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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Derham Cole, Circuit Court Judge

Case No.: 2012-CP-42-02714

Arthur State Bank Respondent

v.

Quentin S. Broom, Jr., Amy B. Broom a/k/a Amy Broom,
Ann G. Broom, and Russell A. Broom Appellant.

RECORD ON APPEAL

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SC Court of Appeals

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STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

Case No. 2012-CP-42-2714

Arthur State Bank,

Plaintiff,

vs.

Quentin S. Broom, Jr., Amy B. Broom
a/k/a Amy Broom, Ann G. Broom, and
Russell A. Broom,

Defendants.

**ORDER GRANTING ARTHUR STATE
BANK'S MOTION TO DISMISS
DEFENDANTS' COUNTERCLAIMS**

This matter comes before the Court upon Arthur State Bank's ("Plaintiff") Motion to Dismiss pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure ("Motion To Dismiss") seeking an order dismissing the claims alleged against Plaintiff in the counterclaim of defendants Quentin S. Broom, Jr. ("Quentin Broom"), Amy B. Broom a/k/a Amy Broom ("Amy Broom"), Ann G. Broom ("Ann Broom"), and Russell A. Broom ("Russell Broom") (collectively, the "Defendants"). A hearing was held before the Court on Plaintiff's Motion To Dismiss on April 16, 2013 ("Hearing"). Prior to the Hearing, both Plaintiff and Defendants submitted Affidavits to support their respective positions. Present and participating at the Hearing were Louise M. Johnson of Haynsworth Sinkler Boyd, P.A., attorneys for Plaintiff, and I. Le Plumblee of Eppes & Plumblee, P.A., attorneys for Defendants.

I have reviewed the file along with all submissions and applicable law and considered arguments of counsel as well. Based upon the record and applicable law, I grant Plaintiff's Motion to Dismiss for the reasons explained below.



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UNDISPUTED FACTS

Plaintiff filed the within action on June 27, 2012, seeking foreclosure of the following notes and mortgages: (1) Home Equity Line Note from defendant Quentin Broom to Plaintiff dated September 30, 2003, in the original principal amount of \$117,000.00 ("Note-1"), which is secured by that certain Mortgage (With Future Advance Clause) executed and delivered by Quentin Broom to Plaintiff dated September 30, 2003, and recorded On October 2, 2003, in the Spartanburg County Register of Deeds Office in Book 3086 at Page 841 ("Mortgage-1"); and (2) Home Equity Line Note from Quentin Broom to Plaintiff dated April 26, 2006, in the original principal amount of \$585,000.00 ("Note-2), which is secured by that certain Mortgage (With Future Advance Clause) executed and delivered by Defendants and Virginia Broom¹ ("Mortgage-2").

Defendants, by and through their counsel, timely filed and served an Answer and Counterclaim on or about September 28, 2012, in which they asserted that Plaintiff allegedly breached its statutory and common law duties to Defendants to maintain privacy and not to disclose depositor information to third parties ("Counterclaim").

Plaintiff timely filed and served its Reply to Defendants' Counterclaim on or about November 9, 2012, and filed its Motion To Dismiss said Counterclaim on or about March 4, 2013.

On or about April 5, 2013, Defendants filed a Motion to Amend Answer and Counterclaim to add additional defenses and counterclaims against Plaintiff (Motion To Amend"). Defendant's Motion To Amend contained and incorporated by reference Defendants' proposed Amended Answer and Counterclaims ("Amended Counterclaims"). In their Amended

¹ Subsequent to the execution and delivery of Mortgage-2, Virginia Broom died on or about October 17, 2008. Virginia Broom possessed only a life estate in the property encumbered by Mortgage-2.

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Counterclaims, Defendants asserted the following causes of action against Plaintiff: (1) Plaintiff's alleged violation of the Gramm-Leach-Bliley Act, 15 U.S.C.S. §§ 6801 *et seq.* ("Gramm-Leach-Bliley Act"); (2) Plaintiff's alleged breach of contractual provisions by and between the parties arising out of the loan documents regarding disclosure of Defendants' non-public account information; and (3) Plaintiff's alleged negligence with regard to Defendants' non-public account information.

Immediately prior to the Hearing on Plaintiff's Motion To Dismiss, counsel for Plaintiff advised counsel for Defendants that Plaintiff consented to Defendants' Motion To Amend. At the Hearing, counsel for the parties advised the Court of Plaintiff's consent to Defendants' Motion To Amend, and the parties agreed Plaintiff's Motion To Dismiss, and the hearing on same, would address, apply to, and encompass Defendants' Amended Counterclaims. Accordingly, the Court heard and considered arguments from counsel on Plaintiff's Motion to Dismiss Defendants' Amended Counterclaims.

The following facts are according to Defendants' Amended Counterclaims. In a civil action completely unrelated to the Plaintiff's foreclosure action in this case, Quentin Broom was or is a named party ("Unrelated Action"). In that Unrelated Action, another party to the Unrelated Action subpoenaed from Plaintiff records of "other members" of Quentin Broom's family. After the subpoena was issued to Plaintiff, an attorney other than Defendant's counsel wrote to Plaintiff and asked Plaintiff to notify each account holder listed on the subpoena that the subpoena had been issued and asked Plaintiff to give each said account holder an opportunity to seek legal counsel with respect to the production of his/her respective financial records. Defendants further allege, and Plaintiff does not dispute, that Plaintiff did not notify Quentin Broom's family members whose accounts possibly had been subpoenaed, but Plaintiff complied with the subpoena.

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STANDARD OF REVIEW

Pursuant to Rule 12(b)(6), SCRCF, a court may dismiss a claim when a party demonstrates a claiming party's "failure to state facts sufficient to constitute a cause of action" in the pleadings filed with the court. Dismissal under Rule 12(b)(6) should be granted if the facts alleged in the complaint and inferences reasonably deducible therefrom would not entitle plaintiff to any relief on any theory of the case. *Brown v. Leverette*, 291 S.C. 364, 366, 353 S.E.2d 697, 698 (1987). A motion to dismiss for failure to state a claim upon which relief can be granted tests not whether plaintiffs will prevail on the merits, but whether they have properly stated a claim. See *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974). While the court must accept as true all well-pleaded factual allegations, *Erickson v. Pardus*, 551 U.S. 89, 94 (2007), it need not accept as true plaintiff's bare legal conclusions. See *Taubman Realty Group Ltd. P'ship v. Mineta*, 320 F.3d 475, 479 (4th Cir. 2003). Factual allegations "must be enough to raise a right to relief above the speculative level" with the complaint having "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). "[T]he tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions" and "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements" are insufficient. *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009) (citing *Twombly*, 550 U.S. at 555). A complaint may survive a motion to dismiss only if it "states a plausible claim for relief" that "permit[s] the court to infer more than the mere possibility of misconduct" based upon "its judicial experience and common sense." *Id.* (citing *Twombly*, 550 U.S. at 556).

As indicated above, I have considered evidence outside the pleadings; thus, the motion shall be treated as one for summary judgment. See SCRCF, 12(c). Rule 56(c), SCRCF provides for judgment as a matter of law where "there is no genuine issue as to any material fact for trial."

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The purpose of summary judgment is to dispose of factually unsupported claims. *Celotex v. Catrett*, 477 U.S. 317, 322 (1986). "Summary judgment is appropriate in those cases in which plain, palpable and indisputable facts exist on which reasonable minds cannot differ." *Thompkins v. Festival Centre Group*, 306 S.C. 193, 410 S.E.2d 593 (Ct. App. 1991).

In cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment. *Hancock v. Mid-South Mgmt. Co.*, 2009 S.C. LEXIS 18 (S.C. Jan. 26, 2009). However, the "[plaintiff] may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial." S.C.R.C.P. 56(e). The plaintiff must prove that the likelihood of additional discovery is not for the purposes of "a fishing expedition" but rather to show a genuine issue of material fact exists for trial. *Baughman v. AT&T*, 306 S.C. 101, 112, 410 S.E.2d 537, 543 (1990); *see also Dawkins v. Fields*, 354 S.C. 58, 580 S.E.2d 433 (2003). The plaintiff's failure to prove an essential element of a case renders all other facts immaterial. *Celotex Corp.*, 477 U.S. at 322.

APPLICABLE LAW AND RULINGS

A. Amended Counterclaim for violation of Gramm-Leach-Bliley Act failed to state claim upon which relief can be granted.

The Gramm-Leach-Bliley Act states that except as provided in the Act a financial institution may not disclose to a nonaffiliated third person "any nonpublic personal information" 15 U.S.C. § 6802(a). The Act then sets forth certain exceptions to the prohibition against disclosure of nonpublic personal information in 15 U.S.C.S. § 6802(e) and states that:

Subsections (a) and (b) shall not prohibit the disclosure of nonpublic personal information— ...

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(8) to comply with Federal, State, or local laws, rules, and other applicable legal requirements; to comply with a *properly authorized civil*, criminal, or regulatory investigation or *subpoena* or summons by Federal, State, or local authorities; or to respond to judicial process or government regulatory authorities having jurisdiction over the financial institution for examination, compliance, or other purposes as authorized by law. [emphasis added]

15 U.S.C.S. § 6802(e)(8).

The Gramm-Leach-Bliley Act thus provides an express exception to any notice requirements set forth in the Act when a financial institution, such as the Plaintiff, is responding to a duly issued subpoena in a judicial proceeding. *Id. See KnifeSource, LLC v. Wachovia*, 2007 U.S. Dist. LEXIS-58829 (S.C. 2007) ("However, the Act includes an exception for disclosures made 'to respond to judicial process or government regulatory authorities having jurisdiction over the financial institution for examination, compliance, or other purposes as authorized by law.'"). Accordingly, responding to the subpoena issued to it in the Unrelated Action, Plaintiff did not violate any provision of the Gramm-Leach-Bliley Act.

In any event, "[n]o private cause of action exists for an alleged violation of the GLBA [Gramm-Leach-Bliley Act]." *Dunmire v. Morgan Stanley DW, Inc.*, 475 F.956, 960 (9th Cir. 2007). As a result, the Defendants would not have a private cause of action under the Gramm-Leach-Bliley Act even if the exception stated previously under the Act did not apply in this case.

Based upon the foregoing, Defendants' Amended Counterclaim for alleged breach of the Gramm-Leach-Bliley Act fails to state a claim upon which relief can be granted and is therefore dismissed pursuant to Rule 12(b)(6) SCRCF.

B. Amended Counterclaim for breach of contract fails as a matter of law.

Defendants contend that by responding to the subpoena in the Unrelated Action, Plaintiff breached its contractual obligations to Defendants arising out of the loan documents which provide the basis of Plaintiff's instant foreclosure action. Specifically, Defendants assert that as

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part of the loan documents, Plaintiff provided to Defendants certain "Notice[s] of Your Financial Privacy Rights" (collectively, "Privacy Notice") with which Plaintiff allegedly failed to comply. The Privacy Notice states that, "[Arthur State Bank] will not disclose information about you to anyone except as disclosed in this policy *or as permitted by law.*" [emphasis added].

From a review of the loan documents attached as exhibits to Plaintiff's Complaint and the Privacy Notice submitted in the Affidavits, the Court finds nothing that states or provides that Plaintiff agrees *not* to comply with a duly issued subpoena in a judicial proceeding. Rather, the Privacy Notice expressly states and reserves the right to disclose information, "as permitted by law." Without an order quashing the subpoena, Plaintiff not only is and was well within its rights, but was obligated to comply with the subpoena. *Rycroft v. Gaddy*, 281 S.C. 119, 314 S.E.2d 39 (S.C. Ct. App. 1984) (holding, "Since the subpoenae were valid on their face, the bank had no duty to inquire into the circumstances behind the subpoenae as bank cannot refuse to give information concerning an account when questioned in response to a lawful subpoena.") Nothing in the Privacy Notice or the loan documents prohibited or prevented Plaintiff from acting otherwise in this case.

Based on the foregoing, Defendants' Amended Counterclaim for alleged breach of contractual provision arising out of the loan documents is without merit and fails as a matter of law.

C. Amended Counterclaim for negligence fails as a matter of law.

Defendants' Amended Counterclaim for Plaintiff's alleged negligence in disclosing non-public account information to unauthorized third parties also fails as a matter of law in that no duty was breached by Plaintiff to Defendants when Plaintiff complied with a duly issued subpoena in a pending legal action. *Rycroft*, 281 S.C. at 123-24, 314 S.E.2d at 43 (stating further, "communications in judicial proceedings are absolutely privileged and are immune from

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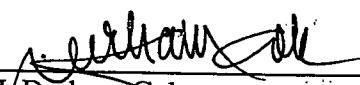
an action for an invasion of privacy"). The *Rycroft* Court held that the bank was not negligent in failing to inquire beyond the face of a valid subpoena to determine if litigation was ongoing and if the records were requested for a valid purpose before responding to said subpoena because the bank could not refuse to give information concerning an account when questioned in response to a lawful subpoena.

The facts presented in this case are almost identical to those in the *Rycroft* case and should be analyzed under the same standard. In this case, it is undisputed that Plaintiff was presented with a subpoena in the Unrelated Action, and that no motion or order quashing the subpoena was ever filed. Plaintiff had no duty to do anything other than to comply with and respond to the subpoena. Plaintiff, therefore, breached no duty to Defendants by complying with the properly issued subpoena. Accordingly, Defendants' Amended Counterclaim for negligence fails as a matter of law.

ORDER

Accordingly and based on the foregoing, it is hereby ORDERED, ADJUDGED, and DECREED, that Defendants' Amended Counterclaims are DISMISSED, and IT IS SO ORDERED.

August 20, 2013
Spartanburg, South Carolina


J. Derham Cole
Circuit Court Judge

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STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

Case No.: 2012-CP-

Arthur State Bank,

2012-CP-42- 2714

Plaintiff,

v.

SUMMONS
Mortgage Foreclosure
Deficiency Demanded
Non-Jury

Quentin S. Broom, Jr., Amy B. Broom aka
Amy Broom, Ann G. Broom, and Russell A.
Broom,

Defendants.

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, or otherwise appear and defend, and to serve a copy of your Answer to the said Complaint upon the subscriber at his offices, 1201 Main Street, 22nd Floor (29201-3226), Post Office Box 11889, Columbia, South Carolina 29211-1889, within thirty (30) days after the service hereof (except as to the Defendant United States of America, if named, shall have sixty (60) days after the service hereof), exclusive of the day of such service; and if you fail to answer the Complaint within the time period aforesaid, or otherwise appear and defend, the Plaintiff in this action will apply to the Court for the relief demanded therein, and judgment by default will be rendered against you for the relief demanded in the Complaint.

YOU WILL ALSO TAKE NOTICE that should you fail to Answer the foregoing Complaint, the Plaintiff will move for a general Order of Reference of this cause to the Master-in-Equity or Special Referee for this county, which Order shall, pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, specifically provide that the said Master-in-Equity or Special Referee is authorized and empowered to enter a final judgment in this cause.

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This communication is an attempt to collect a debt, and any information obtained will be used for that purpose.

HAYNSWORTH SINKLER BOYD, P.A.

By: 
Louise M. Johnson

1201 Main Street, Suite 2200
Post Office Drawer 11889 (29211-1889)
Columbia, South Carolina 29201
(803) 779.3080 Telephone
(803) 765.1243 Facsimile

June ²⁵ 2012

Attorney for Arthur State Bank

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

Case No.: 2012-CP-

Arthur State Bank,

Plaintiff,

2012-CP-42-2714

LIS PENDENS

v.

Quentin S. Broom, Jr., Amy B. Broom aka
Amy Broom Ann-G. Broom, and Russell A.
Broom,

2012-CP-42-2714

Defendants.

Notice is hereby given that an action has been or within twenty (20) days will be commenced by the Plaintiff above-named against the Defendants above-named for the foreclosure of that certain mortgage given to Arthur State Bank by Quentin S. Broom, Jr. aka Quentin S. Broom, dated September 30, 2003, which mortgage was recorded in the Register of Deeds Office for Spartanburg County on October 2, 2003, in Book 3086, at Page 841, and for the foreclosure of that certain mortgage given to Arthur State Bank by Quentin S. Broom, Jr. aka Quentin S. Broom, Ann G. Broom, Russell A. Broom, and Virginia S. Broom dated April 29, 2006, which mortgage was recorded in the Register of Deeds Office for Spartanburg County on May 1, 2006, in Book 3652, at Page 769. The properties covered and affected by said mortgages are described as follows:

Mortgage-1 Property

All that certain piece, parcel or tract of land lying and being in the City and County of Spartanburg, State of South Carolina, being shown and designated as a portion of Tract 1B, upon a plat prepared for Quentin Broom, Jr., dated December 8, 1992, by Archie S. Deaton & Associates, RLS, and recorded in Plat Book 119, Page 33, Office of the Register of Deeds for Spartanburg County, and having the following metes and bounds:

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BEGINNING at a point 300 feet from the northeast corner of said Tract 1B and property of Mary B. Anthony and running thence S 60-40-02 W 368.08 feet to a point; thence turning and running S 67-17-10 W 78.21 feet to a point, thence turning and running N 14-42-57 W 356.01 feet to a point; thence turning and running N 76-20-21 E 117.27 Feet to a point thence turning and running N 6-40-02 E 15.36 feet to a point; thence turning and running N 87-37-00 E 90.00 feet to a point, being the point of BEGINNING.

TOGETHER with a right of ingress and egress over the adjoining property owned by Mortgagor to access U.S. Highway No. 29.

DERIVATION: This is the same property conveyed to Quentin S. Broom, Jr. herein by deed from Virginia S. Broom recorded January 15, 1993, in Deed Book 59-R, Page 518, said ROD Office and subsequently conveyed to Amy B. Broom by deed from Quentin S. Broom dated July 31, 2006, and recorded August 4, 2006, in the Office of the Register of Deeds for Spartanburg County in Book 86-K at Page 373.

TMS#: 6-21-02-127.01

Property Address: 1041 W. O. Ezell Blvd, Spartanburg, SC 29301

AND

Mortgage-2 Property

All that certain piece, parcel or tract of land lying and being in the County of Spartanburg, State of South Carolina, being shown and designated as Lot No. 1, upon a plat prepared for Ralph W. Broom by Gooch & Taylor Surveyors, dated March 21, 1951, and recorded in Plat Book 28, Page 310, Office of the Register of Deeds for Spartanburg County. LESS AND EXCLUDING, however, all that certain piece, parcel or lot of land shown and designated as Lot 1-B, consisting of 1.77 acres upon a plat prepared for Quentin Broom, Jr., and recorded in Plat Book 119, Page 33, said ROD Office.

DERIVATION: This is a portion of the same property devised to Virginia S. Broom by the Will of Ralph W. Broom as shown in Probate File No. 21425, Probate Court for Spartanburg County, South Carolina. This is the same property conveyed to the other Mortgagors herein by deeds from Virginia S. Broom recorded in Deed Book 67-D, Page 380, and Deed Book 67-D, Page 384, Office of the Register of Deeds for Spartanburg County.

TMS#: 6-21-02-127.00

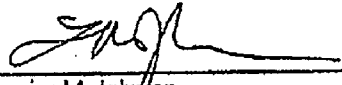
Property Address: 1045 W. O. Ezell Blvd, Spartanburg, SC 29301

(signature on following page)

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HAYNSWORTH SINKLER BOYD, P.A.

By:


Louise M. Johnson

1201 Main Street, Suite 2200
Post Office Drawer 11889 (29211-1889)
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June 25, 2012

Attorneys for Arthur State Bank

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STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Arthur State Bank,

Plaintiff,

vs.

Quentin S. Broom, Jr., Amy B. Broom aka Amy
Broom Ann G. Broom, and Russell A. Broom,
Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2012-CP-42-2714

Submitted By: Louise M. Johnson
Haynsworth Sinkler Boyd, P.A.
Post Office Box 11889
Columbia, SC 29211-1889

SC Bar #: 16586
Telephone #: (803) 779-3080
Fax #: (803) 765-1243
E-mail: cjohnson@hsblawfirm.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

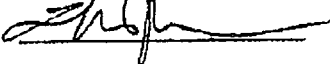
DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☒ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|---|---|
| ☐ Contracts
☐ Construction (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | ☐ Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 ____ CP ____
☐ Notice/File Med Mal (230)
☐ Other (299) | ☐ Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) | ☐ Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☒ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| ☐ Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | ☐ Judgment/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Other (799) | ☐ Administrative Law/Relief
☐ Reinstate Driver's License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | ☐ Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Commission (980)
☐ Employment Security Comm (990)
☐ Other (999) |
| ☐ Special/Complex/Other
☐ Environmental (600)
☐ Automobile Atty. (610)
☐ Medical (620)
☐ Other (699) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in an Out-of-County Action (660)
☐ Sexual Predator (510) | | |

Submitting Party Signature: 

Date: 6/25/12

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Allendale, Anderson, Beaufort, Colleton, Florence, Greenville,
Hampton, Horry, Jasper, Lexington, Pickens (Family Court Only), and Richland

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. ~~Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)~~
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.

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STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

Case No.: 2012-CP-

2012-CP-42-2714

Arthur State Bank,

Plaintiff,

v.

CERTIFICATE OF EXEMPTION
FROM ADR

Quentin S. Broom, Jr., Amy B. Broom aka Amy
Broom Ann Q. Broom, and Russell A. Broom,

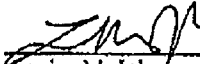
Defendants.

I certify that this action is exempt from ADR because:

- ☐ This is a special proceeding or action seeking extraordinary relief such as mandamus, habeas corpus or prohibition.
- ☐ This action is appellate in nature.
- ☐ This is a post-conviction relief matter.
- ☐ This is a contempt of court proceeding.
- ☐ This is a forfeiture proceeding brought by the State.
- ☒ This is a case involving a mortgage foreclosure.
- ☐ The parties submitted the case to voluntary mediation with a certified mediator prior to the filing of this action.

HAYNSWORTH SINKLER BOYD, P.A.

By:


Louise M. Johnson

Post Office Drawer 11889 (29211-1889)
Columbia, South Carolina 29201
(803) 779.3080 (telephone)
(803) 765.1243 (facsimile)

Attorneys for Arthur State Bank

June 25, 2012

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HAYNSWORTH SINKLER BOYD, P.A.

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

Case No.: 2012-CP-

Arthur State Bank,

Plaintiff,

v.

Quentin S. Broom, Jr., Amy B. Broom aka
Amy Broom Ann G. Broom, and Russell A.
Broom,

Defendants.

2012-CP-42-2714

**CERTIFICATION OF EXEMPTION FROM ADMINISTRATIVE
ORDER 2011-05-02-01
(Non-owner occupied property)**

I, Louise M. Johnson, Esq., as counsel for Plaintiff, do hereby certify that the Administrative Order of the South Carolina Supreme Court dated May 2, 2011 (the "Order") does not apply to the above-captioned matter for the following reasons:

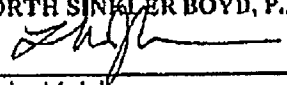
1. The Order only applies to "mortgage foreclosure proceedings concerning Owner-Occupied dwellings in [South Carolina]," and the Order defines an "Owner-Occupied dwelling" as "mortgaged real property that is the principal residence of any mortgagor." (Order at p. 23)

2. In this foreclosure action, Plaintiff seeks to foreclose a commercial loan; therefore, the mortgaged real property is not an owner-occupied dwelling as defined in the Order.

[signature on following page]

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HOLLY S. ACKLEY

HAYNSWORTH SINKLER BOYD, P.A.

By: 

Louise M. Jollison

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June 25, 2012

Attorneys for Arthur State Bank

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M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

Case No.: 2012-CP-

Arthur State Bank,

Plaintiff,

2012-CP-42-2714

COMPLAINT
Mortgage Foreclosure
Deficiency Demanded
Non-Jury

v.

Quentin S. Broom, Jr., Amy B. Broom aka
Amy Broom Ann G. Broom, and Russell A.
Broom,

Defendants.

Arthur State Bank ("Plaintiff"), complaining of the above-captioned Defendants, alleges as follows:

1. Plaintiff is a state banking association organized and existing under the laws of the State of South Carolina.
2. Upon information and belief, Quentin S. Broom, Jr. ("Broom Jr.") is a citizen and resident of the County of Spartanburg, State of South Carolina.
3. Upon information and belief, Amy B. Broom aka Amy Broom ("Amy Broom") is a citizen and resident of the County of Spartanburg, State of South Carolina.
4. Upon information and belief, Ann G. Broom ("Ann Broom") is a citizen and resident of the County of Spartanburg, State of South Carolina.
5. Upon information and belief, Russell A. Broom ("Russell Broom") is a citizen and resident of the County of Spartanburg, State of South Carolina.
6. The subject mortgage is not subject to modification under the Home Affordable Modification Program ("HAMP") for residential loans owned, securitized or guaranteed by the

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Federal National Mortgage Association ("Fannie Mac") or the Federal Home Loan Mortgage Corporation ("Freddie Mac"). Plaintiff is not a participant in the HAMP.

7. The real property parcels hereinafter described, that are the subject of this foreclosure action, are situated and located in the County of Spartanburg, State of South Carolina, and this Court therefore has proper jurisdiction over the subject matter of and the parties to this action.

FOR A FIRST CAUSE OF ACTION
(Foreclosure of \$117,000.00 Mortgage)

8. Plaintiff reincorporates and realleges each of the foregoing allegations as fully as if repeated herein verbatim.

9. Plaintiff is informed and believes that Broom Jr. executed and delivered a Durable Power of Attorney to Quentin S. Broom ("Broom Jr. Attorney-in-Fact") dated May 29, 2001, and recorded on June 1, 2001, in Horry County in Deed Book 73-X at Page 916 ("Broom Jr. POA"). A true and correct copy of the Broom Jr. POA is attached hereto as Exhibit A and its terms thereof are incorporated herein by reference.

10. Pursuant to the terms of the Broom Jr. POA, defendant Broom Jr.:

... made, constituted and appointed, and by these presents do make, constitute and appoint my father, Quentin S. Broom, my true and lawful agent and attorney for me and in my name, place and stead to do the following acts and things and to exercise the following powers ... 12. To buy, sell, exchange, mortgage, encumber, lease or by any other means whatsoever to acquire or dispose of real property...

11. For valuable consideration given, on September 30, 2003, defendant Broom, Jr. made, executed and delivered unto Plaintiff a Home Equity Line Note in the original amount of One Hundred Seventeen Thousand and 00/100 (\$117,000.00) Dollars ("Note-1"). A true and correct copy of Note-1 is attached hereto as Exhibit B and its terms thereof are incorporated herein by reference.

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12. To secure Note-1 and the debt evidenced thereby, for valuable consideration given, and under the terms of Note-1, defendant Broom Jr. made, executed and delivered unto Plaintiff a certain Mortgage (With Future Advance Clause) dated September 30, 2003 ("Mortgage-1"), whereby Broom Jr. mortgaged to Plaintiff the real property described in Mortgage-1 ("Mortgage-1 Property"). Mortgage-1 was recorded on October 2, 2003, in the Spartanburg County Register of Deeds Office in Book 3086, at Page 841. A true and correct copy of Mortgage-1 is attached hereto as Exhibit C and its terms thereof are incorporated herein by reference.

13. The above referenced Mortgage-1 constitutes a valid mortgage lien.

14. At the time of Mortgage-1, Defendant Broom Jr. was the legal owner of the Mortgage-1 Property.

15. Defendant Amy B. Broom aka Amy Broom is the current legal owner of the Mortgage-1 Property by virtue of that certain deed from Broom Jr. to Amy Broom dated April 26, 2004, and recorded on April 27, 2004, in Spartanburg County in Book 80-E at Page 561.

16. Note-1 and Mortgage-1 provide that upon failure by Broom Jr. to make payments thereunder when due, the entire outstanding balance under Note-1 and Mortgage-1 shall, at the option of Plaintiff, become immediately due and payable, and Plaintiff may foreclose Mortgage-1.

17. Note-1 provides that,

I agree to pay . . . all expenses of collection, enforcement or protection of your rights and remedies under this Agreement. Expenses include, but are not limited to, reasonable attorneys' fees not in excess of 15 percent of the unpaid debt after default and referral to an attorney who is not your salaried employee. These expenses are due and payable immediately. If not paid immediately, these expenses will bear interest from the date of payment until paid in full at the highest interest rate in effect as provided for in the terms of this Agreement. All fees and expenses will be secured by the property I have granted to you, if any, to the extent permitted by the United States Bankruptcy Code. I agree to pay the reasonable attorneys' fees you incur to collect this debt as awarded by any court exercising jurisdiction under the Bankruptcy Code.

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18. Broom Jr. is in default under the terms of Note-1 and Mortgage-1 by reason of his failure to make payments on Note-1 and Mortgage-1.

19. Plaintiff has placed this matter with the undersigned attorneys for collection.

20. Plaintiff does not waive, and specifically reserves, any and all additional rights it may have under the terms of Note-1 and Mortgage-1.

FOR A SECOND CAUSE OF ACTION
(Foreclosure of \$585,000.00 Mortgage)

21. Plaintiff reincorporates and realleges each of the foregoing allegations as fully as if repeated herein verbatim.

22. Plaintiff is informed and believes that defendant Russell Broom executed and delivered a Durable Power of Attorney to Ann Broom or Quentin S. Broom ("Russell Broom Attorney-in-Fact") dated December 24, 1997, and recorded on January 7, 1998, in Spartanburg County in Deed Book 67-D at Page 396 ("Russell Broom POA"). A true and correct copy of the Russell Broom POA is attached hereto as Exhibit D and its terms thereof are incorporated herein by reference.

23. Pursuant to the terms of the Russell Broom POA, defendant Russell Broom:

... made, constituted and appointed, and by these presents do make, constitute and appoint Ann G. Broom or Quentin S. Broom, my true and lawful agent and attorney for me and in my name, place and stead to do the following acts and things and to exercise the following powers ... 12. To buy, sell; exchange, mortgage, encumber, lease or by any other means whatsoever to acquire or dispose of real property. ...

24. Plaintiff is informed and believes that Virginia S. Broom ("Virginia Broom") executed and delivered a Durable Power of Attorney to Quentin S. Broom ("Virginia Broom Attorney-in-Fact") dated December 29, 1997, and recorded on January 7, 1998, in Spartanburg County in Deed Book 67-D at Page 388 ("Virginia Broom POA"). A true and correct copy of the Virginia Broom POA is attached hereto as Exhibit E and its terms thereof are incorporated herein by reference.

25. Pursuant to the terms of the Virginia Broom POA, Virginia Broom:

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. . . made, constituted and appointed, and by these presents do make, constitute and appoint my son, Quentin S. Broom, my true and lawful agent and attorney for me and in my name, place and stead to do the following acts and things and to exercise the following powers . . . 12. To buy, sell, exchange, mortgage, encumber, lease or by any other means whatsoever to acquire or dispose of real property. . .

26. For valuable consideration given, on April 26, 2006, defendant Broom Jr., by and through the Broom Jr. Attorney-in-Fact, executed and delivered unto Plaintiff a Home Equity Line Note in the original amount of Five Hundred Eighty-Five Thousand and 00/100 (\$585,000.00) Dollars ("Note-2"). A true and correct copy of Note-2 is attached hereto as Exhibit F and its terms thereof are incorporated herein by reference.

27. To secure Note-2 and the debt evidenced thereby, for valuable consideration given, and under the terms of Note-2, Broom Jr. by and through the Broom Jr. Attorney-in-Fact, Ann Broom, Russell Broom by and through the Russell Broom Attorney-in-Fact, and Virginia Broom by and through the Virginia Broom Attorney-in-Fact, made, executed and delivered unto Plaintiff that certain Mortgage (With Future Advance Clause) dated April 29, 2006 ("Mortgage-2"), whereby Broom Jr., Ann Broom, Russell Broom, and Virginia Broom mortgaged to Plaintiff the real property described in Mortgage-2 ("Mortgage-2 Property"). Mortgage-2 was recorded on May 1, 2006, in the Spartanburg County Register of Deeds Office in Book 3652, at Page 769. A true and correct copy of Mortgage-2 is attached hereto as Exhibit G and its terms thereof are incorporated herein by reference.

28. At the time Mortgage-2 was executed, Broom Jr., Ann Broom, Russell Broom, and Virginia Broom were the record owners of the Mortgage-2 Property, with Virginia Broom having only a life estate interest in the Mortgage-2 Property.

29. Subsequent to the execution and delivery of Mortgage-2, Virginia Broom died on or about October 17, 2008.

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PROPERTY

**FOR A THIRD CAUSE OF ACTION
(Foreclosure and Suit on Loan Documents)**

39. Plaintiff reincorporates and realleges each of the following allegations as fully as if repeated herein verbatim.

1. Defendant Broom Jr. has defaulted under the terms of Note-1, Mortgage-1, Note-2, and Mortgage-2 (collectively, "Loan Documents") by reason of his failure to make payments there under when due.

2. Plaintiff has notified Broom Jr. of his default and he has failed and refused, and continues to fail and refuse, to cure his defaults.

40. The real properties that is subject to the liens of Mortgage-1 and Mortgage-2 (collectively, "Mortgaged Properties") are more fully described as follows:

Mortgage-1 Property

All that certain piece, parcel or tract of land lying and being in the City and County of Spartanburg, State of South Carolina, being shown and designated as a portion of Tract 1B, upon a plat prepared for Quentin Broom, Jr., dated December 8, 1992, by Archie S. Deaton & Associates, RLS, and recorded in Plat Book 119, Page 33, Office of the Register of Deeds for Spartanburg County, and having the following metes and bounds:

BEGINNING at a point 300 feet from the northeast corner of said Tract 1B and property of Mary B. Anthony and running thence S 60-40-02 W 368.08 feet to a point; thence turning and running S 67-17-10 W 78.21 feet to a point; thence turning and running N 14-42-57 W 356.01 feet to a point; thence turning and running N 76-20-21 E 117.27 Feet to a point thence turning and running N 6-40-02 E 15.36 feet to a point; thence turning and running N 87-37-00 E 90.00 feet to a point, being the point of BEGINNING.

TOGETHER with a right of ingress and egress over the adjoining property owned by Mortgagor to access U.S. Highway No. 29.

DERIVATION: This is the same property conveyed to Quentin S. Broom, Jr. herein by deed from Virginia S. Broom recorded January 15, 1993, in Deed Book 59-R, Page 518, said ROD Office and subsequently conveyed to Amy B. Broom by deed from Quentin S. Broom dated July 31, 2006, and recorded August 4, 2006, in the Office of the Register of Deeds for Spartanburg County in Book 86-K at Page 373.

TMS#:

6-21-02-127.01

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Property Address: 1041 W. O. Ezell Blvd, Spartanburg, SC 29301

AND

Mortgage-2 Property

All that certain piece, parcel or tract of land lying and being in the County of Spartanburg, State of South Carolina, being shown and designated as Lot No. 1, upon a plat prepared for Ralph W. Broom by Gooch & Taylor Surveyors, dated March 21, 1951, and recorded in Plat Book 28, Page 310, Office of the Register of Deeds for Spartanburg County. **LESS AND EXCLUDING**, however, all that certain piece, parcel or lot of land shown and designated as Lot 1-B, consisting of 1.77 acres upon a plat prepared for Quentin Broom, Jr., and recorded in Plat Book 119, Page 33, said ROD Office.

DERIVATION: This is a portion of the same property devised to Virginia S. Broom by the Will of Ralph W. Broom as shown in Probate File No. 21425, Probate Court for Spartanburg County, South Carolina. This is the same property conveyed to the other Mortgagors herein by deeds from Virginia S. Broom recorded in Deed Book 67-D, Page 380, and Deed Book 67-D, Page 384, Office of the Register of Deeds for Spartanburg County.

TMS#: 6-21-02-127.00

Property Address: 1045 W. O. Ezell Blvd, Spartanburg, SC 29301

41. Plaintiff has and does hereby elect to declare the total unpaid balance of principal and interest on the Loan Documents due and payable and does hereby elect to foreclose Mortgage-1 and Mortgage-2 on the Mortgaged Properties, reserving, however, any and all other rights and remedies Plaintiff may have under the Loan Documents including the right to a deficiency judgment and the right to judgment against any other person or entity liable for the debt.

42. There is due and owing on the Loan Documents, as of June 5, 2012, the total sum of Seven Hundred Eleven Thousand Eight Hundred Seventy Nine and 26/100 (\$711,879.26)

Dollars consisting of:

	Note-1	Note-2
Principal Balance	\$116,100.93	\$583,982.32
Accrued but unpaid interest	<u>\$1,956.24</u>	<u>\$9,839.77</u>
Balance	\$118,057.17	\$593,822.09

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Total Balance on Loan Documents		\$711,879.26
Current <i>Per Diem</i>	\$15.90	\$80.00
Interest Rate <i>Per Annum</i>	5.00%	5.00%

43. Despite demand, Broom Jr. has not paid the aforesaid amounts due under the Loan Documents.

44. Upon information and belief, certain costs for inspecting and securing the subject property have been incurred by the Plaintiff as a result of this delinquency, and Plaintiff is informed and believes it is entitled to reimbursement for such charges, if any.

45. If Plaintiff secures the premises being foreclosed herein, Plaintiff's costs of securing said premises should be added to any judgment rendered on its behalf. If Plaintiff pays any utility charges constituting a lien on said premises, Plaintiff's costs should be added to any judgment rendered on its behalf.

46. Plaintiff does not waive, but specifically demands judgment against defendant Quentin S. Broom, Jr. for the full amount found to be due to Plaintiff under the Loan Documents held by Plaintiff, with the right to enter a personal deficiency judgment against Quentin S. Broom, Jr. for any deficiency in this action remaining after the sale of the Mortgaged Properties.

WHEREFORE, Plaintiff prays that:

1. That the indebtedness due on the Loan Documents be computed, ascertained and established by this Court, together with all accrued interest, all costs of this action and other costs of collection incurred by Plaintiff, and reasonable attorneys' fees, and that Plaintiff be granted judgment of foreclosure against defendants Broom Jr., Amy Broom, Ann Broom, and Russell Broom, in that amount;

2. This Court issue its Order:

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(a) Declaring Plaintiff's Mortgage-1 to be a valid mortgage lien upon the Mortgage-1 Property;

(b) Declaring Plaintiff's Mortgage-2 to be a valid first priority mortgage lien upon the Mortgage-2 Property;

(c) Directing that Plaintiff's Mortgage-1 and Mortgage-2 described herein be foreclosed and the Mortgaged Properties hereinabove described be sold separately in accordance with the law and practices of this Court, and that defendants Broom Jr., Amy Broom, Ann Broom, and Russell Broom, and all other persons claiming by, through or under them, be barred and defendants Broom Jr., Amy Broom, Ann Broom, and Russell Broom be forever foreclosed of all right, title, interest and equity of redemption in and to the said Mortgaged Properties, or any part thereof;

(d) Directing that out of the proceeds of the sales of the Mortgaged Properties, after the costs of this action and of such sale have been deducted, Plaintiff be paid in full the amount due on the Loan Documents with the interest thereon and attorneys' fees as set out above, and all amounts that it may hereafter and prior to such sale have to pay pursuant to the provisions of its Mortgage-1 and Mortgage-2 with the surplus, if any, to be distributed according to law; and

(e) Granting Plaintiff a personal judgment against defendant Quentin S. Broom, Jr. for any deficiency amount; and

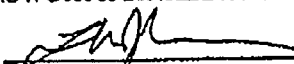
3. Granting Plaintiff such other and further relief as this Court may deem just and proper.

[signature on following page]

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HONORABLE JUDGE

HAYNSWORTH SINKLER BOYD, P.A.

By:


Louise M. Johnson

1201 Main Street, Suite 2200
Post Office Drawer 11889 (29211-1889)
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June 25, 2012

Attorneys for Arthur State Bank

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EXHIBITS

Exhibit A Broom Jr. POA
Exhibit B Note-1
Exhibit C Mortgage-1
Exhibit D Russell Broom POA
Exhibit E Virginia Broom POA
Exhibit F Note-2
Exhibit G Mortgage-2

2012-CP-42-2714

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JAMES H. BLACKLEY

DEED 73-X PAGE 0916

STATE OF SOUTH CAROLINA
COUNTY OF Horry
RECORDED
01 JUN -1 1994-36
DURABLE POWER OF ATTORNEY
(Duplicate Original has been
recorded in Horry County)

KNOW ALL MEN BY THESE PRESENTS, that I, Quentin S. Broome, Jr., of Horry County, South Carolina, have made, constituted and appointed, and by these presents do make, constitute and appoint my father, Quentin S. Broome, my true and lawful agent and attorney for me and in my name, place and stead to do the following acts and things and to execute the following powers, and I intend that, subject to the definitions hereinafter contained, the same be construed in the broadest possible manner:

PROPERTY AND FINANCIAL POWERS GRANTED

1. To endorse any and all checks, drafts, or vouchers, and to cash the same or deposit their proceeds in my bank account; to sign and issue checks on any bank account in my name; and to make, deliver, and execute, cancel, modify, buy, sell, exchange, pledge, or otherwise acquire or dispose of any tangible or intangible property of mine by means of any type instrument necessary or advisable to accomplish the same.
2. To manage, operate, protect and conserve all securities, properties, interests and investments owned by me; to collect, hold or pay out or otherwise deal with the income therefrom or the principal thereof; and from time to time make investments for me without any restrictions whatsoever as to the kind of investment.
3. To assign and transfer upon the books of any municipality, corporation, association or company any stocks, bonds or other securities which are now or may hereafter be registered in my name.
4. To vote in person or by proxy at corporate or other meetings and to effect, participate in or consent to any reorganization, merger, voting trust, or other action affecting any securities which I now or may hereafter own, or the issuers thereof, and to make payments in connection therewith.
5. To enter into, perform, modify, extend, cancel, compromise, or otherwise act with respect to any contract of any sort whatsoever.
6. To procure insurance against any and all risks affecting property or persons, and against liability, damage, or claim of any sort; to alter, amend, extend, or cancel such insurance.
7. To borrow money in such amounts, for such periods and upon such terms as my attorney shall deem proper and to secure any loan by the mortgage or pledge of any property of mine.
8. To pay any amount that may be owing at any time by me upon any contract, instrument, or claim; to deliver or convey any tangible or intangible personal property, instrument or security that I may be required to deliver or convey by any contract or in performance of any obligation.

WITNESS MY HAND AND SEAL OF OFFICE

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DEED 73-X PAGE 917

9. With respect to any account in my name or in any other name for my benefit with any broker, bank, banker or trust company, to make deposits therein and withdrawals therefrom whether by check or otherwise, and to open, to continue and to close such account or any similar account.

10. To receive payment of any indebtedness due me or any money owing to me, and to receive payment of dividends, interest and principal, and to give receipts, releases and acquittances therefor.

11. To open and have free access to any lockbox to which I have access, and to all the contents thereof.

12. To buy, sell, exchange, mortgage, encumber, lease or by any other means whatsoever to acquire or dispose of real property; to execute and deliver any deed with or without covenants or warranties to partition real property, to manage real property, and to repair, alter, renovate, improve, remodel, erect, or tear down any building or other structure or part thereof.

13. To make executory and deliver, or to receive or obtain, any lease, indenture of lease or contract for lease for any real property and any assignment of lease or indenture of lease and consent to the assignment thereof, for such periods of time, and with such provision for renewals, modifications, agreements, and covenants as my attorney shall deem proper; and to amend, extend, modify, or cancel any of the terms, covenants or conditions, including covenants to pay rent, of any lease, indenture of lease and contract of lease, whether heretofore or hereafter made, and to cancel, surrender, and accept the surrender of any lease, indenture of lease and contract of lease.

14. To purchase or otherwise acquire any note, bond or mortgage, to assign, transfer, modify, extend or satisfy any such instrument now or hereafter held by me or in which I have any interest upon such terms as my attorney shall deem proper.

15. To receive any legacy, bequest, devise, gift or transfer of real property or of tangible or intangible personal property, to give full receipt and acquittance therefor; to approve accounts of any business, estate, trust, partnership, or other transaction whatsoever in which I may have any interest of any nature whatsoever and to enter into any compromise and release in regard thereto.

16. To employ and compensate nurses, doctors, attorneys, agents, accountants, investment advisers, brokers, tax specialists, realtors, domestic servants and others, and to remove them and appoint others in their place, desired by my attorney needful for the proper handling of my affairs.

17. To assert, defend, compromise, acquire or dispose of or otherwise deal with any claim, either alone or in conjunction with other persons, relating to me or any property of mine or any other person, or any government, or any estate of a deceased or an incompetent person, or any trust whether created by will of a

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M. HOFFMAN, CLERK

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deceased person or instrument of a living person, or property of whatsoever nature; to institute, prosecute, or otherwise dispose of, and to appear for me in any proceedings at law or in equity or otherwise before any tribunal for the enforcement of or the defense of any such claim, and to retain, discharge, and substitute counsel and authorize appearance of such counsel to be entered for me in any such action or proceeding.

18. To arbitrate any claim in which I may be in any manner interested, and for that purpose to enter into agreements to arbitrate, and either through counsel or otherwise to carry on such arbitration and perform or enforce any award entered therein.

19. To prepare, execute, verify and file in my name and on my behalf any and all types of tax returns, amended returns, declarations of estimated tax, report, protest, application for correction of assessed valuation of real or other property, appeal, brief, claim for refund, or petition, including petition in the Tax Court of the United States, in connection with any tax imposed or purported to be imposed by any government, or claimed, levied, or assessed by any government, and to pay such tax and to obtain any extension of time for any of the foregoing; to execute waivers or consents agreeing to a later determination and assessment of taxes then is provided by any Statute of Limitations; to execute waiver of restrictions on the assessments and collection of any deficiency in tax; to execute closing agreements and all other documents, instruments and papers relating to any tax liability of mine of any sort; to institute and carry on either through counsel or otherwise any proceeding in connection with contesting any such tax or to recover any tax paid or to resist any claim for additional tax on any proposed assessment or levy thereof; and to enter into any agreements or stipulations for compromise or other adjustments or dispositions of any tax.

20. To make any reports of information of any sort whatsoever to any government as required by law or regulation.

21. To exercise any powers and any duties vested in me, whether solely or jointly with any other or others as executor, administrator, or trustee or in any other fiduciary capacity, so far as such power or duty is capable of being validly delegated.

22. To deal with my attorney in his or her individual capacity or in any fiduciary capacity held by said attorney, in buying and selling assets, in lending and borrowing money and in all other transactions, irrespective of the occupancy of the same person of dual positions.

GENERAL PROVISIONS

No general authority or power granted herein shall be effective if in conflict with any specific health care directive, health care power of attorney or Declaration of a Desire for a Natural Death (Living Will) which I may have executed before or after the

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STANDARD CHAIR
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M. H. B. BLANCHET

DEED 73-X PAGE 919

execution of this Durable Power of Attorney. In any event, my attorney-in-fact is authorized to make health care decisions only if I am unable to give an informed consent to such treatment or to the termination of such treatment.

And generally my attorney has authority to transact all business affairs and interests, as fully and completely as I myself might do if personally present; and to do any and all acts and things which my attorney shall deem useful, necessary or proper to do any of the foregoing acts or to carry out any of the foregoing powers.

My attorney shall have full power of substitution and revocation, and such substitution or revocation may relate to or be limited to any one or more of all of the foregoing acts or powers, or limited as to time or in any other respect as my attorney shall deem proper.

Appointment of a guardian or conservator for the principal shall not terminate the powers granted under this power of attorney unless the court making such appointment specifically finds that such termination is in the best interest of the principal.

This Power of Attorney shall not be affected by physical disability or mental incompetence of the principal which renders the principal incapable of managing his or her own estate. In other words, I intend that the authority herein given to my said attorney is exercisable notwithstanding any physical disability or mental incompetence suffered by me. Furthermore, the authority herein given is exercisable notwithstanding any later uncertainty as to whether I am dead or alive.

The rights, powers and authority of said attorney herein granted shall commence and be in full force and effect immediately and the same shall remain in full force and effect thereafter until I have revoked this Power of Attorney by written instrument recorded in the public records of the County aforesaid or the attorney has resigned by delivery to me of a copy of a written resignation duly recorded in the public records of the County aforesaid.

Subject to the discretionary powers herein granted, my said attorney shall have a fiduciary relationship with me and is accountable and responsible to me as a fiduciary. Nonetheless, no loss or damage accruing to me or my estate as a result of the exercise or failure to exercise of any discretion herein vested in the attorney shall be charged or imputed to the attorney, except for such loss or damage as may result from bad faith or gross negligence in the exercise of the attorney's discretion.

I direct that it shall not be necessary or required for my attorney to file with any court in any jurisdiction any surety bond or inventory of any deposits, checks in action and personal property, unless a court shall, in its discretion, require same to be done.

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DEED 73-X PAGE 0920

Any third party may rely upon a certified copy of this instrument as though it were the original.

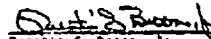
If the Court shall determine my said attorney has acted in bad faith or has been grossly negligent in carrying out the authority herein given, the Court shall remove the attorney and appoint the successor appointed herein, or, if no successor is appointed herein, any other person who shall, in the Court's discretion, be duly qualified and competent to serve hereunder. Any successor attorney shall have all the authority and power herein given to the attorney first named above.

Notwithstanding any provisions herein to the contrary, my attorney shall not satisfy the legal obligation of said attorney out of any property subject to this power of attorney, nor shall my attorney exercise or have the right to exercise any incidents of ownership in any policies of life, accident or other similar insurance policies which I possess on the life of my attorney.

I have also made, constituted and appointed and by these presents do make, constitute and appoint as my true and lawful attorney my mother, Ann G. Broom, who shall have all of the rights, powers and duties, authority and responsibility as conferred upon my attorney first named above. Ann G. Broom shall be known as my "Stand-by Attorney" until such person is authorized to act at which time my "Stand-by Attorney" shall become my "Attorney". Such "Stand-by Attorney" shall in no event be authorized to act hereunder so long as my attorney first named above is living, competent to act and has not resigned, nor been removed. Upon the occurrence of any of these conditions my "Stand-by Attorney" shall be fully authorized to act and a statement of renunciation or resignation by my attorney first named above, a written revocation by me, or an Affidavit signed by such attorney stating that he or she is unable or unwilling to serve, shall be conclusive evidence of such fact. Any third party relying on such evidence of authority shall incur no liability to me or to my Estate.

In the event any successor attorney is unable or unwilling to act or continue to act, the Court having jurisdiction over this matter may appoint another successor attorney-in-fact who shall succeed to all rights, powers and authority originally granted herein.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 19th day of May, 2001.

 (Seal)
Quentin S. Broom, Jr.

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The foregoing Power of Attorney was signed, sealed, published and attested by Quentin S. Brown, Jr. as and for his Power of Attorney, in the presence of us, who, at his request and in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses hereto on the date above written.

John T. Brown of Myrtle Beach, S.C.
(Notary Public)
David A. Brown of Myrtle Beach, S.C.
(Witness)

STATE OF SOUTH CAROLINA }
 COUNTY OF Horry }

ACKNOWLEDGMENT

I, Diana M. Williams, a Notary Public for the County and State aforesaid, do hereby certify that Quentin S. Brown, Jr. personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official stamp on and seal this 24 day of May, 2001.

Diana M. Williams
 Notary Public for South Carolina
 My Commission Expires: 11/01/09

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 2012 JUN 27 PM 4:01
 M. ROSE BLANCHLEY

HOME EQUITY LINE 2 - IN EXCESS OF \$50,000.00 - INTEREST ONLY

9. **DEFINITIONS.** In this Agreement, these terms have the following 7. **CARDIFF LAMBS.** Subject to the terms and conditions of the

A. Present. The pronouns 'I,' 'me' and 'my' refer to the

IN EXCESS OF 150 CASH IN INTEREST, and any extensions, renewals, modifications or substitutions of it.

D. Credit Limit.—Credit Limit means the maximum amount of principal you are obligated to owe you under this Line of Credit, at any one time. My Credit Limit is stated at the top of this Agreement.

F. Loan Account Balance. Loan Account Balance means the sum of the unpaid principal balance advanced under the terms of this Agreement, finance charges, fees, and other charges that are due, and other amounts advanced to or on behalf of the borrower under the terms of this line of credit.

Other important terms are defined throughout this Agreement.

3. **AGREEMENT TERM.** This Agreement begins on the Agreement Date and continues until the Maturity Date. I may request advances to 10 YEARS thereafter beginning on the Agreement Date.

A. 561 YMC + CHICK

D. 1) draw my Venetian account below (Triggering Entrance) Venetian account number _____

D. ☒ I made a purchase or withdrawal with my MasterCard or Discover card.

You may make the advance by advising the amount directly to me, depositing it in my checking account, or by paying a designated third person or account. You will record the amount as an advance and increase my loan account balance.

D. **Minimum Advance.** Subject to the limitations contained in this Agreement, this is not an advance:
YOU WILL ADVANCE EXACTLY THE AMOUNT I REQUEST.

THE EFFECTS OF STIMULATED RECALL

C. ☐ Maximum Amount of Advertiser. In my next request add \$/Mth

D. (2) Maximum Number of Advisers. I may not request more than _____

☐ **LIQUIDATION BALANCE.** I agree to maintain a working balance outstanding during the term of this Agreement of a minimum of \$100,000.00. (Minimum Balance)

9. COMPUTATION OF FINANCE CHARGES. Finance charges begin to accrue immediately when you make an advance to me. Finance charges will be computed as follows:

3. PERIODIC RATE AND ANNUAL PERCENTAGE RATE, 7.75% PER ANNUM

in the corresponding Annual Percentage Rate is 6.00%

10. VARIABLE RATE. The annual percentage rate may change. It will always be the value of the index specified as the:

THE HIGHEST RATE ON CORPORATE LOANS POSTED BY AT LEAST 75% OF THE U.S.'S THIRTY LARGEST BANKS KNOWN AS THE WALL STREET JOURNAL PRIME RATE

pls advise. TO THE DIRECTOR

A. B. RICHARDS. THE 10th YEAR OF JOURNALISM IN THE 19th CENTURY.

On the first day of the bidding, the index rate increased. An index rate increase will result in a higher interest charge and it may have the effect of increasing the proceeds of the Minimum Payment. A decrease in the index rate will have the opposite effect as it will result in a lower interest charge and will have the effect of decreasing the proceeds of the Minimum Payment.

and transportation costs. MODERATELY The smallest percentage rate change
increases or decreases MODERATELY. If the interest rate changes more frequently than
annually.

the annual percentage rate, you use the index rate in effect on the day you adjust the annual percentage rate to determine the new annual percentage rate. In such a case, you will ignore any change in the index rate that occurs between payment percentage rate adjustments.

D. (3) Comments. Any annual percentage rate increases or decreases not implemented by the State because of periodic council or finance rate steps, or because of a statutory limitation may be added prior to subsequent rate adjustment periods and may be implemented in the extent not offset by opposite movement.

in the index sale. If true, then, the annual percentage rate will not relate to the index sale in the manner described. When you have obtained the annual percentage rate to rate adjustment in all business & otherwise by the index sale, the joint relationship between the index rate and the annual percentage rate will exist.

D. Rate Change Division, Annual percentage rate changes as subject to the following divisions:

11) () Federal Units. The Annual Policeage Rate (annual interest) by more than _____ percent is paid

131 ☒ IMMIGRANT SHOW: The Annual Argentinean Ball was

may be lower than: 100%

(1) Waters Corp. The Annual Percentage Rate will not be higher than 18.000%

11. FEES AND CHARGES. I agree to pay, or have paid, the fees and charges listed in the FEES APPENDIX that appears at the end of this Agreement.

PLAINTIFF'S
EXHIBIT
B

W. ROBERTSON

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Spartanburg County

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12. PAYMENT DATE. During the term of this Agreement, a Minimum Payment will be due on or before the Payment Date indicated on my periodic statement for my Billing Cycle in which there is an outstanding balance on my account. My Minimum Payments will be due MONTHLY.

13. MINIMUM PAYMENT. On or before each Payment Date, I agree to make a payment of at least the Minimum Payment amount. The Minimum Payment will equal the following:
THE AMOUNT OF ACCRUED FINANCE CHARGES ON THE LAST DAY OF THE BILLING CYCLE.

14. PAYMENT. The Minimum Payment will be rounded TO THE NEAREST CENT.

D. ☐ PAYMENT OF BALANCE. If my Loan Account Balance at the end of a Billing Cycle is less than \$100.00, my Minimum Payment will equal the entire outstanding Loan Account Balance.

C. ☐ PAYMENT AT RISK. On the Maturity Date I must pay the entire outstanding Loan Account Balance.

15. ☐ PRINCIPAL REDUCTION. The Minimum Payment I do not reduce ☐ may not fully repay the principal balance outstanding on my Loan Account Balance.

16. ☐ FINAL PAYMENT. At maturity, I ☐ may have to ☐ may repay the entire outstanding Loan Account Balance in a single payment. At that time you may, but are not obligated to, advance the line of credit. If you do refund the line of credit at maturity, I understand that I may have to pay some or all of the closing costs normally associated with a new loan.

18. ADDITIONAL PAYMENT TERMS. If my Loan Account Balance on a Payment Date is less than the Minimum Payment amount, I must pay only the amount necessary to reduce my Loan Account Balance to zero or to any required Minimum Balance. If I continue to fail to pay the Minimum Payment amount, you may, but are not required to, advance money to me to make the payment. All the terms of this Agreement will apply to such an advance. Subject to my required Minimum Balance, I can pay all or part of what I owe at any time. I must continue to make my periodic Minimum Payment so long as I owe any amount. Unless otherwise agreed or required by applicable law, payments and other credits will be applied first to any charges from other than principal and finance charges, then to any finance charges that are due, and finally to principal. My late charge will be assessed on any payment when the only delinquency is due to late fees assessed on earlier payments and the payment is otherwise a full payment.

17. ☐ NEGATIVE AMORTIZATION. Under some circumstances, my payments will not cover the finance charges that accrue and negative amortization will occur. Negative amortization will increase the amount that I owe you and reduce my equity in my home. In the event this negative amortization occurs, the unpaid portion will be:

19. SECURITY. You have secured my obligations under this Line of Credit by taking a security interest in my home, a separate security instrument dated 09-20-2009 in the following property:

THE DWELLING AND REAL PROPERTY LOCATED AT 1641 W.D. EZEEL BLVD., SPARTANBURG, SC

Property securing any other loans that I have with you may also secure this Agreement.

10. PROPERTY INSURANCE. I will insure or retain insurance coverage on the Property and abide by the insurance requirements of my security instrument securing this Line of Credit. I may obtain property insurance from anyone I want that is reasonably acceptable to you. If I get the insurance from or through you, I will pay for of coverage.

20. COMMISSIONS OR OTHER REMUNERATION. I understand and agree that any insurance premiums paid to insurance companies as part of this Agreement will involve money retained by you or paid back to you as commissions or other remuneration.

In addition, I understand and agree that some other payments to third parties as part of this Agreement may also involve money retained by you or paid back to you as commissions or other remuneration.

21. DEFAULT. I will be in default if any of the following occur:

A. Payment. I fail to make a payment as required by this Agreement.

B. Property. If, upon or without notice, the Property is sold or the right in the Property is transferred.

C. ☐ Fraud. I engage in fraud or material misrepresentation in connection with this Line of Credit.

22. REMEDIES. After default, and after you give any legally required notice and opportunity to cure, you may at your option do any of the following:

A. Termination and Acceleration. You may terminate this Line of Credit and make all or any part of the amount owing by the terms of this Agreement immediately due.

B. Advance. You may temporarily or permanently prohibit any additional advances.

C. Credit Limit. You may temporarily or permanently reduce the Credit Limit.

D. Additional Security. You may demand additional security or additional parties to be obligated to pay this Agreement.

E. Insurance Benefits. You may make a claim for any and all insurance benefits or benefits that may be available on my default.

F. Payments Made On My Behalf. You may make amounts advanced on my behalf immediately due, and you may add such amounts to the Loan Account Balance.

G. Seizure. You may use any and so immediate you have with applicable law or any agreement regarding this Agreement.

Except as otherwise required by law, by checking a remedy, you do not give up your right to use another remedy. You do not waive a default if you check not to use a remedy. By electing not to use any remedy, you do not waive your right to later exercise the remedy a default and to use any remedies if the default continues or occurs again.

23. COLLECTION EXPENSES AND ATTORNEY'S FEES. On or after default to the extent permitted by law, I agree to pay the following:

ALL EXPENSES OF COLLECTION, ENFORCEMENT OR PROTECTION OF YOUR RIGHTS AND REMEDIES UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEY'S FEES NOT IN EXCESS OF 15 PERCENT OF THE UNPAID BALANCE AFTER DEFAULT AND REPAIR TO ANY AT RISK WHO IS NOT YOUR SALARIED EMPLOYEE. THESE EXPENSES ARE DUE AND PAYABLE IMMEDIATELY, IF NOT PAID IMMEDIATELY, THESE EXPENSES WILL BE ACCRUED FROM THE DATE OF PAYMENT UNTIL PAID IN FULL AT THE HIGHEST PERMITTED RATE PERMITTED BY THE APPLICABLE LAW. ALL FEES AND EXPENSES WILL BE SECURED BY THE PROPERTY I HAVE GRANTED TO YOU. IF ANY, TO THE EXTENT PERMITTED BY THE APPLICABLE LAW, I AGREE TO PAY THE REASONABLE ATTORNEY'S FEES YOU INCUR TO COLLECT THIS DEBT AS AWARDED BY ANY COURT EXERCISING JURISDICTION UNDER THE APPLICABLE LAW.

24. SUSPENSION OF CREDIT AND REDUCTION OF CREDIT LIMIT. You may temporarily prohibit me from obtaining additional advances or reduce my Credit Limit during any period in which any of the following are in effect:

A. The value of the Property securing this Line of Credit declines significantly below its appraised value for purposes of the Line of Credit.

B. You reasonably believe that I will not be able to meet the payment requirements under my Line of Credit due to a material change in my financial circumstances.

C. I am in default of a material obligation under this Line of Credit. I understand that you consider all of my obligations to be material. Categories of obligations that you consider material include, but are not limited to: my obligation to not commit fraud or misrepresentation in connection with this Line of Credit; my obligation to meet the repayment terms of this Line of Credit; my obligation to not adversely affect the Property or your rights in the Property; my obligation to pay fees and charges, my advance obligations; my obligation to abide the terms of the instrument securing this Agreement; and any other security instruments on the Property; my obligation to notify you and my obligation to provide you with information.

D. Government action prevents you from enforcing the actual percentage rate provided for in this Agreement.

E. The priority of your security interest is adversely affected by government action to the extent that the value of the security instrument is less than 120 percent of my Credit Limit.

F. The maximum annual percentage rate allowed under this Agreement is reached.

G. You are notified by a regulatory agency that prohibited advances constitute an unsafe and unsound practice; or

H. Any Default results in a suspension of credit privileges.

In order to maintain my credit privileges under the original terms of this Agreement, I must send you a written request to that effect. My credit privileges will only be restored if you determine that the suspension which forced you to prohibit additional extensions and/or reduce the Credit Limit no longer exists. If a special or credit report from me is required in making this determination, you may be allowed by applicable law to charge me such fee. If credit privileges were suspended at my request, they need not be reinstated unless you otherwise request reinstatement.

EXHIBIT: Home Equity Variable Rate Agreement - PROTECTIVE 2010003
LTCO Bank Systems, Inc., ST. CLOUD, MN

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25. SET-OFF. You may set off any amount due and payable under the terms of this Agreement against my right to receive money from you, until payment by applicable law. For example, your right of set-off will not apply if I can obtain credit under this Agreement by using a credit card.

26. AMENDMENTS. Generally, the terms of this Agreement cannot be changed. You may, however, make the following changes:

- A. You may make changes that I agree to in writing at the time of the change.
- B. You may make changes that will unequivocally benefit me.
- C. You may make editorial changes.
- D. You may change the index and margin if the original index becomes unobtainable. Any new index will have an historical movement substantially similar to the original index, and together with the new margin, produce an annual percentage rate substantially similar to the rate in effect at the time the original index became unobtainable.
- E. You may make changes that are described elsewhere in this Agreement.

27. TERMINATION. I may terminate this Line of Credit at any time upon written notice to you. Termination by the Borrower terminates the Line of Credit for all Borrowers. Termination will not affect my obligation to repay advances made prior to the termination, nor will it affect my right to perform under the terms of an obligation existing at the time of termination. Upon termination I will return to you any remaining access devices in my possession that are issued or used in connection with the Line of Credit.

28. WAIVERS AND CONSENT. To the extent not prohibited by law and except for any required notice of right to cure for the funds to make a required payment, I waive present, prospective for payment, demand, notice of acceleration, notice of intent to accelerate and notice of default. To the extent not prohibited by law, I and any other party to this Line of Credit, also consent to the foregoing actions that you may take, and waive defenses that may be available based on these actions, or based on the state of a party to this Line of Credit.

- A. You may revoke or amend payments on this Agreement, regardless of the number of such revokes or amendments.
- B. You may release any borrower or other person who may be liable for the indebtedness under this Agreement.
- C. You may release, substitute or impair any property securing this Agreement.
- D. You may waive your right of set-off.
- E. You may enter into any sale or repurchase of this Agreement to any person in any amount and I waive notice of such sale or repurchase.
- F. I agree that any Borrower is authorized to modify the terms of this Agreement or any other Line of Credit document.
- G. You may inform any party who guarantees this Line of Credit of any loan accommodations, releases, extensions, modifications, substitutions, or future advances.

No duty of forbearance on your part in exercising any of your rights or remedies will be construed as a waiver by you, unless such waiver is in writing and is signed by you.

29. TAX DEDUCTIBILITY. I shall claim a tax deduction regarding the deductibility of interest and charges under the Line of Credit.

30. PERIODIC STATEMENTS. If I have an outstanding balance on my account at the end of each billing cycle, you will send me a periodic statement of this and of each Billing Cycle. The periodic statement will reflect, among other things, credit advances, finance charges, credit changes, payments made, other credits, my previous account balance

and my new account balance. The periodic statement will also identify my Minimum Payment for the cycle and the date it is due (Payment Due).

31. JOINT AND INDIVIDUAL LIABILITY AND SUCCESSIONS. My obligation to pay this Line of Credit is independent of the obligation of any other person who has also agreed to pay it. You may sue me alone, or anyone else who is obligated on this Line of Credit, or any number of us together, to collect on this Line of Credit. Extending this Line of Credit or new obligations under this Line of Credit will not affect my duty under this Line of Credit and I will still be obligated to pay this Line of Credit. The duties and benefits of this Line of Credit will bind and benefit the successors and assigns of you and me.

32. INTEGRATION AND SEVERABILITY. This Agreement is the complete and exclusive expression of the agreement. If any provision of this Agreement is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable.

33. INTERPRETATION. Whenever used, the singular includes the plural and the plural includes the singular. The above headings are for convenience only and are not to be used to interpret or define the terms of this Agreement.

34. NOTICE, FINANCIAL REPORTS, AND ADDITIONAL DOCUMENTS. Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail to the appropriate party's address above, or to any other address designated in writing. Notice to one Borrower will be deemed to be notice to all Borrowers. I will inform you in writing of any change in my name, address or other applicable information. I will provide you any financial statement or information you request. All financial statements and information I give you will be correct and complete. I agree to sign, deliver, and file any additional documents or certificates that you may consider necessary to perfect, continue, and protect my obligation under this Line of Credit and to conform your own state or any Property, Line of Credit or the agreement.

35. CREDIT INFORMATION. I agree to supply you with whatever information you reasonably need to credit your debt to continue this Line of Credit. You will not be required to provide information without undue frequency, and will give me reasonable time in which to supply the information.

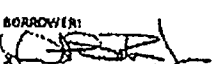
36. APPLICABLE LAW. This Agreement is governed by the LAWS OF SOUTH CAROLINA, THE UNITED STATES OF AMERICA AND, TO THE EXTENT REQUIRED, BY THE LAWS OF THE JURISDICTION WHERE THE PROPERTY IS LOCATED.

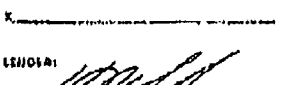
37. OTHER TERMS. If checked, the following addenda are attached to and made a part of this Agreement:

- A. ☐ Addendum Withdrawal
- B. ☐ Common Law Option
- C. ☐ Credit Insurance
- D. ☐ Discounted Rate
- E. ☐ Prioritized Rate
- F. ☐

38. ADDITIONAL TERMS.

SIGNATURES. I understand that terms following a ☐ only apply if checked. By signing, I agree to the terms of this Agreement and acknowledge receipt of a copy of this Agreement.

BORROWER:

QUINTIN S. BRODY, JR.

W. HAROLD MCDONALD, SENIOR VICE PRESIDENT


**YOUR BILLING RIGHTS
KEEP THIS NOTICE FOR FUTURE USE**

This notice contains important information about your rights and our responsibilities under the Fair Credit Billing Act. Notify Us In Case of Errors or Questions About Your Bill. If you think your bill is wrong, or if you need more information about a transaction on your bill, write us at the address listed on your bill. Write to us as soon as possible. We must hear from you no later than 60 days after the first bill on which the error or problem appeared. We can telephone you, but doing so will not preserve your rights.

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M. HONG BLACKLEY

In your letter, give us the following details: (a) Your name and account number, (b) The date account of the suspected error, (c) Describe the error and explain if you can, why you believe there is an error. If you need more information, describe the item you are not sure about. If you have authorized us to pay your bill automatically from your savings, checking, credit or other account, you can stop the payment on any account you think is wrong. To stop the payment your letter must reach us three business days before the automatic payment is scheduled to occur.

Your Rights and Our Responsibilities After We Receive Your Written Notice

We must acknowledge your letter within 30 days, where we have collected the error by then. Within 30 days, we must either correct the error or explain why we believe the bill was correct.

After we receive your letter, we cannot try to collect any amount you question, or report you as delinquent. We can continue to bill you for the amount you question, including finance charges, and we can apply any unpaid amount against your Credit Limit. You do not have to pay any questioned amount while we are investigating, but you are still obligated to pay the parts of your bill that are not in question.

If we find that we made a mistake on your bill, you will not have to pay any finance charges related to any questioned amount. If we didn't make a mistake, you may have to pay finance charges, and you will have to make up any missed payments on the questioned amount. In either case, we will send you a statement of the amount you owe and the date that it is due.

If you fail to pay the amount that we think you owe, we may report you as delinquent. However, if our explanation does not satisfy you and you write to us within 90 days telling us that you still refuse to pay, we must let you know we intend you to that you have a question about your bill. And, we must tell you the name of anyone we reported you to. We must let anyone we report you to that the matter has been raised between us and them finally is.

If we don't follow these rules, we can't collect the full 15% of the questioned amount, even if you believe we are correct.

Special Rule for Credit Card Purchases

If you have a problem with the quality of property or service that you purchased with a credit card, and you have tried in good faith to correct the problem with the merchant, you may have the right not to pay the remaining amount due on the property or service. There are two conditions on this right: (a) You must have made the purchase in your home state or, if not within your home state, within 100 miles of your current mailing address; and (b) The purchase price must have been more than \$100. These limitations do not apply if we own or operate the merchant, or if we mailed you the advertisement for the property or service.

SEE APPENDIX

OTHER CHARGES

LATE CHARGE: 5.00% OF THE LATE AMOUNT WITH A MIN OF \$5.00 AND A MAXIMUM OF \$14.00 IF MORE THAN 10 DAYS LATE. I AGREE THAT YOU MAY CHARGE THESE AMOUNTS PURSUANT TO SECTIONS 37-1-108 AND 37-3-203 OF THE SOUTH CAROLINA CONSUMER PROTECTION CODE SO AS TO ALWAYS BE THE MAXIMUM AMOUNTS ALLOWED BY LAW.

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M. HOPE BLANCHLEY

TIMOTHY L. CLEVELAND :
Attorney At Law
400 East Henry Street
Spartanburg, SC 29302

This document was prepared by: ARTHUR STATE BANK - SPARTANBURG - EAST 766 EAST MAIN STREET, PO BOX 5135 SPARTANBURG, SC

State of South Carolina _____ Space Above This Line For Recording Date _____

MORTGAGE
(With Future Advance Clause)

1. **DATE AND PARTIES.** The date of this Mortgage (Security Instrument) is 09-30-2003. and the parties, their addresses and tax identification numbers, if required, are as follows:

MORTGAGOR: QUENTIN S. BROOK, JR.
1045 W. D. EZZELL BLVD
SPARTANBURG, SC 29301

☐ If checked, refer to the annexed addendum incorporated hereto, for additional Mortgages, their signatures and acknowledgments.

LENDER: ARTHUR STATE BANK-SPARTANBURG EAST
ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF SOUTH CAROLINA
756 E. MAIN STREET
PO BOX 5135 SPARTANBURG, SC 29304

2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, had to secure the Secured Debt (defined below) and Mortgagee's performance under this Security Instrument, Mortgagee grants, bargains, conveys and mortgages to Lender the following described property:
SEE EXHIBIT "A" ATTACHED HERETO AND MADE PART THEREOF

MTG-2003-03104
Recorded 5 Pages on 10/2/2003 12:10:31 PM
Recording Fee \$11.00 Documentary Stamps \$0.00
Office of Registrar of Deeds, Spartanburg, S.C.
Spartanburg, S.C.



The property is located in SPARTANBURG at 1045 W. D. EZZELL BLVD.
(County) (City) South Carolina 29301
(Address) (Zip Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, all water and riparian rights, ditches, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property").

3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount secured by this Security Instrument at any one time shall not exceed \$ 117,000.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument. Interest under the Note will be deferred, secured or capitalized; however, Mortgagee shall not be required to defer, accrue or capitalize any interest except as provided in the Note.
4. **SECURED DEBT AND FUTURE ADVANCES.** The term "Secured Debt" is defined as follows:
A. Debt incurred under the terms of all promissory note(s), contract(s), guaranty(s) or other evidence of debt described below and all their extensions, renewals, modifications or substitutions. (You must specifically identify the debt(s) secured and you should include the final maturity date of such debt(s).)
NOTE OF EVEN DATE FROM QUENTIN S. BROOK, JR. IN THE ORIGINAL AMOUNT OF \$ 117,000.00, MATURING SEPTEMBER 26, 2018

Page 1 of 4



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D. All future advances from Lender to Mortgagee in either future obligations of Mortgagee to Lender under any promissory note, contract, guaranty, or other evidence of debt executed by Mortgagee in favor of Lender executed after this Security Instrument, each Mortgagee agrees that this Security Instrument will secure all future advances and future obligations that are given to or incurred by any one or more Mortgagee, or any one or more Mortgagee and others. All future advances and other future obligations are secured by this Security Instrument even though all or part may not yet be advanced. All future advances and other future obligations are secured as if made on the date of this Security Instrument. Nothing in this Security Instrument shall constitute a commitment to make additional or future loans or advances to any person. Any such commitment must be agreed to in a separate writing.

E. All other obligations Mortgagee owes to Lender, which may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagee and Lender.

F. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

In the event that Lender fails to provide any necessary notice of the right of redemption with respect to any additional indebtedness secured under paragraph F of this Section, Lender waives any subsequent security interest in the Mortgagee's principal dwelling that is created by this Security Instrument (but does not waive the security interest for the debts referenced in paragraph A of this Section).

5. **MORTGAGE COVENANTS.** Mortgagee agrees that the covenants in this section are material obligations under the Secured Debt and this Security Instrument. If Mortgagee breaches any covenant in this section, Lender may refuse to make additional extensions of credit and reduce the credit limit. By not exercising such remedy on Mortgagee's breach, Lender does not waive Lender's right to later consider the event a breach if it happens again.

Payments. Mortgagee agrees that all payments under the Secured Debt will be paid when due and in accordance with the terms of the Secured Debt and this Security Instrument.

Prior Security Interests. With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Mortgagee agrees to make all payments when due and in perform or comply with all covenants. Mortgagee also agrees not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written approval.

Claims Against Title. Mortgagee will pay all taxes, assessments, fees, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagee to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagee's payment. Mortgagee will defend title to the Property against any claims that would impair the lien of this Security Instrument. Mortgagee agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Mortgagee may have against parties who supply labor or materials to maintain or improve the Property.

Property Condition, Alterations and Inspection. Mortgagee will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagee shall not cause or allow any waste, impairment, or deterioration of the Property. Mortgagee agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Mortgagee will not permit any change in any lease, restrictive covenant or easement without Lender's prior written consent. Mortgagee will notify Lender of all demands, proceedings, claims and actions against Mortgagee, and of any loss or damage to the Property.

Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender shall give Mortgagee notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagee will in no way rely on Lender's inspection.

Authority to Perform. If Mortgagee fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Mortgagee appoints Lender as attorney in fact to sign Mortgagee's name or pay any amount necessary for performance. Lender's right to perform for Mortgagee shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the terms of this Security Instrument.

Leaseholds; Condominiums; Planned Unit Developments. Mortgagee agrees to comply with the provisions of any lease if this Security Instrument is on a leasehold. If the Property includes a unit in a condominium or a planned unit development, Mortgagee will perform all of Mortgagee's duties under the covenants, by-law, or regulations of the condominium or planned unit development.

Condemnation. Mortgagee will give Lender prompt notice of any pending or threatened action, by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Mortgagee authorizes Lender to intervene in Mortgagee's lawsuit in any of the above described actions or claims. Mortgagee assigns to Lender the proceeds of any award or claims for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

Insurance. Mortgagee shall keep Property insured against loss by fire, flood, theft and other hazards and risks reasonably associated with the Property due to its type and location. This insurance shall be maintained in the amount and for the period that Lender requires. The insurance carrier providing the insurance shall be chosen by Mortgagee subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagee fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's right in the Property according to the terms of this Security Instrument.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "loss payer clause." Mortgagee shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to bind the policies and renewals. If Lender requires, Mortgagee shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagee shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagee.

Unless otherwise agreed in writing, all insurance proceeds shall be applied to the restoration or repair of the Property or to the Secured Debt, whether or not then due, at Lender's option. Any application of proceeds to principal shall not extend or postpone the due date of the scheduled payments or change the amount of any payment. Any excess will be paid to the Mortgagee. If the Property is acquired by Lender, Mortgagee's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

Financial Reports and Additional Documents. Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem reasonably necessary. Mortgagor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Security Instrument and Lender's lien status on the Property.

6. **WARRANTY OF TITLE.** Mortgagor warrants that Mortgagor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to grant, bargain, convey, sell and mortgage the Property. Mortgagor also warrants that the Property is unencumbered, except for encumbrances of record.

7. **DUPE ON SALE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or consummation for the creation of, a transfer or sale of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 381), as applicable.

8. **DEFAULT.** Mortgagor will be in default if any of the following occur:

Payments. Any Consumer Borrower on any Secured Debt that is an open end home equity plan fails to make a payment when due.

Property. Any action or inaction by the Mortgagor or Mortgagor's agent that adversely affects the Property or Lender's rights in the Property. This includes, but is not limited to, the following: (a) Mortgagor fails to maintain required insurance on the Property; (b) Mortgagor transfers the Property; (c) Mortgagor commits waste or otherwise destructively uses or fails to maintain the Property such that the action or inaction adversely affects Lender's security; (d) Mortgagor fails to pay taxes on the Property or otherwise fails to act and thereby causes a lien to be filed against the Property that is senior to the lien of this Security Instrument; (e) a sale of Mortgagor's real estate; (f) if more than one Mortgagor, any Mortgagor dies and Lender's security is adversely affected; (g) the Property is taken through eminent domain; (h) a judgment is filed against Mortgagor and subjects Mortgagor and the Property to action that adversely affects Lender's interest; or (i) a prior lienholder forecloses on the Property and as a result, Lender's interest is adversely affected.

Executive Officers. Any Borrower is an executive officer of Lender or an affiliate and such Borrower becomes indebted to Lender or another lender in an aggregate amount greater than the amount permitted under federal laws and regulations.

9. **REMEDIES ON DEFAULT.** In addition to any other remedy available under the terms of this Security Instrument, Lender may accelerate the Secured Debt and foreclose this Security Instrument in a manner provided by law if Mortgagor is in default. In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure, or other notices and may establish time schedules for foreclosure actions.

At the option of the Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or any other event. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right in later to consider the event a default if it happens again.

10. **EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** If Mortgagor breaches any covenant in this Security Instrument, Mortgagor agrees to pay all expenses Lender incurs in performing such covenants or protecting its security interest in the Property. Such expenses include, but are not limited to, fees incurred for inspecting, preserving, or otherwise protecting the Property and Lender's security interest. These expenses are payable on demand and will bear interest from the date of payment until paid in full at the highest rate of interest in effect as provided in the terms of the Secured Debt. Mortgagor agrees to pay all costs and expenses incurred by Lender in collecting, enforcing or protecting Lender's rights and remedies under this Security Instrument. This amount may include, but is not limited to, reasonable attorneys' fees of not more than 15% of the unpaid debt when it is referred for collection to an attorney who is not a salaried employee of the Lender, court costs, and other legal expenses allowed by law. To the extent permitted by the United States Bankruptcy Code, Mortgagor agrees to pay the reasonable attorneys' fees Lender incurs to collect the Secured Debt as awarded by any court exercising jurisdiction under the Bankruptcy Code. This Security Instrument shall remain in effect until released. Mortgagor agrees to pay for any recollection costs of such release.

11. **ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601 et seq., and all other federal, state and local laws, regulations, ordinances, court orders, agency general orders or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law.

Mortgagor represents, warrants and agrees that:

- Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance is or will be located, stored or released on or in the Property. This restriction does not apply to small quantities of Hazardous Substances that are generally recognized to be appropriate for the normal use and maintenance of the Property.
- Except as previously disclosed and acknowledged in writing to Lender, Mortgagor and every tenant have been, are, and shall remain in full compliance with any applicable Environmental Law.
- Mortgagor shall immediately notify Lender if a release or threatened release of a Hazardous Substance occurs on, under or about the Property or there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor shall take all necessary remedial action in accordance with any applicable Environmental Law.
- Mortgagor shall immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any pending or threatened investigation, claim, or proceeding relating to the release or threatened release of any Hazardous Substance on the Property or in violation of any Environmental Law.

12. **ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance to escrow.

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13. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Security Instrument are joint and individual. If Mortgagor signs this Security Instrument but does not sign as evidence of debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. If this Security Instrument secures a guaranty between Lender and Mortgagor, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or exoneration laws. The duties and benefits of this Security Instrument shall bind and benefit the successors and assigns of Mortgagor and Lender.
14. **SEVERABILITY; INTERPRETATION.** This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement. Any section in this Security Instrument, amendments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or implicitly permits the variation by written agreement. If any section of this Security Instrument cannot be enforced according to its terms, that section will be severed and will not affect the enforceability of the remainder of this Security Instrument. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Security Instrument are for convenience only and are not to be used to interpret or define the terms of this Security Instrument. There is of the essence in this Security Instrument.
15. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by sending it by first class mail to the appropriate party's address on page 1 of this Security Instrument, or to any other address designated in writing. Notice to the mortgagor will be deemed to be notice to all mortgagors.
16. **WAIVERS.** Except to the extent prohibited by law, Mortgagor waives all homestead exemption rights relating to the Property.
17. **LINE OF CREDIT.** The Secured Debt includes a revolving line of credit. Although the Secured Debt may be reduced to a zero balance, this Security Instrument will remain in effect until released.
18. **APPLICABLE LAW.** This Security Instrument is governed by the laws as agreed to in the Secured Debt, except to the extent required by the laws of the jurisdiction where the Property is located, and applicable federal laws and regulations.
19. **RIDERS.** The covenants and agreements of each of the riders checked below are incorporated into and supplement and control the terms of this Security Instrument.
- (Check all applicable notes)
- ☐ Assignment of Leases and Rents ☐ Other
20. ☐ **ADDITIONAL TERMS.**

SIGNATURES: By signing below, Mortgagor agrees to the terms and covenants contained in this Security Instrument and to any attachments. Mortgagor also acknowledges receipt of a copy of this Security Instrument on the date stated on page 1.

(Signature) QUENTIN S. BRADY, JR. (Seal) (Date) (Signature) (Seal) (Date)

Signed, sealed and delivered in the presence of:

(Signature) Harold M. Gresham (Witness) Harold M. Gresham

PROBATE:

STATE OF SOUTH CAROLINA, COUNTY OF SEABTOWN,) ss.
Personally appeared before me the undersigned witness who, being duly sworn, deposed and said that (s/he saw the Mortgagor (and each Mortgagor if more than one) sign, seal and deliver the foregoing Mortgage and that (s/he, together with the other witness whose name appears as a witness, witnessed the execution hereof.

Sworn to and subscribed before me this 30th day of September, 2003.
(Signature) Harold M. Gresham (Seal) (Signature) Harold M. Gresham
My commission expires: 2-6-12

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EXHIBIT "A"

All that certain piece, parcel or tract of land lying and being in the City and County of Spartanburg, State of South Carolina, being shown and designated as a portion of Tract 1B, upon a plat prepared for Quentin Broom, Jr., dated December 8, 1992, by Archibald S. Deaton & Associates, RLS, and recorded in Plat Book 119, page 33, Office of the Register of Deeds for Spartanburg County, and having the following metes and bounds:

BEGINNING at a point 300 feet from the northeast corner of said Tract 1B and property of Mary B. Anthony and running thence S 60-40-02 W 368.08 feet to a point; thence turning and running S 67-17-10 W 78.21 feet to a point; thence turning and running N 14-42-37 W 356.01 feet to a point; thence turning and running N 76-20-21 E 117.27 feet to a point; thence turning and running N 6-40-02 E 15.36 feet to a point; thence turning and running N 87-37-00 E 90.00 feet to a point, being the point of **BEGINNING**

TOGETHER with a right of ingress and egress over the adjoining property owned by Mortgagor to access U.S. Highway No. 29.

DERIVATION: This is the same property conveyed to the Mortgagor herein by deed from Virginia S. Broom recorded January 15, 1993 in Deed Book 59-R, page 518, said ROD Office.

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RECORDED DEEDS 70 #8396

STATE OF SOUTH CAROLINA 98 JUN 7 1998 10

COUNTY OF SPARTANBURG Durable Power of Attorney

KNOW ALL MEN BY THESE PRESENTS, that I, Russell A. Broom, of Spartanburg, South Carolina, have made, constituted and appointed, and by these presents do make, constitute and appoint Ann G. Broom or Quentin S. Broom, my true and lawful agent and attorney for me and in my name, place and stead to do the following acts and things and to exercise the following powers, and I intend that, subject to the definitions hereinafter contained, the same be construed in the broadest possible manner:

PROPERTY AND FINANCIAL POWERS GRANTED

1. To endorse any and all checks, drafts, or vouchers, and to cash the same or deposit their proceeds in my bank account; to sign and issue checks on any bank account in my name; and to make, deliver, and execute, cancel, modify, buy, sell, exchange, pledge, or otherwise acquire or dispose of any tangible or intangible property of mine by means of any type instrument necessary or advisable to accomplish the same.
2. To manage, operate, protect and conserve all securities, properties, interests and investments owned by me; to collect, hold or pay out or otherwise deal with the income therefrom or the principal thereof; and from time to time make investments for me without any restrictions whatsoever as to the kind of investment.
3. To assign and transfer upon the books of any municipality, corporation, association or company any stocks, bonds or other securities which are now or may hereafter be registered in my name.
4. To vote in person or by proxy at corporate or other meetings and to affect, participate in or consent to any reorganization, merger, voting trust, or other action affecting any securities which I now or may hereafter own, or the income thereof, and to make payments in connection therewith.
5. To enter into, perform, modify, extend, cancel, compromise, or otherwise act with respect to any contract of any sort whatsoever.
6. To procure insurance against any and all risks affecting property or persons, and against liability, damage, or claim of any sort; to alter, amend, extend, or cancel such insurance.
7. To borrow money in such amounts, for such periods and upon such terms as my attorney shall deem proper and to secure any loan by the mortgage or pledge of any property of mine.
8. To pay any amount that may be owing at any time by me upon any contract, instrument, or claim; to deliver or convey any tangible or intangible personal property, instrument or security that I may be required to deliver or convey by any contract or in performance of any obligation.

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10. With respect to any account in my name or in any other name for my benefit with any broker, bank, banker or trust company, to make deposits therein and withdrawals therefrom whether by check or otherwise, and to open, to continue and to close such account or any similar account.

11. To receive payment of any indebtedness due me or any money coming to me, and to receive payment of dividends, interest and principal, and to give receipts, releases and acquittances therefor.

12. To open and have free access to any lockbox to which I have access, and to all the contents thereof.

13. To buy, sell, exchange, mortgage, encumber, lease or by any other means whatsoever to acquire or dispose of real property; to execute and deliver any deed with or without covenants or warranties; to partition real property, to manage real property, and to repair, alter, renovate, improve, remodel, erect, or tear down any building or other structure or part thereof.

14. To make execute and deliver, or to receive or obtain, any lease, indenture of lease or contract for lease for any real property and any assignment of lease or indenture of lease and consent to the assignment thereof, for such periods of time, and with such provision for renewals, conditions, agreements, and covenants as my attorney shall deem proper; and to amend, extend, modify, or cancel any of the terms, covenants or conditions, including covenants to pay rent, of any lease, indenture of lease and contract of lease, whether heretofore or hereafter made, and to cancel, surrender, and accept the surrender of any lease, indenture of lease and contract of lease.

15. To purchase or otherwise acquire any note, bond or mortgage, to assign, transfer, modify, extend or satisfy any such instrument now or hereafter held by me or in which I have any interest upon such terms as my attorney shall deem proper.

16. To receive any legacy, bequest, devise, gift or transfer of real property or of tangible or intangible personal property, to give full receipt and acquittance therefor; to approve accounts of any business, estate, trust, partnership, or other transaction whatsoever in which I may have any interest of any nature whatsoever and to enter into any compromise and release in regard thereto.

17. To employ and compensate agents, doctors, attorneys, agents, accountants, investment advisers, brokers, tax specialists, realtors, domestic servants and others; and to remove them and appoint others in their place; deemed by my attorney needful for the proper handling of my affairs.

18. To assert, defend, compromise, acquire or dispose of or otherwise deal with any claim, either alone or in conjunction with other persons, relating to me or any property of mine or any other person, or any government, or any estate of a deceased or an incompetent person, or any trust whether created by will of a deceased person or instrument of a living person, or property of whatsoever nature; to institute, prosecute, or otherwise dispose of,

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and to appear for me in any proceedings at law or in equity or otherwise before any tribunal for the enforcement of or the defense of any such claim, and to retain, discharge, and substitute counsel and authorize appearance of such counsel to be entered for me in any such action or proceeding.

18. To arbitrate any claim in which I may be in any manner interested, and for that purpose to enter into agreements to arbitrate, and either through counsel or otherwise to carry on such arbitration and perform or enforce any award entered therein.

19. To prepare, execute, verify and file in my name and on my behalf any and all types of tax returns, amended returns, declarations of estimated tax, report, protest, application for correction of assessed valuation of real or other property, appeal, brief, claim for refund, or petition, including petition in the Tax Court of the United States, in connection with any tax imposed or purported to be imposed by any government, or claimed, levied, or assessed by any government, and to pay such tax and to obtain any extension of time for any of the foregoing; to execute waivers or consents agreeing to a later determination and assessment of taxes than is provided by any statute of limitations; to execute waiver of restrictions on the assessments and collection of any deficiency in tax; to execute closing agreements and all other documents, instruments and papers relating to any tax liability of mine of any sort; to institute and carry on either through counsel or otherwise any proceeding in connection with contesting any such tax or to recover any tax paid or to resist any claim for additional tax on any proposed assessment or levy thereof, and to enter into any agreements or stipulations for compromise or other adjustments or dispositions of any tax.

20. To make any reports of information of any sort whatsoever to any government as required by law or regulation.

21. To exercise any powers and any duties vested in me, whether solely or jointly with any other or others as executors, administrators, or trustees or in any other fiduciary capacity, so far as such power or duty is capable of being validly delegated.

22. To enter into a revocable inter vivos trust agreement for the management of my property and income for my benefit, as Settlor, with any corporate trustee, as trustee, conferring upon said trustee all powers, rights, duties, authority and responsibility as is necessary to carry out the provisions of such trust and to transfer, assign, set over and convey all or any part of any right, title and interest of mine in and to any property, real, personal, intangible or mixed wherever located, and whether acquired before or after the execution of the Power of Attorney to such trustee or to any trustee of a trust existing at the time of such transfer and of which I am Settlor and to assign to any trust for designate trustee as beneficiary all the proceeds of any policies of insurance which I may now or hereafter become entitled to receive, including but not limited to insurance proceeds payable by reason of my disability, said proceeds to be held, administered and distributed in accordance with the terms of the Trust.

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21. To make gifts, grants, or other transfers without consideration, either outright or in trust (including the forgiveness of indebtedness and the completion of any charitable pledges I may have made) to such person or organizations as my Attorney shall select, including any attorney-in-fact designated herein, as hereinafter described:

(a) gifts made by my Attorney may be made that qualify for the annual exclusion from gift tax under IRC § 2503(b), with or without spousal gift-splitting;

(b) gifts made by my Attorney may be made for educational purposes or for medical expenses as described in IRS §§ 2503(c)(2)(A) and 2503(c)(2)(D), and in such a way as to not be subject to federal gift tax.

(c) gifts which qualify for the marital deduction under IRC § 2521.

In connection with tax procedures occasioned by gifts made by my attorney-in-fact on my behalf or gifts as to which I may consent, my attorney-in-fact is authorized and directed at my expense to cause federal and local gift tax and generation-skipping transfer tax returns to be prepared and filed on my behalf, if necessary, and to pay any tax shown to be due.

24. To establish where I shall reside, including the exact physical location, and the City, County and State of residence and, if necessary make all necessary arrangements for me at any hospital, convalescent institution, nursing home or similar establishment, to have and exercise all rights on my behalf which I have and possess at such residence or institution and to report such address as my official address to the United States Post Office and to any other person, firm, corporation or governmental agency as may be necessary, desirable, convenient or appropriate.

25. To deal with my attorney in his or her individual capacity or in any fiduciary capacity held by said attorney, in buying and selling assets, in lending and borrowing money and in all other transactions, irrespective of the occupancy of the same person of dual positions.

HEALTH CARE POWERS GRANTED

26. To seek to enforce, carry out or bring an action in my name, on my behalf and at my expense to implement, interpret the validity of, or sue for damages under any Declaration of A Desire For A Natural Death which I may have executed before or after the execution of this Durable Power of Attorney.

27. To request, receive and review any information, verbal or written, regarding my personal affairs or my physical or mental health, including medical and hospital records, and to execute any releases or other documents that may be required in order to obtain such information, and to disclose or deny such information to such persons, organizations, firms or corporations as my attorney-in-fact shall deem appropriate.

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28. To employ and discharge medical personnel including physicians, psychiatrists, dentists, nurses, and therapists as my attorney-in-fact shall deem necessary for my physical, mental and emotional well-being, and to pay them for cause them to be paid reasonable compensation;

29. To give or withhold consent to any medical procedures, tests or treatments, including surgery; to arrange for my hospitalization, convalescent care, hospice or home care; to summon paramedics or other emergency medical personnel and seek emergency treatment for me, as my attorney-in-fact shall deem appropriate; and under circumstances in which my attorney-in-fact determines that certain medical procedures, tests or treatments are no longer of any benefit to me or where the benefits are outweighed by the burdens imposed, to revoke, withdraw, modify or change consent to such procedures, tests and treatments, as well as hospitalization, convalescent care, hospice or home care which I or my attorney-in-fact may have previously allowed or consented to or which may have been implied due to emergency conditions. My attorney-in-fact's decisions should be guided by taking into account: (a) the provisions of this instrument, (b) any reliable evidence of preferences that I may have expressed on the subject whether before or after the execution of this instrument, (c) what my attorney-in-fact believes I would want done in the circumstances if I were able to express myself, and (d) any information given to my attorney-in-fact by the physicians treating me as to my medical diagnosis and prognosis and the intrusiveness, pain, risks, and side effects of the treatment;

30. To take whatever steps are necessary or advisable to enable me to remain in my personal residence as long as it is reasonable under the circumstances. I realize that my health may deteriorate so that it becomes necessary to have round-the-clock nursing care if I am to remain in my personal residence, and I direct my attorney-in-fact to obtain such care (including any equipment that might assist in such care) as is reasonable under the circumstances. Specifically, I do not want to be hospitalized or put in a convalescent or similar home as long as it is reasonable to maintain me in my personal residence; notwithstanding this provision or any other provision, it is my desire and intent to remain in my home and not be placed in a nursing home or other long term care facility, except as required for continuing medical care or other necessity and in any event it is my desire and intent to return to my home when my death becomes imminent so that I may live my remaining time in the surroundings to which I have been accustomed during my lifetime; in respect to my desire and intent to remain or return to my home, my attorney-in-fact is authorized to pay for the upkeep of my home until my death, but my attorney-in-fact may sell my residence if deemed necessary in such attorney-in-fact's sole discretion.

31. To exercise all rights I may have including but not limited to my right of privacy and my liberty interests, in my health care decision making, even though the exercise of my rights and interests might hasten my death or be against conventional health care advice;

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32. To consent to and arrange for the administration of pain-relieving drugs of any kind, or other surgical or medical procedures calculated to relieve my pain, including unconventional pain-relief therapies which my attorney-in-fact believes may be helpful to me, even though such drugs or procedures may lead to permanent physical damage, addiction or even hasten the onset of (but not intentional cause) my death;

33. To grant release to hospital staff, physicians, nurses and other health care and hospital administrative personnel who act in reliance on instructions given by my attorney-in-fact or who render written opinions to my attorney-in-fact in connection with any matter described herein from all liability for damages suffered or to be suffered by me; to sign documents titled or purporting to be a "Refusal to Permit Treatment" and "Leaving Hospital Against Medical Advice" as well as any necessary waivers or releases from liability required by any hospital or physician to implement my wishes regarding health care treatment or nontreatment;

GENERAL PROVISIONS

No general authority or power granted herein shall be effective if in conflict with any specific health care directive, health care power of attorney or Declaration of a Desire for a Natural Death (Living Will) which I may have executed before or after the execution of this Durable Power of Attorney. In any event, my attorney-in-fact is authorized to make health care decisions only if I am unable to give an informed consent to such treatment or to the termination of such treatment.

And generally my attorney has authority to transact all business affairs and interests, as fully and completely as I myself might do if personally present; and to do any and all acts and things which my attorney shall deem useful, necessary or proper to do any of the foregoing acts or to carry out any of the foregoing powers.

My attorney shall have full power of substitution and revocation, and such substitution or revocation may relate to or be limited to any one or more of all of the foregoing acts or powers, or limited as to time or in any other respect as my attorney shall deem proper.

Appointment of a guardian or conservator for the principal shall not terminate the powers granted under this power of attorney unless the court making such appointment specifically finds that such termination is in the best interest of the principal.

This Power of Attorney shall not be affected by physical disability or mental incompetence of the principal which renders the principal incapable of managing his or her own estate. In other words, I intend that the authority herein given to my said attorney is exercisable notwithstanding any physical disability or mental incompetence suffered by me. Furthermore, the authority herein given is exercisable notwithstanding any later uncertainty as to whether I am dead or alive.

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DEED 67-D PAGE 0402

The rights, powers and authority of said attorney herein granted shall commence and be in full force and effect immediately and the same shall remain in full force and effect thereafter until I have revoked this Power of Attorney by written instrument recorded in the public records of the County aforesaid or the attorney has resigned by delivery to me of a copy of a written resignation duly recorded in the public records of the County aforesaid.

Subject to the discretionary powers herein granted, my said attorney shall have a fiduciary relationship with me and is accountable and responsible to me as a fiduciary. Nonetheless, no loss or damage accruing to me or my estate as a result of the exercise or failure to exercise of any discretion herein vested in the attorney shall be charged or imputed to the attorney, except for such loss or damage as may result from bad faith or gross negligence in the exercise of the attorney's discretion.

I direct that it shall not be necessary or required for my attorney to file with any court in any jurisdiction any surety bond or inventory of any deposits, choses in action and personal property, unless a court shall, in its discretion, require same to be done.

Any third party may rely upon a certified copy of this instrument as though it were the original.

If the Court shall determine my said attorney has acted in bad faith or has been grossly negligent in carrying out the authority herein given, the Court shall remove the attorney and appoint the successor appointed herein, or, if no successor is appointed herein, any other person who shall, in the Court's discretion, be duly qualified and competent to serve hereunder. Any successor attorney shall have all the authority and power herein given to the attorney first named above.

Notwithstanding any provisions herein to the contrary, my attorney shall not satisfy the legal obligation of said attorney out of any property subject to this Power of Attorney, nor shall my attorney exercise or have the right to exercise any incidents of ownership in any policies of life, accident or other similar insurance policies which I possess on the life of my attorney.

I specifically authorize either Ann G. Brown or Quentin S. Brown to act as attorney-in-fact for me, each one having all the powers and authority provided for herein.

In the event any successor attorney is unable or unwilling to act or continue to act, the court having jurisdiction over this matter may appoint another successor attorney-in-fact who shall succeed to all rights, powers and authority originally granted herein.

In addition to the powers set forth above, I specifically give my attorney-in-fact full power and authority to make a gift of all of my right, title and interest in and to the property which I may

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DEED 67-D PAGE 0403

own having been deeded to me by my grandmother, Virginia S. Broon, said property having a street address of 1845 W. O. Esell Boulevard, Spartanburg, South Carolina 29301 (Map No. 5-31-01 127.081 and being more particularly described and set forth in deeds to me, Quentin S. Broon, Ann O. Broon and Quentin S. Broon, Jr., from Virginia S. Broon recorded in the RMC Office of Spartanburg County.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 24th day of December, 1997.

Russell A. Broon (Seal)
Russell A. Broon

The foregoing Power of Attorney was signed, sealed, published and declared by Russell A. Broon as and for his Power of Attorney, in the presence of us, who, at his request and in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses hereto on the date above written.

Pamela D. Johnson of Spartanburg, S.C.
(Witness)
Myra Cleveland of Spartanburg, S.C.
(Witness)

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

ACKNOWLEDGEMENT

I, Timothy L. Cleveland, a Notary Public for the County and State aforesaid, do hereby certify that Russell A. Broon personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official stamp or seal this 24th day of December, 1997.

Myra Cleveland
Notary Public for South Carolina
My Commission Expires: 10/12/2002

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M. H. DE BLANCK

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STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG DURABLE POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that I, Virginia S. Brooh, of Spartanburg, South Carolina, have made, constituted and appointed, and by these presents do make, constitute and appoint my son, Quentin S. Brooh, my true and lawful agent and attorney for me and in my name, place and stead to do the following acts and things and to exercise the following powers, and I intend that, subject to the definitions hereinafter contained, the same be construed in the broadest possible manner:

PROPERTY AND FINANCIAL POWERS GRANTED

1. To endorse any and all checks, drafts, or vouchers, and to cash the same or deposit their proceeds in my bank account; to sign and issue checks on any bank account in my name; and to make, deliver, and execute, amend, modify, buy, sell, exchange, pledge, or otherwise acquire or dispose of any tangible or intangible property of mine by means of any type instrument necessary or advisable to accomplish the same.
2. To manage, operate, protect and conserve all securities, properties, interests and investments owned by me; to collect, hold or pay out or otherwise deal with the income therefrom of the principal thereof; and from time to time make investments for me without any restrictions whatsoever as to the kind of investment.
3. To assign and transfer upon the books of any municipality, corporation, association or company any stocks, bonds or other securities which are now or may hereafter be registered in my name.
4. To vote in person or by proxy at corporate or other meetings and to effect, participate in or consent to any reorganization, merger, voting trust, or other action affecting any securities which I now or may hereafter own, or the issuers thereof, and to make payments in connection therewith.
5. To enter into, perform, modify, extend, cancel, compromise, or otherwise act with respect to any contract of any sort whatsoever.
6. To procure insurance against any and all risks affecting property or persons, and against liability, damage, or claim of any sort; to alter, amend, extend, or cancel such insurance.
7. To borrow money in such amounts, for such periods and upon such terms as my attorney shall deem proper and to secure any loan by the mortgage or pledge of any property of mine.
8. To pay any amount that may be owing at any time by me upon any contract, instrument, or claim; to deliver or convey any tangible or intangible personal property, instrument or security that I may be required to deliver or convey by any contract or in performance of any obligation.

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9. With respect to any account in my name or in any other name for my benefit with any broker, bank, banker or trust company, to make deposits therein and withdrawals therefrom whether by check or otherwise, and to open, to continue and to close such account or any similar account.

10. To receive payment of any indebtedness due me or any money coming to me, and to receive payment of dividends, interest and principal, and to give receipts, releases and acquittances therefor.

11. To open and have free access to any lockbox to which I have access, and to all the contents thereof.

12. To buy, sell, exchange, mortgage, encumber, lease or by any other means whatsoever to acquire or dispose of real property; to execute and deliver any deed with or without covenants or warranties; to partition real property; to manage real property, and to repair, alter, renovate, improve, remodel, erect, or tear down any building or other structure or part thereof.

13. To make execute and deliver, or to receive or obtain, any lease, indenture of lease or contract for lease for any real property and any assignment of lease or indenture of lease and consent to the assignment thereof, for such periods of time, and with such provision for renewals, conditions, agreements, and covenants as my attorney shall deem proper; and to amend, extend, modify, or cancel any of the same, covenants or conditions, including covenants to pay rent, of any lease, indenture of lease and contract of lease, whether heretofore or hereafter made, and to cancel, surrender, and accept the surrender of any lease, indenture of lease and contract of lease.

14. To purchase or otherwise acquire any note, bond or mortgage, to assign, transfer, modify, extend or satisfy any such instrument now or hereafter held by me or in which I have any interest upon such terms as my attorney shall deem proper.

15. To receive any legacy, bequest, devise, gift or transfer of real property or of tangible or intangible personal property, to give full receipt and acquittance therefor; to approve accounts of any business, estate, trust, partnership, or other transaction whatsoever in which I may have any interest of any nature whatsoever and to enter into any compromise and release in regard thereto.

16. To employ and compensate nurses, doctors, attorneys, agents, accountants, investment advisers, brokers, tax specialists, realtors, domestic servants and others; and to remove them and appoint others in their place, deemed by my attorney needful for the proper handling of my affairs.

17. To assert, defend, compromise, acquire or dispose of or otherwise deal with any claim, either alone or in conjunction with other persons, relating to me or any property of mine or any other person, or any government, or any estate of a deceased or an incompetent person, or any trust whether created by will of a deceased person or instrument of a living person, or property of whatsoever nature; to institute, prosecute, or otherwise dispose of,

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and to appear for me in any proceedings at law or in equity or otherwise before any tribunal for the enforcement of or the defense of any such claim, and to retain, discharge, and substitute counsel and authorize appearance of such counsel to be entered for me in any such action or proceeding.

18. To arbitrate any claim in which I may be in any manner interested, and for that purpose to enter into agreements to arbitrate, and either through counsel or otherwise to carry on such arbitration and perform or enforce any award entered thereon.

19. To prepare, execute, verify and file in my name and on my behalf any and all types of tax returns, amended returns, declarations of estimated tax, report, protest, application for correction of assessed valuation of real or other property, appeal, relief, claim for refund, or petition, including petition in the Tax Court of the United States, in connection with any tax imposed or purported to be imposed by any government, or claimed, levied, or assessed by any government, and to pay such tax and to obtain any extension of time for any of the foregoing; to execute waivers or consents agreeing to a later determination and assessment of taxes than is provided by any Statute of Limitations; to execute waiver of restrictions on the assessment and collection of any deficiency in tax; to execute closing agreements and all other documents, instruments and papers relating to any tax liability of mine of any sort; to institute and carry on either through counsel or otherwise any proceeding in connection with contesting any such tax or to recover any tax paid or to resist any claim for additional tax on any proposed assessment or levy thereof, and to enter into any agreements or stipulations for compromise or other adjustments or dispositions of any tax.

20. To make any reports of information of any sort whatsoever to any government as required by law or regulation.

21. To exercise any powers and any duties vested in me, whether solely or jointly with any other or others as executor, administrator, or trustee or in any other fiduciary capacity, so far as such power or duty is capable of being validly delegated.

22. To enter into a revocable inter vivos trust agreement for the management of my property and income for my benefit, as Settlor, with any corporate trustee, as Trustee, conferring upon said Trustee all powers, rights, duties, authority and responsibility as is necessary to carry out the provisions of such trust and to transfer, assign, set over and convey all or any part of any rights, title and interest of mine in and to any property, real, personal, tangible or mixed wherever located, and whether acquired before or after the execution of the power of Attorney to such Trustee or to any Trustee of a Trust existing at the time of such transfer and of which I am Settlor and to assign to any Trust (or designate Trustee as beneficiary of) the proceeds of any policies of insurance which I may now or hereafter become entitled to receive, including but not limited to insurance proceeds payable by reason of my disability, said proceeds to be held, administered and distributed in accordance with the terms of the Trust.

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DEED 67-D PAGE 0391

22. To make gifts, grants, or other transfers without consideration, either outright or in trust (including the forgiveness of indebtedness and the completion of any charitable pledges I may have made) to such person or organizations as my Attorney shall select, including any attorney-in-fact designated herein, as hereinafter described:

(a) gifts made by my Attorney may be made that qualify for the annual exclusion from gift tax under IRC § 2503(b), with or without spousal gift-splitting;

(b) gifts made by my Attorney may be made for educational purposes or for medical expenses as described in IRS §§ 2503(d)(2)(A) and 2503(d)(2)(B), and in such a way as to not be subject to federal gift tax;

(c) gifts which qualify for the marital deduction under IRC § 2523.

In connection with tax procedures occasioned by gifts made by my attorney-in-fact on my behalf or gifts as to which I may consent, my Attorney-in-fact is authorized and directed at my expense to cause federal and local gift tax and generation-skipping transfer tax returns to be prepared and filed on my behalf, if necessary, and to pay any tax shown to be due.

24. To establish where I shall reside, including the exact physical location, and the City, County and State of residence and, if necessary make all necessary arrangements for me at any hospital, convalescent institution, nursing home or similar establishment, to have and exercise all rights on my behalf which I have and possess at such residence or institution and to report such address as my official address to the United States Postal Office and to any other person, firm, corporation or governmental agency as may be necessary, desirable, convenient or appropriate.

25. To deal with my attorney in his or her individual capacity or in any fiduciary capacity held by said attorney, in buying and selling assets, in lending and borrowing money and in all other transactions, irrespective of the occupancy of the same person of dual positions.

HEALTH CARE POWERS GRANTED

26. To seek to enforce, carry out or bring an action in my name, on my behalf and at my expense to implement, interpret the validity of, or sue for damages under any Declaration of A Desire for A Natural Death which I may have executed before or after the execution of this Durable Power of Attorney.

27. To request, receive and review any information, verbal or written, regarding my personal affairs or my physical or mental health, including medical and hospital records, and to execute any release or other documents that may be required in order to obtain such information, and to disclose or deny such information to such persons, organizations, firms or corporations as my attorney-in-fact shall deem appropriate.

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DEED 67-D PAGE 0392

28. To employ and discharge medical personnel including physicians, psychiatrists, dentists, nurses, and therapists as my attorney-in-fact shall deem necessary for my physical, mental and emotional well-being, and to pay them (or cause them to be paid) reasonable compensation;

29. To give or withhold consent to any medical procedures, tests or treatments, including surgery; to arrange for my hospitalization, convalescent care, hospice or home care; to summon paramedics or other emergency medical personnel and seek emergency treatment for me, as my attorney-in-fact shall deem appropriate; and under circumstances in which my attorney-in-fact determines that certain medical procedures, tests or treatments are no longer of any benefit to me or where the benefits are outweighed by the burdens imposed, to revoke, withdraw, modify or change consent to such procedures, tests and treatments, as well as hospitalization, convalescent care, hospice or home care which I or my attorney-in-fact may have previously allowed or consented to or which may have been implied due to emergency conditions. My attorney-in-fact's decisions should be guided by taking into account: (a) the provisions of this instrument, (b) any reliable evidence of preferences that I may have expressed on the subject whether before or after the execution of this instrument, (c) what my attorney-in-fact believes I would want done in the circumstances if I were able to express myself, and (d) any information given to my attorney-in-fact by the physicians treating me as to my medical diagnosis and prognosis and the intrusiveness, pain, risks, and side effects of the treatment;

30. To take whatever steps are necessary or advisable to enable me to remain in my personal residence as long as it is reasonable under the circumstances. I realize that my health may deteriorate so that it becomes necessary to have round-the-clock nursing care if I am to remain in my personal residence, and I direct my attorney-in-fact to obtain such care (including any equipment that might assist in such care) as is reasonable under the circumstances. Specifically, I do not want to be hospitalized or put in a convalescent or similar home as long as it is reasonable to maintain me in my personal residence; notwithstanding this provision or any other provision, it is my desire and intent to remain in my home and not be placed in a nursing home or other long term care facility, except as required for continuing medical care or other necessity and in any event it is my desire and intent to return to my home when my death becomes imminent so that I may live my remaining time in the surroundings to which I have been accustomed during my lifetime; in respect to my desire and intent to remain or return to my home, my attorney-in-fact is authorized to pay for the upkeep of my home until my death, but my attorney-in-fact may sell my residence if deemed necessary in such attorney-in-fact's sole discretion.

31. To exercise all rights I may have including but not limited to my right of privacy and my liberty interests, in my health care decision making, even though the exercise of my rights and interests might hasten my death or be against conventional health care advice;

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12. To consent to and arrange for the administration of pain-relieving drugs of any kind, or other surgical or medical procedures calculated to relieve my pain, including unconventional pain-relief therapies which my attorney-in-fact believes may be helpful to me, even though such drugs or procedures may lead to permanent physical damage, addiction or even hasten the onset of (but not intentional) my death;

13. To grant releases to hospital staff, physicians, nurses and other health care and hospital administrative personnel who act in reliance on instructions given by my attorney-in-fact or who render written opinions to my attorney-in-fact in connection with any matter described herein from all liability for damages suffered or to be suffered by me, to sign documents titled or purporting to be a "Refusal to Permit Treatment" and "Leaving Hospital Against Medical Advice" as well as any necessary waivers or releases from liability required by any hospital or physician to implement my wishes regarding health care treatment or nontreatment;

GENERAL PROVISIONS

No general authority or power granted herein shall be effective if in conflict with any specific health care directive, health care power of attorney or declaration of a Desire for a Natural Death (Living Will) which I may have executed before or after the execution of this Durable Power of Attorney. In any event, my attorney-in-fact is authorized to make health care decisions only if I am unable to give an informed consent to such treatment or to the termination of such treatment.

And generally my attorney has authority to transact all business affairs and interests, as fully and completely as I myself might do if personally present; and to do any and all acts and things which my attorney shall deem useful, necessary or proper to do any of the foregoing acts or to carry out any of the foregoing powers.

My attorney shall have full power of substitution and revocation, and such substitution or revocation may relate to or be limited to any one or more of all of the foregoing acts or powers, or limited as to time or in any other respect as my attorney shall deem proper.

Appointment of a guardian or conservator for the principal shall not terminate the powers granted under this power of attorney unless the court making such appointment specifically finds that such termination is in the best interest of the principal.

This Power of Attorney shall not be affected by physical disability or mental incompetence of the principal which renders the principal incapable of managing his or her own estate. In other words, I intend that the authority herein given to my said attorney is exercisable notwithstanding any physical disability or mental incompetence suffered by me. Furthermore, the authority herein given is exercisable notwithstanding any later uncertainty as to whether I am dead or alive.

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The rights, powers and authority of said attorney herein granted shall commence and be in full force and effect immediately and the same shall remain in full force and effect thereafter until I have revoked this Power of Attorney by written instrument recorded in the public records of the County aforesaid or the attorney has resigned by delivery to me of a copy of a written resignation duly recorded in the public records of the County aforesaid.

Subject to the discretionary powers herein granted, my said attorney shall have a fiduciary relationship with me and is accountable and responsible to me as a fiduciary. Nonetheless, no loss or damage accruing to me or my estate as a result of the exercise or failure to exercise of any discretion herein vested in the attorney shall be charged or imputed to the attorney, except for such loss or damage as may result from bad faith or gross negligence in the exercise of the attorney's discretion.

I direct that it shall not be necessary or required for my attorney to file with any court in any jurisdiction any surety bond or inventory of any deposits, choses in action and personal property, unless a court shall, in its discretion, require same to be done.

Any third party may rely upon a certified copy of this instrument as though it were the original.

If the Court shall determine my said attorney has acted in bad faith or has been grossly negligent in carrying out the authority herein given, the Court shall remove the attorney and appoint the successor appointed herein, or, if no successor is appointed herein, any other person who shall, in the Court's discretion, be duly qualified and competent to serve hereunder. Any successor attorney shall have all the authority and power herein given to the attorney first named above.

Notwithstanding any provisions herein to the contrary, my attorney shall not satisfy the legal obligation of said attorney out of any property subject to this Power of Attorney, nor shall my attorney exercise or have the right to exercise any incidents of ownership in any policies of life, accident or other similar insurance policies which I possess on the life of my attorney.

I have also made, constituted and appointed and by these presents do make, constitute and appoint as my true and lawful attorney my daughter-in-law, Ann G. Broom, who shall have all of the rights, powers and duties, authority and responsibility so conferred upon my attorney first named above. Ann G. Broom shall be known as my "Stand-By Attorney" until such person is authorized to act at which time my "Stand-By Attorney" shall become my "Attorney". Such "Stand-By Attorney" shall in no event be authorized to act hereunder so long as my attorney first named above is living, competent to act and has not resigned, nor been removed. Upon the occurrence of any of those conditions my "Stand-By Attorney" shall be fully authorized to act and a statement of renunciation or resignation by my attorney first named above, a written revocation by me, or an Affidavit

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signed by such attorney stating that he or she is unable or unwilling to serve, shall be conclusive evidence of such fact. Any third party relying on such evidence of authority shall incur no liability to me or to my Estate.

In the event any successor attorney is unable or unwilling to act or continue to act, the court having jurisdiction over this matter may appoint another successor attorney-in-fact who shall succeed to all rights, powers and authority originally granted herein.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this day of December, 1997.

Virginia S. Broome (241)
Virginia S. Broome

The foregoing Power of Attorney was signed, sealed, published and declared by Virginia S. Broome as and for her Power of Attorney, in the presence of us, who, at her request and in her presence, and in the presence of each other, have hereunto subscribed our names as witnesses hereto on the date above written.

David L. Knight of SPARTANBURG, SC
(first witness)
James P. George of SPARTANBURG, SC
(second witness)

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

ACKNOWLEDGMENT

I, Heidi David, a Notary Public for the County and State aforesaid, do hereby certify that Virginia S. Broome personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official stamp or seal this 21 day of December, 1997.

Heidi David
Notary Public for South Carolina
My Commission Expires: 5/20/07

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H. H. H. DEANLEY

11. PAYMENT DATE. During the term of this Agreement, a Minimum Payment will be due on or before the Payment Date indicated on my periodic statement for my Billing Cycle in which there is an outstanding balance on my account. My Minimum Payments will be due MONTHLY.

12. MINIMUM PAYMENT. On or before each Payment Date, I agree to make a payment of at least the Minimum Payment amount. The Minimum Payment will equal the following:
THE AMOUNT OF ACCRUED FINANCE CHARGES ON THE LAST DAY OF THE BILLING CYCLE

13. REMINDER. After I default, and after you give any legally required notice and opportunity to cure, you may at your option do any of the following:

- A. Termination and Acceleration. You may terminate the line of credit and take a 90 or any part of the amount owing by the terms of this Agreement immediately due.
- B. Acceleration. You may temporarily or permanently prohibit any additional borrowing.
- C. Credit Limit. You may temporarily or permanently reduce the Credit Limit.
- D. Additional Security. You may demand additional security or additional collateral to be obligated to pay this Agreement.
- E. Insurance Deduction. You may make a claim for any and all insurance proceeds or refunds that may be payable on my default.
- F. Payments Made On My Behalf. You may make payments advanced on my behalf immediately due, and you may add those amounts to the then Account Balance.
- G. Suits. You may use any and all remedies you have under applicable law or any agreement executed this Agreement.

Except to the extent required by law, by choosing a remedy you do not give up your right to use another remedy. You do not waive or defend if you choose not to use a remedy. By choosing not to use any remedy, you do not waive your right to later reconsider the same a default and to use other remedies if the default continues or occurs again.

22. COLLECTION EXPENSES AND ATTORNEY'S FEES. On or after default, you may be required by law, I agree to pay the following: ALL EXPENSES OF COLLECTION, ENFORCEMENT OR LITIGATION OF YOUR RIGHTS AND REMEDIES UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEY'S FEES NOT IN EXCESS OF 10 PERCENT OF THE UNPAID DEBT AFTER REASONABLE AND REASONABLE ATTORNEY'S FEES NOT IN EXCESS OF 10 PERCENT OF THE UNPAID DEBT. THESE EXPENSES ARE DUE AND PAYABLE IMMEDIATELY, IF NOT PAID IMMEDIATELY, THESE EXPENSES WILL BE ADDED TO THE DEBT OF PAYMENT UNTIL PAID IN FULL AT THE HIGHEST ANNUAL RATE IN EFFECT AS A PENALTY FOR THE DELAY OF YOUR PAYMENT. ALL FEE AMOUNTS I WILL BE REQUIRED BY THE CREDITORS TO PAY TO YOU, I AGREE TO PAY THE REASONABLE ATTORNEY'S FEES YOU OBLIGED TO COLLECT THIS DEBT AS A WAIVER BY ANY COURT OR REASONABLE JUDICIAL AUTHORITY IN THE COLLECTION OF THIS DEBT.

23. SUSPENSION OF CREDIT AND REDUCTION OF CREDIT LIMIT. You may temporarily prohibit me from obtaining additional credit or reduce my Credit Limit during any period in which any of the following occur in effect:

- A. The value of the property securing this line of credit declines significantly below its assigned value for purposes of this line of credit.
- B. You reasonably believe that I will not be able to meet the repayment requirements under my line of credit due to a material change in my financial circumstances.
- C. I am in default of a material obligation under this line of credit. I understand that you consider all of my obligations to be material. Examples of obligations that you consider material include, but are not limited to: my obligation to not commit fraud or misrepresentation in connection with this line of credit; my obligation to not use the proceeds of this line of credit for any purpose that is not consistent with the purpose of my rights in the property my obligation to pay fees and charges my advance against my obligation to make the terms of the agreement regarding the Agreement, and any other security obligations on the property my obligation to notify you and my obligation to provide you with information.
- D. Government action prevents you from imposing the agreed percentage rate provided for in this Agreement.
- E. The priority of your security interest is adversely affected by government action to the extent that the value of the security interest is less than 100 percent of my Credit Limit.
- F. The maximum agreed percentage rate stated under this Agreement is reached.
- G. You are notified by a regulatory agency that conduct adverse results in an order to suspend or limit my credit.
- H. Any Court order requests a suspension of credit privileges.

In order to maintain my credit privileges under the agreed terms of this Agreement, I must send you a written request to that effect. My credit privileges will only be suspended if you determine that the condition which caused you to prohibit additional advances under the Credit Limit no longer exists. If approval or credit report fees are incurred in making this determination, you may be allowed by applicable law to charge me such fees. If credit privileges were suspended at my request, they need not be reinstated until all Borrower's repayment requirements.

25. SET-OFF. You may set-off any amount due and payable under the terms of this Agreement against my right to receive money from you, unless prohibited by applicable law. For example, your right of set-off will not apply if I may obtain credit under this Agreement by using a credit card.

14. Rounding. The Minimum Payment will be rounded TO THE NEAREST CENT.

15. PAYMENT OF BALANCE. If my total Account Balance at the end of a Billing Cycle is less than \$100.00, my Minimum Payment will equal the entire outstanding Loan Account Balance.

16. PAYMENT AT MATURITY. On the Maturity Date I must pay the entire outstanding Loan Account Balance.

17. PREPAID REDUCTIONS. The Minimum Payment I will not reduce. I may not fully repay the principal balance outstanding on my Loan Account Balance.

18. FINAL PAYMENT. At maturity, I may have to 20 will repay the entire outstanding Loan Account Balance in a single payment. At that time you may, but are not obligated to, reference this line of credit. If you do reference this line of credit at maturity, I understand that I may have to pay some or all of the things could normally included in a new loan.

19. ADDITIONAL PAYMENT TERMS. If my total Account Balance on a Payment Date is less than the Minimum Payment amount, I must pay only the amount necessary to reduce my Loan Account Balance to zero or to any required Minimum Balance. If I otherwise fail to fully pay the Minimum Payment amount, you may, but are not required to, advance money to me to make the payment. All the terms of this Agreement will apply to such an advance. Except to my required Minimum Balance, I can pay off all or part of what I owe at any time. I must continue to make my periodic Minimum Payment to keep my loan any amount. Unless otherwise agreed or required by applicable law, payments and other credits will be applied first to any charges I owe other than principal and finance charges, then to any finance charges that are due, and finally to principal. No late charge will be assessed on my payment when the only delinquency is due to late fees assessed on other payments and the payment is otherwise a full payment.

20. ACCELERATED AMORTIZATION. Under some circumstances, my payments will not cover the finance charges that are due and neither amortization will occur. Negative amortization will increase the amount that I owe you and reduce my equity in my home. In the event that negative amortization occurs, the unpaid portion will be:

21. SECURITY. You have secured my obligations under this line of credit by taking a security interest in my of a separate security instrument dated 06/25/2008 in the following property:

THE DRILLING AND REAL PROPERTY LOCATED AT 1045 W 22ND AVE, SPARTANBURG, SC 29301

Property existing any other loans that I have with you may also secure this Agreement.

22. PROPERTY INSURANCE. I will have a right to return insurance coverage on the property and shall be the insurance requirement of any security instrument requiring this line of credit. I may obtain property insurance from anyone I want that is reasonably acceptable to you. If I get the insurance from a third party, I will pay it.

23. COMMISSIONS. I understand and agree that you (or your affiliate) will earn commissions or fees on any insurance products, and may earn with fees an other services that I buy through you or your affiliate.

24. DEFAULT. I will be in default of any of the following occur:

- A. Payment. I fail to make a payment as required by the Agreement.
- B. Property. My action or inaction adversely affects the property or your rights in the property.
- C. D. Fraud. I engage in fraud or material misrepresentation in connection with this line of credit.

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My Rights and Your Responsibilities After You Receive My Written Notice

You must acknowledge my claim within 30 days, unless you have contacted the creditor first. Within 60 days, you must either correct the error or explain why you believe the bill was correct.

After you receive my letter, you cannot try to collect any amount I question, or report me as delinquent. You can continue to bill me for the amount I question, including finance charges, and you can apply any unpaid amount against my credit limit. I do not have to pay any questioned amount while you are investigating, but I am still obligated to pay the part of my bill that we call in question.

If you find that you made a mistake on my bill, I will not have to pay any finance charges related to any questioned amount. If you don't make a mistake, I may have to pay finance charges, and I will have to make up any missed payments on the questioned amount. In either case, you will send me a statement of the amount I owe, and the date that it is due.

If I fail to pay the amount that you think I owe, you may report me as delinquent. However, if your explanation does not satisfy me and I write to you within 60 days asking you to stop billing me to pay, you must tell anyone you report me to that I have a dispute about my bill. And you must tell me the name of anyone you report me to. You must tell anyone you report me to that the matter has been settled between us when it finally is. If you don't follow these rules, you can't collect the full bill of the questioned account, even if my bill was correct.

Special Rule for Credit Card Purchases

If I have a problem with the quality of property or services that I purchased with a credit card, and I have tried in good faith to correct the problem with the merchant, I may have the right not to pay the remaining amount due on the property or services. There are two limitations on this right: (a) I must have made the purchase in my home state or, if not within my home state within 100 miles of my current mailing address; and (b) The purchase price must have been more than \$10.

These limitations do not apply if you own or operate the merchant, or if you made me the advance payment for the property or services.

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TIMOTHY L. CLEVELAND
Attorney at Law
400 East Main Street
Spartanburg, SC 29302

This document was prepared by
ARTHUR STATE BANK - SPARTANBURG - EAST
100 EAST MAIN ST
SPARTANBURG, SC 29302

1410-7000-22004
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Recording Fee \$11.00 Documentary Stamp \$0.00
Office of Registrar of Deeds, Spartanburg, S.C.
Stephen Ford, Registrar

State of South Carolina

MORTGAGE
(With Future Advance Clause)

1. **DATE AND PARTIES.** The date of this Mortgage (Security Instrument) is 06-10-2008
The parties and their addresses are:

MORTGAGOR:

ANN E. BRIDGES, SPOUSE OF QUENTIN E. BRIDGES JR, DIVORCE A. BRIDGES, VIRGINIA S. BRIDGES

*QEB YSB
RAB QSB*

☐ If checked, refer to the attached Addendum incorporated herein for additional Mortgages, their signatures and acknowledged dates.

LENDER:

ARTHUR STATE BANK - SPARTANBURG
ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF SOUTH CAROLINA
100 EAST MAIN STREET
POST OFFICE BOX 700 SPARTANBURG, SC 29302

2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (defined below) and Mortgagor's performance under this Security Instrument, Mortgagor grants, bargains, conveys and mortgages to Lender the following described property:
SEE EXHIBIT "A" ATTACHED HERETO AND MAKE PART THEREOF

The property is located in SPARTANBURG at 1005 W. 17TH AVE.
(County) (City) South Carolina (Zip Code)
(Address) (City) (Zip Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, all water and riparian rights, ditches, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property").

3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount secured by this Security Instrument at any one time shall not exceed \$ 1105,000.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument. Interest under the Note will be deferred, accepted or capitalized; however, Mortgagor shall not be required to defer, accrue or capitalize any interest except as provided in the Note.
4. **SECURED DEBT AND FUTURE ADVANCES.** The term "Secured Debt" is defined as follows:
A. Debt incurred under the terms of all promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all their extensions, renewals, modifications or substitutions. (You must specifically identify the debt(s) secured and you should include the final maturity date of each debt(s).)
NOTE OF EVEN DATE FROM QUENTIN E. BRIDGES JR. IN THE ORIGINAL AMOUNT OF \$1105,000.00, MATURING 07-25, 2022.

SOUTH CAROLINA - HOMO EQUITY LINE OF CREDIT MORTGAGE NOT FOR SALE, LEASE, RENT OR VA USE
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B. All future advances from Lender to Mortgagee or other future obligors of Mortgagee to Lender under any promissory note, contract, guaranty, or other evidence of debt executed by Mortgagee in favor of Lender under this Security Instrument whether or not this Security Instrument is specifically referenced. If more than one person signs this Security Instrument, each Mortgagee agrees that this Security Instrument will secure all future advances and future obligations that are given to or incurred by any one or more Mortgagee, or any one or more Mortgagee and others. All future advances and future obligations secured by this Security Instrument shall be given to or incurred by any one or more persons who are not yet being advanced. All future advances and other future obligations are secured as if made to the future class of this Security Instrument. Nothing in this Security Instrument shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment must be agreed to in a separate writing.

C. All other obligations Mortgagee owes to Lender, which may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagee and Lender.

D. All additional costs advanced and expenses incurred by Lender (in traveling, preserving or otherwise protecting the Property and its value and any other costs advanced and expenses incurred by Lender under the terms of this Security Instrument.

to the extent that Lender fails to provide any required notice of the right of rescission, Lender waives any subsequent security interest in the Mortgagor's principal dwelling that is created by this Security Instrument.

5. **MORTGAGE COVENANTS.** Mortgagor agrees that the covenants in this section are material obligations under the Secured Debt and this Security Instrument. If Mortgagor breaches any covenant in this section, Lender may refuse to make additional extensions of credit and rescind the credit limit. By not exercising either remedy on Mortgagor's breach, Lender does not waive Lender's right to later exercise the event of default if it happens again.

Payment is. Manager agrees that all payments under the Secured Debt will be paid when due and in accordance with the terms of the Secured Debt and this Security Agreement.

Prior Security Interests. With regard to any other mortgage, deed of trust, security agreement or other lien documents that created a prior security interest or encumbrance on the property, Borrower agrees to make all payments when due and to perform all covenants with all documents. Borrower also agrees not to allow any modification or extension of, nor to request any future advances under any such an agreement secured by the lien document without Lender's prior written approval.

Claims Against Wife. Mortgage will pay all taxes, assessments, fire, assessments, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender's right to provide for the Lender's portion of all such claims is due and the mortgagor's obligation to provide for the Lender's portion of all such claims is hereby waived. No claim or defense of mortgagor may have against lender who supplies labor or materials to construction or maintenance of the Property.

Property Condition, Abandonment and Impediment. Montezuma will keep the Property in good condition and make all repairs that are reasonably necessary. Montezuma shall not attempt to allow any water, impurities, or obstructions of the Property. Montezuma agrees that the Assure of the occupancy and use will not substantially change the character of the Property. Montezuma will not permit any change to any structure, substantially increase or decrease the number of persons who reside on the Property. Montezuma will notify Leader of all demands, proceedings, claims and actions against Montezuma, and of any loss or damage to the Property.

Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender shall give Mortgagee notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagee will in no way rely on Lender's inspections.

Authority to Perform. If Manager fails to perform any duty or any of the coretasks contained in this Security Instrument, Leader may, without notice, perform or cause them to be performed. Manager appoints Leader as attorney in fact to sign Manager's name or pay any amount necessary for performance. Leader's right to perform for Manager shall not be held in abeyance or suspended. Manager's failure to perform will not preclude Leader from exercising any of Leader's other rights under the law of this Security Instrument.

Landlords; Condominiums; Planned Unit Developments. Mortgagee agrees to comply with the provisions of any lease of this security instrument as a landlord. If the property includes a unit in a condominium or a planned unit development, Mortgagee will perform all of Mortgagee's duties under its covenants, by-laws, or regulations of the condominium or planned unit development.

Condemnation. Mortgagee will give Lender prompt notice of any pending threatened action, by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Mortgagee authorizes Lender to intervene in Mortgagee's claim in any of the above described actions or claims. Mortgagee authorizes Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be completed payments and will be applied to amounts in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other loan documents.

Insurance. Mortgagee shall not Property insured against loss by fire, flood, theft and other hazards and risks reasonably associated with the Property due to its type and location. This insurance shall be maintained in the amount and not the policies that Lender requires. When Lender requires payments to the preceding two sentences can change during the term of this Secured Debt. The insurance carrier providing the insurance shall be chosen by Mortgagee subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagee fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Section by independent means.

All loanword policies and materials shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "pay-off clause." Mortgages shall immediately notify Lender of cancellations or terminations of the loanword. Lender shall have the right to hold the policies and materials. If Lender requires, Mortgage shall immediately give to Lender all records of paid premiums and renewal notices. Upon loan, Mortgage shall give immediate notice to the loanword term and Lender. Lender may make proof of loss if not made immediately by Mortgage.

Unless otherwise agreed in writing, all insurance proceeds shall be applied to the restoration or repair of the Property as to the Successor Debt, whether or not due due, at Lender's option. Any application of proceeds to principal shall not extend or postpone the due date of the scheduled payments nor change the amount of any payment. Any excess will be paid to the Mortgagee. If the Property is acquired by Lender, Mortgagee's right to any insurance policies and proceeds arising from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

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Financial Reports and Additional Documents. Mortgagor will provide to Lender upon request, any financial statements or information Lender may deem reasonably necessary. Mortgagor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, enforce, and preserve Mortgagor's obligations under this Security Instrument and Lender's lien rights on the Property.

6. **WARRANTY OF TITLE.** Mortgagee warrants that Mortgage is or will be the lawful title of the estate conveyed by this Security Instrument and has the right to grant, bargain, convey, sell and mortgage the Property. Mortgagee also warrants that this Property is unencumbered, except for encumbrances of record.
7. **DUE ON SALE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or in connection with the creation of, a transfer of all or any part of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 503), as applicable.
8. **DEFAULT.** Mortgagee will be in default if any of the following occur:

Penalty. Any Consumer Borrower on any Secured Debt that is an open end home equity plan fails to make a payment when due.

Property. Any action to enforce by the Borrower or Mortgagee against the Lender's rights in the Property. This includes, but is not limited to, the following: (a) Mortgagee fails to maintain required insurance on the Property; (b) Mortgagee transfers the Property; (c) Mortgagee commits waste or otherwise destructively uses or fails to maintain the Property such that the title or location adversely affects Lender's security; (d) Mortgagee fails to pay taxes on the Property or adversely fails to act and thereby causes a lien to be filed against the Property that is a lien to the first of the following: (i) a judgment against the Borrower or the Lender; (ii) a judgment against the Borrower or the Lender adversely affected; (e) the Property is taken through eminent domain; (f) a judgment is filed against Mortgagee and subrogs Mortgagee and the Property to actions that adversely affect Lender's interest; or (g) a prior lienholder forecloses on the Property and is a lien, Lender's interest is adversely affected.

Executive Officers. Any borrower is an executive officer of Lender or its affiliate and each Borrower becomes indebted to Lender or another lender in an aggregate amount greater than the amount permitted under Federal laws and regulations.

9. **REMEDIES ON DEFAULT.** In addition to any other remedy available under the terms of this Security Instrument, Lender may accelerate the Secured Debt and foreclose this Security Instrument to a maximum provided by law if Mortgagor is in default. In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure, or other notices and may establish time schedules for foreclosure action.

As the option of the Lender, all or any part of the agreed fees and charges, interest and principal shall become immediately due and payable, after giving notice (if required by law, upon the occurrence of a default or anytime thereafter. This acceptance by Lender of any sum to payment or partial payment on the Secured Debt after the default is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require complete cure of any existing default, by not accepting any remedy as mitigation of default, Lender does not waive Lender's right to later consider the event a default if it happens again.

10. EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS. If Mortgagee incurs any expenses in this Security Instrument, Lender agrees to pay all expense Lender incurs in performing such covenants protecting its security interest in the Property, such as expenses incurred, but are not limited to, fees incurred for preparing, recording, or otherwise perfecting the Property and Lender's security interest. These expenses are payable on demand and will bear interest from the date of payment until paid in full at the highest rate of interest in effect as provided in the terms of the Secured Debt. Mortgagee agrees to pay all costs and expenses incurred by Lender in collecting, enforcing or pursuing Lender's rights and remedies under this Security Instrument. This amount may include, but is not limited to, reasonable attorney's fees of not more than 15% of the unpaid debt where it is warranted for collection to sue an attorney who is not a satisfied employee of the Lender, court costs, and other legal expenses allowed by law. To the extent permitted by the United States Bankruptcy Code, Mortgagee agrees to pay the reasonable attorney's fee Lender incurs to collect the Secured Debt as awarded by any court exercising jurisdiction under the Bankruptcy Code. This Security Instrument shall remain in effect until released. Mortgagee agrees to pay for any recordation costs of each release.

- ni ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES. As used in this volume, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), and all the Federal laws, state local laws, regulations, ordinances, court orders, agency general orders of law and orders of enforcement, and (2) Hazardous Substances means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The three locutions, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substances" under any Environmental Law.

Mr. [redacted] [redacted], [redacted] and [redacted] that:

- A. Except as previously disclosed and acknowledged in writing to Leader, no Hazardous Substance is or will be located, stored or released on or in the Property. This warranties does not apply to small quantities of Hazardous Substances that are generally recognized to be appropriate for the normal use and maintenance of the Property.
- B. Except as previously disclosed and acknowledged in writing to Lender, Mortgagee and every tenant here down, etc., and shall remain in full compliance with any applicable Environmental Law.
- C. Mortgagee shall immediately notify Lender in a release or threatened release of a Hazardous Substance occur on, under or about the Property or there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagee shall take all necessary remedial action in accordance with any Environmental Law.
- D. Mortgagee shall immediately notify Lender in writing as soon as Mortgagee has reason to believe there is any pending or threatened investigation, claim, or proceeding relating to the release or threatened release of any Hazardous Substance of the violation of any Environmental Law.

13. **ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagee will not be required to pay to Lender funds for taxes and insurance to borrow.

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13. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All debts under this Security Instrument are joint and individual. If Mortgagor signs this Security Instrument but does not sign as evidence of debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. If this Security Instrument secures a guaranty between Lender and Mortgagor, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws. The debts and benefits of this Security Instrument shall bind and benefit the successors and assigns of Mortgagor and Lender.
14. **SEVERABILITY; INTERPRETATION.** This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement. Any provision in this Security Instrument, attachment, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the violation by written agreement. If any section of this Security Instrument cannot be enforced according to its terms, that section will be severed and will not affect the enforceability of the remainder of this Security Instrument. Whoever signs this Security Instrument shall be bound by the plain and true meaning of the language. The captions and headings of the sections of this Security Instrument are for convenience only and are not to be used to interpret or define the terms of this Security Instrument. There is of the estate in this Security Instrument.
15. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address as set forth in this Security Instrument, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.
16. **WAIVERS.** Except to the extent prohibited by law, Mortgagor waives all homestead exemption rights relating to the Property.
17. **LINE OF CREDIT.** The Secured Debt includes a revolving line of credit. Although the Secured Debt may be reduced to a zero balance, this Security Instrument will remain in effect until released.
18. **APPLICABLE LAW.** This Security Instrument is governed by the laws as agreed to in the Secured Debt, except to the extent required by the laws of the jurisdiction where the Property is located, and applicable federal laws and regulations.
19. **RIDERS.** The covenants and agreements of each of the riders checked below are incorporated into and supplement and amend the terms of this Security Instrument.
(Check all applicable boxes)
☐ Assignment of Leases and Rents ☐ Other _____
20. ☐ **ADDITIONAL TERMS.**

SIGNATURES: By signing below, Mortgagor agrees to the terms and covenants contained in this Security Instrument and in any attachments. Mortgagor also acknowledges receipt of a copy of this Security Instrument on the date stated on page 1.

Ann G. Brown
4-26-06 (Date)
(Signature) ANN G. BROWN (Print)
WYOMING S. GREENE Virginia Brown by Quinlan S. Brown, atty-in-fact
Signed, sealed and delivered in the presence of: BY: Quinlan S. Brown, atty-in-fact (See Deed Book 67-D, page 388) (See Deed Book 73-X, page 918)
Quinlan S. Brown BY: Ann G. Brown, attorney-in-fact
Witness: Russell A. Brown
(Witness) BY: Ann G. Brown, attorney-in-fact (See Deed Book 67-D, page 396)
STATE OF WYOMING COUNTY OF NATRONA ss.
Personally appeared before me the undersigned witness who, being duly sworn, depose and say that (1) the law the Mortgagor (and each Mortgagor if more than one) sign, seal and deliver the foregoing Mortgage and this Rider, together with the other witnesses whose names appear as a witness, witnessed the execution thereof.
Sworn to and subscribed before me this 26th day of April, 2006.
Quinlan S. Brown (Signature) (Seal)
My commission expires: 4-8-12

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EXHIBIT "A"

All that certain piece, parcel or lot of land, lying and being in the County of Spartanburg, State of South Carolina, being shown and designated as Lot No. 1, upon a plat prepared for Ralph W. Broom by Cooch & Taylor, Surveyors, dated March 21, 1951 and recorded in Plat Book 28, page 310, Office of the Register of Deeds for Spartanburg County, LESS AND EXCLUDING, however, all that certain piece, parcel or lot of land shown and designated as Lot 1-B, consisting of 1.77 acres upon a plat prepared for Quentin Broom, Jr., and recorded in Plat Book 119, page 33, said ROD Office.

DERIVATION: This is a portion of the same property devised to Virginia S. Broom by the Will of Ralph W. Broom as shown in Probate File No. 21425, Probate Court for Spartanburg County, South Carolina. This is the same property conveyed to the other Mortgagees herein by deeds from Virginia S. Broom recorded in Deed Book 67-D, page 380 and Deed Book 67-D, page 384, Office of the Register of Deeds for Spartanburg County.

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Arthur State Bank,

Plaintiff,

v.

Quentin S. Broom, Jr., Amy B. Broom
aka Amy Broom, Ann G. Broom, and
Russell A. Broom,

Defendants.

IN THE COURT OF COMMON PLEAS
C.A. No.: 2012-CP-42-2714

**ANSWER AND COUNTERCLAIM
OF DEFENDANTS**

The Defendants, above-named, by the through their undersigned counsel, in answering and counterclaiming to the Complaint in this matter would show unto the Honorable Court as follows:

FOR A FIRST DEFENSE

1. The allegations of Paragraph 1 of the Complaint are admitted upon information and belief;

2. In response to Paragraphs 2 and 3 of the Complaint it is affirmatively alleged that Quentin S. Broom, Jr. and Amy B. Broom are citizens and residents of the county of Spartanburg state of South Carolina and of the state of Florida.

3. The allegations of Paragraphs 4 and 5 of the Complaint are admitted except that Defendant Broom, Jr. is a resident of Georgia.

4. The allegations of Paragraph 6 are admitted upon information and belief.

5. The allegations of Paragraph 7 are admitted.

6. The preceding allegations of this Answer and Counterclaim are realleged and

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incorporated by reference in response to Paragraph 8.

7. The allegations of Paragraphs 9-10 of the Complaint are admitted.

8. In response to Paragraphs 11 and 12 it is admitted that Defendant Broom, Jr. executed a note and mortgage dated September 30, 2003. The terms of the note and mortgage speak for themselves, and to the extent that the remaining allegations of Paragraph 12 are inconsistent with the terms of said note and mortgage, those same allegations are denied.

9. In response to Paragraph 13 it is admitted that the mortgage was signed by Defendant Broom, Jr. and recorded in accordance with South Carolina law. To the extent Paragraph 13 alleges anything other than what has been admitted herein, those allegations are denied.

10. The allegations of Paragraphs 14 and 15 are admitted.

11. In response to the allegations of Paragraphs 16 and 17, it is affirmatively alleged that the note and mortgage referenced speak for themselves. To the extent that the allegations of Paragraphs 16 and 17 are inconsistent with the terms of said note and mortgage, those same allegations are denied.

12. In response to Paragraph 18, it is admitted that Broom, Jr. has not made all payments due on the note and mortgage. To the extent Paragraph 18 alleges anything other than what has been admitted herein, those allegations are denied.

13. The allegations of Paragraph 19 are admitted upon information and belief.

14. In response to the allegations of Paragraph 20, these Defendants lack sufficient information to either admit or deny the specific allegations contained therein. It is admitted only that the terms of the note and mortgage speak for themselves and Plaintiff has such rights and obligations as arise under said instruments.

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15. The preceding allegations of this answer and counterclaim are realigned and incorporated by reference in response to Paragraph 21.

16. The allegations of Paragraph 22 are admitted.

17. In response to the allegations of Paragraph 23, it is affirmatively alleged that the Power of Attorney speaks for itself and to the extent that Paragraph 23 is inconsistent with the terms of the said Power of Attorney, those allegations are denied.

18. The allegations of Paragraph 24 are admitted.

19. In response to the allegations of Paragraph 25, it is affirmatively alleged that the Power of Attorney speaks for itself and to the extent that Paragraph 25 is inconsistent with the terms of the said Power of Attorney, those allegations are denied.

20. The allegations of Paragraph 26 are admitted.

21. The allegations of Paragraph 27 are admitted.

22. The allegations of Paragraphs 28-32 are admitted.

23. In response to the allegations of Paragraph 33 it is admitted that mortgage-2 was executed and recorded in accordance with South Carolina law. To the extent Paragraph 33 alleges anything other than what has been specifically admitted herein, those allegations are denied.

24. In response to the allegations of Paragraphs 34 and 35, it is affirmatively alleged that the terms of the note and mortgage speak for themselves and to the extent that the allegations of these paragraphs are inconsistent with the terms of said instruments, those allegations are denied.

25. In response to Paragraph 36 it is admitted that Defendant Broom, Jr. has not made all payments pursuant to the note referenced when due. To the extent that Paragraph 36 alleges

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anything other than what has been specifically admitted herein, those allegations are denied.

26. The allegations of Paragraph 37 are admitted upon information and belief.

27. In response to the allegations of Paragraph 38, these Defendants lack sufficient information to admit or deny the allegations of Paragraph 38 and therefore deny the same.

28. The preceding allegations of this answer and counterclaim are realigned and incorporated by reference in response to Paragraph 39.

29. In response to Paragraphs (sic) 1 and (sic) 2 which follow Paragraph 39, it is affirmatively alleged that Defendant Broom, Jr. has not made all payments under note 1 and note 2 when payments were due. It is further admitted that Plaintiff has notified Defendant Broom Jr. of an alleged default and failure to pay under said notes. To the extent these Paragraphs anything other than what is been specifically admitted herein, those allegations are denied.

30. In response to the allegations of Paragraph 40, it is alleged that the mortgages speak for themselves and to the extent that the allegations of Paragraph 40 are inconsistent with the terms of said mortgages, those allegations are denied.

31. In response to the allegations of Paragraph 41, these Defendants lack sufficient information to admit or deny any elections made by Plaintiff as to preceding under the loan documents. It is specifically denied that Plaintiff has a right to any judgments against Defendants in this matter. To the extent that Paragraph 41 alleges anything other than what has been admitted or explained herein, those allegations are denied.

32. The allegations of Paragraph 42 are denied.

33. In response to the allegations of Paragraph 43, it is admitted that Defendant Broom Jr. has not made all payments when due under the notes and mortgages. It is affirmatively

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alleged that Defendant Broom, Jr. is justified and withholding said payments pursuant to counterclaims and off-sets as set forth below. To the extent Paragraph 43 alleges anything other than what has been specifically admitted or explained herein, those allegations are denied.

34. These Defendants lack sufficient information to admit or deny the allegations of Paragraph 44 and therefore deny the same.

35. In response to the allegations of Paragraph 45, it is admitted only that Plaintiff has such rights and remedies as are permitted by the instruments signed in this matter and by the laws by the state of South Carolina. To the extent Plaintiff alleges the right to any remedy other than those provided by the notes and instruments and by the law of the state, those allegations are denied.

36. In response to the allegations of Paragraph 47, it is denied that Plaintiff has any right to judgment against Quentin S. Broom, Jr. in this matter.

37. All allegations of Plaintiff's Complaint not herein expressly admitted or denied.

FOR A SECOND DEFENSE

38. These Defendants reallege and incorporate by reference all allegations of their previous defenses were not inconsistent herewith.

39. The subject property in this matter includes an owner occupied dwelling as that term is defined by South Carolina Supreme Court Administrative Order 2011-05-02-01 and subject of the protections of said administrative order.

FOR A THIRD DEFENSE

40. These Defendants reallege and incorporate by reference all allegations of their previous defenses were not inconsistent herewith.

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41. On and before September 2011, the Defendant Quentin S. Broom, Jr. was involved in a lawsuit with Defendants Ten State Street, LLP, Timothy D. Scrantom, Mark Broadwater, and H. Hugh Andrews. In conjunction with said litigation, the parties adverse to Defendant Broom, Jr. served upon Plaintiff certain subpoenas for the records for various bank accounts maintained at Plaintiff's bank.

42. Several of the accounts whose records were subpoenaed were held by Defendants other than Defendant Broom, Jr., who was a party to that litigation.

43. On September 16, 2011, Patrick E. Knie, Esquire, counsel for Broom, Jr., wrote to Plaintiff informing Plaintiff's representative that the subpoenas issued requested bank records for non-litigants in that action and requested that the bank notify each account holder that the subpoenas had been issued and give them an opportunity to seek independent legal counsel with respect to the exposure of their financial records which, according to Defendant Broom, Jr. and Mr. Knie, were not pertinent to the litigation.

44. The bank ignored the request of Defendant Broom, Jr. through his counsel Mr. Knie and disclosed the individual records of the non-litigants to the adverse parties in that subject litigation.

45. The disclosure of said personal banking information without notice to the account holders violated the federal Bank Privacy Act, and breached duties of care owed by the bank to its depositors.

46. As a direct and proximate result of this improper disclosure of banking information, Defendant Broom, Jr. was compromised in litigation, and the other bank depositors put at risk of additional vexatious action by the adverse litigants in that lawsuit.

47. The Defendants herein assert as an off-set to any amounts allegedly due under

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instruments referenced in this action the damages suffered by Defendants as a result of the improper disclosure of private information by Plaintiff.

FOR A FOURTH DEFENSE AND BY WAY OF FIRST COUNTERCLAIM

48. Defendants reallege and incorporate by reference all allegations of their previous defenses were not inconsistent herewith .

49. As set forth above, Plaintiff has breached its statutory and common law duties to the Defendant to maintain privacy and not to disclose depositor information to third parties.

50. The Plaintiff breached said duties by disclosing to the litigants adverse to Defendant Broom, Jr. the personal financial information of Defendants herein.

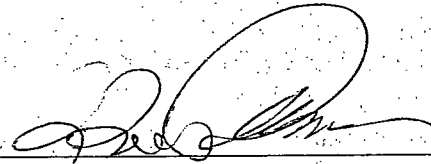
51. As a direct and proximate result of the improper disclosure, the Defendants have suffered injury and damages in an amount to be determined by the court and jury herein.

WHEREFORE, having fully answered and counterclaimed, the Defendants herein pray as follows;

1. That the Defendants request for foreclosure on the mortgages be denied;
2. That the Plaintiff's request that Defendants be held in default under the instruments contained herein be denied;
3. That, to the extent that Plaintiff is entitled to any deficiency judgment against any Defendant herein, which is denied but admitted solely for purposes of this defense, that any such judgment be off-set by the damages and injuries caused to Defendants by Plaintiffs as alleged herein;
4. That the Defendants have judgment against Plaintiff on their counterclaims as alleged herein for actual damages;
5. For a trial by jury; and

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M. HOPE BLACKLEY

6. For the cost of this action and any and all other remedies which the court and or jury may deem appropriate.



L. Lee Plumblee
EPPES & PLUMBLEE, P.A.
P.O. Box 10066
Greenville, SC 29603
(864) 235-2600
Fax: (864) 235-4600
Attorney for Defendants

Greenville, South Carolina

Date: September 28, 2012.

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M. HOPE BLACKLEY

PATRICK E. KNIE**ATTORNEY AT LAW**

A Professional Association

250 Magnolia Street

Spartanburg, S.C. 29306

Telephone No. (864) 582-5118

Fax No.:

(864) 585-1615

Mailing Address:

P.O. Box 5159 (29304)

September 16, 2011

Mr. Kelly Banks
Arthur State Bank
756 East Main Street
Spartanburg, South Carolina 29302

RE: Quentin S. Broom, Jr. vs. Ten State Street, L.L.P., Timothy
D. Scrantom, Mark Broadwater, and H. Hugh Andrews

Dear Mr. Banks:

I represent Quentin S. Broom, Jr. with respect to the above-entitled litigation. On September 12, 2011, I received a copy of a Subpoena dated September 9, 2011 seeking the production of various bank records from numerous accounts, a copy of which is attached hereto for your reference. My client has reviewed the addendum to the Subpoena which identifies the account numbers. Many of the account numbers are not his, and he is unable to identify the owners of those accounts. He and I are both concerned that the private financial records of individuals who are not named parties to the lawsuit entitled above may be exposed to the invasion of their privacy.

I would respectfully request that the Bank notify each one of the account holders, other than Mr. Broom, and advise each of them of the pending Subpoena request so that they may, if they choose, seek independent legal counsel with respect to the potential exposure of their financial records.

I am sure you will take the proper and appropriate action under the circumstances.

If you have any questions or comments, I am available at your convenience.

Sincerely,

Patrick E. Knie

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Enclosure

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M. HOPE BLACKLEY

Mr. Kelly Banks
Arthur State Bank
September 16, 2011
Page 2

cc: Mr. James R. Gilreath
The Gilreath Law Firm, P.A.
Attorneys at Law
Post Office Box 2147
Greenville, South Carolina 29602

Mr. Rodney F. Pillsbury
Pillsbury Law Firm, P.C.
1204-A East Washington Street
Greenville, South Carolina 29601

Mr. R. Davis Howser
Howser, Newman & Besley, L.L.C.
Attorneys at Law
Post Office Box 12009
Columbia, South Carolina 29211

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

0000080

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Arthur State Bank,

Plaintiff,

v.

Quentin S. Broom, Jr., Amy B. Broom
aka Amy Broom, Ann G. Broom, and
Russell A. Broom,

Defendants.

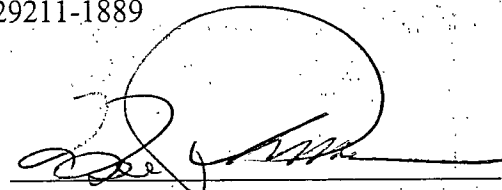
IN THE COURT OF COMMON PLEAS
C.A. No.: 2012-CP-42-2714

**CERTIFICATE OF SERVICE
BY MAIL**

The undersigned does hereby certify that he has this date served the Defendants' Answer and Counterclaim of Plaintiffs' Complaint upon Plaintiff's counsel, by causing to be delivered by U.S.

Mail a copy of same, this the 28th day of September, 2012, addressed as follows:

Louise M. Johnson, Esquire
HAYNSWORTH, SINKLER, BOYD, P.a.
Post Office Drawer 11889
Columbia, S.C. 29211-1889



L. Lee Plumblee
Attorney for Defenants
EPPES & PLUMBLEE, P.A.
P.O. Box 10066
Greenville, SC 29605
864-235-2600
Fax: 864-235-4600

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M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
C.A. No.: 2012-CP-42-2714

Arthur State Bank,

Plaintiff,

v.

Quentin S. Broom, Jr., Amy B. Broom
aka Amy Broom, Ann G. Broom, and
Russell A. Broom,

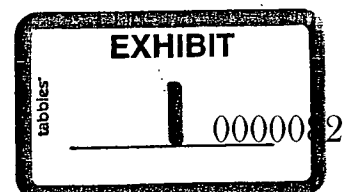
Defendants.

**AMENDED ANSWER AND
COUNTERCLAIM OF DEFENDANTS**

The Defendants, above-named, by the through their undersigned counsel, in answering and counterclaiming to the Complaint in this matter would show unto the Honorable Court as follows:

FOR A FIRST DEFENSE

1. The allegations of Paragraph 1 of the Complaint are admitted upon information and belief;
2. In response to Paragraphs 2 and 3 of the Complaint it is affirmatively alleged that Quentin S. Broom, Jr. and Amy B. Broom are citizens and residents of the county of Spartanburg state of South Carolina and of the state of Florida.
3. The allegations of Paragraphs 4 and 5 of the Complaint are admitted except that Defendant Broom, Jr. is a resident of Georgia.
4. The allegations of Paragraph 6 are admitted upon information and belief.
5. The allegations of Paragraph 7 are admitted.
6. The preceding allegations of this Answer and Counterclaim are realleged and



incorporated by reference in response to Paragraph 8.

7. The allegations of Paragraphs 9-10 of the Complaint are admitted.

8. In response to Paragraphs 11 and 12 it is admitted that Defendant Broom, Jr. executed a note and mortgage dated September 30, 2003. The terms of the note and mortgage speak for themselves, and to the extent that the remaining allegations of Paragraph 12 are inconsistent with the terms of said note and mortgage, those same allegations are denied.

9. In response to Paragraph 13 it is admitted that the mortgage was signed by Defendant Broom, Jr. and recorded in accordance with South Carolina law. To the extent Paragraph 13 alleges anything other than what has been admitted herein, those allegations are denied.

10. The allegations of Paragraphs 14 and 15 are admitted.

11. In response to the allegations of Paragraphs 16 and 17, it is affirmatively alleged that the note and mortgage referenced speak for themselves. To the extent that the allegations of Paragraphs 16 and 17 are inconsistent with the terms of said note and mortgage, those same allegations are denied.

12. In response to Paragraph 18, it is admitted that Broom, Jr. has not made all payments due on the note and mortgage. To the extent Paragraph 18 alleges anything other than what has been admitted herein, those allegations are denied.

13. The allegations of Paragraph 19 are admitted upon information and belief.

14. In response to the allegations of Paragraph 20, these Defendants lack sufficient information to either admit or deny the specific allegations contained therein. It is admitted only that the terms of the note and mortgage speak for themselves and Plaintiff has such rights and obligations as arise under said instruments.

15. The preceding allegations of this answer and counterclaim are re-alleged and

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incorporated by reference in response to Paragraph 21.

16. The allegations of Paragraph 22 are admitted.

17. In response to the allegations of Paragraph 23, it is affirmatively alleged that the Power of Attorney speaks for itself and to the extent that Paragraph 23 is inconsistent with the terms of the said Power of Attorney, those allegations are denied.

18. The allegations of Paragraph 24 are admitted.

19. In response to the allegations of Paragraph 25, it is affirmatively alleged that the Power of Attorney speaks for itself and to the extent that Paragraph 25 is inconsistent with the terms of the said Power of Attorney, those allegations are denied.

20. The allegations of Paragraph 26 are admitted.

21. The allegations of Paragraph 27 are admitted.

22. The allegations of Paragraphs 28-32 are admitted.

23. In response to the allegations of Paragraph 33 it is admitted that mortgage-2 was executed and recorded in accordance with South Carolina law. To the extent Paragraph 33 alleges anything other than what has been specifically admitted herein, those allegations are denied.

24. In response to the allegations of Paragraphs 34 and 35, it is affirmatively alleged that the terms of the note and mortgage speak for themselves and to the extent that the allegations of these paragraphs are inconsistent with the terms of said instruments, those allegations are denied.

25. In response to Paragraph 36 it is admitted that Defendant Broom, Jr. has not made all payments pursuant to the note referenced when due. To the extent that Paragraph 36 alleges anything other than what has been specifically admitted herein, those allegations are denied.

26. The allegations of Paragraph 37 are admitted upon information and belief.

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27. In response to the allegations of Paragraph 38, these Defendants lack sufficient information to admit or deny the allegations of Paragraph 38 and therefore deny the same.

28. The preceding allegations of this answer and counterclaim are realleged and incorporated by reference in response to Paragraph 39.

29. In response to Paragraphs (sic) 1 and (sic) 2 which follow Paragraph 39, it is affirmatively alleged that Defendant Broom, Jr. has not made all payments under note 1 and note 2 when payments were due. It is further admitted that Plaintiff has notified Defendant Broom Jr. of an alleged default and failure to pay under said notes. To the extent these Paragraphs anything other than what is been specifically admitted herein, those allegations are denied.

30. In response to the allegations of Paragraph 40, it is alleged that the mortgages speak for themselves and to the extent that the allegations of Paragraph 40 are inconsistent with the terms of said mortgages, those allegations are denied.

31. In response to the allegations of Paragraph 41, these Defendants lack sufficient information to admit or deny any elections made by Plaintiff as to preceding under the loan documents. It is specifically denied that Plaintiff has a right to any judgments against Defendants in this matter. To the extent that Paragraph 41 alleges anything other than what has been admitted or explained herein, those allegations are denied.

32. The allegations of Paragraph 42 are denied.

33. In response to the allegations of Paragraph 43, it is admitted that Defendant Broom, Jr. has not made all payments when due under the notes and mortgages. It is affirmatively alleged that Defendant Broom, Jr. is justified and withholding said payments pursuant to counterclaims and off-sets as set forth below. To the extent Paragraph 43 alleges anything other than what has been specifically admitted or explained herein, those allegations are denied.

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34. These Defendants lack sufficient information to admit or deny the allegations of Paragraph 44 and therefore deny the same.

35. In response to the allegations of Paragraph 45, it is admitted only that Plaintiff has such rights and remedies as are permitted by the instruments signed in this matter and by the laws by the state of South Carolina. To the extent Plaintiff alleges the right to any remedy other than those provided by the notes and instruments and by the law of the state, those allegations are denied.

36. In response to the allegations of Paragraph 47, it is denied that Plaintiff has any right to judgment against Quentin S. Broom, Jr. in this matter.

37. All allegations of Plaintiff's Complaint not herein expressly admitted or denied.

FOR A SECOND DEFENSE

38. These Defendants reallege and incorporate by reference all allegations of their previous defenses were not inconsistent herewith.

39. The subject property in this matter includes an owner occupied dwelling as that term is defined by South Carolina Supreme Court Administrative Order 2011-05-02-01 and subject of the protections of said administrative order.

FOR A THIRD DEFENSE

40. These Defendants reallege and incorporate by reference all allegations of their previous defenses were not inconsistent herewith.

41. These Defendants plead the affirmative defense of payment to Plaintiff's Complaint for all amounts paid upon said account.

FOR A FOURTH DEFENSE

42. These Defendants reallege and incorporate by reference all allegations of their

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previous defenses were not inconsistent herewith.

41. On and before September 2011, the Defendant Quentin S. Broom, Jr. was involved in a lawsuit with Defendants Ten State Street, LLP, Timothy D. Scrantom, Mark Broadwater, and H. Hugh Andrews. In conjunction with said litigation, the parties adverse to Defendant Broom, Jr. served upon Plaintiff certain subpoenas for the records for various bank accounts maintained at Plaintiff's bank.

42. Defendant Quentin S. Broom, Jr. and other members of his family were the account holders whose records were subpoenaed. With the exception of Quentin S. Broom, Jr., none of the other family members were parties to the litigation giving rise to the subpoenas.

43. On September 16, 2011, Patrick E. Knie, Esquire, counsel for Broom, Jr., wrote to Plaintiff informing Plaintiff's representative that the subpoenas issued requested bank records for non-litigants in that action and requested that the bank notify each account holder that the subpoenas had been issued and give them an opportunity to seek independent legal counsel with respect to the exposure of their financial records which, according to Defendant Broom, Jr. and Mr. Knie, were not pertinent to the litigation.

44. The bank ignored the request of Defendant Broom, Jr. through his counsel Mr. Knie and disclosed the individual records of Defendant Broom, Jr. and of the non-litigants to the adverse parties in that subject litigation.

45. The disclosure of said personal banking information without notice to the account holders violated:

- a. the provisions of the Graham-Leach-Bliley Act, codified at 15 U.S.C.A. Sections 6801, et. seq.;
- b. Regulations for the protection of account holder privacy promulgated by the Office

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of the Comptroller of the Currency;

c. the bank's own internal policies and procedures, and the bank's obligations to the Defendants deriving from the loan documents;

d. The duties owed to account holders pursuant to the statutory laws of the state of South Carolina, and to the regulations promulgated pursuant to those statutes; and

e. the duties deriving from the common law of the state of South.

46. As a direct and proximate result of this improper disclosure of banking information, Defendant Broom, Jr. was compromised in litigation, and the other family members subjected to vexatious action by the adverse litigants in that lawsuit

47. The Defendants herein assert as an off-set to any amounts allegedly due under the instruments referenced in this action the statutory, actual, incidental and consequential damages suffered by Defendants as a result of the improper disclosure of private information by Plaintiff.

FOR A FIFTH DEFENSE

48. These Defendants re-allege and incorporate by reference all allegations of their previous defenses were not inconsistent herewith.

49. These Defendants would plead as a bar to Plaintiff's claims herein the fact that Plaintiff breached the terms of loan documents and, as a party in breach, Plaintiff has no right to require performance by Defendants with the terms of the loan documents.

FOR A SIXTH DEFENSE AND BY WAY OF FIRST COUNTERCLAIM

48. Defendants re-allege and incorporate by reference all allegations of their previous defenses were not inconsistent herewith.

49. Pursuant to the Graham-Leach-Bliley Act, 15 U.S.C. Sections 6801 et. seq., and regulations promulgated by the Office of the Comptroller of the Currency pursuant to said Act,

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Plaintiff is prohibited from disclosing depositor information without first providing notice to the bank's customers that the information is to be disclosed. Said notice must be provided in a form specified in the Act.

50. Plaintiff provided personal bank account information of Defendants to the unauthorized third parties without complying with the notice provisions of the Act, thereby breaching duties owed to Defendants.

51. As a direct and proximate result of the improper disclosure, the Defendants have suffered injury and damages in an amount to be determined by the court and jury herein.

FOR A SEVENTH DEFENSE AND BY WAY OF A SECOND COUNTERCLAIM

52. These Defendants re-allege and incorporate by reference all allegations of their previous defenses were not inconsistent herewith.

53. At the time that the Plaintiff made its disclosure of non-public information relating to the Defendants herein, Defendants had performed all obligations pursuant to the loan documents and stood ready to perform their obligations to the bank.

54. The disclosure of Defendants' non-public information violated the internal policies and procedures of Plaintiff and constituted breaches of the contractual provisions by and between the parties arising out of the loan documents and constituted breaches of contract.

55. As a direct and proximate result of Plaintiff's breaches of contract, Defendants have suffered actual, consequential, and incidental damages in an amount to be determined by the Court and jury.

FOR AN EIGHTH DEFENSE AND BY WAY OF A THIRD COUNTERCLAIM

56. These Defendants re-allege and incorporate by reference all allegations of their previous defenses were not inconsistent herewith.

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J. H. PEACOCK

57. The Plaintiff owed to Defendants herein a duty of due care.

58. The Plaintiff breached its duty of care and was negligent, grossly negligent, reckless, willful and wanton in the following particulars:

a. In failing to abide by its own policies and procedures for the protection of Defendants' non-public information;

b. In failing to notify Defendants of the Plaintiff's intent to disclose Defendants' non-public account information;

c. In disclosing Plaintiff's non-public account information to unauthorized third parties;

d. In then and there failing to act as a reasonable and prudent person would have acted under same or similar circumstances;

All of which combined and concurred to cause damage to the Defendants in an amount to be determined by the Court and jury.

WHEREFORE, having fully answered and counterclaimed, the Defendants herein pray as follows;

1. That the Defendants request for foreclosure on the mortgages be denied;

2. That the Plaintiff's request that Defendants be held in default under the instruments contained herein be denied;

3. That, to the extent that Plaintiff is entitled to any deficiency judgment against any Defendant herein, which is denied but admitted solely for purposes of this defense, that any such judgment be off-set by the damages and injuries caused to Defendants by Plaintiffs as alleged herein;

4. That the Defendants have judgment against Plaintiff on their counterclaims as alleged herein for actual damages;

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5. For a trial by jury; and

6. For attorneys' fees, the cost of this action, and any and all other remedies which the court
and or jury may deem appropriate.

L. Lee Plumblee
EPPES & PLUMBLEE, P.A.
P.O. Box 10066
Greenville, SC-29603
(864) 235-2600
Fax: (864) 235-4600
Attorney for Defendants

Greenville, South Carolina

Date: April _____, 2013

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Arthur State Bank,

Plaintiff,

v.

Quentin S. Broom, Jr., Amy B. Broom
aka Amy Broom, Ann G. Broom, and
Russell A. Broom,

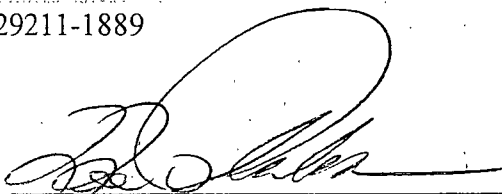
Defendants.

IN THE COURT OF COMMON PLEAS
C.A. No.: 2012-CP-42-2714

**CERTIFICATE OF SERVICE
BY MAIL**

The undersigned does hereby certify that he has this date served the Defendants' Motion to Compel Discovery and Motion to Amend Answer and Counterclaims upon Plaintiff's counsel, by causing to be delivered by U.S. Mail a copy of same, this the 5th day of April, 2013, addressed as follows:

Louise M. Johnson, Esquire
HAYNSWORTH, SINKLER, BOYD, P.A.
Post Office Drawer 11889
Columbia, S.C. 29211-1889



L. Lee Plumblee
Attorney for Defendants
EPPES & PLUMBLEE, P.A.
P.O. Box 10066
Greenville, SC 29605
864-235-2600
Fax: 864-235-4600

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COMMON PLEAS COURT
3
4 Arthur State Bank,)
5 Plaintiff,) TRANSCRIPT OF RECORD
6 -VS-) 2012-CP-42-2714
7 Quentin S. Broom, et al,)
8 Defendants.) April 16, 2013
9 Spartanburg, South Carolina
10

11 B E F O R E:

12 HONORABLE J. DERHAM COLE, JUDGE
13
14

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

16 LOUISE MYERS JOHNSON, ESQUIRE
17 Attorney for the Plaintiff

18 LARRY LEE PLUMBEE, ESQUIRE
19 Attorney for the Defendants
20
21

22 Linda D. Moffitt
23 Circuit Court Reporter
24
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INDEX

Motions -- page 3.

No sworn testimony; no exhibits entered into evidence.

1 THE COURT: All right. Arthur State Bank vs. Broom.

2 Mr. Plumblee, you represent the defendants.

3 MR. PLUMBLEE: That's correct, Your Honor.

4 THE COURT: Ms. Johnson, you represent the plaintiff?

5 MS. JOHNSON: That's correct, Your Honor.

6 THE COURT: And this is the defendant's motion.

7 MR. PLUMBLEE: It's actually -- the plaintiffs filed

8 motions to dismiss for summary judgment, Your Honor. And

9 subsequent to that we filed a motion to amend.

10 We also filed a motion to compel which is now mooted.

11 We've received responses to our discovery yesterday.

12 THE COURT: Okay. Who wants to go first you?

13 MS. JOHNSON: I will, Your Honor. May it please the
14 Court.

15 Louise Johnson here on behalf of the plaintiff, Arthur
16 State Bank.

17 Judge, we -- we've got the motion for summary judgment
18 on the docket, as well as the motion to dismiss.

19 We're -- we did submit discovery responses yesterday.
20 Defendant's counsel has pending a motion to compel. I will
21 in candor to the Court state that one response is still
22 incomplete, and for that matter I discussed with counsel
23 prior to arguing before the Court.

24 If we may, I'd like to with counsel's consent just
25 proceed on the motion to dismiss at this point so we could

1 fully comply with the discovery responses before we proceed
2 on the summary judgment motion if that would not
3 inconvenience the Court too much.

4 THE COURT: Okay. That's fine.

5 MS. JOHNSON: So we'd like to proceed on the 12(b)(6)
6 motion at this point --

7 THE COURT: Okay.

8 ~~MS. JOHNSON: --- and hold the motion for summary~~
9 judgment in abeyance until we can fully complete that
10 discovery response.

11 We're here today on the motion to dismiss the
12 defendant's counterclaims.

13 The plaintiff's case is a foreclosure action, and the
14 counterclaims of the defendants are based on -- they arise
15 out of one set of facts that's common to all three
16 counterclaims. Defense counsel can correct me if I'm
17 wrong, but I'm just going to briefly recite the facts that
18 are common to all of them.

19 They are that the defendants allege that in a case
20 unrelated to plaintiff's foreclosure action the defendant
21 Mr. Broom was involved in a separate lawsuit, and in that
22 separate lawsuit another party to that separate lawsuit
23 subpoenaed from Arthur State Bank records of other members
24 of defendant Mr. Broom's family.

25 That attorney, Pat Knie, wrote to Arthur State Bank

1 and asked Arthur State Bank to notify each account holder
2 that the subpoenas in that separate lawsuit had been issued
3 and to give those family members an opportunity to seek
4 legal counsel with respect to the production of their
5 financial records in that separate lawsuit. That's
6 unrelated to our foreclosure action.

7 They allege that Arthur State Bank didn't notify
8 Mr. Broom's family members and that Arthur State Bank
9 complied with the subpoenas. And those are the facts in a
10 nutshell. They're common to the three causes of action in
11 the counterclaims.

12 For those facts, three separate counterclaims, the
13 plaintiff contends that each counterclaim fails to state a
14 cause of action against Arthur State Bank as a matter of
15 law and that they should be dismissed just on the face
16 based on the pleadings. I'll take each counterclaim
17 separately for the Court.

18 The first counterclaim alleges that production of
19 those family members' records by Arthur State Bank pursuant
20 to that subpoena violates the privacy laws under the
21 Gramm-Leach-Bliley Act.

22 That counterclaim fails as a matter of law on the face
23 of the pleadings because there's no duty under
24 Gramm-Leach-Bliley to keep those records private when
25 responding to a duly served subpoena in a judicial

1 proceeding.

2 And I'll call the Court's attention to the exception
3 under Gramm-Leach-Bliley, 15 U.S.C.S., 682, Subsection
4 (e)(8). And if I may approach I'll hand the Court a copy
5 of that statute. And I'll hand it to opposing counsel.

6 You probably have it. You've got it.

7 If I may approach, this is 15, U.S.C.S., 680 -- 6802.
8 And it says obligations with respect to disclosure of
9 personal information. And it's talking about notice
10 requirements.

11 whereas, in their facts they state that Pat Knie's
12 letter saying please provide notice to the account holders
13 of this subpoena, this says that there are notice
14 requirements under the Gramm-Leach-Bliley Act, but on page
15 two of this statute it says, section (e) at the top,
16 general exceptions, and it says subsection (a) and (b) --
17 and section (a) is the notice requirement. "shall not
18 prohibit the disclosure of nonpersonal -- nonpublic
19 personal information." And it goes all the way down to the
20 bottom -- "to comply with federal, state or local laws,
21 rules, and other applicable legal requirements; to comply
22 with a properly authorized civil, criminal or regulatory
23 investigation or subpoena or summons by federal state or
24 local authorities."

25 Therefore, there is an exception under

1 Gramm-Leach-Bliley that protects responding a subpoena by a
2 bank in response to that subpoena.

3 Furthermore, there's a second reason that this cause
4 of action under Gramm-Leach-Bliley fails as a matter of law
5 in that there is no private cause of action under
6 Gramm-Leach-Bliley for an individual. And for that
7 proposition I will cite to the Court two cases.

8 There's not one from our jurisdiction, but there are
9 from several jurisdictions around the country since this is
10 a federal statute.

11 There is the seminal case. It's called Dunmire vs.
12 Morgan Stanley. It's from the 8th Circuit.

13 And then there's a more recent one from 2009. It is
14 from bankruptcy court in the Eastern District of Tennessee.
15 Each of these cases states that clearly -- the Dunmire case
16 states no private right of action exists for an alleged
17 violation of the Gramm-Leach-Bliley Act.

18 The French vs. -- Boatman vs. American General
19 Financial Services case states the same thing and cites
20 several other jurisdictions. And I'll hand both of these
21 cases up to the Court and to opposing counsel.

22 These cases clearly state there's no private cause of
23 action under Gramm-Leach-Bliley for individuals and it's
24 not the intent of the statute for a private cause of action
25 to lie for individuals for violations. If I may approach

1 the bench.

2 Therefore, there are two bases for finding that this
3 cause of action does not lie in South Carolina for the
4 bank's conduct.

5 First of all, there is an exception under
6 Gramm-Leach-Bliley, and, secondly, there's no private cause
7 of action.

8 Therefore, viewing the facts in the light most
9 favorable to the defendants there's no cause of action
10 against the bank here. Therefore, their complaint looking
11 at it most favorably to them, there's no cause of action.
12 That counterclaim should be dismissed.

13 The second counterclaim lies in the breach of
14 contract. They assert that we violated the loan documents
15 and internal bank policy in that we gave out private
16 financial information of the customers.

17 There is nothing in the pleadings in the loan
18 documents that states that the bank agrees not to comply
19 with a duly issued subpoena.

20 The bank's duty to comply with the subpoena is a
21 judicial duty that is separate and apart from its
22 contractual relationship with its customer.

23 The complaint and the counterclaim -- the complaint
24 has attached to it a copy of the note and the mortgage.
25 There's nothing in those documents that shows that the bank

1 violated anything in those contractual documents in
2 complying with the subpoena and the answer and
3 counterclaim.

4 The only thing that is attached to the counterclaim is
5 a letter from Pat Knie saying we want you to give notice to
6 its customers before you comply with the subpoena. But
7 there's nothing that states we violated any contractual
8 right.

9 Rather, we'd be in violation of judicial process if we
10 didn't comply with the subpoena. Therefore, there's no
11 cause of action in -- in -- no breach of contract cause of
12 action according to the pleadings.

13 The third cause of action lies in negligence. They
14 allege we were -- we breached our duty in complying with
15 the subpoena. We breached a duty to keep their financial
16 information private.

17 To this there's a case in South Carolina that is
18 directly on point. This case is called Rycroft vs. Gaddy.
19 It's a 1984 Court of Appeals case.

20 And this case is directly on point. It's when a third
21 party issued a subpoena to C & S Bank. That goes -- takes
22 you back to C & S Bank we all remember. But the -- it's
23 still good law and it's still a preeminent case on this
24 issue. And it's still cited for this proposition because
25 it's so directly on point that the subpoenas issued by a

1 third party to get records of another party in a lawsuit --
2 and the language in this is eerily on point.

3 It says that Rycroft claims that C & S was negligent
4 in failing to look beyond the face of a valid subpoena to
5 determine if litigation was pending and if the records were
6 requested for a valid purpose.

7 The subpoenas were proper in their forms. They met
8 the existing legal procedures in South Carolina and clearly
9 indicated that a viable legal action was pending between
10 Rycroft and Gaddy.

11 Since the subpoenas were valid on their face the bank
12 had no duty to inquire into the circumstances beyond the
13 subpoenas as the bank could not refuse to give information
14 concerning an account when questioned in response to a
15 lawful subpoena.

16 Rycroft is claiming that the bank had no right to
17 reveal the private records to a member of the public.
18 However, the subpoenas were proper on their face, and the
19 bank had no choice but to comply.

20 Communications in judicial proceeding are absolutely
21 privileged and are immune from an action for invasion of
22 privacy.

23 So this states that there's -- there's -- it also says
24 that the action was initiated, a claim that C & S was
25 negligent -- that it was negligent in producing these bank

1 records.

2 So this states that there is no action in negligence
3 for producing bank records in response to a subpoena to a
4 third party.

5 That is exactly what happened here. There's nothing
6 improper in what the bank did. We complied with the
7 subpoena.

8 ~~----- If I may approach I'll hand a copy of this Rycroft~~
9 case up. I would also argue that Rycroft applies to the
10 breach of contract action as well. There can be no breach
11 of contract when they're required to respond.

12 This case stands for the proposition that they
13 actually had to respond to the subpoena. They would be in
14 contempt if they did not, the bank did not, respond to the
15 subpoena.

16 So the three causes of action all surround the issue
17 of did the bank do anything wrong or actionable, is there
18 any cause of action related to the bank's action in
19 responding to a duly issued subpoena by a circuit court in
20 South Carolina. No, they didn't. There's no claim that
21 lies under that, under the federal statute of Gramm-Leach.

22 Under common law in South Carolina there's no claims
23 that exist. Therefore, the counterclaim should be
24 dismissed as a matter of law based on the face of the
25 pleadings in the light most favorable to the defendants.

1 THE COURT: Okay. Mr. Plumblee.

2 MR. PLUMBLEE: May it please the Court, Your Honor.

3 I'll hand up a couple of things before I start. I had
4 delivered to the Court last week some affidavits in support
5 of our motion to amend in opposition to this motion, but we
6 failed to attach the exhibits to the affidavits. And I'd
7 provide those to the Court. I provided them to counsel.

8 MS. JOHNSON: Your Honor, we will object to the
9 affidavits in that we were not served with the affidavits
10 in their proper form until this morning in today's hearing.
11 There were no exhibits attached to them.

12 We received a copy of the incomplete affidavits on
13 Friday but didn't receive the full affidavits until this
14 morning in court which according to the rules is not prior.

15 THE COURT: Okay. Well, I'll accept them, but I'll
16 allow you an opportunity to respond to them if you need to.

17 MS. JOHNSON: Thank you, Your Honor.

18 MR. PLUMBLEE: Thank you, Your Honor.

19 Just for the record, the exhibits are I think
20 documents that have already been admitted. The one
21 exception is the subpoena by Mr. Pillsbury in their other
22 case. It's the letter of Mr. Knie that's attached to our
23 pleadings, and there's also an internal privacy notice that
24 came from the bank. So I think the bank would certainly
25 have notice of what is in that document, what it consists

1 of.

2 I'm also going to hand up a copy. I know you already
3 have one. But I highlighted the sections of the
4 Gramm-Leach-Bliley Act that I think are applicable. And it
5 may help to look at them all together. And I'll take the
6 arguments in orders that Ms. Johnson approached them.

7 First of all, in our answer and counterclaim we allege
8 the facts pretty much as she has set them forth, Your
9 Honor, in the existing pleadings, in the answer and
10 counterclaim.

11 We allege that after notice the bank failed to give --
12 after they had notice from Mr. Knie the bank failed to give
13 notice to the depositors of the bank of its intent to
14 disclose their nonpublic information to a nonaffiliated
15 party, which would be a violation of Gramm-Leach-Bliley
16 Act.

17 The Gramm-Leach-Bliley Act doesn't prevent a bank from
18 complying with a subpoena, but it does say that before you
19 can comply with a subpoena issued by a -- by a lawyer,
20 signed solely by a lawyer and not emanating from some
21 federal authorities or state authority or from the Court
22 itself, that there has to be notice given in accordance
23 with the statute what you're going to do.

24 So if we prevail on this motion it does not put a bank
25 in the position of not being able to comply with the lawful

1 subpoena. It just requires them to comply with the law,
2 the federal law, before they do so.

3 And what we've pled in our original complaint -- and I
4 will grant that it is inartfully pled -- is that in
5 providing the information to Mr. Pillsbury who was counsel
6 for the adverse parties to Mr. Broom in the other case that
7 the bank failed to comply with what we said in the original
8 pleadings, the federal Bank Privacy Act and breached duties
9 of care by the bank to its depositors. And then we said
10 they breached their duties under the Gramm-Leach -- under
11 federal law and under the state common law.

12 I have filed a motion to amend that counterclaim that
13 is specified, and that's what she was referring to. What
14 we're talking about, and what we're talking about from the
15 federal standpoint, is the Gramm-Leach-Bliley Act. And
16 under state law we're talking about contract law and their
17 obligations of reasonable care under negligence. And I'll
18 start with the Gramm-Leach-Bliley Act.

19 The statute that I just handed up if you look at what
20 I've underlined -- I'm sorry. I got it. But I'm looking
21 at 6802(a) that says notice requirements except as
22 otherwise provided in the subchapter, and there is no
23 exception other than what we're going to talk about.

24 A financial institution may not directly or through
25 any affiliate disclose to a nonaffiliated third party any

1 nonpublic personal information unless such financial
2 institution provides or has provided to the consumer a
3 notice that complies with section 6803 in that section.

4 Okay. Nonpublic information is the information we're
5 talking about here. That's information that only the bank
6 would have about the depositor's account.

7 Exhibit A to the affidavits that we've submitted is
8 ~~the subpoena issued by Mr. Pillsbury in the other case.~~

9 And it asks for specific bank account information, canceled
10 checks, bank statements, that information. That is
11 nonpublic information. So it cannot be disclosed by the
12 bank outside the provisions of Gramm-Leach-Bliley.

13 All right. If you look down on the second column
14 there at the bottom of the page where I've underlined
15 there's general exceptions.

16 And this says -- the section I just read, section (a),
17 shall not prohibit disclosure of nonpublic personal
18 information.

19 Go to the next page and look at (8). That's what I've
20 underlined. Except as follows. And these were the things,
21 the exceptions, that will allow the bank to submit the
22 information without giving notice under Gramm-Leach-Bliley.

23 One, to comply with federal, state or local laws,
24 rules and other applicable legal requirements. That's not
25 of law.

1 Second, to comply with a properly authorized civil,
2 criminal or regulatory investigation or subpoena or summons
3 by federal, state or local authorities. Okay. By federal,
4 state or local authorities.

5 What we have here is an attorney-signed subpoena.
6 Mr. Pillsbury is not a federal, state or a local authority.

7 And the final exception is to respond to judicial
8 ~~process or government regulatory authorities having~~
9 jurisdiction over the financial institution for
10 examination, compliance or other purposes as authorized by
11 law. We're talking about bank regulators there, the
12 F.D.I.C. and the state.

13 So there is no exception under (8) that would apply to
14 attorney-signed subpoenas. What does that mean? Does that
15 mean the bank can't comply with an attorney-signed
16 subpoena? No. It just means that they have to give notice
17 in accordance with this act before they can do so. And
18 they did not in this case.

19 So we contend -- and I don't think it really can be
20 disputed under the allegations of the complaint -- of the
21 counterclaim -- I'm sorry -- that there has been a
22 violation of the Gramm-Leach-Bliley Act.

23 Ms. Johnson next says that the Gramm-Leach-Bliley Act
24 does not provide a private cause of action. There's no
25 Fourth Circuit authority for that position. There's no

1 authority in our district for that position. There is not
2 a case in our district that deals with this issue at all
3 that I'm aware of that I've been able to find.

4 But even if that's correct, even if there's no private
5 right of action provided by the statute itself, there are
6 obligations that arise out of the account documents and out
7 of the loan documents between the bank and these people.

8 ~~If you look at any of the affidavits they all have the~~
9 same exhibits. The last exhibit is Exhibit C -- I'm
10 sorry -- next to last exhibit is Exhibit C. And it's --
11 the notice of your financial privacy rights. See that
12 document?

13 Okay. This is the document that is given, and if you
14 read the affidavits, the affiants testified that they
15 received this in accordance with their account documents
16 from Arthur State Bank. All of them did.

17 I'm not going to read the whole thing, but I'll
18 summarize it, and Ms. Johnson can correct me if I
19 incorrectly summarize it.

20 It says that the bank can provide nonpublic personal
21 bank information for its depositors to two kinds of
22 entities under their own policies.

23 No. 1 is the bank's employees. They can find out
24 what's in the account. Obviously, they'd have to be able
25 to do that.

1 And bank affiliates. And the affiliates are defined
2 as either the banks, affiliated banks, or corresponding
3 banks with whom they do business. So if there's no
4 affiliate there's not a bank of some kind.

5 Okay. So under their own notice of privacy rights
6 they may produce the information to depositors, to their
7 own employees or to their bank or other banks. That's not
8 what we're talking about in this case.

9 And if you look at the bottom the next to last
10 heading, "Your information, other parties. They say, "We
11 will not disclose information about you to anyone except as
12 disclosed in this policy or as permitted by law."

13 well, this policy says they only can give it to banks.
14 And Mr. Pillsbury and his clients in that other action are
15 not a bank.

16 So the exception for disclosing as permitted under
17 this policy doesn't apply to this disclosure. "We will not
18 disclose information about you to anyone except as
19 permitted by law."

20 The law is Gramm-Leach-Bliley. They haven't complied
21 with that either because they didn't give the notice as
22 required by the exception before the information was turned
23 over to Mr. Pillsbury pursuant to that subpoena.

24 So as pled in the original complaint, certainly as
25 pled in the proposed amended counterclaim, there is a

1 violation of the bank's own policy incorporated into its
2 account documents and into the loan documents with these
3 borrowers and these depositors.

4 And, finally, by issuing these policies and taking --
5 undertaking these duties to their depositors they assume
6 the duty to comply with their own policies before they
7 disclose this information. And even if the law does not
8 ~~impose upon them a duty of care, if they assume a duty,~~
9 then our law has said -- and it's been consistent -- that
10 the party assuming that duty has got to act consistently
11 with that duty. They didn't follow their own policies in
12 this case.

13 Now, the Rycroft case that Ms. Johnson referred to
14 does talk about immunity with regard to subpoenas. The
15 Rycroft case was a 1984 case decided prior to the passage
16 of Gramm-Leach-Bliley.

17 So the laws that govern depositor privacy are
18 completely different than what the Court was confronted
19 with in the Rycroft case.

20 In the Rycroft case there's no allegation that there
21 was a violation by the bank of its own term policies or any
22 assumption of a duty to the depositors in that case. So I
23 think that case is clearly distinguishable from the case
24 that's at the bench right now.

25 So to summarize the bank didn't do what it was

1 required to do under its own policies and under federal law
2 before this information was disclosed to Mr. Pillsbury and
3 his clients to be used against Mr. Broom. And it was
4 information that applied not only to Mr. Broom but his
5 family members who were foreigners to that litigation.

6 All of those things and damages that flow from that
7 disclosure would be appropriate for counterclaims in this
8 action, and we believe we should be able to maintain them.

9 THE COURT: Any reply, Ms. Johnson?

10 MS. JOHNSON: Thank you, Your Honor.

11 In response to his argument regarding
12 Gramm-Leach-Bliley stating that the exception does not
13 apply to a subpoena issued by Attorney Rodney Pillsbury, I
14 disagree with that position and have another case in
15 response to that. And this is from Judge Herlong in our
16 district, and it's a 2007 case. And it's KnifeSource vs.
17 Wachovia Bank.

18 This case is important. It's on point in that
19 Mr. Plumblee states that the exception must be to a
20 subpoena that's issued by a court and not by an attorney
21 such as Mr. Pillsbury.

22 I disagree with that vehemently in that this case
23 states that -- it goes so far as to say that the exception
24 under Gramm-Leach-Bliley, which is 6802(e)(8), where it
25 says, "The act excludes -- includes an exception for

1 disclosures made, quote, to respond to judicial process or
2 government regulatory authorities having jurisdiction over
3 financial institutions for examination, compliance or other
4 purposes as authorized by law." It cites specific
5 exceptions.

6 "Courts have previously held that this exception
7 permits a financial institution to disclose the nonpublic
8 ~~personal financial information of its customers to comply~~
9 with the discovery requests." Any exhibits so far as to
10 discovery requests from a court or from another lawyer or
11 from whatever in judicial process even expand that this is
12 from our -- our jurisdiction.

13 So it's not riddling narrowing as both counsel would
14 have you believe. It's broader than that. This goes to
15 discovery requests. And I'll hand a copy to opposing
16 counsel, and as well as the Court if I may approach.

17 The courts have been broadening this exception rather
18 than narrowing it. And this follows the Marks case which
19 is really the seminal case that first held this. But
20 our -- our jurisdiction has followed this as recently as
21 2007. And, therefore, I believe that opposing counsel's
22 interpretation is a misreading of the statute and that the
23 case law does not follow that interpretation.

24 The case law broadens it into -- it does not have to
25 come from federal court. It can come -- it is -- if it's a

1 subpoena from the circuit court of South Carolina signed by
2 an attorney that is a judicial subpoena issued by a court
3 that is valid on its face. You don't have to look beyond
4 it. A bank can respond to it.

5 So I believe that the proper reading of it, proper
6 reading of that exception, is squarely between the
7 exception. It is defined that there is no cause of action
8 ~~for complying with the subpoena.~~

9 Now, with respect to the argument that the bank has
10 assumed the duty, I would like to take up the issue of the
11 affidavit submitted where he's attached a copy of the
12 bank's policy which he says we of course should have
13 because it's our policy.

14 Regardless of whether or not the bank has it, our
15 argument is that the policy should not be before the Court
16 as a part of the pleading in that it was not submitted
17 timely in the affidavit.

18 I was provided with -- I was served with a copy of the
19 e-mail of affidavits without any attachments. I don't
20 believe I'll have to do this, but I think opposing counsel
21 would agree that I was sent an e-mail on Friday. And --
22 and I responded via e-mail to his assistant that said that
23 I did not get any -- I read the affidavits, and said I
24 didn't get any exhibits. And I received a response from
25 his assistant saying there are no exhibits to the

1 affidavits. And I said, okay, thanks.

2 And then this morning at today's hearing he brought me
3 these attachments to the exhibit. So the first I've gotten
4 of them today with this policy was this morning.

5 The reason it's important is this is not the entire
6 bank's policy. This is one sheet from it. And so he says
7 we assumed a duty and is relying heavily on this. This is
8 a portion of the policy. But what's important is if the
9 entire policy which were before the Court you'd see that
10 the policy has an exception in it for responding to
11 judicial subpoenas.

12 I don't want that before the Court because it should
13 not be before the Court. The Court should not consider
14 things that are not properly served according to the
15 rules of opposing counsel.

16 What should be before the Court is what was duly
17 served in accordance with the rules, and therefore it
18 should not be here.

19 Otherwise, what should be before the Court is what's
20 properly served under the rules, and that should not be a
21 part of it. And therefore he has alleged in part of the
22 pleading it establishes no duty and alleges no duty.

23 There -- and we would assert that if -- if the entire
24 policy were before the Court there would be no duty. So
25 that argument fails. I mean, it has no merit as a matter

1 of law either.

2 Therefore, we would ask the Court not consider the
3 exhibits to the affidavit other than what's already
4 attached to the pleadings.

5 So we ask that those be excluded under the rules and
6 that the Court review just what is attached to the
7 pleadings and -- and that is properly before the Court and
8 properly served on opposing counsel.

9 Therefore, we believe they have established no causes
10 of action against the plaintiff. There has been
11 established -- the Rycroft case is still good law in South
12 Carolina even after Gramm-Leach. There's been no case law
13 overturning it.

14 Even if the case does come down after -- after
15 Gramm-Leach -- nothing has touched Rycroft. It's still
16 good law. It's still cited by cases. Nothing has come
17 down the pipe to change it or qualify it. And it should
18 still be relied on.

19 Therefore, we think we have established that all three
20 counterclaims should be dismissed for failure to state
21 causes of action against the bank. Thank you, Your Honor.

22 MR. PLUMBLEE: May it please the Court, Your Honor.

23 I would fall on my sword about the service of the
24 affidavit without the exhibits. That was my fault. I was
25 out of the office when that was done. It's my

1 responsibility to see that's done or not done.

2 If counsel believes that their argument has been
3 prejudiced today because they didn't get timely notice of
4 what those exhibits consist of, then I certainly have no
5 objection if they want to make a submission after the
6 hearing today that would address --

7 THE COURT: Well, I've already said I'm going to allow
8 it.

9 MR. PLUMBLEE: But if we're going to consider it, then
10 I've already made the arguments I need to make in regard to
11 that.

12 I think the only other thing I need to respond to is
13 this case by Judge Herlong that Ms. Johnson handed up. I
14 have not seen that before today. But in looking at it I do
15 notice a couple of things on page two.

16 What -- first of all, this was a discovery request
17 that was issued by the plaintiff in this case to the bank
18 who is the adverse party in the case.

19 This was not a subpoena by somebody who was seeking
20 information, who was seeking bank-record information from a
21 bank that was a nonlitigant. So this was a party in the
22 case. The bank was a party in that case and represented by
23 counsel.

24 The exception to the Gramm-Leach-Bliley Act under
25 which the bank seemed to be protected was in a different

1 section, section we're talking about today -- 6801, not
2 6802.

3 And the language is quoted there. I won't read it,
4 but it's in the first column in paragraph No. 2.

5 I think perhaps the most important thing about that is
6 after discussing the Gramm-Leach-Bliley Act and the
7 exception that we talked about here today Judge Herlong
8 went on and said something else.

9 And this is what he said. He said in that case,
10 "Further, on August 6th of 2007 the Court granted the
11 parties' joint motion for a confidentiality order which
12 will protect the confidentiality of the documents requested
13 by KnifeSource. Therefore, to the extent Wachovia objects
14 to the production of these documents on the basis of the
15 Gramm-Leach-Bliley Act this objection is without merit."

16 There was a protective order in place in that case.
17 It protected the privacy of any information the bank would
18 be under in a matter as a litigant. There's no protective
19 order in place in this case to protect the private bank
20 information of the Brooms who were nonlitigants to the
21 other case.

22 So with all due respect, it just does not apply to the
23 situation we've got before the Court today. And we're not
24 trying the case on breach of contract. We're just asking
25 the Court to determine whether there has been pled a cause

1 of action on the counterclaim. I think that's done in the
2 original complaint. I certainly believe it's done under
3 the proposed amended complaint. So I think the motion
4 should fail.

5 THE COURT: All right. I'm going to have to -- I'll
6 review the affidavits and the other submissions, as well as
7 the law, and issue an order.

8 MR. PLUMBLEE: Thank you, Your Honor.

9 THE COURT: You've got a motion to amend. Is there
10 objection to it?

11 MS. JOHNSON: No, Your Honor. I think the arguments,
12 they've covered the amended complaint.

13 THE COURT: Okay. Do you want to submit anything else
14 in response to the affidavit?

15 MS. JOHNSON: Your Honor, I would like to submit an
16 affidavit in response to it.

17 MR. PLUMBLEE: I don't have any objection.

18 THE COURT: Okay. How much time do you need?

19 MS. JOHNSON: I can do that within five days or ten
20 days.

21 THE COURT: All right.

22 END OF REQUESTED TRANSCRIPT OF RECORD
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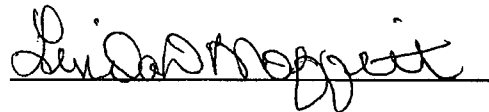
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Common Pleas Court for Spartanburg County, South Carolina, on the 16th day of April 2013.

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

October 23, 2013

A handwritten signature in cursive script, appearing to read "Linda D. Moffitt", is written over a horizontal line.

Linda D. Moffitt
Circuit Court Reporter

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

Case No. 2012-CP-42-2714

Arthur State Bank,

Plaintiff,

vs.

Quentin S. Broom, Jr., Amy B. Broom aka
Amy Broom, Ann G. Broom, and Russell
A. Broom,

Defendants.

**ARTHUR STATE BANK'S MOTION TO
DISMISS AND MEMORANDUM OF LAW IN
SUPPORT**

Arthur State Bank ("Plaintiff"), through its undersigned counsel, hereby moves the Court pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure to dismiss the claims alleged against it in the counterclaim ("Counterclaim") of defendants Quentin S. Broom, Jr., Amy B. Broom aka Amy Broom, Ann G. Broom, and Russell A. Broom (collectively, the "Defendants"), because the Counterclaim fails to state a claim upon which relief may be granted against Plaintiff.

ARGUMENT

Pursuant to Rule 12(b)(6), SCRPC, a court may dismiss a claim when a party demonstrates a claiming party's "failure to state facts sufficient to constitute a cause of action" in the pleadings filed with the court. Dismissal under Rule 12(b)(6) should be granted if the facts alleged in the complaint and inferences reasonably deducible therefrom would not entitle plaintiff to any relief on any theory of the case. *Brown v. Leverette*, 291 S.C. 364, 366, 353 S.E.2d 697, 698 (1987). A motion to dismiss for failure to state a claim upon which relief can be granted tests not whether plaintiffs will prevail on the merits, but whether they have properly

stated a claim. See *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974). While the court must accept as true all well-pleaded factual allegations, *Erickson v. Pardus*, 551 U.S. 89, 94 (2007), it need not accept as true plaintiff's bare legal conclusions. See *Taubman Realty Group Ltd. P'ship v. Mineta*, 320 F.3d 475, 479 (4th Cir. 2003). Factual allegations "must be enough to raise a right to relief above the speculative level" with the complaint having "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). "[T]he tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions" and "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements" are insufficient. *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009) (citing *Twombly*, 550 U.S. at 555). A complaint may survive a motion to dismiss only if it "states a plausible claim for relief" that "permit[s] the court to infer more than the mere possibility of misconduct" based upon "its judicial experience and common sense." *Id.* at 1950, (citing *Twombly*, 550 U.S. at 556).

In this case, Defendants failed to state facts sufficient to constitute a cause of action against Plaintiff as required by the standards set forth above. Defendants' Counterclaim asserts that Plaintiff breached its "statutory and common law duties to the Defendant to maintain privacy and not to disclose depositor information to third parties," and as such they are entitled to damages from Plaintiff. (Counterclaim. ¶ 49). The Counterclaim, however, fails to allege what specific statute imposes such alleged duties and what specific duties were allegedly violated by Plaintiff. The Counterclaim alleges that the Plaintiff violated the "federal Bank Privacy Act," but no such entitled act exists. As such, there can be no breach of duty claim for violation of such alleged act against Plaintiff.

To the extent Defendants assert a claim based on an alleged breach of a fiduciary duty owed by Plaintiff, such claim fails as it is not pled with specificity, and under South Carolina law, no fiduciary duty flows from a lender to a borrower. *See Regions Bank v. Schmauch*, 354 S.C. 648, 582 S.E.2d 432 (Ct. App. 2003).

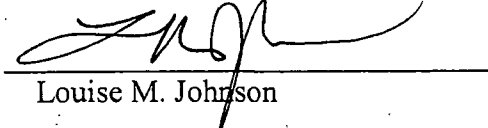
CONCLUSION

Defendants' Counterclaim is not based upon any theory that would support a cause of action against ASB. The Counterclaim also fails to plead facts sufficient to constitute a valid cause of action against ASB. Therefore, ASB respectfully requests that this Honorable Court dismiss the Counterclaim.

Respectfully submitted,

HAYNSWORTH SINKLER BOYD, P.A.

By:


Louise M. Johnson

1201 Main Street, Suite 2200
Post Office Drawer 11889 (29211-1889)
Columbia, South Carolina 29201
(803) 779.3080 Tel.
(803) 765.1243 Fax

February 26, 2013

Attorney for Arthur State Bank

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

Case No.: 2012-CP-42-2714

Arthur State Bank,

Plaintiff,

v.

Quentin S. Broom, Jr., Amy B. Broom aka
Amy Broom, Ann G. Broom, and Russell
A. Broom,

Defendants.

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that on February 26, 2013, I caused the below named parties to be served with a copy of the following document(s):

1. Motion and Order Information Form and Coversheet;
2. Arthur State Bank's Motion to Dismiss and Memorandum of Law in Support;
and
3. Certificate of Service

by causing said document(s) to be placed in a sealed envelope with postage thereon fully prepaid, in the United States mail, with return address clearly shown, as set forth below.

L. Lee Plumblee, Esq.
Eppes & Plumblee, P.A.
PO Box 10066
Greenville, SC 29603
Attorney for Defendants

HAYNSWORTH SINKLER BOYD, P.A.

By: Carol A. Shaffer
Carol A. Shaffer
Paralegal

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
C.A. No.: 2012-CP-42-2714

Arthur State Bank,

Plaintiff,

v.

Quentin S. Broom, Jr., Amy B. Broom
aka Amy Broom, Ann G. Broom, and
Russell A. Broom,

Defendants.

**MOTION TO AMEND ANSWER AND
COUNTERCLAIM**

Pursuant to South Carolina Rule of Civil Procedure 15, the Defendants, by and through their undersigned counsel, hereby move this Honorable Court for an Order permitting Defendants to amend their Answer and Counterclaims in this matter.

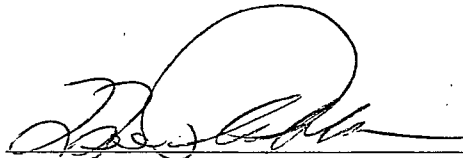
This motion is based upon the grounds that Defendants wish to clarify the allegations contained in Defendants' Answer and Counterclaims and to add additional defenses and counterclaims. Plaintiff would suffer no prejudice as a result of the proposed amendments.

A proposed Amended Answer and Counterclaim is attached as Exhibit #1 hereto. This motion is supported by the pleadings, by Exhibit #1 hereto, and by such other and further materials and information as may be submitted prior to the date of the hearing on this motion.

Respectfully submitted.

SIGNATURE ON FOLLOWING PAGE

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CLERK OF COURT
SPARTANBURG COUNTY
2013 APR -9 AM 11:55
M. HOPE BLACKLEY



L. Lee Plumblee
Attorney for Defendant
EPPES & PLUMBLEE, P.A.
Post Office Box 10066
Greenville, South Carolina 29603
864-235-2600
Fax: 864-235-4600

April 5, 2013

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 APR -9 AM 11:55
M. HOPE BLACKLEY

0000126

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Arthur State Bank,

Plaintiff,

v.

Quentin S. Broom, Jr., Amy B. Broom
aka Amy Broom, Ann G. Broom, and
Russell A. Broom,

Defendants.

IN THE COURT OF COMMON PLEAS
C.A. No.: 2012-CP-42-2714

**AFFIDAVIT OF
QUENTIN S. BROOM, JR.**

Personally appeared before me the undersigned who, being duly sworn, testifies and
deposes as follows:

1. I, Quentin S. Broom, Jr., am a defendant in the above captioned foreclosure action.
2. In September 2011, I was the Plaintiff in an unrelated action against Defendants Ten
State Street, L.L.P., Timothy D. Scrantom, Mark Broadwater, and H. Hugh Andrews.
3. In conjunction with that lawsuit, the parties adverse to me served subpoenas upon
Arthur State Bank for my bank records and for those of my wife, Amy Broom, my mother, Ann
Broom, and my father, Quentin S. Broom, Sr. My wife, mother, and father were not parties to
the litigation. A copy of this subpoena is attached as Exhibit A hereto.
3. On September 16, 2011, my attorney, Patrick E. Knie, Esquire, wrote Mr. Kelly
Banks, the president of Arthur State Bank, regarding the subpoenas. Mr. Knie informed Mr.
Banks that the subpoenas requested private financial records for bank accounts of non parties to
the lawsuit in which the subpoenas were issued. I have attached a copy of this letter as Exhibit

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M. HOPE BLANKLEY

B. Mr. Knie's letter requested that the bank notify each account holder that the subpoenas had been issued and give them an opportunity to seek independent legal counsel with respect to the exposure of their financial records. The bank records of my family members were irrelevant to the lawsuit involving Ten State Street, L.L.P., Timothy D. Scrantom, Mark Broadwater, and H. Hugh Andrews.

4. The bank ignored Mr. Knie's letter and disclosed the account information for the accounts of my wife, mother, and father to unauthorized third parties. Even after being asked by counsel, Arthur State Bank failed to give to me or to my family members notice of the subpoenas.

5. By disclosing these private financial records, Arthur State Bank compromised my lawsuit and subjected my wife, father, and mother to a gross invasion of their financial privacy.

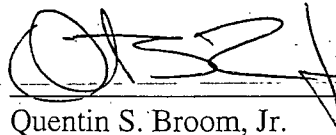
6. It is important to note that after becoming an Arthur State Bank customer, I received a copy of the bank's privacy notice, entitled, "Notice of Your Financial Privacy Rights." I have attached a copy of the notice as Exhibit C. In this notice, Arthur State Bank states that they "will not disclose information about you to anyone except as disclosed in this policy or as permitted by law." The policy provides for disclosure of "non-public" account information only to the bank's employees, agents, or affiliates. The parties who served the subpoena on the bank did not fall within any of those categories.

7. On January 22, 2013, Arthur State Bank mailed me a letter informing me that they had received a change of address notice from the U.S. Postal Service and that they would not change the address on my accounts until they received written permission from me to do so. I have attached a copy of this letter as Exhibit D. It is clear from this mailing that the bank has in place

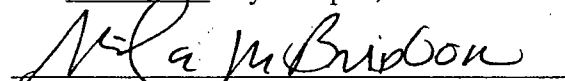
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procedures for getting notice to bank customers of events affecting the customers' accounts. It is disturbing that Arthur State Bank is more protective of its customer's addresses than they are of their customer's private financial and banking records.

FURTHER AFFIANT SAYETH NAUGHT


Quentin S. Broom, Jr.

Sworn and subscribed before me
this 11 day of April, 2013


Notary Public for South Carolina
My commission expires:

NILA M. BRISBON
Notary Public - State of South Carolina
My Commission Expires June 20, 2016

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SPARTANBURG COUNTY
2013 APR 12 PM 2:19
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF SPARTANBURG

Quentin S. Broom, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

Ten State Street, LLP, e.al., Defendant

C.A. No.: 08-CP-42-3397

Pending in Spartanburg County

TO: Arthur State Bank, 756 E. Main Street, Spartanburg, SC 29302

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME , AM

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME , AM

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects):

See Attached Addendum A

PLACE

Pillsbury & Read, P.A.

1204-A East Washington St.

Greenville, SC 29601

DATE AND TIME

Monday, October 10, 2011 at 10:00 AM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME , AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

DATE September 9, 2011

ATTORNEY/ISSUING OFFICER'S SIGNATURE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

CLERK OF COURT/ISSUING OFFICER SIGNATURE

DATE

PRINT NAME

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☐ YES ☐ NO AMOUNT \$
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- iv. subjects a person to undue burden.

(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

ADDENDUM A

1) Any and all monthly statements, electronic, printed, or otherwise, for **Account No.: 95482097** from **January 1, 2004 to December 21, 2004**, including but not limited to copies of checks (front & back), deposit slips and/or electronic transfers;

2) Any and all monthly statements, electronic, printed, or otherwise, for **Account No.: 59005843** from **January 1, 2004 to present**, including but not limited to copies of checks (front & back), deposit slips and/or electronic transfers;

3) Any and all monthly statements, electronic, printed, or otherwise, for **Account No.: 94887924** from **January 1, 2004 to present**, including but not limited to copies of checks (front & back), deposit slips and/or electronic transfers;

4) Any and all monthly statements, electronic, printed, or otherwise, for **Account No.: 95834495** from **January 1, 2004 to present**, including but not limited to copies of checks (front & back), deposit slips and/or electronic transfers;

5) Any and all monthly statements, electronic, printed, or otherwise, for **Account No.: 30441221** from **January 1, 2004 to present**, including but not limited to copies of checks (front & back), deposit slips and/or electronic transfers;

6) Any and all monthly statements, electronic, printed, or otherwise, for **Account No.: 70430649** from **January 1, 2004 to present**, including but not limited to copies of checks (front & back), deposit slips and/or electronic transfers;

7) Front & Back copies of the following checks for Account No.: 95482097:

<u>Check #</u>	<u>Date</u>	<u>Amount</u>
3571	1/21/2005	10,000.00
3575	2/1/2005	5,000.00
3579	1/28/2005	50,000.00
3580	1/28/2005	10,000.00
3587	2/08/2005	65,000.00
3582	2/14/2005	1,100.00
Deposit Slip	2/23/2005	85,000.00
Deposit Slip	2/25/2005	10,000.00
Deposit Slip	3/11/2005	50,000.00
Deposit Slip	3/11/2005	120,000.00
Deposit Slip	3/14/2005	15,000.00
Wire Transfer*	2/24/2005	85,000.00
Wire Transfer*	3/14/2005	250,012.00
3589	2/28/2005	15,000.00
3619	3/25/2005	5,000.00
3620	3/25/2005	5,000.00
3622	4/08/2005	30,000.00
3627	4/20/2005	25,324.00
Deposit Slip	3/24/2005	8,584.32
3650	05/04/2005	25,000.00
3641	05/02/2005	3,000.00

3642	05/02/2005	5,000.00
3643	05/04/2005	25,000.00
Deposit Slip	4/25/2005	10,000.00
Deposit Slip	5/03/2005	40,000.00
3657	5/25/2005	20,000.00
3662	5/31/2005	5,000.00
3663	5/31/2005	5,000.00
3666	6/01/2005	7,670.00
3667	06/02/2005	5,200.00
3668	06/06/2005	20,000.00
3682	06/20/2005	17,884.00
Deposit Slip	05/24/2005	28,843.78
Deposit Slip	05/25/2005	10,000.00
Deposit Slip	06/08/2005	36,000.00
Deposit Slip	6/16/2005	1,125.06
3681	6/12/2005	1,200.00
3683	6/24/2005	13,651.00
3687	6/24/2005	5,000.00
3694	7/15/2005	5,000.00
3702	7/20/2005	7,000.00
Deposit Slip	6/28/2005	10,000.00
Deposit Slip	7/06/2005	40,000.00
Deposit Slip	7/22/2005	5,000.00

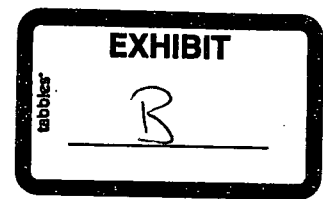
Deposit Slip	7/22/2005	5,000.00
Deposit Slip	9/2/2005	4,000.00
Deposit Slip	10/19/2005	8,118.55
Deposit Slip	10/20/2005	4,000.00
Deposit Slip	10/14/2005	2,000.00
Wire Transfer*	11/16/2005	90,000.00
3781	10/31/2005	10,000.00

(Check was written for \$100,000.00; but incorrectly posted for \$10,000.00)

3784	11/10/2005	85,000.00
3789	11/10/2005	3,000.00
3790	11/15/2005	5,000.00
3791	11/16/2005	1,700.00
3792	11/16/2005	2,000.00
3793	11/16/2005	500.00
Deposit Slip	11/03/2005	190,801.05
3798	12/07/2005	64.20
3799	12/07/2005	130.00
3800	12/13/2005	103.60
Wire Transfer - deposit*	12/22/2005	15,000.00
Wire Transfer - deposit*	1/13/2006	10,000.00
3820	1/25/2006	800.00
3821	1/25/2006	1,800.00

3822	1/30/2006	2,000.00
Deposit Slip	3/20/2006	5,000.00
Deposit Slip	3/21/2006	1,910.12
Wire Transfer*	3/20/2006	64,000.00
Wire Transfer*	3/15/2006	64,000.00
Wire Transfer*	3/28/2006	10,000.00
3848	4/11/2006	10,000.00
Wire Transfer*	3/28/2006	23,154.14
3838	3/24/2006	735.88
3839	3/24/2006	1,803.82
3849	4/17/2006	1,398.97
Wire Transfer - deposit*	4/24/2006	20,000.00
Deposit Slip	4/27/2006	5,000.00
3860	4/26/2006	1,700.00
3861	4/26/2006	501.00
3868	4/28/2006	27,424.60
3870	5/02/2006	863.01
3874	5/03/2006	900.00
3878	6/23/2006	743.15

* For all wire transfers, identify the sending or receiving account number.



PATRICK E. KNIE

ATTORNEY AT LAW

A Professional Association

250 Magnolia Street

Spartanburg, S.C. 29306

Telephone No. (864) 582-5118

Fax No.:

(864) 585-1615

Mailing Address:

P.O. Box 5159 (29304)

September 16, 2011

Mr. Kelly Banks
Arthur State Bank
756 East Main Street
Spartanburg, South Carolina 29302

RE: Quentin S. Broom, Jr. vs. Ten State Street, L.L.P., Timothy
D. Scrantom, Mark Broadwater, and H. Hugh Andrews

Dear Mr. Banks:

I represent Quentin S. Broom, Jr. with respect to the above-entitled litigation. On September 12, 2011, I received a copy of a Subpoena dated September 9, 2011 seeking the production of various bank records from numerous accounts, a copy of which is attached hereto for your reference. My client has reviewed the addendum to the Subpoena which identifies the account numbers. Many of the account numbers are not his, and he is unable to identify the owners of those accounts. He and I are both concerned that the private financial records of individuals who are not named parties to the lawsuit entitled above may be exposed to the invasion of their privacy.

I would respectfully request that the Bank notify each one of the account holders, other than Mr. Broom, and advise each of them of the pending Subpoena request so that they may, if they choose, seek independent legal counsel with respect to the potential exposure of their financial records.

I am sure you will take the proper and appropriate action under the circumstances.

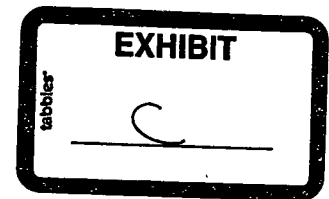
If you have any questions or comments, I am available at your convenience.

Sincerely,

Patrick E. Knie

PEK:mbg
Enclosure

0000137



NOTICE OF YOUR FINANCIAL PRIVACY RIGHTS

We, our, and us, when used in this notice, mean Arthur State Bank, Carolina State Bank and Pinnacle State Bank.

This is our privacy notice for our customers. When we use the words "you" and "your" we mean the following types of customers:

- Our consumer customers who have a continuing relationship by purchasing or holding financial products or services such as a(n):
 - Deposit account
 - Loan account
 - Credit card account
 - Safe deposit box
 - Self-directed Individual Retirement Account

We will tell you the sources of the information we collect about you. We will tell you what measures we take to secure that information. We first define some terms.

Nonpublic personal information means information about you that we collect in connection with providing a financial product or service to you. Nonpublic personal information does not include information that is available from public sources, such as telephone directories or government records. Hereafter, we will use the term "*information*" to mean nonpublic personal information as defined in this section.

An **affiliate** is a company we own or control, a company that owns or controls us, or a company that is owned or controlled by the same company that owns or controls us. Ownership does not mean complete ownership, but means owning enough to have control.

A **nonaffiliated third party** is a person we do not employ or a company that is not an affiliate of ours. This is also known as nonaffiliated third party, or simply, an "*other party*."

THE INFORMATION WE COLLECT

We collect information about you from the following sources:

- Information you give us on applications or other forms
- Information about your transactions with us
- Information about your transactions with our affiliates
- Information about your transactions with other parties
- Information from a consumer reporting agency

THE CONFIDENTIALITY, SECURITY, AND INTEGRITY OF YOUR INFORMATION

We restrict access to information about you to those employees who need to know that information to provide products or services to you. We maintain physical, electronic, and procedural safeguards to protect this information.

YOUR INFORMATION AND OUR AFFILIATES

We may disclose information about you to our affiliates. Here are the kinds of information and the source of that information:

Transaction and experience information from our account records:

- Information about your transactions and experience with us, such as:
 - Name
 - Address
 - Account balances
 - Account activity
 - Types of accounts
 - Payment history
 - Deposit history

Federal law allows us to disclose the information listed above with our affiliates. You do not have a right to opt out of the disclosure of this information.

Types Of Affiliates

We may disclose information about you to the following types of affiliates:

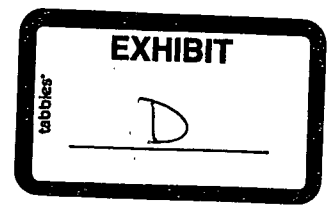
- Financial service providers, such as:
 - Banks

YOUR INFORMATION AND OTHER PARTIES

We will not disclose information about you to anyone except as disclosed in this policy or as permitted by law. Examples of this might include disclosures necessary to service your account or prevent unauthorized transactions.

INFORMATION ABOUT FORMER CUSTOMERS

We do not disclose information about former customers, except as permitted by law.



January 22, 2013

Quinton S Broom Jr
1045 WO Ezell Blvd
Spartanburg SC 29301-1619

Dear Mr Broom

Arthur State Bank received the above change of address notice for you from the US Postal Service. In order to change the address on your account(s) with us, we must have permission from you. An address change request, if made without your knowledge, could possibly indicate an attempt at identity theft or fraud.

Because the protection of your personal information is paramount to us, we will no longer change an address without written and verified consent from you, the account holder(s).

For your own protection and to avoid interruption of correspondence, notices, statements, etc., we recommend that you stop by any of our offices to complete an address change. However, if this is inconvenient, please sign below and return this letter to us. Your prompt attention in this matter is important. Upon receipt, we will verify your signature and resume mailing.

Should you have any questions, please contact us by calling or visiting any of our offices or sending an email to sdeitz@arthurstatebank.com.

Thank you for your cooperation in this matter. Confidentiality of customer information is very important to us. We appreciate your banking relationship.

Sincerely,

Shelby B. Deitz
Deposit Administration

Customer's Signature _____ Daytime Ph. No. _____

Your signature verifies the accuracy of the information contained herein and authorizes Arthur State Bank to send correspondence, notices, statements, etc., to the above address.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Arthur State Bank,

Plaintiff,

v.

Quentin S. Broom, Jr., Amy B. Broom
aka Amy Broom, Ann G. Broom, and
Russell A. Broom,

Defendants.

IN THE COURT OF COMMON PLEAS
C.A. No.: 2012-CP-42-2714

AFFIDAVIT OF AMY B. BROOM

Personally appeared before me the undersigned who, being duly sworn, testifies and
deposes as follows:

1. I, Amy B. Broom, am the wife of Quentin S. Broom, Jr. and am a defendant in the
above captioned foreclosure action.

2. In September 2011, my husband was the Plaintiff in an unrelated action against
Defendants Ten State Street, L.L.P., Timothy D. Scrantom, Mark Broadwater, and H. Hugh
Andrews.

3. In conjunction with that lawsuit, the parties adverse to Quentin served subpoenas upon
Arthur State Bank for his bank records and for those of my mother-in-law, Ann Broom, my
father-in-law Quentin S. Broom, Sr., and myself. My mother-in-law, father-in-law, and I were
not parties to the litigation. A copy of this subpoena is attached as Exhibit A hereto.

3. On September 16, 2011, Quentin's attorney, Patrick E. Knie, Esquire, wrote Mr. Kelly
Banks, the president of Arthur State Bank, regarding the subpoenas. Mr. Knie informed Mr.

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CLERK OF COURT
SPARTANBURG COUNTY
2013 APR 12 PM 2:19
NE HOLE BLACKLEY

Banks that the subpoenas requested private financial records for bank accounts of non-parties to the lawsuit in which the subpoenas were issued. I have attached a copy of this letter as Exhibit

B. Mr. Knie's letter requested that the bank notify each account holder that the subpoenas had been issued and give them an opportunity to seek independent legal counsel with respect to the exposure of their financial records. My mother-in-law, father-in-law, and my bank records were irrelevant to my husband's lawsuit against Ten State Street, L.L.P., Timothy D. Scrantom, Mark Broadwater, and H. Hugh Andrews.

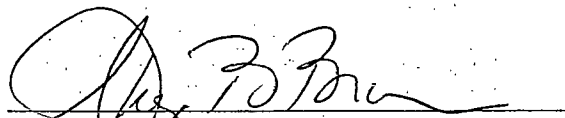
4. The bank ignored Mr. Knie's letter and disclosed the account information for accounts of my mother-in-law, father-in-law, and myself to unauthorized third parties. Even after being asked by counsel, Arthur State Bank failed to give my mother-in-law, father-in-law, or me notice of the subpoenas.

5. By disclosing our private financial records, Arthur State Bank compromised my husband's lawsuit and subjected us to a gross invasion of our financial privacy.

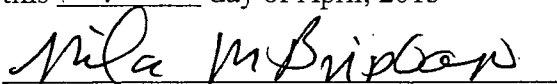
6. It is important to note that after becoming an Arthur State Bank customer, I received a copy of the bank's privacy notice, entitled, "Notice of Your Financial Privacy Rights." I have attached a copy of the notice as Exhibit C. In this notice, Arthur State Bank states that they "will not disclose information about you to anyone except as disclosed in this policy or as permitted by law." The policy provides for disclosure of "non-public" account information only to the bank's employees, agents, or affiliates. The parties who served the subpoena on the bank and its affiliates fall within any of those categories.

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SPARTANBURG COUNTY
2013 APR 22 PM 2:19
M. HOPE BLACKLEY

FURTHER AFFIANT SAYETH NAUGHT


Amy B. Broom

Sworn and subscribed before me
this 11 day of April, 2013



Notary Public for South Carolina

My commission expires:

NILA M. BRISBON
Notary Public - State of South Carolina
My Commission Expires June 20, 2016

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 APR 12 PM 2:19
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF SPARTANBURG

Quentin S. Broom, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

Ten State Street, LLP, e.al., Defendant

C.A. No.: 08-CP-42-3397

Pending in Spartanburg County

TO: Arthur State Bank, 756 E. Main Street, Spartanburg, SC 29302

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME , AM

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME , AM

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

See Attached Addendum A

PLACE

Pillsbury & Read, P.A.

1204-A East Washington St.

Greenville, SC 29601

DATE AND TIME

Monday, October 10, 2011 at 10:00 AM

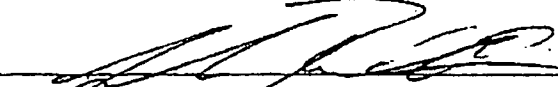
☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME , AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.



DATE September 9, 2011

ATTORNEY/ISSUING OFFICER'S SIGNATURE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

CLERK OF COURT/ISSUING OFFICER SIGNATURE

DATE

PRINT NAME

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☐ YES ☐ NO AMOUNT \$
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- iv. subjects a person to undue burden.

(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

ADDENDUM A

- 1) Any and all monthly statements, electronic, printed, or otherwise, for **Account No.: 95482097** from **January 1, 2004 to December 21, 2004**, including but not limited to copies of checks (front & back), deposit slips and/or electronic transfers;
- 2) Any and all monthly statements, electronic, printed, or otherwise, for **Account No.: 59005843** from **January 1, 2004 to present**, including but not limited to copies of checks (front & back), deposit slips and/or electronic transfers;
- 3) Any and all monthly statements, electronic, printed, or otherwise, for **Account No.: 94887924** from **January 1, 2004 to present**, including but not limited to copies of checks (front & back), deposit slips and/or electronic transfers;
- 4) Any and all monthly statements, electronic, printed, or otherwise, for **Account No.: 95834495** from **January 1, 2004 to present**, including but not limited to copies of checks (front & back), deposit slips and/or electronic transfers;
- 5) Any and all monthly statements, electronic, printed, or otherwise, for **Account No.: 30441221** from **January 1, 2004 to present**, including but not limited to copies of checks (front & back), deposit slips and/or electronic transfers;
- 6) Any and all monthly statements, electronic, printed, or otherwise, for **Account No.: 70430649** from **January 1, 2004 to present**, including but not limited to copies of checks (front & back), deposit slips and/or electronic transfers;

7) Front & Back copies of the following checks for Account No.: 95482097:

<u>Check #</u>	<u>Date</u>	<u>Amount</u>
3571	1/21/2005	10,000.00
3575	2/1/2005	5,000.00
3579	1/28/2005	50,000.00
3580	1/28/2005	10,000.00
3587	2/08/2005	65,000.00
3582	2/14/2005	1,100.00
Deposit Slip	2/23/2005	85,000.00
Deposit Slip	2/25/2005	10,000.00
Deposit Slip	3/11/2005	50,000.00
Deposit Slip	3/11/2005	120,000.00
Deposit Slip	3/14/2005	15,000.00
Wire Transfer*	2/24/2005	85,000.00
Wire Transfer*	3/14/2005	250,012.00
3589	2/28/2005	15,000.00
3619	3/25/2005	5,000.00
3620	3/25/2005	5,000.00
3622	4/08/2005	30,000.00
3627	4/20/2005	25,324.00
Deposit Slip	3/24/2005	8,584.32
3650	05/04/2005	25,000.00
3641	05/02/2005	3,000.00

3642	05/02/2005	5,000.00
3643	05/04/2005	25,000.00
Deposit Slip	4/25/2005	10,000.00
Deposit Slip	5/03/2005	40,000.00
3657	5/25/2005	20,000.00
3662	5/31/2005	5,000.00
3663	5/31/2005	5,000.00
3666	6/01/2005	7,670.00
3667	06/02/2005	5,200.00
3668	06/06/2005	20,000.00
3682	06/20/2005	17,884.00
Deposit Slip	05/24/2005	28,843.78
Deposit Slip	05/25/2005	10,000.00
Deposit Slip	06/08/2005	36,000.00
Deposit Slip	6/16/2005	1,125.06
3681	6/12/2005	1,200.00
3683	6/24/2005	13,651.00
3687	6/24/2005	5,000.00
3694	7/15/2005	5,000.00
3702	7/20/2005	7,000.00
Deposit Slip	6/28/2005	10,000.00
Deposit Slip	7/06/2005	40,000.00
Deposit Slip	7/22/2005	5,000.00

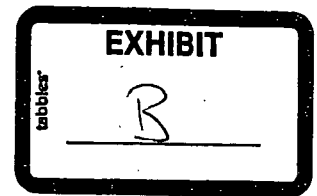
Deposit Slip	7/22/2005	5,000.00
Deposit Slip	9/2/2005	4,000.00
Deposit Slip	10/19/2005	8,118.55
Deposit Slip	10/20/2005	4,000.00
Deposit Slip	10/14/2005	2,000.00
Wire Transfer*	11/16/2005	90,000.00
3781	10/31/2005	10,000.00

(Check was written for \$100,000.00; but incorrectly posted for \$10,000.00)

3784	11/10/2005	85,000.00
3789	11/10/2005	3,000.00
3790	11/15/2005	5,000.00
3791	11/16/2005	1,700.00
3792	11/16/2005	2,000.00
3793	11/16/2005	500.00
Deposit Slip	11/03/2005	190,801.05
3798	12/07/2005	64.20
3799	12/07/2005	130.00
3800	12/13/2005	103.60
Wire Transfer - deposit*	12/22/2005	15,000.00
Wire Transfer - deposit*	1/13/2006	10,000.00
3820	1/25/2006	800.00
3821	1/25/2006	1,800.00

3822	1/30/2006	2,000.00
Deposit Slip	3/20/2006	5,000.00
Deposit Slip	3/21/2006	1,910.12
Wire Transfer*	3/20/2006	64,000.00
Wire Transfer*	3/15/2006	64,000.00
Wire Transfer*	3/28/2006	10,000.00
3848	4/11/2006	10,000.00
Wire Transfer*	3/28/2006	23,154.14
3838	3/24/2006	735.88
3839	3/24/2006	1,803.82
3849	4/17/2006	1,398.97
Wire Transfer - deposit*	4/24/2006	20,000.00
Deposit Slip	4/27/2006	5,000.00
3860	4/26/2006	1,700.00
3861	4/26/2006	501.00
3868	4/28/2006	27,424.60
3870	5/02/2006	863.01
3874	5/03/2006	900.00
3878	6/23/2006	743.15

* For all wire transfers, identify the sending or receiving account number.



PATRICK E. KNIE

ATTORNEY AT LAW

A Professional Association

250 Magnolia Street

Spartanburg, S.C. 29306

Telephone No. (864) 582-5118

Fax No.:

(864) 585-1615

Mailing Address:

P.O. Box 5159 (29304)

September 16, 2011

Mr. Kelly Banks
Arthur State Bank
756 East Main Street
Spartanburg, South Carolina 29302

RE: Quentin S. Broom, Jr. vs. Ten State Street, L.L.P., Timothy
D. Scrantom, Mark Broadwater, and H. Hugh Andrews

Dear Mr. Banks:

I represent Quentin S. Broom, Jr. with respect to the above-entitled litigation. On September 12, 2011, I received a copy of a Subpoena dated September 9, 2011 seeking the production of various bank records from numerous accounts, a copy of which is attached hereto for your reference. My client has reviewed the addendum to the Subpoena which identifies the account numbers. Many of the account numbers are not his, and he is unable to identify the owners of those accounts. He and I are both concerned that the private financial records of individuals who are not named parties to the lawsuit entitled above may be exposed to the invasion of their privacy.

I would respectfully request that the Bank notify each one of the account holders, other than Mr. Broom, and advise each of them of the pending Subpoena request so that they may, if they choose, seek independent legal counsel with respect to the potential exposure of their financial records.

I am sure you will take the proper and appropriate action under the circumstances.

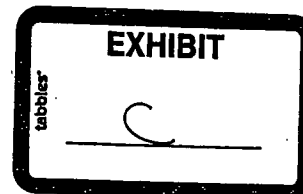
If you have any questions or comments, I am available at your convenience.

Sincerely,

Patrick E. Knie

PEK:mbg
Enclosure

0000150



NOTICE OF YOUR FINANCIAL PRIVACY RIGHTS

We, **our**, and **us**, when used in this notice, mean Arthur State Bank, Carolina State Bank and Pinnacle State Bank.

This is our privacy notice for our customers. When we use the words "you" and "your" we mean the following types of customers:

- Our consumer customers who have a continuing relationship by purchasing or holding financial products or services such as a(n):
 - Deposit account
 - Loan account
 - Credit card account
 - Safe deposit box
 - Self-directed Individual Retirement Account

We will tell you the sources of the information we collect about you. We will tell you what measures we take to secure that information. We first define some terms.

Nonpublic personal information means information about you that we collect in connection with providing a financial product or service to you. Nonpublic personal information does not include information that is available from public sources, such as telephone directories or government records. Hereafter, we will use the term "**information**" to mean nonpublic personal information as defined in this section.

An **affiliate** is a company we own or control, a company that owns or controls us, or a company that is owned or controlled by the same company that owns or controls us. Ownership does not mean complete ownership, but means owning enough to have control.

A **nonaffiliated third party** is a person we do not employ or a company that is not an affiliate of ours. This is also known as nonaffiliated third party, or simply, an "**other party**."

THE INFORMATION WE COLLECT

We collect information about you from the following sources:

- Information you give us on applications or other forms
- Information about your transactions with us
- Information about your transactions with our affiliates
- Information about your transactions with other parties
- Information from a consumer reporting agency

THE CONFIDENTIALITY, SECURITY, AND INTEGRITY OF YOUR INFORMATION

We restrict access to information about you to those employees who need to know that information to provide products or services to you. We maintain physical, electronic, and procedural safeguards to protect this information.

YOUR INFORMATION AND OUR AFFILIATES

We may disclose information about you to our affiliates. Here are the kinds of information and the source of that information:

Transaction and experience information from our account records:

- Information about your transactions and experience with us, such as:
 - Name
 - Address
 - Account balances
 - Account activity
 - Types of accounts
 - Payment history
 - Deposit history

Federal law allows us to disclose the information listed above with our affiliates. You do not have a right to opt out of the disclosure of this information.

Types Of Affiliates

We may disclose information about you to the following types of affiliates:

- Financial service providers, such as:
 - Banks

YOUR INFORMATION AND OTHER PARTIES

We will not disclose information about you to anyone except as disclosed in this policy or as permitted by law. Examples of this might include disclosures necessary to service your account or prevent unauthorized transactions.

INFORMATION ABOUT FORMER CUSTOMERS

We do not disclose information about former customers, except as permitted by law.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
C.A. No.: 2012-CP-42-2714

Arthur State Bank,

Plaintiff,

v.

Quentin S. Broom, Jr., Amy B. Broom
aka Amy Broom, Ann G. Broom, and
Russell A. Broom,

Defendants.

AFFIDAVIT OF ANN G. BROOM

Personally appeared before me the undersigned who, being duly sworn, testifies and deposes as follows:

1. I, Ann G. Broom, am the mother of Quentin S. Broom, Jr. and am a defendant in the above captioned foreclosure action.

2. In September 2011, my son was the Plaintiff in an unrelated action against Defendants Ten State Street, L.L.P., Timothy D. Scrantom, Mark Broadwater, and H. Hugh Andrews.

3. In conjunction with that lawsuit, the parties adverse to my son served subpoenas upon Arthur State Bank for his bank records as well as for those of Quentin's wife, Amy Broom, my husband, Quentin S. Broom, Sr., and myself. My husband, my daughter-in-law, and I were not parties to the litigation. A copy of this subpoena is attached as Exhibit A hereto.

3. On September 16, 2011, Quentin's attorney, Patrick E. Knie, Esquire, wrote Mr. Kelly Banks, the president of Arthur State Bank, regarding the subpoenas. Mr. Knie informed Mr.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 APR 12 PM 2:19
MAHUTE BLACKLEY

Banks that the subpoenas requested private financial records for bank accounts of non-parties to the lawsuit in which the subpoenas were issued. I have attached a copy of this letter as Exhibit B. Mr. Knie's letter requested that the bank notify each account holder that the subpoenas had been issued and give them an opportunity to seek independent legal counsel with respect to the exposure of their financial records. Our bank records were irrelevant to Quentin's lawsuit against Ten State Street, L.L.P., Timothy D. Scrantom, Mark Broadwater, and H. Hugh Andrews.

4. The bank ignored Mr. Knie's letter and disclosed the account information for the accounts of my daughter-in-law, my husband, and myself to unauthorized third parties. Even after being asked by counsel, Arthur State Bank failed to give my daughter-in-law, my husband, or me notice of the subpoenas.

5. By disclosing our private financial records, Arthur State Bank compromised my son's lawsuit and subjected us to a gross invasion of our financial privacy.

6. It is important to note that after becoming an Arthur State Bank customer, I received a copy of the bank's privacy notice, entitled, "Notice of Your Financial Privacy Rights." I have attached a copy of the notice as Exhibit C. In this notice, Arthur State Bank states that they "will not disclose information about you to anyone except as disclosed in this policy or as permitted by law." The policy provides for disclosure of "non-public" account information only to the bank employees, agents, or affiliates. The parties who served the subpoena on the bank did not call within any of those categories.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 APR 12 PM 2:19
M. JEFF BLACKLEY

FURTHER AFFIANT SAYETH NAUGHT

Ann G. Broom
Ann G. Broom

Sworn and subscribed before me
this 12th day of April, 2013

Melody B. Halvul
Notary Public for South Carolina
My commission expires: 09/04/17

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 APR 12 PM 2:19
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF SPARTANBURG

Quentin S. Broom, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

Ten State Street, LLP, e.al., Defendant

C.A. No.: 08-CP-42-3397

Pending in Spartanburg County

TO: Arthur State Bank, 756 E. Main Street, Spartanburg, SC 29302

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME , AM
---------------------	--------------------

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

See Attached Addendum A

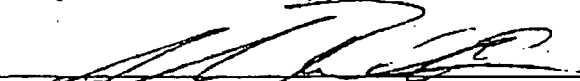
PLACE Pillsbury & Read, P.A. 1204-A East Washington St. Greenville, SC 29601	DATE AND TIME Monday, October 10, 2011 at 10:00 AM
---	---

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME , AM
----------	--------------------

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.



DATE September 9, 2011

ATTORNEY/ISSUING OFFICER'S SIGNATURE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

CLERK OF COURT/ISSUING OFFICER SIGNATURE

DATE

PRINT NAME

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☐ YES ☐ NO AMOUNT \$
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- iv. subjects a person to undue burden.

(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

ADDENDUM A

- 1) Any and all monthly statements, electronic, printed, or otherwise, for **Account No.: 95482097** from **January 1, 2004 to December 21, 2004**, including but not limited to copies of checks (front & back), deposit slips and/or electronic transfers;
- 2) Any and all monthly statements, electronic, printed, or otherwise, for **Account No.: 59005843** from **January 1, 2004 to present**, including but not limited to copies of checks (front & back), deposit slips and/or electronic transfers;
- 3) Any and all monthly statements, electronic, printed, or otherwise, for **Account No.: 94887924** from **January 1, 2004 to present**, including but not limited to copies of checks (front & back), deposit slips and/or electronic transfers;
- 4) Any and all monthly statements, electronic, printed, or otherwise, for **Account No.: 95834495** from **January 1, 2004 to present**, including but not limited to copies of checks (front & back), deposit slips and/or electronic transfers;
- 5) Any and all monthly statements, electronic, printed, or otherwise, for **Account No.: 30441221** from **January 1, 2004 to present**, including but not limited to copies of checks (front & back), deposit slips and/or electronic transfers;
- 6) Any and all monthly statements, electronic, printed, or otherwise, for **Account No.: 70430649** from **January 1, 2004 to present**, including but not limited to copies of checks (front & back), deposit slips and/or electronic transfers;

7) Front & Back copies of the following checks for Account No.: 95482097:

<u>Check #</u>	<u>Date</u>	<u>Amount</u>
3571	1/21/2005	10,000.00
3575	2/1/2005	5,000.00
3579	1/28/2005	50,000.00
3580	1/28/2005	10,000.00
3587	2/08/2005	65,000.00
3582	2/14/2005	1,100.00
Deposit Slip	2/23/2005	85,000.00
Deposit Slip	2/25/2005	10,000.00
Deposit Slip	3/11/2005	50,000.00
Deposit Slip	3/11/2005	120,000.00
Deposit Slip	3/14/2005	15,000.00
Wire Transfer	2/24/2005	85,000.00
Wire Transfer	3/14/2005	250,012.00
3589	2/28/2005	15,000.00
3619	3/25/2005	5,000.00
3620	3/25/2005	5,000.00
3622	4/08/2005	30,000.00
3627	4/20/2005	25,324.00
Deposit Slip	3/24/2005	8,584.32
3650	05/04/2005	25,000.00
3641	05/02/2005	3,000.00

3642	05/02/2005	5,000.00
3643	05/04/2005	25,000.00
Deposit Slip	4/25/2005	10,000.00
Deposit Slip	5/03/2005	40,000.00
3657	5/25/2005	20,000.00
3662	5/31/2005	5,000.00
3663	5/31/2005	5,000.00
3666	6/01/2005	7,670.00
3667	06/02/2005	5,200.00
3668	06/06/2005	20,000.00
3682	06/20/2005	17,884.00
Deposit Slip	05/24/2005	28,843.78
Deposit Slip	05/25/2005	10,000.00
Deposit Slip	06/08/2005	36,000.00
Deposit Slip	6/16/2005	1,125.06
3681	6/12/2005	1,200.00
3683	6/24/2005	13,651.00
3687	6/24/2005	5,000.00
3694	7/15/2005	5,000.00
3702	7/20/2005	7,000.00
Deposit Slip	6/28/2005	10,000.00
Deposit Slip	7/06/2005	40,000.00
Deposit Slip	7/22/2005	5,000.00

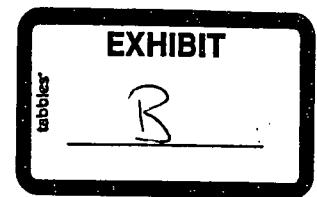
Deposit Slip	7/22/2005	5,000.00
Deposit Slip	9/2/2005	4,000.00
Deposit Slip	10/19/2005	8,118.55
Deposit Slip	10/20/2005	4,000.00
Deposit Slip	10/14/2005	2,000.00
Wire Transfer*	11/16/2005	90,000.00
3781	10/31/2005	10,000.00

(Check was written for \$100,000.00; but incorrectly posted for \$10,000.00)

3784	11/10/2005	85,000.00
3789	11/10/2005	3,000.00
3790	11/15/2005	5,000.00
3791	11/16/2005	1,700.00
3792	11/16/2005	2,000.00
3793	11/16/2005	500.00
Deposit Slip	11/03/2005	190,801.05
3798	12/07/2005	64.20
3799	12/07/2005	130.00
3800	12/13/2005	103.60
Wire Transfer - deposit*	12/22/2005	15,000.00
Wire Transfer - deposit*	1/13/2006	10,000.00
3820	1/25/2006	800.00
3821	1/25/2006	1,800.00

3822	1/30/2006	2,000.00
Deposit Slip	3/20/2006	5,000.00
Deposit Slip	3/21/2006	1,910.12
Wire Transfer*	3/20/2006	64,000.00
Wire Transfer*	3/15/2006	64,000.00
Wire Transfer*	3/28/2006	10,000.00
3848	4/11/2006	10,000.00
Wire Transfer*	3/28/2006	23,154.14
3838	3/24/2006	735.88
3839	3/24/2006	1,803.82
3849	4/17/2006	1,398.97
Wire Transfer - deposit*	4/24/2006	20,000.00
Deposit Slip	4/27/2006	5,000.00
3860	4/26/2006	1,700.00
3861	4/26/2006	501.00
3868	4/28/2006	27,424.60
3870	5/02/2006	863.01
3874	5/03/2006	900.00
3878	6/23/2006	743.15

* For all wire transfers, identify the sending or receiving account number.



PATRICK E. KNIE

ATTORNEY AT LAW

A Professional Association

250 Magnolia Street

Spartanburg, S.C. 29306

Telephone No. (864) 582-5118

Fax No.:

(864) 585-1615

Mailing Address:

P.O. Box 5159 (29304)

September 16, 2011

Mr. Kelly Banks
Arthur State Bank
756 East Main Street
Spartanburg, South Carolina 29302

RE: Quentin S. Broom, Jr. vs. Ten State Street, L.L.P., Timothy
D. Scrantom, Mark Broadwater, and H. Hugh Andrews

Dear Mr. Banks:

I represent Quentin S. Broom, Jr. with respect to the above-entitled litigation. On September 12, 2011, I received a copy of a Subpoena dated September 9, 2011 seeking the production of various bank records from numerous accounts, a copy of which is attached hereto for your reference. My client has reviewed the addendum to the Subpoena which identifies the account numbers. Many of the account numbers are not his, and he is unable to identify the owners of those accounts. He and I are both concerned that the private financial records of individuals who are not named parties to the lawsuit entitled above may be exposed to the invasion of their privacy.

I would respectfully request that the Bank notify each one of the account holders, other than Mr. Broom, and advise each of them of the pending Subpoena request so that they may, if they choose, seek independent legal counsel with respect to the potential exposure of their financial records.

I am sure you will take the proper and appropriate action under the circumstances.

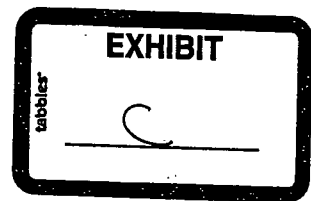
If you have any questions or comments, I am available at your convenience.

Sincerely,

Patrick E. Knie

PEK:mbg
Enclosure

0000162



NOTICE OF YOUR FINANCIAL PRIVACY RIGHTS

We, our, and us, when used in this notice, mean Arthur State Bank, Carolina State Bank and Pinnacle State Bank.

This is our privacy notice for our customers. When we use the words "you" and "your" we mean the following types of customers:

- Our consumer customers who have a continuing relationship by purchasing or holding financial products or services such as a(n):
 - Deposit account
 - Loan account
 - Credit card account
 - Safe deposit box
 - Self-directed Individual Retirement Account

We will tell you the sources of the information we collect about you. We will tell you what measures we take to secure that information. We first define some terms.

Nonpublic personal information means information about you that we collect in connection with providing a financial product or service to you. Nonpublic personal information does not include information that is available from public sources, such as telephone directories or government records. Hereafter, we will use the term "information" to mean nonpublic personal information as defined in this section.

An **affiliate** is a company we own or control, a company that owns or controls us, or a company that is owned or controlled by the same company that owns or controls us. Ownership does not mean complete ownership, but means owning enough to have control.

A **nonaffiliated third party** is a person we do not employ or a company that is not an affiliate of ours. This is also known as nonaffiliated third party, or simply, an "other party."

THE INFORMATION WE COLLECT

We collect information about you from the following sources:

- Information you give us on applications or other forms
- Information about your transactions with us
- Information about your transactions with our affiliates
- Information about your transactions with other parties
- Information from a consumer reporting agency

THE CONFIDENTIALITY, SECURITY, AND INTEGRITY OF YOUR INFORMATION

We restrict access to information about you to those employees who need to know that information to provide products or services to you. We maintain physical, electronic, and procedural safeguards to protect this information.

YOUR INFORMATION AND OUR AFFILIATES

We may disclose information about you to our affiliates. Here are the kinds of information and the source of that information:

Transaction and experience information from our account records:

- Information about your transactions and experience with us, such as:
 - Name
 - Address
 - Account balances
 - Account activity
 - Types of accounts
 - Payment history
 - Deposit history

Federal law allows us to disclose the information listed above with our affiliates. You do not have a right to opt out of the disclosure of this information.

Types Of Affiliates

We may disclose information about you to the following types of affiliates:

- Financial service providers, such as:
 - Banks

YOUR INFORMATION AND OTHER PARTIES

We will not disclose information about you to anyone except as disclosed in this policy or as permitted by law. Examples of this might include disclosures necessary to service your account or prevent unauthorized transactions.

INFORMATION ABOUT FORMER CUSTOMERS

We do not disclose information about former customers, except as permitted by law.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

Case No. 2012-CP-42-2714

Arthur State Bank

Plaintiff,

vs.

AFFIDAVIT OF KELLY BANKS

Quentin S. Broom, Jr., Amy B. Broom aka
Amy Broom, Ann G. Broom, and Russell A.
Broom

Defendants.

PERSONALLY appeared before me, Kelly Banks, who being duly sworn, deposes and says that:

1. I am a Senior Vice President of Arthur State Bank ("Plaintiff").
2. Arthur State Bank ("Plaintiff") was served with a subpoena dated September 9, 2011, which was "Issued By The Common Pleas Court in the County of Spartanburg" in the case entitled *Quentin S. Broom v. Ten State Street, LLP, et. al.*, CivilAction No. 08-CP-42-3397 ("Supboena").
3. At the time the Subpoena was served upon Plaintiff, it had in place a policy entitled "Privacy of Consumer Financial Information" ("Privacy Policy").
4. The Privacy Policy provides, generally, that Plaintiff may not disclose nonpublic personal information about consumers to nonaffiliated third parties, but the Privacy Policy contains certain enumerated exceptions to that general rule ("Section 15 Exceptions").
5. The Section 15 Exceptions include, among other things, an exception allowing Plaintiff

to disclose nonpublic personal information "to comply with a properly authorized civil, criminal, or regulatory investigation, or subpoena or summons by federal, state, or local authorities."

6. The Affidavits submitted by Ann G. Broom, Amy B. Broom, and Quentin S. Broom, Jr. in this case each contain a copy of an attached Exhibit entitled "Notice of Your Financial Privacy Rights" ("Notice").

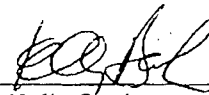
7. The Notice provides that "[Plaintiff] will not disclose information about you to anyone except as disclosed in this policy or as permitted by law."

8. Both the Privacy Policy and the Notice contain exceptions for Plaintiff's disclosure of information to comply with legal requirements.

9. Plaintiff complied with the judicial Subpoena in accordance with its Privacy Policy and its Notice.

Arthur State Bank

By:

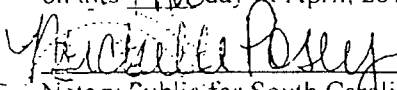


Kelly Banks

Its:

Senior Vice President

SWORN to and subscribed before me
on this 14th day of April, 2013.

 (Seal)
Notary Public for South Carolina
My commission expires: 8/20/20

Michelle Posey
NOTARY PUBLIC
State of South Carolina
My Commission Expires 8/20/2020

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas.
J. Derham Cole, Circuit Court Judge

Appellate Case Number: 2013-001967

Arthur State Bank Respondents

vs.

Quentin S. Broom, Jr. And Amy B. Broom a/k/a Amy Broom, Ann
G. Broom, and Russell A. Broom..... Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Record on Appeal
complies with Rule 209(c), SCACR and contains all material
proposed to be included by any of the parties and not any other
material.

March 25, 2014.



L. Lee Plumlee
S.C. Bar No. 10198
Eppes & Plumlee, P.A.
Post Office Box 10066
Greenville, South Carolina 29603
(864) 235-2600
Attorney for Appellant