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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM CHESTER COUNTY  
Court of Common Pleas

James C. Harrison, Jr., Special Referee

Unpublished Opinion No. 2018-UP-128 (S.C. Ct. App. Filed Mar. 21, 2018)

Patricia E. King and Robbie King Jones, as representatives  
of W.R. King and Ellen King.....Plaintiffs,

Of whom, Patricia E. King is.....Petitioner,

v.

Margie B. King and Robbie Patricia Ione King, individually,  
and as Co-Representatives of the Estate of Christopher C.  
King (deceased) and Nelson M. King.....Respondents.

APPENDIX

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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHESTER COUNTY  
Court of Common Pleas

James C. Harrison, Jr., Special Referee

Case No. 1998-CP-12-00325

**RECEIVED**

JUL 11 2016

SC Court of Appeals

Patricia E. King and Robbie King Jones, as representatives  
of W.R. King and Ellen King.....Plaintiffs,

Of whom, Patricia E. King is.....Appellant,  
v.

Margie B. King and Robbie Patricia Ione King, individually,  
and as Co-Representatives of the Estate of Christopher C.  
King (deceased) and Nelson M. King.....Respondents.

RECORD ON APPEAL

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Volume I of II

App 000001

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**CERTIFICATE BY APPELLANT**

All Exhibits Admitted into Evidence at August 16, 2010 Hearing.....800

STATE OF SOUTH CAROLINA )  
COUNTY OF CHESTER )  
C/A No.: 98-CP-12-325

Patricia E. King and Robbie  
King Jones, as representatives of  
W.R. King and Ellen King,  
Plaintiffs,

vs.

ORDER

Margie B. King and Robbie  
Patricia Ione King,  
individually and as co-personal  
representatives of the Estate  
of Christopher C. King, deceased  
and Nelson M. King, Chester  
Telephone Company and Branch  
Banking & Trust (BB&T),  
Defendants.

FILED

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CLERK OF COURT  
CHESTER COUNTY, S.C.

This matter is before the court pursuant to the agreement of both parties and their counsel in regard to the referral of certain issues and causes of action to a Special Referee to be appointed by this court. This issue is raised by this court, Sua sponte, after the court recognized the complexity of the issues involved as well as the fact that certain of the causes of action are equitable in nature and therefore, would be tried non-jury whether or not those causes of actions or issues were referred to the Special Referee.

Both parties agree with the court that the case would be better served by having the complex and equitable issues resolved by a Special Referee leaving only the action on the promissory note to be tried by a jury. Further, this matter shall be taken off of the trial roster for the next term of court until such time as the parties have proceeded with discovery and had the Special Referee issue his recommendation to this court after hearing.

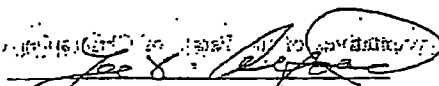
THEREFORE, IT IS HEREBY ORDERED that the Honorable James C. Harrison, Jr., shall

be appointed Special Referee to direct the accounting in this matter as to the original funeral home business and to decide whether there was an actual transfer of this business during the life of W.R. and/or Ellen King. If there was an inter vivos transfer by W.R. and/or Ellen King to the late Christopher C. King, then no accounting will be necessary. If the Special Referee finds that there was not a inter vivos transfer of this funeral home business by W.R. and/or Ellen King during their lifetime, then there shall be an accounting, as stated above, directed by the Special Referee. This accounting must include all nine siblings and all related issues. The Referee shall hear and make his recommendation on count six of the Complaint, count eight of the Complaint, count nine of the Complaint and count ten of the Complaint, if applicable. Additionally, the Special Referee shall hear and issue his recommendation on any equitable or non-jury matters contained in the Complaint, Answer and/or Counterclaim.

This Court is informed that counsel is working on the issue on whether or not there are any other causes of actions or issues which may be equitable in nature and heard by the Special Referee and upon approval by this Court, this matter shall also be heard by the Referee.

This Court further finds that the legal issue of whether or not Christopher C. King is liable to Plaintiffs Patricia King and Robbie King Jones on the note being sued upon shall be placed on the trial roster after discovery on that issue is complete, which should be done within forty five days from the date of this Order.

AND IT IS SO ORDERED.

  
The Honorable Lee S. Afford  
Chief Judge for Administrative Purposes  
Sixth Judicial Circuit

Chester, South Carolina

May 18 2001

42  
36A

STATE OF SOUTH CAROLINA

COUNTY OF CHESTER

Patricia E. King and Robbie King Jones,  
as representatives of W.R. King and Ellen  
King,

Plaintiffs,

v.

Margie B. King and Robbie Patricia Ione  
King, individually and as co-personal  
representatives of the Estate of  
Christopher C. King, deceased and  
Nelson M. King, Chester Telephone  
Company,

Defendants.

THE COURT OF COMMON PLEAS

SIXTH JUDICIAL CIRCUIT

Civil Action No.: 98-CP-12-325

ORDER

(As to Accounting Counterclaim)

FILED

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CLERK OF COURT  
CHESTER CO S.C.

PROCEDURAL HISTORY

Plaintiffs filed a summons and complaint against Defendants on November 12, 1998, asserting various claims arising from the operation of a business known as King's Funeral Home. At the time, Plaintiffs were represented by Cletus K. Okpalaeke of The Cromartie Law Firm. Plaintiff Patricia E. King is currently represented by Kenneth Wingate and John E. Tyler of Sweeny, Wingate & Barrow, P.A. The Plaintiffs in their complaint alleged that their parents, W.R. King, who died in 1975, and Ellen King, who died in 1987, purchased a funeral home in the 1930s or 1940s and operated the same until the time of their deaths. Plaintiffs also alleged that all of the children of their parents, including themselves and their late brother, Christopher C. King, at one time or another, worked for the funeral home. The complaint further alleged that in June of 1997 Plaintiff Patricia E. King discovered that her name had been removed as an authorized signatory on the bank account of the that funeral home business and that the funeral home telephone line that rang in her residence had been turned off without her consent, thus

denying her access "to the good will built up over the years from the time her parents ran the King's Funeral Home business till the time she ran it in concert with the late Christopher C. King". The complaint further alleged that under the applicable intestacy laws the ownership of King's Funeral Home "ultimately passed in equal shares to the surviving children of W.R. King and Ellen King, including the Plaintiff's and Christopher C. King". Some of the children of Christopher C. King along with his widow, Margie B. King, are the Defendants in this action. The complaint alleged numerous causes of action, the first being for an accounting and distribution of profits of King's Funeral Home, which cause of action alleged that the Plaintiffs were "entitled to have the Defendant's account for the profits of King's Funeral Home, to inspect the books and records of King's Funeral Home, and to have their proportional share of the profits distributed to them". This Order in referring herein to the "Defendants" does not include Chester Telephone Company.

two  
AC/H

The Defendants filed an answer and counterclaim on December 14, 1998, in which Defendants denied that King's Funeral Home passed in equal shares to the surviving children of W.R. King and Ellen King and alleged that W.R. King and Ellen King made an inter vivos gift of the funeral home to Christopher C. King. Defendants denied that the Plaintiffs had a right to an accounting and distribution of profits. The Defendants at the time were represented by Ruskin C. Foster and Anthony W. Livoti of the law firm of McCutchen, Blanton, Rhodes & Johnson, L.L.P. The Defendants are now represented by Timothy F. Rogers, Richard L. Whitt, and W. Michael Duncan of the law firm of Austin & Rogers, P.A.

By Order of Reference filed May 30, 2001, the Honorable Lee S. Alford appointed the undersigned Special Referee to issue his "recommendation" on certain issues and causes of

action "to direct the accounting in this matter as to the original funeral home business and to decide whether there was an actual transfer of this business during the life of W.R. and/or Ellen King. If there was an inter vivos transfer by W.R. and/or Ellen King to the late Christopher King, then no accounting will be necessary. If the Special Referee finds that there was not an inter vivos transfer of this funeral home business by W.R. and/or Ellen King during their lifetime, then there shall be an accounting, as stated above, directed by the Special Referee."

The Defendants made a motion to dismiss this action for failure of the Plaintiffs to prosecute and failure to comply with Orders of the Court. By Order filed August 6, 2004, the Honorable Kenneth G. Goode dismissed the Plaintiffs' action with prejudice and ordered that the counterclaims of Defendants remained viable and intact. This decision was appealed by the Plaintiffs to the South Carolina Court of Appeals, and in Unpublished Opinion No. 2007-UP-132, filed March 28, 2007, the South Carolina Court of Appeals concluded Judge Goode did not err in dismissing the Plaintiffs' case for failure to prosecute and allowing the Defendants' counterclaims to remain viable.

As noted by the undersigned at a June 14, 2010, hearing, after learning of Judge Alford's Order of Reference the undersigned wrote a letter in 2001 to the lawyers who were then counsel in this action outlining his concerns about the case being referred to him. (Those attorneys no longer represent any parties in this action.) No action on the Order of Reference was taken by counsel for the parties until current counsel for the Plaintiffs, Timothy F. Rogers, wrote a letter to the undersigned on August 26, 2008, requesting a status conference. At that time, Plaintiffs were not represented by counsel. A status conference was initially set for September 11, 2008, but was postponed at the request of Plaintiff Patricia E. King, acting pro se. Thereafter, Kenneth Winchester Gaines appeared on behalf of Plaintiffs and lengthy settlement negotiations were



pursued but did not come to fruition. A status conference was held on November 11, 2009, attended by the parties and counsel. The undersigned issued a Scheduling Order on January 11, 2010, in this case and a related Case No. 2007-CP-12-407. Mr. Gaines was counsel of record for the Plaintiffs at that time. By Order of the undersigned dated May 24, 2010, Kenneth Wingate and John B. Tyler of Sweeny, Wingate & Barrow, P. A. were substituted for Mr. Gaines.

On June 11, 2010, Defendants filed amended counterclaims, to which the Plaintiff on July 12, 2010, filed an answer dated July 9, 2010. These amended counterclaims re-alleged the contents of their previous counterclaims. In their amended counterclaims, the Defendants assert for the first time a cause of action for an accounting regarding the profits of King's Funeral Home, alleging that the May 18, 2001, Order of Judge Alford requires the same. The amended pleading also alleges that the King's Funeral Home business passed by intestacy to the children of W.R. King and Ellen King. That position is opposite to the position taken in the original answer and counterclaim, which was to the effect that King's Funeral Home was "gifted" to Christopher C. King during his lifetime and therefore did not pass through the estates of W. R. King and Ellen King..

By motion dated June 23, 2010, Plaintiffs moved to dismiss the Defendants' amended counterclaims. This motion was heard on August 5, 2010, and denied. An Order to this effect was filed on October 21, 2010.

Upon Plaintiff's motion to vacate the Order of Reference, the Honorable Brooks. G. Goldsmith issued an Order dated July 29, 2010, clarifying that this case is properly before the undersigned with the same power and authority of a Circuit Judge to hear and dispose of this case pursuant to the terms of Rule 53, SCRCF, and enter final judgment.

By motion dated July 26, 2010, and heard on August 5, 2010, the Defendants moved for this Court to order an accounting, issue an attachment, and appoint a receiver. These motions were orally denied without prejudice at the date of hearing.

On August 16, 2010, this court held an evidentiary hearing to determine whether the Defendants are entitled to an accounting as asserted by the second counterclaim of their amended counterclaims. This Order solely disposes of this accounting cause of action, and all other issues are reserved for hearing at a subsequent time.

The Defendants' position is that under Judge Alford's Order they are due an accounting of profits of King's Funeral Home from the date Patricia C. King took possession of the premises upon which the business was located in December, 1998. They also argue that they are due an accounting of the profits of King's Funeral Home because King's Funeral Home, now being operated by Patricia C. King, passed by intestacy to the nine children of W.R King and Ellen N. King at the time of their respective deaths in 1975 and 1987 and because the assets of the business were never distributed at the deaths of the elder Kings. They argue that Chris King was operating the business on behalf of the entire family, that is, on behalf of the heirs of W. R. King and Ellen N. King.

#### FINDINGS OF FACT

1) W. R. King and his wife Ellen N. King commenced operating a funeral home sometime in the 1930s or 1940s. Mr. King died in 1975, and Mrs. King died in 1987. That funeral home business was known as King's Funeral Home. Until 1980, King's Funeral Home was located at 127 Cemetery Street in Chester, South Carolina. The business was not incorporated. During the time that W. R. King and Ellen N. King ran the funeral home, a number of their nine children, possibly all of them, worked in the funeral home including both Patricia E.

King (sometimes referred to herein as "Patricia") and Christopher C. King (sometimes referred to herein as "Chris"). The property at 127 Cemetery Street is now the residence of Patricia.

2) W. R. King died intestate, and his wife Ellen N. King was the administrator (personal representative) of his estate. There is no evidence in the record that Mrs. King as the personal representative of the estate of W.R. King claimed the funeral home was an asset of the estate of Mr. King. After the death of Mr. King in 1975, the funeral home was operated primarily by Chris with the assistance of his mother and his sister Patricia. The name King's Funeral Home was used for those business operations.

3) In 1980 Chris King built a new funeral home at 135 Cemetery Street on three parcels of real property which were titled in the name of Patricia and derived from conveyances of separate contiguous parcels by Robbie K. and Howard Jones in 1977, from Chris King and his wife Marge B. King in 1980, and from Robbie K. Jones in 1980. Although some limited funds to pay for the construction of the funeral home building may have been contributed by Ellen N. King and Chris King, the construction of the building was almost solely paid for with financing provided by Patricia from the proceeds of a mortgage loan from The Chester Building and Loan Association made on July 30, 1980, and her personal funds. The first payment due on this loan was November 1, 1980, in the amount of \$1,080.15. The maturity date of the loan was October 1, 1995.

4) By lease agreement entered on July 16, 1980, and signed by the parties on July 30, 1980, the same date as the mortgage loan above, Christopher C. King and Patricia E. King entered into an agreement whereby Chris, "doing business as King's Funeral Home[,] " leased the premises located at 135 Cemetery Street.

5) Although it is possible that Chris was the sole proprietor of this funeral business at an earlier date, the evidence establishes that by at least July 16, 1980, he was the sole proprietor of the business operating as King's Funeral Home at 135 Cemetery Street. As stated by Moses Caldwell, who started employment with the elder Kings' funeral home in 1964, Chris was the person who was "basically in charge." As stated by Patricia, Chris maintained possession of the funeral home premises until his death in 1997, and thereafter his wife and children had possession of it. Until Patricia commenced operating a funeral business at 135 Cemetery Street, the stationery of King's Funeral Home stated that Christopher C. King was its owner. There is no evidence in the record that Chris distributed any profits of the funeral business that he operated to any members of the family. I find that Chris King was not operating this business for the benefit of anyone else.

*substantiated*  
*AC/8*

Mr. Caldwell managed the business for Chris and, after Chris' death, for his family. In 1991 Chris took Mr. Caldwell to the "South Carolina State Board of Funeral Service" and appointed Mr. Caldwell as manager of the business.

6) Ellen N. King died intestate on March 2, 1987. Until her death Ellen N. King continued to have an active role in the business. The inventory and appraisement of her assets filed in the Probate Court in 87ES1200178 did not show that she owned an interest in the real property located at 135 Cemetery Street nor in any personal property at that address, nor did it list an interest in King's Funeral Home. The administrators of her estate were discharged by Order of the Probate Judge on October 20, 1989.

7) On July 31, 1992, the Plaintiffs individually, Christopher C. King individually, and "King (sic) Funeral Home by Christopher C. King as Proprietor" signed a promissory note for a loan of \$225,000.00 from Mechanics and Farmers Bank. This loan matured on July 30,

1997. The proceeds of the loan were given to Chris for the purpose of paying his debts for a failed car business. This loan was paid off on October 10, 1997, by the Plaintiff's individually from the proceeds of a new loan to them in the amount of \$186,165.16.

8) On August 20, 1997, Patricia mailed a notice addressed to "Christopher C. King, and All Other Occupants of the Premises Located at 135 Cemetery Street, Chester, Cemetery Street, Chester, South Carolina" requiring them to vacate the premises within 30 days. Chris King died on September 1, 1997. Shortly after the death of Chris, Patricia got his family together, including the Defendants, and advised them that they had to vacate the building in which the funeral home was located. They did not vacate the building until on or about December 8, 1998. On that date all personal property being used at that time in the operation of King's Funeral Home was removed by persons not identified in the record. Removed were business records, pews, conference room furniture, desks, cabinets, embalming machine, embalming table, hearses, and limousines. The telephone number that had previously rung at the premises ceased to be routed to the building. In the words of the manager, Mr. Caldwell, what was removed was "everything that would cause you to operate." Patricia King's name was removed from the business bank account by Defendant Margie B. King in 1997.

*right  
GC id*

9) Christopher C. King died intestate and his estate was probated under Probate File 1997ES1200194 in Chester County. Margie B. King and Robbie P. King were his estate's personal representatives. The estate's inventory and appraisal was filed on March 2, 2001. Schedule E of the inventory and appraisal listed as an asset of the estate "King's Funeral Home 135 Cemetery Street Chester, SC (Business) Sole Proprietor[.]"

10) Between Chris King's death and December 8, 1998, the funeral home business operated at 135 Cemetery Street was managed by Mr. Caldwell and operated by Chris' widow,

Defendant Margie King, and his surviving children, including John R. King and Defendants Robbie Patricia Ione King and Nelson M. King.

11) On December 8, 1998, John R. King began funeral home operations at 703 Old York Road in Chester, South Carolina, under the name Christopher King's Funeral Home. He used the telephone number of the King's Funeral Home owned and operated by his father, Christopher King, (803) 377-1144.

12) After the family of Christopher King vacated the premises located at 135 Cemetery Street, Plaintiff Patricia King began operating a sole proprietorship there under the name King's Funeral Home. With the help of Mr. Caldwell, she equipped the building there with new equipment necessary to operate a funeral home and opened up a new bank account. Mr. Caldwell manages this funeral home business. He made arrangements for this business to obtain a telephone number.

#### CONCLUSIONS OF LAW

1. Defendants in their request for an accounting primarily rely upon the Order of the Honorable Lee S. Alford dated May 18, 2001, and argue that Judge Alford ordered an accounting. This is an incorrect reading of that Order.

At the time Judge Alford issued that Order, the posture of this case was that, among numerous causes of action, the Plaintiffs had pled a cause of action for an accounting. The Defendants denied that allegation in their answer and counterclaim, therefore denying that the Court should order an accounting. The Plaintiffs' entire complaint was dismissed by Judge Goode on July 30, 2004, and that order was later upheld by the South Carolina Court of Appeals. The Defendants' counterclaims were to remain viable according to Judge Goode's Order. The counterclaims of the Defendants did not plead a claim for an accounting and, as stated above, in

fact denied that the Plaintiffs' request for an accounting should be granted. Therefore, at the time the Plaintiffs' case was dismissed there was no pleading in this case that requested an accounting. The issue was no longer before the Court. The issue of whether an accounting should be had was not before the Court again until the Defendants amended their counterclaims. Whether *the Defendants* are entitled to an accounting is a new issue that was not determined by Judge Alford's Order.

Moreover, a review of the Order of Judge Alford indicates that the accounting was only to be done after the Special Referee determined that there had been no inter vivos transfer of the business to Christopher C. King during the lives of W.R. and/or Ellen King. Even if one were to believe the Plaintiffs' accounting cause of action survived the dismissal of Judge Goode, the Order as to the accounting was conditional upon the Special Referee determining that Christopher C. King was not the sole owner of King's Funeral Home. That determination had not been made by the time of the hearing subject of the instant Order.

2. A sole proprietorship is not a distinct entity from its owner. Moore v. Moore, 360 S.C. 241, 599 S.E.2d 467 (Ct. App. 2004) ("[b]ecause Appellant's business was a sole proprietorship, he and his business were not distinct entities"). Black's Law Dictionary (Fourth Edition) defines "proprietor" as "one who has the legal right or exclusive title to anything. In many instances it is synonymous with owner." Webster's New Universal Unabridged Dictionary defines "proprietor" as "... the owner of a business establishment ...". The testimony and evidence adduced in this action show that Christopher C. King became the sole proprietor of King's Funeral Home by at least July 16, 1980. He possessed it, he operated it for at least 20 years, he was in charge of it, he appointed its manager, he stated he did business as King's Funeral Home when he entered a Lease Agreement with Patricia E. King on July 16, 1980, and

he signed a note and mortgage on July 31, 1992, stating he was signing on behalf of "King (sic) Funeral Home as Proprietor." In this same document his siblings Patricia E. King and Robbie K. Jones did not sign as proprietors of the funeral home but as individuals. In other words, during his lifetime, Christopher C. King was the owner of this business in its entirety. The Defendants Margie B. King and Robbie Ione King (now Robbie Patricia Ione King Boyd) as personal representatives of the estate of Christopher C. King listed the interest of Chris in King's Funeral Home as "Sole Proprietor". After his death on September 1, 1997, his family, among them the Defendants herein, operated the business at the 135 Cemetery Street location until they vacated the premises on December 8, 1998.

3. There is not sufficient evidence in the record to establish that the estates of either W.L. King or Ellen N. King claimed an interest in King's Funeral Home or any real or personal property associated therewith. No interest in this funeral home therefore passed to their heirs through these estates.

4. South Carolina law recognizes three types of accounting actions: one is based on a breach of a confidential or fiduciary relationship; a second type is to allow for the adjudication of detailed and complicated accounts which would not be practical for a determination by a jury; and third is designed to permit discovery. Randolph R. Lowell, Robert L. Lowell & Shealy Boland Reibold, South Carolina Equity: A Practitioner's Guide (S.C. Bar - CLE Division 2010).

A confidential or fiduciary relationship exists when one imposes a special confidence in another, so that the latter in equity and good conscience, is bound to act in good faith with due regard to the interest of the one imposing the confidence. Brown v. Pearson, 326 S.C. 409, 422, 483 S.E.2d 477, 484 (Ct. App. 1997)." [A]s a general rule, a fiduciary relationship cannot be established by the unilateral action of one party. The other party must have actually accepted or



induced the confidence placed in him.” Steele v Victory Sav. Bank, 295 S.C. 290, 295, 368 S.E.2d 91, 94 (Ct. App. 1988). The Defendants are not entitled to an accounting for profits of the business operated by Patricia King because they have not established the existence of a fiduciary relationship between themselves and Patricia King. Accounting for profits is defined as “[a]n action for equitable relief against a person in a fiduciary relationship to recover profits taken in a breach of the relationship.” Blacks Law Dictionary 9 (3d Pocket Ed. 2006). “An action for an accounting is . . . equitable in nature.” Byrd v. King, 245 S.C. 247, 255, 140 S.E.2d 158, 161 (1965). The party requesting an accounting has the burden to prove entitlement to such an account by the preponderance of the evidence. Id.

An accounting will also be granted in actions involving long and complicated accounts where it would not be practical for a determination by a jury and where there is a need for discovery. See Rogers v. Salisbury Brick Corp., 299 S.C. 141, 382 S.E.2d (1989). Here, there is no jury and no need for discovery about the profits of the funeral home business operated by Patricia King because it is a distinct business entity. The funeral home business that Patricia has been operating since 1998 is a new business entity that Patricia started. The Defendant’s claim is for an accounting of the profits of the funeral home business operated by Patricia, however, that business is a separate entity and not a continuation of the business operated by Chris.

The Defendants have failed to present sufficient evidence showing that they are entitled to an accounting.

5. Since the Defendants have not established an entitlement to an accounting, the Court does not need to consider the affirmative defenses of the Plaintiffs in deciding this issue.

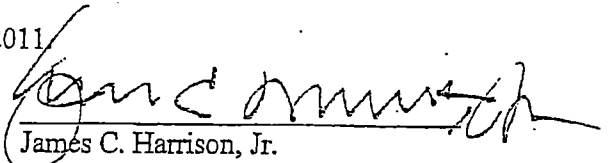
6. All other issues in this case are reserved for subsequent hearing.

**THEREFORE, IT IS ORDERED that:**

- a. The Defendants' counterclaim for an accounting is denied.
- b. All other issues in this case are reserved for subsequent hearing.
- c. The court reporter's fees and costs of \$1,432.41 shall be paid within ten days of the date of this order to Verbatim, Inc. and shall be split equally between Plaintiff Patricia C. King and the Defendants.
- d. The fees of the Special Referee to date in the amount of \$9,000.00 shall be equally split between Plaintiff Patricia C. King and the Defendants and shall be paid within 30 days of the date of this Order.

AND IT IS SO ORDERED, this the 7<sup>th</sup> day of March, 2011

Columbia, South Carolina

  
James C. Harrison, Jr.  
Special Referee for Chester County

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CLERK OF COURT  
CHESTER CO S.C.

|                                                                                                                                                                                                         |   |                                |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|--------------------------------|
| STATE OF SOUTH CAROLINA                                                                                                                                                                                 | ) | THE COURT OF COMMON PLEAS      |
|                                                                                                                                                                                                         | ) |                                |
| COUNTY OF CHESTER                                                                                                                                                                                       | ) | SIXTH JUDICIAL CIRCUIT         |
|                                                                                                                                                                                                         | ) |                                |
| Patricia E. King and Robbie King Jones, as<br>representatives of W.R. King and Ellen<br>King,                                                                                                           | ) | Civil Action No.: 98-CP-12-325 |
|                                                                                                                                                                                                         | ) |                                |
| Plaintiffs,                                                                                                                                                                                             | ) |                                |
|                                                                                                                                                                                                         | ) |                                |
| v.                                                                                                                                                                                                      | ) |                                |
|                                                                                                                                                                                                         | ) |                                |
| Margie B. King and Robbie Patricia Ione<br>King, individually and as co-personal<br>representatives of the Estate of Christopher<br>C. King, deceased and Nelson M. King,<br>Chester Telephone Company, | ) |                                |
|                                                                                                                                                                                                         | ) |                                |
| Defendants.                                                                                                                                                                                             | ) |                                |

ORDER  
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CLERK OF COURT  
CHESTER CO. S.C.  
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Plaintiff Patricia E. King filed a motion for Summary Judgment and Dismissal of Defendants' Amended Counterclaims dated March 25, 2011. Hearing on this motion was stayed pending appeal of a previous order of this court. The motion came on for hearing on August 5, 2014. The parties to the motion, after the hearing, fully briefed the issues, which briefs are of record herein.

In June 2010, the Defendants asserted sixteen (16) amended counterclaims to wit: Restitution and Disgorgement, Accounting, Attachment of Property, Civil Conspiracy, Unjust Enrichment, Action for Partition of Real Property, Trespass to Land, Conversion, Intentional Interference with Contractual Relations, Constructive Trust, Promissory Estoppel, Trespass to Chattel, Breach of Fiduciary Duty of Care, Waste, Appointment of Receiver and Punitive Damages. Because I do not consider Punitive Damages as a separate cause of action but an element of damages of the tort claims, I do not address this as a separate cause of action.

The Defendants in their brief concede that the following counterclaims are moot: Accounting, Attachment to Property, Action for Partition of Real Property and Breach of Fiduciary Duty of Care. This leaves the counterclaims of Restitution and Disgorgement, Civil Conspiracy, Unjust Enrichment, Trespass to Land, Conversion, Intentional Interference with Contractual Relations, Constructive Trust, Promissory Estoppel, Trespass to Chattel and Waste.

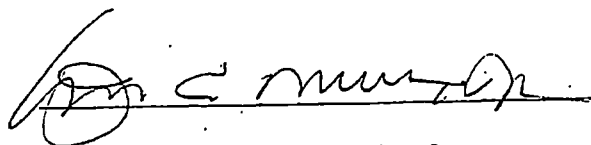
Plaintiff Patricia E. King argues that this court's Order dated March 11, 2011, as to the Accounting Counterclaim was dispositive of these issues. That order reserved all issues, other than the cause of action for Accounting, for a later hearing.

It is clear in our law that summary judgment is a drastic remedy and should be invoked cautiously. All factual inferences from the evidence must be viewed in the light most favorable to the Defendants. Notwithstanding this court's order on the Accounting cause of action, genuine issues of material fact exist as to the remaining causes of action.

The parties are free to argue the effect of this court's prior order at the trial of the remaining causes of action.

As to the causes of action conceded by the Defendants, the Plaintiff's motion is granted. As to the remaining causes of action, the motion is denied.

AND IT IS SO ORDERED this 2<sup>nd</sup> day of March, 2015.



James C. Harrison, Jr. Special Referee

STATE OF SOUTH CAROLINA

COUNTY OF CHESTER

Patricia E. King and Robbie King Jones,  
as representatives of W.R. King and Ellen  
King,

Plaintiffs,

v.

Margie B. King and Robbie Patricia Ione  
King, individually and as co-personal  
representatives of the Estate of  
Christopher C. King, deceased and  
Nelson M. King,

Defendants.

THE COURT OF COMMON PLEAS

SIXTH JUDICIAL CIRCUIT

Civil Action No.: 98-CP-12-325

FINAL ORDER

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CHESTER CO S.C.

#### PROCEDURAL HISTORY

Before this Court are all remaining claims in an aged case with a complex procedural history involving multiple appeals. The Procedural History component contained in the Order of the undersigned on March 7, 2011 (hereinafter "Order Denying Accounting") is incorporated by reference. *See* Order, March 7, 2011. It is noted at the outset that in the present proceedings Robin King Jones was not represented, presented no evidence and made no arguments. Therefore reference hereinafter to Plaintiff or to Plaintiffs refers to Patricia E. King, sometimes referred to hereinafter as "Patricia King".

In June 2010, Defendants filed amended counterclaims and Plaintiff replied shortly thereafter. In their amended counterclaims, the Defendants asserted the following causes of action:

1. Restitution and Disgorgement
2. Accounting
3. Attachment of Property

4. Civil Conspiracy
5. Unjust Enrichment
6. Action for Partition of Real Property
7. Trespass to Land
8. Conversion
9. Intentional Interference with Contractual Relations
10. Constructive Trust
11. Promissory Estoppel
12. Trespass to Chattel
13. Breach of Fiduciary Duty of Care
14. Waste
15. Appointment of Receiver
16. Punitive Damages

*See* Defendants' Counterclaims (Amended) filed June 11, 2010. On August 16, 2010, this court held an evidentiary hearing to determine whether the Defendants were entitled to an accounting. This court denied the Defendants' counterclaim for accounting in its Order Denying Accounting and reserved all other issues for subsequent hearing. Subsequently, Defendants appealed and the South Carolina Court of Appeals upheld this court's Order. *See King v. King*, 2012-UP-365 (Ct. App. June 20, 2012). Defendants filed a petition for Writ of Certiorari to the Supreme Court of South Carolina which was denied by Order dated February 21, 2013. Thereafter the Court of Appeals remanded the case to this court. The Order denying the claim for an accounting is the law of this case. *Judy v. Martin*, 381 S.C. 455, 674 S.E.2d 151 (2009).

By motion dated March 25, 2011, Plaintiffs moved for summary judgment as to Defendants' remaining counterclaims. In their brief, the Defendants conceded that the following counterclaims are moot: Accounting, Attachment of Property, Action for Partition of Real Property, and Breach of Fiduciary Duty of Care. Upon hearing the motion, this court issued an Order filed on March 9, 2015, holding that punitive damages is an element of damages and not a separate tort claim, and holding that the remaining counterclaims for hearing in this case are:

1. Restitution and Disgorgement,
2. Civil Conspiracy,

3. Unjust Enrichment,
4. Trespass to Land,
5. Conversion,
6. Intentional Interference with Contractual Relations,
7. Constructive Trust,
8. Promissory Estoppel,
9. Trespass to Chattel, and
10. Waste.

On April 29, 2015, this court held an evidentiary hearing on these remaining counterclaims. At the close of the evidence offered by Defendants, Plaintiff made motions pursuant to Rule 50(a) SCRCP for directed verdict as to each of the Defendants' remaining claims. The court granted Plaintiff's directed verdict motions dismissing the following counterclaims: Constructive Trust, Trespass to Land, Intentional Interference with Contractual Relations, Trespass to Chattel, and Waste. The court denied Plaintiff's motions for directed verdict as to the following of Defendants' claims:

1. Unjust Enrichment / Restitution and Disgorgement
2. Civil Conspiracy
3. Conversion
4. Promissory Estoppel

While Defendants in their Amended Counterclaims pled Unjust Enrichment and Restitution and Disgorgement as two separate causes of action, Defendants agreed at the April 29, 2015, hearing that this is a cause of action for Unjust Enrichment seeking the remedy of Restitution and Disgorgement.

The Defendants conceded in their proposed order submitted to the court subsequent to the evidentiary hearing that their claims for Conversion and Promissory Estoppel are not viable claims.

This Order therefore disposes of the two remaining counterclaims, Conspiracy and Unjust Enrichment/Resitution and Disgorgment.

## FINDINGS OF FACT

1. The Findings of Fact component contained in the Order Denying Accounting is incorporated by reference as if restated verbatim. *See* Order, March. 7, 2011.
2. The Defendants' Counterclaim for Civil Conspiracy (Fourth Counterclaim) is denied. There is not sufficient evidence in the record to find that the Plaintiffs conspired with each other or any other person to cause injury to the Defendants.
3. Defendants' claims for Unjust Enrichment (Fifth Counterclaim) and Restitution and Disgorgement (First Counterclaim) are not specifically based upon claims that the Plaintiff Patricia King appropriated the goodwill of the business of Christopher King and the name "King's Funeral Home," but the counterclaims appear broad enough for the court to consider these claims in this context and both parties in their proposed orders have made arguments in this regard.
4. Any good will attached to the person of Christopher King, through whom the Defendants base their claims, was extinguished at his death because the professional good will which may have accumulated as a result of community confidence in his skill and ability as a funeral director, does not possess value or constitute an asset separate and apart from his person. The Plaintiffs therefore could not have appropriated any such good will as it was extinguished upon the event of Christopher King's death.
5. The name "King's Funeral Home" is, however, a recognized property right, distinguishable from goodwill, and was an asset owned by Christopher King at the time of his death. That name was inherited by his devisees.



6. Patricia King appropriated the name King's Funeral Home without permission of those who owned it, that is, the devisees of Christopher King.

7. It may be inferred from the entire record that the venerable name Kings' Funeral Home had an established value in the community and that Patricia King realized that value from the time she established her sole proprietorship in December 1998.

8. The establishment of the value of the use by Patricia King of the name King's Funeral Home; which is owned by the devisees of Christopher King, would be difficult if not well nigh impossible and has not been done in this case. Notwithstanding that the business operated by Patricia King at 135 Cemetery Street, Chester, South Carolina, was profitable, there is nothing in the record to establish what amount of any profit generated was a result of the use of the name King's Funeral Home.

9 Defendants have abandoned their claims for Conversion and Promissory Estoppel.

### CONCLUSIONS OF LAW

1. The Conclusions of Law component contained in the Order Denying Accounting is incorporated by reference as if restated verbatim. *See* Order, March 7, 2011.

2 The Defendants have failed to prove by a preponderance of the evidence their claim for civil conspiracy. Civil conspiracy consists of three elements: "(1) a combination of two or more persons, (2) for the purpose of injuring the plaintiff, (3) which causes him special damage. . . . The gravamen of the tort of civil conspiracy is the damage resulting to the plaintiff from an overt act done pursuant to a common design." Gordon v. Busbee, 397 S.C. 119, 136, 344 S.E.2d 822, 831 (Ct. App. 2011).

All three elements of this cause of action are defeated by the facts of this case. Here, there is no combination of people for the purpose of injury, and therefore, no special damages. The record supports that Moses Caldwell had a choice to make: either work for Christopher King's Funeral Home or work for the funeral home operated by Patricia King. There is not sufficient evidence in the record to establish that Caldwell and Patricia King or Patricia King and any other person conspired together for the purpose of injuring the Defendants.

3. The law of the case is that Christopher King was the sole proprietor of the business known as King's Funeral Home. The name King's Funeral Home is a recognized property right that is distinguishable from goodwill and was an asset owned by Christopher King at the time of his death. See Gignilliat v Gignilliat, Savitz & Bettis, L.L.P., 385 S.C. 452, 684 S.E.2d 746 (S.C. 2009). The name under which the sole proprietorship did business was inherited by the devisees of his estate.

4. Unjust Enrichment is established when a party "has and retains benefits or money which in justice and equity belong to another." Dema v. Tenet Physician Servs. -Hilton Head, Inc., 383 S.C. 115, 123, 678 S.E.2d 430, 434 (2009). The remedy for unjust enrichment is restitution. See Sauner v. Pub. Serv. Auth. of S.C. 354 S.C. 397, 409, 581 S.E.2d 161, 167 (2003). To recover restitution in the context of unjust enrichment, a plaintiff must show: (1) he conferred a non-gratuitous benefit on the defendant; (2) the defendant realized some value from the benefit; and (3) it would be inequitable for the defendant to retain the benefit without paying the plaintiff for its value. Campbell v. Robinson, 398 S.C. 12, 24, 726 S.E.2d 221, 228 (Ct. App. 2012). Here, Patricia E. King assumed the non-gratuitous benefit of the name King's Funeral Home, which name the Defendants' predecessor in interest, Christopher King, used for over seventeen years as sole proprietor of his business. It may be inferred from the entire record that the venerable name

Kings' Funeral Home had an established value in the community and Patricia King realized that value from the time she established her sole proprietorship in December 1998 at 135 Cemetery Street, Chester, South Carolina. Patricia King did not pay the Defendants anything for the value of the name King's Funeral Home. It is therefore inequitable for her to retain the benefit when she has paid no value for it. There is no evidence in the record of the value in monetary terms of the name King's Funeral Home. Since, however, equity will not suffer a wrong to be without a remedy, Key Corp. Capital, Inc. v. County of Beaufort, 360 S.C. 513, 602 S.E. 2d 104 (Ct. App. 2004), the remedy here is *in specie* restitution, that is, to restore the very thing taken. See Dan D. Dobbs, Handbook on the Law of Remedies Section 4.4 (1973). To accomplish this remedy, the Court will require Plaintiff Patricia King to cease using the name King's Funeral Home.

5. The Court is aware of the fact that Defendants have not specifically requested *in specie* restitution, but I find that this remedy is reasonably pled by Defendants in their prayer "for other and further relief as is equitable in the circumstances and (as) this Court deems just and appropriate." In any event Rule 54 (c) states "every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his pleadings." See Battery Homeowners Association v. Lincoln Financial Resources, 309 S. C. 247, 422 S. E. 2d 93 (1992); Perry v. Smalls, 308 S.C. 259, 417 S.E. 2d 611 (Ct. App. 1992); Sossamon v. Peeler, 291 S.C. 256, 353 S.E. 2d 152 (Ct. App. 1987); Jones v Bennett, 348 S.C. 96, 348 S.E 2d 365 (Ct. App. 1986);

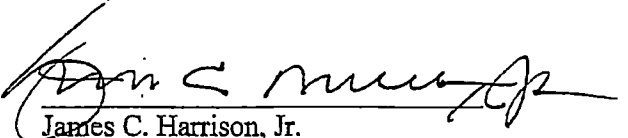
4. The devisees of Christopher King are therefore authorized to use the name King's Funeral Home.

**THEREFORE, IT IS ORDERED:**

- a. The Defendants' counterclaim for unjust enrichment is granted and the Plaintiff Patricia E. King is hereby ordered to cease using the name King's Funeral Home.
- b. The devisees of Christopher King are authorized to use the name King's Funeral Home;
- c. The Defendants' counterclaim for civil conspiracy is denied.
- d. The undersigned will issue a separate order or orders or orders as to costs including the costs of the court reporter and special referee.
- e. The undersigned retains jurisdiction to address any other issues relevant to the Order of Reference.

AND IT IS SO ORDERED, this the 17<sup>TH</sup> day of September 2015.

Columbia, South Carolina

  
James C. Harrison, Jr.  
Special Referee

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CLERK OF COURT  
PRESTON CO. S.C.

STATE OF SOUTH CAROLINA

COUNTY OF CHESTER

Patricia E. King and Robbie King Jones,  
as representatives of W.R. King and Ellen  
King,

Plaintiffs,

v.

Margie B. King and Robbie Patricia Ione  
King, individually and as co-personal  
representatives of the Estate of  
Christopher C. King, deceased and  
Nelson M. King,

Defendants.

) THE COURT OF COMMON PLEAS

) SIXTH JUDICIAL CIRCUIT

) Civil Action No.: 98-CP-12-325

) ORDER ON PLAINTIFF'S  
) RULE 59 (e) SCRCP MOTION

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CLERK OF COURT  
CHESTER CO S.C.

After consideration of the submissions and agreements of the parties, the Plaintiff's Motion to Alter or Amend my Final Order filed September 21, 2015, is granted in part as follows:

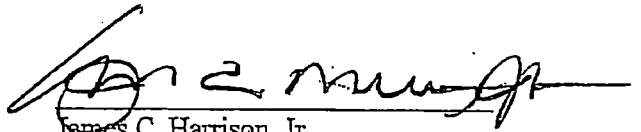
1. Paragraph four (4) which begins on Page six (6) of my Conclusions of Law is amended by adding the following words "in the State of South Carolina" to the end of the last sentence so the sentence will read: "To accomplish this remedy, the Court will require Plaintiff Patricia E. King to cease using the name King's Funeral Home in the State of South Carolina."
2. The paragraph numbering on page seven (7) which includes a second paragraph four (4) is a scrivener's error and therefore paragraph number four (4) on page seven (7) is changed to paragraph six (6).
3. Paragraph a of the Ordering provisions on page eight (8) of the Final Order is amended by adding the words "in the State of South Carolina no later than sixty (60)

days from the filing of this order." so the sentence will read: "a. The Defendant's counterclaim for unjust enrichment is granted and the Plaintiff Patricia E. King is hereby ordered to cease using the name King's Funeral Home in the state of South Carolina no later than sixty (60) days from the filing of this order."

4. The remaining provisions of the Final Order shall remain unchanged.

AND IT IS SO ORDERED, this the 6<sup>th</sup> day of October, 2015.

Columbia, South Carolina

  
James C. Harrison, Jr.  
Special Referee

FILED

2015 OCT -9 A 11:40

CLERK OF COURT  
CHESTER CO. S.C.

STATE OF SOUTH CAROLINA  
COUNTY OF CHESTER

IN THE COURT OF  
COMMON PLEAS OF  
THE SIXTH JUDICIAL  
CIRCUIT

Patricia E. King and  
Robbie King Jones, as Representatives of  
W.R. King and Ellen King  
PLAINTIFFS,

vs.

COMPLAINT

Margie B. King and Robbie Patricia  
Ione King,  
Individually, and as Co-Personal  
Representatives of Estate of  
Christopher C. King, Deceased and  
Nelson M. King and

Chester Telephone Company and  
Branch Banking and Trust (BB&T)  
DEFENDANTS.

The above named Plaintiffs, Patricia E. King and Robbie King Jones, allege as follows:

1. The Plaintiff, Patricia E. King, is a citizen and resident of Chester County, South Carolina.
2. The Plaintiff, Robbie King Jones, is a citizen and resident of North Carolina.
3. The Defendants, Margie B. King, Robbie Patricia Ione King, and Nelson M. King are citizens and residents of Chester County South Carolina. The late Christopher C. King died a resident of Chester County, South Carolina on September 1, 1997. On information and belief Margie B. King and Robbie Patricia Ione King were appointed and qualified as Co-Personal Representatives of the Estate of Christopher C. King by the Probate Court for Chester County, South Carolina.

4. Defendant Chester Telephone Company is a duly authorized business enterprise engaged in the telecommunications business in the State of South Carolina.
5. Defendant Branch Banking and Trust Company (BB&T) is a corporation duly organized and authorized to engage in the business of Banking and Finance in the State of South Carolina.
6. This Court has subject matter jurisdiction.

#### STATEMENT OF FACTS

6. On information and belief, the Plaintiff's parents, W.R. King and Ellen King, purchased Ayres Funeral Home in the 1930's or 40's and subsequently operated this business under the name "King's Funeral Home" until their deaths in 1975 and 1987, respectively. King's Funeral Home was never incorporated.
7. W.R. King died intestate in 1975, and Ellen King died intestate in 1987. Under the applicable intestacy laws of the State of South Carolina, the ownership of King's Funeral Home ultimately passed in equal shares to the surviving children of W.R. King and Ellen King, including the Plaintiffs and the late Christopher C. King.
8. All the children of W.R. King and Ellen King, including the Plaintiffs and the late Christopher C. King, worked for the King's Funeral Home at one time or the other. After the death of Ellen King in 1987, the King children continued to operate the business as Kings Funeral Home. The Plaintiff, Patricia King and the late Christopher C. King were both licensed as Funeral Home Directors pursuant to the applicable state laws.



9. As a part of her responsibilities within the King's Funeral Home, in addition to actually directing funerals on site, the Plaintiff Patricia E. King maintained the books for the funeral home and was authorized to sign checks and pay bills for the business.
10. On or about July 31, 1992, Christopher C. King and the Plaintiffs gave a promissory note in the amount of Two Hundred twenty-five Thousand Dollars (\$225,000.00) to Mechanics and Farmers Bank, in Charlotte, North Carolina (loan) which indebtedness was secured by three insurance policies, two time accounts and two parcels of land, one being a house and lot located at 4332 Hyde Park Drive, Charlotte, North Carolina, owned by the Plaintiff, Robbie King Jones, and the other a building and lot located at 135 Cemetery Street, in Chester, South Carolina, owned by the Plaintiff, Patricia E. King and from which King's Funeral Home has operated since 1980.
11. The Plaintiffs signed the promissory note and allowed their properties to serve as collateral for the loan in an effort to assist their brother Christopher C. King in obtaining the loan to resolve a foreclosure action against a failed car dealership business of his. The late Christopher C. King received the sole benefit of the proceeds of the loan.
12. The Plaintiffs and Christopher C. King entered into an oral agreement (the agreement) whereby Christopher C. King was responsible for making the monthly payments on the loan and ultimately, a balloon payment on the loan in the amount of approximately One Hundred eighty-seven Thousand, Seven Hundred Seventy Six and 85/100 (\$187,776.86) which became due on July 30, 1997, (the balloon payment).

- 4
13. For a substantial period of time, and in partial performance of the agreement, Christopher C. King made the loan payments to Mechanics and Farmers Bank in accordance with the terms of the agreement.
  14. On information and belief, for a period of time preceding his death On September 1, 1997, Christopher C. King was mentally incompetent as a result of medications he was taking for terminal cancer, and the Defendants, Robbie Patricia Ione King and Margie B. King, acted as his attorney-in-fact by durable power of attorney, dated February 27, 1997 and May 3, 1997, respectively.
  15. After Christopher C. King became mentally incompetent, the Defendants, Robbie Patricia Ione King and Margie B. King, failed and refused to make the necessary payments in connection with the loan, and in particular failed and refused to make the Balloon Payment, which became delinquent, thus subjecting the collateral of the Plaintiffs to foreclosure.
  16. Due to the failure of Christopher C. King or the Defendants acting as his attorney-in-fact, to make the loan payments as required under the loan agreement, the Plaintiffs were forced to obtain a new loan from Mechanics and Farmers Bank (the new loan) in order to refinance the loan and prevent foreclosure.
  17. The Plaintiffs are presently indebted to Mechanics and Farmers Bank in the amount of approximately One Hundred eighty-six Thousand Dollars (\$186,000.00) as a result of their refinancing of the old loan.
  18. Immediately prior to the death of Christopher C. King, at a time when the plaintiffs are informed and believe that Christopher C. King had been rendered mentally incompetent by his cancer medications, he substantially conveyed all of the assets of

his estate to his wife, the Defendant, Margie B. King by deeds dated August 20, 1997 in the office of the Clerk of Court for Chester County, South Carolina. The Plaintiffs are informed and believes that this deed was executed in an effort to avoid the claims of any creditors of the Estate of Christopher C. King.

19. In June of 1997, Plaintiff Patricia E. King discovered that her name had been removed as an authorized signatory from the bank account of King's Funeral Home at Branch Banking and Trust (BB&T), and subsequently the telephone for the King's Funeral Home business which rings in her residence was turned off by the telephone company on the urging of the Defendants without Plaintiff's consent, thereby denying her access to the good will built over the years from the time her parents ran the King's Funeral Home business till the time she ran it in concert with the late Christopher C. King.

### COUNT I

20. The preceding allegations are hereby realleged and incorporated by reference as if fully set forth herein, to the extent not inconsistent herewith.
21. By failing to make monthly payments and the Balloon Payment on the loan as required under the terms of the agreement, Christopher C. King and the Defendants, Margie B. King and Robbie Patricia Ione King, acting as his agents breached said agreement.
22. As a direct result of the said breach, the Plaintiffs have been damaged in that they were required to incur the expense of refinancing the loan and now remain responsible for the outstanding balance of the new loan.

### COUNT II

### RECOURSE AGAINST ACCOMMODATION PARTY

23. The preceding allegations are hereby realleged and incorporated by reference as if fully set forth herein, to the extent not inconsistent herewith.
24. The Plaintiffs were accommodation parties with respect to the loan pursuant to either Section 36-3-415 of the Code of Laws of South Carolina, 1976 as amended or Section 25-3-419 of the General Statutes of North Carolina.
25. As accommodation parties, the Plaintiffs are entitled to be reimbursed by the Defendants, Margie B. King and Robbie Patricia Ione King, both individually and as Co-Personal Representatives of the Estate of Christopher C. King, for the balance on the loan that they paid off and for all additional expenses incurred by the Plaintiffs in obtaining the new loan.

### COUNT III

#### ACCOUNTING AND DISTRIBUTION OF PROFITS

26. The preceding allegations are hereby realleged and incorporated by reference as if fully set forth herein, to the extent not inconsistent herewith.
27. The Plaintiffs have made demands but have not received any distributions of profits from King's Funeral Home since Christopher C. King became mentally incompetent. The Plaintiffs have also been denied access to the books and records of King's Funeral Home.
28. On information and belief, the Defendants, Margie B. King, Robbie Patricia Ione King and Nelson M. King are still receiving distributions from King's Funeral Home to the exclusion of the Plaintiffs.

29. By virtue of their ownership interest in King's Funeral Home, the Plaintiffs are entitled to have the Defendant's account for the profits of King's Funeral Home, to inspect the books and records of King's Funeral Home, and to have their proportional share of the profits distributed to them.

#### COUNT IV

##### APPOINTMENT OF RECEIVER

30. The preceding allegations are hereby realleged and incorporated by reference as if fully set forth herein, to the extent not inconsistent herewith.

31. The Plaintiffs are informed and believes that the Defendants, Margie B. King, Robbie Patricia Ione King and Nelson M. King have operated King's Funeral Home since the death of Christopher C. King for their sole benefit to the exclusion of the Plaintiffs and the other children of W.R. King and Ellen King, and that the Defendants have diverted the revenue of King's Funeral Home to their own uses.

32. The Plaintiffs are informed and believes that there is a likelihood the assets and revenues of King's Funeral Home will be dissipated during the pendency of this litigation and thus are entitle to have a receiver appointed to manage the financial affairs of King's Funeral Home and to protect the ownership interests of the Plaintiffs and the other children of W.R. King and Ellen King.

#### COUNT V

##### INJUNCTION

33. The preceding allegations are hereby realleged and incorporated by reference as if fully set forth herein to the extent not inconsistent herewith.

34. The Plaintiffs are informed and believes that there is a substantial risk that the business and assets of King's Funeral Home will be irreparably harmed if the Defendants are allowed to continue operating the business for their own benefit during the pendency of this action.
35. Plaintiffs are informed and believe that they are entitled to a temporary restraining order, and preliminary and permanent injunctions to enjoin the Defendants from removing or directing to their own use any of the assets of King's Funeral Home, including but not limited to any mail, monies in the bank accounts, pre-need contracts, and customer accounts and requiring that all revenues generated by the business be held in escrow during the pendency of the action.
36. Plaintiff further prays this court for a temporary and permanent injunction, enjoining the Defendants from expropriating any assets of King's Funeral Home including the good will cultivated and gained over the years by transferring the phone number or expropriating the phone number the business has come to be identified by.

**COUNT VI**

**FRAUDULENT CONVEYANCE PURSUANT**

**TO S.C. CODE SECTION 27-23-10**

37. The Preceding allegations are hereby realleged and incorporated by reference as if fully set forth herein, to the extent not inconsistent herewith.
38. On information and belief, the deed from Christopher C. King to Margie B. King dated August 19, 1997 and recorded August 20, 1997 in the office of the Clerk of Court for

Chester County, South Carolina (the Deed) was executed with fraudulent intent and in an attempt to avoid the claims of creditors against the Estate of Christopher C. King.

39. On information and belief, the Deed was executed without the receipt of valuable consideration by Christopher C. King.

40. On information and belief, in light of the mental capacity of Christopher C. King during the months preceding his deaths or may have been subject to undue influence and coercion in executing the deed.

41. On information and belief, the Defendants caused the deed to be executed with willful, wanton or reckless disregard of the Plaintiffs' rights and in all attempt to avoid the claims of creditors against the Estate of Christopher C. King.

42. At the time the Deed was executed, Christopher C. King was indebted to the Plaintiffs in various amounts for the claims set forth in this Complaint, all of which claims are hereby incorporated by reference.

43. Pursuant to Section 62-1-106 of the Code of Laws of South Carolina, 1976 as amended, any person injured by an act of fraud "used to avoid or circumvent the provisions or purposes of this probate code" is entitled to obtain appropriate relief against the perpetrators of the fraud.

44. Pursuant to Section 62-3-710 of the Code of Laws of South Carolina, 1976 as amended, the personal representative of an estate has the authority to avoid any transfer of property made by the decedent which would be void or voidable as against the decedents creditors.

45. The Plaintiffs are informed and believes that they have been damaged by the transfer of property from Christopher C. King to Margie B. King by way of the Deed in that there

are insufficient assets in the Estate of Christopher C. King to satisfy the Plaintiff's claims against the said estate.

46. Margie B. King became the attorney-in-fact of the late Christopher C. King in February of 1997, and in August of the same year the late Christopher C. King conveyed substantially all his Estate by a deed to the same Margie B. King.
47. The Plaintiffs are informed and believes that pursuant to Section 27-23-10 of the Code of laws of South Carolina 1976 as amended, they are entitled to an Order finding the Deed to be null and void as an attempt to avoid the claims of the Plaintiffs and other creditors of the Estate of Christopher C. King, and that they are entitled to punitive damages in such amount as shall be proven at trial.

#### COUNT VII

##### COMMON LAW FRAUDULENT CONVEYANCES

48. The preceding allegations are hereby realleged and incorporated by reference as if fully set forth herein, to the extent not inconsistent herewith.
49. The Defendant Margie B. King was not a good faith purchaser for value of the real estate conveyed pursuant to the Deed.
50. Because the Deed was executed in an attempt to avoid the claims of creditors of the estate of Christopher C. King, including the claims of the Plaintiffs, the Plaintiffs are informed and believe that they are entitled to an Order finding the Deed null and void, and that they are entitled to punitive damages in such amount as shall be proven at trial.

#### COUNT VIII



### BREACH OF TRUST

51. The preceding allegations are hereby realleged and incorporated by reference as if fully set forth herein, to the extent not inconsistent herewith.
52. A defacto partnership existed between Christopher C. King and all of the other children of W.R. King and Ellen King, including the Plaintiffs for the operation of King's Funeral Home.
53. Christopher C. King and the Defendants Margie B. King and Robbie Patricia Ione King, acting as his agents, owed a fiduciary duty to the other partners of the partnership not to appropriate assets of the partnership to their own uses and personal benefits.
54. By failing to distribute any profits of the partnership to the other partners Christopher C. King and the Defendants breached their fiduciary obligation to the Plaintiffs and the other children of W.R. and Ellen King.
55. The Plaintiffs have been damaged by this breach of fiduciary duty, in that they have not been allowed to share in the profits of the partnership.

### COUNT IX

#### CONVERSION

56. The preceding allegations are hereby realleged and incorporated by reference as if fully set forth herein, to the extent not inconsistent herewith.
57. The assets of King's Funeral Home belong to the children of W.R. King and Ellen King, by virtue of such assets passing by intestacy at the death of W.R. and Ellen King.

58. The Defendants, Margie B. King, Robbie Patricia Ione King and Nelson M. King have executed all rights of ownership over the assets of King's Funeral Home in willful, wanton and reckless disregard of the Plaintiff's rights in the partnership.

59. The Plaintiffs have been damaged by the Defendants conversion of the assets of the King's Funeral Home.

### COUNT X

#### FAILURE TO PAY RENT

60. The preceding allegations are hereby realleged and incorporated by reference as if fully set forth herein, to the extent not inconsistent herewith.

61. On or about July 16, 1980, the Plaintiff Patricia E. King and Christopher C. King entered into a lease agreement (the Lease Agreement) whereby Christopher C. King leased the property located at 135 Cemetery Street, Chester, South Carolina from the Plaintiff in order to operate King's Funeral Home at said location.

62. On or about August 20, 1997, pursuant to the terms of the lease agreement, the Plaintiff Patricia E. King terminated the lease by delivering written notice to Christopher C. King and the Defendants.

63. Despite the Plaintiff Patricia E. King's termination of the lease agreement, the Defendants, Margie B. King, Robbie Patricia Ione King and Nelson M. King have continued to use the above described property for the operation of King's Funeral Home and have failed to pay any rent for the uses of the premises.

64. The Plaintiff Patricia E. King is informed and believes that she is entitled to receive back rent for the period of time the Defendants have occupied the premises following the termination of the lease agreement.

**COUNT XI****EJECTMENT**

65. The preceding allegations are hereby realleged and incorporated by reference as if fully set forth herein, to the extent not inconsistent herewith.
66. The Plaintiff Patricia E. King is the owner of the premises located at 135 Cemetery Street, Chester County, South Carolina.
67. A landlord-tenant relationship existed between the Plaintiff Patricia E. King and Christopher C. King, as evidenced by the lease agreement.
68. By letter dated August 20, 1997, the plaintiff Patricia E. King terminated the lease agreement, but the Defendants, Margie B. King, Robbie Patricia Ione King, and Nelson M. King, have remained in possession of the premises.
69. The Plaintiff Patricia E. King is informed and believes that she is entitled to have the Defendants evicted from the said premises on the ground that the lease agreement has ended.

**COUNT XII****DEFENDANT B B & T TORTIOUS****INTERFERENCE WITH BUSINESS**

70. As a partner of the king's Funeral Home business, the Plaintiff Patricia E. King has always been one of signatory for the Partnership bank account.
71. As a signatory to the partnership bank account, the Plaintiff had access to the bank account, and account balance.
72. On or about June 1997, plaintiff Patricia E. King's name as a signatory was intentionally and willfully deleted as a signatory to the King's Funeral Home account.

73. The Bank did not consult Plaintiff Patricia E. King before deleting her name from the King's Funeral Home account.
74. On numerous occasions since June 1997, plaintiff Patricia E. King has approached the bank to put her name back as a signatory to the funeral home accounts, and on each occasions the bank has refused to honor this request.
75. Plaintiff Patricia E. King is informed and believes that Defendants Margie B. King, Robbié Patricia Ione King and Nelson M. King have conspired with the bank to interfere with her business relationship with the King's Funeral Home.
76. Plaintiff Patricia E. King is informed and believes that the Bank (B B & T) has violated the fiduciary relationship owed to her as a signatory without notice and continuing to refuse to put her back as a signatory to King's Funeral Home account.
77. Plaintiff is informed and believes that the blatant action of (B B & T) has damaged her to an amount to be proven at trial and this continuous act of B B & T in refusing to put her back as a signatory will further damage business relationship with King's Funeral Home irreparably.

### COUNT XIII

#### TORTOUOS INTERFERENCE WITH BUSINESS ON THE PLAINTIFFS BY CHESTER TELEPHONE COMPANY

79. The preceding allegations are hereby realleged and incorporated by reference as if fully set forth herein, to the extent not inconsistent herewith.
80. As a partner of King's Funeral Home, Plaintiff has the King's Funeral Home assigned telephone number, assigned to her residence. This allows Plaintiff to monitor the

transactions of King's Funeral Home from her residence, for the protection of Plaintiff and this Plaintiff class. This phone number had been maintained at this residence for over 30 years.

81. On or about summer 1998, the telephone number at Plaintiff's residence which allows Plaintiff to monitor the transactions of Plaintiff's partnership (King's Funeral Home) was disconnected from ringing at Plaintiff's residence.
82. The assigned number of King's Funeral Home which is Plaintiff's only medium of monitoring the transactions of the funeral home no longer rings at Plaintiff Patricia E. King's residence, and only rings at the funeral home.
83. Plaintiff is informed and believes that the Chester Telephone Company was approached by the Defendants Margie B. King, Robbie Patricia Ione King and Nelson M. King to effect the disconnection of the telephone from ringing at the residence of the Plaintiff Patricia E. King.
84. The Chester Telephone Company did not bother to get permission of the Plaintiff before disconnecting the phone from ringing at her residence.
85. Plaintiff is informed and believes that the Chester Telephone Company by disconnecting the King's Funeral business telephone number from ringing at her residence without her consent, has interfered tortuously with her business relationship.
86. Plaintiff Patricia E. King, is informed and believes that the actions and conduct of Chester Telephone Company in disconnecting her business telephone without notice and consent has damaged her to an amount to be proven at the trial.

#### COUNT XIV

REMEDIAL WRIT OF MANDAMUS,  
COMPELLING DEFENDANTS B B & T  
AND CHESTER TELEPHONE COMPANY

87. The preceding allegations are hereby realleged and incorporated by reference as if fully set forth herein, to the extent not inconsistent herewith.
88. Plaintiff Patricia E. King as a representative of the siblings of W.R. King and Ellen King outside the Defendant class maintained in her residence the business phone of King's Funeral Home's assigned phone number to monitor the daily business transactions of the funeral home for over 30 years, this has been the mode of operation of the King's Funeral Home business.
89. By agreement, Plaintiff was maintained as a signatory of the King's Funeral Home bank account giving her access to the financial transactions of the business and allowing her to perform the duties of bookkeeper among her other duties with the King's Funeral Home.
90. On information and belief, on or about the summer of 1997, the Defendants Margie B. King, Robbie Patricia Ione King and Nelson M. King, in conjunction with the Bank (BB&T) conspired to delete Plaintiff as a signatory of the King's Funeral Home bank account and continues to do so.
91. On information and belief, on or about the Summer of 1998 Defendants Margie B. King and Robbie Patricia Ione King conspired with the telephone company to disconnect the King's Funeral Home business phone from ringing at Plaintiff Patricia E. King's residence.

92. Plaintiffs are informed and believe that they are entitled to a writ of mandamus compelling the Defendant Bank (B B & T) to restore the business status quo from Summer of 1997, and telephone company (Chester Telephone Company) to conform to the partnership status quo prior to the summer of 1998.

WHEREFORE, the Plaintiffs pray for relief against the Defendants as follows:

- a. For a judgment against the Defendants Margie B. King, Robbie Patricia Ione King, both individually and as Co-Personal Representatives of the Estate of Christopher C. King, for the amount of the outstanding balance of the new loan and all additional incidental expenses incurred by the Plaintiffs in obtaining the new loan.
- b. For an Order requiring the Defendants to account for the profits generated by king's Funeral Home since the incompetence of Christopher C. king and to distribute to the Plaintiffs their proportionate share of the said profits.
- c. For an Order appointing a receiver to manage the financial affairs of King's Funeral Home.
- d. For a Temporary Restraining Order and preliminary and permanent injunction to enjoin the Defendants Margie B. King, Robbie Patricia Ione King and Nelson M. king from removing any of the assets of king's Funeral Home, including but not limited to any mails, monies in bank accounts, pre-need contracts, and customer accounts and requiring that all subsequent revenues generated by King's Funeral Home be held in escrow during the pendency of this litigation.
- e. For an Order finding the conveyance made by the Deed from Christopher C. King to Margie B. King to be null and void to the extent necessary to satisfy any judgment of the Plaintiffs against the Estate of Christopher C. King.

- f. For a judgment against the Defendants Margie B. King and Robbie Patricia Ione King individually and as Co-Personal Representatives of the Estate of Christopher C. King, in an amount to be determined for the failure of Christopher C. King or the Defendants acting as his agents, to distribute profits to the Plaintiffs, as defacto partners in the business of the King's Funeral Home.
- g. For a Judgment against the Defendants Margie B. King, Robbie Patricia Ione King and Nelson M. King, in an amount to be determined for the rent due the Plaintiff Patricia E. King for the use of real estate owned individually by her for the operation of King's Funeral Home.
- h. For an Order evicting the Defendant's from the property owned by the Plaintiff Patricia E. King and located at 135 Cemetery Street, Chester, South Carolina.
- i. For an Order against Defendants Bank Branch Banking and Trust (B B & T) for its tortuous interference with Plaintiff's business relationship in an amount to be determined at trial.
- j. For an Order against Defendant Telephone Company (Chester Telephone Company) for its intentional tortuous interference with Plaintiff's business relationship in an amount to be determined at trial.
- k. For an Order against Defendant telephone company (Chester Telephone Company) for its intentional tortuous interference with plaintiff's business relationship in an amount to be determined at trial.
- l. For a writ of mandamus compelling both Defendants bank (B B & T) and telephone company (Chester Telephone Company) to maintain the King's Funeral Home business status quo prior to the summer of 1997.



m. For punitive damages, the cost of this action, including reasonable attorney fees and such other further relief as this Court deems just and proper.

Respectfully Submitted,



**THE CROMARTIE LAW FIRM**

Cletus K. Okpalaeke

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Columbia, South Carolina 29204

(803) 256-3462

Attorneys for the Plaintiff(s)

Columbia, South Carolina

Dated NOV 12, 1998

STATE OF SOUTH CAROLINA )  
COUNTY OF CHESTER )

IN THE COURT OF COMMON PLEAS  
SIXTH JUDICIAL CIRCUIT

C/A No.: 98-CP-12-325

Patricia E. King and Robbie  
King Jones, as representatives of  
W.R. King and Ellen King

Plaintiffs,

ANSWER & COUNTERCLAIM

vs.

Margie B. King and Robbie  
Patricia Ione King,  
individually and as co-personal  
representatives of the Estate  
of Christopher C. King, deceased  
and Nelson M. King, Chester  
Telephone Company and Branch  
Banking & Trust (BB&T),

Defendants.

FILED  
1998 DEC 14 A 9 46  
SOUTH CAROLINA  
SIXTH JUDICIAL CIRCUIT

The Defendants, Margie B. King and Robbie Patricia Ione King, individually and as co-personal representatives of the Estate of Christopher C. King, deceased and Nelson M. King (the King Defendants) not waiving but specifically reserving their rights to be heard under all Rule 12 Motions, answering the Complaint herein, would respectfully show unto this Court that:

**FOR A FIRST DEFENSE**

1. Any allegations not specifically admitted or qualified are hereby denied.
2. These Defendants lack sufficient information to admit or deny the allegations of Paragraph One of the Complaint.
3. These Defendants lack sufficient information to admit or deny the allegations of Paragraph Two of the Complaint.
4. These Defendants admit the allegations of Paragraph Three of the Complaint.

5. These Defendants lack sufficient information to admit or deny the allegations of Paragraph Four of the Complaint.

6. These Defendants lack sufficient information to admit or deny the allegations of Paragraph Five of the Complaint.

7. These Defendants admit the allegations of Paragraph Six of the Complaint.

8. The allegations contained in the second Paragraph numbered 6 are denied as worded.

9. In response to the allegations of Paragraph Seven of the Complaint, these Defendants deny the allegations of Paragraph Seven as worded and would allege that on information and belief that W.R. King died with a will in 1975. These Defendants also deny the allegations in the Complaint which allege that the Funeral Home passed in equal shares to the surviving children of W.R. King and Ellen King. These Defendants allege that W.R. King and Ellen King made an *inter vivos* gift of the Funeral Home to Christopher C. King.

10. These Defendants deny the allegations of Paragraph Eight of the Complaint that state that all of the children of W.R. King and Ellen King including the Plaintiffs worked for King's Funeral Home from time to time. These Defendants would allege that only Christopher C. King operated King's Funeral Home and that none of the other children of W.R. King and Ellen King were involved in the running of King's Funeral Home. On information and belief, these Defendants admit that Patricia E. King is a licensed funeral home director pursuant to applicable law.

11. These Defendants deny the allegations of Paragraph Nine of the Complaint and would only admit that portion of Paragraph Nine which alleges that Plaintiff Patricia E. King was authorized to sign checks for the limited purposes of making lease payments.

12. These Defendants deny the allegations of Paragraph Ten of the Complaint as worded.

13. These Defendants are without sufficient information to admit or deny the allegations of Paragraph Eleven of the Complaint and deny the same.

14. These Defendants are without sufficient information or knowledge to form an opinion or belief as to the allegations contained in Paragraphs 12 and 13 of the Complaint and therefore deny the same and demand strict proof thereof.

15. These Defendants deny the allegations of Paragraph Fourteen of the Complaint that state that Christopher C. King was mentally incompetent up until the time of his death. These Defendants admit that Robbie Patricia Ione King and Margie B. King were granted powers of attorney for Christopher C. King.

16. These Defendants deny the allegations of Paragraph Fifteen of the Complaint.

17. On information and belief, these Defendants deny the allegations of Paragraph Sixteen of the Complaint and would allege that the Plaintiffs, as co-makers of the promissory note, were equally liable on the note and that their refusal to make payments on the loan required them to obtain a new loan.

18. These Defendants lack sufficient information to respond to the allegations of Paragraph Seventeen of the Complaint.

19. These Defendants deny the allegations of Paragraph Eighteen of the Complaint that state that Christopher C. King was mentally incompetent. These Defendants deny the remaining allegations of Paragraph Eighteen of the Complaint.

20. These Defendants deny the allegations of Paragraph Nineteen of the Complaint as worded.

21. The allegations contained in Paragraph Twenty of the Complaint are denied.

22. These Defendants deny the allegations of Paragraph Twenty-One of the Complaint in that the Plaintiffs were co-makers on the promissory note and were equally liable on the note and that Margie B. King and Robbie Patricia Ione King, individually, can not be held liable on the note.

23. These Defendants deny the allegations of Paragraph Twenty-Two of the Complaint.

24. The allegations contained in Paragraph Twenty-Three of the Complaint are denied.
25. These Defendants deny the allegations of Paragraph Twenty-Four and Twenty-Five of the Complaint that allege the Plaintiffs were accommodation parties. These Defendants would further allege that the Plaintiffs were co-makers and were primarily liable on the note in that capacity.
26. The allegations contained in Paragraph Twenty-Six of the Complaint are denied.
27. These Defendants deny the allegations of Paragraph Twenty-Seven of the Complaint.
28. The allegations of Paragraph Twenty-Eight of the Complaint are denied as worded.
29. These Defendants deny the allegations of Paragraph Twenty-Nine of the Complaint.
30. These Defendants deny the allegations of Paragraphs Thirty through Sixty of the Complaint.
31. These Defendants admit only so much of Paragraph Sixty-One that states the Plaintiff Patricia E. King and Christopher C. King entered into a lease agreement.
32. These Defendants deny the allegations of Paragraph Sixty-Two through Sixty-Nine of the Complaint.
33. These Defendants deny the remaining allegations of the Complaint.

**FOR A SECOND DEFENSE**  
*(Inter Vivos Gift)*

34. The parents of Christopher C. King, W.R. King and Ellen King, gifted all ownership interests and rights in King's Funeral Home to Christopher C. King. This gift was made during the lifetime of W.R. King and Ellen King. W.R. King and Ellen King intended to make the gift and in fact delivered the gift to Christopher C. King and Christopher C. King accepted the gift.
35. These Defendants would allege that at the time of the death of W.R. King and at the time of the death of Ellen King, King's Funeral Home was owned and operated by Christopher C.

King and that the ownership and all interests in King's Funeral Home did not pass by intestacy to the children of W.R. King and Ellen King.

36. Therefore neither Plaintiff or any of the other children of W.R. and Ellen King, except for Christopher C. King, are entitled to any interest or distribution from the operation of King's Funeral Home.

**FOR A THIRD DEFENSE**  
(Statute of Limitations)

37. Plaintiffs' claim to rights in the Funeral Home stem from their allegation that W.R. King and Ellen King died intestate and that they derive their rights in the Funeral Home through intestacy.

38. W.R. King died in 1975 and Ellen King died in 1987.

39. Because the Plaintiffs' claim their right to an ownership interest in the Funeral Home is based on the deaths of W.R. King and Ellen King, respectively, and the intestacy laws, their claims are time barred by the statute of limitations pursuant to S.C. Code § 62-2-801 et seq.

**FOR A FOURTH DEFENSE**

40. Plaintiffs have failed to state a cause of action for accounting and distribution of profits in that there is no *de facto* partnership nor do the Plaintiffs have an ownership interest in King's Funeral Home because of the *inter vivos* gift.

41. Plaintiffs' cause of action for accounting and distribution of profits fails to state a claim upon which relief can be granted and should be dismissed pursuant to Rule 12(h)(2) of the *South Carolina Rules of Civil Procedure*.

**FOR A FIFTH DEFENSE**

42. These Defendants do hereby plead the doctrine of Laches as a complete bar to any recovery on the part of Plaintiffs herein.

**FOR A SIXTH DEFENSE BY WAY OF COUNTERCLAIM  
(Intentional Interference With Contractual Relations)**

43. On information and belief, the Plaintiff Patricia King has intercepted mail from insurance companies addressed to King's Funeral Home and sought to receive insurance checks designated for King's Funeral Home.

44. On information and belief, Plaintiff Patricia King has taken letterhead from King's Funeral Home and inserted an address other than the address of the Funeral Home so that insurance companies would send the checks for funeral expenses to Plaintiff Patricia King rather than King's Funeral Home.

45. On information and belief, the Plaintiff Patricia E. King has come on the premises of King's Funeral Home and attempted to deal with potential customers and current customers and divert sales from King's Funeral Home to her own personal use and has interfered with these Defendants' contractual relations with these existing and potential customers.

46. As a result of Plaintiff Patricia King's actions, she has interfered with these Defendants' contractual relations with these insurance companies and customers of King's Funeral Home.

47. As a direct and proximate result of Plaintiff Patricia King's action, these Defendants have suffered damages for which they are entitled to recover.

**FOR A SEVENTH DEFENSE BY WAY OF COUNTERCLAIM  
(Conversion)**

48. These Defendants reallege and restate the previous allegations as if restated verbatim herein.

49. By intercepting insurance proceeds designated for King's Funeral Home, Plaintiff Patricia King has converted funds designated for these Defendants to her own personal use.

50. As a direct and proximate result of Plaintiff Patricia King's actions, these Defendants have suffered and will continue to suffer damages.

51. These Defendants are entitled to recover damages from Plaintiff Patricia King.

**FOR AN EIGHTH DEFENSE BY WAY OF COUNTERCLAIM**  
**(Action for Partition of Real Property)**

52. These Defendants reallege and restate the allegations above as if restated verbatim herein.

53. W.R. King and Ellen King owned several parcels of real property in South Carolina.

54. On information and belief, these parcels passed by intestacy to the children of W.R. King and Ellen King.

55. On information and belief, Plaintiff Patricia King has collected income from these properties to the exclusion of Christopher C. King, who had a one-ninth interest in these properties.

56. These Defendants, as the devisees of Christopher C. King's will, are entitled to receive the income owed to Christopher C. King both prior to and after his death.

57. These Defendants demand that all property held by Plaintiff Patricia King that she derived from the estate of W.R. King and Ellen King should be partitioned and sold and the interest divided among the heirs of W.R. King and Ellen King.

58. Plaintiff Patricia King has converted these funds to her own personal use and, as a direct and proximate result of her actions, inflicted damage on these Defendants to which they are entitled to recover.



FOR AN NINTH DEFENSE BY WAY OF COUNTERCLAIM

59. These Defendants reallege and restate the previous allegations as if restated verbatim herein.

60. On information and belief, Christopher C. King owned the real property located at 135 Cemetery Street, Chester, South Carolina in fee simple upon which King's Funeral Home sits.

61. On information and belief, sometime in 1979 or 1980, Christopher C. King deeded this real property to Plaintiff Patricia E. King in return for proceeds from a loan that Plaintiff Patricia E. King obtained on behalf of Christopher C. King.

62. On information and belief Christopher C. King and Plaintiff Patricia E. King had an agreement whereby Plaintiff Patricia E. King would lease the property back to Christopher C. King. In return, Christopher C. King would make lease payments to Plaintiff that would be applied to pay off the loan that Plaintiff obtained on behalf of Christopher C. King.

63. On information and belief, Plaintiff Patricia E. King agreed to deed the real property at 135 Cemetery Street back to Christopher C. King once the loan was paid off.

64. On information and belief, Christopher C. King paid off this loan in 1985.

65. Plaintiff Patricia E. King failed to return the property to Christopher C. King.

66. Plaintiff Patricia E. King and Christopher C. King were brother and sister, and, as such, had a fiduciary relationship and a close relationship of trust.

67. On information and belief, a constructive trust was imposed by law based on the agreement between Christopher C. King and Plaintiff Patricia E. King and also based on their fiduciary relationship and relationship of trust.

68. On information and belief, Plaintiff has held this property at 135 Cemetery Street in constructive trust for the benefit of Christopher C. King and now for the Estate of Christopher C. King.

69. Plaintiff Patricia E. King will be unjustly enriched if she is allowed to retain the real property at 135 Cemetery Street.

70. Defendants request an Order from the Court imposing a constructive trust on the property and that it be returned to the Estate of Christopher C. King or held in trust for the benefit of his estate.

**FOR A TENTH DEFENSE BY WAY OF COUNTERCLAIM  
(Promissory Estoppel)**

71. These Defendants reallege and restate the previous allegations as if restated verbatim herein.

72. The Plaintiff made a promise to Christopher C. King that she would deed the property back to Christopher C. King once he paid the loan off.

73. Christopher C. King relied on this promise, to his detriment, by deeding the property to Plaintiff Patricia E. King.

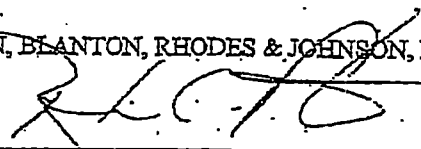
74. Plaintiff Patricia E. King knew or should have known that Christopher C. King would take some action in reliance on her promise.

75. Christopher C. King suffered damage as a result of Plaintiff's failure to deed the property back to Christopher C. King.

76. The Estate of Christopher C. King is entitled to the return of the real property located at 135 Cemetery Street, Chester, South Carolina on the basis of promissory estoppel.

WHEREFORE, the Defendants would move to dismiss this case based on the foregoing defenses and ask that judgment be entered in favor of the Defendants and that they recover damages both actual and punitive on their counterclaims in an amount to be determined by a jury and for such other and further relief as the Court may deem necessary and just.

MCCUTCHEEN, BLANTON, RHODES & JOHNSON, L.L.P.

BY: 

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1414 Lady Street  
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ATTORNEYS FOR THE DEFENDANTS MARGIE B. KING,  
PATRICIA IONE KING, INDIVIDUALLY AND AS CO-  
PERSONAL REPRESENTATIVES OF THE ESTATE OF  
CHRISTOPHER C. KING, DECEASED, AND NELSON M. KING

Columbia, South Carolina  
December 11<sup>th</sup>, 1998

STATE OF SOUTH CAROLINA  
COUNTY OF CHESTER

IN THE COURT OF COMMON PLEAS  
FOR THE SIXTH JUDICIAL CIRCUIT

Case No.: 1998-CP-12-00325

Patricia E. King and Robbie King Jones, as  
representatives of W.R. King and Ellen King,

Plaintiffs,

v.

Margie B. King and Robbie Patricia lone  
King, Individually and as Co-personal  
representatives of the Estate of Christopher  
C. King, deceased, and Nelson M. King,

Defendants.

COUNTERCLAIMS  
(Amended)

2008 JUN 11 P 3:22  
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CLERK OF COURT  
SIXTH JUDICIAL CIRCUIT  
SOUTH CAROLINA

The Defendants Margie B. King and Robbie Patricia lone King, individually and as co-personal representatives of the Estate of Christopher C. King, deceased, and Nelson M. King (hereinafter as, "the Kings") aver that the main purpose to the Kings Counterclaims is to obtain an accounting, restitution and disgorgement and the Kings, who are not waiving, but specifically reserving all rights herein, hereby Amend their Counterclaims, pursuant to Rule 15(a) of the South Carolina Rules of Civil Procedure and would respectfully show unto this Court:

**FOR A FIRST COUNTERCLAIM**  
(Restitution and Disgorgement)

1. Defendants re-allege the contents of their Counterclaims as if set forth herein verbatim.
2. Plaintiff Patricia E. King and Plaintiff Robbie King Jones (hereinafter together as the, "Plaintiffs") have collected, utilized and retained income from the funeral home business in an improper and unlawful manner, thereby depriving the Kings from their rightful access thereto.
3. As a result, the Kings are entitled to restitution and the Plaintiffs should be ordered to disgorge those funds.

**FOR A SECOND COUNTERCLAIM**  
(Accounting)

4. Paragraphs one through three above, are re-alleged, as if set forth herein verbatim.
5. The May 18, 2001 Order of the Honorable Lee S. Alford (hereinafter as, "Order"), granted an Accounting in this matter, as to the, "Original Funeral Home Business."

Specifically, the Order held that the, "...Special Referee to direct the accounting in this matter as to the original funeral home business..." and "...there shall be an accounting, as stated above [in the Order], directed by the Special Referee." (Order, pg. 2).

6. The costs of the accounting must be borne by the Plaintiffs, who brought this action in their capacities as "representatives of W.R. King and Ellen King."

**FOR A THIRD COUNTERCLAIM**

(Attachment of Property)

(§ 15-19-10, *et seq.*, S.C. Code Ann. (1976, as amended))

7. Paragraphs one through six above, are re-alleged, as if set forth herein verbatim.

8. The Kings alleges that the Plaintiffs owe damages to the Kings, in the amount of at least \$500,000.00, which damages are *inchoate* and reasonably expected to increase therefrom.

9. Upon information and belief, Plaintiffs have assigned, disposed of or secreted or is about to assign, dispose of or secrete property with intent to defraud the Kings.

10. A Bond of \$250.00 should be required in this matter.

11. Although the debt, described hereinabove, is not yet liquidated and due, the Kings, upon information and belief, reasonably believe that the Plaintiffs have assigned, disposed of, or secreted or are about to assign, dispose of, or secrete property with intent to defraud the Kings, and this Court should issue its Warrant of Attachment as if such debt was now due and payable.

12. Upon the Affidavit described hereinabove, this Court should cause the Warrant of Attachment to be directed to any Sheriff or Constable of Chester County, South Carolina to attach and safely keep all the property of the Plaintiffs, within Chester County, South Carolina, or so much thereof as may be sufficient to satisfy the Kings' *inchoate* demand of at least \$500,000.00, together with attorneys fees, costs and expenses.

**FOR A FOURTH COUNTERCLAIM**

(Civil Conspiracy)

13. Paragraphs one through twelve above, are re-alleged, as if set forth herein verbatim.

14. From the time period beginning with the date the Plaintiffs took possession of the funeral home business, through the date of these presents and continuing, Plaintiffs met with and conspired with each other to receive and retain an unearned and unlawful income from the funeral home business and otherwise. In furtherance of that conspiracy the Plaintiffs, *inter alia*, filed this legal action in 1998, after the death of Christopher C. King.

15. The Plaintiffs conspired together, against the economic interest of the Kings to improperly and unlawfully retain the income from the funeral home business and otherwise.

16. The Kings were damaged by the Plaintiffs' actions, and the Kings suffered special damages including, but not limited to, their loss of use of income and damages to both their personal and business reputations, in an amount to be determined at trial.

**FOR A FIFTH COUNTERCLAIM**

(Unjust Enrichment)

17. Paragraphs one through sixteen above, are re-alleged, as if set forth herein verbatim.

18. The Plaintiffs have collected, utilized and retained income from the funeral home business in an improper and unlawful manner, from the time period beginning with the date the Plaintiffs took possession of the funeral home business, through the date of these presents and continuing, thereby depriving the Kings from their rightful access thereto.

19. The Plaintiffs will be unjustly enriched if they are allowed to retain the unlawful and improper income derived from the funeral home business.

20. As a result, the Kings are entitled to restitution and the Plaintiffs should be ordered to disgorge those funds.

**FOR A SIXTH COUNTERCLAIM**

(Action for Partition of Real Property)

21. Paragraphs one through twenty above, are re-alleged, as if set forth herein verbatim.

22. W.R. King and Ellen King, *inter alia*, owned the funeral home business located in Chester County, South Carolina.

23. On information and belief, the funeral home business passed by intestacy to the children of W.R. King and Ellen King.

24. The Kings, as the devisees of Christopher C. King's Will, are entitled to receive the income from the funeral home business, which is owed to Christopher C. King both prior to and after his death.

25. On information and belief, the Plaintiffs have collected income from the funeral home business, to the exclusion of Christopher C. King, who had a one-ninth interest in these properties, from the time period beginning with the date the Plaintiffs took possession of the funeral home business, through the date of these presents and continuing.

26. The Kings demand that the funeral home business, held by the Plaintiffs, which was derived from the estate of W.R. King and Ellen King, should be partitioned, in kind, or sold and the interest divided among the heirs of W.R. King and Ellen King.

27. The Kings demand for a petition, in kind or by judicial sale, is fair and equitable to all parties in this action.

**FOR A SEVENTH COUNTERCLAIM**  
(Trespass to Land)

28. Paragraphs one through twenty-seven above, are re-alleged, as if set forth herein verbatim.

29. On information and belief, the Plaintiffs have committed several trespasses to the funeral home business owned by the Kings, from the time period beginning with the date the Plaintiffs took possession of the funeral home business, through the date of these presents and continuing.

30. As a direct and proximate result of the actions of the Plaintiffs, the Kings have suffered damages and will continue to suffer damages.

31. The Kings are entitled to recover damages from the Plaintiffs, in an amount to be determined at trial.

**FOR A EIGHTH COUNTERCLAIM**  
(Conversion)

32. Paragraphs one through thirty-one above, are re-alleged, as if set forth herein verbatim.

33. The Plaintiffs improperly and without permission, retained the income derived from the funeral home business, from the time period beginning with the date the Plaintiffs took possession of the funeral home business, through the date of these presents and continuing.

34. Upon information and belief, the Kings believe that the Plaintiffs, immediately after the death of Christopher C. King, converted the income derived from the funeral home business to their own use. The Plaintiffs wrongfully retained the income derived from the funeral home business and illegally used the income for themselves, from the time period beginning with the date the Plaintiffs took possession of the funeral home business, through the date of these presents and continuing.

35. The Plaintiffs' actions are inconsistent with the Kings' possession of the income derived from the funeral home business and subversive to the Kings' rights to the income derived from the funeral home business. Furthermore, the Plaintiffs interfered with the Kings' rights to the income derived from the funeral home business and caused a disturbance to the Kings rights to the income derived from the funeral home business.

36. The Plaintiffs' refusal came after the Kings' demand for the Plaintiffs to surrender the income derived from the funeral home business, and the Plaintiffs' refusal was without justification or excuse.

37. The Plaintiffs' conversion was willful and intentional and done with the knowledge of the Kings rights to the income derived from the funeral home business and the Kings are thereby entitled to an enhancement of damages of interest and loss of use thereof, in an amount to be determined at trial, plus consequential damages and court costs, which damages are *inchoate* at the time of this filing.

38. The Kings were damaged by the Plaintiffs in an amount to be determined at trial.

39. The Plaintiffs' exhibited malice, ill will, a conscious indifference to the rights of the Kings and a reckless disregard of the Kings' rights and therefore the Kings are entitled to punitive damages.



**FOR A NINTH COUNTERCLAIM**

(Intentional Interference With Contractual Relations)

40. Paragraphs one through thirty-nine above, are re-alleged, as if set forth herein verbatim.

41. On information and belief, the Plaintiffs have intercepted mail from insurance companies addressed to the funeral home business and received insurance checks designated for the funeral home business.

42. On information and belief, the Plaintiffs have taken letterhead from the funeral home business and inserted an address other than the address of the funeral home business so that insurance companies would send the checks for funeral home business expenses to the Plaintiffs rather than directly to the funeral home business.

43. On information and belief, the Plaintiffs have come on the premises of the funeral home business to deal and interact with potential customers and current customers and divert sales from the funeral home business to the Plaintiffs' personal use and have interfered with the Kings' contractual relations with these existing and potential customers.

44. As a result of the Plaintiffs' actions, they have interfered with the Kings' contractual relations with these insurance companies and customers of the funeral home business.

45. As a direct and proximate result of the Plaintiffs' action, the Kings have been damages in an amount to be determined at trial.

**FOR A TENTH COUNTERCLAIM**

(Constructive Trust)

46. Paragraphs one through forty-five above, are re-alleged, as if set forth herein verbatim.

47. On information and belief, Christopher C. King owned the real property located at 135 Cemetery Street, Chester, South Carolina in fee simple upon which the funeral home business is located.

48. On information and belief, sometime in 1979 or 1980, Christopher C. King deeded this real property to the Plaintiffs in return for proceeds from a loan that the Plaintiffs obtained on behalf of Christopher C. King.

49. On information and belief Christopher C. King and the Plaintiffs had an agreement whereby the Plaintiffs would lease the property back to Christopher C. King. In return, Christopher C. King would make lease payments to the Plaintiffs that would be applied to pay off the loan that the Plaintiffs obtained on behalf of Christopher C. King.

50. On information and belief, the Plaintiffs agreed to deed the real property located at 135 Cemetery Street, Chester, South Carolina, upon which the funeral home business is located, back to Christopher C. King once the loan was paid off.

51. On information and belief, Christopher C. King paid off this loan in 1995 and the Plaintiffs failed to return the funeral home business property to Christopher C. King.

52. The Plaintiff Patricia King and Christopher C. King were brother and sister, and, as such, had a fiduciary relationship and a close relationship of trust.

53. The Kings are informed and believe that the Plaintiffs hold the funeral home business solely in their names through bad faith, subterfuge, artifice, abuse of confidence and/or breach of their fiduciary duty and that it would be inequitable for the Plaintiffs to retain all of the funeral home business solely in their name.

54. The Kings are informed and believe that they are entitled to the imposition of a constructive trust on the proceeds of any sale of the property by the Plaintiffs as described hereinabove, from the time period beginning with the date the Plaintiffs took possession of the funeral home business, through the date of these presents and continuing.

55. On information and belief, a constructive trust was imposed by law based on the agreement between Christopher C. King and the Plaintiffs and also based on their fiduciary relationship and relationship of trust.

56. On information and belief, the Plaintiffs have held the real property located at 135 Cemetery Street, Chester, South Carolina, upon which the funeral home business is located in constructive trust for the benefit of Christopher C. King and now for the Estate of Christopher C. King.

57. The Plaintiffs will be unjustly enriched if they is allowed to retain the real property located at 135 Cemetery Street, Chester, South Carolina, upon which the funeral home business is located.

**FOR A ELEVENTH COUNTERCLAIM**  
(Promissory Estoppel)

58. Paragraphs one through fifty-seven above, are re-alleged, as if set forth herein verbatim.

59. The promise of the Plaintiffs to Christopher C. King that they would deed the property back to Christopher C. King once he paid the loan off was unambiguous in its terms.

60. Christopher C. King reasonably relied upon the promise of the Plaintiffs, to his detriment, by deeding the property to the Plaintiffs.

61. The reliance by Christopher C. King was expected and foreseeable.

62. Christopher C. King and the Estate of Christopher C. King suffered damage as a result of the Plaintiffs' failure to deed the property back to Christopher C. King, and sustained ascertainable economic damages and injury in reliance on the Plaintiffs' promise and Christopher C. King and the Estate of Christopher C. King are entitled to the return of the real property located at 135 Cemetery Street, Chester, South Carolina, upon which the funeral home business is located.

**FOR A TWELFTH COUNTERCLAIM**  
(Trespass to Chattel)

63. Paragraphs one through sixty-two above, are re-alleged, as if set forth herein verbatim.

64. On information and belief, the Plaintiffs have committed several trespasses to chattel owned by the Kings and have converted and continue to convert and trespass various items of personal property owned by the Kings to their own use.

65. As a direct and proximate result of the actions of the Plaintiffs, the Kings have suffered damages and will continue to suffer damages.

66. The Kings have been damaged by the Plaintiffs and are entitled to recover in an amount to be determined at trial.

**FOR A THIRTEENTH COUNTERCLAIM**  
(Breach of Fiduciary Duty of Care)

67. Paragraphs one through sixty-six above, are re-alleged; as if set forth herein verbatim.

68. The Plaintiffs owed a Fiduciary Duty of Care and Loyalty to the Kings.

69. The Plaintiffs actions, as described in more detail hereinabove, violated the Plaintiffs' duty of care and loyalty.

70. The Kings were prominently damages by the Plaintiffs actions and are entitled to an accounting, restitution and disgorgement.

**FOR A FOURTEENTH COUNTERCLAIM**  
(Waste)

71. Paragraphs one through seventy above, are re-alleged, as if set forth herein verbatim.

72. Christopher C. King and the Estate of Christopher C. King and his successors and heirs, including the Kings, had a pecuniary interest in the funeral home business.

73. The Plaintiffs engaged in destruction, misuse, alteration or neglect of the funeral home business while the y Plaintiffs are in possession of the funeral home business in the prejudice of the interests in the funeral home business to Christopher C. King and the Estate of Christopher C. King and his successors, including the Kings.

74. As a result of the Plaintiffs destruction, misuse, alteration or neglect of the funeral home business while the Plaintiffs are in possession of the property, to the prejudice of the interest in the funeral home business of Christopher C. King and the Estate of Christopher C. King and his successors and heirs, including the Kings, the Kings have suffered damages in an amount to be determined at trial.

**FOR A FIFTEENTH COUNTERCLAIM**  
(Appointment of Receiver)

(§ 15-65-10 (1), S.C. Code Ann. (1976, as amended))

75. Paragraphs one through seventy-four above, are re-alleged, as if set forth herein verbatim.

76. The Kings can and have, established a right to the funeral home business and the income thereof, which is now in the possession of an adverse party and the property, or its rents and profits, are in danger of being lost or materially injured or impaired.

77. Accordingly, the Kings are entitled to have a receiver appointed for the funeral home business and otherwise.

**FOR A SIXTEENTH COUNTERCLAIM**  
(Punitive Damages)

78. Paragraphs one through seventy-seven above, are re-alleged, as if set forth herein verbatim.

79. The Kings are entitled to an award of punitive damages on appropriate Causes of Action, to be proven at trial.

**AS TO DEFENDANTS COUNTERCLAIMS**, a Judgment against the Plaintiffs, individually and/or jointly and severally where applicable for actual, consequential and punitive damages on all causes of action in an amount to be determined at trial;

An award of attorney's fees and costs of this action as provided by law or contract; and

Such other and further relief as is equitable in the circumstances and this Court deems just and appropriate.

**AUSTIN & ROGERS, P.A.**

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Counsel for Defendants

June 11, 2010  
Columbia, South Carolina

FILED

2010 JUN 11 P 3:22

CLERK OF COURT  
CHESTER COUNTY

|                                |   |                              |
|--------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA        | ) | IN THE COURT OF COMMON PLEAS |
|                                | ) | SIXTH JUDICIAL COURT         |
| COUNTY OF CHESTER              | ) | DOCKET NO: 1998-CP-12-00325  |
|                                | ) |                              |
| PATRICIA E. KING AND ROBBIE    | ) |                              |
| KING JONES, AS                 | ) |                              |
| REPRESENTATIVES OF W.R. KING   | ) |                              |
| AND ELLEN KING,                | ) |                              |
|                                | ) |                              |
| PLAINTIFFS,                    | ) |                              |
|                                | ) |                              |
| VS.                            | ) |                              |
|                                | ) |                              |
| MARGIE B. KING AND ROBBIE      | ) | HEARING                      |
| IONE KING, INDIVIDUALLY AND AS | ) |                              |
| CO-PERSONAL REPRESENTATIVES    | ) |                              |
| OF THE ESTATE OF CHRISTOPHER   | ) |                              |
| C. KING, DECEASED, AND NELSON  | ) |                              |
| M. KING,                       | ) |                              |
|                                | ) |                              |
| DEFENDANTS.                    | ) |                              |

THE WITHIN HEARING WAS TAKEN BEFORE WENDY SHANNON SULLIVAN, A NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA, COMMENCING AT THE HOUR OF 10:10 A.M. ON MONDAY, AUGUST 16TH, 2010, AT THE OFFICE OF HARRISON & RADEKER, P.A., 923 CALHOUN STREET, COLUMBIA, SOUTH CAROLINA 29201.

APPEARANCES

PRESIDING JUDGE

JAMES C. HARRISON, JR., ESQUIRE  
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REPORTED BY

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1           P R O C E E D I N G S:

2   THE COURT: All right, gentlemen and ladies. This  
3   is the case of Patricia E. King and Robbie King  
4   Jones as representatives of W.R. King and Ellen  
5   King, Plaintiffs versus Margie B. King and Robbie  
6   Patricia Ione King, individually and as co-  
7   personal representatives of the estate of  
8   Christopher C. King, deceased, and Nelson M. King,  
9   and Chester Telephone Company. I do not think  
10  Chester Telephone Company is still a party in this  
11  case. I don't know.

12       MR. ROGERS: They were removed, previously,  
13  by an action --

14       THE COURT: This case is 98-CP-12-00325.  
15  It's a Chester County case in the Sixth Judicial  
16  Circuit. The parties are represented -- the  
17  Defendants or counter-claimants are Tim Rogers and  
18  Richard Whitt on behalf of those parties. And Ken  
19  Wingate and John Tyler represent the Plaintiffs in  
20  this case. This case has a long procedural  
21  history which I will not relate at this point in  
22  time, because I don't think it's necessary.

23       This case is referred to the Special Referee,  
24  originally dated May 18th, 2001, by The Honorable  
25  (unintelligible). That order was subsequently

1 defined, I suppose would be the correct word for  
2 it, because of the procedural and court rules in  
3 this case. That order then was -- a subsequent  
4 order was issued by the Honorable Brooks P.  
5 Goldsmith dated July 29, 2010.

6 Part of the ruling in that case said the  
7 order of reference filed on May 30, 2001 -- let's  
8 see, if I clarify it, is set forth above and that  
9 is, it's set forth on the July 29, 2010 order.  
10 This case is referred to the Special Referee for  
11 ruling on final judgment. In the appeals -- these  
12 are two of the Court of Appeals, our Supreme  
13 Court, pursuant to the rules.

14 I have read the submissions of the parties.  
15 They came in -- I guess it was Friday and so  
16 forth. The issue before the Court today is the  
17 merits trial on the issue of entitlement by the  
18 Defendants to an accounting or an account. I  
19 really would prefer to say that. And so, we will  
20 take testimony on that issue today, and the Court  
21 will rule on that issue.

22 There are other claims made by the counter  
23 claimants, which are not going to be heard today,  
24 and will be adjourned, or continued until a later  
25 date. It may be that how the Court rules on this

1 accounting issue will affect those claims. I  
2 don't know that at this point. But I do say that  
3 the only thing we're hearing today is the account  
4 issue. And the other claims are being deferred  
5 until a later trial.

6 The only other thing I would say, and I say  
7 this only because there has been no written order  
8 on this. There was a motion made by the  
9 Defendant, a Motion for Equitable Relief  
10 accounting attachment, which the Court denied  
11 without prejudice. So I mention that for the  
12 record. There is no order issued on that. I do  
13 contemplate a written order, but I don't believe  
14 that I have requested that either of the parties  
15 draft such order. But I mention that for the  
16 record, that there had been no such order at this  
17 point in time.

18 But that is the status of the motions that  
19 are pending in this case, or were pending. They  
20 were motions by the Defendant and they have been  
21 denied without prejudice. I got some idea from  
22 the submissions this weekend that the Defendants  
23 were planning to address the attachment and  
24 appointment of receiver again.

25 My emails back to the parties indicated that

1 I didn't see those motions as being outstanding  
2 for hearing today, and that the only issue that we  
3 would be hearing is the issue of accounting as  
4 pled in the amended counterclaims. So I mention  
5 that. If anybody wants to have a different view  
6 of that, or argue that in any way, I'll be more  
7 than happy to hear you on it. But that is  
8 procedurally where I see that we are.

9 This case has a long history. It is time for  
10 it to be concluded in some fashion. I have no  
11 thoughts that it will be concluded today because  
12 there are other matters. There are, possibly,  
13 appeals to go. And so, I only say that,  
14 hopefully, this will move this now-fairly-ancient  
15 case along and hopefully move it towards  
16 disposition.

17 All right. Now, having said that, is there  
18 anything else that we need to state for the  
19 record, Mr. Rogers, since y'all are the moving  
20 party?

21 MR. ROGERS: Nothing from us, Your Honor.

22 MR. WHITT: You don't want to make a motion  
23 on the witnesses?

24 MR. ROGERS: Well, let me ask you this: Might  
25 it be possible that Ken and I step out and have a

1 two-minute confab with you, before we go forward?

2 THE COURT: I have no problem with that.

3 MR. WINGATE: I don't mind that.

4 (OFF THE RECORD)

5 MR. ROGERS: Nothing further from us at this  
6 point, Your Honor.

7 THE COURT: Okay. Thank you, very much. All  
8 right. Mr. Rogers, call your first witness.

9 MR. WHITT: Your Honor, we'll call Robbie  
10 King.

11 THE COURT: Ms. King, if you'll come around,  
12 raise your right hand, and be sworn in by the  
13 court reporter.

14 WHEREUPON, BEING DULY SWORN AND CAUTIONED TO SPEAK THE  
15 TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, ROBBIE  
16 KING BOYD TESTIFIED AS FOLLOWS:

17 DIRECT EXAMINATION

18 BY MR. WHITT:

19 Q Ms. King, would you state your name for the record?

20 A Yes. My name is Robbie Patricia Ione King Boyd.

21 Q And will you state your address and where you are  
22 currently located?

23 A 4180 Marley Court, Rock Hill, South Carolina 29732.

24 Q And Ms. King, what is your relationship to Christopher  
25 C. King, deceased?

1 A Father. He was my father.

2 Q And what was Christopher's relationship to W.R. King  
3 and Ellen King?

4 A He was their son.

5 Q Okay. You are aware that we're here today to talk  
6 about an accounting; is that correct?

7 A Correct.

8 Q And I'd like to ask you, that in the period of time  
9 since Patricia had the funeral home business --

10 THE COURT: Let me -- I'm going to listen to  
11 every bit of testimony while we're here. I know  
12 no procedural facts about what happened here,  
13 none. So if you jump into an accounting, I'm  
14 going to have no background. I don't know what  
15 happened here. I mean, I don't know what happened  
16 as far as the elders Kings or the funeral home  
17 after that.

18 And I mean, present it any way you want to,  
19 but you have to remember, I have no background in  
20 this case other than these procedural motions that  
21 you've made. You can jump into an accounting, but  
22 I think you've got to lay a basis for it in the  
23 beginning. I mean, there has to be a  
24 relationship.

25 If that's where you're headed, I mean, great.



1 Head wherever you need to go. I don't mean to be  
2 breaking up where you plan to testify, but I want  
3 to let you know that I have no background,  
4 whatsoever, as far as this case is concerned. And  
5 I will need that if I'm to rule on this case.

6 I do not regard, as I have told y'all in the  
7 past, the original order of reference to have --  
8 it may have required an accounting, or it may have  
9 sent an accounting to this Court back then. But  
10 the facts are completely changed around since  
11 then. And so, we are here to litigate the  
12 necessity of accounting. And I know that y'all  
13 have argued in the past that that order of  
14 reference also had statements in it regarding an  
15 accounting. But I thought that we had dispensed  
16 of those during the motion period. In any event,  
17 go ahead.

18 BY MR. WHITT:

19 Q Ms. King, tell us about the funeral home business, who  
20 owned it to start with, and how it came to the state  
21 that we're in now.

22 A Okay. I just know that my father moved -- well, he had  
23 a business at 135 Cemetery Street in Chester, South  
24 Carolina, King's Funeral Home.

25 Q And he ran it until his death. And what happened at

1 his death?

2 MR. WINGATE: Objection. Your Honor, leading  
3 question.

4 THE COURT: Sustained.

5 MR. WHITT: Well, Your Honor, it's going to  
6 be tough to --

7 THE COURT: Sustained.

8 THE WITNESS: Well, yes. And he died in --

9 THE COURT: Wait a minute. Is there a  
10 question on the table?

11 BY MR. WHITT:

12 Q Well, tell us the history of the funeral home business,  
13 as you understand it, if you know.

14 A Okay. I know my grandparents had a funeral home, Ellen  
15 and William King. And it was originally located at 129  
16 Cemetery Street.

17 THE COURT: 129?

18 THE WITNESS: Originally at 129 Cemetery  
19 Street. And I don't know the exact year.

20 THE COURT: 129 what?

21 THE WITNESS: 129 Cemetery Street.

22 THE COURT: Okay.

23 THE WITNESS: And in the 80's, my father --

24 THE COURT: That was your father's -- I mean,  
25 pardon me.

1 THE WITNESS: My grandparents.

2 THE COURT: Okay.

3 THE WITNESS: Ellen and William King were my  
4 grandparents, but they were Christopher's parents,  
5 mother and father.

6 BY MR. WHITT:

7 Q Tell us, if you know, who owned the funeral home after  
8 your father passed away.

9 A I always thought my father.

10 Q After he passed away?

11 A Oh, after he passed away?

12 THE COURT: When did her father pass away?

13 THE WITNESS: He died in 1997. And at that  
14 point, my Aunt Pat, she came in and evicted us  
15 from the funeral home. And we haven't been able  
16 to go on the premises, receive any income, or any  
17 type of contact at that business, whatsoever.

18 THE COURT: Let me understand what you just  
19 said. Your grandparents owned a funeral home. Is  
20 that what you said?

21 THE WITNESS: Correct. They owned a funeral  
22 home.

23 THE COURT: At 129 Cemetery. Is that what  
24 you said?

25 THE WITNESS: Cemetery. C-E-M-E-T-E-R-Y.

1 Yes. And my father later relocated --

2 THE COURT: Your father, Christopher King?

3 THE WITNESS: Correct. He later relocated to  
4 135.

5 THE COURT: He relocated?

6 THE WITNESS: Correct.

7 THE COURT: He relocated what?

8 THE WITNESS: Well, the original building was  
9 at 129, then he moved to 135 Cemetery Street. And  
10 he built a building from the ground up.

11 THE COURT: He built --

12 THE WITNESS: A funeral home.

13 THE COURT: Built where?

14 THE WITNESS: 135 Cemetery Street.

15 THE COURT: And when did he begin operating  
16 that funeral home?

17 THE WITNESS: I know it was in the 80's.

18 THE COURT: In the 80's?

19 THE WITNESS: I don't know the exact year.

20 THE COURT: And that was at 135 Cemetery?

21 THE WITNESS: 135 Cemetery Street.

22 THE COURT: And the funeral home of your  
23 grandparents was at 129 Cemetery; is that correct?

24 THE WITNESS: Yes.

25 THE COURT: All right.

1 THE WITNESS: And at my father's death, my  
2 Aunt Pat evicted my mother and brothers. And we  
3 haven't received any -- we have no contact with  
4 the business.

5 THE COURT: At your father's death, what  
6 happened, as far as your aunt?

7 THE WITNESS: She evicted.

8 THE COURT: She evicted --

9 THE WITNESS: Right.

10 THE COURT: She evicted who?

11 THE WITNESS: My mother, my brothers, me --

12 THE COURT: Okay. Fill in a gap for me.

13 THE WITNESS: Okay.

14 THE COURT: Your father died in the 1980's.

15 THE WITNESS: My father died September 1st,  
16 1997.

17 THE COURT: Okay. And so, he ran a funeral  
18 home at 135 Cemetery from some time in the 1980's?  
19 Is that what you said?

20 THE WITNESS: No. He ran 129 Cemetery  
21 Street, and then he relocated to 135 Cemetery  
22 Street.

23 THE COURT: And so, you say he ran the  
24 funeral home at 135 Cemetery --

25 THE WITNESS: 129 and 135, correct.

1 THE COURT: He ran the funeral home at both  
2 places?

3 THE WITNESS: Right. He wants to know the  
4 origin, and I went back to the origin. The origin  
5 is 129 Cemetery Street. That's where my  
6 grandparents initially started the business. Then  
7 it was relocated.

8 THE COURT: Okay. Who relocated it?

9 THE WITNESS: To 135 Cemetery Street.

10 THE COURT: Who did? Who relocated it?

11 THE WITNESS: When you say, who relocated it  
12 -- my father. I was a child. So I know he moved  
13 to 135 Cemetery Street. I can remember when he  
14 ran 129 Cemetery Street.

15 THE COURT: Did any business continue to run  
16 at 129 Cemetery Street?

17 THE WITNESS: No, sir. When 135 Cemetery  
18 Street opened, 129 Cemetery Street ceased.

19 THE COURT: Okay. So your father relocated  
20 that some time in the 80's and he died in 1997?

21 THE WITNESS: Correct. And we were evicted.  
22 He died September 1st --

23 THE COURT: Okay. Would you please explain a  
24 little more about -- you were evicted --

25 THE WITNESS: Okay.

1 THE COURT: -- by your Aunt Patricia?

2 THE WITNESS: Right. She did an eviction  
3 through the Magistrate's Court and we had to --

4 THE COURT: I'm sorry. Can you speak a  
5 little louder?

6 THE WITNESS: She did an eviction through the  
7 Magistrate's Court.

8 THE COURT: Yes, ma'am. When was that?

9 THE WITNESS: Around December of 1998.

10 THE COURT: What happened around December of  
11 1998?

12 THE WITNESS: We were evicted from the  
13 business.

14 THE COURT: Who is we?

15 THE WITNESS: My mother, my father --

16 THE COURT: Who was running the business at  
17 that time?

18 THE WITNESS: Well, Mr. Caldwell. We had  
19 trusted him because that's who was the funeral  
20 director of the business. So he was still there.  
21 I have a brother, Nelson King, who is a funeral  
22 director. But Moses Caldwell stayed. Nelson  
23 King, the funeral director, was evicted. Margie  
24 King, funeral directress, was evicted. John King  
25 -- at the time, I think he was a funeral director.

1 He was evicted. I might have been an apprentice  
2 at the time, and I was evicted. I'm Robbie King  
3 Boyd. I was evicted. All my siblings and my  
4 mother were all evicted from the business, the  
5 premises. We were told --

6 THE COURT: That was when?

7 THE WITNESS: December of 1998.

8 THE COURT: December of 1998?

9 THE WITNESS: Correct.

10 THE COURT: By the Magistrate?

11 THE WITNESS: By Patricia King through the  
12 Magistrate.

13 THE COURT: Okay. Did your Aunt Patricia  
14 work for the funeral home?

15 THE WITNESS: Not to my knowledge. She's an  
16 attorney in Charlotte, North Carolina, and she had  
17 a funeral home in Charlotte, North Carolina. She  
18 never participated in any form of the business at  
19 that time, that I could see. Because I was a  
20 teacher in D.C. My father got sick. I relocated  
21 back home to help him.

22 THE COURT: When?

23 THE WITNESS: In 1993 or 4. I moved back  
24 because he called. He wasn't feeling well, so we  
25 rode up to Michigan with my Aunt over there. We



1           went to see her son and he diagnosed my father  
2           with cancer. At that point we came back home, and  
3           he was trying to run the funeral business, and get  
4           his business in order. And that's how I became  
5           co-personal representative of the estate, because  
6           my mom was still teaching at the time. So at that  
7           point, I never did see my Aunt Patricia  
8           participate in business. It was Mr. Caldwell, who  
9           is sitting over there, the other guys that worked  
10          around the funeral home, my brothers, me,  
11          my mom --

12                 THE COURT: Okay. Be specific. Who worked  
13          in the funeral home?

14                 THE WITNESS: Nelson King --

15                 THE COURT: Nelson King.

16                 THE WITNESS: John King --

17                 THE COURT: Who is he?

18                 THE WITNESS: My brother.

19                 THE COURT: Okay. And John King? That's  
20          also your --

21                 THE WITNESS: Brother. William King, Marty  
22          King --

23                 THE COURT: Brothers?

24                 THE WITNESS: All of them are my brothers.  
25          And my mother is Margie King. And I'm Robbie

1 King.

2 THE COURT: Did she work in the funeral home?

3 THE WITNESS: Yes. All of us worked in some  
4 capacity at the funeral home. Yes.

5 THE COURT: Okay. Who is the other gentleman  
6 who was not in the family, that you mentioned?  
7 You said he was here.

8 THE WITNESS: Mr. Moses Caldwell. He's the  
9 one that my father entrusted everything into. And  
10 we also trusted him as well. But he was a funeral  
11 director. So he ran the business. So I don't  
12 know if you all are aware but my father had other  
13 ventures. He was elected as mayor so he was in a  
14 political arena. He had rental properties, and he  
15 also was a bail bondsman. So he entrusted Mr.  
16 Caldwell to basically run the business.

17 THE COURT: So Mr. Caldwell -- when did he  
18 start running it?

19 THE WITNESS: You would have to ask him that,  
20 because he's here. And it happened way before I  
21 was born, or around the time I was born.

22 THE COURT: Okay. And was he there at the  
23 time that Patricia King brought the eviction  
24 action?

25 THE WITNESS: Yes. And what happened -- we

1           thought that he -- you know, we trusted him. And  
2           I guess he was playing both sides. He was saying  
3           that he was loyal to my mother and my siblings.  
4           But at the same time, he was helping my Aunt  
5           Patricia do whatever she had to do to bring us to  
6           this situation.

7           THE COURT: Do you know if Patricia King  
8           owned the land upon which the funeral home was  
9           located?

10          THE WITNESS: After it was deeded, my father  
11          deeded her and my Aunt Robbie and Uncle -- I know  
12          my Aunt Robbie deeded her a parcel. My father  
13          deeded her a parcel.

14          THE COURT: Deeded to who?

15          THE WITNESS: It was two parcels.  
16          Christopher King, my father, deeded Patricia King  
17          one parcel.

18          THE COURT: Right.

19          THE WITNESS: And Robbie King, my aunt,  
20          deeded Patricia King a second parcel.

21          THE COURT: Are they adjacent?

22          THE WITNESS: The building is on two parcels.

23          THE COURT: The building is on two parcels?

24          THE WITNESS: Correct.

25          THE COURT: So Patricia King was deeded

1           one --

2           THE WITNESS: No. Patricia King was deeded  
3 two parcels, one from Christopher King and one  
4 from Robbie King Jones.

5           THE COURT: Okay. One from Christopher King  
6 and one from Robbie King Jones?

7           THE WITNESS: Correct.

8           THE COURT: So she ended up with title to  
9 both of the parcels?

10          THE WITNESS: Correct, with --

11          THE COURT: And when was that about?

12          THE WITNESS: I have no idea of the dates.

13          THE COURT: Okay. So you said earlier, that  
14 your father built the funeral home?

15          THE WITNESS: Right. My father, at that  
16 time, didn't have perfect credit. He entrusted  
17 his sister, which was an attorney. He thought  
18 that he had a lease to purchase. But it was not a  
19 lease to purchase; it was just a straight-up  
20 lease. Because I went to law school --

21          THE COURT: Well, you're not answering the  
22 question that I asked.

23          THE WITNESS: Okay.. So what's the --

24          THE COURT: The question that I asked -- and  
25 I may have mistaken what you had said. But you

1           said that he built the funeral home?

2           THE WITNESS: Correct. He built the funeral  
3 home from the ground up. Yes. He's not a  
4 contractor, but he had it contracted out.

5           THE COURT: And you were saying, about a  
6 lease arrangement --

7           THE WITNESS: Right. He was under the  
8 impression that he had a lease to purchase,  
9 because he trusted his sister, who is an attorney.  
10 And she just gave him a straight-up lease. It  
11 wasn't no lease to purchase. So they had an  
12 agreement. And he told me all this. This is how  
13 I'm personal representative --

14          MR. WINGATE: Object, Your Honor, to the  
15 testimony --

16          THE WITNESS: I understand.

17          MR. WINGATE: -- regarding a witness trying  
18 to testify as to conversations with a person now  
19 deceased under the Dead Man's --

20          THE COURT: It wouldn't apply. The Dead  
21 Man's Statute wouldn't apply to that situation,  
22 because they're not adverse. It is plain hearsay,  
23 but it's not a violation of the Dead Man's  
24 Statute.

25          MR. WINGATE: Thank you, Your Honor. I would

1 note for the record, objection to the --

2 THE COURT: Anyhow -- what is your objection?  
3 According to the Dead Man's Statute, hearsay, or  
4 both, or what?

5 MR. WINGATE: Well, Dead Man's first,  
6 hearsay, second: And obviously, Your Honor can --

7 THE COURT: Well, explain why it would be  
8 under the Dead Man's Statute, her testifying about  
9 her father.

10 MR. WINGATE: She is here as a  
11 representative, Your Honor --

12 THE COURT: They're not an adversity. It  
13 wouldn't be an adverse situation.

14 MR. WINGATE: I tell you what, Your Honor.  
15 On this one, I will forgo the Dead Man's. I  
16 object on the basis of hearsay --

17 THE COURT: I think that that --

18 MR. WINGATE: -- as to testifying to what her  
19 father told her about other conversations.

20 THE COURT: Okay. Will sustain. Okay. Go  
21 ahead. You say that the arrangement was that --  
22 you had said, before the objection, that he  
23 thought he had a lease to purchase, but it was  
24 just a lease? Is that what you're saying?

25 THE WITNESS: Correct. It was just a

1 straight-up lease.

2 THE COURT: Okay. And ya'll were evicted?

3 Why? Do you know?

4 THE WITNESS: I have no idea.

5 THE COURT: Okay. I'm sorry I interrupted  
6 your --

7 MR. WHITT: No, thank you. Thank you, Your  
8 Honor.

9 THE WITNESS: Can I give him some more  
10 'history?

11 THE COURT: If he asks you about it. That's  
12 all I need right now.

13 BY MR. WHITT:

14 Q Yes, Ms. King. Can you give us some more history if  
15 you have any?

16 A Okay. Again, I moved back to help my father get his  
17 business in order. And he pulled out the lease. And  
18 he wanted to read the details. So I read it over to  
19 him. I told him that it was just a lease. It was not  
20 a lease to purchase. And the reason he was so  
21 concerned was because my Aunt Patricia had did  
22 something similar -- well, the same thing, to my Uncle  
23 Sonny in Charlotte, North Carolina, with his business.  
24 And he was trying to get everything in order. That's,  
25 you know, why we decided to read it.

1 Q After the eviction that you told the Court about, did  
2 the funeral home continue as a viable business or not?

3 A Yes. It has, and it's still continuing as a viable  
4 business.

5 Q Okay.

6 A It's a very profitable business. It's probably the --  
7 not probably. It is the top funeral home in Chester  
8 County. It does business in Lancaster County,  
9 Fairfield County, and York County. And probably Union  
10 County too.

11 Q And for the record, as we sit here today, who controls  
12 the income from it, that you know?

13 A I'm not sure who controls it, but I would assume that  
14 my Aunt Patricia controls it, because she was the one  
15 that evicted us.

16 Q Do you have any understanding if you should have  
17 received, or if your father's estate should have  
18 received any income from the funeral home business?

19 A We haven't received any income.

20 Q But is it your understanding about whether you should  
21 or should not have?

22 A Yes.

23 Q And to follow up with what you just said, have you  
24 received any income, in the entire period of time that  
25 Patricia has run the funeral home?



1 A No, we have not received any income.

2 Q Have you received any kind of accounting for the  
3 income?

4 A No type of accounting for the income.

5 MR. WHITT: Your Honor, that's all the Direct  
6 that we have.

7 THE COURT: All right. Mr. Wingate?

8 CROSS EXAMINATION

9 BY MR. WINGATE:

10 Q Ms. Boyd, my name is Ken Wingate and I represent  
11 Patricia King in this matter. You've testified  
12 regarding the funeral home business. There really are  
13 two funeral home businesses, aren't there?

14 A I'm not aware of two.

15 Q Is there a business called King's Funeral Home?

16 A It's a business called King's Funeral Home at 135  
17 Cemetery Street. Correct.

18 Q And is there a business called Christopher King's  
19 Funeral Home which operates on Old York Road?

20 A Correct, separate entity under John R. King as owner,  
21 703 Old York Road. Yes.

22 Q 703 Old York Road you said is the address? And the  
23 name of the business again?

24 A Christopher King Funeral Home, not King. King is just  
25 on Cemetery Street, so it's only one.

1 Q And tell me, again, who you think the owners of  
2 Christopher King Funeral Home may be.

3 A I don't think. I know that John R.C. King is the owner  
4 of Christopher King's Funeral Home, who is the son of  
5 Christopher King and the grandson of Ellen and William  
6 King.

7 THE COURT: Would you state again the owner?

8 THE WITNESS: John R.C. King, who is my  
9 brother.

10 THE COURT: Okay.

11 BY MR. WINGATE:

12 Q And what type of entity is John R.C. King Funeral Home?

13 A I'm not sure.

14 Q You know that he is the owner?

15 A Yes.

16 Q Are you a licensed funeral director?

17 A No.

18 Q You testified that after your father's passing, you  
19 were one of the ones who was evicted from 135 Cemetery  
20 Street by the Magistrate's Order. How is it that you  
21 were evicted? What was your ownership or interest in  
22 that business?

23 A Again, I'm co-representative for my father's estate.  
24 I'm Robbie Patricia Ione King.

25 Q I'd like you to look at this document and tell me

1           whether you are familiar with it.

2     A     Yes, I am.

3     Q     What is the document that you're holding?

4     A     It's the Probate Court document.

5     Q     And what type of Probate Court document is it? What  
6           does it say in bold, in the center, on the top of the  
7           first page?

8     A     Inventory.

9     Q     And on the first page, have you signed this inventory?

10    A     Yes.

11    Q     And that is your signature right there where it says,  
12           Robbie P. King, correct?

13    A     Correct.

14    Q     And when did you sign this? When is it dated?

15    A     It says March 2nd, 2001.

16    Q     And just above that, in small print, tell me if I'm  
17           reading accurately. The undersigned, being sworn,  
18           states: That the following --

19           THE COURT: Is this in evidence?

20           MR. WINGATE: I'm getting ready to put it  
21           into evidence.

22           THE COURT: Well, I'm not going to let you  
23           examine from it until it is in evidence.

24           MR. WINGATE: Your Honor, I would move this  
25           document into evidence as Exhibit Number 1.

1 MR. WHITT: Your Honor, may we have a moment?  
2 We have not seen this previously.

3 MR. ROGERS: Can we take a five-minute break  
4 to review this document, Your Honor?

5 THE COURT: No, sir. Isn't she the co-  
6 representative for her father's estate?

7 MR. ROGERS: She's the co-representative --

8 THE COURT: She just identified it.

9 MR. WHITT: She identified her signature.

10 THE COURT: Didn't she say she signed this  
11 document? I mean, that's what she said.

12 MR. ROGERS: Yes. Your Honor, we object  
13 because we haven't had an opportunity to review  
14 this.

15 THE COURT: Overruled. Go ahead. All right.

16 So we'll make this Plaintiff's Exhibit 1.

17 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 1 WAS MARKED FOR  
18 IDENTIFICATION PURPOSES, PROBATE COURT INVENTORY AND  
19 APPRAISEMENT FOR THE ESTATE OF CHRISTOPHER C. KING.)

20 MR. WINGATE: And may I ask you, do you  
21 prefer to be called Ms. King or Ms. Boyd?  
22 Whichever you prefer.

23 THE WITNESS: Whatever you're comfortable  
24 with.

25 BY MR. WINGATE:

1 Q Okay. Ms. King, looking at page 1 of Plaintiff's  
2 Exhibit Number 1, just above the statement that you  
3 signed and had notarized, do you agree with me that it  
4 says, the undersigned swear that the following  
5 schedules contain a complete and accurate inventory and  
6 appraisal of all real and personal property of this  
7 estate?

8 A At that time, yes.

9 Q Does it say that?

10 A Does it say what?

11 THE COURT: Let me ask you this: Is that in  
12 evidence? Do you have more copies than one? I'd  
13 like to look at it.

14 MR. WINGATE: I have an extra one. Yes, Your  
15 Honor.

16 THE COURT: Can I have that extra copy?

17 MR. WINGATE: Sure.

18 MR. WHITT: Your Honor, we object to that  
19 question in that --

20 THE COURT: Well, what was the question? I  
21 didn't --

22 MR. WHITT: Well, it was a paraphrase of what  
23 is on this paper. And he asked if that's what it  
24 says. That's not exactly what it says.

25 THE COURT: That's all right. She can answer

1 the question. What was the question?

2 BY MR. WINGATE:

3 Q Does the statement which you signed, and which has your  
4 notarized signature, state, that the undersigned being  
5 sworn, states: That the following schedules contain a  
6 complete and accurate inventory and appraisalment of all  
7 real and personal property of this estate?

8 THE COURT: Is that a question?

9 MR. WINGATE: That's a question. Did she  
10 sign that statement?

11 THE COURT: Do you need that?

12 MR. WINGATE: I don't need that, Your Honor.

13 THE COURT: Okay. Where are you looking at  
14 in the document? The top on the front?

15 MR. WINGATE: This statement.

16 THE COURT: Okay. So the question is --

17 MR. WINGATE: Did she sign the sworn  
18 statement? Did she swear that this is a complete  
19 and accurate inventory and appraisalment of all  
20 real and personal property of her father's estate?

21 THE COURT: I think she answered that already  
22 but go ahead. Is that your signature on this  
23 document?

24 THE WITNESS: Yes. This is my signature.

25 THE COURT: Okay.

1 BY MR. WINGATE:

2 Q If you would also look with me, Ms. King, at the bottom  
3 of the first page, under the recapitulation, and tell  
4 me how much real estate your father owned at his death.

5 A At his death? Zero.

6 Q So he was not the owner of 129 Cemetery Street, the old  
7 King's Funeral Home, was he?

8 A Correct, not 129 Cemetery Street.

9 Q And he was not the owner of 135 Cemetery Street, which  
10 you described as the new King's Funeral Home, was he?

11 A Legally, no.

12 Q If you would also look with me at the second page of  
13 Exhibit 1. Well, I guess -- I'm sorry. It would be  
14 the third page. It's the typed page headed Schedule E.  
15 Look with me, please, at Item Number 4 on that Schedule  
16 E. What ownership interest did you, as one of the co-  
17 personal representatives, indicate to the Probate Court  
18 that your father owned, not as real estate, but as  
19 personal belongings?

20 A I don't understand your question.

21 Q What type of ownership interests did your father have,  
22 according to your Exhibit E-4 in King's Funeral Home?

23 A Sole proprietor.

24 Q So he was a sole proprietor of the business called  
25 King's Funeral Home; is that correct?

- 1 A Yes.
- 2 Q You listed several business ventures that your father
- 3 was in. I want to make sure I have a complete list. I
- 4 think you said he was a bail bondsman.
- 5 A Correct.
- 6 Q He had rental properties?
- 7 A Correct.
- 8 Q He was the mayor of Chester?
- 9 A Correct.
- 10 Q What years was he the mayor, roughly?
- 11 A Can't remember.
- 12 Q And that he was involved in the funeral business; is
- 13 that correct?
- 14 A Correct.
- 15 Q Did he also have a car dealership?
- 16 A He had.. Yes.
- 17 Q What was the car dealership?
- 18 A It was a Chrysler Dealership.
- 19 Q And where was it located?
- 20 A Columbia Street in Chester.
- 21 Q And from approximately what date to what date did he
- 22 operate that car business?
- 23 A I have no idea.
- 24 Q Did the business succeed?
- 25 A I'm not sure.



- 1 Q Did the business file bankruptcy?
- 2 A I'm not sure.
- 3 Q Is the car business, that your father operated, an
- 4 ongoing business today?
- 5 A No, it's not.
- 6 Q Is the bail bondsman business ongoing today?
- 7 A It's a new bonding company. Yes. But it's not under
- 8 the same company that my father started.
- 9 Q Let's go back to the eviction that you had described.
- 10 I think you said -- correct me if I'm wrong, that it
- 11 was in December of 1998, approximately, that the
- 12 eviction took place.
- 13 A I'm not exactly sure, but I'm thinking that's around
- 14 about the time, I think. I don't know the exact date.
- 15 Q At approximately that date -- can we agree that late
- 16 1998 was the approximate timeframe of the eviction?
- 17 A Yes.
- 18 Q Okay. In late 1998, what did you, your mother, Nelson,
- 19 and John do?
- 20 A We were evicted from the premises.
- 21 Q And when you were evicted, what did you do?
- 22 A We left.
- 23 Q And where did you leave to?
- 24 A We went home.
- 25 Q And what did you take with you?

1 A I didn't take anything with me.

2 Q What did the Christopher King estate take from 135  
3 Cemetery Street?

4 A I didn't take anything. I don't know what the estate  
5 could have taken.

6 Q You were a personal representative of the estate.

7 A Correct. So -- but, nothing.

8 Q So your testimony is that you and Margie King, and  
9 Nelson King, and John King, took nothing from 135 --

10 MR. WHITT: Your Honor, I'm going to object.  
11 She testified as to what she took.

12 THE COURT: Hold on. If she knows what  
13 anyone else took, if they took anything, she can  
14 testify to that as well.

15 MR. ROGERS: But he didn't ask her that  
16 question, Your Honor. And he put words in her  
17 mouth.

18 THE COURT: Well, he can do that if he wants  
19 to. She's a competent witness. She can listen to  
20 the question and answer. What is the question?

21 MR. WINGATE: What did Nelson King, Margie  
22 King, Robbie Patricia Ione King Boyd, and John  
23 King take from 135 Cemetery Street?

24 THE COURT: As far as the objection is  
25 concerned, if she knows, she can answer that. If

1 she doesn't know, she can't answer that.

2 THE WITNESS: I, personally, didn't take  
3 anything.

4 BY MR. WINGATE:

5 Q Do you know whether the others I just named took  
6 anything from 135 Cemetery Street?

7 A I'm not aware.

8 Q You're not aware of anything?

9 A No, I'm not.

10 Q Okay. Thank you, very much.

11 MR. WINGATE: Your Honor, I have no further  
12 questions of this witness.

13 THE COURT: Any Re-direct?

14 MR. WHITT: Yes, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. WHITT:

17 Q As to the form, Ms. King, Counsel read part of the  
18 legend in the center of the page. Can you read the  
19 entire legend from beginning to end?

20 A Okay.

21 THE COURT: Where are you asking her this?

22 MR. WHITT: The legend that Counsel read her  
23 in part.

24 THE COURT: Okay. Fine.

25 THE WITNESS: Okay.

1                   THE COURT: Are you asking her to read it  
2                   quietly, or are you asking her to read it out  
3                   loud?

4       BY MR. WHITT:

5       Q     Out loud.

6       A     The undersigned, being sworn, states: That the  
7             following schedules contain a complete and accurate  
8             inventory and appraisalment of all real and personal  
9             property of the estate so far as the undersigned is  
10            informed that he/she has estimated and/or appraised all  
11            listed property at its fair market value, according to  
12            the best of his/her knowledge and ability.

13      Q     Ms. King, Counsel referred you to Schedule E-4. Would  
14             you flip to that page? What did you intend Items 1, 2,  
15             3, and 4 to depict?

16      A     To make sure that my mother received her fair share and  
17             compensation of my grandfather, grandmother, and the  
18             funeral business, my grandparents' estate and the  
19             funeral business located at 135 Cemetery Street.

20                   MR. WHITT: That's all we have, Your Honor.

21                   THE COURT: Re-cross?

22                   MR. WINGATE: Re-cross, one question.

23                               RE-CROSS EXAMINATION

24       BY MR. WINGATE:

25      Q     In looking at page 1, recapitulation. Have you and

1           your mother, as personal representatives, indicated  
2           that your father owned no real estate at his death?

3           MR. WHITT: I didn't ask a question about  
4           that.

5           THE COURT: You're right. He didn't. And  
6           she has already answered that.

7           MR. WINGATE: No questions, Your Honor.

8           THE COURT: So the objection is sustained.

9           MR. WHITT: Thank you, Your Honor.

10          MR. ROGERS: Your Honor, please --

11          THE COURT: Hold on one second.

12          MR. ROGERS: All right, sir.

13          THE COURT: Do you remember when your  
14          grandparents died?

15          THE WITNESS: I'm sure my Aunt Pat can tell  
16          you the years that they died.

17          THE COURT: Okay. I think they're written  
18          here somewhere. Your grandfather died first, and  
19          then your grandmother died; is that correct?

20          THE WITNESS: Correct.

21          THE COURT: May your grandfather have died in  
22          the 70's? Or you just don't recall?

23          THE WITNESS: I'm not sure.

24          THE COURT: All right. That's fine. You  
25          might not be the witness to answer these

1           questions. To your knowledge, how long has your  
2           father run this funeral business at 135 Cemetery  
3           Street? Your testimony, as I remember, is he had  
4           a funeral home at 135 Cemetery in the 80's.

5           THE WITNESS: Well, he started at 129  
6           Cemetery Street. And then --

7           THE COURT: Right. He started it there?

8           THE WITNESS: Correct. Well, the funeral  
9           home that I know started at 129 Cemetery Street.

10          THE COURT: And then he moved it over to 135?

11          THE WITNESS: He moved it to 135 Cemetery.

12          THE COURT: Some time in the 80's?

13          THE WITNESS: Well, he started -- he always  
14          ran the business. And I'm 42. I'll be 43. And I  
15          know it's well over 40 years.

16          THE COURT: So he ran the business until his  
17          death, for approximately 40 years?

18          THE WITNESS: Maybe longer.

19          THE COURT: Okay. So you listed this, on his  
20          estate, as a sole proprietorship; is that correct?

21          THE WITNESS: Correct.

22          THE COURT: And that was the business that  
23          your father had run for over 40 years? It's what  
24          your father had run for over 40 years?

25          THE WITNESS: Correct.

1 THE COURT: Is that correct?

2 THE WITNESS: Yes.

3 THE COURT: All right. Does anyone have any  
4 questions after the Court's questions?

5 MR. WINGATE: Nothing further, Your Honor.

6 MR. WHITT: No, Your Honor.

7 THE COURT: All right. Thank you, ma'am. I  
8 am going to excuse you as a witness and let  
9 whoever else we've got with us, the next witness,  
10 take the --

11 MR. WHITT: Your Honor, we call John King.

12 THE COURT: All right. Mr. King --

13 MR. ROGERS: Would Your Honor consider a  
14 short break before Mr. King assumes the witness  
15 stand?

16 THE COURT: Sure. I guess we can do that.

17 MR. WINGATE: May I state on the record --  
18 and I have no objection to this short break. Just  
19 as a general matter, a number of folks here have  
20 obligations today, as do I. And I'm not objecting  
21 to his break at all. I will be interested, of  
22 course, Your Honor, to direct all of us, as we  
23 approach midday and the early day, when you get a  
24 sense of how things are going. I would just  
25 request that you sort of keep us advised, and keep

1           us moving.

2           THE COURT: I have no idea of how -- of  
3           stopping here. I don't know how long this witness  
4           is going to go one way or another. I don't know  
5           how many other witnesses they have. But I was  
6           planning on stopping around 12:30 for about an  
7           hour, hour and a half. So that's about an hour  
8           and a half from now. That's kind of what I was  
9           thinking. Now, if y'all need to take witnesses  
10          out of order, you know, I can keep up with  
11          testimony, especially now that we've got a court  
12          reporter. So if you need to do that, to take care  
13          of whatever you need to take care of, we can do  
14          that.

15          MR. WINGATE: My only one pressing issue,  
16          Your Honor, just to make everyone fully informed,  
17          is that Mr. Moses Caldwell, the funeral director,  
18          has a one o'clock meeting with a family -- or has  
19          to depart here, I should say, at one o'clock.

20          MR. CALDWELL: I should be back in Chester  
21          hopefully at one. If I can't, I can leave about  
22          one.

23          MR. WINGATE: So we may get to a place -- and  
24          I don't know how many witnesses they have, or how  
25          long. But we, for some reason, might want to go



1 ahead and try to take him, or take him out of  
2 order. We'll just wait and evaluate that as their  
3 case --

4 THE COURT: Is that all right with y'all?

5 MR. ROGERS: Yes.

6 THE COURT: Okay. Okay, fine. We'll be --  
7 just let me know as we go along. You want to take  
8 a quick break?

9 MR. ROGERS: Two-minute break.

10 THE COURT: Okay. You can stay in place or  
11 move around, whatever you care to do.

12 (OFF THE RECORD)

13 MR. WHITT: I guess we can proceed without  
14 Mr. Rogers or just -- maybe that's him entering  
15 the door.

16 MR. ROGERS: Go ahead.

17 THE COURT: Okay. He says go ahead. Next  
18 witness is Mr. John King; is that correct?

19 MR. WHITT: Yes, Your Honor.

20 THE COURT: All right. If you'll swear the  
21 witness.

22 WHEREUPON, BEING DULY SWORN AND CAUTIONED TO SPEAK THE  
23 TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, JOHN KING  
24 TESTIFIED AS FOLLOWS:

25 DIRECT EXAMINATION

1 BY MR. WHITT:

2 Q Please state your name and address for the Court.

3 A John Richard Christopher King, 5054 Gatsby Circle, Rock  
4 Hill, South Carolina 29732.

5 Q Please tell the Court your relationship to W.R. King  
6 and Ellen King.

7 A I was always told they was my grandparents.

8 Q Okay. And your relationship to Christopher C. King,  
9 deceased?

10 A That was my father.

11 Q From your personal knowledge, during the period of time  
12 that Patricia King has run the funeral home, have you  
13 received any income from it -- or excuse me --

14 THE COURT: You're going to have to be  
15 specific as to dates.

16 BY MR. WHITT:

17 Q In the period of February of 1999 until today, has your  
18 father's estate received any income from the funeral  
19 home business?

20 A No.

21 Q To your knowledge, in the period of time, from February  
22 1999 until --

23 THE COURT: Let me interrupt you. There has  
24 been cross examination that there are two funeral  
25 homes. Now, I would ask you -- and I believe that

1 we're dealing with the funeral home that was  
2 located, or is located, at 135 Cemetery Street.  
3 Since there has been some issue of if there were  
4 two funeral homes -- if you would be specific  
5 about that. He is involved with the other funeral  
6 home. And I think that it would help if you would  
7 be --

8 MR. WHITT: Yes, Your Honor.

9 THE COURT: -- specific about what funeral  
10 home you're talking about.

11 MR. WHITT: Yes, Your Honor.

12 BY MR. WHITT:

13 Q As to the funeral home located at 135 Cemetery Road, or  
14 Drive, in Chester, South Carolina, have you received --  
15 has your father's estate received, to your knowledge,  
16 any income from that funeral home business?

17 A No.

18 Q In the period of time, from February 1999 until today,  
19 as to the funeral home located at 135 Cemetery Street,  
20 has your father's estate received an accounting on the  
21 profits and losses of that funeral home business?

22 A No.

23 MR. WHITT: That's all we have, Your Honor.

24 THE COURT: Well, I have some questions. The  
25 funeral home that existed at 135 Cemetery Street,

1 at the time of your father's death, that your  
2 sister testified that your father operated for  
3 over 40 years -- who owned that funeral home?

4 THE WITNESS: I was always told, by my  
5 father, that he owned it.

6 MR. WINGATE: Objection, Your Honor, to --

7 THE COURT: Sustained.

8 MR. WHITT: Just tell what you know.

9 THE WITNESS: From what I know, my father  
10 owned the business, as stated on his death  
11 certificate. It showed the signature of Mr. Moses  
12 Caldwell, where he also signed that my father  
13 owned the funeral home.

14 THE COURT: He signed what?

15 THE WITNESS: The death certificate, as Chris  
16 King was the owner of a funeral home, on the death  
17 certificate, as they ask what your occupation is.

18 MR. WINGATE: I'm going to object to hearsay.  
19 He is testifying to a document not in evidence.

20 THE COURT: Okay. I sustain that objection.  
21 How old are you?

22 THE WITNESS: I'm 34-years old.

23 THE COURT: And your father died when?

24 THE WITNESS: September the 1st of 1997.

25 THE COURT: And how old were you? We can

1 calculate that back.

2 THE WITNESS: Twenty or --

3 THE COURT: It's 2010, so it's about 13 years  
4 ago, I suppose. You were about, what, 21 or  
5 something?

6 THE WITNESS: Yes, sir.

7 THE COURT: When your father died?

8 THE WITNESS: Yes, sir.

9 THE COURT: Okay. Did you ever work at the  
10 funeral home?

11 THE WITNESS: Yes, sir.

12 THE COURT: Did your Aunt Patricia ever work  
13 at the funeral home?

14 THE WITNESS: Never saw her there.

15 THE COURT: Do you know how the properties  
16 were distributed, as far as the funeral home was  
17 concerned?

18 THE WITNESS: No. I have no knowledge.

19 THE COURT: Were you a co-executor of the  
20 estate?

21 THE WITNESS: No, I wasn't.

22 THE COURT: When did the funeral home, that  
23 commenced operation after your father's death, and  
24 which is named Christopher King's Funeral Home --  
25 when did that commence operation?

1 THE WITNESS: December the 8th of 1998.

2 THE COURT: Say that again.

3 THE WITNESS: December the 8th of 1998.

4 THE COURT: And it is still in business?

5 THE WITNESS: Yes. I still own that  
6 business.

7 THE COURT: Has it been in the same location?

8 THE WITNESS: Well, I've had two locations.  
9 And they failed to mention that I also owned a  
10 funeral home at 331 East Main Street in Rock Hill,  
11 South Carolina, that I was the sole proprietor of  
12 as well.

13 THE COURT: All right. Does the funeral home  
14 that you operate employ any of the former staff  
15 of your father's business?

16 THE WITNESS: My mother helps me at the  
17 funeral home, but she receives no income from the  
18 funeral home. My brother helps me at the funeral  
19 home and receives no income at the funeral home.  
20 I'm the only person that receives funds out of  
21 Christopher King's Funeral Home, 703 Old York  
22 Road. And I was the only person that received any  
23 proceeds out of 331 East Main Street, King Funeral  
24 Home in Rock Hill, in which I just sold to  
25 Comporium Telephone Company.

1 THE COURT: Do you know who the employees of  
2 the funeral home were on Cemetery Street, at the  
3 time of your father's death? Other than this  
4 gentleman who is here in the courtroom, were there  
5 any other employees?. Also, other than your  
6 brothers and sisters. I believe your sister  
7 testified.

8 THE WITNESS: I'm only aware of -- there was  
9 some part-time help there, as well as Mr. Caldwell  
10 being full time.

11 THE COURT: So Mr. Caldwell, as far you know,  
12 is the only full-time employee?

13 THE WITNESS: Along with my parents.

14 THE COURT: And your parents? Okay. All  
15 right. Any other questions for the gentleman?  
16 I'm going to get to cross examination.

17 MR. WHITT: No, Your Honor.

18 THE COURT: Cross examination?

19 CROSS EXAMINATION

20 BY MR. WINGATE:

21 Q Mr. King, what was your date of birth?

22 A June 25th of 1976, Chester, South Carolina.

23 Q What was your name, as it appeared on your birth  
24 certificate?

25 A John Richard King.

1 Q You identified yourself, a few minutes ago, as John  
2 Richard Christopher King. Have you changed your name?

3 A I went to family court and had my father -- to honor my  
4 father, I had his name added to my name.

5 Q When did you have the name Christopher added in?

6 A I don't have the approximate date. It was --

7 Q Approximately?

8 A I'm pretty sure you can pull that at the courts.

9 THE COURT: Were you an adult when that  
10 happened? Were you over the age 21?

11 THE WITNESS: I sure was.

12 BY MR. WINGATE:

13 Q And it was after your father's death or before your  
14 father's death?

15 A It was after my father's death.

16 Q Approximately, how long after your father's death?

17 A I'm not sure.

18 Q Was it within the last five years?

19 A No.

20 Q Was it within the last ten years?

21 A I couldn't tell you.

22 Q I do believe that you testified that you do receive  
23 income from the business known as -- well, I'll just  
24 ask you. What is the business located in Chester that  
25 you operate?



1 A Christopher King's Funeral Home.

2 Q And what type of business is that?

3 A A funeral home.

4 Q And what form of entity is it? Is it a corporation?

5 A I would actually have to ask my accountant, how he has  
6 it listed, to be honest with you.

7 Q Okay. Did you indicate that you are the owner, or one  
8 of the owners --

9 A No. I am the owner.

10 Q And do you have any stock certificates for Christopher  
11 King's Funeral Home?

12 A No.

13 Q Are you a licensed funeral director?

14 A I am.

15 Q How long have you been a licensed funeral director?

16 A Since I graduated from Gupton-Jones College of Funeral  
17 Services in Atlanta, Georgia.

18 Q And what year would that have been?

19 A Oh, God. I don't remember. Graduated from Morehouse  
20 in '97, Morehouse College in '97. I graduated from --  
21 my dad died on September the 1st. We buried him on the  
22 6th. I started school on the 8th of September, '98.

23 Q So you became a licensed funeral director in 1998?

24 A That's correct.

25 Q About a year after your father's death?

1 A That's correct.

2 Q Let me show you a photograph and ask if you can  
3 identify this for me. Are you familiar with that  
4 photograph?

5 A Yes.

6 MR. WHITT: Your Honor, can we have a copy  
7 for you and for us?

8 THE COURT: I don't know.

9 MR. WINGATE: I don't. That's the only one  
10 I've got. It's a pretty simple document.

11 THE COURT: Are you going to make --

12 MR. WINGATE: He has identified that it is  
13 his business.

14 THE COURT: Let's get that into evidence  
15 then.

16 MR. WINGATE: Move that into evidence.

17 THE WITNESS: Yes. I mean, I recognize the  
18 picture.

19 MR. WINGATE: Is that a picture of your  
20 business?

21 THE WITNESS: That's a picture of a sign.

22 MR. WINGATE: In front of your business?

23 THE WITNESS: In front of my business.

24 MR. WINGATE: Is that your sign in front of  
25 your business?

1 THE WITNESS: It is. Thank you. Your Honor,  
2 I move that into evidence as Plaintiff's Number 2.

3 THE COURT: Any objection?

4 MR. ROGERS: No.

5 MR. WHITT: No, Your Honor.

6 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER TWO WAS MARKED FOR  
7 IDENTIFICATION PURPOSES, PHOTOGRAPH.)

8 BY MR. WINGATE:

9 Q I would ask also, Mr. King, if you're familiar with  
10 that building shown in that picture.

11 A Yes.

12 MR. WINGATE: Your Honor, I would again move  
13 into evidence that's Plaintiff's Number 3.

14 THE COURT: What is that? Picture of what?  
15 You recognize that building?

16 THE WITNESS: Yes. I'm the owner of that  
17 building.

18 THE COURT: Okay. Is that the way the  
19 building looks currently?

20 THE WITNESS: Uh-huh.

21 THE COURT: Okay. Any objection?

22 MR. WHITT: No, Your Honor.

23 THE COURT: Okay.

24 MR. WINGATE: I would just confirm: Is that  
25 Plaintiff's Exhibit Number 3?

1 THE COURT REPORTER: It is.

2 THE COURT: Okay. It is?

3 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 3 WAS MARKED FOR  
4 IDENTIFICATION PURPOSES, PHOTOGRAPH.)

5 BY MR. WINGATE:

6 Q Mr. King, the business that you operate -- tell me the  
7 name of the business you operate under.

8 A Christopher King's funeral home.

9 Q Okay. What is the address of the building shown in  
10 Plaintiff's Exhibit Number 3?

11 A 703 Old York Road.

12 Q And I believe you testified that is the building in  
13 which your business operates?

14 A That's correct.

15 Q And do you own that property?

16 A I own it along with my sister, Pansy King Reid.

17 Q When did you and the other owner acquire that property?  
18 I think you said, 703 Old York Road.

19 A My sister has had it longer than -- she and her husband  
20 had that -- she and her ex-husband had that property.  
21 And my brother-in-law signed it over to me. I don't  
22 know the exact year that he signed it over to me.

23 Q And this building, 703 Old York Road, is in Chester?

24 A That's correct.

25 Q Approximately how far is the building at 703 Old York

1 Highway from 135 Cemetery Street?

2 A To be honest with you, I'm not good with stuff like  
3 that. I couldn't even -- I mean, I'm just not really  
4 good.

5 Q Was it a block away?

6 A No, it isn't.

7 Q Was it a mile away?

8 A Probably over a mile.

9 Q Okay. Is it maybe two or three miles away?

10 A Maybe so. I'm not sure.

11 Q After your father died -- let me back up. Prior to  
12 your father's death, you didn't work with him in the  
13 funeral home, did you?

14 A I never told you that I didn't work with him. Yes, I  
15 did work with him.

16 Q Okay. Tell me about that.

17 A I worked funerals with him. I sure did.

18 Q When did you begin working funerals with him?

19 A That's something my father required of all his  
20 children, to answer the phone at the funeral home. The  
21 phone rung at our home. We had to answer the phone.  
22 If there was a vacation that was taken, one of us would  
23 have to stay back to work the business. And so, all of  
24 us had worked in that business, along with all seven of  
25 my other siblings. We've all worked in that business

1 at some capacity.

2 Q And I'm asking you: When, approximately, did that  
3 begin?

4 A I started in 1976 when I was conceived, and slept in  
5 there when our home burnt. We slept in that building.

6 Q After your father's death -- I believe you said you  
7 started Christopher King's Funeral Home on December  
8 8th, 1998.

9 A That's correct.

10 Q What happened on December 8th, 1998?

11 A Well, I will take you all the way to when my father  
12 died, September the 1st. We buried him on September  
13 the 6th.

14 Q And this was September 1 of 1997?

15 A '97. Patricia King and Ellen King Ferguson, and all  
16 the siblings that my father left behind sat us down at  
17 my grandparent's table and told us we had to get out of  
18 the building. And I remember that distinctively. I  
19 looked at my aunts and I told them that I didn't give a  
20 damn -- my exact words to them; that I would be owning  
21 my own funeral home, because I didn't rely on my mother  
22 and my father.

23 My father raised all of us to be independent. So  
24 even if my mother and Mr. Caldwell would have continued  
25 running that business, I knew that I could not live out

1 of that business. I had to have my own. And that's  
2 why I went to Rock Hill. Okay?

3 So even if my mother would have been still on  
4 Cemetery Street, I would have ran my own business. I  
5 have always been independent. I have never sat around  
6 and waited on somebody to take care of me. So when  
7 they told us that -- because they've been vultures.  
8 Just like they did with my uncle, I prepared myself.

9 Q And how did you prepare yourself?

10 A I don't want you to confuse my business with what my  
11 mother is here for today, because it has nothing to do  
12 with that. I would have still opened up.

13 Q So what did you do on December 8th, 1998?

14 A I went and opened up my own funeral home, on my own. I  
15 went to my brother-in-law, and I went to my sister.  
16 And they helped me to open up my funeral home.

17 Q Okay. What assets did you open with on December 8th,  
18 1998?

19 A J.R. Reid and Pansy King's money. That's the assets I  
20 opened up with.

21 Q Who?

22 A My brother-in-law and my sister. Their money is the  
23 assets that I used to open up my business.

24 Q Did you have a phone number for your business on  
25 December 8th, 1998?

1 A The number? Yes.

2 Q What number was that?

3 A The number that Chester Telephone Company gave me.

4 Q And what number is that?

5 A 377-1144.

6 Q And just to make sure I got it properly, it's 377-1144?

7 A That's correct.

8 Q And is that the phone number that you use, today, at  
9 Christopher King's Funeral Home at 703 Old York Road?

10 A That, along with my mother's home phone, 377-4109.

11 Q I'm sorry. Say the number again.

12 A 377-4109.

13 Q What was the number of the telephone at King's Funeral  
14 Home at 135 Cemetery Street when your father died?

15 A 377 -- you talking about the number that Patricia sued  
16 Chester Telephone Company and got money for? 377-1144.

17 Q Okay. So the number at 135 Cemetery Street, at the  
18 time of your father's death, was 377-1144?

19 A That's correct.

20 Q And the number of your business, today, on Old York  
21 Road, is 377-1144?

22 A That's correct.

23 Q Did you have some pews that you used in Old York Road  
24 when you opened business on December 8th, 1998?

25 A Some pews that I bought out of Atlanta, Georgia, from a



1 gentleman. They're white pews with burgundy cushions  
2 in them --and you're welcome to come and take pictures  
3 of them; that I bought, or my sister bought, out of  
4 Atlanta, Georgia, when she reversed the funeral home  
5 for me.

6 Q And isn't it true, Mr. King, that you also have, at 703  
7 Old York Road, or at least had, in December of 1998,  
8 when you opened your business, pews that you took from  
9 135 Cemetery Street?

10 A No, sir. That's not true.

11 Q Okay. What about an embalming table that you took from  
12 135 Cemetery Street?

13 A I think I bought everything from Pierce Chemical, new  
14 embalming machine. My funeral home was furnished with  
15 all new furniture.

16 Q What about hearses and limos? Did you take some of  
17 those from 135 Cemetery Street?

18 A I think, if you go and check the record, I may even be  
19 -- if I'm accurate, I purchased from Sam O'Neil, some  
20 limousines and hearses.

21 Q So your testimony is that you have not --

22 A I haven't taken --

23 Q -- taken anything?

24 A I didn't take anything.

25 Q What about records, things like pre-need burial

1           contracts? Did you take any records with you to 703  
2           Old York Road?

3       A     No, I did not.

4       Q     Did anyone else in your family?

5       A     No, they did not, not to my knowledge.

6                       MR. WINGATE: I have no further questions of  
7                       this witness, Your Honor.

8                       THE COURT: Thank you. Let me just ask  
9                       you -- you talked about when everybody, the  
10                      family, sat down at some occasion, and they said  
11                      you weren't going to be able to stay at 135  
12                      Cemetery. You testified to such occasion.

13                     THE WITNESS: Patricia sat me and my siblings  
14                     down, and told us that she owned the building, and  
15                     told us that we had to get out.

16                     THE COURT: When was that?

17                     THE WITNESS: September the 6th. We buried  
18                     my father. We had gotten back from the funeral.  
19                     And that evening, she called to my mother's house  
20                     and told us --

21                     THE COURT: September the 6th?

22                     THE WITNESS: Of 1997.

23                     THE COURT: Right after your father's death?

24                     THE WITNESS: Right after the funeral  
25                     service. We had not buried him yet. He had not

1           been in the ground a good hour.

2           THE COURT: And she told you what?

3           THE WITNESS: She told us that we had to get  
4 out.

5           THE COURT: Be a little more --

6           THE WITNESS: She told us that we had to  
7 leave the premises. And that's when -- we  
8 refused, because we were always under the  
9 impression that the business was my father's. And  
10 she evicted us, I guess, a year later, through the  
11 court process.

12          THE COURT: She evicted you a year later?

13          THE WITNESS: Yes.

14          THE COURT: So y'all did not leave -- or your  
15 mother did not leave --

16          THE WITNESS: She filed -- from my  
17 understanding -- because I left and went to school  
18 on September the 8th at Gupton Jones College of  
19 Funeral Services. I left. We buried my father on  
20 Saturday. I left that Monday going to school.  
21 What happened in between there -- yeah. I don't  
22 really know a whole lot about it, because I was in  
23 Atlanta.

24          THE COURT: You were in Atlanta? All right.  
25 But so, about a year later you understand an

1           eviction action was brought?

2           THE WITNESS: That's correct, because one of  
3 my brothers -- they called the police on him and  
4 had him locked up; if not one or -- two of my  
5 brothers.

6           THE COURT: Two brothers were locked up?

7           THE WITNESS: Uh-huh. And I do know, during  
8 that process, that they were asked, you know -- my  
9 mom had funerals going on. And Mr. Caldwell and  
10 my aunt changed documents, so checks would go up  
11 to her funeral home in Charlotte. They were  
12 diverting paperwork, and stuff, so that monies  
13 would be transferred. They would file with the  
14 insurance companies and have -- the checks would  
15 go to her, and my mom would just be sitting there  
16 waiting on the money. And she would have Moses  
17 Caldwell -- they would get into cahoots, and sign  
18 paperwork --

19           MR. WINGATE: Objection, Your Honor.  
20 Objection on basis of hearsay. He's testifying in  
21 conversations between Margie and Moses Caldwell.

22           MR. WHITT: No, he didn't --

23           THE WITNESS: I didn't -

24           MR. ROGERS: No --

25           THE COURT: Hold on. He can't testify --

1 THE WITNESS: I saw the paperwork.

2 THE COURT: Okay. What did you see?

3 MR. WHITT: They had assignments that we do  
4 for --

5 THE COURT: As to the objection, I'll sustain  
6 the objection as to any testimony that's hearsay.  
7 You see, you can't testify to what somebody else  
8 told you.

9 THE WITNESS: We have assignments at the  
10 funeral home. And we assign insurance policies  
11 for services.

12 THE COURT: Right.

13 THE WITNESS: Patricia -- the funeral  
14 services were held in Chester, at the funeral home  
15 in Chester. Moses Caldwell and Patricia changed  
16 the documentation, so the monies would be  
17 converted to Charlotte, to the funeral home that  
18 she took from my Uncle Sonny and his family. Same  
19 shenanigans they do in Chester, they do in  
20 Charlotte.

21 THE COURT: You'll have to explain that. Is  
22 this after you were evicted? After your mother  
23 was evicted?

24 THE WITNESS: Yes.

25 THE COURT: You saw --

1 THE WITNESS: My mom was expecting to be paid  
2 for services that we handled. We're sitting there  
3 waiting. Then, we called the insurance company.  
4 We see where the documentations were altered, and  
5 monies were transferred to the Charlotte location.  
6 MR. WINGATE: Again, Your Honor, an objection  
7 to the basis of hearsay, he's testifying to the  
8 contents of documents --  
9 THE WITNESS: I'm pretty sure my attorney has  
10 those documents.  
11 THE COURT: He can testify. I will overrule  
12 the objection.  
13 THE WITNESS: I'm pretty sure.  
14 THE COURT: He said that he saw any --  
15 THE WITNESS: We have since shown those  
16 documents to my attorney. He should have them in  
17 file.  
18 THE COURT: Okay.  
19 THE WITNESS: And how I know this, sir, is we  
20 had to refund funds to a family. Because we  
21 didn't want to have a bad name in Chester of  
22 not -- the people have paid for the services. And  
23 we had to refund that family some funds, because  
24 the funeral services were already paid for. But  
25 Patricia, for the better -- in a light term, stole

1 the money -- she and Moses Caldwell.

2 THE COURT: In one instance you're familiar  
3 with; is that right?

4 THE WITNESS: That's correct.

5 THE COURT: Okay.

6 THE WITNESS: And Your Honor, this is, like,  
7 an ongoing thing in my family. Whenever somebody  
8 dies, Patricia takes over. And I think there's  
9 also some --

10 THE COURT: Do you have any other questions?

11 MR. WHITT: No Redirect, Your Honor.

12 THE COURT: Do you have any other questions?

13 MR. WHITT: Nothing further, Your Honor.

14 THE COURT: All right. Thank you, sir.

15 THE WITNESS: Thank you.

16 THE COURT: Do you have other testimony?

17 MR. WHITT: Yes, sir. We would like to call  
18 David Siddons to the stand.

19 THE COURT: All right. You want him over  
20 there, I suppose?

21 (WHEREUPON, BEING DULY SWORN AND CAUTIONED TO SPEAK, THE  
22 TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,  
23 DAVID SIDDONS TESTIFIED AS FOLLOWS.)

24 DIRECT EXAMINATION

25 BY MR. WHITT:

1 Q Mr. Siddons, please state your name and business  
2 address for the Court.

3 A David W. Siddons, 246 Stoneridge Drive, Suite 100,  
4 Columbia, SC 29210.

5 Q And please tell the Court your college and professional  
6 training.

7 A Undergrad, Miami University, graduated in 1985.  
8 Bachelor of Business, majored in accounting in '87. I  
9 got my CPA certificate in 1990. I got my JD in '91. I  
10 got my LLM of tax from NYU.

11 Q Do you hold any expert designations from the South  
12 Carolina Supreme Court?

13 A Yes. I am a certified in taxation.

14 Q Okay. Mr. Siddons, have you had a chance to review  
15 documents we provided to you in this case?

16 A I have.

17 Q Among those documents, have you reviewed the order of  
18 reference, of May, 2001, from the regional judge in  
19 this matter?

20 A Yes, I have.

21 Q Did you review Judge Goldsmith's order of July of 2010  
22 confirming that order?

23 A Yes, I did.

24 Q Did you review the counterclaims that were filed on  
25 this case?



1 A Yes.

2 Q Are you aware of the chronology and timeline in this  
3 case?

4 A Yes, I have reviewed that as well.

5 Q Have you had a chance to review documents sufficiently,  
6 that would allow you to give the Court your opinion on  
7 whether or not an accounting would be advisable in this  
8 case?

9 A Yes, I have.

10 Q Based on your knowledge, skill, experience, training,  
11 education --

12 MR. WINGATE: I object, Your Honor. Have  
13 they offered him as a witness, an expert witness?

14 THE COURT: Well, ask your question and then  
15 you can object. So what's the question?

16 MR. WHITT: Well, you're right, Your Honor.  
17 We would offer Mr. Siddons as an expert in tax  
18 matters in South Carolina.

19 THE COURT: All right.

20 MR. WINGATE: I have no objection.

21 THE COURT: All right. Without objection,  
22 what is your question?

23 BY MR. WHITT:

24 Q Based on your review of documents, your knowledge,  
25 skill, experience, training, or education, do you have

1           an opinion as to whether or not an accounting is  
2           advisable in this case?

3     A     Yes, I do.

4     Q     Could you give that opinion to the Court?

5     A     I believe, based on the --

6           THE COURT: Was there an objection earlier or  
7           was that just --

8           MR. WINGATE: Objection just to the  
9           qualification at that point.

10          THE COURT: All right. Go ahead. Do you  
11          have an opinion?

12          THE WITNESS: Yes. I believe, based on the  
13          May 30, 2001, the order of reference, which I  
14          guess has been further blessed by Judge Goldsmith,  
15          that an accounting is called for at this time,  
16          especially listening to some of the testimony  
17          that's going on here. It sounds like there is all  
18          this back and forth, and that an accounting would  
19          be the next order of business.

20          THE COURT: All right. Should Mr. Siddons --  
21          wait, hold on. Go ahead.

22          MR. WINGATE: Objection. Your Honor, that  
23          witness -- the expert witness is testifying as to  
24          the legal conclusions to be derived from the  
25          circuit court's orders and is not basing his

1 opinion upon facts that Counsel has laid out for  
2 him, on which he could formulate an opinion.

3 MR. WHITT: Your Honor, we laid out the basis  
4 for it. It's straight from Rule 702, 703, 704; an  
5 expert can certainly help the Court out as to an  
6 application of the facts in this matter. It's not  
7 objectionable. It's not even objectionable --

8 THE COURT: I want to hear it. Go ahead.

9 MR. WHITT: Under the current rules, it's not  
10 even objectionable if he gives an opinion on an  
11 open issue before the Court. And if we can recite  
12 Rule 702, 703, 704.

13 THE COURT: All right. Any further statement  
14 of your objection? What is your objection,  
15 exactly?

16 MR. WINGATE: That --

17 THE COURT: As I understood his statement, as  
18 he said, based upon the order of reference of  
19 2001, and based upon testimony he heard today --  
20 that's what I heard him say.

21 MR. WHITT: Your Honor, I think that --

22 THE COURT: And he believes an accounting is  
23 called for. I think that that's what he said.

24 MR. WHITT: Your Honor, I think that he also  
25 said, based on Judge Goldsmith's order --

1 THE COURT: Well, okay, on Judge Goldsmith's  
2 order. And at that point you objected, right?

3 MR. WINGATE: I did. I will withdraw my  
4 objection if he said the latter, on the basis of  
5 testimony he has heard today.

6 THE COURT: I understand. He may not have  
7 said it exactly like that.

8 THE WITNESS: Based on what I heard today. I  
9 don't think I used -- I don't know if I used the  
10 word, testimony, but based on what I've heard --  
11 but testimony would be correct.

12 THE COURT: So testimony would be correct?

13 THE WITNESS: Yes. Yes.

14 THE COURT: All right. All right, sir. So  
15 your objection is withdrawn; is that correct?

16 MR. WINGATE: Withdrawn.

17 THE COURT: Okay. So go ahead. What did he  
18 say his opinion was? That an account -- I don't  
19 want to --

20 MR. WHITT: That an accounting is called for.

21 THE COURT: Okay.

22 BY MR. WHITT:

23 Q Also, based on your review of the pleadings and  
24 documents in this case, do you have an opinion on  
25 whether -- on who should pay for the accounting?

1 A I think that I'm --

2 Q First, just, do you have an opinion?

3 A Yes, I do.

4 Q I'm sorry. Could you please give that to the Court?

5 A I believe that Patricia should pay for the accounting.

6 Q Can you give us some basis for your statement?

7 A Well, I mean, this has dragged on for what, nine, ten,  
8 twelve years. And it's on behalf of the estates -- my  
9 understanding is that both of the grandparents we're  
10 talking about, their estates are still open. I haven't  
11 independently verified that, but that's what I've been  
12 told. And typically, in those matters, if it's on  
13 behalf of the estate, then she would bear the cost of  
14 the accounting.

15 Q We have no further questions, Your Honor.

16 MR. WINGATE: Your Honor, if you will just  
17 bear with me for one minute.

18 THE COURT: Well, let me ask some questions  
19 while you're getting ready.

20 MR. WINGATE: Yes, Your Honor.

21 THE COURT: Other than the order of  
22 reference, do you have any other opinion as to why  
23 an accounting is due the Plaintiffs?

24 THE WITNESS: Well, like I say, it was  
25 ordered in '01.

1 THE COURT: I know it was. But I discount  
2 that. The case is completely different today than  
3 it was. But anyway --

4 THE WITNESS: Okay. But I don't really know  
5 what has changed since '01. I mean, I don't think  
6 there has been a whole lot of movement other than  
7 the nine beneficiaries who thought they were going  
8 to inherit something from the parents. I don't  
9 believe they got it. So I mean, I don't have any  
10 -- without having any numbers --

11 THE COURT: The nine beneficiaries of whom?

12 THE WITNESS: Of Mr. and Mrs. King, W.R., and  
13 Ellen King. I may be wrong. Maybe there are  
14 eight children.

15 THE COURT: Well, does it affect your opinion  
16 that Mr. Christopher King's personal  
17 representatives listed as funeral home, is owned  
18 by Christopher King as a sole proprietorship, not  
19 as any interest that was owned by his parents?  
20 Does that affect your opinion?

21 THE WITNESS: Not really. You know, not to  
22 discount these folks -- they're in the funeral  
23 home business. They're not necessarily in the  
24 how-to-fill-out-a-form or ownership interest, so I  
25 don't put a whole lot of weight on how the

1 inventory and appraisalment is filled out, or how  
2 the ownership was listed. I'm just going back.  
3 W.R. and Ellen King had a funeral home. W.R. died  
4 intestate. Ellen died intestate. And I believe  
5 there were either eight or nine children that  
6 survived, that under laws of intestacy would have  
7 inherited.

8 THE COURT: So it's your opinion that the  
9 business that existed, that Chris King ran for --  
10 his daughter testified, for over 40 years, was an  
11 asset of his parents, and passed through their  
12 estate? Is that what your opinion is?

13 THE WITNESS: My understanding is that's a  
14 separate -- I think we're talking about a  
15 different funeral home. The mother, W.R. and  
16 Ellen King, the grandparents of the folks that  
17 testified, had a funeral home business that passed  
18 from W.R., I believe when he died in '75 or  
19 somewhere here and there. And then, Ellen  
20 survived. W.R. had his wife, Ellen, and either  
21 eight or nine children -- maybe it's eight.

22 THE COURT: One of them is Christopher  
23 King --

24 THE WITNESS: Right.

25 THE COURT: -- and one of them is Patricia

1 King, right?

2 THE WITNESS: Right. And then, Ellen passed  
3 away.

4 THE COURT: She passed away some time in the  
5 70's, I believe. Or the 80's?

6 THE WITNESS: '87, I believe.

7 THE COURT: '87?

8 THE WITNESS: Yeah, somewhere in that  
9 timeframe.

10 THE COURT: Go ahead.

11 THE WITNESS: And then, she apparently died  
12 intestate. So her children --

13 THE COURT: So the funeral home that was  
14 operated first at 229 or 129 Cemetery, and  
15 subsequently was operated at -- I don't remember  
16 the addresses.

17 MR. ROGERS: 135.

18 THE COURT: 135. Okay. It was a funeral  
19 home that was an asset of whom at the time of the  
20 grandmother's death? You said there were two  
21 different funeral homes. Now, we're not talking  
22 about Christopher King Funeral Home over here?

23 THE WITNESS: Only one that I'm here to talk  
24 about -- I thought, anyway, was the funeral home  
25 that was operated by W.R. and Ellen King.



1 THE COURT: And what happened to that funeral  
2 home?

3 THE WITNESS: I think that's what we're here  
4 to hopefully find out.

5 THE COURT: Well, what do you know about what  
6 happened to it?

7 THE WITNESS: I don't know. And that's what  
8 I would hope an accounting would show to us.  
9 Where did this business, or where did the assets  
10 end up? And where have they been for the last --

11 THE COURT: Looking at assets is one thing.  
12 Looking at ownership is an entirely different  
13 thing.

14 THE WITNESS: Right.

15 THE COURT: Okay. The daughter testified, I  
16 understood, a while ago, that the business was her  
17 father's and he ran it for over 40 years. Did you  
18 not hear that?

19 THE WITNESS: I heard that testimony. Yes.

20 THE COURT: So why is your testimony that  
21 that was not the case, that it belonged to the  
22 mother?

23 THE WITNESS: You talking about Ellen King?

24 THE COURT: Yes.

25 THE WITNESS: Just based on everything that I

1 had seen to date in the pleadings is that W.R. and  
2 Ellen -- I think we're talking about a separate  
3 business.

4 THE COURT: Okay. Tell me about that.

5 THE WITNESS: Okay. W.R. and Ellen operated  
6 a business for 40 or 50 years. I don't know about  
7 Christopher King and his operations. I never even  
8 looked into that part of it.

9 THE COURT: All right. Did you not hear the  
10 testimony earlier today, that Christopher King ran  
11 that business at that location?

12 THE WITNESS: Right. I did.

13 THE COURT: That were grandparents?

14 THE WITNESS: I heard that. Yes.

15 THE COURT: Okay. Does that make any  
16 difference to your testimony?

17 THE WITNESS: I think it just further makes  
18 this murky. We really need an accounting. I  
19 mean, I don't know how else --

20 THE COURT: An accounting is not going to  
21 establish the ownership.

22 THE WITNESS: Well, we're going to have to  
23 get a baseline of ownership and then follow it  
24 through.

25 THE COURT: Well, let me tell you where I am.

1 THE WITNESS: Okay.

2 THE COURT: There's not going to be any  
3 accounting unless the Defendants can establish  
4 that they're entitled to it.

5 THE WITNESS: Right.

6 THE COURT: And the way they're entitled to  
7 it is the ownership issues, and that there is a  
8 fiduciary obligation by Patricia King. That's  
9 what I think that the issues are. You're kind of  
10 jumping ahead to, there needs to be an accounting,  
11 and I'm looking at, who owned it.

12 THE WITNESS: Right. Right.

13 THE COURT: And I was wondering if you could  
14 help us with that issue.

15 THE WITNESS: Maybe we could -- I could be  
16 engaged to do that. I have not been engaged on  
17 that part of it. But I mean, if there's some  
18 things that I can look at and regroup, I certainly  
19 would, and give my opinion on that as well.

20 THE COURT: Okay. Do you know anything about  
21 how Christopher King handled -- when he ran the  
22 funeral home, apparently for over 40 years,  
23 according to his daughter's testimony, how he  
24 reported his income, and whether he distributed an  
25 income to any of his siblings?

1 THE WITNESS: I do not know.

2 THE COURT: So as far as we know, based upon  
3 the testimony that we've heard this morning, which  
4 you have heard, he operated as a sole  
5 proprietorship, and his heirs filed with the  
6 Probate Court, a statement that that's what the  
7 entity was, a sole proprietorship of Christopher  
8 King. Is that not what you heard?

9 THE WITNESS: Well, that's what I heard. I  
10 didn't even see the inventory and appraisement  
11 that was entered into evidence. I didn't even  
12 examine that.

13 THE COURT: All right. I know you weren't  
14 hired for this, Mr. Siddons, and if you can't  
15 answer this, don't. But you are saying that your  
16 basis for saying that there should be an  
17 accounting, so that I can be clear about it, is  
18 what?

19 THE WITNESS: I'm going back to the order of  
20 reference, which mentions an accounting. In my  
21 read of that is, we're talking about W.R. and  
22 Ellen King, the operation, funeral home, that they  
23 operated for -- I don't know how many years, 40,  
24 50, that passed to their eight or nine children.

25 THE COURT: So your opinion, based upon

1           entitlement to an accounting, is based on that  
2           order of reference?

3           THE WITNESS: I'm looking at that order of  
4           reference, and further, just listening here and  
5           listening to how confused this is. I mean, you  
6           know, you get -- I just don't know how -- and I  
7           understand what you're saying about, we've got to  
8           establish ownership. But that ownership would  
9           have been what passes, by laws of intestacy, back  
10          when W.R. died, Ellen died, and they only have  
11          eight or nine children. So under the laws of  
12          intestacy, it would have gone -- where did it go?  
13          And what has happened in --

14          THE COURT: Well, let me ask you this: Have  
15          you reviewed any documents as to how this was  
16          treated under the estates of the two elder Kings?

17          THE WITNESS: No, I have not. I  
18          understood -- I said I did not independently  
19          verify, that those estates were still open in the  
20          Probate Court.

21          THE COURT: And so, you don't know how they  
22          may have treated this?

23          THE WITNESS: I do not know.

24          THE COURT: Okay.

25          THE WITNESS: And you know, I don't know what

1 the judge was looking at May 30, 2001.

2 THE COURT: Nor do I. So if we had the  
3 filings in the estate of the two elder Kings,  
4 assuming that those are still open, or even if  
5 it's not open -- of course, if it's still open,  
6 that would indicate that there's something to do  
7 with this funeral home still to be dealt with;  
8 would it not?

9 THE WITNESS: That's correct.

10 THE COURT: Okay. But you don't know the  
11 status of those two estates?

12 THE WITNESS: I was told that they were still  
13 open. I cannot independently verify that.

14 THE COURT: Okay. But you don't know how the  
15 funeral home business that's being operated on  
16 Cemetery Street is treated in those two estates?

17 THE WITNESS: I do not know.

18 THE COURT: Okay. All right. Thank you for  
19 answering my questions and for being with us. Did  
20 y'all have any --

21 MR. WHITT: Your Honor, since Counsel hasn't  
22 begun his cross, may I ask two questions under  
23 oath?

24 THE COURT: Do you have any problem with  
25 that?

1 MR. WINGATE: I do, Your Honor.

2 THE COURT: I'm going to go ahead and let him  
3 ask the question. Go ahead and ask him.

4 MR. WHITT: Thank you.

5 BY MR. WHITT:

6 Q I'm showing you some words on a piece of paper. Have  
7 you previously reviewed those words in preparation for  
8 your appearance here today?

9 A Yes.

10 MR. WHITT: Your Honor, do you want us to  
11 publish that to the Court, or may we publish that  
12 to the Court?

13 THE COURT: I think you've got to let the  
14 other side see, so they'll know what you're doing.

15 MR. WHITT: It's the statement from Patricia  
16 earlier in this litigation. It was filed by her  
17 Counsel on her behalf. It's verbatim.

18 MR. WINGATE: Filed in what?

19 MR. WHITT: Filed on November 12th, 1998, in  
20 the complaint in this action, in paragraph 7,  
21 filed by Patricia E. King.

22 MR. WINGATE: So you're saying that this is  
23 paragraph 7?

24 MR. WHITT: That's paragraph 7.

25 MR. WINGATE: Bear with me, Your Honor. Your

1 Honor, so that we can move on with this, can I  
2 just tell Counsel, I don't object to you asking  
3 him about question number 7 of the pleadings.  
4 That's a modified statement that includes words  
5 that are shown in brackets. If you will use  
6 paragraph 7 of the pleadings as it was literally  
7 filed --

8 THE COURT: I'll sustain the objection. Go  
9 ahead. You've got the pleading there? Is that  
10 what you're --

11 MR. WHITT: Well, he has the pleading, Your  
12 Honor. I'm afraid that my document --

13 MR. WINGATE: In my notes --

14 MR. WHITT: We only changed children to  
15 Patricia E. King and Robbie King Jones, Your  
16 Honor.

17 THE COURT: I've got the pleading. We're  
18 looking at --

19 MR. WINGATE: The original summons and --

20 THE COURT: I've got it right here.

21 MR. WINGATE: Yes, Your Honor, paragraph 7  
22 under statement of facts. And I have no  
23 objection --

24 THE COURT: Yeah, if you changed something,  
25 you know, I --



1 MR. WHITT: Well, we indicated the change by  
2 brackets, Your Honor.

3 THE COURT: All right. Let him look at it.

4 BY MR. WHITT:

5 Q Mr. Siddons, can you please review paragraph 7 --  
6 excuse me.

7 A You want me to read it aloud?

8 Q Just review it for yourself. Do those words help  
9 you --

10 THE COURT: Maybe he could read it out loud  
11 so we can --

12 MR. WHITT: Okay. Please publish it.

13 THE WITNESS: Just paragraph 7?

14 THE COURT: Yes, sir.

15 MR. WHITT: Yes.

16 THE WITNESS: W.R. King died intestate in  
17 1975 and Ellen King died intestate in 1987. Under  
18 the applicable intestacy laws of the State of  
19 South Carolina, the ownership of King's Funeral  
20 Home, ultimately passed in equal shares to the  
21 surviving children of W.R. King and Ellen King,  
22 including the Plaintiffs and the late Christopher  
23 C. King.

24 BY MR. WHITT:

25 Q Just turning to your experience as an almost 20-year

1 attorney in South Carolina, do you have an opinion, for  
2 the Court, as to the effect of a statement and a  
3 pleading as to a party?

4 A You know, I'm not a litigator. I don't know that I can  
5 testify to --

6 Q Well, let me ask you --

7 THE COURT: It's not a judicial ruling.  
8 There's no (unintelligible) effect if that's what  
9 you're getting at, I don't think.

10 MR. WHITT: No, Your Honor.

11 THE COURT: You can point it out that that  
12 was the situation then, if you want to. I mean,  
13 point it -- you can use it any way you want to.

14 MR. WHITT: Yes, Your Honor.

15 THE COURT: If he says he's not a litigator,  
16 he can't answer that question.

17 MR. WHITT: Well, the way I phrased it, Your  
18 Honor -- please let me rephrase it.

19 THE COURT: Go ahead.

20 BY MR. WHITT:

21 Q Yes or no, are you aware of statements that it makes in  
22 the litigation, are considered bound --

23 THE COURT: He's not an expert witness in  
24 that area. So if you're asking him for opinion,  
25 he's got a --

1 MR. WHITT: Okay. Well, Your Honor --

2 THE COURT: We're all of us lawyers here.

3 He's an expert witness in finance and

4 accounting --

5 MR. WHITT: All right, Your Honor.

6 THE COURT: -- and he has not been sworn to

7 be a witness expert in any other areas.

8 MR. WHITT: We'll move on.

9 BY MR. WHITT:

10 Q Do the words that you just reviewed have any impact on  
11 your opinion, support or not support, for your opinion  
12 as to whether there should be an accounting?

13 MR. WINGATE: Objection, Your Honor.

14 THE COURT: Overruled.

15 THE WITNESS: I think that just further nails  
16 down the point, that the funeral home business,  
17 whatever funeral home business that W.R. and Ellen  
18 King had, passed to their children in equal  
19 shares.

20 BY MR. WHITT:

21 Q Mr. Siddons, do you have an opinion of when an  
22 accounting should be held, as opposed to now or later?

23 A My recommendation would be sooner than later.

24 Q Thank you, Your Honor.

25 THE COURT: Okay. I have a question as a

1 result of that question. If that's true, when do  
2 you think that this funeral home business passed  
3 at the time of Mr. W.R. King's death, which was in  
4 the 1970's, and then subsequently passed by, you  
5 know, in 1980's when Ellen King died -- when  
6 should the accounting commence?

7 THE WITNESS: Well, you could go all the way  
8 back to 1975.

9 THE COURT: You should, shouldn't you?  
10 That's what I'm asking.

11 THE WITNESS: I mean, under laws of  
12 intestacy, you know, if I can remember what it was  
13 before '86, I believe what happened was, if it was  
14 all owned by Mr. King -- the funeral home business  
15 was determined to be owned by Mr. King, a third of  
16 it would have passed to Ms. King, and two-thirds  
17 of it would have passed to the children. Then,  
18 when she passed away in '87, whatever interest she  
19 had, the one-third interest or whatever it is,  
20 would have passed to the kids, to the children, so  
21 that they would have had the complete ownership  
22 interest. So you could, theoretically, go all the  
23 way back to 1975. I don't know if that would --

24 THE COURT: Well, I'm not sure that has been  
25 framed by the pleadings here. But asking for an

1           accounting forward --

2           THE WITNESS: I would envision going back to  
3           the order of reference to May 30 of '01.

4           THE COURT: Okay. Any other questions?

5           MR. WHITT: No, Your Honor. But thank you.

6           THE COURT: Any cross examination?

7           MR. WINGATE: Yes, Your Honor. Bear with me  
8           one second, Your Honor.

9           THE COURT: Can I ask you -- let me ask one  
10          other question. There are various ways to do,  
11          quote, an accounting, end quote, some of which has  
12          been to bring all the materials, documents, or tax  
13          returns, whatever. Another is to hire someone  
14          such as yourself or someone else to go do some  
15          accounting. And I have understood some discussion  
16          about who should pay for an accounting. So my  
17          question is: How would an accounting be approached  
18          here?

19          THE WITNESS: Well, at a minimum -- and I'm a  
20          CPA, but I don't do tax returns or the accounting,  
21          so I wouldn't be your guy. But what I would  
22          envision is to at least start with the tax  
23          returns. Start there and see how comfortable you  
24          can get them with tax returns. You know, you'd  
25          have at least the gross -- this is what came in,

9 THE WITNESS: And I don't -- yeah. I don't  
0 know how any of this has been reported over the  
1 last ten years. I have no idea. But tax returns,  
2 you know, at least what has been submitted to the  
3 Feds and the Department of Revenue, is always a  
4 good place to start.

17 CROSS EXAMINATION

19 Q Mr. Siddons, if I told you that W.R. King's estate, the  
20 grandfather, is closed, would that make a difference in  
21 your opinion?

25 Q If I told you that W.R. King's estate is closed --

1 A Right.

2 Q -- would that make a difference in your opinion?

3 A As to whether or not an accounting is needed? No. I  
4 still believe in accounting based on that May 30 of '01  
5 order of reference.

6 Q And if I told you that Ellen King's estate, the  
7 grandmother, has been closed, would that make a  
8 difference in your opinion?

9 A I don't know that I would still not want to have an  
10 accounting. I would really like to see how the  
11 ownership transferred from both of those estates. But  
12 I still, at this point, feel firm, based on the order  
13 of reference of May 30, '01, that there's an accounting  
14 called for.

15 Q And if I told you that the inventory for Ellen King's  
16 estate shows no real estate interest whatsoever in 135  
17 Cemetery, would that change your answer?

18 A Not on the accounting, because that's a piece of real  
19 estate. That's not a funeral home business. That's  
20 just a piece of real estate.

21 Q My question is about the 135 Cemetery real estate.

22 A Right.

23 Q That's correct. That's the focus of that question.

24 A Right.

25 Q So if I told you that 135 Cemetery, for the closed

1        Ellen King real estate, was not an asset that she  
2        owned, my question is, would that make any difference  
3        in your opinion?

4        A    No. I think we still need an accounting. And it may  
5        be a very short accounting. But I still think -- you  
6        know; I can't get my hands around why this order of  
7        reference is out there. When was the estate closed?  
8        What time period are we looking at?

9        Q    I'm saying, assume.

10       A    Okay.

11       Q    It's assume. If I told you that Ellen King's inventory  
12       shows no ownership of any business interest,  
13       whatsoever, in King's Funeral Home or any other  
14       business by any similar name, would that make a  
15       difference, in your opinion?

16       A    I think that would weigh into my opinion. But again,  
17       not to slight anyone in this room. We're dealing with  
18       people who are in the funeral home business, like if we  
19       were dealing with people who are in the air  
20       conditioning business. They may not know, exactly, how  
21       to complete the forms from the Probate Court.

22       Q    You testified, Mr. Siddons, that you're an expert -- or  
23       certified specialist in taxation. You have an LLN in  
24       tax and that you do a lot of probate work, correct?

25       A    Correct.



1 Q I'm going to show you a document which purports to be  
2 an inventory and appraisalment for the estate of Ellen  
3 N. King. Are you familiar with inventory and  
4 appraisements?

5 A I am.

6 Q I would like to move this document into evidence.

7 THE COURT: Is this Ellen King's inventory  
8 and appraisalment?

9 MR. WINGATE: That is correct, Your Honor.

10 THE COURT: Okay. Let me ask you this: I  
11 made a copy of that other one that went into  
12 evidence --

13 MR. WINGATE: Yes, sir.

14 THE COURT: -- to give back to y'all. Did I  
15 give you both?

16 MR. WINGATE: Your Honor, you only gave me  
17 one. But I have another one of Chris King's  
18 inventory, an extra copy, if you'd like it.

19 THE COURT: Yeah. I wouldn't mind it. I was  
20 going to give you your copy back.

21 MR. WINGATE: You did give us back our copy,  
22 but you kept yours. But I have another one for  
23 you.

24 THE COURT: Sorry.

25 MR. WINGATE: That's okay.

1 THE COURT: I don't know what I did with  
2 that. I guess it just disappeared.

3 MR. WINGATE: Mr. Tyler will get it out for  
4 you.

5 THE COURT: Well, that will be fine. We  
6 don't need to stop for that. All right. You're  
7 offering into evidence --

8 MR. WINGATE: Plaintiff's Number 4, the  
9 inventory of Ellen N. King.

10 MR. WHITT: Well, we haven't seen that --

11 MR. ROGERS: Objection. We just haven't seen  
12 it.

13 MR. WHITT: Ready, Your Honor.

14 THE COURT: Without objection?

15 MR. WHITT: Yes, Your Honor.

16 THE COURT: All right, without objection.  
17 What is that document?

18 MR. WINGATE: That's the inventory and  
19 appraisal of Ellen N. King.

20 THE COURT: All right. Exhibit 4. All right,  
21 sir.

22 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 4 WAS MARKED FOR  
23 IDENTIFICATION PURPOSES, PROBATE COURT INVENTORY AND  
24 APPRAISEMENT OF ELLEN N. KING.)  
25 BY MR. WINGATE:

1 Q Looking at Exhibit Number 4, Mr. Siddons, will you  
2 please look on there and see if you find any real  
3 estate at 135 Cemetery Street, as having been owned by  
4 Ellen King at her death?

5 A There's nothing listed here.

6 Q Okay. You're a probate expert. If you would also look  
7 at Schedule F, where sole proprietorships would be  
8 listed, and tell me if you see any ownership interest  
9 of King's Funeral Home in the estate of Ellen King.

10 A There's none listed.

11 Q So you didn't review Ellen King's inventory in forming  
12 your opinion, did you?

13 A I didn't.

14 Q Prior to today? Nor did you review the probate file  
15 for W.R. King prior to today, did you?

16 A No, I did not.

17 Q Have you reviewed the inventory and appraisement of  
18 Christopher King's estate, prior to today?

19 A I have not.

20 Q Have you reviewed any documents that show any transfer  
21 of real estate from W.R. King or Ellen King to  
22 Christopher King?

23 A I have not.

24 Q Have you reviewed any real estate deeds from  
25 Christopher King to Patricia King, or any other family

1 members?

2 A I have not.

3 Q Have you reviewed any corporate stock of any businesses  
4 related to funeral homes in Chester, South Carolina?

5 A I have not.

6 Q Have you seen any stock of any funeral homes?

7 A I have not.

8 Q Have you reviewed any tax returns for King's Funeral  
9 Home?

10 A I have not.

11 Q Have you reviewed any tax returns for Christopher C.  
12 King's funeral home?

13 A I have not.

14 Q Have you reviewed any evidence of transfers of real  
15 property by deeds among these family members, in  
16 Chester, South Carolina?

17 A I have not.

18 MR. WINGATE: Your Honor, I have no further  
19 questions.

20 THE COURT: All right. Any Redirect?

21 MR. WHITT: Yes, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. WHITT:

24 Q Mr. Siddons, do you make a distinction between real  
25 estate land, and a building, and a business that might

1 be run in that real estate, in that location?

2 A Yes.

3 Q Isn't it -- does the fact that something does not  
4 appear on the inventory and appraisalment form, is that  
5 just positive, or could it simply been left off by the  
6 personal representative?

7 A It could have been left off, in which case -- and it  
8 happens -- I wouldn't say, frequently, but you know, on  
9 occasion, where you then come back and do a subsequent  
10 administration. And if the estate had been closed,  
11 you'd re-open it. If the estate is still open, you  
12 would do a supplemental inventory and appraisalment, and  
13 list that asset that's left off.

14 Q Do you feel that you needed to review documents before  
15 May 2001 since -- I believe you told His Honor that you  
16 thought the accounting should come forward from that  
17 date.

18 A I didn't feel like it was relevant at that time. I was  
19 working off of what the Judge has signed back on May  
20 30th of '01, about the accounting.

21 Q Mr. Siddons, have you changed your opinion that there  
22 should be an accounting in this matter?

23 A No. I believe there still should be an accounting.

24 MR. WHITT: Thank you, Your Honor.

25 THE COURT: Okay. Any other --

1 MR. WINGATE: I have no further questions.

2 THE COURT: Okay. Thank you, Mr. Siddons.  
3 Can we excuse Mr. Siddons?

4 MR. WHITT: Yes, please.

5 THE COURT: Thank you, David. We appreciate  
6 your time. Any other testimony from the  
7 Plaintiffs?

8 MR. WHITT: No, Your Honor.

9 THE COURT: All right. Well, I said  
10 Plaintiffs. I meant, Defendants. All right. Any  
11 motions or are you ready to proceed?

12 MR. WINGATE: I have a motion, Your Honor,  
13 for a directed verdict. The Defendants, in the  
14 establishment of counterclaim number 2, for an  
15 accounting, have introduced no evidence,  
16 whatsoever, of ownership by the estate of  
17 Christopher King in an enterprise known as King  
18 Funeral Home, which operates at 135 Cemetery  
19 Street, as of the date of his death. The business  
20 was, as their own evidence established, a sole  
21 proprietorship.

22 Robbie King, who is one of the two personal  
23 representatives of her father's estate, has filed  
24 an inventory and appraisement with the Chester  
25 County Probate Court. And on Schedule E of that

1 inventory, she and her mother, Margie King, have  
2 reflected that King's Funeral Home was a sole  
3 proprietorship at the time of Christopher King's  
4 death.

5 As Your Honor is aware, a proprietorship  
6 ceases at the death of the proprietor. Now,  
7 certainly, the individual assets thereof would be  
8 part of an estate, if that deceased individual  
9 owned those assets. There had been no evidence,  
10 whatsoever, to establish that Christopher King  
11 owned any interest in the real estate at 135  
12 Cemetery Street, which is where King's Funeral  
13 Home operates.

14 And in fact, quite the contrary, Your Honor.  
15 Their own evidence has established that not only  
16 did Christopher King own no interest in 135  
17 Cemetery Street at his death, but also in evidence  
18 is the inventory of their mother, Ellen King, who  
19 had died in 1987 ten years prior. And even she  
20 didn't own any interest in the real estate at 135  
21 at the time of her death.

22 And so, Your Honor, on that basis, that they  
23 have established no ownership whatsoever, nor have  
24 they established, as a secondary element, if that  
25 even needs to be established, that there is any

1 business relationship between Christopher King and  
2 Patricia King at the date of his death -- they  
3 said he alone, solely, ran it -- both Mr.  
4 Christopher King, who is present and testified  
5 today, the son said that, as well as Robbie King,  
6 who is one of the two PRs said that.

7 And then, finally, as to the expert  
8 testimony, Your Honor, he was not engaged -- he  
9 said, literally, quote, I was not engaged to  
10 review questions of ownership. And he further  
11 stated that he reviewed no tax returns, he  
12 reviewed no deeds, he reviewed no other  
13 inventories of these estates, and that he was  
14 relying upon order of the Court as previously  
15 established.

16 So Your Honor, on the basis of their having  
17 utterly failed to establish any basis of ownership  
18 or business relationship, we would move for a  
19 directed verdict, on the basis that they have  
20 failed to meet their burden of proof, which, as  
21 Your Honor is aware, they must prove. They have  
22 that affirmative burden by a preponderance of the  
23 evidence.

24 THE COURT: All right. Thank you, sir.

25 MR. WHITT: Your Honor, thank you. The



1 Christopher King argument is a complete red  
2 herring and it's off the topic of what we're  
3 talking about, Your Honor. The funeral home  
4 business was with W.R. King. At his death, it  
5 passed intestate to Ellen and the children.

6 At that time, Patricia King was a personal  
7 representative for Ellen's estate. At that time,  
8 there should have been a distribution from the  
9 funeral home business, which as Counsel has  
10 admitted, was a sole proprietorship, and therefore  
11 passed at his death to Ellen. There should have  
12 been a distribution at that time, of whatever the  
13 percentages worked out in the law. We've heard  
14 different testimony of what that was, but clearly,  
15 the funeral home passed from W.R., at his death  
16 intestate. Counsel so argued to Your Honor that  
17 it did. So it ends up with Ellen and the  
18 children.

19 So you can't ignore that that happened and  
20 move to another step where you talk about who ran  
21 the funeral home, and what happened with all that  
22 stuff. It went to Ellen. It was never  
23 distributed. Patricia had a responsibility to  
24 distribute it for her mother. Had her mother  
25 lived, her mother would have had a responsibility,

1           because she would have presumptively been the PR,  
2           or whoever filled that role. They would have had  
3           a duty to distribute the funeral home business at  
4           W.R.'s death, a share to Ellen and a share to the  
5           children.

6           The reason we're here today, Your Honor, is  
7           that all this time, Ellen didn't live to  
8           distribute it, presumably, so then the Court then  
9           relies on Patricia E. King, as the personal  
10          representative of Ellen to distribute it. And all  
11          this time, what has she done, Your Honor? Has she  
12          distributed it? No. She's run it as her own  
13          little kingdom, Your Honor, and taken 100 percent  
14          of the profits of the funeral business for  
15          herself.

16          And you've got testimony on this subject from  
17          two witnesses, Your Honor, that that's what  
18          happened. So you've got to follow the bouncing  
19          ball and follow the money, Your Honor. It goes  
20          from W.R. to Ellen. Then Ellen's personal  
21          representative has a duty to distribute it to the  
22          other children at --

23          THE COURT: It wouldn't have gone from W.R.  
24          to Ellen. It would have gone to W.R. if it were  
25          through the statute of descent and distribution.

1 MR. WHITT: Excuse me, Ellen and the  
2 children.

3 THE COURT: He testified there was one time  
4 it was two-thirds instead of 50,50 as far as  
5 spouse and children. So according to Mr. Siddons'  
6 testimony, it would have gone, I suppose if it  
7 would have been an asset of W.R., to Ellen and to  
8 the children. And then, when it got to Ellen,  
9 Ellen would have gotten -- you know, Ellen would  
10 have ended up with the one-third share. And so,  
11 that one-third share, then, would have gone to all  
12 of the children. Isn't that what his testimony  
13 said?

14 MR. WHITT: Yes, Your Honor. And that's our  
15 belief. And Counsel told you that it was a sole  
16 proprietorship, that it ended at death, and it  
17 passed. So if you follow the trail it goes from  
18 W.R. to Ellen and the children -- a minute ago I  
19 said just Ellen. I should have said Ellen and the  
20 children. And then, it would have been  
21 distributed, had Ellen lived. Ellen didn't live,  
22 so it went to her personal representative to stand  
23 in her shoes and distribute it. Because then, it  
24 belonged not to just Ellen, but Ellen and the  
25 children.

1           And Your Honor, in all this time, Patricia  
2           King has profited from that business to the  
3           exclusion of her siblings. It has never been  
4           shared with the other siblings from that date  
5           forward. And you know, it's laughable to sit here  
6           today and say that our expert couldn't review any  
7           tax returns. Your Honor, they've never given any  
8           tax returns to anybody. We provided testimony to  
9           Your Honor from two different people that said  
10          they've never seen an accounting or information on  
11          the profits of the funeral home.

12          So to say that he didn't rely on it, we'd  
13          love to have had it for us to review and him. But  
14          he didn't review it because it was never given to  
15          him by anybody. So there's no basis for that  
16          argument.

17          The going off on the Christopher C. King  
18          Funeral Home at another address is a red herring.  
19          It's not what we're here to talk about today.  
20          We're here simply to talk about an accounting from  
21          the original funeral home of W.R. King that has  
22          gotten stopped. Eleven years ago it stopped with  
23          Patricia and she said, okay, this is my kingdom,  
24          now I'll spend it, I'll do what I want. And it  
25          wasn't distributed to the other siblings.

1           That's why they're here today, Your Honor,  
2           asking for Your Honor to intercede and do the  
3           accounting that another Circuit Court Judge said,  
4           in 2001, should be done. And that Circuit Court  
5           Judge, as busy as he might have been, took the  
6           time to put in that order, this is not just an  
7           accounting for these folks that hired attorneys  
8           and came to court, I want an accounting for all  
9           the beneficiaries of the funeral home business.

10           And Judge Goldsmith reaffirmed that order  
11           later, Your Honor, saying the same things. And  
12           Your Honor, we can't leave this admission, this  
13           statement --

14           THE COURT: Had I believed that order of  
15           reference controlled the situation, we wouldn't be  
16           having this hearing today. So as far as that  
17           order of reference and what it did is concerned,  
18           it was done with a complete different set of  
19           facts. It was based upon their motions for an  
20           accounting, because at that point in time, they  
21           were outside, and the other family was on the  
22           inside.

23           So that order was based upon an accounting  
24           that they requested. So the set of facts  
25           completely changed, particularly after the Court

1 dismissed the Plaintiffs' claims. At that point  
2 in time you would have had no accounting request,  
3 whatsoever, before any Court. And that existed  
4 until you amended your counterclaims and asked for  
5 an accounting.

6 So therefore, as far as what -- and all due  
7 respect to that order and whatever the Court  
8 decided, the facts today, I view, are different.  
9 And they're different because the circumstances  
10 are different. They were the one asking for the  
11 accounting. And they were asking for the  
12 accounting, and they said that the funeral home  
13 had been -- the same position you're taking today.  
14 You were taking the opposite position back then;  
15 that it was Christopher King's funeral home.

16 And possibly, the evidence today that I heard  
17 seems to indicate that might have been the case.  
18 That's not a ruling. But the testimony of his  
19 daughter and his son seem to be to that effect,  
20 plus the fact that it was listed in that estate as  
21 a sole proprietorship of Chris.

22 So if you combine that with the estates of  
23 the two -- or at least the Ellen King estate,  
24 which did not regard this as having passed through  
25 the family, that indicates it's strongly suggested

1           that it was Christopher King's funeral home. He  
2           ran it. He operated it. His family helped him  
3           with it, other than Patricia. I haven't heard  
4           their side of the case yet, and they may have some  
5           different testimony that light testimony taken in  
6           your light.

7           You know, I'm having a very hard time  
8           believing that this is a funeral home that was  
9           sitting out there, owned first by W.R. and then  
10          passed through Ellen, where there's no evidence,  
11          that I see, really, to show that. So that's a  
12          great concern, saying that this is the way it was.  
13          It might have been what the law would have  
14          regarded it as, had it of been an estate. They  
15          just didn't treat it that way, I don't think.  
16          They didn't treat it as, you know, that way, that  
17          it was passing through.

18          Now, I can understand that, you know, being a  
19          family, they wouldn't have necessarily made the  
20          fine distinctions that the law might make. But it  
21          seems like that the way they operated this thing,  
22          parents owned it, started it, and then at some  
23          point along the way, many years ago, Christopher  
24          began operating it.

25          I mean, the question I would have -- and I

1           would doubt that it would be -- did Christopher  
2           distribute the profits all the time, 40 years, or  
3           however long that he ran it? You know, is there  
4           an obligation like there is that you're asking for  
5           for them, for all of that period of time that he  
6           operated it? What happened to those profits, if  
7           it were estate property? So those are questions  
8           that I think the Court is going to have to wrestle  
9           with.

10           As far as directed verdict, you know, I  
11           likely would deny that motion, because there is  
12           evidence here that -- there is evidence here. The  
13           concern that I have is, though, before I make any  
14           kind of ruling on that is, your firm position is  
15           that it was estate property through the Ellen and  
16           W.R. King estate? Is that -- what if I were to  
17           disagree with that? Would you be owed an  
18           accounting if it belonged to Christopher King?

19           MR. WHITT: Well Your Honor, respectfully,  
20           that's not before Your Honor today. There's no  
21           testimony to that effect.

22           THE COURT: There's no testimony to what  
23           effect?

24           MR. WHITT: That we're maintaining that  
25           Christopher King owned the funeral home business.



1 THE COURT: I know that's what you're  
2 maintaining. But I'm saying, it looks like, to  
3 me --

4 MR. WHITT: No --

5 THE COURT: -- the testimony is completely  
6 contrary to that.

7 MR. WHITT: But Your Honor, I would submit  
8 that --

9 THE COURT: What would be wrong about that?  
10 The testimony that I heard from the daughter was  
11 that her father ran and operated it for over 40  
12 years. The son was essentially to the same  
13 effect. They all worked in that funeral home, 135  
14 Cemetery Street. They operated it. The lived in  
15 it. They even lived in it during a period of  
16 time. It's very much identified with their  
17 family, it seems to me. That is, Christopher's  
18 family -- all the kids worked in the funeral home,  
19 both of the sisters and the brothers. And they  
20 even lived there for a period of time. Is that  
21 not what the testimony was?

22 MR. WHITT: It was, Your Honor, but I think  
23 it's couched in it's more in the terms of pride in  
24 the fact that he ran it for all those years, and  
25 in effect, got nothing. But that's not before

1 Your Honor.

2 THE COURT: What do you mean, he got nothing?

3 MR. WHITT: Christopher C. King didn't get  
4 the funeral home interest. Because you did hear  
5 testimony, if we go there, Your Honor, that he had  
6 temporarily transferred it to Patricia with the  
7 understanding he'd get it back. But Your Honor,  
8 we're not here for that today.

9 THE COURT: There are two problems with that.  
10 One is real estate, and one is a business. And  
11 they're separate kinds of things.

12 MR. WHITT: And I think we made that  
13 distinction with our expert, Your Honor. We're  
14 not talking about the land and the building.  
15 We're talking about the funeral home business as  
16 an entity.

17 THE COURT: I completely understand that  
18 that's what you're arguing.

19 MR. WHITT: And we think it ignores the death  
20 of Ellen at the time she held that entity, Your  
21 Honor. Counsel told Your Honor that. He said  
22 W.R. King died and his estate went poof because he  
23 died. It went to his wife and his kids. Your  
24 Honor, don't ignore the fact that that estate is  
25 in with Ellen and the children, and that's where

1           it has always stayed. Because Patricia co-opted  
2           it into her own use for 12 years, and no one has  
3           ever stopped her from doing it.

4           It didn't come sideways to Christopher.  
5           We're not talking about how we are where we are.  
6           We're talking about at the time of the death of  
7           W.R., when it went to Ellen, and then Ellen died  
8           intestate also. And then, Patricia had a  
9           responsibility to distribute to the children at  
10          that time. And Your Honor, that's what has never  
11          been done, and that's what we want an accounting  
12          for.

13          THE COURT: Let me ask you this -- nephew  
14          went off and ran his own funeral home. Obviously,  
15          in the community, it looks like to me, that  
16          Christopher ran it so long, his name was, you  
17          know, a name that people associated with King's  
18          Funeral Home. And so, obviously, when John King  
19          went out to operate a business, he named it  
20          Christopher King Funeral Home.

21          Here's a question I'm going to ask you. What  
22          are the assets? It seems to me that this is one  
23          of the most difficult questions in this case.  
24          What is it that Patricia King got? I mean, from  
25          that point forward in 1997, there was also a

1 business that she built. There hasn't been any  
2 testimony about the workers, the name value.  
3 You've got to look at what the elements of a  
4 business are. What is it that the asset consists  
5 of: its name, it consists of its business records,  
6 its customer list. Right?

7 MR. WHITT: Yeah. But Your Honor goes one  
8 step past the death of Ellen to do that, to talk  
9 about what Patricia --

10 THE COURT: None of that. There's none of  
11 that in evidence of how that was treated.

12 MR. WHITT: Well, that's what we want an  
13 accounting for, Your Honor. We'll take the  
14 funeral home value at the time and then the  
15 profits for 11 years is the value we're looking  
16 for, from W.R. King.

17 THE COURT: Get my question. To what extent  
18 was the funeral home, that's there at 135 Cemetery  
19 Street, the old funeral home, the King Funeral  
20 Home, and what is it that has become Patricia  
21 King?

22 MR. WHITT: It kept the same name.

23 THE COURT: Well, I know it did.

24 MR. WHITT: Pardon?

25 THE COURT: I know it did. But one member of

1 the family went over here and opened another  
2 funeral home. And she has business. To what  
3 extent was that business that she has built up?  
4 To me, that's a difficult question. And what  
5 would have been -- are you entitled -- say we do  
6 an accounting. Are you entitled to all of  
7 whatever that is?

8 MR. WHITT: Absolutely, Your Honor. No,  
9 we're entitled to our pro rata share.

10 THE COURT: There's some part of it that  
11 might be as a result of her actions, and her work,  
12 and so forth.

13 MR. WHITT: That's why we need an accounting,  
14 Your Honor. What portion is hers? But where did  
15 the children ever get taken in account? And the  
16 law doesn't ever ignore people, Your Honor. They  
17 never do. Children receive something under the  
18 intestacy laws when W.R. and then Ellen died. All  
19 right. They receive something. Where is it, Your  
20 Honor? Maybe it's ten dollars, but we need an  
21 accounting to see what it is. That's what they  
22 never -- they've never gotten a fair --

23 THE COURT: No. I am hung up on first, your  
24 entitlement to it. I'm not impressed with your  
25 arguments about what's out there and you know,

1           what she's made, and that sort of thing. The  
2           first thing that you have got to do, is establish  
3           there's some relation here that you're entitled  
4           to. And what you're doing it on, it seems to me,  
5           is that this business here, that's now operating  
6           on 135 by Patricia King, is that same business  
7           that W.R. started; that his wife worked in; that  
8           Christopher King operated for over 40 years.

9           MR. WHITT: Same permit as the estate, Your  
10          Honor.

11          THE COURT: But the estates don't back that  
12          up.

13          MR. WHITT: Your Honor, it's not our fault  
14          that she took it over and ran it, instead of  
15          for --

16          THE COURT: I'm not looking at that point  
17          forward. I'm looking at that point backward. At  
18          the time that she supposedly took over, what is  
19          it, was it, that she took over, and who owned it?

20          MR. WHITT: She took over the active funeral  
21          home business.

22          THE COURT: You only are entitled to an  
23          accounting if you have some relationship to  
24          that --

25          MR. WHITT: We received an intestate interest

1 in King Funeral Home, Your Honor, when W.R. died  
2 and Ellen died. The children received it.

3 THE COURT: All right. How would you deal  
4 with this filing of the Christopher King estate,  
5 the list of this as his asset?

6 MR. WHITT: Your Honor, anybody can put  
7 anything on there they want. You heard from your  
8 expert, not from me, that it's virtually  
9 meaningless. What if they just simply omitted it  
10 because it says it's in litigation?

11 THE COURT: But what about the testimony from  
12 the daughter that her daddy ran the business for  
13 40 years?

14 MR. WHITT: That's a point of pride, Your  
15 Honor. And we're not here to litigate that.  
16 Should Christopher C. King have been compensated?  
17 Yes, Your Honor. But we're not able to talk about  
18 that here today. We're here on the accounting on  
19 what happened at the death. That's a point of  
20 pride for them. And it's true testimony that  
21 that's what he did. And we wish he was  
22 compensated for it, Your Honor. But because he  
23 trusted his sister, and temporarily transferred it  
24 over to her with the understanding that he would  
25 receive it back, he never received it back, Your

1 Honor.

2 THE COURT: You're mixing two different  
3 things here. You're now talking about real  
4 estate. And I'm talking about the business  
5 entity.

6 MR. WHITT: No. The actual business entity  
7 is what Christopher King entrusted with his sister  
8 for a while. And then he thought he'd get it  
9 back. And he didn't get it back.

10 THE COURT: There's no testimony in the  
11 record about that.

12 MR. WHITT: Yeah. There was testimony. Yes,  
13 Your Honor, from the witnesses, that said that he  
14 entrusted her with it, expected to get it back,  
15 but did not.

16 THE COURT: I understood that to be the title  
17 to the property. I didn't understand that to be  
18 the ongoing business. Are you arguing that what  
19 that testimony was about, was that she operated  
20 and ran the business during that period of time?  
21 Did she or not? I didn't take that testimony to  
22 be that way.

23 MR. WHITT: Well Your Honor, what happened  
24 is, is that he thought he was transferring his  
25 interest in the funeral home business. In fact,



1           he gave up control of the business. That's  
2           uncontroverted, that she got control of the  
3           business. She has it sitting here today.

4           THE COURT: She owned the real estate.

5           MR. WHITT: Well, she runs the business also,  
6           Your Honor.

7           THE COURT: Who does now?

8           MR. WHITT: Well, at the time of the  
9           eviction, she got a temporary restraining order.  
10          They couldn't come on the premises. But we do  
11          make a distinction between the real estate, the  
12          building, and the business of King Funeral Home.  
13          We absolutely make that distinction, Your Honor,  
14          that that's what came down from W.R. and Ellen.  
15          And Your Honor, we just don't see how you can skip  
16          that step.

17          The children, when their mother died -- say  
18          they went to an attorney then. What happened?  
19          You're going to get an eighth, a third?. You're  
20          going to get some portion of that. But to this  
21          day, Your Honor, it's uncontroverted that they  
22          never received a penny. So if you just look at  
23          that aspect, if you stop at what happened with  
24          W.R. and Ellen, they've never been compensated a  
25          penny or an accounting. We don't know what she

1           made or didn't make, Your Honor, since then.

2           THE COURT:   Okay.

3           MR. WINGATE:   Your Honor, the only evidence,  
4           aside from the verbal testimony -- I'm not talking  
5           about it. The only evidence of ownership clearly  
6           and absolutely establishes that Ellen King had no  
7           interest in 135 Cemetery Street at her death, and  
8           that she had no interest in King's Funeral Home at  
9           the time of her death. And the only evidence,  
10          with regard to Christopher King's estate, is that  
11          he owned no interest in 135 Cemetery Street, the  
12          property, and what he owned was a sole  
13          proprietorship. Your Honor, Counsel seems to  
14          confuse the fact of what happens with --

15          THE COURT:   Just hold on a second. Talk  
16          about that a little bit. I read your case. And I  
17          wasn't sure that I supported your proposition too,  
18          very much.

19          MR. WINGATE:   The position seems to be of  
20          Counsel that a full proprietorship ends and it  
21          passes. But it ends and it ends. What passes is  
22          any assets of that business, as Your Honor was  
23          saying: the name, the records, customer list, et  
24          cetera. And none of those were part of the  
25          estate.

1           THE COURT: Well, you cited Moore v. Moore,  
2           saying that -- you said, the Federal Court of  
3           Appeals held the business was a sole  
4           proprietorship. He and his business were distinct  
5           entities. But that doesn't -- the Moore v. Moore  
6           doesn't say that. It ends -- the sole  
7           proprietorship ends at the time of death. I don't  
8           think -- that's not the way that I read that case.

9           MR. WINGATE: Well, it goes on, Your Honor,  
10          to say --

11          THE COURT: I don't see a case that supports  
12          your proposition, that it ends at the time of  
13          death. So I own a plumbing company and I die.  
14          Okay? And it has got a name. And it has got an  
15          identification in the community. Is that not  
16          something that can be passed onto my children, or  
17          my spouse? Is that not something that can pass?

18          MR. WINGATE: If those are separate,  
19          individual assets of the estate, and they are  
20          distributed by some means of conveyance --

21          THE COURT: Even if the business is a -- it's  
22          personal property, is it not? Doesn't our law say  
23          that a partnership -- it looked like to me, most  
24          fundamental, if you follow their line of thinking  
25          here, that this was really a partnership.

1 MR. WINGATE: They've introduced no evidence  
2 of that.

3 THE COURT: Well, something ran from the time  
4 their parents quit running the business. And it  
5 was apparently operated by Christopher King, that  
6 business up there. So it was some legal entity at  
7 that point in time. If it were an asset of these  
8 estates, as they're arguing, then it had to have  
9 been a partnership, probably. Either it was a  
10 partnership or it was essentially equally owned by  
11 all of the children.

12 At the time that Ellen King died, she would  
13 have been involved in it. But it would have had  
14 to have been -- if a Court were trying to  
15 determine what it was, if it were a sole  
16 proprietorship, it would have belonged to Chris.  
17 And so, therefore, it would have been something  
18 that passed down through his estate.

19 And then the issue might have been, if she  
20 took it from him, through whatever means. You  
21 know, ran them out. You know, then there's some  
22 possibility of the conversion which they have  
23 pled.

24 But fundamentally, it seemed like to me, that  
25 the entity that was out there that was being run

1 by Christopher King, if it actually passed through  
2 all the estates, was some kind of partnership.

3 MR. WINGATE: And respectfully, Your Honor,  
4 it's neither up to the Court, nor, certainly, to  
5 my side of the parties, to prove their case as to  
6 partnership. Partnership never appeared. That  
7 word has never been spoken until Your Honor spoke  
8 it a moment ago. And that same Moore v. Moore  
9 case deals with that issue of establishment of a  
10 fiduciary relationship and a partnership.

11 There has been no testimony, and there  
12 absolutely is no evidence of any kind regarding  
13 any establishment of any partnership. That theory  
14 has never been floated. And it's certainly not  
15 for us to prove it.

16 THE COURT: Well, if it is that this entity,  
17 that was operated by Christopher King, kept  
18 operating, and it was owned by all of the  
19 children, it would have had to have been a  
20 partnership. If it wasn't, it was a sole  
21 proprietorship and Christopher King owned it.

22 MR. WHITT: Your Honor, the same number that  
23 the state of South Carolina assigned to W.R.  
24 King's Funeral Home is operated, sitting here  
25 today, in August of 2010, by this lady.

1 MR. WINGATE: Your Honor, that testimony is  
2 not in the record.

3 MR. WHITT: It is, Your Honor.

4 MR. WINGATE: No evidence, Your Honor.

5 THE COURT: In order for you to be entitled  
6 to an accounting, you've got to have a  
7 relationship to this entity. And we've got to  
8 determine what this entity was, in my view. What  
9 was this entity?

10 MR. WHITT: Your Honor, we can take the  
11 testimony --

12 THE COURT: Well, what was this entity? What  
13 was it? What was King's Funeral Home?

14 MR. WHITT: It was an asset that passed --

15 THE COURT: Let me ask you --

16 MR. WHITT: -- from Ellen to the children.

17 THE COURT: Listen to my question. In 1997,  
18 when Christopher King died -- the day before he  
19 died, what was he operating and who owned it?

20 MR. WHITT: He was operating the funeral home  
21 for the benefit of the entire family.

22 THE COURT: Okay. What was the legal nature  
23 of the funeral home?

24 MR. WHITT: It should have been determined at  
25 the time that Ellen died, Your Honor.

1 THE COURT: But it wasn't. I'm asking you:  
2 What was it?

3 MR. WHITT: I don't think that's important  
4 for today, Your Honor.

5 THE COURT: But you've got to establish some  
6 relationship with her.

7 MR. WHITT: It had the same account number  
8 with the state as it did then. Well, let's let  
9 Pat decide it. She told -- and Your Honor, take  
10 note of this, now, that W.R. King died intestate  
11 in 1975. Ellen King died intestate in 1997 --  
12 '87. Under the applicable rules of intestacy in  
13 the laws of South Carolina, the ownership of  
14 King's Funeral Home ultimately passed, in equal  
15 shares, to the surviving children of W.R. King and  
16 Ellen King, including the Plaintiffs. Let her --

17 THE COURT: Therefore, what was the business  
18 entity that continued on and that she took? What  
19 was it?

20 MR. WHITT: They say it was a sole  
21 proprietorship.

22 THE COURT: What do you say it was?

23 MR. WHITT: I say that it's not important.  
24 It's what Your Honor said. It's an asset of  
25 someone who is decided. You said that plumbing

1 company has got to have some value. Yes, Your  
2 Honor. It does have some value, and that's what  
3 passed. If there would have been other  
4 arrangements, if it would have passed by stock or  
5 something, it wouldn't have automatically become  
6 one. I think that Patricia told us in 1998 what  
7 it was. It was an asset that passed intestate.  
8 How can we ignore that, Your Honor? Talk about  
9 evidence.

10 THE COURT: I'm going to ask you this  
11 question.

12 MR. WHITT: Yes, sir.

13 THE COURT: If this passed as a -- if I were  
14 to believe this was a proprietorship owned by  
15 Christopher King, would you be entitled to an  
16 accounting?

17 MR. WHITT: Yes, Your Honor.

18 THE COURT: Okay. Well, argue that.

19 MR. WHITT: Well, we have to argue that it's  
20 an asset. It went from -- by her own statement,  
21 it went from W.R. to Ellen. And at the time, if  
22 Ellen had lived, she would have distributed it,  
23 and we wouldn't be here today, Your Honor. She  
24 would have taken her share. She would have given  
25 the children their share. And we would have moved



1 on. Well, she died, unfortunately.

2 Patricia steps in her shoes as the personal  
3 representative, Your Honor. She has a duty to  
4 distribute. Does she have a duty to take that  
5 asset in and operate it as if it's her sole  
6 proprietorship for the next 12 years, Your Honor?  
7 So that's what happened.

8 Whatever that asset was, by our argument, by  
9 our testimony, and also by what Patricia said,  
10 this is the clearest explanation to the Court and  
11 to everyone of what happened. And it was in this  
12 complaint, in paragraph 7, Counsel published it  
13 earlier, or alluded to it, that something happened  
14 at her death and it passed to them. Well, how do  
15 we get past that, Your Honor? We don't need to.

16 And so, what we've been hollering about ever  
17 since, is, where is your accounting of whatever  
18 passed to you in that asset? Your Honor's example  
19 -- you've got a plumbing company. You don't have  
20 shares of stock, but you've still got an ongoing  
21 business with good will and value. And it was  
22 certainly passed to your beneficiaries of your  
23 estate.

24 THE COURT: Okay. If that was the case, and  
25 Christopher King operated as his own, it would

1           have passed through Christopher King's estate.  
2           Right?

3           MR. WHITT: He did not operate it as his own  
4           business, Your Honor. He continued to operate,  
5           until his death, King Funeral Home. He didn't --  
6           this separate funeral home you're hearing about  
7           was one John opened at Christopher's death.

8           THE COURT: I realize that.

9           MR. WHITT: Okay. Well then, he continued to  
10          operate it, Your Honor. He didn't transmute it  
11          into anything. He didn't change it. There was no  
12          shares of stock. He simply, as a good soldier,  
13          continued to operate the funeral business for the  
14          benefit of the family. And then he died. And  
15          this matter wasn't cleared up.

16          Because -- you heard testimony that at the  
17          time he died, he thought he was going to have some  
18          sort of arrangement with his sister that there be  
19          some sort of transfer on it. But it never  
20          happened. And we're beyond that now, Your Honor.  
21          We don't argue that.

22          Counsel talking about Christopher C. King and  
23          -- you know, that puts it a couple steps past what  
24          has been established in this court, Your Honor.  
25          We're stuck with their statement and the fact that

1           when W.R. died he was intestate. Ellen died,  
2           she's intestate. The whole world is screaming  
3           from what happened at that business at that time.

4           Now, why we are here now is because it has  
5           been operated for 11 years and it has been -- I  
6           think the accountant said that there's plenty of  
7           money in this. It's operating -- he provided an  
8           affidavit to this court. She is well able to meet  
9           her responsibilities. It's a going concern.  
10          Well, where is their share of it, Your Honor?

11          And their share goes back at least to the  
12          time that she took over the -- she was named as  
13          personal representative. So either at Christopher  
14          King's death, or at the order of reference, or at  
15          some point. You've got to account for these  
16          folks. They've got nothing.

17          She leaves here today, Your Honor. She runs  
18          King's Funeral Home, but she's not entitled to it.  
19          And she told the Court she wasn't entitled to it.  
20          She couldn't do any better than saying that  
21          there's nine of us that own this funeral home,  
22          when this was first published to the world. And  
23          that issue has never been settled, Your Honor.  
24          That's all we ask for.

25          Our right to an accounting? It comes from

1           this, and it comes from several things. If Your  
2           Honor discounts the order of reference, you know,  
3           we still have that in the -- it was never appealed  
4           as to the law of the case. And Your Honor, within  
5           the four corners of that order, of May 30th, 2001,  
6           it doesn't say on there anything about this  
7           accounting request was from Patricia and her  
8           claim, and that sort of thing. It says, there  
9           shall be an accounting as to the eight  
10          beneficiaries.

11           THE COURT: You're going to have to deal with  
12          that on appeal. You know, I have already told you  
13          what I have got to tell you about my view of that  
14          order of reference. And you know --

15           MR. WHITT: Well Your Honor --

16           THE COURT: -- I have told you the procedure  
17          in this case has changed completely. And we don't  
18          need to go through that again.

19           MR. WHITT: Okay.

20           THE COURT: We are here today because I don't  
21          believe that order of reference controls on the  
22          issue of accounting. We're here today because I  
23          said, because you pled an accounting, and you had  
24          not previously, that you have got to establish a  
25          right to an accounting. And I'm having trouble

1 with that, frankly, as to whether this was a --  
2 what entity was this King's Funeral Home?

3 You know, was it an asset of these estates or  
4 was it Christopher King's and then became an asset  
5 of his estate? Obviously, she owned the property  
6 if a court order evicted them. Y'all haven't  
7 really complained about that, because that was a  
8 set of facts that aren't in dispute, apparently,  
9 that she owned the real estate. So it's the  
10 entity here that we're talking about.

11 I haven't heard any testimony, really, about  
12 customers. There was brief testimony that she  
13 took the insurance policies and converted them to  
14 her own. John King testified to that. But there  
15 was no testimony, whatsoever, regarding what was  
16 there. Was it that you're -- what was there?

17 You all come in and say, you know, she's ran  
18 everybody else on this side of the family,  
19 continued to operate a funeral home, and so you're  
20 entitled to some of it. And I'm saying, what is  
21 your entitlement? And you're saying, what it is  
22 is, the fact that, you know, we are one-ninth heir  
23 of the Kings.

24 And I'm having real trouble with that because  
25 that was not established in their estates, and

1           because your very own filing with the Probate  
2           Court treated this differently than that. So I  
3           have a problem with that. I don't know that this  
4           case goes down on a directed verdict but I have a  
5           real problem with that.

6           And as far as what Christopher King has,  
7           obviously -- I mean, the testimony taken in best  
8           light here, believing everything that Chris King  
9           said, it was a different entity. It was not a  
10          continuation of this. He was a different entity.  
11          And he very pride-fully indicated that he's his  
12          own man, and you know, he wasn't depending on any  
13          family issues to operate his funeral home.

14          So the question is, it seems to me, if you're  
15          entitled to an accounting, why are you entitled to  
16          an accounting? And your sole argument is that  
17          you're entitled to an accounting because this was  
18          estate property. And I have a real problem that  
19          that's what you have established.

20          MR. WHITT: Well, how do we discount  
21          Patricia's statements --

22          THE COURT: You're entitled to that argument.  
23          That's not a finding of the Court or anything  
24          else. You're entitled, I think -- because she did  
25          plead that, that's kind of an indication that that

1           was her position at one time. Now, if she has got  
2           a different position here today, I guess we'll  
3           hear that. But you know, you're entitled to the  
4           fact that she pled that. But is that conclusive?  
5           I don't think so. You know, it's entitled to some  
6           weight, but that's where it ends. It's not  
7           conclusive.

8           So we're stuck here, again, with deciding  
9           exactly what this is. And if this was an asset of  
10          the estate, did it change in some form after she  
11          took over? And if it did, are you entitled to  
12          those profits or whatever? To me, that's a  
13          concern.

14          I mean, Christopher King ended up with the  
15          telephone number. Telephone number is an  
16          important thing in any business, I guess. You  
17          know, she ended up with the location. She owned  
18          the location. As far as the other aspects of what  
19          is an asset of a business, like customer list,  
20          like those kinds of things, name, value of a name  
21          in the community, all of the traditional things in  
22          valuing of business, we really haven't heard  
23          anything about that here, yet; that she took all  
24          those; that she took the name value of business;  
25          that she -- you know, y'all got the telephone

1           number. And maybe y'all got some business out of  
2           the funeral home when it went over to Christopher  
3           King's. I don't know.

4           But is what she ended up with quantifiable?  
5           Is that distinguishable? Or is what she created  
6           something that she created after she started  
7           running it? I guess we'll hear from them on that.  
8           But there is no evidence in here as what it is  
9           that she appropriated.

10          You know, you just say, this funeral home was  
11          in this location and she started running it. And  
12          she ran the other part of the family out, because  
13          she owned the building. You know, what did she  
14          get? What did she convert? What is it that  
15          she -- you're asking for an accounting, and you've  
16          got to establish that you're entitled to an  
17          accounting because of some relationship to this  
18          asset.

19          And it seems like, to me, that at this point,  
20          I would deny the motion for a directed verdict.  
21          But I certainly would look at it again towards the  
22          conclusion of the case. So I'm going to deny the  
23          motion at this point and listen to the -- I  
24          understand your position is that it has passed  
25          through all these estates. And you're entitled to



1           -- the most you're entitled to is, if you did an  
2           accounting, would be to one-ninth of the profits;  
3           is that correct?

4           MR. WHITT: Yes, Your Honor. But taking into  
5           account the order of reference, it made it clear  
6           that it was for all the beneficiaries. So even  
7           though these family members brought it, they would  
8           still profit by the accounting. It would be for  
9           all the beneficiaries.

10          THE COURT: They're not before the Court.

11          MR. WHITT: But the accounting would include  
12          that of necessity, I believe, Your Honor.

13          THE COURT: What are you saying?

14          MR. WHITT: I'm saying that the accounting  
15          would be what this one person was entitled to, and  
16          then the rest of it clearly belonged to the other  
17          children.

18          THE COURT: No. An accounting would be, what  
19          happened to the profits and losses of this  
20          business for however many years we're talking  
21          about. Wouldn't it be?

22          MR. WHITT: Yes, Your Honor. Yes.

23          THE COURT: As far as how that's divided up,  
24          maybe it's a loss. Are y'all prepared to take the  
25          loss as well as the gain?

1           MR. WHITT: Well, we're prepared to see the  
2           accounting. You've got an affidavit from an  
3           accountant saying they're doing fine.

4           THE COURT: What if it was a loss that they  
5           operated at? There isn't anything to divide then,  
6           is there?

7           MR. WHITT: Well, that's right.

8           THE COURT: Of course, we don't know that.  
9           Maybe we'll hear. All right. Anything else from  
10          your side?

11          MR. WINGATE: Nothing on that motion, Your  
12          Honor. I would, again, inquire as to Court's  
13          schedule.

14          THE COURT: If you want to go ahead and --

15          MR. WINGATE: My witness --

16          THE COURT: Yes, sir. If you want to go  
17          ahead and take that gentleman, and then we'll go  
18          to lunch.

19          MR. WINGATE: Is it okay if we do your  
20          testimony now, that way you can go meet with that  
21          family?

22          MR. CALDWELL: Okay.

23          MR. WINGATE: Your Honor, I'd like to call,  
24          as my first witness, Mr. Moses Caldwell.

25          THE COURT: Mr. Caldwell, come around and

1           take the witness chair. We'll have you sworn in  
2           as a witness.

3   WHEREUPON, BEING DULY SWORN AND CAUTIONED TO SPEAK THE  
4   TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, MOSES  
5   CALDWELL, JR. TESTIFIED AS FOLLOWS:

6                           DIRECT EXAMINATION

7   BY MR. WINGATE:

8   Q     Mr. Caldwell, will you please state your full and legal  
9           name for the record?

10   A     My name is Moses Caldwell, Jr.

11   Q     And where do you reside, Mr. Caldwell?

12   A     1134 Craig 5 Circle, Chester, South Carolina 29706.

13   Q     How old are you, Mr. Caldwell?

14   A     62.

15   Q     What business are you in?

16   A     Funeral home service.

17   Q     Are you a licensed funeral director?

18   A     Licensed funeral director and embalmer.

19   Q     And how long have you been licensed as a funeral  
20           director and embalmer?

21   A     Since 1976.

22   Q     Are you employed in the funeral business today?

23   A     I am.

24   Q     Where are you employed?

25   A     King's Funeral Home, 135 Cemetery Street.

1 Q And how long have you been employed there?

2 A Since 1964. I actually came into the business as a  
3 junior in high school. And I've actually been employed  
4 there, after I graduated from school in 1966.

5 Q Did you know Mr. W.R. King?

6 A Yes, very well. Mr. W.R. King, and Ellen King, and the  
7 whole entire King family.

8 Q Okay. Did you work for Mr. W.R. King?

9 A Yes, I did, along with the King family, Mr. Christopher  
10 C. King and all the King family.

11 Q And please describe, in general terms, Mr. W.R. King's  
12 operation of the funeral home; so a little bit of the  
13 history, how long you did it, and what did he do there?

14 A Well, from my point in time, from 1964 up until, you  
15 know, his death -- he got to declining in health back  
16 in the latter part of the 60's. And he passed away in  
17 '75. And he was, you know, a part of the business.

18 Q And -- I'm sorry. You said that his decline of health  
19 began in the 1960's?

20 A Yeah, in the latter 60's. And he passed away in '75.  
21 But he was still there and active in the business.

22 Q And did you remain active in the business up until the  
23 time of his death?

24 A Well, he was focused there as far as, you know, the  
25 public. He was focused. But he wasn't there -- just

1       doing things, you know, manually, day-by-day, you know,  
2       after his health was declining. But you know, he was  
3       still focused as a business person. He was a business  
4       owner.

5               THE COURT: When did his health start  
6       declining?

7               THE WITNESS: You know, I can't recall the  
8       exact year, but I know in the 60's leading up to  
9       the time of his death in the 70's. He was, you  
10      know, back and forth with conditions.

11   BY MR. WINGATE:

12   Q     When you worked for Mr. W.R. King in the late 60's and  
13       up until his death in 1976 --

14               THE COURT: '76? I thought --

15               MR. WINGATE: 1975. I apologize.

16               THE COURT: All right.

17   BY MR. WINGATE:

18   Q     When you worked for Mr. King from the 60's until 1975  
19       at his death, where was King's Funeral Home?

20   A     It was located at 129 Cemetery Street.

21   Q     All right. I'm going to show you a photograph and ask  
22       whether you're familiar with that property.

23   A     I am.

24   Q     What property is that?

25   A     129 Cemetery Street.

1 MR. WINGATE: Your Honor, I would move into  
2 evidence --

3 THE COURT: Any objection?

4 MR. ROGERS: Can we see it? Thank you. No  
5 objection.

6 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 5 WAS MARKED FOR  
7 IDENTIFICATION PURPOSES, PHOTOGRAPH.)

8 THE COURT: And that's 129 Cemetery Street?

9 THE WITNESS: Yes, sir, Your Honor.

10 MR. WINGATE: And I'm sorry. Without  
11 objection?

12 MR. ROGERS: Without objection.

13 THE COURT: And is that how it looks today?

14 THE WITNESS: That's the way it looks today.

15 THE COURT: Okay. All right.

16 BY MR. WINGATE:

17 Q Mr. Caldwell, just as an aside, is 129 Cemetery, that's  
18 shown there in Plaintiff's Exhibit Number 5, operated,  
19 or used today? What's its condition today?

20 A It's not used as of today. It's not being used.

21 Q Was there a point in time when it stopped being used as  
22 King's Funeral Home?

23 A After the construction of the new facility in 1980.

24 Q And where was the new facility in 1980? What's the  
25 address of the new facility?

1 A 135 Cemetery Street.

2 Q I want to ask you whether you are familiar with that  
3 photograph.

4 A I am.

5 MR. WINGATE: Your Honor, I would move into  
6 evidence as Plaintiff's Number 6, the photograph  
7 of 135 Cemetery.

8 THE COURT: Any objection?

9 MR. ROGERS: None.

10 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 6 WAS MARKED FOR  
11 IDENTIFICATION PURPOSES, PHOTOGRAPH.)

12 BY MR. WINGATE:

13 Q So Mr. Caldwell, looking at the old funeral home, if I  
14 may call it that, at 129, and the new funeral home at  
15 135, I believe you testified, or were starting to,  
16 about when the new funeral home was constructed.

17 A 1980.

18 Q And is that the same location, 135, that's shown in  
19 Exhibit 6, that has been continuously operated under  
20 the name King's Funeral Home, since 1980?

21 A It has.

22 Q After Mr. W.R. King died in 1975, what was Ms. Ellen  
23 King's involvement in the business?

24 A She was active in the business, also, you know, as a  
25 proprietor-role owner.

1 Q And what sort of things would Ms. Ellen King do?

2 A She (unintelligible) the funerals and all, you know.  
3 She read obituaries on funerals. And you know, she  
4 basically, you know, put any -- what any proprietor  
5 would do that had an active role in the funeral  
6 service.

7 Q Are you --

8 A She was not a licensed embalmer. She was a licensed  
9 funeral director.

10 Q I see. I believe you testified that you worked with  
11 Mr. Christopher King at King's Funeral Home?

12 A Yes, sure. I worked with Mr. King from day one of my  
13 64, and the whole entire King family. I need to share  
14 this and enlighten you. You know, they was a very  
15 inspiration to me, you know, coming from a rural area  
16 into the city area. And I was a junior in high school.

17 And I had a grandmother that lives on Bailey  
18 Street, and I would always stop through, would ride a  
19 bus from Ridgeburg up to Chester, get off and walk by  
20 the funeral home. And W.R. King was living in it. He  
21 would be sitting on the porch. And I would stop by,  
22 sit on the porch, and talk to him.

23 And I would go on to my grandmother. You know, my  
24 grandmother knew the family well. And after that came  
25 up, I would start stopping by. And they had -- the



1 funeral homes run ambulance services at that time. And  
2 I would go on ambulance calls and different things with  
3 them.

4 And later on, in the course of the years, the late  
5 Edward King, he was teaching school. But Chris was  
6 there on a daily basis. And I would actually, on  
7 weekends, when we had a lot of funerals and all, they  
8 would actually let me use cars to drive home. You  
9 know, I didn't have a vehicle. They would let me carry  
10 a car home at night and come back the next day for  
11 funerals.

12 So I had a good relationship with the whole entire  
13 King family. Even the ones that are here now. You  
14 know, I knew John, Robbie, when they were born. You  
15 know, I was there. And I had a good relationship with  
16 the family. I worked on a day-to-day basis with Mr.  
17 King, you know. We had a good relationship. We never  
18 had any arguments or anything.

19 Q How many different children of W.R. and Ellen King have  
20 worked in the business over your years, from 1964 up to  
21 today?

22 A Oh, my years -- because I'll tell you why I actually  
23 came into the business. They all -- before I actually  
24 came in there, they -- I had to hear some previous  
25 things of how, you know, the King family was a close-

1 knit family. And all of them worked in the business  
2 with the late W.R. and Ellen King. During my period of  
3 time there, some of the other siblings of the W.R. and  
4 Ellen King, they were, you know, married and moved into  
5 different areas.

6 Patricia was actually there more than some of the  
7 others. She actually commuted from Charlotte back to  
8 Chester after she started practicing law. And she  
9 would stay there with her mother and father at night.  
10 Now, I know there was an extension phone, you know, as  
11 John state, that they would answer the phone. But the  
12 phone rang at the main location at night. Patricia,  
13 you know, the nights she was there at home, she would  
14 actually call me for night calls. She would call her  
15 brother also, but she would call me for night calls, to  
16 go on those calls, whenever we had calls.

17 Q In terms of Mr. Christopher King's operation of King's  
18 Funeral Home, I think you've described how he got  
19 started in it. At some point in time, after Ellen  
20 King's death, did he take over sole operation? Or how  
21 was operation of the funeral home handled after Ellen  
22 King's death?

23 A Well, let me say this: Some of the things of that  
24 nature I did not get involved in. But I do know how  
25 operations was as far as, I was at the funeral home all

1 the time, daily. You know, as far as, you know -- he  
2 was doing the same thing he was doing before she  
3 passed. And when his father was living, he was doing  
4 the same thing. We were there at the funeral home, you  
5 know. And he was to -- you know, the person who was  
6 basically in charge.

7 When I became licensed, there was a lot of  
8 functional roles that I was actually playing there, at  
9 the funeral home, of doing at the funeral home. And  
10 when it became a responsibility for me to actually walk  
11 into a role, see, it was nothing new to me, because I  
12 was doing it all the time.

13 As John stated, his father had some other  
14 adventures that he was doing, like a bondsman. He had  
15 real estate. And he was there a daily-to-daily basis.  
16 But then, the people and the public, they were actually  
17 accustomed to seeing me in that business when they  
18 walked in there. He was there, but he was a person  
19 that trusted me. And he could be there when I was  
20 doing funeral arrangements. But whenever he would walk  
21 in and ask the family, say, he would walk out. He  
22 would never interfere with nothing that I do. He had  
23 that trust in me.

24 Q Have you ever had any ownership in King's Funeral Home?

25 A No, sir.

1 Q Is your role as an employee?

2 A I am an employee. You know, in 1991 I entered the  
3 business one morning and he was there. And he said to  
4 me -- he said, let's go to Columbia. And I said,  
5 Columbia? You know, we've got some things going on.  
6 And he said, yeah, but it will wait. He said, let's go  
7 to Columbia. So I said, well, what's going on in  
8 Columbia? He said, well, we're going to the state  
9 board. I said, okay.

10 So we went before the state board and he appointed  
11 me manager of the business. And I said, well, you  
12 know, if this what -- he said, no, I'm going to do it,  
13 because you're actually doing the functional role of  
14 this business. And when the families come in to do  
15 things, I don't want you to be restricted in what you  
16 do. And he actually appointed me through the South  
17 Carolina State Board of Funeral Service in 1991 as  
18 becoming manager.

19 Q You have always been an employee of --

20 A Yes, sir.

21 Q -- King's Funeral Home?

22 A Yes, sir.

23 Q Was Christopher King the owner of King's Funeral Home?

24 A That, you know, I do not know. I know on the  
25 stationary headings and all, they would list his name

1 on all stationary as owner.

2 Q When Christopher King got sick -- and I believe the  
3 testimony has been that he died on September 1 of 1997.  
4 First, let me ask you, if I may: Does that date sound  
5 right to you? Do you have any independent  
6 recollection? Did he die September of 1997?

7 A That's correct.

8 Q What happened immediately after his death, in terms of  
9 King's Funeral Home and its operation?

10 A After his death -- and you know, as I fore-stated, some  
11 of the things, as far as technicalities, as far as  
12 legal aspects, I didn't get into that. But I do know  
13 on the night of possibly December 8th, I was in Fort  
14 Long, South Carolina --

15 Q December 8th of what year, if I may ask?

16 A '98.

17 Q December 8th, 1998?

18 A '98.

19 Q A year later?

20 A Yeah. I was on a visitation at Fort Long, South  
21 Carolina. And I received a call at a church that  
22 everything was being moved out the funeral home. And  
23 when I received that call I said, you know, well, I'm  
24 in Fort Long. So get in contact with Patricia. My  
25 wife was there at the time and some other people there.

1 I said, you know, whatever it be, let it be. They  
2 said, the police is here, a rollback is here. They're  
3 moving the pews. They're taking all the embalming  
4 equipment.

5 And you know, that's kind of a frightening thing,  
6 you know, when you're running a business, for something  
7 like that to happen. But then, all along I didn't know  
8 -- you know, I had got some word that there was going  
9 to be another funeral operation --

10 MR. WHITT: Your Honor, I object.

11 THE COURT: Hold on. What is your objection?

12 MR. WHITT: To hearsay. I don't want him to  
13 tell us what he heard.

14 THE WITNESS: Okay. Well, I'll state --

15 THE COURT: Sustained. Go ahead.

16 THE WITNESS: On December 8th, everything was  
17 moved out of the funeral home. And when I got to  
18 Fort Long, I had to bring his remains back into  
19 this chapel with no pews or anything there. I had  
20 some chairs. I set the chairs up in there because  
21 the funeral wasn't going to be until the next day.  
22 At that particular time, I had calls coming in  
23 during the night.

24 There was a friend funeral director by the  
25 name of James Baker, from Great Falls. I called

1           him and he said, come and get anything you need  
2           until you get yourself back in operation. So at  
3           that particular point, at that night, everything  
4           was removed from the funeral home. It was an  
5           empty building there.

6   BY MR. WINGATE:

7   Q   Who removed the things on December 8th, 1998, if you  
8       know?

9   A   I wasn't there. I wasn't there. I can't -- I wasn't  
10       there. We don't want to say -- they say no hearsay.  
11       So I wasn't there. I was in Fort Long.

12   Q   Do you know where the things were moved?

13   A   Evidentially they were -- I don't know where they were  
14       moved. I can't say where they were moved.

15               MR. WHITT: Your Honor, I object. If he  
16       doesn't know, I don't want him to speculate.

17               THE COURT: Well I mean, overruled. Go  
18       ahead. He can't speculate. He said he doesn't  
19       know.

20               THE WITNESS: I don't know. I wasn't there.

21               THE COURT: His answer is his answer. Do you  
22       have another?

23               MR. WINGATE: I do have another question.

24               THE WITNESS: Yes, sir.

25   BY MR. WINGATE:

1 Q Please list for us what was moved out on December 8th,  
2 1998, with as much particularity as you can.

3 A Well, I can tell you: the pews, all the conference --

4 Q What?

5 A -- all the conference room, desks, cabinets and all,  
6 embalming machine, embalming table, fluids, everything  
7 that would cause you to operate was moved, hearse,  
8 limousines, everything, telephone number.

9 Q What about bank records?

10 A There were some files that were removed, not all files.  
11 But there were some files that were removed. I wasn't  
12 there. But there was some files that was actually  
13 missed, that I didn't have when I actually came back.

14 Q What kind of files were missing?

15 A Just some of the records files, the arrangement files  
16 of the people who had been buried prior to that time.

17 Q Prior burials?

18 A Sure.

19 Q What about pre-need burial contracts?

20 A Pre-need burial contracts on -- it was a while later.  
21 Pre-need, that was actually moved. The gentleman came  
22 back in to pay monies on the pre-need and I believe we  
23 had --

24 THE COURT: Pre-need what?

25 THE WITNESS: Pre-need burial.



1 THE COURT: Oh, pre-need burial.

2 THE WITNESS: Pre-need burial account. And I  
3 wasn't there. I was on the funeral service. But  
4 Ms. King was there when this gentleman came back  
5 to pay on the account. And there was one of our  
6 nephews who was going to receive the money and  
7 carry it to his mother. And she told him to bring  
8 it back --

9 MR. WHITT: Objection.

10 THE WITNESS: I was on a funeral. We don't  
11 want to talk hearsay.

12 BY MR. WINGATE:

13 Q Do you have knowledge of where the telephone number was  
14 moved to?

15 A It had to be -- the number was moved to 703 Old York  
16 Road, because I had to go to the telephone company and  
17 start from square one with a new telephone number, 385-  
18 2020.

19 Q And so, you obtained a new telephone number for King's  
20 funeral home?

21 A Sure.

22 Q And that number is what?

23 A 385-2020. I sat down with Mr. (unintelligible) at the  
24 telephone office. He displayed many pages of numbers  
25 to me. And he said, now, you go and look at the

1           numbers that you would be current with, that you would  
2           like to be starting a business with a new start. So I  
3           looked at this number, 385-2020. He said, why would  
4           you take that number?

5                       MR. ROGERS: Objection.

6                       THE WITNESS: I said, because I have a  
7           business.

8                       THE COURT: Sustained.

9   BY MR. WINGATE:

10   Q     Let me ask you if you're familiar with that photograph,  
11           Mr. Caldwell.

12   A     Sure, I am.

13                       MR. WINGATE: I would move into evidence that  
14           photograph, Your Honor.

15                       THE COURT: Any objection? Is that the way  
16           it looks today?

17                       THE WITNESS: Yes, sir.

18                       MR. ROGERS: No objection.

19                       THE COURT: Okay. Without objection, the  
20           picture of the sign.

21   (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 7 WAS MARKED FOR  
22   IDENTIFICATION PURPOSES, PHOTOGRAPH.)

23   BY MR. WINGATE:

24   Q     What is the telephone number for King's Funeral Home as  
25           it exists today, according to the photo in Number 7?

1 A 385-2020.

2 Q Is that the number that you obtained when you had to  
3 start the business?

4 A That is correct.

5 Q What was your vision for King's Funeral Home when you  
6 took 385-2020 as the number?

7 A My vision was that changing to a new number and trying  
8 to get, you know, families acquainted with a new number  
9 was -- I had several people call me and they said, what  
10 is your --

11 MR. ROGERS: Objection.

12 THE WITNESS: -- new number? We've been  
13 trying to reach you. And I --

14 MR. WINGATE: Without quoting what other  
15 people said.

16 THE COURT: Yes.

17 THE WITNESS: Well, I have --

18 THE COURT: It's not hearsay. It's not  
19 introduced for the truth of the matter.

20 THE WITNESS: It was a vision. It was a  
21 vision using 20,20 as eyesight, vision for future  
22 serving of families in the community.

23 THE COURT: But you're saying 385-2020  
24 implies vision?

25 THE WITNESS: Yes.. Vision, sight. There is

1 a vision.

2 THE COURT: I got you.

3 BY MR. WINGATE:

4 Q Did you testify -- did you go over to 703 Old York Road  
5 for any purpose in December of 1998?

6 A Did I go over? No, sir.

7 Q Were you asked to go over?

8 A Well, at the very end I was asked.. But then, I had my  
9 feelings toward that. I started out there at 129 and  
10 also 135. And the family was very loyal to me. And I  
11 felt that I should stay back where I got my start. And  
12 that's what I done. Nothing personal.

13 Q Other than having to get a new phone number, did you  
14 have to get other new things to start the business?

15 A Yes, sir.

16 Q What did you have to get?

17 A We had to get new pews. We have to get hearses, cars,  
18 conference furniture. We had to buy a flower van.

19 Q Let me get you to hold just one moment, please. Are  
20 you familiar with that document, Mr. Caldwell?

21 A I am.

22 Q What is it?

23 A It's a document for supplies that was actually  
24 purchased for a new embalming table, for the amount of  
25 \$1275.00.

1 THE COURT: Okay. Hold on a second. Do  
2 y'all have an objection to that?

3 MR. ROGERS: No.

4 MR. WHITT: No, Your Honor.

5 MR. WINGATE: I would move that into evidence  
6 as Number 8.

7 THE COURT: All right, sir.

8 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 8 WAS MARKED FOR  
9 IDENTIFICATION PURPOSES, DOCUMENT, MULLEN'S FUNERAL  
10 SUPPLY.)

11 BY MR. WINGATE:

12 Q So do I correctly understand from that that you  
13 purchased for King's Funeral Home, a new embalming  
14 table?

15 A That's correct.

16 Q What's the date that you purchased that, according to  
17 Exhibit Number 8?

18 A That was 2-5-99.

19 Q And did you have to purchase some other things to get  
20 the funeral --

21 THE COURT: This was in 1999?

22 THE WITNESS: Yes, sir.

23 MR. WINGATE: February 1999.

24 THE COURT: February of 1999?

25 THE WITNESS: Yes, sir.

1 MR. WINGATE: Yes, sir. If you get a moment,  
2 I'm going to show him this document, Tim. Here it  
3 is.

4 BY MR. WINGATE:

5 Q Let me ask you if you're familiar with that document,  
6 Mr. Caldwell.

7 A I am.

8 Q What is it?

9 A The purchase of pews, 20 pews.

10 MR. WINGATE: Move into evidence as  
11 Plaintiff's Number 9.

12 THE COURT: Any objection?

13 MR. ROGERS: No.

14 MR. WHITT: No, Your Honor.

15 THE COURT: What number?

16 THE COURT REPORTER: Nine.

17 MR. WINGATE: Let me move this. This was an  
18 extra copy.

19 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 9 WAS MARKED FOR  
20 IDENTIFICATION PURPOSES, DOCUMENT, CUSTOM CHURCH INTERIORS,  
21 INC.)

22 BY MR. WINGATE:

23 Q Looking at Exhibit Number 9, Mr. Caldwell, what's the  
24 date that the new church pews were purchased?

25 A February the 11th of '99.

1 Q So that's the same timeframe as buying the embalming  
2 table and these other things; is that correct?

3 A Yes. I was working with, you know, the embalming  
4 equipment that someone had let me use until I actually  
5 got back on target after purchasing.

6 Q So from when they moved out, on December 8, 1998, until  
7 you got new stuff, how did you operate King's Funeral  
8 Home?

9 A I had to -- you know, just like I say, borrow equipment  
10 until I got things back on target. I used some  
11 equipment from the Charlotte office, on funerals, like  
12 cars back at that time.

13 Q Let me ask you if you're familiar with that document,  
14 Mr. Caldwell.

15 A Yes, sir. I am.

16 Q What is it?

17 A That was replacing carpet back in the building.

18 MR. WINGATE: I move into evidence as Number  
19 next, the --

20 THE COURT: It's a bill for carpet?

21 THE WITNESS: Yes, sir, for \$312.99, you  
22 know, for 3-12-99. Yes, sir.

23 THE COURT: Okay.

24 THE WITNESS: From moving some of the stuff  
25 snagged my carpet all and it couldn't be replaced.

1 THE COURT: Any objection?

2 MR. WHITT: No, Your Honor.

3 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 10 WAS MARKED FOR  
4 IDENTIFICATION PURPOSES, DOCUMENT, MOBLEY'S PROFESSIONAL  
5 CARPET UPHOLSTERY & DRAPERY CLEANING.)

6 THE COURT: That carpet bill is Number 10, I  
7 think.

8 BY MR. WINGATE:

9 Q And just to be concise, Mr. Caldwell, Exhibit 10 shows  
10 the purchase of new carpet on what date?

11 A On 3-12-99.

12 Q And why was the carpet replaced?

13 A Because of the moving of pews and other things that  
14 were being moved. It actually damaged the carpet and  
15 it couldn't be replaced, or it couldn't be fixed. So  
16 you know, we just moved it all out and put it all in  
17 one color.

18 Q Had you been moving furniture around and messed up the  
19 carpet?

20 A No. The night of everything being moved, all this  
21 damage was done.

22 MR. WINGATE: Let's do the painting next. Do  
23 you have two copies?

24 BY MR. WINGATE:

25 Q Mr. Caldwell, are you familiar with this document?



1 A Yes, sir. I am.

2 Q What is it?

3 A That was painting of the building inside, and repairing  
4 the, you know, ceiling and chapel.

5 Q At what date?

6 A That was 8-4 -- well, February the 5th, 1999.

7 MR. WINGATE: Move into evidence, Your Honor.

8 THE COURT: Any objection?

9 MR. WHITT: No, Your Honor.

10 THE COURT: All right. No objection.

11 Exhibit 11.

12 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 11 WAS MARKED FOR  
13 IDENTIFICATION PURPOSES, DOCUMENT, PAINTING AND LABOR FOR  
14 KING'S FUNERAL HOME.)

15 BY MR. WINGATE:

16 Q And on Exhibit 11, Mr. Caldwell, the painting that had  
17 to be done in February of '99 was for what reason?

18 A That was from damage done to the walls.

19 Q Who did damage to the walls? Did you damage the walls?

20 A I did not damage it. It was done, you know, when a lot  
21 of the stuff was removed out.

22 MR. ROGERS: Objection. Objection. He  
23 doesn't know that.

24 THE COURT: He was the manager. He was  
25 there.

1 MR. ROGERS: He doesn't know when the damage  
2 was done.

3 THE COURT: Sir?

4 MR. ROGERS: He doesn't know when the damage  
5 was done.

6 THE COURT: Okay. You're right. He doesn't  
7 know when the damage was done. If he does know, I  
8 mean, he can testify.

9 BY MR. WINGATE:

10 Q Do you know when the damage was done to the paint?

11 A It wasn't there before removal of equipment out of the  
12 building. So --

13 Q The damage was not there?

14 A Was not there.

15 Q Thank you. Did you also have to replace vehicles, Mr.  
16 Caldwell?

17 A Yes, sir.

18 Q What did you have to replace?

19 A Hearse, limousines, flower van.

20 Q How much did -- when did you have to replace the hearse  
21 and the limousines, just to be clear?

22 A Well, it wasn't immediately after this happened. But  
23 then --

24 Q Why not?

25 A I had access to the Charlotte equipment. And some

1 friends that I interchange equipment with, that I could  
2 use, until I actually got back on target. But it was  
3 very shortly that we had back everything we needed.

4 THE COURT: You said you borrowed equipment?

5 THE WITNESS: I did. I had to borrow  
6 equipment from some of, you know, my constituents.  
7 And also, we used the Charlotte office.

8 THE COURT: And you used what?

9 THE WITNESS: We used equipment from some of  
10 my constituents, other funeral homes --

11 THE COURT: Okay.

12 THE WITNESS: -- that I'm acquainted with.  
13 And also, from the Charlotte office.

14 THE COURT: You said, Charlotte?

15 THE WITNESS: Location. Ms. King is there,  
16 4000 Beatty Ford Road.

17 THE COURT: All right.

18 BY MR. WINGATE:

19 Q May I ask if you're familiar with this document, Mr.  
20 Caldwell?

21 A I am.

22 Q What is it?

23 A It's the purchase of a 1996 limo, six-door, September  
24 29th of '99.

25 MR. WINGATE: Move into evidence, Your Honor.

1 THE COURT: 9-19-99? Is that what he just  
2 said?

3 MR. WINGATE: 9-29-1999.

4 THE WITNESS: 9-29.

5 THE COURT: Any objection?

6 MR. WHITT: No, Your Honor.

7 THE COURT: Purchase of a limousine?

8 THE WITNESS: That's right.

9 MR. WINGATE: Purchase of a limousine, Your  
10 Honor.

11 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 12 WAS MARKED FOR  
12 IDENTIFICATION PURPOSES, DOCUMENT, CRAIN SALES.)

13 BY MR. WINGATE:

14 Q And just to be clear, looking at Exhibit 12, the  
15 purchase of the limousine, Mr. Caldwell -- how much was  
16 paid for that limousine?

17 A That limousine was \$39,900.

18 Q And then, when you add tax and the other goodies, how  
19 much --

20 A \$40,200.

21 Q So King's Funeral Home paid \$40,200 for a limousine in  
22 1999?

23 A That's correct.

24 Q A year after Christopher King's death?

25 A That's correct.

1 Q To save time, are there other things you had to  
2 purchase, Mr. Caldwell?

3 A Caskets. We had to replace caskets.

4 Q What happened to the inventory of caskets that were  
5 on-hand when the move took place on December 8th, 1998?

6 A Everything was moved out.

7 Q How much is an average casket, your price, whole-sale  
8 price for the business?

9 A You could get caskets, non-sealed in the range -- well,  
10 back at that time, in the \$300 range. A sealed casket  
11 would run you somewhere in the range of \$595 on up.  
12 You know, you can get them on up to \$2,000, \$3,000,  
13 \$12,000. But the clientele that we was actually  
14 serving, we were usually in the range of 3 up to, I  
15 would say, our cost would be 900 to a thousand dollars.  
16 That was the clientele.

17 Q Roughly, how many caskets and inventory went missing on  
18 December 8, 1998?

19 A We always kept about ten caskets on the floor.

20 Q When you opened for business on December the 9th, 1998,  
21 what equipment did you have in the building to operate  
22 the funeral business with?

23 A No equipment. Chairs in the chapel, the night when it  
24 was actually taken out --

25 Q You're saying there were or were not chairs left?

1 A There were chairs in the chapel. Just regular chairs.  
2 No pews. I had an embalming table that I had borrowed.  
3 And basically, that's all we had there at that time.

4 Q Did you have any limos or hearses?

5 A Not at that time. I interchanged with a friend in  
6 Charlotte for the next-day funeral and also as I fore-  
7 stated, one of my constituents in the funeral service  
8 let me borrow a coffin.

9 Q Were there other vehicles that you had to purchase in  
10 that year following Christopher King's departure -- I'm  
11 sorry, following November 8, 1998?

12 A Yes.

13 Q What other vehicles did you have to purchase?

14 A We purchased a flower van.

15 Q There has been testimony today, Mr. Caldwell, that you  
16 altered assignment of insurance contracts.

17 A Uh-huh.

18 Q Please tell the Court how insurance contracts work on a  
19 deceased.

20 A Insurance assignments is when the family actually comes  
21 in and make funeral arrangements. They actually sign  
22 the assignments for proceeds amount of the funeral  
23 cost, that it will enable the funeral home to be  
24 protected when the claim is settled. If you don't take  
25 an assignment, that means the beneficiary receives all

1 proceeds. When you do take an assignment, that gives  
2 you protection for your funeral cost amount that the  
3 family actually incurred.

4 Now, I'm hearing this in the testimony that it was  
5 altered. If it was, I don't know anything about it.  
6 And I don't live that kind of life of alternating  
7 things, because I have a license. If it was altered,  
8 it had to be something that was actually incurred  
9 through the 135 Cemetery Street business. And the  
10 family, if they paid monies, they paid monies back to  
11 where the service was rendered.

12 Q Did the move on December 8, 1998, take business with  
13 it, in terms of cause, deaths to be handled, after that  
14 date?

15 THE COURT: All right. Would you restate --  
16 I just didn't quite hear your question.

17 BY MR. WINGATE:

18 Q Did the move of the business, on December 8, 1998,  
19 cause calls or deaths to be moved with it, after that  
20 date?

21 A It did. That was a long-time conflict with families  
22 calling and asking, you know, phone me at 385-2020,  
23 which I was not there -- I mean, 377-1144, which I was  
24 not there. And that was just normal for that to  
25 happen. But that first year, I actually -- about 20

1        calls, I actually calculated, that I actually lost  
2        because of the number. But they actually came back.  
3        The calls came back. It's like a one-time thing. And  
4        you know, I don't bother families and I don't bother  
5        other funeral directors.

6        Q        So are you saying, after the first year, you kind of  
7        got things back on track?

8        A        Well, it took a while. It took a while. I had a  
9        problem with the telephone company. Every time calls  
10       would come in, it was going into 377-1144. I had to go  
11       and sit down with Mr. Hicklin. And we had to go  
12       through the national database to get all of this stuff  
13       cleared up. Because if I got a call out of Columbia,  
14       they were in different carriers from our area. Some of  
15       the calls came in -- they might have been Chester long  
16       distance. Some of them came in Columbia. They were  
17       another carrier.

18       And then, the families would call me and say, did  
19       you get the call? And I said, no, I don't know  
20       anything about it. And then, I had to go up, and we  
21       have to go through the national database to get this  
22       thing completely ironed out. And it took a while. I  
23       mean, it was a long struggle thing, which, you know, I  
24       just walked with the bullets. You know? I mean, it  
25       wasn't things I was going to battle with to get it



1           done. I let it run its course, and it did.

2       Q     On December 8th, 1998, when the move took place and you  
3           came to the business the next day, was there money  
4           missing, or had been moved from the bank account of  
5           King's Funeral Home?

6       A     Okay. Let me state on that. I was not actively  
7           involved in that part of it.

8       Q     So you have no knowledge, no testimony --

9       A     No, sir. I wasn't active on that.

10      Q     -- on the money on the bank accounts?

11      A     No, sir.

12      Q     Were you a signer on the bank account?

13      A     Not at that time. No, sir. I actually done bank  
14           deposits for the business prior to that time, but I had  
15           no signee control at that point.

16      Q     Who is your employer today?

17      A     Patricia King.

18      Q     How long has she been your employer?

19      A     Well, since '98. Actually, I've been working along  
20           with her since 1998. As far as, you know, personal  
21           relationship with the business, as I fore-stated, I've  
22           been knowing the family. And we've worked together all  
23           the way up from '64 up, as a family. But I've actually  
24           been -- you know, that's usually the person I answer  
25           to, from '98 up to this point.

1 Q Are you a partner in the business with her, or are you  
2 her employee?

3 A I am her employee.

4 Q How are you paid? On a salary basis, or by some other  
5 basis?

6 A On a salary basis.

7 MR. WINGATE: Your Honor, I have no further  
8 questions of this witness.

9 THE COURT: Cross examination?

10 MR. ROGERS: Can we take a short break? Your  
11 Honor, I've got a matter that just needs to be  
12 taken care of outside of the office. It will take  
13 30 seconds.

14 THE COURT: Thirty seconds. Okay. We'll  
15 stop in place. We'll let Mr. Rogers go.

16 MR. ROGERS: Is that Mr. Ledbetter, your  
17 witness?

18 MR. WINGATE: That is Mr. Ledbetter.

19 MR. ROGERS: There's a process server outside  
20 that needs to hand a document to him. And then,  
21 that's all I need.

22 MR. WINGATE: Your Honor, I object. They're  
23 playing games with discovery, process servers,  
24 trying to get people --

25 THE COURT: He can wait. He can wait. What

1 do you need to do now, Mr. Rogers?

2 MR. ROGERS: Well, I need to tell my process  
3 server that he'll have to go.

4 THE COURT: I mean, I'm not interfering with  
5 that at all. I mean, he's in this room. He's  
6 sitting in here because of the trial. If he wants  
7 to excuse himself to go out and accept process,  
8 fine. Or if he'll process and everyone wants to  
9 wait -- we're not going to get involved with that  
10 in the middle of this trial.

11 MR. WINGATE: Thank you, Your Honor.

12 (OFF THE RECORD)

13 THE COURT: All right. Mr. Rogers is back.  
14 All right. We're on cross examination.

15 CROSS EXAMINATION

16 BY MR. WHITT:

17 Q All right. Mr. Caldwell, tell me again what your  
18 designation is. You're an official manager of the  
19 funeral homes with the state of South Carolina?

20 A I am.

21 Q Did they give you a number, or something, to certify  
22 that? Did they give you a certificate?

23 A Yes. They used to give a license number, as far the  
24 funeral director license number. The number would be  
25 1510. That is my manager, and also my director's

1           number.

2       Q     Is that a higher designation than a funeral director?

3       A     In order to be a manager, you must be a funeral  
4           director.

5       Q     So it must be higher?

6       A     Yes. Yes, sir. A funeral director actually becomes a  
7           manager.

8       Q     Okay. You're required to do annual reporting to the  
9           funeral board under labor and licensing for the state  
10          of South Carolina?

11      A     The only thing that I do is -- I'm required to anything  
12           that comes on a day-to-day operation within the funeral  
13           home, I have to, you know, be accountable for to the  
14           funeral service board. I am the person that -- the  
15           inspector comes in, and when he inspects the funeral  
16           home, I am the person that he looks for, to make sure  
17           everything is in order.

18      Q     Well, not so much as inspections, but do you have to  
19           report monthly, annually, weekly activities of the  
20           funeral home?

21      A     No, sir.

22      Q     Not a single report of any kind?

23      A     No, sir. The only thing you report to a funeral  
24           service board -- if you have an apprentice, you have to  
25           make reports on them every three months.

1 Q If someone complains to you, is that done through the  
2 state, and you hear about it that way, if there's a  
3 complaint about the funeral home?

4 A If there is a complaint, the complain-tee will contact  
5 the board, and the board will contact me.

6 Q How many complaints have you gotten since you've been a  
7 funeral director, or funeral manager?

8 A Well, I've got not-serious complaints. But I've got  
9 complaints that was, maybe, given by other funeral  
10 homes, you know, saying that I, you know, had maybe  
11 done certain things. And it wasn't true. You know? I  
12 mean, that's going to happen with any business, any  
13 profession, if somebody's going to always say you're  
14 doing things, that's not true.

15 Q Did the state of South Carolina ever take any kind of  
16 enforcement action against you, any penalty as a  
17 result --

18 A No, sir.

19 Q -- of any of those complaints?

20 A No, sir. I never had anything, no more than it was  
21 reported, reports to the board. But I've never had any  
22 kind of disciplinary action taken against me.

23 Q So you've been responsible for the funeral home for  
24 quite a period of time, but clearly from 1998, you've  
25 been responsible for the activities?

1 A Well, activities from 1998 as full responsibilities.  
2 But from '91, when I was carried down to the board by  
3 the late Mr. King, then that became the role, that I  
4 had to be accountable to the board for the operation.

5 THE COURT: Which Mr. King?

6 THE WITNESS: The late Christopher King.

7 BY MR. WHITT:

8 Q How much, in 1998, was, from your opinion, an average  
9 funeral cost?

10 A In 1998?

11 Q Yes, for your funeral home to, you know, handle it.

12 A Well, it depends on, you know, the families and --

13 Q I know. Give me an average, just a ballpark.

14 A \$5,000 up.

15 Q But what would be an average of --

16 A Average? About \$5,000.

17 Q About \$5,000?

18 A \$5,000 or \$5,500.

19 Q All right. How many funerals did you conduct in 1999?

20 A '66.

21 Q All right. Let's just go through it. How many did you  
22 conduct in 2000?

23 A Well, I can't -- I mean, I just -- it varied up to a  
24 little bit over a hundred.

25 Q Well, wait a minute now. You just told me what it was

1           for '99. And I'm asking: What was it for 2000?

2    A       It varied up. You know, in '99, the calls was down, to  
3           66 calls. And in 2000, it actually went up.

4    Q       Above a hundred?

5    A       Yes, about 98.

6    Q       98?

7    A       Yes, sir.

8    Q       What about 2001?

9    A       I can't recall year for year. But each year I have a  
10           list of a little increase in calls.

11   Q       Well, are you saying you can't remember for 2001?

12   A       No. I just can't verbatim remember each year, year by  
13           year.

14   Q       Do you remember ballpark?

15   A       Well, you know, normally I range anywhere from a  
16           hundred calls a year. About a hundred calls a year.

17   Q       But not calls, now. I'm talking about actual funerals  
18           you conduct.

19   A       Yeah, yeah.

20   Q       Would that be the same thing?

21   A       The same thing. Because we do have a location in Great  
22           Falls. It's a chapel there, and the calls actually  
23           come in to Chester also.

24   Q       So after you got things back to normal in 2000, you'd  
25           say from 2000 to 2010, it's your testimony it would be

1           around a hundred per year?

2     A     Yes, sir.

3     Q     And that they would average around \$5,000?

4     A     Some. And some of them would be cremations. See, I

5           would have to get a break-down of how many. Some of

6           them would be infants. But that's still a call. Some

7           of them would be small infants. Some of them would be

8           cremations.

9     Q     And you testified that you maintained the bank account

10           for the funeral home?

11    A     At this point.

12    Q     Did you say at this point?

13    A     Yes, sir. Now, from '99.

14    Q     Well, that's what we're talking about.

15    A     Yes, sir.

16    Q     From '99 forward you maintained the bank account?

17    A     Yes, sir.

18    Q     What bank at?

19    A     BB&T, 115 Saluda Street, Chester.

20    Q     And is it King's Funeral Home? How is it denominated?

21    A     King's Funeral Home.

22    Q     Do your checks require two signatures or can you sign

23           just your name?

24    A     I sign.

25    Q     You don't require two signatures?



1 A No, sir.

2 Q Well, is it fair to say that from 1999, especially  
3 forward, that you've written every check that has been  
4 written King's Funeral Home?

5 A That's correct, for paying bills purposes. Paying  
6 bills. Because Ms. King actually said that whenever  
7 things that need to be done -- she's in North Carolina,  
8 that I would not have to send and ask her to sign a  
9 check and send a check back to me. I've done it for  
10 the purpose of paying bills.

11 Q Do you have more than one account?

12 A No, sir.

13 Q One single account at BB&T?

14 A That's right.

15 Q And do you have employees that you have to pay on a  
16 weekly basis, besides yourself?

17 A Yes, sir.

18 Q How many?

19 A There's one guy -- I've got one guy that's full time.  
20 He stays basically every day for funerals, and  
21 removals, and all. Then I have another guy come in and  
22 answer the phone part time.

23 Q Do you do his checks?

24 A Yes, sir.

25 Q Who does -- you're responsible for computing how much

1           he's owed? You do the withholding tax and all that  
2           yourself?

3     A     Everything goes to Mr. Ledbetter.

4     Q     You just send in a number of hours to --

5     A     Yes.

6     Q     -- the accountant and he does everything?

7     A     I just send in everything to Mr. Ledbetter, along with  
8           my sales taxes and everything. Now, some of the guys  
9           that actually come in, I use them as casual labor, not  
10          full-time employees. They're casual laborers.

11    Q     So you have an account for that --

12    A     Yes.

13    Q     -- where you just write those checks for casual  
14          laborers?

15    A     Yes, sir.

16    Q     Do you keep track of those and report them to your  
17          accountant?

18    A     Yes, sir.

19    Q     But what about when someone comes in and gives you  
20          \$5,000 cash? What do you do with that?

21    A     It goes to the bank.

22    Q     It goes where?

23    A     To the bank.

24    Q     To the bank?

25    A     I've got a deposit slip I do and carry it to the bank.

1 Q How many cash funerals do you estimate you have per  
2 year?

3 A Very few.

4 Q Well, let's come up with your best estimate of what it  
5 is per year.

6 A Of cash funerals?

7 Q Cash funerals.

8 A You know, in the small area we're in, most of my  
9 funerals are insurance proceeds. I might get a cash  
10 funeral every now and then. You know, Chester's a  
11 small town. People don't have no cash money.

12 Q But Mr. Caldwell, what I want you to tell me is, say,  
13 last year, how many cash funerals do you think you had?

14 A Not cash funerals. I might have had two or three pre-  
15 needs that was just like cash.

16 Q Explain that.

17 A Pre-needs are what --

18 Q Well, I understand how pre-needs works, exactly, but  
19 how do you say that's the same is cash?

20 A Well, it is. It's just like cash or money in the bank.  
21 What I do is, whenever it comes material or either  
22 comes to be performed, I just carry the death  
23 certificate and all paperwork to the bank, and the bank  
24 just rolls it over into my account. I don't touch it.  
25 I don't touch it.

1 Q But a pre-need account has a written document --  
2 A Sure.  
3 Q -- for a certain number of dollars.  
4 A That's right. That's what I'm saying. When that  
5 person passes away, I have to get a death certificate.  
6 They've got a record and trust fund there at BB&T.  
7 When they do that, I carry the death certificate, and  
8 they write on there, account closed. And they roll it  
9 right over to account.  
10 Q So basically, you qualify to cash in that --  
11 A Sure.  
12 Q -- pre-need?  
13 A We have a pre-need license.  
14 Q While we're talking about pre-need, you heard some  
15 testimony about it earlier, and your attorney asked you  
16 about that. I want to ask you about that now.  
17 A Sure.  
18 Q From 1998 forward, has there been occasion where you've  
19 ever seen Patricia King take a pre-need certificate  
20 that was payable to --  
21 A No, I haven't.  
22 Q Sir, I haven't asked you my question yet.  
23 A Go ahead.  
24 Q Have you ever seen Patricia take a certificate that was  
25 payable to the, in effect, the previous administration,

1           and change it over to her, so that you could profit by  
2           it?

3     A     No, sir.  No, sir.

4     Q     Did you ever see anybody do that --

5     A     No, sir.

6     Q     -- with any pre-needs certificate?

7     A     No, sir.  I haven't.

8     Q     Well, you were the manager, and you were responsible  
9           during this transition period, as far as the state of  
10          South Carolina is concerned.

11    A     Yes, sir.

12    Q     Were you careful to make sure that you didn't take the  
13           funds for any funerals that were completed under the  
14           prior administration?

15    A     No, sir.  No, sir.  Because if that be the case, if the  
16           monies is there, and it goes to a previous  
17           administrator, that money has to be given up.

18    Q     Well, what date did you use as a cut-off date for that  
19           transfer, where they no longer got the funds, and  
20           Patricia and you did?

21    A     Cut-off date?

22    Q     Yeah.  What cut-off date in 1998 or '99 did you say,  
23           from here on, I'm going to give it to Patricia, or I'm  
24           going to send it to Charlotte, as opposed to, it needs  
25           to go back to these folks?

1 A I never done anything. I mean, I don't know of  
2 anything. This is new to me.  
3 Q You had to have a date --  
4 A Well, cut-off date --  
5 Q -- when you started.  
6 A -- is when we actually started the business after  
7 December 8th.  
8 Q So after December 8th of '98 --  
9 A Yes.  
10 Q -- you were careful not to take any --  
11 A No, no, no. I would not do that. No.  
12 Q Well, you maintained a ledger during that period of  
13 time, I assume, where it would show, 1998 we did the  
14 Johnson funeral, the Smith funeral --  
15 A Sure, sure.  
16 Q -- and all that.  
17 A I have a ledger --  
18 Q I'm sorry. It was completed prior to that date and you  
19 would give it to the other owners, and then, after that  
20 date, you took it?  
21 A I don't have anything. All my pre-needs was,  
22 basically, from my time up from '98.  
23 Q Well, I mean, but there were funerals that were in the  
24 process of being conducted at the time Patricia took it  
25 over.

1 A Right.

2 Q There were funerals that may have just been completed.

3 A Well --

4 Q What method do you use to make sure that that was taken  
5 care of, and the proper credit was given?

6 A Well --

7 Q I mean, you wouldn't want to take credit for something  
8 that they had done, correct?

9 A Right. In some of the cases, where the funerals --  
10 like I say, I wasn't involved in the monies being  
11 transferred or anything. If families actually came to  
12 me and said, we actually have done this pre-need here  
13 with you; what are we going to do about our monies; we  
14 paid it here. And I say, I don't have the monies. And  
15 they say, well where is it? I say, I don't have it,  
16 because I don't maintain that account anymore. Well,  
17 some of the families said, well, we made it with you.  
18 Then, if that be the case, I say, go and see, can you  
19 get your monies back where the monies was actually  
20 transported to.

21 Q Did you establish the BB&T account in that month and  
22 year, December of '98?

23 A No.

24 Q When was that account established?

25 A The BB&T account?

1 Q Uh-huh.  
2 A In '98.  
3 Q Well, that's what I'm saying.  
4 A Yeah.  
5 Q Did you establish it concurrent with the switch-over of  
6 Patricia taking over?  
7 A Yes, sir.  
8 Q And did you maintain any written records then? You  
9 would have those records. How long do you keep your  
10 records for funerals?  
11 A I've got records there for -- it all depends on what  
12 year you're talking about.  
13 Q I'm talking about '98 and '99.  
14 A I don't have '98 records. I've got '99 to this point.  
15 I don't have '98 records. It was some records moved.  
16 And I can't find them to today.  
17 Q Well, prior to taking over, and beginning to work for  
18 Patricia, you still were licensed by the state --  
19 A Sure.  
20 Q -- and you were still the funeral director --  
21 A Yes, sir.  
22 Q -- and you still had responsibility of those records.  
23 But you're saying they're all gone and you have no idea  
24 where they went?  
25 A I have no idea, because when the move was made, some



1 things was missing. And I did not have those records.

2 And I did not call and say, where are those records? I  
3 mean, I didn't get into that part of it.

4 Q Well, if you didn't have any records, then how were you  
5 able to ensure which belonged to the other family,  
6 which belonged to Patricia? If you don't know that the  
7 Johnson funeral was conducted then --

8 A Well, that's what I'm saying. Of that nature, unless  
9 the family actually came in with a contract, some of  
10 those records I don't have.

11 Q Well then, you can't be sure that you divided the  
12 income up as of a certain cut-off date, then, if you  
13 have no records.

14 A What I'm saying, I don't have '98. But I know  
15 everything -- I mean, if they present paperwork to me,  
16 you know, I can tell them whether or not I have those  
17 records, as far as, can I honor that pre-need or not,  
18 or whatever it be, a funeral service. I can do that.

19 Q Where was the checking account for the funeral home  
20 before the BB&T account?

21 A It might have been First Federal.

22 Q You didn't know? You don't know?

23 A I don't know, because I wasn't involved in that portion  
24 of it. I wasn't. I basically done the funeral-service  
25 side of it.

1 Q Well I mean, basically, we can say, as you sit here,  
2 given your title as manager, and the fact that Patricia  
3 doesn't have any -- well, let me ask you that. Does  
4 Patricia have any day-to-day involvement of the running  
5 of the funeral service business?

6 A No, sir.

7 Q It wouldn't be right if she did, would it? Because  
8 she's not licensed.

9 A She is licensed.

10 Q Is she licensed to be a funeral home director in South  
11 Carolina?

12 A Yes, sir.

13 Q And her license is current?

14 A It is.

15 MS. KING: North Carolina too.

16 BY MR. WHITT:

17 Q But she doesn't do that?

18 A No.

19 Q Okay. Do you have a computer?

20 A I do.

21 Q That's a work-related computer?

22 A It is.

23 Q How many years have you had that, do you think?

24 A Well, maybe last three years or so.

25 Q So you've had it from 2007 forward?

1 A Yeah.

2 Q You keep all the records of the funeral home day-to-day  
3 business on that computer?

4 A Not every -- some of them I do on ledger.

5 Q Well, what do you mean? A paper ledger?

6 A Yes, sir.

7 Q But you preserve those records?

8 A Yes, sir.

9 Q Okay. And did you get a letter from Mr. Rogers, from  
10 our law firm, telling you that there were some  
11 documents that we wanted you to preserve, computer  
12 records and things?

13 A I didn't see no records. I haven't see no letter from  
14 your office. Was it certified?

15 Q No. I don't think it was certified. But it was  
16 returned. It was addressed to you, I believe, at your  
17 home address. So it's your testimony today that you  
18 didn't get that later?

19 A I didn't get that.

20 Q Are you aware that that letter was sent? Do you know  
21 about it?

22 A I don't know anything about it. That's my first time  
23 hearing of it, what you mentioned just now. I don't  
24 know. More than me checks my mail at home. And I  
25 don't know. Sometimes, my wife has a tendency -- and

1 I'm going to be honest. You know, some of the times,  
2 in any household, you get letters --

3 THE COURT: You don't have to go in all that.

4 THE WITNESS: -- from attorneys and all this.

5 And you know, it might be a hospital bill or  
6 whatever. You know? From a representative. So I  
7 didn't receive it.

8 BY MR. WHITT:

9 Q Does King's Funeral Home have an email account?

10 A Yes, sir.

11 THE COURT: Have any what?

12 MR. WHITT: An email account.

13 BY MR. WHITT:

14 Q How long have y'all maintained that?

15 A About two years.

16 Q Okay. You do banking on-line with BB&T?

17 A No, sir. No, sir.

18 Q Everything is checks you write?

19 A Yes, sir.

20 Q Is there anybody in there, day-to-day, to manage what  
21 you do? Or do you pretty much make all the  
22 decisions --

23 A Yes, sir.

24 Q -- day-to-day?

25 A I do.

- 1 Q And Patricia's not there on a day-to-day basis? Mr.  
2 Ledbetter's in Charlotte. So you pretty much run the  
3 funeral home?
- 4 A That's correct.
- 5 Q And we can say that goes all the way back to '98?
- 6 A Yes, sir. And before, even when the late Mr. King was  
7 living, I was doing, basically, some of the same  
8 things. I was doing the embalming. I was meeting with  
9 the families. And I was going on all funerals.
- 10 Q Let me ask you, if you know. Does the funeral home  
11 have the same permit number now that it had back before  
12 1998? Do you operate under the same funeral license?
- 13 A My license --
- 14 Q Not your license.
- 15 A I mean, the funeral home permit is number 81. We had  
16 to get a new number. It's 81.
- 17 Q You got the new number when?
- 18 A The funeral home number -- you mean the permit number?
- 19 Q Uh-huh.
- 20 A The permit number is the same.
- 21 Q Permit number's the same as --
- 22 A 81.
- 23 Q -- as it has always been?
- 24 A King's Funeral Home.
- 25 Q How far back does that go? Do you know?

1 A As far as I can remember.

2 Q Back into the 70's?

3 A Yes, sir.

4 Q And so, do you have that number memorized, where you  
5 just referenced it? Was it 81

6 A 81. I know the facility number 81, because I have to  
7 put it on all death certificates.

8 Q Let's see. Up until the time that Patricia took over,  
9 where you making bank deposits for Chris King at that  
10 point?

11 A Yes, sir.

12 Q Were you the only signature on his account? Tell me  
13 how that works.

14 A I didn't have any signature. He would just -- they.  
15 would make them out and I would just carry it. That's  
16 how it is. I would just do the part. I had no control  
17 over interests or anything of that nature.

18 Q Like you do now?

19 A No, sir.

20 Q But you do now?

21 A Yes, sir.

22 Q Okay. Since you've been there, has King Funeral Home  
23 been sued, or had any litigation brought against it?

24 A Has it been sued?

25 Q Uh-huh.

1 A A few years ago, there was a lady who had brought a  
2 suit against the funeral home, saying that her husband  
3 passed away. And I picked her husband up. And I was  
4 at church. And the family called me at church. And I  
5 went down and made the removal. They had a sister who  
6 was the payee over this gentleman, his social security.  
7 And he had a son. So I went to the home, and met with  
8 the family, and got an authorization signed. He had a  
9 wife. And the wife and he had been separated for many  
10 years. But that's a long story.

11 That was some things where it happens where other  
12 involvements got involved and then she called me later  
13 that evening to say that, you know, I'm going to sue  
14 you, because you're responsible for picking my husband  
15 up. Well you know, we actually had to answer some  
16 complaints and stuff back, but then it was dropped.  
17 Because I had all the documents where she had given the  
18 sister all rights; that she wanted nothing to do with  
19 it. And I've got all legal documents signed by the son  
20 and the sister. And so, it was dropped.

21 Q Is that the only instance --

22 A Yes, sir.

23 Q -- that you've been involved in?

24 A I've had other constituents call the funeral service  
25 board on me about, you know, cases. But it wasn't

1           like, you know, the way they related to them, that I  
2           wouldn't release the remains. And I mean, that's an  
3           issue that I care -- I don't want to serve nobody that  
4           don't want me to serve them. But there was no action  
5           taken. You know? Because the remains was released.

6    Q    What do you know about the income of the funeral home  
7           since the end of 1998, beginning of 1999 to today?

8    A    What do I know about the income?

9    Q    Uh-huh.

10   A    Well, the funeral home has actually -- you know, we've  
11          done calls. Like I said, we're in a small town. We  
12          serve families. Some can pay, some can't. Some are on  
13          monthly plans. It's not a hundred percent profitable  
14          business, but we pay bills. We keep everything -- the  
15          doors open.

16   Q    Well, if you're doing a hundred funerals, you're doing  
17          about two a week?

18   A    Some weeks. Sometimes we average at least -- well,  
19          about two a week. And then, sometimes, it all depends  
20          on certain months. You might not do any, then it might  
21          vary and you do three a week, or four a week. The  
22          funeral business is a flexible thing. You don't do the  
23          same thing every week.

24   Q    When you estimated your average to be \$5,000 a month,  
25          did that include the cost of the casket?



1     A     Yes, sir. That's a casket and complete service, not  
2           including, you know, if I had to do cash advances, like  
3           the churches for graves. Some churches require you to  
4           do cash advancements for graves for families that have  
5           not been regular attendants, that you have to pay  
6           monies up front and things like that. That's like a  
7           cash advancement.

8     Q     Do you keep some sort of log on pre-need people that  
9           enroll in pre-need certificates?

10    A     Yes, sir. I have an inspector that comes by each  
11          year --

12    Q     And you have to put that money with the bank, and  
13          the --

14    A     Yes, sir. It's a trust. I have an inspector come by  
15          every year.

16    Q     He looks at your log?

17    A     Yes, sir. I do it on a ledger and the lady comes by.  
18          And she says that the way I have it logged, you know,  
19          she's there a few minutes and she goes home. Because  
20          you know, I keeps them in order. I have to put on that  
21          log each time I get a percentage of what that pre-needs  
22          actually yields. And when I get it, I put it beside  
23          each person's name, and what has actually come up to it  
24          at that particular time.

25    Q     What percentage of King's Funeral Home business now is

1 involved with pre-needs certificate?

2 A Well, right now, I have about 17, 18 pre-needs, because  
3 some have been performed.

4 Q But I mean, can you give me an idea of how that -- so  
5 you're saying 20 percent of your business, per year --

6 A Yeah.

7 Q -- if it was 20, would be pre-need?

8 A Yeah.

9 Q Okay, that would be around 20 percent?

10 A Yes, sir.

11 Q And so, you've maintained that log from '98 forward, in  
12 fact, even further than that, in your duties as a  
13 manager --

14 A Yes, sir.

15 Q -- certified by the state? So you have that log and  
16 you keep that log?

17 A Yeah. Well see, now, some of the years prior to that,  
18 I might not have even had pre-needs. You don't get  
19 pre-needs -- I might even do one a year. It's not a  
20 thing that you write them every day. Some families  
21 come in -- I might write two or three a month. It all  
22 depends. You have some of these older people. They're  
23 in nursing homes. They have to get monies out of their  
24 names. And you have to come to the funeral home and  
25 make a pre-need. But that's not something ongoing all

1 the time.

2 Q Well, when you have a pre-need certificate -- because  
3 the state of South Carolina has an interest in keeping  
4 up with that money, because they want people to --

5 A Sure.

6 Q -- get their money back.

7 A Right.

8 Q So you log those in as according to the King Funeral  
9 Home and the date, et cetera, in that log?

10 A Yes, sir. What I do is, when I write a pre-need, I  
11 carry it to the bank. And I put it in the trust fund.  
12 Then they give it back, all the paperwork back to me.  
13 I have to do a \$20 certificate filing fee and send it  
14 in to Consumer Affairs in Columbia. And then, they put  
15 it in record. It stays on record until that account is  
16 performed. And when that account is cancelled or  
17 performed, and then, at that time, you go to the bank  
18 and carry a death certificate, then the monies go into  
19 your account.

20 Q Has it been that way since '98?

21 A Yes, sir.

22 MR. WHITT: Let me just ask my partner. Do  
23 you have anything, Mr. Rogers? Your Honor, just  
24 one moment please.

25 THE COURT: Sure.

1 MR. WHITT: We beg your indulgence.

2 MR. ROGERS: Okay.

3 THE COURT: Take your time.

4 BY MR. WHITT:

5 Q All right. Just briefly, Mr. Caldwell --

6 A Yes, sir.

7 Q You stated that you started out, even as a high school  
8 student, with Mr. W.R. King?

9 A Yes, sir.

10 Q And you started out doing chores, or whatever --

11 A Yeah.

12 Q -- and you worked your way up?

13 A Sure.

14 Q And so, what year did you actually start with the  
15 funeral home?

16 A '64.

17 Q And when did you become licensed?

18 A I didn't become -- I graduated in '66.

19 Q Where did you graduate from?

20 A From a high school in Chester, South Carolina. And I  
21 went to embalming school in '75 and graduated in '76.

22 Q Where did you go to embalming school?

23 A Gupta Jones College of Mortuary Science.

24 Q Is that the one we heard mentioned earlier --

25 A Yes, sir.

1 Q -- in Atlanta?

2 A Yes, sir. Atlanta, Georgia.

3 Q Okay. And so then, you've been there for the start and  
4 through all of this?

5 A Yes, sir. I've been there. You can calculate that.

6 That's been something -- you know, 40-some years.

7 Q Well, what do you know about the time -- W.R. was  
8 running it at the time of his death with your help?

9 A Yes, sir. I was -- you know, I was there. And there  
10 was certain functional roles I had as being, you know,  
11 a person that's learning. You know? I basically done,  
12 like you say, work through the ranks. I washed cars.  
13 I cut grass. A lot of these younger guys, you know,  
14 they don't know nothing about that. You know, they  
15 know the top-line of it. But I washed cars, I cut  
16 grass, unload floral. You know? I done everything.  
17 Unload  
18 caskets --

19 Q Was it an ongoing business and concern at the time that  
20 W.R. King died?

21 A Was it an ongoing business?

22 Q Yeah.

23 A Yeah.

24 Q Everything was fine? You were up? You were having  
25 funerals? Everything was going on?

1 A Yes, sir

2 Q And then, Ellen came in. And you said she actually  
3 participated in some calls and some things.

4 A Yes.

5 Q Assisting some families?

6 A She was there all along.

7 THE COURT: And who was that?

8 MR. WHITT: Ellen King. I'm sorry, Your  
9 Honor.

10 THE COURT: W.R.'s wife.

11 BY MR. WHITT:

12 Q And so, at the time that W.R. King, that was -- I'm  
13 sorry, at the time you got it, it was an ongoing  
14 concern?

15 A Yes, sir.

16 Q Okay. And so, Ellen takes it over, and with your help,  
17 she was able to keep it going and --

18 THE COURT: Well, you've just said about  
19 three things. It's not a question. You made a  
20 statement. Would you please restate your  
21 question?

22 MR. WHITT: Yes, Your Honor.

23 BY MR. WHITT:

24 Q Were you able to keep the nursing home going as a  
25 viable business with --

1 A Funeral home?

2 THE COURT: Funeral home?

3 MR. WHITT: Funeral Home. I'm sorry. I'm  
4 thinking about where I'm headed in a few years.  
5 Sorry. I've got it on my mind. Sorry.

6 BY MR. WHITT:

7 Q Were you able to keep the funeral home business going  
8 with Ellen's help?

9 A Yes.

10 Q At the time of her death, was it a viable, ongoing  
11 business?

12 A Yes, it was.

13 Q Do you know, from your personal knowledge, anything  
14 about the business structure of the funeral home at the  
15 time that W.R. died?

16 A I wasn't involved in that part of it.

17 Q Did he have a book-keeper at that time, or someone that  
18 helped you and him do -- who did the books at that  
19 time?

20 A It was actually Ms. King and Patricia.

21 Q Okay. At the time that -- if you know, at the time  
22 that Ellen King died --

23 A Uh-huh.

24 Q -- do you know anything about how that interest was  
25 transferred, or what happened at that time, from your

1           own knowledge?

2       A     Well you know, Chris was there all the time. Ms. King  
3           would come in from school in the afternoon and she  
4           would do bookkeeping. I done some of it.

5                   THE COURT: You just said Ms. King. Who are  
6           you --

7                   THE WITNESS: Ms. Margie King.

8                   THE COURT: Okay.

9                   THE WITNESS: The late Chris King's widow.

10       BY MR. WHITT:

11       Q     Okay. So it was a going concern at the time W.R. died.  
12           It was a going concern at the time that Ellen died.  
13           And it's a going concern now?

14       A     Yes. It's still going.

15       Q     As far as you know, doing a hundred funerals a year,  
16           it's making money? As far as you know?

17       A     I don't know about the making of money.

18       Q     Well, you know, a lot of money is coming in. That's  
19           over a half million dollars from your estimation, a  
20           hundred times \$5,000.

21       A     Well, I'm saying you might have those numbers of  
22           funerals, but not that number of monies is coming in,  
23           because it's not another hundred percent account,  
24           about, that's coming in. Some of it you're going to  
25           get, some of it you're not. That's any business.



1 Q Well, are there people that don't pay you?

2 A You're going to get some of that.

3 Q You have some of those in 2009?

4 A Yes, sir. In 2009 --

5 Q How many, would you estimate?

6 A -- in 2007, 6 --

7 Q How many people don't pay you on an average year?

8 A Well you know, the percentage-wise, it's not high,  
9 percentage-wise. But you're going to run into some of  
10 that. You're going to have a lot of write-offs. Some  
11 people just can't afford. Some of them, you know the  
12 families. You're trying to be generous and help the  
13 families. Some of them will come in and pay months.  
14 Some of them will come in and pay weekly. Some of them  
15 will quit coming, then they'll jump to another funeral  
16 home.

17 Q Now that you can sign checks, and you've been able to  
18 since '98 now, have you ever written any checks to  
19 yourself?

20 A Yes, sir.

21 Q What would be the occasion for writing those checks?

22 A Just only my salary.

23 Q Well, how much is your salary per year?

24 A Well now, Ms. King and I had a negotiable thing. And I  
25 should be doing the -- well, right now, I set myself at

1           like, \$600 a week. And it should be more than that.

2           I'm cutting myself to keep things moving.

3       Q     Well, but I'm not talking -- we all should be making  
4           more money.

5       A     Yeah. Well, I should have been making money many years  
6           ago.

7       Q     But your salary -- your testimony is your salary is  
8           \$600 a week now?

9       A     That's right.

10      Q     And that's what's set with Patricia King.

11      A     That's right.

12      Q     So if we looked at the checks out the year, would there  
13           ever be a year where you wrote checks payable to Moses  
14           Caldwell for more than \$600 a week?

15      A     No, sir. There has been times when I had a slow  
16           collection of insurance claims and all, and I didn't  
17           even get one. You know? It might be -- it was a slow  
18           month -- let's say, a slow month in August. I might  
19           not write a check for August, for myself. But the next  
20           month -- if it comes and things start flowing for  
21           September, I'll put on that check, at the very bottom,  
22           August salary.

23      Q     You put that on all the checks for that?

24      A     Yes, sir. Everyone I write, I put on there what  
25           they're for.

1 Q Even if they're a month late, they're all going to say  
2 \$600 --

3 A Yes, sir.

4 Q -- and they'll say, salary?

5 A Yes, sir. The only way it would not say \$600 is that  
6 some of the times, if I had to, you know, maybe do  
7 something, like a miscellaneous thing -- maybe I went  
8 to get some supplies or something, and didn't have a  
9 check with me. I might just write a check, or give a  
10 hundred dollars out of my pocket, or something. And  
11 I'll write it back to myself and put supplies on it.

12 Q Yeah. You mark on that check what it's for?

13 A Yes, sir. Everything I do --

14 Q Those would be small amounts?

15 A Yeah. I mean, that doesn't occur often. But sure, if  
16 it occurs, that's the way it would be. If it occurs,  
17 it has something on the bottom of the check.

18 Q What was your salary in '99, when you started this  
19 arrangement with Patricia King?

20 A I don't know. It was like, maybe, \$400 or something  
21 like that.

22 Q So over the years, it has gone up from \$400 --

23 A To six.

24 Q -- to \$600?

25 A Yeah. I mean, that's just, you know, what's happening.

1 Q Okay. And do you get any kind of bonus or anything?

2 A Well, back when Mr. King, Christopher King was  
3 living -- and he stated to me one day -- he said, you  
4 know, I can't pay you for what you are worth. We had  
5 conversations one-on-one. And he said, I can't pay you  
6 for what you're worth, because you're worth the  
7 business. He said, but what you do is -- he said, you  
8 know, you've been good to the family. And this is the  
9 first time I might have state this. He said to me, he  
10 said, I can't pay you for what you're worth; but what  
11 I'm going to do is, I'm going to fix you where you  
12 would be viable to your career, if something should  
13 ever happen to me before you, you'll be able to make  
14 it.

15 Q Okay. But --

16 A It wasn't anything -- it was just verbal, nothing in  
17 writing.

18 Q Well let me ask you --

19 A And I've been the very bullet to that business. If you  
20 go and survey Chester County, I've been the bullet to  
21 that business, as if I might have been a proprietor.

22 Q Okay. But you've written the checks, your testimony,  
23 from the beginning of this arrangement, February, until  
24 now?

25 A Yes, sir.

1 Q In all that time, have you ever written a check payable  
2 to any of the children of --

3 A No, sir.

4 Q -- W.R. King --

5 A No, sir.

6 Q Let me finish the question, sir. Have you ever written  
7 a check, during that period of time, that was payable  
8 to any of the children of W.R. or Ellen King, other  
9 than Patricia King?

10 A No, sir.

11 Q Have you ever seen any business records to any of the  
12 children of W.R. and Ellen King?

13 A No, I haven't.

14 Q All of your communication -- you send everything to --  
15 you send the money to her, and you send the reports to  
16 Patricia and no one else?

17 A We was the only ones --

18 THE COURT: I don't think that's in dispute,  
19 but you can go ahead and ask him that again, if  
20 you want t.

21 MR. WHITT: Well, I think we've established,  
22 Your Honor. Thank you, very much. And thank you,  
23 for answering my questions, sir.

24 THE WITNESS: Uh-huh.

25 THE COURT: Do you have anything else?

1 MR. WINGATE: I do. It's just a couple of  
2 brief questions unless Your Honor has some.

3 THE COURT: I've got some. But I'll let you  
4 go ahead.

5 REDIRECT EXAMINATION

6 BY MR. WINGATE:

7 Q Mr. Caldwell, we're getting close to the end.

8 A That's okay.

9 Q I know you need to go. And thank you for your  
10 patience.

11 A Thank you.

12 Q There was talk during Counsel's examination of you  
13 about the transition period between September of 1997,  
14 which was Chris' death, and December 8th, 1998, which  
15 was the move-out. Who was running the business during  
16 the time between September of '97 and December of '98?

17 A I was.

18 Q And in addition to you, who was -- you testified that  
19 you were an employee of the business. So who were you  
20 an employee of between September 1997 and December of  
21 1998?

22 A Patricia was always paying then.

23 Q All right. She wrote the checks?

24 A Uh-huh.

25 Q All right. Who was there, day-to-day, with you, if

1 anyone, handling calls --

2 MR. WHITT: Your Honor, I object. He's asked  
3 the question twice and didn't get an answer. He's  
4 now asking it a third time --

5 THE COURT: Overruled.

6 MR. WHITT: -- suggesting an answer.

7 THE COURT: Overruled. I'm unclear about it  
8 too.

9 BY MR. WINGATE:

10 Q Other than Patricia, was there anyone else who was  
11 there day-to-day, who was involved in running the  
12 business between September of '97, December of '98?

13 THE COURT: You understand that you said  
14 September 1997 and December 1998? You understand  
15 that's the --

16 THE WITNESS: Yes, sir.

17 THE COURT: -- time he's asking?

18 THE WITNESS: That's the time of death, up  
19 until 8-1998 -- the movement.

20 MR. WINGATE: Right.

21 THE COURT: That's right.

22 THE WITNESS: Okay.

23 BY MR. WINGATE:

24 Q That's right.

25 A The family of late Christopher King, they was back.

1           And you know, they was there, you know, back and forth  
2           there.

3       Q     And who, specifically, within the Christopher King  
4           family?

5       A     Ms. King was there.

6       Q     So that would be whom?  Margie King?

7       A     Margie King.  Yeah.

8       Q     Anyone else?

9       A     Her sons and all -- you know, they would come in and  
10           out of there, you know.

11      Q     So give me some names, if you would.

12      A     Nelson.

13      Q     During that period of time?

14      A     Nelson -- William -- like you said, William.  I think  
15           John might have been in school about that time.

16           Robbie, she was there.  All of them was there, you  
17           know, in and out, in and out, you know.

18      Q     If I were to ask you to put on the table here, the  
19           records of all the funerals done between September of  
20           '97 and the move-out in December of '98, do you have  
21           all those records?

22      A     I have some '98 records, no '97.

23      Q     Why not?

24      A     They were moved.  I don't have them.

25      Q     Who has them?



1 A I don't know. I don't have them. And like I say, I  
2 wasn't there the night it happened. I don't know.

3 Q When the move did happen, on December 8, 1998, were you  
4 advised, in advance, that the move was going to happen?

5 A Was I advised?

6 Q Or was it a surprise?

7 A It was not a surprise. But I didn't know when.

8 Q What did you know was going to happen?

9 MR. WHITT: Your Honor, I object. I didn't  
10 cover that on cross at all, that I know of --  
11 whether he was surprised or not..

12 MR. WINGATE: The answer -- excuse me, asked  
13 extensive questions about the transition.

14 THE COURT: All right. I'll let him ask it,  
15 if he can answer it. Was he surprised, he said?  
16 What was that?

17 THE WITNESS: Not surprised, no.

18 BY MR. WINGATE:

19 Q What did you know about what was going to be happening?

20 A Well, as you stated earlier, you didn't want hearsay --  
21 you did not want it on record. So you know, the only  
22 thing I knew was hearsay. You know?

23 THE COURT: Okay.

24 MR. WINGATE: I have no further questions,  
25 Your Honor.

1           THE COURT: Let me call your attention back  
2           to -- you said, in the first year, which I assume  
3           you were talking about '98 -- well, '99. You  
4           said, families would call for me, maybe 20 calls  
5           in that first year. I took that to mean they  
6           called the number, the other --

7           THE WITNESS: The other number.

8           THE COURT: Is that right?

9           THE WITNESS: Yes, sir.

10          THE COURT: And so, what you're saying the  
11          confusion was, that people were calling for you?

12          THE WITNESS: That's right.

13          THE COURT: Is that correct?

14          THE WITNESS: Yes, sir.

15          THE COURT: And they were calling that number  
16          of the funeral home, which rang at Chris --

17          THE WITNESS: That's correct. That's  
18          correct.

19          THE COURT: At John King's --

20          THE WITNESS: That's correct.

21          THE COURT: -- new business?

22          THE WITNESS: That's correct.

23          THE COURT: Okay. You say that --

24          THE WITNESS: That was no problem.

25          THE COURT: I'm sorry?

1 THE WITNESS: That was no problem to me, you  
2 know. And let the families make their decisions.

3 THE COURT: Okay. Are you saying that people  
4 would call for you, particularly?

5 THE WITNESS: Yes, sir. Because they was  
6 very much acquainted with me. Because, you know,  
7 whenever they actually came in for anything  
8 pertaining -- they would actually see me. You  
9 know? And that was some of the things that's  
10 happening right to this day, here. If we get  
11 calls -- I can get a house call now, and put you  
12 on speaker. The caller can call me now. They  
13 never use the funeral home name.

14 THE COURT: You said you got that  
15 straightened out after the first year. What did  
16 you start straightening out in the first year?  
17 What did you mean by that? I believe that I c  
18 an --

19 THE WITNESS: Well --

20 THE COURT: -- infer what you mean --

21 THE WITNESS: Well --

22 THE COURT: -- but it --

23 THE WITNESS: It entails that things start to  
24 get back on target after that first year that  
25 people actually got the realizations of where I

1 was, and what the new number was. And it went  
2 right back on target.

3 THE COURT: All right, sir.

4 THE WITNESS: Because they was  
5 misconceptions. So you know, so it be.

6 THE COURT: You said that we had to go to the  
7 national database to get it straightened out.

8 THE WITNESS: Telephone company. Yes.

9 THE COURT: What did you mean by, you had to  
10 go to a national database?

11 THE WITNESS: Well, I was --

12 THE COURT: Let me finish here. I was  
13 thinking that you were talking about some  
14 association of funeral homes or something. But  
15 you're not talking about that?

16 THE WITNESS: No, sir.

17 THE COURT: You're talking about --

18 THE WITNESS: No, sir. That was the network  
19 through the telephone company. A lot of areas had  
20 different carriers. When the calls come in, even  
21 if it's North Carolina -- even Columbia has a  
22 different carrier from Chester's. Like, Chester  
23 had Chester long distance. Columbia might have  
24 another carrier. When they dial the number in,  
25 the only number showing up on the database was

1           377-1144. But it was showing up under King's  
2           Funeral Home.

3           THE COURT: So you're saying, when people  
4           called -- you went to the national database. And  
5           what did you accomplish by going to the national  
6           database?

7           THE WITNESS: By going and sitting down with  
8           the person at the telephone office, and they  
9           actually keep it worldwide, on their database,  
10          that if they put the funeral home number, new  
11          number, and street number, there were long-  
12          distance calls coming in. And they would  
13          automatically come in to me, once they going to it  
14          situated and straight.

15          THE COURT: I understand you to be saying  
16          that, the call, then, that would have been dialed  
17          in for the old funeral home number, then went to  
18          the new funeral home number? Is that what you're  
19          saying?

20          THE WITNESS: Yes, sir. They had to get that  
21          new number adjusted in their database after the  
22          change.

23          THE COURT: All right. I don't mean to be  
24          confusing you.

25          THE WITNESS: Go ahead.

1           THE COURT: When you went to the national  
2           database, did they route the calls that were going  
3           to the old number to the new number? Is that what  
4           you're saying? Or are you saying --

5           THE WITNESS: They put that new number in.

6           THE COURT: Oh, they added the new number?

7           THE WITNESS: They added the new number.

8           Yes. So the number changed for that address.

9           THE COURT: So they weren't -- going to the  
10          national database, they did not route the calls --

11          THE WITNESS: Local --

12          THE COURT: -- from the old number to the new  
13          number?

14          THE WITNESS: That's correct. The local  
15          calls --

16          THE COURT: They set up a new number. Is  
17          that what I'm hearing?

18          THE WITNESS: Yes, sir. The local numbers  
19          was coming in. The long distance, and different  
20          areas, with different carriers, from hospitals,  
21          they were going to an old number.

22          THE COURT: So --

23          THE WITNESS: Now, some of the families  
24          changed. They would sit right there and say, I  
25          know that new number. And that wasn't fair to

1 families that have to sit there in a time of  
2 bereavement, to give them a number.

3 THE COURT: So what you did was, when you  
4 went to the national database, you added the new  
5 number? Is that how I understand it?

6 THE WITNESS: Yes, sir. The 385-2020.

7 THE COURT: Okay. Because calls still went  
8 to the old number?

9 THE WITNESS: It went -- every time you  
10 dialed King's Funeral Home, it went through to the  
11 old number. And that happened a long time.

12 THE COURT: But you went to change it, when  
13 you dialed King's Funeral Home, it went to the new  
14 number? Is that what you're saying?

15 THE WITNESS: When you dialed King's Funeral  
16 Home, it went to Christopher King's Funeral Home,  
17 377-1144, which was the old King's Funeral Home  
18 number.

19 THE COURT: Right. In the national database,  
20 what you're saying is like a telephone phone. It  
21 says King's Funeral Home? Is that what you're  
22 saying?

23 THE WITNESS: Yes, sir.

24 THE COURT: So essentially, the national  
25 database changed the telephone number for King's

1 Funeral Home to the new number? Is that what  
2 you're saying?

3 THE WITNESS: That is correct.

4 THE COURT: Okay. I think I understand it  
5 now. That's all the questions -- wait a minute.  
6 You stated that the name that was listed on the  
7 funeral home stationary was the name of  
8 Christopher King as owner; is that correct?

9 THE WITNESS: Yes, sir. That's right.

10 THE COURT: What period of time are you  
11 talking about?

12 THE WITNESS: I'm not sure. It had to be in  
13 the 90's.

14 THE COURT: And that existed until when, as  
15 far as the stationary?

16 THE WITNESS: Until, you know, it actually  
17 changed. I didn't get involved, you know, in  
18 stationeries and stuff like that. Like I said,  
19 that part was not my --

20 THE COURT: Do you currently have stationary?

21 THE WITNESS: Sir?

22 THE COURT: Do you currently have stationary?

23 THE WITNESS: I do. I have new stationary.

24 THE COURT: And what does it say on there?

25 Does it identify owner?



1 THE WITNESS: Yes.

2 THE COURT: And who is the owner?

3 THE WITNESS: Patricia E. King.

4 THE COURT: Okay. So the old stationary  
5 identified the owner as Christopher King; is that  
6 correct?

7 THE WITNESS: That's correct.

8 THE COURT: Okay. All right. I don't have  
9 -- any other questions. Do y'all have any follow-up?

10 MR. WHITT: Just one of the question that  
11 Counsel asked him about 1998, the period of  
12 transition.

13 RE-CROSS EXAMINATION

14 BY MR. WHITT:

15 Q Regardless of the fact that at some point the family  
16 was in there, there was a transition period, because at  
17 some point, the family was asked to leave and Patricia  
18 took the funeral home over, correct?

19 A I will say this: Some of the things that I didn't get  
20 involved -- when it was family situation, I did not get  
21 involved with that. I done what I was supposed to do.  
22 Now, I do know when it actually. But then -- and what  
23 she had served papers -- my first knowledge of when  
24 papers was served -- I know nothing about no eviction  
25 papers. I had no knowledge.

1 Q But what I'm asking you about what you do have personal  
2 knowledge of. You were there and one day Margie and  
3 these family members were there, and then one day they  
4 were gone. And Patricia was telling you what to do.  
5 And you considered her your employer from then on. So  
6 at that point, there had been some funerals completed  
7 at that point, like, even if it was the day before or  
8 the week before. There had been some things done.  
9 There was a transition period where you went to the  
10 other, the fact that they were in-house back before  
11 they were removed from the premises.

12 A Right.

13 Q Okay. There was a point where you had to switch from  
14 the old to the new?

15 A That's correct.

16 THE COURT: Just one other one. You said you  
17 had made all the deposits for Christopher King?

18 THE WITNESS: No, sir. Well, I made some. I  
19 made some. Not all, some.

20 THE COURT: I might have written that down  
21 wrong.

22 MR. WHITT: Yes, sir. I made some. I just  
23 carried the monies to the bank. Had no  
24 involvement, you know. Just may have carried it  
25 and deposited it.

1 THE COURT: But you made some of the deposits  
2 for Christopher King during his life?

3 THE WITNESS: Yes, sir. Yes, sir. Even  
4 during his mother and father's time.

5 THE COURT: What bank and what was the  
6 account name, if you remember?

7 THE WITNESS: The bank changed several times.  
8 It was First Federal one time. It changed hands  
9 several times, you know. But First Federal and  
10 now it's BB&T..

11 THE COURT: Do you recall the name of the  
12 account?

13 THE WITNESS: How it was listed?

14 THE COURT: Yes.

15 THE WITNESS: King's Funeral Home.

16 THE COURT: Okay. You were talking about how  
17 the permit number was the same number, 81.

18 THE WITNESS: Yes, sir.

19 THE COURT: And then, you mentioned, but you  
20 got stopped, or cut off, or whatever, when you  
21 were talking about that, about some other number,  
22 or some other --

23 THE WITNESS: They were asking about a number  
24 that is used as far as, you know, funeral service  
25 number.

1 THE COURT: And that's a different number  
2 than the permit number?

3 THE WITNESS: Yes, sir. My funeral service  
4 number is 1510.

5 THE COURT: All right. Funeral service  
6 number? What kind of number is that?

7 THE WITNESS: That just identifies you with  
8 the state board of funeral service.

9 THE COURT: It identifies who? You,  
10 individually?

11 THE WITNESS: Yes, sir. Me only. Yes.  
12 That's my license number.

13 THE COURT: Okay. 1510 is your license  
14 number?

15 THE WITNESS: That's correct.

16 THE COURT: Okay. You said that you have to  
17 put the permit number, 81, on --

18 THE WITNESS: All death certificates.

19 THE COURT: -- all death certificates?

20 THE WITNESS: Yes, sir. The name of the  
21 facility that's renting the service.

22 THE COURT: All right. Thank you, sir. Do  
23 you have any other questions?

24 MR. WINGATE: No further questions.

25 THE COURT: Okay. Any other questions?

1 MR. WHITT: No, Your Honor. Thank you.

2 THE COURT: All right. Well, thank you very  
3 much, sir. We appreciate your time. And we will  
4 let your witness be excused. Can we excuse him,  
5 or do y'all want him to stay?

6 MR. WHITT: Absolutely. No -- he's excused.

7 THE COURT: All right. Sorry we took you  
8 longer than we intended to.

9 THE WITNESS: That's all right.

10 THE COURT: Gentlemen and ladies, can we stop  
11 now for lunch? When do y'all want to come back?

12 MR. WINGATE: As soon as possible. And a  
13 general question would be, Your Honor, how long in  
14 the day do you want to go? My desire and hope  
15 would be to finish this case.

16 THE COURT: Yes, I hope so too. It is now  
17 towards 2:20. So why don't we say 3:30 to come  
18 back? Does that suit everybody? And as far as  
19 finishing up you've got an accountant and who?

20 MR. WINGATE: Two witnesses. Ms. King.

21 THE COURT: And Ms. King? They'll probably  
22 be -- they'll probably take you a little while.

23 MR. WINGATE: Are you willing to work us late  
24 into the evening, Your Honor?

25 THE COURT: No. I don't want us to beat

1           ourselves to death. I've long gone past doing  
2           that, unless there's just a need to do that. I  
3           mean, I know people have got schedules for  
4           tomorrow. I had actually cleared my calendar for  
5           three days on this case. And then, you know, I  
6           realized that it was going to be shorter than  
7           that. So I'm thinking that we should go a  
8           sensible time and not beat ourselves up tonight.  
9           But I will be willing to do whatever y'all  
10          reasonably want to do. Do you have an out-of-town  
11          witness here?

12                 MR. WINGATE: I do, Your Honor, from  
13          Charlotte.

14                 THE COURT: Most of these people are out of  
15          town, correct?

16                 MR. WINGATE: That's correct.

17                 THE COURT: Have y'all got an opinion about  
18          how late to go?

19                 MR. WHITT: Whatever suits Your Honor. We're  
20          flexible.

21                 THE COURT: I'm just flexible. I want to do  
22          what y'all want to do. Because people get worn  
23          out, get angry, get tired, want to go eat, and all  
24          that stuff, from what I've observed over the  
25          years. I just don't want to go endlessly. Why

1           don't we try to conclude by 6:30 or something like  
2           that? It seems like to me we probably could do  
3           that. But if we get to, you know, 6:30, and it  
4           looks like y'all are going to be doing hours, you  
5           know, I'm going to call it coming back tomorrow.  
6           Because I don't want to stay.

7           Even though I'm sorry with the inconvenience  
8           of them having to come from Charlotte. But  
9           Charlotte's like a suburb of Columbia anymore.  
10          Isn't Columbia a suburb of Charlotte? It's right  
11          up the interstate. Let's go ahead to lunch now.  
12          Come back at 3:30 and go from there.

13                               (OFF THE RECORD)

14           THE COURT: All right. We are ready to  
15           proceed. And I believe we are in the Plaintiffs.  
16           And the Plaintiff is going to call the next  
17           witness.

18           MR. WINGATE: Your Honor, I call Mr. George  
19           Ledbetter.

20           THE COURT: All right. Mr. Ledbetter, if you  
21           would come around, sir, and take the chair that we  
22           have styled the witness chair.

23           WHEREUPON, BEING DULY SWORN AND CAUTIONED TO SPEAK THE  
24           TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,  
25           GEORGE LEDBETTER TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MR. WINGATE:

Q Mr. Ledbetter, if you would state your full name,  
please, for the record.

A George Robert Ledbetter.

Q And what is your business address?

A 1741 Copperplate Road, Charlotte, North Carolina 28262.

Q And what is your occupation?

A A tax accountant.

Q And how long have you been a tax accountant?

A Since 1984.

Q If you don't mind my asking, what's your age, Mr.  
Ledbetter?

A I'm 63.

Q What's the name of your tax accounting business?

A George R. Ledbetter, tax accountant.

Q Are you familiar with King's Funeral Home in Chester,  
South Carolina?

A Yes.

Q How are you familiar with it?

A I started doing accounting for the South Carolina  
funeral home, I believe, in early 2000 or late 1999.

Q Are you familiar with Patricia King?

A Yes.

Q Is Patricia King your client?



1 A Yes, she is.

2 Q How long have you provided tax accounting -- well, what  
3 type of services do you provide for Patricia King?

4 A Well of course, the tax returns.

5 Q Tax returns for what or for whom?

6 A For Patricia King, a 1040.

7 Q So her personal income tax returns?

8 A Her personal income tax returns, and of course,  
9 Schedule C corresponding the businesses.

10 THE COURT: I can't see you and I have a hard  
11 time hearing. Can I get you to speak up just a  
12 little bit? We don't have microphones in here.

13 THE WITNESS: Okay. Her personal tax return,  
14 1040, which also prepares the preliminary  
15 supplementary schedules, Schedule C for the South  
16 Carolina return, South Carolina property, and the  
17 York County funeral home, Schedule C.

18 BY MR. WINGATE:

19 Q Before we get into the North Carolina, South Carolina  
20 distinction, please explain what a Schedule C is on a  
21 tax return.

22 A A Schedule C is designed for a sole proprietor. It  
23 simply means we are going to carry her net income to  
24 her individually.

25 Q So when you say you prepare Schedule C, is that part of

1           the form 1040 that you prepare annually for Patricia  
2           King?

3     A     That's correct.

4     Q     How long have you done that work for Patricia King?

5     A     I think the mid-90's.

6     Q     And what proprietorships does Patricia King have? What  
7           businesses do you prepare Schedules C for?

8     A     Okay. King's Funeral Home in Charlotte, North  
9           Carolina, C, and King's Funeral Home in South Carolina,  
10          C.

11    Q     When you say, C, in other words, you prepare a Schedule  
12          C in North Carolina, King's Funeral Home?

13    A     That's correct.

14    Q     And is it a separate Schedule C from the South Carolina  
15          King's Funeral Home business?

16    A     Yes. That's correct.

17    Q     So is it a true statement that you report the North  
18          Carolina taxable net earnings from the North Carolina  
19          proprietorship on one Schedule C --

20    A     Right.

21    Q     -- and the net taxable earnings from the South Carolina  
22          proprietorship on a different Schedule C?

23    A     That's correct.

24    Q     Has it always been done that way?

25    A     Yes, as far back as I know.

1 THE COURT: From when?  
2 THE WITNESS: 2000, for the accountable year,  
3 2000.  
4 THE COURT: Right.  
5 BY MR. WINGATE:  
6 Q So to clarify, is it your testimony -- you tell me.  
7 From what year did you begin to prepare a Schedule C  
8 for Patricia's North Carolina funeral home business?  
9 A I think it was in the mid-90's or late 90's.  
10 Q And then, when did you begin preparing a Schedule C for  
11 Patricia's South Carolina proprietorship?  
12 A Okay. My records support the year 2000.  
13 Q What other proprietorships does Patricia King have, for  
14 which you do accounting and tax services?  
15 A She has an attorney practice. That's also on Schedule  
16 C.  
17 Q Also as a sole proprietorship?  
18 A As a sole proprietor.  
19 Q Are there any others?  
20 A Schedule E.  
21 Q Which is what?  
22 A Rental property.  
23 Q So are you saying that Patricia King has a rental  
24 business that's reported on Schedule E, another return?  
25 A Yes.

1 Q But that she has three separate Schedule C  
2 proprietorships: her attorney practice, her South  
3 Carolina funeral home, and her North Carolina funeral  
4 home?

5 A That's correct.

6 Q Since you began doing work for Patricia King in the  
7 mid-90's, have you ever prepared a partnership tax  
8 return for these businesses?

9 A No.

10 Q Have they always and only been sole proprietorships?

11 A They've always been sole proprietorships.

12 Q With respect to the South Carolina funeral home  
13 business, please describe what tax and accounting  
14 services you provide each year for Patricia King.

15 A All right. I prepare, on a monthly basis, the  
16 sales-and-use tax reports, based on the information  
17 from the South Carolina funeral home. I prepare  
18 estimated payments for payroll on a monthly basis for  
19 the South Carolina funeral home. I retrieve  
20 information from the bank statements, normally on an  
21 annual basis, or a quarterly basis, depending on her  
22 needs.

23 Q When you receive that bank account, or bank statement  
24 information, what do you do with it?

25 A We create a trial balance with that information. We

1 create cash flow records, meaning that we simply set up  
2 and characterize each payment she makes, based on the  
3 information provided on the check.

4 Q Is the work that you do currently the same elements of  
5 work that you've done for her for the South Carolina  
6 funeral home since 2000?

7 A Yes.

8 Q When you prepare the trial balance, what do you prepare  
9 it from? What information is given to you and who  
10 gives it to you?

11 A It comes directly from the check statements from BB&T.  
12 Normally, it comes to me in total with the checks  
13 attached, a photocopy of the checks attached. And it's  
14 input directly from there, based on the information  
15 given on the checks and the bank statement.

16 Q So you or your staff do the input of all the cash  
17 transactions to create the trial balance?

18 A That's correct.

19 Q And that includes all cash deposits and all checks  
20 written; is that correct?

21 A That's correct. Everything that occurs on that bank  
22 statement has to be accounted for in balance.

23 Q Once you then put all the data, and you've created a  
24 trial balance, what other financial statements, if any,  
25 do you prepare for Patricia King for her South Carolina

1 funeral home business, on a regular basis?

2 A Other than your annual tax return, that's about it.  
3 Unless we have a request for a bank statement, or a  
4 personal financial statement. And that's normally done  
5 on an annual basis, if it's requested, request only.

6 Q And I think I asked this already, but please forgive me  
7 if I'm repeating myself. What is the name of the North  
8 Carolina proprietorship that Patricia King runs?

9 A King's Funeral Home.

10 Q And what is the name of the South Carolina  
11 proprietorship that Patricia runs?

12 A King's Funeral Home.

13 Q Do you consolidate those returns? Are they reported on  
14 a single Schedule C?

15 A No, no, no. It can't.

16 Q Why not?

17 A She has to report for each state. Normally, for  
18 federal tax purposes, it's not totally necessary. But  
19 for state reporting purposes, I have to divide North  
20 and South Carolina income.

21 Q So do you file a North Carolina tax return for her  
22 North Carolina proprietorship?

23 A Yeah. That's correct.

24 Q And do you file a South Carolina tax return for her  
25 South Carolina proprietorship?

- 1 A That's correct.
- 2 Q And do you prepare a South Carolina sales-and-use tax
- 3 return for her South Carolina sales?
- 4 A That's correct.
- 5 Q And do you prepare a South Carolina payroll tax for
- 6 South Carolina employees?
- 7 A Yes, I do.
- 8 Q And is there any inner-bleeding -- inner-commingling of
- 9 the accounting of those two businesses?
- 10 A No -- no. The reason I'm hesitating is because,
- 11 naturally, I shouldn't pay on behalf of something else
- 12 that comes into her. She would pay that bill, and it's
- 13 allocated back to where it's supposed to go.
- 14 Q And how do you know how to allocate it where it's
- 15 supposed to go?
- 16 A It's written on the check.
- 17 Q Who writes that information on those checks?
- 18 A Mr. Caldwell.
- 19 Q Mr. Moses Caldwell?
- 20 A Mr. Moses Caldwell. And of course, I'm also advised by
- 21 Ms. King when I review her statements.
- 22 Q I'm going to ask you if you're familiar with this
- 23 document.
- 24 A Yes, I am.
- 25 Q Did you prepare this document?

1 A Yes, I did.

2 MR. WINGATE: I would like to move into  
3 evidence, this report.

4 THE COURT: What is it?

5 BY MR. WINGATE:

6 Q What is it?

7 A It's a worksheet showing the gross profits, gross  
8 income, net profit, gross profit percentage and net  
9 profit percentage by year. It's a summary.

10 THE COURT: From what year to what year?

11 THE WITNESS: From year 2000 to 2009, draft.

12 THE COURT: All right. Any objection?

13 MR. WHITT: No, Your Honor.

14 THE COURT: What number is that?

15 THE COURT REPORTER: It will be 13.

16 THE COURT: 13?

17 THE COURT REPORTER: 13.

18 THE COURT: All right.

19 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 13 WAS MARKED FOR  
20 IDENTIFICATION PURPOSES, DOCUMENT.)

21 BY MR. WINGATE:

22 Q Mr. Ledbetter, Exhibit 13, I believe you said, you  
23 prepared this document; is that correct?

24 A That's correct.

25 Q And what does it reflect?



1 A It reflects the actual amount that's put on the tax  
2 return, itself. It reflects a cruel basics account.  
3 It's a cruel. This is how I plan to report her taxable  
4 income, revenue. And this is what I plan to show on  
5 the tax return itself.

6 Q Do the numbers that are shown on the gross income  
7 column, and the net profit or loss column, correspond  
8 to the tax returns that you have filed for Patricia  
9 King, for these years?

10 A Yes.

11 Q Approximately or exactly?

12 A I would like to say exactly. I have made last-minute  
13 adjustments. But I do not do that unless I have a  
14 reason to.

15 Q Have the returns, for all of the years 2000 up through  
16 2008, already been filed?

17 A Up through 2008. Yes, that's correct.

18 Q Has the 2009 return yet been filed?

19 A No. It's in a draft format. Ms. King, actually, has  
20 not reviewed it.

21 Q It is late filed or is it on extension?

22 A It's on extension.

23 Q So it is in draft form, as you indicate here --

24 A Right.

25 Q -- which makes that subject to any last-minute changes?

1 A That's correct.

2 Q That it would, for example, in 2009, show a \$6,495  
3 profit for the year of 2009?

4 A That's right. That's correct. Bearing no changes on  
5 it.

6 Q I think the summary heading says it, but is it correct,  
7 Mr. Ledbetter, that this Schedule reflects all of the  
8 South Carolina King's funeral home?

9 A Yes.

10 Q And is it correct that this third column represents the  
11 net profit or net loss for each year, for the South  
12 Carolina King's Funeral Home?

13 A Yes.

14 MR. WINGATE: Your Honor, I have no further  
15 questions of this witness at this time.

16 THE COURT: Thank you, sir. Cross  
17 examination? Who is doing the cross examination?

18 MR. WHITT: This is your witness.

19 MR. ROGERS: No. This is your witness.

20 MR. WHITT: What do you want me to do?

21 MR. ROGERS: Your Honor, I'm sorry.

22 THE COURT: Do you want to take a minute?

23 MR. ROGERS: Can you give us a second?

24 MR. WHITT: Sorry, Your Honor. We had a  
25 miscommunication.

1 THE COURT: Do you want to take a minute?

2 MR. WHITT: Thank you, Your Honor. I'm  
3 sorry.

4 THE COURT: You're quite welcome.

5 (OFF THE RECORD)

6 MR. ROGERS: Did you excuse the witness?

7 THE COURT: Well, we were about on the verge  
8 of doing that.

9 MR. ROGERS: How about, let me ask him a  
10 couple of questions.

11 THE COURT: All right. If they let you do  
12 that.

13 MR. WINGATE: That would be fine, Your Honor.

14 THE COURT: That would be all right?

15 CROSS EXAMINATION

16 BY MR. ROGERS:

17 Q I'm sorry. The gentleman's name is -- what's the  
18 gentleman's name?

19 THE COURT: Ledbetter.

20 BY MR. ROGERS:

21 Q Mr. Ledbetter, can you tell me your date of birth? And  
22 I apologize if you've already answered that question.

23 THE COURT: He said he was 63.

24 BY MR. ROGERS:

25 Q Can I have your date of birth?

1 A April 14th, 1947.

2 Q Would you give me your social security number, please,  
3 sir?

4 THE COURT: No. We're not going to do that.  
5 It's not a deposition. It's a trial.

6 BY MR. ROGERS:

7 Q Mr. Ledbetter --

8 MR. WINGATE: Thank you, Your Honor.

9 THE COURT: Thank you.

10 BY MR. ROGERS:

11 Q -- in addition to keeping, making, preparing the tax  
12 returns that you've described, are you employed by Ms.  
13 King to perform other services?

14 A Employed for financial and tax reasons only. Financial  
15 and tax.

16 Q All right, sir. Apart from the tax preparation  
17 activities, what financial work do you do for her  
18 service?

19 A For her?

20 Q Yes, sir.

21 A I file monthly the initial reports, federal reports.  
22 And a financial statement if required, personal  
23 financial statements, business financial statements.

24 Q Okay. Do you handle accounts payable for her, for any  
25 of her businesses?

1 A No. I do not handle accounts payable. I receive  
2 accounts payable information to change from cash to an  
3 annual basis.

4 Q Okay. But you don't actually write checks and pay  
5 bills?

6 A No, no, no.

7 Q For any of her businesses?

8 A Oh, no. No, no, no.

9 Q Okay.

10 MR. ROGERS: I'm sorry, Your Honor. Let me  
11 cut my phone off here. Excuse me.

12 BY MR. ROGERS:

13 Q I believe I recall your testimony, that you have been  
14 doing this for Ms. King and her businesses since,  
15 approximately, 2000?

16 A Mid-90's.

17 Q Mid-90's?

18 A I have it somewhere around the summer of the mid-90's.  
19 Right.

20 Q Okay. Do you happen to know who performed those  
21 services before your services were procured?

22 A I believe an accountant, (unintelligible) Moore. He  
23 passed away. That's all I remember at this time.

24 Q Was he your predecessor?

25 A He was my direct -- I don't remember.

1 Q Okay.

2 A I was aware of him.

3 Q All right. Do you have any of his reports, that he  
4 prepared in your record?

5 A No.

6 Q How far back do you retrieve, retain, records that you  
7 prepare for Ms. King?

8 A About 10 years.

9 Q Mr. Ledbetter, would you be familiar with any  
10 distributions of clients or assets from the business in  
11 Chester to siblings of Ms. King for probate purposes?  
12 Would that be something that you would be aware of in  
13 the course of in the course of your preparation of  
14 those tax documents forward?

15 A No, not directly. If it does not involve computing  
16 gain and loss, then I'm not aware of any distribution  
17 of assets.

18 Q So you wouldn't -- the only identification you were --  
19 well, if a distribution of a profit for a given year  
20 were made, that would be, obviously, relevant to the  
21 calculation of gaining a loss of that year, correct?

22 A About assets, it would be. For profit, actually no,  
23 because it is, indeed, a proprietorship.

24 Q So that is something that you would take note of if it  
25 had occurred, in any of those years?

1 A If it's written on the check. If there is a check  
2 that's written, that was a distribution, they would  
3 have to tell me it was given to them, or they would  
4 have to tell me, exactly, what it was for, so I could  
5 code it as such.

6 Q Okay. Would there be a special schedule or format that  
7 that would appear on in the preparation of annual  
8 returns?

9 A Not on the return itself. It simply would not be a  
10 taxable transaction.

11 Q Right. So you would take note of it and --

12 A Oh, absolutely. Right.

13 Q It would be something of note?

14 A It would be on the statement of taxes. Yes.

15 Q All right. In the years that you have been -- can I  
16 see that, please? Well, let me just ask you this: In  
17 the years that you've been preparing these returns for  
18 Ms. King, can you say, then, for certainty, whether or  
19 not there were any such distributions that you noticed;  
20 that you took notice of?

21 A Ten years ago, at this point, I simply don't remember  
22 any type of distribution to Ms. King, of that nature.  
23 At this point, I simply don't recall at this point.

24 Q So you are unable to say, for any of the years, whether  
25 or not there was any such transaction?

1 A I don't recall any distribution of cash. And the  
2 reason I would use the term, distribution --

3 Q Why?

4 A Cash to Ms. King from the South Carolina funeral home.  
5 I'm not aware of any of that. I just simply don't  
6 recall. I just don't think -- I don't ever recall  
7 recording that type of data, that kind of information.

8 Q Well, you said Ms. King. Do you recall the  
9 distribution of cash to any of Ms. King's siblings,  
10 such that she would make, if she were distributing  
11 profit from a business to a sibling under a probate --

12 A No. No distribution.

13 Q And that would be -- and you said that you began your  
14 representation of your services to her sometime in the  
15 mid-90's?

16 A Yes. I believe it was the mid-90's. Yeah.

17 Q Can you nail that down for me?

18 A I believe it was before 1993. I'm pinpointing that on  
19 the death of my son in '93. And I'm using that as a  
20 reference because I did come to her for advice. And I  
21 think, at that time, yes -- well, I had to be working  
22 for her if I came to her. Because I knew her well. So  
23 I'm thinking it was before 1993.

24 THE COURT: My guess is that the Plaintiffs  
25 would probably stipulate that there has been no



1 distribution made from this business to your  
2 client.

3 MR. WINGATE: We would stipulate, Your Honor.

4 THE COURT: I mean, I don't want to push you  
5 into anything.

6 MR. WINGATE: He's testified to that, now, a  
7 couple of times.

8 THE COURT: I mean, I don't want anything to  
9 conflict their opportunity to cross examine,  
10 but -- all right. We have a stipulation that  
11 there have been no distributions made from the  
12 profit or the net profit gross income to the heirs  
13 of Christopher King's, the Defendants in this  
14 action. All right. Go ahead, Mr. Rogers.

15 MR. ROGERS: Heirs of -- well, what about --  
16 the question, I think, Your Honor, went to the  
17 heirs of W.R. King and Ellen King.

18 THE COURT: Okay. And I guess -- do you have  
19 the same stipulation?

20 MR. WINGATE: Same stipulation.

21 THE COURT: Okay.

22 MR. ROGERS: Thank you, Your Honor.

23 BY MR. ROGERS:

24 Q Would you have been involved in the procuring of any  
25 accounting reports that would have been made, under the

1 (unintelligible) of a will to siblings, other heirs in  
2 this case, Ms. King's parents? Is that something you  
3 would have been made aware of in your processing of  
4 records?

5 A Occasionally she would come to me and request -- and  
6 she would give me the name of the person who needs an  
7 accounting. You know -- I'm sorry, the bank account or  
8 something of that nature. And I would prepare a  
9 financial statement for her. But normally she tells me  
10 why she's requesting an interim financial statement, or  
11 an annual financial statement, other than tax  
12 statements. She would usually make that request of me.

13 Q All right. In your recollection of those requests  
14 made, any reference to fulfilling any fiduciary  
15 obligations pursuant to Probate Court orders?

16 A No, no, no. Not to my knowledge. No.

17 MR. ROGERS: Can we get a stipulation that  
18 there was no accounting taken during those years?

19 MR. WINGATE: We won't stipulate anything.  
20 Ask your questions.

21 MR. ROGERS: Okay. Well, you stipulated  
22 earlier, so I thought I would just check and see.

23 THE COURT: Okay. There's no stipulation on  
24 that.

25 BY MR. ROGERS:

1 Q In your preparation, do you have occasion to review all  
2 of the records -- review records from all of the  
3 financial institutions, all the banking institutions,  
4 that are used by Ms. King's businesses?

5 A Businesses, yes. Because I see the bank statement for  
6 each business.

7 Q Okay. Can you tell us the names of those banks and  
8 statements you --

9 A I know one is BB&T. I think there's Bank of America.

10 Q You think there's a Bank of America?

11 A Yeah, Bank of America.

12 MR. WINGATE: And objections, Your Honor. I  
13 don't know where Counsel is going with  
14 questioning. I would object on the basis of  
15 relevance, if this a fishing expedite for  
16 discovery purposes. If it relates to something  
17 that's written that says testified to, or will  
18 testify to, regarding Ms. King's South Carolina  
19 funeral home business, I am willing to let it go  
20 on.

21 THE COURT: It seems to me to be that it's  
22 headed off-base. But let him go further and see  
23 where he goes. Object again if you feel like it,  
24 if he's getting too far off-field.

25 BY MR. ROGERS:

1 Q BB&T and Bank of America. Any other banks?

2 THE COURT: What is the question about the  
3 banks? Did she do business with any other banks?  
4 Is that what the question is?

5 MR. ROGERS: Yes, sir. His processing of  
6 those records. Mr. Wingate, in his questioning,  
7 referred to if he can identify the banks at which  
8 those transactions were carried out.

9 THE COURT: Are you referring to this South  
10 Carolina business entity or other business  
11 entities?

12 MR. ROGERS: Actually, I was referring to all  
13 business entities that he conducts, provides  
14 services for.

15 THE COURT: For her?

16 MR. ROGERS: Yes.

17 THE COURT: Okay. That's the question?

18 MR. ROGERS: Yes.

19 MR. WINGATE: And I object, Your Honor, as to  
20 the relevance to -- he has already testified, I  
21 believe, there's no other account for which this  
22 business is run through.

23 THE COURT: Well, I would let him go a bit  
24 further, because I don't know where he's headed.  
25 Overrule the objection. Go ahead.

1 BY MR. ROGERS:

2 Q And since I --

3 THE COURT: Have we ever had an answer to the  
4 question?

5 BY MR. ROGERS:

6 Q Well, let me retreat and ask this again. Since I  
7 obviously (unintelligible) Mr. Wingate's questioning,  
8 all of the -- do I understand that all of the  
9 transactions related to the Chester Funeral Home go  
10 through a BB&T?

11 A Yes.

12 Q Is that a one -- does she employ just one branch of  
13 BB&T? Do you know?

14 A That I don't know. I receive one statement per month,  
15 for the South Carolina funeral home.

16 Q Okay.

17 A And that's what I report per month.

18 MR. ROGERS: All right, sir. Thank you.

19 THE COURT: I just have a couple of  
20 questions. Do you do other work other than  
21 funeral home businesses?

22 THE WITNESS: Yes.

23 THE COURT: I'm just looking at this summary.  
24 And I'm not an accountant, nor am I a tax lawyer.  
25 And so, I don't have that background. But what I

1 do see, in looking at this, what is income seems  
2 to be a fairly solid projection upwards. What I  
3 see on the net profit is real jagged, a sort of  
4 thing up and down.

5 And so, I'm curious as to why the projected  
6 gross income and the net profit -- what are the  
7 factors that make those irregular in relation to  
8 each other? That's one question. The second  
9 question is, there is a big net loss in 2007. And  
10 so, I was interested in what that was about. So  
11 I'm interested in the jagged-sort-of graph, if you  
12 graphed out the net profit in relation to the  
13 gross income.

14 And so, I was interested in the big  
15 comparative in the net loss. And the final  
16 question, even though I hate to ask you a compound  
17 question, but they're all related. Is this fairly  
18 consistent with other funeral homes in the  
19 business and the economy? If you can answer those  
20 questions, they're all sort of related. First  
21 question, I guess, would be, the gross income in  
22 relation to the net profit. It appears to me that  
23 it's some sort of a jagged, up-and-down sort of --  
24 they don't seem to be consistent.

25 I see the net profit not being in the same

1 relative graph, or scale, of gross income. And  
2 so, I'm wondering, is there factors that you can  
3 contribute to that? Or you're the accountant, you  
4 just state the figures and relay them? So I  
5 wanted to know if you knew if there were any  
6 reasons for that? Or if you believe, in all, if  
7 there is a difference there?

8 THE WITNESS: In gross profit percentage  
9 margins, you know, it's a deviation -- the last  
10 thing that has been accepted -- it's a draft.  
11 Meaning, has it been concluded? I think it's  
12 running almost near 70 percent consistently. So I  
13 think that's a norm, as far as deviation is  
14 concerned.

15 Now, as to gross profit, it will contain the  
16 cost of doing business, the raw cost of doing  
17 business. The expenses, on the other hand, is  
18 kind of consistent with those items that she paid  
19 for the normal operating conditions. That can  
20 vary depending on how well the business is  
21 actually run.

22 But of course, most of them are  
23 uncontrollable. But these expenses -- I didn't  
24 see very many fixed expenses, except for the long-  
25 term regular items. But those expenses are

1 variable, depending on what they require for  
2 services.

3 So as far as funeral homes are concerned --  
4 it's very hard to gage gross profit lines on  
5 funeral homes, in my opinion, based on this  
6 funeral home. It depends on what the client is  
7 asking for. And I never considered King to be  
8 determined as high -- I don't want to say high  
9 volume, but high -- it entails of \$15,000 per  
10 year. It's low margins.

11 THE COURT: Okay.

12 THE WITNESS: Does that answer your question?

13 THE COURT: I think it does. In follow-up to  
14 that, is the average down here, that's \$44,023.73  
15 -- what you're saying is that's the average net  
16 profit over those years of 2000 to 2009?

17 THE WITNESS: Yes.

18 THE COURT: Okay. The only other question I  
19 would ask is, you have no doubt -- or have you  
20 looked at any data prior to your engagement to do  
21 the work on King's Funeral Home in Chester, which  
22 you said was about the mid-90's?

23 THE WITNESS: All right. I think what your  
24 question is --

25 THE COURT: I'm sorry.



1 THE WITNESS: What's your question?

2 THE COURT: Here's what I'm asking you: Did  
3 you have any prior year data, prior to 2000, that  
4 you're aware of?

5 THE WITNESS: That I'm aware of? No. I had  
6 data from the year 2000. Every seven to ten  
7 years, I would have to purge what I have. It's  
8 just expensive.

9 THE COURT: Is the sole way that you computed  
10 profit and loss here, is through the bank  
11 statements?

12 THE WITNESS: Oh, no. This is a cruel basis.  
13 It's based on the way it's reported.

14 THE COURT: You prepared the trial balance  
15 based upon the bank statements?

16 THE WITNESS: Yes.

17 THE COURT: Okay. That's what I meant the  
18 question to be. All right. I have no other  
19 questions for Mr. Ledbetter. Does anybody else?  
20 You, sir, Mr. Rogers?

21 MR. ROGERS: No, sir.

22 THE COURT: All right.

23 MR. WINGATE: Your Honor, would it be okay if  
24 this witness be excused?

25 THE COURT: Can we excuse Mr. Ledbetter? He

1 has been with us since early morning.

2 MR. ROGERS: I have no objection to his being  
3 excused.

4 THE COURT: Mr. Ledbetter, thank you, very  
5 much, sir.

6 THE WITNESS: Thank you.

7 THE COURT: Do you need to get anything over  
8 here?

9 THE WITNESS: No, sir. Just my keys.

10 THE COURT: Well, thank you for being with us  
11 here today. Thank you, sir. Okay. Your next  
12 witness.

13 MR. WINGATE: Your Honor, I would call  
14 Patricia King to the witness stand.

15 THE COURT: I'll tell you what let's do here.  
16 Why don't we -- I don't know what kind of voice  
17 she has, as far as the court reporter is  
18 concerned.

19 MR. WINGATE: Soft.

20 THE COURT: I was thinking it might be better  
21 to have her here, because the cross examination is  
22 going to kind of go this way. It would be easier  
23 for the cross examination to kind of go this way.

24 MR. WINGATE: I'm happy with --

25 THE COURT: However y'all want to do it. We

1           can keep her -- and you might want to make some  
2           minor --

3           MR. WINGATE: Just please speak up.

4           THE COURT: Let's kind of do it that way.

5           Then, the cross examination might be coming across  
6           the table. That might make it a more personal  
7           kind of situation.

8   WHEREUPON, BEING DULY SWORN AND CAUTIONED TO TELL THE TRUTH,  
9   THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, PATRICIA KING  
10   TESTIFIED AS FOLLOWS:

11                               DIRECT EXAMINATION

12   BY MR. WINGATE:

13   Q   Ms. King, would you please state your full, legal name  
14       for the record?

15   A   Patricia Elaine King.

16   Q   And what is your address for your home, currently?

17   A   129 Cemetery Street, Chester, South Carolina.

18   Q   How long has 129 Cemetery Street in Chester been your  
19       home?

20   A   All my life.

21   Q   How old are you?

22   A   Born in 1943.

23   Q   Okay. And if you were born in '43, how old does that  
24       make you today?

25   A   67.

- 1 Q 67?
- 2 A I believe that's it.
- 3 Q So you have lived at 129 Cemetery Street your whole
- 4 life; is that correct?
- 5 A Yes. That's my residence.
- 6 Q I'll come back to your businesses later. Let's talk a
- 7 minute about your education. Now, where did you
- 8 graduate high school?
- 9 A Finlay High School in Chester.
- 10 Q And did you go to college?
- 11 A I did.
- 12 Q Where did you go to college?
- 13 A Johnson C. Smith University in Charlotte, North
- 14 Carolina.
- 15 Q And did you get a degree?
- 16 A A B.S. degree and minor in General Science.
- 17 Q And what year did you get that degree?
- 18 A 1965.
- 19 Q And then, after getting your B.S., did you go on and
- 20 get any further education?
- 21 A I did.
- 22 Q What did you do next?
- 23 A I went to law school.
- 24 Q Where did you go to law school?
- 25 A North Carolina.

1 Q And did you get a law degree?

2 A I did.

3 Q And when did you get that degree?

4 A '69.

5 Q And are you licensed to practice law in any states?

6 A North Carolina.

7 Q And have you maintained a license to practice law in

8 North Carolina continually from 1969 to today?

9 A I done passed the bar in 19 -- I think it was '72. In

10 the 70's, early 70's.

11 Q Okay. So from the early 70's to today, have you

12 maintained a law license from North Carolina

13 continuously?

14 A I have.

15 Q What do you do, professionally, today?

16 A Well, mostly I do a little law. I don't go to the

17 courthouse much. And I mainly do funeral directing. I

18 do a combination of both.

19 Q Focusing for a few more moments of your law business,

20 do you have a law office?

21 A I do.

22 Q Where is it?

23 A 4000 Beatty's Ford Road in Charlotte.

24 Q And how long has 4000 Beatty's Road in Charlotte been

25 your law firm address?

1 A Well, after my brother died. He as running a funeral  
2 home. And after he died, I let my sister-in-law and  
3 her children run the funeral home. And after they  
4 moved out, abandoned the premises, I moved there in  
5 1991, '92.

6 Q So you --

7 A The latter part of '91, early 90's.

8 Q So your law business has been on Beatty's Ford Road  
9 since '91 or '92?

10 A That's correct.

11 Q And is that a building that you own, or is that a  
12 building that you lease?

13 A No. It's all on one parcel. Well, the law office is  
14 like it's here. Come down the driveway, the law office  
15 is here. The funeral home is next to the driveway.

16 Q So do you own a piece of property in North Carolina?

17 A I do.

18 Q And it has, on that one piece of property, that one  
19 parcel, both a building for the law firm and a building  
20 for the funeral home?

21 A Yes. It's all on one piece of land.

22 Q Are you a licensed funeral director in the state of  
23 North Carolina?

24 A I am.

25 Q Are you a licensed funeral director in the state of

1 South Carolina?

2 A I am.

3 Q How long have you been licensed as a funeral director  
4 in North Carolina?

5 A I think I was -- I know, because I don't have to go to  
6 seminar class. I think it is about 25 or 26 years.  
7 I've been exempt for both states. It might be 30  
8 years.

9 Q Approximately when did you get your licenses as funeral  
10 director in North and South Carolina?

11 A North Carolina, I'm going to say in the late 80's. I'm  
12 just estimating.

13 Q And I'm sorry. That was which of the two states?

14 A North Carolina.

15 Q And the, how about in South Carolina?

16 A In South Carolina, I think it was in the 70's. It had  
17 to be in the 70's.

18 Q In North Carolina, do you actively maintain a funeral  
19 business today?

20 A I do.

21 Q What is the name of that business?

22 A King's Funeral Home.

23 Q And what type of business is it? Is it, like, a  
24 corporation, or partnership, proprietorship?

25 A Proprietorship.

1 Q Has it ever been anything other than a proprietorship?

2 A No, it has not.

3 Q When your father passed away -- first of all, who was  
4 your father?

5 A William Robert King. We called him W.R. King.

6 Q When he passed away, do you know who the executor of  
7 his estate was?

8 A My mother, Ellen King.

9 Q And do you remember the year in which your father died?

10 A 1975, July 23rd.

11 Q After your father's death, and then after your mother's  
12 death -- I'm sorry. After your mother's death, who was  
13 the executor of personal representative of her estate?

14 A I was, along with my brother, Edward.

15 Q Okay. So one of your brothers, Edward, was a co-  
16 personal representative --

17 A That's correct.

18 Q Did he serve with you for the entire time of the  
19 administration of your mother's estate?

20 A I believe he did.

21 THE COURT: When did your mother pass away?

22 THE WITNESS: 1987 in March.

23 BY MR. WINGATE:

24 Q Are you familiar with this?

25 A Yes.



1 Q Go ahead.

2 A It's the King family tree.

3 Q Is that an accurate representation of your parents and  
4 of the nine children they had?

5 A Yes.

6 Q Is it an accurate representation of which ones are dead  
7 and which ones are alive today?

8 A Yes.

9 MR. WINGATE: Your Honor, I would have that  
10 moved into evidence as a demonstrative aid to  
11 track the King family tree.

12 THE COURT: Any objection? Well, as a  
13 demonstrative aid, you don't put it in evidence.  
14 I don't think they have any objection to it,  
15 but -- do you have any objection?

16 MR. WHITT: No, Your Honor.

17 THE COURT: They have no objection. Put it  
18 into evidence for whatever assistance it might  
19 give us. All right. King family tree from W.R.  
20 King and Ellen King; is that correct?

21 MR. WINGATE: Yes.

22 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 14 WAS MARKED FOR  
23 IDENTIFICATION PURPOSES, KING FAMILY TREE.)

24 BY MR. WINGATE:

25 Q And the Judge tracked my next question which was going

1 to be: When did your mother pass away?

2 A In March of 1987.

3 Q During the period of time after your father's death and  
4 until your mother's death, who ran King's Funeral Home  
5 in Chester?

6 THE COURT: In what period of time, sir? I'm  
7 sorry.

8 MR. WINGATE: From her father's death in 1975  
9 to her mother's death in 1987.

10 BY MR. WINGATE:

11 Q Who ran King's Funeral Home in Chester?

12 A Okay. You're talking about prior to my mother's death?

13 Q Yes, up until the time of her death.

14 A After my daddy, Chris, my mother and myself. We all  
15 ran it there together.

16 THE COURT: You say who ran it from '75  
17 until --

18 THE WITNESS: My mother. My mother was  
19 living. Until she died in '87. And Christopher  
20 and myself. We all ran that together.

21 THE COURT: You and who else?

22 THE WITNESS: Chris.

23 THE COURT: You and Chris?

24 THE WITNESS: And my mother.

25 THE COURT: And my mother.

1 BY MR. WINGATE:

2 Q Now, I believe, Ms. King, you testified that you live  
3 at 129 Cemetery Street; is that correct?

4 A That's correct.

5 Q Do you recognize that photograph?

6 A That's my house, my residence.

7 Q Is that how it looks today?

8 A Yes, it does.

9 MR. WINGATE: Your Honor, I would move that  
10 into evidence.

11 MR. ROGERS: I misunderstood her statement  
12 when you handed her the photograph, or the  
13 picture.

14 MR. WINGATE: She was --

15 MR. ROGERS: You said this was your house,  
16 but you said something else, too. I didn't --

17 THE WITNESS: I said it was like that today.  
18 He asked.

19 THE COURT: Yeah. He asked her, does it look  
20 like that?

21 MR. ROGERS: He asked, is this your house.

22 THE WITNESS: Yes.

23 MR. ROGERS: And you said, this is my house.  
24 I misunderstood if you said anything else. You  
25 didn't say anything else?

1 THE WITNESS: He asked me, does it look like  
2 that today? I told him, yes.

3 MR. ROGERS: Right. I understand that.

4 THE COURT: Any objection?

5 MR. ROGERS: No,

6 THE COURT: Let the court reporter go ahead  
7 . and mark it.

8 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 15 WAS MARKED FOR  
9 IDENTIFICATION PURPOSES, PHOTOGRAPH.)

10 BY MR. WINGATE:

11 Q. Ms. King, I want to show you what has already been  
12 marked as Plaintiff's Exhibit Number 4, the inventory  
13 and appraisement from your mother's estate. I think  
14 you testified that you are the personal representative  
15 with your brother?

16 A Yes.

17 Q But who signed this inventory that was filed in the  
18 Probate Court?

19 A I did.

20 Q Is there a signature from your brother?

21 A I don't see one.

22 Q Do you have any explanation for that?

23 A He was in Charlotte and he just came down periodically.  
24 And I think he wanted his name on there, just for  
25 name's sake.

- 1 Q But is this the document, then, that you signed as the  
2 personal representative --
- 3 A It is.
- 4 Q -- that's filed with the Probate Court?
- 5 A That's correct.
- 6 Q Would you please look at the inventory and appraisalment  
7 that you filed, and tell me what interests in real  
8 estate your mother owned at the time of her death, on  
9 Cemetery Street?
- 10 A On Cemetery Street? The residence and the own funeral  
11 home beside my residence now. And it's a garage on  
12 that same piece of property, 111 Cemetery Street, 131  
13 Cemetery Street, York Road, 156 Cemetery Street, one  
14 lot off of Byrd Street, 310 Ashford Street, one lot off  
15 of McClure Street, 114 Marquis Street, 107 -- there's  
16 two lots in there. Let me see what else. I think  
17 that's it.
- 18 Q Okay. Let's go back through that list and just focus  
19 on the ones that are on Cemetery Street. List one more  
20 time, one at a time, the buildings that your mother  
21 owned real estate, or property, that your mother owned  
22 as real estate on Cemetery Street.
- 23 A The residence, 120 Cemetery Street --
- 24 Q Let me interrupt you one second. Is that the same  
25 residence that is shown here in the photograph which is

1 Exhibit Number 15?

2 A It is.

3 Q And do you, today, own that residence?

4 A I do.

5 Q Okay. We'll come back to that. What else did she own  
6 on Cemetery Street?

7 A 111 Cemetery Street.

8 Q Which is --

9 A A lot.

10 Q A lot? And how far away is it from the funeral home  
11 property?

12 A Okay. If you come into the entrance from Cemetery  
13 Street, from Lancaster Street, it's about the third  
14 lot.

15 Q Is it, in any way, involved with the funeral home  
16 business?

17 A No.

18 Q All right. Other than that, what else did Ellen King  
19 own at Cemetery Street at the time of her death?

20 A 131 Cemetery Street. That's the house next to the  
21 funeral home. And 156 Cemetery Street. That's going  
22 up across from the cemetery.

23 Q Is either 131 Cemetery Street, or 156 Cemetery Street,  
24 part of the funeral home business property?

25 A It's not.

1 Q Has it ever been?

2 A No. There's another piece, 114 Marquis Street. That's  
3 on the corner of Cemetery.

4 Q Is that property on Marquis Street any part of the  
5 funeral home business?

6 A No, it's not.

7 Q Okay. Did you complete the administration of your  
8 mother's estate?

9 A I did.

10 Q Ms. King, are you familiar with these Letters  
11 Dismissory from the Chester County Probate Court?

12 A I am.

13 Q And what is the date of the Chester County Probate  
14 Judge's order dismissing you as administrator of your  
15 mother's estate?

16 A It's the 20th day of October in the year of our Lord on  
17 thousand nine hundred and 89.

18 Q And so, is it true that as of October 20th of 1989, you  
19 were discharged, and as the order says dismissed from  
20 all liability as an administrator of your mother's  
21 estate?

22 A I was.

23 Q Did you satisfactorily do all your duties to carry out  
24 your mother's estate?

25 A I did.

1 Q Thank you.

2 MR. WINGATE: I would move into evidence as  
3 Plaintiff's next exhibit --

4 THE COURT: Objection? Any objection?

5 MR. WHITT: No, Your Honor.

6 THE COURT: Without objection.

7 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 16 WAS MARKED FOR  
8 IDENTIFICATION PURPOSES, LETTERS DISMISSORY.)

9 BY MR. WINGATE:

10 Q As we sit here today, do you own the real property in  
11 Chester that is known as 135 Cemetery Street?

12 A I do.

13 Q And is 135 Cemetery Street the King's Funeral Home  
14 that's shown in Plaintiff's Exhibit Number 6?

15 A It is.

16 Q Did you ever had an occasion to get a plat prepared of  
17 the property at 135 Cemetery Street?

18 A I did.

19 Q Are you familiar with this plat?

20 A I am.

21 Q Is this the plat that you had prepared for you of  
22 King's Funeral Home building by Ashmark Land Surveyors?

23 A Yes, it is.

24 MR. WINGATE: Your Honor, I would move into  
25 evidence the plat of King's Funeral Home.



1 THE COURT: Objection?

2 MR. WHITT: No, Your Honor.

3 THE COURT: All right. No objection.

4 MR. WINGATE: Let's set this one in a pile  
5 and let her mark this. Then I'll give it back to  
6 you.

7 THE COURT: What number is that?

8 THE COURT REPORTER: 17.

9 THE COURT: Thank you.

10 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 17 WAS MARKED  
11 FOR IDENTIFICATION PURPOSES, PLAT.)  
12 BY MR. WINGATE:

13 Q I'm going to let you work from this one since it has  
14 been marked as the Exhibit. That extra is just if the  
15 Judge cares to see it. When did you have this plat  
16 prepared?

17 A Let's see.

18 Q I believe there's a date near the top.

19 A October 7th, 1997.

20 Q And does the plat list the three tax map parcel numbers  
21 of the properties that comprise King's Funeral Home?

22 A Yes.

23 Q As a lawyer, are you familiar with tax map numbers?

24 A Yes. Do you want me to read them?

25 Q Yeah. Go ahead and read them. What are the three tax

1 map parcels that comprise King's Funeral Home, which is  
2 135 Cemetery Street.

3 A One has 79-03-02-027, 201-4-21-017, 201-04-21-016.

4 Q For what purpose did you have this plat prepared by  
5 Ashmark Land Surveyors in 1997?

6 A Because I had to get a loan on the funeral home.

7 Q Why did you have to get a loan on that funeral home?

8 A Initially, in 1992, I had to get a loan to bail my  
9 brother out of bankruptcy. And then, 1997, when he  
10 died, I had to refinance because none of his heirs  
11 would go along with me to get the loan. So I had to  
12 get a loan with my sister Robbie King Jones. We had to  
13 put up the funeral home, plus we put up her house. And  
14 I'm still paying the note on it.

15 Q Okay. You just covered a lot of territory. Let's go  
16 back and break that down just a tad.

17 A Okay.

18 Q When you acquired the properties, the three that you  
19 just testified about, that comprised King's Funeral  
20 Home, were there any buildings on those three lots, or  
21 was it a vacant lot?

22 A No. It wasn't any buildings. It was a building prior  
23 to that, when I bought some property from my sister in  
24 the 70's. I think we had the house torn down.

25 Q So there may have been an old home --

1 A Yeah. It might have been an old house.

2 Q -- at 135 Cemetery Street, but there was no office  
3 building --

4 A No.

5 Q -- and certainly no funeral home building?

6 A No, it wasn't. No.

7 THE COURT: When was this that she's talking  
8 about? What date? Is this October of '07, the  
9 same date as the survey?

10 MR. WINGATE: As of 1997, Your Honor.

11 THE COURT: Okay.

12 MR. WINGATE: As she has alluded to, there  
13 was an original mortgage and then a subsequent  
14 mortgage. And we'll break those down. But this  
15 plat was prepared in conjunction with the second  
16 mortgage. It was a 1997 transaction.

17 THE COURT: Okay. Let me see if I'm  
18 understanding her testimony. She prepared a plat  
19 in October of 1997. It shows the King's Funeral  
20 Home building.

21 MR. WINGATE: Correct.

22 THE COURT: She just testified that she got a  
23 loan on the funeral home to bail out her brother  
24 out of bankruptcy.

25 MR. WINGATE: Right.

1 THE COURT: When was that?

2 THE WITNESS: That --

3 THE COURT: Go ahead.

4 THE WITNESS: Okay. The initial loan was in  
5 1992.

6 THE COURT: 1992?

7 THE WITNESS: Yes, sir.

8 THE COURT: Okay.

9 MR. WINGATE: And then there was a  
10 subsequent --

11 THE WITNESS: Subsequent loan.

12 MR. WINGATE: -- one, Your Honor. There have  
13 been three different ones. We are about to walk  
14 you through that.

15 THE COURT: We're back and forth here. I'm at  
16 '97 with a plat and now you're saying that she --  
17 when was this building built on that?

18 THE WITNESS: 1980's, I believe it was.

19 THE COURT: 1980?

20 THE WITNESS: Yes, sir.

21 THE COURT: Is that the building that's still  
22 there today?

23 THE WITNESS: Yes, sir.

24 THE COURT: Okay. And I don't want to jump  
25 into your cross examination here, but you got to

1           '92 and there was a loan. Is that what you're  
2           saying?

3           THE WITNESS: That's the first loan.

4           THE COURT: Okay.

5           MR. WINGATE: I think I can clean up the  
6           record, Your Honor.

7           THE COURT: Well, she's testifying in 1992.  
8           I thought she said she got the plat to get a loan.  
9           That was in '97. Then she said '92. So that has  
10          got me confused.

11          THE WITNESS: No. It's two loans.

12          THE COURT: Okay. You can straighten that  
13          out?

14          MR. WINGATE: I think so.

15          THE COURT: Okay, sir.

16          MR. WINGATE: I'll try.

17   BY MR. WINGATE:

18   Q     Let's step back. Are you familiar with the aerial  
19           photograph of King's Funeral Home and Chester  
20           Assessor's records?

21   A     Yes.

22   Q     As you look at that aerial photo, does that depict  
23           King's Funeral Home?

24   A     Yes.

25   Q     And ask you look at that, does that depict the three

1 distinct tax map parcel numbers that compromise 135  
2 Cemetery Street? Take your time and compare those to  
3 the plat.

4 THE COURT: Well, would all agree that that  
5 is what it does, unless there's some mystery about  
6 it that you need to get her to testify to.

7 MR. WINGATE: There's no mystery about it.

8 THE COURT: Okay, sir.

9 THE WITNESS: It does..

10 THE COURT: All right.

11 MR. WINGATE: So that being the case, Your  
12 Honor, I would move into evidence the aerial photo  
13 of the tax map --

14 THE COURT: When is that tax map? Is that's  
15 what's currently up there?

16 THE WITNESS: Yes, sir. That's correct.  
17 This is dated August the 14th, 2010.

18 THE COURT: Okay. Well, you just pulled it  
19 off of the -- do y'all object to that?

20 MR. WHITT: No, Your Honor.

21 THE COURT: Okay, sir. All right. Very  
22 good. All right. Let's get the court reporter to  
23 mark this.

24 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 18 WAS MARKED FOR  
25 IDENTIFICATION PURPOSES, TAX MAP NUMBER 079-03-08-027-000.)

1 BY MR. WINGATE:

2 Q I would also ask you, Ms. King, in the same vein, if  
3 you're familiar with that same information with the  
4 Chester County Assessor's records showing the aerial  
5 photo and plat of the middle parcel, which is 135  
6 Cemetery Street.

7 A Yes, sir. I do.

8 Q Yes. My question is: Does that number correlate also,  
9 to the plat of Ashmark Land Survey?

10 A Let's see. It's 201-04-21-17.

11 Q Right.

12 A What is that -- 000.

13 THE COURT: Well, I think you can look at  
14 that last number as, you know, it's 017, 016, 027  
15 -- that's an easy way to do that.

16 BY MR. WINGATE:

17 Q And my question is: Does that accurately reflect your  
18 current ownership of the middle parcel of --

19 A Yes.

20 Q -- 135 Cemetery Street?

21 A Yes, it does.

22 MR. WINGATE: Your Honor, I would move this  
23 into evidence.

24 THE COURT: The middle parts would be what?

25 MR. WINGATE: 17.

1 THE COURT: Is that a different photographs  
2 from the last one?

3 MR. WINGATE: No, sir.. The difference is  
4 that the assessor has moved the brackets. The  
5 first one showed a part of the top parcel, and the  
6 second one highlights the middle parcel. And  
7 then, the third one I have is actually going to  
8 highlight the bottom of the three parcels. This  
9 building --

10 THE COURT: It's the same tax map number?

11 MR. WINGATE: No. It's three different tax  
12 map numbers because this spans for city and county  
13 limits, all in her name.

14 THE COURT: Oh, okay. All right. Okay. All  
15 right.

16 MR. WINGATE: I'm moving that the second one  
17 be admitted into evidence.

18 THE COURT: All right. Do you have another?

19 MR. WINGATE: The third one is exactly the  
20 same, Your Honor. And it is of the third of the  
21 three parcels that comprise 135 Cemetery Street.

22 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 19 WAS MARKED FOR  
23 IDENTIFICATION PURPOSES, TAX MAP NUMBER 201-04-21-017-000.)

24 BY MR. WINGATE:

25 Q Are you familiar with this aerial photo of 135 Cemetery



1 Street from the assessor's records?

2 A Yes.

3 Q Does it accurately reflect your ownership of the third  
4 parcel that comprises 135 Cemetery Street?

5 A Yes.

6 MR. WINGATE: Your Honor, I would move into  
7 evidence.

8 THE COURT: Is that going to be 19, or --  
9 court reporter?

10 THE COURT REPORTER: This one will be 20.

11 THE COURT: Okay. Nineteen was the middle  
12 parcel, right?

13 MR. WINGATE: Yes, Your Honor.

14 THE COURT: And 20 was the last parcel?  
15 Okay. Okay.

16 (WHEREUPON PLAINTIFF'S EXHIBIT NUMBER 20 WAS MARKED FOR  
17 IDENTIFICATION PURPOSES, TAX MAP NUMBER 201-04-21-016-000.)

18 THE COURT: What I understand, this is the  
19 same aerial photograph, it just highlights a  
20 different tax number.

21 MR. WINGATE: Correct, Your Honor.

22 THE COURT: Okay. Go ahead. It's without  
23 objection.

24 BY MR. WINGATE:

25 Q Ms. King, are you familiar with this deed that I just

1 handed you?

2 A Yes, sir.

3 Q Who is the grantor of the deed. Who is conveying  
4 property?

5 A Christoper C. King and his wife, Margie B. King.

6 Q And who is the grantee? Who is receiving the property?

7 A Patricia E. King.

8 Q And that would be you, correct?

9 A That's correct.

10 Q And what is this deed dated? If you look at the second  
11 page of it, its signatures.

12 A Looked like the 13th day of January in the year of our  
13 Lord, one thousand nine hundred and eighty.

14 Q Did you receive a deed from Christopher and Margie King  
15 on January 13th, 1980?

16 A I did.

17 Q And was that conveying a portion of the property at 135  
18 Cemetery Street, that's shown on this plat that's  
19 already in evidence?

20 A Yes.

21 MR. WINGATE: Your Honor, I would move into  
22 evidence the deed by which Patricia King acquired  
23 title to one of these three parcels.

24 THE COURT: Which tax map number is it -- the  
25 last three numbers.

1 MR. WINGATE: 027.  
2 THE COURT: All right. Any objection?  
3 MR. WHITT: No, Your Honor.  
4 THE COURT: Without objection.  
5 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 21 WAS MARKED FOR  
6 IDENTIFICATION PURPOSES, DEED.)  
7 BY MR. WINGATE:  
8 Q And I'm going to go to the --  
9 THE COURT: Are you going to put the other  
10 deeds in?  
11 MR. WINGATE: Yes. There are three deeds.  
12 THE COURT: Okay. Go ahead. We might can  
13 stream-line this a little.  
14 BY MR. WINGATE:  
15 Q Ms. King, are you familiar with that deed?  
16 A Yes, sir.  
17 Q Who is the grantor?  
18 A My sister, Robbie King Jones.  
19 Q Who is the grantee?  
20 A Patricia E. King.  
21 Q And what is the date of this deed?  
22 THE COURT: Lead her through this.  
23 BY MR. WINGATE:  
24 Q Did you receive this deed on June the 25th of 1980?  
25 A Yes.

1 Q And did this, according to the latest description,  
2 convey to you a parcel that is reflected here on the  
3 tax map, which is already in evidence?

4 THE COURT: Which is already in evidence?

5 MR. WINGATE: Which is parcel 16, Your Honor.

6 THE COURT: Oh, okay. 01 -- 16 is the case  
7 number?

8 MR. WINGATE: I'm sorry -- 017.

9 THE COURT: Okay.

10 MR. WINGATE: It's the middle parcel.

11 THE COURT: When was the recording date on  
12 it?

13 MR. WINGATE: It was recorded -- well, the  
14 deed is dated June 25, 1980.

15 THE COURT: All right. Any objection?

16 MR. WHITT: Just a moment, Your Honor.

17 THE COURT: All right. I don't know that any  
18 of these are contested issues.

19 MR. WINGATE: I would hope not. It  
20 establishes legal ownership of the real estate.

21 MR. WHITT: No objection to that, Your Honor.

22 THE COURT: He has no objection. You can ask  
23 legal questions on these as far as dates and that  
24 sort of thing. All right.

25 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 22 WAS MARKED FOR

1 IDENTIFICATION PURPOSES, DEED.)

2 BY MR. WINGATE:

3 Q Ms. King, let me show you a deed from Robbie K. Jones  
4 and Howard Jones to you, parcel property at 135  
5 Cemetery Street. Is that a deed that you received?

6 A Yes, sir.

7 Q And if we look at the second page, did you receive this  
8 deed on the 18th day of February, 1977?

9 A Yes, sir.

10 Q And is this a third of the three parcels shown on the  
11 plat of 135 Cemetery Street?

12 A It is.

13 MR. WINGATE: And Your Honor, that would be  
14 the third, which is the parcel that ends in 016.

15 THE COURT: All right.

16 MR. WINGATE: And I would admit that into  
17 evidence.

18 THE COURT: Let's see if there's any  
19 objection to that.

20 MR. WINGATE: No, Your Honor.

21 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 23 WAS MARKED FOR  
22 IDENTIFICATION PURPOSES, DEED.)

23 THE COURT: You can hand that to the court  
24 reporter. What I would invite y'all to do, if it  
25 is not contested stuff, or that sort of thing, if

1           it's just getting stuff in here for the record,  
2           then we can move that along, if you don't mind.

3           MR. WINGATE: I would be happy to. I've got  
4           a total of 10 documents left.

5           THE COURT: Well, let's stop here and you  
6           look at them and see. Is it all right with y'all?  
7           Let's look at them. Are these what you consider  
8           that they would contest in any way?

9           MR. WINGATE: I have no idea. Be glad to run  
10          through them with them, take a break, and see if  
11          they contest it or not.

12          THE COURT: Well, this is going to take us  
13          endless time just to put records in there. So  
14          what I would suggest, let's stop, take a break,  
15          y'all look at what he's going to put in there. If  
16          it is going to be just routine, making the record,  
17          then I would suggest let's just get it into  
18          evidence and mark it. If it's not, then we'll  
19          handle it separately.

20          MR. WINGATE: That would be great.

21          THE COURT: Is that all right with y'all?

22          MR. WINGATE: Absolutely.

23          THE COURT: Now, I intend to do this just so  
24          we can move a little faster.

25          MR. WINGATE: I appreciate that.

1 THE COURT: Okay. All right. Off the  
2 record.

3 (OFF THE RECORD)

4 MR. ROGERS: Your Honor, I think your idea  
5 was a good one. It's just that we should have  
6 applied it to the first ten documents and not the  
7 last ten documents. There's some snag on  
8 virtually all these last documents that we've got.

9 THE COURT: Okay. Then let's just continue  
10 to move along. And thank you for trying. We'll  
11 go ahead. So the next document you want to -- go  
12 ahead.

13 BY MR. WINGATE:

14 Q Ms. King, are you familiar with this document?

15 THE COURT: I do not mind you leading, as far  
16 as --

17 MR. WHITT: And we don't mind either.

18 THE COURT: If it gets to be too carried  
19 away. But I think you can lead on this: is this a  
20 deed, is this a mortgage, is this a note, is it  
21 dated such-and-such -- I mean, you see what I'm  
22 saying?

23 MR. WINGATE: That would be great. Be happy  
24 to, Your Honor.

25 THE COURT: You can move it along like that.

1           And if they get to be too leading, I would expect  
2           y'all to object. I know you're doing it to the  
3           preferred way, but I'm trying to do it a little  
4           faster way.

5           MR. WINGATE: Thank you, Your Honor.

6 BY MR. WINGATE:

7 Q       Is this the mortgage that you gave to Chester Building  
8       and Loan Association in 1980?

9 A       Yes, it is.

10 Q       For what purpose did you take out a \$90,000 loan on 135  
11       Cemetery Street?

12           MR. WHITT: Excuse me, Your Honor. What  
13       document are you on now? We have a stack of ten.

14           THE COURT: I was really getting him --  
15       here's what I'd like to do, if you don't mind.  
16       You can say, here's a documented dated as a  
17       mortgage, so-and-so forth, and get it into  
18       evidence. I wouldn't just hand it to her, and ask  
19       her to look at it, and what's the date and that  
20       sort of thing. I think you can ask that in a  
21       leading form. But the rest of it, as far as why  
22       and what for, then I would say, revert to normal  
23       examination.

24           MR. WINGATE: Your Honor, I would move the  
25       \$90,000 mortgage into evidence.



1 THE COURT: Okay. She gave it to the bank in  
2 1980 for what property?

3 THE WITNESS: 135 Cemetery Street.

4 THE COURT: 135 Cemetery Street?

5 THE WITNESS: Yes, sir.

6 THE COURT: All right. Okay.

7 MR. WHITT: Your Honor, I guess we object as  
8 to relevance. A note from 1980, I think is what  
9 we had. What is the purpose of this? What does  
10 it show, as far as the accounting?

11 THE COURT: Is that an objection?

12 MR. WHITT: It is an objection, Your Honor.  
13 I'm sorry. Relevance.

14 THE COURT: And your objection is based on --

15 MR. WHITT: Relevance as to accounting.

16 THE COURT: What is the relevance to this  
17 1980 mortgage?

18 MR. WINGATE: The relevance is, Your Honor,  
19 that she acquired the three properties in her name  
20 in fee simple, as we've already established. She,  
21 alone, personally borrowed \$90,000 to build the  
22 building on 135 Cemetery, which is the funeral  
23 home.

24 THE COURT: All right. It's relevant.

25 Overruled. Go ahead. Can you mark it, please,

1                   ma'am?

2       (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 24 WAS MARKED FOR  
3       IDENTIFICATION PURPOSES, MORTGAGE.)

4                   THE COURT: All right. Go ahead.

5       BY MR. WINGATE:

6       Q       I want to question you further about that.. Did you use  
7       the \$90,000 of proceeds from that loan to build 135?

8                   THE COURT: Again, you're getting into the  
9       non-leading kind of area.

10      BY MR. WINGATE:

11      Q       What did you do with the proceeds of the \$90,000, Ms.  
12      King?

13      A       Construct 135 Cemetery Street.

14      Q       Thank you..

15                  THE COURT: You did what?

16                  THE WITNESS: Built 135 Cemetery Street.  
17      That's the funeral home.

18      BY MR. WINGATE:

19      Q       After you built it, the funeral home, did you lease it  
20      to anyone?

21                  THE COURT: Is she saying she built the --

22                  THE WITNESS: Well, the funds to have the  
23      funeral home built.

24                  THE COURT: Okay.

25                  MR. WINGATE: It was a vacant piece of land.

1 THE COURT: No. Y'all don't explain. Let's  
2 just go through the testimony. I'm jumping ahead  
3 in my mind here. So I don't want to get too far  
4 ahead. All right. So this is \$90,000 to build  
5 the present building. Is that what you're saying?

6 THE WITNESS: That's correct.

7 THE COURT: Okay. As to who built it, and  
8 all that kind of stuff, that's a separate  
9 question, I guess. But anyway, go ahead.

10 MR. WINGATE: You mean, as in who built it,  
11 as to the contractor?

12 THE COURT: Well --

13 BY MR. WINGATE:

14 Q Were you the sole owner of the property that this  
15 mortgage secures?

16 A Yes, sir.

17 Q Were you the sole borrower of the \$90,000?

18 A Yes, sir.

19 Q Did you put up all of the collateral yourself for the  
20 \$90,000 loan?

21 A I did.

22 Q Did anyone else put up an collateral for the \$90,000  
23 loan?

24 A No.

25 Q After you built your funeral home building --

1 THE COURT: That's what we're missing, the  
2 gap. Go ahead.

3 BY MR. WINGATE:

4 Q -- did you solely own those three parcels of land on  
5 which the cemetery was built?

6 A Yes.

7 MR. ROGERS: Well, Your Honor --

8 MR. WHITT: We skipped about half the case,  
9 Your Honor.

10 MR. ROGERS: You know, I understand we're  
11 trying to move ahead as expeditiously as possible,  
12 but I mean, I think that's a leading question  
13 times three. And you know, I just object. I have  
14 to, Your Honor. I'm sorry.

15 THE COURT: Overruled. Go ahead. What was  
16 the question?

17 BY MR. WINGATE:

18 Q Are you, in 1980, the sole owner of the land, those  
19 three lots, that are 135 Cemetery?

20 A Yes, sir.

21 Q And did you, alone, borrow the money to build a  
22 building on that property?

23 A I did.

24 Q And were you the only one who put up collateral for  
25 that loan, to build that property?

1 A I was

2 Q Once it was built, did you lease it to anyone?

3 A I did.

4 Q Who did you lease it to?

5 A To my brother, Christopher C. King.

6 MR. WINGATE: And Your Honor, next we're  
7 going to go to the lease document, which I have  
8 given to Counsel.

9 THE COURT: Ma'am, who built the building?

10 THE WITNESS: Well, it was several  
11 contractors. I think Mr. (unintelligible) Macon,  
12 built some of it, then the Stevensons built some.  
13 Then we had Mr. -- a man from Whitmire build a  
14 roof.

15 THE COURT: When was it built?

16 THE WITNESS: They started in 1980.

17 THE COURT: And when was it completed?

18 THE WITNESS: I'm not really sure. Let me  
19 see. It might have been through '81. I'm just  
20 saying. I'm not too sure. I don't know when it  
21 was completed.

22 THE COURT: Who designed the building?

23 THE WITNESS: My father had Superior Funeral  
24 Supply out of Cleveland, Ohio, to draw some plans.

25 THE COURT: All right. The \$90,000 was the

1           entire amount spent on building the building?

2           THE WITNESS: No, sir. That's the amount I  
3           borrowed. But I had to put some money out of my  
4           pocket.

5           THE COURT: Okay. How much?

6           THE WITNESS: I really don't know, because we  
7           added -- I had to pay for Mr. Dickson to put the  
8           fireplace in there. It was \$500. And just a lot  
9           of things. Once we got into the building process,  
10          I had to put money out.

11          THE COURT: Okay. All right. Go ahead, sir.

12 BY MR. WINGATE:

13 Q       Did anyone, other than you, put money into the  
14       construction of 135 Cemetery Street?

15 A       I'll be honest with you. I think my mother had to put  
16       some in it too.

17 Q       Do you know what she put in?

18 A       No, I don't. Because we was running low. And she put  
19       some money, and I did too. And Chris might have put  
20       some. I'm not too sure about that. But I know I had  
21       to put some money and my mother had to put some in  
22       there.

23 Q       Okay. When it was built, did you lease it?

24 A       I did.

25 Q       To whom did you lease it?

1 A My brother, Christopher King.

2 Q And is this the lease agreement by which you leased it  
3 to your brother, which is dated July 16, 1980?

4 A I did.

5 Q Who prepared this lease agreement?

6 MR. WHITT: Your Honor, we object to this.  
7 They gave you a good dissertation on the Dead  
8 Man's Statute and said we would be trying to  
9 violate it. But this is a contract between her  
10 and someone who is deceased. She is trying to  
11 gain an economic advantage by purporting to show  
12 these documents, that he entered into this lease  
13 concerning the property that's in dispute here.  
14 And then, we object to its being admitted. It's  
15 with a dead man. He's not here to talk about the  
16 circumstances of the lease.

17 THE COURT: The Dead Man's Statute, according  
18 to the statements of the Supreme Court, are a very  
19 narrow ruling and not preferred. It usually deals  
20 with utterances, not documents. Although, I think  
21 it's possible that documents could be included. I  
22 do not think this is a violation of the Dead Man's  
23 Statute. And so, I will allow it. Overrule the  
24 objection. All right. It's in evidence. Other  
25 objections?

1 MR. WINGATE: I would move it into evidence.  
2 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 25 WAS MARKED FOR  
3 IDENTIFICATION PURPOSES, LEASE AGREEMENT.)

4 BY MR. WINGATE:

5 Q Ms. King, according to Exhibit 25, the lease, how was  
6 Chris --

7 MR. WHITT: Your Honor, this would be a  
8 different objection, if he's going to ask her  
9 questions about it.

10 THE COURT: Let's see what his question is,  
11 first.

12 MR. WINGATE: Your Honor, the question is,  
13 according to the literal wording of the lease, in  
14 what capacity was Chris the tenant? In other  
15 words, how does it list him as the tenant? Is it  
16 his name?

17 THE COURT: Well, I could read it. But what  
18 is the objection?

19 MR. WHITT: Well, the objection is if he's  
20 going to ask him questions about it, you've gone  
21 beyond the fact that you said, Your Honor --

22 THE COURT: Overruled. Go ahead.

23 BY MR. WINGATE:

24 Q In what capacity did Chris King sign this as a tenant?

25 THE COURT: You are asking her what is stated



1 on the document?

2 MR. WINGATE: That is correct.

3 THE COURT: I think that's within the  
4 parameters of the objection.

5 MR. WINGATE: Sure. Sure.

6 BY MR. WINGATE:

7 Q What does the document say? If you would read the  
8 first paragraph of the document, that first sentence.

9 A Okay. I can read, the State of South Carolina, County  
10 of Chester, Lease Agreement. This lease agreement made  
11 and entered into this 16th day of July, 1980, by and  
12 between Patricia E. King of Chester, South Carolina,  
13 herein referred to as landlord, and Christopher C.  
14 King, doing business as King's Funeral Home of  
15 Chester --

16 THE COURT: Say that again.' What is it?

17 BY MR. WINGATE:

18 Q Read it loudly and distinctly, please.

19 A Okay. Patricia E. King, referred to as landlord.  
20 Christopher C. King, doing business as King's Funeral  
21 Home of Chester, hereinafter referred to as tenant.

22 Q If you go to the second paragraph, how many years is  
23 the term of the lease? Would you read the first  
24 sentence of paragraph 2?

25 A The term of said lease should be for a period of 15

1           years, commencing on November the 1st, 1980, and ending  
2           on October 31st, 1995, and at for a monthly rental of  
3           \$1200.

4   Q     Thank you.

5           THE COURT: Beginning in 1980?

6           THE WITNESS: Yeah.

7           THE COURT: Is that what you said?

8           THE WITNESS: Yes, sir.

9           THE COURT: And ending November --

10          THE WITNESS: October 31st, 1995.

11          THE COURT: Okay.

12          THE WITNESS: For rent of \$1200.

13   BY MR. WINGATE:

14   Q     And then, if you look at paragraph 5 --

15          THE COURT: A month?

16          THE WITNESS: Yes, sir.

17   BY MR. WINGATE:

18   Q     -- was the lease term renewable? Would you read just  
19           the first sentence of paragraph 5?

20   A     Lease is hereby granted -- the tenant is hereby granted  
21           the further right to occupy said -- did you say first  
22           sentence?

23   Q     First sentence.

24   A     That's it.

25   Q     Well, no. The whole first sentence after the period.

1 A Oh, okay. Premises under the terms and conditions  
2 hereof by the exercise of one or more of three  
3 successive options each for a period of five years, the  
4 first optional period extending from November the 1st,  
5 1995 until October the 31st of the year 2000.

6 Q Did Chris exercise that first five-year extension? Did  
7 he remain as a tenant of the property?

8 A Until he died. Until September of 1997.

9 Q Thank you. After Chris leased the funeral home from  
10 you in 1980, did you later take out another note and  
11 mortgage -- sign a note and take out a mortgage on the  
12 funeral home property?

13 A I did.

14 Q When?

15 A This note is dated July 31st, 1992.

16 MR. WINGATE: And Your Honor, I would move  
17 into evidence the July 31, 1992, in the amount of  
18 \$225,000.

19 THE COURT: \$225,000?

20 MR. WINGATE: Yes.

21 THE COURT: And that's a mortgage?

22 MR. WINGATE: This is the note.

23 THE COURT: Okay. Any objection?

24 MR. WHITT: Well Your Honor, we object to  
25 relevance, and we also object to its by, the

1           deceased individual, Christopher C. King.

2           THE COURT: What's the second objection?

3           MR. WHITT: It says the Note is by Christopher  
4 King who is deceased and not able to talk about  
5 the context of it, so we're forced to hear her  
6 context.

7           THE COURT: So what's the objection?

8           MR. WHITT: The objection is relevance. The  
9 objection is also the Dead Man's Statute on a  
10 document. It's by Christopher C. King. This is  
11 not her note.

12          THE COURT: As I understand the Dead Man's  
13 Statute, it is an opponent or a proponent who  
14 seeks to profit from someone else's estate as a  
15 result of some transaction, or some statement.  
16 Isn't that generally what it is?

17          MR. WHITT: Well, it's generally what it is.  
18 But I think, what they told you, that when someone  
19 tries to testify as to the economic -- they have  
20 an economic interest to gain, by the testimony, to  
21 profit them, that it was prohibited by the Dead  
22 Man's Statute. And I think that's also a fair  
23 reading of it, Your Honor.

24          THE COURT: Okay. Overruled. Go ahead.

25          MR. WINGATE: Thank you, Your Honor. So this

1 is into evidence?

2 THE COURT: All right. It's in evidence.

3 Again, hand it to the court reporter, please.

4 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 26 WAS MARKED FOR  
5 IDENTIFICATION PURPOSES, NOTE.)

6 BY MR. WINGATE:

7 Q Ms. King, when the \$225,000 note was taken, who was the  
8 borrower? Look at the bottom right-hand corner. Read  
9 for the Court from here to here, there from the bottom.

10 A Christopher C. King.

11 Q Read the whole thing.

12 A Okay. Christopher C. King, Proprietor, Patricia E.  
13 King, Individually, Robbie K. Jones, Individually,  
14 Christopher c. King, Individually.

15 Q So if the borrower is, as it says here, King's Funeral  
16 Home by Christoper C. King, Proprietor, is that  
17 correct?

18 A Yes.

19 Q And then, you, individually, and one of your sister and  
20 he signed individually as guarantors; is that correct?

21 A That's correct.

22 Q Did you also put up any collateral yourself?

23 A I didn't. But my sister did, I believe.

24 Q Okay.

25 A I think she put up her house.

1 Q Did you get the \$225,000 from that note?

2 A I went to the bank and got it, and I gave it to Chris  
3 towards his debts.

4 Q So you did not put it in your bank account?

5 A No, sir.

6 Q You did not put it in your business?

7 A No, sir.

8 THE COURT: Let me look at this. Further on  
9 this Dead Man's Statue issue, this is a  
10 communication -- if it's a communication, between  
11 Christopher King and Mechanics and Farmers Bank.  
12 It's not a communication between Christopher King  
13 and her; that is, Patricia King. So you know,  
14 clearly, it is not within the Dead Man's Statute,  
15 in my judgment. It's a third party that we're  
16 talking about. But I'll get the case out here,  
17 just to be on the same side, if we need to talk  
18 about Dead Man's Statute some more. Okay. That's  
19 in evidence, a note as described.

20 Let me just stop, momentarily, so maybe this  
21 will cut down some of our -- this is not the last  
22 word on the so-call Dead Man's Statute, but it's  
23 the case Hannah Hann vs. Simpson, 1997. And  
24 here's what it says: No person, who has a legal  
25 interest, which may be affected by the action,

1           shall be examined in regard to any transaction or  
2           communication between such witness and a person  
3           now deceased, and as a witness against a party  
4           prosecution defending the action, executor and so  
5           forth.

6           The Statute has many limitations. So I don't  
7           think that document is within the Dead Man's  
8           Statute. All right. Any other testimony, or any  
9           records that need to go into evidence?

10          MR. WINGATE: Going back, if Your Honor would  
11          indulge me a moment.

12          THE COURT: Can I look at that note again?

13 BY MR. WINGATE:

14 Q       Ms. King, on August 20th, 1997, did you send your  
15       brother an eviction notice?

16 A       I did.

17 Q       Is this document the eviction notice?

18 A       Yes, sir.

19          MR. WINGATE: Your Honor, I would move this  
20          into evidence.

21          THE COURT: Any objection?

22          MR. WHITT: What's the date at the top of it?

23          MR. WINGATE: August 20th, 1997.

24          MR. WHITT: I don't have an August 20th. Do  
25          you have it, Tim?

1 MR. ROGERS: Yeah. We got a copy of that.

2 That's it.

3 MR. WHITT: Okay. No objection, Your Honor.

4 THE COURT: All right. What number is that,  
5 Madame Court Reporter?

6 THE COURT REPORTER: 27.

7 THE COURT: 27.

8 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 27 WAS MARKED FOR  
9 IDENTIFICATION PURPOSES, DOCUMENT.)

10 BY MR. WINGATE:

11 Q Okay. Patricia, you sent this eviction notice to your  
12 brother, Christopher King, on August 20th, 1997; is  
13 that correct?

14 A Yes, sir.

15 Q And what was the date that he died?

16 A September the 1st, I think, 1997.

17 Q So approximately 10 days later; is that correct?

18 A Yeah. September.

19 Q Did he, prior to his death, pursuant to this eviction  
20 notice, move out of King's Funeral Home at 135 Cemetery  
21 Street?

22 A I think they -- not immediately, I don't believe.

23 Q After his death?

24 A Yeah.

25 Q What happened?



1 A After his death, Margie came over to the funeral home,  
2 and they stayed there, like Moses testified, until  
3 December.

4 Q Of what year?

5 A 1998.

6 Q So are you saying that there was a one-year or so,  
7 little more than that, hold-over period, before they  
8 left?

9 A Yes, sir.

10 Q When they left, had the \$225,000 note been paid off?

11 A No, sir.

12 Q I will ask you if you're familiar with this note.

13 A I am.

14 Q It's the \$186,000 note.

15 A I am.

16 MR. WINGATE: Your Honor, I would move this  
17 into evidence.

18 THE COURT: Well, what is it?

19 MR. WINGATE: It's an October 10, 1997 note,  
20 in the amount of \$186,165 --

21 THE COURT: October when?

22 MR. WINGATE: 1997.

23 THE COURT: Who is it between?

24 MR. WINGATE: It is a note from -- it's  
25 payable to Mechanics and Farmers. And the

1           borrowers are Patricia E. King and Robbie King  
2           Jones.

3           MR. WHITT: No objection, Your Honor.

4           THE COURT: Okay. Can I take a quick look at  
5           that?

6           MR. WINGATE: Yes, Your Honor.

7           (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 28 WAS MARKED FOR  
8           IDENTIFICATION PURPOSES, NOTE.)

9           BY MR. WINGATE:

10          Q    When Chris died in November of 1997, I was starting to  
11               ask you, had the prior \$225,000 loan been paid off?

12          A    No, it was not.

13          Q    Why did you borrow, with your sister, \$186,000 from  
14               Mechanics and Farmers Bank in October of 1997?

15          A    Because we had to refinance. Because the note from  
16               1992 was not paid in full. And my sister and I had to  
17               refinance, because nobody, Chris' children, or wife,  
18               would help us to refinance it. They refused to. So my  
19               sister Robbie had to put up her house. And I still --  
20               I think it was, a new payment would come due in  
21               November of this year. And on the note I paid \$1557.16  
22               out of my pocket every month.

23          Q    After Chris' death and after his family vacated 135  
24               Cemetery in December of 1998, did you seek a  
25               restraining order to keep them from coming back on the

1           property of 135 Cemetery?

2     A     I think I did.

3     Q     Did you get a restraining order? Did a Judge issue a  
4           restraining order?

5     A     Yes, sir.

6     Q     Is this the restraining order that was issued in  
7           January of 1999 by a Judge?

8     A     Yes, sir.

9                   MR. WINGATE: We would move that into  
10                  evidence, Your Honor.

11                 MR. WHITT: Your Honor --

12                 THE COURT: Let me take a look at it. Yes,  
13                  sir. Go ahead.

14                 MR. WHITT: We object. What relevance to a  
15                  restraining order have when we're in a sole issue  
16                  of an accounting.

17                 THE COURT: Okay. Maybe you could explain to  
18                  us what the relevance is.

19                 MR. WINGATE: Be happy to, Your Honor. The  
20                  relevant portion is there of the second page, if I  
21                  may recite it, wherein the Judge, in a mutual  
22                  restraining order, directed that the Defendants in  
23                  this case, the Christopher King family -- King  
24                  Defendants are further more barred from the  
25                  property known as 135 Cemetery Street, Chester,

1 South Carolina. Again, going to the issue of  
2 ownership and control, and operation of the  
3 business after Chris was evicted, and the owner of  
4 the property regained control of it, she, as has  
5 been testified today, reinstituted, or started her  
6 own business, her proprietorship, King's Funeral  
7 Home, in that location.

8 THE COURT: Let me take a look at this.  
9 Okay. Your objection is relevance?

10 MR. WHITT: Yes, Your Honor.

11 THE COURT: Overruled.

12 MR. WINGATE: Thank you, Your Honor.

13 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 29 WAS MARKED FOR  
14 IDENTIFICATION PURPOSES, ORDER.)

15 MR. WINGATE: Ms. King, answer any questions  
16 Counsel or the Judge may have.

17 MR. ROGERS: Can I just inquire,  
18 administratively -- there were some other  
19 documents, but you're not going to introduce any  
20 of those into evidence --

21 MR. WINGATE: No, sir.

22 MR. ROGERS: -- of the other stack?

23 MR. WINGATE: No, sir.

24 MR. ROGERS: Just wanted to make sure.

25 THE COURT: What was the date of that order,

1                   because it was not at that point the Justice of --

2                   MR. WINGATE: February 19th, 1999.

3                   THE COURT: 1999? January of 1999?

4                   MR. WINGATE: February of 1999.

5                   THE COURT: February.

6                   CROSS EXAMINATION

7 BY MR. WHITT:

8 Q       Ms. King, in 1999, did you provide an accounting for  
9       the profit and loss of the funeral home business at 135  
10       Cemetery Road?

11 A       1999?

12 Q       Yes, ma'am.

13 A       Taxable year, 1999?

14 Q       Just calendar year, 1999, did you provide an accounting  
15       to your eight siblings, as to the profit and loss of  
16       the funeral home at 135 Cemetery Road?

17 A       My accountant did. I can't answer that, because my  
18       accountant said that --

19 Q       No, ma'am. I'm asking if you did.

20 A       I didn't send none of my relatives any information as  
21       to an accounting.

22 Q       So that's a no?

23 A       I would say it was a no.

24 Q       What about the year 2000?

25 A       No.

1 Q Same question for 2001.

2 A I did not.

3 Q 2002?

4 A No.

5 Q 2003?

6 A No.

7 THE COURT: You're not before a jury, but go  
8 ahead.

9 MR. WHITT: Well, Your Honor, we asked if  
10 they would stipulate to that and they said  
11 absolutely not. Ask your questions, Mr. Rogers.

12 THE COURT: Go right ahead.

13 MR. WHITT: Thank you, Your Honor.

14 BY MR. WHITT:

15 Q 2004?

16 A No.

17 Q 2005?

18 A No, sir.

19 Q 2006?

20 A No, sir.

21 Q 2007?

22 A No, sir.

23 Q 2008?

24 A No, sir.

25 Q 2009?

1 A No, sir.

2 Q And ten?

3 A No.

4 Q Thank you. Now, I think you testified, in a  
5 conversation with your attorney, that you're an  
6 admitted attorney in North Carolina; is that correct?  
7 Practicing?

8 A That's correct.

9 Q And when was that?

10 A I think it was 1972 or '73, somewhere early 70's.

11 Q And in that period of time, have you ever had an sort  
12 of enforcement action taken against you by the North  
13 Carolina bar?

14 A Only thing I had, I had a young man in there who was  
15 drawing up some documents for me one time. He was a  
16 lawyer but he got in some kind of trouble. And I  
17 wasn't there. One day he drew up a will, a power of  
18 attorney, for someone. I wasn't there. And a friend  
19 of his tried to sue me, which he's trying to do it  
20 right now. He's been continuously, continuously. The  
21 Judge has thrown it out several times, which he had no  
22 interest in. So he tried -- yes, sir. He tried to sue  
23 me.

24 Q Well, I was actually -- the first part of my question  
25 was, any kind of enforcement action by the North

1 Carolina bar?

2 A I don't understand you talking about enforcement.

3 Q Well, have they ever said you did anything wrong? Have  
4 they ever disbarred you or suspended you?

5 A No, sir.

6 Q Or reprimanded you?

7 A No, sir.

8 Q Or given you any kind of enforcement --

9 A They might have wrote a letter saying rule so and so  
10 and so. But that's all they did. I had Mr. Bill  
11 (unintelligible) to represent me at that time.

12 Q Okay. And then, as far as being sued, you say you're  
13 being sued right now by someone else?

14 A The same man for ten years.

15 Q Is that the only time?

16 A That's the only time I can recall.

17 Q Now, I notice that your accountant was kind enough to  
18 provide us with your profit and loss from the South  
19 Carolina Operations. There's not a whole lot of  
20 profit. There's a lot of loss, especially based on  
21 that over \$500,000 of business that's generated there.  
22 So you make very little money, or no money most years;  
23 is that correct?

24 A Sometimes, like Mr. Ledbetter said, and sometimes like  
25 Mr. Moses say, it fluctuates.



1 Q Well, I think he gave us an average of \$4400 --

2 A Might be, if he said that.

3 Q But you get a tax benefit from that on your other  
4 taxes? Is that the reason you continue the business  
5 making little or no profit?

6 A I don't know about accounting. I leave that to my  
7 accountant. I guess you had depreciation. You have  
8 losses.

9 Q But does he tell you that the losses you take in South  
10 Carolina gives you a tax benefit? He has never told  
11 you that?

12 A I guess any kind of tax return, if you have any loss,  
13 that's a tax benefit. That's a deduction.

14 Q Okay. And ma'am, this case started out with you as the  
15 Plaintiff. And you and your attorneys chose the  
16 caption of that case, which was Patricia E. King and  
17 Robbie King Jones, as representatives of W.R. King and  
18 Ellen King; is that correct?

19 A Yes, sir.

20 Q Okay. Now, what is your understanding of what happened  
21 to the asset known as the King Funeral Home when your  
22 father, W.R. King, died?

23 A If there was an asset, it went to my momma, because  
24 Chris had gotten all the money out of the bank. So I  
25 guess there was very little, if any at all.

1 Q Well, did hear Moses Caldwell testify that it was an  
2 ongoing concern and doing just fine at the time that  
3 W.R. King died? You disagree with that?

4 A He also say he didn't get any internal money part of  
5 it. He didn't know anything about the structure.

6 Q Well, I'm asking you: Do you disagree with Moses  
7 Caldwell's characterization that it was a going concern  
8 at the time of W.R.'s death?

9 A I can answer that. But I'd like to explain.

10 Q Absolutely.

11 A It was ongoing business, because my daddy-in-law  
12 started that business. They bought it from Heir's  
13 Funeral Home in the 30's. And I know all about the  
14 business since I was there with them. I know every  
15 location they moved to. And the last location, they  
16 moved to 135 Cemetery Street. And I worked in all of  
17 them.

18 Q So it's your testimony, whatever asset there was, went  
19 to Ellen King, your mother, at his death?

20 A At his death, providing that whatever assets there was,  
21 it wasn't too much, because my brother Chris was a  
22 spendthrift, and he had got all the money.

23 Q Well, as we sit here today, do you have anything you  
24 can offer to the Court, to any kind of documentation,  
25 showing that Chris had taken all the money from W.R.

1 King? Or is that just your opinion?

2 A It's not an opinion. I know for a fact.

3 Q Well, do you have anything to back that up, any  
4 documentary evidence?

5 A I don't have anything to back it up, but I might have  
6 some documents where he went up, and got my momma's  
7 money out of the building and loan on certificates. I  
8 might have them in here.

9 Q Well, and then, what happened to the building, such as  
10 it was? It passed down to him, I think you said; is  
11 that correct?

12 A Yes.

13 Q And then, at Ellen's death, what do you think happened  
14 to the asset that was at King Funeral Home?

15 A I don't think there was any.

16 Q You don't think there was --

17 A No. Because I --

18 Q Well, ma'am -- go ahead.

19 A Because like I say, Chris was still there. And I was  
20 too. But I was gone most of the day. And he took all  
21 the money.

22 Q Well, did you hear Moses Caldwell testify earlier that  
23 at the time Ellen died, it was a going concern, and he  
24 thought it was doing just fine, once again?

25 A It might have done -- yeah, because we worked in it.

1 Q Well --

2 A But that's two different questions.

3 Q Well, let me ask you something. Were the lights on?  
4 Were you taking in new funeral customers? Was the sign  
5 still up and the phone still being answered? Was it a  
6 going concern?

7 A I answered the phone in the daytime when I was there,  
8 at nights when I was there, and I worked in the  
9 business. I had to lend my momma and daddy some money  
10 to keep the lights on.

11 Q So the lights were on?

12 A Yeah.

13 Q It was a going concern at the time Ellen died?

14 A Yeah.

15 Q Do you remember being appointed --

16 THE COURT: At what time are you talking  
17 about?

18 THE WITNESS: I don't know.

19 MR. WHITT: I'm talking about at the death of  
20 Ellen, was the second one, Your Honor.

21 THE COURT: Okay.

22 BY MR. WHITT:

23 Q Do you remember being appointed personal representative  
24 at the time your mother, Ellen, died?

25 A Oh, yes.

1 Q And let me ask you something else. You were here  
2 earlier today, when we read paragraph 7, from your  
3 Complaint that you filed. And this was filed by you  
4 and your attorneys on November 12th, 1998. This is the  
5 Complaint, paragraph 7. And even though mine is  
6 slightly redacted, I'll try to read it as in the  
7 original. Your attorney can object me. W.R. King died  
8 intestate in 1975 and --

9 MR. WINGATE: Can I look at that one second?  
10 You're at paragraph 7?

11 MR. WHITT: Paragraph 7, same as earlier.

12 MR. WINGATE: Okay.

13 BY MR. WHITT:

14 Q W.R. King died intestate in 1975, and Ellen King died  
15 intestate in 1987. Under the applicable and intestacy  
16 laws of the State of South Carolina, the ownership of  
17 King's Funeral Home ultimately passed the equal shares  
18 to the surviving children of W.R. King and Ellen King,  
19 including the Plaintiffs and the late Christopher C.  
20 King. Do you remember that?

21 A If that's what it says, yes, sir.

22 Q Well, ma'am, it's your pleading. You filed it with the  
23 Court.

24 A I said, yes, sir.

25 Q So that was your position in 1998?

1 A At that time, it was.

2 Q And is this not clear as a bell, on its face, as to  
3 what happened to the asset that was King Funeral Home,  
4 in 1998, that it passed, according to what you filed  
5 with the clerk through the intestacy laws --

6 THE COURT: Can you just stop for one second?

7 MR. WHITT: Yes, Your Honor. I'm so sorry.

8 THE COURT: I am looking for mine.

9 MR. WHITT: A copy of the Complaint?

10 THE COURT: Well, yeah. I had --

11 MR. WHITT: Well, maybe -- you did hand it to  
12 me and Mr. Rogers. So there is a possibility we  
13 didn't hand it back.

14 THE COURT: It could be over here.

15 MR. ROGERS: I don't remember that.

16 MR. WHITT: Well, if he had it --

17 THE COURT: I have it. I have it. I have  
18 it.

19 MR. WHITT: Okay.

20 THE COURT: Excuse me. I'm sorry. I wanted  
21 to keep up.

22 MR. WHITT: Yes, Your Honor. I'm sorry.

23 THE COURT: Go ahead.

24 MR. WHITT: I was going pretty fast.

25 THE COURT: I am sorry I interrupted you.

1 MR. WHITT: So we are at paragraph 7 from the  
2 Complaint, Your Honor.

3 THE COURT: Right.

4 BY MR. WHITT:

5 Q So it was clear to you, at that time, that it was an  
6 asset, and it was called King's Funeral Home, and it  
7 passed in equal shares to the surviving children of  
8 W.R. King and Ellen King, which is you and your  
9 siblings; is that correct?

10 A That's correct, at that time.

11 Q Well, at that time

12 A Uh-huh.

13 Q And so, that means that under this -- and there is some  
14 question about the fraction was, but the fraction would  
15 be meaningless. It would still be some fraction for  
16 Ellen King and a fraction for the rest of the children.  
17 But assuming that that fraction was correct, that it  
18 would have passed to all nine of you, what part of the  
19 King's Funeral Home have you ever, as personal  
20 representative of Ellen King, at that point -- have you  
21 ever distributed to your other siblings?

22 A No. Wasn't nothing to distribute. No money. Like,  
23 Chris didn't ever distribute nothing to us.

24 Q Well ma'am, first, as you say, answer my question, and  
25 then --

1 A I'm answering you, sir.

2 Q So you're saying, no?

3 A I will answer. But you're putting two or three

4 questions in one.

5 Q Well, I apologize for that.

6 A Okay.

7 Q I apologize for that.

8 A Let's just take one at a time, sir.

9 Q All right. What did you distribute to the other

10 children from the King's Funeral Home interest?

11 A At what period?

12 Q At the time that you knew, in 1998, you needed to

13 distribute it.

14 A 1998? Margie and those were around there from 1997

15 until 1998.

16 Q All right, ma'am. Let's start over again. If the

17 answer is no, I want you to say, no.

18 A No. I didn't do anything.

19 Q So you didn't distribute anything to the other

20 children?

21 A No. But let me explain.

22 Q Sure.

23 A Because from September the 1st, 1997 to '98, Margie

24 King was getting all the proceeds.

25 Q But ma'am, is it your understanding, as a personal



1       representative, that you can make a unilateral decision  
2       on what people get, and not go through the Court, not  
3       make the distribution? And you're actually in the  
4       shoes of Ellen King, your mother. And so, you had a  
5       responsibility to make this distribution. And you're  
6       telling me you didn't. Now, you told me those reasons  
7       why you didn't, but you're also telling us that you  
8       didn't make it. Do you think that you have the  
9       authority to make that decision on your own? You can  
10      offset against something they've done?

11    A    How could I make any distribution? I didn't have no  
12      money. I wasn't running the funeral home at that time.

13               THE COURT: What point of time are we talking  
14      about?

15               THE WITNESS: What he wants?

16               MR. WINGATE: The Judge is asking what period  
17      of time you're talking about.

18               THE WITNESS: Oh, what period? He asked me  
19      until '98.

20               THE COURT: Okay.

21               THE WITNESS: So I didn't have possession of  
22      the funeral home. Chris died in September 1997,  
23      and ran it until '98. So I didn't have anything.

24    BY MR. WHITT:

25    Q    So you filed this in November of '98 and then you take

1 the funeral home over in December, the very next month?

2 A No.

3 Q Well, I thought --

4 A Not in December of '97.

5 Q No. We're talking about '98, ma'am.

6 A Okay. You said the next month. I thought --

7 Q The next month after November 12th from '98 would be  
8 December of '98, which is when Moses Caldwell told me  
9 that y'all took over.

10 A Yeah, when they moved out.

11 Q Well, so anyway, it's not that long a period of time,  
12 ma'am. It's literally the next month. And you had  
13 some period of time -- I think you showed that you got  
14 a letter from the Court that you were somehow  
15 conditionally discharged on it, on your mother's estate  
16 in 1989, and this is 1998. You're still saying you  
17 knew what happened to those two assets, and King's  
18 Funeral Home moved right along.

19 A You're talking about the building?

20 Q No, ma'am. No, ma'am.

21 A Okay. The asset -- I didn't have any assets.

22 Q Ma'am, you don't talk about the building in your quote.

23 A No, I just asked you a question.

24 Q Well, you know, I'm supposed to ask you the questions  
25 in all fairness. But ma'am, in your statement to the

1 Court here, you filed it, and your lawyer signed it and  
2 filed it. You're talking about King's Funeral Home.  
3 We're not talking about the land under King's Funeral  
4 Home. We're not talking about the building. We're  
5 talking about the actual operation of the King's  
6 Funeral Home. You said, I know that I'm only entitled  
7 to one-ninth of it, or one share of it. But here we  
8 sit, 12 years later, and through whatever means that  
9 has transpired, your answer is, no, you've never given  
10 them anything. Now, you have reasons for offsets.

11 THE COURT: Is that a question?

12 MR. WHITT: No, Your Honor. It kind of  
13 wasn't at the end. I apologize.

14 THE COURT: Okay, sir.

15 BY MR. WHITT:

16 Q So just to clarify, you did not make a distribution in  
17 1998 as you stated here you knew you should; is that  
18 correct?

19 A You asked me a question? Did I make a distribution?

20 Q To any of your siblings?

21 A I didn't.

22 Q Okay. All right. Are you aware of the -- you're an  
23 attorney. You're a practicing attorney. You're an  
24 experienced attorney. So when whatever asset there was  
25 flowed from W.R. to Ellen, then it stopped with you.

1           It stopped dead with you and you made these decisions.  
2           Where do you think King's Funeral Home's interest --  
3           did it stop with you that day? Do you admit that here  
4           today?

5   A       King's Funeral Home -- now, what period are you talking  
6           about?

7   Q       I'm talking about after the death of your father --

8   A       Uh-huh.

9   Q       -- and it moves to your mother --

10   A       Uh-huh.

11   Q       She dies. You move in as personal representative.  
12           You're controlling it now. What happened to it at that  
13           point?

14   A       Happened to what?

15   Q       To the interest that you described as King's Funeral  
16           Home.

17   A       At the time my momma died, King's Funeral Home was at  
18           135 Cemetery Street, and I had interest, to my  
19           knowledge, because I had the building.

20   Q       Okay. So it's your testimony it went from W.R., to  
21           Ellen, to you, and it stopped with you?

22   A       Yes, sir.

23   Q       Okay. Thank you. And I think we have clarified, you  
24           were the P.R. of your mother's --

25   A       That's correct.

1 Q Were you a P.R. for your father also?

2 A No, my mother was. She was living.

3 Q Well, explain to me the caption of the case that y'all  
4 chose, then. Why did you style it as Patricia E. King  
5 and Robbie King Jones as representatives of W.R. King  
6 and Ellen King?

7 A That's the way my attorney captioned it.

8 Q Are you saying your attorney got it wrong?

9 A I don't know if he got it wrong, but that's the way he  
10 said he wanted to caption it.

11 Q Well, wouldn't it be fair to say that the reason you  
12 chose that caption is because in recognition of this  
13 paragraph 7, in your Complaint, that you realized that  
14 King's Funeral Home had passed from W.R. to Ellen, and  
15 it stopped right there with you? Isn't that fair to  
16 say?

17 THE COURT: Stopped where with her?

18 MR. WHITT: It stopped with the P.R.,  
19 Patricia, who did not distribute it.

20 THE COURT: So what date are you talking  
21 about?

22 MR. WHITT: At the time that this action was  
23 brought, that you were the Plaintiff, and you went  
24 down and filed the Complaint in 1998.

25 THE WITNESS: I didn't have anything to

1 distribute, because in --

2 BY MR. WHITT:

3 Q Nope. Ma'am, isn't it fair to say that you chose this  
4 caption? The Defendants didn't choose it. Isn't it  
5 fair to say that you chose that caption that you were  
6 representing both W.R. King and Ellen King, because you  
7 knew, as an attorney, and as someone deeply involved in  
8 it, that the funeral home business, King's Funeral Home  
9 from 135 Cemetery, had passed from W.R. to Ellen, and  
10 you were coming in on behalf of both estates?

11 A Like I say, in 1980, title passed to me in 1980. And  
12 once -- can I answer the question, please?

13 THE COURT: Yes, go ahead. In 1980 title  
14 passed to you?

15 THE WITNESS: Yes, sir.

16 THE COURT: I'm sorry?

17 THE WITNESS: At 135 Cemetery Street, as  
18 exhibited by those deeds right there. So it  
19 wasn't in the interest to pass. And I didn't have  
20 any money to distribute anything. It wasn't any  
21 money. If you look at that file or account, it  
22 wasn't any money to distribute nobody. She didn't  
23 leave no money.

24 BY MR. WHITT:

25 Q Well then, can you explain the caption of your case?

1 A I think I answered that. I said my attorney chose to  
2 do that.

3 Q Well, but --

4 A That's the only explanation I can give you.

5 Q Well, do you think you had a responsibility to read the  
6 pleading and make sure he or she got the caption  
7 correct?

8 A I read it.

9 Q Well --

10 A And I expressed my opinion. And he said, well, just  
11 leave it like that.

12 Q Is that your testimony today, that you challenged your  
13 attorney on the caption of this case, ma'am, and he  
14 told you, this is the way I want to do it?

15 A Because he changed the caption, I think, a couple of  
16 times, by amendments, if you have that record.

17 Q Would it be fair to say, that reading those two things  
18 together, the caption of your case and this paragraph  
19 number 7, that you knew you had an interest to deal  
20 with?

21 A I think I've answered that, sir. That's the best way I  
22 can answer it.

23 Q Well, is your answer yes or no?

24 A Repeat the question.

25 Q That taking these two things in their totality, the

1 caption of the case, the way it's referenced, and the  
2 fact that you made this statement that you knew that  
3 the interest had passed intestate to the children,  
4 would it be fair for someone reading it, such as  
5 myself, to draw the conclusion that you knew there was  
6 something there for King's Funeral Home? Even if it  
7 was five dollars, you knew there was an interest there?  
8 That's my question.

9 A I don't think I said interest. I said 1980, when I  
10 took title to 135 Cemetery Street, interest had passed  
11 then.

12 Q Ma'am, I am not talking about -- I conceded to you  
13 earlier that I was not talking about the building or  
14 the dirt under it, and any of this progression that we  
15 went through on how you cobbled together the land.  
16 That's not my question. My question is about these two  
17 things, the caption --

18 A I didn't have anything to distribute. What did I have  
19 to distribute? I didn't have no money.

20 Q Why didn't you tell your attorney, let's strike that  
21 out of there because this is going to confuse everybody  
22 when they read this 12 years from now? You said you  
23 read it.

24 A I did.

25 Q Well, why didn't you tell him to strike that?



1 MR. WINGATE: Objection. Question asked and  
2 answered, Your Honor.

3 THE COURT: Go ahead.

4 MR. WINGATE: My objection is that the  
5 question is repetitive. It has been asked and  
6 answered.

7 THE COURT: Sustained.

8 MR. WHITT: Okay.

9 BY MR. WHITT:

10 Q Are you aware of the May 30th, 2001 Order of Reference  
11 that was issued in this case? Are you familiar with  
12 that?

13 A I don't know. What does it say?

14 Q Well, it was the Order of Reference in this case. I  
15 don't know that I have an unmarked-up copy of it here.

16 MR. WHITT: Do you have one, Tim?

17 MR. ROGERS: I believe.

18 MR. WHITT: Here it is. I'm sorry, Your  
19 Honor.

20 THE COURT: Okay. Take your time to read  
21 over it.

22 THE WITNESS: Okay.

23 BY MR. WHITT:

24 Q If I may have it back so I can reference it to you. So  
25 this is dated May -- it's clocked in May 30th, 2001.

1           It was signed by the (unintelligible) Chief Judge at  
2           that time for the Sixth Judicial Circuit. And what do  
3           you make of the Judge's reference to, there shall be an  
4           accounting directed by the special referee, who by  
5           appointment is Judge Harrison. This accounting must  
6           include all nine siblings and all related issues. What  
7           does that mean to you?

8           MR. WINGATE: Your Honor, I object to the  
9           question. He is asking her --

10          THE COURT: Sustained.

11          MR. WHITT: Well Your Honor, I asked what it  
12          meant to her. She could say, I don't understand  
13          it.

14          THE COURT: I'm not going to ask her to  
15          interpret this Order.

16          MR. WHITT: Well --

17          THE COURT: I'm not going to let you ask  
18          those questions.

19          MR. WHITT: Okay.

20          BY MR. WHITT:

21          Q     Well, let's try this. Ms. King, did you read this  
22          sentence, there shall be an accounting, including all  
23          nine siblings and all related issues?

24          MR. WINGATE: Same objection, Your Honor.

25          THE COURT: Sustained. The Order is in the

1 record of the Court. We have argued about this  
2 Order for some time and what it means.

3 MR. WHITT: Okay. All right. We'll move on,  
4 Your Honor.

5 THE COURT: We can't gain anything else by  
6 cross-examining her as to the meaning of this  
7 Order. So sustain the objection.

8 MR. WHITT: Thank you, Your Honor.

9 BY MR. WHITT:

10 Q Why did you send your brother an eviction notice? Now,  
11 that was placed in evidence earlier, that you gave him  
12 a notice, told him he was evicted. Why did you send  
13 him that notice?

14 THE COURT: When was that, that she did that?  
15 I know that she testified earlier about that.

16 MR. WINGATE: August 20, 1997.

17 THE COURT: Your question was: Why did she  
18 send her brother the eviction notice of August  
19 20th?

20 MR. WHITT: Yes, Your Honor.

21 THE COURT: Is that the question?

22 MR. WHITT: Yes, Your Honor.

23 THE WITNESS: One, pursuant to a letter he  
24 wrote me, and secondly, the lease was up by his  
25 death.

1 BY MR. WHITT:

2 Q You say it was up by his death?

3 A Yeah. When he died, the lease died.

4 Q Was this notice sent after he was deceased?

5 A No. You asked me why did I send him a letter of  
6 eviction. Because pursuant to his letter he wrote me a  
7 couple of weeks before. Pursuant to a letter he wrote  
8 me, I responded.

9 Q Oh, I'm sorry. I thought you said, the lease was up  
10 with his death.

11 A Yeah. After his death, it was up.

12 Q But that was subsequent to your letter.

13 A You've got to put it in total. The letter he wrote me,  
14 I responded by this letter right here.

15 Q All right. Moving along, ma'am, I think you said that  
16 Edward King is your brother, and he had a place on  
17 Beatties Ford Road in Charlotte? Is that what you  
18 testified?

19 A Yes.

20 Q And was it a funeral home?

21 A That's correct.

22 Q And so, Edward King owned the funeral home in Charlotte  
23 on Beatties Ford Road?

24 A No, he did not.

25 Q At no time did he own it?

1 A He owned it prior on Savannah Avenue, when he sold it  
2 to me by legal documents, when him and his wife broke  
3 up.

4 Q Well, let me rephrase. At some point, Edward King  
5 owned a funeral home in Charlotte?

6 A That's correct.

7 Q But in the end, you ended up owning his funeral home?

8 A He gave it -- he sold it to me.

9 Q But ma'am, you didn't answer yes or no.

10 A Yeah. I just answered. He sold it to me. I've got  
11 legal title to it.

12 Q So, yes?

13 A Yes.

14 Q So, there has been two instances in your family, in  
15 which other people own funeral homes, and you say he  
16 entered into some sort of business relationship with  
17 you, some documents?

18 A What happened was -- I have to explain this to you.

19 Q Yes, ma'am.

20 A Okay?

21 Q Yes, ma'am.

22 A He opened up a funeral home on Savannah Avenue. It was  
23 a family situation. He was the treasurer of our family  
24 funds. He took the money and invested it on Savannah  
25 Avenue, to open up him a funeral home. He ran the

1 funeral home until 1979, or '85, '86, somewhere along  
2 in that.

3 And then, he brought -- I was sitting in my office  
4 on Trade Street. He walked in there with some deeds.  
5 I had some clients in my office. He walked in there.  
6 He say, I had my wife to sign all her part out of it.  
7 I want you to have it. I walked out the office. I  
8 said, I don't want no part of it.

9 He had a lawyer to prepare the papers. I didn't  
10 know anything about it. And so, I let him run it for a  
11 while, until he get himself together. He was going  
12 through a divorce. And after a while, he and his wife  
13 divorced, and I ran the funeral home while he was gone.

14 And when he came back, I told him, I says -- that  
15 was my brother. I always try to help my people out. I  
16 say, you go ahead, run the funeral home and get  
17 yourself together. Then, that's when we moved over  
18 there on Beatties Ford Road.

19 Q Did he ever get the funeral home back in his name  
20 again?

21 A He didn't want it back. He sold it to me. I had a  
22 contract.

23 Q But ma'am, did he ever get it back in his name again?

24 A No. He didn't want it back. He got sick. He had a  
25 bypass at Mercy Hospital in Charlotte. And my sister

1 and Robbie, they went over there to take care of him.

2 And then, his wife came back.

3 Q Did you end up filing litigation as a result of this  
4 transaction also, Ms. King? Did you bring a suit  
5 against his children?

6 A No, I did not.

7 Q Did you bring a suit against anybody in connection with  
8 this transaction?

9 A No, I did not. They brought a suit against me, as I  
10 can recall. They brought it against me. And I showed  
11 the lawyer all my documents, my contract, my money,  
12 what I paid him; my hard-earned money. I did not sue.  
13 They sued me.

14 Q Okay.

15 MR. WHITT: Your Honor, just a moment,  
16 please.

17 BY MR. WHITT:

18 Q And ma'am, I think you testified, and your attorney  
19 entered into evidence what was the note that had  
20 \$186,000 at the top of it. Do you remember that note,  
21 ma'am? Maybe we can get it from the court reporter?

22 THE COURT: It's dated October 10, 1997.

23 MR. WINGATE: That's over here. Let me find  
24 it.

25 THE COURT: Her sister was on that note. She

1           said it was a refinance.

2                   MR. WHITT: Thank you.

3 BY MR. WHITT:

4 Q     And that note has been satisfied in 2009; is that  
5         correct?

6 A     What happened was, the original note in 1992 -- and we  
7         had to refinance it, because the note wasn't paid off.  
8         After my brother died, we had to refinance it. They  
9         marked that one note paid, and we had to take out  
10        another note, which I'm paying on it now, \$115 --  
11        \$1,557.16 every month out of my pocket. And my  
12        sister's house is also mortgaged up. She's 80 years  
13        old.

14 Q     Ma'am, the one that you pay \$1557.16 --

15 A     \$1557.16.

16 Q     All right. That is Mechanics and Farmer's also?

17 A     That's correct.

18 Q     And is it your testimony today that -- how long has  
19         that loan been out? How long is that loan?

20                   THE COURT: 1997.

21                   MR. WHITT: 1997. Okay.

22 BY MR. WHITT:

23 Q     And as far as the King's Funeral Home, it still has the  
24         same license number that it has always had? It's still  
25         -- the one you're physically running still has a number



1           81, same as it was when W.R. King first took it out; is  
2           that correct?

3    A    You talking about the one in Chester?

4    Q    Yes, the one in Chester at 135 Cemetery, number 81.

5    A    That's what Mr. Moses testified to.

6    Q    Okay. Can you summarize for me, ma'am, who, of all  
7           your family members, have contributed money to the  
8           construction or operation of the King's Funeral Home at  
9           135 Cemetery Street?

10   A    What period?

11   Q    Pardon?

12   A    What period?

13   Q    From the period of time of December 1998 through today.  
14           What family members have provided money to you on that  
15           operation?

16   A    My sister Robbie. She put up her house.

17   Q    Is that it?

18   A    That's the only one for money.

19                   THE COURT: You're saying since December of  
20           1998?

21                   MR. WHITT: Yes, Your Honor.

22   BY MR. WHITT:

23   Q    Well, you say, as far as money. Was there some other  
24           contribution that they made?

25   A    Who?

1 Q Any family members?

2 A No.

3 Q So just Robbie?

4 A Yeah. She put up her house.

5 MR. WHITT: Your Honor, can we have one  
6 moment?

7 THE COURT: Yes, sir.

8 MR. WHITT: Thank you, Your Honor.

9 (OFF THE RECORD)

10 BY MR. WHITT:

11 Q Ma'am, you went back to 1980 on your discussions about  
12 your property in the King's funeral home. Can you  
13 summarize for us the contribution of other family  
14 members, cash or otherwise, to King's Funeral Home  
15 between 1980, and then the period I've already asked  
16 you about, February of 1998?

17 A Nobody gave me no cash money. Like I say, my sister  
18 Robbie.

19 Q So between 1980 and February of 1998, not a single  
20 family member, other than Robbie, gave you any kind of  
21 in-kind help, or cash help?

22 A For what?

23 Q For the operation of the funeral home, to either  
24 maintain it, or run it, or to save it, or to pay bills,  
25 or pay notes or mortgages? Any kind of contribution?

1 A My sister would send me some money periodically. Not  
2 too much.

3 Q Ma'am, which sister?

4 A My sister -- she might send me a hundred dollars, two  
5 hundred dollars, something like that.

6 Q But can you name her for the --

7 A Ellen Ferguson.

8 Q So Ellen and Robbie?

9 A Uh-huh.

10 Q Okay. And no one else?

11 A No, I don't think so. Angie would send me a hundred  
12 dollars, something like that. But no big contribution.

13 Q Well, how about any kind of, what he call, in-kind  
14 contributions? It means anything other than cash.  
15 Contributed property --

16 A No.

17 Q Help?

18 MR. WHITT: Your Honor, thank you. I have no  
19 further question,

20 THE COURT: Thank you, sir. Let me just ask  
21 a couple. From 1975 to mother's death in 1987,  
22 who ran the funeral home was the question. She,  
23 Chris, and the mother ran the funeral home.

24 THE WITNESS: From --

25 THE COURT: I have from 1975 to '87 was the-

1 time period we're talking about.

2 THE WITNESS: Oh, yes. Yes, sir.

3 THE COURT: Okay.

4 THE WITNESS: Because I was at home. I would  
5 come every day.

6 THE COURT: Okay. What about after your  
7 mother passed? Who ran the --

8 THE WITNESS: Well, like Moses testified,  
9 Chris and him was there during the daytime. I  
10 would come home at night, every night, and answer  
11 the phones. They didn't say the phone rang in my  
12 house. The phone rang in my house. I would  
13 answer that phone every night. I would get home  
14 about six or seven o'clock. I would call Chris at  
15 the funeral home, or Moses who was there. I said,  
16 y'all can go home. I can go home now.

17 THE COURT: What was the gentleman's name  
18 again?

19 THE WITNESS: Moses Caldwell.

20 THE COURT: Moses Caldwell.

21 THE WITNESS: Uh-huh. I would call down the  
22 funeral home and say, I'm home and y'all can go.

23 THE COURT: The phone rang in your house?

24 THE WITNESS: Yes, sir. It was ringing there  
25 for years when we had the funeral home next to the

1           house. It would ring in my house. And when we  
2           got a death call at night I would call Moses  
3           first. The he would call Chris. And Moses would  
4           go and pick up the body. And on the weekends,  
5           when I was home, I would check the books, and I  
6           would get the deposit ready for Monday morning.  
7           And my name --

8           THE COURT: You made the deposits?

9           THE WITNESS: Yes, sir. I would fix them  
10          out. I went over the books. And sometimes --

11          THE COURT: When did you do that?

12          THE WITNESS: On the weekends.

13          THE COURT: I mean, from what period of time

14          THE WITNESS: Oh, after my momma died, and I  
15          think some time before, too. Nobody's name was on  
16          the bank account after my daddy died but Chris,  
17          myself, and my momma.

18          THE COURT: Okay. Whose name was on the bank  
19          account? Chris, you and your mother?

20          THE WITNESS: Yes, sir.

21          THE COURT: Okay. What period of time was  
22          that?

23          THE WITNESS: Until he died, until Margie  
24          took it all, without my knowledge, in 1997.

25          THE COURT: Okay.

1 THE WITNESS: Up until he died.

2 THE COURT: And that was up until he died?

3 THE WITNESS: Yes, sir.

4 THE COURT: Okay. And from what period of  
5 time was that, did that start?

6 THE WITNESS: He died in '97.

7 THE COURT: I know. Before that, when did  
8 you start being on the bank account?

9 THE WITNESS: Oh, ever since my momma died.

10 THE COURT: Okay. What about before that  
11 time?

12 THE WITNESS: Oh, yeah, when my daddy died --  
13 before my daddy died, my daddy, myself, and my  
14 momma was there.

15 THE COURT: All right.

16 THE WITNESS: We were on the bank account.  
17 So my daddy -- it was suggested that he take  
18 Chris' name off because he was drawing all the  
19 money out. And my brother -- see, my brother,  
20 Sonny -- and he and I taught school in Chester.  
21 And my brother Sonny helped to run that funeral  
22 home too, because Chris quit and went to drive for  
23 a Federal Judge.

24 THE COURT: When did he quit?

25 THE WITNESS: I don't know. It think it

1           might have been in the 60's or 70's. He quit.  
2           And my brother who finished embalming school -- he  
3           and my brother. I stayed home with them. I  
4           stayed home all the time. I never left until my  
5           sister got sick in Charlotte, and then I started  
6           going back and forth. I live with her most of the  
7           time, because she's 80 years old. Can I say  
8           something?

9           THE COURT: If it's in response to that last  
10          question, yes, ma'am.

11          THE WITNESS: Was it about the bank account?

12          THE COURT: Yes, ma'am.

13          THE WITNESS: Oh, yeah. And did I tell you I  
14          checked the books too?

15          THE COURT: When did you check the books?

16          THE WITNESS: On the weekends and sometimes -

17          THE COURT: From what period of time?

18          THE WITNESS: Ever since my momma and daddy.  
19          I always did that, along with my mother.

20          THE COURT: Since your mother's death?

21          THE WITNESS: And my daddy when he was living  
22          too, because I was there with him.

23          THE COURT: When did you start checking the  
24          books?

25          THE WITNESS: After I taught school there.

1                   It was in the 70's, '71, '72, something like that.

2                   THE COURT: And that occurred until when?

3                   THE WITNESS: Until Margie took me off the  
4 bank account in 1997.

5                   THE COURT: This note on July the 3rd in 1992  
6 for \$225,000 --

7                   THE WITNESS: Yes, sir.

8                   THE COURT: Was it secured by a mortgage.

9                   THE WITNESS: The building from Chester, I  
10 think it was -- if you call it a mortgage from  
11 Mechanics and Farmer's Bank. Yes, sir.

12                  THE COURT: Well --

13                  THE WITNESS: The building.

14                  THE COURT: What building?

15                  THE WITNESS: 135 Cemetery Street.

16                  THE COURT: Okay. It was in your name,  
17 right?

18                  THE WITNESS: Yes, sir.

19                  THE COURT: So your property secured the  
20 \$225,000 mortgage?

21                  THE WITNESS: Yes, sir.

22                  THE COURT: You were on that note  
23 individually as was Robbie and --

24                  THE WITNESS: Chris.

25                  THE COURT: -- Chris, as I understand your



1 testimony.

2 THE WITNESS: Yes, sir.

3 THE COURT: And the borrower was King's  
4 Funeral Home, Christopher King, proprietor, and  
5 then, you individually signed it, each three of  
6 you; is that right?

7 THE WITNESS: Yes, sir.

8 THE COURT: Okay. Where did the proceeds go?

9 THE WITNESS: To Chris. Oh, you talking  
10 about this right here?

11 THE COURT: Yes, ma'am.

12 THE WITNESS: To pay off a loan. I got the  
13 document. To pay off a loan where he filed  
14 bankruptcy for the Chester Chrysler --

15 THE COURT: So the proceeds went to pay off a  
16 personal loan of Chris'?

17 THE WITNESS: Yes, sir.

18 THE COURT: Okay. Okay. That's -- I don't  
19 have anything further. I don't want to get too  
20 far into that. The funeral home that you are  
21 currently operating at 135 Cemetery Street was  
22 completely furnished by you? Is that what I  
23 understood the testimony, as far as the furniture,  
24 fixtures, and equipment?

25 THE WITNESS: Okay.

1 THE COURT: Okay. Let me back up. From what  
2 I understand of the testimony of the manager, at  
3 some point in time, all of the fixtures, all of  
4 the funeral cars, all of everything, was removed  
5 by someone. It's vague as to who removed it, as  
6 far as the testimony is concerned.

7 MR. WINGATE: He's asking you about that.

8 THE WITNESS: Oh, you want me to answer that?

9 THE COURT: I'm asking you about that. Now,  
10 let me ask the question first.

11 THE WITNESS: Okay.

12 THE COURT: That supposedly occurred sometime  
13 in 1998, I believe.

14 THE WITNESS: Yes, sir.

15 THE COURT: None of the furniture fixtures or  
16 automobiles that were used in the King Funeral  
17 Home that was operated, by your testimony, several  
18 of you, ended up in the funeral home you now  
19 operate; is that correct?

20 THE WITNESS: You talking about the  
21 limousines and everything?

22 THE COURT: Yes, ma'am.

23 THE WITNESS: At the time it was removed?

24 THE COURT: Yes, ma'am.

25 THE WITNESS: It ended up on York Road --

1 THE COURT: Okay.

2 THE WITNESS: -- at the Christopher King  
3 Funeral Home.

4 THE COURT: I'm not really interested, so  
5 much, as to where they ended up, because I don't  
6 want to get into some sort of argument about that.

7 THE WITNESS: Yes.

8 THE COURT: But they didn't end up, as I  
9 understand it --

10 THE WITNESS: No, sir.

11 THE COURT: -- in the facility you are  
12 currently operating?

13 THE WITNESS: No, sir.

14 THE COURT: Okay. There was some questions  
15 of the gentleman who -- I guess you call him your  
16 manager --

17 THE WITNESS: Moses Caldwell.

18 THE COURT: -- who seemed to be attached to  
19 this funeral home business from a very early age.  
20 He talked about that. He had records from 1998  
21 but no records prior to that time. Did you end up  
22 with any records of the business prior to 1999?

23 THE WITNESS: No, sir.

24 THE COURT: He said he does not have any, but  
25 he said he might have some 1998 records. 1998

1 records were moved, because they were missing. So  
2 my question is: Did you end up with any of those  
3 records?

4 THE WITNESS: No, sir.

5 THE COURT: And what would those records have  
6 been? Now, you did the books at the funeral home  
7 -- do you have a question?

8 MR. WHITT: Excuse me, Your Honor.

9 THE COURT: An objection?

10 MR. WHITT: Excuse me for raising my hand.

11 THE COURT: Okay.

12 MR. WHITT: I inadvertently did it.

13 THE COURT: That's fine. What were the  
14 records?

15 THE WITNESS: The records probably was a pre-  
16 need contract --

17 THE COURT: Yes, ma'am.

18 THE WITNESS: -- funeral records --

19 THE COURT: Of past funerals?

20 THE WITNESS: Yes, sir. And probably bank  
21 statements, bank books, deposit books.

22 THE COURT: Okay. Did you end up with any of  
23 those documents?

24 THE WITNESS: No more than what Moses  
25 testified to. That's all we had.

1 THE COURT: Okay. As far as the bank account  
2 at that point in time, was there any bank account  
3 that had any funds in it?

4 THE WITNESS: Yes, sir.

5 THE COURT: I'm sorry?

6 THE WITNESS: Yes, sir.

7 THE COURT: And what happened to that.

8 THE WITNESS: They took them out -- Margie.

9 THE COURT: Did you end up with any of the  
10 funds in the bank account?

11 THE WITNESS: No, sir.

12 THE COURT: Okay. As far as what you would  
13 call assets of the funeral business, one of the  
14 assets, I would think, generally, that accountants  
15 give some value to, is a name.

16 THE WITNESS: Uh-huh.

17 THE COURT: Have you ever assigned -- and let  
18 me see how to ask this question. Of course,  
19 you've never sold this business, so I guess you  
20 wouldn't have had occasion to assign a value to  
21 the name. On any documents you have, a financial  
22 document, did you ever put a value on the name of  
23 the King Funeral Home? If you haven't, that's  
24 okay. I'm just asking you, have you?

25 THE WITNESS: On paper? r

1 THE COURT: Yes, ma'am.

2 THE WITNESS: Well, people -- I would say my  
3 name is very valuable because -- I can explain  
4 this. When I was home with my momma and daddy, I  
5 used to go around with them, and they identify me  
6 as the youngest child of W.R. and Ellen King. So  
7 my name in the neighborhood is very, very strong.  
8 Even up in Charlotte now, people call me, people  
9 connected to the funeral home in Chester.

10 THE COURT: Okay. As far as what assets of  
11 the funeral home were in 1998, they would have  
12 been just furniture and cars, and that sort of  
13 thing we've talked about?

14 THE WITNESS: And I had some antiques in  
15 there they left too.

16 THE COURT: Okay. They were yours, you say?

17 THE WITNESS: They were mine, personally,  
18 because --

19 THE COURT: And they left those?

20 THE WITNESS: No. They went.

21 THE COURT: They left too?

22 THE WITNESS: Uh-huh.

23 THE COURT: Okay. So it was the furniture  
24 and automobiles.

25 THE WITNESS: Uh-huh.

1           THE COURT: Maybe there was some value in the  
2           name, although we don't know that. As far as the  
3           cash that was in the business, it was in the bank  
4           account?

5           THE WITNESS: Yes, sir.

6           THE COURT: Okay. You didn't end up with  
7           that?

8           THE WITNESS: No, sir.

9           THE COURT: Okay. As far as funerals that  
10          had been booked, or these pre-need funerals, were  
11          there any pre-need funerals that had been booked  
12          prior to you taking over, that were done after  
13          you --

14          THE WITNESS: I think it was, sir.

15          THE COURT: Do you know how many there were?

16          THE WITNESS: I know it was about -- I don't  
17          want to say, but I know it was about, to my  
18          recollection, three or four, or more. Now, Moses  
19          could tell you, probably.

20          THE COURT: Well, he testified, it seemed  
21          like, maybe to me, that maybe the pre-needs might  
22          have been 20 percent.

23          THE WITNESS: Yeah.

24          THE COURT: He was not quite certain about  
25          that.

1 THE WITNESS: Yeah.

2 THE COURT: But 20 percent of 100 would be  
3 20, I guess, if it were that many. And so, I was  
4 wondering if there was any pre-needs that you  
5 would have ended up -- that you handled, that were  
6 booked prior to your --

7 THE WITNESS: No, because all the pre-needs -  
8 - because I was there one day, when Moses had to  
9 go off on a funeral. And some people came to pay  
10 me. Moses told me to stay there -- because I  
11 would go back and forth. You know? I would just  
12 pop in during the day some time. And I was there.  
13 He told the people to come back and pay me.

14 But in the meantime, my nephew was standing  
15 at the backdoor of the funeral home. He directed  
16 the people to go to my brother Chris and  
17 Margie -- Chris' dad, to Margie's house, and pay  
18 them. So I interceded. They drove down the  
19 street and I ran. I could run in those days. And  
20 I told them to come back here and pay me. And I  
21 think that day was in March. A man came in to make  
22 some pre-arrangements. But Moses had gone. He  
23 did come to make some pre-arrangements. I don't  
24 know if he came back after I left.

25 THE COURT: Let me back up. A pre-need



1 arrangement is where you come in and pay some  
2 money?

3 THE WITNESS: Yeah. On your funeral bills.

4 THE COURT: And you pay in time, or something  
5 like that?

6 THE WITNESS: See, what happens --

7 THE COURT: Or you pay for the whole thing?

8 THE WITNESS: Well, it depends. I know in  
9 North Carolina you can pay so much down and make  
10 monthly payments, but you have to report that to  
11 the board in a trust fund. And you had to be  
12 bonded by the State of South Carolina. I got a  
13 bond.

14 THE COURT: Okay. So when you took over the  
15 funeral home, or when you started a new funeral  
16 home, depending on whose version you like of that  
17 scenario, were there pre-needs that had been  
18 booked -- you say there were some.

19 THE WITNESS: I think it was. I don't know  
20 the names.

21 THE COURT: You said you thought it was --

22 THE WITNESS: Yeah. About three or four,  
23 somewhere in that neighborhood.

24 THE COURT: And the value of those would be  
25 how much?

1           THE WITNESS: I don't know. I think one was  
2           about \$7,000, I do believe.

3           THE COURT: Okay. But the net profit from a  
4           funeral would be how much, you guess?

5           THE WITNESS: I don't know.

6           THE COURT: Well, you saw your accountant's  
7           information as to what the net profit on the  
8           business was.

9           THE WITNESS: You talking on the  
10          individual --

11          THE COURT: So if you're looking at an  
12          individual -- he, for example, said the net profit  
13          percentage was 1.10 for the year of all the money  
14          that came through there. So I was asking you,  
15          with the net profit of those three or four pre-  
16          needs, wouldn't be the entire \$7,000. That would  
17          be gross profit, would it not be?

18          THE WITNESS: Yeah. Because see, one pre-  
19          needs -- see, you sell them individually. One  
20          pre-needs, I think, was about \$7,000. I don't  
21          know how much the other one was. So after you  
22          deduct your expenses, your casket, your help, or  
23          whatever else it is, you might have a funeral,  
24          say, \$7,000. But after you get through with your  
25          expenses, you know, that would be your net.

1                   THE COURT: All right. And there was only  
2 three or four of those?

3                   THE WITNESS: That's all I can remember.  
4 Yes, sir. I don't want to tell you more. But I  
5 do remember some of those.

6                   THE COURT: All right. Other than those  
7 things that we've just talked about, possibly  
8 value and a name, the pre-needs contract, the  
9 equipment, the cash in the bank account -- and I'm  
10 going to ask you one more thing. Were there  
11 customer lists or anything like that? .

12                  THE WITNESS: I guess Moses kept most of them  
13 after my brother died. See, they ran it for about  
14 from September of '97 to December of '98. So I  
15 guess it was.

16                  THE COURT: Did King Funeral Home do any  
17 advertising such as send letters or make telephone  
18 calls to families?

19                  THE WITNESS: No. What we did -- I think we  
20 were on the radio, but I don't remember when we  
21 started advertising on the radio. But I think we  
22 advertise now.

23                  THE COURT: Okay. And so as far as customer  
24 lists like that, you say that Moses would have  
25 ended up with them?

1 THE WITNESS: He would have. And when Margie  
2 was running it, she would have the customer list.

3 THE COURT: Okay. That's what I'm asking  
4 you. Would he have any that was prior to when  
5 y'all starting running?

6 THE WITNESS: Prior to? I don't think so,  
7 because they were running it. But after that, I  
8 think he kept, like he testified, he kept -

9 THE COURT: After you started running a  
10 business at that location?

11 THE WITNESS: Uh-huh.

12 THE COURT: Okay.

13 THE WITNESS: Yeah. He'd keep the customer  
14 list.

15 THE COURT: Okay. All right. I don't think  
16 I have any other questions. As a result of the  
17 Court's questions, are there any questions that  
18 y'all have?

19 MR. WHITT: No, Your Honor.

20 MR. WINGATE: Your Honor, we have no further  
21 questions.

22 THE COURT: Okay.

23 THE COURT: All right. Are there any further  
24 witnesses?

25 MR. WINGATE: No further witnesses, Your

1 Honor.

2 THE COURT: Any rebuttal witnesses?

3 MR. WHITT: No, Your Honor.

4 THE COURT: All right, gentlemen. As far as  
5 where we go from here -- I want you to have an  
6 opportunity to do arguments, but we've had kind of  
7 a long day. And so, I can postpone that until  
8 another day, such as tomorrow.

9 Would y'all want to do that tomorrow morning  
10 since it's all fresh in our minds? Where do you  
11 want to go from here? I don't want you to work  
12 into tonight if you don't have to, to get ready  
13 for some argument in the morning. Perhaps you're  
14 all ready to argue. Perhaps you want to argue it  
15 tonight. But I probably would prefer that you  
16 argue tomorrow.

17 And after that, would I ask you for any memo?  
18 I don't know. So what is y'all's place? I have  
19 some maybe-questions for y'all. But I don't want  
20 to state them outside of your time to argue. So  
21 what do y'all want to do as far as arguing?

22 MR. WHITT: Your Honor, it would be better  
23 for us to skip a day to Wednesday morning, if that  
24 would fit in Your Honor's schedule.

25 MR. WINGATE: Your Honor, I've got a case

1 outside of Columbia that day. I'd be available  
2 tomorrow.

3 THE COURT: If that's the problem, I don't  
4 want to drag this out. I want to go ahead and get  
5 it down.

6 MR. WINGATE: Your Honor, I have a hearing at  
7 two tomorrow. Your Honor, if we did this in the  
8 morning, we'd be done very quickly.

9 THE COURT: Well, we don't need to start  
10 early. Maybe we could start -- I would anticipate  
11 that maybe y'all would need about an hour or  
12 something, hour and a half, probably, at the most.  
13 What if we started at something, like, 10:30 or  
14 11:00. You said -- well, what --

15 MR. WHITT: 11:00 would be better for us,  
16 Your Honor.

17 MR. ROGERS: Well, wait a minute. Can you  
18 bear with me for one minute?

19 THE COURT: Sure. I don't want to carry this  
20 out. I mean, we've got a record here. We can go  
21 back to the record if we needed to. But I do  
22 think, if y'all want to argue, I want to give you  
23 a chance to do that. But I don't want to stretch  
24 it out beyond tomorrow or the next day.

25 MR. WINGATE: We'd be happy, Your Honor, if

1           you would put whatever short time limits on it you  
2           deem appropriate.

3           THE COURT: Well, I think tomorrow would be  
4           better. Eleven o'clock tomorrow would be --

5           MR. WINGATE: I mean, as even to the time of  
6           the arguments, ten to 15 minutes each ought to be  
7           plenty.

8           THE COURT: I mean, the Supreme Court only  
9           allows you so much.

10          MR. WINGATE: Right.

11          THE COURT: The Gettysburg Address was only,  
12          what 11 minutes, or something?

13          MR. ROGERS: Your Honor, I have an iron  
14          conflict at ten o'clock in the morning. I would  
15          be available in the afternoon, but I would  
16          respectfully request protection in the morning.

17          THE COURT: Well, what was your situation as  
18          far as tomorrow afternoon?

19          MR. WINGATE: I've got a two o'clock Richland  
20          County Probate hearing with witnesses coming in  
21          from several states.

22          THE COURT: Okay. If we can't figure this  
23          out, we're just not going to have arguments. I'll  
24          let you submit briefs, if y'all want to do that.

25          MR. WINGATE: That would be great.

1 MR. WHITT: Yes, Your Honor.

2 THE COURT: Is that --

3 MR. WHITT: Yes, Your Honor.

4 THE COURT: When would y'all like briefs?

5 That's a good idea. Well, let's make it --

6 whenever y'all -- y'all get to fire the first shot  
7 at when you want to --

8 MR. WINGATE: What time were you thinking?

9 THE COURT: I would imagine, since they've  
10 got the -- here's what I was kind of thinking.  
11 Well, I would think of a time when y'all could  
12 both submit a brief and then both of you can reply  
13 to it. How much time do y'all need?

14 MR. WHITT: We're flexible. So, you've got  
15 the conflict for tomorrow --

16 THE COURT: I mean, ten days for your brief?  
17 We're not going to do oral argument by mutual  
18 agreement, because y'all have got complicated  
19 schedules. Unless, once I get your briefs, there  
20 is some issue I want to clear up. And then I'll  
21 try to schedule that with y'all. But would ten  
22 days be fine with y'all?

23 MR. WHITT: Ten days would be great, Your  
24 Honor.

25 MR. WINGATE: That would be great. Yes.



1 THE COURT: Would both of y'all want to  
2 submit within ten days and then give you each five  
3 days to reply to the other one's brief? Is that  
4 what you want to do?

5 MR. WHITT: Yes, Your Honor.

6 MR. WINGATE: Yes, Your Honor.

7 THE COURT: Okay. I'm not going to make any  
8 comments. Y'all heard the same testimony that I  
9 heard. I understand the issue as to an  
10 entitlement to an accounting. Let me ask you one  
11 question: How would an accounting, if I ordered  
12 one, be different than what this accountant has  
13 presented here today?

14 MR. WHITT: Well, it would include tax  
15 returns, as our expert witness eluded to, tax  
16 returns for every year. And the bank account  
17 information, because there's an account designated  
18 for this. I mean, maybe we could have just an  
19 accounting with just the business checking  
20 account, all the monthly statements, and state and  
21 federal taxes.

22 THE COURT: Well, I'm not going to say that  
23 yet. I'm not saying that you're entitled to one.  
24 It's not clear as to what this entity was, as you  
25 all have heard the testimony. Or rather, it's

1 clear what this entity was. It wasn't clear,  
2 exactly, how the entity's ownership was. I won't  
3 say anything else about that.

4 But if there is an accounting, this could  
5 form a basis of that. And then, you're saying,  
6 that along with some bank statements. Some of the  
7 things that -- we've got the testimony we've got,  
8 and perhaps there can't be any better answer to  
9 it.

10 The testimony from the daughter was that her  
11 father built that funeral home that's there now.  
12 The testimony from Patricia King was opposite to  
13 that. As far as value of an asset, I suppose that  
14 if somebody built a funeral home on somebody  
15 else's property, that might be an issue here. I  
16 don't know that it is. Nobody has even mentioned  
17 anything like that.

18 It seemed to me to be, perhaps, when I heard  
19 the Defendants' testimony, that that might be an  
20 issue. But hearing the Plaintiffs' testimony, it  
21 might not have been an issue. Fundamentally, is  
22 the burden of proof of the moving party, the  
23 accounting, to establish entitlement to it, I want  
24 to say.

25 As far as this entity is concerned, the

1 testimony we all heard today was that -- and of  
2 course, I would have to be in charge of weighing  
3 the testimony. But it was that several -- at  
4 least two family members were involved in the  
5 operation of this funeral home, Christopher and  
6 the Plaintiff Patricia.

7 As far as ownerships here, I'm not so  
8 impressed with the fact of trying to mull --  
9 figure out what went through estates. I know that  
10 y'all have pled -- both of you have pled that the  
11 business went through at least, two estates,  
12 though none of the estates, or none of the  
13 evidence before the Court indicates that it was  
14 scheduled as any kind of asset of the estate.

15 I don't know that we should bang our heads  
16 against the walls to figure out exactly what the  
17 entity was here, other than the deal with what the  
18 facts that came out in this hearing were, as to  
19 the operation of a funeral home. It looks like  
20 the entity that was known as King's Funeral Home,  
21 the way it started, may not exist anymore. And  
22 I'm not going to make that as a ruling. But it  
23 could be that that entity went out of existence  
24 some time in the past, is one of the ways that I'm  
25 thinking here.

1           That entity -- a great amount of the  
2           testimony is that Christopher King regarded this  
3           as his business. That all seemed to be a nice,  
4           easy fact to find, based on all of the testimony,  
5           and based upon his estate submissions.

6           And then, we get to Patricia signing on notes  
7           of \$225,000. The only testimony in the record is  
8           that that went to pay for his individual debt and  
9           not anything to do with the home, funeral home.  
10          At the time, the family was probably in a  
11          different relationship than it finds itself in  
12          today. And perhaps not as adversarial. And it  
13          seemed like there might have been some helping  
14          each other.

15          Now, I'm not going to explore that.  
16          Hopefully, one of these days, y'all can find  
17          yourselves back to that point. And I'm not in  
18          charge of that. And I'm not going to preach about  
19          it. So that's not for me to try to figure out.  
20          That's for y'all to figure out.

21          One of my hopes would be, before we -- well,  
22          let me continue that conversation. The other  
23          thing, it looks like -- I think, predominantly --  
24          and again, these are not findings of fact, but the  
25          testimony is very strong to the fact that what she

1 ended up with was an empty funeral home, and that  
2 she spent her own money to put together the  
3 funeral home that's now generating an average  
4 profit of \$4200 or whatever that is a year, for  
5 the last nine or 10 years.

6 On a balance sheet, with a debt that looks  
7 like it has incurred, that's not real impressive,  
8 as far as, if there was anything to split. So  
9 again, whatever y'all are arguing about may have  
10 such little value at this point in time, to the  
11 extent that all the argument, all the expense, all  
12 the lawyers' fees, all the appeals that you might  
13 feel need to be done as a result of whatever  
14 decision I make, may be diminishing an asset, if  
15 there is one. I just throw that out for your  
16 consideration. I will have to decide, eventually,  
17 what happened here.

18 I'm not strongly looking at this as having  
19 been a business that continued after 1998. I'm  
20 not going to make that as a ruling. I want to  
21 hear your arguments. And I want to go back and  
22 review my notes.

23 But it looked like, what the family did, was  
24 whoever was interested, and whoever was capable,  
25 at the time of when events occurred -- because

1       they were a family, was here was an asset to  
2       perpetuate some income to support some people.  
3       And it looks like, for a period of time, y'all  
4       probably, mutually, helped each other in that  
5       endeavor.

6               In the end, as far as what happened here, one  
7       way the Court could go is, somewhere in 1985 or  
8       so, whenever the lease was signed, that the  
9       funeral home that existed, up until that point,  
10      became another entity, and it became an entity  
11      that was controlled by Christoper, which seems to  
12      be consistent with what was filed in the Probate  
13      Court, with the fact that there was a lease here  
14      from Christoper to his sister, who owned the  
15      property.

16             It's somewhat of a strong indication that he  
17      was running a business at that location. I didn't  
18      hear any testimony that that was to the benefit of  
19      the whole family. So I do recognize that when he  
20      signed off on the notes, that it was signed as  
21      proprietor of King's Funeral Home, and had  
22      Christoper King as proprietor.

23             The predominant way I think one could look at  
24      that testimony is, about that point in time, if  
25      you were trying to find a date, that this thing

1 changed from one form to the other, and that is  
2 from some business that had been owned by momma  
3 and poppa, that it might have changed to being  
4 proprietor of Christopher, with financial help of  
5 his sister, Patricia, and perhaps other family  
6 members after 1985. I think that's one way you  
7 could look at that testimony.

8 There is elements here that the business that  
9 Patricia is operating is a different business.  
10 One thing that I am wrestling with is that it's  
11 the same name. And there's some value associated  
12 with that.

13 I guess, in my thinking earlier here, was to  
14 the extent that she also got advantage of a  
15 building. But that does not appear to be the  
16 case. It appears that she paid for that building.  
17 It's not too impressive if what, in fact, the  
18 Defendants have some part of that business, that  
19 there's very much that they have.

20 It looks like they got all the assets --  
21 maybe all the assets. I mean, nobody has disputed  
22 that she didn't get any of the funds out of  
23 business. It seems like, to me, that the only  
24 thing she might have ended up with is the name of  
25 the business.

1                   And you know, if you believe that there was  
2                   still an entity, that was an entity that actually  
3                   was owned by all the family members, I think that  
4                   the evidence that I'm looking at here is  
5                   suggesting that whatever occurred here, that was  
6                   not the same; that it ended up being the same  
7                   entity. And if it were, I don't know what value,  
8                   actually, the Defendants lost.

9                   And if you look at the fact that there's  
10                  another funeral home, which also is a red herring  
11                  out there, then Christopher King Funeral Home, and  
12                  this one over here, the King Funeral Home that  
13                  Patricia is operating -- you know, there's no  
14                  testimony as far as, you know, whether the  
15                  business -- and I wouldn't be able to do anything  
16                  but guess about how the business that's coming in  
17                  was affected by the name of King's Funeral Home.

18                  One of the things that I would have surmised,  
19                  after listening to the testimony, that a possible  
20                  big key to that whole thing was this employee,  
21                  Moses, who was a constant. Moses, in looking at  
22                  it, is he an employee that she got, who it looks  
23                  like, to me, that they're a key person.

24                  And so, I would examine Moses as a key  
25                  person, as far as an asset that she got, that did.



1 not go to the other side of the family. And Moses  
2 was pretty -- I was impressed by Moses' testimony,  
3 that it was his decision. He had grown up there.  
4 He had been in that same location since the 10th  
5 grade in high school, and that he was, you know,  
6 staying with what he was familiar with.

7 And I guess that somebody said that he played  
8 both sides of the field. Probably, Moses may have  
9 done that. Moses needed to be continued to be  
10 employed. It was his life, I think. And Moses, I  
11 think -- you know, I don't mean to be  
12 overdramatizing this at all. But I was looking at  
13 Moses as being some key to this asset. Because if  
14 all the assets were gone, and the only asset that  
15 there might have been -- and there's no testimony  
16 as to what is the value of that, that maybe Moses  
17 could be the key to that.

18 But again, Moses was obviously a key  
19 employee. But it looked like it was Moses, if you  
20 got into that -- and y'all probably weren't even  
21 thinking about any of this. But if you get into  
22 that, Moses' testimony seemed to me that it was  
23 his decision that he went over here.

24 And so, Moses was an asset of the business  
25 that was taken over by Patricia? It doesn't look

1           like that. It looked like, that what happened  
2           there, that Moses made choices. Obviously, he was  
3           an important person in this business, I think.  
4           Maybe y'all disagree.

5                 But in any event, that's what it's looking  
6           like. So I'm saying, we'll go argue this. And  
7           this Court will make a decision, because I'm  
8           required to do so. But y'all have heard the same  
9           testimony that I have heard. And so, I encourage  
10          you to try to find some solution before you spend  
11          more money on it. Because a decision I will make.

12                And then, if one side is displeased with that  
13          decision, you've got the appellate courts to go.  
14          And of course, that's expensive. So I entreat you  
15          to try to figure a solution to this. If you've  
16          never seen these figures and you believe that  
17          these figures have some validity -- these are kind  
18          of stark figures. I mean, here we are -- we've  
19          got a litigation that's been going on for 13 years  
20          and we're looking at this, as far as what we're  
21          arguing about, this and that average a year?

22                Y'all might believe this is not it, that that  
23          might be a completely phony figure. And I  
24          can't -- you know, all I can do is take the  
25          testimony. There hasn't been any testimony that

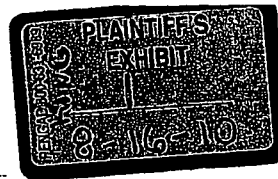
1           contradicted any of this. So what is the value of  
2           this, as far as the issue of who owns this  
3           business? Probably marginal value. But here it  
4           is.

5           So we will -- you have the submission  
6           deadline, let's say 10 days from today. Thank you  
7           all, very much. You know, it's been a long day.  
8           You all have been great to be here. I appreciate  
9           all of you. And you know, this has been a long  
10          time coming. And there's some more aspects to  
11          this case, if we don't get it resolved. And so, I  
12          entreat you to try to continue that process, if  
13          you can. If you can't, you know, you can't. So  
14          good luck to you all and thank you very much for  
15          letting me be your special referee.

16                 MR. WINGATE: Thank you, Your Honor.

17                 MR. WHITT: Thank you, Your Honor.

18  
19  
20  
21  
22  
23  
24



STATE OF SOUTH CAROLINA  
COUNTY OF CHESTER

PROBATE COURT

IN THE MATTER OF CHRISTOPHER C. KING

CASE NUMBER 1997ES1200194

INVENTORY AND APPRAISEMENT

☒ ORIGINAL

☐ SUPPLEMENTAL # \_\_\_\_\_

Personal Representative(s): MARGIE B. KING ROBBIE P. KING

Decedent's Social Security Number \_\_\_\_\_ Was there a will? ☒ YES ☐ NO  
Decedent's Date of Death Sept 1, 1998 Domicile at death CHESTER S C  
(County) (State)

The undersigned, being sworn, states That the following schedules contain a complete and accurate inventory and appraisement of all real and personal property of this estate so far as the undersigned is informed, that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability

SWORN to before me this 2nd day of MARCH, 2001

Neil M. K.  
Notary Public for South Carolina  
My Commission Expires 6-3-2003

Attorney \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone \_\_\_\_\_

Signature Margie B. King  
Name Margie B. King  
Address 1 Cemetery St  
Chester, SC 29706  
Telephone (O) 803-377-1144  
(H) 803-377-4109

Signature Robbie P. King  
Name Robbie P. King  
Address 1 Cemetery Street  
Chester, SC 29706  
Telephone (O) 803-377-1144  
(H) 803-377-4109

For estates of decedents, the gross fair market valuation of all assets, regardless of situs, should be given as of the date of death. List all out-of-state assets on appropriate schedules. A Supplemental Inventory should be utilized for correcting, adjusting or adding to an original inventory. A qualified and disinterested appraiser may be employed to ascertain the value of any asset, the value of which may be subject to reasonable doubt. If an appraiser is employed, his/her name and address should be indicated with the item or items he/she appraised.

Within ninety (90) days following appointment, a copy of the inventory and appraisement shall be sent to each interested person who requests it, and the original inventory filed with the Probate Court.

RECAPITULATION

|                                                                       | Out-of-state | In-state |
|-----------------------------------------------------------------------|--------------|----------|
| Schedule A - Real Estate                                              | \$ 0         | \$ 0     |
| Schedule B - Stocks and Bonds                                         | 0            | 0        |
| Schedule C - Mortgages, Notes and Cash                                | 0            | 0        |
| Schedule D - Insurance on Decedent's Life: Part 1 - Payable to Estate |              |          |
| Part 2 - Payable to Beneficiary                                       | 160,000      |          |
| Schedule E - Jointly Owned Property                                   | 0            |          |
| Schedule F - Other Miscellaneous                                      | 0            |          |
| Schedule G - Transfers during Decedent's life                         | 0            |          |
| Schedule H - Powers of Appointment                                    | 0            |          |
| Schedule I - Annuities                                                | 0            |          |
| TOTAL GROSS VALUE                                                     | \$           |          |
| ENCUMBRANCES                                                          | (174,000)    |          |
| TOTAL NET WORTH                                                       | \$           |          |

A TRUE COPY  
Lois H. Roddey  
JUDGE OF PROBATE  
CHESTER COUNTY, S.C.

NOTE: WHEN COMPLETING THE FOLLOWING SCHEDULES, PLEASE REMEMBER TO LIST ALL ASSETS, REGARDLESS OF SITUS. ALL OUT-OF-STATE ASSETS MUST BE DISCLOSED.

**SCHEDULE A — Real Estate** (All interest in real property except those held with right of survivorship) (If none, so state.) (For jointly owned property with right of survivorship, see schedule E)

| Item No. | Description | Tax Assessor's Fair Market Value for year of Decedent's Death | Appraised Value | Appraised Value of Decedent's Interest |
|----------|-------------|---------------------------------------------------------------|-----------------|----------------------------------------|
|----------|-------------|---------------------------------------------------------------|-----------------|----------------------------------------|

NONE

TOTAL SCHEDULE A

(also enter under recapitulation, page 1)

\$ 0

**SCHEDULE B - Stocks and Bonds** (If none, so state.) (For jointly owned property with right of survivorship, see schedule E)

| Item No. | Description | Face Value | Appraised Value |
|----------|-------------|------------|-----------------|
|----------|-------------|------------|-----------------|

NONE

TOTAL SCHEDULE B

(also enter under recapitulation, page 1)

\$ 0

**SCHEDULE C - Mortgages, Notes and Cash** (If none, so state.) (For jointly owned property with right of survivorship, see schedule E)

| Item No. | Description | Value |
|----------|-------------|-------|
|----------|-------------|-------|

NONE

TOTAL SCHEDULE C

(also enter under recapitulation, page 1)

\$ 0

(If more space is required, insert tax schedules or additional sheets of same size.)

CHRISTOPHER C. KING

Schedule E 1-4 Pending Litigation

1. Interest in W. R. King estate
2. Interest in Ellen N. King estate
3. King's Funeral Home 135 Cemetery Street Chester, SC (equity in building and land)
4. King's Funeral Home 135 Cemetery Street Chester, SC

(Business) Sole Proprietor

5. *1/8 of Adlene McChurkin Property Crosby Street*

Schedule F 1-3 Pending litigation

1. Kubato Tractor & Trailer
2. Dodge Van 88
3. Hearse 74 (?)

**MAYOR OF CHESTER**

**1. BACK PAY**

*1/8 of ~~the~~ Adlene McChurkin property  
101 Crosby Street*

**SCHEDULE D - Insurance** (If none, so state.)

## Part 1 - Life Insurance Payable to the Estate

| Item No. | Description | Value |
|----------|-------------|-------|
|----------|-------------|-------|

NONE

## TOTAL PART 1

(also enter under recapitulation, page 1)

\$ 0

## Part 2 - Life Insurance Payable to Beneficiaries

| Item No. | Description | Beneficiary | Value |
|----------|-------------|-------------|-------|
|----------|-------------|-------------|-------|

City of Chesler

M. B. King

10,000

Kavanaugh

M. B. King

50,000

Metro Life Ins

M. B. King

100,000

~~see attachment~~

## TOTAL PART 2

(also enter under recapitulation, page 1)

\$ 160,000**SCHEDULE E - Jointly owned Property** (with right of survivorship) (If none, so state.)

NOTE: You must complete Schedule E if the decedent owned any property jointly with right of survivorship at the time of death, whether or not the decedent's interest is includible in the gross estate.

Percentage includible:

1 - Joint interest held by decedent and spouse — the amount included is one-half (50%) of the value in all cases.

2 - Other joint interest — Generally you must include the full value of the jointly owned property in the gross estate. However, the full value should not be included if you can show that a part of the property originally belonged to the other tenant(s). The amount included is the amount of the decedent's contribution to the joint account(s).

| Item No. | Description | Joint Owner(s) | Percentage Includible | Appraised Value of Decedent's Interest |
|----------|-------------|----------------|-----------------------|----------------------------------------|
|----------|-------------|----------------|-----------------------|----------------------------------------|

1. Interest in W. R. King estate?

2. Interest in Ellen N. King estate?

3. King's Funeral Home 135 Cemetery St. (equity in building + land)

4. King's Funeral Home 135 Cemetery St. (Business) Sole Proprietor.

see attachment

## TOTAL SCHEDULE E

(also enter under recapitulation, page 1)

\$

(If more space is required, insert tax schedules or additional sheets of same size.)

**SCHEDULE F - Miscellaneous Personal Property** - (tangible personal property, employment bonus or award, interest in a partnership or unincorporated business, articles or collections having either artistic or intrinsic value, etc.) (If none, so state.) (For jointly owned property with right of survivorship, see schedule E.)

| Item No. | Description | Value |
|----------|-------------|-------|
|----------|-------------|-------|

1. Kubota Tractor + Trailer ?

2. Dodge Van 88 ?

3. Heave ?

*see attachment*

TOTAL SCHEDULE F  
(also enter under recapitulation, page 1)

\$ \_\_\_\_\_

**SCHEDULE G - Transfers During Decedent's Life** - Transfers intended to take effect at death. United States Government Bonds "Payable on Death", Trust created by Decedent in which income for life was retained, life insurance transfers. Lifetime transfers of real property in which Decedent retains a life estate or other incidents of ownership. (If none, so state.)

| Item No. | Description | Value |
|----------|-------------|-------|
|----------|-------------|-------|

TOTAL SCHEDULE G  
(also enter under recapitulation, page 1)

\$ \_\_\_\_\_

(If more space is required, insert tax schedules or additional sheets of same size.)



**SCHEDULE H - Powers of Appointment -** Property over which Decedent possessed a Power of Appointment both real and personal, whether Testamentary or otherwise. (If none, so state.)

| Item No. | Description | Value |
|----------|-------------|-------|
|----------|-------------|-------|

NONE

TOTAL SCHEDULE H.  
(also enter under recapitulation, page 1)

\$ \_\_\_\_\_

**SCHEDULE I - Annuities** (If none, so state.) (IRA's, Keogh's, etc.)

| Item No. | Description | Value |
|----------|-------------|-------|
|----------|-------------|-------|

NONE

TOTAL SCHEDULE I  
(also enter under recapitulation, page 1)

\$ \_\_\_\_\_

(If more space is required, insert tax schedules or additional sheets of same size.)

**ENCUMBRANCES** (e.g., mortgages, liens, judgements, etc., but not general debts of the estate) - List specific assets encumbered

| Item No. | Schedule & Item Number<br>Encumbered Thereby | Description & Amount |
|----------|----------------------------------------------|----------------------|
|----------|----------------------------------------------|----------------------|

First Union  
Founders

150,000  
21,000

TOTAL ENCUMBRANCES  
(also enter under recapitulation, page 1)

\$ 171,000

**MANIFESTLY NON-TAXABLE**

(To be executed by the Probate Court Judge in those cases where it appears that the estate is not REPORTABLE to the South Carolina Tax Commission under the provisions of the Estate Tax Laws of the State of South Carolina, i.e., the total gross value is indicated to be less than prescribed limits.)

It appears from the foregoing record of the above captioned estate on file in the Probate Court of this County, such estate is not reportable to the South Carolina Tax Commission.

Executed this 2 day of MARCH, 2001

Lois H. Roddey  
LOIS H. RODDEY, Probate Court Judge

(If more space is required, insert tax schedules or additional sheets of same size.)

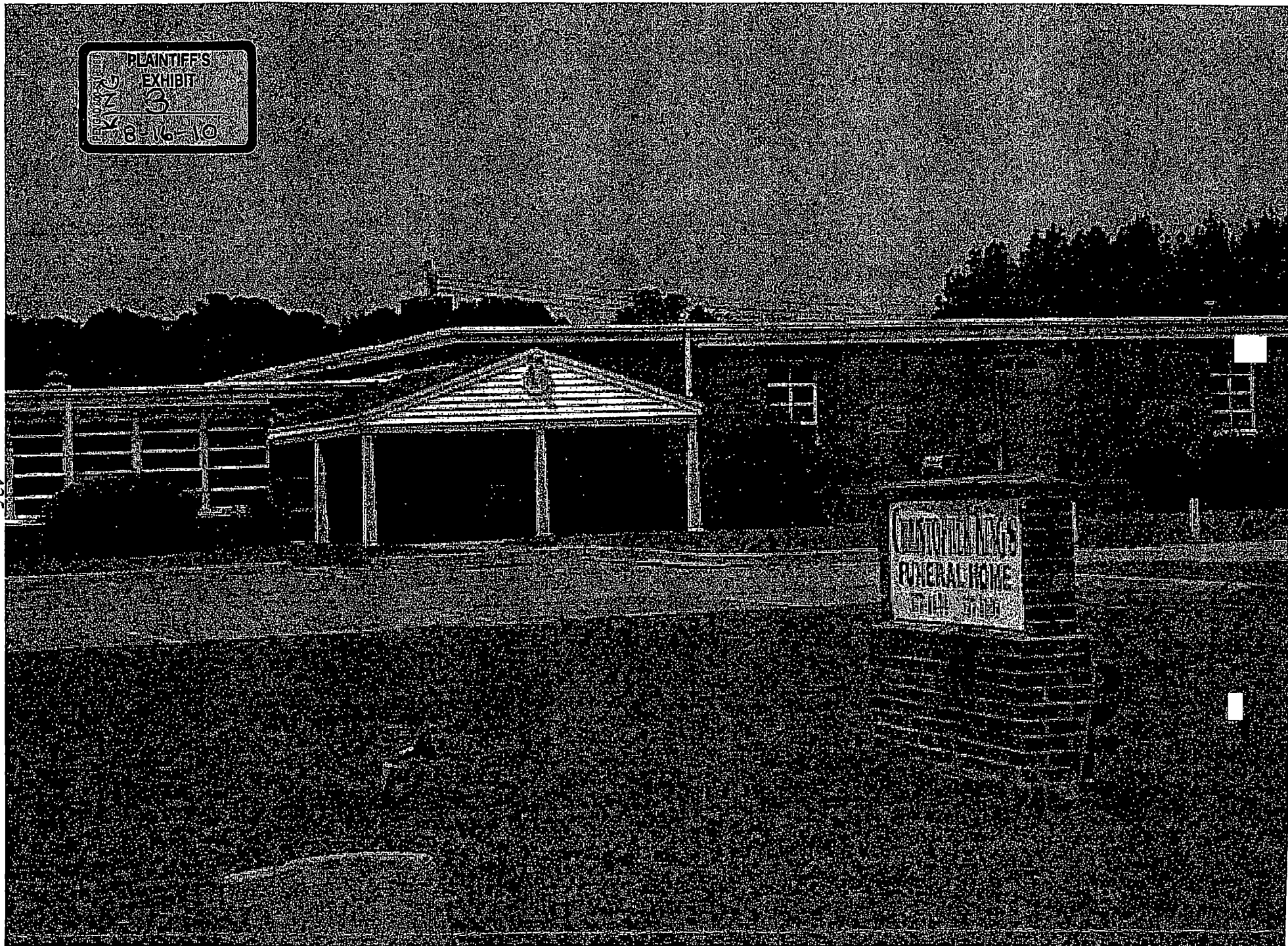
# CHRISTOPHER KING'S FUNERAL HOME

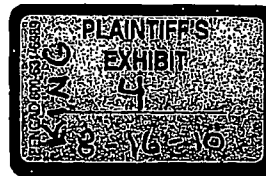
377-1144 377-4109

PLAINTIFFS  
EXHIBIT  
9  
12 2  
8-10-10



435





STATE OF SOUTH CAROLINA  
COUNTY OF Chester

PROBATE COURT

IN THE MATTER OF Ellen N. King

CASE NUMBER 87ES1200178

INVENTORY AND APPRAISEMENT

☒ ORIGINAL  
☐ SUPPLEMENTAL # \_\_\_\_\_

Personal Representative(s): Patricia E. King

Decedent's Social Security Number: \_\_\_\_\_

Decedent's Date of Death: March 2, 1987

The undersigned, being sworn, states: That the following schedules contain a complete and accurate inventory and appraisement of all real and personal property of this estate so far as the undersigned is informed; that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

Copies of this inventory have been sent to the following Interested persons,\* and filed with the South Carolina Tax Commission, as appropriate.

SWORN to before me this 20 day of  
Oct., 1989

Signature: Patricia E. King

Name: Patricia E. King

Address: 129 Cemetery Street  
Chester, SC 29706

Telephone (O): 904 332 8641

(H): 803 377-1144

Jenni H. Boyd  
Notary Public for South Carolina

My Commission Expires: 6-9-96

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone (O): \_\_\_\_\_

(H): \_\_\_\_\_

For estates of decedents, the gross fair market valuation of all assets, regardless of situs, should be given as of the date of death. List all out-of-state assets on appropriate schedules. A Supplemental Inventory should be utilized for correcting, adjusting or adding to an original inventory. A qualified and disinterested appraiser may be employed to ascertain the value of any asset, the value of which may be subject to reasonable doubt. If an appraiser is employed, his/her name and address should be indicated with the item or items he/she appraised.

\*Within sixty (60) days following appointment, a copy of the inventory and appraisement shall be sent to each interested person who requests it, and the original inventory filed with the Probate Court.

RECAPITULATION

|                                                                             | Out-of-state      | In-state           |
|-----------------------------------------------------------------------------|-------------------|--------------------|
| Schedule A - Real Estate .....                                              | \$ <u>5000.00</u> | \$ <u>64150.00</u> |
| Schedule B - Stocks and Bonds .....                                         |                   | <u>None</u>        |
| Schedule C - Mortgages, Notes and Cash .....                                |                   | <u>None</u>        |
| Schedule D - Insurance on Decedent's Life: Part 1 - Payable to Estate ..... |                   | <u>None</u>        |
| Part 2 - Payable to Beneficiary .....                                       |                   | <u>4,880.00</u>    |
| Schedule E - Jointly Owned Property .....                                   |                   | <u>None</u>        |
| Schedule F - Other Miscellaneous .....                                      |                   | <u>None</u>        |
| Schedule G - Transfers during Decedent's Life .....                         |                   | <u>None</u>        |
| Schedule H - Powers of Appointment .....                                    |                   | <u>None</u>        |
| Schedule I - Annuities .....                                                |                   | <u>None</u>        |
| *TOTAL GROSS VALUE .....                                                    | \$ <u>None</u>    |                    |
| ENCUMBRANCES .....                                                          |                   |                    |
| TOTAL NET WORTH .....                                                       |                   |                    |

\*If total gross value is \$120,000 or greater, Section 12-15-550, S.C. Code of Laws, 1976, as amended, requires that a copy of this Inventory and Appraisement be furnished to the South Carolina Tax Commission.

NOTE: WHEN COMPLETING THE FOLLOWING SCHEDULES, PLEASE REMEMBER TO LIST ALL ASSETS, REGARDLESS OF SITUS. ALL OUT-OF-STATE ASSETS MUST BE DISCLOSED.

**SCHEDULE A — Real Estate** (All interest in real property except those held with right of survivorship) (If none, so state.) (For jointly owned property with right of survivorship, see schedule E)

| Item No.                                  | Description               | Tax Assessor's Fair Market Value for year of Decedent's Death | Appraised Value | Appraised Value of Decedent's Interest |
|-------------------------------------------|---------------------------|---------------------------------------------------------------|-----------------|----------------------------------------|
|                                           | 129 Corn St 1 Lot 3 bldgs | 1696000000                                                    |                 | 6800                                   |
|                                           | 114 Corn St               |                                                               |                 | 1800                                   |
|                                           | 131 Corn St               |                                                               |                 | 9900                                   |
|                                           | York Road                 |                                                               |                 | 2200                                   |
|                                           | 156 Corn St               |                                                               |                 | 4200.00                                |
|                                           | 1 Lot OFF BYRD ST         |                                                               |                 |                                        |
|                                           | 310 Ashford St            |                                                               |                 |                                        |
|                                           | 1 Lot me LANE ST          |                                                               |                 |                                        |
|                                           | 114 MAGUIR ST             |                                                               |                 |                                        |
|                                           | 107 OGDON ST 2 LOTS       |                                                               |                 |                                        |
| TOTAL SCHEDULE A                          |                           |                                                               |                 | \$ 24,900                              |
| (also enter under recapitulation, page 1) |                           |                                                               |                 |                                        |

**SCHEDULE B - Stocks and Bonds** (If none, so state.) (For jointly owned property with right of survivorship, see schedule E)

| Item No.                                  | Description | Face Value | Appraised Value |
|-------------------------------------------|-------------|------------|-----------------|
|                                           | None        |            |                 |
| TOTAL SCHEDULE B                          |             |            | \$ None         |
| (also enter under recapitulation, page 1) |             |            |                 |

**SCHEDULE C - Mortgages, Notes and Cash** (If none, so state.) (For jointly owned property with right of survivorship, see schedule E)

| Item No.                                  | Description | Value   |
|-------------------------------------------|-------------|---------|
|                                           | None        |         |
| TOTAL SCHEDULE C                          |             | \$ None |
| (also enter under recapitulation, page 1) |             |         |

(If more space is required, insert tax schedules or additional sheets of same size.)

**SCHEDULE D - Insurance** (If none, so state.)

## Part 1 - Life Insurance Payable to the Estate

| Item No. | Description | Value |
|----------|-------------|-------|
|----------|-------------|-------|

None

**TOTAL PART 1**

(also enter under recapitulation, page 1)

\$

## Part 2 - Life Insurance Payable to Beneficiaries

| Item No. | Description | Value |
|----------|-------------|-------|
|----------|-------------|-------|

Life of Pa 60.  
 United Assurance  
 Konachan  
 Overton Life

60.00  
 2357.00  
 1,000.00  
 1,577.00

**TOTAL PART 2**

(also enter under recapitulation, page 1)

\$49,940.00

**SCHEDULE E - Jointly owned Property** (with right of survivorship) (If none, so state.)

NOTE: You must complete Schedule E if the decedent owned any property jointly with right of survivorship at the time of death, whether or not the decedent's interest is includible in the gross estate.

## Percentage Includible:

1 - Joint interest held by decedent and spouse - the amount included is one-half (50%) of the value in all cases.

2 - Other joint interest - Generally you must include the full value of the jointly owned property in the gross estate. However, the full value should not be included if you can show that a part of the property originally belonged to the other tenant(s). The amount included is the amount of the decedent's contribution to the joint account(s).

| Item No. | Description | Percentage Includible | Appraised Value of Decedent's Interest |
|----------|-------------|-----------------------|----------------------------------------|
|----------|-------------|-----------------------|----------------------------------------|

Lot Byrd St  
 Lot McLuve St  
 114 Marquis St  
 310 Asford St  
 129 County St

500.00  
 1500.00  
 2150.00  
 750.00  
 33,850.00

**TOTAL SCHEDULE E**

(also enter under recapitulation, page 1)

\$38,750.00

(If more space is required, insert tax schedules or additional sheets of same size.)

**SCHEDULE F - Miscellaneous Personal Property** - (tangible personal property, employment bonus or award, interest in a partnership or unincorporated business, articles or collections having either artistic or intrinsic value, etc.) (If none, so state.) (For jointly owned property with right to survivorship, see schedule E.)

| Item No. | Description | Value |
|----------|-------------|-------|
|----------|-------------|-------|

*None*

**TOTAL SCHEDULE F**  
(also enter under recapitulation, page 1)

\$ *none*

**SCHEDULE G - Transfers During Decedent's Life** - Transfers intended to take effect at death. United States Government Bonds "Payable on Death", Trust created by Decedent in which income for life was retained, life insurance transfers, Lifetime transfers of real property in which Decedent retained a life estate or other incidents of ownership. (If none, so state.)

| Item No. | Description | Value |
|----------|-------------|-------|
|----------|-------------|-------|

*None*

**TOTAL SCHEDULE G**  
(also enter under recapitulation, page 1)

\$ *none*

(If more space is required, insert tax schedules or additional sheets of same size.)



**SCHEDULE H - Powers of Appointment -** . Property over which Decedent possessed a Power of Appointment both real and personal, whether Testamentary or otherwise. (If none, so state.)

| Item No. | Description | Value |
|----------|-------------|-------|
|----------|-------------|-------|

*None*

**TOTAL SCHEDULE H**

(also enter under recapitulation, page 1)

\$ \_\_\_\_\_

**SCHEDULE I - Annuities** (If none, so state.) (IRA's, Keogh, etc.)

| Item No. | Description | Value |
|----------|-------------|-------|
|----------|-------------|-------|

*None*

**TOTAL SCHEDULE I**

(also enter under recapitulation, page 1)

\$ \_\_\_\_\_

(If more space is required, insert tax schedules or additional sheets of same size.)

**ENCUMBRANCES**

| Item No. | Schedule & Item Number<br>Encumbered Thereby | Description & Amount |
|----------|----------------------------------------------|----------------------|
|----------|----------------------------------------------|----------------------|

*None*

TOTAL ENCUMBRANCES  
(also enter under recapitulation, page 1)

\$ *None*

**MANIFESTLY NON-TAXABLE**

(To be executed by the Probate Court Judge in those cases where it appears that the estate is not REPORTABLE to the South Carolina Tax Commission under the provisions of the Estate Tax Laws of the State of South Carolina, i.e., the total gross value is indicated to be less than \$120,000.)

It appears from the foregoing record of the above captioned estate on file in the Probate Court of this County, such estate is not reportable to the South Carolina Tax Commission.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

\_\_\_\_\_  
, Probate Court Judge

(If more space is required, insert tax schedules or additional sheets of same size.)

PLAINTIFFS  
EXHIBIT  
3  
8-16-10

442

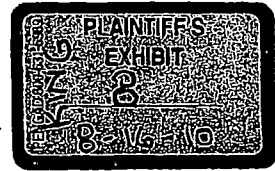
PLAINTIFFS  
EXHIBIT  
6  
8-16-10

PLAINTIFF'S  
EXHIBIT  
7  
B-16-10

Thind's  
Funeral  
Home  
185-7020

Purchase Order

MULLEN'S FUNERAL SUPPLY  
234 S. ERVIN AVE.  
P.O. BOX 1056 PHONE 828-465-0066  
NEWTON, NORTH CAROLINA 28658



Purchase Order No. 0785

Purchase Order Date 02/05/99

TO:  
EDISON SUPPLY & EQUIPMENT CO.  
75 RT. 27  
EDISON, NEW JERSEY 08820

SHIP TO:  
KING FUNERAL HOME  
129 GEMETARY ST.  
P.O. BOX 768  
CHESTER, SOUTH CAROLINA 29706

Ship Via: U.P.S.  
FOB Point:

Freight:  
Terms: PAYMENT ON ACCT

| Product No. | Qty | Unit | Product Description     | Price    | Extended |
|-------------|-----|------|-------------------------|----------|----------|
| CHECK       | 1   | 1    | CHECK #1011             | 0.000    | 0.00     |
| DE VINCE    | 1   | 1    | DEVINCE EMBALMING TABLE | 1225.000 | 1225.00  |

*\$1,225.00*  
*5% OFF -61.25*  
*Total \$1,163.75*  
*Down Payment -581.87*  
*Balance - \$ 581.87*

57

1-800-250-4888

**Custom Church Interiors, Inc.**

7818 Shadowcrest Drive / Charlotte, North Carolina 28217  
Charlotte: 704/525-8578 or 704/527-4871

# **WORK SHEET**

Representative

Church Name: KING GENERAL HOME

Contact: MOSES CALDWELL

Address: 135 CECILARY ST.

Phone: (H) 803-385-2020 (O) \_\_\_\_\_

City: CHESTER

State: SC 29706

Date: FEB. 11, 1999

| DESCRIPTION                                   | NO. | LENGTH | FOOTAGE     | LIST PRICE | TOTALS |
|-----------------------------------------------|-----|--------|-------------|------------|--------|
| OAK ENDS, TOP CAPS AND SUPPORTS               |     |        |             |            |        |
| STAINED OAK                                   | 20  | 10'    |             |            |        |
| HUNTER GREEN                                  |     |        |             |            |        |
| NO                                            |     |        |             |            |        |
| NO                                            |     |        |             |            |        |
| NO                                            |     |        |             |            |        |
| Carpet                                        |     |        |             |            |        |
| Carpet                                        |     |        |             |            |        |
| 20 PEWS 200                                   |     |        | No. 1 Total | \$7,800.00 |        |
| DELIVERY: 30 DAYS FROM DATE OF RECEIVING      |     |        |             |            |        |
| SIGNED CONTRACT DEPENDING ON THE AVAILABILITY |     |        |             |            |        |
| OF CLOTH.                                     |     |        |             |            |        |
| No. 2 Total                                   |     |        |             |            |        |
| DELIVERY & INSTALLATION                       |     |        |             | \$400.00   |        |
| North Carolina Refundable Tax                 |     |        |             |            |        |
| TERMS: 50% DEPOSIT (\$4,100)                  |     |        |             |            |        |
| AND BALANCE DUE ON INSTALLATION.              |     |        |             |            |        |
| TOTAL JOB PRICE                               |     |        |             | \$8,200.00 |        |

Respectfully submitted:  
CUSTOM CHURCH INTERIORS, INC.

*James A. Ford / Della Hooze*

Accepted: Date: \_\_\_\_\_

By: Pastor: \_\_\_\_\_

By: Trustees: \_\_\_\_\_

ALL MATERIAL AND WORKMANSHIP  
WARRANTED (ask for details)

Order

30-60-90 days

Terms: One half deposit with balance  
on completion of installation.

ESTIMATES GOOD FOR THIRTY DAYS ONLY





**MOBLEY'S PROFESSIONAL CARPET  
UPHOLSTERY & DRAPERY CLEANING**

140 Hudson Street  
CHESTER, SOUTH CAROLINA 29706

(803) 385-2221

# invoice

|                             |                                   |
|-----------------------------|-----------------------------------|
| SALESPERSON<br><i>Ed Jr</i> | DATE OF INVOICE<br><i>3-17-99</i> |
| SHIP TO<br><i>1</i>         |                                   |

*KING'S FUNERAL HOME  
135 Cemetery St.  
Chester, S.C.*

|                       |  |  |  |           |         |
|-----------------------|--|--|--|-----------|---------|
|                       |  |  |  | 385-2020  |         |
| Moving old Carpet     |  |  |  |           | 7360.00 |
| Cost of New Carpet    |  |  |  |           |         |
| Install carpet        |  |  |  |           |         |
| Cost of Glue          |  |  |  |           |         |
| <i>PAID</i><br>NO TAX |  |  |  | TOTAL     | 7300.00 |
|                       |  |  |  | Thank You |         |



12





## King's Funeral Home

135 Cemetery Street  
P.O. Box 768  
Chester, South Carolina 29706

Mr. Moses J. Caldwell, Jr.  
Director / Mortician

Phone  
1-803-385-2020  
1-800-449-5101  
Fax 1-803-581-5059  
Great Falls, South Carolina  
1-803-482-6075

*Feb. 15, 1999*

Painting and labor for Kings Funeral Home 135 Cemetery ST.

Chester SC. 29706 inside & repairing ceiling in chapel

\$2975.00

*8-4-2000*

Painting the Outside Structure of Funeral Home

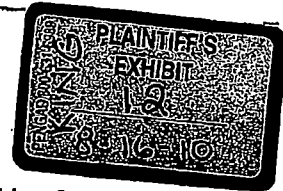
\$1,375.00

*Moses J. Caldwell Jr.*

Moses J. Caldwell JR. Manager

P.O. Box 6055  
Marietta, Georgia 30065

**CRAIN SALES**  
Marietta, Phone: Area 770-420-4421  
Wats 1-800-241-3486  
Fax 1-770-421-8292



765 Pickens Dr. Ext.  
Marietta, Georgia 30062

FAX \_\_\_\_\_

PHONE 803-325-2020

DATE 9/29 1999

NAME King Federal Home

ADDRESS 135 Cemetery

CITY Chester

COUNTY Chester

STATE S.C.

ZIP 29706

MODEL: 1996 Cadillac Escalade 6000 Limo

PRICE

\$39,900.00

VIN # \_\_\_\_\_

PAINT SPEC: Upper Panel \_\_\_\_\_

Lower Panel and Fenders \_\_\_\_\_

Black

UPHOLSTERY: Front: Basic Trim \_\_\_\_\_

Fluted and Inserts \_\_\_\_\_

Rear: Basic Trim \_\_\_\_\_

Fluted and Inserts \_\_\_\_\_

Headlining \_\_\_\_\_

Headlining \_\_\_\_\_

DRAPES: \_\_\_\_\_

FLOORING: \_\_\_\_\_

ADDITIONAL EXTRAS: \_\_\_\_\_

NAMEPLATES: Print \_\_\_\_\_

|                             |
|-----------------------------|
| THE INFORMATION YOU SEE ON  |
| THE WINDOW FORM (BUYER'S    |
| GUIDE) FOR THIS VEHICLE IS  |
| PART OF THIS CONTRACT.      |
| INFORMATION ON THE WINDOW   |
| FORM OVERRIDES ANY CONTRARY |
| PROVISIONS IN THE CONTRACT  |
| OR SALE                     |

Mileage \_\_\_\_\_

Total Cash Price for Car and Equipment, F.O.B. \_\_\_\_\_

Delivery Charge F.O.B. \_\_\_\_\_

State Tax \_\_\_\_\_

Misc. Tax \_\_\_\_\_

E.O.M. \_\_\_\_\_

Total Cash Price, F.O.B., E.O.M., Tax \_\_\_\_\_

Cash Payment With Order \_\_\_\_\_ (1)

Trade-In Allowance - Year \_\_\_\_\_

Make \_\_\_\_\_

Model \_\_\_\_\_

(2) \$ \_\_\_\_\_

(3) \$ \_\_\_\_\_

VIN # \_\_\_\_\_

MILEAGE \_\_\_\_\_

Total Payment on Delivery (1 minus 4) \_\_\_\_\_

\$40,200.00

CRAIN SALES

(Signature)

(Signature)

King Federal Home

By \_\_\_\_\_

(Signature)

(Signature)

By \_\_\_\_\_

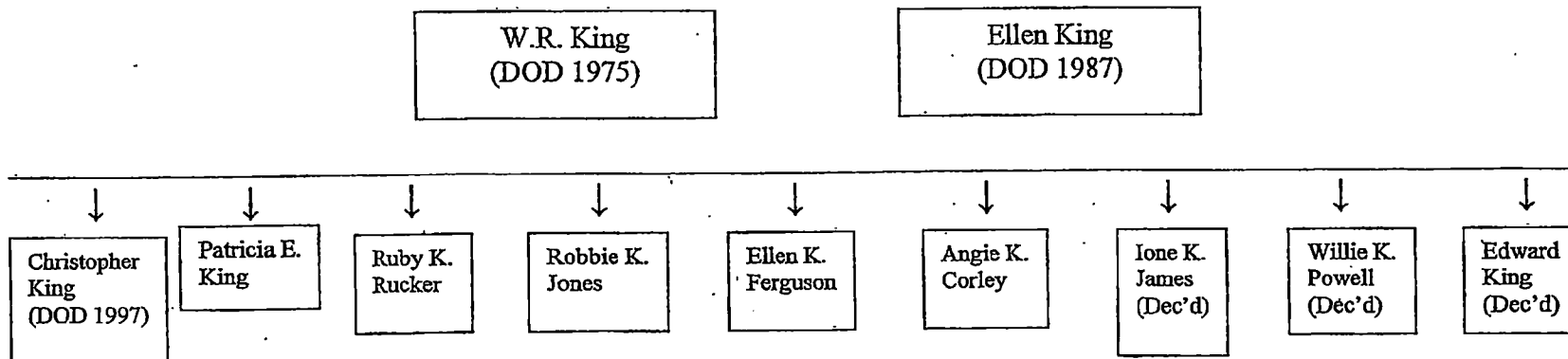


# King Funeral Home -SC Funeral Work Sheets (\*) Summary

| Year        | Gross Income | Gross Profit | Net Profit (Loss) | GP %  | NP%    |
|-------------|--------------|--------------|-------------------|-------|--------|
| 2009(Draft) | 613,820.42   | 366,029.97   | 6,495.03          | 59.6% | 1.10%  |
| 2008        | 535,443.24   | 213,747.31   | 1,138.72          | 39.9% | 0.20%  |
| 2007        | 500,331.29   | 179,537.13   | (18,582.18)       | 35.9% | -3.70% |
| 2006        | 540,981.15   | 177,957.22   | 1,040.82          | 32.9% | 0.20%  |
| 2005        | 548,943.40   | 153,000.74   | 13,831.82         | 27.9% | 2.50%  |
| 2004        | 594,876.99   | 194,497.13   | 6,638.67          | 32.7% | 1.10%  |
| 2003        | 509,112.03   | 197,086.12   | 26,009.33         | 38.7% | 5.10%  |
| 2002        | 420,948.74   | 167,543.56   | 10,323.99         | 39.8% | 2.50%  |
| 2001        | 381,519.00   | 167,916.00   | 4,147.00          | 44.0% | 1.10%  |
| 2000        | 345,873.11   | 135,841.11   | (6,805.89)        | 39.3% | -2.00% |
| Aver.       | 499,184.94   | 195,315.63   | 4,423.73          | 39.1% | 0.81%  |



# King Family Tree



PLAINTIFFS  
EXHIBIT  
15  
8-16-10



THE STATE OF SOUTH CAROLINA

In Probate Court

COUNTY OF Chester

By the HONORABLE E. K. Hardin JUDGE OF PROBATE  
for the County of Chester in the State aforesaid:

To all whom these Presents shall come—GREETING:

WHEREAS, at the April Term 1988 of the Court of Probate for Chester County, on the 1 day of April in the year of our Lord one thousand nine hundred and 88 the petition of Edward J. King and Patricia E. King on the estate of Ellen N. King deceased, late of Chester County in this State, was presented setting forth that the duties of said Administrators had been fully discharged, and praying to be released from the same.

AND WHEREAS, the said Edward J. King and Patricia E. King has complied with Paragraph 213, Volume 1, of the Code of Procedure 1932, and published in conformity to law for at least one month, a Citation calling upon all persons concerned to show cause on or before the 6 day of May why said application should not be granted. And whereas, said Citation has been published in Chester News & Reporter a newspaper of said county, for the space of one month, and no cause being shown against said application, and it appearing from an examination of the situation of the affairs of the said estate that the petitioner has faithfully and honestly discharged the trust and confidence reposed in him.

NOW, KNOW ALL MEN BY THESE PRESENTS, That

Edward J. King and Patricia E. King is from henceforth and forever discharged and dismissed from all liability as Administrators

as aforesaid

WITNESS Honorable E. K. Hardin Judge of Probate  
for Chester County, the 20 day of October in the year of our Lord one thousand nine hundred and eighty-nine

E. K. Hardin (L.S.)  
Judge of Probate

A TRUE COPY  
Low N. Rodley  
JUDGE OF PROBATE  
CHESTER COUNTY, S.C.

Recorded- Book 10  
Page 302

**PROBATE COURT**

Chester COUNTY

**Letters Dismissory**

STATE PRINTING GREENVILLE, S. C.

PLAT OF SURVEY FOR  
PATRICIA E. KING  
BEING A TRACT LOCATED ON CEMETERY STREET  
CONSISTING OF THREE PARCELS AND BUILDING KNOWN  
AS KING'S FUNERAL HOME

709-398-0831

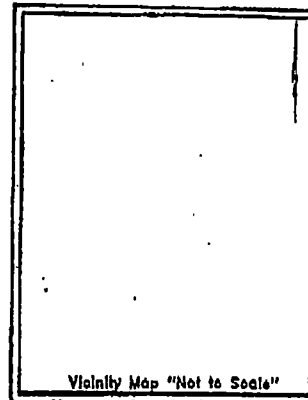
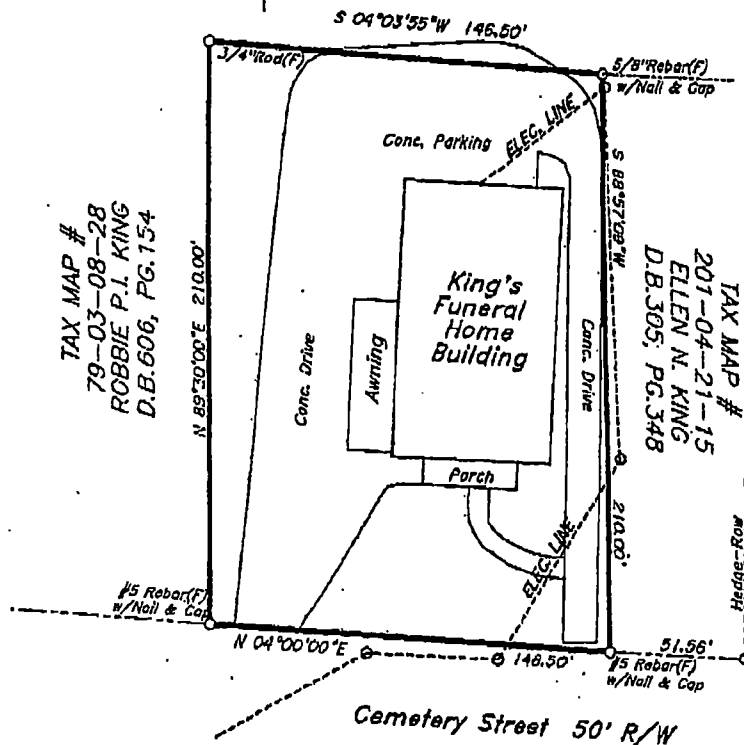


OCTOBER 7, 1997

TAX MAP 79-03-08-027, 201-04-21-017, 201-04-21-016  
D.B. 502, PG. 703; D.B. 505, PG. 311; D.B. 485, PG. 137

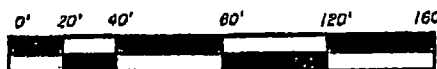
TAX MAP #  
79-03-08-28  
ROBBIE P.I. KING  
D.B. 606, PG. 154

MAGNETIC NORTH



**"LEGEND"**  
(F) = Found or Existing  
(S) = Set/New Rebar  
EIP = Existing Iron Pin/Pipe  
o = Points Shown on Surrounding  
are Construction Points unless noted  
NIP = NEW/SET

SCALE: 1" = 40'



**NOTE:**  
Deed Restrictions  
Not Shown

**ASHMARK LAND SURVEYORS**

222 SALUDA STREET  
ROCK HILL, SOUTH CAROLINA  
PHONE: (803) 324-2475

Drawn By: Sharon Lee U'Ren

THE INFORMATION SHOWN HEREON IS THE RESULT OF A SURVEY  
PERFORMED UNDER THE SUPERVISION OF EDWARD F. WOODWARD AND WAS  
COMPLETED ON THE DATE SHOWN ABOVE. THE SURVEY WAS PERFORMED IN  
ACCORDANCE WITH THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE  
OF LAND SURVEYING AS ADOPTED UNDER THE CODE OF LAWS OF SOUTH  
CAROLINA, TITLE 40, CHAPTER 21, AND IS OF CLASS-A STANDARD. THE  
AREA (IF SHOWN) WAS DETERMINED USING THE D.M.D. METHOD. BEARINGS  
WERE RECKONED AS SHOWN. ENCROACHMENTS ARE AS SHOWN UNLESS  
NOTED OTHERWISE. ARE NOT WITHIN A SPECIAL FLOOD HAZARD ZONE  
ACCORDING TO FEMA MAPS.

*Edward F. Woodward*  
EDWARD F. WOODWARD R.L.S. 8613



# Chester County, SC



Date Created: 8/14/2010

Summary  
 Parcel ID 079-03-08-027-000  
 Property Address 135 CEMETERY STREET  
 Brief Tax Description FUNERAL HOME  
 (Note: Not to be used on legal documents)  
 Acres 0.00  
 Class C  
 District 02  
 Town Code

Owner  
 KING PATRICIA E

P O BOX 133  
 CHESTER SC 29706

Sales History  
 Date of Sale: 01/13/1980 Previous Owner: CHRISTOPHER C KING  
 Consideration: \$10.00 Previous Deed Reference:  
 Deed Book/Page: 502 / 7030 Previous Owner #2:  
 Plat Book/Page: / Previous Deed Reference #2:

| Valuation    | Class Code | Total Lots | Total Acres | Total Improv | Land Appraisal | Land Assessment | Building Appraisal | Building Assessment | Total Assessment |
|--------------|------------|------------|-------------|--------------|----------------|-----------------|--------------------|---------------------|------------------|
| Class 1      | C          | 1          | 0.00        | 1            | \$12,600.00    | 760             | \$254,670.00       | 15280               | 16040            |
| Class 2      |            | 0          | 0.00        | 0            | \$0.00         | 0               | \$0.00             | 0                   | 0                |
| Class 3      |            | 0          | 0.00        | 0            | \$0.00         | 0               | \$0.00             | 0                   | 0                |
| Class 4      |            | 0          | 0.00        | 0            | \$0.00         | 0               | \$0.00             | 0                   | 0                |
| Class 5      |            | 0          | 0.00        | 0            | \$0.00         | 0               | \$0.00             | 0                   | 0                |
| Tax Value    |            | 1          | 0.00        | 1            | \$12,600.00    | 760             | \$254,670.00       | 15280               | 16040            |
| Market Value |            | 1          | 0.00        | 1            | \$12,600.00    |                 | \$254,670.00       |                     |                  |

## Commercial Buildings

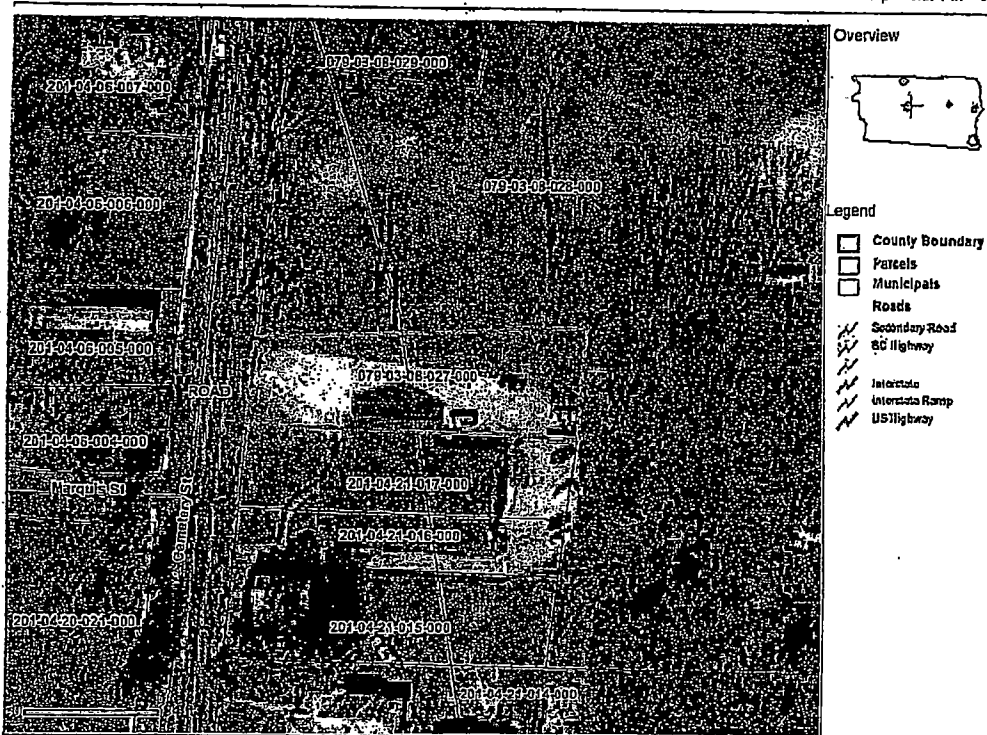
Comment 1  
 Comment 2  
 Comment 3  
 Class C  
 Sq Ft

No data available for the following modules: Residential Buildings, Ag Acreage, Ag Buildings. Click here for help.

Last Data Upload: 8/13/2010 11:17:02 PM

Schneider developed by  
 The Schneider Corporation  
 www.schneidercorp.com

Date Created: 8/14/2010  
Map Scale: 1 in = 84 ft



|                         |                     |                     |      |                      |                  |
|-------------------------|---------------------|---------------------|------|----------------------|------------------|
| <b>Parcel ID</b>        | 079-03-08-027-000   | <b>Alternate ID</b> | N/A  | <b>Owner Name</b>    | KING PATRICIA E  |
| <b>Sec/Twp/Rng</b>      |                     | <b>Class</b>        | .C   | <b>Owner Address</b> | KING PATRICIA E  |
| <b>Property Address</b> | 135 CEMETERY STREET | <b>Acreage</b>      | 0.00 |                      | P O BOX 133      |
|                         |                     |                     |      |                      | CHESTER SC 29706 |

|                              |                                           |
|------------------------------|-------------------------------------------|
| <b>District</b>              | 02                                        |
| <b>Brief Tax Description</b> | FUNERAL HOME                              |
|                              | (Note: Not to be used on legal documents) |

Last Data Upload: 8/13/2010 11:17:02 PM

 developed by  
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www.schneidercorp.com

# Chester County, SC



Date Created: 8/14/2010

## Summary

**Parcel ID** 201-04-21-017-000  
**Property Address** 135 CEMETERY STREET  
**Brief Tax Description** 135 CEMETERY  
 (Note: Not to be used on legal documents)  
**Acres** 0.00  
**Class** RN  
**District** 02C  
**Town Code** CH

## Owner

KING PATRICIA E

P O BOX 133  
 CHESTER SC 29706

## Sales History

**Date of Sale:** 06/25/1980  
**Consideration:** \$10.00  
**Deed Book/Page:** 505 / 3110  
**Plat Book/Page:** 181 / 0570

**Previous Owner:** ROBBIE K JONES  
**Previous Deed Reference:**  
**Previous Owner #2:**  
**Previous Deed Reference #2:**

## Valuation

|              | Class Code | Total Lots | Total Acres | Total Improv | Land Appraisal | Land Assessment | Building Appraisal | Building Assessment | Total Assessment |
|--------------|------------|------------|-------------|--------------|----------------|-----------------|--------------------|---------------------|------------------|
| Class 1      | RN         | 1          | 0.00        | 0            | \$8,500.00     | 510             | \$0.00             | 0                   | 510              |
| Class 2      |            | 0          | 0.00        | 0            | \$0.00         | 0               | \$0.00             | 0                   | 0                |
| Class 3      |            | 0          | 0.00        | 0            | \$0.00         | 0               | \$0.00             | 0                   | 0                |
| Class 4      |            | 0          | 0.00        | 0            | \$0.00         | 0               | \$0.00             | 0                   | 0                |
| Class 5      |            | 0          | 0.00        | 0            | \$0.00         | 0               | \$0.00             | 0                   | 0                |
| Tax Value    |            | 1          | 0.00        | 0            | \$8,500.00     | 510             | \$0.00             | 0                   | 510              |
| Market Value |            | 1          | 0.00        | 0            | \$8,500.00     |                 | \$0.00             |                     |                  |

## Residential Buildings

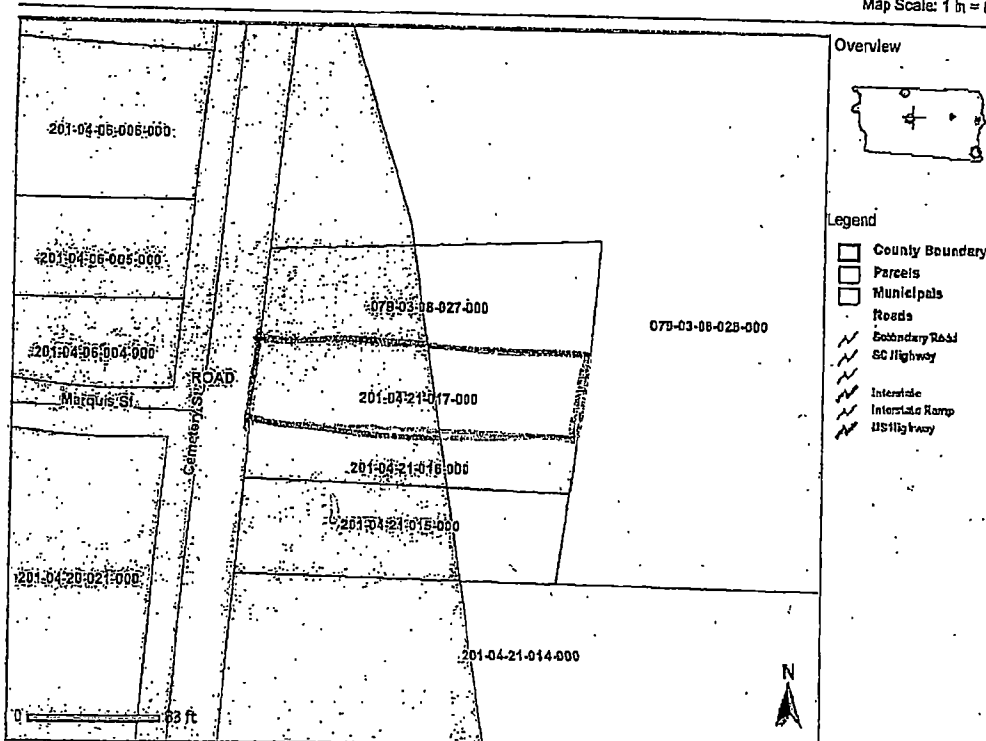
**Class** R  
**Bldg Grade**  
**# Stories**  
**Ext Wall**  
**# Lots** 000000100

No data available for the following modules: Commercial Buildings, Ag Acreage, Ag Buildings. Click here for help.

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Date Created: 8/14/2010  
Map Scale: 1 in = 63 ft



|                              |                                           |                     |      |                      |                  |
|------------------------------|-------------------------------------------|---------------------|------|----------------------|------------------|
| <b>Parcel ID</b>             | 201-04-21-017-000                         | <b>Alternate ID</b> | N/A  | <b>Owner Name</b>    | KING PATRICIA E  |
| <b>Sec/Twp/Rng</b>           |                                           | <b>Class</b>        | RN   | <b>Owner Address</b> | KING PATRICIA E  |
| <b>Property Address</b>      | 135 CEMETERY STREET                       | <b>Acres</b>        | 0.00 |                      | P O BOX 133      |
|                              |                                           |                     |      |                      | CHESTER SC 29706 |
| <b>District</b>              | 02C                                       |                     |      |                      |                  |
| <b>Brief Tax Description</b> | 135 CEMETERY                              |                     |      |                      |                  |
|                              | (Note: Not to be used on legal documents) |                     |      |                      |                  |

Last Data Upload: 8/13/2010 11:17:02 PM

 developed by  
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Date Created: 8/14/2010  
Map Scale: 1 in = 83 ft



Overview



Legend

-  County Boundary
-  Parcels
-  Municipals
-  Roads
-  Secondary Road
-  SC Highway
-  Interstate
-  Interstate Ramp
-  US Highway

|                       |                                           |              |      |               |                  |
|-----------------------|-------------------------------------------|--------------|------|---------------|------------------|
| Parcel ID             | 201-04-21-017-000                         | Alternate ID | N/A  | Owner Name    | KING PATRICIA E  |
| Sec/Twp/Rng           |                                           | Class        | RN   | Owner Address | KING PATRICIA E  |
| Property Address      | 135 CEMETERY STREET                       | Acreage      | 0.00 |               | P O BOX 133      |
|                       |                                           |              |      |               | CHESTER SC 29706 |
| District              | 02C                                       |              |      |               |                  |
| Brief Tax Description | 135 CEMETERY                              |              |      |               |                  |
|                       | (Note: Not to be used on legal documents) |              |      |               |                  |

Last Data Upload: 8/13/2010 11:17:02 PM

# Chester County, SC



Date Created: 8/14/2010

## Summary

Parcel ID: 201045215016002  
 Property Address: 133 CEMETERY STREET  
 Brief Tax Description: 133 CEMETERY  
 (Note: Not to be used on legal documents)  
 Acres: 0.00  
 Class: RN  
 District: 02C  
 Town Code: CH

## Owner

KING PATRICIA E  
 4000 BEATTIES FORD RD  
 CHARLOTTE NC 28216

## Sales History

Date of Sale: 02/18/1977  
 Consideration: \$3,000.00  
 Deed Book/Page: 485 / 1370  
 Plat Book/Page: /  
 Previous Owner: ROBBIE K & HOWA  
 Previous Deed Reference:  
 Previous Owner #2:  
 Previous Deed Reference #2:

## Valuation

|              | Class Code | Total Lots | Total Acres | Total Improv | Land Appraisal | Land Assessment | Building Appraisal | Building Assessment | Total Assessment |
|--------------|------------|------------|-------------|--------------|----------------|-----------------|--------------------|---------------------|------------------|
| Class 1      | RN         | 1          | 0.00        | 0            | \$7,000.00     | 420             | \$0.00             | 0                   | 420              |
| Class 2      |            | 0          | 0.00        | 0            | \$0.00         | 0               | \$0.00             | 0                   | 0                |
| Class 3      |            | 0          | 0.00        | 0            | \$0.00         | 0               | \$0.00             | 0                   | 0                |
| Class 4      |            | 0          | 0.00        | 0            | \$0.00         | 0               | \$0.00             | 0                   | 0                |
| Class 5      |            | 0          | 0.00        | 0            | \$0.00         | 0               | \$0.00             | 0                   | 0                |
| Tax Value    |            | 1          | 0.00        | 0            | \$7,000.00     | 420             | \$0.00             | 0                   | 0                |
| Market Value |            | 1          | 0.00        | 0            | \$7,000.00     |                 | \$0.00             |                     | 420              |

## Residential Buildings

Class: R  
 Bldg Grade:  
 # Stories:  
 Ext Wall:  
 # Lots: 000000100

No data available for the following modules: Commercial Buildings, Ag Acreage, Ag Buildings. Click here for help.

Last Data Upload: 8/13/2010 11:17:02 PM

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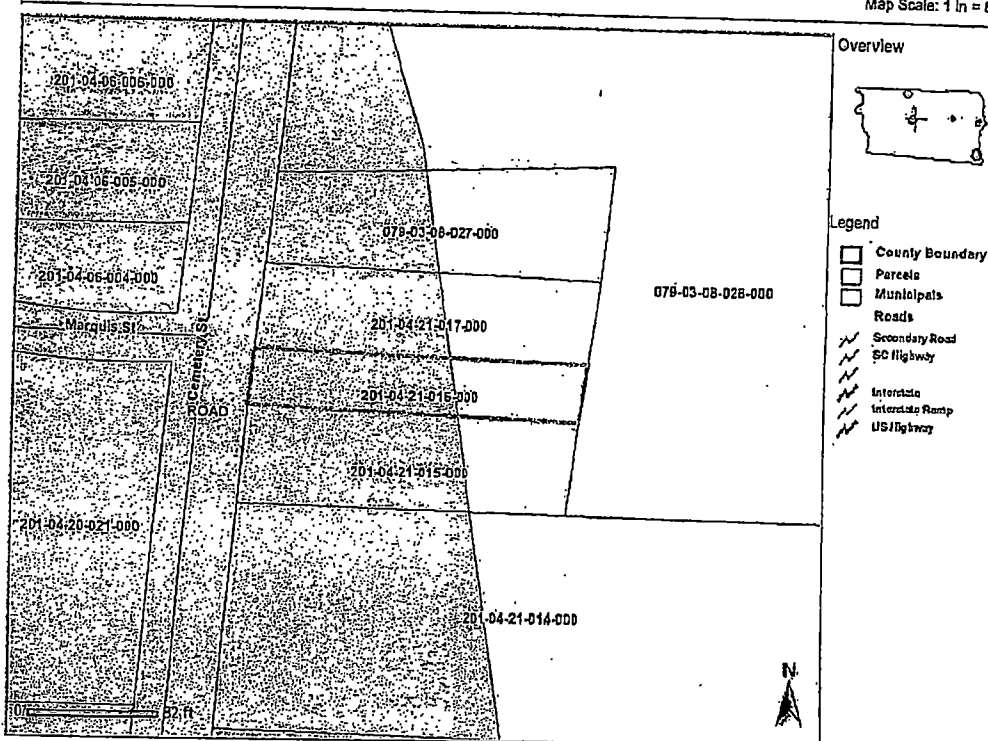
Date Created: 8/14/2010  
Map Scale: 1 in = 82 ft



|                              |                                           |                     |      |                      |                       |
|------------------------------|-------------------------------------------|---------------------|------|----------------------|-----------------------|
| <b>Parcel ID</b>             | 201-04-21-016-000                         | <b>Alternate ID</b> | N/A  | <b>Owner Name</b>    | KING PATRICIA E       |
| <b>Sec/Twp/Rng</b>           |                                           | <b>Class</b>        | RN   | <b>Owner Address</b> | KING PATRICIA E       |
| <b>Property Address</b>      | 133 CEMETERY STREET                       | <b>Acreage</b>      | 0.00 |                      | 4000 BEATTIES FORD RD |
|                              |                                           |                     |      |                      | CHARLOTTE NC 28216    |
| <b>District</b>              | D2C                                       |                     |      |                      |                       |
| <b>Brief Tax Description</b> | 133 CEMETERY                              |                     |      |                      |                       |
|                              | (Note: Not to be used on legal documents) |                     |      |                      |                       |

Last Data Upload: 8/13/2010 11:17:02 PM

Date Created: 8/14/2010  
Map Scale: 1 in = 82 ft



|                              |                                           |                     |      |                      |                       |
|------------------------------|-------------------------------------------|---------------------|------|----------------------|-----------------------|
| <b>Parcel ID</b>             | 201-04-21-016-000                         | <b>Alternate ID</b> | N/A  | <b>Owner Name</b>    | KING PATRICIA E       |
| <b>Sec/Twp/Rng</b>           |                                           | <b>Class</b>        | RN   | <b>Owner Address</b> | KING PATRICIA E       |
| <b>Property Address</b>      | 133 CEMETERY STREET                       | <b>Acreage</b>      | 0.00 |                      | 4000 BEATTIES FORD RD |
|                              |                                           |                     |      |                      | CHARLOTTE NC 28216    |
| <b>District</b>              | 02C                                       |                     |      |                      |                       |
| <b>Brief Tax Description</b> | 133 CEMETERY                              |                     |      |                      |                       |
|                              | (Note: Not to be used on legal documents) |                     |      |                      |                       |

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 developed by  
The Schneider Corporation  
www.schneidercorp.com



State of South Carolina,  
COUNTY OF CHESTER

Please



Know All Men by These Presents, That WE CHRISTOPHER C. KING AND WIFE,  
MARGIE B. KING

436331  
JAN 16 11 20 AM '80  
RECORDED  
SIT  
CLERK OF COURT  
CHESTER COUNTY, S.C.

in the State aforesaid,

in consideration of the

sum of TEN DOLLARS (\$10.00)

to US paid by PATRICIA E. KING (SINGLE)

in the State aforesaid

have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said  
PATRICIA E. KING (SINGLE)

ALL that lot or parcel of land, situate in the City of Chester, said County and State, fronting on the East side of Cemetery St., and being 60 feet wide on the front and rear, and 210 feet deep, bounded by said street and by lands now or formerly of William Stinson, James H. Glenn or Madison Worthy and others, and being the identical land conveyed to R. E. Sims by J. E. Cornwell, Clerk of Court, by deed dated September 10, 1936, and recorded in the office of the Clerk of Court for Chester County in vol. 153, at page 689, and being the identical land conveyed to Christopher C. King by John C. Cohen by Deed dated July 7, 1967, recorded in the office of the Clerk of Court for Chester County, South Carolina.

BEING the same property conveyed to Christopher C. King recorded in Deed Book 432 at Page 329 recorded in the Clerk of Court for Chester County, South Carolina.

Grantee address is 129 Cemetery Street, Chester, South Carolina.

703

502-703

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

To HAVE AND TO HOLD all and singular the premises before mentioned unto the said

PATRICIA E. KING (SINGLE), HER

Heirs and Assigns forever.

And WE do hereby bind OURSELVES, OUR Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said

PATRICIA E. KING (SINGLE) HER

Heirs and Assigns against US and OUR Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS OUR Hand and Seal this 13 day of January  
in the year of our Lord one thousand nine hundred and ~~eighty~~  
and in the <sup>tw</sup> hundred and 40 year of the Sovereignty  
and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF

*William H. Powell*  
*Colt A. Williams*

*Christopher C. King*  
CHRISTOPHER C. KING  
*Margie B. King*  
MARGIE B. KING

(SEAL)

(SEAL)

704

STATE OF SOUTH CAROLINA.

CHESTER

COUNTY.

PERSONALLY appeared before me

Robert A. Wilson

and made oath that he saw the within-named Christopher C. King and Margie B. King  
 sign, seal and, as their act and deed, deliver the within-written Deed for the uses and purposes therein men-  
 tioned and that he, with Willie R. Powell witnessed the  
 execution thereof.

SWORN to before me this 13th.

day of Jan.

1980

Moses J. Caldwell, Jr. (L.S.)  
 Notary Public of S.C.

*Robert A. Wilson*  
 Robert A. Wilson

STATE OF SOUTH CAROLINA.

CHESTER

COUNTY.

RENUNCIATION OF DOWER

I, Moses J. Caldwell, Jr.

do hereby certify

unto all whom it may concern, that Mrs. Margie B. King  
 the wife of the within-named Christopher C. King  
 did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely,  
 voluntarily and without any compulsion, dread, or fear of any person or persons whomsoever, renounce, release and for-  
 ever relinquish unto the within-named Patricia E. King, her-----

heirs

and assigns, all her interest and estate, and also all her right and claim of Dower of, in or to all and singular the premises  
 within mentioned and released.

Given under my Hand and Seal, this 13th

day of January

Anno Domini 1980

Moses J. Caldwell, Jr. (L.S.)  
 Notary Public of S.C.

*Margie B. King*

State of South Carolina,

County of CHESTER

CHRISTOPHER C. KING, AND WIFE,  
MARGIE B. KING

TO  
PATRICIA E. KING (SINGLE)  
128 County Street  
Chester, S.C.

TITLE TO REAL ESTATE

I hereby certify that the within Deed was filed for  
record in my office at 11:26 A. M. o'clock on  
the 16<sup>th</sup> day of January  
1980, and was immediately entered upon the proper  
indexes and duly recorded in Book 512.

of Deeds, page 113  
John E. Robert, Jr.  
Clerk of Court of Common Pleas and General Sessions  
for Chester County, S. C.

I hereby certify that the within Deed has been

this 16<sup>th</sup> day of  
January, A. D. 1980, Recorded  
in Book I Deeds, page  
John E. Robert, Jr. Auditor  
for Chester County

7738.21  
11.80

311

TITLE TO REAL ESTATE  
The E. I. Ryan Company, Columbia, S. C.

Form 14

State of South Carolina,

PLEASE DO NOT PUBLISH

COUNTY OF CHESTER



Know All Men by These Presents, That **ROBBIE K. JONES**

*4.02*  
*R.# 7778*  
*JUN 26 2 30 PM '00*  
*CHESTER COUNTY, S.C.*

in the State aforesaid,

sum of TEN DOLLARS (\$10.00)

to **ME** paid by**PATRICIA E. KING (SINGLE)**

in the State aforesaid.

have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said  
**PATRICIA E. KING (SINGLE)**

ALL that lot or parcel of land with dwelling house and other improvements thereon, being partly within the corporate limits of the City of Chester, County and State aforesaid, containing 1/5 of an acre, more or less, as will more fully appear by reference to plat thereof made by James McLaron, C.E., dated June 21, 1921, and recorded in vol. 181 at page 570, and being now or formerly bounded on the West by Cemetery St., on which it fronts, on the North by lands of Wm. Stinson and others, on the East by lot of F.M. Boulware and on the South by lot of Madison Worthy and others, and being the identical premises conveyed to Christopher C. King by John C. Cohen and Gazetta Harris by Deed dated July 7, 1967, recorded in office of the Clerk of Court for Chester County, South Carolina.

BEING the same property conveyed to Robbie K. Jones from Will R. King (known as W.R. King) by Deed dated March 10, 1973 and recorded in the Office of the Clerk of Court for Chester County, S.C., Deed Book 499, Page 726. This conveyance is subject to the life estate of Ellen M. King.

Grantee's address is 129 Cemetery Street, Chester, South Carolina.

311

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

To HAVE AND TO HOLD all and singular the premises before mentioned unto the said

PATRICIA E. KING (SINGLE), HER

Heirs and Assigns forever.

And I do hereby bind MYSELF, MY Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said

PATRICIA E. KING (SINGLE), HER

Heirs and Assigns, against ME and MY Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS Here and Seal this 25th day of June  
in the year of our Lord one thousand nine hundred and Eighty  
and in the one hundred and fourth year of the Sovereignty  
and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF

*Herman Brown*  
*D. L. Hall*

*Robbie K. Jones* (SEAL)  
ROBBIE K. JONES (SEAL)

STATE OF SOUTH CAROLINA,

CHESTER

COUNTY.

PERSONALLY appeared before me Herman Brown

and made oath that he saw the within-named Robbie K. Jones  
 sign, seal and, as her act and deed, deliver the within-written Deed for the uses and purposes therein men-  
 tioned and that he, with I. L. Hall witnessed the  
 execution thereof.

SWORN to before me this 25th.

day of June, 1980

Moses J. Caldwell, Jr. (S.)  
 Notary Public of S. C.

Herman Brown

STATE OF SOUTH CAROLINA,

COUNTY.

RENUNCIATION OF DOWER

Not necessary

I,

do hereby certify

unip all whom it may concern, that Mrs.

the wife of the within-named

did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely,  
 voluntarily and without any compulsion, dread, or fear of any person or persons whomsoever, renounce, release and for-  
 ever relinquish unto the within-named

heirs

and assigns, all her interest and estate, and also all her right and claim of Dower of, in or to all and singular the premises  
 within mentioned and released.

Given under my Hand and Seal, this 25th

day of June

Anno Domini 1980

Moses J. Caldwell, Jr. (S.)  
 Notary Public of S. C.

State of South Carolina,

County of CHESTER

ROBBIE K. JONES

TO

*Paul*  
PATRICIA E. KING (SINGLE),  
*129 Penning St., Chester*

**TITLE TO REAL ESTATE**

I hereby certify that the within Deed was filed for  
record in my office at *2:38* P.M. o'clock on  
the *26th* day of *June*  
1980, and was immediately entered upon the proper  
indexes and duly recorded in Book *505*  
of Deeds, page *311*

*Rose K. Cantelero*  
Clerk of Court of Common Pleas and General Sessions  
for *Chester* County, S. C.

I hereby certify that the within Deed has been  
this *26th* day of

*June*, A. D. 1980, Recorded  
in Book *J.* of Deeds, page

*John E. Pakito, Jr.* Auditor  
for *Chester* County

The R. L. Ryan Company, Columbia, S. C.

COUNTY ASSESSOR

PARCEL # *2-01-4-21-17*

DATE *6-27-80*



Please do NOT  
Publish

State of South Carolina,

COUNTY OF CHESTER

137

TITLE TO REAL ESTATE,  
The R. L. Ryan Company, Columbia, S. C.

Form M



Know All Men by These Presents, That we, Robbie K. Jones and Howard Jones, all now or formerly of the State of South Carolina, County of Chester.



RECEIVED  
JUL 16 9 40 AM '11  
S. C. COURT, S. C.

in the State aforesaid, for and  
sum of \$3,600.00

in consideration of the

to us paid by Patricia E. King (Sawyer)

in the State aforesaid of South Carolina, County of Chester

have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said Patricia E. King, all of the following described real estate to wit:

All that lot of land with dwelling house thereon, situated on the East side of Cemetery Street, of the city of Chester, County and State aforesaid, being known as 133 Cemetery Street. The said lot fronts on Cemetery Street thirty-eight (38) feet, six (6) inches, and is in the shape of a parallelogram, and has a depth on either side of one hundred ninety-four (194) feet; bounded on the north by lot formerly of the Estate of Reuben Stinson, on the East and South by property now or formerly of Madison Worthy and Lula Worthy, and on the West by Cemetery Street.

This is the property commonly known as the estate lands of Isaac Hopkins and Ann Hopkins, and in the same property conveyed to Madison Worthy and Lula Worthy by Robert Nelson by deed dated December 29, 1916, and recorded in the office of the Clerk of Court for Chester County, South Carolina, in Deed Book 165 at page 138 and on August 23, 1941, conveyed by said Madison Worthy and Lula Worthy to J. S. Allen by deed recorded in the office of the Clerk of Court for Chester County, South Carolina, in Deed Book 304 at page 502.

485/11

This being the same property left to M. Walker Allen, Fernice Allen Spellman, and Roseva M. Allen Allison by will of Lucille Walker Allen dated December 15, 1949. Item 15 of said will. Said will was filed in the office of the Probate Judge for Chester County, South Carolina.

This being the same property conveyed by M. Walker Allen, Fernice Allen Spellman, and Roseva M. Allen Allison to Robbie K. Jones and Howard Jones on the 8th of December, 1953 located in Pook G.

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

To HAVE AND TO HOLD all and singular the premises before mentioned unto the said Patricia E. King

Heirs and Assigns forever.

And we do hereby bind ourselves, our Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said Patricia E. King and her

Heirs and Assigns, against us and our respective person whomsoever lawfully claiming, or to claim, the same or any part thereof.

Heirs and against every

WITNESS Hand and Seal this 18th day of Feb.

in the year of our Lord one thousand nine hundred and 77

and in the one hundred and

year of the Sovereignty

and Independence of the United States of America.

SIGN D. SEALED AND DELIVERED  
IN THE PRESENCE OF

Mrs. Caldwell  
Christina King

Howard Jones  
Robbie K. Jones

(SEAL)

(SEAL)

STATE OF SOUTH CAROLINA,  
Chester COUNTY.

PERSONALLY appeared before me Moses Caldwell

and made oath that he saw the within-named Robbie K. Jones and Edward Jones  
sign, seal and, as Their act and deed, deliver the within-written Deed for the uses and purposes therein men-  
tioned and that he, with Herman Brown witnessed the  
execution thereof.

SWORN to before me this 18<sup>th</sup>

day of Feb. 19 77  
Christopher O. King (L.S.)  
Notary Public of S.C.

Moses Caldwell

STATE OF SOUTH CAROLINA,  
Chester COUNTY.

RENUNCIATION OF DOWER

I, \_\_\_\_\_, do hereby certify  
unto all whom it may concern, that Mrs. Robbie K. Jones  
the wife of the within-named Edward Jones  
did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely,  
voluntarily and without any compulsion, dread, or fear of any person or persons whomsoever, renounce, release and for-  
ever relinquish unto the within-named Patricia E. King and her

heirs  
and assigns, all her interest and estate, and also all her right and claim of Dower of, in or to all and singular the premises  
within mentioned and released.

Given under my Hand and Seal, this 18<sup>th</sup>

day of Feb.  
Anno Domini 19 77  
Christopher O. King (L.S.)  
Notary Public of S.C.

Robbie K. Jones

State of South Carolina,

County of Chester

Robbie K. Jones  
Howard Jones  
TO

Patric in E. King (Single)  
122 Cemetery St. Chester, S.C.

**TITLE TO REAL ESTATE**

I hereby certify that the within Deed was filed for  
record in my office at 9:40 A. M. o'clock on  
the 16<sup>th</sup> day of March,  
1977, and was immediately entered upon the proper  
indexes and duly recorded in Book 485  
of Deeds, page 137

J. B. Bankhead  
Clerk of Court of Common Pleas and General Sessions  
for Chester County, S. C.

I hereby certify that the within Deed has been  
this 16<sup>th</sup> day of  
March, A. D. 1977, Recorded

In Book I of Deeds, page  
John E. Roberts, Jr. Auditor  
for Chester County

COUNTY ASSESSOR

PARCEL # 261-4-21-16

DATE 3-16-77

State of South Carolina  
COUNTY OF CHESTER

MORTGAGE



TO ALL WHOM THESE PRESENTS MAY CONCERN: I, Patricia E. King

in the STATE aforesaid, hereinafter called Mortgagor, whether one or more, send greetings:

WHEREAS, Mortgagor is well and truly indebted to THE CHESTER BUILDING AND LOAN ASSOCIATION, a corporation of the State of South Carolina, with its principal office in the City of Chester, County and State aforesaid, hereinafter referred to as Mortgagee, evidenced by note of Mortgagor of even date with these presents, the terms of which are incorporated herein by reference, in the sum of

NINETY THOUSAND and no/100----- DOLLARS

\$90,000.00 with interest thereon from date at the rate provided in said note, said principal and in-

terest to be paid in installments of ONE THOUSAND EIGHTY and 15/100----- DOLLARS

\$1080.15 upon the first day of each and every calendar month beginning with the first day of

November, 1980 and on the first day of each month thereafter, until the principal and interest are fully paid, providing that the final payment of principal and interest, if not sooner paid, shall be due and payable on the 1st day of October, 1995. There shall be a late charge of 4 per cent of any monthly installment not received by the last day of the month, with a minimum late charge of \$5.00.

NOW, KNOW ALL MEN BY THESE PRESENTS, That Mortgagor in order to secure the payment of said sum of money according to the tenor of said note, or according to whatever else may evidence the said debt, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto said Mortgagee, its successors and assigns, the following described property, to-wit:

ALL that certain piece, parcel or tract of land, together with building and any and all other improvements thereon, lying and being situate on the Eastern side of Cemetery Street in the City of Chester, Chester County, South Carolina, and being known and designated as 135 Cemetery Street, and having a frontage on Cemetery Street of 150 feet, more or less, a rearage of 150 feet, more or less, and a depth on each side of 210 feet, more or less; and being bounded now or formerly on the North and the East by property of Ocey M. Thompson, on the South by property of Ellen N. King, and on the West by the edge of Cemetery Street upon which it fronts; and being the same property obtained by Patricia E. King from the following sources of title: Deed of Robbie K. Jones and Howard Jones dated February 18, 1977, recorded March 16, 1977 in Deed Book 485 at page 137; Deed of Christopher C. King and Margie B. King dated January 13, 1980, recorded January 16, 1980 in Deed Book 502 at page 703; Deed by Robbie K. Jones dated June 25, 1980, recorded June 26, 1980 in Deed Book 505 at page 311. Attention is directed to Plat by James McLarnon of Lands of Estate of Reuben Stinson dated June 21, 1921, recorded in Deed Book 181 at page 570, the above described property being comprised of the Hopkins lot, the 1/5 acre lot, and the Northern portion of the Madison Worthy lot on said McLarnon Plat. All in the office of the Clerk of Court for Chester County, S.C.

In the event this property is sold by the mortgagor and the purchaser assumes the payment of the loan, then the mortgagee shall have the right to increase the rate of interest of this loan to a rate not exceeding the legal limit fixed by law and in effect at the time of said sale and the monthly payments shall be adjusted accordingly.

Together with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in any wise incident or appertaining.

To Have and to Hold, all and singular the said property unto the Mortgagee, its successors and assigns, forever.

The Mortgagor covenants that he is lawfully seized of the premises hereinabove described in fee simple absolute (or such other estate, if any, as is stated hereinbefore), that he has good right and lawful authority to sell, convey, or encumber the same, and that the premises are free and clear of all liens and encumbrances whatsoever except as herein otherwise recited. The Mortgagor does hereby bind himself and his heirs, executors and administrators, to warrant and forever defend all and singular said premises unto said Mortgagee, its successors and assigns, against Mortgagor, his heirs, executors and administrators, and all persons whomsoever lawfully claiming, or to claim the same or any part thereof.

The Mortgagor covenants and agrees as follows:

1. He will promptly pay the principal of and interest on the indebtedness evidenced by the said note, at the time and in the manner therein provided.

2. He will insure and keep insured, in company or companies reasonably acceptable to Mortgagee, the buildings now or hereafter located on the said premises, against loss by fire and such other hazards as Mortgagee may require, for at least the insurable value thereof or the face amount of the said note, the policy or policies to be placed in possession of Mortgagee and have attached thereto loss payable clauses in favor of and in form acceptable to Mortgagee; and in the event Mortgagor fail or neglect to effect such insurance as aforesaid, then Mortgagee may do so and the premiums so paid shall rank as a part of the mortgage debt. In event of loss Mortgagor will give immediate notice by mail to the Mortgagee, who may make proof of loss if not made promptly by Mortgagor, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to the Mortgagee instead of to the Mortgagor and Mortgagee jointly, and the insurance proceeds, or any part thereof, may be applied by the Mortgagee at its option either to the reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged.

3. That he hereby assigns all the rents, issues, and profits of the mortgaged premises from and after any default hereunder, and should legal proceedings be instituted pursuant to this instrument, then the Mortgagee shall have the right to have a receiver appointed of the rents, issues, and profits, who after deducting all charges and expenses attending such proceedings and the execution of his trust as receiver, shall apply the residue of the rents, issues, and profits, toward the payment of the debt secured hereby.

4. The lien of this instrument shall remain in full force and effect during any postponement or extension of the time of payment of the indebtedness or any part thereof secured hereby.

5. He will pay all taxes, assessments, water rates, and other governmental or municipal charges, fines or impositions and in default thereof the Mortgagee may pay the same. If the Mortgagor fails to make any payments provided for in this section or any other payments for taxes, assessments, or the like, the Mortgagee may pay the same, and all sums so paid shall rank as a part of the mortgage debt.

6. That he will keep all improvements now existing or hereafter erected upon the mortgaged property in good repair, and should he fail to do so, the Mortgagee may, at its option, enter upon said premises and make whatever repairs are necessary, and the cost of any repairs made and paid for by the Mortgagee shall rank as a part of the mortgage debt.

7. That, at the option of the Mortgagee, this mortgage shall become due and payable forthwith if the Mortgagor shall convey away said mortgaged premises, or if the title shall become vested in any other person in any manner whatsoever other than by death of the Mortgagor.

8. Any and all advancements made by the Mortgagee for payment of insurance, taxes, repairs and the like may be added to the principal debt and shall bear interest at the same rate.

It is agreed that the Mortgagor shall hold and enjoy the premises above conveyed until there is a default under this mortgage or in the note or notes secured hereby. It is the true meaning of this instrument that if the Mortgagor shall fully perform all the terms, conditions, and covenants of this mortgage, and of the note or notes secured hereby, that then this mortgage shall be utterly null and void; otherwise to remain in full force and virtue. If there is a default in any of the terms, conditions or covenants of this mortgage, or of the note, or notes secured hereby, then, at the option of the Mortgagee, all sums then owing by the Mortgagor to the Mortgagee shall become immediately due and payable and this mortgage may be foreclosed. Should any legal proceedings be instituted for the foreclosure of this mortgage, or should the Mortgagee become a party to any suit involving this mortgage or the title to the premises described herein, or should the debt secured hereby or any part thereof be placed in the hands of an attorney at law for collection by suit or otherwise, all costs and expenses incurred by the Mortgagee, including a reasonable attorney's fee, shall thereupon become due and payable immediately or on demand, at the option of the Mortgagee, as a part of the debt secured hereby, and may be recovered and collected hereunder.



The covenants herein contained shall bind, and the benefits and advantages shall accrue to the respective heirs, executors, administrators, successors, and assigns of the parties herein. Wherever used, the singular number shall include the plural and the use of any gender shall be applicable to all genders.

739

WITNESS the hand and seal of each of the undersigned this 30th. day of

July 19 80

IN THE PRESENCE OF:

Karen D. Huskins  
Esther W. Bigham

Patricia E. King (L.S.)  
\_\_\_\_ (L.S.)  
\_\_\_\_ (L.S.)  
\_\_\_\_ (L.S.)

State of South Carolina  
COUNTY OF CHESTER

AFFIDAVIT

Personally appeared before me Karen D. Huskins  
and made oath that she saw the within named Patricia E. King

sign, seal and as her act and deed, deliver the within written mortgage, and that she with  
Esther W. Bigham witnessed the execution thereof.  
Sworn to before me this 30th. day of July 19 80.

Karen D. Huskins (SEAL)  
Notary Public for South Carolina  
My Commission Expires: 1-25-90

State of South Carolina  
COUNTY OF CHESTER

NOT NECESSARY: MORTGAGOR A WOMAN  
RENUNCIATION OF DOWER

I, \_\_\_\_\_, a Notary Public for South Carolina,  
do hereby certify unto all whom it may concern, that Mrs.

the wife of the within named \_\_\_\_\_ did this day appear before me,  
and upon being privately and separately examined by me, did declare that she does freely, voluntarily,  
and without any compulsion, dread or fear of any person or persons whomsoever, renounce, release  
and forever relinquish unto the within named THE CHESTER BUILDING AND LOAN ASSOCIA-  
TION, its successors and assigns, all her interest and estate, and also all her right and claim of dower  
of, in, or to, all and singular the premises within mentioned and released.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

\_\_\_\_ (SEAL)  
Notary Public for South Carolina  
My Commission Expires:

739

( COUNTY OF CHESTER

PATRICIA E. KING

THE CHESTER BUILDING AND LOAN  
ASSOCIATION

## Mortgage of Real Estate

I hereby certify that the within Mortgage has  
been this 27th day of July A.D. 1906  
recorded in my office in Book of Mortgages, at  
Book 27 Page 100

Clerk C. C. F. and R. M. C., Chester County, S. C.

479



STATE OF SOUTH CAROLINA )  
COUNTY OF CHESTER )

LEASE AGREEMENT



THIS LEASE AGREEMENT made and entered into this 16th day of July, 1980, by and between Patricia E. King of Chester, South Carolina (hereinafter sometimes referred to as LANDLORD), and Christopher C. King, doing business as King's Funeral Home, of Chester, South Carolina (hereinafter sometimes referred to as TENANT);

W I T N E S S E T H :

1. That Landlord hereby contracts and agrees to rent and lease to Tenant, and Tenant hereby agrees to lease from Landlord, that newly constructed building at 135 Cemetery Street, Chester, Chester County, South Carolina, located on the following described property:

ALL that certain piece, parcel or tract of land, together with building and any and all other improvements thereon; lying and being situate on the Eastern side of Cemetery Street in the City of Chester, Chester County, South Carolina, and being known and designated as 135 Cemetery Street, and having a frontage on Cemetery Street of 150 feet, more or less, a rearage of 150 feet, more or less, and a depth on each side of 210 feet, more or less; and being bounded now or formerly on the North and the East by property of Ocey M. Thompson, on the South by property of Ellen N. King, and on the West by the edge of Cemetery Street upon which it fronts; and being the same property obtained by Patricia E. King from the following sources of title: Deed of Robbie K. Jones and Howard Jones dated February 18, 1977, recorded March 16, 1977 in Deed Book 485 at page 137; Deed of Christopher C. King and Margie B. King dated January 13, 1980, recorded January 16, 1980 in Deed Book 502 at page 703; Deed by Robbie K. Jones dated June 25, 1980, recorded June 26, 1980 in Deed Book 505 at page 311. Attention is directed to Plat by James McLarnon of Lands of Estate of Reuben Stinson dated June 21, 1921, recorded in Deed Book 181 at page 570, the above described property being comprised of the Hopkins lot, the 1/5 acre lot, and the Northern portion of the Madison Worthy lot on said McLarnon Plat. All in the office of the Clerk of Court for Chester County, S.C.

2. The term of said lease shall be for a period of fifteen (15) years, commencing on November 1, 1980, and ending on October 31, 1995, at and for a monthly rental of TWELVE HUNDRED and no/100



575/7280

(\$1200.00) DOLLARS, payable in advance, on or before the first day of each and every calendar month during the term of this lease agreement.

3. Tenant hereby contracts and agrees to rent and lease the property described above from the Landlord upon the terms and for the period of time herein set forth.

4. Failure of either Tenant or Landlord to give the other party written notice sixty (60) days in advance of the expiration of this agreement, or any renewal thereof, of a desire to cancel or renew the same, shall be considered as conclusive evidence that both parties desire to continue said lease in full force and effect for a one (1) year term from and after the date of the expiration of the existing term, and to be accordingly bound at a monthly rental determined by reference to the Consumers' Price Index (all items) as set forth in Paragraph 5 hereof.

5. Tenant is hereby granted the further right to occupy said premises under the terms and conditions hereof by the exercise of one or more of three (3) successive options each for a period of five (5) years, the first optional period extending from November 1, 1995, until October 31, 2000; the second optional period extending from November 1, 2000, until October 31, 2005; and the third optional period extending from November 1, 2005, until October 31, 2010. The Tenant may exercise these options by giving written notice to Landlord at the address stated herein that Tenant will exercise such option and renew the lease for such additional term of five (5) years. Such notice shall be delivered personally to Landlord or mailed to Landlord at Landlord's address as set forth herein at least three (3) months before the expiration of the then existing term. During any renewal term the rent set forth in Paragraph 2 above shall be increased in the same proportionate amount as there is an increase in the Consumers' Price Index (all items) for March

*J. E. King*  
*O. R. K.*

721

-2-

preceding the termination of the existing term when compared with the Consumers' Price Index (all items) for March, 1980.

6. In addition to the rental payments set forth herein Tenant further agrees to pay as rent all real property ad valorem taxes assessed by any Governmental agency including, but not limited to, City, County, and State, when and as said taxes become due and payable.

7. Tenant agrees to keep the interior of the building on the leased premises in good order and repair, and to be responsible for all repairs and maintenance thereof at the sole expense of Tenant. Landlord agrees to maintain the roof, outside walls and exterior of the building on the leased premises in proper condition and repair. Tenant will promptly replace all broken glass at the sole expense of Tenant.

8. Tenant agrees that it will make no structural change, addition or major alteration to the premises without the written consent of Landlord.

9. Landlord agrees to procure and keep in effect a standard policy of fire and extended coverage insurance in an amount equal to the fair market value of the building upon the leased premises, for which amount Tenant shall reimburse Landlord as part of rent payment hereunder immediately upon Landlord furnishing Tenant with evidence of payment of same.

10. Tenant agrees to indemnify and save Landlord harmless from any claim or loss of any type which may arise or be occasioned by reason of Tenant's use or misuse of the leased premises, or from any claim or loss by reason of accident or damage to any person or property due to any act of negligence of Tenant, or condition of the premises caused by Tenant.

11. In the event the building located on the leased premises shall be destroyed or damaged by fire or other casualty

*P. E. K.*  
*C. C. H.*

which is covered by insurance, Landlord agrees that it will cause the said building to be replaced or repaired as rapidly as possible, and Tenant shall be entitled to an abatement of the rent to the extent of the loss of use suffered by Tenant.

12. Default. If Tenant shall fail to pay the rent as herein agreed, or if Tenant shall violate any other provision contained herein, and if such default shall continue for ten (10) days after Landlord shall give Tenant written notice thereof, Landlord may, at the sole option of Landlord, either terminate this lease or enter the premises and re-let the same at the best rent obtainable. Tenant shall remain liable for any deficiency between the rent agreed upon herein and that obtained upon re-letting.

13. Bankruptcy, etc. of Tenant. If Tenant becomes a bankrupt, makes an assignment for the benefit of the creditors of Tenant, becomes insolvent, or if a receiver is appointed for Tenant, then and in any event Landlord may, at the sole option of Landlord, terminate this lease.

14. End of term. Tenant shall, at the end of the term, yield up the premises in substantially the same condition as existed at the beginning of the term, reasonable wear and tear excepted.

15. Assignment, subleasing. Tenant may not assign this lease, or sublet the whole or any part thereof, without the written consent of Landlord.

16. Law applicable. This lease agreement shall be construed and interpreted according to the laws of the State of South Carolina.

17. All notices required hereunder shall be sufficient if mailed to the parties at the following addresses, which addresses may be altered and changed from time to time hereafter upon written notice to the other party, to-wit:

BEK  
CCH

726

-4-

As to Landlord:

Patricia E. King  
129 Cemetery Street  
Chester, S.C. 29706

As to Tenant:

Christopher C. King  
121 Cemetery Street  
Chester, S.C. 29706

IN WITNESS WHEREOF, the parties hereto have hereunto set  
their hands and seals in one or more counterparts, each to rank  
as an original, the date and year first above written.

Signed, sealed and delivered  
in the presence of:

Patricia E. King

Christopher C. King

Patricia E. King (L.S.)  
Patricia E. King, Landlord

Christopher C. King (L.S.)  
Christopher C. King, doing  
business as King's Funeral  
Home, Tenant

PSK  
COFF

727

-5-

STATE OF SOUTH CAROLINA )

COUNTY OF CHESTER )

PERSONALLY appeared before me Karen D. Huskins  
and made oath that she saw the within named Patricia E. King,  
as Landlord, sign, seal and as her act and deed, deliver the  
within written Lease Agreement, and that she with  
Esther W. Bigham witnessed the execution thereof.

SWORN to before me, this 30th day of July, 1980.

Esther W. Bigham (SEAL) Karen D. Huskins (L.S.)  
NOTARY PUBLIC FOR SOUTH CAROLINA  
My Commission Expires: 1/25/90

STATE OF SOUTH CAROLINA )

COUNTY OF CHESTER )

PERSONALLY appeared before me Karen D. Huskins  
and made oath that she saw the within named Christopher C. King  
doing business as King's Funeral Home, as Tenant, sign, seal and  
as his act and deed, deliver the within written Lease Agreement,  
and that she with Esther W. Bigham witnessed the  
execution thereof.

SWORN to before me, this 30th day of July, 1980.

Esther W. Bigham (SEAL) Karen D. Huskins (L.S.)  
NOTARY PUBLIC FOR SOUTH CAROLINA  
My Commission Expires: 1/25/90

728

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STATE OF SOUTH CAROLINA

COUNTY OF CHESTER

PATRICIA E. KING,

LANDLORD,

AND

CHRISTOPHER C. KING, DOING  
BUSINESS AS KING'S FUNERAL  
HOME,

TENANT.

LEASE AGREEMENT

Time *4:45 P.M.*  
*Recorded*  
Month *July*, Date *30-1970*  
Book *145*, Page *125*  
*Clerk of Court*  
*Charles E. S. C.*

GASTON & GASTON, P. A.  
ATTORNEYS AT LAW  
CHESTER, S. C. 29706

US \$ 225,000.00

# NOTE

Charlotte

City

North Carolina



July 31, 92  
19...

FOR VALUE RECEIVED, the undersigned ("Borrower") promise(s) to pay MECHANICS AND FARMERS BANK, or order, the principal sum of Two Hundred Twenty Five Thousand & no/100 Dollars, with interest on the unpaid principal balance from the date of this Note, until paid, at the rate of Nine (9.0%) percent per annum. Principal and interest shall be payable at 116 West Parrish Street, Durham, NC, or such other place as the Note holder may designate, in 59 consecutive monthly installments of \$ 2,282.10 and one final payment of \$ 182,434.91 on the 30th day of each month beginning August 30, 1992. Such monthly installments shall continue until the entire indebtedness evidenced by this Note is fully paid, except that any remaining indebtedness, if not sooner paid, shall be due and payable on July 30, 1997.

If any monthly installment under this Note is not paid when due and remains unpaid after a date specified by a notice to Borrower, the entire principal amount outstanding and accrued interest thereon shall at once become due and payable at the option of the Note holder. The date specified shall not be less than thirty days from the date such notice is mailed. The Note holder may exercise this option to accelerate during any default by Borrower regardless of any prior forbearance. If suit is brought to collect this Note, the Note holder shall be entitled to collect all reasonable costs and expenses of suit, including, but not limited to, reasonable attorney's fees.

Borrower shall pay to the Note holder a late charge of Four (4.0%) percent of any monthly installment not received by the Note holder within Fifteen (15) days after the installment is due.

Borrower may prepay the principal amount outstanding in whole or in part. The Note holder may require that any partial prepayments (i) be made on the date monthly installments are due and (ii) be in the amount of that part of one or more monthly installments which would be applicable to principal. Any partial prepayment shall be applied against the principal amount outstanding and shall not postpone the due date of any subsequent monthly installments or change the amount of such installments, unless the Note holder shall otherwise agree in writing. No prepayment penalty shall be charged.

Presentment, notice of dishonor, and protest are hereby waived by all makers, sureties, guarantors and endorsers hereof. This Note shall be the joint and several obligation of all makers, sureties, guarantors and endorsers, and shall be binding upon them and their successors and assigns.

Any notice to Borrower provided for in this Note shall be given by mailing such notice by certified mail addressed to Borrower at the Property Address stated below, or to such other address as Borrower may designate by notice to the Note holder. Any notice to the Note holder shall be given by mailing such notice by certified mail, return receipt requested, to the Note holder at the address stated in the first paragraph of this Note, or at such other address as may have been designated by notice to Borrower.

The indebtedness evidenced by this Note is secured by a Deed of Trust, dated July 31, 1992, and reference is made to the Deed of Trust for rights as to acceleration of the indebtedness and is further secured by assignments of cash value of life insurance policies Metropolitan 814934609ER, Southwestern 0090008911, and National Western 0100393018; and assignments of time accounts with M & F Bank #31-01332 and 31-01333.

Witness the hand(s) and seal(s) of the undersigned.

King Funeral Home

by Christopher C. King, Proprietor (SEAL)

Patricia E. King, Individually (Seal)

Robbie K. Jones, Individually (Seal)

Christopher C. King, Individually (Seal)  
(Execute Original Only)

135 Cemetery Street, Chester, SC

4332 Hyde Park Drive, Charlotte, NC

Property Address

NORTH CAROLINA—1 to 4 Family—6/75—FNMA/FHLMC UNIFORM INSTRUMENT  
LD-07-32

COPY





*Patricia E. King*  
Counselor and Attorney at Law  
4000 Beatties Ford Road  
Charlotte, North Carolina 28216

(704) 398-0827  
FAX: (704) 398-0831

AUGUST 20, 1997

Mr. Christopher C. King & All Other Occupants  
of 135 Cemetery Street, Chester, South Carolina  
Chester, South Carolina 29706

RE: TO CHRISTOPHER C. KING, AND ALL OTHER OCCUPANTS  
OF THE PREMISES LOCATED AT 135 CEMETERY STREET,  
CHESTER, SOUTH CAROLINA

NOTICE IS HEREBY GIVEN TO YOU, AND ALL OCCUPANTS of the premises located at 135 Cemetery Street, Chester, South Carolina, to vacate that premises within thirty (30) days following the receipt of this letter. This Notice To Vacate is pursuant to your violation of the terms of the Lease under which you have been occupying the premises. Failure to comply with this admonition will result in legal proceedings.

Yours truly,

A handwritten signature in cursive script that reads "Pat E King".

Patricia E. King  
Lessor of the premises  
known as 135 Cemetery Street  
Chester, South Carolina

# NOTE

US S. 486, 165, 16

CHARLOTTE

North Carolina

City

OCTOBER 10

97

19

FOR VALUE RECEIVED, the undersigned ("Borrower") promise(s) to pay MECHANICS AND FARMERS BANK, or order, the principal sum of One Hundred Eighty-Six Thousand, One Hundred sixty-five & 16/100 interest on the unpaid principal balance from the date of this Note, until paid, at the rate of EIGHT (8%) percent per annum. Principal and interest shall be payable at 116 West Parrish Street, Durham, NC, or such other place as the Note holder may designate, in 179 consecutive monthly installments of \$ 1,557.16 and one final payment of \$ 78,353.85 on the 9th day of each month beginning NOVEMBER 9, 19 97. Such monthly installments shall continue until the entire indebtedness evidenced by this Note is fully paid, except that any remaining indebtedness, if not sooner paid, shall be due and payable on OCTOBER 9, 2012.

If any monthly installment under this Note is not paid when due and remains unpaid after a date specified by a notice to Borrower, the entire principal amount outstanding and accrued interest thereon shall at once become due and payable at the option of the Note holder. The date specified shall not be less than thirty days from the date such notice is mailed. The Note holder may exercise this option to accelerate during any default by Borrower regardless of any prior forbearance. If suit is brought to collect this Note, the Note holder shall be entitled to collect all reasonable costs and expenses of suit, including, but not limited to, reasonable attorney's fees.

Borrower shall pay to the Note holder a late charge of FOUR (4%) percent of any monthly installment not received by the Note holder within FIFTEEN (15) days after the installment is due.

Borrower may prepay the principal amount outstanding in whole or in part. The Note holder may require that any partial prepayments (i) be made on the date monthly installments are due and (ii) be in the amount of that part of one or more monthly installments which would be applicable to principal. Any partial prepayment shall be applied against the principal amount outstanding and shall not postpone the due date of any subsequent monthly installments or change the amount of such installments, unless the Note holder shall otherwise agree in writing. No prepayment penalty shall be charged.

Presentment, notice of dishonor, and protest are hereby waived by all makers, sureties, guarantors and endorsers hereof. This Note shall be the joint and several obligation of all makers, sureties, guarantors and endorsers, and shall be binding upon them and their successors and assigns.

Any notice to Borrower provided for in this Note shall be given by mailing such notice by certified mail addressed to Borrower at the Property Address stated below, or to such other address as Borrower may designate by notice to the Note holder. Any notice to the Note holder shall be given by mailing such notice by certified mail, return receipt requested, to the Note holder at the address stated in the first paragraph of this Note, or at such other address as may have been designated by notice to Borrower.

The indebtedness evidenced by this Note is secured by a Deed of Trust, dated OCTOBER 10, 1997, and reference is made to the Deed of Trust for rights as to acceleration of the indebtedness evidenced by this Note.

Witness the hand(s) of **PAID IN FULL AND SATISFIED**  
**MECHANICS AND FARMERS BANK**  
**DURHAM, N.C.**

PER *[Signature]*  
Signature

135 Cemetery Street  
Chester, South Carolina 29706  
4332 Hyde Park Drive  
Charlotte, North Carolina 28216

Property Address

(Execute Original Only)

NORTH CAROLINA—1 to 4 Family—6/75—FHMA/FHLMC UNIFORM INSTRUMENT  
L.O.-07-32





STATE OF SOUTH CAROLINA )  
COUNTY OF CHESTER )

IN THE COURT  
OF COMMON PLEAS  
SIXTH JUDICIAL CIRCUIT

Patricia E. King and Robbie King Jones )  
as Representatives of W.R. King and )  
Ellen King, )

C.A. NO.: 98-CP-12-325

Plaintiffs, )

VS. )

ORDER

Margie B. King and Robbie Patricia Ione )

King, Individually and as CO-Personal )

Representatives of the Estate of )

Christopher C. King, Chester Telephone )

Company and Branch Banking & Trust )

(B B & T) )

Defendants. )

This matter came before me for a hearing January 15, 1999 on Plaintiff's Motion for  
Emergency Hearing, in which Plaintiffs prayed for the following relief:

1. Restraining Order restraining the Defendants from interfering with Plaintiff's  
operation of the King's Funeral Home, by blocking access to the property.
2. Furthermore, Plaintiff prayed for damages against the Defendants for conversion.
3. and For the Interpretation of the earlier Order issued by Judge Hayes as it related to  
Christopher King's Funeral Home.

This case involves a dispute over the ownership of a funeral home in Chester, South  
Carolina, and after listening to the arguments of Plaintiff's counsel, Cletus Kelechi  
Okpalaeké, and listening to the defense argument by Ross Foster, and the parties'  
agreement to mediate this matter, I make the following findings:

1. That a mutually ~~re~~ restraining order should be instituted, restraining the parties from  
physically interfering with the operation of King's Funeral Home and Christopher  
King's Funeral Home. Each party is hereby restrained from any physical contact with  
the operation of the funeral business of the other party. Defendants are further  
restrained from obstructing ingress and egress into the funeral home located at 135  
Cemetery Street, Chester, South Carolina.
2. I further find that the parties have agreed to refer this matter to a mediator and will  
attempt to resolve this action through mediation.

Therefore it is ORDERED, ADJUDGED AND DECREED that:

Both King Plaintiffs and King Defendants are mutually restrained from any type of physical interference with the operation of the respective funeral homes. Physical interference includes:

- a. Blocking access to the location of the King's Funeral Home or Christopher King Funeral Home.
- b. King Defendants are barred from blocking any of the paved drive through of the King's Funeral Home located at 135 Cemetery Drive, Chester, South Carolina.
- c. King Defendants are furthermore barred from the property known as 135 Cemetery Street, Chester, South Carolina.
- d. Nothing in this Restraining Order shall be interpreted to restrain each party from exercising his or her First Amendment rights to speech.
- e. The parties are ordered to mediate this case and attempt to resolve this action.

AND IT IS SO ORDERED

JUDGE

Dated 4 January 19, 1999

1     STATE OF SOUTH CAROLINA             )     IN THE COURT OF COMMON PLEAS  
 2     COUNTY OF CHESTER                 )     C/A NO.: 1998-CP-12-0325  
 3  
 4     Patricia E. King and Robbie King         )  
 5     Jones, as Representatives of W.R.         )  
 6     King and Ellen King,                     )     FINAL HEARING  
 7             Plaintiffs,                     )     APRIL 29, 2015  
 8     vs.                                     )  
 9     Margie B. King and Robbie Ione King,     )  
 10     Individually and as Co-personal         )  
 11     representatives of the Estate of         )  
 12     Christopher C. King, Deceased, and       )  
 13     Nelson M. King,                         )  
 14             Defendants.                     )  
 15     \_\_\_\_\_ )

16  
 17             Final hearing in the above captioned matter, before  
 18     the Honorable James C. Harrison, Jr., reported by Patricia  
 19     G. Bachand, Court Reporter and Notary Public in and for the  
 20     State of South Carolina; pursuant to Rule 30 of the South  
 21     Carolina Rules of Civil Procedure; said hearing was held at  
 22     the offices of Harrison & Radeker, PA, 923 Calhoun Street,  
 23     Columbia, South Carolina, on Wednesday, the 29th day of  
 24     April, 2015, scheduled for ten o'clock a.m. and commencing  
 25     at the hour of 10:06 a.m.

1 APPEARANCES:

2  
3 REPRESENTING THE PLAINTIFFS:

4 JOHN E. TYLER, ESQ.

5 Sweeny, Wingate & Barrow, PA

6 1515 Lady Street

7 Columbia, South Carolina 29201

8 (jet@swblaw.com)

9  
10 REPRESENTING THE DEFENDANTS:

11 W. MICHAEL DUNCAN, ESQ.

12 Austin & Rogers, PA

13 508 Hampton Street, Suite 300

14 Columbia, South Carolina 29201

15 (wmduncan@austinrogerspa.com)

|    |                                                          |                                        |
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| 18 | * * * * *                                                |                                        |
| 19 | Court Reporter's Legend:                                 |                                        |
| 20 | dashes [--]                                              | Intentional or purposeful interruption |
| 21 | ....                                                     | Indicates trailing off                 |
| 22 | [ph]                                                     | Denotes phonetically written           |
| 23 | [sic]                                                    | Written as said                        |
| 24 | NOTE: This hearing is taken in accordance with the South |                                        |
| 25 | Carolina Rules of Civil Procedure.                       |                                        |