

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas for the Fourteenth Circuit

Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2014-001524
South Carolina Court of Appeals Opinion No. 5434

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S.C. SUPREME COURT

The Callawassie Island Members Club, Inc. Petitioner,

v.

Ronnie D. Dennis and Jeanette Dennis..... Respondents.

APPENDIX - VOLUME II OF II

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1 STATE OF SOUTH CAROLINA)
2) Court of Common Pleas
3 COUNTY OF BEAUFORT) Case No. 2011-CP-07-3323
4)

5)
6 CALLAWASSIE ISLAND MEMBERS)
7 CLUB, INC.)

8 vs.)

9 RICHARD A. MERCIER, et al.)
10)

11 TRANSCRIPT OF THE RECORD

12 HEARING ON MOTION

13 Dated November 8, 2013

14 B E F O R E:

15 THE HONORABLE CARMEN TEVIS MULLEN

16
17 A P P E A R A N C E:

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21 For the Defendants

22 STEVEN HUGHES and WILLIAM YOUNG, ESQS.
23 For the Defendants in counterclaim,
24 Callawassie Island Members Club

25 Reported by:

Karen V. Andersen, RMR, CRR
Circuit Court Reporter

1 them with those depositions with the testimony that we
2 gathered in those other cases.

3 THE COURT: I don't see any reason why you
4 can't.

5 MR. McDANIEL: Okay. I just didn't want to get
6 to the point of trial and have some issue, or to the
7 point down the road any further and not have an answer.
8 Frankly, I don't know why they couldn't just say, we
9 agree, because that would take any issue off the table
10 with it.

11 So, I guess, forgive me for feeling like I
12 needed to get an order on the matter, but I do feel like
13 there was an issue of not being able to get a response
14 one way or the other from plaintiff's counsel that they
15 would agree to something as simple as that they wouldn't
16 make an issue or that they wouldn't object.

17 THE COURT: Okay. What else do you all have?

18 MR. HAIGHT: Probably, Your Honor, what we have
19 last are two motions for summary judgment in the Dennis
20 case and Mercier case. And with regard to that, if it's
21 fine with the Court, I would address the plaintiff's
22 case, and allow Mr. Hughes to represent, as he usually
23 does, the defensive part of the case.

24 THE COURT: Okay.

25 MR. HAIGHT: And with what you've heard already

1 with regard to the motions to dismiss, I think you've got
2 some of the background already.

3 The Dennis and Mercier cases, maybe a little
4 more background would help. At Callawassie Island, there
5 are two organizations. There's CIPOA, Callawassie Island
6 Property Owners Association, and there's the Callawassie
7 Island Members Club. Some communities you have one
8 entity that is the POA and also the club. Here, in their
9 formation of things way back when, they decided to split
10 the --

11 THE COURT: Same thing they did at Dataw case.
12 So keep going.

13 MR. HAIGHT: Initially, the club, there was the
14 Country Club Of Callawassie, which was
15 developer-controlled; there was the Callawassie Island
16 Club, developer-controlled; Callawassie Island Members
17 Club, our client, member-controlled, originally set up in
18 the late 1990s, kind of did the deal, so to speak, 2001.

19 And there were amendments done to the covenants
20 that required anybody purchasing a lot after that time,
21 December 1st of 2001, was also required to purchase a
22 membership. We are not really dealing with that here
23 because both of these defendants are pre-2001 people.
24 They already owned lots. They already had memberships.

25 Now, it's been our position throughout, and if I

1 could, I would like to pass some things up, because I
2 think this will help the Court and will help us. The
3 first thing is the plan for offering of memberships.
4 This is the 1994 plan.

5 THE COURT: Okay.

6 MR. HAIGHT: It was the plan in place for the
7 Callawassie Island Club. And I've made reference to a
8 page here, Page 9, payment of dues by resigned equity
9 member. First sentence of which says: An equity member
10 who has resigned from the club will be obligated to
11 continue to pay dues and food and beverage minimums to
12 the club until his or her equity membership is reissued
13 by the club.

14 So in 1994, that was the law of the club.

15 Now, in 2001, we had these changes, turnover to
16 the membership. And we will also pass that one up.

17 And, Brian, if you don't have copies, do you
18 need copies?

19 MR. McDANIEL: I do, if you have an extra copy.

20 MR. HAIGHT: And in August 8th of 2001, on Page
21 5, 2.4.9: Payment of dues by resigned equity member. An
22 equity member who is on the waiting list to sell their
23 club membership shall be obligated to pay all charges to
24 the club until his or her equity membership is reissued
25 by the club.

1 THE COURT: How is that any different than what
2 it says in '94?

3 MR. HAIGHT: It is really not. That's our
4 point.

5 THE COURT: Okay.

6 MR. HAIGHT: Now, historically, the way you
7 completely get out of your membership and all the
8 obligations --

9 THE COURT: Be reissued.

10 MR. HAIGHT: -- is sell your property and sell
11 your membership with it. That's how most people do it.
12 These people own property. They can do that at any time.
13 The other thing you can do is get on the waiting
14 list. Now, the waiting list moves extremely slowly.
15 There's no disputing that. That isn't the way to do it.

16 THE COURT: How many years is it right now,
17 Mr. McDaniel; or does it move at all?

18 MR. McDANIEL: The 30(b)(6) witness testified
19 that there's only 21 more memberships that will come up.
20 There's almost 80 people on the list. And there's only
21 21 more lots to sell, which would generate new membership
22 things; otherwise, you would have to -- they only leave
23 by somebody selling their property. And they are going
24 to sell it to whoever is going to buy their membership.
25 So it's not going to change the list.

1 MR. HAIGHT: And because of that, in their
2 business judgment, what the club has done, on more than
3 one occasion, is particularly for people with what we
4 commonly call unaffiliated memberships, meaning they sold
5 their property, they didn't sell their membership, so
6 they are left with this membership. And it's stagnant on
7 the resale list.

8 The club has made offers at different points in
9 time to allow them to concede their memberships and have
10 no further obligations. Now, Mr. McDaniel takes great
11 issue with that. But his clients have their property.
12 If they want out 100 percent, sell their property, sell
13 their memberships, and they have no additional
14 responsibility.

15 But in 1994, that's the way the rule was. 2001,
16 that's the way the rule was. I've got 2007 here. And I
17 would point to Page 14, 5.1.1, payment of dues and other
18 charges by resigning members: Equity member who is on
19 the waiting list to sell his/her membership will be
20 obligated to continue to pay to the club all dues, fees,
21 and other charges associated with his/her membership
22 until his/her equity membership is reissued by the club.

23 No ambiguity there. Clear as a bell, as it has
24 been.

25 Now, 2008, bottom of Page 11, again 5.1.1:

1 Payment of dues and other charges by resigning members.
2 Equity member who is on the waiting list to sell his/her
3 membership will be obligated to continue to pay to the
4 club all dues, fees, and other charges associated with
5 his/her membership until his his/her equity membership is
6 reissued by the club.

7 Now, I believe at the time in these two cases,
8 Dennis and Mercier, the defendants at the end of 2000 --
9 I think one of them was in November and one of them was
10 in end of December -- sent letters of resignation. And
11 they've taken the position that because they've done
12 that, they had no continuing obligation.

13 In our view, you will find no support for that
14 in the documents. The documents have been clear since
15 1994 that you are obligated to continue to pay until it's
16 reissued.

17 Now, I noticed that Mr. Mercier -- you have to
18 affirmatively put yourself on the resale list. He didn't
19 choose to do that. But Mr. and Mrs. Dennis did. They
20 are on that list.

21 We think summary judgment is appropriate here.
22 We don't think there is any material issue of fact. They
23 continue to be obligated. They have taken no issue with
24 our numbers. We submitted an affidavit back when the
25 motion was filed. We supplemented that today to update

1 it, essentially. But, to my knowledge, they've taken no
2 issue with the numbers that are owed.

3 And Mr. McDaniel did overspeak a little bit
4 earlier when he said it was \$1,000 a monthly, or whatever
5 he said. I think it's \$634 a month, plus special
6 assessments that added up to \$100 a month. And then
7 there's 500 food and beverage minimum twice a year. It's
8 \$1,000 a year. That's not per month. So I'm not sure
9 how his math is working on that. But that is the monthly
10 cost with regard to golf memberships. And we are talking
11 about golf memberships in these cases.

12 THE COURT: Do they differentiate between people
13 who are full-time residents and people who are not
14 full-time residents as far as the mandatory minimums for
15 food and beverage?

16 MR. HAIGHT: Well, there are distinctions to be
17 made between resident and nonresident members, but those
18 distinctions I don't know matter here, because everybody
19 is a resident.

20 THE COURT: Okay.

21 MR. HAIGHT: I don't think there's any dispute
22 there.

23 THE COURT: Okay.

24 MR. HAIGHT: So that remains our position, that
25 documents unambiguously and clearly obligate the

1 defendants to pay dues, fees, and charges associated with
2 their memberships until they are reissued. And that's
3 what the plan says.

4 Now, Mr. McDaniel has submitted - I think it was
5 last night that I received that - a memoranda, the gist
6 of which seems to be, well, Ellen Padgett told us
7 something different.

8 Ellen Padgett is kind of the office lady who has
9 worked at the real estate office at Callawassie since I
10 think before they broke the first spadeful of dirt there.
11 And she's worked for different entities over time. She
12 worked for the developer initially.

13 And it's our position that Ellen Padgett is a
14 red herring. If Ellen Padgett made representations to
15 these folks, if she made them before our client even
16 existed, we don't understand how they could be held
17 responsible for that.

18 Also, if she made them before they bought their
19 memberships, I think they have some issues pro evidence
20 rule. If representations were made later, and our client
21 denies she's anybody who's authorized to make that
22 representation for us, but assume everything in the light
23 most favorable to them, if they already bought and she
24 said something that was wrong, how do they rely on it?
25 How does that matter? That's just smoke.

1 What's not smoke is what the plan says and has
2 said close to 20 years, if not longer.

3 And I think, Mr. Hughes, do you want to get into
4 the statutes, business judgment?

5 THE COURT: Gentlemen, before we start with
6 that, Mr. Hughes; you go ahead and finish that up, Mr.
7 Haight, and I'm going to take a quick 5-minute break, if
8 that's okay.

9 MR. HAIGHT: Your Honor, just on the plaintiff's
10 case, it's really, we think, pretty simple. It's --
11 these people admit in their depositions they were members
12 of the club. You know, they have voted as members of the
13 club. Mr. Mercier played golf five times a week as a
14 member for over 10 years. So, clearly, these folks were
15 members and took every advantage of what the club had to
16 offer.

17 They received these documents. If they didn't
18 know what they say, that's their own fault for not
19 reading them. And they are bound by them. We don't see
20 how it can be anything else. It's straight-forward and
21 simple. They haven't paid. They owe the money. They
22 haven't sold. So they are still obligated. Everything
23 else, in our view, is obfuscation.

24 THE COURT: Okay. Let's just take a quick five
25 minutes. Mr. McDaniel will have to respond to

1 Mr. Haight.

2 And I will go ahead and hear from you,

3 Mr. Hughes. Thank you. I will be right back.

4 (A recess transpired.)

5 THE COURT: All right, Mr. McDaniel.

6 MR. MCDANIEL: The plaintiffs have argued with
7 regard to the rules, and they've provided certain
8 governing documents to plan of offering, it looks like
9 from 1994 and 2001.

10 Mr. Mercier, let me first discuss him, he
11 actually joined in '89. And he joined the Country Club
12 of Callawassie. Now, he certainly continued to use the
13 golf club and pay dues. And there may be an equitable
14 argument that they have that he should be obligated to
15 pay those dues. But I think there's a distinction
16 between that and the adopting the contract and the
17 contractual obligations of the subsequent plans of
18 offering and club documents.

19 He, in fact -- they don't have his signature on
20 anything that they've produced, which would suggest that
21 he, in fact, agreed to the terms that they are trying to
22 hold him to now. They may be able to prove, ultimately
23 prove, he is obligated to those. But as for summary
24 judgment, I think it produces at least an issue as to
25 whether or not he would be obligated under those rules or

1 under the rules in which he initially purchased.

2 He believes he's grandfathered in. He's
3 testified to that, as have the Dennises, that the
4 obligations they are trying to enforce now to say that
5 you cannot resign and that you cannot be expelled are
6 mandatory to them. They don't support that and --

7 THE COURT: When did they buy?

8 MR. McDANIEL: The Merciers bought in the '90s.

9 THE COURT: I'm talking about the Dennises.

10 MR. HAIGHT: 1999.

11 MR. McDANIEL: '99, yes. So, again, the change
12 where this -- where the idea of mandatory membership was
13 in 2001, December of 2001.

14 THE COURT: How do you get around that the
15 Dennises bought subject to the '94 bylaws?

16 MR. McDANIEL: We don't. And I think the
17 distinction there -- there's a lot of things in the
18 bylaws that were not discussed and that are discussed.
19 If I can, in my memorandum, if Your Honor -- I don't know
20 if you have a copy of that. It was left in the notebook
21 of the exhibits. Does the Court --

22 THE COURT: Please go ahead.

23 MR. McDANIEL: Let me -- if I can, I will have
24 to use that exhibit here to give it to you. Can we pass
25 up -- I think that's it.

1 THE COURT: Got it. Okay.

2 MR. McDANIEL: A couple of things that I would
3 point out to the Court with regard to the agreement.
4 First of all, they haven't asserted in their pleadings
5 anywhere that they are obligated under the 1994
6 agreements, I don't believe. I believe they asserted the
7 2001.

8 However, even if we go back to the '94
9 provisions, there's a number of provisions in there, in
10 that document, which evidences a couple of things. One
11 is, the members believed, and the Dennises and Merciers
12 both testified, that if they resign their membership,
13 that there was a difference between resignation and
14 expulsion.

15 THE COURT: Do you want to point to in this
16 contract where this says this?

17 MR. McDANIEL: Sure. Page 8, if you are looking
18 at the '94 provisions at the top.

19 THE COURT: Okay.

20 MR. McDANIEL: At the top it indicates what a
21 member who resigned will receive, the greater of -- when
22 they -- when membership is reissued, the greater of the
23 membership contribution or any percent of the membership
24 contribution paid, they will get paid back.

25 The club is entitled to deduct from that what

1 they are owed. And that is the maximum amount that any
2 of the defendants have ever thought they would lose, is
3 the amount of their contribution.

4 The rules also indicate, I believe, if I can
5 find the provision --

6 THE COURT: Okay. Just so I'm clear now, so the
7 top of Page 8, it says: Equity member will be entitled
8 to receive upon the reissuance of his or her resigned
9 equity membership, an amount equal to the greater of the
10 membership contribution which the resigned member paid to
11 the club, or 80 percent of the membership contribution
12 paid by the purchaser of the resigned member's
13 membership. Club will be entitled to deduct from the
14 amounts to be paid to the resigned member any amount
15 which the resigned member owes to the club.

16 MR. McDANIEL: What I'm suggesting, Your Honor,
17 is that evidences the understanding of these members,
18 which was they would never lose more than their
19 contribution to the club. There's really three parts to
20 what they understood.

21 Mr. Mercier particularly understood that he
22 could turn in his membership at any time. And that's
23 what the documents he --

24 THE COURT: Where does it say that?

25 MR. McDANIEL: Well, that would be in the

1 earlier, the '86 document, which I believe I have a copy
2 of that.

3 THE COURT: Where is that?

4 MR. McDANIEL: It's a two-page --

5 THE COURT: Is it your book? Is it in your
6 notebook?

7 MR. McDANIEL: I thought that it was. Yes.

8 Hold on one second. Yes. It's on --

9 THE COURT: What tab?

10 MR. McDANIEL: Tab 23.

11 THE COURT: Mine only goes to 18.

12 MR. McDANIEL: That's the problem here. I've
13 got a copy of it.

14 THE COURT: Okay. So now we are back to talking
15 about the Merciers, and this is what you say they bought
16 according --

17 MR. McDANIEL: Right. This is the -- this
18 was --

19 THE COURT: Refer me to a page.

20 MR. McDANIEL: Well, it's only four pages long.
21 And I would suggest it doesn't really speak to it in any
22 detail.

23 The closest provision is on the final page at
24 the very top. It's talking about if a member tries to
25 transfer, if they die. And the very first sentence:

1 Unless a member arranges for the buyer of the member of
2 the residential unit or lot, the member may not be able
3 to recover his membership contribution.

4 And that's really the reference to that. And
5 that was his understanding. And I would say it made the
6 reference to Ellen Padgett, and I think that's
7 significant. Because Ellen Padgett was the person who --
8 for the developer, it's been admitted -- was handling all
9 the club business, at least as far as the contact with
10 the members. And we have direct -- in her deposition
11 testimony there -- direct statements from her and from
12 the -- first from the members saying that she told them,
13 here's what the deal was, you will never be obligated for
14 more than four months of dues, because you would be
15 expelled and you are not obligated beyond that.

16 That's one thing she testified -- and again, I
17 guess I'm jumping to the 2001 rule, because that's what
18 she was claiming they were obligated under, that under
19 the 2001 rules, she agreed with me, 13.3.1, which is
20 Exhibit 4, which is the 2001 rules --

21 THE COURT: August of 2001?

22 MR. McDANIEL: Yes. And I just gave you the
23 excerpts of it. They are not the whole rule, but 13.3,
24 which is the first page under that, .1, the last sentence
25 there: Any member whose account is not settled within

1 the four months period following suspension, shall be
2 expelled from the club. This was 2001.

3 But what I'm suggesting is, this evidences what
4 the membership director, coordinator - she was named a
5 lot of different things - was telling members as they
6 joined prior to that. And at this point, that if you
7 join, you would at most be obligated to four months of
8 dues and fees. Now I don't know if you've been able to
9 find that.

10 THE COURT: Are we talking about the Callawassie
11 Island Member Club, Inc. general club rules?

12 MR. McDANIEL: Yes.

13 THE COURT: You said 13.1?

14 MR. McDANIEL: 13.3.1, the first one there.

15 THE COURT: I'm reading it.

16 MR. McDANIEL: And if you flip to the next page,
17 they have definitions for these terms. It's actually
18 Page 9. And they define suspension, termination,
19 expulsion. And there's actually -- and under that, it
20 talks about 14.2.3: Notwithstanding any termination or
21 suspension, the members shall remain liable for unpaid
22 accounts, dues, and fees.

23 But it doesn't say that about expulsion. In
24 fact, expulsion is defined separately and distinctly in
25 the document. And nowhere does it say if you are

1 expelled would you be obligated.

2 The other thing that we've learned is that's, in
3 fact, what has happened to the club through the years.
4 We've now taken depositions. The documents I've provided
5 for you in the folder indicate that they have expelled
6 members over the years, that there's been expulsions,
7 that there's been concessions of memberships. There's no
8 provision other than what we are looking at for those
9 type of activities, for expelling somebody or offering a
10 concession to a membership.

11 So not only with the representations from the --
12 what we allege is the agent of the club that this is what
13 happens, her testimony that that is a reasonable reading
14 as she read that, says, yes, I would agree with you, that
15 13.3.1, you would expect that you shall be forever
16 terminated.

17 But the course of conduct of the club for the
18 last decade, until 2009 when they started suing members,
19 has been to follow this, or at least to adhere implicitly
20 to this. They haven't -- they've never in the past --
21 well, the course of conduct and the clients will all
22 testify - even in 2003 when, for example, Arthur
23 Applegate and Mike Alton testified - at the auction,
24 Ellen Padgett was still telling them even then that you
25 had a right, if you got behind, you would be four months,

1 you would be expelled.

2 Of course, they go to the documents, that's what
3 it is says, or they could have gone to the documents, and
4 that's what it supports.

5 The idea that this is -- we believe that the
6 documents support that contention to the extent that it
7 should be granted in our favor. But it at least creates
8 an issue as to how these documents should be interpreted.

9 And, Your Honor, I don't know if you recall, but
10 in Arthur Applegate's case a couple year ago, you heard
11 substantially the same argument. And you made the ruling
12 at that time in that case that you denied their motion
13 for summary judgment on the same argument that this
14 creates an issue of how this contract should be
15 interpreted.

16 The documents and the depositions we've compiled
17 since then, in the folder and as I set out in the memo,
18 vastly expand on that, that we know for a fact that they
19 did allow these expulsions, they did allow concessions of
20 membership, and have done that for a long time.

21 The change -- at some point, they did try to
22 change this language that you are reading there about
23 "shall" be expelled to "may". But they did it, as Karen
24 Norwood, who was a board president at one point, said she
25 didn't know how they did it. It wasn't done by the

1 attorney. It wasn't discussed with the board. Wasn't
2 voted on by the members.

3 Any change -- and it says it in the plan of
4 offering and the rules, that material adverse would have
5 to be approved by the members. You can't -- particularly
6 somebody like Richard Mercier, who paid a minimal amount
7 back in '88 for this membership to a half-built club that
8 had 9 holes of golf when he purchased it, and has just
9 kind of continued to pay and be on that board or be on
10 the club, I think to now tell him he can't resign, he
11 can't get out of this, and he can't rely on it, he has to
12 stay a member of this club, is just inequitable.

13 And based on the resale list, they really have
14 no expectation that they can ever get off of that. They
15 said, well, they can sell their property. That's not
16 true. You can sell your property and that person can buy
17 a social membership, and then you are still stuck with
18 your membership. So then at that point, you have no way
19 to ever get off of it.

20 And they would have to approve whoever it is --
21 at least under the rules, they would have to approve
22 whoever it is that is purchasing your property. So
23 there's no assurance you would ever get off of this
24 resell list.

25 The memo goes into - and I will refer to that, I

1 guess, for time sake - who Ellen Padgett is and why she's
2 so critical. But throughout the 2000s, she is referred
3 to as the membership coordinator/administrator. We have
4 documents from the board presidents in 2002, 2003, where
5 they are still copying her and telling people --
6 directing people to her, even after the club took over.
7 So I think we can prove pretty conclusively that she was
8 acting as an agent of the club even after it transferred.

9 But part of the summary judgment, though, is for
10 Dennis and Mercier, they don't have any documents where
11 they actually have their signature showing they agreed to
12 any of the terms that they are trying to hold them to.

13 The final point, I guess, that I would make is,
14 the document, and I will find that, also suggests that
15 the right as to the value of the membership contribution,
16 that that is the most they could ever lose, would be the
17 membership contribution. That is from the earlier
18 documents from the '94. And the earlier documents was
19 you might -- if you leave with a big unpaid bill, you
20 might not get your money back. And that was at least
21 reasonably understood to be the length of their extent of
22 their rights.

23 2001 changes that a bit, but it still has this
24 expulsion terminology, which we believe if it's
25 applicable, would prevent them from claiming more than

1 they are claiming. And I would say that there is -- we
2 do take exception to the amount. I mean, that's a
3 significant part of our claim is, for one, Mr. Mercier
4 paid in advance. So he had paid in advance for the year
5 and resigned midyear, or some point earlier, at least a
6 month or so earlier. So he's making a claim to get back
7 the money after he resigned. So he does have that claim.

8 The Dennises have testified that they, in fact,
9 went to swap a membership several years ago with another
10 member who got a social membership. They had a golf, and
11 they attempted to swap memberships with them, and were
12 told they couldn't do it permanently because they had to
13 wait five years. Lindsey Cooler told them that the
14 member they wanted to swap with had to be a member for
15 five years in the club before they could swap
16 memberships.

17 Nowhere in the rules, nowhere in the documents,
18 but that's what they were told, they weren't allowed to
19 do it. That member that they were going to swap with
20 subsequently, days after, swapped with somebody else. So
21 they've been paying residential dues -- I mean, golf dues
22 when they should have been paying social dues for the
23 past five years. So they do have a claim back for that
24 money as well, the Dennises do, that they shouldn't have
25 been paying this, these golf dues since the time --

1 THE COURT: Okay. So that's your argument, is
2 the Dennises, he took subject to '99, who bought in '99.

3 MR. McDANIEL: Who bought in '99, correct. You
4 mean specifically as to the '94 agreement?

5 THE COURT: Uh-huh.

6 MR. McDANIEL: Well, we believe that the 2001
7 agreement provides for what they were told, which is an
8 expulsion.

9 As to the '94 agreement, there is another
10 provision that I believe is pertinent. Hold on a second.
11 I would ask the Court to give me a moment. Maybe let --
12 counsel, I think you were going to let Mr. Hughes go
13 forward.

14 MR. HAIGHT: Certainly. Well, I was going to
15 respond next, but I'm willing to wait for him to find
16 what he's looking for.

17 THE COURT: Go ahead. If you want to go ahead
18 and go forward, Mr. Haight.

19 MR. HAIGHT: Okay. I thought what was most
20 interesting was Mr. McDaniel at the end was talking about
21 what these people want. Okay? They want to be refunded
22 80 percent of this or 80 percent of that. Mr. Mercier
23 paid \$31,000 for his membership. So he's asking -- circa
24 2010, he's asking our client pay that.

25 I would think he's relying on the relevant

1 documents at the time and his position as a member of the
2 club to do that; same with the Dennises.

3 Now, the Dennises signed much more comprehensive
4 documentation when they bought. And they signed
5 documentation that said they were buying it subject to
6 the plan, et cetera, as amended.

7 Well, it's been amended a lot of times between
8 1999 and 2010, when they submitted a resignation in
9 November of 2010. Seems to me, I think, the argument can
10 be made that if they had a problem with the change, say,
11 to the Callawassie Island Members Club, and didn't feel
12 they were members, that's something they should have
13 raised circa 2001, or certainly within years of 2001, and
14 not in 2013.

15 Similarly, for Mr. Mercier, if there was a
16 change in 1994 from the Country Club of Callawassie to
17 the Callawassie Island Club, he should have done
18 something then or within three years of that day.

19 Similarly, when there was the change in 2001, he
20 didn't bring an action before 2004. He played golf, by
21 his own admission, five days a week for 10-plus years.
22 And now he wants to be refunded money under those same
23 documents.

24 So I don't see how he can claim he's not bound
25 by those documents, when he did sign a subscription

1 agreement way back when agreeing to abide by the rules
2 and regulations of the club, and has taken advantage of
3 it in the 25 years since.

4 Now, if what Mr. McDaniel says is correct, then
5 maybe Mr. Mercier should have only been paying whatever
6 the dues were back in 1988. But those dues -- most clubs
7 have gone up. And he paid the additional amounts, and he
8 played his golf, and he used the clubhouse. By his own
9 admission, he was a fixture at the clubhouse.

10 So we don't see how there's a scintilla of
11 evidence that these people are not members of the club
12 and bound by these documents. Now -- I lost my train of
13 thought there. Sorry, Your Honor. What else had he
14 brought up?

15 Mr. McDaniel has attempted to represent that
16 there's some ambiguity. We continue to maintain there's
17 no ambiguity. It is said what happens when you resign
18 for the last 20 years or so. And there's no ambiguity
19 there.

20 THE COURT: What about from "shall" to "may"?

21 MR. HAIGHT: I don't think it matters. Doesn't
22 matter if they are expelled, terminated. Doesn't matter
23 if they are the Man on the Moon. Once they've resigned,
24 they are obligated to pay until the membership is
25 reissued; no ambiguity. Clear as a bell.

1 It's our position as a matter of law we are
2 entitled to a judgment on that basis. Everything else,
3 just like the stuff with Ellen Padgett, is smoke and
4 mirrors, but there's no substance to it.

5 And Mr. Hughes is pointing to general club rules
6 from 2001. We do have -- do you have those?

7 THE COURT: I have them.

8 MR. HAIGHT: And with regard to 14.2, 14.2.1:
9 Any member may terminate in the club by delivering to the
10 membership direct or written notice of termination in
11 accordance with the plan of offering of memberships
12 notwithstanding termination. The members shall remain
13 liable for any unpaid club amount membership dues and
14 charges, including any food and beverage minimums.

15 14.2.3: Notwithstanding any termination or
16 suspension of membership, members shall remain liable for
17 any unpaid club account or membership dues, fees,
18 charges, and assessments. And such member shall not be
19 entitled to a refund of any part thereof paid by the
20 member to the club.

21 No ambiguity here. These rules are consistent
22 with the plan. And the plan is the superior document in
23 the pecking order of documents that you have. And even
24 these rules, there's certainly no internal inconsistency
25 in the plan, and these rules are not inconsistent with

1 the plan. And there's nothing in any of these documents
2 that relieves their obligation to pay until the
3 membership is reissued to a new member. That is the
4 facts. And I don't see how they can contest that
5 otherwise.

6 THE COURT: Sir?

7 MR. McDANIEL: Just a couple of things, Your
8 Honor. In the provisions of the '94 that we were
9 referring to the plan of offering in 1994, the provision
10 they point out at Number 9, on Page 9, I mean, it goes on
11 to say: These dues will accrue against and be deducted
12 from the amount to be paid to the resigned member upon
13 the reissuance of his resigned membership.

14 And that was their understanding, that that was
15 the extent of their liability, that they could lose their
16 contribution for unpaid dues and fees. Not that that
17 would be -- that it would accrue against that membership,
18 but not that there would be an amount that they could be
19 sued upon thereafter. And that's all that that document
20 says.

21 Now, in addition to that, Mr. Mercier, I would
22 point out, was also in 1989 told by Lee Allen, who
23 testified, who was in the real estate office
24 conducting -- handling the closing for him, that he could
25 resign and that he would be done with the club by turning

1 it in..

2 The Merciers purchased before the Dennises.
3 Their course of conduct through the years belies what
4 they are saying in regard to the enforcement of these
5 documents. If that's the case, in 2010, how did the
6 developer, who owned 180-plus memberships, turn them all
7 in and walk away? He did that. They worked out an
8 agreement with him to do it. We have agreements with
9 multiple other members where that's the case, where they
10 simply walked away.

11 The understanding from the start from these
12 members was, the purpose of the resignation was you would
13 get money back once it sold. But if you stopped paying,
14 it was their understanding that you would then be
15 expelled after four months.

16 The 2001 plan codified that, if you will, set
17 that out. And their position, it's not only -- I don't
18 believe for their affirmative claims, it's not on the
19 defense to provide -- to prove those documents, which
20 documents do or don't apply to them.

21 The past presidents have acknowledged that
22 there's been these previous offers to concede memberships
23 to people, that the letters from -- which were produced
24 in there, Exhibit 7, which is 2007 letter where they are
25 sending out to Bernard Carpenter, another member,

1 evidencing from the treasurer there that they are still
2 following this idea that you have four months and then
3 you shall be expelled from membership.

4 2001, as I discussed with you earlier, has a
5 very clear distinction. Mr. Haight said for those who
6 resign, they are still required to pay dues and fees. It
7 doesn't say that for expulsion.

8 And expulsion is, as they testified -- the
9 30(b)(6) and others have testified, it's automatic
10 suspension after 90 days of being delinquent; you are
11 automatically suspended. And the rules require that then
12 you are expelled after that.

13 That's our position as to the governing
14 documents; or in the alternative, that the most they can
15 be obligated for is the contribution they put into the
16 membership. The club is asking for amounts far greater
17 than that in believing that the debt continues even after
18 this lawsuit is over, that the membership continue to
19 accrue dues and fees.

20 MR. HAIGHT: Your Honor, the concessions relate
21 to the resolution of contested debts. The Board under
22 33-31-302 has wide-ranging authority. Under the Business
23 Judgment Rule: Absent a showing of bad faith,
24 dishonesty, or incompetence, the judgment of the director
25 will not be set aside by judicial action.

1 Certainly, there's no evidence of fraud or
2 self-dealing. I mean, he's been chasing that rabbit, but
3 he's not found anything there. Clearly, under the
4 Business Judgment Rule, the board is allowed to settle
5 debts if they think that's in the best interest of the
6 club.

7 And that would include -- and I'm not going to
8 get into the details of the dispute with the developer --

9 THE COURT: I understand that.

10 MR. HAIGHT: -- and the pending bankruptcy of
11 the developer and what was done, but it clearly -- done
12 pursuant to representation and advice of counsel, what
13 was done was clearly within the Business Judgment Rule,
14 and not subject to attack by Mr. McDaniel or anybody
15 else. Thank you.

16 THE COURT: Okay. Anything further on this?

17 MR. McDANIEL: Just that I put in the exhibits.
18 These -- there's not only concessions, but also
19 expulsions, that they were following that policy
20 throughout 2000 of expelling members. And they've only
21 now reversed course, saying they don't have to do that.

22 THE COURT: Okay. Any other motions we have
23 outstanding?

24 MR. HAIGHT: Mr. Hughes did want to address the
25 other side.

1 THE COURT: Go ahead.

2 MR. HUGHES: They have also asserted
3 counterclaims against us. Each of them was a
4 counterclaim and misrepresentation, as well as breach of
5 fiduciary duty. I will address those, if it pleases the
6 Court.

7 THE COURT: Okay.

8 MR. HUGHES: By the those claims, particularly
9 those of misrepresentation, the defendants are again
10 challenging the authority of my client to seek ongoing
11 collection of dues, fees, and assessments,
12 notwithstanding resignation.

13 It is our contention that the actions which we
14 pursued were authorized by the statutes, by the
15 jurisprudence of this state and the club documents. And
16 we don't feel there's any merit in the claims they
17 asserted.

18 As this Court is well aware, there are six
19 elements of a property claim cause of action which must
20 be proven in order to establish recovery upon a cause of
21 action and misrepresentation.

22 The first of those is a misrepresentation by the
23 defendant. In this case, a misrepresentation by the
24 Callawassie Island Members Club.

25 Secondly, that the defendant, the Callawassie

1 Island Members Club, had a pecuniary interest in making a
2 misrepresentation.

3 Thirdly, a duty by the defendant to assure that
4 the representation is accurate.

5 Fourthly, a breach by the defendant, the
6 Callawassie Island Members Club, of that duty.

7 Fifthly, and not least importantly here, that
8 the party asserting the claim has justifiably relied upon
9 the alleged misrepresentation.

10 And sixthly, that the party must have suffered
11 from pecuniary loss.

12 It is our contention that under the facts of
13 this case, neither the Dennises nor the Merciers, is
14 capable of establishing the requisite elements of those
15 causes of action and, therefore, they are susceptible to
16 resolution by summary judgment.

17 The evidence here will clearly establish that
18 the -- I will speak in terms of the Dennises, and we will
19 address the other ones later, to the extent there's an
20 extension.

21 The Dennises at the time of their acquisition of
22 these lots submitted applications for membership. Those
23 applications were submitted not to my client, but to the
24 Callawassie Island Club.

25 The Dennises also, at the time of the

1 acquisition of those memberships, executed membership
2 agreements. Those agreements were executed, not with my
3 client, but with the Callawassie Island Club. They were
4 initially issued certificates of membership, not of my
5 client, but in the Callawassie Island Members Club --
6 excuse me, the Callawassie Island Club. All of the
7 initial dealings with the Dennises were with
8 representatives of the Callawassie Island Club.

9 My client was not even in existence at the time
10 of these dealings with either the Merciers or the
11 Dennises, and could not possibly have made
12 representations consistent with the cause of action and
13 misrepresentation.

14 Beyond that, the Dennises, each of the Dennises
15 within their depositions, has conceded they dealt with
16 Ellen Padgett, who they recognized to be the membership
17 director for the Callawassie Island Club, not for the
18 Callawassie Island Members Club. They've conceded Ellen
19 Padgett never at any time made any representation with
20 regard to ongoing obligations for payment of dues as a
21 purported representative of my client, Callawassie Island
22 Members Club.

23 Additionally, and I have these documents I will
24 be glad to show them to the Court, but by their
25 application for membership, and by their membership

1 purchase agreements, the Dennises specifically
2 acknowledged receipt of the club-governing documents,
3 including the plan of offering for memberships, as well
4 as any associated documents. Not only do they
5 acknowledge receipt of those documents, they agreed to be
6 bound by those. And at least one of those documents they
7 agreed to be bound not only to the documents as then in
8 existence, but as might subsequently be amended.

9 I don't think it makes any difference. I think
10 under the law, the board is authorized to amend documents
11 and the members are bound by such amendments anyway. But
12 these defendants have specifically agreed to be bound by
13 those amendments.

14 As I noted, not least importantly, my client was
15 not even in existence at the time of these negotiations.
16 The Callawassie Island Members Club was not incorporated
17 by filing with Secretary of State until November 16th of
18 1999, a month or two after these negotiations were taken.

19 Moreover, my client did not take over management
20 of the club assets until the mid-to-latter part of the
21 year 2001. Under the circumstances, my client had no
22 interest, pecuniary or otherwise, in the operation of
23 these documents, and could not possibly have had any
24 pecuniary interest at the time that these representations
25 were made by whoever, to the extent they were, in fact,

1 made.

2 Under the circumstances, there is no evidence
3 here that my client made a misrepresentation. There's no
4 evidence that my client had any pecuniary interest in
5 making a representation. There's no evidence that my
6 client breached any duty.

7 And that, I would submit, is enough to grant
8 summary judgment in favor of the Callawassie Island
9 Members Club on their causes of action and
10 misrepresentation.

11 However, Your Honor, it does not stop there.
12 Additionally, and equally importantly, the evidence which
13 you will hear in a moment, is completely inconsistent
14 with any assertion by the Dennises that they relied upon
15 any representation that they would not have to pay dues
16 on an ongoing basis.

17 As I've said, they signed an application. They
18 signed a membership agreement. As a matter of fact, they
19 signed three applications. And they signed a membership
20 application, each of which clearly advised, and by which
21 they clearly undertook to honor the obligations imposed
22 by the club documents.

23 In addition, they were given a copy of 1994 plan
24 membership, which the Court has before her. And upon
25 review of that plan, the contents of that completely

1 undermine any assertion of justifiable reliance, which is
2 an integral element of a cause of action and
3 misrepresentation. I will refer to these.

4 The three lower case numeral one simply says:
5 This is the plan of management which governs the club.
6 On Page 2 thereof, there is a specific admonition that
7 one should carefully read the document and consider the
8 advice of counsel; clearly advising the purchaser which
9 this is a document which has legal ramifications.

10 Also, on Page 2, there is a clear advice and
11 caution that no person is authorized to give information
12 or make representations not contained within the plan of
13 offering. Clearly, no one is authorized to make
14 representations deviating from or in addition to those
15 set forth in the plan.

16 And it further says that if such representations
17 are given, they should not be relied upon, do not rely
18 upon any representations not set forth within this plan.
19 And I would rhetorically ask, how can someone possibly
20 justify a real live justification when they are given an
21 admonition to the contrary?

22 Also, on Page 3, it specifically advises that
23 the memberships being purchased are for recreational
24 purposes and no one should rely upon those memberships as
25 an investment.

1 The plan of offering also sets forth and
2 incorporates within the document a schedule of exhibits,
3 including the bylaws and the general club rules. All of
4 which by their application, by their subscription, and by
5 their acceptance of members, the Dennises have agreed to
6 abide by.

7 As Mr. Haight has already pointed out, Page 9 of
8 the plan of offering specifically sets forth and advises
9 the purchaser that, notwithstanding sale of a membership,
10 the member has a continuing obligation to pay dues, fees
11 and assessments until such time as the membership is
12 reissued. A clear notice to anyone reading the
13 documents, that obligation is being imposed and
14 undertaken.

15 Moreover, Page 14 of that same document, again,
16 the plan of offering of 1994, sets forth a recitation of
17 some of the powers retained and exercised for the Board
18 of Directors, which include the power to set dues, to set
19 fees, and to make changes in those to establish rules and
20 regulations, and to engage in actions necessary for the
21 overall management of the club.

22 The broad-based authority of the club and its
23 board to act, the imposition of an obligation to make
24 ongoing payment of dues, and the undertaking by the
25 purchasers to abide by those is clearly set forth within

1 the plan of offering and its associated documents which
2 are incorporated thereby referenced.

3 The idea that one can now assert that there was
4 a misrepresentation with regard to the obligations
5 imposed borders on the preposterous.

6 Bottom line is, as far as we are concerned,
7 under the circumstances prevailing here, there is
8 absolutely no room for a finding that there was any
9 justifiable reliance. And in the absence of a
10 justifiable reliance, these parties simply cannot prevail
11 upon a cause of action of misrepresenting.

12 Again, not to beat a dead horse, but my client
13 wasn't in existence, Your Honor, and could not possibly
14 have made the representation and there is no justifiable
15 reliance. And we feel that justifies the Court in
16 granting our motion for summary judgment.

17 And I do feel -- as I hate to burden the Court
18 with documents, I know that you read enough, but I do
19 have a copy of the initial application here.

20 THE COURT: Please, please.

21 MR. HUGHES: First of these is an application
22 for membership executed by the Dennises in July of
23 1989 -- excuse me, 1999.

24 The second is the actual purchase agreement,
25 initially executed on July 18th of 1999. And that's a

1 two-page document.

2 Third of these is the actual membership purchase
3 agreement by which they acquired the memberships at issue
4 here today.

5 And the fourth is a July 26th document
6 evidencing their participation in an associate membership
7 program, which they first entered into prior to their
8 acquisition of the permanent memberships.

9 And then I believe the Court already has a copy
10 of the 1994 plan of offering.

11 THE COURT: I do.

12 MR. HUGHES: Thank you. That, Your Honor, is
13 our case with regard to our motion for summary judgment
14 as to the cause of action, misrepresentation. And I
15 would like now, if the Court sees fit, to address the
16 cause of action, breach of fiduciary duty.

17 For the purpose of clarity argument, I will
18 proceed. These claims, again, are premised upon a
19 challenge to the fundamental right of my client to pursue
20 claims in collection in delinquent dues, fees and
21 assessments, notwithstanding what they claim are releases
22 from those obligations. This cause of action, as are all
23 the proceedings before this Court, is generally going in
24 accordance with the provisions of the South Carolina
25 Nonprofit Corporations Act.

1 The Court, I know, is intimately familiar with
2 that, and I will not belabor several points. However, I
3 would note that that act within Section 33-31-302 endows
4 nonprofit corporation with broad-based, if not
5 preliminary power, in the operation of corporate affairs.
6 That provides, among other powers: The power to sue; the
7 power to make and amend the bylaws; the power to impose
8 dues, fees, and assessments, the very issue before the
9 Court; the power to establish conditions for admission of
10 members; the power to carry on the corporate business;
11 and the power, generally, to do all things necessary and
12 convenient in furtherance of the activities and affairs
13 of the corporation.

14 And I would set forth that final catch-all
15 provision is set forth twice within the statute; twice
16 within the statute. So, clearly, it was an intentional
17 ground by the legislature and broad-based authority by
18 the board in the operation of nonprofit corporations.

19 Equally importantly, the act sets forth
20 limitations upon the rights of members to challenge
21 corporate affairs. As the Court has heard, those are set
22 forth in Section 33-31-304. That section mandates any
23 challenge to corporate action be commenced solely in
24 written capacity. There are no exceptions. The only
25 means by which a member can challenge a corporate action

1 against authority is by means of a derivative proceeding.

2 Section 33-31-630 sets forth the procedural
3 requirements for the assertion of claims derivatively and
4 refers inferentially to Rule 23(b)1. And, again, as the
5 Court is well aware, that requires a verified complaint.
6 It requires that the claimant be a member at the time of
7 the harm complained of.

8 It requires that the complainant set forth with
9 specificity the actions taken to obtain the relief
10 desired, or to explain the reason why those actions
11 weren't taken.

12 And finally, and most importantly, that statute,
13 that rule requires that one proceeding in a derivative
14 capacity fairly and adequately represent the interest of
15 the members.

16 I would submit to you that not only have the
17 Merciers and the Dennises failed to reply with those
18 provisions, they cannot comply. Clearly, they have not
19 proceeded upon verified complaints. Clearly, they have
20 not set forth those considerations rules proceeding in
21 order to try to get the relief.

22 But again, they have not alleged that they can
23 adequately and fairly represent the interest of the other
24 members, which they simply cannot do. The fact is, the
25 exercise of the corporate power in this instance and the

1 assertion of claims for delinquent dues were down to the
2 benefit of all the membership. They are the outliers
3 here. And they cannot possibly represent the interest of
4 the memberships, the other members.

5 And I would submit that alone is dispositive of
6 the breach of fiduciary claims here. They have not
7 complied with absolute statutory prerequisites, assertion
8 of claims challenging corporate authority.

9 However, to the extent that one may differ with
10 that analysis, if the plaintiffs -- if the defendants
11 are, in fact, entitled to assert additional claims,
12 arguably, there is no evidence here of any action by the
13 corporation which remotely supports a cause of action,
14 breach of fiduciary duty. There's no evidence of the
15 action by the board, which is inconsistent or
16 incompatible with rights of either the members or these
17 persons. There's no evidence of any action of any
18 irresponsible undertaking by the board. And there's
19 particularly no evidence of any action by which the board
20 can be deemed to have violated the relevant standard of
21 care.

22 And as I'm sure this Court is aware, the
23 relevant standard of care is set forth in Code Section
24 33-31-830. And within that statute -- which again
25 continues to recognize the expansive legislative ground

1 of authority to the board. It basically indicates that a
2 board, in acting on behalf of a nonprofit corporation, is
3 entitled to rely upon other elements upon advice of
4 counsel.

5 Now, clearly, here we have 12 of these going
6 thus far. There have been 12 instances in which advice
7 of counsel has been determined to authorize these
8 proceedings.

9 Moreover, with regard to the suggestion that
10 somehow the developer has been inappropriately released
11 from obligation, that also was undertaken upon advice of
12 counsel in order to preserve the financial integrity of
13 the club.

14 Moreover, and equally importantly, Section
15 33-31-810, dealing with the standard of care, provides
16 specifically that a director is not liable assuming his
17 action was taken consistent with the requirements of that
18 section. Again, the claims here were -- the action here
19 by my client was clearly undertaken with advice of
20 counsel. It was also undertaken pursuant to
21 authorization of the statutes and pursuant to
22 authorization of the documents which have been addressed
23 with the Court earlier.

24 I won't belabor the point. Plan of offering in
25 1994 and the redundant reassertion of those plans over

1 the course of the following years continued to give us
2 the authority to engage in actions necessary to get dues
3 and continue to impose the obligation upon resigning or
4 terminated members to pay those dues.

5 I would also point out that the obligations
6 imposed by our club, by our club documents for continuing
7 responsibility for payment of dues notwithstanding
8 resignations, suspension, or termination by any means,
9 are specifically supported by the contents of the
10 Nonprofit Business Corporations Act.

11 As I'm sure this Court is aware, Section
12 33-31-620, while authorizing resignation, states
13 specifically that a resignation does not relieve the
14 member from the obligations they may have to the
15 corporation as a result of obligations incurred or
16 commitments made before the resignation. The comments,
17 the official comments to that section clearly indicate
18 that those obligations can continue beyond the
19 resignation itself.

20 Similarly, Section 33-31-620, in addressing
21 expulsions, again, notes that a member who has been
22 expelled or suspended may be liable to the corporation
23 for fees, assessments, dues, as again result of
24 obligations incurred or commitments made prior to that
25 resignation.

1 Clearly, the statute authorizes the imposition
2 of such ongoing obligations. Clearly, our club documents
3 are reflective of powers by which -- with which we are
4 endowed by the developing legislation.

5 Equally importantly, and again not to belabor
6 the point, my client's actions in this instance with
7 regard to the cause of action and any type of breach are
8 to be judged by the business judgment rule. And I'm sure
9 the Court is aware, but if you would just --

10 THE COURT: Mr. Haight already told me earlier.
11 So we've already been there. Certainly know what it
12 is.

13 MR. HUGHES: I will simply reiterate what he
14 said. Under the circumstances here, the Court is not
15 authorized to review intervarious action in the absence
16 of a finding of bad faith, incompetence,
17 unconscionability, et cetera.

18 And beyond that, and probably most importantly,
19 the burden of establishing a deviation from those
20 requirements is not upon my client. It's upon him. It's
21 not -- the burden is not upon my client to show good
22 faith or any other appropriate activity. It's their
23 burden to show bad faith, unconscionability, fraud. And
24 that is dispositive under the law. That is the burden
25 which the evidence here simply does not allow them to

1 bear.

2 And, Your Honor, that again, under the
3 circumstances here, I just don't feel as though they
4 established a claim. I feel the evidence is overwhelming
5 in our favor. And that's all I have. Thank you.

6 THE COURT: Okay. Mr. McDaniel.

7 MR. MCDANIEL: I believe that the Dennises
8 testified that they didn't receive the documents he's
9 quoting from until after the closing, after they had
10 signed the purchase agreements, or the actual documents
11 were not sent to them until some month or two after that,
12 the plan of offering.

13 I would like to point out, and I didn't make
14 copies of this, but I will submit my copy if I need to,
15 that the plan of offering membership for '94 has been
16 referenced, indicates that it includes -- on the table of
17 contents, bylaws and general club rules, Exhibits B and
18 C, and that's these, '94 bylaws and club rules. And I
19 think these are important because they speak to this
20 issue, the difference between resignation and expulsion
21 and what the obligations of a member are in those
22 situations.

23 On (b)11 -- and I'm sorry, Your Honor, I don't
24 have a copy. I can give you this one in a minute. But
25 (b)11, which is the bylaws at Page 11: Equity member may

1 resign from the club by giving written notice to the
2 secretary.

3 It says: Dues, fees and charges shall accrue
4 against a resigned equity membership until the resigned
5 equity membership is reissued by the club.

6 Again, the idea was not against the member, but
7 against the membership, that it could be charged off for
8 whatever was still owed beyond the value of when was
9 eventually sold. But it wasn't charged against the
10 member themselves; against the membership.

11 We took the deposition in Florida of Bill
12 Hawkins. And that's exactly what he said. He said the
13 club -- and I can supplement that as well -- the club has
14 always -- we charge -- his exact words were, charge off
15 anything beyond what it sells for. And that's the way he
16 interpreted it. He was the club -- he was one of the
17 original people that was involved with buying the club in
18 2001, and the switch-over happened, and was integral in
19 that whole process.

20 The bylaws also say at (b)15, the club shall
21 have a lien against the membership for any unpaid annual
22 dues or any charges made by the member of the club. And
23 it goes on from there about what it can be. But it's a
24 lien against the membership.

25 The club rules of '94 documents speak to this as

1 well. And they differentiate, again, those are resigned
2 memberships. Between these different types: A member
3 may be terminated or suspended by the club for certain
4 reasons.

5 And then it says: Notwithstanding a termination
6 or suspension, a member shall be liable for unpaid club
7 account or membership dues and fees not entitled to a
8 refund of their paid -- of any part thereof paid for the
9 member to the club.

10 Even there, it's not talking about expulsion,
11 which it deals with later, but seems to be indicating
12 that that is a -- and that's at C3 in the club rules,
13 under suspension and termination of membership, it's
14 indicating that the termination is against the value of
15 the membership.

16 Oh, it's in the bylaws, excuse me, where it
17 talks about expulsion: Any member of the club who has
18 been expelled shall not again be eligible for membership
19 or admitted to the club facilities. Expelled member
20 shall be so notified and have the -- by registered
21 mail -- and have obligation to surrender his membership
22 certificate to a new member for reissuance by the club to
23 a new member.

24 It defines that differently again from
25 suspension, resignation, any of those provisions. The

1 only provisions about -- in these documents, the '94
2 documents -- about ongoing dues and fees or about payment
3 of those is from sale of the membership and a lien
4 against the membership. That would be our alternative
5 defense, if the Court doesn't determine that the
6 representations, which they want the benefit of all these
7 early contracts, but they don't want to live with any of
8 the representation made at the signing of those
9 contracts, Lee Allen, for Mr. Mercier, and Ellen Padgett
10 for the Dennises.

11 But in interpreting those and understanding
12 those, that's how the people who went over these
13 documents with them or discussed the documents with them,
14 they can go through them, explained it to them, that they
15 had four months and they would be expelled. I certainly
16 think there's enough there to make it a question of the
17 jury whether that's a proper interpretation of the
18 documents or not.

19 Mr. Hughes spent a great deal of time explaining
20 how this not a properly submitted derivative action. We
21 haven't submitted it as such. So that has not been how
22 that's been alleged, which is why it doesn't meet those
23 requirements. Again, the burden -- they have to
24 establish this obligation exists. I believe that the
25 documents indicate otherwise, and that we've presented

1 that.

2 And would ask the Court to deny their motion for
3 summary judgment. And certainly, like I said, we present
4 these additional -- would like a chance to make a copy
5 for the Court of the bylaws and club rules pertinent to
6 the '94 plan of membership.

7 THE COURT: Go ahead and make a copy of that.

8 MR. McDANIEL: And present those to the Court
9 for your consideration, because I think those would
10 support our position. If it's not clearly in our favor,
11 there's at least ambiguity as to how the dues, fees,
12 suspension, resignation, expulsion all work.

13 THE COURT: Okay. So we will get a copy of that
14 now, if you don't mind.

15 Anything else y'all?

16 MR. HUGHES: Simply to respond briefly, Your
17 Honor. With regard again to the cause of action,
18 negligence misrepresentation, there is absolutely no
19 evidence of any representation by --

20 THE COURT: Your people didn't exist at the
21 time. I understand. That I heard.

22 MR. HUGHES: And with regard to Mr. McDaniel's
23 comments concerning the documents, I don't know what
24 bearing it has upon my summary judgment motions with
25 regard to his causes of action and misrepresentations or

1 in breach of fiduciary duty. However, the documents that
2 were initially in place at the time of the accusation for
3 memberships with regard to the Merciers clearly impose
4 obligations, and there's no room to find any
5 misrepresentation.

6 Beyond that, with regard to the Dennises, the
7 documents in place at the time of the acquisition of
8 memberships by Mr. and Mrs. Dennis clearly imposed
9 obligations and clearly advised them. And the idea of
10 any justifiable reliance is simply, I think,
11 manufacturing.

12 With regard to the Merciers, who bought in 1989,
13 their documents also imposed upon them the obligation to
14 abide by the general club rules.

15 Now, regardless of the content of those
16 documents, which did, in fact, require payment of dues,
17 fees, and assessments, even upon termination, the club
18 has proceeded properly, procedurally, and substantively
19 over the years to modify its documents. The modified
20 documents were the plan, the bylaws, or the general
21 rules; had all validly-imposed upon existing members
22 obligations of payment of dues, fees, and assessments.
23 This goes to our argument for summary judgment in favor
24 of our basic claims. However, that is a fact, Your
25 Honor.

1 And I would point out with regard to alleged
2 ambiguity among the documents, our points are clear that
3 interpreting provisions of contracts, the documents are
4 to be considered as a whole. One cannot rely upon a
5 specific arcane element of one provision to manufacture
6 an opportunity. I will submit to you, the documents were
7 considered and clearly establish the obligations which we
8 are pursuing.

9 Finally, Your Honor, and I mean finally, the
10 statute at 33-31-830F sets forth the statute of
11 limitations, which is at most three years, possibly two
12 years. And there's no question that these parties were
13 aware of the changes that imposed obligations upon them
14 at least as early at 1999, and certainly no later than
15 2001. Thank you, Your Honor.

16 THE COURT: Okay. Any other outstanding
17 motions? This is everything, right?

18 MR. McDANIEL: Everything. If I can say for the
19 statute of limitations issue, the claim of action arises
20 when the damages you are incurred, and that's when they
21 resigned and continued to bill them.

22 THE COURT: You are saying it's a continue
23 trigger?

24 MR. McDANIEL: Continuing trigger. And they are
25 seeking that, whether the Dennises can only go back three

1 years perhaps, but they have some claim they've still
2 been paying the golf dues when they should have been
3 paying social.

4 THE COURT: Okay.

5 MR. McDANIEL: I think that's all the motions,
6 Your Honor. Thank you.

7 THE COURT: I appreciate it y'all. She will get
8 you back your copies. Caroline is making a copy of it.
9 I'm just going to go back and look through the documents
10 just to be clear. But, again, y'all want to go look at
11 how I ruled in Dataw, which has many of the same issues.
12 This case is much clearer then the Dataw case.

13 So, again, let me take a look at it. And I will
14 ask someone for proposed order fairly quickly. Thank
15 you. Okay?

16 MR. McDANIEL: Thank you, Your Honor.

17 THE COURT: Thank you.

18 MR. HAIGHT: Thank you, Your Honor.

19 (Whereupon, proceedings are adjourned.)
20
21
22
23
24
25

STATE OF SOUTH CAROLINA
14TH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT
COURT OF COMMON PLEAS
CASE NUMBER 2011-CP-07-03322

CALLAWASSIE ISLAND MEMBERS
CLUB, INCORPORATED

PLAINTIFF

VERSUS

COPY

MAY 27, 2014

TRANSCRIPT OF HEARING
BEAUFORT, SOUTH CAROLINA

RONNIE D. DENNIS, ET UX

DEFENDANTS

B E F O R E:

HON. CARMEN T. MULLEN, JUDGE

WANDA H. ROWE, CVR-M
OFFICIAL COURT REPORTER

APPEARANCES

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EXHIBITS

No exhibits were admitted.

1 BEGINNING 10:50 A.M.

2 BY THE COURT:

3 THE COURT: All right. This is a motion to
4 reconsider that, I apologize, is way overdue. So,
5 whenever you're ready, Mr. McDaniel, this is your
6 motion.

7 MR. MCDANIEL: Thank you, your Honor. Brian
8 McDaniel for Ronnie and Jeanette Dennis. This motion
9 stems from a January 16th order of this Court granting
10 summary judgment to Callawassie Island Members Club, the
11 plaintiff, at a November 8 hearing we had. I will rely
12 on the original memo opposing summary judgment, and the
13 motion that I submitted in this case to reconsider on
14 many of the points, if your Honor has had an opportunity
15 to review that.

16 THE COURT: I have.

17 MR. MCDANIEL: And I would just focus on a few
18 points which I believe highlight our case, and otherwise
19 rely on that memo for those.

20 THE COURT: Very quickly, I'm sorry, Jamie, do you
21 have -- can I have my original order in this case?
22 That, I don't have attached to the motion. I'm sorry.

23 MADAM CLERK: I got it.

24 THE COURT: Oh, I just put -- that piece of paper
25 is the wrong piece of paper. It doesn't go in that

1 file. I'm sorry.

2 MADAM CLERK: I got it.

3 THE COURT: I'm sorry, just give me one minute, Mr.
4 McDaniel.

5 MR. MCDANIEL: I have a copy of that order, if you
6 need it.

7 MR. HAIGHT: We have a copy, as well, Judge.

8 THE COURT: Do you mind passing one up to me, so I
9 can look off it? It's not your only copy is it, Ehrick?

10 MR. HAIGHT: No.

11 THE COURT: Okay. I don't want to keep your only
12 copy.

13 MR. MCDANIEL: You don't have my -- that's not my
14 copy.

15 THE COURT: Okay. Got it. Thank you. All right.
16 Mr. McDaniel?

17 MR. MCDANIEL: We filed -- I filed a, on behalf of
18 the Dennis', this motion to reconsider, really, based on
19 a couple of things. We believe that the granting of
20 summary judgment was improper, but also, as to some
21 specific items in the order that were outside of the
22 evidence submitted and not in finding of -- improper
23 findings in the order.

24 THE COURT: Okay.

25 MR. MCDANIEL: The plaintiff, in their response to

1 our memo, has asserted a few positions. I'd like just
2 to address those first, if I could. They have asserted
3 the *ESA Services* case for the proposition that this --
4 that there is no triable issue of fact for a jury as
5 long as the Court finds the contract to be unambiguous.

6 We do not believe that's an accurate reading of
7 that case. In fact, it says, even if it's unambiguous,
8 if it's unambiguous, the Court has to determine the
9 meaning of the contract; the intent of the parties is
10 found in the agreement. And it says that written
11 contracts may be orally modified by the parties, even if
12 the writing itself prohibits oral modification,
13 something that's pertinent to this case, because the
14 Dennis' have claimed that they were specifically told
15 about provisions with regard to expulsion that they
16 would not have ongoing liability for dues and fees.

17 On Page 5 of the reply brief, the plaintiff's reply
18 brief, they acknowledge that the order contains
19 information which is not based upon anything presented
20 at the hearing. However, they argue that it had no
21 impact on the decision or that the Court could take
22 judicial notice of those facts. However, --

23 THE COURT: That's on Page?

24 MR. MCDANIEL: That's at Page 5 of their reply to
25 this motion to reconsider.

1 THE COURT: Where do they state that? Oh, I'm
2 sorry. I'm on the wrong one. I apologize. Hold on a
3 second.

4 MR. MCDANIEL: It's at the bottom of Page 5.

5 THE COURT: Okay.

6 MR. MCDANIEL: Okay. And then, we're --

7 THE COURT: Anything other than that?

8 MR. MCDANIEL: Yes. They're referring to
9 statements about that were in the original, my motion
10 that we filed, about there being an overwhelming vote by
11 the members, the nature of the corporation, the
12 requirement that a member is obligated to pay dues.

13 At certain points, these things were not, we
14 contest, not put into the record, as we set up in the
15 motion on Page 3. And they indicate in their reply,
16 that's okay, because the Court will take judicial notice
17 of that. We believe that would be improper. Not only
18 was it not put in as seeking judicial notice, but under
19 201, there would have to be an opportunity to have the
20 other side be heard on that issue, and that was never
21 done.

22 THE COURT: Was there not a vote taken?

23 MR. MCDANIEL: There was, and my client voted
24 against it, and we don't have any evidence to suggest
25 that it was an overwhelming support for the particular

1 votes that they're talking about.

2 THE COURT: But it passed, right?

3 MR. MCDANIEL: Well, we don't know that. We have
4 never gotten the records, and we've asked for the
5 records. They have claimed that it did pass, yes. But
6 my client says he voted against it, and the records
7 indicate that he did that. I mean, that he -- he's
8 testified that he did that.

9 THE COURT: Okay.

10 MR. MCDANIEL: Whether or not he did or not, it
11 wasn't entered to the -- for the Court or for us to
12 review that to verify, or to challenge in any way.

13 THE COURT: Okay. So, you would rather have a
14 proposed order saying -- you're saying, I can't decide
15 whether or not it passed or not. Is that what you're
16 saying?

17 MR. MCDANIEL: By an overwhelming majority of the
18 vote, I believe that that's a -- I believe they're
19 making statements for which there were no facts that
20 were presented at any time. They weren't presented in
21 or presented to the Court, with regard to the passage of
22 votes about how these rules and regulations and
23 documents got passed. That's right.

24 THE COURT: Okay. You want to address that,
25 someone? Mr. Hughes, Mr. Haight?

1 MR. HAIGHT: Your Honor, we really don't think it
2 matters whether -- if the Court wants to take out
3 *overwhelming*, that's fine. That really isn't material
4 here.

5 THE COURT: Just so I understand, it passed, based
6 on the vote and based on the required vote, according
7 to, I'm assuming, the evidence, correct?

8 MR. HAIGHT: And our point throughout, as you will
9 recall from the earlier hearing, is that this
10 requirement to -- that a member is obligated to continue
11 to pay dues, fees, and assessments until their
12 membership is re-issued has not changed since 1994. And
13 these folks bought in 1999, about a month before our
14 client was even created.

15 And we'll address some of those other issues later,
16 but you know, we don't think that really matters. And
17 some of the other things he's complaining about, he's
18 saying, oh, we got --

19 MR. MCDANIEL: Your Honor, I object. I mean,
20 they're going into other things that I haven't even
21 presented yet. I like to present my motion.

22 THE COURT: I was just asking, other than this, so.
23 Okay. Okay.

24 MR. HAIGHT: And we can address the other ones.

25 THE COURT: Okay. Go ahead.

1 MR. MCDANIEL: Yeah, and this is a minor point in
2 the order, your Honor. This is not, obviously, the
3 basis for the motion to reconsider is simply that
4 there's -- and again, I would refer to the motion we
5 filed, but this is one of many statements that is taken
6 beyond anything that was presented in the hearing.

7 There was a further finding in the order that they
8 contend that the Court could find that the negotiations
9 they had with other members conceding or allowing other
10 members to return memberships in a fashion that they
11 have not allowed in this case. The Court had a finding
12 that that was okay, but and that those actions were
13 actually proper.

14 I believe, again, that finding is beyond anything
15 required for summary judgment. It's on Page 6 and 7 of
16 the reply to the motion.

17 THE COURT: Okay. You guys want to respond to
18 that?

19 MR. HUGHES: Your Honor, I would cite two things.
20 The Club documents clearly provide for the authority of
21 the board to collect, to negotiate as they see fit. The
22 *Non-Profit Business Corporations Act*, among its
23 expansive grant of authority to non-profit entities,
24 allows the authority to sue and be sued, and to collect
25 as it deems appropriate. And there is no evidence that

1 the undertakings here by the board were unconscionable
2 or unfair at any particular. They simply were there to
3 serve the interests of every member of the Club in
4 assuring collection and funding for the Club's efforts.

5 MR. MCDANIEL: Your Honor, we'd point to 33-31-610
6 of the Code. It says:

7 *All members have the same rights and*
8 *obligations with respect to voting, dissolution,*
9 *redemption, the transfer membership.*

10 All members have the same rights and obligations
11 with respect to any matters, unless it's differentiated
12 in the bylaws, and there is no differentiation between
13 these members and other members. So, the idea that they
14 can do anything they wish does not -- it does not
15 comport with the law. It's not what the non-profit
16 statute says.

17 They have also, on this same vein, indicated that
18 they believe that the 33-31-304, the ultra vires action
19 statute, prohibits the client from making any challenge
20 in this action to anything they've done. But it doesn't
21 do that, your Honor. It's very specific. And in fact,
22 the notes -- the official comments to that statute say
23 the focus of the statute, 31-04, is narrow; it only
24 validates corporate actions that are based on attack on
25 the grounds the corporation had no power to act. It

1 does not address actions that, as it says, violate some
2 other provision, violate federal or state law, breach
3 duties owed to the directors or officers or employees,
4 or breach duties owed by the corporation.

5 So, they still can't violate state statute, even
6 under their supposed authority to act. And that's what
7 they've done by treating these members differently.

8 The additional point we had that I wanted to just
9 reference from their reply before addressing specific
10 items that we believe were incorrectly found is, there
11 was -- they've entered into the order referenced to an
12 affidavit for attorney's fees that was not provided
13 prior to the hearing, and I don't believe was provided
14 to me at all, or until after -- until after the hearing,
15 and was not entered into the record at the hearing.

16 They've tried to argue that there was no objection
17 to that affidavit, and therefore, it should come -- it
18 should be allowed in. Obviously, we couldn't object to
19 an affidavit that we were never given notice of, never
20 saw put in the case. And I do not believe it's proper
21 for the Court to rely on an affidavit that was never
22 presented at the hearing.

23 THE COURT: Mr. Haight, you want to respond to
24 that?

25 MR. HAIGHT: Yes, your Honor. He is complaining

1 about two affidavits. One, we had a supplemental
2 affidavit from Jeff Spencer, who is here with us today,
3 updating the Club's numbers as close to the hearing date
4 as we could, because, obviously, the motion had been
5 filed months before. And certainly, I think Mr.
6 McDaniel and his clients would have complained if, for
7 example, if they were entitled to some credit, but we
8 had stale numbers. So, those numbers were brought up to
9 the date of the hearing.

10 And similarly, we did an affidavit for my
11 attorney's fees. Both of those affidavits were filed
12 the day of the hearing. They were given to counsel.
13 They were submitted to the Court. And on Pages 33 and
14 34 of the transcript of the hearing, you'll see that,
15 while we didn't talk specifically at that point about my
16 affidavit with regard to attorney's fees, the
17 supplemental affidavit from my client was discussed, and
18 there was no objection raised by Mr. McDaniel at that
19 time.

20 Now, if the Court wishes to re-open the issue of
21 attorney's fees, I have updated numbers from our billing
22 system, which I've redacted for a few things that we
23 view as attorney/client privilege, but the numbers are
24 all there. And frankly, in my affidavit that was
25 presented to the Court that day, I underestimated the

1 attorney's fees that would be involved. So, certainly,
2 if Mr. McDaniel wishes to re-open that and cross-examine
3 me on them, he's certainly welcome to do that.

4 Although, we would ask that we be allowed to amend to
5 seek additional attorney's fees, because I
6 underestimated my earlier affidavit.

7 On his other point that he's complaining and his
8 clients are complaining about negotiated settlements
9 with other members, that is certainly proper. That is
10 certainly within the *Business Judgment Rule*. And they
11 have not met their burden of establishing any fraud,
12 self-dealing, or unconscionable conduct, and that's the
13 test. And I think Mr. Hughes already alluded to that,
14 but that would be our response to that.

15 THE COURT: Thank you.

16 MR. MCDANIEL: And obviously, summary judgment,
17 your Honor, we don't have to prove it beyond -- to any
18 extent. We've just got to prove there's a fact at
19 issue, and that's what we've done with that.

20 I'd like to, you know, just point to, if you don't
21 have a copy of the plan, I believe we put that in with
22 the original motion for summary judgment and my memo on
23 our position. If that's not in the record, I'd like to
24 allow you to be able to look at that. I didn't want to
25 give you additional documents.

1 THE COURT: It's in the file, actually, yeah.

2 MR. MCDANIEL: Okay. Well, I'm going to reference
3 that, your Honor, in a couple of places if --

4 THE COURT: We can find it in the file. Caroline's
5 going to need your copy so we can put our hands on.

6 MR. MCDANIEL: Thank you. I'll go ahead, if I may,
7 while that's being retrieved.

8 THE COURT: Right.

9 MR. MCDANIEL: The Dennis' both testified that, at
10 a point in mid-2000's, that they inquired about swapping
11 their membership. They have a golf membership. There's
12 a lower-priced charge for social memberships, and
13 they've testified to that. That's in their deposition
14 excerpts that was submitted in the motion for summary
15 judgment. And if they had been allowed to do that, as
16 they should have, their fees and dues and charges over
17 the years would have been greatly reduced.

18 The bylaws, and what I'm going to refer to, the
19 1994 bylaws, specifically, --

20 THE COURT: Okay.

21 MR. MCDANIEL: -- allow for that type of swap, in
22 fact, require that they be allowed to do it. And if you
23 have that copy, if you go over and find that in the
24 bylaws of 1994. It's on B-9, where -- Letter I, it
25 says:

1 *Social members may, at all times,*
2 *subject to availability, upgrade to a golf*
3 *membership upon payment.*

4 And it goes on:

5 *Downgrade of golf membership to a social*
6 *membership is not permitted unless there's*
7 *another equity member who desires to upgrade*
8 *to the golf membership.*

9 In this case, there was. They had somebody who
10 wanted to do that, but they were told by the Club -- and
11 this is what they testified -- the Club said they
12 couldn't do it, even though it's allowed and required in
13 the bylaws. That's confirmed on B-10, where it talks
14 about -- at B and C, under Number 4:

15 *Golf and social memberships may exchange*
16 *their respective membership privileges, and*
17 *payment of the -- in accordance with the Club*
18 *rules, payment of the administrative fee*
19 *established by the Club from time to time.*

20 And they were not allowed to do that. Had they
21 done that, had they been allowed to do it, not only
22 would they have a claim now, which we believe they've
23 asserted against the Club for all those overpayment of
24 dues for those years, but the amount that's being
25 requested would be incorrect because there's a

1 substantial difference in the amount that's being
2 charged for a social versus golf membership. They've
3 testified to that. We believe it's at least an issue in
4 the case as to whether or not that should have been
5 done.

6 THE COURT: Do you all want to go ahead and respond
7 to that?

8 MR. HAIGHT: While Mr. Hughes is looking there, I
9 think the first thing I would offer is, I'm not sure why
10 we're looking at the 1994 documents, when what they're
11 talking about occurred much later. So, the '94
12 documents would not have been the operable documents at
13 that time.

14 THE COURT: So, what are?

15 MR. HAIGHT: That's the year they claim this was,
16 but certainly it would have been -- if it was -- it
17 could be the 2001 documents. It could be documents
18 later than that.

19 MR. MCDANIEL: And your Honor, the Court, in the
20 previous hearing, the motion for summary judgment
21 focused exclusively or almost exclusively on the 1994
22 documents, and that's why those were being referred to.
23 Because it previously had been that that was at least
24 put forth as the documents to which they were asserting
25 that this -- the obligations arose.

1 And frankly, this has been the problem that's been
2 all along is, if you look at the order, the explanation
3 of what they're bound to is a patchwork of '94, 2001,
4 and 2007, and it's all over the place, and this had
5 frankly been, I believe, an issue in the case.

6 But a difficulty in responding to anything is, what
7 -- the goal posts keep changing as to what we're
8 supposed to do. But I do not believe that there's ever
9 been a change as to this -- to the right of a member to
10 be able to swap a membership. That's never been removed
11 from -- that's always been in the rules, whichever
12 bylaw, whichever rules you look at, that's always been
13 allowed. But they were told they couldn't do it for
14 reasons that are not in the bylaws, for reasons that,
15 later, people were able to do it, make that swap in the
16 exact same situation that the Dennis' were in.

17 THE COURT: Mr. Haight, go ahead.

18 MR. HAIGHT: There are a number of things there.
19 First, I'm not following what he's saying about being a
20 jumble and so forth. At the earlier hearing, we went
21 through the plan. We went through the plan, starting in
22 '94, and we went through the incarnations of the plan,
23 all the way to the present that had the obligation to
24 pay until your membership was re-issued. That has not
25 changed throughout any of this.

1 What he is talking about with regard to them
2 wanting to exchange their golf for somebody else's
3 social, and I think he's possibly moving out of what was
4 before the Court before, but if he is, he needs to look
5 again at Lindsey Cooler's deposition that he took, where
6 she indicated to him that, really, the Club is
7 essentially a clearing house, and this is between the
8 members. If there's a member who wants to exchange a
9 golf for a social, and they can find somebody who wants
10 to do that, they can do that, within the parameters
11 they're allowed. And in this instance, the people who
12 have the social found somebody else who, I guess, was
13 going to cut them a better deal or whatever, to do the
14 exchange with. So, they didn't do the exchange with his
15 clients. That's not our issue.

16 MR. MCDANIEL: And that's not what my clients
17 testified to. They testified that they had a person who
18 was in agreement, and the Club told them you cannot do
19 this. They were -- this was not somebody they had an
20 unwilling -- an unwilling swap. It was the Club that
21 directed them they couldn't do it. So, that's was their
22 testimony.

23 THE COURT: I mean, do we have the testimony of the
24 people that were going to sell or swap? And do we have
25 something in writing from the Club that says, no, we're

1 not permitting you to do this?

2 MR. MCDANIEL: We have my clients' deposition
3 testimony that that's what happened. That's what we
4 have on that issue. They've testified that that
5 happened. Both Jeanette Dennis and Ronnie Dennis
6 testified to that.

7 THE COURT: Okay.

8 MR. MCDANIEL: I have not deposed the person with
9 whom the swap was supposedly going to take place.

10 THE COURT: Okay.

11 MR. MCDANIEL: In fact -- can I continue?

12 THE COURT: Go ahead.

13 MR. MCDANIEL: Okay. Additionally, the bylaws at
14 B-12 speak to -- I don't think it's B-12. I'm sorry.
15 At B-10, the provision for -- that's the incorrect one,
16 your Honor. Just a second. It's at B-12. It is B-12,
17 your Honor.

18 THE COURT: Okay.

19 MR. MCDANIEL: At B-I, under 9, Resignation. It
20 talks about:

21 *Every fourth member, equity member,*
22 *prior to the issuance of all the equity*
23 *memberships permitted to be issued in this*
24 *resigned members categories membership,*
25 *every fourth equity membership issued in*

1 that category shall be resigned membership
2 from the waiting list for that category.

3 The other three equity memberships shall
4 be issued from the Club's unissued equity
5 memberships.

6 This is referring to something that has been very
7 cloudy within the bookkeeping and record keeping of the
8 Club.

9 But what we had previously submitted to the -- in
10 opposition to the motion for summary judgment, was this
11 Exhibit B, which is a 2012 printout of the re-sale list,
12 this waiting list it's referring to. And if your Honor
13 -- and if you have that, I would pass it up, and I would
14 represent to you that this shows that this waiting list
15 is filled with conceded members and expelled members
16 that are ahead of where the Dennis' are located on this
17 list.

18 And the point is, as memberships come off this
19 list, they're not doing it according to the bylaws.
20 They're not doing it the way the bylaws indicate it has
21 to be done, so that every fourth member is one of these
22 resigned members. They're not. Sometimes it's a
23 resigned member, but usually, it's a conceded or an
24 expelled member, which is not a resigned member. And
25 it's people from which the Club has decided they're not

1 going to pursue the -- that -- any of these folks, the
2 conceded and expelled members, putting 50-plus of the 70
3 members on this list in a category that they shouldn't
4 be on this re-sale list, and with the same resigned
5 members who are waiting to get rid of this obligation.

6 And again, keep in mind that the Dennis' bought
7 prior to 2001, so they can sell their membership at any
8 time. They're not obligated to keep a membership in
9 this Club and buy ownership of property. There's no
10 claim they have to do that, because they are
11 grandfathered in under the 2001 covenants, which
12 specifically say this doesn't apply to people who bought
13 as they did in '99 or before 2001.

14 So, we believe there's an issue of fact as to that,
15 that the re-sale list has not been properly maintained,
16 and because of that, the membership of the Dennis'
17 should have been sold previously. In fact, that list
18 has moved up some to the extent that, had all the
19 conceded and expelled memberships been off there, it is
20 believed that they would have -- their membership would
21 have been one of the ones that were sold. But since,
22 because of the way it's maintained, it won't be sold,
23 and this -- the debt that they're seeking is much larger
24 and ongoing in a way that it should not be.

25 THE COURT: Do you all want to respond to that?

1 MR. HAIGHT: Well, it's kind of tough to figure out
2 what Counsel is saying. One of the things he said there
3 was just flat-out wrong. Again, since 1994, and these
4 folks bought in '99, they've had a continuing obligation
5 to pay until their membership is re-issued. There's
6 been no change in that regard. He's saying, well, you
7 know, they're grandfathered; they can get out at any
8 time. That's just simply not correct. That wasn't
9 correct in 1994, it's not correct today. It hasn't been
10 correct at any point in between.

11 What he's saying about the membership list, I'm
12 also not quite following that. I think that's a new
13 argument. That's not one, I think, that we've heard
14 before. His argument before, it had been that somehow,
15 it was improper for the Club to have negotiated
16 concessions with certain members. And this was
17 discussed before, the Club, at various points in time,
18 particularly after -- the biggest one was after the
19 member takeover of the Club, the 2001 takeover, where
20 there were people who had memberships but maybe had sold
21 their real property. So, they no longer had memberships
22 that were associated with real property. And those are
23 the ones, you know, who had difficulty getting buyers,
24 you know, getting through the Club for their membership.
25 So, the Club offered concessions where they had to pay

1 certain amounts, and they had to forfeit any refunds
2 they would get and turn those memberships over. That
3 was done for those folks with un-affiliated memberships,
4 and that was done primarily at two points in time.

5 The Dennis' have a house on the Island, you know,
6 they have real property. If they want to effectively
7 resign and terminate any continuing obligations they
8 might have, the way for them to do it is to sell their
9 house and membership. You know, that's the way people
10 do it. And these concessions were made, he's saying
11 somehow that's improper. It's been our position
12 throughout that that's very much proper under the
13 *Business Judgment Rule* for the Club to settle -- he
14 seems to be saying that they must settle on the same
15 terms with everybody, and that's just simply not the
16 law.

17 The argument about the Dennis' should have been
18 able to transfer their membership, well, they didn't,
19 and that's between the members. So, I really don't know
20 what bearing that has on our client.

21 And I'm trying to think, Counsel, were there any
22 other points that were made or that you saw in Mr.
23 McDaniel's remarks?

24 MR. MCDANIEL: Your Honor, I ask that one attorney
25 be arguing the motion, not two.

1 THE COURT: Go ahead Mr. Hughes.

2 MR. HUGHES: I would point out, your Honor, in
3 addition to everything Mr. Haight has just said, again,
4 Section 33-31-302 endows with the board expansive
5 authority to take actions consistent with the
6 membership's general interests. That is exactly what
7 the Club has done here.

8 And beyond that, in addition to that grant of
9 authority, there is a specific limitation set forth in
10 33-31-304, which basically says that, to the extent that
11 action of a board is challenged is beyond the board's
12 authority, those are ultra vires actions which must be
13 contested solely through the proceeding of a derivative
14 action. That has not been done here..

15 And beyond that, Section 33-31-830, which deals
16 generally with the authority and the obligations of the
17 board members, clearly says that actions that are taken
18 intra vires, which we contend these are, must be -- are
19 clearly authorized and cannot be challenged by the
20 courts under the *Business Judgment Rule*. Those actions
21 cannot be challenged and disposed of here. Those are
22 simply beyond the powers of this court to review.

23 THE COURT: Mr. McDaniel, you may continue, sir.

24 MR. MCDANIEL: Thank you. I'd just would like to say
25 that -- respond briefly to that. It may be proper for

1 them to settle. We disagree with that. They don't have
2 the right to settle claims in a way that differentiates
3 the rights of transfer. They may have some powers, but
4 they can't violate their own board, their own governing
5 documents.

6 But even if they do, it still doesn't justify the
7 placement on the re-sale list. So, even if those people
8 could be allowed just to leave for whatever reason, they
9 shouldn't be ahead on the re-sale list of the resigned
10 members who are waiting and paying dues under this other
11 obligation of continuing to pay that they claim is
12 theirs.

13 So, regardless of that -- and I would point out
14 that 304, and I'd just urged the Court to read the
15 official comments of 304. It's a complete misstatement,
16 I believe; that this is a very narrow statute,
17 particularly the last paragraph of those official
18 comments that deals with our statute, that, you know,
19 indicates that this is attempting to stop the Club from
20 claiming, when a third party makes a claim, that somehow
21 the corporation didn't have the power to do whatever was
22 done. They're obligated to stick to whatever obligation
23 they made with a third party, and that's the point of
24 that statute. It is not to allow them to do something
25 the governing documents say they can't do, or the law

1 says they can't do. So, we obviously disagree with
2 those things.

3 We believe, and we've asserted, that the Dennis'
4 have asserted that they should have been expelled from
5 the Club. And in fact, there's a provision for
6 expulsion from the '94 documents throughout, into the
7 2001 documents that has never been addressed by the
8 arguments that are being made by the plaintiff. That
9 is, they are simply referring to resignation. And if
10 the resignation -- aside from the resignation, there
11 were specific provisions regarding expulsion. Those --

12 THE COURT: Take me to that portion in the
13 covenants.

14 MR. MCDANIEL: Okay. Well, in the 1994 documents?

15 THE COURT: Um-hmm.

16 MR. MCDANIEL: Yes. One second. Okay. Expulsion,
17 it's on B-15, of the 1994, that'd be the bylaws.

18 THE COURT: Hold on one second.

19 MR. MCDANIEL: What it says, your Honor, is:

20 *Any member of the Club who has been*
21 *expelled shall not again be eligible for*
22 *membership.*

23 Now, it doesn't go into how a member is expelled,
24 or exactly what are the bases for expulsion.

25 THE COURT: Your people have never been expelled,

1 correct?

2 MR. MCDANIEL: They should have been expelled, and
3 that's what they were -- we believe that they rightly
4 were expelled. Whether the Club recognized that or not,
5 they were.

6 THE COURT: Well, show me where in the covenants it
7 states that there is a mandatory expulsion.

8 MR. MCDANIEL: Okay. Let me do that, your Honor,
9 and I'll hand this up, if I can, to you.

10 MR. HAIGHT: If I could be heard on that, your
11 Honor?

12 MR. MCDANIEL: If I could just make the case first.

13 MR. HAIGHT: I think I can cut through here.

14 THE COURT: Hold on a second. Hold on, Mr. Haight.

15 MR. MCDANIEL: What I would --

16 THE COURT: Hold on a second. Let me look at it.

17 MR. MCDANIEL: Yes, your Honor. This is an
18 excerpt. What I've given you are the 2001 Club rules.

19 THE COURT: What portion are you referring to?

20 MR. MCDANIEL: 13.3.1, the first --

21 THE COURT: *Any member whose account is*
22 *delinquent for 60 days from the statement*
23 *date may be suspended.*

24 MR. MCDANIEL: Right.

25 THE COURT: *Not required.*

1 MR. MCDANIEL: Look at the last sentence, your
2 Honor.

3 THE COURT: *Any membership that is not sold*
4 *within the four-month period following*
5 *suspension shall be.*

6 And again, I don't see where they have been
7 suspended.

8 MR. MCDANIEL: Well, your Honor, the --

9 THE COURT: It says they *may be suspended*. So, it
10 sounds, I mean, I --

11 MR. MCDANIEL: Well, if I could address that.

12 THE COURT: Okay.

13 MR. MCDANIEL: In their depositions, the 30(b)(6)
14 deposition of the Club and of the board members, they
15 have said suspension is automatic, that there is -- that
16 that is the -- throughout the Club policy. is suspension
17 is automatic. And in fact, my clients were suspended.
18 They're on the suspended members list, so there's no
19 doubt about the fact in this case that they were
20 actually suspended. The only question is, were they
21 expelled?

22 Now, in 1994 -- or in 1999, when my clients bought,
23 they were told, you would be expelled after four months,
24 and that's in the deposition testimony, as well. The
25 Club representative, Ellen Padgett, who was both the

1 previous Club and, we argue, went to great lengths to
2 show this in the summary judgment motion, was
3 representing the Club said, in fact, that that's what
4 she told members, is you would be expelled. Shall be
5 expelled; you have no more than four months' obligation.

6 That provision was basically codified in 2001 when
7 the members took over. It wasn't in the previous plan,
8 but it didn't speak to that. It didn't speak at all to
9 what happens to an expelled member. It only talked
10 about resignation.

11 Now, the Club is arguing that, at some point, they
12 changed that obligation; that they changed that
13 requirement to say *may be expelled*, some date later.
14 But the board has testified that they don't know how
15 that was done. That is, it was done by the board of
16 directors, supposedly, but nobody can explain how the
17 vote was taken or how that was changed. It wasn't until
18 2007 or 2008 that it was changed to *may*.

19 And we believe they can't -- that that's such a
20 fundamental right, that that's one of those things that
21 they can't take away from the person. And I would
22 suggest to you further that, in the memo that we've
23 argued, that the documents support the fact that nobody
24 anticipated that there would ever be more than four
25 months of back dues and fees. Even though they said

1 that this membership had to be re-issued, the assumption
2 throughout that is that there would be money going back
3 to the member when their membership was re-issued. In
4 fact, every -- virtually every provision that talks
5 about selling a resigned member talks about, it refers
6 to the payment to go back to the member upon selling of
7 their membership. It doesn't say they will be
8 responsible for deficiency beyond that. It only talks
9 about receiving money back. And I have those provisions
10 marked throughout the plan of offering, the bylaws, and
11 the Club rules that I can point out to you, that the --
12 it consistently says:

13 *An equity member will be entitled to*
14 *receive, upon the re-issuance of this resigned*
15 *membership, an amount equal to the contribution*
16 *which the resigned member paid or 80 percent*
17 *of the membership contribution paid by the*
18 *purchaser; and the Club will be entitled to*
19 *deduct from the amount to be paid to the*
20 *resigned member any amount which the resigned*
21 *member owes to the Club.*

22 That's what it says. That's Page 8 of the Plan of
23 Offering, and that's what my clients believed to be
24 their liability in the case, their exposure in the case
25 was. They paid 40-plus thousand dollars for a

1 membership, and that's the most they could ever lose.
2 There's support for that. There's support for the fact
3 that they were told that they would be expelled if they
4 stopped paying. And the idea behind --

5 THE COURT: The main support -- show me where the
6 support for that is. Is that in the 2001 General Club
7 Rules, and what else are you relying on?

8 MR. MCDANIEL: The support for the expulsion?

9 THE COURT: No. That there would only be four
10 months that they would have to answer for. Tell me what
11 documents you're relying on.

12 MR. MCDANIEL: Okay. The --

13 THE COURT: Tell me which, either the covenants or
14 the rules, and tell me which ones.

15 MR. MCDANIEL: Well, and you refer to the
16 covenants, and we're not referring at all to covenants,
17 because --

18 MR. HUGHES: Your Honor.

19 MR. MCDANIEL: -- those have to do with the
20 property, and this is a separate deal from SUPOA. This
21 is the golf Club. So, none of it is the covenants. I'm
22 referring to.

23 THE COURT: It's called the General Club Rules.

24 MR. MCDANIEL: The plan -- and the way the
25 documents seems to be set up is, there's a plan of

1 offering of membership that has three exhibits.

2 THE COURT: Okay.

3 MR. MCDANIEL: And it has the bylaws and Club rules
4 are two of those exhibits. There's also a purchase
5 agreement, which, really, is kind of irrelevant to what
6 we're talking about.

7 THE COURT: Okay.

8 MR. MCDANIEL: But throughout, those are -- there's
9 a plan of offering that usually contains the bylaws and
10 the Club rules as exhibits to that, and really, we would
11 argue in subordination to that plan.

12 But the plan I'm offering from 1994, at Page 8, it
13 speaks to what I'm talking about at the top of that
14 page. Page 9 does the same thing. At the end of
15 transfer upon death, where it says:

16 *Upon the re-issuance, the estate of*
17 *the deceased member will be entitled to*
18 *receive the amount of the membership*
19 *contribution.*

20 On the bylaws, at Page B-11, it speaks to --

21 THE COURT: Hold on. Hold on a second.

22 MR. MCDANIEL: Okay. The bottom of 9.

23 THE COURT: Give me a second. No, I'm looking at
24 something else first.

25 MR. MCDANIEL: Okay. I'm sorry.

1 THE COURT: I'm sorry. Go ahead now. I apologize.
2 Go ahead.

3 MR. MCDANIEL: That's all right. B-11, of Number
4 9, the heading is, *Resignation*.

5 THE COURT: And this is under what, the rules?

6 MR. MCDANIEL: This is in the 1994 bylaws.

7 THE COURT: Okay.

8 MR. MCDANIEL: And it says:

9 *Any equity member may resign from the*
10 *Club.*

11 And it goes on to say:

12 *Dues, fees, and charges shall accrue*
13 *against a resigned equity membership until*
14 *the resigning equity membership is re-issued*
15 *by the Club.*

16 That is, it's accruing against the membership.
17 It's not accruing against the member directly. It's a
18 fine point, maybe, your Honor, but it was something that
19 was told to my clients, so I think there's a reasonable
20 basis in these documents to at least defeat summary
21 judgment. And that's B-11, (9)(a).

22 And then, the next page, B-12, goes into some more
23 detail about that, where it says:

24 *The amount to be paid to the resigning*
25 *member,*

1 and it lays that out again:

2 (1) 80 percent,

3 (2) the amount of the contribution
4 actually paid by the resigned member.

5 And certainly, the Club would be allowed to, under
6 that, if the resigned paid what was unpaid, that they
7 owed at the time of resignation, we would argue, or even
8 possibly pay up to the value of the membership.

9 Page B-13 of the bylaws discusses that again, where
10 it talks about transferability. Under ten -- it's
11 actually ten, but it's on the next page, Page B-13, IV,
12 Roman numeral IV:

13 *The Club shall promptly remit the*
14 *amount due to the resigned member, as*
15 *provided to Section 9(b) of this article,*
16 *less any amount which the resigned member*
17 *owes to the Club.*

18 And then:

19 *Transfer upon death, the next 11(a), again on*
20 *Page B-13 of the bylaws, the last sentence of that*
21 *speaks to the same thing, that the deceased's heirs*
22 *would get whatever the member was supposed to get.*

23 And then, on the Club rules, which is C(5) -- C(3),
24 it says it this way, which is really kind of the same
25 thing, under *Suspension and Termination of Membership,*

1 at Part 2, the last paragraph of Part 2, on Page C(3):

2 *Notwithstanding any termination or*
3 *suspension, the member shall remain liable*
4 *for any unpaid Club account, dues, fees, and*
5 *assessments, and such member shall not be*
6 *entitled to a refund of any part thereof*
7 *paid by the members of the Club.*

8 And that speaks -- as you can see there, that's the
9 provision of the previous Club rules. It doesn't
10 explain, it doesn't set forth how expulsion would be
11 done, but it is referenced in this.

12 I have and just referenced, and I just did it
13 through a supplemental memo, but it's really just only
14 referencing the additional case that's come out, I
15 believe, in April, that I'd like to hand up, if I may,
16 your Honor. This speaks to this issue. The *Joshua Bell*
17 case, which, I think, gives a pretty good --

18 THE COURT: Do you actually have a copy of the
19 case?

20 MR. MCDANIEL: I do, your Honor.

21 THE COURT: May I have that, please?

22 MR. MCDANIEL: In addition to the standard that's
23 set out in the motion to reconsider, that we believe
24 that only -- that the Court has found that, as your
25 Honor knows, that the non-moving party's only required

1 to present a mere scintilla of evidence. The party
2 seeking summary judgment has a clear -- the burden of
3 clearly establishing the absence of genuine issue of
4 material fact.

5 And this case goes on and says:

6 *Further inquiry into -- that summary*
7 *judgment should be denied where further*
8 *inquiry into the facts of the case is*
9 *desirable to clarify application of the law.*
10 *It should not be granted, even where there's*
11 *no dispute as to the evidentiary facts, if*
12 *there's a disagreement concerning the*
13 *conclusions to be drawn from those facts.*

14 And that, we believe, in this case, that that is --
15 that we've met that standard in defeating summary
16 judgment, both as to the plaintiff's claim, and as to
17 the counter-claims asserted; that my clients have put
18 forth the requisite facts with their testimony
19 specifically; that they were told -- made certain
20 representations to them, which if they were -- if the
21 Court were to determine that it was false and they do
22 not have those protections, that they -- then, it was
23 negligence, and that they would have a claim against the
24 company or against the corporation for that.

25 For those reasons, your Honor, and as stated in our

1 original summary judgment motion, and again, I'll refer
2 to the memo in this, for the sake of brevity. But I
3 certainly would address any other issues that your Honor
4 would like for me to.

5 THE COURT: Okay. Go ahead, Mr. Haight.

6 MR. HAIGHT: Your Honor, there was a lot in there.
7 I'll try to address these points. I guess I'll start
8 with the expulsion argument. And what Mr. McDaniel is
9 looking at -- and he seems to want to cite to documents
10 out of time -- he's looking at the 2001 rules, which had
11 language that says, *shall be expelled*.

12 Now, first off, there's nothing that he has pointed
13 to that says an expelled member does not have a
14 continuing obligation to pay until his membership is re-
15 issued. He hasn't pointed out anything like that,
16 because he won't find it.

17 And as far as expulsion goes, in this case, he's
18 looking at the 2001 rules that say *shall*. Well, since
19 2007, they've said *may*. His clients didn't default
20 until the end of 2010, where I believe the 2009 rules
21 would have been the ones in effect, which say *may*. So,
22 they're not time travelers. These folks defaulted in
23 2010, and the rules at that time say *may be expelled*.

24 They weren't expelled. They send a resignation
25 letter, which was fine, but that doesn't mean they don't

1 have a continuing obligation to pay until their
2 membership is re-issued. That has been the theme
3 throughout this. That has remained unchanged and
4 inviolate, and he has not cited to anything that
5 contradicts that, and that's the primary point to be
6 made.

7 Moreover, he's addressing some other things, and
8 I'll let Mr. Hughes address some of these things, too.
9 But he's talked about the membership lists. We've kind
10 of checked. He's making this argument for the first
11 time that somehow things weren't done in order on the
12 membership lists, that there was something done with
13 conceded memberships that shouldn't have been. That's
14 all a new argument. I don't believe this is the time to
15 raise a brand new argument that's not anywhere else that
16 we've seen.

17 THE COURT: Does somebody have a copy of the
18 transcript from the original hearing?

19 MR. HAIGHT: We do.

20 THE COURT: Could someone forward it to me?

21 MR. HAIGHT: Certainly.

22 THE COURT: Okay. I appreciate it.

23 MR. HAIGHT: You know, again, Mr. McDaniel has not
24 and cannot cite to any provision that limits our
25 client's ability to seek a deficiency. You know, he's

1 cited all these things saying, well, you know, these
2 accrue against the membership, and that's how it used to
3 be done. It hasn't been done that way since 2001. But
4 there's nothing in what he has cited that says that they
5 don't have personal liability for that. In fact, some
6 of what he cited talked about things that they owe. So,
7 clearly, he hasn't cited anything that leads to any
8 scintilla of evidence that they're not responsible for
9 their charges. It used to be that they could accrue it
10 against, you know, the refund they might get.

11 THE COURT: Right.

12 MR. HAIGHT: Can't do that anymore, but that hasn't
13 changed the fundamental question that they are
14 responsible. It also has to be read, obviously, with
15 the provisions that say your obligations continue until
16 your membership is re-issued.

17 So, and he's made reference to some of the
18 statutes. I guess I'll let Mr. Hughes address the
19 statutes.

20 I'm trying to think, is there any other point that
21 the Court wants us to address that was in, kind of, the
22 amorphous gel that was thrown at us just then?

23 THE COURT: Okay. I think I'm okay. I think I'm
24 okay. Mr. McDaniel, is there anything further from you?

25 MR. MCDANIEL: Only that we did present to you

1 this, the second page of the 2001 Club rules that I
2 handed up --

3 THE COURT: Right.

4 MR. MCDANIEL: -- does reference how expulsion is
5 different than termina -- than suspension, termination,
6 or resignation. Those terms are individually defined.

7 THE COURT: Yeah. I believe it defined it in the
8 2001 rules.

9 MR. MCDANIEL: Yeah. And if you look at further
10 down in that section, it doesn't ever say expelled
11 members. And in fact, the testimony in the case is, the
12 expelled members would be completely relieved of any
13 obligation. That's been what the board members have
14 testified to in the case. That once you're expelled,
15 all obligations, all liabilities, all rights, are void
16 and nullified at that point.

17 MR. HAIGHT: It doesn't say that. He's --

18 THE COURT: He's saying the board members have
19 testified to that. That's what he's saying.

20 MR. MCDANIEL: I'll submit that testimony if your
21 Honor will allow me to, that they testified.

22 THE COURT: Certainly. Tell me whose depositions
23 say that, and you want to give me page and line
24 designation.

25 MR. HAIGHT: And fundamentally, your Honor --

1 THE COURT: Was it presented last time?

2 MR. HAIGHT: No. Fundamentally, we have written
3 documents, contract documents. His folks, when they
4 acquired a membership, they signed an application
5 agreeing to the plan that was in place at that time, as
6 it may be amended. So, they signed a document saying
7 that. And we've had these documents through history,
8 and there have been changes that have been made, but
9 fundamentally, these are the contract documents. They
10 say what they say. It's our view that they're clear and
11 unambiguous.

12 Mr. McDaniel has tried to confuse everybody and
13 tried to find ambiguity, but he hasn't found it, because
14 the fundamental things that he's looking for are not in
15 these documents. He makes leaps of logic that aren't
16 supported by the documents.

17 THE COURT: Okay. Well, this is what I need from
18 you, Mr. McDaniel. I need you to get me the three
19 different sets of Club rules with nothing on them, just
20 the plain set of rules. I need a copy of the transcript
21 from the last hearing.

22 MR. HAIGHT: Your Honor, I can pass up the copy I
23 have here. I mean, I've got it, if you want another
24 copy.

25 THE COURT: That's fine. If you've already got a

1 Xerox copy, that would be great. It will save us some
2 trees.

3 MR. HAIGHT: I mean, if that's --

4 THE COURT: So, if you'll just get me, like I said,
5 the Club rules.

6 MR. MCDANIEL: Yeah.

7 THE COURT: I just have a huge notebook with
8 everything in it.

9 MR. HAIGHT: And I've got some little tags in here,
10 but those are for my benefit.

11 MR. MCDANIEL: Are you looking for the 1994?

12 THE COURT: I want all of them.

13 MR. MCDANIEL: You want the ones from every year?
14 Because there's been -- they've been amended, I think,
15 eight or ten times.

16 THE COURT: Anything you've relied on.

17 MR. HAIGHT: Your Honor, --

18 MS. COLLINS: Your Honor, we have that notebook.
19 Would you care to have it?

20 MR. HAIGHT: We have that notebook.

21 MS. COLLINS: We have --

22 MR. HAIGHT: It's also ours. We don't have another
23 copy here, but we're happy to submit this.

24 THE COURT: Okay.

25 MR. HAIGHT: Mr. McDaniel has copies of all these

1 documents.

2 MR. MCDANIEL: Can I just look and see what they're
3 submitting to make sure if there's anything else that I
4 would want to include with it?

5 THE COURT: Certainly. Certainly.

6 MR. MCDANIEL: Your Honor, if I might have the
7 opportunity to submit the deposition that I was
8 referring to within 24 hours?

9 THE COURT: Today? Like, today?

10 MR. MCDANIEL: Yes.

11 THE COURT: And I want you to highlight to me --
12 or, highlight on that deposition exactly where it says
13 that.

14 MR. MCDANIEL: Yes, your Honor.

15 MS. COLLINS: And whose --

16 MR. HAIGHT: Whose deposition is he talking about
17 here?

18 THE COURT: I have no idea. He said a board
19 member. That's what he said.

20 MR. HAIGHT: We're going to object, your Honor, to
21 the submission of these things. At this point in time,
22 this is a motion to alter or amend an order that's
23 already been made. These are things, unless he can
24 establish that these were submitted in conjunction with
25 his earlier --

1 THE COURT: Well, apparently, both of you have the
2 hearing transcript, so I think we should know whether or
3 not we referred to them before and if they were
4 submitted. If they were submitted, they should have
5 been filed.

6 MR. MCDANIEL: I don't -- well, some of the
7 depositions were submitted. I can look and see if those
8 portions are in there, but I believe it was referenced
9 previously in the motion. But I would ask your Honor
10 that we be able to -- to --

11 MR. HAIGHT: He still hasn't told us who he is.

12 THE COURT: Who's the person?

13 MR. MCDANIEL: Your Honor, I'm not sure if it was
14 -- I've taken many of board members. I believe that it
15 was the --

16 MR. HAIGHT: And former board members. Some of
17 these were people who were board members a long time
18 ago.

19 THE COURT: Okay. Well, he's just going to find
20 out who it is. Mr. McDaniel, I'll give you an
21 opportunity to look through it and see if you can find
22 it. But in the meantime, I'm going to go ahead. We've
23 got a lot of people waiting.

24 MR. MCDANIEL: Okay.

25 THE COURT: Mr. Borden and Mr. Carter, I think they

1 just need to put something on the record in regards to
2 your case. You can keep coming through. There's plenty
3 of room over on that table. Even though I know you are
4 spread out, you're fine. Don't move your stuff. Come
5 on up gentlemen.

6 Mr. Haight, you all can just sit tight. Don't
7 move. You're good.

8 OFF THE RECORD 11:35 A.M.

9 BACK ON THE RECORD 11:50 A.M.

10 BY THE COURT:

11 THE COURT: All right. Did you find which
12 deposition it was, Mr. McDaniel?

13 MR. MCDANIEL: I have not looked at it, your Honor.
14 I believe that it's one of -- I believe that question
15 was asked in multiple depositions, and I believe --

16 THE COURT: You've just got to find who it is and
17 whether or not I looked at it and considered it last
18 time. So, you're going to need to look at it and
19 forward it to me. Okay?

20 MR. MCDANIEL: Yes, ma'am. Yes.

21 MR. HAIGHT: Your Honor, --

22 THE COURT: Yes.

23 MR. HAIGHT: We would assert that, to the extent,
24 you know, these are --

25 THE COURT: You can challenge it if it wasn't

1 submitted and considered.

2 MR. HAIGHT: And there one 30(b)(6) deposition, and
3 that was Mr. Switzer, who's here with us today. You
4 know, some former board member saying something that
5 they thought from years ago, we don't know how that
6 would be binding in any way on the Club.

7 THE COURT: Okay. Well, I'm going to do this, once
8 he finds out who it is, he's going to forward it to me;
9 you're going to copy them by email; and then, if you
10 need to respond whether or not it was produced for my
11 consideration in the earlier hearing or whatever
12 challenge you have to that testimony or whatever your
13 argument is. Okay?

14 MR. HAIGHT: Thank you.

15 THE COURT: And I'm briefly. Okay?

16 MR. MCDANIEL: Yes, your Honor.

17 THE COURT: Okay. Anything else?

18 MR. MCDANIEL: No, your Honor.

19 MR. HAIGHT: We would, again, refer to our
20 memorandum in this case, --

21 THE COURT: Yes, you got it.

22 MR. HAIGHT: -- which we think is spot on. Mr.
23 Hughes, did you have anything?

24 MR. HUGHES: Your Honor, I don't know how much you
25 want to go into it here, but just briefly to address

1 summarily what he just said, --

2 THE COURT: Okay.

3 MR. HUGHES: -- this case ultimately comes down to
4 contract interpretation. There are a variety of
5 documents, all of which relate, ultimately, to the
6 contractual obligations undertaken by the various
7 parties here. And the law is clear that the Cardinal
8 Rule is to ascertain and determine the intent of the
9 parties. And when the documents themselves are clear,
10 those -- that is the intent which is evidenced by the
11 document. That is the intent which the courts must
12 enforce.

13 And again, the documents to be interpreted as a
14 whole, and one cannot rely upon segmental parts of those
15 documents taken, effectively, out of context. And I
16 would submit, generally, to the extent that he cites the
17 general rules, the general rules also within general
18 rules 14, encompass suspension, resignation,
19 termination, all of which are encompassed by the term
20 termination. And within several points within Rule 14,
21 there is a general admonition that's not withstanding
22 termination by whatever means, resignation, suspension,
23 expulsion, or otherwise.

24 The member still remains liable for payment of
25 dues, fees, and assessments. This is reinforced by Page

1 9 of the Plan of Offering, which, again says
2 notwithstanding resignation, the member remains liable
3 until that membership is validly transferred to a
4 subsequent purchaser.

5 And finally, as I've certainly done it before this
6 Court, and I apologize for doing it again. Sections 33-
7 31-320 and 33-31-321 clearly evidence the statute's
8 intention that, notwithstanding resignation, suspension,
9 or termination, the member remains liable for
10 obligations, including those of paying their dues and
11 fees which were undertaken prior to such termination.
12 And any argument to the contrary is simply specious.

13 THE COURT: Okay. All right.

14 MR. MCDANIEL: Termination's defined differently
15 than expulsion. He lumps them together. They're not
16 lumped together in the rules.

17 THE COURT: Okay. All right. Thank you all. It
18 was good to see everyone. I'll let you know something
19 shortly.

20 MR. HAIGHT: And your Honor, we'll pass this up.
21 It doesn't have real tabs, but just use Post-its. We
22 didn't make a run to Staples to get any. It was
23 intended for our own use.

24 THE COURT: Okay.

25 MR. HAIGHT: So, we apologize for that.

5-27-14 Callawassie Island v Dennis

1 THE COURT: No worries. Okay. All right. Thank
2 you all.

3 MR. HUGHES: Thank you, your Honor.

END PROCEEDING 11:53 A.M.

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

THE CALLAWASSIE ISLAND)
MEMBERS CLUB, INC.,)

Plaintiff,)

v.)

RONNIE D. DENNIS and)
JEANETTE DENNIS,)

Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2011-CP-07-3322

AFFIDAVIT OF JEFF SPENCER

PERSONALLY appeared before the undersigned Notary Public Jeff Spencer, General Manager of The Callawassie Island Members Club, Inc. (hereinafter sometimes referred to as "The Callawassie Island Members Club" or "CIMC"), Plaintiff in the above-captioned matter, who having first been duly sworn, deposes and on oath says:

1. That as General Manager of The Callawassie Island Members Club, I am familiar with and have personal knowledge of the files and records associated with the membership which is the subject of this action and I have reviewed the account information and records of CIMC kept in the ordinary course of business reflecting the debits and credits relating to this matter and have reviewed the various governing documents.

2. That as of August 31, 2013, the Defendants are indebted to the Plaintiff for the total amount of Thirty-Eight Thousand Two Hundred Fifty-Four and 51/100 (\$38,254.51) Dollars for unpaid dues, fees, assessments and other charges as shown on the statement attached to this affidavit as Exhibit "A". That the dues, fees, assessments and other charges are in the nature of continuing contractual obligations and unpaid dues, fees, assessments and other charges, including interest at the rate of one and one-half (1.5%) percent per month, continue to accrue. Said amount does not include attorney's fees and other costs of collection which are also due and which are addressed in a separate affidavit.

CIVIL ACTION NO. 2011-CP-07-3322

AFFIDAVIT OF JEFF SPENCER

3. In applying for and contracting to purchase a membership from The Callawassie Island Club, Inc., Plaintiff's predecessor in interest, and, further, in subsequently purchasing said membership, the Defendants agreed to a continuing contractual obligation to pay such dues, fees and charges established from time to time and to keep the memberships in good standing. Defendants also agreed that their membership would be governed by the Plan for the Offering of Memberships in The Callawassie Island Club, dated April 1, 1994, as same may be amended from time to time ("Plan"). Additionally, Defendants agreed that their membership would be governed by the General Club Rules and that any payments would be billed in accordance with the customary billing and collection procedure of the The Callawassie Island Club, Inc.

4. The Defendants also agreed to release and hold The Callawassie Island Club, Inc. harmless from any claims, demands or actions they might have because of the Membership Purchase Agreement, the Application for Membership, or any subsequent acts or omissions suspending or terminating the membership.

5. The Defendants were provided notice to satisfy their delinquent account, but have failed or refused to satisfy their continuing obligations to CIMC.

6. CIMC has demanded payment of the amounts due, but the Defendants have failed and refused to pay said delinquent amounts, and the Defendants are in breach and default of the agreements and covenants under the applicable documents, including but not limited to the The Callawassie Island Club Application for Membership and the The Callawassie Island Club Membership Purchase Agreement; as well as the Plan, the By-Laws and the General Club Rules, as they may be amended from time to time.

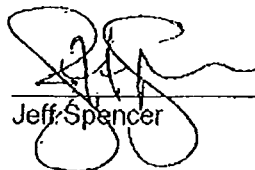
CIVIL ACTION NO. 2011-CP-07-3322

AFFIDAVIT OF JEFF SPENCER

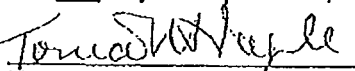
7. The fact that CIMC has been forced, owing to non-payment, to suspend the Defendants' membership rights and privileges pursuant to the applicable documents is unrelated to the Defendants' continuing obligation to maintain the memberships in good standing and pay the associated dues, fees, assessments and other charges.

8. The suspension of membership privileges does not relieve the Defendants' of their obligation to continue paying dues, fees and assessments until such time as their membership is reissued to a new member in accordance with the Plan, as amended.

FURTHER DEPONENT SAYETH NOT.


Jeff Spencer

SWORN to AND SUBSCRIBED before me
this 21st day of September, 2013.

 (L.S.)
Notary Public for South Carolina
My Commission expires: 11/4/14

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

THE CALLAWASSIE ISLAND
MEMBERS CLUB, INC.,

Plaintiff,

v.

RONNIE D. DENNIS and
JEANETTE DENNIS,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2011-CP-07-3322

AFFIDAVIT OF EHRICK K. HAIGHT, JR.

NOV 13 2013
CLERK OF COURT
K. HAIGHT, JR.
AM 11:38

PERSONALLY appeared before the undersigned Notary Public Ehrick K. Haight, Jr., who having first been duly sworn, deposes and says that he is an attorney with the law firm of Minor, Haight & Arundell, P.C., attorneys for the Plaintiff in the above-captioned matter.

That he has reviewed the books and records of the law firm, has personal knowledge of the same and finds that through and including November 4, 2013, Minor, Haight & Arundell, P.C., had expended time on behalf of the Plaintiff as set forth on the attached Statement of Time.

That such time was devoted to discussion, research, legal research, written correspondence, telephone calls, reviewing documents, preparation of pleadings and other documents, locating and perfecting service upon the Defendants, discovery, attendance at depositions and attendance at conferences, and hearing preparation. The time for each of the attorneys and paralegals involved in the file and their customary billing rates are set forth on the attached sheet. The Deponent believes it will be reasonably necessary to devote an additional Ten (10) to Twenty (20) hours until the conclusion of this action, assuming the Plaintiff's Motion of Summary Judgment is granted.

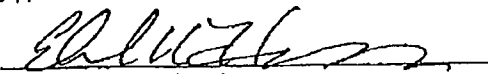
The Deponent calls the attention of the Court to the terms and conditions of those certain contracts with the Plaintiff or the Plaintiff's predecessor-in-interest on or about July of 1999 and

October of 1999, copies of which were previously filed with this court as Exhibits "A" and "B" to the Complaint, whereby the Defendants agreed to be bound by the terms and conditions of Plan for Offering of Memberships in the Callawassie Island Club, dated April 1994 and the exhibits thereto ("Membership Plan"), as amended. In agreeing to be bound to the Membership Plan, the Defendants became obligated for the payment of dues, fees, assessments and other charges. The Membership Plan was subsequently amended and made part of a Plan for Offering of Memberships (the "Plan"), which was adopted by the Defendants by virtue of their continuing membership with the Club. Under the Plan, Defendants continued to be obligated for the payment of dues, fees, assessments and other charges and the costs of collection, including reasonable attorney's fees. Based upon the foregoing, the Deponent is informed and believes that the court should award the sum of Nine Thousand Nine Hundred Forty-Nine and No/100 (\$9,949.00) Dollars as reasonable attorneys' fees. In addition, based upon the books and records of the law firm in this file, it appears that the law firm has expended on behalf of the Plaintiff the following sums, representing costs of collection:

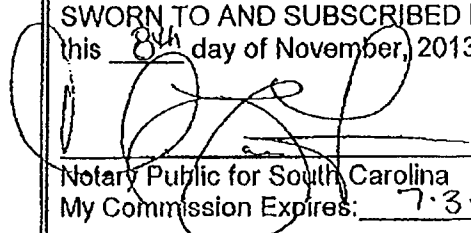
(1)	Filing fees:	\$150.00
(2)	Fees for service:	\$143.00
	Total Costs (as of 11/4/13):	<u>\$293.00</u>

Deponent is further informed and verily believes that such items should be recovered as a part of the judgment against the Defendants.

FURTHER DEPONENT SAYETH NOT.


Ehrick K. Haight, Jr.

SWORN TO AND SUBSCRIBED before me
this 8th day of November, 2013.


Notary Public for South Carolina
My Commission Expires: 7.3.22

STATEMENT OF TIME & COSTS
MINOR, HAIGHT & ARUNDELL, P.C.

<u>Attorney</u>	<u>Hours Billed</u>	<u>Rate</u>	
Ehrick K. Haight, Jr.	24.72	\$225.00	
Stacey Collins	2.75	\$200.00	
<u>Paralegals</u>			
Elaine H. Mohtgomery	.90	\$ 80.00	
Maria F. Lara	9.80	\$ 50.00	
		Less discount:	-\$ 100.00
		Fees incurred as of 11/6/13:	\$ 6,574.00
		Estimated Additional Fees:	\$ <u>3,375.00</u>
		Subtotal of Attorneys' Fees	\$ 9,949.00
		Plus Costs:	\$ <u>293.00</u>
		TOTAL FEES AND COSTS:	\$ 10,242.00

2014 NOV 11 AM 11:38
 RECEIVED
 CLERK OF COURT
 \$ 5,562.00
 \$ 650.00
 \$ 572.00
 \$ 490.00

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)
THE CALLAWASSIE ISLAND)
MEMBERS CLUB, INC.,)
Plaintiff,)
v.)
RONNIE D. DENNIS and)
JEANETTE DENNIS,)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2011-CP-07-3322

SUPPLEMENTAL AFFIDAVIT OF JEFF SPENCER

2013 NOV - 8 AM 11:38
CLERK OF COURT
JUDICIAL CIRCUIT
14TH JUDICIAL CIRCUIT
JACKSONVILLE, FLORIDA

PERSONALLY appeared before the undersigned Notary Public Jeff Spencer, General Manager of The Callawassie Island Members Club, Inc. (hereinafter sometimes referred to as "The Callawassie Island Members Club" or "CIMC"), Plaintiff in the above-captioned matter, who having first been duly sworn, deposes and on oath says:

1. That as General Manager of The Callawassie Island Members Club, I am familiar with and have personal knowledge of the files and records associated with the membership which is the subject of this action and I have reviewed the account information and records of CIMC kept in the ordinary course of business reflecting the debits and credits relating to this matter and have reviewed the various governing documents.

2. That as of November 7, 2013, the Defendants are indebted to the Plaintiff for the total amount of Forty Thousand Eight Hundred Eighty-Nine and 76/100 (\$40,889.76) for unpaid dues, fees, assessments and other charges as shown on the statement attached to this affidavit as Exhibit "A". That the dues, fees, assessments and other charges are in the nature of continuing contractual obligations and unpaid dues, fees, assessments and other charges, including interest at the rate of one and one-half (1.5%) percent per month, continue to accrue. Said amount does not include attorney's fees and other costs of collection which are also due and which are addressed in a separate affidavit.

CIVIL ACTION NO. 2011-CP-07-3322

AFFIDAVIT OF JEFF SPENCER

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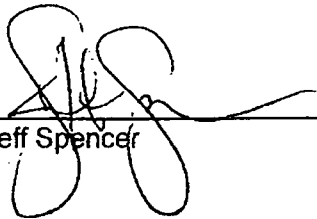
CIVIL ACTION NO. 2011-CP-07-3322

AFFIDAVIT OF JEFF SPENCER

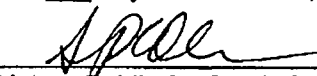
7. The fact that CIMC has been forced, owing to non-payment, to suspend the Defendants' membership rights and privileges pursuant to the applicable documents is unrelated to the Defendants' continuing obligation to maintain the memberships in good standing and pay the associated dues, fees, assessments and other charges.

8. The suspension of membership privileges does not relieve the Defendants' of their obligation to continue paying dues, fees and assessments until such time as their membership is reissued to a new member in accordance with the Plan, as amended.

FURTHER DEPONENT SAYETH NOT.


Jeff Spencer

SWORN to AND SUBSCRIBED before me
this 8th day of November, 2013.

 (L.S.)
Notary Public for South Carolina
My Commission expires: 6-27-15

01 - Callawassie Island Club
Member History Oct 01/10 - Nov 07/13

03054 - Mr. Ron Dennis
16 Spring Island Drive
Okatie SC 29909

Main Phone : 843-987-0795
Alt. Phone :
Status : S
Unspent Min: \$500.00

Date	Chit/Inv	Description	Charges	Tax/Grat	Amount		
		Balance Fwd			721.86	721.86	
Oct31/10	SJ8105/05	Monthly Dues	556	0	556	1277.86	
Oct31/10	SJ8105/05	Club Amenities	50	0	50	1327.86	
Oct31/10	SJ8105/05	Golf Course Re	50	0	50	1377.86	
Oct31/10	4528/60	Ref. 4528 - Pa			-721.86	656	
Nov30/10	SJ8139/39	Monthly Dues	556	0	556	1212	
Nov30/10	SJ8139/39	Club Amenities	50	0	50	1262	
Nov30/10	SJ8139/39	Golf Course Re	50	0	50	1312	9.84
Nov30/10	SJ8144/44	Finance Charge	9.84	0	9.84	1321.84	
Dec31/10	SJ8177/77	Monthly Dues	605	0	605	1926.84	
Dec31/10	SJ8177/77	Club Amenities	50	0	50	1976.84	
Dec31/10	SJ8177/77	Golf Course Re	50	0	50	2026.84	
Dec31/10	008294/63	CTA Dues	30	0	30	2056.84	
Dec31/10	SJ8180/80	Annual Food &	287	0	287	2343.84	19.83
Dec31/10	SJ8179/79	Finance Charge	19.83	0	19.83	2363.668	
Jan31/11	SJ8209/09	Monthly Dues	605	0	605	2968.668	
Jan31/11	SJ8209/09	Club Amenities	50	0	50	3018.668	
Jan31/11	SJ8209/09	Golf Course Re	50	0	50	3068.668	
Jan31/11	SJ8209/09	Golf Deficit A	266.68	0	266.68	3335.348	
Jan31/11	SJ8209/10	Monthly Dues	-605	0	-605	2730.348	
Jan31/11	SJ8209/10	Club Amenities	-50	0	-50	2680.348	
Jan31/11	SJ8209/10	Golf Course Re	-50	0	-50	2630.348	
Jan31/11	SJ8209/10	Golf Deficit A	-266.68	0	-266.68	2363.668	
Jan31/11	SJ8211/11	Monthly Dues	605	0	605	2968.668	
Jan31/11	SJ8211/11	Club Amenities	50	0	50	3018.668	

CIMC v. Dennis Appendix 565

ROA 436

Jan31/11	SJ8211/11	Golf Course Re	50	0	50	3068.668	35.46
Jan31/11	SJ8212/12	Finance Charge	35.46	0	35.46	3104.123	
Feb28/11	SJ8234/34	Monthly Dues	605	0	605	3709.123	
Feb28/11	SJ8234/34	Club Amenities	50	0	50	3759.123	
Feb28/11	SJ8234/34	Golf Course Re	50	0	50	3809.123	46.56
Feb28/11	SJ8233/33	Finance Charge	46.56	0	46.56	3855.684	
Mar31/11	SJ8267/67	Monthly Dues	605	0	605	4460.684	
Mar31/11	SJ8267/67	Club Amenities	50	0	50	4510.684	
Mar31/11	SJ8267/67	Golf Course Re	50	0	50	4560.684	57.84
Mar31/11	SJ8270/70	Finance Charge	57.84	0	57.84	4618.52	
Apr30/11	SJ8295/95	Monthly Dues	605	0	605	5223.52	
Apr30/11	SJ8295/95	Club Amenities	50	0	50	5273.52	
Apr30/11	SJ8295/95	Golf Course Re	50	0	50	5323.52	
Apr30/11	SJ8295/96	Monthly Dues	-605	0	-605	4718.52	
Apr30/11	SJ8295/96	Club Amenities	-50	0	-50	4668.52	
Apr30/11	SJ8295/96	Golf Course Re	-50	0	-50	4618.52	
Apr30/11	SJ8297/97	Monthly Dues	605	0	605	5223.52	
Apr30/11	SJ8297/97	Club Amenities	50	0	50	5273.52	
Apr30/11	SJ8297/97	Golf Course Re	50	0	50	5323.52	69.28
Apr30/11	SJ8299/99	Finance Charge	69.28	0	69.28	5392.798	
May31/11	SJ8314/14	Monthly Dues	605	0	605	5997.798	
May31/11	SJ8314/14	Club Amenities	50	0	50	6047.798	
May31/11	SJ8314/14	Golf Course Re	50	0	50	6097.798	80.89
May31/11	SJ8330/30	Finance Charge	80.89	0	80.89	6178.689	
Jun30/11	SJ8351/51	Monthly Dues	605	0	605	6783.689	
Jun30/11	SJ8351/51	Club Amenities	50	0	50	6833.689	
Jun30/11	SJ8351/51	Golf Course Re	50	0	50	6883.689	92.68
Jun30/11	SJ8353/53	Finance Charge	92.68	0	92.68	6976.37	
Jul01/11	009309/64	Semi-Annual F&	500	0	500	7476.37	
Jul31/11	SJ8380/80	Monthly Dues	605	0	605	8081.37	
Jul31/11	SJ8380/80	Club Amenities	50	0	50	8131.37	
Jul31/11	SJ8380/80	Golf Course Re	50	0	50	8181.37	104.65

Jul31/11	SJ8387/87	Finance Charge	104.65	0	104.65	8286.015	
Aug31/11	SJ8409/09	Monthly Dues	605	0	605	8891.015	
Aug31/11	SJ8409/09	Club Amenities	50	0	50	8941.015	
Aug31/11	SJ8409/09	Golf Course Re	50	0	50	8991.015	124.29
Aug31/11	SJ8411/11	Finance Charge	124.29	0	124.29	9115.306	
Sep30/11	SJ8429/29	Monthly Dues	605	0	605	9720.306	
Sep30/11	SJ8429/29	Club Amenities	50	0	50	9770.306	
Sep30/11	SJ8429/29	Golf Course Re	50	0	50	9820.306	136.73
Sep30/11	SJ8430/30	Finance Charge	136.73	0	136.73	9957.035	
Oct31/11	SJ8454/54	Monthly Dues	605	0	605	10562.04	
Oct31/11	SJ8454/54	Club Amenities	50	0	50	10612.04	
Oct31/11	SJ8454/54	Golf Course Re	50	0	50	10662.04	149.36
Oct31/11	SJ8458/58	Finance Charge	149.36	0	149.36	10811.39	
Nov30/11	SJ8480/80	Monthly Dues	605	0	605	11416.39	
Nov30/11	SJ8480/80	Club Amenities	50	0	50	11466.39	
Nov30/11	SJ8480/80	Golf Course Re	50	0	50	11516.39	162.17
Nov30/11	SJ8482/82	Finance Charge	162.17	0	162.17	11678.56	
Dec31/11	SJ8508/08	Monthly Dues	634	0	634	12312.56	
Dec31/11	SJ8508/08	Club Amenities	50	0	50	12362.56	
Dec31/11	SJ8508/08	Golf Course Re	50	0	50	12412.56	175.18
Dec31/11	SJ8510/10	Finance Charge	175.18	0	175.18	12587.74	
Jan01/12	SJ8511/11	Annual Food &	500	0	500	13087.74	
Jan31/12	SJ8532/32	Monthly Dues	634	0	634	13721.74	
Jan31/12	SJ8532/32	Club Amenities	50	0	50	13771.74	
Jan31/12	SJ8532/32	Golf Course Re	50	0	50	13821.74	188.82
Jan31/12	SJ8529/29	Finance Charge	188.82	0	188.82	14010.56	
Feb29/12	SJ8555/55	Monthly Dues	634	0	634	14644.56	
Feb29/12	SJ8555/55	Club Amenities	50	0	50	14694.56	
Feb29/12	SJ8555/55	Golf Course Re	50	0	50	14744.56	210.16
Feb29/12	SJ8557/57	Finance Charge	210.16	0	210.16	14954.71	
Mar31/12	SJ8577/77	Monthly Dues	634	0	634	15588.71	
Mar31/12	SJ8577/77	Club Amenities	50	0	50	15638.71	

Mar31/12	SJ8577/77	Golf Course Re	50	0	50	15688.71	224.32
Mar31/12	SJ8579/79	Finance Charge	224.32	0	224.32	15913.04	
Apr30/12	SJ8601/01	Monthly Dues	634	0	634	16547.04	
Apr30/12	SJ8601/01	Club Amenities	50	0	50	16597.04	
Apr30/12	SJ8601/01	Golf Course Re	50	0	50	16647.04	238.70
Apr30/12	SJ8604/04	Finance Charge	238.70	0	238.70	16885.73	
May31/12	SJ8621/21	Monthly Dues	634	0	634	17519.73	
May31/12	SJ8621/21	Club Amenities	50	0	50	17569.73	
May31/12	SJ8621/21	Golf Course Re	50	0	50	17619.73	253.29
May31/12	SJ8626/26	Finance Charge	253.29	0	253.29	17873.02	
Jun30/12	SJ8651/51	Monthly Dues	634	0	634	18507.02	
Jun30/12	SJ8651/51	Club Amenities	50	0	50	18557.02	
Jun30/12	SJ8651/51	Golf Course Re	50	0	50	18607.02	
Jun30/12	SJ8652/52	Annual Food &	500	0	500	19107.02	268.10
Jun30/12	SJ8654/54	Finance Charge	268.10	0	268.10	19375.11	
Jul31/12	SJ8671/71	Monthly Dues	634	0	634	20009.11	
Jul31/12	SJ8671/71	Club Amenities	50	0	50	20059.11	
Jul31/12	SJ8671/71	Golf Course Re	50	0	50	20109.11	290.63
Jul31/12	SJ8678/78	Finance Charge	290.63	0	290.63	20399.74	
Aug31/12	SJ8696/96	Monthly Dues	634	0	634	21033.74	
Aug31/12	SJ8696/96	Club Amenities	50	0	50	21083.74	
Aug31/12	SJ8696/96	Golf Course Re	50	0	50	21133.74	306.00
Aug31/12	SJ8704/04	Finance Charge	306.00	0	306.00	21439.73	
Sep30/12	SJ8728/28	Monthly Dues	634	0	634	22073.73	
Sep30/12	SJ8728/28	Club Amenities	50	0	50	22123.73	
Sep30/12	SJ8728/28	Golf Course Re	50	0	50	22173.73	321.60
Sep30/12	SJ8730/30	Finance Charge	321.60	0	321.60	22495.33	
Oct31/12	SJ8752/52	Monthly Dues	634	0	634	23129.33	
Oct31/12	SJ8752/52	Club Amenities	50	0	50	23179.33	
Oct31/12	SJ8752/52	Golf Course Re	50	0	50	23229.33	337.43
Oct31/12	SJ8754/54	Finance Charge	337.43	0	337.43	23566.76	
Nov30/12	SJ8770/70	Monthly Dues	634	0	634	24200.76	

Nov30/12	SJ8770/70	Club Amenities	50	0	50	24250.76	
Nov30/12	SJ8770/70	Golf Course Re	50	0	50	24300.76	
Nov30/12	SJ8770/70	Golf Capital A	900	0	900	25200.76	353.50
Nov30/12	SJ8791/91	Finance Charge	353.50	0	353.50	25554.26	
Dec31/12	SJ8808/08	Monthly Dues	634	0	634	26188.26	
Dec31/12	SJ8808/08	Club Amenities	50	0	50	26238.26	
Dec31/12	SJ8808/08	Golf Course Re	50	0	50	26288.26	
Dec31/12	SJ8830/30	Annual Food &	500	0	500	26788.26	383.31
Dec31/12	SJ8827/27	Finance Charge	383.31	0	383.31	27171.58	
Jan31/13	SJ8866/66	Monthly Dues	634	0	634	27805.58	
Jan31/13	SJ8866/66	Club Amenities	50	0	50	27855.58	
Jan31/13	SJ8866/66	Golf Course Re	50	0	50	27905.58	407.57
Jan31/13	SJ8869/69	Finance Charge	407.57	0	407.57	28313.15	
Feb28/13	SJ8877/77	Monthly Dues	634	0	634	28947.15	
Feb28/13	SJ8877/77	Club Amenities	50	0	50	28997.15	
Feb28/13	SJ8877/77	Golf Course Re	50	0	50	29047.15	424.70
Feb28/13	SJ8890/90	Finance Charge	424.70	0	424.70	29471.85	
Mar31/13	SJ8906/06	Monthly Dues	634	0	634	30105.85	
Mar31/13	SJ8906/06	Club Amenities	50	0	50	30155.85	
Mar31/13	SJ8906/06	Golf Course Re	50	0	50	30205.85	442.08
Mar31/13	SJ8929/29	Finance Charge	442.08	0	442.08	30647.92	
Mar31/13	SJ8929/31	Finance Charge	(442.08)	0	(442.08)	30205.85	
Mar31/13	SJ8936/36	Finance Charge	442.08	0	442.08	30647.92	
Mar31/13	AutoAdjust	Auto Account A	0	0	0	30647.92	
Apr30/13	SJ8985/85	Monthly Dues	634	0	634	31281.92	
Apr30/13	SJ8985/85	Club Amenities	50	0	50	31331.92	
Apr30/13	SJ8985/85	Golf Course Re	50	0	50	31381.92	459.72
Apr30/13	SJ8989/89	Finance Charge	459.72	0	459.72	31841.64	
May31/13	SJ9015/15	Monthly Dues	634	0	634	32475.64	
May31/13	SJ9015/15	Club Amenities	50	0	50	32525.64	
May31/13	SJ9015/15	Golf Course Re	50	0	50	32575.64	
May31/13	SJ9015/15	Golf Capital A	900	0	900	33475.64	477.62

May31/13	SJ9017/17	Finance Charge	477.62	0	477.62	33953.27	
Jun30/13	SJ9041/41	Monthly Dues	634	0	634	34587.27	
Jun30/13	SJ9041/41	Club Amenities	50	0	50	34637.27	
Jun30/13	SJ9041/41	Golf Course Re	50	0	50	34687.27	
Jun30/13	SJ9044/44	Annual Food &	500	0	500	35187.27	509.30
Jun30/13	SJ9043/43	Finance Charge	509.30	0	509.30	35696.57	
Jul31/13	SJ9078/78	Monthly Dues	634	0	634	36330.57	
Jul31/13	SJ9078/78	Club Amenities	50	0	50	36380.57	
Jul31/13	SJ9078/78	Golf Course Re	50	0	50	36430.57	535.45
Jul31/13	SJ9080/80	Finance Charge	535.45	0	535.45	36966.02	
Aug31/13	SJ9103/03	Monthly Dues	634	0	634	37600.02	
Aug31/13	SJ9103/03	Club Amenities	50	0	50	37650.02	
Aug31/13	SJ9103/03	Golf Course Re	50	0	50	37700.02	554.49
Aug31/13	SJ9106/06	Finance Charge	554.49	0	554.49	38254.51	
Sep30/13	SJ9130/30	Monthly Dues	634	0	634	38888.51	
Sep30/13	SJ9130/30	Club Amenities	50	0	50	38938.51	
Sep30/13	SJ9130/30	Golf Course Re	50	0	50	38988.51	573.82
Sep30/13	SJ9136/36	Finance Charge	573.82	0	573.82	39562.32	
Oct31/13	SJ9207/07	Monthly Dues	634	0	634	40196.32	
Oct31/13	SJ9207/07	Club Amenities	50	0	50	40246.32	
Oct31/13	SJ9207/07	Golf Course Re	50	0	50	40296.32	593.43
Oct31/13	SJ9212/12	Finance Charge	593.43	0	593.43	40889.76	

Total: 40,889.76

ACTION COVER SHEET

2011CP0703322

**Callawassie Island Members Club Inc VS Ronnie D Dennis , defendant, et al
Lynn Bonge**



★ 2 0 1 1 C P 0 7 0 3 3 2 2 ★



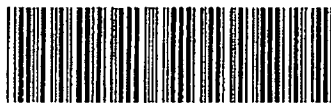
★ R O N N I E D E N N I S ★



★ A F F D V T ★



★ C A L L A W A S S I E I S M E M B E R S ★



★ 2 0 1 3 - 1 1 - 8 ★

1 STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

2 COUNTY OF BEAUFORT

3
4 THE CALLAWASSIE ISLAND MEMBERS CLUB, INC.,

5 Plaintiff,

6 vs.

CASE NO.2009-CP-07-4648

7 MICHAEL A. AULTON, and SANDRA D. AULTON,

8 Defendants.

9
10
11 DEPOSITION OF: GEORGE HARMAN SWITZER, III

12 DATE: February 7, 2013

13 TIME: 10:17 AM

14 LOCATION: Law Office of
Brian D. McDaniel
15 2015 Boundary Street, Suite 216
Beaufort, SC 29902

16 TAKEN BY: Counsel for the Defendant

17 REPORTED BY: LORA L. McDANIEL,
18 Registered Professional Reporter

19
20 A. WILLIAM ROBERTS, JR. & ASSOCIATES

Fast, Accurate & Friendly

21
22 Charleston, SC Hilton Head, SC Myrtle Beach, SC
(843) 722-8414 (843) 785-3263 (843) 839-3376

23
24 Columbia, SC Greenville, SC Charlotte, NC
25 (803) 731-5224 (864) 234-7030 (704) 573-3919

1 Q. Did you require that those members or did
2 the board require that the members that paid \$45,000
3 specifically approve that, or was it done by
4 majority? What type of vote was it that approved?

5 A. I think it was done by majority. I only
6 remember one ballot.

7 Q. Do you know of any members that paid
8 \$45,000 who voted against the reduction of their
9 equity?

10 A. I'm sure there must've been some. I don't
11 know them personally. That entire process was
12 followed per opinion from our counsel; the education,
13 the ballot, everything. Because of the complexity of
14 the situation.

15 Q. How much was the total that the club
16 benefited by making that change? And what would be
17 owed to the members, do you know?

18 A. I don't know, but it's not a significantly
19 different change because the benefit really was,
20 hopefully, increased real estate sales.

21 Q. As to each member they now --

22 A. The net to the club -- I think you're
23 asking me, the selling member, obviously, with the
24 production may feel he lost some equity.

25 Q. He has lost some equity; right?

1 A. Perceived.

2 Q. He was owed 40,000 and now gets 5,000.

3 How is that perceived?

4 A. If I can sell my house and my membership
5 for \$325,000, it doesn't really matter whether the
6 internal arithmetic is 45 or not. I understand some
7 people perceive it differently.

8 One of the problems that we were having,
9 the total package was going to have to be discounted
10 for people to sell just because of market conditions.

11 Q. To benefit the landowners who also own
12 memberships?

13 MR. HAIGHT: Object to the form.

14 THE WITNESS: They're one and the same.

15 BY MR. McDANIEL:

16 Q. No, they're not one and the same. There
17 are people who don't own land, but own memberships,
18 are there not?

19 A. Minimal.

20 Q. There are people who own membership who
21 don't own land.

22 A. Try that again.

23 Q. I'm trying to make clear. You have
24 members in the club who don't own property on
25 Callawassie Island; correct?

expelled membership as well?

[Depo: H. Switzer 2/7/2013] p.138

A. I'd have to assume it. I don't know.

Q. You don't know the accounting, is what you're saying. Your understanding of the way this stuff functions, a conceded or expelled membership is no longer being pursued for dues, fees, obligations?

A. Please say that again.

MR. HUGHES: Object to the form.

BY MR. McDANIEL:

Q. Your understanding is that a conceded or expelled membership --

A. My assumption would be.

Q. Your assumption would be those members, conceded and expelled are no longer obligated for dues, fees, and assessments.

MR. HUGHES: Object to form.

BY MR. McDANIEL:

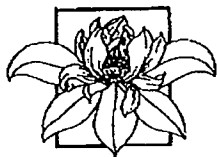
Q. Yes or no?

A. Yes, my assumption would be.

Q. Let me make sure I ask about some of these at the bottom that looks like they were placed on here after 2001, particularly after June or August of 2001. I don't recall exactly. What about Tempest, number 56? Are you familiar with that?

A. I'm familiar with the individual.

PLAN FOR THE OFFERING OF MEMBERSHIPS



CALLAWASSIE
ISLAND
CLUB

April 1, 1994

PLAN FOR THE OFFERING OF MEMBERSHIPS
IN THE CALLAWASSIE ISLAND CLUB

GENERAL DESCRIPTION OF MEMBERSHIP PLAN

PURPOSE OF THE CLUB

This Membership Plan and its exhibits offer persons the opportunity to acquire an equity membership in The Callawassie Island Club, Inc., a South Carolina non-profit corporation (the "Club"). The Club is an equity, member-owned club, which will own and operate golf, tennis, swimming and social facilities on Callawassie Island, South Carolina.

DESCRIPTION OF THE
CLUB FACILITIES

The "Club Facilities" which are available to the members and their families and guests include the following:

- a 27-hole championship golf course designed by Tom Fazio;
- a driving range and practice green;
- 4 tennis courts;
- a clubhouse facility, which includes locker rooms, a pro shop, a dining room, a bar, a snack shop, club rooms and administrative offices;
- a swimming pool and deck area, located adjacent to the clubhouse; and
- a river club, which is located on the Colleton River and which includes a swimming pool, a bathhouse, a club room, a snack bar, a barbeque area and a boat dock.

CLUB FACILITIES WILL BE
TRANSFERRED TO THE CLUB

All of the Club Facilities are owned by Callawassie Island Company, L.P., a Delaware limited partnership (the "Partnership"). The Club has the option to acquire the Club Facilities in accordance with the terms and conditions of the Club Purchase Agreement between the Partnership and the Club. On the "Closing Date" (as hereinafter defined), all of the Club Facilities will be transferred to the Club, subject to the Mortgage which will be assumed by the Club (as hereinafter described more fully).

CONTROL OF THE CLUB

Control of the operation of the Club and its facilities will also be turned over to the equity members on the Closing Date as described more fully in the section entitled "Operation of the Club".

EQUITY MEMBERSHIPS

Two categories of equity membership will be offered by the Club: Golf Membership and Social Membership. Each equity membership will entitle the member to an ownership interest in the Club and to vote on various matters, including the election of the Board of Directors after the Closing Date.

MEMBERSHIP PRIVILEGES

Each person who acquires an equity membership will be entitled to use the Club Facilities in accordance with his or her category of membership and the General Club Rules established by the Club from time to time.

**PROCEDURES TO APPLY
FOR MEMBERSHIP**

Each person who desires to acquire an equity membership must deliver or mail to the Club a completed and signed Application for Membership, a Membership Purchase Agreement and a check (in U.S. funds) for the required membership contribution.

**MEMBERSHIP DIRECTOR
AVAILABLE TO ANSWER
INQUIRIES**

If you have any questions concerning this Membership Plan or the membership opportunities available in the Club, please call the Membership Director at (803) 522-2700 or visit the Membership Office at the Callawassie Reception Center, Monday through Friday from 9:00 A.M. to 5:00 P.M.

**CAREFULLY REVIEW
ALL DOCUMENTS**

This Membership Plan is a summary of the membership opportunities offered by the Club and is qualified by the definitive information set forth in the attached exhibits. Every person who desires to purchase a membership in the Club or to purchase a residential unit or lot in the Callawassie community ("Callawassie") should carefully read all of the attached documents and should consider seeking professional advice to evaluate these documents.

**RELY ONLY ON INFORMATION
IN THIS MEMBERSHIP PLAN
AND ITS EXHIBITS**

No person has been authorized to give any information or make any representation not contained in this Membership Plan and, if given or made, such information or representation must not be relied upon as having been authorized by the Partnership or the Club.

MEMBERSHIPS OFFERED
ONLY FOR RECREATIONAL
PURPOSES

MEMBERSHIPS ARE BEING OFFERED EXCLUSIVELY FOR THE PURPOSE OF PERMITTING PERSONS ACQUIRING MEMBERSHIPS TO OBTAIN RECREATIONAL USE OF THE CLUB FACILITIES. MEMBERSHIPS SHOULD NOT BE VIEWED OR ACQUIRED AS AN INVESTMENT AND NO PERSON PURCHASING A MEMBERSHIP SHOULD EXPECT TO DERIVE ANY ECONOMIC PROFITS FROM MEMBERSHIP IN THE CLUB.

NO FEDERAL OR STATE AUTHORITY HAS PASSED UPON OR ENDORSED THE MERITS OF THIS MEMBERSHIP PLAN.

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SCHEDULE OF EXHIBITS

Exhibit A Club Purchase Agreement without Exhibits.....	A-1
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Exhibit C General Club Rules	C-1

GENERAL DESCRIPTION OF MEMBERSHIP PLAN

MEMBERSHIP PLAN

The Club proposes to implement this Membership Plan and the exhibits hereto (collectively, the "Membership Plan"), pursuant to which persons may acquire an equity membership in the Club. Persons who acquire an equity membership in the Club will be entitled to use the Club Facilities in accordance with this Membership Plan and the General Club Rules established by the Club from time to time.

DESCRIPTION OF THE CLUB FACILITIES

DESCRIPTION OF THE CLUB FACILITIES

The Club Facilities which are available to the members and their families and guests include the following:

- a 27-hole championship golf course designed by Tom Fazio;
- a driving range and practice green;
- 4 tennis courts;
- a clubhouse facility, which includes a pro shop, dining room, bar, snack shop, locker rooms, club rooms and administrative offices;
- a swimming pool and deck area, located adjacent to the clubhouse; and
- a river club, which is located on the Colleton River and which includes a swimming pool, bathhouse, club room, snack bar, barbeque area and boat dock.

MAINTENANCE OF THE CLUB FACILITIES

CLUB FACILITIES MAINTAINED IN GOOD WORKING ORDER

Prior to the Closing Date, the Club Facilities will be maintained by the Partnership, at its sole cost and expense, in good working order, ordinary wear and tear excepted. After the Closing Date, the Club Facilities will be maintained by the Club, at the Club's sole cost and expense, in good working order, ordinary wear and tear excepted. The Club will at all times be responsible for any and all extraordinary repairs to the Club Facilities.

CAPITAL REPLACEMENT RESERVE

A capital replacement reserve will be established in the budget each year for property and equipment replacements to the Club Facilities. If the aggregate total of the reserve budgeted in any membership year prior to the Closing Date remains unused during that year, the unused portion may be used by the Partnership in subsequent years for any such property and equipment replacements.

THE CLUB WILL ACCEPT THE CLUB FACILITIES AS IS

On the Closing Date, the Club will accept the Club Facilities in their "where is, as is" condition. The Partnership and the Club make no representations or warranties concerning the final design, fitness, condition, construction, accuracy, completeness, location, adequacy of the size or capacity in relation to the utilization or the future economic performance or operation of, or the material, furniture or equipment which has been or will be used in the Club Facilities, except as specifically set forth in this Membership Plan.

EQUITY MEMBERSHIPS IN THE CLUB

A. IN GENERAL

DESCRIPTION OF EQUITY MEMBERSHIPS

Two categories of equity membership will be offered in the Club: Golf Membership and Social Membership. Each equity membership will represent an ownership interest in the Club and will entitle the equity member to vote on various club matters, including the election of the Board of Directors after the Closing Date. Each Golf Membership will entitle the Golf Member to five votes, while each Social Membership will entitle the Social Member to one vote. In addition, the Club may issue a total of forty Spring Island Founder Memberships. Spring Island Founder Members will have all of the same privileges, and will be required to pay the same dues, fees, charges (including any food and beverage minimums) and assessments, as a Golf Member.

NUMBER OF EQUITY MEMBERSHIPS

The total number of equity memberships permitted to be issued in the Club will be limited as follows:

CATEGORY OF EQUITY MEMBERSHIP	MEMBERSHIP LIMITS
Golf Membership	595
Spring Island Founder Membership	40
Social Membership	850 less outstanding Golf Memberships

**THE NUMBER OF EQUITY
MEMBERSHIPS MAY BE
INCREASED**

The total number of equity memberships permitted to be issued in the Club may be increased by two hundred for each additional nine holes of golf added to the Club Facilities by the Partnership or the Club. These additional equity memberships may be issued either as Golf Memberships, Social Memberships or a combination of the two as determined by the Partnership or the Club. If such additional golf facilities are added to the Club Facilities prior to the Closing Date, the approval of a majority of the votes associated with the outstanding equity memberships will be required. If the additional golf facilities are added by the Partnership, the Partnership will be entitled to all of the membership contributions from the sale of the additional memberships. Any additional golf facilities added to the Club Facilities will be substantially of the same quality as the existing golf course and, if located off-site, will be located within five miles of the Club.

B. ELIGIBILITY

**ELIGIBILITY FOR
EQUITY MEMBERSHIPS**

The Club will offer equity memberships to purchasers of residential units or lots in Callawassie and such other persons as the Club determines appropriate from time to time.

EXISTING EQUITY MEMBERS

Each existing equity member as of the date of this Membership Plan will be entitled to continue his or her equity membership under this Membership Plan without having to pay any additional or new membership contribution to the Club. Existing equity members will, however, continue to be obligated to pay any portion of their original membership contributions which are owed to the Club.

**EXISTING PROPERTY OWNERS
WHO ARE NOT MEMBERS**

Each existing property owner in Callawassie who is not an equity member as of the date of this Membership Plan will have until July 31, 1994 to apply for and acquire an equity membership in the Club. After that date, an existing property owner who is not an equity member will be entitled to acquire an equity membership only if one is available and not otherwise reserved by the Partnership or the Club.

**PURCHASERS OF A
RESIDENTIAL UNIT OR
LOT IN CALLAWASSIE**

Each initial retail purchaser of a residential unit or lot in Callawassie will have sixty days from the date of the closing of his or her residential unit or lot to apply for and acquire an equity membership in the Club. An initial retail purchaser who does not acquire an equity membership within sixty days after the closing of his or her residential unit or lot may acquire an equity membership at a later date only if one is available and not otherwise reserved by the Partnership or the Club.

**PERSONS WHO DO NOT
OWN PROPERTY
IN CALLAWASSIE**

The Club may offer equity memberships to such other persons who do not own property in Callawassie as the Partnership or the Club determines appropriate from time to time.

**OWNERS OF TWO OR MORE
RESIDENTIAL UNITS OR LOTS
IN CALLAWASSIE**

If a person owns or acquires two or more residential units or lots in Callawassie, the person may acquire an equity membership for each residential unit or lot for which membership privileges are desired. If the person does not acquire an equity membership for each of his or her residential units or lots by July 31, 1994, or within sixty days from the date of his or her closing on the residential units or lots, as the case may be, the person will be entitled to acquire equity memberships for such units or lots at a later date only if equity memberships are available and not otherwise reserved by the Partnership or the Club. Prior to the Closing Date, an equity member who acquires an additional equity membership will not be required to pay dues on the additional equity membership until the additional equity membership is either activated by the member or is transferred to another person, whichever occurs first. After the Closing Date, an equity member must pay dues on all of his or her equity memberships regardless of whether such equity memberships have been activated by the member.

**SUBSEQUENT PURCHASER OF
RESIDENTIAL UNIT OR LOT**

If a person does not acquire an equity membership in the Club, then the subsequent purchaser of his or her residential unit or lot in Callawassie will be entitled to acquire an equity membership only if an equity membership is available and not otherwise reserved by the Partnership or the Club.

**RESERVED MEMBERSHIPS
NOT AVAILABLE**

The Club may, in its sole discretion, reserve equity memberships for sale to future purchasers of residential units or lots in Callawassie and such other persons as the Partnership determines appropriate from time to time. Reserved memberships are not considered to be available and neither the Partnership nor the Club may be compelled to sell them.

**WAITING LIST FOR
EQUITY MEMBERSHIPS**

If any category of equity membership is not available, the Club will establish a waiting list for those persons who desire to acquire an equity membership in that category.

**SOCIAL MEMBERS MAY
UPGRADE TO A GOLF
MEMBERSHIP**

Social Members may, at all times subject to availability, upgrade to a Golf Membership upon the payment of the difference between the membership contribution for a Golf Membership, and the membership contribution for a Social Membership, at the time of the upgrade. The downgrade of a Golf Membership to a Social Membership is not permitted unless there is another equity member who desires to upgrade into the Golf Membership. Prior to the initial sale of all of the Golf Memberships permitted to be issued in the Club, the Partnership will be entitled to the proceeds from the upgrade of a Social Membership to a Golf Membership.

TITLE TO MEMBERSHIP

For the convenience of members and to facilitate the acquisition of memberships in the Club, an equity membership may be held in the name of a company, partnership, trust or other form of multiple ownership (collectively, the "entity"). The entity may designate one individual or family who will have the right to use the equity membership. The entity may change the designated user from time to time upon the payment of the redesignation fee established by the Club from time to time. The Club may establish rules from time to time governing the designation of an individual or family to use the equity membership, including a limit on the number of times the entity may change the designated user. All designated users will be subject to the approval of the Club.

**MEMBERSHIP PRIVILEGES
IN THE CLUB**

C. MEMBERSHIP PRIVILEGES

Each person who acquires an equity membership in the Club will be entitled to use the Club Facilities in accordance with the member's category of membership and the General Club Rules. The membership privileges associated with each category of equity membership are as follows:

GOLF MEMBERSHIP

Golf Membership. Golf Members will be entitled to use all of the Club Facilities. Golf Members will be entitled to reserve tee times fourteen days in advance and tennis court times six days in advance and will not be required to pay any greens fees or court fees for their use of the golf and tennis facilities. Golf Members will be required to pay golf cart fees or trail pass fees for their use of the golf course.

SOCIAL MEMBERSHIP

Social Membership. Social Members will be entitled to use all of the Club Facilities. Social Members will be entitled to play golf as a Social Member one time per month during the season (i.e., 3/1 - 5/15 and 10/1 - 11/30) and two times per month in the off-season. Social Members will be entitled to reserve tee times one day in advance and tennis court times six days in advance. Social Members will not be required to pay any court fees for their use of the tennis facilities, but will be required to pay greens fees at the same rate as the guests of a Golf Member and golf cart fees or trail pass fees for their use of the golf course.

THE CLUB MAY CHANGE PLAYING PRIVILEGES

In order to provide the utmost playing pleasure for all members, the Club reserves the right to establish different rules governing access, sign-up privileges and starting times with respect to the golf, tennis and other recreational facilities of the Club.

GOLF AND SOCIAL MEMBERS MAY EXCHANGE THEIR MEMBERSHIP PRIVILEGES

Golf Members and Social Members may exchange their respective membership privileges in accordance with the General Club Rules and payment of the administrative fee established by the Club from time to time. Each exchanging member will be required to submit such forms as may be required by the Club from time to time and to pay the other member's dues for the year of the exchange. All exchanges will be on a membership year basis and will not affect the exchanging members' underlying memberships.

FAMILY PRIVILEGES

An equity member's immediate family may use the Club Facilities in accordance with the member's category of membership. An equity member's immediate family includes the equity member's spouse and their unmarried children under the age of twenty-five, living at home or attending school on a full-time basis.

GUEST PRIVILEGES

An equity member may have guests use the Club Facilities in accordance with the member's category of membership and the General Club Rules. The equity member will be responsible for all charges incurred by his or her guests which remain unpaid after the customary billing and collection procedure of the Club and for the deportment of his or her guests.

LESSEE PRIVILEGES

An equity member who leases his or her residential unit in Callawassie (or such other community designated by the Club) may designate the lessee of the unit as the beneficial user of his or her equity membership. During the period when the lessee is designated as the beneficial user of the membership, the equity member will not be entitled to use that membership but will continue to be obligated to pay dues. The equity member will also be responsible for all charges incurred by his or her lessee which remain unpaid after the customary billing and collection procedure of the Club and the departure of his or her lessee. All lessees will be subject to the approval of the Club.

MEMBERSHIPS MAY BE TRANSFERRED ONLY TO THE CLUB

D. TRANSFER OF EQUITY MEMBERSHIP

A member may transfer his or her membership only to the Club. A member who owns a residential unit or lot in Callawassie or such other community designated by the Club may arrange for the Club to reissue his or her resigned membership to the purchaser of his or her residential unit or lot in Callawassie or the other designated community.

REISSUANCE OF RESIGNED EQUITY MEMBERSHIPS

If an equity member resigns from the Club and his or her equity membership is not reissued to the purchaser of his or her residential unit or lot in Callawassie or one of the other designated communities, then the resigned membership will, subject to the Partnership's right of first refusal, be placed on the waiting list to be reissued by the Club on a first-resigned, first-reissued, basis in accordance with the following:

- (a) Prior to the issuance of all of the equity memberships permitted to be issued in the resigned member's category of membership, every fourth equity membership issued in that category will be a resigned membership from the waiting list for that category. The other three equity memberships will be issued from the Club's unissued equity memberships.
- (b) After the issuance of all of the equity memberships permitted to be issued in the resigned member's category of membership, every equity membership issued in that category will be a resigned equity membership from the waiting list for that category.

**REPAYMENT OF
MEMBERSHIP CONTRIBUTION**

An equity member will be entitled to receive upon the reissuance of his or her resigned equity membership an amount equal to the greater of: (a) the membership contribution which the resigned member paid to the Club or (b) eighty percent of the membership contribution paid by the purchaser of the resigned member's membership. The Club will be entitled to deduct from the amount to be paid to the resigned member any amount which the resigned member owes to the Club.

**PORTION OF MEMBERSHIP
CONTRIBUTION RETAINED
BY CLUB**

The remaining twenty percent of the membership contribution will be retained by the Club and deposited in a Club Fund. Prior to the Closing Date, the Club Fund may be used by the Partnership to fund any operating deficits, the capital replacement reserve and any capital improvements to the Club Facilities. Any proceeds remaining in the Club Fund on the Closing Date will be turned over to the Club on the Closing Date and may, after the Closing Date, be used by the Board of Directors of the Club in any manner which the Board determines appropriate. Neither the Partnership nor any of its shareholders, officers, directors, agents or affiliates will have any responsibility for the Club Fund or for any amounts previously retained by the Partnership or the Club upon the reissuance of an equity membership prior to the date of this Membership Plan.

**EQUITY MEMBERS MAY
TAKE THEIR MEMBERSHIPS
WITH THEM TO ANOTHER
RESIDENTIAL UNIT OR
LOT IN CALLAWASSIE**

If an equity member acquires another residential unit or lot in Callawassie or one of the other designated communities, the equity member may take his or her equity memberships to the other unit or lot; provided, however, that if the other unit or lot is being sold by another equity member, then the prior written approval of both equity members is required to be delivered to the Club on such forms as may be designated by the Club from time to time.

TRANSFER UPON DEATH

Upon the death of an equity member, the deceased member's membership will automatically pass to the surviving spouse without payment of any new membership contribution. If the deceased member is not survived by a spouse, then the legatee or heir of the equity membership may acquire the deceased member's membership without payment of any new membership contribution. If the legatee or heir desires to acquire the equity membership, the legatee or heir must apply for the membership within one hundred twenty days after his or her right to the equity membership has been determined and pay to the Club any unpaid dues, fees, charges and assessments from the date of the member's death to the date of the application. If the legatee or heir does not apply for the membership within one hundred twenty days after acquiring the right to the equity membership, the equity membership will be deemed to have been resigned and will be reissued by the Club in the same manner as any other resigned equity membership. Upon the reissuance of the equity membership, the estate of the deceased member will be entitled to receive the amount of the membership contribution which would otherwise have been payable to the deceased member.

SEPARATION OR DIVORCE OF EQUITY MEMBERS

In the event equity members are legally separated or divorced, title to the equity membership will vest in the spouse awarded the equity membership, provided such spouse fulfills the eligibility requirements for membership in the Club. Both of the divorced or legally separated members will be required to give written notice to the Club designating the person who is entitled to the rights and privileges of the equity membership within five days after the divorce or legal separation is declared final. Until written notice has been provided to the Club, both spouses will be responsible for the payment of all dues, fees, charges (including any food and beverage minimums) and assessments associated with the equity membership.

PAYMENT OF DUES BY RESIGNED EQUITY MEMBER

An equity member who has resigned from the Club will be obligated to continue to pay dues and food and beverage minimums to the Club until his or her equity membership is reissued by the Club. These dues will accrue against and be deducted from the amount to be paid to the resigned member upon the reissuance of his or her resigned membership. A resigned member will be entitled to use the Club Facilities so long as the resigned member is obligated and continues to pay dues and any food and beverage minimums on the resigned membership.

**DUES, FEES AND CHARGES
PRORATED UPON REISSUANCE
OF RESIGNED MEMBERSHIP**

If a resigned equity membership is reissued by the Club during a membership year, the resigned equity member will be entitled to receive a pro-rata refund of any dues, fees and charges paid in advance for the remainder of the membership year.

**RIGHT TO PURCHASE A
RESIGNED GOLF MEMBERSHIP**

Prior to the initial sale of all of the residential units and lots in Callawassie and the designated communities, the Partnership will have a right of first refusal to purchase any resigned Golf Membership which is not being reissued to the purchaser of the resigned member's residential unit or lot in Callawassie or the designated communities. The Partnership may exercise its right of first refusal by paying to the Club the required membership contribution within thirty days after its receipt of written notice that a person desires to acquire the Golf Membership. The Partnership will not be required to pay any dues, fees, charges (including food and beverage minimums) or assessments on the membership and may reserve and have such membership reissued to any person which the Partnership deems appropriate.

MEMBERSHIP APPLICATION

**APPLICATION FOR
MEMBERSHIP**

Each person who desires to acquire an equity membership in the Club must submit to the Club an Application for Membership, a Membership Purchase Agreement and the required membership contribution in effect at the time the person acquires the equity membership.

**AMOUNT OF REQUIRED
MEMBERSHIP CONTRIBUTION**

Prior to the initial sale of all equity memberships permitted to be issued in the Club, the Partnership will determine the required membership contribution. After the initial sale of all of the equity memberships permitted to be issued in the Club, the Board of Directors will determine the required membership contribution.

**REVIEW OF APPLICATION
FOR MEMBERSHIP**

Upon receipt of the Application for Membership, the Membership Purchase Agreement and the required membership contribution, the Club will determine whether the applicant has satisfied the relevant conditions of membership. If the applicant has satisfied the relevant conditions of membership, the applicant will be notified in writing that his or her application has been acted upon favorably. If the applicant has not satisfied the requirements of membership, the applicant will be notified that the application has not been acted upon favorably and will be returned his or her membership contribution without interest.

**MEMBERS' RIGHTS TO USE
THE CLUB FACILITIES
ARE GOVERNED ONLY BY
THIS MEMBERSHIP PLAN**

If approved for membership in the Club, the applicant agrees to be bound by the terms and conditions of this Membership Plan and irrevocably agrees to fully substitute the membership privileges acquired pursuant to this Membership Plan for any present or prior rights in or to use the Club Facilities.

DUES, FEES AND CHARGES

DUES, FEES AND CHARGES

Prior to the Closing Date, all dues, fees, charges (including any food and beverage minimums) will be determined by the Partnership. Each year after the Closing Date, the Board of Directors of the Club will determine the dues, fees and charges (including any food and beverage minimums) for each category of membership in the Club. All dues will be payable in advance, on or before the first day of each month during the membership year, unless otherwise determined by the Club.

**RESIDENT AND
NON-RESIDENT DUES**

Resident and non-resident dues will be available in the Club. Each member who has a completed residential unit, or who resides for three or more months during any membership year, in Beaufort or Jasper Counties, South Carolina, or Chatham County, Georgia, will be considered to be a "resident" and will be required to pay the resident category of dues.

MEMBERSHIP YEAR

The Club's membership year will constitute the twelve month period commencing on January 1 and ending on December 31.

OPERATING AND CAPITAL ASSESSMENTS

OPERATING ASSESSMENTS

Members of the Club will not be subject to any operating assessments prior to the Closing Date. After the Closing Date, the Board of Directors may find it necessary to assess the members, in addition to dues and food and beverage minimums, to cover any operating deficits which may occur after the Closing Date. Prior to the Closing Date, the Partnership may use the Club Fund to fund any deficits from the operation of the Club Facilities. Any assessments to cover operating deficits which occur after the Closing Date will be prorated among all of the equity members in relation to the amount of dues charged to their respective membership categories during the membership year in which the deficit occurs.

CAPITAL ASSESSMENTS

Prior to the Closing Date, there will be no assessments for capital expenditures unless approved by a majority of the votes associated with the equity members subject to the assessment. Assessments for any capital expenditures to the golf course will be voted on by and prorated equally among the Golf Members. Social Members will not be subject to any assessment for capital expenditures to the golf course. All other assessments for capital expenditures to the Club Facilities will be voted on by and prorated equally among all of the equity members.

MEMBERSHIPS HELD BY THE PARTNERSHIP OR THE CLUB NOT SUBJECT TO ASSESSMENTS, DUES OR MINIMUMS

Any equity membership which is held by or on behalf of the Partnership or the Club will not be subject to any capital or operating assessments nor charged any dues, fees, charges or food and beverage minimums.

CLUB PURCHASE AGREEMENT

A. IN GENERAL

PURCHASE OF THE CLUB FACILITIES

The Club has the option to acquire the Club Facilities in accordance with the terms and conditions of the Club Purchase Agreement. Following the Club's exercise of the option, the Partnership will transfer the Club Facilities to the Club on the Closing Date.

B. PURCHASE PRICE OF THE CLUB FACILITIES

THE PURCHASE PRICE OF THE CLUB FACILITIES

The purchase price for the Club Facilities will be equal to the sum of: (a) the total membership contributions received or to be received from the initial sale of all of the equity memberships permitted to be issued in the Club, (b) the amount of the mortgage on the Club Facilities, and (c) the book value of the inventory and supplies on hand as of the Closing Date.

C. MORTGAGE

MORTGAGE ON THE CLUB FACILITIES

At any time on or before the Closing Date, the Partnership may cause the Club to obtain a mortgage on the Club Facilities which on the Closing Date will not exceed Two Million and No/100 Dollars (\$2,000,000) (the "Mortgage"). The Partnership will be entitled to all of the proceeds from the Mortgage. After the Closing Date, the Club will be responsible for making all payments on the Mortgage.

**MEMBERSHIP CONTRIBUTIONS
PAID TO THE PARTNERSHIP AS
OPTION DEPOSITS**

D. OPTION DEPOSITS

All membership contributions received by the Club from the initial sale of equity memberships will be paid to the Partnership as a nonrefundable deposit on the Club's option to acquire the Club Facilities. Upon the exercise of the option, the option deposits paid to the Partnership will be applied to and credited against the purchase price for the Club Facilities. Any membership contributions paid to the Partnership may be used by the Partnership in any manner which the Partnership, in its sole and absolute discretion, determines appropriate.

**CONDITIONS PRECEDENT
TO THE EXERCISE OF
THE OPTION**

E. EXERCISE OF THE OPTION

The Club may exercise the option to acquire the Club Facilities upon the approval of a majority of the votes associated with the outstanding equity memberships. The equity members may vote to exercise the option within sixty days after the occurrence of the earliest of the following events: (i) the initial sale of all of the equity memberships permitted to be issued in the Club; (ii) December 31, 2010; or (iii) such earlier date as the Partnership determines appropriate, provided the equity members approve such earlier date or the Club Facilities have been operated with a positive cash flow for the twelve-month period immediately preceding such date.

**UNISSUED EQUITY
MEMBERSHIPS DELIVERED
IN ESCROW**

If the closing occurs prior to the initial sale of all of the equity memberships permitted to be issued by the Club, the Club will deliver to the Partnership on the Closing Date any unissued equity memberships so that such unissued equity memberships may be issued to persons designated by the Partnership who will become members of the Club subject only to the approval of the Partnership. The Club will cooperate and use its best efforts in good faith, as and to the extent requested by the Partnership, to sell these equity memberships as quickly as practicable.

**CLOSING DATE WILL BE
WITHIN SIXTY DAYS OF
EXERCISE OF OPTION**

The closing of the purchase and sale of the Club Facilities will take place on the Closing Date (the "Closing Date"). The Closing Date will occur on such date as may be mutually determined by the Partnership and the Club but in no event later than sixty days after the exercise of the option by the Club.

**TRANSFER OF FEE SIMPLE
OWNERSHIP BY SPECIAL
WARRANTY DEED**

On the Closing Date, the Partnership will convey the Club Facilities, subject to the Mortgage, in their "where is, as is" condition to the Club, pursuant to a special warranty deed from the Partnership to the Club, and the Club will assume the liability for payment of the Mortgage, any lines of credit or loans used to acquire any supplies and/or inventories of the Club and any contracts or obligations (including any equipment leases) which benefit the Club after the Closing Date.

**IF OPTION NOT EXERCISED,
ALL RIGHTS TERMINATED**

If the equity members do not approve the exercise of the option in accordance with the Club Purchase Agreement, the Partnership may, in its sole discretion, terminate this Membership Plan and retain all of the membership contributions paid to it under the Club Purchase Agreement.

**BOARD OF DIRECTORS
RESPONSIBLE FOR
MANAGEMENT OF THE CLUB**

OPERATION OF THE CLUB

A Board of Directors will be responsible for the government and administration of the affairs and property of the Club and will have the authority to accept members, set dues, fees and charges (including any food and beverage minimums), establish rules and regulations and, in general, control the overall management and affairs of the Club. The Club may not be operated in contravention of the terms and conditions of the Membership Plan.

**CONTROL OF THE BOARD
OF DIRECTORS**

Prior to the Closing Date, all of the members of the Board of Directors will be appointed by the Partnership and need not be equity members of the Club. After the Closing Date, all members of the Board of Directors will be elected by the equity members and must be equity members of the Club.

**TURNOVER OF CONTROL
OF THE BOARD TO THE
EQUITY MEMBERS**

At the meeting where the equity members approve the exercise of the option, the equity members will elect nine equity members who will serve as the Board of Directors commencing on the Closing Date. On the Closing Date, the members of the Board of Directors who were appointed by the Partnership will resign and the nine members elected by the equity members will replace them. Three of these equity members will be designated to serve for a term of three years, three for a term of two years and three for a term of one year. Each year after the Closing Date, the equity members will elect, for a term of three years, three equity members to replace those directors whose terms have expired.

**ADVISORY BOARD OF
GOVERNORS TO ACT AS
LIAISON**

ADVISORY BOARD OF GOVERNORS

Prior to the Closing Date, the Club will establish a member's advisory Board of Governors (the "Board of Governors") to serve as a liaison between the management and the members of the Club. All of the members of the advisory Board of Governors will be designated by the Partnership from time to time. The advisory Board of Governors will serve only in an advisory capacity and will not have the power to negotiate or otherwise act on behalf of the members or the Club. The advisory Board of Governors will meet with the management of the Club on a regular basis to discuss the operation of the Club Facilities. On the Closing Date, the advisory Board of Governors will be terminated.

**SPRING ISLAND PROPERTY
OWNERS MAY ACQUIRE
NON-EQUITY SOCIAL
MEMBERSHIP PRIVILEGES**

OTHER MEMBERSHIP PRIVILEGES

Each Spring Island Property Owner as of the date of this Membership Plan will have until July 31, 1994 to acquire non-equity social membership privileges in the Club. Each purchaser of a residential unit or lot on Spring Island after the date of this Membership Plan will, subject to availability, have sixty days from the date of his or her closing on the residential unit or lot to acquire non-equity social membership privileges in the Club. Any Spring Island Property Owner who acquires non-equity social membership privileges in the Club will be required to pay the same dues, fees, charges (including any food and beverage minimums) and operating assessments as a Social Member but will not be required to pay any membership contribution or capital assessments to the Club. Any Spring Island Property Owner who acquires non-equity social membership privileges in the Club will have all of the same rights as a Social Member, except the Spring Island Property Owner will not be entitled to any ownership interest in the Club or its facilities and will not be entitled to vote on any club matters. A Spring Island Property Owner's non-equity social membership privileges will terminate upon the death or resignation of the Spring Island Property Owner, or the sale of his or her residential unit or lot on Spring Island, unless the purchaser of the residential unit or lot elects to continue the non-equity social membership privileges by agreeing to pay the required dues, fees, charges (including any food and beverage minimums) and operating assessments associated with the membership privileges. The total number of non-equity social memberships to be offered to Spring Island Property Owners will be limited to two hundred fifty.

ASSOCIATE MEMBERSHIPS

In order to promote the sale of residential units and lots in Callawassie and to introduce the Club to prospective members, the Club may offer non-equity associate memberships ("Associate Memberships") on an annual or seasonal recallable basis to persons who do not own a residential unit or lot in Callawassie. The rights and privileges of Associate Members will be determined by the Club from time to time. At the beginning of each membership year, the total number of Associate Memberships will be limited to the total number of Golf Memberships permitted to be issued in the Club, less the number of outstanding Golf Memberships. Associate Memberships will be recalled at the end of each membership year, as necessary, on a first-issued, last-recalled basis. Associate Members may be required to pay such dues, fees and charges (including food and beverage minimums) as may be determined by the Club from time to time, but will not be subject to any operating or capital assessments. Associate Members will not be entitled to any ownership interest in the Club or its facilities or to vote on any club matters.

DAILY FEE PLAY

Daily fee play may be permitted by the Club from time to time. All daily fee play will be discontinued by the Club once the Club Facilities have been operated at a breakeven level (after debt service) for twelve consecutive months. This breakeven level will be confirmed by a nationally recognized certified public accounting firm, in accordance with generally accepted accounting principles, consistently applied, taking into account the capital replacement reserve in lieu of any depreciation or amortization expense.

THE MARKETING, ACCESS AND USE AGREEMENT

In order to promote the sale and resales of residential units and lots in Callawassie, Spring Island and such other communities as may be developed by the Partnership or its affiliates, and to promote the sale of memberships in the Club, the Partnership and its successors, assigns and affiliates will be permitted to use the Club Facilities in accordance with the terms and conditions of the Marketing, Access and Use Agreement between the Partnership and the Club, a copy of which is available for review in the Membership Office. Under the Marketing, Access and Use Agreement, the Partnership and its agents will be responsible for any operating deficits and will be entitled to retain any operating profits from the operation of the Club Facilities prior to the Closing Date.

**THE PARTNERSHIP MAY
AMEND MEMBERSHIP PLAN**

**CERTAIN PROVISIONS OF
THE MEMBERSHIP PLAN
MAY NOT BE AMENDED**

MODIFICATION OF MEMBERSHIP PLAN

Prior to the Closing Date, the Partnership may, in its sole discretion, amend or modify this Membership Plan from time to time, so long as such amendments or modifications do not materially and adversely affect the rights of the equity members. Any amendment or modification which materially and adversely affects the rights of the equity members must be approved by a majority of the votes held by the equity members so affected.

After the Closing Date, this Membership Plan may be amended in accordance with the By-Laws; provided, however, that neither the Club nor its members may at any time change, modify or delete any of the following items without the prior written consent of the Partnership, which consent may be withheld by the Partnership, in its sole and absolute discretion:

- (a) the total number of memberships permitted to be issued in the Club or in any particular category of membership as described in this Membership Plan as of the Closing Date;
- (b) the restrictions or limitations on assessments as described in this Membership Plan as of the Closing Date;
- (c) the restrictions or limitations on any unissued memberships held by or on behalf of the Partnership for dues, fees, charges (including any food and beverage minimums) and assessments as described in this Membership Plan as of the Closing Date;
- (d) the right of the Partnership to use the Club Facilities pursuant to the Marketing, Access and Use Agreement as described in this Membership Plan as of the Closing Date;
- (e) the rules and regulations relating to use of the Club Facilities by guests of members as described in this Membership Plan as of the Closing Date;
- (f) the rights of a lessee of an equity member's residential unit in Callawassie (or one of the other designated communities) as described in this Membership Plan as of the Closing Date;
- (g) the eligibility to acquire an equity membership as described in this Membership Plan as of the Closing Date; or
- (h) Section 3, Article XVIII, of the By-Laws of the Club as described in the By-Laws as of the Closing Date.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2014-001524

The Callawassie Island
Members Club, Inc.,

Respondent,

v.

Ronnie D. Dennis and
Jeanette Dennis

Appellant.

RECORD ON APPEAL VOL. II

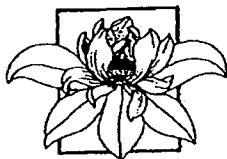
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Completed

BY-LAWS



CALLAWASSIE
ISLAND
CLUB

EXHIBIT B
BY-LAWS
THE CALLAWASSIE ISLAND CLUB

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ARTICLE I PURPOSE OF CLUB

The nature and purpose of The Callawassie Island Club, Inc. f/k/a The Country Club of Callawassie, Inc. (hereinafter referred to as the "Club") is to own and operate a private country club for the recreation, pleasure and benefit of its members.

ARTICLE II CLUB EMBLEM

The emblem of the Club shall be of a style and design to be approved by the Board of Directors.

ARTICLE III MEMBERS MEETING

1. *Annual Meeting.* An annual meeting of the equity members of the Club shall be held for the purposes of receiving reports of officers and others, to elect directors, and for such other business as may be properly brought before the meetings.

2. *Date and Place of Annual Meeting.* The first annual meeting of the members shall be held within one (1) year from the date of the Closing Date of the Club's purchase of the Club Facilities from Callawassie Island Company, L.P., a Delaware limited partnership (the "Partnership"). Each annual meeting shall be held at such time and place in South Carolina as the Board of Directors may designate.

3. *Special Meetings.* Special meetings of the equity members may be called by the President, the Chairman of the Board of Directors, a majority of the members of the Board of Directors or, after the Closing Date, upon the written request of ten (10%) percent or more of the votes of the equity members then entitled to be voted. Such request shall be submitted to the President who shall then call a special meeting within thirty (30) days of the date of such request. Notices of any special meeting must contain a statement of the purpose for which such special meeting is called and no other business may be transacted at that meeting.

4. *Notices.* The Secretary shall give not less than fifteen (15) days nor more than fifty (50) days prior notice, by mail, prepaid, to all equity members of the Club, stating the time, place, and purpose of any special meeting. Notice of any such meeting shall be posted on the official bulletin board of the Clubhouse on the date of its mailing to the equity members.

5. *Quorum.* The presence, either in person or by proxy, of equity members having a majority of the votes then entitled to be voted shall constitute a quorum at any meeting of the equity members.

6. *Proxies.* Members may vote by proxy. The Board of Directors will determine the form and procedures for the use of proxies.

7. *Voting Percentage.* Except for election of members of the Board of Directors, a majority of the votes is necessary for passage of any motion.

ARTICLE IV BOARD OF DIRECTORS

1. *Number and Qualifications.* The government and administration of the affairs and the property of the Club shall be vested in a Board of Directors. The Board of Directors shall consist of not more than twelve (12) and not less than two (2) members. Prior to the Closing Date, the members of the Board of Directors need not be equity members. After the Closing Date, all of the members of the Board of Directors must be equity members of the Club.

2. *Nominating.*

a. At a meeting of the Board of Directors held not more than sixty (60) days before the annual membership meeting, the Board of Directors shall appoint a Nominating Committee consisting of five (5) members entitled to vote, three (3) of whom shall be members of the Board of Directors. Members of the Nominating Committee shall serve for a term of one (1) year or until their successors are appointed and qualified. Unless specifically requested by a majority of the Board of Directors, the Nominating Committee shall not nominate candidates to fill any vacancies occurring by reason of death, resignation or otherwise, for any unexpired term.

b. The Nominating Committee shall recommend, at least thirty (30) days prior to the members' annual meeting, the names of equity members of the Club to be submitted to the equity members of the Club at their annual meeting for election to the Board of Directors.

c. Ten (10%) percent or more of the total equity members entitled to vote who are not on the Nominating Committee or the Board of Directors may also nominate candidates for the Board of Directors by petition, signed by them, and filed with the Secretary at least thirty (30) days prior to the members' annual meeting. The names of such nominees, after having been certified by the Secretary or any other officer as qualified for election and as having been nominated in accordance with the provisions of these By-Laws, shall be posted on the official bulletin board of the Club and shall be included on any proxy mailing to the equity members of the Club.

3. *Elections.*

a. There shall be no cumulative voting and no preemptive rights.

b. Voting shall be either in person or by proxy.

c. Prior to the Closing Date, the Partnership shall appoint all the members of the Board of Directors. After the Closing Date, all of the members of the Board of Directors shall be elected by the equity members.

d. Within one hundred twenty (120) days prior to the Closing Date, the equity members shall elect nine (9) members to replace the Board of Directors appointed by the Partnership. On the Closing Date, the directors appointed by the Partnership shall resign, and the nine (9) directors elected by the equity members shall replace them. Of the nine (9) directors elected by the equity members to serve as the Board of Directors on the Closing Date, the equity members shall designate three (3) to serve for a term of three (3) years, three (3) to serve for a term of two (2) years and three (3) to serve for a term of one (1) year.

e. At the members' annual meeting each year, after the Closing Date, the equity members shall elect directors for a term of three (3) years to replace those directors whose terms have expired. This number shall be adjusted to conform to the total number to be elected to the Board of Directors for the ensuing year, as determined by a vote of the equity members.

f. The number of candidates necessary to fill the vacancies on the Board of Directors receiving the highest number of votes at the annual meeting of the equity members for each designated term shall be declared elected.

g. The Partnership and the initial and interim directors and officers appointed by the Partnership shall have no fiduciary or other obligation to act on behalf of the members or the Club, and it is specifically understood that said persons will act on behalf of the Partnership.

ARTICLE V MEETINGS OF BOARD OF DIRECTORS

1. *Annual Meeting.* Each year the Board of Directors shall hold its annual meeting to elect officers and to consider any other matters that may be properly brought before the meeting. After the Closing Date, the annual meeting of the Board of Directors shall be held within ten (10) days after the annual meeting of the equity members.

2. *Duties at Annual Meeting.* After the initial sale of all of the equity memberships permitted to be issued in the Club, the Board of Directors shall fix the membership contribution and terms for payment of any membership certificate. Such membership contribution and terms shall be in effect for the following calendar year or until changed sooner by the Board of Directors.

3. *Quorum.* A majority of the Board of Directors at any meeting shall constitute a quorum for the transaction of business.

4. *Action Without Meetings.* Any action which may be taken by the Board of Directors may be taken without a meeting if a written consent setting forth the action taken is signed by all of the directors entitled to vote and is filed in the minutes of the proceedings of the Board of Directors. A written consent shall have the effect of a unanimous vote.

5. *Notice of Meetings.* Notice of any meeting of the Board of Directors, regular or special, may be conveyed by written, telephonic or personal notice, at least seven (7) days prior to the meeting, except in the event of an emergency in which event such notice may be waived to the extent permitted by law.

6. *Voting Percentage.* A majority of all of the members of the Board of Directors must vote to approve any motion unless otherwise provided herein.

7. *Meetings.* The Board of Directors shall have a minimum of six (6) regular meetings each year, at such times as the Board of Directors shall determine.

ARTICLE VI
POWERS OF THE BOARD OF DIRECTORS

1. *Management of the Club.* The Board of Directors shall exercise all powers of the Club and do all acts and things necessary to carry out the purpose of the Club.

2. *Duties and Powers.* The Board of Directors shall:

- a. Elect the officers of the Club;
- b. Appoint committees and assign duties;
- c. Fill vacancies on the Board of Directors due to death, resignation, inability to perform duties, or otherwise, until the next election of directors by the equity members;
- d. Appoint managers and other employees and delegate such authority considered necessary for the proper operation and management of the Club;
- e. Adopt, alter, amend, or repeal the General Club Rules governing use of the Club and all its facilities by members and their families and guests;
- f. Determine the amount of dues, fees, and other charges;
- g. Have the power to replace any director who shall fail to attend fifty (50%) percent of the regular Board meetings in any one (1) fiscal year;
- h. Have the power to expend funds to the extent of the amount in the Club Treasury or owing to the Club, to make contracts, or create indebtedness, and to borrow money or incur indebtedness for purposes of the Club, and to cause promissory notes, bonds, mortgages or other evidences of indebtedness to be executed and issued provided that, except in the case of an emergency and with respect to the Club's acquisition of the Club Facilities in accordance with the Club Purchase Agreement, no amount in excess of Two Hundred Thousand Dollars (\$200,000.00) shall be authorized, obligated or expended for capital improvements without the concurrence of a majority of the equity members; and
- i. Have the power to exchange rights to use the Club Facilities with members of other country clubs.

3. *Issuance of Membership Certificates.* The Board of Directors shall have sole authority to issue, cancel, and transfer membership certificates and shall have such certificates prepared in the form and content consistent with the provisions of these By-Laws of the Club.

4. *Compensation.* No director shall receive a salary or any other compensation whatsoever, but shall be entitled to reimbursement for all expenses reasonably incurred in performing any duties pursuant to these By-Laws.

5. *Interpretation of By-Laws.* The Board of Directors shall have the corporate powers to generally do everything permitted for non-profit corporations by law, by statute, the Certificate of Incorporation, or these By-Laws, and to determine the interpretation or construction of these By-Laws or any parts thereof, which may be in conflict or of doubtful meaning, and their decisions shall be final and conclusive.

ARTICLE VII OFFICERS

1. *Election of Officers.* The Board of Directors shall elect a President, a Vice President, a Treasurer, a Secretary and such other officers as the Board determines appropriate from time to time. Such officers shall be elected to serve for the term of one (1) year or until their successors shall be elected and shall carry out the duties described below.

2. *President.* The President shall preside at all meetings and enforce observance of the provisions of these By-Laws and all of the General Club Rules. The President may call special meetings of the Board of Directors, shall be an ex-officio member of all committees, and shall be empowered to execute all papers and documents requiring execution in the name of the Club.

3. *Vice President.* In the absence of the President, the Vice President shall perform and carry out all duties and responsibilities of the President.

4. *Secretary.* The Secretary shall keep records and minutes of all meetings of the Board of Directors and the membership. The Secretary shall also be responsible for giving all required notices of such meetings. The Secretary shall have custody of the Seal of the Club and all membership records shall be kept under the Secretary's supervision.

5. *Treasurer.* The Treasurer shall be Chairman of the Finance Committee. The Treasurer shall cause to be collected, held and disbursed, under the direction of the Board of Directors, all monies of the Club and it shall be the Treasurer's duty to collect monies due the Club from the issuance of membership certificates, dues and charges from the members of the Club, and all amounts due from others. The Treasurer shall keep or cause to be kept regular books of accounts and all financial records of the Club, and shall have prepared for and submitted to the Board of Directors any proposed budgets and financial statements, when and in the form requested by the Board of Directors. The Treasurer shall deposit or cause to be deposited all monies of the Club in an account or accounts in the Club's name in the bank or banks designated by the Board of Directors, and shall give a surety bond for faithful performance in the amount directed by the Board of Directors, which surety bond premium shall be paid by the Club.

6. *Other Officers.* The Board of Directors may appoint additional officers and assign their duties.

7. *Additional Duties of Officers.* Any officer may be given additional assignments and duties by the Board of Directors.

8. *Removal from Office.* Any officer may be removed from office by a two-thirds (2/3) vote of the members of the Board of Directors.

ARTICLE VIII INSURANCE AND INDEMNIFICATION

1. *Insurance.* The Club shall obtain on behalf and for the benefit of the officers and directors of the Club such insurance as the Board of Directors deems appropriate and as is permitted by law.

2. *Indemnification.* The Club shall, to the fullest extent permitted by the laws of South Carolina, as the same may be amended and supplemented, indemnify any and all of the directors and officers of the Club from and against any and all of the expenses, liabilities or other matters referred to in or covered by said laws, and the indemnification provided for herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any by-law, agreement, vote of the members, disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director or officer, and shall inure to the benefit of the heirs, executors and administrators of such person.

ARTICLE IX COMMITTEES

1. *Standing Committees.* Each year after the Closing Date, the President, subject to the approval of the Board of Directors, shall designate the chairman and members of each of the following standing committees: Membership, Executive, Finance, House, Golf, Greens, Tennis, Pool, Entertainment, and such other committees as may be deemed advisable by the Board of Directors from time to time.

a. The Membership Committee shall investigate all Applications for Membership and shall report thereon to the Board of Directors with its recommendation as to approval or disapproval of each application.

b. The Executive Committee shall consist of the President, as Chairman, the Vice President, the Secretary, the Treasurer and, in addition, one (1) member of the Board of Directors. The Executive Committee shall have the powers of the Board of Directors during the interval between Board meetings. A majority of the members of the committee shall constitute a quorum. Actions and resolutions shall require unanimous approval of the members present.

c. The Finance Committee shall, in general, supervise, direct and control all matters pertaining to the Club's finances including, but not limited to, the placing of insurance, the filing of tax returns and the payment of taxes, the preparation of the annual operating budget, the preparation of the current reports for the Board of Directors on the Club's financial condition and the issuance to the equity members of a condensed quarterly operating statement. The Finance Committee shall have the power, with the approval of the Board of Directors, to direct the manager to employ, at the expense of the Club, such clerical aid and assistance as may be necessary to handle the accounts. The account books and vouchers shall at all times be open to inspection by any member of the Board of Directors.

d. Each of the following committees, subject to the approval of the Board of Directors, shall formulate programs and submit them with recommendations to the Board of Directors for approval. The officers of the Club shall have control of the execution of such programs and recommendations as approved by the Board. The committees shall act only as a consultant and advisor to the Board of Directors and officers.

(i) House Committee. The House Committee shall advise the Board of Directors on mat-

ters concerning the operations of the Clubhouse and the equipment, furnishings and property in the Clubhouse, specifically including, without limitation, utilities, building maintenance and repairs. The House Committee shall also advise the Board on all food and beverage operations.

(ii) *Golf Committee.* The Golf Committee shall advise the Board of Directors on matters concerning the employment of a Golf Professional and the scope of the Golf Professional's operation, the operation of the Golf Pro Shop and golf carts, the promulgation of playing rules for members and their guests, the programming of golfing events for members and their guests, and the maintenance of members' handicaps.

(iii) *Greens Committee.* The Greens Committee shall consist of not more than nine (9) members. The Greens Committee shall advise the Board of Directors on matters concerning the employment of a Greens Superintendent and the scope of the Greens Superintendent's operations, and the maintenance of the golf course, roads, facilities and equipment used in connection therewith. No live trees shall be removed nor shall any alteration be made in the golf courses except with the approval of the Board of Directors.

(iv) *Tennis Committee.* The Tennis Committee shall advise the Board of Directors on matters concerning the employment of a Tennis Professional, the scope of the Tennis Professional's operations, the operation of the Tennis Pro Shop, the promulgation of playing rules for members and their guests, and the programming of tennis events for members and their guests. The committee shall advise the Board of Directors on the condition of, and make recommendations concerning, tennis courts, equipment and other related facilities.

(v) *Pool Committee.* The Pool Committee shall advise the Board of Directors on matters concerning the promulgation of rules regarding the use of the pools at the Clubhouse and the River Club. The committee shall advise the Board of Directors on the conditions of the pools.

(vi) *Entertainment Committee.* The Entertainment Committee shall consist of not more than fifteen (15) members. It shall advise the Board of Directors on matters concerning the social activities and entertainment of members and their guests. It shall coordinate with the House Committee all activities having to do with the Clubhouse and food and beverage service.

2. *Ad Hoc Committee.* The President, subject to the approval of the Board of Directors, may appoint from time to time such ad hoc committees with such powers and composition as the President shall determine appropriate.

3. *Powers of Committees.* These committees shall act only as committees and the individual members thereof shall have no power or authority. The chairman of each committee may appoint from the members of his or her committee such sub-committees as the chairman deems desirable. Such sub-committees shall report directly to the committee as a whole, which shall approve, amend or disapprove the report of the sub-committee.

4. *Terms of Committee Chairmen and Committee Members.* A committee chairman may not serve as a committee chairman on the same committee for more than three (3) successive years. A committee member may not serve as a member of the same committee for more than five (5) successive years. The term of a committee chairman or a committee member may be terminated at any time by the President with the approval of the Board of Directors.

ARTICLE X EQUITY MEMBERSHIPS

1. *Categories of Equity Membership.* Two categories of equity membership shall be offered in the Club: Golf Membership and Social Membership. Each equity membership shall represent an ownership interest in the Club. In addition, the Club may issue a total of forty Spring Island Founder Memberships. Spring Island Founder Members shall have all of the same privileges, and shall be required to pay the same dues, fees, charges (including any food and beverage minimums) and assessments, as a Golf Member.

2. *Number of Equity Memberships.* The total number of Golf Memberships permitted to be issued in the Club shall be limited to five hundred ninety-five (595). The total number of Social Memberships permitted to be issued in the Club shall be limited to eight hundred fifty (850) less the total number of Golf Memberships which are outstanding. The total number of Spring Island Founder Memberships permitted to be issued in the Club shall be limited to forty (40). The total number of equity memberships permitted to be issued in the Club may be increased by two hundred (200) for each additional nine holes of golf added to the Club Facilities by the Partnership or the Club. These additional equity memberships may be issued either as Golf Memberships, Social Memberships or a combination of the two as determined by the Partnership or the Club. If such additional golf facilities are added to the Club Facilities prior to the Closing Date, the approval of a majority of the votes associated with the outstanding equity memberships shall be required. If the additional golf facilities are added by the Partnership, the Partnership shall be entitled to all of the membership contributions from the sale of the additional memberships. Any additional golf facilities added to the Club Facilities shall be substantially the same quality as the existing golf course and, if located off-site, shall be located within five miles of the Club.

3. *Eligibility for Equity Memberships.*

The Club shall offer equity memberships to purchasers of residential units or lots in Callawassie and such other persons as the Club determines appropriate from time to time as described more fully below:

a. Each existing equity member as of the date of the Plan Documents shall be entitled to continue his or her equity membership under the Plan Documents without having to pay any additional or new membership contribution to the Club. Existing equity members shall, however, continue to be obligated to pay any portion of their original membership contributions which are owed to the Club.

b. Each existing property owner in Callawassie who is not an equity member as of the date of the Plan Documents shall have until July 31, 1994 to apply for and acquire an equity membership in the Club. After that date, an existing property owner who is not an equity member shall be entitled to acquire an equity membership only if one is available and not otherwise reserved by the Partnership or the Club.

c. Each initial retail purchaser of a residential unit or lot in Callawassie shall have sixty days from the date of the closing of his or her residential unit or lot to apply for and acquire an equity membership in the Club. An initial retail purchaser who does not acquire an equity membership within sixty days after the closing of his or her residential unit or lot may acquire an equity membership at a later date only if one is available and not otherwise reserved by the Partnership or the Club.

d. Equity memberships may also be offered to persons who do not own property in Callawassie as the Club or the Partnership determines appropriate from time to time.

e. If a person owns or acquires two or more residential units or lots in Callawassie, the person may acquire an equity membership for each residential unit or lot for which membership privileges are desired. If the person does not acquire an equity membership for each of his or her residential units or lots by July 31, 1994, or within sixty days from the date of his or her closing on the residential units or lots, as the case may be, the person shall be entitled to acquire equity memberships for such units or lots at a later date only if equity memberships are available and not otherwise reserved by the Partnership or the Club. Prior to the Closing Date, an equity member who acquires an additional equity membership shall not be required to pay dues on the additional equity membership until the additional equity membership is either activated by the member or transferred to another person, whichever occurs first. After the Closing Date, an equity member must pay dues on all of his or her equity memberships regardless of whether such equity memberships have been activated by the member.

f. If a person does not acquire an equity membership in the Club, then the purchaser of his or her residential unit or lot in Callawassie shall be entitled to acquire an equity membership only if an equity membership is available and not otherwise reserved by the Partnership or the Club.

g. The Club may, in its sole discretion, reserve equity memberships for sale to future purchasers of residential units or lots in Callawassie and such other persons as the Partnership determines appropriate from time to time. Reserved memberships are not considered to be available and neither the Partnership nor the Club may be compelled to sell them.

h. If any category of equity membership is not available, the Club shall establish a waiting list for those persons who desire to acquire an equity membership in that category.

i. Social Members may, at all times subject to availability, upgrade to a Golf Membership upon the payment of the difference between the membership contribution for a Golf Membership, and the membership contribution for a Social Membership, at the time of the upgrade. The downgrade of a Golf Membership to a Social Membership is not permitted unless there is another equity member who desires to upgrade to the Golf Membership. Prior to the initial sale of all of the Golf Memberships permitted to be issued in the Club, the Partnership shall be entitled to the proceeds from the upgrade of a Social Membership to a Golf Membership.

j. For the convenience of members and to facilitate the acquisition of a membership in the Club, an equity membership may be held in the name of a company, partnership, trust or other form of multiple ownership (collectively, the "entity"). The entity may designate one individual or family who shall have the right to use the equity membership. The entity may change the designated user from time to time upon the payment of the redesignation fee established by the Club from time to time. The Club may establish rules from time to time governing the designation of an individual or family to use the equity membership, including a limit on the number of times the entity may change the designated user. All designated users shall be subject to the approval of the Club.

4. *Membership Privileges.*

a. Each person who acquires an equity membership in the Club shall be entitled to use the Club Facilities in accordance with the member's category of membership and the General Club Rules. The membership privileges associated with each category of equity membership are as follows:

Golf Membership. Golf Members shall be entitled to use all of the Club Facilities. Golf Members shall be entitled to reserve tee times fourteen days in advance and tennis court times six days in advance and shall not be required to pay any greens fees or court fees for their use of the golf and tennis facilities. Golf Members shall be required to pay golf cart fees or trail pass fees for their use of the golf course.

Social Membership. Social Members shall be entitled to use all of the Club Facilities. Social Members shall be entitled to play golf as a Social Member one time per month during the season (i.e., 3/1 - 5/15 and 10/1 - 11/30) and two times per month in the off-season. Social Members shall be entitled to reserve tee times one day in advance and tennis court times six days in advance. Social Members shall not be required to pay any court fees for their use of the tennis facilities, but shall be required to pay greens fees at the same rate as the guests of a Golf Member and golf cart fees or trail pass fees for their use of the golf course.

In order to provide the utmost playing pleasure for all members, the Club reserves the right to establish different rules governing access, sign-up privileges and starting times with respect to the golf, tennis and other recreational facilities of the Club.

b. Golf Members and Social Members may exchange their respective membership privileges in accordance with the General Club Rules and payment of the administrative fee established by the Club from time to time. Each exchanging member shall be required to submit such forms as may be required by the Club from time to time and to pay the other member's dues for the year of the exchange. All exchanges shall be on a membership year basis and shall not affect the exchanging members' underlying memberships.

c. An equity member's immediate family may use the Club Facilities in accordance with the member's category of membership. An equity member's immediate family includes the equity member's spouse and their unmarried children under the age of twenty-five, living at home or attending school on a full-time basis.

5. *Voting Privileges.* Each equity membership shall entitle the equity member to vote on various club matters, including the election of the Board of Directors after the Closing Date. Each Golf Membership shall entitle the Golf Member to five (5) votes, while each Social Membership shall entitle the Social Member to one (1) vote. Spring Island Founder Members shall have the same voting privileges as a Golf Member.

6. *Application for Membership.*

a. All Applications for Membership shall be in a form prescribed by the Board of Directors and shall be signed by the applicant.

b. All applicants must be approved by a vote of the Board of Directors except with respect to any equity memberships delivered to the Partnership on the Closing Date. The Board of Directors, either directly or through its Membership Committee, shall undertake the necessary procedures in investigation and appraisal of the applicant. This may include an interview with the applicant at the sole discretion of the Board of Directors. Three (3) dissenting votes of board members shall constitute disapproval.

c. Within thirty (30) days after receiving the Application for Membership, Membership Purchase Agreement and the required membership contribution, the Board of Directors will determine whether the applicant has satisfied the relevant conditions. If the Board of Directors determines that the applicant has satisfied those conditions, it shall notify the applicant in writing that the application has been accepted. If the Board of Directors determines that the applicant has not satisfied those requirements, the Board of Directors shall notify the applicant that the application has not been acted upon favorably and shall return the applicant's payment without any interest thereon.

d. Any applicant approved by the Board of Directors for membership who fails to pay the membership contribution and dues, as prescribed by the Board of Directors, within thirty (30) days after notice that they are due and payable may forfeit his or her right to membership.

e. Comments from the members with respect to an applicant shall be privileged communications and only the Board of Directors (and no one else) shall have access to such communications.

7. *Membership Contributions.* Persons desiring to be equity members shall be required to make a membership contribution to the Club. Prior to the initial sale of all of the equity memberships permitted to be issued in the Club, the Partnership shall determine the required membership contribution. After the initial sale of all of the equity memberships permitted to be issued in the Club, the Board of Directors shall determine the required membership contribution.

8. *Membership Certificates.*

a. Every equity member who has paid the required membership contribution for equity membership shall receive a membership certificate. Such certificate shall be in a form approved by the Board of Directors and shall state that the same is issued subject to the By-Laws of the Club as they now are or may be amended and shall be subscribed by the President or Vice President and the Secretary and under the Seal of the Club.

b. Membership certificates are not redeemable or transferable, except as specifically provided by these By-Laws and then only through the Treasurer of the Club. Whenever any person shall cease to be an equity member, whether by death, resignation, recall, expulsion or other provisions of these By-Laws, such cessation shall operate to authorize the Treasurer of the Club to effectuate the redemption, cancellation, purchase or reissuance of the membership certificate of such equity member in accordance with and in the manner prescribed by these By-Laws.

9. *Resignation—Redemption of Membership Certificate.*

a. Any equity member may resign from the Club by giving written notice to the Secretary. Dues, fees and charges shall accrue against a resigned equity membership until the resigned equity membership is reissued by the Club.

b. The Club shall be obligated to repurchase a resigned equity membership only in accordance with these By-Laws and only if an individual, who is acceptable to the Club, is willing to purchase the resigned member's membership. The amount to be paid to the resigned equity member of the Club shall be equal to the greater of: (1) the amount of the membership contribution actually paid by the resigned member, or (2) eighty (80%) percent of the amount of the membership contribution paid by the purchaser of the resigned membership. If a resigned member's membership is reissued during a membership year, the member shall be reimbursed for any annual dues paid for that year on a pro rata basis. If a member resigns from the Club and does not arrange for the purchaser of his or her residential unit or lot in Callawassie or one of the other designated communities to purchase the resigned membership, then the resigned membership shall, subject to the Partnership's right of first refusal described in Section 12 hereof, be placed on the waiting list to be reissued by the Club on a first-resigned, first-reissued basis in accordance with the following:

(i) Prior to the issuance of all of the equity memberships permitted to be issued in the resigned member's category of membership, every fourth equity membership issued in that category shall be a resigned membership from the waiting list for that category. The other three equity memberships shall be issued from the Club's unissued equity memberships.

(ii) After the issuance of all of the equity memberships permitted to be issued in the resigned member's category of membership, every equity membership issued in that category shall be a resigned equity membership from the waiting list for that category.

c. If a member does not arrange for the purchaser of his or her residential unit or lot in Callawassie or one of the other designated communities to acquire his or her resigned membership, then the purchaser of the residential unit or lot shall be entitled to acquire an equity membership only if an equity membership is available and not otherwise reserved by the Partnership or the Club.

10. *Transferability and Reissuance of Equity Membership.*

a. Equity membership certificates are not transferable or assignable except as provided in this Section 10 or Section 11 of this Article.

b. An equity member who sells his residential unit or lot in Callawassie or one of the other designated communities may direct the Club to transfer his or her membership certificate to the purchaser of his or her residential unit or lot in accordance with the following:

(i) The resigning member shall submit his or her resignation in writing stating that he or she is selling his or her residential unit or lot in Callawassie or one of the other designated communities and that the resignation shall become effective following the closing of title and the acceptance of the purchaser of his or her residential unit or lot.

(ii) The purchaser of the residential unit or lot must submit to the Club an Application for Membership, a Membership Purchase Agreement and the required membership contribution.

(iii) Upon the resignation becoming effective as hereinabove provided, the resigning member shall deliver to the Secretary of the Club the membership certificate for the resigned membership together with an assignment thereof, properly endorsed by the resigning member.

(iv) The amount to be paid to the Club by the purchaser of the resigned membership shall be the amount of the membership contribution in effect on the date the resigned membership is acquired. After the purchaser becomes an equity member and upon receipt of his or her membership contribution, the Club shall promptly remit the amount due to the resigned member as provided pursuant to Section 9(b) of this Article less any amount which the resigned member owes to the Club. As soon as practicable thereafter, the Secretary of the Club shall cancel the membership certificate of the resigned equity member and issue a new membership certificate to the purchaser of the resigned membership.

11. *Transfer Upon Death or Divorce.*

a. Upon the death of an equity member, the deceased member's membership shall automatically pass to the surviving spouse without payment of any new membership contribution. If the deceased member is not survived by a spouse, then the legatee or heir of the equity membership may acquire the deceased member's membership without payment of any new membership contribution. If the legatee or heir desires to acquire the equity membership, the legatee or heir must apply for the membership within one hundred twenty (120) days after his or her right to the equity membership has been determined and pay to the Club any unpaid dues, fees, charges and assessments from the date of the member's death to the date of the application. If the legatee or heir does not apply for the membership within one hundred twenty (120) days after acquiring the right to the equity membership, the equity membership shall be deemed to have been resigned and shall be reissued by the Club in the same manner as any other resigned equity membership. Upon the reissuance of the equity membership, the estate of the deceased member shall be entitled to receive the amount of the membership contribution which would otherwise have been payable to the deceased member.

b. In the event equity members are legally separated or divorced, title to the equity membership shall vest in the spouse awarded the equity membership, provided such spouse fulfills the eligibility requirements for membership in the Club. Both of the divorced or legally separated members shall be required to give written notice to the Club designating the person who is entitled to the rights and privileges of the equity membership within five (5) days after the divorce or legal separation is declared final. Until written notice has been provided to the Club, both spouses shall be responsible for the payment of all dues, fees, charges (including any food and beverage minimums) and assessments associated with the equity membership.

12. *The Partnership's Right of First Refusal.* Prior to the initial sale of all of the residential units and lots in Callawassie and the designated communities, the Partnership shall have a right of first refusal to purchase any resigned Golf Membership which is not being reissued to the purchaser of the resigned member's residential unit or lot in Callawassie or the other designated communities. The Partnership may exercise its right of first refusal by paying to the Club within thirty (30) days after its receipt of written notice that a person desires to acquire the Golf Membership the required membership contribution. The Partnership shall not be required to pay any dues, fees, charges (including food and beverage minimums) or assessments on the membership and may reserve or have such membership reissued to any person which the Partnership deems appropriate.

13. *Access to Facilities.* In order to provide the utmost playing pleasure for all members, the Club reserves the right, from time to time, to establish rules governing access and starting times with respect to the golf course, tennis courts and the other Club Facilities. In addition, the Club reserves the right to adjust, from time to time, the sign-up or playing privileges of the Social Members and their annual dues, charges and fees accordingly.

ARTICLE XI GUEST AND LESSEE PRIVILEGES

1. *Guest Privileges.* An equity member may have guests use the Club Facilities in accordance with the member's category of membership and the General Club Rules. The equity member shall be responsible for all charges incurred by his or her guests which remain unpaid after the customary billing and collection procedure of the Club and for the deportment of his or her guests.

2. *Lessee Privileges.* An equity member who leases his or her residential unit in Callawassie (or one of the other designated communities) may designate the lessee of the unit as the beneficial user of his or her equity membership. During the period when the lessee is designated as the beneficial user of the membership, the equity member shall not be entitled to use that membership but shall continue to be obligated to pay dues. The equity member shall also be responsible for all charges incurred by his or her lessee which remain unpaid after the customary billing and collection procedure of the Club and the deportment of his or her lessee. All lessees shall be subject to the approval of the Club.

ARTICLE XII DUES, FEES AND CHARGES

Each year the Board of Directors of the Club shall determine the dues, fees and charges (including any food and beverage minimums) for each category of membership in the Club. All dues shall be payable in advance, on or before the first day of each month during the membership year, unless otherwise determined by the Club.

Resident and non-resident dues shall be available in the Club. Each member who has a completed residential unit, or who resides for three or more months during any membership year, in Beaufort or Jasper Counties, South Carolina, or Chatham County, Georgia, shall be considered to be a "resident" and shall be required to pay the resident category of dues.

Such dues and fees shall be applied against the Club's operating costs. It shall be the policy of the Club that the dues, plus other receipts of the Club shall be sufficient, insofar as possible to project, to meet the annual operating needs of the Club. The dues, as they are established from time to time by the Board of Directors, shall insofar as possible reflect this stated policy.

ARTICLE XIII DELINQUENCIES

1. *Statement.* An itemized statement of any dues, fees, charges and assessments shall be mailed monthly to each member. Any member failing to pay his or her indebtedness to the Club within thirty (30) days from the date of such statement shall be notified in writing by the Treasurer.

2. *Unpaid Accounts—Suspension.* If payment is not received within thirty (30) days after such notice, the delinquent member's credit and membership privileges may be suspended by the Board of Directors. Suspended members may be reinstated by the Board of Directors within (6) months of the suspension upon payments of all indebtedness plus all dues, assessments and charges (including any food and beverage minimums) accrued since the initial time of delinquency, plus a sum calculated at the rate of eighteen percent (18%) annually.

3. *Liens.* The Club shall have a lien against each membership for any unpaid annual dues or other charges made by that member of the Club, which lien shall also accrue reasonable attorneys' fees incurred by the Club incident to the collection of such annual dues or other charges, or enforcement of such lien, whether or not legal proceedings are initiated. The lien may, but need not, be recorded among the public records of Beaufort County, South Carolina, by filing a claim therein which states the name of the member, the number of the membership and the amount claimed to be due, and said lien shall continue in effect until all sums secured by the lien, together with all costs incurred in recording and enforcing said lien, shall have been paid. Such claims of lien may be signed by an officer of the Club. Upon full payment, the member making payment shall be entitled to be reinstated as a member in good standing of the Club and shall be entitled to a satisfaction of lien to be prepared and recorded at the member's expense. All such liens may be foreclosed by the Club, in any action at law or in equity, with or without five (5) days prior written notice of the intended foreclosure, as may be deemed appropriate by the Club. The Club may also, at its option, sue to recover a money judgment for unpaid annual dues or other charges without thereby waiving the lien securing the same.

ARTICLE XIV DISCIPLINE

1. *Improper Conduct.* Any member whose conduct, or whose family's or guests' conduct, shall be deemed by the appropriate committee to be improper or likely to endanger the welfare, safety, harmony or good reputation of the Club or its members, may be reprimanded, fined, suspended, or expelled from the Club by action of the Board of Directors. The Board of Directors shall be the sole judge of what constitutes improper conduct or conduct likely to endanger the welfare, safety, harmony, or good reputation of the Club or its members.

2. *Board Action.* Any such member shall be notified of such proposed action and shall be given an opportunity to be heard by the Board of Directors to show cause why he or she should not be disciplined in accordance with this Article. If such member desires to be heard, the Board of Directors shall set a time and date for such hearing, which is not less than ten (10) days after the Board sets the date. While such complaint is being considered by the Board, the member shall enjoy the privileges of the Club.

3. *Suspension.* The Board of Directors may suspend a member and his or her family or guests from some or all of the privileges of the Club for a period of up to one (1) year. Dues and other obligations shall accrue during such suspension and shall be paid in full before reinstatement to full privileges.

4. *Resignation—Request by Board.* The Board of Directors may by a two-thirds (2/3) vote of the directors present request the resignation of any member of the Club for cause deemed sufficient to the Board. If the member does not resign at the request of the Board, the member may be expelled by the Board.

5. *Expulsion.* Any member of the Club who has been expelled shall not again be eligible for membership nor admitted to Club Facilities under any circumstances. An expelled member shall be so notified by registered mail and shall have the obligation to surrender his or her membership certificate for reissuance by the Club to a new member in accordance with the provisions of Article X, Section 9 of these By-Laws.

ARTICLE XV
OTHER MEMBERSHIP AND USE PRIVILEGES

1. *Spring Island Property Owners.* Each Spring Island Property Owner as of the date of this Membership Plan shall have until July 31, 1994 to acquire non-equity social membership privileges in the Club. Each purchaser of a residential unit or lot on Spring Island after the date of this Membership Plan shall, subject to availability, have sixty days from the date of his or her closing on the residential unit or lot to acquire non-equity social membership privileges in the Club. Any Spring Island Property Owner who acquires non-equity social membership privileges in the Club shall be required to pay the same dues, fees, charges (including any food and beverage minimums) and operating assessments as a Social Member but shall not be required to pay any membership contribution or capital assessments to the Club. Any Spring Island Property Owner who acquires non-equity social membership privileges in the Club shall have all of the same rights as a Social Member, except the Spring Island Property Owner shall not be entitled to any ownership interest in the Club or its facilities, and shall not be entitled to vote on any club matters. A Spring Island Property Owner's non-equity social membership privileges shall terminate upon the death or resignation of the Spring Island Property Owner, or the sale of his or her residential unit or lot on Spring Island, unless the purchaser of the residential unit or lot elects to continue the non-equity social membership privileges by agreeing to pay the required dues, fees, charges (including any food and beverage minimums) and operating assessments associated with the membership privileges. The total number of non-equity social memberships to be offered to Spring Island Property Owners shall be limited to two hundred fifty.

2. *Associate Memberships.* In order to promote the sale of residential units and lots in Callawassie and to introduce the Club to prospective members, the Club may offer non-equity associate memberships ("Associate Memberships") on an annual or seasonal recallable basis to persons who do not own a residential unit or lot in Callawassie. The rights and privileges of Associate Members shall be determined by the Club from time to time. At the beginning of each membership year, the total number of Associate Memberships shall be limited to the total number of Golf Memberships permitted to be issued in the Club, less the number of outstanding Golf Memberships. Associate Memberships shall be recalled at the end of each membership year, on a first-issued, last-recalled basis to the extent necessary so that the total number of Associate Memberships does not exceed the limit. Associate Members may be required to pay such dues, fees and charges (including food and beverage minimums) as may be determined by the Club from time to time, but shall not be subject to any operating or capital assessments. Associate Members shall not be entitled to any ownership interest in the Club or its facilities or to vote on any club matters.

3. *Daily Fee Play.* Daily fee play may be permitted by the Club from time to time. All daily fee play shall be discontinued by the Club once the Club Facilities have been operated at a breakeven level (after debt service) for twelve consecutive months. This breakeven level shall be confirmed by a nationally recognized certified public accounting firm, in accordance with generally accepted accounting principles, consistently applied, taking into account the capital replacement reserve in lieu of any depreciation or amortization expense.

ARTICLE XVI CORPORATE SEAL

The Corporate Seal of the Club shall be circular in form and shall bear the words "The Callawassie Island Club, Inc., Callawassie Island" and the Magnolia Logo. A copy of said seal is affixed hereto. The Corporate Seal shall be in the possession of the Secretary and be affixed by the Secretary to all documents relating to the official acts of the Club, as authorized by the Board of Directors.

ARTICLE XVII MISCELLANEOUS

1. *Fiscal Year.* The fiscal year of the Club shall commence on the 1st day of January and conclude on the 31st day of December.

2. *Operating Assessments.* Prior to the Closing Date, members of the Club shall not be subject to any operating assessments. Prior to the Closing Date, the Club Fund may be used by the Partnership to fund any operating deficits which are incurred from the operation of the Club Facilities prior to the Closing Date. After the Closing Date, the Board of Directors may find it necessary to assess the members, in addition to dues and food and beverage minimums, to cover any operating deficits which may occur after the Closing Date. Any assessments to cover operating deficits which occur after the Closing Date shall be prorated among all of the equity members in relation to the amount of dues charged to their respective membership categories during the membership year in which the deficit occurs.

3. *Capital Assessments.* Prior to the Closing Date, there shall be no assessments for capital expenditures unless approved by a majority of the votes associated with the equity members subject to the assessment. Assessments for any capital expenditures to the golf course shall be voted on by and prorated equally among the Golf Members. Social Members shall not be subject to any assessment for capital expenditures to the golf course. All other assessments for capital expenditures to the Club Facilities shall be voted on by and prorated equally among all of the equity members.

4. *Conflict between By-Laws and the Certificate of Incorporation.* In the event of a conflict between the terms of these By-Laws and the Certificate of Incorporation, the latter shall prevail.

ARTICLE XVIII AMENDMENTS

1. *By Equity Members.* After the Closing Date, these By-Laws may be altered, amended, or repealed by a majority vote of all of the members of the Board of Directors and a majority of the votes cast by the equity members of the Club entitled to vote, in person or by proxy, at any duly called and constituted annual or special meeting of the equity members of the Club at which a quorum of equity members is present. A proposed amendment must be set forth in the notice of the meeting.

2. *By The Partnership.* Prior to the Closing Date, the Partnership may, in its sole discretion, amend or modify the Plan Documents from time to time, so long as such amendments or modifications do not materially and adversely affect the rights of the equity members. Any amendment or modification which materially and adversely affects the rights of the equity members must be approved by a majority of the votes held by the equity members so affected.

3. *Restrictions on Amendments.* After the Closing Date, the Membership Plan may be amended by the equity members and the Board of Directors in accordance with these By-Laws; provided, however, neither the Club nor its members may at any time change, modify or delete any of the following items without the prior written consent of the Partnership, which consent may be withheld by the Partnership in its sole and absolute discretion:

(a) the total number of memberships permitted to be issued in the Club or in any particular category of membership as described in the Plan Documents as of the Closing Date;

(b) the restrictions or limitations on assessments as described in the Plan Documents as of the Closing Date;

(c) the restrictions or limitations on any unissued memberships held by or on behalf of the Partnership for dues, fees, charges (including any food and beverage minimums) and assessments as described in the Plan Documents as of the Closing Date;

(d) the right of the Partnership to use the Club Facilities pursuant to the Marketing, Access and Use Agreement as described in the Plan Documents as of the Closing Date;

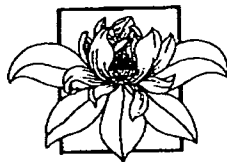
(e) the General Club Rules relating to use of the Club Facilities by guests of members as described in the Plan Documents as of the Closing Date;

(f) the rights of a lessee of an equity member's residential unit in Callawassie (or one of the other designated communities) as described in the Plan Documents as of the Closing Date;

(g) the eligibility to acquire an equity membership as described in the Plan Documents as of the Closing Date; or

(h) this Section 3, Article XVIII, of these By-Laws of the Club as described in these By-Laws as of the Closing Date.

GENERAL CLUB RULES



CALLAWASSIE
ISLAND
CLUB

EXHIBIT C
THE CALLAWASSIE ISLAND CLUB
GENERAL CLUB RULES

CLUB RULES

1. The Club and its facilities shall be open on the days and during the hours as may be established by the Board of Directors from time to time.
2. No committee shall plan or set dates for dining room activities without prior approval of the Board of Directors or the House Committee.
3. No performance by entertainers will be permitted on Club's property without permission of the Board of Directors or the Entertainment Committee.
4. Alcoholic beverages will not be served or sold, or permitted to be consumed, on the premises during hours prohibited by law. No alcoholic beverages will be sold or served to any person not permitted to purchase the same under the laws of the State of South Carolina or be sold for off premises consumption.
5. Except as permitted by the Board of Directors, no commercial advertisements shall be posted or circulated in the Club, or shall business of any kind be solicited or transacted on Club's property or upon Club's stationery.
6. Other than as permitted by the By-Laws of the Club, no petition shall be originated, solicited, circulated or posted within the Clubhouse or on any Club property.
7. It is contrary to Club's policies to have the facilities used for functions which are in any way related to past, present or future fund raising efforts for the benefit of a political cause. The Club's facilities also shall not be used in connection with organized religious services.
8. Club employees are not permitted to deliver food or liquor to locations away from the immediate area of the Clubhouse without permission of the Club Manager.
9. All catered food and beverages consumed on the Club's facilities shall be furnished by the Club.
10. Members must not request special or personal services from employees of the Club who are on duty.
11. Members must not request staff to use the Club's copying machine for personal purposes on their behalf.
12. Dogs or other pets are not permitted in the Clubhouse or at the pool and members may not walk their dogs on Club's premises, except in areas and at times approved by the Board of Directors.
13. All complaints or suggestions must be in writing, signed and addressed to the Chairman of the appropriate committee.

14. It is unbecoming for any members or guests to abuse any of the Club's employees, verbally or otherwise. No member shall discipline any employee, nor shall a member request an employee to leave the Club's premises for any purpose whatsoever. Any employee not rendering courteous and prompt service should be reported to the Club Manager immediately.
15. The roster or list of members in the Club shall not be used or given to anyone by a member of the Club for any reason whatsoever and shall be furnished only to members.
16. Violation of any of the above rules or conduct in a manner prejudicial to the best interests of the Club will subject one to disciplinary action in accordance with the By-Laws.
17. The Board of Directors reserves the right to amend or modify these rules when necessary and will notify the membership of such changes.
18. All rules and regulations contained herein shall be subject to and controlled by the applicable provisions of the By-Laws.

MEMBERSHIP CARDS

1. A membership card indicating a club account number, type of membership and expiration date, will be issued to the member as well as other eligible members of the family entitled to membership privileges upon payment of the annual dues by the member. Membership cards are not transferable. Presentation of a membership card is required prior to use of the golf, tennis, pool, dining and recreational facilities.
2. A membership card may not be used by any person other than the member to whom it is issued.
3. In the event of a lost or stolen membership card, the membership office must be notified in writing immediately. The account will be cancelled and placed on "call security". This procedure reduces the risk that unauthorized persons will be able to charge items to the account. The member shall be responsible for all charges placed on the account until the Club is notified in writing that the membership card has been lost or stolen. For each new card replaced, a \$5.00 charge, per card, will be placed on the member's club account.
4. Annual membership dues are payable monthly in advance. The charging of membership dues to the member's account is not permitted.
5. All charges incurred by the member to his or her club account will be billed monthly and shall be deemed delinquent if not paid within thirty (30) days after receipt of statement.
6. If payment is not received within thirty (30) days after such notice, the delinquent member's card and membership privileges shall be automatically suspended.
7. Any member whose account is delinquent for sixty (60) days or more may be suspended by the Board of Directors. Suspended members may be reinstated by the Board of Directors within six (6) months of the suspension upon payment of all indebtedness plus all dues, fees, assessments, and charges (including any food and beverage minimums) accrued since the initial time of delinquency, plus a sum calculated at the rate of eighteen percent (18%) annually.

8. The Club shall have a lien against the membership for any unpaid annual dues or other charges made by the member of the Club.
9. If the Club commences any legal action to collect any amount owed, or to enforce any liability of a member to the Club and, if judgment is obtained by the Club, the member shall also be liable for all costs and expenses of the legal action and reasonable attorneys' fees required in connection with appellate proceedings.

SUSPENSION AND TERMINATION OF MEMBERSHIP

1. Any member may terminate membership in the Club by delivering to the Club's Secretary written notice of termination in accordance with the By-Laws. Notwithstanding termination, the member shall remain liable for any unpaid club account, membership dues and charges (including any food and beverage minimums).
2. A member may be terminated or suspended by the Club if, in the sole judgment of the Club, the member:
 - a. Exhibits unsatisfactory behavior, deportment and appearance.
 - b. Fails to pay the required membership contribution, dues, fees, charges (including any food and beverage minimum) or assessments in a proper and timely manner.
 - c. Fails to abide by the rules and regulations for the golf, tennis, pool, and dining facilities or for any other recreational facilities of the Club.
 - d. Abuses the personnel or employees of the Club.
 - e. Submits false information on his or her Application or with respect to his or her guests or lessees.

Notwithstanding any termination or suspension of membership, the member shall remain liable for any unpaid club account or membership dues, fees, charges and assessments and such member shall not be entitled to a refund of any part thereof paid by the member to the Club.

3. Any member who has had his or her membership terminated for any reason other than failure to meet the eligibility requirements shall not again be admitted to the Club's facilities under any circumstances.

LOSS OR DESTRUCTION OF PROPERTY OR INSTANCES OF PERSONAL INJURY

1. The Club shall not be responsible for any loss or damage to any property left or stored on the Club's premises, whether in lockers or elsewhere.
2. No person shall remove from the Club's premises any property belonging to the Club without proper authorization. Every member of the Club shall be liable for any property damage and/or personal injury at the Club, or at any activity or function operated, organized, arranged or sponsored by the Club, caused by the member, or his or her family, guests or lessees. The cost of any such damage may be charged to the member's club account.

3. Any member, guest or other person who, in any manner, makes use of or accepts the use of any apparatus, appliance, facility, privilege or service whatsoever owned, leased or operated by the Club, or who engages in any contest, game, function, exercise, competition or other activity operated, organized, arranged or sponsored by the Club, either on or off the Club's premises, shall do so at his or her own risk, and shall hold the Club, Callawassie Island Company, L.P. (the "Partnership") and their partners, directors, officers, employees, representatives, and agents harmless for any and all loss, cost, claim, injury, damage or liability sustained or incurred by him or her, resulting therefrom and/or from any act or omission of any director, officer, employee, representative or agent of the same. Any member shall have, owe and perform the same obligation to the Club, the Partnership and their partners, directors, officers, employees, representatives and agents, hereunder in respect to any such loss, cost, claim, injury, damage or liability sustained or incurred by any guest of such member.

DINING ROOM RESERVATIONS

1. Dinner reservations are required. Members are asked to assist in maintaining required service levels by making reservations for dining prior to 5:00 p.m. on the day involved. For a party of ten or more, a minimum additional twenty-four (24) hour notice is requested, and it is further suggested that for these larger parties, a set menu be arranged whenever possible. The courtesy of providing notice of necessary changes or cancellations is requested not later than 5:00 p.m. on the day involved.
2. For all functions at the Club, tables will be assigned on a first-call, first-choice basis.

GRATUITIES

1. A service charge of sixteen percent (16%) or such other percentage as may be customary from time to time will be added to all food and beverage sales which will be distributed to the waitress, busboys and beverage department employees. No member shall offer any payment or any gratuity of any kind to any employee of the Club, nor shall any employee accept a gratuity, other than the Golf Bag Attendants, Locker Room Attendants and the Doorman, under penalty of disciplinary action by the Board of Directors.
2. In November it is customary to send a letter from the President, providing an opportunity for the membership to contribute to a Holiday Fund for employees and a suggested contribution, whose payment will be voluntary and shall be included on each member's November bill. As you know, there are many people employed, ranging from those in office administration to Clubhouse services to golf course workers, and this provides the membership with an opportunity to show our appreciation of their efforts. The Board of Directors is responsible for the distribution of funds.

CHILDREN

Children under thirteen years of age are not allowed in the Clubhouse or pool unless accompanied by and supervised by an adult. Children under the applicable minimum legal drinking age are not allowed in the bar unless accompanied by a parent. The Golf Course may be used by Juniors under thirteen years of age with the permission of the Golf Professional.

ATTIRE

1. It is expected that members will dress in a fashion befitting the surroundings and atmosphere provided in the setting of the Club. It is also expected that members will advise their guests of the dress requirements.
2. Casual dress is permitted at lunch. Appropriate evening attire is expected for dinner. The dress code for special events will be as announced. Shirts are required on all of the Club's premises except in the pool area and locker room.

CLUB SERVICES AND ACTIVITIES

1. The Club Services and Activities Department provides a variety of social, cultural and recreational events for youth and adult members and all members entitled to participate. Activities are publicized in the monthly club bulletin.
2. Reservations are required for most club activities and are taken on a first-come, first-served basis by pre-registering with the club services staff.
3. Cancellation of reservations for activities requiring prior payment may be made before the payment deadline without penalty. However, after that time, no refunds will be made except in emergencies as determined in the sole and absolute discretion of the Board of Directors.
4. The Club wishes to encourage the use of the Clubhouse by members for private parties on any day or evening, provided it does not interfere with the normal operation of the Club, or with the service regularly available to the members. Members are requested to make reservations with the Club for available dates and arrangements. Private parties on the Club's premises will be catered solely by the Club.
5. Private parties are not permitted on the Club's premises without the prior approval of the Club Manager and a member assumes full responsibility for the conduct of his or her guests. The sponsoring member shall be responsible for the cost of removing any party decor.

MAILING ADDRESSES

1. Each member shall be responsible to inform and file with the Club Secretary in writing, preferably on a form provided, his mailing address, or any changes thereof, to which the member wishes all notices and invoices sent. A member shall be held to have received his club mailings ten (10) days after they have been mailed to the address on file with the Club Secretary.
2. In the absence of an address filing with the Club Secretary, any club mailing may with like effect be deposited in the post office, addressed as the Club Secretary may think most likely to cause its prompt delivery.

POOL

1. The pools are for the exclusive use of members and their guests.
2. Members and guests must register at the pools prior to using the facilities.
3. Use of pool facilities at any time is at the swimmer's own risk.
4. Swimming is permitted only during open hours of the pool.
5. Children under thirteen (13) years of age are not allowed to use the Main Club pool facilities unless accompanied by an adult. Children under eight (8) years of age are not allowed to use the River Club pool unless accompanied by an adult.
6. Showers are required before entering the pools.
7. Glass bottles, glasses and sharp objects are not permitted in the pool areas.
8. All swimmers must wear bona fide swimming attire. Cutoffs, dungarees and bermudas are not considered appropriate swimwear. Children wearing diapers are prohibited in the pools.
9. Dogs and other pets are not permitted in the pool areas.
10. All persons using the pool furniture are required to cover the furniture with a towel when using suntan lotions. It has been found that these preparations stain and damage the plastic strappings. Pool furniture must not be removed from the pool deck area.
11. Running, ball playing, noisy or hazardous activity will not be permitted in the pool areas. Pushing, dunking and dangerous games are forbidden.
12. Unauthorized diving is prohibited.
13. Fishing, spear fishing and snorkeling equipment, other than a mask, are not to be used in the River Club pool area except as part of an organized course of instruction.
14. Out of consideration for others, volume of radios and recorders must be kept at a reasonable level at the River Club. There shall be no radios and recorders at the Main Club pool.
15. Picnic lunches are forbidden in the pool areas.
16. All persons using the pool areas and washrooms are urged to cooperate in keeping the areas clean by properly disposing of towels, cans, paper plates, cigarettes, etc.
17. Smoking is prohibited in the pool areas except as authorized.
18. The Pool Committee has full authority to enforce these rules and regulations, and any infractions will be reported to the Board of Directors. By being mindful of these rules, all members and guests will be able to enjoy fully the pleasant facilities of the pools.

GOLF RULES

1. All persons must register in the Golf Pro Shop prior to beginning play.
2. "Cutting-in" is not permitted at any time. Specific approval of the Golf Pro Shop is required to begin play at the 10th tee.
3. Practice is not allowed on the golf course proper. The practice range and the practice putting green should be used for practice.
4. If a group fails to keep its place on the course and loses more than one clear hole on the players ahead, it must allow the following group to play through.
5. Players who stop after the 9th hole for any reason may not delay the following foursome and are expected to give way in order to maintain continuity of play.
6. All tournament play must be approved in advance by the Board of Directors.
7. Each player must have his or her own set of clubs.
8. Children under age sixteen (16) must be accompanied by an adult unless certified by the Golf Professional.

GOLF STARTING TIMES

1. All players must have a starting time.
2. The Golf Pro Shop will assign the starting times.
3. All sign-up privileges will be determined by the Club from time to time.
4. Any abuse of starting times shall be reported to the Golf Professional and such offending member shall be disciplined in accordance with the General Club Rules and the By-Laws of the Club.
5. Starting time changes must be approved by the Golf Pro Shop.
6. The person calling for a starting time must be a member of the playing party.
7. Groups of five or more players shall not be allowed at any time.
8. The Golf Pro Shop may permit members to walk the golf course after 2:00 p.m.

RAIN-CHECK POLICY

1. When rain prevails and causes termination of play, a credit for that day's greens fees and cart fees will be provided based on the number of holes played as follows:
 - a. Less than 3 holes played — full 18-hole credit
 - b. Less than 12 holes played — 9-hole credit
2. It will be the sole responsibility of the player to apply for a rain check from the Golf Pro Shop. There will be no rain check policy for outside play.

DRIVING RANGE

1. Range balls are for use on the driving range only. Range balls will not be permitted for use on the golf course.
2. Range balls are provided at the bag drop area.

PRIVATE GOLF CART RULES

1. Members with a residential unit in Callawassie can own or lease a private golf cart.
2. No private carts will be stored on the Club's facilities other than those belonging to the cart owner.
3. Private golf carts will be permitted by the Club and an annual trail fee will be charged.
4. To preserve uniformity, all golf carts shall be purchased or leased through the Club. All carts will be electric and white in color. Head and tail lights are required for use on the private roads of Callawassie.
5. Use of private carts without payment of additional fees is limited to the member's immediately family. A member's immediate family includes the member, his or her spouse and their unmarried children under the age of twenty-five (25), living at home or attending school on a full-time basis.
6. Private carts shall be registered with the Golf Pro Shop each time they are used on the golf course.
7. Private golf carts should use the private roads of Callawassie to reach the Golf Pro Shop prior to beginning a round of golf.
8. For safety reasons, private golf carts shall not be allowed on the bridge and causeway connecting Callawassie Island to the mainland.

CLUB GOLF CART RULES

1. No golf cart shall be used by a member or guest without proper assignment and registration in the Golf Pro Shop.
2. Children under the age of sixteen (16) are not permitted to drive the Club's golf carts unless accompanied by an adult accepting responsibility.
3. The Club's golf carts are for use on the golf course only and must not be driven to residential units.
4. Operation of the Club's golf carts is at the risk of the operator. Cost of repair to a damaged cart will be charged to the member, or in the case of a guest, to the sponsoring member. Damage to a cart should be reported as soon as possible.

GENERAL GOLF CART RULES

1. No more than two people and no more than two sets of clubs per cart are allowed.
2. Obey all traffic signs.
3. Always use cart paths where provided, especially near tees and greens. Players are required to remain on cart paths, without exception, on Par 3 holes.
4. Except on a path, do not drive a cart within fifty (50) feet of a green or a tee.
5. Never drive a cart through a hazard.
6. Be careful to avoid soft areas on fairways, especially after rain. Use the roughs wherever possible.
7. Avoid well-worn areas when entering and exiting fairways. Seek lush areas to avoid making unsightly beaten paths.
8. Do not drive carts under low hanging branches of trees.
9. When "Special cart directional signs" are posted, they are to be followed.
10. "Course Closed" and "Hole Closed" signs are to be adhered to without exception.

Repeated abuse of the above rules may result in loss of cart privileges.

HANDICAPS

1. Handicaps are computed under the supervision of the Golf Professional in accordance with current USGA recommendations.
2. Accurate records are to be kept of scores turned in and recorded for all full rounds played. The Golf Professional will determine if there are violations by members in turning in their scores. If there are violations, the Golf Professional shall arbitrarily assign a score two (2) strokes lower than the lowest score on the computer sheet and shall continue to do so as long as these violations occur.

GOLF COURSE ETIQUETTE

Each person using the course should do his or her part to make a round of golf at the Club a pleasant experience for everyone. Here are some suggestions.

1. Don't waste time. Be ready to make your shot when it is your turn to play, and don't be afraid to shoot out of turn if doing so will contribute to the progress of your group.
2. When approaching a green, drive your cart to the side or rear of the green on the best direct path to the next tee. This can save about one half hour per round. Never leave that cart in front of the green where you will have to go back to get it while the following players wait for you to get out of the way.
3. When play of a hole is completed, leave the green promptly and proceed to the next tee without delay. Do the scoring for the completed hole while the others are playing from the next tee.
4. If you are not holding your place on the course (see Golf Rule No. 4), allow the players behind to play through. Do the same if you stop to search for a lost ball.
5. Repair your ball marks on the greens.
6. Carefully rake sand traps after use.
7. Proper golf attire is required at all times. Swimming attire, tank tops and gym shorts are not considered appropriate for golf course or golf practice area participation. Everyone must wear golf shoes or tennis shoes. Shirts must have collars and shorts must be within two inches of the knees.

TENNIS RULES AND REGULATIONS

1. Players without a prearranged game are encouraged to come to the courts where the Tennis Professional will assist in forming matches.
2. All sign-up privileges will be determined by the Club from time to time.
3. All players must check in and register at the Tennis Pro Shop at least ten (10) minutes prior to their starting times, or the court will be released to the first name on the waiting list. Failure to register at the Tennis Pro Shop will result in a \$25.00 penalty fee.
4. Each member may reserve two courts per day as long as the same individual is not using both courts.
5. Once a member is off the court, the member may sign up for the next available hour.
6. Playing on a court constitutes having that court reserved, i.e., Smith may not play on Jones' court at 9:00 a.m. and have a court in his name at 10:00 a.m.
7. Doubles may reserve a court for an hour and a half, singles for an hour (except for times designated by the Tennis Professional when doubles will be an hour and singles possibly eliminated). More than one hour may be reserved after 5:00 p.m. on the day of play.

8. Proper tennis attire is required at all times. Colors are permitted; however, cut-offs, bermudas, bathing suits, gym shorts, slacks, running shorts, etc. are not permitted. Smooth sole tennis shoes, as distinguished from basketball or jogging shoes, are required.
9. Proper tennis etiquette should be observed at all times. No excessive noise, racquet throwing or profanity will be permitted at any time.

GUESTS

1. Residents of Callawassie who are not members cannot use the Club's facilities as a guest of a member.
2. All guests shall either be "Day Guests" or "House Guests". A House Guest is defined as a guest temporarily residing in a member's unit at Callawassie (or such other community designated by the Club). All other guests shall be considered to be Day Guests.
3. The same Day Guest may be invited to use the golf course no more than six (6) times per year and no more than two (2) times during any one month.
4. Day Guests may not use the Club's facilities unless in the company of a member.
5. All Day Guests and their sponsoring members must first register at the Club's office for a guest pass in order to gain access to the Club's facilities.
6. The sponsoring member is responsible for charges incurred by his or her Day Guests.
7. All House Guests must acquire a House Guest membership.
8. The sponsoring member must initiate the application for House Guest membership at least five (5) business days prior to the anticipated arrival date of the House Guest. Each House Guest must be escorted personally to the Club's office by the sponsoring member or such member must advise the Club's office in writing or by telephone of such House Guest's plans.
9. In order to issue a House Guest Visitor's Card, the following information is to be provided in advance of the House Guest's arrival:
 - a. Guest's Name.
 - b. Required Club usage dates.
 - c. Callawassie residence and telephone number.
10. The sponsoring member must indicate whether all charges and fees incurred by the House Guest are to be charged solely to the House Guest's account or to the member's own club account. Members are responsible for their House Guest's accounts if such accounts are not paid in full within thirty (30) days of billing.

11. After application for House Guest membership and payment made of the applicable House Guest fee, a Visitor's Card will be issued to each House Guest evidencing his or her rights and entitling him or her to use the Club's facilities. This Visitor's Card must be carried at all times and presented upon request for the use of the Club's facilities. Under no circumstances shall a House Guest use a member's or Visitor's Card other than the card issued specifically to that House Guest.
12. A House Guest may use the Club's facilities without being accompanied by the member.
13. In the event of a cancellation by a House Guest, the Club's office must be notified at least two (2) business days in advance to be eligible for a rebate of fees. Otherwise, the appropriate fees will be charged to the sponsoring member's club account.
14. A sponsoring member shall be responsible for the conduct of all of his or her guests while at the Club. If the manner, deportment or appearance of any guest is deemed by the Club to be unsatisfactory, the sponsoring member shall, at the request of the Club, cause such guest to surrender his or her guest card and leave the Club's premises. The Club may at any time suspend or terminate the guest sponsorship privileges of any member or members of the Club.

LESSEE PRIVILEGES

1. Members shall have the right to designate the lessee their residential unit in Callawassie (or such other community designated by the Club) as the beneficial user of their membership.
2. The sponsoring member must initiate the application for use privileges and furnish the Club with a copy of the lease, and the lessee's application must be approved by the Club, prior to the lessee's use of the Club's facilities.
3. During the period when a lessee is designated as the beneficial user of the member's membership, the member shall not have the right or privileges to use the membership.
4. Lessees shall pay the designated fees for use of the Club's facilities.
5. Lessee privileges may be denied, withdrawn, or revoked at any time for reasons considered sufficient by the Board of Directors in its sole and absolute discretion.

THE CALLAWASSIE ISLAND MEMBERS CLUB, INC.

GENERAL CLUB RULES

8/8/01

These General Club Rules were adopted by the Board of Directors on 8 August 2001

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8/8/01

1. GENERAL RULES

1.1. CLUB HOURS

The Callawassie Island Members Club, Inc. ("the Club") and its facilities shall be open on the days and during the hours as may be established by the Board of Directors from time to time.

1.2. RULES VIOLATIONS

Violation of any of the rules contained herein or conduct in a manner prejudicial to the best interests of the Club will subject one to disciplinary action in accordance with the By-Laws.

1.3. MODIFICATION OF THESE RULES

The Board of Directors reserves the right to amend or modify these rules when necessary and will notify the membership of such changes. Any such amendments or modifications shall be subject to and controlled by the applicable provisions of the By-Laws and the Plan for the Offering of Memberships.

1.4. MEMBER COMPLAINTS AND SUGGESTIONS

All member complaints or suggestions should be directed to and will be addressed by the Club General Manager, the chairman of the appropriate committee or the president of the Board of Directors.

1.5. MEMBER CONDUCT

Members should refrain from confronting members, guests, or visitors regarding the misuse or suspected misuse of Club property and amenities. The Club General Manager or Security should be promptly notified in such instances.

1.6. GUEST CONDUCT

Members are responsible for the conduct of their guests and must see that they comply with all Club rules. In order that all members may enjoy our facilities, the number of guests may be restricted by the Club General Manager.

1.7. PARTIES AND EVENTS

1.7.1. Private parties on the Club premises will be catered solely by the Club unless otherwise authorized by the Board of Directors or the Club General Manager.

1.7.2. Member sponsored and hosted events involving significant commitment of Club facilities and nonmember use will be preapproved by the Board of Directors.

1.7.3. Performance by entertainers will be permitted on the property of the Club only with the permission of the Board of Directors or the Club General Manager.

1.7.4. Alcoholic beverages will not be served or sold, or permitted to be consumed, on the premises during hours prohibited by law. No alcoholic beverages will be sold or served to any person not permitted to purchase the same under the laws of the State of South Carolina or be sold for off-premises consumption.

1.7.5. The Board of Directors or the Club General Manager will approve all nonmember sponsored functions to be held on Club premises prior to their authorization and will limit the number of such approved functions in accordance with then Club current policies.

1.8. EMPLOYEES

1.8.1. It is inappropriate for any members or guests to abuse or discipline any of the Club's employees, verbally or otherwise. Any employee not rendering courteous and prompt service should be reported to the Club General Manager.

1.8.2. No member shall request an employee to leave the Club's premises for any purpose whatsoever nor redirect an employee from their scheduled work activities. Notify the Club General Manager, the golf or tennis professionals or the golf course superintendent if a need occurs.

1.8.3. Members must not request special or personal services from employees of the Club who are on duty.

1.8.4. Club employees are not permitted to provide off-hour services away from the Club premises to members without pre-approval by the Club General Manager. Members wishing such services should speak to the Club General Manager.

1.8.5. Club employees are not permitted to deliver food or liquor to locations away from the immediate area of the Clubhouse without prior permission of the Club General Manager.

1.9. ADVERTISEMENTS AND PETITIONS

1.9.1. No commercial advertisements shall be posted or circulated in the Club.

1.9.2. Other than as permitted by the By-Laws of the Club, no petition shall be originated, solicited, circulated or posted within the Clubhouse or on Club property.

1.10. USE OF ELECTRONIC EQUIPMENT

1.10.1. Use of cell phones and pagers is prohibited within Club buildings, on or near the golf practice facility or while participating in sports or pool area activities except for emergency use.

1.10.2. Use of radios, tape players and CD players except with the use of headsets is prohibited in common areas, including dining rooms, bar, pool areas, on the golf course and tennis courts unless otherwise approved by the Board of Directors or the Club General Manager.

1.11. PETS

Dogs or other pets, with the exception of seeing-eye dogs, are not permitted in Club buildings or at the pools. Members may walk their pets on Club premises only in such areas and at such times as may be approved by the Board of Directors or the Club General Manager. Pets on Club premises shall be leashed at all times except on the golf course when the Pro Shop is closed and shall then be leashed or under voice control. Members are requested to dispose properly of any excrement produced by their pets.

1.12. GOLF CARTS AND CART PATHS

1.12.1. Use of the golf course or the cart paths by non-players is strictly forbidden at all times when the pro shop is open.

1.12.2. Golf carts are not to be driven on the cart paths by members driving to and from the Clubhouse area. Members are requested to use the roadways for this purpose.

1.12.3. Golf carts are to be white or near white in color and will be subject to the approval of the Golf Professional.

1.13. GOLF CART LIABILITY

Liability concerning privately owned golf carts is solely the individual responsibility of the owning member.

1.14. LAGOON FISHING

All fishing in the lagoons is strictly on a catch and release basis and not to be conducted in any areas abutting the golf course during hours in which the Pro Shop is open.

2. CLUB SERVICES AND ACTIVITIES

2.1. RESERVATIONS

Reservations are required for most Club activities and are taken on a first-come, first-serve basis by pre-registering with the appropriate Club personnel.

2.2. RESERVATION CANCELLATION

Cancellation of reservations for activities requiring prior payment may be made before the payment deadline without penalty. However, after that time, no refunds will be made except in emergencies as determined in the sole and absolute discretion of the Club General Manager.

2.3. PRIVATE PARTIES

The Club wishes to encourage the use of the Clubhouse by members for private parties on any day or evening, provided it does not interfere with the normal operation of the Club, or with the service regularly available to the members. Such parties require the prior written approval of the Club General Manager. The sponsoring member assumes full responsibility for the conduct of his or her guests and may be required to execute a written document so signifying.

3. DINING ROOM

3.1. DINING MINIMUMS

3.1.1. Each member will be charged a monthly food and beverage minimum as determined from time to time by the Board of Directors. All food and beverage charges exclusive of taxes and gratuities will be credited against the food and beverage minimum until such time as the minimum is completely used.

3.1.2. Any amount of the minimum unused in a membership year will not be carried over to the subsequent membership year.

3.2. RESERVATIONS

3.2.1. Dinner reservations are requested. Members are asked to assist in maintaining required service levels by making reservations for dining prior to noon on the day involved. For a party of ten or more, a minimum additional twenty-four (24) hour notice is required whenever possible. The courtesy of providing notice of necessary changes or cancellations is requested not later than 5:00 p.m. on the day involved.

3.2.2. For all functions at the Club, tables will be assigned on a first-call, first-choice basis.

3.3 GRATUITIES

3.3.1. A service charge in an amount determined by the Board of Directors from time to time will be added to all food and beverage sales which will be distributed to service personnel.

3.3.2. In November, it is customary to send a letter from the President of the Board of Directors providing an opportunity for the membership to contribute to a Holiday Fund for employees. Payment will be voluntary and, if elected, shall be included on each member's November bill.

4. ATTIRE

4.1. CLUBHOUSE

4.1.1. It is expected that members will dress in a fashion befitting the surroundings and atmosphere provided in the setting of the Club. It is also expected that members will advise their guests of the dress requirements. Special dress requirements may be established from time to time by the Board of Directors or the Club General Manager and made known to the members.

4.1.2. Appropriate attire for use of the dining facilities and Clubhouse for breakfast or luncheon consists of comfortable sportswear including tennis or golf clothes. No swimwear, even if accompanied by a robe or cover-up will be permitted.

4.1.3. Appropriate attire for dinner in the Clubhouse is expected to include collared shirts for gentlemen. Formal dining rooms require jackets for gentlemen.

4.1.4. Gentlemen may wear hats in the grillroom and lounge until 6 pm and are requested to remove their hats at other times and when elsewhere in the Main Clubhouse.

4.1.5. Dress standards of the Clubhouse may be waived or altered from time to time for special activities and functions.

4.2. GOLF

Proper golf attire is required at all times on the golf course and practice facility. Everyone must wear soft-spiked golf shoes. Men's shirts must have collars. Tank tops, gym shorts, cutoffs and denim jeans are not appropriate in these areas.

4.3. TENNIS

Proper tennis attire is required at all times when on the tennis courts. Smooth sole tennis shoes, as distinguished from basketball or jogging shoes, are required.

4.4. POOLS

All swimmers must wear bona fide swimming attire. Cutoffs, dungarees and Bermudas are not considered appropriate swimwear. Children wearing diapers are prohibited in the pools.

5. GUESTS

5.1. GENERAL

5.1.1. Callawassie Island property owners who are not members cannot use the Club facilities as a guest of a member except for attendance at private functions or other approved group activities.

5.1.2. All guests shall either be "day guests" or "house guests". A houseguest is defined as a guest temporarily residing in a member's unit at Callawassie. All other guests shall be considered to be day guests.

5.1.3. A day guest may be invited to use the golf course, tennis or pool facilities up to six (6) times per year.

5.2. REGISTRATION AND CHARGES

5.2.1. Guests may use the Club facilities either in the company of or unaccompanied by the sponsoring member, pursuant to conditions established by the Club from time to time including the payment of a guest fee if applicable.

5.2.2. If a guest is to use the Club facilities at any time without the accompaniment of the sponsoring member, the guest must be registered for a guest pass at the Club office by the sponsoring member prior to such unaccompanied usage. Information to be provided by the sponsoring member will include:

- Guest's name
- Club usage dates
- Callawassie residence and telephone number if applicable
- Whether or not the guest is to be authorized to sign for charges against the sponsoring member's Club account

5.2.3. Guest registration may be accomplished by the sponsoring member and guest personally appearing at the Club office or by letter, phone or fax. A registered guest may pick up his or her guest pass at the Club office during normal office hours.

5.2.4. Temporary charging privileges may be established at the Club office for guests.

5.2.5. Unaccompanied guests will not be allowed to use Club facilities without a guest pass which must be made available upon request at any time.

5.2.6. Member accompanied guests will not require a guest pass to use the Club facilities but must be registered with the appropriate professional prior to use of the Golf or Tennis facilities.

5.2.7. Guests may sign for charges against the hosting member's account if specifically authorized to do so in writing by the hosting member or they may charge to recognized personal charge cards. The hosting member will be responsible for any unpaid charges incurred by his or her guest(s).

5.2.8. The sponsoring member will at all times be responsible for the conduct of his or her guests while at the Club. If the manner, deportment and appearance of any guest is deemed by the Club to be unsatisfactory, the sponsoring member shall at the request of the Club General Manager, cause such guest to surrender his or her guest card and leave the Club premises. The Club may at any time suspend or terminate the guest sponsorship privileges of any member(s) of the Club.

6. CHILDREN

6.1 Children under fifteen years of age are not allowed in the Clubhouse pool, nor are they allowed in the Clubhouse unless accompanied by an adult.

6.2 Children under fifteen years old may use the River Club Pool when accompanied by an adult.

6.3 Children under the applicable minimum legal drinking age are not allowed in the bar unless accompanied by a parent.

6.4 The Golf Course may be used by juniors under thirteen years of age with the permission of the Golf Professional.

USE OF GOLF CARTS BY CHILDREN UNDER THE AGE OF FIFTEEN WITHOUT THE PRESENCE OF AN ADULT IN THE CART IS STRICTLY PROHIBITED.

7. LESSEE PRIVILEGES

7.1. Members shall have the right to designate the lessee of their residential unit in Callawassie as the beneficial user of their membership.

7.2. The sponsoring member must initiate the application for use privileges and furnish the Club with a copy of the lease, and the lessee's application must be approved by the Club General Manager prior to the lessee's use of the Club's facilities.

7.3. During the period when a lessee is designated as the user of the member's membership, the member shall not have the right or privileges of membership.

7.4. Lessees shall pay the designated fees for use of the Club's facilities.

7.5. Lessee member privileges may be denied, withdrawn, or revoked at any time for reasons considered sufficient by the Board of Directors in its sole and absolute discretion.

7.6. The Equity member will be responsible for the department of and for all unpaid charges of the lessee.

8. POOLS

USE OF THE CLUB POOL FACILITIES AT ANY TIME IS AT THE RISK OF THE SWIMMER

8.1. GENERAL

8.1.1. Only members and their guests may use the pools.

8.1.2. Showers are required prior to entering the pools.

8.1.3. Pool furniture must be kept on patio decks. All persons using pool furniture are required to cover the furniture with a towel when using suntan lotions. It has been found that these preparations stain and damage the vinyl strapping.

8.1.4. No running, jumping or boisterous playing is allowed.

8.1.5. All persons using the pool areas and washrooms are responsible for keeping the areas clean by properly disposing of towels, cans, paper plates, cigarettes, etc.

8.1.6. All swimmers must wear bona fide swimming attire. Cut-offs, dungarees and Bermudas are not considered appropriate attire.

8.1.7. Fishing, spear fishing and snorkeling equipment, other than a mask and/or fins are not to be used in the pool areas except as part of an organized course of instruction.

8.2. SAFETY

8.2.1. * No person under the influence of drugs or alcohol should use the pools.

8.2.2. * No spitting or blowing nose in pools.

8.2.3. * No person with communicable diseases allowed in pools.

8.2.4. * No person with skin, eye, ear or nasal infections allowed in pools.

8.2.5. * No animals or pets allowed in the pools or pool areas or on the marina docks.

8.2.6. * No glass or hard plastic allowed in the pools or pool areas.

8.2.7. * Pools are open from 8:00 a.m. to sundown.

8.2.8. * A FIRST AID KIT is located on the wall entering the restroom area at each pool.

8.2.9. * AN EMERGENCY PHONE is located on the wall entering the restroom area at each pool.

8.2.10. * NO SOLO SWIMMING. NO LIFEGUARD ON DUTY. SWIM AT YOUR OWN RISK.

8.3. RULES ENFORCEMENT

The Club General Manager has full authority to enforce these rules and regulations, and any infractions will be reported to the Board of Directors. By being mindful of these rules, all members and guests will be able to enjoy fully the pool facilities.

* All rules marked with an asterisk are required by DHEC.

8.4. CLUBHOUSE POOL

8.4.1. This pool is an ADULT pool. Persons must be fifteen years or older to use this pool.

8.4.2. Bringing food and beverages to the Clubhouse pool area is prohibited during Club service hours of 11:00 a.m. to 3:00 p.m. Tuesday through Sunday. The Club will serve food and beverages poolside during these hours.

8.4.3. No food is permitted in or around the perimeter of the pool. Members are encouraged to use the tables under the arbor.

8.4.4. *The maximum number of swimmers allowed in the pool is 100.

8.5. RIVER CLUB POOL

8.5.1. Children under fifteen years old must be accompanied by a parent or guardian.

8.5.2. No food is permitted in or around the perimeter of the pool. Members are encouraged to use the picnic tables on the back deck of the River Club.

8.5.3. Those wearing diapers are prohibited in the pool.

8.5.4. *The maximum number of swimmers allowed in the pool is 100.

9. GOLF

9.1. Rules concerning the use of the golf course and related facilities will be established from time to time by the Board of Directors with the advice of the Golf Committee, the Green Committee, the Golf Professional or the Club General Manager, will be made available to members as a printed booklet entitled, "Golf Rules and Guidelines," and will include the following:

- Starting times and weather associated policies
- Rain check policy
- Driving range rules
- Private golf cart rules
- Handicaps
- Golf course etiquette
- Attire

9.2. All members should familiarize themselves with and comply with the Club Golf Rules to ensure and enhance the enjoyment of the golf facilities by all members

9.3. Special rules and notices concerning golf facility usage will be posted on the bulletin boards in the Pro Shop from time to time as necessary and appropriate.

10. TENNIS

10.1. Rules concerning the use of the tennis facilities will be established from time to time by the Board of Directors with the advice of the Tennis Committee, the Tennis Professional or the Club General Manager, will be posted on the bulletin board at the tennis court or in the Tennis Pro Shop, and will include the following:

- Sign up privileges and restrictions
- Tennis attire
- Court etiquette
- Court maintenance

10.2. All club members are encouraged to familiarize themselves with and comply with the Club Tennis Rules to ensure and enhance the enjoyment of the tennis facilities by all members.

10.3. Special rules and notices concerning tennis facility usage will be posted on the bulletin board at the tennis courts or the Tennis Pro Shop from time to time as necessary and appropriate.

11. RIVER CLUB DOCK USAGE

11.1 The Club dock adjacent to the River Club is maintained and operated by the Club for the exclusive use of Club members and their guests. All other use of this facility, unless specifically authorized by the Club General Manager or the Board of Directors, is strictly prohibited and should be reported to the Club General Manager or Security.

11.2 THERE WILL GENERALLY BE NO ATTENDANT PRESENT AT OR NEAR THE DOCK FACILITY AND ALL MEMBERS AND GUESTS USE THE DOCK STRICTLY AND COMPLETELY AT THEIR OWN RISK FOR ANY PROPERTY DAMAGE, LOSS OR PERSONAL INJURY. FOR SAFETY REASONS UNACCOMPANIED CHILDREN ARE NOT PERMITTED ON THE DOCK FACILITY.

11.3 Club members or their guests are permitted to tie boats to the dock facility for a period not to exceed 72 consecutive hours unless otherwise approved by the Club General Manager.

11.4 In recognition of the severe river currents often present, rafting of a boat alongside another is not thought to generally be prudent and therefore, for safety reasons, extreme caution in doing so is recommended.

11.5 In compliance with dock permit restrictions, no persons are permitted to remain on docked boats overnight and any discharge of waste, garbage or other materials into the surrounding waters by any person at any time is strictly prohibited.

11.6 All Club members owning boats and who anticipate using the dock facility from time to time are required to list their boat registration number with the Club General Manager's office in order that any observed problems with a docked boat can be promptly reported to the owner. Any member guests docking boats for overnight stay are similarly requested to register boats with security for safety reasons.

11.7 Members using the facility for crabbing are required to clearly mark any traps left unattended at the dock with their names. Any baited trap placed in the water should be attended at least once every 24 hours.

11.8 The dock is an important Club facility operated for the pleasure of all Club members, both boat owners and others. Mutual consideration of and respect by all concerned for the rights and privileges of other members, including adjacent property owners, is requested and expected.

11.9 Callawassie Island Property Owners who are not Club members or their guests cannot use the dock facilities at any time including use as a guest of a member.

12. MEMBERSHIP CARDS

12.1. A membership card indicating a Club account number and type of membership will be issued to the member as well as other eligible members of the family entitled to membership privileges. Membership cards are not transferable. Presentation of a membership card may be required prior to use of the Club facilities.

12.2. A membership card may not be used by any person other than the member to whom it is issued.

12.3. In the event of a lost or stolen membership card, the Club General Manager must be notified in writing immediately. The member shall be responsible for all charges placed on the account until the Club is notified in writing that the membership card has been lost or stolen. For each card replaced, a \$5.00 charge per card, will be placed on the member's account.

13. DUES, FEES, ASSESSMENTS AND CHARGES

13.1. BILLING

13.1.1. Annual membership dues are payable monthly in advance.

13.1.2. All charges incurred by the member to his or her Club account will be billed monthly and shall be deemed delinquent if not paid within thirty (30) days of the statement date.

13.2. PAYMENT

13.2.1. If payment is not received by the end of the month following the statement date, the outstanding balance will be subject to an interest charge of one and one half percent (1.5%) per month which will be added to the balance until payment is received.

13.2.2. Arrangement or payment for services will generally be expected to be made at the time the service is rendered.

13.2.3. Form of payment may be by use of Club account number by the member, member's immediate family or authorized guests of the member or recognized credit card. Purchases in the Pro Shop also may be made in cash.

13.2.4. Charges to a Club account will appear on the next monthly statement and payment will be expected in accordance with the terms spelled out above.

13.3. DELINQUENCIES

13.3.1. Any member whose account is delinquent for sixty (60) days from the statement date may be suspended by the Board of Directors. Suspended members may not use any Club facilities, participate in any Club activities, or vote on any Club matters. Suspended members may be reinstated by the Board of Directors within four (4) months of their suspension upon payment of all indebtedness plus all dues, fees, assessments and charges (including any food and beverage minimums) accrued since the initial time of delinquency, plus interest calculated at the rate of one and one half percent (1.5%) monthly. Any member whose account is not settled within the four (4) months' period following suspension shall be expelled from the Club.

13.3.2. Suspended members will have their names posted in a prominent place in the Clubhouse.

13.3.3. In accordance with the By-Laws, the Club shall have a lien against each membership for any unpaid dues or other charges made by that member of the Club, which lien shall also accrue reasonable attorneys' fees incurred by the Club incident to the collection of such dues or other charges, or enforcement of such lien, whether or not legal proceedings are initiated. Any other liens placed against such equity membership shall be junior to Club's lien.

13.3.4. If the Club commences any legal action to collect any amount owed, or to enforce any liability of a member to the Club, the member shall also be liable for all costs and expenses of the legal action and reasonable attorneys' fees required in connection with appellate proceedings.

14. DISCIPLINE

14.1. GENERAL

14.1.1. Improper Conduct. Any member whose conduct, or whose family's or guests' conduct, shall be deemed by the Board of Directors to be improper or likely to endanger the welfare, safety, harmony or good reputation of the Club or its members, may be reprimanded, fined, suspended or expelled from the Club by action of the Board of Directors. The Board of Directors shall be the sole judge of what constitutes improper conduct or conduct likely to endanger the welfare, safety, harmony or good reputation of the Club or its members.

14.1.2. Board Action. Any such member shall be notified of such proposed action and shall be given an opportunity to be heard by the Board of Directors to show cause why he or she should not be disciplined in accordance with this Article. If such member desires to appeal, the Board of Directors shall set a time and date for the appeal hearing, which is not less than ten (10) days after the Board sets the date. While such appeal is being considered by the Board, the member shall enjoy the privileges of the Club.

14.1.3. Suspension. The Board of Directors may suspend a member and his or her family or guests from some or all the Club privileges for a period of up to one (1) year. Dues and other obligations shall accrue during such suspension and shall be paid in full before reinstatement to full privileges.

14.1.4. Termination. The Board of Directors may by a two-thirds (2/3) vote of the directors present request the resignation of any member of the Club for cause deemed sufficient to the Board. If the member does not resign at the request of the Board, the member may be expelled by the Board.

14.1.5. Expulsion. Any Member of the Club who has been expelled shall not again be eligible for membership nor admitted to Club Facilities under any circumstances. An expelled member shall be so notified by registered mail and shall have the obligation to surrender his or her membership certificate for reissuance by the Club to a new member.

14.1.6. Voting Rights. Any member suspended or terminated by action of the Board of Directors shall automatically lose all membership privileges including the right to a vote on Club matters during the period of suspension or termination.

14.2. REPRIMAND, SUSPENSION, EXPULSION AND TERMINATION OF MEMBERSHIP

14.2.1. Any member may terminate membership in the Club by delivering to the Membership Director written notice of termination in accordance with the Plan for the Offering of Club Memberships. Notwithstanding termination, the member shall remain liable for any unpaid club account, membership dues and charges (including any food and beverage minimums).

14.2.2. A member may be reprimanded, expelled or suspended by the Board of Directors if, in the sole judgment of the Board of Directors, the member, his or her family or guests:

- Exhibits unsatisfactory behavior, deportment and appearance
- Fails to pay the required membership contribution, dues, fees, charges (including any food and beverage minimums) or assessments in a proper and timely manner
- Fails to abide by the rules and regulations for the golf, tennis, pool and dining facilities or for any other recreational facilities of the Club
- Verbally or physically abuses the personnel or employees of the Club
- Submits false information on his or her Application or with respect to his or her guests or lessees

14.2.3. Notwithstanding any termination or suspension of membership, the member shall remain liable for any unpaid club account or membership dues, fees, charges and assessments and such member shall not be entitled to a refund of any part thereof paid by the member to the Club.

14.2.4. Any member who has had his or her membership terminated for any reason shall not again be admitted to the Club's Facilities under any circumstances while such suspension or termination is in force and shall not be permitted to vote on any matter brought before the members.

14.2.5. A suspended or terminated member may have full membership privileges restored only by specific Board of Directors action to restore such status until such time as the membership is reissued under the terms of the Plan for the Offering of Memberships.

15. LOSS OR DESTRUCTION OF PROPERTY OR INSTANCES OF PERSONAL INJURY

15.1. The Club shall not be responsible for any loss or damage to any property left or stored on the Club's premises, whether in lockers or elsewhere.

15.2. No person shall remove from the Club's premises any property belonging to the Club without proper authorization. Every member of the Club shall be liable for any property damage and/or personal injury at the Club, or at any activity or function operated, organized, arranged or sponsored by the Club, caused by the member, or his or her family, guests or lessees. The cost of any such damage may be charged to the member's club account.

15.3. Any member, guest or other person who, in any manner, makes use of or accepts the use of any apparatus, appliance, facility, privilege or service whatsoever owned, leased or operated by the Club, or who engages in any contest, game, function, exercise, competition or other activity operated, organized, arranged or sponsored by the Club, either on or off the Club's premises, shall do so at his or her own risk, and shall hold the Club and its directors, officers, employees, representatives, and agents harmless for any and all loss, cost, claim, injury, damage or liability sustained or incurred by him or her, resulting therefrom and/or from any act or omission of any director, officer, employee, representative or agent of the same. Any member shall have, owe and perform the same obligation to the Club, and its directors, officers, employees, representatives and agents, hereunder in respect to any such loss, cost, claim, injury, damage or liability sustained or incurred by any guest of such member.

16. MAILING ADDRESSES

16.1. Each member shall be responsible to inform and file with the Club General Manager's office in writing, preferably on a form provided by the Club, his mailing address, or any changes thereof, to which the member wishes all notices and invoices sent. A member shall be held to have received his club mailings ten (10) days after they have been mailed to the address on file with the Club General Manager's office.

17. PRIVACY OF CLUB INFORMATION

17.1. The Club does not generally provide information concerning Club activities or membership to the media or to other third parties. When appropriate, the designated Club media representative will do so. Members are cautioned to avoid answering media questions and specifically from providing club documents or member information to individuals outside the membership.

17.2. The roster or list of members in the Club shall be furnished only to members and appropriate Club staff and shall not be used by or given to anyone else by a member of the Club for any reason whatsoever.

THE CALLAWASSIE ISLAND MEMBERS CLUB
PLAN FOR THE OFFERING OF MEMBERSHIPS
Amended as of February 1, 2008

1.0 GENERAL DESCRIPTION OF THE PLAN FOR THE OFFERING OF MEMBERSHIPS

1.1 PURPOSE OF THE PLAN FOR THE OFFERING OF MEMBERSHIPS

The Callawassie Island Members Club, Inc., a South Carolina non-stock and non-profit corporation (the "Club") owns and operates the golf, tennis, swimming and social facilities on Callawassie Island, South Carolina for the use, recreation and enjoyment of its members. The Board of Directors of the Club has adopted this Plan for the Offering of Memberships (the "Plan") as mandated by Article X of the By-Laws, and along with the Articles of Incorporation of The Callawassie Island Members Club, Inc., the current By-Laws of The Callawassie Island Members Club, Inc. (the "By-Laws"), the current General Club Rules of The Callawassie Island Members Club, Inc., and the Club Purchase Agreement between Callawassie Island Company L.P. (the "Partnership"), The Callawassie Island Club, Inc., and The Callawassie Island Members Club, Inc. dated October 26, 1999, as amended (the "Club Purchase Agreement"), offer persons the opportunity to acquire an Equity Membership (as defined below) at the Club.

1.2 DESCRIPTION OF THE CLUB FACILITIES

The facilities currently owned by the Club (the "Club Facilities") that are available for use include the following:

- a 27-hole championship golf course designed by Tom Fazio;
- a driving range and practice green;
- 6 tennis courts;
- a clubhouse facility, which includes locker rooms, a golf shop, tennis shop, a fitness center, a dining room, a bar, a snack shop, club rooms, and administrative offices;
- a swimming pool and deck area, located adjacent to the clubhouse;
- a river club, which is located on the Colleton River and includes a swimming pool, bathhouse, club room, kitchen, barbecue area and boat dock;
- auxiliary buildings used for maintenance, equipment storage, and administration;
- and
- parking facilities.

The Club may modify these facilities and provide such other facilities as it deems appropriate from time to time.

1.3 GENERAL DESCRIPTION OF MEMBERSHIP CATEGORIES

The Club is currently offering two categories of Equity Membership known as Equity Golf Memberships and Equity Social Memberships, and one category of non-equity membership known as Non-Equity Associate Memberships as further described in Section 2.3.4.

The Club has previously issued Spring Island Non-Equity Social Memberships and Spring Island Founder Memberships. Although these memberships are not currently being offered by the Club, the rights and privileges of these members are described herein.

EXHIBIT A

Club to reissue his/her Equity Membership to such non-member/third party. However, the three (3) transactions (both residential units or lots and the reissuance of the Equity Membership) must have simultaneous closing dates. The reissuance of an Equity Membership to the non-member/third party shall be considered a resale of an Equity Membership in accordance with Sections 5.4 and 5.6, and shall be subject to all of the requirements as set forth therein.

5.9 TRANSFER UPON DEATH OF A MEMBER

Upon the death of an Equity Member or Spring Island Founder Member in good standing who is survived by a spouse, the deceased member's membership will automatically pass to the surviving spouse without payment of any new membership contribution in accordance with the provisions of this section. If the deceased Equity Member is not survived by a spouse, then the legatee or heir of the Equity Membership may acquire the deceased member's Equity Membership without payment of any new membership contribution. If the legatee or heir desires to acquire the Equity Membership, the legatee or heir must apply for the membership within one hundred twenty (120) days after his/her right to the Equity Membership has been determined and pay to the Club all dues, fees and other Charges from the date of the member's death to the date of the application. If the legatee or heir does not apply for the Equity Membership within one hundred twenty (120) days after acquiring the right to the Equity Membership, then the Equity Membership will be deemed to have been resigned and will be reissued by the Club in the same manner as any other resigned Equity Membership. Upon the reissuance of such Equity Membership, the estate of the deceased member will be paid the amount of the membership contribution which would otherwise have been payable to the deceased member in accordance with Section 5.6 less all dues, fees and other Charges associated with the Equity Membership that are owed to the Club. In any event, the spouse, legatee/heir and/or estate of the deceased member shall be responsible for payment of all dues, fees and other Charges associated with the deceased member's Equity Membership from the date of the member's death until such time as the deceased member's residential unit or lot on Callawassie Island is transferred to another owner and such owner acquires an Equity Membership.

Upon the death of all other non-equity members, the membership is not transferable.

The Club reserves the right, in its sole discretion, to establish such other rules as may be necessary in connection with the transfer of a membership upon the death of a member and may require the execution of such forms as may be deemed necessary by the Club from time to time.

5.10 SEPARATION OR DIVORCE OF MEMBERS

In the event of the divorce or legal separation of an Equity Member or Spring Island Founder Member in good standing, the Equity Membership shall belong to the party designated by agreement of the member and the member's spouse or as designated by final court order, provided, however, that in order for the Equity Membership to be transferred to the spouse, the spouse must satisfy all membership eligibility requirements. Both of the divorced or legally separated persons must give written notice to the Club designating the person who is entitled to the rights and privileges of the Equity Membership within five (5) days after the divorce or legal separation is final. Until written notice has been provided to the Club, both spouses will be responsible for the payment of all dues, fees and other Charges associated with the membership. A spouse who does not retain or acquire the Equity Membership shall no longer be permitted to use the Club Facilities upon the entry of a separation or final divorce order. The Club will not be involved in any dispute, and reserves the right to suspend any and all membership privileges in the event of a dispute between a member and his/her spouse with respect to the ownership of an Equity Membership and use of the Club Facilities.

In the event of the divorce or legal separation of all other non-equity members in good standing, the membership is not transferable.

The Club reserves the right, in its sole discretion, to establish such other rules as may be necessary in connection with the transfer of a membership upon the divorce or legal separation of a member and may require the execution of such forms as may be deemed necessary by the Club from time to time.

5.11 PAYMENT OF DUES AND OTHER CHARGES BY RESIGNING MEMBERS

An Equity Member who is on the waiting list to sell his/her membership will be obligated to continue to pay to the Club all dues, fees and other Charges associated with his/her membership until his/her Equity

Membership is reissued by the Club. Any unpaid dues, fees and other Charges plus interest accrued under the then prevailing terms of the General Club Rules will be deducted from the amount to be paid to the resigned member upon the reissuance of his/her resigned Equity Membership. A resigned member will be entitled to use the Club Facilities so long as the resigned member is obligated and continues to pay all dues, fees and other Charges associated with the resigned Equity Membership.

5.12 DUES, FEES AND CHARGES PRORATED UPON REISSUANCE OF RESIGNED EQUITY MEMBERSHIP

If a resigned Equity Membership is reissued by the Club during a membership year, the resigned Equity Member will be entitled to receive a refund of all dues and other Charges paid in advance for the remainder of the membership year.

5.13 NON-EQUITY ASSOCIATE MEMBERS AND SPRING ISLAND NON-EQUITY SOCIAL MEMBERS ARE NOT ENTITLED TO A REFUND OF ANY AMOUNT UPON RESIGNATION OF MEMBERSHIP PRIVILEGES

Non-Equity Associate Memberships and Spring Island Non-Equity Social Memberships are not transferable and shall terminate upon resignation of membership privileges. Non-Equity Associate Members and Spring Island Non-Equity Social Members are not entitled to a refund of any amounts whatsoever (i.e., membership contribution, dues, fees and other Charges) previously paid for membership upon the resignation or other termination of membership.

6.0 DUES, FEES, CHARGES AND LIENS

6.1 SETTING OF DUES, FEES AND CHARGES

Members are and will continue to be the primary source of operating and capital funds for the Club. The Board of Directors of the Club will, from time to time, determine the dues, fees and other Charges (including any food and beverage minimums) for each category of membership. All dues will be payable in advance, on or before the first day of each month during the membership year, unless otherwise determined by the Club.

The timely payment of dues, fees, food and beverage minimums, assessments, charges, state taxes, service charges and other charges that the Club may establish from time to time (collectively, the "Charges") is required to obtain and maintain membership privileges at the Club.

6.2 RESIDENT DUES AND NONRESIDENT DUES

Resident and nonresident dues categories are currently available for Equity Golf Memberships. Each Equity Golf Member who owns a completed residential unit on Callawassie Island or who resides for three (3) or more months during any membership year in Beaufort or Jasper Counties, South Carolina, or Chatham County, Georgia, will be considered to be a "resident" and will be required to pay resident dues. All other Equity Golf Members shall pay nonresident dues. It is the responsibility of Equity Golf Members to inform the Club immediately upon a change in resident status.

The Club does not currently offer a nonresident dues category for Equity Social Memberships and therefore, all Equity Social Members shall pay resident dues. However, those existing Equity Social Members that qualified for nonresident dues status prior to July 1, 2005, shall be grandfathered and be permitted to continue to pay nonresident dues established by the Club.

6.3 SURVIVING SPOUSE MAY ELECT TO PAY LESS DUES

The Club allows a limited number of persons whose spouse was a resident Equity Golf Member in good standing at the time of his/her death to elect Surviving Spouse Privileges as described herein. A surviving spouse who elects Surviving Spouse Privileges, shall be permitted to use all of the Club Facilities except the golf course and golf practice facilities on a space available basis upon payment of the applicable dues, fees and other Charges. Such surviving spouse will be entitled to reserve tennis court times in accordance with rules then in effect and will not be required to pay any court fees for use of the tennis facilities. At the

AMENDED AND RESTATED BY-LAWS OF CALLAWASSIE ISLAND MEMBERS CLUB

March, 2009

ARTICLE I PURPOSE OF CLUB

The nature and purpose of the Callawassie Island Members Club, Inc., ("Club") is to own and operate a private country club for the recreation, pleasure and benefit of its equity members.

ARTICLE II CLUB EMBLEM

The emblem of the Club shall be of a style and design to be approved by the Board of Directors.

ARTICLE III MEMBERS MEETING

3.1 Annual Meeting. An annual meeting of the equity members of the Club shall be held for the purposes of receiving reports of officers and others, electing directors, and for such other business as may be properly brought before the meetings.

3.2 Date and Place of Annual Meeting. The annual meeting of the Equity members shall be held at such appropriate time and place in South Carolina as the Board of Directors may designate.

3.3 Special Meetings. Special meetings of the equity members may be called by the President of the Board of Directors, a majority of the members of the Board of Directors or, upon the written request of ten percent (10%) or more of the members entitled to vote. Such request shall be submitted to the President who shall then call a special meeting within thirty (30) days of the date of such request. Notices of any special meeting must contain a statement of the purpose for which such special meeting is called and no other business may be transacted at that meeting.

3.4 Notices. The Secretary shall give not less than fifteen (15) days nor more than fifty (50) days prior notice, by mail, prepaid, to all equity members of the Club, stating the time, place, and purpose of any meeting.

3.5 Quorum. The presence, either in person or by written proxy, of equity members having a majority of the votes then entitled to be voted shall constitute a quorum at any meeting of the equity members. A quorum must be present to constitute a legal vote of the Equity members.

3.6 Proxies. Members may vote by proxy. The Board of Directors will determine the form and procedures for the use of the proxies authorized in writing.

3.7 Voting Percentage. Except for the election of members to the Board of Directors, which shall be by plurality vote, a majority of those equity members present (in person or by proxy) is necessary for passage of any issue before the equity members.

3.8 Memberships. Each equity membership shall entitle the equity member to vote on various club matters, including the election of the Board of Directors. Each Golf membership shall entitle the golf member to five (5) votes, while each social membership shall entitle the social member to two (2) votes. Spring Island founder members shall have the same voting privileges as a golf member.

(d) Ad Hoc Committee. The President, subject to the approval of the Board of Directors, may appoint from time to time such ad hoc committees with such powers and composition as the President shall determine appropriate.

(e) Powers of Committees. Except for the Executive Committee, these committees shall act only as advisory committees and the individual members thereof shall have no power or authority. The chairman of each committee may appoint from the members of his or her committee such subcommittees as the chairman deems desirable. Such subcommittees shall report directly to the committee as a whole, which shall approve, amend or disapprove the report of the subcommittee.

(f) Terms of Committee Chairmen and Committee Members. A committee chairman may not serve as a committee chairman on the same committee for more than three (3) successive years. A committee member may not serve as a member of the same committee for more than three (3) successive years unless approved by the Board of Directors. Only one individual per membership may serve on the same committee during a single term. The term of a committee chairman or a committee member may be terminated at any time by the President with the approval of the Board of Directors.

ARTICLE X PLAN OF MEMBERSHIP

10.1 Plan of Membership. The Board shall adopt, and administer as appropriate, a Plan of Membership for the Club, the Plan shall include, but not be limited to:

- (a) Description of Club facilities;
- (b) Membership application procedures and offering statement;
- (c) Equity membership category description and numbers statement;
- (d) Membership privileges statement;
- (e) Membership transfer provisions;
- (f) Dues, fees, charges and assessments rules and procedures; and
- (g) Plan amendment procedures.

ARTICLE XI DELINQUENCIES

The Club shall have a lien against each membership for any unpaid assessments, fees, annual dues or other charges made by that member of the Club, which lien shall also accrue reasonable attorneys' fees incurred by the Club incident to the collection of such annual dues or other charges, or enforcement of such lien, whether or not legal proceedings are initiated. The lien may, but need not, be recorded among the public records of Beaufort County, South Carolina, by filing a claim therein which states the name of the member, the number of the membership and the amount claimed to be due, and said lien shall continue in effect until all sums secured by the lien, together with all costs incurred in recording and enforcing said lien, shall have been paid. Such claims of lien may be signed by an officer of the Club. Upon full payment, the member making payment shall be entitled to be reinstated as a member in good standing of the Club and all such liens may be foreclosed by the Club, in any action at law or in equity, with or without five (5) days prior written notice of the intended foreclosure, as may be deemed appropriate by the Club. The Club may also, at its option, sue to recover a money judgment for unpaid annual dues or other charges without thereby waiving the lien securing the same.

Any other liens placed against such equity membership shall be junior to Club's lien.

**THE CALLAWASSIE ISLAND MEMBERS CLUB, INC.
GENERAL CLUB RULES**

General Club Rules current as of February 23, 2009.

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accordance with this Article. If the Board decides to proceed with the suspension and such member(s) desire to appeal, the Board of Directors shall set a time and date for the appeal hearing within 10 days from the date of the appeal request. While such appeal is being considered by the Board, the member shall enjoy the privileges of the Club.

Notwithstanding the above, the Board reserves the right to suspend immediately without privileges should the circumstances warrant such action.

14.1.3. Suspension. The Board of Directors may suspend a member and his or her family or guests from some or all Club privileges for a period of up to one (1) year. Dues and other obligations shall accrue during such suspension and shall be paid in full before reinstatement to full privileges.

14.1.4. Termination. The Board of Directors may, by a two-thirds (2/3) vote of the directors, request the resignation of any member of the Club for cause deemed sufficient to the Board. If the member does not resign at the request of the Board, the member may be expelled by the Board.

14.1.5. Expulsion. Any Member of the Club who has been expelled shall not again be eligible for membership nor admitted to Club Facilities under any circumstances. An expelled member shall be so notified by registered mail and shall have the obligation to surrender his or her membership certificate for reissuance by the Club to a new member.

14.1.6. Voting Rights. Any member suspended or terminated by action of the Board of Directors shall automatically lose all membership privileges including the right to a vote on Club matters during the period of suspension or termination.

14.2. REPRIMAND, SUSPENSION, EXPULSION AND TERMINATION OF MEMBERSHIP

14.2.1. Any member may terminate membership in the Club by delivering to the Membership Director written notice of termination in accordance with the Plan for the Offering of Club Memberships. Notwithstanding termination, the member shall remain liable for any unpaid club account, membership dues and charges (including any food and beverage minimums) until the membership is sold.

14.2.2. A member may be reprimanded, expelled, or suspended by the Board of Directors if, in the sole judgment of the Board of Directors, the member, his or her family, or guests, or lessees is deemed improper or likely to endanger the welfare, safety, harmony or good reputation of the Club or its members. The following includes, but is not limited to, examples of conduct that are not acceptable:

- Exhibit unsatisfactory behavior, deportment and appearance
- Fail to pay the required membership contribution, dues, fees, charges (including any food and beverage minimums) or assessments in a proper and timely manner
- Fail to abide by the rules and regulations for the golf, tennis, pool, fitness, and dining facilities or for any other recreational facilities of the Club
- Verbally or physically abuse the personnel or employees of the Club
- Submit false information on his or her application or with respect to his or her guests or lessees
- Use or reproduce the information in the membership directory in any manner or means for commercial or charitable purpose or provide information contained in the membership directory to persons who are not members of the Club.

The foregoing also shall apply to the family or guests of a lessee.

14.2.3. Notwithstanding any termination or suspension of membership, the member shall remain liable for any unpaid club account or membership dues, fees, charges, and assessments, and such member shall not be entitled to a refund of any part thereof paid by the member to the Club.

14.2.4. Any member who has had his or her membership terminated for any reason shall not again be admitted to the Club's Facilities under any circumstances while such suspension or termination is in force and shall not be permitted to vote on any matter brought before the members.



**THE CALLAWASSIE ISLAND MEMBERS CLUB
PLAN FOR THE OFFERING OF MEMBERSHIPS
Effective as of July 1, 2013**

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6.10 Separation Or Divorce Of Members.

(a) In the event of the divorce or legal separation of an Equity Member in good standing, the Equity Membership shall belong to the party designated by agreement of the Member and the Member's spouse or as designated by final court order, provided, however, that in order for the Equity Membership to be transferred to the spouse, the spouse must satisfy all Membership eligibility requirements. Both of the divorced or legally separated persons must give written notice to the Club designating the person who is entitled to the rights and privileges of the Equity Membership within five (5) days after the divorce or legal separation is final. Until written notice has been provided to the Club, both spouses will be responsible for the payment of all Charges owed to the Club associated with the Membership. A spouse who does not retain or acquire the Equity Membership shall no longer be permitted to use the Club Facilities upon the entry of a separation or final divorce order. The Club will not be involved in any dispute, and reserves the right to suspend any and all Membership privileges in the event of a dispute between a Member and his/her spouse with respect to the ownership of an Equity Membership and use of the Club Facilities.

(b) In the event of the divorce or legal separation of non-equity Members in good standing, the Membership is not transferable.

(c) The Club reserves the right, in its sole discretion, to establish such other rules as may be necessary in connection with the transfer of a Membership upon the divorce or legal separation of a Member and may require the execution of such forms as may be deemed necessary by the Club from time to time.

6.11 Payment Of Dues And Charges By Resigned Members.

(a) An Equity Member who is on the waiting list to sell his/her Membership will be obligated to continue to pay to the Club all Charges associated with his/her Membership until his/her Equity Membership is reissued by the Club.

(b) A Resigned Member will be entitled to use the Club Facilities so long as the Resigned Member is obligated and continues to pay all Charges associated with the Resigned Member's Equity Membership.

(c) Prior to the reissuance of a Resigned Member's Equity Membership, any unpaid Charges either: (a) will be deducted from any amount to be paid to the Resigned Member who was an Equity Member on or before February 2, 2012; or (b) must be paid by the Resigned Member. If the amount to be paid by the Club to a resigned Equity Member is not sufficient to pay any unpaid Charges owed by the resigned Equity Member, then such resigned Equity Member must pay all such Charges prior to the reissuance of his/her resigned Equity Membership.

6.12 Proration Upon Reissuance Of Resigned Equity Membership. If an Equity Membership of a Resigned Member is reissued by the Club during a Membership Year, the Resigned Member will be entitled to receive a refund of all dues and other Charges paid in advance for the remainder of the Membership Year.



THE CALLAWASSIE ISLAND MEMBERS CLUB, INC.

GENERAL CLUB RULES

Effective January 1, 2014.

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Member, the Board of Directors shall set a time and date for the appeal hearing within 10 days from the date of the appeal request. While such appeal is being considered by the Board, the Member shall enjoy the privileges of the Club. Notwithstanding the above, the Board reserves the right to suspend, request the resignation of, or expel a Member immediately without privileges should the circumstances warrant such action.

16.3 Suspension. The Board of Directors may suspend a Member and the Member's Immediate Family or Guests from some or all Club privileges for a period of up to one (1) year. Charges shall accrue during such suspension and shall be paid in full before reinstatement to full privileges.

16.4 Requested Resignation. The Board of Directors may request, by a two-thirds (2/3) vote of the directors present at a Board meeting, the resignation of any Member of the Club for cause deemed sufficient to the Board. The disciplined Member may resign from the Club upon request of the Board by delivering to the Membership Director written notice of resignation. Notwithstanding such resignation, the Member shall remain liable for all Charges until the Membership is re-issued. If the Member does not resign at the request of the Board, the Member may be expelled by the Board.

16.5 Expulsion. Any Member of the Club who has been expelled shall not again be eligible for Membership in the Club nor admitted to Club Facilities. An expelled Member shall be so notified of such expulsion and shall have the obligation to surrender his or her membership certificate to the Club for reissuance by the Club to a new Member. Notwithstanding such expulsion, the Member shall remain liable for all Charges until the Membership is re-issued.

16.6 Fines. The Board by resolution may adopt a schedule of fines to be charged for violations of the Rules, Club Plan, or By-Laws or impose fines on a case by case basis.

16.7 Voting Rights and Membership Privileges. Any suspended, resigned, or expelled Member automatically shall lose all membership privileges including the right to a vote on Club matters during any period of suspension. The suspension, requested resignation, or expulsion of one Member shall impact the Member's Membership and shall apply to any other Members affiliated with such suspended, resigned, or expelled Member's Membership.

16.8 Obligation for Charges. Notwithstanding any resignation, suspension, or expulsion of Membership, the Member shall remain liable for all Charges, and such Member shall not be entitled to a refund of any Charges paid by the Member to the Club.

17. LOSS OR DESTRUCTION OF PROPERTY OR PERSONAL INJURY.

17.1 The Club shall not be responsible for any loss or damage to any property left or stored within Club Facilities.

17.2 No person shall remove from the Club Facilities any property belonging to the Club without authorization. Every Member of the Club shall be liable for any property damage to Club property and/or personal injury at Club Facilities, or at any activity or function operated, organized, arranged, or sponsored by the Club, caused by the Member, or the Member's Immediate Family, Guests, or lessees. The cost of any such damage may be charged to the Member's Club account.

17.3 Any Member, Immediate Family, Guest or other person who, in any manner, makes use of or accepts the use of any apparatus, appliance, facility, privilege or service whatsoever owned, leased or operated by the Club, or who engages in any contest, game, function, exercise, competition or other activity operated, organized, arranged or sponsored by the Club, either on or off the Club Facilities, does so at his or her own risk, assumes such risk, releases the Club from liability, and shall hold harmless and indemnify the Club and its directors, officers, employees, representatives, and agents for any and all loss, cost, claim, injury, damage or liability sustained or incurred by him or her, resulting there from and/or from any act or omission of any director, officer, employee, representative or agent of the same. Any Member, Immediate Family, Guest or other person shall have, owe and perform the same obligation to the Club, and its directors, officers, employees representatives and agents, hereunder in respect to any such loss, cost, claim, injury, damage or liability sustained or incurred by any Member, Immediate Family, Guest or other person.

1600, that certain Second Addendum to Declaration dated February 13, 1988, recorded in the Register of Deeds Office on June 10, 1988 in Book 503 at Page 1366 and that certain Third Addendum to Declaration dated June 30, 1989, recorded in the Register of Deeds Office on July 11, 1989, in Book 532 at Page 1739; and

WHEREAS, TFC assigned all of its rights under the Declaration to Callawassie Development Company ("CDC") by virtue of that certain Assignment of Declarant Rights recorded in the Register of Deeds Office in Book 434 at Page 544 on November 5, 1985, and thereafter CDC assigned all of its rights under the Declaration to CLL Associates, L.P. by virtue of that certain Assignment of Declarant Rights recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Book 554 at Page 812 on May 31, 1990; and thereafter CLL Associates, L.P. assigned all of its rights under the Declaration to Callawassie Island Company, L.P. ("Company") by virtue of that certain Assignment of Declarant Rights recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Book 554 at Page 837 on May 31, 1990; and

WHEREAS, on or about March 20, 1993, Company prepared and recorded and "Amended And Restated General Declaration For Callawassie Island And Provisions For The Callawassie Island Property Owners Association, Inc." ("Amended and Restated Declaration") as recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 623 at Page 546.

WHEREAS on or about November 3, 1993, Company prepared and recorded as "First Addendum To The Amended And Restated General Declaration For Callawassie Island And Provisions For The Callawassie Island Property Owners Association, Inc." as recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 713 at page 2398.

WHEREAS on or about March 8, 1995, Company prepared and recorded as "Second Addendum To The Amended And Restated General Declaration For Callawassie Island And Provisions For The Callawassie Island Property Owners Association, Inc." as recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 766 at page 536.

WHEREAS on or about August 19, 1996, Company prepared and recorded as "Third Addendum To The Amended And Restated General Declaration For Callawassie Island And Provisions For The Callawassie Island Property Owners Association, Inc." as recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 882 at page 1032.

WHEREAS, Association prepared and recorded an "Amended And Restated Declaration for Callawassie Island And Provisions For The Callawassie Island Property

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2014-001524

Callawassie Island Members Club, Inc.,..... Respondent

v.

Ronnie D. Dennis and Jeanette Dennis--.....Appellants

CERTIFICATE OF COUNSEL

Attorney for the Appellants certifies that the Record on Appeal contains all material proposed to be included by any other parties and not any other material.



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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
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Carmen T. Mullen, Circuit Court Judge

Appellate Case No.: **2014-001524**

The Callawassie Island Members Club, Inc., Respondent

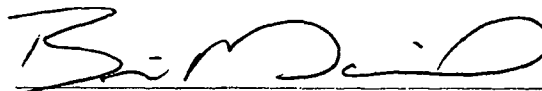
v.

Ronnie D. Dennis and Jeanette Dennis, Appellants

PROOF OF SERVICE

I certify that I have served the Record on Appeal (volumes I and II) on The Callawassie Island Members Club, Inc. by depositing a copy of it in the United States Mail, postage prepaid, on November 17, 2014, addressed to its attorneys of record, Ehrick K. Haight, Jr., Esquire, Stacey Collins, Esquire, P.O. Drawer 6067, Hilton Head Island, SC 29938; Howell, Gibson & Hughes, P.A., Stephen P. Hughes, Esquire, James Andrew Yoho, Esquire, P. O. Drawer 40, Beaufort, SC 29901-0040.

November 17, 2014



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RECEIVED

NOV 19 2014

SC Court of Appeals

Appellate Case No.: 2014-001524

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