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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY
G. Edward Welmaker, Circuit Court Judge
Charles B. Simmons, Jr., Master-in-Equity

SC Court of Appeals

Case No. 2010-CP-23-6767

Arthur M. Field, ... Respondent-Appellant,

v.

Henry McMaster, Attorney General, ... Appellant-Respondent.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NO: 2010CP2306767

Arthur M Field vs. Attorney General

CHECK ONE:

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____

IT IS ORDERED AND ADJUDGED:

☐ See attached order;

☐ Statement of Judgment by the Court:

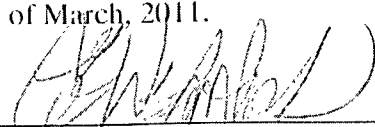
This matter comes before me on the parties' cross motions for summary judgment. Petitioner Arthur M. Field filed a complaint on August 17, 2010 alleging noncompliance with his July 13, 2009 South Carolina Freedom of Information (FOIA) request served upon the Respondent South Carolina Attorney General. Respondent asserts compliance with Petitioner's request to the full extent the requested documents are not privileged or exempted. This Court is mindful of the basic premise of FOIA under S.C. Code § 30-4-15 (2007), which is to give "any person a right to inspect or copy any public record of a public body." S.C. Code § 30-4-30(a). However, this Court is also mindful that FOIA is subject to exceptions. Specifically, Respondent claims that the balance of requested documents that have not been produced are exempted from a FOIA request under one or more of the following: attorney client privilege, attorney work product, the document is nonpublic, the document is under seal as State Grand Jury record, and the document is specifically exempted by statute. The parties both seek summary judgment, which is a drastic remedy that "should be granted only where it is perfectly clear that no genuine issue of material fact exists and inquiry into facts is not desirable to clarify application of the law." Wortman v. City of Spartanburg, 310 S.C. 1, 425 S.E.2d 18, 20 (1992). This case presents the question as to whether certain documents are exempt from a FOIA request, which does at its core require an examination into the facts of the documents to determine whether the application of exemptions under the law is proper. Therefore, this Court is of the opinion that granting summary judgment for either party without viewing the disputed documents would be improper, particularly in light of the South Carolina Supreme Court's recent decision. See Evening Post Pub. Co. v. Berkeley County School Dist., No. 26949, 2011 WL 980024 (S.C. March 21, 2011). Taking these considerations, and the parties' submissions and arguments to the Court into account, this Court finds that the appropriate action is for an *in camera* review of the documents requested in Petitioner's July 13, 2009 FOIA request. Respondent is to prepare a privilege log consisting of each document requested and denoting the applicable exemption(s) or privilege(s) claimed. Respondent is to comply with the provisions of this order by submitting the documents to The Honorable Charles B. Simmons, Master-in-Equity for Greenville County by May 2, 2011. Judge Simmons shall conduct a review of the documents and issue an appropriate order as to the merit of the claims.

IT IS SO ORDERED.

CPFORM4M
SCCA SCRCP Form 4 Revised 06/2008

Dated at Greenville, South Carolina, this the ³¹ day of March, 2011.

Court Reporter:


PRESIDING JUDGE - G. EDWARD WELMAKER

^{4-6 April, 2011}
This judgment was entered on the ^{4-6 April, 2011} and a copy mailed first class this , to attorneys of record or to parties (when appearing pro se) as follows:

Arthur M Field 310 Thornblade Blvd Greer, SC 29650

ATTORNEY(S) FOR THE PLAINTIFF(S)

✓ William H. Davidson II Davidson & Lindemann, P.A. P.O.
Box 8568 Columbia, SC 292028568
Kenneth P. Woodington Davidson & Lindemann, P.A. P.O.
Box 8568 Columbia, SC 29202

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court
- Clerk of Court

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Arthur M. Field,

Petitioner,

v.

Henry McMaster, Attorney General,

Respondent.

IN THE COURT OF COMMON PLEAS

Case No.: 2010-CP-23-6767

Supplemental Order

This Court has previously issued an order in this matter, filed April 4, 2011. The Respondent filed a Motion to Clarify, Alter or Amend on April 14, and Petitioner subsequently filed an objection to Respondent's motion, which included requests for further clarification. In response to these filings, the undersigned offers the following:

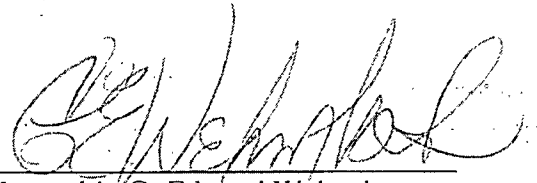
1. Respondent is to deliver all documents named in Petitioner's July 13, 2009 FOIA request, excluding those documents already produced, to the chambers of the Honorable Charles B. Simmons in Greenville, South Carolina, for his review.
2. The documents are to be organized, for Judge Simmons' benefit, in the following manner:
 - a. Documents are to be placed, in an orderly fashion, in standard sized file boxes, such as corrugated cardboard boxes commonly sold for document storage, sized 10" high by 12" wide by 15" deep, or plastic boxes of similar size manufactured for similar purpose. Respondent may provide original documents for review rather than copies, in order to save time and expense.

- b. All documents are to be encased in file folders. Each file folder is to be clearly marked with a label, or numbered, as to correspond to § 2(c) of this order.
 - c. A typed log is to be provided to Judge Simmons, for the Court's exclusive use, with entries to correspond to each and every file folder containing a general explanation as to its contents. The log must also note any privilege or exemption Respondent wishes to claim.¹
 - d. If any documents are in existing file folders, and a single entry could not be contrived to label the contents and/or the status of privilege, such documents are to be rearranged within the file boxes so as to comply fully with this order.
- 3. If Judge Simmons has questions about any documents provided to him by Respondent, Respondent shall answer promptly. Such correspondence is to remain *in camera*.
 - 4. By consent, personnel documents regarding health and pension benefits of individuals are deemed exempt from Petitioner's FOIA request. Respondent may exclude such records from those delivered to Judge Simmons, or alternatively, may designate file folders containing such documents "personnel files (PRIVILEGED BY CONSENT)" on the aforementioned log.
 - 5. By agreement between the parties, none of the documents in question are currently under seal by a Grand Jury. Therefore, by consent, such an exemption is excluded from the FOIA exceptions under controversy.

¹ Adjacent file folders with similar contents may be grouped in the log, if Respondent finds such groupings expedient. For example, such an entry might read, "File folders 1-7 -- email correspondence (ATTORNEY-CLIENT PRIVILEGE)," or, "File folders 1-7 -- email correspondence (not exempt)."

6. Should Judge Simmons find that any documents are rightly to be released to Petitioner under FOIA, he shall provide, in his order, for the manner of delivery of such documents.
7. Respondent is granted an extension for compliance with this order, with all documents to be delivered to Judge Simmons on or before Friday, May 13, 2011.

IT IS SO ORDERED..



Honorable G. Edward Welmaker
Judge, Thirteenth Judicial Circuit

DATED: April 20, 2011
Greenville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO: 2010CP2396767
JUL 18 2:36

FILED-CLERK OF COURT
GREENVILLE, S.C.
JUL 18 2011
Arthur M Field vs. Attorney General

CHECK ONE:

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order; ☐ Statement of Judgment by the Court:

Dated at Greenville, South Carolina, this .

Court Reporter: _____

PRESIDING JUDGE -

This judgment was entered on the 18th day of July, 2011, and a copy mailed first class this 18th day of July, 2011, to attorneys of record or to parties (when appearing pro se) as follows:

Arthur M Field 310 Thornblade Blvd Greer, SC
29650

William H. Davidson II Davidson & Lindemann,
P.A. P.O. Box 8568 Columbia, SC 292028568

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer - Greenville County Clerk Of Court
- Clerk of Court

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
2010-CP-23-6767

Arthur M. Field,

Petitioner,

vs.

Henry McMaster, Attorney General,

Respondent.

ORDER

2011 JUL 18 P 2:35
CLERK OF COURT
GREENVILLE CO. S.C.
JUL 18 2011

The within action is a result of Petitioner filing a Complaint on August 17, 2010 seeking certain documents from the Attorney General for the State of South Carolina pursuant to the South Carolina Freedom of Information Act. See, S.C. Code 30-4-10, et seq.

The Honorable G. Edward Welmaker issued an Order filed April 4, 2011 and supplemented by way of an Order filed April 30, 2011, directing that the undersigned review in camera the documents requested in Petitioner's July 13, 2009 FOIA request.

The Freedom of Information Act (FOIA) is designed and intended to give "any person a right to inspect or copy any public record of a public body." S.C. Code 30-4-30(a). The FOIA is remedial in nature and should be liberally construed to carry out its purpose. Quality Towing, Inc. v. City of Myrtle Beach, 547 S.E.2d 862 (S.C. 2001). FOIA creates an affirmative duty for the public body to disclose information. Bellamy v. Brown, 408 S.E.2d 219 (S.C. 1991). However, this duty is not without certain exceptions as enumerated under §30-4-40. As such, the determination of whether documents or portions thereof are exempt from FOIA must be made on a case-by-case basis, and the exempt and nonexempt material shall be separated and the



nonexempt material disclosed. See, Evening Post Pub. Co. v. Berkley County School District, SC, 2011 WL 98024 (2011).

Using the guidelines as set forth above, the undersigned has reviewed every of the 1000's of documents in the 12 boxes of materials submitted to the Court by the Office of the Attorney General. At the Court's direction, Respondent submitted an 18-page log of all documents it was producing to the Court. In this log, Respondent contends that literally every document in the 12 boxes of materials is exempt from any type of disclosure to Petitioner. In other words, Respondent, citing very broad conclusions for nondisclosure, has taken the position that none of the 1000's of pages of documents contained in the 12 boxes of materials should be disclosed. Respondent even objects to disclosure of documents in its possession that came either directly from Petitioner or his attorney since Respondent contends they are, at least in part, "documents from the investigative side of the Securities Division that constitute either attorney work product or correspondence, or material obtained in investigation". See, Respondent's Motion For Documents To Remain Under Seal or In Camera filed with Clerk of Court June 3, 2011.

Notwithstanding the above, Respondent also objected to disclosure of its 18-page log or, for that matter, any type of identifying information regarding the 1000's of documents arguing that the mere disclosure of the log or identifying information would provide exempt materials to Petitioner. Pursuant to a conference call held with Petitioner and Respondent's counsel on June 3, 2011, the Court required Respondent to submit to the Court a privilege log capable of production to Petitioner based upon the Court's opinion that Petitioner had rights to know, at least in very general terms, the nature of the documents Respondent was contending were exempt from disclosure. It is simply unreasonable, once a FOIA request is made, for a public body to issue a blanket response that basically says, "I don't have to tell you anything about what we may have since you are not entitled to it anyway." Such is contrary to the intent of FOIA.

The Court is attaching to this Order as Exhibit A the 17-page privilege list submitted by Respondent following the June 3, 2011 conference call.

It is important to note that documents compiled during a criminal investigation by an agency are not automatically exempt from disclosure under FOIA. Rather, our Legislature has determined that such documents would be exempt from disclosure only if the disclosure of the information would harm the agency in one of the four specifically enumerated ways. See, §30-4-30(a)(3); Newberry Pub. Co., Inc. v. Newberry County Commission on Alcohol and Drug Abuse, 417 S.E.2d 870 (S.C. 1992). Documents contained in the files which are otherwise available to the public as public records are not automatically exempt from disclosure merely because they were incorporated into an agency's reports and/or files. See, Newberry Pub. Co., Id.

As set forth in §30-4-40 and Evening Post Pub. Co. v. City of North Charleston, 611 S.E.2d 496 (S.C. 2005), the burden of proving exemption from nondisclosure falls upon, in this particular case, the Respondent. Upon a thorough review of the complete record, other than making very broad, general objections to literally each and every of the 1000's of pages of documents in its files, with the vast majority of objections being styled "Work product; Obtained in investigation" or "Correspondence/Work product", the Respondent has made no showing how the release of the records would interfere with any pending criminal investigation, no showing of how certain documents are "Correspondence/Work product" exempt from disclosure, and no showing of how certain documents are "Work product".

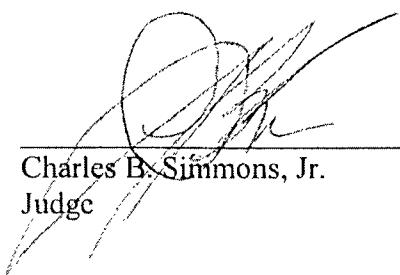
Accordingly, after a thorough review, the Court finds that the following generally identified documents, attached as a list denoted Exhibit B, are exempt from the FOIA request based upon the exemption standards set out at §30-4-30 and §30-4-40. The Court was able, based upon its inspection and review of the documents, to independently find they are exempt

from disclosure. All other documents noted in Exhibit A shall be produced to Petitioner under the conditions as set forth below.

The Court allows Respondent 10 days from the date of this Order being filed and served to file a motion specifically objecting, with the reasons for such objection, to disclosure of any information contained in Exhibit A. Likewise, Petitioner shall also have the right to file a similar motion seeking disclosure of items listed on Exhibit B. Any such motion shall then be heard by the undersigned in open court, if in the Court's discretion such a hearing is necessary, so as to allow the Court to hear from both parties relative to the reasons for disclosure or nondisclosure.

Once the Court determines the exact documents to be disclosed, the Respondent shall have 7 days from the date of such Order to arrange for pick up of the 12 boxes of documents currently housed in the Greenville County Courthouse and return them to Respondent's offices in Columbia, South Carolina. Following the return of all of the documents to Respondent's offices, Respondent shall separate all materials into an exempt and non-exempt file system consistent with this Order. Petitioner shall then have the right to personally inspect the nonexempt documents during regular business hours and upon at least 72 hours written notice to Respondent. Petitioner shall be entitled to make copies and shall also pay such costs as allowable under the Freedom of Information Act.

AND IT IS SO ORDERED.



Charles B. Simmons, Jr.
Judge

July 18 2011

Greenville, South Carolina

Exhibit A

Arthur M. Field
Capital Investment Funding, LLC
File Cabinet/Redwall Materials
Revised June 10, 2011

Box/Redwall	Title of File Folder	General Explanation of Contents	Privilege
Box 1-A Redwall 0 Folder A	Correspondence 1	Correspondence: Letters to and from subject of investigation and his Attorney 2006-07; Copy of investor complaint; copies of extra correspondence	Correspondence or work product ¹ ; Obtained in investigation ² ; This has been provided to Plaintiff, or was to or from Plaintiff
Folder B	Correspondence 2	One letter to an outside Attorney in response to a FOIA request	Correspondence/work product
Folder C	Bill Condon Correspondence file	Attorney correspondence file. Has letter to and from Plaintiff, and a copy of a NOI to Revoke issued in the case; Letter retaining an expert in case; More correspondence including letters regarding retaining hearing officers and responses; letters, some with attachments, to and from Plaintiff and his counsel Letter from CPA with attachments Letter to CPA	Plaintiff has or should have these materials, except those materials which are correspondence/work-product Correspondence - Plaintiff should have all that are clean copies; Those with Attorney's notes on them have not been provided and are correspondence/work product Obtained in investigation Correspondence/work product
Folder D	Pleadings	Draft of Pleadings NOI	Correspondence/work product This has been provided to Plaintiff
Redwall #1 Folder A	Investigator Notes	Investigator Notes	Correspondence/work product

¹ S.C. Code § 30-4-40(a)(7) exempts from disclosure "Correspondence or work products of legal counsel for a public body and any other material that would violate attorney-client relationships."

² S.C. Code § 30-4-607(b)(1) exempts from disclosure "a record obtained by the Securities Commissioner in connection with an audit or inspection under Section 35-1-411(d) or an investigation under Section 35-1-602." The Securities Division's investigation of Capital Investment Funding and Field was conducted pursuant to authority granted the Securities Commissioner in S.C. Code Ann. § 35-1-602.

Box/Redwall	Title of File Folder	General Explanation of Contents	Privilege
Folder B	Correspondence	Criminal referral letter Letter to CIF regarding public documents Internal Division communications Corporate documents and complaint	Correspondence/work product Correspondence/work product; This has been provided to Plaintiff, or was to or from Plaintiff Correspondence/work product Obtained in investigation
Folder C	Research	Factual and legal research	Correspondence/work product
Folder D	Accounting/Auditing Experts	Factual and legal research	Correspondence/work product
Folder E	CIFs Mention of Federal Interstate Exam	Factual and legal research; Work copies registration filings	Obtained in investigation; Correspondence/work product
Folder F	Dissolution and Winding Up	Attorney research, copies of Secretary of State filing Corporate documents Corporate documents with Attorney comments Phone calls and Attorney notes Corporate documents with Attorney comments handwritten	Research is Correspondence/work product. Secretary of State filing was obtained in investigation but Plaintiff filed it, so he has it Correspondence/work product Investment materials came from Plaintiff -- he has (also Correspondence/work product) Correspondence/work product Letter - This has been provided to Plaintiff, or was to or from Plaintiff Correspondence/work product; call slip can be provided Correspondence/work product
Folder G	Attorney Notes	Attorney notes; Research	Correspondence/work product
Folder H	Notes/Research on need to take action against CIF	Attorney notes and legal research	Correspondence/work product
Folder I	F. Scott Pfeiffer	Research	Correspondence/work product
Folder J	CIF/LRI notes receivable	Attorney created spreadsheet of corporate documents	Correspondence/work product. Corporate documents were obtained in investigation, but Plaintiff issued so he has them (also correspondence/work product)
Folder K	LRI & MFG Notes Receivable	Corporate documents	Obtained in investigation
Folder L	Notes Receivable Cosimo	Corporate documents	Obtained in investigation

Box/Redwall	Title of File Folder	General Explanation of Contents	Privilege
Folder M	Notes Receivable Lancaster Mortgage Banker	Corporate documents	Obtained in investigation
Folder N	Notes Receivable Canebrake	Complaint to Division	Obtained in investigation
Folder O	Notes Receivable Lion Financial	Investigative materials; Corporate documents; Secretary of State info; Attorney notes written on documents	Obtained in investigation & Correspondence/work product
Folder P	Loans to/from MFG	Notes, file copy of spreadsheet; Attorney notes on corporate documents	Correspondence/work product
Folder Q	Legal research	Factual and legal research; Secretary of State company info	Correspondence/work product
Folder R	Drafts and Approvals	Drafts of letters, subpoenas, & pleadings	Obtained in investigation Correspondence/work product
Redwall #2 Folder A	Research – LLCs	Factual and legal research on case law	Correspondence/work product
Folder B	Attorney notes – internal meetings/thoughts	Attorney notes	Correspondence/work product
Folder C	To Do List/In Process/Other Notes	Attorney lists & notes	Correspondence/work product
Folder D	Major Complaint – draft	Draft of complaint & related documents	Correspondence/work product
Folder E	Complaint examples	Factual and legal research	Correspondence/work product
Folder F	Securities Fraud – Aid & Abet	Typed Attorney notes, outline of evidence, and legal research	Correspondence/work product
Folder G	Evidence – Miscellaneous	Attorney prepared spreadsheet Emails to/from witnesses, some with evidence attached; research Attorney prepared spreadsheet of research Work copy of miscellaneous documents (documents are also elsewhere-these are working copies)	Correspondence/work product Obtained in investigation Correspondence/work product Correspondence/work product - summary of information obtained in investigation Correspondence/work product
Redwall #3 Folder H	Documents from Registration File	Documents from Registration File	All documents from registration - Enforcement obtained them (from registration) for investigation but also this has been provided to Plaintiff, or was to or from Plaintiff
Folder I	2007 Prospectus dated 3/13/07	Corporate documents	Obtained in investigation but also this has been provided to Plaintiff, or was to or from Plaintiff
Folder J	Disclosures by CIF/Field re: Investor Notes	Factual research; internal case material; Work copy of various documents	Obtained in investigation; Correspondence/work product; Obtained in investigation

Box/Redwall	Title of File Folder	General Explanation of Contents	Privilege
Redwall #4 Folder A	Documents from Registration File	Copies of corporate documents from registration files	Obtained in investigation but also all has been provided to Plaintiff (because registration documents are public)
Folder B	CIF/LRI/LG Audited Financial Statement and Internal Financial Statements	Attorney created list of and copies of corporate documents, includes some cover letters from Plaintiff that accompanied the documents when sent to the Division	Correspondence/work product Obtained in investigation but also most came from Plaintiff
Redwall #5 Folder A	Investors – general	Attorney created list relating to the investigation	Correspondence/work product & Obtained in investigation
Folder B	There are 26 manila folders, each labeled with one or more investor names.	Files on possible witnesses	Obtained in investigation – as well as some correspondence/work product (research) in a few files
Redwall #6 Folder A	LRI Bankruptcy	Filings and pleadings	Obtained in investigation
Redwall #7 Folder A	CIF v Lancaster	Documents from lawsuit, background info, list of creditors	Obtained in investigation
Box 2-A Redwall #8 Folder A	Proposed Private Settlement	Notes from settlement hearing Court filings Letter to Judge Few (cc to Plaintiff) Letter from investor's attorney to Division Staff	Correspondence/work product Obtained in investigation Plaintiff was cc'd on letter Obtained in investigation
Folder B	Mediated Global Settlement Agreement	Documents & transmittal letter for Consent Agreement Attorney notes	Obtained in investigation - This has been provided to Plaintiff, or was to or from Plaintiff Correspondence/work product
Folder C	Tomz v CIF & Field	Court filings with handwritten Attorney notes Copy of lawsuit & related documents	Correspondence/work product Obtained in investigation Correspondence/work product
Folder D	Settlement	Correspondence relating to case	Obtained in investigation Correspondence/work product

Box/Redwall	Title of File Folder	General Explanation of Contents	Privilege
Folder E	Pantsari Deposition Depositions of Logan, Jordan & Windsor	Notice of Deposition, testimony Attorney notes Copy of a Rule 30 Notice of Deposition	Obtained in investigation, but deposition was taken by Plaintiff and Plaintiff's Attorney, both of whom asked questions. This has been provided to Plaintiff, or was to or from Plaintiff Correspondence/work product Obtained in investigation but Notice was signed by Plaintiff - This has been provided to Plaintiff, or was to or from Plaintiff
Folder F	State Grand Jury Subpoena	Letter from Receiver with SGJ subpoena attached	Not sure but Plaintiff & both his Attorneys were cc'd on letter. This has been provided to Plaintiff, or was to or from Plaintiff (also correspondence/work product)
Folder G	Tomz v CIF Hearing on Asset freeze	Corporate legal document Attorney Notes Fax cover sheet of subpoena Legal research Letter requesting specific information	Obtained in investigation, contains some materials which were provided to Plaintiff, or were to or from Plaintiff Correspondence/work product Correspondence/work product
Folder H	Windsor Affidavit re: sales	Affidavit; Attorney prepared factual information	Correspondence/work product Correspondence/work product
Redwall #9	Folders Labeled: Lee vs. BFG Bridges v CIF Johnny Hagens Roberts	Collectively these folders contain materials obtained in investigation including: copies of lawsuits/filings in cases against Plaintiff	Copies of lawsuits have been provided to Plaintiff, or were to or from Plaintiff (also correspondence/work product); Letters are correspondence/work product and/or obtained in investigation; News articles and research are correspondence/work product and/or obtained in investigation; Attorney notes are correspondence/work product
Redwall #10 Folder A	CIF/Field/Others – criminal referral	Referral letter	Correspondence/work product
Folder B	Witness Subpoena to Field	Subpoena to Plaintiff, and related documents	Subpoena has been provided to Plaintiff (also correspondence/work product); Related documents are correspondence/work product

Box/Redwall	Title of File Folder	General Explanation of Contents	Privilege
Folder C	Immunity	Internal emails with Attorney impressions	Correspondence/work product
		Legal research	Correspondence/work product
Folder D	More sheets of paper bundled "copy of folder 10"	Duplicate copies of items in the three folders directly above	Correspondence/work product
Redwall #11 Folder A	Subpoena to Porter & Highley	Correspondence and attached documents	Correspondence/work product
Folder B	FYE 12/31/01 Audit W/P 1	Audit materials	Obtained in investigation
Folder C	FYE 12/31/01 Audit W/P 2	Audit materials	Obtained in investigation
Folder D	FY Audit 12/31/03 Audit W/PS 1	Audit materials	Obtained in investigation
Folder E	FYE 12/31/03 Audit WPS 2	Audit materials	Obtained in investigation
		Attorney notes	Correspondence/work product
Folder F	FYE 12/31/03 Audit W/PS 3	Audit materials	Obtained in investigation
Folder G	PE 6/30/04 Audit W/PS	Audit Materials	Obtained in investigation
Box 2-B Redwall #12 Folder A	FYE 12/31/04 Audit W/PS 1	Audit Materials	Obtained in investigation
Folder B	FYE 12/31/04 W/PS 2	Corporate documents	Obtained in investigation
Folder C	12/3/05 W/PS	Audit Materials	Obtained in investigation
Folder D	P&H 2006 Documents re: Tiger	Documents from Accountants	Obtained in investigation
Folder E	P&H - Info re: Amos & White/Liberty One/Liberty Two	Lawsuit information	Obtained in investigation
		Correspondence	Obtained in investigation
Redwall #13 Folder A	Correspondence	Attorney correspondence	Correspondence/work product
Folder B	CPA Licensing Info	Factual research	Correspondence/work product; Obtained in investigation
Folder C	Porter, Corley Statement 9/25/08	Attorney notes	Correspondence/work product
Folder D	Porter & Highley Attorney notes	Attorney notes	Correspondence/work product
Redwall #14 Folder A	Subpoena to McKinley & Cooper	Letter and attached documents	Correspondence/work product
Folder B	12/31/06 Audit W/PS 1/2	Audit materials	Obtained in investigation

Box/Redwall	Title of File Folder	General Explanation of Contents	Privilege
Folder C	12/31/06 Audit W/PS 2/2	Audit materials	Obtained in investigation
Folder D	FYE 12/31/06	Audit materials	Obtained in investigation
Redwall #15 Folder A	McKinley Cooper – correspondence	Attorney correspondence	Correspondence/work product
Folder B	McKinley Cooper - CP & Corporate licensing info	Secretary of State information; Other factual research	Obtained in investigation
Folder C	McKinley Cooper – communication with LLR	Corporate documents	Obtained in investigation
Folder D	McKinley Cooper testimony 9/30/08	Witness statements and attorney notes	Correspondence/work product; obtained in investigation
Folder E	McKinley Cooper Attorney notes	Attorney notes	Correspondence/work product
Folder F	Analysis of McKinley Cooper's confirmations of N/R	Attorney prepared factual analysis	Correspondence/work product
Folder G	Detail of NR – MFG	Copies of documents with Attorney notes on them	Correspondence/work product
Redwall #16 Folder A	SASs	Factual and legal research	Correspondence/work product
Folder B	SFASs	Factual and legal research	Correspondence/work product
Folder C	Bank of America Financial Statements	Corporate documents	Correspondence/work product; Obtained in investigation
Folder D	Securities fraud by CPAs	Factual and legal research with Attorney notes	Correspondence/work product; Obtained in investigation
Folder E	Lawsuits/Complaints against CPA Firms	Cases and articles; Westlaw research; Factual research	Correspondence/work product
Box 3-A Redwall #17 Folder A	Waiver of Venue – Legal research	Legal research with handwritten Attorney notes	Correspondence/work product
Folder B	Venue-Legal Research	Westlaw cases with Attorney notes on them	Correspondence/work product
Folder C	Attorney Notes	Outline by Attorney on Motion to Quash; Attorney notes	Correspondence/work product
Folder D	808 Powdersville Road Office Building	Factual research; Public records	Obtained in investigation
Folder E	Form U-2 – Uniform Consent	Copies of Corporate documents from Registration Files	Obtained in investigation (plaintiff has)
Redwall #18 Folder A	Securities Division Memo in Opposition to Motion to Quash	Securities Division Memo in Opposition to Motion to Quash; Additional copy with Attorney notes	Correspondence/work product; this has been provided to Plaintiff, or was to or from Plaintiff, except ones with attorney notes

Box/Redwall	Title of File Folder	General Explanation of Contents	Privilege
Folder B	Letters to William Nettles dated June 8, 2009	Letter to William Nettles, Plaintiff was copied	This has been provided to Plaintiff, or was to or from Plaintiff. Correspondence/work product
Folder C	Reply of Arthur Field to Respondent's Motion to Quash	Copies of reply of Plaintiff to Motion to Quash	This has been provided to Plaintiff, or was to or from Plaintiff; Correspondence/work product
Folder D	Letter to Judge Childs re: CIF & Field Subpoena	Letter to Judge Childs from Bill Nettles (CIF Attorney)	This has been provided to Plaintiff, or was to or from Plaintiff; Correspondence/work product
Folder E	Letter to Pfeiffer & Field	Letter to Pfeiffer & Plaintiff (CIF Attorney)	This has been provided to Plaintiff, or was to or from Plaintiff; Correspondence/work product
Folder F	Letter to Judge Childs re: CIF & Field Subpoena	Letter to Scott Pfeiffer (CIF Attorney)	This has been provided to Plaintiff, or was to or from Plaintiff; Correspondence/work product
Folder G	Response to motion to Quash	Two filed copies of Response to Motion to Quash	This has been provided to Plaintiff, or was to or from Plaintiff; Correspondence/work product
Folder H	Letter to Judge Manning Status Conference	Letter to Judge Manning, regarding status conference	This has been provided to Plaintiff, or was to or from Plaintiff; Correspondence/work product
Folder I	Field's Memo in Support of Motion to Quash	Attorney work copy of Plaintiff's Memo in Support of Motion to Quash with handwritten notes on it	Correspondence/work product on SCAG copy of memo filed by Plaintiff
Folder J	CIF Motion to Quash Subpoena	CIF Motion to Quash Subpoena	This has been provided to Plaintiff, or was to or from Plaintiff; Correspondence/work product
Folder K	CIF Subpoena	CIF Subpoena	This has been provided to Plaintiff, or was to or from Plaintiff; Correspondence/work product
Folder L	Motion for Protection and to Quash Subpoena	Copy of subpoena with Attorney notes; Legal research with Attorney notes; copy of motion with Attorney notes	Correspondence/work product
Folder M	Production of corporation records and the 4 th Amendment	Legal research, cases with notes written on them	Correspondence/work product
Folder N	Securities Act – constitutionality	Legal research	Correspondence/work product
Folder O	MTQ – Court filings	Copies of various filings with Attorney marks	Correspondence/work product; Filings have been provided to Plaintiff, or were to or from Plaintiff. Attorney marks/notes are correspondence/work product

Box/Redwall	Title of File Folder	General Explanation of Contents	Privilege
Folder P	MTQ – Merits Argument	Attorney typed notes and outline	Correspondence/work product
Folder Q	MTQ – Legal Research	Legal research	Correspondence/work product
Redwall #19 Folder A	LRI Subpoena	Attorney-prepared documents, some with attorney notes; Correspondence	Correspondence/work product; Obtained in investigation
Folder B	Martin Ender/Want & Ender CPA	Handwritten notes; Correspondence obtained in investigation	Correspondence/work product; Obtained in investigation
Folder C	Subpoena to BB&T	Attorney prepared correspondence	Correspondence/work product; Obtained in investigation
Folder D	Subpoena to MFG	Draft of attorney prepared correspondence	Correspondence/work product
Folder E	Subpoena to Charter Communications	Draft of attorney prepared correspondence	Correspondence/work product
Folder F	Research on Subpoena for Emails	Factual and legal research	Correspondence/work product
Redwall # 20 Folder A	Subpoena to Greenville First Bank	Correspondence, response, and related materials	Correspondence/work product; Obtained in investigation
Box 3-B Redwall #21 Folder A	[None]	Financial materials	Obtained in investigation
Redwall #22 Folder A	Southern First Bank	Attorney prepared noted and correspondence; Related materials	Correspondence/work product; Obtained in investigation
Folder B	[None]	Financial materials; Corporate documents; Factual research	Correspondence/work product; Obtained in investigation
Redwall #23 Folder A	[None]	Financial materials	Obtained in investigation
Redwall #24 Folder A	Southern First Subpoena	[Empty folder]	
Folder B	[None]	Financial materials	Obtained in investigation
Redwall #25 Folder A	James Caserta	Documents provided by witness; Attorney notes to file	Obtained in investigation; Correspondence/work product
Folder B	Bob Kurtz	Attorney notes	Correspondence/work product

Box/Redwall	Title of File Folder	General Explanation of Contents	Privilege
Redwall #26 Folder A	CIF Corporate Documents	Corporate documents	Obtained in investigation
Folder B	CIF, LLC	Corporate documents; Secretary of State information	Obtained in investigation
Folder C	CIF TC, LLC	Attorney notes; Research; Secretary of State information; Correspondence including: an email from Plaintiff and attachment	Correspondence/work product Obtained in investigation
Folder D	Lancaster Resources Incorporation	Corporate documents	Correspondence/work product; Obtained in investigation
Folder E	LMB, LLC	Corporate documents	Correspondence/work product; Obtained in investigation
Folder F	MFG Ltd.	Corporate documents	Correspondence/work product; Obtained in investigation
Folder G	People's Home Funding Corp	Corporate documents	Correspondence/work product; Obtained in investigation
Folder H	East Coast Properties/Phoenix RE	Corporate documents; Attorney created spreadsheet	Correspondence/work product; Obtained in investigation
Folder I	Phoenix RE Management Group	Corporate documents	Correspondence/work product; Obtained in investigation
Folder J	Red Lion	Corporate documents	Correspondence/work product; Obtained in investigation
Folder K	Sky Mark Holdings / Sky Mark Associates	Factual and legal research	Correspondence/work product; Obtained in investigation
Redwall #27 Folder A	Sky Mark website	Factual research	Obtained in investigation; Correspondence/work product
Folder B	Sky Mark	Factual research	Obtained in investigation; Correspondence/work product
Folder C	O'Shea	Factual research	Obtained in investigation; Correspondence/work product
Redwall #28 Folder A	Kathryn Taillon	Factual research	Obtained in investigation; Correspondence/work product
Folder B	Corporate Entities involved with CIF	Attorney notes; Corporate documents	Obtained in investigation; Correspondence/work product
Folder C	Aladdin's Café and Grille	Corporate documents	Obtained in investigation; Correspondence/work product
Folder D	Amos & White LLC	Corporate documents	Obtained in investigation; Correspondence/work product
Folder E	Midland Properties LLC	Corporate documents	Obtained in investigation; Correspondence/work product
Folder F	Our Tree House LLC	Corporate documents	Obtained in investigation; Correspondence/work product
Folder G	Upstate SC Tae Kwon Do	Corporate documents	Obtained in investigation; Correspondence/work product
Folder H	Log Cabin Financial, LLC	Corporate documents	Obtained in investigation; Correspondence/work product
Folder I	Krondor Trading Co., LLC	Corporate documents	Obtained in investigation; Correspondence/work product

Box/Redwall	Title of File Folder	General Explanation of Contents	Privilege
Folder J	He Will Provide, LLC	Corporate documents	Obtained in investigation; Correspondence/work product
Folder K	Bountiful Bingo, LLC	Corporate documents	Obtained in investigation; Correspondence/work product
Folder L	Blenheim Properties, LLC	Corporate documents	Obtained in investigation; Correspondence/work product
Folder M	Miscellaneous Deeds (LRI)	Corporate documents	Obtained in investigation; Correspondence/work product
Redwall # 29 Folder A	Arthur Field Statement, SEC Letter	Correspondence; Statement on Record from Plaintiff; Attorney's notes on statement	Obtained in investigation; Correspondence/work product; Plaintiff should have statement; notes are work product
Folder B	Georgia Road	Corporate documents; Attorney's notes; Correspondence	Obtained in investigation; Correspondence/work product
Folder C	Draft Orders, etc, Subpoenas, Responses in prior investigations	Copies of attorney notes from prior file; Correspondence between Securities Division and Plaintiff; Letter to Plaintiff from Attorney; Copies of Notice of Intent to Revoke to Plaintiff; Response to Notice of Intent; Additional correspondence, Letter from Plaintiff's Attorney	Correspondence or work product; Obtained in investigation; Plaintiff has correspondence
Folder D	Delinquent Loan Workout with Tiger Transport	Investigator's notes; Copies of Notice of Intent to Revoke to Plaintiff; Response to Notice of Intent to Revoke; Subpoena; additional subpoenas; Letter from Plaintiff's Attorney	Correspondence/work product; some obtained in investigation; Plaintiff has correspondence, or was to or from Plaintiff
Redwall #30 Folder A	Prospectus	Corporate documents with notes; Correspondence	Correspondence/work product; Obtained in investigation; This has been provided to Plaintiff, or was to or from Plaintiff
Folder B	Financial Statements	Correspondence; Corporate documents; Financial information; Attorney notes; Factual and legal research	Obtained in investigation; Correspondence or work product
Redwall #31 Folder A	CIF's new plan of financing	Corporate filings; Corporate documents	Obtained in investigation; Work product; Plaintiff has corporate documents
Folder B	Refer CIF investigation to SEC	Attorney correspondence and attachments	Correspondence or work product; Obtained in investigation
Redwall #32 Folder A	CIF other similar cases	Attorney research	Correspondence/work product
Redwall #33 Folder A	Attorney Notes	Attorney notes, outline of questions, Research; Corporate documents	Correspondence/work product; Obtained in investigation
Folder B Legal research	Legal Research	Results from Westlaw internet research; Factual research	Correspondence/work product

Box/Redwall	Title of File Folder	General Explanation of Contents	Privilege
Folder C Legal research and attorney notes	Permanent Injunction/remedies research	Attorney research and notes	Correspondence/work product
Folder D	Intrastate exemption research and notes	Legal research with notes; SEC Rules; Attorney notes; Corporate documents	Correspondence/work product; Obtained in investigation
Redwall #34 Folder A	New security research	Legal research	Correspondence/work product
Folder B	Concept of Integration	Legal research	Correspondence/work product
Folder C	Integration – Other research	Legal research	Correspondence/work product
Folder D	Integration – SEC Rules/Releases	Legal research	Correspondence/work product
Redwall #35 Folder A	[None]	Attorney notes; Correspondence; Other attorney created documents	Correspondence/work product; Obtained in investigation
Redwall #36 Folder A	Immunity	Legal research	Correspondence/work product
Folder B	Condon, B subpoena defenses	Legal research; Other attorney created documents	Correspondence/work product
Folder C	Condon, B Fifth Amendment	Legal research	Correspondence/work product
Folder D	CIF financial documents/analysis	Attorney notes	Correspondence/work product
Folder E	03051 - Capital Investment Funding by Lawrence Bagwell	Handwritten index; Complaint with documents; Response; Internal email; Letter from Plaintiff; Documents with attorney notes	Correspondence/work product; Obtained in investigation
Folder F	03031 – Capital Investment Funding by Sam Banks	Complaint; Letter to Plaintiff from Division Staff and response to Division	Obtained in investigation; Correspondence/work product; Correspondence has been provided to Plaintiff, or was to or from Plaintiff
CIF - 03073 #2 Folder A	Folder 1 Redwall 2	Attorney notes and research; Correspondence from Plaintiff to Division and from Division to Plaintiff	Correspondence/work product; Obtained in investigation; Correspondence has been provided to Plaintiff, or was to or from Plaintiff
Folder B	Folder 2 Redwall 2	Corporate documents	Obtained in investigation; All are registered documents filed by Plaintiff
Folder C	Folder 3 Redwall 2: Statement and Possible Subpoena	Subpoena, correspondence in reply; witness statements; Attorney questions for witness; subpoenas are to Plaintiff entities/employees; responses are from Plaintiff's Attorney	Correspondence/work product; Obtained in investigation; Subpoena response has been provided to Plaintiff, or was to or from Plaintiff

Box/Redwall	Title of File Folder	General Explanation of Contents	Privilege
03073 #3 Folder A	Redwall 3 Folder 1; Field 10/8/03 Statement and Subpoena	Letter to Division from Plaintiff's Attorney; subpoenas; statements and exhibits; Attorney notes and correspondence	Obtained in investigation; Correspondence/work product
Folder B	[None]	Miscellaneous documents that look to be drafts and/or copies of documents that also are filed in other files; Includes corporate documents, notes, and legal research	Obtained in investigation; Correspondence/work product
Redwall #37 Folder A	[None]	Correspondence; Attorney notes; Attorney internet research; corporate documents	Obtained in investigation; Correspondence/work product
Folder B			
Box 5-A 03073 #1 Folder A	Index of File Folder	Interoffice memo with list of documents; Index of file 03073	Correspondence/work product
Folder B	03073 Case File (File #1)	Attorney notes; internal emails; draft letter; Corporate documents; correspondence; fax to Division; correspondence to/from Plaintiff and his Attorney from Division; original and copy of a complaint letter; affidavit by Plaintiff; emails from Division; emails from Plaintiff's Attorney	Correspondence/work product; Obtained in investigation; Correspondence has been provided to Plaintiff, or was to or from Plaintiff
Folder C	03073 Case File (File #2)	Internal emails and drafts of legal pleadings	Correspondence/work product
Folder D	03076 York Mortgage Funding	Statement of Plaintiff	Obtained in investigation; This has been provided to Plaintiff, or was to or from Plaintiff
Folder E	Subpoena Duces Tecum to CIF on 10/6/03 and 10/20/03; correspondence; responses	Correspondence; Responses; Attorney notes	Correspondence/work product; Obtained in investigation; Plaintiff has correspondence to/from him and his attorney
Redwall #3 Folder A	Folder #3	Letter to Plaintiff's Attorney from Division; letters from Plaintiff and his Attorney; statement; Attorney notes	Obtained in investigation; Correspondence/work product; Plaintiff has letters and statement
Redwall #3 Folder B	Folder #4	Complaints; Investigator notes; Corporate documents, Division correspondence; Attorney research and notes	Obtained in investigation; Attorney notes and internal communication are correspondence/work product
03073 #4 Folder A	Redwall 4 Folder 1: CIF Notes	Attorney notes	Correspondence/work product
Folder B	Redwall 4 Folder 2: Scott Pfeiffer/CIF Cosimo	Attorney notes; Corporate documents; Factual and legal research	Correspondence/work product; Obtained in investigation

Box/Redwall	Title of File Folder	General Explanation of Contents	Privilege
Folder A	Redwall #5 Folder 1: Lancaster Group and Affiliates	Corporate documents; Attorney notes	Correspondence/work product; Obtained in investigation
Folder B	Redwall #5 Folder 2: Capital Investment Funding Lenders	Corporate documents; Attorney notes	Obtained in investigation; Correspondence/work product
Folder C	Redwall #5 Folder 3: Loans to Individuals	Corporate documents	Obtained in investigation
Folder D	Redwall #5 Folder 4: Cosimo 51 Webster	Corporate documents	Obtained in investigation; This has been provided to Plaintiff, or was to or from Plaintiff
03073 #6 Folder A	Redwall #6 Folder 1: Monmouth Financial Group	Corporate information obtained in investigation; Attorney research	Obtained in investigation; Correspondence/work product; All except Attorney research has been provided to Plaintiff, or was to or from Plaintiff
Folder B	Redwall #6 Folder 2: Kathryn Taillon/Mithril CIF	Corporate information obtained in investigation; Attorney research	Obtained in investigation; Correspondence/work product
Folder C	Redwall #6 Folder 3: Thomas Moore – Tiger Transport First Alliance	Factual research; Corporate documents	Obtained in investigation; Correspondence/work product
Folder D	Redwall # 6 Folder 4: Credo Land Holdings/Scott Pfeiffer	Corporate information obtained in investigation; Attorney notes	Obtained in investigation; Correspondence/work product
Folder E	Redwall #6 Folder 5: Morgan Green, LLC	Corporate information obtained in investigation	Obtained in investigation
Folder F	Redwall #6 Folder 6: Lancaster Mortgage Bankers/South Pointe Mortgage (Haney)	Corporate documents	Obtained in investigation
Folder G	Redwall #6 Folder 7: Saxon Holdings, LLC	Corporate information obtained in investigation	Obtained in investigation
Folder H	Redwall #6 Folder 8: CIF Tiger Transportation (Credo)	Corporate documents; Attorney notes; Research	Obtained in investigation
Folder I	Redwall #6 Folder 9: CIF/Credo	Research; Corporate documents	Obtained in investigation; Correspondence/work product
Folder J	Redwall #6 Folder 10: CIF/Bradford Funding	Corporate documents	Obtained in investigation; Correspondence/work product
Folder K	Redwall # 6 Folder 11: Bolingbroke United (ENG)	Corporate documents; Notes; F actual research	Obtained in investigation; Correspondence/work product

Box/Redwall	Title of File Folder	General Explanation of Contents	Privilege
Folder L	Background Check on Field	Factual research	Correspondence/work product
Redwall #7 Folder A	Cosimo/Ripley Light	Corporate documents; Attorney notes	Obtained in investigation; Correspondence/work product
Folder B	Cosimo/Bean Creek	Corporate documents; Attorney notes	Obtained in investigation; Correspondence/work product
Folder C	Cosimo/Bean Creek	Corporate documents; Attorney notes	Obtained in investigation; Correspondence/work product
Folder D	Cosimo/Bread Concepts	Corporate documents; Attorney notes	Obtained in investigation; Correspondence/work product
Folder E	Cosimo/Guglielmi	Corporate documents	Obtained in investigation
Redwall #8 Folder A	Cosimo/Earth Artist	Corporate documents; Attorney notes	Obtained in investigation; Correspondence/work product
Folder B	Cosimo/124 Chelsea	Corporate documents; Attorney notes	Obtained in investigation; Correspondence/work product
Folder C	Cosimo/Tiger Asset	Corporate documents; research; Attorney notes	Obtained in investigation; Correspondence/work product
Folder D	Cosimo/Tiger Asset	Research on corporate documents from previous folder	Obtained in investigation; Correspondence/work product
Redwall #9 Folder A	Cosimo/Tiger Asset	Attorney notes; research; Corporate documents	Correspondence/work product; Obtained in investigation
Folder B	Cosimo/Pembroke	Corporate documents; Attorney notes	Obtained in investigation; Correspondence/work product
Folder C	Cosimo/ Liberty One	Attorney notes; research; Corporate documents	Correspondence/work product; Obtained in investigation
Folder D	Cosimo/Simpsonville Cotton	Corporate documents; Attorney notes; Research	Obtained in investigation; Correspondence/work product
Folder E	Cosimo/Albrecht	Attorney notes; Corporate documents	Correspondence/work product; Obtained in investigation
Folder F	Cosimo Morgan Green	Attorney notes; Corporate documents	Correspondence/work product; Obtained in investigation
Folder G	Cosimo/Progressive	Corporate documents	Obtained in investigation; Correspondence/work product
Folder H	Cosimo/Albrecht	Corporate documents; Attorney notes	Obtained in investigation; Correspondence/work product
Redwall #10 Folder A	Cosimo/Earth Artist	Attorney notes; Corporate documents	Correspondence/work product; Obtained in investigation
Folder B	Cosimo/Ramsey-Will	Attorney notes; Corporate documents	Correspondence/work product; Obtained in investigation
Folder C	Cosimo/D&D	Attorney notes; Corporate documents	Correspondence/work product; Obtained in investigation
Redwall #11 Folder A	MFG/Tiger Asset	Attorney notes; Research; Corporate documents	Correspondence/work product; Obtained in investigation

Box/Redwall	Title of File Folder	General Explanation of Contents	Privilege
Folder B	LRI Loan Documents	Corporate documents	Correspondence/work product; Obtained in investigation
Redwall #12 Folder A	Cosimo/Palmetto Affordable Homes	Attorney notes; Corporate documents	Correspondence/work product; Obtained in investigation
Drawer 6B Redwall #13 Folder A	MFG/LD-30 Roft	Attorney notes; Corporate documents	Correspondence/work product; Obtained in investigation
Folder B	MFG/LD 410 Brink	Corporate documents	Obtained in investigation
Folder C	MFG/LRI Romina Martinez	Attorney notes; Corporate documents	Correspondence/work product; Obtained in investigation
Folder D	MFG/LRI East Riley	Attorney notes; Corporate documents	Correspondence/work product; Obtained in investigation
Folder E	MFG/Lancaster Development	Attorney notes; Corporate documents	Correspondence/work product; Obtained in investigation
Folder F	MFG/ Tiger Asset	Attorney notes; research; Corporate documents	Correspondence/work product; Obtained in investigation
Folder G	MFG/ LRI PGR Group	Attorney notes; Corporate documents	Correspondence/work product; Obtained in investigation
Folder H	MFG/ Lancaster Development/President Road	Attorney notes; research; Corporate documents	Correspondence/work product; Obtained in investigation
Folder I	MFG/LRI S Castle Hill	Attorney notes; research; Corporate documents	Correspondence/work product; Obtained in investigation
Folder J	MFG/Lancaster Development 638 E. Crescent	Attorney notes; research; Corporate documents	Correspondence/work product; Obtained in investigation
Folder K	MFG/Lancaster Development 532 Walnut	Attorney notes; Corporate documents	Correspondence/work product; Obtained in investigation
Folder L	MFG/ LRI RCD Ent	Attorney notes; Corporate documents	Correspondence/work product; Obtained in investigation
Folder M	MFG/LRI SRG 457	Attorney notes; Corporate documents	Correspondence/work product; Obtained in investigation
Folder N	MFG/LRI Trylon/Crest	Attorney notes; Corporate documents	Correspondence/work product; Obtained in investigation
Folder O	MFG/Ind Weltshire	Attorney notes; Corporate documents	Correspondence/work product; Obtained in investigation
Redwall #14 Folder A	No folder	Corporate documents	Obtained in investigation

Box/Redwall	Title of File Folder	General Explanation of Contents	Privilege
Redwall #15 Folder A	3 CMB Loans To Albrecht	Corporate documents	Obtained in investigation
Redwall #16 Folder A	Miscellaneous No folder	Attorney notes; letter from Plaintiff's Attorney to Division	Correspondence/work product; Obtained in investigation; Letter has been provided to Plaintiff, or was to or from Plaintiff
Folder B	CIF prospectus	Corporate documents	Obtained in investigation; Provided to Plaintiff, or to or from Plaintiff

Field v. McMaster, et al.
2010-CP-23-6767
Court's Exempt List
Exhibit B

BOX/REDWALL	TITLE OF FOLDER	EXEMPT FROM FOIA REQUEST	COURT'S RATIONALE
<i>Box 1 - A</i>			
<i>Redwall 0</i>	Folder B Correspondence 2	(1) Meyer's Email 5-29-07 (2) Possible Hearing Officers-A. Field (3) Candidate 1 (4) Candidate 2 (5) Candidate 3 (6) Candidate 4 (7) Candidate 5 (8) Email 10/22/07 (9) Email 10/18/07 (10) Letter 10/4/07 (11) Letter 9/25/07 (12) Field Deposition	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder C Bill Condon Correspondence file	(1) Letter 5/15/07 (2) Field Deposition (3) Letter 5/14/07 (4) Loans..As Of... Page 29-31 (5) Letter COPY 3/9/07 (6) Capital Investment Funding (Copy) (7) Letter 3/9/07 (8) Capital Investment Funding...	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 1</i>	Folder A Investigator Notes	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder B Correspondence	(1) Condon Letter 6/6/08 (2) Condon Letter 4/21/08 (3) ...Timeline...Memo (4) Meyers Email 2/2/04 CI Funding (5) Meyers Email 1/30/04 (6) Meyers Email 1/16/04 CI Funding (7) 11/25/03: Summary of Field Stmtnt	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder E CIF's Mention of...	(1) CIF... 6/29/09	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder F Dissolution and Winding Up	(1) Case Research Printout 2/11/08 (2) Letter 1/20/08 (3) Senior Note Series 2007 (4) Senior Note Series 2006	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.

BOX/REDWALL	TITLE OF FOLDER	EXEMPT FROM FOIA REQUEST	COURT'S RATIONALE
<i>Redwall 1 cont'd</i>	Folder G Attorney Notes	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder H Notes/Research on...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder I F. Scott Pfeiffer	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder J CIF/LRI notes...	(1) Amendment to...Note	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder N Notes Receiveable C	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder O Notes Receiveable L	(1) CIF Schedule...2006 (2) Field to Meyers 3/9/07 (3) Supplemental Affidavit...Personal	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder P Loans To/From M	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder Q Legal Research	(1) §...Out of State...	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder R Drafts and Approvals	(1) AG Letter to Charter (2) Condon Letter 8/22/08 (3) Condon Letter 8/22/08 COPY (4) Response to Motion (5) AG Subpoena 1 (6) AG Subpoena 2 (7) AG Subpoena 3 (8) AG Subpoena 4 (9) AG Subpoena 5 (10) AG Subpoena 6 (11) AG Subpoena 7	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.

BOX/REDWALL	TITLE OF FOLDER	EXEMPT FROM FOIA REQUEST	COURT'S RATIONALE
<i>Redwall 2</i>	Folder A Research- LLC's	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder B Attorney notes...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder C To Do List...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder D Major Complaint...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder E Complaint Examples	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder F Securities Fraud...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder G Evidence- Misc.	(1) CIF - Reasons...7/7/08 (2) CIF - Schedule...2004 (3) Email 11/7/06 Update on funds? (4) Field Email 4/14/03 (5) L... Email 10/27/08 (6) G...@aol.com Email 10/26/08 (7) T...@aol.com Email 10/26/08 (8) G...@aol.com Email 10/25/08 (9) L... to G...@aol.com 10/27/08 (10) Cosimo...Spreadsheet (11) Letter 1/20/08 (12) Fax: WITHHOLD Pages 32 & 33	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 3</i>	Folder J Disclosures...	(1) Confidential...Memo Pages: 11-25 (2) Letter 1/20/08 (3) Letter 7/14/07 (4) Letter 10/10/07 (5) Letter 1/6/08	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
Box 1 - B			
<i>Redwall 4</i>	Folder A Docs from Reg...	(1) Letter 3/28/03	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.

BOX/REDWALL	TITLE OF FOLDER	EXEMPT FROM FOIA REQUEST	COURT'S RATIONALE
<i>Redwall 4 cont'd</i>	Folder B ...Audited Financial..	(1) ...- Audits...	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 5</i>	Folders A & B Investors...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
Box 2 - A			
<i>Redwall 8</i>	Folder A Proposed Private Settlement	(1) Notes and Case File dated 7/23/09 (2) Mediated...Agreement (3) Proposed Court Order (4) Proposed Notice.	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder B Mediated Global...	(1) Hearing Notes dated 12/30/08	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder C Tomz v. CIF & Field	(1) Notes dated 5/23/08	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder E Pantsari Deposition	(1) Legal Notes (no date is listed)	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder G Tomz v. CIF	(1) Legal Notes dated 6/29/09 (2) Case Law research	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder H Affidavit re: sales	(1) Time Line	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 9</i>	Johnny Hagens	(1) Complaint Draft (2) Copy of Complaint Draft (3) Legal Notes dated 5/6/07 (4) CIF Notes- Phone Conv. with J.H.	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Roberts	(1) Complaint Draft	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 10</i>	Folder A CIF/Field/Others...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.

BOX/REDWALL	TITLE OF FOLDER	EXEMPT FROM FOIA REQUEST	COURT'S RATIONALE
<i>Redwall 10 cont'd</i>	Folder C Immunity	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
Box 2 - B			
<i>Redwall 13</i>	Folder C Porter, Corley Stmt	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder D Porter & Highley Atty	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 15</i>	Folder B McK. C. CP & Corp.	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder D McK. C. Testimony	(1) Attorney Notes dated 9/30/08	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder E McK. C. Atty Notes	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder F Analysis of McK...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder G Detail of NR- MFG	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 16</i>	Folder D Securities Fraud by...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder E Lawsuits/Complaints against CPA Firms	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
Box 3 - A			
<i>Redwall 17</i>	Folder A Waiver of Venue...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.

BOX/REDWALL	TITLE OF FOLDER	EXEMPT FROM FOIA REQUEST	COURT'S RATIONALE
<i>Redwall 17 cont'd</i>	Folder B Venue- Legal...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder C Attorney Notes	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder D 808 Powdersville	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 18</i>	Folder I ... Memo in Support..	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder L Motion for Prot....	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder M Production of corp...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder N Securites Act...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder O MTQ - Court filings	(1) Field's Reply & Notes	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder P MTQ - Merits...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder Q MTQ - Legal...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 19</i>	Folder A LRI Subpoena	(1) Attorney Notes dated 9/10/08	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.

BOX/REDWALL	TITLE OF FOLDER	EXEMPT FROM FOIA REQUEST	COURT'S RATIONALE
<i>Redwall 19 cont'd</i>	Folder B Martin Ender/Want..	(1) Attorney Notes dated 3/3/09 (2) SEC Info - M.E.	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder D Subpoena to MFG	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder F Research on Subp...	ALL CONTENTS EXEMPT... **... <i>EXCEPT FOR</i> Condon Fax dated 11/6/08**	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 20</i>	Folder A Subpoena to Green...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
Box 3 - B			
<i>Redwall 21</i>	Folder A [None]	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 22</i>	Folder A Southern First Bank	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder B [None]	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 23</i>	Folder A [None]	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 24</i>	Folder A Southern First Sub...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 25</i>	Folder A James Caserta	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder B Bob Kurtz	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.

BOX/REDWALL	TITLE OF FOLDER	EXEMPT FROM FOIA REQUEST	COURT'S RATIONALE
<i>Redwall 26</i>	Folder A CIF Corporate Doc..	**PRODUCE ALL IN FOLDER A**	
	All Other Folders	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
Box 4 - A			
<i>Redwall 28</i>	Folder B Corporate Entities...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder D Amos & White LLC	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder M Misc. Deeds (LRI)...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 29</i>	Folder A A. Field Statement...	(1) Field Deposition (2) Attorney Notes dated 3/13/07	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder B Georgia Road	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder C Draft Orders, etc...	(1) Copy of Hand-written notes (2) Administrative Proceeding...	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder D Delinquent Loan Workout with Tiger Transport	(1) Attorney Notes starting w/ Liberty (2) Attorney Notes starting w/ TTS (3) Index Search from 1/1/04 (4) Filings Printout from 5/21/08	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 30</i>	Folder A Prospectus	(1) Prospectuses with notes (left side) (2) Attorney Notes (part of right side)	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder B Financial Statements	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.

BOX/REDWALL	TITLE OF FOLDER	EXEMPT FROM FOIA REQUEST	COURT'S RATIONALE
<i>Redwall 31</i>	Folder B Refer CIF Invest...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 32</i>	Folder A CIF other similar...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 33</i>	Folder A Attorney Notes	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder B Research	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
Box 4 - B			
<i>Redwall 34</i>	Folder A New Security...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 35</i>	Folder A [None]	ALL CONTENTS EXEMPT... **EXCEPT FOR (1) Condon Letter dated 10/28/08*	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 36</i>	Folder A Immunity	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 37</i>	Open Issues	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
Box 5 - A			
<i>Redwall 1</i>	Index of File Notes	ALL CONTENTS EXEMPT... **EXCEPT FOR (1) Email 4/24/03 (2) Corning to S... Email**	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Case File (Green File Folder #1)	(1) Letter dated 7/1/03 (2) Letters dated 3/28/03 (3) Email dated 4/5/03	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Case File (Green File Folder #2)	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.

BOX/REDWALL	TITLE OF FOLDER	EXEMPT FROM FOIA REQUEST	COURT'S RATIONALE
<i>Redwall 1 cont'd</i>	Case File (Green File Folder #3)	(1) Attorney Notes - York...	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Case File (Green File Folder #4)	(1) Attorney Notes Titled Green File #4 RW #1 03073 (2) Corning Email 8/14/03 (3) Corning Email 8/18/03 (4) Windsor Email 8/18/03 (5) Corning Email 8/18/03 (6) Attorney's Notes 8/25/03 (7) Attorney's Research dated 8/21/03	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 2</i>	Folder #1	(1) Attorney Notes Dated 10/8/03	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder #2	(1) Field to Pantsari Letter Unsub. N. (2) Field: Plain English Explanation (3) Prospectus 3/17/03 (AG- 8/8/03) (4) CIF Prospectus (AG- 4/14/03) (5) Faxed copy letter 3/28/03	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder #3	(1) Attorney Notes concerning P.H.	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 3</i>	Folder #1	ALL CONTENTS EXEMPT **EXCEPT FOR (1) Fax Letter 10/7/03 (2) Field Witness Subpoenas **	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder #2	(1) Schedule dated 10/9/03 (2) Table of Contents dated 11/4/02 (3) Email 10/21/03 (4) Letter 9/11/03 with 2 attachments (5) Attorney Notes dated 1/25/03 (6) Email dated 1/30/04 (7) Email dated 2/2/04	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder #3	(1) Copy of Examination dated 3/2/04 (2) Examination 3/2/04 (w/ notes) (3) Attorney Notes re: exam dtd 3/2/04	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.

BOX/REDWALL	TITLE OF FOLDER	EXEMPT FROM FOIA REQUEST	COURT'S RATIONALE
<i>Redwall 3 cont'd</i>	Folder #4	(1) Fax sent on 1/21/04 (2) Attorney notes dated 10/6/07 (3) Attorney notes dated 10/9/03 (4) Field Letter & attachment 12/12/03 (5) Letter dated 3/9/04 & attachments (6) Mortgage Execution: 2/5/04 (7) Attorney Notes/News story/CD	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
Box 5 - B			
<i>Redwall 4</i>	Folder A Folder 1: CIF Notes	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder B Folder 2: Scott Pfeiffer/ CIF Cosimo	(1) Spreadsheet #1 of 2 (2) Attorney Notes titled CIF (3) Attorney Notes titled Cosimo (4) Spreadsheet #2 of 2	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 5</i>	Folder A Folder 1: Lancaster...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder B Folder 2: Capital...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 6</i>	Folder C Folder 3: Thomas...	(1) National Comprehensive Report	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder H Folder 8: CIF Tiger...	(1) Attorney Notes titled W. Georgia Road	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder L Background Check...	ALL CONTENTS EXEMPT	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 7</i>	Folder A Cosimo/Ripley...	(1) Notes titled C. → C. → R. (2) Loan documents	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder B Cosimo/Bean...	(1) Notes titled C. → C. → B.	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.

BOX/REDWALL	TITLE OF FOLDER	EXEMPT FROM FOIA REQUEST	COURT'S RATIONALE
<i>Redwall 7 cont'd</i>	Folder C Cosimo/Bean...	(1) Notes titled C. → C. → B.	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder D Cosimo/Bread...	(1) Notes titled C. → C → B.	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 8</i>	Folder B Cosimo/124...	(1) Notes titled C. → C. → I	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder C Cosimo/Tiger Asset	(1) Notes titled C. to T.	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Box 6 - A</i>			
<i>Redwall 9</i>	Folder A Cosimo/Tiger Asset	(1) Notes titled C. → T.A.	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder B Cosimo/Pembroke	(1) Notes titled C. → P.	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder C Cosimo/Liberty One	(1) Notes titled C. → C. → L.	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder D Cosimo/Simpsonville	(1) Attorney Notes titled 2001 (2) Attorney Notes titled Simpsonville.	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder E Cosimo/Albrecht	(1) Notes titled C. → A.	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder F Cosimo Morgan...	(1) Notes titled C. → C. → M.	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder H Cosimo/Albrecht	(1) Notes titled C. → A	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.

BOX/REDWALL	TITLE OF FOLDER	EXEMPT FROM FOIA REQUEST	COURT'S RATIONALE
<i>Redwall 10</i>	Folder A Cosimo/Earth Artist	(1) Notes titled C. → R. → W.	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder B Cosimo/Ramsey...	(1) Attorney Notes Box 8 Redwall 1 (2) Notes titled C. → C. → E.	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder C Cosimo/D&D	(1) Notes titled C. → C. → D.	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 11</i>	Folder A MFG/Tiger Asset	(1) Attorney Notes: Box 8 Redwall #2 (2) Notes titled C. → M. → T.	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 12</i>	Folder A Cosimo/Palmetto...	(1) Attorney Notes Box 8 Redwall #3	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
Box 6 - B			
<i>Redwall 13</i>	Folder A MFG/LD-30 Roft	(1) Handwritten notes	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder C MFG/LRI Romina...	(1) Handwritten notes	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder D East Riley	(1) Handwritten notes	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder E MFG/Lancaster Dev	(1) Handwritten notes	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder F MFG/Tiger Asset	(1) Handwritten notes	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder G MFG/LRI PGR...	(1) Handwritten notes	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.

BOX/REDWALL	TITLE OF FOLDER	EXEMPT FROM FOIA REQUEST	COURT'S RATIONALE
<i>Redwall 13 cont'd</i>	Folder H MFG/Lancaster/Pres.	(1) Handwritten notes	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder I MFG/LRI S Castle...	(1) Handwritten notes	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder J MFG/Lancaster/638	(1) Handwritten notes	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder K MFG/Lancaster/532	(1) Handwritten notes	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder L MFG/LRI RCD Ent	(1) Handwritten notes	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder M MFG/LRI SRG 457	(1) Handwritten notes	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder N MFG/LRI Trylon...	(1) Handwritten notes	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
	Folder O MFG/Ind Welshire	(1) Handwritten notes	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 15</i>	Folder A 3 CMB Loans to Albrecht	(1) A. Loan Packet 1: Credit Info (2) A. Loan Packet 2: Application Info (3) A. Loan Packet 2: Employment Inf (4) A. Loan Packet 2: Disclosures (5) A. Loan Packet 3: **ALL CONTENTS EXEMPT**	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.
<i>Redwall 16</i>	[No folder]	(1) Attorney notes titled C. G. P. (2) Field Email dated 11/21/2003	Record sufficient to establish legal counsel correspondence/work product or obtained in investigation and not subject to disclosure.

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NO: 2010CP2306767

2011 AUG 18 A 9:32

Arthur M Field vs. Attorney General

CHECK ONE:

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a),
SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order; ☐ Statement of Judgment by the Court:

Dated at Greenville, South Carolina, this .

Court Reporter: _____

PRESIDING JUDGE - _____

This judgment was entered on the 18th day of August, 2011, and a copy mailed first class this 18th day of August, 2011, to attorneys of record or to parties (when appearing pro se) as follows:

Arthur M Field 310 Thornblade Blvd Greer, SC
29650

ATTORNEY(S) FOR THE PLAINTIFF(S)

William H. Davidson II Davidson & Lindemann,
P.A. P.O. Box 8568 Columbia, SC 292028568

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court
- Clerk of Court

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

2011 AUG 18

IN THE COURT OF COMMON PLEAS

2010-CP-23-6767

Arthur M. Field,

Petitioner,

vs.

Henry McMaster, Attorney General,

Respondent.

FILED-CLERK OF COURT
GREENVILLE, S.C.
DATE: 8/18/2011

ORDER

This is an action wherein Petitioner filed suit under the Freedom of Information Act seeking disclosure of documents relating to Petitioner and in the possession of Respondent.¹ Respondent has taken the position that absolutely none of the thousands of pages of documents it possesses are required to be disclosed. In support of this, Respondent submitted a Log consisting of 18 pages with rather generic, broad based reasons it felt disclosure was not required. The Court, after reviewing the literally 1000's of documents in the 15 boxes of documents submitted by Respondent, issued its Order dated July 18, 2011 finding that certain of the documents were required to be produced to Petitioner.

As was anticipated, both parties have now filed Motions to Alter or Amend, as well as many other motions,² relative to this Court's Order dated July 18, 2011. Petitioner contends, among other things, this Court's Order did not disclose enough documents. Respondent

¹ Per Judge Welmaker's Order filed April 4, 2011, the undersigned was to review the documents held by Respondent and issue an Order relative to Petitioner's FOIA request. To the extent there are any other issues pending between the parties in this action, these are left to be addressed by Judge Welmaker. This specifically includes recoverability of any fees or costs sought by Petitioner.

² At last count, and since the Order dated July 18, 2011, Petitioner has filed: Motion to Alter or Amend, Supplement to Field's Objection to Alter or Amend, Objection to Motion to Alter or Amend, and Objection to Stay and Request for Statutory Costs. Respondent has filed: Motion to Alter or Amend, Conditional Motion for Stay, Supplement to Motion to Alter or Amend and Reply to Petitioner's Response.

contends, among other things, that the Court's Order erred by requiring production of any documents.

As relates to Respondent's Motion to Alter or Amend, the Court finds:

The primary argument raised by Respondent now seems to be that the Court "overlooked the applicability of S.C. Code §35-1-607(b)(1)." In other words, Respondent contends that the Court, at least in part, applied the wrong law in its Order of July 18, 2011. Section 35-1-607(b)(1) states that, "A record obtained by the Securities Commissioner in connection with an audit or inspection under Section 35-1-411(d) or an investigation under Section 35-1-602" is not available for public examination.

The Court disagrees with Respondent's position regarding the applicability and interpretation of §35-1-607(b)(1). §35-1-607 starts with the general premise that records obtained by the Securities Commissioner "are public records and are available for public examination." Then §35-1-607(b)(1) limits what are "public records" and not available for "public examination" under (a). Respondent appears to be arguing that "not public" is the same as "privileged." From a reading of §35-1-607, it appears that the intent was not to protect the State in its investigatory role but rather to protect individual citizens who may find themselves the subject of an investigation from having those investigatory records made public. In other words, even under §35-1-607(b)(1), there may be instances where an individual has a right to certain documents not otherwise exempt from production.

The Court is also unable to glean, from its review of the record and the voluminous boxes of documents presented by Respondent, the origin of the documents that Respondent now contends are exempt from disclosure as being obtained by the Securities Commissioner. It would appear from a review of the records themselves that a large portion of the documents were procured by Respondent and then provided to the Securities Commissioner. In light of this fact,



a document otherwise subject to disclosure under the Freedom of Information Act does not take on a new identity and protection simply by its being provided by Respondent to the Securities Commissioner.³

Respondent, in support of its present Motion to Alter or Amend, has now produced a 103-page Log with more detailed explanations of exemptions claimed. To the extent that the Court can now accept these explanations of exemptions, the Court has reviewed the new Log and finds that there is no basis to alter or amend the Order of July 18, 2011.

Respondent also raises certain issues relative to its Motion for Summary Judgment that was heard by Judge Welmaker some months ago and resulted in his Order being filed April 4, 2011. While this Court is of the opinion that Respondent may not now raise this argument relative to the motions already heard by Judge Welmaker, that decision ultimately is to be made by Judge Welmaker.

The Court also finds, contrary to Respondent's contention, that its Order filed July 18, 2011, when viewed in light of the record in this matter, sets out sufficient findings and conclusions to comply with Rule 52, SCRCP.

As to Petitioner's Motion to Alter or Amend filed August 3, 2011, the Court finds that the Order of July 18, 2011, as well as the above findings and conclusions, sufficiently address the substantive basis for Petitioner's Motion. As with Respondent's Motion as noted above, Petitioner's Motion to Alter or Amend is denied.

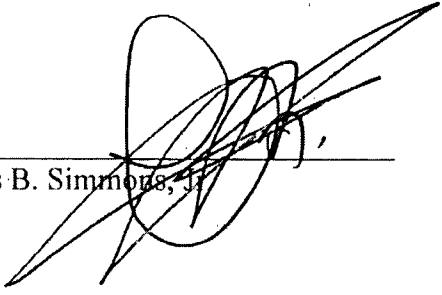
The Court set forth a process and procedure for appeal in its Order of July 18, 2011. While Respondent has also filed a "Conditional Motion to Stay", the Court finds that the process

³ Petitioner argues that the Securities Commissioner is part of the Attorney General's Office and, as such, is unconstitutional. This is not an issue before the court. However, and when interpreting FOIA and §35-1-607, inherent conflicts arise based upon the fact that the Securities Commissioner is a part of Respondent.

and provisions of the Order of July 18, 2011 are sufficient to address and protect Respondent's concerns. Accordingly, Respondent's Conditional Motion for Stay is denied.

THEREFORE, all outstanding motions of Petitioner and Respondent are denied.

AND IT IS SO ORDERED.



Charles B. Simmons, Jr.
Judge

August 17 2011

Greenville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO: 2010CP2306767

2011 SEP 15 P 12:50

Arthur M Field vs. Attorney General

CHECK ONE:

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b). SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k). SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy:
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order; ☐ Statement of Judgment by the Court:

Dated at Greenville, South Carolina, this .

Court Reporter: _____

PRESIDING JUDGE - _____

This judgment was entered on the 15th day of September, 2011, and a copy mailed first class this 15th day of September, 2011, to attorneys of record or to parties (when appearing pro se) as follows:

Arthur M Field 310 Thornblade Blvd Greer, SC
29650

ATTORNEY(S) FOR THE PLAINTIFF(S)

William H. Davidson II Davidson & Lindemann,
P.A. P.O. Box 8568 Columbia, SC 292028568
Kenneth P. Woodington Davidson & Lindemann,
P.A. P.O. Box 8568 Columbia, SC 29202

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court
- Clerk of Court

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

FILED-CLERK OF COURT
GREENVILLE, S.C.
PAUL J. WICKENS

2011 SEP 15

IN THE COURT OF COMMON PLEAS
2010-CP-23-6767

Arthur M. Field,

Petitioner,

vs.

Henry McMaster, Attorney General,

Respondent.

ORDER

This Order addresses Respondent's latest Motion to Alter or Amend filed with the Clerk of Court's Office on September 6, 2011. Respondent's current Motion is relative to this Court's Order filed August 18, 2011. The Order filed August 18, 2011 was in reference to Respondent's prior Motion to Alter or Amend following entry of the Court's Order filed July 18, 2011.

To the extent that any possible issues have not been addressed by the Court in its prior Orders, the Court rules as follows:

1. Applicability of §35-1-607(b)(1)

Issues regarding applicability of §35-1-607(b)(1) were set out in the Order filed August 18, 2011. The language and intent of the Order filed August 18, 2011 was in no way to create new rights for persons under investigation by the Securities Commissioner or, for that fact, any agencies with criminal investigatory authority in this state. Nor was the language and intent to allow individuals, such as Petitioner, to circumvent criminal or civil discovery processes.



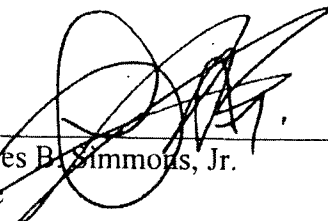
Rather, the Order filed August 18, 2011 sets out the Court's conclusions of law and findings of what is appropriate to be released and disclosed based upon the unique facts of this case.¹

2. **Conditional Motion for Stay.**

As set forth in the Court Order filed July 18, 2011, the Court set out a process and procedure for disclosure of the non-exempt documents to Petitioner. The language and intent of that Order was to allow Respondent the opportunity, to the extent they felt appeal was necessary, to proceed with the filing of the appeal prior to disclosure of any documents. Clearly, at this point, both parties are aware of the issues that will be appealed and can timely file their appeal prior to the time period for disclosure of the documents set forth in the July 18, 2011 Order. Once either side files an appeal, any disclosures of documents would be stayed pending appellate court Order.

NOW, THEREFORE, based upon the rationale set forth above, Respondent's Motion to Alter or Amend Judgment filed with the Clerk's Office on September 6, 2011 is hereby denied. Further, and as relates to the issues this Court was directed to address in Judge Welmaker's Orders of April 4, 2011 and April 30, 2011, this is a **FINAL ORDER**.

AND IT IS SO ORDERED.



Charles B. Simmons, Jr.
Judge

September 14 2011

Greenville, South Carolina

¹ Respondent, with the current motion, submitted an affidavit of Tommy Windsor. Based upon the procedural posture of this case, the Court is unable to accept any new evidence.

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO: 2010CP2306767

2011 SEP 15 P 12:50

Arthur M Field vs. Attorney General

CHECK ONE:

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order; ☐ Statement of Judgment by the Court:

Dated at Greenville, South Carolina, this .

Court Reporter: _____

PRESIDING JUDGE - _____

This judgment was entered on the 15th day of September, 2011, and a copy mailed first class this 15th day of September, 2011, to attorneys of record or to parties (when appearing pro se) as follows:

Arthur M Field 310 Thornblade Blvd Greer, SC
29650

William H. Davidson II Davidson & Lindemann,
P.A. P.O. Box 8568 Columbia, SC 29202
Kenneth P. Woodington Davidson & Lindemann,
P.A. P.O. Box 8568 Columbia, SC 29202

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court
- Clerk of Court

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Arthur M. Field,

Petitioner,

vs.

Henry McMaster, Attorney General,

Respondent.

FILED-CLERK OF COURT
GREENVILLE, S.C.
PAUL P. WILKINSON

2011 SEP 19 P 2:51

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

Case No.: 2010-CP-23-6767

ORDER

This matter is before me on Respondent's Motion to Alter or Amend Judgment. As to those issues raised that may remain before the undersigned,

IT IS HEREBY ORDERED that motions for summary judgment filed by both parties are denied. Clearly a genuine issue of material facts exists. The volume of documents in dispute is further evidence that this case is not appropriate for summary judgment at this stage. This is not a case to be bifurcated.

IT IS FURTHER ORDERED that under the unique circumstances of this case, there has not been an abuse of civil discovery by Plaintiff's use of the Freedom of Information Act.

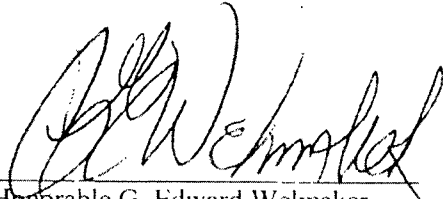
IT IS FURTHER ORDERED that any fees and costs to be awarded are postponed until final disposition of the matter.

For the appellate benefit of the parties this is considered a final order. Any other motions relating to the case should be filed through the Clerk of Court.

Any decision as to staying the enforcement of the July and August orders of Judge Simmons is left to his discretion, as he performed the yeoman task of reviewing the thousands of documents in dispute.

IT IS SO ORDERED.

September 14, 2011
Greenville, South Carolina


Honorable G. Edward Welmaker
Judge, Thirteenth Judicial Circuit

ARTHUR M. FIELD	)	STATE OF SOUTH CAROLINA
Petitioner	)	THIRTEENTH JUDICIAL CIRCUIT
V.	)	COUNTY OF GREENVILLE
HENRY MCMASTER,	)	2010-CP-23- <u>6767</u>
ATTORNEY GENERAL	)	
Respondent	)	SUMMONS

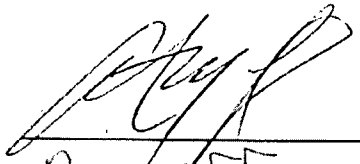
To The Respondent

Henry McMaster, Attorney General of South Carolina

1000 Assembly Street, Columbia, SC 29201

2010 AUG 17 AM 11:20
 110-44000-000
 110-44000-000

You are hereby Summoned and required to Answer the Complaint of the above-named petitioner, a copy of which is herewith served upon you, by serving your Answer upon Arthur Field, 310 Thornblade Boulevard, Greer, South Carolina 29650, within 30 days of the service hereof upon you, exclusive of the day of such service. If you fail to answer within the time permitted by law, a judgment of default for failure to do so shall be entered against you for the relief demanded in the Complaint, and such other or further relief as may be entered by the Court.


 PLAINTIFF pro se
 Clerk

Dated: August 17, 2010

ARTHUR M. FIELD	)	STATE OF SOUTH CAROLINA
Petitioner	)	THIRTEENTH JUDICIAL CIRCUIT
V.	)	COUNTY OF GREENVILLE
HENRY MCMASTER,	)	2010-CP-23- <u>6767</u>
ATTORNEY GENERAL	)	
Respondent	)	COMPLAINT

2009 JUN 17 PM 11:20
 RECEIVED
 CLERK OF COURT
 13TH JUDICIAL CIRCUIT
 GREENVILLE, SC

Petition states by way of Complaint against Respondent,

1. Petitioner Arthur M. Field is a citizen of Greenville County, South Carolina.
2. Respondent Henry McMaster is the Attorney General of South Carolina.
3. This action is brought pursuant to South Carolina Code of Laws Title 30, Chapter 4.
4. On or about July, 2009, Petitioner served an initial FOIA request upon Respondent.
(Copy annexed, Exhibit A)
5. Respondent partially complied with such request on August 3, 2009. Geoffrey K. Chambers, Law Clerk, provided Petitioner with approximately 2,000 pages of documents (predominantly copies of documents previously submitted to Respondent by Petitioner) and Petitioner paid in full the cost of such copying and transmission.
6. On August 11, 2009, Petitioner served a second request for compliance with a Freedom of Information Act demand upon Geoffrey K. Chambers, Law Clerk, Office of the Attorney General, Columbia, South Carolina. (Copy annexed, Exhibit B)
7. No response or objection to such request of August 11, 2009, was ever served by respondent upon petitioner.
8. On July 28, 2010, Petitioner served an additional FOIA demand upon Respondent. (Copy annexed, Exhibit C)
9. None of the information sought is exempt from disclosure under S.C.C.A.30-4-40.
10. Respondent has failed to comply within the 15 day period provided by law.

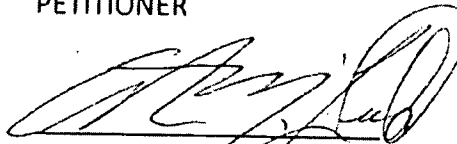
11. Any objection or claim of privilege by Respondent is incorrect and set forth solely to deny Petitioner access to the documents and the proper exercise of his rights under the U.S. and South Carolina Constitution.
12. Petitioner requires such information as demanded and failure to produce such information will cause Petitioner irreparable harm.
13. This Complaint is brought within 1 year of the failure of Respondent to comply.

Now: Tony MATTEN.

Wherefore, Petitioner demands judgment and relief as follows:

- A. Damages as set forth in Title 30, including costs and reasonable attorney's fees;
- B. Declaratory judgment as set forth in S.C.C.A.30-4-100;
- C. Injunctive relief as set forth in S.C.C.A. 30-4-100;
- D. Penalties as set forth in S.C.C.A.30-4-110;
- E. Such other and further relief as may pertain in law or in equity.

PETITIONER



Arthur M. Field, pro se
310 Thornblade Blvd.
Greer, SC 29650

Dated: August 17, 2010

Exhibit A

July 13, 2009

Rowland Corning, D.A.G.
Securities Division
1000 Assembly Street
Columbia, SC 29201

Demand Under Freedom of Information Act

Dear Deputy Attorney General Corning (or Freedom of Information Officer):

Formal demand is hereby made upon you and the Securities Division pursuant to the South Carolina Freedom of Information Act [S.C.C.A. 30-4-10, et seq.] for disclosure and production of any and all information and/or public records relating to any of the following persons or entities, including, but not limited to, all records compiled in any civil or administrative investigation at any time, staff comment letters, public comment and/or subpoenae issued and the responses thereto covering the period 1/1/1999 to 7/13/2009:

Capital Investment Funding, LLC
Capital Intrastate Funding, LLC
Arthur M. Field
Kathryn Taillon
Allyson Field
Davyd Field
Scott Pfeiffer
Cosimo, LLC
Trazom, LLC
James Caserta
Elliot Salzman
Robert L'Abbate
Lancaster Resources, Inc.
Monmouth Financial Group, Ltd.
Kronador Trading Co., LLC
Blenheim Properties, LLC
Bountiful Bingo, LLC
Epic Entertainment & Equipment Co., LLC

Please include in this production all complaints filed with the Securities Division by any person involving one or more of these entities. Also, include all those documents deemed

public records in accord with S.C.C.A.30-4-30. Also, include all official documents, memoranda, correspondence, etc., except those for which a privilege is claimed pursuant to 30-4-40, in which event identify such document and state the claim of privilege in the time and manner prescribed. Also, as to Capital Investment Funding, LLC and any other entity named above, all prospectus documents, all U-1, all advertising, all correspondence, all audits on file, all official or informal responses thereto, and all other documents relevant to the registration of securities by such entity.

Further, provide a list of all entities, which have registered securities by qualification form March 1, 2007 through July 13, 2009. As to each, provide a copy of the U-1 and the prospectus document supporting such registration. For each such entity, provide a copy of the no-action letter received from the U.S. Securities and Exchange Commission.

Further, for each of the following persons, provide a copy of the person's resume and personnel file insofar as such information may be disseminated under the FOIA without violating any privacy acts. Also, provide all correspondence by such persons to any other person, entity or party concerning those persons and entities listed on page 1 hereof:

William Condon, Jr.

Tommy Windsor

Joe F. Jordan, Jr.

Lansing Logan

If any portion of such record(s) is considered exempt, provide the balance of the record which is not deemed privileged in an appropriate and legible manner.

The cost of such production will be borne by the undersigned. Production may be provided in paper or electronic format, provided the latter is a pdf or Word or WordPerfect document, without password protection. Electronic format is preferred.

I ask that my request be expedited in order to permit preparation for various civil and administrative proceedings. Your immediate cooperation and compliance with the FOIA is appreciated.

Sincerely,



Arthur M. Field

Arthur M. Field, Ph.D. *EXHIBIT B*
Attorney - At - Law

310 Thornblade Boulevard
Greer, SC 29650
(864) 286-0532

Fax: (864) 286-0532
arthur-field@charter.com
Admitted: CT, N

August 11, 2009

Geoffrey K. Chambers
Law Clerk
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

Re: Capital Investment Funding, LLC and Field FOIA request

Dear Mr. Chambers:

Thank you for your letter of August 3, 2009 accompanying the partial response to my FOIA demand. I received the large box yesterday and have started going through and separating the volume of documents. Enclosed is a check for \$730.30. It is a shame you were unable to transmit this on electronic media. It would have been much smaller and cost less to ship.

I do observe various documents or portions thereof are missing, however. For example, your page stamp #5 appears to be the 'start' of a submission from a third party concerning "Carolina Investment Funding, LLC" complete with a table of contents, a copy of the proposed prospectus, various judgment liens, etc. I know this was not submitted by the applicant and doubt highly the Securities Division generated this document. I suspect it came from HomeGold or attorney Wyche's firm. Yet, I find no cover letter, envelope or other document to indicate its source. Since the Securities Division even kept copies of handwritten envelopes from me, I am confident the cover letter or objection to application or similar document must exist in your files and naturally demand a copy thereof. Further, it must logically follow the only way a third party was aware of CIF's initial application was to have been informed thereof by someone inside the Securities Division, there must be correspondence to that effect, which is also missing and hereby demanded.

In similar vein, there is a March, 2007, letter to the Division from one Clifton Bodiford, CPA of Columbia. His letter refers to a request to evaluate CIF financial statements sent to him for the years 2005 and 2006. However, I was unable to locate a copy of the Division's transmittal to him or any other correspondence to Bodiford. Any and all additional correspondence between the Division and Bodiford is demanded together with any similar documents involving any other experts or outside sources, including any internal Division memoranda concerning same.

I look forward to receiving the balance of the documents.

Sincerely,



Arthur M. Field

Arthur M. Field, Ph.D.
Attorney - At - Law

EXHIBIT C

310 Thornblade Boulevard
Greer, SC 29650
(864) 286-0532

Fax: (864) 286
arthur-field@cha
Admitted: CT

July 28, 2010

Office of the Attorney General

PO Box 11549

Columbia, SC 29211

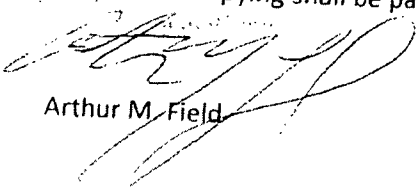
FOIA Demand

Sirs:

Demand is hereby made pursuant to Title 30 of the South Carolina Code of Laws, the Freedom of Information Act, for a true copy of the following document(s):

- 1) Memo(s) or letter(s) or referral(s) from Assistant Attorney General William Condon, Jr., to Jennifer Evans or other person in the Criminal Division of the Office of the Attorney General, dated on or about September, 2008, concerning any one or more of the following persons or entities: Arthur M. Field; Kathryn Taillon; Capital Investment Funding, LLC; T. Bart Kelley; Davy Field; F. Scott Pfeiffer; Cosimo, LLC;
- 2) Transmittal letter from William Condon, Jr. or some other person(s) in the Securities Division of any other material, documents, evidence, etc., to the Criminal Division of the Office of the Attorney General between April, 2008 and July 27, 2010 concerning any one or more of the persons or entities listed in #1 above together with copies of any material, documents, etc. transmitted other than work product;
- 3) Transmittal letter from William Condon, Jr. or some other person(s) in the Securities Division of any material, documents, evidence, request for evaluation, request for review, etc., to Clifton Bodiford, CPA, of Columbia, between April, 2006 and October, 2008 concerning any one or more of the persons or entities listed in #1 above;
- 4) Compliance with the prior requests made by the undersigned (see letter of August 11, 2009, copy annexed) which demands are hereby repeated and renewed;
- 5) Any memos, correspondence or letters between Tommy Windsor and any person within the Office of the Attorney General concerning any of the persons or entities listed in #1 above between the period March 1, 2003 and July 27, 2010;
- 6) Any such documents as listed in #5 above between Assistant Attorney General Rowland Corning and any person within the Office of the Attorney General concerning any of the persons or entities listed in #1 above between March 1, 2003 and July 27, 2010.

Compliance shall be as set forth in S.C.C.A.30-4-10 et seq. and relief shall be sought for failure to comply as set forth in Sec.30-4-100, et seq.. Any cost of copying shall be paid by the undersigned.


Arthur M. Field

Cc: F. Scott Pfeiffer, Esq.

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

2010 SEP 20 AM 10:49

Civil Action Number: 10-CP-23-6767

Arthur M. Field,

FILED - CLERK OF COURT
GREENVILLE CO S C,
PAUL B. WICKESIBER
Petitioner,

ANSWER

v.

Henry McMaster, Attorney General,

Respondent.

Respondent (or Defendant) Henry McMaster, Attorney General, answering the
Complaint herein, alleges the following:

FOR A FIRST DEFENSE

1. Respondent denies each and every allegation of the Complaint not hereinafter specifically admitted, qualified, or explained.
2. Paragraph 1 is admitted.
3. Paragraph 2 is admitted.
4. Paragraph 3 is merely descriptive of this action, and as such requires neither admission nor denial. Insofar as such allegations attempt to establish liability on the part of Respondent, Respondent would deny same and demand strict proof thereof.
5. Answering Paragraph 4, Respondent admits that the Office of Attorney General received a copy of the document attached to the Complaint as Exhibit A, but demands strict proof of the date of service of that document, such date not being specifically stated in the Complaint. In addition, Respondent would refer the Court to Exhibit A for the best

evidence of its contents. Except as expressly admitted, the allegations of Paragraph 4 are denied. Respondent would further allege that some of the information requested in Exhibit A is not required to be produced under the Freedom of Information Act, and that all information required to be produced was in fact produced.

6. Answering Paragraph 5, Respondent would refer the Court to the information supplied to Petitioner by the Office of Attorney General for the best evidence of its contents. Except as expressly admitted, the allegations of Paragraph 5 are denied, except that Plaintiff did make payment as therein stated.

7. Answering Paragraph 6, Respondent admits that the Office of Attorney General received a copy of the document attached to the Complaint as Exhibit B, but demands strict proof of the date of service of that document. In addition, Respondent would refer the Court to Exhibit B for the best evidence of its contents. Except as expressly admitted, the allegations of Paragraph 6 are denied. Respondent would further allege that some or all of the information requested in Exhibit B is not required to be produced under the Freedom of Information Act, and that any information required to be produced was in fact produced.

8. Answering Paragraph 7, Respondent, without admitting that any response to Exhibit B was required, would nevertheless show that any response that was required was made.

9. Answering Paragraph 8, Respondent admits that the Office of Attorney General received a copy of the document attached to the Complaint as Exhibit C. Respondent would refer the Court to Exhibit C for the best evidence of its contents. Except as expressly admitted, the allegations of Paragraph 8 are denied. Respondent would further

allege that some or all of the information requested in Exhibit C is not required to be produced under the Freedom of Information Act.

10. Paragraph 9 is denied.

11. Paragraph 10 is denied.

12. Paragraph 11 is denied.

13. Paragraph 12 is denied.

14. Answering Paragraph 13, it is denied that this Complaint is brought within one year of the alleged failure of Respondent to comply with the request set forth in Exhibit A to the Complaint.

FOR A SECOND DEFENSE

15. Some of Petitioners' claims are barred by the applicable statute of limitations, or by laches, or both.

FOR A THIRD DEFENSE

16. Any material not produced in response to such of Petitioner's requests as are properly before the Court is exempt from disclosure. The provisions of law that exempt such material include, but are not limited to, *S.C. Code Ann.* § 30-4-40(3), 30-4-40(4), 30-4-40(7), and investigative privilege generally.

FOR A FOURTH DEFENSE

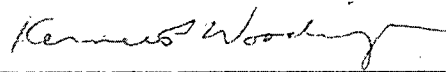
17. Plaintiff is not entitled to use the Freedom of Information Act to supplant, or as a substitute for, discovery in civil, investigative, or criminal proceedings or investigations. A federal court has stayed discovery in *Field et al. v. McMaster, et al.* No/ 6:09-cv-01949-HMH -BHH (D.S.C.), and if Plaintiff should need to seek discovery in any

criminal or investigative proceeding, he would be subject to the rules applicable to discovery in such proceedings.

WHEREFORE, having fully answered the Complaint, Respondent respectfully prays that this action be dismissed with prejudice in its entirety, for the costs of this action, and for such other and further relief as the Court may deem appropriate.

DAVIDSON & LINDEMANN, P.A.

By:



WILLIAM H. DAVIDSON, II
KENNETH P. WOODINGTON
1611 Devonshire Drive, Second Floor
Post Office Box 8568
Columbia, South Carolina 29202
T: (803) 806-8222
F: (803) 806-8855

ATTORNEYS FOR RESPONDENT

Columbia, South Carolina

September 11, 2010

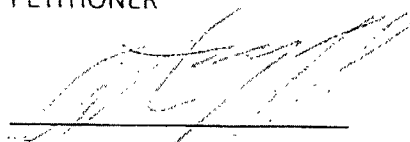
ARTHUR M. FIELD	)	STATE OF SOUTH CAROLINA
Petitioner	)	THIRTEENTH JUDICIAL CIRCUIT
V.	)	COUNTY OF GREENVILLE
HENRY MCMASTER,	)	2010-CP-23-06767
ATTORNEY GENERAL	)	
Respondent	)	MOTION FOR SUMMARY JUDGMENT

Petitioner Arthur M. Field hereby moves this Court to enter judgment in his favor for the relief requested in the petition:

- A. Damages as set forth in Title 30, including costs and reasonable attorney's fees;
- B. Declaratory judgment as set forth in S.C.C.A.30-4-100;
- C. Injunctive relief as set forth in S.C.C.A. 30-4-100;
- D. Penalties as set forth in S.C.C.A.30-4-110;
- E. Such other and further relief as may pertain in law or in equity.

Respondent has not provided the information demanded and has not made a good faith effort to comply with the statute. This Motion is brought pursuant to SCRCP 56. Petitioner relies on the Affidavit and Brief annexed hereto and made a part hereof as if fully set forth.

PETITIONER



Arthur M. Field, pro se

310 Thornblade Blvd.

Greer, SC 29650

Dated: October 17, 2010

ARTHUR M. FIELD	)	STATE OF SOUTH CAROLINA
Petitioner	)	THIRTEENTH JUDICIAL CIRCUIT
V.	)	COUNTY OF GREENVILLE
HENRY MCMASTER,	)	2010-CP-23-06767
ATTORNEY GENERAL	)	AFFIDAVIT IN SUPPORT OF
Respondent	)	MOTION FOR SUMMARY JUDGMENT

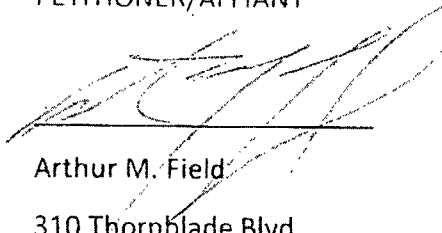
Petitioner Arthur M. Field being duly sworn upon his oath, deposes and states:

- 1) I am over the age of the 18 and understand the obligation of an oath.
- 2) I am the Petitioner herein and make these statements to the best of my knowledge and belief.
- 3) On July 28, 2010, I served a FOIA demand upon the Office of the Attorney General pursuant to S.C.C.A. 30-4-30. I requested compliance as set forth in such Act. A copy of such demand is annexed to the Petition (Exhibit C).
- 4) This was the second such request; I made a prior FOIA demand in July, 2009 and supplemented on August 11, 2009. (Exhibits A and B, annexed to the Petition).
- 5) No compliance or objection pursuant to S.C.C.A. 30-4-40 was forthcoming within the time provided by statute—15 days following the demand. S.C.C.A. 30-4-30(c).
- 6) On or after August 16, 2010, Assistant Attorney General Geoffrey Chambers mailed me a status report acknowledging the July 27, 2010 demand. (Copy annexed hereto). Such letter was mailed 20 days following the demand.
- 7) On August 18, 2010, I wrote A.A.G. Chambers and granted him a 15 day extension until August 31, 2010 to comply with the FOIA demand. (Copy annexed).
- 8) Nobody at the Attorney General's Office responded. No documents were provided. No objections, redactions or exemptions were sought or claimed.
- 9) I initiated this action within 1 year of service of all demands.

10) In 2009, Respondent provided some documents in response to my July, 2009 request and promised to provide more. No exemption of any kind was claimed at that time.

11) Despite the promise to complete the production in August, 2009, no additional documents were provided as demanded and no exemptions were claimed.

PETITIONER/AFFIANT



Arthur M. Field

310 Thornblade Blvd.

Greer, SC 29650

Dated: October 17, 2010

STATE OF SOUTH CAROLINA : ss. Greenville

COUNTY OF GREENVILLE :

Subscribed and sworn to before me by Arthur M. Field.



Notary Public 11-15-17



HENRY McMASTER
ATTORNEY GENERAL

August 16, 2010

Mr. Arthur M. Field
310 Thornblade Boulevard
Greer, SC 29650

RE: The status of your Freedom of Information Act request

Dear Mr. Field:

I am sending this letter to update you on the status of your South Carolina Freedom of Information Act request dated July 27, 2010. The information requested is currently being researched. At such time as all documents have been recovered, they will be evaluated to determine if any are exempt from disclosure. If the documents contain exempt materials, the exempt and non-exempt materials will be separated. Alternatively, non-exempt materials may be redacted. After separation or redaction, the non-exempt materials will be made available to you, in accordance with the Freedom of Information Act. This Office will contact you once the materials can be made available.

We appreciate your patience as our staff completes your request.

Sincerely yours,

Geoffrey Kelly Chambers
Assistant Attorney General

Arthur M. Field, Ph.D.

August 19, 2010

Attorney - At - Law

310 Thornblade Boulevard

Greer, SC 29650

Geoffrey K. Chambers
(864) 286-0562

Asst. Atty General

Office of the Attorney General

1000 Assembly St.

Columbia, SC 29201

Fax: (864) 286-0562

arthur-field@charter.net

Admitted: CT, NJ

Dear A.A.G. Chambers:

I just received your letter of August 16, 2010 concerning the status of my FOIA demand served upon the Attorney General on July 27, 2010. Since more than the statutory period of time had elapsed with no response, objection or request for extension, I filed the request from relief provided for in Title 30 of the South Carolina Code with the Circuit Court. A copy thereof should be served upon you in the near future.

However, I am willing to treat your August 16, 2010 letter as a request for a 15 day extension of time in which to comply with my demand. If full compliance is made prior to August 31, 2010, I shall be willing to withdraw the court action, but will expect reimbursement or a credit for the filing and service fees. I assume you will agree this is reasonable in light of the circumstances and the total lack of response to my August, 2009 demand. In the event full response to my 2009 and 2010 demands is not forthcoming, I will pursue my action with the court. Clearly, this is the less desirable course of action.

Should you have any questions, please feel free to contact me. I appreciate your assistance in this matter and look forward to receiving compliance by August 31, 2010.

Sincerely,



Arthur M. Field

ARTHUR M. FIELD	)	STATE OF SOUTH CAROLINA
Petitioner	)	THIRTEENTH JUDICIAL CIRCUIT
V.	)	COUNTY OF GREENVILLE
HENRY MCMASTER,	)	2010-CP-23-06767
ATTORNEY GENERAL	)	BRIEF IN SUPPORT OF
Respondent	)	MOTION FOR SUMMARY JUDGMENT
		FACTS

Petitioner Arthur M. Field brought this action pursuant to South Carolina Code Title 30, Freedom of Information Act.

On July 28, 2010, Field served a FOIA demand upon the Office of the Attorney General pursuant to S.C.C.A. 30-4-30. Field requested compliance as set forth in such Act. A copy of such demand is annexed to the Petition (Exhibit C). This was the second such request; Field made a prior FOIA demand in July, 2009 and supplemented on August 11, 2009. (Exhibits A and B, annexed to the Petition)

No compliance or objection pursuant to S.C.C.A. 30-4-40 was forthcoming within the time provided by statute—15 days following the demand. S.C.C.A.30-4-30(c).

On August 16, 2010, Assistant Attorney General Geoffrey Chambers mailed Petitioner a status report acknowledging the July 27, 2010 demand. (Copy annexed to Affidavit). Such letter was mailed 20 days following the demand.

On August 18, 2010, Petitioner wrote A.A.G. Chambers and granted him a 15 day extension until August 31, 2010 to comply with the FOIA demand. (Copy annexed to Affidavit). Nobody at the Attorney General's Office responded. No documents were provided. No objections, redactions or exemptions were sought or claimed. Petitioner initiated this action within 1 year of service of all demands.

LEGAL ARGUMENT

SCRCP 56 permits a court to grant summary judgment when the pleadings, affidavits and exhibits demonstrate the lack of a genuine issue of material fact. "Summary judgment is proper when it is clear there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Summary judgment should be granted when plain, palpable, and undisputable facts exist upon which reasonable minds cannot differ." *Bowen v. Lee Process Systems Co.*, 342 S.C. 232, 536 S.E.2d 86, (S.C.App. 2000); *Baird v. Charleston County*, 333 S.C. 519, 511 S.E.2d 69 (1999); SCRCP 56.

Petitioner Field has amply demonstrated he made a proper FOIA demand under S.C.C.A. 30-4-10, et seq., both in July/August 2009 and on July 28, 2010. The State had 15 days to comply with the demand as set forth in S.C.C.A.30-4-30(c). It failed to do so.

The State acknowledged receipt of such demand on August 16, 2010. It did not inform Petitioner of any claimed exemptions, privileges or exclusions, as required under the Act. It did not provide the information demanded. Compliance with the statute is mandatory.

S.C.C.A.30-4-100 and 30-4-110 set forth the relief to be accorded Petitioner for the State's failure to comply:

SECTION 30-4-100. Injunctive relief; costs and attorney's fees.

(a) Any citizen of the State may apply to the circuit court for either or both a declaratory judgment and injunctive relief to enforce the provisions of this chapter in appropriate cases as long as such application is made no later than one year following the date on which the alleged violation occurs or one year after a public vote in public session, whichever comes later. The court may order equitable relief as it considers appropriate, and a violation of this chapter must be considered to be an irreparable injury for which no adequate remedy at law exists.

(b) If a person or entity seeking such relief prevails, he or it may be awarded reasonable attorney fees and other costs of litigation. If such person or entity prevails in part, the court may in its discretion award him or it reasonable attorney fees or an appropriate portion thereof.

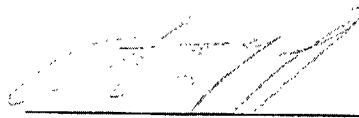
SECTION 30-4-110. Penalties.

Any person or group of persons who willfully violates the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars or imprisoned for not more than thirty days for the first offense, shall be fined not more than two hundred dollars or imprisoned for not more than sixty days for the second offense and shall be fined three hundred dollars or imprisoned for not more than ninety days for the third or subsequent offense.

Respondent has made no effort to comply with the demand; it let far more than 15 days lapse without objecting to the demand and, therefore, must comply with the demand in full. See, *Litchfield v. Georgetown County*, 314 S.C. 30, 443 S.E.2d 574 (S.C.1994)(Toal, J. concurring). No documents whatsoever have been supplied. No exemptions were advanced or claimed. Any privileges hypothetically claimed are specious and do not fall within the purview of S.C.C.A.30-10-40.¹ No defense or genuine issue of fact exists herein and Petitioner is entitled to immediate judgment and all relief set forth (injunctive, declaratory, costs, fees, etc.) in the statutes cited above. Petitioner Field is entitled to judgment as a matter of law. *Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 114, 410 S.E.2d 537, 545 (1991).

Petitioner requests this Court order the Attorney General to provide all information demanded by Petitioner in unredacted form within 15 days hereof and that he be awarded all costs hereof plus such other relief as the Court may deem appropriate.

PETITIONER



Arthur M. Field, pro se
310 Thornblade Blvd.
Greer, SC 29650

Dated: October 17, 2010

¹ All documents sought pertained to the Securities Division and its activities relating to Capital Investment Funding, LLC and/or various individuals. No investigation is being conducted by such division and any prior investigation has been closed or completed. In any event, the documents sought are not privileged nor should they be protected.

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Arthur M. Field,

v.

Henry McMaster, Attorney General,

Respondent.

) IN THE COURT OF COMMON PLEAS

) Civil Action Number: 10-CP-23-6767

) 2010 NOV 18 A 10: 11

**MOTION FOR SUMMARY
JUDGMENT**

TO: ARTHUR M. FIELD, PLAINTIFF PRO SE

YOU WILL PLEASE TAKE NOTICE that the undersigned attorney for Respondent/Defendant Henry McMaster will move before the Presiding Judge of the Thirteenth Judicial Circuit at the Greenville County Courthouse, Greenville, South Carolina, at such time and place as may be set by the Court, for an Order, pursuant to Rule 56, SCRCP, granting summary judgment to the Defendant and dismissing this action with prejudice.

This motion is based on the following grounds:

1. Any material not produced in response to such of Petitioner's requests as are properly before the Court is exempt from disclosure. The provisions of law that exempt such material include, but are not limited to, *S.C. Code Ann. § 30-4-40(a)(3)* (certain records of law enforcement and public safety agencies not otherwise available by state and federal law that were compiled in the process of detecting and investigating crime if the disclosure of the information would harm the agency by the premature release of

information to be used in a prospective law enforcement action); § 14-7-1770 (records of State Grand Jury to be kept under seal); § 30-4-40(a)(4)(matters specifically exempted from disclosure by statute or law, including, but not limited to, S.C. Code Ann. § 35-1-607(b)(1)(records obtained by the Securities Commissioner in connection with an investigation under Section 35-1-602) and § 14-7-1770, already mentioned; 30-4-40(a)(7)(correspondence or work products of legal counsel for a public body and any other material that would violate attorney-client relationships), 30-4-40(a)(2)(information of a personal nature where the public disclosure thereof would constitute unreasonable invasion of personal privacy); and investigative privilege generally.

2. Plaintiff is not entitled to use the Freedom of Information Act to supplant, or as a substitute for, discovery in civil, investigative, or criminal proceedings or investigations.

3. Some of the material requested does not exist, as set forth more fully in the attached affidavit.

This motion is based upon the pleadings filed in this case, the attached Affidavit of Geoffrey Kelly Chambers, Assistant Attorney General; the rules of court; and any other matters to be presented to the Court.¹

[Signature block is on following page]

¹ The attached Chambers affidavit is also submitted in opposition to Plaintiff's Motion for Summary Judgment, previously filed.

DAVIDSON & LINDEMANN, P.A.

By: *Kenneth Woodington*
WILLIAM H. DAVIDSON, II
KENNETH P. WOODINGTON
1611 Devonshire Drive, Second Floor
Post Office Box 8568
Columbia, South Carolina 29202
T: (803) 806-8222
F: (803) 806-8855

ATTORNEYS FOR RESPONDENT

Columbia, South Carolina

November 15, 2010

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Arthur M. Field,

v.

Henry McMaster, Attorney General,

Respondent.

IN THE COURT OF COMMON PLEAS

Civil Action Number: 10-CP-23-6767

**AFFIDAVIT OF GEOFFREY KELLY
CHAMBERS**

Personally appeared before me, Geoffrey Kelly Chambers, duly sworn, who deposes and says the following:

1. I am over 21 years of age and am personally familiar with the matters set forth herein.
2. I am presently employed as an Assistant Attorney General in the Office of the Attorney General of South Carolina, and have been so employed since November 16, 2009. Prior to that, and specifically including the period in 2009 when Plaintiff requested materials under the Freedom of Information Act (FOIA), I was employed as a law clerk for the Civil and Securities Divisions of the Attorney General's Office.
3. I have been responsible for compiling the responses to Plaintiff's FOIA requests.
4. In 2009, the Office of Attorney General supplied to Plaintiff, in response to his requests, approximately 2489 pages of documents.
5. Other documents, described below, were not produced, in part because the request for such information amounted to an improper substitute for discovery in either a pending

civil action brought by Petitioner Field, or in a pending criminal investigation of Petitioner Field.

6. In addition, such documents are exempt from production under FOIA for the reasons set forth herein.

7. The documents that have been deemed exempt, and the reasons for such exemption are described below:

- a. Personnel file of William Condon, Jr. Section 30-4-40(a)(2)
- b. Personnel file of Tommy Windsor. Section 30-4-40(a)(2)
- c. Personnel file of Joe F. Jordan, Jr. Section 30-4-40(a)(2)
- d. Personnel file of Lansing Logan. Section 30-4-40(a)(2)
- e. Memo prepared by Tommy Windsor at the request of Susan Porter.
Sections 30-4-40(a)(7) and 14-7-1770.
- f. Transmittal Letter from William Condon to the Criminal Division regarding Arthur M. Field and Capital Investments, LLC, and any attachments thereto not already produced. Sections 30-4-40(a)(3), 30-4-40(a)(7), 35-1-607(b)(1), and 14-7-1770.
- g. Any other writings sent by or between attorneys and investigators or by or between attorneys, and any attachments thereto not already produced.
Sections 30-4-40(a)(3) and 30-4-40(a)(7); Section 35-1-607(b)(1); Section 14-7-1770.

8. Documents exempted under Section 30-4-40(a)(3) would harm the agency by, among other things, the premature release of information to be used in a prospective law enforcement action. In addition, to the extent that the documents are in the possession of

the state grand jury division of the Attorney General's office, the disclosure of such documents is specifically precluded by Section 14-7-1770.

9. In addition, no documents exist (were discovered in a search of records) within the following categories:

- a. no-action letters from the United States Securities and Exchange Commission sent to entities that registered as securities by qualification during the period March 1, 2007 to July 13, 2009.
- b. Correspondence between Roland Corning and other members of the Attorney General's Office regarding Arthur M. Field, Kathryn Taillon, Capital Investment Funding, LLC, T. Bart Kelley, Davyd Field, F. Scott Pfeiffer or Cosimo, LLC.
- c. Correspondence between William Condon, Jr. and other members of the Attorney General's Office regarding Arthur M. Field, Kathryn Taillon, Capital Investment Funding, LLC, T. Bart Kelley, Davyd Field, F. Scott Pfeiffer or Cosimo, LLC.

10. Attached are true copies of letters sent by me to Petitioner Field in 2009 and 2010.

11. As of this date, all existent, non-exempt material requested has been produced.

FURTHER AFFIANT SAYETH NOT.


Geoffrey Kelly Chambers

SWORN TO BEFORE ME THIS 15th

DAY OF NOVEMBER, 2010

Jonathan R. Elbert (SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES:

May 16, 2018

CERTIFIED TO BE A TRUE AND
COPY AS TAKEN FROM AND COMPARED WITH
THE ORIGINAL ON FILE IN THIS OFFICE
Thresechia P. Navarro
THRESECHIA P. NAVARRO
OF THE ATTORNEY GENERAL'S OFFICE
OF SOUTH CAROLINA
DATE 11/15/2010

HENRY MCMASTER
ATTORNEY GENERAL



August 3, 2009

Arthur M. Field
310 Thornblade Boulevard
Greer, SC 29650

RE: The status of your Freedom of Information Act request

Dear Mr. Field:

I am sending this letter to update you on the status of your Freedom of Information Act "FOIA" request sent to the South Carolina Office of Attorney General on July 13, 2009. We have searched records housed at the South Carolina Attorney General's Office with the result that numerous documents relevant to your request were located. The staff of this Office has completed review for FOIA exempt materials in a portion of the documents identified as relevant and we are releasing these records at this time.

Due to the voluminous nature of your request, the time required to copy and review records for exempt information, and the limited resources of this Office, your request is still being processed. Please find enclosed the first 2489 pages of documents relevant to your request for information related to Capitol Investment Funding, LLC, and the Form U-1 and prospectus of every entity that has registered securities by qualification during the period March 1, 2009 to July 13, 2009.

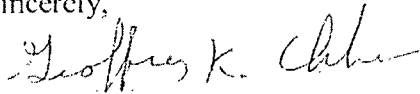
Please be advised that the FOIA does not require this office to generate records for the purpose of response to FOIA requests. A list of all entities that have registered securities by qualification between March 1, 2007 and July 13, 2009 does not exist. However, we have provided the Form U-1, prospectus, and other information this Office has on file for each entity that has registered securities by qualification during the relevant period.

The records of this Office were searched for no-action letters from the United States Securities and Exchange Commission sent to entities that registered as securities by qualification during the period March 1, 2007 to July 13, 2009. No records responsive to this request were found in this Office. As the FOIA does not require this Office to seek records housed by another agency for compliance with FOIA requests, we consider this portion of your request complete.

Pursuant to section 30-4-30(b) of the Code of Laws of South Carolina and written office policy, this Office charges fees related to our cost to produce records. The fee charged does not exceed the cost of searching for and copying records. To date the Office has incurred 12.5 hours of labor searching for and copying the 2489 pages of documents provided to you with this letter at a cost of \$18.60 per hour labor and \$0.20 per page copied. Please forward a check made payable to the South Carolina Office of the Attorney General in the amount of seven hundred thirty dollars and thirty cents (\$730.30) to reimburse these expenses. Upon receipt of payment for this first set of documents, we will proceed with supplying you with the records you have requested. Future releases of records relevant to your FOIA request will be billed at the time documents are mailed from this Office.

I hope you find this information helpful.

Sincerely,



Geoffrey Kelly Chambers
Civil and Securities Law Clerk

CERTIFIED TO BE A TRUE AND CORRECT
COPY AS TAKEN FROM AND COMPARED WITH
THE ORIGINAL ON FILE IN THIS OFFICE
Shirley P. Navarro
THRESECHIA P. NAVARRO
OF THE ATTORNEY GENERALS OFFICE
OF SOUTH CAROLINA
DATE 11/15/2010



HENRY MCMASTER
ATTORNEY GENERAL

September 24, 2009

Arthur M. Field
310 Thornblade Boulevard
Greer, SC 29650

RE: The status of your Freedom of Information Act request

Dear Mr. Field:

I am sending this letter to update you on the status of your Freedom of Information Act "FOIA" request sent to the South Carolina Office of Attorney General on July 13, 2009. Search of records housed at the South Carolina Attorney General's Office located numerous documents relevant to your request. The staff of this Office completed review for FOIA exempt materials in a portion of the documents identified as relevant and released these records on August 3, 2009.

At this time the staff of the Attorney General's Office has completed review of the remaining portion of your FOIA request. The remaining records you requested pursuant to the FOIA include, but are not limited to:

- 1.) Any Central Registration Depository report regarding Arthur Matthew Field;
- 2.) Any Central Registration Depository report regarding Robert Abbate;
- 3.) The personnel file and resume of William Condon, Jr.;
- 4.) The personnel file and resume of Tommy Windsor;
- 5.) The personnel file and resume of Joe F. Jordan, Jr., and
- 6.) The personnel file and resume of Lansing Logan.

Please find enclosed portions of the records requested; including relevant employment data. The records you requested pursuant to the FOIA by letter dated July 13, 2009, are exempt from release under FOIA because the FOIA is not intended to be a method of circumventing or replacing discovery in civil or criminal legal actions. Any personnel file data not released with this letter have been found to be exempt pursuant to Sections 30-4-40(a)(2), and 30-4-40(a)(4) of the Code of Laws of South Carolina.

Taking this letter and attached enclosures concerning the remaining records you requested under FOIA, in conjunction with records released on August 3, 2009, we consider our response to your July 13, 2009, FOIA request complete.

I hope you find this information helpful.

Sincerely yours,

/copy

Geoffrey Kelly Chambers
Civil and Securities Law Clerk

CERTIFIED TO BE A TRUE AND CORRECT
COPY AS TAKEN FROM AND COMPARED WITH
THE ORIGINAL ON FILE IN THIS OFFICE
Thresechia P. Navarro
THRESECHIA P. NAVARRO
OF THE ATTORNEY GENERALS OFFICE
OF SOUTH CAROLINA
11/15/2010

DATE
HENRY MCMASTER
ATTORNEY GENERAL



August 16, 2010

Mr. Arthur M. Field
310 Thornblade Boulevard
Greer, SC 29650

RE: The status of your Freedom of Information Act request

Dear Mr. Field:

I am sending this letter to update you on the status of your South Carolina Freedom of Information Act request dated July 27, 2010. The information requested is currently being researched. At such time as all documents have been recovered, they will be evaluated to determine if any are exempt from disclosure. If the documents contain exempt materials, the exempt and non-exempt materials will be separated. Alternatively, non-exempt materials may be redacted. After separation or redaction, the non-exempt materials will be made available to you, in accordance with the Freedom of Information Act. This Office will contact you once the materials can be made available.

We appreciate your patience as our staff completes your request.

Sincerely yours,

Geoffrey Kelly Chambers
Assistant Attorney General

CERTIFIED TO BE A TRUE AND CORRECT
COPY AS TAKEN FROM AND COMPARED WITH
THE ORIGINAL ON FILE IN THIS OFFICE
Theresa P. Navarro
THRESECHIA P. NAVARRO
OF THE ATTORNEY GENERAL'S OFFICE
OF SOUTH CAROLINA
DATE 11/15/2010

HENRY McMASTER
SECURITIES COMMISSIONER



October 29, 2010

Mr. Arthur M. Field
310 Thornblade Boulevard
Greer, SC 29650

RE: The status of your Freedom of Information request

Dear Mr. Field:

I am sending this letter to update you on the status of your South Carolina Freedom of Information Act request dated July 27, 2010. At this time all of the documents you requested in that letter have been reviewed and a determination has been made that all documents you requested that are public records have previously been provided.

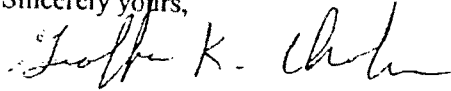
As previously indicated, the Freedom of Information Act is not intended to be a substitute for discovery and this Office is not required to generate records for the purpose of response to FOIA requests. In your most recent letter, which was sent following receipt of a large number of documents from the Office's files, you requested six specific items, five of which appear to relate to your ongoing criminal case. The items are you seek either (1) do not exist, (2) have been provided to you previously, or (3) are exempt pursuant to S.C. Code Ann. § 30-4-40 (a)(7), S.C. Code Ann. § 30-4-40 (a)(3)(B), and/or S.C. Code Ann. §§ 30-4-40(a)(4) and 35-1-607(b)(1).

Specifically, the documents identified as responsive to item 1 and all documents responsive to items 5 and 6 (to the extent such items exist, although none are known to at this time) are exempt from disclosure because they constitute "[c]orrespondence or work products of legal counsel for a public body." See S.C. Code Ann. § 30-4-40 (a)(7). Some of the documents located in response to Items 2 and 3 of the July 28, 2010 letter constitute "a record obtained by the Securities Commissioner in connection with an audit or inspection under 35-1-411(d) or an investigation under 36-1-602" and "are not public records and are not available for public examination." See S.C. Code Ann. §§ 30-4-40(a)(4) and 35-1-607(b)(1). Other documents located in response to Items 2 and 3 of the July 28, 2010 letter constitute "[c]orrespondence or work products of legal counsel for a public body." See S.C. Code Ann. § 30-4-40 (a)(7).

Item 4 is not a request pursuant to the Freedom of Information Act so much as it appears to be a demand for "[c]ompliance with the prior requests made by [you]." You indicate in item 4 it is your letter of August 11, 2009 that you feel you have not received a response to. On this point, please see the enclosed letter sent to you in September 2009 following review of our files and production of a number of documents. The letter indicates (1) this Office completed review for FOIA exempt materials in a portion of the documents identified as responsive to your request and released those materials to you on August 3, 2009; (2) all items have now been reviewed and further items are being provided to you at this time; and (3) taking this letter and attached enclosures concerning the remaining records you requested under FOIA, in conjunction with records released on August 9, 2009, we consider our response to your July 13, 2009, FOIA request complete. Our position has not changed; we continue to consider our response to your July 13, 2009, FOIA request complete.

I hope you find this information helpful.

Sincerely yours,



Geoffrey Kelly Chambers
Assistant Attorney General

IN THE COURT OF COMMON PLEAS

Civil Action Number: 10-CP-23-6767.

Petitioner,

**MOTION FOR SUMMARY
JUDGMENT**

**AND IN OPPOSITION TO
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT**

Respondent.

Defendant (Respondent) Henry McMaster files this Memorandum in support of his motion for summary judgment, and in opposition to the motion filed by Plaintiff (Petitioner) Field.

This is an action by Arthur Field against the Attorney General's Office, in which Plaintiff claims that certain documents he requested under the Freedom of Information Act (FOIA) were not produced. The Attorney General submits that all non-exempt documents have indeed been produced, and that this action should therefore be dismissed.

85

that was approved by the Greenville County Court of Common Pleas by order dated August 24, 2009. *See generally*, No. 2008-CP-23-3665, *Tomz v. Capital Investment Funding, LLC and Arthur M. Field*. (This information, which is offered simply as background, can be judicially noticed if necessary.) Apparently, all parties to those cases agreed to that order of settlement. The basic terms of the settlement were that CIF would confess judgment in the amount of \$38.4 million, (presumably the total amount paid to CIF by the investors), that a receiver would be appointed, that Field would resign as manager of CIF, and that any assets of CIF would eventually be distributed to the class members, once those assets had been maximized.

By then (summer 2009) Field and others were under a criminal investigation by the Attorney General's Office, State Grand Jury, which is still ongoing. Field has been in litigation with the Office of Attorney General with respect to plaintiffs' objections to certain document subpoenas issued to Field by the State Grand Jury. So far, he has not produced the subpoenaed documents.

Field (along with other *pro se* individuals) has also filed a federal civil action, *Field v. McMaster*, No. 6:09-1949-HMH-BHH, against the Attorney General and certain present and former attorneys and investigators in the Attorney General's Office, claiming damages from the investigative and other activities of the Attorney General's Office. That action was dismissed by Judge Herlong in August 2010, based on certain immunity defenses and on plaintiffs' failure to allege constitutional violations. A request by Field to enjoin the prosecutorial activities was also denied. The Fourth Circuit summarily affirmed that decision in October 2010. *Field v. McMaster*, 2010 WL 4137565 (4th Cir.

2010). Field and others have filed a Petition for Rehearing with the Fourth Circuit, and that petition is still pending as of this writing.

In the July 2009, while the litigation activity referenced above was active (as most or all of it still is), Field submitted a FOIA request to the Attorney General's Office. Complaint, Exhibit A. The request essentially included every document, or at least every document not exempt from disclosure under the Act, in the Attorney General's Office that may have pertained to Field, his co-plaintiffs in the federal action, CIF, and a number of other corporate entities as well. Field also sought certain nonexempt personnel information about one attorney and three investigators in the Attorney General's Office, all of which were involved in investigative or prosecutorial activities. *Id.* The request specifically noted that it was intended to "permit preparation for various administrative and civil proceedings." *Id.*

In response, the Attorney Generals' Office produced nearly 2,500 pages of documents. Chambers Affidavit, Paragraph 4 and 8/3/09 letter attached thereto. Additional documents were produced in September 2009, and at that time, the Attorney General's Office advised that certain exemptions applied, and that the Office considered its response to be complete. Chambers Affidavit and 9/24/09 letter attached thereto.

On July 28, 2010 Field submitted another FOIA request. Complaint, Exhibit C. Mr. Chambers advised by letter dated August 16, 2010, that the Office was reviewing the request. By letter dated October 29, 2010, attached to the Chambers Affidavit, Mr. Chambers advised that the requested items had either already been produced, were exempt for reasons stated therein, or did not exist.

This action was filed on or about August 17, 2010. Both parties have moved for summary judgment.

ARGUMENT

1. All non-exempt information has been produced.

As discussed above, a considerable quantity of documents, close to or exceeding 2,500 pages, has been produced to Plaintiff. This occurred even though, as might be expected, much of the documentary material in the possession of the Attorney General's Office is exempt from production under FOIA, simply because such material has been developed or prepared by or for attorneys in the course of conducting civil or criminal investigations.

Any remaining information is subject to a number of reasons for exemption, as detailed in the Chambers Affidavit. Among the exemptions that apply are *S.C. Code Ann.* § 30-4-40(a)(3)(certain records of law enforcement and public safety agencies not otherwise available by state and federal law that were compiled in the process of detecting and investigating crime if the disclosure of the information would harm the agency by the premature release of information to be used in a prospective law enforcement action); § 14-7-1770 (records of State Grand Jury to be kept under seal); § 30-4-40(a)(4)(matters specifically exempted from disclosure by statute or law, including, but not limited to, *S.C. Code Ann.* § 35-1-607(b)(1)(records obtained by the Securities Commissioner in connection with an investigation under Section 35-1-602) and § 14-7-1770, already mentioned; 30-4-40(a)(7)(correspondence or work products of legal counsel for a public body and any other material that would violate attorney-client relationships), 30-4-40(a)(2)(information of a personal nature where the public disclosure

thereof would constitute unreasonable invasion of personal privacy); and investigative privilege generally.

In particular, the fact that Plaintiff is now under investigation by the State Grand Jury is a sufficient reason not to disclose documents that relate in any way to that investigation. The Supreme Court in *State v. Robinson*, 305 S.C. 469, 409 S.E.2d 404 (1991) has held that information regarding pending criminal proceedings is exempt:

the South Carolina FOIA exempts discovery of material that is not otherwise discoverable under Rule 5(a)(2). The specific exemption under § 30-4-40(a)(3)(B) for "the premature release of information to be used in a prospective law enforcement action" clearly exempts information regarding pending criminal prosecutions. No specific showing of harm is required by the State if the request involves such material.

305 S.C. at 476-77, 409 S.E.2d at 409. For this reason alone, this action should be dismissed.

2. FOIA requests cannot be used as a substitute for criminal or civil discovery processes.

While the issue does not need to be reached in view of the complete exemption of any remaining material for the reasons set forth above, it should also be noted that a FOIA request cannot serve as a substitute for criminal or civil discovery. As noted above, the Supreme Court has held that "the South Carolina FOIA exempts discovery of material that is not otherwise discoverable under [S.C.R.Cr. Pr.] Rule 5(a)(2)." *State v. Robinson, supra*, 305 S.C. at 476-77, 409 S.E.2d at 409.

With respect to civil discovery, Defendant would again note that the material whose production is sought is already exempt for the reasons set forth above. However, even if it were not exempt, its production should not be required, because civil discovery processes, if permitted in the civil litigation, would apply, along with the attendant privileges in the civil

discovery rules. The U.S. Supreme Court has noted that it has "consistently rejected" the view that "FOIA could be used to supplement civil discovery." *U.S. v. Weber Aircraft Corp.*, 465 U.S. 792, 801 (1984).

3. A government agency cannot be deemed to have waived the right to assert FOIA exemptions.

Field claims that the Attorney General's Office cannot claim the exemptions listed above, noting that they were not claimed in the initial response to the 2010 request. In fact, however, that response did mention that any responsive documents would be reviewed to determine whether they were exempt from disclosure. August 16, 2010, letter, attached to Chambers Affidavit. Eventually, as already noted, it was determined that there were no additional nonexempt documents. October 29, 2010, letter, attached to Chambers Affidavit. Part of the 2010 request, as that letter indicates, was essentially merely a renewal of the 2009 request.

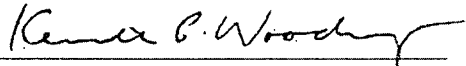
In any event, the Supreme Court has held that FOIA exemptions cannot be waived through an untimely response, although it is not admitted that the response in this case was untimely. In *Litchfield Plantation Co., Inc. v. Georgetown County Water and Sewer Dist.*, 314 S.C. 30 443 S.E.2d 574 (1994), the Court noted that "to hold an agency can waive these exemptions by failing to respond within fifteen days, would allow, for example, the disclosure of investigative records of law enforcement agencies . . . through no fault of an interested party which the exemptions were enacted to protect." 314 S.C. at 32 n.1, 443 S.E.2d at 575 n.1. In other words, in a case such as this, the public interest in the criminal process and the other exemptions is too important to be overridden in the manner that Field claims should occur.

CONCLUSION

For the foregoing reasons, it is therefore respectfully submitted that the Defendant's Motion for Summary Judgment should be granted, the Plaintiff's Motion for Summary Judgment should be denied, and that this action should be dismissed with prejudice.

DAVIDSON & LINDEMANN, P.A.

By:



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ATTORNEYS FOR RESPONDENT

Columbia, South Carolina

November 22, 2010

ARTHUR M. FIELD	)	STATE OF SOUTH CAROLINA
Petitioner	)	THIRTEENTH JUDICIAL CIRCUIT
V.	)	COUNTY OF GREENVILLE
HENRY MCMASTER,	)	2010-CP-23-06767
ATTORNEY GENERAL	)	DOCUMENT REQUEST PER AGREEMENT
Respondent	)	January 25, 2011

In accord with the informal agreement reached between the parties on January 24, 2011, before Judge Miller, Petitioner requests production of the following, excluding any previously provided in response to the July 13, 2009 FOIA demand (documents may be scanned and produced as Word or pdf documents on disc):

Definitions (in addition to those set forth in S.C.C.A. 30-4-20):

- a) "Documents" shall include, without limitation, any correspondence sent or received, internal memos, reports, investigations, expert reports, memos of phone conversations, emails, public records, comment letters, orders, public comments, subpoenas (other than those issued directly to CIF), or other records relating or pertaining directly or indirectly to persons or entities named herein below;
- b) "Dates encompassed": the period commencing February 1, 1999 and ending December 31, 2010;
- c) "Securities Division": the Securities Division of the Office of the Attorney General of South Carolina, including all persons employed therein or acting as contractors thereto;
- d) "CIF": Capital Investment Funding, LLC f/k/a Carolina Investment Funding, LLC.

Section I: All documents received by or sent by or within the Securities Division, or other Division of the Office of the Attorney General, authored by or received by any one or more of

the following persons pertaining to those persons or entities detailed in Section II, below, directly or indirectly, during the dates encompassed (no prospectus need be produced):

- 1) Roland Corning;
- 2) Tommy Windsor;
- 3) William Condon, Jr.
- 4) Eric Pantsari;
- 5) Tracy Meyers;
- 6) Clifton Bodiford, CPA;
- 7) John McIntosh;
- 8) Henry McMaster;
- 9) Jennifer Evans;
- 10) Lansing P. Logan;
- 11) Joe Jordan, Jr.;
- 12) Susan O. Porter;
- 13) S. Creighton Waters;
- 14) Any person acting as D.A.G. in charge of the Securities Division during said period.

Section II: Received from, sent to or concerning, directly or indirectly, one or more of the following:

- 1) Arthur M. Field;
- 2) Kathryn Taillon;
- 3) CIF or any member thereof;
- 4) Any present or former note holder or other creditor of CIF;
- 5) Any present or former debtor of CIF not named herein;
- 6) Trazom, LLC;
- 7) Cosimo, LLC;
- 8) James Caserta;
- 9) Elliot Salzman;
- 10) Robert L'Abbate;

- 11) Stuart Katz;
- 12) Lancaster Resources, Inc. or any of its shareholders;
- 13) Lancaster Group, LLC or any related Lancaster entity or member thereof;
- 14) Michael O'Shea;
- 15) Clifton Bodiford;
- 16) Krondor Trading Co., LLC;
- 17) Blenheim Properties, LLC;
- 18) Epic Entertainment & Equipment Co., LLC;
- 19) Monmouth Financial Group, LLC;
- 20) Cosimo, LLC;
- 21) Scott Pfeiffer;
- 22) David Gantt;
- 23) Ralph Gleaton;
- 24) Davyd Field;
- 25) Alicia Robinson;
- 26) Jane Griffith;
- 27) Bountiful Bingo, LLC;
- 28) Rhonda Baker;
- 29) Ramon Ashy, Jr.;
- 30) Ramon Ashy, Sr.;
- 31) Epic Entertainment, LLC;
- 32) Greenville Pops Orchestra, Inc. d/b/a Carolina Pops Orchestra;
- 33) Troy Nash;
- 34) T. Bart Kelley;
- 35) Morgen Richmond;
- 36) Ashley Morey;
- 37) Jessica Greenwood;
- 38) Allyson Field;
- 39) Jerry Saad.

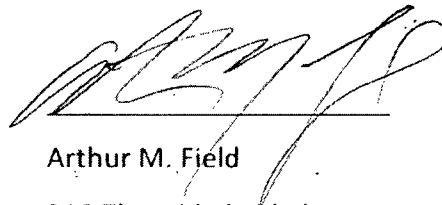
Section III: Exclusions or privileges:

Any documents which you deem privileged under S.C.C.A. 30-4-40, shall be listed in a separate privilege log with the portion thereof claimed privileged delineated and the specific Code section under which such privilege is claimed detailed, and the full document and such log shall be provided for review to the Court for determination and such portion of the document to which no privilege is claimed shall be produced to the undersigned as required by law.

Any document relating directly to the testimony of the State Grand Jury and deemed secret under S.C.C.A. 14-7-1720, et seq., pertaining directly to testimony before the State Grand Jury may be excluded and a list thereof provided to the undersigned.

Section IV: Time for Compliance. Pursuant to Agreement, Compliance shall be not later than February 17, 2011.

PETITIONER



Arthur M. Field

310 Thornblade Blvd.

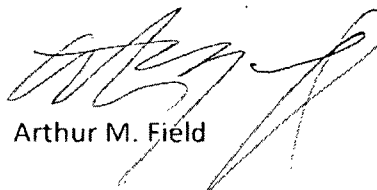
Greer, SC 29650

Dated: January 25, 2011

I hereby certify service of a copy of this document upon:

K. Woodington, Esq., PO Box 8568, Columbia, SC 29202

J. Saad, 1249 S, Pleasantburg Dr, Greenville, SC 29605, as Receiver of CIF



Arthur M. Field

3. Any document that is in the possession of the State Grand Jury is exempt from disclosure under one or more of the following provisions: *S.C. Code Ann.* § 30-4-40(a)(3)(certain records of law enforcement and public safety agencies not otherwise available by state and federal law that were compiled in the process of detecting and investigating crime if the disclosure of the information would harm the agency by the premature release of information to be used in a prospective law enforcement action); § 14-7-1770 (records of State Grand Jury to be kept under seal); § 30-4-40(a)(4)(matters specifically exempted from disclosure by statute or law, including, but not limited to, § 14-7-1770 and § 35-1-607(b); and 30-4-40(a)(7)(correspondence or work products of legal counsel for a public body and any other material that would violate attorney-client relationships).

4. When it is stated below that there are no public documents pertaining to a particular person or entity, that response should not be taken as an indication one way or the other about whether nonpublic documents exist with respect to that person or entity. Part of the exempt nature of nonpublic documents extends not only to their contents, but also to the identity or existence of such nonpublic documents. For instance, a disclosure of the existence of nonpublic documents pertaining to a nonpublic investigation would have the effect of confirming that such an investigation exists. FOIA does not confer a right to that information.

5. The Attorney General's Office will, if requested by the Court, provide the Court *in camera* with descriptions and/or copies of any nonpublic or exempt document for review by the Court.

6. A nonexclusive list of the kinds of nonpublic documents held by the Securities Division is set forth below. These documents are nonpublic because they are “obtained by the Securities Commissioner in connection with an audit or inspection under Section 35-1-411(d) or an investigation under Section 35-1-602.” *S.C. Code Ann.* § 35-1-607(b)(1). In some instances, these records are also made nonpublic by other subsections of § 35-1-607(b).

- A. Bank account statements, and copies of checks and other debits and deposits and other credits for persons under investigation and companies who employ or are controlled by persons under investigation;
- B. Bank account and similar information for some companies who engage in business with persons under investigation and companies who employ or are controlled by persons under investigation;
- C. Brokerage account records and complete brokerage account histories for victims and possible victims of persons under investigation;
- D. Brokerage account records and complete brokerage account histories for persons under investigation and companies who employ or are controlled by persons under investigation;
- E. Credit card and similar information for persons under investigation and companies who employ or are controlled by persons under investigation;
- F. Investor identifying information, including social security numbers, account numbers, date of birth, income and net worth for victims and possible victims of persons under investigation;
- G. Information concerning financial holdings (complete financial profiles) for persons under investigation, victims and possible victims of persons under investigation;
- H. Reports of experts consulted or retained in anticipation of litigation;
- I. Personnel files of employees (employees of a company under investigation and/or complaining employees and/or employees under investigation);
- J. The psychiatric care, substance abuse, and criminal histories of victims, witnesses and suspects;
- K. Any other items that are relevant because they potentially mitigate someone's behavior;

- L. Information that could or does disqualify victims or other witnesses as witnesses;
- M. The financial sophistication, financial history (bankruptcies and other judgments) and risk profile of victims, witnesses and suspects;
- N. Cell phone, work, and home phone numbers that may not be published for victims, witnesses and suspects;
- O. Proprietary information from Brokerage Firms and Investment Advisers related to products and procedures;
- P. Training materials from firms;
- Q. Disciplinary information from firms;
- R. Information on audits and compliance reviews conducted by firms of offices and individuals involving other offices and registered reps;
- S. Medical information about investors;
- T. Confidential information from other regulators and their investigative activities;
- U. Unfounded and/or false allegations received via various forms of communication;
- V. Beneficiary information;
- W. Bank account information on subjects' spouses, parents and business partners;
- X. Tax information about witnesses, investors, spouses, partners and businesses (LLC's and corporations);
- Y. Financial information on privately held companies and investors in those companies;
- Z. Salary information for various employees;
- AA. Bank account information on a multitude of other investors (not the complainant, but sometimes everyone who invested with the target).
- BB. Other records obtained pursuant to securities investigations, including audit, correspondence, trading, profit and loss, market timing, and other records.

7. A nonexclusive list of the kinds of public documents generally held by the

Securities Division is set forth below.

- A. Information contained in registration statements filed with the Securities Division, including but not limited to the amount of securities to be offered in South Carolina; a list of all the States in which a registration statement or similar record

in connection with the offering has been or is to be filed; and copies of or information about any adverse order, judgment, or decree issued in connection with the offering by a State securities regulator, the Securities and Exchange Commission, or a court.

- B. With respect to an issuer who has applied or registered under the securities act and any significant subsidiary, its name, address, and form of organization; the State or foreign jurisdiction and date of its organization; the general character and location of its business; a description of its physical properties and equipment; and a statement of the general competitive conditions in the industry or business in which it is or will be engaged;
- C. With respect to each director and officer of an issuer who has applied or registered under the securities act, and other person having a similar status or performing similar functions, the person's name, address, and principal occupation for the previous five years; the amount of securities of the issuer held by the person as of the thirtieth day before the filing of the registration statement; the amount of the securities covered by the registration statement to which the person has indicated an intention to subscribe; and a description of any material interest of the person in any material transaction with the issuer or a significant subsidiary effected within the previous three years or proposed to be effected;
- D. With respect to persons covered by paragraph (C) above, the aggregate sum of the remuneration paid to those persons during the previous twelve months and estimated to be paid during the next twelve months, directly or indirectly, by the issuer, and all predecessors, parents, subsidiaries, and affiliates of the issuer;
- E. With respect to a person owning shares of record or beneficially owning ten percent or more of the outstanding shares of any class of equity security of an issuer who has applied or registered under the securities act, the person's name and address for the previous five years; the amount of securities of the issuer held by the person as of the thirtieth day before the filing of the registration statement; the amount of the securities covered by the registration statement to which the person has indicated an intention to subscribe; and a description of any material interest of the person in any material transaction with the issuer or a significant subsidiary effected within the previous three years or proposed to be effected;
- F. With respect to a promoter, if the issuer was organized within the previous three years, the person's name, address, and principal occupation for the previous five years; the amount of securities of the issuer held by the person as of the thirtieth day before the filing of the registration statement; the amount of the securities covered by the registration statement to which the person has indicated an intention to subscribe; a description of any material interest of the person in any material transaction with the issuer or a significant subsidiary effected within the previous three years or proposed to be effected; and any amount paid to the

promoter within that period or intended to be paid to the promoter, and the consideration for the payment;

- G. With respect to a person on whose behalf any part of a registered or filed offering is made in a nonissuer distribution, the person's name and address; the amount of securities of the issuer held by the person as of the date of the filing of the registration statement; a description of any material interest of the person in any material transaction with the issuer or any significant subsidiary effected within the previous three years or proposed to be effected; and a statement of the reasons for making the offering;
- H. The capitalization and long term debt, on both a current and pro forma basis, of any issuer who has applied or registered under the securities act and any significant subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration, whether in the form of cash, physical assets, services, patents, goodwill, or anything else of value, for which the issuer or any subsidiary has issued its securities within the previous two years or is obligated to issue its securities;
- I. The kind and amount of securities to be offered by any issuer who has registered or filed under the Act; the proposed offering price or the method by which it is to be computed; any variation at which a proportion of the offering is to be made to a person or class of persons other than the underwriters; with a specification of the person or class; the basis on which the offering is to be made if otherwise than for cash; the estimated aggregate underwriting and selling discounts or commissions and finders' fees, including separately cash, securities, contracts, or anything else of value to accrue to the underwriters or finders in connection with the offering or, if the selling discounts or commissions are variable, the basis of determining them and their maximum and minimum amounts; the estimated amounts of other selling expenses, including legal, engineering, and accounting charges; the name and address of each underwriter and each recipient of a finder's fee; a copy of any underwriting or selling group agreement under which the distribution is to be made or the proposed form of any such agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities that are to be offered otherwise than through an underwriter;
- J. The estimated monetary proceeds from the offering to be received by an issuer who has registered or filed under the Act; the purposes for which the proceeds are to be used by the issuer; the estimated amount to be used for each purpose; the order or priority in which the proceeds will be used for the purposes stated; the amounts of any funds to be raised from other sources to achieve the purposes stated; the sources of the funds; and, if a part of the proceeds is to be used to acquire property, including goodwill, otherwise than in the ordinary course of business, the names and addresses of the vendors, the purchase price, the names of any persons that have received commissions in connection with the acquisition,

and the amounts of the commissions and other expenses in connection with the acquisition, including the cost of borrowing money to finance the acquisition;

- K. A description of any stock options or other security options outstanding, or to be created in connection with an offering registered or filed under the Act, and the amount of those options held or to be held by each person required to be named in paragraph (C), (E), (F), (G), or (I) above and by any person that holds or will hold ten percent or more in the aggregate of those options;
- L. The dates of, parties to, and general effect concisely stated of each managerial or other material contract made or to be made otherwise than in the ordinary course of business to be performed in whole or in part at or after the filing of a registration statement under the Act or that was made within the previous two years prior to the filing of a registration statement under the Act, and a copy of the contract;
- M. A description of any pending litigation, action, or proceeding to which an issuer who has registered or filed under the Act is a party if such materially affects the issuers business or assets, and any litigation, action, or proceeding known to be contemplated by governmental authorities against such issuer;
- N. A copy of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature intended by an issuer who has registered or filed under the Act to be used in connection with the offering and any solicitation of interest used in compliance with Section 35-1-202(17)(B);
- O. For any issuer who has registered or filed under the Act, a specimen or copy of the security being registered, unless the security is uncertificated; a copy of the issuer's articles of incorporation and bylaws or their substantial equivalents, in effect; and a copy of any indenture or other instrument covering the security to be registered;
- P. Any signed or conformed copy of an opinion of counsel concerning the legality of a security being proposed to be registered, with an English translation if it is in a language other than English, which states whether the security when sold will be validly issued, fully paid, and nonassessable and, if a debt security, a binding obligation of the issuer;
- Q. For any issuer who has registered or filed under the Act, a balance sheet of the issuer as of a date within four months before the filing of the registration statement; a statement of income and a statement of cash flows for each of the three fiscal years preceding the date of the balance sheet and for any period between the close of the immediately previous fiscal year and the date of the balance sheet, or for the period of the issuer's and any predecessor's existence if less than three years; and, if any part of the proceeds of the offering is to be applied to the purchase of a business, the financial statements that would be

required if that business were the registrant; provided, however, that financial statements meeting the requirements of Regulation S-B shall be permitted to be substituted by issuers that are "small business issuers" as defined by Regulation S-B (17 C.F.R. part 228); and

- R. Almost any additional information or records filed pursuant to the Act as part of a notice filing or registration statement or pursuant to an exemption.

Request 1:

All documents received by or sent by or within the Securities Division, or other Division of the Office of the Attorney General, authored by or received by any one or more of the following persons pertaining to those persons or entities detailed in Section II, below, directly or indirectly, during the dates encompassed (no prospectus need be produced):

Response:

1) Roland Corning. Roland Corning was an attorney with the Attorney General's Office during part of the relevant period. Any documents described above that were sent, authored or received by Mr. Corning are exempt under § 30-4-40(a)(7) ("[c]orrespondence or work products of legal counsel for a public body and any other material that would violate attorney-client relationships"). In addition, to the extent that any such documents fall within the categories of nonpublic documents defined in § 35-1-607(b), they are also not public records by reason of that statute. Finally, any communications between Mr. Corning and the State Grand Jury are also exempt for the reasons set forth in Paragraph 3 at the outset of these responses.

2) Tommy Windsor. Tommy Windsor was an investigator with the Attorney General's Office during part of the relevant period. Any documents described above that were sent, authored or received by Mr. Windsor are exempt under § 30-4-40(a)(7) ("[c]orrespondence or work products of legal counsel for a public body and any other material that would violate attorney-client relationships"). In addition, to the extent that

any such documents fall within the categories of nonpublic documents defined in § 35-1-607(b), they are also not public records by reason of that statute. Finally, any communications between Mr. Windsor and the State Grand Jury are also exempt for the reasons set forth in Paragraph 3 at the outset of these responses.

3) William Condon, Jr. William Condon was an attorney with the Attorney General's Office during part of the relevant period. Any documents described above that were sent, authored or received by Mr. Condon are exempt under § 30-4-40(a)(7) ("[c]orrespondence or work products of legal counsel for a public body and any other material that would violate attorney-client relationships"). In addition, to the extent that any such documents fall within the categories of nonpublic documents defined in § 35-1-607(b), they are also not public records by reason of that statute. Finally, any communications between Mr. Condon and the State Grand Jury are also exempt for the reasons set forth in Paragraph 3 at the outset of these responses.

4) Eric Pantsari. To the best of counsel's knowledge, any documents to or from Mr. Pantsari would be limited to securities registration activities. These documents are within the categories of public documents, listed above. However, if Mr. Pantsari did in fact author or receive documents that are exempt or nonpublic as defined in § 30-4-40(a)(7) or 35-1-607(b), those documents would not be subject to disclosure.

5) Tracy Meyers. Tracy Meyers has been an attorney with the Attorney General's Office during the relevant period. Any documents described above that were sent, authored or received by Ms. Meyers are exempt under § 30-4-40(a)(7) ("[c]orrespondence or work products of legal counsel for a public body and any other material that would violate attorney-client relationships"). In addition, to the extent that any such documents fall

within the categories of nonpublic documents defined in § 35-1-607(b), they are also not public records by reason of that statute. Finally, any communications between Ms. Meyers and the State Grand Jury are also exempt for the reasons set forth in Paragraph 3 at the outset of these responses.

6) Clifton Bodiford, CPA. Mr. Bodiford was a retained consultant for the Attorney General's Office during one or more securities investigations. Any documents described above that were sent, authored or received by Mr. Bodiford in connection with those investigations are exempt under § 30-4-40(a)(7) (“[c]orrespondence or work products of legal counsel for a public body and any other material that would violate attorney-client relationships”). In addition, to the extent that any such documents fall within the categories of nonpublic documents defined in § 35-1-607(b), they are also not public records by reason of that statute. Finally, any communications between Mr. Bodiford and the State Grand Jury, or documents pertaining to Mr. Bodiford that are in the possession of the State Grand Jury, are also exempt for the reasons set forth in Paragraph 3 at the outset of these responses.

7) John McIntosh. John McIntosh has been an attorney with the Attorney General's Office during the relevant period. Any documents described above that were sent, authored or received by Mr. McIntosh are exempt under § 30-4-40(a)(7) (“[c]orrespondence or work products of legal counsel for a public body and any other material that would violate attorney-client relationships”). In addition, to the extent that any such documents fall within the categories of nonpublic documents defined in § 35-1-607(b), they are also not public records by reason of that statute. In addition, Mr.

McIntosh has access to State Grand Jury material, which is exempt from disclosure for the reasons set forth in Paragraph 3 at the outset of these responses.

8) Henry McMaster. Henry McMaster was the Attorney General of South Carolina during part of the relevant period. Any documents described above that were sent, authored or received by Mr. McMaster are exempt under § 30-4-40(a)(7) (“[c]orrespondence or work products of legal counsel for a public body and any other material that would violate attorney-client relationships”). In addition, to the extent that any such documents fall within the categories of nonpublic documents defined in § 35-1-607(b), they are also not public records by reason of that statute. In addition, Mr. McMaster, while Attorney General, had access to State Grand Jury material, which is exempt from disclosure for the reasons set forth in Paragraph 3 at the outset of these responses.

9) Jennifer Evans. Jennifer Evans was an attorney with the State Grand Jury Division of the Attorney General’s Office during part of the relevant period. Any documents described above that were sent, authored or received by Ms. Evans are exempt from disclosure for the reasons set forth in Paragraph 3 at the outset of these responses.

10) Lansing P. Logan. Mr. Logan has been an investigator with the State Grand Jury Division of the Attorney General’s Office during part of the relevant period. Any documents described above that were sent, authored or received by Mr. Logan are exempt from disclosure for the reasons set forth in Paragraph 3 at the outset of these responses.

11) Joe Jordan, Jr. Mr. Jordan has been an investigator with the State Grand Jury Division of the Attorney General’s Office during part of the relevant period. Any documents

described above that were sent, authored or received by Mr. Jordan are exempt from disclosure for the reasons set forth in Paragraph 3 at the outset of these responses.

12) Susan O. Porter. Susan O. Porter was an attorney with the State Grand Jury Division of the Attorney General's Office during part of the relevant period. Any documents described above that were sent, authored or received by Ms. Porter are exempt from disclosure for the reasons set forth in Paragraph 3 at the outset of these responses.

13) S. Creighton Waters. Creighton Waters has been an attorney with the State Grand Jury Division of the Attorney General's Office during part of the relevant period. Any documents described above that were sent, authored or received by Mr. Waters are exempt from disclosure for the reasons set forth in Paragraph 3 at the outset of these responses.

14) Any person acting as D.A.G. in charge of the Securities Division during said period. Any documents that might exist with respect to any such person are exempt and/or nonpublic for the same reasons that documents involving Mr. Corning, Ms. Myers or Mr. Condon are exempt and/or nonpublic.

Request 2:

Received from, sent to or concerning, directly or indirectly, one or more of the following:

Response:

1) Arthur M. Field. With respect to any documents in the possession of the State Grand Jury that pertain in any way¹ to this individual, such documents are exempt from disclosure as set forth in Paragraph 3 above. With respect to documents in the possession

¹ As used herein, "pertain in any way" includes documents that are received from, sent to or concerning the individual or entity referenced.

of the Securities Division that pertain in any way to this individual, any nonpublic records, as defined in § 35-1-607(b), that may pertain in any way to this individual are not subject to disclosure under FOIA. In addition, any attorney work product or attorney-client privileged documents in the possession of the Securities Division that may pertain in any way to this individual are exempt from disclosure under § 30-4-40(a)(7). Defendant believes that any public records that are in the possession of the Securities Division and that pertain in any way to this individual have previously been produced, but will make such public records available again for inspection by Plaintiff if Plaintiff wishes to double-check. Such public records are located in the securities registration area of the Securities Division of the Attorney General's Office. They are public records pursuant to *S.C. Code Ann.* § 35-1-607(a).

2) Kathryn Taillon. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

3) CIF or any member thereof. With respect to any documents in the possession of the State Grand Jury that pertain in any way to this entity or the referenced individuals, such documents are exempt from disclosure as set forth in Paragraph 3 above. With respect to documents in the possession of the Securities Division that pertain in any way to this entity or the referenced individuals, any nonpublic records, as defined in § 35-1-607(b), that may exist for this entity or the referenced individuals are not subject to disclosure under FOIA. In addition, any attorney work product or attorney-client privileged documents in the possession of the Securities Division that may exist with respect to this entity or the referenced individuals are exempt from disclosure under § 30-4-40(a)(7).

Defendant believes that any public records that exist and that pertain in any way to this entity or the referenced individuals have previously been produced, but will make such public records available again for inspection by Plaintiff if Plaintiff wishes to double-check. Such public records are located in the securities registration area of the Securities Division of the Attorney General's Office. They are public records pursuant to *S.C. Code Ann.* § 35-1-607(a).

4) Any present or former note holder or other creditor of CIF. With respect to any documents in the possession of the State Grand Jury that pertain in any way to the referenced individuals, such documents are exempt from disclosure as set forth in Paragraph 3 above. With respect to documents in the possession of the Securities Division that pertain in any way to the referenced individuals, any nonpublic records, as defined in § 35-1-607(b), that may exist for the referenced individuals are not subject to disclosure under FOIA. In addition, any attorney work product or attorney-client privileged documents in the possession of the Securities Division that may exist with respect to the referenced individuals are exempt from disclosure under § 30-4-40(a)(7). Defendant believes that any public records that exist and that pertain in any way to the referenced individuals have previously been produced, but will make such public records available again for inspection by Plaintiff if Plaintiff wishes to double-check. Such public records are located in the securities registration area of the Securities Division of the Attorney General's Office. They are public records pursuant to *S.C. Code Ann.* § 35-1-607(a).

5) Any present or former debtor of CIF not named herein. The response above pertaining to any present or former note holder or other creditor of CIF applies equally to the

referenced individuals, and is incorporated by reference as the response relating to these individuals.

6) Trazom, LLC. With respect to any documents in the possession of the State Grand Jury that pertain in any way to this entity, such documents are exempt from disclosure as set forth in Paragraph 3 above. With respect to documents in the possession of the Securities Division that pertain in any way to this entity, any nonpublic records, as defined in § 35-1-607(b), that may exist for this entity are not subject to disclosure under FOIA. In addition, any attorney work product or attorney-client privileged documents in the possession of the Securities Division that may exist with respect to this entity are exempt from disclosure under § 30-4-40(a)(7). Defendant believes that any public records that exist and that pertain in any way to this entity have previously been produced, but will make such public records available again for inspection by Plaintiff if Plaintiff wishes to double-check. Such public records are located in the securities registration area of the Securities Division of the Attorney General's Office. They are public records pursuant to *S.C. Code Ann.* § 35-1-607(a).

7) Cosimo, LLC. The response above pertaining to Trazom, LLC, applies equally to this entity, and is incorporated by reference as the response relating to this entity.

8) James Caserta. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

9) Elliot Salzman. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

10) Robert L Abbate. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

11) Stuart Katz. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

12) Lancaster Resources, Inc. or any of its shareholders. With respect to any documents in the possession of the State Grand Jury that pertain in any way to this entity or the referenced individuals, such documents are exempt from disclosure as set forth in Paragraph 3 above. With respect to documents in the possession of the Securities Division that pertain in any way to this entity or the referenced individuals, any nonpublic records, as defined in § 35-1-607(b), that may exist for this entity or the referenced individuals are not subject to disclosure under FOIA. In addition, any attorney work product or attorney-client privileged documents in the possession of the Securities Division that may exist with respect to this entity or the referenced individuals are exempt from disclosure under § 30-4-40(a)(7). Defendant believes that any public records that exist and that pertain in any way to this entity or the referenced individuals have previously been produced, but will make such public records available again for inspection by Plaintiff if Plaintiff wishes to double-check. Such public records are located in the securities registration area of the Securities Division of the Attorney General's Office. They are public records pursuant to *S.C. Code Ann.* § 35-1-607(a).

13) Lancaster Group, LLC or any related Lancaster entity or member thereof. With respect to any documents in the possession of the State Grand Jury that pertain in any way to this entity or the referenced individuals, such documents are exempt from

disclosure as set forth in Paragraph 3 above. With respect to documents in the possession of the Securities Division that pertain in any way to this entity or the referenced individuals, any nonpublic records, as defined in § 35-1-607(b), that may exist for this entity or the referenced individuals are not subject to disclosure under FOIA. In addition, any attorney work product or attorney-client privileged documents in the possession of the Securities Division that may exist with respect to this entity or the referenced individuals are exempt from disclosure under § 30-4-40(a)(7). Defendant believes that any public records that exist and that pertain in any way to this entity or the referenced individuals have previously been produced, but will make such public records available again for inspection by Plaintiff if Plaintiff wishes to double-check. Such public records are located in the securities registration area of the Securities Division of the Attorney General's Office. They are public records pursuant to *S.C. Code Ann.* § 35-1-607(a).

14) Michael O'Shea. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

15) Clifton Bodiford. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

16) Krondor Trading Co., LLC. The response above pertaining to Trazom. LLC, applies equally to this entity , and is incorporated by reference as the response relating to this entity.

17) Blenheim Properties, LLC. The response above pertaining to Trazom. LLC, applies equally to this entity , and is incorporated by reference as the response relating to this entity.

18) Epic Entertainment & Equipment Co., LLC. The response above pertaining to Trazom. LLC, applies equally to this entity , and is incorporated by reference as the response relating to this entity.

19) Monmouth Financial Group, LLC. The response above pertaining to Trazom. LLC, applies equally to this entity , and is incorporated by reference as the response relating to this entity.

20) Cosimo, LLC. The response above pertaining to Trazom. LLC, applies equally to this entity , and is incorporated by reference as the response relating to this entity.

21) Scott Pfeiffer. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

22) David Gantt. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

23) Ralph Gleaton. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

24) Davyd Field. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

25) Alicia Robinson. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

26) Jane Griffith. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

27) Bountiful Bingo, LLC. The response above pertaining to Trazom. LLC, applies equally to this entity , and is incorporated by reference as the response relating to this entity.

28) Rhonda Baker. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

29) Ramon Ashy, Jr. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

30) Ramon Ashy, Sr. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

31) Epic Entertainment, LLC. The response above pertaining to Trazom. LLC, applies equally to this entity , and is incorporated by reference as the response relating to this entity.

32) Greenville Pops Orchestra, Inc. d/b/a Carolina Pops Orchestra. The response above pertaining to Trazom. LLC, applies equally to this entity , and is incorporated by reference as the response relating to this entity.

33) Troy Nash. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

34) T. Bart Kelley. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

35) Morgen Richmond. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

36) Ashley Morey. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

37) Jessica Greenwood. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

38) Allyson Field. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

39) Jerry Saad. The response above pertaining to Arthur M. Field applies equally to this individual, and is incorporated by reference as the response relating to this individual.

Request 3. Exclusions or privileges:

Any documents which you deem privileged under SCCA. 30-4-40, shall be listed in a separate privilege log with the portion thereof claimed privileged delineated and the specific Code section under which such privilege is claimed detailed, and the full document and such log shall be provided for review to the Court for determination and such portion of the document to which no privilege is claimed shall be produced to the undersigned as required by law. Any document relating directly to the testimony of the State Grand Jury and deemed secret under S.C.CA. 14-7-1720, et seq., pertaining directly to testimony before the State Grand Jury may be excluded and a list thereof provided to the undersigned.

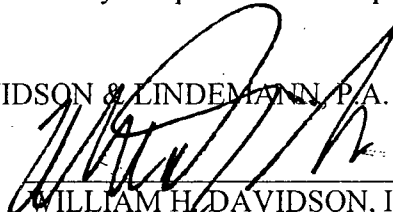
Response:

See lists above for general descriptions of documents and why they are either public, nonpublic, or exempt from disclosure.

Defendant objects to producing a document-by-document log on the ground that part of the extent of the exemptions listed above goes not only to contents of nonpublic records, but also to the identity or existence of such documents. To the extent that Plaintiff should request a document or type of document that he knows or suspects to exist, by listing its description, etc., Defendant will review the request and determine whether any additional information concerning such specific document or type of document can be made public. A specific list of this type is what Defendant's counsel understood that Plaintiff would be submitting, at least in part.

The Attorney General's Office will, if requested by the Court, provide the Court *in camera* with descriptions and/or copies of any nonpublic or exempt document for review by the Court.

DAVIDSON & LINDEMANN, P.A.

By: 

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ATTORNEYS FOR RESPONDENT

Columbia, South Carolina
February 16, 2011

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Arthur M. Field,

Petitioner,

v.

Henry McMaster, Attorney General,

Respondent.

IN THE COURT OF COMMON PLEAS

Civil Action Number 2010-CP-23-6767

**NOTICE OF MOTION AND
MOTION TO CLARIFY, AND/OR TO
ALTER OR AMEND**

TO: THE HONORABLE G. EDWARD WELMAKER

ARTHUR M. FIELD, PLAINTIFF *PRO SE*

YOU WILL PLEASE TAKE NOTICE that the undersigned attorney for Respondent/Defendant Attorney General will move before the Honorable G. Edward Welmaker, at such time and place as may be set by the Court, for an Order, pursuant to Rule 59(e), SCRCP, clarifying and/or altering or amending the Order filed on April 4, 2011 and received by the undersigned on April 5, 2011. This motion pertains to details rather than to the primary substance of the Order.

This motion is based on the following grounds:

1. The Order provides for "an *in camera* review of the documents requested in Petitioner's July 13, 2009 FOIA request." The body of documents requested has been reviewed. It consists of the contents of approximately seven file drawers, that is, almost two file cabinets.¹ The

¹ Originally, counsel for the Attorney General had a concern that some of the original Securities Division documents had been transferred to the State Grand Jury. However, upon further review, it now appears that all of the documents that are the subject of the Order are still in the

copying and indexing of those documents would be an onerous task. Counsel for the Attorney General therefore suggests the following as an alternative method of having the documents reviewed by Judge Simmons:

1. Instead of providing copies of the Securities Division documents, as set forth in the Order, the Attorney General would instead suggest that the originals could be delivered to Judge Simmons for his review. At Judge Simmons' option, he might prefer to review the documents in Columbia, but the Attorney General in any event is willing to deliver the originals to Judge Simmons in Greenville.

2. In order to make the job of listing the documents less onerous without sacrificing the necessary amount of detail, the Attorney General would suggest that it provide Judge Simmons with a list of the folders in the seven file drawers, as opposed to a list of every document in the folders. The documents in the folders themselves fall into two primary categories: they are either "record[s] obtained by the Securities Commissioner in connection with . . . an investigation under Section 35-1-602," and therefore deemed "not public records" by Section 35-1-607(b)(1), or they are attorney work product materials exempted by 30-4-40(a)(7). The Attorney General would suggest that all of the materials in the folders, unless otherwise indicated, be regarded as records obtained in connection with a securities investigation, or, if covered by attorney work product privilege, that those latter documents simply be flagged as such before being provided to Judge Simmons. If there are any other categories of documents among the ones in the files, those also could be flagged, and the specific exemption noted for each.² If, in the course of reviewing the documents, Judge

possession of the Securities Division. This makes it unnecessary to consider the effect of the statutes pertaining to State Grand Jury documents, because no such documents are involved.

² The files also contain correspondence from the Securities Division to Scott Pfeiffer, an attorney who at one time represented Plaintiff Field. Presumably Plaintiff Field is aware of that

Simmons has any questions about any particular documents, the Attorney General's Office would be prepared to respond promptly to such questions.

3. The Attorney General also requests a clarifying provision to the effect that any list of folders or other list to be prepared by the Attorney General and produced to Judge Simmons, like the documents to be supplied to him, should be not be copied to the plaintiff. In many cases, the mere existence or nonexistence of a document is a matter that should be nonpublic. By analogy, the existence of a complaint filed against a lawyer is confidential, in addition to the contents of the complaint, in the absence of public developments in a lawyer disciplinary matter. See Rules for Lawyer Disciplinary Enforcement, Rule 12(a).

4. The Attorney General would advise that large portions of the personnel files requested by Plaintiff were provided to him in 2009, pursuant to *Burton v. York County Sheriff's Department*, 358 S.C. 339, 362, 594 S.E.2d 888, 895 (Ct. App. 2004), which held that personnel information should be disclosed to the extent that it "focused on the performance of public duties" by public employees. The remainder of the information in the personnel files consists almost exclusively of non-work-related personal details such as health insurance and beneficiary information, parking information, direct deposit banking information, and matters prior to the time when the employees were hired by the Attorney General's Office. However, if plaintiff is interested in having Judge Simmons review the remaining personnel documents, those will be supplied to him.

5. Finally, because of the volume of the material, the Attorney General requests one more week, i.e., until May 9, 2011, to make the documents available to Judge Simmons.

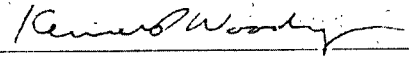
correspondence, but as a matter of general principle, it has been regarded as included in the definition of attorney work product.

CONCLUSION

For the above-stated reasons, which are related primarily to economy, the Attorney General respectfully requests that the Order filed on April 4, 2011, be modified as set forth above and in the proposed Order which is being filed herewith.

Respectfully submitted,

DAVIDSON & LINDEMANN, P.A.

BY: 
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Counsel for Respondent

Columbia, South Carolina

April 13, 2011

ARTHUR M. FIELD	)	STATE OF SOUTH CAROLINA	FILED-CLERK OF COURT GREENVILLE, SC PAUL E. WICKENSIMMER
Petitioner	)	THIRTEENTH JUDICIAL CIRCUIT	
V.	)	COUNTY OF GREENVILLE	2011 APR 20 P 2:22
HENRY MCMASTER,	)	2010-CP-23-6767	
ATTORNEY GENERAL	)	OBJECTION TO MOTION TO AMEND	
Respondent	)		

Petitioner pro se Arthur Field hereby files a limited objection to Respondent's "Motion to Clarify, and/or to Alter or Amend" dated April 13, 2011. The Order of Judge Welmaker was entered April 4, 2011. Field respectfully points out the Respondent has been claiming the exemption for material delivered to the State Grand Jury in all its prior pleadings and arguments and now concedes NO material was actually delivered to the State Grand Jury. Hence, that objection was specious and may not have been raised in good faith.

To the extent Respondent's Motion attempts to circumvent the intent or substance of Judge Welmaker's Order, Petitioner objects. Petitioner will consent in certain logistics matters to save the Respondent and the Court time and expense, as follows:

- 1) Field consents to the request original documents be delivered for inspection.
- 2) Field requests any privilege claimed be listed in a privilege log as to the portion of such document Respondent claims is exempt from production and asserts Field is entitled to see such privilege log;
- 3) Any document which the court deems privileged should be set aside and Field be given the opportunity to argue such privilege claims individually or collectively;
- 4) Any documents which are deemed, in whole or in part, non-privileged should be placed in separate boxes by the Court and Field be permitted to inspect same within the courthouse, since such documents are originals;
- 5) Any document Field determines he requires a copy of may then be noted and the Attorney General shall provide a copy;

- 6) Field shall be provided reasonable notice and ample opportunity to conduct such inspection;
- 7) Field has not received any personnel documents. However, Field waives any request for personnel records involving health or pension benefits;
- 8) Field consents to an extension of time for compliance until May 9, 2011.

Petitioner requests the above be incorporated in the modified Order, if the Court grants Respondent's Motion. In support of the foregoing, Field requests the Court bear in mind:

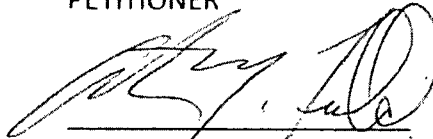
Disclosure, not secrecy, is the dominant objective of FOIA. *Burton v. York County Sheriff's Dept.*, 358 S.C.339 (App. 2004).

The essential purpose of the FOIA is to protect the public from secret government activity. *Campbell v. Marion County Hosp. Dist.*, 354 S.C. 274, (App. 2003); see also *Quality Towing, Inc. v. City of Myrtle Beach*, 345 S.C. 156, 163, (2001); *Wiedemann v. Town of Hilton Head Island*, 330 S.C. 532, 535 n.4, (1998); *Fowler v. Beasley*, 322 S.C. 463, 468 (1996).

The FOIA creates an affirmative duty on the part of public bodies to disclose information. *Bellamy*, 305 S.C. at 295, 408 S.E.2d at 221; *Campbell*, 354 S.C. at 281, 580 S.E.2d at 166. The purpose of the FOIA is to protect the public by providing for the disclosure of information. *Id.*

The FOIA is remedial in nature and should be liberally construed to carry out the purpose mandated by the legislature. *Campbell*, 354 S.C. at 281, 580 S.E.2d at 166. The exemptions from disclosure under FOIA do not create a duty of nondisclosure. *Bellamy*, 305 S.C. at 295, 408 S.E.2d at 221. Indeed, consistent with FOIA's goal of broad disclosure, the exemptions from its mandates are to be narrowly construed. See *Campbell*, 354 S.C. at 281, 580 S.E.2d at 166; see also *Quality Towing*, 345 S.C. at 161, 547 S.E.2d at 864-65 (stating that FOIA is remedial in nature and should be liberally construed to carry out purpose mandated by legislature).

PETITIONER



Arthur M. Field

310 Thornblade Blvd.

Greer, SC 29650

Dated: April 18, 2011

I hereby certify service of a copy of this document upon:

K. Woodington, Esq., PO Box 8568, Columbia, SC 29202



Arthur M. Field

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

2011 JUN -3 A) 9:02

Arthur M. Field,

Civil Action Number 2010-CP-23-6767

Petitioner, vs. COURT
GREENVILLE CO

MOTION FOR DOCUMENTS TO REMAIN
UNDER SEAL OR IN CAMERA

v.

Henry McMaster, Attorney General,

Respondent.

Respondent/Defendant Attorney General hereby requests that the documents and certain detailed lists of documents submitted to Judge Simmons for review remain under seal or in camera until final judgment in this case, including all appeals. In effect, Defendant has already made this request informally by letter, but now files this motion in order to formalize the request.

This motion is based on the following grounds:

1. In this case there are two aspects of the exempt nature of the documents that are subject to exemption. The first, of course, is the contents of the documents, but the second, which can be equally important, is the identity of each document. To cite one example, a letter of complaint from a particular investor is material that is considered not a public document under S.C. Code Ann. § 35-1-607(b)(1)(records obtained by the Securities Commissioner in connection with an investigation under Section 35-1-602). Defendant would submit that the existence or identity of the document and the name of the complainant are entitled to as much protection as the contents of any letter outlining the complaint. Similar protections are found elsewhere in state law, such as in LLR licensing matters. *See, e.g.,* § 40-47-116(A)(except as otherwise provided, identity of the person making the initial complaint against a physician must remain privileged

and confidential and must not be disclosed for use in any administrative or judicial proceeding of any kind). Similarly, for instance, if the Securities Division issues subpoenas for records in the course of an investigation, the investigation could be compromised merely by disclosing the existence of a subpoena to a person or entity, even without disclosing the contents of the subpoena or of the response.

This aspect of the matter was not present in cases such as *Evening Post Pub. Co. v. Berkeley County School Dist.*, __ S.C. ___, 2011 WL 980024 (2011), because there it was already known that documents of a certain description existed, and the only issue was whether their content would be revealed. Here, however, neither the existence of certain documents nor their content is known to Plaintiff. The Defendant therefore respectfully requests that any Order in this case describe the documents only in a very general manner, such as by physical folder identifier, so as not to disclose anything of substance about them

2. It appears to be standard practice for contested FOIA documents and any undisclosed identifying information about them to remain under seal through the course of the appellate process. *See, e.g., State, ex rel. Clark v. Toledo*, 62 Ohio St.3d 452, 584 N.E.2d 662 (1992). In that case, the party who wished to see certain documents argued that the intermediate appellate court should not have conducted an in camera review of the contested documents. The Supreme Court of Ohio disagreed, holding as follows:

Clark now asserts that the court of appeals erred in conducting its in camera review. We hold that the court of appeals did not abuse its discretion in how it conducted an in camera inspection of disputed public records..

In his first proposition of law, Clark argues that the lower court erred when it failed to individually describe each document and specify why each particular document was exempt. We reject that proposition.

Application of a statutory exemption to a particular document is best done by an in camera inspection. *Henneman v. Toledo* (1988), 35 Ohio St.3d 241, 243, 520 N.E.2d 207, 210; *State, ex rel. Natl. Broadcasting Co., v. Cleveland* (1991), 57 Ohio St.3d 77, 81, 566 N.E.2d 146, 150. However, after an in camera review, a court need not individually describe each document and specify the applicable exemption. No such statutory requirement exists; none of this court's decisions in public records cases imposes such a requirement; and we decline to impose such an explicit requirement. To do so could defeat the purpose of the in camera inspection by publicly revealing information exempt from release.

62 Ohio St.3d at 453, 584 N.E.2d at 663 (emphases added).¹ See also, *State ex rel. Vindicator Printing Co. v. Watkins*, 1991 WL 280007, 10 (Ohio App. 1991)(describing the contested documents only as "Exhibit AAA" and "Exhibit BBB." reviewing them in camera, and providing that the documents would remain under seal "pending a possible appeal of this court's judgment," even as to the document the court concluded should be released).

3. While the Defendant in its privilege log has undertaken to identify those documents that either came from Plaintiff or his counsel, or were sent to Plaintiff or his counsel, Defendant would request that those documents also not be identified or be required to be disclosed. They still are documents from the investigative side of the Securities Division that constitute either attorney work product or correspondence, or material obtained in investigation. Moreover, no useful purpose would be served by separating out such documents and requiring them to be provided to Plaintiff, since he or his counsel are already in possession of them. The Attorney General's Office has previously produced a number of Securities Division documents to Plaintiff, but those were all public documents maintained by the registration side of the Division, and not nonpublic documents maintained by the investigative side of the Division

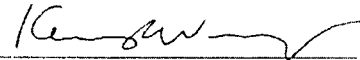
¹ It has been held that a court reviewing documents in camera may use sampling procedures when dealing with large numbers of documents, as here. See, e.g., *Meeropol v. Meese*, 790 F.2d 942, 958 (D.C. Cir. 1986).

CONCLUSION

For the foregoing reasons, the Defendant respectfully requests that any detailed descriptions of the documents at issue, as well as the contents of the documents, not be disclosed in any order which is made available to the Plaintiff and to the public. Counsel for Defendant suggests that if the Court finds it necessary to enter a detailed order, there should be two versions of it: One, for disclosure to the Plaintiff, which would contain only the description of the physical file location and the reason for nondisclosure that is being claimed, and the other, for submission in camera to a reviewing court, which would contain the entire log submitted by the Defendant.

Respectfully submitted,

DAVIDSON & LINDEMANN, P.A.

BY: 

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Counsel for Respondent

Columbia, South Carolina

May 31, 2011

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	
Arthur M. Field,	)	Civil Action Number 2010-CP-23-6767
	)	
Petitioner,	)	MOTION TO ALTER OR AMEND
	)	JUDGMENT
v.	)	(RULES 52 AND 59(e), SCRCP)
	)	
Henry McMaster, Attorney General,	)	
	)	
Respondent.	)	
_____	)	

STATEMENT

Respondent/Defendant Attorney General hereby moves, pursuant to Rule 52 and Rule 59(e), S.C.R.C.P., that the Court alter and amend its Order dated July 18, 2011, and received by undersigned counsel on July 21, 2011, so as to hold that the documents referenced herein need not be disclosed to Plaintiff. This motion is based on the grounds set forth herein.

As a preface to this motion, the Attorney General's Office would advise that it has reviewed the documents tentatively ordered by the Court to be produced. Those documents have been categorized and flagged within their respective folders. For each folder, a separate sheet has been prepared, detailing the documents therein and the reason for nondisclosure. Copies of the sheets are also attached to this motion.

The sheets and flags on the documents are keyed to six different categories, attached to this motion, and as discussed herein. Of the six categories, Nos. 3 through 5 and 7 pertain to various types of attorney correspondence and/or work product. Category 6 pertains to materials obtained in the course of a Securities Division investigation. Category 8 is discussed in note 2 below. (There are

no categories 1 and 2—those numbers were originally intended for other purposes not related to categorization.)

ARGUMENT

1. **The Court overlooked the applicability of *S.C. Code* § 35-1-607(b)(1), which provides that records obtained by the Securities Commissioner in connection with an investigation under Section 35-1-602 are not public records.**

In its motion for summary judgment and subsequent filings including the privilege logs, the Attorney General claimed that all materials obtained by the Securities Commissioner in connection with an investigation under Section 35-1-602 were specifically rendered nonpublic by *S.C. Code Ann.* § 35-1-607(b), which provides that such materials “obtained by the Securities Commissioner in connection with an audit or inspection under Section 35-1-411(d) or an investigation under Section 35-1-602” are “not public records.” As a result, the weighing by the Court, which was undertaken pursuant to § 30-4-40(a)(3), was neither required nor permitted. Had the exemption of Section § 30-4-40(a)(3) been the basis of the Attorney General’s claim set forth in the privilege log, the weighing that the Court performed would have been appropriate, because § 30-4-40(a)(3) contains such a balancing test. However, § 35-1-607(b) does not contain those tests, instead simply providing that Securities Division investigative documents are “not public records.”¹

Originally, the Attorney General’s Office did claim that some of the documents should be exempted under § 30-4-40(a)(3), which pertains only to documents “that were compiled in the process of detecting and investigating crime.” (Emphasis added.) That claim was in addition to the claim asserted pursuant to § 35-1-607(b). However, it eventually became clear that all of the

¹ Section 35-1-607 is modeled on Section 607 of the Uniform Securities Act of 2002, a copy of which is attached. It has been enacted in similar form in a number of states, as shown by the attachment.

documents requested by Plaintiff were actually in the possession of the Securities Division and were obtained for purposes of civil enforcement actions by that Division, which meant that any exemptions claimed for documents relating to criminal investigations or that might be in the possession of the State Grand Jury were no longer in issue. This is indicated by Paragraph 5 of Judge Welmaker's Order of April 20, 2011.

The assertion that the materials at issue were exempt under either the work product/correspondence exception of § 30-4-40(7) or under § 35-1-607(b), pertaining to materials obtained in Securities Division investigations, was reiterated in the Motion to Clarify, etc., dated April 13, 2011. The same two general exemptions were noted in the footnotes on p. 1 of the privilege log.

With respect to the documents received in investigation, within the meaning of § 35-1-607, the only review that needs to be conducted is one to insure that they were in fact received in the course of the investigation, which is clear, since they are located only in the nonpublic investigative files of the Securities Division. (On the other hand, and as explained in a prior filing, public documents pertaining to the persons and/or companies in question are located in the registration area of the Securities Division. Those are public documents under § 35-1-607(a), and almost 2,500 pages of those documents were previously supplied to Plaintiff.) As a result, once it is apparent that a document was received in the course of an investigation or audit, as the privilege log points out, and as reiterated in the sheets filed herewith, no further review should be conducted, because all such records are rendered nonpublic by in § 35-1-607, which contains no weighing test.²

² As indicated above, the Attorney General's Office has re-reviewed the documents that the Court preliminarily decided should be released. One category of documents is labeled "8." The

2. Certain documents are exempt under § 30-4-40(7), which exempts “correspondence or work products of legal counsel for a public body.”

The only other broad category of documents for which an exemption was claimed in the privilege log is attorney correspondence and work product, exempted by § 30-4-40(7), which exempts “correspondence or work products of legal counsel for a public body.” Essentially, the way this exemption works in the present case is that the “correspondence/work product” exemption covers all “outgoing” material from attorneys or investigators in the Attorney General’s Office, as well as internal communications or other writings by or between attorneys and others, and legal research. The two broad categories, that is, “received in investigation” and “correspondence/work product” comprise virtually all of the documents still in issue. As noted above, almost 2,500 pages of public, non-exempt documents were supplied to Plaintiff long before this action was filed.³

position of the Attorney General’s Office as to those (and they are fairly voluminous) is that (a) they are materials obtained in a Securities Division investigation and thus are nonpublic pursuant to § 35-1-607(b), or they are attorney correspondence, usually to Plaintiff or his counsel, but (b) if the Court concludes that that set of documents should be released, the Attorney General’s Office does not seek reconsideration on a case-by-case basis of those documents flagged with “8.” As a result, those documents have not been separately listed in the sheets. This only applies to the documents in Category 8, which are still nonpublic or exempt records in any event. If the Court determines that a document-by-document review of “received in investigation” documents still needs to be made, the Attorney General requests that the documents flagged in Category 6, i.e., materials obtained in an audit or investigation and rendered nonpublic by § 35-1-607(b), should be reviewed individually. After review, the documents in Category 6 should be deemed nonpublic and not subject to disclosure. Again, however, no such case-by-case weighing with respect to the “received in investigation” documents is required at all, or even permitted, under § 35-1-607(b).

³ In the course of the re-review conducted after the issuance of the July 18, 2011, Order, it was discovered that a very small number of documents in the file consisted of copies of public filings by the investigative part of the Securities Division. Plaintiff already has copies of these. These are included among the group of documents flagged as “8,” but are atypical of that group because they were in fact made publicly available.

The General Assembly, in protecting correspondence or work product of legal counsel for a public body, unquestionably intended at a minimum to protect materials described in the seminal work product case, *Hickman v. Taylor*, 329 U.S. 495 (1947), the case in which the term “work product” first gained prominence:

[I]t is essential that a lawyer work with a certain degree of privacy, free from unnecessary intrusion by opposing parties and their counsel. Proper preparation of a client's case demands that he assemble information, sift what he considers to be the relevant from the irrelevant facts, prepare his legal theories and plan his strategy without undue and needless interference. That is the historical and the necessary way in which lawyers act within the framework of our system of jurisprudence to promote justice and to protect their clients' interests. This work is reflected, of course, in interviews, statements, memoranda, correspondence, briefs, mental impressions, personal beliefs, and countless other tangible and intangible ways-aptly [termed] as the ‘Work product of the lawyer.’

329 U.S. at 510-511. The language of the South Carolina statute does not limit exempt work product and attorney correspondence to documents generated either in litigation or in anticipation of litigation, but in any event it is clear that the documents in this matter for which the exemption is claimed were in fact in anticipation of litigation. *See, e.g.,* Redwall 0 of Box 1A.

There are four categories of materials which the Attorney General's Office claims are exempt under § 30-4-40(7). Each document is flagged according to the category into which it falls. Each category will be briefly discussed.

- A. Category 3: (Legal research, etc.) Materials pertaining to legal research conducted by an attorney and/or investigator acting at an attorney's direction, during the process of conducting an investigation pursuant to Section 35-1-602 of the South Carolina Securities Act of 2005 and/or preparing for litigation pursuant to the same Act. This material is exempt under in § 30-4-40(7).

The documents in this category typically consist of legal research materials, such as copies of cases from Westlaw or other sources, and other similar legal materials. It is well settled

that such materials clearly fall within the protection of the work product privilege. *See, e.g., N.L.R.B. v. Jackson Hosp. Corp.*, 257 F.R.D. 302, 310 (D.D.C. 2009)(“It is hard to imagine a document that memorializes legal research done by a lawyer or law clerk that is not work product”)(emphasis added); *Natta v. Zletz*, 418 F.2d 633, 638 (7th Cir. 1969)(legal research included within work product). In addition, Rule 26(b)(3), S.C.R.C.P., provides that courts “shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney. . . .” Such information is unquestionably embodied in the legal research information obtained by an attorney.

Documents prepared by investigators for attorneys are equally entitled to the work product privilege. *See, e.g., U.S. v. Nobles*, 422 U.S. 225 (1975); *Raso v. CMC Equipment Rental, Inc.* 154 F.R.D. 126 (E.D.Pa. 1994). This principle applies to writings by investigators in any of the work product or correspondence categories flagged by the Attorney General’s Office.

- B. Category 4: (Attorney notes, drafts, etc.) Materials consisting of attorney notes, documents, and other works, in rough draft form and/or prepared for internal use only, prepared by an attorney and/or investigator acting at an attorney’s direction, during the process of conducting an investigation pursuant to Section 35-1-602 of the South Carolina Securities Act of 2005 and/or preparing for litigation pursuant to the same Act. This material is exempt under in § 30-4-40(7).

This category of information consists of written renderings of impressions “formed by . . . counsel in the course of his legal duties. As such, it falls outside the arena of discovery and contravenes the public policy underlying the orderly prosecution and defense of legal claims. Not even the most liberal of discovery theories can justify unwarranted inquiries into the files and the mental impressions of an attorney.” *Hickman, supra*, 329 U.S. at 509. As with the preceding category, legal research, attorney notes contain “the mental impressions, conclusions, opinions, or legal theories of an attorney. . . .” Rule 26(b)(3), S.C.R.C.P. *See also, e.g., Cua v. Morrison*,

626 N.E.2d 581, 584 (Ind.App. 1993)(work product protects an attorney's notes and memoranda reflecting the attorney's theories and mental impressions about the case).

Also in this category are draft pleadings. These also contain attorney theories and mental impressions about the case, and as such, have been held to be work product. *See, e.g., Lopez v. New York City Housing Authority*, 2005 WL 782812, 4 (N.Y.Sup. 2005)(draft pleadings).

- C. Category 5: (Work copies of documents with attorney markings) Materials which contain handwritten notes and/or other markings by an attorney, and/or investigator acting at an attorney's direction, during the process of conducting an investigation pursuant to Section 35-1-602 of the South Carolina Securities Act of 2005 and/or preparing for litigation pursuant to the same Act. This material is exempt under in § 30-4-40(7).

This category is very similar to Category 4. The only difference is that these documents consist of notes by attorneys or investigators on other documents, all or almost all of which are nonpublic documents under § 35-1-607. These notes are subject to the work product exemption for the same reasons as those in Category 4. In addition to being nonpublic documents obtained in investigation, they typically contain the mental impressions or theories of attorneys or investigators about the matters contained in the document on which they are written.

- D. Category 7: (Attorney correspondences) Correspondence prepared by an attorney and/or investigator acting at an attorney's direction, during the process of conducting an investigation pursuant to Section 35-1-602 of the South Carolina Securities Act of 2005 and/or preparing for litigation pursuant to the same Act. This material is exempt under in § 30-4-40(7).

The documents in this category consist of outgoing correspondence from the Attorney General's Office to persons connected in some way with the securities investigation. Section 30-4-40(7) includes correspondence of an attorney for a public body using the disjunctive "or," i.e., "correspondence or work product of legal counsel for a public body. . . ." In so providing, the General Assembly presumably intended to exempt attorney correspondence generally, in addition to work product.

Additionally, correspondence that includes “the mental impressions, conclusions, opinions, or legal theories of an attorney. . . ,” Rule 26(b)(3), unquestionably falls within the meaning of protected work product. The outgoing correspondence, again, typically contains some aspect of an attorney’s thinking about the investigation and anticipated litigation, communicated in order to obtain additional information from the person to whom the correspondence is addressed.

From the very establishment of the work product doctrine in *Hickman*, *supra*, attorney correspondence has been included in the list of matters that need to be protected in order to prevent disclosure of the mental impressions and theories of an attorney. As the Supreme Court held in *Hickman*,

This work [of attorneys] is reflected, of course, in interviews, statements, memoranda, correspondence,⁴ briefs, mental impressions, personal beliefs, and countless other tangible and intangible ways-aptly [termed] as the ‘Work product of the lawyer.’

329 U.S. at 510-511 (emphasis added). From a strictly practical sense, it is difficult to see how an attorney in the civil enforcement area of the law could effectively communicate with witnesses, experts, and others with knowledge of the underlying facts under investigation if the correspondence from the attorney to such persons were to be made subject to public disclosure.⁴

⁴ With regard to an issue that has not been necessary to address until now, the Attorney General’s Office would also note that even if some documents are required to be produced, it should be sufficient to produce one copy of each, and not to otherwise disclose the file arrangement or indexing to which the document may be subject. It has been held that the arrangement of documents in a file is something that in and of itself contains important aspects of the mental impressions of attorneys, and as such is protected by the work product doctrine. *See, e.g., Sporck v. Peil*, 759 F.2d 312, 316 (3d Cir.1985) (selection and compilation of documents by counsel falls within the highly protective category of opinion work product); *In re Allen*, 106 F.3d 582, 608 (4th Cir. 1997)(counsel’s choice and arrangement constitutes opinion work product because the attorney’s selection and compilation of these particular documents reveals her thought processes and theories regarding this litigation).

4. FOIA requests are not intended be used as a substitute for criminal or civil discovery processes.

An alternative ground for the Attorney General's summary judgment motion, not ruled on by the Court, was the contention that the production of this material should not be required, because if a civil or administrative enforcement action or a criminal action should be filed against Plaintiff, the disclosure of any pertinent materials would be governed by such discovery processes as might be available to him in those actions. The attendant privileges that might be invoked in any such proceedings would also apply.

Plaintiff's original 2009 FOIA request, attached to the Complaint in the present case, noted that "I ask that my request be expedited in order to permit preparation for various civil and administrative proceedings." (Emphasis added.) In addition, at about the same time, Plaintiff filed a federal civil action, now dismissed with prejudice. In that action, he claimed, among other things, that there were "threats of imminent criminal investigation" by the Attorney General's Office against him. See Order of 9/24/09 in *Field v. McMaster*, No. 6:09-1949-HMH-BHH at 3 (copy attached). It is therefore clear, partly because Plaintiff himself effectively admits it, that the present FOIA request is intended to bypass the discovery procedures that apply in any civil or criminal matters that may eventually be instituted.

The U.S. Supreme Court has "consistently rejected" the view that "FOIA could be used to supplement civil discovery." *U.S. v. Weber Aircraft Corp.*, 465 U.S. 792, 801 (1984). *See also, e.g., N. L. R. B. v. Sears, Roebuck & Co.*, 421 U.S. 132, 144 (1975)(FOIA "is fundamentally designed to inform the public about agency action and not to benefit private litigants"). In South Carolina, the Supreme Court has held to the same effect in at least the criminal context, stating that "the South Carolina FOIA exempts discovery of material that is not otherwise discoverable under [S.C.R.Cr.Pr.] Rule 5(a)(2)." *State v. Robinson, supra*, 305 S.C. at 476-77, 409 S.E.2d at 409.

There is no reason to think that the Court would not also require a party in a civil or administrative action to limit his discovery to the processes afforded him in that context. For all of these reasons, the Attorney General therefore requests that the Court issue a ruling on this unaddressed contention, and hold that nonpublic and exempt documents sought by Plaintiff should not be required to be disclosed to him, not only because of their inherent nature, as argued above, but also simply because if Plaintiff is ever the subject of civil, administrative or criminal proceedings, his ability to obtain documents should be limited to whatever is permitted by the discovery rules applicable in such proceedings.

5. If any doubtful questions of fact remain, a plenary hearing on such issues is necessary.

It should be recalled that the present posture of the case is that it is before the Court on cross motions for summary judgment. Judge Welmaker's first Order, entered on April 4, 2011, noted that "this Court is of the opinion that granting summary judgment for either party without viewing the disputed documents would be improper, particularly in light of the South Carolina Supreme Court's recent decision. *See Evening Post Pub. Co. v. Berkeley County School Dist.*, No. 26949, 2011 WL 980024 (S.C. March 21, 2011)."

Plaintiff's motion for summary judgment was based solely on the Respondent's alleged failure to make a timely response to Plaintiff's 2010 FOIA request. While the Attorney General's Office submits that it did make a timely response, Judge Welmaker in effect denied this motion by Plaintiff by holding that only documents sought in the July 13, 2009 request needed to be logged and reviewed. Moreover, and as pointed out in prior filings by the Respondent, the Supreme Court has held that FOIA exemptions cannot be waived through an untimely response, although it is not admitted that the response in this case was untimely. In *Litchfield Plantation Co., Inc. v. Georgetown County Water and Sewer Dist.*, 314 S.C. 30 443 S.E.2d 574

(1994), the Court noted that “to hold an agency can waive these exemptions by failing to respond within fifteen days, would allow, for example, the disclosure of investigative records of law enforcement agencies . . . through no fault of an interested party which the exemptions were enacted to protect.” 314 S.C. at 32 n.1, 443 S.E.2d at 575 n.1. As a result of the matters cited above, it is clear that to grant summary judgment for the Plaintiff (as opposed to possible judgment on the merits as to any particular documents) would be inappropriate, because his motion (a) pertains only to the limited 2010 document request, and (b) is without merit in any event, as set forth in *Litchfield, supra*.

The Attorney General’s Office also moved for summary judgment, claiming among other things that there was no disputed issue of fact as to the applicability of either § 35-1-607 or the correspondence/work product exemption in FOIA. The Court has already concluded in effect that as to many of those documents, there is no question of fact, and that they need not be produced. If, as to any of the remaining documents, the Court believes that there is an issue of fact about whether a given document is actually a document either (a) received in investigation and rendered nonpublic by § 35-1-607, or (b) attorney work product or correspondence, then the Attorney General submits that the appropriate course of action is simply to deny the Attorney General’s motion for summary judgment as to any such documents, and proceed to an evidentiary hearing as to any documents for which factual questions might exist. Such a hearing would still, of course, need to treat the documents in a guarded way in order to avoid disclosure of the substance of the document in the course of the litigation.⁵

⁵ The Attorney General’s Office does not disagree that the ultimate burden in a FOIA case is on the government defendant, as held on p. 3 of the Court’s Order, but it submits that that burden is one that would need to be met in a full hearing, and not simply in opposition to Plaintiff’s summary judgment motion.

The Supreme Court has held on a number of occasions that

Summary judgment is not appropriate when further inquiry into the facts of the case is desirable to clarify the application of the law. *Tupper v. Dorchester County*, 326 S.C. 318, 487 S.E.2d 187 (1997). Summary judgment should not be granted even when there is no dispute as to evidentiary facts if there is dispute as to the conclusion to be drawn from those facts. *Id.*

Moriarty v. Garden Sanctuary Church of God, 341 S.C. 320, 327, 534 S.E.2d 672, 675 (2000).

Accordingly, even assuming that Plaintiff's motion for summary judgment is regarded as broader in scope than discussed above, which Respondent denies, the court must view the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the non-moving party, which would be the Respondent in that scenario. *David v. McLeod Reg'l Med. Ctr.*, 367 S.C. 242, 247, 626 S.E.2d 1, 3 (2006). As applied here, and particularly in view of the large number of documents under review, it may be appropriate to conduct such "further inquiry," via a hearing, at least if there are any factual doubts concerning any particular document. As cases such as *Moriarty*, *supra*, indicate, a court always has discretion to deny a motion for summary judgment, in this case Plaintiff's, "where there is reason to believe that the better course would be to proceed to a full trial." *Anderson v. Liberty Lobby, Inc.* 477 U.S. 242, 255 (1986). This rule would apply with particular emphasis in a case such as this, where the risk is that the State's enforcement processes might be prejudiced by the disclosure of possible investigative or work product information without a plenary hearing.⁶

⁶ It may be that the Court would, or could, regard the hearing referenced by the Court on p. 4 of its Order, to be such an evidentiary hearing.

6. If documents are ultimately ordered produced, the final order should list the reasons for disclosure, as required by Rule 52.

By referencing a possible motion by the Attorney General containing specific objections, i.e., the present motion, the Court may have indicated that it intended to file a more detailed order after review of the motion and a possible hearing. Still, if the present motion is regarded as one under Rule 59(e), the Respondent is constrained to raise the issue that the present Order does not contain the kinds of findings and conclusions required by Rule 52(a), S.C.R.C.P. which requires that “the court shall find the facts specially and state separately its conclusions of law thereon.”⁷ The reason for the rule is “to allow a reviewing court to determine from the record whether the judgment and the legal conclusions which underlie it represent a correct application of the law.” *In re Treatment and Care of Luckabaugh*, 351 S.C. 122, 132, 568 S.E.2d 338, 343 (2002). In the quoted case, *Luckabaugh*, the Supreme Court held that an order which held only that a party failed to carry its burden of proof was not sufficient to meet the requirements of Rule 52(a). This is essentially the same as the July 18 Order in the present case. However, the Respondent, understanding that a more detailed order is likely to follow, raises this issue only as a precaution and to avoid any issues regarding preservation of issues.

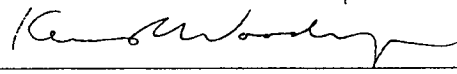
⁷ While the present motion references Rule 59(e), Respondent respectfully suggests that the Order filed on July 18 is in effect not a final order, and that the hearing of additional facts could be appropriate if necessary.

CONCLUSION

For the foregoing reasons, Respondent respectfully submits that the present motion to alter or amend should be granted, or in the alternative, as to any documents that might involve factual issues, an evidentiary hearing should be held.

Respectfully submitted,

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July 28, 2011

CATEGORIES OF FLAGGED MATERIALS IN FOLDERS¹

3. (Legal research, etc.) Materials pertaining to legal research conducted by an attorney and/or investigator acting at an attorney's direction, during the process of conducting an investigation pursuant to Section 35-1-602 of the South Carolina Securities Act of 2005 and/or preparing for litigation pursuant to the same Act. This material is exempt under in § 30-4-40(7).

4. (Attorney notes, drafts, etc.) Materials consisting of attorney notes, documents, and other works, in rough draft form and/or prepared for internal use only, prepared by an attorney and/or investigator acting at an attorney's direction, during the process of conducting an investigation pursuant to Section 35-1-602 of the South Carolina Securities Act of 2005 and/or preparing for litigation pursuant to the same Act. This material is exempt under in § 30-4-40(7).

5. (Work copies of documents with attorney markings) Materials which contain handwritten notes and/or other markings by an attorney, and/or investigator acting at an attorney's direction, during the process of conducting an investigation pursuant to Section 35-1-602 of the South Carolina Securities Act of 2005 and/or preparing for litigation pursuant to the same Act. This material is exempt under in § 30-4-40(7).

6. (Materials obtained in the course of a Securities Division investigation) Documents obtained by the Securities Division in an investigation pursuant to Section 35-1-602 of the South Carolina Securities Act of 2005. This material has been made nonpublic by § 35-1-607.

¹ As noted in the motion, Paragraphs 1 and 2 contained other information not relating to exemptions.

7. (Attorney correspondence) Correspondence prepared by an attorney and/or investigator acting at an attorney's direction, during the process of conducting an investigation pursuant to Section 35-1-602 of the South Carolina Securities Act of 2005 and/or preparing for litigation pursuant to the same Act. This material is exempt under in § 30-4-40(7).

8. (Other materials) Following review, materials in this category are documents that are exempt or nonpublic under one or more of the categories listed above, but for which only overall reconsideration is sought, as opposed to document-by-document review. See Motion to Alter or Amend, n. ____.

Folder: Correspondence 1 Redwall: Redwall 0

Box:1A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Correspondence to AG Office Letter 11/13/09 (and copy of envelope) Letter 11/13/09 (an attachment)	Correspondence from AG Office Letter 12/17/09 Letter 12/17/09
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Correspondence 2 Redwall: Redwall 0 Box:1A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
		Work copy of letter w/notes dated 5/16/07 Agreement work copy w/notes		Correspondence from AG Office Fax cover sheet 3/15/07 Faxed letter 3/7/07 Fax cover sheet 3/7/07 Faxed letter 3/6/07 Fax cover sheet 3/6/07 Letter 3/15/07 Letter 10/26/07
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Bill Condon's
correspondence

Redwall: Redwall 0

Box:1A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Internal email 5/29/07	Work copy of letter w/notes dated 5/16/07 Agreement work copy w/notes Work copy of letter 6/7/07 w/notes	Envelope stamped 10/14 Letter, documents, and cover sheet dated 3/12/07 Letter and cover sheet 3/7/07	Correspondence from AG Office Letter 10/26/07 Letter 3/15/07 Fax cover sheet 3/15/07 Faxed letter 3/7/07 Fax cover sheet 3/7/07 Faxed letter 3/6/07 Fax cover sheet 3/6/07
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Pleadings

Redwall: Redwall 0

Box:1A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Motion & Order drafts with notes Draft memo 12/5/07 Approval draft w/notes Amended draft w/notes			
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Correspondence

Redwall: Redwall 1

Box:1A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Internal letter 9/15/2008		Correspondence 1/21/2004 (with attachment)	Correspondence 4/18/2008 (with w/ fax cover sheet)
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Research

Redwall: Redwall 1

Box:1A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
Westlaw research (with attorney notes)				
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Accounting/Auditing Redwall: Redwall 1
Experts

Box: 1A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Research regarding possible witnesses			
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: CIF's mention of
Federal Interstate
Exemption

Redwall: Redwall 1

Box: 1A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Internal work documents on registration			
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Dissolution and
Winding Up

Redwall: Redwall 1

Box: 1A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Attorney interview notes Attorney notes 2/1/2008 (with routing slip)			
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: CIF/LRI Notes
Receivable

Redwall: Redwall 1

Box:1A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Attorney prepared chart 8/27/2008		Loan documents	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: LRI & MFG N/R

Redwall: Redwall 1

Box: 1A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Attorney prepared chart and notes		Loan documents	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: N/R L.M.B

Redwall: Redwall 1

Box:1A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Materials from the internet	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Research query 6/19/08 Bankruptcy Info (legal research)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Legal Research

Redwall: Redwall 1

Box:1A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
Westlaw research				
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Drafts/Approvals

Redwall: Redwall 1

Box:1A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Rough drafts of letters dated 9/11/09, 9/12/09			
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Evidence - Misc.

Redwall: Redwall 2

Box:1A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Internet research 1/21/09 (all)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Docs from
registration file

Redwall: Redwall 3

Box:1A

Box 1A
✓
✓
✓

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	
			Letter 4/15/02 Meeting notes	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Disclosures by
CIF/Field

Redwall: Redwall 3

Box:1A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Case report typed by atty/investigator		Internet research (both 3/12/08 and 3/26/08)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: CIF/LRI Audited
Financial & Internal
Financial Statements

Redwall: Redwall 4

Box:1B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
		Work cory of audit report	Meeting notes Report 3/8/00 Report 3/5/99 Financial Statements (subpoenaed) Audit Report 3/11/05	Correspondence w/ CPA 8/26, 8/28
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: No title

Redwall: Redwall 4

Box:1B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
		Work copy of letter 12/05/06 Work copy of email 8/15/06		
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: LRI Bankruptcy

Redwall: Redwall 6

Box:1B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			4 Bankruptcy document packets	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: CIF v. Lancaster

Redwall: Redwall 7

Box:1B

Box 1B

KW 7

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	
			Packets of documents: Document 220 Document 213 Document 120 Document 139 Document 118 Document 108 Document 138 Document 179 Document 181 Document 185 Database research 2/2/09 (2 sets) Document 3 (also falls under Exemption 5 as a work copy w/notes) Document 3 (second copy, also w/notes)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Proposed Private
Settlement

Redwall: Redwall 8

Box: 2A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Correspondence 6/30/09	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Email 1/21/09	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Tomz v. CIF
Hearing on Assets

Redwall: Redwall 8

Box:2A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Report instructions Fax cover 7/6/09	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Settlement

Redwall: Redwall 8

Box: 2A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Letter 6/15/09	Letter 6/23/09 (w/ fax cover sheet)
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
		Work copy of transcript scheduled by Plaintiff's Atty (he has a copy already)		
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Letter 5/12/09	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Lee v. BFG

Redwall: Redwall 9

Box:2A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Letter 7/15/09	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Johnny Hagens

Redwall: Redwall 9

Box:2A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Letter 9/26/09 and envelope	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Roberts

Redwall: Redwall 9

Box:2A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
		Work copy of Summons and Complaint w/markings	Document 1/30/03 and envelope Document 120 (packet) Letter 9/26/08	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Witness Subpoena Redwall: Redwall 10
to Field 10/07/03

Box: 2A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
		Work copy of letter 10/7/03 Work copy of attached document		
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: more sheets
bundled "Copy of Folder
10"

Redwall: Redwall 10

Box:2A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
Westlaw research (w/ atty notes)	Office email chain 7/15/09			
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Subpoena to Porter Redwall: Redwall 11
Highley

Box:2A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
		Subpoena (with attachment and certificate)		Correspondence from AG Office 7/28/08
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: FYE 12/31/01
Audit W/P 1

Redwall: Redwall 11

Box:2A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Copied notes and memo Green pages 12/31/01 Letter 1/2/02 (2 copies of) Controls Account numbers page Bank information and accompanying reports (all) Loan note (2 copies of) Transactions sheets (all) Fax cover sheets 1/29/02 Letter 12/14/01 Letter 12/12/01 Note 7/27/01 Deposit summaries Ledger Agreement 11/2/99 Transactions sheets (all - also contain atty/investigator notes)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: FYE 12/31/01
Audit W/P 2

Redwall: Redwall 11

Box:2A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			All Assignment materials (subpoenaed)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Handwritten chart		Agreement Resolution authorizations (3)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Fax 3/17/04 and attached materials Balance sheet Form Schedule P&L All bank information (all of the above are subpoenaed materials)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			All transaction information Letter 7/13/04 Letter 8/25/04 Letter undated All balance sheets Subpoenaed audits Letter 2/27/04 Letter 8/20/02 Leter 4/12/04 Letter 4/27/04 Note Assignment Subpoenaed emails	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: FYE 12/31/03
Audit W/PS 3

Redwall: Redwall 11

Box:2A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Letter 12/17/03 Undated letter Letter 1/5/04 Handwritten notes Secretary of State report All computations Subpoenaed emails P&Ls Balance information Transactions Loan agreement Amendment	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Audit materials (subpoened)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Audit materials (subpoened)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: P&H 2006 Docs re Redwall: Redwall 12
Tiger

Box:2B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Settlement documents (subpoened)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: P & H Info. Re
Amos and & White/Liberty
One/Liberty Two

Redwall: Redwall 12

Box: 2B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Email 3/20/2006 (subpoened) Court filings (subpoened)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: 12/31/05 W/PS

Redwall: Redwall 12

Box:2B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Audit documents (subpoened)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Correspondence

Redwall: Redwall 13

Box: 2B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
				Letter 5/20/09
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Subpoena to
McKinley Cooper

Redwall: Redwall 14

Box: 2B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
				Subpoena 7/25/08 Letter 7/28/08 Letter 9/05/08 (two copies)
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Audit documents (subpoened)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Audit documents (subpoened)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Audit materials (subpoened)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: McKinley Cooper
Correspondence

Redwall: Redwall 15

Box:2B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
				Letter 5/20/09
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: McKinley Cooper
Communication w/ LLR

Redwall: Redwall 12

Box: 2B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Letter 7/8/09 LLR Report Fax 7/8/09 (w/ cover sheet)	Fax 7/7/09 (w/ cover sheet)
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: McKinley Cooper
Testimony

Redwall: Redwall 15

Box:2B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
		Transcript w/ atty notes	Transcript of statement	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: SASs

Redwall: Redwall 16

Box:3A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
All audit research conducted				
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: SFASs

Redwall: Redwall 16

Box:2B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
All research conducted (FASB)				
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Bank of America
Financial Statements

Redwall: Redwall 16

Box:2B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
All research conducted, also exempt under 6 (obtained during investigation)				
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: LRI Subpoena

Redwall: Redwall 19

Box: 3A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Financial documents (subpoenaed)	Subpoena and letter 7/28/08
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Martin Ender/Want Redwall: Redwall 19
and Ender CPA

Box:3A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Subpoenaed materials (w/ fax cover sheet) 8/26/08 Subpoenaed materials (w/ fax cover sheet) 8/28/08	Subpoena and letter 7/28/08
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Subpoena to BB&T Redwall: Redwall 19

Box:2B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Letter and subpoenaed materials 8/1/08	Subpoena and letter 7/28/08
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Subpoena to
Charter Communications

Redwall: Redwall 19

Box: 3A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Draft of subpoena			
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction.	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Research on for
Emails

Redwall: Redwall 19

Box:2B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Draft of letter 11/8/08			
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: No label; was not in Redwall: Redwall 24
a folder

Box: 3B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Subpoenaed bank materials (original and 4 copies)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Internet research obtained during investigation	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: O'Shea

Redwall: Redwall 27

Box: 4A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Internet research obtained during investigation	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Sky Mark

Redwall: Redwall 27

Box: 4A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Internet research obtained during investigation	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Kathryn Taillon

Redwall: Redwall 27

Box: 4A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Loan mortgage documents	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Arthur Field
Statement, SEC Letter

Redwall: Redwall 29

Box: 4A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Letter 5/10/05 (w/ atty notes)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Delinquent Loan
Workout Tiger Transport

Redwall: Redwall 29

Box: 4A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
		Reorganization plan (w/ atty notes and highlights) 4 sets of mortgage documents (w/ atty notes and highlights)	Balance sheet 6/20/06	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Intrastate
exemption research and
notes

Redwall: Redwall 33

Box: 4A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
Westlaw research e-CFR research	Attorney notes handwritten (yellow page)	CIF Analysis with attorney notes (SEC Letter, 2 copies)	Secretary of State documents obtained while conducting research SEC No-Action letter (2 copies, also contain numerous attorney notes)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Premanent
injunction/ remedies
research

Redwall: Redwall 33

Box: 4A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
Administrative proceeding printout (from another case) Westlaw printouts both with and without attorney notes (also falls under exemption 5 as work copy) Exchange act research from website	Printed attorney notes dated 8/8/08	Westlaw printouts under exemption 3		
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Concept of
Integration

Redwall: Redwall 34

Box: 4B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
Westlaw research (w/ atty notes)	Attorney created list of notes on research			
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Integration - Other Redwall: Redwall 34 Box: 4B
Research

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
Westlaw research (w/ atty notes and/or highlights) Legal and regulatory framework research SC Code research				
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Integration - SEC
Rules/Releases

Redwall: Redwall 34

Box: 4B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
Westlaw research SEC rules research				
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Condon, B.
Subpoena Defenses

Redwall: Redwall 36

Box: 4B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
Westlaw research (w/ atty notes)		Work copy of motion (w/ atty notes)		
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Condon, B. Fifth
Amendment

Redwall: Redwall 36

Box: 4B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
Westlaw research (w/ atty notes and/or highlights) Case research				
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: CIF Financial
Documents/ Analysis

Redwall: Redwall 36

Box: 4B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
		Attorney work copy of financial statements (w/ atty notes)	Financial statements	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Index of File Notes Redwall: Redwall 1

Box: 5A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Internal Email 4/24/03			
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Casefile Green
Folder #1

Redwall: Redwall 1

Box: 5A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Internal email 4/1/03 Internal email 4/1/03 (w/attachments) Internal email 4/1/03		Correspondence 8/15/03 (fax and cover sheet) Cover sheet 8/20/03 Letter 7/30/03 Letter 4/7/03 (w/ attachments), copy of same Letter 3/20/03 (w/ attachments and envelope) Fax 9/5/02 (w/ attachments and cover sheet) w/ 2 additional copies of the	Fax cover sheet 9/5/02, with additional copy
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Case File Green Redwall: Redwall 1 Box: 5A
 File Folder #4

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Case Summary		Letter 8/14/2003 (w/ attachment)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: 3051 - Captial
Investment Funding by
Lawrence Bagwell

Redwall: Redwall 1

Box: 5A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Email undated Case notes 8/19/03	Work copy of prospectus (w/ atty notes and/or highlights) Work copy of registration (w/ atty notes and/or highlights)	Email 8/26/03	Letter 8/19/03
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: 3010 - Capital
Investment Funding by
Sam Banks

Redwall: Redwall 1

Box: 5A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Email 6/17/03 Email 6/17/03 Case notes 4/23/03 Case notes 6/24/03		Adverstisment Fax (cover sheet w/attachments)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Redwall 2
Folder 1

Redwall: Redwall 2

Box: 5A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
Internet research 2/26/04				
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Redwall 2
Folder 3

Redwall: Redwall 2

Box: 5A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Handwritten attorney notes, undated Subpoena draft and attachment Handwritten note for file		Deposition 2/7/04 and 3 copies	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Redwall 3 Folder #2 Redwall: Redwall 3

Box: 5A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Email 1/20/04			
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Redwall 3 Folder #4 Redwall: Redwall 3

Box: 5A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Fax 3/01/04 (w/ cover sheet)	Fax 10/9/03 (w/cover sheet) Fax cover sheet 2/27/04
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Folder B Folder 2: Redwall: Redwall 4
 Scott Pfeiffer/CIF Cosimo

Box: 5B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
		Internet research (w/ atty notes and/or highlights)	Government research Government research Government research Government research Internet research	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Monmouth
Financial Group

Redwall: Redwall 6

Box: 5B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Letter 11/14/03 Internet research	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Lancaster Mortgage Redwall: Redwall 7
Bankers

Box: 5B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Research 10/16/03 (w/ handwritten note) Research 10/7/03 Mortgage documents	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Bolingbroke United Redwall: Redwall 6
(ENG)

Box: 5B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Lease documents Internet research 2/23/04 Government records 2/23/04	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Internet research 10/13/03 Internet research 11/10/03	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Cosimo/Bean
Creek

Redwall: Redwall 7

Box: 5B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Appraisal documents	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Folder C Cosimo
Tiger Asset

Redwall: Redwall 8

Box: 5B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Internet research/Deed 3/1/04	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: Redwall #9 Folder Redwall: Redwall 9
A Cosimo/Tiger Asset

Box: 6A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Internet/deed research 11/7/03	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Internet/deed research 11/12/03	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
	Handwritten notes (undated)			
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: LRI Loan
Documents

Redwall: Redwall 11

Box: 6A

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Real estate documents (subpoenaed)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: MFG/Lancaster
Development

Redwall: Redwall 13

Box: 6B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Tax records 6/13/08 Loan documents (2 copies)	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Internet/deed research 3/1/2004 Internet/deed research 11/7/2003 Internet/deed research 11/12/03 Loan documents	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: MFG/Lancaster
Development/President Rd

Redwall: Redwall 13

Box: 6B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Tax records 6/13/08 Tax records 3/31/09 Loan documents Apprasial Contract Apprasial	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Folder: LRI S Castle Hill

Redwall: Redwall 13

Box:6B

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Tax records 6/13/08 Loan documents 1/09/04	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Tax records 6/13/08	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

Exemption Claimed: 3*	Exemption Claimed: 4*	Exemption Claimed: 5*	Exemption Claimed: 6*	Exemption Claimed: 7*
			Loan documents (1/09/04) Loan documents (marked "done")	
*3: Legal research conducted by an attorney and/or an investigator at attorney's direction	*4: Attorney notes and/or documents in rough draft form	*5: Work copies with attorney and/or investigator's handwritten notes	*6: Documents obtained in an investigation, including correspondence to the AG's Office	*7: Correspondence (outgoing)

C

Uniform Laws Annotated Currentness

Uniform Securities Act (Last Revised or Amended in 2002) (Refs & Annos)

⌘ [Article] 6 Administration and Judicial Review

→ § 607. Public Records; Confidentiality.

(a) [**Presumption of public records.**] Except as otherwise provided in subsection (b), records obtained by the administrator or filed under this [Act], including a record contained in or filed with a registration statement, application, notice filing, or report, are public records and are available for public examination.

(b) [**Nonpublic records.**] The following records are not public records and are not available for public examination under subsection (a):

(1) a record obtained by the administrator in connection with an audit or inspection under Section 411(d) or an investigation under Section 602;

(2) a part of a record filed in connection with a registration statement under Sections 301 and 303 through 305 or a record under Section 411(d) that contains trade secrets or confidential information if the person filing the registration statement or report has asserted a claim of confidentiality or privilege that is authorized by law;

(3) a record that is not required to be provided to the administrator or filed under this [Act] and is provided to the administrator only on the condition that the record will not be subject to public examination or disclosure;

(4) a nonpublic record received from a person specified in Section 608(a); [and]

(5) any social security number, residential address unless used as a business address, and residential telephone number unless used as a business telephone number, contained in a record that is filed[; and]

(6) a record obtained by the administrator through a designee of the administrator that a rule or order under this [Act] determines has been:

(A) expunged from the administrator's records by the designee; or

(B) determined to be nonpublic or nondisclosable by that designee if the administrator finds the determination to be in the public interest and for the protection of investors].

(c) **[Administrator discretion to disclose.]** If disclosure is for the purpose of a civil, administrative, or criminal investigation, action, or proceeding or to a person specified in Section 608(a), the administrator may disclose a record obtained in connection with an audit or inspection under Section 411(d) or a record obtained in connection with an investigation under Section 602.

OFFICIAL COMMENTS

2006 Main Volume

Prior Provisions: RUSA Section 703; SEC Rule Section 200.80(b)(4); Securities Exchange Act of 1934 Sections 24(d) and (e).

1. Section 607(a) reflects the extensive development of freedom of information and open records laws since the 1956 Act was adopted.
2. Section 607(b) may insulate from public disclosure records or other information that may be available under a state freedom of information or open records act. Unless the state freedom of information or open records act implements a constitutional provision, this Act as the later and more specific enactment should control as a matter of statutory construction. A state may amend its freedom of information act, open records act or this section to eliminate any inconsistencies.
3. Records and other information obtained by an administrator in connection with an audit or inspection under subsection 411(d) or an investigation under Section 602 may be made public in the enforcement action, even if records and other information would otherwise be subject to subsection 607(b)(1).
4. An administrator may orally disclose information under Section 607(c) to a person specified in Section 608(a) for the purposes specified in Section 607(c).

ACTION IN ADOPTING JURISDICTIONS

2011 Electronic Pocket Part Update.

Variations from Official Text:

GEORGIA

Section provides:

“(a) Except as otherwise provided in subsection (b) of this Code section, records obtained by the Commissioner or filed under this chapter, including a record contained in or filed with a registration statement, application, notice filing, or report, are public records and are available for public examination.

“(b) The following information and documents do not constitute public information under subsection (a) of this Code section and shall be confidential:

“(1) Information or documents obtained by the Commissioner in connection with an investigation under Code Section 10-5-21;

“(2) Information or documents filed with the Commissioner in connection with a registration statement or exemption filing under this chapter which constitute trade secrets or commercial or financial information of a person for which that person is entitled to and has asserted a claim of confidentiality or privilege authorized by law;

“(3) Any document or record specifically designated as confidential in accordance with this chapter; and

“(4) Any document, record, or information designated as confidential by federal statute, rule, or regulation.”

HAWAII

Substitutes “commissioner” for “administrator” throughout.

2006 Main Volume

IDAHO

Subsec. (b) provides:

“Nonpublic records. Records as set forth in section 9-340H, Idaho Code, are not public records and are not available for public examination under subsection (a) of this section.”

IOWA

Subsec. (b)(6) provides:

“A record obtained by the administrator through a designee that the administrator determines by rule or order has been appropriately expunged from its own records by that designee, if the administrator finds that such expungement is in the public interest and does not impair investor protection.”

KANSAS

In subsec. (a), adds “in accordance with the open records act” following “available for public examination”.

In subsec. (b)(5), omits “unless used as a business telephone number,” preceding “contained in a record”.

Omits subsec. (b)(6).

MAINE

Section provides:

"1. Presumption of public records. Except as otherwise provided in subsection 2, records obtained by the administrator or filed under this chapter, including a record contained in or filed with a registration statement, application, notice filing or report, are public records and are available for public examination in accordance with Title 1, chapter 13, subchapter 1.

"2. Nonpublic records. The following records are not public records and are not available for public examination under subsection 1:

"A. A record obtained by the administrator in connection with an audit or inspection under section 16411, subsection 4 or an investigation under section 16602;

"B. A part of a record filed in connection with a registration statement under section 16301 and sections 16303 to 16305 or a record under section 16411, subsection 4 that contains trade secrets or confidential information if the person filing the registration statement or report has asserted a claim of confidentiality or privilege that is authorized by law;

"C. A record that is not required to be provided to the administrator or filed under this chapter and is provided to the administrator only on the condition that the record will not be subject to public examination or disclosure;

"D. A record received from a person specified in section 16608, subsection 1 that has been designated as confidential by the agency furnishing the record;

"E. Any social security number, residential address unless used as a business address and residential telephone number unless used as a business telephone number contained in a record that is filed;

"F. A record obtained by the administrator through a designee of the administrator that, pursuant to a routine technical rule, as defined in Title 5, chapter 375, subchapter 2-A, or an order under this chapter, has been:

"(1) Expunged from the administrator's records by the designee; or

"(2) Determined to be nonpublic or nondisclosable by that designee if the administrator finds the determination to be in the public interest and for the protection of investors;

“G. Records to the extent that they relate solely to the administrator's internal personnel rules and practices, including, but not limited to, protocols, guidelines, manuals and memoranda of procedure for employees of the Office of Securities;

“H. Interagency or intra-agency memoranda or letters, including generally records that reflect discussions between or consideration by the administrator and employees of the Office of Securities of any action taken or proposed to be taken by the administrator or employees of the Office of Securities, including, but not limited to, reports, summaries, analyses, conclusions or other work product of the administrator or employees of the Office of Securities, except those that by law would routinely be discoverable in litigation; and

“I. Records to the extent that disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy.

“3. Administrator discretion to disclose. If disclosure is for the purpose of a civil, administrative or criminal investigation, action or proceeding or to a person specified in section 16608, subsection 1, the administrator may disclose a record obtained in connection with an audit or inspection under section 16411, subsection 4 or a record obtained in connection with an investigation under section 16602. Prior to disclosure to a person specified in section 16608, subsection 1, the administrator may require the requesting agency to certify that under applicable law reasonable protections exist to preserve the integrity, confidentiality and security of the information comparable to the protections existing under the laws of this State.

“4. Public disclosure for enforcement purposes. The administrator may disclose to the public any information obtained in connection with an investigation that would otherwise be nonpublic information, but only if the administrator determines that disclosure is necessary for the protection of investors or the public.”

MINNESOTA

In subsec. (b)(5), omits “unless used as a business telephone number” following “residential telephone number”.

MISSOURI

In subsec. (b)(5), omits “unless used as a business telephone number” following “residential telephone number”.

2011 Electronic Pocket Part Update.

NEW MEXICO

Substitutes “director” for “administrator” throughout.

Omits subsec. (b)(6).

2006 Main Volume

OKLAHOMA

In subsec. (b)(1), inserts “or created by a representative of the Administrator” preceding “in connection with an audit”.

In subsec. (b)(2), inserts “obtained” preceding “under Section 411(d)”, and substitutes “statement or providing the record has asserted” for “statement or report has asserted”.

Subsec. (b)(4) provides:

“A record in a litigation file;”

In subsec. (b)(5), omits “unless used as a business telephone number” following “residential telephone number”.

Subsec. (c) provides:

“If disclosure is for the purpose of a civil or administrative investigation, action, or proceeding brought by the Administrator or a criminal referral made by the Administrator or to a person specified in subsection A of Section 46 of this act, the Administrator may disclose a record obtained in connection with an audit or inspection under subsection K of Section 14 of this act or subsection D of Section 27 of this act or a record obtained or created **in connection with an investigation** under Section 40 of this act so long as the receiving person specified in subsection A of Section 46 of this act provides assurances to undertake such safeguards as are necessary and appropriate to protect the confidentiality of files to which access is granted and information derived therefrom.”

SOUTH CAROLINA

Substitutes “Securities Commissioner” for “administrator” throughout.

SOUTH DAKOTA

Substitutes “director” for “administrator” throughout.

VERMONT

Substitutes “commissioner” for “administrator” throughout.

In subsec. (b), adds a subdivision [designated (7) in the Vermont act], which provides:

“(7) records otherwise exempt from public disclosure pursuant to 1 V.S.A. § 317(c).”

LIBRARY REFERENCES

2006 Main Volume

Records  30.

Securities Regulation  270, 272.

Westlaw Topic Nos. 326, 349B.

C.J.S. Records §§ 60, 62 to 63, 65, 93, 95.

C.J.S. Securities Regulation and Commodity Futures Trading Regulation §§ 374, 410 to 411, 414.

Unif. Securities Act 2002 § 607, ULA SECUR § 607

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Arthur M. Field, Ph.D., Kathryn Taillon,
T. Bart Kelley, and Capital Investment
Funding, LLC,

Plaintiffs,

vs.

Henry D. McMaster, Individually and as
Securities Commissioner of South Carolina,
William J. Condon, Jr., Individually and as
an Assistant Securities Commissioner,
Tommy Windsor, Individually and as
Securities Investigator, Joe F. Jordan, Jr.,
Individually and as an Investigator of the
Attorney General, Jennifer Evans, by
Personal Representative, Lansing Logan,
Individually and as a Special Investigator
of the Attorney General, State of South
Carolina Office of the Attorney General,

Defendants.

C.A. No. 6:09-1949-HMH-BHH

OPINION & ORDER

This matter is before the court with the Report and Recommendation of United States Magistrate Judge Bruce Howe Hendricks, made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 of the District of South Carolina.¹ Plaintiffs Arthur M. Field, Ph.D. ("Field") and Kathryn Taillon ("Taillon"), proceeding pro se, filed a motion seeking a temporary restraining order ("TRO") or, in the alternative, a preliminary injunction, enjoining Defendants

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1) (2006).

from “threatened prosecution of the plaintiffs.” (Mot. TRO 1.) In her Report and Recommendation, Magistrate Judge Hendricks recommends denying Field and Taillon’s motion.²

Field and Taillon filed objections to the Report and Recommendation. Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party’s right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, the court finds that many of Field and Taillon’s objections are non-specific, unrelated to the dispositive portions of the magistrate judge’s Report and Recommendation, or merely restate their claims. However, Field and Taillon have submitted two specific objections: (1) the magistrate judge applied the incorrect standard in deciding the motion for TRO and (2) the magistrate judge erred in finding that Field and Taillon did not demonstrate irreparable harm. (Objections 1-2.)

First, Field and Taillon allege that the “[m]agistrate applied the standards and cases for preliminary injunctive relief; not temporary restraining orders.” (Id. at 1.) This objection is without merit. “The standard for granting either a TRO or a preliminary injunction is the same.”

² Specifically, Magistrate Judge Hendricks recommends denying Field and Taillon’s motion for a TRO. The magistrate judge did not consider a preliminary injunction because the “Summons and Complaint, in this case, have not yet been served [and the] defendants have no formal notice of the motion.” (Report & Recommendation 1.) See Fed. R. Civ. P. 65(a) (“The court may issue a preliminary injunction only on notice to the adverse party.”).

Moore v. Kempthorne, 464 F. Supp. 2d 519, 525 (E.D. Va. 2006). Thus, the magistrate judge did not err in citing to case law which discussed the standard for preliminary injunctions. Accordingly, Field and Taillon's objection is without merit.

Second, Field and Taillon allege that the magistrate judge erred in finding that they did not demonstrate irreparable harm. Field and Taillon seek a TRO restraining Defendants from "issuing further threats of prosecution against Plaintiffs," and "pursuing further investigation of the Plaintiffs . . . in relation to the activities of Capital Investment Funding, LLC." (Mot. TRO 2.) Field and Taillon argue that "they are being investigated and suffer the real threat of prosecution . . . under the terms of the South Carolina Uniform Securities Act and contend such statute is unconstitutional on its face and as applied." (Objections 2.) Additionally, Field and Taillon allege that Defendants' threat of criminal investigation violates Plaintiffs' right "to be free from liability and the extreme burdens of litigation." (Mot. TRO 3.) Field and Taillon allege that the "threats of imminent criminal investigation" by Defendants has and will continue to cause them irreparable harm. (Id. at 3.)

The magistrate judge concluded that "the threat of prosecution does not qualify as irreparable harm sufficient to justify an injunction." (Report & Recommendation 3.) "A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." Winter v. Natural Res. Defense Council, Inc., 129 S. Ct. 365, 374 (2008). "[A]ll four requirements must be satisfied." The Real Truth About Obama, Inc. v. Federal Election Comm'n, 575 F.3d 342, 346 (4th Cir. 2009).

“[W]hen a genuine threat of prosecution exists, a litigant is entitled to resort to a federal forum to seek redress for an alleged deprivation of federal rights.” Wooley v. Maynard, 430 U.S. 708, 710 (1977). However, “a federal court should not enjoin threatened prosecutions except when necessary to prevent irreparable harm which is great and immediate.” Bykofsky v. Borough of Middletown, 389 F. Supp. 836, 844 (M.D. Pa. 1975). Here, Field and Taillon allege that Defendants’ threats of prosecution have been made in “bad faith.” (Objections, generally). Bad faith “generally means that a prosecution has been brought without a reasonable expectation of obtaining a valid conviction.” Kugler v. Helfant, 421 U.S. 117, 126 n.6 (1975).

Field and Taillon allege that Defendants have committed acts such as, “telephoned persons within and outside of South Carolina and informed such persons that . . . Plaintiffs [were] the subject of criminal investigation for securities fraud,” “misused and abused and will continue to misuse and abuse their powers and positions as investigators by issuing subpoenae in the name of the Securities Commissioner . . . for their own devious purposes in violation of law and to cause irreparable injury to plaintiffs,” “succeeded in wrongfully ‘freezing’ the accounts of Arthur Field, Taillon, Davyd Field and Allison Field,” and “published . . . wrongfully obtained information to the Greenville News . . . to bias any future jury pool.” (Mot. TRO 5.) Field and Taillon have not, however, established that Defendants have no legitimate claim against them.

Accordingly, while Defendants’ alleged behavior may create defenses or separate causes of action, Field and Taillon have not demonstrated that the alleged threat of prosecution has been made in bad faith or will result in irreparable harm requiring the court to grant injunctive relief. For example, Field and Taillon have not demonstrated how they would be deprived of a constitutional right if the court did not grant them injunctive relief. Rather, Field and Taillon

assert that they wish to be protected from the burdens of litigation. The burden of litigation not brought in bad faith, however, is not an irreparable injury. Accordingly, Field and Taillon have failed to demonstrate that Plaintiffs are likely to suffer irreparable harm in the absence of preliminary relief. Thus, their objection is without merit.

Therefore, after a thorough review of the magistrate judge's Report and the record in this case, the court adopts Magistrate Judge Hendrick's Report and Recommendation.

It is therefore

ORDERED that Plaintiffs Field and Taillon's motion for a TRO, docket number 6, is denied.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
September 24, 2009

NOTICE OF RIGHT TO APPEAL

The Plaintiffs are hereby notified that they have the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

FILED CLERK OF COURT
GREENVILLE, S.C.
PAUL B. WICKENS

2011 AUG -3 P 1:10

ARTHUR M. FIELD	)	STATE OF SOUTH CAROLINA
Petitioner	)	THIRTEENTH JUDICIAL CIRCUIT
V.	)	COUNTY OF GREENVILLE
HENRY MCMASTER,	)	2010-CP-23-6767
ATTORNEY GENERAL	)	OBJECTION TO MOTION TO ALTER OR AMEND
	)	and OBJECTION TO REQUEST FOR STAY
Respondent	)	AND REQUEST FOR STATUTORY COSTS
	)	AND REQUEST TO MODIFY ORDER

Petitioner *pro se* Arthur Field hereby Objects to Respondent's "Motion to Clarify, and/or to Alter or Amend" dated July 28, 2011 and received by Petitioner on August 1, 2011. Petitioner requests all documents be disclosed. Petitioner also requests the statutory costs set forth in the Freedom of Information Act for non-compliance by Respondent. S.C.C.A.30-4-100.

Respondent has again sought to conceal the documents from Petitioner, hiding behind various generalized, yet irrelevant claims of privilege. Unfortunately, Petitioner can only voice a general objection since the existing Orders prevent Petitioner from being aware of the content or even the specific identity of the documents in question. Respondent Attorney General again seeks to defy the Legislature, the statutes and this court's Order.

The Attorney General has flaunted its power with impunity. It first lied to Petitioner, the press and this Court and caused grave economic and emotional damage to Petitioner. It claimed the documents were part of a criminal proceeding. As noted in its own Motion Brief:

Originally, the Attorney General's Office did claim that some of the documents should be exempted under Sec. 30-4-40(a)(3), which pertains only to documents that were compiled in the process of detecting and investigating crime.... However, it eventually became clear that all of the documents requested by Plaintiff were actually in the possession of the Securities Division and were obtained for purposes of civil enforcement action by that Division, which meant that any exemptions claimed for documents relating to criminal investigations...were no longer in issue.

In other words: the Attorney General initially LIED. No documents had been turned over to the State Grand Jury. No crime has ever been prosecuted. No indictment has ever issued. Yet, this was the grounds given for non-compliance with FOIA.

Sadly, the Attorney General held a press conference announcing to the public the referral of the information and documents by the Securities Division to the Criminal Division and the initiation of a State Grand Jury investigation, despite the strict requirement for the secrecy of such proceedings set forth in the S.C. State Grand Jury Act.

Implicit in the above citation from Respondent's Brief is the notion there was a civil enforcement action and hence Respondent's material should be protected under a work product or attorney-client privilege. Once more, the Attorney General is misrepresenting the truth.

No civil enforcement action ever existed against Petitioner Arthur Field, or even against Capital Investment Funding, LLC.

The Securities Division is charged with overseeing and registering securities annually. In the course of such registration by qualification, set forth in Article 3 of Title 35, it conducts whatever general investigation it needs to effectuate registration. S.C. 35-1-304, et seq. Section 35-1-305 permits the investigation, and Section 35-1-306 even allows for a Stop Order with appropriate hearing. This is NOT a civil enforcement action. Capital Investment Funding, LLC was never subjected to a Stop Order hearing.

Civil enforcement is set forth in Article 6, which is also cited by the Attorney General in support of its specious claims. Section 35-1-602 provides for investigation pursuant to a civil enforcement proceeding. And Section 35-1-603 provides specifically for "Civil Enforcement." No such proceeding was ever commenced by the Securities Division. All of the privileges claimed by the Attorney General are incorrect. All of the documents it seeks to protect should be disclosed, even those concealed by the Court's current order.

Disclosure, not secrecy, is the dominant objective of FOIA. *Burton v. York County Sheriff's Dept.*, 358 S.C.339 (App. 2004). The essential purpose of the FOIA is to protect the public from secret government activity. *Campbell v. Marion County Hosp. Dist.*, 354 S.C. 274, (App. 2003); see also *Quality Towing, Inc. v. City of Myrtle Beach*, 345 S.C. 156, 163, (2001);

Wiedemann v. Town of Hilton Head Island, 330 S.C. 532, 535 n.4, (1998); *Fowler v. Beasley*, 322 S.C. 463, 468 (1996). FOIA creates an affirmative duty on the part of public bodies to disclose information. *Bellamy v. Brown*, 305 S.C. at 295, 408 S.E.2d at 221(1991); *Campbell*, 354 S.C. at 281, 580 S.E.2d at 166. The purpose of the FOIA is to protect the public by providing for the disclosure of information. *Id.* FOIA is remedial in nature and should be liberally construed to carry out the purpose mandated by the legislature. *Campbell*, 354 S.C. at 281, 580 S.E.2d at 166. The exemptions from disclosure under FOIA do not create a duty of nondisclosure. *Bellamy*, 305 S.C. at 295, 408 S.E.2d at 221. Indeed, consistent with FOIA's goal of broad disclosure, the exemptions from its mandates are to be narrowly construed. See *Campbell*, 354 S.C. at 281, 580 S.E.2d at 166; see also *Quality Towing*, 345 S.C. at 161, 547 S.E.2d at 864-65 (FOIA is remedial in nature and should be liberally construed to carry out purpose mandated by legislature). Access to government information is guaranteed to the public. *Fowler v. Beasley*, *supra*, 322 S.C. at 468.

The Attorney General also seeks to hide behind Section 30-4-40(7). Such section does not and should not apply herein. The documents produced by the Securities Division are not "work product of the legal counsel for a public body." If anything, they are the work product of the public body itself, which certainly are subject to disclosure. Just because the Attorney General is an attorney, the Securities Division is not acting in a legal advisory role. Rather, it is acting as a regulator. And, it is merely coincidental some of the employees of the Securities Division happen to be lawyers. They are NOT acting as legal counsel for the Securities Division. They were acting as employees in the roles of regulators. Respondent's attorneys herein (i.e. Davidson and Lindeman) are legal counsel and their work product would be privileged if they were advising the public body. Had those attorneys been present and advising the Securities Division at a hearing, then such advice, and the work product would be privileged.

It is simply ludicrous to cloak every member of every subdivision of the Attorney General's office with the work product privilege under Section 30-4-40(7) and stretches the intent of the Legislature vastly beyond the coverage intended and thwarts the plain meaning of the statute. "The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the

formulation of public policy. Toward this end, provisions of this chapter must be construed so as to make it possible for citizens... to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access.... S.C. Code Ann. § 30-4-15 (1991).” *Campbell v. Marion County, supra*.

When the work product privilege has been applied involving the Attorney General as legal counsel, it is when a division of the Attorney General’s office really acts as Legal Counsel to a political subdivision of the State or a County under its specific statutory mandate to do so. See, e.g., *Beattie v. Aiken County DSS*, 319 S.C.449, 462 S.E.2d 276 (1995)(General Counsel of SCDSS directs investigation of County DSS). Even criminal investigative reports are not automatically exempt unless they specifically are the work product of the attorney advising the criminal investigative unit. *Burton v. York, supra*, 358 S.C.339, 594 S.E.2d 888 (App. 2004).

The Attorney General further seeks to protect the information while this is on appeal. That is incorrect.¹ Information obtained pursuant to the FOIA from a public body is not protected by a restraining order. In fact, the South Carolina Attorney General’s 1998 “Public Official’s Guide to Compliance with South Carolina’s Freedom of Information Act,” states the FOIA must be construed “liberally to carry out its intent that citizens obtain public information at the least cost, inconvenience, or delay. Consistent with this mandate, my Office has adopted the following guiding principles in opinions construing the FOIA: When in doubt, disclose....” Liberally construing the statute, it is luculent that information obtained pursuant to the FOIA is for the protection of the public in general, not just the individual seeking the information.

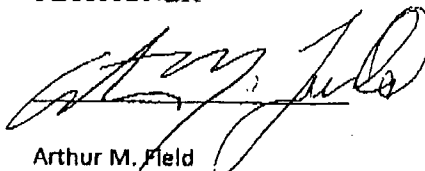
There is no provision in the FOIA allowing the disclosure to be subject to a protective order. *Campbell v. Marion County, supra*. ALL documents should be delivered to Petitioner and there should be NO exemptions and no stay pending appeal. To the extent the Court has exempted any documents from disclosure, Petitioner objects. Again, since neither the Court nor the Attorney General has described the content of the document, nor its identity, it is not possible for Petitioner to argue the merit of any single exemption granted.

¹ Ironically, in response to illegal Subpoena issued by the very same Securities Division to Petitioner herein and his family members, Petitioner made the same argument that disclosure would unduly prejudice him while appeal was pending. Essentially, Field argued that once the ‘cat’ was out of the ‘bag’, the appeal was moot and this caused him permanent and irrevocable injury. The Attorney General vehemently opposed Field’s Argument and claimed Field had no right to conceal documents pending appeal. Yet, here they stand making the same argument.

Petitioner does note, however, the court exempted files entitled "Caserta" and "Katz" from disclosure. These persons were members of the Board of Directors of the former parent company and debtor of Capital Investment Funding, LLC. Communications FROM such persons can not be privileged under any concept. Even were 30-4-40(7) to be liberally interpreted in favor of the Attorney General, such statute specifically states it protects communications BY the attorney, not those TO the attorney by outside third parties.²

Petitioner's initial Complaint requested the costs and fees permitted under Section 30-4-100(b). The Court has not addressed this matter, but Petitioner again requests the court award him the costs and fees contemplated by the statute for successfully pursuing a FOIA claim. Petition has spent numerous hours in this matter, and the Attorney General should pay Petitioner, an attorney, for his time and costs.

PETITIONER

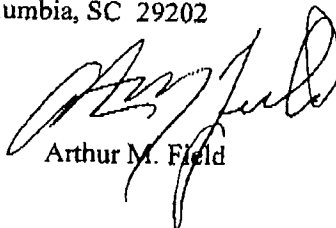


Arthur M. Field
310 Thornblade Blvd.
Greer, SC 29650

Dated: August 3, 2011

I hereby certify service of a copy of this document upon:

K. Woodington, Esq., PO Box 8568, Columbia, SC 29202



Arthur M. Field

² To some degree, the problem herein results from the placement of the Securities Division within the Attorney General's purview. Petitioner has consistently argued this is unconstitutional. The Attorney General *should* act as counsel to the Securities Division, but doesn't. Uniquely, in South Carolina, he also acts as Securities Commissioner. His department engages in policy-making, legislative, regulatory, enforcement and prosecutorial conduct without any clear delineation between functions. This FOIA action demonstrates one more reason why the Securities statute is unconstitutional and must be repealed and Securities returned to the Secretary of State.

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE)

2011 SEP -b A 11: 08

Arthur M. Field,)

Civil Action Number 2010-CP-23-6767

Petitioner,)

**MOTION TO ALTER OR AMEND
JUDGMENT**

v.)

(RULES 52, 59(e) and 60(b)(5), SCRCPP)

Henry McMaster, Attorney General,)

Respondent.)

STATEMENT

Respondent/Defendant Attorney General hereby moves, pursuant to Rule 52, Rule 59(e), and Rule 60(b)(5)(if applicable), S.C.R.C.P., that the Court alter and amend its Order filed August 18, 2011, and received by undersigned counsel on August 22, 2011, so as to hold that the documents referenced herein need not be disclosed to Plaintiff.¹ This motion is based on the grounds set forth herein. As will be discussed below, at least some of the issues raised below are appropriate for decision by Judge Simmons, while others might more properly be addressed to Judge Welmaker, as Judge Simmons has indicated.

This motion is being filed for several different reasons:

1. In the event that the July 18, 2011 Order is regarded as nonfinal and the August 18, 2011 Order is regarded as final, this motion is being filed in an abundance of caution, should an appellate court hold that a motion to reconsider is needed to address the issues presented in the July 28, 2001 Motion to Alter or Amend as applied to the August 18, 2011 Order.

¹ The reference to Rule 60(b)(5) is made with respect to any matters argued herein that might no longer be the proper subject of a motion under Rule 59(e).

2. The August 18, 2011 Order contains one or more rationales pertaining to § 35-1-607 that had not previously arisen, and as a result, a Motion to Alter or Amend may be necessary in order to address those holdings. *See, e.g., Godfrey v. Heller*, 311 S.C. 516, 429 S.E.2d 859 (Ct.App.1993)(where theory of relief was first raised in lower court's order, appellant must challenge this theory with a Rule 59, S.C.R.C.P., motion).

3. Finally, the Attorney General's Conditional Motion to Stay was denied in the August 18, 2011 Order. This motion addresses that conclusion as well, again as a precaution.

Also, the Respondent understands that if the present motion is regarded, at least in part, as a successive Rule 59(e), its filing does not stay the time for appeal. As a result, depending on the outcome of the present motion, a Notice of Appeal may need to be filed by Respondent within 30 days of August 22, 2011, the receipt date of the August 18 Order.

ARGUMENT

1. Issues presented in the Motion to Alter or Amend served July 28, 2011.

The Attorney General reiterates and incorporates herein by reference, and asserts with respect to the August 18 Order, all of the arguments set forth in the Motion to Alter or Amend served on July 28, 2011, in the event that a motion to such effect is determined by an appellate court to have been necessary. Each point is referenced briefly below, after a discussion about finality issues.

a. Finality.

The July 18, 2011, Order, permitted both parties ten days from its date to file motions objecting to the disclosure or nondisclosure of documents. The Order then provided that "Once the Court determines the exact documents to be disclosed, the Respondent shall have 7 days from the

date of such Order to arrange for pick up of the 12 boxes of documents. . . .” The Order then provided for the next steps that would occur after that.

The Supreme Court has often held that if an order requires further action by the court, it is not final. *See, e.g., Culbertson v. Clemens*, 322 S.C. 20, 23, 471 S.E.2d 163, 164 (1996)(“Any judgment or decree, leaving some further act to be done by the court before the rights of the parties are determined, is interlocutory [and not final]”). Under the circumstances, it appears that the July 18, 2011, Order by its terms contemplated further action by the Court. As a result, it was not final, and the present motion is being filed in part, as already stated, in the event that a motion to alter or amend is necessary with respect to the August 18, 2011 Order, should that Order be regarded as final.

There is some question, however, about whether even the August 18, 2011 Order is final. That Order provided or suggested in two different places that further action might remain to be taken by Judge Welmaker. First, with respect to certain issues raised by the Attorney General pertaining to summary judgment, the August 18, 2011, Order provided that any decision about those issues “ultimately is to be made by Judge Welmaker.” 8/18/11 Order at 3. In addition, the same Order, p. 1 n.1, stated that “To the extent there are any other issues pending between the parties in this action, these are left to be addressed by Judge Welmaker. This specifically includes recoverability of any fees or costs sought by Petitioner.” These statements contemplate further action by Judge Welmaker, and therefore should be regarded as meaning that there is still not a final order in this case. Moreover, since some of the actions requested by Respondent with respect to summary judgment or the need for a hearing on the merits could make it unnecessary to consider which, if any, documents should be disclosed to Petitioner, Respondent is particularly concerned about receiving further guidance about the precise status of those issues.

b Applicability of S.C. Code § 35-1-607(b)(1), which provides that records obtained by the Securities Commissioner in connection with an investigation under Section 35-1-602 are not public records.

Respondent incorporates by reference all arguments previously made with respect to S.C. Code Ann. § 35-1-607, which provides that materials “obtained by the Securities Commissioner in connection with an audit or inspection under Section 35-1-411(d) or an investigation under Section 35-1-602” are “not public records.”

In addition to contentions previously made, Respondent also respectfully would add that the Court was in error in holding that the intent of § 35-1-607 “was not to protect the State in its investigatory role but rather to protect individual citizens who may find themselves the subject of an investigation from having those investigatory records made public.” Section 35-1-607(b)(1) contains no language which suggests that there is any exception to it whatsoever. It provides only that certain documents, including those materials obtained in connection with a securities investigation, are “not public records.” FOIA, of course, only requires the disclosure of public records. § 30-4-30(a). Once a document is deemed not a public record, FOIA has no application.² FOIA also reaches the same result by another route, exempting “[m]atters specifically exempted from disclosure by statute or law.” § 30-4-40(a)(4). Either way, the documents received by the Securities Division in the course of an investigation are not required to be disclosed.

Indeed, far from being a person who should be able to review nonpublic investigative records, the subject of the investigation is probably the last person who should be accorded such

² In addition, to the extent that the August 18, 2011 Order holds that Petitioner has some right to review the documents that is superior to normal “public examination” of the records, such a conclusion is erroneous. Petitioner asked for the documents as a member of the public. However, even if he is regarded as a person with an interest in the records beyond that of the general public, then he is limited to what he might be able to obtain through discovery in the course of any civil or criminal proceeding that might be instituted against him, as discussed elsewhere.

a right, because of the potential harm to the public interest that might come from the premature disclosure of investigative materials. The General Assembly (and the drafters of the model act on which this provision is based) felt strongly enough about this as to eliminate any balancing test that would require a showing of potential harm to the investigation. The documents are simply nonpublic, and should not be required to be disclosed. Moreover, and as discussed more fully below, if a civil or administrative action is ever filed against Petitioner by the Securities Division, his right to review documents held by the Securities Division will be protected and governed by the applicable rules, including discovery rules, that pertain to such proceedings.

The reasoning advanced in the August 18 Order was similar to that rejected in an Ohio case, *State ex rel. Dublin Securities, Inc. v. Ohio Div. of Securities*, 68 Ohio St.3d 426, 627 N.E.2d 993 (1994). The securities statute in that case did make an exception, which the South Carolina statute does not, permitting persons with a "direct economic interest" to review securities investigation files. However, even with that language in the statute, the Ohio Supreme Court held that "it was hardly the legislative intent of R.C. 1707.12 to place investigatory files in the hands of a subject under investigation. . . . The General Assembly specifically intended to provide a right of inspection to consumers with a direct economic interest in the information, not to the target of an investigation." 627 N.E.2d at 998 (emphasis in original). Accordingly, the protection afforded to nonpublic Securities Division investigative records applies *a fortiori* in the present case, where the statute contains no exceptions at all.

The August 18 Order states that the Respondent is arguing that "'not public' is the same as 'privileged.'" This is not what Respondent has argued, however, at least using the term "privilege" in the strictest sense. Respondent simply contends that documents rendered not public as a result of a statute that so provides are either outside of FOIA altogether, or fall within

the exemption in § 30-4-40(a)(4) for “[m]atters specifically exempted from disclosure by statute or law.” The result is the same in any event.

The August 18 Order also mentions, but apparently does not turn on, an issue about the origins of the “received in investigation” documents. Again, § 35-1-607 contains no provision that requires the documents to have come to the Securities Division from some particular source and not from others. Thus, while the Order would apparently have reached the same result without this conclusion about the origin of the documents, it would be erroneous to have the case turn on the point.³ In addition, and as shown by the attached Affidavit of Tommy Windsor, the documents which are claimed to be nonpublic under § 35-1-607 were all received from outside the Attorney General’s Office, so any concern about the origin of those documents is unfounded.

c. Certain documents are exempt under § 30-4-40(7), which exempts “correspondence or work products of legal counsel for a public body.”

The Order of August 18 reaches no new conclusions about this issue. As a result, and as a precaution, Respondent simply incorporates by reference, and asserts with respect to the August 18 Order, all prior arguments made concerning this point.

d. FOIA requests are not intended be used as a substitute for criminal or civil discovery processes.

As noted earlier, Respondent previously argued in its summary judgment motion that Petitioner should not be entitled to review any of the documents not previously disclosed to him,

³ The Attorney General and the Securities Commissioner are, of course, the same person. § 35-1-102(28). While as the Court has noted, the issue is not presented in this case, the Supreme Court of South Carolina has held that the Attorney General can prosecute and make certain rulings in securities cases without offending due process. *Majors v. South Carolina Securities Com'n*, 373 S.C. 153, 644 S.E.2d 710 (2007).

because FOIA requests are not appropriately used as a substitute for criminal or civil discovery process. The August 18 Order suggests that this is an issue for Judge Welmaker.

By way of background, Respondent would note that the case was before Judge Welmaker on cross motions for summary judgment. His April 4, 2011, Order held that “granting summary judgment for either party without viewing the disputed documents would be improper. . . .” To the extent that this might have been an implied denial of the part of Respondent’s summary judgment motion based on not using FOIA as a substitute for discovery, the issue is still one that can be revisited. *See, e.g., Abu-Shawareb v. South Carolina State University*, 364 S.C. 358, 613 S.E.2d 757 (Ct. App.2005), which held that

It is not error for the trial court to change its mind and reconsider a motion for summary judgment. . . . The trial judge, under our procedure, is afforded many opportunities to change his mind. . . . The denial of summary judgment does not finally determine the merits of the case, and issues raised in a motion may be raised again in a motion to reconsider summary judgment. . . .

364 S.C. at 363-364, 613 S.E.2d at 760(citations omitted). Respondent would therefore assert that this issue as still before Judge Welmaker, and properly so, both as a result of its first Motion to Alter or Amend, as well as under the present motion.

The grounds for this part of the motion are brief, and will be restated here. The production of the subject documents should not be required, because if a civil or administrative enforcement action or a criminal action should be filed against Petitioner, the disclosure of any pertinent materials would be governed by such discovery processes as might be available to him in those actions. The attendant privileges that might be invoked in any such proceedings would also apply.

Petitioner’s original 2009 FOIA request, attached to the Complaint in the present case, noted that “I ask that my request be expedited in order to permit preparation for various civil and administrative proceedings.” (Emphasis added.). It is therefore clear, partly because Petitioner

himself effectively admits it, that the present FOIA request is intended to bypass the discovery procedures that apply in any civil or criminal matters that may eventually be instituted.

The U.S. Supreme Court has "consistently rejected" the view that "FOIA could be used to supplement civil discovery." *U.S. v. Weber Aircraft Corp.*, 465 U.S. 792, 801 (1984). *See also, e.g., N. L. R. B. v. Sears, Roebuck & Co.*, 421 U.S. 132, 144 (1975)(FOIA "is fundamentally designed to inform the public about agency action and not to benefit private litigants"). In South Carolina, the Supreme Court has held to the same effect in at least the criminal context, stating that "the South Carolina FOIA exempts discovery of material that is not otherwise discoverable under [S.C.R.Cr.Pr.] Rule 5(a)(2)." *State v. Robinson*, 305 S.C. 469, 476-77, 409 S.E.2d 404, 409 (1991). There is no reason to think that the Court would not also require a party in a civil or administrative action to limit his discovery to the processes afforded him in those contexts. For all of these reasons, the Attorney General therefore requests that the Court issue a ruling on this unaddressed contention, and hold that nonpublic and exempt documents sought by Petitioner should not be required to be disclosed to him, not only because of their inherent nature, as argued above, but also simply because if Petitioner is ever the subject of civil, administrative or even criminal proceedings, his ability to obtain documents should be limited to whatever is permitted by the discovery rules applicable in such proceedings.

- e. **If any doubtful questions of fact or law remain, a plenary hearing should be held in order to protect the public interest in avoiding undue disclosure of nonexempt and/or exempt documents.**

This is another issue that was not addressed in the August 18, 2011, Order and that is probably one to be addressed by Judge Welmaker under the July 28 motion, if not the present one as well. For the reasons mentioned above, it is an issue that is properly the subject of further consideration.

Again, the present posture of the case is that it came before the Court on cross motions for summary judgment. Judge Welmaker's first Order, entered on April 4, 2011, noted that "this Court is of the opinion that granting summary judgment for either party without viewing the disputed documents would be improper, particularly in light of the South Carolina Supreme Court's recent decision. *See Evening Post Pub. Co. v. Berkeley County School Dist.*, No. 26949, 2011 WL 980024 (S.C. March 21, 2011)."

Plaintiff's motion for summary judgment was based solely on the Respondent's alleged failure to make a timely response to Plaintiff's 2010 FOIA request. While the Attorney General's Office submits that it did make a timely response, Judge Welmaker in effect denied this motion by Plaintiff by holding that only documents sought in the July 13, 2009 request needed to be logged and reviewed. Moreover, and as pointed out in prior filings by the Respondent, the Supreme Court has held that FOIA exemptions cannot be waived through an untimely response, although it is not admitted that the response in this case was untimely. In *Litchfield Plantation Co., Inc. v. Georgetown County Water and Sewer Dist.*, 314 S.C. 30 443 S.E.2d 574 (1994), the Court noted that "to hold an agency can waive these exemptions by failing to respond within fifteen days, would allow, for example, the disclosure of investigative records of law enforcement agencies . . . through no fault of an interested party which the exemptions were enacted to protect." 314 S.C. at 32 n.1, 443 S.E.2d at 575 n.1. As a result of the matters cited above, it is clear that to grant summary judgment for the Plaintiff (as opposed to possible judgment on the merits as to any particular documents) would be inappropriate, because his motion (a) pertains only to timing issues and/or the limited 2010 document request, and (b) is without merit in any event, as set forth in *Litchfield, supra*.

The Attorney General's Office also moved for summary judgment, claiming among other things that there was no disputed issue of fact as to the applicability of either § 35-1-607 or the correspondence/work product exemption in FOIA. The Court has already concluded in effect that as to many of those documents, there is no question of fact, and that they need not be produced. If, as to any of the remaining documents, the Court believes that there is an issue of fact about whether a given document is actually a document either (a) received in investigation and rendered nonpublic by § 35-1-607, or (b) attorney work product or correspondence, then the Attorney General submits that the appropriate course of action is simply to deny the Attorney General's motion for summary judgment as to any such documents, and proceed to an evidentiary hearing as to any documents for which factual questions might exist. Such a hearing would still, of course, need to treat the documents in a guarded way in order to avoid disclosure of the substance of the document in the course of the litigation.⁴

In addition, even if factual questions were to be determined not to exist, this is a situation in which the best approach, in the event of any question as to whether documents should be released, would be to hold a hearing on the merits, instead of deciding the case on summary judgment. The Supreme Court has held on a number of occasions that

Summary judgment is not appropriate when further inquiry into the facts of the case is desirable to clarify the application of the law. *Tupper v. Dorchester County*, 326 S.C. 318, 487 S.E.2d 187 (1997). Summary judgment should not be granted even when there is no dispute as to evidentiary facts if there is dispute as to the conclusion to be drawn from those facts. *Id.*

⁴ The Attorney General's Office does not disagree that the ultimate burden on the merits in a FOIA case is on the government defendant, as held on p. 3 of the July 18, 2011, Order, but it submits that that burden is one that would need to be met in a full hearing on the merits, and not simply in opposition to Plaintiff's summary judgment motion.

Moriarty v. Garden Sanctuary Church of God, 341 S.C. 320, 327, 534 S.E.2d 672, 675 (2000). Accordingly, even assuming that Plaintiff's motion for summary judgment is regarded as broader in scope than discussed above, which Respondent denies, the court must view the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the non-moving party, which would be the Respondent in that scenario. *David v. McLeod Reg'l Med. Ctr.*, 367 S.C. 242, 247, 626 S.E.2d 1, 3 (2006). As applied here, and particularly in view of the large number of documents under review and the public interest, it would be appropriate to conduct such "further inquiry," via a hearing on the merits. As cases such as *Moriarty, supra*, indicate, a court always has discretion to deny a motion for summary judgment, in this case Petitioner's, "where there is reason to believe that the better course would be to proceed to a full trial." *Anderson v. Liberty Lobby, Inc.* 477 U.S. 242, 255 (1986). This rule would apply with particular emphasis in a case such as this, where the risk is that the State's enforcement processes might be prejudiced by the disclosure of possible investigative or work product information based only on written exchanges between the Court and the parties, and without a plenary hearing.

f. Issues pertaining to the Orders listing the reasons for disclosure, as required by Rule 52.

The Order of August 18 reaches no new conclusions about this issue. As a result, Respondent simply incorporates by reference, and asserts with respect to the August 18 Order, all prior arguments made concerning this point as a precaution.

2. Issues presented in the Conditional Motion for Stay.

The Attorney General also filed a Conditional Motion for Stay, requesting a stay pending appeal in the event that any documents were ordered to be produced after the Court reviewed the Attorney General's Motion to Alter or Amend. The August 18, 2011, Order denied this motion also,

holding that “the process and provisions of the Order of July 18, 2011 are sufficient to address and protect Respondent’s concerns.”

Unless counsel for Respondent misapprehends the effect of the July and August Orders, when read together, it would appear that with the entry of the latter (and subject to any additional orders by Judge Welmaker), the Attorney General was required to make documents available to Petitioner after the documents had been picked up by the Attorney General, and after they had been separated as set forth in the July Order (and, impliedly, subject to any subsequent stays from this Court or an appellate court). While Respondent is grateful for the additional opportunity and lead time to submit objections, as permitted by the Court, Respondent does not understand the present Orders as affording any additional protection against disclosure pending appeal, and as a result seeks reconsideration or clarification on this point.

As the motion for stay has already set forth, S.C.A.C.R. Rule 241(c)(2) provides that

In determining whether an order should issue pursuant to this Rule, the lower court, administrative tribunal, appellate court, or judge or justice of the appellate court should consider whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot.

(Emphasis added). Here, of course, if the information were to be released before an appeal was heard, the case would become moot, and the appellate courts’ jurisdiction of the appeal would cease to exist. As a result, it is normally held that persons aggrieved by decisions ordering the release of documents under FOIA are “entitled to a stay pending judicial review, because if a stay were denied, and the information released, the case would be rendered moot.” Am.Jur.2d, Freedom of Information Acts, § 598. Other authorities to the same effect are set forth in the original motion. *See also, e.g., Center For National Security Studies v. U.S. Dept. of Justice*, 217 F.Supp.2d 58 (D.D.C. 2002)(noting that “stays are routinely granted in FOIA cases,” and that “disclosure of the [requested information] would effectively moot any appeal”).

Respondent would also point out that while requiring the documents to be produced pending appeal would have an "irretrievable" effect on the confidentiality of the documents as far as Respondent is concerned, *McCarthy v. Freedom of Information Commission*, 402 A.2d 1197, 1200 (Conn.Super. 1979). Petitioner, on the other hand, has no appreciable interest in reviewing the documents prior to the conclusion of an appeal. No civil or criminal proceedings have been against him yet, and if such proceedings are ever filed, he will have the ability to conduct discovery, as has already been noted.

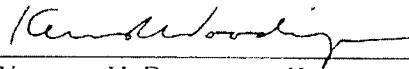
Finally, if a stay pending appeal were to be granted, Respondent would promptly initiate the appeal and seek expedited consideration from the appellate court.

CONCLUSION

For the foregoing reasons, Respondent respectfully submits that the present motion to alter or amend should be granted by Judge Simmons or Judge Welmaker, as may be appropriate, or in the alternative, that an evidentiary hearing should be held. In addition, Respondent also respectfully submits that if any documents are ordered to be produced, any order to that effect should be stayed pending an appeal by Respondent.

Respectfully submitted,

DAVIDSON & LINDEMANN, P.A.

BY: 
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1611 Devonshire Drive, Second Floor
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Columbia, South Carolina 29202
T: (803) 806-8222
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Counsel for Respondent

Columbia, South Carolina

August 31, 2011

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS
)
)

COUNTY OF GREENVILLE

Arthur M. Field,

2011 SEP - b) A 110108 Action Number 2010-CP-23-6767
)

Petitioner,)

AFFIDAVIT OF TOMMY WINDSOR

v.

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
2011 SEP 15 10 08 AM

Henry McMaster, Attorney General,

)
)
) Respondent.)
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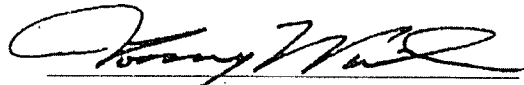
Personally appeared before me, Tommy Windsor, who deposes and says the following:

1. I am over 21 years old and am personally familiar with the matters set forth herein.
2. I am currently employed by the Office of Attorney General as an Enforcement Specialist with the Securities Division. I have held that position since August 2003.
3. My duties include the investigation of cases in which allegations of securities fraud are present that might lead to the filing of civil or administrative enforcement actions, as directed by the attorneys under whose supervision I work. My duties have included investigations into activities of Arthur Field, Capital Investment Funding, LLC¹, and persons and entities related to Arthur Field and Capital Investment Funding, LLC.
4. I am personally familiar with the materials that have been submitted to the Court for its review in this matter, that is, the investigative files of the Securities Division that concern Petitioner Arthur Field and Capital Investment Funding, LLC and the subjects of his FOIA request (excluding personnel files).
5. The materials that the Attorney General's Office has claimed were "obtained by the Securities Commissioner in connection with an audit or inspection under Section 35-1-411(d) or an investigation under Section 35-1-602," *S.C. Code Ann.* § 35-1-607(b), were all received by the Securities Division from sources outside the Attorney General's Office, as is normally indicated by the identity of the sender or the recipient, or both. No documents in the investigative file which are claimed to be nonpublic under § 35-1-607

¹ Capital Investment Funding, LLC, was a company Petitioner Arthur Field organized and served as principal actor of which offered and sold securities in and from the State of South Carolina during the period 1999 to 2007 prior to its entering receivership in 2009.

were received from any other division of the Attorney General's Office. Any remaining materials in those files have been made the subject of a claim of attorney correspondence and work product.

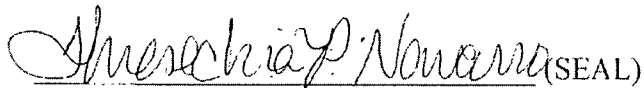
FURTHER AFFIANT SAYETH NOT.



TOMMY WINDSOR

SWORN TO BEFORE ME THIS 31st

DAY OF August, 2011.

 (SEAL)

NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES:

6/2/2018

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

COURT OF COMMON PLEAS
2010-CP-23-06767

ARTHUR M. FIELD,
PLAINTIFF,

vs.

TRANSCRIPT OF RECORD

HENRY MCMASTER, ATTORNEY
GENERAL,
DEFENDANT.

ORIGINAL

January 24, 2011
Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE.

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

ARTHUR FIELD
Pro Se

KENNETH P. WOODINGTON, ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits introduced.)

P R O C E E D I N G S

THE COURT: The next case is Field v. The Attorney General.

All right. Tell me what's up.

MR. FIELD: For the record, Arthur Field.

Your Honor, this is a Freedom of Information action. A year and a half ago, in July, at the request of your receiver, Jerry Saad, I instituted a FOIA action against the Securities Division request. And I requested a list that is on Exhibit A attached to the complaint. The Securities Division did provide me with a response. They asked for some time. And then they sent me a very large box, which contained several thousand pages, which I paid for almost entirely, consisting of the documents Capital Investment Funding had submitted to them. So we bought them back.

However, there were some other documents in there, including a letter from Mr. Clifton Bodiford, the report from Mr. Bodiford to Attorney Condon on the Securities Division from which the entire CIF securities matter stemmed. And in response -- but they did not supply me the rest of the information I had requested. I wrote back and said I'd like that. They wrote and said they would be glad to do it, it was just going to take them some more time. I never heard from them again.

1 I met with your receiver, Mr. Saad, approximately
2 eight months later, supplied to him the documents they had
3 given me and we went over them. And he asked me to get
4 some more. So I requested the original documents again.
5 And I requested additional documents. I never received a
6 response from that. But then I did receive a response,
7 even though it was untimely, asking me for 15 more days.
8 I said, Not a problem. I would gladly give them another
9 15 days, no issue. I did not hear until after the 30-day
10 period expired, at which point it became clear they were
11 never going to supply me with another document.

12 What I was asking for was personnel files and, also,
13 security division matters, and references from the
14 Securities Division to outside sources, and references
15 concerning all sorts of people, not necessarily Capital
16 Investment Funding, and then the reference from securities
17 to the criminal division involving CIF. They claimed
18 privilege on a blanket nature.

19 I would ask Your Honor that if there is a privilege,
20 none of which I have ever seen in a privilege log, that
21 they be asked to produce a privilege log, according with
22 the statute. And, if necessary, to turn the documents
23 over to you in camera, so that you can determine whether
24 or not they are, indeed, privileged.

25 These are -- would be useful to your receiver.

1 Because we have been trying to determine what exactly
2 happened all along, and whether or not there are
3 complaints concerning people involved with CIF, and the
4 related debtors. All we're trying to do is keep the case
5 moving on the other matter and keep the settlement in
6 effect, and manage to find out what went on, and where the
7 money is, and where there were objections.

8 THE COURT: Okay. So what is it you want?

9 MR. FIELD: I would like them to comply with the
10 statute. It's not really money damages I was ever after,
11 as you -- I'm sure you know. It was give you a privilege
12 log, let them assert privilege as to what it is they find
13 privileged. The statute requires them to tender
14 documents, even if they're privileged with certain
15 portions expunged. But let them just give it to you.

16 I hate to drag you into this. But it doesn't seem to
17 be there's any other way to get the documents out of the
18 state, and then let them turn them over. And I'll turn
19 them over to Mr. Saad.

20 THE COURT: Okay.

21 MR. FIELD: Because you ordered me to keep this
22 going, so I'm trying to keep it going, when we were here
23 last when Mr. Saad wanted documents.

24 THE COURT: I don't know that I ordered you to --

25 MR. FIELD: Well, you -- no, "ordered" would be the

1 wrong word. I apologize. You suggested I keep it going,
2 that I produce the documents.

3 THE COURT: Okay. I think I just told you to produce
4 whatever you had.

5 But, yes, sir.

6 MR. WOODINGTON: Your Honor, I'm Ken Woodington with
7 Davidson & Lindemann in Columbia. I used to be with the
8 Attorney General's Office almost 30 years myself.

9 And I'll be honest with you, I mean, if he's only
10 requesting a few discreet documents -- the original
11 request was really quite long, and scatter gone, and
12 everything else. If he could narrow that down to some
13 slight, minimal category of documents, or some specific
14 documents, then I think we could -- I could go get with
15 the Attorney General's Office, look at those specific
16 documents, state what the document is, whether we have a
17 privilege thing for it. And, if so, turn it over to you
18 for review. I mean, let's just do it that way, and not
19 try to get an order, an appeal, and everything else, if
20 that would work.

21 MR. FIELD: I would have no problem with that. My
22 only issue which I would -- we've been cooperating. I
23 don't see that there's a difficulty.

24 If I could get -- say, if there are no documents
25 relating to this person or this entity, please, so state.

1 And then just get an answer that there are none. That
2 would have been useful, too. But I just got simply a
3 blanket denial at one point. And then I'll be glad to
4 narrow the document requests as far as the others go. As
5 long as we're cooperating, I'm easy.

6 THE COURT: Okay. Well, you get real specific with
7 what it is you're asking for.

8 MR. FIELD: Okay.

9 THE COURT: And y'all just let me know if there's a
10 problem.

11 I mean, be specific, Mr. Field.

12 MR. FIELD: Yes, Your Honor.

13 THE COURT: And don't be over burdensome.

14 MR. FIELD: There was never any intent to be over
15 burdensome.

16 THE COURT: Okay.

17 MR. FIELD: And the only question is whether or not I
18 can have anything related to the personnel matters
19 involving Mr. Condon, who is no longer with the State,
20 Mr. Logan, and Mr. Jordan.

21 THE COURT: How are you going to get their personnel
22 files?

23 MR. FIELD: Well, I'd just like to know what happened
24 to Mr. Condon.

25 MR. WOODINGTON: Your Honor, if that's what he's --

1 if that's all he's concerned about, he's got an affidavit
2 in our federal case that says that Mr. Condon wasn't fired
3 from the Attorney General's Office. He left voluntarily.
4 And I have an affidavit from the personnel person at the
5 AG's Office. That's --

6 MR. FIELD: I'll be specific as to the others.

7 Could we have some time frames, Your Honor?

8 MR. WOODINGTON: Three weeks?

9 THE COURT: Yes.

10 MR. WOODINGTON: For them to get it to me, I mean.

11 THE COURT: Yes.

12 How about three weeks for you to get him the request.

13 And then how long to reply?

14 MR. WOODINGTON: Well, another three weeks probably.

15 MR. FIELD: That's good.

16 THE COURT: Is that good?

17 MR. FIELD: No problem.

18 And I'll meet with Mr. Saad in the interim, and see
19 what he needs.

20 THE COURT: All right.

21 MR. FIELD: Thank you, Your Honor.

22 MR. WOODINGTON: Do we want to just consider this
23 motion -- the cross motions continued on the record?

24 THE COURT: Yes, why don't we just do that.

25 And y'all just let me know how it's going, if you're

1 having problems.

2 MR. FIELD: That's fine.

3 MR. WOODINGTON: We'll see if it will work. I mean,
4 no sense in a long drawn out proceeding.

5 THE COURT: Yes.

6 Thank you.

7 *****END OF TRANSCRIPT OF RECORD*****
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CERTIFICATE OF REPORTER

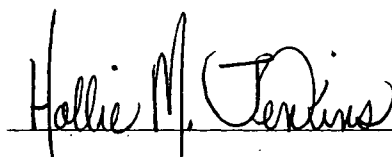
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 24th day of January, 2011.

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

March 8, 2012

A handwritten signature in cursive script, reading "Hollie M. Jenkins", is written over a horizontal line.

Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

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I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits introduced.)

P R O C E E D I N G S

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2 THE COURT: The next case we have on the docket for
3 today is Field v. Attorney General. Mr. Field and
4 Mr. Davidson or Mr. Woodington -- Mr. Woodington and
5 Mr. Davidson.

6 I believe these are cross motions for summary
7 judgment; is that correct?

8 MR. DAVIDSON: Yes, Your Honor.

9 THE COURT: All right, sir. Mr. Field, I'll be glad
10 to hear from you.

11 MR. FIELD: Thank you, Judge.

12 For the record, I'm Arthur Field of Greer.

13 And, Judge, this matter is intertwined with the wind
14 up of Capital Investment Funding. I don't know how much
15 of a background you know. If you need 30 seconds, I'll be
16 glad to give it to you.

17 In 2007 -- let me back up. In 1999, Capital
18 Investment Funding filed securities registration, which it
19 renewed annually all the way through 2006. In 2007, it
20 applied, as it always did, and the prospectus was
21 submitted again in substantially the same form as every
22 year prior thereto after it had all been worked out with
23 the Attorney General's Office, the Securities Division,
24 the wording. And CIF was then told that the document
25 was -- would work a fraud on consumers.

1 Registration was never granted, but it was never
2 denied. And, eventually, the firm was wound up. The
3 winding up was declared in January of 2008. And then a
4 lawsuit ensued beginning March 6th, I believe, 2008, in
5 Horry County, which was then transferred up here and has
6 gone through the courts.

7 As a result of that, Jerry Saad was appointed by
8 Judge Miller as receiver. There have been various related
9 actions. Everything is, essentially, done at this point
10 with the exception of this, which is that we are trying --
11 we have been trying -- for two years, I've been working
12 very closely with the receiver to collect the proceeds of
13 debt. Information is very difficult to come by. Because
14 the debtors are not all that willing to turn over the
15 information, especially because the further and farther
16 away they hide, the easier it is for them to keep the
17 money.

18 One of the things the receiver asked me to do was
19 file a Freedom of Information Act, and try to find out
20 various things. Three prongs --

21 THE COURT: Why did the receiver not file that?

22 MR. FIELD: Well, originally, it was done before the
23 receiver was appointed while we were still on this hiatus
24 portion of -- he was appointed. Judge Stilwell, Sr., had
25 worked out a global mediation settlement, but it wasn't

1 approved yet because there was five months in between of
2 going back and forth with the public.

3 But we moved forward on this and -- partially, also,
4 because these documents pertain in part to me. And they
5 felt I had the best standing to ask for them. The
6 receiver has since started working with a bankruptcy
7 attorney, Robert Paul, to pursue the New Jersey aspect.

8 The three prongs are as follows: One, I wanted
9 information to do with what happened -- why on earth
10 Capital Investment Funding did not receive its
11 registration. There seemed to be some documentation as to
12 this, but nobody has ever come across with a single
13 document in support of the allegation that there may have
14 been a fraud, or could have been a fraud. Ironically,
15 they did give me documents. And I will get to that. But
16 what they gave me was my prospectuses back again at great
17 expense to me. What they produced was the documents I had
18 given them.

19 The second prong was all the documents in relation to
20 people remotely associated with this in the wind up.

21 And the third prong is documents that were -- that
22 they may have from debtors. Now, 18 million of the money
23 was lent to a New Jersey entity. And what we were trying
24 to do was find out whether or not there were any documents
25 they had, either before the winding up was declared or

1 since the winding up was declared that came from or
2 related to that group of people. They are individually
3 listed. And the debtor is listed.

4 The reason is -- and the reason the receiver is not
5 here today is because today is March 15th, and Jerry Saad
6 is a CPA, and two days corporate wind up day for taxes.
7 But we spoke just before this hearing. And he said, Do
8 the best you can.

9 Robert Paul is the attorney who represents us in the
10 bankruptcies in South Carolina. And all three of us have
11 gone to New Jersey repeatedly to work with bankruptcy
12 attorneys there. Because Lancaster Resources is with
13 bankruptcy. They, unfortunately, will not turn over any
14 information absent numerous federal subpoenas. And we
15 thought if we could get anything they might have
16 concerning that entity or concerning any member of that
17 entity, it would, certainly, speed up, expedite, and,
18 perhaps, make successful the attempt to recoup the fund.

19 And if they have nothing, they have nothing. I mean,
20 there was never necessarily a belief that they did have
21 anything. But we're trying to find out what they do have.
22 Because there must be something that would have led them
23 to believe that CIF was not being forthcoming. I always
24 believed it was forthcoming, because we fully disclosed
25 everything we ever had all the time. But, somewhere along

1 the line, they must have something to believe that wasn't
2 forthcoming.

3 Now, the defense to the three prongs was the
4 following: One, it's attorney-work product because we
5 have attorneys who work here. And I'm pretty sure that
6 attorney-work product privilege being an attorney only
7 pertains to documents prepared by an attorney in
8 anticipation of litigation, not documents that an attorney
9 receives or correspondence an attorney sends. Because if
10 that were the case, that would defeat the Freedom of
11 Information Act by simply having an attorney put in charge
12 of every single department.

13 Because they, also, said that anybody who worked in
14 the department or worked for the attorney was, also,
15 covered by the work-product privilege, as far as I
16 understand it. I will, certainly, give my brother a
17 chance to recharacterize that. But that was what I
18 gathered from what they were trying to say.

19 Clearly, if the attorney prepared a memo in
20 anticipation of litigation of which there was never any,
21 that would be covered, but there never was any. So
22 whatever they developed as securities regulators, they are
23 not developing as attorneys. They're doing either as
24 regulators or under the guise of legislative formulating
25 the regulations.

1 The second prong of the privilege was, well, we gave
2 it to the Grand Jury. I'm pretty sure that 14-772-20 does
3 not make that privileged. I'm pretty sure that that
4 privilege that extends there, which I'm all for, I'm a big
5 proponent of the secrecy of the State Grand Jury, is for
6 things -- testimony taken or testimony developed in front
7 of the State Grand Jury. A document does not gain a
8 privilege by -- when you hand it to the Grand Jury five
9 years after the document was generated. It either was
10 privileged or wasn't privileged at the time the document
11 came into existence.

12 Now, ironically, in addition to my prospectus that I
13 received back, I received a prospectus that was generated
14 by a competing firm subsequent to my -- CIF's being denied
15 registration. It was my prospectus verbatim with a
16 different firm on it. So when I saw that, I wondered how,
17 indeed, could my prospectus be fraudulent if the exact
18 same words were approved.

19 And, ironically, also, there was a -- one extra
20 document, which was a letter from Clifton Bodiford, CPA,
21 to the Securities Division claiming that there were
22 failures in the CIF financial statement based on points
23 one through 10, all of which were addressed to a company
24 that reported on the accrual basis. CIF was, by law, a
25 cash basis tax payer. I was rather surprised that the CPA

1 didn't know that until I checked into Mr. Bodiford and
2 found out he had been sanctioned repeatedly by the
3 accounting board, and fired by several banks as their
4 auditor.

5 So, from what I can gather, CIF was shut down because
6 of the opinion of a CPA who got it all wrong. But what I
7 wanted, for instance, was the letter that went to
8 Mr. Bodiford. Because somebody asked Mr. Bodiford to do
9 something, and somehow correspondence went back and forth.
10 So when we were here the last time in front of Judge
11 Miller, who has been handling the entire winding up, we
12 agreed that I could then give them a list of specific
13 items from specific people to specific people concerning
14 specific people, which is exactly what I did. And I got
15 back not a single document.

16 Now, if the documents don't exist, I would like
17 something that simply says, as to this person, there are
18 no documents. That would save the receiver and his
19 attorney a considerable amount of time and effort. If
20 there are documents and they claim they are privileged,
21 then what I had suggested previously was, according to the
22 Freedom of Information Act, if they really do have a
23 privilege, they're supposed to list the documents, list
24 the privilege, specifically, in a privilege log, hand them
25 to you, Your Honor, or to Judge Miller, let you review.

1 them in camera, and decide whether or not the privilege
2 attaches. I have no problem with any of that.

3 I have an obligation to cooperate with the receiver.
4 Judge Miller has made that very clear. It is not a direct
5 order. It is, Son, you had better cooperate. And I have
6 been cooperating. Because we've been trying to wind this
7 up and get the people back as much money as humanly
8 possible. We're three years into it. And we're making no
9 progress whatsoever because we're getting stumbled on both
10 sides of this equation. And all we want to do is find out
11 what's going on and who knows what so we can find the
12 money.

13 Because, ultimately, after we get back all the
14 money -- God willing -- I get whatever is left over. So I
15 have a financial interest in this as well. I don't know
16 if that will ever happen. It would have happened had we
17 done it in the first place in 2008. Whether we can still
18 do it is anybody's guess. But I've just tried to do
19 whatever I can.

20 As far as I know, there may be no Grand Jury
21 investigation. There, certainly, isn't any into my
22 children. There isn't any into my son's ex-fiancé, whom
23 they continually contact in Hawaii for some reason I don't
24 understand. I would, also, like to know how they obtained
25 my bank records, my kids bank records, my fiancé -- my

1 son's ex-fiancé's bank records without anybody ever filing
2 a subpoena. I mean, I'm pretty sure the law is the law is
3 the law, Judge. And you either follow the law or you
4 don't. But they're not exempt from the law.

5 And, sadly, I understand the Freedom of Information
6 Act was designed to keep the government free from ever
7 delivering any information. It's unfortunate it has
8 turned out that way. It wasn't its original intent. But
9 this is what I'm facing. And if they don't have any
10 documents, then I just wish they'd say they don't have
11 any. It would save everybody a lot of time and money.

12 And if they do have them and they feel they're
13 privileged, let them turn them over to you. I'm more than
14 a believer in the justice system. You will make a
15 determination and it will be a fair one. And if the
16 answer is, sir, I can't let you see these, then that's the
17 answer. But they should not get to determine whether or
18 not I get to see documents, because that's not what the
19 law says.

20 THE COURT: I think you said Judge Miller -- is there
21 a case pending before him in business court?

22 MR. FIELD: The case is no longer pending, except for
23 the fact that the receiver is acting as Judge Miller's
24 receiver. There was a series of three cases, to my
25 knowledge. The lead one being Tomz v. Capital Investment

1 Funding, LLC. Two companion cases came, one of which was,
2 originally, before you in Pickens and got transferred and
3 consolidated here. The cases have all been settled under
4 the global mediation settlement agreement. Everything has
5 been disposed of. All the issues are resolved. Everybody
6 was released -- dismissed with prejudice with the
7 exception of myself.

8 I was dismissed without prejudice up until March 6 of
9 2011, which was last week. So, now, that's expired as to
10 me. But the case is still open in the sense that the
11 Court has jurisdiction over the original class action and
12 the receivership. So we are all still working on it.

13 THE COURT: And what we're here on today is not
14 related to any of that?

15 MR. FIELD: Only in the sense that these are the same
16 exact documents that they would be asking for themselves.
17 And it's intertwined. Because there was some implication
18 that they opened a Grand Jury investigation into somebody.
19 The State, actually, got up and publicized it.

20 Now, it's further complicated by the fact that I
21 brought a 1983 [sic] action against the State for doing
22 what it did, closing the company without any due process
23 since we never did get a hearing as to why the company
24 was --

25 THE COURT: Is that case still pending?

1 MR. FIELD: That case is now in front of the U.S.
2 Supreme Court on petition for cert.

3 THE COURT: What happened at the district court
4 level? Was there a trial or a dismissal?

5 MR. FIELD: No. It was dismissed, summary judgment,
6 which surprised me since there was never a hearing. And
7 Judge Herlong ruled that the State on all levels has
8 absolute immunity. I found that strange, because I was
9 pretty sure the State only has qualified immunity.

10 THE COURT: So the Fourth Circuit has --

11 MR. FIELD: They never -- it just went straight up.

12 THE COURT: Okay.

13 MR. FIELD: It was a per curium opinion before they
14 even got the briefs.

15 THE COURT: All right. Thank you, sir.

16 I'll be glad to hear from the Defense as to why
17 summary judgment should not be granted against the
18 Defendant.

19 And then I'll be glad to hear your motion for summary
20 judgment as well, Mr. Davidson.

21 MR. DAVIDSON: Your Honor, we'll probably incorporate
22 both.

23 THE COURT: All right. That will be even better.

24 MR. DAVIDSON: And I've got -- actually, Mr. Field
25 submitted -- and I've got two copies. And you may already

1 have this. I don't know. This is, actually, the
2 documents -- the informal requests that came as a result
3 of Mr. Woodington, and our response, discussion dealing
4 with some of these records.

5 But, Your Honor, this is a FOIA request. And it
6 centers around a letter of August -- of July 28, 2010,
7 from Mr. Field to the Attorney General's Office. And, in
8 that, it asked for five specific -- six specific areas.
9 And I can run through them. And it is, actually, attached
10 as Exhibit C to his complaint. A response to this letter
11 went out from the Attorney General's Office from
12 Mr. Gambrell -- Chambers, excuse me, on, I believe, August
13 16th, 2010, where he indicated that, at that time, the
14 office was attempting to locate and determine whether or
15 not any of the documents could be produced.

16 Subsequent to that, on October 29, 2010, Mr. Chambers
17 sent another letter to Mr. Field outlining the
18 department's position in regard to the production of the
19 records. And that's attached to Mr. Chambers's affidavit,
20 which is attached to our summary judgment.

21 The six areas that he talked about that he wanted
22 were memos, letter, or referrals from Assistant Attorney
23 General William Condon to Jennifer Evans and other persons
24 in the criminal division of the office of the Attorney
25 General dated on or about September 8th, concerning any

1 one or more of the following persons or entities: Arthur
2 Field, Katherine Talon, Capital Investment Funding, Bart
3 Kelly, David Field, Scott Pfeiffer, and I think Cosmos,
4 LLC.

5 The next was, again, a transmittal letter from
6 Mr. Condon or some other persons in the Security Division
7 of any matters, documents, evidence to the criminal
8 division of the Attorney General's Office between April
9 2008-July 2010, concerning any one or more of the persons
10 or entities listed above to gather any copies of any
11 materials, documents, etc., transmitted, other than work
12 product.

13 Next, he wanted, number three, transmittal letters
14 from Mr. Condon or some other persons in the Security
15 Division of materials, documents, evidence, requests for
16 evaluations, requests for reviews to Clifton Bodiford,
17 CPA, of Columbia between April 6-October 8th concerning
18 any one or more of the persons listed above.

19 Four, compliance with prior requests named by the
20 undersigned. See letter August 11th, 2009, copy attached,
21 which demands are hereby repeated and renewed.

22 Five, any memos, correspondence, letters from Tom
23 Windsor or any person within the office of the Attorney
24 General concerning any person or entities listed above
25 between the period of March 1, 2003, to July 27, 2010.

1 And the last request was any such documents as listed
2 in five above between Attorney General Roland [inaudible]
3 and any person with the office of the Attorney General
4 concerning any persons or entities listed between March 1,
5 2003, to July 27, 2010.

6 Your Honor, the information that Mr. Field has
7 requested kind of boils down to about three or four
8 different categories. One, clearly, it is information
9 that would be exempt in regard to 30-4-40(a)(7), which
10 concerns attorney-client information and work product, or
11 legal counsel for any public body and any -- and dealing
12 with the work-product privilege dealing with attorneys.
13 Work product privilege, obviously, deals not just with
14 attorneys, but, also, agents of attorneys who are working
15 on files, paralegals, investigators, those type of things.

16 The next area that it deals with deals with the
17 premature release of information during the pendency of a
18 potential criminal matter, which is 30-4-43(b).

19 And then the last provision is 30-4-40(4), those
20 which are exempted by statute. Well, in this case, there
21 are two statutes that apply, also. One deals with
22 security records, which it deals with 35-1-411, Subsection
23 D, which deals with the gathering of records during audit
24 or investigation by the Securities Division.

25 In regard to those provisions, Your Honor, 607(b) --

1 35-1-607(b) says, The following records are not public
2 records and are not available for public examination under
3 Subsection A. And it lists in that provision, Your Honor,
4 that -- (b)(1), Records obtained by the Security
5 Commission in connection with an audit or inspection under
6 Section 35-1-411(d), or an investigation under 35-1-602.

7 The other provision that allows these records to be
8 claimed to not be exempt deals with Grand Jury records.
9 And I heard Mr. Field indicate about the records
10 themselves that he was under the impression that Grand
11 Jury records dealt with the testimony of what went on
12 within the Grand Jury.

13 If you look at 14-7-1770, sealing of records, orders,
14 and subpoenas, the statute says, Records, orders, and
15 subpoenas relating to a State Grand Jury proceeding must
16 be kept under seal to the extent and for that time as
17 necessary to prevent disclosure of matters occurring
18 before the State Grand Jury. That ties in with the
19 provision in the Freedom of Information Act number one
20 that exempts documents that are not allowed to be released
21 by statute, number one. And, also, for the premature
22 release of records which are maintained by the State Grand
23 Jury during the pendency of a criminal investigation.

24 If you look at the context of his requests, Your
25 Honor, every area deals with the investigation either by

1 the Attorney General's Office in the Security Division, or
2 by the Attorney General's Office for the Statewide Grand
3 Jury. As indicated in the letter, as well as set forth in
4 the affidavit by Mr. Chambers, he indicated on August
5 29th, 2010, specifically -- and this is in the third
6 paragraph of his exhibit -- specifically, the documents
7 identified as responsive to item one and all documents
8 responsive to items five and six to the extent that such
9 items exist, all or none are known at this time are exempt
10 from disclosure. Because they constitute correspondence
11 or work product of legal counsel for a public body, that
12 being the Securities Commission, the Attorney General's
13 Office, or the Statewide Grand Jury.

14 Some of the documents located in response to items
15 two and three of the July 28th, 2000, letter constitute a
16 record obtained by the Securities Commission in connection
17 with an audit on inspection -- he cites 411(d) -- or an
18 investigation under 602, and are not public records and
19 not available for examination. Other documents located in
20 response to two and three of the July 28th, 2010, letter
21 constitute correspondence or work product for legal
22 counsel for the public body.

23 He then goes on to talk about item four. Item four
24 is not a request pursuant to the Freedom of Information
25 Act so much as it appears to be a demand for compliance

1 with the prior request. You indicated --

2 MR. FIELD: Your Honor, rather than read this -- I'm
3 sorry to interrupt, but it's five to 5:00. We did all
4 this. We're long past all this. We did this last
5 hearing, which is why I gave them, at Judge Miller's
6 request, a narrowed down list to narrow down people
7 excluding all that stuff. I just listened for 15 minutes
8 politely. But there was -- he wasn't here last time.
9 We're way beyond that. And nobody is asking for that.

10 That's why you got and was filed the document request
11 per agreement that went, specifically, to those people,
12 specifically, about those items, none of which had
13 anything to do with that. And if he'd come last time, he
14 would know that, but he didn't.

15 So -- and to read a letter, which by the way was
16 never sent, is useless. We know all that stuff already,
17 Judge. I'm not being rude, but it's getting late. And
18 we're here now again with the trustee and the receiver
19 trying to go to New Jersey to find out what to do and
20 where the money is. Why would they object to giving us a
21 letter that they may have received from one of the
22 debtors? It can't have anything to do with anything
23 except the debt.

24 And there was no audit, Judge. There was no
25 investigation, none of this went on. They can't turn

1 around and say they did it and now it's privileged. And
2 they can't make that determination. They're the ones
3 holding the documents. That's the whole point before you
4 is to force them to, actually, turn them over to you.

5 I apologize for interrupting, Your Honor.

6 THE COURT: Mr. Davidson.

7 MR. DAVIDSON: Your Honor, the document I handed up
8 to you, the response to informal document request,
9 essentially, sets forth, basically, all the same grounds
10 as I have cited in regard to the letters. It deals with
11 all the privileged documents dealing with the Grand Jury.
12 It deals with the securities investigation. It deals with
13 the attorneys involved in this case.

14 His narrowing down of the list went from July
15 pertaining to 18 persons and entities, while his January
16 request dealt with 53 persons and requests. And if you
17 look at the -- primarily individuals they're involved with
18 deal with individuals who are with the Attorney General's
19 Office for the most part, Mr. Condon, Mr. McMaster's,
20 Ms. Myers, Mr. Bodiford, who was a retained consultant for
21 the Attorney General's Office, John McIntosh, Jennifer
22 Evans, who is now deceased, Mr. Logan, Mr. Jordan,
23 Ms. Porter, who was at that time an attorney with the
24 Statewide Grand Jury, as was Mr. Waters.

25 If you look at the individuals he's asked for, and

1 the same response has been given again, the documents he
2 wishes to receive are either documents that are protected
3 by attorney-client privilege, attorney-work product, by
4 the statutory scheme set forth with the investigations
5 dealing with the Securities Commission, or the Statewide
6 Grand Jury. Those are where the documents are. They are
7 not subject to FOIA, nor are they subject to Mr. Field's
8 request under FOIA to obtain those documents.

9 What goes on with the receiver and what goes on with
10 New Jersey isn't an issue in this case. This case is
11 narrowed down to, is it producible under FOIA? The
12 department has produced documents. He may not like them,
13 but they have produced documents that were not privileged
14 or subject to non-disclosure. The documents he requested
15 in July of 2010, they all dealt with a criminal
16 investigation and a securities investigation, and what the
17 lawyers and the investigators were doing with those two
18 investigations.

19 MR. FIELD: If I may, Judge.

20 THE COURT: Are you -- does the Freedom of
21 Information Act allow a complaint as you filed it?

22 MR. FIELD: Yes. It, actually, prescribes the
23 complaint I filed.

24 THE COURT: Does it provide declaratory judgment, or
25 injunctive relief, and things of that nature?

1 MR. FIELD: It allows for all that. Damages --

2 THE COURT: And a petition or a claim such as you --

3 MR. FIELD: It's the only relief as for damages, and
4 declaratory relief, and injunctive relief ordering them to
5 turn over the documents.

6 Unfortunately, FOIA doesn't specify how to do it,
7 other than by this method.

8 THE COURT: Did you not, through the other pending
9 lawsuit, go through discovery mechanisms to get this?

10 MR. FIELD: No. They weren't a defendant in the
11 other pending lawsuit.

12 THE COURT: But you can still do discovery.

13 MR. FIELD: We went straight to the settlement,
14 Judge. I mean, the whole point of that was to get by it.

15 Now, in the 1983 [sic] action, I asked for discovery.
16 They objected. They don't want me to see any of these
17 documents. That's really what it comes down to. Clearly,
18 there is no attorney-client privilege. Clearly, there's
19 not. These people aren't the attorneys for the State.
20 They are the Attorney General. They are the State. And
21 there is no work product, because there was no litigation.
22 And I'm all for it, if they want that. Then nobody will
23 ever answer a subpoena, will they? We're attorneys,
24 sorry, you don't get to see it. It's not what is supposed
25 to be done.

1 I wanted, for instance, to know if they received a
2 letter from any note holder, or any debtor, or any member
3 of the principle debtor, or if they found out anything.
4 Now, if they received a letter -- if any of the people --
5 and I listed all the people in the Securities Division.
6 If they received a letter from Stuart Katz, who was a 30
7 percent member of Lancaster Resources, Inc., how can that
8 have any bearing whatsoever on work product,
9 attorney-client privilege, or even the Grand Jury?

10 All we want to know is, do they know anything about
11 the debtors, and what information did they develop about
12 CIF. Truly, if they don't give it, the receiver can't
13 ever make a claim against me at all, or anybody for that
14 matter. But I'm trying to get these people back their
15 money. It's what I'm trying to find out. Do they know
16 something about the money we don't know?

17 I mean, how can that be a bad thing, Judge? I mean,
18 give it to you. You look at it. And if it's something
19 that can be useful to me or the receiver, turn it over.
20 And what FOIA says is, all they're allowed to do is give
21 me documents with expunged privileged material. That's
22 the most they're allowed to do. They can't turn around --
23 and still, Your Honor, they've never listed a single
24 document. They just say, we don't want to tell you even
25 what they are. And FOIA requires them, at least, to make

1 a list. I can't find out anything.

2 President Nixon was forced to turn over documents.
3 Now, Attorney General Mitchell tried this attorney-client
4 privilege. It got him nowhere. The U.S. Supreme Court
5 has made it very clear there is no privilege. It only
6 extends to very narrow things. And then it doesn't allow
7 you to protect and keep the documents. Otherwise, we'd
8 have no -- papers, we'd have no --

9 THE COURT: There are no documents that have been
10 turned over to you?

11 MR. FIELD: Yes. My own prospectuses at the cost of
12 about \$1,400. I paid for my own prospectuses to be photo
13 copied and sent back to me, and my letters that I turned
14 into them. Well, why weren't my letters privileged then,
15 Judge? They all came from the same investigation.

16 Essentially, they -- and the other side of the rule
17 about FOIA is only give them back what they already have,
18 which is exactly what I got back. In fact, when I talked
19 to Attorney Chambers, they were amazed they had accidentally
20 sent me Mr. Bodiford's letter. His response was, How did
21 you get that?

22 I said, It was in your documents bate stamped.

23 He said, Really? We weren't going to give you that
24 either.

25 I said, What were you going to give me?

1 He said, Nothing.

2 This is where I'm at. If you want to rule in their
3 favor, you do it, Judge. I will go back and tell the
4 receiver to tell Judge Miller good luck. And that's where
5 we'll be. And someday, maybe, they'll give me these
6 documents. How can a subpoena or non-subpoena to my
7 child's bank that got their bank records be a privileged
8 document in CIF's securities action? How can that be? It
9 was a year after we wound down. There was no
10 investigation. How can that be privileged?

11 THE COURT: How can that be privileged, Mr. Davidson?

12 MR. FIELD: He wasn't a member, by the way.

13 MR. DAVIDSON: 35-1-607, Subsection B(1), A record
14 obtained by the Securities Commission in connection with
15 an audit or inspection under 35-1-411(d), or an
16 investigation under 35-1-602.

17 The thing is, Your Honor --

18 And, Mr. Field, I would appreciate it if you would
19 let me finish.

20 MR. FIELD: I'm waiting.

21 MR. DAVIDSON: In this case, Your Honor, the State
22 began an investigation. And the documents that they
23 received are privileged, and are not subject to disclosure
24 by virtue of that statute dealing with the securities
25 investigation. The Freedom of Information Act makes it

1 clear that you have a right to inspect public documents so
2 long as they are considered to be public documents, and
3 are not exempt as -- Matters, specifically, exempt from
4 disclosure by statute or law. That is Subsection 4 of
5 30-4-40. Subsection 4, Matters, specifically, exempt from
6 disclosure by statute or law.

7 There are public documents. He was able to receive
8 certain public documents from the department. There are
9 certain other documents that the Freedom of Information
10 Act says are not public documents, are not subject to
11 FOIA. One of those are the documents that we're talking
12 about. Because the Court and the legislature said in
13 35-1-607, The following records are not public documents,
14 and are not available for public examination under A --
15 Subsection A. Even under the securities section, they
16 allow --

17 THE COURT: What's this informal agreement on January
18 the 24th, 2011? What's that all about?

19 MR. DAVIDSON: He can speak to that since he was
20 there --

21 THE COURT: Yes, sir, Mr. Woodington.

22 MR. WOODINGTON: Your Honor, since I was there for
23 that, we got in front of Judge Miller on, basically, these
24 same motions. And the idea was that maybe if he narrowed
25 it down -- because I had talked to Mr. Field out in the

1 hall a little bit. Maybe if he narrowed it down to
2 something, we could look and see whether we had that or
3 not. But it turned out, as Mr. Davidson said, instead of
4 asking about 18 people, he bumped it up to asking about 53
5 people. And we just couldn't -- I mean, there just -- I
6 really thought he was going to ask for specific documents,
7 rather than expanding that, which is what he did.

8 And, basically, what Judge Miller said -- we just sat
9 in front of him and said, We'll try that. And Judge
10 Miller said, Yes, go ahead and try that and see if that
11 works, see if that will accomplish anything. And,
12 unfortunately, it didn't, except that we were able to
13 spell out in more specificity our objections.

14 MR. FIELD: Your Honor, there was no investigation
15 because in January -- February 6th of 2008, the Securities
16 Division entered into an agreement with CIF closing all
17 investigations. So there were no pending investigations.
18 All the documents that could have been generated after
19 that date can't possibly have had anything to do with an
20 investigation.

21 As far as the Grand Jury secrecy, that would be
22 wonderful if they hadn't held a news conference publicly
23 proclaiming they were going to indict me and my family. I
24 think that pretty much violated any Grand Jury secrecy
25 right there. It was the Attorney General himself who held

1 the news conference, stood up and had Mr. Blowden, his
2 press secretary, announce this, that they had received
3 documents from the Securities Division that proved there
4 was securities fraud.

5 Now, I may be one of the five people in the state who
6 really, really, really love the securities law and pay
7 great attention to it. The securities law is no where
8 near as broad as they say.

9 THE COURT: Has there been an indictment?

10 MR. FIELD: Of course not. There's nothing to
11 indict. I didn't do anything.

12 THE COURT: The Grand Jury is still --

13 MR. FIELD: Four years later -- no, I would -- no.
14 Everybody else knows, because they call up strangers on
15 the street and tell them about it.

16 THE COURT: All right. I'll review your petition
17 and --

18 MR. FIELD: Thank you, Judge.

19 THE COURT: -- send a response and try to issue an
20 order.

21 Do you want to be heard on your motion to dismiss,
22 Mr. Davidson?

23 MR. DAVIDSON: I think it's just a motion for summary
24 judgment.

25 THE COURT: Summary judgment. Well --

1 MR. DAVIDSON: What we've argued is, essentially --
2 however you rule -- if you rule it's not producible,
3 that --

4 THE COURT: Then that ends the case.

5 MR. DAVIDSON: That ends the case.

6 What we probably need to do, Your Honor -- although
7 I'm not sure -- it's housekeeping more than anything is,
8 obviously, Attorney General McMaster is no longer in
9 office. So we probably ought to move to substitute
10 Attorney General Wilson.

11 THE COURT: Y'all both have submitted briefs in --

12 MR. DAVIDSON: We have.

13 THE COURT: -- support and opposition?

14 MR. DAVIDSON: We have.

15 THE COURT: Okay. I'll study them over.

16 *****END OF TRANSCRIPT OF RECORD*****
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CERTIFICATE OF REPORTER

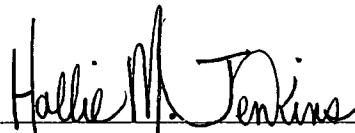
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 15th day of March, 2011.

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

March 8, 2012

A handwritten signature in cursive script, reading "Hollie M. Jenkins", written over a horizontal line.

Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

Arthur M. Field, Ph.D.

Attorney - At - Law

310 Thornblade Boulevard
Greer, SC 29650
(864) 286-0532

Fax: (864) 286-0562
arthur-field@charter.net
Admitted: CT, NJ

March 16, 2011

Hon. G. E. Welmaker
305 E. North Street
Greenville, SC

Re: Field v. Attorney General 2010-CP-23-06767

Dear Judge Welmaker:

We appeared before you yesterday on the above matter. Permit me to correct an answer to one of your enquiries. You asked whether discovery had been performed in Tomz v. Capital Investment Funding, LLC matter, and I incorrectly said 'no'. I forgot a deposition had been conducted of Chief Securities Examiner Eric Pantsari, wherein Mr. Pantsari strenuously and repeatedly affirmed neither CIF nor any of its members had committed fraud. In the context of such deposition, it was requested Mr. Pantsari produce various documents supposedly obtained by Mr. Condon. Although he was apparently willing to do so, the member of the Attorney General's staff acting as counsel for Mr. Pantsari objected and refused to do so citing unspecified privileges. A Motion to Compel was brought by CIF. The Attorney General repeatedly obtained continuances of that motion, which was never heard. The Global Settlement was achieved and the motion was not pursued. At no time were any documents provided.

I would respectfully point out FOIA's legislative intent is to provide access by the public to government documents in the interest of promoting open government. It is not meant as a shield to prevent the public from finding out what the government has done or failed to do. "Upon request, FOIA mandates disclosure of records held by a "public body" unless the documents fall within enumerated exemptions. See S.C. Code Ann. §§ 30-4-30 to -40 (Supp. 2003). As our Legislature explicitly provided in enacting FOIA, disclosure, not secrecy, is the dominant objective of the Act." *Burton v. York County Sheriff's Dept.*, 358 S.C.339 (App. 2004). As that Court stated:

The essential purpose of the FOIA is to protect the public from secret government activity. *Campbell v. Marion County Hosp. Dist.*, 354 S.C. 274, (App. 2003); see also *Quality Towing, Inc. v. City of Myrtle Beach*, 345 S.C. 156, 163, (2001) ("FOIA was enacted to prevent the government from acting in secret."); *Wiedemann v. Town of Hilton Head Island*, 330 S.C. 532, 535 n.4, (1998) (noting that "[t]he purpose of the FOIA is to protect the public from secret government activity"). The FOIA meets the demand for open government while preserving workable confidentiality in governmental decisionmaking. *Bellamy v. Brown*, 305 S.C. 291(1991); *Campbell*, 354 S.C. at 281.

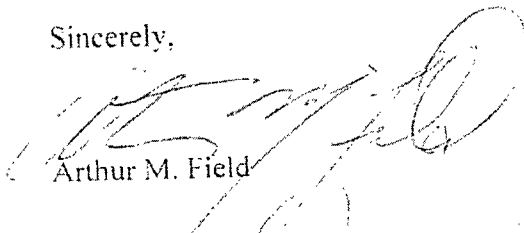
"South Carolina's FOIA was designed to guarantee the public reasonable access to certain activities of the government." *Fowler v. Beasley*, 322 S.C. 463, 468 (1996). The FOIA creates an affirmative duty on the part of public bodies to disclose information. *Bellamy*, 305 S.C. at 295, 408 S.E.2d at 221; *Campbell*, 354 S.C. at 281, 580 S.E.2d at 166. The purpose of the FOIA is to protect the public by providing for the disclosure of information. *Id.* The FOIA is remedial in nature and should be liberally construed to carry out the purpose mandated by the legislature. *Campbell*, 354 S.C. at 281, 580 S.E.2d at 166. The exemptions from disclosure under FOIA do not create a duty of nondisclosure. *Bellamy*, 305 S.C. at 295, 408 S.E.2d at 221. At most, these exemptions simply allow public agencies the discretion to withhold exempted materials from public disclosure. *Id.* Indeed, consistent with FOIA's goal of broad disclosure, the exemptions from its mandates are to be narrowly construed. See *Campbell*, 354 S.C. at 281, 580 S.E.2d at 166; see also *Quality Towing*, 345 S.C. at 161, 547 S.E.2d at 864-65 (stating that FOIA is remedial in nature and should be liberally construed to carry out purpose mandated by legislature). Moreover, the determination of whether documents or portions thereof are exempt from the FOIA must be made on a case-by-case basis. *City of Columbia v. ACLU*, 323 S.C. 384, 475 S.E.2d 747 (1996); *Newberry Publ'g Co. v. Newberry County Comm'n on Alcohol & Drug Abuse*, 308 S.C. 352, 417 S.E.2d 870 (1992).

In this instance, not only is the Attorney General refusing to deliver documents because of invalid privileges, he is also refusing to even provide a list of which documents exist and what privilege is claimed in relation thereto. He also failed to make such objection in a timely manner and asks us to take his word these exemptions apply. This is in clear violation of FOIA.

It is, at a very minimum, the State's duty to provide you with a list of the documents and the privilege claimed and for you to determine as to each document whether such privilege does exist and whether it pertains to portions of the document or the record in its entirety. See, e.g., the Order just issued in *Jones v. Dept of Justice*, #09-2802-RBH (U.S.D.C. S.C. 1/6/2011), aff'd 2/22/2011, per Harwell, D.J. Magistrate Gossett ordered the U.S. Attorney General to produce a CD with a scan of every document for in camera review and gave the DOJ only 15 days to do it. MY FOIA attempt has been going on since 2009. I would respectfully point out that many of the documents the State claims are privileged were provided by them to the *Greenville News*. Certainly any privilege which may have existed was immediately waived by such disclosure.

I am sending a stamped in copy of this letter to opposing counsel today. Thank you.

Sincerely,


Arthur M. Field

DAVIDSON & LINDEMANN, P.A.

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Of Counsel
Kenneth P. Woodington

* Also admitted in North Carolina
† Certified Mediator

March 31, 2011

Via E-mail and U.S. Mail

The Honorable G. Edward Welmaker
Post Office Box 899
Pickens, SC 29671

RE: Arthur M. Field v. Henry McMaster, Attorney General
Civil Action Number: 10-CP-23-6767
Our File Number: 103.8516

Dear Judge Welmaker:

I am writing to call to your attention the recent case, *Evening Post Publishing Company v. Berkeley Co. School District*, Opinion No. 26949 (S.C. S.Ct. 3/21/2011)(copy enclosed). In that case, which like the present Field case involved a motion for summary judgment in a FOIA matter, the Supreme Court remanded the case in order for the circuit court to review the documents sought in the FOIA action.

In the defendant's response to plaintiff's informal document request, which was filed with the Court at the March 15 hearing in this case, we noted that "The Attorney General's Office will, if requested by the Court, provide the Court in camera with descriptions and/or copies of any nonpublic or exempt document for review by the Court." Based on the above case, it now appears possible that such review of at least some documents may be necessary, subject to the discussion in the following paragraphs of this letter:

If review should be deemed necessary, I would suggest that it would only need to be conducted for documents possessed by the Securities Division. Materials in the possession of the State Grand Jury are required by § 14-7-1770 to be kept under seal, and are also covered by other protections for criminal investigation records, as set forth in Paragraph 3 of the response to the informal document request. As a result, it seems unlikely that review of State Grand Jury documents would provide any additional information, given that they are exempt by definition.

The Honorable G. Edward Welmaker
March 31, 2011
Page 2

Even with respect to the documents held by the Securities Division, it can be argued that as framed by Plaintiff Field at the March 15 hearing, his request covers only matters that by definition were obtained in connection with a Securities Division investigation and are therefore deemed nonpublic by § 35-1-607(b)(1)(records obtained by the Securities Commissioner in connection with an investigation under Section 35-1-602). The kinds of documents he referenced at the hearing, as I recall, would consist of correspondence from third parties with respect to the Securities Division's investigation of one or more companies with which Plaintiff Field has been associated. Such documents would, again by definition, be records obtained in connection with a securities investigation, and which are specifically made nonpublic.

Likewise, in the case of documents authored by, or sent to or received by attorneys or investigators, regardless of the division of the Attorney General's Office in which they work, these are also exempt by definition as attorney-client privileged material, or work product, or both. By contrast, the documents deemed in the *Evening Post* case to warrant further review were questionnaires about a school superintendent's performance that were filled out by school members. As the Court's opinion indicated, those documents may or may have been subject to attorney-client and related privileges, depending on their content.

The above arguments notwithstanding, I reiterate on behalf of the Attorney General that we can make documents available *in camera* for review by the Court, to the extent the Court requests review of the documents. If that occurs, I would request 20 to 30 days in which to get the documents together and list them.

With highest regards, I am

Sincerely yours,

DAVIDSON LINDEMANN, P.A.



Kenneth P. Woodington

cc: Arthur M. Field (pro se plaintiff)(via e-mail and U.S. Mail)



ALAN WILSON
SECURITIES COMMISSIONER

May 13, 2011

VIA HAND DELIVERY

The Honorable Charles B. Simmons, Jr.
Greenville County Courthouse
305 E North St. Ste 313
Greenville, SC 29601-2100

RE: Arthur M. Field v. Henry McMaster, Attorney General
Civil Action Number: 10-CP-23-6767

Dear Judge Simmons:

I am writing this in addition to the cover letter being sent you today by Mr. Woodington, our outside counsel in this matter. This letter pertains to the personnel records covered by Paragraph 4 of Judge Welmaker's Supplemental Order. These are not referenced in the list that accompanies the Securities Division files.

This Office sent a considerable body of personnel records to Mr. Field in the Office's initial response to his FOIA request. In a recent filing, (Objection to Motion to Amend), Mr. Field claims that he "has not received any personnel documents," but I would respectfully submit that that is incorrect, and that he has indeed received a number of documents from personnel files. By copy of this letter to him, I would ask that he review the material he has been sent to confirm this. With this letter, I am enclosing those personnel records that were withheld because they contain health and pension information, or other personnel information not related to the job performance of the individuals. We would submit that all personnel documents being sent today should not be produced. If there is a continuing dispute about what Mr. Field claims he did not get in the way of personnel files, we will be happy to send to you or to him the personnel documents that have previously been provided to him.

Sincerely yours,

Geoffrey Chambers
Assistant Attorney General

cc: (w/out enclosures, via mail and e-mail)

The Honorable G. Edward Welmaker
Post Office Box 899
Pickens, South Carolina 29671

Arthur M. Field
310 Thornblade Boulevard
Greer, South Carolina 29650

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Of Counsel
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† Certified Mediator

May 13, 2011

VIA HAND DELIVERY

The Honorable Charles B. Simmons, Jr.
Greenville County Courthouse
305 E North St, Ste 313
Greenville, SC 29601-2100

RE: Arthur M. Field v. Henry McMaster, Attorney General
Civil Action Number: 10-CP-23-6767
Our File Number: 103.8516

Dear Judge Simmons:

Accompanying this letter are the boxes of original records for your review pursuant to the two orders of Judge Welmaker in the above case. A list is also enclosed. As you know, neither the list nor the documents are being copied to the opposing party, Arthur Field, plaintiff pro se.

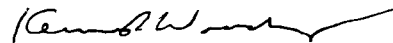
The list was prepared by the Attorney's General's Office in consultation with me. If anything in the list needs clarification or supplementation, or if you have additional questions, please let me know, and I will promptly respond.

I would request that if you decide that any documents should be released, any order pertaining thereto only reference the documents by file folder number and only in a general way, so that if we were to decide to seek a writ of supersedeas, the existence and/or nature of any documents in question would not have been effectively disclosed in the meantime. I would be happy to try to prepare a proposed order setting forth whatever conclusions you may reach, while still protecting the documents and their content in the event of an appeal.

With highest regards, I am

Sincerely yours,

DAVIDSON & LINDEMANN, P.A.



Kenneth P. Woodington

KPW:nmb

The Honorable Charles B. Simmons, Jr.
May 13, 2011
Page Two

cc: (w/out enclosures, via mail and e-mail)

The Honorable G. Edward Welmaker
Post Office Box 899
Pickens, South Carolina 29671

Arthur M. Field
310 Thornblade Boulevard
Greer, South Carolina 29650

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Of Counsel
Kenneth P. Woodington

May 31, 2011

* Also admitted in North Carolina
† Certified Mediator

VIA E-MAIL AND U.S. MAIL

The Honorable Charles B. Simmons
305 E. North Street, Suite 313
County Courthouse Judicial Wing
Greenville, South Carolina 29601

Dear Judge Simmons:

Attached is a revised list. I appreciate your giving us an extra day for the attorneys in the Attorney General's Office who were unavailable on Friday to review it.

What we have done is to assign a reference number to each folder, based on its physical location, such as Box __, Redwall __, "Folder A," "Folder B," etc. If it would be helpful, we could send someone to Greenville to label each folder with these designations.

It had been thought at first that it might be possible to add a brief description of each folder's contents in the first column of the log, with that part of the list to be released to the Plaintiff. Such a set of descriptions was drawn up on Friday and added to the left hand column of the list. However, after lawyers in the Attorney General's Office reviewed that revised list, they were very concerned that providing even brief descriptions could result in the disclosure of information that might prejudice any ongoing investigations. As a result, only the folders' physical location information is in the left hand column of the attached list.

We would request that if a list is to be disclosed to plaintiff as part of an Order, it should only contain the first column and the last column of the one enclosed, i.e., only the physical location and the reason claimed for exemption. We would request that the full list should be kept in camera, and if there is an appeal, be supplied to an appellate court on an in camera basis, and not to the plaintiff.

The Honorable Charles B. Simmons
May 31, 2011
Page Two

As I thought this over on Thursday evening of last week, I decided to renew my earlier letter request along these lines by means of a formal motion, which is being served on plaintiff and sent to you and Judge Welmaker (and the plaintiff) by mail and e-mail. This motion had already been completed by the time I requested an extra day on Friday afternoon. That request was not necessary in order to complete the motion, but rather was to permit others from the Attorney General's Office to review this matter today.

Finally, if it would be desirable to take up any of these matters in person, presumably with the plaintiff present, I would be glad to come to Greenville at your convenience and on short notice.

With highest regards, I am

Sincerely yours,

DAVIDSON & LINDEMANN, P.A.



Kenneth P. Woodington

KPW:nmb

cc: The Honorable G. Edward Welmaker (w/enclosure)
Arthur M. Field, Esquire (w/o enclosure)

DAVIDSON & LINDEMANN, P.A.

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Of Counsel
Kenneth P. Woodington

June 13, 2011

* Also admitted in North Carolina
† Certified Mediator

VIA E-MAIL AND U.S. MAIL

The Honorable Charles B. Simmons
305 E. North Street, Suite 313
County Courthouse Judicial Wing
Greenville, South Carolina 29601

Dear Judge Simmons:

Enclosed is a copy of the privilege list, revised to add information. Like its predecessors, it has four columns. We have kept the revision to Column 1, which labels the folders as "Folder A," etc. Column 2, containing the title of each file folder, is now the only column that we object to being made part of a public order. Column 3 has been revised to provide generalized descriptions of the material in each folder. Finally, Column 4 contains the privileges/FOIA exemptions claimed for each set of documents. Column 4 has been revised in a few small details. We hope that the contents of Column 3 will be sufficient to apprise the Plaintiff of the general nature of each folder.

The Attorney General's Office still has reservations about disclosing even the level of detail of information contained in Column 3. The Office has suggested that perhaps the extent of disclosure in Column 3 could be limited by summarizing the information in a number of similar folders rather than indicating the number of folders containing specific types of records and listing each and every one. In other words, if a number of folders contain the same kind of information, it might not be necessary to list each one. This would avoid disclosing some details about the extent of the investigation. I could provide a revised list that does this, but since you have asked for the most detail the Attorney General's Office is willing to provide, we have done that for now by providing the enclosed list, along with this request that it be limited.

You had indicated in our recent phone conference that you would provide a 21-day period for the Attorney General's Office to object to any releases of documents that might be ordered. While this is completely agreeable to us, I did note a concern about the 10-day jurisdictional requirements of Rule 50(e). After reflection, it seems to me that any jurisdictional concerns could be eliminated by your simply circulating the proposed order

The Honorable Charles B. Simmons
June 13, 2011
Page Two

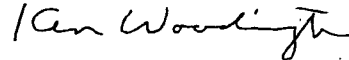
as a draft, indicating that it is being so circulated, that the parties will have 21 days in which to object or comment, and that after the 21-day period has expired, the Court will issue the actual order, with or without changes as the Court sees fit. That way there is no final order to trigger the Rule 59(e) period until after the 21-day review and comment period has run. Judge Baxley did something somewhat similar in a case we had with him, circulating a proposed order in advance of entering it, although he did this for a different reason, which was to make sure that his proposed order accurately set forth the positions of the parties.

I appreciate your solicitousness for the sensitivity of this information. If I can be of further assistance, please advise. I will be out of the office the entire week of June 20.

With highest regards, I am

Sincerely yours,

DAVIDSON & LINDEMANN, P.A.



Kenneth P. Woodington

KPW:nmb

cc: The Honorable G. Edward Welmaker (w/enclosure)
Arthur M. Field, Esquire (w/o enclosure)



State of South Carolina
Equity Court

CHARLES B. SIMMONS, JR.
Judge

Suite 313, County Courthouse
Greenville, S.C. 29601

Telephone (864) 467-8556
FAX (864) 467-8401

July 6, 2011

Arthur M. Field, Esquire
310 Thornblade Blvd.
Greer, SC 29650

Kenneth B. Woodington, Esquire
P.O. Box 8568
Columbia, SC 29202

RE: Field v. McMaster
2010-CP-23-6767

Dear Gentlemen,

I am enclosing copies of the Order and accompanying exhibits that I will be filing with the Clerk of Court's Office on July 15, 2011. I am sending these materials to you ahead of time since there are quite a large number of exhibits referenced and, once the Order is filed, each of you will only have 10 days to file any appropriate motions relative to the Order.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles B. Simmons, Jr.", written in black ink.

Charles B. Simmons, Jr
Judge

wef
Enclosures

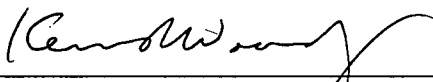
**Documents Ordered by
Judge Charles B. Simmons, Jr.
to be Disclosed**

(To Be Filed Separately Under Seal)

CERTIFICATE OF COUNSEL

The undersigned counsel certifies that the Record on Appeal contains all material proposed to be included by the parties and not any other material.

DAVIDSON & LINDEMANN, P.A.

BY: 

WILLIAM H. DAVIDSON, H
KENNETH P. WOODINGTON
1611 Devonshire Drive
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Columbia, South Carolina 29202
(803) 806-8222

Counsel for Appellant-Respondent

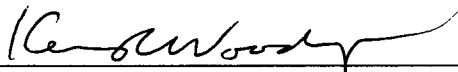
Columbia, South Carolina

March 13, 2013

CERTIFICATE OF COMPLIANCE

The undersigned counsel for the Appellant-Respondent certifies that the Record on Appeal complies with the Supreme Court's Order of August 13, 2007, regarding personal identifiers and sensitive information.

DAVIDSON & LINDEMANN, P.A.

BY: 

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Counsel for Appellant-Respondent

Columbia, South Carolina

March 13, 2013