THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Hon. Charles B. Simmons, Jr.
Master in Equity

Case No. 2014-CP-23-4097

First Citizens Bank and Trust Company, Inc.

Respondents

v.

Ronald D. Taylor and Ted D. Smith

Defendants

Ex Parte: Smith Family, LLC, WHS Properties, LLC, and Wanda H. Smith, Appellants.

RECORD ON APPEAL
VOLUME III

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STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	)	IN THE COURT OF COMMON PLEAS Case No.:2014-CP-23-04097
First Citizens Bank and Trust Company, Inc., Petitioner, v. Ronald D. Taylor and Ted D. Smith, Respondents.	)	**PETITIONER, FIRST CITIZENS BANK AND TRUST COMPANY, INC.'S MEMORANDUM IN SUPPORT OF ITS MOTION TO EXECUTE ON FUNDS/ASSETS HELD IN THE NAME OF SMITH FAMILY, LLC, WHS PROPERTIES, LLC AND/OR WANDA H. SMITH**

The Plaintiff, First Citizens Bank and Trust Company, Inc. ("Plaintiff" or "First Citizens"), by and through its undersigned attorneys, submits this Memorandum of Law in Support of its Motion to Execute on Funds/Assets held in the name of Smith Family, LLC, WHS Properties, LLC and/or Wanda H. Smith.

BACKGROUND

First Citizens filed a civil action against Respondents on July 28, 2014, seeking to collect money owed to First Citizens.[1] On October 6, 2015, an Order of Judgment was entered against the Respondents in the amount of $74,843.23 ("the Judgment"). The Defendants filed an appeal and the Court of Appeals affirmed the decision of the Trial Court on November 9, 2016. No further appeal was taken by the Respondents after the Judgment was affirmed by the Court of Appeals and the Judgment became a final Judgment. First Citizens has initiate these Supplemental Proceedings to collect on its Judgment. To date, Ted D. Smith has not made any payments toward the Judgment nor has he made any effort to pay First Citizens. Instead, Ted D. Smith has maintained that he has no assets and no cash to address/pay the Judgment of First Citizens, i.e. that he is "broke." However, after some significant post-judgment discovery, it has been discovered that Mr. Smith is not "broke" nor is Mr. Smith in any danger of becoming a ward of the State. As it turns out, Mr. Smith has been using various LLCs, along his wife, as facades and/or "fronts" for

[1] While the Judgment is against both Respondents, First Citizens' Motion and this Memorandum are directed towards the assets of Ted D. Smith.

his own personal business and banking transactions, all in an effort to thwart judgment creditors from discovering assets.

THE FIRST SUPPLEMENTAL PROCEEDINGS HEARING

First Citizens initiated Supplemental Proceedings against the Respondents and a hearing was held on January 23, 2017, before the Greenville County Master-In-Equity. Ted D. Smith testified, under oath, at the January 23, 2017, hearing as follows:

a. That he was retired (Hearing Transcript p. 3, lines 8-11).[2]

b. He had no bank account (Hearing Transcript p. 3-4, lines 22-1)

c. He did not have any other sources of income. (Hearing Transcript p. 3, lines 17-18).

d. His wife banked at BB&T (Hearing Transcript p 4, lines 6-9).

e. His wife had one bank account at United Community Bank. (Hearing Transcript p. 9, lines 14-17).

f. He affirmed his wife had one account at UCB. (Hearing Transcript p 9, lines 14-9).

g. His wife "has a little LLC that has an account with UCB." (Hearing Transcript p. 4, lines 10-11).

h. He has not transferred any property in the past five years. (Hearing Transcript p. 5, lines 19-23).

i. He assumed that the money from the Pelham Road transaction[3] would have been deposited in his wife's bank account at UCB. (Hearing Transcript p. 7, lines 14-16).

j. He deposited his social security checks into the UCB account. (Hearing Transcript, p. 9, lines 18-22

[2] The transcript of the supplemental proceedings hearing on January 23, 2017 is referenced herein as "Hearing Transcript." A copy of the transcript is attached as Exhibit A.

[3] The Pelham Road transaction is the transaction where Smith Family, LLC and Groves Enterprises, Inc. transferred the Pelham Road property to QuikTrip Corporation, as discussed in this memorandum.

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k. He affirmed that there were no other accounts, bank accounts, financial accounts that had not been talked about during the January 23, 2017 supplemental proceedings hearing. (Transcript p. 13, lines 2-4).

After the January 23, 2017, Supplemental Proceedings hearing, two subpoenas were issued to United Community Bank. Counsel for Ted D. Smith (who is also Counsel for Smith Family, LLC, Wanda H. Smith and WHS Properties, LLC) filed two separate Motions to Quash the subpoenas to United Community Bank, to thwart the Petitioner's discovery efforts on the purported single bank account at United Community Bank. Once the documents were obtained from United Community Bank, the documents produced in response to the subpoenas revealed that there were **4 bank accounts** at United Community Bank, all of which have Ted D. Smith's name on the account and all of which evidence Ted D. Smith actively using all four bank accounts.

THE PELHAM ROAD PROPERTY

On October 27, 2015, 3 weeks after a Judgment was entered against Ted D. Smith, Smith Family, LLC consummated the sale of a commercial property in Greenville County on Pelham Road (referred to herein as "the Pelham Road property"), resulting in the net proceeds of over $639,000.00 being deposited into the Smith Family, LLC bank account at United Community Bank and immediately transferred (the same day) to another bank account at United Community Bank. A copy of the deposit/transfer slip from United Community Bank, bearing Ted Smith's signature is attached hereto as Exhibit B.

The title history of the Pelham Road property is as follows:

a. Stan G. McAlister → Smith Family, LLC, August 1, 2012
b. Smith Family, LLC → 2707 Pelham Road, LLC, July 22, 2014
c. 2707 Pelham Road, LLC → Smith Family, LLC and Groves Enterprises, Inc., February 16, 2015. Notably, Ted D. Smith signed this Deed and he is identified as the "Manager" of this LLC on the Deed.
d. Smith Family, LLC and Groves Enterprises, Inc. → QuikTrip Corporation, October 2015

Notably, during the Supplemental proceedings hearing on January 23, 2017, Mr. Smith made no effort to correct Petitioner's Counsel that the amount realized from the sale was not $237,300.00. (Transcript p. 7-9, lines 10).

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DEPOSITION OF WANDA H. SMITH[4]

(May 24, 2017)

During the deposition of Wanda H. Smith, Petitioner's counsel discovered the following:

a. Mrs. Smith has not been employed outside of the home since 1990. (Depo WHS p. 7, lines 11-15).

b. Mrs. Smith was not aware of any other bank account besides her BB&T bank account. (Depo WHS p. 11, lines 5-7).

c. Mrs. Smith was not aware of her name being on any other bank accounts and did not know if she was a signatory on any other bank accounts besides her BB&T account. (Depo WHS p. 11-12, lines 20-3).

d. Mrs. Smith purports to own Smith Family, LLC and her husband manages Smith Family, LLC (Depo WHS p. 12, lines 4-14).

e. She does not know where Smith Family, LLC banks. (Depo WHS p. 12, lines 20-21).

f. She does not know what assets Smith Family, LLC owns. (Depo WHS p. 11-12, lines 20-3).

g. She does not know if Smith Family, LLC owns property. (Depo WHS p. 12-13, lines 25-2).

h. She does not know if Smith Family, LLC owns any vehicles. (Depo WHS p. 11, lines 13).

i. She does not know if Smith Family, LLC has any corporate records. (Depo WHS p. 13, lines 22-24).

j. Ted Smith makes all the financial decisions and has complete control of all bank accounts of Smith Family, LLC. (Depo WHS p. 14-15, lines 19-1).

k. She has no idea how much money Smith Family, LLC has in the bank and has never seen a bank statement for Smith Family, LLC. (Depo WHS p. 15, lines 2-10).

[4] A copy of the relevant pages of the deposition transcript of Wanda H. Smith are attached hereto as Exhibit C. A full copy of the deposition of Wanda H. Smith will be provided to the Court at the hearing on May 23, 2017.

l. She does not know if she invested any money into, put any capital into or how much money she put in Smith Family, LLC. (Depo WHS p. 15-16, lines 14-5).

m. She does not know the intent or purpose of the business besides "manage my money." (Depo WHS p. 18-19, lines 20-7).

n. She does not maintain a file for Smith Family, LLC and she does not recall ever designating Ted D. Smith to be a Manager, in writing. (Depo WHS p. 19-20, lines 14-6).

o. She does not know if Smith Family, LLC made any investments in gold or silver and is not familiar with Smith Family, LLC wiring money to Colorado for any reason. (Depo WHS p. 20, lines 15-25).

p. She never gave any instructions to wire money to Colorado. (Depo WHS p. 21, lines 1-3).

q. Has never spoken with anyone from Elliott Davis about tax matters and is not familiar with her designation as being the tax partner for Smith Family, LLC. (Depo WHS p. 21, lines 10-25).

r. She does not know what Smith Family, LLC has in terms of reserves or expenses. (Depo WHS p. 22, lines 17-21).

s. She does not know what a registered agent is nor does she know who the registered agent is for Smith Family, LLC. (Depo WHS p. 23-24, lines 22-2).

t. She does not know who receives compensation from Smith Family, LLC because she doesn't know anything about the financials of the company. (Depo WHS p. 24, lines 3-9).

u. She has never had any dealings with Smith Family, LLC (Depo WHS p. 24, lines 23-25).

v. She does not know about the loan to Karalina (Little Caesar's franchise). (Depo WHS p. 31-32, lines 9-17).

w. Did not know when or how much the Pelham Road property was sold for. (Depo WHS p. 35, lines 10-17).

x. She does not discuss all financial matters with Mr. Smith. She trusts Mr. Smith to do what's right with the money of Smith Family, LLC because she doesn't

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know how much is there and she doesn't know where the money is located. (Depo WHS p. 40-41, lines 18-8).

y. WHS Properties, LLC is her LLC and she formed WHS Properties, LLC in 2008. (Depo WHS p. 42, lines 20-25).

z. She maintains that the original name of the LLC was WHS Properties, LLC when it was formed. (Depo WHS p. 46, lines 15-24).

aa. She was not familiar with WHS Properties, LLC having a name change. (Depo WHS p. 48, lines 6-14).

bb. Mr. Smith encountered significant financial hardships in 2008 and lost most of his business. (Depo WHS p. 50, lines 18-25).

cc. Rhino Realty Fund I, LLC is not her LLC. (Depo WHS p. 51, lines 1-20).

dd. She is "not familiar" with 2707 Pelham Road, LLC and she does not know if she owns 2707 Pelham Road, LLC. (Depo WHS p. 56-57, lines 25-6).

ee. She does not know if she has ever received any compensation from Smith Family, LLC or WHS Properties, LLC. (Depo WHS p. 65, lines 9-12).

ff. She does not know if Mr. Smith is compensated for his activities and his work. (Depo WHS p. 65, lines 17-19).

gg. Mr. Smith can get compensation from Smith Family, LLC in whatever amount he determined that he needed because he had complete access to the bank account. (Depo WHS p. 66, lines 1-8).

hh. If Mr. Smith needed money from WHS Properties, LLC he could get money from WHS Properties, LLC because he had exclusive control over those accounts. (Depo WHS p. 66, lines 12-22).

ii. If Smith Family, LLC makes money then she and her husband enjoy the benefits. (Depo WHS p. 72-73, lines 19-2).

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DEPOSITION OF TED D. SMITH[5]
(May 24, 2017)

a. He has a management degree, an MBA and an accounting degree. (Depo TDS p. 3, lines 15-17).

b. He was a builder until 2008 and he closed up his business in the first quarter of 2008. (Depo TDS p. 8, lines 5-8).

c. Admits that he formed Rhino Realty Fund I, LLC and eventually changed its name to WHS Properties, LLC. (Depo TDS p. 15, lines 10-13).

d. Does not know where the $1000.00 capital for Smith Family, LLC came from. (Depo TDS p. 30, lines 17-25).

e. Smith Family, LLC allowed Karalina to borrow $120,000.00. (Depo TDS p. 31-32, lines 1-15 and p. 20-22, lines 5-8).

f. Smith Family, LLC is engaged in a current transaction with a church near the Pelham Road property – Smith Family, LLC is obligated to build a two-story building. (Depo TDS p. 34-39, lines 10-14).

g. He organized the QuikTrip transaction and Church deal for Smith Family, LLC. (Depo TDS p. 40, lines 14-23).

h. Throughout the transaction with QuikTrip, Mrs. Smith met with Tim Groves once or twice. (Depo TDS p. 40-41, lines 24-16).

i. He had his social security checks being deposited into WHS Properties until Counsel for First Citizens made a big deal about it and now he has opened up his own account. (Depo TDS p. 48, lines 8-15).

j. Admits that he used the bank accounts at United Community Bank as his personal bank accounts and paid his personal bills out of the accounts. (Depo TDS p. 49-52, lines 10-6).

k. Admits that he could do anything with the bank accounts that his wife could do. (Depo TDS p. 55, lines 19-20).

[5] A copy of the relevant pages of the deposition transcript of Ted D. Smith are attached hereto as Exhibit D. A full copy of the deposition of Wanda H. Smith will be provided to the Court at the hearing on May 23, 2017.

l. Admits that he uses the WHS Properties, LLC and Smith Family, LLC accounts to pay personal bills. (Depo TDS p. 57-58, lines 17-3).

m. Admits that he retains the benefit of the money in the United Community Bank bank accounts and uses the money to pay their bills. (Depo TDS p. 59, lines 5-25).

n. The money to open account ending in 4994 came from WHS Properties, LLC. (Depo TDS p. 60-63, lines 23-4).

o. Does not derive any income from Smith Family, LLC or WHS Properties, LLC but it pays for expenses and keeps a roof over his head. (Depo TDS p. 65-66, lines 22-4).

p. Wire transfer from Smith Family, LLC checking account to International Co. dated 2/21/16 statement – in the amount of $135,374 – is for the purchase of silver that he contends his wife purchased. (Depo TDS p. 84-85, lines 17-13).

q. Smith Family, LLC pays for his son's apartment; his son brings him cash and Smith Family, LLC writes the check. Mr. Smith keeps the cash. (Depo TDS p. 85-86, lines 18-11).

r. Smith Family, LLC pays for air conditioning work at his home. (Depo TDS p. 86, lines 12-25 and p. 89-90, lines 22-12).

s. He was a project manager and hired people to do whatever needed to be done in connection with a project known as the "Easley Building" and he received a check for $28,187.49 on, or about, October 21, 2016. The money was deposited into Smith Family, LLC bank account. (Depo TDS p. 93-95, lines 15-22 and p. 101, lines 20-25).

t. He is the broker-in-charge for two real estate companies. (Depo TDS p. 95-96, lines 23-7).

u. He received a commission of $20,250 from a real estate sale on, or about August 17, 2016 and deposited it into Smith Family, LLC's bank account. (Depo TDS p. 102, lines 1-4).

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v. He received a commission of $16,800 from a real estate sale on, or about July 11, 2016 and deposited it into Smith Family, LLC's bank account. (Depo TDS p. 102, lines 5-18).

w. He did not have a personal bank account after "everything went to pot."[6] (Depo TDS p. 102, lines 17-20).

x. He received $15,664.27 on, or about, March 17, 2016 as a final distribution from his mother's estate and he deposited that money into the Smith Family, LLC bank account. (Depo TDS p. 105, lines 1-14).[7]

y. Smith Family, LLC had $380,000.00 in the account at the time of his deposition on May 24, 2017. (Depo TDS p. 56, lines 12-18, p. 108-109, lines -24-5 and p. 126, lines 16-19).

z. The money from the Pelham Road sale was deposited into the Smith Family, LLC account and immediately transferred to another account at United Community Bank, an account with Wanda H. Smith and Ted D. Smith savings account. (Depo TDS p. 109, lines 6-18).

aa. He transfers money out of Smith Family, LLC to WHS Properties "to pay bills" even though there are no invoices. (Depo TDS p. 111, lines 8-14).

bb. He moved money as necessary from Smith Family, LLC to WHS Properties in the United Community Bank accounts as necessary to pay bills. (Depo TDS p. 112, lines 10-24).

cc. He is now moving everything to Smith Family, LLC to "make it less complicated" to pay the bills. (Depo TDS p. 120, lines 2-17).

dd. He has purchased over $300,000 in gold and silver and still has possession of same. (Depo TDS p. 120-125, lines 21-9).

ee. Admits that he could legally get a check right now and write it for any amount he wanted to write. (Depo TDS p. 126, lines 20-24).

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[6] Mr. Smith experienced financial hardship with his business in the first quarter of 2008.

[7] In addition to the $15,664.27 check, he received a $125.00 check payable to Ted D. Smith and deposited that check into the Smith Family, LLC bank account at United Community Bank as well on March 23, 2016. See United Community Bank documents, p. 73.

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ff. Admits that he attended the 2017 college football national championship game. (Depo TDS p. 127, lines 13-23).

gg. Smith Family, LLC is the only active LLC at this point in time. (Depo TDS p. 128, lines 16-20).

hh. Admits that he was the only income producer between 1990 and 2008. (Depo TDS p. 130, lines 6-8).

ii. Suggests that he was not involved with the QT transaction. He suggest that he merely brought the deal to Tim Groves and his wife. (Depo TDS p. 136, lines 17-25 and p. 138-139, lines 16-11).

Mr. Smith admitted and acknowledged that he exercised complete control over the bank accounts at United Community Bank. Mr. Smith's name appears on each of the accounts at United Community Bank (Smith Family, LLC checking account, WHS Properties, LLC checking account, WHS Properties, LLC money market account and Wanda H. Smith savings account). Mr. Smith attempts to explain how/why his name is on the accounts by stating that he is merely a "signer" on the accounts.

In spite of the fact that Mr. Smith had extensive knowledge about all of the accounts at United Community Bank, and as the documents reflect, he was actively writing checks and using all four bank accounts, Mr. Smith testified under oath during Supplemental Proceedings on January 23, 2017 that there were no other accounts and feigned ignorance about the single Untied Community Bank account during Supplemental Proceedings. Mr. Smith's testimony during the supplemental proceedings hearing suggested/indicated that he had nothing to do with the purported single United Community Bank account. After the documents were produced by United Community Bank, it turns out that Mr. Smith has, and had, extensive knowledge about all of the accounts at United Community Bank. Mr. Smith was actively engaged in transferring funds, depositing funds and writing checks out of the United Community Bank accounts. Mrs. Smith did not even know there were accounts at United Community Bank. Additionally, shortly after the January 23, 2017 supplemental proceedings hearing, Mr. Smith completed a financial statement for First Citizens and Mr. Smith did not list a single bank account on his financial statement.[8] At

[8] A copy of the financial statement is attached hereto as Exhibit E.

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best, Mr. Smith's feigning of ignorance of the bank accounts at United Community Bank during the supplemental proceedings hearing, his failure to identify the bank accounts at united Community Bank on his financial statement and his failure to clarify (on two separate occasions during the January 23, 2017 Supplemental Proceedings Hearing) the amount deposited in connection with the property sale misled Petitioner's Counsel and the Court.

During the deposition of Wanda H. Smith (the wife of Ted D. Smith), on May 24, 2017, Mrs. Smith testified that (a) she did not know where or what other accounts existed besides her personal account at BB&T, (b) she had no idea how much money might be in any other bank accounts and (c) Ted D. Smith exercised complete control of the bank accounts at United Community Bank.

It was also discovered during the depositions on May 24, 2017, that: (a) Mr. Smith had deposited $81,026.76 of his personal funds, into the bank account of Smith Family, LLC through four separate transactions in 2016, (b) the deposits of his personal money into Smith Family, LLC all occurred in 2016 – after the Judgment was entered against Mr. Smith, (c) Mr. Smith has used the bank accounts at United Community Bank as his own accounts, transferring money between the various accounts, as he deemed necessary and/or as he needed money, (d) he used these same accounts for his personal expenses, (e) he has made substantial investments in precious metals (gold and silver), with the bank records showing in excess of $300,000.00 of purchases in gold and silver ($135,374.00 in a single transaction from Feb. 2016) and (f) his wife, Mrs. Smith, the purported owner of Smith Family, LLC had no knowledge of the purchase of precious metals.

The four specific transactions detailing Ted D. Smith's deposits into the Smith Family, LLC bank accounts are as follows:

(a) March 23, 2016 – **$15,789.27** Final distribution of $15,664.27 from his Mother's estate and a payment from the Personal Rep. of his mother's estate ($125.00).

(b) July 14, 2016 - **$16,800.00** Commission payment for his compensation as a Broker/Broker in Charge.

(c) August 17, 2016 - **$20,250.00** Commission payment for his compensation as Broker/Broker in Charge

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(d) October 27, 2016 - **$28,187.49** Payment for Ted D. Smith's services as a construction manager.

A copy of these transactions are attached hereto as Exhibit F.[9]

First Citizens maintains that the transfers outlined herein should be set aside pursuant to the Statute of Elizabeth, S.C. Code Ann. § 27-23-10(A) (2007), S.C. Code § 15-39-410, along with the basic principles of equity given the prior sworn testimony of this Defendant, the misleading testimony, the continued acts of the debtor to delay, hinder, defraud his creditors, and such other applicable law. Moreover, based on the actions and testimony of Wanda H. Smith and Ted D. Smith, the bank accounts at United Community Bank should be deemed to be the bank accounts of Ted D. Smith.

First Citizens has filed a motion to add Smith Family, LLC, WHS Properties, LLC and Wanda H. Smith to these proceedings. While First Citizens does not believe it to be necessary in light of the actions and testimony of Ted D. Smith and Wanda H. Smith; First Citizens has filed the Motion out of an abundance of Caution and provided Ms. Smith and the other entities with notice of the hearing.

LAW

If a judgment is unsatisfied, a judgment creditor may initiate supplementary proceedings in order to discover assets of the judgment debtor. *Johnson v. Service Mgmt.*, 319 S.C. 165, 167, 458 S.E.2d 900 (1995) (citing S.C. Code Ann. § 15-39-410). Supplementary proceedings aid in discovery and "furnish a means of reaching, in aid of the judgment, property beyond the reach of an ordinary execution..." *Id.* (quoting *Lynn v. International Brotherhood of Fireman & Oilers*, 228 S.C. 357, 362, 90 S.E.2d 204, 206 (1955). It has long been held that "after conducting supplementary proceedings, the trial court may order non-exempt property of the judgment debtor in the hands of a third party...to be applied toward satisfaction of the judgment. *Id.* at 168, 459 S.E.2d at 902; *see also Deer Island Lumber Co, v. Virginia-Carolina Chem. Co.*, 111 S.C. 299, 97 S.E. 833 (1919) (holding a judgment creditor may reach funds in the hands of a third party through supplementary proceedings). These cases provide the basis for which First Citizens is entitled to the funds of Ted D. Smith being held by Smith Family, LLC. Additionally and/or in the

[9] A full copy of the records obtained from United Community Bank, and identified during the deposition of Ted D. Smith, will be provided to the Court on May 24, 2017.

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alternative, based on the operations and actions of Ted D. Smith and Wanda H. Smith, the United Community Bank accounts are nothing more than the extensions of Ted D. Smith and should be deemed to be the accounts of Ted D. Smith. Mr. Smith testified that he has not had a bank account since 2008 – when "everything went to pot." In other words, since his financial situation deteriorated and other creditors obtained Judgments against him, he has been using his wife as a front, or a cover, to handle various financial transactions and conduct business "under the radar" - all in an effort to delay, hinder and defraud his creditors by saying that the assets are all his wife's assets, in spite of the fact that his wife has no idea what assets exist or where the assets are located. It is nothing more than a "sham" to suggest that the money and assets are the property of Wanda H. Smith.

The Statute of Elizabeth provides that:

> Every gift, grant, alienation, bargain, transfer, and conveyance of lands, tenements, or **hereditaments, goods and chattels** or any of them, or of any lease, rent, commons, or other profit or charge out of the same, by writing or otherwise, and every bond, suit, judgment, and execution which may be had or **made to or for any intent or purpose to delay, hinder, or defraud creditors and others of their just and lawful actions, suits, debts, accounts, damages, penalties, and forfeitures must be deemed and taken** (only as against that person or persons, his or their heirs, successors, executors, administrators and assigns, and every one of them whose actions, suits, debts, accounts, damages, penalties, and forfeitures by guileful, covinous, or fraudulent devices and practices are, must, or might be in any ways disturbed, hindered, delayed, or defrauded) **to be clearly and utterly void, frustrate and of no effect, any pretense, color, feigned consideration, expressing of use, or any other matter or thing to the contrary notwithstanding**.

S.C. Code § 27-23-10(A) (emphasis added).[10] In *Durham v. Blackard*, the Court of Appeals, interpreting the Statute of Elizabeth, held that conveyances can be set aside in two instances:

> First, where the challenged transfer was made for a valuable consideration, it will be set aside if the plaintiff establishes that (1) the transfer was made by the grantor with the actual intent of defrauding his creditors; (2) the grantor was indebted at the time of

[10] While claims brought pursuant to the Statute of Elizabeth often involve transfers of real property, the language of the statute and South Carolina case law demonstrates that the Statute of Elizabeth is also applicable when a debtor transfers money or assets. *See* S.C. Code § 27-23-10(A); *Carr v. Guerard*, 365 S.C. 151, 616 S.E.2d 429 (2005); *Dufresne v. Regency Realty, Inc.*, 295 S.C. 1, 366 S.E.2d 256 (Ct. App. 1987) (overruled on other grounds).

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> the transfer; and (3) the grantor's intent is imputable to the grantee. Second, where the transfer was not made on a valuable consideration, no actual intent to hinder or delay creditors must be proven. Instead, as a matter of equity, the transfer will be set aside if the plaintiff shows that (1) the grantor was indebted to him at the time of the transfer; (2) the conveyance was voluntary; and (3) the grantor failed to retain sufficient property to pay the indebtedness to the plaintiff in full-not merely at the time of the transfer, but in the final analysis when the creditor seeks to collect his debt.

Durham v. Blackard, 313 S.C. 432, 437, 438 S.E.2d 259, 262 (Ct. App. 1993). Furthermore, it is well-settled that "where a conveyance to a family member or close relative is attacked on account of its voluntary character, the law imposes a duty of the transferee to establish both a valuable consideration and the bona fides of the transaction by clear and convincing evidence." *First State Sav. & Loan Ass'n v. Nodine*, 291 S.C. 445, 450, 354 S.E.2d 51, 54 (1987) (citing *Coleman v. Daniel*, 261 S.C. 198, 199 S.E.2d 74 (1973)).

The transactions where Ted D. Smith decided to deposit his personal funds into the Smith Family, LLC bank account are clearly transfers without valuable consideration. Mr. Smith testified that the Smith Family, LLC bank account was simply an account that he chose to deposit the funds since he did not have a bank account. Under South Carolina law, "consideration...may consist either in some right, interest, profit or benefit accruing to one party, or some forbearance, detriment, loss, or responsibility given, suffered, or undertaken by the other." *Furman Univ. v. Waller*, 124 S.C. 68, 117 S.E. 356, 358 (1923). The testimony from both Mr. Smith and his wife clearly establishes that the transfers were not based on valuable consideration. The transferee (Smith Family, LLC) cannot meet the burden of establishing valuable consideration and the bona fides of the alleged fraudulent transfers. Therefore, the transfers should be set aside. *See Durham*, 313 S.C. at 437, 438 S.E.2d at 262.

Even assuming, *arguendo*, that there was consideration for the transfers, the evidence and testimony reveals that the transfers are fraudulent because the transfers were made with the actual intent of defrauding his creditors. Mr. Smith testified under oath twice during the supplemental proceedings hearing that he did not have any bank accounts and that there were no other bank accounts, Mr. Smith was indebted to First Citizens at the time of the transfers and his intent is imputable to Smith Family, LLC since he has, and has at all times had, exclusive control over the

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bank accounts of Smith Family, LLC. In determining whether a debtor acted with the requisite intent to establish a fraudulent conveyance, courts evaluate the particular circumstances of the transfer for "badges of fraud." *Coleman v. Daniel*, 261 S.C. 198, 209, 199 S.E.2d 74, 79 (1973) ("Certain circumstances so frequently attend conveyances to defraud creditors that they are recognized and referred to as 'badges of fraud.' The badges tend to excite suspicions as to the Bona fides of a challenged conveyance."). The presence of one or more badge of fraud creates a rebuttable presumption of intent to defraud. *See Royal Z Lanes, Inc. v. Collins Holding Corp.*, 337 S.C. 592, 596, 524 S.E.2d 621, 623 (1999). In *Coleman*, our Supreme Court stated the following regarding the badges of fraud:

> The facts which are recognized indicia of fraud are numerous, and no court could pretend to anticipate or catalog them all. Among the generally recognized badges of fraud are the insolvency or indebtedness of the transferor, lack of consideration for the conveyance, relationship between the transferor and the transferee, the pendency or threat of litigation, secrecy or concealment, departure from the usual method of business, the transfer of the debtor's entire estate, the reservation of benefit to the transferor, and the retention by the debtor of possession of the property.

Coleman v. Daniel, 261 S.C. at 209, 199 S.E.2d at 79 (1973) (citing 37 Am.Jur.(2d), Fraudulent Conveyances, § 10 (1968)); *see also In re Jones*, 397 B.R. 765, 770 (Bankr. D.S.C. 2008); *In re Ducate*, 369 B.R. 251 (Bankr. D.S.C. 2007). The circumstance of Defendant's transfers to Smith Family, LLC meet every single badge of fraud listed above. Although the presence of a single factor, i.e., badge of fraud, may cast suspicion on the transferor's intent, the confluence of several in one transaction generally provides conclusive evidence of an actual intent to defraud." *Gilchinsky v. Nat'l Westminster Bank*, 732 A.2d 482, 490 (1999). Here, Defendant was (1) purportedly insolvent at all times and was indebted to First Citizens at the time of the transfers; (2) his funds were transferred to a bank account in which he exercises complete control, i.e. he has a close relationship with the LLC and his wife did not know that this bank account even existed, (3) transferred funds while the judgment was filed of record; (4) he failed to mention the transfers during the first supplemental proceedings hearing in spite of his active involvement with the accounts, failed to identify the bank accounts at United Community Bank on a personal financial statement, i.e. secrecy and concealment; (5) reserved the benefit of the funds by using the money

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in Smith Family, LLC to pay his personal expenses and transferring money in United community Bank, as necessary (he retained all the benefits) and (6) he had possession of the money at all times since he was the only person involved with the banking activities of the bank accounts at United Community Bank. The presence of all badges of fraud surrounding Defendant's transfers establishes the "actual intent to hinder, delay, or defraud" First Citizens from collecting on its judgment.

Establishing that a debtor acted with actual intent to hinder, delay or defraud a creditor is rarely proven by direct evidence. *In re Schmit*, 71 B.R. 587, 590 (Bankr. D. Minn. 1987). It is typically inferred from the facts and circumstances of the debtor's conduct. *Id.; see also Farmers Co-op. Ass'n v. Strunk*, 671 F.2d 391, 395 (10th Cir.1982) ("Fraudulent intent of course may be established by circumstantial evidence, or by inferences drawn from a course of conduct."). The Respondent's explanation for the transfers is simple – he had no other bank account so he used the Smith Family, LLC bank account. First Citizens anticipates that the Smiths may argue that this arrangement between Defendant and his wife has been in place for years, which is an equally unavailing argument. In fact, the evidence shows that Mr. Smith began taking steps to distance himself from assets and finances by changing the name of Rhino Realty Fund I, LLC to WHS Properties, LLC, purportedly his wife's LLC in spite of the fact that he started the LLC, and he has not had a bank account since 2008, when "everything went to pot." The facts clearly show that Ted D. Smith took deliberate actions to prevent his creditors, including First Citizens, from discovering any assets.

Upon information and belief, the Respondent is currently actively engaged in yet another development project involving a Church and Groves Enterprises, Inc., in close proximity to the Pelham Road property. Upon information and belief, the majority of Smith Family, LLC's cash has recently been transferred to an attorney's trust account (Counsel for Ted D. Smith's trust account) to be held in escrow as the construction project/joint development project begins moving forward. The cash is earmarked to be used to build the building referenced during Ted D. Smith's deposition. In spite of the transfer of the cash from Smith Family, LLC to an attorney's trust account, Ted D. Smith has identified over $300,000.00 of purchases of gold and silver that he caused to be purchased over the course of the past year. A consent order has been entered requiring Smith Family, LLC to keep a minimum of $100,000.00 in gold and silver while this issue is

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pending before this Court. A copy of the purchases of the precious metals purchases out of the various accounts are attached hereto as Exhibit G. A copy of the Consent Order relating to the gold/silver is attached hereto as Exhibit H.

CONCLUSION

In accordance with the Statute of Elizabeth, First Citizens prays that the Court issue an order directing Smith Family, LLC to satisfy the Judgment of First Citizens or, in the alternative, liquidate enough gold and silver to tender a check to Counsel for First Citizens for the full amount of the Judgment, including all accrued post-judgment interest within 5 business days. Moreover, in accordance with *Ex Parte Dibble*, 279 SC 592 (Ct.App. 1983), "Courts have the inherent power to do all things reasonably necessary to insure that just results are reached to the fullest extent possible." In light of the actions of Ted D. Smith, that were only discovered through extensive and expensive discovery efforts, it would be inherently unjust to prevent First Citizens from collecting on its judgment given the prior sworn testimony of Ted D. Smith and the subsequent discovery of his financial activities using his wife and various LLCs as fronts to do business and depositing his cash in an LLC account to keep the cash beyond the reach of his creditors. In the alternative, First Citizens prays that this Court make certain findings and issue an order directing WHS Properties, LLC and/or Wanda H. Smith to pay the Judgment of Ted D. Smith out of the bank accounts at United Community Bank, based on the fraudulent transfers referenced herein, the transfers of funds between the accounts at United Community Bank and Ted D. Smith's use of the bank accounts at United Community Bank as if the bank accounts were his own personal bank accounts.

Respectfully submitted,

S/Joey R. Floyd
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Attorneys for Petitioner

June 19, 2017

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EXHIBIT A

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
2014-CP-23-024097

First Citizens Bank and Trust Company, Inc.,

Plaintiff,

vs.

Ronald D. Taylor and Ted D. Smith,

Defendants.

TRANSCRIPT OF TESTIMONY

January 23, 2017
Greenville, South Carolina

B E F O R E:

HONORABLE CHARLES B. SIMMONS, JR., MASTER IN EQUITY

A P P E A R A N C E S:

Joey Floyd, Esquire
Attorney for the Plaintiff

Danette P. Hanks, CCR
Court Reporter

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THE COURT: Ready to proceed?

MR. FLOYD: Yes, Your Honor.

THE COURT: Which one of these nice gentlemen do you want to have up on the stand first?

MR. FLOYD: I'll let them play paper rock scissors.

THE COURT: All right. Y'all come around. I'm assuming we're going to be kind of straight to the substance and move this thing along.

Place your left hand on the bible and raise your right hand. Do you swear to tell the truth, whole truth and nothing but the truth?

MR. SMITH: I do.

THE COURT: If you'll come around and have a seat, please, sir.

This is 2014-04097; First Citizens versus Taylor and Smith. We're here today on supplemental proceedings in furtherance of a debt collection or a judgment collection is probably the better way to say it.

Sir, if you'd state your full name.

MR. SMITH: Ted D. Smith.

THE COURT: All right. And Mr. Smith, you understand what we're doing here this morning; correct?

MR. SMITH: I do.

THE COURT: Okay. Your witness.

TED D. SMITH,

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HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. FLOYD:

Q. Mr. Smith, my name is Joey Floyd and I'm going to ask you some questions today. It's my understanding that you've been here before in one of these supplemental proceedings.

A. Three or four other times.

Q. Okay. So I'm going to start out with -- I'm just going to go straight to the point and ask you some very pointed questions. What are you doing these days?

A. I'm retired.

Q. Retired. All right. Are you drawing social security these days?

A. I am.

Q. Are you living off of that?

A. Barely.

Q. Okay. Do you have any other sources of income at this time?

A. No, I do not.

Q. And how old are you?

A. Sixty-eight.

Q. All right. Where do you bank?

A. I don't have a banking account.

Q. No bank account?

A. No.

Q. Have you had a bank account?

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A. Not since 2008.
Q. Are you married?
A. I am.
Q. Who are you married to?
A. Wanda H. Smith.
Q. Okay. Does Ms. Smith have a bank account?
A. She does.
Q. Where does she bank?
A. BB&T.
Q. Is that the only bank that she banks at?
A. She has a little LLC that has an account with UCB.
Q. UCB?
A. United Carolina, I guess that's what it's called.
Q. And where is that bank located?
A. Travelers Rest.
Q. Okay. Do you own any stocks?
A. I do not.
Q. Do you have a retirement account of any sort?
A. I do not.
Q. Do you own any mutual funds?
A. I do not.
Q. Any investment accounts?
A. None.
Q. Do you have any current -- let me back up. Do you have any LLC's?

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A. I do not.
Q. You've had a number of LLC's; right?
A. Over the -- from -- until 2008.
Q. Did everything kind of stop operating in 2008?
A. I believe that there may have been some that -- well, one lingered over until last year. That was the LLC that held the Denton property that we told you about that we deeded in lieu of foreclosure to UCB last year. And then all the others were closed out by 2009.
Q. So the Denton rental property you say was deed in lieu?
A. That's correct.
Q. That's in North Carolina. Is that Sunset Beach up there?
A. Not -- it's close to Davidson University; wherever that is.
Q. Okay. Charlotte?
A. Outside of Charlotte.
Q. All right. Have you ever had any rental property up in Sunset Beach, North Carolina?
A. I have not.
Q. Have you transferred any property?
A. I have not.
Q. In the past five years?
A. The only one is the one I told you about, the deed in lieu of foreclosure over at UCB.
Q. All right. Do you own any vehicles?
A. I do not.

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Q. What did you drive here in today?
A. I drove one that's owned by my wife.
Q. What is that vehicle?
A. It's a 2005 Toyota 4Runner.
Q. Do you own any RV's?
A. I do not.
Q. Motorcycles?
A. None.
Q. Boats?
A. None.
Q. Who has the interest in the Little Caesars?
A. What interest?
Q. Carolina? Are you familiar with that? Are you Mr. Smith?
A. I am.
Q. Okay. Does anybody own a Little Caesars?
A. No.
Q. Is there any reason why that would be reflected on your tax returns in 2015?
A. My wife had -- she loaned them some money that they paid off sometime -- I guess they paid it off in 2015. That's probably the reason it shows up there.
Q. Okay. So she loaned a company called Carolina?
A. That's correct.
Q. Did she own any part of Carolina?
A. No.

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Q. But they paid off that loan?
A. They did.
Q. How much was that loan?
A. I think the final payoff was slightly above a hundred thousand dollars.
Q. The property that you sold in 2015, are you familiar with that property, that's reflected on your tax returns?
A. That was something that my wife had on Pelham Road, I guess, is the only thing I can think of.
Q. It's now a QuikTrip. Does that sound ---
A. Yes.
Q. --- familiar?
A. That's correct.
Q. Where was that money, $271,300.00, deposited?
A. I would assume it would have been deposited in her bank account at UCB.
Q. What interest did you have in Grove Enterprises?
A. None.
Q. Were you involved in the management of Grove Enterprises?
A. No.
Q. Have you ever been involved in Smith Family?
A. I advise my wife from time to time.
Q. Were you ever a member of that LLC?
A. No.
Q. Would I find your name on any of the deeds associated with

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that transaction that took place in 2015?

A. I don't know. I do have -- what do you call it? The right to sign for somebody, it's called a -- what is it called? I can't think of ---

THE COURT: Power of Attorney?

A. Power of Attorney; yes.

Q. So you have Power of Attorney for your wife?

A. I do.

Q. Okay. This was identified as a gain for both of you on your tax returns there; right?

A. No. It should be just in her column alone, because that was her LLC, Smith Family LLC, that did that transaction.

Q. And when was Smith Family formed?

A. I would say she -- 2010, maybe.

Q. Did you have any investment capital to start that company?

A. None.

Q. Where did the money come from to start that company?

A. She had another piece of property that she sold in 2012.

Q. Were you involved with that other piece of property?

A. No. It was in -- that belonged to her and her father.

Q. Do you know Grove Enterprises? Have you ever heard of that?

A. I know who he is; yes.

Q. Who is that?

A. He has the AFC Urgent Care Centers.

Q. Was he involved in this transaction?

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A. He was in a partnership with her on that piece of property.
Q. Okay. Did he get half of this money?
A. He did.
Q. He got half of two hundred seventy-one thousand three hundred?
A. No. He got that amount, as well.
Q. Oh, so there was a split?
A. Yes.
Q. So two times that much money?
A. Yes.
Q. Okay. And you say you assume that that was deposited into the BB&T?
A. No. UCB.
Q. UCB. How many accounts does she have at UCB?
A. One.
Q. I'm sorry?
A. One.
Q. One account? Are all of your social security deposit checks deposited into that UCB account, as well?
A. It is.
Q. Direct deposit?
A. Yes.
Q. How about WAHS Properties LLC?
A. It's basically silent now. There's nothing going on in that.

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Q. Was that your LLC?
A. No. That was her.
Q. That was her LLC?
A. That's her initials.
Q. So at the Denton Center you received about sixty thousand three hundred and twenty dollars in rents?
A. I did not receive them. The bank took them.
Q. Okay. That was my question. Did the bank take all of the rents?
A. It was in a lockbox from 2008 on.
Q. Okay. Are there any other LLC's that you own any interest in that own real property?
A. No.
Q. Did your -- did Smith Family -- what is the name of that company, Smith ---
A. It's Smith Family LLC.
Q. Smith Family LLC. Did Smith Family LLC purchase any other property after the sales transaction in 2015?
A. No.
Q. It simply deposited that money into a bank account, to the best of your knowledge?
A. That's correct.
Q. Did you attend that closing?
A. I think I did.
Q. Did your wife attend that closing?

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A. I'm sure she must have.

Q. Can you remember as you sit here today?

A. I'm pretty sure that we were both there.

Q. Who formed Smith Family LLC?

A. The attorney?

Q. Yes?

A. John Kehl.

Q. Did you direct that formation or have anything to do with it?

A. I'm not sure exactly what all my involvement in that. She needed to form it to have a place to do her business out of.

Q. Have you ever owned any interest in Smith Family LLC?

A. None whatsoever.

Q. You reported about fourteen thousand dollars worth of rental income on your tax returns as income. Was that money deposited into the UCB bank account, as well?

A. I'm not sure where that -- what are you looking at?

Q. Your tax return. Would you like to see it?

A. On rental ...

MR. FLOYD: May I approach, Your Honor?

THE COURT: Certainly.

Q. This appears to be Denton Center for the rents received for sixty thousand dollars and it has a list of what you paid associated with all that; then it shows an income of $14,567.00 after all expenses have been paid.

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A. The bank took that.
Q. Okay. What bank was this? UCB?
A. UCB.
Q. Okay. So who was paying rent on the Denton Center? Was it multiple tenants?
A. I think that by the end there was probably -- Lowes Food is the only one that's there now.
Q. Okay. So UCB should have all the paperwork on ---
A. Yes.
Q. --- rents and that sort of stuff?
A. You can also check with the property manager. He's the one that actually received all the rent and took it to UCB.
Q. Who is the property manager?
A. His name is John McManus, Reagan Realty.
Q. Is Mr. McManus out of Georgia?
A. No. Stone Avenue here in Greenville.
Q. And what was the name of his company; I'm sorry?
A. Reagan Realty.
Q. Reagan Realty. Do you have any other assets?
A. I do not.
Q. Do you own the home that you live in?
A. My wife owns it.
Q. When did she buy it?
A. 2004.
Q. Did you contribute any funds to that?

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A. No.

Q. All right. Are there any other accounts; bank accounts, financial accounts that we haven't talked about today?

A. None.

Q. Are there any other LLC's that you're tying up loose ends on?

A. I think Denton did away with -- that was the final one.

Q. If you come across any other information, will you let me know?

A. I will.

Q. Have you filed your 2016 tax returns?

A. No.

Q. You're compiling all the paperwork; is that what you're doing?

A. I haven't started yet.

Q. You plan to though; right?

A. Oh, yeah.

Q. Who's got the paperwork for Smith Family LLC? Does your wife have that information?

A. Yes.

Q. And does she live with you?

A. Yes.

Q. And your address is?

A. 2221 Altamont Road, Greenville.

Q. And she has all the paperwork for Smith Family LLC?

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A. Yes.

Q. Is there anyone else who would have paperwork for Smith Family LLC?

A. I don't know of anybody else that could.

Q. Who is the accountant for Smith Family LLC?

A. Same one that did that, Elliott Davis.

Q. Here in Greenville?

A. Yes.

Q. Do you have a guy or a lady at Elliott Davis here in Greenville?

A. Yes.

Q. Who is that?

A. Drew Rogers.

Q. Okay.

MR. FLOYD: I'd like to keep it open to do a little more discovery, but that's all the questions that I have of this witness at this time.

THE COURT: All right. Thank you, sir. You can step down. Do you want any testimony from the other gentleman?

MR. FLOYD: I would, yes, sir.

THE COURT: Sir, if you'll come around, please, sir.

MR. TAYLOR: Can we take a restroom break?

THE COURT: Yes, sir. Go quickly, if you will. It's out the door to the right and then take a right and it's on the left.

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(OFF THE RECORD)

THE COURT: All right. Come on around if you will. I appreciate you coming in. If you'll place your left hand on the bible and raise your right hand. Do you swear to tell the truth, whole truth and nothing but the truth?

MR. TAYLOR: I do.

THE COURT: Thank you. Come around and have a seat, please, sir. If you'll state your full name.

MR. TAYLOR: Ronald D. Taylor, Sr.

RONALD D. TAYLOR, SR.,

BEING DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. FLOYD:

Q. Mr. Taylor, how old are you?

A. Seventy-one.

Q. Are you currently undergoing some sort of treatments?

A. I am. I have multiple myeloma cancer.

Q. And are you currently undergoing treatment right now?

A. Yes. Chemotherapy.

Q. All right. Mr. Taylor, do you have any bank accounts?

A. No, I don't.

Q. When is the last time you had a bank account?

A. I can't tell you for sure. It would have been prior to -- 2008 or prior.

Q. Do you own any vehicles?

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A. No.
Q. Did you drive here today in somebody else's car?
A. My wife's car.
Q. Do you own any land?
A. No.
Q. When was the last time you had an interest in real property; land?
A. Well, the last property that was owned in the company was that Denton Center property would be the last and only thing I've had since 2008, I guess. That's the one that was deeded in lieu to Palmetto Bank.
Q. Did you receive any rents?
A. No. Those rents were all sent to the bank.
Q. So all the money went straight to the bank, to UCB?
A. That's correct.
Q. What was the name of the LLC?
A. Denton Center LLC.
Q. Who were the members?
A. Ted Smith and Ron Taylor.
Q. Have you been involved in any real estate transactions in the past five years?
A. The past what?
Q. Five years?
A. No.
Q. And that is to say whether you were a member of an LLC, an

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indirect owner or something like that?

A. No.

Q. Do you have any retirement accounts?

A. No.

Q. 401k's?

A. No.

Q. IRA's?

A. No.

Q. Investment accounts of any sort?

A. No.

Q. Have you set up any trust funds or anything like that for anybody?

A. No.

Q. Are you living off of social security these days?

A. I am.

Q. Are you a member of any LLC currently?

A. No.

Q. Are you a shareholder in any company?

A. No.

Q. Do you own any stocks?

A. No.

Q. Do you own any assets that I haven't asked you about this morning?

A. No.

Q. Boats? Do you own a boat?

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A. No.
Q. Motorcycles?
A. None of those.
Q. RV's; that sort of stuff?
A. (Negative nod.)
Q. Thank you for your time. I appreciate you coming in.
THE COURT: All right. Anything else, Mr. Floyd, at this point?
MR. FLOYD: That's it, Judge. Thank you for your time.
THE COURT: All right. This appears to be a no-asset case, if you would ---
MR. FLOYD: I want to investigate this transaction, but beyond that, I understand.
THE COURT: If you'll just submit, via email, an Order to my court reporter.
Gentlemen, any questions from either one of you?
All right. I appreciate y'all coming in. Thank you.
MR. FLOYD: What sort of Order, Judge, would you like?
THE COURT: Just a no-asset Order.
MR. FLOYD: Okay. Are you going to give me some time to investigate this?
THE COURT: How much time do you need?
MR. FLOYD: Sixty days?
THE COURT: Okay. That's fine.
MR. FLOYD: All right.

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THE COURT: All right. Thank you.

-----END OF REQUESTED TRANSCRIPT OF RECORD----

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The undersigned, Danette P. Hanks, Court Reporter, Office of Master in Equity for Greenville County, South Carolina do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all of the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, before The Honorable Charles B. Simmons, Jr., as Master in Equity for Greenville County, South Carolina on the 23rd day of January, 2017.

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

February 1, 2017

Danette P. Hanks, CCR

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10/27/2015 $639,798.06 Seq:191458557 [redacted] TC:20

SAVINGS DEPOSIT DATE 10-27-15

The Palmetto Bank
Upstate South Carolina
1-800-PAL BANK

SUBTOTAL

LESS CASH

$ 639798.06

[redacted] 20

10/27/2015 $639,798.06 Seq:191458558 [redacted] TC:75

DEBIT MEMO

The Palmetto Bank

We have charged your account as follows:

Xfer to new savings acct

Prepared By: [signature] Dept /Branch: 191

Date: 10-27-15 Approval: JS

ACCOUNT NUMBER [redacted]

AMOUNT $ 639798.06

Smith Family LLC

:053201186: 75

10/27/2015 $639,798.06 Seq:191458557 [redacted] TC:20

RECORD OF CHECKS FOR DEPOSIT ONLY

DOLLARS

CHECKS LIST SINGLY

>053201186<
The Palmetto Bk #1910
2015-10-27

[redacted]

Travelers Prst

Business

Appl Trans DDA-SCV

00624 1912 $639,798.06

Items Total On Front $

10/27/2015 $639,798.06 Seq:191458558 Acct:41114310 ABA:53201186 TC:75

>053201186<
The Palmetto Bk #1910
2015-10-27
0191458558

[redacted]

United Community Bank 000097440

EXHIBIT B

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
BEFORE THE MASTER IN EQUITY

FIRST CITIZENS BANK and TRUST COMPANY, INC.,

Petitioner,

vs.

C.A. NO. 2014-CP-23-04097

RONALD D. TAYLOR and TED D. SMITH,

Respondents.

D E P O S I T I O N

WITNESS: WANDA H. SMITH

DATE: May 24, 2017

TIME: 10:20 a.m.

LOCATION: Randall S. Hiller, P.A.
850-B Wade Hampton Boulevard
Greenville, South Carolina 29609

TAKEN BY: Attorney for the Petitioner

REPORTED BY: Colette Cantoni,
Court Reporter

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A. Um-hum. That's about right.

Q. All right. And then in 1975?

A. And then I went to work for my father, and worked for him for about the next 15 years.

Q. Who was your father?

A. Huskey Construction Company.

Q. What did you do for Huskey Construction?

A. Office management.

Q. That puts us up to about 1990?

A. That's my last job.

Q. What did you do from 1990 to the present date?

A. Took care of kids.

Q. Homemaker?

A. Um-hum.

Q. You had a job. I don't fault that. Did you ever help your husband in any of his businesses?

A. No.

Q. You were never his office manager, never --

A. No.

Q. -- managed any of his money?

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A. All of it.

Q. As you sit here today, do you know where you bank?

A. I have a BB&T account. Yes.

Q. Are you aware of any other bank accounts that you have?

A. No.

Q. Are you familiar with any other banks that you may bank at?

A. No.

Q. Okay. Whose name is that bank account in at BB&T?

A. Mine.

Q. Is it your personal?

A. Yes.

Q. Is Mr. Smith on it as well?

A. No.

Q. It's just yours?

A. Yes.

Q. Do you know if your name is on any other bank accounts at any other banks?

A. No.

Q. So you couldn't tell me if you are a signatory on another bank account as you sit here today?

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A. Not really.

Q. The only one you know about is BB&T?

A. Yes.

Q. Okay. Are you familiar with a company called Smith Family, LLC?

A. Yes.

Q. Whose company is that?

A. Mine.

Q. Does your husband have any involvement with it?

A. Yes.

Q. Okay. What is his involvement with it?

A. He manages it.

Q. Is he a part owner of it?

A. No.

Q. Okay. Where does Smith Family, LLC bank?

A. The question again?

Q. Where does Smith Family, LLC bank?

A. I'm not sure.

Q. What assets does Smith Family, LLC own?

A. I'm not sure.

Q. Does Smith Family, LLC own any real

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property?

A. I'm not sure.

Q. Does Smith Family, LLC have any office space?

A. No.

Q. Where does Smith Family, LLC operate?

A. Out of our house.

Q. And where is that located?

A. Altamont Road.

Q. Does Smith Family, LLC own any vehicles?

A. I don't know that.

Q. Are you familiar with the Subpoena that was transmitted to Smith Family, LLC?

A. No.

Q. Have you never seen a Subpoena that was --

A. No.

Q. -- provided to Smith Family, LLC?

A. No.

Q. Are there any corporate records of Smith Family, LLC?

A. I don't know.

Q. Have you ever seen any corporate

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records of Smith Family, LLC?

A. No.

Q. Has Smith Family, LLC ever had any meetings?

A. I think we're having one today.

Q. Smith Family, LLC is having a meeting today?

A. It seems that way.

Q. Or are you referring to this deposition being a meeting?

A. Yes.

Q. All right. Has Smith Family, LLC ever had a meeting where it took notes and memorialized the meeting --

A. Not to my knowledge.

Q. -- and what actions it intended to take and that sort of thing?

A. No. Uh-uh.

Q. Is it true that Mr. Smith, sitting beside you, Ted Smith, makes all the financial decisions?

A. That's true.

Q. Is it true that Mr. Smith, sitting besides you, has complete control of all bank accounts of Smith Family, LLC?

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A. That's true.

Q. Okay. And as you sit here today, do you have any idea how much money Smith Family, LLC has?

A. No.

Q. When was the last time you saw a bank statement for Smith Family, LLC?

A. I haven't.

Q. Have you ever seen it?

A. No.

Q. Okay. Do you know when Smith Family, LLC was formed?

A. Maybe around 2012.

Q. Did you invest any money into Smith Family, LLC?

A. I don't know.

Q. Did you put any capital into Smith Family, LLC?

A. I don't know.

Q. Have you ever put any of your money into Smith Family, LLC?

A. Yes.

Q. Okay. How much of your money did you put into Smith Family, LLC?

A. I don't know.

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Q. What are you answering "yes" to when you say you've put your money into Smith Family, LLC? What money have you put into Smith Family, LLC?

A. I don't know.

Q. How did you put money into Smith Family, LLC?

A. My husband did it.

Q. Your husband did it?

A. He managed it.

Q. He managed it?

A. Yes.

Q. Okay. But I'm asking you this question. Can you give me any specific time, date, or monetary amounts of when you put any money into Smith Family, LLC?

A. No.

Q. All right. Did you hire a lawyer to incorporate or form Smith Family, LLC?

A. I don't remember.

Q. Who came up with the idea to form Smith Family, LLC?

A. We did.

Q. Okay. Did your husband suggest that you form a company named Smith Family, LLC?

company accounts?

A. Yes.

Q. And do you see where it says, "The company shall maintain such separate bank accounts as appropriate for the conduct of the company's business"?

A. Um-hum. I see that.

Q. But we've established that you don't know where it banks, right?

A. I'm not sure.

Q. Okay. Do you know where it banks, where Smith Family, LLC banks? I mean, you don't, do you?

A. No.

Q. Okay. I just want to make sure, you do not know; is that correct?

A. Yes.

Q. What does Smith Family, LLC do?

A. Manages my money.

Q. Is that the purpose of the business, of the LLC? What's the purpose of the LLC?

A. To invest money. I don't know.

Q. Is that the extent of --

A. I really don't know.

Q. You don't know what the purpose of

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Smith Family, LLC is?

A. No.

Q. What is the intent of the business?

A. I don't know.

Q. And we've established that you don't know -- do you know where the startup capital came from for Smith Family, LLC?

A. I knew at the time. I don't remember.

Q. Okay. Do you know how much was invested initially to start up Smith Family, LLC?

A. No.

Q. Have you ever designated Ted Smith as the manager?

A. Yes.

Q. In a writing?

A. In what?

Q. In a writing, where the company formally issued something in writing?

A. I may have.

Q. Okay. Do you know where that would be?

A. No.

Q. Do you maintain a file for Smith

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Family, LLC?

A. No.

Q. Do you ever specifically recall identifying Ted Smith as the manager of Smith Family, LLC?

A. I don't recall.

Q. Are there any other members of Smith Family, LLC besides you?

A. No.

Q. You are it, right?

A. I am it.

Q. You contend that you're the 100 percent owner, right?

A. Yes.

Q. Okay. Has Smith Family, LLC made any investments, such as buying gold, buying silver, and that sort of stuff?

A. I don't know.

Q. Are you familiar with Smith Family, LLC ever wiring money to invest in silver or gold or such?

A. No.

Q. Are you familiar with wiring money out to Colorado for any reason?

A. No.

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Q. Did you ever give any instructions to wire money to Colorado?

A. No.

Q. Do you know what Smith Family, LLC is invested in as we sit here today?

A. No.

Q. Are you familiar with a Subpoena being sent to Elliott Davis?

A. No.

Q. Do you know who the accountant is at Elliott Davis that you use?

A. No.

Q. Do you use Elliott Davis?

A. The name is familiar.

Q. Have you ever spoken with anyone at Elliott Davis?

A. I don't recall.

Q. Okay. As we sit here today, do you ever recall speaking to anyone at Elliott Davis about tax matters?

A. No.

Q. Okay. Are you familiar with you being identified as the tax matters partner for Smith Family, LLC?

A. I'm not familiar.

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Q. If you will look on this page here, Article 7.7. Who does it identify as the tax matters partner?

A. Wanda H. Smith.

Q. Is that you?

A. That's me.

Q. Okay. Have you ever identified anybody else to be the tax matters partner?

A. No.

Q. Okay. Have you ever had any dealings with anybody regarding tax matters of Smith Family, LLC?

A. No.

Q. Do you know if any distributions have ever been made from Smith Family, LLC?

A. No. No.

Q. Do you know what Smith Family, LLC has in terms of reserves?

A. No.

Q. Expenses?

A. No.

Q. Are you familiar with you being designated as the manager of Smith Family, LLC?

A. Repeat that.

Q. Are you familiar with you, Wanda

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H. Smith, being designated as the manager of Smith Family, LLC?

A. Yes.

Q. You are?

A. I think.

Q. Okay. As you sit here today, do you know?

A. Not 100 percent.

Q. Have you taken any other actions to designate anyone else as a manager?

A. No, not that I can remember.

Q. The last page of this is Exhibit B, it identifies a capital contribution of $1,000. Do you see that?

A. Um-hum. Yes.

Q. Do you recall making a capital contribution of $1,000?

A. I don't remember.

Q. Do you know what a registered agent is?

A. Do I know what it is?

Q. Do you know what a registered agent is?

A. No.

Q. Do you know who the registered agent

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for Smith Family, LLC is?

A. No.

Q. Who receives compensation from Smith Family, LLC?

A. I don't know.

Q. Is it fair to say you don't know because you don't know anything about the financials of the company?

A. That's correct.

Q. Do you know if you have been compensated for Smith Family, LLC?

A. I don't know.

Q. It sounds like you don't know a whole lot about Smith Family, LLC; is that true?

A. That's true.

Q. Is that because Mr. Smith runs Smith Family, LLC?

A. He manages it, yes.

Q. Okay. In fact, you don't have any dealings with Smith Family, LLC, do you?

A. No. He manages it.

Q. Have you ever had any dealings with Smith Family, LLC?

A. No.

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identified on here as 1, 2, and 3?

A. Yes.

Q. You are?

A. Um-hum. Yes.

Q. So who owns the local Little Caesar's Pizza?

A. Who owns the local Little Caesar's Pizza? Bob Johns.

Q. Did you loan money to anybody in connection with the Little Caesar's Pizza?

A. I don't -- I don't know.

Q. Have you ever loaned any money to anyone?

A. I don't recall.

Q. Do you recall being paid back some amount of money over time?

A. From who?

Q. Have you ever heard of a company called Karalina, spelled with a K, K-A-R-A-L-I-N-A?

A. Yes.

Q. Okay. Who is that?

A. It's the Little Caesar's franchise, I think.

Q. Who owns that?

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A. Bob Johns.

Q. Are you related to Mr. Johns?

A. No.

Q. Is he a friend of yours?

A. Yes.

Q. Okay.

A. He was. He's dead.

Q. He's dead?

A. Yes.

Q. Who paid off the loan?

A. What loan?

Q. Are you familiar with a loan that Karalina took from you or any of your companies?

A. No.

Q. You don't know?

A. No.

Q. Okay. Are you familiar with the townhouse at Pelham?

A. Yes.

Q. Were you involved in that transaction?

A. Yes.

Q. Tell me what you did.

A. I went in there and refurbished and

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number two on Exhibit Number 2?

A. I don't recall.

Q. Did you know at one time?

A. Perhaps.

Q. Okay. Are you familiar with the 1.23 acres on Pelham Road being sold?

A. Yes.

Q. And do you know who it was sold to?

A. Yes.

Q. And do you know how much it was sold for, roughly?

A. I don't know.

Q. Do you know when it was sold?

A. 2012.

Q. Do you know when the property was sold to Kwik Trip?

A. Not really.

Q. Okay. Did you go to the closing when it sold?

MR. HILLER: I want to go on the record here. What does this have to do with whether Mr. Smith has any property that's in her possession?

MR. FLOYD: It's very relevant to me. I mean, if you want to shut it down,

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BY MR. FLOYD:

Q. Do you maintain that he has all the rights and privileges of Smith Family, LLC, as you do?

A. I don't know what that means.

Q. Does he have the same rights to do what you could do for Smith Family, LLC?

A. Yes, I guess.

Q. Okay. Is it your money or is it his money?

A. It's my money.

Q. And any money that he uses would be with your authorization only?

A. What? The question again?

Q. If he uses money from Smith Family, LLC, is he supposed to get your permission?

A. No.

Q. Does he have authorization to do whatever he wants to do with the money of Smith Family, LLC?

A. We have discussions on some things.

Q. Do you discuss all financial matters with Ted Smith?

A. No.

Q. Does he have your permission and

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authorization to do what he needs to do and whatever he wants to do with the money in Smith Family, LLC?

A. I trust him to do what's right with the money, yes.

Q. Because you don't know how much is there and you don't know where it is, right?

A. That's correct.

Q. Okay. Do you know what the profit was on the sale from Smith Family, LLC to Kwik Trip?

A. I can give you an estimation. I'm thinking it was around 700,000.

Q. Okay. This appears to be what I've been provided as a closing statement. And I see on here where it says "Net sales proceeds to seller." Do you see that?

A. Yes.

Q. Does that appear to be right?

A. I guess.

Q. It's around about what you said, about 700?

A. Yes. Yes.

Q. Did Smith Family, LLC keep all of that money?

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A. As far as I know.

Q. Was Smith Family, LLC obligated to share that money with anyone?

A. I don't know.

Q. Do you know where that money went?

A. No.

Q. Okay. Mr. Smith is currently drawing Social Security, right?

A. Yes.

Q. Do you know where that check is deposited every month?

A. No.

Q. So, we've talked about Smith Family, LLC a little bit.

Do you have any other LLCs?

A. Not to my knowledge.

Q. Are you familiar with WHS Properties, LLC?

A. Yes.

Q. Whose LLC is WHS Prpoerties, LLC?

A. That was mine.

Q. Did you form that LLC?

A. Yes.

Q. When did you form that LLC?

A. I'm guessing 2008.

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protective order, right?

MR. HILLER: Yes.

MR. FLOYD: Okay.

MR. HILLER: Well, I think it's incumbent upon you.

MR. FLOYD: No. It's incumbent upon you. That's what I want to clarify with you.

MR. HILLER: Okay. Then I'll file the motion.

MR. FLOYD: You'll file the motion?

MR. HILLER: Sure.

MR. FLOYD: Okay. Very good.

BY MR. FLOYD:

Q. As we sit here today, do you know who formed WHS Prpoerties, LLC?

A. No.

Q. Do you know what the original name of WHS Prpoerties, LLC was?

A. WHS Prpoerties, LLC.

Q. You maintain that the original name of WHS Prpoerties, LLC when it was formed was WHS Prpoerties, LLC?

A. As far as I know.

Q. Okay. All right. Have you ever

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A. The answer is no.

Q. Did Mr. Smith ever own any portion or part of any prior company before its name was changed to WHS Prpoerties, LLC?

A. I don't understand.

Q. Are you familiar with WHS Prpoerties, LLC ever having a name change prior to becoming WHS Prpoerties, LLC?

A. I'm not.

Q. Would you have handled that?

A. Handled what?

Q. A name change.

A. There wasn't a name change, that I'm aware of.

Q. If there would have been a name change, would you have handled that?

A. If it's my money, yes.

Q. You would have known about it?

A. Possibly.

Q. Do you know if its name was ever named anything different?

A. I don't know. I don't recall. I mean, it's possible, but I don't recall.

Q. Have you ever heard of Rhino Fund?

A. What?

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Q. Are you familiar with what they call the Great Recession in 2008/2009? Have you ever heard it called that?

A. I've not heard it called the Great Recession, no. I thought that was back in the thirties.

Q. Wouldn't that have been called the Great Depression in the thirties?

A. All right.

Q. So have you ever heard it called a recession in 2008/2009?

A. Yes.

Q. Did Mr. Smith suffer some financial losses --

A. Yes.

Q. -- in 2008, in that time frame?

A. Yes.

Q. Did Mr. Smith lose most of his business --

A. Yes.

Q. -- in 2008?

A. Yes.

Q. All right. And did he encounter some significant financial hardships in 2008?

A. Yes.

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Q. All right. Did you form Rhino Realty Fund I, LLC?

A. I don't recall.

Q. Okay. Would this have been Mr. Smith's LLC?

A. It's got his signature (indicating).

Q. Okay. Do you have any reason to believe as we sit here today that this was not Mr. Smith's LLC?

A. I have no idea.

Q. Okay. Do you believe it was his or was it yours?

MR. HILLER: I object. She's answered the question. She has no idea.

BY MR. FLOYD:

Q. Do you have any reason to believe it is not Mr. Smith's LLC?

A. I don't know whose it is.

Q. Is it yours?

A. Not to my knowledge.

Q. We've established that you have two LLCs, right? Is that what you've told me?

A. Yes.

Q. All right. So is this one of those that you owned?

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that you're aware of?

A. No.

Q. Does Mr. Smith have any retirement accounts or pensions and that sort of stuff?

A. No.

Q. Are you familiar with any sort of railroad pension of any sort?

A. No.

Q. No? Okay. So you can't answer any questions about anything relating to other bank accounts besides your bank account at BB&T, right?

A. Right.

Q. Okay. All right. So, tell me about the purchase of the property, the Kwik Trip property by Smith Family, LLC. Do you recall when Smith Family, LLC purchased the property?

A. I'm guessing it was 2012.

Q. And do you know where the money came from to purchase that property?

A. From previous investments of mine.

Q. Are you familiar with an LLC named 2707 Pelham Road, LLC?

A. Say that again.

Q. Are you familiar with an LLC named

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or identified as 2707 Pelham Road, LLC?

A. No.

Q. Is that your LLC?

A. I'm not familiar with it.

Q. Not yours, right?

A. I don't know.

MR. HILLER: That's not what she said.

BY MR. FLOYD:

Q. Is it your LLC?

MR. HILLER: She's --

MR. FLOYD: Mr. Hiller, please.

MR. HILLER: I'm going to instruct her not to answer. She's already answered.

MR. FLOYD: She has not answered the question.

MR. HILLER: Yes. She said she was not familiar with it.

MR. FLOYD: I asked her if it was her LLC.

MR. HILLER: And she said --

MR. FLOYD: It should be a yes or no.

MR. HILLER: And she said she was

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Social Security money over there?

A. Not exclusively.

Q. Okay. Do you have other sources of income?

A. No.

Q. Okay. What other money would be in this BB&T account?

A. Just the Social Security check.

Q. Are you aware of ever receiving any sort of compensation from Smith Family, LLC or WHS Properties, LLC?

A. I don't recall.

Q. Do you know if any distributions have ever been made to you as the member of the LLC?

A. I don't recall.

Q. Do you know if Mr. Smith is compensated for his activities and his work?

A. I don't know.

Q. What's the nature of Mr. Smith's compensation supposed to be?

A. From where?

Q. From Smith Family, LLC, from WHS Prpoerties, LLC.

A. Repeat the question.

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Q. Okay. Does Mr. Smith get any compensation from Smith Family, LLC?

A. I guess he could.

Q. How much?

A. Whatever he determines he needs.

Q. Is that because he has complete access to the bank accounts --

A. Yes.

Q. -- to do as he deems necessary and proper?

A. That's right.

Q. All right. How about WHS Prpoerties, LLC?

A. It's closed.

Q. When it had bank accounts?

A. He managed the money. If he needed money from the account, then he's managing it.

Q. He can make any financial decisions?

A. Yes.

Q. He had exclusive control over those accounts, right?

A. Yes.

Q. Okay.

MR. FLOYD: We'll be having a motion about Mr. Hiller's objections and we'll

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A. Yes.

Q. And you had access to that money as well, right?

A. I didn't have access to it.

Q. He kept it all himself?

A. He managed all the money.

Q. Okay. All right. Did you maintain any separate accounts for your own investments or did he manage it all?

A. He managed it all.

Q. So it was kind of your money together that he managed, right? Did he maintain a separate investment account for you?

A. No, not that I know of.

Q. And, in fact, you said it was in both of your best interests for things to succeed, right?

A. Yes.

Q. Because if Smith Family, LLC makes money, then you both enjoy the benefit of that, right?

A. I guess.

Q. Okay. Why wouldn't you both enjoy the benefit of that? Can you think of a reason as we sit here today why you wouldn't enjoy the

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benefit of that?

A. No.

Q. Can you think of a reason why Mr. Smith would not also enjoy that same benefit if Smith Family, LLC makes money?

A. What was the question?

Q. As you sit here today can you tell me why Mr. Smith would not enjoy the same benefits of Smith Family, LLC making money, as you would?

A. Well, it's my money. It's not his money.

Q. And you don't even know where it is, do you?

A. I trust him to take care of it.

Q. And you don't know how much there is?

A. Not really.

Q. And you don't know how much there was, do you?

A. Sitting here today talking to you, no, I haven't had an opportunity to study it, to research it, to have those facts for you today.

Q. Have you ever?

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
BEFORE THE MASTER IN EQUITY

FIRST CITIZENS BANK and TRUST COMPANY, INC.,

Petitioner,

vs.

C.A. NO. 2014-CP-23-04097

RONALD D. TAYLOR and TED D. SMITH,

Respondents.

D E P O S I T I O N

WITNESS: TED D. SMITH

DATE: May 24, 2017

TIME: 11:55 a.m.

LOCATION: Randall S. Hiller, P.A.
850-B Wade Hampton Boulevard
Greenville, South Carolina 29609

TAKEN BY: Attorney for the Petitioner

REPORTED BY: Colette Cantoni,
Court Reporter

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(The deponent does not waive the right to read and sign the deposition transcript)

- - - - - - - - - - - - - - - - - - -

TED D. SMITH, being first duly sworn, testified as follows:

EXAMINATION

BY MR. FLOYD:

Q. Mr. Smith, just to go back a little in time. Could you tell me how old you are?

A. I am 69.

Q. Sixty-nine. And your education?

A. I have a management degree, an MBA, and an accounting degree.

Q. Okay. When would you have finished up all of your schooling? Did you go consecutively?

A. No. I actually went to school from '66 to '68. I dropped out until '71. I graduated in '73, did the MBA directly after that at Georgia.

And then I went back and finished

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right?

A. I was not a builder anymore.

Q. Why weren't you a builder?

A. We lost everything in 2008.

Q. You were still a builder in 2007 up until 2008, right?

A. We basically closed shop the first quarter of 2008.

Q. That would be March of 2008 --

A. Something like that.

Q. -- is kind of whenever you closed the doors?

A. We didn't totally close the doors. I had to maintain a little bit of -- because I had so many employees, I had to keep up with their insurance program --

Q. Financial records and that sort of stuff?

A. Yes.

Q. Closing it down, winding up --

A. I had no employees after March of 2008.

Q. You had to still wind up the affairs and that stuff --

A. Yes.

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Q. But that was kind of -- why I see the Realty Fund stuff, that was kind of the purpose of those realty funds?

A. Yes.

Q. And we talked a little earlier about Rhino Realty Fund --

A. Yes.

Q. -- with your wife.

A. Yes. Um-hum.

Q. And you formed that LLC, didn't you?

A. I did.

Q. Okay. And eventually its name changed to WHS Prpoerties, LLC, right?

A. That's correct.

Q. So that was your LLC?

A. To begin with.

Q. Did you sell it to your wife?

A. No.

The story on that is we had the piece of property, it was about 60 percent complete, the loan was fully funded. And I was broke. And I went to Palmetto Bank and I gave them a choice, I said, you can either let my wife assume the loan and finish it with her money or you can take it back.

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referenced on that page, Exhibit 2, are actually in 2012, and the last one is --

A. She made those -- she sold in 2012 -- in 2012 she sold Four Market Point to H&N Properties, I think was their name.

Q. What property --

A. And that's where she got the money to do this stuff with (indicating).

Q. What LLC owned that property that you just referenced?

A. WHS Properties.

Q. Okay. Was that the property that she took over in 2008?

A. '8. 2008.

Q. You said the loan was fully funded?

A. Yes.

Q. So you had tenants lined up to go into that space, right?

A. That's the unfortunate part.

Q. You did not have any tenants?

A. I had one tenant there that was occupying 1,600 square feet out of almost 17,000.

Q. And when you say the loan was fully funded, that loan was used to finish the

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project?

A. Just to build what was there up until the changeover from WHS to -- from Rhino to WHS.

Q. Okay. And then you say her money was used?

A. Yes.

Q. Where did her money come from?

A. She sold a house on old White Horse Road that reduced 925,000 --

Q. Wait a second. That's in 2012, right?

A. No. That's 2007.

Q. Okay. Well, I see where you've referenced here, on February 3 -- on Exhibit 2 --

A. That's not --

Q. That's a different property?

A. Yes, that's a different property.

Q. Okay. So did she own a property on White Horse Road or did some other LLC own a property on White Horse Road?

A. She owned personally the house that was at 9701 Old White Horse Road.

Q. How much did she sell that property

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for?

A. 925,000.

Q. Where did she get the money to buy that house?

A. Well, that house was bought in 1979 --

Q. When you bought it?

A. No. When she --

Q. When you-all were married?

A. Yes.

Q. It was titled in her name, right?

A. It was in her name, yes.

Q. Okay. I understand.

And you maintain she maintained ownership of that property over the years?

A. Yes.

Q. You heard her testify about her earnings over the years?

A. Yes.

Q. From what I gather, she has not worked outside of the home since 1990; is that right?

A. The only activity is what she's done since she's formed WHS Properties in 2008. I think you would have to consider that.

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it.

Q. Okay. Was John Kehl at Love Thornton?

A. He was at one time. I don't know where he was at that particular point. I'm not sure.

Q. So he was at Love, Thornton, Arnold & Thomason?

A. He was there, until they closed.

Q. All right. You're familiar with the operating agreement here, as Plaintiff's Exhibit Number 1?

A. I have seen it, yes.

Q. Do you see what's identified on Exhibit B as $1,000?

A. Yes.

Q. Where did that $1,000 come from?

A. It would have come from her sale of WHS Properties, I would assume.

Q. Do you know as you sit here today?

A. What?

Q. Where the thousand dollars -- was it actually $1,000 that was invested into Smith Family, LLC?

A. I couldn't tell you.

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Q. Okay. Are you related to the Little Caesar's Pizza people, Karalina --

A. No.

Q. -- in any way?

A. No.

Q. Is it just a friend of yours that wanted to borrow some money?

A. No. Actually, he wanted to change his store location on White Horse Road, and she went out there and bought a piece of property so that he could buy half of it and build a new Little Caesar's building on it.

Q. Was he a friend of yours?

A. I guess you would call him a friend of mine. I did the first store, Little Caesar's, when they came to Greenville in the early eighties.

Q. You owned it or you built it or --

A. We owned that property for a few years, and then it was sold.

Q. Did you own the business as well?

A. Oh, no.

Q. You just developed the land for it?

A. Just developed the land for it.

Q. And did you get them to sign a note

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of some sort?

A. I did.

Q. Who did they promise to pay? Do you know who?

A. Smith Family, LLC.

Q. It was Smith Family, LLC?

A. Yes. Um-hum.

Q. Did you make the financial decision to let them borrow the money?

A. I don't know exactly who made the decision. It was the only way that it was going to happen. Because they didn't have enough money to close on their lot.

Q. They needed more money?

A. Yes.

Q. I gathered from her deposition that she doesn't know anything about the financials; am I correct?

A. No, she does not.

Q. Am I correct in that?

A. That's correct.

Q. Do you know all the financial stuff relating to these LLCs --

A. I do.

Q. -- and all that sort of stuff?

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A. Yes. Um-hum.

Q. And then eventually the Pelham Road property was purchased?

A. That's correct.

Q. And this partnership that you mentioned in this was with Groves Enterprises --

A. That's correct.

Q. -- that was the intent?

Tell me about the church issue related to the Kwik Trip property. Tell me about the interaction with the church. And I don't understand -- I've seen some e-mails about that. I don't understand. So could you explain that to me.

A. When 2707 was a possibility, Smith Family was trying to buy an additional strip from the church to do a little bit larger center than what could be put on the 1.23 acres. And the church, they drug it out as far as anybody can drag something out. It would never happen, it would never happen. And finally, a decision was about to be made that the center would be reduced and just built on the Smith Family property alone. And that's

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when the church came up with this Kwik Trip idea.

Q. The church presented the Kwik Trip idea?

A. That's correct.

Q. They wanted a gas station there instead of a shopping center?

A. Well, financially, it was far, far, far better for them to have the Kwik Trip there than to have the strip center.

Q. Explain that to me. I don't understand.

A. Well, the property that Smith Family was trying to acquire was a $75,000 piece of property. And they sold the same property, plus a little bit more to Kwik Trip for 340,000.

Q. Okay. Was Smith Family obligated to build something for the church as well, some shell of a building or something like that?

A. It's been trying to happen, but it's been slow go. With the church you never get a signature on anything.

Q. So tell me about that deal with the church. Is Smith Family obligated to build

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something for the church?

A. Not right this minute they're not. But we're hoping to sign the contract. She is sometime in the next little bit, as soon as the church decides to let it happen.

Q. Tell me the deals of that transaction.

A. What do you want to know?

Q. Is it another piece of property that Smith Family, LLC owns?

A. The church owns it.

Q. The church owns the property. Is it adjacent to the church?

A. Yes.

Q. What does the church want to do?

A. They want to eventually end up having a 5,000-plus square foot assembly area.

Q. Is Smith Family, LLC obligated to contribute some amount of money to that project?

A. Eventually they will.

Q. What are the terms of that arrangement, and why?

A. Why? Well, it'll be just another investment for Smith Family and an opportunity

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to try to make some money.

Q. Okay. What is the nature of the building that will be built on the church's property?

A. The nature?

Q. Is it a commercial piece of property to have multi-tenant facility or --

A. It is zoned -- it's going to be a two-level building with the church on top and Smith Family on the lower.

Q. Okay. And will the bottom portion of it be leased out to various tenants?

A. The intent is to sell it.

Q. The intent is to sell the bottom floor?

A. Yes.

Q. As condos? As a condo?

A. Yes, that's correct.

Q. What sort of square footage is that?

A. It's just a little over 5,000.

Q. Downstairs? 5,000 square feet upstairs?

A. Yes.

Q. So the idea would be to create some partnership between the church and Smith

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Family, LLC?

A. Well, it's not going to be handled that way. It's going to be handled to an investment agreement, if they ever produce it.

Q. What are Smith Family, LLC's obligations relating to that?

A. To build it. To get it built.

Q. Smith Family will be obligated to build it on the property --

A. No. Hire somebody to build it.

Q. Who is the property owned by?

A. It's owned by the church.

Q. Okay. And will it remain owned by the church, the property?

A. Well, not after it's -- not after it goes through the condominium process.

Q. You probably know more about that than I do.

It would be a joint ownership between the first floor owner and the second floor owner at that point in time?

A. Well, the church will own the top, Smith Family will own the bottom.

Q. Who will own the dirt?

A. That will be in the association.

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Q. That would be the common area --

A. Yes.

Q. -- the parking areas? Okay.

A. Yes.

Q. How big is that property? How many acres?

A. .46 or something like that. I don't remember. It's close to a half an acre, I guess.

Q. Do you have a prospective purchaser lined up?

A. Hopefully.

Q. Who is it?

A. Groves Enterprises.

Q. Okay. That's where Groves wants to put in an AFC Urgent Care company?

A. That's correct.

Q. Is Groves involved with that partnership?

A. No.

Q. You're just kind of brokering the deal, bringing it to AFC, is that --

A. I don't know if "brokerage" is a correct statement.

Q. The center cog in the wheel? I

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don't know.

A. Maybe.

Q. Okay. You presented them with this option for them to buy it, and they said they're interested if you can get it built?

A. That's correct.

Q. Okay. All right. Are there any other dealings with the church that you have got going on?

A. No.

Q. But as we sit here today, that structure has not been built, right?

A. That's correct.

Q. And based on my review of the e-mails and such, I believe that you were the only person involved in that entire transaction relating to Kwik Trip and the dealings with the church and all that sort of stuff, right?

A. I don't -- well, I --

Q. Were you the face of Smith Family, LLC?

A. I was organizing it for Smith Family.

Q. Okay. Did your wife ever attend any meetings?

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A. Yes.

Q. Who did she go to a meeting with?

A. Well, she met with Tim Groves about the property.

Q. Where? One time?

A. Yeah, one time -- probably just one time. Maybe twice.

Q. Did she ever meet with anybody from Kwik Trip?

A. No.

Q. Did she ever meet with any of the brokers, real estate brokers?

A. No.

Q. Did she ever meet with anybody from Kwik Trip?

A. No.

Q. You handled all of that yourself?

A. Well, there wasn't anything much to handle, other than hand the contract to her to sign.

Q. For Kwik Trip?

A. Yes.

Q. So there weren't any negotiations involved with Kwik Trip? No approvals necessary from the county?

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statements come?

A. Yes.

Q. And you control them, and you look at them and review them and that sort of stuff, right?

A. Just to make sure that her money is protected.

Q. Where is your Social Security interest or Social Security check deposited?

A. Well, since you made such a big deal of it, the last time we talked, I've opened up my own account and have it put into my account now.

Q. Okay. So where was it going?

A. It was going into WHS Properties.

Q. Okay.

A. Which should have been closed, but it was convenient not to.

Q. So you had it going into WHS Properties, LLC?

A. That's correct.

Q. And now, you've testified that you don't have any bank accounts?

A. I do now.

Q. Okay. Now you have a bank account?

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A. I opened one up just for the purpose of getting my Social Security check deposited now.

Q. After I asked you those questions?

A. That's correct.

Q. Okay. Before that you did not have -- you said you did not have a bank account?

A. I did not. No, I did not.

Q. But is it true that you used the bank accounts at United Community Bank as your personal bank accounts?

A. I had my check deposited in it and I paid our bills out of it.

Q. Your personal bills, right?

A. Yes.

Q. And your pleasure stuff, you would do that as well, right?

A. Well --

Q. For example --

A. -- I mean, that's just a checking account. I mean, as far as accounting-wise, it was all separated out, and it would be, like, a disbursement or something, and then the accountant would not certainly write all that

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stuff off as expenses, it would be just our personal expenses.

Q. Sure. But you were using it to go to the grocery store?

A. Yes.

Q. And you would be using it to buy iTunes stuff, right?

A. Yes.

Q. Netflix?

A. Yes.

Q. And you went to the national championship game this year, right? Did you go down to Tampa?

A. I did. We drove.

Q. And you went to the national championship game?

A. Yes.

Q. Where did you get the tickets from?

A. My brother.

Q. How much were they?

A. I don't recall right offhand. I think you'll probably -- they were pretty expensive. I can't remember exactly what he charged for them.

Q. A thousand bucks each or something

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like that?

A. No.

Q. Six hundred dollars?

A. It probably was more like 5.

Q. Five hundred bucks? Did you write him a check for those tickets?

A. I think he did get a check, yes.

Q. And what's your brother's name?

A. Jim Smith.

Q. Jim Smith. Okay.

So do you use Smith Family, LLC bank account and WHS Properties, LLC, whatever you need to buy, you use those like they're your own accounts, don't you?

A. Well, I use them to pay our bills.

Q. Bi-Lo, Publix?

A. Whatever we need.

Q. For your personal effects?

A. Yes.

Q. The accountant can separate it for business expenses and what is and what's not?

A. Yes.

Q. But you are the one who is using these accounts, right?

A. Primarily.

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Q. Does anybody else got access to these?

A. Oh, Wanda does.

Q. But she doesn't even know where these are, right? That's what she said, right?

A. That's what she said.

Q. Okay. Do you know Swindell Law, PLLC? Do you know who that is? Colin Swindell maybe? Swindle? Colin Swindell? Does that ring a bell for you?

A. Not right offhand, no.

Q. Okay. Do you know if they closed the loan for the Kwik Trip property?

A. I don't know who it was. It was a Charlotte firm.

Q. On Trade Street, did you go up there for the closing? Is that --

A. Absolutely not.

Q. You did not drive up there?

A. No.

Q. Did you sign --

A. Everything was done by --

Q. e-mail and FedEx?

A. Yes. Yes.

Q. I'm handing you what will be marked

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Q. And it was the deposited --
A. I wouldn't say that's the profit. That's the amount of the check.
Q. The distribution --
A. Yes.
Q. -- or -- from the sales proceeds?
A. Yes.
Q. And that money went into this account, right?
A. That's correct.
Q. And you have the ability to sign on this account, correct?
A. I did.
Q. And, in fact, you have the ability to do anything that your wife could do on this account, right? You can write checks?
A. Well, I wouldn't do anything without discussing it with her.
Q. As far as the bank is concerned, you have the ability to do anything that she could otherwise do?
A. Yes, I guess that's true.
Q. You could write a check for anything? You could transfer money? You don't have to ask permission of anybody, as far as

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the bank goes --

A. That's correct. As far as the bank goes, that's true.

Q. -- you could do it?

In fact, you've moved some money around here, right --

A. Yes.

Q. -- that we see here on the next page, following this account opening, and the account number was 44214197, right?

A. Yes.

Q. And it appears to me there are some transactions there. Is this account still open?

A. Yes.

Q. How much is in this account?

A. It's probably got 380 or so right now.

Q. And you have access to write checks and pay your bills out of that account, right?

A. I don't write -- well, wait a minute. Which one are you talking about? You're talking about the savings account?

Q. Yes.

A. I don't write any checks out of the

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savings account.

Q. Sorry. You move money out of the savings account into checking accounts as you need it, right?

A. Right, to pay our bills.

Q. To pay your bills?

A. Yes.

Q. And you pay the bills out of the Smith Family, LLC account?

A. Some of them.

Q. And you pay some of them out of the WHS Properties account?

A. Not anymore. That's closed.

Q. So the WHS Prpoerties, LLC bank account has been closed?

A. That's correct.

Q. Before you closed that account, WHS Prpoerties, LLC, you also used that account to pay various bills, personal expenses, and such?

A. That's correct.

Q. And you also used the Smith Family, LLC to pay for your personal expenses as well?

A. The family expenses, yes.

Q. Right. Restaurants, groceries for your personal use, not necessarily

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business-related expenses, right? The accountant would take that --

A. Yes.

Q. -- and say, that's not a business expense?

A. That's correct.

Q. Netflix and that sort of stuff, right?

A. We don't have any income other than Social Security. And it's impossible to live on Social Security. So we have to drain that savings account down so much a month in order to live.

Q. Okay. And do you consider this money to be yours --

A. No.

Q. -- in the savings account?

You maintain that it's your wife's account?

A. It absolutely is.

Q. Okay. But you use it to live off of, right?

A. I pay our family bills out of it.

Q. And you retain the benefit of that money, right, because you use it to pay your

bills, right?

A. Well, they're as much her bills as they are mine.

Q. But you retain the benefit of that money? You can use that money to pay your bills, right?

A. According to -- yeah, I guess so, but --

Q. So this is the account --

A. -- it's pretty hard to separate what's mine and what's hers on bills. It's just, you know --

Q. But she doesn't write checks and stuff out of United Community Bank, does she?

A. No.

Q. You do all of that?

A. That's because I take care of all the accounts. It's like we told you earlier.

Q. You handle all the finances?

A. Yes.

Q. So all of these transactions we see at United Community Bank is all you?

A. I take care of all of her bills.

Q. And your bills, too?

A. And mine.

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Q. Right. WHS Prpoerties, LLC, do you see this one?

A. What?

Q. This account here (indicating) as we're flipping through them?

A. Yes.

Q. Account 41104994?

A. Yes.

Q. Is this the account that has been closed?

A. That is correct.

Q. So there is no money left in this account?

A. No.

Q. Is WHS Properties LLC operating?

A. No.

Q. So these are some of the expenses that I see on here, it's a Publix, a Bi-Lo, a Walgreens --

A. That's paying personal expenses.

Q. -- United Community Bank 19, right?

A. Yes.

Q. And this is 4994. So what I see in the bank statement here from Smith Family, LLC -- excuse me -- from Wanda Smith, I see

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transfers of money from the savings account that's in Wanda Smith --

A. Yes.

Q. -- and Ted D. Smith and then Ted --

A. As signer.

Q. -- well, Ted Smith authorized signer; do you see that?

A. Yes. We've been over -- how many times are we going to go over this?

Q. Sure. But I see transfers of money, 4,000, 5- -- 4,400, 3,000. You're moving money over to these accounts, right?

A. To pay the bills.

Q. To pay these bills and such, right?

A. That's correct.

Q. Okay. And I think we talked about the source of -- let's talk about Smith Family, LLC.

A. Okay.

Q. The source of this money here for account number -- actually, we'll call it United Community Bank, page 13, it is a Smith Family, LLC account, right?

A. Yes.

Q. You are reflected on this account,

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Ted D. Smith, right?

A. As a signer.

Q. But there is nothing under your name here that says "Signer," right?

A. Well, it is.

Q. Well, is there anything on this page that says "Signer"? You are equally situated with your wife in this account?

A. No, I'm not. She owns that account, and I'm only a signer.

Q. Okay. But is your name here?

A. It's there because I am authorized to sign.

Q. Okay.

A. She owns the account.

Q. And actually, this was opened in 2/8 of '12, right?

A. Yes.

Q. And there is a deposit of $587,000 in it, right?

A. Um-hum. Yes.

Q. And that money came from WHS Prpoerties, LLC, right?

A. The sale of Four Market Point.

Q. But it came from WHS Prpoerties,

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LLC, right?

A. That's correct.

Q. But you're on it?

A. As a signer.

Q. Okay. Do you want to tell me why you didn't tell me that you have an account, this account, whenever I first examined you?

A. I don't have it. I don't have -- I have no ownership in any account. That's still the same as it was then.

Q. But you're on this account, right?

A. As a signer.

Q. Okay.

A. I am not an owner of the account.

Q. So this is Smith Family's Bank account statement, United Community Bank 15.

A. Okay.

Q. And we're seeing some transfers in from the savings account, right?

A. Yes.

Q. We talked about United Community Bank 17. That's the WHS Properties, right?

A. Yes.

Q. And this is where we see all of those expenses, personal expenses, right?

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A. That's how -- the only way we have to live.

Q. This looks like another WHS Prpoerties, LLC account here at United Community Bank. It's from United Community Bank page 29, 42048346. Do you see that?

A. I see it, but I don't know what it is.

Q. There was an initial deposit of 225,000 -- do you see that -- in 2010?

A. I don't know. I don't know what this is. Where is the backup? Is there any activity?

Q. That's what I wanted to ask you about. I think I have some more information about this. But do you know where the source of that money came from?

A. The only thing I could think of is the sale of the lot to Bob Johns on White Horse Road -- no, that can't be that.

I don't know. I don't know.

Q. Do you derive any income from Smith Family, LLC or WHS Prpoerties, LLC?

A. No.

Q. But it does pay for all of your

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bills and covers your personal expenses, right?

A. It keeps a roof over my head.

Q. It keeps the roof over your head. All right.

MR. FLOYD: Why don't we take a break here, and we'll all go get some lunch and we will resume.

(Off-the-record discussion.)

BY MR. FLOYD:

Q. Just by way of me telling you this, and just so I can make sure that you know this. During the break, don't talk to Mr. Hiller about your deposition. You can talk to him about football, Clemson, weather, and that sort of stuff. But don't talk about anything related to the documents you have seen, the examination that I have conducted this morning, or Ms. Smith, nothing related to this case, otherwise I will be able to ask you questions about that.

A. Okay.

Q. And I would prefer to avoid all of that.

A. We won't discuss it.

Q. Just don't discuss this case.

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next page, $382.92 -- or Joey Phillips, who is Joey Phillips?

A. Where is that?

Q. Right here, this was produced, (indicating) right here.

(Witness reviewing.)

Q. Do you know what that is about?

A. No.

Q. Have they ever paid you any money?

A. Not that I'm aware of.

Q. Next, if you will flip over to United Community Bank 61.

A. Okay.

Q. Number 61, page 61. Do you see that?

A. Oh, I'm on 51. Okay.

Q. This appears to be a statement dated 2/21/16. Do you see that?

A. I do.

Q. It appears to be a business checking account for Smith Family, LLC; do you see that?

A. Okay. Yes.

Q. Down at the bottom, a wire transfer is reflected on here that shows an outgoing wire (indicating) to International Co.,

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$135,374; do you see that?

A. Yes.

Q. Can you explain that?

A. An investment.

Q. What sort of investment is that?

A. She bought some silver.

Q. Do you know who initiated this transfer?

A. Probably me.

Q. So that would be an outside investment that Smith Family, LLC is doing?

A. That's correct.

Q. Okay. 135,000?

A. Um-hum. That's correct.

Q. If you will, flip over to United Community Bank page 63.

A. This is 63.

Q. On this page I see a number of checks that are made payable to Raintree Apartments.

A. I do. Um-hum.

Q. Is that for your daughter's --

A. No. It's my son.

Q. Your son's apartment?

A. That's correct.

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Q. Are you still paying for your son's apartment?

A. Well, I don't pay for it. He brings me cash and I write a check for him.

Q. So should there be a corresponding deposit into Smith Family, LLC?

A. I just usually keep the cash and just to pay grocery bills with it.

Q. All right. But Smith Family, LLC is writing checks to Raintree Apartments, right?

A. That's correct.

Q. Who is Carolina Heating?

A. They maintain a heating and air-conditioning at our home.

Q. Do they maintain any other heating and air units for you?

A. Just the ones at the house.

Q. Okay. So Carolina Heating here on this page, as you will see, check number 2239, written from Smith Family, LLC --

A. Yes.

Q. -- United Community Bank 63, this Carolina Heating check would have been for the air-conditioning repair of some sort at your personal residence?

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sure.

Q. Okay. What was the source of the funds that you're using to defend these supplemental proceedings?

A. Where am I getting my funds?

Q. Yes.

A. Like I do everything else, I had to borrow it from my wife.

Q. So your wife is funding your defense?

A. Yes.

Q. WHS Properties has written a check here for $2,000?

A. Yes.

Q. What is that for?

A. The only thing I could think of is we transferred it to WHS Properties to pay some bills with it.

Q. All right. If you will flip to page United Community Bank page 66.

A. Okay.

Q. Sorry. Go back one page to United Community 65. I see another check on here for $800 to Carolina Heating Services, at the top, check number 2275.

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A. All right.

Q. Do you know what that is for?

A. It would be work that they did at the house on 2221 Altamont.

Q. All right. The property is owned by who?

A. Wanda.

Q. Okay. That Smith Family, LLC is paying for the air-conditioning repair?

A. Well, she pays for everything. It comes out of her accounts and goes to whoever that needs to be paid.

Q. Okay. But she had a bank account as well, right?

A. Yes.

Q. On the next page I see two more Carolina Heating checks. Do you see those?

A. I do.

Q. Is this more work on your air-conditioning?

A. It has to be. That's the only place they've ever worked.

Q. Actually, I see three checks on here. Do you see that?

A. Yes.

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didn't you?

A. Yes.

Q. Okay. Greenville Dermatology, do you see that check?

A. Yes.

Q. Who was that for? Was that for you?

A. I don't know. Wanda signed it. I guess it was for her.

Q. Did you have to go to the dermatologist?

A. I don't go to Greenville Dermatology. I go to another one.

Q. Okay. So that's not you?

A. No, it's not me.

Q. Okay. Flip over to United Community Bank 69.

A. Okay.

Q. There's a check deposit here identified from 5208 Calhoun Memorial Highway LLC. Do you see that?

A. Yes.

Q. What is that?

A. That was some money that we received for doing some work for AFC Urgent Care.

Q. That would be Mr. Timothy Groves'

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signature there on that check?

A. Yes, I would assume.

Q. And it is identified as construction management Easley building.

A. Yes.

Q. What is the Easley building?

A. His building that I helped him remodel.

Q. So you were actively involved, working?

A. I basically was just a project manager. I hired people to do whatever he needed done.

Q. And you accepted a fee?

A. Yes.

Q. How did you calculate that fee?

A. I don't -- I can't tell you exactly. I can't tell you how we came to that number.

Q. Okay. Are you involved in 5208 Calhoun Memorial Highway LLC?

A. Negative.

Q. Do you have any ownership interest in it?

A. No.

Q. Have you ever had any ownership

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interest in it?

A. No.

Q. Why did you tell Mr. Groves to make the check payable to Smith Family, LLC?

A. I don't know. I guess because I knew that's where I would deposit the money, so I just had him go to whatever account he was going to put it into.

Q. That was money on work that you performed yourself personally, right?

A. Yes.

Q. The company didn't do anything there, did it?

A. No.

Q. That was all you personally, correct?

A. Yes.

Q. And you just decided to deposit that money into Smith Family, LLC?

A. Well, as you can see, I take a lot of money out of Smith Family, LLC. I guess it's about time I put some in.

Q. Fair enough. All right. Are you a realtor?

A. Yes.

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Q. Are you a broker-in-charge?

A. I'm a broker, yes.

Q. Are you a broker-in-charge?

A. Yes.

Q. Are you a broker-in-charge of two real estate companies?

A. I am.

Q. And do you have any ownership interest in those?

A. None.

Q. But you do take checks from those, don't you?

A. No.

Q. Have you ever taken checks from the realty companies?

A. I receive some commissions that was in their name, but I did not receive it from them.

Q. Okay. But you got it through Cross Creek, right?

A. I earned some commissions and I took it in the name of Cross Creek.

Q. In fact, you are the currently the broker-in-charge of record for two companies, right?

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Q. Okay. And on page 70, United Community Bank page 70, there is a check made payable to Cross Creek Realty. Do you see that?

A. Yes.

Q. To which you endorsed it for Cross Creek Realty; do you see that?

A. Yes, I did.

Q. And then you took that money, you endorsed it as Ted D Smith, and you deposited it into Smith Family, LLC, right?

A. That's correct.

Q. This was your personal money, right --

A. Yes.

Q. -- that you took and you put into Smith Family?

A. I told you I needed to contribute sometimes.

Q. Okay. So, in October of 2016 you put in $28,187.49 from Mr. Groves' company, 5208 Calhoun?

A. Yes, that's correct.

Q. That was your personal money?

A. Yes.

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Q. In August of 2016 you took $20,250 of your personal money and you put it into Smith Family, LLC?

A. That's correct.

Q. Flip the page, United Community Bank page 71. On July 11, 2016 you took what appears to be $16,800, endorsed it for Cross Creek Realty by Ted Smith -- do you see that --

A. I do.

Q. -- as broker-in-charge, and you deposited it into Smith Family, LLC, right?

A. I did.

Q. Why didn't you put it in your personal account?

A. I didn't have a personal account at that time.

Q. Why don't you have a personal account?

A. I just never opened one up after everything went to pot.

Q. Do you have the ability to sign checks for Cross Creek Realty?

A. No.

Q. How were you able to deposit this check for Cross Creek Realty, made payable to

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Q. -- personal representative. And this appears to be identified as a final distribution to you personally?

A. Yes.

Q. And so this was money that you received personally, right?

A. Yes.

Q. And it's $15,664.27, right?

A. Yes.

Q. It should have been deposited into a personal bank account, right?

A. It was deposited in the only bank account I could deposit it in because I did not have a personal account at that time.

Q. But you also had WHS Properties' bank account, access to it, right?

A. I manage the books on Smith Family and WHS Properties. We have pretty much established that, I think.

Q. So you could have put it anywhere, but you chose to put these checks that we have talked about so far into Smith Family, LLC, right?

A. I did -- there was not a reason.

Q. That was going to be my next

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it to that payment right there.

Q. That's why I was curious, I keep seeing what appears to me to be a pretty aggressive payment toward some debt that they owed you, and that --

A. That was from the note that they took out with Wanda when she sold them the lot over at 6404 White Horse Road.

Q. All right. If you will, flip over to United Community Bank 78.

A. Okay.

Q. I see here an incoming wire from Swindell & Bond -- do you see that -- 639,813?

A. That's the closing, Boiling Springs at Pelham.

Q. I see the money coming in.

A. Yes.

Q. And then two lines below that the money goes out. Do you see that?

A. She put it in a savings account.

Q. The same day, it comes in and goes out?

A. Yes.

Q. Is there money still in Smith Family, LLC's checking account?

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A. Yes.

Q. How much is in there?

A. I think we -- I told you that earlier. I think it's got a balance of about 380 right now.

Q. Okay. If you will flip on over to -- you said it went to her checking account, right, the money from the closing, the 639,000?

A. It went to Smith Family, LLC, and then it went to a savings account.

Q. Whose savings account was that?

A. Her savings account.

Q. Her personal savings account?

A. Yes.

Q. And you're on that account as well, as you say?

A. As a signer.

Q. As a signer? Okay.

Flip over to United Community Bank 79.

A. Okay.

Q. I see here a payment to Maserati Lotus Greenville, check number 2197. Do you see that?

A. Yes.

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A. Yes.

Q. That you effectively were using as your account to pay bills?

A. Well, I mean, they're half hers. I mean, I had to pay them from somewhere.

Q. Half the bills are hers, you say?

A. Well, I don't know.

Q. Well, what are you saying "half hers"?

A. Well, I mean, we pay our living expenses, we take X number of dollars from the savings account every month and put it into the checking account so we can pay our bills.

Q. Okay.

A. I mean, it's not rocket science.

Q. And this money is mixed in with the Smith Family money, which there's over $300,000 in the Smith Family account right now, right?

A. That's correct.

Q. And if you needed to go get a check right now, you could go get it, couldn't you?

A. Well, that would depend.

Q. You could?

A. Legally, I could.

Q. You could go write a check for any

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Q. Rick McAlister, who is he?

A. He's another heating and air-conditioning guy.

Q. Ricky McAlister, too?

A. Pardon?

Q. Rick McAlister?

A. Rick McAlister, yes.

Q. Okay. If you will, flip the pages. Do you know what these payments to WHS Properties are, $8,000?

A. Just transfers to pay bills out of.

Q. Was there an invoice? Was there a reason why?

A. No.

Q. All right. Ricky McAllister, on the next page, there appears to be a $987 check and then a $1,060 check. Do you see that?

A. Yes.

Q. What is that?

A. He replaced the -- what do you call it -- it was for heating and air-conditioner repairs at the house.

Q. Okay. David Simpson, who is he?

A. He's an architect.

Q. What is Smith Family, LLC paying him

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$2,800 in October of 2015 for?

A. 2015?

Q. It seems to me that's around about the time that the Kwik Trip property was sold.

Did that have anything to do with those plans or plats?

A. Oh, he had done preliminary plans on the proposed shopping center that didn't get built. That's what that payment was for.

Q. Okay. And again, we see some more checks to WHS Properties. Are there bills of any sort, or are you just moving money around as you need to?

A. I'm just moving money around where I've got it set up to do payments.

Q. Did WHS Properties run a lower balance in its checking account?

A. Yes.

Q. And you would move money from Smith Family, LLC over to WHS Properties as needed?

A. To pay bills.

Q. As the bills and invoices arose, you would make arrangements --

A. Yes.

Q. -- to move money there?

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A. Yes.

Q. That's why I couldn't find that one. So you're moving money out of Wanda H. Smith, Ted D. Smith, Ted D. Smith, Ted Smith authorized signer savings account to yourself?

A. Yes, to pay bills.

Q. To pay bills?

A. Yes.

Q. Okay.

A. But I'm not -- you probably won't see that happen anymore because I've switched everything, to make it less complicated it's just going to go to 4310 now.

Q. Which is Smith Family --

A. Smith Family.

Q. -- LLC?

A. Yes.

Q. Flip over to United Community Bank 95.

A. Okay. I see.

Q. I see on here, about the fifth transaction on here, a wire out. Do you see that?

A. Yes.

Q. International Collectors again?

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A. Yes.

Q. $17,000, do you see that?

A. Some gold.

Q. I also see a wire out a little further down --

A. Yes.

Q. -- $16,500?

A. For gold.

Q. So you've made three transactions there for precious metals?

A. Yes.

Q. Tell me how that works. Whenever you wire the money to them, what do they give you?

A. They send you the coins.

Q. So you have the coins?

A. Yes.

Q. At your house?

A. I can't say.

Q. Okay. But you have access to them?

A. Yes.

Q. I understand.

So you have access to $135,000 worth of gold and silver --

A. Yes.

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Q. -- plus 16,000, plus 17,000?

A. Yes.

Q. It's all in gold and silver?

A. Yes.

Q. And presumably you're keeping it in a safe place?

A. Yes.

Q. What made you decide to make that investment?

A. Well, we talked about it. And our country's 20 trillion dollars in debt, at some point the bubble breaks. Just an insurance policy.

Q. How do you go about turning that coin -- are they just all in coins?

A. Yes.

Q. Are they American minted coins or are they just --

A. Some of them are, some of them are not.

Q. How do you know they're real?

A. Well, you have to know who you're dealing with.

Q. Do they have stuff stamped on them of some sort? I mean, how would I --

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A. What do you mean?

Q. When you say gold coins, are they stamped like a quarter would have a face on it or something?

A. Yes. Yes. Um-hum.

Q. Whose face do these gold and silver coins have stamped on them?

A. They're several different countries and different faces. Some of them are coins that are very, very old and they've never been in circulation.

Q. Does your wife know where these are?

A. Yes.

Q. Does she know you bought these?

A. Yes.

Q. She didn't know you bought them from this, though, did she?

A. What?

Q. Your wife didn't know what sort of transactions you had going?

A. She knows I bought them. She didn't know -- she did not know where I paid for them from.

Q. And I believe United Community Bank 104 --

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A. Okay.

Q. -- is a $65,000 transfer, the same company?

A. Yes.

Q. United Community Bank 103.

A. 103?

Q. Yes. It would also be $76,000 to the same people?

A. Yes.

Q. $65,000, 17,000 --

A. Yes.

Q. -- 17,000 on the next page, 105 --

A. Yes.

Q. -- and then 16.5?

A. Yes.

Q. And then there was also $135,000, too?

A. Yes.

Q. Do you know how much, all in total, that is?

A. Probably around 300,000.

Q. 309, does that sound about right? 309,000?

A. Close.

Q. Okay. What do you plan to do with

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all of that? You're just sitting on it as an investment?

A. Yes.

Q. Of that, most of it is in gold?

A. About two-thirds to one-third.

Q. Two-thirds gold, one-third --

A. One-third silver.

Q. Okay.

A. Yes.

Q. I think you've answered this, but I want to make sure I understood your answers. The money that we talked about, the four checks that were your money --

A. Yes.

Q. -- that you deposited into Smith Family, LLC --

A. Yes.

Q. -- you put that in Smith Family, LLC --

A. Yes.

Q. -- because that was the money or that was the bank account --

A. I was paying bills out of.

Q. -- that you were paying bills out of?

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A. Yes.

Q. That you effectively were using as your account to pay bills?

A. Well, I mean, they're half hers. I mean, I had to pay them from somewhere.

Q. Half the bills are hers, you say?

A. Well, I don't know.

Q. Well, what are you saying "half hers"?

A. Well, I mean, we pay our living expenses, we take X number of dollars from the savings account every month and put it into the checking account so we can pay our bills.

Q. Okay.

A. I mean, it's not rocket science.

Q. And this money is mixed in with the Smith Family money, which there's over $300,000 in the Smith Family account right now, right?

A. That's correct.

Q. And if you needed to go get a check right now, you could go get it, couldn't you?

A. Well, that would depend.

Q. You could?

A. Legally, I could.

Q. You could go write a check for any

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amount --

A. But I would not.

Q. You could go write a check for any amount that you wanted to right now without asking anybody, right?

A. I could, but I wouldn't. I think that would destroy the trust.

Q. I'm not saying what you might have to answer to when you get home. I'm just saying what you could do.

A. I don't think I'd want to make that trip home.

Q. And if I see charges to Tampa on your bank accounts and such, that would all be associated with your trip down to the national championship game?

A. That would be.

Q. Do you have any other business in Tampa?

A. No.

Q. Or do you have any business in Tampa?

A. No.

Q. Are there any other bank accounts besides those bank accounts that we have talked

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about today?

A. No.

Q. That you have any connection to --

A. No.

Q. -- any affiliation with --

A. None.

Q. -- have the ability to write checks on --

A. No.

Q. -- authorized signers?

A. You've got them. We've discussed every one of them.

Q. Are there any other LLCs that are currently active --

A. No.

Q. -- besides the ones we have discussed in this deposition, being Smith Family, LLC --

A. Smith Family, LLC is the only one that's active.

Q. -- WHS Prpoerties, LLC is wrapping up?

A. It's done. It's been done for five years.

Q. Okay. But it still had financials?

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talked about that.

MR. FLOYD: Answer any questions Mr. Hiller may have.

EXAMINATION

BY MR. HILLER:

Q. Let me ask, between 1990 and 2008 who was the income producer in your household?

A. Me.

Q. So any money that was spent for living expenses of the marital relationship was generated from income you derived?

A. Yes.

Q. And that would include -- did you-all take vacations?

A. Yes.

Q. Did your wife go along?

A. Yes.

Q. Did you buy cars?

A. Yes.

Q. Did you buy clothes?

A. Yes.

Q. Did she go shopping?

A. Yes.

Q. Did you buy groceries?

A. Yes.

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Q. You didn't exchange any e-mails with people about that deal?

A. Not that I'm aware of -- I mean, I don't remember -- I would have had to have been an employee with QT to get involved in that.

Q. Did you send any e-mails in connection with the QT deal?

A. To who?

Q. To anybody.

A. I don't know.

Q. But you maintain today that you didn't do anything with that whole QT deal? You were not involved; is that right?

A. If you'll look at the closing statement, it's got the realtor involved that got paid. It wasn't Ted Smith.

Q. I'm not saying that. I'm just asking you, were you involved with that transaction? Did you trade e-mails with people at QT and their real estate managers and --

A. It would have probably been more like with Tim Groves who owned half of the property, when they approached me, and I probably sent him something and said, hey, Tim, QT is wanting to buy this piece of property,

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The church is probably okay, I just --

Q. You think they wanted to obligate you to some things and then put the QT --

A. I think that they wanted the whole QT deal themselves, and they did some stuff that leads me to believe that, but I'm not going to go into that.

Q. And they tried to push you off the property to buy the property from you?

A. That's exactly right.

Q. And they know that the QT deal was kind of hanging out in there in the --

A. That's my -- I don't have any proof about that, but that's my thoughts.

Q. Fair enough. And just so I'm clear, you maintain today that you had very little involvement with that QT deal?

A. The only involvement I had in it is the QT contacted me and wanted to know could they buy the property. And I took it to Tim Groves and to Wanda and said, what do you-all want to do, there is a QT deal out there if you want it.

That's pretty much the extent of my

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involvement.

Q. No further involvement with the county, no --

A. No.

Q. Nothing else? No further negotiations with the church?

A. Not on QT.

Q. Not related to the QT, but did you continue in negotiations with the church to try to make the deal go through?

A. No.

Q. Okay.

A. The church cut their own deal.

Q. Okay. Are you familiar with how much this judgment is against you?

A. Yes.

Q. Are you willing to try to do something to satisfy First Citizens?

A. What would I do it with it?

Q. I'm just asking a question. I believe you have the ability to, and I'm asking that question.

A. The only way I can do that is to get my wife to agree to it.

Q. Okay.

www.compuscripts.com

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EXHIBIT E

FirstCitizensBank
forever first

CONFIDENTIAL PERSONAL FINANCIAL STATEMENT

☒ Individual Statement
☐ Combined Statement

Note: Only married couples may submit a combined statement

Instructions:

1. Open the file and "Save As" a document on your computer. It is recommended to use Adobe Reader to access the form. Adobe 9.0 or higher is needed to digitally sign the form. Adobe documents may not read correctly on some home computers. If you have difficulty, please contact your banker to receive a paper copy for completion.
2. Scroll down the Personal Financial Statement to complete all applicable fields.
3. If the Personal Financial Statement is completed electronically, the Balance Sheet section is locked for entry. Totals from the Itemized Schedules will automatically fill the applicable fields in the Balance Sheet.
4. If the Personal Financial Statement is being completed by hand, totals from the itemized Schedules must be inserted in the applicable spaces in the Balance Sheet.
5. The Personal Financial Statement may be completed by a single individual or a married couple. If completed by a married couple, information pertaining to each spouse may be combined (as applicable).
6. The Personal Financial Statement must be signed and dated using an electronic or a hand-written signature. Each electronic signature requires the creation of a secure password. It is recommended that the electronic signature be created on a personal computer that is secured for individual use, and not a public computer.
7. Proof for accuracy. "Save" the completed form.
8. Deliver the completed Personal Financial Statement to your First Citizens banker through secure email, or by mail or in person if handwritten.

Banker Name | **Banker Email Address** | **Phone Number**

INDIVIDUAL 1 Information		INDIVIDUAL 2 Information	
Name: TED D SMITH		Name:	
Address: 2221 AVIAMONT ROAD	Yrs at Addr: 13	Address:	Yrs at Addr:
City, State, Zip: GREENVILLE SC 29609		City, State, Zip:	
SS #: 250-82-8879	DOB: 5/19/48	SS #:	DOB:
DL #: 1662097 Issue Date: 5-13-16	Exp Date: 5-19-21	DL #: Issue Date:	Exp Date:
Employer:	Yrs at Empl:	Employer:	Yrs at Empl:
Home Ph #: Work Ph #: 864-303-6259		Home Ph #: Work Ph #:	
Email: tedsmith2221@yahoo.com		Email:	
Mother's Maiden Name: HENDERSON		Mother's Maiden Name:	

Annual Income (Individual 1)	Dollars	Annual Income (Individual 2)	Dollars
Salary & Wages	19,116	Salary & Wages	
Bonuses and Commissions		Bonuses and Commissions	
Interest & Dividends		Interest & Dividends	
Real Estate Income		Real Estate Income	
Rental Income		Rental Income	
Other Income (List Below)		Other Income (List Below)	
Other Expenses (List Below)		Other Expenses (List Below)	
Alimony / Child Support		Alimony / Child Support	
Annual Home Rental		Annual Home Rental	
GROSS INCOME:	19,116	**GROSS INCOME:**	536

14-960508 (2/15)

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BALANCE SHEET (From Itemized Schedules)

Do NOT Manually Update this Section if completing electronically.
If completing by hand, totals from the itemized Schedules must be inserted in the applicable spaces in the Balance Sheet.

Assets	Dollars	Liabilities	Dollars
Cash on Hand & in Banks (Schedule 1)		Mortgage Payable – Primary (Schedule 7)	
Government & Marketable Securities (Schedule 2)		Home Equity Lines (Schedule 7)	
Non-Marketable Securities (Schedule 4)		Mortgages/Real Estate Investments (Schedule 7)	
Life Insurance & Annuities (Schedule 6)		Unpaid Taxes & Interest (Schedule 12)	
Real Estate – Primary Residence (Schedule 7)		Total Revolving Lines of Credit (Schedule 10)	
Real Estate – Investment (Schedule 7)		Autos, Boats & Recreational Vehicles (Schedule 8)	
Partnerships & Closely Held Corporations (Sch 5)		Accounts, Notes & Loans Payable (Schedule 11)	
IRAs & Other Retirement Accounts (Schedule 3)		Other Personal Property & Assets (Schedule 9)	
Autos, Boats & Recreational Vehicles (Schedule 8)		IRAs & Other Retirement Accounts (Schedule 3)	
Other Personal Property & Assets (Schedule 9)		Partnerships & Closely Held Corporations (Sch 5)	
		TOTAL LIABILITIES:	
TOTAL ASSETS:		**TOTAL NET WORTH:**	

(Schedule 1) ☐ NONE — CASH ON HAND & IN BANKS

Name of Deposit Institution	In Name Of	Account Type	Amount	Pledged
CASH ON HAND			800.00	
	Total		800.00	

(Schedule 2) ☐ NONE — GOVERNMENT & MARKETABLE SECURITIES

# Shares	Name of Issuer	In Name Of	Cost	Value	Pledged
	Total				

(Schedule 3) ☐ NONE — IRA's & OTHER RETIREMENT ACCOUNTS

Institution	Owner's Name	Amount	Loans
	Totals		

(Schedule 4) ☐ NONE — NON-MARKETABLE SECURITIES

Security Type	Company or Business	Date Acq.	Cost	Value
		Total		537

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(Schedule 5) ☐ NONE **PARTNERSHIPS & CLOSELY HELD CORPORATIONS**

Entity Name	Business Function	Loan Amt	% Owned	Value
Totals				

(Schedule 6) ☐ NONE **LIFE INSURANCE & ANNUITIES**

Name of Insurance Co.	Policy Owner	Beneficiary	Face Amount	Cash Surr. Value	Policy Loans	Net Cash Value	Payments	Assigned Yes	Assigned No
Total									

(Schedule 7) ☐ NONE **REAL ESTATE – PRIMARY RESIDENCE** (Include Equity Lines) **& INVESTMENTS**
Property Type: SF = Single Family, MF = Multiple Family, C = Commercial/Industrial, L = Land/Acreage

Property Type:	Residence ☐SF ☐MF	☐Vacation ☐Rental ☐SF ☐MF ☐C ☐L	☐Vacation ☐Rental ☐SF ☐MF ☐C ☐L
Ownership %:	%	%	%
Title in Name of:			
Co-owned with Spouse?	☐Yes ☐No	☐Yes ☐No	☐Yes ☐No
Property Address:			
City, State, Zip:			
Year Acquired:			
Cost:			
Market Value:			
1st Mortgage Balance:			
Mortgage Holder:			
Monthly Payment:			
2nd Mortgage Balance:			
Mortgage Holder:			
Monthly Rent Received:			
Monthly Payment:			

☐ Check here if all property is listed above. —OR— ☐ Check here to include additional property on the next page.

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(Schedule 7) cont. **REAL ESTATE & INVESTMENTS (cont.)**

Property Type:	☐ Vacation ☐ Rental ☐ SF ☐ MF ☐ C ☐ L	☐ Vacation ☐ Rental ☐ SF ☐ MF ☐ C ☐ L	☐ Vacation ☐ Rental ☐ SF ☐ MF ☐ C ☐ L
Ownership %:	%	%	%
Title in Name of:			
Co-owned with Spouse?	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No
Property Address:			
City, State, Zip:			
Year Acquired:			
Cost:			
Market Value:			
1st Mortgage Balance:			
Mortgage Holder:			
Monthly Payment:			
2nd Mortgage Balance:			
Mortgage Holder:			
Monthly Rent Received:			
Monthly Payment:			

(Schedule 7) cont. **REAL ESTATE & INVESTMENTS (cont.)**

Property Type:	☐ Vacation ☐ Rental ☐ SF ☐ MF ☐ C ☐ L	☐ Vacation ☐ Rental ☐ SF ☐ MF ☐ C ☐ L	☐ Vacation ☐ Rental ☐ SF ☐ MF ☐ C ☐ L
Ownership %:	%	%	%
Title in Name of:			
Co-owned with Spouse?	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No
Property Address:			
City, State, Zip:			
Year Acquired:			
Cost:			
Market Value:			
1st Mortgage Balance:			
Mortgage Holder:			
Monthly Payment:			
2nd Mortgage Balance:			
Mortgage Holder:			
Monthly Rent Received:			
Monthly Payment:			

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(Schedule 8) ☐ NONE **AUTOMOBILES, BOATS & RECREATIONAL VEHICLES**

Year	Type	Model	Title In Name Of	Value	Loan Bal.	Lien Holder	Payment
		Totals					

(Schedule 9) ☐ NONE **OTHER PERSONAL PROPERTY & ASSETS** (Including Notes & Loans Receivables)

Description	Original Amount	Present Value	Loan Type	Monthly Payment	Loan Balance	Maturity Date
Totals						

(Schedule 10) ☐ NONE **TOTAL REVOLVING LINES OF CREDIT** (Credit Cards)

Owing To & Account Number	Original Amount	Present Balance	Loan Type	Monthly Payment	Maturity Date	Secured By
Totals						

(Schedule 11) ☐ NONE **ACCOUNTS, NOTES, & LOANS PAYABLE**

Owing To & Account Number	Original Amount	Present Balance	Loan Type	Monthly Payment	Maturity Date	Secured By
Totals						

(Schedule 12) ☐ NONE **UNPAID TAXES AND INTEREST**

Taxes Owed To	Original Amount	Present Balance	Tax Year	Monthly Payment
Totals				

CONTINGENT LIABILITIES		
If yes to any of the below, provide detail on additional sheets.	YES	NO
Are you a guarantor, co-maker or endorser for any debt of an individual, corporation, or partnership?		X
Do you have any outstanding letters of credit or surety bonds?		X
Are there any suits or legal actions pending against you?		X
Are you contingently liable on any lease or contract?		X
Do you have a will? If yes, list date of will and executor		X
Are any assets listed held in a trust?		X
Have (either of) you or any firm in which you were a major owner ever declared bankruptcy?		X
If yes, please provide details:		
Income tax returns filed through what date?	2015	

VERIFICATION OF FINANCIAL INFORMATION

As used in this verification, "I", "me", and "my" refer to each individual identified in this Personal Financial Statement. "You" and "your" refer to First-Citizens Bank & Trust Company. "Financial Information" means information related to my finances. The certifications, representations, warranties, and covenants contained herein apply not only to the Financial Information provided to you in this Personal Financial Statement, but also to Financial Information provided to you from and after the submission of this Personal Financial Statement.

I certify, represent, warrant and covenant to you that the Financial Information provides a complete, true, and accurate statement of my financial condition and business transactions as of the date of the Financial Information. Unless we receive written notification from you to the contrary, we will consider the Financial Information a continuing statement, substantially correct in all respects.

I acknowledge that you will rely on the Financial Information in making credit decisions. I authorize you and your affiliates to make sure credit, employment or investigative inquiries about me from time to time as you and your affiliates deem appropriate to evaluate my financial strength, character, and credit history, to evaluate my credit applications(s), to administer any loan(s) made to others guaranteed by me and to collect any sums owing, and to determine my eligibility for other financial products and services you or your affiliates offer. You may verify information about me and obtain consumer report(s) about each individual identified in this verification.

I understand and acknowledge that I may be subject to civil liability and/or criminal penalties (including, but not limited to, fine or imprisonment or both under the provisions of Title 18, United States Code, Section 1001, *et. seq.* and Section 1344) if my Financial Information is false, misleading, or incomplete in any material respect.

Signature / Authorization / Date 1/24/2017

Signature / Authorization / Date

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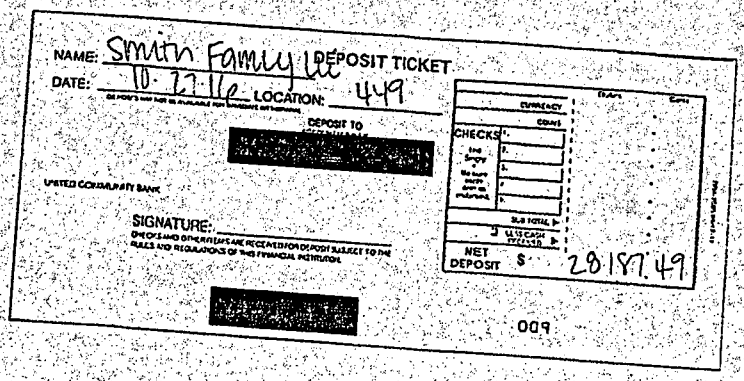
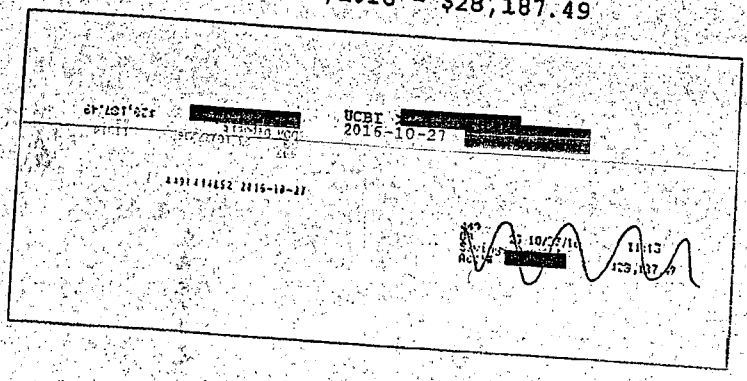
EXHIBIT F


NAME: Smith Family LLC DEPOSIT TICKET
DATE: 10-27-16 LOCATION: 449
DEPOSIT TO
[redacted]
UNITED COMMUNITY BANK
SIGNATURE:
CHECKS
NET DEPOSIT $ 28187.49
[redacted]
009

DDA Credits - 10/27/2016 - $28,187.49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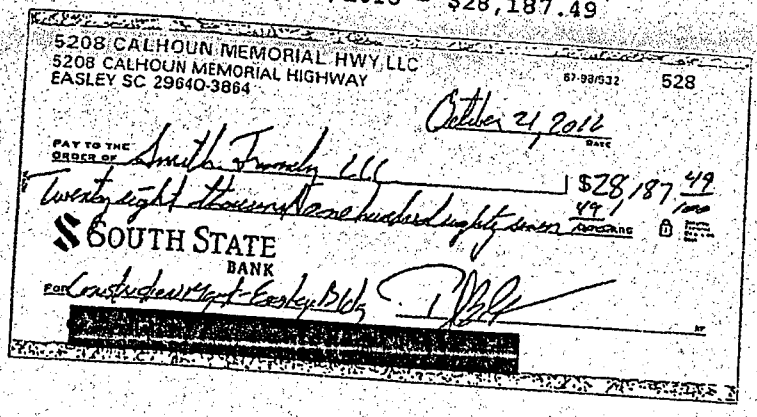
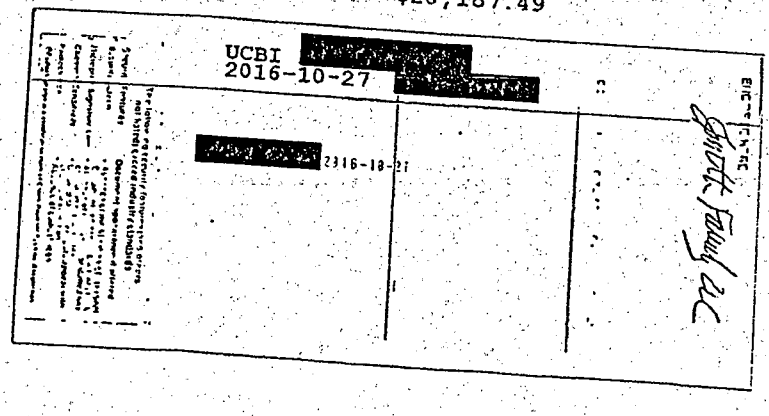
2016-10-27

DDA Credits - 10/27/2016 - $28,187.49


5208 CALHOUN MEMORIAL HWY, LLC
5208 CALHOUN MEMORIAL HIGHWAY
EASLEY SC 29640-3864
87-98/532
528
October 21, 2016
PAY TO THE ORDER OF Smith Family LLC
$28,187.49
Twenty-eight thousand one hundred eighty-seven and 49/100
SOUTH STATE BANK
For Construction Loan - Easley Bldg
[redacted]

Transit - 10/27/2016 - $28,187.49


UCBI [redacted]
2016-10-27
[redacted] 2016-10-27
Smith Family LLC

ELECTRONICALLY FILED - 2017 Jun 19 2:44 PM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

NAME: Shinn family LP DEPOSIT TICKET per Heather
DATE: 8-17-16 LOCATION: 449
DEPOSIT TO [redacted]
UNITED COMMUNITY BANK
SIGNATURE:
CHECKS 20,250.—
NET DEPOSIT $ 20,250.—
009

DDA Credits - 8/17/2016 - $20,250.00

[redacted] UCBI > 2016-08-17 [redacted]

DDA Credits - 8/17/2016 - $20,250.00

SHANNON T. EPPS LLC
TRUST ACCOUNT CLTA
4 MOHAWK COMMONS COURT
GREENVILLE, SC 29615
(864) 331-3134

INDEPENDENCE NATIONAL BANK
GREENVILLE, SC

24349

67-813532

16-0178
Commission

-Twenty Thousand Two Hundred Fifty and 00/100 Dollars

DATE August 16, 2016

AMOUNT $ *****20,250.00

PAY TO THE ORDER OF Cross Creek Realty

[redacted]

AUTHORIZED SIGNATURE

Transit - 8/17/2016 - $20,250.00

[redacted] UCBI > 2016-08-17 [redacted]

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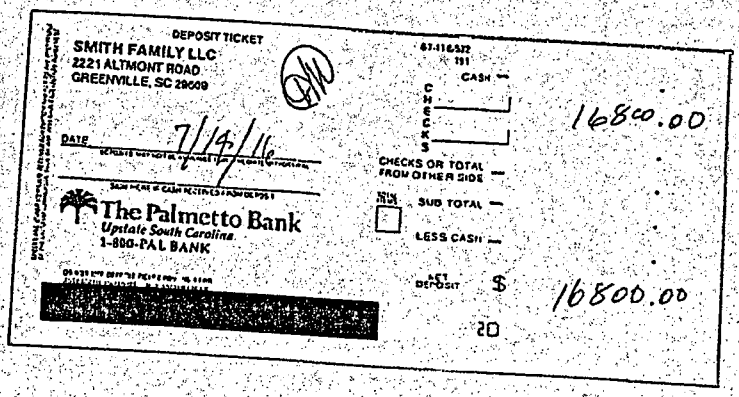
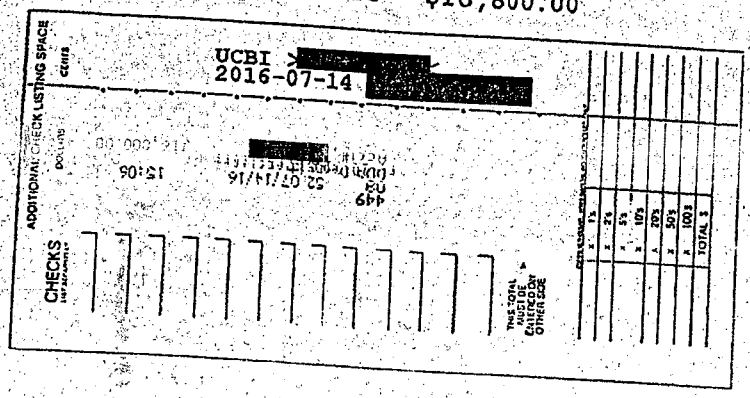
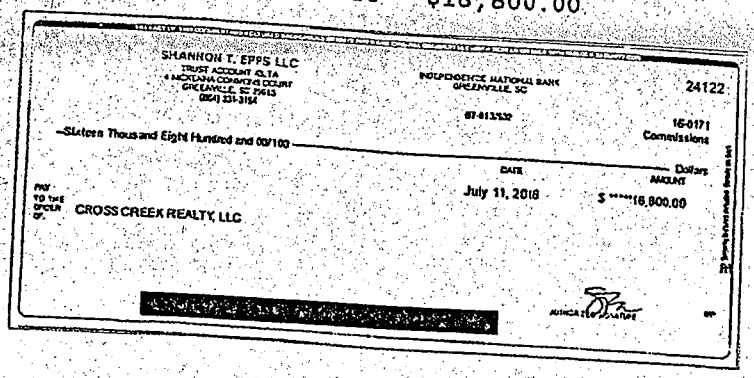

DEPOSIT TICKET
SMITH FAMILY LLC
2221 ALTMONT ROAD
GREENVILLE, SC 29609
DATE 7/14/16
The Palmetto Bank
Upstate South Carolina
1-800-PAL BANK
CASH
CHECKS
16800.00
CHECKS OR TOTAL FROM OTHER SIDE
SUB TOTAL
LESS CASH
NET DEPOSIT $ 16800.00

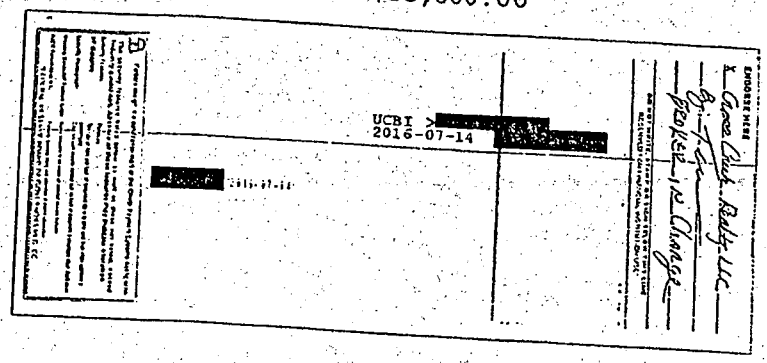
DDA Credits - 7/14/2016 - $16,800.00


UCBI
2016-07-14
CHECKS
THIS TOTAL MUST BE ENTERED ON OTHER SIDE

DDA Credits - 7/14/2016 - $16,800.00


SHANNON T. EPPS LLC
TRUST ACCOUNT IOLTA
GREENVILLE, SC 29615
INDEPENDENCE NATIONAL BANK
GREENVILLE, SC
24122
87-613/532
16-6171
Commissions
Sixteen Thousand Eight Hundred and 00/100 Dollars
DATE July 11, 2016
AMOUNT $ ****16,800.00
PAY TO THE ORDER OF CROSS CREEK REALTY, LLC

Transit - 7/14/2016 - $16,800.00


UCBI
2016-07-14
ENDORSE HERE
Cross Creek Realty, LLC
By: [illegible]
President/Member

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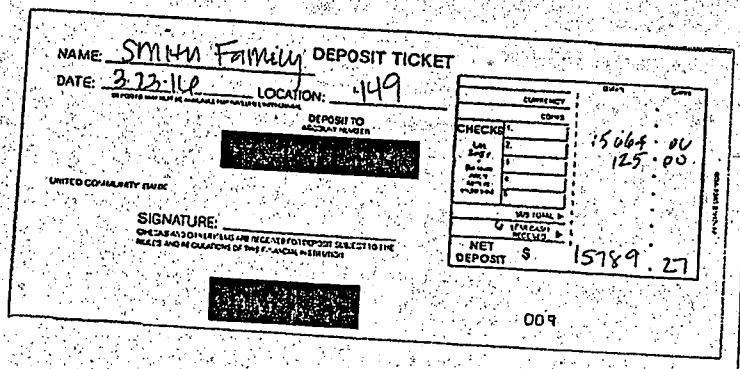
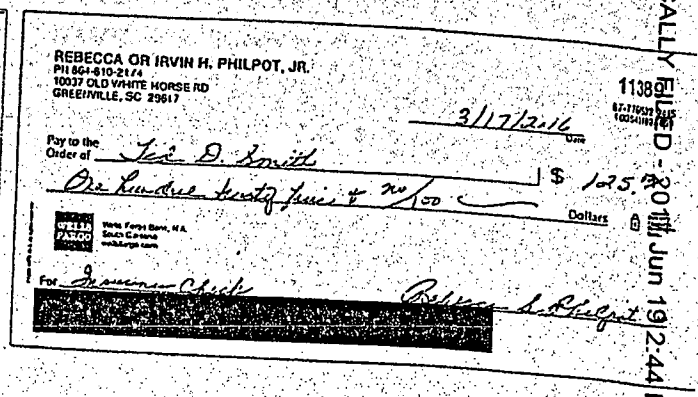
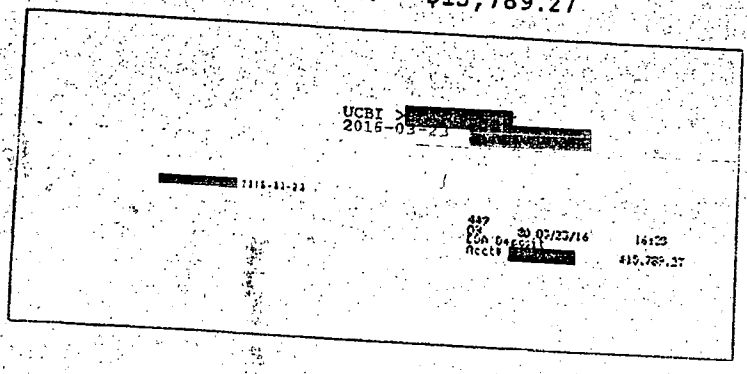


NAME: Smith Family DEPOSIT TICKET
DATE: 3-23-16 LOCATION: 149
DEPOSIT TO ACCOUNT NUMBER
UNITED COMMUNITY BANK
SIGNATURE:
CHECKS 15064.00
125.00
NET DEPOSIT $ 15789.27
009



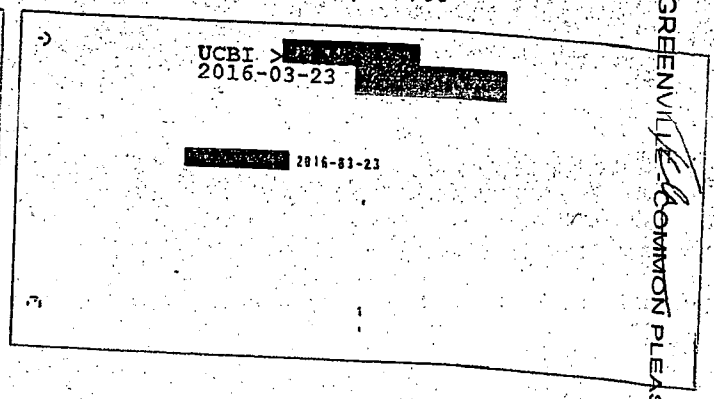
REBECCA OR IRVIN H. PHILPOT, JR.
PH 864-610-2174
10037 OLD WHITE HORSE RD
GREENVILLE, SC 29617
1138
3/17/2016
Pay to the Order of Jack D. Smith $ 125.00
One hundred twenty five & no/100 Dollars
Wells Fargo Bank, N.A.
For Trustee Check Rebecca S. Philpot

DDA Credits - 3/23/2016 - $15,789.27



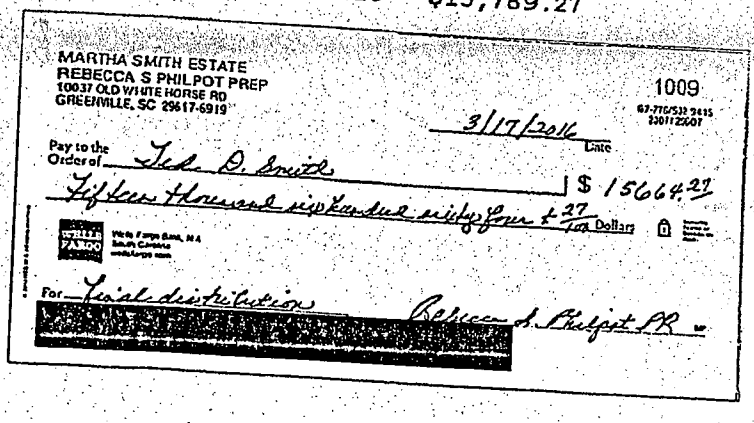
UCBI >
2016-03-23
2016-03-23
487
03 03/23/16 16:23
Acct$ 15,789.27

Transit - 3/23/2016 - $125.00



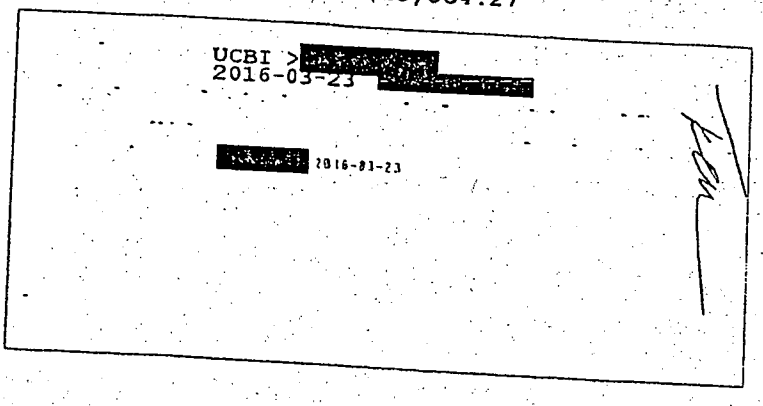
UCBI >
2016-03-23
2016-03-23

DDA Credits - 3/23/2016 - $15,789.27



MARTHA SMITH ESTATE
REBECCA S PHILPOT PREP
10037 OLD WHITE HORSE RD
GREENVILLE, SC 29617-6919
1009
3/17/2016
Pay to the Order of Jack D. Smith $ 15664.27
Fifteen thousand six hundred sixty four & 27 Dollars
Wells Fargo Bank, N.A.
For Trial distribution Rebecca S. Philpot PR

Transit - 3/23/2016 - $15,664.27



UCBI >
2016-03-23
2016-03-23

GFX/PAYplus Connect Message Print - Message Inquiry Display Dialog Box

er: a_sisson Bank: The Palmetto Bank Date: 05/02/17 09:11:47

Message Status: PNRM
Seq Num: [redacted] Related Seq Num:
Pay Method: FED Output Message ID: FTI0811
Date Recvd: 02/17/2016 00:00:00 Value Date: 02/17/2016

Sender: [redacted] Receiver: [redacted]
Amount: $135,374.00
Debit info --
Account: [redacted]
Name:
Addr1:
Addr2:
Addr3:
Addr4:

Credit info --
ABA: [redacted]
Name: ALPINE BANK
Addr1:
Addr2:
Addr3:
Addr4:

Advice: Dept: DEPT1 Trancode:
Category: Linesheet: Create Template:

Message Text:

P
Msg Type
IMAD [redacted]
Amount {2000}000013537400
Sender DI [redacted]
Sndr Ref
Rcvr DI {3400}102103407ALPINE GLENWOOD SP*
Bus Func {3600}CTR
BNF {4200}D1620005355*
International Collectors Assoc Ltd*
166 Turner Drive*
Durago CO 81303*
ORG [redacted]
SMITH FAMILY LLC*
2221 ALTMONT ROAD*
GREENVILLE SC 29609*

ELECTRONICALLY FILED - 2017 Jun 19 2:44 PM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

GFX/PAYplus Connect Message Print - Message Inquiry Display Dialog Box

User: a_thompson Bank: UNITED COMM BK Date: 04/28/17 11:30:18

Message Status: PNRM
Seq Num: [redacted] Related Seq Num: [redacted]
Pay Method: FED Output Message ID: FTI0811
Date Recvd: 06/16/2016 11:29:29 Value Date: 06/16/2016

Sender: [redacted] Receiver: [redacted]
Amount: $76,400.00
Debit info --
Account: [redacted] Inst: 00 Br: 449 Type: S8
Name: WANDA H SMITH
Addr1: TED SMITH AUTH SIGNER
Addr2: 2221 ALTAMONT ROAD
Addr3: GREENVILLE SC 29609
Addr4:

Credit info --
Rcvr: [redacted]
Name: ALPINE BANK
Addr1:
Addr2:
Addr3:
Addr4:

Advice: Dept: DEPT1 Trancode: DOMESTIC
Category: Linesheet: Create Template:

Message Text:

Sndr Info {1500}30 P
Msg Type: [redacted]
tAD
Amount {2000}000007640000
Sender DI [redacted]
Sndr Ref [redacted]
Rcvr DI
Bus Func {3600}CTR
BNF {4200}D1620005355*
INTERNATIONAL COLLECTORS ASSOC.*
166 TURNER DRIVE*
DURANGO, CO 81303*
ORG [redacted]
WANDA H SMITH*
TED SMITH AUTH SIGNER*
2221 ALTAMONT ROAD*
GREENVILLE SC 29609*

ELECTRONICALLY FILED - 2017 Jun 19 2:44 PM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

GFX/PAYplus Connect Message Print - Message Inquiry Display Dialog Box

User: a_thompson Bank: UNITED COMM BK Date: 04/28/17 11:30:19

Message Status: PNRM
Seq Num: [redacted] Related Seq Num: [redacted]
Pay Method: FED Output Message ID: FTI0811
Date Recvd: 07/06/2016 06:59:24 Value Date: 07/06/2016

Sender: [redacted] Receiver: [redacted]
Amount: $65,000.00
Debit info --
Account: [redacted] Inst: 00 Br: 449 Type: S8
Name: WANDA H SMITH
Addr1: TED SMITH AUTH SIGNER
Addr2: 2221 ALTAMONT ROAD
Addr3: GREENVILLE SC 29609
Addr4:

Credit info --
Rcvr: [redacted]
Name: ALPINE BANK
Addr1:
Addr2:
Addr3:
Addr4:

Advice: Dept: DEPT1 Trancode: DOMESTIC
Category: Linesheet: Create Template:

Message Text:

Sndr Info	[redacted] P
Msg Type	
MAD	{1520}20160706L1LFBL6C000048
Amount	{2000}000006500000
Sender DI	[redacted]
Sndr Ref	
Rcvr DI	{3400}102103407
Bus Func	{3600}CTR
BNF	{4200}D1620005355*
	INTERNATIONAL COLLECTORS ASSOCIATES*
	166 TURNER DRIVE*
	DURANGO CO 81303*
ORG	[redacted]
	WANDA H SMITH*
	TED SMITH AUTH SIGNER*
	2221 ALTAMONT ROAD*
	GREENVILLE SC 29609*

ELECTRONICALLY FILED - 2017 Jun 19 2:44 PM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

GFX/PAYplus Connect Message Print - Message Inquiry Display Dialog Box

User: a_thompson Bank: UNITED COMM BK Date: 04/28/17 11:30:19

Message Status: PNRM
Seq Num: [redacted] Related Seq Num: [redacted]
Pay Method: FED Output Message ID: FTI0811
Date Recvd: 10/25/2016 07:25:22 Value Date: 10/25/2016

Sende[redacted] Receiver: 102103407
Amount: $17,000.00
Debit info --
Account: [redacted] Inst: 00 Br: 449 Type: S8
Name: WANDA H SMITH
Addr1: TED SMITH AUTH SIGNER
Addr2: 2221 ALTAMONT ROAD
Addr3: GREENVILLE SC 29609
Addr4:

Credit info --
Rcvr: [redacted]
Name: ALPINE BANK
Addr1:
Addr2:
Addr3:
Addr4:

Advice:
Category: Dept: DEPT1 Trancode: DOMESTIC
Linesheet: Create Template:

Message Text:

Sndr Info [redacted] P
Msg Type
MAD {1520}20161025L1LFBL6C000056
Amount {2000}000001700000
Sender DI [redacted]
Sndr Ref
Rcvr DI
Bus Func {3600}CTR
BNF {4200}D1620005355*
INTERNATIONAL COLLECTORS ASSOC. LTD*
166 TURNER DRIVE*
DURANGO, CO 81303*
ORG [redacted]
TED SMITH*
TED SMITH AUTH SIGNER*
2221 ALTAMONT ROAD*
GREENVILLE SC 29609*

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GFX/PAYplus Connect Message Print - Message Inquiry Display Dialog Box

User: a_thompson Bank: UNITED COMM BK Date: 04/28/17 11:30:20

Message Status: PNRM
Seq Num: [redacted] Related Seq Num: [redacted]
Pay Method: FED Output Message ID: FTI0811
Date Recvd: 11/15/2016 12:28:46 Value Date: 11/15/2016

Sender: [redacted] Receiver: [redacted]
Amount: $16,500.00
Debit info --
Account: [redacted] Inst: 00 Br: 449 Type: S8
Name: WANDA H SMITH
Addr1: TED SMITH AUTH SIGNER
Addr2: 2221 ALTAMONT ROAD
Addr3: GREENVILLE SC 29609
Addr4:

Credit info --
Rcvr: [redacted]
Name: ALPINE BANK
Addr1:
Addr2:
Addr3:
Addr4:

Advice: Dept: DEPT1 Trancode: DOMESTIC
Category: Linesheet: Create Template:

Message Text:

Sndr Info [redacted] P
Msg Type
MAD {1520}20161115L1LFBL6C000182
Amount {2000}000001650000
Sender DI [redacted]
Sndr Ref
Rcvr DI
Bus Func
BNF
INTERNATIONAL COLLECTORS ASSOCIATES*
166 TURNER DRIVE*
DURANGO, CO 81303*
ORG [redacted]
TED SMITH*
TED SMITH AUTH SIGNER*
2221 ALTAMONT ROAD*
GREENVILLE SC 29609*

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EXHIBIT H

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	BEFORE THE MASTER IN EQUITY
COUNTY OF GREENVILLE	)	
		C/A No.:2014-CP-23-04097
First Citizens Bank and Trust Company, Inc.,	)	
Plaintiff,	)	**CONSENT ORDER FOR SMITH FAMILY, LLC TO HOLD CERTAIN FUNDS UNTIL RESOLUTION OF ISSUE REGARDING RIGHTS TO CERTAIN FUNDS**
v.	)	
Ronald D. Taylor and Ted D. Smith,	)	
Defendants.	)	

The Plaintiff and the Defendant Ted D. Smith, along with Smith Family, LLC, have reached an agreement regarding certain funds/assets. In particular, the Defendant Ted D. Smith ("Smith") has testified that he deposited his personal funds into the Smith Family, LLC bank account at United Community Bank.[1] The Plaintiff, through its Counsel, has indicated to Counsel for Ted D. Smith,[2] that First Citizens Bank and Trust Company, Inc. ("FCB") intended to execute on the funds of Smith Family, LLC deposited by Ted D. Smith. Counsel for FCB also indicated to Counsel for Ted D. Smith that FCB also intended to file a motion seeking an immediate Restraining Order on Smith Family, LLC as to all funds of Smith Family, LLC. During the deposition of Ted D. Smith, Mr. Smith testified that Smith Family, LLC had purchased in excess of $100,000.00 in gold and silver. Counsel for Smith, who is also Counsel for Smith Family, LLC, has agreed that Smith Family, LLC will not sell, dispose of, or otherwise transfer the gold and silver referenced herein, and in the deposition of Ted D. Smith, until the issue of entitlement to said funds/assets is ruled upon by the Court. IT IS SO ORDERED.

[Electronic signature page of Judge to follow]

[1] The amount of the personal fund(s) deposits into Smith Family, LLC's bank account total $81,026.76.
[2] Counsel for Ted D. Smith is also Counsel for Smith Family, LLC.

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First Citizens Bank and Trust Company, Inc. v. Ronald Taylor, et.al.

C/A No.: 14-CP-23-04097
Consent Order for Smith Family, LLC to Hold Certain Funds Until Resolution of Issue Regarding Rights to Certain Funds

We consent:

s/Joey R. Floyd Date: May 26, 2017
Joey R. Floyd
Bruner Powell Wall & Mullins, LLC
P.O. Box 61110
Columbia, South Carolina 29260-1110
(803) 252-7693
Attorneys for Plaintiff
First Citizens Bank and Trust Company, Inc.

s/Randall S. Hiller Date: May 26, 2017
Randall S. Hiller, Esquire
Randall S. Hiller, P.A.
850-B Wade Hampton Blvd.
Greenville, SC 29609
(864) 232-0026
Attorney for Ted D. Smith, Wanda H. Smith and Smith Family, LLC

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Greenville Common Pleas

Case Caption: First Citizens Bank And Trust Company Inc vs. Ronald D Taylor , defendant, et al

Case Number: 2014CP2304097

Type: Order/Consent Order

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	
		Case No.:2014-CP-23-04097
First Citizens Bank and Trust Company, Inc.,	)	
	)	**ORDER**
Petitioner,	)	
	)	
v.	)	
	)	
Ronald D. Taylor and Ted D. Smith,	)	
	)	
Respondents.	)	
	)	

This matter came before me on June 23, 2017, on two Motions filed by the Petitioner, First Citizens Bank and Trust company, Inc. ("First Citizens"). The Petitioner, First Citizens was represented by Joey R. Floyd. The Respondent, Ted D. Smith ("Ted D. Smith"), was represented by Randall S. Hiller. Smith Family, LLC, WHS Properties and Wanda H. Smith were also represented at the hearing by Randall S. Hiller.[1]

PROCEDURAL HISTORY

First Citizens filed a civil action against Respondents on July 28, 2014, seeking to collect money owed to First Citizens. On October 6, 2015, an Order of Judgment was entered against the Respondents in the amount of $74,843.23 ("the Judgment"). The Defendants filed an appeal and the Court of Appeals affirmed the decision of the Trial Court on November 9, 2016. No further appeal was taken by the Respondents and the Judgment became a final Judgment. Thereafter, First Citizens initiated these Supplemental Proceedings to collect on its Judgment. To date, Ted D. Smith has not made any payments toward the Judgment nor has he made any effort to pay First Citizens. As of June 23, 2017, taking into account all post-Judgment interest, the Judgment amount is $84,824.77.

This matter was referred to me by way of an Order of Reference from the Honorable Perry H. Gravely, dated and filed on November 10, 2016. A Supplemental Proceedings hearing was held

[1] The Judgment is against both Ted D. Smith and Ronald D. Taylor; however, the issues raised/addressed in First Citizens' Motions and the relief being pursued by First Citizens relates to First Citizens' efforts to execute on assets of Ted D. Smith.

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before me on January 23, 2017, and Counsel for Petitioner requested that this Court hold these proceedings open so that additional discovery could be conducted. After conducting additional discovery, Counsel for the Petitioner filed two Motions with the Court: (1) Motion to Join Additional Parties to these Supplemental Proceedings and (2) Motion to Execute on Funds/Assets held in the name of Smith Family, LLC, WHS Properties, LLC and/or Wanda H. Smith. These two motions were heard by this Court on June 23, 2017.

THE JANUARY 23, 2017 SUPPLEMENTAL PROCEEDINGS HEARING AND POST-JUDGMENT DISCOVERY

After the initial Supplemental Proceedings hearing on January 23, 2017, Counsel for First Citizens engaged in post-Judgment discovery by examining various bank accounts and the banking activities of Ted D. Smith. Based on the documents provided to and reviewed by this Court, it does not appear that Mr. Smith is in any danger of becoming a ward of the State.

During the Supplemental Proceedings hearing on January 23, 2017, Ted D. Smith testified, under oath, as follows:

a. That he was retired (Transcript p. 3, lines 8-11).[2]
b. He had no bank account (Transcript p. 3-4, lines 22-1)
c. He did not have any other sources of income. (Transcript p. 3, lines 17-18).
d. His wife only had one bank account at United Community Bank. (Transcript p. 9, lines 14-17).
e. Affirmed that there were no other accounts, bank accounts, financial accounts that had not been talked about during the January 23, 2017 supplemental proceedings hearing. (Transcript p. 13, lines 2-4).

After the January 23, 2017, Supplemental Proceedings hearing, Counsel for First Citizens transmitted two subpoenas (on different dates) to United Community Bank seeking banking records. Counsel for Ted D. Smith (who is also Counsel for Smith Family, LLC, Wanda H. Smith and WHS Properties, LLC) filed two separate Motions to Quash the subpoenas. The United Community Bank documents provide a significant amount of information relating to the banking activities of Ted D. Smith.

[2] References to "Transcript" refer to the Supplemental Proceedings Hearing Transcript on January 23, 2017.

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In particular, there are four transactions, totaling $81,026.76, that Ted D. Smith has admitted, under oath during his deposition, that he deposited his personal funds into the Smith Family, LLC bank account. The four transactions are as follows:

(a) March 23, 2016 – **$15,789.27** Final distribution of $15,664.27 from his Mother's estate and a payment from the Personal Rep. of his Mother's estate ($125.00).

(b) July 14, 2016 - **$16,800.00** Commission payment as a Broker/Broker in Charge.

(c) August 17, 2016 - **$20,250.00** Commission payment as Broker/Broker in Charge

(d) October 27, 2016 - **$28,187.49** Payment to Ted D. Smith for managing construction.

Counsel for First Citizens attached a copy of each of these transactions to the Memorandum in Support of his Motion to Execute. Additionally, Counsel for First Citizens provided the Court with the deposition transcripts of Ted D. Smith and Wanda H. Smith. *See* Deposition Transcript of Ted D. Smith pp 101-102, lines 20-21 and p. 105, lines 1-24, where Ted D. Smith admits that he deposited his personal funds into Smith Family, LLC's bank account at United Community Bank.

REMEDIES/RELIEF REQUESTED BY FIRST CITIZENS

First Citizens argues that the four transfers set forth above should be set aside pursuant to the Statute of Elizabeth, S.C. Code Ann. § 27-23-10(A), S.C. Code § 15-39-410, and the basic principles of equity given the prior sworn testimony of this Defendant, the misleading testimony of the debtor and the continued acts of the debtor that have resulted in delay of collection of the judgment. Counsel for First Citizens has also asked for this Court to make a finding that the bank accounts at United Community Bank should be deemed to be the bank accounts of Ted D. Smith given the banking activities/usage of the accounts by Ted D. Smith, the prior testimony of Ted D. Smith and the deposition testimony of Ted D. Smith and Wanda H. Smith.

HOLDING/RULING

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After reviewing the Memorandum submitted by Counsel for First Citizens, the caselaw provided to this Court by Counsel for Ted D. Smith (and the other third parties), the Supplemental Proceedings hearing transcript and the deposition transcripts of Ted D. Smitha and Wanda H. Smith, I find that it is appropriate to grant First Citizens Motion to add Smith Family, LLC, WHS Properties, LLC and Wanda H. Smith to these Supplemental Proceedings for the limited purpose of having jurisdiction and authority over the above assets. For the reasons set forth herein, I also find that the four aforementioned deposits by Ted D. Smith of his admitted personal funds into the bank account of Smith Family, LLC. at United Community Bank is cash that Smith Family, LLC holds control and possession of and that First Citizens is entitled to set aside the transfer of those admitted personal funds into the Smith Family, LLC bank account. The four deposits by Ted D. Smith, totaling $81,026.76, which was deposited into Smith Family, LLC is subject to execution because the evidence establishes Smith Family, LLC currently has more than sufficient funds to transfer and pay over to First Citizens this money since the testimony of Mr. Smith himself is that these funds were personal funds his and it is clear that these funds should not have been deposited into the bank account of Smith Family, LLC.

This Court declines, as proposed by Plaintiff, to seize or proceed against other assets of Smith Family, LLC, WHS Properties, LLC or Wanda H. Smith in this supplemental proceeding. Rather, based upon substantive due process rights of these parties, the Court is of the opinion that such relief is more appropriately sought through Plaintiff bringing an independent action against them.

As this Court ordered from the Bench on June 23, 2017, Smith Family, LLC is hereby ordered to pay Counsel for First Citizens $81,026.76 (the funds are to be made payable to First Citizens Bank and Trust Company, Inc.) on or before July 14, 2017. Smith Family, LLC can decide how/where it wants to retrieve the cash in order to pay First Citizens. Notably, Smith Family, LLC has $100,000.00 in silver that it is holding in accordance with the Consent Order entered in this case on June 1, 2017. Additionally, the Consent Order entered by this Court on June 1, 2017 regarding the silver[3] purchased by Smith Family, LLC shall remain in full force and

[3] During the deposition of Ted D. Smith, Mr. Smith admitted that Smith Family, LLC had purchased $135,374.00 in silver. Deposition of Ted D. Smith p. 84-85, lines 23-13. Wanda H. Smith was not aware of any purchases of gold or silver. Deposition of Wanda H. Smith p. 20-21, lines 15-6.

effect until this Court issues a ruling on part two of First Citizens' Motion to Execute. If Smith Family, LLC elects to liquidate the silver to pay First Citizens (and actually tenders the payment of $81,026.76 to Counsel for First Citizens), Smith Family, LLC shall maintain the remaining $18,973.24 of silver and Smith Family, LLC shall not sell, dispose, or otherwise transfer the silver without further order of this Court.

LAW

If a judgment is unsatisfied, a judgment creditor may initiate supplementary proceedings in order to discover assets of the judgment debtor. *Johnson v. Service Mgmt.*, 319 S.C. 165, 167, 458 S.E.2d 900 (1995) (citing S.C. Code Ann. § 15-39-410). Supplementary proceedings aid in discovery and "furnish a means of reaching, in aid of the judgment, property beyond the reach of an ordinary execution..." *Id.* (quoting *Lynn v. International Brotherhood of Fireman & Oilers*, 228 S.C. 357, 362, 90 S.E.2d 204, 206 (1955). It has long been held that "after conducting supplementary proceedings, the trial court may order non-exempt property of the judgment debtor in the hands of a third party...to be applied toward satisfaction of the judgment." *Id.* at 168, 459 S.E.2d at 902; *see also Deer Island Lumber Co, v. Virginia-Carolina Chem. Co.*, 111 S.C. 299, 97 S.E. 833 (1919) (holding a judgment creditor may reach funds in the hands of a third party through supplementary proceedings). The aforementioned cases, along with S.C. Code §§ 27-23-10(A) and 15-39-410, provide the basis for which First Citizens is entitled to the funds of Ted D. Smith being held by Smith Family, LLC. Mr. Smith testified that he has not had a bank account since 2008 – when "everything went to pot."[4] In other words, since his financial situation deteriorated he has not used a personal bank account.

The Statute of Elizabeth provides that:

> **Every gift, grant, alienation, bargain, transfer, and conveyance** of lands, **tenements, or hereditaments, goods and chattels** or any of them, or of any lease, rent, commons, or other profit or charge out of the same, by writing or otherwise, and every bond, suit, judgment, and execution which may be had or **made to or for any intent or purpose to delay, hinder, or defraud creditors and others of their just and lawful actions, suits, debts, accounts, damages, penalties, and forfeitures must be deemed and taken** (only as against that person or persons, his or their heirs,

[4] See Deposition of Ted D. Smith, p. 102, lines 19-22 and Supplemental Proceedings Hearing transcript, pp. 3-4, lines 21-1.

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> successors, executors, administrators and assigns, and every one of them whose actions, suits, debts, accounts, damages, penalties, and forfeitures by guileful, covinous, or fraudulent devices and practices are, must, or might be in any ways disturbed, hindered, delayed, or defrauded) **to be clearly and utterly void, frustrate and of no effect, any pretense, color, feigned consideration, expressing of use, or any other matter or thing to the contrary notwithstanding.**

S.C. Code § 27-23-10(A) (emphasis added).[5] In *Durham v. Blackard*, the Court of Appeals, interpreting the Statute of Elizabeth, held that conveyances can be set aside in two instances:

> First, where the challenged transfer was made for a valuable consideration, it will be set aside if the plaintiff establishes that (1) the transfer was made by the grantor with the actual intent of defrauding his creditors; (2) the grantor was indebted at the time of the transfer; and (3) the grantor's intent is imputable to the grantee. Second, where the transfer was not made on a valuable consideration, no actual intent to hinder or delay creditors must be proven. Instead, as a matter of equity, the transfer will be set aside if the plaintiff shows that (1) the grantor was indebted to him at the time of the transfer; (2) the conveyance was voluntary; and (3) the grantor failed to retain sufficient property to pay the indebtedness to the plaintiff in full-not merely at the time of the transfer, but in the final analysis when the creditor seeks to collect his debt.

Durham v. Blackard, 313 S.C. 432, 437, 438 S.E.2d 259, 262 (Ct. App. 1993). Furthermore, it is well-settled that "where a conveyance to a family member or close relative is attacked on account of its voluntary character, the law imposes a duty of the transferee to establish both a valuable consideration and the bona fides of the transaction by clear and convincing evidence." *First State Sav. & Loan Ass'n v. Nodine*, 291 S.C. 445, 450, 354 S.E.2d 51, 54 (1987) (citing *Coleman v. Daniel*, 261 S.C. 198, 199 S.E.2d 74 (1973)).

The transactions where Ted D. Smith decided to deposit his personal funds into the Smith Family, LLC bank account are clearly transfers without valuable consideration. Mr. Smith testified that the Smith Family, LLC bank account was simply an account that he chose to

[5] While claims brought pursuant to the Statute of Elizabeth often involve transfers of real property, the language of the statute and South Carolina case law demonstrates that the Statute of Elizabeth is also applicable when a debtor transfers money or assets. *See* S.C. Code § 27-23-10(A); *Carr v. Guerard*, 365 S.C. 151, 616 S.E.2d 429 (2005); *Dufresne v. Regency Realty, Inc.*, 295 S.C. 1, 366 S.E.2d 256 (Ct. App. 1987) (overruled on other grounds).

deposit the funds since he did not have a bank account.[6] Under South Carolina law, "consideration...may consist either in some right, interest, profit or benefit accruing to one party, or some forbearance, detriment, loss, or responsibility given, suffered, or undertaken by the other." *Furman Univ. v. Waller*, 124 S.C. 68, 117 S.E. 356, 358 (1923). The testimony from both Mr. Smith and his wife clearly establishes that the transfers were not based on valuable consideration. The transferee (Smith Family, LLC) cannot meet the burden of establishing valuable consideration and the bona fides of the alleged fraudulent transfers. Therefore, the transfers of these specific and clearly identified transfers should be set aside. *See Durham*, 313 S.C. at 437, 438 S.E.2d at 262.

Even assuming, *arguendo*, that there was consideration for the transfers, the evidence and testimony reveals that the transfers are fraudulent because the transfers were made with the actual intent of defrauding his creditors. Mr. Smith testified during the Supplemental Proceedings that he did not have any bank accounts and there were no other bank accounts. Moreover, Mr. Smith was indebted to First Citizens at the time of the transfers and his intent is imputable to Smith Family, LLC since he has, and has had at all times, exclusive control over the bank accounts of Smith Family, LLC. In determining whether a debtor acted with the requisite intent to establish a fraudulent conveyance, courts evaluate the particular circumstances of the transfer for "badges of fraud." *Coleman v. Daniel*, 261 S.C. 198, 209, 199 S.E.2d 74, 79 (1973) ("Certain circumstances so frequently attend conveyances to defraud creditors that they are recognized and referred to as 'badges of fraud.' The badges tend to excite suspicions as to the Bona fides of a challenged conveyance."). The presence of one or more badge of fraud creates a rebuttable presumption of intent to defraud. *See Royal Z Lanes, Inc. v. Collins Holding Corp.*, 337 S.C. 592, 596, 524 S.E.2d 621, 623 (1999). In *Coleman*, our Supreme Court stated the following regarding the badges of fraud:

> The facts which are recognized indicia of fraud are numerous, and no court could pretend to anticipate or catalog them all. Among the generally recognized badges of fraud are the insolvency or indebtedness of the transferor, lack of consideration for the conveyance, relationship between the transferor and the transferee, the pendency or threat of litigation, secrecy or concealment, departure from the usual method of business, the transfer of the

[6] Deposition of Ted D. Smith, p. 105, lines 20-24.

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> debtor's entire estate, the reservation of benefit to the transferor, and the retention by the debtor of possession of the property.

Coleman v. Daniel, 261 S.C. at 209, 199 S.E.2d at 79 (1973) (citing 37 Am.Jur.(2d), Fraudulent Conveyances, § 10 (1968)); *see also In re Jones*, 397 B.R. 765, 770 (Bankr. D.S.C. 2008); *In re Ducate*, 369 B.R. 251 (Bankr. D.S.C. 2007). The circumstance of Defendant's transfers to Smith Family, LLC meet every single badge of fraud listed above. Although the presence of a single factor, i.e., badge of fraud, may cast suspicion on the transferor's intent, the confluence of several in one transaction generally provides conclusive evidence of an actual intent to defraud." *Gilchinsky v. Nat'l Westminster Bank*, 732 A.2d 482, 490 (1999). Here, Defendant was (1) purportedly insolvent at all times and was indebted to First Citizens at the time of the transfers; (2) his funds were transferred to a bank account in which he exercises complete control, i.e. he has a close relationship with the LLC and his wife did not know that the bank accounts at United Community Bank even existed; (3) transferred funds while the judgment was filed of record; (4) he failed to mention the transfers during the first supplemental proceedings hearing in spite of his active involvement with the accounts, failed to identify the bank accounts at United Community Bank on a personal financial statement, i.e. secrecy and concealment; (5) reserved the benefit of the funds by using the money in Smith Family, LLC to pay his personal expenses and transferring money in United community Bank, as necessary (he retained all the benefits) and (6) he had possession of the money at all times since he was the only person involved with the banking activities of the bank accounts at United Community Bank. The presence of all badges of fraud surrounding Defendant's transfers more than establishes the "actual intent to hinder, delay, or defraud" First Citizens from collecting on its judgment.

Establishing that a debtor acted with actual intent to hinder, delay or defraud a creditor is rarely proven by direct evidence. *In re Schmit*, 71 B.R. 587, 590 (Bankr. D. Minn. 1987). It is typically inferred from the facts and circumstances of the debtor's conduct. *Id.; see also Farmers Co-op. Ass'n v. Strunk*, 671 F.2d 391, 395 (10th Cir.1982) ("Fraudulent intent of course may be established by circumstantial evidence, or by inferences drawn from a course of conduct."). The Respondent's explanation for the transfers is simple – he had no other bank account so he used the Smith Family, LLC bank account.

CONCLUSION

First Citizens' motion to add the other parties (Smith Family, LLC, WHS Properties, LLC and Wanda H. Smith) to this Supplemental Proceeding is hereby granted for the limited re4asons set forth above. Additionally, in accordance with the Statute of Elizabeth, S.C. Code § 27-23-10(A), and S.C. Code § 15-39-310, Smith Family, LLC is hereby directed to tender a check to Counsel for First Citizens in the amount of $81,026.76 on, or before, July 14, 2017. Smith Family, LLC can either liquidate the silver or find an alternative source of cash to issue this payment to Counsel for First Citizens. Moreover, this Court finds the case of *Ex Parte Dibble*, 279 SC 592 (Ct.App. 1983) particularly instructive. In *Dibble*, the Court of Appeals stated that "Courts have the inherent power to do all things reasonably necessary to insure that just results are reached to the fullest extent possible." *Id.* at 595. In light of the prior testimony during the January 23, 2017 Supplemental Proceedings Hearing, the deposition testimony of Ted D. Smith, the deposition testimony of Wanda H. Smith and the actions of Ted D. Smith relating to the aforementioned deposits into the Smith Family, LLC bank account, that were only discovered through extensive and likely expensive discovery efforts, it would be inherently unjust to prevent First Citizens from recovering the $81,026.76 that Mr. Smith deposited into the account of Smith Family, LLC after the entry of First Citizens Judgment against Ted D. Smith.

ELECTRONIC SIGNATURE PAGE OF JUDGE TO FOLLOW

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Greenville Common Pleas

Case Caption: First Citizens Bank And Trust Company Inc vs. Ronald D Taylor , defendant, et al

Case Number: 2014CP2304097

Type: Order/Supplemental Proceedings Order

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	C.A. NO.: 2014-CP-23-04097
First Citizens Bank and Trust Company, Inc.,	)	
Plaintiff	)	
v.	)	**MOTION TO ALTER AND/OR AMEND ORDER DATED JULY 5, 2017**
Ronald D. Taylor, Ted D. Smith, Et al,	)	
Defendants	)	

YOU WILL PLEASE TAKE NOTICE that the Defendants by and through their undersigned counsel, will move before the Presiding Judge for the Thirteenth Judicial Circuit, Greenville, South Carolina, at such time and place as his Honor may designate for an Order, pursuant to Rule 59 and Rule 60, of the South Carolina Rules of Civil Procedure, to alter or amend the order dated July 5, 2017, on the following grounds:

1. The order adjudicates ownership and/or the Statute of Elizabeth claim affecting the rights of third parties who have never been served with a complaint, had an opportunity to answer, conduct discovery or even present testimony or evidence.

2. The order adds parties to a proceeding for which there is no mechanism or authority to do so. Purportedly it is accomplished pursuant to Rule 19 SCRCP which allows the addition of parties to a pending action. An action under Rule 3 SCRCP is commenced upon the filing of a summons and complaint. The pending proceeding is nothing more than an order for discovery of assets pursuant to Section 15-39-310, *SC Code of Laws*.

3. The order improperly denies the "new parties" due process.

4. That the order fails to make inquiry or a determination that the property is nonexempt.

5. That the order executes against assets of the new parties that were owned by the new parties and in existence prior to the deposit of any funds into the account of the new parties by the Defendant, Ted D. Smith.

6. That the order adjudicates claims or causes of actions for which the Court lacks jurisdiction in a supplementary proceeding/order of discovery of assets proceeding.

ELECTRONICALLY FILED - 2017 Jul 07 10:14 AM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

7. That the order deprived the new Defendants of notice and an opportunity to present testimony and evidence.

RANDALL S. HILLER, P.A.

S/Randall S. Hiller
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Attorney for Defendants

ELECTRONICALLY FILED - 2017 Jul 07 10:14 AM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

ELECTRONICALLY FILED - 2017 Jul 15 2:30 PM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	BEFORE THE MASTER IN EQUITY
COUNTY OF GREENVILLE)	
	C/A No.:2014-CP-23-04097
First Citizens Bank and Trust)	
Company, Inc.,)	**PLAINTIFF'S NOTICE OF MOTION AND MOTION TO COMPEL TED D. SMITH AND/OR SMITH FAMILY, LLC TO PAY THE MONEY JUDGMENT TO PLAINTIFF, PAY THE MONEY IN TO COURT OR, IN THE ALTERNATIVE, TO APPOINT A RECEIVER TO TAKE CONTROL OF ASSETS AND PAY THE MONEY IN TO COURT (RULES 64, 66, 70 SCRCP AND RULE 241, SCACR)**
Petitioner,)	
v.)	
Ronald D. Taylor and Ted D. Smith,)	
Respondents.)	

TO: RANDALL S. HILLER, ATTORNEY FOR THE DEFENDANTS

YOU WILL PLEASE TAKE NOTICE that pursuant to Rules 64 and 70 of the South Carolina Rules of Civil Procedure, the Petitioner, First Citizens Bank and Trust Company, Inc., by and through its undersigned Counsel will move before the Honorable Charles B. Simmons, Jr. on the 10th day following service hereof or as soon thereafter as Counsel can be heard, for an Order compelling/directing the Defendant Ted D. Smith and/or Smith Family, LLC to comply with this Court's Order of July 5, 2017 (electronically signed and filed on July 5, 2017) and tender a check to Counsel for First Citizens Bank and Trust Company, Inc. in the amount of $81,026.76, in accordance with the terms of this Court's Order filed July 5, 2017. First Citizens Bank and Trust Company, Inc. also asks that Ted D. Smith and Smith Family, LLC be held in Contempt of Court, pursuant to Rule 70 for failing to pay in accordance with the terms of the Court's Order dated July 5, 2017.

In the alternative, Counsel for the Petitioner seeks an Order requiring Ted D. Smith and/or Smith Family, LLC to pay the money to the Clerk of Court for the Clerk of Court to hold

said proceeds while the Motion for Reconsideration is pending and/or during the pendency of any appeal of this Court's Order. In accordance with Rules 205 and 241 of the SCACR, the filing of a Motion for Reconsideration and/or a Notice of Appeal does not stay the payment of a money judgment or delivery of personal property. *See also* S.C. Code §§ 18-9-130, 150 and 160. In the event that the Respondents fail to abide by the Court's Order, Petitioner seeks, in the second alternative, pursuant to Rule 66 of the SCRCP, the appointment of a Receiver, to be paid for by Ted D. Smith and/or Smith Family, LLC, to take possession of the assets of Smith Family, LLC, including but not limited to the precious metals purchased by Ted D. Smith and/or Smith Family, LLC and the money being held in escrow by Counsel for Smith Family, LLC and pay the money in to the Court.

Pursuant to Rule 11 of the South Carolina Rules of Civil Procedure, the undersigned counsel certifies that prior to filing this motion, I attempted, in good faith, to resolve the matter contained in this motion prior to filing this motion.

Respectfully submitted,

s/Joey R. Floyd
Joey R. Floyd
Bruner Powell Wall & Mullins, LLC
P.O. Box 61110
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(803) 252-7693
Attorneys for Petitioner
First Citizens Bank and Trust Company, Inc.

July 14, 2017

ELECTRONICALLY FILED - 2017 Jul 15 2:30 PM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

ELECTRONICALLY FILED - 2017 Aug 07 9:45 AM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF GREENVILLE)	Case No.: 2014-CP-23-04097
First Citizens Bank and Trust Company, Inc.,)	**ORDER**
Petitioner,)	
v.)	
Ronald D. Taylor and Ted D. Smith,)	
Respondents.)	

This matter came before me on July 26, 2017.[1] Presently, there are two motions pending in this matter. On July 7, 2017, Randall S. Hiller (counsel for defendants) filed a *Motion to Alter and/or Amend Order Dated July 5, 2017* (referred to herein as "*Motion to Alter and/or Amend*"). Among other things, the Order dated July 5, 2017, added additional parties (Smith Family, LLC, WHS Properties, LLC and Wanda H. Smith) for the limited purpose of these Supplemental Proceedings and required Smith Family, LLC to tender a check to Counsel for First Citizens Bank and Trust Company, Inc. ("First Citizens") in the amount of $81,026.76 on, or before, July 14, 2017.[2] Plaintiff contends that Smith Family, LLC failed to comply with this Court's Order directing Smith Family, LLC to tender the proceeds to Counsel for First Citizens on, or before July 14, 2017. On July 15, 2017, Joey R. Floyd (Counsel for First Citizens Bank and Trust Company, Inc.) filed a *Motion to Compel Ted D. Smith and/or Smith Family, LLC to Pay the Money Judgment to Plaintiff, Pay the Money in to Court Or, In the Alternative, To Appoint A Receiver to Take Control of Assets and Pay the Money In to Court* (referred to herein as "*First Citizens' Motion to Compel*").

[1] Counsel for the interested parties agreed to have the current motion heard by way of a telephone conference (there was no need for a record to be made of the hearing - the Order of this Court would suffice for the record.)

[2] Pursuant to a Consent Order filed June 1, 2017, Ted D. Smith and Smith Family, LLC agreed to not sell, dispose of or otherwise encumber gold and silver purchased with a value in excess of $100,000 pending resolution of the ownership issue of these assets. In that same Order, Ted D. Smith and Smith Family, LLC agreed that Smith had deposited personal funds of $81,026.76 into the Smith Family, LLC bank account.

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HOLDING

After carefully considering the motion filed by Mr. Hiller, along with the argument presented by Mr. Hiller to this Court on July 26, 2017, this Court denies the *Motion to Alter and/or Amend*. This Court will hold *First Citizens' Motion to Compel* in abeyance, to provide Smith Family, LLC until August 9, 2017, to pay the money in to Court or reach some amicable compromise with Counsel for First Citizens regarding the payment of the $81,026.76. In the event that Smith Family, LLC has not paid the money in to Court and/or reached some compromise with Counsel for First Citizens regarding the payment of the $81,026.76, to be held in a trust account or some alternative account, this Court will schedule and hear *First Citizens' Motion to Compel* as soon thereafter as reasonably possible.[3]

REASONING

The primary thrust of the *Motion to Alter and/or Amend* filed by counsel for defendants is a "due process" argument. To be more specific, Smith Family, LLC maintains that it did not have the opportunity to present testimony and evidence. See ¶ 7 of *Motion to Alter and/or Amend*.

If a judgment is unsatisfied, a judgment creditor may initiate supplementary proceedings in order to discover assets of the judgment debtor. *Johnson v. Service Mgmt.*, 319 S.C. 165, 167, 458 S.E.2d 900 (1995) (citing S.C. Code Ann. § 15-39-310). Supplementary proceedings aid in discovery and "furnish a means of reaching, in aid of the judgment, property beyond the reach of an ordinary execution..." *Id.* (quoting *Lynn v. International Brotherhood of Fireman & Oilers*, 228 S.C. 357, 362, 90 S.E.2d 204, 206 (1955). It has long been held that "after conducting supplementary proceedings, the trial court may order non-exempt property of the judgment debtor in the hands of a third party...to be applied toward satisfaction of the judgment. *Id.* at 168, 459 S.E.2d at 902 (citing S.C. Code Ann. § 15-39-410; *Lynn*, 228 S.C. at 362, 90 S.E.2d at 206); *see*

[3] Issues relative to 15-41-30 exemptions that Smith may be entitled to, if any, will be addressed at a later date.

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also Deer Island Lumber Co, v. Virginia-Carolina Chem. Co., 11 S.C. 299, 97 S.E. 833 (1919) (holding a judgment creditor may reach funds in the hands of a third party through supplementary proceedings).[4] (citing *Jackson v. Farmers State Bank*, 481 N.E.2d 396 (1985)) ("It is clear that the court has jurisdiction to set aside a fraudulent conveyance in the context of proceedings supplemental to execution.").

As a preliminary matter, the transfers by Ted D. Smith to Smith Family, LLC, as framed in this Court's Order dated July 5, 2017, were transfers of cash from Ted D. Smith to Smith Family, LLC. The cash deposited by Ted D. Smith into the bank account of Smith Family, LLC was never the property of Smith Family, LLC. Smith Family, LLC was merely holding the cash of Ted D. Smith – cash that should not have been deposited into the bank account of Smith Family, LLC. As a practical matter, Smith Family, LLC did not have any ownership rights in the cash that was transferred without reason or justification by Smith to Smith Family, LLC during the times in question. Taking into account the prior sworn testimony of Ted D. Smith at the first Supplemental Proceedings and the uncontradicted evidence that Ted D. Smith exercised complete control of the bank accounts (Wanda H. Smith, the purported owner of Smith Family, LLC did not even know where Smith Family, LLC banked), this Court has an obligation to seize the assets on behalf of the Judgment creditor. Notably, the United States Supreme Court has accurately described a judgment execution by describing it as follows: "An execution is the fruit and end of the suit, and is very aptly called the life of the law. The suit does not terminate with the judgment; and all proceedings on the execution, are proceedings in the suit." *Bank of United States v. Halstead*, 23 U.S. 51, 64 (U.S. Mar. 2, 1825).

It would be fundamentally unfair to First Citizens to allow the judgment debtor, Ted D. Smith, to have deposited in excess of $80,000.00 in the Smith Family, LLC bank

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[4] *See Also Dewey v. West Fairmonty Gas Coal Company*, 1233 U.S. 329, 332-33, 8 S.Ct. 148, 150 (1887); *Nat'l Mar. Servs. V. Straub*, 776 F.3d 783, 787 (11th Cir. 2015), *Epperson v. Entm't Express, Inc.*, 242 F.3d 100, 103-07 (2d. Cir. 2001); *Thomas, Head & Greisen Emples. Trust v. Buster*, 95 F.3d 1449, 1453-55 (9th Cir. 1996). *Linson v. Polymer Engineering, Inc. Health Care Ben. Plan for Employees*, 1991 U.S. Dist. LEXIS 16773, * 5, 1991 WL 243313 (N.D. Ind. 1991). *Rutherford v. Kessel*, 560 F.3d 874, 879 (8th Cir. 2009). All of these cases from various jurisdictions support First Citizens' position that a separate action is not necessary.

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account and provide no remedy to First Citizens when Ted D. Smith maintains that he now has no assets with which to respond to the Judgment of First Citizens. Smith Family, LLC has a significant amount of assets, has been actively involved in real estate and is currently involved in yet another "real estate deal" to build a building with various partners/parties. In terms of Smith Family, LLC's ability to present evidence and testimony, this Court notes that depositions were taken in conjunction with the Supplemental Proceedings, and Counsel for Smith Family, LLC participated in the depositions. Moreover, Mr. Hiller presented this Court with his arguments and had the opportunity to present evidence at the Motions hearing on June 23, 2017, if Smith Family, LLC wanted to present evidence. However, in light of the prior sworn testimony at the January 23, 2017 Supplemental Proceedings hearing, the admissions by Ted D. Smith in his deposition, along with the deposition testimony of Wanda H. Smith, it is difficult to imagine what, if any, evidence or testimony that Smith Family, LLC and/or Ted D. Smith could have presented to dissuade this Court from finding the deposit of Ted D. Smith's personal funds into the bank account of Smith Family, LLC as being fraudulent transfers.

This Court continues to believe that the case of *Ex Parte Dibble*, 279 SC 592 (Ct. App. 1983) is on point - "Courts have the inherent power to do all things reasonably necessary to insure that just results are reached to the fullest extent possible." *Id.* at 595. In light of the testimony and actions of the judgment debtor, Ted D. Smith, the just result is that the fraudulent transfers to Smith Family, LLC must be paid over to Ted D. Smith's judgment creditor, First Citizens.

CONCLUSION

For the reasons provided herein, the *Motion to Alter and/or Amend* filed by Mr. Hiller, Counsel for Ted Smith and Smith Family, LLC, is hereby denied. This Court will hold *First Citizens' Motion to Compel* in abeyance and hereby directs Smith Family, LLC to tender a check to Counsel for First Citizens in the amount of $81,026.76 on, or before, August 9, 2017. Again, as this Court provided in its July 5, 2017 Order, Smith Family, LLC can either liquidate the silver or find an alternative source of cash to issue this

payment to Counsel for First Citizens. In the event that Smith Family, LLC fails to pay the $81,026.76 to tender a check payable to First Citizens on, or before, August 9, 2017, this Court will hear and rule on *First Citizens' Motion to Compel* as soon as reasonably possible thereafter.

ELECTRONIC SIGNATURE PAGE OF JUDGE TO FOLLOW

ELECTRONICALLY FILED - 2017 Aug 07 9:45 AM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

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Greenville Common Pleas

Case Caption: First Citizens Bank And Trust Company Inc vs. Ronald D Taylor , defendant, et al

Case Number: 2014CP2304097

Type: Master/Order/Other

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	C.A. NO.: 2014-CP-23-4097
First Citizens Bank and Trust Company, Inc.,	)	
Plaintiff	)	**MOTION FOR SUPERSEDEAS**
v.	)	
Ronald D. Taylor, Ted D. Smith, Smith Family, LLC, WHS Properties LLC and Wanda H. Smith,	)	
Defendants	)	

YOU WILL PLEASE TAKE NOTICE that the Defendant, Smith Family, LLC, WHS Properties, LLC and Wanda Smith, by and through their undersigned counsel, will move before the Honorable Charles B. Simmons, Jr. at such time and place as his Honor may designate for an Order, pursuant to Rule 241, of the South Carolina Rules of Appellate Procedure, staying the matters decided in the order on appeal and allowing the Appellant a bond, undertaking or security pending a final decision by the Appellate Court.

RANDALL S. HILLER, P.A.

S/Randall S. Hiller
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August 9, 2017

ELECTRONICALLY FILED - 2017 Aug 09 3:58 PM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

ELECTRONICALLY FILED - 2017 Aug 15 10:59 AM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Charles B. Simmons, Jr.
Master in Equity

Case No.: 2014-CP-23-04097

First Citizens Bank and Trust Company, Inc.

Respondents

v.

Ronald D. Taylor and Ted D. Smith

Defendants

Smith Family, LLC, WHS Properties, LLC,
And Wanda H. Smith

Appellants

Smith Family, LLC, WHS Properties, LLC and Wanda H. Smith appeals the Orders of the Honorable Charles B. Simmons, Jr. dated July 5, 2017 and August 4, 2017. Appellant received written notice of entry of these orders on July 5, 2017 and August 5, 2017.

August 9, 2017

S/Randall S. Hiller
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Attorney for Appellants

Other counsel of record:
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ELECTRONICALLY FILED - 2017 Aug 15 10:59 AM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Hon. Robin B. Stilwell

Case No. 2014-CP-23-4097

First Citizens Bank and Trust Company, Inc.

Respondents

v.

Ronald D. Taylor and Ted D. Smith

Defendants

Smith Family, LLC, WHS Properties, LLC,
And Wanda H. Smith

Appellants

PROOF OF SERVICE

I certify that I have served the Appellants' Notice of Appeal on Joey R. Floyd, Esq. and The Hon. Charles B. Simmons, Jr. by depositing a copy of it in the United States Mail, postage prepaid, on August 10, 2017.

August 10, 2017

S/Randall S. Hiller
Randall S. Hiller (SCB#2513)
850 Wade Hampton Blvd.
Greenville, South Carolina 29609
Attorney for Appellant

ELECTRONICALLY FILED - 2017 Sep 06 4:41 PM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	BEFORE THE MASTER IN EQUITY
COUNTY OF GREENVILLE)	
	C/A No.:2014-CP-23-04097
First Citizens Bank and Trust)	
Company, Inc.,)	
)	
Petitioner,)	**ORDER REGARDING SUPERSEDEAS**
)	
v.)	
)	
Ronald D. Taylor and Ted D. Smith,)	
)	
Respondents.)	
)	

This matter came before me on Defendant's Motion for Supersedeas. The Motion for Supersedeas was filed by Counsel for Smith Family, LLC on August 9, 2017.[1]

An appeal having been filed in this matter, the parties have presented various options regarding its/their clients' respective positions for what should be used as security for Supersedeas. Having heard the various positions of the parties, I find that under the circumstances of this case, the provision and security of gold owned and held by Ted D. Smith and/or Smith Family, LLC shall be sufficient collateral to serve as security for the Supersedeas. Smith Family, LLC's Counsel has indicated to the Court that all cash of Smith Family, LLC is currently earmarked for the construction of a real estate project in Greenville, South Carolina[2] (referred to herein as "the building"). Notwithstanding that fact, Ted Smith has testified, in his deposition, that Smith Family, LLC has in excess of $300,000.00 in gold and silver, with approximately 2/3 being in gold and approximately 1/3 being in silver (see pages 124 and 125 of Ted Smith's deposition). Counsel for Smith Family, LLC has indicated to the Court that it is anticipated that the completion of the building will likely happen in the November 2017

[1] The Petitioner also had a Motion to Compel Payment that was, in summary, seeking the payment of the funds into Court if an appeal was filed. This Order renders Petitioner's motion moot.

[2] The building project is the construction of a building as noted in Ted Smith's deposition, pages 35-40.

timeframe; however, Counsel for Smith Family, LLC is hesitant to commit to a final construction/closing date of November since it is a construction project and it is possible that the building could experience some sort of construction delays. But, Smith Family, LLC has the ability to deliver gold to be used as Supersedeas in the interim. Given the volatility of precious metals, i.e. the fluctuation of the commodity pricing, I find that it would be appropriate for Smith Family, LLC to provide $125,000.00 worth of gold to the Petitioner for the Petitioner to hold for approximately four months while the building is wrapping up construction and Smith Family, LLC finalizes the sales transaction. Smith Family, LLC's Counsel has indicated that it is the intent of Smith Family, LLC to "swap" certified funds for the gold as soon as the building is complete and the sales transaction concluded. Notably, Counsel for the Petitioner has maintained that Smith Family, LLC should be required to immediately liquidate the gold in order to post Supersedeas with the Greenville County Clerk of Court. However, for various reasons, including but not limited to the possible tax liability, this Court has declined, at this time, to require Smith Family, LLC to liquidate gold to post Supersedeas.

In order to effect the transfer and holding of the gold to serve as Supersedeas, to Petitioner, the following procedures shall be followed by Smith Family, LLC (and/or the appointed representatives of Smith Family, LLC):

(1) In order to ensure the security of the gold coins, a precious metal, the gold is to be delivered by Smith Family, LLC or its agent to a licensed gold coin dealer/broker in the Greenville, South Carolina area (being an independent registered, licensed and insured/bonded dealer with no connection to the parties) within five (5) business days of the date and time this Order is filed.

ELECTRONICALLY FILED - 2017 Sep 06 4:41 PM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

Said dealer shall authenticate and verify in writing to both counsel that the metal being provided by Smith Family, LLC is gold. Given the equipment needed to authenticate and verify, the authentication/verification process shall take place at the independent gold dealer/broker's office. Said dealer, in the written verification, shall state the value of said gold coins as of the date of inspection and shall separate out a sufficient amount to constitute a total value of at least $125,000. Upon such inspection and verification, the gold dealer shall then turn over the $125,000 in gold coin directly to agents designated by Plaintiff with said gold to be immediately transported to a vault or safe deposit box in the name of Plaintiff.

Any costs incurred in the above shall be paid by Plaintiff. In the event that the Order currently on appeal is affirmed or the appeal dismissed, then such costs shall be added to the judgement debt and collected therein.

(2) Smith Family, LLC has indicated that it intends to 'swap' the gold for certified funds as soon as the building project is closed. In the event that Smith Family, LLC brings a certified check for $81,026.76 (as security during the appeal) to Petitioner and Petitioner verifies that the funds are good/sufficient, Petitioner shall release the gold back to Smith Family, LLC's appointed representative, as directed by Counsel for Smith Family, LLC. Smith Family, LLC's representative shall make provisions for its own security and transportation of the gold if Petitioner delivers certified funds to Petitioner or Petitioner's Counsel.

(3) In the event that Smith Family, LLC has not 'swapped' certified funds for the gold on, or before, December 31, 2017, Petitioner's Counsel shall be authorized to file a motion seeking liquidation of the gold at that time and this Court will rule on

ELECTRONICALLY FILED - 2017 Sep 06 4:41 PM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

Petitioner's motion at that time. In the event that the price of gold falls to such a level that the gold being held by Petitioner is insufficient, Petitioner shall be authorized to file a Motion to require Smith Family, LLC to provide additional precious metals, or cash, to make up the difference in value.

Once Petitioner has secured the gold in its facility, Petitioner is ordered to hold the gold until further order of the Court. If Smith Family, LLC brings certified funds to Petitioner, or Petitioner's Counsel, Petitioner shall deposit the funds in an account and shall continue to hold the funds until further order of this Court, once the appeal is concluded.

Failure to comply with the terms of this Order may result in contempt of court, including fines and imprisonment.

This Court shall retain jurisdiction over the issue of Supersedeas in this case.

AND IT IS SO ORDERED.

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Greenville Common Pleas

Case Caption: First Citizens Bank And Trust Company Inc vs. Ronald D Taylor , defendant, et al

Case Number: 2014CP2304097

Type: Master/Order/Other

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)

ELECTRONICALLY FILED - 2017 Oct 05 2:49 PM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

STATE OF SOUTH CAROLINA)	BEFORE THE MASTER IN EQUITY
)	
COUNTY OF GREENVILLE)	
	Case No.:2014-CP-23-04097
First Citizens Bank and Trust Company, Inc.,)	**PETITIONER, FIRST CITIZENS BANK AND TRUST COMPANY, INC.'S NOTICE OF MOTION AND MOTION TO HOLD SMITH FAMILY, LLC IN CONTEMPT OF COURT FOR FAILING TO COMPLY WITH COURT ORDER, LIQUIDATE GOLD AND PROCEED WITH EXECUTION**
Petitioner,)	
v.)	
Ronald D. Taylor, Ted D. Smith, Smith Family, LLC WHS Properties, LLC and Wanda H. Smith)	
Respondents.)	

TO: Randall S. Hiller, Esquire, Smith Family, LLC, WHS Properties, LLC and Wanda H. Smith

The Petitioner, First Citizens Bank and Trust Company, Inc. ("First Citizens" or "Petitioner"), by and through its undersigned counsel, hereby gives notice that it will move before The Honorable Charles B. Simmons, Master-In-Equity for Greenville County, 305 E. North Street, Greenville, South Carolina, for an Order to hold Smith Family, LLC in Contempt of Court for its failure to comply with this Court's Order regarding Supersedeas filed on September 6, 2017. The grounds for the motion are as follows:

(1) This Court issued its Order on September 6, 2017, directing Smith Family, LLC to deliver $125,000.00 worth of gold to a Greenville County gold coin dealer/broker in Greenville, South Carolina.

(2) The parties agreed that Hales Jewelers would serve as the independent agent to verify and authenticate the gold.

(3) On September 14, 2017, Smith Family, LLC delivered certain gold coins to Hales Jewelers. A copy of the report prepared by Hales Jewelers, documenting the quantity of gold coins, is attached hereto as Exhibit A.

(4) Hales' representative noted in the report, page 10, that the value of the gold coins delivered to Hales was worth, at most, **$91,438.76.** The Hales' representative provided a range of values for the gold coins being between $82,490.34 and $91,438.76.

(5) Assuming that the gold coins are worth the high end of the range, $91,438.76, Smith Family, LLC failed to deliver a minimum of **$33,561.24** of gold from what Smith Family, LLC was ordered to deliver to the third party in Greenville, South Carolina.

(6) As of October 5, 2017, 1:35 p.m., the price of gold is $1270.60 per ounce. The price of gold on September 14, 2017 was $1329.45 per ounce. In 21 days, the price of gold has fallen 4%. As such, the gold delivered by Smith Family, LLC is now worth 4% less today than it was on October 5, 2017.

(7) In addition to being short on the amount of gold, Smith Family, LLC delivered what appeared to be 40 US $20.00 Liberty head coins 1900, which were sealed in a case that prevented testing and measuring. Notably, the Liberty Head coins accounted for well over half of the value of the gold and this gold could not be authenticated or verified. See page 7 of the report.

(8) Smith Family, LLC has failed to comply with this Court's Order of September 6, 2017, by failing to deliver $125,000.00 worth of gold to a gold coin dealer/broker. As such, the Petitioner seeks to hold Smith Family, LLC in Contempt of Court and require Smith Family, LLC to pay:

a. Petitioner's attorneys' fees associated with Supersedeas in this case;

b. All costs, including filing fees, associated with the acceptance, authentication/verification and transport of the gold

(9) Petitioner also seeks an order that this Court allow Petitioner to proceed with the payment of its money judgment in accordance with Rule 241, SCACR, since Smith Family, LLC has failed to comply with this Court's Order of September 6, 2017, regarding Supersedeas.

(10) In the alternative, Petitioner also seeks an order directing the liquidation of the gold by Hales, to convert the gold to cash so that the Greenville County Clerk of Court can hold the cash to provide adequate security for Supersedeas given the volatility of the price of gold.

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WHEREFORE, Petitioner prays that the Court issue an order holding Smith Family, LLC in Contempt of Court, that this Court issue an award of attorneys' fees and costs associated with Supersedeas in this case to date and provide for the Petitioner to proceed with the collection of its money judgment in accordance with Rule 241, SCACR. In the alternative, Petitioner seeks the liquidation of the gold and additional precious metals in the possession of Smith Family, LLC to serve as Supersedeas in this case so that the Greenville County Clerk of court can hold the cash realized from the liquidation of the gold and/or other precious metals.

S/Joey R. Floyd
Joey R. Floyd
Bruner Powell Wall & Mullins, LLC
P.O. Box 61110
Columbia, South Carolina 29260-1110
(803) 252-7693
Attorneys for Petitioner

October 5, 2017

ELECTRONICALLY FILED - 2017 Oct 05 2:49 PM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

EXHIBIT A

HALE'S JEWELERS
SINCE 1856

Summary Appraisal Report

From

Hale's Jewelers

For

Court Proceedings

Prepared For

Mr. Joey R. Floyd

In Care Of

Bruner, Powell, Wall & Mullins, LLC

PO Box 61110

1735 St. Julian Place

Ste. 200 (29204)

Columbia, South Carolina 29260-1110

Date rendered 14 September 2017

ELECTRONICALLY FILED - 2017 Oct 05 2:49 PM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

Mr. Joey R. Floyd

14 September 2017

Dear Mr. Floyd,

Enclosed you will find the valuation on the personal property submitted that you requested me to appraise as to their value for a pending orderly liquidation for the assigned use of pending court proceedings. The appraised piece(s) listed in this appraisal are understood to be the property of Mr. Ted Smith. The definition of fair market value is based upon the Code of Federal Regulations, Internal Revenue. The Internal Revenue Services' definition for fair market value applies. It is: "The fair market value is the price at which the property would change hands between a willing buyer and willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts. The fair market value of a particular item of property includable in the decedent's gross estate is not to be determined by a forced sale price. Nor is the fair market value of an item of property to be determined by the sale price of the item in a market other than that in which such an item is most commonly sold to the public, taking into account location of the item wherever appropriate. Thus, in the case of an item of property includable in the decedent's gross estate, which is generally obtained by the public in the retail market, the fair market value of such an item of property is the price at which the item or a comparable item would be sold at retail." [26 CFR § 20.2031-1(b)]

The effective date of value is stated on the first page of this appraisal and is equivalent to the date of inspection.

This appraisal report is not valid unless submitted as a complete report which consists of (1) cover letter tabulating the assignment, assigned use, applicable dates, critical assumptions, subjective limitations, exculpatory statements, methodology, and sources for the report; (2) item ('s) description(s) and values; and (3) appraiser's Curriculum Vita. When appropriate, the valuation report may also include additional property descriptions, glossaries and/or addendum.

VALUE APPROACHES

The value conclusion(s) was (were) based upon market analysis restricted to the vicinity of the southeastern United States area. The value conclusion does not include sales tax or other charges that might be payable and you may want to take this into consideration when calculating your needs.

The market data approach was used. The market data approach calculates value by analyzing appropriate market activity for the particular item being appraised. This appraiser will select the most appropriate approach for the type of property being valued.

LIMITING CONDITIONS

Further authentication or identification may have been suggested to ensure accuracy. By reason of rendering this report, the client decided not to order the additional suggested services, therefore, this report was rendered based solely on the general expertise of the appraiser.

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Appraising is a subjective process and estimates of value will vary among appraisers.

Unless expressly stated, the condition of the item(s) is good for its type, with serious deficiencies and repairs noted. Ordinary wear and tear common to this type of item was not noted.

Photographs do not represent accurate hue, size, proportions, brilliance or quality. Metal quality of the components of finished jewelry cannot be conclusively established by an appraiser. The conclusions set forth in this report are based upon the quality marking as found in the description and/or a touchstone test or a metal testing instrument, as indicated in the description section.

EXCULPATION CLAUSES

This appraiser does not hold himself out to have any specialized knowledge or expertise in the subject matter being appraised other than generally held by general appraisers of such items. The specific narrative descriptions of each of the appraised item(s) are for the exclusive objective of identification in order to ascertain the parameters for this appraiser's judgment as to value, therefore the descriptions and identifications are merely this appraiser's option based upon the readily apparent identity of the items appraised and are not intended to be an express or implied warranty, guarantee or certification.

Ownership or possession of this appraisal report or a copy does not convey the right of publication or reproduction, nor may the report be used for any purpose by anyone but the above-named client without the written consent of the appraiser. Even when permission is granted the report can only be reproduced in its entirety and with the proper qualifications and cover letter. No change of any sort in the appraisal report shall be made by anyone other than the appraiser and the appraiser shall have no responsibility for any unauthorized change.

Testimony or attendance in court or at any other hearing is not required by reason of rendering this appraisal unless such arrangements are made a reasonable time in advance and commissioned at the customary rate per hour charged as of that date. When the assigned use of this appraisal has been completed, the client-appraiser relationship also concludes. At that time this appraiser can be retained by a new client to appraise the same property and establish a new client-appraiser relationship that will supersede this one.

I have retained a copy of this report and the original notes from which it was prepared. There records are confidential and I will not permit access to them by anyone without your authorization, except (1) if legally compelled to do so, (2) if involved in a duly authorized investigative professional peer review committee, or (3) if requested by a lawful beneficiary. If later, an updating of the appraisal is needed (or if an appraisal for a different purpose is required), one can be made from my files with a minimal amount of time. All work papers, statements, appraisals, records incident to the rendering services in the practice of appraising shall be and remain the property of the appraiser or the firm employing the appraiser unless there exists a written express agreement to the contrary. Destruction of all records will occur in no less than 5 years after the date the appraisal is published. Please take this into consideration

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when calculating your update and other needs. Maintenance and storage beyond the date of destruction can be arranged for a reasonable storage fee. No work papers, statements, appraisal copies, records incident to the rendering services will be sold, transferred or bequeathed without the consent of the client or his or her personal representative. All such papers will be destroyed immediately upon demise, retirement or transfer of ownership of Hale's Jewelers, Inc.

Hale's Jewelers is rendering a professional service in connection with this appraisal and no obligation to provide information, or other liability, is assumed hereby. In no event shall the liability of Hale's Jewelers or any of its agents, employees, or employers, with respect to this appraisal exceed the amount of the appraisal fee paid unless a higher fee is negotiated and agreed to by the client and Hale's Jewelers that raises liability of the appraiser.

In the event that litigation is commenced to enforce any of the terms of this agreement, the prevailing party in the litigation (whether by court or by arbitration) shall be entitled to the costs thereof, with attorney fees limited to a total sum of $5,000.00 or less. Any controversy or claim arising out of or relating to this contract or the breach thereof, shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The fee for this assignment was based on an hourly basis.

This appraisal will expire two years from the date it was issued. This includes any and all claims that may be placed against it.

In accordance with professional ethics, this report is offered with no other contingent or limiting conditions that would affect the values stated. I also state that I have no present or contemplated future interest in the jewelry appraised or any other interest that would bias the appraisal report. Employment to make this appraisal and compensation for it are not contingent upon the valuation.

It is assumed that the client agrees to the terms and conditions herein by reason of rendering and accepting this appraisal report.

Respectfully submitted,

Bernard Joseph Doris, Jr.
Gemologist – Appraiser
For Hale's Jewelers
Total of eleven pages

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Mr. Joey R. Floyd

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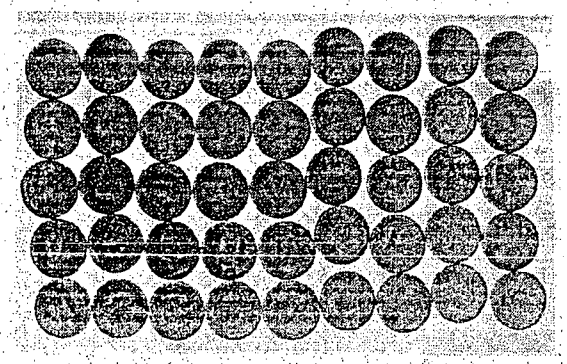
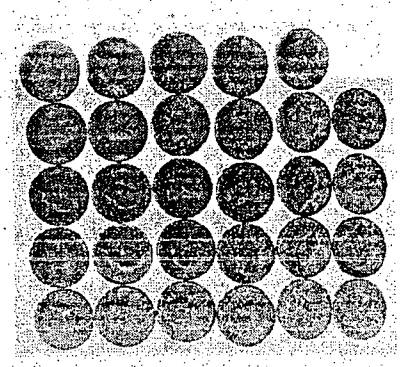
APPRAISAL REPORT

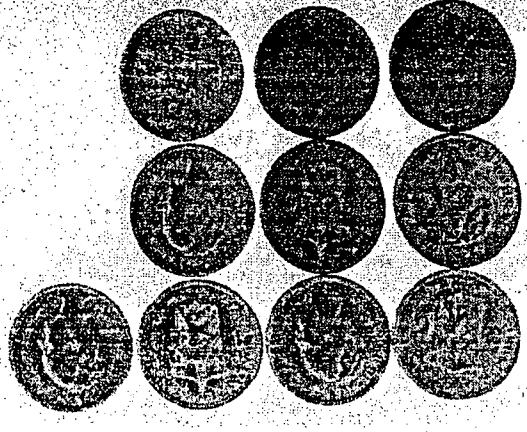
Coin Inventory

A. The Netherlands Ten Guilder coins were arbitrarily tested for gold purity with two instruments: (1) the Kee Gold Tester M-509GM and (2) Auracle AGT3 by GemOro. With each set of testing, the instruments were recalibrated with 18 karat gold. The coins were weighed and had a consistent 5.1 pennyweight. The coins were measured and had a close variation ranging 22.52 X 1.27 mm to 22.30 X 1.23 MM. The coin is 90% pure and has a pure gold value of 0.1947 ounces.

Forty-five (45)	Ten Guilder 1917
Twenty-nine (29)	Ten Guilder 1927
Ten (10)	Ten Guilder 1925







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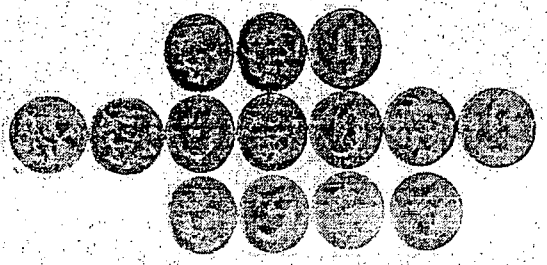
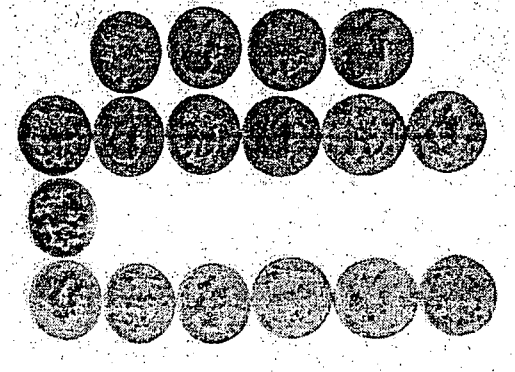
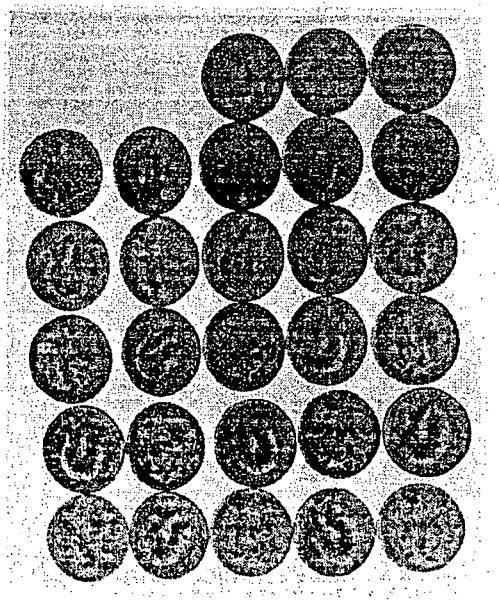
B. The British Sovereign coins were arbitrarily tested for gold purity with two instruments: (1) the Kee Gold Tester M-509GM and (2) Auracle AGT3 by GemOro. With each set of testing, the instruments were recalibrated with 18 karat gold. The coins were weighed and had a consistent 5.1 pennyweight. The coins were measured and had a close variation ranging 22.52 X 1.24 mm to 22.37 X 1.27 MM. The coin is 91.67% pure and has a pure gold value of 0.2354 ounces.

Fourteen (14)	British Sovereign 1932-1911
Seventeen (17)	British Sovereign 1912-1931
Twenty-eight (28)	British Sovereign 1911-1931







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C. Numismatic Guaranty Corp individually certified the $20.00 US Liberty Head coins with the grade MS 62. They are each sealed in a case so testing and measuring was not performed on these. We accept the information recorded in the cases. The coin is 90% pure and has a pure gold value of 0.9675 ounces.

Forty (40) US $20.00 Liberty Head coins 1900. The serial numbers from the grading assigned by Numismatic Guaranty Corp. are recorded below:

4394850-293	4394849-151	4394849-160
4394849-032	4394849-177	4394849-065
4394849-155	4394849-240	4394849-190
4394849-238	4394849-021	4394849-093
4394849-033	4394849-222	4394849-207
4394849-263	4394849-099	4394849-029
4394849-100	4394849-180	4394849-215
4394849-235	4394849-105	4394849-163
4394849-020	4394849-284	4394849-017
4394849-140	4394849-079	4394849-139
4394849-265	4394849-102	4394849-049
4394849-173	4394849-210	4394849-153
4394849-266	4394849-201	4394849-051
4394849-206		

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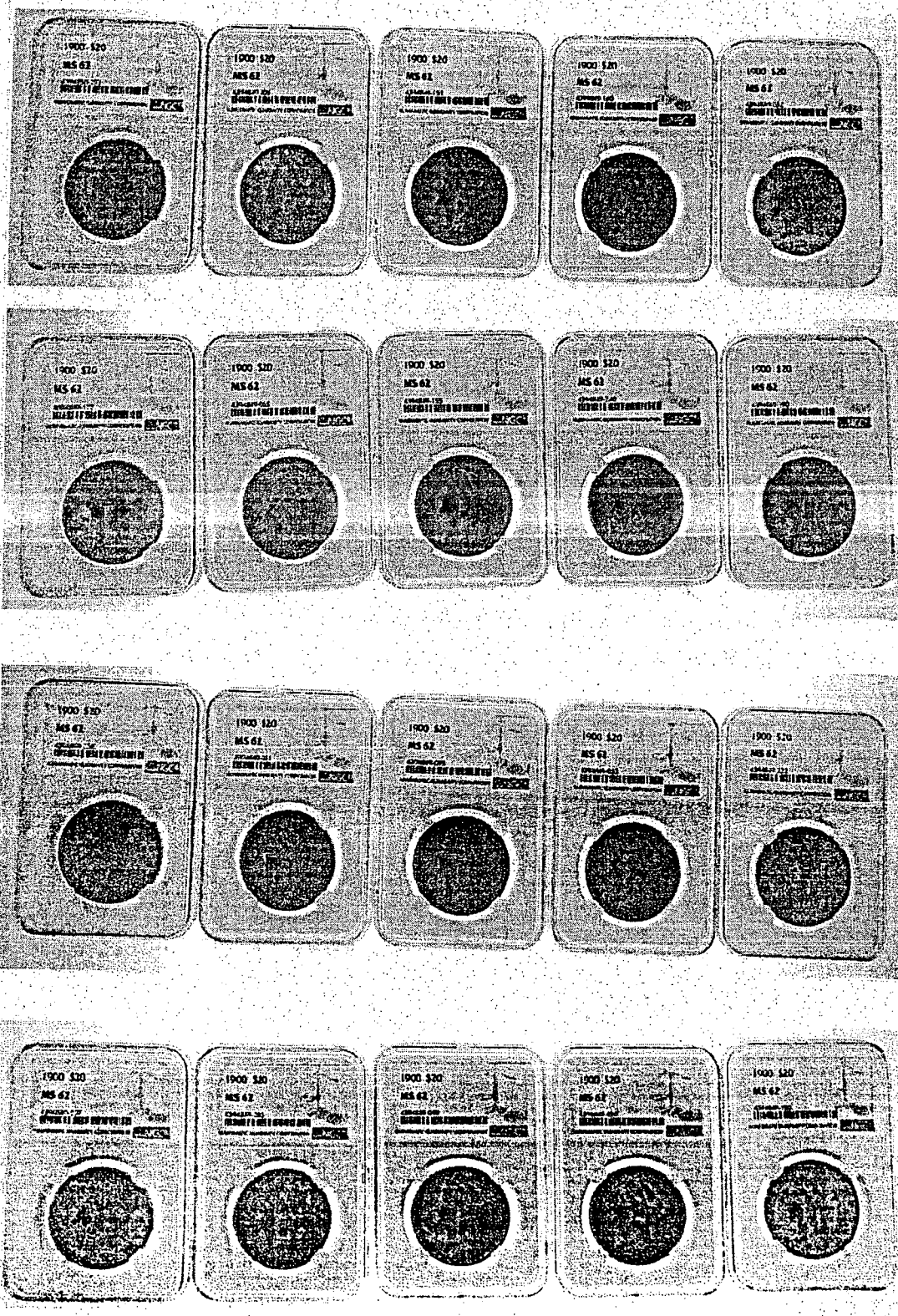

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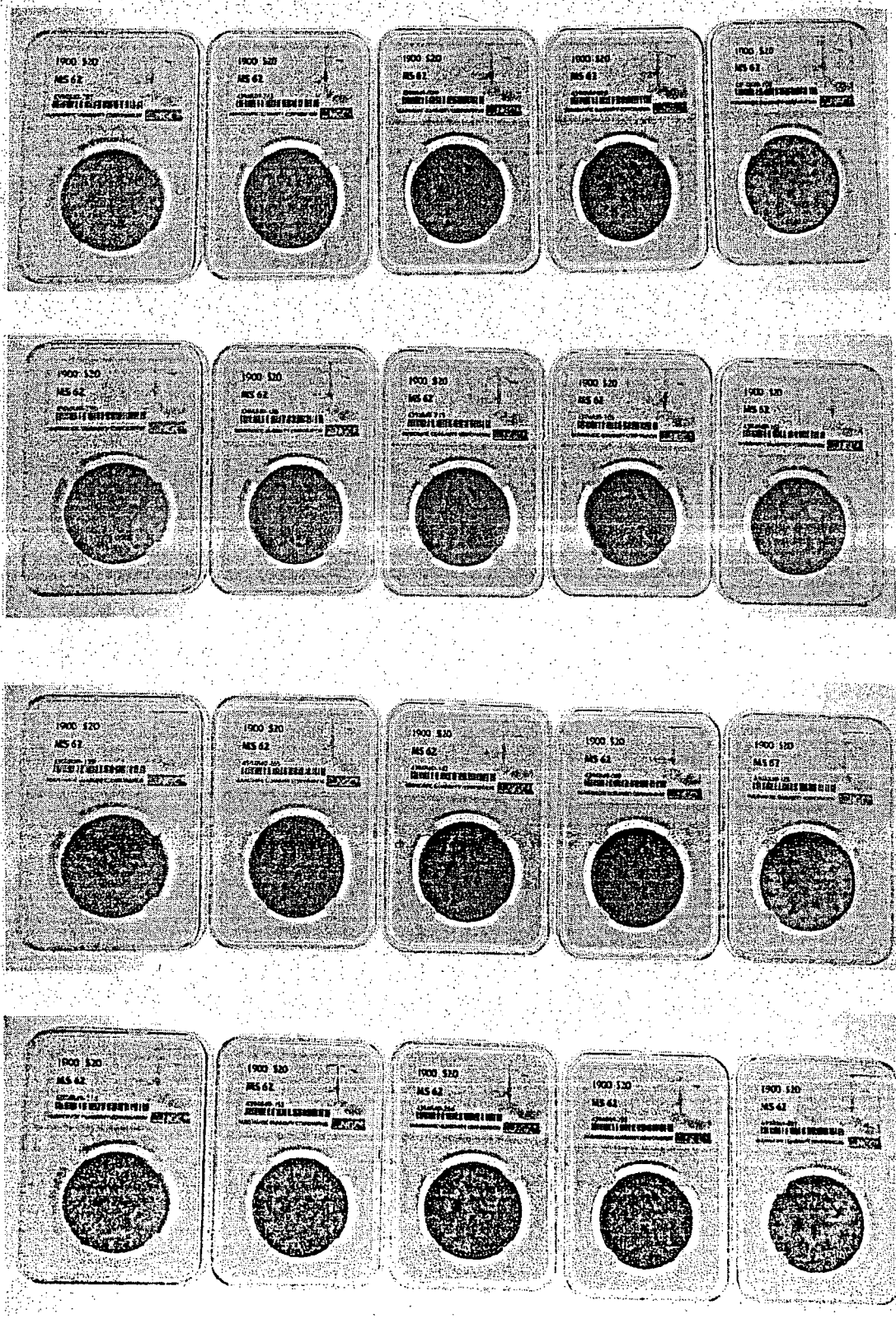

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Coin Values

A coin dealer, a jeweler and a refiner quoted the coins. Values were calculated at $1,329.45 per ounce, the closing gold price on 14 September 2017 3:00 pm mountain time.

Mr. Tom Burke, coin dealer
706-421-4747

Eighty-four (84) Ten Guilder coins - $20,655.60
Fifty-nine (59) British Sovereigns - $17,540.70
Forty (40) US $20.00 - $48,876.80

Total $87,073.10

Shelby at Hi-Tech Precious Metal Refiners
13620 Gamma Road
Dallas, TX 75244
972-239-0597

Eighty-four (84) Ten Guilder coins - $21,525.00
Fifty-nine (59) British Sovereigns - $18,464.05
Forty (40) US $20.00 - $51,449.71

Total $91,438.76

Windsor Fine Jewelers
Mr. Michael Zibman
2635 Washington Road
Augusta, GA 30904
706-738-7777

Eighty-four (84) Ten Guilder coins - $19,568.30
Fifty-nine (59) British Sovereigns - $16,617.64
Forty (40) US $20.00 - $46,304.40

Total $82,490.34

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PROFESSIONAL PROFILE

CURRICULUM VITA

Graduate Gemologist (GG) title from the Gemological Institute of America
Completed: Pearls and Pearl Grading
Diamonds and Diamond Grading
Colored Stones and Colored Stones grading
Gem Identification
Seminar for Identifying Challenging Synthetics
Seminar for Detecting Treated Rubies, Sapphires, and Emeralds
Seminar for detecting Synthetic Diamonds
Seminar for Advanced Diamond Grading

Accredited Member title from The International Society of Appraisers (ISA) 1992 - 2004
Completed: Appraisal Studies 101
Appraisal Studies 102
Appraisal Studies 103
Specialty Course 203 Antique and Period Jewelry
Advanced Course 301 Expert Witness
Accredited member of THE INTERNATIONAL SOCIETY OF APPRAISERS achieved through successful completion and testing in ISA's APPRAISAL PRINCIPALS covering Ethical Conduct and Business Procedures; appropriate professional appraisal terminology; Proper methodology for identification and authentication procedures; Market price research methodology; Appraisal report writing. Legal aspects of appraising for Federal and State functions, including narrative report writing (only acceptable form for the IRS for estate, gifts, inheritance, or loss).

Registered Jeweler (RJ) title from The American Gem Society (AGS)
Certified Gemologist (CG) title from The American Gem Society (AGS)
Certified Gemologist Appraiser (CGA) title from The American Gem Society (AGS)
Completed: The AGS Way Course and The CGA course and exam

Passed Color Vision testing 4/2005 based upon the Farnsworth Munsell 100 Hue Discrimination Test, the Ishihara Pseudoisochromatic 24 Color Plate Test, and the Farnsworth Dichotomous Panel D15 Test

Expert Witness, Personal property appraiser since 1976

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ELECTRONICALLY FILED - 2017 Oct 20 10:46 AM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304097

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	BEFORE THE MASTER IN EQUITY
COUNTY OF GREENVILLE)	
	C/A No.:2014-CP-23-04097
First Citizens Bank and Trust Company, Inc.,)	
	ORDER REGARDING MODIFICATION OF SUPERSEDEAS
Petitioner,)	
v.)	
Ronald D. Taylor and Ted D. Smith, Smith Family, LLC, WHS Properties, LLC and Wanda H. Smith,)	
Respondents.)	

This matter came before me on Petitioner's Motion to hold Smith Family, LLC in Contempt of Court for failing to Comply with this Court's Order regarding Supersedeas.[1] Smith Family, LLC insisted, through its counsel, that it be authorized to substitute gold for cash to be used as Supersedeas while an Order of this Court is on appeal. This Court issued the *Order Regarding Supersedeas* on September 6, 2017 (entered and filed), which required Smith Family, LLC, among other things, to deliver $125,000.00 in gold to a gold broker/dealer in Greenville, South Carolina. Plaintiff contends that Smith Family, LLC failed to abide by this Court's Order Regarding Supersedeas and tendered, at most, $91,438.76 worth of gold. Counsel for Smith Family, LLC advised this Court on October 16, 2017, that it is the intention of Smith Family, LLC to liquidate the gold and issue a check to First Citizens Bank in the amount of $81,026.76 to be held in an account of the Greenville County Clerk of Court, which shall serve as supersedeas during the appeal of an earlier Order of this Court.

[1] The Motion for Supersedeas was filed Counsel for Smith Family, LLC on August 9, 2017 and Petitioner's Motion for Contempt of Court was filed on October 5, 2017.

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In order to effectuate the transfer of the gold back to Smith Family, LLC for liquidation, First Citizens Bank is hereby authorized to release the gold to Ted Smith, the duly authorized representative of Smith Family, LLC.[2] Smith Family, LLC shall verify, before taking possession of the gold from First Citizens Bank, that all of the gold tendered by Smith Family, LLC is present and accounted for. First Citizens Bank shall be authorized to procure the signature of Ted Smith (on behalf of Smith Family, LLC), for Smith Family, LLC to acknowledge receipt of all gold that Smith Family, LLC provided to Hales Jewelers on September 14, 2017 in accordance with this Court's *Order Regarding Supersedeas* (i.e. for Smith Family, LLC to confirm, and sign a document, that it has received all gold that was initially surrendered to Hales Jewelers and transported to First Citizens Bank for storage at First Citizens' Bank). Understandably, First Citizens Bank is seeking to ensure that there is no dispute regarding the amount of gold being returned to Smith Family, LLC. Smith Family, LLC shall retrieve the gold from First Citizens Bank within three business days of this order being filed with the Greenville County Clerk of Court. Smith Family, LLC shall be responsible for its own security and/or armored car service, if it chooses to hire security and/or an armored car service for transport, in connection with the pick-up and liquidation of the gold.

Upon receipt of the gold, Smith Family, LLC shall immediately proceed with the liquidation of the gold (and take affirmative steps to ensure that the gold is insured if the gold is shipped to a third-party broker, or any other entity for purposes of liquidation). The liquidation of the gold shall be effected by Smith Family, LLC within 15 days of Smith Family, LLC's retrieval of the gold from First Citizens Bank. The proceeds of the liquidation of gold shall be transmitted directly to counsel for Smith Family, LLC (Randall S. Hiller, Esquire). Within two business days of Smith Family, LLC's counsel's receipt of the bank wire from the liquidation of

[2] Ted Smith is the representative who delivered the gold to Hales Jewelers for authentication and verification.

the gold, Mr. Hiller shall present the Clerk of Court with a check in the amount of $81,026.76 (made payable to First Citizens Bank), which shall be deposited into a bank account of the Clerk of Court until the conclusion of the current appeal in this matter and further Order of this Court.

Plaintiff also seeks Smith Family, LLC to pay the fees for (1) the authentication and verification of the gold ($600.00), and (2) transportation costs/armored car service fees incurred by First Citizens Bank ($125.00), for a total of $725.00. This issue shall be held in abeyance until resolution of the current appeal.

Failure to comply with the terms of this Order may result in contempt of court, including fines and imprisonment. This Court shall retain jurisdiction over the issue of Supersedeas in this case.

AND IT IS SO ORDERED.

ELECTRONIC SIGNATURE PAGE OF JUDGE FOLLOWS

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Greenville Common Pleas

Case Caption: First Citizens Bank And Trust Company Inc vs. Ronald D Taylor , defendant, et al

Case Number: 2014CP2304097

Type: Master/Order/Other

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)