

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Edward W. Miller, Circuit Court Judge

Appellate Case No. 2017-001551
Lower Court Case No. 2008-CP-23-5739

Andrew P. Ballard.....Respondent,

v.

Tim Roberson, Rick Thoennes, Rick Thoennes, III,
and Warpath Development, Inc., Defendants,

Of Whom Rick Thoennes, III, is the.....Appellant.

RECORD ON APPEAL
VOLUME II OF II

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SC Court of Appeals

INDEX

VOLUME I

Orders

Order of the Honorable Edward W. Miller, May 4, 2010.....	001
Order of the Honorable Helen E. Burris, March 26, 2012.....	017
Order of the Honorable Helen E. Burris, March 28, 2013.....	020
Order of the Honorable Edward W. Miller, October 3, 2013	022
Order of the Honorable Edward W. Miller, March 27, 2014	030
Rule to Show Cause, March 27, 2014.....	036
Order Appointing Receiver of the Honorable Edward W. Miller, April 23, 2014	042
Charging Order of the Honorable Edward W. Miller, April 23, 2014	055
Order of the Honorable Helen E. Burris, September 3, 2015	061
Consent Order, October 28, 2015	092
Order of the South Carolina Supreme Court, September 8, 2016	095
Order of the Honorable Edward W. Miller, April 18, 2017	096
Order of the Honorable Edward W. Miller, July 14, 2017	104

Judgments

<i>United States v. Thoennes</i> , No. 611-cr-02053-HFF (D.S.C. Sept. 1, 2011)	106
---	-----

Decisions

<i>Ballard v. Roberson</i> , 399 S.C. 588, 590, 733 S.E.2d 107, 108 (2012)	110
<i>Ballard v. Roberson</i> , Op. No. 2015-UP-364 (July 15, 2015)	126

<i>Ballard v. Roberson</i> , Op. No. 2015-UP-364 (Aug. 26, 2015)	134
--	-----

Pleadings

Complaint, July 30, 2008	142
Answer, August 28, 2008	155
Amended Complaint, August 25, 2009.....	163
Amended Answer and Counterclaims, September 17, 2009	180

Post-Trial Motions

Plaintiff's Prehearing Memorandum and Cover Letter, May 31, 2013	197
Defendants' Post-Hearing Memorandum, August 16, 2013.....	213
Defendants' Motion to Stay Execution, January 9, 2014	234
Plaintiff's Motion to Determine the Portion of the Judgment Amount, September 21, 2016.....	241
Defendant Rick Thoennes, III's Memorandum in Opposition to Motion to Apportion, February 21, 2017	245
Defendant Rick Thoennes, III's Motion to Alter and/or Amend Judgment, April 28, 2017	250

Transcripts

Transcript of Valuation Hearing, August 6, 2013.....	260
Andy Ballard – Direct Examination by Mr. Lightsey.....	269
Andy Ballard – Cross Examination by Mr. Howard.....	288
Andy Ballard – Redirect Examination by Mr. Lightsey	296
Andy Ballard – Recross Examination by Mr. Howard	299
Tim Roberson – Direct Examination by Mr. Howard	302
Tim Roberson – Cross Examination by Mr. Lightsey	314

Rick Thoennes – Direct Examination by Mr. Howard	315
Rick Thoennes – Cross Examination by Mr. Lightsey	321
Perry Woodside – Direct Examination by the Court	324
Perry Woodside – Cross Examination by Mr. Lightsey	332
Perry Woodside – Cross Examination by Mr. Howard	343
Perry Woodside – Recross Examination by Mr. Lightsey	358
Charles Alford – Direct Examination by Mr. Lightsey	361
Charles Alford – Cross Examination by Mr. Howard	375
Charles Alford – Redirect Examination by Mr. Lightsey	384
Transcript of Rule to Show Cause Hearing, April 23, 2014	388
Timothy Roberson – Direct Examination by Mr. Workman	398
Transcript of the Apportionment Hearing, January 27, 2017	432

VOLUME II

Transcript of the Apportionment Hearing, January 27, 2017	501
---	-----

Exhibits

Exhibits to Transcript of Valuation Hearing, August 6, 2013	512
---	-----

Other Materials

Voluntary Petition, December 2, 2011	513
Complaint to Determine Dischargeability of a Debt, November 17, 2014	573
Affidavit of Andy Ballard, January 26, 2017	583
Affidavit of Rick Thoennes, III, February 21, 2017	588
Notice of Appeal, July 14, 2017	590

1 And based on that, the circumstances are that
2 that the -- your factors that you must consider in
3 ruling on this motion is a change in the relevant
4 circumstances or conditions and hardship on the
5 movement.

6 I would suggest -- we would suggest that
7 there's certainly been a change in the relevant
8 conditions. The lease doesn't exist. The company
9 can't exist. Whatever they're buying now at this
10 point has no assets. It's -- it's worthless at this
11 point and is not based off of -- I'm not attributing
12 to anybody necessarily.

13 It's -- it was -- it was not -- it was based --
14 all the best efforts were given. It just didn't
15 happen. And so, certainly, there's hardship on the
16 movement, on -- on -- on my client and Mr. Roberson
17 because whatever money he's contributing at this
18 point, they've said over and over and over, "This is
19 not a money judgment. You're going to get shares
20 back. It's not a money judgement." That's one of
21 the things that we took on appeal. And that's
22 what -- that's been their position the whole time.

23 Now, what we'd be receiving in return is a --
24 is worthless pieces of paper. And based off of the
25 actions that are simply not the actions of my client

1 or frankly anybody. It's just a -- it's a
2 circumstance. This isn't like a company that's
3 operating that gets -- that starts operating in the
4 negative.

5 This is -- this development, even despite
6 Mr. Ballard's own efforts to take the shares of this
7 company in settlement, to try to develop it, to
8 speak with Duke Energy on it, even despite all those
9 efforts on him, was unable to make that come to
10 fruition.

11 And so based on those -- based on the evidence,
12 based off of the evidence, based on the law, and
13 based on the equities involved, we would ask for
14 relief from this judgment. Thank you, Your Honor.

15 THE COURT: Okay.

16 MR. LIGHTSEY: I don't know if you want to hear
17 argument or opposition on that or...

18 THE COURT: Go ahead.

19 MR. LIGHTSEY: I -- I'll -- I'll try to keep
20 it -- keep it brief, Your Honor.

21 We think there are three reasons the Court
22 should deny this motion. One is that Rule 60(B)(5)
23 does not apply to this type of judgment, and the law
24 there is very clear. It applies to perspective
25 judgements. The rule itself says the ground is --

1 is no longer equitable that the judgment -- judgment
2 should have perspective application.

3 Typically, where you see this is when you have
4 an injunction that requires ongoing monitoring
5 supervision by the Court of conditions or conduct
6 like reform of prison conditions or desegregation of
7 a school system, that kind of thing.

8 The South Carolina Court of Appeals has held
9 explicitly, a judgment of damages is not such a
10 judgment as is covered or contemplated in this
11 section. That's *Saro* -- *Saro Investments v. Ocean*
12 *Holiday Partnership*.

13 That's the case here. You remember one of
14 their arguments at the damages hearing and on appeal
15 was that you did not have the authority to enter a
16 money judgment against them individually, and they
17 lost on that. And that was affirmed on appeal. So
18 this is not the kind of judgment that this rule is
19 meant to apply to.

20 Now, it -- it is perspective in that when they
21 paid the money, they were going to get the stock
22 back from Mr. Ballard. The reason they haven't paid
23 the money is because -- is because they didn't
24 comply with your order. You gave them 90 days to
25 find an amount to buy Mr. Ballard out.

1 And that part of your judgment, that specific
2 part, was explicitly affirmed by the Court of
3 Appeals. If they had simply done what you had
4 ordered them to do, there would be nothing left of
5 this now. And so they shouldn't be able to come in
6 and say, "Since we did not comply with the order,
7 it's still perspective and we can invoke this rule."
8 I think that's a ridiculous argument.

9 Even if the rule did apply, there's a very
10 heavy burden that everyone has to face under this
11 rule because it undercuts the public policy in favor
12 of the finality of judgements.

13 The courts have said, "To get relief under this
14 rule, the movement has to submit close to an
15 unanswerable case." That's an actual quote, close
16 to an unanswerable case. A party cannot invoke this
17 rule when he himself was the cause of a change of
18 circumstances.

19 And that is the case here. The termination
20 notice clearly says the reason the lease was
21 terminated was because for nine years there was no
22 development of the property. That was the
23 defendants' responsibility. That was Mr. Roberson's
24 responsibility.

25 He had the money in 2007 and 2008 to finance

1 the development of this property. He just didn't
2 like the economics when Duke said no to the 200 boat
3 slips. And so instead of just going ahead and doing
4 what he had contractually obligated himself to do,
5 he tried to change the economics by forcing
6 Mr. Ballard out and without the stock of him wiping
7 out the value of his investment.

8 So it would be completely wrong and inequitable
9 to let him off the hook now when his own wrongful
10 conduct resulted in the termination of the lease.

11 Also, Your Honor, I do want to point out, there
12 have been numerous efforts to settle this case over
13 the years. Early on in the case, back when Frank
14 Holleman was still representing Mr. Ballard, there
15 was an offer of, you know, either -- either pay him
16 a reasonable price for his stock or let him take it
17 back, let him take control of his own company back,
18 that for either or. And they did neither. They
19 didn't -- they didn't do either one.

20 I don't think there's any question that if
21 Mr. Ballard had been allowed to resume control of
22 the company back in 2008, he would've gotten this
23 thing developed. We would not be here today.

24 It was the defendants' wrongful conduct, their
25 breach of contract, their dragging things out for

1 nine years while not proceeding with the development
2 that resulted in the termination.

3 Finally, after beating them up for six years in
4 2014, they agreed to a settlement that -- that would
5 allow Mr. Ballard to take control once we did some
6 due diligence and determined that that was feasible.

7 So he and I met and met with Duke Power in
8 September of 2014. I will represent to you as an
9 officer of the court, I was at that meeting. At
10 that time, you could tell they were fed up with
11 Mr. Roberson and the Thoennes'. They were very
12 frustrated that nothing had happened with this
13 property. And so we said, "Well, we -- we're going
14 to need about five years to get this done."

15 And what they did was, they sent a letter back
16 to us and said, "If you go through all the hoops
17 that you jumped through in order to get this lease
18 in the first place and you do all those things and
19 you get all the consents from all these other
20 interested parties, then we may give you the time to
21 do this, but that's in our sole discretion."

22 And at that point, what we would've had to do
23 to do that, was to give up the judgment against the
24 company which is worth at that time about 4 million.
25 Mr. Ballard was looking at coming out of pocket

1 about half a million of his own money, getting
2 investors to come in. That was just too uncertain
3 for us saying, "If you do all this stuff, maybe in
4 our discretion, we'll give you the time needed to do
5 this development." So we backed out. This thing
6 went forward.

7 About a year ago, we were again seeing if we
8 could settle things with Mr. Roberson at that time.
9 You heard a lot about, "Oh, poor me." You know, "I
10 don't have enough money for living expenses." We
11 offered him a deal that would give him some of this
12 money from TRG to help him meet his living expenses.
13 They turned it down.

14 So they had -- they've had the key to their --
15 their lock. They've had the ability to get out of
16 this and have not availed it.

17 The rule requires that a motion under Rule
18 60(B)(5), that it be filed within a reasonable time.
19 They got notice -- or Mr. Roberson got notice in
20 January, on January 4th of last year, that Duke was
21 going to terminate the lease.

22 They didn't tell us. They didn't file their
23 motion. They waited a year to file this motion
24 because they wanted to see what the Supreme Court
25 was going to do, if it was going to take it.

1 That's gamesmanship. That's playing games with
2 the court. It's playing games with you. If they
3 felt that they had the right to seek relief under
4 this rule, they should've brought it in a more
5 timely manner.

6 Instead of bringing it, instead of telling us
7 what was going on, in fact, in connection with our
8 discussions then -- and I'll hand these up to the
9 Court and to counsel.

10 In December, Mr. Howard sent an e-mail to Bill
11 Wilson saying, "Tim has been out of town. I know
12 he's expecting a thumbs up from Duke."

13 And then on January 14th, ten days after the
14 notice that -- that Duke was going to terminate,
15 Mr. Howard sends Mr. Wilson an e-mail saying, "Still
16 waiting on some information from Duke, but things
17 are moving along."

18 So not only were we not told that Duke had
19 given notice that it was going to terminate, when we
20 might've been able to come in and see if we could do
21 something. I don't know what we could've at that
22 time, but we might've been able to come in and --
23 and -- and get some additional time for this. That
24 was in our interest.

25 Instead of telling us that, they were saying,

1 "Oh, things are moving along. Mr. Roberson's
2 expecting a thumbs up."

3 Instead of doing that, what they should've
4 done, they waited for a year to file this motion and
5 didn't provide the information to us at the time
6 when it might've made a difference. I think it's
7 outrageous for them to say now it's inequitable
8 to -- to apply this judgment because it's been
9 terminated because of their own -- their own
10 conduct. Again, Your Honor, I'll hand these up.

11 THE COURT: That's all right. You've
12 represented it to me. Do y'all want to look at
13 them?

14 MR. LIGHTSEY: You know, I just say, as I said
15 at the beginning, it's time to pay the piper. It's
16 time to come to an end, especially with
17 Mr. Roberson.

18 You know, they've got -- they've got judgments
19 against them from other people as well. They've
20 gotten very adept at -- at fending off predators by
21 just stringing things out, protracting the
22 proceedings, you know, taking every opportunity to
23 cause further delay. And that's what they've been
24 doing here and they've been doing it for nine years.
25 That's enough time. It's time to end this.

1 THE COURT: Okay. All right. Well, I'm -- I
2 am going deny your motion.

3 Can I talk to the lawyers up here for one
4 second?

5 (A discussion between the Court and counsel was
6 held off the record.)

7 THE COURT: Okay. With respect to the issue
8 raised by Mr. Fayssoux, I'm taking that under
9 advisement. I'm going to read through all this --
10 these documents.

11 And with respect to the other motions, I would
12 request that plaintiff's counsel prepare a proposed
13 order to either -- and can either do it with respect
14 to each individual motion or all in one, whatever
15 you prefer, and share it with opposing counsel
16 before I see it. Make sure that they are -- not
17 happy with the result, but at least with the
18 language contained in the orders.

19 All right. Thank you very much.

20 (The proceedings concluded at 12:22 p.m.)

21 - - -

22

23

24

25

C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

I, the undersigned, Lisa Scott, Circuit Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Circuit Court for Greenville County, South Carolina, on the 27th day of January, 2017.

I do further certify that I am neither of kin,
counsel, nor interest to any party hereto.

June 19, 2017

/s/ Lisa Scott

Lisa Scott
Circuit Court Reporter

W Y C H E

WYCHE BURGESS FREEMAN & PARHAM, P.A.

Attorneys at Law

March 4, 2011

Joshua L. Howard, Esq.
Haynsworth Sinkler & Boyd, P.A.
P.O. Box 2048
Greenville, SC 29602

Re: Andrew (Andy) P. Ballard vs. Tim Roberson, et al.
Case No.: 2008-CP-23-5739

Dear Josh:

Mr. Ballard has expressed these concerns to Mr. Roberson orally. Mr. Ballard has asked that we pass them on in writing to you and your clients.

Mr. Ballard is extremely concerned that delay in the financing and construction of the Warpath project may place the existing permits in jeopardy. Under the contract, your clients have the responsibility for financing and construction of the project. It has been months since the final permit was issued and, as far as we know, financing has not been arranged and construction has not begun.

Mr. Ballard was elected a director by your clients, but to date they have yet to provide him any written information concerning any financing of the project or the timetable for its development and construction. During their conversation, Mr. Roberson provided no specifics to Mr. Ballard, either. Mr. Roberson assured Mr. Ballard generally that the project was proceeding and that the permits were not in jeopardy. However, we do not know the basis for that assurance.

These delays and the failure of your clients to carry out their obligations are adversely affecting the value of Warpath and the value of the stock owned by the shareholders. Mr. Ballard remains concerned that these delays may also place the existing permits in jeopardy.

Sincerely,



Frank S. Holleman III
(864) 242-8340
fholleman@wyche.com

FSH:sc

cc: Mr. Andrew Ballard (via U.S. mail)
Wallace K. Lightsey, Esq. (via email)
Hannah R. Metcalfe, Esq. (via email)

PO Box 12247 Columbia SC 29211-2247

1122 Lady Street Suite 810 Columbia SC 29201

p 803.254.6542 f 803.254.6544 www.wyche.com

B1 (Official Form 1)(12/11)

United States Bankruptcy Court District of South Carolina				Voluntary Petition	
Name of Debtor (if individual, enter Last, First, Middle): Thoennes, Frederick Richard III			Name of Joint Debtor (Spouse) (Last, First, Middle):		
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names): AKA Rick Thoennes			All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):		
Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all) xxx-xx-7707			Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all)		
Street Address of Debtor (No. and Street, City, and State): 4007 State Park Road Greenville, SC			Street Address of Joint Debtor (No. and Street, City, and State):		
ZIP Code 29609			ZIP Code		
County of Residence or of the Principal Place of Business: Greenville			County of Residence or of the Principal Place of Business:		
Mailing Address of Debtor (if different from street address):			Mailing Address of Joint Debtor (if different from street address):		
ZIP Code			ZIP Code		
Location of Principal Assets of Business Debtor (if different from street address above):					
Type of Debtor (Form of Organization) (Check one box) ☒ Individual (includes Joint Debtors) <i>See Exhibit D on page 2 of this form.</i> ☐ Corporation (includes LLC and LLP) ☐ Partnership ☐ Other (If debtor is not one of the above entities, check this box and state type of entity below)		Nature of Business (Check one box) ☐ Health Care Business ☐ Single Asset Real Estate as defined in 11 U.S.C. § 101 (51B) ☐ Railroad ☐ Stockbroker ☐ Commodity Broker ☐ Clearing Bank ☒ Other		Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box) ☒ Chapter 7 ☐ Chapter 9 ☐ Chapter 11 ☐ Chapter 12 ☐ Chapter 13 ☐ Chapter 15 Petition for Recognition of a Foreign Main Proceeding ☐ Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding	
Chapter 15 Debtors Country of debtor's center of main interests: Each country in which a foreign proceeding by, regarding, or against debtor is pending:		Tax-Exempt Entity (Check box, if applicable) ☐ Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code)		Nature of Debts (Check one box) ☐ Debts are primarily consumer debts, defined in 11 USC § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose " ☒ Debts are primarily business debts	
Filing Fee (Check one box) ☒ Full Filing Fee attached ☐ Filing Fee to be paid in installments (applicable to individuals only) Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments Rule 1006(b) See Official Form 3A ☐ Filing Fee waiver requested (applicable to chapter 7 individuals only) Must attach signed application for the court's consideration See Official Form 3B			Chapter 11 Debtors Check one box: ☐ Debtor is a small business debtor as defined in 11 USC § 101(51D) ☐ Debtor is not a small business debtor as defined in 11 USC § 101(51D) Check if: ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,343,300 (amount subject to adjustment on 4/01/13 and every three years thereafter). Check all applicable boxes: ☐ A plan is being filed with this petition ☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 USC § 1126(b)		
Statistical/Administrative Information ☐ Debtor estimates that funds will be available for distribution to unsecured creditors. ☒ Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.					THIS SPACE IS FOR COURT USE ONLY
Estimated Number of Creditors ☒ 1-49 ☐ 50-99 ☐ 100-199 ☐ 200-999 ☐ 1,000-5,000 ☐ 5,001-10,000 ☐ 10,001-25,000 ☐ 25,001-50,000 ☐ 50,001-100,000 ☐ OVER 100,000					
Estimated Assets ☐ \$0 to \$50,000 ☐ \$50,001 to \$100,000 ☐ \$100,001 to \$500,000 ☐ \$500,001 to \$1 million ☒ \$1,000,001 to \$10 million ☐ \$10,000,001 to \$50 million ☐ \$50,000,001 to \$100 million ☐ \$100,000,001 to \$500 million ☐ \$500,000,001 to \$1 billion ☐ More than \$1 billion					
Estimated Liabilities ☐ \$0 to \$50,000 ☐ \$50,001 to \$100,000 ☐ \$100,001 to \$500,000 ☐ \$500,001 to \$1 million ☒ \$1,000,001 to \$10 million ☐ \$10,000,001 to \$50 million ☐ \$50,000,001 to \$100 million ☐ \$100,000,001 to \$500 million ☐ \$500,000,001 to \$1 billion ☐ More than \$1 billion					

Voluntary Petition

(This page must be completed and filed in every case)

Name of Debtor(s):

Thoennes, Frederick Richard III**All Prior Bankruptcy Cases Filed Within Last 8 Years** (If more than two, attach additional sheet)

Location

Where Filed: **- None -**

Case Number:

Date Filed:

Location

Where Filed:

Case Number:

Date Filed:

Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor (If more than one, attach additional sheet)

Name of Debtor:

- None -

Case Number:

Date Filed:

District:

Relationship:

Judge:

Exhibit A

(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11.)

☐ Exhibit A is attached and made a part of this petition.

Exhibit B

(To be completed if debtor is an individual whose debts are primarily consumer debts)

I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I delivered to the debtor the notice required by 11 U.S.C. §342(b).

X

Signature of Attorney for Debtor(s)

(Date)

Exhibit C

Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety?

☐ Yes, and Exhibit C is attached and made a part of this petition.

☒ No.

Exhibit D

(To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D.)

☒ Exhibit D completed and signed by the debtor is attached and made a part of this petition.

If this is a joint petition:

☐ Exhibit D also completed and signed by the joint debtor is attached and made a part of this petition.

Information Regarding the Debtor - Venue

(Check any applicable box)

- ☒ Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.
- ☐ There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.
- ☐ Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding [in a federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District.

Certification by a Debtor Who Resides as a Tenant of Residential Property

(Check all applicable boxes)

- ☐ Landlord has a judgment against the debtor for possession of debtor's residence. (If box checked, complete the following.)

(Name of landlord that obtained judgment)

(Address of landlord)

- ☐ Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and
- ☐ Debtor has included in this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition.
- ☐ Debtor certifies that he/she has served the Landlord with this certification. (11 U.S.C. § 362(l)).

Voluntary Petition

(This page must be completed and filed in every case)

Name of Debtor(s):

Thoennes, Frederick Richard III

Signatures

Signature(s) of Debtor(s) (Individual/Joint)

I declare under penalty of perjury that the information provided in this petition is true and correct.

[If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7. [If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. §342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X /s/ Frederick Richard Thoennes, III

Signature of Debtor **Frederick Richard Thoennes, III**

X

Signature of Joint Debtor

Telephone Number (If not represented by attorney)

December 2, 2011

Date

Signature of Attorney*

X /s/ James C. Sarratt

Signature of Attorney for Debtor(s)

James C. Sarratt #3727

Printed Name of Attorney for Debtor(s)

Sarratt & Clarke

Firm Name

P.O. Box 10293

Greenville, SC 29603

Address

Email: **dawnsc@bellsouth.net**

(864) 271-4100 Fax: (864) 271-4111

Telephone Number

December 2, 2011

Date

*In a case in which § 707(b)(4)(D) applies, this signature also constitutes a certification that the attorney has no knowledge after an inquiry that the information in the schedules is incorrect.

Signature of Debtor (Corporation/Partnership)

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X

Signature of Authorized Individual

Printed Name of Authorized Individual

Title of Authorized Individual

Date

Signature of a Foreign Representative

I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition.

(Check only one box)

☐ I request relief in accordance with chapter 15 of title 11, United States Code. Certified copies of the documents required by 11 U.S.C. §1515 are attached.

☐ Pursuant to 11 U.S.C. §1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.

X

Signature of Foreign Representative

Printed Name of Foreign Representative

Date

Signature of Non-Attorney Bankruptcy Petition Preparer

I declare under penalty of perjury that: (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h), and 342(b); and, (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19 is attached.

Printed Name and title, if any, of Bankruptcy Petition Preparer

Social-Security number (If the bankruptcy petition preparer is not an individual, state the Social Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.) (Required by 11 U.S.C. § 110.)

Address

X

Date

Signature of bankruptcy petition preparer or officer, principal, responsible person, or partner whose Social Security number is provided above.

Names and Social-Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual:

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both.-11 U.S.C. §110; 18 U.S.C. §156.

B 1D (Official Form 1, Exhibit D) (12/09)

**United States Bankruptcy Court
District of South Carolina**

In re **Frederick Richard Thoennes, III**

Debtor(s)

Case No.
Chapter

7

**EXHIBIT D - INDIVIDUAL DEBTOR'S STATEMENT OF COMPLIANCE WITH
CREDIT COUNSELING REQUIREMENT**

Warning: You must be able to check truthfully one of the five statements regarding credit counseling listed below. If you cannot do so, you are not eligible to file a bankruptcy case, and the court can dismiss any case you do file. If that happens, you will lose whatever filing fee you paid, and your creditors will be able to resume collection activities against you. If your case is dismissed and you file another bankruptcy case later, you may be required to pay a second filing fee and you may have to take extra steps to stop creditors' collection activities.

Every individual debtor must file this Exhibit D. If a joint petition is filed, each spouse must complete and file a separate Exhibit D. Check one of the five statements below and attach any documents as directed.

☒ 1. Within the 180 days **before the filing of my bankruptcy case**, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, and I have a certificate from the agency describing the services provided to me. *Attach a copy of the certificate and a copy of any debt repayment plan developed through the agency.*

☐ 2. Within the 180 days **before the filing of my bankruptcy case**, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, but I do not have a certificate from the agency describing the services provided to me. *You must file a copy of a certificate from the agency describing the services provided to you and a copy of any debt repayment plan developed through the agency no later than 14 days after your bankruptcy case is filed.*

☐ 3. I certify that I requested credit counseling services from an approved agency but was unable to obtain the services during the seven days from the time I made my request, and the following exigent circumstances merit a temporary waiver of the credit counseling requirement so I can file my bankruptcy case now. *[Summarize exigent circumstances here.]* _____

If your certification is satisfactory to the court, you must still obtain the credit counseling briefing within the first 30 days after you file your bankruptcy petition and promptly file a certificate from the agency that provided the counseling, together with a copy of any debt management plan developed through the agency. Failure to fulfill these requirements may result in dismissal of your case. Any extension of the 30-day deadline can be granted only for cause and is limited to a maximum of 15 days. Your case may also be dismissed if the court is not satisfied with your reasons for filing your bankruptcy case without first receiving a credit counseling briefing.

☐ 4. I am not required to receive a credit counseling briefing because of: *[Check the applicable statement.] [Must be accompanied by a motion for determination by the court.]*

B 1D (Official Form 1, Exhibit D) (12/09) - Cont.

Page 2

☐ Incapacity. (Defined in 11 U.S.C. § 109(h)(4) as impaired by reason of mental illness or mental deficiency so as to be incapable of realizing and making rational decisions with respect to financial responsibilities.);

☐ Disability. (Defined in 11 U.S.C. § 109(h)(4) as physically impaired to the extent of being unable, after reasonable effort, to participate in a credit counseling briefing in person, by telephone, or through the Internet.);

☐ Active military duty in a military combat zone.

☐ 5. The United States trustee or bankruptcy administrator has determined that the credit counseling requirement of 11 U.S.C. § 109(h) does not apply in this district.

I certify under penalty of perjury that the information provided above is true and correct.

Signature of Debtor: /s/ Frederick Richard Thoennes, III
Frederick Richard Thoennes, III

Date: December 2, 2011

B6 Summary (Official Form 6 - Summary) (12/07)

**United States Bankruptcy Court
District of South Carolina**

In re **Frederick Richard Thoennes, III**

Debtor

Case No. _____

Chapter **7**

SUMMARY OF SCHEDULES

Indicate as to each schedule whether that schedule is attached and state the number of pages in each. Report the totals from Schedules A, B, D, E, F, I, and J in the boxes provided. Add the amounts from Schedules A and B to determine the total amount of the debtor's assets. Add the amounts of all claims from Schedules D, E, and F to determine the total amount of the debtor's liabilities. Individual debtors must also complete the "Statistical Summary of Certain Liabilities and Related Data" if they file a case under chapter 7, 11, or 13.

NAME OF SCHEDULE	ATTACHED (YES/NO)	NO. OF SHEETS	ASSETS	LIABILITIES	OTHER
A - Real Property	Yes	1	1,200,000.00		
B - Personal Property	Yes	4	146,594.00		
C - Property Claimed as Exempt	Yes	1			
D - Creditors Holding Secured Claims	Yes	1		1,312,573.37	
E - Creditors Holding Unsecured Priority Claims (Total of Claims on Schedule E)	Yes	2		72,610.48	
F - Creditors Holding Unsecured Nonpriority Claims	Yes	8		3,277,011.55	
G - Executory Contracts and Unexpired Leases	Yes	1			
H - Codebtors	Yes	1			
I - Current Income of Individual Debtor(s)	Yes	1			6,100.00
J - Current Expenditures of Individual Debtor(s)	Yes	1			6,240.00
Total Number of Sheets of ALL Schedules		21			
Total Assets			1,346,594.00		
Total Liabilities				4,662,195.40	

**United States Bankruptcy Court
District of South Carolina**

In re **Frederick Richard Thoennes, III**

Debtor

Case No. _____

Chapter 7

STATISTICAL SUMMARY OF CERTAIN LIABILITIES AND RELATED DATA (28 U.S.C. § 159)

If you are an individual debtor whose debts are primarily consumer debts, as defined in § 101(8) of the Bankruptcy Code (11 U.S.C. § 101(8)), filing a case under chapter 7, 11 or 13, you must report all information requested below.

☒ Check this box if you are an individual debtor whose debts are NOT primarily consumer debts. You are not required to report any information here.

This information is for statistical purposes only under 28 U.S.C. § 159.

Summarize the following types of liabilities, as reported in the Schedules, and total them.

Type of Liability	Amount
Domestic Support Obligations (from Schedule E)	
Taxes and Certain Other Debts Owed to Governmental Units (from Schedule E)	
Claims for Death or Personal Injury While Debtor Was Intoxicated (from Schedule E) (whether disputed or undisputed)	
Student Loan Obligations (from Schedule F)	
Domestic Support, Separation Agreement, and Divorce Decree Obligations Not Reported on Schedule E	
Obligations to Pension or Profit-Sharing, and Other Similar Obligations (from Schedule F)	
TOTAL	

State the following:

Average Income (from Schedule I, Line 16)	
Average Expenses (from Schedule J, Line 18)	
Current Monthly Income (from Form 22A Line 12; OR, Form 22B Line 11; OR, Form 22C Line 20)	

State the following:

1. Total from Schedule D, "UNSECURED PORTION, IF ANY" column		
2. Total from Schedule E, "AMOUNT ENTITLED TO PRIORITY" column		
3. Total from Schedule E, "AMOUNT NOT ENTITLED TO PRIORITY, IF ANY" column		
4. Total from Schedule F		
5. Total of non-priority unsecured debt (sum of 1, 3, and 4)		

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE A - REAL PROPERTY

Except as directed below, list all real property in which the debtor has any legal, equitable, or future interest, including all property owned as a cotenant, community property, or in which the debtor has a life estate. Include any property in which the debtor holds rights and powers exercisable for the debtor's own benefit. If the debtor is married, state whether husband, wife, both, or the marital community own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor holds no interest in real property, write "None" under "Description and Location of Property."

Do not include interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If an entity claims to have a lien or hold a secured interest in any property, state the amount of the secured claim. See Schedule D. If no entity claims to hold a secured interest in the property, write "None" in the column labeled "Amount of Secured Claim." If the debtor is an individual or if a joint petition is filed, state the amount of any exemption claimed in the property only in Schedule C - Property Claimed as Exempt.

Description and Location of Property	Nature of Debtor's Interest in Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption	Amount of Secured Claim
4007 State Park Road, Greenville, SC 29609	Fee simple	J	1,200,000.00	1,312,573.37

Sub-Total > **1,200,000.00** (Total of this page)

Total > **1,200,000.00**

(Report also on Summary of Schedules)

0 continuation sheets attached to the Schedule of Real Property

B6B (Official Form 6B) (12/07)

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE B - PERSONAL PROPERTY

Except as directed below, list all personal property of the debtor of whatever kind. If the debtor has no property in one or more of the categories, place an "x" in the appropriate position in the column labeled "None." If additional space is needed in any category, attach a separate sheet properly identified with the case name, case number, and the number of the category. If the debtor is married, state whether husband, wife, both, or the marital community own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor is an individual or a joint petition is filed, state the amount of any exemptions claimed only in Schedule C - Property Claimed as Exempt.

Do not list interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If the property is being held for the debtor by someone else, state that person's name and address under "Description and Location of Property." If the property is being held for a minor child, simply state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
1. Cash on hand		Cash	-	300.00
2. Checking, savings or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		Checking account with Wells Fargo, #6829	-	144.00
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, including audio, video, and computer equipment.		3 sofas, chairs, dining table & chairs, small kitchen table & chairs, 4 beds, 2 night stands, old audio/video equipment, 3 computers, 6 TV's, 2 desks, pool table, patio furniture, misc. lamps and pictures, hot tub (broken)	J	4,950.00
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.	X			
6. Wearing apparel.		Clothing	-	1,000.00
7. Furs and jewelry.		watch, wedding ring, college ring	-	200.00
8. Firearms and sports, photographic, and other hobby equipment.	X			
9. Interests in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.		Life insurance policy - term	-	0.00
10. Annuities. Itemize and name each issuer.	X			

Sub-Total > **6,594.00**
(Total of this page)

3 continuation sheets attached to the Schedule of Personal Property

521

B6B (Official Form 6B) (12/07) - Cont.

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE B - PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	NON O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
11. Interests in an education IRA as defined in 26 U.S.C. § 530(b)(1) or under a qualified State tuition plan as defined in 26 U.S.C. § 529(b)(1). Give particulars. (File separately the record(s) of any such interest(s). 11 U.S.C. § 521(c).)	X			
12. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Give particulars.	X			
13. Stock and interests in incorporated and unincorporated businesses. Itemize.		1 Source (30%)	-	0.00
		Marick Home Builders, LLC (50%)	-	0.00
		M Group Construction, LLC (30%)	-	0.00
		Marick Marketing Group, LLC (50%)	-	0.00
		Greenville Gateway Developers, LLC - no longer owner; did have 20% 12 months ago.	-	0.00
		Slark, LLC (50%)	-	0.00
		Sorsitt, LLC (50%) - owns one piece of real estate; rented	-	140,000.00
		Warpath Development, Inc. (20%)	-	0.00
		One Source, LLC (30%)	-	0.00
		Cobblestone Development Company, LLC - no longer owner; did own 9.5%	-	0.00
		Mountain Creek Landing, LLC (40%)	-	0.00
14. Interests in partnerships or joint ventures. Itemize.	X			
15. Government and corporate bonds and other negotiable and nonnegotiable instruments.	X			
16. Accounts receivable.	X			

Sub-Total > **140,000.00**
(Total of this page)

Sheet 1 of 3 continuation sheets attached to the Schedule of Personal Property

522

B6B (Official Form 6B) (12/07) - Cont.

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE B - PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
17. Alimony, maintenance, support, and property settlements to which the debtor is or may be entitled. Give particulars.	X			
18. Other liquidated debts owed to debtor including tax refunds. Give particulars.	X			
19. Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule A - Real Property.	X			
20. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			
21. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.	X			
22. Patents, copyrights, and other intellectual property. Give particulars.	X			
23. Licenses, franchises, and other general intangibles. Give particulars.	X			
24. Customer lists or other compilations containing personally identifiable information (as defined in 11 U.S.C. § 101(41A)) provided to the debtor by individuals in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes.	X			
25. Automobiles, trucks, trailers, and other vehicles and accessories.	X			
26. Boats, motors, and accessories.	X			
27. Aircraft and accessories.	X			

Sub-Total > **0.00**
(Total of this page)

Sheet **2** of **3** continuation sheets attached to the Schedule of Personal Property

B6B (Official Form 6B) (12/07) - Cont.

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE B - PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
28. Office equipment, furnishings, and supplies.	X			
29. Machinery, fixtures, equipment, and supplies used in business.	X			
30. Inventory.	X			
31. Animals.		dogs, cats	-	0.00
32. Crops - growing or harvested. Give particulars.	X			
33. Farming equipment and implements.	X			
34. Farm supplies, chemicals, and feed.	X			
35. Other personal property of any kind not already listed. Itemize.	X			

Sub-Total > **0.00**
(Total of this page)
Total > **146,594.00**

(Report also on Summary of Schedules)

Sheet **3** of **3** continuation sheets attached to the Schedule of Personal Property

524

B6C (Official Form 6C) (4/10)

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

Debtor claims the exemptions to which debtor is entitled under:

(Check one box)

☐ Check if debtor claims a homestead exemption that exceeds \$146,450. (Amount subject to adjustment on 4/1/13, and every three years thereafter with respect to cases commenced on or after the date of adjustment.)

☐ 11 U.S.C. §522(b)(2)

☒ 11 U.S.C. §522(b)(3)

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
Cash on Hand			
Cash	S.C. Code Ann. § 15-41-30(A)(5)	300.00	300.00
Checking, Savings, or Other Financial Accounts, Certificates of Deposit			
Checking account with Wells Fargo, #6829	S.C. Code Ann. § 15-41-30(A)(5)	144.00	144.00
Household Goods and Furnishings			
3 sofas, chairs, dining table & chairs, small kitchen table & chairs, 4 beds, 2 night stands, old audio/video equipment, 3 computers, 6 TV's, 2 desks, pool table, patio furniture, misc. lamps and pictures, hot tub (broken)	S.C. Code Ann. § 15-41-30(A)(3) S.C. Code Ann. § 15-41-30(A)(7)	4,275.00 675.00	4,950.00
Furs and Jewelry			
watch, wedding ring, college ring	S.C. Code Ann. § 15-41-30(A)(4)	200.00	200.00

Continuation of Schedule C

0 continuation sheets attached to Schedule of Property Claimed as Exempt

5,594.00

5,594.00

B6D (Official Form 6D) (12/07)

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE D - CREDITORS HOLDING SECURED CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number of all entities holding claims secured by property of the debtor as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. List creditors holding all types of secured interests such as judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and other security interests.

List creditors in alphabetical order to the extent practicable. If a minor child is a creditor, the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m). If all secured creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor", include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H", "W", "J", or "C" in the column labeled "Husband, Wife, Joint, or Community".

If the claim is contingent, place an "X" in the column labeled "Contingent". If the claim is unliquidated, place an "X" in the column labeled "Unliquidated". If the claim is disputed, place an "X" in the column labeled "Disputed". (You may need to place an "X" in more than one of these three columns.)

Total the columns labeled "Amount of Claim Without Deducting Value of Collateral" and "Unsecured Portion, if Any" in the boxes labeled "Total(s)" on the last sheet of the completed schedule. Report the total from the column labeled "Amount of Claim" also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts, report the total from the column labeled "Unsecured Portion" on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding secured claims to report on this Schedule D.

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E B T O R	H U S B A N D W I F E J O I N T C O M M U N I T Y	D A T E C L A I M W A S I N C U R R E D, N A T U R E O F L I E N, A N D D E S C R I P T I O N A N D V A L U E O F P R O P E R T Y S U B J E C T T O L I E N	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	A M O U N T O F C L A I M W I T H O U T D E D U C T I N G V A L U E O F C O L L A T E R A L	U N S E C U R E D P O R T I O N, I F A N Y
Account No. xxxxxx0493 Wells Fargo PO Box 14547 Des Moines, IA 50306			4007 State Park Road, Greenville, SC 29609 Value \$ 1,200,000.00				1,067,099.53	0.00
Account No. Rogers Townsend & Thomas PO Box 100200 Columbia, SC 29202			Representing: Wells Fargo Value \$				Notice Only	
Account No. xxxxxxxxxxxxxx0001 Wells Fargo PO Box 14547 Des Moines, IA 50306			4007 State Park Road, Greenville, SC 29609 Value \$ 1,200,000.00				245,473.84	112,573.37
Account No. Primary Financial Services 3115 North 3rd Avenue, Suite 112 Phoenix, AZ 85013			Representing: Wells Fargo Value \$				Notice Only	
Subtotal (Total of this page)							1,312,573.37	112,573.37
Total (Report on Summary of Schedules)							1,312,573.37	112,573.37

0 continuation sheets attached

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

A complete list of claims entitled to priority, listed separately by type of priority, is to be set forth on the sheets provided. Only holders of unsecured claims entitled to priority should be listed in this schedule. In the boxes provided on the attached sheets, state the name, mailing address, including zip code, and last four digits of the account number, if any, of all entities holding priority claims against the debtor or the property of the debtor, as of the date of the filing of the petition. Use a separate continuation sheet for each type of priority and label each with the type of priority.

The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. § 112 and Fed. R. Bankr. P. 1007(m).

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H-Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of claims listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all claims listed on this Schedule E in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

Report the total of amounts entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts report this total also on the Statistical Summary of Certain Liabilities and Related Data.

Report the total of amounts not entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts not entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts report this total also on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding unsecured priority claims to report on this Schedule E.

TYPES OF PRIORITY CLAIMS (Check the appropriate box(es) below if claims in that category are listed on the attached sheets)☐ **Domestic support obligations**

Claims for domestic support that are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such a child, or a governmental unit to whom such a domestic support claim has been assigned to the extent provided in 11 U.S.C. § 507(a)(1).

☐ **Extensions of credit in an involuntary case**

Claims arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee or the order for relief. 11 U.S.C. § 507(a)(3).

☐ **Wages, salaries, and commissions**

Wages, salaries, and commissions, including vacation, severance, and sick leave pay owing to employees and commissions owing to qualifying independent sales representatives up to \$11,725* per person earned within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(4).

☐ **Contributions to employee benefit plans**

Money owed to employee benefit plans for services rendered within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(5).

☐ **Certain farmers and fishermen**

Claims of certain farmers and fishermen, up to \$5,775* per farmer or fisherman, against the debtor, as provided in 11 U.S.C. § 507(a)(6).

☐ **Deposits by individuals**

Claims of individuals up to \$2,600* for deposits for the purchase, lease, or rental of property or services for personal, family, or household use, that were not delivered or provided. 11 U.S.C. § 507(a)(7).

☒ **Taxes and certain other debts owed to governmental units**

Taxes, customs duties, and penalties owing to federal, state, and local governmental units as set forth in 11 U.S.C. § 507(a)(8).

☐ **Commitments to maintain the capital of an insured depository institution**

Claims based on commitments to the FDIC, RTC, Director of the Office of Thrift Supervision, Comptroller of the Currency, or Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution. 11 U.S.C. § 507(a)(9).

☐ **Claims for death or personal injury while debtor was intoxicated**

Claims for death or personal injury resulting from the operation of a motor vehicle or vessel while the debtor was intoxicated from using alcohol, a drug, or another substance. 11 U.S.C. § 507(a)(10).

* Amount subject to adjustment on 4/01/13, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

B6E (Official Form 6E) (4/10) - Cont.

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS
(Continuation Sheet)

**Taxes and Certain Other Debts
Owed to Governmental Units**

TYPE OF PRIORITY

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions.)	C O D E D E B T O R	H U S B A N D, W I F E, J O I N T, O R C O M M U N I T Y	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM	AMOUNT NOT ENTITLED TO PRIORITY, IF ANY
								AMOUNT ENTITLED TO PRIORITY
Account No.								
Greenville County Tax Collector Dept. 390 PO Box 100221 Columbia, SC 29202								0.00
							10,069.42	10,069.42
Account No.								
Greenville County Tax Collector Dept. 390 PO Box 100221 Columbia, SC 29202								0.00
							3,668.38	3,668.38
Account No.								
Greenville County Tax Collector Dept. 390 PO Box 100221 Columbia, SC 29202								0.00
							5,872.68	5,872.68
Account No.			business debt					
IRS Centralized Insolvency Operation PO Box 7346 Philadelphia, PA 19101								0.00
							38,000.00	38,000.00
Account No.			business debt					
SC Dept. of Revenue PO Box 12265 Columbia, SC 29211								0.00
							15,000.00	15,000.00
Subtotal								0.00
(Total of this page)							72,610.48	72,610.48
Total								0.00
(Report on Summary of Schedules)							72,610.48	72,610.48

Sheet **1** of **1** continuation sheets attached to
Schedule of Creditors Holding Unsecured Priority Claims

(Report on Summary of Schedules)

B6F (Official Form 6F) (12/07)

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m). Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts, report this total also on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E D E B T O R	H U S B A N D, W I F E, J O I N T, O R C O M M U N I T Y	D A T E C L A I M W A S I N C U R R E D A N D C O N S I D E R A T I O N F O R C L A I M. I F C L A I M I S S U B J E C T T O S E T O F F, S O S T A T E.	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
Account No.			business debt				7,000.00
Allied Casework Supply 3280 Green Pointe Parkway, Suite 100 Norcross, GA 30092	-						
Account No.			business debt				Unknown
Andy Ballard c/o Wyche Burgess Freeman & Parham PO Box 728 Greenville, SC 29602	-						
Account No. xxxx-xxxx-xxxx-7579			business debt				Unknown
Bank of America PO Box 15710 Wilmington, DE 19886	-						
Account No.			business debt				16,000.00
Bob & Amy Ward 621Brixton Circle Simpsonville, SC 29681	-						
Subtotal (Total of this page)							23,000.00

7

continuation sheets attached

7 continuation sheets attached

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E D E B I T O R	Husband, Wife, Joint, or Community	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
		DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.				
Account No.		business debt				
Carpet One 5150 Wade Hampton Blvd. Taylors, SC 29687	-					8,700.00
Account No.		business debt				
Chad and Kelly Odom 25 Parkins Lake Road Greenville, SC 29607	-					Unknown
Account No.		Representing: Chad and Kelly Odom				
James C. Parham Attorney at Law PO Box 728 Greenville, SC 29602						Notice Only
Account No.		business debt				
Clayton Tile PO Box 6151 Greenville, SC 29606	-					30,000.00
Account No.		business debt				
Cornerstone National Bank 1670 E. Main Street Easley, SC 29640	-					143,320.00
Subtotal (Total of this page)						182,020.00

Sheet no. 1 of 7 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

B6F (Official Form 6F) (12/07) - Cont.

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E D E B T O R	H W J C	Husband, Wife, Joint, or Community	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
			DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.				
Account No.			business debt				
Don Owens 305 Tara Lane Seneca, SC 29672		-					100,000.00
Account No. xxxx-xxxx-xxxx-4775							
FIA Card Services PO Box 15019 Wilmington, DE 19886		-					10,575.00
Account No. xxxx-xxxx-xxxx-8284							
FIA Card Services PO Box 15019 Wilmington, DE 19886		-					12,551.00
Account No. xxxx-xxxx-xxxx-8450			business debt				
FIA Card Services PO Box 15710 Wilmington, DE 19886		-					Unknown
Account No.			business debt				
Gateway Supply Company 1312 Hamrick Street Columbia, SC 29201		-					7,500.00
Subtotal (Total of this page)							130,626.00

Sheet no. 2 of 7 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

B6F (Official Form 6F) (12/07) - Cont.

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E D E B T O R	H U S B A N D W I F E J O I N T O R	Husband, Wife, Joint, or Community	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	U N L I Q U A T E D	D I S P U T E D	AMOUNT OF CLAIM
Account No.				business debt				
Golden Strip PO Box 1176 Greenville, SC 29606		-						5,000.00
Account No.				deficiency judgment - 230 Hidden Shores Drive, W. Union, SC (business debt)				
Grandsouth Bank c/o Bradley K. Richardson, Atty. 133 Straight Drive Anderson, SC 29625		-						186,258.62
Account No. xxxxx7300				business debt				
Greenville First 100 Verdae Blvd. Greenville, SC 29607		-						100,000.00
Account No. xxxxx5100				2nd mortgage on father's, Rick Thoennes, Sr.'s home				
Greenville First Bank 100 Verdae Blvd. Greenville, SC 29607		-						213,000.00
Account No.								
Hot Springs Pool and Spa 678 Woodruff Road Greenville, SC 29607		-						5,000.00
Subtotal (Total of this page)								509,258.62

Sheet no. **3** of **7** sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

B6F (Official Form 6F) (12/07) - Cont.

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E D E B T O R	H W J C	Husband, Wife, Joint, or Community	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
			DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.				
Account No.			business debt				
Jeff Lynch Appliance 17 Roper Mountain Road Greenville, SC 29607		-					6,500.00
Account No.			Representing: Jeff Lynch Appliance				Notice Only
Brown Massey Evans McLeod Haynsworth PO Box 2464 Greenville, SC 29602		-					
Account No.			business debt				
Josh Howard, Attorney Haynesworth, Sinkler, Boyd 75 Beattie Place, #1100 Greenville, SC 29601		-					Unknown
Account No.			business debt				
Lightning Center 5200 Wade Hampton Blvd. Taylors, SC 29687		-					6,100.00
Account No.			business debt				
Lyn and Jeffery Becker PO Box 8353 Norfolk, VA 23503		-					36,100.00
Sheet no. 4 of 7 sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims							
Subtotal (Total of this page)							48,700.00

B6F (Official Form 6F) (12/07) - Cont.

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E B O R	H W J C	Husband, Wife, Joint, or Community DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
Account No. Mark Els 115 Fairview Drive Greenville, SC 29609		-	business debt				28,000.00
Account No. Masterbrand Cabinets, Inc. PO Box 77527 Chicago, IL 60675		-	business debt				8,000.00
Account No. Michael A. and Albert R. Babinicz 1052 N. Church Street Columbia, SC 29201		-	business debt				45,106.93
Account No. Carroll H. Roe Attorney at Law PO Box 10529 Greenville, SC 29603			Representing: Michael A. and Albert R. Babinicz				Notice Only
Account No. xxx7691 Palmetto Bank 306 E. North Street Greenville, SC 29601		-	business debt				Unknown
Sheet no. 5 of 7 sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims							Subtotal (Total of this page) 81,106.93

B6F (Official Form 6F) (12/07) - Cont.

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E D E B T O R	Husband, Wife, Joint, or Community		C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
		H W J C	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.				
Account No. xxxxxxxx5001			business debt				
Piedmont Natural Gas PO Box 533500 Atlanta, GA 30353		-					3,500.00
Account No.			business debt				
Roy's Wood Products PO Box 1300 Lugoff, SC 29078		-					7,000.00
Account No.			business debt				
Scott Clark Floor 1000 Hwy. 25 N. Travelers Rest, SC 29690		-					4,000.00
Account No.			business debt				
SDI Funding/Ludwig Properties 127 W. Antrim Drive Greenville, SC 29607		-					2,250,000.00
Account No.			business debt				
Sherwin Williams 306-A Wade Hampton Blvd. Greenville, SC 29609		-					1,500.00
Subtotal (Total of this page)							2,266,000.00

Sheet no. 6 of 7 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

B6F (Official Form 6F) (12/07) - Cont.

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E D E B T O R	H W J C	Husband, Wife, Joint, or Community	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
			DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.				
Account No.			business debt				27,000.00
Star Granite 877 Kist Road Greer, SC 29651		-					
Account No.			business debt				Unknown
Stoneledge at Lake Keowee Owners Association, Inc. 331 Blue Water Way West Union, SC 29696		-					
Account No.			Representing: Stoneledge at Lake Keowee				Notice Only
Lyles & Lyles, LLC PO Box 773 Charleston, SC 29401							
Account No. xxxxx0134			business debt				5,600.00
Travelers Insurance CL& Specialty Remit Center Hartford, CT 06183		-					
Account No. xxxxESOU			business debt				3,700.00
Wurth Wood Group PO Box 6001182 Charlotte, NC 28260		-					

Sheet no. 7 of 7 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

Subtotal
(Total of this page)

36,300.00

Total
(Report on Summary of Schedules)

3,277,011.55

B6G (Official Form 6G) (12/07)

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE G - EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Describe all executory contracts of any nature and all unexpired leases of real or personal property. Include any timeshare interests. State nature of debtor's interest in contract, i.e., "Purchaser", "Agent", etc. State whether debtor is the lessor or lessee of a lease. Provide the names and complete mailing addresses of all other parties to each lease or contract described. If a minor child is a party to one of the leases or contracts, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

☒ Check this box if debtor has no executory contracts or unexpired leases.

Name and Mailing Address, Including Zip Code,
of Other Parties to Lease or Contract

Description of Contract or Lease and Nature of Debtor's Interest.
State whether lease is for nonresidential real property.
State contract number of any government contract.

B6H (Official Form 6H) (12/07)

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor

SCHEDULE H - CODEBTORS

Provide the information requested concerning any person or entity, other than a spouse in a joint case, that is also liable on any debts listed by debtor in the schedules of creditors. Include all guarantors and co-signers. If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within the eight year period immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state, commonwealth, or territory. Include all names used by the nondebtor spouse during the eight years immediately preceding the commencement of this case. If a minor child is a codebtor or a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

☐ Check this box if debtor has no codebtors.

NAME AND ADDRESS OF CODEBTOR

NAME AND ADDRESS OF CREDITOR

Frederick Richard Thoennes
414 Lodgewood Trail
Greer, SC 29651

All business debts

0

continuation sheets attached to Schedule of Codebtors

538

B6I (Official Form 6I) (12/07)

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor(s)

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
Married	RELATIONSHIP(S): Daughter Son	AGE(S): 14 16
Employment:	DEBTOR	SPOUSE
Occupation	2 years	
Name of Employer	M Group	Carolina MD, LLC / St. James Episcopal
How long employed	contractor	
Address of Employer	414 Lodgewood Trail Greer, SC 29651	

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)

2. Estimate monthly overtime

3. SUBTOTAL

4. LESS PAYROLL DEDUCTIONS

a. Payroll taxes and social security

b. Insurance

c. Union dues

d. Other (Specify): _____

5. SUBTOTAL OF PAYROLL DEDUCTIONS

6. TOTAL NET MONTHLY TAKE HOME PAY

7. Regular income from operation of business or profession or farm (Attach detailed statement)

8. Income from real property

9. Interest and dividends

10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above

11. Social security or government assistance

(Specify): _____

12. Pension or retirement income

13. Other monthly income

(Specify): **part time job**

14. SUBTOTAL OF LINES 7 THROUGH 13

15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

NONE

DEBTOR	SPOUSE
\$ 0.00	\$ 5,500.00
\$ 0.00	\$ 0.00
\$ 0.00	\$ 5,500.00
\$ 0.00	\$ 0.00
\$ 0.00	\$ 0.00
\$ 0.00	\$ 0.00
\$ 0.00	\$ 0.00
\$ 0.00	\$ 0.00
\$ 0.00	\$ 0.00
\$ 0.00	\$ 0.00
\$ 0.00	\$ 0.00
\$ 0.00	\$ 0.00
\$ 0.00	\$ 600.00
\$ 0.00	\$ 0.00
\$ 0.00	\$ 600.00
\$ 0.00	\$ 6,100.00
\$ 6,100.00	

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

B6J (Official Form 6J) (12/07)

In re **Frederick Richard Thoennes, III**

Case No. _____

Debtor(s) _____

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

1. Rent or home mortgage payment (include lot rented for mobile home)	\$	<u>1,500.00</u>
a. Are real estate taxes included? Yes <u> </u> No <u>X</u>		
b. Is property insurance included? Yes <u> </u> No <u>X</u>		
2. Utilities: a. Electricity and heating fuel	\$	<u>500.00</u>
b. Water and sewer	\$	<u>0.00</u>
c. Telephone	\$	<u>200.00</u>
d. Other <u>cable/internet</u>	\$	<u>60.00</u>
3. Home maintenance (repairs and upkeep)	\$	<u>0.00</u>
4. Food	\$	<u>800.00</u>
5. Clothing	\$	<u>200.00</u>
6. Laundry and dry cleaning	\$	<u>0.00</u>
7. Medical and dental expenses	\$	<u>200.00</u>
8. Transportation (not including car payments)	\$	<u>400.00</u>
9. Recreation, clubs and entertainment, newspapers, magazines, etc.	\$	<u>0.00</u>
10. Charitable contributions	\$	<u>0.00</u>
11. Insurance (not deducted from wages or included in home mortgage payments)		
a. Homeowner's or renter's	\$	<u>100.00</u>
b. Life	\$	<u>0.00</u>
c. Health	\$	<u>500.00</u>
d. Auto	\$	<u>250.00</u>
e. Other <u> </u>	\$	<u>0.00</u>
12. Taxes (not deducted from wages or included in home mortgage payments)		
(Specify) <u>car taxes</u>	\$	<u>100.00</u>
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)		
a. Auto	\$	<u>0.00</u>
b. Other <u>See Detailed Expense Attachment</u>	\$	<u>1,330.00</u>
14. Alimony, maintenance, and support paid to others	\$	<u>0.00</u>
15. Payments for support of additional dependents not living at your home	\$	<u>0.00</u>
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$	<u>0.00</u>
17. Other <u>incidentals</u>	\$	<u>100.00</u>
Other <u> </u>	\$	<u>0.00</u>

18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)

\$ 6,240.00

19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document:

Rent @ \$1500 is anticipated amount.

20. STATEMENT OF MONTHLY NET INCOME

a. Average monthly income from Line 15 of Schedule I	\$	<u>6,100.00</u>
b. Average monthly expenses from Line 18 above	\$	<u>6,240.00</u>
c. Monthly net income (a. minus b.)	\$	<u>-140.00</u>

B6J (Official Form 6J) (12/07)

In re Frederick Richard Thoennes, III

Debtor(s)

Case No. _____

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)
Detailed Expense Attachment

Other Installment Payments:

<u>car1 - wife</u>	\$	<u>500.00</u>
<u>car2 - wife</u>	\$	<u>230.00</u>
<u>car3 - wife</u>	\$	<u>600.00</u>
<u>Total Other Installment Payments</u>	\$	<u>1,330.00</u>

**United States Bankruptcy Court
District of South Carolina**

In re **Frederick Richard Thoennes, III**

Debtor(s)

Case No.

Chapter

7

DECLARATION CONCERNING DEBTOR'S SCHEDULES

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the foregoing summary and schedules, consisting of **23** sheets, and that they are true and correct to the best of my knowledge, information, and belief.

Date **December 2, 2011**

Signature **/s/ Frederick Richard Thoennes, III**

Frederick Richard Thoennes, III

Debtor

Penalty for making a false statement or concealing property: Fine of up to \$500,000 or imprisonment for up to 5 years or both.
18 U.S.C. §§ 152 and 3571.

B7 (Official Form 7) (04/10)

United States Bankruptcy Court
District of South Carolina

In re **Frederick Richard Thoennes, III**

Debtor(s)

Case No.
Chapter

7

STATEMENT OF FINANCIAL AFFAIRS

This statement is to be completed by every debtor. Spouses filing a joint petition may file a single statement on which the information for both spouses is combined. If the case is filed under chapter 12 or chapter 13, a married debtor must furnish information for both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. An individual debtor engaged in business as a sole proprietor, partner, family farmer, or self-employed professional, should provide the information requested on this statement concerning all such activities as well as the individual's personal affairs. To indicate payments, transfers and the like to minor children, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. § 112; Fed. R. Bankr. P. 1007(m).

Questions 1 - 18 are to be completed by all debtors. Debtors that are or have been in business, as defined below, also must complete Questions 19 - 25. **If the answer to an applicable question is "None," mark the box labeled "None."** If additional space is needed for the answer to any question, use and attach a separate sheet properly identified with the case name, case number (if known), and the number of the question.

DEFINITIONS

"In business." A debtor is "in business" for the purpose of this form if the debtor is a corporation or partnership. An individual debtor is "in business" for the purpose of this form if the debtor is or has been, within six years immediately preceding the filing of this bankruptcy case, any of the following: an officer, director, managing executive, or owner of 5 percent or more of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed full-time or part-time. An individual debtor also may be "in business" for the purpose of this form if the debtor engages in a trade, business, or other activity, other than as an employee, to supplement income from the debtor's primary employment.

"Insider." The term "insider" includes but is not limited to: relatives of the debtor; general partners of the debtor and their relatives; corporations of which the debtor is an officer, director, or person in control; officers, directors, and any owner of 5 percent or more of the voting or equity securities of a corporate debtor and their relatives; affiliates of the debtor and insiders of such affiliates; any managing agent of the debtor. 11 U.S.C. § 101.

1. Income from employment or operation of business.

None
☐

State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business, including part-time activities either as an employee or in independent trade or business, from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the **two years** immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT	SOURCE
\$105,686.00	2009: Husband . self employed
\$579.00	2009: Wife . St. James Episcopal
\$126,816.00	2010: Husband .self employed
\$585.00	2010: Wife St. James Episcopal
\$49,000.00	2011 YTD: Wife Carolina MD, LLC / St. James Episcopal
\$0.00	\$0 - YTD amount for husband. self employed

2. Income other than from employment or operation of business

None ☒ State the amount of income received by the debtor other than from employment, trade, profession, or operation of the debtor's business during the **two years** immediately preceding the commencement of this case. Give particulars. If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income for each spouse whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT SOURCE

3. Payments to creditors

None ☒ *Complete a. or b., as appropriate, and c.*

a. *Individual or joint debtor(s) with primarily consumer debts.* List all payments on loans, installment purchases of goods or services, and other debts to any creditor made within **90 days** immediately preceding the commencement of this case unless the aggregate value of all property that constitutes or is affected by such transfer is less than \$600. Indicate with an (*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and credit counseling agency. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS	AMOUNT PAID	AMOUNT STILL OWING
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None ☐ b. *Debtor whose debts are not primarily consumer debts:* List each payment or other transfer to any creditor made within **90 days** immediately preceding the commencement of the case unless the aggregate value of all property that constitutes or is affected by such transfer is less than \$5,850*. If the debtor is an individual, indicate with an asterisk (*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and credit counseling agency. (Married debtors filing under chapter 12 or chapter 13 must include payments and other transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS/ TRANSFERS	AMOUNT PAID OR VALUE OF TRANSFERS	AMOUNT STILL OWING
FIA Card Services PO Box 15019 Wilmington, DE 19886	\$200/month for last 3 months	\$0.00	\$10,575.00
FIA Card Services PO Box 15019 Wilmington, DE 19886	\$180/month for last 3 months (Both FIA accounts paid by wife)	\$0.00	\$12,551.00

None ☒ c. *All debtors:* List all payments made within **one year** immediately preceding the commencement of this case to or for the benefit of creditors who are or were insiders. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR AND RELATIONSHIP TO DEBTOR	DATE OF PAYMENT	AMOUNT PAID	AMOUNT STILL OWING
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* Amount subject to adjustment on 4/01/13, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

4. Suits and administrative proceedings, executions, garnishments and attachments

None ☐ a. List all suits and administrative proceedings to which the debtor is or was a party within **one year** immediately preceding the filing of this bankruptcy case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

CAPTION OF SUIT AND CASE NUMBER	NATURE OF PROCEEDING	COURT OR AGENCY AND LOCATION	STATUS OR DISPOSITION
HSBC Bank USA, National Association as Trustee for Wells Fargo Asset Securities Corp., Mortgage Pass-Through Certificates Series 2007-14 vs. Frederick R. Thoennes, III, et. al. 2011-CP-23-3361	foreclosure	Greenville County Court of Common Pleas	pending
GrandSouth Bank vs. Frederick R. Thoennes, III, et. al. #2011-CP-23-158	foreclosure	Oconee Court of Common Pleas	Order for Deficiency Judgment entered - 9/7/11
J. Chad Odom, et. al. vs. Marick Homebuilders, LLC, et. al. #2009-CP-23-9828		Greenville County Court of Common Pleas	pending
Andrew P. (Andy) Ballard, et. al. vs. Tim Roberson, et. al. #2008-CP-23-5739	breach of contract	Greenville County Court of Common Pleas	dismissed
Jeff Lynch, Inc. vs. Frederick R. Thoennes, et. al. #2011- CP-23-4824	breach of contract	Greenville County Court of Common Pleas	pending
Jeff Lynch, Inc. vs. Frederick R. Thoennes, III, et. al. #2009-CP-2303437	breach of contract	Greenville County Court of Common Pleas	dismissed
Michael A. Babinicz, et. al. vs. Rick Thoennes, III, et. al. #2009-CP-23-7977	debt collection	Greenville County Court of Common Pleas	judgment
Stoneledge at Lake Keowee Owners' Association, Inc., et. al. vs. IMK Development Co., LLC, et. al. #2009-CP-37-652		Oconee Court of Common Pleas	pending

None ☒ b. Describe all property that has been attached, garnished or seized under any legal or equitable process within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON FOR WHOSE BENEFIT PROPERTY WAS SEIZED	DATE OF SEIZURE	DESCRIPTION AND VALUE OF PROPERTY
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5. Repossessions, foreclosures and returns

None ☐ List all property that has been repossessed by a creditor, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or returned to the seller, within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR OR SELLER	DATE OF REPOSSESSION, FORECLOSURE SALE, TRANSFER OR RETURN	DESCRIPTION AND VALUE OF PROPERTY
Grandsouth Bank c/o Bradley K. Richardson, Atty. 133 Straight Drive Anderson, SC 29625	July 2011	233 Hidden Shores Drive, W. Union, SC

6. Assignments and receiverships

- None ☒ a. Describe any assignment of property for the benefit of creditors made within **120 days** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include any assignment by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF ASSIGNEE	DATE OF ASSIGNMENT	TERMS OF ASSIGNMENT OR SETTLEMENT
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- None ☒ b. List all property which has been in the hands of a custodian, receiver, or court-appointed official within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CUSTODIAN	NAME AND LOCATION OF COURT CASE TITLE & NUMBER	DATE OF ORDER	DESCRIPTION AND VALUE OF PROPERTY
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7. Gifts

- None ☒ List all gifts or charitable contributions made within **one year** immediately preceding the commencement of this case except ordinary and usual gifts to family members aggregating less than \$200 in value per individual family member and charitable contributions aggregating less than \$100 per recipient. (Married debtors filing under chapter 12 or chapter 13 must include gifts or contributions by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON OR ORGANIZATION	RELATIONSHIP TO DEBTOR, IF ANY	DATE OF GIFT	DESCRIPTION AND VALUE OF GIFT
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8. Losses

- None ☐ List all losses from fire, theft, other casualty or gambling within **one year** immediately preceding the commencement of this case **or since the commencement of this case**. (Married debtors filing under chapter 12 or chapter 13 must include losses by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

DESCRIPTION AND VALUE OF PROPERTY	DESCRIPTION OF CIRCUMSTANCES AND, IF LOSS WAS COVERED IN WHOLE OR IN PART BY INSURANCE, GIVE PARTICULARS	DATE OF LOSS
Septic tank back up at home - 4007 State Park Rd., Greenville, SC	\$13,000 claim paid for repairs	May 2011

9. Payments related to debt counseling or bankruptcy

- None ☐ List all payments made or property transferred by or on behalf of the debtor to any persons, including attorneys, for consultation concerning debt consolidation, relief under the bankruptcy law or preparation of the petition in bankruptcy within **one year** immediately preceding the commencement of this case.

NAME AND ADDRESS OF PAYEE	DATE OF PAYMENT, NAME OF PAYOR IF OTHER THAN DEBTOR	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
Sarratt & Clarke P.O. Box 10293 Greenville, SC 29603		\$3000 plus costs

10. Other transfers

- None ☐ a. List all other property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within **two years** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF TRANSFEREE,
RELATIONSHIP TO DEBTOR
Grandsouth Bank

DATE
8/25/11

DESCRIBE PROPERTY TRANSFERRED
AND VALUE RECEIVED
personal property
\$126,258.62
(see attached)

- None ☒ b. List all property transferred by the debtor within **ten years** immediately preceding the commencement of this case to a self-settled trust or similar device of which the debtor is a beneficiary.

NAME OF TRUST OR OTHER
DEVICE

DATE(S) OF
TRANSFER(S)

AMOUNT OF MONEY OR DESCRIPTION AND
VALUE OF PROPERTY OR DEBTOR'S INTEREST
IN PROPERTY

11. Closed financial accounts

- None ☒ List all financial accounts and instruments held in the name of the debtor or for the benefit of the debtor which were closed, sold, or otherwise transferred within **one year** immediately preceding the commencement of this case. Include checking, savings, or other financial accounts, certificates of deposit, or other instruments; shares and share accounts held in banks, credit unions, pension funds, cooperatives, associations, brokerage houses and other financial institutions. (Married debtors filing under chapter 12 or chapter 13 must include information concerning accounts or instruments held by or for either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF INSTITUTION	TYPE OF ACCOUNT, LAST FOUR DIGITS OF ACCOUNT NUMBER, AND AMOUNT OF FINAL BALANCE	AMOUNT AND DATE OF SALE OR CLOSING
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12. Safe deposit boxes

- None ☒ List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF BANK OR OTHER DEPOSITORY	NAMES AND ADDRESSES OF THOSE WITH ACCESS TO BOX OR DEPOSITORY	DESCRIPTION OF CONTENTS	DATE OF TRANSFER OR SURRENDER, IF ANY
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13. Setoffs

- None ☒ List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within **90 days** preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATE OF SETOFF	AMOUNT OF SETOFF
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14. Property held for another person

- None ☒ List all property owned by another person that the debtor holds or controls.

NAME AND ADDRESS OF OWNER	DESCRIPTION AND VALUE OF PROPERTY	LOCATION OF PROPERTY
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15. Prior address of debtor

None ☐ If the debtor has moved within **three years** immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

ADDRESS	NAME USED	DATES OF OCCUPANCY
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16. Spouses and Former Spouses

None ☐ If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within **eight years** immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state.

NAME

17. Environmental Information.

For the purpose of this question, the following definitions apply:

"Environmental Law" means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to, statutes or regulations regulating the cleanup of these substances, wastes, or material.

"Site" means any location, facility, or property as defined under any Environmental Law, whether or not presently or formerly owned or operated by the debtor, including, but not limited to, disposal sites.

"Hazardous Material" means anything defined as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, or contaminant or similar term under an Environmental Law

None ☐ a. List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the governmental unit, the date of the notice, and, if known, the Environmental Law:

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW
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None ☐ b. List the name and address of every site for which the debtor provided notice to a governmental unit of a release of Hazardous Material. Indicate the governmental unit to which the notice was sent and the date of the notice.

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW
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None ☐ c. List all judicial or administrative proceedings, including settlements or orders, under any Environmental Law with respect to which the debtor is or was a party. Indicate the name and address of the governmental unit that is or was a party to the proceeding, and the docket number.

NAME AND ADDRESS OF GOVERNMENTAL UNIT	DOCKET NUMBER	STATUS OR DISPOSITION
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18. Nature, location and name of business

None
☐

a. *If the debtor is an individual*, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partner in a partnership, sole proprietor, or was self-employed in a trade, profession, or other activity either full- or part-time within **six years** immediately preceding the commencement of this case, or in which the debtor owned 5 percent or more of the voting or equity securities within **six years** immediately preceding the commencement of this case.

If the debtor is a partnership, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities, within **six years** immediately preceding the commencement of this case.

If the debtor is a corporation, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities within **six years** immediately preceding the commencement of this case.

NAME	LAST FOUR DIGITS OF SOCIAL-SECURITY OR OTHER INDIVIDUAL TAXPAYER-I.D. NO. (ITIN)/ COMPLETE EIN	ADDRESS	NATURE OF BUSINESS	BEGINNING AND ENDING DATES
Marick Home Builders, LLC	58-2450631	501 Brixton Circle Greer, SC 29651	construction	2001-2008
M Group Construction, LLC	#26-4339879	414 Lodgewood Trace Greer, SC 29651	construction	2009-2011
Marick Marketing Group, LLC	#20-8686485	68 Pointe Circle Greenville, SC 29615	real estate sales	2007-2008
Greenville Gateway Developers, LLC	#26-0563512	68 Pointe Circle Greenville, SC 29615	real estate	2007-2011
Slark, LLC	#20-8485367	68 Pointe Circle Greenville, SC 29615	real estate	2007-2011
Sorsitt, LLC	#26-4224189	68 Pointe Circle Greenville, SC 29615	sales	2009-2010
Warpath Development, Inc.	#20-1581714	414 Lodgewood Trace Greer, SC 29651	single asset real estate	2007-2011
One Source, LLC	#27-0059229	68 Pointe Circle Greenville, SC 29615	cabinet manufacturing	2006-2008
Cobblestone Development Co., LLC	#13-4226512	68 Pointe Circle Greenville, SC 29615	single asset real estate	2005-2008
Mountain Creek Landing, LLC	#30-040419	68 Pointe Circle Greenville, SC 29615	single asset real estate	2006-2008

None
☒

b. Identify any business listed in response to subdivision a., above, that is "single asset real estate" as defined in 11 U.S.C. § 101.

NAME

ADDRESS

The following questions are to be completed by every debtor that is a corporation or partnership and by any individual debtor who is or has been, within **six years** immediately preceding the commencement of this case, any of the following: an officer, director, managing executive, or owner of more than 5 percent of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership, a sole proprietor, or self-employed in a trade, profession, or other activity, either full- or part-time.

(An individual or joint debtor should complete this portion of the statement **only** if the debtor is or has been in business, as defined above, within six years immediately preceding the commencement of this case. A debtor who has not been in business within those six years should go directly to the signature page.)

19. Books, records and financial statements

- None ☐ a. List all bookkeepers and accountants who within **two years** immediately preceding the filing of this bankruptcy case kept or supervised the keeping of books of account and records of the debtor.

NAME AND ADDRESS

DATES SERVICES RENDERED

- None ☐ b. List all firms or individuals who within the **two years** immediately preceding the filing of this bankruptcy case have audited the books of account and records, or prepared a financial statement of the debtor.

NAME

ADDRESS

DATES SERVICES RENDERED

- None ☐ c. List all firms or individuals who at the time of the commencement of this case were in possession of the books of account and records of the debtor. If any of the books of account and records are not available, explain.

NAME

ADDRESS

- None ☐ d. List all financial institutions, creditors and other parties, including mercantile and trade agencies, to whom a financial statement was issued by the debtor within **two years** immediately preceding the commencement of this case.

NAME AND ADDRESS

DATE ISSUED

20. Inventories

- None ☐ a. List the dates of the last two inventories taken of your property, the name of the person who supervised the taking of each inventory, and the dollar amount and basis of each inventory.

DATE OF INVENTORY

INVENTORY SUPERVISOR

DOLLAR AMOUNT OF INVENTORY
(Specify cost, market or other basis)

- None ☐ b. List the name and address of the person having possession of the records of each of the two inventories reported in a., above.

DATE OF INVENTORY

NAME AND ADDRESSES OF CUSTODIAN OF INVENTORY
RECORDS

21. Current Partners, Officers, Directors and Shareholders

- None ☐ a. If the debtor is a partnership, list the nature and percentage of partnership interest of each member of the partnership.

NAME AND ADDRESS

NATURE OF INTEREST

PERCENTAGE OF INTEREST

- None ☐ b. If the debtor is a corporation, list all officers and directors of the corporation, and each stockholder who directly or indirectly owns, controls, or holds 5 percent or more of the voting or equity securities of the corporation.

NAME AND ADDRESS

TITLE

NATURE AND PERCENTAGE
OF STOCK OWNERSHIP

22. Former partners, officers, directors and shareholders

- None ☐ a. If the debtor is a partnership, list each member who withdrew from the partnership within **one year** immediately preceding the commencement of this case.

NAME

ADDRESS

DATE OF WITHDRAWAL

- None ☐ b. If the debtor is a corporation, list all officers, or directors whose relationship with the corporation terminated within **one year** immediately preceding the commencement of this case.

NAME AND ADDRESS

TITLE

DATE OF TERMINATION

23 . Withdrawals from a partnership or distributions by a corporation

None ☐ If the debtor is a partnership or corporation, list all withdrawals or distributions credited or given to an insider, including compensation in any form, bonuses, loans, stock redemptions, options exercised and any other perquisite during **one year** immediately preceding the commencement of this case.

NAME & ADDRESS
OF RECIPIENT,
RELATIONSHIP TO DEBTOR

DATE AND PURPOSE
OF WITHDRAWAL

AMOUNT OF MONEY
OR DESCRIPTION AND
VALUE OF PROPERTY

24. Tax Consolidation Group.

None ☐ If the debtor is a corporation, list the name and federal taxpayer identification number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within **six years** immediately preceding the commencement of the case.

NAME OF PARENT CORPORATION

TAXPAYER IDENTIFICATION NUMBER (EIN)

25. Pension Funds.

None ☐ If the debtor is not an individual, list the name and federal taxpayer-identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within **six years** immediately preceding the commencement of the case.

NAME OF PENSION FUND

TAXPAYER IDENTIFICATION NUMBER (EIN)

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct.

Date December 2, 2011

Signature /s/ Frederick Richard Thoennes, III
Frederick Richard Thoennes, III
Debtor

Penalty for making a false statement Fine of up to \$500,000 or imprisonment for up to 5 years, or both: 18 U.S.C. §§ 152 and 3571

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

BILL OF SALE

On this ____ day of August, 2011, Frederick R. Thoennes, III (hereinafter "Seller") does hereby transfer and convey ownership of all personal property listed upon Exhibit "A", a copy of which is attached hereto and incorporated herein by reference thereto, unto GrandSouth Bank, its successors and/or assigns (hereinafter "Purchaser").

It is agreed that Purchaser is the holder of a deficiency judgment against Seller in the amount of \$186,258.62. Said judgment being of record in the Clerk of Court's Office for Oconee County, South Carolina in JR# 2011-CP-37-158. As consideration for the transfer of personal property listed upon Exhibit A unto Purchaser, Purchaser shall credit said judgment for the sum of \$126,258.62. Seller and Purchaser agree that the remaining balance owed upon said judgment following transfer shall equal \$60,000.00. As further consideration for this transfer Seller agrees that all of the personal property described upon Exhibit "A" has been delivered to and is currently stored at 230 Hidden Shores Lane, West Union, SC 29696. Seller hereby affirms that none of the personal property listed upon Exhibit "A" has been removed from the premises since the date of the last inventory.

Seller certifies he is the sole owner of the personal property described upon Exhibit "A" and has complete authority to sell and transfer the personal property described thereon to Purchaser. Seller affirms that he knows of no claims or potential claims to the ownership of the personal property being transferred. Seller knows of no lien or other encumbrance that would need to be satisfied in order to convey clear title to said personal property.

Seller further certifies that he has not filed for protection under any chapter of the United States Bankruptcy Code prior to executing this bill of sale. Furthermore, Seller does not contemplate filing for protection under any chapter of the United States Bankruptcy Code within the next calendar year. Seller agrees that should this transfer be voided as a result of Seller filing for protection under any chapter of the United States Bankruptcy Code, this transaction shall be considered null and void. In such event, the consideration given to Seller shall be voided and the balance due under the personal deficiency judgment referenced herein shall be restored to \$186,258.62 plus any interest which would have accrued in the interim.

Nothing contained herein shall be construed as a waiver on the part of Purchaser to collect the balance due upon the deficiency judgment referenced herein. Seller acknowledges that this document was prepared by Purchaser's attorney for the sole benefit of Purchaser. Seller

acknowledges that he has been afforded the opportunity to consult with an attorney prior to executing this document.

WITNESS WHEREOF, We set our hand and seal this ____ day of August, 2011.

Betty J. White
Witness

Frederick R. Thoenes, III
Frederick R. Thoenes, III

Betty J. White
Witness

Michael A. Dixon
GrandSouth Bank
By: Michael A. Dixon
Its: Senior Vice President

State of South Carolina)

County of Greenville)

)
)
)
PROBATE

I, the undersigned, a Notary Public for the State of South Carolina, do hereby certify that the above named parties personally appeared before me this 25th day of August, 2011 and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 25th day of August, 2011.

Anne B Brown
Notary Public for SC
My Commission Expires: 03/06/2014

B8 (Form 8) (12/08)

United States Bankruptcy Court
District of South Carolina

In re **Frederick Richard Thoennes, III**

Debtor(s)

Case No.

Chapter **7**

CHAPTER 7 INDIVIDUAL DEBTOR'S STATEMENT OF INTENTION

PART A - Debts secured by property of the estate. (Part A must be fully completed for **EACH** debt which is secured by property of the estate. Attach additional pages if necessary.)

Property No. 1	
Creditor's Name: Wells Fargo	Describe Property Securing Debt: 4007 State Park Road, Greenville, SC 29609
Property will be (check one): ☒ Surrendered ☐ Retained	
If retaining the property, I intend to (check at least one): ☐ Redeem the property ☐ Reaffirm the debt ☐ Other. Explain _____ (for example, avoid lien using 11 U.S.C. § 522(f)).	
Property is (check one): ☐ Claimed as Exempt ☒ Not claimed as exempt	

Property No. 2	
Creditor's Name: Wells Fargo	Describe Property Securing Debt: 4007 State Park Road, Greenville, SC 29609
Property will be (check one): ☒ Surrendered ☐ Retained	
If retaining the property, I intend to (check at least one): ☐ Redeem the property ☐ Reaffirm the debt ☐ Other. Explain _____ (for example, avoid lien using 11 U.S.C. § 522(f)).	
Property is (check one): ☐ Claimed as Exempt ☒ Not claimed as exempt	

PART B - Personal property subject to unexpired leases. (All three columns of Part B must be completed for each unexpired lease. Attach additional pages if necessary.)

Property No. 1		
Lessor's Name: -NONE-	Describe Leased Property:	Lease will be Assumed pursuant to 11 U.S.C. § 365(p)(2): ☐ YES ☐ NO

B8 (Form 8) (12/08)

Page 2

I declare under penalty of perjury that the above indicates my intention as to any property of my estate securing a debt and/or personal property subject to an unexpired lease.

Date December 2, 2011

Signature /s/ Frederick Richard Thoennes, III
Frederick Richard Thoennes, III
Debtor

United States Bankruptcy Court
District of South Carolina

In re **Frederick Richard Thoennes, III**

Debtor(s)

Case No.

Chapter

7

DISCLOSURE OF COMPENSATION OF ATTORNEY FOR DEBTOR(S)

1. Pursuant to 11 U.S.C. § 329(a) and Bankruptcy Rule 2016(b), I certify that I am the attorney for the above-named debtor and that compensation paid to me within one year before the filing of the petition in bankruptcy, or agreed to be paid to me, for services rendered or to be rendered on behalf of the debtor(s) in contemplation of or in connection with the bankruptcy case is as follows:

For legal services, I have agreed to accept	\$	3,000.00
Prior to the filing of this statement I have received	\$	3,000.00
Balance Due	\$	0.00

2. \$ **306.00** of the filing fee has been paid.

3. The source of the compensation paid to me was:

☒ Debtor ☐ Other (specify):

4. The source of compensation to be paid to me is:

☒ Debtor ☐ Other (specify):

5. ☒ I have not agreed to share the above-disclosed compensation with any other person unless they are members and associates of my law firm.

☐ I have agreed to share the above-disclosed compensation with a person or persons who are not members or associates of my law firm. A copy of the agreement, together with a list of the names of the people sharing in the compensation is attached.

6. In return for the above-disclosed fee, I have agreed to render legal service for all aspects of the bankruptcy case, including:

- a. Representation of the debtor in adversary proceedings and other contested bankruptcy matters;
b. [Other provisions as needed]

7. By agreement with the debtor(s), the above-disclosed fee does not include the following service:

Representation of the debtors in any dischargeability actions, judicial lien avoidances, relief from stay actions or any other adversary proceeding.

CERTIFICATION

I certify that the foregoing is a complete statement of any agreement or arrangement for payment to me for representation of the debtor(s) in this bankruptcy proceeding.

Dated: **December 2, 2011**

/s/ James C. Sarratt

James C. Sarratt #3727

Sarratt & Clarke

P.O. Box 10293

Greenville, SC 29603

(864) 271-4100 Fax: (864) 271-4111

dawnsc@bellsouth.net

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA
NOTICE TO CONSUMER DEBTOR(S) UNDER § 342(b)
OF THE BANKRUPTCY CODE**

In accordance with § 342(b) of the Bankruptcy Code, this notice to individuals with primarily consumer debts: (1) Describes briefly the services available from credit counseling services; (2) Describes briefly the purposes, benefits and costs of the four types of bankruptcy proceedings you may commence; and (3) Informs you about bankruptcy crimes and notifies you that the Attorney General may examine all information you supply in connection with a bankruptcy case.

You are cautioned that bankruptcy law is complicated and not easily described. Thus, you may wish to seek the advice of an attorney to learn of your rights and responsibilities should you decide to file a petition. Court employees cannot give you legal advice.

Notices from the bankruptcy court are sent to the mailing address you list on your bankruptcy petition. In order to ensure that you receive information about events concerning your case, Bankruptcy Rule 4002 requires that you notify the court of any changes in your address. If you are filing a **joint case** (a single bankruptcy case for two individuals married to each other), and each spouse lists the same mailing address on the bankruptcy petition, you and your spouse will generally receive a single copy of each notice mailed from the bankruptcy court in a jointly-addressed envelope, unless you file a statement with the court requesting that each spouse receive a separate copy of all notices.

1. Services Available from Credit Counseling Agencies

With limited exceptions, § 109(h) of the Bankruptcy Code requires that all individual debtors who file for bankruptcy relief on or after October 17, 2005, receive a briefing that outlines the available opportunities for credit counseling and provides assistance in performing a budget analysis. The briefing must be given within 180 days **before** the bankruptcy filing. The briefing may be provided individually or in a group (including briefings conducted by telephone or on the Internet) and must be provided by a nonprofit budget and credit counseling agency approved by the United States trustee or bankruptcy administrator. The clerk of the bankruptcy court has a list that you may consult of the approved budget and credit counseling agencies. Each debtor in a joint case must complete the briefing.

In addition, after filing a bankruptcy case, an individual debtor generally must complete a financial management instructional course before he or she can receive a discharge. The clerk also has a list of approved financial management instructional courses. Each debtor in a joint case must complete the course.

2. The Four Chapters of the Bankruptcy Code Available to Individual Consumer Debtors

Chapter 7: Liquidation (\$245 filing fee, \$46 administrative fee, \$15 trustee surcharge: Total Fee \$306)

Chapter 7 is designed for debtors in financial difficulty who do not have the ability to pay their existing debts. Debtors whose debts are primarily consumer debts are subject to a "means test" designed to determine whether the case should be permitted to proceed under chapter 7. If your income is greater than the median income for your state of residence and family size, in some cases, the United States trustee (or bankruptcy administrator), the trustee, or creditors have the right to file a motion requesting that the court dismiss your case under § 707(b) of the Code. It is up to the court to decide whether the case should be dismissed.

Under chapter 7, you may claim certain of your property as exempt under governing law. A trustee may have the right to take possession of and sell the remaining property that is not exempt and use the sale proceeds to pay your creditors.

The purpose of filing a chapter 7 case is to obtain a discharge of your existing debts. If, however, you are found to have committed certain kinds of improper conduct described in the Bankruptcy Code, the court may deny your discharge and, if it does, the purpose for which you filed the bankruptcy petition will be defeated.

Even if you receive a general discharge, some particular debts are not discharged under the law. Therefore, you may still be responsible for most taxes and student loans; debts incurred to pay nondischargeable taxes; domestic support and property settlement obligations; most fines, penalties, forfeitures, and criminal restitution obligations; certain debts which are not properly listed in your bankruptcy papers; and debts for death or personal injury caused by operating a motor vehicle, vessel, or aircraft while intoxicated from alcohol or drugs. Also, if a creditor can prove that a debt arose from fraud, breach of fiduciary duty, or theft, or from a willful and malicious injury, the bankruptcy court may determine that the debt is not discharged.

Chapter 13: Repayment of All or Part of the Debts of an Individual with Regular Income (\$235 filing fee, \$46 administrative fee: Total Fee \$281)

Chapter 13 is designed for individuals with regular income who would like to pay all or part of their debts in installments over

a period of time. You are only eligible for chapter 13 if your debts do not exceed certain dollar amounts set forth in the Bankruptcy Code.

Under chapter 13, you must file with the court a plan to repay your creditors all or part of the money that you owe them, using your future earnings. The period allowed by the court to repay your debts may be three years or five years, depending upon your income and other factors. The court must approve your plan before it can take effect.

After completing the payments under your plan, your debts are generally discharged except for domestic support obligations; most student loans; certain taxes; most criminal fines and restitution obligations; certain debts which are not properly listed in your bankruptcy papers; certain debts for acts that caused death or personal injury; and certain long term secured obligations.

Chapter 11: Reorganization (\$1000 filing fee, \$46 administrative fee: Total Fee \$1046)

Chapter 11 is designed for the reorganization of a business but is also available to consumer debtors. Its provisions are quite complicated, and any decision by an individual to file a chapter 11 petition should be reviewed with an attorney.

Chapter 12: Family Farmer or Fisherman (\$200 filing fee, \$46 administrative fee: Total Fee \$246)

Chapter 12 is designed to permit family farmers and fishermen to repay their debts over a period of time from future earnings and is similar to chapter 13. The eligibility requirements are restrictive, limiting its use to those whose income arises primarily from a family-owned farm or commercial fishing operation.

3. Bankruptcy Crimes and Availability of Bankruptcy Papers to Law Enforcement Officials

A person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury, either orally or in writing, in connection with a bankruptcy case is subject to a fine, imprisonment, or both. All information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General acting through the Office of the United States Trustee, the Office of the United States Attorney, and other components and employees of the Department of Justice.

WARNING: Section 521(a)(1) of the Bankruptcy Code requires that you promptly file detailed information regarding your creditors, assets, liabilities, income, expenses and general financial condition. Your bankruptcy case may be dismissed if this information is not filed with the court within the time deadlines set by the Bankruptcy Code, the Bankruptcy Rules, and the local rules of the court. The documents and the deadlines for filing them are listed on Form B200, which is posted at http://www.uscourts.gov/bkforms/bankruptcy_forms.html#procedure.

B 201B (Form 201B) (12/09)

**United States Bankruptcy Court
District of South Carolina**

In re **Frederick Richard Thoennes, III**

Debtor(s)

Case No.

Chapter

7

**CERTIFICATION OF NOTICE TO CONSUMER DEBTOR(S)
UNDER § 342(b) OF THE BANKRUPTCY CODE**

Certification of Debtor

I (We), the debtor(s), affirm that I (we) have received and read the attached notice, as required by § 342(b) of the Bankruptcy Code.

Frederick Richard Thoennes, III

Printed Name(s) of Debtor(s)

X **/s/ Frederick Richard Thoennes, III**

Signature of Debtor

December 2, 2011

Date

Case No. (if known)

X

Signature of Joint Debtor (if any)

Date

Instructions: Attach a copy of Form B 201 A, Notice to Consumer Debtor(s) Under § 342(b) of the Bankruptcy Code.

Use this form to certify that the debtor has received the notice required by 11 U.S.C. § 342(b) **only** if the certification has **NOT** been made on the Voluntary Petition, Official Form B1. Exhibit B on page 2 of Form B1 contains a certification by the debtor's attorney that the attorney has given the notice to the debtor. The Declarations made by debtors and bankruptcy petition preparers on page 3 of Form B1 also include this certification.

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Best Case Bankruptcy

LOCAL OFFICIAL FORM 1007-1(b) TO SC LBR 1007-1

United States Bankruptcy Court
District of South Carolina

In re Frederick Richard Thoennes, III

Debtor(s)

Case No.

Chapter

7

CERTIFICATION VERIFYING CREDITOR MATRIX

The above named debtor, or attorney for the debtor if applicable, hereby certifies pursuant to South Carolina Local Bankruptcy Rule 1007-1 that the master mailing list of creditors submitted either on computer diskette, electronically filed via CM/ECF, or conventionally filed in a typed hard copy scannable format which has been compared to, and contains identical information to, the debtor's schedules, statements and lists which are being filed at this time or as they currently exist in draft form.

Master mailing list of creditors submitted via:

- (a) _____ computer diskette
- (b) _____ scannable hard copy
(number of sheets submitted _____)
- (c) ☒ electronic version filed via CM/ECF

Date: December 2, 2011

/s/ Frederick Richard Thoennes, III

Frederick Richard Thoennes, III

Signature of Debtor

Date: December 2, 2011

/s/ James C. Sarratt

Signature of Attorney

James C. Sarratt #3727

Sarratt & Clarke

P.O. Box 10293

Greenville, SC 29603

(864) 271-4100 Fax: (864) 271-4111

Typed/Printed Name/Address/Telephone

#3727

District Court I.D. Number

ALLIED CASEWORK SUPPLY
3280 GREEN POINTE PARKWAY, SUITE 100
NORCROSS GA 30092

ANDY BALLARD
C/O WYCHE BURGESS FREEMAN & PARHAM
PO BOX 728
GREENVILLE SC 29602

BANK OF AMERICA
PO BOX 15710
WILMINGTON DE 19886

BOB & AMY WARD
621BRIXTON CIRCLE
SIMPSONVILLE SC 29681

BROWN MASSEY EVANS MCLEOD HAYNSWORTH
PO BOX 2464
GREENVILLE SC 29602

CARPET ONE
5150 WADE HAMPTON BLVD.
TAYLORS SC 29687

CARROLL H. ROE
ATTORNEY AT LAW
PO BOX 10529
GREENVILLE SC 29603

CHAD AND KELLY ODOM
25 PARKINS LAKE ROAD
GREENVILLE SC 29607

CLAYTON TILE
PO BOX 6151
GREENVILLE SC 29606

CORNERSTONE NATIONAL BANK
1670 E. MAIN STREET
EASLEY SC 29640

DON OWENS
305 TARA LANE
SENECA SC 29672

FIA CARD SERVICES
PO BOX 15019
WILMINGTON DE 19886

FIA CARD SERVICES
PO BOX 15710
WILMINGTON DE 19886

FREDERICK RICHARD THOENNES
414 LODGEWOOD TRAIL
GREER SC 29651

GATEWAY SUPPLY COMPANY
1312 HAMRICK STREET
COLUMBIA SC 29201

GOLDEN STRIP
PO BOX 1176
GREENVILLE SC 29606

GRANDSOUTH BANK
C/O BRADLEY K. RICHARDSON, ATTY.
133 STRAIGHT DRIVE
ANDERSON SC 29625

GREENVILLE COUNTY TAX COLLECTOR
DEPT. 390
PO BOX 100221
COLUMBIA SC 29202

GREENVILLE FIRST
100 VERDAE BLVD.
GREENVILLE SC 29607

GREENVILLE FIRST BANK
100 VERDAE BLVD.
GREENVILLE SC 29607

HOT SPRINGS POOL AND SPA
678 WOODRUFF ROAD
GREENVILLE SC 29607

IRS
CENTRALIZED INSOLVENCY OPERATION
PO BOX 7346
PHILADELPHIA PA 19101

JAMES C. PARHAM
ATTORNEY AT LAW
PO BOX 728
GREENVILLE SC 29602

JEFF LYNCH APPLIANCE
17 ROPER MOUNTAIN ROAD
GREENVILLE SC 29607

JOSH HOWARD, ATTORNEY
HAYNESWORTH, SINKLER, BOYD
75 BEATTIE PLACE, #1100
GREENVILLE SC 29601

LIGHTNING CENTER
5200 WADE HAMPTON BLVD.
TAYLORS SC 29687

LYLES & LYLES, LLC
PO BOX 773
CHARLESTON SC 29401

LYN AND JEFFERY BECKER
PO BOX 8353
NORFOLK VA 23503

MARK ELS
115 FAIRVIEW DRIVE
GREENVILLE SC 29609

MASTERBRAND CABINETS, INC.
PO BOX 77527
CHICAGO IL 60675

MICHAEL A. AND ALBERT R. BABINICZ
1052 N. CHURCH STREET
COLUMBIA SC 29201

PALMETTO BANK
306 E. NORTH STREET
GREENVILLE SC 29601

PIEDMONT NATURAL GAS
PO BOX 533500
ATLANTA GA 30353

PRIMARY FINANCIAL SERVICES
3115 NORTH 3RD AVENUE, SUITE 112
PHOENIX AZ 85013

ROGERS TOWNSEND & THOMAS
PO BOX 100200
COLUMBIA SC 29202

ROY'S WOOD PRODUCTS
PO BOX 1300
LUGOFF SC 29078

SC DEPT. OF REVENUE
PO BOX 12265
COLUMBIA SC 29211

SCOTT CLARK FLOOR
1000 HWY. 25 N.
TRAVELERS REST SC 29690

SDI FUNDING/LUDWIG PROPERTIES
127 W. ANTRIM DRIVE
GREENVILLE SC 29607

SHERWIN WILLIAMS
306-A WADE HAMPTON BLVD.
GREENVILLE SC 29609

STAR GRANITE
877 KIST ROAD
GREER SC 29651

STONELEDGE AT LAKE KEOWEE
OWNERS ASSOCIATION, INC.
331 BLUE WATER WAY
WEST UNION SC 29696

TRAVELERS INSURANCE
CL& SPECIALTY REMIT CENTER
HARTFORD CT 06183

WELLS FARGO
PO BOX 14547
DES MOINES IA 50306

WURTH WOOD GROUP
PO BOX 6001182
CHARLOTTE NC 28260

B22A (Official Form 22A) (Chapter 7) (12/10)

In re **Frederick Richard Thoenness, III**

Debtor(s)

Case Number: _____

(If known)

According to the information required to be entered on this statement (check one box as directed in Part I, III, or VI of this statement):

☐ The presumption arises.

☒ The presumption does not arise.

☐ The presumption is temporarily inapplicable.

CHAPTER 7 STATEMENT OF CURRENT MONTHLY INCOME AND MEANS-TEST CALCULATION

In addition to Schedules I and J, this statement must be completed by every individual chapter 7 debtor. If none of the exclusions in Part I applies, joint debtors may complete one statement only. If any of the exclusions in Part I applies, joint debtors should complete separate statements if they believe this is required by § 707(b)(2)(C).

Part I. MILITARY AND NON-CONSUMER DEBTORS

1A	Disabled Veterans. If you are a disabled veteran described in the Declaration in this Part IA, (1) check the box at the beginning of the Declaration, (2) check the box for "The presumption does not arise" at the top of this statement, and (3) complete the verification in Part VIII. Do not complete any of the remaining parts of this statement. ☐ Declaration of Disabled Veteran. By checking this box, I declare under penalty of perjury that I am a disabled veteran (as defined in 38 U.S.C. § 3741(1)) whose indebtedness occurred primarily during a period in which I was on active duty (as defined in 10 U.S.C. § 101(d)(1)) or while I was performing a homeland defense activity (as defined in 32 U.S.C. § 901(1)).
1B	Non-consumer Debtors. If your debts are not primarily consumer debts, check the box below and complete the verification in Part VIII. Do not complete any of the remaining parts of this statement. ☒ Declaration of non-consumer debts. By checking this box, I declare that my debts are not primarily consumer debts.
1C	Reservists and National Guard Members; active duty or homeland defense activity. Members of a reserve component of the Armed Forces and members of the National Guard who were called to active duty (as defined in 10 U.S.C. § 101(d)(1)) after September 11, 2001, for a period of at least 90 days, or who have performed homeland defense activity (as defined in 32 U.S.C. § 901(1)) for a period of at least 90 days, are excluded from all forms of means testing during the time of active duty or homeland defense activity and for 540 days thereafter (the "exclusion period"). If you qualify for this temporary exclusion, (1) check the appropriate boxes and complete any required information in the Declaration of Reservists and National Guard Members below, (2) check the box for "The presumption is temporarily inapplicable" at the top of this statement, and (3) complete the verification in Part VIII. During your exclusion period you are not required to complete the balance of this form, but you must complete the form no later than 14 days after the date on which your exclusion period ends, unless the time for filing a motion raising the means test presumption expires in your case before your exclusion period ends. ☐ Declaration of Reservists and National Guard Members. By checking this box and making the appropriate entries below, I declare that I am eligible for a temporary exclusion from means testing because, as a member of a reserve component of the Armed Forces or the National Guard a. ☐ I was called to active duty after September 11, 2001, for a period of at least 90 days and ☐ I remain on active duty /or/ ☐ I was released from active duty on ____, which is less than 540 days before this bankruptcy case was filed; OR b. ☐ I am performing homeland defense activity for a period of at least 90 days /or/ ☐ I performed homeland defense activity for a period of at least 90 days, terminating on ____, which is less than 540 days before this bankruptcy case was filed.

Part II. CALCULATION OF MONTHLY INCOME FOR § 707(b)(7) EXCLUSION

2	Marital/filing status. Check the box that applies and complete the balance of this part of this statement as directed.																		
	a. ☐ Unmarried. Complete only Column A ("Debtor's Income") for Lines 3-11. b. ☐ Married, not filing jointly, with declaration of separate households. By checking this box, debtor declares under penalty of perjury: "My spouse and I are legally separated under applicable non-bankruptcy law or my spouse and I are living apart other than for the purpose of evading the requirements of § 707(b)(2)(A) of the Bankruptcy Code." Complete only column A ("Debtor's Income") for Lines 3-11. c. ☐ Married, not filing jointly, without the declaration of separate households set out in Line 2.b above. Complete both Column A ("Debtor's Income") and Column B ("Spouse's Income") for Lines 3-11. d. ☐ Married, filing jointly. Complete both Column A ("Debtor's Income") and Column B ("Spouse's Income") for Lines 3-11.																		
	All figures must reflect average monthly income received from all sources, derived during the six calendar months prior to filing the bankruptcy case, ending on the last day of the month before the filing. If the amount of monthly income varied during the six months, you must divide the six-month total by six, and enter the result on the appropriate line.	Column A Debtor's Income	Column B Spouse's Income																
3	Gross wages, salary, tips, bonuses, overtime, commissions.	\$	\$																
4	Income from the operation of a business, profession or farm. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 4. If you operate more than one business, profession or farm, enter aggregate numbers and provide details on an attachment. Do not enter a number less than zero. Do not include any part of the business expenses entered on Line b as a deduction in Part V. <table border="1" style="width: 100%; margin-top: 5px;"> <thead> <tr> <th colspan="2"></th> <th style="text-align: center;">Debtor</th> <th style="text-align: center;">Spouse</th> </tr> </thead> <tbody> <tr> <td style="width: 5%;">a.</td> <td>Gross receipts</td> <td style="text-align: center;">\$</td> <td style="text-align: center;">\$</td> </tr> <tr> <td>b.</td> <td>Ordinary and necessary business expenses</td> <td style="text-align: center;">\$</td> <td style="text-align: center;">\$</td> </tr> <tr> <td>c.</td> <td>Business income</td> <td colspan="2" style="text-align: center;">Subtract Line b from Line a</td> </tr> </tbody> </table>			Debtor	Spouse	a.	Gross receipts	\$	\$	b.	Ordinary and necessary business expenses	\$	\$	c.	Business income	Subtract Line b from Line a		\$	\$
		Debtor	Spouse																
a.	Gross receipts	\$	\$																
b.	Ordinary and necessary business expenses	\$	\$																
c.	Business income	Subtract Line b from Line a																	
5	Rents and other real property income. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 5. Do not enter a number less than zero. Do not include any part of the operating expenses entered on Line b as a deduction in Part V. <table border="1" style="width: 100%; margin-top: 5px;"> <thead> <tr> <th colspan="2"></th> <th style="text-align: center;">Debtor</th> <th style="text-align: center;">Spouse</th> </tr> </thead> <tbody> <tr> <td style="width: 5%;">a.</td> <td>Gross receipts</td> <td style="text-align: center;">\$</td> <td style="text-align: center;">\$</td> </tr> <tr> <td>b.</td> <td>Ordinary and necessary operating expenses</td> <td style="text-align: center;">\$</td> <td style="text-align: center;">\$</td> </tr> <tr> <td>c.</td> <td>Rent and other real property income</td> <td colspan="2" style="text-align: center;">Subtract Line b from Line a</td> </tr> </tbody> </table>			Debtor	Spouse	a.	Gross receipts	\$	\$	b.	Ordinary and necessary operating expenses	\$	\$	c.	Rent and other real property income	Subtract Line b from Line a		\$	\$
		Debtor	Spouse																
a.	Gross receipts	\$	\$																
b.	Ordinary and necessary operating expenses	\$	\$																
c.	Rent and other real property income	Subtract Line b from Line a																	
6	Interest, dividends, and royalties.	\$	\$																
7	Pension and retirement income.	\$	\$																
8	Any amounts paid by another person or entity, on a regular basis, for the household expenses of the debtor or the debtor's dependents, including child support paid for that purpose. Do not include alimony or separate maintenance payments or amounts paid by your spouse if Column B is completed. Each regular payment should be reported in only one column; if a payment is listed in Column A, do not report that payment in Column B.	\$	\$																
9	Unemployment compensation. Enter the amount in the appropriate column(s) of Line 9. However, if you contend that unemployment compensation received by you or your spouse was a benefit under the Social Security Act, do not list the amount of such compensation in Column A or B, but instead state the amount in the space below: <table border="1" style="width: 100%; margin-top: 5px;"> <tr> <td style="width: 40%;">Unemployment compensation claimed to be a benefit under the Social Security Act</td> <td style="width: 30%;">Debtor \$</td> <td style="width: 30%;">Spouse \$</td> </tr> </table>	Unemployment compensation claimed to be a benefit under the Social Security Act	Debtor \$	Spouse \$	\$	\$													
Unemployment compensation claimed to be a benefit under the Social Security Act	Debtor \$	Spouse \$																	
10	Income from all other sources. Specify source and amount. If necessary, list additional sources on a separate page. Do not include alimony or separate maintenance payments paid by your spouse if Column B is completed, but include all other payments of alimony or separate maintenance. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, crime against humanity, or as a victim of international or domestic terrorism. <table border="1" style="width: 100%; margin-top: 5px;"> <thead> <tr> <th colspan="2"></th> <th style="text-align: center;">Debtor</th> <th style="text-align: center;">Spouse</th> </tr> </thead> <tbody> <tr> <td style="width: 5%;">a.</td> <td></td> <td style="text-align: center;">\$</td> <td style="text-align: center;">\$</td> </tr> <tr> <td>b.</td> <td></td> <td style="text-align: center;">\$</td> <td style="text-align: center;">\$</td> </tr> </tbody> </table> Total and enter on Line 10			Debtor	Spouse	a.		\$	\$	b.		\$	\$	\$	\$				
		Debtor	Spouse																
a.		\$	\$																
b.		\$	\$																
11	Subtotal of Current Monthly Income for § 707(b)(7). Add Lines 3 thru 10 in Column A, and, if Column B is completed, add Lines 3 through 10 in Column B. Enter the total(s).	\$	\$																

12	Total Current Monthly Income for § 707(b)(7). If Column B has been completed, add Line 11, Column A to Line 11, Column B, and enter the total. If Column B has not been completed, enter the amount from Line 11, Column A.	\$
Part III. APPLICATION OF § 707(b)(7) EXCLUSION		
13	Annualized Current Monthly Income for § 707(b)(7). Multiply the amount from Line 12 by the number 12 and enter the result.	\$
14	Applicable median family income. Enter the median family income for the applicable state and household size. (This information is available by family size at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) a. Enter debtor's state of residence: _____ b. Enter debtor's household size: _____	\$
15	Application of Section 707(b)(7). Check the applicable box and proceed as directed. ☐ The amount on Line 13 is less than or equal to the amount on Line 14. Check the box for "The presumption does not arise" at the top of page 1 of this statement, and complete Part VIII; do not complete Parts IV, V, VI or VII. ☐ The amount on Line 13 is more than the amount on Line 14. Complete the remaining parts of this statement.	

Complete Parts IV, V, VI, and VII of this statement only if required. (See Line 15.)

Part IV. CALCULATION OF CURRENT MONTHLY INCOME FOR § 707(b)(2)																										
16	Enter the amount from Line 12.	\$																								
17	Marital adjustment. If you checked the box at Line 2.c, enter on Line 17 the total of any income listed in Line 11, Column B that was NOT paid on a regular basis for the household expenses of the debtor or the debtor's dependents. Specify in the lines below the basis for excluding the Column B income (such as payment of the spouse's tax liability or the spouse's support of persons other than the debtor or the debtor's dependents) and the amount of income devoted to each purpose. If necessary, list additional adjustments on a separate page. If you did not check box at Line 2.c, enter zero.																									
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%;">a.</td> <td style="width: 60%;"></td> <td style="width: 35%; text-align: right;">\$</td> </tr> <tr> <td>b.</td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td>c.</td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td>d.</td> <td></td> <td style="text-align: right;">\$</td> </tr> </table>	a.		\$	b.		\$	c.		\$	d.		\$	\$												
a.		\$																								
b.		\$																								
c.		\$																								
d.		\$																								
	Total and enter on Line 17	\$																								
18	Current monthly income for § 707(b)(2). Subtract Line 17 from Line 16 and enter the result.	\$																								
Part V. CALCULATION OF DEDUCTIONS FROM INCOME																										
Subpart A: Deductions under Standards of the Internal Revenue Service (IRS)																										
19A	National Standards: food, clothing and other items. Enter in Line 19A the "Total" amount from IRS National Standards for Food, Clothing and Other Items for the applicable number of persons. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) The applicable number of persons is the number that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support.	\$																								
19B	National Standards: health care. Enter in Line a1 below the amount from IRS National Standards for Out-of-Pocket Health Care for persons under 65 years of age, and in Line a2 the IRS National Standards for Out-of-Pocket Health Care for persons 65 years of age or older. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) Enter in Line b1 the applicable number of persons who are under 65 years of age, and enter in Line b2 the applicable number of persons who are 65 years of age or older. (The applicable number of persons in each age category is the number in that category that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support.) Multiply Line a1 by Line b1 to obtain a total amount for persons under 65, and enter the result in Line c1. Multiply Line a2 by Line b2 to obtain a total amount for persons 65 and older, and enter the result in Line c2. Add Lines c1 and c2 to obtain a total health care amount, and enter the result in Line 19B.																									
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="3">Persons under 65 years of age</th> <th colspan="3">Persons 65 years of age or older</th> </tr> </thead> <tbody> <tr> <td style="width: 5%;">a1.</td> <td style="width: 55%;">Allowance per person</td> <td style="width: 40%;"></td> <td style="width: 5%;">a2.</td> <td style="width: 55%;">Allowance per person</td> <td style="width: 40%;"></td> </tr> <tr> <td>b1.</td> <td>Number of persons</td> <td></td> <td>b2.</td> <td>Number of persons</td> <td></td> </tr> <tr> <td>c1.</td> <td>Subtotal</td> <td></td> <td>c2.</td> <td>Subtotal</td> <td></td> </tr> </tbody> </table>	Persons under 65 years of age			Persons 65 years of age or older			a1.	Allowance per person		a2.	Allowance per person		b1.	Number of persons		b2.	Number of persons		c1.	Subtotal		c2.	Subtotal		\$
Persons under 65 years of age			Persons 65 years of age or older																							
a1.	Allowance per person		a2.	Allowance per person																						
b1.	Number of persons		b2.	Number of persons																						
c1.	Subtotal		c2.	Subtotal																						
20A	Local Standards: housing and utilities; non-mortgage expenses. Enter the amount of the IRS Housing and Utilities Standards; non-mortgage expenses for the applicable county and family size. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) The applicable family size consists of the number that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support.	\$																								

20B	Local Standards: housing and utilities; mortgage/rent expense. Enter, in Line a below, the amount of the IRS Housing and Utilities Standards; mortgage/rent expense for your county and family size (this information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court) (the applicable family size consists of the number that would currently be allowed as exemptions on your federal income tax return, plus the number of any additional dependents whom you support); enter on Line b the total of the Average Monthly Payments for any debts secured by your home, as stated in Line 42; subtract Line b from Line a and enter the result in Line 20B. Do not enter an amount less than zero. <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%; text-align: center;">a.</td><td style="width: 75%;">IRS Housing and Utilities Standards; mortgage/rental expense</td><td style="width: 20%;">\$</td></tr> <tr> <td style="text-align: center;">b.</td><td>Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42</td><td>\$</td></tr> <tr> <td style="text-align: center;">c.</td><td>Net mortgage/rental expense</td><td>Subtract Line b from Line a.</td></tr> </table>	a.	IRS Housing and Utilities Standards; mortgage/rental expense	\$	b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42	\$	c.	Net mortgage/rental expense	Subtract Line b from Line a.	\$
a.	IRS Housing and Utilities Standards; mortgage/rental expense	\$									
b.	Average Monthly Payment for any debts secured by your home, if any, as stated in Line 42	\$									
c.	Net mortgage/rental expense	Subtract Line b from Line a.									
21	Local Standards: housing and utilities; adjustment. If you contend that the process set out in Lines 20A and 20B does not accurately compute the allowance to which you are entitled under the IRS Housing and Utilities Standards, enter any additional amount to which you contend you are entitled, and state the basis for your contention in the space below:	\$									
22A	Local Standards: transportation; vehicle operation/public transportation expense. You are entitled to an expense allowance in this category regardless of whether you pay the expenses of operating a vehicle and regardless of whether you use public transportation. Check the number of vehicles for which you pay the operating expenses or for which the operating expenses are included as a contribution to your household expenses in Line 8. ☐ 0 ☐ 1 ☐ 2 or more. If you checked 0, enter on Line 22A the "Public Transportation" amount from IRS Local Standards: Transportation. If you checked 1 or 2 or more, enter on Line 22A the "Operating Costs" amount from IRS Local Standards: Transportation for the applicable number of vehicles in the applicable Metropolitan Statistical Area or Census Region. (These amounts are available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	\$									
22B	Local Standards: transportation; additional public transportation expense. If you pay the operating expenses for a vehicle and also use public transportation, and you contend that you are entitled to an additional deduction for you public transportation expenses, enter on Line 22B the "Public Transportation" amount from IRS Local Standards: Transportation. (This amount is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	\$									
23	Local Standards: transportation ownership/lease expense; Vehicle 1. Check the number of vehicles for which you claim an ownership/lease expense. (You may not claim an ownership/lease expense for more than two vehicles.) ☐ 1 ☐ 2 or more. Enter, in Line a below, the "Ownership Costs" for "One Car" from the IRS Local Standards: Transportation (available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 1, as stated in Line 42; subtract Line b from Line a and enter the result in Line 23. Do not enter an amount less than zero. <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%; text-align: center;">a.</td><td style="width: 75%;">IRS Transportation Standards, Ownership Costs</td><td style="width: 20%;">\$</td></tr> <tr> <td style="text-align: center;">b.</td><td>Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 42</td><td>\$</td></tr> <tr> <td style="text-align: center;">c.</td><td>Net ownership/lease expense for Vehicle 1</td><td>Subtract Line b from Line a.</td></tr> </table>	a.	IRS Transportation Standards, Ownership Costs	\$	b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 42	\$	c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.	\$
a.	IRS Transportation Standards, Ownership Costs	\$									
b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 42	\$									
c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.									
24	Local Standards: transportation ownership/lease expense; Vehicle 2. Complete this Line only if you checked the "2 or more" Box in Line 23. Enter, in Line a below, the "Ownership Costs" for "One Car" from the IRS Local Standards: Transportation (available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 2, as stated in Line 42; subtract Line b from Line a and enter the result in Line 24. Do not enter an amount less than zero. <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%; text-align: center;">a.</td><td style="width: 75%;">IRS Transportation Standards, Ownership Costs</td><td style="width: 20%;">\$</td></tr> <tr> <td style="text-align: center;">b.</td><td>Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 42</td><td>\$</td></tr> <tr> <td style="text-align: center;">c.</td><td>Net ownership/lease expense for Vehicle 2</td><td>Subtract Line b from Line a.</td></tr> </table>	a.	IRS Transportation Standards, Ownership Costs	\$	b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 42	\$	c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.	\$
a.	IRS Transportation Standards, Ownership Costs	\$									
b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 42	\$									
c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.									
25	Other Necessary Expenses: taxes. Enter the total average monthly expense that you actually incur for all federal, state and local taxes, other than real estate and sales taxes, such as income taxes, self employment taxes, social security taxes, and Medicare taxes. Do not include real estate or sales taxes.	\$									

26	Other Necessary Expenses: involuntary deductions for employment. Enter the total average monthly payroll deductions that are required for your employment, such as retirement contributions, union dues, and uniform costs. Do not include discretionary amounts, such as voluntary 401(k) contributions.		\$									
27	Other Necessary Expenses: life insurance. Enter total average monthly premiums that you actually pay for term life insurance for yourself. Do not include premiums for insurance on your dependents, for whole life or for any other form of insurance.		\$									
28	Other Necessary Expenses: court-ordered payments. Enter the total monthly amount that you are required to pay pursuant to the order of a court or administrative agency, such as spousal or child support payments. Do not include payments on past due obligations included in Line 44.		\$									
29	Other Necessary Expenses: education for employment or for a physically or mentally challenged child. Enter the total average monthly amount that you actually expend for education that is a condition of employment and for education that is required for a physically or mentally challenged dependent child for whom no public education providing similar services is available.		\$									
30	Other Necessary Expenses: childcare. Enter the total average monthly amount that you actually expend on childcare - such as baby-sitting, day care, nursery and preschool. Do not include other educational payments.		\$									
31	Other Necessary Expenses: health care. Enter the total average monthly amount that you actually expend on health care that is required for the health and welfare of yourself or your dependents, that is not reimbursed by insurance or paid by a health savings account, and that is in excess of the amount entered in Line 19B. Do not include payments for health insurance or health savings accounts listed in Line 34.		\$									
32	Other Necessary Expenses: telecommunication services. Enter the total average monthly amount that you actually pay for telecommunication services other than your basic home telephone and cell phone service - such as pagers, call waiting, caller id, special long distance, or internet service - to the extent necessary for your health and welfare or that of your dependents. Do not include any amount previously deducted.		\$									
33	Total Expenses Allowed under IRS Standards. Enter the total of Lines 19 through 32.		\$									
Subpart B: Additional Living Expense Deductions												
Note: Do not include any expenses that you have listed in Lines 19-32												
34	Health Insurance, Disability Insurance, and Health Savings Account Expenses. List the monthly expenses in the categories set out in lines a-c below that are reasonably necessary for yourself, your spouse, or your dependents. <table border="1" style="width: 100%;"> <tr> <td style="width: 5%;">a.</td> <td style="width: 85%;">Health Insurance</td> <td style="width: 10%;">\$</td> </tr> <tr> <td>b.</td> <td>Disability Insurance</td> <td>\$</td> </tr> <tr> <td>c.</td> <td>Health Savings Account</td> <td>\$</td> </tr> </table>		a.	Health Insurance	\$	b.	Disability Insurance	\$	c.	Health Savings Account	\$	\$
a.	Health Insurance	\$										
b.	Disability Insurance	\$										
c.	Health Savings Account	\$										
Total and enter on Line 34. If you do not actually expend this total amount, state your actual total average monthly expenditures in the space below: \$												
35	Continued contributions to the care of household or family members. Enter the total average actual monthly expenses that you will continue to pay for the reasonable and necessary care and support of an elderly, chronically ill, or disabled member of your household or member of your immediate family who is unable to pay for such expenses.		\$									
36	Protection against family violence. Enter the total average reasonably necessary monthly expenses that you actually incurred to maintain the safety of your family under the Family Violence Prevention and Services Act or other applicable federal law. The nature of these expenses is required to be kept confidential by the court.		\$									
37	Home energy costs. Enter the total average monthly amount, in excess of the allowance specified by IRS Local Standards for Housing and Utilities, that you actually expend for home energy costs. You must provide your case trustee with documentation of your actual expenses, and you must demonstrate that the additional amount claimed is reasonable and necessary.		\$									
38	Education expenses for dependent children less than 18. Enter the total average monthly expenses that you actually incur, not to exceed \$147.92* per child, for attendance at a private or public elementary or secondary school by your dependent children less than 18 years of age. You must provide your case trustee with documentation of your actual expenses, and you must explain why the amount claimed is reasonable and necessary and not already accounted for in the IRS Standards.		\$									

* Amount subject to adjustment on 4/01/13, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

39	Additional food and clothing expense. Enter the total average monthly amount by which your food and clothing expenses exceed the combined allowances for food and clothing (apparel and services) in the IRS National Standards, not to exceed 5% of those combined allowances. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) You must demonstrate that the additional amount claimed is reasonable and necessary.	\$															
40	Continued charitable contributions. Enter the amount that you will continue to contribute in the form of cash or financial instruments to a charitable organization as defined in 26 U.S.C. § 170(c)(1)-(2).	\$															
41	Total Additional Expense Deductions under § 707(b). Enter the total of Lines 34 through 40	\$															
Subpart C: Deductions for Debt Payment																	
42	Future payments on secured claims. For each of your debts that is secured by an interest in property that you own, list the name of the creditor, identify the property securing the debt, and state the Average Monthly Payment, and check whether the payment includes taxes or insurance. The Average Monthly Payment is the total of all amounts scheduled as contractually due to each Secured Creditor in the 60 months following the filing of the bankruptcy case, divided by 60. If necessary, list additional entries on a separate page. Enter the total of the Average Monthly Payments on Line 42.	\$															
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 30%;">Name of Creditor</th> <th style="width: 30%;">Property Securing the Debt</th> <th style="width: 15%;">Average Monthly Payment</th> <th style="width: 20%;">Does payment include taxes or insurance?</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">a.</td> <td></td> <td></td> <td style="text-align: right;">\$</td> <td style="text-align: center;">☐ yes ☐ no</td> </tr> <tr> <td colspan="3"></td> <td style="text-align: right;">Total: Add Lines</td> <td></td> </tr> </tbody> </table>			Name of Creditor	Property Securing the Debt	Average Monthly Payment	Does payment include taxes or insurance?	a.			\$	☐ yes ☐ no				Total: Add Lines		\$
	Name of Creditor	Property Securing the Debt	Average Monthly Payment	Does payment include taxes or insurance?													
a.			\$	☐ yes ☐ no													
			Total: Add Lines														
43	Other payments on secured claims. If any of debts listed in Line 42 are secured by your primary residence, a motor vehicle, or other property necessary for your support or the support of your dependents, you may include in your deduction 1/60th of any amount (the "cure amount") that you must pay the creditor in addition to the payments listed in Line 42, in order to maintain possession of the property. The cure amount would include any sums in default that must be paid in order to avoid repossession or foreclosure. List and total any such amounts in the following chart. If necessary, list additional entries on a separate page.	\$															
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 30%;">Name of Creditor</th> <th style="width: 30%;">Property Securing the Debt</th> <th style="width: 35%;">1/60th of the Cure Amount</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">a.</td> <td></td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td colspan="3"></td> <td style="text-align: right;">Total: Add Lines</td> </tr> </tbody> </table>			Name of Creditor	Property Securing the Debt	1/60th of the Cure Amount	a.			\$				Total: Add Lines	\$			
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a.			\$														
			Total: Add Lines														
44	Payments on prepetition priority claims. Enter the total amount, divided by 60, of all priority claims, such as priority tax, child support and alimony claims, for which you were liable at the time of your bankruptcy filing. Do not include current obligations, such as those set out in Line 28.	\$															
45	Chapter 13 administrative expenses. If you are eligible to file a case under Chapter 13, complete the following chart, multiply the amount in line a by the amount in line b, and enter the resulting administrative expense.	\$															
<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 5%; text-align: center;">a.</td> <td style="width: 60%;">Projected average monthly Chapter 13 plan payment.</td> <td style="width: 35%; text-align: right;">\$</td> </tr> <tr> <td style="text-align: center;">b.</td> <td>Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)</td> <td style="text-align: center;">x</td> </tr> <tr> <td style="text-align: center;">c.</td> <td>Average monthly administrative expense of Chapter 13 case</td> <td style="text-align: right;">Total: Multiply Lines a and b</td> </tr> </tbody> </table>		a.	Projected average monthly Chapter 13 plan payment.	\$	b.	Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	x	c.	Average monthly administrative expense of Chapter 13 case	Total: Multiply Lines a and b	\$						
a.	Projected average monthly Chapter 13 plan payment.	\$															
b.	Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	x															
c.	Average monthly administrative expense of Chapter 13 case	Total: Multiply Lines a and b															
46	Total Deductions for Debt Payment. Enter the total of Lines 42 through 45.	\$															
Subpart D: Total Deductions from Income																	
47	Total of all deductions allowed under § 707(b)(2). Enter the total of Lines 33, 41, and 46.	\$															
Part VI. DETERMINATION OF § 707(b)(2) PRESUMPTION																	
48	Enter the amount from Line 18 (Current monthly income for § 707(b)(2))	\$															
49	Enter the amount from Line 47 (Total of all deductions allowed under § 707(b)(2))	\$															
50	Monthly disposable income under § 707(b)(2). Subtract Line 49 from Line 48 and enter the result.	\$															
51	60-month disposable income under § 707(b)(2). Multiply the amount in Line 50 by the number 60 and enter the result.	\$															

52	Initial presumption determination. Check the applicable box and proceed as directed. ☐ The amount on Line 51 is less than \$7,025*. Check the box for "The presumption does not arise" at the top of page 1 of this statement, and complete the verification in Part VIII. Do not complete the remainder of Part VI. ☐ The amount set forth on Line 51 is more than \$11,725*. Check the box for "The presumption arises" at the top of page 1 of this statement, and complete the verification in Part VIII. You may also complete Part VII. Do not complete the remainder of Part VI. ☐ The amount on Line 51 is at least \$7,025*, but not more than \$11,725*. Complete the remainder of Part VI (Lines 53 through 55).																			
53	Enter the amount of your total non-priority unsecured debt	\$																		
54	Threshold debt payment amount. Multiply the amount in Line 53 by the number 0.25 and enter the result.	\$																		
55	Secondary presumption determination. Check the applicable box and proceed as directed. ☐ The amount on Line 51 is less than the amount on Line 54. Check the box for "The presumption does not arise" at the top of page 1 of this statement, and complete the verification in Part VIII. ☐ The amount on Line 51 is equal to or greater than the amount on Line 54. Check the box for "The presumption arises" at the top of page 1 of this statement, and complete the verification in Part VIII. You may also complete Part VII.																			
Part VII. ADDITIONAL EXPENSE CLAIMS																				
56	Other Expenses. List and describe any monthly expenses, not otherwise stated in this form, that are required for the health and welfare of you and your family and that you contend should be an additional deduction from your current monthly income under § 707(b)(2)(A)(ii)(I). If necessary, list additional sources on a separate page. All figures should reflect your average monthly expense for each item. Total the expenses.																			
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 70%;">Expense Description</th> <th style="width: 25%;">Monthly Amount</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">a.</td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td style="text-align: center;">b.</td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td style="text-align: center;">c.</td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td style="text-align: center;">d.</td> <td></td> <td style="text-align: right;">\$</td> </tr> <tr> <td colspan="2" style="text-align: right;">Total: Add Lines a, b, c, and d</td> <td style="text-align: right;">\$</td> </tr> </tbody> </table>			Expense Description	Monthly Amount	a.		\$	b.		\$	c.		\$	d.		\$	Total: Add Lines a, b, c, and d		\$
	Expense Description	Monthly Amount																		
a.		\$																		
b.		\$																		
c.		\$																		
d.		\$																		
Total: Add Lines a, b, c, and d		\$																		
Part VIII. VERIFICATION																				
57	I declare under penalty of perjury that the information provided in this statement is true and correct. <i>(If this is a joint case, both debtors must sign.)</i> Date: <u>December 2, 2011</u> Signature: <u>/s/ Frederick Richard Thoennes, III</u> Frederick Richard Thoennes, III <i>(Debtor)</i>																			

* Amounts are subject to adjustment on 4/01/13, and every three years thereafter with respect to cases commenced on or after the date of adjustment

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

In Re:

Frederick Richard Thoennes, III,
Debtor.

Andrew P. (Andy) Ballard,
Plaintiff,

vs.

Frederick Richard Thoennes, III,
Defendant.

CHAPTER 7

C.A. No.: 11-07438-hb

Adversary No. _____

COMPLAINT TO DETERMINE DISCHARGEABILITY OF A DEBT

Plaintiff Andrew P. "Andy" Ballard ("Ballard" or "Plaintiff"), by and through its attorneys, complaining of Defendant Frederick Richard Thoennes, III ("Thoennes III" or "Defendant"), would allege and show unto the Court as follows:

THE PARTIES

1. Ballard is a citizen and resident of Greenville County, South Carolina.
2. Thoennes III is a citizen and resident of Greenville County, South Carolina.

JURISDICTION AND VENUE

3. This is an adversary proceeding to determine the dischargeability of a debt pursuant to Federal Rules of Bankruptcy Procedure 4007(b) and 7001(6), and 11 U.S.C. § 523(a).
4. This adversary proceeding relates to the Chapter 7 case of Thoennes III.

5. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C §§ 1334 and 157, and this adversary proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I).

6. Venue is proper pursuant to 28 U.S.C. § 1409(a).

GENERAL ALLEGATIONS

7. Ballard is the founder of Warpath Development, Inc. (“Warpath” or the “company”) and was its sole owner, officer, and director for a number of years.

8. The company was formed to develop a marina and related properties (such as rental cabins, a hotel, a restaurant, marina store, and the like) on Lake Keowee in the Upstate of South Carolina, and through Ballard’s efforts obtained a potentially perpetual lease from Duke Power Company for the land at the site of the marina.

9. All necessary permits to construct and develop the marina and related properties were obtained by the summer of 2010.

10. Under a Stock Purchase Agreement (the “Agreement”) dated May 29, 2007, Thoennes III, Rick Thoennes Sr., and Tim Roberson (collectively the “Purchasers”) purchased 20,000 shares each from the company in exchange for future services they agreed to provide to the company, as set forth in the Agreement. In addition, as part of the parties’ agreement, Tim Roberson purchased 20,000 shares directly from Ballard.

11. Ballard retained ownership of 20,000 shares.

12. Over the course of the year following the execution of their contract, the Purchasers’ relationship with Ballard deteriorated.

13. By October of 2007, only a few months after signing the Agreement, the Purchasers began discussions among themselves of how to force Ballard out of the company.

14. When the Purchasers began to take steps to do so, Ballard filed suit against the Purchasers and Warpath in July 2008 in State Court in Greenville, South Carolina (the “Circuit Court”).

15. The operative pleading, the Amended Complaint filed in August 2009, alleged that the Purchasers had engaged in majority shareholder oppression of the minority, and also sought to require the Purchasers to place in escrow or disgorge the 60,000 shares issued to them by the company, on the ground that they had not provided the services that were the consideration for the shares. A true and correct copy of the Amended Complaint is attached hereto as **Exhibit A**.

16. On May 4, 2010, following a bench trial, the Circuit Court entered an Order (the “2010 Circuit Court Order”) finding that the Purchasers had committed oppression of Ballard and ordering Purchasers to buy out Ballard’s shares at fair value. A true and correct copy of the 2010 Circuit Court Order is attached hereto as **Exhibit B**.

17. The Purchasers appealed the 2010 Circuit Court Order.

18. On December 2, 2011, while the appeal was pending, Thoennes III filed a petition for bankruptcy with this Court (the “Petition”). On the Petition, Thoennes III indicated that he had not received any income for 2011. Thoennes III disclosed the underlying Circuit Court action with Ballard, but listed only Ballard’s breach of contract claim and represented in the Petition that the Circuit Court action had been dismissed. No disclosure was made of Ballard’s claim for shareholder oppression. A true and correct copy of the Petition is attached hereto as **Exhibit C**.

19. On March 26, 2012 this Court entered an order of discharge (the “Discharge Order”). A true and correct copy of the Discharge Order is attached hereto as **Exhibit D**.

20. Although Thoennes III was actively represented by counsel in the underlying Circuit Court action, Thoennes III did not raise any issue concerning, or even mention, the bankruptcy proceeding or the Discharge Order in that action after he received it, but instead continued to prosecute his case in the Circuit Court, and continues to do so to this day.

21. The Supreme Court affirmed the 2010 Circuit Court Order in August of 2012 (the "2012 Supreme Court Order"). A true and correct copy of the 2012 Supreme Court Order is attached hereto as Exhibit E.

22. Although Thoennes III was actively represented by counsel during the appeal process, an appeal that Thoennes III and the other purchasers actively pursued as appellants, Thoennes III did not raise any issue concerning, or even mention, the bankruptcy proceeding or the Discharge Order during the appeal.

23. On remand, in August 2013 the Circuit Court held an evidentiary hearing to determine the fair value of Ballard's shares. At the valuation hearing, Ballard presented undisputed evidence that the conduct of the Purchasers previously held to constitute shareholder oppression had continued unchanged and unabated up to the time of the hearing. The Circuit Court later made a finding of fact to this effect in an order that Thoennes III did not appeal and which has now become final. Order Appointing Receiver, at p.3 para. 4 (April 23, 2014) (copy attached as Exhibit F).

24. Although Thoennes III was actively represented by counsel during the valuation proceedings, Thoennes III did not raise any issue concerning, or even mention, the bankruptcy proceeding or the Discharge Order during those proceedings, but instead continued to prosecute his case in the Circuit Court, and continues to do so to this day.

25. On October 3, 2013, the Circuit Court entered judgment (the “Judgment”) valuing Warpath at \$7,178,594, and directing Purchasers jointly and severally to pay 50% of that value (\$3,589,297) to Ballard to buy out his ownership. A true and correct copy of the Judgment is attached hereto as **Exhibit G**.

26. The Circuit Court gave the Purchasers a 90-day grace period to arrange for payment of the buyout ordered in the Judgment.

27. Purchasers filed a notice of appeal from the Judgment on December 20, 2013. Purchasers, including Thoennes III, have continued through the present time to pursue this appeal, and Thoennes III has not raised any issue in the appeal concerning, or even mentioned, the bankruptcy proceeding or the Discharge Order.

28. On January 7, 2014, Purchasers filed a motion to stay execution pending appeal and the Circuit Court denied that motion by Order dated March 27, 2014. A true and correct copy of the Circuit Court Order is attached hereto as **Exhibit H**.

29. In none of those proceedings did counsel, who has actively represented Thoennes III throughout the proceedings, raise any issue concerning the Discharge Order or its potential affect on this action, or even mention the bankruptcy proceeding.

30. After the time allowed by the Circuit Court for Purchasers to buy Ballard’s shares had passed, Ballard began to investigate the Purchasers’ assets. As a result, Ballard learned that Thoennes III did not report significant income and assets in his Petition.

31. Ballard served Post-Judgment Interrogatories and Requests for Production of Documents (the “Discovery Requests”) on Thoennes III by hand-delivering them to his counsel on January 13, 2014. A true and correct copy of the Discovery Requests is attached hereto as **Exhibit I**.

32. After unilaterally delaying any response at all for approximately a month, Thoennes III responded to the discovery requests on March 7, 2014. In doing so, Thoennes III addressed the bankruptcy proceedings and the Discharge Order for the first time. Thoennes III responded to every interrogatory or request to produce as follows:

“On March 26, 2012, Frederick Richard Thoennes, III was granted a discharge of all debts pursuant to section 11 U.S.C. 727, of the United States Bankruptcy Code. Any debt to Ballard was specifically included within the discharge, a copy of which was supplied to Ballard through counsel and is also provided herein. The discharge being a permanent injunction of all creditors, Ballard and his counsel are prohibited from taking any actions to collect against Mr. Thoennes, III. These efforts to collect information, as well as the subpoenas issued, are efforts in violation of the discharge. Whether Mr. Thoennes, III intends to seek any redress from the Bankruptcy Court is within the judgment of he [*sic*] and his bankruptcy attorney. However, for purposes of the present matter, due to the discharge, Mr. Thoennes, III objects to responding or producing any documents in furtherance of Ballard’s collection efforts.”

A true and correct copy of Thoennes III’s responses is attached hereto as Exhibit J.

33. As of this date, Thoennes III has not provided any information or documents in response to the Discovery Requests; his sole justification for failing to do so is the Discharge Order.

34. Plaintiff seeks this Court’s ruling that the Discharge Order does not discharge Thoennes III’s liability for the Judgment. In the alternative, Plaintiff seeks this Court’s ruling that the Discharge Order does not discharge Thoennes III’s liability for the Judgment for that portion of the Judgment attributable to oppression committed by the Purchasers, including Thoennes III, subsequent to the filing of the Petition and entry of the Discharge Order.

FOR A FIRST CAUSE OF ACTION
(Post-Discharge Conduct)

35. The foregoing allegations are incorporated herein by reference.

36. Defendant was initially found to have committed shareholder oppression on May 4, 2010.

37. Defendant continued to commit shareholder oppression after May 4, 2010.

38. Defendant received a discharge in bankruptcy on March 26, 2012.

39. Defendant continued to commit shareholder oppression after March 26, 2012, up until the entry of the Judgment. The Circuit Court's finding of fact to this effect is final and is binding on Defendant.

40. Accordingly, if the Discharge Order freed Defendant from liability for the shareholder oppression committed against Plaintiff up to the time of the Discharge Order, which is expressly denied, Defendant is still liable for his acts of shareholder oppression against Plaintiff that occurred after entry of the Discharge Order.

FOR A SECOND CAUSE OF ACTION
(Laches, Estoppel, Waiver)

41. The foregoing allegations are incorporated herein by reference.

42. Defendant was initially found to have committed shareholder oppression on May 4, 2010.

43. Defendant filed for bankruptcy on December 2, 2011 and received a discharge on March 26, 2012.

44. Defendant failed to raise the issue of the bankruptcy or the discharge or any affect either might have on Defendant's liability for shareholder oppression in the underlying Circuit Court action until 2014, despite pursuing and actively participating in the appeal of the 2010 Circuit Court Order and the 2013 valuation proceedings, and currently pursuing and actively participating in the appeal of the Circuit Court's final Judgment. Further, Thoennes III's Petition

listed only Ballard's breach of contract claim and represented in the Petition that that claim had been dismissed. No disclosure was made of Ballard's claim for shareholder oppression.

45. Accordingly, to the extent the Discharge Order freed Defendant for liability for shareholder oppression against Plaintiff, which is expressly denied, Defendant is barred from raising the Discharge Order as a defense to such liability by operation of the doctrines of laches, estoppel, and waiver.

FOR A THIRD CAUSE OF ACTION
(Unclean Hands)

46. The foregoing allegations are incorporated herein by reference.

47. Defendant filed for bankruptcy on December 2, 2011.

48. In his bankruptcy petition, Defendant indicated that he had no income for 2011, zero estimated income and little to no assets.

49. In truth, Defendant had material income and assets at the time he filed his petition, which Defendant willfully concealed from this Court, the trustee, and the creditors in the bankruptcy proceedings.

50. This Court granted Defendant a discharge and issued the Discharge Order relying, in part, on the truthfulness of Defendant's petition; in other words, Defendant used materially misleading information in his bankruptcy petition to obtain a discharge through fraud on the Court, the trustee, and the creditors.

51. Accordingly, to the extent the Discharge Order freed Defendant for liability for shareholder oppression against the Plaintiff, which is expressly denied, Defendant is barred from raising the Discharge Order as a defense to such liability by operation of the doctrine of unclean hands.

FOR A FOURTH CAUSE OF ACTION

(Fraud, Deceit, or Manipulation In Connection with the Purchase or Sale of Securities)

52. The foregoing allegations are incorporated herein by reference.

53. In connection with his purchase of shares of stock of Warpath, and his efforts with the other Purchasers to force Plaintiff out of Warpath by, among other things, attempting to issue additional shares of the company to dilute Plaintiff's ownership in it and attempting to force Ballard to relinquish his shares for little or no consideration, Defendant engaged in conduct constituting fraud, deceit, or manipulation in connection with the purchase and sale of securities; accordingly, Defendant's liability stemming from this behavior is excluded from discharge under 11 U.S.C. § 523(a)(19).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests:

- (A) That the Court find Defendant's obligation and debt to Plaintiff for the Judgment is excepted from the Discharge Order or, in the alternative, that it is excepted as to that portion of the Judgment that is based on shareholder oppression that occurred subsequent to the Discharge Order;
- (B) The recovery of the costs and attorneys' fees it incurs in prosecuting this adversary proceeding; and
- (C) Such other relief as the Court deems just and appropriate.

Signature on following page

Respectfully submitted,

s/ Wallace K. Lightsey

Marshall Winn (D.S.C. Id. No. 529)

Wallace K. Lightsey (D.S.C. Id. No. 01037)

William M. Wilson (D.S.C. Id. No. 07611)

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Attorneys for Plaintiff

Dated: November 17, 2014

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

Andrew P. (Andy) Ballard,

CASE NO.: 2008-CP-23-5739

Plaintiff,

vs.

**AFFIDAVIT OF ANDY BALLARD IN
OPPOSITION TO ROBERSON MOTION
FOR RELIEF FROM JUDGMENT**

Tim Roberson, Rick Thoennes, Rick
Thoennes, III and Warpath
Development, Inc.,

Defendants.

PERSONALLY appeared before me, Andrew P. Ballard, who, being duly sworn, deposes and says as follows:

1. My name is Andy Ballard. I am the Plaintiff in the above-entitled action. I submit this affidavit in opposition to the motion of Defendant Tim Roberson for relief from the judgment in this case, and to correct the grossly inaccurate and incomplete misrepresentation of facts in his affidavit.

2. Paragraph 3 of Mr. Roberson's affidavit refers to a settlement agreement that I entered into with him and Defendants Rick Thoennes and Rick Thoennes, III, in August of 2014. (Copy attached as Exhibit A) This agreement provided me with a 60-day period in which to conduct due diligence to determine if Duke Power would be willing to provide additional time for Warpath to develop the marina at the site leased from Duke Power, among other things needed to determine if it was practical and feasible for me to resume sole ownership of Warpath. This was a significant concern to me, as I expected that Duke Power had become frustrated over the failure of Warpath to even begin significant development work in the seven years that had elapsed since I obtained the lease agreement for Warpath with Duke Power. The reason that

seven years had passed and nothing had been done to develop the property is completely the fault of the Defendants, and particularly Tim Roberson, who for purely selfish purposes (a desire to improve the deal terms for himself) failed to carry out his obligation to obtain obtain long-term financing for the development.

3. The 2014 settlement agreement came about as a result of years of negotiating with the Defendants to either buy me out at a fair price or let me take Warpath back over and carry out the development myself. If Roberson and the other defendants had not dragged things out for seven years in their efforts to rob me of the value of my ownership interest in Warpath, I am convinced that I would have been able to maintain Duke Power's support for the project and to carry out the development of the marina.

4. However, because of the lengthy delays caused solely by the Defendants, when Mr. Lightsey and I met with Duke Power in early September, 2014, it was evident that the representatives of Duke Power attending the meeting were already fed up with Mr. Roberson and the other Defendants and skeptical of whether the project could be completed in a timely manner. This frustration is evident in Duke Power's letter to Mr. Lightsey dated September 30, 2014 (Exhibit C), in which Duke's John Crutchfield makes the following statements:

- a. "Duke Energy has significant concerns regarding Warpath's failure to perform as required under the Lease." (p.1)
- b. "Of course, if Warpath and Duke Energy do not enter into a Lease amendment extending the time for Warpath to complete construction of the Development, Duke Energy retains all of its rights and remedies under the Lease as currently written and signed including, but no limited to, the

right to terminate for Warpath's continuing nonperformance of its obligations under the Lease." (p.4)

5. Nevertheless, through Mr. Lightsey's letter to John Crutchfield dated September 9, 2014 (Exhibit B), we made a proposal to Duke Power for an extended period of time to begin and complete construction, and asked Duke Power to confirm for us that it would agree to the revised schedule so that I would have sufficient time to finish construction.

6. Mr. Crutchfield's letter of September 30, 2014 (Exhibit C) was Duke Power's response. In essence, Mr. Crutchfield said that Duke Power "will consider" extending the deadline to complete construction "if Warpath agrees to undertake the following actions to the satisfaction of Duke Energy, at its sole discretion." (p.1) Then the letter laid out a number of steps Warpath would have to undertake, which basically consisted of getting all of the consents and permissions that I spent years obtaining in order to get the lease agreement with Duke. In short, I was going to have to jump through all of the hoops again in order for Duke Power to even consider extending the construction deadline, and after all that work Duke Power still had total discretion to say no. Because I was going to have to relinquish my judgment against the Defendants (at that time worth about \$4 million), invest \$500,000 of my own money in the project, and persuade a group of investors to put substantial sums of money into the project, I was not willing to proceed under these conditions. By letter dated October 1, 2014, Mr. Lightsey informed Duke Power of my position and the reasons for it. (Exhibit D)

7. All of this correspondence was provided by Mr. Lightsey to the Defendants' attorney, Josh Howard. Thus, it is utterly false and disingenuous for Mr. Roberson to say in his affidavit that it was "for reasons known only to Mr. Ballard" that I declined to move forward with Duke Power.

8. It is also false and even ridiculous for Mr. Roberson to insinuate that my meeting with Duke Power led to a substantial worsening of its attitude towards Warpath. As I have noted above, it was quite evident during Mr. Lightsey's and my meeting with Duke in early September of 2014 that they were already very frustrated with Warpath's failure to move forward with development during the seven years since Duke signed the lease agreement with Warpath.

9. There is no question that the reason Duke Power eventually terminated the lease was the failure of Mr. Roberson and the other Defendants to make any significant progress with the development of the property. For Mr. Roberson to claim that this was "out of his control" is absurd. The sole reason for the termination of the lease is the Defendants' failure to develop the property as they contracted to do when I entered into my agreement with them to transfer a controlling ownership of Warpath to them.

10. If the Defendants had not persisted in stringing out this lawsuit for six years before entering into the settlement agreement with me in August 2014, I would have had the opportunity to work something out with Duke Power before it became so frustrated over the Defendants' failure to move the project forward over a period of seven years after the lease agreement was signed. Further, if the Defendants had simply done what they agreed to do in their initial contract with me, Duke Power would never have terminated the lease and the marina would now be a reality worth over \$30 million. The Defendants' efforts to rob me and failure to carry out their own agreements are what have ruined Warpath. For Roberson to ask the Court now to relieve him of the judgment, after he himself destroyed the company, is nothing short of amazing.

Further affiant sayeth not.

Andrew P. Ballard

Andrew P. Ballard

SWORN TO BEFORE ME

this 26th day of January, 2017

Samira A. Crandall

Notary Public for South Carolina

My commission expires: 9/5/23

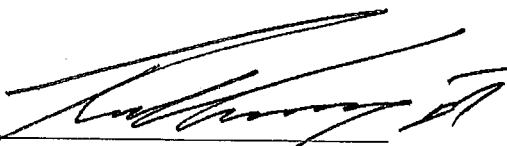
STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	C.A. No.: 2008-CP-23-5739
Andrew P. (Andy) Ballard,	)	AFFIDAVIT OF DEFENDANT
	)	RICK THOENNES, III
Plaintiff,	)	
vs.	)	
	)	
Tim Roberson, Rick Thoennes, Rick	)	
Thoennes III, and Warpath Development,	)	
Inc.,	)	
	)	
Defendants.	)	

I, Rick Thoennes, III, am over 18 years of age and do hereby swear to the following of my own personal knowledge:

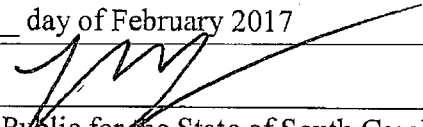
1. I filed bankruptcy in December of 2011 with the understanding that it would discharge all of debts but also appreciating the consequences that would necessarily follow for my finances, family, reputation and ability to run my own business. I have worked diligently since that time to restore each of those items and now have a residential building company that is just beginning to do well and provide my family with financial stability.
2. When I filed bankruptcy in 2011 it was my absolute understanding and belief that it not only discharged my debt but also my affiliation and any benefit whatsoever that may have resulted from my original ownership of Warpath shares of stock. I honestly believe once I listed those and filed, my ownership and their value to me were forever ended. I distinctly remember being surprised with my attorney asked me to sign a settlement agreement several years later giving Andy my shares of stock as I thought they were already gone. Nevertheless, I did and offered him any interest I had in the company, if any, for no monetary consideration. That has been my sole involvement with Warpath since 2011.

3. I have not been asked by any principal or owner of Warpath to participate in any way with regards to the company since December of 2011. I have not been privy to nor sought out any financial information or development options with the project. My involvement ended in 2011 and I sincerely believed this matter was resolved.
4. I have attached hereto my Bankruptcy filing which indicates that I attempted to give up my shares and that I further believed the company, at least as it pertained to me, was over in 2011.
5. I have not done any act on behalf of or against Warpath or any of its owners after December 2011.

FURTHER THE AFFIANT SAYETH NAUGHT.


Rick Thoennes, III

SWORN TO before me
This 21 day of February 2017


Notary Public for the State of South Carolina
My Commission Expires: 06/16/2020

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Edward W. Miller, Circuit Court Judge

Lower Court Case No. 2008-CP-23-5739

Andrew P. Ballard, Respondent,

v.

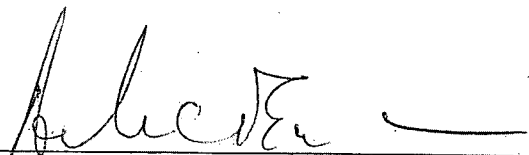
Tim Roberson, Rick Thoennes, Rick Thoennes, III, and Warpath Development, Inc.,
of Whom Rick Thoennes, III, is the Appellant.

NOTICE OF APPEAL

Appellant Rick Thoennes III hereby appeals the order of the Honorable Edward W. Miller dated April 18, 2017, and his order dated July 14, 2017 denying Appellant's motion to alter or amend that order. Following entry of the April 18, 2017 order, Appellant timely filed a motion to alter or amend the order on April 28, 2017. Appellant received written notice of entry of the order denying his motions to alter or amend judgment on July 14, 2017.

Signature Page Follows

July 14, 2017



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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Edward W. Miller, Circuit Court Judge

Lower Court Case No. 2008-CP-23-5739

Andrew P. Ballard, Respondent,

v.

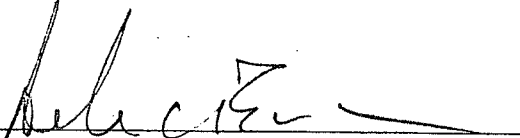
Tim Roberson, Rick Thoennes, Rick Thoennes, III, and Warpath Development, Inc.,
of Whom Rick Thoennes, III, is the Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Respondent Andrew P. Ballard by depositing a copy of same in the United States Mail, postage prepaid, on the 14th day of July, 2017, addressed to their attorneys of record as follows:

Wallace K. Lightsey (S.C. Bar No. 6476)
William M. Wilson III (S.C. Bar No. 15808)
Amos A. Workman (S.C. Bar No. 6231)
Wyche, P.A.
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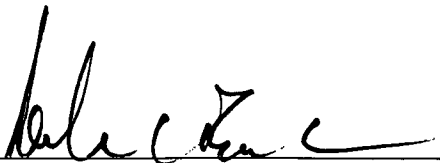
Signature on following page



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January 30, 2018



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