

RECORD ON APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

Letitia H. Verdin, Circuit Court Judge

Case No. 2015-CP-24-00337

RECEIVED
MAR 19 2019
SC Court of Appeals

Challenge Golf Group of
South Carolina, LLC

Respondent,

v.

B.J. Brandimarte,

Appellant.

RECORD ON APPEAL

B.J. Brandimarte
208 Chatham Drive
Greenwood, South Carolina 29649
(864) 321-7502
Pro Se for Appellant

David S. Wyatt, SC Bar#9782
935 South Main Street, Suite 203
Greenville, South Carolina 29601
(864) 250-9780/(864) 250-9784 (Fax)
Wyatt@seblawfirm.com
Attorney for Respondent

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STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

IN THE COURT OF COMMON PLEAS

The Challenge Golf Group of South Carolina,
LLC,

Case No.: 2015-CP-24-00337

Plaintiff,

ORDER OF JUDGMENT

v.

B.J. Brandimarte,

Defendants,

This case involves Plaintiff's request for a judgment for unpaid dues, food and beverage minimum and other related costs associated with Defendant's membership in the Grand Harbor Golf Club. Defendant defended and counterclaimed based on Plaintiff's failure to build a yacht clubhouse in accordance with the expectations of the Defendant.

I conducted a non jury trial on the matter on March 21, 2018. Plaintiff was represented by David S. Wyatt, esq. of Gleaton Wyatt, PA and Defendant represented himself *pro se*. Based on the evidence presented at trial I find and conclude as follows:

Plaintiff brought this case alleging that the Defendant owed money for club dues, food minimums and other related costs. Plaintiff presented evidence, and the Defendant did not refute, that the Plaintiff does business as the Grand Harbor Club ("GHC"). The Defendant admitted in his Answer and at trial that he owns real property in Grand Harbor and received a membership in GHC. The Defendant introduced the Declaration of Covenants, Conditions, Restrictions, Easements, Liens and Charges of Grand Harbor in effect when he purchased his property ("Declarations"), filed in Book 587 Page 320 of the Greenwood County Register of

Deeds Office. These Declarations state at Paragraph 15.H. that "[a]ll Owners will be required to join the Grand Harbor Golf & Yacht Club Membership Regime." "Restrictive covenants are contractual in nature." Hoffman v. Cohen, 262 S.C. 71, 75, 202 S.E.2d 363, 365 (1974). The Defendant admitted in his pleading and at trial that he is a member of the GHC. I therefore find and conclude that the Defendant is a member of the GHC and has a contractual obligation to pay the GHC dues, food and beverage minimums and other costs. Plaintiff presented evidence that all the amenities in Exhibit D of the covenants had been constructed and were in use during the time Plaintiff had invoiced Defendant. Plaintiff's witness testified that Defendant has been invoiced \$29,476.68 for the dues, food and beverage minimums and other costs and has failed to pay. Defendant admitted at trial that he has not paid the amounts invoiced.

Defendant presented as a defense and counterclaim that Plaintiff failed to build a ten thousand square foot yacht clubhouse and has therefore materially breached the contract excusing him from paying the amounts invoiced. The Defendant presented documents that GHC sent him stating that the GHC had plans to build a yacht clubhouse in the future as evidence of this breach. However, none of the documents presented to the court were given to the Defendant prior to his purchase of his real property in Grand Harbor. Accordingly, GHC's stated plans were not part of the contract and were therefore not a contractual right or supported by consideration. I therefore find and conclude that the building of a yacht clubhouse was not a part of Defendant's contract to purchase real property nor an inducement to enter into the contract to purchase real property. I therefore find and conclude that the failure to build a yacht clubhouse is not a breach of the contract. Further, GHC presented evidence and Defendant admitted at trial that GHC has met the Declarations standard for dues set forth in Exhibit D. According to the testimony at trial, the Club does have many amenities including a golf course, a golf club house,

a marina for boats, a pool, and a gazebo near the water at the marina. I therefore find and conclude that Plaintiff failed to prove a material breach of the contract and Defendant's counterclaim fails.

I find and conclude that Defendant has a contractual obligation to pay Plaintiff dues, food and beverage minimums and other costs and that he has breached this obligation by failing to pay the \$29,476.68 invoiced and that the Defendant's counterclaim fails.

Based on the above findings of fact and conclusions of law this Court finds in favor of the Plaintiff and against the Defendant on Plaintiff's claim and Defendant's counterclaim.

NOW THEREFORE IT IS ORDERED that the Plaintiff's awarded a judgment against the Defendant in the amount of \$29,476.68.

IT IS FURTHER ORDERED that the Defendant's counterclaim is dismissed.

AND IT IS SO ORDERED!

The Honorable Letitia H. Verdin
Circuit Court Judge

Dated: _____, 2018
Greenville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

IN THE COURT OF COMMON PLEAS

The Challenge Golf Group of South Carolina,
LLC,

Plaintiff,

v.

B.J. Brandimarte,

Defendants,

Case No.: 2015-CP-24-

00737

COMPLAINT
(Non-Jury)

2015 APR 13 AM 11:11

FILED COMMON PLEAS
8TH JUDICIAL CIRCUIT
GREENWOOD, S.C.

NOW COMES the Plaintiff by and through its undersigned attorneys, and complaining of the above named Defendants would show unto this Honorable Court as follows:

1. Plaintiff is a limited liability company organized under the laws of South Carolina with its principle place of business in Greenwood County, South Carolina.
2. Defendant is, upon information and belief, a citizen and resident of South Carolina.
3. Plaintiff owns and operates a golf course and country club located in Greenwood County, South Carolina known as the Grand Harbor Golf & Yacht Club ("GHGYC").
4. Defendant is the owner of real property in Greenwood County, South Carolina located in the Grand Harbor subdivision with the address of 117 Patriot Point Court, Ninety Six, SC ("Property").
5. A Declaration of Covenants, Conditions, Restrictions, Easements, Liens and Charges of Grand Harbor ("Declarations") were filed in Book 587 Page 320 of the Greenwood County Register of Deeds Office and amended several times most recently filed December 20, 2011 in Book 1289 at Page 80.

6. Paragraph 15.H. of the Declarations states that "[a]ll Owners will be required to join the Grand Harbor Golf & Yacht Club Membership Regime.
7. Defendant became owner of the Property after the Declarations were filed and therefore have actual notice of the requirement.
8. Plaintiff has invoiced Defendant \$16,650.00 for initiation fees and regular dues.
9. Defendant has been informed in writing of the amount due and owing and has failed to make any payment after written demand.
10. Plaintiff is entitled to an award of \$16,650.00 plus costs.

WHEREFORE, the Plaintiff Prays this Honorable Court enter a judgment in favor of the Plaintiff and against the Defendants in the amount of \$16,650.00 plus costs, and for any other relief that the Court deems just and proper.

GLEATON WYATT, PA



David Wyatt (S.C. Bar #9782)

wyatt@seblawfirm.com

Ralph Gleaton (S.C. Bar #7308)

ralph@seblawfirm.com

Attorneys for the Plaintiff

935 South Main Street, Suite 203

Greenville, South Carolina 29601

864-250-9780

864-250-9784 (fax)

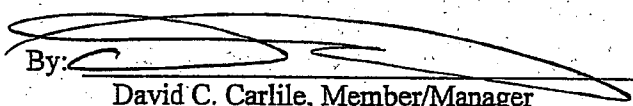
April 8, 2015
Greenville, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENWOOD)

VERIFICATION

PERSONALLY appeared before me, The Challenge Golf Group of SC, LLC, by its agent, David C. Carlile, who first being duly sworn, says that it is the Plaintiff in the foregoing action; that it has read the foregoing Complaint; that the statements contained therein are true to the best of its knowledge save and except as to those stated to be based upon information and belief, as to which it believes the matters to be true.

THE CHALLENGE GOLF GROUP OF
SC, LLC

By: 

David C. Carlile, Member/Manager

SWORN to before me this 26th day
of March, 2015.


NOTARY PUBLIC

My Commission expires: 11/19/16

(SEAL)

ANSWER TO COMPLAINT AND COUNTERCLAIM

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENWOOD

The Challenge Golf Group of South Carolina,
LLC,

Case No.: 2015-CP-24-00337

Plaintiff,

v.

ANSWER TO COMPLAINT

B.J. Brandimarte,

Defendants,

Now comes the Defendant, responding to the above named Plaintiff:

1. Plaintiff is, upon information and belief, a limited liability company organized under the laws of South Carolina with its principal place of business in Greenwood County, South Carolina.
2. Defendant is a citizen and resident of South Carolina.
3. Plaintiff, upon information and belief, owns and operates a golf course in Greenwood County, South Carolina known as "The Patriot" Golf Course.
4. Defendant is the owner of real property in Greenwood County, South Carolina located in the Grand Harbor subdivision with the address of 117 Patriot Point Court, Ninety Six, SC ("Property").
5. Defendant received a copy of the Declarations of Covenants, Conditions, Restrictions, Easements, Liens and Charges of Grand Harbor dated July 15, 1999. Defendant is a Resident Member of the Grand Harbor Club.
6. Defendant is a Resident Member of the Grand Harbor Club as defined in the Declarations of Covenants, Conditions, Restrictions, Easements, Liens and Charges of Grand Harbor dated July 15, 1999: Exhibit D, II Initiation Fees and Dues, A. Resident Members- The initiation fees for the residents who bought from the developer are included in the purchase price. The dues are as follows: 1. Dues for the Harbor Club facilities will be \$600.00 per year and will be paid as follows: \$300.00 when the pool, poolside bar and grill, and marina are completed; the remaining \$300.00 will be paid

when the clubhouse is completed.

7. Defendant became owner of the property in February 2002.
8. Defendant received periodic invoices for late fee charges, membership dues and dining minimum fees. No invoice for initiation fees was received by defendant.
9. Defendant has received billing invoices, letters from attorneys in South Carolina and Texas, and solicitations to join "The Patriot Golf Club".
10. Defendant denies that he is responsible at all:
 - a. Complaint is vague.
 - b. Description vague on attached statement
 - c. Various memberships offered by Grand Harbor, yet the specific membership category not disclosed in complaint
 - d. Defendant is a Resident member per July 1999 Declaration of Covenants
 - e. Property was deeded prior to existence of golf course
 - f. While various golf memberships were presented, none were accepted. No signed membership contract is a part of this complaint.

COUNTERCLAIM

Compensatory Damages

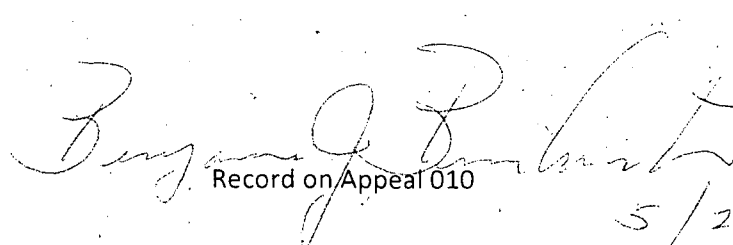
1. The defendant is a Resident Member of the Grand Harbor Club according to: Declaration of Covenants, Conditions, Restrictions, Easements, Liens and Charges of Grand Harbor dated 15 of July 1999.
2. The dues for a Resident Member of the Grand Harbor Club were to be \$300.00 when the pool, poolside bar and grill, and marina are completed, according to:
Exhibit "D" Membership Requirements Grand Harbor Club II. A) 1
3. An additional \$300.00 will be paid when the clubhouse is completed, according to:
Exhibit "D" Membership Requirements Grand Harbor Club II. A) 1
4. The clubhouse for the Grand Harbor Club, was promised, but was never built!
5. The defendant is owed a total of \$3752.50 for promises not kept!

Punitive Damages

1. Exhibit "D" Membership Requirements Grand Harbor Club
II. A. 2) Dues are subject to the owner's discretion depending upon the financial situation of the Harbor Club. They will not be increased without apparent reason.
2. In a Memorandum dated August 15, 2002 with a letter dated: July 8, 2002 RE: New Offering for Patriot Golf Memberships was used to offer a Master Golf Membership for Founding Property Owners. The initiation fee \$5000.
3. In a letter December 15, 2005 I am being referred to as a Property Owner Yacht Club member.

4. In a letter dated January 6, 2005 the plans for the groundbreaking of the Yacht Clubhouse were proclaimed. The facility was to be 10,000 square foot. New membership titles were added out of the blue: Non-Master Yacht Club member, Master Sports Pro membership, Master Golf RPO (Resident Property Owner), Master Sports RPO, Master Sports NRPO (Non-Resident Property Owner), and Invitational Golf NPO (Non-Property Owner).
5. In a letter dated March 20, 2009, while being addressed as a Grand Harbor Club Member, the Club Facilities now include the Golf Course, Clubhouse, Cabana, the Marina, multiple swimming pools and the Equestrian Center. This letter mentions difficult times.
6. January 25, 2010, a letter informed me of the suspension of my membership. The membership that I was suspended from was not noted.
7. In a letter dated December 27, 2010 I was informed that my account was delinquent with the Grand Harbor Golf & Yacht Club.
8. These letters show a gradual morphing of the Grand Harbor Club into the Grand Harbor Golf & Yacht Club with a malicious attempt to merge the two together. The Patriot Golf Course is a commercial business that is being merged with the Yacht Club, which is known as the Grand Harbor Club in the original Declaration of Covenants dated 15 July 1999.
9. This is a wanton attempt by the Owners of the Patriot Golf Club to fuse and confuse fiduciary responsibilities that should be separate, and to use the collection of monies for the Grand Harbor Club to fund/bailout a struggling commercial endeavor.
10. While the Owner has the right to amend; the scheme of the development can not be extensively altered. When the developer merged The Patriot Golf Course with the Grand Harbor Club the scheme of the development was altered in a substantial way which is unreasonable and illegal as a matter of law.
11. These actions offer favored status to some members, lessened the financial burden of the owners with membership monies, and subsidized a failing commercial business, at the expense of all members of the Grand Harbor Club.

I ask the court to award punitive damages at its discretion for these malicious and wanton acts.


Record on Appeal 010
5/27/2015

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

IN THE COURT OF COMMON PLEAS

The Challenge Golf Group of South Carolina,
LLC,

Case No.: 2015-CP-24-00337

Plaintiff,

v.

B.J. Brandimarte,

Defendants,

**AMENDED
COMPLAINT
(Non-Jury)**

FILED
IN THE COURT OF COMMON PLEAS
GREENWOOD, S.C.
AUG 11 2015

NOW COMES the Plaintiff by and through its undersigned attorneys, and complaining of the above named Defendant would show unto this Honorable Court as follows:

1. Plaintiff is a limited liability company organized under the laws of South Carolina with its principle place of business in Greenwood County, South Carolina.
2. Defendant is, upon information and belief, a citizen and resident of South Carolina.
3. Plaintiff owns and operates a golf course and country club located in Greenwood County, South Carolina known as the Grand Harbor Golf & Yacht Club ("GHGYC").
4. Defendant is the owner of real property in Greenwood County, South Carolina located in the Grand Harbor subdivision with the address of 117 Patriot Point Court, Ninety Six, SC ("Property").
5. A Declaration of Covenants, Conditions, Restrictions, Easements, Liens and Charges of Grand Harbor ("Declarations") were filed in Book 587 Page 320 of the Greenwood County Register of Deeds Office and amended several times most recently filed December 20, 2011 in Book 1289 at Page 80.

6. Paragraph 15.H. of the Declarations states that "[a]ll Owners will be required to join the Grand Harbor Golf & Yacht Club Membership Regime.
7. Defendant became owner of the Property after the Declarations were filed and therefore had actual notice of the requirement.
8. Plaintiff has invoiced Defendant \$16,650.00 through February, 2015; plus \$225.00 per month through January 31, 2016 and \$295 per month thereafter for regular dues and \$250 per quarter from 2015 through 2017 for food minimums.
9. Defendant has been informed in writing of the amount due and owing and has failed to make any payment after written demand.
10. Plaintiff is entitled to an award of \$16,650.00 through February, 2015, plus \$225.00 per month through January 31, 2016 and \$295 per month thereafter for regular dues and \$250 per quarter from 2015 through 2017 for food minimums, plus costs.
11. Plaintiff has transferred its interest to The Grand Harbor Club, LLC and is continued by the original party pursuant to Rule 25(c) SCRPC.

WHEREFORE, the Plaintiff Prays this Honorable Court enter a judgment in favor of the Plaintiff and against the Defendant in the amount of \$16,650.00 through February, 2015, plus \$225.00 per month through January 31, 2016 and \$295 per month thereafter for regular dues and \$250 per quarter from 2015 through 2017 for food minimums, plus costs, and for any other relief that the Court deems just and proper.

GLEATON WYATT, PA



David Wyatt (S.C. Bar #9782)

wyatt@seblawfirm.com

Ralph Gleaton (S.C. Bar #7308)

ralph@seblawfirm.com

Attorneys for the Plaintiff

935 South Main Street, Suite 203

Greenville, South Carolina 29601

864-250-9780

864-250-9784 (fax)

January 10, 2018

Greenville, South Carolina

ANSWER TO AMENDED COMPLAINT

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENWOOD

The Challenge Golf Group of South Carolina, LLC.

Plaintiff,

v.

Case No. 2015-CP-24-00337

B.J. Brandimarte,

Defendant,

Now comes the Defendant, responding to the above named Plaintiff:

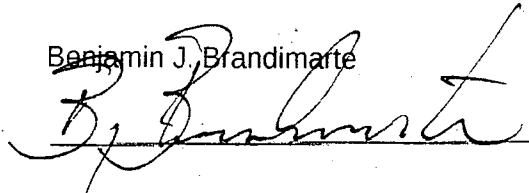
After Defendant became a property owner at Grand Harbor and received a copy of the Declarations of Covenants, Conditions, Restrictions, Easements, Liens and Charges of Grand Harbor dated July 15, 1999, he became a member of the Homeowners Association and Harbor Club according to said documents. Perfect performance of the contract required the construction of a Yacht Clubhouse. This clubhouse was never built, resulting in a material breach of contract. Defendant paid fees in good faith as numerous utterances of the eminent building of the Yacht Clubhouse was continuously promised.

1. Agree
2. Agree
3. Plaintiff, upon information and belief, owns and operates a golf course in Greenwood County, South Carolina known as "The Patriot" Golf Course.
4. Agree
5. Defendant received a copy of the Declarations of Covenants, Conditions, Restrictions, Easements, Liens and Charges of Grand Harbor dated July 15, 1999. Defendant is a Resident Member of Grand Harbor Club.
6. Defendant is a Resident Member of the Grand Harbor Club as defined in the Declarations of Covenants, Conditions, Restrictions, Easements, Liens and Charges of Grand Harbor dated July 15, 1999. Exhibit D, II Initiation Fees and Dues, A. Resident Members- The initiation fees for the residents who bought from the developer are

included in the purchase price. The dues are as follows: 1. Dues for the Harbor Club facilities will be \$600.00 per year and will be paid as follows: \$300.00 when the pool, poolside bar and grill and marina are completed; the remaining \$300.00 will be paid when the clubhouse is completed.

7. Defendant became owner of the property in February 2002.
8. Disagree
9. Defendant has received billing invoices, letters from attorneys in South Carolina and Texas, and solicitations to join "The Patriot Golf Club".
10. Defendant denies that he is responsible at all:
 - A. Complaint is vague
 - B. Description vague on statements received
 - C. Various memberships offered by Grand Harbor, yet the specific membership category not disclosed in complaint.
 - D. Defendant is a Resident member per July 1999 Declaration of Covenants.
 - E. Property was deeded prior to existence of golf course.
 - F. While various golf memberships were presented, none were accepted by defendant. No signed membership contract is a part of this complaint.
11. Unknown

Benjamin J. Brandimarte



January 01, 2018

COUNTERCLAIM

Compensatory Damages

1. The defendant is a Resident Member of the Grand Harbor Club according to: Declaration of Covenants, Conditions, Restrictions, Easements, Liens and Charges of Grand Harbor dated 15 of July 1999.
2. The dues for a Resident Member of the Grand Harbor Club were to be \$300.00 when the pool, poolside bar and grill, and marina are completed, according to:
Exhibit "D" Membership Requirements Grand Harbor Club II. A) 1
3. An additional \$300.00 will be paid when the clubhouse is completed, according to:
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4. The clubhouse for the Grand Harbor Club, was promised, but was never built!
5. The defendant is owed a total of \$3752.50 for promises not kept!

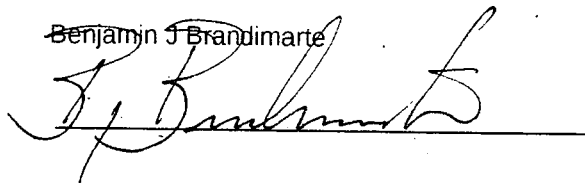
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2. In a Memorandum dated August 15, 2002 with a letter dated: July 8, 2002 RE: New Offering for Patriot Golf Memberships was used to offer a Master Golf Membership for Founding Property Owners. The initiation fee \$5000.
3. In a letter December 15, 2005 I am being referred to as a Property Owner Yacht Club member.
4. In a letter dated January 6, 2005 the plans for the groundbreaking of the Yacht Clubhouse were proclaimed. The facility was to be 10,000 square foot. New membership titles were added out of the blue: Non-Master Yacht Club member, Master Sports Pro membership, Master Golf RPO (Resident Property Owner),

Master Sports RPO, Master Sports NRPO (Non-Resident Property Owner),
and Invitational Golf NPO (Non-Property Owner).

5. In a letter dated March 20, 2009, while being addressed as a Grand Harbor Club Member, the Club Facilities now include the Golf Course, Clubhouse, Cabana, the Marina, multiple swimming pools and the Equestrian Center. This letter mentions difficult times.
6. January 25, 2010, a letter informed me of the suspension of my membership. The membership that I was suspended from was not noted.
7. In a letter dated December 27, 2010 I was informed that my account was delinquent with the Grand Harbor Golf & Yacht Club.
8. These letters show a gradual morphing of the Grand Harbor Club into the Grand Harbor Golf & Yacht Club with a malicious attempt to merge the two together. The Patriot Golf Course is a commercial business that is being merged with the Yacht Club, which is known as the Grand Harbor Club in the original Declaration of Covenants dated 15 July 1999.
9. This is a wanton attempt by the Owners of the Patriot Golf Club to fuse and confuse fiduciary responsibilities that should be separate, and to use the collection of monies for the Grand Harbor Club to fund/bailout a struggling commercial endeavor.
10. While the Owner has the right to amend; the scheme of the development can not be extensively altered. When the developer merged The Patriot Golf Course with the Grand Harbor Club the scheme of the development was altered in a substantial way which is unreasonable and illegal as a matter of law.
11. These actions offer favored status to some members, lessened the financial burden of the owners with membership monies, and subsidized a failing commercial business, at the expense of all members of the Grand Harbor Club.

I ask the court to award punitive damages at its discretion for these malicious and wanton acts.

~~Benjamin J Brandimarte~~


GRAND HARBOR MEMBERSHIP FEES PAID

MONTH

YEAR	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total Paid	Covenant	Difference
2005	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$50.00	\$600.00	\$300.00	\$300.00
2006	\$57.50	\$57.50	\$57.50	\$57.50	\$57.50	\$57.50	\$57.50	\$57.50	\$57.50	\$57.50	\$57.50	\$57.50	\$690.00	\$300.00	\$390.00
2007	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00	\$1,500.00	\$300.00	\$1,200.00
2008	\$125.00	\$125.00	\$156.25	\$156.25	\$156.25	\$156.25	\$156.25	\$156.25	\$156.25	\$156.25	\$156.25	\$156.25	\$1,812.50	\$300.00	\$1,512.50
2009	\$200.00	\$200.00											\$400.00	\$50.00	\$350.00
TOTALS													\$5,002.50	\$1,250.00	\$3,752.50

last membership payment 2009/2/28

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

IN THE COURT OF COMMON PLEAS

The Challenge Golf Group of South Carolina,
LLC,

Plaintiff,

v.

B.J. Brandimarte,

Defendants,

Case No.: 2015-CP-24-00337

**ANSWER TO DEFENDANT'S
COUNTERCLAIM**

NOW COMES the Plaintiff by and through its undersigned attorneys, Answering the Defendant's Counterclaim dated January 1, 2018 would show this Honorable Court as follows:

**FOR A FIRST DEFENSE
General Denial**

1. Every allegation in the Defendant's Counterclaim not specifically admitted below or alleged by the Plaintiff in its Amended Complaint is denied.
2. Answering Paragraph 1 of the Compensatory Damages section of the Counterclaim, Plaintiff admits that Defendant is a member of the Grand Harbor Club.
3. Answering Paragraph 2 of the Compensatory Damages section of the Counterclaim, Plaintiff asserts that the best evidence of the document alleged in Paragraph 2 of the Compensatory Damages section of the Counterclaim is the document itself. Plaintiff craves reference to the document for its terms and denies any allegation inconsistent with the document.
4. Answering Paragraph 3 of the Compensatory Damages section of the Counterclaim,

Plaintiff asserts that the best evidence of the document alleged in Paragraph 3 of the Compensatory Damages section of the Counterclaim is the document itself. Plaintiff craves reference to the document for its terms and denies any allegation inconsistent with the document.

5. Plaintiff denies the allegations of Paragraph 4 of the Compensatory Damages section of the Counterclaim.
6. Plaintiff denies the allegations of Paragraph 5 of the Compensatory Damages section of the Counterclaim.
7. Answering Paragraph 1 of the Punitive Damages section of the Counterclaim, Plaintiff asserts that the best evidence of the document alleged in Paragraph 1 of the Compensatory Damages section of the Counterclaim is the document itself. Plaintiff craves reference to the document for its terms and denies any allegation inconsistent with the document.
8. Answering Paragraph 2 of the Punitive Damages section of the Counterclaim, Plaintiff asserts that the best evidence of the document alleged in Paragraph 2 of the Compensatory Damages section of the Counterclaim is the document itself. Plaintiff craves reference to the document for its terms and denies any allegation inconsistent with the document.
9. Answering Paragraph 3 of the Punitive Damages section of the Counterclaim, Plaintiff asserts that the best evidence of the document alleged in Paragraph 3 of the Compensatory Damages section of the Counterclaim is the document itself. Plaintiff craves reference to the document for its terms and denies any allegation inconsistent with the document.

10. Answering Paragraph 4 of the Punitive Damages section of the Counterclaim, Plaintiff asserts that the best evidence of the document alleged in Paragraph 4 of the Compensatory Damages section of the Counterclaim is the document itself. Plaintiff craves reference to the document for its terms and denies any allegation inconsistent with the document.
11. Answering Paragraph 5 of the Punitive Damages section of the Counterclaim, Plaintiff asserts that the best evidence of the document alleged in Paragraph 5 of the Compensatory Damages section of the Counterclaim is the document itself. Plaintiff craves reference to the document for its terms and denies any allegation inconsistent with the document.
12. Answering Paragraph 6 of the Punitive Damages section of the Counterclaim, Plaintiff asserts that the best evidence of the document alleged in Paragraph 6 of the Compensatory Damages section of the Counterclaim is the document itself. Plaintiff craves reference to the document for its terms and denies any allegation inconsistent with the document.
13. Answering Paragraph 7 of the Punitive Damages section of the Counterclaim, Plaintiff asserts that the best evidence of the document alleged in Paragraph 7 of the Compensatory Damages section of the Counterclaim is the document itself. Plaintiff craves reference to the document for its terms and denies any allegation inconsistent with the document.
14. Plaintiff denies the allegations of Paragraph 8 of the Punitive Damages section of the Counterclaim.
15. Plaintiff denies the allegations of Paragraph 9 of the Punitive Damages section of the

Counterclaim.

16. Answering Paragraph 10 of the Punitive Damages section of the Counterclaim, Plaintiff admits that the Owner has the right to amend. Plaintiff denies all remaining allegations of Paragraph 10 of the Punitive Damages section of the Counterclaim.
17. Plaintiff denies the allegations of Paragraph 11 of the Punitive Damages section of the Counterclaim.

FOR A SECOND DEFENSE
Promises are not Enforceable

18. Promises are not enforceable.
19. Defendant's Counterclaim is based on promises, which Plaintiff denies, that were not kept.
20. Plaintiff is entitled to a dismissal of the Counterclaim.

FOR A THIRD DEFENSE
Statute of Limitations

21. To the extent that a court finds that the Defendants Counterclaim is based on breach of contract, which the Plaintiff denies, the most recent plead contracts were dated 2010.
22. If any contract was breached, which Plaintiff denies, the Defendant had actual notice of the breach by December 31, 2014.
23. Defendant's Counterclaim is barred by the applicable statute of limitations.
24. Plaintiff is entitled to a dismissal of the Counterclaim.

FOR A FOURTH DEFENSE
Punitive Damages are not Appropriate for a Breach of Contract

25. To the extend that a court finds that the Defendants Counterclaim is based on breach of contract, which the Plaintiff denies, punitive damages are not an available remedy for breach of contract.

26. Plaintiff is entitled to a dismissal of the Defendant's request for punitive damages.

FOR A FIFTH DEFENSE
Reservation of Defenses

27. Plaintiff does not waive and specifically reserves any other defense that may be available to it.

28. These reserved defenses include, but are not limited to affirmative defenses to the allegations of the complaint: accord, fraud, laches, misrepresentation, release, waiver or any other matter constituting avoidance or affirmative defenses which may arise and develop as discovery in this case progresses.

WHEREFORE, having Answered the Defendant's Counterclaim, the Plaintiff prays this Honorable Court dismiss the Defendant's Counterclaim, award judgment as prayed for in the Amended Complaint and for or such other relief as the Court may deem just and proper.

GLEATON WYATT, PA



David Wyatt (S.C. Bar #9782)

wyatt@seblawfirm.com

Ralph Gleaton (S.C. Bar #7308)

ralph@seblawfirm.com

Attorneys for the Plaintiff

935 South Main Street, Suite 203

Greenville, South Carolina 29601

864-250-9780

864-250-9784 (fax)

January 26, 2018
Greenville, South Carolina

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENWOOD

CHALLENGE GOLF GROUP OF)
SOUTH CAROLINA,)

CASE NO.: 20156-CP-24-00337

PLAINTIFF,)

-VS-)

TRANSCRIPT OF RECORD

BJ BRANDIMARTE,)

DEFENDANT.)
_____)

MARCH 21, 2018
GREENWOOD, SOUTH CAROLINA

BEFORE:

THE HONORABLE LETITIA H. VERDIN., JUDGE

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

DAVID S. WYATT, ESQUIRE

ATTORNEY FOR DEFENDANT:

B.J. BRANDIMARTE, PRO SE DEFENDANT

TARA T. SCOTT, CVR
CIRCUIT COURT REPORTER

1 case. So I'll probably be, oh, I'll say, a week or so
2 before I issue a decision. That's generally, just know.
3 And I don't have anything else -- any other cases that I'm
4 deciding right now. So that's about where we are.

5 Mr. Wyatt, I believe that you represent the Plaintiff.
6 If there's anything you'd like to say to get going, that's
7 fine, or we'll do it however the two of you all want.

8 MR. WYATT: Thank you, Your Honor. I'll make a brief
9 statement.

10 THE COURT: Sure.

11 MR. WYATT: And I'll point out as of sort of part of my
12 case -- this is a real simple case, Your Honor. In our
13 opinion, obviously, we have tried for some time to resolve
14 this case with Mr. Brandimarte to no avail. So we
15 appreciate you being here today and grateful to have our day
16 in court so you can make a decision and we can move on.

17 This case is about -- I represent Grand Harbor. It was
18 originally owned by Challenge Golf Group of South Carolina,
19 LLC. That's the named Plaintiff in this case. Subsequent
20 to the lawsuit being filed it was sold to the Grand Harbor
21 Club, and that's noted in our amended pleadings. Plaintiff
22 transferred his interest to the Grand Harbor Club on
23 paragraph 11, and it's continued by the original party
24 pursuant to Rule 25©. Also, there is a contract between
25 these two parties which specify that Grand Harbor's got the

1 rights to pursue this claim and enjoy the benefits. And so,
2 I will introduce that through Mr. Buccerone. And I will
3 just point out that we plead in our case here that the
4 covenants and the contract that Mr. Brandimarte signed when
5 he bought this lot back in 2001 -- I think he actually took
6 title back in 2002 -- required him to be a member -- pointed
7 out that the covenants required you to have a membership in
8 the club. And, in fact, the documents themselves, the
9 covenants, actually specify that if you buy from the
10 developer, like Mr. Brandimarte did, that you actually get
11 your membership at that time. So he's a member of the club.
12 And actually in his answer that -- his amended answer that
13 he filed, he admits readily that, and agrees with us, that
14 he's a member of the club and he has a membership. So we
15 believe that's -- that part of our case is established by
16 our pleadings and his response. So the only real issue for
17 Your Honor is did he pay his dues and how much is owed at
18 this point in time. So we will put Mr. Buccerone up here --

19 THE COURT: Sure.

20 MR. WYATT: -- to identify some documents in that
21 regard. And that's really going to be our case --

22 THE COURT: Understood.

23 MR. WYATT: -- other than addressing whatever
24 counterclaim. He has filed a counterclaim in this case.
25 It's a little bit hard for us to follow it. But -- so I

1 been duly sworn, testified as follows:

2 MR. WYATT: I'd like to have these marked as --

3 (Whereupon, Invoice for dues, 1 page, was marked
4 Plaintiff's Exhibit Number 1 and Past due statement, 1 page,
5 was marked Plaintiff's Exhibit Number 2 for identification.)

6 MR. WYATT: May it please the Court? David Wyatt.

7 THE COURT: Sure.

8 DIRECT EXAMINATION

9 BY MR. WYATT:

10 Q Please state your name.

11 A Mike Buccerone.

12 Q Mr. Buccerone, tell the Court, if you will, a little
13 bit about your background. Your education, what you do for
14 a living.

15 A Sure. I graduated from Methodist University in
16 Fayetteville, North Carolina with a business administration
17 degree and a concentration in professional golf management.
18 Been a PGA member since 2001. February 2008 I was
19 recognized as National Merchandiser of the Year for PGA of
20 America. My background is in management. We do have a --
21 own a management company called East Coast Golf Management,
22 which we're employed by Grand Harbor Club, LLC where I serve
23 as -- where I have been serving as the general manager for
24 the last two plus years since change of ownership.

25 Q So you're currently serving as the general manager of

1 the Grand Harbor Club?

2 A Yes, sir.

3 Q Let me --

4 MR. WYATT: Your Honor, may I approach the witness?

5 THE COURT: Oh, yes. And I give everybody blanket
6 permission to approach the witness, all that. Don't worry
7 about that.

8 Q I want to show you what's been marked for
9 identification as Plaintiff's Exhibit 1 and 2 and ask you if
10 you recognize those documents.

11 A Yes, sir.

12 Q What are they?

13 A These are the invoices, statements from prior group,
14 Challenge Group, prior to us taking ownership representing
15 the billing that was to be collected, and then --

16 Q And you're referring --

17 A Sorry.

18 Q -- specifically to --

19 A Exhibit D.

20 Q -- Exhibit 1 on this --

21 A Exhibit 1. Sorry.

22 Q Right. It was Exhibit D to the motion --

23 A Got you.

24 Q -- but Exhibit 1 in this. And so, what does this
25 document reflect?

1 A These are the -- this is the statement that reflects
2 the monies that are owed prior to change of ownership that
3 we have assumed liability for when we took ownership.

4 Q And who owns those fees?

5 A Mr. Bandimarte. Brandimarte, excuse me.

6 Q And you're familiar with Mr. Brandimarte?

7 A Yes, sir.

8 Q So he has a property in the Grand Harbor Club?

9 A Yes, sir.

10 Q And what are the dates that -- can you tell me what
11 this is billed through?

12 A Sure. This is billed through the end of 2014,
13 December.

14 Q Look closer.

15 A I'm sorry. My eyes. Excuse me. February of '14.
16 Excuse me.

17 Q Is that '14 or '15?

18 A I can't -- I don't have my glasses. '15, sorry.

19 Q Do you got some glasses? Do you need those glasses?

20 A Yeah, they're in the truck. Sorry. Excuse me, yeah.

21 Q I just want you to be clear, so we're clear.

22 A Yeah, got it. January '15 through February '15. Yes,
23 sir.

24 Q So February '15.

25 A Uh-huh.

1 Q So February '15. And what's the monthly dues?

2 A 225.

3 Q And so, when you guys took over --

4 MR. WYATT: I guess I would move this into evidence;
5 Your Honor.

6 THE COURT: Any objection to that being -- the invoice
7 being admitted into evidence?

8 MR. BRANDIMARTE: No.

9 THE COURT: All right. Then it's so admitted as
10 Plaintiff's 1; is that right?

11 MR. WYATT: Yes. Yes.

12 THE COURT: Plaintiff's 1. All right.

13 (Whereupon, Plaintiff's Exhibit No. 1 was admitted into
14 evidence.)

15 Q And do you recognize the second document?

16 A Yes, sir.

17 Q And what is it?

18 A These are -- this is the statement effective as of
19 3/1/18 for Mr. Brandimarte's past due dues from Grand Harbor
20 Club when we took ownership.

21 Q Okay. And so, this is a summary of what he owed since
22 you all took over?

23 A Yes, sir.

24 Q And has he paid any of this?

25 A No, sir.

1 MR. WYATT: I would also move this into evidence, Your
2 Honor.

3 THE COURT: Any objection to this being admitted into
4 evidence?

5 MR. BRANDIMARTE: No.

6 THE COURT: All right. It's admitted as Plaintiff's 2?

7 MR. WYATT: Two, right.

8 (Whereupon, Plaintiff's Exhibit No. 2 was admitted into
9 evidence.)

10 Q And so, let me ask you this. This one goes through
11 February of 2015. This one appears to start sometime
12 January of 2016. So is there a time period that's not
13 reflected that he's been billed for on these two?

14 A There's also 11 months due that is not reflected on
15 here. I believe that's at 225 a month, plus the food and
16 beverage minimum as well.

17 Q So 11 months at 225 to pick up where this one left off
18 --

19 A Yes, sir.

20 Q -- and fill in the gaps to this one?

21 A Correct.

22 Q And then \$1,000 for the food and beverage for that
23 year, correct?

24 A Correct.

25 Q And so, collectively what do those numbers total?

1 A \$29,476.68.

2 Q And so, what kind of membership is this for him?

3 A Social membership.

4 Q And he got that social membership when he bought his
5 lot; is that right?

6 A Yes.

7 Q Because he brought from the developer?

8 A Yes.

9 Q And he's been invoiced for this amount?

10 A Yes.

11 Q And he's not paid this amount?

12 A Yes.

13 Q And it's your testimony is, as the general manager of
14 the club, that this is what he owes to-date; is that right?

15 A Yes.

16 Q And so, are you asking this Court to award you these
17 damages?

18 A Yes.

19 MR. WYATT: Please answer any questions that the --

20 THE WITNESS: Sure.

21 MR. WYATT: -- Mr. Brandimarte might for you.

22 THE COURT: Mr. Brandimarte. And take your time. If
23 you need a minute to talk with --

24 MR. BRANDIMARTE: I'm ready.

25 THE COURT: Okay.

1 CROSS-EXAMINATION

2 Q Let's talk about -- you've been in the golf business,
3 for how many years? Since you got out of school?

4 A Twenty-four years.

5 Q So let's talk about location of golf. Like where
6 generally a golf club is located, and it's probably housed
7 somewhere between the number one tee and number 10 tee?

8 MR. WYATT: Your Honor.

9 THE COURT: Yes, sir.

10 MR. WYATT: Excuse me, Mr. Brandimarte. And I
11 recognize Mr. Brandimarte is not an attorney, but I don't
12 believe this is proper cross-examination to my direct.

13 THE COURT: Let's just see where he's -- let's see
14 where he's going with it --

15 MR. WYATT: Sure.

16 THE COURT: -- and then -- and I'll allow him to
17 continue certainly with it. Yeah.

18 Q You know, I'm talking about the location of the country
19 club, or the Golf Club House, as Counsel Wyatt refers to it.
20 So generally a country club or a golf club house is housed
21 between the number one tee and number 10 tee, the number 18
22 green and the number 9 green; is that true?

23 A Not necessarily. It all depends on where the land is,
24 how a golf course is designed. The main golf course start
25 on hole one and don't come back until hole 18. It could --

1 it depends on the property.

2 Q What about The Patriot. That's where you go to work
3 everyday at, right?

4 A Uh-huh.

5 Q How far is the number one tee from the building?

6 A I could say 1,000 yards.

7 Q How about the number 10 tee?

8 A Same.

9 Q Number 9 green?

10 A A thousand. They're all within probably about 1,000.

11 Q And the number 18 green is a little closer?

12 A Not necessarily. It's right next to number 10 tee.

13 Q But they're all in the general area of where the golf
14 clubhouse is?

15 A Uh-huh.

16 Q Let's talk -- because we're talking -- Counsel Wyatt
17 talked about the club. I talk about Harbor Club and yacht
18 club. Let's talk about the yacht club. What is the -- when
19 I -- what does the yacht club consist of?

20 A You've got a marina. You've got a full service cabana
21 with a pool. You have the tennis center which is right
22 across in the same parking lot with tennis --

23 Q It's not in -- it's not in the -- it's not where the
24 swimming pool is. It's across the way.

25 A It's about 200 yards away, yeah.

1 Q If you were standing in the middle of the swimming pool
2 and you're looking north, you know, where there's -- I guess
3 the last time I was out there it was like, you know, a
4 horseshoe -- horseshoes.

5 A Yeah. Yes, sir.

6 Q And that would be north. Is there any building on that
7 property?

8 A Not where the horseshoe pit is, no.

9 Q Let's talk about the cabana bar. It's actually under
10 roof and it's -- for the most part it's open, right?

11 A Yeah.

12 Q I mean, there's restrooms for women and there's
13 restrooms for men, and maybe like a small kitchen or
14 something?

15 A Full service kitchen, yeah.

16 Q Yeah. And that's enclosed, correct?

17 A Yes.

18 Q But is there any 10,000 square foot building close to
19 where you'd be standing in the middle of -- you're standing
20 in the middle of the swimming pool? By close, let's just
21 say 100 yards.

22 A No, sir. No, not right there.

23 Q And are you aware that -- are you aware that there was
24 supposed to be a yacht clubhouse built?

25 A I was aware that there was discussions. I've never

1 seen anything that was supposed to be --

2 Q Were you a part of that discussion?

3 A No.

4 Q I mean, it was before you --

5 A Oh, yeah.

6 Q -- arrived on the scene?

7 A Yes.

8 Q But you were aware of it?

9 A Once we finally got on property, there's been
10 discussions about it.

11 Q Let's talk about as-built drawings. You know what they
12 are?

13 A Uh-huh.

14 Q And is there as-built drawings for the golf clubhouse?

15 A Yeah. For the main clubhouse? The dining area?

16 Q For the -- what do you call the -- do you call it the
17 golf clubhouse?

18 A No.

19 THE COURT: Just one second. I'm sorry.

20 MR. BRANDIMARTE: Us Italians talk too fast.

21 THE COURT: That's fine. We just want to make sure
22 that only one person is talking at a time. But Tara, the
23 court reporter, is the best in the business, but she can't
24 take down two people talking.

25 Q So did you ever look at some as-built drawings for the

1 yacht clubhouse?

2 A No.

3 Q Was the yacht clubhouse ever built?

4 A No.

5 MR. BRANDIMARTE: Can I enter these into evidence?

6 THE COURT: All right. If you'll show them to Mr.
7 Wyatt and see if he's got any objection.

8 MR. BRANDIMARTE: Yeah, I have a copy. I didn't get a
9 copy of what you gave to -- do you have a copy of what you
10 gave to Michael? If you can look for that, if you have the
11 chance. It would be nice to have a copy.

12 THE COURT: I tell you what, Mr. Brandimarte, I wasn't
13 trying to eavesdrop. We'll make sure that you get a copy of
14 those things. How about that? Fair enough?

15 MR. BRANDIMARTE: Thank you. Very good.

16 MR. WYATT: Yeah, I sent him a copy of everything last
17 night, and I'm happy to give him a copy of it today. I was
18 just trying to see what he was offering here, and these have
19 been -- its been marked as an exhibit; is that right?

20 MR. BRANDIMARTE: Yes. It's marked as Exhibit, I
21 guess, I or 1.

22 THE COURT: Okay. Let's see here. So Defendant's No.
23 1.

24 MR. BRANDIMARTE: No. 1.

25 THE COURT: All right. Mr. Wyatt, before we go any

1 no jury here --

2 MR. WYATT: Right.

3 THE COURT: -- then what we do is just -- I certainly
4 would allow both sides to have as long as you like for any
5 sort of closing statement and any kind of rebuttal like that
6 certainly.

7 MR. WYATT: Thank you, Your Honor.

8 THE COURT: All right. Yes, sir. Proceed.

9 Q And you've already admitted that the yacht club was --
10 yacht clubhouse was never built, correct?

11 A Depending on what that -- depending on whether a yacht
12 clubhouse was defined. But no, there's not a yacht --
13 there's not a clubhouse on that property where you're
14 talking about that encompasses the dining and the fitness.
15 That's all separate entities.

16 MR. BRANDIMARTE: Your Honor, I'm reading from the
17 Declaration of covenant Conditions, Restrictions,
18 Easements, Liens, charges of Grand Harbor.

19 THE COURT: All right. Do you --

20 MR. WYATT: What are the dates of those?

21 THE COURT: -- object to those being admitted?

22 MR. WYATT: I'm not sure what the dates of those --

23 MR. BRANDIMARTE: This declaration was on 15 July 1999.
24 The original.

25 MR. WYATT: I don't have any problems with that.

1 THE COURT: Okay. Let's -- why don't we go ahead and
2 mark that as Defendant's Exhibit No. 2. Do you have another
3 copy of that? I don't want to take your only copy?

4 MR. BRANDIMARTE: No, but I -- it's in the record.

5 THE COURT: It is? Oh, okay. Okay, perfect.

6 MR. WYATT: Well, it's not in the record. It was in
7 our motion.

8 THE COURT: In your motion.

9 MR. BRANDIMARTE: Exhibit D in yours.

10 THE COURT: We're off the record.

11 (Whereupon, a discussion ensued off the record.)

12 (Whereupon, Membership Covenant was marked Defendant's
13 Exhibit No. 2 was marked for identification.)

14 THE COURT: We're back on. And just for clarity, the
15 covenants are marked as Defendant's Exhibit No. 2.

16 MR. BRANDIMARTE: This, Your Honor, is -- this is
17 Exhibit B. This is what I wanted to talk about. It's part
18 of the -- it's part of the covenants.

19 THE COURT: It's part -- it's specifically part of the
20 covenants?

21 (Whereupon, a discussion ensued off the record.)

22 (Whereupon, Exhibit "D" 2 pages, Defendant's Exhibit
23 No. 3 was marked for identification.)

24 THE COURT: We're back on the record, and we're all
25 good.

1 Q Do you see under Roman Numeral I, and there's A and B?

2 A Yes.

3 Q There's residential members?

4 A Yes.

5 Q And then there's non-residential members?

6 A Yes.

7 Q And we discussed that the non-residential members had
8 to pay an initiation fee of \$1,000. Do you recall that?

9 A Yes, sir.

10 Q And the non -- and the residential members --

11 MR. WYATT: Your Honor, I would also just point out.

12 He's talking about two different documents. The document
13 that I objected to was the intent to offer members. It was
14 a plan for the offering of memberships, May 2002, after he
15 bought his lot. These covenants were what was in place when
16 he bought his lot.

17 THE COURT: And that's -- and I appreciate it. I tell
18 you what, let's just -- let's just hold all that and talk
19 about it at the end. And your objection is noted for the
20 record.

21 MR. WYATT: I guess what I'm just saying is the way
22 he's asking questions would seem to tie those two together
23 and these two are unrelated. These are completely
24 unrelated.

25 MR. BRANDIMARTE: Your Honor, that's exactly what I'm

1 trying to do is tie those two together, because when the
2 original documents were drafted it was referred to as the
3 Harbor Club, and later they changed it to yacht club, and
4 later they changed it to yacht -- and they kept on changing
5 it to morph it into different things.

6 THE COURT: I got you.

7 MR. BRANDIMARTE: David's exactly right. I'm trying to
8 tie these two together because they're -- they're saying
9 exactly the same thing as far as monies are concerned.

10 THE COURT: Why don't we do it like this. Why don't we
11 just sort of kind of -- we've got a little bogged down here
12 and -- but just let me hear all this, and then -- then we'll
13 -- then I can kind of sort it out in my mind a little bit
14 better. So please proceed.

15 Q So we talked about residential members. They don't
16 have to pay an initiation fee. Let's look at Roman numeral
17 2. Section A refers to residential members. The ones that
18 don't have to pay an initiation fee, right?

19 A Uh-huh. Yes.

20 Q And can you read section one in it's entirety?

21 A "Dues for the Harbor Club facilities will be \$600 per
22 year and will be paid as follows. \$300 when the pool,
23 poolside bar and grill and marina are completed. The
24 remaining \$300 will be paid when the clubhouse is completed.
25 Membership is transferred if the lot is sold, and the

1 transfer fee will be due by the new owner. The opening date
2 of these facilities will determine the prorated amount that
3 will be due. After all the facilities are completed,
4 January 1st each year will be the anniversary date on which
5 the Harbor Club dues will be due."

6 Q Okay. That's good. So, I mean, that's -- I mean,
7 that's basically saying exactly the same thing as the yacht
8 club as far as the dollar amounts and when the \$300 could be
9 added. Would you agree with that?

10 A From the draft -- from this exhibit, Defendant's
11 Exhibit 1, yes. Yes.

12 Q So the only difference is the Harbor Club became the
13 yacht club, but the dollar amounts are exactly the same,
14 correct?

15 A Yes.

16 (Whereupon, a discussion ensued off the record.)

17 Q So the fact that the yacht club facility was never
18 built seems to say that my fee would be just \$300. Would
19 you agree with that?

20 A I don't know if I would agree with that, because this
21 is -- the yacht club, this document to me looks like
22 something that was going to be -- was to be planned. But if
23 it did get built, that means with the additional dues over
24 and above what everybody's paying.

25 Q But you admitted that the yacht clubhouse was never

1 built; is that true?

2 A Correct.

3 Q And let's go to page four. The Master Sports NRPO.

4 That would be a non-residential property owner. This
5 membership entitles you to, read the first three, please.

6 A The yacht clubhouse, tennis and fitness complex, resort
7 style pool complex.

8 Q And the yacht clubhouse was never built?

9 A Correct.

10 Q And the tennis and fitness complex is in place?

11 A Yes.

12 Q And the resort style pool is in place?

13 A Yes.

14 Q On the same -- on the same page, the invitation golf

15 NPO, non-property owner. That's people outside, I guess.

16 This membership entitles you to -- let's read the first
17 three, I guess.

18 A Patriot Golf Course, yacht clubhouse, tennis and
19 fitness complex.

20 Q And the Patriot Golf Course is in place?

21 A Yes.

22 Q And the yacht clubhouse was never built?

23 A Yes.

24 Q And the tennis and the fitness complex is in place?

25 A Yes.

1 Q Okay. Now we're on, finally, the last page. And let's
2 go down to the yacht club non-property owner. This
3 membership entitles you to -- you can read the first three.

4 A Yacht clubhouse, resort style pool complex and cabana
5 bar and grill.

6 Q And the cabana bar and grill is in place?

7 A Yes.

8 Q And the resort style pool complex is in place?

9 A Yes.

10 Q And the yacht clubhouse was never built, correct?

11 A Correct.

12 Q Could you take a moment to read that in it's entirety.

13 MR. WYATT: The same objection, Your Honor.

14 A Okay.

15 Q Okay. And on the first page -- first of all, let's
16 read the top of the page. This is from Grand Harbor Golf
17 and yacht Club Community.

18 A Uh-huh.

19 Q Not from Grand Harbor itself. That's -- do you know
20 what that means, the --

21 A This came from the HOA. I have no idea.

22 Q Could you read paragraph four, Secondly, out loud?

23 A "Secondly, you will be allowed to use the fitness
24 facility in the athletic complex for a higher monthly due
25 until the yacht clubhouse is complete. Please know the

1 developers created this high end athletic complex separate
2 and apart from any other -- from any original plans."

3 Q And when they say the athletic complex, is that
4 referring to what was in the tennis facility, the building,
5 you don't know?

6 A I have no idea.

7 Q Let's talk about the footprint of the tennis building.
8 How big is it?

9 A I'm not a builder. I mean, what could it be?

10 Q Two thousand square feet?

11 A Two thousand square feet maybe.

12 Q Is that -- is that fair?

13 A Yeah. Yes.

14 Q And it has a exercise facility looking out at the
15 tennis courts?

16 A Uh-huh. Yes, sir.

17 Q And what's in there?

18 A What's in there?

19 Q Yeah. I mean, how many -- how many bikes are in there?
20 Maybe three?

21 A Yeah, it's got everything in there. It's got cardio.
22 It's got exercise bikes, free weights.

23 Q What kind of free weights?

24 A Heavy ones. I don't know free weights much.

25 Q Meaning, dumbbells and --

1 A Yeah. Yeah.

2 Q And how big is that footprint of just where the fitness
3 area is?

4 A Just for the workout area?

5 Q Yeah. Maybe 30-by-20, 600 square feet?

6 A Maybe.

7 Q So you're not -- I mean, the terminology athletic
8 complex fitness facility doesn't ring a bell with you?

9 A Does it ring a bell with me?

10 Q I mean, is that what they call that, or --

11 A We have a tennis and fitness center.

12 Q Right. But that doesn't necessarily mean that that's
13 in the tennis court in your mind, that terminology, the
14 athletic complex?

15 A No.

16 Q No. That's all right. Just a single page this time.
17 I'll give you a minute to read that.

18 A Okay.

19 Q And just to refresh my memory. You started working
20 there in what month and date -- year?

21 A January '16. 2016.

22 Q 2016. So this is talking about -- let's just read the
23 first two sentences of the first paragraph.

24 A Of the first paragraph? "We've now started
25 construction of the golf clubhouse which is going to be

1 spectacular. You can look forward to its opening in the
2 fall of 2006. In addition there will be a pool at the
3 retreat and the plantation where all members can soak up the
4 sun.

5 Q And then under -- you see where it says in bold print
6 "As a property owner"? Can you read that sentence?

7 A "As a property owner, yacht club member, your dues for
8 2006 are 57.50 a month. This membership entitles you to
9 gold clubhouse resort style pool, cabana bar and grill,
10 marina, member events and activities, member newsletter,
11 member website, green fees, 50 weekdays, 60 weekend cart,
12 15, 18, 10, 9 holes. Twelve yacht club passes, additional
13 passes available for purchase, membership card and a vehicle
14 membership decal."

15 Q No mention of the yacht clubhouse in that one?

16 A Correct.

17 Q So as far as clubhouses go, the golf clubhouse is in
18 place, correct?

19 A Clubhouse dining is, yeah.

20 Q And the yacht clubhouse was never built?

21 A The clubhouse that was --

22 Q The yacht clubhouse was never built. You've testified
23 several times that it was never built.

24 A Right. I was trying to answer you. The plan --

25 Q Answer my question. Was the yacht clubhouse ever

1 built?

2 A Not on that property.

3 MR. BRANDIMARTE: I have no more questions of the
4 witness. Thank you.

5 THE WITNESS: Sure.

6 THE COURT: Thank you. Any brief redirect?

7 MR. WYATT: Your Honor, I know it's been a while, but
8 if you'll just indulge me for a quick redirect.

9 THE COURT: Sure.

10 MR. WYATT: And I do mean quick.

11 REDIRECT EXAMINATION

12 BY MR. WYATT:

13 Q So Exhibit -- Defendant's Exhibit 2 was introduced as
14 the Declarations of Covenants, Conditions, Restrictions,
15 Easements, Liens and Charges of Grand Harbor when the
16 Defendant bought his property; is that correct? That's what
17 you understood him to say?

18 A Yes.

19 Q And of that -- there's an Exhibit D to that document
20 that is marked as Defendant's Exhibit 3, and I'm going to
21 show it to you right here. Let's talk about -- there's been
22 a lot of talk with these other documents, you know, talking
23 about what went on after he bought his lot, what might have
24 happened and all that kind of stuff. But let's talk about
25 what actually happened. So according to your earlier

1 testimony, you testified that upon him -- because he bought
2 his lot from the developer, at this time what membership did
3 he automatically get?

4 A Resident membership.

5 Q Okay. And there are dues -- he had you read the
6 paragraph one, dues were due for the Harbor Club facilities
7 paid as follows. When the pool, poolside bar, grill, marina
8 are completed. Are all those completed? Pool -- look on
9 this Exhibit 3.

10 A You have 2 right here.

11 Q Yeah. So I'm asking you were these completed. The
12 pool, poolside bar, grill, marina.

13 A Yes.

14 Q And then was there a clubhouse built?

15 A Not on that property. Oh, clubhouse, yes.

16 Q So the clubhouse was also built?

17 A Yes, over by the golf clubhouse.

18 Q That's right. There's a golf club. There's a
19 clubhouse there?

20 A There's a clubhouse and then there's the golf building.

21 Q There's a pro shop?

22 A Yes. Two separate buildings.

23 Q So I'm asking you to represent to this Court that all
24 of the amenities in place are there --

25 A Yes.

1 Q -- that were required at the time --

2 A Yes.

3 Q -- that the Defendant bought his lot?

4 A Yes.

5 Q And he didn't ask you to read the second paragraph.

6 But if you would, just read that second paragraph beginning
7 "Dues are subject".

8 A "Dues are subject to increase at the owner's discretion
9 depending upon the final situation of the Harbor Club. They
10 will not be increased without apparent reason.

11 Q You said final, but I believe you meant to say
12 financial; is that right? The financial situation?

13 A Excuse me. I'm sorry. Upon the financial situation.
14 Excuse me. Yes.

15 Q Of the Harbor Club, right?

16 A Yes.

17 Q And so, you are representing the general manager of the
18 owner of the Harbor Club today; is that correct?

19 A Yes, sir.

20 Q And in your experience, have you raised dues?

21 A Yes.

22 Q And so, tell us about that.

23 A We raised the dues when we took over to make the
24 necessary improvements to the deferred maintenance that had
25 been going on out there, to include --

1 Q So you --

2 A Sorry.

3 Q Tell us that process. Did you get advice from folks
4 when you made those dues --

5 A Yes. Yeah, we did our due diligence. We looked at
6 what the dues were and what the facilities were looking
7 like. We felt that after we consulted with a few that we --
8 these were the appropriate dues to make the changes
9 necessary to upgrade the amenities that were there for the
10 homeowners and members.

11 Q Okay. So it's your testimony to this Court under oath
12 that all the amenities that were required to be built and
13 constructed have been built and constructed?

14 A Yes.

15 Q And they're -- and so, you have billed and invoiced the
16 Defendant for the dues in place at the time and he's not
17 paid them?

18 A Yes.

19 Q And you're asking the Court to award a judgment today.
20 What's the amount of that judgment?

21 A \$29,476.68.

22 MR. WYATT: Thank you.

23 THE COURT: And does that conclude your case?

24 MR. WYATT: Yes, Your Honor. That concludes our case.

25 THE COURT: And then, so what we'll do -- you filed a

1 motion for summary judgment and -- or for judgment on the
2 pleadings. And so, I'll -- and so, I'll just take that
3 matter under advisement, but it is noted for the record.

4 MR. WYATT: Thank you, Your Honor. And then, sir, you
5 can step down.

6 (Whereupon, the witness stepped down from the witness
7 stand.)

8 THE COURT: And now we're ready, as long as everybody
9 else is ready. Mr. Brandimarte, we're ready for you to
10 testify, if you would like. If you'll just come up here.
11 You'll first be sworn in. And it's sort of strange. I will
12 tell you this. I used to be a Family Court judge. I'll
13 tell you a funny story. I used to be a Family Court judge
14 and somebody was representing themselves and they asked
15 themselves the questions and answered it. You don't have to
16 do that. I'm sure you know that.

17 MR. BRANDIMARTE: I talk to myself a lot, so I'm ready
18 to go.

19 THE COURT: You can -- you can just testify. Yeah.

20 B.J. BRANDIMARTE, having first been
21 duly sworn, testified as follows:

22 MR. BRANDIMARTE: So I ask myself questions?

23 THE COURT: No. You can just talk.

24 MR. BRANDIMARTE: Talk, okay.

25 THE COURT: I'm just saying that. I was just laughing

1 -- I was just saying that a person had done that. But you
2 can -- this is your opportunity to tell your side of the
3 story, if you know. With one caveat. Mr. Wyatt does get an
4 opportunity to cross-examine you. That's it.

5 TESTIMONY

6 BY MR. BRANDIMARTE:

7 My side of the story is that I bought a piece of
8 property in early 2002 and I was handed covenants that don't
9 mention anything about golf at all. And part of that, there
10 was -- there was an arrangement where money was to be paid,
11 \$300 initially and \$300 when a yacht clubhouse was built.
12 And my property was right across from where the cabana bar
13 and the swimming pool and the marina is and where -- where
14 the yacht clubhouse was to be built. And when I bought the
15 property they described the yacht clubhouse as a 10,000 foot
16 facility that would have a strength training area, an
17 aerobic area, a locker room, and a dining facility looking
18 out over the big water.

19 MR. WYATT: Excuse me. Are you reading from a document
20 there?

21 MR. BRANDIMARTE: No. I'm just looking down.

22 MR. WYATT: Do you have a copy of the document that
23 you're talking about in this courtroom?

24 THE COURT: I'll let -- I'll let you cross-examine him
25 about that when it's your opportunity. He's just -- he's

(
1 not reading --

2 MR. BRANDIMARTE: I'm just rambling on.

3 THE COURT: He's not reading from anything.

4 MR. WYATT: Okay.

5 MR. BRANDIMARTE: And I counted on being able to just
6 walk -- to walk to all these facilities seeing that they
7 were -- it was part of the reason that I selected lot 140,
8 because it was close to all the amenities. I wouldn't have
9 to get in a car and drive to them. I could just walk to
10 them. And I planned to, you know, use the fitness area and
11 eat at the restaurant. We're not -- we're not too much of
12 drinkers, but, you know, maybe have a Coca-Cola or
13 something. Let me see what else. And also, the covenants
14 called for -- in a certain point in time, for the
15 association to be turned over to the members. And it's in
16 the covenants. And I looked forward to that. So that would
17 be self-government of the, you know, common areas and the
18 like. Let's see what else. And I -- when I looked at this
19 facility that that was to be built, it seems to me that it
20 represents a material breach of contract that the yacht
21 clubhouse was not built. \$300 was allocated for the cabana
22 bar area, the marina and the swimming pool. And another
23 \$300 it seemed represented the fees that would be needed to
24 pay for the yacht clubhouse that was never built. That's
25 all.

1 THE COURT: Okay.

2 CROSS-EXAMINATION

3 BY MR. WYATT:

4 Q Mr. Brandimarte, you've admitted that you got a
5 membership of the club when you joined the property? When
6 you bought your property?

7 A Yes. I don't -- say that again.

8 Q You admitted in your pleadings that you became a member
9 upon -- you didn't have to pay initiation dues because you
10 bought it from the developer, right?

11 A Right. I became a member of the Harbor Club, it was
12 defined, at the time of my purchase.

13 Q And you've heard the -- Mr. Buccerone -- sorry. You've
14 heard Mr. Buccerone, if I don't butcher his name, testify
15 about the money that they're claiming owed from you; is that
16 right?

17 A I heard him testify, yes.

18 Q And you would admit that you hadn't paid that money; is
19 that right?

20 A No, I didn't pay that money.

21 Q And you've put some documents up here in evidence.
22 Specifically let me refer to what you marked as Exhibit
23 Number 11 up there. That document -- you got a copy of it
24 there?

25 A Not yet. I've got it now, yes.

1 Q What's the date on that document?

2 A The date on the document is March 1st, 2005.

3 Q And in this document, in this first paragraph, it talks
4 about having issues with you; is that right?

5 A It talks about having issues with the membership
6 deposit it says.

7 THE COURT: Can I stop you right there and say are we
8 talking about Defendant's Exhibit 11?

9 MR. BRANDIMARTE: Yes.

10 MR. WYATT: Yes.

11 THE COURT: Okay, good. I'm sorry. I'm sorry. That's
12 my fault.

13 Q It says, "We would like to resolve the issues and
14 concerns regarding the membership deposit, the membership
15 privileges, and the use of the amenities including the
16 future yacht club." That's right? So you were having
17 issues in 2005; is that correct?

18 A I wasn't having any issues.

19 Q So this -- your testimony under oath is that you
20 weren't having issues?

21 A My testimony under oath is that they're saying --
22 they're writing the letter. I'm not writing the letter,
23 about the issues.

24 Q Did you ever sign this and fill it out and send it in,
25 choose one of these options, pay some money?

1 A I would say no. Not that I know of.

2 Q And Exhibit No. 3, the covenants that were in place,
3 you've got that right in front of you? That's Exhibit D to
4 the --

5 A Exhibit D?

6 Q No. 3. It's marked as Defendant's No. 3.

7 A Let me find it. I have it.

8 Q And those were the covenants that were in place when
9 you bought your lot; is that right?

10 A Yes.

11 MR. WYATT: That's all the questions I have, Your
12 Honor.

13 THE COURT: Is there anything else you'd like to say?

14 MR. BRANDIMARTE: No.

15 THE COURT: All right.

16 MR. BRANDIMARTE: May I step down?

17 THE COURT: Yes, sir, you can.

18 (Whereupon, the witness stepped down from the witness
19 stand.)

20 MR. WYATT: Your Honor, I'd like to make a motion for
21 an involuntary nonsuit on the Defendant's counterclaims at
22 this point.

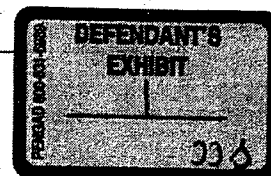
23 THE COURT: I tell you what. Since this is a non-jury
24 matter then I will take your motion for nonsuit under
25 advisement as I take, you know, the whole thing under

EXHIBIT D-1

GRAND HARBOR GOLF & YACHT CLUB

PLAN FOR THE OFFERING OF MEMBERSHIPS

May 2002



Annual Dues*

Yacht Club Membership: \$600 (\$300 due annually January 1, 2002, and additional \$300 due annually once Yacht Clubhouse is complete.)

References

Name _____ Relationship _____ Phone # _____
Name _____ Relationship _____ Phone # _____

Authorization

I have read this application and agree to the conditions stated herein. To the best of my knowledge, everything I have stated in this application is correct.

Signature of Applicant _____ Date _____

Signature of Spouse _____ Date _____

☐ Enclosed is my Initiation Fee of \$500

To Be Completed By The Yacht Club at Grand Harbor

Accepted this _____ day of _____ in the year _____

By _____ Title _____

Membership Number Assigned to Applicant _____

- * Note that individual Guest Fees will apply when you bring non-member guests to the Yacht Club.
- * Total annual dues will be \$600 annually once Yacht Clubhouse is complete.



GRAND HARBOR
THE YACHT CLUB

101 Grand Harbor Boulevard
Ninety Six, SC 29666
1-800-576-7280/864-543-2800
Fax 864-543-3717
Website www.grandharbor.net

EXHIBIT D-2

STATE OF SOUTH CAROLINA)
COUNTY OF GREENWOOD)

DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS,
EASEMENTS, LIENS and CHARGES OF
GRAND HARBOR

This Declaration is made on the 15 of July, 1999, by SCN Group Greenwood, LLC, a South Carolina limited liability company, hereinafter referred to as "Declarant".

WHEREAS, the Declarant is the owner of certain real property located in Greenwood County, South Carolina, more particularly described as follows:

The real property consisting of approximately 378 acres and the Amenities Parcel, all collectively known as Grand Harbor, Greenwood, S.C. all as more specifically set forth on the survey attached hereto as Exhibit "A" and made a part hereof ("Property").

WHEREAS, the Declarant intends to develop on the Property residential and resort communities and Declarant is desirous of maintaining design criteria, location, plans, construction specifications and other controls including but not limited to boundary setbacks to assure the integrity of the projects; and

WHEREAS, the Declarant has caused the Grand Harbor Homeowners Association, Inc., a corporation organized under the nonprofit corporation laws of South Carolina, to be formed for the purpose of providing a nonprofit organization to serve as the representative of the owners and residents with respect to: the administration and the enforcement of all covenants, conditions, restrictions, easements and charges contained herein; all liens created hereby; the creation, operation, management and maintenance of the Common Areas, and any Limited Common Areas; the operation, management and maintenance of any leased property; the assessment, collection and application of all charges imposed hereunder; and the promotion otherwise of the health, safety and general welfare of the owners and residents and the preservation of the values and amenities; and

WHEREAS, each Purchaser of a Lot will be required to construct and maintain a home therein in accordance with the Purchase Agreement, Architectural Guidelines for the Community and this Declaration of Covenants, Conditions, Restrictions, Easements, Liens and Charges of Grand Harbor ("Covenants"); and

WHEREAS, in order to cause the Covenants to run with the Property, Declarant has executed this instrument.

NOW, THEREFORE, the Declarant hereby declares that all of the Property shall be held, sold and conveyed subject to the following Covenants all of which are for the purpose of promoting the common good and general welfare of the owners and residents of Grand Harbor and thereby enhancing and protecting the value, desirability and attractiveness of the Property.

Exhibit D-2 001

Record on Appeal 062

Exhibit D-2

BMB01

1 Sept. 99
517 320
11 Aug

These Covenants shall run with the title to the Properties and shall be binding on all parties having any right, title or interest in the described Property or any part thereof and, subject to the limitations herein provided, shall inure to the benefit of each Owner thereof, his heirs, grantees, distributees, successors, and assigns.

ARTICLE I DEFINITIONS

The following words when used in this Declaration (unless the context dictates otherwise) shall have the following meaning:

Section 1. "Association" shall mean and refer to the Grand Harbor Homeowners Association, Inc., a nonprofit South Carolina corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record Owner, including heirs, successors and assigns whether one or more persons or entities, of fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties or Property" shall mean and refer to that certain real Property described above on Exhibit "A", and such additions both real and personal, as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property and personal property owned or used by the Association for the common use and enjoyment of all of the Owners including the roads which shall not be the responsibility of any governmental authority.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded plat of the Property as such maybe conveyed by Declarant from time to time, together with the improvements thereon, with the exception of the Common Areas.

Section 6. "Declarant" shall mean refer to the SCN Group Greenwood, LLC, a South Carolina limited liability company, its successors and assigns, or any person, firm or corporation that succeeds to the title of the Declarant. Any such person, firm or corporation shall be entitled to exercise all rights and powers conferred upon the Declarant by this Declaration, Articles of Incorporation, or Bylaws of the Association.

Section 7. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, Restrictions, Easements, liens and Charges of Grand Harbor.

Section 8. "Living Unit" or "Unit" shall mean and refer to any portion of the building situated upon the Property assigned and intended for use and occupancy as a residence by a single family as herein provided.

Exhibit D-2 002

Section 9. "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association, a copy of which is attached hereto as Exhibit "B".

Section 10. "Bylaws" shall mean and refer to the Bylaws of the Association, a copy of which is attached hereto as Exhibit "C".

Section 11. "Board" shall mean and refer to the Board of Directors of the Association.

Section 12. "Common Expenses" shall mean and include the actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be determined to be necessary and appropriate by the Board pursuant to this Declaration, the Bylaws, and the Articles of Incorporation.

Section 13. "Committee" shall mean and refer to the Architectural Control committee as appointed by the Declarant for architectural review within Grand Harbor.

Section 14. "Building Cost" shall mean all costs associated with building a Unit, excluding Lot costs.

ARTICLE II ANNEXATION OF ADDITIONAL PROPERTY AND DECLARATIONS

Section 1. Annexation. Declarant shall have the unilateral right, privilege, and option, from time to time at any time, to subject to the provisions of these Covenants, and the jurisdiction of the Association all or any portion of any additional real property as proposed by the Declarant. Such annexation shall be accomplished by filing in the public records of Greenwood County, South Carolina, a Supplement Declaration annexing such property. Such Supplement Declaration shall not require the consent of voting Members, but shall require the consent of the Owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other person the right, privilege, and option to annex additional property which is herein reserved to Declarant.

Section 2. Acquisition of Additional Common Area. Declarant may convey to the Association additional real estate, improved or unimproved, which upon conveyance or dedication to the Association shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of all its Members.

Section 3. Withdrawal of Property. Declarant reserves the right to amend this Declaration at any time without prior notice and without the consent of any Person, for the purpose of removing certain portions of the Property then owned by the Declarant, its affiliates, or the Association from the provisions of this Declaration to the extent originally

included in error or as a result of any change whatsoever in the plans for the Properties desired to be affected by the Declarant, provided such withdrawal in not unequivocally contrary to the overall, uniform scheme of development for the Properties.

Section 4. Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the Property initially or later added subject to these Covenants to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners thereof and obligating such Owners to pay the costs incurred by the Association through Neighborhood Assessments. Any such additional covenants and easements shall be set forth in a Supplemental Declaration.

Section 5. Amendment. This Article II shall not be amended without the prior written consent of Declarant.

ARTICLE III PROPERTY RIGHTS

Section 1. Common Area. Common Areas may continue to be owned by the Declarant or may be conveyed or transferred to the Association, free and clear of all liens and encumbrances of record, but subject to this Declaration.

Section 2. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in, to, over and through the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- a. The right of the Association to charge reasonable fees for the maintenance of the common Area and any facility situated upon the Common Area;
- b. The right of the Declarant, and of the Association, to dedicate, transfer, or convey all of any part of the Common Area or Limited Common Area, with or without consideration, to any governmental body, district, agency, or authority, or to any utility company, provided that no such dedication, transfer or conveyance shall adversely affect the use of the Common Areas by the Members of the Association;
- c. The right of the Declarant, and of the Association, to grant and reserve easements and right-of-ways through, under, over and across the Lots and Common Areas for the installation maintenance, and inspection of lines and appurtenances for public and private water, electric, drainage, gas, and other utilities and services, including a cable television or community antenna television system and irrigation or lawn sprinkler systems, and the right of the Declarant to grant and reserve easements and right-of-ways through, over and upon and across the Common Areas for the operation and maintenance of the

Exhibit D-2 004

Common Areas;

d. The right of the Association to levy and assess fines for an infraction of its published Rules and Regulations and/or to suspend, after notice and hearing before the Board, the voting rights and right to use of the common areas and recreational facilities by an Owner, his family, guest, invitees or tenants for a reasonable period of time; however, the right of an Owner to ingress and egress over the roads and/or parking areas shall not be suspended.

e. The right of the Association, in accordance with its Articles of Incorporation and Bylaws, to borrow money for the purpose of improving or repairing the Common Area and to execute and deliver a mortgage on the Common Area; however, a decision to borrow money and deliver a mortgage must be assented to by the cumulative total of two-thirds (2/3) of the Class A plus Class B member votes.

f. The right of the Declarant to place promotional signs and literature in the Common Areas, or any lot owned by Declarant;

g. The right of the Declarant for ingress and egress to Grand Harbor Club. The same right shall be granted to non-resident members.

h. The right of the Association to enact Rules and Regulations to govern the use of the Common Area and Limited Common Area; as approved by the cumulative total of Two-thirds (2/3) of the Class A plus Class B member votes.

Section 3. Delegation of Use. After prior written approval by the Board any Owner may delegate in accordance with the By-laws of the Association, his rights of enjoyment to the Common Area and facilities to the members of his family, who reside on the Property, his tenants, or contract purchasers.

Section 4. Additional Structures. Neither the Association nor any Owner shall, without the prior written approval of the Declarant erect, construct, or otherwise locate any structure or other improvement in the Common Area.

ARTICLE IV
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every Owner of a Lot and the Declarant shall be a member of the Association, and the Membership shall be appurtenant to and may not be separated from ownership of any Lot, provided, however, that any person or entity that holds any interest merely as security for the performance of an obligation shall not be a member excepting Declarant.

Section 2. Voting Rights. The Association shall have two classes voting membership:

- (a) Class A. Class A members shall be all those Owners of Units as defined in ARTICLE 1, Section 2., with the exception of the Declarant. Class A members shall be entitled to one vote for each Unit in which they hold an interest required for membership. When more than one person holds such interest or interests in any Unit, all such Persons shall be members, and the vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Unit.
- (b) Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to one vote for each Lot in which it holds the interest required for membership plus one vote for each Class A member so long as the Declarant holds an interest in any Lot.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a Deed therefor, whether or not it shall be so expressed in any such Deed or other conveyance, is deemed to covenant and agree to pay to the Association. General Assessments of charges and Special Assessments for capital improvements. Such assessments shall be fixed, established, and collected from time to time as hereinafter provided. The General and Special Assessments together with such interest, costs and reasonable attorneys' fees shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest, costs and attorneys' fees shall also be the personal obligation of the person who was the Owner of such Lot when the assessment fell due. In the case of co-ownership, all such Owners shall be jointly and severally liable for the entire amount of the assessment. The Declarant shall pay to the Association 1/3 of the regular assessments on the unsold Lots. The Declarant's obligations hereunder may be satisfied in the form of a cash subsidy or by "in kind" contributions, services or materials, or a combination of these at Declarant's discretion.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expenses.

The Association will be turned over to the property owners no sooner than when the last lot is sold and closed, or on January 2, 2004, whichever occurs first.

Section 2. Purpose of General Assessments. The General Assessments levied by the Association shall be used for the purpose of promoting the recreation, health, safety and welfare of the residents of Grand Harbor and in particular for the administration, acquisition, improvement and maintenance of the Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area and services to the Owners, including, but not limited to: (1) the cost of public and private utilities; (2) cost of maintaining any property operated by Association under a lease or permit; (3) repairs and replacement of roads within the Properties; (4) repairs, replacements and additions, the cost of insurance, the cost of labor, materials, management, maintenance and supervision, the payment of any taxes assessed against the Common Area and on any Property owned or leased by the Association; (5) payment of charges for garbage services, water and sewer services furnished to the Common Area and the employment of an attorney to represent the Association when necessary and such other needs as may arise.

Section 3. Maximum General Assessment. From closing until January 1, 2000, no general assessment is due. The general assessment shall begin January 1, 2000 and shall be Two Hundred fifty and 00/100 (\$250.00) Dollars per year per Lot without a Unit, or Four Hundred fifty and 00/100 (\$450.00) Dollars per year per Lot with a Unit. The General Assessment shall be payable in semi-annual installments. Each installment shall be due by the fifteenth (15th) day of the first and sixth month or on such date as the Board shall establish. The Board shall have the right to establish a payment schedule other than semi-annual.

- (a) Thereafter, for each calendar year or portion thereof, the General Assessment shall be established by the Board and may be increased annually by the Board without approval of the Association Members in an amount not to exceed ten (10%) percent of the maximum annual assessment of the previous year.
- (b) Thereafter, the maximum General Assessment may be increased above ten (10%) percent by vote of the cumulative total of two-thirds (2/3) of the Class A plus Class B member votes, who vote in person or by proxy at a meeting duly called for this purpose.
- (c) The Board shall, in connection with the fixing of the General Assessment prepare, or cause to be prepared, an annual budget showing the services furnished by the Association and the cost thereof per Lot.
- (d) The Board shall, in connection with the fixing of the general assessments, include an adequate reserve fund for maintenance, repair, and replacement of those elements of the common Area that must be replaced on a periodic basis and are payable in regular installments rather than by special assessments.
- (e) The Declarant will pay General Assessment on Amenities Tracts equal to five

times an approved lot assessment.

Section 4. Special Assessments For Capital Improvements. In addition to the General Assessment, the Association may levy in any assessment year a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a capital improvement upon the Common Area including fixtures and personal property related thereto, provided that any such assessment shall have the consent of the cumulative total of two-thirds (2/3) of the Class A plus Class B member votes, who are voting in person or by proxy at a meeting duly called for this purpose. All Special Assessments shall be fixed at a uniform rate for all Lots and may be collected on a monthly basis or as established by the Board.

Section 5. Reserve Fund Established on Initial Sale of Each Lot. At the time of the initial conveyance of each Lot from the Declarant, an owner shall deposit with the Association a sum of money equal to Two Hundred Fifty (\$250.00) Dollars, to establish a working capital fund to meet expenditures or purchase any additional equipment or services. The sums paid under this ARTICLE IV, Section 5, shall not be considered as advance payments of the General Assessment.

Section 6. Notice Under Sections 3, 4 and 5 of Article V. Written notice of any meeting called for the purpose of taking any action authorized under section 3, 4, or 5 shall be sent to all members not less than twenty (20) days nor more than sixty (60) days in advance of the meeting. At such meeting called, the presence of members or proxies entitled to cast fifty (50%) percent of all the votes of each class of membership that could vote on the particular action shall constitute a quorum. If the required quorum is not present, another meeting may be called, subject to the same notice requirement, and the required quorum for the subsequent meeting shall be the presence of members or proxies entitled to cast fifty (50%) percent of all votes. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

Section 7. Uniform Rate of Assessment. General Assessments and Special Assessments must be fixed at a uniform rate for all Lots to which the particular assessment applies excepting Declarant's unsold lots and may be collected on a monthly basis, or any other basis approved by the Board.

Section 8. Date of Commencement of General Assessments.

(a) Completion of Common Area by Declarant. The Declarant will fulfill all its obligations in accordance with its plan to complete the construction of the improvements in the Common Area; however, after the conveyance of the first Lot the Association will be responsible for the maintenance, repair, and upkeep of the Common Area, even if the

Common Area has not been deeded to the Association.

(b) Due Dates. The Board shall fix the amount of the General Assessment against each Lot and notify Owner at least thirty (30) days in advance of each general assessment increase. Written notice of the General Assessment shall be sent to every Owner subject thereto. The due date of the General Assessment shall be established by the Board. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 9. Effect of Nonpayment of Assessment. If any Assessment (General or Special) is not paid on the date when due, then such Assessment shall become delinquent and shall bear interest at the rate of eighteen (18%) percent per annum after the due date. The cost of collection, including attorneys' fees, shall also be added to the amount due. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Property and interest, costs, and attorney's fees of any such action shall be added to the amount of such Assessment and Assessments and penalties will continue to accumulate and become a lien against the Lot. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area, even during suspension periods, or by abandonment of his Lot.

Section 10. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now existing or hereafter placed upon the Lot. No sale or transfer of any Lot shall affect the Assessment liens for relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof except that a holder of a first mortgage that acquires the Lot pursuant to foreclosure of the mortgage or deed in lieu of foreclosure will take the Unit free of unpaid assessments which have accrued prior to the time such holder takes title to the Unit.

ARTICLE VI HARBOR CLUB MEMBERSHIP REQUIREMENT

Section 1. Creation of Personal Obligation of Membership. All Owners will be required to join the Grand Harbor Club. Each Owner shall fulfill this Club membership requirement prior to obtaining the certificate of occupancy of their Unit. A copy of the membership requirements as of the date of this Declaration are attached as Exhibit "D".

Exhibit D-2 009

ARTICLE VII ARCHITECTURAL CONTROL COMMITTEE

No building or other structure, including fences or fence like structures and walls, shall be commenced, erected or maintained upon an Lot nor shall any exterior addition to or change or alteration to any Lot or Unit (including changing the exterior paint color) be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same including but not limited to setbacks and curb cuts has been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography and the general development plan by the architectural control committee ("Committee") composed of two or more representatives appointed by the Declarant. Any Lot landscaping or change in landscaping shall be approved by the committee. In the event said Committee, fails to approve or disapprove such change, alteration, design or location in writing within thirty (30) days after said plans and specification have been submitted to it said request shall automatically be deemed approved. The Committee, shall have the authority to adopt specific architectural guidelines, including but not limited to requiring that any plans be prepared and certified by a licensed Architect, for the Property and to charge a review fee to cover administrative and enforcement cost and a cash bond.

ARTICLE VIII COVENANTS, RESERVATIONS, AND USE RESTRICTIONS

Section 1. Land Use and Building Type. Without prior written approval of Declarant which may be withheld for any reason, (A) no Lot shall be used except for the private residential purposes of a single family, provided, however, that nothing herein shall prevent Declarant from using any dwelling or Unit as a model, sales office, or amenity; (B) not more than on Unit shall be constructed on any Lot.

Section 2. Nuisance. No noxious or offensive activity shall be carried on upon any Lot or the Common Area, nor shall anything be done thereon which may be or become an annoyance or nuisance to the other Owners.

Section 3. Animals. No animals, livestock or poultry of any kind shall be raised, kept, bred maintained on any Lot or the Common Area except that a Lot Owner shall be allowed to have no more than two common household pets. Said pets shall be kept on leashes when not confined. If a pet becomes a nuisance as defined by the Association, then the nuisance must be removed immediately upon notification by the Association.

Section 4. Outside Antennas. No outside radio, telephone or television antennas, etc. Including satellite dishes, shall be erected on the Lot or the Common Area without the prior written approval of the Committee.

Exhibit D-2 010

Section 5. Clotheslines. No clotheslines or other devices for drying clothes, sheets, blankets, laundry or other articles shall be located outdoors upon any Lot or the Common Area.

Section 6. Signs. Nothing shall be hung, painted, or displayed on the outside of the windows, walls or surfaces or outside of any of the Units except for those installed by Declarant or as approved in writing by the Committee. Notwithstanding the foregoing, the Declarant shall have the right to display signs for promotional, sales, exhibit and administrative purposes upon any portion of the Common Area or Lot. No one excepting Declarant shall display a "For Sale" or "For Rent" sign.

Section 7. Temporary Structures. No structure of a temporary character shall be placed upon any Lot or the Common Area at any time provided, however, that nothing herein shall prevent a contractor from using a small temporary structure during the course of construction. The structure shall be removed from the Lot or Common Area upon completion of construction.

Section 8. Trailers, Etc. No trailer, tent, barn, tree house, shed, or similar outbuilding shall be placed on any Lot or the Common Area at any time either temporarily or permanently; however, storage buildings of a design and construction similar to the Unit may be allowed subject to the approval of the Committee, but not prior to a Unit being constructed.

Section 9. Commercial Vehicle. No commercial vehicle, construction vehicle or like equipment or mobile or stationary trailers of any kind shall be permitted on the Lot, Common Area, or roads, except temporarily and solely for purposes of loading and unloading, without prior approval of the Committee. Parking of commercial trucks, boats, buses, trailers, camping trailers, motor homes and recreation vehicles is prohibited on any Lot or Common Area, or the rights of way of any public or private street in or adjacent to the Lots or Common Area except those screened from view within an approved enclosure.

Section 10. Disabled Vehicles. No disabled vehicle, trailer, or other non operating equipment shall be parked or placed on any Lot, Common Area, or any road within the Property.

Section 11. Outdoor Recreational Equipment. Permanent outdoor recreational equipment including basketball goals, shall not be installed or used on any Lot unless it has been approved by the Committee.

Section 12. Yard and Exterior Maintenance. Plants, grass, trees and improvements now or hereinafter located upon the Common Area shall be maintained by the Association and may not be removed except by permission of Declarant. An

Owner shall maintain his Lot and the plants, trees and improvements thereon in accordance with the approved landscape plan and to a level as directed by the Association.

Section 13. Subdivision. No Lot shall be subdivided or its boundary line changed, except with the written consent of the Declarant.

Section 14. Fuel Tanks. No fuel tanks or similar storage receptacles may be installed, unless approved by the appropriate government authority and by the Committee.

Section 15. Unlawful Use. No immoral, improper, offensive or unlawful use may be made of the Property, or any part thereof, and all laws, ordinances, and regulations of any governmental entity having jurisdiction shall be observed.

Section 16. Garbage. Garbage receptacles shall be used upon the Property only in accordance with the guidelines of the Committee or as any governmental entity may direct. If garbage receptacles are required to be placed on the road, the receptacles shall be placed on the road only on the morning of collection and shall be removed from the road the same day that garbage is collected.

Section 17. Mailboxes and Paper Boxes. The Association will have a standard mailbox type for each lot. They will be provided for a fee. The mailbox may be installed with written approval of the Committee.

Section 18. Prohibited Uses. The Association shall have the power to make such Rules and Regulations as may be necessary to carry out the intent of this Declaration and shall have the right to bring a suit at law or in equity by injunction to enforce the Rules and Regulations promulgated by it. The Association shall further have the right to levy fines or violation of such Regulations or violations of this Declaration. For each day a violation continues after notice, it shall be considered a separate violation. Any fines so levied are to be considered an assessment to be levied against the particular Owner involved, and any collection may be enforced by the Association in the same manner as the Association is entitled to enforce collection of the other assessments. Fines may be levied against an Owner's guest, invitee or tenant and the Owner shall be jointly and severally liable with his guest, invitee or tenant for the payment of the same. In the event the Association institutes legal action for the collection of any fines, the Owner shall be responsible for payment of reasonable attorney's fees of the Association plus interest and costs of the suit.

Section 19. Security Gate. The Association will decide when and if the Security Gate is to be manned.

ARTICLE IX EASEMENTS

Section 1. Construction. A non-exclusive easement in, upon, over, under, through and across the Common Area and each Lot is reserved for the Declarant, which easements shall be for the purpose of construction, installation, maintenance and repair of existing and future structures and appurtenances thereto, for ingress and egress to all Lots and for the use of all roadways, driveways, parking areas, walkways, model homes, golf courses and common area for sales promotion and exhibition.

Section 2. Utilities. A nonexclusive easement is reserved to the Declarant, utility companies, private water and sewer companies, cable television companies, private garbage collectors and public agencies in, upon, over, under, through and across the Lots and Common Area for the purposes of installation, maintenance, repair and replacement of (a) all sewer, water, power and telephone, pipes, lines, mains, conduits, poles transformers, or television facilities and any and all other equipment or machinery necessary or incidental to the proper functioning of any utilities system, whether public or private, serving the Property; or (b) collection of trash and garbage; or (c) any other improvements thereto including the right of ingress and egress, which easement shall be for the benefit of (i) Declarant, and (ii) the Association in connection with the proper discharge of its responsibilities incurred under the terms of this documents with respect to the Lots or Common Area.

Section 3. Encroachment Easements. During construction of a Unit, every Lot Owner shall have a nonexclusive easement over the neighboring Lot(s) for the construction and or repair of the nit. Provided, however, that said Lot Owner shall take steps to ensure that said use of neighboring Lot is minimal and each Lot Owner shall be responsible for repairing any damage and restoring the neighboring Lot to its original condition. The Association shall likewise have a nonexclusive easement for the existence, continuances, and maintenance of an encroachment of the Common Area upon any Lot now existing or which may come into existence hereinafter as a result of construction, repair, shifting, settlement or as a result of condemnation or eminent domain proceedings and said encroachment easements will also exist due to the architectural design of the Common Area or the practicality of construction of the Common Area.

Section 4. Ingress and Egress. Every Owner shall have a nonexclusive easement for ingress and egress to his Lot in, upon, over, under, through and across the Common Areas as may be reasonably required for such ingress and egress.

Section 5. Mutual Easements. Every Owner shall have a nonexclusive easement to use and maintain all pipes, wires, ducts, cables, conduits, utility lines, drainage lines, water liens and other common facilities located on any portion of the Property which serve the Lot of an individual Owner. The Association or its

Exhibit D-2 013

representative shall have the right of access to each Unit to inspect same in order to correct any conditions threatening another Unit or to correct the violation of any provision set forth in the Declaration, the By-laws or in any Rules and Regulations promulgated by the Association; provided, however, that a request for entry is made in advance and that any such entry is at a time reasonably convenient to the Owner. In case of an emergency, such right of entry shall be immediate whether the Owner is present at the time or not.

Section 6. Drainage. The Declarant, Association and Owners, shall have a nonexclusive easement in common in, upon, over, under, across and through the Lots and Common Area for surface water runoff, water runoff from roofs, and drainage caused by natural forces and elements, grading and/or improvements located upon the Lots and Common Area. No Owner shall directly or indirectly interfere with or alter the drainage and runoff patterns and systems within the Property.

Section 7. Use of Easement. Subject to all of the other Condition, Covenants and Restrictions contained in this Declaration, each Owner shall have he right to use the portion of his Lot subject to any easement in any manner not inconsistent with the purposes for which such easement is reserved. Except as stated to the contrary in this Declaration, the Owner shall continuously maintain the area within such easement and all improvements within its boundaries, except for such improvements for which a public authority or public utility is or may become responsible for maintenance.

ARTICLE X GENERAL PROVISIONS

Section 1. Application. All Owners, guests and tenants, shall be subject to the provisions hereof and to the provisions of the Articles of Incorporation and the Bylaws.

Section 2. Enforcement. The Association, Declarant, Committee, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, fines, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall no affect any other provision which shall remain in full force and effect.

Section 4. Agreements. The Association shall be and is hereby authorized to enter into such agreements, including without limitation, management contracts, as it

may deem necessary or desirable for the administration and operation of the Common Area and the Lots, if appropriate. Each Owner by acquiring a Lot agrees to be bound by the terms and condition of all such agreements entered into by the Board on behalf of the Association. A copy of all such agreement shall be made available at the office of the Association for review by an Owner; however, any agreement shall provide that the Association shall have the right to terminate, without cause, the contract with the manager at any time after a transfer as provided in ARTICLE III, Section 2(b) herein. The right to terminate shall further provide that a penalty would not be paid by the Association on account of said termination. The manager shall be entitled to a sixty (60) day notice of the Association's desire to terminate the contract.

Section 5. Duration and Amendment. The Covenants of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association, Declarant, Committee, or any Owner subject to the terms of this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty-five (35) years from the date this Declaration is recorded, after which time said covenants and restrictions shall be automatically extended for successive period of ten (10) years. This Declaration may be dissolved at any time upon the vote of one hundred (100%) percent of the Owners. This Declaration may be amended by a vote of the cumulative total of three-fourths (3/4) of the Class A plus Class B member votes. Said written instrument shall be recorded in the Offices of the R.M.C. for Greenwood County.

Section 6. Waiver. No provision hereof shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or reaches which may have occurred.

Section 7. Gender and Number. All pronouns used herein shall be deemed to include the masculine, the feminine and nonpersonal entities, as well as the singular and plural wherever the context requires or permits.

Section 8. Books and Records. The books, records and papers of the Association shall at all times, during reasonable business hours, or under other reasonable circumstances, be subject to inspection by any member or by any holder, insurer or guarantor of any first mortgage. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable costs. Upon request, any owner or the holder of any first mortgage on any Lot, shall be entitled to a financial statement showing the statement of operations and the balance sheet of the Association for the immediately preceding fiscal year.

Section 9. Assignment. The Declarant reserves the right to assign all rights, privileges, or benefits reserved in these Covenants.

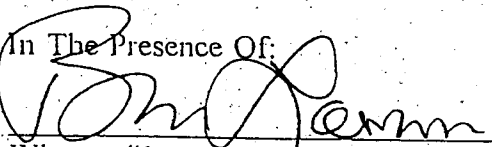
Section 10. Lender's Notices and Information. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Lot number or address, any such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of:

- (a) Any condemnation loss or casualty loss which affects a material portion of the project or any Lot on which there is a first mortgage held, insured or guaranteed by such eligible mortgage holder or eligible insurer, or guarantor as applicable;
- (b) Any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a first mortgage held, insured or guaranteed by such eligible holder or eligible insurer or guarantor which remains uncured for a period of sixty (60) days;
- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; or
- (d) Any proposed action requiring consent of a specified percentage of eligible mortgage holders.

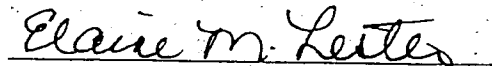
IN WITNESS WHEREOF, SCN Group Greenwood, LLC, a South Carolina Limited Liability Company has caused this Declaration to be executed this 15 day of July, 1999.

Signed, Sealed and Delivered

In The Presence Of:



Witness #1



Witness #2

SCN GROUP
GREENWOOD, LLC.



By: David H. Hornsby
Its: President

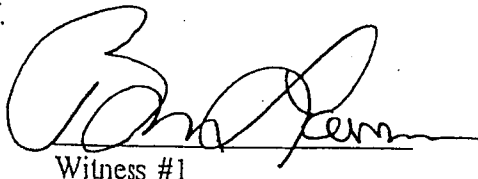
Exhibit D-2 016

335

STATE OF SOUTH CAROLINA)
COUNTY OF GREENWOOD)

PROBATE

PERSONALLY appeared before me the undersigned witness, who on oath, says that he/she saw the within named SCN Group Greenwood, LLC by David H. Hornsby, its President, sign the within written instrument, and that he/she with the other witness above, witnessed the execution thereof.


Witness #1

SWORN to before me this
15 day of July, 1999.

Elaine M. Lester
Notary Public for South Carolina
My Commission Expires: 12-12-2006

Exhibit D-2 017

EXHIBIT "D"
MEMBERSHIP REQUIREMENTS
GRAND HARBOR CLUB

The following are the membership requirements for the Grand Harbor Club.

I) Classification of Memberships

- A) Resident Membership – All property owners are classified as resident members. If the lot is sold, the membership is transferred with the lot. The former lot owner is no longer a member but is able to join as a non-resident member as long as there is a non-resident membership available.
- B) Non-Resident Membership – Non-property owners can become members of the Grand Harbor Club. They do not have to own property in Grand Harbor. They will be expected to apply for membership and be approved before joining.

II) Initiation Fee and Dues

- A) Resident Members – The initiation fees for the residents who bought from the developer are included in the purchase price. The dues are as follows:

- 1) Dues for The Harbor Club facilities will be \$600.00 per year and will be paid as follows: \$300.00 when the pool, poolside bar and grill, and marina are completed; the remaining \$300.00 will be paid when the clubhouse is completed. Membership is transferred if the lot is sold, and a transfer fee will be due by the new owner. The opening date of these facilities will determine the pro-rated amount that will be due. After all facilities are completed, January 1st each year will be the anniversary date on which the Harbor Club dues will be due.
- 2) Dues are subject to increase at the owner's discretion depending upon the financial situation of the Harbor Club. They will not be increased without apparent reason.

- B) Non-Resident Members – All non-resident members will pay an initiation fee set by the owner before joining. They will also be responsible for paying annual dues that will be set by the owners of the Club.

- 1) The initiation fee for a non-resident member will be \$1,000.00 and will be paid as follows:

\$500.00 is to be paid with application and the remaining \$500.00 will be due when the Clubhouse is completed. If the additional \$500.00 is

EXHIBIT "D"

Page Two

not paid within 10 days after notice, the non-resident membership will become void and all privileges will be revoked.

- 2) Dues will be the same as for the resident members and paid the same way.
- 3) Dues are subject to increase at owner's discretion depending upon the financial condition of The Harbor Club. They will not be increased without apparent reason.

- III) Family Members – Membership in any classification includes the member, spouse, all bona fide dependent single children that are 18 years of age or under as well as children under 25 years of age who are full-time students attending school or college.

A married child is not eligible to come under the parents' membership. If the child marries while attending school, he or she ceases to come under the parents' membership at once.

- IV) Membership Availability

A) Residents – All lots in Grand Harbor will come with a membership.

B) Non-Resident – There will be memberships available for non-residents.

- V) Privileges – All members, resident or non-resident, will have access to all of the amenities at The Harbor Club. Each amenity will have its own set of guidelines, and each member will be expected to obey all of the set guidelines.

- VI) Ownership – The Club will be owned and operated by the developer of Grand Harbor. The developer will have the right to set rules and regulations that will be the best for its members and the upkeep of all of its facilities. The owner will have the right to sell, lease or turnover the amenities to an outside operator for the operation of the Club. The membership will not be affected. If the owner does sell the club, the Property Owners Association will have the first right of refusal to purchase the same at an agreed upon price.

- VII) Fees – All fees are set at the beginning of the year and will stay the same for that year. If there is an increase in any fees to the members, they will be set prior to the beginning of the year in which they are to take affect, and all members will be notified of the increase in advance.

EXHIBIT D-3

EXHIBIT "D"
MEMBERSHIP REQUIREMENTS
GRAND HARBOR CLUB

The following are the membership requirements for the Grand Harbor Club.

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- B) Non-Resident Membership – Non-property owners can become members of the Grand Harbor Club. They do not have to own property in Grand Harbor. They will be expected to apply for membership and be approved before joining.

II) Initiation Fee and Dues

- A) Resident Members – The initiation fees for the residents who bought from the developer are included in the purchase price. The dues are as follows:
 - 1) Dues for The Harbor Club facilities will be \$600.00 per year and will be paid as follows: \$300.00 when the pool, poolside bar and grill, and marina are completed; the remaining \$300.00 will be paid when the clubhouse is completed. Membership is transferred if the lot is sold, and a transfer fee will be due by the new owner. The opening date of these facilities will determine the pro-rated amount that will be due. After all facilities are completed, January 1st each year will be the anniversary date on which the Harbor Club dues will be due.
 - 2) Dues are subject to increase at the owner's discretion depending upon the financial situation of the Harbor Club. They will not be increased without apparent reason.
- B) Non-Resident Members – All non-resident members will pay an initiation fee set by the owner before joining. They will also be responsible for paying annual dues that will be set by the owners of the Club.
 - 1) The initiation fee for a non-resident member will be \$1,000.00 and will be paid as follows:

\$500.00 is to be paid with application and the remaining \$500.00 will be due when the Clubhouse is completed. If the additional \$500.00 is

Exhibit D-3 001

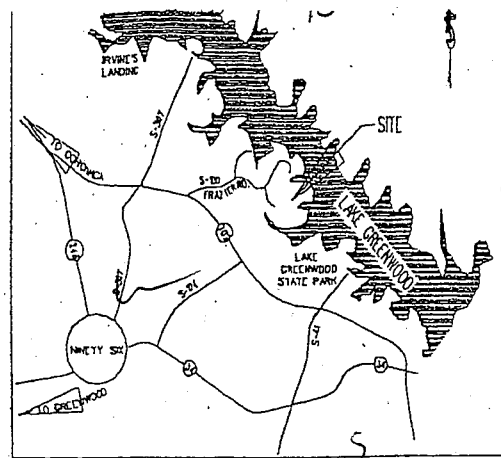
EXHIBIT "D"

Page Two

not paid within 10 days after notice, the non-resident membership will become void and all privileges will be revoked.

- 2) Dues will be the same as for the resident members and paid the same way.
 - 3) Dues are subject to increase at owner's discretion depending upon the financial condition of The Harbor Club. They will not be increased without apparent reason.
- III) Family Members – Membership in any classification includes the member, spouse, all bona fide dependent single children that are 18 years of age or under as well as children under 25 years of age who are full-time students attending school or college.
- A married child is not eligible to come under the parents' membership. If the child marries while attending school, he or she ceases to come under the parents' membership at once.
- IV) Membership Availability
- A) Residents – All lots in Grand Harbor will come with a membership.
 - B) Non-Resident – There will be memberships available for non-residents.
- V) Privileges – All members, resident or non-resident, will have access to all of the amenities at The Harbor Club. Each amenity will have its own set of guidelines, and each member will be expected to obey all of the set guidelines.
- VI) Ownership – The Club will be owned and operated by the developer of Grand Harbor. The developer will have the right to set rules and regulations that will be the best for its members and the upkeep of all of its facilities. The owner will have the right to sell, lease or turnover the amenities to an outside operator for the operation of the Club. The membership will not be affected. If the owner does sell the club, the Property Owners Association will have the first right of refusal to purchase the same at an agreed upon price.
- VII) Fees – All fees are set at the beginning of the year and will stay the same for that year. If there is an increase in any fees to the members, they will be set prior to the beginning of the year in which they are to take affect, and all members will be notified of the increase in advance.

EXHIBIT D-4



LOCATION MAP

LAKE GREENWOOD

Grand Harbor Phase I

Exhibit D-4 001

LAKE GREENWOOD

Grand Harbor Phase II

DICK THOMPSON
GRAND HARBOR REAL ESTATE, LLC
OFFICE 864.543.2800 / 800.576.7280
/ MOBILE 864.980.5540

HARBOR CLUB
POOL COMPLEX
CARANA BAR
Record on Appeal 085
SUGAR SAND BEACH
MARINA



GRAND HARBOR

ON SOUTH CAROLINA'S LAKE GREENWOOD

1-800-576-7280

www.grandharbor.net



EXHIBIT D-9

The Patriot
Grand Harbor Golf & Yacht Club

TO: The Property Owners at Grand Harbor
FROM: Bruce Lawrence, President *BL*
Laura Saunders, Director of Membership *LS*
DATE: July 8, 2002
RE: New Offering for Patriot Golf Memberships

Greetings! We hope all of you enjoyed the Fourth of July Holiday, and were able to visit us at the BBQ Beach Bash on Saturday. It was a great time! Hopefully, we will have another event in the near future.

We would like to propose, to the Founding Property Owners, a discounted offering for Master Membership. This offering is at a discount because the Principals recognize that many of you invested into Grand Harbor initially as a lake community, without knowledge of The Patriot.

Here is the outline for the offering:

- I. A. The initiation fee for a Master Membership will be \$5000.
- B. You will have until September 1 to make your decision.
- C. This membership is considered transferable to a subsequent buyer. The subsequent buyer of property with a Master Membership will be considered a Master Member, and then will decide on whether they would like to be Yacht Club Dues members or Golf Dues members.
- D. Upon application for membership, property owners will make a deposit of \$1000. This must be paid on or before September 1, 2002.

\$2000 must be paid on or before November 1, 2002.

The final \$2000 must be paid on or before April 1, 2003.

Exhibit D-9 001

E. This membership value is not refundable until the entire \$5000.00 is paid.

II. If the Property Owner does not decide to accept the new offering by September 1, the membership value will increase to \$7500.

1. This \$7500 value of membership will remain at this amount until April 1, 2003, or until the 100th membership is taken, whichever occurs first.

2. After April 1, 2003, the membership value will then be raised to the then-going value.

3. If a property owner does not choose this Master Membership offering, wants to sell their property and all of the memberships are taken, the subsequent buyer of the property will be placed on a preferred waiting list. This will occur only if the subsequent buyer is interested in becoming a Master Member.

3. Guests of property owners that do not choose a Master Membership can play golf for a daily fee as long as The Patriot is allowing outside guest play.

-
- The Yacht Clubhouse will begin construction as soon as 200 Master Memberships are issued. We are finalizing the designs now, and will present the plans to everyone as soon as possible.
 - The Golf Clubhouse will initially be a temporary facility. Construction of the Golf Clubhouse will commence six months after The Patriot is open for play.
 - The Tennis Facility will be comprised of three soft courts and a temporary exercise facility. Construction of the tennis courts will begin shortly, and will be ready for use in the winter of 2002. When the Yacht Clubhouse is completed, the athletic facility will relocate to the Yacht Clubhouse. Then, with the extra space at the tennis facility, Grand Harbor plans to construct a viewing area that would be more conducive to tournaments, etc.
 - Member/Guest Sign-In is now being enforced at the Pool and Cabana Bar. A member/guest sign-in book is at the pool at all times, and the hired attendant will be there at scheduled weekend times and on special occasions. Guests of members or potential members are allowed to visit the Yacht Club one time, at no charge. After the initial visit, there will be a charge for each additional visit, and the member will be billed the appropriate guest fee.

- No one under 18 years of age is allowed in the hot tub. A temporary sign has been placed while a permanent one is on order.
- Cabana Bar & Grill hours and a schedule of events will be posted weekly on the Yacht Club info line. You may find out about upcoming events by calling 864-543-7644. Or, check your email every Thursday for the newsletter.

The Principals at Grand Harbor and I have been working diligently to make sure that all the needs of our residents and property owners have been satisfied. The final legal documents are very near completion, and will be presented to all property owners as soon as possible. Remember that you have until ^{Sept} August 1 to make your decision. Please let us know if you have any questions, and comments are welcome! We look forward to hearing from you.

Best Regards,



Laura Saunders, Director of Membership
Bruce Lawrence, President

Exhibit D-9 003

EXHIBIT P-1

Exhibit P

THE CHALLENGE GOLF GROUP OF SC, LLC

200 GRAND HARBOR BLVD
NINETY SIX, SC 29666

invoice

Date	Invoice #
3/10/2015	4140

Bill To
B.J. Brandimarte 208 Chatham Drive Greenwood, SC 29649

		Terms	
		Due on receipt	
Quantity	Description	Rate	Amount
6	Dues billed for July 2010 through December 2010	200.00	1,200.00T
12	Dues billed for January 2011 through December 2011	200.00	2,400.00T
12	Dues billed for January 2012 through December 2012	225.00	2,700.00T
12	Dues billed for January 2013 through December 2013	225.00	2,700.00T
12	Dues billed for January 2014 through December 2014	225.00	2,700.00T
2	Dues billed for January 2015 through February 2015	225.00	450.00T
2	Quarterly Food Minimums billed for October and December 2010	250.00	500.00T
4	Quarterly Food Minimums billed for March, June, October December 2011	250.00	1,000.00T
4	Quarterly Food Minimums billed for March, June, October December 2012	250.00	1,000.00T
4	Quarterly Food Minimums billed for March, June, October December 2013	250.00	1,000.00T
4	Quarterly Food Minimums billed for March, June, October December 2014	250.00	1,000.00T
	Sales Tax	0.00%	0.00
Total			\$16,650.00

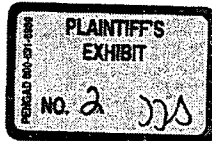


Exhibit P-1 001

EXHIBIT P-2

Exhibit E
Statement of Account

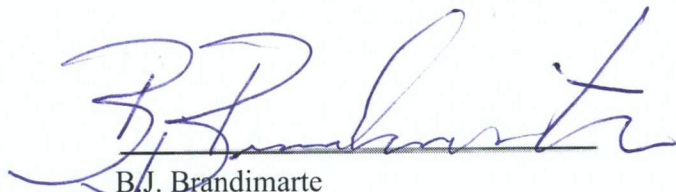
Description	Type	Brandimarte Date	Amount	Balance
(1045) B.J. Brandimarte				
(1045) Social 4140	D	01/21/16	91.55	91.55
(1045) Social 4140	D	03/01/16	295.00	386.55
(1045) SOCIAL 4140	D	04/01/16	295.00	681.55
(1045) Social 4140	D	05/01/16	295.00	976.55
(1045) Social 4140	D	06/01/16	295.00	1,271.55
(1045) Social 4140	D	07/01/16	295.00	1,566.55
(1045) SOCIAL 4140	D	08/01/16	295.00	1,861.55
(1045) Social 4140	D	09/01/16	295.00	2,156.55
(1045) Social 4140	D	10/01/16	295.00	2,451.55
(1045) SOCIAL 4140	D	11/01/16	295.00	2,746.55
(1045) SOCIAL 4140	D	12/01/16	295.00	3,041.55
(1045) SOCIAL 4140	D	01/01/17	295.00	3,336.55
(1045) SOCIAL 4140	D	02/01/17	295.00	3,631.55
(1045) SOCIAL 4140	D	03/01/17	295.00	3,926.55
(1045) SOCIAL 4140	D	04/01/17	295.00	4,221.55
(1045) SOCIAL 4140	D	05/01/17	295.00	4,516.55
(1045) Social 4140	D	06/01/17	295.00	4,811.55
(1045) Late Fee	D	07/01/17	72.17	4,883.72
(1045) Social 4140	D	07/01/17	295.00	5,178.72
(1045) Late Fee	D	08/01/17	77.68	5,256.40
(1045) Social 4140	D	08/01/17	295.00	5,551.40
(1045) Late Fee	D	09/01/17	83.27	5,634.67
(1045) Social 4140	D	09/01/17	295.00	5,929.67
(1045) Late Fee	D	10/01/17	88.94	6,018.61
(1045) Social 4140	D	10/01/17	295.00	6,313.61
(1045) Late Fee	D	11/01/17	94.70	6,408.31
(1045) Social 4140	D	11/01/17	295.00	6,703.31
(1045) Late Fee	D	12/01/17	100.55	6,803.86
(1045) Social 4140	D	12/01/17	295.00	7,098.86
(1045) Min 1,000 Spent .00	I	12/31/17	1,000.00	8,098.86
(1045) Late Fee	D	01/01/18	106.48	8,205.34
(1045) Social 4140	D	01/01/18	295.00	8,500.34
(1045) Late Fee	D	02/01/18	127.50	8,627.84
(1045) Social 4140	D	02/01/18	295.00	8,922.84
(1045) Late Fee	D	03/01/18	133.84	9,056.68
(1045) Social 4140	D	03/01/18	295.00	9,351.68
TOTAL DUE:			9,351.68	



Certificate of Pro Se

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

March 1, 2019



B.J. Brandimarte
208 Chatham Drive
Greenwood, South Carolina 29649
(864) 321-7502
Pro Se for Appellant

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