

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

S. Jackson Kimball, Special Circuit Judge

Case No. 2010-CP-46-02851

Pamela Dill as the Attorney-in-Fact
and Natural Mother of Britten Teno, ... Appellant,

v.

Colony Insurance Company, Gill-Young
Insurance (now known as "Gill Insurance
LLC") or ("The Gill Agency") and Hull
& Company, Inc., ... Respondents.

RECORD ON APPEAL - VOL II

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SC Court of Appeals

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STATE OF SOUTH CAROLINA

COUNTY OF YORK

Pamela Dill as the Attorney-in-Fact and
Natural Mother of Britten Teno,

Plaintiff,

v.

Colony Insurance Company, Gill-Young
Insurance (now known as "Gill Insurance,
LLC" or "The Gill Agency") and Hull &
Company, Inc.,

Defendants,

)
) IN THE COURT OF COMMON PLEAS
)

)
)
)
) **MEMORANDUM IN SUPPORT OF**
) **HULL & COMPANY, INC.'S MOTION**
) **FOR SUMMARY JUDGMENT**
)

) C.A. No. 2010-CP-46-02851
)
)
)
)
)

**TO: ROBERT V. PHILLIPS OF THE FIRM MCGOWAN, HOOD, & FELDER AS
ATTORNEY FOR THE PLAINTIFF**

This matter is before the court on the motion of the defendant, Hull & Company, Inc. (hereinafter "Hull"), for summary judgment, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, as to the complaint of the plaintiff, Pamela Dill as the Attorney-in-Fact and natural mother of Britten Teno.

PROCEDURAL HISTORY

On June 26, 2007, the plaintiff filed suit against The Barn Club, Inc. d/b/a The Money (hereinafter "The Barn Club") and Jim Morton, the former president of The Barn Club, arising out of an alleged assault and battery while the plaintiff was a patron at The Barn Club (hereinafter "The Tort Action"). In August 2007, Colony Insurance Company (hereinafter "Colony"), The Barn Club's commercial general liability insurance carrier, filed a declaratory judgment action against The Barn Club and Morton seeking a determination that its policy provided no coverage for the incident described in The Tort Action. In December 2009, a final Order was issued in the declaratory judgment action holding that Colony did not provide coverage for the underlying

Tort Action. The Tort Action continued and resulted in a confession of judgment and subsequent uncontested \$8 million judgment entered against The Barn Club. The Barn Club assigned its rights against Hull and the Gill-Young Insurance Agency (hereinafter "Gill") to the plaintiff.

The plaintiff filed the current action on July 7, 2010. The plaintiff alleged six causes of action, including causes of action for reformation, detrimental reliance, civil conspiracy, negligence, negligent misrepresentation, and breach of fiduciary duty. Hull filed an answer to the complaint on August 31, 2010, in which it denied liability. Hull also filed a motion to dismiss each of the plaintiff's causes of action. A hearing was held on this motion on November 18, 2010, in which Judge S. Jackson Kimball, III granted Hull's motion as to the plaintiff's reformation, detrimental reliance, civil conspiracy, negligent misrepresentation, and breach of fiduciary duty causes of action. The Court found that the dismissal of the negligence claim at the pleadings stage was premature and denied Hull's motion to dismiss that cause of action at that time.

Hull subsequently filed this motion for summary judgment. Hull contends that it is entitled to judgment in its favor as a matter of law on the following grounds:

1. The plaintiff has not produced any evidence to justify any reasonable inference that Hull had or breached any duty owed to the plaintiff;
2. Alternatively, even assuming that Hull breached a duty owed to the plaintiff, the only conclusion to be drawn is that there is no evidence to justify any reasonable inference that this breach was the proximate cause of any injuries sustained by the plaintiff; and
3. The plaintiff's negligence action is barred by the three-year statute of limitations.

STATEMENT OF FACTS

This case arises out of personal injuries sustained by Britten Teno allegedly while a patron at a night club known as The Barn Club on March 6, 2005. The plaintiff alleges that Mr. Teno was attempting to break up a fight on the dance floor when he was seriously injured as a result of being beaten by bouncers with flashlights and stomped and kicked in the head.

Prior to the alleged accident, Jim Morton, the former president of The Money, sought to procure insurance coverage for The Barn Club. In February 2004, Morton went to Gill to purchase insurance for The Barn Club. Morton provided Gill with a letter, attached hereto as Exhibit 1, from an attorney, Mickey Aberman, at the Aberman Family Partnership¹, making recommendations for desired insurance coverage. (Morton Dep. transcript², dated Nov. 15, 2010, 32:6-25 and Morton Aff.³, dated Oct. 29, 2010, ¶ 11). In the letter, Aberman recommended increasing the property coverage limits from \$75,000 to \$200,000, increasing the general liability coverage from \$300,000 to \$1 million, and requesting the inclusion of a dram shop exclusion. (Morton Dep. 34:12-25). The letter made no request for assault and battery coverage. (Morton Dep. 35:8-11 and Morton Aff. ¶ 12). Morton made no additional coverage requests, either orally or in writing, to Gill. (Morton Dep. 33: 11-14).

Morton signed an application for insurance, attached hereto as Exhibit 4, requesting several different types of insurance, including property coverage, general liability coverage, and liquor liability coverage. On March 10, 2004, Gill contacted Hull, an insurance broker, and requested that it quote the different types of insurance for The Barn Club referred to in the application. (See Exhibit 5).

¹ Aberman Family Partnership owned the building where The Money was located and Mickey Aberman, who is a lawyer in Charlotte, is a member of that partnership.

² All references to the deposition testimony of Jim Morton are contained in Exhibit 2.

³ All references to the affidavit of Jim Morton are contained in Exhibit 3.

On March 12, 2004, Hull provided quotes for commercial property insurance provided by Pacific Insurance Company, attached hereto as Exhibit 6, and for commercial general liability coverage provided by Colony Insurance Company (hereinafter "Colony"), attached hereto as Exhibit 7. The quote provided by Colony included \$1 million of commercial general liability coverage per occurrence and expressly excluded coverage for assault and battery.⁴ In providing these quotes, Hull relied exclusively on the information it received from Gill.

On March 15, 2004, Hull received a request from Gill to bind both policies as quoted, and it did so. (See Exhibit 9 and Exhibit 10). On March 24, 2004, Colony issued a commercial general liability policy, attached hereto as Exhibit 11, to The Barn Club bearing number GL3145075 for the policy period March 17, 2004 through March 17, 2005. The policy contained an exclusion indicated by bold font that read "ASSAULT, BATTERY OR ASSAULT AND BATTERY EXCLUSION." (See Exhibit 12). Upon the issuance of this policy, it is clear that Hull had located and Gill had provided coverage exactly as Morton requested in the letter provided by Aberman. (Morton Dep. 44:11-14).

There is no doubt but that Mr. Morton knew of the existence of this exclusion. Indeed, on March 10, 2004, in conjunction with his application for liquor liability coverage on the same date he approached Gill for general liability coverage, Morton was asked whether his general liability policy excluded coverage for assault and battery, and he answered affirmatively "yes." (See Liquor Liability Application, attached hereto as Exhibit 13). Morton also admitted that as of March 2004, assault and battery coverage was not included in his general liability policy. (Morton Dep. 41:23-25, 42:1-3). He also admitted that there is no evidence to indicate that

⁴ The inclusion of the assault and battery exclusion is consistent with information obtained from Colony's requirements for general liability coverage, attached hereto as Exhibit 8, which require that assault and battery coverage must be excluded.

anyone ever asked Hull to provide any quotes for insurance without such an exclusion. Further, it is uncontested that a copy of the policy containing the exclusion was provided to Mr. Morton several months before the date Mr. Teno was allegedly injured.

Morton was often able to renew his policies in subsequent years without completing new applications. (Morton Dep. 46:24-25, 47:1-3). On January 25, 2005, Hull issued a quote at the request of Gill for the renewal of the Colony policy. (Exhibit 14). The requested quotation included the assault and battery exclusion. On March 14, 2007, Mr. Morton completed a liquor liability insurance application, attached hereto as Exhibit 15. On the application, Mr. Morton once again indicated that his general liability insurance did not provide assault and battery coverage. (Morton Dep. 48:11-13).

At no time during these proceedings did anyone from Hull have any relationship, communications or dealings with Mr. Morton or anyone associated with The Barn Club. (Morton Dep. 185:23-25, 186:1-4, 189:16-19). He did not, either individually or on behalf of The Barn Club, rely on any actions by Hull in making his insurance coverage decisions. (Morton Dep. 188:24-25, 189:1-3). Hull made no representations to Mr. Morton or anyone else at The Barn Club, and there was no coverage requested by Mr. Morton that was not provided from Hull. (Morton Dep. 189:4-11). In fact, he professed to have no knowledge of Hull's existence or involvement in this matter. (Morton Dep. 185:23-25, 186:1-8).

Following the March 2005 accident, the plaintiff filed The Tort Action in June 2007 against The Barn Club and Morton. In August 2007, Colony filed a declaratory judgment action against The Barn Club and Morton. In December 2009, a final Order was issued in the declaratory judgment action holding that Colony did not provide coverage for the underlying tort case. The plaintiff's underlying tort case continued and resulted in a confession of judgment and

subsequent uncontested \$8 million verdict against The Barn Club. The Barn Club assigned its rights against Hull and Gill to the plaintiff. This judgment and assignment were entered in conjunction with an agreement entered into by and between the plaintiff, her counsel and counsel for The Barn Club. Hull was given no notice of this agreement and had no opportunity to contest the matter in any respect.

ARGUMENT

Summary judgment is appropriate where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Rule 56(c), SCRCP. When plain, palpable and indisputable facts exist upon which reasonable minds cannot differ, summary judgment should be granted. Trico Surveying, Inc. v. Godley Auction Co., 314 S.C. 542, 431 S.E.2d 565 (1993). In considering a motion for summary judgment, this court "must view the facts in the light most favorable to the non-moving party. Nonetheless a court "cannot ignore facts unfavorable to that party and [it] must determine whether a verdict for the party opposing the motion would be reasonably possible under the facts." Bloom v. Ravoir, 339 S.C. 417, 423, 529 S.E.2d 710, 713 (2000). Citations omitted. Further, "[i]n order to resist a motion for summary judgment, the non-moving party must come forward with specific facts showing genuine issues necessitating trial. NationsBank v. Scott Farm, 320 S.C.299, 303, 565 S.E.2d 98, 100 (S.C. Ct. App. 1995). It is clear that Hull is entitled to summary judgment in this case.

I. The plaintiff's negligence claim against Hull must fail as Hull had no and did not breach a duty owed to the plaintiff that was the proximate cause of any injuries.

As indicated above, the plaintiff alleges that Hull procured a general liability policy of insurance for The Barn Club without including assault and battery coverage and that it was negligent in doing so. In order to recover in any negligence action, the plaintiffs must show (1) a duty of care owed by the defendant to the plaintiff; (2) a breach of that duty by negligent acts or omissions; and (3) damages proximately resulting from the breach. Crolley v. Hutchins, 300 S.C. 355, 387 S.E. 2(D) 7126 (S.C. Ct. App. 1989). The plaintiff has not established that Hull breached a duty owed to The Barn which proximately caused damages in this case.

A. There is no fiduciary duty between insurance agent and insurance applicant

"A confidential or fiduciary relationship exists when one imposes a special confidence in another, so that the latter, in equity and good conscience, is bound to act in good faith and with due regard to the interests of the one imposing the confidence." Island Car Wash, Inc. v. Norris, 292 S.C. 595, 599, 358 S.E.2d 150, 152 (S.C. Ct. App. 1987). A relationship must be more than casual to equal a fiduciary relationship. Steele v. Victory Sav. Bank, 295 S.C. 290, 368 S.E.2d 91 (S.C. Ct. App. 1988).

The South Carolina Court of Appeals, in Pitt v. Jackson National Life Ins. Co., 352 S.C. 319, 574 S.E.2d 502 (S.C. Ct. App. 2002), held that a fiduciary relationship does not exist between an insurance agent and the insurance applicant. The court reasoned, "Our research reveals no South Carolina case, and the parties have cited none, which establishes a fiduciary relationship at the application stage. In fact, our Supreme Court has found an applicant for an insurance policy does not stand in a fiduciary relationship with the insurer." Id. at 331, 574 S.E.2d at 507-8 (citing Gordon v. Fidelity & Cas. Co. of N.Y., 238 S.C. 438, 120 S.E.2d 509

(1961) (finding no relationship of trust and confidence existed between the insurance applicant and the insurance agent)).

Based on these authorities, it is clear that Hull has no duty, fiduciary or otherwise, to The Money. There are several reasons this is the case. First, Hull had no contact with Morton at any point in the application process. (Morton Dep. 185:23-25). Hull's only contact was with Gill and the insurers. Second, there is no evidence that Hull deviated from the coverage stipulations provided to it by Gill. Hull was instructed on the coverage Morton requested, and it solicited quotes from insurers in compliance with those requests. Finally, there is no evidence that Morton was relying upon Hull in any respect. In fact, he testified that he did not even know what Hull's involvement was in this situation. (Morton Dep. 185:23-25, 186:1-8). Given this lack of fiduciary duty or reliance, Hull can have no liability in this matter.

B. There is no duty of an insurance agent to advise insurance applicant

The plaintiff alleges that Hull had a duty to sell Morton, not only the coverage that he requested, but also "the coverage that a reasonable bar owner would need and desire." The plaintiff also alleges that Hull sold a policy to Morton that it knew or believed would not provide coverage in any conceivable instance. Insurers and their agents generally do not have a duty to advise an insured. Carolina Production Maintenance, Inc. v. U.S. Fidelity and Guar. Co., 310 S.C. 32, 38, 425 S.E.2d 39, 43 (S.C. Ct. App. 1992). During the application stage, an insurance agent is not required to go beyond the request of the insured, to inject matters not raised by the insured, or to conduct any independent inquiries. Pitts v. Jackson Nat. Life Ins. Co., 352 S.C. 319, 336-7, 574 S.E.2d 502, 511 (S.C. Ct. App. 2002). Not even an insured's request for "full coverage" or for the "best policy" places an insurance agent "under a duty to determine the insured's full insurance needs, to advise the insured about coverage, or to use his discretion and

expertise to determine what coverage the insured should purchase.” Trotter v. State Farm Mut. Auto. Ins. Co., 297 S.C. 465, 472, 377 S.E.2d 343, 347 (S.C. Ct. App. 1988).

According to his deposition testimony and sworn affidavit, Morton approached Gill with a letter listing the coverage he desired to procure for The Barn Club. This list did not include assault and battery coverage and Mr. Morton has admitted that he asked for no specific coverages other than those contained in the letter. (Morton Dep. 33:3-14). This information was presented to Hull who solicited insurance in accordance with these requests. There is no evidence in the record to suggest that Hull deviated from Morton’s request. (See Morton Dep. 189:4-11).

Even if assault and battery coverage is preferred for most general liability policies for bars and night clubs, neither Hull nor Gill had any duty to advise Morton of this information. Carolina Production, 310 S.C. at 38, 425 S.E.2d at 43 (S.C. Ct. App. 1992). Further, that coverage could not be purchased from Colony. (Porter Affidavit ¶ 15).

Morton presented Gill with a request for insurance, Gill forwarded this request to Hull, and Hull solicited quotes to provide the requested coverage. Hull provided Gill with a quote from Colony that specifically mentioned the assault and battery exclusion. At no point during this chain of events did Hull undertake a duty to advise Morton of the desirability of assault and battery coverage and fail to follow through with its procurement. As a result, Hull had no duty to advise Morton of the benefits of assault and battery coverage and thus cannot be liable for any alleged breach of that duty. As such, the plaintiff’s negligence claims against it are barred.

C. Hull breached no duty to The Barn

Even if it is assumed that Hull maintained some duty to the plaintiff, there is no evidence in the record that it breached that duty. South Carolina has recognized that agents and brokers “are required to exercise due care in placing insurance and would be personally liable for the neglect of that duty.” Riddle-Duckworth, Inc. v. Sullivan, 171 S.E.2d 486, 490 (S.C. 1969). The cases citing this principle, however, deal with agents or brokers who had some relationship with the insurance applicants and have taken on the duty of negotiating insurance contracts on their behalf. See Sullivan, 171 S.E.2d at 491 (holding that questions of fact existed as to whether agent who was contacted by insured exercised due care in procuring insurance); Trotter v. State Farm Mut. Auto. Ins. Co., 377 S.E.2d 343 (S.C. Ct. App. 1988) (holding that an insurance agent does not have duty to advise insurance applicant).

In Sullivan, an insured approached an experienced insurance agent to procure liability insurance coverage for his business premises. 171 S.E.2d at 488. The insured specifically requested that an elevator lift located on the premises be covered under the proposed policy. The agent delivered a policy to the insured with assurances that it afforded full coverage for the premises, including the elevator. Id. The following year, the insured moved to a new location and the elevator lift was re-located to the new premises. The agent transferred the policy to the new location and indicated to the insured that there was complete coverage for the new location which included the elevator. Id. at 489. The insured renewed his policy in subsequent years, and upon each renewal the agent assured the insured that the premises were “fully covered and there was nothing to worry about.” Id.

Upon receiving a renewal policy, the insured read the documents and had some doubt as to whether the policy afforded coverage for the elevator. When the insured asked the agent

about the policy, the agent indicated that the policy provided for full coverage. Id. Subsequently, an accident occurred in the elevator. After being notified of the accident, the agent indicated to the insured that "everything would be taken care of." When the insurer denied coverage on the grounds that the policy did not cover the operation of the elevator, the agent informed the insured that he had made a mistake and would "take care of it." Id.

The insured brought suit against the agent and his partner to recover the amount of the judgment against it in the underlying tort case. The Court held that because the transaction relative to the procurement of insurance was solely between the insured and the agent, the trial court was in error in refusing to grant the motion of the partner for directed verdict. Id. at 490. The Court indicated that the duties in the procurement of insurance arise from the relationship of a principal and his agent and held that the agent was liable to the insured for negligently failing to follow the insured's instructions. Id.

Unlike the agent in Sullivan, Hull had no contact whatsoever with Mr. Morton or any representatives of The Barn Club when procuring insurance at Gill's request. In fact, Morton was not aware of Hull's existence until the complaint was filed in this case. (Morton Dep. 186:1-4). While the agent in Sullivan repeatedly assured the insured that the policy provided the desired coverage, Hull made no assertions to either the plaintiff or Gill that suggested that the policy covered assault and battery. In fact, the quote and binder Hull provided to Gill both specifically mention that assault and battery is excluded under the policy. The policy was renewed in subsequent years, and Hull was never informed by Gill or the plaintiff that assault and battery coverage was desired.

While Sullivan does appear to assert a general duty on agents and brokers to exercise reasonable care in procuring insurance, its facts deal with an agent who had direct contact with

the insured and failed to obtain the requested insurance. No South Carolina case law has been found asserting a similar duty on an insurance intermediary acting solely at the request of an insurance agent with no contact with the insurance applicant. By complying with the instructions of Gill and not establishing any relationship with the plaintiff, Hull has not breached any duty it may have had and therefore cannot be liable to the plaintiff.

II. Alternatively, the plaintiff's negligence claim must fail as the plaintiff was comparatively negligent in failing to read the policy

Even if it is assumed that Hull breached a duty owed to the plaintiff, the plaintiff can not recover as it was negligent in failing to read the Colony policy. Even if an insurance agent is negligent, an insured is comparatively negligent in failing to read its policy. See Carolina Production, 310 S.C. at 38, 425 S.E.2d at 43.

In Doub v. Weathersby-Breeland Ins. Agency, 268 S.C. 319, 233 S.E.2d 111 (1977), an insured sued an insurance agency for allegedly misrepresenting that his property insurance policy "covered everything." The Supreme Court affirmed a directed verdict in favor of the agency due to the insured's failure to read his policy over an eighteen month period. Id. at 327, 233 S.E.2d at 114. In arriving at this holding, the Court distinguished the case from the facts of Sullivan. The Court indicated that, unlike Sullivan, this was not a case where the insured read the policy, failed to understand its coverage, and asked specific questions to the agency. Id.

When Morton received his policy documents from Colony through the mail, he placed the documents into a file without ever reading the policy. (Morton Dep. 46:4-8). In his sworn affidavit and deposition testimony, Morton admits that if he had read his insurance policy, he would have seen a page in the policy that reads in bold letters "ASSAULT, BATTERY OR ASSAULT AND BATTERY EXCLUSION." (Morton Aff. ¶ 21 and Morton Dep. 46:9-12). By

his own admission, Morton did not read his Colony policy and renewed his policy in subsequent years with the same assault and battery exclusion. It was not until 2010 that coverage for assault and battery was even mentioned and a quote provided for it. Even then however, The Barn Club never indicated it wanted to purchase the coverage. Therefore, even if Hull was negligent, Morton was contributorily negligent by failing to read the Colony policy and take steps to address the assault and battery exclusion.

III. The plaintiff's negligence action is barred by operation of the three-year statute of limitations

Section 15-3-530 of the South Carolina Code provides the general rule that the following actions must be commenced within three years:

- (1) an action upon a contract, obligation, or liability, express or implied ...
- ...
- (5) an action for assault, battery, or any injury to the person or rights of another, not arising on contract...

Under the discovery rule, the statute of limitations begins to run "when a party knows or should know, through the exercise of due diligence, that a cause of action might exist."

Anonymous Taxpayer v. South Carolina Dept. of Revenue, 377 S.C. 425, 438-439, 661 S.E.2d 73, 80 (S.C., 2008); see also South Carolina Farm Bureau Mut. Ins. Co. v. Kelly, 345 S.C. 232, 237, 547 S.E.2d 871, 873-4 (S.C. Ct. App., 2001).

The exercise of reasonable diligence means simply that an injured party must act with some promptness where the facts and circumstances of an injury would put a person of common knowledge and experience on notice that some right of his has been invaded or that some claim against another party might exist. The statute of limitations begins to run from this point and not when advice of counsel is sought or a full-blown theory of recovery developed.

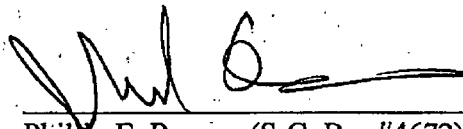
Royal Ins. Co. of America v. Reliance Ins. Co., 140 F.Supp.2d 609 (D.S.C., 2001).

In this case, the plaintiff's negligence cause of action was triggered, even under the most conservative analysis, by June 26, 2007, the date of the commencement of The Tort Action. It is arguable that the cause of action was triggered at the time of the issuance of the policy in 2004. By his own admission, had Morton read the policy provided to him in 2004, he would have known that it excluded coverage for assault and battery. It is reasonable to assume that Morton would have inquired about his insurance coverage following the alleged assault and battery in March, 2005. In any event, reasonable diligence would have revealed that assault and battery coverage was excluded under the policy when The Tort Action was commenced. This action was not instituted until July 2, 2010, at which time the statute of limitations had expired. Consequently, Hull is entitled to summary judgment as a matter of law.

CONCLUSION

Based upon the foregoing authorities and argument, Hull respectfully submits that it is entitled to judgment in its favor as a matter of law.

Respectfully Submitted,



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March 7, 2011

EXHIBIT 1

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FACSIMILE 704 333-8608

HENRY JAMES, JR.
MARY KAY BAYNARD
OF COUNSEL

February 9, 2004

Mr. Jim Morton
The Barn Inc. d/b/a The Money
608 Rabun Circle
Rock Hill, SC 29730

Dear Jim:

I am writing this note, just because it is probably easier than us trying to catch up with each other by phone.

I got the Certificate of Liability Insurance. I have two concerns. One, the building would probably cost more than \$75,000 to replace. It should probably be about \$200,000. This coverage should not cost a whole lot more.

yes
You should have more than \$300,000 of general liability coverage. We ought to have at least \$1 million, given that there is alcohol. We also need to make sure that there is no dram shop exclusion. Jim Gill can answer all these questions pretty easily.

liability not in SC
The additional insured should be "Aberman Family Limited Partnership". We ought to be an additional insured rather than merely a "certificate holder." Again, Jim Gill can probably take care of this, and I do not think it will cost a whole lot more.

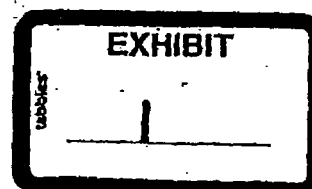
I'm also sorry to be so picky. However, if we had a loss or serious accident, we would all want to make sure that the documents are sufficient.

I hope you are doing well. As always, if I can help as a friend let me know.

Sincerely,

J. Mitchell Aberman
J. Mitchell Aberman

JMA/lkb



GILL-YOUNG000001

EXHIBIT 2

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) SIXTEENTH JUDICIAL CIRCUIT
COUNTY OF YORK) CIVIL ACTION NO. 10-CP-46-02851

PAMELA DILL AS THE ATTORNEY-)
IN-FACT AND NATURAL MOTHER OF)
BRITTEN TENO,)

PLAINTIFF,)

VS.)

COLONY INSURANCE COMPANY,)
GILL-YOUNG INSURANCE (NOW)
KNOWN AS "GILL INSURANCE,)
LLC" OR ("THE GILL AGENCY"))
AND HULL & COMPANY, INC.,)

DEFENDANTS.)

DEPOSITION

OF

JAMES MORTON

DEPOSITION OF JAMES MORTON, TAKEN BEFORE LORI
A. BOGGS, PROFESSIONAL VERBATIM REPORTER, AND NOTARY PUBLIC
IN AND FOR THE STATE OF SOUTH CAROLINA, COMMENCING AT THE
HOUR OF 9:30:00 A.M., MONDAY, THE 15TH DAY OF NOVEMBER, 2010,
AT THE LAW OFFICES OF MCGOWAN HOOD & FELDER, LLC, 1539 HEALTH
CARE DRIVE, ROCK HILL, SOUTH CAROLINA.

COPY

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1 Q So is it fair to say that the questions were posed to
2 you about the contents of a document that you were not
3 given the opportunity to inspect before you rendered
4 testimony under oath?

5 A That's true.

6 Q Do you recall sometime in 2004, when you went to get
7 your insurance for that year, bringing a document from
8 the Family Limited Partnership -- Aberman Family
9 Limited Partnership?

10 A Yes. Mr. Aberman -- Aberman Family Partnership, one of
11 their -- one of their sons is Mickey Aberman who is an
12 attorney. And I would have conversations with Mr.
13 Aberman a lot of times about -- about things to do with
14 the bar business and stuff like that, or other -- we
15 did a lot of charitable things together. So we talked
16 a lot about different things that he heard of, or was
17 aware of, or concerned about when it came to leasing us
18 that property. At one time he had sent me a document -
19 - or a letter, just basically stating that -- I had
20 explained to him that we got our insurance at Gill-
21 Young -- or at the time I believe it was Gill-Young,
22 and he had sent me a letter just saying they'll know
23 what to do about this. Your -- here's the limits of
24 what, you know, we require for lease, and he had listed
25 one or -- one thing -- at the time I thought it was one

1 or more things that we should have -- you know, that we
2 needed to either be excluded or not excluded.

3 Q Okay. Let me ask you this. This document you brought
4 to the Gill Insurance Company. Would this document
5 consist of all the types of coverage, or particular
6 coverage that you were requesting at the time?

7 A It would have been the only thing that I ever had taken
8 to them. Other than that, I had never taken any other
9 thing. That letter was the only time I had ever taken
10 document up there.

11 Q Okay. And is it fair to say that, and based on your
12 testimony, if you didn't request it in the letter, you
13 didn't request it otherwise; is that correct?

14 A That would be correct, yes.

15 Q I'm going to hand you a document that I'm going to mark
16 as Defendant's Exhibit Number 2.

17 (MARKED DEFENDANT'S EXHIBIT NUMBER 2 FOR IDENTIFICATION
18 PURPOSES, LETTER FROM JAMES MCELROY & DIEHL TO MR. MORTON
19 DATED 2/9/2004)
20 BY MR. GOINGS:

21 Q If you could identify this document for me.

22 A This is a letter that's headed James McElroy and Diehl,
23 which is the law firm that Mickey Aberman is a member
24 of. It's dated February 9th, 2004. It's addressed --
25 or sent to me, and it looks to be as the letter that

1 Mr. Aberman had sent to me that I had given to Gill-
2 Young Insurance.

3 Q Okay. Does this letter, which is marked as Defendant's
4 Exhibit 2, purport to be the document you were
5 referring to in your deposition on 9/15/2008?

6 A Yes, this is the letter.

7 Q Okay. I'll give you a chance to look over the contents
8 of this document and I'm going to ask you several
9 questions. In this letter, does Mr. Aberman advise
10 that the building is valued at approximately \$200,000?

11 A Yes, sir.

12 Q And he's asking you to increase property insurance from
13 75,000 to 200,000; is that correct?

14 A Yes, sir.

15 Q Does he also state that you should have more than
16 \$300,000 in general liability coverage?

17 A Yes, sir, he does.

18 Q What amounts does he say you should have?

19 A "We ought to have at least one million given that there
20 is alcohol. We also need to make sure that there's no
21 dram shop exclusion. Jim Gill can answer all these
22 questions pretty easily."

23 Q And then right beside dram shop, does it say liquor
24 liability? With an arrow pointing to dram shop?

25 A Yes, sir.

1 Q Then the next paragraph, what does he request?

2 A "The additional insured should be the Aberman Family
3 Limited Partnership. We ought to be an additional
4 insured rather than merely a certificate holder.
5 Again, Jim Gill can probably take care of this, and I
6 do think -- I don't think it will cost a whole lot
7 more."

8 Q Does this letter state that any policy of insurance
9 should cover incidents involving alleged assault and
10 batteries?

11 A No, it does not.

12 Q Does the document before you as Defendant's Exhibit 2
13 help refresh your recollection as to the type of
14 coverage you requested sometime on or about 2004?

15 A Yes. And it also clears up what we were discussing in
16 the deposition about the letter.

17 Q Okay. And you testified -- well, I asked you earlier,
18 do you recall applying for a commercial general
19 liability policy and you said, "I don't recall, but I'm
20 sure I did"; is that correct?

21 A Yeah. I mean, I recall at times being in Jan's office
22 and, you know -- you know, signing documents and stuff
23 for it. I can't say that I recall anything
24 specifically about this year besides that, you know,
25 now that I have the letter, you know, that I remember

1 limit of coverage to business description, fungi or
2 bacterial exclusions, nuclear energy liability
3 exclusion, assault and battery exclusion."

4 Q When you received this policy in the mail, what did you
5 do with it?

6 A Put it in a file.

7 Q You didn't read it?

8 A No.

9 Q If you had read the policy from front to back, would
10 you have noticed that assault and battery was excluded
11 from this general commercial liability policy?

12 A Yes, that would be correct.

13 Q Okay. And, Mr. Morton, did you renew these policies of
14 insurance generally on a year-to-year basis?

15 A Yes. As far as I know, those policies may still be
16 intact, you know.

17 Q From time to time did you have to come back to Gill
18 Insurance to fill out new applications or provide new
19 data or information?

20 A Yes, sir, every year about the same time.

21 Q Did you fill out, roughly, the same documents year in
22 and year out?

23 A Yes, sir.

24 Q Okay. Is it fair to say that sometimes you filled out
25 an application and maybe the next year you didn't have

1 give them an answer yes or no?

2 A I would give them the answer.

3 Q All right.

4 A Or maybe even go into an explanation.

5 Q Gotcha. If it said, "Is a gun kept on the premises,"
6 would you give that answer?

7 A Yes, I would give that answer.

8 Q Would you give information about how many pool
9 tables --

10 A Yes.

11 Q -- would be on the property?

12 A Yes, sir.

13 Q Okay. So the information that was given on Defendant's
14 Exhibit 4 had your involvement and input, correct?

15 A That's correct.

16 Q Do you see on the top of Page 2, Paragraph 9,
17 Subsection 3, "Is assault and battery excluded on your
18 GL policy," and what was your answer?

19 A Ms. Rogers had written in yes, and then I signed down
20 at the bottom.

21 Q Okay. So the answer --

22 A The answer is yes.

23 Q The answer is yes. So is it fair to say that in March
24 of 2004, you knew or should have known that assault and
25 battery was excluded on your GL policy?

1 A I don't know that it's fair to say, but I would say
2 that it would be accurate to say that it was not
3 included.

4 Q Okay. I'm going to hand you another document that's
5 marked as Defendant's Exhibit 5.

6 (MARKED DEFENDANT'S EXHIBIT NUMBER 5 FOR IDENTIFICATION

7 PURPOSES, COLONY INSURANCE COMPANY RESTAURANT PROGRAM

8 SUPPLEMENTAL APPLICATION)

9 BY MR. GOINGS:

10 Q Can you identify this document for me?

11 A It says Colony Insurance Company Restaurant Program
12 Supplemental Application.

13 Q And just same questions as the previous application.
14 Is that your signature at the bottom?

15 A Yes.

16 Q And in the ordinary course of filling out this policy,
17 this application, would you and Ms. Rogers complete
18 this application jointly?

19 A Yes, sir.

20 Q And did you provide the information to complete this
21 document?

22 A She would ask me questions, you know, about filling out
23 this document and then fill it in, so I'm sure that I
24 had some input on filling this document out.

25 Q It says on the first page, "Is liquor liability to be

1 to fill out a new application but you were able just to,
2 renew your policy?

3 A Yes, sir, that's fair to say.

4 Q Okay.

5 (MARKED DEFENDANT'S EXHIBIT NUMBER 7 FOR IDENTIFICATION

6 PURPOSES, ACCEPTANCE INSURANCE, LIQUOR LIABILITY

7 APPLICATION, 3/17/07)

8 BY MR. GOINGS:

9 Q I'm going to hand you a document that's been marked as
10 Defendant's Exhibit 7. Can you identify this document
11 for me?

12 A Acceptance Insurance, Liquor Liability Application,
13 3/17/07.

14 MS. KING: I'm sorry. I lost track. We're on --

15 MR. GOINGS: Number 7.

16 MS. KING: Seven.

17 BY MR. GOINGS:

18 Q How many pages is Defendant's Exhibit 7?

19 A Two, sir.

20 Q And is that your signature on the bottom, second page?

21 A On the bottom of the second page. Yes, sir.

22 Q And when did you sign this document?

23 A The date is 3/14/07.

24 Q And did you assist in completing this application?

25 A Yes, sir.

1 Q Did you provide the information in order to fill out
2 this application?

3 A There were questions that were asked of me, and the
4 ones that were asked of me, I answered, as Ms. Rogers
5 filled this out.

6 Q Okay. Did you have the opportunity to read this liquor
7 liability application before you signed it?

8 A I had the opportunity, yes.

9 Q Okay. At the top of Page 2, Paragraph 9, Subsection C,
10 read the question.

11 A Nine Subsection C, "Is there -- is assault and battery
12 excluded on your GL policy?"

13 Q And what was the answer?

14 A The answer that's written in here is yes.

15 Q Are you currently a client of Gill Insurance?

16 A Yes, sir, I am.

17 Q Does Gill Insurance provide your insurance needs for
18 your two businesses, Morton Amusement and Morton
19 Inflatables?

20 A I think I have a Workmen's Comp policy that they helped
21 me find. They provide some personal insurance for me,
22 life insurance. I don't think I can name everything.
23 But, you know, there are several things that they do
24 for me right now.

25 Q During the course of the underlying litigation brought

1 Q Do you know why Mr. Phillips or his clients did not
2 appeal the judge's dismissal of the coverage action?

3 A No, ma'am, I do not.

4 Q And when you went to the Gill Agency to obtain
5 insurance coverage, were you looking for insurance
6 coverage for you, Jim Morton, or for the corporation?

7 A For the corporation.

8 MS. KING: I want to pass you over to our next
9 counsel. If you all will just allow me to come back if
10 I find anything else, I think that's all I've got. But
11 I wanted to look at a few --

12 (OFF THE RECORD)

13 EXAMINATION

14 BY MR. REEVES:

15 Q Mr. Morton, good afternoon. My name is Phil Reeves. I
16 introduced myself earlier to you today. I represent
17 Hull & Company in this case.

18 A Sure.

19 Q I am going to ask you a few questions. I am going to
20 try not to repeat what's already been asked, so that's
21 going to result in me bouncing around a bit, but if you
22 will bear with me, we will try to get through this as
23 quickly as we can. We appreciate your being here. To
24 your knowledge, have you ever talked with anyone at
25 Hull & Company about The Barn's insurance?

1 A No, sir, until this -- I saw this Complaint, I didn't
2 know you existed.

3 Q Do you have any idea what Hull & Company is?

4 A No, sir.

5 Q Do you have any idea what it does?

6 A No, sir.

7 Q Do you have any idea what its role was in this case?

8 A No, sir.

9 Q Since the time all of this has happened, have you tried
10 to find out anything about Hull & Company as far as
11 what it is or what it may have done in this case?

12 A No, sir.

13 Q Do you have any reason to believe that whatever it may
14 have done in this case, that it didn't do exactly what
15 it was asked to do?

16 A I don't have any reason to believe that, no.

17 Q Ms. King was asking you about the Complaint that was
18 filed in this case, and I understand that it was filed
19 on behalf of Ms. Dill. Were you consulted about the
20 Complaint before it was filed?

21 A No, sir.

22 Q Okay. In paragraph 7, it says that Jim Morton was the
23 former president of The Barn Club, d/b/a The Money,
24 during the time surrounding March 2004. That's
25 correct, right?

- 1 A That's correct.
- 2 Q And you never requested on behalf of The Barn that it
3 provide any more coverage -- that anybody provide you
4 any more coverage than that?
- 5 A No, sir.
- 6 Q Okay. There is a paragraph in this Complaint,
7 paragraph 32, that says, Upon information and belief,
8 these defendants, which would be Gill, Hull and Colony,
9 had a pattern of practice of examining the Complaints
10 of lawsuits filed against bar owners and specifically
11 excluded the gravamen of the nature of lawsuits filed
12 against bar owners. Do you have any idea what that
13 means?
- 14 A I have an idea what it means.
- 15 Q Do you know that it's true?
- 16 A No, sir, I don't have any information that would lead
17 me to believe that to be true.
- 18 Q All right. Do you have any information?
- 19 A Not any specific information, no.
- 20 Q Any specific or general information about what Hull &
21 Company might or might not have done in connection with
22 its business?
- 23 A No, sir.
- 24 Q There is nothing that Hull & Company did in this case
25 that you, acting on -- either individually or on behalf

1 of The Barn Club relied upon in making your decisions
2 about insurance, is there?

3 A That's correct.

4 Q There were no representations made to you by anyone on
5 behalf of Hull & Company in connection with the
6 insurance you were purchasing, were there?

7 A That is correct.

8 Q And there was no coverage specifically requested by you
9 from the Hull Company that wasn't provided in this
10 case, was there?

11 A That's correct.

12 Q To your knowledge, did Hull & Company conspire in any
13 respect with Gill or Colony in connection with any of
14 its dealings in this case?

15 A I have no knowledge of any conspiring.

16 Q Okay. To your knowledge, did The Barn ever have any
17 sort of business relationship or insurance relationship
18 with Hull & Company whatsoever?

19 A To my knowledge, no.

20 Q And as the president of The Barn, you would have known?

21 A I would have known if we had done something
22 specifically through someone called Hull. All of my
23 insurance was done through Gill and Young Insurance and
24 after it left them, I had no idea. Truthfully, I
25 really didn't know that Colony was our insurance

EXHIBIT 3

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS

C.A. NO. 07-CP-46-2220

Pamela Dill as the Attorney-in-Fact)
and Natural Mother of Britten Teno,)
Plaintiff,)
vs.)

AFFIDAVIT OF
JIM MORTON

The Barn Club (a.k.a. The Money),)
William George (a.k.a. Gee Gee)
George), Jim Morton (a.k.a. Doc)
Morton), Brian Oxendine and)
Patrick Byrum,)
Defendants.)

PERSONALLY appeared before me the undersigned, Jim Morton, who being first duly sworn, deposes and says that:

1. I am the former President of Barn Club, Inc., d/b/a The Money in the above-captioned action.
2. Part of my responsibilities at The Barn Club was to procure insurance for the club.
3. In March, 2004, I went to Gill and Young Insurance Agency to purchase insurance for The Barn Club.
4. Being in the business for a number of years as well as just using plain common sense, a bar/night club owner needs to be protected and/or insured from the common occurrences at a bar/night club.
5. Again, as common sense would dictate these common occurrences include fighting (assault/battery), intoxication of patrons, security issues and of course issues

involving the actions of employees who we are responsible for security at the club.

6. So clear was I when I went to Gill and Young Insurance Agency about the types of coverage that I wanted for The Barn that I even wrote them down and gave them to the agent.

7. It has now been pointed out to me all of the exclusions Colony Insurance is saying there are on this policy.

8. While I am aware of the position they are taking in the lawsuit to avoid coverage for Mr. Teno's lawsuit, if the coverage is as they claim it to be, then this insurance would serve absolutely no purpose to a night club and its owners/managers.

9. They are claiming almost everything that goes on in bars; drinking, fights, employee issues, floorman issues, etc, are excluded from coverage.

10. Taking their position I cannot think of any type of claim that would be covered.

11. If the Court rules in their favor then this policy was a complete waste of a lot of money for a number of years and absolutely not what I was intending or wanting to purchase for The Barn Club.

12. If the claims made by Mr. Teno are not covered then without question Gill and Young Insurance Agency did not sell me what I asked and paid for.

13. Because Colony has brought an action against the Barn Club, Inc. regarding coverage, I have been put under a great deal of stress worrying about the matter.

14. The primary reason I purchased insurance was to insure against the allegations of the Plaintiff.

15. Barn Club, Inc. purchased a \$1,000,000 insurance policy and Colony is now attempting to avoid its contractual responsibilities.

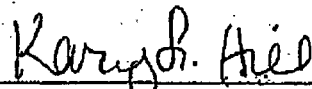
16. I believe Colony Insurance is acting in bad faith.

FURTHER THE AFFIANT SAYETH NAUGHT.


Jim Morton
Former Agent/Principal/Owner/Officer of
The Barn Club, Inc. d/b/a The Money

10-9-09
Date

SWORN to and SUBSCRIBED before me
this 9 day of October, 2009.


Notary Public for South Carolina
My Commission Expires: _____

"OFFICIAL SEAL"
Kary L. Hill, Notary Public
State of South Carolina
Comm. Exp. 02-25-2013

EXHIBIT 4

ACORD COMMERCIAL INSURANCE APPLICATION				DATE	
APPLICANT INFORMATION SECTION				03/12/04	
PRODUCER JAMES P. GILL 803-324-5300		CARRIER HULL & COMPANY, INC.	UNDERWRITER		
GILL INSURANCE AGENCY, INC. P.O. BOX 4040 ROCK HILL SC 29732 JAMES P. GILL		POLICIES OR PROGRAM REQUESTED			
CODES: SUB CODE:		☒ INDICATE SECTIONS ATTACHED ☒ PROPERTY ☒ CLASS AND SIGN ☒ ACCOUNTS RECEIVABLE ☒ VALUABLE PAPERS ☒ CRIME/MISCELLANEOUS CRIMS ☒ TRANSPORTATION ☒ MOTOR TRUCK CARGO			
AGENCY CUSTOMER ID		☒ EQUIPMENT FLOATER ☒ INSTALLATION/BUILDERS RISK ☒ ELECTRONIC DATA PROC ☒ COMMERCIAL ☒ GENERAL LIABILITY ☒ BUSINESS AUTO ☒ TRUCK/BROWDER CARRIER			
MONEY-1		☒ GARAGE AND DEALERS ☒ VEHICLE SCHEDULE ☒ BOILER & MACHINERY ☒ WORKERS COMPENSATION ☒ UMBRELLA ☒ Liquor			
STATUS OF SUBMISSION					
PACKAGE POLICY INFORMATION					
ENTER THIS INFORMATION WHEN COMMON DATES AND TERMS APPLY TO SEVERAL LINES OR FOR MONOLINE POLICIES					
QUOTE		☒ ISSUE POLICY		BOUNDS (One line to attach copy)	
DATE		TIME		AM PM	
03/17/04		03/17/05		DIRECT BILL	
				☒ AGENCY BILL	
APPLICANT INFORMATION					
NAME (First Names Insured & Other Named Insured)		NAME (Last Name Insured)		MAILING ADDRESS (Not ZIP-4) (of First Named Insured)	
THE BARN INC. DBA THE MONEY		JIM MORTON		608 BABUN CR. ROCK HILL SC 29730	
PHONE (Area No., Ext.) 803-328-7927		CREDIT BUREAU NUMBER		1982	
INDIVIDUAL		☒ CORPORATION		JOINT VENTURE	
PARTNERSHIP		JOINT VENTURE		CORPORATION	
INSPECTION CONTACT		ACCOUNTING RECORDS CONTACT		JIM MORTON	
PREMISES INFORMATION					
LOC #	SLO #	STREET, CITY, COUNTY, STATE, ZIP+4	CITY LIMITS	INTEREST	YR BUILT
1	1	110 CHERRY RD ROCK HILL SC 29732	☒ INSIDE ☐ OUTSIDE	OWNER ☒ TENANT	1980
			☐ INSIDE ☐ OUTSIDE	OWNER ☐ TENANT	
			☐ INSIDE ☐ OUTSIDE	OWNER ☐ TENANT	
NATURE OF BUSINESS/DESCRIPTION OF OPERATIONS BY PREMISE(S)					
1 1 PRIVATE CLUB					
GENERAL INFORMATION					
EXPLAIN ALL "YES" RESPONSES		YES NO	EXPLAIN ALL "YES" RESPONSES		YES NO
1. IS THE APPLICANT A SUBSIDIARY OF ANOTHER ENTITY OR DOES THE APPLICANT HAVE ANY SUBSIDIARY?		☒	2. ANY PART OF THE APPLICANT'S BUSINESS RELATING TO THE USE OF MACHINERY, EQUIPMENT, OR INSTALLATION OR REPAIRS?		☒
2. IS A FORMAL SAFETY PROGRAM IN OPERATION?		☒	3. DURING THE LAST TEN YEARS, HAS ANY APPLICANT BEEN CONVICTED OF ANY CRIME OR FELONY OR CRIMINAL OFFENSE?		☒
3. ANY EXPOSURE TO FLAMMABLES, EXPLOSIVES, OR CHEMICALS?		☒	4. ANY UNCORRECTED FIRE CODE VIOLATIONS?		☒
4. ANY CATASTROPHE EXPOSURE?		☒	5. ANY UNCORRECTED TAX OR CREDIT LIENS AGAINST THE APPLICANT?		☒
5. ANY OTHER INSURANCE WITH THIS COMPANY OR BEING SUBMITTED?		☒			
6. ANY POLICY OR COVERAGE DECLINED, CANCELLED OR NON-RENEWED DURING THE PRIOR 2 YEARS?		☒			
REMARKS					
ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR ANOTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION OR CONCEALS FOR THE PURPOSE OF MISLEADING INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME AND SUBJECTS THE PERSON TO CRIMINAL AND CIVIL PENALTIES. (NOT APPLICABLE IN CO, HI, NE, OH, OK, OR, IN ME AND VA, INSURANCE BENEFITS MAY ALSO BE DENIED)					
APPLICANT'S SIGNATURE		PRODUCER'S SIGNATURE		JAMES P. GILL	
ACORD 129 (7/00)		PLEASE COMPLETE REVERSE SIDE		©ACORD CORPORATION 1993	

Mar 15 04 03:41p

gill-vo... insurance

803-328-2859

p.5

PRIOR CARRIER INFORMATION

MONEX-1

LINE	CATEGORY	2001-2004									
CARRIER	CARRIER	MT VERNON									
	POLICY NUMBER	CE2243845									
	POLICY TYPE		CLAIM	MOD	OCCURRENCE	CLAIM	MOD	OCCURRENCE	CLAIM	MOD	OCCURRENCE
	RETRO DATE										
	EFF-EXP DATE	01/17/01 01/17/04									
	GENERAL AGGREGATE	300,000									
	PROPERTY STAKE UP	300,000									
	PERSONAL & ADV WH	300,000									
	EACH OCCURRENCE	300,000									
	FIRE DAMAGE	50,000									
	MEDICAL EXPENSE	1,000									
	BODILY OCCURRENCE										
	INJURY AGGREGATE										
	PROPERTY OCCURRENCE										
	DAMAGE AGGREGATE										
COMBINED SINGLE LIMIT											
MODIFICATION FACTOR											
TOTAL PREMIUM											
A	CARRIER										
	POLICY NUMBER										
	POLICY TYPE										
	EFF-EXP DATE										
	COMBINED SINGLE LIMIT										
	BODILY EX PERSON										
	INJURY EX ACCIDENT										
	PROPERTY DAMAGE										
	MODIFICATION FACTOR										
	TOTAL PREMIUM										
	CARRIER	CARRIER	ES8RX								
		POLICY NUMBER	1CF9823								
		POLICY TYPE	PROPERTY								
		EFF-EXP DATE	01/17/01 01/17/04								
		BUILDING AMT									
PERS PROP AMT											
MODIFICATION FACTOR											
TOTAL PREMIUM											
CARRIER											
POLICY NUMBER											
POLICY TYPE											
EFF-EXP DATE											
LIMIT											
MODIFICATION FACTOR											
TOTAL PREMIUM											

LOSS HISTORY

ENTER ALL CLAIMS OR LOSSES (REGARDLESS OF FAULT AND WHETHER OR NOT INSURED) ON OCCURRENCES THAT MAY GIVE RISE TO CLAIMS FOR THE PRIOR 3 YEARS (3 YEARS IN NJ & NY)						X	SEE ATTACHED LOSS HISTORY
DATE OF OCCURRENCE	LINE	TYPE/DESCRIPTION OF OCCURRENCE OR CLAIM	DATE OF CLAIM	AMOUNT PAID	AMOUNT RESERVED	CLAIM STATUS	
						OPEN	
						CLOSED	
						OPEN	
						CLOSED	

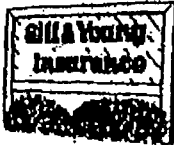
REMARKS: NOTE: LIABILITY REQUIRES A FIVE YEAR LOSS HISTORY.
 JOHNSON & JOHNSON - MT VERNON FIRE INS NO LONGER WRITING THEIR LIQUOR
 LIABILITY - THEY RECOMMEND WE CALL YOUR OFFICE

NOTICE OF INSURANCE INFORMATION PRACTICES

PERSONAL INFORMATION ABOUT YOU, INCLUDING INFORMATION FROM A CREDIT REPORT, MAY BE OBTAINED FROM PERSONS OTHER THAN YOU. SUCH INFORMATION AS WELL AS OTHER PERSONAL AND PRIVATE INFORMATION COLLECTED BY US OR OUR AGENTS MAY IN CERTAIN CIRCUMSTANCES BE DISCLOSED TO THIRD PARTIES. YOU HAVE THE RIGHT TO REVIEW YOUR PERSONAL INFORMATION IN OUR FILES AND CAN REQUEST CORRECTION OF ANY INACCURACIES. A MORE DETAILED DESCRIPTION OF YOUR RIGHTS AND OUR PRACTICES REGARDING SUCH INFORMATION IS AVAILABLE UPON REQUEST. CONTACT YOUR AGENT OR BROKER FOR INSTRUCTION ON HOW TO SUBMIT A REQUEST TO US.

ACORD 128 (7/98)

EXHIBIT 5



Business • Home • Auto • Life and Health

P.O. Box 4040 • 235 Oakland Ave • Rock Hill, SC 29732
TEL 803-324-5300 • FAX 803-328-2359

DATE 3-10-04 TIME 3:10 **111286**
TO: Bob Lowery
COMPANY: Hull & Co. FAX #: 704-540-7611
NUMBER OF PAGES 15 (INCLUDING COVER SHEET)
FROM: Jane
REF: The Barn Inc DBA The Money
Quote

Please refer to applications for
Property, GL, & Liquor - Quote
and provide ASAP.

Thanks so much - Calling
any questions

Colony - doesn't Q.
Sic

EXHIBIT 6



Hull & Company (Mid-Atlantic), Inc.

14120 Ballantyne Corp. Pl. #525

Charlotte, North Carolina 28277

(704) 540-1557 - Wats 1-800-241-HULL (4855) - Fax (704) 540-7611

Requested Quotation	New	3/12/2004
Regarding: THE MONEY		
Producer: GILL & YOUNG P.O. Box 4040 Rock Hill, SC 29731		Risk Location: 110 Cherry Road, Rock Hill, SC 29732
Attn: Jane Rogers		
Effective Date: 3/17/2004	Renewal Date:	Policy No.:
Form of Coverage: Commercial Property This quotation is being offered on the basis indicated. It does not necessarily provide the terms and /or coverage requested in your submission. Your client must be advised.		
Limits: \$200,000.00 Total Building Limits \$100,000.00 Total Personal Property Limits		Premium \$3,450.00 Policy Fee \$125.00 Inspection Fee \$100.00 TRIA Premium \$242.00 Surplus Lines Tax 8% \$235.02
Buxi		Total: \$4,152.02
Terms & Conditions: Building Coverage(s) - Special with theft, 80% Co-Ins, Actual Cash Value Personal Property Coverage(s) - Special with theft, 80% Co-Ins, Actual Cash Value Exclusions: Flood and Earthquake, C140 Pollution Exclusion, C203 Terrorism Subject To: Favorable Inspection, Original Signed Application, Favorable 5 Year Loss History, No Flat Cancellations, IL0017 Common Policy Conditions, IL0002 Effective Time Changes, AOP Deductible: \$1,000, CF150 Property (continued on attachment)		
Company: Pacific Insurance Company		Agents Commission: 10%
Remarks: If coverage is to be bound, please amend the application to reflect the correct square footage of 4800.		
These terms are valid for 31 days or renewal date shown		
Sent by: Donna Porter		Department: Commercial Lines

Hull & Company (Mid-Atlantic), Inc.

THE MONEY

(Property Quote continuation sheet)

Page - 2

Coverage Part, PS-1 Service of Suit, PS-2 Salvage & Recovery Clause, PM-3 25% Minimum Earned Premium, 0030G Change Applies to the Following Forms Endorsement, CP0010 Building and Personal Property Coverage Form, CP0090 Commercial Property Conditions, CP1030 Causes of Loss-Special Form
Warranties: IL0415 Protective Safeguards Endorsement: Ansul System with Semi Annual Cleaning Contract with Professional Cleaning Company if commercial cooking performed on premises., IL0415 Protective Safeguards Endorsement: Smoke Detectors in All Units, CP1211 Burglary and Robbery Protective Systems: Central Station Alarm

EXHIBIT 7



"Think Hull"

Charlotte
14120 Ballantyne Corp. Pl. #525
Charlotte, North Carolina 28277
T. 704-540-1557
T. 800-241-4855
F. 866-676-1701
W. www.hullco.com/charlotte
E. charlotte@hullco.com

Requested Quotation	New	3/12/2004
Regarding: THE MONEY		
Producer: GILL & YOUNG P.O. Box 4040 Rock Hill, SC 29731		Risk Location: 110 Cherry Road, Rock Hill, SC
Attn: Jane Rogers		
Effective Date: 3/17/2004	Renewal Date:	Policy No.: TBA
Form of Coverage: Commercial General Liability This quotation is being offered on the basis indicated. It is incumbent upon you to ascertain the accuracy of the quote, and to review with the insured the terms of the quote carefully, as the coverage, terms and conditions may be different than those you requested.		
Limits: \$1,000,000.00 Each Occurrence \$1,000,000.00 General Aggregate \$1,000,000.00 Products Aggregate \$1,000,000.00 Pers. Inj. & Adv. Inj. \$50,000.00 Fire Damage \$5,000.00 Medical Payment		Premium \$1,850.00 Policy Fee \$150.00 Inspection Fee \$125.00 TRIA Premium \$100.00 Surplus Lines Tax 6% \$133.50 Total: (incl. TRIA opt.) \$2,358.50 Total: (less TRIA opt.) \$2,252.50
Terms & Conditions include, but are not limited to, the following terms, conditions and exclusions: Exclusions: IL0021 Nuclear Energy Liability, U003 Hazardous Materials, U004 Miscellaneous Exclusions Endorsement (Intercompany Suits, USL&H-Jones Act-Maritime, Professional Services, etc.), U006 Assault & Battery, U016 Athletic or Sports Participants, U018 Communicable Disease, U042 Animal Liability, U048 Employment-Related Practices, U056 Exterior Insulation and Finish Systems, U087 Total Liquor Liability, U147 Weapons, CG2167 Fungi or Bacteria Subject To: THIS QUOTATION INCLUDES A CHARGE FOR CERTIFIED ACTS OF TERRORISM. COVERAGE (continued on attachment)		
Company: COLONY INSURANCE COMPANY	Please be sure to check the Carrier's current A.M. Best rating to satisfy you and your client's interests.	Agent's Commission: 10.00%
Remarks: Be advised that if Hull & Co. has not received a response from you by the expiration date of this quote, we will consider this quotation closed. All requests to bind coverage must be received in our office in writing. Coverage cannot be backdated or presumed to be bound without confirmation from an authorized representative of Hull & Co. (continued on attachment)		
These terms are valid until 12:01 a.m. 04/17/2004		
Sent by: Tracy C Nelson		Department: Commercial Lines

Hull & Company, Inc. - Charlotte

THE MONEY

(CGL Quote continuation sheet)

Page - 2

~~(Items & Conditions continued)~~

CANNOT BE BOUND WITHOUT THE ELECTION/REJECTION FORM FOR CERTIFIED TERRORISM SIGNED BY THE INSURED-THIS MUST ACCOMPANY YOUR ORDER TO BIND!! Inspection, Original Signed Application, PJ-CG Policy Jacket, Privacy Notice, DCJ6550 Common Policy Declarations, U001 Schedule of Forms and Endorsements, U002 Minimum Policy Premium and 25% Minimum Earned, U094 Service of Suit, U173 Cancellation, IL0017 Common Policy Conditions, DCJ6553 Commercial General Liability Coverage-Part Declarations, CL170 GL Declarations Extension, U046 Limitation of Coverage to Designated Premises or Project, U159 Limitation of Coverage to Business Description, CG0001 Commercial General Liability Coverage Form (Occurrence), CG2139 Contractual Liability Limitation, Products/Completed Operations Redefined.

~~(Remarks continued)~~

Specimen policy and forms are available for your review upon request.

Based on \$250,000 total gross receipts

Hull & Company, Inc. - Charlotte

THE MONEY

(CGL Quote Simplified Rating Worksheet)

Page - 3

RATING WORKSHEET FOR INSURED THE MONEY

Date: 3/12/2004

Insurance Company Name: COLONY INSURANCE COMPANY

Producer Company Name: GILL INSURANCE

UnderWriter: Tracy C Nelson

RATING WORKSHEET DIVISION

Amount of Coverage	Description
\$1,000,000.00	Each Occurrence
\$1,000,000.00	General Aggregate
\$1,000,000.00	Products Aggregate.
\$1,000,000.00	Pers. Inj. & Adv. Inj.
\$50,000.00	Fire Damage
\$5,000.00	Medical Payment

GENERAL LIABILITY RATING INFORMATION

Loc #	Subline	Description	Claims Mult	ILF	RMF	Class	Final Rate	Basis	Trans Fct	Ten	Final Premium	Exposure MP
0	Prem/OP	Restaurant with Dance Floor				16817		GrsSale		0		250,000
	5.920	1.000	1.000		1.250		7.400		1.000		1,850.000	
0										0		
	0.000	1.000	1.000		0.000		0.000		1.000		0.000	

EXHIBIT 8

Colony Group

Tuesday, Mar



PDQs

Reminder: Send your Contract Submissions to VA Office - cn@colonyins.com or AZ Office - cnaz@colonyins.com. Refer

| Home | PDQs | Rate Calculator |

Bar

Definition

A "Bar" is defined as an establishment that derives its gross receipts predominantly from the sale of alcohol with no substantial food preparation. Gross receipts from the sale of alcohol would be 75% or more of the combination of food and alcohol gross receipts only, not including any other income.

Note: Please contact your underwriter for all risks that do not fall within this PDQ to help offer special acceptance, place the risk in another PDQ or submit for approval.

Classes

- 16817 RESTAURANTS - WITH SALES OF ALCOHOLIC BEVERAGES THAT ARE MORE THAN 75% OF THE TOTAL ANNUAL RECEIPTS OF THE RESTAURANTS - WITH DANCE FLOOR
- 16818 RESTAURANTS - WITH SALES OF ALCOHOLIC BEVERAGES THAT ARE MORE THAN 75% OF THE TOTAL ANNUAL RECEIPTS OF THE RESTAURANTS - WITHOUT DANCE FLOOR
- 46622 PARKING - PRIVATE INCLUDING PRODUCTS AND/OR COMPLETED OPERATIONS
- 60010 APARTMENT BUILDINGS INCLUDING PRODUCTS AND/OR COMPLETED OPERATIONS

Guidelines

General Criteria

- Area must not exceed 3,000 square feet
- Gross Receipts must not exceed \$750,000
- Seating Capacity up to 200 persons
- No shows or attractions; live music must be limited to solo guitar player or piano performer, no rap or hard rock bars. Proper attire must be worn at all times
- Dance floors up to 400 square feet
- No more than 2 pool tables; video games are acceptable
- Insured must be open for business, not under renovation, and be open no later than 2:00 a.m.
- Insured must have at least 3 years experience as a manager or owner
- Retailer must have visited and recommended this risk
- Adequate number of fire extinguishers on premises with current service tags
- All apartments must be rated according to the Apartment PDQ guidelines
- On Premises Catering must be less than 25% of the total receipts - If Catering is off premises or greater than 25%, refer to the Caterers PDQ
- Emergency lighting and smoke detectors.
- Steps, rails and adequate lighting.
- Proper disposal of trash & smoking materials
- All cooking must have proper automatic extinguishing systems with a service contract through an outside company.

SUBMIT OPERATIONS

- Property coverage is available on a submit basis only. Contact your underwriter for approval.
- Area that exceeds 3,000 square feet
- Gross receipts that exceed \$750,000

Bar

Guidelines

Rates

Forms & Appl



Print with rat

\$ 7.40
AIM/sec

5
225

2800

[http://63.80.250.53/pdq/\(1143bsa3juto24inxfwk1h23\)/showPdQ.aspx?pdqCode=Lx0UL6DM](http://63.80.250.53/pdq/(1143bsa3juto24inxfwk1h23)/showPdQ.aspx?pdqCode=Lx0UL6DM) 3/1/2005

- Adv*
- Risks with more than two losses in three years & risks with any one loss of \$5,000 or greater
 - ☒ BYOB Establishments
 - ☒ % of sales from Raw Seafood more than 25%
 - ☒ Risks built or located on wharves, piers, beaches, docks or pilings
 - ☒ Risks that employ female or male dancers
 - ☒ Risks with tableside cooking or open pit barbecues
 - ☒ Risks with valet parking by subcontractors
 - ☒ Remodeling or renovation operations

PROHIBITED OPERATIONS

- No*
- Risks that utilize bouncers as a method of security
 - ☒ Any risk previously canceled for non-payment
 - ☒ Risks that utilize armed security (guns, nightsticks)
 - ☒ After hours establishments
 - ☒ Teen dance clubs
 - ☒ Risks with any mechanical bulls, or other patron participating activities
 - ☒ Risks with a history of rowdiness or fights
 - ☒ Risks with valet parking by your employees

LINE OF COVERAGE**General Liability**

- \$500 Deductible BI and/or PD combined including LAE
- Assault & Battery is excluded
- Adequate number of fire extinguishers on premises with current service tags
- Emergency lighting and smoke detectors (This requirement is waived if area is less than 1,500 square feet)
- Steps, rails, and adequate lighting
- Proper disposal of trash & smoking materials
- All cooking must have proper automatic extinguishing systems with a service contract
- Medical Payments Coverage \$5,000 Limit Included
- Additional Insureds can be added for a \$50 earned premium (as outlined in the Casualty Section)
- Hired and Non-Owned Auto Liability coverage is available at limits equal to or lesser than the GL limit for a flat charge for risks with an incidental exposure. Risks with catering services, delivery services, or contractors are not eligible for these coverages
- For this PDQ only, if a written policy is cancelled for non-payment of premium, please contact your underwriter for approval of a reinstatement

PROPERTY

- Submit for approval
- Property Extension available - U119 - \$250 Additional premium is required

LIQUOR LIABILITY

- This line of coverage is not available in IA, IL, IN, MI, MN and NM
- Liquor training for active owners, managers, and employees
- Deductible: \$500 for BI and/or PD combined including LAE
- Available as sub-limit only

- Not available on bars open past 2:00 a.m.
- Applicant must have an active sales license based upon alcohol served and hold a valid license as required by Local or State Laws and Regulations

Maximum Limits: \$100,000
Minimum Premium: \$ 1,000

APPLICATIONS & INSPECTIONS

Agents Responsibility

- Order inspection when the risk is bound
- Review when inspection is received (within 45 days), cancel if risk does not meet company guidelines
- Follow up on recommendations; cancel if risk does not meet company guidelines, even if recommendations are complied with
- Sign inspection form indicating approval
- Web-sites when available

Each Inspection must include:

- Inspection must be done during hours of operation
- Color photograph
- Area verification and other occupants
- Fire Extinguisher, including current service tags
- Emergency lighting
- Exit Information
- Amusement devices
- Age, construction type of building including updates
- Maintenance
- Surrounding areas
- Liquor specifics, if applicable
- Steps, hand rails and adequate lighting
- Cooling controls in place

Applications

- Signed Commercial Insurance Application ACORD 125 including the Property Section ACORD 140 if applicable
- Supplemental Bar Application must be attached

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[http://63.80.250.53/pdq/\(1143bsa3juto24inxfwkih23\)/showPdq.aspx?pdqCode=Lx0UL6DM](http://63.80.250.53/pdq/(1143bsa3juto24inxfwkih23)/showPdq.aspx?pdqCode=Lx0UL6DM) 3/1/2005

EXHIBIT 9



Hull & Company (Mid-Atlantic), Inc.

14120 Ballantyne Corp. Pl. #525

Charlotte, North Carolina 28277

(704) 540-1557 - Wats 1-800-241-HULL (4855) - Fax (704) 540-7611

INSURANCE BINDER

3/15/2004

Regarding: THE MONEY

Producer: GILL & YOUNG
P.O. Box 4040
Rock Hill, SC 29731

Risk Location:
110 Cherry Road, Rock Hill, SC 29732

Attn: Jane Rogers

Effective Date: 3/17/2004

Exp. Date: 4/17/2004

Policy No.: ZM0035901

Form of Coverage: Commercial Property

Please advise within 10 days of receipt of this binder if amendment should be considered by Hull & Co.

Limits:

\$200,000.00 Total Building Limits
\$100,000.00 Total Personal Property Limits

Premium \$3,450.00
Policy Fee \$125.00
Inspection Fee \$100.00
Surplus Lines Tax 6% \$220.50

Total: \$3,895.50

Terms & Conditions:

Building Coverage(s) - Special with theft, 80% Co-ins, Actual Cash Value

Personal Property Coverage(s) - Special with theft, 80% Co-ins, Actual Cash Value

Exclusions: Flood and Earthquake, C140 Pollution Exclusion, C203 Terrorism

Subject To: Favorable Inspection, Original Signed Application, Favorable 5 Year Loss History, No Flat Cancellations,

IL0017 Common Policy Conditions, IL0002 Effective Time Changes, AOP Deductible: \$1,000, CF150 Property

(continued on attachment)

Company: Pacific Insurance Company

Remarks:

If coverage is to be bound, please amend the application to reflect the correct square footage of 4800.

Sent by: Donna Porter

Department: Commercial Lines

Hull & Company (Mid-Atlantic), Inc.

THE MONEY

(Property Binder continuation sheet)

Page - 2

Coverage Part, PS-1 Service of Suit, PS-2 Salvage & Recovery Clause, PM-3 25% Minimum Earned Premium, 0030G Change Applies to the Following Forms Endorsement, CP0010 Building and Personal Property Coverage Form, CP0090 Commercial Property Conditions, CP1030 Causes of Loss-Special Form
Warranties: IL0415 Protective Safeguards Endorsement Ansul System with Semi Annual Cleaning Contract with Professional Cleaning Company if commercial cooking performed on premises., IL0415 Protective Safeguards Endorsement: Smoke Detectors in All Units, CP1211 Burglary and Robbery Protective Systems, Central Station Alarm

Hull & Company (Mid-Atlantic), Inc.

THE MONEY

(Property Binder Simplified Rating Worksheet)

Page - 3

Date: 3/15/2004

Insurance Company Name: Pacific Insurance Company

Producer Company Name: GILL & YOUNG

Underwriter: Donna Porter

Amount of Coverage	Description
\$200,000.00	Building - Loc-1 Bld-1
\$100,000.00	Personal Property - Loc-1 Bld-1

Loc #	Bldg #	Item	Unit	Base	Mod 1	Mod 2	TM	Coin	Dee	RM	Final Rate	Premium	MP
Loc-1Bld-1 Building													
Occupant													
Cause Of Loss : Special with theft													
Coverage : Building													
Coinsurance : 80%													
Construction : Joisted Masonry													
Valuation : Actual Cash Value													
Rating Information:													
				200,000	1.150	1.000	1.000	1.000	1.000	1.000	1.000	1.150	2.300
Loc-1Bld-1 Personal Property													
Occupant													
Cause Of Loss : Special with theft													
Coverage : Personal Property													
Coinsurance : 80%													
Construction : Joisted Masonry													
Valuation : Actual Cash Value													
Rating Information:													
				100,000	1.150	1.000	1.000	1.000	1.000	1.000	1.000	1.150	1.150

EXHIBIT 10



"Think Hull"

Charlotte

14120 Ballantyne Corp, Pl. #525
Charlotte, North Carolina 28277
T. 704-540-1557
T. 800-241-4855
F. 866-676-1701
W. www.hullco.com/charlotte
E. charlotte@hullco.com

INSURANCE BINDER

3/15/2004

Regarding: THE MONEY

Producer: GILL & YOUNG
P.O. Box 4040
Rock Hill, SC 29731

Risk Location:
110 Cherry Road, Rock Hill, SC

Attn: Jane Rogers

Effective Date: 3/17/2004

Exp. Date: 4/17/2004 12:01 a.m.

Policy No.: GL3145075

Form of Coverage: Commercial General Liability

This binder is being offered on the basis indicated. It is incumbent upon you to ascertain the accuracy of the binder, and to review with the insured the terms of the binder carefully, as the coverage, terms and conditions may be different than those you requested. Please advise immediately upon receipt of this binder if amendment should be considered by Hull & Co.

Limits:

\$1,000,000.00	Each Occurrence
\$1,000,000.00	General Aggregate
\$1,000,000.00	Products Aggregate.
\$1,000,000.00	Pers. Inj. & Adv. Inj.
\$50,000.00	Fire Damage
\$5,000.00	Medical Payment

Premium	\$1,850.00
Policy Fee	\$150.00
Inspection Fee	\$125.00
Surplus Lines Tax 6%	\$127.50

Total: \$2,252.50

Terms & Conditions include, but are not limited to, the following terms, conditions and exclusions:

Exclusions: IL0021 Nuclear Energy Liability, U003 Hazardous Materials, U004 Miscellaneous Exclusions Endorsement (Intercompany Suits, USL&H-Jones Act-Maritime, Professional Services, etc.), U006 Assault & Battery, U016 Athletic or Sports Participants, U018 Communicable Disease, U042 Animal Liability, U048 Employment-Related Practices, U056 Exterior Insulation and Finish Systems, U087 Total Liquor Liability, U147 Weapons, CG2167 Fungi or Bacteria
Subject To: THIS QUOTATION INCLUDES A CHARGE FOR CERTIFIED ACTS OF TERRORISM. COVERAGE
(continued on attachment)

Company: COLONY INSURANCE COMPANY

Please be sure to check the Carrier's current A.M.
Best rating to satisfy you and your client's interests.

Remarks:

This Binder is cancelled when replaced by a policy.
Specimen policy and forms are available for your review upon request.

Based on \$250,000 total gross receipts

Sent by: DJP

Department: Commercial Lines

Hull & Company, Inc. - Charlotte

THE MONEY

(CGL Binder continuation sheet)

Page - 2

~~(Terms & Conditions continued)~~

CANNOT BE BOUND WITHOUT THE ELECTION/REJECTION FORM FOR CERTIFIED TERRORISM SIGNED BY THE INSURED-THIS MUST ACCOMPANY YOUR ORDER TO BIND!!; Inspection, Original Signed Application, PJ-CG Policy Jacket, Privacy Notice, DCJ6550 Common Policy Declarations, U001 Schedule of Forms and Endorsements, U002 Minimum Policy Premium and 25% Minimum Earned, U094 Service of Suit, U173 Cancellation, IL0017 Common Policy Conditions, DCJ6553 Commercial General Liability Coverage Part Declarations, CL170 GL Declarations Extension, U046 Limitation of Coverage to Designated Premises or Project, U159 Limitation of Coverage to Business Description, CG0001 Commercial General Liability Coverage Form (Occurrence), CG2139 Contractual Liability Limitation, Products/Completed Operations Redefined

EXHIBIT 11

COMMON POLICY DECLARATIONS

☒ COLONY INSURANCE COMPANY
☐ COLONY SPECIALTY INSURANCE COMPANY
☐ COLONY NATIONAL INSURANCE COMPANY
 9201 FOREST HILL AVENUE, SUITE 200
 RICHMOND, VA 23235

POLICY NUMBER
 GL3145075

RENEWAL OF:

PDQ CODE:
 94D

1. NAMED INSURED AND MAILING ADDRESS:
 THE BARN, INC. DBA: THE MONEY

608 RABUN CIRCLE
 ROCK HILL, SC 29730

PRODUCER:

032002

HULL & COMPANY (MID-ATLANTIC), INC.
 14120 BALLANTYNE CORP. PL. #525
 CHARLOTTE, NC 28277

2. POLICY PERIOD: From March 17, 2004 to March 17, 2005 12:01 A.M. Standard Time at your Mailing Address above.

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL OF THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

3. THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS INDICATED. THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.

COVERAGE PARTS		PREMIUM
Commercial General Liability Coverage Part	\$	1,850.00
Commercial Property Coverage Part	\$	Not Covered
Commercial Crime Coverage Part	\$	Not Covered
Commercial Inland Marine Coverage Part	\$	Not Covered
Certified Terrorism Coverage (Per Policyholder Disclosure TRIA2002Notice-1202 attached.)	\$	Not Taken
Commercial Liquor Liability Coverage Part	\$	Not Covered
TOTAL	\$	1,850.00
Policy Fee	\$	150.00
Inspection Fee	\$	125.00
	\$	
	\$	
Surplus Lines Tax 6%	\$	127.50
Premium shown is payable: 1,850.00 at inception.		Total Policy Premium: 2,252.50

4. FORMS APPLICABLE TO ALL COVERAGES:

See Schedule of Forms and Endorsements - U001 (07/02)

5. BUSINESS DESCRIPTION: Private Club

Countersigned: 3/24/04 DJP/dmy
 Date

By: Robert L. Lowery
 Authorized representative

DCJ6550 (07/02)

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COMMERCIAL GENERAL LIABILITY COVERAGE PART DECLARATIONS

This coverage part consists of this Declarations form, the Common Policy Conditions, the Commercial General Liability Coverage Form and the endorsements indicated as applicable. (See COMMON POLICY DECLARATIONS for Items 1 and 2.)

POLICY NO. GL3145075

NAMED INSURED: THE BARN, INC. DBA: THE MONEY

3. LIMITS OF INSURANCE

General Aggregate Limit (Other Than Products – Completed Operations)	\$ 1,000,000.00
Products Completed Operations Aggregate Limit	\$ 1,000,000.00
Personal & Advertising Injury Limit	\$ 1,000,000.00
Each Occurrence Limit	\$ 1,000,000.00
Damage To Premises Rented To You Limit	\$ 50,000.00 Any One Premises
Medical Expense Limit	\$ 5,000.00 Any One Person

RETROACTIVE DATE (CG 00 02 only) – Coverage A of this insurance does not apply to "bodily injury" or "Property damage" which occurs before Retroactive Date, if any, shown below.

Retroactive Date: NONE

(Enter Date or "None" if no Retroactive Date Applies)

Location of All Premises You Own, Rent or Occupy (Same as Item 1 unless shown below):

See CL170

CLASSIFICATION	CODE NO.	PREMIUM BASIS	RATE	PR / CO	ADVANCE PREMIUM	
						ALL OTHER
See CL170						

4. FORMS / ENDORSEMENTS APPLICABLE:

See Schedule of Forms and Endorsements – U001 (07/02)

**TOTAL PREMIUM
FOR THIS
COVERAGE PART**

1,850.00

5. FORM OF BUSINESS: Corporation

Audit Period: Annual unless otherwise stated: Annual

COMMERCIAL GENERAL LIABILITY EXTENSION OF DECLARATIONS

Policy Number GL3145075

LOCATION OF PREMISES

Location of All Premises You Own, Rent or Occupy:
110 Cherry Road, Rock Hill, SC 29732

PREMIUM

Classification	Code No.	Premium Basis	Rate Prem/Op	Pr/Co	Advance Premium Prem/Op	Premium Pr/Co
Restaurant with Dance Floor	16817	\$ 250,000.00	7.4000	Included	1,850.00	Included

Extension of Declarations—Total Advance Premium \$ 1,850.00

POLICYHOLDER DISCLOSURE

NOTICE OF INSURANCE COVERAGE FOR CERTIFIED ACTS OF TERRORISM

You are hereby notified that, under the Terrorism Risk Insurance Act of 2002, effective November 26, 2002, you now have a right to purchase insurance coverage for losses arising out of acts of terrorism, as defined in Section 102(1) of the Act.

The term "act of terrorism" means any act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States: to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of an air carrier or vessel or the premises of a United States mission; and to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

Coverage under your policy may be affected as follows:

You should know that coverage provided by this policy for losses caused by certified acts of terrorism is partially reimbursed by the United States under a formula established by federal law. Under this formula, the United States pays 90% of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The premium charged for this coverage is provided below and does not include any charges for the portion of loss covered by the federal government under the act.

You should also know that your policy does not provide coverage for acts of terrorism that are not certified by the Secretary of the Treasury.

Election or Rejection of Certified Terrorism Insurance Coverage

You must elect or reject this coverage for losses arising out of certified acts of terrorism, as defined in Section 102(1) of the Act, before the effective date of this policy. Your coverage cannot be bound unless our representative has received this form signed by you on behalf of all insureds with all premiums due.

☐ Coverage election. I hereby elect to purchase coverage for certified acts of terrorism, as defined in Section 102(1) of the Act for a prospective annual premium of \$Not Taken. I understand that I will not have coverage for losses arising from any non-certified acts of terrorism.

OR

☒ Coverage rejection. I hereby elect not to purchase coverage for certified acts of terrorism, as defined in section 102(1) of the Act. I understand that I will not have coverage for any losses arising from certified or non-certified acts of terrorism.

"Signature on File"

Policyholder/Applicant's Signature-
Must be person authorized to sign for all insureds

Print Name
THE BARN, INC. DBA: THE MONEY

Named Insured

Date

Colony Insurance Company

Insurance Company

GL3145075

Policy Number

Submission Number
032002

Producer Number
HULL & COMPANY (MID-ATLANTIC), INC.

Producer Name
14120 BALLANTYNE CORP. PL. #525

Street Address
CHARLOTTE, NC 28277

City, State, Zip

The producer shown above is the wholesale insurance broker your insurance agent used to place your insurance coverage with us. Please discuss this Disclosure with your agent before signing.

Insured: THE BARN, INC. A: THE MONEY
Policy Number: GL3145075

SCHEDULE OF FORMS AND ENDORSEMENTS

Forms and Endorsements applying to and made part of this policy at the time of issuance:

NUMBER

TITLE

- PJCG (04/03) Policy Jacket
- DCJ6550 (07/02) Common Policy Declaration
- DCJ6553 (07/02) Commercial General Liability Coverage Part Declarations
- CL170 (06/93) Extension of Declarations
- ✓U002 (07/02) Minimum Policy Premium
- ✓U094 (07/02) Service Of Suit
- ✓IL0017 (11/98) Common Policy Conditions
- ✓UIL0249 (07/02) South Carolina Changes - Cancellation and Nonrenewal
- ✓CG0001 (10/01) Commercial General Liability Coverage Form
- ✓U003 (07/02) Hazardous Materials Exclusions
- ✓U004 (07/02) Miscellaneous Exclusions Endorsements
- ✓U048 (07/02) Employment - Related Practices Exclusion
- ✓U159 (07/02) Limitation of Coverage to Business Description
- ✓CG2167 (04/02) Fungi or Bacteria Exclusion
- ✓IL0021 (04/98) Nuclear Energy Liability Exclusion Endorsement
- ✓U006 (07/02) Assault And Battery Exclusion
- ✓U016 (07/02) Athletic Or Sports Participants Exclusion
- ✓U018 (07/02) Communicable Disease Exclusion
- ✓U042 (07/02) Animal Liability Exclusion
- ✓U056 (07/02) Exterior Insulation And Finish Systems Exclusion
- ✓U087 (07/02) Total Liquor Liability Exclusion
- ✓U147 (07/02) Weapons Exclusion
- ✓U046 (07/02) Limitation Of Coverage To Designated Premises Or Project
- CG2139 (10/93) Contractual Limitation
- ✓CG2407 (01/86) Products - Completed Operations Hazard Redefined
- ✓UCG2175 (11/02) War, Certified Acts of Terrorism and Other Acts of Terrorism Exclusion

Important Notice: See the actual policy forms attached for the full title, terms and conditions.

U001 (07/02)

Page 1 of 1

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

MINIMUM POLICY PREMIUM

The minimum earned premium for this policy will be calculated as follows:

1. The total policy premium as shown in the policy Declarations plus any premium adjustment by endorsements and any additional premium developed by audit. The due date for audit premiums is the date shown as the due date on the bill.
2. Audits that indicate a return premium will not reduce the minimum as stated in paragraph 1.
3. If the insured cancels this policy, the return premium will be 90% of the unearned premium subject to a minimum of 25 % of the minimum earned premium described in paragraph 1.
4. If the company cancels the policy for any reason, other than for non-payment of premium, then the insured will be returned the full amount of the unearned premium without any minimum premium restrictions.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SERVICE OF SUIT

Service of process may be made upon the Company to:

Claims Manager

Colony Insurance Company,
Colony National Insurance Company, or
Colony Specialty Insurance Company
9201 Forest Hill Avenue, Suite 200
Richmond, Virginia 23235

Where required by statute, regulation or other regulatory directive, the Company appoints the Commissioner of Insurance, or other designee specified for that purpose, as its attorney for acceptance of service of all legal process in the state in any action or proceeding arising out of this insurance.

The Commissioner or other designee is requested to forward process to the Company as shown above, or if required in his/her particular state, to a designated resident agent for service of process.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

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COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

D. Inspections And Surveys

1. We have the right to:
 - a. Make inspections and surveys at any time;

- b. Give you reports on the conditions we find; and

- c. Recommend changes.

2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - a. Are safe or healthful; or
 - b. Comply with laws, regulations, codes or standards.

3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

F. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual Named Insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SOUTH CAROLINA CHANGES – CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

OUTPUT POLICY COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL LIABILITY UMBRELLA COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART
EXCESS LIABILITY POLICY
FARM COVERAGE PART
FARM UMBRELLA LIABILITY POLICY
LIQUOR LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
PROFESSIONAL LIABILITY COVERAGE PART

- A. Paragraphs 2. and 3. of the Cancellation Common Policy Condition are replaced by the following:
2. We may cancel this policy by mailing or delivering to the first Named Insured and the agent, if any, written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
 3. We will mail or deliver our notice to the first Named Insured's and agent's last known addresses.
- B. The following is added to the Cancellation Common Policy Condition:
7. **Cancellation Of Policies In Effect For 90 Days Or More**

If this policy has been in effect for 90 days or more, or is a renewal or continuation of a policy we issued, we may cancel this policy only for one or more of the following reasons:

 - a. Nonpayment of premium;
 - b. Material misrepresentation of fact which, if known to us, would have caused us not to issue the policy;
 - c. Substantial change in the risk assumed, except to the extent that we should reasonably have foreseen the change or contemplated the risk in writing the policy;
 - d. Substantial breaches of contractual duties, conditions or warranties; or
 - e. Loss of our reinsurance covering all or a significant portion of the particular policy insured, or where continuation of the policy would imperil our solvency or place us in violation of the insurance laws of South Carolina.

Prior to cancellation for reasons permitted in this item e., we will notify the Commissioner, in writing, at least sixty days prior to such cancellation and the Commissioner will, within thirty days of such notification, approve or disapprove such action.

Any notice of cancellation will state the precise reason for cancellation.

C. The following is added and supersedes any provisions to the contrary:

Nonrenewal

1. If we decide not to renew this policy, we will mail or deliver written notice of nonrenewal to the first Named Insured and agent, if any, at least 30 days before:
 - a. The expiration date of this policy, if the policy is written for a term of one year or less; or
 - b. An anniversary date of this policy, if the policy is written for a term of more than one year or for an indefinite term.However, we will not refuse to renew a policy issued for a term of more than one year, until expiration of its full term, if anniversary renewal has been guaranteed by additional premium consideration.
2. Any notice of nonrenewal will be mailed or delivered to the first Named Insured's and agent's last known addresses. If notice is mailed, proof of mailing will be sufficient proof of notice.
3. Any notice of nonrenewal will state the precise reason for nonrenewal.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

SECTION I – COVERAGES**COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY****1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
- (2) The "bodily injury" or "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
 - (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

(1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot from equipment used to heat that building;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

(b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

(c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(i) Any insured; or

(ii) Any person or organization for whom you may be legally responsible; or

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

- (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;

- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

- (5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III - Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III - Limits Of Insurance.

COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the Insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments -- Coverages A and B.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality Or Performance Of Goods -- Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights.

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web-sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 14.a., b. and c. of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-Related

Any loss, cost or expense arising out of any:

- (1) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

COVERAGE C MEDICAL PAYMENTS**1. Insuring Agreement**

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
- (2) On ways next to premises you own or rent; or
- (3) Because of your operations; provided that:
 - (1) The accident takes place in the "coverage territory" and during the policy period;
 - (2) The expenses are incurred and reported to us within one year of the date of the accident; and
 - (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;

- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and

- (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while taking part in athletics.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

h. War

Due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.

SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.

- b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
 - c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
 - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
 - e. All costs taxed against the insured in the "suit".
 - f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
 - g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.
- These payments will not reduce the limits of insurance.
2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
- a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - b. This insurance applies to such liability assumed by the insured;
 - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
 - d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;

- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:
 - (1) Agrees in writing to:
 - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
 - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (c) Notify any other insurer whose coverage is available to the indemnitee; and
 - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (2) Provides us with written authorization to:
 - (a) Obtain records and other information related to the "suit"; and
 - (b) Conduct and control the defense of the indemnitee in such "suit";

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section 1 - Coverage A - Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

SECTION II - WHO IS AN INSURED**1. If you are designated in the Declarations as:**

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

- (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;

- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or

- (d) Arising out of his or her providing or failing to provide professional health care services.

(2) "Property damage" to property:

- (a) Owned, occupied or used by,

- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

- c. Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and

- (2) Until your legal representative has been appointed.

- d. Your legal representative, if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

- 3. With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

- a. "Bodily Injury" to a co-"employee" of the person driving the equipment; or

- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

4. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III - LIMITS OF INSURANCE

- 1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
- 2. The General Aggregate Limit is the most we will pay for the sum of:
 - a. Medical expenses under Coverage C;
 - b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
 - c. Damages under Coverage B.
- 3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
- 4. Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.

5. Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

- a. Damages under Coverage A; and
 - b. Medical expenses under Coverage C
- because of all "bodily injury" and "property damage" arising out of any one "occurrence".

6. Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.

7. Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in c. below.

b. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:

- (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

- (b) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;

- (c) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or

- (d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A - Bodily Injury And Property Damage Liability.

- (2) Any other primary insurance available to you covering liability for damages arising out of the premises or operations for which you have been added as an additional insured by attachment of an endorsement.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this Insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The Insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V - DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding web-sites, only that part of a web-site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or
 - c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in a. above;
 - (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in a. above or in a settlement we agree to.
5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

 - a. The repair, replacement, adjustment or removal of "your product" or "your work"; or
 - b. Your fulfilling the terms of the contract or agreement.

9. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
 - b. A sidetrack agreement;
 - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
 - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
 - e. An elevator maintenance agreement;
 - f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
- Paragraph f. does not include that part of any contract or agreement:
- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
 - (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
 - (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.

10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

11. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in, on or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;

f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

(1) Equipment designed primarily for:

- (a) Snow removal;
- (b) Road maintenance, but not construction or resurfacing; or
- (c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
- f. The use of another's advertising idea in your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

16. "Products-completed operations hazard":

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

- (1) Products that are still in your physical possession; or
- (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.
 - (b) When all of the work to be done at the job site has been completed, if your contract calls for work at more than one job site.
 - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) You;
 - (b) Others trading under your name; or
 - (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
 - (2) The providing of or failure to provide warnings or instructions.
- c. Does not include vending machines or other property rented to or located for the use of others but not sold.

22. "Your work":

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work", and
- (2) The providing of or failure to provide warnings or instructions.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

HAZARDOUS MATERIALS EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, f. and SECTION I - COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, 2. Exclusions, n. and m. are replaced by the following:

This insurance does not apply to:

Hazardous Materials

- (1) "Bodily injury", "property damage" or "personal and advertising injury" which would not have occurred in whole or part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "hazardous materials" at any time.
- (2) Any loss, cost or expense arising out of any:
 - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "hazardous materials"; or
 - (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of "hazardous materials".
- (3) Any obligations to share damages with or indemnify another party whom must pay damages because of injury or damage relating to "hazardous materials".
- (4) Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with paragraphs (1), (2), or (3) above.

This exclusion applies whether or not such "hazardous material(s)" has any function in your business, operations, premises, site or location.

- B. SECTION V - DEFINITIONS is amended and the following added:

"Hazardous materials" means "pollutants", lead, asbestos, silica and materials containing them.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

MISCELLANEOUS EXCLUSIONS ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. **SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2.** Exclusions is amended and the following is added:

EXCLUSION - INTERCOMPANY PRODUCTS SUITS

This insurance does not apply to any claim for damages by any Named Insured against another Named Insured because of "bodily injury" or "property damage" arising out of or resulting from "your products" and included within the "products-completed operations hazard".

- B. **SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2.** Exclusions and **COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, 2.** Exclusions are amended and the following are added:

USL&H, JONES ACT and MARITIME EXCLUSION

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of or resulting from:

- (1) operations over navigable waters or offshore including but not limited to drilling and production platforms, pipelines, and vessels; or
- (2) direct or indirect actions including but not limited to subrogation involving U.S. Longshore & Harbor Workers Compensation Act (USL&H); Merchant Marine Act ("Jones Act") or other maritime laws and any amendments to those laws.

EXCLUSION - PROFESSIONAL SERVICES

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of or resulting from the rendering or failure to render any "professional service" except by endorsement to this policy and then only to the extent of such endorsement.

"Professional service" means:

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications;
- (3) Engineering services, including related supervisory or inspection services;
- (4) Medical, surgical, dental, x-ray or nursing services, treatment, advice or instruction;
- (5) Any health or therapeutic service, treatment, advice or instruction;
- (6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement, or personal grooming;
- (7) Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;
- (8) Body piercing or tattooing services including but not limited to the insertion of pigment, collagen or any other foreign substance into or under the skin;
- (9) Services in the practice of pharmacy;
- (10) Law enforcement or firefighting services; and
- (11) Handling, embalming, disposal, burial, cremation or disinterment of dead bodies.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYMENT-RELATED PRACTICES EXCLUSION

This endorsement modifies Insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. SECTION 1 – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions and SECTION 1 – COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, 2. Exclusions are amended and the following added:

This insurance does not apply to:

"Bodily injury" or "personal and advertising injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, assault, battery, discrimination or abuse including sexual abuse directed at any person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITATION OF COVERAGE TO BUSINESS DESCRIPTION

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

BUSINESS DESCRIPTION:

Private Club

A. SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 1. Insuring Agreement, b. is amended and the following added:

(4) The "bodily injury" or "property damage" is caused by or results from the business described in the Schedule.

B. SECTION I – COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, 1. Insuring Agreement, b. is amended and the following added:

This insurance applies to "personal and advertising injury" caused by an offense in the course of the business described in the Schedule.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FUNGI OR BACTERIA EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:

2. Exclusions

This insurance does not apply to:

Fungi or Bacteria

- a. "Bodily injury" or "property damage" which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.
- b. Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

This exclusion does not apply to any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for consumption.

B. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:

2. Exclusions

This insurance does not apply to:

Fungi or Bacteria

- a. "Personal and advertising injury" which would not have taken place, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury.
- b. Any loss, cost or expense arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

C. The following definition is added to the Definitions Section:

"Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT (Broad Form)

This endorsement modifies Insurance provided under the following:

BUSINESSOWNERS POLICY
COMMERCIAL AUTO COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
PROFESSIONAL LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY NEW YORK DEPARTMENT OF
TRANSPORTATION
UNDERGROUND STORAGE TANK POLICY

1. The insurance does not apply:

A. Under any Liability Coverage, to "bodily injury" or "property damage":

- (1) With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
- (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.

C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material", if:

- (1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;
- (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an "insured"; or
- (3) The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.

2. As used in this endorsement:

"Hazardous properties" includes radioactive, toxic or explosive properties.

"Nuclear material" means "source material", "special nuclear material" or "by-product material".

"Source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor".

"Waste" means any waste material (a) containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and (b) resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"Nuclear facility" means:

- (a) Any "nuclear reactor";
- (b) Any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing "spent fuel", or (3) handling, processing or packaging "waste";

- (c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

- (d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

"Property damage" includes all forms of radioactive contamination of property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ASSAULT AND BATTERY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions and SECTION I - COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, 2. Exclusions is amended and the following added:

Assault and Battery

This insurance does not apply to damages or expenses due to "bodily injury", "property damage" or "personal and advertising injury" arising out of or resulting from:

- (1) Assault and Battery committed by any person;
- (2) The failure to suppress or prevent assault and battery by any person;
- (3) The failure to provide an environment safe from assault and battery or failure to warn of the dangers of the environment which could contribute to assault and battery;
- (4) The negligent hiring, supervision, or training of any person;
- (5) The use of any force to protect persons or property whether or not the "bodily injury" or "property damage" was intended from the standpoint of the insured or committed by or at the direction of the insured.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ATHLETIC OR SPORT PARTICIPANTS EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY,
2. Exclusions is amended and the following added:

Athletic or Sport Participants

This insurance does not apply to "bodily injury" to any person arising out of or resulting from practicing for or participating in any athletic contest, exhibition, activity, game or sport.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMUNICABLE DISEASE EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY,
2. Exclusions and COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, 2.
Exclusions are amended and the following added:

Communicable Disease

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of or resulting from the:

- (1) transmission of a communicable disease; or
- (2) failure to perform services which were either intended to or assumed to prevent communicable diseases or their transmission to others.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ANIMAL LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION I -- COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY,
2. Exclusions and COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, 2.
Exclusions are amended and the following added:

Liability for Animals

This insurance does not apply to "bodily injury", "property damage" or "personal and
advertising injury" arising out of or resulting from any animal.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXTERIOR INSULATION AND FINISH SYSTEMS EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

- A. SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions is amended and the following added:

Exterior Insulation and Finishing Systems

This Insurance does not apply to "bodily injury" or "property damage" arising out of or resulting from the manufacture, application, installation, use or sale of "exterior insulation and finish systems".

- B. SECTION V – DEFINITIONS is amended and the following is added:

"Exterior insulation and finish system" means any exterior cladding or finish system or synthetic stucco used on any part of any structure that consists of any of the following components:

- a. a rigid or semi-rigid insulation board made of expanded polystyrene or other materials;
- b. the adhesive and/or mechanical fasteners used to attach the insulation board to the substrate;
- c. a reinforced base coat;
- d. a finish coat providing surface texture and or color.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TOTAL LIQUOR LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION 1 - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, c. Is deleted and replaced with the following:

This insurance does not apply to:

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WEAPONS EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION 1 – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions is amended and the following added:

Use of Weapons

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of or resulting from the possession, ownership, maintenance, use of or threatened use of a lethal weapon, including but not limited to firearms by any person.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITATION OF COVERAGE TO DESIGNATED PREMISES OR PROJECT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY,
2. Exclusions and COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, 2.**
Exclusions are amended and the following added:

This insurance applies only to "bodily injury", "property damage", "personal and advertising injury" and medical expenses arising out of or resulting from:

- (1) The ownership, maintenance or use of the premises shown in the Schedule; or
- (2) The project shown in the Schedule.

SCHEDULE OF PREMISES OR PROJECTS:

110 Cherry Rd.
Rock Hill, SC 29732

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CG 21 39 10-93

CONTRACTUAL LIABILITY LIMITATION

This endorsement modifies Insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The definition of "Insured contract" in the DEFINITIONS Section is replaced by the following:

"Insured contract" means:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "Insured contract";

b. A sidetrack agreement;

c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement.

POLICY NUMBER: GL3145075

COMMERCIAL GENERAL LIABILITY
CG 24 07 01 96

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRODUCTS/COMPLETED OPERATIONS HAZARD REDEFINED

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Description of Premises and Operations:

110 Cherry Rd.
Rock Hill, SC 29732

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

With respect to "bodily injury" or "property damage" arising out of "your products" manufactured, sold, handled or distributed:

1. On, from or in connection with the use of any premises described in the Schedule, or
2. In connection with the conduct of any operation described in the Schedule, when conducted by you or on your behalf.

Paragraph a. of the definition of "Products-completed operations hazard" in the DEFINITIONS Section is replaced by the following:

"Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" that arises out of "your products" if the "bodily injury" or "property damage" occurs after you have relinquished possession of those products.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAR, CERTIFIED ACTS OF TERRORISM AND OTHER ACTS OF TERRORISM EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART

A. The following exclusion is added:

This insurance does not apply to:

WAR, TERRORISM AND PUNITIVE DAMAGES

"Any injury or damage" arising, directly or indirectly, out of:

(1) War, including:

- (a) undeclared or civil war;
- (b) warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents;
- (c) insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these;

(2) "Certified acts of terrorism" or "other acts of terrorism", including any action taken in hindering or defending against an actual or expected incident of "certified acts of terrorism" or "other acts of terrorism"; or

(3) Any act of terrorism:

- (a) that involves the use, release or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination; or
- (b) that is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
- (c) in which pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials;

regardless of any other cause or event that contributes concurrently or in any sequence to the injury or damage in (1), (2) or (3) above; including

(4) Damages arising, directly or indirectly, out of (1), (2) or (3) above that are awarded as punitive damages.

B. Exclusion h. under Paragraph 2., Exclusions of Section I – Coverage C – Medical Payments does not apply.

C. The following definitions are added to the Definitions Section:

For the purposes of this endorsement, "any injury or damage" means any injury or damage covered under any Coverage Part to which this endorsement is applicable, and includes but is not limited to "bodily injury", "property damage", "personal and advertising injury", "injury" or "environmental damage" as may be defined in any applicable Coverage Part.

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002. The federal Terrorism Risk Insurance Act of 2002 sets forth the following criteria for a "certified act of terrorism":

- a. The act resulted in aggregate losses in excess of \$5 million; and

b. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

"Other act of terrorism" means a violent act or an act that is dangerous to human life, property or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not certified as a terrorist act pursuant to the federal Terrorism Risk Insurance Act of 2002. Multiple incidents of an "other act of terrorism" which occur within a seventy-two hour period and appear to be carried out in concert or to have a related purpose or common leadership shall be considered to be one incident.

D. In the event of an act of terrorism, a "certified act of terrorism" or an "other act of terrorism" that is not subject to this exclusion, coverage does not apply to any loss or damage that is otherwise excluded under this Coverage Part.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

EXHIBIT 12

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ASSAULT, BATTERY OR ASSAULT AND BATTERY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions and SECTION I – COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, 2. Exclusions are amended and the following added:

Assault, Battery or Assault and Battery

This insurance does not apply to damages or expenses due to "bodily injury", "property damage" or "personal and advertising injury" arising out of or resulting from:

- (1) "Assault", "Battery" or "Assault and Battery" committed by any person;
- (2) The failure to suppress or prevent "Assault", "Battery" or "Assault and Battery" by any person;
- (3) The failure to provide an environment safe from "Assault", "Battery" or "Assault and Battery";
- (4) The failure to warn of the dangers of the environment which could contribute to "Assault", "Battery" or "Assault and Battery";
- (5) "Assault", "Battery" or "Assault and Battery" arising out of the negligent hiring, supervision, or training of any person;
- (6) The use of any force to protect persons or property whether or not the "bodily injury" or "property damage" or "personal and advertising injury" was intended from the standpoint of the insured or committed by or at the direction of the insured.

- B. SECTION V – DEFINITIONS is amended and the following is added:

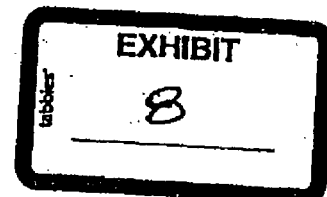
"Assault" means:

- a. an act creating an apprehension in another of immediate harmful or offensive contact, or
- b. an attempt to commit a "Battery".

"Battery" means an act which brings about harmful or offensive contact to another or anything connected to another.

"Assault and Battery" means the combination of an "Assault" and a "Battery".

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.



U006-0707

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Page 1 of 1

GILL-YOUNG000010

EXHIBIT 13

Acceptance Insurance Company

Omaha, NE 68102 • Phone 402/644-8800 • Wire 800/228-7217

LIQUOR LIABILITY APPLICATION

(Please make certain that all questions are answered in full. Incomplete or missing answers will cause delays in processing and may cause coverage to be declined.)

Desired Effective Date: 3-17-04

1. Applicant Information

(a) Name The Barn Inc DBA The Money c/o Jim Norton
 Mailing Address 608 Rabun Ct
Rock Hill SC Zip 29730

(b) Applicant is: ☒ Individual ☐ Corporation ☐ Partnership ☐ Joint Venture ☐ Other (specify): _____

(c) Has Applicant, any partner, or any officer of Applicant been the subject of any voluntary or involuntary bankruptcy proceedings within the past 5 years? ☐ Yes ☒ No (If yes, explain Remarks, Question No. 14)

(d) Number years in current business 23

2. Number of premises to be insured 1 Applications attached for each additional location.

Name and address of establishment _____

Zip _____

Limits of liability applied for: \$1,000,000 partnership

(a) Additional Insured? Aberman Family (b) Employees as additional insureds _____
 Their interest? bedroom owner

3. Type of Liquor License (Check as applicable) 3a. Length of time Applicant has had license 23 yrs

On Sale Beer/Wine - Public Premises ☒ On Sale General - Public Premises ☐
 On Sale Beer/Wine - Eating Place ☐ On Sale General - Eating Place ☐

4. Type of Establishment (Check as applicable)

Tavern ☒ Night Club ☐ Club ☐ Catering/Hall ☐
 Bowling Alley ☐ Package Store ☐ Restaurant ☐ Other ☐

If other than bar only, is there a separate bar area? ☐ Yes ☐ No

5. Entertainment (Check as applicable)

Juke Box ☐ Singer ☐ Gambling ☐ Pinball Machine ☐
 Pool Table ☒ Happy Hour Advertising ☐ Music (Band) ☒ Piano Bar ☐
 How many 3 Description _____ Type (Western, Rock) _____ D.J. ☒
 Dart Board ☐ Dancing ☒ Disco ☐ Go-Go ☐

6. Area Surrounding Premises (Check as applicable)

Downtown District ☐ Residential ☐ Shopping Center ☐ Commercial ☒
 Rural ☐ Industrial ☐ Seasonal/Resort ☐

7. Is parking area well lighted? ☐ Yes ☐ No

8. Offense (Check as applicable)

Local Residents ☒ Retirement Community ☐ Age: 24 and Under 21 & under Over 30 Yrs. ☐
 Families ☐ Transient ☐ 25 to 30 Yrs. ☒
 Students ☐

9. Management

- (a) Describe owner/manager's hours and responsibilities: 6 PM - 2 PM - make sure everything run correctly
- (b) Is there a bouncer? ☐ Yes ☒ No If so, how many? 1
- (c) Is Assault and Battery excluded on your G.L. Policy? Yes
- (d) Is there a gun kept on premises? ☐ Yes ☒ No

10. General Information

- (a) Are premises inside or outside an incorporated municipality? inside
- (b) Opening and closing hours 1 PM - 2 AM Mon - Sat - 7 days
- (c) Seating capacity, dining room 250 55 bar area 7 days
- (d) Number of bartenders 2 Male 2 Female 2
- (e) Have all servers completed an alcohol awareness training course? ☒ Yes ☐ No Name of course NBC
- If no, are all employees now enrolled in next available course? ☐ Yes ☐ No

11. Insurance History

- (a) Previous liquor liability insurer (give full name of insurance company) mt Vernon Fire Ins Co
- (b) Describe any liquor liability losses claimed or sustained within the past five years whether insured or not (include loss amount) none

12. Annual Gross Receipts

	Present (Estimate)	Prior Year: <u>2003</u>	Prior Year: <u>2002</u>
Liquor Sales	\$ <u>153,000</u>	\$ <u>185,000</u>	\$ <u>185,000</u>
Food Sales	\$ <u>41,000</u>	\$ <u>30,000</u>	\$ <u>28,000</u>
Other	\$ <u>5,000</u>	\$ <u>5,000</u>	\$ <u>5,000</u>
Total	\$ <u>199,000</u>	\$ <u>220,000</u>	\$ <u>218,000</u>

13. REMARKS:

Business is off since 6/03

14. Name of current General Liability Carrier:

mt Vernon Fire Ins Co

G.L. Policy Period:

3-17-03 - 04

G.L. Policy Limits:

\$ 300,000

(wants to be up to \$1,000,000 if possible)

15. Has liquor liability insurance coverage been denied, cancelled or non-renewed during last 3 years? Explain: no

SIGNED AT

Rock Hill SC

AGENCY

Hill-Young Ins

James W. Hill

Signature/Broker

PO Box 4046

Rock Hill SC

zip 29732

DATE

3-10-04

[Signature]

Authorized Signature for Applicant (Include title)

EXHIBIT 14

 Hull & Company (Mid-Atlantic), Inc. 14120 Ballantyne Corp. Pl. #525 Charlotte, North Carolina 28277 (704) 540-1557 - Wats 1-800-241-HULL (4856) - Fax (704) 540-7611		
Requested Quotation	Renewal	1/25/2005
Regarding: THE MONEY		
Producer: GILL & YOUNG P.O. Box 4040 Rock Hill, SC 29731		Risk Location: 110 Cherry Road, Rock Hill, SC <i>3-11-05 Stealy please build</i>
Attn: Jane Rogers <i>GL 3145267</i>		
Effective Date: 3/17/2005	Renewal Date: 3/17/2005	Policy No.: GL3145075
Form of Coverage: Commercial General Liability This quotation is being offered on the basis indicated. It does not necessarily provide the terms and / or coverage requested in your submission. Your client must be advised.		
Limits: \$1,000,000.00 Each Occurrence \$1,000,000.00 General Aggregate \$1,000,000.00 Products Aggregate \$1,000,000.00 Pers. Inj. & Adv. Inj. \$50,000.00 Fire Damage \$5,000.00 Medical Payment		Premium \$1,943.10 Policy Fee \$150.00 TRIA Premium \$100.00 Surplus Lines Tax 5% \$131.18 Total: (incl. TRIA opt.) \$2,324.58 Total: (less TRIA opt.) \$2,218.18
Terms & Conditions: Exclusions: U0021 Nuclear Energy Liability, U003 Hazardous Materials, U004 Miscellaneous Exclusions Endorsement (Intercompany Suits, UGL&H Jones Act-Maritime, Professional Service, etc.), U008 Assault & Battery, U018 Athletic or Sports Participants, U019 Communicable Diseases, U042 Animal Liability, U046 Employment-Related Practices, U056 Exterior Insulation and Finish Systems, U087 Total Liquor Liability, U147 Weapons, CG2167 Fungus or Bacteria, CG0062 War, UCG2175 Terrorism (continued on attachment)		
Company: COLONY INSURANCE COMPANY		Agents Commission: 10%
Remarks: Based on \$250,000 total gross receipts, per expiring.		
These terms are valid for 31 days or renewal date shown		
Sent by: DJP <i>by Shelly Gypo, x-21</i>		Department: Commercial Lines

EXHIBIT 15

Acceptance Insurance Company

Omaha, NE 68102 • Phone 402/344-8800 • Wats 800/229-7217

 HULL & COMPANY (MD-ATLANTIC), INC.
 14120 Ballantyne Corporate Place
 Suite 825
 Charlotte, NC 28277-2747

LIQUOR LIABILITY APPLICATION

(Please make certain that all questions are answered in full. Incomplete or missing answers will cause delays in processing and may cause coverage to be declined.)

Desired Effective Date: 3-17-07

1. Applicant Information

(a) Name The Barn Inc DBA The Money

Mailing Address 110 Cherry Rd
Rock Hill SC Zip 29732

(b) Applicant is: ☐ Individual ☒ Corporation ☐ Partnership ☐ Joint Venture ☐ Other (specify): _____

(c) Has Applicant, any partner, or any officer of Applicant been the subject of any voluntary or involuntary bankruptcy proceedings within the past 5 years? ☐ Yes ☒ No (If yes, explain Remarks, Question No. 14)

(d) Number years in current business 24 yrs

2. Number of premises to be insured _____ Applications attached for each additional location.

110 Cherry Rd, Rock Hill SC 29732
 Name and address of establishment

Zip _____

Limits of liability applied for: \$ 300,000

(a) Additional Insured? _____ (b) Employees as additional insureds _____
 Their interest? _____

3. Type of Liquor License (Check as applicable) 3a. Length of time Applicant has had license 15 yrs

On Sale Beer/Wine - Public Premises ☒ On Sale General - Public Premises ☐

On Sale Beer/Wine - Eating Place ☐ On Sale General - Eating Place ☐

4. Type of Establishment (Check as applicable)

Tavern ☐ Night Club Private ☒ Club ☐ Catering/Rental ☐

Bowling Alley ☐ Package Store ☐ Restaurant ☐ Other ☐

If other than bar only, is there a separate bar area? ☐ Yes ☐ No

5. Entertainment (Check as applicable)

Juke Box ☐ Singer ☐ Gambling ☐ Pinball Machine ☐

Pool Table ☒ Happy Hour Advertising ☐ Music (Band) ☒ Piano Bar ☐

How many 2 Description _____ Type (Western, Rock) _____ D.J. ☒

Dart Board ☐ Dancing ☒ Disco ☐ Go-Go ☐

6. Area Surrounding Premises (Check as applicable)

Downtown District ☒ Residential ☒ Shopping Center ☐ Commercial ☒

Rural ☐ Industrial ☐ Seasonal/Resort ☐

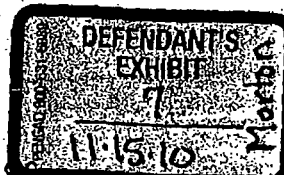
7. Is parking area well lighted? ☒ Yes ☐ No

8. Clientele (Check as applicable)

Local Residents ☒ Retirement Community ☐ Age: 24 and Under ☐ Over 30 Yrs. ☐

Families ☐ Transient ☐ 25 to 30 Yrs. ☒

Students ☐



9. Management

- (a) Describe owner/manager's hours and responsibilities: Owner usually there but also has Manager there 13hrs
- (b) Is there a bouncer? ☐ Yes ☒ No If so, how many? _____
- (c) Is Assault and Battery excluded on your G.L. Policy? Yes
- (d) Is there a gun kept on premises? ☐ Yes ☒ No

10. General Information

- (a) Are premises inside or outside an incorporated municipality? inside
- (b) Opening and closing hours 7 PM - 2 AM
- (c) Seating capacity, dining room _____ bar area 55
- (d) Number of bartenders 2 Male ☒ Female 1 waitress
- (e) Have all servers completed an alcohol awareness training course? ☒ Yes ☐ No Name of course ABC Course
- If no, are all employees now enrolled in next available course? ☐ Yes ☐ No

11. Insurance History

- (a) Previous liquor liability insurer (give full name of insurance company) Acceptance Indemnity
- (b) Describe any liquor liability losses claimed or sustained within the past five years whether insured or not (include loss amount) none

12. Annual Gross Receipts

	Present (Estimate)	Prior Year: _____	Prior Year: _____
Liquor Sales	\$ <u>50,000</u>	\$ _____	\$ _____
Food Sales	\$ <u>55,000</u>	\$ _____	\$ _____
Other	\$ <u>32,000</u>	\$ _____	\$ _____
Total	\$ <u>137,000</u>	\$ _____	\$ _____

13. REMARKS:

14. Name of current General Liability Carrier: Colony Ins Co

G.L. Policy Period: 3-17-07 - 08

G.L. Policy Limits: \$ 1,000,000

15. Has liquor liability insurance coverage been denied, cancelled or non-renewed during last 3 years? Explain: no

SIGNED AT

AGENCY

Rock Hill SC
Gill Insurance
P.O. Box 4000
Rock Hill SC Zip 29732

DATE

3-14-07

Authorized Signature for Applicant (include title)

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Pamela Dill as the Attorney-in-Fact and
Natural Mother of Britten Teno,

Plaintiff,

v.

Colony Insurance Company, Gill-Young
Insurance (now known as "Gill Insurance,
LLC" or "The Gill Agency") and Hull &
Company, Inc.,

Defendants,

IN THE COURT OF COMMON PLEAS

AFFIDAVIT OF DONNA PORTER

C.A. No. 2010-CP-46-02851

Personally appeared before me Donna Porter who, being duly sworn, deposes and states
as follows:

1. She is a citizen and resident of Pineville, North Carolina.
2. She is currently employed as a Senior Broker for Hull & Company, Inc. (hereinafter "Hull & Company"). She has been with that company for approximately 14 years.
3. Hull & Company is a wholesale insurance broker. In its capacity as a wholesale insurance broker, it generally receives applications for insurance from various insurance agents, researches appropriate programs to determine those most appropriate to provide the coverages requested in the applications, provides quotes for those coverages and thereafter, under certain circumstances, binds coverage. It also deals with any requests for changes or clarifications made by agents in conjunctions with its handling of the applications for insurance.
4. Hull & Company acted as a wholesale insurance broker in connection with the procurement of a general liability policy of insurance issued by Colony Insurance Company (hereinafter "Colony") to The Barn, Inc. d/b/a The Money Club (hereinafter "The Barn") for the period beginning March 17, 2004 and continuing until March 17, 2005. It has also acted as a

wholesale broker in connection with the procurement of various insurance purchased by The Barn from Colony and other insurers since that date as more fully described herein below.

5. In connection with its work in this matter, Hull & Company initially received a request for a quote for property, general liability and liquor liability coverage from Gill-Young Insurance (hereinafter "Gill-Young") acting on behalf of The Barn on March 10, 2004. A copy of this request is attached hereto as Exhibit 1. In response to this request, on March 11, 2004, affiant forwarded a letter to the appropriate representatives of Gill-Young seeking some specific information necessary to provide the quote. A copy of this letter is attached hereto as Exhibit 2.

6. Subsequently, Hull & Company received an application prepared on behalf of The Barn dated March 12, 2004. In that application, a copy of which is attached hereto as Exhibit 3, a request was made for property, commercial general liability and liquor liability coverage. No mention was made of any coverage for assault and battery and Hull & Company received no information concerning any details of any specific coverages requested other than that contained in the application. The existence or exclusion of coverage for assault and battery was never discussed by deponent or anyone acting on Hull & Company's behalf with any representative of Gill-Young or The Barn or anyone acting on their behalf prior to the issuance of the Colony policy.

7. In response to the request for this quote, Hull & Company prepared and forwarded quotes for property coverage, commercial general liability and liquor liability to Gill-Young. A copy of the quote for commercial general liability coverage dated March 12, 2004 is attached hereto as Exhibit 4. In that quote, it is specifically noted that the coverage being offered is commercial general liability coverage and that the limits of such coverage are \$1,000,000.00 per occurrence subject to a \$1,000,000.00 general aggregate limit. It is also expressly noted that the insurance company quoted is Colony and that the policy includes an assault and battery

exclusion identified as "U006 Assault & Battery." It was also provided that the quote was valid until April 17, 2004.

8. This quote was subsequently accepted by The Barn and an insurance binder was subsequently issued by Hull & Company on behalf of Colony on March 15, 2004. This binder is attached hereto as Exhibit 5. Under the terms and conditions of this binder, it is noted that the coverage being bound is commercial general liability coverage with \$1,000,000.00 per limit for each occurrence subject to a \$1,000,000.00 general aggregate limit. It is also noted that the policy would be issued by Colony and would include an assault and battery exclusion identified as "U006 Assault & Battery."

9. A policy bearing # GL3145075 was subsequently issued by Colony to The Barn. At no time prior to the issuance of this policy did anyone from either The Barn or Gill-Young ever raise any questions or issues concerning the exclusion for assault and battery coverage. Further, at no point did anyone ever indicate that The Barn was interested in having a policy issued which contained coverage for assault and battery. Further, at no point either before or after the policy was issued were any questions raised about its terms and conditions.

10. The policy as issued by Colony contained exclusion "U006 Assault and Battery." That is the identical exclusion that was referred to and identified in both the quote and binder provided to Gill-Young prior to the issuance of the policy.

11. Following the issuance of the binder, it was noted that an original signed application was necessary. The March 12, 2004, signed application identified as Exhibit 3 above was subsequently provided to Hull & Company in response to this request. This request was made by letter dated March 31, 2004 from Sarah Livingston at Hull & Company to Jane Rogers at Gill-Young. A copy of this letter is identified as Exhibit 6.

12. As mentioned above, in addition to the commercial general liability coverage, one of the other coverages requested was liquor liability coverage. In connection with this request, Hull & Company received an application signed by Jim Morton on behalf of The Barn dated March 10, 2004. A copy of this application is attached hereto as Exhibit 7. That application contains a series of questions seeking certain information about the entity to be insured and any other insurance provided to that entity. In question no. 9, captioned "Management," subparagraph (c) specifically asks "Is assault and battery excluded on your GL policy?" The response to that question is "Yes." As such, it is clear that it was known by representatives of both The Barn and Gill-Young that the CGL policy obtained by Hull & Company and issued by Colony contained an assault and battery exclusion.

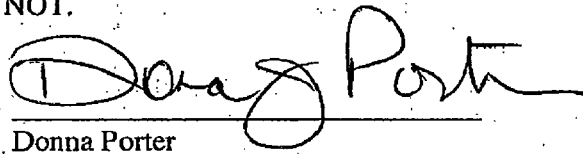
13. The commercial general liability policy issued by Colony was subsequently renewed in 2005 for the policy period beginning March 17, 2005 and continuing through March 17, 2006. It was also renewed in 2006, 2007 and 2008 with the same policy period. In each of those policies, the coverages were identical in terms of both limits and terms and conditions. The policies all contained the "U006 Assault and Battery" exclusion. No question was ever raised about this exclusion or the presence or existence of assault and battery coverage by either Gill-Young or The Barn and no one ever requested that any change be made to the policy to add assault and battery coverage or delete or modify the exclusion in any respect. Rather, the terms and conditions remained exactly the same for the entire time The Colony policies remained in effect.

14. In connection with obtaining the policy from Colony, Hull & Company was obligated to follow Colony's guidelines for the issuance of such coverage. In those guidelines, it is specifically provided that policies to be issued by Colony Insurance Company must include the U006 Assault and Battery exclusion. Copies of these guidelines are attached hereto as Exhibit 8.

15. As a result of these mandatory requirements, the policy issued by Colony could not have been issued without an assault and battery exclusion.

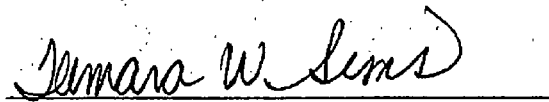
16. At no time did representatives of either Gill-Young or The Barn ever indicate that they wished to have a policy issued containing assault and battery coverage and at no time did they ever indicate that the policies as issued were incorrect or did not provide the coverages requested in any respect whatsoever. Further, at no time during this process has Hull & Company had any communications or dealings with The Barn in any respect whatsoever. It was not requested by The Barn to provide any services, has not charged The Barn for any of its services and has dealt solely with representatives of Gill-Young in connection with providing the quotes and other information requested.

FURTHER AFFIANT SAYETH NOT.


Donna Porter

Sworn to and subscribed before me this

2 day of March, 2011.



Notary Public for South Carolina

My Commission Expires: June 16, 2015

EXHIBIT 1



Business • Home • Auto • Life and Health



P.O. Box 4040 • 235 Oakland Ave • Rock Hill, SC 29732

TEL 803-324-5300 • FAX 803-328-2359

DATE 3-10-04 TIME 3:10 111286TO: Bob LoweryCOMPANY: Hull & Co FAX #: 704-540-7611NUMBER OF PAGES 15 (INCLUDING COVER SHEET)FROM: JaneREF. The Barn Inc DBA The Money
Quote

Please refer to applications for
Property, GL, & Liquor - Quote
and provide ASAP.

Thanks so much - Call if
any questions

Colony - doesn't Q.
A/C

EXHIBIT 2



Hull & Company (Mid-Atlantic), Inc.

14120 Ballantyne Corp. Pl. #525 Charlotte, North Carolina 28277
(704) 540-1557 - Wats 1-800-241-HULL (4855) - Fax (704) 540-7811

March 11, 2004

GILL & YOUNG
P.O. BOX 4040
ROCK HILL, SC 29731
Attn: Jane

RE: THE MONEY

AK -
Class A 300 (450) 50 x 185000 = 925
1000 (700) . 904 = 1665

Dear Jane:

Thank you for your submission on the captioned insured.

If you have specified a date of response, please be assured that we will do everything in our power to honor your request.

I will be working on this submission with you. Please direct any questions or comments to my attention.

After review of the information submitted, we request you forward the following:

Other: Are the incumbent Carriers offering renewal? *NO* Did Western Heritage non-renew or did you just move coverage last year? *sent better price with Western* What type of music do the bands play? *SOFT ROCK same on all the time*

If you have any questions about the acceptability of a risk, please call me at extension 14. We are here to assist your agency's Excess & Surplus and Specialty needs, including CGL, Marine, Property, D & O, E & O and Miscellaneous Commercial Risks.

Sincerely,

Donna J. Porter, CIC
Commercial Lines Manager
Email: dporter1@hulco.com

not offering renewal

3195 = 1.15

*OK'd by Cindy Reos
3/19/04 2:26*

EXHIBIT 3

ACORD COMMERCIAL INSURANCE APPLICATION				DATE		
APPLICANT INFORMATION SECTION				03/12/04		
PRODUCER: PHONE (A/C No. Exch) 803-328-5300		CARRIER: NAID CODE:		UNDERWRITER:		
GILL INSURANCE AGENCY, INC. P.O. BOX 4040 ROCK HILL SC 29732 JAMES P GILL		HULL & COMPANY, INC.		POLICIES OR PROGRAM REQUESTED:		
CODE: MONEY-1		INDICATE SECTIONS ATTACHED:		EQUIPMENT FLOATER		
AGENCY CUSTOMER ID:		☒ PROPERTY		☒ GARAGE AND DEALERS		
BUS CODE:		☒ GLASS AND SIGN		☒ VEHICLE SCHEDULE		
		☒ ACCOUNTS RECEIVABLE/		☒ BOILER & MACHINERY		
		☒ VALUABLE PAPERS		☒ WORKERS COMPENSATION		
		☒ CRIME/MISCELLANEOUS CRIME		☒ UMBRELLA		
		☒ TRANSPORTATION		☒ BUSINESS AUTO		
		☒ MOTOR TRUCK CARGO		☒ TRUCKS/MOTOR CARRIER		
				☒ Liquor		
STATUS OF SUBMISSION			PACKAGE POLICY INFORMATION			
☐ QUOTE ☒ ISSUE POLICY			ENTER THIS INFORMATION WHEN COMMON DATES AND TERMS APPLY TO SEVERAL LINES OR FOR MONOLINE POLICIES			
BOUND (One Date and/or Attach Copy):			PROPOSED EFF DATE			
DATE			PROPOSED EXP DATE			
TIME			BILLING PLAN			
A/C			DIAGNOSTIC			
P/B			PAYMENT PLAN			
			AUDIT			
			03/17/04			
			03/17/05			
			☒ AGENCY BILL			
APPLICANT INFORMATION						
NAME (First Named Insured & Other Named Insureds)		PHONE OR FAX NO. (of First Named Insured)		MAILING ADDRESS (Not ZIP #) (of First Named Insured)		
THE BARN INC. DBA THE MONEY		803-329-7927		JIM MORTON 608 RABUN CR. ROCK HILL SC 29730		
INDIVIDUAL ☐ CORPORATION ☒ PARTNERSHIP ☐ JOINT VENTURE ☐ LIMITED CORPORATION ☐ NOT FOR PROFIT ORG ☐ CREDIT BUREAU NUMBER		1982				
INSPECTION CONTACT		ACCOUNTING RECORDS CONTACT				
JIM MORTON						
PREMISES INFORMATION						
LOG #	BLDG #	STREET, CITY, COUNTY, STATE, ZIP+4	CITY UNITS	INTEREST	YR BUILT	PART OCCUPIED
1	1	110 CHERRY RD. ROCK HILL SC 29732 YORK	☒ INSIDE	☒ OWNER	1980	100%
			☐ OUTSIDE	☒ TENANT		
			☐ INSIDE	☐ OWNER		
			☐ OUTSIDE	☐ TENANT		
			☐ INSIDE	☐ OWNER		
			☐ OUTSIDE	☐ TENANT		
NATURE OF BUSINESS/DESCRIPTION OF OPERATIONS BY PREMISE(S)						
1	1	PRIVATE CLUB				
GENERAL INFORMATION						
EXPLAIN ALL "YES" RESPONSES			YES	NO	EXPLAIN ALL "YES" RESPONSES	
1. IS THE APPLICANT A SUBSIDIARY OF ANOTHER ENTITY OR DOES THE APPLICANT HAVE ANY SUBSIDIARIES?			☒	☐	7. ANY PART LOSSER FOR WHICH REPARATION TO REPAIR LOSSER OR REPARATION TO REPAIR LOSSER OR REPARATION TO REPAIR LOSSER?	
2. IS A FORMAL SAFETY PROGRAM IN OPERATION?			☒	☐	8. DURING THE LAST TEN YEARS, HAS ANY APPLICANT BEEN CONVICTED OF ANY CRIME OF THE CRIME OF AGENCY OR ALIENATION OF AGENCY?	
3. ANY EXPOSURE TO FLAMMABLES, EXPLOSIVES, CHEMICALS?			☒	☐	9. ANY UNCORRECTED FIRE CODE VIOLATIONS?	
4. ANY CATASTROPHIC EXPOSURE?			☒	☐	10. ANY UNCORRECTED FIRE TAX OR CREDIT LOSS AGAINST THE APPLICANT?	
5. ANY OTHER INSURANCE WITH THIS COMPANY OR BEING SUBMITTED?			☒	☐		
6. ANY POLICY OR COVERAGE DECLINED, CANCELLED OR NONRENEWED DURING THE PREVIOUS YEAR(S)?			☒	☐		
REMARKS						
ANY PERSON WHO KNOWINGLY AND WITH INTENT TO FRAUD ANY INSURANCE COMPANY OR ANOTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME AND SUBJECTS THE PERSON TO CRIMINAL AND CIVIL PENALTIES. (NOT APPLICABLE IN CO, HI, NE, OH, OK, OR, IN ME AND VA, INSURANCE BENEFITS MAY ALSO BE DENIED)						
APPLICANT'S SIGNATURE			PRODUCER'S SIGNATURE			
ACORD 128 (7/88)			PLEASE COMPLETE REVERSE SIDE			
			ACORD CORPORATION 1993			

PRIOR CARRIER INFORMATION

LINE	CATEGORY	2001-2004	MONEY-1												
1	CARRIER	MT VERNON													
	POLICY NUMBER	CL2243845													
	POLICY TYPE		CLAM	MADE	OCCURRENCE	CLAM	MADE	OCCURRENCE	CLAM	MADE	OCCURRENCE	CLAM	MADE	OCCURRENCE	
	RETRO DATE														
	EFF-EXP DATE	03/15/01 03/17/04													
	GENERAL AGGREGATE	300,000													
	PROPERTY DAMAGE OF AGGREGATE	300,000													
	PERSONAL & ADV IN	300,000													
	EACH OCCURRENCE	300,000													
	FIRE DAMAGE	50,000													
	MEDICAL EXPENSE	1,000													
	BODILY OCCURRENCE INJURY														
	PROPERTY OCCURRENCE DAMAGE														
	COMBINED SINGLE LIMIT														
	MODIFICATION FACTOR														
TOTAL PREMIUM															
2	CARRIER														
	POLICY NUMBER														
	POLICY TYPE														
	EFF-EXP DATE														
	COMBINED SINGLE LIMIT														
	BODILY INJURY	EA PERSON EA ACCIDENT													
	PROPERTY DAMAGE														
	MODIFICATION FACTOR														
	TOTAL PREMIUM														
	3	CARRIER	K888K												
		POLICY NUMBER	ICF9823												
		POLICY TYPE	PROPERTY												
		EFF-EXP DATE	03/17/01 03/17/06												
		BUILDING AMT													
		PERS PROP AMT													
MODIFICATION FACTOR															
TOTAL PREMIUM															
4		CARRIER													
		POLICY NUMBER													
		POLICY TYPE													
		EFF-EXP DATE													
		LIMIT													
		MODIFICATION FACTOR													
		TOTAL PREMIUM													

LOSS HISTORY

ENTER ALL CLAIMS OR LOSSES (REGARDLESS OF FAULT AND WHETHER OR NOT INSURED) ON OCCURRENCES THAT MAY GIVE RISE TO CLAIMS FOR THE PRIOR 3 YEARS (3 YEARS IN NJ & NY)						X	IF MORE	YES	IF MORE
DATE OF OCCURRENCE	LINE	TYPE/DESCRIPTION OF OCCURRENCE OR CLAIM	DATE OF CLAIM	AMOUNT PAID	AMOUNT RESERVED	CLAIM STATUS			
						CLOSE			
						CLOSED			
						OPEN			
						CLOSED			

REMARKS: NOTE: FIDELITY REQUIRES A FIVE YEAR LOSS HISTORY.
JOHNSON & JOHNSON - MT VERNON FIDELITY NO LONGER WRITING THEIR LIQUOR LIABILITY - THEY RECOMMEND WE CALL YOUR OFFICE

NOTICE OF INSURANCE INFORMATION PRACTICES
PERSONAL INFORMATION ABOUT YOU INCLUDING INFORMATION FROM A CREDIT REPORT, MAY BE COLLECTED FROM PERSONS OTHER THAN YOU. SUCH INFORMATION AS WELL AS OTHER PERSONAL AND PRIVILEGED INFORMATION COLLECTED BY US OR OUR AGENTS MAY IN CERTAIN CIRCUMSTANCES BE DISCLOSED TO THIRD PARTIES. YOU HAVE THE RIGHT TO REVIEW YOUR PERSONAL INFORMATION IN OUR FILES AND CAN REQUEST CORRECTION OF ANY INACCURACIES. A MORE DETAILED DESCRIPTION OF YOUR RIGHTS AND OUR PRACTICES REGARDING SUCH INFORMATION IS AVAILABLE UPON REQUEST. CONTACT YOUR AGENT OR BROKER FOR INSTRUCTION ON HOW TO SUBMIT A REQUEST TO US.

ACORN 128 (7/98)

EXHIBIT 4



"Think Hull"

Charlotte
14120 Ballantyne Corp. Pl. #525
Charlotte, North Carolina 28277
T. 704-540-1557
T. 800-241-4855
F. 866-676-1701
W. www.hullco.com/charlotte
E. charlotte@hullco.com

Requested Quotation

New

3/12/2004

Regarding: THE MONEY

Producer: GILL & YOUNG
P.O. Box 4040
Rock Hill, SC 29731

Risk Location:
110 Cherry Road, Rock Hill, SC

Attn: Jane Rogers

Effective Date: 3/17/2004

Renewal Date:

Policy No.: TBA

Form of Coverage: Commercial General Liability

This quotation is being offered on the basis indicated. It is incumbent upon you to ascertain the accuracy of the quote, and to review with the insured the terms of the quote carefully, as the coverage, terms and conditions may be different than those you requested.

Limits:

\$1,000,000.00 Each Occurrence
\$1,000,000.00 General Aggregate
\$1,000,000.00 Products Aggregate.
\$1,000,000.00 Pers. Inj. & Adv. Inj.
\$50,000.00 Fire Damage
\$5,000.00 Medical Payment

Premium \$1,850.00
Policy Fee \$150.00
Inspection Fee \$125.00
TRIA Premium \$100.00
Surplus Lines Tax 6% \$133.50

Total: (incl. TRIA opt.) \$2,358.50

Total: (less TRIA opt.) \$2,252.50

Terms & Conditions include, but are not limited to, the following terms, conditions and exclusions:

Exclusions: IL0021 Nuclear Energy Liability, U003 Hazardous Materials, U004 Miscellaneous Exclusions Endorsement (Intercompany Suits, USL&H-Jones Act-Maritime, Professional Services, etc.), U006 Assault & Battery, U016 Athletic or Sports Participants, U018 Communicable Disease, U042 Animal Liability, U048 Employment-Related Practices, U056 Exterior Insulation and Finish Systems, U087 Total Liquor Liability, U147 Weapons, CG2167 Fungi or Bacteria
Subject To: THIS QUOTATION INCLUDES A CHARGE FOR CERTIFIED ACTS OF TERRORISM. COVERAGE
(continued on attachment)

Company: COLONY INSURANCE COMPANY

Please be sure to check the Carrier's current A.M.
Best rating to satisfy you and your client's interests.

Agent's Commission: 10.00%

Remarks:

Be advised that if Hull & Co. has not received a response from you by the expiration date of this quote, we will consider this quotation closed. All requests to bind coverage must be received in our office in writing. Coverage cannot be backdated or presumed to be bound without confirmation from an authorized representative of Hull & Co.
(continued on attachment)

These terms are valid until 12:01 a.m. 04/17/2004

Sent by: Tracy C Nelson

Department: Commercial Lines

Hull & Company, Inc. - Charlotte

THE MONEY

(CGL Quote continuation sheet)

Page - 2

Terms & Conditions continued

CANNOT BE BOUND WITHOUT THE ELECTION/REJECTION FORM FOR CERTIFIED TERRORISM SIGNED BY THE INSURED-THIS MUST ACCOMPANY YOUR ORDER TO BIND!! Inspection, Original Signed Application, PJ-CG Policy Jacket, Privacy Notice, DCJ6550 Common Policy Declarations, U001 Schedule of Forms and Endorsements, U002 Minimum Policy Premium and 25% Minimum Earned, U094 Service of Suit, U173 Cancellation, IL0017 Common Policy Conditions, DCJ6553 Commercial General Liability Coverage Part Declarations, CL170 GL Declarations Extension, U046 Limitation of Coverage to Designated Premises or Project, U159 Limitation of Coverage to Business Description, CG0001 Commercial General Liability Coverage Form (Occurrence), CG2139 Contractual Liability Limitation, Products/Completed Operations Redefined

Remarks continued

Specimen policy and forms are available for your review upon request.

Based on \$250,000 total gross receipts

Hull & Company, Inc. - Charlotte

THE MONEY

(CGL Quote Simplified Rating Worksheet)

Page - 3

RATING WORKSHEET FOR INSURED THE MONEY

Date: 3/12/2004

Insurance Company Name: COLONY INSURANCE COMPANY

Producer Company Name: GILL INSURANCE

UnderWriter: Tracy C Nelson

RATING WORKSHEET LIMITS

Amount of Coverage	Description
\$1,000,000.00	Each Occurrence
\$1,000,000.00	General Aggregate
\$1,000,000.00	Products Aggregate.
\$1,000,000.00	Pers. Inj. & Adv. Inj.
\$50,000.00	Fire Damage
\$5,000.00	Medical Payment

GENERAL LIABILITY RATING INFORMATION

Loc #	Subline Basic Rate	Description Claims Multi	ILF	RMF	Glass	Final Rate	Basis	Trans Fndt	Terr	Final Premium	Exposure MP
0	Prem/OP	Restaurant with Dance Floor			16817		GrsSale		0		250,000
	5.920	1.000	1.000	1.250		7.400		1.000		1,850,000	
0									0		
	0.000	1.000	1.000	0.000		0.000		1.000		0.000	

EXHIBIT 5



Hull & Company (Mid-Atlantic), Inc.

14120 Ballantyne Corp. Pl. #525

Charlotte, North Carolina 28277

(704) 540-1557 - Wats 1-800-241-HULL (4855) - Fax (704) 540-7611

INSURANCE BINDER

3/15/2004

Regarding: THE MONEY

Producer: GILL & YOUNG

P.O. Box 4040

Rock Hill, SC 29731

Risk Location:

110 Cherry Road, Rock Hill, SC

Attn: Jane Rogers

Effective Date: 3/17/2004

Exp. Date: 4/17/2004

Policy No.: GL3145075

Form of Coverage: Commercial General Liability

Please advise within 10 days of receipt of this binder if amendment should be considered by Hull & Co.

Limits:

\$1,000,000.00 Each Occurrence
\$1,000,000.00 General Aggregate
\$1,000,000.00 Products Aggregate
\$1,000,000.00 Pers. Inj. & Adv. Inj.
\$50,000.00 Fire Damage
\$5,000.00 Medical Payment

Premium \$1,850.00
Policy Fee \$150.00
Inspection Fee \$125.00
Surplus Lines Tax 6% \$127.50

Total: \$2,252.50

Terms & Conditions:

Exclusions: IL0021 Nuclear Energy Liability, U003 Hazardous Materials, U004 Miscellaneous Exclusions
Endorsement (Intercompany Suits, USL&H-Jones Act-Maritime, Professional Services, etc.), U006 Assault & Battery, U016 Athletic or Sports Participants, U018 Communicable Disease, U042 Animal Liability, U048 Employment-Related Practices, U056 Exterior Insulation and Finish Systems, U087 Total Liquor Liability, U147 Weapons, CG2167 Fungi or Bacteria
(continued on attachment)

Company: COLONY INSURANCE COMPANY

Remarks:

Based on \$250,000 total gross receipts

Sent by: Donna Porter

Department: Commercial Lines

EXHIBIT

2

GILL-YOUNG000006

EXHIBIT 6



Hull & Company (Mid-Atlantic), Inc.

14120 Ballantyne Corp. Pl. #525 Charlotte, North Carolina 28277
(704) 540-1557 - Wats 1-800-241-HULL (4855) - Fax (704) 540-7611

March 31, 2004

GILL-YOUNG INSURANCE
235 W OAKLAND AVE
P O BOX 4040
ROCK HILL, SC 29732
Attn: Jane Rogers

RE: THE MONEY
Policy #: ZM0035901

Dear Jane

Our file indicates we are missing the following:

Original Signed Application

Please forward to my attention as soon as possible.

Thanks,

Sarah Livingston
Broker Assistant
slivingston@hullco.com

EXHIBIT 7

Acceptance Insurance Company

Omaha, NE 68102 • Phone 402/844-8800 • Telex 800/228-7217

LIQUOR LIABILITY APPLICATION

(Please make certain that all questions are answered in full. Incomplete or missing answers will cause delays in processing and may cause coverage to be declined.)

Desired Effective Date: 3-17-04

1. Applicant Information

(a) Name The Barn Inc DBA The Money c/o Jim Martin
 Mailing Address 608 Rabun Ct
Rock Hill SC Zip 29730

(b) Applicant is: ☒ Individual ☐ Corporation ☐ Partnership ☐ Joint Venture ☐ Other (specify): _____

(c) Has Applicant, any partner, or any officer of Applicant been the subject of any voluntary or involuntary bankruptcy proceedings within the past 5 years? ☐ Yes ☒ No (If yes, explain Remarks, Question No. 14)

(d) Number years in current business 23

2. Number of premises to be insured 1 Applications attached for each additional location.

Name and address of establishment _____

Zip _____

Limits of liability applied for: \$1,000,000 Partnership

(a) Additional Insured? Aberman Family (b) Employees as additional insureds _____
 Their interest? Key owner

3. Type of Liquor License (Check as applicable) 3a. Length of time Applicant has had license 23 yrs

On Sale Beer/Wine - Public Premises ☒ On Sale General - Public Premises ☐

On Sale Beer/Wine - Eating Place ☐ On Sale General - Eating Place ☐

4. Type of Establishment (Check as applicable)

Tavern Private Club Night Club ☐ Club ☐ Catering/Rental ☐

Bowling Alley ☐ Package Store ☐ Restaurant ☐ Other ☐

If other than bar only, is there a separate bar area? ☐ Yes ☒ No

5. Entertainment (Check as applicable)

Juke Box ☐ Singer ☐ Gambling ☐ Pinball Machine ☐

Pool Table ☒ Happy Hour Advertising ☐ Music (Band) ☒ Piano Bar ☐

How many 3 Description _____ Type (Western, Rock) _____ D.J. ☒

Dart Board ☐ Dancing ☒ Disco ☐ Go-Go ☐

6. Area Surrounding Premises (Check as applicable)

Downtown District ☐ Residential ☐ Shopping Center ☐ Commercial ☒

Rural ☐ Industrial ☐ Seasonal/Resort ☐

7. Is parking area well lighted? ☐ Yes ☒ No

8. clientele (Check as applicable)

Local Residents ☒ Retirement Community ☐ Age: 24 and Under ☐ Over 30 Yrs. ☐

Families ☐ Transient ☐ 25 to 30 Yrs. ☒

Students ☐

are v. active drinking age

9. Management

- (a) Describe owner/manager's hours and responsibilities: 6 PM - 2 PM - makes sure everything runs smoothly
- (b) Is there a bouncer? ☐ Yes ☒ No If so, how many? 1
- (c) Is Assault and Battery excluded on your G.L. Policy? yes
- (d) Is there a gun kept on premises? ☐ Yes ☒ No

10. General Information

- (a) Are premises inside or outside an incorporated municipality? inside
- (b) Opening and closing hours 1 PM - 2 AM Mon - Sat - 7 days
- (c) Seating capacity, dining room 250 55 bar area
- (d) Number of bartenders 2 Male Female
- (e) Have all servers completed an alcohol awareness training course? ☒ Yes ☐ No Name of course NBC
- If no, are all employees now enrolled in next available course? ☐ Yes ☐ No

11. Insurance History

- (a) Previous liquor liability insurer (give full name of insurance company) mt Vernon Fire Ins Co
- (b) Describe any liquor liability losses claimed or sustained within the past five years whether insured or not (include loss amount) none

12. Annual Gross Receipts

	Present (Estimate)	Prior Year: <u>2003</u>	Prior Year: <u>2002</u>
Liquor Sales	\$ <u>153,000</u>	\$ <u>185,000</u>	\$ <u>185,000</u>
Food Sales	\$ <u>41,000</u>	\$ <u>30,000</u>	\$ <u>28,000</u>
Other	\$ <u>5,000</u>	\$ <u>5,000</u>	\$ <u>5,000</u>
Total	\$ <u> </u>	\$ <u> </u>	\$ <u> </u>

13. REMARKS: Business in op since 6/03

14. Name of current General Liability Carrier: mt Vernon Fire Ins Co

G.L. Policy Period: 3-17-03-04

G.L. Policy Limits: \$ 300,000 (wants to increase to \$1,000,000 if possible)

15. Has liquor liability insurance coverage been denied, cancelled or non-renewed during last 3 years? Explain: no

SIGNED AT Rock Hill SC

AGENCY Hill-Young Ins

James P. Hill

Signature/Broker

PO Box 4040

Rock Hill SC zip 29732

DATE 9-10-04

[Signature]

Authorized Signature for Applicant (Include title)

EXHIBIT 8

BAR PDQ
UNDERWRITING GUIDELINES
New Jersey – Refer to State Specific

**PDQ
DEFINITION**

A "Bar" is defined as an establishment that derives its gross receipts predominantly from the sale of alcohol with no substantial food preparation. Gross receipts from the sale of alcohol would be 75% or more of the combination of food and alcohol gross receipts only, not including any other income.



PDQ Code: 94B (to be listed on policy declarations)

Associated Class Codes: 16817; 16818

Policy Minimum: See rate worksheet

Note: Please contact your underwriter for all risks that do not fall within this PDQ to help offer special acceptance, place the risk in another PDQ, or submit for approval.

**ELIGIBLE
OPERATIONS**

- Area must not exceed 3,000 square feet *
- Gross Receipts must not exceed \$750,000
- Seating Capacity up to 200 persons
- No shows or attractions; live music must be limited to solo guitar player or piano performer; no rap or hard rock bars. Proper attire must be worn at all times.
- Dance floors up to 400 square feet
- No more than 2 pool tables; video games are acceptable
- Insured must be open for business, not under renovation, and be open no later than 2:00 a.m.
- Insured must have at least 3 years experience as a manager or owner
- Retailer must have visited and recommended this risk

**SUBMIT
OPERATIONS**

- Property coverage is available on a submit basis only. Contact your underwriter for approval.
- Risks with more than two losses in three years
- Risks with any one loss of \$5,000 or greater

**PROHIBIT
OPERATIONS**

- Risks that utilize bouncers as a method of security
- Any risk previously canceled for non-payment
- Risks that utilize armed security (guns, nightsticks)
- After hours establishments
- Teen dance clubs

**LINE OF
COVERAGE**

General Liability

- Adequate number of fire extinguishers on premises with current service tags
- Emergency lighting and smoke detectors (This requirement is waived if area is less than 1,500 square feet)
- Steps, rails, and adequate lighting

**BAR PDQ
UNDERWRITING GUIDELINES
New Jersey – Refer to State Specific**

**LINE OF
COVERAGE
CONT'**

- Proper disposal of trash and smoking materials
- All cooking must have proper automatic extinguishing systems with a service contract through an outside company
- All apartments must be rated according to the Contract Manual guidelines
- Catering must be less than 25% of the total receipts
- \$500 Deductible BI and/or PD combined including LAE
- Assault & Battery is excluded
- Medical Payments Coverage \$5,000 Limit included
- Additional Insureds can be added for a \$50 earned premium (as outlined on page GL3)
- Hired and Non-owned Auto Liability coverage is available at limits equal to or lesser than the GL limit for a flat charge for risks with an incidental exposure. Risks with catering services, delivery services, or contractors are not eligible for these coverages.
- *For this PDQ only, if a written policy is cancelled for non-payment of premium, please contact your underwriter for approval of a reinstatement*

General Liability Forms

Mandatory Forms

Mandatory forms to be attached are listed in this guide on page GL-2.

Additionally required forms for this PDQ are:

- CG2407 Products/Completed Operations Hazard Redefined
- U006 Exclusion - Assault and Battery
- U016 Athletic or Sports Participants Exclusion
- U018 Communicable Disease Exclusion (n/a NJ)
- U042 Animal Liability Exclusion
- U046 Limitation of Coverage to Designated Premises or Project
- U087 Total Liquor Liability Exclusion- unless Liquor Legal coverage is purchased as shown below.
- U147 Weapons Exclusion

 Optional forms and coverages:

- U070 Deductible Liability Insurance Endorsement - per claim deductible equal to or greater than the Liquor Legal Deductible - BI & PD Combined (NJ - CG0300)
- U132 Hired and Non-Owned Auto Liability (only if no delivery, catering)

Liquor Liability

- **This PDQ is not for use in IA and IL**
- Liquor training for active owners, managers, and employees
- Deductible: \$500 for BI and/or PD combined including LAE
- Available as sub-limit only

**BAR PDQ
UNDERWRITING GUIDELINES
New Jersey – Refer to State Specific**

**LINE OF
COVERAGE
CONTINUED**

Liquor Liability Forms

- UCG0033 - Liquor Liability Coverage Form
- CG0305(01/96)- Deductible Liability Insurance (Liquor Legal)
- CG2806 - Limitation of Coverage to Insured Premises (Liquor Legal)
- U028P - Liquor Liability Declarations Page

Liquor Liability Sub-Limits and Minimum Premiums

- Liquor Liability is available as sub-limit only as stated below:

Maximum Limits:	\$50,000.	\$100,000.
Minimum Premium:	\$ 750.	\$ 1,000.

Liquor Liability Rating

- The premium rates for the liquor liability sub-limit are based on the rates per the attached rate page and are subject to the minimum premiums listed above.

Property

- Submit for approval.
- Property Extension available.

**APPLICATIONS
AND
INSPECTIONS**

Agent's Responsibility

- Order inspection when the risk is bound
- Review when inspection is received (within 45 days); cancel if risk does not meet company guidelines
- Follow up on recommendations; cancel if risk does not meet company guidelines, even if recommendations are complied with
- Sign inspection form indicating approval
- Web-sites when available

Each Inspection must include:

- Inspection must be done during hours of operation
- Color photograph
- Area verification and other occupants
- Fire Extinguisher, including current service tags
- Emergency lighting
- Exit information
- Amusement devices
- Age, construction type of building including updates
- Maintenance
- Surrounding areas
- Liquor specifics, if applicable
- Steps, hand rails and adequate lighting

BAR PDQ
UNDERWRITING GUIDELINES
New Jersey – Refer to State Specific

**APPLICATIONS
AND
INSPECTIONS
Cont'd**

- Cooking controls in place
- Signed Commercial Insurance Application ACORD 125 including the Property Section ACORD 140 if applicable
- Supplemental Bar Application must be attached



**BAR PDQ
RATING WORKSHEET**
Countrywide except New Jersey – Refer to State Specific
Program Code 94B

ed. 7/03

GENERAL LIABILITY						PREMIUM
	Limit:	\$100,000	\$300,000	\$500,000	\$1,000,000	
	Minimum Premium:	N/A	\$550	\$650	\$750	
Class	Rate	X	Exposure Basis	X	Optional Double Aggregate	=
					1.05	\$
					GL Subtotal	\$
					Surcharge 2-5% If Dance	
					Surcharge	
					GL PREMIUM (subject to minimum premium)	\$
LIQUOR LIABILITY – SEE ATTACHED RATE PAGE						
Sublimit	Rate		Exposure Basis		Premium (subject to minimum premium)	
\$		X		,000 liquor receipts	= \$	\$
					Liquor Liability Subtotal	\$
					LIQUOR LIABILITY PREMIUM (subject to minimum premium)	\$

PROPERTY – ATTACH ISO RATE PAGE				
Rate	X	Values	X	Surcharge for Special Form =
				\$
	X		X	=
				\$
Optional Coverages:	Limit	Deductible		
Mercantile Property Endorsement:				
Customer Property	\$ 5,000	\$ 250		
Food Spoilage	\$ 5,000	\$ 250		
Valuable Papers and Records	\$ 5,000	\$ 250		
Glass Coverage	\$ 5,000	\$ 100		
Sign Coverage	\$ 5,000	\$ 250		
EDP Coverage	\$ 5,000	\$ 250		
Forms U119 needs to be added for this coverage		Premium = \$250		\$
PROPERTY PREMIUM (subject to \$500 minimum premium)				
Except: Illinois/Michigan/New York/New Jersey/Dade, Broward & Palm Beach Counties of Florida – subject to \$750 minimum premium				\$
TOTAL POLICY PREMIUM (subject to minimum package premiums outl				\$
FORMS & ENDORSEMENTS:				
General Liability	CG0001	CG2167	CG2407	IL0017 IL0021 U002 U003 U004 U006
U016 U018 U042 U046 U048 U087 U094 U147 U159				
Optional	U070	U132		
Liquor Liability	UCG0033	CG0305	CG2806	U028P
Property See page CP-9 of manual for all mandatory property endorsements. See PDQ pages for specific endorsements.				

BAR PDQ RATES

(Rates apply per \$1000 receipts)

STATE	DESCRIPTION	PER OCCURRENCE/AGGREGATE				LIQUOR LIABILITY	
		\$100,000	\$300,000	\$500,000	\$1,000,000		\$100,000
AL	Territory 1	N/A	\$8.83	\$9.74	\$10.98	AL	\$11.80
	Territory 3	N/A	\$7.84	\$8.42	\$9.48		
AR		N/A	\$8.00	\$7.80	\$8.50	AR	\$4.30
AZ	Territory 2 - Phoenix	N/A	\$7.50	\$8.25	\$9.00	AZ	\$4.30
	Territory 3 - Tucson	N/A	\$7.00	\$7.50	\$8.50		
	Territory 4 - ROS	N/A	\$8.30	\$9.00	\$10.00		
CA	Territory 1, 3 & ROS	N/A	\$12.00	\$13.00	\$15.00	CA	\$4.75
		N/A	\$8.00	\$9.00	\$11.00		
CO	Territory 1	N/A	\$6.50	\$7.30	\$8.00	CO	\$4.30
	Territory 2	N/A	\$11.30	\$12.40	\$13.70		
CT		N/A	\$20.00	\$23.00	\$26.00	CT	\$11.80
DC		N/A	\$12.90	\$14.23	\$16.01	DC	\$11.80
DE		N/A	\$10.81	\$11.89	\$13.02	DE	\$11.80
FL	Territory 1	N/A	\$21.16	\$23.33	\$26.26	FL	\$4.30
	Territory 2	N/A	\$19.93	\$21.87	\$24.73		
	Territory 4	N/A	\$11.38	\$12.55	\$14.12		
	Territory 5	N/A	\$11.83	\$13.04	\$14.68		
	Territory 6	N/A	\$15.28	\$16.85	\$18.97		
GA	Territory 2	N/A	\$8.80	\$9.70	\$10.92	GA	\$4.30
	Territory 3	N/A	\$11.84	\$13.05	\$14.69		
IA		N/A	\$8.00	\$9.00	\$10.00	IA	NOT AVAILABLE
ID		N/A	\$8.76	\$7.40	\$8.10	ID	\$4.30
IL	Territory 1	N/A	\$15.33	\$18.90	\$19.03	IL	NOT AVAILABLE
	Territory 4	N/A	\$11.82	\$13.14	\$14.80		
	Territory 5	N/A	\$21.33	\$23.52	\$29.47		
	Territory 7	N/A	\$23.71	\$26.14	\$29.43		
	Territory 8	N/A	\$10.84	\$12.08	\$13.57		
	Territory 9	N/A	\$18.00	\$19.85	\$22.34		
	Territory 14	N/A	\$14.47	\$16.95	\$17.98		
		N/A					
IN	Territory 1	N/A	\$13.48	\$14.83	\$16.70	IN	NOT AVAILABLE
	Territory 2	N/A	\$15.14	\$16.89	\$18.70		
	Territory 4	N/A	\$9.53	\$10.51	\$11.83		
	Territory 6	N/A	\$13.31	\$14.87	\$16.51		
KS		N/A	\$4.60	\$5.10	\$5.70	KS	\$4.30
KY	Territory 1	N/A	\$14.08	\$15.94	\$16.89	KY	\$11.80
	Territory 3	N/A	\$12.42	\$14.08	\$16.48		
LA	Territory 1	N/A	\$15.50	\$17.10	\$14.70	LA	\$4.30
	Territory 2	N/A	\$12.28	\$13.50	\$14.80		
	Territory 3 & 4	N/A	\$7.10	\$7.90	\$8.70		
MA		N/A	\$20.00	\$23.00	\$26.00	MA	\$11.80
MD	Territory 1	N/A	\$12.90	\$14.23	\$16.01	MD	\$4.30
	Territory 2	N/A	\$10.81	\$11.89	\$13.02		
	Territory 3	N/A	\$11.86	\$13.18	\$14.84		
ME		N/A	\$12.90	\$14.23	\$16.01	ME	\$11.80
MI	Territory 1	N/A	\$10.88	\$22.09	\$25.33	MI	NOT AVAILABLE
	Territory 3	N/A	\$15.10	\$16.80	\$19.28		
	Territory 4	N/A	\$16.80	\$18.47	\$21.17		
	Territory 5	N/A	\$27.30	\$30.38	\$34.63		

STATE	DESCRIPTION	PER OCCURRENCE/AGGREGATE				LIQUOR LIABILITY	
		\$100,000	\$300,000	\$500,000	\$1,000,000		\$100,000
MN	1 Minn	N/A	\$12.30	\$13.80	\$14.90	MN	\$4.30
	Territory 2 - ROS	N/A	\$9.80	\$10.80	\$11.80		
	Territory 3 - Duluth	N/A	\$8.30	\$8.80	\$7.70		
MO	Territory 1 - KC	N/A	\$7.00	\$8.00	\$9.00	MO	\$4.30
	Territory 2 - ST. L	N/A	\$6.00	\$7.00	\$8.00		
	Territory 3 - ROS	N/A	\$8.00	\$10.00	\$11.00		
MS		N/A	\$9.88	\$10.87	\$12.24	MS	\$11.80
MT		N/A	\$10.60	\$11.70	\$13.20	MT	\$4.30
NC		N/A	\$4.80	\$5.29	\$5.98	NC	\$11.80
ND		N/A	\$6.00	\$7.80	\$8.40	ND	\$4.30
NE	Territory 1 - Omaha	N/A	\$6.00	\$7.00	\$8.00	NE	\$4.30
	Territory 2 - ROS	N/A	\$4.00	\$5.00	\$5.00		
NH	NOT AVAILABLE					NH	NOT AVAILABLE
NJ	Refer to State Specific					NJ	NOT AVAILABLE
NM	NOT AVAILABLE					NM	NOT AVAILABLE
NY		N/A	\$8.80	\$9.70	\$10.80	NY	\$4.30
OH		N/A	\$20.00	\$23.00	\$26.00	OH	\$11.80
OH	Territory 1	N/A	\$11.34	\$12.50	\$14.07	OH	\$4.30
	Territory 2	N/A	\$15.04	\$16.58	\$18.68		
	Territory 3	N/A	\$9.00	\$9.82	\$11.17		
	Territory 4	N/A	\$9.08	\$10.01	\$11.27		
	Territory 5	N/A	\$8.29	\$9.93	\$7.80		
	Territory 6	N/A	\$7.66	\$8.33	\$9.38		
	Territory 7	N/A	\$8.41	\$7.07	\$7.95		
	Territory 8	N/A	\$10.31	\$11.37	\$12.80		
	Territory 9	N/A	\$7.93	\$8.74	\$9.84		
	Territory 10	N/A	\$8.12	\$8.75	\$7.60		
OK		N/A	\$5.10	\$6.80	\$7.40	OK	\$4.30
OR		N/A	\$8.00	\$8.50	\$7.50	OR	\$4.30
PA	Philadelphia	N/A	\$33.88	\$36.47	\$40.02	PA	\$11.80
	ROS	N/A	\$12.87	\$13.71	\$14.81		
RI	NOT AVAILABLE					RI	NOT AVAILABLE
SC		N/A	\$4.62	\$5.04	\$5.92	SC	\$4.30
SD		N/A	\$8.90	\$7.60	\$8.40	SD	\$4.30
TN	Territory 1	N/A	\$12.74	\$14.05	\$15.81	TN	\$4.30
	Territory 3	N/A	\$10.97	\$12.10	\$13.82		
	Territory 4	N/A	\$14.08	\$15.48	\$17.44		
	Territory 5	N/A	\$18.78	\$20.70	\$23.31		
TX	Territory 1, 2, 8, 7, 8	N/A	\$5.08	\$5.60	\$6.30	TX	\$4.30
	Territory 3, 4 & 5	N/A	\$8.00	\$8.80	\$7.40		
UT		N/A	\$5.88	\$6.40	\$7.13	UT	\$4.30
VA	Territory 1	N/A	\$10.33	\$11.39	\$12.82	VA	\$4.30
	Territory 2	N/A	\$8.80	\$9.46	\$10.88		
	Territory 3	N/A	\$5.11	\$5.53	\$6.34		
	Territory 4	N/A	\$8.18	\$9.72	\$7.57		
VT		N/A	\$8.80	\$9.48	\$10.88	VT	\$11.80
WA		N/A	\$7.50	\$8.25	\$9.00	WA	\$4.30
WI	Territory 1	N/A	\$10.98	\$12.12	\$13.84	WI	\$4.30
WY		N/A	\$7.10	\$7.80	\$8.80	WY	\$4.30

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS

COLONY INSURANCE COMPANY,)
Plaintiff,)

Civil Action No.: 2008-CP-21-303

v.)

**PLAINTIFF'S MEMORANDUM IN
SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

WILLIAM GEORGE; EDWARD JAMES)
MORTON; BRIAN OXENDINE;)
PATRICK BYRUM; BARN CLUB, INC.;)
PAMELA DILL as Attorney-in-Fact for)
BRITTEN TENO; and BRITTEN TENO,)
Defendants.)

Plaintiff, Colony Insurance Company, by and through the undersigned counsel, submit this memorandum in support of their motion for summary judgment, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, as there is no genuine issue of material fact and that Plaintiff is entitled to judgment as a matter of law to all claims brought by it.

On March 6, 2005, an altercation took place at a Rock Hill, SC nightclub called "The Money" involving a number of patrons inside the nightclub, including Defendant Britten Teno. The altercation was broken up by a number of people, including Defendants Oxendine and Byrum, who were floormen at the club. As a result of the altercation, Defendant Teno has alleged that Defendants Oxendine and Byrum assaulted him and committed a battery upon his person. Prior to leaving the nightclub, Teno was seen bleeding from his lip, which he stated occurred during the altercation and its subsequent

break up.¹

As a result of this alleged assault and battery, Defendant Teno claims to have suffered severe bodily injuries, including debilitating brain injuries, severe cognitive dysfunction, and paralysis.

Because of these injuries, Teno, through his mother, Pamela Dill, brought an action against Defendants George, Morton, Oxendine and Byrum, and well as The Barn Club, Inc., the company that operated The Money, alleging 1) negligent failure to provide adequate security measures, which led to the assault and battery of Britten Teno, 2) negligent hiring, supervision, training and/or retention of employees who committed assault and battery against Britten Teno, and 3) negligence/recklessness on the part of Defendants Oxendine and Byrum in committing assault and battery against Britten Teno.²

Plaintiff issued a Commercial General Liability insurance policy to The Barn Club, Inc. with a policy period of March 17, 2004 to March 17, 2005. This policy included an assault and battery exclusion which states:

This insurance does not apply to damages or expenses due to "bodily injury", "property damage" or "personal and advertising injury" arising out of or resulting from:

- (1) Assault and Battery committed by any person;
- (2) The failure to suppress or prevent assault and battery by any person;
- (3) The failure to provide an environment safe from assault and battery or failure to warn of the dangers of the environment which could contribute to assault and battery;

¹ Exhibit A, Deposition of Jennifer Jackson, p. 23, l. 5-24.

² Exhibit B, Pamela Dill as the Attorney-In-Fact and Natural Mother of Britten Teno v. The Barn (a.k.a. The Money), William George (a.k.a. Gee Gee George), Jim Morton (a.k.a. Doc Morton), Brian Oxendine, and Patrick

- (4) The negligent hiring, supervision, or training of any person;
- (5) The use of force to protect persons or property whether or not the "bodily injury" or "property damage" was intended from the standpoint of the insured or committed by or at the direction of the insured.³

Based on this exclusion, Plaintiff filed a complaint for declaratory judgment that the policy excludes coverage to The Barn Club, Inc. for any and all claims arising from the incident and allegations in the underlying complaint.

Summary judgment is appropriate when it is clear there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. City of Columbia v. American Civil Liberties Union, etc., et al., 323 S.C. 384, 475 S.E.2d 747 (1996). See Rule 56, SCRCP. Summary judgment is proper where plain, palpable, and indisputable facts exist on which reasonable minds cannot differ. Byerly v. Connor, 307 S.C. 441, 415 S.E.2d 796 (1992). In general, if the pleadings and evidentiary matter in support of summary judgment establish that there is no genuine issue of a material fact, summary judgment must be granted. See Title Ins. Co. of Minnesota v. Christian, 267 S.C. 71, 226 S.E.2d 240 (1976); Rule 56(c), SCRCP.

The cardinal rule of contract interpretation is to ascertain and give effect to the intention of the parties and, in determining that intention, the court looks to the language of the contract. If the language is clear and unambiguous, the language alone determines the contract's force and effect. United Dominion Realty Trust, Inc. v. Wal-Mart Stores, Inc., 307 S.C. 102, 413 S.E.2d 866 (Ct. App. 1992).

The language of this policy cannot be any clearer. It does not apply to bodily injury

Byrum, Court of Common Pleas, York County, Civil Action No. 07-CP-46-2220.

resulting from assault and battery by any person at the club or to the use of force to protect persons at the club.

There is no dispute that this is the policy that was in effect at the time of the incident. Edward James Morton, the designated corporate representative of The Barn Club, Inc., testified that this was the policy that was in effect at the time of the incident.⁴ Mr. Morton was the person responsible for obtaining the insurance policy.⁵ He claimed during his deposition that the business renting the property to The Barn Club, Inc. dictated that when he obtained the insurance policy that it was not to have the assault and battery exclusion.⁶ However, when he received the policy, he simply filed it in the insurance file⁷ and never reviewed it to see if the exclusion was included or not.⁸ He cannot dispute the clear language of the policy because he never reviewed it upon receipt and did not call the insurance company issuing the policy to request a new policy that did not contain the assault and battery exclusion.⁹

Whether the business renting the property did not want the exclusion or not, it was in the policy issued and in effect at the time of this incident and at no time prior to this incident was the policy in question disputed. As such, the language in the policy is clear that the policy does not cover bodily injury resulting from any assault and battery at The Money, and therefore Plaintiff does not owe any coverage for the underlying lawsuit.

Similarly, the claims for negligence are not covered by the policy, as all of the claims

³ Exhibit C, Commercial General Liability policy issued to The Barn, Inc. d/b/a The Money.

⁴ Exhibit D, Deposition of Edward James Morton, p. 12, l. 4-21.

⁵ Exhibit D, Deposition of Edward James Morton, p. 9, l. 8-9.

⁶ Exhibit D, Deposition of Edward James Morton, p. 9, l. 13 - p. 10, l. 21.

⁷ Exhibit D, Deposition of Edward James Morton, p. 11, l. 11-16.

⁸ Exhibit D, Deposition of Edward James Morton, p. 15, l. 1-6.

⁹ Exhibit D, Deposition of Edward James Morton, p. 15, l. 1 - p. 16, l. 4.

for negligence arose directly out of the assault and battery claims and therefore fall under the exclusion as well. See Sphere Drake Ins. Co. v. Litchfield, 313 S.C. 471, 438 S.E.2d 275 (Ct. App. 1993).

Barn Club, Inc. had an insurance policy at the time of the alleged incident which contained, in plain language, an exclusion for any claims arising out of or resulting from an assault and battery on its premises. All of the claims in the underlying lawsuit arise out of claims of assault and battery. Therefore, Plaintiff is not required to cover the claims of the underlying lawsuit under its policy. Based on the foregoing reasons and legal authorities, Defendants respectfully request that this court grant its motion for summary judgment.

Respectfully submitted,

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Attorneys for Colony Insurance Company

Columbia, South Carolina
October 31, 2008

EXHIBIT A

State of South Carolina)
)
 County of York)
) C/A No. 07-CP-40-2220
 Pamela Dill as the)
 Attorney-in-Fact and)
 Natural Mother of Britten)
 Teno,) Deposition
 Plaintiff,)
) of
 vs.)
) Jennifer Jackson
 The Barn Club (a.k.a. The)
 Money), William George)
 (a.k.a. Gee Gee George),)
 Jim Morton (a.k.a. Doc)
 Morton), Brian Oxendine,)
 and Patrick Byrum,)
 Defendants.)
) C/A No. 07-CP-46-2638
)
 Colony Insurance Company,)
 Plaintiff,)
)
 vs.)
)
 William George; Jim)
 Morton; Brian Oxendine;)
 Patrick Byrum; The Barn)
 Club a/k/a The Money;)
 Pamela Dill as the)
 Attorney-in-Fact for)
 Britten Teno; and Britten)
 Teno,)
 Defendants.

Deposition of Jennifer Jackson, taken before
 Maryann S. Nevers, a notary public in and for the State
 of South Carolina, commencing at the hour of 10:35 a.m.,
 Friday, February 8, 2008, at the office of McGowan, Hood
 & Felder, L.L.C., 1539 Heath Care Drive, Rock Hill,
 South Carolina.

Reported by
 Maryann S. Nevers

APPEARANCES

For the Plaintiff: Robert V. Phillips, Esq.
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Rock Hill, SC 29732

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For Colony Ins. Co. Thomas F. Dougall, Esq.
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Also present: Patrick Byrum
Brian Oxendine
Jim Morton

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EXHIBITS

Defendant's Exhibit No. 1, "Victim/Witness Statement," dated 03/15/05; 2 pages.	3
Defendant's Exhibit No. 2, Note, dated 04/25/06; 1 page.	3

STIPULATIONS

It is stipulated by and between counsel for the respective parties that all objections are reserved until the time of trial, except as to the form of the questions.

This deposition is being taken pursuant to the South Carolina Rules of Civil Procedure.

- - - -

The reading and signing of this deposition is waived by the deponent and counsel for the respective parties.

Whereupon,

Jennifer Jackson, being duly sworn and cautioned to speak the truth, the whole truth, and nothing but the truth, testified as follows:

Pre-Marked Defendant's Exhibit No. 1, "Victim/Witness Statement," dated 03/15/05; 2 pages.

Pre-Marked Defendant's Exhibit No. 2, Note, dated 04/25/06; 1 page.

(Mr. Oxendine is not present when the deposition begins.)

EXAMINATION

BY MR. ROQUEMORE:

1 Q Jennifer, my name is Jonathan Roquemore. I
2 represent several people in a lawsuit filed by
3 Britt Teno's mother in York County, and I'm here
4 today to take your deposition as a part of this
5 lawsuit. You told me before we began your
6 deposition that you have not given a deposition
7 before; is that right?

8 A Correct.

9 Q So I want to go over the ground rules here. First
10 of all, do you understand you've been placed under
11 oath?

12 A Yes.

13 Q Okay. And you've sworn to tell the truth?

14 A Yes.

15 Q Yes?

16 And do you understand that it's -- that's the
17 same oath you would take if you were in the
18 courtroom before a judge and jury?

19 A Yes.

20 Q Okay. Very good. Here's what's going to happen:
21 I have a number of questions for you; these other
22 lawyers may have some questions for you as well.
23 And your job is to listen carefully to the
24 questions and answer them truthfully.

25 A Okay.

1 Q Will you do that for us?

2 A Will -- I will.

3 Q Very good. In order for that to happen as best as
4 it can, several other things need to happen: First
5 of all, you got to make sure you understand the
6 question. So if I ask you a question that you
7 don't understand or that confuses you, please don't
8 answer it; tell me to repeat it or rephrase it
9 until you're clear on what I'm asking.

10 A Okay.

11 Q Will you do that for me?

12 A Will do.

13 Q That's important, because if you answer one of my
14 questions, I'm going to assume that you heard the
15 question, that you understood the question, and
16 that you answered it truthfully. Do you understand
17 that I'm going to assume those things?

18 A I do.

19 Q It's important that you give a verbal response to
20 everything, so if you want to give "yes" or "no" as
21 an answer, please say "yes" or "no" out loud --

22 A Okay.

23 Q -- rather than some variation like a head nod or a
24 head shake. If you forget --

25 MR. PHILLIPS: (To Mr. Roquemore) Y'all go

1 ahead.

2 MR. ROQUEMORE: Okay.

3 Q If you forget to give us a verbal response, I will
4 simply prompt you to do that.

5 A Okay.

6 (Mr. Phillips exits the deposition
7 at 10:37 a.m.)

8 Q It's also very important that we not talk at the
9 same time. The court reporter --

10 MR. MORTON: Excuse me.

11 Q -- can't take down two people talking at once. You
12 see -- she's actually repeating everything that's
13 said into that mask, and obviously, she can't say
14 what two people are saying at the same time. So
15 let me finish my question before you begin
16 answering, and I'll let you finish answering before
17 I move to the next question.

18 A Okay.

19 Q Okay?

20 Are you taking any medication or are you under
21 any disability that would prevent you from
22 testifying to the best of your ability today --
23 today?

24 A No.

25 Q What is your full name, please?

- 1 A Jennifer Renee Jackson.
- 2 Q And your date of birth?
- 3 A 2/19/1982.
- 4 Q What is your current address?
- 5 A 550 South Paraham Road, York, South Carolina 29745.
- 6 Q Can you spell that road for us, please?
- 7 A Yes. It's P-a-r-a-h-a-m.
- 8 Q And what's the best phone number to reach you at?
- 9 A (803) 389-8238.
- 10 Q Were you born and raised in York County?
- 11 A I was.
- 12 Q Okay. Where'd you go to high school?
- 13 A Northwestern High School.
- 14 Q Did you graduate?
- 15 A Class of 2000.
- 16 Q And do you have any education beyond high school?
- 17 A I'm -- I'm currently enrolled full-time at York
- 18 Technical College.
- 19 Q And pursuing what kind of degree?
- 20 A Nursing.
- 21 Q Are you currently employed?
- 22 A Yes.
- 23 Q Where you --
- 24 A Part-time.
- 25 Q -- working?

1 A Shrimp Boat on Cherry Road.

2 Q Are you a waitress there?

3 A Uh-huh.

4 Q Yes?

5 A Yes.

6 Q Where else have you been employed in York County

7 that you recall: a bunch of places?

8 A Not in York County.

9 Q Okay. Tell me anywhere you've been employed in

10 York County, then.

11 A Let's see. Since, like --

12 Q Last --

13 A -- whenever?

14 Q -- five years.

15 A Okay. Only Shrimp Boat.

16 Q Okay.

17 A Everything else has been in North Carolina.

18 Q Do you have any relatives in York County with the

19 last name other than Jackson?

20 A I do.

21 Q And what are the last names of your relatives,

22 other than Jackson?

23 A Shillinglaw, Brantley -- I think that's it. The

24 rest are Jacksons.

25 Q Okay. Is Brantley B-r-a-n-t-l-e-y?

1 A Correct.

2 Q And what -- and spell the first name for us.
3 Shillinglaw, I think you said.

4 A Uh-huh. It's S-h-i-l-l-i-n-g-l-a-w.

5 Q Thank you.

6 A Uh-huh.

7 Q Mr. Phillips told us to go ahead, but we're about
8 to get into the -- those are the background
9 questions. We're about to get into the substantive
10 questions, and I'd prefer to wait until he --

11 A Okay.

12 Q -- is back in the room. So let's just wait on him
13 for a minute.

14 I'll tell you what you can be doing. Here he
15 is right now.

16 (Mr. Phillips enters the deposition
17 at 10:39 a.m.)

18 MR. ROQUEMORE: (To Mr. Phillips) We had just
19 finished up the background questions. We were
20 going to --

21 MR. PHILLIPS: Yeah.

22 MR. ROQUEMORE: -- wait on you to start --

23 MR. PHILLIPS: Okay. I appreciate it.

24 MR. ROQUEMORE: -- any -- any of the
25 substantive stuff.

1 Q Jennifer, we've had marked as Exhibit 1 to your
2 deposition a two-page document. If you would just
3 take a moment and review that. And let me know
4 when you've had an opportunity to review it, and
5 we'll have some questions about it.

6 A Okay.

7 (Sotto voce discussion between
8 Mr. Roquemore and Mr. Morton.)

9 A Okay.

10 Q You've had an opportunity to review Exhibit 1; is
11 that right?

12 A I have.

13 Q And if you'd flip with me to page 1 of that
14 exhibit, please, Jennifer.

15 A Okay.

16 Q Is that your signature about halfway down on the
17 right side?

18 A Yes, it is.

19 Q And if you'd flip with me to page 2 of the exhibit,
20 bottom left. Is that your signature there?

21 A Yes, it is.

22 Q And it's dated March 15, 2005?

23 A Correct.

24 Q Okay. And this statement is regarding the events
25 of March 5th and 6th, 2005, which I would represent

1 to you was a -- a Saturday/Sunday in March of 2005.

2 Let me start by asking you if you knew Britt
3 Teno before that night.

4 A I did.

5 Q Okay. How long had you known him?

6 A Probably -- I would -- I wouldn't say more than six
7 months.

8 Q How had you met him?

9 A Through some mutual friends.

10 Q Okay. And your statement begins with the name
11 "Mandy." Who is Mandy?

12 A Amanda Sides.

13 Q Is she one of the mutual friends that you met Britt
14 Teno through?

15 A We both met Britt at the same time.

16 Q Okay. Before this night that we're talking about
17 today, March 5th and 6th, 2005, had you hung out
18 socially with Britt Teno?

19 A Almost every other weekend.

20 Q Would you say you had gotten to know him relatively
21 well over those six months?

22 A Pretty well.

23 Q Now, let -- let's go to your -- your statement,
24 Jennifer. It says: "Mandy had come to John's
25 Place where I worked part-time last Saturday --

1 Saturday and waited for me to get off." What were
2 you doing at John's Place? What kind of work did
3 you do there?

4 A Bartending.

5 Q Okay. So it's a bar?

6 A Uh-huh.

7 Q Yes?

8 A Yes.

9 Q What -- or it says here you got off about eight
10 o'clock p.m. that night?

11 A Correct.

12 Q Do you recall how long Mandy was there while you
13 were working? in other words, how -- what time she
14 got to John's Place?

15 A Maybe at the most, 30 minutes.

16 Q Did you all have a plan for what you were going to
17 do when you left John's Place that night?

18 A We know -- we knew we were going out, but we didn't
19 know where.

20 Q Did you know who you were going to go out with?

21 A No.

22 Q Your statement then says: "Then Mandy and I left
23 about 8:30 and went to Britt's house." Is that
24 Britt Teno?

25 A Yes.

- 1 Q Can I assume, from your statement, that for about
2 30 minutes after you got off work, you hung out at
3 John's Place?
- 4 A Correct.
- 5 Q Okay. Whose decision was it to go to Britt's
6 house?
- 7 A Mandy's.
- 8 Q Was there a conversation between Mandy and Britt
9 before you all went to his house --
- 10 A I'm --
- 11 Q -- or did you just show up there?
- 12 A -- I believe that they talked before she got to
13 John's Place, but I'm not positive on that.
- 14 Q Did -- did Mandy say why -- and again, Mandy is
15 Amanda Sides; is that --
- 16 A Yes.
- 17 Q -- right?
- 18 A Correct.
- 19 Q Did Mandy say why you all were going to Britt's
20 house?
- 21 A No, she didn't.
- 22 Q Who was driving?
- 23 A At that time I was.
- 24 Q And you were driving your car?
- 25 A Her car.

1 Q Her car.

2 What kind of car was that?

3 A It's a Honda Accord.

4 Q Do you remember what color it was?

5 A Silver, I think.

6 Q Did you leave your car at John's Place?

7 A I left my car at her house.

8 Q Okay. So let's make sure -- let me make sure I

9 understand this. Did you leave John's Place and go
10 by Mandy's house?

11 A And dropped my car off.

12 Q Okay. And then you drove Mandy's car from her
13 house to Britt's house?

14 A Yes.

15 Q Is there any reason why you were driving and not
16 Mandy?

17 A No.

18 Q Okay. Was it unusual for you to drive her car?

19 A No.

20 Q Okay. Had she had too much to drink that early in
21 the evening?

22 A No.

23 Q When you arrived at Britt's house -- let me ask you
24 this: Where -- where is his house located?

25 A I'm not really sure, to tell you the truth.

1 Q Okay. You don't know the address?

2 A No.

3 Q Was there -- was Britt there when you got there?

4 A He was.

5 Q Was there anyone else there?

6 A His roommate and a friend of his roommate.

7 Q Do you know his roommate's name?

8 A I don't.

9 Q And do you know the friend's name?

10 A I don't.

11 Q Was his roommate a guy?

12 A Yes.

13 Q And how about the friend of the roommate, guy --

14 A It --

15 Q -- or girl?

16 A -- was a girl.

17 Q Girl?

18 A Uh-huh.

19 Q Was it his roommate's girlfriend, as far as you

20 know?

21 A I'm not sure. That's the first time I had met

22 either one of the -- one of them.

23 Q What -- I know you -- it says here -- well, strike

24 that.

25 It looks like you had actually changed at --

1 at Mandy's house. What did you all do at Britt's
2 house?

3 A We sat there and talked for about 15 minutes.

4 Q Did you talk with the other folks who were there
5 too, the roommate --

6 A A little.

7 Q -- and the other friend?

8 A A little.

9 Q Do you recall anything that was said?

10 A No.

11 Q Did you develop a plan for what y'all were going to
12 do that night?

13 A We had decided to go back to John's Place at that
14 point.

15 Q Okay. And -- and I may be a little confused here.
16 Let's just make sure we get this order right,
17 Jennifer.

18 Your statement says that you and Mandy left
19 about 8:30 and went to Britt's house.

20 A Correct.

21 Q You see that?

22 A Correct.

23 Q Okay. And you stayed at his house about 30 minutes
24 and then went to Mandy's house so you could change
25 clothes; is that right?

1 A Correct.

2 Q And what I'm trying to figure out here is if both
3 of you drove from John's Place to Britt's house or
4 if you stopped at Mandy's house on the way and
5 dropped your car off.

6 A We stopped at Mandy's house and dropped my car off.

7 Q Okay. And then after going to Britt's, went back
8 to Mandy's house --

9 A Correct.

10 Q -- so you could change? Okay. Thank you.

11 What was Britt's physical condition when you
12 saw him the first time that night at his house?

13 A He seemed fine. You could tell he had been
14 drinking, but he didn't seem inebriated or anything
15 like that.

16 Q Okay. And you -- when you say "you could tell he'd
17 been drinking," you mean you could tell he'd been
18 drinking alcohol?

19 A Correct.

20 Q Do you know what he'd been drinking?

21 A Beer.

22 Q All right. Do you know how much he'd had to drink?

23 A I don't.

24 Q Okay. And this would have been about 8:30 in the
25 evening when you first saw him?

1 A Probably more towards nine o'clock.

2 Q Okay. How was he -- we've talked about his
3 physical condition. How was he acting? Was he
4 acting normal? Was he --

5 A As far -- his normal way.

6 Q -- able to carry on a conversation fine?

7 A He was.

8 Q Okay. Now, it says that you left Mandy's car at
9 Britt's house and drove Britt's car to John's
10 Place.

11 A No. We left Mandy's house and drove to a friend of
12 Britt's and left Mandy's car there.

13 Q Okay. Okay. So let me make sure I've got this,
14 now. You -- when you get to Britt's house, Britt's
15 car is not there?

16 A Correct.

17 Q Okay. So you leave in Mandy's car and take Britt
18 to his friend's house to pick up Britt's car?

19 A Correct.

20 Q And then what do you do from there?

21 A We took Britt's car to John's Place.

22 Q And what kind of car did Britt have?

23 A A black SUV. I'm not sure of the make or model.

24 Q Who was driving his car?

25 A I was.

1 Q Your statement indicates you stayed at John's Place
2 for about two hours --

3 A Correct.

4 Q -- and left about 11:15 at -- that evening and went
5 to the Long Branch?

6 A Correct.

7 Q Did you meet up with anybody else at John's Place?

8 A Just normal customers there. No one specific.

9 Q Was there anybody that you saw at John's Place,
10 other than Mandy and Britt, that you saw later,
11 either at the Long Branch or at the Money?

12 A No, not that I recall.

13 Q Your statement indicates you left Long Branch about
14 11:15 -- I'm sorry -- left John's Place about 11:15
15 and went to the Long Branch until -- I guess it
16 would be about midnight?

17 A Correct.

18 Q What did you do at -- at the Long Branch?

19 A When we walked in, Mandy and I headed to the bar,
20 and we lost Britt for the 45 minutes. And he came
21 and found us and said he wanted to go to the Money.

22 Q Did he say why?

23 A No.

24 Q Did he indicate what he had been doing or who he
25 had been talking to for that 45 minutes?

1 A No.

2 Q Do you know if he had been in any confrontation

3 with anybody during --

4 A Not --

5 Q -- that time?

6 A -- that I know of.

7 Q Did you see him involved in any confrontation or

8 altercation, either at John's Place or at the Long

9 Branch, that night?

10 A No.

11 Q How about anywhere before you got to the Money?

12 A No.

13 Q Did Britt continue to consume alcohol, both at

14 John's Place and at the Long Branch?

15 A Yes.

16 Q Do you have any idea how much he had?

17 A I have no idea.

18 Q Okay. Were you drinking that night?

19 A I was.

20 Q How about Mandy?

21 A She was.

22 Q What time do you believe you arrived at the Money?

23 A Probably about 12:15.

24 Q Your statement says that when you got to the Money,

25 Britt met up with some of his friends. Do you

1 recall who --

2 A I don't.

3 Q -- his friends were that were there?

4 A When we walked in the door, Mandy and I headed
5 right, to go to the bathroom, and he headed left.

6 Q And you believe you all would have been at the
7 Money for about an hour before this altercation
8 occurred?

9 A Correct.

10 Q And do you have any idea what Britt was doing
11 during that hour?

12 A I don't.

13 Q Your statement indicates that you were on the dance
14 floor when "it" -- referring to the -- to the fight
15 -- "broke out. I didn't really see faces of
16 anybody fighting. The bouncers broke it up really
17 quick."

18 Is that your recollection, as we sit here
19 today?

20 A Yes.

21 Q Do you have any idea what started the fight?

22 A I don't.

23 Q Okay. Do you have any idea who was involved in it?

24 A I don't.

25 Q Did you just notice that there was some sort of

1 commotion, for lack of a better way to put it, on
2 the dance floor?

3 A Pretty much.

4 Q All right. You didn't get hit by anybody, did you?

5 A No.

6 Q Okay. You -- did you get knocked down?

7 A No.

8 Q So other than realizing something had happened on
9 the dance floor, you really don't know anything
10 about it?

11 A Correct.

12 Q Did you see any interaction between anybody working
13 at the Money and those involved in the fight?

14 A No.

15 Q Your statement then says that after things calmed
16 down, you went back to dancing and about five
17 minutes later, a bouncer came and got you. "He
18 said that Britt had been kicked out for fighting
19 and we needed to take him home."

20 A That's correct.

21 Q Do you recall who came to you and told you that?

22 A I don't.

23 Q Did you go outside when -- when --

24 A We did.

25 Q -- he told you that?

1 Your statement says: "He told us that he was
2 not fighting and that somebody hit him in the
3 mouth." Is the -- is the "he" Britt?

4 A That's correct.

5 Q So Britt told you that he was not fighting and that
6 somebody had hit him in the mouth?

7 A Yes.

8 Q Did he identify who hit him in the mouth?

9 A He didn't.

10 Q Okay. Did he indicate that person was an employee
11 of the Money?

12 A No.

13 Q You then indicate: "I saw some blood on his lip."
14 Do you recall where --

15 A I don't.

16 Q -- on his lip?

17 A (Shakes head from side to side.)

18 Q Was it -- was it bleeding freely, if you understand
19 what I'm saying, or did you just notice some blood
20 sitting on his lip?

21 A I just noticed some sitting on his lip.

22 Q So it wasn't running down his face or anything like
23 that?

24 A No.

25 Q Your statement then says: "He didn't" -- "he"

1 being Britt again -- "didn't know who hit him. And
2 he didn't say anything about being hit anywhere
3 else on his body." Is that correct?

4 A That's correct.

5 Q And is that your recollection, as we sit here
6 today?

7 A Yes.

8 Q And then, it looks like at this point in the
9 statement, at least, you all are leaving the Money.
10 So let me stop before we get to that and ask you a
11 few follow-up questions.

12 This is Jim Morton, sitting to my right. Do
13 you know him?

14 A Yes.

15 Q Okay. And do you know if Jim was at the Money that
16 night?

17 A I don't recall.

18 Q All right. And the individual sitting next to Jim
19 is P.J. Byrum. Do you recognize P.J.?

20 A Yes.

21 Q From the Money?

22 A Yes.

23 Q Okay. Do you know if he was there that night?

24 A I do think so.

25 Q You think he was?

1 A I'm not positive.

2 Q Okay. Do you -- okay. I mean, do you know who
3 Brian Oxendine is?

4 A I do.

5 Q All right. Do you know if Brian was there that
6 night?

7 A I think he was.

8 Q Okay. Did -- do you have any knowledge of --
9 either from your own observations or through
10 somebody telling you, of either P.J. Byrum, Brian
11 Oxendine, or anybody else working at the Money that
12 night having any physical contact with Britt Teno?

13 A No.

14 Q Did you see anybody -- either P.J. Byrum, Brian
15 Oxendine, or any other person working at the Money
16 that night -- have any physical contact with any
17 patron of the Money?

18 A No.

19 Q A lot of these questions might sound the same. I
20 just need to go down the list real quick.

21 You did not see Brian Oxendine, P.J. Byrum, or
22 anybody else working at the Money hit or make
23 contact with Britt Teno, correct?

24 A Correct.

25 Q And nobody working at the Money that night has

1 admitted to you that they've done that --

2 A No.

3 Q -- correct?

4 Is that correct?

5 A That's correct.

6 Q Do you have any knowledge or evidence that Brian
7 Oxendine, P.J. Byrum, or anybody else working at
8 the Money hit, beat, or fought with anyone at the
9 Money that night?

10 A No.

11 Q Do you have any knowledge or evidence that Brian
12 Oxendine, P.J. Byrum, or anybody else working at
13 the Money that night hit Britt Teno or anyone else
14 present with a flashlight or any other type of
15 weapon?

16 A No.

17 Q Did you ever see anybody carrying a flashlight that
18 night?

19 A No.

20 Q Did you see any weapons at the Money that night?

21 A No.

22 Q Do you have any knowledge or evidence that Brian
23 Oxendine, P.J. Byrum, or anybody else working at
24 the Money that night stomped or kicked Britt Teno
25 in the head or any other part of his body?

- 1 A No.
- 2 Q The only evidence you have of anybody touching
- 3 Britt Teno that night is Britt Teno telling you
- 4 somebody hit him in the mouth?
- 5 A Correct.
- 6 Q And you have no idea who did that?
- 7 A No, I don't.
- 8 Q Do you recall which door you were taken out through
- 9 when you went to -- when you went to Britt?
- 10 A The side door.
- 11 Q Okay. Let's refer to what's been marked as Exhibit
- 12 3. This is to Jackie Dover's deposition.
- 13 A Okay.
- 14 Q Do you recall the --
- 15 A This --
- 16 Q -- door --
- 17 A -- this door right here with the porch.
- 18 Q Okay. And when you went out the door, where did
- 19 you -- where did you go?
- 20 A Britt's car was parked at this -- there's a
- 21 building over here. He was at his car.
- 22 Q All right. So when you exited the Money, you would
- 23 have walked across the parking lot to Britt's car?
- 24 A Correct.
- 25 Q And he was already standing there?

1 A Correct.

2 Q Is that -- is that the first time you saw Britt
3 after you walked though the doors of the Money that
4 night?

5 A It is.

6 Q Okay. So you said you all -- you, Mandy, and Britt
7 walked in that night and separated immediately?

8 A Yes.

9 Q And then the next time you laid eyes on him was
10 when you got out to the car after this fight?

11 A Correct.

12 Q And was there anyone standing there with Britt?

13 A Not at the time.

14 Q Was he in his car or standing up --

15 A He --

16 Q -- outside?

17 A -- was standing beside it. I had the keys.

18 Q So he couldn't get in?

19 A Correct.

20 Q Okay. And -- and you've relayed that when you
21 walked up -- when you and Mandy walked up; is that
22 right?

23 A Correct.

24 Q -- he said that he had not been fighting, but
25 somebody hit him in the lip?

1 A Yes.

2 Q You recall anything else that he said?

3 A No.

4 Q Did he complain of any -- of being hit anywhere
5 else?

6 A No.

7 Q Complain of any other injuries?

8 A No.

9 Q He say anything was hurting?

10 A No.

11 Q Did anybody escort you from the door of the Money
12 over to Britt's car?

13 A No.

14 Q Did either you or Mandy say anything to Britt --
15 indicate you were upset with Britt because you all
16 had to leave?

17 A We just asked him what had happened.

18 Q And -- and you've --

19 A And that's when he said that he hadn't been
20 fighting.

21 Q Now, at that point did y'all hang out any or did
22 you just get in the car and leave?

23 A Probably while we were talking to him, Jackie Dover
24 walked up and started talking to Britt as Mandy and
25 I went and got in the car.

1 Q Did you know Jackie Dover before that night?

2 A Yes.

3 Q Did you know Brian Brakefield before that night?

4 A Yes.

5 Q How about Erik Brakefield?

6 A No.

7 Q How about Danny Love?

8 A No.

9 Q How about Kathy Love?

10 A No.

11 Q Do you know, through your own observation, if
12 Jackie Dover, Brian Brakefield, Erik Brakefield --
13 or you didn't know Erik. Did you -- through your
14 own observation, did you see Brian Brakefield or
15 Jackie Dover involved in any fight that night?

16 A No.

17 Q Okay. So Jackie Dover walked up to talk to Britt
18 Teno?

19 A Yes.

20 Q And tell me about that conversation.

21 A He was just asking him what -- Jackie asked Britt
22 what had happened. And Britt was talking to him as
23 I got in the car. And they were on the outside of
24 the car, so I don't know what was said after I got
25 in the car.

1 Q So you heard Jackie ask Britt Teno what happened.

2 Did you hear Britt Teno's response?

3 A No.

4 Q Do you know if Jackie Dover and Britt Teno knew
5 each other before that night?

6 A I'm not sure.

7 Q Were -- did you drive from the Money?

8 A I did.

9 Q Okay. So you got into the driver's seat?

10 A Correct.

11 Q Did Mandy get in the car as well?

12 A Yes.

13 Q And do you know if she heard any more of the
14 conversation between Jackie and Britt than you
15 heard?

16 A Not to my knowledge.

17 Q Did she get in the front passenger seat?

18 A She did.

19 Q How long was it before Britt Teno got in the car?

20 A It was -- right as she shut the door, he opened the
21 door and got in.

22 Q So he didn't talk to Jackie Dover for very long?

23 A No.

24 Q Did you hear any argument between Jackie Dover and
25 Britt Teno right there by the car?

1 A No.

2 Q Was there any physical altercation between the two

3 of them by the car?

4 A No.

5 Q Did Britt say anything when he got in the car?

6 A No.

7 Q But he was able to get in the car on his own?

8 A He did.

9 Q And did he sit behind you or behind Mandy?

10 A He sat in the middle of the seat, and I think he

11 ended up laying down before we even left the

12 parking lot.

13 Q At any -- well, when he got in the car, did he

14 complain of any pain or problems he was having?

15 A Just said that he was drunk and ready to go home.

16 Q Okay. You indicated you believe he laid down in

17 the back seat?

18 A Correct.

19 Q And did he lay down all the way home?

20 A Yes.

21 Q Where did you go from the Money?

22 A To his friend's house, where Mandy's car was

23 parked.

24 Q And from -- did you do anything other than pick up

25 the car from the friend's house?

1 A No.

2 Q What -- do you know the name of that friend?

3 A I don't. We --

4 Q You --

5 A -- never went inside.

6 Q Do you recall where the house was located?

7 A It's right off Cherry Road, but I'm not sure where.

8 Q And when you got to that friend's house, did you
9 continue to drive Britt from there, or did you get
10 in Mandy's car?

11 A No. I drove Mandy's car, and she drove Britt's
12 car.

13 Q And at this point in time, as far as you know,
14 Britt's still laying down in the back seat?

15 A Correct.

16 Q Is he saying anything?

17 A No.

18 Q Do you believe he had fallen asleep?

19 A I'm not sure.

20 Q Don't know?

21 Okay. How long did it take to get from the --
22 Britt's friend's house to Britt's house?

23 A Probably between 30 to 45 minutes.

24 Q Oh, so was a good ways --

25 A Yeah.

1 Q -- away?

2 Q Were there any stops along the way?

3 A No.

4 Q And did you follow Mandy or she follow you?

5 A I think I followed her.

6 Q Did you -- you and Mandy talk on the cell phone?

7 A We did.

8 Q The whole way?

9 A No, not the whole way.

10 Q Do you recall anything you talked about?

11 A No.

12 Q She say anything about Britt's condition?

13 A No.

14 Q She say she had -- that Britt had said anything

15 that happened to him?

16 A No.

17 Q Have any idea what time you arrived at Britt's

18 house?

19 A I -- I don't have no idea.

20 Q And what happened when you arrived at Britt's

21 house? This would, again, be after leaving the

22 Money that night.

23 A I sat in Mandy's car and she walked Britt in. And

24 as -- from what she told me, she put him to bed,

25 put his keys on the bedside table, and came outside

1 and got in the car.

2 Q Did you -- tell me what you remember about him
3 getting out of the car and going inside.

4 A He was able to walk on his own. She was, you know,
5 leaned up against him, holding him, but he was
6 walking by himself.

7 Q And do you have to go up steps to get into his --

8 A You do.

9 Q -- house?

10 And he was able to walk up the steps?

11 A He was.

12 Q And -- and then, once he got inside, you didn't see
13 him again that night?

14 A I didn't.

15 Q Okay. Mandy indicated to you that she put him in
16 the bed and put his keys by the bedside?

17 A Correct.

18 Q How long was she inside?

19 A Probably no more than five minutes.

20 Q Did she indicate that she had had any conversation
21 with Britt while she was inside?

22 A No.

23 Q Did she tell you anything about his physical
24 condition --

25 A No.

1 Q -- that she observed while she was inside?

2 A No.

3 Q Do you recall if Britt was wearing a long-sleeve
4 shirt or a short-sleeve shirt that night?

5 A I don't remember.

6 Q Okay. Did she indicate that she helped him get
7 undressed or ready for bed?

8 A She didn't.

9 Q Okay. Do you know if she -- did she indicate to
10 you whether she had seen any marks? bruising? cuts?
11 anything on his body while she was inside?

12 A She didn't.

13 Q Okay. When Mandy got in the car and you all left
14 Britt's house, was there any -- any discussion at
15 all about Britt or his condition?

16 A No.

17 Q Was there any concern that he had been hurt at the
18 Money?

19 A We thought it was more alcohol-induced --

20 Q Okay.

21 A -- the way he was acting.

22 Q You thought he'd had too much to drink?

23 A Yes.

24 Q So other than some blood on the lip, you never saw
25 any indication that Britt Teno was hurt at the

1 Money that night; is that correct?

2 A Correct.

3 Q And you're pretty sure that when you left Britt's
4 house that night, you all left his vehicle there
5 and you and Mandy left in her car?

6 A We did.

7 Q Once you left Britt Teno's house that night, where
8 did you go?

9 A To a hotel.

10 Q Do you recall which hotel?

11 A Over -- it's over by the Long Branch. I don't
12 remember the name.

13 Q Did you and Mandy both go there?

14 A We did.

15 Q And did you meet anybody there?

16 A Jackie Dover and Bryan Eakin, I think --

17 (Mr. Oxendine enters the deposition
18 at 11:06 a.m.)

19 Q Okay.

20 A -- showed up later.

21 Q I'm sorry?

22 A They showed up later.

23 Q Did anyone else come to the hotel, other than those
24 two, yourself, and Mandy -- and I'm not -- maybe
25 other people came to the hotel that night, but

1 anybody that you knew or hung out with?

2 A No.

3 Q Once Jackie Dover and Bryan Eakin arrived, was
4 there any discussion at all about Britt Teno?

5 A No.

6 Q Was there any discussion at all about a fight at
7 the Money?

8 A No.

9 Q When was your next contact with Britt after seeing
10 him go inside his house that night?

11 A I didn't have any contact with him.

12 Q All right. Did you hear at some point that Britt
13 was in the hospital in Charlotte?

14 A I did.

15 Q Do you recall when you heard that?

16 A No. But both Mandy and I drove up there together.

17 Q And did you and Mandy basically learn -- learn
18 about that at the same time?

19 A We did.

20 Q Do you recall who you found out through?

21 A No.

22 Q If you were at the Money on a -- on a Saturday/
23 early Sunday morning, 5th and 6th, do you know how
24 many days later it was when you went up to the
25 hospital in Charlotte?

1 A I don't remember.

2 Q Do you recall who was -- who was at the hospital
3 when you got there?

4 A I know his mom was there, his ex-girlfriend, and a
5 couple of our mutual friends, but I don't really
6 remember --

7 Q Do you --

8 A -- who all was there.

9 Q Okay. Who -- who was his ex-girlfriend?

10 A Mary -- I don't know her last name.

11 Q Were Mandy and Britt Teno romantically involved at
12 any point in time?

13 A They were sleeping together.

14 Q At that time?

15 A Yes.

16 Q Okay. Now, did you have any discussion with Britt
17 Teno's mother at the hospital about what caused
18 Britt to be in the condition he was in?

19 A We -- she asked us what had happened at the Money.
20 We told her that we didn't know; we didn't know he
21 was in a fight until we were approached and said
22 that he had been in a fight and that we needed to
23 take him home.

24 Q Okay. Did you basically tell her what you've told
25 us today?

1 A Yes.

2 Q And is it your understanding that Mandy didn't see
3 any of this either, didn't see the fight?

4 A That's my understanding.

5 Q Okay. Well, has Mandy told you that she knows what
6 happened to Britt Teno?

7 A No.

8 Q Or that she saw who hit him?

9 A No.

10 Q Has she told you that she saw anybody working at
11 the Money that night behave inappropriately?

12 A No.

13 Q Or have any contact with Britt Teno?

14 A No.

15 Q Did Britt's mother indicate that she had any
16 information about what happened to him?

17 A No.

18 Q Did anyone that you talked with or heard talk at
19 the hospital have any information about what
20 happened to Britt?

21 A No.

22 Q Other than yourself and Mandy, was there anyone at
23 the hospital who had been at the Money on the night
24 in question?

25 A Not that I recall.

1 Q Do you know who Don Cassidy is?

2 A No.

3 Q Okay. How about R.C. Ferrell?

4 A No.

5 Q Do you know if any -- either of those individuals
6 were at the Money on the night in question?

7 A I don't.

8 Q Did you just go to the hospital on one occasion?

9 A Yes.

10 Q Have you had any contact with Mr. Teno's mother
11 since then?

12 A No.

13 Q Have you had any contact with any other member of
14 his family?

15 A No.

16 Q Did Ms. Teno -- I -- I'm sorry; it's Ms. Dill, I
17 believe, Britt Teno's mother. Did she indicate to
18 you at that time --

19 (Sotto voce discussion between Mr.
20 Oxendine and Mr. Byrum.)

21 Q -- at the hospital what Britt's condition was?

22 A No.

23 Q Okay. Were you able to see Britt?

24 A Mandy was.

25 Q Do you have any idea what happened to Britt that

1 caused him to be in -- in the hospital --

2 A I don't.

3 Q -- that day?

4 Do you have any knowledge of him getting in a
5 fight or in any kind of accident or anything after
6 being at the Money that night?

7 A I don't.

8 Q Okay. You just didn't see him again after that?

9 A No.

10 Q It appears that the contents of your statement,
11 Exhibit 1, still -- that they're accurate?

12 A Yes.

13 Q I mean, that's still your recollection today?

14 A Yes.

15 Q Okay. Let me hand you what's been marked as
16 Exhibit 2 to your deposition. If you'd just take a
17 moment and review that document, please.

18 A Correct.

19 Q This is a -- I represent to you, this is a note
20 from the Rock Hill Police Department investigative
21 file for this matter. It's dated April 25, '06,
22 and it appears to be some notes from a conversation
23 that a detective had with you. Do you recall being
24 contacted by the police department again about a
25 year after this happened?

1 A Yes.

2 Q Okay. And it basically seems to indicate that
3 everything you said before is still true?

4 A Correct.

5 Q Okay. And do you recall being contacted at that
6 time?

7 A I do.

8 Q Have you been contacted by the police department
9 since that time?

10 A I have not.

11 Q Have you been contacted by any private investigator,
12 or private detective since that time?

13 A No. Oh. Wait. Yeah, I have. I can't remember
14 his name --

15 Q Okay.

16 A -- or any information. But he did call me and left
17 a message, and I called him back. And he was
18 actually in Florida and claimed to call me back on
19 the matter, and I haven't heard from him since.

20 Q All right. Do you know that individual's name?

21 A I don't.

22 Q Either way, you never had any conversation with
23 that individual?

24 A No.

25 Q Do you recall -- would that have been sometime last

1 year, maybe in 2007, that individual tried to
2 contact you?

3 A It might have been.

4 Q Okay. And then, I've actually met you on another
5 occasion where I asked you questions about this
6 matter; is that right?

7 A That's right.

8 Q Do you recall that?

9 A Yes.

10 Q A few months ago?

11 A Yes.

12 Q Okay. And did I ask you similar questions to what
13 I'm asking you today?

14 A Yes.

15 Q Okay.

16 MR. ROQUEMORE: Jennifer, I think that's about
17 all I have. Let -- let me take just a -- a
18 break for just a minute --

19 THE DEPONENT: Okay.

20 MR. ROQUEMORE: -- and I may have a few more
21 when I get back.

22 (Off the record from 11:14 a.m.
23 until 11:21 a.m.)

24 (Mr. Oxendine and Mr. Byrum are not
25 present when the deposition

1 resumes.)

2 THE EXAMINATION BY MR. ROQUEMORE CONTINUES.

3 Q Jennifer, you said that you drove Britt's vehicle
4 back to --

5 (Mr. Oxendine enters the deposition
6 at 11:21 a.m.)

7 Q -- his house that night. And I'm -- I'm not
8 familiar with where he lives or how things are set
9 up. Is there a driveway for the house?

10 A There is.

11 Q Okay. And did you park the vehicle in the
12 driveway?

13 A Yeah. Right under the light -- there's a light
14 pole --

15 (Mr. Byrum enters the deposition at
16 11:21 a.m.)

17 A -- where they usually park. I parked it where he
18 usually parks his car.

19 Q Is that in front of the house? on the side of the
20 house?

21 A It's on the side.

22 Q And if you're looking at the front of the house,
23 which side is it on?

24 A The right side.

25 Q And would it have been -- I'm trying to get an idea

1 for how it was parked on the side of the house. I
2 mean, would it have been -- would you have pulled
3 up all the way beside the house, or would part of
4 the vehicle have -- still have been out in front of
5 the house, if you understand what I'm asking you?

6 A Mandy pulled Britt's car under the light at sort of
7 a diagonal, and I pulled right beside it, waiting
8 on her to come out of the house.

9 Q So if you were standing at the -- looking at the
10 house at the left-front corner, looking down along
11 the front of the house, would you have able -- been
12 able to see his vehicle or would it have been --

13 A Looking from behind the house or in front of the
14 house?

15 Q In the front of the house. If you're standing on
16 the left-front corner --

17 A Okay.

18 Q -- looking down along the front of the house, would
19 you have been able to see his car on the other
20 side?

21 A No.

22 Q All right. Does Britt's mother live in that area,
23 or did she live in that area?

24 A That's what I was told. I don't know --

25 Q You don't know one way --

- 1 A -- for a fact.
- 2 Q -- or the other?
- 3 A Unh-unh.
- 4 Q That's a "no"?
- 5 A Yes.
- 6 Q Now, let's back up to -- to the Money for just a
- 7 second. Do you recall if the people working at the
- 8 Money that night were wearing radio headsets?
- 9 A I don't remember.
- 10 Q Do you recall if they were wearing any sort of
- 11 shirt that would indicate they were working at the
- 12 Money?
- 13 A Yes.
- 14 Q Okay. Did it say "The Money" on it?
- 15 A Yes.
- 16 Q Do you recall what color it was?
- 17 A No.
- 18 Q But the people working at the Money that night were
- 19 wearing clothing that set them apart as being
- 20 employed there?
- 21 A Yes.
- 22 Q Okay. Did you see anybody working at the Money
- 23 that night being hostile to anybody?
- 24 A No.
- 25 Q You didn't see them mistreat anybody?

- 1 A No.
- 2 Q As far as you observed, were handling everything
- 3 professionally and appropriately?
- 4 A Yes.
- 5 Q You indicated that when you got to the motel later
- 6 on, that Jackie Dover and Bryan Eakin came up
- 7 there?
- 8 A Correct.
- 9 Q Had you seen Bryan at all that night before then?
- 10 A At the Money.
- 11 Q You believe he was at the Money earlier?
- 12 A Yes.
- 13 Q Had you had any interaction with him at the Money
- 14 earlier?
- 15 A No.
- 16 Q You just remember seeing --
- 17 A Just --
- 18 Q -- him up there?
- 19 A -- meeting him. Yeah.
- 20 Q Did you know him before that night?
- 21 A No. I know a Bryan Eakin, but I don't think it's
- 22 the same guy.
- 23 Q Do you know if Britt Teno knew either Jackie Dover
- 24 or Bryan Eakin before that night?
- 25 A I don't know for a fact.

1 Q Do you have any suspicion?

2 A He and Jackie talked like they knew each other, but
3 I don't know.

4 Q At the motel did -- did Mandy hook up with either
5 of these guys?

6 A I don't know.

7 Q You don't know?

8 A (Shakes head from side to side.)

9 Q Do you know if Britt Teno ever had any
10 confrontation with either of these guys after that
11 night?

12 A No.

13 Q Do you know if Britt Teno found out on Sunday, for
14 example, that Mandy had been at the motel with
15 these two guys?

16 A I don't know.

17 Q You don't know one way or the other?

18 A No.

19 Q Okay.

20 (Sotto voce discussion between Mr.
21 Roquemore and Mr. Morton.)

22 MR. ROQUEMORE: Thank you, Jennifer. That's
23 all I have.

24 THE DEPONENT: Okay.

25 MR. ROQUEMORE: Please answer any questions

1 the other lawyers have.

2 MR. DOUGALL: (To the deponent) Jennifer, my
3 name's Tom Dougall. I've got just a few
4 questions.

5 THE DEPONENT: Okay.

6 EXAMINATION

7 BY MR. DOUGALL:

8 Q Do you know where Mandy lives now?

9 A She lives in Aiken, South Carolina.

10 Q Do you know where she lives in Aiken?

11 A I don't.

12 Q Do you have her phone number?

13 A Yes.

14 Q Do you have it with you?

15 A Yes.

16 Q Would you give it to us, please?

17 A Sure. Right now?

18 Q Uh-huh.

19 (Sotto voce discussion between Mr.

20 Roquemore and Mr. Morton.)

21 A I have her number as (803) 230-4615.

22 Q And to your knowledge, is that a cell phone number?

23 A It is a cell phone number.

24 Q When you got back to Britt's house that night, how
25 far was it from there to Mandy's house?

1 A The -- when we left the first time?

2 Q No. If you'd left from Britt's house to go back to
3 Mandy's house, how far would --

4 A It would've taken us probably about 20 minutes.

5 Q Okay. And if you'd left Britt's house to go back
6 to your house, how long would that have been?

7 A About 45, probably.

8 Q Okay. Did you call Jackie Dover and tell him y'all
9 were going to the hotel, or did he --

10 A No.

11 Q -- did --

12 A He contacted Mandy.

13 MR. DOUGALL: Okay. That's all I've got.

14 Thank you.

15 THE DEPONENT: Okay.

16 MR. PHILLIPS: (To the deponent) Ms. Jackson,
17 my name is Robert Phillips. I represent Britt
18 Teno and his mother. Just have a couple of
19 questions.

20 THE DEPONENT: Okay.

21 EXAMINATION

22 BY MR. PHILLIPS:

23 Q You said that when y'all got to the Money that
24 night, you said that "Mandy and I did our own
25 thing." Does that mean that you were separated

1 from Britt?

2 A Yes.

3 Q And so from the time that you guys separated to go

4 do your own thing, when was the next time you saw

5 him?

6 A At the Money or the Long Branch?

7 Q At the Money.

8 A When he was outside; when --

9 Q Okay.

10 A -- we were told he'd been in a fight.

11 Q Okay. And who told you that he'd been in a fight?

12 A One of the bouncers.

13 Q Okay. And then you came out -- did you see him out

14 there?

15 A Yes.

16 Q Okay. And then you either assisted or put him in

17 -- into your -- was it your car?

18 A It was his car.

19 MR. ROQUEMORE: Objection to form.

20 Q His car?

21 A He got in on his own.

22 Q Okay. And you said something about "he laid down

23 in the back"?

24 A Yes.

25 Q Okay. Did you, by any chance, feel his head for

1 any lumps or bruises or anything?

2 A I didn't.

3 Q Did you look at his arms or buttocks or back or
4 anything for any --

5 A I didn't.

6 Q -- bruises?

7 You didn't?

8 So if there were any injuries --

9 A -- I didn't know about them.

10 Q -- you didn't see them?

11 Okay. You testified earlier that you -- you
12 knew Mr. George or you knew Mr. Morton?

13 A I know Jim Morton.

14 Q How -- how do you know him?

15 A Through the Money.

16 Q Okay. And how do you know him through the Money?
17 I know he works there, but, I mean --

18 A Well, I've seen him at the Money, and then, we met
19 through this whole process.

20 Q Okay. How have you met through this whole process?

21 A My interview with Mr. Roquemore on -- on my
22 statement.

23 Q Okay. And I noticed you call him "Jim." I mean,
24 do you -- are you -- do you know him well enough to
25 call him "Jim"?

- 1 A No, not really.
- 2 Q But you just called him "Jim"?
- 3 A Yeah.
- 4 Q Okay. Have you -- have you spoken with him, other
- 5 than your meeting with Mr. Roquemore?
- 6 A Yes.
- 7 Q Okay. On what --
- 8 A Just giving me an update on the whole process.
- 9 Q Okay. What -- what did he -- how many times did
- 10 you meet with him?
- 11 A Just once.
- 12 Q With Mr. Morton?
- 13 A Yes.
- 14 Q Okay. And what -- what did he -- what did he tell
- 15 you during that meeting?
- 16 A It was with Mr. Roquemore.
- 17 Q No.
- 18 A Just answered their questions.
- 19 Q Okay. Did they tell you anything, or did they just
- 20 ask you questions?
- 21 A No. Just asked questions.
- 22 Q What were some of the questions they asked?
- 23 A Basically, the same questions that were asked
- 24 today: If I knew anything, if I saw anything.
- 25 Q Uh-huh. Okay. Do you know Mr. Morton's phone

1 number?

2 A Yes.

3 Q Okay. Did he give it to you?

4 A Yes.

5 Q Okay. Why did he give it to you?

6 A If I had any information, to call him.

7 Q Okay. And have you called him?

8 A No.

9 Q Okay. This statement -- and Mr. Roquemore may have
10 asked you this question -- the one that you signed
11 on March 15th, '05, is there anything in there
12 that's inaccurate or needs to be rectified or
13 clarified or changed?

14 A No.

15 Q It's all accurate --

16 A Yes.

17 Q -- still today? Okay.

18 MR. PHILLIPS: I think that's all the
19 questions I have.

20 THE DEPONENT: Okay.

21 (Sotto voce discussion between Mr.
22 Roquemore and Mr. Morton.)

23 MR. ROQUEMORE: (To the deponent) Jennifer,
24 just a couple of quick follow-up questions.

25 REEXAMINATION

1 BY MR. ROQUEMORE:

2 Q You testified -- and I just want to make sure I've
3 got the order right -- that when you left the Money
4 that night, you went and picked up Mandy's car from
5 Britt's friend's house?

6 A Correct.

7 Q And then went to Britt's house, correct?

8 A Correct.

9 Q And then from Britt's house to the motel, correct?

10 A Correct.

11 Q Do you recall having to stop at a gas station that
12 night?

13 A I don't remember. I don't --

14 Q Don't recall --

15 A -- think so.

16 Q -- one way or the other?

17 A (Shakes head from side to side.)

18 Q After leaving the Money, the next time you remember
19 seeing Jackie Dover was at the motel?

20 A Yes.

21 Q Okay.

22 MR. ROQUEMORE: Thank you. That's all I've
23 got.

24 THE DEPONENT: Okay.

25 MR. ROQUEMORE: (To Mr. Phillips and Mr.

1 Dougall) Any other follow-up? (To the
2 deponent) You're all done.

3 THE DEPONENT: Thank you.

4 MR. ROQUEMORE: Thank you.

5 FURTHER DEPONENT SAITH NOT.

6 Signing waived.

7 (Whereupon, there being no further
8 questions, the deposition was
9 concluded at 11:31 a.m.)

10 (*This transcript may contain quoted material.
11 Such material is reproduced as read or quoted
12 by the speaker.)

13 (**Certificate accompanies sealed original only.)

EXHIBIT B

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS

Civil Action No.: 07-CP-46-2220

Pamela Dill as the Attorney-in-Fact)
and)
Natural Mother of Britten Teno,)
Plaintiff,)
vs.)

The Barn Club (a.k.a. The Money),)
William George (a.k.a. Gee Gee)
George), Jim Morton (a.k.a. Doc)
Morton), Brian Oxendine and)
Patrick Byrum)
Defendants.)

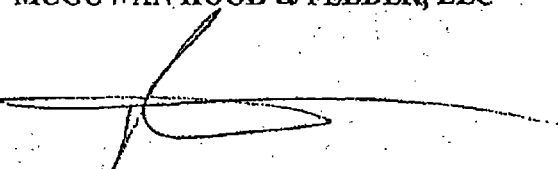
SUMMONS
(Jury Trial Demanded)

FILED-RECEIVED
2007 JUN 29 AM 11:17
DANIEL HAMILTON
C.C.P. & GS
YORK COUNTY, SC

TO: THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to Answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to said Complaint on the subscriber at his Office at 1539 Healthcare Drive, Rock Hill, South Carolina, 29732, within thirty (30) days from the service hereof, exclusive of the date of such service; and if you fail to Answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

MCGOWAN HOOD & FELDER, LLC


Robert V. Phillips
1539 Health Care Drive
Rock Hill, South Carolina 29732
(803) 327-7800 - Office
(803) 328-5656 - Facsimile
rphillips@mcgowanhood.com

Rock Hill, South Carolina
June 29, 2007

STATE OF SOUTH CAROLINA)
)
 COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS

C.A. NO. 07-CP-46- 2220

Pamela Dill as the Attorney-in-Fact)
 and)
 Natural Mother of Britten Teno,)
)
 Plaintiff,)

vs.)

The Barn Club (a.k.a. The Money),)
 William George (a.k.a. Gee Gee)
 George), Jim Morton (a.k.a. Doc)
 Morton), Brian Oxendine and)
 Patrick Byrum,)
)
 Defendants.)

COMPLAINT

(Jury Trial Requested)

DAVID HAMILTON
 C.C.P. & GS
 YORK COUNTY, SC

FILED-RECEIVED
 2007 JUN 29 AM 11:18

Plaintiff Pamela Dill as the Attorney-in-fact and natural mother Britten Teno and by and through his undersigned counsel and on his behalf, complaining of the above-named Defendants would respectfully show unto this Honorable Court the following:

JURISDICTION AND VENUE

1. Plaintiff Pamela Dill is a resident and citizen of York County, South Carolina. Britten Teno (hereinafter "Teno") is also a resident and citizen of York County, South Carolina. Pamela Dill is the natural mother and attorney-in-fact of Britten Teno and brings this lawsuit on his behalf.

2. Upon information and belief, Defendants William George (hereinafter "George") Jim Morton (hereinafter "Morton"), Brian Oxendine (hereinafter "Oxendine") and Patrick Byrum (hereinafter "Byrum") are residents and citizens of York County.

3. Upon information and belief, Defendant George and Defendant Morton own and operate the Defendant The Barn Club (a.k.a. The Money) (hereinafter "The Money") at 110 S.

Cherry Road in York County.

4. Upon information and belief, Defendant The Money is a nightclub operated by Defendants George and Morton at 110 S. Cherry Road.

5. Upon information and belief and at all times herein mentioned, Defendants Oxendine and Byrum were employees of The Money and were acting within their scope of employment.

FACTUAL ALLEGATIONS

6. All prior allegations, to the extent that they are not inconsistent herewith, are incorporated by reference.

7. On March 6, 2005, Teno was a patron at the Defendants' place of business, The Money.

8. On that same evening a fight broke out on the dance floor between two other patrons.

9. Being that Teno is a former Marine and wanting to prevent others from being harmed, Teno attempted to break up the fight.

10. Upon information and belief, Defendants Oxendine and Byrum, employed as "bouncers", then came over began beating people involved in the melee without respect or due regard to who instigated the fight and/or who was actually attempting to end the fight.

11. Upon information and belief the Defendants Oxendine and Byrum used excessive, unnecessary and unreasonable force, including but not limited to, the use of one or more large and heavy flashlights to beat Teno without just cause.

12. It also appears Teno was stomped and kicked in the head so severely that his brain began to bleed. The bleeding was so profuse that his brain swelled and caused debilitating brain

injuries, severe cognitive dysfunction, and loss of use of his limbs (paralysis) to the extent he is totally unable to care for himself and must be attended to on a round-the-clock basis.

13. He is also unable to work or perform any type of gainful employment and will require attendant care for the remainder of his life.

14. That Plaintiff Teno has suffered severe and permanent injuries as direct result of the beating by Defendants Oxendine and Byrum on March 6, 2005.

FOR A FIRST CAUSE OF ACTION

Negligent Failure to Provide Adequate Security Measures

15. All other allegations contained herein, to the extent that they are not inconsistent herewith, are incorporated by reference.

16. According to records and accounts compiled by the York County Sheriff's Office and Rock Hill City Police Department, The Money is a location which has had many complaints, over a long period of time, of large disorderly crowds, assaults, and shootings and/or stabbings, including but not limited to a murder.

17. From long experience, Defendants knew that The Money drew large crowds which often included persons engaged in violent criminal activity.

18. From long experience, Defendants knew that violent assaults often occurred in The Money, in which employees and others were often involved.

19. On information and belief, at various times, Defendants George and Morton employed person who were not qualified and/or had criminal backgrounds that would make them

patently unqualified to perform security at a night club.

20. Despite knowing of their duty to provide adequate security services to protect their customers, Defendants George and Morton breached their duty to provide adequate security by:

- a. failing to employ qualified security personnel;
- b. failing to employ sufficiently numerous security personnel;
- c. failing to protect their customers from attacks, assaults, and batteries in and around

The Money;

d. recklessly misrepresenting to police the circumstances associated with Plaintiff's beating on March 6, 2005; and

- e. in other such particulars as the evidence may show.

21. Upon information and belief, Defendants George and Morton, as owners and/or landlords of the property on which The Money was located, retained control of the parking lot and other common areas in and around The Money.

22. As owners and/or landlords of The Money, Defendants George and Morton had a duty to provide adequate security in such common areas under its control, in light of circumstances created/caused by the operation of Defendant The Money.

23. Defendants George and Morton had actual and constructive notice of the criminal activity, fighting, and other dangerous conditions in and around The Money.

24. Defendants George and Morton breached their duty to provide adequate security in and around the common areas under its control by failing to provide security in such areas.

25. Had these Defendants procured suitable security services for said common areas, such

security personnel would have been in a position to prevent the injuries to Teno.

26. As a direct and proximate result of the wrongful conduct of Defendants, Teno has suffered severe damages as alleged herein:

FOR A SECOND CAUSE OF ACTION

Negligent Hiring, Supervision, Training and/or Retention

27. All other allegations contained herein, to the extent that they are not inconsistent herewith, are incorporated by reference.

28. Defendants George and Morton had notice of the dangerous conditions in and about The Money, as alleged herein.

29. Defendants George and Morton had a duty to provide adequate security to protect their customers at The Money.

30. Upon information and belief, security personnel hired by Defendants George and Morton participated in beating Teno on March 6, 2005.

31. Upon information and belief, the York County Sheriff's Office has received complaints regarding assaults and batteries by The Money bouncers and other employees and in particular, with the use of heavy flashlights as weapons.

32. As The Money employees were involved in the beating or abduction of Teno, Defendants failed to properly supervise said employees for the purpose of protecting Teno and other persons similarly situated.

33. To the extent that Defendants procured any security personnel and/or other security measures, Plaintiff is informed and believe that Defendants failed to conduct proper background

checks to ensure that their security personnel was properly qualified and suitable for security services.

34. To the extent that Defendants procured any security personnel and/or other security measures, Teno is informed and believe that Defendants failed to properly supervise said security personnel to ensure that the security personnel protected customers and/or did not further escalate violence in The Money.

35. The Defendants had a duty to properly train and/or ensure that bouncers were properly trained before employing them as bouncers.

36. That the Defendants failed to properly train and/or ensure that bouncers were properly trained before employing them as bouncers.

37. As a direct and proximate result of Defendants' wrongful conduct, Teno has suffered severe damages as alleged herein.

FOR A THIRD CAUSE OF ACTION

Negligence/Recklessness

38. All other allegations, to the extent that they are not inconsistent herewith, are hereby incorporated by reference.

39. That Defendants Byrum and Oxendine had a duty to not assault and/or batter patrons without just cause.

40. That Defendants Byrum and Oxendine did and without just cause assault and beat Teno and violate said duty.

41. That as a direct and proximate result of this beating Teno was severely injured.

42. As alleged above, Defendants George and Morton own and/or operate The Money on Cherry Road.

43. Defendants owe a duty to operate The Money in a manner consistent with South Carolina law regarding public health, welfare, criminal laws, and other laws applicable to the operation of a nightclub/bar.

44. Defendants breached their afore-mentioned duties under South Carolina law by repeatedly and continuously operating The Money in a manner that exposes patrons to the threat of physical violence by The Money employees and by other patrons.

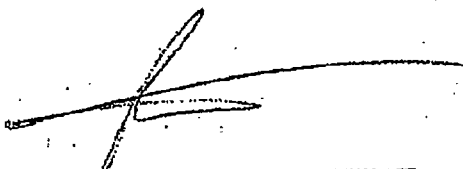
45. As a direct and proximate result of the negligent, grossly negligent, careless, and reckless acts and omissions of Defendants, Teno:

- a. Was severely, seriously, and painfully injured;
- b. Suffered extreme, painful and dangerous injuries from which Teno is informed and believes that he will suffer from for the rest of his life and will have permanent adverse effects for the rest of his life;
- c. Has incurred and will incur in the future substantial medical and doctor bills;
- d. Was subjected to extreme pain, mental anguish, suffering, and discomfort over a long period of time;
- e. Has been and will be prevented from attending his usual and ordinary household duties;
- f. Has been and will be prevented from enjoying his usual and normal hobbies, and recreational pastimes; and

g. Has lost substantial income, both past and future, as a result of his injuries and is no longer able to work or otherwise earn an income.

WHEREFORE, Plaintiff demands a jury trial on all legal issues and claims against Defendants, for actual and punitive damages to fully compensate Teno for his damage, for the attorneys fees and costs of this action applicable, and for such other and further relief that this Court may deem just and equitable.

MCGOWAN HOOD & FELDER, LLC



Chad A. McGowan, Esq.
Robert V. Phillips, Esq.
1539 Health Care Drive
Rock Hill, SC 29732
(803) 328-7800 Telephone
(803) 328-5656 Facsimile
Attorneys for Plaintiff

Rock Hill, South Carolina
June 26, 2007

EXHIBIT C

hereby certify this to be a true and correct copy.

Carolyn Ford
Carolyn Ford-Dat Entry Supervisor

COMMON POLICY DECLARATIONS

- ☒ COLONY INSURANCE COMPANY
☐ COLONY SPECIALTY INSURANCE COMPANY
☐ COLONY NATIONAL INSURANCE COMPANY

9201 FOREST HILL AVENUE, SUITE 200
RICHMOND, VA 23235

POLICY NUMBER
GL3145075

RENEWAL OF:

PDQ CODE:

94D

1. NAMED INSURED AND MAILING ADDRESS:

THE BARN, INC. DBA: THE MONEY

608 RABUN CIRCLE
ROCK HILL, SC 29730

PRODUCER:

032002

HULL & COMPANY (MID-ATLANTIC), INC.

14120 BALLANTYNE CORP. PL. #525

CHARLOTTE, NC 28277

Carolyn Ford
NOTARY PUBLIC

10-31-2009

My Commission Expires

2. POLICY PERIOD: From March 17, 2004 to March 17, 2005 12:01 A.M. Standard Time at your Mailing Address above.

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL OF THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

3. THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS INDICATED. THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.

COVERAGE PARTS

PREMIUM

Commercial General Liability Coverage Part	\$ 1,850.00
Commercial Property Coverage Part	\$ Not Covered
Commercial Crime Coverage Part	\$ Not Covered
Commercial Inland Marine Coverage Part	\$ Not Covered
Certified Terrorism Coverage (Per Policyholder Disclosure TRIA2002Notice-1202 attached.)	\$ Not Taken
Commercial Liquor Liability Coverage Part	\$ Not Covered
TOTAL	\$ 1,850.00
AGENT: GILL-YOUNG INSURANCE ROCK HILL SC	Policy Fee \$ 150.00 Inspection Fee \$ 125.00 \$ \$ Surplus Lines Tax 6% \$ 127.50

FLAT CANCELLATION
NOT Permitted

Premium shown is payable: 1,850.00
at inception.

Total Policy
Premium: 2,252.50

4. FORMS APPLICABLE TO ALL COVERAGES:

See Schedule of Forms and Endorsements - U001 (07/02)

5. BUSINESS DESCRIPTION: Private Club

Countersigned: 3/24/04 DJP/dmy

Date

By:

Robert L. Lowery
Authorized representative

Insured: THE BARN, INC. A: THE MONEY
Policy Number: GL3145075

SCHEDULE OF FORMS AND ENDORSEMENTS

Forms and Endorsements applying to and made part of this policy at the time of issuance:

NUMBER	TITLE
PJCG (04/03)	Policy Jacket
DCJ6550 (07/02)	Common Policy Declaration
DCJ6553 (07/02)	Commercial General Liability Coverage Part Declarations
CL170 (06/93)	Extension of Declarations
U002 (07/02)	Minimum Policy Premium
U094 (07/02)	Service Of Suit
U0017 (11/98)	Common Policy Conditions
U0249 (07/02)	South Carolina Changes - Cancellation and Nonrenewal
CG0001 (10/01)	Commercial General Liability Coverage Form
U003 (07/02)	Hazardous Materials Exclusions
U004 (07/02)	Miscellaneous Exclusions Endorsements
U048 (07/02)	Employment - Related Practices Exclusion
U159 (07/02)	Limitation of Coverage to Business Description
CG2167 (04/02)	Fungi or Bacteria Exclusion
U0021 (04/98)	Nuclear Energy Liability Exclusion Endorsement
U006 (07/02)	Assault And Battery Exclusion
U016 (07/02)	Athletic Or Sports Participants Exclusion
U018 (07/02)	Communicable Disease Exclusion
U042 (07/02)	Animal Liability Exclusion
U056 (07/02)	Exterior Insulation And Finish Systems Exclusion
U087 (07/02)	Total Liquor Liability Exclusion
U147 (07/02)	Weapons Exclusion
U046 (07/02)	Limitation Of Coverage To Designated Premises Or Project
CG2139 (10/93)	Contractual Limitation
CG2407 (01/96)	Products - Completed Operations Hazard Redefined
U02175 (11/02)	War, Certified Acts of Terrorism and Other Acts of Terrorism Exclusion

Important Notice: See the actual policy forms attached for the full title, terms and conditions.



In witness whereof, the Company has caused this policy to be signed by its President and Secretary as duly authorized representatives of the Company.

Dale A. Pilkington

President

Scott A. Wilson

Secretary

COMMERCIAL GENERAL LIABILITY COVERAGE PART DECLARATIONS

This coverage part consists of this Declarations form, the Common Policy Conditions, the Commercial General Liability Coverage Form and the endorsements indicated as applicable. (See COMMON POLICY DECLARATIONS for items 1 and 2.)

POLICY NO. GL3145075

NAMED INSURED: THE BARN, INC. DBA: THE MONEY

3. LIMITS OF INSURANCE

General Aggregate Limit (Other Than Products – Completed Operations)	\$	1,000,000.00
Products Completed Operations Aggregate Limit	\$	1,000,000.00
Personal & Advertising Injury Limit	\$	1,000,000.00
Each Occurrence Limit	\$	1,000,000.00
Damage To Premises Rented To You Limit	\$	50,000.00 Any One Premises
Medical Expense Limit	\$	5,000.00 Any One Person

RETROACTIVE DATE (CG 00 02 only) – Coverage A of this insurance does not apply to "bodily injury" or "Property damage" which occurs before Retroactive Date, if any, shown below.

Retroactive Date: NONE (Enter Date or "None" if no Retroactive Date Applies)

Location of All Premises You Own, Rent or Occupy (Same as Item 1 unless shown below):

See CL170

CLASSIFICATION	CODE NO.	PREMIUM BASIS	RATE	ADVANCE PREMIUM	
				PR / CO	ALL OTHER
See CL170					

4. FORMS / ENDORSEMENTS APPLICABLE:

See Schedule of Forms and Endorsements – U001 (07/02)

**TOTAL PREMIUM
FOR THIS
COVERAGE PART**

1,850.00

5. FORM OF BUSINESS: Corporation

Audit Period: Annual unless otherwise stated: Annual

COMMERCIAL GENERAL LIABILITY
EXTENSION OF DECLARATIONS

Policy Number GL3145075

LOCATION OF PREMISES

Location of All Premises You Own, Rent or Occupy:
110 Cherry Road, Rock Hill, SC 29732

PREMIUM

Classification	Code No.	Premium Basis	Rate		Advance Premium	
			Prem/Op	Pr/Co	Prem/Op	Pr/Co
Restaurant with Dance Floor	16817	\$ 250,000.00	7.4000	Included	1,850.00	Included
Extension of Declarations—Total Advance Premium \$ 1,850.00						

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

MINIMUM POLICY PREMIUM

The minimum earned premium for this policy will be calculated as follows:

1. The total policy premium as shown in the policy Declarations plus any premium adjustment by endorsements and any additional premium developed by audit. The due date for audit premiums is the date shown as the due date on the bill.
2. Audits that indicate a return premium will not reduce the minimum as stated in paragraph 1.
3. If the insured cancels this policy, the return premium will be 90% of the unearned premium subject to a minimum of 25 % of the minimum earned premium described in paragraph 1.
4. If the company cancels the policy for any reason, other than for non-payment of premium, then the insured will be returned the full amount of the unearned premium without any minimum premium restrictions.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SERVICE OF SUIT

Service of process may be made upon the Company to:

Claims Manager

Colony Insurance Company,
Colony National Insurance Company, or
Colony Specialty Insurance Company
9201 Forest Hill Avenue, Suite 200
Richmond, Virginia 23235

Where required by statute, regulation or other regulatory directive, the Company appoints the Commissioner of Insurance, or other designee specified for that purpose, as its attorney for acceptance of service of all legal process in the state in any action or proceeding arising out of this insurance.

The Commissioner or other designee is requested to forward process to the Company as shown above, or if required in his/her particular state, to a designated resident agent for service of process.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

D. Inspections And Surveys

1. We have the right to:
 - a. Make inspections and surveys at any time;

- b. Give you reports on the conditions we find; and

- c. Recommend changes.

2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

- a. Are safe or healthful; or
- b. Comply with laws, regulations, codes or standards.

3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

F. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual Named Insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SOUTH CAROLINA CHANGES – CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

OUTPUT POLICY COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL LIABILITY UMBRELLA COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART
EXCESS LIABILITY POLICY
FARM COVERAGE PART
FARM UMBRELLA LIABILITY POLICY
LIQUOR LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
PROFESSIONAL LIABILITY COVERAGE PART

A. Paragraphs 2. and 3. of the Cancellation Common Policy Condition are replaced by the following:

- 2. We may cancel this policy by mailing or delivering to the first Named Insured and the agent, if any, written notice of cancellation at least:**
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or**
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.**
- 3. We will mail or deliver our notice to the first Named Insured's and agent's last known addresses.**

B. The following is added to the Cancellation Common Policy Condition:

7. Cancellation Of Policies In Effect For 90 Days Or More

If this policy has been in effect for 90 days or more, or is a renewal or continuation of a policy we issued, we may cancel this policy only for one or more of the following reasons:

- a. Nonpayment of premium;**
- b. Material misrepresentation of fact which, if known to us, would have caused us not to issue the policy;**
- c. Substantial change in the risk assumed, except to the extent that we should reasonably have foreseen the change or contemplated the risk in writing the policy;**
- d. Substantial breaches of contractual duties, conditions or warranties; or**
- e. Loss of our reinsurance covering all or a significant portion of the particular policy insured, or where continuation of the policy would imperil our solvency or place us in violation of the insurance laws of South Carolina.**

Prior to cancellation for reasons permitted in this Item e., we will notify the Commissioner, in writing, at least sixty days prior to such cancellation and the Commissioner will, within thirty days of such notification, approve or disapprove such action.

Any notice of cancellation will state the precise reason for cancellation.

C. The following is added and supersedes any provisions to the contrary:

Nonrenewal

1. If we decide not to renew this policy, we will mail or deliver written notice of nonrenewal to the first Named Insured and agent, if any, at least 30 days before:
 - a. The expiration date of this policy, if the policy is written for a term of one year or less; or
 - b. An anniversary date of this policy, if the policy is written for a term of more than one year or for an indefinite term.

However, we will not refuse to renew a policy issued for a term of more than one year, until expiration of its full term, if anniversary renewal has been guaranteed by additional premium consideration.
2. Any notice of nonrenewal will be mailed or delivered to the first Named Insured's and agent's last known addresses. If notice is mailed, proof of mailing will be sufficient proof of notice.
3. Any notice of nonrenewal will state the precise reason for nonrenewal.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

SECTION I – COVERAGES

COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
- (2) The "bodily injury" or "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
 - (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

(1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot from equipment used to heat that building;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

(b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

(c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(i) Any insured; or

(ii) Any person or organization for whom you may be legally responsible; or

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:

- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;

- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III – Limits Of Insurance.

COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance ; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights.

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of websites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 14.a., b. and c. of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-Related

Any loss, cost or expense arising out of any:

- (1) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

COVERAGE C MEDICAL PAYMENTS

1. Insuring Agreement

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;
- provided that:

- (1) The accident takes place in the "coverage territory" and during the policy period;
- (2) The expenses are incurred and reported to us within one year of the date of the accident; and
- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;

(2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and

(3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while taking part in athletics.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

h. War

Due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.

SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.

- b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- e. All costs taxed against the insured in the "suit".
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance; we will not pay any prejudgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

- 2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
 - a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - b. This insurance applies to such liability assumed by the insured;
 - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
 - d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;

- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:
 - (1) Agrees in writing to:
 - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
 - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (c) Notify any other insurer whose coverage is available to the indemnitee; and
 - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (2) Provides us with written authorization to:
 - (a) Obtain records and other information related to the "suit"; and
 - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I – Coverage A – Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

SECTION II – WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

- (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;

- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or

- (d) Arising out of his or her providing or failing to provide professional health care services.

(2) "Property damage" to property:

- (a) Owned, occupied or used by,

- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

- c. Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and

- (2) Until your legal representative has been appointed.

- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

3. With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or

- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

4. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
2. The General Aggregate Limit is the most we will pay for the sum of:
 - a. Medical expenses under Coverage C;
 - b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
 - c. Damages under Coverage B.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.

5. Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

- a. Damages under Coverage A; and
- b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence".

6. Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.

7. Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in c. below.

b. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
 - (b) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
 - (c) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
 - (d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A - Bodily Injury And Property Damage Liability.
- (2) Any other primary insurance available to you covering liability for damages arising out of the premises or operations for which you have been added as an additional insured by attachment of an endorsement.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V - DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding web-sites, only that part of a website that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

4. "Coverage territory" means:

a. The United States of America (including its territories and possessions), Puerto Rico and Canada;

b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or

c. All other parts of the world if the injury or damage arises out of:

(1) Goods or products made or sold by you in the territory described in a. above;

(2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or

(3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in a. above or in a settlement we agree to.

5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

a. The repair, replacement, adjustment or removal of "your product" or "your work"; or

b. Your fulfilling the terms of the contract or agreement.

9. "Insured contract" means:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

b. A sidetrack agreement;

c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement;

f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

(1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;

(2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

(3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.

10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

11. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

(1) Power cranes, shovels, loaders, diggers or drills; or

(2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

- e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

(2) Cherry pickers and similar devices used to raise or lower workers;

- f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

(1) Equipment designed primarily for:

(a) Snow removal;

(b) Road maintenance, but not construction or resurfacing; or

(c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

a. False arrest, detention or imprisonment;

b. Malicious prosecution;

c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;

d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;

e. Oral or written publication, in any manner, of material that violates a person's right of privacy;

f. The use of another's advertising idea in your "advertisement"; or

g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

16. "Products-completed operations hazard":

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

- (1) Products that are still in your physical possession; or
- (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
 - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) You;
 - (b) Others trading under your name; or
 - (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- (2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

22. "Your work":

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work", and
- (2) The providing of or failure to provide warnings or instructions.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

HAZARDOUS MATERIALS EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. **SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, f. and SECTION I – COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, 2. Exclusions, n. and m.** are replaced by the following:

This insurance does not apply to:

Hazardous Materials

- (1) "Bodily injury", "property damage" or "personal and advertising injury" which would not have occurred in whole or part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "hazardous materials" at any time.
- (2) Any loss, cost or expense arising out of any:
 - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "hazardous materials"; or
 - (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of "hazardous materials".
- (3) Any obligations to share damages with or indemnify another party whom must pay damages because of injury or damage relating to "hazardous materials".
- (4) Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with paragraphs (1), (2), or (3) above.

This exclusion applies whether or not such "hazardous material(s)" has any function in your business, operations, premises, site or location.

- B. **SECTION V – DEFINITIONS** is amended and the following added:

"Hazardous materials" means "pollutants", lead, asbestos, silica and materials containing them.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

MISCELLANEOUS EXCLUSIONS ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. **SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2.** Exclusions is amended and the following is added:

EXCLUSION - INTERCOMPANY PRODUCTS SUITS

This insurance does not apply to any claim for damages by any Named Insured against another Named Insured because of "bodily injury" or "property damage" arising out of or resulting from "your products" and included within the "products-completed operations hazard".

- B. **SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2.** Exclusions and **COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, 2.** Exclusions are amended and the following are added:

USL&H, JONES ACT and MARITIME EXCLUSION

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of or resulting from:

- (1) operations over navigable waters or offshore including but not limited to drilling and production platforms, pipelines, and vessels; or
- (2) direct or indirect actions including but not limited to subrogation involving U.S. Longshore & Harbor Workers Compensation Act (USL&H), Merchant Marine Act ("Jones Act") or other maritime laws and any amendments to those laws.

EXCLUSION - PROFESSIONAL SERVICES

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of or resulting from the rendering or failure to render any "professional service" except by endorsement to this policy and then only to the extent of such endorsement.

"Professional service" means:

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications;
- (3) Engineering services, including related supervisory or inspection services;
- (4) Medical, surgical, dental, x-ray or nursing services, treatment, advice or instruction;
- (5) Any health or therapeutic service, treatment, advice or instruction;
- (6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement, or personal grooming;
- (7) Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;
- (8) Body piercing or tattooing services including but not limited to the insertion of pigment, collagen or any other foreign substance into or under the skin;
- (9) Services in the practice of pharmacy;
- (10) Law enforcement or firefighting services; and
- (11) Handling, embalming, disposal, burial, cremation or disinterment of dead bodies.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYMENT-RELATED PRACTICES EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions and SECTION I – COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, 2. Exclusions are amended and the following added:

This insurance does not apply to:

"Bodily injury" or "personal and advertising injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, assault, battery, discrimination or abuse including sexual abuse directed at any person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITATION OF COVERAGE TO BUSINESS DESCRIPTION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

BUSINESS DESCRIPTION:

Private Club

A. SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 1. Insuring Agreement, b. is amended and the following added:

(4) The "bodily injury" or "property damage" is caused by or results from the business described in the Schedule.

B. SECTION I – COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, 1. Insuring Agreement, b. is amended and the following added:

This insurance applies to "personal and advertising injury" caused by an offense in the course of the business described in the Schedule.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FUNGI OR BACTERIA EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:

2. Exclusions

This insurance does not apply to:

Fungi or Bacteria

- a. "Bodily injury" or "property damage" which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.
- b. Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

This exclusion does not apply to any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for consumption.

B. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:

2. Exclusions

This insurance does not apply to:

Fungi or Bacteria

- a. "Personal and advertising injury" which would not have taken place, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury.
- b. Any loss, cost or expense arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

C. The following definition is added to the Definitions Section:

"Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT (Broad Form)

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS POLICY
COMMERCIAL AUTO COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
PROFESSIONAL LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY NEW YORK DEPARTMENT OF
TRANSPORTATION
UNDERGROUND STORAGE TANK POLICY

1. The insurance does not apply:

A. Under any Liability Coverage, to "bodily injury" or "property damage":

- (1) With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
- (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.

C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material", if:

- (1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;
- (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an "insured"; or
- (3) The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.

2. As used in this endorsement:

"Hazardous properties" includes radioactive, toxic or explosive properties.

"Nuclear material" means "source material", "special nuclear material" or "by-product material".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ASSAULT AND BATTERY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions and SECTION I – COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, 2. Exclusions is amended and the following added:

Assault and Battery

This insurance does not apply to damages or expenses due to "bodily injury", "property damage" or "personal and advertising injury" arising out of or resulting from:

- (1) Assault and Battery committed by any person;
- (2) The failure to suppress or prevent assault and battery by any person;
- (3) The failure to provide an environment safe from assault and battery or failure to warn of the dangers of the environment which could contribute to assault and battery;
- (4) The negligent hiring, supervision, or training of any person;
- (5) The use of any force to protect persons or property whether or not the "bodily injury" or "property damage" was intended from the standpoint of the insured or committed by or at the direction of the insured.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ATHLETIC OR SPORT PARTICIPANTS EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY,
2. Exclusions is amended and the following added:

Athletic or Sport Participants

This insurance does not apply to "bodily injury" to any person arising out of or resulting from practicing for or participating in any athletic contest, exhibition, activity, game or sport.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMUNICABLE DISEASE EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions and COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, 2. Exclusions are amended and the following added:

Communicable Disease

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of or resulting from the:

- (1) transmission of a communicable disease; or
- (2) failure to perform services which were either intended to or assumed to prevent communicable diseases or their transmission to others.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ANIMAL LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions and COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, 2. Exclusions are amended and the following added:

Liability for Animals

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of or resulting from any animal.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXTERIOR INSULATION AND FINISH SYSTEMS EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

A. SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions is amended and the following added:

Exterior Insulation and Finishing Systems

This insurance does not apply to "bodily injury" or "property damage" arising out of or resulting from the manufacture, application, installation, use or sale of "exterior insulation and finish systems".

B. SECTION V – DEFINITIONS is amended and the following is added:

"Exterior insulation and finish system" means any exterior cladding or finish system or synthetic stucco used on any part of any structure that consists of any of the following components:

- a. a rigid or semi-rigid insulation board made of expanded polystyrene or other materials;
- b. the adhesive and/or mechanical fasteners used to attach the insulation board to the substrate;
- c. a reinforced base coat;
- d. a finish coat providing surface texture and or color.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TOTAL LIQUOR LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, c. is deleted and replaced with the following:

This insurance does not apply to:

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WEAPONS EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION 1 – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions is amended and the following added:

Use of Weapons

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of or resulting from the possession, ownership, maintenance, use of or threatened use of a lethal weapon, including but not limited to firearms by any person.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITATION OF COVERAGE TO DESIGNATED PREMISES OR PROJECT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions and COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, 2. Exclusions are amended and the following added:

This insurance applies only to "bodily injury", "property damage", "personal and advertising injury" and medical expenses arising out of or resulting from:

- (1) The ownership, maintenance or use of the premises shown in the Schedule; or
- (2) The project shown in the Schedule.

SCHEDULE OF PREMISES OR PROJECTS:

110 Cherry Rd.
Rock Hill, SC 29732

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CG 21 39 10 93

CONTRACTUAL LIABILITY LIMITATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The definition of "insured contract" in the DEFINITIONS Section is replaced by the following:

"Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract":
 - b. A sidetrack agreement;
 - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
 - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
 - e. An elevator maintenance agreement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRODUCTS/COMPLETED OPERATIONS HAZARD REDEFINED

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Description of Premises and Operations:

110 Cherry Rd.
Rock Hill, SC 29732

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

With respect to "bodily injury" or "property damage" arising out of "your products" manufactured, sold, handled or distributed:

1. On, from or in connection with the use of any premises described in the Schedule, or
2. In connection with the conduct of any operation described in the Schedule, when conducted by you or on your behalf,

Paragraph a. of the definition of "Products-completed operations hazard" in the DEFINITIONS Section is replaced by the following:

"Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" that arises out of "your products" if the "bodily injury" or "property damage" occurs after you have relinquished possession of those products.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAR, CERTIFIED ACTS OF TERRORISM AND OTHER ACTS OF TERRORISM EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART

A. The following exclusion is added:

This insurance does not apply to:

WAR, TERRORISM AND PUNITIVE DAMAGES

"Any injury or damage" arising, directly or indirectly, out of:

(1) War, including:

- (a) undeclared or civil war;
- (b) warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents;
- (c) insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these;

(2) "Certified acts of terrorism" or "other acts of terrorism", including any action taken in hindering or defending against an actual or expected incident of "certified acts of terrorism" or "other acts of terrorism"; or

(3) Any act of terrorism:

- (a) that involves the use, release or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination; or
- (b) that is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
- (c) in which pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials;

regardless of any other cause or event that contributes concurrently or in any sequence to the injury or damage in (1), (2) or (3) above; including

(4) Damages arising, directly or indirectly, out of (1), (2) or (3) above that are awarded as punitive damages.

B. Exclusion h. under Paragraph 2., Exclusions of Section I – Coverage C – Medical Payments does not apply.

C. The following definitions are added to the Definitions Section:

For the purposes of this endorsement, "any injury or damage" means any injury or damage covered under any Coverage Part to which this endorsement is applicable, and includes but is not limited to "bodily injury", "property damage", "personal and advertising injury", "injury" or "environmental damage" as may be defined in any applicable Coverage Part.

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002. The federal Terrorism Risk Insurance Act of 2002 sets forth the following criteria for a "certified act of terrorism":

- a. The act resulted in aggregate losses in excess of \$5 million; and

POLICYHOLDER DISCLOSURE

NOTICE OF INSURANCE COVERAGE FOR CERTIFIED ACTS OF TERRORISM

You are hereby notified that, under the Terrorism Risk Insurance Act of 2002, effective November 26, 2002, you now have a right to purchase insurance coverage for losses arising out of acts of terrorism, as defined in Section 102(1) of the Act.

The term "act of terrorism" means any act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States: to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of an air carrier or vessel or the premises of a United States mission; and to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

Coverage under your policy may be affected as follows:

You should know that coverage provided by this policy for losses caused by certified acts of terrorism is partially reimbursed by the United States under a formula established by federal law. Under this formula, the United States pays 90% of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The premium charged for this coverage is provided below and does not include any charges for the portion of loss covered by the federal government under the act.

You should also know that your policy does not provide coverage for acts of terrorism that are not certified by the Secretary of the Treasury.

Election or Rejection of Certified Terrorism Insurance Coverage

You must elect or reject this coverage for losses arising out of certified acts of terrorism, as defined in Section 102(1) of the Act, before the effective date of this policy. Your coverage cannot be bound unless our representative has received this form signed by you on behalf of all insureds with all premiums due.

☐ **Coverage election.** I hereby elect to purchase coverage for certified acts of terrorism, as defined in Section 102(1) of the Act for a prospective annual premium of \$ Not Taken. I understand that I will not have coverage for losses arising from any non-certified acts of terrorism.

OR

☒ **Coverage rejection.** I hereby elect **not** to purchase coverage for certified acts of terrorism, as defined in section 102(1) of the Act. I understand that I will not have coverage for any losses arising from certified or non-certified acts of terrorism.

"Signature on File"

Policyholder/Applicant's Signature-
Must be person authorized to sign for all Insureds

Print Name
THE BARN, INC. DBA: THE MONEY

Named Insured

Date

Colony Insurance Company

Insurance Company

GL3145075

Policy Number

Submission Number

032002

Producer Number

HULL & COMPANY (MID-ATLANTIC), INC.

Producer Name

14120 BALLANTYNE CORP. PL. #525

Street Address

CHARLOTTE, NC 28277

City, State, Zip

The producer shown above is the wholesale insurance broker your insurance agent used to place your insurance coverage with us. Please discuss this Disclosure with your agent before signing.

EXHIBIT D

STATE OF SOUTH CAROLINA	)	
	)	IN THE CIRCUIT COURT
COUNTY OF YORK	)	
COLONY INSURANCE COMPANY,	)	2007-CP-46-2638
	)	
PLAINTIFF,	)	
	)	
VS.	)	DEPOSITION
	)	
WILLIAM GEORGE; JIM MORTON;	)	OF
BRIAN OXENDINE; PATRICK	)	
BYRNUM; THE BARN CLUB a/k/a	)	EDWARD JAMES MORTON
THE MONEY; PAMELA DILL as	)	
Attorney-in-Fact for	)	
BRITTEN TENO; and BRITTEN	)	
TENO,	)	
	)	
DEFENDANTS.	)	

DEPOSITION OF EDWARD JAMES MORTON, TAKEN BEFORE ESSIE BELTON, A NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA, COMMENCING AT THE HOUR OF 10:11 A.M., MONDAY, SEPTEMBER 15th, 2008, AT THE LAW OFFICE OF LELAND B.GREELEY, 128 EAST MAIN STREET, ROCK HILL, SOUTH CAROLINA.

COPY #091408

REPORTED BY ESSIE BELTON

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APPEARANCES

FOR THE PLAINTIFF:

WILLIAM A. COLLINS, JR.,
ESQUIRE
THE DOUGALL LAW FIRM
1700 WOODCREEK FARMS ROAD
ELGIN, SOUTH CAROLINA
29045
(803) 865-8858

FOR THE DEFENDANT:

LELAND B. GREELEY
THE LAW OFFICE OF LELAND
B. GREELEY, P.A.
128 EAST MAIN STREET,
SUITE 102
ROCK HILL, SOUTH CAROLINA
29730
(803) 329-0088

REPORTED BY:

ESSIE BELTON

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PLAINTIFF'S EXHIBIT #1, COPY OF A DOCUMENT ENTITLED
"COMMON POLICY DECLARATIONS" WITH ATTACHED ENDORSEMENTS,
EXCLUSIONS, ET CETERA
(46 PAGES) ----- 11

1 THE READING AND SIGNING OF THIS DEPOSITION IS
2 WAIVED BY THE DEPONENT AND COUNSEL FOR THE
3 RESPECTIVE PARTIES.

4 WHEREUPON,

5 EDWARD JAMES MORTON, BEING DULY SWORN AND
6 CAUTIONED TO SPEAK THE TRUTH, THE WHOLE
7 TRUTH, AND NOTHING BUT THE TRUTH, TESTIFIED
8 AND DEPOSED AS FOLLOWS:

9 EXAMINATION

10 BY MR. COLLINS:

11 Q Mr. Morton, how are you doing today?

12 A I'm fine, sir.

13 Q I know you sat in previously during Mr.
14 George's and Mr. Oxendine's depositions, so I
15 don't think I'll need to go over the -- the
16 ground rules again with you. I will say, for
17 purposes of this depositions, we will reserve all
18 objections except as to form. Is that agreeable
19 with you?

20 A Yes, sir.

21 Q All right. Do you have any questions before
22 we get started?

23 A No, sir.

24 Q Could you give me your full name for the
25 record, please?

1 A Edward James Morton.

2 Q Mr. Morton, how old are you today?

3 A I'm 40 years old.

4 Q What's your date of birth?

5 A 2/21/68.

6 Q What is your Social Security number?

7 A 248-25-3576.

8 Q What's your current address?

9 A 608 Rabun, R-A-B-U-N, Circle.

10 Q That's in Rock Hill?

11 A Yes, sir; it is.

12 Q What's the zip?

13 A 29730.

14 Q Are you married?

15 A Yes, sir; I am.

16 Q What's your wife's name?

17 A My wife's name is Crystal Lynnette Morton.

18 Q Is that with a C or a K?

19 A C.

20 Q Would you spell Lynnette for me?

21 A L-Y-N-N-E-T-T-E.

22 Q And how old is Crystal?

23 A She's twenty-nine.

24 Q When did you all get married?

25 A Seven years ago.

1 Q Do you have any children?

2 A Yes, sir; three.

3 Q Three. What are their names?

4 A Edward James Morton, II; Jace --

5 Q How old?

6 A Six. Jace Benjamin Morton; he's two and a

7 half. Dillin Jackson Morton; he's one.

8 Q Dillin with a Y or an I?

9 A D-I-L-L-I-N.

10 Q And how old is he? I'm sorry.

11 A He's one.

12 Q One. Do you have any other immediate family

13 in the Rock Hill area?

14 A Yes, sir.

15 Q You need to let me know who they are.

16 A Yes, sir. I have my mother, Glen Ree Morton.

17 Q What's her address?

18 A 500 Ark Street. I have my brother,

19 Christopher Glen Morton.

20 Q And what's his address?

21 A I'm not sure.

22 Q How old is Christopher?

23 A He's twenty-five.

24 Q Okay.

25 A I have my sister, Donna Lynn Morton; she

1 lives with my mother.

2 Q How old is she?

3 A She's 30 years old.

4 Q Okay.

5 A She takes care of my mom. My mom's bed-

6 ridden.

7 Q Do -- I think I probably know the answer to
8 this question, but do either your brother or
9 sister have any children over the age of
10 eighteen?

11 A No, sir.

12 Q Do you have any other aunts, uncles, anything
13 of that type in the Rock Hill area?

14 A Yes, sir. In the Rock Hill area, on my
15 mother's side, Buchanans. They're from Fort
16 Mill. My mother was the last of ten, so --

17 Q Oh, wow.

18 A I'm not -- I'm not real familiar.

19 Q That's okay. How old is your mother?

20 A She's 61 years old.

21 Q Any other family?

22 A Not immediate family.

23 Q Not immediate, okay. Are either of your
24 brother or sister married?

25 A No, sir.

1 Q All right. I'm going to ask you a little bit
2 -- kind of get into the -- the incident, for the
3 reason we're here. I want to ask you a little
4 bit about The Money, first. Could you tell me
5 what The Money is?

6 A The Money is a non-profit eleemosynary social
7 club.

8 Q Where is it located?

9 A 111 South Cherry Road.

10 Q Is there another company that -- that runs
11 The Money?

12 A Well, the corporate name is The Barn Club,
13 Inc., doing business as The Money.

14 Q Do you have an official capacity with The
15 Barn Club, Inc.?

16 A At this time, or at the time of the incident?

17 Q Well, let's start at the time of the incident
18 and then we'll go into now.

19 A At the time of the incident, I was the
20 president of the corporation --

21 Q Okay.

22 A -- and I did all the management of the day-
23 to-day business.

24 Q How about now?

25 A At this time, I'm just the representative of

1 the corporation for this particular lawsuit.

2 Q What is the corporate structure of the
3 corporation now?

4 A A guy by the name of Isaac Spivey sits as the
5 corporate president.

6 Q Are there any other officers?

7 A No, sir; not at this time.

8 Q And do you have, as the representative of the
9 corporation, is that in the capacity simply for
10 -- for this deposition? Do you have any other
11 capacity with the -- with the company now?

12 A No, sir.

13 Q And you don't do any business for The Money
14 now?

15 A No, sir.

16 Q As president and running the day-to-day
17 operations of the club back in 2005, what were
18 your more specific duties?

19 A Ordering stock, inventory, overseeing
20 maintenance, interviewing employees, hiring
21 employees, training employees, accounts payable,
22 director of entertainment.

23 Q From the financial side, did you have any
24 duties on -- on that side, I guess, as far as the
25 books or -- or anything?

1 A Yes, sir; to a certain extent.

2 Q What were those duties?

3 A We -- I made the deposits, report everything
4 to the CPA.

5 Q Did you have any occasion to ever review any
6 of the insurance policies or -- or any documents
7 like that?

8 A I would be the person who would be
9 responsible for getting the insurance. As far as
10 reviewing the documents, I didn't really do a lot
11 of reviewing of documents, you know, until this
12 case came about.

13 Q As far as your responsibility for getting
14 insurance, what -- what steps did you take to get
15 that?

16 A Well, I would go to the Gilliam Young
17 Insurance, give them a list of what kind of
18 insurance we needed, coverages, and then she
19 would say "Sign here" and "This is how much the
20 check will be."

21 Q What type of coverages did you generally tell
22 them that you needed for The Money?

23 A Generally, it was just monetary amounts, but
24 specifically, I took a list from the Abram and
25 Family Partnership.

1 Q From the who?

2 A The Abram and Family Partnership.

3 Q Who was -- what is that?

4 A That's the people who own the building.

5 Q The building that The Money is in?

6 A Yes, sir.

7 Q Do you happen to have a copy of that list,
8 still?

9 A No, sir.

10 Q Do you recall what -- what type of things
11 were on that list?

12 A You know, the amounts of coverage that we
13 needed for the building, the amounts of coverage
14 we needed for liquor liability, certain things
15 they didn't want exclusions for.

16 Q Do you remember what things they did not want
17 exclusions for?

18 A The only one I specifically remember is the
19 assault and battery exclusion.

20 Q They said they did not want that exclusion?

21 A Yes, sir.

22 Q Now, did the -- did the Abram and Family
23 Partnership have anything -- have any capacity
24 with The Barn Club, Inc. doing business as The
25 Money?

1 A None at all.

2 Q They owned the building and rented it out to
3 you, basically?

4 A They rented it to the corporation --

5 Q Rented by -- when I say "you," I mean the
6 corporation. Once you spoke with the people at
7 Gilliam Young and let them know what you needed,
8 and they told you -- they would tell you "Sign
9 here" and "This is how much the check would be,"
10 would they send you a copy of the insurance
11 policy? Where would the insurance policy go?

12 A Yes. It would come to me. Usually a month
13 or two later, we would get a book in the mail.

14 Q Okay.

15 A I would just file it under our insurance; you
16 know, put it in a file under "insurance."

17 MARKED AS PLAINTIFF'S EXHIBIT #1,
18 DEPOSITION OF EDWARD JAMES MORTON, TAKEN
19 9/15/2008. COPY OF A DOCUMENT ENTITLED
20 "COMMON POLICY DECLARATIONS" WITH
21 ATTACHED ENDORSEMENTS, EXCLUSIONS, ET
22 CETERA (46 PAGES).

23 Q I'm going to hand you what's been marked
24 Plaintiff's Exhibit #1. I'm going to give you a
25 little bit of time to look over that, if you

1 want.

2 A I haven't had time to completely read it, but
3 of course --

4 Q Sure. To the best of your -- your
5 recognition, did this appear to be the insurance
6 policy that was in effect for The Money as of
7 March 6th, 2005?

8 A This looks to be somewhat of the cover sheet
9 that I would have signed, something similar to
10 this, and the -- your book that they would send
11 me out -- I've only looked through it like after
12 the fact, so I would say that I believe it is,
13 but I can't say word for word that it is.

14 Q And just as a -- for the record, I know it
15 says on the front that, under number one, the
16 named insured and mailing address, it says "The
17 Barn, Inc. doing business as The Money;" but, as
18 I understand, that describes The Barn Club, Inc..
19 Is that correct, due to the fact that this is The
20 Money?

21 A Yes, sir.

22 Q I'm going to ask you to turn to the -- the
23 blue-tabbed section that's part of the policy,
24 and could you tell me what -- what this section
25 is?

1 A I mean, I can read it to you.

2 Q That would be fine.

3 A "This endorsement changes this policy.

4 Please read it carefully. Assault and Battery

5 Exclusion: This endorsement modifies the

6 insurance provided under the following commercial

7 general liability coverage part. Section one

8 coverages: Coverages a bodily injury and

9 property damage liability. Two, Exclusion of

10 section one coverages: Coverage be personal and

11 advertised injury and liability to exclusions as

12 amended and the following added. Assault and

13 Battery. This insurance does not apply to

14 damages or expenses due to bodily injury,

15 property damage, personal or advertised injury

16 arising out of a resulting problem; number one,

17 assault and battery committed by any person;

18 number two, the failure to suppress or prevent

19 assault and battery by any person; number three,

20 the failure to provide an environment safe from

21 assault and battery or failure to warn of the

22 dangers of the environment which contribute to

23 assault and battery; number four, unable to hire,

24 supervision and training of any person; number

25 five, the use of any force to protect persons or

1 property whether or not the bodily injury or
2 property damage was intended from the standpoint
3 of the issue or committed by or at the direction
4 of the insured. All other terms and conditions
5 will apply to the mandate."

6 Q Do you have any reason to dispute that this
7 exclusion is part of the policy that was issued
8 to The Money during that time?

9 A Yes.

10 Q And what is the basis for that?

11 A I would dispute it on the grounds that we
12 specifically asked for an insurance policy that
13 did not have an assault and battery exclusion.

14 Q On the grounds that the Barn Club did not
15 want that, or the Abram and Family Partnership
16 did not want that?

17 A Well, as part of our lease, we are required
18 to keep our insurance as the Abram and Family
19 Partnership would require. So, if they required
20 that, The Barn Club would also require that. So,
21 when The Barn Club, Inc. made me a representative
22 at the time, I went and gave her a list of these
23 exclusions that would be the same as The Barn
24 Club, Inc., saying, "We do not want these
25 exclusions."

1 Q When you -- when you got this policy and this
2 exclusion was in it, did you go back to the
3 insurance company and tell them, "We do not want
4 this exclusion. Please recalculate for us and
5 draft a new policy"?

6 A I didn't realize that it was in there.

7 Q Okay.

8 A You know, it comes a good bit after, so
9 basically we would have -- this incidence would
10 have happened sometime during around our renewal
11 time, you know --

12 Q Uh-huh.

13 A -- and if it was -- if it was at a time when
14 we were ending up a policy or beginning a policy
15 -- usually, when you are given a policy, you
16 know, you don't get the book until months later,
17 and truthfully, you know, it's -- it's a very
18 hard read. It's a very -- no offense -- it's
19 kind of like gobblety-gook.

20 Q Totally understandable. No offense taken,
21 and I guess I should rephrase my question. You
22 would not dispute that this exclusion was, in
23 fact, in effect; you would dispute that it should
24 have been included in the first place?

25 A The exclusion should have been included in

1 the first place, and I had no knowledge of the
2 fact until after, you know, we had to go back,
3 you know, because of this liability lawsuit that
4 this was -- that this exclusion was in place.

5 Q Now, with respect to the incident of March
6 6th, 2005, what type of entity was The Money at
7 that time; was it the same entity as it is now?

8 A Yes, sir.

9 Q Were you present at -- at The Money on the
10 night of March 6th, 2005, when the incident in
11 question occurred?

12 A No, sir; I was not.

13 Q When did you learn of this incident? Well,
14 first, I guess, let me break that up. First,
15 when did you learn of the incident happening,
16 itself?

17 A Well, the first time that I had any knowledge
18 that there had been a small scuffle at The Money
19 was the night of. You know, I checked in at
20 closing that night; was told by our head of
21 security that they had actually two small
22 scuffles on the dance floor, two separate events
23 --

24 Q Right.

25 A -- and that they had asked all parties to

1 leave and the ones that were necessary not to
2 return to the -- to the nightclub ever again --
3 revoke their memberships, put them on a "no
4 trespass" notice.

5 Q When did you learn more specifically of -- of
6 any injury to Britten Teno?

7 A Well, in our opinion, at the night of, and I
8 only use this terminology as someone who has
9 worked in the bar business 25 years. We would
10 have called this specific event a non-event, and
11 I -- meaning that it didn't seem like that there
12 was really -- there was no reports of any
13 injuries -- no really any visible injuries, you
14 know, on a Saturday night or Sunday morning that
15 this -- this supposedly happened. The first time
16 that I learned that Britten Teno had injuries was
17 when the police came to investigate approximately
18 four or five days later.

19 Q Did any of the -- the staff that you spoke to
20 that night after closing mention Mr. Teno
21 specifically?

22 A Not specifically that night.

23 Q What is your understanding of what happened
24 that night?

25 A Well, you know, I wasn't there.

1 Q Right.

2 A I can't give a sure thing of what happened.

3 Q Right.

4 A I spoke to six or eight people on the dance
5 floor that were non-employees of The Money, you
6 know, some who had not had anything to drink that
7 night. I spoke to seven floormen, a manager, the
8 people who were involved in the -- that we --
9 that we can say by witnesses admittedly are
10 involved and have admitted it through
11 depositions. I spoke to the police who
12 investigated it. I spoke to the people who took
13 him home. No time can we ever put Britten Teno
14 being assaulted at The Money. You know, there's
15 no witness to him being assaulted, besides the
16 fact that he -- that he tackled a guy named
17 Jackie Dover. Okay, you know, other than that, I
18 can't say for sure that he was assaulted. I know
19 that when -- I can't say for sure he was. I
20 have, you know, rumors and feelings of what may
21 have happened, but I can't -- I couldn't say 100%
22 for sure.

23 Q During the time of this incident, I know you
24 said you were -- you were president of The Barn
25 Club, Inc.. Were there any other officers at

1 that time?

2 A For about half of that year, William George
3 sat as the vice-president. His main duties were
4 just consulting. He was the original president
5 when I took over as manager of The Money. He was
6 the president of the corporation for the first
7 two years that I was there and then I took over
8 as the president of the corporation, and he went
9 into the vice-president, and basically, he had
10 nothing to do with day-to-day business at our --
11 you know, basically, he has a plethora of
12 knowledge about the bar business, and about
13 social clubs and promotions and ABL Laws, so to
14 speak, and that's why he was compensated for
15 that, you know.

16 Q So he was technically vice-president at this
17 time?

18 A At that time..

19 Q And you two were the only officers?

20 A Yes, sir.

21 Q When did your involvement with The Barn Club,
22 Inc. cease?

23 A August 12th, 2008.

24 Q And what do you do now?

25 A What do I do?

1 Q Yes. What is your occupation now?

2 A I'm just an entrepreneur, business owner.

3 Q What type of business is --

4 A I work on -- in the amusement industry.

5 MR. COLLINS: Mr. Morton, I think that's all

6 the questions I have for you at this time.

7 I'm going to let Mr. Greeley ask you any

8 questions that he may have.

9 MR. GREELEY: I have none.

10 MR. COLLINS: Well, then I think that we are

11 done. I appreciate your time, Mr. Morton.

12 [FURTHER DEPONENT SAITH NOT.]

13 [SIGNING WAIVED.]

14 [WHEREUPON, THE DEPOSITION WAS

15 CONCLUDED AT 10:37 A.M.]

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ASSIGNMENT OF CLAIMS
AND
COVENANT NOT TO EXECUTE

This is an assignment of all causes of action, now vested in Barn Club, Inc. d/b/a The Money and/or those that belong to Jim Morton as former President of said entity, against any insurance company, insurance agency or agent or insurance broker, arising out of an alleged incident that allegedly occurred on March 6, 2005 at The Barn Club, Inc. d/b/a The Money and a subsequent lawsuit filed against Barn Club, Inc. d/b/a The Money, William George, Jim Morton, Brian Oxendine and Patrick Byrum (Civil Action No.: 07-CP-46-2220), on June 29, 2007 by Pamela Dill as the Attorney-in-Fact and Natural Mother of Britten Teno.

Recitals

WHEREAS, Britt Teno suffers severe and permanent impairment. His impairments have left him totally disabled requiring full time care to perform his activities of daily living.

WHEREAS, the above named were served with the Summons and Complaint. The Complaint alleged, among other things, that Britten Teno was injured by excessive use of force by the bouncer/security/employees of Barn Club, Inc. d/b/a The Money and/or that Britten Teno was injured by a fight that arose on the Defendants' property due to negligent hiring, training and supervision of its employees.

WHEREAS, Colony Insurance Company, insurer for Barn Club, Inc. d/b/a The Money, was sent a copy of the Summons and Complaint. An Answer of denial and other defenses was subsequently made on behalf of these named Defendants.

WHEREAS, Colony Insurance Company then on August 1, 2007, filed a declaratory

judgment action against the William George, Jim Morton, Brian Oxendine, Patrick Byrum, Barn Club, Inc. d/b/a The Money and Pamela Dill as Attorney-in-Fact for Britten Teno and Britten Teno (Civil Action No.: 2007-CP46-2638). The Complaint filed by Colony Insurance Company alleges that in a policy sold to a bar/night club that it is not responsible to ensure and indemnify its insured for any of the following bodily or personal injury claims:

- 1) Assault and battery committed by any person;
- 2) The failure to suppress or prevent assault and battery by any person;
- 3) The failure to provide an environment safe from assault and battery or failure to warn of the dangers of the environment which could contribute to assault and battery;
- 4) The negligent hiring, supervision or training of any person; and

WHEREAS, Colony Life Insurance also alleged it was not responsible for losses pertaining to "bodily injury" or "property damage" for which any insured may be held liable by reason of:

- 1) "Causing or contributing to the intoxication of any person...."

WHEREAS, Colony Life Insurance has also filed a Motion for Summary Judgment in this matter stating that "the language of the policy could not be any clearer" and therefore no coverage is afforded to the insureds relating to any of the allegations made in the original complaint. This motion was denied based on the court's determination that the "policy provisions at issue create an ambiguity

WHEREAS, despite this ruling Colony Insurance is proceeding forward with trial on the exact same issues. Logic and reason clearly dictate that if the policy was ambiguous at the summary judgment hearing that very same policy will be also be held ambiguous and thus construed against the drafter and provide coverage to the insured(s). The issues are exactly the

same as the summary judgment hearing and the only dispute is the language of the policy. To continue to deny coverage in this matter at this point is clearly unreasonable and in bad faith. Colony Insurance is putting its own interests ahead of its insured.

WHEREAS, the Defendant, The Barn Club, Inc. d/b/a The Money, is the named insured under the policy at issue and has confessed judgment in the underlying tort case filed against it in an amount to be determined. This judgment has been filed with the Clerk of Court in the York County Court of Common Pleas.

WHEREAS, The Barn Club, Inc. d/b/a The Money believes it has causes of actions against one or all of the following and others for the harm caused by the following acts and/or omissions:

- 1) Failure of Colony Insurance accept that it should provide coverage for the acts alleged in the underlying tort complaint;
- 2) Failure of Colony to pay the claim for which a valid judgment lies against its insured.
- 3) Failure of the insurance agent for Colony Insurance who sold The Barn Club, Inc. d/b/a The Money a policy to a bar/night club that would actually provide the types of coverage that The Barn Club, Inc. d/b/a The Money actually requested and believed it had and for failing to sell The Barn Club, Inc. d/b/a The Money the type of coverage that any reasonable bar/night club owner would need.

Agreement

THEREFORE, Barn Club, Inc. d/b/a The Money hereby assigns and transfers all claims or causes of action of which are now possessed by Barn Club, Inc. d/b/a The Money, arising

from the above described events against any party, to Pamela Dill as Attorney-in-Fact and Natural Mother of Britten Teno, who shall have the right to prosecute the same to satisfy the judgment that she holds against Barn Club, Inc. d/b/a The Money, and to collect all other actual and punitive damages and attorney fees Barn Club, Inc. d/b/a The Money may have a right to claim against any or all parties as a result of the judgment entered against it in the case of Pamela Dill as the Attorney-in-Fact and Natural Mother of Britten Teno v. The Barn Club, Inc. d/b/a The Money, William George, Jim Morton, Brian Oxendine and Patrick Byrum (Civil Action No.: 07-CP-46-2220), as to any other matters related to the claim which resulted in the judgment being entered against Barn Club, Inc. d/b/a The Money, and for any claims it may have arising out of any liability insurance coverage for Barn Club, Inc. d/b/a The Money, and its relationship to its insurance agency or sales agent and carriers.

In consideration of this assignment, Pamela Dill as the Attorney-in-Fact and Natural Mother of Britten Teno hereby covenants not to execute against any assets of Barn Club, Inc. d/b/a The Money, William George, Jim Morton, Brian Oxendine, Patrick Byrum, or Isaac Spivey, nor maintain, or bring any action against Isaac Spivey. Additionally, Defendants William George, Jim Morton, Brian Oxendine and Patrick Byrum will be dismissed with prejudice from this lawsuit and Plaintiff agrees to mark judgment as satisfied at the conclusion of any action arising against Colony Insurance that is brought as a result of the rights conveyed in this assignment.

Execution of this assignment ~~shall bestow~~ upon Pamela Dill as the Attorney-in-Fact and Natural Mother of Britten Teno each and every right presently held by Barn Club, Inc. d/b/a The Money, arising from these claims, including the right to prosecute any action in the name of Barn Club, Inc. d/b/a The Money, and agrees to protect the rights of the assignor as to the

insurance agency regarding any liability for the costs of defense that may accrue to assignor.

This assignment is intended to bind the parties hereto and their heirs and assigns.

Isaac Spivey
Isaac Spivey
President

The Barn Club, Inc. d/b/a The Money

10/09/09
Date

Witnesses as to _____

SWORN to before me this

9 day of October, 2009

Kary L. Hill
Notary Public for South Carolina

My Commission Expires:

"OFFICIAL SEAL"

Kary L. Hill, Notary Public

State of South Carolina

Comm. Exp. 2-25-2013

Pamela Dill

Pamela Dill as the Attorney-in-Fact and Natural
Mother of Britten Teno

10/9/09
Date

Witnesses as to _____

SWORN to before me this

9 day of October, 2009

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State of South Carolina

Comm. Exp. 02-25-2013

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

S. Jackson Kimball, Special Circuit Judge

Case No. 2010-CP-46-02851

Pamela Dill as the Attorney-in-Fact
and Natural Mother of Britten Teno, ... Appellant,

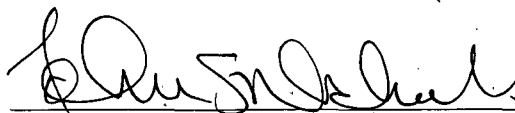
v.

Colony Insurance Company, Gill-Young
Insurance (now known as "Gill Insurance
LLC") or ("The Gill Agency") and Hull
& Company, Inc., ... Respondents.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all material
proposed to be included by any of the parties and not any other material.

January 10, 2012



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STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

The Honorable S. Jackson Kimball, Special Circuit Judge

Case No. 2010-CP-46-02851

Pamela Dill as the Attorney-in-Fact
and Natural Mother of Britten Teno, ... Appellant,

v.

Colony Insurance Company, Gill-Young
Insurance (now known as "Gill Insurance
LLC") or ("The Gill Agency") and Hull
& Company, Inc., ... Respondents.

PROOF OF SERVICE

The undersigned hereby certifies that on the date indicated below she served
counsel for the Respondents with a copy of the *Record on Appeal* by mailing a copy of
the same by United States Mail with first class postage prepaid to the following
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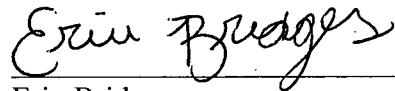
JAN 14 2013

SC Court of Appeals

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January 14, 2013
Columbia, South Carolina


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