHIBIT

CONTINUED FROM PAGE 802

ADDITIONAL TERMS AND PROVISIONS

I understand that the paragraph heading on both the front and reverse side of this agreement is for convenience only and that they will not limit any of the provisions of this agreement.

Additional Security (Collateral). The Security Interest includes all items, insurance, accessories, and equipment I use with the Collateral, any proceeds and any products from the Collateral and other of unsecured credit insurance premiums written in connection with this loan. Except for a Security Interest on my principal dwelling, The Security Interest under this agreement also secures the payment of any other existing or future debt of mine to you which otherwise prohibited by law. I am not giving you a Security Interest in my principal dwelling, unless it is specifically listed as Collateral on any householder goods, unless they are being purchased with the proceeds of this contract and are also listed as Collateral on this contract. If my principal dwelling secures existing debt with you, I understand that I will not secure this loan unless my principal dwelling is specifically listed as Collateral on this contract. I am also giving you a Security Interest in any and all funds I have on deposit with you, except and excluding any funds which are in an Individual Retirement Account.

Documents. I am the owner of the Collateral and I have a certificate of title to the Collateral. I will promptly deliver the certificate to you upon your request. There are no Security Interest or liens on the collateral other than yours and those which I have told you about in writing. I will not permit any Security Interest or liens other than yours to be on the Collateral at any time without your prior written consent.

Safe. I will not sell, lease or otherwise dispose of the Collateral without your prior written consent.

Inspection. You may inspect the Collateral at any reasonable time. Upon your request, I will exhibit the Collateral to you or I will furnish you a written statement showing the whereabouts of the Collateral.

Location and Use. I will keep the Collateral in the state of my residence, but if the Collateral is a motor vehicle, boat, or an airplane, I may use it outside my state of residency in the course of my normal and customary use of the Collateral. I will not use the Collateral in violation of any law or in a manner inconsistent with any insurance policy.

Taxes. I will pay all taxes, inspection and other fees payable on the Collateral or payable for the use and operation of the Collateral when they are due and payable.

Financial Statements. I authorize you at any time and from time to time to file any financial statements, continuation statements, in lieu of continuation statements, or amendments in the jurisdictions that you may deem necessary to perfect your security interests in the collateral. I also agree to notify you 30 days in advance of any of the party changing the security interest, should either change my name, my state of organization, or my location. I will pay all filing fees and other fees and costs when such statements are filed or prior to a statement release.

Maintenance. I will keep the Collateral in good condition and repair and I will not permit anything to be done to the Collateral which would impact its use.

Failure to Pay Taxes, Fees and to Maintain Collateral and Payment of Other Liens on Collateral. If I fail to keep the Collateral in good condition and repair or if I fail to pay any taxes, inspection or other fees on the Collateral or if I fail to pay any cost and taxes for filing, financing, continuation and Security Interest filing statements or if any Security Interest or lien other than yours attaches or is on the Collateral, you may pay the same for my account and I will immediately pay to you any amounts so paid by you and as of your cost and expenses for so doing. Such amounts will be covered by the Security Interest I have granted for you and will accrue interest at the Annual Percentage Rate until paid.

Insurance. I will keep the Collateral insured against such risks and in such amounts as you may require from time to time. I will provide you proof of such insurance coverage at all times with you covered as the party to be paid in event of loss. I may harvest this coverage through an agent or company of my choice. However, this coverage must be acceptable to you. I will pay all premiums for this insurance when they are due and payable. If I fail to obtain the insurance or if I fail to pay the insurance premiums, you may obtain the insurance or pay the premiums. If you do this, I will immediately pay to you the amount equal to all monies you have advanced to obtain insurance and to pay insurance premiums. Any amounts advanced by you will earn interest at the then prevailing interest rate in accordance with the terms of this Note. Such amounts shall be covered by the Security Interest and then I have granted to you. However, if you decide not to obtain the insurance or pay the premiums, none of your rights and remedies against me will be prejudiced. All insurance proceeds under any insurance policy shall be payable to you to the extent of the monies I owe you. I will deliver to you the insurance policy or policies or a certificate of insurance. I assign you any insured or unsecured insurance premiums which may be due upon cancellation of any insurance policy. I direct the insurance company policies pay to you all insurance proceeds and returned or unsecured premiums. You are irrevocably authorized as my attorney-in-fact to endorse any check or check which may be payable to me as to collect any return or unsecured premiums or insurance proceeds. All insurance proceeds and returned or unsecured premiums received by you will be applied against the monies I owe you and any balance remaining will be paid to me.

Payments. Payments received by a teller in one of our branches on a business day before the close of business at that branch (generally 4:00 p.m.; 6:00 p.m. on Fridays at certain branches), will be considered received that day. Payments received after the close of business at that branch or anytime on a non-business day will be considered received on the next business day we are open. Please note that because we balance ATMs anytime between the hours of 12:00 noon and 2:00 p.m., a payment made through an ATM may be dated and credited one business day later than if the payment had been made in the lobby or at a drive-in window. If a payment is made through On-Line-Banking or Telephone Banking before 4:00 p.m. on a business day, we will consider that day to be the day of the payment. If a payment is to be mailed to a specific address furnished by the Bank, the payment will be considered received and credited to the account on the same business day received. If the payment is not mailed to the address furnished by the Bank, crediting of the payment may be delayed. Every day is a business day, except Saturdays, Sundays, and federal holidays. Some methods of payment may not be available on all products. You should check with a Bank representative if you have questions concerning available payment methods. If you make any payments on this Agreement by check, draft, or other item that is dishonored for any reason, you agree to pay the Bank's reasonable check charge as allowed by law. This charge will be in addition to any NSF or similar charge, which may be assessed against the account used by the paying Bank.

Whole Business Repayment Due (Default). If this note is payable on demand or has a Call Feature that has caused the specified calendar date, you may demand that this loan be paid in full immediately whether or not my payments are made on time. If I fail to make any scheduled payment when due, you may demand that this loan be paid in full immediately. If I, or any guarantor, should die, disfigure, become bankrupt, file, assign assets for benefit of creditors, be hospitalized, become insolvent, change ownership (if organized entity) by more than 25% during the term of this loan (without your prior written consent and to which I agree to provide you a 30 day advance notice), or default under any provision of this note or any separate agreement, you may declare the loan to be due and demand that this loan be paid in full immediately. In addition, if you, in your sole discretion, find the prospect of payment, performance, or satisfaction of Collateral is significantly impaired, or if you should deem yourself insecure for any reason, the loan will immediately become due and payable.

No Waiver. It is further agreed that the acceptance of any payment shall not constitute a waiver of your rights to demand payment in full of any unpaid balance.

Remedies. Upon default, the rate of interest on the unpaid principal balance, insurance and other charges that we have agreed to pay shall be increased an additional 600 basis points (6%) above the stated contract rate on the face of this note. If I, or any guarantor, default, you may take possession of the collateral and at your request I will assist you by making it available. Even though you take the collateral, I may be obligated for payment as provided by law. You may peacefully take possession of the Collateral for the reasons above at any time, even though you may not have done so previously, until I pay all amounts owing to you consented by the Security Interest. If you should take possession of the Collateral and the Collateral should contain any personal property, I agree to contact you and arrange to pick up the property within twenty-four (24) hours of your taking possession of the Collateral. If I do not pick up the property within this time period I understand that you may keep it for me, at reasonable storage expense or dispose of it as you see fit. Your failure to enforce or assert any of your rights under this agreement at any point in time shall not be considered a waiver of the right to enforce these terms and conditions at any time in the future.

Financial Statements. I agree to provide signed financial statements and other financial information at such frequencies and in such detail as you may reasonably request.

Attorney's Fees. If you hire a lawyer to help collect this loan, I also agree to pay collection costs to include reasonable fees not to be less than 15% of the amount to be collected (unless otherwise provided by law).

Variable Rate Loans. If my loan has a variable rate feature, I agree to make no other reference relating to any rate index that you may use. If my variable rate loan has a fixed or scheduled payment amount, I understand and agree that if the scheduled variable rate index exceeds the fixed rate used for payment calculation purposes, you may, at your discretion, (a) increase the amount of periodic payments to have the loan fully amortize at the scheduled maturity, (b) extend the maturity and require additional periodic payments, (c) require the resulting increase to be paid at maturity, or (d) extend or discontinue any combination of the foregoing.

Local Laws. Any questions about this loan, Note or other agreements I make with you will be decided under South Carolina law. You and I agree that we will comply with all applicable laws, rulings and regulations and the terms of this contract will be interpreted in such manner as will comply with such laws, rulings and regulations.

[Handwritten signatures]

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

MORTGAGE OF REAL ESTATE

THIS MORTGAGE is dated AUGUST 31, 2009

THE MORTGAGOR(S) as referred to in this Mortgage is (are) SON Properties, LLC

THE MORTGAGEE, First Citizens Bank and Trust Company, Inc. will be referred to herein as "Lender". Lender's address is PO Box 28, MC94033, Columbia, SC 29222.

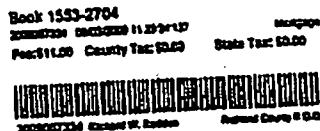
WHEREAS, Borrower(s) SON PROPERTIES, LLC

is (are) indebted to Lender in the principal amount of \$ 14,937.37 pursuant to the note, note agreement, loan agreement or revolving loan agreement (hereinafter referred to as the "Note") dated AUGUST 31, 2009. The Note includes all documents renewing, extending, or modifying it or for extending future advances. The Note has a final maturity of AUGUST 31, 2010.

The amount of debt secured by this Mortgage, including the outstanding amount of the Note and all Future Advances under paragraph 13, shall at no time be more than double the principal amount of the Note or \$ 14,937.37, whichever is greater, plus interest, reasonable attorney's fees and court costs incurred in collection of amounts due hereunder and expenditures by Lender under Paragraph 6 below. Interest under the Note will be deferred, accrued, or capitalized, but Lender shall not be required to defer, accrue or capitalize any interest except as provided in the Note.

THIS MORTGAGE is given to secure the Lender the repayment of the following amounts, with interest: (A) the indebtedness evidenced by the Note; (B) any Future Advances made under Paragraph 13 below; (C) expenditures by Lender under Paragraph 6 below; and (D) attorney's fees, court costs and other amounts which may be due under the Note and the Mortgage. In consideration of the above indebtedness and for other valuable consideration which Mortgagee acknowledges receiving, Mortgagee does hereby mortgage, grant and convey to Lender, its successors and assigns the following described property (hereinafter sometimes referred to as the "Property").

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF



Together with all singular rights, members, easements and appurtenances belonging or in any way incident or appertaining thereto; of improvements, now or hereafter situated thereon; and of fixtures (including, but not limited to, appliances, additions, improvements, and all items and materials attached to or used in connection with the described Property) now or hereafter attached thereto; all easements, rights-of-way, game of land, streets, ways, alleys, passages, sewers, rights, waters, water courses, water rights, and powers; and all estates, rights, titles, interests, privileges, licenses, and tenements, whatsoever and in any way belonging, rising or appertaining to any of the property herein above described, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagee; and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and all of the estate, right, title, interest, property, possession, claim and demand whatsoever of law as well as in equity of Mortgagee of, in and to the same, including but not limited to all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the property or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the property or to any right, appurtenant thereto; and all proceeds of any sales or other dispositions of the property or any part thereof (collectively hereinafter referred to as the "Property"); and all of the same being deemed part of the Property and included in the reference thereto.

TO HAVE AND TO HOLD all and singular the Property unto Lender and the successors and assigns of Lender forever.

MORTGAGOR covenants that Mortgagee is lawfully seized of the Property in fee simple absolute, that Mortgagee has good right and is lawfully authorized to sell, convey or encumber the same, and that the Property is free and clear of all encumbrances except as expressly provided in Paragraph 15 and otherwise herein. Mortgagee covenants to warrant and forever defend all and singular the Property unto Lender and the successors or assigns of Lender both and against Mortgagee and all persons whomsoever lawfully claiming the same or any part thereof.

PROVIDED ALWAYS, nevertheless, and it is the true intent and meaning of Mortgagee and Lender, that if Mortgagee pays or causes to be paid to Lender the debt secured hereby, the estate hereby granted shall cease, determine and be utterly null and void; otherwise said estate shall remain in full force and effect.

IT IS AGREED that Mortgagee shall be entitled to hold and enjoy the Property until a Default as herein defined has occurred.

MORTGAGOR further covenants and agrees with Lender as follows:

1. Assignment of Rents and Profits. As further security for all sums secured by this Mortgage, Mortgagee assigns to Lender all rents and profits arising from the Property; provided, however, that so long as no Default, as hereinafter defined, has occurred, Mortgagee shall be entitled to collect and retain all such rents and profits as the sole property of Mortgagee without accounting to Lender therefor.

Form 340 (5-08)

EXHIBIT

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2. **Care of Property.** Mortgagor will maintain the Property in good condition and repair and will neither permit nor allow waste thereof. Mortgagor will promptly repair or restore any portion of the Property which is damaged or destroyed by any cause whatsoever and will promptly pay when due all costs and expenses of such repair or restoration. Mortgagor will not remove or demolish any improvement or fixture which is now or hereafter part of the Property and will not do either on the Property without the express written consent of Lender. Lender shall be entitled to specific performance of the provisions of this paragraph.

3. **Insurance.** (A) Mortgagor shall at its sole expense obtain for, deliver to, and maintain for the benefit of Lender, during the life of the Mortgage, insurance policies in such amounts as Lender may require, in no event less than the full insurable value, insuring the Property against fire, extended coverage and such other insurable hazards, casualties and contingencies as Lender may require including flood damage, and shall pay promptly, when due, any premiums on such insurance policies and on any renewals thereof. The form of such policies, the companies issuing them and the coverages provided shall be acceptable to Lender and shall contain a noncontributory mortgage endorsement making losses payable to Lender. At least thirty (30) days prior to the expiration date of all such policies, renewals thereof satisfactory to Lender shall be delivered to Lender. Mortgagor shall deliver to Lender receipts evidencing the payment of all premiums of such insurance policies and renewals. In the event of loss, Mortgagor will give written notice to Lender, and Lender may make proof of loss if not made promptly by Mortgagor. In the event of foreclosure of this Mortgage or any other transfer of title to the Property in extinguishment of the indebtedness and other sums secured hereby, all rights title and interest of Mortgagor in and to all insurance policies and renewals thereof then in force shall pass to the lender. Upon the failure of Mortgagor to obtain and maintain insurance satisfactory to Lender, Lender may at its own discretion procure and substitute for any and all of the insurance so held as aforesaid, such other policy or policies in insurance, in such amount as Lender, acting in its sole discretion, may determine; all without prejudice to its right to foreclose hereunder should Mortgagor fail or refuse to keep said premises so insured.

(B) Mortgagor hereby assigns to Lender all proceeds from any insurance policies, and Lender is hereby authorized and empowered in its reasonable discretion, to adjust or compromise any loss under any insurance policies on the Property, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender alone and not to Mortgagor and Lender jointly. After deducting from such insurance proceeds any expenses incurred by Lender in the collection or handling of such funds, Lender, acting in its sole discretion, may apply the net proceeds (1) to the payment of any sum secured by this Mortgage in such order as Lender may determine, or (2) to the replacement, repair, or restoration of the portion of the Property damaged or destroyed in a manner determined by Lender; or may release said net proceeds to the Mortgagor upon such conditions as Lender shall determine; or may apply said net proceeds for any combination of the foregoing; all without affecting the lien of this Mortgage for the full amount secured hereby before such payment took place. If Lender elects to restore the improvements, any balance of such monies after restoration shall either be applied toward the reduction of indebtedness and any other sums secured hereby or shall be paid to Mortgagor. Lender shall not be responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

(C) Mortgagor shall, at its sole expense, obtain for, deliver to, and maintain for the benefit of Lender, during the life of this Mortgage, liability insurance policies relating to the Property, in such amounts, with such companies and in such form as may be reasonably required by Lender. Lender may require such policies to contain an endorsement, in form satisfactory to Lender, naming Lender as an additional insured thereunder. Mortgagor shall pay promptly, when due, any premiums on such insurance policies and renewals thereof.

4. **Taxes and Assessments.** Mortgagor will pay all taxes, assessments and other charges which constitute or are secured by a lien upon the Property which is superior to the lien of this Mortgage and will deliver to Lender proof of payment of the same not less than ten (10) days prior to the date the same become delinquent; provided, however, that Mortgagor shall be entitled by appropriate proceedings to contest the amount or validity of such tax, assessment or charge so long as the collection of the same by foreclosure of the lien upon the Property is stayed during the pendency of such proceedings and Mortgagor deposits with the authority to which such tax, assessment or charge is payable or with Lender appropriate security for payment of the same together with any applicable interest and penalties, should the same be determined due and owing.

5. **Expenditures by Lender.** If Mortgagor fails to make payment for restoration or repair of the Property (including any improvements to bring the Property in compliance with federal, state or local laws, ordinances or regulations), for insurance premiums or for taxes, assessments or other charges as required in the Mortgage, Lender may, but shall not be obligated to, pay for the same. Any such payment by Lender will be secured by this Mortgage and have the same rank and priority as the principal debt secured hereby and bear interest from the date of payment at the rate payable from time to time to outstanding principal under the Note. Payments made for taxes by Lender shall be a first lien on the Property to the extent of the taxes so paid with interest from the date of payment, regardless of the rank and priority of this Mortgage. Mortgagor will pay to Lender in cash on demand an amount equal to any payment made by Lender pursuant to this paragraph plus interest thereon as herein provided.

6. **Condemnation.** Lender shall be entitled to be made a party to and to participate in any proceeding, whether formal or informal, for condemnation or acquisition pursuant to power of eminent domain of any portion of the Property. Mortgagor hereby assigns to Lender the right to collect and receive any payment or award to which Mortgagor would otherwise be entitled by reason of condemnation or acquisition pursuant to the power of eminent domain of any portion of the Property. Any such payment or award received by Lender may, at the option of Lender, (1) be applied to payment of any sums secured by this Mortgage in such order as Lender may determine; or (2) be applied in a manner determined by Lender to the replacement of the portion of the Property taken and to the repair or restoration of the remaining portion of the Property; or (3) be released to Mortgagor upon such conditions as Lender may determine; or (4) be used for any combination of the foregoing purposes. No portion of an indemnity payment which is applied to replacement, repair or restoration of any portion of the Property or which is released to Mortgagor shall be deemed a payment against any sums secured by this Mortgage.

7. **Due on Sale or Transfer of Property.** At the option of Lender, the indebtedness secured by this Mortgage shall become due and payable if, without the written consent of Lender, Mortgagor shall convey away the mortgage premises, or if the title shall become vested in any other person in any manner whatsoever, (to include a Sales Contract) other than by death of Mortgagor. It is understood and agreed that in consideration for the consent of Lender to any transfer of title to the mortgaged premises, Lender, at its option, may charge a loan transfer fee and/or require charges in the rate of interest, term of loan, monthly payments of principal and interest and other terms and conditions of this Mortgage and/or the Note secured hereby.

8. **Default.** The occurrence of any of the following events shall be deemed a Default under this Mortgage:

- (A) any default by Mortgagor as described in the Note;
- (B) failure of Mortgagor to pay any other sum secured by this Mortgage when due;
- (C) failure of Mortgagor to observe or perform any covenant or agreement set forth in this Mortgage or any loan agreement entered into between Mortgagor and Lender with respect to the indebtedness hereby secured within ten (10) days following the giving of notice by Lender to Mortgagor to observe or perform the same.

9. Remedies. Upon the occurrence of a Default as heretofore defined, Lender may, without notice to Mortgagor unless otherwise required by law, declare all sums secured by this Mortgage immediately due and payable and may commence proceedings to collect such sums, foreclose this Mortgage and sell the Property. At the foreclosure, Lender shall be entitled to bid and to purchase the Property and shall be entitled to apply the debt secured hereby, or any portion thereof, in payment for the Property. The remedies provided to Lender in this paragraph shall be in addition to and not in lieu of any other rights and remedies provided in this Mortgage or by law, all of which rights and remedies may be exercised by Lender simultaneously or consecutively in any order without being deemed to have waived any right or remedy previously or not yet asserted.

10. Appointment of Receiver. Upon the occurrence of a Default as heretofore defined Lender shall be entitled to the appointment of a receiver to enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation or modification of leases; the making of repairs to the Property; and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Mortgage. The receiver shall be entitled to receive a reasonable fee for so managing the Property. All rents collected pursuant to this paragraph shall be applied first to the costs of taking control of and managing the Property and collecting the rents, including, but not limited to attorney's fees, receiver's fees, premiums on receiver's bonds, costs or repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation of liability of Mortgagor as lessor or landlord of the Property and then to the sums secured by this Mortgage. Lender or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those rents actually received. Lender shall not be liable to Mortgagor, anyone claiming under or through Mortgagor, or anyone having an interest in the Property by reason of anything done or left undone by Mortgagor under this paragraph. If the rents of the Property are not sufficient to meet the cost of taking control and managing the Property and collecting the rents, Lender, at its sole option, may advance funds to meet the costs. Any funds expended by Lender for such purposes shall become indebtedness of Mortgagor to Lender secured by this Mortgage. Unless Lender and Mortgagor agree in writing to other terms of payment, such amounts shall be payable upon notice from Lender to Mortgagor requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in the Note. The entering upon and taking and maintaining of control of the Property by Lender or the receiver and the application of rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Lender hereunder.

11. Waiver by Lender. Lender may, in its sole discretion, from time to time waive or forbear from enforcing any provision of this Mortgage, and no such waiver or forbearance shall be deemed a waiver by Lender of any right or remedy provided herein by law or be deemed a waiver of the right at any later time to enforce strictly all provisions of this Mortgage and to exercise any and all remedies provided herein and by law.

12. Costs of Appraisals. Mortgagor shall pay any and all costs of providing to Lender, as it may request from time to time, a current appraisal of the market value of the Property prepared by an appraiser acceptable to Lender, in its sole discretion. If Mortgagor fails to pay such costs, Lender may advance the cost on the Mortgagor's behalf and add the amount of such advance to the principal under the Note, which shall bear interest at the rate as provided in the Note, and shall be due and payable on demand. Mortgagor's failure to pay the cost of any such appraisal, plus all accrued interest, in full, within ten (10) days of the date of such demand shall constitute an event of default entitling the Lender to accelerate the maturity of all debts secured by the Mortgage, as allowed by law.

13. Future Advances. Lender, at its option, may make Future Advances to Mortgagor. Such Future Advances, with interest at the rate payable from time to time on the outstanding principal under the Note, shall be secured by this Mortgage when evidenced by the Note or by any other note stating that it is secured by this Mortgage or when advanced under the terms of this Mortgage. Lender may make but is not obligated to make such Future Advances (A) at the request of Mortgagor, whether or not there is an obligation to make Future Advances; (B) pursuant to advance of funds provided for hereby; or (C) to pay, with or without the consent or request of Mortgagor, any amounts which may be due under any other mortgage or lien affecting the Property.

14. Notices. Any notice given by either party hereto to the other party shall be in writing and shall be signed by the party giving notice. Any notice or other document to be delivered to either party hereto by the other party shall be deemed delivered if mailed postage prepaid to the party to who directed at the latest address of such party that is known to the party sending the same. This paragraph shall not be deemed to prohibit any other manner of delivering a notice or other document.

15. Miscellaneous.

- (A) The agreements herein shall bind and inure to the benefit of the Mortgagor, Lender and their respective heirs, successors and assigns.
- (B) Whenever in this Mortgage one of the parties hereto is named or referred to, the heirs, legal representatives, successors and assigns of such parties shall be included and all covenants and agreements contained in this Mortgage by or on behalf of Mortgagor or by or on behalf of Lender shall bind and inure to the benefit of their representatives, heirs, successors and assigns, whether so expressed or not.
- (C) The headings of the sections, paragraphs and subdivisions of this Mortgage are for the convenience of reference only, are not to be considered a part hereof and shall not limit or otherwise affect any of the terms hereof.
- (D) If any provision of this Mortgage conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage are declared severable.
- (E) Lender may make or cause to be made reasonable entries upon and inspections of the Property upon giving Mortgagor prior notice.
- (F) All covenants of Mortgage shall be joint and several.
- (G) This Mortgage shall be governed by, construed and enforced in accordance with the laws of South Carolina.
- (H) If this is not a first mortgage, Mortgagor has provided Lender with an attorney's opinion (or title insurance) setting out in detail any and all prior mortgages or liens including the date of the existing mortgage liens and the original amounts.
- (I) If the Mortgagor is not obligated on the debt which this Mortgage secures, the Mortgagor acknowledges that Note was made in consideration for this transaction and the owner of the Property agrees to be bound by all terms and conditions of the Note and the Mortgage.
- (J) Construction Mortgage. If this is a construction loan, this Mortgage is a "Construction Mortgage" for the purposes of Sections 9-334 and 2A-303 of the Uniform Commercial Code, as those sections have been adopted by the State of South Carolina.

16. Compliance with Environmental Laws. Mortgagor agrees to indemnify, defend and save Lender and its successors and assigns harmless from and against all claims, actions, administrative proceedings, fines, costs, liabilities, attorney's fees and costs or the like that arise directly or indirectly from the presence or release of hazardous material, substances, waste or other environmentally regulated substances on the Property. Mortgagor shall also indemnify and hold Lender harmless from and against any and all damages, penalties, fines, claims, losses, suits, liabilities, costs (including cleanup costs), judgments and expenses (including attorney's, consultant's or experts fees or expenses) of any kind and nature suffered by state or federal, which require the abatement, removal, or transfer of any hazardous material, substances, waste or other environmentally regulated substances. Mortgagor's obligations hereunder to Lender shall not be limited to any extent by the term of the Note, as to any act or occurrence prior to payment in full and satisfaction of the Note which gives rise to the liability hereunder, shall continue to survive and remain in full force and effect not withstanding

payment of all and satisfaction of the Note and Mortgage, or foreclosure under the Mortgage, or delivery of a deed in lieu of foreclosure. A default hereunder may, at the option of the Lender, be treated as a default under the documents evidencing and securing the loans. Hazardous materials, substances, waste or other environmentally regulated substances, as these terms are used herein, shall have the meanings specified in the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), as amended, the Resource Conservation Recovery Act, as amended, the Clean Air Act, the Clean Water Act, or any federal, state or local statute, law, ordinance, code, rule, regulation, order or decree as may now or at any time hereafter be in effect.

17. Environmental Assessments Costs. The Mortgagor shall pay the cost of providing to Lender, at Lender's request, a current environmental site assessment, audit, or survey ("Assessment") of the Property, which Assessment shall be prepared by a person or company acceptable to Lender, in Lender's sole discretion. If Mortgagor fails to pay the costs of the Assessment, Lender may pay such cost and the same shall constitute an advance under the Note to be secured by the Property, and shall be due and payable on demand. Mortgagor's failure to pay such amount with all accrued interests in full within ten (10) days of date of such demand shall constitute an event of default and entitle Lender to accelerate the maturity of any and all debts secured by the Property, as allowed by law. The Mortgagor acknowledges that the Lender disclaims any duty or obligation to the Mortgagor or any third party in regard to these assessments and to acting solely in compliance with its lending practices. The Mortgagor is advised to seek technical and/or legal advice in regard to any environmental concerns associated with the Property.

18. Waiver by Mortgagor. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty (30) days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may diminish the amount of any deficiency owing in connection with the transaction. UNLESS PROHIBITED BY LAW, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage the day and year first above written.

Signed, sealed and delivered

In the presence of

Witness

Rea Swinport
Witness

Mortgagor

[Signature]
Mortgagor

Mortgagor

Mortgagor

STATE OF SOUTH CAROLINA)
County of RICHLAND)

Probate

Before me, the undersigned Notary Public, personally appeared the undersigned witness who, being duly sworn, deposed and said that (s)he saw Ivan A. Roldan and E. Grissom McDonald

sign, seal and deliver the foregoing Mortgage and that (s)he, together with the other witness witnessed the execution thereof.

SWORN to and subscribed

before me this 31st day
of August, 2009

Notary Public for South Carolina

My commission expires: 2/9/16

(SEAL)

(Witness)

Exhibit 'A'

All that certain piece, parcel, or lot of land, with improvements thereon, situate, lying and being in the County of Richland, State of South Carolina, described as Lot Nine (9), Hutto Court as shown on a plat of Hutto Court and showing Hutto Court Extension by William Wingfield, dated July 10, 1952, recorded July 25, 1952 in Book 'O' at Page 130, Slide 14, having the following boundaries and measurements to wit: on the Northwest by Lot Eight (8) whereon it measures for a distance of 115.2 feet; on the Northeast by property now or formerly of "Bayview" whereon it measures for a distance of 120.0 feet; on the Southeast by Lot No. 10 whereon it measures for a distance of 145.1 feet; on the Southwest by the right-of-way of Hutto Court whereon it fronts and measures for a distance of 50.0 feet, all as more fully shown on a said plat, to which reference is hereby, all as more fully shown on said plat, to which reference is hereby craved, be all measurements a little more or less.

This being the same property conveyed unto SOH Properties, LLC, by deed from Ivan A. Roldan and Shannon M. McDonald, dated September 15, 2004, recorded September 17, 2004, in the Register Deeds Office for Richland County in the Record Book 978 at Page 1708, 1710, 1711, and 1712.

TMS No: 14107-04-25

Property Address: 52 Hutto Court, Columbia, SC 29204

PROBES

1234

STUDY PURPOSE

(b)(2)(A)

APRIL 24, 2007

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce COMMUNITY RESERVE BANK N.A. MIDLAND REGION (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of ASH PROPERTIES, LLC

A. If this ☐ is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following:

renewals or replacements thereof (hereinafter referred to as the "indebtedness").

8. If this ☒ is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "indebtedness"). Without limitation, this guaranty includes the following described debts:

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.

2. This is an absolute, unconditional and continuing guaranty of payment of the indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.

3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.

4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ 250,000.00 (if unlimited or if no amount is stated, the Undersigned shall be liable for all indebtedness, without any limitation as to amount), plus accrued interest thereon and all other costs, fees, and expenses agreed to be paid under all agreements evidencing the indebtedness and securing the payment of the indebtedness, and all attorneys' fees, collection costs and enforcement expenses referable thereto. Indebtedness may be created and continued in any amount, whether or not in excess of such principal amount, without affecting or impairing the liability of the Undersigned hereunder. The Lender may apply any sums received by or available to Lender on account of the indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

This guaranty is ☒ unsecured; ☐ secured by a mortgage or security agreement dated _____
☐ secured by _____

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned this day and year first above written.

FRAN A. ROEDER

"Outcastness" shall refer to all persons who share this currently, presently and hence.

ADDITIONAL PROVISIONS

6. Whether or not any existing relationship between the Undersigned and Borrower has been changed or ended and whether or not this guaranty has been revoked, Lender may, but shall not be obligated to, enter into transactions resulting in the creation or continuance of indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all indebtedness; (ii) any one or more extensions or renewals of indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any indebtedness; (v) any discharge of any evidence of indebtedness or the acceptance of any instrument in renewal thereof or substitution therefor; (vi) any failure to obtain collateral security (including rights of setoff) for indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon indebtedness; (x) any election by the Lender under § 1111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The Undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay indebtedness even though any other person obligated to pay indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such indebtedness as fully as if such application had never been made.

10. Until the obligations of the Borrower to Lender have been paid in full, the Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing indebtedness. Lender shall not be required first to resort for payment of the indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this and the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

GUARANTY

(City)

(State)

APRIL 24, 2007

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce COMMUNITY FIDELITY BANK N.A. MIDLANDS BRANCH (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of ESB PROPERTIES LLC

herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

A. If this ☐ is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: _____ and any extensions, renewals or replacements thereof (hereinafter referred to as the "indebtedness").

B. If this ☒ is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "indebtedness"). Without limitation, this guaranty includes the following described debt(s): _____

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.

2. This is an absolute, unconditional and continuing guaranty of payment of the indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.

3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.

4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ UNLIMITED (If unlimited or if no amount is stated, the Undersigned shall be liable for all indebtedness, without any limitation as to amount), plus accrued interest thereon and all other costs, fees, and expenses agreed to be paid under all agreements evidencing the indebtedness and securing the payment of the indebtedness, and all attorneys' fees, collection costs and enforcement expenses reasonable thereto. Indebtedness may be created and continued in any amount, whether or not in excess of such principal amount, without affecting or impairing the liability of the Undersigned hereunder. The Lender may apply any sums received by or available to Lender on account of the indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

This guaranty is ☒ unsecured; ☐ secured by a mortgage or security agreement dated _____;
☐ secured by _____.

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.

Robert B. McDonald
ROBERT B. McDONALD

"Undersigned" shall refer to all persons who sign this guaranty, severally and jointly.

EXHIBIT E

ADDITIONAL PROVISIONS

6. Whether or not any existing relationship between the Undersigned and Borrower has been changed or ended and whether or not this guaranty has been revoked, Lender may, but shall not be obligated to, enter into transactions resulting in the creation or continuance of indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned: (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all indebtedness; (ii) any one or more extensions or renewals of indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any indebtedness; (v) any discharge of any evidence of indebtedness or the acceptance of any instrument in renewal thereof or substitution thereof; (vi) any failure to obtain collateral security (including rights of setoff) for indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon indebtedness; (x) any election by the Lender under §111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The Undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay indebtedness even though any other person obligated to pay indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such indebtedness as fully as if such application had never been made.

10. Until the obligations of the Borrower to Lender have been paid in full, the Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing indebtedness. Lender shall not be required first to resort for payment of the indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

GUARANTY

INDENT

10/1/77

SOUTH CAROLINA

10/1/77

10/1/77

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce COMBUSTION ENGINE PARTS, INC. (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of COMBUSTION ENGINE PARTS, INC.

(herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

A. If this ☐ is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: _____ and any extensions, renewals or replacements thereof hereinafter referred to as the "indebtedness".

B. If this ☐ is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "indebtedness"). Without limitation, this guaranty includes the following described debt(s): _____

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.

2. This is an absolute, unconditional and continuing guaranty of payment of the indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetency of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.

3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.

4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ UNLIMITED (if unlimited or if no amount is stated, the Undersigned shall be liable for all indebtedness, without any limitation as to amount), plus accrued interest thereon and all other costs, fees, and expenses agreed to be paid under all agreements evidencing the indebtedness and securing the payment of the indebtedness, and all attorneys' fees, collection costs and enforcement expenses referable thereto. Indebtedness may be created and continued in any amount, whether or not in excess of such principal amount, without affecting or impairing the liability of the Undersigned hereunder. The Lender may apply any sums received by or available to Lender on account of the indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

This guaranty is ☒ unsecured; ☐ secured by a mortgage or security agreement dated _____;
☐ secured by _____

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned this day and year first above written.

James B. McDonald
JAMES B. McDONALD, UNDERSIGNED

"Undersigned" shall refer to all persons who sign this guaranty, individually and jointly.

EXHIBIT

G

ADDITIONAL PROVISIONS

6. Whether or not any existing relationship between the Undersigned and Borrower has been changed or ended and whether or not this guaranty has been revoked, Lender may, but shall not be obligated to, enter into transactions resulting in the creation or continuance of indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all indebtedness; (ii) any one or more extensions or renewals of indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any indebtedness; (v) any discharge of any evidence of indebtedness or the acceptance of any instrument in renewal thereof or substitution thereof; (vi) any failure to obtain collateral security (including rights of setoff) for indebtedness, or to sue to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon indebtedness; (x) any election by the Lender under §1111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The Undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay indebtedness even though any other person obligated to pay indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy portion interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such indebtedness as fully as if such application had never been made.

10. Until the obligations of the Borrower to Lender have been paid in full, the Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing indebtedness. Lender shall not be required first to resort for payment of the indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signor, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

GUARANTY

EDGWAY

(City)

SOUTH CAROLINA

(State)

JULY 12, 1988

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce COMMUNITY RESOURCE BANK N.A. MEMPHIS, TENNESSEE therein, with its participants, successors and assigns, called "Lender", at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of SEN PROPERTIES, INC.

(herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

A. If this ☐ is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: _____ and any extensions,

renewals or replacements thereof (hereinafter referred to as the "indebtedness").

B. If this ☒ is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "indebtedness"). Without limitation, this guaranty includes the following described debt(s): _____

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.

2. This is an absolute, unconditional and continuing guaranty of payment of the indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.

3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.

4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ UNLIMITED (If unlimited or if no amount is stated, the Undersigned shall be liable for all indebtedness, without any limitation as to amount), plus accrued interest thereon and all other costs, fees, and expenses agreed to be paid under all agreements evidencing the indebtedness and securing the payment of the indebtedness, and all attorneys' fees, collection costs and enforcement expenses referable thereto. Indebtedness may be created and continued in any amount, whether or not in excess of such principal amount, without affecting or impairing the liability of the Undersigned hereunder. The Lender may apply any sums received by or available to Lender on account of the indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

This guaranty is ☒ unsecured; ☐ secured by a mortgage or security agreement dated _____;
☐ secured by _____.

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.

JAMES K. HODMAN

Undersigned "I" shall refer to all persons who sign this guaranty, separately and jointly.

EXHIBIT

H

ADDITIONAL PROVISIONS

6. Whether or not any existing relationship between the Undersigned and Borrower has been changed or ended and whether or not this guaranty has been revoked, Lender may, but shall not be obligated to, enter into transactions resulting in the creation or continuance of indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all indebtedness; (ii) any one or more extensions or renewals of indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any indebtedness; (v) any discharge of any evidence of indebtedness or the acceptance of any instrument in renewal thereof or substitution thereof; (vi) any failure to obtain collateral security (including rights of setoff) for indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon indebtedness; (x) any election by the Lender under §1111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The Undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay indebtedness even though any other person obligated to pay indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy portion interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such indebtedness as fully as if such application had never been made.

10. Until the obligations of the Borrower to Lender have been paid in full, the Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing indebtedness. Lender shall not be required first to resort for payment of the indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

UNLIMITED GUARANTY AGREEMENT

(Business Use Only)

Borrower shall mean BOH PROPERTIES, LLC

1. Unlimited Guaranty. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce First Citizens Bank and Trust Company, Inc. (herein, with its participants, successors and assigns, called "Bank"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of Borrower or to engage in any other transactions with Borrower, the Guarantor hereby absolutely guarantees to the Bank the prompt and complete payment when due and payable (whether at the stated maturity or by required prepayment, acceleration, or otherwise) of any and all indebtedness, obligations and liabilities of the Borrower to the Bank, and all claims of the Bank against the Borrower, now existing or hereafter arising, direct or indirect (including participations of any interest of the Bank in indebtedness of the Borrower to others), acquired outright, conditionally, or as collateral security from another, absolute or contingent, joint or several, secured or unsecured, matured or not matured, monetary or nonmonetary, arising out of contract or tort, liquidated or unliquidated, arising by operation of law or otherwise and all extensions, renewals, refundings, replacements, and modifications of any of the foregoing (herein referred to as Obligations) of the Borrower to the Bank (notwithstanding the fact that from time to time there may be no indebtedness outstanding), and the performance of the Borrower's covenants under all loan agreements, documents and instruments evidencing any Obligations or under which any Obligations may have been issued, created, assumed or guaranteed between Borrower and Bank and all expenses, incurred in collecting the same, as set forth below, all of which shall conclusively be deemed to have been incurred in reliance upon this Guaranty.

2. Security. As Security for the Liabilities of Guarantor, Guarantor does hereby grant the Bank a continuing lien upon and a security interest in the following property:

(NO SPECIFIC PROPERTY LISTED BUT THE REMAINDER OF PARAGRAPH 2 REMAINS IN EFFECT.)

and any other property of the Guarantor and the proceeds thereof, now hereafter actually or constructively held or received by or in transit to our Bank for any purpose, including, without limitation, for collection, custody, pledge, and transmission. Bank is authorized to apply the Security without prior notice or demand to the Liabilities in such order and amount as the Bank may elect, although such Liabilities may be contingent or unmatured. Bank agrees to notify the Guarantor promptly after such application provided that the failure to give such notice shall not affect the validity thereof.

3. **Reimbursement.** If any payment received by the Bank from the Borrower in respect of its Obligations is subsequently recovered from or repaid by the Bank as the result of any bankruptcy, dissolution, reorganization, arrangement, or liquidation proceedings (or proceedings similar thereto), this Guaranty shall continue to be effective as though such payment had not been made. The provisions of this paragraph shall survive termination of this Guaranty.

4. Waiver. (i) Guarantor hereby waives (a) notice of acceptance of this Guaranty and all of the creation, extension, or accrual of any of the Obligations; (b) presentment, demand for payment, notice of dishonor, and protest; (c) notice of any other nature whatsoever; (d) any requirement that the Bank take any action whatsoever against the Borrower or any other party or file any claim in the event of the bankruptcy of the Borrower; or (e) failure to protect, preserve, or resort to any or all of the property that secures the payment of the Obligations and any proceeds thereof (herein referred to as the Collateral); and the Guarantor further agrees that the Guaranty will not be discharged except by complete performance of all Obligations of the Borrower and the Liabilities of the Guarantor hereunder.

(U) The Guarantor expressly agrees that the Guarantor shall be and remain liable for any deficiency remaining after the disposition of Collateral (whether by foreclosure of any mortgage or security interest), whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to state or judicial decision.

(W) The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.

This Guaranty includes the additional provisions on the reverse side hereof, all of which are made a part hereof.

In Witness Whereof, this Guaranty has been duly executed by the guarantor on the date written above.

Witnessed

Rea Swamp

Lawrence A. Hill
Governor's Signature

~~2851 GOWAN STREET~~
MADRID ADDRESS

References

WILDERNESS

Guarantor's Statement

Medro Address

THE IR NUCLEUS

IRVING A. BOLDAM
FIVE CLANDESTINE NOTES

Tax ID Number

Print Contact's Name

Form 223A-FL (5-97)

EXHIBIT

5. **Environmental Indemnity.** (i) Guarantor agrees to indemnify, defend and save Bank and its successors and assigns harmless from and against all claims, actions, administrative proceedings, fines, costs, liabilities, attorneys' fees and cost or the like that arise directly or indirectly from the presence or release of hazardous materials, substances, waste or other environmentally regulated substances as a result of any Obligations of Borrower. Guarantor shall also indemnify and hold the Bank harmless from and against any and all damages, penalties, fines, claims, liens, suits, liabilities, costs (including cleanup costs), judgments and expenses (including attorneys, consultants or experts' fees and expenses) of any kind and nature suffered by or asserted against either Bank or Borrower as a direct or indirect result of any requirement under any law, regulation or ordinance, local, state, or federal, which requires the elimination, removal, or transfer of any hazardous material, substances, waste or other environmentally regulated substances. Guarantor's obligations hereunder to the Bank shall not be limited to any extent by the term of the Obligations, as to any act or occurrence prior to payment in full and satisfaction of the Obligations, shall continue to survive and remain in full force and effect not withstanding payment in full and satisfaction of the Obligations. A default hereunder may, at the option of the Bank, be treated as a default under the Obligations. Hazardous materials, substances, waste or other environmentally regulated substances as those terms are used herein shall have the meanings specified in the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") as amended, the Resource Conservation Recovery Act, as amended, the Clean Air Act, the Clean Water Act, or any federal, state or local statute, law, ordinance, code, rule, regulation, order or decree as may now or at any time hereafter be in effect. Guarantor also agrees that Obligations hereunder shall include the cost of providing to Bank, at Bank's request, a current environmental site assessment, audit, or survey ("Assessment") of any property that is collateral to the Obligations, or Guaranty, which Assessment shall be prepared by a person or company acceptable to Bank, in Bank's sole discretion. If Borrower fails to pay the cost of the Assessment, Bank may pay such cost and the same shall constitute an advance under the Obligations. Borrower's failure to pay such amount with all accrued interest in full within ten (10) days of date of such demand shall constitute an event of default and entitle Bank to accelerate the maturity of any and all Obligations, as allowed by law. The provisions of this paragraph shall survive termination of this Guaranty.

(ii) This Agreement does not modify, limit or otherwise amend any Environmental Indemnity Agreement presently existing or hereafter executed by the Guarantor for Obligations hereunder.

6. **Borrower's Financial Condition.** The Guarantor warrants to Bank that the Guarantor has adequate means to obtain from the Borrower, on a continuing basis, information concerning the financial condition of the Borrower, and the Guarantor is not relying on the Bank to provide such information, now or in the future.

7. **Financial Statements.** The Guarantor agrees to provide signed financial statements and other financial information at such frequencies and in such detail as the Bank may reasonably request.

8. **Liability Cumulative.** The Liability of the Guarantor under this guaranty is in addition to and shall be cumulative with all other liabilities of the Guarantor to the Bank as guarantor or otherwise, without limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

9. **Consent.** The Guarantor hereby consents that from time to time, and without further notice or consent of the Guarantor, the Bank may take any or all of the following actions without affecting the liability of the Guarantor: (a) extend, renew, modify, compromise, settle, or release the Obligations (including any increase or decrease in the interest rate); (b) release or compromise any liability of any party or parties with respect to the Obligations; (c) release its security interest in the Collateral or exchange, surrender, or otherwise deal with the Collateral as the Bank may determine; or (d) exercise or refrain from exercising any right or remedy of the Bank.

10. **Absolute Guaranty.** The liability of the Guarantor under this Guaranty shall be absolute and unconditional irrespective of any lack of validity, regularity or enforceability of the Obligations or any note, instrument, or agreement evidencing the same or relating thereto, or any other circumstance that might otherwise constitute a defense available to, or discharge of, the Borrower.

11. **Subrogation.** Notwithstanding any payment or payments made by the Guarantor hereunder, or any setoff or application of the Security by the Bank, the Guarantor will not exercise any rights of the Bank against the Borrower nor shall the Guarantor seek contribution from any other Guarantor, if any, until all the Obligations shall have been paid in full. If any amount shall be paid to the Guarantor on account of such subrogation rights at any time when all the Obligations will not have been paid in full, such amount shall be held in trust for the benefit of the Bank and shall forthwith be paid to the Bank to be credited and applied to the Obligations, whether matured or unmatured.

12. **Expenses.** Guarantor hereby agrees that whenever an attorney is used by the Bank to obtain payment hereunder, to enforce this Guaranty, or to adjudicate the rights of the parties hereto, the Bank shall be entitled to recover all reasonable attorney fees, court costs, and expenses attributable to the successful enforcement and preservation of its rights hereunder.

13. **Termination.** This Guaranty shall remain in full force and effect and shall be binding upon Guarantor, its successors, and assigns in accordance with its terms until the Obligations of the Borrower and the Liabilities of the Guarantor hereunder shall have been satisfied by payment in full.

14. **Assignment.** The Bank may, without notice, assign the Obligations, in whole or in part, and each successive assignee of the Obligations so assigned may enforce this Guaranty for its own benefit with respect to the Obligations so assigned.

15. **Jurisdiction.** This Guaranty and all rights, Obligations and Liabilities arising hereunder shall be construed according to the laws of the State of South Carolina. The Guarantor submits to the jurisdiction of the courts of the State of South Carolina.

16. **Service.** Guarantor further consents to the service of process in any such action by certified or registered mail directed to the Guarantor at the address set forth on the reverse side.

17. **Headings.** The descriptive headings of the paragraphs of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	
	)	
First Citizens Bank and Trust	)	
Company, Inc. et al.,	)	
	)	ANSWER AND CROSSCLAIM OF
	)	SOH Properties, LLC, and Eugene G.
Plaintiff,	)	McDonald, III, individually
	)	(Jury Trial Requested)
vs.	)	
	)	
SOH Properties, LLC, Ivan Roldan,	)	~~2007 DR 40 05555~~
Individually, and Eugene G.	)	2014 CP 4003 950
McDonald, III, Individually,	)	
Defendants.	)	
	)	

The Defendants SOH Properties, LLC and Eugene Grissom McDonald, III individually, answering and *cross-claiming against Ivan A. Roldan*, individually, respectfully alleges:

AS AND FOR A FIRST DEFENSE

1. The Defendants specifically deny each and every allegation of the Complaint not hereinafter specifically admitted, qualified, or explained.
2. The Defendants admit the allegations contained in paragraphs 1, 3, 5, 6, 10, 11, 21, 27, 28, 29, 30, 35, and 40 of the Complaint.
3. The Defendants cannot admit or deny the allegations contained in paragraphs 2, 4, 12, 13, 14, 22, 23, 31, 32, 33, 38, 41, and 42 of the Complaint.
4. The Defendants would assert that paragraphs 7, 15, 16, 18, 19, 24, 25, 26, 34, 37, 43, 44, and 55 of the Complaint do not require a response.
5. As to paragraphs 8 and 9, the Defendants would assert that the note was originally delivered to Community Resource;

6. As to paragraph 46, Defendant McDonald only executed Exhibits F and G.

Defendants have no knowledge of the other named instruments;

7. As to the remaining paragraphs, Defendants would assert that the modification period for these notes ended in early 2014. At that time Defendants engaged in previously agreed upon negotiations as to the renewal of the terms of these notes. Defendant McDonald engaged in negotiations with the Plaintiff and has provided all information requested. Plaintiff informed Defendant McDonald that Defendant Roldan has not engaged in negotiations and has not submitted requested information. As such, Plaintiff has not given Defendants the new terms of the of notes in question;

AS AND FOR A SECOND DEFENSE AND BY WAY OF CROSSCLAIM

8. The Defendants repeat each and every allegation and answer contained in the preceding paragraphs as if repeated herein verbatim.
9. That the Defendants Eugene Grissom McDonald, III and SOH Properties, LLC had by agreement left the management and maintenance of the property that is subject to this action over the past several years to Defendant Roldan, and the said Defendants are without knowledge as to how, when, and where the payments were made on said mortgages during the time Defendant Roldan had charge of the corporate books.
10. That on information and belief the property was rented, and that funds should have been available to maintain the obligation to the Plaintiff. The Defendant McDonald thought such payments were being made.
11. That the Defendant Roldan had not kept Defendant McDonald informed, nor had he or has he provided an accounting for his responsibilities.

12. That the Defendant McDonald supposes himself entitled to an accounting of all rents received and payments, if any that had been made.

13. That the Defendants McDonald and SOH Properties, Inc. assert that Defendant Roldan breached his fiduciary duty in maintaining his management responsibilities, collecting rents, and making payments on said property thereby placing the Defendants' property in a status of permanent devaluation and loss of equity resulting in the Plaintiffs having leverage to conduct business in less than arms length intent.

14. That such tortuous acts of the Defendant Roldan are the proximate cause of the foreclosure herein, and that as a result, the Defendants have suffered damages in the form of lost rents, equity, and future monies to be made on said properties.

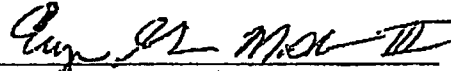
15. That the Defendant, Eugene Grissom McDonald, III, individually, supposes himself to a judgment for actual damages against Defendant Roldan in an appropriate amount and punitive damages as can be determined by a jury.

WHEREFORE, having answered the Complaint of the Plaintiff and cross-claimed, the Defendants pray for the following relief:

A. For the complaint of the Plaintiff to be dismissed;

B. For a judgment for Defendant McDonald against Defendant Roldan for actual damages and punitive damages as can be determined by a jury.

C. And for whatever other relief the Court deems just and proper.

A handwritten signature in cursive script, appearing to read "Eugene Grissom McDonald, III", written over a horizontal line.

Eugene Grissom McDonald, III
Defendant individually and member
Of SOH Properties, LLC

Columbia, South Carolina
August 28, 2014

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

First Citizens Bank and Trust
Company, Inc., et al.

Plaintiff,

v.

SOH Properties, LLC, Ivan Roldan,
individually, and Eugene G.
McDonald, III, individually,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

SUMMONS

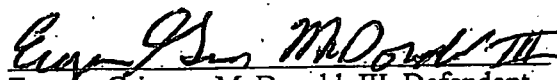
2014-CP-40-3950

RICHLAND COUNTY
FILED
2014 NOV 26 AM 10:08
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

TO THE DEFENDANT Ivan Roldan ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Cross Claim in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Cross Claim on the Plaintiff at 4533 Ivy Hall Drive Columbia, South Carolina 29204, within thirty (30) days after the service hereof, exclusive of the day of service, and if you fail to answer the Cross Claim within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Cross Claim.

Dated at Columbia, South Carolina, on the 21 day of November, 2014.


Eugene Grissom McDonald, III, Defendant
And member of SOH Properties, LLC
4533 Ivy Hall Drive
Columbia, South Carolina 29206
803-309-1066

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

First Citizens Bank and Trust
Company, Inc. et al.,)

Plaintiff,)

vs.)

SOH Properties, LLC, Ivan Roldan,
Individually, and Eugene G.
McDonald, III, Individually,
Defendants.)

IN THE COURT OF COMMON PLEAS

NOTICE OF MOTION AND MOTION TO
AMEND ANSWER OF
SOH Properties, LLC, and Eugene G.
McDonald, III, individually

2014-CP-40-3950

RICHLAND COUNTY
FILED
2014 NOV 26 AM 10:08
JEANETTE M. McBRIDE
C.C.P. & G.S.

The Defendants SOH Properties, LLC and Eugene Grissom McDonald, III individually, request that the court grant them an order that will allow said defendants to amend their answer in the above civil case to assert a counterclaim. The above named Defendants allege that the Plaintiff has led them down a fraudulent path. Furthermore, the Plaintiff has led the Defendants to believe that the conditions of the loans were to be modified to avoid further actions. Plaintiff requested personal financial information from defendant McDonald on numerous occasions which said defendant provided to Plaintiff which would not have been disclosed at this time without the Defendant's desire to a resolution. The Defendants have been nothing less cooperative and forthcoming with the Plaintiff's request. The Defendants feel that the plaintiff solicited this information for their own gain in improving their position in this action and to help secure a default judgment from said defendant with no real intention to finding a resolution to this action. Defendant McDonald has been personally and financially affected due to the deceitful actions of the plaintiff. It has affected McDonald's health and personal relationships, caused loss time at work and loss income.

Eugene G. McDonald III

Eugene Grissom McDonald, III, Defendant
and member of SOH Properties, LLC
4533 Ivy Hall Drive
Columbia, South Carolina 29206
803-309-1066

Columbia, South Carolina
November 21, 2014

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

Case No. 2014-CP-40-3950

First Citizens Bank and Trust Company,
Inc., successor by merger to Community
Resource Bank, N.A.,

Plaintiff,

vs.

SOH Properties, LLC, Ivan A. Roldan,
and Eugene G. McDonald aka Eugene G.
McDonald III,

Defendants.

NOTICE OF MOTION AND MOTION TO
STRIKE ANSWER OF DEFENDANT SOH
PROPERTIES, LLC, MOTION FOR ENTRY
OF DEFAULT JUDGMENT AS TO SOH
PROPERTIES, LLC, AND MEMORANDUM
OF LAW IN SUPPORT

RICHLAND COUNTY
FILED
2015 JAN 27 AM 8:10
JEANNETTE V. COLE
C.C.R. 833

TO: SOH PROPERTIES, LLC:

PLEASE TAKE NOTICE THAT, pursuant to Rules 12(f) and 55, SCRPC, Plaintiff First Citizens Bank and Trust Company, Inc., successor by merger to Community Resource Bank, N.A. ("Plaintiff"), by and through its undersigned attorneys, hereby moves the Court for an Order Striking all pleadings filed by Eugene G. McDonald aka Eugene G. McDonald III ("McDonald"), acting *pro se* for Defendant SOH Properties, LLC ("SOH"), and holding SOH in default.

In support of this Motion, Plaintiff states as follows:

Statement of Relevant Facts

On or about June 20, 2014, Plaintiff caused a Lis Pendens, Civil Action Coversheet, Certificate of Exemption from ADR, Certification of Exemption from Administrative Order 2011-05-02-01, Summons, and Complaint with Exhibits (collectively "Pleadings") to be filed with the Clerk of Court for Richland County, South Carolina. Pursuant to the provisions of Rule

5, SCRCPP, the Pleadings were served on SOH via personal service on Ivan A. Roldan, registered agent for SOH, on July 3, 2014. The deadline for SOH to answer or otherwise respond to the Pleadings was August 4, 2014.

In response to the Pleadings, McDonald, acting *pro se* for SOH, filed an Answer and Crossclaim on or about August 28, 2014 ("Answer"). A true and accurate copy of the Answer attached hereto as Exhibit A.

Plaintiff's Motion to Strike and Motion for Entry of Default

It is well established in South Carolina that a non-lawyer "cannot represent a corporation in circuit or appellate courts," nor may a corporation appear *pro se* in any court other than magistrate's court. *Renaissance Enters., Inc. v. Summit Teleservices, Inc.*, 334 S.C. 649, 653, 515 S.E.2d 257, 259 (1999); *see also Brown v. Coe*, 365 S.C. 137, 140, 616 S.E.2d 705, 707 (2005). The Supreme Court's unequivocal prohibition on a corporation appearing *pro se* through a corporate officer clearly indicates that SOH's Answer should be stricken.

Accordingly, with respect to Plaintiff's motion for default, Rule 55(a), SCRCPP, provides:

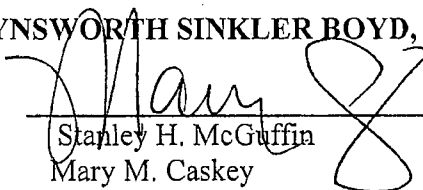
When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter his default upon the calendar (file book).

As set forth herein, SOH's only appearance in this case has been through McDonald on behalf of SOH. Inasmuch as no responsive pleading has been filed on behalf of SOH represented by legal counsel, SOH is, and has been, in default.

Based on the foregoing, Plaintiff prays that the Court strike the purported "Answer" filed on behalf of SOH, find that SOH is in default, and issue its Order finding the same.

HAYNSWORTH SINKLER BOYD, P.A.

By:


Stanley H. McGuffin

Mary M. Caskey

1201 Main Street, Suite 2200
Post Office Drawer 11889 (29211-1889)
Columbia, South Carolina 29201
(803) 779.3080 Tel
(803) 765.1243 Fax

Attorneys for Plaintiff

January 26, 2015

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND)

First Citizens Bank and Trust
Company, Inc. et al.,)

Plaintiff,)

vs.)

SOH Properties, LLC, Ivan Roldan,
Individually, and Eugene G.
McDonald, III, Individually,
Defendants.)

ANSWER AND CROSSCLAIM OF
SOH Properties, LLC, and Eugene G.
McDonald, III, individually
(Jury Trial Requested)

2007 DR 40-05555

2014-CP 4003 950

The Defendants SOH Properties, LLC and Eugene Grissom McDonald, III individually,
answering and *cross-claiming against Ivan A. Roldan*, individually, respectfully alleges:

AS AND FOR A FIRST DEFENSE

1. The Defendants specifically deny each and every allegation of the Complaint not hereinafter specifically admitted, qualified, or explained.
2. The Defendants admit the allegations contained in paragraphs 1, 3, 5, 6, 10, 11, 21, 27, 28, 29, 30, 35, and 40 of the Complaint.
3. The Defendants cannot admit or deny the allegations contained in paragraphs 2, 4, 12, 13, 14, 22, 23, 31, 32, 33, 38, 41, and 42 of the Complaint.
4. The Defendants would assert that paragraphs 7, 15, 16, 18, 19, 24, 25, 26, 34, 37, 43, 44, and 55 of the Complaint do not require a response.
5. As to paragraphs 8 and 9, the Defendants would assert that the note was originally delivered to Community Resource;

Exhibit A

6. As to paragraph 46, Defendant McDonald only executed Exhibits F and G.

Defendants have no knowledge of the other named instruments;

7. As to the remaining paragraphs, Defendants would assert that the modification period for these notes ended in early 2014. At that time Defendants engaged in previously agreed upon negotiations as to the renewal of the terms of these notes. Defendant McDonald engaged in negotiations with the Plaintiff and has provided all information requested. Plaintiff informed Defendant McDonald that Defendant Roldan has not engaged in negotiations and has not submitted requested information. As such, Plaintiff has not given Defendants the new terms of the of notes in question;

AS AND FOR A SECOND DEFENSE AND BY WAY OF CROSSCLAIM

8. The Defendants repeat each and every allegation and answer contained in the preceding paragraphs as if repeated herein verbatim.
9. That the Defendants Eugene Grissom McDonald, III and SOH Properties, LLC had by agreement left the management and maintenance of the property that is subject to this action over the past several years to Defendant Roldan, and the said Defendants are without knowledge as to how, when, and where the payments were made on said mortgages during the time Defendant Roldan had charge of the corporate books.
10. That on information and belief the property was rented, and that funds should have been available to maintain the obligation to the Plaintiff. The Defendant McDonald thought such payments were being made.
11. That the Defendant Roldan had not kept Defendant McDonald informed, nor had he or has he provided an accounting for his responsibilities.

12. That the Defendant McDonald supposes himself entitled to an accounting of all rents received and payments, if any that had been made.
13. That the Defendants McDonald and SOH Properties, Inc. assert that Defendant Roldan breached his fiduciary duty in maintaining his management responsibilities, collecting rents, and making payments on said property thereby placing the Defendants' property in a status of permanent devaluation and loss of equity resulting in the Plaintiffs having leverage to conduct business in less than arms length intent.
14. That such tortuous acts of the Defendant Roldan are the proximate cause of the foreclosure herein, and that as a result, the Defendants have suffered damages in the form of lost rents, equity, and future monies to be made on said properties.
15. That the Defendant, Eugene Grissom McDonald, III, individually, supposes himself to a judgment for actual damages against Defendant Roldan in an appropriate amount and punitive damages as can be determined by a jury.

WHEREFORE, having answered the Complaint of the Plaintiff and cross-claimed, the Defendants pray for the following relief:

- A. For the complaint of the Plaintiff to be dismissed;
- B. For a judgment for Defendant McDonald against Defendant Roldan for actual damages and punitive damages as can be determined by a jury.

C. And for whatever other relief the Court deems just and proper.



Eugelle Grissom McDonald, III
Defendant individually and member
Of SOH Properties, LLC

Columbia, South Carolina
August 28, 2014

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
First Citizens Bank and Trust)
Company, Inc. et al.,)
)
)
Plaintiff,)
)
vs.)
)
SOH Properties, LLC, Ivan Roldan,)
Individually, and Eugene G.)
McDonald, III, Individually,)
Defendants.)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Notice of Motion and Motion
To Amend Answer of
Defendant McDonald

2014-CP-40-03950

RICHLAND COUNTY
FILED
2015 FEB 25 PM 3:08
JEANETTE M. HOSKINS
C.C.P. & A.S.

The Defendant Eugene G. McDonald individually requests that the court grant them an order that will allow said Defendant to amend his Answer in the above referenced action to assert certain counterclaims against the Plaintiff. That the Plaintiff has engaged in such conduct that Defendant is entitled assert the following counterclaims against it: 1) detrimental reliance; 2) breach of waiver; 3) unclean hands; 4) misrepresentation; 5) violations of the Unfair Trade Practices Act; 6) intentional infliction of emotional distress; and 6) civil conspiracy. Defendant McDonald would offer attached EXHIBIT A as its proposed Amended Answer.



Eugene G. McDonald
Defendant

EXHIBIT A

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	
First Citizens Bank and Trust	)	AMENDED
Company, Inc. et al.,	)	ANSWER, COUNTERCLAIM
	)	AND CROSSCLAIM OF
	)	Eugene G. McDonald, III, individually
Plaintiff,	)	
	)	(Jury Trial Requested)
vs.	)	
	)	2014-CP-40-03950
SOH Properties, LLC, Ivan Roldan,	)	
Individually, and Eugene G.	)	
McDonald, III, Individually,	)	
Defendants.	)	

The Defendant Eugene Grissom McDonald, III individually, answering, counterclaiming against the Plaintiff, and *cross-claiming against Ivan A. Roldan*, individually, respectfully alleges:

AS AND FOR A FIRST DEFENSE

1. The Defendant specifically denies each and every allegation of the Complaint not hereinafter specifically admitted, qualified, or explained.
2. The Defendant admits the allegations contained in paragraphs 1, 3, 5, 6, 10, 11, 21, 27, 28, 29, 30, 35, and 40 of the Complaint.
3. The Defendant cannot admit or deny the allegations contained in paragraphs 2, 4, 12, 13, 14, 22, 23, 31, 32, 33, 38, 41, and 42 of the Complaint.
4. The Defendant would assert that paragraphs 7, 15, 16, 18, 19, 24, 25, 26, 34, 37, 43, 44, and 55 of the Complaint do not require a response.

5. As to paragraphs 8 and 9, the Defendant would assert that the note was originally delivered to Community Resource;
6. As to paragraph 46, Defendant McDonald only executed Exhibits F and G.
Defendant McDonald has no knowledge of the other named instruments;
7. As to the remaining paragraphs, Defendant would assert that the modification period for these notes ended in early 2014. At that time, Defendant engaged in previously agreed upon negotiations as to the renewal of the terms of these notes. Defendant McDonald engaged in negotiations with the Plaintiff and has provided all information requested. Plaintiff informed Defendant McDonald that Defendant Roldan has not engaged in negotiations and has not submitted requested information. As such, Plaintiff has not given Defendants the new terms of the of notes in question;

AS AND FOR A SECOND DEFENSE AND BY WAY OF CROSSCLAIM

8. The Defendant repeats each and every allegation and answer contained in the preceding paragraphs as if repeated herein verbatim.
9. That the Defendants Eugene Grissom McDonald, III and SOH Properties, LLC had by agreement left the management and maintenance of the property that is subject to this action over the past several years to Defendant Roldan, and the said Defendants are without knowledge as to how, when, and where the payments were made on said mortgages.
10. That on information and belief the property was rented, and that funds should have been available to make such payments. Defendant McDonald thought such payments were being made.

11. That the Defendant Roldan has not kept Defendant McDonald informed, nor has he provided an accounting for his responsibilities.
12. That the Defendant McDonald supposes himself entitled to an accounting of all rents received and payment that have been made.
13. That Defendant McDonald asserts that Defendant Roldan has breached his fiduciary duty in maintaining his management responsibilities, collecting rents, and making payments on said property.
14. That such tortuous acts of the Defendant Roldan are the proximate cause of the foreclosure herein, and that as a result, Defendant McDonald has suffered damages in the form of lost rents, equity, and future monies to be made on said properties.
15. That the Defendant, Eugene Grissom McDonald, III, individually, supposes himself to a judgment for actual damages against Defendant Roldan in an appropriate amount and punitive damages as can be determined by a jury.

AS AND FOR A THIRD DEFENSE AND BY WAY OF COUNTERCLAIM

16. The Defendant repeats each and every allegation contained in the preceding paragraphs as if repeated herein verbatim;
17. Throughout the time that it was apparent that there were issues with the notes, Plaintiff had engaged in such conduct that led Defendants to believe a restructuring of the notes was imminent. In 2013, Defendant McDonald gave Plaintiff all information it requested in response to its request for information toward the end of restructuring;
18. After submitting this information in 2013, Defendant McDonald was told by Plaintiff's representatives that the issue would soon be resolved;

19. In July of 2014, a meeting was had between the Plaintiff's representatives and Defendants to again discuss restructuring the notes. Plaintiff performed an evaluation of the property and told Defendant McDonald that a restructuring agreement was forthcoming. Plaintiff then informed Defendant McDonald that it needed more information, which Defendant McDonald promptly provided. Plaintiff's representative then informed Defendant McDonald that a restructuring agreement would be sent to him in a day or two. Plaintiff never sent a restructuring agreement to Defendant McDonald;
20. Based on Plaintiff's representations that there would be a restructuring agreement, Defendants, including Defendant McDonald, continued to maintain the subject property at his own expense;
21. The Plaintiff has engaged in such conduct with respect to the notes that are the subject of this action-as to make the Plaintiff's hands unclean with regard to the matters in this action;
22. The conduct includes, but is not limited to, the Plaintiff's inconsistent representations to Defendant McDonald concerning the amount it claims it is owed on the debt incident to this action;
23. This conduct by the Plaintiff relates directly to the subject matter of this action;
24. The Plaintiff's conduct has proximately caused Defendant McDonald prejudice and injury including, but not limited to:
- a. Negatively affecting his credit;
 - b. His being misinformed by the Plaintiff of the status of the loan incident to this action;

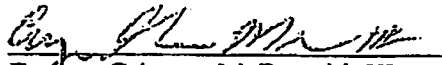
25. And is more particularly set for in the remainder of this pleading;
26. That the Defendant McDonald would ask this Court for judgment against the Plaintiff based on these causes of actions for misrepresentation, detrimental reliance, and unclean hands;

AS AND FOR A FOURTH DEFENSE AND BY WAY OF COUNTERCLAIM

27. The Defendant repeats each and every allegation contained in the preceding paragraphs as if repeated herein verbatim;
28. The Plaintiff has engaged in conduct that was calculated to convey the impression to Defendant McDonald that the status of the debt the Plaintiff claims in this action is not as the Plaintiff claims;
29. The Plaintiff intended, or at least expected or desired, that Defendant McDonald would act upon the impressions conveyed by this conduct;
30. The Plaintiff knew that the status of the debt it claims in this action could not be both as it represented it to the Defendant McDonald and as it claims in this action;
31. As the Plaintiff kept the records of the debt it claims in this action, Defendant McDonald lacked the means to determine the true status of the debt claimed by the Plaintiff;
32. Defendant McDonald accordingly relied on Plaintiff's representations to his prejudice;
33. That the Defendant McDonald would ask this Court for judgment against the Plaintiff based on his cause of action for misrepresentation;

WHEREFORE, having answered the Complaint of the Plaintiff, counterclaimed against the Plaintiff, and cross-claimed against Defendant Roldan, the Defendant McDonald prays for the following relief:

- A. For the Complaint of the Plaintiff to be dismissed with prejudice;
- B. For a judgment for Defendant McDonald against Defendant Roldan for actual damages and punitive damages as can be determined by a jury;
- C. For a judgment for Defendant McDonald against Plaintiff for actual, special, statutory, general, and punitive damages in an amount to be determined by a jury;
- D. For a judgment for Defendant McDonald against Plaintiff for all costs incurred in connection with this litigation;
- E. For a judgment for Defendant McDonald against Plaintiff for reasonable attorney's fees;
- F. And for whatever other relief the Court deems just and proper.


Eugene Grissom McDonald, III,
Defendant

Columbia, South Carolina
February 25, 2015

STATE OF SOUTH CAROLINA
 COUNTY OF RICHLAND
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2014CP4003950

First Citizens Bank And Trust Company

SOH Properties LLC

Community Resource Bank

Ivan A Rolden

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other _____
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge _____ Judge Code _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 27 February 2015 to attorneys of record or to parties (when appearing pro se) as follows:

Stanley H. McGuffin

Eugene G McDonald III

SOH Properties LLC

ATTORNEY(S) FOR THE PLAINTIFF(S)

Eugene G McDonald III
 ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court

Janette W. McBride

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

Case No. 2014-CP-40-3950

Fist Citizens Bank and Trust Company,
Inc., successor by merger to Community
Resource Bank, N.A.,

Plaintiff,

vs.

SOH Properties, LLC, Ivan A. Roldan,
and Eugene G. McDonald aka Eugene G.
McDonald III,

Defendants.

**ORDER ON MOTION FOR LEAVE TO
AMEND ANSWER OF EUGENE G.
MCDONALD III AND
SOH PROPERTIES, LLC**

2015 FEB 27 PM 4:20
CLERK OF COURT
J. E. H. HARRIS

This matter is before the court upon the motion of Defendant Eugene G. McDonald aka Eugene G. McDonald III ("McDonald") seeking leave to amend the Answer of McDonald, individually, and on behalf of SOH Properties, LLC (the "Company"), in order to assert a counterclaim. A hearing was held on February 11, 2015. John Tamasitis, Esq. appeared on behalf of Plaintiff. McDonald appeared *pro se* and on behalf of the Company. Ivan A. Roldan is in default and did not appear.

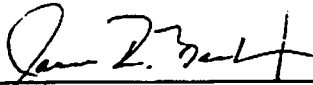
McDonald's Motion seeks leave on his behalf individually and on behalf of the Company to assert a counterclaim, but his Motion did not identify any specific causes of action nor did it include a proposed Amended Answer. Additionally, McDonald, who is not a licensed lawyer, cannot represent the Company and cannot seek leave to amend the Answer of the Company on its behalf. Therefore,

SCANNED

IT IS ORDERED that McDonald shall have fifteen (15) days from the entry of this Order to re-file a motion seeking leave to amend his Answer for himself individually, and the motion shall be accompanied by a proposed amended answer. Upon receipt of a timely and properly filed motion, if Plaintiff does not consent to the motion and filing of the proposed amended answer, this Court will schedule a hearing to hear arguments from the parties. If Defendant McDonald fails to file and serve a proper Motion to Amend within 15 days from the date of this Order, such failure will result in dismissal of McDonald's Motion.

IT IS FURTHER ORDERED that McDonald's motion for leave to amend the Answer of the Company is denied, as McDonald is not a licensed South Carolina lawyer.

AND IT IS SO ORDERED.



The Honorable James R. Barber, III
Fifth Judicial Circuit

February 18, 2015
Columbia, SC

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGM. IN A CIVIL CASE

CASE NUMBER: 2014CP4003950

First Citizens Bank And Trust Company

SOH Properties LLC

Community Resource Bank

Ivan A Rolden

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried by heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other _____
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order.

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge _____ Judge Code _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20 _____ and a copy mailed first class or placed in the appropriate attorney's box on this 2 March 2015 to attorneys of record or to parties (when appearing pro se) as follows:

Stanley H. McGuffin

Eugene G McDonald III

SOH Properties LLC

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court

Jeanette W. McBride

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

Case No. 2014-CP-40-3950

Fist Citizens Bank and Trust Company,
Inc., successor by merger to Community
Resource Bank, N.A.,

Plaintiff,

vs.

SOH Properties, LLC, Ivan A. Roldan,
and Eugene G. McDonald aka Eugene G.
McDonald III,

Defendants.

ORDER GRANTING MOTION TO STRIKE
ANSWER OF
DEFENDANT SOH PROPERTIES, LLC

RICHLAND COUNTY
FILED
2015 MAR -2 AM 10:35
CLERK OF COURT
J. C. R. 2015

This matter is before the court upon the motion of Plaintiff, First Citizens Bank and Trust Company, Inc., successor by merger to Community Resource Bank, N.A., for an Order Striking Defendant SOH Properties, LLC's Answer. A hearing was held on February 11, 2015. Present for Plaintiff was John Tamasitis, Esq., of Haynsworth Sinkler Boyd, P.A. Present for Defendant SOH Properties, LLC was Defendant Eugene G. McDonald aka Eugene G. McDonald III ("McDonald"), appearing *pro se*.

Upon the pleadings and arguments of counsel for the Plaintiff, the Court finds that the Plaintiff is entitled to the relief requested and in this regard, the Court makes the following findings of fact and conclusions of law.

1. The Court has jurisdiction over the parties to and the subject matter of this action.
2. On or about August 28, 2014, Defendant McDonald, acting *pro se* on behalf of Defendant SOH Properties, LLC filed with the Court an Answer and Counterclaim ("Answer") on

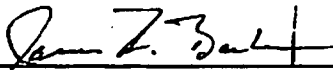
SCANNED

behalf of himself and SOH Properties, LLC wherein he purported to answer the complaint on behalf of SOH Properties, LLC.

3. SOH Properties, LLC's only appearance in this case has been through McDonald appearing on behalf of the corporation. It is well established that a non-lawyer, "cannot represent a corporation in circuit or appellate courts," nor may a corporation appear *pro se* in any court but magistrate's court. See *Renaissance Enterprises, Inc. v. Summit Teleservices, Inc.*, 334 S.C. 649, 515 S.E.2d 257 (1999); see also *Doe v. Condon*, 351 S.C. 158, 568 S.E.2d 356 (2002). Accordingly, the Answer filed by McDonald on behalf of SOH Properties, LLC to the complaint filed by Plaintiff must be stricken.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Answer of SOH Properties, LLC to the complaint is hereby stricken and that SOH Properties, LLC is in default.

AND IT IS SO ORDERED.



The Honorable James R. Barber, III
Presiding Judge

February 18, 2015
Columbia, SC

COPY

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

Case No. 2014-CP-40-3950

First Citizens Bank and Trust Company,
Inc., successor by merger to Community
Resource Bank, N.A.,

Plaintiff,

vs.

SOH Properties, LLC, Ivan A. Roldan,
and Eugene G. McDonald aka Eugene G.
McDonald III,

Defendants.

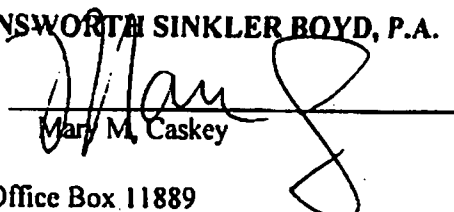
**MOTION FOR
ORDER OF REFERENCE**

FILED
2015 MAR 13 AM 10:26
JEANETTE M. MCORRIDE
CLERK, C.P. & C.S.
RICHLAND COUNTY

Plaintiff in the above-referenced action commenced this action in equity for the foreclosure of certain property located in Richland County, State of South Carolina. Plaintiff hereby moves this court, pursuant to Rule 53(b), South Carolina Rules of Civil Procedure, to issue an Order of Reference referring this equitable proceeding to the Honorable Joseph M. Strickland, Master in Equity for Richland County, for the purpose of receiving evidence and rendering findings of fact and conclusions of law with finality with respect to all issues and any appeal from any order or judgment issued by the master or special referee shall be to the Supreme Court or the Court of Appeals as provided by the South Carolina Appellate Court Rules. Any judicial sale of the property subject of this action may be held on a day other than the regular judicial day.

HAYNSWORTH SINKLER BOYD, P.A.

By:


Mary M. Caskey

Post Office Box 11889
Columbia, South Carolina 29211-1889
(803) 779.3080 Tel
(803) 765.1243 Fax

Attorney for First Citizens Bank and Trust
Company, Inc., successor by merger to
Community Resource Bank, N.A.

March 10, 2015

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

Case No. 2014-CP-40-3950

First Citizens Bank and Trust Company,
Inc., successor by merger to Community
Resource Bank, N.A.,

Plaintiff,

vs.

SOH Properties, LLC, Ivan A. Roldan,
and Eugene G. McDonald aka Eugene G.
McDonald III.

Defendants.

RICHLAND COUNTY
FILED
2015 MAR 13 AM 10:26
JEANETTE M. ANDRIDE
C.C.P. & G.S.

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on March 10, 2015, I caused the below named parties to be served with a copy of the following document(s):

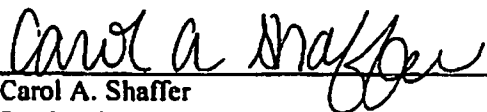
1. Motion and Order Information Form and Coversheet;
2. Motion for Order of Reference; and
3. Certificate of Service

by causing said document(s) to be placed in a sealed envelope with postage thereon fully prepaid, in the United States mail, with return address clearly shown. as set forth below.

Eugene G. McDonald aka Eugene G.
McDonald III
4533 Ivy Hall Drive
Columbia, SC 29206

Ivan A. Roldan
4840 Forest Drive, #26
Columbia, SC 29206

SOH Properties, LLC
c/o Eugene G. McDonald aka Eugene G.
McDonald III as President and Registered
Agent
4533 Ivy Hall Drive
Columbia, SC 29206


Carol A. Shaffer
Paralegal
Haynsworth Sinkler Boyd, P.A.
Post Office Drawer 11889
Columbia, South Carolina 29211-1889

COPY

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

Case No. 2011-CP-40-1002

First Citizens Bank and Trust Company,
Inc., successor by merger to Community
Resource Bank, N.A.,

Plaintiff,

vs.

SOH Properties, LLC, Ivan A. Roldan,
and Eugene G. McDonald aka Eugene G.
McDonald III,

Defendants.

RICHLAND COUNTY
FILED
2015 JUL 27 AM 10:42
JEANETTE M. MCRRIDE
C.D.P. & C.S.

(01798.1203)

**PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT MCDONALD'S
MOTION FOR LEAVE TO AMEND HIS ANSWER**

Plaintiff First Citizens Bank and Trust Company, Inc., successor by merger to Community Resource Bank successor by merger to Florence National Bank, ("Plaintiff"), through its undersigned counsel, submits this Memorandum in opposition to Defendant Eugene G. McDonald aka Eugene G. McDonald, III's ("Defendant") Motion to Amend his Answer and Assert Counterclaims.

PROCEDURAL AND FACTUAL BACKGROUND

On or about June 20, 2014, Plaintiff commenced this action to foreclose on mortgages upon certain commercial real estate and for suit on certain guaranties executed by the above-identified Defendants. In response to the Complaint, Defendant, acting *pro se*, filed an answer and cross-claim on behalf of himself and Defendant SOH Properties, LLC ("SOH Properties") on August 29, 2014. Upon receipt of Defendant's answer, Plaintiff filed a motion to strike SOH Properties' answer on the basis that South Carolina courts require a corporation to be represented

by an attorney. On November 26, 2014, prior to a hearing on Plaintiff's motion to strike, Defendant filed a motion seeking leave on his behalf individually and on behalf of SOH Properties to amend their answers and assert a counterclaim against Plaintiff.

On February 11, 2015, this Court granted Plaintiff's motion to strike SOH Properties' answer, and denied Defendant's motion to amend his answer individually. However, the Court granted Defendant fifteen (15) days to re-file his motion seeking leave to amend and to include with the motion a proposed amended answer. On February 15, 2015, Defendant filed a motion to amend his answer and assert a counterclaim against Plaintiff, alleging unclean hands, misrepresentation, and detrimental reliance based on Plaintiff's alleged refusal to modify the terms of the subject loan. For the reasons set forth below, Defendant's motion should be denied.

LEGAL STANDARD

Because Defendant seeks to amend his answer and assert counterclaims well beyond the thirty days after it was served on July 1, 2014, he may only amend his pleading by leave of the court. Rule 15(a), SCRCP, states that "leave shall be freely given when justice so requires and does not prejudice any other party."

Despite the lenient standard under Rule 15, South Carolina courts have refused to allow amendment of pleadings when an amendment would be futile. *See, e.g., Jennings v. Jennings*, 389 S.C. 190, 209, 697 S.E.2d 671, 680-81 (Ct. App. 2010), *rev'd on other grounds*, 401 S.C. 1, 736 S.E.2d 242 (2012) (affirming trial court's denial of plaintiff's motion to amend to add new parties to the action because the amendment was futile in that it would not survive summary judgment); *see also Red Oak Lands, Inc. v. Lane*, 268 S.C. 631, 634-36, 235 S.E.2d 718, 720 (1977) (affirming the trial court's ruling refusing to allow plaintiff to amend its complaint

because the statute of limitations had run so that any amendment would be “futile”); *Coral Gables, Inc. v. Palmetto Brick Co.*, 183 S.C. 478, 487, 191 S.E.2d 337, 340 (1937) (holding that “it would be futile and unavailing” to allow amendment of plaintiff’s complaint because the action was barred by the statute of limitations). As the Court of Appeals has noted, in considering whether a party dismissed pursuant to Rule 12(b)(6) should be granted leave to amend, “In the absence of any apparent or declared reason – such as . . . futility of amendment . . . – the leave sought should, as the rules require, be ‘freely given.’” *Higgins v. Med. Univ. of S.C.*, 326 S.C. 592, 604, 486 S.E.2d 269, 275 (Cl. App. 1997) (quoting *Foman v. Davis*, 371 U.S. 178 (1962)) (emphasis added).

Federal courts interpreting Rule 15, FRCP, which mirrors the relevant portions of South Carolina’s state rule, have also consistently denied a motion to amend where such amendments would be futile. *See, e.g., Perkins v. United States*, 55 F.3d 910, 917 (4th Cir. 1995) (upholding district court’s denial of motion for leave to amend because additional claims were “futile” and “could not withstand a motion to dismiss”).

ARGUMENT

A review of Defendant’s proposed counterclaims shows that they clearly lack any merit, and adding them to the case would be futile and waste resources because they would never survive a motion to dismiss or similar dispositive motion.

I. Plaintiff Is Not Under Any Contractual or Legal Obligation to Modify Defendant’s Loan.

All of Defendant’s counterclaims are based on factual allegations that Plaintiff improperly failed to modify the commercial loan that is the subject of this action. (Am. Answ. ¶¶ 26, 33.) In support of these claims, Defendant alleges that “[t]hroughout the time that it was apparent that there were issues with the notes, Plaintiff had engaged in such conduct that led

Defendants to believe a restructuring of the notes was imminent.” (*Id.* ¶ 17.) Defendant alleges these facts support counterclaims for unclean hands, misrepresentation, and detrimental reliance.

Regardless of how Defendant classifies or casts his claims, Plaintiff is under no obligation, legally or contractually, to modify the loan that is the subject of this action. There is simply no provision in the Notes, the Mortgages, the Loan Documents, or any of the Guaranties executed by any of the Defendants that require a modification or other amendment to the terms of the agreements.¹ Further, Plaintiff has not breached any loan document by denying Defendant’s request for a loan modification, or by collecting the debt in the manner prescribed in the Notes, the Mortgages, the Loan Documents, and/or the Guaranties. A contracting party does not breach his implied duty of good faith and fair dealing by refusing to change the terms of a contract. *Adams v. G.J. Creel and Sons, Inc.*, 320 S.C. 274, 277, 465 S.E.2d 84, 85 (1995); *see also Dearaujo v. PNC Bank, N.A.*, Case No. 2:12-cv-00981, 2012 U.S. Dist. LEXIS 164043 (D. Nev. Nov. 15, 2012) (finding there was no breach of the implied covenant of good faith and fair dealing when a bank failed to modify a loan because “(1) there was no enforceable contract between the parties requiring Defendant to modify the loan, (2) there was no duty to modify under the operative Loan Agreement, and (3) Plaintiff has failed to plead any plausible facts that Defendants breached the intention and spirit of the Loan Agreement. Plaintiff has not pled facts showing that Defendants were under any obligation to grant a loan modification.”).

Because Defendant’s counterclaims do not state facts that would support a claim, his motion to amend should be denied.

II. Any Agreement to Modify the Subject Loan, Mortgages, and/or Guaranties Must Be in Writing.

¹ All of these documents are referenced in Plaintiff’s Complaint and attached thereto.

It is axiomatic that any modification of a written contract must satisfy all requirements of a valid contract. *Player v. Chandler*, 299 S.C. 101, 105, 382 S.E.2d 891, 893 (1989) (citations omitted). Under South Carolina's Statute of Frauds, any agreement to answer for the debt of another or any contract dealing with an interest in land must be in writing. S.C. Code Ann. § 32-3-10. Accordingly, a contract required to be in writing by the South Carolina Statute of Frauds cannot be orally modified. *Player*, 299 S.C. at 105, 382 S.E.2d at 893.

Defendant has not alleged and cannot show that Plaintiff entered into a written agreement to modify the loan that is the subject of this action or the guaranty executed by Defendant. Thus, Defendant's claims based upon the premise that Plaintiff promised to modify the agreements between them are meritless.

III. The Statements on Which the Defendant Relies Cannot Be the Basis for Misrepresentation.

Both of Defendant's counterclaims for misrepresentation fail as a matter of law because these claims rely on statements concerning future events. To establish a cause of action for fraud based upon misrepresentation, the following elements must be shown by clear, cogent, and convincing evidence:

(1) a representation; (2) its falsity; (3) its materiality; (4) either knowledge of its falsity or a reckless disregard of its truth or falsity; (5) intent that the representation be acted upon; (6) the hearer's ignorance of its falsity; (7) the hearer's reliance on its truth; (8) the hearer's right to rely thereon; and (9) the hearer's consequent and proximate injury.

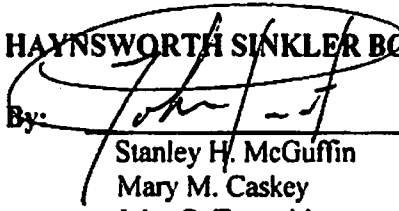
M.B. Kahn Constr. Co. v. South Carolina Nat'l Bank, 274 S.C. 381, 384, 271 S.E.2d 414, 415 (1980). "Failure to prove any one of the foregoing elements is fatal to recovery." *Id.* Additionally, statements concerning a future event – such as the modification of an agreement – cannot form the basis of fraud.

Under South Carolina law, an allegedly fraudulent representation "must relate to a present or pre-existing fact and it cannot ordinarily be based upon an unfulfilled promise to perform in the future or statements as to future events." *Bishop Logging Co. v. John Deer Indus. Equip. Co.*, 317 S.C. 520, 527, 455 S.E.2d 183, 187 (1995) (emphasis added). "As a general rule, fraud cannot be predicated on a statement that constitutes an expression of an intention." *Osborn v. Univ. Med. Assocs.*, 278 F. Supp. 2d 720, 732 (D.S.C. 2003). Even if Defendant could prove that any representatives of Plaintiff promised him that Loan Documents or Guaranties would be modified, such statements concern an intent or a future event, and are not fraud. Thus, the alleged misrepresentations cannot be the basis for damages, and will fail as a matter of law.

CONCLUSION

Based on the foregoing, Plaintiff requests that the Court deny Defendant's motion to amend his answer and assert counterclaims and grant such other relief as the Court finds just and proper.

HAYNSWORTH SINKLER BOYD, P.A.

By: 

Stanley H. McGuffin
Mary M. Caskey
John G. Tamasitis

1201 Main Street, Suite 2200
Post Office Drawer 11889 (29211-1889)
Columbia, South Carolina 29201
(803) 779.3080 Tel
(803) 765.1243 Fax

Attorneys for Plaintiff

July 24, 2015

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

Case No. 2014-CP-40-3950

First Citizens Bank and Trust Company,
Inc., successor by merger to Community
Resource Bank, N.A.,

Plaintiff,

vs.

SOH Properties, LLC, Ivan A. Roldan,
and Eugene G. McDonald aka Eugene G.
McDonald III,

Defendants.

RICHLAND COUNTY
FILED
2015 JUL 27 AM 10:42
JEANNETTE M. MCBRIDE
C.C.P. & G.S.

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on July 24, 2015, I caused the below named parties to be served with a copy of the following document(s):

1. Plaintiff's Memorandum in Opposition to Defendant McDonald's Motion for Leave to Amend His Answer; and
2. Certificate of Service

by causing said document(s) to be placed in a sealed envelope with postage thereon fully prepaid, in the United States mail, with return address clearly shown, as set forth below.

Eugene G. McDonald aka Eugene G.
McDonald III
4533 Ivy Hall Drive
Columbia, SC 29206

Ivan A. Roldan
4840 Forest Drive, #26
Columbia, SC 29206

SOH Properties, LLC
c/o Eugene G. McDonald aka
Eugene G. McDonald III as
President and Registered Agent
4533 Ivy Hall Drive
Columbia, SC 29206



Carol A. Shaffer
Paralegal
Haynsworth Sinkler Boyd, P.A.
1201 Main Street, Suite 2200
Post Office Drawer 11889 (29211-1889)
Columbia, South Carolina 29201

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
First Citizens Bank and Trust)
Company, Inc., successor by merger)
Community Resource Bank, N.A.,)

Plaintiff,)

vs.)

SOH Properties, LLC, Ivan Roldan,)
and Eugene G. McDonald aka Eugene)
G. McDonald III)

Defendants.)

IN THE COURT OF COMMON PLEAS

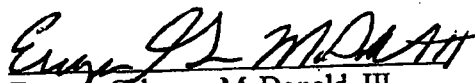
Affidavit

Eugene Grissom McDonald, III, individually

2014-CP-40-3950

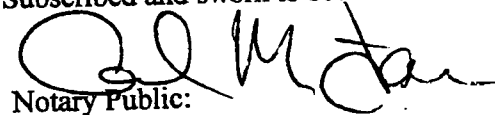
RICHLAND COUNTY
FILED
2015 JUL 28 PM 1:30
JEANETTE M. MCGRATH
Clerk of Court

1. My Motion to Amend my Answer does not violate the statute of limitations in this case.
2. To state that it is futile and will not survive summary judgement is an opinion.
3. The Plaintiff is not legally obligated to amend the term of the loan but they have induced me to believe they were going to modify the terms by their actions as they did before by making overtures to me and I should have a right to rely on what they tell me.


Eugene Grissom McDonald, III
Defendant

Columbia, South Carolina
July 27, 2015

Subscribed and sworn to before me on this date:


Notary Public:

My Commission Expires:

4/10/2017

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

First Citizens Bank and Trust
Company, Inc. et al.,

Plaintiff,

vs.

SOH Properties, LLC, Ivan Roldan,
Individually, and Eugene G.
McDonald, III, Individually,
Defendants.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

**AFFIDAVIT OF DEFAULT
AGAINST DEFENDANT ROLDAN
BY DEFENDANT MCDONALD**

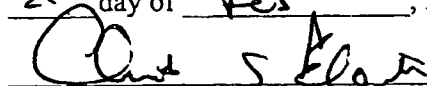
2014-CP-40-03950

2015 AUG 31 AM 9:44
CLERK OF COURT
C.C.P. & C.S.

PERSONALLY, appeared before me, Eugene G. McDonald, who being duly sworn, says that he is a Defendant in the above entitled action; that the Summons and Crossclaim therein were duly served on the Defendant, **Ivan Roldan**, by personal service on December 5, 2014, as shown by the Affidavit of Personal Service filed December 9, 2014; that more than thirty (30) days exclusive of the day of service has elapsed since the service of said Summons and Complaint; and no Answer, Demurrer, Notice of Appearance or other pleading has been served on the Defendant McDonald, as required by said Summons and Complaint, and that said Defendant, **Ivan Roldan**, is now in default. That said Defendant, **Ivan Roldan**, is not a member of the Armed Services of the United States, as is contemplated under the Soldiers' & Sailors' Relief Act, as amended.


Eugene G. McDonald
Defendant

SWORN to & subscribed before me this
25 day of Feb, 2015.


NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 9-6-15

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
Case No. 2014-CP-40-3950

First Citizens Bank and Trust Company,
Inc., successor by merger to Community
Resource Bank, N.A.,

Plaintiff,

vs.

SOH Properties, LLC, Ivan A. Roldan,
and Eugene G. McDonald aka Eugene G.
McDonald III,

Defendants.

**ORDER GRANTING PLAINTIFF'S MOTION
FOR ORDER OF REFERENCE AND
DENYING DEFENDANT McDONALD'S
MOTION FOR LEAVE TO AMEND ANSWER
TO ASSERT COUNTERCLAIMS**

RICHLAND COURT
FILED
2015 NOV 13 AM 10:09
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

This matter is before the court upon (a) the motion of Plaintiff, First Citizens Bank and Trust Company, Inc., successor by merger to Community Resource Bank, N.A., for an Order of Reference and (b) Defendant Eugene G. McDonald aka Eugene G. McDonald III's ("Defendant McDonald") Motion to Amend Answer of Defendant McDonald. A hearing was held on July 29, 2015. Present for Plaintiff were Mary M. Caskey, Esq. and John G. Tamasitis, Esq. of Haynsworth Sinkler Boyd, P.A. Defendant McDonald appeared *pro se*.

Upon the motions and arguments of counsel for Plaintiff, the Court finds that Plaintiff is entitled to the relief requested and in this regard, the Court makes the following findings of fact and conclusion of law:

1. The Court has jurisdiction over the parties to and the subject matter of this action.

2. On or about February 25, 2015, Defendant McDonald filed with the Court a Motion to Amend Answer of Defendant McDonald seeking leave to amend his Answer for the expressed purpose of asserting certain counterclaims.

3. Despite the lenient standard under Rule 15, SCRP, South Carolina courts have refused to allow amendment of pleadings when an amendment would be futile. *See Red Oak Lands, Inc. v. Lane*, 268 S.C. 631, 634-36, 235 S.E.2d 718, 720 (1977) (affirming the trial court's ruling refusing to allow plaintiff to amend its complaint because the statute of limitations had run so that any amendment would be "futile"). All of Defendant's counterclaims are based on factual allegations that Plaintiff improperly failed to modify the commercial loan that is the subject of this action. Plaintiff is under no obligation, legally or contractually, to modify the loan that is the subject of this action. There is no provision in any of the loan documents or guaranties executed by any of the Defendants in this action that require a modification or other amendment to the terms of the agreements. Further, Plaintiff has not breached any loan document by denying Defendant McDonald's request for a loan modification, or by collecting the debt in the manner prescribed in the notes, the mortgages, the loan documents, and/or the guaranties. A contracting party does not breach his implied duty of good faith and fair dealing by refusing to change the terms of a contract. *Adams v. G.J. Creel and Sons, Inc.*, 320 S.C. 274, 277, 465 S.E.2d 84, 85 (1995). Because Defendant McDonald's counterclaims, at this time, do not state facts that would support a claim, his motion for leave to amend his Answer to assert certain counterclaims is denied without prejudice.

4. On or about March 13, 2015, Plaintiff filed with the Court a Motion for Order of Reference requesting that the Court refer this foreclosure action to the Honorable Joseph M.

Strickland, Master in Equity for Richland County, for the purpose of receiving evidence and rendering findings of fact and conclusions of law.

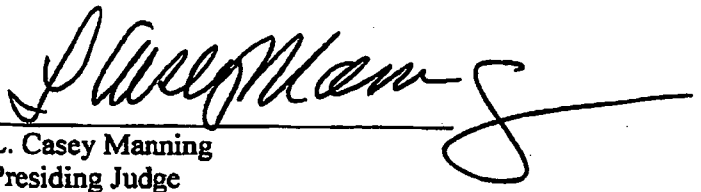
5. Plaintiff commenced this action in equity for the foreclosure of certain property located in Richland County, South Carolina. This is a proper matter to be referred to the Master in Equity pursuant to Rule 53, SCRCP, for the purpose of making appropriate findings of fact and conclusions of law with the authority to enter a final judgment in this case and with any appeal from the final judgment in this case directly to the South Carolina Court of Appeals.

IT IS HEREBY ORDERED, ADJUGED, AND DECREED that:

1. Defendant McDonald's motion for leave to amend his Answer to assert certain counterclaims is denied without prejudice because Defendant McDonald's proposed counterclaims do not state facts that would support a claim at this time.

2. This action is hereby referred to the Honorable Joseph M. Strickland, Master in Equity for Richland County, to take testimony arising under the pleadings, to make findings of fact and conclusions of law, with authority to dispose of any and all issues, and enter a final judgment in the case, pursuant to Rule 53, SCRCP. Any appeal from the final judgment entered by the Master in Equity shall be made directly to the South Carolina Court of Appeals.

AND IT IS SO ORDERED.


L. Casey Manning
Presiding Judge

10-29, 2015

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

Case No. 2014-CP-40-3950

First Citizens Bank and Trust Company,
Inc., successor by merger to Community
Resource Bank, N.A.,

Plaintiff,

vs.

SOH Properties, LLC, Ivan A. Roldan,
and Eugene G. McDonald aka Eugene G.
McDonald III,

Defendants.

**MASTER IN EQUITY'S ORDER AND
JUDGMENT OF FORECLOSURE AND
SALE**

(Deficiency Demanded as to SOH Properties, LLC,
Ivan A. Roldan, and Eugene G. McDonald aka
Eugene G. McDonald III)

FILED
AUG -2 PM 4:00
C.C.P. & G.S.

I, the undersigned, Master in Equity for Richland County, hereby find that pursuant to Order of Default and Mandatory Order of Reference granted in the above captioned case, a hearing was held on June 29, 2016, attended by Mary M. Caskey of Haynsworth Sinkler Boyd, P.A., attorneys for First Citizens Bank and Trust Company, Inc., successor by merger to Community Resource Bank, N.A. ("Plaintiff") and David Walker as witness for Plaintiff. Defendant Eugene G. McDonald aka Eugene G. McDonald III appeared pro se. Defendants SOH Properties, LLC and Ivan A. Roldan did not appear.

Since this foreclosure action involves mortgages on commercial property, the Home Affordable Modification Program is inapplicable.

This foreclosure action is exempt from the Supreme Court of South Carolina's May 2, 2011 Administrative Order ("Administrative Order") because this action involves the foreclosure of commercial loans. As such, the subject property is not an Owner-occupied dwelling as defined in the Administrative Order, as evidenced by the Certificate of Exemption.

Testimony was proffered, which is herewith reported, and from the testimony and evidence, I find and conclude as follows:

FINDINGS OF FACT

1. The Lis Pendens, Civil Action Coversheet, Certificate of Exemption from ADR, Notice of Foreclosure Intervention, Summons, and Complaint with Exhibits (collectively hereinafter referred to as "Pleadings") in the Office of the Clerk of Court for Richland County on June 20, 2014.

2. The Pleadings were served upon the president of SOH Properties, LLC ("SOH") on September 11, 2014, as evidenced by the Affidavit of Service item on file with the Court.

3. The Pleadings were served upon Ivan A. Roldan ("Roldan") via personal service on July 1, 2014, as evidenced by the Affidavit of Service item on file with the Court.

4. The Pleadings were served upon Eugene G. McDonald aka Eugene G. McDonald III ("McDonald") via personal service on July 1, 2014, as evidenced by the Affidavit of Service item on file with the Court.

5. The Order of Default as to Roldan was filed with the Court on March 2, 2015.

6. SOH and McDonald filed an Answer and Crossclaim on August 28, 2014. SOH and McDonald filed a Notice of Motion and Motion to Amend Answer of SOH and McDonald on November 26, 2014. McDonald filed a second Notice of Motion and Motion to Amend Answer of Defendant McDonald on February 25, 2015. Both of McDonald's motions for leave to amend were denied, and on motion of the Plaintiff, the answer of SOH was stricken by Order entered on March 2, 2015. An Order Granting Plaintiff's Motion for Order of Reference and Denying Defendant McDonald's Motion for Leave to Amend Answer to Assert Counterclaims was filed on November 13, 2015.

7. Upon information and belief, the no defendant is not an individual entitled to protection under the Servicemembers Civil Relief Act, 50 USCS Appx. §§ 501 *et seq.* (2004).

8. The defendants were notified of the time, date, and place of the hearing in this matter.

9. For value received, on or about April 20, 2007, SOH executed and delivered to Plaintiff a South Carolina – Universal Note in the original principal amount of Seventy Four Thousand Five Hundred and No/100 (\$74,500.00) Dollars (“Note-1”).

10. To secure the repayment of the Note-1, and the debt evidenced thereby, SOH executed and delivered unto Plaintiff a certain Real Estate Mortgage dated April 20, 2007 (“Mortgage-1”), whereby SOH mortgaged to Plaintiff the real property described in the Mortgage-1 (“Mortgaged Property”). The Mortgage-1 was recorded on April 26, 2007, in the Office of the Register of Deeds for Richland County in Book 1306 at Page 3670.

11. SOH is the legal owner of the Mortgaged Property.

12. Mortgage-1 is a valid first priority mortgage lien on the Mortgaged Property.

13. Plaintiff is the current owner and holder of Note-1 and Mortgage-1.

14. On or about August 31, 2009, SOH executed and delivered to Plaintiff a Commercial Note in the original principal amount of Fourteen Thousand Nine Hundred Thirty Seven and 37/100 (\$14,937.37) Dollars (“Note-2”).

15. To secure the repayment of Note-2, and the debt evidenced thereby, SOH executed and delivered unto Plaintiff a certain Mortgage of Real Estate dated August 31, 2009 (“Mortgage-2”), whereby SOH mortgaged to Plaintiff the Mortgaged Property. Mortgage-2 was recorded on September 3, 2009, in the Office of the Register of Deeds for Richland County in Book 1553 at Page 2704.

16. Mortgage-2 is a valid mortgage lien on the Mortgaged Property.

17. To further induce Plaintiff to enter into the Note, and as additional security for the Note and the debt evidenced thereby, and for valuable consideration given, Roldan and McDonald made, executed and delivered unto Plaintiff those certain Guaranty items dated April 30, 2007, October 30, 2007, June 18, 2008, and August 31, 2009 (collectively, the "Guaranties").

18. Plaintiff is the current owner and holder of Note-2 and Mortgage-2.

19. Note-1 and Note-2 may hereinafter be referred to collectively as the "Note."

20. Mortgage-1 and Mortgage-2 may hereinafter be referred to collectively as the "Mortgage."

21. Payments due on Plaintiff's Note and Mortgage have not been made as provided for therein, and the Plaintiff, as the holder thereof, has elected to require immediate payment of the entire amounts due thereon and has placed the Note and Mortgage in the hands of the attorney herein for collection.

22. The following amounts are due and owing on Plaintiff's Note, Mortgage, and Guaranties as of June 29, 2016, including costs and expenses of collection and attorneys' fees, which were divided evenly between Note-1 and Note-2:

As to Note-1

(a) Principal Balance	\$66,330.98
(b) Accrued Interest Due	\$17,142.90
(c) Late Charges	\$555.57
(d) Appraisal	\$1,105.00
(e) Taxes	\$10,423.15
Balance due on Note-1	\$95,557.60
(f) Filing, service, motion, and referral fees	\$1,704.83
Total Balance due on Note-1	\$97,262.43
(g) Attorneys' Fees	\$8,750.00
Total Debt on Note-1	\$106,012.43

Interest continues to accrue on Note-1 after June 29, 2016, at the rate of 8.25% *per annum* (which is currently \$17.52 *per diem*).

As to Note-2

(a) Principal Balance	\$12,737.06
(b) Accrued Interest Due	\$5,461.15
Balance due on Note-2	\$18,198.21
(c) Filing, service, motion, and referral fees	\$1,704.83
Total Balance due on Note-2	\$19,903.04
(d) Attorneys' Fees	\$8,750.00
Total Debt on Note-2	\$28,653.04

Interest continues to accrue on Note-2 after June 29, 2016, at the rate of 7.00% *per annum* (which is currently \$2.48 *per diem*).

23. Plaintiff is seeking foreclosure of the Mortgage and the right to a personal or deficiency judgment against SOH, Roldan, and McDonald, with a credit against the judgment to be given for the net proceeds received by Plaintiff for the sale of the Mortgaged Property. However, Plaintiff reserves the right to waive deficiency prior to the sale.

24. McDonald testified that Plaintiff promised him that the Note and Mortgage would be modified or refinanced. McDonald called Dave Davies, a former employee of Plaintiff, to question Mr. Davies about the proposed modification. Mr. Davies testified that while Plaintiff was willing to consider a resolution to resolve the debt, Roldan, a co-guarantor and member of SOH, never provided any financial documentation or otherwise applied for any modification of the Note and Mortgage. Mr. Davies testified that he never promised McDonald that the Note and Mortgage would be modified, or that an extension on the debt would be granted. Although McDonald offered several emails between McDonald and Plaintiff or its representatives concerning the debt, none of the emails evidenced any written modification or renewal of the Note and Mortgage. Mr. McDonald admitted that he had no written agreement with Plaintiff to modify the Note and Mortgage, and instead believed he was entitled to a modification because

Plaintiff told him they would consider a modification and because the loan had previously been modified.

CONCLUSIONS OF LAW

I, therefore, conclude that the Mortgage is not subject to modification under the Home Affordable Modification Program, and that the foreclosure proceeding is exempt from the Administrative Order. I further concluded that the Plaintiff should have judgment of foreclosure of the Mortgage and the Mortgaged Property should be ordered sold at public auction after due advertisement, and a personal or deficiency judgment against SOH, Roldan, and McDonald, with a credit against the judgment to be given for the net proceeds received by the Plaintiff for the sale, shall be entered upon the judgment rolls for Richland County. I find that McDonald failed to present any evidence that the Note and Mortgage had been modified or to support any defense to the claims asserted by Plaintiff. The Mortgaged Property shall be sold at the foreclosure sale conducted by the Master in Equity for Richland at the next available sales date.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Since this foreclosure action involves mortgages on commercial property, the Home Affordable Modification Program is inapplicable.
2. This foreclosure action is exempt from the Administrative Order because this action involves the foreclosure of commercial loans. As such, the subject property is not an Owner-occupied dwelling as defined in the Administrative Order, as evidenced by the Certificate of Exemption.
3. That there is due to the Plaintiff on Note-1 set forth in the Complaint the sum \$106,012.43 as of June 29, 2016, and Plaintiff is entitled to judgment for said amount.

4. The amount due in the proceeding paragraph shall constitute the total judgment debt due under Note-1 to the Plaintiff and shall bear interest hereafter until paid on Note-1 at the rate of 8.25% *per annum* (which is currently \$17.52 *per diem*) from June 29, 2016, until the entry of judgment and at the Note-1 rate thereafter. Further, to the extent Plaintiff advances money for insurance or other expenses to preserve the property after June 29, 2016, such advances may be added to the total judgment debt.

5. That there is due to the Plaintiff on Note-2 set forth in the Complaint the sum \$28,653.04 as of June 29, 2016, and Plaintiff is entitled to judgment for said amount.

6. The amount due in the proceeding paragraph shall constitute the total judgment debt due under Note-2 to the Plaintiff and shall bear interest hereafter until paid on Note-2 at the rate of 7.00% *per annum* (which is currently \$2.48 *per diem*) from June 29, 2016, until the entry of judgment and at the Note-2 rate thereafter. Further, to the extent Plaintiff advances money for insurance or other expenses to preserve the property after June 29, 2016, such advances may be added to the total judgment debt.

7. That SOH, Roldan, and McDonald are liable for the aforesaid debt, shall on or before the date of sale of the property hereinafter described, may pay to the Plaintiff's attorneys, the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

8. That on default of payment at or before the time herein indicated, the Mortgaged Property be sold by the Richland County Master in Equity or his agent, at public auction, at the Richland County Courthouse, Columbia, South Carolina, County and State aforesaid, on some convenient sales day hereafter (and should the regular day of judicial sales fall on a legal holiday, then and in such event, the sales day shall be on the day designated by the selling officer succeeding such holiday), on the following terms, that is to say:

The sale shall be for cash, and the highest bidder shall be required to make a cash deposit of five (5%) percent on the bid as earnest money and as evidence of good faith. If the Plaintiff is the successful bidder at the sale, the Plaintiff may, after paying the costs of the sale, apply the debt due upon its Mortgage against its bid in lieu of cash. Should the person making the highest bid at the sale fail to comply with the terms of his bid by depositing the said five (5%) percent in cash, then the property shall be sold at the risk of such bidder on the same sales date or some subsequent date as the selling officer may find convenient and advantageous. Should the last and highest bidder fail to comply with the terms of his bid within thirty (30) days of the final acceptance of his bid, then the selling officer shall re-advertise and resell the property on the same terms on a subsequent date at the risk of such bidder. Persons submitting additional bids after the initial sale shall deposit five (5%) percent of their bids in cash as prescribed above. The Richland County Master in Equity or his designated representative, shall promptly return all deposits except the deposit securing the highest bid. The sale shall be subject to taxes, to existing easements and restrictions, and to homeowners association assessments accruing subsequent to the date of the deed/title issued to the purchaser. Purchaser shall pay all costs of recording the deed.

9. Plaintiff is seeking foreclosure of the Mortgage and does not waive the right to a personal or deficiency judgment. However, Plaintiff reserves the right to waive deficiency prior to the sale.

10. That after advertisement according to law, give notice of the time and place of such sale, and the terms thereof, that the Richland County Master in Equity convey to the purchaser, or purchasers, a deed to the premises sold; and that the Plaintiff, or any other party to this action, may become a purchaser at such sale, and that if, upon such sale being made, the purchaser or purchasers should fail to comply with the terms thereof, the Court may advertise the said premises of sale on the next, or some other subsequent Sales Day, at the risk of the former highest bidder, and so from time to time thereafter until a compliance shall be secured. The deed will be taken subject to payment by grantee of any taxes or special assessments constituting a lien against the property sold under this Report and hereinafter more fully described. Pursuant to

S.C. Code §12-24-40(13), the successful bidder other than Plaintiff shall pay the cost of deed stamps on said deed.

11. That the proceeds of the sale be applied as follows:

FIRST, to payment of the amount of the costs and expenses of this action, including the Master in Equity fee and the costs of advertising the Notice of Sale, and any taxable disbursements by the attorneys in the action;

SECOND, to the payment of the Plaintiff or Plaintiff's attorney, of the amount of Plaintiff's debt and interest, or so much thereof as the purchase money will pay on the same; and

THIRD, any surplus proceeds to be held subject to further order of this Court.

12. That upon the making of the sale of the Mortgaged Property, as hereby ordered, and the execution and delivery to the purchaser of a deed to the premises, the said purchaser or purchasers be let into possession of the premises on production of the deed; and the Sheriff of Richland County shall put the holder of the deed into possession of the premises.

13. That each Defendant named herein and all persons whosoever claiming under him, them or it, be forever barred and foreclosed of all right, title and interest and equity of redemption in the said mortgaged premises so sold, or any part thereof.

14. The undersigned Master in Equity will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, the issuance of a Writ of Assistance and disposing of any surplus funds pursuant to Rule 71(c) SCRPC.

15. The following is a description of the premises herein ordered to be sold:

All that certain piece, parcel, or lot of land, with improvements thereon, situate, lying and being in the County of Richland, State of South Carolina, described as Lot Nine (9), Hutto Court as shown on a plat of Hutto Court and showing Hutto Court Extension by William Wingfield, dated July 10, 1952, recorded July 25, 1952 in Book 'O' at Page 130, Slide 14, having the following boundaries and measurements to wit: on the Northwest by Lot Eight (8) whereon it measures for a

distance of 115.2 feet; on the Northeast by property now or formerly of "Bayview" whereon it measures for a distance of 120.0 feet; on the Southeast by Lot No. 10 whereon it measures for a distance of 145.1 feet; on the Southwest by the right-of-way of Hutto Court whereon it fronts and measures for a distance of 50.0 feet, all as more fully shown on a said plat, to which reference is hereby, all as more fully shown on said plat, to which reference is hereby craved, be all measurements a little more or less.

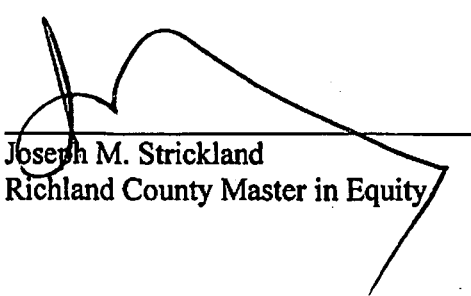
This being the same property conveyed unto SOH Properties, LLC, by deed from Ivan A. Roldan and Shannon M. McDonald, dated September 15, 2004, recorded September 17, 2004, in the Register Deeds Office for Richland County in the Record Book 978 at Page 1709, 1710, 1711, and 1712.

TMS No: 14107-04-25

Property Address: 52 Hutto Court, Columbia, SC 29204.

16. If the Plaintiff or the Plaintiff's representative does not appear at the scheduled sale of the above-referenced property, then the sale of the property will be null, void and of no force and effect. In such event, the sale will be rescheduled for the next available sales day.

July 20, 2016



Joseph M. Strickland
Richland County Master in Equity

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2014-CP-40-3950

Fist Citizens Bank and Trust Company, Inc., successor
by merger to Community Resource Bank, N.A.

SOH Properties, LLC, Ivan A. Roldan, and Eugene
G. McDonald aka Eugene G. McDonald III

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Mary M. Caskey

Attorney for : ☒ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : Foreclosure

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
First Citizens Bank and Trust Company, Inc., successor by merger to Community Resource Bank, N.A.	SOH Properties, LLC	\$100,090.47
First Citizens Bank and Trust Company, Inc., successor by merger to Community Resource Bank, N.A.	Ivan A. Roldan	\$100,090.47
First Citizens Bank and Trust Company, Inc., successor by merger to Community Resource Bank, N.A.,	Eugene G. McDonald aka Eugene G. McDonald III	\$100,090.47

If applicable, describe the property, including tax map information and address, referenced in the order:
Property Address: 52 Hutto Court, Columbia, SC 29204, TMS No: 14107-04-2

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Master In Equity

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 2016 and a copy mailed first class or placed in the appropriate attorney's box on this day of _____, 2016 to attorneys of record or to parties (when appearing pro se) as follows:

Mary M. Caskey
Haynsworth Sinkler Boyd, PA
PO Box 11889
Columbia, SC 29211-1889

Eugene G. McDonald aka Eugene G.
McDonald III
4533 Ivy Hall Drive
Columbia, SC 29206

Ivan A. Roldan
4840 Forest Drive, #26
Columbia, SC 29206

SOH Properties, LLC
c/o Eugene G. McDonald aka Eugene G. McDonald III as
President and Registered Agent
4533 Ivy Hall Drive
Columbia, SC 29206

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

Case No. 2014-CP-40-3950

First Citizens Bank and Trust Company,
Inc., successor by merger to Community
Resource Bank, N.A.,

Plaintiff,

vs.

SOH Properties, LLC, Ivan A. Roldan,
and Eugene G. McDonald aka Eugene G.
McDonald III,

Defendants.

ORDER OF DEFICIENCY JUDGMENT
(As to SOH Properties, LLC, Ivan A. Roldan, and
Eugene G. McDonald aka Eugene G. McDonald III)

FILED
DEC 13 AM 10:03
CLERK OF COURT
C.P. & G.S.

Pursuant to the Judgment of the Master in Equity given in the above case issued on July 20, 2016, and filed August 2, 2016, the Plaintiff is entitled to have a personal and deficiency judgment against defendants SOH Properties, LLC, Ivan A. Roldan, and Eugene G. McDonald aka Eugene G. McDonald III as follows:

Amount of judgment of foreclosure on Note-1 entered by Equity Court	\$106,012.43
PLUS: Interest on Note-1 from June 29, 2016, to November 2, 2016 (126 days at \$17.52 <i>per diem</i>)	\$2,207.52
Amount of judgment of foreclosure on Note-2 entered by Equity Court	\$28,653.04
PLUS: Interest on Note-2 from June 29, 2016, to November 2, 2016 (126 days at \$2.48 <i>per diem</i>)	\$312.48
Commission	\$380.00
Advertising	\$480.00
Bid Fee	\$45.00
	<u>\$864.00</u>
Total Judgment	\$138,090.47
LESS: Amount of Bid	-\$38,000.00
DEFICIENCY JUDGMENT ENTERED AGAINST SOH PROPERTIES, LLC, IVAN A. ROLDAN, AND EUGENE G. MCDONALD AKA EUGENE G. MCDONALD III	\$100,090.47

IT IS SO ORDERED.

Dec. 12, 2016

Columbia, South Carolina

Joseph M. Strickland
Master in Equity for Richland County

1 STATE OF SOUTH CAROLINA
2 COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

3

4 FIRST CITIZENS BANK AND TRUST COMPANY
5 INC., SUCCESSOR BY MERGER TO
6 COMMUNITY RESOURCE BANK, N.A.,

7 Plaintiff(s),

8 vs.

Case No.: 2014-CP-40-3950

9 SOH PROPERTIES, LLC, IVAN A. ROLDAN,
10 AND EUGENE G. MCDONALD AKA
11 EUGENE G. MCDONALD III,

12 Defendant(s).

13

14 H E A R I N G

15 BEFORE THE HONORABLE JUDGE JOSEPH M. STRICKLAND,

16 MASTER IN EQUITY

17 DATE: Thursday, June 29th, 2016

18 TIME: 10:01 a.m.

19 LOCATION: Richland County Judicial Center
20 1701 Main Street
21 Columbia, South Carolina

22 REPORTED BY: SHERI L. BYERS
23 Registered Professional Reporter

24 - - - - -

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1 APPEARANCES:

2 ATTORNEYS FOR THE PLAINTIFF:

3 HAYNSWORTH SINKLER BOYD, P.A.
4 BY: MARY M. CASKEY, ESQUIRE
5 1201 Main Street, 22nd Floor
6 Columbia, South Carolina 29201
7 mcaskey@hsblawfirm.com
8 803.540.7870

9
10 EUGENE G. MCDONALD III, Appearing Pro Se
11
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1

2

THE COURT: This is Civil Action Number

3

2014-CP-40-3950. First Citizens Bank and Trust versus

4

SOH Properties, LLC, and others.

5

I meant to indicate that this is a contested

6

foreclosure.

7

MS. CASKEY: Yes, Your Honor. Mary Caskey

8

here on behalf of First Citizens Bank and Trust.

9

This is a contested foreclosure, Your Honor.

10

But I believe that the issues before you are very

11

narrow.

12

THE COURT: Okay.

13

MS. CASKEY: Mr. McDonald and Mr. Roldan are

14

guarantors of SOH Properties, LLC, who is the borrower.

15

This is a foreclosure of a first and second mortgage on

16

commercial rental property.

17

THE COURT: All right.

18

MS. CASKEY: Mr. McDonald originally, in this

19

case, which was filed back in 2014, filed an answer on

20

behalf of SOH Properties. Mr. McDonald is not an

21

attorney so that answer was later stricken.

22

Mr. McDonald also attempted to file answers

23

in counterclaims on -- for himself pro se. And I

24

believe we've had four different motions hearings on

25

that and at each turn, his request to have the -- his

1 answer amended so that he could assert the
2 counterclaims were denied. Those were all heard in
3 circuit court before this was referred.

4 THE COURT: Okay.

5 MS. CASKEY: Mr. Roldan is in default. As
6 far as I know -- this is what Mr. McDonald and I were
7 discussing before we came in here. I don't believe
8 there's any dispute that the note was signed on behalf
9 of SOH Properties. Mr. McDonald signed the guarantee
10 as himself, and Mr. Roldan, obviously, it's been
11 admitted as to him.

12 And Mr. McDonald has not disputed the amount
13 of the debt other than that in his attempts to assert a
14 counterclaim or a defense, he's tried to assert that
15 First Citizens agreed to modify the loan or work out
16 the loan. But in the -- on the orders on his motion
17 for leave to amend his answer, the circuit court held
18 that he was not entitled to assert that as a defense or
19 a counterclaim because none of the workouts or the
20 modifications were in writing and thus they violated
21 the lender statute of frauds, the regular statute of
22 frauds with respect to an interest in land, and also
23 that they related to a future event. "You promised to
24 modify my loan in the future," and that couldn't
25 support a cause of action for fraud.

1 So as far as what we're here about today, I
2 don't believe there's any dispute about the loan
3 documents themselves, the amount due on the loan
4 documents themselves under the loan documents or the
5 ability of First Citizens having a standing to
6 foreclosure.

7 I believe Mr. McDonald is going to try to
8 offer testimony from Mr. Davies, who's a former
9 employee of First Citizens Bank, about the modification
10 to the workout. And if Your Honor is willing, I would
11 like to first argue as to whether that's appropriate
12 today given the orders that have already been entered
13 in this case about the loan modifications and the
14 workouts.

15 THE COURT: Let me ask you, Ms. Caskey, is
16 your client still demanding a deficiency judgment?

17 MS. CASKEY: Yes, Your Honor.

18 THE COURT: Mr. McDonald, is that really a
19 problem with this? Worried about a judgment being
20 entered against you if you don't prevail in the
21 foreclosure part?

22 MR. MCDONALD: That definitely would be a
23 concern for me. Yes, sir.

24 THE COURT: Have you all talked about
25 resolving that?

1 MR. MCDONALD: I have made numerous attempts
2 to try to resolve this matter since it went into
3 default or actually when it became -- actually did not
4 go into default. It came up for renewal.

5 THE COURT: All right. Ms. Caskey, is there
6 any hope of maybe resolving the deficiency judgment
7 demand?

8 MS. CASKEY: Your Honor, I'm afraid that
9 we've had discussions about how to resolve this over
10 the past two years. And that is the sticking point
11 given the value of the property.

12 THE COURT: Now -- okay. Well, I get in
13 trouble sometimes when I try to encourage people to
14 settle -- I encourage them to settle, and if they do, I
15 will poll them and make sure they did it voluntarily.
16 I just -- over the years I know that has caused a lot
17 of cases to go forward at great expense and things like
18 that.

19 MR. MCDONALD: Right. And, Your Honor, my
20 testimony is a lot of it is based on the facts that I
21 did try to resolve this in an equitable manner. I have
22 all the documentations of where I've made attempts
23 between the various parties that have been involved in
24 this case and also had a partner who I had a
25 counterclaim against who I have a judgment against

1 also.

2 THE COURT: Okay. Ms. Caskey, is your
3 client, are you all accepting of the fact that he
4 doesn't have to accept the bank's opinion of what the
5 property's worth? In other words, the appraisals
6 statute will still be in effect or has he waived that,
7 or did he waive that when he signed the loan -- signed
8 the note?

9 MS. CASKEY: Your Honor, he hasn't asserted
10 any rights to the appraisal statute. But if that issue
11 were to come up, I think that the more appropriate time
12 would be after the sale, if he's going to assert that.
13 But that has not been an issue in this case. Of
14 course, we haven't even had discussions about the value
15 of the property.

16 You know, Mr. McDonald has requested or at
17 least made overtures about accepting a deed in lieu.
18 In my client's opinion, he has not provided the
19 documentation that would warrant them waiving the
20 deficiency. And in any event, at this point they would
21 like to move forward with that.

22 THE COURT: Did the circuit judge strike his
23 whole answer or just the counterclaim?

24 MS. CASKEY: He struck his ability to amend
25 his answer to assert the defenses and the counterclaims

1 to the extent they were based on those facts.

2 THE COURT: The original answer is still
3 viable?

4 MS. CASKEY: It's still viable as to himself
5 only. Not as to SOH Properties.

6 THE COURT: Okay.

7 MR. MCDONALD: Your Honor.

8 THE COURT: Yes, sir.

9 MR. MCDONALD: I did want to -- actually I
10 want to make a pretrial motion, I'm sorry. I did want
11 to, for the record, preserve my objection to the Court
12 dismissing my request to amend my answer to --

13 THE COURT: That's not before me, though.

14 MR. MCDONALD: I understand. But I just want
15 to -- for the record, I want to let you know that I
16 preserve my objection to them denying me the ability to
17 amend my answer to the counterclaim.

18 THE COURT: Ms. Caskey, was that in the
19 interlocutory order, or is that an order they could
20 appeal?

21 MS. CASKEY: That was in an interlocutory
22 order, Your Honor.

23 THE COURT: So he would have to wait until he
24 finds out what happens in this case before he could
25 pursue it?

1 MS. CASKEY: Yes, Your Honor.

2 THE COURT: Okay. All right. Any motions in
3 limine? Anything before we get started? I've read the
4 file so we don't need opening statements, I don't
5 think.

6 MS. CASKEY: Yes, Your Honor. I believe that
7 the motion in limine would be to eliminate any
8 testimony related to any loan modification efforts, any
9 workout efforts, unless and to the extent that
10 Mr. McDonald can provide any of those agreements are in
11 writing, which he has not to date.

12 And, additionally, since the Court has
13 already ruled on the issue of whether those could be
14 the defenses and counterclaims, I don't think any
15 testimony on those issues is relevant and would ask
16 that the Court limit any testimony here today to the
17 validity of the note, mortgage, guaranties and amount
18 of the debt.

19 THE COURT: Okay. Mr. McDonald, do you have
20 any problem with that?

21 MR. MCDONALD: I'm not sure if I fully
22 understood exactly what she just said.

23 THE COURT: Well, I think you mentioned
24 already that you tried to work this out and tried to
25 reach a settlement out of court, and she's asked that

1 you not be allowed to offer testimony with regard to
2 your settlement. I guess is a brief way of putting it.
3 And I was asking you if you had a problem with that.

4 MR. MCDONALD: I do.

5 THE COURT: Okay. We'll cross that bridge
6 when we come to it. Then I'll reserve until I hear the
7 testimony. I will make a decision at that time. If
8 you will remember to object when he says it, if your
9 client finds it objectionable.

10 MS. CASKEY: Yes, Your Honor.

11 And if I may, since there is no dispute as to
12 the note and mortgage and amount of the debt,
13 Your Honor, do you want to hear from Mr. Walker or do
14 you want to review the record of hearing? How would
15 you like to proceed?

16 THE COURT: Mr. McDonald, do you stipulate to
17 the amounts that they claim that you owe?

18 MR. MCDONALD: I'm not sure what the current
19 amounts are.

20 THE COURT: Okay.

21 MR. MCDONALD: So I'm not in a position to
22 look at a number to know it's an accurate dollar
23 figure.

24 MS. CASKEY: This is the record of hearing
25 that I was referring to. This will be the dollar

1 amounts.

2 MR. MCDONALD: I can't attest that those are
3 accurate.

4 THE COURT: Say again, sir.

5 MR. MCDONALD: At this time, I can't state
6 that those are accurate.

7 MS. CASKEY: Your Honor, I think the more
8 relevant point is he has no counter rebuttal, no
9 evidence, no information, no testimony to dispute them.

10 THE COURT: Well, okay. But keep in mind
11 that they did file an answer, and he has the right --

12 MS. CASKEY: Yes, Your Honor.

13 THE COURT: Even if you're in default, he
14 would have the right to argue about how much he
15 actually owes.

16 MS. CASKEY: Yes, Your Honor.

17 THE COURT: Ms. Caskey, go ahead and call
18 your first witness.

19 MS. CASKEY: Your Honor, I call Mr. David
20 Walker to the stand, please.

21 DAVID WALKER, being first duly
22 sworn, testified as follows:

23 THE COURT REPORTER: Could you state your
24 name.

25 THE WITNESS: David Walker.

1 THE COURT REPORTER: Thank you.

2 EXAMINATION

3 BY MS. CASKEY:

4 Q. Good afternoon, Mr. Walker. Could you please
5 tell me your title and what your position is at First
6 Citizens.

7 A. My title is Senior Vice President. I'm a
8 commercial real estate lender for the bank. Specialty
9 is real estate.

10 Q. Can you describe your duties within that
11 role.

12 A. I have customer relationships with existing
13 loans and out there pursuing new loan opportunities
14 that are pretty much all real-estate-type transactions
15 with the bank.

16 Q. In that capacity, do you have access to the
17 loan documents that First Citizens regularly maintains?

18 A. I do.

19 Q. Okay. And are those documents maintained
20 electronically?

21 A. They are.

22 Q. Okay. And do you access them on a regular
23 basis?

24 A. Only when it -- at the appropriate time.

25 Q. And are you familiar with the borrower here

1 today, SOH Properties?

2 A. I'm familiar with the borrower entity, yes.

3 Q. Are you familiar with the guaranties related
4 to that borrower?

5 A. I have reviewed the guaranties. I don't know
6 them -- the people individually, but I do know the
7 names and have reviewed the guaranties.

8 MS. CASKEY: Your Honor, may I approach the
9 witness?

10 THE COURT: Yes, ma'am.

11 BY MS. CASKEY:

12 Q. All right. Mr. Walker, I'll ask you to
13 identify the document that's been marked as Exhibit A.

14 A. Okay. This is a promissory note entered into
15 between SOH Properties, LLC, and Community Resource
16 Bank, which is who SOH got the loan from originally.
17 We purchased Community Resource Bank. I don't remember
18 the date that we purchased it.

19 The date of the note is April 20th, 2007.
20 It's in the original amount of \$74,500 with the
21 maturity date of March 20, 2012.

22 Q. Okay. And if you'll flip a few pages in,
23 there's Exhibit B is there as well. At the bottom
24 right-hand corner. Can you identify that document for
25 me?

1 A. Yes. This is a real estate mortgage dated
2 the same as the note, originally 4-20-2007, between SOH
3 Properties, LLC, and Community Resource Bank, which we
4 purchased. And it's secured by 52 Hutto Court in
5 Columbia, South Carolina.

6 MS. CASKEY: Okay. Your Honor, I move to
7 admit Exhibit A and Exhibit B into evidence.

8 THE COURT: Any objection?

9 MR. MCDONALD: No, Your Honor.

10 THE COURT: The motion is granted.

11 (PLF. EXHIBIT A, Note Dated April 20th, 2007,
12 was admitted into evidence.)

13 (PLF. EXHIBIT B, Real Estate Mortgage, was
14 admitted into evidence.)

15 BY MS. CASKEY:

16 Q. All right. Mr. Walker, I hand you what we've
17 previously marked as Exhibit C, and D is in there as
18 well.

19 A. The Exhibit C is a Commercial Note. This
20 note was a First Citizens Bank note. It's in the
21 amount of \$14,937.37. It looks like it was originated
22 on August 31st, 2009, and had a maturity date of August
23 31st, 2010. Secured by second real estate mortgage on
24 the property located at 52 Hutto Court.

25 Q. Okay.

1 A. Exhibit D?

2 Q. Yes. If you could go ahead and tell me what
3 you see as Exhibit D.

4 A. Okay. Exhibit D is also -- is a mortgage.
5 State of South Carolina mortgage dated August 31st,
6 2009, to SOH Properties, LLC, in the amount of
7 \$14,937.37 originated on August 31st, 2009.

8 MS. CASKEY: Okay. Your Honor, I would like
9 to move to admit Exhibits C and D into evidence.

10 THE COURT: Mr. McDonald.

11 MR. MCDONALD: No objection.

12 THE COURT: All right. Your motion is
13 granted.

14 (PLF. EXHIBIT C, Commercial Note, was
15 admitted into evidence.)

16 (PLF. EXHIBIT D, Mortgage of Real Estate
17 Dated August 31, 2009, was admitted into evidence.)

18 BY MS. CASKEY:

19 Q. All right. Mr. Walker, I'm going to hand you
20 Exhibit E, which is several documents titled Guaranty.
21 Can you identify those documents for me?

22 A. I can. Exhibit E is a guaranty originated by
23 Community Resource Bank on the loan to SOH Properties,
24 LLC, executed by a Ivan A. Roldan. I'm not sure I'm
25 pronouncing that correctly. That's Exhibit E.

1 This is -- there's is a second guaranty dated
2 April 20th, 2007, originated by Community Resource Bank
3 with SOH -- for loan to SOH Properties, LLC. Executed
4 by Eugene G. McDonald.

5 MS. CASKEY: Okay. Now, I'm going to ask the
6 court reporter if she can mark Exhibits F and G for me.

7 (PLF. EXH. F, Liability Ledger, was marked
8 for identification.)

9 (PLF. EXH. G, Liability Ledger, was marked
10 for identification.)

11 THE WITNESS: There is a additional guaranty
12 that is dated June 18th, 2008,, between Community
13 Resource Bank and SOH Properties, LLC, signed again by
14 Ivan Roldan.

15 MS. CASKEY: Okay. Your Honor, I move to
16 enter Exhibit E into evidence.

17 THE COURT: Any objection?

18 MR. MCDONALD: No, Your Honor.

19 THE COURT: Your motion is granted.

20 (PLF. EXHIBIT E, Guaranty, was admitted into
21 evidence.)

22 MS. CASKEY: Okay. Your Honor, may I
23 approach?

24 THE COURT: Yes, ma'am.

25 MS. CASKEY: These are our Exhibits F and G.

1 BY MS. CASKEY:

2 Q. Mr. Walker, I'd ask you to identify Exhibits
3 F and G.

4 A. Exhibit F is a loan history on the \$74,500
5 loan that originated in the amount of \$74,500 to SOH
6 Properties, LLC.

7 Q. Okay.

8 A. And the Exhibit G is a loan history on the
9 second mortgage loan entered into with SOH Properties,
10 LLC.

11 Q. And do the payment histories that I handed
12 you as Exhibits F and G, do those relate to the notes
13 that you were describing earlier as Exhibits A and C?

14 A. They do.

15 Q. Okay. And based on those payment histories,
16 did you have an opportunity to review the payoff as
17 the -- the payoff as of June 29, 2016?

18 A. I did.

19 Q. Okay. And I believe you left this here so
20 I'm going to hand you the notes on the payoff.

21 A. Okay.

22 Q. All right. Mr. Walker, what is the payoff
23 for the first note you discussed, Exhibit A?

24 A. The first payoff is on the note that
25 originated in the amount of 74,5- is \$97,262.43.

1 I can break that down by principal, accrued
2 interest, late charges, appraisal fees, taxes that we
3 paid in filing and service motions, if you like.

4 Q. If you would, please.

5 A. Okay.

6 Q. What was the principal balance as of June 29?

7 A. The principal balance is \$66,330.98.

8 Q. And the accrued interest due?

9 A. \$17,142.90.

10 Q. And the late charges?

11 A. \$555.57.

12 Q. Appraisal fees?

13 A. \$1,105.

14 Q. Okay. And were the appraisal fees incurred
15 with -- prior to the foreclosure being commenced or
16 after?

17 A. It was prior.

18 Q. And what amount of taxes is owed on Note 1
19 that was Exhibit A?

20 A. \$10,423.15.

21 Q. Okay. What's the total balance due on Note 1
22 before any filing or service fees?

23 A. \$95,557.60.

24 Q. And First Citizens obviously has engaged an
25 attorney to represent it in this matter?

1 A. That's correct.

2 Q. Okay. And have you been billed for filing
3 service motion and referral fees related to the
4 foreclosure?

5 A. We have.

6 Q. And what's the total amount that First
7 Citizens has paid for exhibit -- for the note that's
8 marked as Exhibit A?

9 A. \$1,704.83.

10 Q. And the total balance due on the note that's
11 marked as Exhibit A?

12 A. Excuse me?

13 Q. The total balance due on the note that's
14 marked as Exhibit A.

15 A. Yes. \$97,262.43.

16 Q. Okay. And with respect to the note that's
17 marked as Exhibit C, what's the principal balance
18 that's owing on that note?

19 A. \$12,737.06.

20 Q. Okay. And the accrued interest due?

21 A. \$5,461.15.

22 Q. Okay. And the total due before filing and
23 service fees?

24 A. \$18,198.21.

25 Q. Okay. And the total filing service and

1 motion fees related to that note?

2 A. \$1,704.83.

3 Q. Okay. And the total balance due on the
4 second note that's marked as Exhibit C?

5 A. \$19,903.04.

6 MS. CASKEY: Okay. Your Honor, I think I
7 failed to offer Exhibits F and G into evidence. The
8 payment histories. I would like to do that at this
9 time?

10 THE COURT: All right. Mr. McDonald, any
11 objection?

12 MR. MCDONALD: No, Your Honor.

13 THE COURT: All right. Your motion is
14 granted.

15 (PLF. EXHIBIT F, Liability Ledger, was
16 admitted into evidence.)

17 (PLF. EXHIBIT G, Liability Ledger, was
18 admitted into evidence.)

19 MS. CASKEY: Your Honor, I have no other
20 questions at this time.

21 THE COURT: All right. Mr. McDonald, have
22 you ever cross-examined anybody in court before?

23 MR. MCDONALD: No, Your Honor.

24 THE COURT: Okay. You're allowed to ask
25 leading questions and keep in mind, though, you're not

1 going to have an argument with him.

2 MR. MCDONALD: I understand.

3 THE COURT: You're not going to give a speech
4 because you will get a chance to testify on your own
5 behalf. I'll even let you testify in narrative form,
6 if you so desire. But at this stage, you have the
7 right to cross-examine him and you may ask him
8 questions about any relevant matter.

9 MR. MCDONALD: Thank you.

10 EXAMINATION

11 BY MR. MCDONALD:

12 Q. I'm sorry, I didn't catch your name.

13 A. David Walker.

14 Q. David Walker. Mr. Walker, do you have any
15 personal knowledge of this note?

16 A. Personal?

17 Q. Were you present when these notes were
18 signed?

19 A. No, I was not.

20 Q. Do you have any personal knowledge -- were
21 you involved in signing these mortgages?

22 A. I was not present at the closing.

23 Q. Were you personally involved in any decisions
24 prior to the mortgage?

25 A. No.

1 Q. Okay. Were you personally involved in any
2 decisions about the renewals possibly to this mortgage?

3 A. No, I was not.

4 MS. CASKEY: Objection, Your Honor. I would
5 like to renew the objection stating the motion in
6 limine that any information about renewals,
7 modifications, et cetera, would be not relevant at this
8 time.

9 THE COURT: Mr. McDonald, why is that
10 information relevant to this case?

11 MR. MCDONALD: I was just wanted to know what
12 his involvement was prior to his testimony.

13 THE COURT: Ms. Caskey, how does that
14 information prejudice your client?

15 MS. CASKEY: Well, Your Honor, there's no
16 information or evidence about any renewals or
17 modifications that are in writing. And since the Court
18 has already ruled that any discussions or interaction
19 between First Citizens and Mr. McDonald about whether
20 the loan would be modified or renewed is mute for
21 purposes of this action. Because Mr. McDonald has no
22 defenses or counterclaims based on those facts, then I
23 would ask that the Court not hear any testimony about
24 that.

25 THE COURT: Okay. Mr. McDonald, is your

1 position that there were verbal discussions about it,
2 the modifications?

3 MR. MCDONALD: Written and verbal discussions
4 in regards to trying to come to a conclusion to an
5 equitable solution to this.

6 THE COURT: But there was no agreement
7 regarding loan modification, is that going to be your
8 testimony at some point?

9 MR. MCDONALD: Are you saying it -- it was in
10 the works. I was led to believe it was forthcoming.

11 THE COURT: Okay. I would sustain the
12 objection; however, you may want to -- that's the kind
13 of thing you can testify to if you had knowledge of
14 what was going on.

15 MR. MCDONALD: Okay.

16 THE COURT: I'll sustain the objection. You
17 may proceed.

18 BY MR. MCDONALD:

19 Q. Okay. Going back to Exhibit C -- I have to
20 review my exhibits. Exhibit A --

21 MR. MCDONALD: Can I state what it is,
22 Your Honor, or do I need to ask what it is?

23 THE COURT: Say again, sir.

24 MR. MCDONALD: I said Exhibit A, the note
25 between Community Resource Bank and SOH Properties.

1 THE COURT: Yes, sir. You can refer to the
2 exhibit number would be better. It's Exhibit A, you
3 can talk about it.

4 BY MR. MCDONALD:

5 Q. So Exhibit A I think you stated was a note
6 between Community Resource Bank and SOH Properties; is
7 that correct?

8 A. That's correct.

9 Q. Okay. I'm a little unorganized when it comes
10 to her papers.

11 Did you testify that it looked like one of
12 these exhibits was actually a mortgage that replaced
13 Exhibit A? It was a renewal?

14 A. I mentioned that this loan originated -- the
15 Exhibit A originated on April 20th, 2007, with the
16 maturity date of March 20, 2012.

17 Q. And you testified there's a mortgage on this
18 note?

19 A. Yes, I did. That's Exhibit B.

20 Q. So Exhibit C, I believe you testified it was
21 a mortgage between First Citizens and SOH Properties?

22 A. Correct.

23 Q. In a different amount than the original
24 mortgage?

25 A. That's correct.

1 Q. That that was a second mortgage?

2 A. That's correct.

3 Q. Do you have any knowledge --

4 THE COURT: Let me interrupt you, sir, for
5 clarity of the record. Exhibit C is a note, not a
6 mortgage. Is that accurate?

7 Or is that -- Ms. Caskey, you hand up the
8 document. I see Exhibit C is a note, it's not a
9 mortgage, correct?

10 MS. CASKEY: Yes, Your Honor. Correct.

11 THE COURT: Mr. Walker, is that just a -- you
12 misspoke when you told him that was a mortgage?

13 THE WITNESS: I interpreted what he said.
14 It's a note secured by a mortgage.

15 THE COURT: Okay.

16 BY MR. MCDONALD:

17 Q. So you're saying Exhibit C is a note secured
18 by Exhibit D, which is a mortgage on the --

19 A. Secured by Exhibit D, yes --

20 Q. -- the property in question?

21 A. -- a second mortgage behind the Exhibit B
22 mortgage.

23 Q. From Community Bank?

24 A. Now, this second mortgage here dated August
25 31st, 2009, in the amount of 14,937.37 was originated

1 at the time in the name of First Citizens Bank.

2 Q. Okay. Then the last question I had was you
3 were reviewing the exhibits, were you aware that all of
4 these documents were not acknowledged to your
5 signature?

6 A. Excuse me?

7 Q. I was just asking you if you reviewed these
8 exhibits C -- E, did you notice that all the pages of
9 the documents were not acknowledged by the person who
10 signed them with the initial at each page?

11 A. On Exhibit E?

12 Q. Yes, sir.

13 A. Exhibit E was executed by Ivan Roldan as a
14 guarantor.

15 Q. Correct.

16 A. There are initials on the second page. His
17 signature is on the first page.

18 Q. Okay.

19 A. It is initialed on the second page with
20 regards to Mr. McDonald. It was executed on the first
21 page and initialed on the second page.

22 Q. And then continue on to the next page.

23 A. That is another guaranty dated October 30th,
24 2007, for a loan in the name of SOH Properties, LLC,
25 that was signed by Mr. McDonald on the first page.

1 That is not initialed on the second page.

2 I have another guaranty dated June 18th,
3 2008, with the account of SOH Properties, LLC, signed
4 by Mr. Roldan. I hope I'm pronouncing his name
5 correctly. And that is initialed on the second page.

6 MR. MCDONALD: Thank you. I have no further
7 questions.

8 THE COURT: Any redirect, Ms. Caskey?

9 MS. CASKEY: Just quickly, Your Honor.

10 REEXAMINATION

11 BY MS. CASKEY:

12 Q. Mr. Walker, you were asked earlier whether
13 you have any personal knowledge of these documents.
14 Did you have the opportunity to review the loan
15 documents related to the SOH Properties and
16 Mr. McDonald's guaranty prior to today?

17 A. Yes.

18 Q. And did you have the opportunity to review
19 those documents in the ordinary course of business
20 through your position?

21 A. Yes.

22 Q. And did you have the opportunity to review
23 the payment histories that were provided today?

24 A. I did.

25 Q. Did you review the payoff information for the

1 loans prior to today?

2 A. I did.

3 MS. CASKEY: Thank you.

4 THE COURT: Any recross, Mr. McDonald?

5 MR. MCDONALD: No, Your Honor.

6 THE COURT: All right. Thank you, sir. You
7 may come down. Please watch your step coming down.

8 THE WITNESS: And leave all the exhibits up
9 here?

10 THE COURT: Yes, sir. Thank you.

11 Okay. Ms. Caskey.

12 MS. CASKEY: Your Honor, I have this exhibit,
13 which is now Exhibit H, Your Honor. It's actually
14 mislabeled because of the addition of the payment
15 histories. Which is an attorney's fee and cost
16 affidavit which I would like to present to Your Honor.

17 THE COURT: Okay..

18 MS. CASKEY: You have it in your record of
19 hearing package, Your Honor. I just ask that you note
20 that I would like to admit it as Exhibit H.

21 THE COURT: Mr. McDonald, you don't object to
22 that, I take it?

23 MR. MCDONALD: No.

24 THE COURT: Your motion is granted,
25 Ms. Caskey.

1 (PLF. EXHIBIT H, Attorney Fees and Costs
2 Affidavit, was admitted into evidence.)

3 MS. CASKEY: Your Honor, I'd also like to
4 note in the Affidavit of Attorney's Fees, I do have
5 copies of the invoices from Haynsworth Sinkler Boyd for
6 an in-camera review, if Your Honor would like. Part of
7 the reason for that is the amount of attorney's fees
8 sought in this matter is \$17,500 and costs of
9 \$3,409.66, which Mr. Walker already testified to.

10 And that is due in the large part to the
11 multiple motions hearings practice that was required in
12 this case. Four separate occasions we've argued the
13 motion for Mr. McDonald or SOH Properties to try to
14 assert the defenses and counterclaims that I've
15 discussed here.

16 THE COURT: That's before it was referred,
17 you're saying?

18 MS. CASKEY: That was before it was referred,
19 Your Honor. So I just wanted to note that that is the
20 reason for the large volume. And should Your Honor
21 like, we could provide you with invoices as well.

22 THE COURT: Now, have you been paid that or
23 reimbursed your client or how does that work?

24 MS. CASKEY: First Citizens, as far as I
25 know, is current on its bills with Haynsworth Sinkler

1 Boyd. So that money would be due and owing to First
2 Citizens.

3 THE COURT: All right. Any more witnesses?

4 MS. CASKEY: Your Honor, no, I don't believe.

5 THE COURT: Okay. Plaintiff rests then?

6 MS. CASKEY: Yes, Your Honor.

7 THE COURT: All right. Mr. McDonald, now you
8 have a witness?

9 MR. MCDONALD: I do. And first before I -- I
10 would like to request to sequester my subpoenaed
11 witness, if I could.

12 THE COURT: Sequester Mr. Davies? You don't
13 want to have him hear what your testimony is going to
14 be?

15 MR. MCDONALD: Yes, Your Honor.

16 THE COURT: Ms. Caskey, any objection to
17 that?

18 MS. CASKEY: No, Your Honor.

19 THE COURT: Are you Mr. Davies? Yes, sir.
20 Just step in the hall again, sir, and they'll come get
21 you.

22 EUGENE G. MCDONALD III, being first
23 duly sworn, testified as follows:

24 THE COURT: All right. You can either be
25 seated, take the stand, or whatever makes you

1 comfortable. And you may testify in narrative form.

2 Now, keep in mind that she's going to ask you
3 questions about what your testimony is, and that's
4 perfectly appropriate. She's entitled to
5 cross-examination.

6 MR. MCDONALD: I'm not as organized as her.
7 I do have a lot of documentation that I would like to
8 submit as exhibits.

9 THE COURT: Okay. You want it as one exhibit
10 or separate exhibits?

11 MR. MCDONALD: I think it will be easier on
12 my behalf if I submit them separately.

13 MS. CASKEY: Your Honor, if I could have the
14 opportunity to review them. Do you have copies for me
15 or just one copy?

16 MR. MCDONALD: Sure.

17 THE COURT: We'll stand at ease for a minute
18 while you look at them.

19 (Off the record.)

20 THE COURT: You may proceed, Mr. McDonald.

21 MR. MCDONALD: Okay. Would you like them all
22 at once, or you me to just bring them up as --

23 THE COURT: I thought you said it would be
24 easier for you to do them separately because you will
25 be referring to them separately.

1 MR. MCDONALD: Okay.

2 THE COURT: Actually, you want -- why don't
3 we take a minute and just have you premark them to save
4 us from having to stop every time. Is that okay?
5 Without waiving any objections now.

6 MS. CASKEY: I'll help him get them marked.

7 THE COURT: Stand at ease for a few minutes
8 while you get them marked.

9 (Off the record.)

10 (DEFT. EXH. 1, Emails, Subject: PFS and Tax
11 Return, was marked for identification.)

12 (DEFT. EXH. 2, Emails, Subject: 52 Hutto Ct
13 Loan with FC Bank, was marked for identification.)

14 (DEFT. EXH. 3, Emails, Subject: 2013 Tax
15 Return, was marked for identification.)

16 (DEFT. EXH. 4, Emails, Subject: FW: 2013 Tax
17 Return, was marked for identification.)

18 (DEFT. EXH. 5, Emails, Subject: Re: First
19 Citizen v SOH, Case No. 2014-CP-40-3950, was marked for
20 identification.)

21 (DEFT. EXH. 6, Emails, Subject: Re: First
22 Citizen v SOH, Case No. 2014-CP-40-3950, was marked for
23 identification.)

24 (DEFT. EXH. 7, Emails, Subject: Re: First
25 Citizen v SOH, Case No. 2014-CP-40-3950, was marked for

1 identification.)

2 (DEFT. EXH. 8, Emails, Subject: Re: First
3 Citizen v SOH, Case No. 2014-CP-40-3950, was marked for
4 identification.)

5 THE COURT: You may proceed in narrative
6 form.

7 MR. MCDONALD: When you say narrative form, I
8 can just --

9 THE COURT: Yes, sir.

10 MR. MCDONALD: Okay. Just wanted to start
11 with a little bit of the loan history on this piece of
12 property. When we first acquired this property, it was
13 a single loan with a single mortgage on this property.
14 It stayed current.

15 THE COURT: I'm sorry, you said you first
16 obtained this property, you assumed the loan?

17 MR. MCDONALD: No, we didn't assume the loan.
18 We took out a mortgage on the property --

19 THE COURT: Right.

20 MR. MCDONALD: -- for this -- which I was
21 trying to find on other exhibits, which I wasn't sure.
22 At some time in a long time, First Community became the
23 owner of the note on the property, and at the same time
24 they also acquired a note of an unsecured loan that we
25 had with the previous bank. When the terms of the note

1 that they acquired became due, the bank required me to
2 take the unsecured loan that we had and attach it to
3 the property as a second.

4 THE COURT: This is First Citizens?

5 MR. MCDONALD: First Citizens.

6 THE COURT: Okay. Please proceed.

7 MR. MCDONALD: So that was one of their
8 requirements for them to renew the first. They wanted
9 to attach this second as mortgage to the property, this
10 unsecured note that previously wasn't -- it had nothing
11 to do with this property.

12 And at that point, I feel like the loan to
13 value was way upside down because of what they did. So
14 now we have two loans, which was not my intention,
15 attached to this one piece of property. That this
16 property value was far below the sum of the two notes.

17 At that point it did -- it increased the
18 payments which made the service of the debt on the
19 mortgage quite tough, but it was done for years.
20 Although it wasn't covered by the income, we managed to
21 keep it current.

22 My business partner at the time, who was
23 the -- I guess you would call him the codefendant, who
24 I also had a crossclaim against, was in charge of
25 managing this property. And at some point in time he

1 decided to steal the proceeds from the property and not
2 pay the bank.

3 In good faith with the bank, when it first
4 went into foreclosure, because this is the second
5 foreclosure actions came before you, I negotiated with
6 the bank to stop the foreclosure and brought suit
7 against my partner to make him perform.

8 THE COURT: Who was your partner?

9 MR. MCDONALD: Mr. Roldan.

10 THE COURT: Okay. I'm sorry.

11 MR. MCDONALD: I paid the bank approximately
12 somewhere in the neighborhood of \$12,000 to work out a
13 settlement with the bank.

14 MS. CASKEY: Objection, Your Honor, to the
15 extent that Mr. McDonald is discussing settlement offer
16 with respect to the prior foreclosure. I would argue
17 that that is inadmissible pursuant to Rule 408.

18 THE COURT: It's not about settlement in this
19 case. It's about a prior case.

20 MS. CASKEY: It's about settling a prior
21 case, Your Honor. But I think that that would still
22 not be admissible as evidence.

23 THE COURT: What happened to the prior case?
24 Did you all settle it or --

25 MS. CASKEY: It was dismissed without

1 prejudice.

2 THE COURT: Because of settlement or for
3 other reasons?

4 MS. CASKEY: Because I believe that
5 Mr. McDonald worked out a reinstatement with the bank.
6 A partial reinstatement. Correct?

7 MR. MCDONALD: I worked out a modification
8 with Mr. Davies.

9 THE COURT: Okay. How is that relevant to
10 this case?

11 MR. MCDONALD: I'm just trying to create a
12 history here, Your Honor.

13 THE COURT: Is it the same property?

14 MR. MCDONALD: The same property. We're all
15 talking about the same loans. I'm just trying to argue
16 my position of how I tried to bring it up and resolve
17 this.

18 THE COURT: Yeah. The problem is Ms. Caskey
19 is correct, that those settlement negotiations
20 generally aren't admissible. However, it is kind of
21 tricky when you're talking about settlement of a
22 previous case.

23 And your objection is overruled, Ms. Caskey.

24 MR. MCDONALD: I do believe, Your Honor, I
25 could be wrong, but I think this was -- the monies that

1 were paid into it and these discussions involve the
2 same loan.

3 So that -- so we have a note in place for 18
4 months, at that point was being paid. At near term, I
5 approached or had a conversation with Mr. Davies again,
6 with First Citizens Bank, to determine what he needed
7 from me for renewal. And that's where we start with
8 some of the correspondence that I had with Mr. Davies.
9 So I'm not sure if we have these exhibits marked but I
10 need to --

11 THE COURT: 1 through 8.

12 MR. MCDONALD: It will be just like mine.

13 THE COURT: I have copies.

14 MR. MCDONALD: So that's when I provided
15 Mr. Davies with information that he required of me,
16 personal financial statements, tax returns, which
17 started the discussions of renewing this loan.

18 Exhibit 1, you will find, are some
19 correspondences that I had to Mr. Davies where I
20 provided documentation that he requested after we had
21 phone conversations. That's, once again, I reached out
22 to Mr. Davies in February to get an update on this loan
23 renewal. At that point, I did not hear from him. We
24 had some -- I moved forward. I reached back to him
25 again to try to get some answers from him in the email

1 dated July 10th, which -- and gave him contact
2 information to contact me to give me an update as to
3 where this stood.

4 My feelings were at this time, I was told
5 that there was intentions of renewing this loan by
6 Mr. Davies. As far as providing information, I was
7 being due diligent trying to get this to him in a
8 timely manner, following through and trying not to let
9 this go stagnant.

10 After not hearing from Mr. Davies, Exhibit 2,
11 I reached out to Mr. McGuffin to find out if he could
12 give me an update on what the status was of my
13 discussions with Mr. Davies in regards to renewing this
14 loan. And I expressed to him that I had been trying
15 since early February after I had submitted everything I
16 think prior to February.

17 MS. CASKEY: Your Honor, I know that
18 Mr. McDonald has not moved to admit these into evidence
19 and given his pro se status, I just want to preserve
20 the objection now.

21 The first email starts before the foreclosure
22 was filed, but July 10th, 2014, was after the
23 foreclosure was filed on June 20th, 2014. And
24 certainly the second email, Exhibit 2, which is in
25 exchange with us as counsel for First Citizens in the

1 foreclosure, was certainly after the foreclosure had
2 been commenced.

3 And so not only do I believe these are
4 inadmissible under Rule 408 as potential settlement
5 negotiations back and forth, but I think that they also
6 go towards the defenses and counterclaims that the
7 circuit court already ruled that Mr. McDonald does not
8 have in this case. Which would be that First Citizens
9 should have modified the loan.

10 THE COURT: All right. Your objection is
11 overruled. I'll give you a continuing objection so you
12 don't have to jump up every time.

13 MS. CASKEY: Thank you. I appreciate that,
14 Your Honor.

15 MR. MCDONALD: Your Honor, have these not
16 been entered into evidence? That's what I thought this
17 process was.

18 THE COURT: Well --

19 MR. MCDONALD: Once these were exhibited, I
20 thought these were entered into evidence.

21 THE COURT: Once we mark the exhibit?

22 MR. MCDONALD: Yes, sir.

23 THE COURT: Not necessarily. I mean, do you
24 want all of these put into evidence?

25 MR. MCDONALD: That's my intent.

1 THE COURT: Do you want to do them all at one
2 times? You've seen them, Ms. Caskey. Do you have the
3 same objection to all of them?

4 MS. CASKEY: Yes, Your Honor. Well, not to
5 all of them, Your Honor. I have no objection to -- I
6 believe Exhibits 6 through 8 are talking about
7 scheduling the foreclosure hearing. I don't have any
8 problems with that.

9 THE COURT: Okay. Okay. Your objection's
10 overruled. I'll let them all in.

11 (DEFT. EXH. 1, Emails, Subject: PFS and Tax
12 Return, was admitted into evidence.)

13 (DEFT. EXH. 2, Emails, Subject: 52 Hutto Ct
14 Loan with FC Bank, was admitted into evidence.)

15 (DEFT. EXH. 3, Emails, Subject: 2013 Tax
16 Return, was admitted into evidence.)

17 (DEFT. EXH. 4, Emails, Subject: FW: 2013 Tax
18 Return, was admitted into evidence.)

19 (DEFT. EXH. 5, Emails, Subject: Re: First
20 Citizen v SOH, Case No. 2014-CP-40-3950, was admitted
21 into evidence.)

22 (DEFT. EXH. 6, Emails, Subject: Re: First
23 Citizen v SOH, Case No. 2014-CP-40-3950, was admitted
24 into evidence.)

25 (DEFT. EXH. 7, Emails, Subject: Re: First

1 Citizen v SOH, Case No. 2014-CP-40-3950, was admitted
2 into evidence.)

3 (DEFT. EXH. 8, Emails, Subject: Re: First
4 Citizen v SOH, Case No. 2014-CP-40-3950, was admitted
5 into evidence.)

6 THE COURT: Mr. McDonald, you may proceed.

7 MR. MCDONALD: Thank you, Your Honor.

8 So what I'm trying to establish here with
9 Exhibit 2 is just my continuation of trying to resolve
10 this equitably through Mr. McGuffin at this point at
11 which he established a meeting between myself,
12 Mr. Davies and First Citizens and Mr. Roldan. Which I
13 believe that took place on Thursday, July 31st at
14 9:00 a.m. in Mr. McGuffin's office.

15 At the time of that meeting, we had
16 discussions about the renewal of this loan. Some more
17 required documentations of me. Mr. Davis had
18 discussions with Mr. Roldan. I'm not totally clear as
19 to what their discussions were, but it sounded like he
20 was requiring some documentations from Mr. Roldan.

21 We left the meeting. I felt like when I was
22 leaving the meeting, I had -- that this loan was being
23 worked -- the renewal process was being worked through.
24 This was bringing everybody to the table, discussing
25 what we needed to do to move forward.

1 Exhibit 3 will show you discussions between
2 myself and Mr. Davies. And the request -- he sent me a
3 request for filling out a debt schedule so that he
4 could work towards the renewal of the loan, and he
5 wanted to know what my debts were to provide
6 possible -- the resolution to this renewal.

7 I think Exhibit 4 actually was a email that I
8 had forwarded to Ms. Caskey per her request that the
9 bank was looking for further documents they had not
10 received, and I had sent this to her letting her know
11 that it had been provided to Dave Davies of First
12 Citizens.

13 About this time, all contact with Dave Davies
14 ceased. He no longer responded to me. I'm not sure
15 what was happening at that point in time.

16 Exhibit 5, I moved on. I started
17 conversations with Ms. Caskey. She informed me that if
18 I could bring something to her, she would take it to
19 her client. I'm not real familiar with signing over
20 deeds. I'm not real familiar with short sales, but I
21 wanted to look at all of my options because I felt like
22 I've been put into a situation between a partner who
23 was stealing from me and not paying a mortgage and the
24 bank who encumbered this property with a second
25 mortgage that was an unsecured loan at the time.

1 I did some research on -- market research
2 through various real estate professionals as to what
3 the proper possible value would be of the property. I
4 presented it to Ms. Caskey and also told her that I was
5 going to try to make monthly payments as I could and
6 told her what I could make at that time, monthly, and
7 said that if my situation improves, that we could
8 renegotiate the monthly payments.

9 Exhibit C just is where I reached out to --

10 THE COURT: I'm sorry, which exhibit?

11 MR. MCDONALD: Exhibit 6, I'm sorry. I guess
12 dyslexic, I can't get numbers and letters correct.

13 This is just where I reached out to the
14 plaintiff's attorney to try to find out a way of where
15 I could serve a subpoena upon Mr. Davies. I was told
16 that all correspondence to Mr. Davies goes directly to
17 Mary Caskey.

18 And then Exhibit 7 is dated June 22nd. It
19 just shows that's when I was informed that Mr. Dave
20 Davies was no longer with the bank, and that they did
21 not represent him. They did not know how to get in
22 touch with him.

23 That's all I'm going to discuss. Exhibit 8.

24 THE COURT: Say again, sir?

25 MR. MCDONALD: I wasn't going to discuss

1 Exhibit 8 right now.

2 THE COURT: Ms. Caskey, do you have any
3 questions?

4 I'm sorry, Mr. McDonald, are you finished
5 with your testimony?

6 MR. MCDONALD: No, Your Honor.

7 THE COURT: Okay. Please proceed.

8 MR. MCDONALD: Your Honor, at this point I
9 would like to testify and discuss the crossclaim I have
10 against the defendant, Mr. Roldan.

11 THE COURT: Mr. Who?

12 MR. MCDONALD: Mr. Roldan.

13 THE COURT: Roldan? I thought you said that
14 was over with. You won that case, right? You won that
15 crossclaim?

16 MR. MCDONALD: I have a judgment against him.
17 I just wanted to -- there's not been a damages here in
18 court. So I just wanted to state that I feel like he
19 was the cause of the foreclosure -- one of the causes
20 of the foreclosure action. I feel like because of his
21 actions, my actual -- my actual losses were in the
22 neighborhood of \$75,000 due to the premature
23 devaluation of the property and loss of equity. And
24 also feel like there was punitive damages suffered,
25 which would be three times the actual damages amount.

1 \$225,000. And there's also the damages of the possible
2 pending deficiency judgment that could possibly be
3 against me.

4 THE COURT: Okay. Let me make sure the
5 record is clear. When you were sued in this case, you
6 filed a crossclaim against your partner, Mr. Roldan.

7 MR. MCDONALD: Correct.

8 THE COURT: You said you already had a
9 judgment against him done by a circuit court judge?

10 MR. MCDONALD: I have a judgment, but I have
11 not had a damages hearing.

12 THE COURT: Was that before me or before a
13 circuit judge?

14 MR. MCDONALD: It was before a circuit judge.
15 But I didn't think I could have a damages hearing not
16 knowing what the results would be from your ruling.

17 THE COURT: I think we may need to bifurcate
18 that and have you have another hearing just with
19 Mr. Roldan on the damages and how much -- how much is
20 your judgment for?

21 MR. MCDONALD: It hasn't been determined.

22 THE COURT: It hasn't been determined?

23 MR. MCDONALD: Yes, sir.

24 THE COURT: Who ruled on your -- on the
25 judgment?

1 MR. MCDONALD: I do believe that it was
2 Judge Lee that signed the judgment. We just didn't
3 have a damage hearing because the damages at that point
4 were unknown because I don't know what type of --

5 THE COURT: You're saying your damages
6 against Mr. Roldan are contingent upon this case?

7 MR. MCDONALD: That's correct, Your Honor.

8 THE COURT: Okay. I guess that makes sense,
9 but I'm a little confused procedurally. You say
10 Judge Lee signed an order giving you a judgment against
11 Mr. Roldan, but you don't know how much it is. And
12 that was a crossclaim you filed in this particular case
13 before it got referred the master-in-equity. Is that
14 accurate? Is that what you said?

15 MR. MCDONALD: Yes, sir.

16 THE COURT: I think that may be something
17 instead of bifurcating, if you could put it off at the
18 end of the case depending on how it turns out in the
19 merits.

20 MR. MCDONALD: Okay.

21 THE COURT: Is that a problem, Ms. Caskey?

22 MS. CASKEY: No, Your Honor, not at all.

23 THE COURT: You may continue, Mr. McDonald.

24 MR. MCDONALD: I just want to conclude that I
25 actually, on my behalf, that I cooperated fully with

1 all requests for any financial information from First
2 Citizens and Mr. Dave Davies.

3 I was told that there was -- that there was a
4 renewal forthcoming numerous times. As the evidence
5 shows, my emails, I seek to have a solution on this
6 matter. I think I was -- it was well shown that I want
7 to resolve this matter with the bank. I had resolved
8 it before, and I was going to resolve it again in any
9 manner that I could.

10 There's a willingness to cooperate. There's
11 a willingness to sign over a deed. I was just going to
12 reiterate that the actual damages for Mr. Roldan of
13 excess of 75,000 and punitive of \$225,000. I just
14 wanted to state that I feel the plaintiff and
15 Mr. Roldan are the parties that are responsible for me
16 being here today in this position, and therefore, I
17 should not suffer any consequences through a default
18 judgment because of their actions.

19 That's all I have to say.

20 THE COURT: All right. Do you have any
21 questions for Mr. McDonald?

22 MS. CASKEY: Yes, Your Honor, I do.

23 EXAMINATION

24 BY MS. CASKEY:

25 Q. Mr. McDonald, do you dispute that you signed

1 the notes that are marked as Exhibits A and C on behalf
2 of SOH Properties?

3 A. I do not.

4 Q. Okay. And --

5 THE COURT: I'm sorry, I didn't hear your
6 answer.

7 MR. MCDONALD: No, Your Honor.

8 THE COURT: You don't dispute that you signed
9 those? Okay.

10 BY MS. CASKEY:

11 Q. Do you dispute that you signed the guaranties
12 that were included as Exhibit C -- I'm sorry, Exhibit
13 E?

14 A. I do not.

15 Q. And do you dispute that you signed the
16 mortgages that were marked as B and D --

17 A. I do not.

18 Q. Okay. -- on behalf of the SOH Properties?

19 A. I do not.

20 Q. And did you have the -- excuse me, rephrase.

21 Do you have any evidence or information to
22 reflect that the payment histories that were introduced
23 as Exhibits F and G are not correct?

24 A. I don't know if they're correct or not.

25 Q. Do you have any information or evidence or

1 testimony that they're not?

2 A. The only thing I stated is I don't know if
3 they're correct.

4 Q. And do you have any copies of any agreement
5 that was signed by you or that was signed by First
6 Citizens that would have altered the terms of the notes
7 that were entered as Exhibits A and C?

8 A. I have the original loan modification from
9 the first time that this came about, yes.

10 Q. And what agreement is that and what is the
11 date of that agreement?

12 A. The copy I have in my possession is a signed
13 copy that was executed by Mr. Roldan and myself, which
14 were executed in an attorney's office and at that point
15 it was presented back to the bank.

16 Q. And what date is that agreement?

17 A. I do not see the exact date on this here. It
18 says March 30th, 2012.

19 Q. And that's not the modification or the
20 renewals that you've testified about here today,
21 correct?

22 A. It's the -- it was what I thought was -- I
23 was told it was forthcoming on the renewal.

24 Q. Well, the 2012 renewal, which you just
25 testified about, that was signed and accepted by the

1 bank, correct?

2 A. Correct.

3 Q. And it was a written document that you
4 acknowledged and that you signed and you said you did
5 it in an attorney's office, correct?

6 A. Correct.

7 Q. Did anything like that happen after that 2012
8 modification agreement was signed?

9 A. Did I sign the loan modification agreement
10 like that? No.

11 Q. And was one ever presented to you in writing
12 again?

13 A. I don't have one in my possession.

14 Q. Were you ever presented one by First
15 Citizens?

16 A. I was told that it was forthcoming. I did
17 not.

18 Q. You were told that you were being considered
19 for a modification, right?

20 A. I was told by Mr. Davies that this loan was
21 going to be renewed.

22 Q. You were told that it would be renewed or
23 that you were being -- it was being considered for
24 renewal?

25 A. I was told the loan would be renewed.

1 Q. But you were never provided any loan document
2 that told you the terms of that renewal, correct?

3 A. No.

4 Q. Okay.

5 A. I was just told a renewal was forthcoming and
6 that's why it was -- forthcoming providing debt
7 schedules, tax returns, and all personal information
8 was requested by the bank.

9 Q. And that was part of the application process
10 to be considered for a loan renewal?

11 A. I'm not sure if that's what the intentions
12 were or not.

13 Q. You're not sure if the intention was to renew
14 the loan?

15 A. That's what I thought their intention was. I
16 was told that their intention was they were going to
17 renew the note, and it never was renewed.

18 MS. CASKEY: Okay. No further questions,
19 Your Honor.

20 THE COURT: Anything else to say,
21 Mr. McDonald?

22 MR. MCDONALD: No, Your Honor.

23 THE COURT: Let me ask a question. You said
24 you were told the loan would be renewed. Do you
25 remember when that was?

1 MR. MCDONALD: It was numerous phone
2 conversations between the dates of these emails. I had
3 phone conversations with Mr. Davies. We discussed that
4 the loan was going to be renewed, but he needed this
5 documentation. I provided that documentation. There
6 was a lot of -- seems like there was a lot of
7 documentations that I would not have provided to First
8 Citizens if I thought it was -- if this was not going
9 to move to a renewal, as I was told. Because I feel
10 like it would only better their position in wanting to
11 seek a deficiency judgment against me.

12 THE COURT: But you don't remember when you
13 were promised. You said it was a series of
14 conversations, it wasn't one --

15 MR. MCDONALD: It was a series of
16 conversations that triggered these emails to provide
17 more information.

18 THE COURT: Okay. But you said you were told
19 that the loan would be renewed?

20 MR. MCDONALD: That's correct.

21 THE COURT: And my question was, when was
22 that? And you said -- you started talking about the
23 emails and things like that, so you were negotiating.
24 I just want to get clear because I have to be clear
25 what the facts are.

1 MR. MCDONALD: Right.

2 THE COURT: And I guess today is going to add
3 some support for your contention. That's why you're
4 speaking as a witness, I take it. Is that correct?

5 MR. MCDONALD: That's correct.

6 THE COURT: Have you completed your
7 testimony?

8 MR. MCDONALD: I have, Your Honor.

9 THE COURT: All right. Call your next
10 witness, please.

11 MR. MCDONALD: Okay. At this point I would
12 like to call Mr. Davies as a hostile witness.

13 THE COURT: As a hostile witness?

14 MR. MCDONALD: Yes, Your Honor.

15 THE COURT: He's out there.

16 Sir, he's called you as a witness.

17 DAVID DAVIES, being first duly
18 sworn, testified as follows:

19 THE COURT REPORTER: If you would state your
20 full name.

21 THE WITNESS: David Davies.

22 THE COURT: For clarity of the record,
23 Mr. McDonald says he's called you a hostile witness.
24 Under the rules that gives him the right to ask leading
25 questions on direct, you know, so that's the

1 significance of that. That doesn't mean you're a bad
2 guy.

3 THE WITNESS: I understand. Thanks.

4 THE COURT: Thank you.

5 You may proceed, Mr. McDonald.

6 EXAMINATION

7 BY MR. MCDONALD:

8 Q. Mr. Davies, I appreciate you being here
9 today.

10 A. Uh-huh.

11 Q. Mr. Davies, you were employed by First
12 Citizens at one time, correct?

13 A. Yes.

14 Q. Okay. And you were a representative of the
15 bank?

16 A. Yes.

17 Q. You were my sole contact that I had with the
18 bank in regards to the renewal of these mortgages; is
19 that correct?

20 A. I was the account officer in charge.

21 Q. Mr. Davies, in front of you there are a stack
22 of emails, correspondences that you and I had. The
23 first one that I would like to discuss with you is
24 Exhibit 1.

25 A. Okay.

1 Q. Mr. Davies, we had gone down this path before
2 where we had modified a loan before. Do you remember
3 that?

4 A. Right.

5 Q. So once the terms of this loan came due, we
6 had a discussion in regards to modifying this loan
7 again and the required documents that you required
8 of -- would require of me to move forward with this
9 loan renewal?

10 MS. CASKEY: Objection, Your Honor. Just to
11 the extent that was a compound question and difficult
12 to follow.

13 THE COURT: All right. You can rephrase the
14 question.

15 MR. MCDONALD: Yes, sir. Okay.

16 BY MR. MCDONALD:

17 Q. So the original loan modification we had
18 expired at some point in time?

19 A. Correct.

20 Q. Okay. So at that point you and I had a
21 conversation to discuss the renewal of this loan.

22 A. On what date? I mean ...

23 Q. Approximately in October, I do believe, of
24 2013.

25 A. I don't have any -- it's possible. I

1 don't -- it's three years ago. I don't really have
2 a -- I do recall having a conversation, I believe, at
3 our attorney's office with the debtor. But that's my
4 recollection.

5 Q. Okay. So you indicated that you were having
6 a phone conversation with me in an attorney's office?

7 A. No. No. I remember meeting with you, I
8 believe, at our attorney's office at some point.

9 Q. We did, and we'll get to that.

10 On February the 4th, I reached out to you and
11 re-sent you pertinent information that would be
12 provided to someone for the reasons or -- to -- for a
13 loan renewal. I think if you saw the attachments that
14 were on the second page, you saw that I provided you a
15 tax return and a personal financial statement.

16 A. Okay.

17 Q. So you agree with that?

18 MS. CASKEY: Objection, Your Honor, to the
19 extent that he's asking Mr. Davies to testify about
20 what was or should have been attached. These aren't
21 complete exhibits, and I don't believe it's proper to
22 ask Mr. Davies to admit or acknowledge something that's
23 not attached.

24 THE COURT: Objection overruled.

25 MR. MCDONALD: Thank you, Your Honor.

1 BY MR. MCDONALD:

2 Q. The top of this email is an indicator that I
3 had not heard from you in some time in regards to this
4 loan renewal, and I was reaching out to you once again
5 to find out where we stood in renewing this loan.
6 Would you agree to that?

7 A. I mean, I agree to what was -- what you wrote
8 here. I don't see -- there's nothing here regarding me
9 making any promises that I agree to renew the loan
10 on -- under any terms.

11 Q. So besides you telling me that a renewal was
12 forthcoming, you're saying it's not your --

13 A. No, I never said that. I never testified to
14 that. I'm testifying that we were discussing the
15 receipt of information. But, of course, I would need
16 to have this information with your partner as well. So
17 just because I get information from one partner, that
18 doesn't complete. I need to have complete information
19 before I can make a decision whether or not to
20 recommend an extension of the agreement or modification
21 of the agreement. All this is is just a --

22 Q. But you never provided me with the details
23 that you had not received or had received any
24 information from my partner, have you?

25 A. I don't know anything about your -- what I

1 received from your partner.

2 Q. But you were my sole contact in the renewal
3 of this loan? That's correct?

4 A. Well, I was the account officer on this loan.

5 Q. Right. But you're saying you have no
6 knowledge of what you received?

7 A. No. No. That's not what -- I'm testifying
8 that what my job is is to receive -- request certain
9 information and then review it. Not only from you but
10 from any contracted parties on the loan. That
11 includes, you know, any guarantors, any partners,
12 anybody who's an obligor on the debt, I receive all the
13 information.

14 If I don't receive all the information,
15 although information from all the parties, then I don't
16 have a complete information of which to make a
17 determination of whether or not to recommend a
18 modification of the debt. And that's -- that goes with
19 whatever loan that I'm working on.

20 Q. Okay. So was it your position with the bank
21 to tell clients such as you did me, that you were
22 working to renew my loan, is that part of your --

23 A. It was part of the negotiation.

24 Q. To tell clients that we were going to
25 renew --

1 A. No. I never said that we were going to renew
2 it. I said I need to have complete information in
3 order for me to make a recommendation. I never had any
4 authority to make a loan modification. Anything I did
5 was I reviewed and I make a recommendation. That was
6 my job, and that was made clear through my attorney. I
7 would never -- I just didn't have the authority to make
8 a modification on my own authority.

9 Q. Who was it made clear to?

10 A. I'm sorry?

11 Q. Who was it made clear to through your
12 attorney?

13 A. I'm not sure I understand the question.

14 Q. You say that it was made clear through your
15 attorney you did not have the authority to renew a
16 loan.

17 A. No. I just told you that I never had the
18 authority to renew.

19 Q. But you stated it was made clear through your
20 attorney, so I didn't know who you were talking about
21 your attorney was providing clarity of this.

22 A. No. No. The attorney -- this wasn't a --
23 any finalization of a modification or a loan agreement
24 would have been done through the attorney. The
25 attorney would have drawn up the agreement after the

1 bank had agreed to the terms. They would have been
2 given to the attorney....He would have drawn up a
3 forbearance agreement, probably in this case, and then
4 all parties would have signed off.

5 To my knowledge, that did not take place in
6 this case.

7 Q. Okay. To your knowledge?

8 A. Well, I was -- I have been with the bank for
9 well over a year, so ...

10 Q. So this Exhibit 2, and I think you kind of
11 led to this was -- shows the various emails I had sent,
12 my persistency to -- or my desire for an equitable
13 solution to this loan which you told me you were going
14 to renew. And I finally got a hold of your attorney
15 who set up an appointment between us. Is that correct?

16 A. First of all, you said that I was going to
17 renew it. Which is not the truth.

18 Yeah. I don't see anything here that
19 anything had been agreed to. There are no terms, no
20 forbearance, no modification or agreement terms saying
21 we were going to renew the loan under any terms at this
22 point.

23 In fact, right here on the third page here,
24 it says, "Mr. Davies and I --" this is from
25 Mr. McGuffin -- "Mr. Davies and I can meet with you on

1 Thursday, July 31st, either at 10 or 2:00 in my office
2 on Main Street to discuss some options that might be
3 available to you for a loan modification to avoid
4 pending foreclosure. Please reply."

5 That's -- that's the truth.

6 Q. Okay. Then after that, we had a meeting in
7 Mr. McGuffin's office and Mr. Roldan was present and
8 you were present.

9 A. Okay.

10 Q. This is Exhibit 3, which is some
11 correspondence between you and I after meeting. And
12 I'm sorry, just the way that this tracks these e-mails,
13 sometimes you've got to work backwards on them. I
14 think I had sent you just a quick letter of
15 appreciation that you took the time to meet with me and
16 look forward to finding a solution that would work for
17 the parties involved.

18 And after -- moving on, you have responded
19 after -- to some earlier folks and conversations we
20 had, which I believed, from what you'd told me that you
21 were going to renew this note, you were saying that you
22 had -- hope something early next week in the means of a
23 renewal.

24 A. Well, we were -- that was the -- we were
25 working to discuss a modification of the agreement.

1 But, again, there were no terms that were ever agreed
2 to. So if you don't have -- if you never agreed to any
3 terms, how can you have an agreement?

4 Q. We had discussions on the day of June -- I
5 think it was June 29th at Mr. McGuffin's office that we
6 specifically discussed various terms of this loan and
7 the modification of it.

8 MS. CASKEY: Objection. Is that a question?
9 Mr. -- I appreciate that Mr. McDonald is pro se, and
10 I'm really not trying to be difficult, but he's
11 continually testifying and then asking -- he not asking
12 a question here.

13 MR. MCDONALD: Sorry.

14 THE COURT: Well, yeah, that may be a little
15 inartful, but as we know when you ask leading
16 questions, typically it's really the attorney or the
17 person asking the questions making the statements. And
18 I think since Mr. McDonald is not an attorney, he may
19 be a laymen's version of that.

20 So the objection is overruled.

21 MR. MCDONALD: Thank you, Your Honor.

22 BY MR. MCDONALD:

23 Q. So these discussions were held in
24 Mr. McGuffin's about the loan modification. Not about
25 maybe we could discuss the loan modification.

1 A. Well, there were never -- no terms were ever
2 agreed to. That was what -- this was still an open
3 negotiation.

4 Q. Okay. But as you can see through your email,
5 that you were saying that you thought something would
6 be forthcoming the following week.

7 A. Well, yeah. Again, we were open to
8 negotiation. But we were never -- no terms were ever
9 agreed to as far as, hey, Dave, I'm going to make these
10 payments on this date and it's going to be paid in full
11 on this date. Nothing of that kind ever occurred.
12 This was just still in negotiation.

13 Q. Okay. But you had told me that you were
14 going to renew this note, and then you testified today
15 that it was never renewed as far as you know.

16 A. I'm going the stick to what I said. I said
17 this was an open negotiation. No terms were ever
18 agreed to, to my knowledge.

19 Q. Okay. But what I stated was is that you told
20 me we were going to renew this note and you stated that
21 it never happened.

22 A. Okay. Well, you're the one testifying
23 that -- I'm going to tell you again what I told you.
24 There were -- this was an open negotiation. No terms
25 were ever agreed to. Yes, we were still pursuing the

1 foreclosure, but, you know, we were open to working
2 this thing out. No terms were agreed to, so ...

3 Q. The terms -- you agreed that terms were
4 discussed?

5 A. No terms were agreed to. Again --

6 Q. That wasn't the question.

7 A. Okay.

8 Q. The question was, you agreed that terms were
9 discussed?

10 A. What terms?

11 Q. That there were several terms of this note
12 that was discussed.

13 A. Well, it's up to the -- it's up to the debtor
14 to say, you know -- debtor and the bank to say -- to
15 come to an agreement that -- what the terms were.

16 Q. I can appreciate the process.

17 A. There was never --

18 THE COURT: One person at a time.

19 THE WITNESS: Okay.

20 THE COURT: Go ahead and finish your
21 testimony.

22 THE WITNESS: I said there was never a
23 finalization of an agreement as to what the terms -- as
24 to what the terms were. This was still open. There
25 was no that they were going to pay X amount of dollars

1 on X date and this was going to be paid in full at this
2 time. There was just nothing that hadn't -- it hadn't
3 got to that point yet. We were still negotiating,
4 hoping we could avoid the foreclosure.

5 BY MR. MCDONALD:

6 Q. Okay. Well, I appreciate your testimony, but
7 the question was is that terms were discussed due to
8 saying that there was nothing that was ever finalized.

9 A. Nothing was finalized, that's correct.

10 Q. Okay.

11 A. No terms were ever finalized. That's
12 correct.

13 Q. Okay. But we were moving towards that in
14 renewing this note?

15 A. Well, yeah. I mean, that's obvious. I mean,
16 when we're discussing a -- it's our hope that we can
17 achieve a final. But that never occurred.

18 Q. Okay. And I do believe it was on about the
19 same time that you had sent me a request for a debt
20 schedule. I think it's actually attached to your email
21 at the back that you had requested that.

22 A. Oh, yeah, right here.

23 Q. Yeah. You can read through the email. We
24 discussed that that schedule and your willingness to
25 help me through the situation and that I really needed

1 to list everything out to help with the situation.

2 A. Right.

3 Q. Okay. And so you told me that we were going
4 to renew this note. We tried to move forward, and then
5 all our communications seemed to cease.

6 THE COURT: Is that a question?

7 MR. MCDONALD: It is.

8 THE WITNESS: Yeah.

9 BY MR. MCDONALD:

10 Q. Is that right?

11 A. I'm not sure if you're telling me or asking
12 me.

13 Q. Do you have any knowledge of any
14 correspondence you and I had after I submitted you my
15 debt schedule?

16 A. I do recall -- I do recall requesting the
17 debt schedule. That's normal in these types of
18 negotiations. What happened after that, I can't -- I
19 don't -- I mean, I'm sure I reviewed the financial
20 information as I do with all my other loans, but
21 that's --

22 Q. But you have no proof of correspondence
23 between you and I after that?

24 A. I mean, I don't have anything. I mean, just
25 what you provide me.

1 Q. Are you currently employed, Mr. Davies?

2 A. Yes.

3 Q. Were let go from First Citizens for making
4 these types of promises and then --

5 A. No.

6 MR. MCDONALD: That's all I have.

7 THE COURT: Any on cross?

8 MS. CASKEY: Yes, Your Honor, just a few.

9 EXAMINATION

10 BY MS. CASKEY:

11 Q. Mr. Davies, can you just briefly explain for
12 me when a borrower is in foreclosure, what is the
13 general process for renewing -- for a loan modification
14 or renewal?

15 A. Well, we --

16 Q. At the time you were at the bank in 2013-2014
17 time period.

18 A. Well, we typically ask for personal financial
19 statements, tax returns, as we mentioned debt
20 schedules, anything that would help us to analyze the
21 customer situation to see what his capacity is or isn't
22 and the ability to repay the -- to repay the debt.

23 Q. Was it the policy of First Citizens at the
24 time, 2013, 2014, to submit the modification to a
25 written document if a borrower was approved?

1 A. Yes. I would do a formal analysis of
2 write-up making my recommendation to either take some
3 course of action. If it was a modification or a
4 forbearance, I would have to get that approved. If it
5 was a foreclosure or a legal action, we have to get
6 that approved as well.

7 Q. And once it was approved, though, it would be
8 reduced to an agreement that would be signed by the
9 borrower, correct?

10 A. Right. It would go through -- once I had the
11 approval back from the bank that these are the terms
12 that were agreed to, then I would forward that over to
13 the attorney who would put that in a -- in this case it
14 probably would have been a forbearance agreement.

15 Q. Are you aware of any forbearance agreement,
16 renewal agreement, or modification agreement that was
17 ever offered to Mr. McDonald or SOH Properties?

18 A. Well, in the first -- we did one forbearance
19 that -- and I don't remember the exact date. It wasn't
20 foreclosure earlier in the process. That -- when --
21 that obligation had come due, and that brought up the
22 next course of action.

23 Q. With respect to the emails that Mr. McDonald
24 handed you, Exhibits 1 through 6, I believe, did any
25 modification renewal or forbearance agreement ever

1 result from these negotiations?

2 A. No.

3 Q. Did the discussions between you and
4 Mr. McDonald ever move beyond the negotiation phase
5 between terms?

6 A. No. As I mentioned, normally what I need is
7 the information from Mr. McDonald, but I also need that
8 from his partner as well. So Mr. McDonald could have
9 provided me everything that was asked for, but if the
10 partner didn't do it, because he was also a debtor on
11 the note, if I didn't have all his information, and I
12 don't really recall -- I don't have that in front of me
13 so I don't know exactly what he provided. If he was
14 missing information, then it didn't make any difference
15 what Mr. McDonald provided. If his partner didn't give
16 me everything that I asked for, then there wasn't going
17 to be a recommendation.

18 Q. And this is a modification of the note from
19 the company, correct?

20 A. Right.

21 Q. Not just Mr. McDonald's guaranty debt.

22 A. Right.

23 MR. MCDONALD: I object to the question the
24 way she's questioning this because he's no longer
25 employed with the bank. So he can only speak of when

1 he was under the employment of the bank.

2 THE COURT: Ms. Caskey.

3 MS. CASKEY: That's the only time period I've
4 asked him about is at the time that Mr. Davies was
5 going through these negotiations, it was a loan
6 modification of the note.

7 THE COURT: Objection overruled.

8 BY MS. CASKEY:

9 Q. Did you ever tell Mr. McDonald that a loan
10 renewal had been approved?

11 A. No.

12 MS. CASKEY: No further questions.

13 THE COURT: All right. Mr. McDonald, any
14 redirect?

15 REEXAMINATION

16 BY MR. MCDONALD:

17 Q. Since I don't know why, can you tell me why
18 you and I -- our correspondence ended and I was never
19 presented with any type of loan modification or this
20 renewal that we talked about?

21 A. Well, again, there was never -- the bank
22 hadn't approved a loan modification.

23 Q. So are you saying that they had not during
24 your time at the bank, or are you saying they had
25 denied it?

1 A. No. I said there hadn't been a -- the bank
2 had not made a agreement to -- there weren't any terms
3 for me to make a recommendation for. Again, I had to
4 have information from -- complete information from you
5 and the partner and the business, you know, the
6 partnership, SOH.

7 Q. But besides you leading me to believe and
8 saying that this renewal was forthcoming, which is
9 stated in our emails, that I should be coming next
10 week, you're saying that you did not have all the
11 information to actually make that statement?

12 A. I'm saying there was never an agreement. The
13 bank had never agreed to -- there were no terms that
14 were agreed to.

15 Q. Okay. So you probably should never have made
16 that statement?

17 A. I'm going to stick by what I said. The bank
18 never --

19 MR. MCDONALD: Which is there.

20 Okay. Thank you.

21 THE COURT: Ms. Caskey.

22 MS. CASKEY: No further questions,
23 Your Honor.

24 THE COURT: Thank you, sir. You may come
25 down. Watch your step coming down, please, sir.

1 Okay. Mr. McDonald.

2 MR. MCDONALD: Is it my turn?

3 THE COURT: Do you have any other witnesses?

4 MR. MCDONALD: No, sir, Your Honor.

5 THE COURT: Do you have anything else to
6 present to the court today?

7 MR. MCDONALD: Not other than just the facts
8 that were presented today.

9 THE COURT: All right. Let me engage in a
10 colloquy with you.

11 Mr. McDonald, you seem to make your point
12 that there was, in fact, negotiations toward a loan
13 modification or a renewal, right? That's your point,
14 right?

15 MR. MCDONALD: Yes, sir.

16 THE COURT: And one of your points is you
17 think they actually told you that they agreed to a
18 renewal?

19 MR. MCDONALD: I believed there was going to
20 be an equitable solution to this.

21 THE COURT: And correct me if I'm wrong, all
22 those loss mitigation I guess type activities that you
23 were engaging in, aren't those discretionary with the
24 bank, or is there a law that they have to do it or is
25 that something they can decide on their own without --

1 MR. MCDONALD: I'm pro se, so I'm not real
2 privy about all the laws and the banking laws. I can
3 only go by what our relationship, as I had a
4 relationship with the plaintiff and what I was told.
5 We had a previous history where they did provide a loan
6 modification for me, and it came at a rather large
7 expense to me. And so I was only -- I was under the
8 understanding that we had done it before. I had been
9 told we were working towards it. It was going to
10 happen. And then it's just kind of like it
11 disappeared.

12 So I'm just here to argue that I was here for
13 an equitable solution, and I don't feel like I'm a
14 responsible party for being here.

15 THE COURT: Now, 52 Hutto Court, that's the
16 property that these loans -- mortgages are on; is that
17 correct?

18 MR. MCDONALD: Correct.

19 THE COURT: Is that a business or a home?

20 THE WITNESS: It's a residence.

21 THE COURT: Is that an investment property or
22 is --

23 MR. MCDONALD: It's investment property.

24 THE COURT: And do you have tenants in the
25 property now?

1 MR. MCDONALD: It's managed per our property
2 management company. I'm not sure. I think it is. I
3 know that there's, you know, expenses that have been --
4 I just received a bill for a refrigerator.

5 THE COURT: Let me ask Ms. Caskey. Are the
6 mortgages he signed, is there a requirement that you
7 allow him to reinstate it if he can?

8 MS. CASKEY: Your Honor, there are only
9 provisions in the mortgage that provide for the
10 opportunity to cure default. And those -- and, of
11 course, those notice only have to be sent once -- has
12 to be sent once. And that was not the issue in this
13 particular case.

14 THE COURT: I understand.

15 MS. CASKEY: But, Your Honor, yes, there are
16 provisions concerning the following.

17 THE COURT: Okay. But I'm saying, if he
18 could reinstate within a reasonable time before the
19 judicial sale, would you all accept that?

20 MS. CASKEY: Well, Your Honor, the debt has
21 been accelerated at this point so reinstatement would
22 require full payment.

23 THE COURT: All right. That's all you would
24 take is the full amount due?

25 MS. CASKEY: Yes, Your Honor.

1 THE COURT: Is that etched in stone, or is
2 that something you can negotiate?

3 MS. CASKEY: I'm always happy to discuss
4 that, but it's not my understanding that that's
5 something that Mr. McDonald would consider. But
6 certainly never foreclose settlement discussions.

7 THE COURT: Okay. Mr. McDonald, are you in a
8 position now to pay this off or to refinance it or any
9 kind of way? Anything else?

10 MR. MCDONALD: Unfortunately, Your Honor, I'm
11 in a worse financial condition than I was when this
12 case started. This has put a financial burden on me
13 and not only financially, physically affected my
14 health. But I also was affected by the floods of
15 October 3rd. This is not the only piece of investment
16 property that I'm in.

17 THE COURT: Did you qualify for any kind of
18 assistance through the government program or anything
19 because of the flooding?

20 MR. MCDONALD: I'm acquiring an SBA loan to
21 try to get back on my feet.

22 THE COURT: All right. Anything else today?

23 MR. MCDONALD: No.

24 THE COURT: Anything else, Ms. Caskey?

25 MR. MCDONALD: I just wanted to plead my case

1 and feel like that I shouldn't suffer from a deficiency
2 judgment especially when I came to the table willing to
3 try to resolve this matter. I'm willing to give them
4 the property back. And I feel like it's been one-sided
5 besides Mr. Davies telling me that we're going to work
6 through this and have a mortgage renewal. Which had
7 happened in the past. And has been my experience with
8 other banks, that they told me something, they would do
9 it.

10 THE COURT: Anything else, Ms. Caskey?

11 MS. CASKEY: Your Honor, just a few things to
12 preserve the record. As closing as the plaintiff moves
13 for an order of foreclosure and deficiency judgment,
14 one, I would like to point out that Mr. McDonald's
15 entire defense is based on oral representations about a
16 modification or renewal that's forthcoming.

17 And as Judge Newman ruled in the order
18 denying Mr. McDonald leave to amend his answer and
19 counterclaim based on South Carolina Code Annotated
20 37-10-107 and 32-3-10, those types of agreements need
21 to be in writing. So to the extent that Mr. McDonald
22 is asserting that as a defense today, we would move for
23 a judgment in favor of the plaintiff on that issue
24 alone.

25 Additionally, Your Honor, with respect to

1 just this workout-type argument, I mean, I think you've
2 already noted, settlement and negotiations and
3 modifications are completely discretionary. This is
4 not underhand. This is not under the foreclosure
5 intervention order. And there is no requirement
6 whatsoever that Mr. Davies even had to reply to the
7 first email. The fact that he did and invited
8 Mr. McDonald to offer information to be considered,
9 nothing more than the beginning of the negotiation.

10 And, you know, there's just simply no
11 obligation whatsoever under the law, under the contract
12 that the bank accept any sort of modification of the
13 loan.

14 Mr. McDonald hasn't disputed that he signed
15 the documents. He hasn't disputed the payment history.
16 He doesn't dispute the amounts owed. And for those
17 reasons, Your Honor, we would ask to a judgment in
18 favor of the plaintiff.

19 THE COURT: Anything to add, Mr. McDonald?

20 MR. MCDONALD: Judge, I just -- I'm totally
21 baffled that the bank's position would be that they
22 lead their client to believe that they're going to work
23 through a loan modification at the same time that
24 they're accelerating the loan and demanding full
25 payment at the time that they're talking about

1 negotiating a settlement and telling me they're going
2 to renew it. That doesn't make sense to me.

3 THE COURT: If they renewed it, and I don't
4 know the whole mechanics of that, but you still to make
5 payments, though, wouldn't you?

6 MR. MCDONALD: That's correct.

7 THE COURT: Okay. Ms. Caskey, you agree with
8 that?

9 MS. CASKEY: Yes, Your Honor. But you would
10 have to have an agreement as to when that renewal is
11 going to mature, how much are the payments going to be,
12 what the interest rate is going to be. And
13 Mr. McDonald hasn't presented any evidence of those
14 types of terms. There couldn't be a meeting of the
15 minds even -- there hasn't been any discussion about
16 any meeting of the minds orally, written, or otherwise.

17 THE COURT: Right.

18 MR. MCDONALD: It's presented as an exhibit
19 that I did present to Ms. Caskey.

20 THE COURT: Right. Well, based on what I've
21 heard today, I find for the plaintiff.

22 What sale are you trying to make, Ms. Caskey?

23 MS. CASKEY: Let's see, Your Honor. It's
24 going to have to be at least August.

25 THE COURT: Okay. If you all are talking,

1 I'm willing to push that sale date back a month. That
2 would mean the sale would be September 5th, which is
3 the first Tuesday in September because that Monday is a
4 holiday. And if you're still demanding deficiency
5 judgment, obviously the sale wouldn't be final until
6 October. If you're still demanding deficiency
7 judgment. So I'm willing to do that.

8 In the meantime you all can keep talking,
9 but, again, the bottom line is no matter what kind of
10 arrangement you make it's going to require money.
11 Money from you.

12 MR. MCDONALD: I understand, but --

13 THE COURT: Yeah.

14 MR. MCDONALD: -- she stands here today and
15 says that I've tried to make no offers. For one, I'm
16 not the bank so I don't understand how I'm supposed to
17 make them -- tell them that I'm willing to make, you
18 know, a payment of a nickel a month based off of a
19 balance of this. I'm not the bank so I don't
20 understand that process. It's not been explained to
21 me.

22 I did make an offer that I felt like I could
23 sell the property for this amount and that I could make
24 the payments on this amount. Those were all brought to
25 her attention. We discussed that in Mr. McGuffin's

1 office with Mr. Davies. We discussed the various
2 numbers.

3 THE COURT: But you also said a few minutes
4 ago you're in worse shape now than you were when the
5 lawsuit was brought. But you also conceded that if
6 they would work -- if -- again, it is all
7 discretionary, but if they were required to renew the
8 loan, you still have to make payments.

9 MR. MCDONALD: I made an -- she says I
10 haven't made an attempt. I made an offer that she said
11 she was going to take to the bank. I gave her the
12 offer. She requested additional documentation. I
13 provided the documentation. I even provided where it
14 had already been previously submitted to Mr. Davies.

15 THE COURT: Right.

16 MR. MCDONALD: She agrees in that document
17 that she says, okay, I got it. So it was presented.
18 The bank's never responded back to me again.

19 THE COURT: How much are you promising to
20 pay?

21 MR. MCDONALD: I told them that according to
22 the current market at the time, that from what
23 professionals told me, that probably sell the property
24 for \$35,000. I don't know now after time's passed it's
25 improved.

1 THE COURT: Let me tell you, though, based on
2 my ruling, based on the schedule of sale, keep in mind
3 you're still the owner up until the time of sale. You
4 would have -- I think you have the right of redemption.
5 You can pay it all off if you could sell it. So you're
6 the owner up until the sale in September, and
7 hopefully, if you think that's what you need to do, you
8 can go ahead and sell it because you're the owner
9 still.

10 MR. MCDONALD: If there's a deficit that I
11 can't make up, wouldn't that be a short sale?

12 THE COURT: Well, a short sale, in my
13 experience, that's when the bank agrees to take less
14 than you owe. And I don't know if they would do that
15 in this case. I just don't know. I will tell you,
16 though, if you decide to go that route, you need to get
17 some tax advice because what little I know about tax
18 law, they'll look at that. If they do approve a short
19 sale, the IRS is going to say, hey, they forgave part
20 of the debt and then they're going to do income to you.
21 And that's as much as I know about tax. I'm not even
22 sure that's accurate, what I said. So I always tell
23 people who are going to do a short sale, get some
24 advice from a tax professional. Somebody that knows
25 something about taxes.

1 But, again, that's something you all can talk
2 about. In most cases, though, when a short sale or a
3 deed in lieu is accepted, there are no other liens on
4 the property.

5 Is that the case here, Ms. Caskey?

6 MS. CASKEY: Well, Your Honor, at time the
7 foreclosure was filed, that was the case. I have not
8 done an updated title search to determine whether liens
9 were filed after foreclosure.

10 THE COURT: Do you have any other judgments
11 against you other than these mortgages?

12 MR. MCDONALD: The only -- I only had a first
13 against this properties until they became involved in
14 it and they forced me to attach this nonsecured second
15 loan as a mortgage.

16 THE COURT: But there are no other liens on
17 the property? Nothing from the IRS? Nothing from the
18 Department of Revenue?

19 MR. MCDONALD: Not that I'm aware of.

20 THE COURT: Nothing from anybody else?

21 MR. MCDONALD: Not that I'm aware of.

22 MS. CASKEY: Your Honor, I think -- and,
23 again, I just feel the need to clarify the record
24 because it has been brought in sort of as fact witness
25 here. And I do, as a matter of course, pass on all

1 offers to First Citizens. The problem is the contract
2 for sale has never been offered. We can talk about
3 what property might sale for. And I don't want there
4 to be any illusions about, you know, Your Honor giving
5 very generously an additional 30 days for the sale
6 about what First Citizens may or may not do. Because,
7 again, at this point in time First Citizens is
8 demanding payment in full, which would mean even if it
9 did accept a short sale, Mr. McDonald would have to
10 come up with some resolution with the bank as to the
11 remaining part.

12 So I just -- given everything we've discussed
13 here, I want to make clear that the bank has not ever
14 accepted an offer. The discussions generally about
15 short sales have been rejected because they're not
16 represented by any contract for sale that I'm aware of.
17 And, of course, I'll do all I can to facilitate
18 discussions between Mr. McDonald and the bank.

19 THE COURT: All right. Mr. McDonald, if you
20 do get a contract of sale, you need to call Ms. Caskey
21 right away.

22 MR. MCDONALD: Well, you know, from what
23 she's saying, I would request that her client have a
24 meeting with me and actually explain to me what they're
25 willing to -- what I can present to them that would be

1 a reasonable -- I don't understand the process.

2 THE COURT: Okay.

3 MR. MCDONALD: I understand the process of
4 buying a piece of property and acquiring a mortgage on
5 it, but I don't understand the process in which she is
6 discussing that I haven't done. Besides the offer that
7 I told the bank that came to mind.

8 THE COURT: Do you have a lawyer you normally
9 use in the course of business? Somebody you normally
10 you can talk to about this?

11 MR. MCDONALD: (Shakes head.)

12 THE COURT: No?

13 MR. MCDONALD: Besides an attorney who closed
14 real estate. But I haven't purchased real estate in
15 years.

16 THE COURT: Well, if you want to talk to
17 somebody, you have time. We're going to move the
18 judicial sale until September 6th, and it won't be
19 final until October. If, in fact, they still demand
20 deficiency judgment. If they waive the demand for
21 deficiency judgment, the sale will be final on
22 September 6.

23 All right. Anything else today?

24 MS. CASKEY: Your Honor, I just ask -- I have
25 kind of a standard order and judgment, but I think

1 given the testimony today would ask permission for
2 leave of court to have ten days to submit a different
3 order by Word document. And I can, of course, provide
4 a copy to Mr. McDonald.

5 THE COURT: That's fine.

6 MS. CASKEY: Thank you.

7 THE COURT: All right. Just make sure in the
8 cover letter you say September sale.

9 MS. CASKEY: I will. September sale, and
10 I'll provide a new notice and a Form 4 and all of those
11 things.

12 Thank you.

13 THE COURT: Thank you very much.

14 MR. MCDONALD: Can you explain what her
15 request just was?

16 THE COURT: Say again.

17 MR. MCDONALD: Can you explain to me what her
18 request just was?

19 THE COURT: Yes. She's going to prepare a
20 proposed order of foreclosure and sale. And she had
21 one already prepared, and she wants to modify it based
22 on what happened in court today. And she's going to
23 send you a copy of it and send to us. And the judicial
24 sale will take place in September.

25 That's another change you have to make.

1 MS. CASKEY: Yes, Your Honor.

2 THE COURT: Because I gave you more time to
3 try to get it sold or work something out.

4 Anything else? Any other questions?

5 MR. MCDONALD: I appreciate your time.

6 THE COURT: Yes, sir.

7 MS. CASKEY: Thank you.

8 THE COURT: Yes, ma'am.

9 (The hearing concluded at 4:41 p.m.)

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CERTIFICATE OF REPORTER

I, Sheri L. Byers, Registered Professional Reporter and Notary Public of the State of South Carolina at Large, do hereby certify:

That the foregoing proceedings were taken before me on the date and at the time mentioned on page 1 and the proceedings were recorded stenographically by me and were thereafter transcribed under my direction; that the foregoing transcript as typed is a true, accurate and complete record of the proceedings to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 3rd day of January, 2017, at Columbia, Richland County, South Carolina.

Sheri L. Byers,
Registered Professional Reporter,
Notary Public
State of South Carolina at Large
My Commission expires:
October 30, 2023

1	I N D E X	
2		Page
3	EXAMINATION OF DAVID WALKER	
4	BY MS. CASKEY	12
5	BY MR. MCDONALD	21
6	REEXAMINATION	
7	BY MR. CASKEY	27
8		
9	TESTIMONY OF EUGENE G. MCDONALD III	33
10	EXAMINATION	
11	BY MS. CASKEY	47
12		
13	EXAMINATION OF DAVID DAVIES	
14	BY MR. MCDONALD	53
15	BY MS. CASKEY	67
16	REEXAMINATION	
17	BY MR. MCDONALD	70
18		
19	Certificate of Reporter	87
20		
21		
22		
23		
24		
25		

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2

Subject: FW: PFS and Tax Return
From: Gris McDonald (grismcdonald@heritageroofingco.com)
To: dave.davies@firstcitizensonline.com;
Cc: grismcdonald@yahoo.com;
Date: Thursday, July 10, 2014 2:07 PM

Dave,

I have been waiting to hear from you in regards to renewing the loan for SOH Properties. I submitted the documents requested months ago. I do not understand where we tend in regards to this issue. I spoke with Stan a month ago and tried to contact you at the number he provided me. I just found the old email that I previously send and using it as a means to reach out to you. I can be reached at 803-309-1066

From: Gris McDonald [mailto:grismcdonald@heritageroofingco.com]
Sent: Tuesday, February 04, 2014 1:28 PM
To: 'dave.davies@firstcitizensonline.com'
Subject: PFS and Tax Return

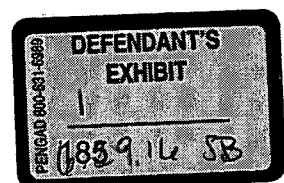
Dave,

Please find the requested documents.

Please do not hesitate to contact me with any questions.

Thank you,

Gris McDonald



803-796-3327 (o)

803-309-1066 (c)

Heritage Roofing Co, Inc.

Attachments

- 2012 Tax Return EGM.pdf (3.10MB)
- EGM PFS 2014.docx (23.38KB)

Subject: Re: 52 Hutto Ct Loan with FC Bank
From: Gris McDonald (grismcdonald@yahoo.com)
To: smcguffin@hsblawfirm.com;
Date: Tuesday, July 22, 2014 12:41 PM

I am flexible. Let me know what works for all.

Thank You,

Gris McDonald

On Jul 22, 2014, at 12:37 PM, "McGuffin, Stan" <smcguffin@hsblawfirm.com> wrote:

Would you be available next week to attend a meeting with the bank, me and Mr. Rodan to discuss what might can be done on the loan? What day and time would work best for you?

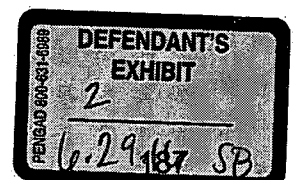
From: gris mcdonald [<mailto:grismcdonald@yahoo.com>]
Sent: Tuesday, July 22, 2014 12:33 PM
To: McGuffin, Stan
Subject: 52 Hutto Ct Loan with FC Bank

Stan,

Hope you are doing well. I am trying to understand what is going on with the loan renewal with Dave Davies and First Citizens. I spoke with Mr. Davies at some point months ago and provided him with the requested materials. I resent the requested documents on 2/4/2014. I have attempted to get and update from him but have been unsuccessful. I am not sure if it has been delayed due to Mr. Roldan. I would appreciate any information you may have. I have been ready to move forward with renewing the loan on my behalf since it came due for renewal.

Thank You,

Gris McDonald



Subject: Re: 52 Hutto Ct Loan with FC Bank
From: Gris McDonald (grismcdonald@yahoo.com)
To: smcguffin@hsblawfirm.com;
Date: Wednesday, July 23, 2014 1:22 PM

Have you set a time?

Thank You,

Gris McDonald

On Jul 22, 2014, at 12:37 PM, "McGuffin, Stan" <smcguffin@hsblawfirm.com> wrote:

Would you be available next week to attend a meeting with the bank, me and Mr. Rodan to discuss what might can be done on the loan? What day and time would work best for you?

From: gris mcdonald [<mailto:grismcdonald@yahoo.com>]
Sent: Tuesday, July 22, 2014 12:33 PM
To: McGuffin, Stan
Subject: 52 Hutto Ct Loan with FC Bank

Stan,

Hope you are doing well. I am trying to understand what is going on with the loan renewal with Dave Davies and First Citizens. I spoke with Mr. Davies at some point months ago and provided him with the requested materials. I resent the requested documents on 2/4/2014. I have attempted to get and update from him but have been unsuccessful. I am not sure if it has been delayed due to Mr. Roldan. I would appreciate any information you may have. I have been ready to move forward with renewing the loan on my behalf since it came due for renewal.

Thank You,

Gris McDonald

Subject: Re: 52 Hutto Ct Loan with FC Bank
From: Gris McDonald (grismcdonald@yahoo.com)
To: smcguffin@hsblawfirm.com;
Date: Monday, July 28, 2014 9:32 AM

Stan,
Have we set a time? Looks like I will not be here Friday

Thank You,

Gris McDonald

On Jul 22, 2014, at 12:37 PM, "McGuffin, Stan" <smcguffin@hsblawfirm.com> wrote:

Would you be available next week to attend a meeting with the bank, me and Mr. Rodan to discuss what might can be done on the loan? What day and time would work best for you?

From: gris mcdonald [<mailto:grismcdonald@yahoo.com>]
Sent: Tuesday, July 22, 2014 12:33 PM
To: McGuffin, Stan
Subject: 52 Hutto Ct Loan with FC Bank

Stan,

Hope you are doing well. I am trying to understand what is going on with the loan renewal with Dave Davies and First Citizens. I spoke with Mr. Davies at some point months ago and provided him with the requested materials. I resent the requested documents on 2/4/2014. I have attempted to get and update from him but have been unsuccessful. I am not sure if it has been delayed due to Mr. Roldan. I would appreciate any information you may have. I have been ready to move forward with renewing the loan on my behalf since it came due for renewal.

Thank You,

Gris McDonald

Subject: Re: FCB v. SOH. et al-Conference to discuss possible modification terms/HSB File 1798.1203
From: Gris McDonald (grismcdonald@yahoo.com)
To: smcguffin@hsblawfirm.com;
Cc: ivanroldan8877@gmail.com; Dave.Davies@firstcitizenonline.com;
Date: Monday, July 28, 2014 10:10 AM

9:00 on Thursday Thank you for your help in this matter.

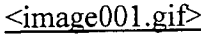
Thank You,

Gris McDonald

On Jul 28, 2014, at 10:05 AM, "McGuffin, Stan" <smcguffin@hsblawfirm.com> wrote:

Mr. Davies and I can meet with you on Thursday (July 31) at either 9:00 or 2:00 at my office (1201 Main St., 22d Fl.) to discuss some options that might be available for a loan modification to avoid the pending foreclosure. Please reply as to whether you can attend and which time you prefer. Thank-you.

Stanley H. McGuffin | Attorney | Haynsworth Sinkler Boyd, P.A.

1201 Main Street, 22nd Floor (29201) | Post Office Box 11889 (29211) | Columbia, South Carolina
<Phone: 803.779.3080 | Fax: 803.765.1243 | Direct: 803.540.7836

[website](#) | [bio](#) | [vCard](#) | [map](#) | [email](#)

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IRS CIRCULAR 230 NOTICE: Internal Revenue Service regulations generally provide that, for the purpose of avoiding federal tax penalties, a taxpayer may rely only on formal written advice meeting specific requirements. Any tax advice in this message, or in any attachment to this message, does not meet those requirements. Accordingly, any such tax advice was not intended or written to be used, and it cannot be used, for the purpose of avoiding federal tax penalties that may be imposed on you or for the purpose of promoting, marketing or recommending to another party any tax-related matters. mmcorp

Subject: Fwd: 2013 Tax Return
From: Gris McDonald (grismcdonald@heritageroofingco.com)
To: grismcdonald@yahoo.com;
Date: Monday, August 18, 2014 9:19 AM

Thank You,

Gris McDonald

Begin forwarded message:

From: "Davies, Dave" <Dave.Davies@firstcitizensonline.com>
Date: August 1, 2014 at 11:20:09 AM EDT
To: 'Gris McDonald' <grismcdonald@heritageroofingco.com>
Subject: RE: 2013 Tax Return

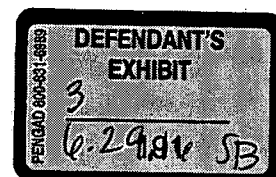
Griss

That's ok if the properties are in a partnership, as long as you are the one making the actual payments. I assume you are since you are reporting the interest & depreciation expense on your tax returns.

It's actually beneficial to you if you tell me what other mortgage & other payments you make. Otherwise, it appears that you have more money to service our debt than is the case.

If you could, please complete the attachment as best as you can and return. Again, I hope to have some news regarding the property by early next week. Thanks

Dave



From: Gris McDonald [<mailto:grismcdonald@heritageroofingco.com>]
Sent: Thursday, July 31, 2014 3:04 PM
To: Davies, Dave
Subject: RE: 2013 Tax Return

The rest are held in another partnership. The ones listed below are mortgaged in my name personally

From: Davies, Dave [<mailto:Dave.Davies@firstcitizenonline.com>]
Sent: Thursday, July 31, 2014 2:26 PM
To: Gris McDonald
Subject: RE: 2013 Tax Return

Gris –

Again, hope to know something early next week as to what we can do on the Hutto St. property. I do have a couple of questions; on your tax returns, you indicate the 10 properties listed on your returns as mortgaged; on your PFS, you only list 2 (2102 Atascadero & Lantern Hill).

I will need to know the debt schedule on your various properties; please complete the attached spreadsheet & return to my attention. If you don't want to use the spread sheet that's fine; you can scan it to me on a piece of paper Please call me if you have any questions. Thank-you!

Dave

Dave Davies | Credit Resolution Group|First Citizens Bank | 803-931-1698|MC994-061

rom: Gris McDonald [<mailto:grismcdonald@heritageroofingco.com>]

Sent: Thursday, July 31, 2014 11:16 AM

To: Davies, Dave

Subject: 2013 Tax Return

Dave,

I appreciate you taking the time to meet this morning and look forward to finding a solution which works for all parties involved.

Thank you,

Gris McDonald

803-796-3327 (o)

803-309-1066 (c)

Heritage Roofing Co, Inc.

Since 1979

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Attachments

- Debt Schedule Template.xls (25.50KB)

Subject: FW: 2013 Tax Return
From: Gris McDonald (grismcdonald@heritageroofingco.com)
To: grismcdonald@yahoo.com;
Date: Tuesday, August 18, 2015 2:22 PM

Dave,

I appreciate you taking the time to meet this morning and look forward to finding a solution which works for all parties involved.

Thank you,

Gris McDonald

803-796-3327 (o)

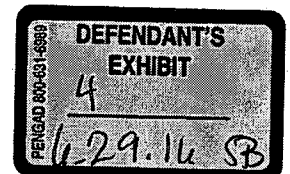
803-309-1066 (c)

Heritage Roofing Co, Inc.

Since 1979

Attachments

- 3148967126.txt (5.50MB)
- 2013 McDonald Tax Return.pdf (4.07MB)



Subject: RE: first Citizens v SOH, Case No. 2014-CP-40-3950

From: Caskey, Mary (mcaskey@hsblawfirm.com)

To: grismcdonald@yahoo.com;

Date: Tuesday, August 18, 2015 5:16 PM

Got it.

-----Original Message-----

From: Gris McDonald [mailto:grismcdonald@yahoo.com]

Sent: Tuesday, August 18, 2015 4:35 PM

To: Caskey, Mary

Subject: Re: first Citizens v SOH, Case No. 2014-CP-40-3950

Sorry 2013 tax doc is the one

Thank You,

Gris McDonald

> On Aug 18, 2015, at 3:09 PM, Gris McDonald <grismcdonald@yahoo.com> wrote:

>

> If you open the document 2914 Tax Return you should be able to click on the attachment from within that.

>

> Thank You,

>

> Gris McDonald

>

>> On Aug 18, 2015, at 3:05 PM, Caskey, Mary <mcaskey@hsblawfirm.com> wrote:

>>

>> Mr. McDonald: You 2013 return is not attached. I understand you claim to have already sent it, but please send again.

>>

>> -----Original Message-----

>> From: gris mcdonald [mailto:grismcdonald@yahoo.com]

>> Sent: Tuesday, August 18, 2015 2:44 PM

>> To: Caskey, Mary

>> Subject: RE: first Citizens v SOH, Case No. 2014-CP-40-3950

>>

>> Mary,

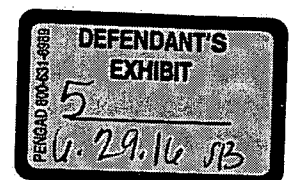
>> Please see the attached. Requested information was sent July 31, 2014. Also attached is my 2014 extension. I appreciate your help

>>

>> Thank You,

>>

>> Gris



>> -----

>> On Tue, 8/11/15, Caskey, Mary <mcaskey@hsblawfirm.com> wrote:

>>

>> Subject: RE: first Citizens v SOH, Case No. 2014-CP-40-3950

>> To: "Gris McDonald" <grismcdonald@yahoo.com>

>> Date: Tuesday, August 11, 2015, 2:16 PM

>>

>> Mr. McDonald--My

>> understanding is that the only information provided were from 2012. Could you please send me information for 2013 and 2014? The bank requires the information in order to respond.

>>

>>

>> Mary M. Caskey | Attorney | Haynsworth Sinkler Boyd, P.A.

>>

>> 1201 Main

>> Street, 22nd Floor (29201) | Post Office Box 11889 (29211) | Columbia, South Carolina

>> Phone: 803.779.3080

>> | Fax: 803.765.1243 | Direct: 803.540.7870

>>

>> <http://hsblawfirm.com> | <mailto:mcaskey@hsblawfirm.com>

>>

>>

>>

>> -----Original Message-----

>> From: Gris McDonald [<mailto:grismcdonald@yahoo.com>]

>>

>> Sent: Tuesday, August 11, 2015 2:03 PM

>> To: Caskey, Mary

>> Subject: Re:

>> first Citizens v SOH, Case No. 2014-CP-40-3950

>>

>> That was I have not seen a

>> request from them since the last time I submitted them per Dave Davies request

>>

>> Thank

>> You,

>>

>> Gris McDonald

>>

>>> On Aug 11, 2015, at 1:58

>>> PM, Gris McDonald <grismcdonald@yahoo.com>

>>> wrote:

>>>

>>> I'll

>>> pull the docs together but I have seen a current request from them. I filed an extension for 2014.

>>> Who requested these documents?

>>> Thank You,

>>>

>>> Gris

>> McDonald
>>>>
>>>> On
>> Aug 11, 2015, at 1:27 PM, Caskey, Mary <mcaskey@hsblawfirm.com>
>> wrote:
>> Mr. McDonald:
>>>>
>>>> First Citizens has been requesting
>> updated financial documents, but has not received anything since April. Could you send me your
2013 and 2014 tax returns and personal financials statements for yourself, as well as 2013 and 2014 tax
returns for SOH Properties? If you have not filed 2014, please send me the extension request.
>> If you will send me these documents, we can move forward with considering a counteroffer.
>>
>>>> Mary
>>>>
>>>> Mary M. Caskey | Attorney | Haynsworth Sinkler Boyd, P.A.
>>>>
>>>> 1201 Main Street, 22nd Floor (29201) | Post Office Box 11889 (29211) >> | Columbia, South
Carolina >> Phone:
>> 803.779.3080 | Fax: 803.765.1243 | Direct: 803.540.7870 >> >> http://hsblawfirm.com |
mailto:mcaskey@hsblawfirm.com >> >> >> >> -----Original Message----- >> From:
>> Caskey, Mary
>>>> Sent: Sunday, July 12,
>> 2015 8:11 PM
>>>> To: 'gris
>> mcdonald'
>>>> Subject: RE: first
>> Citizens v SOH, Case No. 2014-CP-40-3950 >> >> Mr.
>> McDonald: I'll review with First Citizens and get back to you.
>> Thanks,
>>>> Mary
>>>>
>>>> Mary M.
>> Caskey | Attorney | Haynsworth Sinkler Boyd, P.A.
>>>>
>>>> 1201 Main
>> Street, 22nd Floor (29201) | Post Office Box 11889 (29211)
>>
>>>> | Columbia, South Carolina
>>>> Phone: 803.779.3080 | Fax:
>> 803.765.1243 | Direct: 803.540.7870
>>
>>>> http://hsblawfirm.com | mailto:mcaskey@hsblawfirm.com >> >> >> -----Original Message-----
>> From: gris mcdonald [mailto:grismcdonald@yahoo.com] >> Sent: Thursday, July 09, 2015 6:12
PM >> To: Caskey, Mary >> Subject: RE: first Citizens v SOH, Case No. 2014-CP-40-3950 >> >>
>> Mary, >> I have been trying to come up with some type of option that could be a resolve to this
matter but with my current financial condition, it has not been easy.
>>>> I have had no
>> communication with Mr. Roldan in 9 months. So I am not sure where he would be involved in this

or if he would be out of the picture since he is in default.

>>

>>>> I have spoken to

>> several people in the RE market and have given me an indication that I could short sell the property for around \$35,000. This would leave the balance to address. Currently, I could commit to a payment of \$100.00/ month for an extended term. If my situation improved, we could review the payment at some time during the term of the agreement.

>>>>

>>>> Please let me know what your

>> client thinks. I desire to find some type of solution that will satisfy all involved I cannot express the impact this situation has had on me physically and financially. >> >> >> >> >> >> Thank You,

>> >> Gris McDonald >> 803-309-1066 >>

>> *****

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>> mmcorp

From: Shaffer, Carol
Sent: Friday, June 10, 2016 9:32 AM
To: Gris McDonald
Cc: Caskey, Mary
Subject: RE: First Citizens v. SOH Properties, LLC, et al., Case Number 2014-CP-40-3950

Please send anything for Davie Davies directly to our office, care of Mary Caskey, Esq.

Thanks
Carol

Carol Shaffer
803.540.7848

From: Gris McDonald [mailto:grismcdonald@yahoo.com]
Sent: Thursday, June 09, 2016 8:25 PM
To: Shaffer, Carol
Subject: Fwd: First Citizens v. SOH Properties, LLC, et al., Case Number 2014-CP-40-3950

Carol

Could you provide me with an address of service for your clients representative, Mr. Dave Davies. I appreciate your help.

Thank You,

Gris McDonald

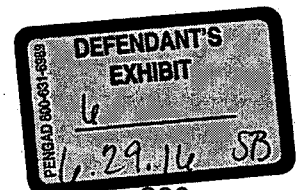
Begin forwarded message:

From: JOHN SCOTT <SCOTTJ3@rcgov.us>
Date: June 9, 2016 at 2:30:27 PM EDT
To: Gris McDonald <grismcdonald@yahoo.com>
Subject: RE: First Citizens v. SOH Properties, LLC, et al., Case Number 2014-CP-40-3950

Mr. McDonald, you don't have to subpoena anyone. You can have a private process server serve the documents on that person. Also make sure that the other side (Law firm on other side) knows what you are doing.

From: Gris McDonald [mailto:grismcdonald@yahoo.com]
Sent: Wednesday, June 08, 2016 7:10 PM
To: JOHN SCOTT
Subject: Re: First Citizens v. SOH Properties, LLC, et al., Case Number 2014-CP-40-3950

John



From: Caskey, Mary
Sent: Wednesday, June 22, 2016 9:24 AM
To: Shaffer, Carol; grismcdonald@yahoo.com
Subject: RE: First Citizens v. SOH Properties, LLC, et al., Case Number 2014-CP-40-3950

Mr. McDonald—

Please copy me on all communications with the court. I understand that you asked for information concerning Mr. Davies, and that Carol Shaffer told you to send anything to him through our office. However, Mr. Davis is no longer with First Citizens Bank and we do not represent him. Let me know if you have any questions.

Mary

**Haynsworth
Sinkler Boyd, P.A.**

ATTORNEYS AND COUNSELORS AT LAW

Mary M. Caskey | Attorney | Haynsworth Sinkler Boyd, P.A.

1201 Main Street, 22nd Floor (29201) | Post Office Box 11889 (29211) | Columbia,
South Carolina

Phone: 803.779.3080 | Fax: 803.765.1243 | Direct: 803.540.7870

[website](#) | [bio](#) | [vCard](#) | [map](#) | [email](#)

From: JOHN SCOTT [<mailto:SCOTTJ3@rcgov.us>]
Sent: Wednesday, June 22, 2016 8:53 AM
To: Gris McDonald
Cc: Shaffer, Carol
Subject: RE: First Citizens v. SOH Properties, LLC, et al., Case Number 2014-CP-40-3950

That borders on legal advice, which I can't really give out Mr. McDonald. But what I will do is ask Your Honor this morning, and email you back with his response.

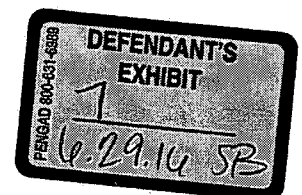
From: Gris McDonald [
Sent: Tuesday, June 21, 2016 8:00 PM
To: JOHN SCOTT
Subject: Re: First Citizens v. SOH Properties, LLC, et al., Case Number 2014-CP-40-3950

John

I feel that I need to serve him with a subpoena to have him present as a witness. Can you please tell me if I can sign the subpoena pro se or does Judge Strickland need to sign the subpoena?

Will this assure he will show up with out sending a subpoena ?

Thank You,



Subject: RE: First Citizens v. SOH Properties, Case No. 2014-CP-40-3950

From: Caskey, Mary (mcaskey@hsblawfirm.com)

To: ALeeLC@sccourts.org; grismcdonald@yahoo.com;

Cc: CManningLC@sccourts.org; jtamasitis@hsblawfirm.com;

Date: Friday, October 2, 2015 9:36 AM

Thank you Mr. Devlin. I did not realize that you had been added to the email exchange. This matter concerns a hearing before Judge Manning, on which he has ruled, and this matter is in the process of being transferred to the master in equity per his instructions. There seems to be some confusion about the prior August 31st roster, but the motion before Judge Manning was still pending at that time and so the case was removed from the roster.

I do not believe there is any dispute that concerns Judge Lee at this time.

Thank you-

Mary Caskey

-Mary M. Caskey | Attorney | Haynsworth Sinkler Boyd, P.A. | Columbia, SC 29211 |
Direct: 803.540.7870 | Phone: 803.779.3080 | Fax: 803.765.1243

-HSB-

-----Original Message-----

From: Lee, Alison Renee Law Clerk (Chadwick Devlin) [mailto:ALeeLC@sccourts.org]

Sent: Friday, October 02, 2015 09:11 AM Eastern Standard Time

To: Gris McDonald; Caskey, Mary

Cc: Manning, L. Casey Law Clerk (Deon T. Tedder)

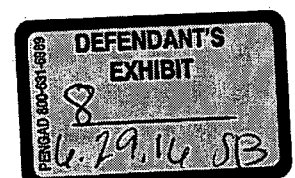
Subject: RE: First Citizens v. SOH Properties, Case No. 2014-CP-40-3950

Counsel and Mr. McDonald:

Good morning. Judge Lee is only getting partial notifications of the communication issues. It is problematic if there are no communications regarding the issue(s). If there are issues, please discuss among each other first. If you would like to request a status conference, please let me know.

Thank you,

Chadwick S. Devlin
Law Clerk to The Honorable Alison Renee Lee
Fifth Judicial Circuit
Richland County Judicial Center



1701 Main Street
Columbia, South Carolina 29201
(803) 576-1767 (Direct Dial)
(803) 576-1765 (Office)

-----Original Message-----

From: Gris McDonald [mailto:grismcdonald@yahoo.com]
Sent: Thursday, October 01, 2015 6:31 PM
To: Caskey, Mary
Cc: Lee, Alison Renee Law Clerk (Chadwick Devlin); Manning, L. Casey Law Clerk (Deon T. Tedder)
Subject: Re: First Citizens v. SOH Properties, Case No. 2014-CP-40-3950

Mary,

I do not understand why the courts are notifying you in regards to this case and that I have received no notifications. I have waited for a response from your client to my proposed settlement with no response. If this case does get referred, I will do what I have to within my legal rights to attempt to have my case heard. I feel that I have a right to be informed, by the courts as you have been, especially that a scheduled jury trial on Aug 31, 2015 in Judge Lee's court was settled/postponed. I feel that because I am Pro Se, I am not being treated fairly.

Thank You,

Gris McDonald

> On Oct 1, 2015, at 5:44 PM, Caskey, Mary <mcaskey@hsblawfirm.com> wrote:

>

> Mr. McDonald: this case has not been settled and we were notified by the court that our motion had been granted and your motion denied, and that we were to submit a proposed order. Due to the order, this case should be removed from the jury roster.

>

>

> Mary

>

>

> -Mary M. Caskey | Attorney | Haynsworth Sinkler Boyd, P.A. | Columbia, SC 29211 |

> Direct: 803.540.7870 | Phone: 803.779.3080 | Fax: 803.765.1243

>

> -HSB-

>

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> -----Original Message-----

> From: Gris McDonald [mailto:grismcdonald@yahoo.com]

> Sent: Thursday, October 01, 2015 05:37 PM Eastern Standard Time

> To: Tamasitis, John

> Cc: Manning, L. Casey Law Clerk (Eve Goodstein); Caskey, Mary

> Subject: Re: First Citizens v. SOH Properties, Case No. 2014-CP-40-3950

>
> I do not understand why an order of reference would be signed when a jury trial roster is scheduled for Oct 5, 2015.
>
> I was also present for a jury trial roster on August 31, 2015 in Judge Lee's court and the plaintiff was not present. I was informed by the courts that they had been told the case had been settled.
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> Thank You,
>
> Gris McDonald
>
> On Oct 1, 2015, at 5:14 PM, Tamasitis, John <jtamasitis@hsblawfirm.com> wrote:
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>
>
> Deon,
>
>
>
> I got a kick back email at your previous email address. Please find attached the proposed order requested by Judgment Manning granting First Citizens motion for order of reference and denying Mr. McDonald's motion for leave to amend his complaint to assert counterclaims.
>
>
>
> I have courtesy copied Mr. McDonald on this email. Please let me know if there is anything else Judge Manning requires from us.
>
>
>
> Thank you,
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>
>
> John
>
>
>
>
> <https://urldefense.proofpoint.com/v2/url?u=http-3A__www.hsblawfirm.com_home.php&d=CQIFaQ&c=YGvVmrQQ6VQOFx3Z93C9uQ&r=PxY9nveC>
>
>
> John G. Tamasitis | Attorney | Haynsworth Sinkler Boyd, P.A.

SDH PROPERTIES, LLC P.O. BOX 61072 COLUMBIA, SC 29260	COMMUNITY RESOURCE BANK N.A. MIDLANDS REGION POST OFFICE BOX 8 RIDGEWAY, SC 29130	Loan Number <u>4801</u> Date <u>04-20-2007</u> Maturity Date <u>03-20-2012</u> Loan Amount \$ <u>74,500.00</u> Renewal Of _____
BORROWER'S NAME AND ADDRESS "I" includes each borrower above, jointly and severally.	LENDER'S NAME AND ADDRESS "You" means the lender, its successors and assigns.	

For value received, I promise to pay to you, or your order, at your address listed above the PRINCIPAL sum of SEVENTY FOUR THOUSAND FIVE HUNDRED AND NO/100 Dollars \$ 74,500.00

☒ **Single Advance:** I will receive all of this principal sum on 04-20-2007. No additional advances are contemplated under this note.

☐ **Multiple Advance:** The principal sum shown above is the maximum amount of principal I can borrow under this note. On _____

I will receive the amount of \$ _____ and future principal advances are contemplated.

Conditions: The conditions for future advances are _____

☐ **Open End Credit:** You and I agree that I may borrow up to the maximum amount of principal more than one time. This feature is subject to all other conditions and expires on _____

☐ **Closed End Credit:** You and I agree that I may borrow up to the maximum only one time (and subject to all other conditions).

INTEREST: I agree to pay interest on the outstanding principal balance from 04-20-2007 at the rate of 8.250% per year until 03-20-2012

☐ **Variable Rate:** This rate may then change as stated below.

☐ **Index Rate:** The future rate will be _____ the following index rate: _____

☐ **No Index:** The future rate will not be subject to any internal or external index. It will be entirely in your control.

☐ **Frequency and Timing:** The rate on this note may change as often as _____

A change in the interest rate will take effect _____

☐ **Limitations:** During the term of this loan, the applicable annual interest rate will not be more than _____ % or less than _____ %.

The rate may not change more than _____ % each _____

Effect of Variable Rate: A change in the interest rate will have the following effect on the payments:

☐ The amount of each scheduled payment will change.

☐ The amount of the final payment will change.

ACCURAL METHOD: Interest will be calculated on a ACTUAL/360 basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:

☒ on the same fixed or variable rate basis in effect before maturity (as indicated above).

☐ at a rate equal to _____

☒ **LATE CHARGE:** If a payment is not made within 10 days after it is due, I agree to pay a late charge of 5.000% OF THE LATE AMOUNT WITH A MAX OF \$100.00

☒ **ADDITIONAL CHARGES:** In addition to interest, I agree to pay the following charges which ☐ are ☒ are not included in the principal amount above: LOAN FEE \$500.00

PAYMENTS: I agree to pay this note as follows:

58 MONTHLY PAYMENTS OF \$640.54 BEGINNING 05-20-2007 AND 1 BALLOON PAYMENT OF \$66,364.38 ON 03-20-2012.

ADDITIONAL TERMS:

☒ **SECURITY:** This note is separately secured by (describe separate document by type and date): MORTGAGE DATED 4/20/2007 RECORDED HEREWITH

(This section is for your internal use. Failure to list a separate security document does not mean the agreement will not secure this note.)

Signature for Lender

BEALLOON

PURPOSE: The purpose of this loan is REFINANCE FROM

SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGE 2). I have received a copy on today's date.

SDH PROPERTIES, LLC

Eugene G. McDonald, III
EUGENE G. McDONALD, III, MEMBER

Ivan A. Roldan
IVAN A. ROLDAN, MEMBER



206

4801

This document was prepared by (name, address, phone):
COMMUNITY RESOURCE BANK N.A. MIDLANDS REGION
POST OFFICE BOX 8
RIDGEWAY, SC 29130
(803) 337-2252

Book 1306-3670
2007035703 04/26/2007 15:04:57-070 Mortgage
Fee: \$14.00 County Tax: \$0.00 State Tax: \$0.00
2007035703 Richard W. Rodden Richland County ROD

State of South Carolina

Space Above This Line For Recording Data

REAL ESTATE MORTGAGE (With Future Advance Clause)

1. **DATE AND PARTIES.** The date of this Mortgage is 04-20-2007 and the parties and their addresses are as follows:

MORTGAGOR: SOH PROPERTIES, LLC, A SOUTH CAROLINA CORPORATION
P.O. BOX 61072
COLUMBIA, SC 29260

☐ Refer to the Addendum which is attached and incorporated herein for additional Mortgagors.

LENDER: COMMUNITY RESOURCE BANK N.A. MIDLANDS REGION
ORGANIZED AND EXISTING UNDER THE LAWS OF THE UNITED STATES OF AMERICA
POST OFFICE BOX 8
RIDGEWAY, SC 29130

2. **MORTGAGE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (hereafter defined), Mortgagor grants, bargains, conveys and mortgages to Lender the following described property:
SEE ATTACHED EXHIBIT A

The property is located in RICHLAND at 52 HUTTO COURT
(County)
COLUMBIA, South Carolina
(Address) (City) (Zip Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property"). The term Property also includes, but is not limited to, any and all water wells, water, ditches, reservoirs, reservoir sites and dams located on the real estate and all riparian and water rights associated with the Property, however established.

edm *ack*



3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount of the Secured Debt (hereafter defined) secured by this Mortgage at any one time shall not exceed \$ 74,500.00. This limitation of amount does not include interest, loan charges, commitment fees, brokerage commissions, attorneys' fees and other charges validly made pursuant to this Mortgage and does not apply to advances (or interest accrued on such advances) made under the terms of this Mortgage to protect Lender's security and to perform any of the covenants contained in this Mortgage. Interest under the Note will be deferred, accrued or capitalized; however, Mortgagee shall not be required to defer, accrue or capitalize any interest except as provided in the Note. Future advances are contemplated and, along with other future obligations, are secured by this Mortgage even though all or part may not yet be advanced. Nothing in this Mortgage, however, shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment would need to be agreed to in a separate writing.

4. **SECURED DEBT DEFINED.** The term "Secured Debt" includes, but is not limited to, the following:

- A. The promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all extensions, renewals, modifications or substitutions (Evidence of Debt) (e.g., borrower's name, note amount, interest rate, maturity date):

- B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Mortgage whether or not this Mortgage is specifically referred to in the evidence of debt.
- C. All obligations Mortgagor owes to Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.
- D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Mortgage, plus interest at the highest rate in effect, from time to time, as provided in the Evidence of Debt.
- E. Mortgagor's performance under the terms of any instrument evidencing a debt by Mortgagor to Lender and any Mortgage securing, guarantying, or otherwise relating to the debt.

If more than one person signs this Mortgage as Mortgagor, each Mortgagor agrees that this Mortgage will secure all future advances and future obligations described above that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. This Mortgage will not secure any other debt if Lender fails, with respect to such other debt, to make any required disclosure about this Mortgage or if Lender fails to give any required notice of the right of rescission.

- 5. **PAYMENTS.** Mortgagor agrees to make all payments on the Secured Debt when due and in accordance with the terms of the Evidence of Debt or this Mortgage.
- 6. **WARRANTY OF TITLE.** Mortgagor covenants that Mortgagor is lawfully seized of the estate conveyed by this Mortgage and has the right to grant, bargain, convey, sell, and mortgage the Property and warrants that the Property is unencumbered, except for encumbrances of record.
- 7. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Mortgage. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses which Mortgagor may have against parties who supply labor or materials to improve or maintain the Property.
- 8. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property and that may have priority over this Mortgage, Mortgagor agrees:
 - A. To make all payments when due and to perform or comply with all covenants.
 - B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
 - C. Not to make or permit any modification or extension of, and not to request or accept any future advances under any note or agreement secured by, the other mortgage, deed of trust or security agreement unless Lender consents in writing.
- 9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of any lien, encumbrance, transfer, or sale, or contract for any of these on the Property. However, if the Property includes Mortgagor's residence, this section shall be subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. For the purposes of this section, the term "Property" also includes any interest to all or any part of the Property. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Mortgage is released.

10. **TRANSFER OF AN INTEREST IN THE MORTGAGOR.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if (1) a beneficial interest in Mortgagor is sold or transferred; (2) there is a change in either the identity or number of members of a partnership or similar entity; or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity. However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Mortgage.

11. **ENTITY WARRANTIES AND REPRESENTATIONS.** If Mortgagor is an entity other than a natural person (such as a corporation or other organization), Mortgagor makes to Lender the following warranties and representations which shall be continuing as long as the Secured Debt remains outstanding:

- A. Mortgagor is an entity which is duly organized and validly existing in the Mortgagor's state of incorporation (or organization). Mortgagor is in good standing in all states in which Mortgagor transacts business. Mortgagor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Mortgagor operates.
- B. The execution, delivery and performance of this Mortgage by Mortgagor and the obligation evidenced by the Evidence of Debt are within the power of Mortgagor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.
- C. Other than disclosed in writing Mortgagor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Mortgagor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.

12. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor will give Lender prompt notice of any loss or damage to the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor will not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restriction limiting or defining the uses which may be made of the Property or any part of the Property, without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor or any other owner made under law or regulation regarding use, ownership and occupancy of the Property. Mortgagor will comply with all legal requirements and restrictions, whether public or private, with respect to the use of the Property. Mortgagor also agrees that the nature of the occupancy and use will not change without Lender's prior written consent.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Mortgage. Mortgagor shall not partition or subdivide the Property without Lender's prior written consent. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

13. **AUTHORITY TO PERFORM.** If Mortgagor fails to perform any of Mortgagor's duties under this Mortgage, or any other mortgage, deed of trust, security agreement or other lien document that has priority over this Mortgage, Lender may, without notice, perform the duties or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may do whatever is necessary to protect Lender's security interest in the Property. This may include completing the construction.

Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Mortgage. Any amounts paid by Lender for insuring, preserving or otherwise protecting the Property and Lender's security interest will be due on demand and will bear interest from the date of the payment until paid in full at the interest rate in effect from time to time according to the terms of the Evidence of Debt.

14. **ASSIGNMENT OF LEASES AND RENTS.** Mortgagor assigns, grants, bargains, conveys and mortgages to Lender as additional security all the right, title and interest in the following (Property).

- A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the Property, including but not limited to, any extensions, renewals, modifications or replacements (Leases).
- B. Rents, issues and profits, including but not limited to, security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement.

Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Mortgagor may collect, receive, enjoy and use the Rents so long as Mortgagor is not in default. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Upon default, Mortgagor will receive

any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Amounts collected will be applied at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment.

As long as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance.

Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional torts. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases.

15. CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS. If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

16. DEFAULT. Mortgagor will be in default if any of the following occur:

- A. Any party obligated on the Secured Debt fails to make payment when due;
- B. A breach of any term or covenant in this Mortgage, any prior mortgage or any construction loan agreement, security agreement or any other document evidencing, guarantying, securing or otherwise relating to the Secured Debt;
- C. The making or furnishing of any verbal or written representation, statement or warranty to Lender that is false or incorrect in any material respect by Mortgagor or any person or entity obligated on the Secured Debt;
- D. The death, dissolution, or insolvency of, appointment of a receiver for, or application of any debtor relief law to, Mortgagor or any person or entity obligated on the Secured Debt;
- E. A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
- F. A material adverse change in Mortgagor's business including ownership, management, and financial conditions, which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
- G. Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

17. REMEDIES ON DEFAULT. In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure, mediation notices or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Mortgage in a manner provided by law if this Mortgage is in default.

At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the Evidence of Debt, other evidences of debt, this Mortgage and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether expressly set forth or not. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require full and complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.

18. EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS. Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Mortgage. Mortgagor will also pay on demand all of Lender's expenses incurred in collecting, insuring, preserving or protecting the Property or in any inventories, audits, inspections or other examination by Lender in respect to the Property. Mortgagor agrees to pay all costs and expenses incurred by Lender in enforcing or protecting Lender's rights and remedies under this Mortgage, including, but not limited to, attorneys' fees, court costs, and other legal expenses. Once the Secured Debt is fully and finally paid, Lender agrees to release this Mortgage and Mortgagor agrees to pay for any recordation costs. All such amounts are due on demand and will bear interest from the time of the advance at the highest rate in effect, from time to time, as provided in the Evidence of Debt and as permitted by law.

19. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES. As used in this section, (1) "Environmental Law" means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) "Hazardous Substance" means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has

characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law. Mortgagor represents, warrants and agrees that, except as previously disclosed and acknowledged in writing:

- A. No Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
 - B. Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.
 - C. Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.
 - D. Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.
 - E. Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.
 - F. There are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.
 - G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.
 - H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.
 - I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.
 - J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.
 - K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Mortgage and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Mortgage without prejudice to any of Lender's rights under this Mortgage.
 - L. Notwithstanding any of the language contained in this Mortgage to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Mortgage regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.
20. **CONDEMNATION.** Mortgagor will give Lender prompt notice of any action, real or threatened, by private or public entities to purchase or take any or all of the Property, including any easements, through condemnation, eminent domain, or any other means. Mortgagor further agrees to notify Lender of any proceedings instituted for the establishment of any sewer, water, conservation, ditch, drainage, or other district relating to or binding upon the Property or any part of it. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims and to collect and receive all sums resulting from the action or claim. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Mortgage. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.
21. **INSURANCE.** Mortgagor agrees to maintain insurance as follows:
- A. Mortgagor shall keep the Property insured against loss by fire, theft and other hazards and risks reasonably associated with the Property due to its type and location. Other hazards and risks may include, for example, coverage against loss due to floods or flooding. This insurance shall be maintained in the amounts and for the periods that Lender requires. What Lender requires pursuant to the preceding three sentences can change during the term of the Secured Debt. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Mortgage.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "lender loss payee clause." Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor.

EBZ JCL

Unless Lender and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the Secured Debt, whether or not then due, with any excess paid to Mortgagor. If Mortgagor abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay the Secured Debt whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of scheduled payments or change the amount of the payments. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

- B. Mortgagor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against claims arising from any accident or occurrence in or on the Property.
- C. Mortgagor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing), under a form of policy acceptable to Lender.

22. NO ESCROW FOR TAXES AND INSURANCE. Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.

23. FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS. Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem necessary. Mortgagor warrants that all financial statements and information Mortgagor provides to Lender are, or will be, accurate, correct, and complete. Mortgagor agrees to sign, deliver, and file as Lender may reasonably request any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Mortgage and Lender's lien status on the Property. If Mortgagor fails to do so, Lender may sign, deliver, and file such documents or certificates in Mortgagor's name and Mortgagor hereby irrevocably appoints Lender or Lender's agent as attorney in fact to do the things necessary to comply with this section.

24. JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND. All duties under this Mortgage are joint and individual. If Mortgagor signs this Mortgage but does not sign the Evidence of Debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. Mortgagor agrees that Lender and any party to this Mortgage may extend, modify or make any change in the terms of this Mortgage or the Evidence of Debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Mortgage. The duties and benefits of this Mortgage shall bind and benefit the successors and assigns of Mortgagor and Lender.

If this Mortgage secures a guaranty between Lender and Mortgagor and does not directly secure the obligation which is guarantied, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation including, but not limited to, anti-deficiency or one-action laws.

25. APPLICABLE LAW; SEVERABILITY; INTERPRETATION. This Mortgage is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Mortgage is complete and fully integrated. This Mortgage may not be amended or modified by oral agreement. Any section or clause in this Mortgage, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section or clause of this Mortgage cannot be enforced according to its terms, that section or clause will be severed and will not affect the enforceability of the remainder of this Mortgage. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Mortgage are for convenience only and are not to be used to interpret or define the terms of this Mortgage. Time is of the essence in this Mortgage.

26. NOTICE. Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Mortgage, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.

27. WAIVER OF HOMESTEAD. Except to the extent prohibited by law, Mortgagor waives all homestead exemption rights relating to the Property.

28. U.C.C. PROVISIONS. If checked, the following are applicable to, but do not limit, this Mortgage:

- ☐ **Construction Loan.** This Mortgage secures an obligation incurred for the construction of an improvement on the Property.
- ☐ **Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.
- ☐ **Crops; Timber; Minerals; Rents, Issues and Profits.** Mortgagor grants to Lender a security interest in all crops, timber, and minerals located on the Property as well as all rents, issues, and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs (all of which shall also be included in the term "Property").

- ☐ **Personal Property.** Mortgagor grants to Lender a security interest in all personal property located on or connected with the Property. This security interest includes all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Mortgagor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property. The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.
- ☐ **Filing As Financing Statement.** Mortgagor agrees and acknowledges that this Mortgage also suffices as a financing statement and as such, may be filed of record as a financing statement for purposes of Article 9 of the Uniform Commercial Code. A carbon, photographic, image or other reproduction of this Mortgage is sufficient as a financing statement.

29. **OTHER TERMS.** If checked, the following are applicable to this Mortgage:

- ☐ **Line of Credit.** The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Mortgage will remain in effect until released.
- ☒ **Waiver of Appraisal Rights.** The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may, within thirty days after the sale of the mortgaged property, apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.
- ☐ **Separate Assignment.** The Mortgagor has executed or will execute a separate assignment of leases and rents. If the separate assignment of leases and rents is properly executed and recorded, then the separate assignment will supersede this Security Instrument's "Assignment of Leases and Rents" section.
- ☐ **Additional Terms.**

SIGNATURES: By signing below, Mortgagor agrees to the terms and covenants contained in this Mortgage and in any attachments. Mortgagor also acknowledges receipt of a copy of this Mortgage on the date stated above on Page 1.

☐ Actual authority was granted to the parties signing below by resolution signed and dated _____.

Entity Name: SOH PROPERTIES, LLC

Eugene G. McDonald, III (Signature) EUGENE G. McDONALD, III, MEMBER (Date) (Seal)

Ivan A. Roldan (Signature) IVAN A. ROLDAN, MEMBER (Date) (Seal) 4-20-07

Signed, Sealed and delivered in the presence of:

Parrela W. Elliott (Witness)

Christy S. Fennell (Witness)

☐ Refer to the Addendum which is attached and incorporated herein for additional Mortgagors, signatures and acknowledgments.

PROBATE:

STATE OF SOUTH CAROLINA, COUNTY OF Richland } ss.

Personally appeared before me the undersigned witness who, being duly sworn, deposed and said that (s)he saw the Mortgagor (and each Mortgagor if more than one) sign, seal and deliver the foregoing Mortgage and that (s)he, together with the other witness whose name appears as a witness, witnessed the execution thereof.

Sworn to and subscribed before me this 20TH day

01 APRIL, 2007

Parola W. Elliott
Notary Public for South Carolina

Christopher S. Smith

My commission expires: 3-12-2011

EXHIBIT "A"

(Mortgage from SOH Properties, LLC to Columbia National Bank)

All that certain piece, parcel or lot of land, with improvements thereon, situate, lying and being in the County of Richland, State of South Carolina, described as Lot 9, Hutto Court as shown on a plat of Hutto Court showing Hutto Court Extension by William Wingfield, dated July 10, 1952, recorded July 25, 1952 in Book O at page 130, Slide 14, having the following boundaries and measurements to wit: on the Northwest by Lot 8 whereon it measures for a distance of 115.2 feet; on the Northeast by property now or formerly of "Bayview" whereon it measures for a distance of 120.0 feet; on the Southeast by Lot 10 whereon it measures for a distance of 145.1 feet and on the Southwest by the right-of-way of Hutto Court whereon it measures for a distance of 50.0 feet, all as more fully shown on said plat, to which reference is hereby craved, be all measurements a little more or less.

This being the same property conveyed to Ivan A. Roldan and Shannon M. McDonald by deed of Stonegate Properties, Inc. dated June 2, 2004 and recorded June 8, 2004 in the Office of the Register of Deeds for Richland County in Book 943 at page 3622.

TMS# 14107-04-25

Richland County ROD

John G. Noyes

This document is not to scale

First Citizens

COMMERCIAL NOTE

AUGUST 31, 2009

COLUMBIA, SC

LOAN PURPOSE

I agree that the primary use of the loan proceeds is RENEWAL OF COMMERCIAL LOAN which is for Business or (If checked) ☐ Agriculture and not primarily personal, family, or household purposes.

CONDITION OF LOAN

You, First Citizens Bank and Trust Company, Inc. have loaned me \$ 14,937.37 (Principal) and I will comply with the provisions of this note which I have signed and I will comply with any other conditions to which we have agreed.

INTEREST

Interest is computed daily on the entire unpaid Principal balance and the scheduled payments are due precisely on the due dates. To the extent that payments are late or early, greater or less interest may be due over the life of the loan. Interest will be calculated on the basis of a 360 day year for the actual number of days elapsed. The per annum interest rate used in the calculation will be: ☒ 7.000 % Fixed ☐ First Citizens Prime + _____ %

☐ Wall Street Journal Prime + _____ % ☐ One (1) Month LIBOR + _____ % ☐ Three (3) Month LIBOR + _____ %

☐ If checked, my variable rate loan will have a minimum interest rate of _____ % and a maximum interest rate of _____ %.

Variable rate interest adjustments will be made based on the applicable rate index chosen. I recognize and acknowledge that you could make loans in certain situations below the applicable rate index. See additional variable rate provisions on reverse side of this Note. My rate will change as checked below:

First Citizens Prime changes will take effect ☐ daily or ☐ monthly on the first calendar day of the month following First Citizens Prime change. First Citizens Prime is an index used to price loans and is established by you at your discretion.

Wall Street Journal Prime changes will take effect ☐ daily based on the Prime Rate effective date as quoted in the "Money Rates" section of the Wall Street Journal or ☐ monthly on the first calendar day of the month based on the Prime Rate quoted in the "Money Rates" section of the Wall Street Journal, which section is dated for the last publishing day of the month prior to each interest rate change.

☐ One (1) Month and Three (3) Month LIBOR changes will take effect on the first calendar day of the month. The One (1) Month and Three (3) Month LIBOR indexes are the London Interbank Offered Rates quoted in the "Money Rates" section of the The Wall Street Journal, which section is dated for the last publishing day of the month prior to each interest rate change.

PAYMENT SCHEDULE

Principal and interest due in 11 equal consecutive MONTHLY payments of \$226.16 beginning SEPTEMBER 30, 2009 with one final balloon payment of principal plus accrued interest due AUGUST 31, 2010.

LATE CHARGES

A late charge of the higher of \$50 or 0.5% will be assessed for any single payment loan not paid, renewed, modified or extended within 10 days of its due date. Loans having more than one payment will be assessed a late charge of the higher of \$50 or 5% of the unpaid balance of any payment not paid, renewed, or modified or extended within 10 days of the due date of the payment.

OTHER CHARGES

I agree to pay the following Prepaid Finance Charges and Other Charges: Origination Fee: n/a Processing Fee: n/a Other Charges: \$24.00. At my request, Prepaid Finance Charges and Other Charges totaling n/a have been added to the Principal Amount listed above.

PLEDGE OF COLLATERAL

I am giving you a security interest in collateral described in the additional security section on the reverse side and to any collateral described below:

SECOND REAL ESTATE MORTGAGE ON PROPERTY LOCATED AT 52 HUTTO COURT
COLUMBIA, S.C. COUNTY OF RICHLAND AND MORE FULLY DESCRIBED IN
FIRST MORTGAGE DATED APRIL 4, 2007 AND RECORDED IN BOOK 1306-3670
ON APRIL 26, 2007 BY THE REGISTER OF DEEDS FOR RICHLAND COUNTY

FUTURE ADVANCES

☐ If checked, this is a future advance loan subject to the terms and conditions set forth in a Loan Agreement dated _____ which terms and conditions are incorporated herein by reference.

PROMISE

To repay my loan, I promise to pay to the order of First Citizens Bank and Trust Company, Inc. the Principal shown above plus interest accrued on the unpaid balance of the Principal for the actual number of days outstanding, at the interest rate described above, all according to the Payment Schedule shown above plus insurance and any other charges to which we may have agreed. If I have agreed to pay periodic interest payments or payments of equal principal plus interest, as shown in the Payment Schedule above, I understand that actual payments billed to me may vary from those shown in the Payment Schedule. Such differences may be due to more than one month to the first payment or due to difference in the number of days in each month, etc. This interest rate shall continue after default and/or judgment and shall remain in effect until all sums owing hereunder are paid.

PREPAYMENT

If the term of the loan exceeds one (1) year, the following prepayment penalty will apply to all business purpose loans. If within ten (10) years from the date of this note, I make any prepayment in any twelve (12) month period beginning with the date of this note or anniversary thereof ("Loan Year") I shall pay you a prepayment fee of four percent (4%) in years one or two, three percent (3%) in years three, four, or five, two percent (2%) in years six, seven, or eight, and one percent (1%) in years nine or ten of the amount by which the sum of prepayments made in any Loan Year exceeds the scheduled payments under this note. At bank's option, prepayment fees will be due and payable one month after the end of the Loan Year for partial prepayments or due at the time of prepayment when the account is prepaid in full.

CO-BORROWER LIABLE

If I sign this agreement with another Borrower, I will individually be bound for the full amount owed and agree to the granting of one or more extensions without notice or demand of any kind. I also agree to the release or substitution of any collateral which secures this note.

REVERSE SIDE

Additional terms and conditions contained on reverse are a material part of this note and agreement.

ORGANIZATIONAL BORROWER -- NAME AND ADDRESS TAX I.D. NO. BORROWER(S) S.S. NO.

SOH PROPERTIES, LLC
P.O. BOX 61072
COLUMBIA, SC 29260

Signature

BY Eugene G McDonald / Member to SOH
EUGENE G MCDONALD, III, MEMBER

Address

BY Ivan A Roldan
IVAN A ROLDAN, MEMBER

Signature

Address

☐ See Signature Addendum for additional signatures of Borrower(s).

RENEWAL 501/

EXHIBIT

16

CONTINUED FROM FACE SIDE

ADDITIONAL TERMS AND PROVISIONS

I understand that the paragraph heading on both the front and reverse side of this agreement are for convenience only and that they will not limit any of the provisions of this agreement.

Additional Security (Collateral). The Security Interest includes all parts, insurance, accessories, and equipment I use with the Collateral, any proceeds and any products from the Collateral and return of unearned credit insurance premiums written in connection with this loan. Except for a Security Interest on my principal dwelling, The Security Interest under this agreement also secures the payment of any other existing or future debts of mine to you unless otherwise prohibited by law. I am not giving you a Security Interest in my principal dwelling, unless it is specifically listed as Collateral nor any household goods, unless they are being purchased with the proceeds of this contract and are also listed as Collateral on this contract. If my principal dwelling secures existing debt with you, I understand that it will not secure this loan unless my principal dwelling is specifically listed as Collateral on this contract. I am also giving you a Security Interest in any and all funds I have on deposit with you, except and excluding any funds which are in an Individual Retirement Account.

Ownership. I am the owner of the Collateral and if there is a certificate of title to the Collateral, I will promptly deliver the certificate to you upon your request. There are no Security Interest or liens on the collateral other than yours and those which I have told you about in writing. I will not permit any Security Interest or liens other than yours to be on the Collateral at any time without your prior written consent.

Sale. I will not sell, lease or otherwise dispose of the Collateral without your prior written consent.

Inspection. You may inspect the Collateral at any reasonable time. Upon your request, I will exhibit the Collateral to you or I will furnish you a written statement showing the whereabouts of the Collateral.

Location and Use. I will keep the Collateral in the state of my residence, but if the Collateral is a motor vehicle, boat, or an airplane, I may use it outside my state of residency in the course of my normal and customary use of the Collateral. I will not use the Collateral in violation of any law or in a manner inconsistent with any insurance policy.

Taxes. I will pay all taxes, inspections and other fees payable on the Collateral or payable for the use and operation of the Collateral when they are due and payable.

Financing Statements. I authorize you at any time and from time to time to file any financing statements, continuation statements, in lieu of continuation statements, or amendments in the jurisdictions that you may deem necessary to perfect your security interests in the collateral. I also agree to notify you 30 days in advance if I, or the party granting the security interest, should either change my name, my state of organization, or my location. I will pay all filing fees and other fees and costs when such statements are filed or prior to a statement release.

Maintenance. I will keep the Collateral in good condition and repair and I will not permit anything to be done to the Collateral which would impair its use.

Failure to Pay Taxes, Costs and to Maintain Collateral and Placement of Other Liens on Collateral. If I fail to keep the Collateral in good condition and repair or if I fail to pay any taxes, impositions or other fees on the Collateral or if I fail to pay any cost and taxes for filing, financing, continuation and Security Interest filing statements or if any Security Interest or lien other than yours attaches or is on the Collateral, you may pay the same for my account and I will immediately pay to you any amounts so paid by you and all of your cost and expenses for so doing. Such amount will be covered by the Security Interest I have granted for you and will accrue interest at the Annual Percentage Rate until paid.

Insurance. I will keep the Collateral insured against such risks and in such amounts as you may require from time to time. I will provide you proof of such insurance coverage at all times with you named as the party to be paid in event of loss. I may furnish this coverage through an agent or company of my choice. However, this coverage must be acceptable to you. I will pay all premiums for this insurance when they are due and payable. If I fail to obtain the insurance or if I fail to pay the insurance premiums, you may obtain the insurance or pay the premiums. If you do this, I will immediately pay to you an amount equal to all monies you have advanced to obtain insurance and to pay insurance premiums. Any amounts advanced by you will earn interest at the then prevailing interest rate in accordance with the terms of this Note. Such amounts shall be covered by the Security Interest and lien I have granted to you. However, if you decide not to obtain the insurance or pay the premiums, none of your rights and remedies against me will be prejudiced. All insurance proceeds under any insurance policy shall be payable to you to the extent of the monies I owe you. I will deliver to you the insurance policy or policies or a certificate of insurance. I assign you any returned or unearned insurance premiums which may be due upon cancellation of any insurance policy. I direct the insurance company policies pay to you all insurance proceeds and returned or unearned premiums. You are irrevocably appointed as my attorney-in-fact to endorse any draft or check which may be payable to me so as to collect any return or unearned premiums or insurance proceeds. All insurance proceeds and returned or unearned premiums received by you will be applied against the monies I owe you and any balance remaining will be paid to me.

Payments. Payments received by a teller in one of our branches on a business day before the close of business at that branch (generally 5:00 p.m.; 6:00 p.m. on Fridays at certain branches), will be considered received that day. Payments received after the close of business at that branch or anytime on a non-business day will be considered received on the next business day we are open. Please note that because we balance ATMs anytime between the hours of 12:00 noon and 2:00 p.m., a payment made through an ATM may be dated and credited one business day later than if the payment had been made in the lobby or at a drive-in window. If a payment is made through On-Line-Banking or Telephone Banking before 4:00 p.m. on a business day, we will consider that day to be the day of the payment. If a payment is to be mailed to a specific address furnished by the Bank, the payment will be considered received and credited to the account on the same business day received. If the payment is not mailed to the address furnished by the Bank, crediting of payment may be delayed. Every day is a business day, except Saturdays, Sundays, and federal holidays. Some methods of payment may not be available on all products. You should check with a Bank representative if you have questions concerning available payment methods. If you make any payments on this Agreement by check, draft, or other item that is dishonored for any reason, you agree to pay the Bank's reasonable check charge as allowed by law. This charge will be in addition to any NSF or similar charge, which may be assessed against the account itself by the paying Bank.

Whole Balance Becomes Due (Default). If this note is payable on demand or has a Call Feature that has passed the specified calendar date, you may demand that this loan be paid in full immediately whether or not my payments are made on time. If I fail to make any scheduled payment when due, you may demand that this loan be paid in full immediately. If I, or any guarantor, should die, dissolve, terminate, fail, assign assets for benefit of creditors, file bankruptcy, become insolvent, change ownership (if organized entity) by more than 25% during the term of this Loan (without your prior written approval and to which I agree to provide you a 30 day advance notice), or default under any provision of this note or any separate agreement, you may declare the note in default and demand that this loan be paid in full immediately. In addition, if you, in your sole discretion, feel the prospect of payment, performance, or realization of Collateral is significantly impaired, or if you should deem yourself insecure for any reason, this loan will immediately become due and payable.

No Waiver. It is further agreed that the acceptance after maturity of any payment shall not constitute a waiver of your rights to demand payment in full of any unpaid balances.

Remedies. Upon default, the rate of interest on the unpaid principal balance, insurance and other charges that we have agreed to pay shall be increased an additional 600 basis points (6%) above the stated contract rate on the face of this note. If I, or any guarantor, default, you may take possession of the collateral and at your request I will assist you by making it available. Even though you take the collateral, I may be obligated for payment as provided by law. You may peaceably take possession of the Collateral for the reasons above at any time, even though you may not have done so previously, until I pay all amounts owing to you covered by the Security Interest. If you should take possession of the Collateral and the Collateral should contain any personal property, I agree to contact you and arrange to pick up the property within twenty-four (24) hours of your taking possession of the Collateral. If I do not pick up the property within this time period I understand that you may keep it for me, at reasonable storage expense or dispose of it as you see fit. Your failure to enforce or assert any of your rights under this agreement at any point in time shall not be considered waiver of the right to enforce those terms and conditions at any time in the future.

Financial Statements. I agree to provide signed financial statements and other financial information at such frequencies and in such detail as you may reasonably request.

Attorney's Fees. If you hire a lawyer to help collect this loan, I also agree to pay collection costs to include reasonable fees not to be less than 15% of the amount to be collected (unless otherwise prohibited by law).

Variable Rate Loans. If my loan has a variable rate feature, I agree to make no other inferences relating to any rate index that you may use. If my variable rate loan has a fixed or amortized payment amount, I understand and agree that if the selected variable rate index should exceed the fixed rate used for payment calculation purposes, you may, at your discretion, (a) increase the amount of periodic payments to have the loan fully amortize at the scheduled maturity, (b) extend the maturity and require additional periodic payments, (c) require the resulting increase to be paid at maturity, or (d) select or designate any combination of the foregoing.

Legal Matters. Any questions about this loan, Note or other agreements I make with you will be decided under South Carolina law. You and I agree that we will comply with all applicable laws, rulings and regulations and the terms of this contract will be interpreted in such manner as will comply with such laws, rulings and regulations.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

MORTGAGE OF REAL ESTATE

THIS MORTGAGE is dated AUGUST 31, 2009

THE MORTGAGOR(S) as referred to in this Mortgage is (are) SOH Properties, LLC

THE MORTGAGEE, First Citizens Bank and Trust Company, Inc. will be referred to herein as "Lender". Lender's address is PO Box 29, MC994033, Columbia, SC 29202.

WHEREAS, Borrower(s) SOH PROPERTIES, LLC

is (are) indebted to Lender in the principal amount of \$ 14,937.37 pursuant to the note, note agreement, loan agreement or revolving loan agreement (hereinafter referred to as the "Note") dated AUGUST 31, 2009. The Note includes all documents renewing, extending, or modifying it and/or evidencing future advances. The Note has a final maturity of AUGUST 31, 2010.

The amount of debt secured by this Mortgage, including the outstanding amount of the Note and all Future Advances under paragraph 13, shall at no time be more than double the principal amount of the Note or \$ 14,937.37, whichever is greater, plus interest, reasonable attorney's fees and court costs incurred in collection of amounts due hereunder and expenditures by Lender under Paragraph 5 below. Interest under the Note will be deferred, accrued, or capitalized, but Lender shall not be required to defer, accrue or capitalize any interest except as provided in the Note.

THIS MORTGAGE is given to secure the Lender the repayment of the following amounts, with interest: (A) the indebtedness evidenced by the Note; (B) any Future Advances made under Paragraph 13 below; (C) expenditures by Lender under Paragraph 5 below; and (D) attorney's fees, court costs and other amounts which may be due under the Note and the Mortgage. In consideration of the above indebtedness and for other valuable consideration which Mortgagee acknowledges receiving, Mortgagor does hereby mortgage, grant and convey to Lender, its successors and assigns the following described property (hereinafter sometimes referred to as the "Property").

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Book 1553-2704
2009067334 09/03/2009 11:25:24:137 Mortgage
Fee: \$11.00 County Tax: \$0.00 State Tax: \$0.00

2009067334 Richard W. Rodden
Richland County R.O.D.

Together with all singular rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto; all improvements, now or hereafter situated thereon; and all fixtures (including, but not limited to, appliances, additions, improvements, and all items and material attached to or used in connection with the described Property) now or hereafter attached thereto; all easements, rights-of-way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights, and powers; and all estates, rights, titles, interests, privileges, liberties, and tenements, whatsoever and in any way belonging, relating or appertaining to any of the property herein above described, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagee; and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law as well as in equity of Mortgagee of, in and to the same, including but not limited to all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the property or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the property or to any rights, appurtenant thereto; and all proceeds of any sales or other dispositions of the property or any part thereof (collectively hereafter referred to as the "Property"); and all of the same being deemed part of the Property and included in the reference thereto).

TO HAVE AND TO HOLD all and singular the Property unto Lender and the successors and assigns of Lender forever,

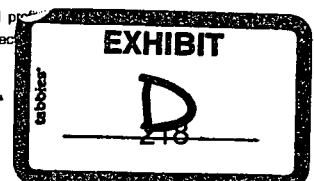
MORTGAGOR covenants that Mortgagee is lawfully seized of the Property in fee simple absolute, that Mortgagee has good right and is lawfully authorized to sell, convey or encumber the same, and that the Property is free and clear of all encumbrances except as expressly provided in Paragraph 15 and otherwise herein. Mortgagee covenants to warrant and forever defend all and singular the Property unto Lender and the successors or assigns of Lender from and against Mortgagee and all persons whomsoever lawfully claiming the same or any part thereof.

PROVIDED ALWAYS, nevertheless, and it is the true intent and meaning of Mortgagee and Lender, that if Mortgagee pays or causes to be paid to Lender the debt secured hereby, the estate hereby granted shall cease, determine and be utterly null and void; otherwise said estate shall remain in full force and effect.

IT IS AGREED that Mortgagee shall be entitled to hold and enjoy the Property until a Default as herein defined has occurred.

MORTGAGOR further covenants and agrees with Lender as follows:

1. **Assignment of Rents and Profits.** As further security for all sums secured by this Mortgage, Mortgagee assigns to Lender all rents and profits arising from the Property; provided, however, that so long as no Default, as hereinafter defined, has occurred, Mortgagee shall be entitled to collect and retain all such rents and profits as the sole property of Mortgagee without accounting to Lender therefore.



2. **Care of Property.** Mortgagor will maintain the Property in good condition and repair and will neither permit nor allow waste thereof. Mortgagor will promptly repair or restore any portion of the Property which is damaged or destroyed by any cause whatsoever and will promptly pay when due all costs and expenses of such repair or restoration. Mortgagor will not remove or demolish any improvement or fixture which is now or hereafter part of the Property and will cut no timber on the Property without the express written consent of Lender. Lender shall be entitled to specific performance of the provisions of this paragraph.

3. **Insurance.** (A) Mortgagor shall at its sole expense obtain for, deliver to, and maintain for the benefit of Lender, during the life of the Mortgage, insurance policies in such amounts as Lender may require, in no event less than the full insurable value, insuring the Property against fire, extended coverage and such other insurable hazards, casualties and contingencies as Lender may require including flood damage, and shall pay promptly, when due, any premiums on such insurance policies and on any renewals thereof. The form of such policies, the companies issuing them and the coverages provided shall be acceptable to Lender and shall contain a noncontributory mortgage endorsement making losses payable to Lender. At least thirty (30) days prior to the expiration date of all such policies, renewals thereof satisfactory to Lender shall be delivered to Lender. Mortgagor shall deliver to Lender receipts evidencing the payment of all premiums of such insurance policies and renewals. In the event of loss, Mortgagor will give written notice to Lender, and Lender may make proof of loss if not made promptly by Mortgagor. In the event of foreclosure of this Mortgage or any other transfer of title to the Property in extinguishment of the indebtedness and other sums secured hereby, all rights title and interest of Mortgagor in and to all insurance policies and renewals thereof then in force shall pass to the grantee. Upon the failure of Mortgagor to obtain and maintain insurance satisfactory to Lender, Lender may at its own discretion procure and substitute for any and all of the insurance so held as aforesaid, such other policy or policies in insurance, in such amount as Lender, acting in its sole discretion, may determine; all without prejudice to its right to foreclose hereunder should Mortgagor fail or refuse to keep said premises so insured.

(B) Mortgagor hereby assigns to Lender all proceeds from any insurance policies, and Lender is hereby authorized and empowered in its reasonable discretion, to adjust or compromise any loss under any insurance policies on the Property, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender alone and not to Mortgagor and Lender jointly. After deducting from such insurance proceeds any expenses incurred by Lender in the collection or handling of such funds, Lender, acting in its sole discretion, may apply the net proceeds (1) to the payment of any sum secured by this Mortgage in such order as Lender may determine, or (2) to the replacement, repair, or restoration of the portion of the Property damaged or destroyed in a manner determined by Lender; or may release said net proceeds to the Mortgagor upon such conditions as Lender shall determine; or may apply said net proceeds for any combination of the foregoing; all without affecting the lien of this Mortgage for the full amount secured hereby before such payment took place. If Lender elects to restore the improvements, any balance of such monies after restoration shall either be applied toward the reduction of indebtedness and any other sums secured hereby or shall be paid to Mortgagor. Lender shall not be responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

(C) Mortgagor shall, at its sole expense, obtain for, deliver to, and maintain for the benefit of Lender, during the life of this Mortgage, liability insurance policies relating to the Property, in such amounts, with such companies and in such form as may be reasonably required by Lender. Lender may require such policies to contain an endorsement, in form satisfactory to Lender, naming Lender as an additional insured thereunder. Mortgagor shall pay promptly, when due, any premiums on such insurance policies and renewals thereof.

4. **Taxes and Assessments.** Mortgagor will pay all taxes, assessments and other charges which constitute or are secured by a lien upon the Property which is superior to the lien of this Mortgage and will deliver to Lender proof of payment of the same not less than ten (10) days prior to the date the same becomes delinquent; provided, however, that Mortgagor shall be entitled by appropriate proceedings to contest the amount or validity of such tax, assessment or charge so long as the collection of the same by foreclosure of the lien upon the Property is stayed during the pendency of such proceedings and Mortgagor deposits with the authority to which such tax, assessment or charge is payable or with Lender appropriate security for payment of the same together with any applicable interest and penalties, should the same be determined due and owing.

5. **Expenditures by Lender.** If Mortgagor fails to make payment for restoration or repair of the Property (including any improvements to bring the Property in compliance with federal, state or local laws, ordinances or regulations), for insurance premiums or for taxes, assessments or other charges as required in the Mortgage, Lender may, but shall not be obligated to, pay for the same. Any such payment by Lender will be secured by this Mortgage and have the same rank and priority as the principal debt secured hereby and bear interest from the date of payment at the rate payable from time to time to outstanding principal under the Note. Payments made for taxes by Lender shall be a first lien on the Property to the extent of the taxes so paid with interest from the date of payment, regardless of the rank and priority of this Mortgage. Mortgagor will pay to Lender in cash on demand an amount equal to any payment made by Lender pursuant to this paragraph plus interest thereon as herein provided.

6. **Condemnation.** Lender shall be entitled to be made a party to and to participate in any proceeding, whether formal or informal, for condemnation or acquisition pursuant to power of eminent domain of any portion of the Property. Mortgagor hereby assigns to Lender the right to collect and receive any payment or award to which Mortgagor would otherwise be entitled by reason of condemnation or acquisition pursuant to the power of eminent domain of any portion of the Property. Any such payment or award received by Lender may, at the option of Lender, (1) be applied to payment of any sums secured by this Mortgage in such order as Lender may determine; or (2) be applied in a manner determined by Lender to the replacement of the portion of the Property taken and to the repair or restoration of the remaining portion of the Property; or (3) be released to Mortgagor upon such conditions as Lender may determine; or (4) be used for any combination of the foregoing purposes. No portion of an indemnity payment which is applied to replacement, repair or restoration of any portion of the Property or which is released to Mortgagor shall be deemed a payment against any sums secured by this Mortgage.

7. **Due on Sale or Transfer of Property.** At the option of Lender, the indebtedness secured by this Mortgage shall become due and payable if, without the written consent of Lender, Mortgagor shall convey away the mortgaged premises, or if the title shall become vested in any other person in any manner whatsoever, (to include a Sales Contract) other than by death of Mortgagor. It is understood and agreed that in consideration for the consent of Lender to any transfer of title to the mortgaged premises, Lender, at its option, may charge a loan transfer fee and/or require changes in the rate of interest, term of loan, monthly payments of principal and interest and other terms and conditions of this Mortgage and/or the Note secured hereby.

8. **Default.** The occurrence of any of the following events shall be deemed a Default under this Mortgage:

- (A) any default by Mortgagor as described in the Note;
- (B) failure of Mortgagor to pay any other sum secured by this Mortgage when due;
- (C) failure of Mortgagor to observe or perform any covenant or agreement set forth in this Mortgage or any loan agreement entered into between Mortgagor and Lender with respect to the indebtedness hereby secured within ten (10) days following the giving of notice by Lender to Mortgagor to observe or perform the same.

9. **Remedies.** Upon the occurrence of a Default as hereinabove defined, Lender may, without notice to Mortgagor unless otherwise required by laws, declare all sums secured by this Mortgage immediately due and payable and may commence proceedings to collect such sums, foreclose this Mortgage and sell the Property. At the foreclosure, Lender shall be entitled to bid and to purchase the Property and shall be entitled to apply the debt secured hereby, or any portion thereof, in payment for the Property. The remedies provided to Lender in this paragraph shall be in addition to and not in lieu of any other rights and remedies provided in this Mortgage or by law, all of which rights and remedies may be exercised by Lender simultaneously or consecutively in any order without being deemed to have waived any right or remedy previously or not yet exercised.

10. **Appointment of Receiver.** Upon the occurrence of a Default as hereinabove defined Lender shall be entitled to the appointment of a receiver to enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation or modification of leases; the making of repairs to the Property; and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Mortgage. The receiver shall be entitled to receive a reasonable fee for so managing the Property. All rents collected pursuant to this paragraph shall be applied first to the costs of taking control of and managing the Property and collecting the rents, including, but not limited to attorney's fees, receiver's fees, premiums on receiver's bonds, costs or repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation of liability of Mortgagor as lessor or landlord of the Property and then to the sums secured by this Mortgage. Lender or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those rents actually received. Lender shall not be liable to Mortgagor, anyone claiming under or through Mortgagor, or anyone having an interest in the Property by reason of anything done or left undone by Mortgagor under this paragraph. If the rents of the Property are not sufficient to meet the cost of taking control and managing the Property and collecting the rents, Lender, at its sole option, may advance funds to meet the costs. Any funds expended by Lender for such purposes shall become indebtedness of Mortgagor to Lender secured by this Mortgage. Unless Lender and Mortgagor agree in writing to other terms of payment, such amounts shall be payable upon notice from Lender to Mortgagor requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in the Note. The entering upon and taking and maintaining of control of the Property by Lender or the receiver and the application of rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Lender hereunder.

11. **Waiver by Lender.** Lender may, in its sole discretion, from time to time waive or forbear from endorsing any provision of this Mortgage, and no such waiver or forbearance shall be deemed a waiver by Lender of any right or remedy provided herein by law or be deemed a waiver of the right at any later time to enforce strictly all provisions of this Mortgage and to exercise any and all remedies provided herein and by law.

12. **Costs of Appraisals.** Mortgagor shall pay any and all costs of providing to Lender, as it may request from time to time, a current appraisal of the market value of the Property prepared by an appraiser acceptable to Lender, in its sole discretion. If Mortgagor fails to pay such costs, Lender may advance the cost on the Mortgagor's behalf and add the amount of such advance to the principal under the Note, which shall bear interest at the rate as provided in the Note, and shall be due and payable on demand. Mortgagor's failure to pay the cost of any such appraisal, plus all accrued interest, in full, within ten (10) days of the date of such demand shall constitute an event of default entitling the Lender to accelerate the maturity of all debts secured by the Mortgage, as allowed by law.

13. **Future Advances.** Lender, at its option, may make Future Advances to Mortgagor. Such Future Advances, with interest at the rate payable from time to time on the outstanding principal under the Note, shall be secured by this Mortgage when evidenced by the Note or by any other note stating that it is secured by this Mortgage or when advanced under the terms of this Mortgage. Lender may make but is not obligated to make such Future Advances (A) at the request of Mortgagor, whether or not there is an obligation to make Future Advances; (B) pursuant to advance of funds provided for herein; or (C) to pay, with or without the consent or request of Mortgagor, any amounts which may be due under any other mortgage or lien affecting the Property.

14. **Notices.** Any notice given by either party hereto to the other party shall be in writing and shall be signed by the party giving notice. Any notice or other document to be delivered to either party hereto by the other party shall be deemed delivered if mailed postage prepaid to the party to who directed at the latest address of such party that is known to the party sending the same. This paragraph shall not be deemed to prohibit any other manner of delivering a notice of other document.

15. **Miscellaneous.**

- (A) The agreements herein shall bind and inure to the benefit of the Mortgagor, Lender and their respective heirs, successors and assigns.
- (B) Whenever in this Mortgage one of the parties hereto is named or referred to, the heirs, legal representatives, successors and assigns of such parties shall be included and all covenants and agreements contained in this Mortgage by or on behalf of Mortgagor or by or on behalf of Lender shall bind and inure to the benefit of their representatives, heirs, successors and assigns, whether so expressed or not.
- (C) The headings of the sections, paragraphs and subdivisions of this Mortgage are for the convenience of reference only, are not to be considered a part hereof and shall not limit or otherwise affect any of the terms hereof.
- (D) If any provision of this Mortgage conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage are declared severable.
- (E) Lender may make or cause to be made reasonable entries upon and inspections of the Property upon giving Mortgagor prior notice.
- (F) All covenants of Mortgage shall be joint and several.
- (G) This Mortgage shall be governed by, construed and enforced in accordance with the laws of South Carolina.
- (H) If this is not a first mortgage, Mortgagor has provided Lender with an attorney's opinion (or title Insurance) setting out in detail any and all prior mortgages or liens including the date of the existing mortgage liens and the original amounts.
- (I) If the Mortgagor is not obligated on the debt which this Mortgage secures, the the Mortgagor acknowledges that Note was made in consideration for this transaction and the owner of the Property agrees to be bound by all terms and conditions of the Note and the Mortgage.
- (J) **Construction Mortgage.** If this is a construction loan, this Mortgage is a "Construction Mortgage" for the purposes of Sections 9-334 and 2A-309 of the Uniform Commercial Code, as those sections have been adopted by the State of South Carolina.

16. **Compliance with Environmental Laws.** Mortgagor agrees to indemnify, defend and save Lender and its successors and assigns harmless from and against all claims, actions, administrative proceedings, fines, costs, liabilities, attorney's fees and costs or the like that arise directly or indirectly from the presence or release of hazardous material, substances, waste or other environmentally regulated substances on the Property. Mortgagor shall also indemnify and hold Lender harmless from and against any and all damages, penalties, fines, claims, liens, suits, liabilities, costs (including cleanup costs), judgments and expenses (including attorney's, consultant's or expert's fees or expenses) of any kind and nature suffered by state or federal, which requires the elimination, removal, or transfer of any hazardous material, substances, waste or other environmentally regulated substances. Mortgagor's obligations hereunder to Lender shall not be limited to any extent by the term of the Note, as to any act or occurrence prior to payment in full and satisfaction of the Note which gives rise to the liability hereunder, shall continue to survive and remain in full force and effect not withstanding

payment if full and satisfaction of the Note and Mortgage, or foreclosure under the Mortgage, or delivery of a deed in lieu of foreclosure. A default hereunder may, at the option of the Lender, be treated as a default under the documents evidencing and securing the loans. Hazardous materials, substances, waste or other environmentally regulated substances, as those terms are used herein, shall have the meanings specified in the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), as amended, the Resource Conservation Recovery Act, as amended, the Clean Air Act, the Clean Water Act, or any federal, state or local statute, law, ordinance, code, rule, regulation, order or decree as may now or at any time hereafter be in effect.

17. **Environmental Assessments Costs.** The Mortgagor shall pay the cost of providing to Lender, at Lender's request, a current environmental site assessment, audit, or survey ("Assessment") of the Property, which Assessment shall be prepared by a person or company acceptable to Lender, in Lender's sole discretion. If Mortgagor fails to pay the costs of the Assessment, Lender may pay such cost and the same shall constitute an advance under the Note to be secured by the Property, and shall be due and payable on demand. Mortgagor's failure to pay such amount with all accrued interests in full within ten (10) days of date of such demand shall constitute an event of default and entitle Lender to accelerate the maturity of any and all debts secured by the Property, as allowed by law. The Mortgagor acknowledges that the Lender disclaims any duty or obligation to the Mortgagor or any third party in regard to these assessments and is acting solely in compliance with its lending practices. The Mortgagor is advised to seek technical and/or legal advice in regard to any environmental concerns associated with the Property.

18. **Waiver by Mortgagor.** The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty (30) days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. UNLESS PROHIBITED BY LAW, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage the day and year first above written.

Signed, sealed and delivered

In the presence of

Witness

Witness

Mortgagor

Mortgagor

Mortgagor

Mortgagor

STATE OF SOUTH CAROLINA }
County of RICHLAND }

Probate

Before me, the undersigned Notary Public, personally appeared the undersigned witness who, being duly sworn, deposed and said that (s)he saw Ivan A. Roldan and E. Grissom McDonald

sign, seal and deliver the foregoing Mortgage and that (s)he, together with the other witness witnessed the execution thereof.

SWORN to and subscribed

before me this 31st day
of August, 2009

Notary Public for South Carolina

My commission expires: 2/9/16

(SEAL)

(Witness)

Exhibit "A"

All that certain piece, parcel, or lot of land, with improvements thereon, situate, lying and being in the County of **Richland**, State of South Carolina, described as **Lot Nine (9)**, **Hutto Court** as shown on a plat of Hutto Court and showing Hutto Court Extension by William Wingfield, dated July 10, 1952, recorded July 25, 1952 in **Book 'O' at Page 130**, Slide 14, having the following boundaries and measurements to wit: on the Northwest by Lot Eight (8) whereon it measures for a distance of 115.2 feet; on the Northeast by property now or formerly of "Bayview" whereon it measures for a distance of 120.0 feet; on the Southeast by Lot No. 10 whereon it measures for a distance of 145.1 feet; on the Southwest by the right-of-way of Hutto Court whereon it fronts and measures for a distance of 50.0 feet, all as more fully shown on a said plat, to which reference is hereby, all as more fully shown on said plat, to which reference is hereby craved, be all measurements a little more or less.

This being the same property conveyed unto SOH Properties, LLC, by deed from Ivan A. Roldan and Shannon M. McDonald, dated September 15, 2004, recorded September 17, 2004, in the Register Deeds Office for Richland County in the Record Book 978 at Page 1709, 1710, 1711, and 1712.

TMS No: 14107-04-25

Property Address: 52 Hutto Court, Columbia, SC 29204

GUARANTY

RIDGEWAY

(City)

SOUTH CAROLINA

(State)

APRIL 20, 2007

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce COMMUNITY RESOURCE BANK N.A. MIDLANDS REGION (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of SOH PROPERTIES, LLC

(herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

A. If this ☐ is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: _____ and any extensions,

renewals or replacements thereof (hereinafter referred to as the "Indebtedness").

B. If this ☒ is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "Indebtedness"). Without limitation, this guaranty includes the following described debt(s): _____

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.

2. This is an absolute, unconditional and continuing guaranty of payment of the Indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all Indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to Indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.

3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all Indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all Indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.

4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ UNLIMITED (if unlimited or if no amount is stated, the Undersigned shall be liable for all Indebtedness, without any limitation as to amount), plus accrued interest thereon and all other costs, fees, and expenses agreed to be paid under all agreements evidencing the Indebtedness and securing the payment of the Indebtedness, and all attorneys' fees, collection costs and enforcement expenses referable thereto. Indebtedness may be created and continued in any amount, whether or not in excess of such principal amount, without affecting or impairing the liability of the Undersigned hereunder. The Lender may apply any sums received by or available to Lender on account of the Indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

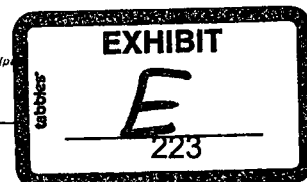
This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

This guaranty is ☒ unsecured; ☐ secured by a mortgage or security agreement dated _____; ☐ secured by _____

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.

Ivan A. Roldan
IVAN A. ROLDAN

"Undersigned" shall refer to all persons who sign this guaranty, severally and jointly.



ADDITIONAL PROVISIONS

6. Whether or not any existing relationship between the Undersigned and Borrower has been changed or ended and whether or not this guaranty has been revoked, Lender may, but shall not be obligated to, enter into transactions resulting in the creation or continuance of Indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any Indebtedness; (v) any discharge of any evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution thereof; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; (x) any election by the Lender under §1111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower, or any other person liable in respect of any Indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing Indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The Undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay Indebtedness even though any other person obligated to pay Indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to Indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the Indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such Indebtedness as fully as if such application had never been made.

10. Until the obligations of the Borrower to Lender have been paid in full, the Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay Indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness. Lender shall not be required first to resort for payment of the Indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

GUARANTY

RIDGEWAY

(City)

SOUTH CAROLINA

(State)

APRIL 20, 2007

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce COMMUNITY RESOURCE BANK N.A. MIDLANDS REGION (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of SOH PROPERTIES LLC

(herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

A. If this ☐ is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: _____ and any extensions,

renewals or replacements thereof (hereinafter referred to as the "Indebtedness").

B. If this ☒ is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "Indebtedness"). Without limitation, this guaranty includes the following described debt(s): _____

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.

2. This is an absolute, unconditional and continuing guaranty of payment of the Indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all Indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to Indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.

3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all Indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all Indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.

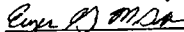
4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ UNLIMITED (if unlimited or if no amount is stated, the Undersigned shall be liable for all Indebtedness, without any limitation as to amount), plus accrued interest thereon and all other costs, fees, and expenses agreed to be paid under all agreements evidencing the Indebtedness and securing the payment of the Indebtedness, and all attorneys' fees, collection costs and enforcement expenses referable thereto. Indebtedness may be created and continued in any amount, whether or not in excess of such principal amount, without affecting or impairing the liability of the Undersigned hereunder. The Lender may apply any sums received by or available to Lender on account of the Indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

This guaranty is ☒ unsecured; ☐ secured by a mortgage or security agreement dated _____;
☐ secured by _____

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.


EUGENE G. McDONALD

"Undersigned" shall refer to all persons who sign this guaranty, severally and jointly.

ADDITIONAL PROVISIONS

6. Whether or not any existing relationship between the Undersigned and Borrower has been changed or ended and whether or not this guaranty has been revoked, Lender may, but shall not be obligated to, enter into transactions resulting in the creation or continuance of Indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any Indebtedness; (v) any discharge of any evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution thereof; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; (x) any election by the Lender under § 1111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any Indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing Indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The Undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay Indebtedness even though any other person obligated to pay Indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to Indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the Indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such Indebtedness as fully as if such application had never been made.

10. Until the obligations of the Borrower to Lender have been paid in full, the Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay Indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness. Lender shall not be required first to resort for payment of the Indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, and shall bind upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

(page 2 of 2)

GUARANTY

EDGEWAY

(City)

SOUTH CAROLINA

(State)

OCTOBER 30, 2007

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce COMMUNITY RESOURCE BANK N.A. MIDLANDS REGION (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of SDH PROPERTIES, LLC

(herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

A. If this ☐ is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: _____ and any extensions,

renewals or replacements thereof (hereinafter referred to as the "Indebtedness").

B. If this ☒ is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "Indebtedness"). Without limitation, this guaranty includes the following described debt(s): _____

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.

2. This is an absolute, unconditional and continuing guaranty of payment of the Indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all Indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to Indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.

3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all Indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all Indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.

4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ UNLIMITED (if unlimited or if no amount is stated, the Undersigned shall be liable for all Indebtedness, without any limitation as to amount), plus accrued interest thereon and all other costs, fees, and expenses agreed to be paid under all agreements evidencing the Indebtedness and securing the payment of the Indebtedness, and all attorneys' fees, collection costs and enforcement expenses referable thereto. Indebtedness may be created and continued in any amount, whether or not in excess of such principal amount, without affecting or impairing the liability of the Undersigned hereunder. The Lender may apply any sums received by or available to Lender on account of the Indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

This guaranty is ☒ unsecured; ☐ secured by a mortgage or security agreement dated _____
☐ secured by _____

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.


EUGENE B. McDONALD, MEMBER

"Undersigned" shall refer to all persons who sign this guaranty, severally and jointly.

ADDITIONAL PROVISIONS

6. Whether or not any existing relationship between the Undersigned and Borrower has been changed or ended and whether or not this guaranty has been revoked, Lender may, but shall not be obligated to, enter into transactions resulting in the creation or continuance of Indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any Indebtedness; (v) any discharge of any evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution therefor; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; (x) any election by the Lender under § 1111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any Indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing Indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The Undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay Indebtedness even though any other person obligated to pay Indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to Indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the Indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such Indebtedness as fully as if such application had never been made.

10. Until the obligations of the Borrower to Lender have been paid in full, the Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay Indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness. Lender shall not be required first to resort for payment of the Indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, and shall bind upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

GUARANTY

RIDGEWAY

(City)

SOUTH CAROLINA

(State)

JUNE 18, 2008

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce COMMUNITY RESOURCE BANK N.A. MIDLANDS REGION (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of SDH PROPERTIES, LLC

(herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

A. If this ☐ is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: _____ and any extensions,

renewals or replacements thereof (hereinafter referred to as the "Indebtedness").

B. If this ☒ is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "Indebtedness"). Without limitation, this guaranty includes the following described debt(s): _____

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.

2. This is an absolute, unconditional and continuing guaranty of payment of the Indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all Indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to Indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.

3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all Indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all Indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.

4. The liability of the Undersigned hereunder shall be limited to a principal amount of \$ UNLIMITED (if unlimited or if no amount is stated, the Undersigned shall be liable for all Indebtedness, without any limitation as to amount), plus accrued interest thereon and all other costs, fees, and expenses agreed to be paid under all agreements evidencing the Indebtedness and securing the payment of the Indebtedness, and all attorneys' fees, collection costs and enforcement expenses referable thereto. Indebtedness may be created and continued in any amount, whether or not in excess of such principal amount, without affecting or impairing the liability of the Undersigned hereunder. The Lender may apply any sums received by or available to Lender on account of the Indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

5. The Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

This guaranty is ☒ unsecured; ☐ secured by a mortgage or security agreement dated _____;
☐ secured by _____

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.

JOAN ROLDAN

Undersigned shall refer to all persons who sign this guaranty, severally and jointly.

ADDITIONAL PROVISIONS

6. Whether or not any existing relationship between the Undersigned and Borrower has been changed or ended and whether or not this guaranty has been revoked, Lender may, but shall not be obligated to, enter into transactions resulting in the creation or continuance of Indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any Indebtedness; (v) any discharge of any evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution therefor; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; (x) any election by the Lender under §1111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any Indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing Indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The Undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay Indebtedness even though any other person obligated to pay Indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to Indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the Indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such Indebtedness as fully as if such application had never been made.

10. Until the obligations of the Borrower to Lender have been paid in full, the Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay Indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness. Lender shall not be required first to resort for payment of the Indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

UNLIMITED GUARANTY AGREEMENT

(Business Use Only)

Date AUGUST 31, 2009

Borrower shall mean SOH PROPERTIES, LLC

1. Unlimited Guaranty. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce First Citizens Bank and Trust Company, Inc. (herein, with its participants, successors and assigns, called "Bank"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of Borrower or to engage in any other transactions with Borrower, the Guarantor hereby absolutely guarantees to the Bank the prompt and complete payment when due and payable (whether at the stated maturity or by required prepayment, acceleration, or otherwise) of any and all indebtedness, obligations and liabilities of the Borrower to the Bank, and all claims of the Bank against the Borrower, now existing or hereafter arising, direct or indirect (including participations of any interest of the Bank indebtedness of the Borrower to others), acquired outright, conditionally, or as collateral security from another, absolute or contingent, joint or several, secured or unsecured, matured or not matured, monetary or nonmonetary, arising out of contract or tort, liquidated or unliquidated, arising by operation of law or otherwise and all extensions, renewals, refundings, replacements, and modifications of any of the foregoing (herein referred to as Obligations) of the Borrower to the Bank (notwithstanding the fact that from time to time there may be no indebtedness outstanding), and the performance of the Borrower's covenants under all loans agreements, documents and instruments evidencing any Obligations or under which any Obligations may have been issued, created, assumed or guaranteed between Borrower and Bank and all expenses, incurred in collecting the same, as set forth below, all of which shall conclusively be deemed to have been incurred in reliance upon this Guaranty.

2. **Security.** As Security for the Liabilities of Guarantor, Guarantor does hereby grant the Bank a continuing lien upon and a security interest in the following property:

[NO SPECIFIC PROPERTY LISTED BUT THE REMAINDER OF PARAGRAPH 2 REMAINS IN EFFECT.]

and any other property of the Guarantor and the proceeds thereof, now hereafter actually or constructively held or received by or in transit to our Bank for any purpose, including, without limitation, for collection, custody, pledge, and transmission. Bank is authorized to apply the Security without prior notice or demand to the Liabilities in such order and amount as the Bank may elect, although such Liabilities may be contingent or unmatured. Bank agrees to notify the Guarantor promptly after such application provided that the failure to give such notice shall not affect the validity thereof.

3. Reinstatement If any payment received by the Bank from the Borrower in respect of its Obligations is subsequently recovered from or repaid by the Bank as the result of any bankruptcy, dissolution, reorganization, arrangement, or liquidation proceedings (or proceedings similar thereto), this Guaranty shall continue to be effective as though such payment had not been made. **The provisions of this paragraph shall survive termination of this Guaranty.**

4. Waiver: (i) Guarantor hereby waives (a) notice of acceptance of this Guaranty and all of the creation, extension, or accrual of any of the Obligations; (b) presentment, demand for payment, notice of dishonor, and protest; (c) notice of any other nature whatsoever; (d) any requirement that the Bank take any action whatsoever against the Borrower or any other party or file any claim in the event of the bankruptcy of the Borrower; or (e) failure to protect, preserve, or resort to any or all of the property that secures the payment of the Obligations and any proceeds thereof (herein referred to as the Collateral); and the Guarantor further agrees that the Guaranty will not be discharged except by complete performance of all Obligations of the Borrower and the Liabilities of the Guarantor hereunder.

(ii) The Guarantor expressly agrees that the Guarantor shall be and remain liable for any deficiency remaining after the disposition of Collateral (whether by foreclosure of any mortgage or security interest), whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision.

(iii) The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. **THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.**

This Guaranty includes the additional provisions on the reverse side hereof, all of which are made a part hereof.

In Witness Whereof, this Guaranty has been duly executed by the guarantor on the date written above.

Witnesses

Witnesses
Rea Sumpster

Joe A. Lee
Guarantor's Signature

6470
Tax ID Number

2851 GERVAIS STREET
Mailing Address

IVAN A ROLDAN
Print Guarantor's Name

COLUMBIA, SC 29204
City/State/Zip

Witnesses

Guarantor's Signature

Tax ID Number

Mailing Address

Print Guarantor's Name _____

City/State/Zip

5. Environmental Indemnity. (i) Guarantor agrees to indemnify, defend and save Bank and its successors and assigns harmless from and against all claims, actions, administrative proceedings, fines, costs, liabilities, attorneys' fees and cost or the like that arise directly or indirectly from the presence or release of hazardous materials, substances, waste or other environmentally regulated substances as a result of any Obligations of Borrower. Guarantor shall also indemnify and hold the Bank harmless from and against any and all damages, penalties, fines, claims, liens, suits, liabilities, costs (including cleanup costs), judgements and expenses (including attorneys, consultants or experts' fees and expenses) of any kind and nature suffered by or asserted against either Bank or Borrower as a direct or indirect result of any requirement under any law, regulation or ordinance, local, state, or federal, which requires the elimination, removal, or transfer of any hazardous material, substances, waste or other environmentally regulated substances. Guarantor's obligations hereunder to the Bank shall not be limited to any extent by the term of the Obligations, as to any act or occurrence prior to payment in full and satisfaction of the Obligations, shall continue to survive and remain in full force and effect not withstanding payment in full and satisfaction of the Obligations. A default hereunder may, at the option of the Bank, be treated as a default under the Obligations. Hazardous materials, substances, waste or other environmentally regulated substances as those terms are used herein shall have the meanings specified in the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), as amended, the Resource Conservation Recovery Act, as amended, the Clean Air Act, the Clean Water Act, or any federal, state or local statute, law, ordinance, code, rule, regulation, order or decree as may now or at any time hereafter be in effect. Guarantor also agrees that Obligations hereunder shall include the cost of providing to Bank, at Bank's request, a current environmental site assessment, audit, or survey ("Assessment") of any property that is collateral to the Obligations, or Guaranty, which Assessment shall be prepared by a person or company acceptable to Bank, in Bank's sole discretion. If Borrower fails to pay the cost of the Assessment, Bank may pay such cost and the same shall constitute an advance under the Obligations. Borrower's failure to pay such amount with all accrued interest in full within ten (10) days of date of such demand shall constitute an event of default and entitle Bank to accelerate the maturity of any and all Obligations, as allowed by law. The provisions of this paragraph shall survive termination of this Guaranty.

(ii) This Agreement does not modify, limit or otherwise amend any Environmental Indemnity Agreement presently existing or hereafter executed by the Guarantor for Obligations hereunder.

6. Borrower's Financial Condition. The Guarantor warrants to Bank that the Guarantor has adequate means to obtain from the Borrower, on a continuing basis, information concerning the financial condition of the Borrower, and the Guarantor is not relying on the Bank to provide such information, now or in the future.

7. Financial Statements. The Guarantor agrees to provide signed financial statements and other financial information at such frequencies and in such detail as the Bank may reasonably request.

8. Liability Cumulative. The Liability of the Guarantor under this guaranty is in addition to and shall be cumulative with all other liabilities of the Guarantor to the Bank as guarantor or otherwise, without limitation as to amount, unless the Instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

9. Consent. The Guarantor hereby consents that from time to time, and without further notice or consent of the Guarantor, the Bank may take any or all of the following actions without affecting the liability of the Guarantor: (a) extend, renew, modify, compromise, settle, or release the Obligations (including any increase or decrease in the interest rate); (b) release or compromise any liability of any party or parties with respect to the Obligations; (c) release its security interest in the Collateral or exchange, surrender, or otherwise deal with the Collateral as the Bank may determine; or (d) exercise or refrain from exercising any right or remedy of the Bank.

10. Absolute Guaranty. The liability of the Guarantor under this Guaranty shall be absolute and unconditional irrespective of any lack of validity, regularity or enforceability of the Obligations or any note, instrument, or agreement evidencing the same or relating thereto, or any other circumstance that might otherwise constitute a defense available to, or discharge of, the Borrower.

11. Subrogation. Notwithstanding any payment or payments made by the Guarantor hereunder, or any setoff or application of the Security by the Bank, the Guarantor will not exercise any rights of the Bank against the Borrower nor shall the Guarantor seek contribution from any other Guarantor, if any, until all the Obligations shall have been paid in full. If any amount shall be paid to the Guarantor on account of such subrogation rights at any time when all the Obligations will not have been paid in full, such amount shall be held in trust for the benefit of the Bank and shall forthwith be paid to the Bank to be credited and applied to the Obligations, whether matured or unmatured.

12. Expenses. Guarantor hereby agrees that whenever an attorney is used by the Bank to obtain payment hereunder, to enforce this Guaranty, or to adjudicate the rights of the parties hereto, the Bank shall be entitled to recover all reasonable attorney fees, court costs, and expenses attributable to the successful enforcement and preservation of its rights hereunder.

13. Termination. This Guaranty shall remain in full force and effect and shall be binding upon Guarantor, its successors, and assigns in accordance with its terms until the Obligations of the Borrower and the Liabilities of the Guarantor hereunder shall have been satisfied by payment in full.

14. Assignment. The Bank may, without notice, assign the Obligations, in whole or in part, and each successive assignee of the Obligations so assigned may enforce this Guaranty for its own benefit with respect to the Obligations so assigned.

15. Jurisdiction. This Guaranty and all rights, Obligations and Liabilities arising hereunder shall be construed according to the laws of the State of South Carolina. The Guarantor submits to the jurisdiction of the courts of the State of South Carolina.

16. Service. Guarantor further consents to the service of process in any such action by certified or registered mail directed to the Guarantor at the address set forth on the reverse side.

17. Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

REPORT-ID CL860-08
CONT OFFCR 99999
REQ NUM 00

FIRST CITIZENS
TECHNOLOGY DEVELOPMENT

DATE 01-16-15 PAGE 36378

LIABILITY LDGR / NOTE RECAP

OBLIGOR

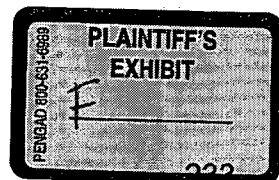
GUARANTORS

OBLIGOR NUMBER	APPL NAME	REF TYPE	IND LIAB	EFFECTIVE DATE	MATURITY DATE	INDIRECT AMOUNT	INDIRECT LIMITATION	GUARANTEED PERCENT
1	MCDONALD EUGENE	1 SPECIFIC	200	06-21-12	99-99-99	76,436.93	.00	.00
1	ROLDAN IVAN A	1 SPECIFIC	200	06-21-12	99-99-99	76,436.93	.00	.00

OBLIGOR 00-0024336-3 OBLIGATION 000-12-4785-7

CUMM TRANS

TRAN CODE	DESCRIPTION	POSTED DATE	EFFECT DATE	CHG CD	DESCR	DBID	TRO	RATE--OR--TRAN AMT	BTCN	PRINCIPAL BALANCE
3502	DISBURSEMENT	12-08-08	12-08-08	001	CUR PRN	MC061		71,904.37	300	71,904.37
6022	OBLIGAT HDR ADJ	12-08-08	12-08-08	100	INTERST	PE600		296.60	600	
4022	CURR INT PAYMNT	12-26-08	12-15-08	100	INTERST	PE730		494.34	PC5	
4042	CURR PRIN PYMNT	12-26-08	12-15-08	001	CUR PRN	MC061		146.20	PC5	
4022	CURR INT PAYMNT	01-29-09	01-29-09	100	INTERST	PE730	00	493.17	*P1	71,758.17
4042	CURR PRIN PYMNT	01-29-09	01-29-09	001	CUR PRN	MC061	00	147.37	*P1	
4022	CURR INT PAYMNT	02-24-09	02-24-09	100	INTERST	PE730	00	492.63	*P1	71,610.80
4042	CURR PRIN PYMNT	02-24-09	02-24-09	001	CUR PRN	MC061	00	147.91	*P1	
4022	CURR INT PAYMNT	03-20-09	03-20-09	100	INTERST	PE730	00	491.44	*P1	71,462.89
4042	CURR PRIN PYMNT	03-20-09	03-20-09	001	CUR PRN	MC061	00	149.10	*P1	
0918	LT CHG ASSESSED	04-30-09	04-30-09	918	LT CHG	RL155	00	32.02	*LC	71,313.79
4022	CURR INT PAYMNT	05-01-09	05-01-09	100	INTERST	PE730	00	490.28	*P1	
4042	CURR PRIN PYMNT	05-01-09	05-01-09	001	CUR PRN	MC061	00	150.26	*P1	71,163.53
4022	CURR INT PAYMNT	05-18-09	05-18-09	100	INTERST	PE730	00	489.63	*P1	
4042	CURR PRIN PYMNT	05-18-09	05-18-09	001	CUR PRN	MC061	00	150.91	*P1	71,012.62
4072	LATE CHRG PYMNT	05-18-09	05-18-09	918	LT CHG	RL105	00	32.02	*P1	
4022	CURR INT PAYMNT	06-29-09	06-29-09	100	INTERST	PE730	00	488.14	*P1	
4042	CURR PRIN PYMNT	06-29-09	06-29-09	001	CUR PRN	MC061	00	152.40	*P1	70,860.22
4022	CURR INT PAYMNT	07-28-09	07-28-09	100	INTERST	PE730	00	487.48	*P1	
4042	CURR PRIN PYMNT	07-28-09	07-28-09	001	CUR PRN	MC061	00	153.06	*P1	70,707.16
0918	LT CHG ASSESSED	08-28-09	08-28-09	918	LT CHG	RL155	00	32.02	*LC	
4022	CURR INT PAYMNT	09-08-09	09-08-09	100	INTERST	PE730	00	486.39	*P1	
4042	CURR PRIN PYMNT	09-08-09	09-08-09	001	CUR PRN	MC061	00	154.15	*P1	70,553.01
4022	CURR INT PAYMNT	09-29-09	09-29-09	100	INTERST	PE730	00	486.11	*P1	



REPORT-ID CL860-08
CONT OFFCR 99999
REQ NUM 00

FIRST CITIZENS
TECHNOLOGY DEVELOPMENT

DATE 01-16-15 PAGE 36379

LIABILITY LDGR / NOTE RECAP

OBLIGOR ██████████ OBLIGATION ██████████ 4785-7 - - - - - C U M M T R A N S - - - - -

TRAN CODE	DESCRIPTION	POSTED DATE	EFFECT DATE	CHG CD	DESCR	DBID	TRO	RATE--OR--TRAN AMT	BTCH	PRINCIPAL BALANCE
4042	CURR PRIN PYMNT	09-29-09	09-29-09	001	CUR PRN	MC061	00	154.43-	*P1	
0918	LT CHG ASSESSED	10-30-09	10-30-09	918	LT CHG	RL155	00	32.02	*LC	70,398.58
4022	CURR INT PYMNT	11-04-09	11-04-09	100	INTERST	PE730	00	483.89-	*P1	
4042	CURR PRIN PYMNT	11-04-09	11-04-09	001	CUR PRN	MC061	00	156.65-	*P1	
4072	LATE CHRG PYMNT	11-04-09	11-04-09	918	LT CHG	RL105	00	32.02-	*P1	70,241.93
0918	LT CHG ASSESSED	11-30-09	11-30-09	918	LT CHG	RL155	00	32.02	*LC	
4022	CURR INT PYMNT	12-18-09	12-18-09	100	INTERST	PE730	00	483.41-	*P1	
4042	CURR PRIN PYMNT	12-18-09	12-18-09	001	CUR PRN	MC061	00	157.13-	*P1	70,084.80
0918	LT CHG ASSESSED	12-30-09	12-30-09	918	LT CHG	RL155	00	32.02	*LC	
4022	CURR INT PYMNT	01-22-10	01-22-10	100	INTERST	PE730	00	482.85-	*P1	
4042	CURR PRIN PYMNT	01-22-10	01-22-10	001	CUR PRN	MC061	00	125.67-	*P1	69,959.13
4072	LATE CHRG PYMNT	01-22-10	01-22-10	918	LT CHG	RL105	00	32.02-	*P1	
0918	LT CHG ASSESSED	01-29-10	01-29-10	918	LT CHG	RL155	00	32.02	*LC	
4022	CURR INT PYMNT	02-09-10	02-09-10	100	INTERST	PE730	00	481.83-	*P1	
4042	CURR PRIN PYMNT	02-09-10	02-09-10	001	CUR PRN	MC061	00	126.69-	*P1	69,832.44
4072	LATE CHRG PYMNT	02-09-10	02-09-10	918	LT CHG	RL105	00	32.02-	*P1	
0918	LT CHG ASSESSED	03-02-10	03-02-10	918	LT CHG	RL155	00	32.02	*LC	
4142	LTE CHRG WAIVER	03-16-10	03-10-10	918	LT CHG	RL100	57	0.29-	WR1	
4142	LTE CHRG WAIVER	03-16-10	03-10-10	918	LT CHG	RL140	57	0.29	WR1	
4022	CURR INT PYMNT	03-12-10	03-12-10	100	INTERST	PE730	00	480.71-	*P1	
4022	CURR INT PYMNT	03-16-10	03-12-10	100	INTERST	PE730	00	0.31-	WR1	
4042	CURR PRIN PYMNT	03-12-10	03-12-10	001	CUR PRN	MC061	00	127.21-	*P1	69,705.23
4042	CURR PRIN PYMNT	03-15-10	03-12-10	001	CUR PRN	MC061	00	0.29-	WR1	69,704.94
4042	CURR PRIN PYMNT	03-16-10	03-12-10	001	CUR PRN	MC061	00	31.42-	WR1	69,673.52
4072	LATE CHRG PYMNT	03-12-10	03-12-10	918	LT CHG	RL105	00	32.02-	*P1	
4072	LATE CHRG PYMNT	03-15-10	03-12-10	918	LT CHG	RL105	00	31.73-	WR1	
4572	LT CHRG PMT REV	03-15-10	03-12-10	918	LT CHG	RL105	00	32.02	WR1	
4572	LT CHRG PMT REV	03-16-10	03-12-10	918	LT CHG	RL105	00	31.73	WR1	
4022	CURR INT PYMNT	04-12-10	04-12-10	100	INTERST	PE730	00	479.49-	*P1	
4042	CURR PRIN PYMNT	04-12-10	04-12-10	001	CUR PRN	MC061	00	97.01-	*P1	69,576.51
4072	LATE CHRG PYMNT	04-12-10	04-12-10	918	LT CHG	RL105	00	64.04-	*P1	
0918	LT CHG ASSESSED	04-30-10	04-30-10	918	LT CHG	RL155	00	28.83	*LC	

REPORT-ID CL860-08
CONT OFFCR 99999
REQ NUM 00

FIRST CITIZENS
TECHNOLOGY DEVELOPMENT

DATE 01-16-15 PAGE 36380

LIABILITY LDGR / NOTE RECAP

OBLIGOR		OBLIGATION		4785-7 - - - - - C U M M T R A N S - - - - -									
TRAN CODE	DESCRIPTION	POSTED DATE	EFFECT DATE	CHG CD	DESCR	DBID	TRO	RATE--OR--TRAN	AMT	BTCH	PRINCIPAL BALANCE		
4022	CURR INT PAYMNT	05-27-10	05-27-10	100	INTERST	PE730	00		507.66-	*P1			
4042	CURR PRIN PYMNT	05-27-10	05-27-10	001	CUR PRN	MC061	00		97.78-	*P1			
4072	LATE CHRG PYMNT	05-27-10	05-27-10	918	LT CHG	RL105	00		31.73-	*P1	69,478.73		
0918	LT CHG ASSESSED	05-28-10	05-28-10	918	LT CHG	RL155	00		29.00	*LC			
4022	CURR INT PAYMNT	06-08-10	06-07-10	100	INTERST	PE730	00		226.19-	GM1			
4522	INT PAYMNT RVSL	06-09-10	06-07-10	100	INTERST	PE730	00		226.19	WR1			
4022	CURR INT PAYMNT	06-24-10	06-24-10	100	INTERST	PE730	00		449.51-	*P1			
4042	CURR PRIN PYMNT	06-24-10	06-24-10	001	CUR PRN	MC061	00		130.65-	*P1	69,348.08		
4072	LATE CHRG PYMNT	06-24-10	06-24-10	918	LT CHG	RL105	00		28.83-	*P1			
0918	LT CHG ASSESSED	06-30-10	06-30-10	918	LT CHG	RL155	00		30.58	*LC			
4022	CURR INT PAYMNT	07-21-10	07-21-10	100	INTERST	PE730	00		477.82-	*P1			
4042	CURR PRIN PYMNT	07-21-10	07-21-10	001	CUR PRN	MC061	00		133.89-	*P1	69,214.19		
4072	LATE CHRG PYMNT	07-21-10	07-21-10	918	LT CHG	RL105	00		29.00-	*P1			
0918	LT CHG ASSESSED	07-30-10	07-30-10	918	LT CHG	RL155	00		30.57	*LC			
2307	STATUS CHANGE	12-16-10	08-20-10	000	CUR PRN		00	STATUS FROM 0 TO 7					
4022	CURR INT PAYMNT	08-27-10	08-27-10	100	INTERST	PE730	00		476.89-	*P1			
4042	CURR PRIN PYMNT	08-27-10	08-27-10	001	CUR PRN	MC061	00		134.65-	*P1	69,079.54		
4072	LATE CHRG PYMNT	08-27-10	08-27-10	918	LT CHG	RL105	00		30.58-	*P1			
0918	LT CHG ASSESSED	09-30-10	09-30-10	918	LT CHG	RL155	00		32.02	*LC			
4022	CURR INT PAYMNT	10-08-10	10-07-10	100	INTERST	PE730	00		475.88-	GM1			
4042	CURR PRIN PYMNT	10-08-10	10-07-10	001	CUR PRN	MC061	00		74.12-	GM1	69,005.42		
0918	LT CHG ASSESSED	10-29-10	10-29-10	918	LT CHG	RL155	00		32.02	*LC			
0918	LT CHG ASSESSED	11-30-10	11-30-10	918	LT CHG	RL155	00		32.03	*LC			
5022	OBLIGAT ADJ	12-07-10	12-06-10	001	CUR PRN	MC061	00		2,246.03	WR2	71,251.45		
0918	LT CHG ASSESSED	12-30-10	12-30-10	918	LT CHG	RL155	00		32.02	*LC			
0918	LT CHG ASSESSED	01-28-11	01-28-11	918	LT CHG	RL155	00		32.02	*LC			
0918	LT CHG ASSESSED	03-02-11	03-02-11	918	LT CHG	RL155	00		32.02	*LC			
5022	OBLIGAT ADJ	03-29-11	03-28-11	001	CUR PRN	MC061	00		2,225.03	WR2	73,476.48		
0918	LT CHG ASSESSED	03-30-11	03-30-11	918	LT CHG	RL155	00		32.02	*LC			
0918	LT CHG ASSESSED	04-29-11	04-29-11	918	LT CHG	RL155	00		32.02	*LC			
0918	LT CHG ASSESSED	05-27-11	05-27-11	918	LT CHG	RL155	00		32.02	*LC			
0918	LT CHG ASSESSED	06-30-11	06-30-11	918	LT CHG	RL155	00		32.02	*LC			

REPORT-ID CL860-08
CONT OFFCR 99999
REQ NUM 00

FIRST CITIZENS
TECHNOLOGY DEVELOPMENT

DATE 01-16-15 PAGE 36381

LIABILITY LDGR / NOTE RECAP

OBLIGOR [REDACTED] OBLIGATION [REDACTED] 1785-7 CUMM TRANS

TRAN CODE	DESCRIPTION	POSTED DATE	EFFECT DATE	CHG CD	DESCR	DBID	TRO	RATE--OR--TRAN AMT	BTCH	PRINCIPAL BALANCE
0918	LT CHG ASSESSED	08-01-11	08-01-11	918	LT CHG	RL155	00	32.02	*LC	
5022	OBLIGAT ADJ	08-30-11	08-29-11	001	CUR PRN	MC061		275.00	WR2	73,751.48
0918	LT CHG ASSESSED	09-01-11	09-01-11	918	LT CHG	RL155	00	32.02	*LC	
4942	CHARGE OFF INCR	09-21-11	09-21-11	001	CUR PRN	MC066		16,091.48	TM6	
0918	LT CHG ASSESSED	09-30-11	09-30-11	918	LT CHG	RL155	00	32.02	*LC	
0918	LT CHG ASSESSED	10-28-11	10-28-11	918	LT CHG	RL155	00	32.02	*LC	
0918	LT CHG ASSESSED	11-30-11	11-30-11	918	LT CHG	RL155	00	32.02	*LC	
0918	LT CHG ASSESSED	12-30-11	12-30-11	918	LT CHG	RL155	00	32.02	*LC	
0918	LT CHG ASSESSED	01-30-12	01-30-12	918	LT CHG	RL155	00	32.02	*LC	
5022	OBLIGAT ADJ	02-15-12	02-14-12	001	CUR PRN	MC061		2,124.78	GW5	75,876.26
5022	OBLIGAT ADJ	02-27-12	02-17-12	001	CUR PRN	MC061		275.00	GW5	76,151.26
0918	LT CHG ASSESSED	03-01-12	03-01-12	918	LT CHG	RL155	00	32.02	*LC	
4942	CHARGE OFF INCR	03-28-12	03-28-12	001	CUR PRN	MC066		13,559.78	TM6	
4022	CURR INT PAYMNT	06-20-12	03-30-12	100	INTERST	PE730		2,261.58-	WR1	
5022	OBLIGAT ADJ	06-20-12	03-30-12	001	CUR PRN	MC061		2,261.58	WR1	78,412.84
4022	CURR INT PAYMNT	05-11-12	05-10-12	100	INTERST	PE730		10,338.00-	GW2	
4022	CURR INT PAYMNT	06-15-12	05-10-12	100	INTERST	PE730		8,246.89-	WR1	
4042	CURR PRIN PYMNT	05-11-12	05-10-12	001	CUR PRN	MC061		1,764.64-	GW2	76,648.20
4042	CURR PRIN PYMNT	06-15-12	05-10-12	001	CUR PRN	MC061		2,091.11-	WR1	74,557.09
4522	INT PAYMNT RVSL	06-15-12	05-10-12	100	INTERST	PE730		10,338.00	WR1	
4022	CURR INT PAYMNT	06-28-12	06-28-12	100	INTERST	PE730	00	33.06-	*P1	
4072	LATE CHRG PYMNT	06-28-12	06-28-12	918	LT CHG	RL105	00	606.94-	*P1	
4572	LT CHRG PMT REV	07-31-12	06-28-12	918	LT CHG	RL105		606.94	WR1	
0918	LT CHG ASSESSED	07-10-12	07-10-12	918	LT CHG	RL155	00	30.34	*LC	
4022	CURR INT PAYMNT	07-24-12	07-24-12	100	INTERST	PE730	00	640.00-	*P1	
4022	CURR INT PAYMNT	07-31-12	07-30-12	100	INTERST	PE730		544.08-	WR1	
4042	CURR PRIN PYMNT	07-31-12	07-30-12	001	CUR PRN	MC061		62.86-	WR1	74,494.23
4022	CURR INT PAYMNT	09-04-12	08-31-12	100	INTERST	PE730		512.15-	WR5	
4042	CURR PRIN PYMNT	09-04-12	08-31-12	001	CUR PRN	MC061		127.85-	WR5	74,366.38
4022	CURR INT PAYMNT	09-28-12	09-28-12	100	INTERST	PE730	00	511.30-	*P1	
4042	CURR PRIN PYMNT	09-28-12	09-28-12	001	CUR PRN	MC061	00	66.34-	*P1	74,300.04
4072	LATE CHRG PYMNT	09-28-12	09-28-12	918	LT CHG	RL105	00	62.36-	*P1	

REPORT-ID CL860-08
CONT OFFCR 99999
REQ NUM 00

FIRST CITIZENS
TECHNOLOGY DEVELOPMENT

DATE 01-16-15 PAGE 36382

LIABILITY LDGR / NOTE RECAP

OBLIGOR 4785-7

CUMM TRANS

TRAN CODE	DESCRIPTION	POSTED DATE	EFFECT DATE	CHG CD	DESCR	DBID	TRO	RATE--OR--TRAN AMT	BTCH	PRINCIPAL BALANCE
4022	CURR INT PAYMNT	11-09-12	11-09-12	100	INTERST	PE730	00	510.78-	*P1	
4042	CURR PRIN PYMNT	11-09-12	11-09-12	001	CUR PRN	MC061	00	66.86-	*P1	74,233.18
4072	LATE CHRG PYMNT	11-09-12	11-09-12	918	LT CHG	RL105	00	62.36-	*P1	
4022	CURR INT PAYMNT	12-05-12	12-05-12	100	INTERST	PE730	00	510.49-	*P1	
4042	CURR PRIN PYMNT	12-05-12	12-05-12	001	CUR PRN	MC061	00	67.15-	*P1	74,166.03
4072	LATE CHRG PYMNT	12-05-12	12-05-12	918	LT CHG	RL105	00	62.36-	*P1	
0918	LT CHG ASSESSED	01-09-13	01-09-13	918	LT CHG	RL155	00	32.00	*LC	
4022	CURR INT PAYMNT	01-10-13	01-10-13	100	INTERST	PE730	00	509.97-	*P1	
4042	CURR PRIN PYMNT	01-10-13	01-10-13	001	CUR PRN	MC061	00	67.67-	*P1	74,098.36
4072	LATE CHRG PYMNT	01-10-13	01-10-13	918	LT CHG	RL105	00	62.36-	*P1	
5022	OBLIGAT ADJ	02-01-13	01-29-13	001	CUR PRN	MC061	00	275.00	GM5	74,373.36
0918	LT CHG ASSESSED	02-08-13	02-08-13	918	LT CHG	RL155	00	32.00	*LC	
4022	CURR INT PAYMNT	02-20-13	02-19-13	100	INTERST	PE730	00	509.58-	GM1	
4042	CURR PRIN PYMNT	02-20-13	02-19-13	001	CUR PRN	MC061	00	68.06-	GM1	74,305.30
4072	LATE CHRG PYMNT	02-20-13	02-19-13	918	LT CHG	RL105	00	62.36-	GM1	
0918	LT CHG ASSESSED	03-08-13	03-08-13	918	LT CHG	RL155	00	32.00	*LC	
4022	CURR INT PAYMNT	03-12-13	03-12-13	100	INTERST	PE730	00	477.29-	*P1	
4042	CURR PRIN PYMNT	03-12-13	03-12-13	001	CUR PRN	MC061	00	68.35-	*P1	74,236.95
4072	LATE CHRG PYMNT	03-12-13	03-12-13	918	LT CHG	RL105	00	94.36-	*P1	
4022	CURR INT PAYMNT	04-02-13	04-02-13	100	INTERST	PE730	00	513.64-	*P1	
4072	LATE CHRG PYMNT	04-02-13	04-02-13	918	LT CHG	RL105	00	126.36-	*P1	
4022	CURR INT PAYMNT	05-07-13	05-06-13	100	INTERST	PE730	00	481.64-	GM1	
4072	LATE CHRG PYMNT	05-07-13	05-06-13	918	LT CHG	RL105	00	158.36-	GM1	
4022	CURR INT PAYMNT	06-06-13	06-06-13	100	INTERST	PE730	00	569.96-	*P1	
4042	CURR PRIN PYMNT	06-06-13	06-06-13	001	CUR PRN	MC061	00	27.64-	*P1	74,209.31
4072	LATE CHRG PYMNT	06-06-13	06-06-13	918	LT CHG	RL105	00	42.40-	*P1	
0918	LT CHG ASSESSED	07-10-13	07-10-13	918	LT CHG	RL155	00	32.00	*LC	
4022	CURR INT PAYMNT	08-08-13	08-08-13	100	INTERST	PE730	00	510.23-	*P1	
4042	CURR PRIN PYMNT	08-08-13	08-08-13	001	CUR PRN	MC061	00	129.77-	*P1	74,079.54
0918	LT CHG ASSESSED	08-09-13	08-09-13	918	LT CHG	RL155	00	32.00	*LC	
4022	CURR INT PAYMNT	09-05-13	09-05-13	100	INTERST	PE730	00	510.19-	*P1	
4042	CURR PRIN PYMNT	09-05-13	09-05-13	001	CUR PRN	MC061	00	129.81-	*P1	73,949.73

REPORT-ID CL860-08
CONT OFFCR 99999
REQ NUM 00

FIRST CITIZENS
TECHNOLOGY DEVELOPMENT

DATE 01-16-15 PAGE 36383

LIABILITY LDGR / NOTE RECAP

OBLIGOR ██████████ OBLIGATION ██████████ 4785-7 ----- C U M M T R A N S -----

TRAN CODE	DESCRIPTION	POSTED DATE	EFFECT DATE	CHG CD	DESCR	DBID	TRO	RATE--OR--TRAN AMT	BTCH	PRINCIPAL BALANCE
0918	LT CHG ASSESSED	09-09-13	09-09-13	918	LT CHG	RL155	00	32.00	*LC	
4022	CURR INT PAYMNT	10-04-13	10-04-13	100	INTERST	PE730	00	509.54-	*P1	
4042	CURR PRIN PYMNT	10-04-13	10-04-13	001	CUR PRN	MC061	00	98.46-	*P1	73,851.27
4072	LATE CHRG PYMNT	10-04-13	10-04-13	918	LT CHG	RL105	00	32.00-	*P1	
0918	LT CHG ASSESSED	10-10-13	10-10-13	918	LT CHG	RL155	00	32.00	*LC	
4022	CURR INT PAYMNT	11-05-13	11-05-13	100	INTERST	PE730	00	508.55-	*P1	
4042	CURR PRIN PYMNT	11-05-13	11-05-13	001	CUR PRN	MC061	00	99.45-	*P1	73,751.82
4072	LATE CHRG PYMNT	11-05-13	11-05-13	918	LT CHG	RL105	00	32.00-	*P1	
5022	OBLIGAT ADJ	05-12-14	05-08-14	001	CUR PRN	MC061		280.00	MA4	74,031.82
5022	OBLIGAT ADJ	08-07-14	08-05-14	001	CUR PRN	MC061		2,405.11	MA4	76,436.93

05/19/16 08:41:32

Application Menu

Favorites Menu

Next Page

Previous Page

Select

History Summary

Abbreviations

Account ~~123456~~ B57 Control 2 000 Control 3 000 Control 4 0000
SOH PROPERTIE

Currency

Start Date 09/09/13

History Summary Data

Option	Effective Date	Transaction Code	Description	Transaction Amount	Post Balance
☒	09/09/13	7011	FEE ASSESSMENT	32.00	.00
☒	10/04/13	8081	INTEREST PMT	509.54	.00
☒	10/04/13	8082	PRINCIPAL PMT	98.46	.00
☒	10/04/13	9088	LATE CHARGE PMT	32.00	.00
☒	10/04/13	7011	FEE ASSESSMENT	32.00	.00
☒	11/05/13	8081	INTEREST PMT	509.56	.00
☒	11/05/13	8082	PRINCIPAL PMT	99.45	.00
☒	11/05/13	9088	LATE CHARGE PMT	32.00	.00
☒	05/09/14	8057	INCR BAL ADJ	280.00	.00
☒	08/05/14	8057	INCR BAL ADJ	2,405.11	.00
☒	02/09/15	7011	FEE ASSESSMENT	26.28	76,436.93
☒	03/10/15	7011	FEE ASSESSMENT	24.52	76,436.93
☒	04/09/15	7011	FEE ASSESSMENT	28.03	76,436.93
☒	05/11/15	7011	FEE ASSESSMENT	26.28	76,436.93

Option: A=Accrued Since Last Tran, C=Capture, R=Reversal, S=Specific, H=Split History
D=Disputed Item Status Change

Command X

Clear Screen

Continue

Required Field

05/19/16 08:41:32

Application Menu

Favorites Menu

Next Page

Previous Page

Select

Command X

Clear Screen

Continue

* Required Field

History Summary						Abbreviations	
Account	857	Control 2	000	Control 3	000	Control 4	0000
SOH PROPERTIE							
Currency							
Start Date	06/09/15						

History Summary Data

Option	Effective Date	Transaction Code	Description	Transaction Amount	Post Balance
☐	06/09/15	7011	FEE ASSESSMENT	26.28	76,436.93
☐	07/10/15	7011	FEE ASSESSMENT	26.28	76,436.93
☐	08/10/15	7011	FEE ASSESSMENT	26.28	76,436.93
☐	09/09/15	7011	FEE ASSESSMENT	26.28	76,436.93
☐	10/13/15	7011	FEE ASSESSMENT	26.28	76,436.93
☐	11/09/15	7011	FEE ASSESSMENT	26.28	76,436.93
☐	12/10/15	7011	FEE ASSESSMENT	26.28	76,436.93
☐	01/11/16	7011	FEE ASSESSMENT	1,422.20	76,436.93
☐	01/12/16	2582	INST FEE ADD		
☐	01/11/16	7011	FEE ASSESSMENT	26.28	76,436.93
☐	02/09/16	7011	FEE ASSESSMENT	97.39	76,436.93
☐	03/10/16	7011	FEE ASSESSMENT	25.40	76,436.93
☐	04/11/16	7011	FEE ASSESSMENT	27.15	76,436.93
☐	05/10/16	7011	FEE ASSESSMENT	26.28	76,436.93

Option: A=Accrued Since Last Tran, C=Capture, R=Reversal, S=Specific, H=Split History
D=Disputed Item Status Change

REPORT-ID. CL860-08
CONT OFFCR 99999
REQ NUM 00

FIRST CITIZENS
TECHNOLOGY DEVELOPMENT

DATE 01-16-15 PAGE 36386

LIABILITY LDGR / NOTE RECAP

OBLIGOR	APPL NAME	REF	IND EFFECTIVE	MATURITY	INDIRECT	INDIRECT	GUARANTEED
NUMBER		TYPE	LIAB DATE	DATE	AMOUNT	LIMITATION	PERCENT
	1 MCDONALD EUGENE	1 SPECIFIC	200 06-21-12	99-99-99	.00	.00	.00
	1 ROLDAN IVAN A	1 SPECIFIC	200 06-21-12	99-99-99	.00	.00	.00

OBLIGOR OBLIGATION 4786-5 CUMM TRANS

TRAN CODE	DESCRIPTION	POSTED DATE	EFFECT DATE	CHG CD	DESCR	DBID	TRO	RATE--OR--TRAN AMT	BTCH	PRINCIPAL BALANCE
1350	NEW ACCRUAL	12-08-08	12-08-08	100	INTERST			5.00000000 BASIS 4	000	
1350	NEW ACCRUAL	12-17-08	12-08-08	100	INTERST			5.00000000 BASIS 4	000	
3502	DISBURSEMENT	12-08-08	12-08-08	001	CUR PRN	MC061		15,990.22	300	15,990.22
6022	OBLIGAT HDR ADJ	12-08-08	12-08-08	100	INTERST	PE600		41.75	600	
4022	CURR INT PYMNT	12-26-08	12-15-08	100	INTERST	PE730		63.96-	PC5	
1350	NEW ACCRUAL	12-17-08	12-16-08	100	INTERST			4.25000000 BASIS 4	000	
1350	NEW ACCRUAL	09-09-09	12-16-08	100	INTERST			4.25000000 BASIS 4	000	
0918	LT CHG ASSESSED	01-28-09	01-28-09	918	LT CHG	RL155	00	2.89	*LC	
4022	CURR INT PYMNT	01-29-09	01-29-09	100	INTERST	PE730	00	57.85-	*P1	
4022	CURR INT PYMNT	02-24-09	02-24-09	100	INTERST	PE730	00	58.52-	*P1	
4072	LATE CHRG PYMNT	02-24-09	02-24-09	918	LT CHG	RL105	00	2.89-	*P1	
4022	CURR INT PYMNT	03-20-09	03-20-09	100	INTERST	PE730	00	52.86-	*P1	
0918	LT CHG ASSESSED	04-28-09	04-28-09	918	LT CHG	RL155	00	2.92	*LC	
4022	CURR INT PYMNT	05-01-09	05-01-09	100	INTERST	PE730	00	58.52-	*P1	
4022	CURR INT PYMNT	05-18-09	05-18-09	100	INTERST	PE730	00	56.63-	*P1	
4072	LATE CHRG PYMNT	05-18-09	05-18-09	918	LT CHG	RL105	00	2.92-	*P1	
4022	CURR INT PYMNT	06-29-09	06-29-09	100	INTERST	PE730	00	58.52-	*P1	
4022	CURR INT PYMNT	07-28-09	07-28-09	100	INTERST	PE730	00	1.89-	*P1	
4042	CURR PRIN PYMNT	07-28-09	07-28-09	001	CUR PRN	MC061	00	52.85-	*P1	15,937.37
1350	NEW ACCRUAL	09-09-09	08-31-09	100	INTERST			7.00000000 BASIS 4	000	
3902	RENEWAL ADVANCE	09-09-09	08-31-09	001	CUR PRN	MC061	00	14,937.37	FB2	30,874.74
4022	CURR INT PYMNT	09-09-09	08-31-09	100	INTERST	PE730		137.59-	FB2	
4042	CURR PRIN PYMNT	09-09-09	08-31-09	001	CUR PRN	MC061		1,000.00-	FB2	29,874.74
4052	RENEWAL PAYOFF	09-09-09	08-31-09	001	CUR PRN	MC061	00	14,937.37-	FB2	14,937.37



LIABILITY LDGR / NOTE RECAP

OBLIGOR	OBLIGATION	786-5	CUMM TRANS								
TRAN CODE	DESCRIPTION	POSTED DATE	EFFECT DATE	CHG CD	DESCR	DBID	TRO	RATE--OR--	TRAN AMT	BTCH	PRINCIPAL BALANCE
4022	CURR INT PAYMNT	10-06-09	10-06-09	100	INTERST	PE730	00		87.13-	*P1	
4042	CURR PRIN PYMNT	10-06-09	10-06-09	001	CUR PRN	MC061	00		139.03-	*P1	14,798.34
4022	CURR INT PAYMNT	10-30-09	10-30-09	100	INTERST	PE730	00		86.49-	*P1	
4042	CURR PRIN PYMNT	10-30-09	10-30-09	001	CUR PRN	MC061	00		139.67-	*P1	14,658.67
0918	LT CHG ASSESSED	12-11-09	12-11-09	918	LT CHG	RL155	00		50.00	*LC	
4022	CURR INT PAYMNT	12-28-09	12-28-09	100	INTERST	PE730	00		88.36-	*P1	
4042	CURR PRIN PYMNT	12-28-09	12-28-09	001	CUR PRN	MC061	00		137.80-	*P1	14,520.87
0918	LT CHG ASSESSED	01-11-10	01-11-10	918	LT CHG	RL155	00		50.00	*LC	
4022	CURR INT PAYMNT	01-22-10	01-22-10	100	INTERST	PE730	00		85.46-	*P1	
4042	CURR PRIN PYMNT	01-22-10	01-22-10	001	CUR PRN	MC061	00		140.65-	*P1	14,380.22
4072	LATE CHRG PYMNT	01-22-10	01-22-10	918	LT CHG	RL105	00		0.05-	*P1	
4022	CURR INT PAYMNT	02-09-10	02-09-10	100	INTERST	PE730	00		87.52-	*P1	
4042	CURR PRIN PYMNT	02-09-10	02-09-10	001	CUR PRN	MC061	00		138.64-	*P1	14,241.58
4072	LATE CHRG PYMNT	02-09-10	02-09-10	918	LT CHG	RL105	00		99.95-	*P1	
4022	CURR INT PAYMNT	03-12-10	03-12-10	100	INTERST	PE730	00		80.36-	*P1	
4042	CURR PRIN PYMNT	03-12-10	03-12-10	001	CUR PRN	MC061	00		145.80-	*P1	14,095.78
0918	LT CHG ASSESSED	04-09-10	04-09-10	918	LT CHG	RL155	00		50.00	*LC	
4022	CURR INT PAYMNT	04-29-10	04-29-10	100	INTERST	PE730	00		132.52-	*P1	
4022	CURR INT PAYMNT	06-01-10	04-29-10	100	INTERST	PE730			82.52-	WR1	
4042	CURR PRIN PYMNT	04-29-10	04-29-10	001	CUR PRN	MC061	00		143.59-	*P1	13,952.19
4072	LATE CHRG PYMNT	06-01-10	04-29-10	918	LT CHG	RL105			50.00-	WR1	
4522	INT PAYMNT RVSL	06-01-10	04-29-10	100	INTERST	PE730			132.52	WR1	
4022	CURR INT PAYMNT	06-09-10	06-07-10	100	INTERST	PE730			84.99-	WR1	
4042	CURR PRIN PYMNT	06-09-10	06-07-10	001	CUR PRN	MC061			141.20-	WR1	13,810.99
0918	LT CHG ASSESSED	06-11-10	06-11-10	918	LT CHG	RL155	00		50.00	*LC	
4022	CURR INT PAYMNT	06-24-10	06-24-10	100	INTERST	PE730	00		81.38-	*P1	
4042	CURR PRIN PYMNT	06-24-10	06-24-10	001	CUR PRN	MC061	00		144.80-	*P1	13,666.19
0918	LT CHG ASSESSED	07-12-10	07-12-10	918	LT CHG	RL155	00		50.00	*LC	
2307	STATUS CHANGE	12-16-10	07-30-10	000	CUR PRN		00	STATUS FROM 0	TO 7	MR1	
4022	CURR INT PAYMNT	08-04-10	08-04-10	100	INTERST	PE730	00		83.30-	*P1	
4042	CURR PRIN PYMNT	08-04-10	08-04-10	001	CUR PRN	MC061	00		142.69-	*P1	13,523.50
4072	LATE CHRG PYMNT	08-04-10	08-04-10	918	LT CHG	RL105	00		0.17-	*P1	

REPORT-ID CL860-08
CONT OFFCR 99999
REQ NUM 00

FIRST CITIZENS
TECHNOLOGY DEVELOPMENT

DATE 01-16-15 PAGE 36388

LIABILITY LDGR / NOTE RECAP

OBLIGOR ██████████ OBLIGATION ██████████ 4786-5 ----- C U M M T R A N S -----

TRAN CODE	DESCRIPTION	POSTED DATE	EFFECT DATE	CHG CD	DESCR	DBID	TRO	RATE--OR--TRAN AMT	BTCH	PRINCIPAL BALANCE
0918	LT CHG ASSESSED	08-11-10	08-11-10	918	LT CHG	RL155	00	50.00	*LC	
4022	CURR INT PAYMNT	08-27-10	08-27-10	100	INTERST	PE730	00	79.72-	*P1	
4042	CURR PRIN PYMNT	08-27-10	08-27-10	001	CUR PRN	MC061	00	146.44-	*P1	13,377.06
4072	LATE CHRG PYMNT	08-27-10	08-27-10	918	LT CHG	RL105	00	99.83-	*P1	
4942	CHARGE OFF INCR	09-21-11	09-21-11	001	CUR PRN	MC066		13,377.06	TM6	
6392	LC INC ASSES NB	09-21-11	09-21-11	918	LT CHG	RL100		50.00	TM6	
6832	LC DEC BILL NR	09-21-11	09-21-11	918	LT CHG	RL105		50.00-	TM6	
4042	CURR PRIN PYMNT	07-11-13	07-10-13	001	CUR PRN	MC061		640.00-	GM1	12,737.06
4952	CHARGE OFF RCYV	07-12-13	07-10-13	001	CUR PRN	MC066		640.00-	WR1	
4142	LTE CHRG WAIVER	01-02-15	01-02-15	918	LT CHG	RL100	57	50.00-	GW6	
4142	LTE CHRG WAIVER	01-02-15	01-02-15	918	LT CHG	RL140	57	50.00	GW6	
5522	OBLIGAT ADJ	01-02-15	01-02-15	001	CUR PRN	MC061		12,737.06-	GW6	0.00
5812	OBLIGAT ADJ	01-02-15	01-02-15	001	CUR PRN	MC066		12,737.06-	GW6	
6522	OBLIGAT HDR ADJ	01-02-15	01-02-15	100	INTERST	PE600		4,139.58-	GW6	

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

Case No. 2014-CP-40-3950

First Citizens Bank and Trust Company,
Inc., successor by merger to Community
Resource Bank, N.A.,

Plaintiff,

vs.

SOH Properties, LLC, Ivan A. Roldan,
and Eugene G. McDonald aka Eugene G.
McDonald III,

Defendants.

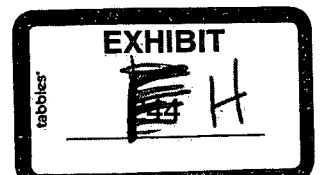
**ATTORNEY FEES AND COSTS
AFFIDAVIT**

I, Mary M. Caskey, being duly sworn, depose and state on oath as follows:

1. I am a shareholder with the law firm of Haynsworth Sinkler Boyd, P.A., attorneys for plaintiff in the above captioned action. This affidavit is submitted to the court for its consideration in awarding Plaintiff attorneys' fees in a foreclosure action against SOH Properties, LLC, Ivan A. Roldan, and Eugene G. McDonald aka Eugene G. McDonald III pursuant to the terms of the Notes and Mortgages in the above case under the factors set forth in *Prevatte v. Asbury Arms*, 302 S.C. 413, 396 S.E.2d 642 (Ct. App 1990) and similar cases.

2. Time and labor expended. In connection with the foreclosure of this parcel, and the collection of this debt, my staff and I have spent approximately ninety (90) hours, many of which were spend defending multiple frivolous or meritless motions by Defendants SOH Properties, LLC and Eugene G. McDonald aka Eugene G. McDonald III. Counsel also expects that additional time and expense will be necessary to collect the subject debt until conclusion of this matter.

3. The novelty and difficulty of the questions raised. Although the legal principles involved were not unusually complex, defendant Eugene G. McDonald aka Eugene G. McDonald III filed



multiple motions with the court, which resulted in multiple motion hearings prior to referring the case to the Master in Equity. Mr. McDonald has also filed for numerous continuances, causing further delay and expense. All of his motions were denied.

4. The skill required to perform the legal service properly. The skill required in this case was that possessed by an ordinarily competent collection attorney.

5. The preclusion of other employment by the attorney due to acceptance of the case. Plaintiff's counsel does not assert that preclusion of other employment arose as a result of this case.

6. Customary fee. The customary fee for the type of legal services involved is an hourly fee ranging from \$180.00 to \$375.00 per hour with paralegal time ranging from \$135.00 to \$170.00 per hour.

7. Expectations at the outset of litigation. Counsel for plaintiff was hired on an hourly fee basis plus expenses, subject to revision based upon circumstances.

8. Time limitations imposed by the client or circumstances. Plaintiff urged its counsel to pursue this matter with all promptness and diligence, but there were no unusual time limitations involved.

9. The amount in controversy and the results obtained. The amount in controversy exceeds \$112,000.00.

10. The experience, reputation and ability of the attorneys. I graduated from law school in 2007 and have been in private practice with Haynsworth Sinkler Boyd, P.A. since 2007. Approximately fifty percent of my time is spent in handling collection suits similar to the one in the instant case.

11. The undesirability of the case. There was no element of undesirability in handling this case.

12. The nature and length of the professional relationship with the client. Plaintiff and this law firm have had a continuing professional relationship for the past five years.

13. Awards in similar cases. I am aware of no particular awards that would serve as guidance for this court in this case.

14. In addition to the above factors, the court should note that the Note provides that,

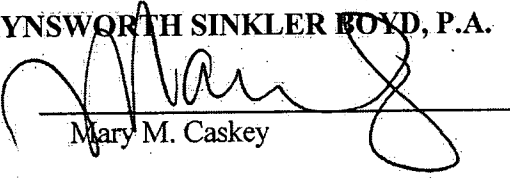
I agree to pay all costs of collection. . . . if you hire an attorney to collect this note, I also agree to pay any fee you incur with such attorney plus court costs...

Plaintiff has incurred costs for filing, service, motion, title work, and referral fees in the amount of \$3,177.80. Expenses, including postage and photocopies, have been incurred in the amount of approximately \$231.86. Counsel also expects that additional time and expense will be necessary to collect the subject debt and see this matter to conclusion (i.e. attend at hearing, advertise property for sale, consult with and advise client about bid amount and strategy, attend sale and bid for client, prepare Master in Equity's Title, Report of Sale, and Final Order confirming sale). It is therefore reasonable to award plaintiff costs of collection in the amount of \$3,409.66, plus a reasonable attorney's fee of \$17,500.00, with leave for Plaintiff to request additional attorney's fees and expenses at a later date.

Further Affiant sayeth not.

HAYNSWORTH SINKLER BOYD, P.A.

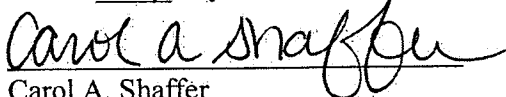
By:


Mary M. Caskey

Post Office Box 11889
Columbia, South Carolina 29211-1889
(803) 779.3080 Tel
(803) 765.1243 Fax

Attorneys for Plaintiff

SWORN to and subscribed before me
on this 24 day of June, 2016.



Carol A. Shaffer

Notary Public for South Carolina

My commission expires: October 31, 2024

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Joseph M. Strickland, Master-in-Equity Judge

Case No. 2014-CP-40-3950
Appellate Case No. 2016-001895

RECEIVED
OCT 31 2017
SC Court of Appeals

First Citizens Bank and Trust Company, Inc., successor by
Merger to Community Resource Bank, N.A.,.....Respondent,

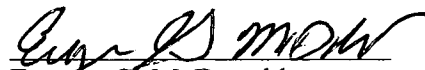
v.

SOH Properties, LLC, Ivan A. Roldan, and Eugene G.
McDonald a/k/a Eugene G. McDonald, III, Defendants,

Of whom Eugene G. McDonald, III is the.....Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material
proposed to be included by any of the parties and not any other material.


Eugene G. McDonald
4533 Ivy Hall Drive
Columbia, SC 29206
Pro Se Appellant