

BRIEF OF APPELLANT

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Appellate Case NO. 2017-002223

RECEIVED
APR 25 2018
SC Court of Appeals

Mark Wilson

Appellant

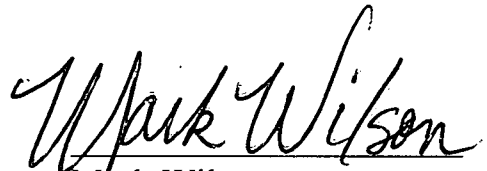
v.

Keith Jayma

Respondent

(INITIAL) BRIEF OF APPELLANT

April 16, 2018



Mark Wilson
2506 Kings Farm Way
Indian Trail, NC 28079
Appellant

TABLE OF CONTENTS

I.	Sealed Instrument, the "CONTRACT"	pages 1-11
II.	Sealed Instrument, "Title to Real Estate"	pages 12-16
III.	Sealed Instrument, the "Sun Trust Credit Line Mortgage"	pages 17-20
IV.	Sealed Instrument, "Mortgage of Real Property"	pages 21-27
	Cases	page 28
	Statutes	page 28
	Conclusion	page 29

I. Sealed Instrument, the "CONTRACT"

In his order granting summary judgement to Respondent Jayma, dated September 22, 2017, Judge Hayes erred when he stated on page 5 of 8, the very last paragraph, "There is no evidence "that", continued on page 6 of 8, "Jayma signed any "written contract secured by a mortgage." That properly executed written "CONTRACT", as prepared and signed by the Appellant, and was signed and "SEALED" by Respondent Jayma, the word "Sealed" is under his signature and created a sealed instrument, and was first admitted into evidence as an exhibit by attorney Keith Martens at the Appellant's deposition on 7/5/17. That "CONTRACT" only names two parties. The Appellant generated that Contract in its entirety and the Respondent agreed to it and sealed the instrument. The Appellant is a signatory of that Contract. Respondent Jayma's seal is affixed to that "CONTRACT" and Judge Hayes should have considered this evidence and the law that is subject to the 20 year statute of limitations for actions upon sealed instruments, Title 15 Chapter 3 Section 15-3-520, SC Section 15-3-520(a) and Section 15-3-320(b). This document has the word "sealed" under the Respondent's signature. A sealed instrument is defined as "an instrument to which the bound party has affixed a personal seal", Black Law Dictionary (9th Ed. 2010.) The courts look to the attestation on the face of the sealed document. Respondent Jayma successfully secured a \$1million mortgage for his 2nd home as he called it, or as Judge Hayes called it, the "SPEC" Home, using this "CONTRACT" and the "specification sheet" at First Charter Bank. Appellant's farm was collateralized to finish the "CONTRACT" house. Attorney David Cook entered this "CONTRACT" for its second time into evidence as his first of three arguments, on page 14, lines 19 through 24; second argument, page 14, on line 25, SC 15-3-520(b); and thirdly, page 15 lines 3-23, as prescribed in 36-2-725; continued on the entire pages of 15, 16, 17, 18, 19, 20, and page 21 lines 1 and 2 of the 8-23-17 transcript which includes the cases and statutes that he entered.

Attorney Keith Martens presented a very poor copy of the Contract at the Appellant's deposition July 5, 2017, and admitted it into evidence as an exhibit, where the signature line for the Respondent was sealed but the Appellant's signature line was distorted and blank. Appellant alleges that his signature was fraudulently removed and in doing so, the signature line was distorted with skips, misses and blank spaces as the individual letters of the Appellant's signature were removed from that Contract signature line on this sealed instrument; to intentionally injure, defraud and deceive the Appellant

and to provide false, incomplete, fraudulent and misleading information to the bank for the purpose of applying for and successfully securing a one million dollar loan based on the Contract.

The Appellant was HARMED from the written CONTRACT under seal:

- (1) That "CONTRACT" made payments to the Appellant as the work progressed on the home, including the very last payment that would be issued after both parties of the CONTRACT signed a written affidavit; that all bills had been paid. That affidavit was never signed, however Respondent Jayma was able to convince the bank to issue a final official bank check that had the Appellant's name on it.

Respondent Jayma forged the Appellant's name (entered into evidence by attorney Keith Martens at the Appellant's deposition on 7-15-17 and again entered as evidence by attorney Keith Martens on page 9 lines 9 through 25, page 10 lines 1 through 12, and page 12 lines 6, 7, and 8 of the transcript) and deposited that money in Respondent's own account.

- (2) Respondent's wife, Diana Jayma, was advertising the home for sale as a licensed Real Estate Agent at 8180 sq ft for \$1.89 million, a 50 percent increase in the heated sq ft from the "CONTRACT" specification "per plan" of 5,469 sq ft. That "CONTRACT" allowed more time and more money for the Contractor (Appellant) for any additions to the home, there was a 50 percent increase from the original "CONTRACT" price and the Contractor (appellant) lost his entire 63 acre farm to Respondent Jayma, as the farm was collateralize to complete the Respondent's "2nd home as financed." If the harm is from a written contract under seal, then South Carolina has a 20 year statute of limitations to file a lawsuit.

based entirely upon the alleged acts or omissions of Jayma as a partner in the men's business venture, and includes specific causes of action for breach of fiduciary duty and fraud. Our Court of Appeals has held that each of those causes of action is subject to a three-year statute of limitations. Mazloom v. Mazloom, 382 S.C. 307, 675 S.E.2d 746 (Ct. App. 2009)(breach of fiduciary duty); Turner v. Millman, 381 S.C. 101, 671 S.E.2d 636 (Ct. App. 2009)(fraud).

In opposition to Jayma's motion, Wilson argues that his claims are not subject to the three-year statute of limitations of § 15-3-530. Instead, Wilson argues that his claims are subject either to the twenty-year statute of limitations of § 15-3-520 (actions upon a sealed instrument, bond or other contract in writing secured by a mortgage of real property) or to the ten-year statute of limitations set forth in § 15-3-340 (action by an individual for recovery of real property). I disagree.

Section 15-3-520(b) (action on a sealed instrument) is plainly inapplicable to this case. In making this determination, the court need look no further than the definition of "sealed instrument" set forth in Lyons v. Fidelity Nat'l Title Ins. Co., 415 S.C. 115, 781 S.E.2d 126 (Ct. App. 2015). In Lyons, the Court of Appeals defined a sealed instrument as "an instrument in which the *bound party* has affixed a personal seal, recognized as providing indisputable evidence of the validity of the underlying obligations." Id. at 125, 781 S.E.2d at 131-32 (emphasis added). In this case, neither the deed to the Disputed Tract nor the mortgage covering the Disputed Tract was signed or "sealed" by Jayma. Jayma is not the "bound party" of either instrument, and Wilson's claims against Jayma are not "an action on a sealed instrument."

Nor do Wilson's claims fall within § 15-3-520(a), as an action on a "bond or other contract in writing secured by a mortgage of real property." The focus of § 15-3-520(a) is not a mortgage, but rather a written contract that is secured by a mortgage. There is no evidence that

JCH #5

Jayma signed any "written contract secured by a mortgage" and Wilson's complaint does not allege that he seeks to enforce any such contract.

Wilson's claims also are not governed by the ten year statute of limitations set forth in § 15-3-340. Our Supreme Court has specifically held that an action to set aside a deed on the basis of fraud is not an "action for the recovery of real property." McKinnon v. Summers, 224 S.C. 331, 79 S.E.2d 146 (1953). Such claims are, instead, an "action for relief on the ground of fraud," and subject to the "general" statute of limitations - a six-year limitations period when McKinnon was decided. That limitations period has since been reduced to three years, and is now codified as § 15-3-530(7)(Law. Co-op. 2005). Reviewing Wilson's complaint, as McKinnon instructs, the court notes that Wilson alleges Jayma obtained title to the Disputed Tract through a fraudulent deed. Wilson's action to set aside that deed is, therefore, subject to a three-year statute of limitations and not the ten-year statute of §15-3-340.

B. The undisputed factual record establishes that Wilson did not commence This action within three years of the accrual of his claims, and his entire Complaint is subject to dismissal as a matter of law.

The question of when a claim accrues for purposes of calculating the statute of limitations is generally a question of fact. The statute begins to run when "the underlying cause of action reasonably ought to have been discovered." Holly Woods Ass'n of Residence Owners v. Hiller, 392 S.C. 172, 183, 708 S.E.2d 787, 793 (Ct. App. 2011). When there is conflicting evidence as to whether a claim has accrued for purposes of the statute of limitations, the issue must be submitted to a jury. When the evidence is conclusive, the question may be decided as a matter of law.

In this case, there is no material issue of fact in dispute as to the accrual of Wilson's claims. The undisputed evidence conclusively establishes that Wilson had knowledge of facts

page 5.

ARTICLE VIII

OTHER PROVISIONS

This AGREEMENT BETWEEN OWNER AND CONTRACTOR shall be governed by the laws of the State of North Carolina.

The OWNER or his or her agent may enter and inspect the Work for the purpose of determining whether the WORK performed or being performed conforms with the CONTRACT DOCUMENTS.

If the CONTRACTOR voluntarily or involuntarily goes into bankruptcy or receivership, or if the CONTRACTOR fails to make any significant progress on the WORK for a period of 30 days, after commencement of the WORK, then in any of these events, the OWNER may, after seven (7) days written notice, direct the CONTRACTOR to cease work. Adverse weather as described in Article III is specifically excluded from counting against the 30 day period above referenced. Upon such default, in addition to any other remedies the OWNER may have, the OWNER may retain another party or parties to complete the WORK in accordance with the CONTRACT DOCUMENTS and make payments to such parties as provided for in the CONTRACT DOCUMENTS with respect to the CONTRACTOR.

AGREEMENT BETWEEN OWNER AND CONTRACTOR, or the breach thereof, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in affect.

Each provision of this AGREEMENT BETWEEN OWNER AND CONTRACTOR is separate from every other provision contained here within, and if any provision is determined to be unenforceable or is revised, it will not affect the enforceability or validity of any other provision.

This agreement entered into as of the day and year first written above.

OWNER ('S)

 (seal)

CONTRACTOR

_____ (seal)
F. Mark Wilson
F. Mark Wilson Construction

_____ (seal)

Page 6.

CONTRACT FOR RESIDENTIAL CONSTRUCTION

AGREEMENT

Made as of the 24th day of August, 2005.

BETWEEN the OWNER: Keith Jayma
9817 Pallisers Terrace
Charlotte, NC 28210

And the CONTRACTOR: F. Mark Wilson Construction
7602 Gus Eubanks Rd.
Monroe, NC 28112
Unlimited N.C. License #26620
Unlimited S.C. License #9794

The Project location: LOT 163 on Strike the Gold in Providence Downs South.

Page 7.

ARTICLE IV

CONTRACT AMOUNT

The Contract Amount for the Work described in Exhibits A & B is the actual cost to complete which is estimated to be \$822,625.00

ARTICLE V

DEPOSIT AMOUNT

The deposit amount shall be \$1,000,000. This amount is due and payable upon execution of this contract as witnessed by the signature here within.

ARTICLE VI

CHANGE ORDERS

The CONTRACTOR agrees to work closely with the OWNER to target the amount reflected on the ESTIMATE GUIDE. The OWNER and CONTRACTOR shall meet regularly to evaluate the status of work relative to the ESTIMATED BUDGET. Additionally, during the regular meetings, any change the OWNER would like to make to the project will be discussed.

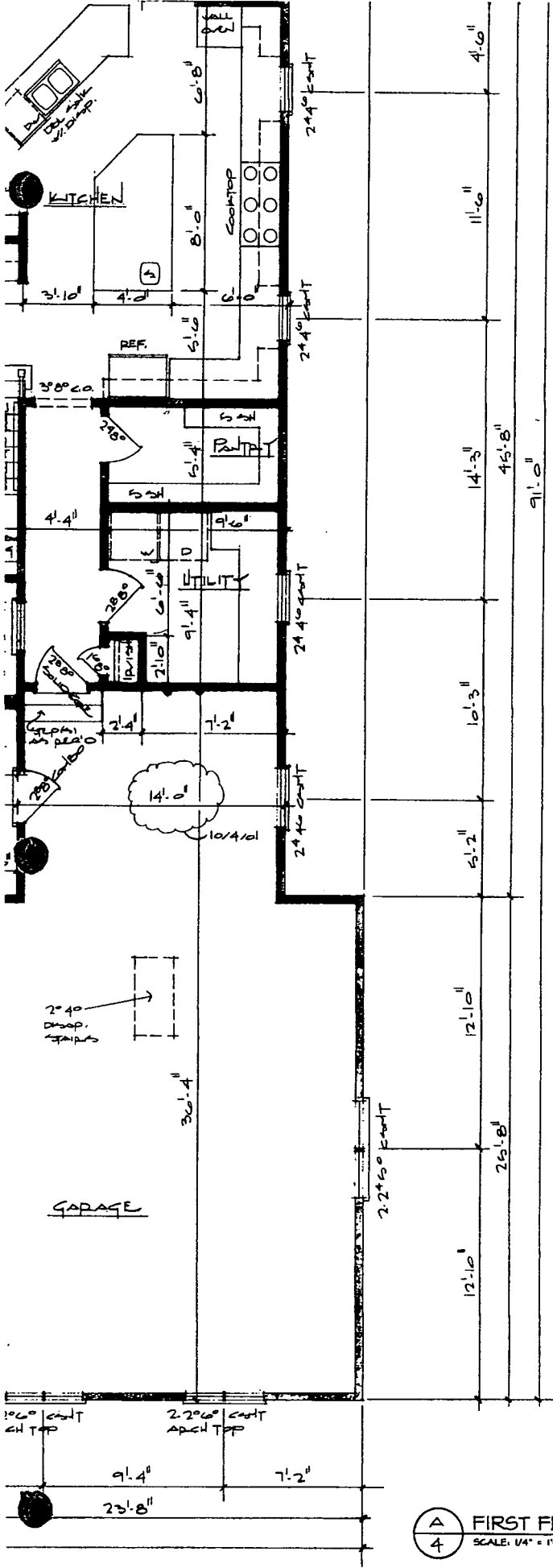
There shall be no CHANGES or ADDITIONS to the Work as described in the CONTRACT DOCUMENTS, except those in the form of written change orders which have been signed by both the OWNER and the CONTRACTOR, as well as setting out the additional charge or credit to the OWNER, as well as additional time for the CONTRACTOR to comply with the change order.

ARTICLE VII

PAYMENT SCHEDULE

The CONTRACTOR shall submit to the OWNER a JOB COST LEDGER. Attached to these Reports will be copies of the actual invoices for which payment has been requested.

The CONTRACTOR shall receive payment for WORK IN PROGRESS as the work progresses.



Total heated square
footage per plan
and org. "CONTRACT"
5,469 sq. ft.

SQUARE FOOTAGE:	
LOWER FLOOR	= 1471 SQ. FT.
MAIN FLOOR	= 2481 SQ. FT.
SECOND FLOOR	= 1017 SQ. FT.
TOTAL HEATED	= 5469 SQ. FT.
GARAGE	= 765 SQ. FT.
STORAGE/ POTTING	= 1147 SQ. FT.
PORTICO	= 46 SQ. FT.
LOWER TERRACE	= 447 SQ. FT.
TOTAL UNDER ROOF	= 7874 SQ. FT.
MECH./ STOR. RM	= 365 SQ. FT.

Ⓐ FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"

Waystrc

Living Concepts
 HOME PLANNING
 7000 CARMEL EXECUTIVE PARK WWW.LIVINGCONCEPTS.COM TEL: 704 641-6817
 CHARLOTTE, N.C. 28226 FAX: 704 612-1198

DATE:	
BY:	
CHECKED BY:	
APPROVED BY:	

SHEET NO.
4



Jason Wiskow
704.591.7355



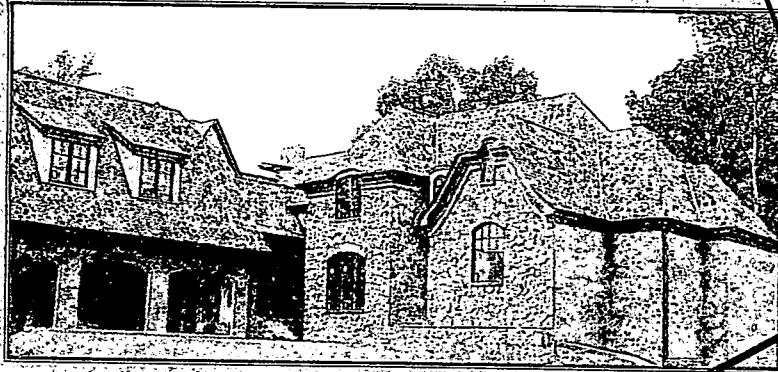
Diana Jayma
704.502.9100



www.carolinabuyers.com

jason@carolinabuyers.com

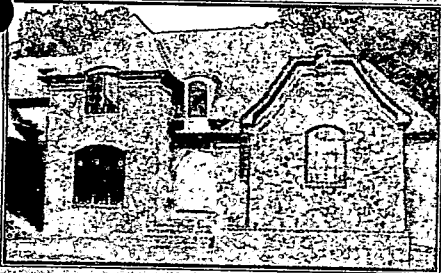
diana@carolinabuyers.com



8,180 heated sq.ft.

10010 Strike the Gold Lane at Providence Downs South

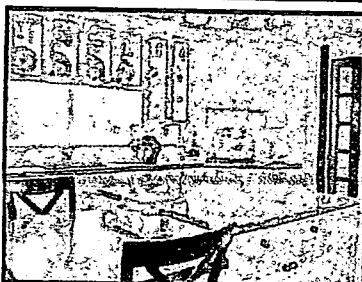
This Custom Built European Style Home with 8,180 heated SF with court yard entrance creates a very elegant look. The entire house has superior workmanship & detailing. Black Walnut hardwood, marble & ceramic tile floors. Bonus room with full BA & wet bar. Extra rooms include conservatory, exercise room, theatre & wine cellar. Enjoy the convenience of having a washer & dryer in the basement & both main & second floors. In-ground irrigation system. Outdoor fireplace in patio area. Located in a private gated community just minutes away from the Ballantyne & Stone Crest Shopping Areas. Low Union Country taxes! 6 BR, 6 full and 2 half BA. Completion Date: Oct. 2006. MLS#556953, \$1,890,000.



HomeArama Award Winning Home!



This home features four bedrooms, three and one half baths, computer/office and a playroom with access to upstairs terrace. Special design elements in the kitchen area include see-through glass cabinetry and an attached wet bar/butlery area connecting to the formal dining room. The rear sunroom overlooks an exquisite rear yard with trellis in an English garden setting.



Located in Highgrove!

\$900,000
MLS#605185

NANCY TATE, CRS ABR
realestatebytate@aol.com
Cell: 704.661.8153
Main Office: 704.543.4492

*Presents: 10010 Strike the Gold Ln.
At Providence Downs South*



List Price \$1,890,000

CMLS# 556953

Marketed By

Jason Wiskow &
704-591-SELL (7355)
jason@carolinabuyers.com

Diana Jayma
704-502-9100
diana@carolinabuyers.com

*11535 Carmel Commons Blvd. Suite 102 Charlotte, NC 28226
www.carolinabuyers.com*



Checking account at First Citizens Bank that this money went into, 053100300 # 30,225

01110041
05/16/2007
643252627

This is a LEGAL COPY of your check. You can use the same way you would use the original check.

0531003001 05/15/2007
000006300612725

FIRST CHARTER OFFICIAL CHECK

100566

MEMO TO: KATHY ZAYMA

DATE: 05/15/07

AMOUNT: \$ 30,225.00

PAID TO: ELLEN JAMES S. KARE ELLIOTT CONSTRUCTION

EXACTLY **20,225 AND 00/100 DOLLARS

Ellen James S. Kare Elliott

100566 00110070920160011588751*

100566 00110070920160011588751*

0531003001 05/15/2007

0531003001 05/15/2007

053100300 05/15/2007
000006300 05/15/2007
111310030 05/15/2007
522190030 05/15/2007
111310030 05/15/2007
4802/91/50 05/15/2007
002092017784
002092017784
643252627

Respondent Jayma forged Appellant's name on this check.

0531003001 05/15/2007

2051072

05162007
0113-0040-1
ENT=0401 TRC=0020 PK=0
0225573518

1289-006

0531003001 05/15/2007

Do not endorse or write below this line.

II. Sealed Instrument, "Title to Real Estate"

Secondly, Judge Hayes erred when he dismissed the Appellant's sealed instrument, the November 4, 2005 document "Title to Real Estate", that was executed under seal; "Signed, Sealed and Delivered in the Presence of" and the law that is subject to South Carolina's 20 year statute of limitations for actions upon sealed instruments provided by Title 15 Chapter 3 Section 15-3-520, SC Section 15-3-520(a) and SC Section 15-3-520(b). The Courts look to the attestation on the face of the document. A sealed instrument is defined as "an instrument to which the bound party has affixed a personal seal," Black Law Dictionary (9th Ed. 2010.)

The Appellant met attorney Blackmon Huckabee's paralegal, Greta Neal, in the parking lot at Honda Cars of Rock Hill, not at the office of the law firm of Blackmon Huckabee. This was entered into evidence by attorney Keith Martens, page 7 lines 24 and 25, page 8 lines 1-13, and exhibit B of the affidavit, of the transcript.

- (1) Attorney Blackmon Huckabee was not present nor did the Appellant have an attorney present when Greta Neal presented the "Title to Real Estate" dated 11-05-2005 to the Appellant in the parking lot. There was never an attorney present representing the Appellant. This was a property transaction, where the entire 63 acre farm was transferred to Respondent Jayma unencumbered by the law firm of Blackmon Huckabee. This was entered into evidence by attorney Keith Martens page 10 lines 12, 13, 14 and 15 of the transcript.
- (2) There was no witness present in the parking lot as attested by Witness #1, Lula Hardin who has fraudulently witnessed the Appellant's signature. This was entered into evidence by attorney David Cook, page 25 lines 24 and 25 of the transcript.
- (3) In his Order, Judge Hayes called the Appellant's 63 acre Farm the "Disputed Tract". The description page of the "Disputed Tract" was not presented to the Appellant by the law firm of attorney Blackmon Huckabee in the parking lot nor was it "EVER" initialed or identified by the Appellant as recorded by the law firm of Blackmon Huckabee. This was entered into evidence by attorney Keith Martens on page 8 lines 7 through 12 of the transcript.

(4.) There was no consideration given to the Appellant as attested to and recorded by the law firm of Blackmon Huckabee for this land transaction.

The Appellant sought to convey and it was agreed that 25 acres would be the sole subject of the conveyance to Respondant Jayma to allow him to secure partnership financing. This was entered into evidence by attorney Keith Martens, page 7 lines 18 and 19; page 8 lines 10, 11 and 12; and page 11 lines 6 through 9 of the transcript. This 63 acre farm, the "Disputed Tract", was fraudulently conveyed to Respondant Jayma unencumbered. This sealed instrument was admitted into evidence as an exhibit at the Appellant's deposition by attorney Keith Martens on 7-5-2017. The Appellant's signature on this 11-05-2005 document was executed under seal and should have been considered by Judge Hayes and the law that is subject to South Carolina's 20 year Statute of Limitations, Title 15 Chapter 3 Section 15-3-520, SC Section 15-3-520(a) and SC Section 15-3-520(b). A sealed instrument is defined as "an instrument to which the bound party has affixed a personal seal," Black Law Dictionary (9th Ed. 2010.) This sealed instrument for a land transaction was fraudulently executed and recorded by the law firm of Blackmon Huckabee. This sealed instrument was also presented as evidence on the complete pages 25 and 26, and page 27 lines 1-20 of the transcript and a copy of the deed was attached to the complaint by attorney David Cook.

Signed, Sealed and Delivered
in the Presence of:

Page 15.

Lula Hardin

Witness #1

F. Mark Wilson, Jr.

F. Mark Wilson, Jr.

Greta M. Neal

Notary Public

STATE OF SOUTH CAROLINA
COUNTY OF YORK

Personally appeared before me the undersigned and made oath that (s)he saw the within-named Grantor(s) sign, seal and as their act and deed deliver the within-written Deed for the uses and purposes, therein mentioned, and that (s)he with the other witness subscribed above witnessed the execution thereof.

SWORN to before me this 4th
day of November, 2005.

Lula Hardin

Greta M. Neal

Notary Public for South Carolina

My Commission expires: _____

GRETA M. NEAL
NOTARY STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES:
MAY 14, 2014

west 391.33 feet to a nail found, a common corner with the Douglas A. Wise property (47/131 Plat 99/354 Tax Parcel 37-3.03); thence with the said Wise property, two calls as follows: 1st North 27-38-36 West 695.83 feet (crossing an iron found at 33.07 feet) to an iron found; South 72-21-57 West 537.12 feet to an iron found, a common corner with the Timothy P. Cauthen property (57/248 Plat 15257 Tax Parcel 37-3.02); thence with the northern boundary line of the said Cauthen property, South 74-58-18 West 624.93 feet to an iron found, a common corner with the Frank P. Lopez property (W9/279 Plat 11568 Tax Parcel 37-3.04); thence with the northern boundary line of the said Lopez property, North 78-14-33 West 571.28 feet to an iron found, a common corner with the Gregg P. Shipston property (X8/122 Plat 10649 Tax Parcel 37-3.01); thence with the said Shipston property, two calls as follows: 1st North 13-00-38 West 261.76 feet to an iron found; 2nd North 89-12-45 West 648.11 feet to an iron found in the centerline of the 66' right of way of S.C. Mockingbird Lane (50' right of way of N.C. Gus Eubanks Road); thence with said centerline, six calls as follows: 1st North 06-16-21 East 283.54 feet to a point; 2nd North 06-16-36 East 21.51 feet to a point; 3rd North 01-13-15 East 83.39 feet to a point; 4th North 08-55-51 West 93.43 feet to a point; 5th North 10-15-40 West 120.35 feet to a point; 6th North 03-38-50 West 79.92 feet to a point, a common corner with the Gladys Autry property; thence with the southern boundary line of the said Gladys Autry property, South 87-10-52 East 534.71 feet to an iron found, a common corner with the Richard Autry property (372/336); thence with the southern boundary line of the said Richard Autry property, South 85-47-19 East 1,393.75 feet to an iron found in the southern boundary line of the Richard Autry, Jr. property (461/141); thence with the said southern boundary line of the Richard Autry, Jr. property, South 85-43-56 East 897.45 feet to an iron found, a common corner with the Edwards Wood Products property (450/587); thence with the said Edwards property, North 89-45-41 East 787.65 feet (crossing an iron set at 757.65 feet) to a point in the centerline of the Lynchess River; thence with the centerline of Lynchess River, twelve calls as follows: 1st South 51-42-41 West 67.13 feet to a point; 2nd South 30-42-50 West 47.29 feet to a point; 3rd South 09-40-29 West 41.97 feet to a point; 4th South 30-59-50 West 136.56 feet to a point; 5th South 36-29-25 West 128.10 feet to a point; 6th South 31-04-26 West 295.20 feet to a point; 7th South 65-50-11 West 98.47 feet to a point; 8th South 38-37-40 West 41.27 feet to a point; 9th South 15-40-34 West 140.22 feet to a point; 10th South 04-55-30 West 39.41 feet to a point; 11th South 16-49-06 East 47.69 feet to a point; 12th South 17-07-30 West 86.41 feet to the point and place of BEGINNING and containing approximately 62.69 acres as shown on that survey by Thomas M. Park, S.C.R.L.S., dated November 27, 2000 and being the same property conveyed to Grantor in Deed Book C6/4835 Tax Parcel 37-3.00.


page 16.

Being the identical property conveyed to C. Ingram Walters by Deed of F. Mark Wilson, Jr., a/k/a Frederick Wilson, Jr. dated May 1, 2001 and recorded May 2, 2001 in Deed Book 117 Page 140, Register of Deeds Office for Lancaster County, South Carolina.

III. Sealed Instrument, the “SunTrust Credit Line Mortgage”

Thirdly, Respondent Jayma’s “SEAL” is affixed to the June 7, 2006 instrument, the “SunTrust Credit Line Mortgage” where 38 acres of the 63 acre farm were erroneously and fraudulently conveyed to Respondent Jayma under “SEAL”, which created a sealed instrument. The S.C. 20 year statute of limitations for actions upon a sealed instrument is applicable, Title 15 Chapter 3 Section 15-3-520 and SC Section 15-3-520(b). In his Order, Judge Hayes called the Appellant’s 63 acre Farm the “Disputed Tract”. Respondent Jayma used the “Disputed Tract” to obtain a mortgage from SunTrust Bank. This SunTrust Credit Line Mortgage, dated 6-7-2006 was admitted into evidence as an exhibit at the Appellant’s deposition by attorney Keith Martens on 7-5-2017 and was discussed at length between attorney Martens and the Appellant where Martens claimed Respondent Jayma had paid off the original mortgage personally that was secured by the “Disputed Tract” and Respondent Jayma then used his personal home as collateral to acquire a “new” equity line that did not use any part of the disputed tract. Judge Hayes asked for clarification of the dollar amount of this mortgage at the hearing, page 8, lines 17 and 18 of the transcript. Appellant contended during his deposition that SunTrust Bank had forgiven and therefor “Satisfied” the \$194,000 mortgage (40 days after Appellant filed his lawsuit which included SunTrust Bank on April 5, 2012) to be dismissed from the Appellant’s Lawsuit and they were dismissed, on May 15, 2012, by the Appellant’s Attorney David Cook. See copy of that “Satisfaction of Mortgage”. This was also admitted into evidence by attorney David Cook on page 20 lines 16 through 25, and page 21 lines 1 and 2 of the transcript. Attorney Keith Martens entered into evidence that Respondent “can’t ascertain the amount of his damages until the mortgage has been paid off”, page 22 lines 2 and 3 as evidenced in Exhibit B of the transcript. At Appellant’s deposition Attorney Keith Martens jumped up and out of his seat and exclaimed loudly, “Are you calling me a liar!” Respondent Jayma’s SEAL is affixed to this SunTrust Credit Line Mortgage and was admitted into evidence as an exhibit during the Appellant’s deposition on 7-5-2017 and should have been considered as evidence by Judge Hayes and the law that is subject to South Carolina’s 20 year Statute of Limitations for sealed instruments provided by Title 15 Chapter 3 Section 15-3-520, SC Section 15-3-520(a) and SC Section 15-3-520(b).

2007000610


MORTGAGE
RECORDING FEES \$14.00
PRESENTED & RECORDED:
01-12-2007 02:43 PM
JOHN LANE
REGISTER OF DEEDS
LANCASTER COUNTY, SC
By: CANDICE KIRKLEY DEPUTY
BK: MORT 1646
PG: 154-161

SUNTRUST

Credit Line Mortgage South Carolina

THIS IS A CREDIT LINE MORTGAGE

This Credit Line Mortgage, made and entered into as of June 07, 2006, by and among Diana Jayma and Keith D. Jayma, Sole (herein, whether one or more, referred to as "Mortgagor") and SunTrust Bank, its present and future affiliates, successors and assigns (referred to herein as "Mortgagee") provides:

The name of the noteholder secured hereby is SunTrust Bank. Communications to the noteholder are to be mailed or delivered to 211 Perimeter Center Parkway, Suite 100, Atlanta, GA 30346.

This Mortgage secures, among other obligations, a revolving line of credit, under the terms of which funds may be advanced, paid back and readvanced, provided however, the maximum aggregate amount of principal to be secured hereby at any one time is One Hundred Ninety-Four Thousand Dollars and no cents (\$194,000.00). Interest may be deferred, accrued or capitalized.

For and in consideration of the indebtedness herein recited and the trust herein created, Mortgagor hereby grants, bargains, mortgages, assigns, sells and conveys unto Mortgagee, in trust, with power of sale and with general warranty of title,

all of Mortgagor's present and future right, title and interest in and to certain real estate located in the County of Lancaster, South Carolina, more particularly described on attached Exhibit A which has the address of Camp Creek Road, Lancaster, SC 28720 together with all easements and appurtenances thereto, all of the rights of Mortgagor in and to the streets, alleys, and rights-of-way appurtenant to and adjoining or adjacent to the land described above and together with any and all right title and interest of Mortgagor in and to the improvements, which shall include any and all buildings and structures now or at any time hereafter erected, constructed or situated upon said land or any part thereof, together with all fixtures, machinery, apparatus, fittings and equipment now or hereafter located in or upon the premises and now owned or which may hereafter be owned by Mortgagor, in and upon said land and premises, or which may hereafter be placed thereon, including, but not limited to, any equity which may be acquired by Mortgagor in such property as a result of the making of installment payments on account of the purchase thereof, including but not limited to elevators, escalators, boilers, engines, heating, ventilating and air conditioning systems, sprinkler or fire extinguishing systems, plumbing, partitions, wiring, storm doors and windows, wire screens, awnings, carpeting, drapes, window shades, switchboards, communications apparatus, floor tiling, linoleum, attached cabinets, wall panels and decorations attached to walls and ceilings, gas and electrical fixtures, chattels, attached appliances, and material used and to be used in the buildings and structures. Reference in this Mortgage to "Property" shall be deemed to include, in addition to the described land, improvements now or hereafter located thereon and rights appurtenant thereto, all the equipment, furnishings, fixtures, goods and chattels, above-mentioned and conveyed, all of which are deemed part and parcel of the real estate and appropriated to the use of the real estate and, whether affixed or not, shall for the purposes of this Mortgage be deemed conclusively to be real estate and conveyed hereby, together with the proceeds of all the foregoing.

This Mortgage is given (a) to secure the prompt performance and payment of all Obligations (as hereinafter defined), in favor of or payable to Mortgagee at the address set out above; (b) to secure performance and observance of the terms and conditions of this Mortgage, any Note (as hereinafter defined) or any Agreement (as hereinafter defined); and (c) to secure Future Advances made under Paragraph 16 below in accordance with section 29-3-50 as amended, Code of Laws of South Carolina (1976). The amount of debt secured by this Mortgage, including the outstanding amount advanced under the Note and all Future Advances under Paragraph 16 below, shall at no time be more than double the principal amount of any Note or \$194,000.00, whichever is greater, plus interest, attorneys' fees, and court costs incurred in the collection of amounts due thereunder and expenditures by Mortgagee. TO HAVE AND TO HOLD all and singular the Property unto Mortgagee and the successor or assigns of Mortgagee forever.

Copies: 0
Distribution: Original - Filed in Land Records
630399 (10/05)



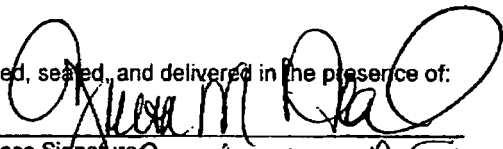
39960669048000042

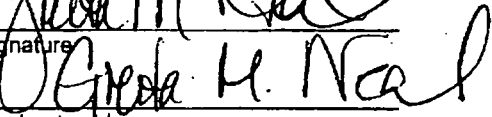
Mortgagee, without notice to or further consent of Mortgagor, may grant extension of time and other indulgences to and renew any of the obligations of Debtor without regard to the number and length of such extensions, renewals or other indulgences. Mortgagor further agrees that Mortgagee without notice or further consent of Mortgagor, may release or discharge any persons who are or may be liable for the payment of any Note or Agreement or release of discharge any collateral for payment of the Obligations and that any such release or discharge shall not alter, modify, release or limit the liability of Mortgagor (or any one or more of the parties constituting Mortgagor) or the validity or the enforceability of this Mortgage; and (d) agrees that Mortgagee may exercise its rights under this Mortgage prior to taking any action against the Debtor.

- 18. **Time is of the Essence.** Time shall be of the essence for each and every provision of any Note, any Agreement, this Mortgage and all other documents, agreements and contracts evidencing, securing, or governing the obligations secured hereby.
- 19. **References; Applicability; Collateral Agent.** All references in the foregoing covenants to Mortgagee shall apply equally to any subsequent holder or assignee of any Note or any Agreement.
- 20. **Titles.** The paragraph titles contained in this Mortgage are for reference purposes only and shall not affect the meaning or interpretation of this Mortgage.
- 21. **Designations.** In any designation hereunder, the use of one gender shall include any other gender wherever same may be appropriate, and the plural shall be substituted for the singular or the singular for the plural in any place herein in which the context may require such substitution.
- 22. **Waiver of Appraisal Rights.** This paragraph is not applicable to consumer purpose loans or loans secured by a dwelling place. The laws of South Carolina provide that in any real estate foreclosure proceeding, a defendant against whom a personal judgment is taken or asked may within thirty (30) days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction.
 THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGE PROPERTY.

In Witness Whereof, Mortgagor on the year and day first written above, has caused this Mortgage to be signed, sealed and delivered.

Signed, sealed, and delivered in the presence of:



 Witness Signature



 Name printed or typed

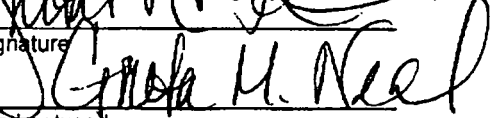

 _____ (Seal)
 Keith D. Jayma

Witness Signature

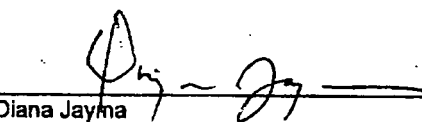
Name printed or typed

Signed, sealed, and delivered in the presence of:



 Witness Signature


 Name printed or typed


 _____ (Seal)
 Diana Jayma

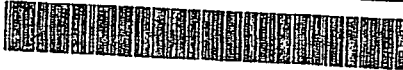
Witness Signature

Name printed or typed

Recording Requested/Prepared By:
Yolanda Brown
SunTrust Bank
211 Perimeter Center Parkway,
Atlanta, GA - 30346
Voice: 800-331-3282

When Recorded Return To:

CT Lien Solutions
P.O.Box 29071
Glendale, CA 91209



SATISFACTION OF MORTGAGE
LOAN #: 60669048-42 "DIANA JAYMA AND KEITH D. JAYMA" LANCASTER COUNTY, South
Carolina

Suit Filed
April 5, 2012

STATE: South Carolina
COUNTY: LANCASTER COUNTY

Dated: May 15, 2012

Original Mortgagor: DIANA JAYMA AND KEITH D. JAYMA
Original Mortgagee: SUNTRUST BANK
Dated: 6/7/2006 Recorded: JANUARY 12, 2007, in Book/Reel/Liber: MORT 1646, Page/Folio: 154-161
as Instrument No.: 2007000610
Present Owner/Holder: SUNTRUST BANK

The undersigned, being the owner and holder of the above-described mortgage, acknowledges that the debt which was secured hereby has been paid in full and the lien of the mortgage is satisfied and cancelled.

Loan Amount \$194,000.00

Property Address: CAMP CREEK RD, LANCASTER, SC 28720

Legal and/or Assignment:

SUNTRUST BANK
On May 15, 2012

By: Karen Shelton
KAREN SHELTON
ASSISTANT VICE PRESIDENT

WITNESSES:
Virginia Hearn
VIRGINIA HEARN

Sean Cook
SEAN COOK

State of GEORGIA
County of DOUGLAS

On May 15, 2012, before me, Yolanda Brown a Notary Public in and for the county of DOUGLAS in the state of Georgia, personally appeared Karen Shelton, ASSISTANT VICE PRESIDENT of SUNTRUST BANK personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity on behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Yolanda Brown
Notary Public
Yolanda Brown

YOLANDA BROWN
NOTARY PUBLIC
Douglas County
State of Georgia
My Comm. Expires March 14, 2018



IV. Sealed Instrument, "Mortgage of Real Property"

The April 18, 2005 document "Mortgage of Real Property" was a sealed instrument between the Appellant and Respondent's Jayma and Streeter. This "Sealed Instrument" was admitted into evidence as an exhibit by Attorney Keith Martens at the Appellant's deposition on 7-5-2017 and proved that the Appellant did not identify the property, I.E. the "Disputed Tract," as he did not initial the description page of that "Sealed" document as executed and attested by Attorney Blackmon Huckabee. This sealed document and evidence should have been considered by Judge Hayes. Judge Hayes erred when he did not recognize the evidence that the Appellant did not initial the description page of the Mortgage of Real Property (Promissory Note) that was executed under seal as attested to in Appellant's deposition and the law that is subject to South Carolina's 20 year statute of limitations afforded under Title 15 Chapter 3 Section 15-3-520, and SC Section 15-3-520(a) and SC Section 15-3-520(b) that is applicable in the Appellant's case. A sealed instrument is defined as "an instrument to which the bound party has affixed a personal seal," Black Law Dictionary (9th Ed. 2010.)

State of South Carolina)
)
County of Lancaster)

FILED, RECORDED, INDEXED
04/22/2005 09:47AM
Rec Fee: 12.00 St Fees: 0.00
Co Fee: 0.00 Pages: 5
Lancaster County, SC

MORTGAGE ON REAL PROPERTY

18th JMW

THIS MORTGAGE, made this 15th day of April, 2005, among Frederick Mark Wilson (hereinafter referred to as Mortgagor) and Keith Jayma and Wilbur Streater, III., (hereinafter referred to as Mortgagee):

WITNESSETH THAT, WHEREAS, Mortgagor is indebted to Mortgagee for money loaned for which Mortgagor has executed and delivered to Mortgagee one or more applications, obligations or agreements (Note(s)) with the original Note being in the principal sum of **Thirty Two Thousand and 00/100 DOLLARS (\$32,000.00)**

AND, WHEREAS, to induce the making of said loan/Notes and in consideration of advances made and which may be made by Mortgagee to Mortgagor as evidenced by said various Notes of even date herewith or pursuant to Notes executed in the future, Mortgagor has agreed to secure said debt and interest thereon evidenced by said Notes and all renewals and extensions thereof, together with (in accordance with Section 29-3-50, Code of Laws of South Carolina, 1976, as may be amended) any future advances that may subsequently be made in connection with said Notes or by Mortgagee, and all renewals and extensions thereof, as well as all other indebtedness of Mortgagor or Mortgagee, now due or to become due or hereafter contracted, provided however that the total amount of existing indebtedness and future advances outstanding at any one time may not exceed 200% of the principal amount of the Note or **Thirty Two Thousand and 00/100 DOLLARS (\$32,000.00)** whichever is greater, plus or together with interest thereon, attorneys' fees, and court costs and to secure the performance of the undertakings prescribed in the Notes and this Mortgage by the conveyance of the premises hereinafter described. Interest on said Notes will be deferred, accrued, or capitalized.

NOW, THEREFORE, in consideration of the aforesaid loan and the sum of Three Dollars (\$3.00) cash in hand paid to Mortgagor, the receipt of which is hereby acknowledged, Mortgagor hereby grants, sells, conveys, assigns and releases to Mortgagee, its successors and assigns, the following described premises located in **Lancaster** County, South Carolina:

SEE ATTACHED EXHIBIT A

Together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in anywise incident or appertaining. Including but not limited to all buildings improvements, fixtures, or appurtenances now or hereafter erected thereon, including all apparatus, equipment, fixtures, or articles, whether in single units or centrally controlled, used to supply heat, gas, air conditioning, water, light, power, refrigeration, ventilation or other services, and also together with any screens, window shades, storm doors and windows, screen doors, awnings, stoves and water heaters (all of which are declared to be a part of said real estate whether physically attached thereto or not).

TO HAVE AND TO HOLD the same with all privileges and appurtenances thereunto belonging to Mortgagee, its successors and assigns, forever, for the purpose hereinafter set out and Mortgagor covenants with Mortgagee, its successors and assigns, that Mortgagor is seized of, and has the right to convey, the premises in fee simple; that the premises are free and clear of all encumbrances except as disclosed in writing to the Mortgagee at the time this Mortgage is given; and that Mortgagor will warrant and defend title to the premises against the lawful claims of persons whomsoever.

MORTGAGOR COVENANTS with Mortgagee, its heirs, successors and assigns as follows:

JMW





1. NOTE PAYMENTS. Mortgagor shall make timely payments of principal and interest on the above mentioned Note(s) in the amounts, in the manner and at the place set forth therein. This Mortgage secures payment of said Note(s) according to its terms, which are incorporated herein by reference.

2. TAXES. Mortgagor shall pay all taxes, charges and assessments which may become a lien upon the premises hereby conveyed before any penalty or interest accrues thereon and shall promptly deliver to Mortgagee (at its request) official receipts evidencing payment thereof. In the event of the passage after the date of this Mortgage of any law imposing a federal, state, or local tax upon Mortgage or debts secured thereby, the whole principal sum (plus or together with interest) secured by this Mortgage shall, at the option of Mortgagee, its principal sum (plus or together with interest) secured by this Mortgage shall, at the option of Mortgagee, its successors and assigns, without notice become immediately due and payable.

3. INSURANCE. Mortgagor shall continually maintain hazard insurance of such types and amounts and in such companies as Mortgagee may from time to time reasonably require on the improvements now or hereafter located on the premises and shall promptly pay all premiums therefore when due. All insurance policies and renewals thereof shall be held by Mortgagee subject to the rights of the holder of the first mortgage lien, if any, and have attached thereto loss payable clauses in favor of and in a form acceptable to Mortgagee. In the event of loss, Mortgagor shall give immediate notice thereof by mail to Mortgagee, who may make proof of loss. Each insurance company is hereby directed to make payment for such loss directly to Mortgagee (instead of Mortgagor and Mortgagee jointly), and the insurance proceeds, or any part thereof, may be applied by Mortgagee, at its option, to the debt hereby secured or for the repair or restoration of the premises. If the insurance proceeds are applied to the debt, it may be applied upon the portion last falling due or in such other manner as Mortgagee may determine. In the event of foreclosure of this Mortgage or other transfer of title to the premises in extinguishment of the indebtedness secured hereby, all right, title and interest of Mortgagor, in any insurance policies then in force shall pass to the Mortgagee.

4. REPAIRS. Mortgagor will keep the premises in as good order and repair as they are now (reasonable wear and tear excepted) and will not commit or permit any waste or any other state of facts whereby the value of the premises might be impaired.

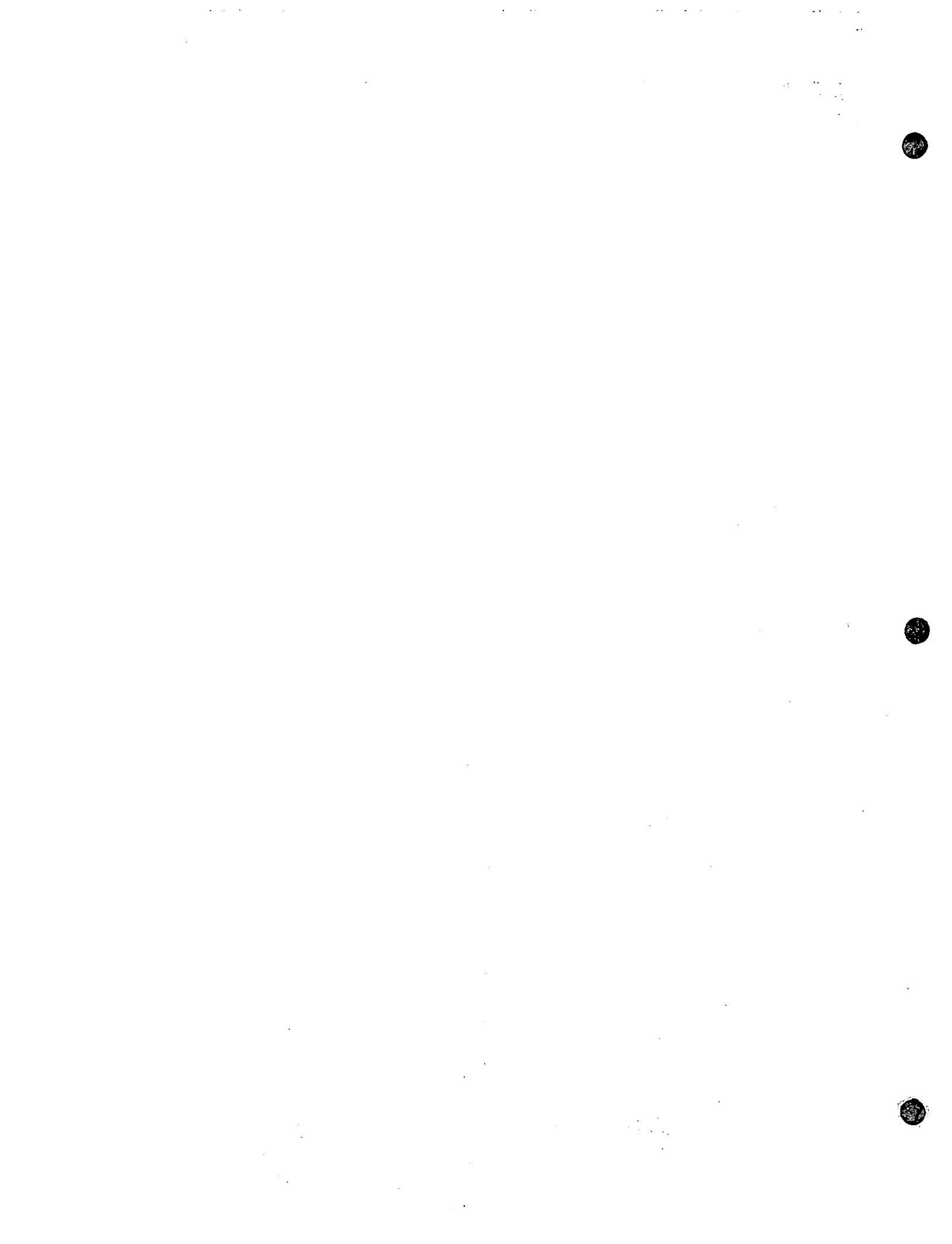
5. COMPLIANCE WITH LAWS. Mortgagor shall promptly comply with any applicable legal requirements of the State of South Carolina or other governmental entity, agency or instrumentality relating to the use or condition of the premises.

6. CONDEMNATION AWARD. Any award for the taking of, or damages to, all or any part of the premises or any interest therein upon the lawful exercise of power of eminent domain shall be payable to Mortgagee who may apply the sums so received to the portion of the debt hereby secured last falling due or in such other manner as Mortgagee may determine.

7. PAYMENTS BY MORTGAGEE. If Mortgagor shall be in default in the timely performance of any obligation under this Mortgage or the Note(s) hereby secured or in the timely performance of any obligation imposed by a prior mortgage, or the Note(s) thereby secured or otherwise, Mortgagee at its option may expend for the account of Mortgagor such sums as may be necessary to cure any such default. Further, Mortgagee may, at its option, expend for the account of Mortgagor such sums, expenses and fees as may become necessary or be incurred for the protection of the premises, for the protection of the lien of this Mortgage and for the maintenance and execution of this Mortgage. Any amounts so expended shall be deemed principal advances secured by this Mortgage, shall bear interest from the time expended at the rate prescribed in the Note(s) hereby secured and shall be due and payable on demand. However, Mortgagee shall be under no obligation to do any of the foregoing, and its failure to do so shall not be construed as a waiver of any default hereunder.

8. TRANSFER OF THE PROPERTY ASSUMPTION. If all or any part of the property or an interest therein is sold or transferred by Borrower without Mortgagee's prior written consent, excluding (a) the creation

Jmw



of a lien or encumbrance subordinate to this Mortgage, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (d) the grant of any leasehold interest of three years or less not containing an option to purchase, Mortgagee may, at Mortgagee's option for any reason, declare all sums secured by the Mortgage to be immediately due and payable.

9. MORTGAGOR'S CONTINUING OBLIGATION. It is understood and agreed that all advances heretofore, now and hereafter made by Mortgagee or Mortgagor, and all indebtedness now and hereafter owed by Mortgagor to Mortgagee, and any other present or future indebtedness or liability of Mortgagor to Mortgagee, whether as principal debtor, surety, guarantor, endorser or otherwise, will be secured by this instrument until it is satisfied of record. It is further understood and agreed that Mortgagee, at the written request of Mortgagor, will satisfy this mortgage whenever: (1) Mortgagor owes no indebtedness to Mortgagee, (2) Mortgagor has no liability to Mortgagee, (3) Mortgagor requests satisfaction in writing, and (4) Mortgagee has not agreed to make any further advance or advances to Mortgagor. The Mortgagor shall remain liable for full payment of the principal and interest on the Note(s) (or any advancement or obligation) secured hereby, notwithstanding any of the following: (a) The sale of all or a part of the premises, (b) the assumption by another party of the Mortgagor's obligation hereunder, (c) the forbearance or extension of time for payment or performance of any obligation hereunder, whether granted to Mortgagor or a subsequent owner of the property, and (d) the release of all or any part of the premises securing said obligations or the release of any party who assumes payment of the same. None of the foregoing shall in any way affect the full force and effect of the lien of this Mortgage or impair Mortgagee's right to a deficiency judgment (in the event of foreclosure) against Mortgagor or any party assuming the obligations hereunder.

10. WAIVER OF HOMESTEAD, REDEMPTION AND APPRAISAL RIGHTS. The Mortgagor does hereby expressly waive, release and discharge any and all homestead exemption, right of redemption or right of appraisal in the event of foreclosure, as allowed by the laws of the State of South Carolina, until the entire amount under all Notes secured hereby are paid in full.

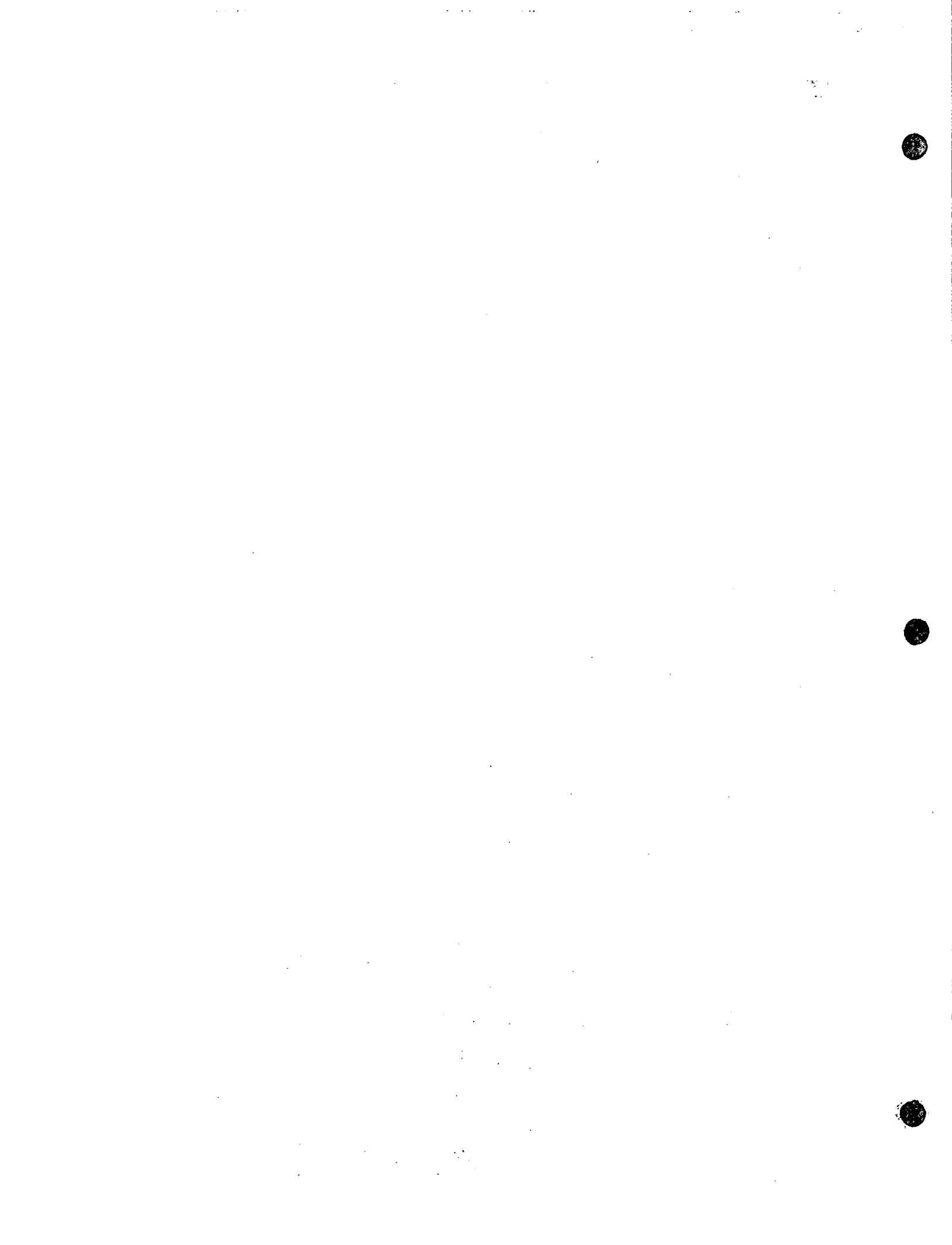
WAIVER OF APPRAISAL RIGHTS, IF ALLOWED BY LAW. If in the event of foreclosure of this Mortgage a deficiency judgment is requested against Mortgagor, and if at the time of such foreclosure the laws of South Carolina allow and authorize an obligated party to knowingly waive statutory appraisal rights, Mortgagor agrees to and does hereby waive any and rights of appraisal as to the property in connection with the foreclosure of the subject property and Mortgagee's right to seek a deficiency judgment against Mortgagor in the event the debt hereby secured is not satisfied from the net sales proceeds from the foreclosure sale.

11. DEFAULT. Failure to make any payments or perform any acts required by the note(s) or this instrument shall constitute default by the Mortgagor.

12. ASSIGNMENT OF RENTS, LEASES AND PROFITS. Mortgagor hereby sets over, assigns, transfers and grants a security interest in any and all rents, leases, and profits of the said premises herein described, provided, however, that so long as no Default has occurred, Mortgagor shall be entitled to collect and retain all such rents, leases and profits. In the event of Default, all rents, leases and profits shall be payable and delivered to Mortgagee and Mortgagor hereby authorizes Mortgagee to notify any and all tenants of this assignment and that all payments of rents, leases and profits should be made directly to Mortgagee.

13. APPOINTMENT OF RECEIVER. Upon the event of a Default, Mortgagee shall be entitled to the appointment of a receiver of the rents, leases, and profits of the herein described property, with power to receive and recover the same, to dispossess tenants, to lease the premises, to operate and manage the premises, to pay the taxes and assessments thereon, to keep the same insured, and to make all necessary repairs thereon, and with such other powers as may be necessary. The receiver, after deducting all charges and expenses attending execution of such duties as receiver, shall apply the residue of said rents, leases and profits to the payment of all sums hereby secured or of any deficiency which may arise after applying the proceeds of the sale of the said premises to the amount due, including interest, costs, and expenses of such

Jmw



foreclosure and sale. Mortgagee and the receiver shall be entitled to review and have access to the books and records used in the operation and maintenance of the subject property.

14. ENVIRONMENTAL MATTERS. Mortgagor agrees to indemnify and hold Mortgagee harmless from and against, and to reimburse Mortgagee with respect to, any and all claims, demands, causes of action, losses, damages, liabilities, costs and expenses (including reasonable attorney's fees and court costs) of any and every kind or character, know or unknown, fixed or contingent, asserted against or incurred by Mortgagee at any time and from time to time by reason or arising out of any violation of any federal, state or local health, safety, or environmental laws, ordinances, and regulations, requiring the removal of, or otherwise regulating the maintenance, storage, transportation or disposal of any hazardous substance or any other toxic substances, asbestos, contaminants, petroleum products, or radioactive materials. The provisions of this paragraph shall survive the satisfaction or release of this Mortgage and the satisfaction of the Note(s) and shall continue thereafter in full force and effect.

The Mortgagor shall pay when due the cost of providing to Mortgagee, at Mortgagee's request from time to time, a then-current environmental site assessment, audit or survey of the property described in this Mortgage, which shall be prepared by an environmental person or company acceptable to Mortgagee, in Mortgagee's sole discretion; provided, however, that Mortgagee shall make such request no more frequently than once every year unless the note is being renewed, extended, modified, or accelerated, or unless Mortgagee is required by any laws, regulation, order or other directive from any regulatory agency having jurisdiction over Mortgagee to obtain any such assessment more frequently than once a year. If Mortgagor fails to pay the cost of any assessment or the cost of any remediation to the subject property to correct deficiencies highlighting in an assessment, when due, Mortgagee may pay such cost on Mortgagor's behalf and the same shall constitute principal under the Note and be secured by the subject property, and shall be due and payable on demand. Mortgagor's failure to pay such amount (with all accrued interest) in full within ten (10) days of the date of such demand shall constitute an event of default entitling the Mortgagee to accelerate the maturity of the Note.

15. APPRAISAL. Mortgagor shall pay when due the cost of providing to Mortgagee, at its request, from time to time, a then-current appraisal if the market value of the property prepared by an appraiser acceptable to Mortgagee, in its sole discretion; provided, however, that Mortgagee shall make such request no more frequently than once every two (2) years, unless Mortgagee is required by any law, regulation, order or other directive from any regulatory agency having jurisdiction over Mortgagee to obtain any such appraisal more frequently than every two (2) years. If Mortgagor fails to pay such costs when due, Mortgagee may pay such costs on Mortgagor's behalf and the same shall constitute principal under the Note, shall bear interest at the applicable rate provided in the Note, and shall be due and payable on demand. Mortgagor's failure to pay such amount (with all accrued interest) in full within ten (10) days of the date of such demand shall constitute an event of default entitling the Mortgagee to accelerate the maturity of the Note.

16. DEFINITIONS. As used herein the terms "Mortgagor," "Mortgagee" and other terms shall refer to the singular, plural, neuter, masculine and feminine as the context may require and shall include, be binding upon and inure to the benefit of their respective heirs, successors, legal representatives and assigns.

AND IT IS AGREED by and between the parties that in the case of foreclosure of this Mortgage, by suit or otherwise, the Mortgagee shall recover of the Mortgagor a sum as attorney's fees as set out in said Note(s) which shall be secured by this Mortgage, and shall be included in judgment of foreclosure.

BUT THIS CONVEYANCE IS MADE UPON THIS SPECIAL CONDITION: If, however, there shall be a default in the performance of any of the covenants, terms and conditions of this Mortgage, or under the Note(s) or any advance secured hereby, all sums owing to Mortgagee hereunder or under said Note(s), regardless of maturity and without notice, shall immediately become due and payable at the option of Mortgagee, and Mortgagee may foreclose this Mortgage by Judicial Proceedings.

Jmw





BEGINNING at a nail set in the centerline of the 66' right of way of S 29-51 (Camp Creek Road) and running thence with said centerline, South 51-44-37 West 391.55 feet to a nail found, a common corner with the Douglas A. Wise property (47/131 Plat 99/354 Tax Parcel 37-3.03); thence with the said Wise property, two calls as follows: 1st North 27-38-36 West 695.83 feet (crossing an iron found at 33.07 feet) to an iron found; South 72-21-57 West 637.12 feet to an iron found, a common corner with the Timothy P. Cauthen property (57/248 Plat 15257 Tax Parcel 37-3.02); thence with the northern boundary line of the said Cauthen property, South 74-58-18 West 824.93 feet to an iron found, a common corner with the Frank P. Lopez property (W8/279 Plat 11668 Tax Parcel 37-3.04); thence with the northern boundary line of the said Lopez property, North 78-14-33 West 571.28 feet to an iron found, a common corner with the Gregg P. Shipston property (X8/122 Plat 10649 Tax Parcel 37-3.01); thence with the said Shipston property, two calls as follows: 1st North 13-00-38 West 261.78 feet to an iron found; 2nd North 89-12-45 West 848.11 feet to an iron found in the centerline of the 86' right of way of S.C. Mockingbird Lane (50' right of way of N.C. Gus Eubanks Road); thence with said centerline, six calls as follows: 1st North 06-16-21 East 283.54 feet to a point; 2nd North 06-16-36 East 21.51 feet to a point; 3rd North 01-13-16 East 83.39 feet to a point; 4th North 06-55-51 West 93.43 feet to a point; 5th North 10-15-40 West 120.35 feet to a point; 6th North 03-38-50 West 79.92 feet to a point, a common corner with the Gladys Autry property; thence with the southern boundary line of the said Gladys Autry property, South 87-10-52 East 534.71 feet to an iron found, a common corner with the Richard Autry property (372/336); thence with the southern boundary line of the said Richard Autry property, South 85-47-19 East 1,393.75 feet to an iron found in the southern boundary line of the Richard Autry, Jr. property (461/141); thence with the said southern boundary line of the Richard Autry, Jr. property, South 85-43-56 East 897.45 feet to an iron found, a common corner with the Edwards Wood Products property (450/587); thence with the said Edwards property, North 89-45-41 East 787.65 feet (crossing an iron set at 757.65 feet) to a point in the centerline of the Lynchas River; thence with the centerline of Lynchas River, twelve calls as follows: 1st South 51-42-41 West 67.13 feet to a point; 2nd South 30-42-50 West 47.29 feet to a point; 3rd South 09-40-29 West 41.97 feet to a point; 4th South 30-59-50 West 136.56 feet to a point; 5th South 36-29-25 West 128.10 feet to a point; 6th South 31-04-26 West 295.20 feet to a point; 7th South 65-50-11 West 98.47 feet to a point; 8th South 38-37-40 West 41.27 feet to a point; 9th South 15-40-34 West 140.22 feet to a point; 10th South 04-56-30 West 39.41 feet to a point; 11th South 16-49-08 East 47.69 feet to a point; 12th South 17-07-30 West 88.41 feet to the point and place of BEGINNING and containing approximately 62.69 acres as shown on that survey by Thomas M. Park, S.C.R.L.S., dated November 27, 2000 and being the same property conveyed to Grantor in Deed Book C6/4835 Tax Parcel 37-3.00.

Being the identical property conveyed to C. Ingram Walters by Deed of F. Mark Wilson, Jr., a/k/a Frederick Wilson, Jr. dated May 1, 2001 and recorded May 2, 2001 in Deed Book 117 Page 140, Register of Deeds Office for Lancaster County, South Carolina.



CASES

1. Lyons V Fidelity National Title Insurance Company 2015 WL 7756187 S.C. Ct. App Dec 2, 2015)
2. Lyons 320 S.E. 2nd 464
3. Carolina Marine Handling, Inc V Lasch 363 SC 169
4. Suttles V Wood 312 S.E. 2nd 574
5. Treadway 479 S.E.2nd 849
6. South Carolina Department of Social Services V Winyah Nursing Homes 320 S.E. 2nd 464
7. Lyons Carmichael

STATUTES

SC Section 5-3-520
SC Section 5-3-520(a)
SC Section 5-3-520(b)
SC Section 15-3-340
SC Section 36-2-725

CONCLUSION

Appellant argues that his lawsuit was timely, and Judge Hayes should not have dismissed the Appellant's case using:

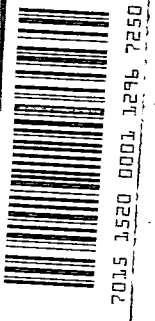
(1) the handwritten letters and faxes of the Appellant and

(2) the letter of the Appellant's attorney Sean Phelan addressed to the Respondent demanding the return of the family farm to the Appellant on 9-12-08, which was admitted into evidence by attorney Keith Martens, page 11 lines 13 and 14 of the transcript;

(3) the standard 3 year statute of limitations thereby disregarding and not applying the SC law on "Sealed Instruments" including the "CONTRACT", that were entered as evidence in exhibits by attorney Keith Martens at the Appellant's deposition on 7/5/12, and entered again as evidence by attorney Keith Martens and David Cook, in the transcript on 8/23/17, that are afforded by law under Title 15 Chapter 3 Section 15-3-520 and SC Section 15-3-520(a) and SC Section 15-3-520(b) and are subject to the 20 year statute of limitations for actions upon sealed instruments, and SC statues 15-3-340 and 36-2-725, to grant summary judgement in favor of Respondent Jayma.

Therefore, based on applicable South Carolina law and South Carolina's 20 year statutes of limitations for harm caused by a written contract under seal, Judge Hayes' decision should be reversed.

Mark Wilson
5506 Kings Farm Way
Indian Trail, N.C. 28079



CPU

U.S. POSTAGE
\$6.55 0000
FORM 38075
Date: 04/23/18
R296P15121 11082154 90



RECEIVED

APR 25 2018

SC Court of Appeals

S.C. Court of Appeals
Jenny Abbott Kitchens, Clerk
P.O. Box 11629
Columbia, S.C. 29211

