STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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S.C. SUPREME COURT

Appeal from Greenville County
Honorable John C. Hayes, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DEAN ALTON HOLCOMB,

APPELLANT

APPELLATE CASE NO 2016-001927

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STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,

PLAINTIFF,

-VS-

DEAN ALTON HOLCOMB,

DEFENDANT.

2013-GS-23-05223
2014-GS-23-08177 - 08179

TRANSCRIPT OF RECORD

JUNE 4, 2015
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE R. KEITH KELLY

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

RUSSELL GHENT, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

MATTHEW SHEALY, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

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THE COURT: Good afternoon. Okay. Whose motion? Y'all sent them, I think, maybe.

MR. SHEALY: Yes, sir.

MR. GHENT: Yes, sir. May it please the Court. Just to call the case and put matters on the record.

THE COURT: Okay.

MR. GHENT: I am Russell Ghent appearing on behalf of the Thirteenth Circuit in this case. There have been a number of -- I believe I am now the third solicitor handling the case. The indictment numbers, I believe, are indictments 2014-GS-23-8177 through 79, 76 through 78, which involve threats against public officials and intimidation of public officials. 2013-GS-23-5223, which involves breach of trust.

The Defendant is Dean Alton Holcomb. He is present with his attorney, Matt Shealy. Your Honor, the motions before the Court are the Defendant's motion for bond, the Defendant's motion for -- as to the indictments, the sufficiency of same, and the Defendant's motion as to a speedy trial.

The State's motions are -- the State's motion is to joinder and revisiting the mental health evaluation motion that was previously before the Court. We would contend that that bears on any number of issues in the case and certainly bears on the matter of bond. Thank you, Your Honor.

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THE COURT: All right. Mr. Shealy.

MR. SHEALY: Judge, which ones would you like to take up first? You want us to do the -- well, can we do the bond motion first? I think ---

THE COURT: Certainly.

MR. SHEALY: --- it might be the easiest.

THE COURT: Okay.

MR. SHEALY: Your Honor, my client has been in jail since August 19th of 2014 with no bond. He was denied bond by a magistrate and, I believe, he was denied bond by Judge Hill.

Your Honor, as an initial matter, it would be our position that such a denial is unconstitutional. He's charged with threatening the life of a public official. And he's also charged with intimidation of a court official. None of those charges are violent offenses. None of those charges are capital offenses. And if I may hand up, Judge, our Constitution, Article I, Section 15. Your Honor, if I may approach.

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

MR. SHEALY: Your Honor, it's simply unconstitutional to deny my client a bond. He's now been held for roughly ten months without that bond, Judge.

Your Honor, to tell you about my client because, again, it'd be our position he is subject to bail. He has a

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twelfth grade education. He has one twenty-three year old daughter, who lives in Travelers Rest, obviously, by herself now. And he has two grandchildren by that daughter, a two year old and a fourteen month old. That daughter is going to Spartanburg Tech.

Your Honor, she was married. Unfortunately that marriage is dissolved now. But they're pillars in the Travelers Rest community is my understanding.

Your Honor, he tells me that he had a problem where he fell off a roof, but that he has now been able to get past that. He'd hit his head. He'd also hurt his back, I believe, also his leg. But he's fine to return to work, Your Honor.

And he'd have a job at Carolina Home Renovations. That's in North Carolina. He's a salesman, Your Honor, and he was prior to this breach of trust. He was selling roofing, basically, new roofs, that sort of thing. And he was apparently very, very much loved at that job.

He has no complaints with the Better Business Bureau. He's had a number of Yelp reviews that were very favorable. Your Honor, and I would say that, you know, Yelp reviews, they're either going to be really good or they're going to be really bad because only the really bad people or the really happy people are going to write. And his are all very good reviews as to his ability to do what he tells

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people he's going to do.

Your Honor, he would live in Brevard on Allison Road. I don't have the exact address currently. He was born in Spartanburg. He was raised in Spartanburg. His mother lives in Duncan.

He ultimately moved to Brevard because he has -- he had two businesses, one in South Carolina, one in North Carolina selling these roofing jobs, these home renovation jobs. And he'll live in North Carolina. Your Honor, he can also live with his -- at [redacted] Young Road, which is where they served the search warrant in this case. And that's in Bessemer City, North Carolina.

Your Honor, we would ask -- again, as far flung as his family goes is Brevard. His sister lives there. Other than that, everybody else lives in either Travelers Rest or in the Spartanburg area. And he's lived primarily in the Spartanburg area for a good bit of his life.

We'd ask that you consider in this case something along the lines of a ten thousand dollar bond. Again, it's our position he'd be entitled to a bond because of the Constitution of this State and that that would certainly assure his appearance.

We would ask that you not require him to check in every week with an officer because that's not ended well in the previous bond experience. And that would remove any issues

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with Greenville County Sheriff's Office.

I'll have his address. I'll know where he is. His sister has contacted me. I'm generally pretty good at getting my folks here into court. We'll send him a letter. We'll make sure that, to the best of our ability, that he'll be in court.

And because he won't be in Greenville County, he won't have any dealings with the Sheriff's Office, he won't have any dealings with the Solicitor's Office here, so there won't be any problems there. He won't even have to come to the Greenville County Courthouse except for when we have a trial because he'll be seeing me in Spartanburg instead of in Greenville, here, where he might have some kind of chance meeting with somebody.

So, Judge, we've also -- he's checked the statistics. And, interestingly, he tells me that in the last year there have been no failure to appears for intimidation of a witness cases. I believe there was a single one in a threatening a public official.

So that's, I think, an interesting wrinkle in this, that people generally show up -- well, they always show up for court in intimidation. And the only -- there's one out of, I believe, three hundred -- well, two hundred and fifty-five didn't show up for the threatening. And we believe we have a triable case. So we would ask that you consider,

again, a reasonable bond in this case. Thank you.

THE COURT: Yes, sir.

MR. GHENT: May it please the Court.

THE COURT: Yes, sir.

MR. GHENT: Your Honor, I don't dispute the -- what the Constitution says in South Carolina regarding bond matters. I would point out that -- I think it's the United States versus Salerno and the language in that case and the statute it involves makes clear that South Carolina as it does in other matters such as Article I Section 10 actually gives greater constitutional guarantees than the federal authorities provide.

However, there are also statutory considerations. And one of the things I'd like to point out, Your Honor, in this courtroom today there is a Judge from Gaffney in the Seventh Circuit, a prosecutor from Spartanburg in the Seventh Circuit and a public defender from Spartanburg, the Seventh Circuit. And I say that, Your Honor, because it's extremely significant. Nobody in this circuit feels they can touch this case anymore. And the reason is the behavior of the Defendant pending trial.

Now, the standards under the statutory provisions are danger to himself, threat to himself or the community and a flight risk. He lives in North Carolina. Counsel can soft-pedal it all he wants to, but the Defendant is a danger to

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himself in terms of his behavior as well as to others.

While the other matter was pending the Defendant had problems with impulse control, anger management. In letters which were sent, and I want to point this out, copies to Chief Justice Jean Toal, Max Cogburn, U.S. District Judge, William Nettles, U.S. Attorney, Alan Wilson, South Carolina Attorney General and it goes on and on who was copied on this letter. He said, please tell me which laws and rights apply to working people, disabled people or Jewish people like me and which ones apply to all of you. I am not afraid of you, your threats or the death threats I have received.

Your Honor, in correspondence, attempting to fire, putting his prior attorney on notice he did not want his assistance anymore. He essentially told his attorney, admitted that he has problems, instructed him that he wanted him off the case.

What we now have is a situation where this Defendant has written an email, threats, he has written emails and letters that contain statements that are going to be against interest, that will be used by way of cross examination. Once he is out, Your Honor, there is no way, no matter what Mr. Shealy represents that it will not return to what started it. I am representing to the Court because it's my understanding that, I think, we're going to try to get this thing tried in September.

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Now, we have to address all these issues, I understand, but this Defendant has threatened a law enforcement officer and has made statements to a law enforcement officer, made in writing to the solicitor that are beyond repair. There is no call for this kind of thing. And any kind of delay including his current circumstances are because he can't control himself, nobody else can control him.

And, Your Honor, his attitude towards the criminal justice system as reflected in emails, letters, documents, letter to Wesley Smith of the Greenville County Sheriff's Office, Your Honor, I'm not going to read some of the specifics of this language, but, Your Honor, the bottom line is this came about because the Defendant could not control himself.

So the notion that he can go back out there and not have to report in, the truth is the reason why counsel does not want him to report in is that he was reporting to an officer who he could not get along with, and that's where the problems began. You cannot simply ignore, counsel cannot, I'm imploring the Court not to ignore that the circumstances of just the three of us being here because of this are truly exceptional.

I'm not asking the Court to deny it, I'm asking the Court to require a bond that is a genuine cash and security that makes clear everything is up to you. And I'm talking

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-- I'm asking the Court for a five hundred thousand dollar bond.

THE COURT: All right.

MR. GHENT: Thank you, sir.

THE COURT: Thank you.

MR. SHEALY: Your Honor, if I may respond.

THE COURT: Yes, sir.

MR. SHEALY: And I'll start in reverse order. As to why I don't want my client reporting in, I generally tell my clients they ought not be speaking to sheriff's deputies. That's just not a good idea for people who are charged with crimes. That's my issue with him reporting in.

Judge, I've never seen a bond that requires that. Now I have practiced exclusively in Spartanburg, but I worked for my dad in Gaffney for a number of years. So I've been around the system for about fifteen years or so, sixteen. I can't recall ever having seen that kind of a bond. Apparently it's done here in Greenville.

But he has a lawyer. That's me. That's my job. He'll have a bonds person, whatever kind of surety bond you order, he's going to have to report to. That bonds person is going to be on the hook to get him into court.

Now as to the firing his lawyer, Judge, I think he's entitled to fire his lawyer. And, Your Honor, he does have some psychiatric issues, but that will be fairly easily

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remedied if Your Honor would just place in there a condition that he go to mental health counseling and I get a report every month from his doctor that he met like he was supposed to.

As for the behavior of the Defendant, Your Honor, he's not guilty of this charge. We think we have a pretty triable case here. I don't think that what he did was actually intimidation of a court official, nor do I believe that it's threatening the life of a public official, servant.

I've read their SLED report. I've got issues with their SLED report. I've got issues with all of this, Judge. My client admittedly did some things he shouldn't have done, wrote some emails he shouldn't have done. Judge, he's got some mental health issues. He wasn't going like he should have gone. We can fix that pretty easily.

Mr. Ghent is from the Spartanburg County Solicitor's Office. They know how to file a bond revocation motion, I assure you. If I don't get that report every month, they can file that bond revocation motion. That's fairly straightforward, Judge.

We know that they work with the authorities in this area of North Carolina because they did a search warrant on his house. So they just call them up, go and arrest him. It's -- that's what happened in August. So the idea that

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they can't go get him is odd to me.

Your Honor, and again, in the letter that Mr. Ghent referred to, he's not afraid of you, your threats, or death threats, again, Judge, it's -- he may have said some things he shouldn't have said. I don't think that they rise to the level of threatening. He's not a danger to anybody.

His prior record so far as I can tell is he didn't have a proper stamp on his fishing license. That's his prior record. He has certainly no violent crimes. So far as I can tell, he hasn't even so much as gotten into a fight for twenty years. So, judge, there's -- he may run off at the mouth, but there is no reason to believe he is actually a danger to anyone.

Now as for he's a danger to himself, again, I'm unaware of any documented suicide attempts or anything like that. Judge, he does have this mental health history, but he's on medication. The jail psychiatrist has put him on that medication. I've not had any problem with him. And I've been to see him twice now. And we've just gotten along pretty well.

So, Judge, we would ask that you consider something a little more reasonable because, again, the Constitution requires that bail not be excessive. And I believe five hundred thousand dollars, given what we're dealing with here, is just a skosh excessive. Thank you.

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THE COURT: Thank you. Yes, sir.

MR. GHENT: Your Honor, if I may please reply. In that same letter, the next sentence, I am also not afraid to be judged by an ethical court or the most high. Are you? I am disabled and have Asperger's Syndrome, both of which are protected by the Americans with Disabilities Act.

Now, Your Honor, again, counsel is an extremely bright and capable attorney, but again, what we have here is not on the front end. We have a history and a record. And I understand that threats have to be taken in context, but what the case shows is the spiral of hostility that this Defendant gets into. He gets angrier and angrier.

And when I talk about harm to himself, I'm not suggesting suicide. This man's a fighter. And he's not stupid. Reading this he is smart and well read, but he can't control himself. There are a lot of people who are dangerous to themselves and to others who are smart. Some of them are the most dangerous.

I want to ask this, Your Honor, could we hold in abeyance if the Court is seriously considering what Mr. Shealy is proposing and let's revisit the mental health issue. Let's let him go down to the Department of Mental Health, let them do the evaluation process and let's see where we stand. If he can do that and they can tell us he's fine, then let's revisit it.

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I am not trying to be unreasonable, but he lives in another state. He has literally chased off the judges, the prosecutors and the public defenders in this State, I mean, in this circuit. And the amount has got to be significant enough, this is not excessive, this is significant enough to him to realize or those who have posted it to realize he can't be doing this stuff because whenever he writes things that make admissions against interest that could lead to his conviction of a crime, that could put him in prison for a significant period of time, that does pose a danger to himself. Thank you, Your Honor.

THE COURT: I got it.

MR. SHEALY: Okay. Thank you.

THE COURT: All right. Thank you. Next one, Mr. Shealy.

MR. SHEALY: Well, do you want to carry over into the mental health evaluation?

THE COURT: That'll work. That'll work. It sure will.

MR. SHEALY: Thank you. Okay. Your Honor, as to this mental health evaluation, the problem with what Mr. Ghent has suggested is as I've said back in chambers, I've told my client, I've told Mr. Ghent, I believe my client's competent. I don't think that I have any, I mean, I -- well, I don't have any doubts as to his competency currently.

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Now, there may be, and I have been candid, there may be a criminal responsibility issue as to the intimidation and threatening that I will find, that I will uncover. We've been getting mental health records steadily. I go to talk to Mr. Stepp at my office. He's the one I've been dealing with to get everything to make sure that all the records we've requested have actually come and that we've requested all of the ones that I think we need.

But Mr. Ghent, I think, misunderstands the way that DMH generally handles -- the way I've ever seen DMH handle a mental evaluation requirement. Whenever you sign a motion for mental evaluation, it's not a diagnostic test. They don't diagnose you with X thing, then prescribe you with Y drug. It's simply a competency/incompetency.

Now, there are private evaluations that I suppose I can get of the client, but I've never seen one that is diagnostic in its purpose. And that appears to be what Mr. Ghent wants.

Now my client has a diagnosis. The jail has -- psychiatrist has certainly diagnosed him as bipolar, has him on a particular medication. So I think -- I think that would be duplicative at this point. I don't see any reason why we would need that.

And, again, all of the mental health evaluations that I've ever gone to down there are really not diagnostic.

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It's, again, just can he recite the three words five minutes after I told them. Can he say -- can he spell world backwards. That sort of thing. He's not mentally retarded. So there won't be DDSN involved. I just don't think that it would be particularly helpful.

And, quite frankly, Judge, I mean, I'm his lawyer. If I think he needs to be evaluated, I assure you I will have him evaluated. That's one of the things that I'm required to do ethically. I can't, obviously, try somebody when he's not competent.

And if our defense is that he was criminally -- he was not criminally responsible, then, obviously, I'm required to press that defense to its logical conclusion. But those are the two things DMH does. And I just don't know that the mental health evaluation will be useful at this point. It may be that I will ask for one, but it's certainly premature for me to do it at this point.

THE COURT: Okay.

MR. GHENT: Your Honor, again, the context in which I suggested that was counsel arguing let's just let him out after there's a history that shows this is a very angry, smart, but a very angry individual. The bipolar, neither Mr. Shealy nor myself are psychiatrists to give the Court an idea of how material the diagnostic manual is on these problems.

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In his letter he said he has Asperger's Syndrome. DSM-5 has now taken that out as a diagnosis. So at this point, I want to clarify, it's not just a matter of whether he's competent, it is a matter of whether there is a mental health issue, whether he is mentally ill. If so, what is it?

And I believe it's Kansas versus Cheaver, C-h-e-a-v-e-r, I think, that came down last year on an -- the solicitor, Mr. Bulsa, and I were trying the Blackwell capital punishment, death penalty case. That case, the U.S. Supreme Court said you can't just put somebody up who's a hired gun.

We're entitled to be in on this. We're entitled to have him examined and to make sure before the matter of a bond is set, certainly one at ten thousand dollars, which is what he had last time. Your Honor, we are entitled as a matter of fairness to the community that we're now having to come into to try this case to protect it, to protect the law enforcement officers, the prosecutors, everybody else.

So in this case, Your Honor, I'm sorry that I'm pressing this, but I'm genuinely concerned. I'm concerned for the community and also I don't want to have to re-litigate this thing over a PCR issue, an appeal or whatever. We want him fully evaluated. And if we have to independently have someone pay for it, we'll do that. It does not have to be Department of Mental Health, but I want

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to make sure of what we're dealing with.

And counsel is making these suggestions about criminal responsibility. Well then, file discovery and confirm a response to us that there's going to be an insanity or a mental health issue involved. Don't just suggest it right now, but let us know, yes or no, do you intend to raise that. Thank you, Your Honor.

MR. SHEALY: Judge, I can't raise something if I don't know if I'm going to raise it. I don't know if I'm going to make it criminal responsibility. I'm trying to be candid with the Court. I'm trying to be candid with Mr. Ghent.

I will tell you that a jail -- I didn't diagnose him with bipolar, the jail. And I can't imagine any more State agency than the jail diagnosing him as bipolar.

Now, this isn't a death penalty case. We don't generally do things quite the same way because they've got all kinds of rules because death is different and all that. Whenever I have ever done a mental health evaluation at DMH it's competency, it's criminal responsibility. And that's it. They don't diagnose people.

I've never gotten a report back saying that this is certainly his diagnosis. They'll talk about diagnoses, and they'll list what they say his diagnoses probably are. But they don't -- it's just not a diagnostic. So my problem, again, is if I need it, then certainly, Judge, I'm going to

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go get it.

We're pulling this stuff. I don't -- I've not had this case for very long. I mean, I'm trying to put it together with all of my other cases. And, you know, unfortunately for seven months it didn't get handled as well as I would have liked it to be handled, but that's not my fault. That's -- I've stepped into this much as Mr. Ghent has.

So, Judge, we're trying. I'm pulling as much information as I can. But for you to order him to go down to DMH with some kind of mandate to figure out what's wrong with him, I don't think that they're going to understand that. They're going to sit on it. They're just not going to know what the heck they're supposed to be doing. We have a diagnosis.

As to the bond I was suggesting that you require as part of his bond that he go to mental health counseling, that he take his medication, that he be compliant with his medication. That was all.

And we have not denied he has mental health issues. I have not at all suggested that that is not the case. I think I've been portrayed as having said that, but that's not the case. He has a diagnosis from a psychologist at the jail. So, Judge, we would ask, again, at this point I believe it would be premature to order any kind of mental health evaluation.

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THE COURT: Okay. What's the next one we have?

MR. SHEALY: I believe the next one -- well, we might ought to do the joinder motion.

THE COURT: Okay.

MR. SHEALY: Do you want me -- do you want to do the joinder motion before my speedy trial motion?

MR. GHENT: Let's do them -- go ahead and I'll just respond with the joinder motion.

MR. SHEALY: Okay. Judge, my client, as you've heard, is in jail currently on these threatenings. And you've heard a lot about those. You've not heard so much about the breach of trust.

He was initially charged with breach of trust back in 2013 for an instance that occurred really in 2012. So it's a very old case. Unfortunately, it kind of drug on a bit. It should have probably been moved a little quicker than it was. And then the threatenings occurred. And so it's kind of been put on ice.

Judge, we would ask that you consider granting my client a speedy trial. I've been told that this will be placed on a September docket. I don't know what those terms of court are in September. I've been told that I might have a murder case that month. I'll have to talk with Mr. Bulsa back at home to see if we can't work something out.

But this is a very old case. It's mature. I've got

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discovery. That's pretty straightforward. There isn't any reason or any real reason to delay that case in my opinion.

Obviously, Mr. Ghent is going to make the joinder motion. And so if you grant the speedy -- I'll have a problem trying the intimidation in September, but breach of trust, we could try it whenever you want to try it.

THE COURT: Let's talk about that, the September -- my law clerk and I were -- tell us about that, Mr. Ghent. Did we talk about that?

MR. GHENT: Yes, sir. It was my recollection there was some discussion in terms of when people would be available. Now, I'm pretty sure I didn't dream it, Your Honor.

THE COURT: No, no. I'm not saying you are. I just -- but I'm not here in September. I mean, it's not set just before me, right?

MR. GHENT: No, sir, it would be. It was my understanding that Your Honor was under the impression Your Honor was going to be back in the Fall. And at that time it was September, I thought.

Now, it may be that it didn't turn out. It may have been that there was a matter of Your Honor simply -- I think the discussion among the three of us, switching off with somebody else to come back just to get the case moving. But ---

THE COURT: Yeah.

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MR. GHENT: Does that refresh ---

THE COURT: Yeah, I know what you're talking about. I think that what we were talking about was we've got that other case that's been conflicted. I've got another one, too, over here that was -- that I heard motions in yesterday with Tony Liebert, Megan Moricle and Mr. Childs, Rob Childs. And we were looking for dates to be over here.

I think Judge Hill and I would -- are in a position to change. And that's the first week of October. That's the week of October 5. We proposed two or three -- Adriene got with his law clerk. We proposed two or three different dates to sort of let Judge Hill decide because he's here and I'm there. And it makes it real easy just to switch judges.

MR. GHENT: That was exactly ---

THE COURT: That's it. Yeah. Okay. That would be the week of October 5 ---

MR. GHENT: Okay.

THE COURT: --- is when we're talking about doing that.

MR. GHENT: Your Honor, may I address some of what was ---

THE COURT: Yeah. Sure.

MR. GHENT: This is, again, Mr. Shealy is an extremely smart attorney. He's a genetic lawyer. His daddy was a public defender.

THE COURT: And is again.

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MR. SHEALY: Yes, sir.

MR. GHENT: Yes, sir. So it's in the genes. He's a good lawyer. I have been on this case virtually the same length of time that Mr. Shealy has. I'm older. I'm going to try my best to run and keep up.

But I will also say, Your Honor, that with respect to the speedy trial motion, on just the breach of trust, counsel is, and, again, he's a smart lawyer, this is what the move is. This is the play. Let's get the breach of trust tried first. If I win on that, Mr. Shealy is thinking, then that matter has no bearing on the case of the threats, which leaves the threats inexplicable, and it's going to make it impossible because the driving factor behind the threats and the anger directed at the law enforcement officer, directed at Ms. Harrison was the breach of trust. And the breach of trust, Your Honor, occurred in, if I'm not mistaken, 2013. Is that correct, Mr. Shealy?

MR. SHEALY: Yes, sir.

MR. GHENT: He was arrested on this charge in 2014. And now we're trying to get this to trial in 2015. So it is not like this case is such an old case because everybody's just sat on their hands. Counsel is overlooking the fact his client brought these circumstances about.

Now, with respect to the joinder, this is another matter with respect to the threats and the breach of trust.

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Never mind Cutro. There's the matter of 404(b). And both of these cases are interrelated.

First of all you take Lyle, 404(b). We're entitled if the potential relevance outbalances the possibility of unfair prejudice if it goes towards motive, identity, existence of common scheme or plan, absence of mistake or action and intent. The threats were motivated by his perspective documented with just reams of admissions against interest showing his anger and, therefore, the motive. For the efforts to intimidate court officials, I'm not going to use threats anymore. Let's go with Mr. Shealy's language.

I would also point out that in addition to that, South Carolina also recognizes other bad acts still under a common law rule, Your Honor, is the *res gestae* theory where they may be admitted, again, balancing relevance against potential for unfair prejudice. They may be admitted where they are an integral part of a crime with which the Defendant is charged or may be needed to aid the fact finder in understanding the context in which the crime occurred. That's State versus Owens, Supreme Court, South Carolina, 2001, 346 SC 637, 552 S.E. 2d 864, citing State versus King and State versus Adams. That is bedrock law, Your Honor.

We should be, as a matter of fair exercise of the Court's discretion, to demonstrate how this came about. So while I give Mr. Shealy kudos, what he is seeking is an

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unfair advantage. His play is to get rid of the breach of trust first when we could take this to trial in October on all of it. Thank you, Your Honor.

THE COURT: Okay. Mr. Shealy.

MR. SHEALY: Your Honor, to respond as to the issue of whether they could bring this up or not, there's a case, and I thought I'd printed it out, but apparently I didn't. It's called State versus Preslar.

THE COURT: I'm sorry?

MR. SHEALY: It's State versus Preslar, P-r-e-s-l-a-r. In that case the defendant wrote a letter to his daughter, who was the victim of a criminal sexual conduct case, that he was, obviously, the defendant. In that letter he asked her, essentially, to dismiss the charge, he made some veiled threats, things like that. Those two cases were actually tried separately. But in that case it was ruled *res gestae* that they could get into the fact that he was charged with criminal sexual conduct in order to give context to the threats.

Judge, I don't think that I could keep out the fact he was charged with breach of trust, when I win the breach of trust, I'd prefer it determined that way, rather than if. But I think it's coming in. I'd expect it to come in. In fact, I think I would probably bring it up. But I think that they are not of the same general character.

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And the case that deals with joinder of charges, the State versus Cutro, Mr. Ghent has repeatedly said. And, Your Honor, the State versus Cutro, for general -- it says -- citing State versus Cutro, that's going to be 365 SC 366, 618 S.E. 2d 890.

Generally when offenses are charged in separate indictments, are of the same general nature involving connected transactions closely related in kind, place, and character, the trial judge has the discretion to order that they be tried together only so long as the defendant's substantive rights are not prejudiced. Judge, these are not of the same general character or same general nature. They don't involve connected transactions. They're not closely related in kind, or place, or character. Judge, they just aren't.

Now, Mr. Ghent argues that they -- that without the one, there couldn't be another one. Without the breach of trust there couldn't be the threats. And I suppose that that's true, but that isn't the test. The test is whether they're of the same general nature. And they're simply not.

And, again, State versus Preslar, those two crimes were charged or were tried separately. Judge, there's going to be different witnesses. Ms. Harrison's going to have to testify in that case, in that issue. The Officer Martin is going to have to testify. I imagine Officer Jarvis is going

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to testify. And they're going to be testifying to things completely separate from the breach of trust.

The breach of trust is a very narrow issue. Did my client convert money he held in trust, essentially? That's a much different, straightforward issue than whether he -- my client made threats to certain officers -- well, certain officer and a member of the Greenville County Solicitor's Office. Those are two different things.

And, Judge, the reason -- since they're ascribing motives to me, I reckon I'll ascribe motives to them, is they want to put all of this stuff that my client -- where my client runs off at the mouth in so that the jury doesn't really care if my client committed a breach of trust. They just are going to be so angry at my client, they'll just convict him of everything. And that's a very real problem in this case.

My client wrote, as Mr. Ghent says, reams and reams of things that he - I wish he hadn't written. Now, and it's abusive. It's not very nice. It doesn't go to the -- to intimidation. It doesn't rise to the level of intimidation in my opinion. It certainly doesn't rise to a specific threat to the life of a public official in my opinion. But it's not very nice.

And they're entitled to try their case and put what they think is intimidation up. And all of that's going to

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confuse the jury. I know it's going to confuse the jury because it confuses me. I have all of these emails and it's at some point been difficult separating out what goes with what case. What actually bears on the breach of trust.

And if it's confusing to me, Judge, and I did pretty well in law school, and I've been doing this for a really long time, then there's no way a jury's going to be able to separate these issues. And that's going to prejudice my client's substantive rights even if you do find somehow that these are of the same general nature involving connected transactions, closely related in kind, place, or character -- and character.

Again, it happened years apart. Didn't happen in the same place. Didn't happen -- they aren't of the same general nature either. Thank you.

THE COURT: Thank you. Yes, sir.

MR. GHENT: Your Honor, Mr. Shealy argues possibly confusion. My concern is no doubt of speculation if the cases are tried separately.

I want to point out also on the face of my motion I provided to the Court as did Mr. Shealy the citation for the Cutro decision.

Your Honor, I would also point out that these cases -- I guess I'm going to have to go ahead and give away my hastily thrown together theory of my case with them all

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together is just as simple as this. The admissions against interest of this Defendant show the intensity of his anger over what he perceived as a contract dispute between him and somebody else, which the evidence will show clearly evidence is when it occurred to this degree, fraudulent intent or a misrepresentation at best so that in terms of how we got here to begin with. He believes, according to his own admissions against interest, that a civil case became a criminal case.

Next step has to be, same place, even the Supreme Court doesn't clarify exactly what they mean by that. They're not talking about the same county or whatever. But the bottom line is that in terms of the place, it is in this case, for this Defendant, which courthouse, which courtroom. One very capable defense attorney once told me that his first statement to a jury in opening remarks was going to be, ladies and gentlemen of the jury, it was a breach of trust, welcome to civil court. And it was a matter of the courthouse being the place where it should be.

So in this situation as far as the character, again, this is an individual who, again, the character of the cases, they are criminal cases that have to do with a common transaction that he is enraged that it wound up in criminal court as opposed to civil court. And one of the means of all of this being the same place as well as it happens in

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that place that is ubiquitous, the internet, it happens through email. And if there's any question about how far the place and how difficult that can be to define, one need only look at the cases, federal cases having to do with video online gambling. Thank you, Your Honor.

THE COURT: Thank you.

MR. SHEALY: Judge, I want to clear up the admissions against interest. Nowhere does he say I cheated that man. Nowhere does he say I breached trust with that man. I'd be pretty angry too if I got arrested regarding a civil dispute, what I believed to be a civil dispute. But that doesn't match, I mean, that doesn't solve the problem with the factors of State versus Cutro. It doesn't make it fit any better.

The offenses have to be of the same general nature. This isn't of the same general nature. And to argue that it is is to rather badly stretch the argument. So, Judge, we would ask that you deny the motion to join these cases.

THE COURT: Okay. Anything further?

MR. SHEALY: I have a motion for a more definite statement ---

THE COURT: Yes.

MR. SHEALY: --- on the indictment. Your Honor, as you see in front of me, I have a great deal of stuff in this case. This is regarding just the intimidation and

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threatening with those four indictments. Your Honor, I've been provided a number of disks. If you'll bear with me.

THE COURT: Is it -- can you point to one particular indictment or is it all of them?

MR. SHEALY: Your Honor, it's all of them. They basically just state that these victims were threatened. It ---

MR. GHENT: Can I assist, Your Honor? I apologize for the interruption. I've already checked to determine when the next term of the Grand Jury is. I believe it is the 22nd ---

MADAME CLERK: Yes.

MR. GHENT: --- of June here in Greenville. Yes, ma'am?

MADAME CLERK: Yes.

MR. GHENT: I will go back with respect to every single indictment, try to go through and give the narrative going through. I will give it my best shot to say this ---

THE COURT: Okay.

MR. GHENT: --- is the narrative.

MR. SHEALY: That's all I'm asking for.

THE COURT: He agrees to do that.

MR. SHEALY: He does.

THE COURT: See there.

MR. SHEALY: Who would have thought that would happen?

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THE COURT: It's great when we've got good lawyers on both sides.

MR. SHEALY: Yes, sir.

THE COURT: All right. That's done then.

MR. GHENT: Your Honor, can we also -- and this is something that we would have to revisit. I would like to reserve the right, if the Court rules against joinder, to have the matter -- the issue of other bad acts, particularly in light of the *res gestae* issue, heard by the Court again fully if that were to happen because it is going to hamstring this prosecution.

MR. SHEALY: Judge, again, I think that a good bit of it's going to come in anyway. But if he wants to argue exactly as to what comes in and what doesn't come in, that's fine. I mean, I'm going to -- if you grant their motion, obviously, I've got to object at every possible moment. So we're going to have to talk about it again ---

THE COURT: Right.

MR. SHEALY: --- in the future anyway. So ...

THE COURT: All right. Well, I'll tell you what let's do. We can probably address that -- and I agree with that. We could probably address that after consideration here and issue an order. But we could revisit that even and maybe set up a little scheduling order.

MR. GHENT: Yes, sir.

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THE COURT: Something like that where we could address two or three different things along the way if we needed to before the October term.

MR. GHENT: Yes, sir.

THE COURT: Now to be clear about this, now if he's agreed to give you the more definite and certain statement by going back through the indictments for June the 22nd, that'll be this, you know, just three weeks from now or so, but that in no way is going to delay this case from the October term.

MR. SHEALY: I figured that.

THE COURT: Okay. I want to make sure your client hears me say that. This in no way -- and the other thing I'll tell you is that that other case is first up. And there's a -- there's a CSC case and there are, I'm told, eleven witnesses for the defense and maybe seven for the state. So that case may end up going three days or better. How long would this case go?

MR. SHEALY: Again, depends on how you rule on the joinder motion, but I would -- the breach of trust should be pretty quick.

THE COURT: Okay.

MR. SHEALY: And I wouldn't think it would take more than two days.

MR. GHENT: And this is the part that, again, I'm not

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attacking counsel, I'm anticipating. I did what he did. It's impossible for him to predict that because if -- first of all, let's assume that the Court goes with that other case, the CSC. Let's assume a decision is then made that another judge will handle this case because they want to move it. If that happens and the Court has ruled, no, they can't be joined, it could well be that counsel gets exactly what he wants, a judge will assume that means no other bad acts will be introduced.

MR. SHEALY: Judge, I've already told everybody on the record that I expect that the fact my client got charged with breach of trust is going to be introduced with respect to the threatening a public official cases. I expect that's going to happen.

Now, we may dicker as to exactly what gets said, but it's going to come in. I can't -- I'm ---

MR. GHENT: Expecting is not the same thing, Your Honor, as it's going to happen. We cannot predict. Like I just said, if another judge has -- I'll give an example. Judge Cole has one way of seeing 404(b) issues that is not exactly the same as Judge Couch. I mean, he cannot say I expect it will happen and, therefore, we can allow it. I know I can't. And it's not fair that he expect for me to go, okay, it's fine, it's going to work out that way. No, I can't do that.

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THE COURT: Well, again, if I needed to -- I'm just telling you, the other case is number one, it's a CSC case, it could plead. I don't think it is from what I heard yesterday, but I've been shocked before. But, nonetheless, I -- but that case, I'm told, is going to go at least three days with those witnesses.

So I'm just telling you, you'd be second up. And if we can do it that week, we can do it. If we can't, then I'd be put in a position to try to get Court Admin to switch me again for another week. It's the only thing I can do to help you.

MR. GHENT: But it would fall to the Chief Administrative Judge here as to who goes -- where this case goes, would it not, Your Honor?

THE COURT: It may well. But, I mean, I think -- who is the chief admin for criminal?

MADAME CLERK: Judge Hill.

THE COURT: Judge Hill? It is Judge Hill.

MR. GHENT: That's my concern, Your Honor, is at this point this is critical because honestly if the case -- if the Court says the cases can't be joined, Mr. Shealy, I understand what he's saying, but let's assume hypothetically that he wins on the breach of trust going first, is he really telling the Court that he's going to take the position that after the Defendant has been acquitted, found

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not guilty of that charge, he's not going to fight like all heck against it coming in or that a judge is going to let it come in? How are we going to satisfy clear and convincing once a jury has come back with not guilty?

MR. SHEALY: Judge, it doesn't come in through Lyle at that point. It comes in through *res gestae*. It doesn't -- he doesn't have to ---

MR. GHENT: It's the same standard.

MR. SHEALY: Well, Judge, I would -- and it will be clear and convincing evidence that he was charged with breach of trust and we had a trial. I reckon we can all testify to that.

Now to the extent that I'm -- I have said on the record that that -- that there will be information that he is charged with breach of trust, that that is going to come in. I am telling Your Honor the truth regarding that. I don't lie to the Court when I make representations. And that's ---

MR. GHENT: I wasn't saying that.

MR. SHEALY: We may dicker as to what is said, what actually comes in, but the fact that he was charged with breach of trust, that he was in contact with these officers, well, this officer once a month, is clearly -- he can establish that by clear and convincing evidence. That is the case.

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So now, and again, I understand his concern, you know, we had to do the joinder motion because I've got a speedy trial motion as to the breach of trust because that case is very old and I would like to finish it. As to the threatenings, as I've already said, I have more issues regarding that case than I do with the breach of trust. That was my issue. Thank you.

THE COURT: All right.

MR. GHENT: Thank you, Your Honor.

THE COURT: Thank you. Anything further?

MR. SHEALY: No, sir.

THE COURT: Anything?

MR. GHENT: (Negative nod).

THE COURT: We did that fairly quickly. All right. Everybody watch your email, okay?

(Hearing Ended at 3:24 pm)

(End of Requested Transcript of Record)

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Certificate of Reporter

I, the undersigned, Susan W. Hudgins, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenville County, South Carolina, on the 4th day of June 2015.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

August 26, 2015

Susan W. Hudgins

Circuit Court Reporter

State of South Carolina., County of York.	In the General Sessions Court of York Case No.: 2013-GS-23-05223 2014-GS-23-08176 2014-GS-23-08177 2014-GS-23-08178 2014-GS-23-08179
State of South Carolina., Plaintiff., -vs.- Dean Alton Holcomb., Defendant.	Transcript of Record

July 29, 2016
York, South Carolina

B E F O R E:

The Honorable John C. Hayes, III, judge.

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COPY

Wanda S. Nelson, CVR-M
Official Court Reporter
Sixteenth Judicial Circuit
Union and York Counties
To The Honorable John C. Hayes, III

I-N-D-E-X

E-X-A-M-I-N-A-T-I-O-N

Witness	By:	Page No.

No witnesses were called.

I-N-D-E-X CONTINUED

E-X-H-I-B-I-T-S

NO.	DESCRIPTION	ID.	EVD.
Ct.1	Transcript from 6.4.15 hearing before Judge Keith Kelly . .		P.50
Ct.2	State Farm Document Claim for Damages (2 pages)		P.50
Ct.3	Carolina Home Renovators Proposal - 5.25.12		P.52
Ct.4	Dean Holcomb Registration and License Numbers		P.52
Ct.5	Ck. No. 1040 ($4,295.03) May 29. 2012 (2 pages)		P.52
Ct.6	6 pages of 8x10 colored photos . . .		P.54
Ct.7	7 pages of colored photos (9 photos on 6 pages). . . . . (2 photos on Page 7.)		P.54
Ct.8	SLED Documents 6.11.14		P.55
Ct.9	CD Marked Dean Holcomb		P.55
Ct.10	Green Tree Metals Invoice #8752 dated 5.29.12		P.54
Ct.11	SC DMH Competency to Stand Trial Eval. 10.20.15		P.54

Reporters Note: All Exhibits were filed with the Greenville County Clerk of Court's Office.)

(COURT IN SESSION AT 09:53 AM.)

THE COURT: All right, thank you. You may take your seats. Good morning again. All right, we have a matter that has not been official assigned to me by the Supreme Court but by virtue of scheduling it will be the case I'll be trying in Greenville the Labor Day week term of court which is September -- week of -- starting on September 6, so we are convening today and I'm gonna let counsel put their identification, spell their names, and who they represent on the record. The cases are 2015 cases.

Does the Court Reporter already have the caption?

MADAM COURT REPORTER: Yes, sir.

THE COURT: Okay, she's got the caption. An issue came up about what to do about the exhibits - any exhibits put in today. My court reporter ---

MADAM COURT REPORTER: I took care of it, Judge.

THE COURT: --- has taken care of it. And since I think they'll be going through the postal service?

MADAM COURT REPORTER: Yes, sir, the Clerk of Court downstairs is gonna send 'em certified so they'll know that -- Mary Troup General Sessions Clerk -- Stephanie's counter part -- she'll receive them ---

THE COURT: Okay.

MADAM COURT REPORTER: --- clock 'em in and take care of it.

THE COURT: Well I'll make a suggestion that before they get packaged up that a duplicate set be made for me to keep in case Uncle Sam's -- My father was a postman so I very rarely want to say anything - he delivered mail, he walked the route before they got all this fancy -- he didn't have the cart that Newman uses in Seinfeld -- so I'll keep a separate set.

Counsel.

SOLICITOR GHENT: May it please the Court, Russell Ghent the solicitor's office appearing on behalf of the State. That would be the Solicitor's Office of the Seventh Judicial Circuit.

MR. SHEALY: My name is Matthew Shealy the Seventh Circuit Public Defender's Office. I represent Dean Alton Holcomb.

THE COURT: All right. Mr. Holcomb is present; is that correct?

MR. SHEALY: He is, your Honor.

THE COURT: All right. And we are convening today and I have an order -- not in my hand yet -- but an order from the Court Administration giving me current jurisdiction today with York and Greenville, so there will not be any question about the jurisdiction I have to hear these matters today.

Mr. Ghent.

SOLICITOR GHENT: May it please the Court.

The first matter I believe would be appropriate, we have filed a motion to arraign and set bond on new amended indictments. A notice of indictments would be obtaining money under false pretenses; obstruction of justice; and intimidating on account of Constitutional and protected rights. The defendant is indicted on five counts. Breach of trust with fraudulent intent; threatening a court official. He has previously been arraigned on the other charges. Bond I believe was set.

Mr. Shealy had a motion previously before Judge Kelly and at some point when I start putting exhibits in, your Honor, I will put in a copy of the transcript of the hearing before Judge Kelly who previously had the case into the record -- It's already been premarked by the court reporter -- for the court's convenience and to assist in addressing any issues we may touch upon.

Your Honor, I would simply note that counsel ask at a motion for me to make more definite the indictments. What I did was I agreed to do so. I went to the books and there is actually a charge that has been used before and it is for basically intimidation on a count of constitutional and protective rights. The -- One of the victims in the case who was we would submit threatened by the defendant is a female solicitor. The language used was beyond offensive.

It was -- It was in every way violent; dehumanizing and I'm not gonna use the word here in court.

THE COURT: Well just for the record, and Mr. Shealy is aware of this, I received a factual summary of facts and charges and issues from you yesterday, at my request, in order to expedite this this morning. I'm looking at paragraph -- It's kind of -- I guess it's D(2) wherein the -- would be (1) and (2) has -- (1) has some sort of synopsis and language and Number 2 has some verbatim -- what appears to be verbatim language, so I do have the language that's in -- before me.

SOLICITOR GHENT: Yes, sir. So I would ask that the defendant be arraigned on that charge.

THE COURT: Do you intend to arraign him?

SOLICITOR GHENT: Actually I was under the impression the court would.

THE COURT: I'll be glad to. Usually I think it's done by the prosecutor but I'll be glad to go forward.

Have you handed -- I keep hesitating because I'm trying to think through several things but the first thing is as to the obtaining -- the new obtaining money by false pretenses and the Constitutional rights privilege; I cannot read the numbers on those indictments. One looks like 4599(A) and the other one looks like -- I have no idea.

SOLICITOR GHENT: May I approach, your Honor?

THE COURT: Yes.

(DOCUMENTS RECEIVED UP BY THE COURT.)

SOLICITOR GHENT: Here is the indictment for 2015-GS-23- and it's got numbers 0-0-4599(A) which indicates in Greenville; it's a direct indictment, the (A). I don't know if that . . .

Obstruction of justice 2014-GS-23-8179. And finally obtaining property by false pretenses 2015-GS-23-0-0-46-0-0. And, your Honor, with respect to the obstruction -

THE COURT: I got --

SOLICITOR GHENT: Yes, sir.

THE COURT: Thank you.

SOLICITOR GHENT: With respect to the obstruction of justice, I -- We indicted for the simple reason -- I mean it carries the same sentence, but in reviewing it I didn't think that the threatening a court official fit a deputy sheriff. He's technically not a court official. He is a law enforcement official in the executive branch. So based on that to be absolutely safe I felt like the better course would be to re-indict him on that. Thank you, sir.

THE COURT: Mr. Shealy, have you received copies of these three new indictments?

MS. SHEALY: I have, your Honor.

THE COURT: Have you shared them with Mr. Holcomb?

MS. SHEALY: I have with the exception of the

obtaining money under false pretenses. I do not believe I've shared that with him. I have it but I did not bring it into the courtroom with me so I couldn't show it to him but I've got the others.

THE COURT: All right.

MS. SHEALY: And the Solicitor has just handed me one that I can go over -- that I can show him.

THE COURT: All right. You want to show him that now?

MS. SHEALY: Yes, sir.

(PAUSE.)

MS. SHEALY: I've done that, your Honor.

THE COURT: Are you Mr. Holcomb?

MR. HOLCOMB: Yes, sir.

(DEFENDANT STOOD.)

MR. HOLCOMB: Yes, sir.

THE COURT: If you are being Alton Holcomb please raise your right hand as best you can. You're shackled of course but he has raised his right hand.

You have been served with three indictments today, maybe not today, but you have been served with three indictments that have not -- you have not been arraigned on. Do you wish to be arraigned on these or waive that right? You can ask Mr. Shealy.

MR. HOLCOMB: I'll waive those.

THE COURT: You'll waive being formally arraigned?

MR. HOLCOMB: Yes, sir.

THE COURT: All right. And that's on 2015-GS-23-4599(A); 2014 -- these are all GS-23's -- 8179 and 2015-4-6-0-0. How do you wish to be tired on these?

MR. HOLCOMB: By God and my country.

THE COURT: All right. Thank you. You can be seated.

SOLICITOR GHENT: May it please the Court?

THE COURT: Yes, sir.

SOLICITOR GHENT: Do you want me just to go forward with --

THE COURT: Yeah, let's go forward with the motions and in whatever order you believe necessary or appropriate.

SOLICITOR GHENT: I have next a Motion In Limine which basically ask the court not to allow the defendant or through questions to other witnesses his version of a statement he gave to a law enforcement officer -- Tim Martin - after he set up an appointment came in sat down and told him what turned out to be a very self-serving statement which we're prepared to show was not truthful in various -- a lot of particulars. It is not a confession but it is a self-serving statement.

Number Two: We would ask if the defendant would consent to or would ask at this time that the records in the bank at Traveler's Rest; his licensing as a roofing contractor, and that would be the bank records of

Traveler's Rest in terms of the victims information concerning payment to Mr. Holcomb be admitted. His licensing, the defendant's licensing as a roofing contractor; a document from the Secretary of State's office, and he admitted this in his statement, that shows that at the time he entered into this contract his bonding had lapsed. He was no longer a bonded operator in roofing. His -- The records regarding his apartment in Greenville and other documentary and electronic statements as well. All is hearsay. All as it appropriate requirements or exceptions to the rules regarding hearsay under Rule 801.

Also evidence of other statements, threats, attempts to harassment or intimidation through vexatious or improper litigation against parties or witnesses. This would be admissible should he take the stand and I will give you an example, your Honor. A SLED agent who was assigned to the case after the entire Greenville County Sheriff's Office disqualified itself. The prosecutor's office, Mr. Wilkins office, disqualified itself because of threats made to their prosecutor. And apparently no judges locally will touch it because as it has come to light; I think they already were reluctant to take it. The public defender's office will not take it -- touch it.

The judges already were not gonna get involved because they are local judges; it is a local matter, a local

prosecutor, but at this time the fact of harassment, vexatious law suits, threats, those would be statements against the interest to show a pattern of activity. This defendant, he's extremely bright. He says he has a -- I'm not sure, maybe a high school diploma but he really knows computers. He obviously reads a lot; absorbs a lot, and he's a very angry man. And we don't live in a day and age when there is a lot of margin for error when threats start being made particularly when those threats are done under the claim of religious authority or whatever.

So with respect to those, starting with the matter of the statement he gave, which I'm prepared to have it marked too and offer that with the other exhibits when the court is ready, for the court to hear and consider whether or not I am correct; whether it should be excluded unless and until the defendant takes the stand and not offer it in any manner by counsel through cross-examination of parties as evidence did you not hear him say whatever.

Thank you, your Honor.

THE COURT: All right. Mr. Shealy, I'm probably going to hear the statement and ultimately take that under advisement so I can actually hear what we're talking about but go ahead and tell me your client's position or your position on behalf of Mr. Holcomb.

MR. SHEALY: Judge, to the extent that he's asking

that we not present a statement of my client, I understand that the rules of evidence would preclude that as hearsay. Now to the extent that I think I am allowed to ask for instance if they say he's been completely uncooperative I think I can ask the question so he came in and gave a statement to them or something along those lines.

I mean depending on what they testify it may become relevant to the fact that my client; the fact that he did in fact make a statement; not the body of that statement, but the fact that he made a statement depending on what they testify to. But, sure, I understand that if he -- that it is not admissible in and of itself because my client would have to testify just as all of the state's witness's statements would not be admissible in and of themselves; they have to put those witnesses up.

So, Judge, I suppose I agree, its not admissible at this point. I'm not going to attempt to admit it to the extent for the body of that statement.

THE COURT: Well I -- Maybe I need not take it under advisement then. It's a little awkward though because we have to wait and see what comes out during the trial but for the purposes of this motion I grant the motion of the state regarding Mr. Holcomb's statements to Tim Martin, the statements that are at issue which I haven't heard yet, but I'm gonna listen to -- Is it written or recorded? Is it

recorded?

SOLICITOR GHENT: It's recorded, your Honor.

THE COURT: Okay. Well I'll listen to it before we have a trial.

SOLICITOR GHENT: Yes, Sir.

THE COURT: Okay. As to the various records under number two of that motion.

MS. SHEALY: I do have some problems with just a blanket grant -- I mean he's got to lay a foundation for each and every one of these regarding the rule. I mean he can't just have them admitted without going -- having some lay member or a business records custodian coming in and testifying that these are the way, you know, and he knows how to do that. I'm not saying he doesn't but -

THE COURT: Well quite frankly I really didn't understand what you're requesting in this motion because I think Mr. Shealy's right that 801 -- yeah, 801 does allow for the records. And then we also have the *Business Record's Act*, but it still has to be some foundation laid.

SOLICITOR GHENT: I agree, your Honor. Actually that was an overture. It will become clearer when I -- I told Mr. Shealy I'm not hiding cards. I'm just showing how I intend to prove his client is guilty. I don't do that generally. I do give discovery; let them figure out. I'm gonna give specifics but there are several institutions

that we have already prepared the subpoenas. They are going out for qualified persons to come in and testify as custodians of the record.

What I was seeking to do is try to move the matter ahead with only a four-day week and more than likely three days for trial, and I was hoping that we could expedite it, so that was the purpose. Thank you, sir.

THE COURT: All right. I think we got an understanding on that. On Number Three this is one where I'm not sure I can make a ruling on until I hear what -- of what those -- what evidence we're talking about is the best way to say it because I just can't make a blanket rule that a 404(B) or *Lyle* that certain things come in until I actually hear -- hear from it or see it.

SOLICITOR GHENT: Your Honor, briefly. What that is is virtually the same evidence that we would argue under the motion to un-sever the cases and join them back because of change of circumstances. It would be evidence of the threats because there is case law; I believe the decision is *Edwards*, that says that evidence of threats is evidence of guilty knowledge. That would be *383, 66, 2009 State versus Edwards*. "Witness intimidation. If linked to the defendant may be showed -- may be admitted to show a consciousness of guilt establishing the defendant as the source of the intimidation provides the necessary

reliability for admissibility."

The emails, the other, the U-Tube videos, other things that were conveyed to the deputy and in turn to a female assistant solicitor all are for the purposes we would submit of intimidation and because of that they should be admissible. In particular, your Honor, one of the most egregious ones which is cited in the indictment for in basically attacking the constitutional rights of Sylvia Harrison.

THE COURT: That's one at (B)(2)?

SOLICITOR GHENT: Yes, sir.

THE COURT: I haven't read it in here but I read it in what you sent me.

SOLICITOR GHENT: Yes, sir.

THE COURT: So I'm familiar with that.

SOLICITOR GHENT: It is -- The very term used is dehumanizing. I could point out any number of ways in which even today remarks are being used through emails, U-Tube, by any number of groups to intimidate others. I would also note that we have Captain Mike Prodan, and that's gonna be put into the record too today, do a threat analysis interpreting the threat made. Psalm 109 is in fact a curse. "Set thou a wicked man over him and let Satan stand at his right hand. When he shall be judged, let him be condemned and let his prayer become sin. Let

his days be few and let another take his office. Let his children be fatherless and his wife a widow."

Your Honor, in it's totality this is in effect with the rest of the email the defendant holding himself out threatening these individuals he says prayer. There are any number of situations where after the fact people go back and say, oh, now we see that there was a threat.

My job in handling these kinds of cases is essentially those who make the threats they can do it over and over and over again and they may or may not get caught and prosecuted. I only have to miss one time and I loose a witness, a deputy, a prosecutor, or a judge, and that will not happen on my watch if I have anything to do with it.

Thank you, your Honor.

THE COURT: Mr. Shealy.

MS. SHEALY: Thank you, your Honor. As for a 404(B) analysis, Judge, I think that's the incorrect rule to cite. That regards motive, identity -- I'm sorry, I was reading *State v. Edwards*. If you'll bear with me one second and pull up Rule 404(B) so I can cite the entire rule to you, Judge.

THE COURT: I've got it.

MS. SHEALY: I don't think that he can -- that the state is claiming that these other acts are admissible to show motive, identity, the existence of a common scheme or

plan absence of the state or accident or the intent. What it sounds like he's arguing is as in *State v. Edwards* where the threats apparently in that case were regarding a CSC. The mother of a CSC victim received a letter telling her that he would shoot -- that the defendant would shoot her if she testified.

In this case none of the threats that you've heard, or the alleged threats that you've heard, have anything to do with any body testifying or anything like that. And point of fact no email that I have been able to find says don't -- don't prosecute me. I mean it's asking not to be prosecuted but it's not a you need to stop this or I'm going to commit a crime against you. What it all is is you are unduly persecuting me and I am angry about it. None of this ever says; even as bad as all this sounds, none of it is don't prosecute me. It's stop persecuting me.

Judge, in fact he had filed speedy trial motions through lawyers. He wanted his day in court. He was required to keep in contact with Tim Martin so to some point to some extent this contact that was being done was actually judicially required in order to remain on bond which is a strange requirement. We don't have that in Spartanburg County. I've never seen a requirement to stay in contact with the investigating officer.

So I don't think that it's -- its certainly not

admissible under 404(B). And I don't think it's admissible in *State v. Edwards* because what they're saying are threats and what they're saying is by a language is not aimed at don't testify against me. Its y'all are doing me wrong. And that is the entirety of his language and I don't think that that's really disputable. It's y'all are not treating me correctly.

So, Judge, I don't think that its admissible for the purpose that Mr. Ghent wants it to be admitted into evidence. Quite frankly it appears it's just character evidence. They want the jury to hear all of this vile language and simply convict him of the breach of trust because he seems like a bad guy. Thank you.

THE COURT: All right.

SOLICITOR GHENT: Your Honor, actually going to the threat assessment which is gonna be offered in the second page. Captain Prodan addresses this and I did in my statement of facts. From Captain Prodan's report page two, the next paragraph begins "Being warned contact my sister, family, or friends again in an effort to intimidate me and you will regret it." And it goes through and again he cites all the things -- that's where he uses the dehumanizing remarks regarding Assistant Solicitor Harrison. And, with this what was going on was an attempt to investigate the case. No, they -- he didn't say don't

testify. He's saying don't investigate talking to my sister.

Now as it turns out nobody knew this at the time but his sister is probably the closest person in the world to this defendant. There are different ways to have handled it but this way is patently illegal; it is patently a threat; everything about this email -- this message -- is threatening in the manner in which it was sent.

THE COURT: All right. I'm gonna take -- you put those -- I got the indictment and if you want to put the handwriting -- not handwriting but the threat analysis in the record I'll take all of this into consideration.

SOLICITOR GHENT: Yes, sir.

MS. SHEALY: If I may, Judge, one -- My understanding was that this was entirely closed at this point. The case had been indicted, it was not -- I think there may need to be some testimony regarding when things were sent at this point because my understanding is these emails or the attempt to contact the sister, family, or friends, was well after my client had already been arrested; he had been put on bond, so there was no more investigation going on and there was certainly no reason to contact his sister for that purpose.

SOLICITOR GHENT: Your Honor, wait a minute. As somebody who's done white-collar work both criminal defense

and criminal prosecution federal and state, everybody knows that its not over when an arrest happens. Usually that's where it starts because that's when the people who are involved have to go from probable cause to beyond a reasonable doubt so that's an absurd argument with all due respect. It was not over; they were trying to complete the investigation. I have not contacted his sister because it became obvious that was a hot-button issue for him. I've tried to treat him with respect but it is a threat while an ongoing investigation is taking place. Thank you.

MS. SHEALY: Then I would just submit to you, your Honor, there needs to be some kind of testimony to that as opposed to simply simple assertions placed on the record and I just don't think that's sufficient.

THE COURT: All right. Well I'll take that under advisement, that portion of the Motion in Limine.

All right, that takes care of the three sub-sets of the Motion in Limine. Which -- Next, Mr. Ghent.

SOLICITOR GHENT: Next, your Honor, very briefly the notice of Motion Motion in Limine to Exclude Third Party Guilt. Your Honor, at some point in his statement to the investigator Mr. Holcomb made reference to Kenny who had sniffed him or run out on him and there is a Claudia Whitt who is his girlfriend and was in the business with him who has gone missing. Again, to try to steer clear of things

that appear -- I'm trying to keep this case on an even a keel as possible. I am essentially consenting to prepare a case with one arm tied behind my back; never the less, I am preparing the case so I would simply rely on Mr. Barnette's motion and the memorandum which were filed. Thank you, sir.

THE COURT: Mr. Shealy.

MS. SHEALY: Judge, I don't anticipate claiming that some other person committed a breach of trust here or obtained property under false pretenses or obstruction of justice or any of those other things. There may be witnesses who goes to whether my client committed fraud or not. And there are a number of other people who worked for my client, and if they didn't show up when they were supposed to show up that may go to whether my client made a fraud. That's not claiming that they are guilty of fraud themselves so we have no third party guilt. We may have fact witnesses but I don't think we're required to bring them in and put them up as third party guilt. And again we're not claiming they committed a crime.

THE COURT: Well we'll go from here that there is no position of the defense that the -- that if there was a crime that it was committed by the third party. But we'll see where the testimony goes at the trial and determine it's admissibility and I think that says enough on that.

All right, what's your next, Mr. Ghent?

SOLICITOR GHENT: Your Honor, a Motion for Handwriting Exemplars. We'd submit that there are quite a number of examples of the defendant's handwriting involved in this case. We would simply ask that he provide a representative from SLED at an appropriate time, mutually advantageous time, to simply provide handwriting exemplars for her to the extent needed for her to evaluate his signature. Or, once we've submitted our presentation regarding a summary of what we intend to prove and the exhibits with it, perhaps we would want to stipulate. I doubt it. I'm not holding my breathe on that one but that's our position.

THE COURT: All right, Mr. Shealy.

MS. SHEALY: Judge, I've discussed that with my client and my client actually has no problem presenting his own handwriting exemplars but he would like some exemplars from the investigating officer in this case Mr. Martin.

THE COURT: You mean Mr. Martin's handwriting?

MS. SHEALY: Yes, sir.

THE COURT: All right. I deny that motion. Or not -- I mean if you're making that a motion I deny that.

MS. SHEALY: But, Judge, we -- it would be our position that the State has to present this under oath or affirmation. And it's the *State versus Baccus* 367, S.C. 41, I've got a copy of it.

THE COURT: Let me look at that cause I'm relying on the -- I haven't seen that.

MS. SHEALY: Yes, sir, if I may approach.

(DOCUMENTS RECEIVED UP BY THE COURT.)

THE COURT: All right, this appears to be a Schwerber issue just from the first little over view.

MR. SHEALY: It is, your Honor. But it would be our position that *Schmerber* covers all non-testimonial evidence and this would be one of those non-testimonial evidence.

THE COURT: Well I'll take a look at this but my initial reaction -- I did read the Euge; that's *U.S. versus Euge, E-u-g-e 444, U.S. 707* case yesterday, *1980* case; dealt with tax code and provision requiring one being investigated by the IRS to give an exemplar but in the discussion the *United State's Supreme Court* talked about the common law and held that 6 -- 7602 of the Code was not an invasion or interrogation of that - - of Mr. Euge's constitutional right that requiring a handwriting exemplar would not constitute *Fourth Amendment Search or Seizure* nor was the testimonial protected under the *Fifth Amendment*.

So I -- My inclination is that I'm going to require it but I do want that -- I will take a look at the *Baccus* case just to get my comfort level up. I think based on *Euge* that the -- I don't see this quite as a *Schmerber*. *Schmerber* is -- I'll have to look back at *Schmerber* but

those -- that line of cases usually deals with some sort of invasive even if it's just a swab in the mouth or the clipping of a hair which is not really invasive but it is in essence a battery to cut somebody's hair so *Schmerber's* a little different than I think a handwriting exemplar so my inclination is to require that but I want to take it under advisement.

SOLICITOR GHENT: Your Honor, may I just point out one thing with respect to *Schmerber*? I'm looking for the date. I find the citation regarding *Schmerber* and it would appear when you compare the *Schmerber* cite to *U.S. Reporter* that *Euge* was well after it. *Euge* does not in any way -- it's not affected by -- It came after *Schmerber* and this is not withdrawing blood; this is simply a non-invasive, non-testimonial procedure which *Euge* says it does not offend the *Fifth Amendment;* it does not offend the *Fourth Amendment*. Thank you.

THE COURT: I think what Mr. Shealy's relying on *Baccus* for is and *Schmerber* is is requiring of a showing not whether it is a violation of the *Fourth* or -- *Fourth or Fifth Amendment* but rather whether or not there needs to be a better more showing. *Schmerber* does require probable cause and some other things I'm not gonna catalogue now.

MR. SHEALY: Yes, sir. And I should also point out *State versus Simmons* which regards a palm print and also

uses the *Schmerber* requirements. And so, Judge, that would be my basis of anything that you need to get from my client falls under *Schmerber*. Even if its just a second palm print.

THE COURT: What's the date of that?

MR. SHEALY: This is a 2009 case. April 22nd. It was decided June 17th of 2009.

SOLICITOR GHENT: What was the name of it?

MR. SHEALY: *State versus Simmons, 682, S.E.d, 19* --

THE COURT: Well I'll take that one under advisement too.

MR. SHEALY: Thank you, your Honor.

THE COURT: All right.

SOLICITOR GHENT: Your Honor.

THE COURT: Yes, sir.

SOLICITOR GHENT: Are we moving fast enough?

THE COURT: Yes.

SOLICITOR GHENT: Next is our motion to compel discovery.

THE COURT: Mr. Shealy, what --

SOLICITOR GHENT: This would be what we're asking for is copies. Mr. Shealy was present at the examination and there was a lot of information that went into the conclusion. I would like at this time to ask that under *Kansas versus Cheever* which is a 2013 decision in the U.S.

Supreme Court just in case something comes up and we do need to have an independent evaluation which I hope we do not. I would like to ask the Court to direct him to give us copies under seal, under agreement, that -- a protective order that they cannot be shared with anybody other than through the Court's authorization. We've done this before in death penalty cases. You have to come back to the court if they are given; get the court's authorization before you give them to somebody else, but I want to see what information Mr. Shealy provided to the examiners.

There are all kinds of stories that are being told regarding the difficulties that his client has. His client has said he is bipolar. His client -- I'm no psychologist; I'm not a psychiatrist but his client as I said is very bright but he does strange things and now he's moved in the area of things that move into dangerous.

And we have heard that he had a closed-head injury. He says a month before in his statement to the officer. There is a lot of information that came into that report through his sister. Again, I'm not contacting his sister. That's not out of fear; that's out of respect for the fact that it's obviously an area based on what she said that he considers very sensitive based on what was provided to the physicians. I understand that and based on that what I am seeking is that Mr. Shealy, under the rules of discovery,

provide us this information. Thank you.

THE COURT: Mr. Shealy.

MR. SHEALY: Yes, sir. Just to be clear, I don't have everything that the examiners got to make these determinations. They make the phone call to the sister for instance. I don't get that information. They also would have gotten other information that only they can get. They can go outside of the state to pull mental health records back that quite frankly the public defender's office just doesn't have the resources to do. I have pulled some of his mental health records.

Our position is we're not making a mental status defense. *Kansas v. Cheever* only deals with when we make a mental status defense the State should be able to rebut that mental status defense in any particular kind of case. It's a very narrow opinion; it doesn't apply in my opinion to a breach of trust case. In *Cheever* my understanding is Mr. Cheever was diagnosed or was seen by a federal psychologist. The question was whether they could use that interview with the federal psychologist in a state case where Mr. Cheever was attempting to avail himself of a defense of voluntary intoxication. They wanted to be able to use that federal psychologist's report against in order to aviate that defense.

We're not making that defense, Judge. We're not

saying that he was guilty but mentally ill. We're also not saying that he is not guilty by reason of insanity. That -- Or if we were I understand I'd have to turn this stuff over so the state can get their own expert to determine whether my client was guilty but mentally ill or not guilty by reason of insanity. That's not the case here. So I don't think that they're entitled to it under Rule 5. They're certainly -- And their just not entitled to it. So I don't think that my client's mental health records need to go heather and yon because they think that my guy might say something at some point. We're not telling the court he's not and that's not our defense. It just isn't our defense. Thank you.

THE COURT: Mr. Ghent.

SOLICITOR GHENT: Briefly in reply, your Honor, going back to *Cheever*. *Cheever* recognized that this is what is going on with respect to the defense bar, the defense lawyers. And they held that quote "testimony where the defendant presented evidence of quote "the mental status" quote defense of emotional disturbance" it "may be countered by evidence from a court-ordered psychological examination for the ... purpose of rebutting the defendant's evidence. Mental-status defenses include those based on psychological expert evidence is to defendant's mens rea, mental capacity to commit the crime, or ability

to premeditate. Defendant need not assert a mental disease or defect in order to assert a defense based on mental status. Defendant's psychiatric evidence concerned his mental capacity to premeditate." Here the issue is gonna be whether or not he had specific intent to defraud.

And the court there said we're not concerned for purposes of this and fair discovery; whether or not this particular wording of the discovery rules in this particular state are this or that. And if it has to do with mental status he's entitled to it. I'd also point out, your Honor, that if there is testimony *South Carolina Rules of Evidence 705*, we're entitled to have this information for cross-examination.

We only have three days for a trial realistically. We may be able to get some of it done on Tuesday but we're gonna be picking a jury, making opening statements, and we'll do our best to move as fast as we can, your Honor, but under the circumstances there's nothing that says the court cannot order that it be provided under a protective order to the court. The court can then -- or to me, to the State. We're entitled to it and we should have it.

Thank you, your Honor.

THE COURT: I'll take that under advisement also.

I haven't had some of these before so I'll have to wade my way as best I can. All right, which one's next?

SOLICITOR GHENT: Your Honor, next will be a motion for continuing protective order for court filings. All I'm trying to do with that, your Honor, is it's anal -- analogist to a death penalty case. As a defense lawyer I -- and it's strange, I wanted them closed. I didn't want to prejudice my client's chances for a fair trial. Now more and more we're seeing the defense bar quite frankly, and I can say this because I've been on both sides, they are the ones now who -- we're having to move for proceedings to be closed in terms of documents. More and more PCR seems to be something to that the attorney's who are the true believers are willing to throw themselves under the bus. What I would ask for is a motion for a continuing protective order for court filings. Or, something to allow us not to give the defendant what he wants and that's a lot of attention on this.

I want to try the case. Court's are public but by the same token filings open up a whole now ball game. This defendant was been suing people; litigating matters. The chief SLED investigator has now been sued in Federal Court over a search of this defendant's jail cell. And that search was the reason -- The information provided under that search was the reason why the previous judge, after Judge Kelly, Judge Gibbons disqualified himself.

Thank you, your Honor.

MR. SHEALY: To preface all this I'm not even prejudice to chunks of the filings in this case. The -- Apparently there was a phone call that the state has filed exparte that got Judge Gibbons to recuse himself. The --

SOLICITOR GHENT: Judge, I object to that. There was not a telephone call.

MR. SHEALY: The information from that telephone call.

Again, Judge, I hadn't seen it so I assume that they actually used the best evidence which would be the telephone call. Apparently they just summarized that evidence and put it into the record ex parte. I don't know because I haven't been apprised of that so I can't speak to why Judge Gibbons recused himself because I'm not -- I've attempted to get the phone call from the jail. They won't give it to me. That's one of the State's motions is to quash the subpoena that I served on the jail requesting the statement of my client.

So, I don't see how this is at all helpful to my client. I don't see how it is at all helpful to the process of justice to keep everything sealed up. My client should be able to get his discovery. My client should be able to get the court filings because court filings are what's going on in his case. He has a right to that information.

I'm sorry that the SLED officer has been sued in

Federal Court but it's my understanding that there are applicable issues in that case as to why they searched my client's jail cell. Its my understanding he has also been successful in a number of his law suits. He generally -- He presses his rights, Judge, and Mr. Ghent wants to punish him for that and that's not the way we work.

THE COURT: All right.

SOLICITOR GHENT: Your Honor, may I please respond?

THE COURT: Yeah.

SOLICITOR GHENT: First of all there was information that was brought to our attention that got SLED involved. The information was not a phone call; it was two individuals, two, who came forward and were extremely uncomfortable with remarks that this individual was making. One of those had to do with threats against a judge; threatening language, threatening discussion with respect to a judge who had revoked his bond.

As it turned out that judge happened to be one of the closest friends that Judge Gibbons has. He disqualified himself. I submitted that properly under *Rule 5*, I believe it's (D) of the *Rules of Criminal Procedure*. It allows for an ex parte submission and what is submitted is then supposed to be sealed and put into the record.

THE COURT: Well here's what I'm gonna do. I'm not gonna do a blanket protective order for all court filings.

I have to look back at *Five(D)(1)* but I want to rely on that and ask -- my ruling is that if the State believes there are any filings that should be protected pursuant to *Five (D)(1)* that I will review them in camera and make a case by case or document by document or evidence by evidence, or however you want to say it, ruling as to whether that particular filing should be sealed or not.

SOLICITOR GHENT: Yes, sir.

THE COURT: All right. What's next?

SOLICITOR GHENT: Your Honor, the next motion would be the motion to admit the mental health reports. Actually it's just the one as to breach of trust only for purposes of this hearing. The basis is *Rule 104* of the *South Carolina Rules of Evidence, (A)(B),* and *South Carolina Rules of Evidence (B)(1) and (D)(1).* Bottom line is the purposes of determinations pretrial. We can submit them without requiring - - And again, we're not trying to show he's incompetent. All we're wanting to show to the Court's satisfaction is he was examined and he was found to be competent to assist in his defense. Thank you.

THE COURT: Any objection?

MR. SHEALY: No.

THE COURT: Without objection granted.

SOLICITOR GHENT: Thank you.

THE COURT: All right. What's next?

SOLICITOR GHENT: Your Honor, I have a motion for a continuing protective order under *South Carolina Rule 5(D)(1)* which your Honor has already ruled on.

THE COURT: Yeah, I saw there were two that looked to me like they pretty much ---

SOLICITOR GHENT: Yes, sir.

THE COURT: --- over lapped and so I was kind of ruling on both of them at the same time.

SOLICITOR GHENT: Your Honor, some of the motions actually have gone to court and one would be for example the motion that your Honor's already referred to or Mr. Shealy has about our motion to quash the subpoena. The motion to quash the subpoena -- and I'm just doing this from memory and my own knowledge of it -- The rule governing subpoena's I believe is *Rule 15.*

THE COURT: *Thirteen.*

SOLICITOR GHENT: Thirteen under the *South Carolina Rules of Criminal Procedure.* There is no right to subpoena de bene esse which is what was being sought. *Also State versus Noah Ryan Robinson.* That was a case that was -- that our -- given the Supreme Court back in 1991 before the *South Carolina Rules of Criminal Procedure* and it relies on federal law even then. At that time there were the precursors of *Rule 5* but basically the Supreme Court said that you cannot use other means and other remedies to get

around the rules of criminal discovery.

Counsel is talking, which I resent, about us wanting us to deprive this defendant of his day in court or his rights knowing full well I intend to go the extra mile today and provide the court with -- and Mr. Shealy -- with exhibits which specify refutation of specific things that this defendant said in his own statement and his own knowledge that what he was doing was wrong.

The bottom line is we had ask that that motion be quashed, that subpoena be quashed rather, because number one, and this is something we've run into, I can't really fault Mat for it, but it was filed in Spartanburg. The case is in Greenville. The hearing is being held today in York so it -- Mat's in Spartanburg as am I so it's understandable but no jurisdiction of Spartanburg the Clerk of Court to have done that, and we've had this come up before, no, you cannot obtain records basically de bene esse for purposes of discovery.

So I'm not trying to keep the defendant from having a right that he already is entitled to. I am moving to strike a means of his getting things in a manner he is not allowed to under South Carolina law. Again, *Rule and Robinson.* Thank you.

THE COURT: Mr. Shealy.

MR. SHEALY: Your Honor, he's correct, I issues, your

Honor, or I got this subpoena from the Spartanburg County Clerk so he's right I should have gotten it from the Greenville County Clerk.

The idea that we're not allowed to use subpoena's at all in order to get information to prepare for cases I believe is incorrect, Judge. I don't have a case to point to but I believe my client has a right to present a defense. And in order to present that defense and I believe that's what the *Sixth Amendment, the Fourth, Fifth, and Sixth Amendments* are all about are with regard to my client's rights to present defenses at trial. And as we do every time we plead somebody guilty my client's waive their right of subpoena. And so, Judge, I believe that we have a right to serve subpoena's particularly on folks who are not the solicitor. In this case the subpoena was served on the Greenville County Jail which is not --

THE COURT: Well, *Rule 13* has to do with subpoenaing witnesses to trial. Have you subpoenaed any of the - - Are these subpoenas directed to deliver something to your office or are they directed to --

MR. SHEALY: They were --

THE COURT: Let me finish.

MR. SHEALY: --- directed to deliver them to my office.

THE COURT: Well, I'll take it under advisement but I

don't believe that *Rule 13* gives that -- That is I believe *Rule 13* is not morph into a discovery rule sort of what Mr. Ghent's saying, but I'll take a look at it. When the caption of *Rule 13* is *Conduct of Trial* and then you get down to E, "the court's should have the power to issue to compel the attendance of witnesses." And if I remember correct since I was somewhat involved -- I'm looking at the Magistrate's Court's ruling. Let me get the right book.

Sorry.

Again, (A), "Upon the request of any party the Clerk of Court shall issue subpoenas or subpoenas duces tecum for any person or persons to attend as witness in any cause or matter ... in the General Sessions. Demand person to give testimony, or ... produce documents at time and place specified."

It appears to me to be a -- a vehicle by way of which he can as we do in our colloquy telling him he has the right to compel his witnesses to come to court to testify on his behalf, but it looks to me that that's what the rule addresses; not requiring discovery, so I'll take it under advisement. But that's not an issue --

MR. SHEALY: Yes, sir. If I may, Judge, I would submit to you that *Rule 13* isn't -- isn't the end all in it doesn't completely cap the power of subpoenas. I mean I understand it deals with subpoenas particularly in the

conduct of their trial. I think that there's going to be a problem if I can't gather information for my client pretrial. I think that your Honor would be cutting off my ability to build a case for my client except to go through the solicitor but the solicitor has no requirement to turn over things that I think might be necessary; he doesn't think they're necessary. They're not within his care and custody and control; he doesn't have to turn 'em over to me.

If I have no mechanism by which to call things back or get things from folks, my client's ability to present a defense at trial, and I think Mr. Ghent has pointed out, that at trial we only got a finite period of time and while I could subpoena somebody to trial and have them bring voluminous records and then ask to be able to read them.

THE COURT: Let me ask if this is an appropriate analogy. Could you compel a witness who's going to testify for the State to come to your office and give you -- sit down with you and discuss the case and when they get there they could say I'm not gonna talk to you?

MR. SHEALY: Yes, sir.

THE COURT: The question is step one, could you subpoena, could you issue a subpoena and would the court uphold a subpoena for you to subpoena John Doe who is a witness against your client to come to your office for an

in-office meeting with you? Could you do it?

MR. SHEALY: I don't know, Judge. I've never tried that before.

THE COURT: Well is that not an analogous of what you're doing here?

MR. SHEALY: Well, Judge, we're asking for documents.

THE COURT: I know. I know but I'm talking about an analogy. I know there is a difference in a document and a human being. But is that a significant difference as far as the right to compel somebody to do something other than what's under the rule?

MR. SHEALY: Your Honor, ---

THE COURT: I'll take it under -- I'll take it under advisement.

MR. SHEALY: --- I believe that would be a significant difference, Judge, to the extent you're asking.

THE COURT: Okay.

SOLICITOR GHENT: Your Honor, may I also point out that your Honor actually has already, and it's my original intention, under 5(D) if your Honor makes a decision that the information should not be kept in confidence, I submitted it ex parte; it's an administrative matter at this point; it's also a matter that is authorized to do it that way under certain circumstances where it is sealed; put it in the record for the Supreme Court to make its

decision.

But under these circumstances -- Your Honor will have the opportunity to pass on it not as a matter of spent. I will not concede that, but your Honor has already said you'll look at it and make a decision. Thank you, your Honor.

THE COURT: All right. So as far as the quashing the subpoena I'm going to hold that -- What I'm gonna do at this point is hold the execution of the subpoena in abeyance pending a determination as to whether or not that the Spartanburg -- as I understand it the Spartanburg Clerk of Court's office needs to comply therewith.

SOLICITOR GHENT: Actually that's the thing that he was conceding. He filed it in the wrong county.

THE COURT: Well then okay. So that one's out the window but if he -- So -- Well that becomes moot. But the concept is still there when you now go to Greenville and get the Greenville County Clerk of Court to issue some subpoena to do the same thing.

MR. SHEALY: Yes, sir. And I should also point out, your Honor, that the State doesn't have any standing to quash that subpoena.

SOLICITOR GHENT: Why not?

MS. SHEALY: Because, Judge, the State doesn't represent the Greenville County Detention Center.

SOLICITOR GHENT: They don't have to.

MR. SHEALY: Yes they --

THE COURT: All right.

SOLICITOR GHENT: An unlawful subpoena we have standing to challenge.

THE COURT: All right. Well I'll let y'all both reach that part of the issue and the jurisdictional matter negates any ruling on the issue of the subpoena coming out of Spartanburg but it's gonna come back and flash back around so I'll make a ruling of the accuracy of such a subpoena regardless of whether it's issued by Spartanburg or Greenville or Cherokee or whoever. All right.

SOLICITOR HAMILTON: Your Honor, there is a motion regarding juror nullification. This is basically the point. The previous judge on the case, Judge Kelly, I think that's two judges back, and I had a white-collar case that he kept saying, you know, the first thing he was gonna say to a jury was, ladies and gentlemen, welcome to Common Pleas because this is a civil case.

Well, after about the twelfth arrest of his client for continuing the thronts he was engaged in, it was agreed it might be a good idea to go ahead and plead him guilty and that's what happened.

I don't want this matter characterized in any way shape or form as a civil matter. That is a left-handed way

of seeking juror nullification. The decision was made by law enforcement to go forward with it as a criminal matter. That is not tell the jury disregard the judge; disregard the prosecution; disregard the facts, we're in the wrong court. That's improper. Thank you.

THE COURT: Well, let me hear from Mr. Shealy. I don't see that quite as jury nullification.

Let me hear from Mr. Shealy.

MR. SHEALY: Judge, I don't believe it's juror -- jury nullification either. I think it's me saying that these acts weren't criminal; that it just don't -- it doesn't rise to a criminal matter and it's not a criminal matter and I think I'm allowed to pen it. That's part of my job is to say you got to find him not guilty.

THE COURT: I'm gonna deny the motion that's made but I'm gonna be alert if that comes up during a trial and you believe a line has been crossed we'll deal with it then. But I think that's at this point without any research I think that's a legitimate argument that this -- my client committed something, did wrong, but it's not a crime.

SOLICITOR GHENT: That much I can see. Saying you're in the wrong court is basically saying don't pay any attention to the instructions of the judge this is not about a crime.

THE COURT: Well I don't take it quite that far but

let me -- Again we'll see how that goes. But I hate to keep pushing things off but the nature of them are such that I have to.

SOLICITOR GHENT: Yes, sir.

THE COURT: I'm certainly not gonna allow him to argue jury nullification. We've got a belly full of that in this area with people handing out pamphlets. Anyway I'll stay tuned to that.

SOLICITOR GHENT: Yes, sir.

THE COURT: Okay.

SOLICITOR GHENT: I think finally it would be the motion to join charges. This is a reconsideration, your Honor. Counsel, Mr. Shealy, previously won that issue with Judge Kelly. I would submit there's been a change in circumstances. It has expanded the nature of what this case is about where there was intimidation. It was an attempt to intimidate witnesses. That then went beyond to discussion about how to go about getting back at the judge who had revoked the bond. Excuse me, your Honor.

THE COURT: It's okay.

SOLICITOR GHENT: The bottom line is, then I think the matter should be reconsidered and joined. The problem I've got now is I meet myself going back the other way because as I've said now a couple of times in this hearing we're only gonna have three days to do it and in all honesty if

your Honor's willing to take full jurisdiction over the entire case, put it back and set a date certain to try all the cases together, then I push forward like crazy, I am ready to argue that Cutro was not appropriately addressed under Judge Kelly's order, but, there has been a ruling by a prior judge. I do think it can be reconsidered based upon the change in circumstances. That's it. He won the last time. I'm seeking reconsideration.

THE COURT: What's the change in circumstances?

SOLICITOR GHENT: Again, the circumstances are that this defendant's own conduct has brought about time and again things that brought in things directly related to the breach of trust. The entire driving force for the threats was that the prosecution would not back off from it's investigation and going forward. Bond was set and he just bombards the detective with all kinds of offensive emails.

He gets on U-Tube and puts on these cartoons and everything else. Some of them -- Like I said he's smart. Some of them are clever, too clever by half, but the bottom line is they are admissions against interest and they go towards showing that this defendant was continually trying to harass at first the detective into backing off from the decision to make the charge.

Then after that it reaches a point where when someone makes the decision to reach out and contact his sister

quite frankly that's when all hell broke loose. And then after that we're getting ready to go to trial and I get contacted by the jail telling me about, well, this has happened now. And there's a video which I'm gonna put into -- not that I'll put it in the record but I will send it to the court for the other matters, the ex parte, a debriefing invest -- interrogation, whatever you want to call it, one of the two individuals who gave information.

So this is not something I have made up. It happened. And to the extent Mr. Shealy has inferred that; suggested that, I resent it. I have gone to great pains because this man has got problems. Again, he's very smart; he's very devious and he -- I really cannot afford to simply walk away and go, well, no big deal.

THE COURT: Well, I understand that but my concern would be the prejudicial effect of what's happened as a result of him being charged affecting what he was charged with if I'm saying it with any sense.

SOLICITOR GHENT: No. I understand exactly what you're saying, your Honor. I lost the first time, didn't like it but there's times that you just kind of go with the one who's got the robe. I felt like I should have won but Mr. Shealy did his job; I did mine, Judge went with him. I fully understand what your Honor is saying and that indicates to me more than likely your Honor will not grant

the motion but at least I have, once again, done my job.

Thank you.

THE COURT: Well before I make a final I would like to see Judge Kelly's order and see what he says as far as why he determined that there should not -- that it should be and I keep using the word bifurcated but not join -- joined -- and again bifurcate it. That's still not the right word. Not make it two separate events.

MR. SHEALY: Separate. Yes, sir.

THE COURT: So I'll take a look at that.

Mr. Shealy, I'll be glad to have your thoughts on it.

MR. SHEALY: Judge, our position would be there has been no change in circumstances. There is no change in circumstances to which I have privity. Again, I normally thought this -- the thing that made Judge Gibbons or got Judge Gibbons to recuse himself I don't want to make a fowl of that, but the standard is Cutro that offenses need to be of the same general nature, connected transactions closely related in time, place, and character are not prejudice to stand of rights; again, there has been no change in circumstances as to -- Nothing's made these all of a sudden generally the same nature or anything like that, so, we'll get to that order, Judge. I don't think I have it with me right now.

THE COURT: Okay.

SOLICITOR GHENT: Finally, your Honor, are there any other motions that I've not addressed?

THE COURT: It seems like there was a motion to retest the defendant.

SOLICITOR GHENT: Your Honor, that one upon further consideration with what -- Here's what happened. Mr. Shealy and you will see it in here, supposedly this defendant according to the information in his test, mental health evaluation done by DMH, was taking some very significant drugs that should have contained his behavior and in a way that's always been my problem with this. About sixty percent of the people who come through the system have mental health issues of one kind or another and a lot of 'em are actively seeking help whether it's drug addiction or bipolar syndrome or whatever.

This defendant fights it tooth and nail and that's his choice. Life is about choices, criminal law is about choices; the Bible is about choices. Everything that matters to us is about choices. In this case, your Honor, what happened was the defendant while everybody thought, okay, he seems like he's okay, he's taking his medicine so he's fine. That's one of the reasons why I want this into the record in terms of the report, is, he was supposed to be taking meds. And based upon that they opined that he was competent to stand trial and he was fine. I would like

to have him retested. I really don't care whether he --

The bottom line is I in trying to keep this thing on track, I'm not gonna do anything that this defendant feels like I'm trying to personally humiliate him, I'm not. I consider him dangerous, I'm prosecuting him and he has rejected numerous or at least two prior efforts to resolve the matter and I was brought in to try the case so I'm not gonna waste time with that. He's made it clear no. I don't want probation, I don't want this or that and it's clear he cannot be put on bond, so I'm in a position where I have nothing to do but to go to court and try the case.

I withdraw the motion for the simple reason that I think he would find it demeaning. I don't care if he gets ticked off with me or whatever but by the same token I am not going to do something that I feel he's going to feel is demeaning. I think making him pee in a cup regularly would probably do that.

THE COURT: All right. That's everything with the hearing. If you'll make those exhibits, make sure of course Mr. Shealy --

SOLICITOR GHENT: That's what I'm now, Court's Exhibit One is the record from the last hearing.

THE COURT: Why don't you read 'em into the record?

SOLICITOR GHENT: Right. My apologies.

THE COURT: That is my fault. I was looking for --

SOLICITOR GHENT: The transcript of the record from the hearing before the Honorable Keith Kelly June 4th, 2015.

May I offer it at this time?

THE COURT: You may and if you'll hand it to the court reporter she'll make sure it's marked and properly entered.

SOLICITOR FULLER: There is only one I did not get premarked and I will bring it at the very end.

(WHEREUPON, COURT'S EXHIBIT NUMBER ONE IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

SOLICITOR GHENT: Your Honor, next would be Court's Exhibit Number Two, State Farm documents One and Two from the adjustor's claim file.

MR. SHEALY: I have no objection.

SOLICITOR GHENT: Your Honor, may I state for the record once it is marked the relevance as we go through these?

THE COURT: You may.

(WHEREUPON, COURT'S EXHIBIT NUMBER TWO IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

SOLICITOR GHENT: Your Honor, the relevance is, again, in his statement where in his mind he cooperated and doesn't understand why. One of the things that he said was that one of the reasons why he didn't do the repairs on the house, he goes back and forth, he says he fixed -- you know

he put another roof on it but that he says one of the reasons why he didn't do something was because the deductible wasn't paid. Well, it's clear the deductible was only five hundred dollars. And this is a matter of a contract between State Farm, and again, this guy is a very fast talker, he acts as if he knows all about this business.

The circumstances for the actual amount paid being more than the amount that is then required for repairing the roof, those are in the first page and the amount for the repair is on page two.

THE COURT: I'm gonna look at 'em later.

SOLICITOR GHENT: Yes, sir. Page 3 -- I mean Court's Exhibit Three is the contract between Robert McGin, the victim, Carolina Home Renovators signed by Dean Holcomb. It's not a -- it's a DVA. It's not a corporation as near as I can figure. It has Mr. Holcomb's license and he goes through the entire spill of what he said he was gonna do in his statement. It says right there replace with Green Tree metal and install over existing roof; warranty of labor ten years, materials forty years; exterior repairs, stain siding and deck, paint door. Four thousand, two hundred and ninety-five dollars, three cents to start. Two thousand, eight hundred and eighty-five dollars, ninety-six cents upon completion.

Your Honor will I'm sure will do the math much better than me whenever your Honor compares the numbers on that with the number then put into the estimate.

SOLICITOR GHENT: Court's Exhibit Four is simply a document that is a check by my investigator on Carolina Home Renovators. The defendant said in his statement that he had lost his bond. This merely corroborates the fact that as of 11.14.2012 his bond -- he was not bonded -- did expire.

THE COURT: Okay.

(WHEREUPON, COURT'S EXHIBIT NUMBER FOUR, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

THE COURT: Okay.

SOLICITOR GHENT: Court's Exhibit Number Five, a check made out to Carolina Home Renovators by Robert McGin on his account with the Bank of Traveler's Rest. It is for the initial payment. Four thousand, two hundred and ninety-five dollars, three cents. This is significant. It is endorsed by the defendant, partial payment roof May 29th, 2012.

(WHEREUPON, COURT'S EXHIBIT FIVE IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

THE COURT: Next.

SOLICITOR GHENT: Next is in his statement that he gave explaining why he did nothing wrong. He was talking

about the previous guy, blind guy, who chose Hawaiian blue for his roof; only a blind guy would choose Hawaiian blue, and it is a document from the Green Tree Metals Company. It is paid May 29th, 2012. It is for Hawaiian blue roofing; the roofing that went on a gentleman's house who had been complaining, arguing, about his job not getting done, not getting done, not getting done.

In other words the very day that this defendant was paid for this project he turned around and paid for a project that was already ongoing.

SOLICITOR GHENT: Next, photographs of --

MADAM COURT REPORTER: Just a minute. Just a minute.

This doesn't have a sticker on it. I did not get this one. It should be Number Six.

SOLICITOR GHENT: My apologies.

MADAM COURT REPORTER: Can you look and see what number Six is? Or do you have a Number Six?

SOLICITOR GHENT: Yes I do. My apologies. I'm gonna have two so let's do this.

MADAM COURT REPORTER: Can I make this one -- Tell me what you want me to do?

SOLICITOR GHENT: Yes, ma'am.

SOLICITOR GHENT: The numbers ---

MADAM COURT REPORTER: Wait just a minute. I got ya. Go ahead.

SOLICITOR GHENT: --- at Court's Nine.

MADAM COURT REPORTER: Ten. Can I make this Ten? I'm gonna make this Eleven.

SOLICITOR GHENT: Yes, ma'am.

(WHEREUPON, COURT'S EXHIBIT NUMBERS TEN AND ELEVEN, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

SOLICITOR GHENT: Next is Court's Exhibit Number Six which shows the blue roof that was installed and will be testified to as to the problems that this individual had getting the work done to replace his roof that finally was paid for May 29th when this defendant finally got his money from his victim, Robbie McGin, and paid for a roof that someone else had also agreed but had never gotten done.

In his statement, your Honor, he goes through all this stuff that he did, and again, he is a fast talker, a big talker; he had done this and that and all like that.

(WHEREUPON, COURT'S EXHIBIT NUMBER SIX, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

SOLICITOR GHENT: Your Honor, these are photographs taken I believe June of 2015; they are of the house at [redacted] -- I believe it's Beaver Pond Road -- marked as Court's Exhibit Number Seven ---

(WHEREUPON, COURT'S EXHIBIT NUMBER SEVEN IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

SOLICITOR GHENT: --- and it shows some staining done.

No roof replaced. This is Mr. McGin's house.

Court's Exhibit Number Eight is the Threat Analysis of what was sent to the prosecutor via the gentleman Tim Martin who was the investigator and it's clear that it was a threat. It was quite intimidating.

(WHEREUPON, COURT'S EXHIBIT NUMBER EIGHT, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

SOLICITOR GHENT: Finally, your Honor, Court's Exhibit Five -- Excuse me, Nine is Mr. Holcomb's conversation with Tim Martin on -- I believe it was June 19th, 2013. This is the statement that he gave to Mr. Martin.

(WHEREUPON, COURT'S EXHIBIT NUMBER NINE, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

SOLICITOR GHENT: He is fast; he is good. He counts on being able to out think everybody. He's over there writing down notes; I don't know what I'm talking about. This is what has to be done with a white-collar matter. And in all this ridiculing of Tim Martin -- Oh, and by the way, he has been going on and on about this being because of a romantic interest ---

THE COURT: Well, Mr. Ghent, I hate to kind of cut you off but you're kind of getting into jury argument now. I'm not trying ---

SOLICITOR GHENT: Yes, sir.

THE COURT: --- the case, I'm just trying to get

through these motions.

SOLICITOR GHENT: I'm merely letting the court know that we also will be prepared to rebut that. He's claimed that Mr. Martin was out to get him because of a romantic interest. We will rebut that.

THE COURT: Okay.

SOLICITOR GHENT: So those are the exhibits. In part I wanted to put on the record that I have given Mr. Shealy the road map. I'm sure his very capable client will say all the reasons why no, no, no, no, but the dots connect.

Thank you.

THE COURT: Any comment, Mr. Shealy?

MR. SHEALY: No, sir.

THE COURT: Okay. I do have one observation and that is that I have not technically assigned this case. It just happened to fall on the term where I will be presiding. So I cannot - -- I'm not the administrative judge in Greenville, I'm certainly not the Supreme Court Justice; I cannot assign myself to hear the cases that are against Mr. Holcomb that are not disposed of during the term I'm there.

I just want that clear. I'm not trying to beg off of being involved to any degree that the proper people want me to be but I cannot adopt the remaining -- the remainer -- the cases remaining after we dispose of the cases during the term to which I'm assigned.

SOLICITOR GHENT: Yes, sir.

MR. SHEALY: Thank you, Judge.

SOLICITOR GHENT: Thank you, your Honor.

THE COURT: Thank you.

(COURT IN RECESS AT 11:30 AM.)

(END OF TRANSCRIPT OF RECORD.)

CERTIFICATE OF REPORTER

State of South Carolina)

)

County of York)

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for York County, South Carolina, on the 29th day of July, 2016.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Wanda Nelson

Wanda Nelson, CVR-M
Certified Verbatim Reporter,
Official Court Reporter,
Notary Public, in and for
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE: October 22 / 2016

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GREENVILLE

STATE OF SOUTH CAROLINA, PLAINTIFF, -VS- DEAN ALTON HOLCOMB, DEFENDANT.	2013-GS-23-05223 & 4600A TRANSCRIPT OF RECORD (VOLUME ONE OF TWO)

SEPTEMBER 6 - 8, 2016
GREENVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE JOHN C. HAYES, III

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

ATTORNEYS FOR PLAINTIFF:

RUSSELL D. GHENT, ASSISTANT SOLICITOR
BRATTON S. TODD, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

MATTHEW W. SHEALY, ESQ.

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

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S-42	PHOTO ----------	171	171
S-43	PHOTO ----------	171	171
S-44	PHOTO ----------	171	171
S-45	PHOTO ----------	171	171
S-46	PHOTO ----------	171	171
S-47	COPY OF CHECK 2414 ----------	195	195
S-48	COPY OF CHECK 2410 ----------	195	195

EXHIBITS

NO	DESCRIPTION	ID	EVIDENCE
S-49	COPY OF CHECK 2413 ----------	199	200
S-50	COPY OF CHECK 2411 ----------	199	200
S-51	BROCHURE ----------	211	211
S-52	PHOTO ----------	223	223
S-53	PHOTO ----------	223	223
S-54	DOCUMENTS SEIZED ----------	256	265
S-55	COPY OF CHECK 2411 ----------	260	272
D-1	ESTIMATE ----------	105	106
C-1	PSYCHOLOGICAL EVALUATION --------	73	
C-2	ARREST WARRANT ----------	233	
C-3	DOCUMENTS SEIZED ----------	256	
C-4	DOCUMENTS FROM 7/29 HEARING ---	270	
C-5	JURY CHARGE ----------	352	

MR. GHENT: Your Honor, I merely wanted to ask, does Your Honor want us to get the Jackson v. Denno hearing out of the way first?

THE COURT: Well, we can. How long do you think that will take?

MR. GHENT: Ten minutes, fifteen at the most.

THE COURT: Why don't we break for lunch and come back at -- give ourselves a little less than an hour. Come back at a quarter til one, I mean, quarter til two.

MR. GHENT: Yes, sir.

THE COURT: And we'll do the Jackson versus Denno at a quarter til two.

MR. GHENT: Thank you, Your Honor.

MR. SHEALY: Thank you, Judge.

THE COURT: Have a pleasant lunch.

MR. SHEALY: Yes, sir.

(Whereupon court was in recess at 12:49 pm)

(Whereupon court reconvened at 1:56 pm)

THE COURT: All right. Call your first witness.

MR. GHENT: Yes, sir. May it please the Court? The State calls Tim Martin.

John T. Martin, being duly sworn testified as follows;

MADAME CLERK: Please have a seat. And if you will, state your full name for the record.

MR. MARTIN: John T. Martin.

MR. GHENT: May it please the Court?

THE COURT: Yes, sir.

Direct Examination by Mr. Ghent:

Q. Do you go by the name Tim?

A. I do.

Q. And you're employed with whom?

A. Greenville County Sheriff's Office.

Q. How long have you been so employed?

A. Thirty years.

Q. What unit do you work in?

A. White Collar Crimes Division now.

Q. And in that capacity in May of 2012 did you have occasion to open a case number and file a report on the Defendant in this case?

A. I did.

Q. That would be Dean Holcomb, Jr.?

A. Yes, sir.

Q. Did you have an address for him?

A. It was the [redacted] Apartments.

Q. And that would have been [redacted] Rocky Creek Road?

A. Yes, sir.

Q. Did you have occasion on May the 16th, 2013 to interview Mr. Holcomb?

A. I did.

THE COURT: You said 2013?

MR. GHENT: Yes, sir.

THE COURT: Okay.

MR. GHENT: Let the record reflect I'm showing counsel a copy of a waiver of rights.

MR. SHEALY: No objection, Your Honor.

MR. GHENT: Your Honor, at this time I'd ask to have it marked and offered for purposes of this hearing.

MR. SHEALY: No objection.

THE COURT: In without objection.

(Whereupon State's exhibit 1 was marked and entered into evidence for this hearing)

MR. GHENT: Approach the witness, Your Honor?

THE COURT: You may.

Q. Officer Martin, I show you a waiver of rights form marked as State's exhibit 1. Do you recognize that?

A. Yes, sir.

Q. Is that a waiver of rights form that was executed by the Defendant?

A. Yes.

Q. Did he agree to talk with you?

A. Yes.

Q. Was he in custody at the time?

A. Yes.

Q. And what was the date?

A. It was 5/16/2013.
Q. And without going through what transpired -- transpired between January 2012 and July 2013 had the Defendant been arrested?
A. He was arrested in North Carolina.
Q. In North Carolina?
A. (Affirmative nod).
Q. And he was at this time in custody, is that correct?
A. Yes, sir.
Q. Did you question him regarding his wish to talk to you?
A. Yes.
Q. Please tell the Court the rights you went over with him.
A. Basically it's making sure he understands that he has the -- he has certain rights, that he can remain silent, anything he says can be used against him in court, he's got a right to an attorney, to talk with one before we have any -- ask him any questions.

And then I also advised him if he has no money to pay for one, the court will appoint one for him. And then -- then asked him do you wish at this time to talk with me without a lawyer present?

And then I basically -- I have read this statement of rights and I understand -- this is basically what he sees at the bottom. I am willing to make a statement and answer

questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me. No pressure or coercion of any kind has been used against me.

Q. This hearing is about voluntariness and intelligence in terms of the statement give -- gave. Did he appear to you to understand what you went over with him?

A. Yes, sir.

Q. Did you go over it slow enough? And, again, I'm not suggesting he's slow. In fact, did you find him quite intelligent?

A. Yes.

Q. Was he conversive?

A. Yes, sir.

Q. Did you have any trouble explaining anything to him?

A. No.

Q. Who initiated this contact?

A. He basically -- when he turned himself in, they asked him did he want to talk to the investigator that signed the warrants, and he said yes. So I met with the warrant officer over in the detention center when they brought him in. And then he -- the warrant officer, myself and Mr. Holcomb went into a separate room and sat down. And this is when this occurred.

Q. Now, is it standard procedure when y'all do this kind

of thing to videotape the interview?
A. It is now.
Q. Was it at the time?
A. No, sir.
Q. And did Mr. Martin [sic] express any reluctance whatsoever to talk to you?
A. Mr. Holcomb did not.
Q. Excuse me, Mr. Holcomb. My apologies.
A. That's okay.
Q. In fact, had he initiated telephone calls to you before this?
A. Yes, sir.
Q. On more than one occasion?
A. Yes, sir.
Q. What was your understanding where the telephone calls were coming from?
A. North Carolina.
Q. And did he talk to you freely?
A. Yes, sir.
Q. Was he in custody at that time at least by you?
A. No.
Q. By the Greenville County Sheriff's Office?
A. No, sir.
Q. And did he at that time ask you questions that appeared to be procedurally intelligent?

A. Yes, sir.
Q. Again, he seemed like an intelligent individual to you?
A. Yes, sir.
Q. No trouble understanding the English language at all?
A. No, sir.

MR. GHENT: Your Honor, at this time, before I offer the statement, the tape, I would like to allow counsel to cross examine.

THE COURT: Mr. Shealy.

Cross Examination by Mr. Shealy:

Q. All right. Officer Martin, when did you start this report?
A. This?
Q. This report. When did you start this report?
A. You talking about the original code?
Q. This -- when did you open the case?
A. I think it was -- I can't remember off the top of my head. He's got a copy of my report right there with the date on it.
Q. Because the date on the report that I've got is January of 2013, but I believe you testified that you'd opened it sometime in May of 2000 -- or sometime -- I believe it was in May of 2012. Do you have any idea as to when you -- I can get you a copy of the report.

MR. GHENT: Here you go, counsel.

MR. SHEALY: Thank you.

Q. I just want to make sure ---

MR. SHEALY: If I may approach the witness, Your Honor?

THE COURT: Yes, sir.

Q. I just want to make sure we've got our dates straight.

A. Okay. Yeah, this report was initiated on the 31st of January 2013. Now, the dates you see up here is the time-frame that they signed the contract and all that stuff til the 31st when nothing -- that's when they came and saw me.

Q. Okay. And then, I guess, you got the warrant in April of 2013. Does that sound accurate?

A. Yes.

(Pause)

A. Yep.

Q. Okay. And then you spoke with Mr. Holcomb on May the 16th of 2013.

A. Yes.

Q. Okay.

A. That was face-to-face.

Q. All right. You've testified -- now, you've testified that he was both in custody at one point and you also testified that he wasn't in custody at another point. Was he in custody or was he not in custody?

A. He spoke with me several times on the phone.

Q. Okay. I'm not asking about that.

A. Right.
Q. I'm talking about this face-to-face meeting.
A. He was in custody.
Q. He was in custody?
A. Yes, sir.
Q. So he'd been arrested by whom?
A. He turned himself in to the warrant office. And they placed him in handcuffs and called me.
Q. The warrant office in Greenville.
A. In Greenville.
Q. Okay. So he presumably came from wherever he was ---
A. Correct.
Q. Came to the Greenville County -- where is the warrant ---
A. The law enforcement center. The main door.
Q. All right. And turned himself in there.
A. Yes, sir.
Q. All right. So he was in custody when he was speaking to you face-to-face. Is that a fair statement?
A. Yes, sir.
Q. All right. And you went over his Miranda warnings with him at that point?
A. That's right.
Q. All right. You've also testified that it is now standard procedure to videotape these things?

A. We didn't have all the technology we have now. We have an actual -- two video rooms for our interviews. Us and the City both have them now.

Q. Oh, okay. And when did you get that?

A. About two years ago. I think it was started -- they started working and getting it going about two years ago.

Q. Okay. How did you memorialize this statement then? How did you save this statement? Did you ---

A. Oh, it was on the ---

Q. --- have it in writing?

A. It was on the little -- one of these telephone recorders that we have or voice recorders. And I actually had to lay it out on the table right in front of him. So he knew what was going on.

Q. Okay. And when you were speaking with him he didn't appear to be under any intoxication?

A. No.

Q. And he didn't appear to have any kind of mental health issues at that point?

A. No.

Q. That would affect his ability to understand what was going on?

A. No. He was very peaceful.

Q. All right. And y'all understood -- appeared to understand each other?

A. Yeah.
Q. Okay. Hang on just one second. Now, you've testified that you were -- you've been a law enforcement officer for thirty years, is ---
A. Yes, sir.
Q. --- that right?
A. Yes, sir.
Q. And how long have you been at white collar crimes?
A. Ten.
Q. Ten years? Okay.

MR. SHEALY: That's all I have, Judge, for this witness.

THE COURT: All right.

MR. GHENT: Your Honor.

Redirect Examination by Mr. Ghent:

Q. Did you record the statement he gave you that day?
A. Yes, sir, I did.
Q. And you had talked to him on several occasions while he was in North Carolina?
A. Yes, sir.
Q. And, again, who initiated those calls?
A. He called me.
Q. All right. I'm going to show you a disk recording.
A. Yes, sir.
Q. Did you give that to my colleague, ---

A. I did.
Q. --- Mr. Todd?
A. Yes, sir.
Q. Before you took the stand?
A. I did.
Q. And is this a true and accurate recording taken by you, transferred to a disk of what he told you?
A. Yes, sir.
Q. Now, also I would ask you if there are two other recordings of conversations that you had with Mr. Holcomb?
A. Yes, sir.
Q. Did he initiate those?
A. Yes, sir.
Q. And you knew his voice. He introduced himself?
A. Yes, sir.
Q. Were you aware at the time that he was tape recording you?
A. No.
Q. And did you learn that he was tape recording you when a search warrant was later executed and the tape recordings were found?
A. Yes, sir.
Q. I'm going to show you and ask you if you can identify that?
A. Yes, sir.

Q. And that?

A. Yes, sir.

MR. GHENT: Could the record reflect I've shown him two disks of recordings? I'm also showing counsel the two disks. And I would submit they also bear on the Jackson v. Denno issue of the knowing, voluntary, intelligent statement ---

THE COURT: Can we give them some sort of number so ---

MR. GHENT: Yes, sir. That's my next step, Your Honor.

THE COURT: --- record on appeal, if it goes up.

MR. GHENT: Yes, sir. I would ask to have them, at this time -- I've shown them to counsel. I'd like to have them marked as 2 and 3 for identification.

THE COURT: Yeah. Okay.

MR. GHENT: While I'm talking -- I've caught it from -- matter of fact, I believe, Your Honor's court reporter is very funny about that.

THE COURT: She's not shy.

MR. GHENT: No, sir, she is not.

(Whereupon State's exhibits 2 and 3 were marked for identification)

MR. GHENT: Could the record reflect that I have now marked them as State's exhibit 2 and 3 for identification for this hearing?

MR. SHEALY: No objection, I guess.

Q. And, again, these are two tape recordings, two disks of tape recordings of calls that were initiated to you recorded by Mr. Holcomb that you were not aware at the time were being recorded?

A. Correct.

MR. GHENT: Your Honor, at this time we'd like to play all three of these recordings, these statements.

THE COURT: Any objection?

MR. SHEALY: No, Your Honor. I am going to need to recross on those two ---

MR. GHENT: That's fine. Well, before ---

MR. SHEALY: No. Go ahead and ---

MR. GHENT: The court reporter, Your Honor, was signaling.

MADAME COURT REPORTER: There's one that wasn't marked.

THE COURT: Yeah, one of them has not been marked.

MR. GHENT: Yes, sir.

THE COURT: The one ---

MR. GHENT: The very first one. I'm always very funny about these. So I'll simply ask, Madame Court Reporter, will it hurt just to put it on ---

MADAME COURT REPORTER: No.

MR. GHENT: I'm technically a dinosaur, Your Honor.

(Whereupon State's exhibit 4 was marked for identification)

(Whereupon the CDs were played for the Court)

MR. GHENT: Your Honor, can you hear it?

THE COURT: Not that one. I could hear the other one.

(Whereupon the CD resumed playing)

MR. GHENT: Your Honor, can you hear it?

THE COURT: If my staff over there would be a little quieter, I could. I'm not hearing anything now. Oh, here it comes.

(Whereupon the CD resumed playing)

(Whereupon the CD was paused)

MR. GHENT: Your Honor, what we're going to do is pause it and see if the lady can hook it up to speakers.

THE COURT: Okay.

(Pause)

THE COURT: The court reporter has some speakers too. Why don't I just come down there and sit next to it. You think I can hear it that way?

MR. GHENT: Yes, sir.

(Whereupon the CD resumed playing)

MR. GHENT: Your Honor, we're going to move it to where we were.

THE COURT: Okay.

MR. GHENT: Thank you, sir.

(Whereupon the CD resumed playing)

(Whereupon the CD was paused)

MR. GHENT: Your Honor, at this point I'd ask that it be paused simply because I originally said I'm not sure at all that I'm going to introduce it because it is exceedingly self-serving. But I point out, this is Mr. Shealy's motion under Jackson v. Denno. So if he wants to continue, that's fine, but I've got these other two that I've marked for identification.

I don't want to take the whole day listening to these because I'd ask, because of circumstances explained by Your Honor, and it's a short week, I'd ask for every witness, virtually every witness to be here and we will go as long as Your Honor wants, whenever Your Honor's ready to start.

THE COURT: All right. Mr. Shealy, you have anything further on the Jackson versus Denno matter?

MR. SHEALY: I need to call my client as to -- so that he can ---

THE COURT: Okay.

MR. SHEALY: --- testify just for -- but, no, I ---

THE COURT: That's fine. But do you have anymore for this witness while he's on the stand?

MR. SHEALY: I did have just a couple of questions regarding those two recordings that we've -- the first recording was played. The second or the -- I suppose it would be marked as number 3.

Recross Examination by Mr. Shealy:

Q. When were those made?
A. Those were made off of iTunes, which we had to get -- to get ourself. I don't know when he made those.
Q. Okay. So you don't know when he made those two telephone calls?
A. No. It was actually one disk that had four tracks on it. And it all came from iTunes. And he's the one that initiated them all, then sent the disks out to different people.
Q. Okay. And now when you say he initiated the contact, were they -- after my client was arrested was one of his bond conditions that he had to contact you?
A. Yeah.
Q. Okay. And is at least one of those recordings from one of his check-ins with you?
A. All that he made himself.
Q. Well, the phone calls.
A. Right.
Q. Okay. He called you.
A. Right.
Q. Y'all talked.
A. Correct.
Q. When y'all talked and he -- I understand he recorded it.
A. Right.

Q. Was at least one of those when my client was compelled to contact you by his bond condition?
A. Yes.
Q. Okay. So he had no choice other than to contact you?
A. Right.
Q. Otherwise it would have been a violation of his bond?
A. Correct.
Q. All right.

MR. SHEALY: That's all I have.

MR. GHENT: May it please the Court?

THE COURT: Yes, sir.

Re-redirect Examination by Mr. Ghent:

Q. One of these calls, track two, did that discuss with you returning to South Carolina and the fact that you would not give information to him because there was no discovery?
A. Correct.
Q. Was that when he was in North Carolina?
A. Correct.
Q. And there was another one where he called about Megan Baucom, who had taken out the warrant for Mr. McGinnis [sic]. Megan is his step-daughter, correct?
A. Correct.
Q. She's had drug problems, correct?
A. Correct.
Q. She's been to prison, correct?

A. Correct.
Q. And she has since been re-arrested for drug problems, correct?
A. Correct.
Q. And that one, do you know whether or not that one was recorded in North Carolina, South Carolina, wherever?
A. All that had to be done in South -- North Carolina.
Q. Thank you.

THE COURT: You can step down and have a seat.

MR. GHENT: Your Honor, these three have been marked for identification only for purposes of this hearing.

THE COURT: The State have any other witnesses?

MR. GHENT: No, sir.

THE COURT: All right. Mr. Shealy.

MR. SHEALY: Thank you, Your Honor. I'd like to call Dean Holcomb again for the purpose of this hearing ---

THE COURT: Okay.

Dean Holcomb, being duly sworn testified as follows;

MADAME CLERK: Thank you.

Direct Examination by Mr. Shealy:

Q. Please state your name for the record.
A. Dean Alton Holcomb.
Q. All right, Mr. Holcomb. You're currently in the Greenville County Detention Center, is that accurate?

A. I am.
Q. Okay. And are you -- are you there on this particular warrant?
A. No.
Q. But -- so you've been subsequently re-arrested, is that accurate?
A. Yes, sir.
Q. Okay. But I want you to go back to May of 2013. Do you recall speaking with Mr. or Investigator Martin?
A. I do.
Q. Okay. Why don't you tell us about that day, how you ended up being here and that type thing.
A. I was arrested in Gaston County, North Carolina on breach of trust and fugitive warrants. I got out of jail after ten days, tried to make bond. They denied me bond for ten days. I finally made bond.

Tried to call Tim Martin to ask him what was going on. And I recorded the phone calls because I felt like he was setting me up.

Q. Okay.
A. We know each other from the past. So ...
Q. Okay. And then let's talk again specifically about the day that you gave a statement.
A. Okay.
Q. He's testified that you turned yourself in.

A. I did. I came down to Greenville a week after I was released and turned myself in. Found out you can't fight extradition or anything like that. And I just made a statement, I mean, just kind of told him what was going on.
Q. Okay.
A. And what we didn't hear in there was Tim Martin saying that it makes sense about the scope.
Q. Okay. I understand. And that -- the statement has been entered for the purpose of this hearing.
A. Yes, sir.
Q. Now, so you came down here voluntarily to turn yourself in?
A. I did.
Q. With the expressed purpose of turning yourself in?
A. Yes, sir.
Q. All right. And when you were arrested or taken into custody by the warrants office did you -- did they take you directly to the jail or ---
A. I turned myself in to the front door at the main door. The guy was real nice. He walked me out, it was a shift change, put me in his car and drove me around to the GCDC, to the jail and that was it. And a few minutes later I was taken to bond court, I mean, I was taken to see Mr. Martin. And then I went to a bond court. It was all pretty quick.
Q. Okay. And when you came down here had you taken any

kind of alcohol, drugs?
A. No.
Q. No. Had you -- was anything interfering with your ability to understand what was going on?
A. I don't believe so. No.
Q. All right. Whenever you sat down with the investigator had you -- had you -- between turning yourself in and speaking with the investigator had you used any intoxicating substances?
A. No, sir.
Q. Had anybody administered any?
A. No, sir.
Q. All right. Had they offered you water or anything?
A. No, sir.
Q. No. All right. But once they got you into the -- into the interview room did you -- if you had wanted water would you had been able to ask for it?
A. Maybe. It was more like a garage or something. It wasn't an interview room. It was kind of a -- just a work area.
Q. Okay. Did you feel coerced at all?
A. No.
Q. All right. So you spoke with him of your own free will?
A. Right.

Q. All right. And, again, did you feel like they were withholding any nourishment unless you gave a statement?

A. No, sir.

MR. SHEALY: That's all I have for this witness.

THE COURT: Cross.

MR. GHENT: Briefly.

Cross Examination by Mr. Ghent:

Q. You say you were under arrest for breach of trust?

A. Yes, sir.

Q. Point of fact, didn't you call the solicitor's office, they could not find where the warrant had been served on you for breach of trust and they told you so?

A. Maybe so.

Q. And the sheriff's office also, the lady you had an exchange with, she told you the warrant had not yet been served?

A. Correct.

Q. And you said you knew the investigator, Mr. Martin, from the past?

A. Yes, sir.

Q. How so?

A. We dated a girl that was -- we both dated the same girl. I dated her first in 1987/1988. And I felt like he stalked her a little bit.

Q. Would it interest you to know that she's been

interviewed by SLED and what she has said does not match what you've said, I'm talking about today, at all?

A. Okay. I disagree, but ...

Q. Okay. You were actually arrested at a courthouse in Transylvania County in North Carolina, were you not?

A. I was.

Q. And that was for having a cord knife in the courtroom, correct?

A. Which is exempt under North Carolina law. It was a pocketknife.

Q. I understand. But you were arrested by a Sergeant Cathy McKenzie-Rogers of the Transylvania County Sheriff's Office, a deputy sheriff, is that correct?

A. That's correct.

Q. When you were arrested she attempted to get you to peacefully leave the courtroom with her, did she not?

MR. SHEALY: I'm going to object to this, Your Honor.

THE COURT: I sustain the objection. I think we're getting a little off course, ---

MR. GHENT: Yes, sir.

THE COURT: --- of track.

MR. GHENT: Your Honor, I would merely point out that these were facts that were brought out in support of his statement being given. I have no further questions.

THE COURT: All right. Anything further?

MR. SHEALY: No, Your Honor.

THE COURT: Mr. Holcomb, you can have a seat back ---

A. Thank you.

THE COURT: --- with your attorney.

MR. GHENT: That's our showing, Your Honor.

THE COURT: All right. Mr. Shealy, what's your position on the statement of the 16th of May of 2013?

MR. SHEALY: Your Honor, as -- again, solely as to that statement, it would -- I believe my client has testified that he gave that statement voluntarily. And I just wanted to make sure that that -- the record was covered regarding that.

THE COURT: All right. In addition to his testimony I find at least on the record that the statement he gave on May 16th, 2013 was freely, voluntarily, knowingly and intelligently made.

He was advised of his Fifth and Sixth Amendment rights, his right to remain silent. He was told that what he said could be used in the court, that he had the right to an attorney and if one -- one would be appointed if he could not afford it. He could talk to an attorney and that he ultimately waived those rights.

The record indicates he was not intoxicated, had no mental health problems, there was no trickery, no promise, no threats, that he appeared to understand. And I,

therefore, find by a preponderance of the evidence that the statement was freely, voluntarily, knowingly and intelligently made. All right.

Let's take about a five minute break and then get going with the jury, okay?

MR. GHENT: Yes, sir.

MR. SHEALY: Yes, sir. Thank you, Your Honor.

MR. GHENT: Thank you, Your Honor.

(Whereupon court was in recess at 2:41 pm)

(Whereupon court reconvened at 2:47 pm)

THE COURT: Thank you. You may be seated. The State ready?

MR. GHENT: State's ready, Your Honor.

THE COURT: The Defense ready?

MR. SHEALY: Yes, Your Honor.

THE COURT: Bring in the jury.

(Whereupon the jury entered the courtroom at 2:49 pm)

THE COURT: I understand some of you need to probably make a phone call. So we'll let you do that at the break. Call your -- you may proceed.

MR. GHENT: May it please the Court?

THE COURT: Yes, sir.

MR. GHENT: Mr. Shealy, Mr. Foreman, ladies and gentlemen of the jury, again, I am Russell Ghent. And along with Scott Todd we are over here to prosecute this case from

the Spartanburg Solicitor's Office for the Solicitor's Office for the Thirteenth Circuit.

A couple of things just to explain from the beginning. I have a cough. I've had it for years. I apologize if at times -- it's not anything you need to worry about.

I also have no feeling in my fingers or my legs. So if I stumble, if I have trouble holding something, this young gentleman is here to assist me in many ways, but to help me with that.

Now, two words as we begin, thank you. I want to thank you for honoring your duty, responding to your summons, which I'm sure right now some of you are going, oh, that was not something you wanted to do. I'm aware of that. That's why I want to take the time to thank you for being here.

Number two, I want to thank you for answering some questions, which I am sure that you may have found somewhat intrusive. It is a part of the process. Please don't take offense. We are here to try a criminal case, and that's a serious business.

Number three, thank you now for having taken an oath to do your duty, to be -- to well and truly try this case.

Another thing I want to explain is my vision is not real good. So usually I am closer. I'll move down here so that I'm not too close to any one individual, but I need to be able to see what notes I make.

What we hear today so often is people complaining about the government. Perhaps rightfully so. You hear people talking about the fact that the government can't get things right. The people in the government can't work together. The people in the government cannot talk to one another and just do their job.

Well, ladies and gentlemen, congratulations. Welcome to the government. You are now part of it. You have now been selected, elected to well and truly try this case. You are what we call judges of the facts.

What does that mean? Well, very simply it means you decide what happened. You listen to witnesses, you look at the papers, the documents, whatever and you decide what happened in this case.

What that means is that you can take what a witness says on the stand and you can believe some of what he or she says, none or all of what they say. You are the judges of the facts.

You might ask yourself what are my qualifications to even do this? Well, your qualifications are quite simple. They're your lifetime experiences, your common sense, your sense of duty, honor, and integrity, your willingness to judge based only, and this is critical, only what you hear within the walls of this courtroom.

It is only applied with the evidence that you pronounce

judgement, either guilty or not guilty. It is our burden alone, the State, right here to prove guilt. And we must prove it beyond a reasonable doubt.

Now, reasonable doubt, beyond a reasonable doubt does not just mean a doubt for which you can give a reason. That is any doubt in your mind if you take it as that. It is a doubt for which a juror seeking to fulfill their sworn duty to serve and to show that you will get it right, you will work together and listen to one another, that you will in doing so be able to give a reason for whatever doubt you may have.

And if your doubts are not reasonable, if they are not resolved by your deliberations, then we haven't met our burden. We must prove guilt beyond a reasonable doubt. And we readily accept that burden because in this case we will prove guilt by this Defendant that he committed crime beyond any reasonable doubt, beyond any doubt that someone seeking the truth could possibly have based on the facts and the evidence.

Now, you will note that when we address the Judge we refer to him as Your Honor. That's not sucking up. That's not trying to pander to the man in the robe or the woman in the robe. That is something that we must do because this is a place of honor. It is a place where the man in the robe or the woman in the robe are hopefully as one.

The job that you have -- you're only known as the jury. There's no special word for you individually. Collectively is the only way you serve. And the result is the verdict. You came here individually. You serve collectively as twelve. Your verdict is as one and it must be unanimous.

We ask that you listen to us and that you give the State a fair trial and a fair opportunity. If you find this amusing or uninteresting or anything else, then the cause is already lost because, obviously, the oath doesn't mean something to you.

It means something to me, the witnesses and everybody else. I sincerely hope it means something to you because we're going to prove that this man committed breach of trust with fraudulent intent and obtaining money under false pretenses.

This is not a civil matter. This is a criminal matter. We intend to prove guilt beyond a reasonable doubt and we're going to do so. Thank you for your time.

THE COURT: Mr. Shealy.

MR. SHEALY: Thank you, Your Honor. May it please the Court? I'm Matthew Shealy. I'm, as they've told you, a public defender in Spartanburg County.

And what you're going to be listening to is, as he said, a breach of trust case. And they've also charged my client with obtaining money under false pretenses, okay?

And the Judge is going to explain to you what those -- what the law is regarding those two crimes at the end of this, I expect.

Now, obviously, I don't think the State is going to be able to prove this case beyond a reasonable doubt. The reason I don't think that they're going to be able to prove this case beyond a reasonable doubt is because they have to prove in both cases, either of those crimes, some kind of fraudulent intent.

That breach of trust, there has to be a trust. There has to be a breach of that trust. There has to -- and the breach of that trust has to be with fraudulent intent, all right? And the breach of that trust is a conversion of the property. Conversion of the property really as he explained is taking the stuff, okay?

Obtaining money or goods under false pretenses is just what it sounds like. It's obtaining money or goods under false pretenses. So up-front you lied to them. That's under false pretenses.

Breach of trust is a little bit more complicated than obtaining money under false pretenses because you've got to find -- figure out what is a trust. I also don't believe the State is going to be able to prove that there is a trust in this case.

Well, now, what is a trust? And that gets, again, the

Judge is going to explain the law to you, but one of the reasons I'm here talking to you is so that y'all have -- is to give you an idea of these things.

Simply giving your kid the car and him not bringing it back is not a breach of trust. You giving your kids the car for a particular thing that will benefit you, so take your brother to soccer practice and come back and him not coming back, that is probably a breach of trust.

Giving money to a, let's say, father-in-law, having the father -- in order -- so the father-in-law would go and pay a grocery bill and some other bills that you have incurred that are for you, that created a trust. If he then goes and spends it on a grocery bill for himself, that's a breach of trust. All right.

Those things are going to become important because that's what this entire case is about. This case is about whether my client who sells roofing jobs defrauded a person who hired him to put a roof and do some external repairs on his house, okay? And whether this is, in fact, criminal.

Now, I don't think it is. I think that this is a simple case. I think that this is just there was a contract for work, there is some work performed, there is a breach of that contract alleged and, quite frankly, my client did breach that contract.

He didn't put the roof on this house. And that's not

going to be controverted. I'm not arguing that my client put a roof or had put on this house a roof, but work was done. And the question is whether that created a trust. And it didn't.

As for obtaining money under false pretenses, what you would have to find to find him guilty is that he at the very beginning when he took the money had no intention of performing. Well, there's a problem because everybody agrees some work was done.

Now, these aren't the kind of cases I normally deal with. I am a criminal defense attorney. I don't handle civil work. I've never handled civil work in my life. With the exception I guess I handled two wills eight years ago when I was just starting, okay? So this is kind of new territory for me trying to talk in terms of these trusts and things, but we're going to get through it together.

Now, they have to prove these things beyond a reasonable doubt. And Mr. Ghent has given you what his -- what he would call a reasonable doubt is. And the way -- my dad was a criminal defense attorney for many, many years. And the way he explained it to me was it's like -- it's the doubt that makes a reasonable person hesitate to act. And I believe the Judge is going to give you that instruction as well.

And what that means is whenever you're at a grocery

store, we've all been at the meat counter, you see the piece of meat, it's generally some steak. And it's got one of these reduced for quick sale tags on it. And on that reduced for quick sale, you look at it, the date is now today. And it kind of looks a little bit gangly.

Maybe you buy that steak, maybe you don't buy it, don't know, but a reasonable person at least hesitates to act. A reasonable person may ultimately buy that steak, but that reasonable person hesitated to act.

If you hesitate to act, if you don't buy the State's case, you hesitate to buy the State's case reasonably, then that's reasonable doubt. And you've got to resolve that doubt in my client's favor. You have to find him not guilty.

And at the end of this -- they're going to throw a lot of people at you, I expect. But at the end of it it's very simple. Did my client take some money in trust or not? And he didn't.

And if you find that he did, then in every case where there is a contract for services, you have created a trust, which means every case where you agree to do something for someone else in exchange for money is a trust. And if you don't do it or you partially do it, you're going to jail. That's what this case is about.

Now, you will see, I'm generally a pretty happy guy.

This is what I do for a living. I've done this for now eight years or so. I'm going to be smiling. I'm going to be having a good time. I'm not trying to denigrate what we're doing here. What we're doing here is important. But, again, this is my life's work. So I have to enjoy what I do. And I do enjoy what I do, okay?

So I understand Mr. Ghent has called for very, very seriousness here, but it's okay to smile. And I'm going to smile. And I'm going to tell what I think are funny jokes and things of that nature. I'm not putting down what we're doing here. What we're doing here is important. But like I said, this is what I do for a living, okay?

And at the end of this trial when y'all go back there I expect y'all to find my client not guilty 'cause I've had it for a while, I mean, I just don't see how you cannot. I just can't -- I don't know why you or how you can possibly find him to be guilty.

And the reason this has drug on so long is because they won't tell Mr. McGinn he's in the wrong.

MR. GHENT: Objection, Your Honor.

THE COURT: Well, I ---

MR. SHEALY: That's ...

THE COURT: I overrule the objection, but let's move on.

MR. SHEALY: Yes, sir.

So that's up to y'all. Thank you.

THE COURT: All right. Call your first witness.

MR. GHENT: Your Honor, I'd like to be heard on that last one. I need to.

THE COURT: All right. I'll let the jury go to the jury room just for a minute.

(Whereupon the jury exited the courtroom at 3:08 pm)

THE COURT: All right.

MR. GHENT: I move for a mistrial. That was a gross misstatement. That was taking advantage. It was exactly what I told the Court, I'm trying this case with one hand tied behind my back.

For him to stand there and tell the jury this case has taken so long, it has taken so long because his client threatened a prosecutor and an officer in this circuit. No judge will touch it. No prosecutor will touch it.

He was also reported to have made threats against Judge Verdin for revoking his bond. That was a flagrant misrepresentation. And afterwards this juror right here, the gentleman, and this juror right here, the woman with the braided hair, started whispering to each other.

I move for a mistrial, Your Honor. The State cannot possibly get a fair trial. That is the most outrageous thing I've ever seen a defense attorney do. That was a blatant misrepresentation to the jury.

THE COURT: Well, I deny the motion for a mistrial. I do not find that there's a manifest necessity. And so I would deny the motion for a mistrial.

While the jury's out and if this won't take but a second, I had -- had not been reminded, although didn't need to be reminded, I should have remembered that Mr. Holcomb has been sent for a mental evaluation regarding competency to stand trial. I did not hold a Blair Hearing, but I need to hold one. So I will do that at this time.

The only thing I have regarding that is a medical report from October 25th, I'm sorry, October 20th of 2015 from the Department of Mental Health addressed to Solicitor Barnette from an Alicia [sic] Sipes wherein she finds that Mr. Holcomb is competent. I've read the report. It's very thorough.

Mr. Holcomb is noted in the report to have some psychological issues, but she finds and the -- her analysis supports the fact that he is competent to stand trial. Any objection to me accepting this report and making it part of the record and relying on it?

MR. GHENT: None, Your Honor. And at this point that was intended to -- it was my understanding that that addressed the issue.

THE COURT: All right.

MR. SHEALY: Judge, I have no doubts as to my client's

competency.

THE COURT: Okay.

MR. SHEALY: And I've got no objection.

THE COURT: All right. I think it's true -- what you say is true, but I believe under -- my understanding of once a judge orders it, we've got to have a Blair Hearing. We just did. And I find he's competent to stand trial.

MR. SHEALY: Judge, and we would ask if that could be entered into the record under seal so that's not ---

THE COURT: All right.

MR. SHEALY: --- out and about.

MR. GHENT: Your Honor, could I at least ask for a curative instruction on that?

MR. SHEALY: Judge, ---

THE COURT: Why don't you -- such as? How do you draft one -- what's it going to say? Just ignore part of what Mr. Shealy said or ---

MR. GHENT: Your Honor, I don't know. That's the reason why I immediately moved for a mistrial and my objections. We can still pick a jury and get this thing tried. But that was grossly inappropriate.

THE COURT: Well, I'm not going to do a curative instruction. I think that'd just call attention to something that we need not call attention to. So we'll bring in the jury and go forward with the first witness.

MR. GHENT: Yes, sir.

(Whereupon Court's exhibit 1 was marked)

(Whereupon the jury entered the courtroom at 3:16 pm)

THE COURT: Call your first witness.

MR. GHENT: May it please the Court? The State calls Jason Martin.

MADAME CLERK: Would you please step forward. Put your left hand on the Bible and raise your right.

Jason Martin, being duly sworn testified as follows;

MADAME CLERK: Please have a seat. And will you state your full name for the record.

MR. MARTIN: My name is Jason Earl Martin.

MR. GHENT: May it please the Court? May it please the Court?

THE COURT: Yes, sir. Yes, sir. I'm sorry.

Direct Examination by Mr. Ghent:

Q. Mr. Martin, where are you employed?

A. I'm employed with State Farm Insurance.

Q. How long have you been ---

A. Ten years.

Q. And what are your duties at State Farm?

A. I'm a claim representative. I do -- I handle homeowner's claims.

Q. And have you been designated by State Farm as the

representative to bring certain documents to court today?
A. Yes, sir.
MR. GHENT: Your Honor, may I approach?
THE COURT: You may.
Q. Are these the documents?
A. Yes, sir, they are. That's the estimate, yes, sir.
MR. GHENT: Your Honor, could the record reflect I'm showing the documents to Mr. Shealy?
(Whereupon Mr. Ghent approached Mr. Shealy)
MR. GHENT: Your Honor, at this time could I have them marked for identification and stapled as one document?
THE COURT: Yes.
(Whereupon State's exhibit 5 was marked for identification)
Q. These documents that you've brought, are they documents which are kept in the normal course of business activities of State Farm?
A. Yes, sir, they are.
Q. And do they report information at or near the time that the information in them was entered?
A. Yes, sir.
Q. And was a case -- was a claim -- are these the documents of a claim involving one Robert McGinn?
A. That's correct. Yes, sir.
Q. And is he one of your insureds?

A. Yes, sir.
Q. Was that claim adjusted, accepted, appraised by one of your claims people?
A. Yes, sir, it was.
Q. And was there a hail storm that occurred in the Greenville area in March/April of 2012?
A. Yes, sir, there was.
Q. And are these documents which reflect the adjustment, the appraisal of the claim?
A. Yes, sir, they are.
Q. And were they prepared at or near the time by the appraiser or the adjuster for the claim?
A. Yes, sir. They were -- I think it was -- she went out a week after the first contact was made and wrote the estimate that same day.

MR. GHENT: Your Honor, at this time we'd offer it.

MR. SHEALY: No objection.

THE COURT: In without objection.

(Whereupon State's exhibit 5 was admitted into evidence)

MR. GHENT: May I approach the witness?

THE COURT: Yes, sir.

Q. Now, the first two pages are a sample of a claim, correct?
A. That is correct. Yes, sir.

Q. And then after that, page 4, does that indicate the amount of damage suffered in the claim?
A. Yes, sir, it does. The total amount of the damage was seven thousand, one hundred and eighty dollars and ninety-nine cents ($7,180.99).
Q. And was the -- there an amount to replace the roof?
A. Yes, sir. It was -- you talking about the roof by itself or the whole ...
Q. The roof.
A. The roof, yes, sir.
(Pause)
MR. GHENT: May I approach the witness, Your Honor?
THE COURT: Yes, sir.
Q. Does it have a total amount for the total dwelling exterior?
A. Yes, sir. Which was six thousand, four hundred and one dollars and seventy-six cents ($6,401.76).
Q. All right. And did the claim that was filed and adjusted indicate the damage, the repairs necessary and what those repairs would be?
A. Yes, sir, it did.
Q. And the total was seven thousand, one hundred eighty dollars, ninety-nine cents ($7,180.99).
A. That is correct.
Q. And that's the actual cash value, correct?

A. That's the replacement cost. The actual cash value was five thousand, two ninety-five, oh three (5,295.03).
Q. Right. And is that something that includes the deductible amount?
A. Yes, sir, it does.
Q. So the amount for the roofing was included along with cleaning, if you would look?
A. Yes, sir.
Q. A total replacement cost and the actual cash value of the claim.
A. That amount does include the -- yes, sir, that is correct.
Q. And was that amount paid to Mr. McGinn?
A. The amount paid to Mr. McGinn was four thousand, two hundred and ninety-five dollars and three cents ($4,295.03).
Q. How much?
A. Four thousand, two hundred and ninety-five dollars and three cents ($4,295.03).
Q. Was there also an additional amount left for additional repairs should it be necessary and documented?
A. Yes, sir. It -- his policy has a replacement cost. So he had -- he was eligible for another one thousand, eight hundred and eighty-five dollars and ninety-six cents ($1,885.96) in replacement costs after the work was completed.

Q. Thank you. Please answer any questions counsel might have.

Cross Examination by Mr. Shealy:

Q. All right, Mr. Martin. So you're not the actual adjuster, is that accurate?

A. That's correct. I was not the one who looked at it originally, no, sir.

Q. Okay. Who was that?

A. Her name was Leslie Rong (phonetics). She's with our Catastrophe Unit.

Q. Okay. Now on page 5, and I think Mr. Ghent had asked you, and I may have just missed the answer, on page 5 is there a number for the replacement cost value of the roof?

A. Yeah, it's four thousand, six hundred and seventy-seven dollars and thirty-four cents ($4,677.34).

Q. Okay. And is there a list for -- how much did you say it was?

A. Looks like for the -- you talking about for the roof itself?

Q. For the roof itself.

A. Correct. It was four thousand, six hundred and seventy-seven dollars and thirty-four cents ($4,677.34).

Q. Okay. And then is there a front elevation, a replacement cost value for the front elevation?

A. Yes. It included like the other items like the deck

and items like that. Is that what you're referring to?
Q. That is.
A. Yes, sir.
Q. How much is that?
A. Nine sixty-seven, eighty -- nine hundred and sixty-seven dollars and eighty-seven cents ($967.87).
Q. Okay. And why don't we just go ahead -- why don't you list off all of the stuff that was supposed to be replaced on the -- on the front elevation.
A. Looks like for the front elevation, remove and replace the mailbox, clean -- looks like to be professionally cleaned, to stain and finish the siding as well as stain and finish the handrail and the deck itself, as well as to stain and finish the beams and to paint the door.
Q. So and then there's also a right elevation. What was the scope of work to include for the right elevation?
A. It looks very similar. It was to clean -- pressure wash, to stain and finish the siding, the deck, the handrails as well as to -- it had some damage looks like to gutters and to the window screen, as well as paint the door openings as well.
Q. All right. And what's the replacement cash -- cost value there?
A. Seven hundred and fifty-six dollars and fifty-five cents ($756.55).

Q. Okay. And then is there -- looks like there was a rear and a left elevation. Was anything supposed to happen to those things?

A. All that's included in the roof itself. Like the original first four line items, that includes the whole roof, but to the -- to the siding, no, sir.

Q. Okay. So there was -- insurance was not going to be paying for the rear elevation or the left elevation, is that -- or there was no damage to the rear and left elevation?

A. To the side. There was to the -- to the roof itself, yes, sir.

Q. Right. I understand.

A. Okay.

Q. But as to the actual side, the windows, all of those things there was -- there was no damage done to those?

A. That's correct.

Q. Okay. All right. What did you have that total -- dwelling, exterior replacement cost value was?

A. The total whole -- the whole amount of the estimate was for seventy thousand ---

Q. Right. I'm asking for the dwelling exterior. It's on page 8.

A. Looks like for six thousand, four hundred and one dollars and seventy-six cents ($6,401.76).

Q. Okay. And then is there a -- is there an adjustment on

page 9 for contractors?
A. That's what they call base service charges, yes, sir. Like there's labor minimums for certain things that are done. So there are labor minimums that are charged on there as well. They've got -- they help cover the costs for a contractor coming out for those items.
Q. So these numbers are for what it should cost to fix these things if you hire someone?
A. That is correct.
Q. All right. You're not expecting homeowners to go and re-roof their house?
A. No. There's -- no, sir. We expect them to use a contractor of their choice.
Q. Okay. And so you expect them to pay that contractor with this money?
A. Correct. Yes, sir.
Q. And what -- how many checks did you write or how many checks were issued? Excuse me.
A. One check was issued on this.
Q. All right. And that was for four thousand, two hundred and ---
A. It was for a little bit more because I think there was some personal property that was damaged as well. There was, I think, it was an umbrella stand or something else that was damaged. I don't have the exact amount in front of me, but

it was four thousand and some -- I don't remember the exact number.

Q. All right. And so all of those -- the dwelling exterior, and the house and the base adjustments that you've mentioned, and I guess there's a debris removal, all of that should add up to seven thousand, one hundred, eighty dollars and ninety-nine cents ($7,180.99)?

A. That is correct. Yes, sir.

Q. And y'all are going to write a check for or a series of checks ultimately for six thousand, one hundred, eighty dollars and ninety-nine cents ($6,180.99)?

A. Yes, sir. After you subtract their thousand dollar deductible, yes, sir.

Q. There's a -- okay. But on that first check you covered four thousand, two hundred and ninety-five dollars and three cents ($4,295.03)? That's your understanding?

A. That is correct. Yes, sir.

Q. And you expect those contractors to pull their profit, and labor, all that stuff out of whatever check you write?

A. That is correct. Yes, sir.

Q. You just expect them to fix the house, is that right?

A. Correct. All we use is a program called Xactimate plus our local pricing from general contractors, from all contractors. So all that's included in that price, yes, sir.

THE COURT: Redirect. I'm ---

MR. SHEALY: Your Honor, ---

THE COURT: Oh, I'm sorry.

MR. SHEALY: --- just bear with me one moment.

(Pause)

MR. SHEALY: Judge, just one more I neglected to mention.

Q. Would you list the right elevation, what those requirements were? It's on page 6.

A. Yeah. Elevation was to -- to pressure wash, then to stain and finish the siding, the wood siding, the handrails as well as the deck, and then also to remove and replace the window screens as well as the gutters, and paint the door and window openings.

Q. Okay. Page 10, what is -- could you tell me what page 10 is for? Because there are a lot of numbers there, there are a lot of categories. I'm not sure that I follow with that.

A. It's what they call trade summary report. It kind of breaks it down by -- as you can see, painting, roofing, soffit, fascia and gutters is one category. It kind of breaks it down by per contractor.

Q. Okay. So if you were getting all of these as separate subcontractors, that's what you would expect to pay each of those subcontractors?

A. That is correct. Yes, sir.
Q. Okay. And that's one of the reasons one might get a general contractor ---
A. That's correct.
Q. --- is there are eight different trades is what's listed, is that accurate?
A. Yeah, there were seven is what I count ---
Q. Seven?
A. Yes, sir.
Q. That's why I'm a lawyer. Thank you much.

THE COURT: Redirect.

Redirect Examination by Mr. Ghent:

Q. Page 10.
A. Yes, sir.
Q. The amount for the roofing was how much?
A. It was four thousand, nine hundred and sixty-nine dollars and sixty-nine cents ($4,969.69).
Q. How much for the cleaning up at the top?
A. Was two hundred and sixty-eight dollars and sixty-nine cents ($268.69).
Q. All right. Basically to haul off things, how much? That's the general ---
A. I'm sorry. Eighty-nine dollars and sixty cents ($89.60).
Q. Electrical systems?

A. Yeah, it was forty-four dollars and seventy-eight cents ($44.78).
Q. And painting?
A. Looks like painting was one thousand, four hundred, ninety-one dollars and thirty-eight cents ($1,491.38).
Q. And those were estimates?
A. Yes, sir.
Q. Didn't mean all the work actually got done, but you paid an adjusted amount based upon the estimate of what it would cost?
A. That is correct.
Q. Thank you.

MR. GHENT: No further questions.

THE COURT: Recross.

MR. SHEALY: Nothing, Your Honor.

THE COURT: You can step down. Can this witness be excused?

MR. GHENT: He may be excused.

THE COURT: You can be excused. We appreciate your time.

A. Thank you.

THE COURT: Call your next witness.

MR. GHENT: The State calls Robert McGinn.

MADAME CLERK: Would you please come forward, put your left hand on the Bible and raise your right.

Robert McGinn, Jr., being duly sworn testified as follows;

MADAME CLERK: Please have a seat. And will you state your full name for the record.

MR. McGINN: Robert McGinn, Jr.

Direct Examination by Mr. Ghent:

Q. Robert, do you live at [redacted] Beaver Dam Road in Travelers Rest?

A. Yes, sir.

Q. Here in Greenville County?

A. Yes, sir.

Q. How long have you lived there?

A. Pretty close to twenty years.

Q. Who's lived there with you?

A. My wife, my children, grandchildren now.

Q. You have two step-daughters?

A. Yes, sir.

Q. One -- your wife's name is Christine?

A. Yes, sir.

Q. And one of your step-daughters is named Christina?

A. Yes, sir.

Q. And Megan ---

A. Yes.

Q. --- is another step-daughter?

A. Yes, sir.

Q. And I'll go ahead and just put it out there. Does Megan have a problem with drugs?
A. Oh, yeah. Still continues to have ---
Q. Has she ---
A. --- problems with drugs.
Q. --- ever been to prison?
A. She's in jail now.
Q. Okay. During the period this occurred was she living at home with you?
A. Yes, she was.
Q. Was your wife having some serious physical illnesses?
A. Yes, sir.
Q. Please tell the ladies and gentlemen of the jury a little bit about that, if you would.
A. She's had several different health complications over the years. Her most recent was she had a hip replacement that went bad, and she had to have another hip replacement. And then when she woke up from surgery she had something called dystonia, which is a neurological condition. It keeps her kind of bent over almost like a question mark.
Q. Her neck is almost perpendicular to the rest of her body, the head is?
A. I'd say it was perpendicular, yes, sir.
Q. All right. And as a result did you have physical conditions too?

A. I did. I did.
Q. I'm going to take you now, to explain the relevance of that, to April, March, May of 2012. Do you recall there was a hail storm that hit your house?
A. Yes, sir.
Q. And do you recall whether or not you reported a claim to ---
A. I did.
Q. --- State Farm Insurance?
A. Yes, I did.
Q. Do you recall that they inspected the claim?
A. They did.
Q. And do you recall when it was inspected?
A. End of April, I think it was, maybe in May.
Q. Okay. And did you receive a check?
A. Yes, sir, I did.
Q. Did you enter into a contract with Dean Holcomb?
A. Yes, sir.

MR. GHENT: Your Honor, could the record reflect I am showing a copy to counsel?

(Whereupon Mr. Ghent approached Mr. Shealy)

MR. GHENT: May I approach the witness?

THE COURT: You may.

Q. Does this appear to be the contract, a copy of the contract?

A. Yes, sir.

MR. GHENT: Your Honor, at this time I'd ask to have it marked and move it into evidence.

THE COURT: Any objection?

MR. SHEALY: No, Your Honor.

THE COURT: In without objection.

(Whereupon State's exhibit 6 was marked and admitted into evidence)

MR. GHENT: May I approach the witness, Your Honor?

THE COURT: You may.

Q. Mr. McGinn, this contract calls for, down here, what? Is that your writing or is that somebody else's?

A. That's somebody else's writing.

Q. And what does it say?

MADAME COURT REPORTER: I can't hear you.

THE COURT: Keep your voice up so the jury and I can hear you.

Q. Over here, what does it say over here?

A. Over here?

Q. Yes. Right -- no, right there.

A. Exterior repairs.

Q. And does it say stain siding and deck?

A. Stain siding and deck, yes, sir.

Q. Paint door?

A. Yes.

Q. Up here at the top does it say -- can you read the words right there?
A. Replace with Green Tree Metal.
Q. And this was for the roof?
A. Yes, sir.
Q. Was it your understanding that that was the larger part of what you were paying for?
A. Yes. That was most of it.
Q. And does it have an amount that was to be paid to Mr. Holcomb to begin?
A. Yes, sir. Four thousand, two hundred, ninety-five dollars and three cents ($4,295.03).
Q. And how much upon completion?
A. Two thousand, eight hundred, eighty-five dollars and ninety-six cents ($2,885.96).
Q. Did you sign the contract?
A. Yes, I did.
Q. Is that your signature?
A. Yes, sir.
Q. Did Mr. Holcomb sign it in your presence?
A. Yes, he did.
Q. And what was the date of that contract?
A. May 25th, 2012.
Q. Did you write a check to him?
A. Yes, sir.

Q. What was the date of that check?
A. It was a few days after that.
Q. On what account?
A. Bank of Travelers Rest, my checking account, personal.
Q. And what was the amount of that check?
A. I think it was four thousand, three hundred dollars.
MR. GHENT: Your Honor, could the record reflect I'm approaching counsel?
(Whereupon Mr. Ghent approached Mr. Shealy)
MR. GHENT: I'd ask to have the front and back stamped.
THE COURT: Any objection?
MR. GHENT: Stapled, rather.
MR. SHEALY: No, Your Honor.
MR. GHENT: And offered into evidence as one exhibit.
THE COURT: In without objection.
(Whereupon State's exhibit 7 was marked and admitted into evidence)
Q. Mr. McGinn, I show you State's exhibit number 7, check number 1040, May 29th, 2012. Does that appear on the check?
A. Yes.
Q. To whom?
A. Carolina Home Renovators.
Q. For what amount?
A. Four thousand, two hundred and ninety-five dollars and three cents ($4,295.03).

Q. What does it say in for?
A. Partial payment, roof.
Q. And is that your signature on the check?
A. Yes.
Q. On the back is it endorsed?
A. Yes.
Q. What does the name appear to be?
A. Carolina Home Renovators, Dean Holcomb.
Q. Thank you. Did that check clear your account?
A. Yes, sir.
Q. Did your roof ever get repaired by Mr. Holcomb?
A. No, sir.
Q. In June?
A. No, sir.
Q. July?
A. No, sir.
Q. August?
A. No.
Q. Ever?
A. No, sir.
Q. Did Mr. Holcomb ever contact you voluntarily and say this is the problem or what happened?
A. Left a message on my wife's cell phone.
Q. All right. And did he ever call you and leave you a message on your phone?

A. No, sir.
Q. Did you continue to try to reach him?
A. Yes, sir.
Q. Did you send a letter by fax to someone you thought was his business partner?
A. Yes, sir.
Q. Would that have been Ms. Claudia Whitt?
A. Yes, sir.
Q. And was there any response to that?
A. No, sir.
Q. He never responded at all?
A. No, just that voicemail.
Q. Did you just rush to the police on this?
A. No.
Q. Was it something you wanted, necessarily, to do?
A. No, sir. No, I wanted my roof fixed.
Q. As a matter of fact, let's get to this. What do you do for a living?
A. I'm a contractor.
Q. Construction?
A. Yes, sir, underground utilities, water mains, sewer mains.
Q. So you understood the contract to be substantially for your new roof?
A. Yes, sir.

Q. Bearing in mind what you just said about what you've done, and what you may know about, and it was your house?
A. Yes, sir.
Q. How much work was done on the sides, the deck, painting, all of that?
A. They painted the front and the right hand side. And they painted the ---
Q. When you say paint, stained or ---
A. Stained. They stained it. I'm sorry. Then they painted the doors, the front door and the side door.
Q. Did Mr. Holcomb ever offer to give you your money back?
A. No, sir.
Q. Did he start putting things on You Tube and elsewhere about your daughter?
A. Yes.
Q. Megan?
A. Yes, sir.
Q. Did he develop a name for her?
MR. SHEALY: Objection, ---
A. Yes.
MR. SHEALY: --- Your Honor. I don't know how this would ---
THE COURT: I sustain the objection.
MR. GHENT: Your Honor, it's be an admission against interest.

MR. SHEALY: Judge, that doesn't cure the relevance.

MR. GHENT: It goes towards exactly the point that this gentleman raised as being the ---

THE COURT: Well, ---

MR. GHENT: --- key to the case.

THE COURT: I'll allow you to continue, but -- well, let's let the jury go out. I'm going to let the jury go out for a minute while we take up a matter of law.

(Whereupon the jury exited the courtroom at 3:44 pm)

THE COURT: I think a good place to start would be a proffer and let me hear exactly where we're headed with this so I'll know what we're talking about.

Proffer Examination by Mr. Ghent (In Camera):

Q. Did he come up with a name for your daughter on You Tube?

A. Yes.

Q. What did he call her?

A. Meth making mama.

Q. And Megan, the meth making mama?

A. Yes.

Q. And this was shown readily?

A. Yes.

Q. Did he ever contact you to apologize for not putting on your roof?

A. No.

Q. Are you familiar with construction repairs, buildings, things such as that?

A. Yes.

Q. If you were to guess, how much work would you say he's done on the side of your house?

A. Percentage-wise, dollar-wise?

Q. Just dollar-wise. I mean, you're capable of giving an estimate.

A. Three, four hundred bucks.

Q. Max?

A. Max.

MR. GHENT: Your Honor, that's where I want to go with it because counsel said this has been delayed because of that. I've already been one hand tied behind my back. I can't go into the threats against law enforcement, but that's intimidation of a witness. That is an effort to intimidate this gentleman.

THE COURT: But he's not on trial for that.

MR. GHENT: No, sir, it goes towards -- towards fraudulent intent and an attempt by way of the things he said about his daughter to discourage him from pursuing the matter.

THE COURT: All right. Mr. Shealy, what do you have to say about that?

MR. SHEALY: Judge, one, I mean, there's no foundation

as to when these things were put on You Tube or anything like that. There's no evidence that these were directed, I mean, You Tube is simply a website. I mean, there's no evidence that the State has presented that they were emailed ---

MR. GHENT: We weren't allowed to.

MR. SHEALY: --- to these people, things like that or to Ms. Baucom. I don't see how, I mean, he still hasn't explained why it would be relevant as to whether it's fraudulent intent or not because, again, Judge, depending on when these things were posted, I mean, that would be -- it could be several months, it could be longer than that, things like that.

And, again, I just don't see how it's relevant. I certainly don't see how it's an admission against interest or anything of that nature.

THE COURT: I sustain the objection.

MR. GHENT: Yes, sir.

THE COURT: All right. Bring in the jury.

(Whereupon the jury entered the courtroom at 3:50 pm)

THE COURT: Mr. Ghent.

MR. GHENT: May it please the Court?

THE COURT: Yes, sir.

Direct Examination by Mr. Ghent Continued:

Q. So to clarify, payment was made to you July 23rd by

State Farm Insurance Company? Does that sound right?

A. I'm not sure of the exact date, but it was somewhere in that area.

Q. And you entered into the contract on July 25th?

A. Let me look at that again.

(Pause)

Q. Down at the bottom.

A. It was May 25th.

Q. May 25th?

A. Yes, sir.

Q. Excuse me. May 25th. And on May the 29th did you write a check?

A. Yes, sir.

Q. And, again, that check is for?

A. Partial payment for the roof.

Q. You considered that to really do the job?

A. Yes.

Q. And, again, you're in construction?

A. Yes, sir.

Q. Part of -- your primary business is putting in, I believe you said, underground wiring, correct?

A. Water mains.

Q. Water ---

A. Sewer mains, yes, sir.

Q. But you're familiar with construction, work on homes,

A. Yes.

Q. --- et cetera?

A. Yes.

Q. How much work would you say was done in terms of value on your home?

A. Three, four hundred bucks tops.

Q. How much?

A. Three, four hundred bucks tops.

Q. And, again, was it for the four thousand, two hundred dollars you had written a check for?

A. No, sir.

Q. Didn't come close to that in your opinion?

A. No.

Q. Did Mr. Holcomb ever give you your money back?

A. No, sir.

Q. Did he ever put your roof on?

A. No, sir.

Q. Did you intend for him to use that money for your house repairs?

A. Yes.

Q. To put your roof on?

A. Yes.

Q. And there were a lot of houses in the area, a lot of roofs ---

A. Oh, yeah.
Q. --- that had been hit by this hail storm, ---
A. Yes, sir.
Q. --- correct? You recall it?
A. Yes.
Q. And what was the color of the roof that you intended to put on your house?
A. Green.
Q. Green?
A. Yes, sir.
Q. You didn't intend to buy a hawaiian blue roof?
A. No.
Q. Do you know a Ms. Susan Clark or her husband, Kenneth Clark, in Lyman, South Carolina?
A. No, sir.
Q. Was it your intent to pay for a roof on their home?
A. No.
Q. Did you entrust that four thousand, two hundred and ninety-five dollars ($4,295.00) to Mr. Holcomb for repairs to anyone's home but yours?
A. No, sir.
Q. Please answer any questions ---

THE COURT: Mr. Shealy.

MR. SHEALY: Thank you, Your Honor. May it please the Court?

Cross Examination by Mr. Shealy:

Q. All right, Mr. McGinn. I'm not going to belabor this particular point because ultimately I don't know that it matters this much, but I'm a little concerned about or confused about the time-line that you've mentioned. When did Megan live with you?

A. About 2012.

Q. Okay. And when did she come to live with you?

A. Sometime prior to that.

Q. Okay. But -- so was she living with you in the house when this contract was signed?

A. Yes.

Q. Okay. Now you've testified that State Farm inspected this claim, is that correct?

A. Yes.

Q. And adjusted the claim?

A. Yes.

Q. And you're a contractor, right?

A. Yes.

Q. I think you've testified to that. I assume you have a license.

A. Yes, I do.

Q. And you're bonded?

A. And bonded.

Q. Okay. Where did you get your license from?

A. State of South Carolina, State of North Carolina.
Q. Okay. And is that license on file?
A. Yes, it is.
Q. Where is it on file?
A. With the State.
Q. Okay. But if you needed to you could go pull that license or go and find it and get a copy of it?
A. I'm sure I could.
Q. All right. And anybody who gets work done by you can go and get a copy of that license, presumably?
A. Sure.
Q. Because that's why it's on file, right?
A. Yes.
Q. Okay. And where was your bond on file or where is your bond on file?
A. We have bondsmen on a per job basis, as far as surety company.
Q. Okay. So you don't have a -- just a regular bond that's for -- that covers your entire contracting business?
A. No. We have one for like a three to four million per job basis and an eight million aggregate.
Q. All right. So you're doing really big jobs then?
A. Yes.
Q. Okay. And when you go and get these bonds, again, so you don't know where those are registered down in Columbia?

A. The bonds themselves?
Q. Um-hum (affirmative).
A. Just a company out of Florida that writes our bonds. And they're licensed in North and South Carolina to do business in this State.
Q. Okay. Have you ever been licensed for residential building?
A. No.
Q. No? Okay. But you're familiar with the bonding process?
A. Yes.
Q. And if you needed to, you could go and find a bond, presumably?
A. Would hope so, yes.
Q. Exactly. Because those are sort of important, right?
A. Yes.
Q. All right. Now, in this did you investigate Mr. Holcomb?
A. I did. Looked him up on the Better Business Bureau and Double A Rating at that time.
Q. And the contract that you signed, ---
A. Yes.
Q. --- did it -- did you understand that you were signing a contract with a licensed and bonded person or not?
A. Not sure if he was bonded or not. Due to the amount of

the contract, I don't think you have to be bonded for under ten thousand dollars in South Carolina. Is that correct?

Q. Okay. I don't know. I ---

A. I'm pretty sure it is.

Q. --- do criminal work. So ...

A. I think it is.

Q. Do you -- you've got a better ---

A. I don't even think you need to be licensed under ten thousand dollars.

Q. Do you know if he was licensed or not?

A. I do not know.

Q. All right. So whenever you were investigating contractors to hire you didn't look into whether they were licensed and bonded?

A. No.

Q. All right. Now, let's take you back to the beginning of this job. Who initially did the work estimating this job?

A. Jared Richardson.

Q. All right. And who is he?

A. He's pretty much my son-in-law.

Q. Okay. So he was dating your daughter?

A. Still is dating.

Q. Still is?

A. Yes.

Q. Okay. And do you recall him providing you with an estimate?

A. I believe he did.

MR. SHEALY: I'm going to hand him, Mr. Ghent, a copy of the estimate that he gave me.

MR. GHENT: Your Honor, I would simply note this is an estimate for Carolina Home Renovators.

MR. SHEALY: Yes, sir. If I could have this marked as Defense exhibit 1.

(Whereupon Defendant's exhibit 1 was marked for identification)

MR. SHEALY: And if I may approach the witness.

THE COURT: You may.

Q. I'm going to hand you what is marked as an estimate for Carolina Home Renovators. Is that the estimate that you received from Mr. Richardson?

A. I believe so.

Q. I believe it's got Mr. Richardson's email address up at the top there, if that helps you to identify it.

A. That's it, I believe. I'll take your word for it.

Q. Okay.

MR. SHEALY: Your Honor, if I may.

Q. Do you recognize that estimate?

A. I think so.

Q. And that's the estimate that you were given?

A. Yes, sir.

MR. SHEALY: If I may move that into evidence, Your Honor.

MR. GHENT: Without objection.

THE COURT: In without objection.

MR. SHEALY: Thank you, Your Honor.

(Whereupon Defendant's exhibit 1 was admitted into evidence)

Q. Can you tell us what the amount or tell us what the description of the job is first.

A. I'm sorry, I left my glasses in the car. Installing estimated seven hundred and forty-eight hundred feet, metal roofing panels, ceramic starter coating, color to be determined ---

THE COURT: You need to kind of speak up a little.

A. Color to be determined. Structure, main residence, home.

Q. Okay. So the description of the job is they wanted to put some roofing on your house?

A. Yes.

Q. Okay. And how much is that roofing or what's the estimate for? How much is that supposed to cost?

A. Seven thousand, eight hundred and seventy-seven dollars and twenty-six cents ($7,877.26).

Q. Okay. And that was for the estimate just apparently on

the roofing bid from Mr. Richardson? That ---

A. Okay.

Q. --- accurate?

A. Yeah.

Q. Okay. Now, I believe that you got ...

MR. SHEALY: And, Judge, if you'll bear with me.

(Pause)

Q. Okay. And this scope of work is what you got from the insurance company, is that right?

A. That is correct.

Q. All right. And that scope of work says that, in fact, all the damage done to your property during that hail storm has a replacement cost value of seven thousand, one hundred, eighty dollars and ninety-nine cents ($7,180.99)?

A. Yes.

Q. All right. And that's -- again, we're doing rough figures because I'm a lawyer and not an accountant.

A. Sure.

Q. That's seven hundred dollars less than the estimate that you got there, right?

A. Yes, sir. Somewhere in the neighborhood, yes.

Q. Okay. And I believe that the State Farm person testified -- and if you -- I know you can't see very well.

A. Yes.

Q. But isn't it true that in that scope of work it lists

the roof as being four thousand, nine hundred dollars worth of the scope?

A. I'm not sure.

Q. Okay. Well, why don't you look.

A. I'm having trouble seeing it there.

Q. Right. I believe it's on page -- I want to say it's 3.

MR. GHENT: Your Honor, ---

A. Well, let me ask you this. Let's go backwards with that. How much was the painting of the side of my house and the door first?

Q. We're going to go over that. I promise. Okay?

A. Okay.

Q. We won't forget that. So go to page 5 and see if you can't find how much that roof's supposed to cost you.

MR. GHENT: Your Honor, may I approach?

THE COURT: You have some reading glasses to offer?

A. Thank you. That's what they would pay for a shingle roof, I guess.

Q. Yes.

A. Forty-six, seventy-seven, thirty-four.

Q. Forty-six, seventy-seven, thirty-four?

A. Um-hum (affirmative).

Q. Thirty-four cents?

A. Okay.

Q. All right. Now, go to the next page. And that's for

the staining and the cleaning and the -- well, painting and some door/window openings. What is the listed value for that replacement cost there?

A. Sixteen fifty-four, door/window opening.

Q. So one thousand, six hundred and fifty-four?

A. Yeah. No, no, no.

Q. No?

A. No, sir. Are you wanting me to list all this stuff here? Because all this wasn't done, if that's what you're referring to.

Q. I'm looking for that number right there.

A. That number did not happen.

Q. Well, you just answer my questions, please.

MR. GHENT: No, sir, he ---

THE COURT: Well, no, he's got to answer the question. Just answer the questions.

A. Okay. The answer is no.

Q. What is that figure, sir?

A. It's nine, sixty-seven, eighty-seven.

Q. Thank you. And on the next page, what is this figure for the right elevation?

A. Seven -- for right elevation?

Q. The total right elevation ---

A. That's not what they did.

Q. The replacement cost value, what is that figure?

A. The figure is seven, fifty-six, fifty-five. For the record, Your Honor, that's not what they did, period.
Q. Okay. So you're testifying that they didn't stain anything?
A. No, I'm testifying they stained exactly what I told you they stained. I don't ---
Q. All right.
A. --- know if you heard me.
Q. What did they stain?
A. The front of the house, the right hand side of the house and they painted the doors.
Q. So they stained the front elevation and they stained the right elevation, but they didn't do those things?
A. Oh, my gosh. One more time. You want to go line item by line item? Is that what we're wanting to do?
Q. Sure.
A. Stain and finish deck, one twenty-six, fifty-nine, never happened. Handrail for one sixty-five, never happened. Stain and finish wood siding for two twenty-six eighty, did happen, okay? Stain and finish wood post beam, did not happen. Stain and finish wood post beam, did not happen. One forty-three, one forty-eight, that did not happen. Paint door/window opening for twenty dollars and fifty-five cents ($20.55), did happen, okay?
Q. Um-hum (affirmative).

A. Seriously, this is absurd to the point of nonsense. Remove and replace downspout aluminum up to five inches for forty-eight, eighty-four, did not happen. Remove and replace window screen for twenty-seven, fifty-four, may or may not have happened. Paint door/window opening for thirty-four, eighty-four, that happened.

Q. Okay.

A. So the totals you're referring to, nothing even came close to that.

Q. Well, ---

A. Let's don't make ---

Q. --- you've testified ---

A. --- something out of ---

Q. --- that they stained the right side ---

A. The right side of the house.

Q. --- and the front side?

A. One more time, yeah.

Q. Okay. And you've testified that they painted the windows, is that correct?

A. They painted the doors.

Q. But you also testified about windows.

A. There's two windows there.

Q. Okay. You painted those?

A. Yeah, but ---

Q. Or they painted those?

A. --- estimate you're looking at is not -- that's not what that's totaling there. Please look at that there.
Q. So you remember giving a statement to the police?
A. I'm sure I did.
Q. Okay. Would it surprise you if in that statement you make ---

MR. GHENT: Please show him the statement. Objection, Your Honor.

THE COURT: Yeah, I think you need to show him the statement first.

Q. So, again, it's your testimony that in your opinion the right side, and the left side, and the window frames, and the doors were only three hundred to four hundred dollars worth of work, is ---
A. That is my opinion.
Q. That's your opinion?
A. Yes.
Q. Okay. Now, how many -- and you've only written Mr. Holcomb the one check, is that correct?
A. One check, correct.
Q. Okay. And State Farm only wrote you the one check of, what, I believe it was four thousand, two hundred and ninety-five dollars and three cents ($4,295.03)?
A. Yes, same amount.
Q. Okay. Now, do you remember who did the actual work on

the house?

A. Two gentlemen.

Q. Okay. And one of them was Mr. Richardson, presumably?

A. Yes. And the other's name was -- was it Will?

Q. Was it Will? Okay.

A. Yeah.

Q. And how many days did they work?

A. Day, day and a half, total.

Q. Okay. And in that period of time, again, they had stained the front and the back or the front and the right, not the back or the left side?

A. Correct.

Q. Okay. And painted those frames.

A. (No response).

MR. GHENT: Was that a question, Your Honor.

THE COURT: I'm not sure. It wasn't a question, it was a statement.

MR. SHEALY: That's all I've got for this witness, Your Honor.

THE COURT: All right.

MR. GHENT: May it please the Court?

Redirect Examination by Mr. Ghent:

Q. Would Will Byrd have been the other individual? Does that sound ---

A. That's possible, yes, sir.

Q. All right. I want to go back to these because these were estimates that you were being questioned about.
A. Yes.
Q. Estimates from your insurance company, State Farm. And those numbers that you went over, you commendably defended, ---
A. Yes.
Q. --- yourself. The agreement between y'all, this check says Green Tree Metal Roofing.
A. Yes.
Q. And your roof had just been pretty well demolished, torn up ---
A. Yes.
Q. --- by sleet, a hail storm, ---
A. Yes, sir.
Q. --- correct?
A. Yes.
Q. Now, with respect to the type of roofing, it is in this estimate -- if you'll give me just one moment. When counsel was taking you through this estimate, ---
A. Yes, sir.
Q. --- what kind of roofing was the estimate for?
A. Shingles.
Q. Shingles?
A. Yes.

Q. What kind of roofing had you had when this hail storm hit?
A. Shingles.
Q. And you had agreed to put on with the Defendant a metal roofing?
A. Yes.
Q. What color?
A. Green.
Q. And there is the name of a company right there, is it not? Please put your glasses on, sir.
A. Yes, sir.
Q. Is there not a roofing company that appears right there, the name of a company? Green Tree Metals, does that name appear on the contract, sir?
A. I believe it does.
Q. Did you write that in?
A. No, sir.
Q. Was it written in by whoever you made the contract with?
A. Yes.
Q. Did you make this contract with Carolina Home Renovators?
A. Yes.
Q. And with this Defendant, Dean Holcomb?
A. Yes.

Q. And the contract is signed by Dean Holcomb, correct?
A. Yes, sir.
Q. Not with Jared Richardson?
A. No, sir.
Q. Not with Will Byrd?
A. No.
Q. But Dean Holcomb?
A. Correct.
Q. Thank you.

MR. GHENT: No further questions.

THE COURT: Recross.

MR. SHEALY: I don't think I have anything further.

THE COURT: All right. You can step down and be excused. We appreciate your time.

A. Yes, sir.

THE COURT: Members of the jury, y'all have had a couple of breaks, we have not. So we're going to take about a ten minute break so we can refresh. So we'll take about a ten minute break.

(Whereupon the jury exited the courtroom at 4:12 pm)

(Whereupon court was in recess at 4:12 pm)

(Whereupon court reconvened at 4:27 pm)

THE COURT: Have a seat. Bring in the jury.

(Whereupon the jury entered the courtroom at 4:28 pm)

THE COURT: All right. Call your next witness.

MR. GHENT: May it please the Court? The State calls Investigator David Hanks.

David Hanks, being duly sworn testified as follows;

MADAME CLERK: Please have a seat.

Direct Examination by Mr. Ghent:

Q. Would you state your name?

A. I am Investigator David Hanks.

MR. GHENT: May it please the Court?

THE COURT: Yes, sir.

Q. With whom are you employed?

A. I'm employed with the Greenville County Sheriff's Office.

Q. And what unit are you in?

A. I'm in the White Collar Crimes Unit, part of the criminal investigation.

Q. How long have you been there?

A. I've been there for thirty-one years.

Q. And do you work with Tim Martin in that unit?

A. I do.

Q. In June 2015, after I took over the case, did you and another investigator go with me to [redacted] Beaver Dam Drive?

A. I did.

Q. At my request did you take photographs of the house at that time?

A. Yes, sir.

MR. GHENT: Your Honor, could the record reflect I'm showing copies, which have previously been provided in discovery, of photographs taken.

(Whereupon Mr. Ghent approached Mr. Shealy)

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

THE COURT: You may.

Q. Would you please look at these photographs, and if you don't mind, would you count aloud as you review them?

A. Count the number of pictures?

Q. Right.

A. Okay. One, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two and twenty-three.

MR. GHENT: Your Honor, I'd ask if these photographs be marked, depending on whether I get them thrown at me by the court reporter, either as separate or as a single exhibit. Would counsel have an objection to that?

MR. SHEALY: I have no objection either way.

THE COURT: Well, the only problem with having it as a single exhibit would be if you ask him what is shown in a photograph. It's got to be somehow matched up to a number for the record in case ---

MR. GHENT: I'm reminded once again why Your Honor has

the robe and I don't. Thank you, sir. Yes, we'll do it that way.

(Whereupon State's exhibits 8 - 30 were marked for identification)

Q. These photographs -- let's begin with State's exhibit 8. This photograph, does it have a date stamp on it?

A. Yes, sir. It has 6/25/2015.

Q. Is that the date you took the photograph?

A. Yes, sir. It's the date you and I and the other investigator drove to that location.

Q. And is it a true and accurate representation of the home at [redacted] Beaver Dam Drive?

A. Yes, it is.

Q. Beaver Dam Road, [redacted] Beaver Dam Road. That is a true and accurate depiction?

A. Yes, it is.

Q. And is June 25th approximately a year past May 29th, 2012 or was it three years?

A. I'm sorry, say that again.

Q. How long after May 29th, 2012 ---

A. Yes.

Q. --- would June 25th, 2015 be?

A. Three.

Q. Three years?

A. Yeah, almost three years.

THE COURT: You want to put it into evidence? I don't think they've been ...

MADAME COURT REPORTER: No, sir.

THE COURT: I don't think they've been put into evidence.

MR. GHENT: Oh, my apologies, Your Honor. At this time I would offer them -- they have not.

THE COURT: 8 through ...

MADAME COURT REPORTER: 30.

THE COURT: Any objection?

MR. SHEALY: No, Your Honor.

THE COURT: In without objection.

(Whereupon State's exhibits 8 - 30 were admitted into evidence)

Q. So this is a true and accurate depiction?

A. Yes, sir.

THE COURT: What number is that?

MR. GHENT: That's number 8, Your Honor.

Q. Number 9, true and accurate depiction?

A. That is.

Q. Number 10?

A. Yes, it is.

Q. Of the roof?

A. Of the roof.

Q. Number 11?

A. Yes, sir, part of the roof.
Q. By the way, a statement of the obvious, no part of the roof was either hawaiian blue or green, was it?
A. No.
Q. Certainly wasn't metal, was it?
A. No, sir, not metal.
Q. State's exhibit 12, part of the roof?
A. Part of the roof.
Q. State's exhibit 13?
A. Roof and gutter.
Q. 14, is that the siding of the house, part of the siding?
A. Yes, sir. It's part of the siding and one of the windows.
Q. One of the windows.
A. With no frames.
Q. Does that window appear worn to you?
A. Yes.
Q. The paint?
A. Yes, sir.
Q. 15, the gutters?
A. That's part of the gutters and a satellite antenna.
Q. And is a part of the roof sticking up?
A. Yes, it is.
Q. That's State's 15. 16, does this show the property and

something of the location?
A. Yes, sir. It's looking away from the house in the opposite direction.
Q. All right. That's 16. 17, just to give the whole picture. That's a swimming pool. It's not exactly a hobbit, is it? It's not ---
A. No, it's a -- it's an inground swimming pool.
Q. Does this show the car shed?
A. Yes, it's -- little car cover.
Q. That's exhibit 18?
A. Correct.
Q. 19, does it show the front has, in fact, been stained?
A. It barely looks like it.
Q. How about up top?
A. No.
Q. That would be the roof of the front porch?
A. Correct.
Q. Now, State's 20, that is, in fact, a metal roofing, correct?
A. That is on the shed ---
Q. On the shed that covers the cars?
A. Correct.
Q. But it's neither blue nor green, it's red, and it appears to be quite old, does it not?
A. Yes, sir.

Q. State's number 21, painted, stained?
A. It's not stained or pained -- painted.
Q. 22?
A. Same roof there and underneath the porch, it's not stained or painted.
Q. 23?
A. It's the -- on the front porch, the bannisters, they're not stained, or painted or anything.
Q. Does that show a side of the house and another part of the house?
A. It looks like the front of the house and the side of the house, the corner, with the overhang.
Q. Is the overhand painted up underneath?
A. No, it's not.
Q. Is the side of the house stained?
A. It is not.
Q. Can you clearly see where one part of the house was stained?
A. Yes, the front of it.
MR. SHEALY: What was that exhibit number?
MR. GHENT: Excuse me, 24.
Q. 25?
A. That's on the front porch inside the bannister with vines.
Q. And what about the floor?

A. There's no stain on it at all.
Q. And that's 25. 26, is that one of the windows?
A. It's one of the outside window sills. It's chipped painting and paint's peeling off of it.
Q. Doesn't look to have been painted?
A. It looks old.
Q. That's number 26. Number 27, does that appear to be a window?
A. Yes, it is.
Q. A sill?
A. It's all paint -- chipped, coming off.
Q. 28?
A. That's an up-close picture of the side of the house.
Q. Does it appear to you to have been stained or painted?
A. Looks old and worn.
Q. That's 28. 29, again, the back porch or the side porch?
A. It's the side porch that's not been treated, stained, or painted or anything.
Q. How about the back of the house?
A. It's the same. It's not painted or stained.

MR. SHEALY: What were those two exhibit ---

MR. GHENT: 29.

Q. And finally 30?
A. That's the bottom of the porch where the steps are.

And they're not stained or painted.

Q. Thank you. That pretty much reflects three years later after a contract was entered for work to be done on that home. That pretty much -- is it a true and accurate depiction of the site in June of 2015?

A. Yes, sir.

MR. GHENT: I have no further questions.

Cross Examination by Mr. Shealy:

Q. Officer Hanks, is this your only involvement with this case?

A. Yes, sir, it is.

Q. So how did you come to go to this house ---

A. I was ---

Q. --- in 2015?

A. I was requested by the prosecutor ---

Q. Okay.

A. --- to go up there.

Q. Are you aware of a request to go up there in 2013?

A. No.

Q. To take any pictures?

A. No.

Q. How about 2014?

A. No.

Q. All right. Is it -- now, how long have you been a police officer?

A. Thirty-one years.
Q. All right. How long have you been in white collar crime?
A. Over sixteen.
Q. And is it regular for y'all to go to a house three years after the breach of trust to take these kinds of pictures?
A. No.
Q. All right. When do you usually take these kinds of pictures?

MR. GHENT: Your Honor, I'm going to make the same objection based on the same motion I made after opening.

THE COURT: I overrule.

MR. SHEALY: Thank you.

Q. So when do you normally take these kinds of pictures?
A. Depends on the type of case it is. If it requires us to go make pictures, we will.
Q. Okay. And when do you normally ---
A. It ---
Q. --- make that determination?
A. Well, if there's a chance that the location such as this has a chance to be changed or anything different come up later on, if he were to come in and do a home improvement, we couldn't go back and see what was not done or done.

Q. Sure. I suppose that's -- that's true. So was this triggered by him doing a home improvement?
A. No.
Q. No. All right. This was triggered by the prosecutor asking you to go and take these pictures?
A. Yes.
Q. All right. And, again, so your run-of-the-mill property crime, if you need to go make pictures, you generally take them as soon as possible thereafter or after the property crime occurred?
A. This is not a property crime.
Q. This isn't a property crime?
A. No, sir.
Q. Well, ---
A. I work white collar crimes. And that's ---
Q. Sure.
A. --- the type of -- the type of crimes that I'm involved with.
Q. Okay. So this is not a crime that involves property?
A. (No response).
Q. I'm not trying to fight with you. I'm ---
A. No. It's property, but we work -- I work white collar crimes, okay?
Q. Right. And ---
A. And the type of charge that was made on this comes

under our unit description.
Q. Okay.
A. It's not a burglary, it's not a larceny. It's considered a breach of trust. So, therefore, it comes under our -- our unit's name. And that's what we would investigate.
Q. Okay.
A. However you want to term it.
Q. Right. But at a burglary, generally you take pictures closely thereafter, right, after the burglary occurs?
A. Yes.
Q. Okay. Because you want to preserve the scene?
A. Right.
Q. Because that may come up later?
A. Could be.
Q. So, like, in a courtroom?
A. Um-hum (affirmative).
Q. Okay. But that wasn't done in this case? Pictures were not taken after the crime occurred or allegedly occurred, is that -- immediately or soon thereafter, is that correct?
A. As far as I know.
Q. Okay. Now, you've testified to a number of different pictures. And I kept up the best that I could. And I know some of them have been -- looks like they're all done.

MR. SHEALY: If I may, Judge, if you'll bear with me.

(Pause)

Q. You testified on number -- I believe it was 13. No, it wouldn't have been 13. You testified about windows looking worn, is that accurate?

A. Where the paint was coming off.

Q. Right. So I'll hand you ---

A. It's faded.

Q. --- exhibit number 14, State's exhibit number 14.

A. Okay.

Q. Would you look at that picture and tell me what side of the house that was taken on.

A. It might have been on the back side of the house. I'm not sure.

Q. Might have been on the back side?

A. Yeah.

Q. But you're not -- you don't know where -- which window that was?

A. No. I didn't draw a diagram on that. So -- but I know this is part of the side of the house. And I recognize the windows being faded.

Q. Sure. Sure. And presumably you just took pictures of what you needed to take pictures of, right? And what you were directed to take pictures of?

A. No. I did the pictures myself.

Q. So you did all ---
A. Everything.
Q. --- the pictures?
A. Yes.
Q. But -- so Mr. Ghent didn't tell you, oh, take a picture of this thing or that thing or ---
A. No. He wanted me to take pictures of the house. So I took the liberty to make pictures of the house.
Q. Okay. And you've testified about the windows, I believe, in exhibit number 19. No, that's not true. It's 27, excuse me. I'm going to hand you exhibit number 27. Can you tell me what side of the house that's from?
A. That would have been -- if you're looking at the front of the house, that would have been on the left side.
Q. The left side of the house. So one might say it's the left elevation of the house?
A. I'm not sure if it's elevation or what the terminology is. I'm not familiar with that.
Q. All right. Now, number 28, could you tell me where that's from?
A. It's on the left side of the house.
Q. That's on the left side of the house too?
A. Yes.
MR. SHEALY: Bear with me, Your Honor.
Q. How long were y'all out there?

A. Probably about forty-five minutes or so.
Q. And you said you took another investigator with you?
A. Yes.
Q. Who was that?
A. Investigator Jonathan Howard.
Q. Again, if you'll bear with me. It's number 26.
MR. SHEALY: If I may approach the witness. Sorry, Judge, I haven't been asking that.
Q. Can you tell me where that window was?
A. It's on the left side of the house.
Q. Left side of the house.
MR. SHEALY: Again, Judge, if you'll bear with me.
(Pause)
Q. In number 30 you mentioned, again, that the bottom of this is not stained and painted. Whereabouts on the house is that?
A. That's on the right side of the house.
Q. That's on the right side.
A. Um-hum (affirmative).
Q. Okay. Do you have any idea how long stain lasts?
A. No.
Q. So ...
(Pause)
MR. SHEALY: That's all I have, Judge.
THE COURT: Redirect.

MR. GHENT: Yes, sir.

Redirect Examination by Mr. Ghent:

Q. Counsel asked you these questions about why things were left undone for so long. Do you know when I was assigned to the case?

A. Probably about a couple of weeks before I was asked to go up with you to make pictures of the house.

Q. 2015?

A. Yes, sir.

Q. Do you know Tim Martin over here?

A. Yes, I do.

Q. You work with him?

A. I work with him every day.

Q. To your knowledge, yes or no, was Tim removed from the case for any disciplinary reasons or any reasons of him having done anything wrong whatsoever?

A. No, he was not.

Q. Would you please stand, sir. Do you know who that gentleman is?

A. Yes, sir, I do.

Q. What's his name?

A. His name is Lieutenant Jeff Kindley.

Q. Who's he with?

A. He's with the South Carolina Law Enforcement Division.

Q. Who took over the case?

A. This gentleman right here did.
Q. And was it because of anything Tim Martin did wrong?
A. No, sir, he did not.
Q. Thank you.
THE COURT: Recross.
MR. SHEALY: (Negative nod).
THE COURT: You can step down and be excused. We appreciate your time, detective. Call your next witness.
MR. GHENT: The State calls Anne Jones.
MADAME CLERK: Will you please come forward. Come forward and put your left hand on the Bible and raise your right.

Anne Jones, being duly sworn testified as follows;

MADAME CLERK: Please have a seat. And will you state your full name for the record.
MS. JONES: Anne C. Jones.
MR. GHENT: May it please the Court?
THE COURT: Yes, sir.

Direct Examination by Mr. Ghent:

Q. Ms. Jones, where are you employed?
A. The Bank of Travelers Rest.
Q. And were you subpoenaed to come here today with some records?
A. Yes, I was.

Q. Of a joint checking account?
A. Yes.
Q. For whom?
A. It was for Mr. and Mrs. McGinn, Robert McGinn.
Q. Robert McGinn?
A. Um-hum (affirmative).
Q. And Christine McGinn?
A. And Christine, yes.
Q. And did you bring records of the signature page on their account?
A. I did. I ---

MR. GHENT: Could the record show that I'm handing that to counsel.

(Whereupon Mr. Ghent approached Mr. Shealy)

MR. GHENT: Your Honor, at this time -- may I approach the witness?

THE COURT: Yes.

Q. Is that the signature page from the account?
A. Yes, sir.
Q. The copy that ---
A. This is ---
Q. --- you brought.
A. --- their signature -- yes, it is.
Q. And it was signed by them?
A. It was signed by Robert McGinn.

Q. Robert McGinn.
A. And his wife as well as Christine McGinn.
Q. And they have had an account with you at Travelers Rest, ---
A. Yes.
Q. --- Bank of Travelers Rest?
A. For quite some time.
Q. For quite some time?
A. Um-hum (affirmative).

MR. GHENT: Your Honor, we'd offer this at this time.

MR. SHEALY: No objection.

THE COURT: In without objection.

(Whereupon State's exhibit 31 was marked and admitted into evidence)

MR. GHENT: May I publish it to the jury?

THE COURT: Yes.

Q. On the check that has been previously marked, offered into evidence, exhibit number 7, do you recognize that signature?
A. Yes, I do. That's Robert McGinn's signature.

MR. GHENT: Your Honor, these have been offered into evidence previously.

THE COURT: They're in the record.

Q. And a account summary for June of 2012, ---
A. Yes, sir.

Q. --- that would be basically a statement sent to Mr. McGinn ---

A. Yes, sir.

Q. --- and his wife ---

A. Um-hum (affirmative).

Q. --- for June 2012?

A. Um-hum (affirmative).

THE COURT: You need to say yes or no.

A. Yes. Thank you.

Q. Do you recognize that summary?

A. I do.

Q. Is that the copy you brought today?

A. Yes, it is.

MR. GHENT: I'd ask to have it marked.

(Whereupon State's exhibit 32 was marked for identification)

MR. GHENT: Your Honor, could the record reflect I'm handing same to counsel.

MR. SHEALY: I have no objection, Judge, but I don't know that it's relevant to, I mean, ...

THE COURT: You're offering it into evidence?

MR. GHENT: Yes, sir, I am.

THE COURT: Okay. Without ---

MR. SHEALY: Judge, I would just say that I don't know that it's particularly relevant to anything. If ---

THE COURT: Well, do you object to it coming in?

MR. SHEALY: No, sir, I don't.

THE COURT: In without objection.

(Whereupon State's exhibit 32 was admitted into evidence)

MR. GHENT: Allow me to clarify, Your Honor.

Q. Page 5 -- I would ask you to assist me. Does this, in fact, page -- account number ---

A. Um-hum (affirmative). The [redacted] ---

Q. Right.

A. --- [redacted]

Q. The June date?

A. Yes, sir. June 27th of 2012.

Q. Would you please review that and see if there is a check number 1040 that cleared the account?

A. It did clear on May 30th of 2012, the same amount.

Q. Thank you, ma'am.

A. Sure.

Q. So the check was paid by Mr. McGinn.

A. Um-hum (affirmative).

Q. And I do believe I am required to show that it was paid, ---

A. Yes, sir.

Q. --- it was cleared ---

A. It was cleared.

Q. --- through your bank.
A. Yes, sir.
Q. Thank you. Please answer any questions counsel has.
MR. SHEALY: I have no questions for this witness.
THE COURT: Thank you. Appreciate your time. You may be excused.
A. Thank you.
THE COURT: Call your next witness.
MADAME CLERK: Will you please come forward and put your left hand on the Bible and raise your right.

Brian Johnson, being duly sworn testified as follows;

MADAME CLERK: Please have a seat. And will you state your full name for the record.
MR. JOHNSON: Brian Carter Johnson.

Direct Examination by Mr. Ghent:

Q. Brian, do you own a business?
A. Yes, I do.
Q. What is the name of that business?
A. Green Tree Metals.
Q. I know it's going to be more than one location, but where are y'all located?
A. Our main plant is in Hartwell, Georgia. And we have one in Gaffney, South Carolina. Three other locations that are offices.

Q. How long have you been in business?
A. We opened up operating in February of 2009.
Q. Do you know American [sic] Home Renovators or Dean Holcomb?
A. Yes.
MR. GHENT: I would at this time -- may I approach the witness?
THE COURT: Yes, sir.
Q. Did you prepare at my request a document printed regarding your business with Dean Holcomb and Carolina Home Renovators?
A. Yes, I did.
Q. Is that the document you generated?
A. That's correct.
MR. GHENT: Your Honor, could the record reflect I'm showing same to counsel.
(Whereupon Mr. Ghent approached Mr. Shealy)
THE COURT: You offering it?
MR. GHENT: Yes.
THE COURT: Any objection?
MR. SHEALY: No, Your Honor.
THE COURT: In without objection.
MR. GHENT: Thank you, Your Honor.
(Whereupon State's exhibit 33 was marked and admitted into evidence)

Q. This is a summary of your business with Dean Holcomb and Carolina Home Renovators?

A. Yes, it is.

Q. When does it begin?

A. December 31st -- let's see. December 9th, 2011 was our first invoice.

Q. When was your last invoice?

A. February 29th -- excuse me. I mean, May -- May 29th, 2012.

Q. And the amount of that last entry on May 29th, 2012?

A. Was three thousand, two hundred and three dollars and twenty-one cents ($3,203.21).

Q. Thank you.

MR. GHENT: May I have just a moment, Your Honor.

(Pause)

Q. I want to show you two invoices which appear to be identical. And I'll ask that you simply say yes or no to whether or not you recognize these twin invoices.

A. They're the same.

Q. Thank you.

MR. GHENT: Your Honor, at this time I would ask to have both of them marked merely for clarification.

THE COURT: For identification?

MR. GHENT: Identification, but I'm going to clarify the reason for both.

THE COURT: Well, you've lost me. Are you offering them into evidence at this time?

MR. GHENT: Yes, sir, I am.

THE COURT: Have you shown them to Mr. Shealy?

MR. GHENT: I will now.

THE COURT: Okay.

(Pause)

THE COURT: Any objection.

MR. SHEALY: No, Your Honor.

THE COURT: In without objection.

(Whereupon State's exhibits 34 and 35 were marked and admitted into evidence)

MR. GHENT: Could the record reflect I'm showing exhibit number 34 to counsel.

(Whereupon Mr. Ghent approached Mr. Shealy)

MR. GHENT: Madame Court Reporter, what was the number?

MADAME COURT REPORTER: This one's 35.

(Pause)

MR. GHENT: Approach the witness, Your Honor?

THE COURT: Yes, sir.

MR. GHENT: May I approach the witness?

THE COURT: You may.

Q. Are these copies of the same invoice?

A. Yes.

Q. All right. Now, ---

MR. GHENT: Your Honor, these have been offered into evidence, admitted into evidence.

THE COURT: Yes.

Q. I will ask you who exhibit 35 is -- who ordered that invoice? Who ordered that stock, that merchandise from you?

A. You mean physically, actually called it in?

Q. Yeah.

A. Dean Holcomb.

Q. And his company?

A. Yes.

Q. And what is the address of his company?

A. [redacted] Rocky Creek Road, Greenville, South Carolina.

Q. Pretty much the same invoice?

A. Correct. It is the same.

Q. [redacted] Rocky Creek Road? Now, there is one minor discrepancy that I want to clarify.

THE COURT: He never did answer that ---

MR. GHENT: I'm sorry.

THE COURT: He didn't answer your question about the address.

A. Both are same address.

Q. [redacted] Rocky Creek Road ---

A. Correct.

Q. --- for both?

A. Yes.

MR. GHENT: My apologies, Your Honor.

Q. Now, on invoice number 34, doesn't have an address on it, does it?

A. No, it doesn't.

Q. For delivery?

A. Correct.

Q. But one does, does it not?

A. That's correct.

Q. What is the correct?

A. [redacted] Lee Street, Lyman, South Carolina.

Q. [redacted] Lee Street, Lyman, South Carolina. What is ordered at that address? What is to be delivered to that address?

A. A metal roofing job for the house -- we assumed that the house that is there at that address.

Q. And what color is the roofing?

A. Hawaiian blue.

Q. Hawaiian blue. Not green, not red, but hawaiian blue, correct?

A. Correct.

Q. Now, does both of these invoices indicate that that was paid? That order was paid and what was the date it was stamped as paid?

A. Both invoices are marked paid. And it was marked paid May 29th, 2012.

Q. May 29th, 2012. An invoice of hawaiian blue roofing to

be delivered to [redacted] Lee Street, Lyman, South Carolina?

A. (Affirmative nod).

Q. Mr. Johnson, did I meet you for the first last week?

A. You did.

Q. And we've spoken before on the phone, but had you ever seen me before then?

A. That's correct.

Q. We don't associate, we're not friends, you merely agreed to meet with me?

A. That's correct.

Q. And to come up here and testify in this case?

A. Yes.

Q. Now, I will ask you if you recall using a word as to what your business, the roofing business is built on?

MR. SHEALY: Objection, Your Honor. I ---

THE COURT: I sustain -- I sustain the objection.

Q. Did you understand that the roof that you were putting on the house at [redacted] Lee Street had been paid for by the residents ---

MR. SHEALY: Objection, Your Honor. I don't know why the supplier would make any assumptions.

THE COURT: Start the question over.

Q. Did you understand, it's not an assumption, did you understand that the roof that was being put on that house was being paid for by someone who lived there?

A. Yes.

Q. Did you have any reason to believe that someone at [redacted] Beaver Dam Road in Travelers Rest would have paid for that?

A. Absolutely not.

Q. As a matter of fact, did you tell me something about your reaction when someone once did that with your company?

A. (Affirmative nod).

Q. You're nodding your head yes.

MR. SHEALY: I'm going to object to all of this, ---

THE COURT: I sustain ---

MR. SHEALY: --- Judge. And, I mean, ---

THE COURT: I sustained the objection.

MR. SHEALY: Thank you.

Q. Does -- that's fine. No further questions. Thank you.

Cross Examination by Mr. Shealy:

Q. You sell metal roofing, is that correct?

A. We manufacture and sell metal roofing.

Q. Okay. You don't put the metal roofing on houses?

A. No, we do not.

Q. You just deliver it?

A. We manufacture and deliver it.

Q. Excuse me. You manufacture and you deliver?

A. (Affirmative nod).

Q. Now, are you the only person in town who sells metal roofing?

A. I'm not sure what -- which town are you referring to?
Q. In Greenville.
A. No, there's a lot of different companies that sell metal roofing.
Q. All right. And do you have a location in Travelers Rest?
A. No, I do not.
Q. No. Okay. Where did these jobs or where did these sales originate from?
A. At the time all of our manufacturing was in Hartwell.
Q. Okay. And Mr. Holcomb would or Carolina -- I suppose it would be Mr. Holcomb, would call you, call Greenville, call Hartwell, call where?
A. He would call the Hartwell office and he would speak to one of our sales people who take the order.
Q. Okay. And are you a sales person?
A. I've done some. 2012 I was doing more than -- more of that than I do now.
Q. Okay. And do y'all have a physical location where it's like a warehouse where you sell other stuff out of or is it just an office?
A. In Hartwell we have a plant where we manufacture and we sell out of there.
Q. Okay. How about in Greenville?
A. Not in Greenville.

Q. Okay. So y'all just have an office here in Greenville?
A. We have no office in Greenville.
Q. Oh, I thought you said you did have one. I'm sorry. Where is your other location?
A. Gaffney, South Carolina.
Q. Gaffney.
A. Right. But we did not have that location in 2012, the time of the job.
Q. Okay. And, again, so there -- and you've testified that there are a number of different places that sell metal roofing in Greenville? Is that what ---
A. Sure.
Q. Yeah? Okay. And you didn't have any exclusivity deal with Mr. Holcomb?
A. Absolutely not.
Q. And my understanding is basically you just deliver it where they tell you to deliver it -- to deliver it?
A. That's correct.
Q. All right.
A. If we deliver it. Sometimes contractors pick their own up.
Q. Okay. How often do they do that?
A. Well, it depends on the contractor. Some pick it up all the time. Other people have it delivered all the time. And then some just -- sometimes not, sometimes they do.

Q. Okay. And do you know how Mr. Holcomb paid you?
A. Yes.
Q. How?
A. Credit card.
Q. On a credit card?
A. (Affirmative nod).
Q. So he didn't pay you by check?
A. No.
Q. And when you say credit card, do you mean -- you know, there are debit cards and credit cards. And I don't know if your system tells you. Did he pay for it with a true credit card or with a debit card?
A. We know it was a Visa.
Q. You know it was a Visa, but you don't know if it was a debit or a credit?
A. No.
Q. No. Okay. Do y'all extend credit to people?
A. Yes, we do.
Q. So you'll deliver metal without having actual payment?
A. Sometimes we do.

MR. SHEALY: That's all I have, Your Honor.

THE COURT: Redirect.

MR. GHENT: Briefly, Your Honor. Approach the witness?

Redirect Examination by Mr. Ghent:

Q. Exhibit 33, the summary of your work for business with

Mr. Holcomb's company, Home Renovators, when did you say it first opened up?

A. My business opened up ---

Q. No. I'm talking about his ---

A. Oh, oh, I'm sorry. December 9th, 2011 was the first invoice.

Q. First invoice?

A. (Affirmative nod).

Q. And the last invoice was when?

A. May 29th, 2012.

Q. So from December 2011 until May 2012, that was the extent of your business with him?

A. Correct.

Q. Any chance in that brief span of time you would have extended ---

THE COURT: I don't know if the jury can hear you.

Q. Any chance during that span of time you would have extended credit to Mr. Holcomb?

A. I don't -- I don't believe we did.

Q. Thank you.

Recross Examination by Mr. Shealy:

Q. Right, I understand. You didn't -- and I'm not -- I never implied that you extended Mr. Holcomb credit. I didn't mean -- so I didn't mean to imply that. I'm sorry. But you never did or you never recall having extended Mr.

Holcomb any credit, is that correct?
A. No, I do not recall.
Q. Okay. But you do remember that he paid with a credit card or a Visa card, is that correct?
A. That's correct.
Q. All right. And ---
A. I remember that because it's marked on some of our information.
Q. Okay. And you also -- your business has in the past extended to other roofers or whatever credit in the past?
A. Yes.
Q. Okay. It's not -- it's not beyond the realm of possibility that you have done it to somebody else at some point? You have extended credit to someone else ---
A. We sell it to Lowe's and all kinds of different distributors as well as contractors. And some have credit.
Q. All right. That's what I was asking.

THE COURT: All right. You can step down and be excused. We appreciate your time. Thank you. Call your next witness.

MR. GHENT: Thank you so much, Mr. Johnson.

MR. JOHNSON: Thank you.

MR. GHENT: The State calls Tony Royston.

MADAME CLERK: Raise your right hand.

Tony Royston, being duly

sworn testified as follows;

MADAME CLERK: Please have a seat. And will you state your full name for the record.

MR. ROYSTON: Tony Royston.

MADAME CLERK: Thank you.

Direct Examination by Mr. Ghent:

Q. Who are you employed by?

A. Green Tree Metals.

Q. And how long have you worked there?

A. Five years.

Q. Do you know Dean Holcomb?

A. Yes, sir. I met him a few times.

Q. Is that the gentleman right here?

A. It is.

Q. And what is your job at Green Tree?

A. I'm the outside sales manager.

Q. And do you know Mr. Holcomb from being a salesperson for Carolina Home Renovators?

A. Yes, sir.

Q. Did you know him as a salesperson for another company before then?

A. I did.

Q. And what was the name of that company?

A. Findlay Roofing.

Q. Thank you.

MR. GHENT: No further questions.

THE COURT: Any questions.

Cross Examination by Mr. Shealy:

Q. So you knew him from Findlay Roofing as well?

A. Yes, sir.

Q. All right. And was that a big company?

A. Yes, sir. It's a large company, parent company out of Atlanta, Georgia. And they had started a location in Williamston, South Carolina.

Q. Okay. What was his position at Green Tree?

A. As far as I know, just a sales rep, yes, sir.

Q. Okay.

MR. SHEALY: I have nothing further for this witness.

THE COURT: All right. You can step down and be excused. We appreciate your time. Call your next witness.

MR. GHENT: Thank you, sir. The State calls Johnny Booth.

MADAME CLERK: Will you please come forward. Put your left hand on the Bible and raise your right.

John Booth, being duly sworn testified as follows;

MADAME CLERK: Please have a seat. And will you state your full name for the record.

MR. BOOTH: My name is John Tillman Booth.

Direct Examination by Mr. Ghent:

Q. And where do you work?
A. I work for South Carolina Farm Bureau Insurance Company.
Q. How long have you been with them?
A. Eighteen years.
MR. SHEALY: Judge, may we approach?
THE COURT: Yes.
(Whereupon a bench conference was held off the record in the presence of the jury, but out of their hearing)
(Whereupon the bench conference was ended)
Q. How long have you been with them?
A. Eighteen years.
Q. Do you know Ms. Susan Clark?
A. I know who they are. They are our policy holders.
Q. That would be Susan and Kenneth Clark. They have a homeowner's policy with y'all?
A. Yes, sir.
Q. And did they suffer hail damage in the storm of April 2012?
A. Yes, sir.
MR. SHEALY: Judge, at this point I'm going to object as to relevancy, as to ---
THE COURT: All right. Well based on what we discussed at sidebar, objection is overruled.
Q. Did you bring records with you today in response to a

subpoena?
A. Yes, sir.
MR. GHENT: Your Honor, may I approach ---
THE COURT: Yes, sir.
MR. GHENT: --- and have them marked as a single exhibit?
(Whereupon State's exhibit 36 was marked for identification)
MR. GHENT: Could the record reflect I'm providing a copy to counsel.
(Whereupon Mr. Ghent approached Mr. Shealy)
MR. GHENT: Approach the witness?
THE COURT: Yes, sir.
Q. Mr. Clark -- Mr. Booth, is this a copy of the claim that Farmers -- Farm Bureau adjusted for the Clarks?
A. Yes, sir.
Q. And does it indicate that the claim was accepted?
A. Yes, sir.
Q. And that you paid the Clarks?
A. Yes, sir.
Q. If you would, here at -- I'll let you take me through the full cost of repair or replacement.
A. Okay.
MR. SHEALY: Your Honor, I have -- my objection is continuing ---

THE COURT: Yeah.

MR. SHEALY: --- throughout this.

THE COURT: Overruled. Go ahead, Mr. Booth.

MR. GHENT: Thank you, Your Honor.

A. Our adjuster estimated the full cost or repairs at six thousand, five hundred, eighty dollars and seventy cents ($6,580.70). We withheld seven hundred and five dollars and thirty-four cents ($705.34) what we call recoverable depreciation, which the homeowner gets that back once the roof is replaced.

So we initially paid him or Mr. and Mrs. Clark -- well, that left five thousand, eight hundred, seventy-four dollars and seventy-three cents ($5,874.73). They had a one thousand dollar deductible. So our initial check to them was for four thousand, eight hundred, seventy-four dollars and seventy-three cents ($4,874.73).

Q. Is it routine to deduct the deductible ---

A. Yes, sir.

Q. --- from the amount to be paid?

A. Yes, sir.

Q. And is that what you did in this case?

A. Yes, sir.

Q. Do you regularly work with contractors?

A. Yes, sir.

Q. For ---

THE COURT: I don't think that's in evidence. I don't know what it is ---

MR. GHENT: Oh, I'm sorry. My apologies, Your Honor. I'm trying to rush. I apologize.

Q. Taking you through this, the claim form is kept in the regularly conducted course of business activity for your ---

A. Excuse me.

Q. --- insurance company?

A. Can you repeat the first ---

Q. Is -- are these documents kept in the course of regularly conducted business activity for your company?

A. Yes, sir.

Q. And are they business records of your company?

A. Yes, sir.

Q. And is it the regular practice of your company to generate these and to keep them?

A. Yes, sir.

Q. And are they made at or near the same time by someone with the information that they are generated?

A. Yes, sir.

MR. GHENT: Your Honor, at this time we'd offer them into evidence.

THE COURT: Same objection?

MR. SHEALY: Subject to my prior relevancy objections. I don't have any other ---

THE COURT: In over objection.

MR. GHENT: Thank you.

(Whereupon State's exhibit 36 was admitted into evidence)

Q. So a claim was filed?

A. Yes, sir.

Q. With Farmer's Home Bureau?

A. With Farm Bureau, yes, sir.

Q. Farmer -- Farm Bureau.

A. South Carolina Farm Bureau.

Q. All right.

A. Yes, sir.

Q. And the records that are marked as State's exhibit 36, these are records of that claim?

A. Yes, sir.

MR. GHENT: And, again, may I approach, Your Honor?

THE COURT: You may.

Q. Are these the numbers pertaining to the claim?

A. Yes, sir.

Q. Six thousand, five hundred, eighty dollars, seven cents ($6,580.07) for full cost of repair?

A. (Affirmative nod).

Q. Seven hundred, five dollars, thirty-four cents ($705.34) depreciation?

A. (Affirmative nod).

Q. Actual cash value, five thousand, eight hundred, seventy-four dollars, seventy-three cents ($5,874.73), is that correct?
A. Yes, sir.
Q. Less the deductive of how much?
A. One thousand dollars.
Q. And that leaves how much actual cash value of the claim?
A. Four thousand, eight hundred, seventy-four dollars and seventy-three cents ($4,874.73).
Q. I will ask you what exactly your position is with ...
A. I'm a district claims field supervisor.
Q. Okay. So you regularly work with contractors?
A. Yes, sir. I review work from adjusters, but I also handle claims and deal with contractors and/or policy holders.
Q. You're experienced with them?
A. Yes, sir.
Q. Would you say that a contractor in a homeowner's claim is generally familiar with the concept of a deductible?
A. Yes, sir.
Q. They generally understand how/when it is removed from the amount before the claim is paid?
A. Yes, sir.
Q. So they should -- they either know or should know that

A. Yes, sir.

Q. --- it's taken out off the top?

A. Correct.

Q. Thank you.

MR. GHENT: I'd offer it into evidence, Your Honor.

THE COURT: In over objection.

(Whereupon State's exhibit 36 had been previously entered into evidence)

Q. And, again, this claim involved a roof?

A. Yes, sir.

Q. And you paid for the replacement of that roof?

A. Yes, sir.

Q. How many checks did you write?

A. Two checks.

Q. And that was to Mr. and Mrs. Kenneth Clark?

A. Yes, sir.

Q. And that would be at [redacted] Lee Road in Lyman?

A. I believe that's right. I'd have to look at the records.

MR. GHENT: May I borrow that for a moment just to make sure there's no question. Thank you, ma'am.

Q. Right there at the top?

A. Yes, sir, [redacted] Lee Street in Lyman.

Q. In Lyman.

MR. GHENT: Thank you, ma'am. No further questions, Your Honor.

Q. Thank you, sir.

THE COURT: Cross.

MR. SHEALY: Thank you, Your Honor.

Cross Examination by Mr. Shealy:

Q. Just a couple of housekeeping questions so I understand what's going on. When did Mrs. Clark or when did your adjuster go out to the Clarks' house?

A. I would have to look at the records. He may have it on that report. I'm not sure if he does or not.

Q. I will give you my copy ---

A. Okay.

Q. --- of the report.

MR. SHEALY: If I may approach ---

THE COURT: You may.

MR. SHEALY: --- the witness, Judge.

A. He doesn't have the exact date, but the first check was issued on April 17th, 2012. So I'd have to look back to when the claim was reported to narrow that down.

Q. There may have been -- there's a 4/16 at the top of some of those.

A. Right. That's the date of report. And we might have looked at it that day, a week ahead, a few days before. I probably won't be able to tell you exactly what day he

looked at it.

Q. Okay. So -- but the first check was issued in April, 17th you said?

A. April 17th, 2012.

Q. And when was the second check issued?

A. The second check was July the 5th, 2012.

Q. All right.

MR. SHEALY: If I may approach the witness, Your Honor.

THE COURT: Yes, sir.

MR. SHEALY: If you'll bear with me one second.

(Pause)

MR. SHEALY: I've got no further questions.

MR. GHENT: None from the State. Thank you so much.

THE COURT: Appreciate your time. You can be excused. Thank you. Call your next witness.

MR. GHENT: The State calls Susan Clark. Thank you, sir.

MR. SHEALY: Your Honor, I have the same objection as previous ones.

THE COURT: All right. Overruled. They'll be ---

MR. SHEALY: And I'll ---

THE COURT: --- continuing.

MR. SHEALY: Yes, sir. Thank you.

MADAME CLERK: Will you put your left hand on the Bible and raise your right.

Susan Clark, being duly sworn testified as follows;

MADAME CLERK: Please have a seat. Will you state your full name for the record.

MRS. CLARK: Susan Clark.

MADAME CLERK: Thank you.

Direct Examination by Mr. Ghent:

Q. Mrs. Clark, do you live at [redacted] Lee Street in Lyman?

A. Yes, sir.

Q. How long have you lived there?

A. About seventeen years now.

Q. And do you recall a hail storm in the Spring months, March/April, of 2012?

A. Yes, sir.

Q. And that hail storm, did it do damage to the roof of your house ---

A. Yes, sir.

Q. --- in Lyman?

A. Yes, sir.

Q. Just to clarify, you don't have any kind of other home, Summer home or something like that ---

A. Oh, no.

Q. --- up in Travelers Rest?

A. No, sir.

Q. Did you have a claim with your insurance company?

A. Yes, sir.
Q. Did they pay the claim?
A. Yes, sir.
Q. And did you meet with Dean Holcomb ---
A. Yes, sir.
Q. --- of Carolina Home Renovators?
A. Yes, sir.
Q. Did you reach an agreement with Mr. Holcomb ---
A. Yes, sir.
Q. --- about payment for repair to your roof?
A. Yes, sir.
Q. What type of roof was it?
A. The one we had put on?
Q. Yes, ma'am.
A. Is the metal.
Q. Metal?
A. Metal.
Q. In what color?
A. Blue.
Q. Hawaiian blue?
A. Hawaiian blue.
Q. Did you choose it?
A. Yes, sir.
Q. I'm not ---
A. I like blue.

Q. Okay. That's fine. Was there a coupon involved in discussions of that?

A. Yes, sir.

Q. That came with a flier that y'all had gotten regarding ---

A. Yeah.

Q. --- Mr. Holcomb?

A. Yes, sir.

Q. Was there an issue or discussion about the deductible?

A. Now that, my husband will know more about that --- than -- than I do.

Q. Okay.

A. --- than -- than I do.

Q. Was there delay in paying -- well, excuse me, delay in repairing the roof?

A. I think the -- it came in the wrong color is what he told us. And it was late because of that.

Q. That's what he told you?

A. Yes, sir.

Q. Did you ever see what came in?

A. No, sir.

Q. All right. How many ---

MR. GHENT: May I approach?

THE COURT: Yes, sir.

Q. Did you bring these with you ---

A. Yes.

Q. --- today?
A. Yes, sir.
Q. And are those copies of checks y'all wrote to Carolina Home Renovators?
A. Yes, sir.
Q. And do those checks come from your bank, Founders Bank?
A. Yes, sir.
Q. Did y'all obtain those for me?
A. Yes, we did.

MR. GHENT: And, Your Honor, may I approach the Court with counsel ---

THE COURT: Yes.

MR. GHENT: --- very briefly?

(Whereupon a bench conference was held off the record in the presence of the jury, but out of their hearing)

(Whereupon the bench conference was ended)

MR. GHENT: May it please the Court?

THE COURT: Yes, sir.

Q. Is that the check stub from the check that was paid by Founders?
A. Um-hum (affirmative). Yes, sir.

THE COURT: You need to answer with yes or no.

A. Oh, I'm sorry.
Q. You'll have to speak in the microphone.
A. These were ---

Q. Well, just this one first.
A. That's just from our bank.
Q. Okay.
A. It's not ---
Q. Is this a check that you paid from your bank account at Founders ---
A. Yes, sir.
Q. --- to Carolina Home Renovators?
A. Yes, sir.
Q. And is this a check ---
A. Yes, sir.
Q. And this?
A. Yes, sir.

MR. GHENT: Your Honor, at this time I'd like to have them marked. I'll provide them to counsel again and would offer them all as one exhibit.

MR. SHEALY: Judge, I would suggest they be marked individually just in case I want to ---

THE COURT: Okay.

MR. SHEALY: --- ask her about ---

THE COURT: All right. Mark them individually. Any objection?

MR. SHEALY: Subject to the continuing one, no, sir.

THE COURT: All right. In over objection.

(Whereupon State's exhibits 37 - 40 were marked and

admitted into evidence)

Q. Let's start with exhibit 37. Does that have to do with your account at Founders?

A. Yes, sir.

Q. And that would be number 37.

MR. GHENT: And I'm offering this at this time, Your Honor.

THE COURT: In over objection.

MR. GHENT: Yes, sir.

(Whereupon State's exhibit 37 had been previously entered into evidence)

Q. Let's move to number 38. Is this a copy of a check, number 2029 drawn on your account at Founders written by you? And what is that for?

A. This check?

Q. Yeah.

A. This is for partial payment of the roof.

Q. And does it say right there roofing?

A. Yes, sir.

Q. All right. And ...

A. And that's where he's made a deposit and signed his name.

Q. Dean Holcomb?

A. Yes.

Q. And that is a check for how much?

A. Five hundred.
Q. And this is to?
A. To Dean, I mean, to the ---
THE COURT: You need to talk ---
A. Oh, I'm sorry.
THE COURT: Talk in the microphone.
A. Carolina Home -- I don't have my reading glasses. How do you say that?
Q. Renovations.
A. Renovations, yeah. Four thousand, eight hundred and seventy-four dollars and thirty-three cent or seventy-three cent. I'm sorry.
Q. And, again, who has endorsed that?
A. Dean Holcomb, yeah.
Q. Number 40, how much is that for?
A. That one's for seven hundred and five dollars and thirty-four cent ($705.34).
Q. And that's ---
A. Carolina Home ...
Q. Renovators.
A. Renovators.
Q. Signed by you?
A. Yes, sir.
Q. And that's check number 2085. And is that marked paid ---

A. Paid ---
Q. --- in full?
A. --- in full, yes, sir. And he signed it.
Q. All right. All three of these checks were for a hawaiian blue roof to be installed on your home?
A. Yes, sir.
Q. After that hail storm?
A. Yes, sir.
Q. Let's start with check number 2008. When was that written?
A. April 24th, 2012.
Q. June 2nd?
A. Of 2012.
Q. And finally?
A. April the 24th, 2012.
Q. And the amount on that one is how much?
THE COURT: Which one is it?
MR. GHENT: Excuse me. Exhibit 39, April 24th, 2012.
A. Four thousand, eight hundred, seventy-four dollars and seventy-three cent ($4,874.73).
Q. All right. These three checks were written by y'all in April for the replacement of your roof, correct?
A. Yes, sir.
Q. When was that roof replaced?
A. April the 24th.

Q. No, ma'am.
A. No.
Q. When was it replaced?
A. Oh, when it was finished?
Q. Yes, ma'am.
A. April, May, June. I think it's June. Wasn't it finished in June?
Q. I don't know, ma'am. You're the witness.
A. I don't know. My husband's the one that does this. He's in there. I'm sorry.
Q. Okay. I'll simply ask this. Is your husband blind?
A. Yes, sir. Total blind.
Q. Okay. Did y'all become concerned about the roof not being replaced?
A. Yes, sir.

MR. GHENT: No further questions, Your Honor. Oh, excuse me. I do have just a few more. Approach the witness?

Q. I'll show you these pictures. Are these pictures of your home in Lyman?
A. Yes, that's it.

MR. GHENT: Your Honor, at this time I'd ask to have them marked for identification and would move them into evidence.

THE COURT: Individually?

MR. GHENT: Yes, sir, individually.

MR. SHEALY: I have no objection so long as she can lay that foundation.

THE COURT: In over objection. In without objection.

MR. SHEALY: Again, subject to my continuing objection.

THE COURT: Okay.

MR. SHEALY: I'm sorry, Judge.

THE COURT: I'll say that it's in over objection.

(Whereupon State's exhibits 41 - 46 were marked and admitted into evidence)

Q. Again, these are photographs of your home, exhibits 41 through 46?

A. Yes, sir.

Q. With the hawaiian blue roof on it?

A. Yes, sir.

Q. Thank you.

MR. GHENT: Your Honor, at this time we'd offer them into evidence.

THE COURT: In over objection.

(Whereupon State's exhibits 41 - 46 had been previously admitted into evidence)

Q. Thank you, ma'am. Please answer any questions counsel may have.

Cross Examination by Mr. Shealy:

Q. Just a couple of questions, Mrs. Clark. How do y'all

or do y'all know Mr. Holcomb?

A. Yes, sir.

Q. How is that?

A. He went to school with my daughter, Julie.

Q. Okay. And, again, this is going to sound like a nasty question, but how long has your husband been blind?

A. Twenty-six years now.

Q. Okay. So was that while your daughter was in school?

A. Yes, sir.

Q. Okay. So would Mr. Holcomb have known about that?

A. Wait a minute. He went blind twenty-six -- yeah, yeah.

Q. All right. And you wrote all of these checks, correct, to ---

A. Yes, sir.

Q. And we've already given the dates, I believe.

A. Yes, sir.

MR. SHEALY: That's all I have for this witness.

THE COURT: All right. You can step down and be excused. We appreciate your time. Thank you.

MR. GHENT: Thank you, Mrs. Clark. The State calls Kenneth Clark. And, Mrs. Clark, would you like to help him into the courtroom?

MRS. CLARK: You want me to bring him in here?

MR. GHENT: Yes, ma'am.

THE COURT: Members of the jury, this will be our last

witness for the day.

Kenneth Clark, being duly sworn testified as follows;

MADAME CLERK: Will you state your full name for the record, sir.

MR. CLARK: Kenneth Wayne Clark.

MADAME CLERK: Thank you.

MR. GHENT: May it please the Court?

Direct Examination by Mr. Ghent:

Q. Mr. Clark, do you recognize my voice?

A. Yes, sir. That's Mr. Ghent.

Q. Okay. And we've spoken before?

A. Yes, sir.

Q. At your home?

A. Yes, sir.

Q. And, Mr. Clark, did I ask you on those occasions about the roof that was put on your house?

A. Yes, sir.

Q. Do you recall talking to the person who installed it?

A. Yes, sir.

Q. Who sold it to you?

A. Yes, sir.

MR. SHEALY: Your Honor, I'm going to continue my objection to this witness, again, as to relevance.

THE COURT: I understand.

MR. SHEALY: Yes, sir.

THE COURT: Objection overruled.

Q. Who did he identify himself as?

A. Mr. Dean Holcomb.

Q. Tell us, tell the jury about your conversations with Mr. Holcomb.

A. Well, we had a bad hail storm to come through in April of 2012. I was going through the phonebook. And it was Carolina -- I can't remember the last name of the business. And he came out and sat on my front porch. And him and the gentleman with him went up on the roof and said they thought I did have hail damage and that he would -- he would install me a metal roof for the same price as an asphalt roof.

Q. And did you -- had you reported a claim to your insurance company?

A. I did -- when he told me -- he came out, it was right after the storm. And I did report to the insurance company. And they sent an adjuster out. And they met them at my house and talked to them. And they went up and looked at my roof and said I did have hail damage.

Q. Did you then enter into an agreement with Mr. Holcomb?

A. Yes, sir.

Q. Have you and your wife been able to locate that contract?

A. No, sir, we haven't.

Q. But you recall the agreement?
A. Yes, sir.
Q. And do you recall approximately when it was you made your payments to him?
A. Sir, I know it was -- it was in April, one of them, and one of them was in June. I think the last was around first of July, and that was the year of 2012.
Q. When was your roof finally repaired?
A. It was sometime in June because the insurance company had to come out and make a final inspection. And I can't remember the exact numbers. It was like seven hundred and something dollars. And it took a couple of weeks for Mr. Holcomb to come by and receive his final payment.
Q. Did you write a check before the work began to Mr. Holcomb?
A. Yes, sir. The agreement was that he was going to take what the insurance company paid. And he gave me a coupon and I wrote a check for -- it was forty-eight hundred dollars before he ever started anything. And you have those checks.
Q. All right. And did he recall the coupon when it came time for the final payment?
A. Sir, that was in the middle -- the deposit, the thousand dollars. He said that's what I owed now. And I reminded him of the coupon. And if you'll look at the

checks again, it was five hundred dollars plus the five hundred dollar coupon.

Q. Did he say anything about the deductible?

A. When he came out, him and the other gentleman came out, he said that he could help me on that with the five hundred dollar coupon.

Q. All right.

A. And I kept the coupon until time to make the deductible payment. And I gave him the coupon and the deductible payment.

Q. Was the work done promptly?

A. No, sir.

Q. Was there a delay?

A. Yes, sir.

Q. Significant delay?

A. Yes, sir.

Q. Did you start to become worried about it?

A. Yes, sir.

Q. And did you follow up and follow up with Mr. Holcomb?

A. I followed up with him as much as I could. And the other gentleman, I don't know his last name, his first name was Jared, I called -- I called several times because I was getting worried about the work being done.

Q. And it was ultimately done?

A. It was -- it was finally done all except -- when they

talked to me on the porch, they showed us a piece of -- it's like an insulator. It was -- the way I understand it, it was silver on one side, it was like a bubble wrap.

And when he told me that about the deductible he said, well, that's not in the contract, I'm not going to do it. And I said, well, that's the reason I bought it. So he -- I think he did it over the garage or they said they did, but the rest of the house he did not do.

Q. But it took a while for anything to get done?

A. Yes, sir. Yes, sir.

Q. And the roofing came -- you said the final payment was in June?

A. It's -- I think the final payment, if I -- it was around the first of July.

Q. All right. And the roofing was delivered to your home?

A. I'm not sure. I'm going to say sometime in June, middle of June.

Q. Thank you. Mr. Clark, if you would, would you please answer any questions that Mr. Holcomb's attorney has for you.

A. Yes, sir.

Cross Examination by Mr. Shealy:

Q. Just a couple, Mr. Clark. Do you recall when that middle payment was made?

A. Sir, I'm not exactly sure, but they're -- when I made

the middle payment, that's when he started after that. And they have the -- they have a copy of my checks I brought in today.

Q. Okay. So he started after you paid that middle payment?

A. Yes, sir.

Q. All right.

MR. SHEALY: That's all I got for this witness.

THE COURT: All right. You can step down, Mr. Clark.

MR. GHENT: Thank you so much.

THE COURT: Appreciate you being here.

A. Yes, sir. Let me get some help here ---

THE COURT: Okay. Well, she's right behind you.

A. Okay. Thank you, sir.

THE COURT: Can I see counsel up here just a minute?

MR. SHEALY: Yes, sir.

(Whereupon a bench conference was held off the record in the presence of the jury, but out of their hearing)

(Whereupon the bench conference was ended)

THE COURT: I'm going -- we're going to stop for the day. And I'm going to ask you to be back in the jury room by 9:30. And we'll try to start as promptly as we can at 9:30. So have a pleasant evening. Keep in mind those things I told you about not doing. Have a pleasant evening.

(Whereupon the jury exited the courtroom at 6:00 pm)

THE COURT: All right. We'll start back at 9:30. And I know the attorneys have a good bit to do. If you've got a request to charge, if you could have them up.

MR. SHEALY: I'm sorry, Judge.

THE COURT: If you've got any requests to charge, you can go ahead and get those up to me tomorrow if you don't mind.

MR. GHENT: Yes, sir.

MR. SHEALY: Yes, sir.

THE COURT: All right. We'll see you at 9:30.

MR. SHEALY: Thank you, Judge.

MR. GHENT: Thank you, Your Honor.

(Whereupon court was in recess at 6:00 pm)

(End of Volume One of Two)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GREENVILLE

STATE OF SOUTH CAROLINA, PLAINTIFF, -VS- DEAN ALTON HOLCOMB, DEFENDANT.	2013-GS-23-05223 & 4600A TRANSCRIPT OF RECORD (VOLUME TWO OF TWO)

SEPTEMBER 6 - 8, 2016
GREENVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE JOHN C. HAYES, III

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

ATTORNEYS FOR PLAINTIFF:

RUSSELL D. GHENT, ASSISTANT SOLICITOR
BRATTON S. TODD, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

MATTHEW W. SHEALY, ESQ.

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

Wednesday, September 7, 2016 (Volume Two of Two):

(Whereupon court reconvened at 9:37 am)

THE COURT: Thank you. You may take your seats. State ready?

MR. GHENT: Your Honor, there's one other matter. The custodian of the bank records from Wells Fargo was on his way from Charleston. And that is the only matter at this time. We also have a expert from SLED who's going to need to get up here. And I intend to finish the case today.

THE COURT: All right. Anything on behalf of Mr. Holcomb?

MR. SHEALY: No, Your Honor.

THE COURT: All right. Let's bring in the jury.

(Whereupon the jury entered the courtroom at 9:38 am)

THE COURT: Good morning. Hope everybody had a pleasant evening.

MR. GHENT: May it please the Court?

THE COURT: Yes.

MR. GHENT: The State calls Ms. Mafie Bright.

MADAME CLERK: Will you put your left hand on the Bible and raise your right.

Mafie Bright, being duly sworn testified as follows;

MADAME CLERK: Please have a seat. And will you state your full name for the record.

MS. BRIGHT: Mafie Bright.

MR. GHENT: May it please the Court?

THE COURT: You may proceed.

Direct Examination by Mr. Ghent:

Q. Ms. Bright, where are you employed?

A. The [redacted] Apartments in Greenville.

Q. And how long have you worked there?

A. Over five years.

Q. And that's in Greenville County?

A. Um-hum (affirmative).

Q. What is the address for the [redacted] Apartments?

A. [redacted] Rocky Creek Road.

Q. And was Dean Holcomb a tenant?

A. Yes.

MR. SHEALY: Judge, may we approach?

THE COURT: Yes.

MR. SHEALY: I may have an objection.

(Whereupon a bench conference was held off the record in the presence of the jury, but out of their hearing)

(Whereupon the bench conference was ended)

THE COURT: I'm going to let the jury go to the jury room just a minute. I know one of you has a bad knee, and I hate to keep making you ...

(Whereupon the jury exited the courtroom at 9:41 am)

THE COURT: All right. Let's proceed with a proffer.

MR. GHENT: Your Honor, the proffer is that ---

THE COURT: Well, I mean, just go ahead and ask her what you're going to ask her so I'll know what the questions are and what the answers are going to be.

Proffered Testimony by Mr. Ghent (In Camera):

Q. Were eviction proceedings filed against the Defendant, Dean Holcomb?

A. Yes.

Q. Was he evicted?

A. Yes.

Q. Did he leave and leave all his things in the apartment?

A. There was a good bit of things left in the apartment.

Q. And what was the lease on that apartment?

A. It was a twelve month lease. He moved in in, I'm wanting to say, 2000. Thank you.

MR. GHENT: May I approach, Your Honor.

THE COURT: Yes, sir.

A. He was there shortly over a year, I remember that. Let's see, he moved in in April of 2011. His new lease started in May of 2012. And we vacated the apartment with the eviction on October 1st, 2012.

Q. October the 1st, 2012?

A. (Affirmative nod).

Q. And he left?

A. Yes.

Q. And he did not pay -- how much was due with the cleaning and everything else?

A. With the cleaning and everything it was thirty-three hundred dollars.

MR. GHENT: Your Honor, essentially that would be the proffer. Now, I -- and maybe we need to address this now. I intend to show Mr. Kindley led or was part of a search in North Carolina that was yet another residence for Mr. Holcomb. I intend to call witnesses who are here from North Carolina to show they accompanied Mr. Kindley.

There are documents that were seized in that search along with other things that I don't intend to bring in. There was a grow-house for marijuana in that house. I don't intend to go near that. But the documents are, in fact, critical. I also intend to show that he was arrested when he took -- I won't go into the reason, but he was arrested in North Carolina.

Now, two points that I am showing through this. Flight, which flight is evidence of guilty knowledge and intent. And most importantly motive. This man was out of money. His business was out of money. That is the reason, the reason why a business that he tried to go out on his own after he had been with another company collapsed within ten months.

He was what they call a gypsy roofer. He came from

North Carolina, came down to take advantage of what had happened in South Carolina and basically he didn't have the money to make a go of it.

I intend to show through the bank records that were seized pursuant to a warrant, a search warrant, from his accounts at Wells Fargo that his money kept going down, down, down, down, down.

So motive, I know it's within Your Honor's discretion, but it certainly is relevant in a case such as this, particularly when counsel has made such a big deal about, oh, this is just a civil matter. Motive and flight, guilty knowledge and intent are definitely relevant, Your Honor.

THE COURT: Any questions of this witness?

Proffered Testimony by Mr. Shealy (In Camera):

Q. You said the eviction proceeding occurred October the 1st, 2012?

A. Yes. The eviction was filed in September for non-payment of rent.

Q. Okay. So -- all right.

MR. SHEALY: That's all I have at this point for this proffer, Judge. I do have some argument.

THE COURT: All right. Let me hear what your argument is.

MR. SHEALY: Thank you, Judge. My client -- it's my understanding, Judge, based on what the -- Mr. or Officer

Martin testified to at the beginning of this trial that the incident -- he didn't open a file until January 31st of 2013. He didn't get a warrant until April 13th of 2013. They're saying my client left or he was evicted on October 1st, 2012. So that's five months after this alleged breach of trust.

Well, that's hardly flight, Judge. And there wasn't a warrant to fly from. There wasn't even an investigation at that point for several months down the road. There wasn't an investigation.

The fact that he was evicted suggests a reason why he moved back to North Carolina independent of his being in financial difficulties or his having taken money from the McGinns in that, yes, he apparently had lived in North Carolina before and that's where he was going back to. So, I mean, I don't -- it's just not evidence of any flight.

There's no -- it's temporally so far apart from any of these things that if you're going to take the money and run, you don't generally take the money, wait five months and then run. That makes no sense, particularly not when there isn't even an investigation. There's certainly no warrant.

So, Judge, I don't believe that it is evidence of flight. I don't think that it's relevant. And even if Your Honor finds that it is evidence of flight and it is relevant, then to the fact that my client owed money, I

certainly believe is more prejudicial than probative if anything.

I mean, again, I don't think that this is probative because I don't think it's evidence of flight, but them painting him as some kind of poor person and claiming that because he's poor he's necessarily engaging in breach of a trust, I have a pretty serious problem with that.

MR. GHENT: Your Honor, may I respond?

THE COURT: You may.

MR. GHENT: May I approach the court reporter? Do you have those CDs? Thank you.

Your Honor, this is not a matter of poverty, it's a matter of fact. Our investigation indicates that Mr. Holcomb came from wealth, not poverty. His father was quite well-to-do, apparently, quite successful.

The two calls that were made from North Carolina, obviously, indicate he knew a warrant was taken out against him up there. Your Honor, again, ---

THE COURT: Well, when was that? That was not -- when were the warrants taken ---

MR. GHENT: The warrant was taken out January 31st, 2013, I believe. Your Honor, ---

MR. SHEALY: Judge, the investigation began in January of 2013. The warrant wasn't taken out until April was my understanding.

MR. GHENT: April of 2014 -- '13. Your Honor, the bottom line is that the problems with money don't go towards poverty. They go in almost any case, whether it's a huge one like Bernie Madoff or a rather small one like this gentleman. It's readily recognized that proving intent is a matter of evidence that is brought in that makes intent more likely than not.

In this case the fact that he was being evicted as the end of his business was nearing, he was borrowing from Peter to pay Paul with his customers, his clients, and he was at that time using money that was, in fact, provided in trust for a specific job to finish another job.

THE COURT: Well, motive and intent are two different things, are they not?

MR. GHENT: Yes, sir, they are.

THE COURT: All right. Well, motive is not an element of either one of these offenses.

MR. GHENT: Motive's not an element of any offense. Motive is a matter that I recognize the case law is clear is within the trial judge's discretion. But particularly in a white collar case where money is taken, motive is extremely -- again, it's not an element, I agree. But why he did it, he was running out of money. He didn't have any money.

THE COURT: All right. Any -- you object to this witness?

MR. SHEALY: I do object to this witness.

THE COURT: I sustain the objection based on relevance. I don't feel there's a sufficient nexus between him being evicted and the charge. And I don't believe that under the -- the question is did he do that act? Snapshot in time, did he on a certain date breach a trust?

The fact that he was, I mean, I just got through saying motive and intent are two different things. I think that while this may go to prove motive, it doesn't prove intent. The intent would arise from the actual doing of the -- the actual fact that the event occurred, that is, it wasn't accidental. He didn't accidentally -- at least the State's position is he didn't do this accidentally, he did it intentionally.

MR. GHENT: Because he had to. He didn't have money anymore.

THE COURT: But the reason he did it is not -- the reason -- I can't think of a good analogy, but I sustain the objection.

MR. GHENT: Yes, sir.

THE COURT: All right. Do you want this witness to remain or ...

MR. GHENT: Well, under the circumstances, Your Honor, I'd like to thank Ms. Bright for her patience yesterday and for coming again today. And ---

THE COURT: You can be -- you can be excused. We appreciate your time. You didn't do anything.

A. Okay.

THE COURT: All right. Bring in the jury.

(Whereupon the jury entered the courtroom at 9:53 am)

THE COURT: You'll notice the landscape has changed a little bit. Ms. Bright is not on the stand. I have ruled that her testimony was not important to this case. So we're moving on.

But she didn't do anything wrong. Mr. Ghent didn't do anything wrong. And Mr. Shealy didn't do anything wrong. It's just the way it worked out. You can call your next witness.

MR. GHENT: Jared Richardson.

MADAME CLERK: Will you come forward. Will you put your left hand on the Bible and raise your right.

Jared Richardson, being duly sworn testified as follows;

MADAME CLERK: Please have a seat. And will you state your full name for the record.

MR. RICHARDSON: It's Jared Richardson.

MR. GHENT: May it please the Court?

THE COURT: Yes, sir.

Direct Examination by Mr. Ghent:

Q. Mr. Richardson, where do you live?

A. Travelers Rest.

Q. And are you living -- engaged, living with Christina McGinn?

A. That's correct.

Q. And she is the daughter of Robert McGinn?

A. Step-daughter.

Q. Step-daughter. Are you working currently?

A. Yes, sir.

Q. For whom?

A. Creative Builders.

Q. And were you working for the Defendant, Dean Holcomb, in May of 2012?

A. I believe so, yes.

Q. And were you at that time employed doing roofing work?

A. Installing roofing, yes.

Q. You were -- were you authorized to handle the money?

A. No, sir.

Q. The checking account?

A. No, sir.

Q. The -- in any way were you authorized to write checks on any of Mr. Holcomb's accounts?

A. No, sir.

Q. As a matter of fact, how long did you work for Dean Holcomb?

A. I'm not exactly sure.

Q. Approximately.
A. Possibly eight months, six to eight months. That's just a guess. I'm not exactly sure. Maybe less. I don't even know.
Q. Okay. Prior to that had you worked in Atlanta?
A. Yes, sir.
Q. What was your job?
A. I did a lot of construction in Atlanta as well as law enforcement security.
Q. You worked with law enforcement security?
A. Correct.
Q. What was the agency?
A. Greenville Sheriff's Department.
Q. Greenville?
A. Sorry. Fulton County Sheriff's Department.
Q. Are you nervous?
A. A little bit.
Q. Okay. Let's go back to April/March 2012. Do you recall a hail storm that hit the Greenville area?
A. Yes, sir.
Q. Was damage done to Mr. McGinn's home?
A. Yes, sir.
Q. To the roof?
A. Yes.
Q. Did it, upon your inspection, appear that it needed to

be replaced?
A. I believe the insurance company made that call. I didn't really, you know, physically inspect.
Q. And did you briefly consider doing it yourself?
A. That is correct.
Q. Did you decide against that?
A. Yes, sir.
Q. Why?
A. I guess Mr. Holcomb had conveyed to me that he had showed me how to, you know, install the roofing and do all the -- and do the -- that side of the business and to not go around him and do it on my own because I knew the supplier, knew where to get the material, I knew how to install it. But I had give him my word that I would not.
Q. And so you did not do that?
A. Correct.
Q. Did you, in fact, bring the job to Dean Holcomb?
A. Correct.
Q. Did Mr. Holcomb then enter into the contract?
A. Yes.
Q. Did Mr. McGinn then write a check for four thousand, two hundred, ninety-five dollars, three cents ($4,295.03)?
A. Yes.
Q. To whom?
A. Carolina Home Renovators.

Q. For?
A. Partial payment of a roof.
Q. And on the contract does it say how much the partial payment would be?
A. Yes, sir.
Q. How much?
A. Four thousand, two hundred and ninety-five dollars and three cents ($4,295.03).
Q. To start. And referring to exhibit 6, the contract, how much to finish?
A. Two thousand, eight hundred and eighty-five dollars and ninety-six cents ($2,885.96).
Q. And the supplier?
A. Green Tree Metal.
Q. At that point in time were problems developing with timely payment to you and the others working for Mr. Holcomb?
A. (No response).
Q. Just yes or no.
A. I believe so.
Q. I'll ask you again, you don't want to be here, do you, Mr. Richardson?
A. No, sir.
MR. GHENT: Approach the witness?
THE COURT: Yes, sir.

Q. I'll show you two checks. Please look at them carefully. Do you recognize those checks? Those copies of checks?

A. Correct.

Q. Is that your -- is the check made out to you?

A. Correct.

MR. GHENT: Your Honor, at this time could the record reflect I'm showing counsel for Defendant.

(Whereupon Mr. Ghent approached Mr. Shealy)

MR. GHENT: I'd ask to have them marked. Would Your Honor care to see them?

(Whereupon State's exhibits 47 and 48 were marked for identification)

THE COURT: Any objection?

MR. SHEALY: No, Your Honor.

THE COURT: In without objection. You are offering them?

MR. GHENT: Yes, sir.

THE COURT: In without objection.

(Whereupon State's exhibits 47 and 48 were admitted into evidence)

Q. I show you State's exhibit 47, Jared Richardson. What's the date on that check?

A. 6/8/2012.

Q. And check number?

A. 2414.
Q. Carolina Home Renovators, is that who the check's made out to ---
A. Correct.
Q. --- you from? Who signed it?
A. It says Dean Holcomb.
Q. Do you know his signature?
A. Not ---
Q. Would you recognize his signature?
A. I ---
Q. Does that appear to be his signature?
A. Correct. It does.
Q. Does it state here what the check is for?
A. It says -- yes, sir.
Q. What does it say?
A. Clark.
Q. Is that your signature on the back?
A. Yes, sir.
Q. And how much is it for?
A. Three hundred and thirty dollars ($330.00).
MR. GHENT: We, at this time, publish it to the jury.
Q. Let's try this one, Mr. Richardson. There's a fingerprint on both these checks. Did you put your fingerprint on that?
A. Yeah, I believe so. Yes.

Q. It is made out to you, sir, is it not?
A. Correct.
Q. 2410, correct?
A. Correct.
Q. And the date?
A. 6/1/2012.
Q. That would have been June the 1st, 2012?
A. Correct.
Q. For how much?
A. Four hundred dollars.
Q. Does that appear to be Mr. Holcomb's signature?
A. Yes, sir.
Q. And it's written there -- was it handed to you by Mr. Holcomb?
A. I believe so.
Q. Is that your endorsement on the back?
A. Yes, sir.

MR. GHENT: We'd publish it to the jury, Your Honor.

THE COURT: All right.

Q. Do you recall another project you worked on for Dean Holcomb around June/July of 2012?
A. (No response).
Q. Do you recall installing a hawaiian blue roof?
A. Yes, sir.

MR. SHEALY: Judge, I'm going to object on the basis I

had objected to those previous witnesses based on relevancy.

THE COURT: I overrule it at this time.

MR. GHENT: Approach the witness?

THE COURT: Yes.

Q. Please look at these pictures, exhibits 41 through 46.

(Pause)

Q. Does that say [redacted]?

A. Correct.

Q. Do you recall whether it was [redacted] Lee Street in Lyman?

A. I believe so, yes.

Q. Do you know whether or not the people who lived there had been pressing Mr. Holcomb for their money?

A. (No response).

Q. Or the roof?

A. Yes, sir. They were trying to get -- they were, you know, wanting to get the project started on the ---

Q. And was the project getting started?

A. It was -- to the best of my recollection, it was a little delay.

Q. Did you tell them that there was a problem with the wrong color being delivered?

A. I'd heard about that. Whether or not I told them that was their issue or somebody else did -- I don't remember personally telling them, but it's possible I did.

Q. Did Will Byrd work on the project for [redacted] Lee Street and

[redacted] Beaver Dam Road, the McGinns' home, with you?
A. Yes, sir.
Q. Both projects?
A. Correct.
MR. GHENT: May I approach the witness?
THE COURT: You may.
(Whereupon State's exhibits 49 and 50 were marked for identification)
Q. Again, two checks written on Carolina Home Renovators, correct?
A. Correct.
Q. Two checks that appear to be signed by Dean Holcomb, correct?
A. Correct.
Q. One is 2413, correct?
A. Correct.
Q. The other is 2411, correct?
A. Correct.
Q. Would it be fair to say that based on the date on the other two checks of yours that payment was made to Mr. Byrd at or near the same time if not at the same time as you?
A. That's correct.
Q. Would you know whether or not this check made to Mr. Byrd was, in fact, for the Clark -- I'm referring to 2413?
A. The memo states Clark.

MR. GHENT: Your Honor, could the record reflect I'm providing the same to counsel.

(Whereupon Mr. Ghent approached Mr. Shealy)

MR. GHENT: Your Honor, at this time we would offer these into evidence.

MR. SHEALY: I don't have an objection.

THE COURT: In without objection.

MR. GHENT: That would be State's exhibits 49 and 50.

(Whereupon State's exhibits 49 and 50 were admitted into evidence)

Q. Going to 49, 2411 to Will Byrd, Dean A. Holcomb. Does it say what that check is made for?

A. No, sir.

Q. Does it say what the date is?

A. Yes.

Q. What is the date?

A. 6/1/2012.

Q. 2413 to Will Byrd. How much is the payment?

A. Four ninety.

Q. And how much -- excuse me. What is in the for?

A. Clark and safety -- Saffy repair.

Q. Clark and Saffy repair.

A. (Affirmative nod).

Q. Does not say for Mr. McGinn?

A. Correct.

Q. On the first, 2012 is the date?
A. Yes.
Q. Mr. Byrd was paid five hundred dollars?
A. Correct.
Q. You got payment, too?
A. Correct.
Q. Clark, 6/8/2012, four hundred and ninety dollars, correct?
A. Correct.
Q. And, again, you brought Mr. Holcomb to meet with Mr. McGinn?
A. Correct.
Q. A man whose daughter you were dating?
A. Correct.
Q. And whom you live with now?
A. Correct.

MR. GHENT: Your Honor, at this time I will publish this to the jury.

(Pause)

MR. GHENT: Your Honor, may we approach?

THE COURT: You may.

(Whereupon a bench conference was held off the record in the presence of the jury, but out of their hearing)

(Whereupon the bench conference was ended)

Q. Mr. Richardson, have you ever lived with the McGinns?

A. No, sir.
Q. You live with their daughter?
A. Correct.
Q. Thank you, sir. Please answer any questions counsel has.

Cross Examination by Mr. Shealy:

Q. All right, Mr. Richardson. There's some water if you need any water. You okay?
A. Yeah.
Q. Because I know you've been talking for a little while. But -- okay. So you were the initial estimator of this job, is that correct? And I can hand you Defense exhibit number 1 to refresh your memory.
(Pause)
A. Yeah, I'm not ...
Q. You don't recall?
A. I'm not recalling that.
Q. Okay. Because Mr. McGinn had identified it and said that it was ---
MR. GHENT: Objection to pitting a witness against another.
THE COURT: All right. Yeah, don't -- just don't -- start over with a different question.
MR. SHEALY: Yes, sir.
Q. So you don't recall having made that estimate?

A. I'm not recalling it. I'm not -- I just don't recall.
Q. All right. But you have testified that you were the one that referred them ---
A. Correct.
Q. --- to Mr. Holcomb?
A. Yes, sir.
Q. All right. Now, you'd also testified that you -- that Mr. Holcomb was the one who taught you the roofing business. What do you mean by that?
A. He taught me how to -- or, you know, to work with the people to install the roofing and just the ins and outs of the roof and sales as well.
Q. Okay. But he didn't teach you how to actually install the roofing itself?
A. Correct.
Q. Because ---
A. The people that worked for him did.
Q. Right. He was just the guy who sold the roofs?
A. Correct.
Q. All right. I mean, he wasn't up there putting roofs on with you?
A. That is correct.
Q. All right. Or staining anything?
A. That is correct.
Q. He wasn't doing any of the painting work?

A. That is correct.
Q. All right. But he did -- I suppose he supplied you with the materials or how did you get materials to do your work?
A. He would arrange the material to be delivered.
Q. All right.
A. And then tell us when it was there to install.
Q. Okay. Would he bring you, I mean, I understand whenever you've got giant pallets of roofing and that kind of thing, that that would be delivered, but would everything be delivered or would he bring you like the stain, or the paint, or the brushes, or that kind of thing or ---
A. That is correct, small items that we needed.
Q. Okay. So he would bring those to you, you wouldn't go to Lowe's with ---
A. I don't -- yeah, ninety percent of the time he would bring the small things.
Q. All right. Do you recall receiving a commission for this job?
A. I don't remember the break -- the payment breakdown, if I got paid the commission or not.
Q. Okay. But do you recall getting an air conditioning unit with a return card?
A. What are you ...
Q. That you bought an air conditioning unit with a gift

card to Lowe's that Mr. Holcomb gave you. Do you recall having done that?

A. Yeah. No, I did not go to Lowe's with a gift card.

Q. So you never got an air conditioning unit in partial payment for a commission on this job?

A. Not for that reason, no, sir.

Q. For what reason did you get the air conditioning unit then?

A. If there was a reason it wasn't stated to me.

Q. Okay. But did you, in fact, get one or not?

A. Mr. Holcomb came to my house and left an air conditioner on the -- in the house, I mean, on the front porch, I guess, when I wasn't there. I don't -- the reason why, I don't, I mean, he was -- my house was hot. He said, I got this for you and your family.

Q. Okay.

A. But I don't, I mean, any specific -- there was no ---

Q. All right. So ---

A. --- specific ---

Q. So he brought you an air conditioning unit, didn't tie it to a particular job or anything?

A. Correct. And I'm not sure what time-frame that that happened, when that -- around about what time that ...

Q. Did you need an air conditioner?

A. It was, I mean, it's helpful.

Q. Okay. All right. And did they pay for your gas, your trips to these jobs and back from these jobs?
A. Like I said, I'm not -- I don't believe -- I don't believe so. I don't exactly remember how the payment structure breakdown was.
Q. Okay.
A. I don't recall.
Q. Y'all didn't have an actual contract?
A. He pretty much stated the hourly, you know, rate that he was going to pay us.
Q. Okay. And what was that hourly rate?
A. I don't -- I don't recall.
Q. Could it have been twenty dollars an hour?
A. I don't believe it was that much, but I don't recall.
Q. Okay. But he did pay you, apparently.
(Pause)
Q. I believe it was three hundred and thirty dollars on 6/8 for the Clark roof it looks like. And then four hundred dollars on 6/1.
A. Yes, he did.
Q. Okay. So he paid you seven hundred and thirty dollars over a, what's that, seven day span, eight day span?
A. I guess. Yes.
Q. Okay. Did he often pay you before you did the work?
A. Not of -- not of the job that we were doing.

Generally, no.
Q. Okay. So generally you would have had to have completed the job before he paid you?
A. Correct.
Q. And when did you put the Clark roof on? Could it have been the middle of June?
A. I believe so.
Q. Middle of June?
A. Or ...
Q. When did you ---
A. Beginning of June, ---
Q. --- go out and ---
A. --- I believe, possibly.
Q. The end of June? Is that what ---
A. Beginning of June, I believe.
Q. Okay. And when did ---
A. That was after the staining.
Q. When did you stain the McGinns' house?
A. The end of May.
Q. The end of May?
A. I believe.
Q. Okay. So you skipped -- and what -- had you done any jobs -- did you do any other jobs at the end of May?
A. I don't -- I'm not -- I don't remember.
Q. Okay. So you don't know if you did any jobs in the

middle of May or anything like that?
A. With Mr. Holcomb I believe we did, but I don't -- I don't remember -- I don't remember.
Q. Okay. Now, did you just handle the metal roofing or did you handle shingle roofing or ...
A. I -- I don't recall ever installing shingle roofing or doing much on that side of -- of it.
Q. Was there a -- did he have a business installing shingle roofing?
A. It is my interpretation he did.
Q. Okay. So he was also installing shingle roofing, but he used other crews for that?
A. That is correct.
Q. All right. And you've testified you worked for him, you think, for six to eight months?
A. Like I said, that was a guess. I don't ...
Q. Right. But -- so it would have been in the beginning of 2012?
A. I remember it was -- I believe it was cold when I started working for -- for him. That's how I -- just the time, I guess.
Q. Okay. And how many jobs total do you think you did for Mr. Holcomb?
A. Ten to twelve, I believe.
Q. Now, there's been a lot of talk about this hawaiian

blue roof. And, again, you're not entirely sure, doesn't sound like, when you installed it.

MR. GHENT: Objection, Your Honor. I don't think that was the testimony.

THE COURT: Well, ask the question ---

MR. GHENT: The records can speak for themselves.

THE COURT: Well, and he can determine -- I overrule your objection. Go ahead.

MR. SHEALY: Thank you, Judge.

Q. Did you ever have any dealings with Green Tree Metals about it being delivered?

A. I generally didn't contact the suppliers, but I ...

Q. Okay. So you wouldn't have known why it was delayed or if it was delayed at the supplier?

A. Correct.

Q. Because you didn't have any dealings with that?

A. Correct.

Q. Do you recall that Carolina Home Renovators did install a shingle roof for one of your friends?

A. Yes, I believe they did.

Q. They did?

A. Correct.

Q. Okay. So they did have a shingle business that ---

A. They did. I had stated it earlier they did.

Q. Okay.

MR. SHEALY: That's all I have for this witness.

MR. GHENT: A moment, Your Honor?

THE COURT: Yes, sir.

(Pause)

Redirect Examination by Mr. Ghent:

Q. Mr. Richardson, ---

MR. GHENT: Leave to approach the witness?

THE COURT: Yes, sir.

Q. I show you a copy of the document. Do you recognize that document, yes or no?

A. Yes, sir.

Q. Here's the original. If you would, open it and tell me if you recognize that.

A. Yes, sir.

MR. GHENT: And could the record reflect that I am providing counsel with the original.

(Whereupon Mr. Ghent approached Mr. Shealy)

MR. SHEALY: Your Honor, I think that he's exceeding the scope of redirect. I mean, I did not talk to him and ask him anything about the things he has in his hand. I didn't ask Mr. Richardson about the things that he has in his hand. I think he's exceeding the scope of redirect at this point.

THE COURT: Mr. Ghent.

MR. GHENT: He went into the work he did for the

Defendant, bringing the job, just like I brought out on before.

THE COURT: I find that the breadth of the cross examination is sufficient to allow Mr. Ghent to go into this. Yes, sir. Objection overruled.

Q. Is this a brochure, yes or no?

A. Yes, sir.

Q. Of Carolina Home Renovators?

A. Correct.

MR. GHENT: Your Honor, at this time we'd ask to have it marked. And we'd offer it into evidence.

(Whereupon State's exhibit 51 was marked for identification)

Q. Does ---

MR. GHENT: Thank you, Madame Clerk.

(Pause)

MR. SHEALY: Judge, subject to my prior objection and I believe he's exceeding the scope. I've got no other objections.

MR. GHENT: Your Honor, at this time we'd offer it into evidence.

THE COURT: Over objection.

(Whereupon State's exhibit 51 was admitted into evidence)

Q. Is this, in fact, a brochure, a flier as they call it,

that's put into mailboxes and other places that was one for Carolina Home Renovators?

A. That's correct.

Q. Has a phone number?

A. Um-hum (affirmative).

Q. And it has great deal of very illustrative information on the inside?

A. Correct.

Q. Does it have a coupon for five hundred dollars off that can be clipped?

A. That's correct.

MR. GHENT: Your Honor, we'd offer it into evidence.

THE COURT: In without -- in over objection.

(Whereupon State's exhibit 51 had previously been entered into evidence)

MR. GHENT: May I approach the witness?

THE COURT: Yes, sir.

Q. You've been questioned before by me and by counsel. Do you recognize that statement?

A. Yes, sir.

Q. Did you give that statement?

A. Yes, sir.

Q. To law enforcement?

A. Yes, sir.

Q. I would ask you if you signed this statement?

A. Yes, sir.
Q. Were you forced to sign this statement?
A. No, sir.
Q. I want to refresh your recollection. Please begin with a few days later.

MR. SHEALY: I'm going to object, Your Honor. He can't read his statement into evidence.

THE COURT: I agree. I sustain the objection. You want the jury to go to the jury room?

MR. GHENT: No, sir.

THE COURT: Okay.

Q. I will then simply ask did you not tell, yes or no, law enforcement that ---

MR. SHEALY: I'm going to object. It calls for hearsay.

THE COURT: Well, I sustain the objection. If you want to follow this, we'd better let the jury go out and talk about it. I'll let the jury go to the jury room.

(Whereupon the jury exited the courtroom at 10:31 am)

THE COURT: We have a rule of evidence, rule 613, that deals with prior statements of witnesses. And they generally talk about consistent and inconsistent. And so I need to kind of know first which category we're in. Is this going to be to refute some statement that he has now made under oath in this trial or is it something to bolster what

he has testified to in this trial?

MR. GHENT: It is to clarify and bolster.

THE COURT: Well, is it consistent or inconsistent with what he's testified to?

MR. GHENT: Well, it's kind of hard for me to tell, Your Honor, because his memory has become so vague. May I ask this out of the ---

THE COURT: Yeah, go ahead.

MR. GHENT: --- presence of the jury?

THE COURT: Let's -- go ahead. Go ahead.

Proffered Testimony by Mr. Ghent (In Camera):

Q. Are you afraid of Mr. Holcomb, yes or no?

A. Yes, sir.

Q. Is that part of the problem you're having today?

A. It's a great part of the problem I'm having here today.

Q. I'd ask you do you want to be here to testify?

A. No, sir, I don't.

Q. I would ask out of the presence of the jury did Dean delay extensively getting the roof put on the Holcomb [sic] house, yes or no?

A. The McGinn house?

Q. The McGinn house, ---

A. Yes, sir.

Q. --- excuse me. And did you give a statement regarding that?

A. Yes, sir.

MR. GHENT: May I approach, Your Honor?

THE COURT: Yes, sir.

Q. Please begin there, I remember telling Dean.

A. I remember telling Dean at one time that if he would bring the material over, me and the other installer would put the roof on for free.

Q. Keep reading.

A. Dean has been sending me and my family -- my family members all the email conversations between Greenville County Sheriff's Office and investigators and himself. I didn't get a telephone call -- I did get a telephone call from a gentleman that asked me if I worked for Dean Holcomb. The man told me that Dean had failed to complete the contract that he had done with him, and I wasn't working for Dean during that time or at that time.

MR. GHENT: Thank you, Your Honor.

THE COURT: All right. Mr. Shealy, you have ---

MR. GHENT: Thank you, sir.

THE COURT: You through?

MR. GHENT: Yes, sir.

THE COURT: Any questions?

MR. SHEALY: Not for the purpose of this proffer, I mean, ---

THE COURT: I sustain the objection.

MR. GHENT: Yes, sir.

THE COURT: All right. Let's bring the jury back in.

(Whereupon the jury entered the courtroom at 10:35 am)

MR. GHENT: May it please the Court?

THE COURT: Yes, sir.

MR. GHENT: No further questions.

MR. SHEALY: No further questions, Your Honor.

THE COURT: You can step down and be excused. We appreciate your time. Thank you. All right. Call your next witness.

MR. GHENT: The State calls Tim Martin.

MADAME CLERK: Put your left hand on the Bible and raise your right.

John T. Martin, being duly sworn testified as follows;

MADAME CLERK: Please have a seat. And will you state your full name for the record.

MR. MARTIN: John T. Martin.

Direct Examination by Mr. Ghent:

Q. Mr. Martin, where do you work?

A. Greenville County Sheriff's Office.

Q. You go by Tim?

A. I do.

Q. Were you the first investigator on this case?

A. I was.

Q. Were you removed from the case for doing anything improper, a reprimand or anything otherwise by way of discipline?

A. No, sir.

Q. Who took over the case from you?

A. SLED did.

Q. Lieutenant Jeff Kindley?

A. Yes.

Q. Tell us a little bit about the background of the case, the development of the case.

A. We do -- our White Collar Unit does walk-ins where people Monday through Friday, they can walk in to the front desk and file a complaint for a white collar issue. Rather than having to deal with a desk officer, they actually get to deal with an investigator. And the sheriff loves that. So we've had it ever since Johnny Mack Brown was around.

So in any day we may be taking -- we may take in ten or twelve walk-ins and write reports for each of these people. So at any one time each of the investigators could be carrying fifteen to twenty active cases that we work on.

The majority of the time people come in they do not have everything they need for me to proceed with the case. So normally I'm having to give them notes and stuff to take, to go get bank documents, to make pictures, to bring me copies of contracts and things like that. And that's

basically what happened in this.

Megan, the step-daughter of Mr. McGinn came ---

Q. Baucom?

A. Yes. She came into the law enforcement center ---

Q. Let me stop you right there. Two quick questions. How long -- you mentioned Johnny Mack Brown. That goes back a ways. How long have you been in law enforcement?

A. Thirty years.

Q. And Megan Baucom, did you check to determine her criminal history?

A. She told me upfront she'd been convicted of several crimes, that some of them was from drugs.

Q. All right. Did she tell you she had served time?

A. Yes.

Q. And do you know if she's locked up right now for drug problems again?

A. She is.

Q. All right. Please go ahead.

A. Anyway, she said that her step-father and mother had been very ill. Her step-mother has been in and out of the hospital. I think at that time she was still in the hospital. And that she was concerned about their house because they had requested several months ago that a roof be placed on the house and it had not been. And the house was getting very -- to a point of where they were having

problems.

And so I took the report from her. I told her basically I'm going to need to talk to Mr. McGinn and get -- maybe get a statement from him. I need him to bring me some pictures and some contracts, the insurance scope and all that so I can actually see what was supposed to be done.

So the meeting ---

Q. Can I stop you right there and ask you when you completed this did you prepare a report?

A. I did.

Q. Was that report dated January 31st, 2013?

A. Yes, sir.

Q. And the incident she reported to you was one that occurred -- she gave you May 25th, 2012?

A. Yes, sir.

Q. Go ahead.

A. I will do that initially for people so they've got something in their hands before they leave the law enforcement center unless it's just one of these multi-million dollar cases that I'm going to have to have a forensic auditor to get a hold of, then I'll have them come back and I'll set more time aside for them and work on the case then.

But I went ahead and took the initial report from her, and I gave her a list of things that I would need. And she

told me as soon as her father and mother got out of the hospital that her father would call me and set up a time to come in.

Q. You said her father and mother.

A. Right. As soon as they both got out of the hospital that one of them would be in contact with me to come in and talk with me about this.

Q. They were both in the hospital at that time?

A. At that particular time they were.

Q. Was it your understanding that Megan had been asked to come to you?

A. Yes, sir.

Q. And to file a report?

A. Right.

Q. Did you, in fact, follow up on the case?

A. I did.

Q. Please tell us about that.

A. I finally was able to get in touch with Mr. McGinn and set up a time with him. And Mr. McGinn came in and Jared came with him. And they both came up to my office and brought the insurance information and all that to show to me. And we sat down and went over everything and basically -- they also had two pictures in there.

Q. All right.

MR. GHENT: Your Honor, may I approach?

THE COURT: Yes, sir.

Q. I show you two pictures removed from your notebook, front and back.

A. Correct.

Q. Did you put them in the notebook? Is that how you put evidence in your notebook in one of these clear, glassy envelopes?

A. Yes, sir.

Q. All right.

A. Basically, it's actually -- it's got the left side of the house and the front. And you can clearly see that there was stain put on the front of the house, but nothing put on the left side of the house.

At the time I didn't know there was anything dealing with stain. All I knew was the roof. But when they brought the scope of the insurance papers in, then I started seeing that there was other things that was supposed to be done to the house at that time.

Q. Right. And would you turn over.

A. Right. And this is the rear of the house. The right side versus the left side of the house, you can see there is no stain on the left side of the house at all.

Q. Is there a date on these photographs?

A. Yes, sir. 5/28/13.

Q. All right. And would you do me the favor -- I'm

notorious -- notoriously clumsy with my fingers.

MR. GHENT: Your Honor, may the record reflect I'm providing these documents to counsel.

(Whereupon Mr. Ghent approached Mr. Shealy)

Q. Were these photographs brought to you?

A. Yes, sir.

Q. By Mr. McGinn?

A. Yes, sir.

Q. Or Megan?

A. I'm thinking it was -- it's a long time ago. I'm thinking it was Mr. McGinn because he was the one that brought the scope and everything up there, the insurance paperwork and all that. Like I said, at first, with my initial report, it talks about a roof.

Q. And I will show you photographs that you were not present for the testimony. You were not present when they were taken because you were no longer on the case. But let's go photographs 8 through 19. Would you simply review them.

(Pause)

A. Okay.

Q. Based on the fact that Megan come to you regarding the problems with repairs to the house, that would have been January 31st, ---

A. Correct.

Q. --- 2013?

A. Right.

Q. The date on these pictures is what?

A. 5/28/13.

Q. And looking at these photographs would it appear that these are a true and accurate rendering of the house 5/28/2013?

A. Yes, sir.

MR. GHENT: Your Honor, at this time we would offer the photographs into evidence and ask to have them marked.

MR. SHEALY: I guess there's no objection.

THE COURT: In without objection.

(Whereupon State's exhibits 52 and 53 were marked and admitted into evidence)

MR. GHENT: Your Honor, at this time I would publish them to the jury.

THE COURT: You may.

Q. Did your investigation reveal that, in fact, the work had not been done to put a roof on the house?

A. Yes, sir.

Q. Did you ever talk with Mr. Holcomb?

A. I attempted to. I even got in touch with the [redacted] Apartments. And that's when I was advised that he was no longer there and they had no forwarding address for him.

Q. All right. And after that time without going into the

details at all did you receive phone calls from someone who identified themselves as Dean Holcomb?

A. Yes.

Q. Did you talk with him?

A. He ---

Q. Yes or no?

A. Yes.

Q. And at that time did you discuss the warrant against him for breach of trust?

A. Yes.

Q. At some point was the warrant served on Mr. Holcomb?

A. Yes.

Q. In South Carolina?

A. Yes.

Q. At that point was he given bond?

A. Yes.

Q. Was a term of that bond that was set by, I believe, Magistrate Ulson (phonetics).

A. Hudson.

Q. That he would keep in touch with you weekly.

A. Yes, sir.

Q. Had you ever known of such a term?

A. No, sir.

MR. SHEALY: Judge, may we approach?

THE COURT: Yes, sir.

(Whereupon a bench conference was held off the record in the presence of the jury, but out of their hearing)

(Whereupon the bench conference was ended)

Q. At any rate, subsequent to that Mr. Kindley and SLED took over the case, is that correct?

A. Yes, sir.

Q. Thank you. Please answer any questions counsel has.

Cross Examination by Mr. Shealy:

Q. All right, Investigator Martin. So you opened your investigation January 31st of 2013, is that correct?

A. Yes, sir.

Q. Okay. And you opened that investigation based on Ms. Baucom's, Megan I believe everybody's calling her, Megan's report to you?

A. Correct.

Q. Okay. And she said that her parents would get or one of her parents would get back with you once they felt better, once they got out of the hospital?

A. Correct.

Q. Okay. So Megan had no firsthand knowledge of the contract negotiations or that stuff, I imagine?

A. I don't -- she didn't let -- go into that much detail about it ---

Q. Okay.

A. --- when she was talking to me.

Q. Okay. In fact, she wasn't even, to your knowledge, living with the McGinns at the time this contract was closed, ---

A. Correct.

Q. --- correct? Okay. Now, when you testified as to your investigation did you have cause to look up my client, for instance, on the LLR database, the ---

A. I did.

Q. Okay. Was he licensed?

A. Yes.

Q. Was he bonded?

A. Yes.

Q. Okay. For the relevant times of this contract ---

A. Right.

Q. --- is my question, obviously? All right. Is that hard to do?

A. No, as long as you can -- the keeping the rating up is what's hard to do, especially with the Better Business Bureau. Once they start getting complaints, if you don't respond to the complaints and correct them, they will start lowering your score on that.

And then if they -- if people complain to the LLR, which is License Revenue Board out of Columbia, then they will start an investigation. And they have the powers to withdraw somebody's license and also fine them.

Q. Okay. So you've mentioned the Better Business Bureau. Did you have occasion to look him up on the Better ---

A. I did.

Q. --- Business Bureau?

A. He had an A plus.

Q. A Plus. Okay. What I meant whenever -- my earlier question was is it hard to look up whether somebody is licensed or bonded?

A. No. No, it's not. You go on the LLR site and it'll tell -- show licensee look-up. And you just put in their name or the name of the business, and it'll -- if they're licensed, it'll pop it up.

Q. Okay. And then -- so when did the McGinns come and talk with you? Do you know?

A. It was a couple of months because it was talking to them on the phone and me explaining what I needed. And then his wife had several setbacks. And, like I said, it was probably in May before I got everything I needed to proceed with what all I -- I had.

Q. Okay. And during the interim of those three or four months that you just said, did you go out to the house?

A. I didn't because I was waiting on them to provide me with the complete scope of everything. I wanted to make sure I knew what was going on before I went out and did anything else. So once I got the insurance papers and all

that, the pictures were provided, I didn't need to go out because then I saw exactly what was going on.

Q. Okay. And did you get the entire scope?

A. Yes.

Q. You got the entire scope when?

A. The first time that I spoke with -- Mr. McGinn came into the house, came into the law enforcement center and brought everything.

Q. He brought the entire scope or did he just bring a couple of pages?

A. No. It was a stack stapled that thick because I had to unstaple everything to make copies of it. And, plus, me understanding what a lot of insurance paperwork is all about, I'm not a professional at that. So a lot of it was Greek to me.

Q. Okay. And so you were waiting on all of this information before you acted, is that -- is that what you're telling me? And you got all that information sometime in May?

A. Yes, sir.

MR. SHEALY: Judge, may we approach just so I can ---

THE COURT: Yes.

MR. SHEALY: --- warn you about something?

(Whereupon a bench conference was held off the record in the presence of the jury, but out of their hearing)

(Whereupon the bench conference was ended)

THE COURT: Let me let the jury go out for a few minutes.

(Whereupon the jury exited the courtroom at 10:55 am)

THE COURT: All right. Yes, sir. The issue is?

MR. SHEALY: Judge, I'm going to be asking the investigating officer about this warrant. It was provided to me in discovery. I believe that it was actually issued in April.

And I'd ask also -- I'm going to ask him about the brief statement that's placed on the warrant, the affidavit portion upon which the warrant was issued because I believe that is inconsistent with what he has testified to.

MR. GHENT: Could he publish that into the record, the ---

MR. SHEALY: Judge, I can just do a proffer if you'd like.

THE COURT: Yeah, let's go ahead and see what ...

Proffered Testimony by Mr. Shealy (In Camera):

Q. All right. Investigator Martin, you've testified that you were waiting for everything until May, correct?

A. Yes.

Q. Okay. I'm going to hand you a copy of the warrant in this case. Could you tell me when that warrant issued?

MR. GHENT: Could I first see the warrant?

(Pause)

MR. GHENT: All right. Thank you.

A. Looks like it was on the -- entered in the computer April 16th, 2016, I mean, '13.

Q. And when is -- does it have the judge having issued it? That's going to be down ---

A. The 12th.

Q. Okay. So this warrant actually issued April the 12th?

A. Correct.

Q. All right. And you've testified, again, you were waiting for all of the information. And did you know if my client had done any work or not?

A. From what I was told and the statements I was told, no.

Q. Okay. And you remember giving a sworn statement to that effect in that warrant?

A. Yes.

Q. The very last sentence, Defendant did no work.

A. Correct.

Q. All right.

(Pause)

Q. I'm going to hand you State's exhibit number 6. Up in the top left hand corner what does it say?

A. Top right hand corner?

Q. Right hand corner, you're right. I'm sorry.

A. Work started in July.

Q. Did you have a copy of that contract before you issued or before you went and swore that the Defendant did no work?
A. Yep.
Q. All right.
A. 'Cause it's stamped here 5 February, 2013.
Q. Can you reconcile those two -- those two statements?
A. What are you talking about?
Q. Well, you gave a sworn statement to a judge that the Defendant did no work, did not do any work.
A. Correct.
Q. When, in fact, you had a contract that was written -- that has written on it work started in July.
A. Correct.
Q. So work had started, but you swore that the Defendant had done no work.
A. I'm talking about the roof.

MR. SHEALY: That would be the proffer, Your Honor.

THE COURT: All right. Any objection?

MR. GHENT: Yes, sir. Your Honor, that this would be inappropriate cross examination. It has to do with a warrant. I was not allowed to go into matters pertaining to blog. I would respectfully submit the same, sauce for the goose, sauce for the gander. The same would hold true here.

THE COURT: Well, again, looking at our rules, rule 613, evidence, prior statement of witnesses, this would not

be extrinsic evidence. What is -- what does -- read out loud to me again what the warrant says.

MR. SHEALY: The warrant says, Your Honor, in relevant part it's Defendant never did any of the work.

THE COURT: Well, ---

MR. SHEALY: That's the part that I'm asking. It also says that it was issued on April the 12th, 2013.

THE COURT: Any of the work at all or any work on the roof?

MR. SHEALY: It says Defendant never did any work, any of the work. I can hand you -- would you like ---

THE COURT: No, it's all right. Well, I'll allow him to ask it under the prior inconsistent statement.

MR. GHENT: Your Honor, the previous sentence does say four thousand dollars for the roof.

THE COURT: Well, that's why I wanted to know -- let -- I'd better look at it then.

(Pause)

THE COURT: All right. Well, I agree, Mr. Ghent, it does say Defendant was going to replace victim's roof, and Defendant signed the back and never did any work. And that's consistent with what he's testified to today as to the roof. So I ---

MR. SHEALY: Well, ...

THE COURT: Go ahead.

MR. SHEALY: If I may, Judge. I believe that Mr. McGinn has testified differently from that.

THE COURT: Well, that ---

MR. SHEALY: So I guess I need to go into what he knew as to what the contract was going to be for. My understanding is this -- the four thousand, two hundred and eighty-four dollars ($4,284.00) is not for a contract for a roof.

THE COURT: Well, I know. But now you're trying to -- you've sort of -- climbed a ladder. That's not -- you've got to impeach him on his own statement. And his statement says it was paid for the roof and no work was done.

Now, if that's inconsistent with Mr. McGinn's testimony, then you can certainly point that out to the jury and you can ask him what he knew had been done or had not been done, but you can't impeach him -- not impeach him, but you can't use -- I'm finding, and you can make this a Court's exhibit, that you can't use the warrant, last four numbers being 2932 from -- make it a Court's exhibit.

MR. SHEALY: Yes, sir.

(Whereupon Court's exhibit 2 was marked)

THE COURT: Bring the jury back in.

(Whereupon the court reporter was speaking with the Court)

THE COURT: All right. Tell the jury we're going to go

ahead while we've got them out and take our break. Take about a ten minute break.

MR. GHENT: Your Honor, will you instruct the witness he's still under oath and not to talk ---

THE COURT: Do you need to get down or -- all right. You can walk around. Just don't discuss your testimony.

MR. GHENT: Thank you, sir.

(Whereupon court was in recess at 11:04 am)

(Whereupon court reconvened at 11:17 am)

THE COURT: Thank you. You may take your seat. You can bring in the jury.

(Whereupon the jury entered the courtroom at 11:19 am)

THE COURT: All right. You may proceed.

MR. SHEALY: Thank you, Your Honor.

Cross Examination by Mr. Shealy Continued:

Q. All right. I think we had just gone over the Better Business Bureau. And I was asking you about your investigation. You were waiting until you got all of the insurance paperwork, is that my understanding?

A. I was trying to. In order to sign the warrant, all I have to have is probable cause. Once I meet probable cause, anything that still comes in after that period can still be used in my case. So some of this stuff you're going to see is going to come in after the warrant was signed.

Q. Okay.

A. But that doesn't mean I didn't have probable cause enough to sign the warrant.
Q. Okay. So you went to a judge -- when did you go to the judge to get the warrant?
A. You'll have to let me see. I'm not good with these dates. I know it was April something.
Q. Would April 12th, I believe, ---
A. Yes.
Q. Does that sound about right? Okay. And when did you -- here, I'll hand it to you. Just when it was issued?
A. April 12th, 2013.
Q. Okay. All right. And at that point what documents did you have?
A. I had the statements from the McGinns. And I basically -- that was enough to me. Once I got the statements from them that was explaining everything, I felt like I had probable cause to sign the warrants. I told them that I still needed to get all the scopes to the insurance stuff in for the case to be able to -- to be tried on.
Q. Okay.
A. And it took them a while to get the insurance stuff, I know that.
Q. All right. But they brought the contract in immediately or when did they bring that in? Do you know?
A. Well, let's look at the contract. What's the date ---

Q. I'll hand ---
A. --- stamped on the side?
Q. I'm handing up State's exhibit 6.
A. February 13th. So that was before the warrant was signed.
Q. So that was before April the 12th?
A. Correct. And they brought me a copy of the check too.
Q. And they brought you a copy of State's exhibit 7? Let me hand that to you. Is that the check?
A. Yes, sir. It was the same day.
Q. Okay. And you, obviously, read those items?
A. Correct.
Q. And you went over them, presumably, with the McGinns?
A. Yes.
Q. I'm going to hand you State's exhibit 6. Well, let me go back and just -- your understanding from the McGinns is this was a contract for a roof?
A. Yes, sir.
Q. And that was all it was for?
A. Yes, sir.
Q. Okay. And you had formed that understanding based on the information that you had apparently February -- the beginning of February -- looks like all the stuff brought to you in February?
A. Right.

Q. Is that accurate?
A. Yes, sir.
Q. Okay. I'll hand you State's exhibit 6.
A. Okay.
Q. Does it say anything about exterior repairs?
A. Yes, sir.
Q. Does it say something about staining siding?
A. Yes, sir.
Q. And does it say something about painting windows and doors?
A. Yes, sir.
Q. Okay. So how do you reconcile your understanding of all of this is just a contract for roofing, the fact that you had a contract in your hands that said it was not simply a contract for roofing, but also a contract for exterior repairs?
A. Correct. When I asked him how much that had been done, basically, he told me about three hundred dollars worth.
Q. So -- and when did he tell you that?
A. When I interviewed Mr. McGinn.
Q. And that was when?
A. I've got to look at the copy of the statement to give you the date. I don't know off the top of my head.
(Pause)
MR. SHEALY: If you'll bear with me, Judge, one ---

THE COURT: Yes, sir.

(Pause)

A. Just bring my black book up here.

MR. GHENT: Your Honor, he is asking for a copy of Mr. McGinn's statement. I would like for the record to reflect, and I think counsel will agree, that was provided ---

MR. SHEALY: It was.

MR. GHENT: --- in discovery.

MR. SHEALY: It's on my computer. I didn't anticipate needing it for this witness.

THE COURT: Okay. Thank you both.

MR. GHENT: And I've just found it. So you'll have one, too, counsel.

MR. SHEALY: Thank you.

A. Looks like 5/28/13.

Q. So that statement was May 28th?

A. Yeah.

Q. Okay.

A. So I stand corrected.

Q. So you -- so did you speak with Mr. McGinn?

A. It was over the phone. This was a formal ---

Q. All right.

A. --- thing here, coming in to type it up.

Q. So when did you get the, I mean, we got the contract, we know, or you got the contract, you know, on February the

13th or in the early part of February ---
A. Correct.
Q. --- based on the time stamps.
A. Correct.
Q. Do you know who brought those in to you?
A. This may have come in with Megan.
Q. Okay. So this notation on ---
A. Yeah, it came in with Megan.
Q. So this notation up here at the top, right hand corner, work started in July, do you have any idea when that got placed on that contract?
A. That's my handwriting.
Q. Okay. Do you have any idea as to when you put that on there?
A. It would have had to have been before it went into the records.
Q. Okay. So you would have known that work started in July before you placed that in to get Bate stamped?
A. Yes.
Q. Date stamped, I mean?
A. Right.
Q. Okay. And did you go out and make any pictures?
A. I did not.
Q. And did you go out and, I guess we've already gone over it, you didn't go and interview any witnesses ---

A. Just ---
Q. --- until May, apparently?
A. Just Mr. McGinn and Jared.
Q. And that was done a month after the warrant was issued?
A. Um-hum (affirmative).
Q. Or a month and several days?
A. (Affirmative nod).
Q. And you've been a police officer for how long?
A. Thirty years.
Q. Thirty years. And you've been in white collar crimes how long?
A. Ten years.
Q. Okay. And you ---

MR. SHEALY: Judge, if we may approach.

THE COURT: Okay.

(Whereupon a bench conference was held off the record in the presence of the jury, but out of their hearing)

(Whereupon the bench conference was ended)

MR. SHEALY: That's all I have for this witness.

MR. GHENT: Nothing further, Your Honor.

THE COURT: You can step down. Thank you. Appreciate your time. Call your next witness.

MR. GHENT: The State would call Captain Myron Shelor.

Myron Shelor, being duly sworn testified as follows;

MADAME CLERK: Please have a seat. Will you please state your full name and spell your last name.

MR. SHELOR: Myron Carl Shelor, S-h-e-l-o-r.

MR. GHENT: May it please the Court?

THE COURT: Yes, sir.

Direct Examination by Mr. Ghent:

Q. You are Myron Shelor?

A. Yes, sir.

Q. And you're with law enforcement, from your uniform?

A. Yes, sir.

Q. Are you a captain?

A. Yes, sir.

Q. And where are you a captain and with whom?

A. The Gaston County Police Department in Gastonia, North Carolina.

Q. And I would ask you if on April the -- let me do it this way. Are you aware of whether or not the Defendant, Mr. Holcomb, and his girlfriend, partner, whatever, at the time, Ms. Claudia Whitt, had a residence in Bessemer City, North Carolina?

A. Yes.

Q. Have they had that residence, to your knowledge, at least from April the 29th, 2013?

A. Yes.

Q. Now, was that residence at [redacted] Young Road, Bessemer

City, North Carolina?

A. Yes.

Q. And did you receive a contact from Jeff Kindley of the South Carolina Law Enforcement Division?

A. Yes.

Q. Did you meet with Mr. Kindley?

A. Yes.

Q. As a result of that did you on August the 12th, 2014 prepare a search warrant authorizing you to search the residence of [redacted] Young Road, Bessemer City, North Carolina?

A. Yes.

Q. And, of course, it would require a local officer to be present, correct?

A. Correct.

Q. Was Lieutenant Kindley with you?

A. Yes, he was.

Q. Did he participate in that search?

A. Yes, he did.

Q. Did you find either the Defendant, Mr. Holcomb, or Ms. Whitt at the residence?

A. No.

Q. Did you conduct a search?

A. Yes.

Q. During that search did you find documents, did you find computers, did you find other information, other documents,

other computer related devices?
A. Yes.
Q. And did you seize them?
A. Yes.
Q. Was a return prepared?
A. Yes.
Q. Was the evidence concerning the computer, the other devices and the documents turned over to Lieutenant Kindley?
A. Yes. Everything was turned over to Lieutenant Kindley.
Q. Thank you.

MR. GHENT: No further questions, Your Honor.

THE COURT: Cross.

MR. SHEALY: I have no questions for this witness.

THE COURT: All right. You can step down and be excused. We appreciate your time.

MR. GHENT: Thank you so much for coming, captain.

THE COURT: Call your next witness.

MR. GHENT: At this time, Your Honor, we'd call Lieutenant Jeff Kindley.

Jeffrey Kindley, being duly sworn testified as follows;

MADAME CLERK: Please have a seat. Will you state your full name for the record.

MR. KINDLEY: It's Jeffrey Kindley. It's J-e-f-f-r-e-y K-i-n-d-l-e-y.

MR. GHENT: May it please the Court?

THE COURT: Yes, sir.

Direct Examination by Mr. Ghent:

Q. Mr. Kindley, you are with SLED?

A. Yes, sir.

Q. That's the State Law Enforcement Division?

A. Yes, sir.

Q. And does SLED have State-wide jurisdiction?

A. Yes, sir.

Q. And in appropriate cases are SLED agents brought in to take over an investigation by -- or assume jurisdiction, that would be a better way of putting it, over an investigation by local law enforcement authorities?

A. Yes, sir. That's one of the missions that SLED fills.

Q. And y'all have State-wide jurisdiction?

A. Yes, sir.

Q. And in the case of Mr. Holcomb did you assume jurisdiction over the investigation of Mr. Holcomb?

A. Yes, sir.

Q. And as a result of that did you review the evidence that had been gathered by Tim Martin with the Greenville County Sheriff's Office?

A. Yes, sir.

Q. Did you in August 2014 participate in a search of the residence of the Defendant and his partner at [redacted] Young Road

in Bessemer City, North Carolina?
A. Yes, sir, I did.
Q. And that is, generally speaking, something that would be outside your jurisdiction unless you had a local law enforcement officer with you, correct?
A. Yes, sir, that's correct.
Q. And as you heard, there was, in fact, a law enforcement officer with you, that is correct?
A. Yes, sir.
Q. In the search of that residence did you find computer material -- well, just tell us what you found in terms of computer materials, documents.
A. We found and seized computers, documents, flash drives, an iPad, things of that nature.

MR. GHENT: Your Honor, may we approach for a minute?

THE COURT: Yes, sir.

(Whereupon a bench conference was held off the record in the presence of the jury, but out of their hearing)

(Whereupon the bench conference was ended)

MR. GHENT: Your Honor, I'd like to take a minute to let the jurors get some water ---

THE COURT: Okay.

(Pause)

MR. GHENT: If we run out, there's another pitcher right there.

THE COURT: And if you wanted to bring any -- I'm not sure what they have in the jury room, quite frankly. I haven't been invited in, but if they had some water, bring it in. If not, we'll make the bailiff get you some -- we'll make sure, not make, make sure the bailiff can get you some. Go ahead.

MR. GHENT: May I approach the witness?

THE COURT: Yes, sir.

Direct Examination by Mr. Ghent Continued:

Q. Jeff, I show you a group of documents. Ask that you review those and simply tell me whether those were among the documents seized at Young Road in Bessemer City, [redacted] Young Road.

(Pause)

A. Yes, sir, they are.

MR. GHENT: Could the record reflect I'm providing them to counsel.

(Whereupon Mr. Ghent approached Mr. Shealy)

MR. SHEALY: Judge, again, I don't see how they're relevant to this case.

THE COURT: Well, let me see what they are.

(Whereupon a bench conference was held off the record in the presence of the jury, but out of their hearing)

(Whereupon the bench conference was ended)

THE COURT: Let me let the jury go to the jury room

just a minute.

(Whereupon the jury exited the courtroom at 11:41 am)

THE COURT: All right. It's going to take me a moment to go through these documents. It appears that some of them may be relevant as they have Mr. McGinn's name on them.

MR. GHENT: And they are in the first person singular having to do with the transaction. But most importantly, Your Honor, please note the checks.

THE COURT: All right. Well, here's a check that says McGinn, another check that says McGinn, another check that says Clark. And that's a check to Will Byrd. Mr. Clark was the blue roof people, if I remember correct.

MR. GHENT: Yes, sir.

THE COURT: One to Jared Richardson who's testified, something from McGinn ...

MR. GHENT: Your Honor, if you will, ---

THE COURT: Let me ---

MR. GHENT: Yes, sir.

THE COURT: I want to go through these.

(Pause)

THE COURT: All right.

MR. GHENT: May I clarify somewhat?

THE COURT: You may. Go ahead.

MR. GHENT: Just a moment. May I see them, Your Honor?

THE COURT: Yes. I'm going to put them in two bunches

because, one, I do not believe I'm going to find relevant. I'll let you look at them and tell me otherwise. And another set I find would be relevant because they address this particular job and/or Mr. Jared and/or the Clarks.

MR. GHENT: So these are the irrelevant ones?

THE COURT: Right.

MR. GHENT: Yes, sir.

THE COURT: You want to make them a Court's exhibit?

MR. GHENT: These ones I would, the ones that Your Honor's ruled, that's fine.

THE COURT: Those come in.

MR. GHENT: Yes, sir.

MR. SHEALY: Judge, I've also got some further argument regarding ---

THE COURT: All right.

MR. SHEALY: Judge, they are also ---

MR. GHENT: Could I finish making my proffer?

THE COURT: Yes. Let him finish his proffer.

MR. SHEALY: Yes, sir.

MR. GHENT: Your Honor, could the record reflect that I'm handing up to the Court already in evidence State's exhibit number 50, 24, 11 a check to Will Byrd. And I'll ask Your Honor to take note of what is written in to the for.

THE COURT: It's got a thumb print or something on it

is all I see.

MR. GHENT: But down below, for. What is it ---

THE COURT: It says for and there's a line with nothing written on it. Then there's something that I can't read below that. Maybe I'm ---

MR. GHENT: No, sir. This is the check Your Honor has ruled admissible. He was manufacturing evidence. He was altering evidence. There is no for on that check.

THE COURT: Well, I said I would allow the ---

MR. GHENT: Yes, sir. I'm just at this point making my proffer for the record. He did exactly the same thing, because counsel is getting ready to argue, whenever it came to Jared Richardson.

For, exhibit 48, I don't know of anything more damning, more relevant, more appropriate than evidence that the Defendant was altering checks to make it appear that payment was made for something when it was not. And these were checks in his possession. So, thank you, Your Honor. We won't ask for the other ones in.

THE COURT: All right, Mr. Shealy.

MR. SHEALY: Your Honor, if I may ask some questions ---

THE COURT: You may.

MR. SHEALY: --- of the witness.

Proffer Testimony by Mr. Shealy (In Camera):

Q. My understanding, Lieutenant Kindley?
A. Kindley, yes, sir.
Q. Kindley, Kindley. I'm sorry. When did you get these? When did you get this search warrant?
A. August of 2014.
Q. August of 2014?
A. Yes, sir.
Q. When was my client arrested?
A. 2013, I believe.
Q. Okay. And do you have any idea as to what his attorney situation was?
A. During -- at which point?
Q. Through -- from when he was arrested through to 2014. Had he had attorneys?
A. That I'm not sure of.
Q. You don't know if he had a lawyer or not?
A. No, sir.
Q. Okay. And where did you find these documents?
A. Inside the residence.
Q. Inside of his residence?
A. Yes, sir.
Q. Had you turned them over to law enforcement?
A. The documents that we recovered?
Q. Exactly.
A. I'm not sure about that.

Q. Well, apparently not if they were found in his house.
A. Correct.
Q. Because you couldn't have turned them over to anybody because they were in his house.
A. Well, I didn't know if you were talking about the originals or copies, but, ---
Q. Okay.
A. --- no, the ones that I found were there. So, obviously, they were there.
Q. All right. So the ones that you found, are those copies or are those originals?
A. I believe those are copies.
Q. Okay. So they -- there wasn't an actual check, you found a copy of a check ---
A. I found ---
Q. --- with the ---
A. And I would have to go through the evidence piece by piece, but we found checks and copies of checks.
Q. Okay. But those items, again, were in his house, not at his lawyer's office?
A. Yes, sir.

MR. SHEALY: Your Honor, I would submit to you that those items are -- they're not attempts to manufacture evidence. They're simply places where he's keeping notes.

I would submit to you that they're unfairly

prejudicial. And I'm not sure exactly what all documents they're offering. I ---

THE COURT: Well, he'll show you what they're offering. So make sure you know what he's offering.

MR. SHEALY: Yes, sir. I know ---

THE COURT: It's kind of hard to object to something if you don't know what it is. Just so you'll know, those are the ones that I believe -- let him keep them -- that I intend, subject to further arguments on your behalf, on Mr. Holcomb's behalf, to allow in because they do reference the McGinns, Mr. Richardson or the Clarks.

MR. SHEALY: Yes, sir. And, Judge, I would submit to you that these are, at least some of them are unduly prejudicial. The invoice -- he had a clean invoice and then there are -- copy.

Written on the invoice it says, again, coupons are not money. Let me be clear, asshole, no five hundred dollars, no roof, no deductible, no roof. As I stated when I took this awful job, I will not wait ninety plus days for the insurance company's thirty-three eighty-five ninety-six cashier's check or no roof.

This was found three years after or two years, excuse me, after the contract was made. This is regarding, I believe, the Clark house. I'm not -- no, no, it's the McGinn ---

THE COURT: It's McGinn.

MR. SHEALY: --- house.

Judge, that was not ever sent to anybody. It was not turned over to anybody. I don't see how it's relevant in this case. And that's -- I certainly believe that it is unduly prejudicial, it's unfairly prejudicial.

It's the notes of a guy who's at his own home, unhappy, and he writes all over something. That's -- I just don't think that that goes to show -- make any of these elements more or less likely.

As for the bank records, again, I don't -- you can't even read them. They're not legible. So we don't know what the original bank records say ---

MR. GHENT: We will know shortly. Mr. Conyers is coming from Wells Fargo.

MR. SHEALY: We certainly ---

MR. GHENT: The records ---

MR. SHEALY: --- have ---

MR. GHENT: --- were obtained from a search warrant.

THE COURT: All right. Let him finish.

MR. GHENT: The writing on them.

THE COURT: Let him finish.

MR. SHEALY: There's certainly writing on it that's all explanatory as to what he spent money on. Again, I don't see how that is relevant. There's a fax transmittal from

Claudia or to Claudia Whitt from Robbie McGinn. Claudia Whitt's not on trial here.

And, again, it discusses this roofing job, but, again, ---

MR. GHENT: Could we have the date?

MR. SHEALY: You'll have to come find it for me. I'm sure it's on there.

(Pause)

MR. GHENT: July 24th, 2012.

MR. SHEALY: But that, again, is not addressed to my client. It discusses -- It had my client mentioned in there, but there's a confrontation problem regarding Claudia. And, again, I don't ---

THE COURT: Let me see -- let me see that one. I didn't notice it. All right. Go ahead.

MR. SHEALY: These checks, at least the ones regarding each of the Clark repairs are all duplicative. Those have already been entered into evidence.

And, again, as you've heard, and for Your Honor's information, my client did have two lawyers at that point. They had not apparently submitted any of those -- these checks to the lawyers to present as evidence. There's no reason to believe that they were going to be presented as evidence.

And, again, it's duplicative because they've already

been entered into evidence. And then there is yet another -- well, there are a couple of close-ups of the checks, which we've -- I've already dealt with.

So, Judge, I would submit to you again, these are either irrelevant or unfairly prejudicial.

THE COURT: All right. Well, I'm going to allow those in. I do have a question, though. I did not notice that this particular one -- because it's from Bobby or Robbie McGinn, but it is to Claudia.

And in addition to it not being to the Defendant, it has other writings on it. I can't say they were there when it was sent or later, but there's a different color of pen and the writing does not appear to be the same. So I'm going to add this to the not admitted pile.

MR. GHENT: Yes, sir.

THE COURT: The others I will allow in.

MR. GHENT: Very good, sir.

THE COURT: All right. Bring in the jury.

MR. SHEALY: Judge, I needed to add one more thing. We have an authentication problem because we don't know that all of those things were written by him, by my client.

THE COURT: Well, ...

MR. GHENT: They're in the first person, Your Honor.

THE COURT: Yeah. I'm going -- I'm going to allow them in based on the recovery through a search warrant at the

residence and based on the information contained on the particular documents. Bring them on in.

(Whereupon the court reporter was speaking to the Judge)

THE COURT: Let's hold up the jury just a minute. The court reporter wants me to look at those and make sure we got the right ones.

MR. GHENT: Yes, sir.

(Pause)

THE COURT: All right. For the record, maybe we ought to do it like this, check 2410 from Carolina Home to Jared Richardson, in. Check 2413, same company to Will Byrd, in. 2414, same company to Richardson, in.

Wells Fargo bank statement, May 24th -- May twenty something, 2012, which has -- it's two pages, it appears, and has quite a bit of writing on it regarding McGinn and Jared, invoice, Carolina Homes, can't read the number, but it's the one that has the coupons and money notation on it, check 2414, again to Jared, check number 2413 to Will Byrd, statement of Dean Alton Holcomb, and on that same sheet of paper check 2411, same company to Mr. Byrd, another Wells Fargo statement on the same sheet of paper, a check 2410 to Mr. Richardson.

(Whereupon Court's exhibit 3 was marked)

(Whereupon State's exhibits 54 was marked for

identification)

THE COURT: Mr. Ghent, you ready for the jury?

MR. GHENT: Yes, sir.

THE COURT: All right. Bring in the jury.

(Whereupon the jury entered the courtroom at 11:58 am)

THE COURT: All right. You may proceed.

MR. GHENT: May it please the Court? May I approach the witness?

THE COURT: Yes, sir.

Direct Examination by Mr. Ghent Continued:

Q. Lieutenant Kindley, I show you documents marked as -- collectively as State's exhibit 54. I'd ask that you review them. Do you recognize them?

A. Yes, sir, I do.

Q. Were those documents seized at the Defendant, Dean Holcomb's residence, in Bessemer City, North Carolina?

A. Yes, sir, they were.

Q. Pursuant to a search warrant?

A. Yes, sir.

Q. Now, let's take State's exhibit 54, the first page, shall we? Can you read that, Carolina Home Renovators?

A. Yes, sir.

Q. To whom?

A. Jared Richardson.

Q. What date?

A. June the 1st of 2012.
Q. Most importantly, what check number?
A. 2410.
Q. Signature?
A. Dean Holcomb.
Q. Does it say what it's for?
A. Yes, sir. It has McGinn written in the for block.
Q. I show you -- what was the number of that check again?
A. 2410.
Q. 2410?
A. Yes, sir.
Q. And the date?
A. June the 1st of 2012.
Q. And down here at the bottom where it says for?
A. McGinn.
Q. I show you State's exhibit 48. Does that appear to be the same check, same number, same date?
A. Yes, sir, it does.
Q. To whom?
A. Jared Richardson.
Q. Is there anything written in where it says for?
A. No, sir. Everything else is identical but the for block is empty.
Q. So we have a check that has already been entered into evidence, 2410, that is blank, a check that you seized in

his home, 2410, but it's got written in McGinn?

A. Yes, sir.

Q. Let's go then to check number 2413.

A. Okay, sir.

Q. Will Byrd. Is that a match to -- and, again, this is the second page of exhibit 54, State's exhibit 49, is that not a match?

A. Yes, sir, it is.

Q. And it's -- Clark is the work?

A. Yes, sir.

Q. It's 6/8/2012 written by Dean Holcomb, 2413, to Will Byrd for Clark and Saffy repair?

A. Yes, sir.

Q. Now let's go to -- I'm sorry, I have trouble with pages. A copy of a check, number 2411, this is, again, a part of exhibit 54, State's exhibit. What is the number on that copy?

A. 2411.

Q. What is the date?

A. June the 1st of 2012.

Q. To whom?

A. Will Byrd.

Q. For how much?

A. Five hundred dollars.

Q. Signed by?

A. Dean A. Holcomb.
Q. On what is already in as State's exhibit 50, ---
A. Yes, sir.
Q. --- what is written in in the for part?
A. Nothing's written in there.
Q. And what about on this copy that was found at Mr. Holcomb's home?
A. On this copy McGinn is written in the for block.
Q. Nothing on the actual check, but McGinn is written in. And I show you this document. Is that a copy of a check made payable to Will Byrd?
A. Yes, sir.
(Whereupon State's exhibit 55 was marked for identification)
Q. And, again, in the checks seized at Mr. Holcomb's residence, in the for it says?
A. McGinn.
Q. Same check. The difference is that this attempts to attribute the payment for work for Mr. McGinn, ---
A. Yes, sir.
Q. --- correct? Now, ---
THE COURT: I didn't hear the answer.
A. Yes, sir.
THE COURT: Okay.
Q. I want you to examine this document, which is a part of

State's exhibit 54. And there are two documents that are on that one page, are there not?

A. Yes, sir.

Q. One is a check, correct?

A. Yes, sir, check 2411.

Q. Which we've already admitted into evidence.

A. Yes, sir.

Q. Is there a document that was also copied on the same page to the right of it?

A. Yes, sir.

Q. Now, these are reduced, but they are the same -- they are copies of documents, correct?

A. Yes, sir.

Q. At the very top on the right of this document that is a part of exhibit 54, is there information about someone there?

A. Yes, sir, there is.

Q. What does it say?

A. It says Dean Alton Holcomb, [redacted] Young Road, Bessemer City, North Carolina, and a telephone number, [redacted]-5087.

Q. Is there some -- is there a name filled in below?

A. Yes, sir.

Q. What does it say?

A. William Byrd.

Q. And please read what it says.

A. It's written like an affidavit. It says, I, and there's a blank, and the name William Byrd's written in, do hereby freely and voluntarily give this statement to Dean Alton Holcomb.

I am, and there's a blank, and 42 is written in there, 42 years old. And I reside at, and there's a blank, and it looks like [redacted] Breaktown Court, Wellford, South Carolina. I can read and write. I am not under the influence of any drugs or alcohol. I understand what I am doing.

And then there's a handwritten section that says I worked at the McGinn residence for three days putting stain on the house, which Dean matched and picked up. There's some lines drawn. And then it says I've written the above statement, 1 of 1 pages. And it is true and correct as best I can recall.

Q. Almost police-like, wouldn't you say?

A. Yes, sir.

Q. But it appears to have been generated by Mr. Holcomb for Mr. Byrd's signature?

A. Appears to, yes, sir.

Q. And it is right next to a copy of check number 2411?

A. Yes, sir.

Q. That would be the copy that has McGinn on it after the fact of the actual check having been written and deposited, processed by the bank, ---

A. Yes, sir.
Q. --- correct?
A. Yes, sir, that's correct.
Q. There is a difference between the two versions of check number 2411, correct?
A. Yes, sir.
Q. Is there also what appears to be a copy of a bank statement with the same handwriting and notes there?
A. Yes, sir.
Q. Does it include numbers regarding material, stain, et cetera?
A. Yes, sir, it does.
Q. On another page does this appear to be a part of the same bank statement?
A. Yes, sir. It's blurry, but it appears to be.
Q. And what does it say about McGinn right here?
A. It's got I'm not, and the at symbol, McGinn's.
Q. And it has arrows pointing to different things?
A. Yes, sir.
Q. And it references Mr. Clark elsewhere?
A. Yes, sir, it does.
Q. What does it refer to him as?
A. It says Clark, and in quotations it says blind man.
Q. And what does it say about -- below that?
A. Girl I grew up -- girl I grew up with dad.

Q. And there's some more handwriting in there as well.
A. Yes, sir.
Q. And what about this copy of an invoice? Who's it say the invoice is for? What project?
A. Robert McGinn.
Q. And does it have a word written at due date?
A. Yes, sir, it does.
Q. What does it say?
A. Again.
Q. And beneath that written in the same handwriting, what does it say in the middle of that?
A. It says coupons are not money. Let me be clear -- I'm reading this as it's written. Let me be clear, asshole, no five hundred dollars, no roof, no deductible, no roof.
Q. Would you please repeat that.
A. Yes, sir. Coupons are not money. Let me be clear, asshole, no five hundred dollars equals no roof, no deductible equals no roof.
Q. And that's on the McGinn invoice?
A. Yes, sir.
Q. Below, what does that say, handwritten?
A. It says as I've stated when I took this awful job, I will not wait ninety plus days for the insurance company's thirty-three eighty-five dollar and ninety-six cent ($3,385.96) cashier's check or no roof.

Q. Let me clarify. Does it say three thousand, three hundred, eighty-five dollars, ninety-six cents ($3,385.96) and then a hyphen?

A. Yes, sir.

Q. And then it says what?

A. Cashier's check or no roof.

MR. GHENT: We'd offer State's exhibit into evidence.

THE COURT: Which ones?

MR. GHENT: I'm sorry. The number 54. My apologies.

THE COURT: Over objection?

MR. SHEALY: Yes, sir.

THE COURT: In over objection.

(Whereupon State's exhibit 54 was admitted into evidence)

MR. GHENT: No further questions.

THE COURT: All right. Mr. Shealy, cross.

MR. SHEALY: Thank you, Your Honor.

Cross Examination by Mr. Shealy:

Q. Now, when did you go out on this search warrant?

A. In August of 2014.

Q. August of 2014.

A. Yes, sir.

Q. When was the warrant issued?

A. The search warrant or ...

Q. No. The warrant for my client's arrest.

A. I believe it was in 2013, 2012.
Q. April of 2013 sound about right?
A. That sounds correct, yes, sir.
Q. All right. And I believe the other officer testified that he was arrested sometime around May -- sometime in May of 2013. Is ---
A. Yes, sir.
Q. --- that right? Okay. So y'all got a search warrant about a year later for a house in Bessemer City?
A. Yes, sir. We -- we didn't adopt the case until after the arrest warrant and other things had been done.
Q. Yeah, I understand. And these items, where did you find them again?
A. We found them inside a residence at [redacted] Young Road.
Q. So there's no evidence that they were sent to anybody?
A. No, sir.
Q. I mean, you don't have any certified letters, slips or anything like that?
A. No, sir.
Q. All right. Now, in the course of you getting this case did you speak with the principles, did you speak with Mr. McGinn and those folks?
A. I spoke with individuals, but not with Mr. McGinn, no, sir.
Q. Okay. Did any of those individuals claim that they had

gotten those?

MR. GHENT: Objection, Your Honor. We need to approach.

THE COURT: All right.

(Whereupon a bench conference was held off the record in the presence of the jury, but out of their hearing)

(Whereupon the bench conference was ended)

Q. So did those -- any of -- so let me understand this. You had -- you got the breach of trust case, is that correct?

A. Yes, sir.

Q. Okay. In the course of your -- you obviously did some investigating with respect to this breach of trust case because you got a search warrant. Is ---

A. Yes, sir.

Q. --- that right? Okay. So the individuals that you spoke to in the investigation of this breach of trust case throughout your investigation did they -- did they claim to have gotten these various documents?

A. The -- I interviewed people. I didn't interview Mr. McGinnis [sic] or Mr. Richardson. So I didn't have the opportunity for them -- to ask them if they got that.

Q. Okay. In your review of law enforcement's file when you got this case, ---

A. Yes, sir.

Q. --- did you have those copies or copies that were substantially similar to these items?

A. I can't recall. I didn't take the -- tell you kind of how the process works is we took the investigative file and reviewed the entire file. I didn't take a copy of it and keep it. I didn't interview the McGinnis [sic] family. I didn't interview Mr. Richardson nor did I interview Mr. Holcomb. So I didn't have the opportunity to broach some of the letters in question.

Q. All right. Have you been in the courtroom the past two days? I don't remember if you've been in here.

A. Yes, sir.

Q. The entire time?

A. Most of the time, yes, sir.

Q. Okay. Were you in here when Mr. McGinn testified?

A. Yes, sir.

Q. All right. Did you hear him testify to having received any of those letters?

A. Not that I recall.

Q. Not that you recall. Okay.

MR. GHENT: Objection, Your Honor, to characterizing those letters.

THE COURT: I overrule that objection.

MR. SHEALY: The documents, I apologize.

THE COURT: I overrule -- I overrule the objection.

Q. So did anybody -- particularly these checks, had those been, so far as you can tell, with the McGinn notation, had that been submitted to law enforcement at all?
A. I'm not sure.
Q. You're not sure?
A. I'm not positive about that, no, sir.
Q. But so far as you can tell, the first time law enforcement was aware of the checks with that notation was after your search warrant at this trailer?
A. Yes, sir.
Q. Okay. Now, I'm going to hand you this, State's exhibit 54. It is the second to the last page. So it's page number 8 of exit -- exhibit, excuse me, number 54. The affidavit, does it have a signature on it?
A. Yes, sir. There's a signature and a witness.
Q. And a witness. Okay. So do you have any evidence that my client, I mean, who signed that or do you know?
A. The name is -- appears to be Dean Holcomb.
Q. Okay. That's for the witness. But ---
A. Right.
Q. --- whose -- what's the -- what about the actual signature of the person giving that statement?
A. It's pretty scribbly, but the first word looks like William. It looks like William Byrd.
Q. Okay. But do you have any evidence that William Byrd

didn't sign that?

A. That he did not sign?

Q. That he did not sign it?

A. No, sir.

Q. No.

(Pause)

MR. SHEALY: That's all I have for this witness.

THE COURT: All right. Redirect.

MR. GHENT: No redirect, Your Honor.

THE COURT: All right. You can step down. Is this a good time to break for lunch?

MR. GHENT: Yes, Your Honor.

THE COURT: All right. We'll break for lunch until 1:30. So have a pleasant lunch and we'll see you back at 1:30. Thank you.

(Whereupon the jury exited the courtroom at 12:19 pm)

THE COURT: Real quick, one housekeeping matter. I've got from the July 29th hearing -- I don't think I've got all the Court's exhibits because they start with 2 and then they skip some numbers, but these are what I have. I'm going to put them in as a package as a Court's exhibit in this case. That's my report.

MR. SHEALY: Yes, sir.

(Whereupon Court's exhibit 4 was marked)

THE COURT: We'll be at ease til 1:30.

MR. GHENT: Thank you, Your Honor.

(Whereupon court was in recess at 12:20 pm)

(Whereupon court reconvened at 1:35 pm)

THE COURT: State ready to proceed?

MR. GHENT: Yes, sir, Your Honor.

THE COURT: Defense?

MR. SHEALY: Yes, Your Honor.

THE COURT: Bring in the jury.

(Whereupon the jury entered the courtroom at 1:36 pm)

THE COURT: Call your next witness.

MR. GHENT: Your Honor, at this time I'd like to confirm that State's exhibit 50 and 55 have been or hereby are offered into evidence.

MR. SHEALY: I think that I objected or I did object to 55, Your Honor, prior ---

THE COURT: Let me see what they are. You object to both, Mr. Shealy?

MR. SHEALY: No, sir. I just -- I objected to number 55. It was part of the sheaf of other ---

THE COURT: I got you. Okay. Over objection 50 and 55 are in the record.

MR. GHENT: Thank you.

THE COURT: In evidence.

(Whereupon State's exhibit 54 had previously been admitted into evidence)

(Whereupon State's exhibit 55 was admitted into evidence)

MR. GHENT: And it's my understanding from having consulted with Madame Court Reporter that all other evidence duly marked and offered has now been offered into evidence and has been placed into evidence, Your Honor.

THE COURT: Okay.

MR. GHENT: The State rests.

THE COURT: All right. Well, I did not know we were going to reach this point because we've now reached a point where I have to let you go back out while we take up some matters outside your presence. If I'd known that, and I'm not finding fault with Mr. Ghent, but I do have to let you go back out.

JUROR: Can we review this document?

THE COURT: You can when you come back in. You'll have it in the jury room. You'll have all these documents in the jury room for your consideration and look at during your ---

JUROR: Oh, okay.

THE COURT: At leisure.

JUROR: Okay.

(Whereupon the jury exited the courtroom at 1:39 pm)

THE COURT: All right. Anything from the State?

MR. GHENT: Your Honor, at this time we believe we have made our case for both obtaining money under false pretenses

as well as breach of trust. We have proven all elements of both crimes.

And, Your Honor, this is an unusual case in that I would respectfully submit this Defendant can be found guilty of both charges. I will be glad to let Mr. Shealy move for a directed verdict, but I will make my argument whenever the Court's ready.

THE COURT: Whether you're glad to or not he's going to probably make one. And I was going to look at those two statutes this afternoon. I didn't realize we were going to be here where we are quite this soon. Do you have copies of the two statutes?

MR. GHENT: Yes, sir, I do. Could Your Honor give me a moment ---

THE COURT: Yes.

MR. GHENT: --- while counsel is ...

(Pause)

MR. GHENT: Your Honor, seeing as how they are both in the same code section, would it be okay if I just bring the code up to Your Honor?

THE COURT: That'd be fine. Before we got into all these computers we used to have these nice blue books, at least they've been blue since I've been on the bench, up here where I could pull one and look at it. No more.

MR. SHEALY: Sorry, Judge, I didn't realize they were

resting either.

MR. GHENT: That was a decision that was made over lunch, Your Honor.

THE COURT: All right, Mr. Shealy.

MR. SHEALY: Judge, I would move for a directed verdict on both of these charges. Judge, I suppose I'll take the breach of trust first.

The way breach -- breach of trust isn't, obviously, defined in our statutes particularly well. So we've had to develop its contours through case law. But ultimately State versus Paris, I think, is the controlling case, generally.

In that case the Supreme Court held that there was a trust established with respect to a check that was handed to a salesman, Marion Paris, in Gaffney at the -- at a mobile home dealership where Mr. Paris had made some warranties that he would provide them with good title. That's different from this case where in this case, Judge, we have shown or I believe has been shown that there was simply a lump-sum offered in exchange for my client's company to do some exterior repairs as well as roof the house.

Now, some of that work was done, some of that work was not done. And I think that the testimony, even under the light -- under the light most favorable to the State shows that at least some of that work was done. And, quite frankly, Judge, you can't have -- there simply wasn't a

trust because there was nothing in the document that says that that four thousand, two hundred and eighty-eight dollars ($4,288.00), I believe, or whatever the figure was was to go solely to this particular job, to purchase this particular metal.

I understand that as lawyers we would have to take it that way, but lawyers have special trust requirements. We have to have a trust account. We've got to do all kinds of things in order to take care of that money.

There are no similar rules under -- for a contractor or I've not been shown any. And I don't believe the State can point to any that required that the money that comes in on one contract can't go to satisfy the other or another contract because that money, once it passes to my client is just -- it's unencumbered.

Now, if you take the State's position at face value one wonders what would have happened if my client had put on the roof, but that two thousand, eight hundred dollars ($2,800.00) wasn't forthcoming, would that have been a breach of trust? Was Mr. McGinn required to put that money into some kind of trust account because it was promised to my client upon completion of this house or this roofing in the ---

THE COURT: Well, your client -- your client would have a lien on that roof.

MR. SHEALY: He would have a lien on that roof, Judge, but he wouldn't have a trust. And if that lien -- if for whatever reason the -- Mr. McGinn disputed that lien, we'd be in civil court. And that's where this should have been in the first place.

Your Honor, there had to have been, as I said, a trust established over this four thousand dollars and there simply wasn't. There wasn't ---

THE COURT: So if I ---

MR. SHEALY: --- any ...

THE COURT: If I follow your argument and once it came into your client's hands, he could do anything he wanted with it, buy a car or there was no trust, it just became his money.

MR. SHEALY: Yes, sir. Now, he had a -- he had made a promise to put up the roof. And by not -- and as well as doing exterior repairs. But had he -- since he didn't put on the roof, undoubtedly Mr. McGinn could have sued him to regain that money. We have those cases all the time. And, again, those are held in civil court because they're civil issues.

And you just can't -- otherwise every contract that is breached is a breach of trust. Anytime a contractor uses the money that comes in and uses it, let's just say, to purchase a truck for his business, does he then have to

parcel out how much of that truck is going to be used on one job versus another job versus a third job because he's taken all of that money in trust, apparently, if you agree with the State's logic.

And what happens whenever he's paid for the truck? Is he allowed to use it on other jobs too? Jobs that haven't -- since the truck was already paid for that didn't contribute to the price of the truck. That can't possibly be so.

So, Judge, if this had been a case, and I believe that State v. LeMaster talks about materialmen. There's another case, and the name of it escapes me, regarding Georgia. I mentioned it in opening where a lady had entrusted money to her father-in-law to purchase -- to pay some bills on her behalf. He paid some bills on his own behalf. That was held to be a breach of trust because she had given him the money entrusting that he would pay or in trust to pay for these particular bills, the rest would be coming back to her.

THE COURT: And so you don't think Mr. McGinn felt the money he was giving your client was going to get him a new roof?

MR. SHEALY: Well, Judge, I'm sure that he felt that way. He thought that he was going to get a new roof.

THE COURT: He just didn't -- he just didn't have the

right to think that way.

MR. SHEALY: That -- no, sir. It just didn't -- it didn't create what we call -- what the legal trust is. I mean, I trust somebody to do the right thing. I don't get to sue them or I don't get to have them arrested for breach of trust if they do the wrong thing.

I mean, otherwise every promise given in consideration is -- forms a trust. And then every contract for services or goods become trusts. And any breach of any of those become breaches of trust.

And we just have to settle them up in criminal court because that's what we have here is there's no doubt that there was some work done. If he'd just taken the money and run as the State would contend, there might have been another issue, but there was work done.

And we know that there was work done because Mr. McGinn said there was work done. And that gets into my argument about the obtaining money under false pretenses.

But, again, Judge, I think that this is a pretty -- it's a slippery slope we're on if y'all -- if the State gets to charge people with breach of trust in these circumstances where my client does not have -- does not have a contract that says this money goes towards certain materials, this money goes towards these other materials, this money goes to my profit. If his contract had broken it up like that, then

there may be a better argument, to say he should have purchased these materials with this amount of money.

Because, remember Judge, if my client had, let's say gotten the roof materials for free, he still would have gotten to keep the four thousand dollars. He wouldn't have had to return that four thousand dollars. Which if it's a trust, he's required to administer that trust to the beneficiary's advantage. He would have had to give the money back.

But that's not what the contract called for. It called for just that money goes to him to start, and upon completion some more money would go to him. So that's my argument about the breach of trust.

THE COURT: All right. Let me hear from Mr. Ghent on that.

MR. GHENT: Your Honor, first of all, the contract itself right there, Green Tree Metal, it goes into detail. It has the amount to start. It makes reference to exterior repairs. The witness, Mr. McGinn, was clear that he considered ---

THE COURT: That's exhibit 6.

MR. GHENT: Yes, sir.

THE COURT: Go ahead.

MR. GHENT: That he considered the money that was provided, being provided for the repair of his roof, that

the other matters were essentially small potatoes, and as his testimony was, three hundred dollars worth of work done. That would go to the weight, not the sufficiency of the evidence. Your Honor, that would make it a matter for the jury.

I would refer the Court to, first of all, McIninch on criminal law, volume -- it would be the fourth edition. It goes through the different circumstances that constitute the trust. The simple fact is that if money is provided under circumstances which events -- events that is a constructive trust, that is sufficient.

Again, the gentleman testified that he did not pay for a roof for anybody else. He told him it was to be a green roof. The money was turned around and it was (A) used for other purposes, used for purposes of the roof of Susan and Kenneth Clark at [redacted] Lee Street in Lyman.

There was no question that under those circumstances Mr. Holcomb knew exactly what he was doing. And the documents seized at his home in North Carolina show that he was, in fact, attempting to manufacture evidence to make it appear that work was being done for Mr. McGinn when, in fact, money had been taken and used for another purpose.

It is larceny after trust. The circumstances here definitely indicate that the Defendant took money that was turned over to him under circumstances of trust, a

constructive trust, for repairs to his roof. The roof was never ordered. The money was used to pay another matter off. And we have made out our case sufficient to get to the jury on breach of trust.

If Your Honor has questions, I'll be glad to address them. But I think it's clearly with the cases that I've handled over the years, breach of trust. Mr. Shealy refers to his father. I've been doing this for thirty-seven years. This is a breach of trust. This is fraud with fraudulent intent. There was constructive -- a trust, a constructive trust. Thank you, sir.

THE COURT: All right. Well, I -- I don't need anymore. I deny the motion for directed verdict. I find looking at the light -- evidence in the light most favorable to the non-moving party, that is the State, that the evidence is sufficient to submit the case to the jury to make a determination as to whether or not the State has proven under the statutory scheme of 16-13-230 a breach of trust with fraudulent intent.

Now, talk to me about the other one.

MR. SHEALY: Judge, I will -- yes, sir.

And as for obtaining money under false pretenses, Judge, if you're going to find that my client had a trust or the money was provided to my client in trust, then he couldn't have gotten it under false pretenses. False

pretense is some kind of misstatement of fact at the outset of the contract.

And if we're going to say the difference between breach of trust and larceny is breach of trust is basically larceny when he came into possession of the property with -- where you came into the possession of the property legally. Obtaining money and goods under false pretenses requires that there be some kind of false pretense, so therefore, you receive the property unlawfully.

And since Your Honor has found that there is probable or that there's enough to go to the jury regarding a breach of trust, then I believe that the State can't, as a matter of law, has not proven that my client had false pretenses.

Further factually, again, there's -- everybody agrees that some work was done. So any false pretense that there was no intention of doing the work necessarily failed even in the light most favorable to the State because, again, the State's witnesses accept that work was, in fact, done.

THE COURT: Mr. Ghent.

MR. GHENT: May it please the Court? Your Honor, the false pretense was simply representing we have a contract. When you look at the parties it's absurd to say that the fraud feasor can be in a position where because he has conned the victim that there can't be a trust and false pretenses in obtaining the money.

The trust is basically the -- you look to the mind, the mindset, the intent of the person who's turning over the money. I give this to you in good faith, in fair dealing for you to use for this purpose.

Now, once again, with respect to the circumstances here, Your Honor has the contract. The amount that was given was given under the false pretenses by this Defendant that he would use that money to purchase the materials to put a roof on the victim's house.

That was a present understanding of a present fact that Mr. McGinn understood that a contract had been entered into. He paid a first payment, which was to be an initial payment on that contract four days later. So you have the agreement that Mr. McGinn entered into and you have the circumstances under which he turned over the money four days later. There's no way he should be able to benefit, the Defendant, by saying ha, ha, ha.

First he argues not breach of trust. Now he wants to turn around and say, well, if you do it that way, then you can't have a trust. Of course you can because in both circumstances you look to the mind of the victim, what he understood he was getting. It has to be a present fact that is being misrepresented or a past one. And he misrepresented -- we have a contract.

Because we didn't just prove something vague or

something out there, we proved that virtually immediately he turned around and used the money given to him for other purposes. So it's a twofer. And it's the Defendant's fault that he ran afoul of it, but we should be allowed to go to the jury on both. Thank you, Your Honor.

THE COURT: All right.

MR. SHEALY: Judge, ---

THE COURT: Briefly. You want to say anything else?

MR. SHEALY: I do, Your Honor, because the State keeps saying that they have proven that the money that was used was ---

THE COURT: Those are facts -- let me put it in perspective real quick. Right now I'm not deciding whether there was a breach of trust, I'm not deciding whether there was obtaining money under false -- I've just got to determine whether or not on the State's evidence there's sufficient evidence for the jury to find one or -- either or both.

So this argument about, well, they can't have it both ways, at this point they're not having it both ways. They're just having two charges against your client. I can't determine that he's guilty of either one. In fact, he's presumed innocent.

To kind of follow your theory, I've got -- I've got to weigh them. I've got to decide which one's stronger and

throw one out because the other one is stronger, if that's the right word.

But I'm going to deny the motion for directed verdict. I believe there's sufficient evidence as to obtaining money under false pretenses sufficient to -- looking at it in the light most favorable to the State to allow it to go forward to a jury.

I will sort of -- this is not the traditional breach of trust case we see, quite frankly. Usually that is somebody who works for a company and takes the company till and supposed to take it to the bank and instead of taking it to the bank, takes it home. That's what we usually see in breach of trust cases. The clerk at Hardee's doesn't take the night deposit, they take it home instead.

So this is not the traditional case as far as ones that I've tried, but I do believe that the evidence is sufficient to get it to the jury.

Now, ...

MR. GHENT: May I offer a citation, Your Honor, that is in line with the point Your Honor just made? The State versus Paris, 363 S.C. 477, 611 S.E. 2d 501, South Carolina Supreme Court, 2005.

THE COURT: All right. We'll take a look at that. All right. Anything else, Mr. Shealy?

MR. SHEALY: Well, Judge, I guess we would have to

inquire in to my client as to whether he would like to testify ---

THE COURT: That's where I'm heading next. I just want to -- I didn't want to usurp what you wanted to do.

MR. SHEALY: Well, that was what I was going to do. And then I was going to ask for -- well, I suppose I also need to do a motion to settle my client's record. I don't believe he has any prior offenses, but ...

THE COURT: Are there any impeachable -- well, we'll take it one prong at a time. Any impeachable evidence -- any impeachable record, Mr. Ghent?

MR. GHENT: In my opinion, Your Honor, at this time and based on what I have reviewed, I don't intend to use any prior criminal record.

THE COURT: Well, your opinion's the one that counts.

MR. GHENT: Then I will say I don't intend to use ---

THE COURT: Okay. All right.

MR. GHENT: --- any prior record.

THE COURT: Okay. And also there's no -- well, anyway, anything else, Mr. Shealy?

MR. SHEALY: No, sir. I have recommended to my client that he not testify. I don't ---

THE COURT: All right.

MR. SHEALY: --- know if you want to go ahead and ---

THE COURT: Well, then, Mr. Holcomb, can you hear me?

MR. HOLCOMB: Yes, sir.

THE COURT: We've reached a point in your trial where you have a right to present a defense. You can call witnesses on your behalf if you wish. You don't have to.

You may have heard me tell the jury earlier that you are presumed innocent of these charges and are so presumed until the State is able to prove, if it can, your guilt beyond a reasonable doubt.

So you have nothing to prove. You don't have to prove your innocence. The State has to prove your guilt beyond a reasonable doubt. But you can call witnesses if you wish.

You also have a right to testify. You also have a right to remain silent. If you testify you would be under oath and have to answer the questions that your attorney asks and be subject to cross examination by the State's attorney.

If you exercise your constitutional right to remain silent, I will tell the jury that that is what you have done, that you have exercised your constitutional right to remain silent. I will tell them they cannot use that against you in any way whatsoever, that they cannot discuss in the jury room the fact that you have exercised your right to remain silent.

I will remind them that you are presumed innocent and need not prove your innocence. And I will tell them that

they cannot even factor into their own deliberations the fact that you exercised your right to remain silent. Do you understand all that?

MR. HOLCOMB: Yes, sir.

THE COURT: Do you have any questions about any of it?

MR. HOLCOMB: No, sir.

THE COURT: Have you explained that to him, Mr. Shealy?

MR. SHEALY: I have, Your Honor.

THE COURT: Do you believe he understands it?

MR. SHEALY: I do, Your Honor.

THE COURT: All right. Mr. Holcomb, do you intend to testify or exercise your right to remain silent?

MR. HOLCOMB: I'd like to exercise my right to remain silent ---

THE COURT: Okay.

MR. HOLCOMB: --- upon the advice of counsel.

THE COURT: Thank you.

MR. HOLCOMB: Yes, sir.

THE COURT: All right. Now, do you have any witnesses?

MR. SHEALY: No, Your Honor.

THE COURT: All right. Well, then do either one of you have requests to charge?

MR. SHEALY: I just would request the standard breach of trust and obtaining money -- I don't have any special requests.

THE COURT: Okay.

MR. GHENT: May I approach?

THE COURT: Yes, sir.

(Whereupon a bench conference was held off the record)

(Whereupon the bench conference was ended)

THE COURT: Let me get my charge together. I wasn't ready either. So ---

MR. GHENT: I apologize, Your Honor, ---

THE COURT: That's okay.

MR. GHENT: --- but it was a decision made over lunch.

THE COURT: Well, ---

MR. SHEALY: Judge, is there any way we could do this in the morning? Like I said, my throat is starting to go on me.

THE COURT: I have no objection to it.

MR. GHENT: I'm not going to object to that. I mean, I've listened to his throat start to do odd things.

THE COURT: Mr. Holcomb, your attorney's asking if we would take the afternoon off and let him rest his throat. And I don't want to hold -- I know you want this resolved. And so I hate to put it off for another day, but do you have any objection to us ---

MR. HOLCOMB: No, sir.

THE COURT: --- until in the morning?

MR. HOLCOMB: No, sir.

THE COURT: Okay. Thank you. All right. I'll call the jury in and that'll give us an opportunity to work on the charge and you to work on your throat.

MR. GHENT: Thank you, Your Honor.

(Whereupon the jury entered the courtroom at 2:08 pm)

THE COURT: All right. Mr. Shealy.

MR. SHEALY: Your Honor, the Defense would rest.

THE COURT: Okay. Members of the jury panel, if you'll recall when you went out the State rested. That meant it's presented its case. Quite frankly, I, based on earlier conversations with the lawyers, felt like that would not happen until later this afternoon.

The ball goes over and the Defense has a right, but no obligation, to present a defense if it wishes. As I have told you at least once, if not more, Mr. Holcomb is presumed innocent, need not presume -- need not present any evidence. And the Defense is resting also.

So now all the evidence, the testimony and the exhibits are in the record. We have some matters to take up now that we're at this stage.

Trials are sort of like ball games in a way. You have one thing that happens and then -- you can't have a second inning until you get the first inning over. And we're at a point where I've got to do some work to get ready for my charge. Of course, I plan to do that this evening, but I

can get it done.

And we've got a few matters to take up outside your presence. And rather than have you go in and out like we've been doing all morning, we're going to stop for the day and start back at 9:30 in the morning.

Now when we do start back at 9:30 you will hear the closing arguments of the attorneys. And we'll probably have the case to you by lunchtime. If need be, we'd order lunch tomorrow if you are still working at that time.

So have a pleasant evening. And thank you for your patience in bearing with us. And we'll see you at 9:30 in the morning. Thank you.

(Whereupon the jury exited the courtroom at 2:10 pm)

THE COURT: If counsel will stick around we'll -- I'll have a copy of my charge to give each of you before you leave. And will State waive opening?

MR. GHENT: Yes, sir.

THE COURT: All right.

MR. SHEALY: Thank you, Judge.

THE COURT: All right. Well, we will -- Mr. Holcomb, we'll see you in the morning. I'll see your attorneys some more this afternoon. And I'm sure he'll report back to you with whatever we do, which is mainly get my charge on the law together. So give us about fifteen or twenty minutes and then come on back and we'll hopefully have at least the

first cut of my charge.

(Whereupon court was in recess at 2:11 pm)

Thursday, September 8, 2016:

(Whereupon court reconvened at 9:36 am)

THE COURT: Thank you. Take your seats. Good morning. The State ready?

MR. GHENT: The State's ready, Your Honor.

THE COURT: Defense ready? And I believe the Defense has a couple of issues or motions -- or not motions, but things to put on the record.

MR. SHEALY: We do, Your Honor. To begin we need to -- the Defense would renew its motions for directed verdict based on our prior arguments.

THE COURT: All right. And those -- the motions as to both are denied based on earlier rulings. And there's been really no change since I ruled, but even had there -- well, I can't say had there been because there wasn't. But both motions for directed verdict are denied as to both charges, each charge.

MR. SHEALY: Thank you, Your Honor.

Judge, we also needed to put on the record when Officer Martin was testifying I had on two occasions attempted to question him based on the affidavit in the warrant, I believe it was midway through his testimony or his -- the cross examination that I attempted to do it. Your Honor overruled or sustained the State's objection as not being within the rule for prior inconsistent statements.

At the end of his -- towards the end of the cross examination of Officer Martin I again would have attempted to use that warrant. We approached. Your Honor still felt that it was -- that I had not laid the foundation for inconsistent statements.

I believe the warrant has been made a Court's exhibit already. If it hasn't, I would ask that it be. But I believe that it was marked and entered. So ---

THE COURT: Susan, has it been ...

(Whereupon Court's exhibit 2 was passed up to the Court)

THE COURT: It's Court's exhibit 2.

MR. SHEALY: All right. Yes, sir. And that's what I needed to put on the record, Judge.

THE COURT: All right. Now, we're ready for the jury?

MR. GHENT: The State's ready, Your Honor.

MR. SHEALY: The Defense is ready also.

I guess, Judge, just to make sure the record is clear. We had also had a charge conference. We discussed the charges. And we did -- the Defense did request two lesser included offenses of breach of trust, less than two thousand dollars, and obtaining property under false pretenses, less than two thousand dollars. I believe Your Honor granted that.

THE COURT: That's right, I did.

(Pause)

THE COURT: Let me make a couple of changes to my -- I did not -- when we discussed our charge, we really didn't go over the lesser includeds. And I don't have anything -- could I see the indictments again?

MR. GHENT: Your Honor, I'll go ahead and ask, I didn't object to it, what is the evidence that the amount is under four thousand dollars?

(Pause)

THE COURT: All right. While we're looking for the indictments, what is your basis for requesting the lesser included, Mr. Shealy?

MR. SHEALY: Judge, according to the scope, there's something closer to -- the work that was done would have been valued at something closer to nineteen thousand dollars. The number of -- the four thousand dollars -- you've got to remember this was done as two separate payments.

So there wasn't a complete payment for this roof. I believe that the jury could determine that the actual breach of trust was something closer to one thousand, nine hundred and thirty-two dollars ($1,932.00).

THE COURT: Does the State have copies of the indictments?

MR. GHENT: No, sir, I don't, Your Honor. I -- I

don't. I'm sorry, I came in very light this morning. And I apologize.

THE COURT: Well, my only concern is that they got mixed up with some of my papers and ended up in the recycle bin or something, which I hope did not happen, but ...

MR. GHENT: Your Honor, if Your Honor likes, I will go down to my car ---

THE COURT: Okay. Just run us some copies then. I tried to clean up yesterday, and I don't believe I would have done that, but there's always that remote possibility. We'll get copies.

MR. GHENT: I don't know that it makes anybody feel any better, Your Honor, but I once recycled my entire current checkbook.

THE COURT: Yeah. Well, I'm not sure that's what I did, but that's a possibility. So we'll get a copy. But the indictments charge -- the reason I was looking for them -- do the indictments allege in excess of two thousand?

MR. SHEALY: They do, Your Honor.

THE COURT: They do?

MR. SHEALY: At least my understanding is they do.

THE COURT: All right. Okay. Well, we'll get copies then. While we're doing that, you ready to -- the jury?

MR. SHEALY: Judge, are we -- so are you going to charge ---

THE COURT: I'm going to charge the lesser included. I think that's -- the jury can -- those figures are very confusing as to how much was paid for what and what was done and what was not done. And so I'm going to charge it.

MR. SHEALY: Yes, sir. Then, yes, sir, we're ready for the jury.

THE COURT: All right. Bring in the jury.

(Whereupon the jury entered the courtroom at 9:46 am)

THE COURT: Good morning.

THE JURY: Good morning.

THE COURT: All right, Mr. Ghent.

MR. GHENT: Your Honor, the State waives opening.

THE COURT: Mr. Ghent, I'm sorry. All right, Mr. Shealy.

MR. SHEALY: Thank you, Your Honor. May it please the Court? We're finally done. And as I told you what you've just seen is an excellent example of a civil case of breach of contract. Unfortunately, for whatever reason, Mr. McGinn didn't choose to go out and hire his own lawyer, serve my client, have him in civil court.

And I'll tell you, if I had been my client's attorney in that civil courtroom, I would have told him, yeah, you've breached the contract, you owe him some portion of the money because he clearly owes him some portion of the money. We would have fought about damages because depending on who you

believe, what costs what seems to be in dispute.

The scope for State Farm seems to say that the exterior repairs were somewhere valued around eighteen hundred dollars. Mr. McGinn said, no, they were something closer to three hundred or four hundred dollars. So there would have been a dispute about those damages.

But ultimately I expect that difference could have been bridged in any kind of civil courtroom. But instead he went into his -- gotten all the machinery you've got as his collections agency. And you saw how many police officers, how many solicitors they got in here all at public expense to chase this money. Now, I can't tell you why they've done that, but that's what happened.

Now, the difference or one of the many differences between civil court and criminal court is the State has to prove its case beyond a reasonable doubt, all right? I told you what a reasonable doubt was. It's that doubt that causes a reasonable person to hesitate. And the Judge is going to go into that in a little bit more detail.

In civil cases it's a preponderance of the evidence, which means one side is just a little bit more evidence -- has a little bit more evidence on its side than the other. Preponderance or reasonable doubt is substantially higher than that.

And what they have to prove in criminal court is more

than just that my client breached a contract. They have to prove criminal intent, that he intended to do something criminal, that there was some kind of fraud here. In a civil case you don't need that because it is simply, well, you didn't perform the contract. And so he owes some money.

Now, every witness that you've seen has some reason to shade this. That's just -- that's just human nature. Officer Martin you heard from, who gave some, what I believe to be conflicting accounts as to what information he had and when he had it and why he was waiting and those kinds of things.

He didn't get any statements, didn't go take any pictures, didn't do anything for a month after he had the warrant. What did he have -- he got the warrant based solely on a conversation with Megan Baucom, who, according to the testimony was a little conflicted, but according to Officer Martin at least, she didn't live in the house at the period of time that this all happened. And so now they're trying to dress up a bad case.

And so they brought all these other law enforcement officials in here. And they brought a bunch of documents that a year later, 2014, they go serve a search warrant up in Gaston County and pulled a bunch of documents from his house. Now remember, he'd already been arrested at this point for at least a year. So this thing had been going on

for at least a year at this point.

Imagine what it's like to be arrested and charged with something you don't believe you've committed. It can get you a little angry. And so they've introduced some documents. I believe there's a letter in there. There's some invoice with a bunch of writing on it. And Officer Kindley testified as to what, you know, read it into the record.

But he never -- my client never sent those letters. There is no evidence that he sent those letters. It's just a guy in his house blowing off steam. It's just what it was. There's -- these letters were never sent. The checks were never turned in as evidence. That's just him saying I'm pretty sure this check was used to pay for McGinn for the McGinn roof. But he didn't turn it in to his lawyer.

In other words, you've got a document, but you have no context. And the State can't provide you a context. They're just throwing it at a wall and seeing if y'all will get angry enough to let it stick.

So, you know, it's -- they will give you these -- this context or I expect the solicitor will give you a context of my client is just a terrible, terrible guy and that you should look at these documents as proof of that. But you shouldn't because you've got to remember where my client was at that point.

He was living in a trailer in Bessemer City, North Carolina. His business of three years had just failed. And he was now looking at general sessions court charges. So you might use some strong language on an invoice that you never sent.

Now, they've also introduced into evidence his -- I believe it's the fifth page of exhibit number 54, the -- a statement of Will Byrd, at least that's the way that it's typed.

And y'all are going to have a number of checks that my client has signed. And in that statement of Will Byrd it reads I worked at the McGinn residence for three days putting stain on the house, which Dean matched and picked up.

There is no reason to believe that that is at all fraudulent. If you look at the signatures, there's no reason to believe that it's fraudulent. I expect the solicitor on no basis is going to tell you, well, that's somehow manufactured, that all these documents are manufactured, but he can provide no context to prove that. Nobody can provide any context to prove that because there just isn't any.

I mean, you know, you can't prove that my client manufactured, you can't prove that he didn't manufacture it. But there's no reason to believe that he did because, again,

they weren't submitted to anybody. They weren't given to law enforcement. They were in his house.

So apparently they weren't given to any lawyers. So I would submit to you that, again, this is an attempt by the State to throw stuff at a wall and hope that it sticks.

Now, Mr. McGinn, obviously he wants a conviction, he wants his money. And, of course, he says that -- he low balls the work. And you'd expect that from an alleged victim in a breach of trust or in a contractor dispute. I understand he says it's only three hundred or four hundred dollars worth of work, but State Farm disagrees. I mean, it's right there in the scope. State Farm disagrees.

Mr. Richardson; Mr. McGinn is his father-in-law. I have a father-in-law. I like to make my father-in-law happy. I just think it's a bad idea to make him unhappy. So I think there's plenty of reason to shade there.

But in spite of that he testified my client gave him an AC unit. Is that this terrible human being that they want my client to be? Just gave him an AC unit. Now, I have a feeling that it was because Mr. Richardson was working for him, that that was some kind of partial payment. But Mr. Richardson denied that it was related to any actual job that he'd done.

Now, lastly the Clarks. They were interesting because they weren't actually that angry. I thought they were going

to come and be much angrier because it was my understanding that, you know, there was delays, after delay, after delay and all of that.

But when they testified there was a delay at the beginning, but it sounds like that was because there was some dispute over how much, you know, what they were supposed to pay. And once they wrote that five hundred dollar check for the deductible, I believe they testified within the next two weeks they got their roof.

And we know that they weren't all that angry at the time because on exhibit number 38, which was that second check for five hundred dollars, on the for line it says roofing and then written in is thanks exclamation point. That's not something you write on a check with someone you're having some kind of terrible dispute with, some kind of end all/be all claws out fight with. You just don't.

So I just don't think that -- further the State has not proven that -- they certainly hinted darkly at the idea that the money my client received for the McGinn job went to buy the Clarks' roof, but they've not proved that. And the reason they haven't proved that is because the Green Tree Metal guy got up and testified and said, no, he paid with a Visa card, not a check, drawn from the checking account from which -- into which he had deposited the McGinn money. You didn't hear from anybody from the bank to testify to that

because nobody from the bank presumably could testify to that.

And we know -- well, I expect we can surmise that it wasn't the debit card because debit cards have limits. At least every debit card I've ever had has a limit. I can -- you can take out five hundred dollars or you can use it for five hundred dollars. Maybe Wells Fargo has some different rule, but I've got a feeling that that's not the case. So, again, this is the State hinting darkly at things, but failing to prove them. There just isn't proof of it.

Now, as to -- as to the facts, as I've explained, the State's failed to prove that the money that went to the McGinn job or went to the Clarks' job is actually the McGinn money.

We've also simply, and as I told you at the beginning of this, we don't have any trusts. There is not a trust established. A trust is a legal constant. It's where a transferor gives a transferee property or money. And that -- with the understanding that that money will be administered for the transferor's benefit, okay?

What that means is, as I told you at the beginning, I give my child money to go and buy something. That is a trust. It's a very simple understanding of a trust, okay? That's not the case here. We just have a contract that says forty-two hundred dollars to start, twenty-eight hundred

dollars on completion. I don't have -- those aren't the exact numbers, but those are more or less the numbers that they used.

It's not three thousand dollars goes to the roof, two thousand goes to the materials for the roof, five hundred dollars goes to the stain, things like that. It's not broken up that way. If it had been, then sure, then there would have been a trust because if my client hadn't spent five hundred dollars on the stain, then he would have had to account for the rest of the money.

If he'd only spent three hundred dollars on stain, he would have had to go and tell Mr. McGinn, well, I only spent three hundred dollars, here's the two hundred dollars back. He would have had to account for that money because in a trust you have to use the money or you have to have agreed to use the money to the transferor's benefit.

So my client -- but I don't think anybody would say if my client had gotten the roofing materials for free he would have had to have given that money back. That would have been absurd.

So this is not a trust. If it were a trust, then we would have had to do some pretty fancy calculating as well because, again, you have to account for the money. You have to make sure that the money is being used for the transferor's benefit. So you have to keep very careful

records.

Now they require lawyers to do that, but that's because nobody trusts a lawyer. But we don't require anybody else to do it. Those are special rules for lawyers. And there's some other people who have to do it.

But if you had to run your business that way, it would get really complicated really quickly because, for instance, if he had taken some of that money and bought a truck with that money, but he also used eight other job's money to buy that truck, now he needs the truck in order to do those eight other jobs, how does that get counted? And what happens whenever he pays off the truck? Does he get to use it on other jobs? It just -- it gets unworkable quickly. It gets very unworkable very quickly.

And what if this was reversed? Because if you decide that my client had a trust or there was a trust on this money that he was given, what if he had put the roof on and McGinn hadn't paid him? Because if it's a breach of trust one way, then surely it's a breach of trust the other way.

So could my client have had Mr. McGinn arrested for breach of trust? Surely not. If that's the case, then every contract creates trust relationships. So whenever you don't pay your cable bill, you have breached a trust.

Whenever you don't pay your doctor's bill, you put some money down, they give you a shot, you'll receive a bill

later. You don't pay that bill later, you've committed breach of trust.

And that's where the logic ends. I mean, that's where the logic goes. And that's extraordinarily dangerous because it just creates what in effect are debtors prisons. We just put you in jail, saddle you with a restitution payment, then you just spend whatever -- whatever time that you are required -- or maybe we'd put you on probation. Maybe we'll be nice.

And I know that sounds ridiculous, but that's what this is. And that's dangerous. And I'm talking about it so long because this is so dangerous. It's repellent to the way that we do things.

Because I understand that right now they're going after a contractor, but if you don't think that a credit card company is going to get more prosecutions than regular people, then you don't know government. Who pays them? Who pays for their lawyer?

And remember, Mr. McGinn was not some poor fellow. His jobs are three to four million dollars apiece, eight million in the aggregate. And he was real quick with those numbers. All right.

So I understand you're thinking, surely it won't happen to regular people. And maybe you're right, but the way the government works, I don't know that I'd want to take that

chance.

You're also going to get a charge for obtaining money under false pretenses. Obtaining money under false pretenses, as I explained to you, is actually getting money under some sort of a false pretense.

Now in this case the false pretense, the obvious one is that my client never intended to put the roof on the house. The problem is that's not what the contract was for. It was for roofing and exterior repairs.

The State really, really hates that last little bit of exterior repairs because that destroys their case. Because if he had intended to take the money and run, he would have taken the money and run. But he didn't.

In fact, the State's own evidence shows he was around in June when he was putting the roof on the Clarks' house. If he was going to take the money and run he wouldn't -- why would he have done that? It makes no sense.

He was -- I believe Green Tree Metal testified that he was a three year customer of theirs. He was licensed. He was bonded. He had an A plus rating through Better Business Bureau. These are not the things that people who are going to take the money and run go to the trouble of doing.

They don't -- they don't get bonded. They don't get licensed because they're going to abscond with cash. And then it just doesn't make sense to sacrifice all of that for

three grand or nineteen hundred dollars depending, again, on what damage estimate y'all decide to go with.

But there is just nothing in the record at all that when my client received this money he didn't intend to perform the services because he did perform the services. He apparently paid, according to these checks, nine hundred dollars to Mr. Richardson and Mr. Byrd.

Now, I understand it's my client's notation that it was for the McGinn roof, but the State has not given -- or that it's for the McGinn job, excuse me. The State has not given you any reason to believe that that wasn't what it was for. Hasn't given you a lick of reason.

Now, I believe that my client did absolutely nothing criminal here. And I'll believe it til I die that you will find my client not guilty of all of these things.

But you're also going to get two charges for below two thousand dollars, the breach of trust and obtaining money. And it would be our position that if you somehow were to find my client guilty that you need to go with the State Farm estimates of how much things cost.

And those pictures don't change anything because they're three years, four years old. I mean, that -- any stain that was applied is just not there anymore. You'll see in the scope, again, it was just supposed to be the front and the right side. So when they complain that the

left side didn't get painted, well, that wasn't part of the deal, apparently.

So I fully expect you to find my client not guilty. I can't see how you could possibly find any other way. Thank you.

THE COURT: Mr. Ghent.

MR. GHENT: May it please the Court?

THE COURT: Yes, sir, Mr. Ghent.

MR. GHENT: Mr. Shealy, ladies and gentlemen of the jury. Again, I'm Russell Ghent along with Scott Todd. We've come over here to prosecute this case.

I'm very southern. I don't believe in tooting my own horn.

THE COURT: Make sure you keep your voice up so the court reporter and I can hear you too.

MR. GHENT: I am very southern. I don't believe in tooting my own horn, but counsel's representations to you regarding this being a civil matter -- at the very first he told you he's never tried a civil case.

I'm thirty-seven years -- I have been practicing for thirty-seven years. Yeah, let's get that clear at the start. I have been practicing law for longer than I have been alive, before I started practicing law.

I want to tell you a little bit about that because counsel is telling you all this stuff. I'm not going to use

ugly words. I was trained several years in the South Carolina Attorney General's Office. I was trained by Bill Traxler and Billy Wilkins over in this office. I handled all kinds of complex litigation.

I must say, it takes a certain degree of expertise to know how to put together a documents case, a white collar crime case. I have prosecuted cases as a special assistant, U.S. attorney. I went with Leatherwood, Walker, Todd & Mann, a major law firm, practiced for fourteen years in both Spartanburg and Greenville.

What I am telling you is I know a criminal case from a civil case. I will also remind you that in virtually any kind of case that can run parellel, you can sue somebody as well as seek criminal charges.

The evidence does not show that Robbie McGinn rushed out to go after this individual, Dean Holcomb. The evidence is not just beyond a reasonable doubt, it is overwhelming.

I want to turn to one exhibit that was grabbed hold of. And this, if you'll excuse me, is a matter of fairness because it had to do with what was seized from that house and that trailer up in North Carolina.

And there was a real desire to have a look at exhibits 54 and 55. And not everybody -- and it's kind of nice to see. I'm sorry. We can't have a conversation. I have to watch y'all, try to read you.

This is what I wanted to do from the time I was ten years old. Made up my mind I was going to do it. I was in a wreck in 2012 -- 2002, August 12th, 2002, 1:26 in the afternoon was my 9/11. I was not able to work for seven years. I only tell you that -- that's how I'm back now working for Barry Barnette over in the solicitor's office. I made up my mind to come back, and I did.

Now, the information -- and this is something that comes from years -- I love it when jurors are just kind of let me see it, let me see it. And it only gets so far and you feel like this is not my fault. You know, some things happen, y'all are running in and out, in and out, and you say, oh great. What is there is the absolute nail in the coffin on this individual.

And Mr. Shealy, who's never handled a civil case in his life is going I just don't see it, I just don't see it. And he has this parade of horribles argument where if this case is prosecuted as it should be, then what will happen is that the entire law of contracts, the entire world of business as we know it will come tumbling down on our heads.

First of all I would point out, jury selection -- you remember one of the things you got up and said? You said what you did for a living. We know some of you own a bakery or some of you do other things that have to do with your business. He is trying to play on your fears. And it is

nonsense. That is as far as I will go in terms of using language.

But the reason why I got up and objected so vociferously at the very first was he doesn't know what he's talking about and it was outrageous. He has never tried a civil case. I have tried many in thirty-seven years. I have tried even more criminal cases with major firms. I know how to put together something like this.

And, yes, even a case this small is complicated. It takes someone who knows what they're doing, it takes hard work and under the circumstances of this case there were things that had to be factored in. So let me go through and say that Mr. Shealy is young. He's a good young lawyer. He's clever. He's too clever by half. This was fraud.

I have presented you with evidence that with our very first witness, Jason Martin, exhibit 5, we laid out the background of how this occurred. Back in the spring of 2012, if you think about it, you can recall it. There was one huge hail storm that hit the Upstate, all across the Upstate. The damage was massive.

There were adjusters parked out everywhere and what came on the scene also were certain individuals who are known as gypsy roofers. They're predators. They came here and they took advantage of people. And when it got too hot, they're gone. This is proof one, how we got here.

How does hail come down if you think about it? Well, it does come in gusts where it is going from the side, but it also comes straight down, ice the size of a fist, of a baseball pushed down with a massive gust of wind. What does it hit? What is the one thing that is most targeted? The roof.

Whenever people think about their home being their castle, think about this, what keeps away the rain? What is it that protects you at night? What is it, you know, whenever you hear the expression, you know, I'm left without even a roof over my head?

You look about -- you look at flooding and you see the damage done from overflow or a hurricane or whatever, where do people wind up going for the helicopters to get them when it's water coming in below? They go to their roof. In this case the first line of attack was a hail storm, hail stones hitting the roof and massively damaging them.

The parties entered into a contract for repairs to be done to the roof, exhibit 6, okay? Now I want you to think about this. I'm not going to refer to this man, Mr. Holcomb, as anything but the predator he is. He is dishonest.

Here's the contract, his contract, Robert McGinn, [redacted] Beaver Dam Road. Think in terms of the scope of that storm.

And I'm sorry if I'm loud. I'm sorry if I'm animated.

Again, this is what I've wanted to do from the time I was ten years old. I was out for six years. I am back. And I love the fact that people do ask for me on occasion because of the things I can bring to a case. I do know civil from criminal.

This case was not brought on a warrant. This case was brought on an indictment that goes through a grand jury. And ---

MR. SHEALY: Objection ---

MR. GHENT: --- if I'm not satisfied with the investigation ---

THE COURT: Yeah, I sustain the objection. Let's don't go over the grand jury issue.

MR. GHENT: Yes, sir.

This contract, right at the top it says replace with Green Tree Metal. It has roof replacement. Has a warranty, ten years for labor, materials four years. People were not taking a chance again. They were getting the very best roofs they could, metal. You see them all over now. They're beautiful. Red, green, hawaiian blue, all kinds of colors.

As it turns out what Mr. McGinn wanted was a green roof. And what Mrs. Clark wanted was a hawaiian blue roof. And their transactions came one right after another. A check, the contract was signed, four thousand, two hundred

and ninety-five dollars, three cents ($4,295.03) to start and the other part upon completion.

Check number 1040 drawn on his account, Robbie McGinn's account to whom? Carolina Home Renovators. For how much? Four thousand, two hundred, ninety-five dollars, three cents ($4,295.03) for partial payment-roof. Endorsed on the back by Dean Holcomb.

The check, according to exhibit 32 -- as a result of the accident I don't have feeling in my fingertips or in my legs. So you will excuse me if I fumble. It's embarrassing. I'm not looking for sympathy, I'm explaining. Page 2 of 5. May 30th, 2012, the very next day. No waiting around on this one. Cleared. The amount paid for the roof, that check.

There was a gentleman in here, he was a gentleman, he was a businessman, he was a man of character, decency, drove up here from Georgia from Green Tree Metals that was guaranteed. At my request he ran the entire listing of all of Mr. Holcomb's business with him. Started December 9th, 2011. Last inventory -- last invoice, excuse me, May 29th, 2012.

These pictures, yes, they were taken three years later. Yes, they were taken at my direction. They show no roof. They do not show a millionaire, an extravagant form of living. The testimony was this man and his wife both were

in the hospital when this man over here took their money and did not do the work.

And as a result they were in the hospital when his daughter went down, finally, Megan, who, again, Megan, the meth making mama ---

MR. SHEALY: Objection, Your Honor. That didn't come in. We had ---

THE COURT: That's right. I sustain the objection.

MR. GHENT: Yes, sir.

Megan ---

MR. GHENT: I apologize, Your Honor. I was ---

THE COURT: That's okay.

MR. GHENT: --- under the impression -- with all the running in and out. I do apologize. I would ask that you disregard that.

Megan Holcomb went down -- excuse me, Megan, the daughter of Mr. McGinn, went down while the McGinns were in the hospital, gave information to Tim Martin. They gave -- she gave information that told the basics of what had happened.

So, again, this is not something the McGinns went running out to the police to file a report over. This is something that -- he wanted his money back. It became clear he wasn't going to get his -- he was entitled to his money back or put the roof on.

Again, you have the dates for the check that was written, May 29th, clears May 30th. And counsel said, I suppose it could be a debit card. I suppose so. And he's talking about basically I don't know, you know, that you're allowed -- how much you're allowed to use.

Well, contractors, even gypsy roofers are generally, until proven otherwise, treated as business persons. And so with a debit card that removes the money, and the money was removed the next day, the money then becomes his. And it was entrusted to him to use only for his roof.

Robbie was not -- Robbie did not know Kenneth Clark. He did not know Susan Clark, nor did they know him. They were on opposite ends of the County, which again shows just how widespread this thing was that hit us.

The gentleman from Green Tree Metals, State's exhibit 34 and 35, delivered to [redacted] Lee Street, paid May the 29th for a roof, hawaiian blue. Not green, hawaiian blue.

Kenneth and Susan had been pushing and pushing to get their house. You'd heard that. To get the roof put on. By then you had concerns being raised by Robbie McGinn over my roof going on.

The information from the Clarks shows payment made April 24th, 2012. But, again, things are put off, and off and off. And they start getting worried about when our work is going to get done. And then finally it gets done and a

hawaiian blue roof is put on their house.

Now, may I see back that first document I put in circulation? This would be the one with multiple pages, exhibit 54. Ma'am, I apologize for interrupting you, but I want all of you to see this at the same time.

He says -- counsel goes, well, you know, I don't know. You don't know what he was thinking about. Well, you've got common sense. And your good common sense is one of the things we draw on most in a criminal case. He wants to talk technicalities, et cetera. I like practical common sense.

Mr. Kindley, Lieutenant Kindley with the help of individuals in Bessemer City, North Carolina went in -- officers from that place -- and I will ask you to recall that that house was not a recent place moved into. The testimony of the officer told you when, how far they went back. Claudia Whitt and the Defendant had lived there for some time.

The address given on Rocky Creek Road, an apartment, that address given was a place that the Defendant moved into. I would submit it was done while he was, again, gypsy-like, moving into the Greenville area to take advantage of pretty much what was a weather disaster.

If you look at the documents that have gone into evidence, we have -- I'm going to put them out and then I'm going to match them up. Two individuals who received checks

were Will Byrd and Jared Richardson.

Mr. Richardson did look afraid. He looked uncomfortable. He's the one who brought the deal. He's the one who worked for Mr. Holcomb. I think he was very uncomfortable. I had to literally drag out the testimony. He looked frightened if you want to know the truth. Think about it. That's what I would submit.

This is exhibit number 48 to Jared Richardson. Look closely. For, what do you see there? Nothing. These are the checks to Jared Richardson and Will Byrd. Those have for Clark, the Clark job done in early June after Mr. Holcomb got his money from Mr. McGinn, who he considered to be a sucker and snap.

Seized from the house that was searched, the trailer that was searched in North Carolina there was all kinds of documentation, notation, everything else. But I want you to compare the copies I've circulated already of check 2411 to Will Byrd and the for. What better evidence of fraudulent intent than attempting to manufacture a cover for what you did with the money?

This is a copy of a check, the same check next to Mr. Byrd's statement. Again, you can draw your own conclusions. I would submit that if push came to shove this would show Mr. Byrd that I've got you, I've paid you, and this is your statement and you are going to testify.

I would submit with Jared Richardson, again, match it up to the other copy of check number 2410, he has filled in McGinn after the fact. Again, it is in an effort to create evidence, manufacture evidence. Why? Because he is a fraud.

The information from South Carolina Farm Bureau shows you the amounts. I want to come back to this. You know, he said, you know, Mr. Holcomb's attorney goes back and forth between these two -- the appraisal and what was done and matches those up. Well, an appraisal is just that. It is the insurance company saying this is our best guess of what it's going to cost.

And what Robbie McGinn was saying was not that I know what the appraisal should have been. Robbie McGinn testified I know what work that completes the project should look like, and I say he didn't do more than three hundred dollars worth.

Again, pictures 52 and 53, those are pictures taken by Tim Martin or that were in Tim Martin's file that show you on that date what the house looked like. On the back there was talk about arguing the five hundred dollar amount for the coupon. This guy doesn't care. He's going for every penny. He would look at a house and everything and anything would be put in that he could get put in.

Does anybody have exhibit 54?

JUROR: Here you go, sir.

MR. GHENT: Oh, thank you, ma'am.

These are the notes that the Defendant began generating as his -- these are the order of battle as they would call it, how he was planning to go after Mr. McGinn over this matter. He's going through writing in this, this, this, this. I'm not McGinn. Stain and return card. Clark, blind man. Girl I grew up with dad. McGinn, cleaning stuff. He's trying to make numbers work.

And over here, coupons are not money. Well, they're good for money if you're advertisement says so. Let me be clear, asshole, no five hundred dollars, no roof, no deductible, no roof. This supposedly is a man in business who knows the business of roofing, and with all of these roofs dealing with all of these adjusters.

The adjusters clarified it. See for yourself. The two adjusters from each insurance company clarified it. Of course, we work with -- we work with contractors all the time. The deductible is taken off the top along with depreciation. Anybody who works with us should know that if they're the real deal.

As I've stated, when I took this awful job, and again, first person singular, in his trailer home, whatever, I will not wait ninety plus days for the insurance company's three thousand, three hundred, eighty-five dollars ($3,385.00).

Cashier's check or no roof.

I respectfully submit that what the Defense has argued is nonsense. I would also ask that you go over the evidence carefully.

Very first I hope if any of you were amused by my telling you welcome to the government, in this day and age we've got enough people who don't do their job in the government. I did my job in private practice. Before that I did my job in the government. I did my job in Greenville, in Columbia, in Washington D.C. I did my job as well with any number of clients I represented.

I know a civil case when I see it. And I do have a passion for my work. I love what I do. This is what I was going to do from the time I was ten years old.

Truth will out if good people do the right thing, work together, use their common sense. This is your community. It's your place to work. It's your place to live.

As jurors -- I've been using this for years, yeah, using it, saying it, whatever. I learned it from Billy Wilkins and Bill Traxler. I think it's great. As jurors you are the conscience of this community. Think about that. You are what decides right and wrong, what is truth and what is not truth. You came here separately. You will leave separately, but you serve as one.

Your verdict must be unanimous. And the burden has

been on us. And I tell you unequivocally, at the first I said it, I say it now, it is on us. And I relish the opportunity to prove guilt at the highest level of the law. But listen to the Judge explain it.

It doesn't mean because I say so. Because that bald guy with the beard is annoying as hell. I don't like him. He looks like somebody I once got in a fight with or whatever. You are here to decide guilt and innocence based on the evidence put forth.

And, again, it is not beyond a reasonable doubt, it is overwhelming. Your verdict must be unanimous. It must be a verdict that speaks the truth, from the Latin *veredicto*.

You remember I told you that we address Judge Hayes as Your Honor for the man to be synonymous with this place of honor where we are? And I told you you really don't have a name other than jurors. But your decision sure has a name and a really great one. It says I speak the truth beyond a reasonable doubt.

We have presented the true facts. The burden in a civil case -- I'll say this again. What, apparently, my young friend doesn't know, breach of contract is something that is proved by preponderance of the evidence. Fraud must be proved by clear and convincing evidence, the next highest standard. Preponderance is the lowest standard. Then clear and convincing for fraud. It's an intentional tort. And

the highest level, beyond a reasonable doubt.

Like I've said, I know a criminal case and I know a civil case when I see one. As we have proved it beyond any doubt for which a juror seeks the truth. We have shown you what you need to know.

I will tell you again that the requirements -- His Honor gives you the law. And I always kind of worry about explaining it because he's the one who has the final say on the law. He's the judge of the law. Y'all are the judge of the facts. We're advocates. Okay?

Obtaining money under false pretenses means obtaining money from another by misleading, fraudulent intent and representations to get that money from another person. Fraudulent representations.

Breach of trust with fraudulent intent is the taking of money from another for their use, their use, with their consent. When he's got it, it is done with their consent. They give it lawfully with their consent. And using that money given with another's consent in trust for your own use or use not in line with theirs, again, with fraudulent intent.

Again, I'll say it, we seem to be living in a world of more and more dishonesty. It must stop. It is a world of stealing by one means or another, one mean or another. It must stop.

We have found, and it seems almost like with every weather event or every circumstance that calls for simple human charity and good faith, good will is too often met by fraud. Mr. McGinn dealt in good faith and in good will with this man over here. He's a fraud.

The question, however, whenever I say these things must stop is this. As the conscience of the community based on overwhelming proof of guilt, it's not what I say, the question is what are you going to say?

There's only one verdict you can reach as to these two charges, I would respectfully submit, ladies and gentlemen of the jury, guilty, period. Thank you.

THE COURT: Members of the jury panel, we're going to take a break before I give you my charge on the law, which is the next part of the trial. You're not yet in a position to make up your own mind or discuss the case because you don't yet have that part of the equation, I will call it. So don't discuss the case. Don't try to make up your own mind.

And we're going to send in menus so that you can order your lunch during this period so that they -- it usually takes about an hour or so for it to get here. So we'll take this opportunity to order lunch.

So we'll send for you as promptly as we can, but not until you're finished with what you need to do. And we'll

let you go to the jury room now, but don't start deliberating.

(Whereupon the jury exited the courtroom at 10:50 am)

THE COURT: Before we take our break I've got two sets of charges up here so you can have it to follow as I go along. I'll tell you that for some reason it didn't -- when we printed out this copy it did not print out what I'm going to say about the lesser included. So as soon as we get that, we'll supplement and give you that.

If each of you will look at these copies of the indictment. And if you have any concern, if they're not true and correct, let me know when we reconvene. With that, we'll take a break. And we'll also have the verdict form.

(Whereupon court was in recess at 10:51 am)

(Whereupon court reconvened at 11:15 am)

THE COURT: We don't need the clerk here for your -- I understand that, first, we now do have what appears to be an original of the amended indictment for obtaining money by false pretenses and a true copy of the breach of trust already marked true copy. Anything regarding that, Mr. Shealy?

MR. SHEALY: Not regarding that, Your Honor.

THE COURT: Okay. All right. You do have a motion, I understand.

MR. SHEALY: I do, Your Honor. We would move or my

client and I would move for a mistrial based on the improper arguments made by the solicitor in closing. Throughout his closing Mr. Ghent pointed out how seasoned he was, how long he's been doing this.

It's been thirty-seven years and yet he argued both a grand jury, which is clearly improper, one of those things they teach at first year solicitor school as well as arguing something that was clearly held to be irrelevant, kept out of the testimony of the trial. We had a hearing on it. Your Honor refused to allow them to use that particular phrase and yet Mr. Ghent used it anyway.

Judge, I believe ---

THE COURT: The phrase being about the meth?

MR. SHEALY: The meth making mama term. Judge, both, I mean, that's two separate and distinct improper arguments. And so, Judge, we would -- I believe there's manifest necessity to -- for a mistrial in this case. I'd point to State versus Rudd, Your Honor, 355 S.C. 543.

THE COURT: All right. Meth making mama. What was the first one ---

MR. SHEALY: The grand jury, Your Honor. He argued that it was brought by a grand jury.

THE COURT: All right. Mr. Ghent.

MR. GHENT: I didn't say it was brought by the grand jury. I said that it had been, I believe, to the grand

jury.

That was in part a response to the constant hounding that this should be a civil matter. I made clear -- was attempting to make clear to the jury in good faith in response to the claims that counsel has asserted over, and over and over again that this was brought under an indictment. It is not a civil matter. And I explained to them things can be both civil as well as criminal.

I would also point out that as a matter of propriety it's called invited error. Counsel is the one who's been arguing this should be a civil matter. He invited. I apologize if that went too far, but it was not an intentional violation of anything.

As to the other matter, with all of our running in and out, I truthfully thought that the words that the witness had spoken, and still do, but I'm not going to argue with Your Honor's ruling, I thought that that part had come in in front of the jury.

THE COURT: You talking about meth making mama?

MR. GHENT: Yes, sir. I really did. So I apologize. If Your Honor wants to give a corrective instruction on those. But with Mr. Shealy's behavior in this case, I really don't think it's fair to, once again, point at the prosecution. I was doing my job the best I could. And I apologize to the Court.

THE COURT: All right. Well, anything further? I'm ready to rule.

MR. SHEALY: Well, Judge, I don't believe that I invited the error. I still believe it's a civil case. And he could have made the point that it was in criminal court. I think everybody realizes that it's in criminal court.

But the reference to the prior procedure, Judge, that's, Your Honor, in State versus Rudd, I'll point you to some language that as the Supreme Court has warned, we caution solicitors that arguments of this kind can rarely be harmless.

He's discussing, Your Honor, an improper reference to the many protections that a defendant had gotten before he got into this court -- before he gets into this court of law to face you jurors. It's simply black letter law. You can't talk about those prior procedures.

And, Judge, so we would submit to you that a mistrial should be granted.

THE COURT: Well, I'm going to deny the motion. I don't find manifest necessity. As to the reference to the grand jury, I believe I actually chimed in and stopped that if I recall correct.

And as to the meth making mama, Mr. Ghent told the jury to disregard that. And I can certainly again tell them to disregard that, but that's sort of a statement in the air.

I don't know where that -- I don't -- that was never in his argument connected to Mr. Holcomb. I don't know that the jury would connect that to Mr. Holcomb or not because he didn't connect it to Mr. Holcomb.

So it's sort of a statement in the air and he did state that he -- to the jury to disregard it. I can tell the jury again to disregard that statement.

But as to the grand jury, it's on the indictment that this case has been to the grand jury. So there's no question the jury will know that the -- I've said I wasn't -- originally I said I wasn't going to send the indictments -- didn't think I was going to send the indictments back because we were having trouble finding the amended one, and I didn't want to send one back and not the other. But now that we've got the amended, I am going to send them back as I usually do. And they have that on there, action of grand jury, true bill, Wayne somebody and Thomas somebody.

So I deny the motion. I will ask, Mr. Shealy, if you want me to -- well, you can't -- you can't ask for a curative instruction. I understand that.

I don't think I'm going to give any kind of curative instructions. I think that will focus on that statement that was -- that Mr. Ghent indicated should be disregarded. And I just don't see any need to do that again.

I think that would just bring it into focus and then

the jury would be scratching their head as to what's that all about because it was not part of the evidence. And I will tell the jury that they cannot consider matters outside the record in my charge. So I deny the motion for a mistrial. All right. Bring in the jury.

(Pause)

THE COURT: All right. I am told by the clerk that somehow the indictments I have are, in fact, the originals.

MADAME CLERK: They look like they are the originals. I'm glad we found them.

THE COURT: And if anybody's happier than she is, I don't know who it would be.

(Whereupon the jury entered the courtroom at 11:24 am)

THE COURT: Members of the jury panel, I appreciate the attention you've given to me and the attorneys. It's now my turn to give you the charge on the law. And it's your duty to accept and apply the law as I charge it.

The indictments in this case, which you will have with you in the jury room, set forth two charges against Mr. Holcomb. One is obtaining property or money by false pretenses and the other is breach of trust.

These are not evidence. These are the charging papers. These are the papers by way of which this case is brought into our court system. It is the paperwork that keeps a record of what transpires in regard to these charges and is

ultimately where in addition to a verdict form the foreman will enroll the jury's unanimous verdict. And I'll tell you more about that later on.

Now, the charges are breach of trust in excess of the amount of two thousand dollars. Actually it says between two and ten thousand dollars, but the important part of that allegation is that the State says the breach of trust involved an amount of money that exceeded two thousand dollars.

The same is true for obtaining property or money by false pretenses. It's alleged that that amount is an amount that exceeds two thousand dollars. And, again, I'll address that more at a later point.

Each indictment charges a separate and distinct offense. You must decide each indictment separately on the evidence and the law applicable to that indictment uninfluenced by your decision as to the other indictment.

A defendant may be convicted or acquitted on either or both of the offenses charged. You will be asked to write a separate verdict of guilty or not guilty on each indictment. I charge you that the indictments charge Mr. Holcomb with breach of trust and obtaining property by or money by false pretense.

I'll remind you the fact that he has been charged and arrested and indicted is not evidence in this case and may

not be considered by you in any way whatsoever as evidence of his guilt, nor of the fact that he is arrested, charged and indicted, nor does it create any presumption or inference of guilt. As I told you, the document called the indictment is simply the paperwork by way of which this case is processed through our court system.

Mr. Holcomb has pled not guilty to these indictments. And these pleas place on the State the burden of proof, that is the burden of proving his guilt beyond a reasonable doubt.

Any person charged with a criminal offense in South Carolina is never required to prove themselves innocent. The burden always remains on the State to prove that defendant guilty beyond a reasonable doubt.

This presumption of innocence is an important rule of law. Any defendant in any criminal trial is imbued with this presumption of innocence. No matter what the seriousness of the charge may be, a defendant is always presumed to be innocent of the charge for which he is indicted until he is proven guilty by evidence satisfying you of his guilt beyond a reasonable doubt.

This presumption of innocence does not end when you begin your deliberation. The presumption of innocence attached to Mr. Holcomb at the time of his arrest, has remained with him as his case is processed through our court

system and remains with him as I speak. The presumption of innocence in his favor remains even as you deliberate. The presumption of innocence in his favor, Mr. Holcomb's, is removed if and when, and only if and when you determine unanimously that the State has carried its burden of proof and proven his guilt beyond a reasonable doubt.

Now, this presumption of innocence is not a mere legal theory or a mere legal phrase, but is a substantial right. And Mr. Holcomb is entitled to it, as I said, until you are satisfied from the evidence of his guilt.

A reasonable doubt has been defined by our courts as the kind of doubt that would cause a reasonable person to hesitate to act. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of a defendant's guilt.

There are very few things in our world that we can know with absolute certainty. And in criminal cases our law does not require proof that overcomes every doubt -- every possible doubt.

If, based on your consideration of the evidence, you are firmly convinced that Mr. Holcomb is guilty of the charge, a charge, you would find him guilty. On the other hand, if you think there is a real possibility that he is not guilty of the charge, you would give him the benefit of that doubt and find him not guilty. He is entitled the benefit of that doubt, of a reasonable doubt as to any of

the elements of the charge against him.

I'll remind you that I have certain duties to perform and you have certain duties to perform. As trial judge it is my responsibility, as I told you earlier, to preside over the trial. I also have the duty to rule on the admissibility of evidence offered during the trial. And I have done that several times in this case.

You are to consider only the competent evidence before you. If there was any testimony ordered stricken from the record in this case during the trial, you must disregard that testimony. You are to consider only the testimony which has been presented from the witness stand, any exhibits which have been made a part of the record in this case.

I have the additional duty to charge you the law applicable to this case. As the presiding judge in this case, I am the sole judge of the law. And it is your duty as jurors to accept and apply the law as I now state it to you.

If you already have an idea as to what the law is or what the law ought to be, and if it does not agree with what I tell you the law is, you must abandon the idea because you have sworn to accept the law and apply the law exactly as I state it to you.

In every case tried before a jury, you, the trial jury,

become the sole exclusive judge of the facts. A trial judge cannot intimate, state, comment or make any statements to the trial jury about the facts of the case.

Since you are the jury, you are the sole judges of the facts. You're not to infer from what I have said during the progress of the trial in ruling on admissibility of evidence or otherwise or on anything that I say now during the course of these instructions to you that I have an opinion about the facts in this case.

Our law does not allow me to have an opinion about the facts in the case. It is a matter solely for you, the jury, to determine. As jurors it is your duty to determine the effect, the value, the weight and truth of the evidence presented during the trial.

(Pause)

THE COURT: I'm sorry. I was talking to you about the fact that you are not to infer from anything I have said or done or now say or do as meaning an opinion of mine on the facts. That is solely your job.

Now, in this case, as often in a criminal case, there are two types of evidence, direct and circumstantial evidence. Direct evidence is the testimony of a person who claims to have actual knowledge of a fact, like an eyewitness. It is evidence which immediately establishes the main fact sought to be proven.

Circumstantial evidence is proof of a chain of facts and circumstances which indicate the existence of a fact. Circumstantial evidence is evidence which immediately establishes collateral facts from which the main fact may be inferred. Circumstantial evidence is based on inference and not on personal knowledge or personal observation.

Our law makes no distinction, absolutely no distinction between the weight or value to be given to either direct or circumstantial evidence, nor is a greater degree of certainty required of circumstantial evidence than of direct evidence.

You should weigh all the evidence in this case. After weighing all the evidence if you're not convinced of the guilt of Mr. Holcomb beyond a reasonable doubt, you would find him not guilty.

As judges of the facts you necessarily must judge the credibility of the witnesses who have testified, the believability. It is your duty to analyze and evaluate the evidence and determine what evidence convinces you of its truth.

In determining the believability of witnesses who have testified you may believe one witness over several, several witnesses over one. You may believe a part of the testimony of a witness and reject the remaining part of the testimony of the same witness.

You may believe the testimony of a witness' -- the witness in its entirety or reject the testimony of a witness in its entirety. You may consider whether any witness has exhibited to you an interest, bias, prejudice or other motive in this case. You may also consider the appearance and manner of a witness while on the witness stand.

I instruct you and emphasize to you the fact that Mr. Holcomb exercised his constitutional right to not testify is not a factor to be considered by you in any way during your deliberations. As I told you earlier, Mr. Holcomb is presumed innocent of the charge -- the charges and need not prove his innocence.

The fact that he exercised his right to remain silent must not be considered by you in any manner whatsoever. Mr. Holcomb, like any defendant, has a constitutional right to remain silent. And the assertion of this right by him must not be considered by you in your deliberations.

I repeat, under your oath you are to draw no conclusion whatsoever from the fact that Mr. Holcomb did not testify. The fact that he did not testify should not even be discussed by you in the jury room, nor should it be factored into your own mind.

The burden of proof, as I have stated to you, is on the State. Mr. Holcomb is not required to prove his innocence. The burden of proof remains on the State to prove his guilt

beyond a reasonable doubt, as I have told you.

Now, when you are looking at the -- analyzing the indictments, and the charges, and the evidence, based on my charge as to the elements of the charge, I tell you at this time that in order to establish what is called criminal liability criminal intent is required. For example, the mental state required to be proven by the State for a particular crime might be purpose, intent, knowledge, recklessness or criminal negligence.

Criminal intent must be proven by the State beyond a reasonable doubt. Criminal intent is always a matter that must be determined by you, the jury, from the circumstances surrounding the situation.

There is, of course, no way to prove intent to a mathematical certainty. There is no way that medical science can dissect one's brain and determine one's intent. So the law says that criminal intent may be inferred from the circumstances shown to have exist -- existed at the time.

This is how you make a determination of whether or not the element requiring intent was present. It is not necessary to establish intent by direct and positive evidence, but intent may be -- may be established by inference in the same way as other facts by taking into consideration the acts of the parties and all of the facts

and circumstances in this case.

Criminal intent is a mental state, a conscience wrongdoing. It is up to you to determine what the Defendant intended to do based on the circumstances shown to have existed.

Criminal intent can arise from action or a failure to act. It may arise from negligence, recklessness or an indifference to duty or to consequences that is considered by the law to be the equivalent of criminal intent.

Mr. Holcomb is charged with breach of trust with fraudulent intent in one of the indictments. Here the State must prove beyond a reasonable doubt that personal property or money was put in his possession, Mr. Holcomb's possession, as a trust.

A trust is an arrangement whereby property is transferred by a person, called a transferor, to another person called a transferee, with the intent -- intention that it be administered by the transferee for the transferor's benefit. A trust is a holding of property subject to a duty of using it or applying its proceeds according to directions given by the person who put the property or money in trust.

The State must prove beyond a reasonable doubt a breach of the trust. There must be a use of the property or money by the Defendant, Mr. Holcomb, for some purpose other than

that for which it was put in trust.

Finally, the State must prove beyond a reasonable doubt that the Defendant, Mr. Holcomb, had a fraudulent intent in breaching the trust. The State must prove that the property or money was converted by him with a fraudulent intent of using it as his own or permanently depriving the owner of the use or possession of the property or money. Fraudulent intent is a mental state, a conscience wrongdoing.

It is up to you to determine what the Defendant intended to do based on the circumstances shown to have existed. Intent may be shown by acts and conducts of the Defendant and other circumstances from which you may naturally and reasonably infer intent.

The difference between -- the difference between breach of trust and larceny, or what is commonly known as stealing, is that in larceny, possession of the property stolen is obtained unlawfully.

In breach of trust, the possession of the property is obtained lawfully and the property is then converted with fraudulent intent. The State must prove that charge, breach of trust, beyond a reasonable doubt before you could convict Mr. Holcomb of that charge.

He's also charged with obtaining money by false pretenses. Here the State must prove beyond a reasonable doubt that Mr. Holcomb used false pretenses or

representations. A false pretense is a false representation of an existing or past fact which is known by the Defendant to be false and is made to induce another person to give up something of value.

Next the State must prove beyond a reasonable doubt that the Defendant, Mr. Holcomb, used false pretenses to obtain the signature of a person on a written instrument or to obtain another -- from another person any money, valuable security or other real or personal property with the intent to cheat and defraud the person of that property or money.

Intent means something that is wilful, intending the result which actually occurs. Something intentional is not accidental or involuntary. Intent may be shown by acts and conduct of the Defendant and other circumstances from which you may naturally and reasonably infer intent.

Now, Mr. Holcomb is charged in each of those obtaining money under false pretenses and breach of trust with a -- having done that in an amount that exceeded two thousand dollars.

In our law we have what's called lesser included offenses. I can best explain that to you by asking you to imagine a set of steps with me. At the very top is the most significant or the highest offense. And that is what he's charged with, breach of trust, an amount, and obtaining money under false pretenses in an amount exceeding two

thousand dollars.

You may, if you find the State has not proven him guilty of that, you may consider whether the State has proven him on the lesser, one step down, of breach of trust or obtaining money under false pretenses in an amount that did not exceed two thousand dollars. And this will be spelled out on the verdict form I'll show you. You have two options. So that is what a lesser included offense is.

As I said, what is known in the law as lesser offenses include offenses as to both of these charges. As I told you, the State alleges the offenses involved a sum of money in excess of two thousand dollars. The State has the burden of proving the particular offense, but also must prove the amount involved exceeds two thousand dollars.

If the State has proven to your unanimous satisfaction that Mr. Holcomb breached a trust and/or obtained money under false pretenses, but has not proven that the amount involved was two thousand dollars or more, you would find the Defendant guilty of the lesser offense, breach of trust and obtaining money under false pretenses in an amount that does not exceed two thousand dollars.

Now, I will give you a copy of these instructions in written form. During your deliberations you may refer to these as a guide in your decision-making. You must consider the instructions as a whole and not follow some, ignore

others. When you return the verdict forms and the exhibits at the end of the trial, Mr. Foreman, please return to me the written charge.

I will note that on page 6 of the indictments I have stricken out some words. And that's because they got in here by a typographical. And they do not apply in this case.

It has to do with stipulations by counsel. There have been no stipulations in this. So I've marked that out. So that's just superfluous. It has nothing to do with anything in this case. So you may disregard that one statement.

Now, your verdict must be unanimous. All twelve must agree. And once all twelve of you have agreed, Mr. Foreman, you are authorized to write the verdict on the jury's behalf.

You're not to be influenced by passion, sympathy or other considerations outside the record in any manner. If you have questions when you're deliberating, please write them down, knock on the door, give the note to the bailiff. The bailiff will bring it to me. I will confer with counsel and respond. I may write an answer on the note or I may bring you back in to answer it.

If you wish to have testimony re-read or replayed, we can do that. If you do wish to have that done, please be

fairly specific about what you wish because it takes us a little time to isolate what you may want. But we can go back and have you listen to testimony.

Again, your verdict must be unanimous. When you reach it, please knock on the door and tell the bailiff. I'm not going to start another trial today. So I should be able to -- once the bailiff comes and gets us, I should be able to promptly get you back here in the courtroom.

Once you go in the jury room in just a few moments, I'm going to ask you to not start deliberating. I have to go over my charge with the attorneys to see if I've made any errors. I told you that you have to follow the law as I tell it to you. So it is incumbent upon me to make sure that I have not made any errors.

If I have, I will bring you back in and correct them. If I have not, I will send in the exhibits and the verdict form into the jury room with you. The bailiff will tell you then to start deliberating. But don't start deliberating yet. And don't get too comfortable yet because I may have to send for you in just a minute or two.

If during your deliberations you want to have a smoke break, you can do that. But if you do, I ask that you don't deliberate. If one of you -- all twelve need to be deliberating. It's got to be unanimous. So if one or two want to take a smoke break, I have no problem with that, but

while those one or two go out and smoke, the others, please, don't be deliberating in their absence.

Mr. Hunter and Ms. Wideman, if you'll stay in here as the alternates. We won't need your assistance any further. So when you start deliberating -- when I send them out to deliberate, I'm going to send them out in just a minute, you just remain in here, and I'll talk to you after that.

Now, there are two verdict forms. They are basically identical. One is for obtaining property or money by false pretenses and the other is as to breach of trust.

There are two basic options. Option one has two subsets. Mr. Foreman, you will mark with an X or a check, mark the line which reflects the unanimous verdict of the jury.

The first line -- and the order they're in is of no importance. I always put them in this order. It's just a convenient way to do it. But the fact that one is higher on the list than the other does not mean it is entitled to any greater weight than the other.

The first line on each is we find the Defendant guilty of, one says breach of trust and the other says obtaining money by false pretenses. If that's the jury's verdict you'd put an X or a check in front of that line.

In addition it says that you would find that he committed that offense in the following amount. And there's

an A and a B. In an amount greater than two thousand dollars, which is the charge, or an amount less than two thousand dollars, which is the lesser included.

Number two says we find the Defendant not guilty. If the State has failed to prove as to either of these offenses, Mr. Holcomb, guilty beyond a reasonable doubt you would use two, that second numbered item, we find the Defendant not guilty and just put a check or an X. And there's a place for you to sign.

Now, when you go out at this time, again, don't start deliberating. And I'll ask the two alternates to stay in with me.

(Whereupon the jury exited the courtroom at 11:47 am)

THE COURT: All right. I'll be with the two of you in just a moment. Anything from the State involving the charge?

MR. GHENT: Nothing from the State.

THE COURT: Anything from the Defense?

MR. SHEALY: Nothing from the Defense.

THE COURT: All right. If each of you will check the verdict forms again and the exhibits, we'll send them in to start deliberation.

And the two of you, we have lunch ordered. We have plenty of jury rooms so you can wait til lunch comes and have lunch. You can leave if you wish. You'll be mailed a

check, is that right? You'll be mailed a check.

But you can -- you can stay -- in fact, you can stay and wait and have a seat and wait and see what the jury does if you wish. You don't have to. So you're entitled to lunch, but you don't have to. You're entitled to stay, but you don't have to. You will be mailed a check. All right. Thank you for your attention.

(Pause)

THE COURT: I want to thank all of you for your courtesies during the trial and your patience with me. Thank you.

(Whereupon the jury began deliberating at 11:51 am)

(Whereupon court was in recess at 11:51 am)

(Whereupon court reconvened at 1:52 pm)

THE COURT: You may take your seats. I'm notified that the jury's reached verdicts. The State ready to receive the verdicts?

MR. GHENT: The State's ready.

THE COURT: The Defense?

MR. SHEALY: Yes, Your Honor.

THE COURT: All right. Let's bring in the jury.

(Whereupon the jury entered the courtroom at 1:53 pm)

THE COURT: Mr. Foreman, I understand the jury's reached verdicts.

MR. FOREMAN: Yes, sir.

THE COURT: If you'll hand it to the bailiff, they'll hand it up to me.

(Pause)

THE COURT: Madame Clerk, you want me to read them?

MADAME CLERK: You can.

THE COURT: All right. The State of South Carolina versus Dean Alton Holcomb, indictment 2013-GS-23-5223, obtaining property and money by false pretenses, we find the Defendant guilty of obtaining property, money by false pretenses in the following amount; in the amount greater than two thousand dollars.

In indictment 2013-GS-23-5223, it's got the same -- I didn't notice that, but that's actually -- let me see the indictments. That's got the wrong -- that's the breach of trust.

The breach of trust indictment is, I'm sorry, is the 2013-GS-23-5223. The one I just read, actually, is 2015-GS-23-4600A. And that was the obtaining property and money by false pretenses. We'll have to correct that indictment number.

As to the second breach of trust, indictment 2013-GS-23-5223, we find the Defendant guilty of breach of trust in the following amount; (A) in an amount greater than two thousand dollars. Both of these are signed by the foreperson, Jason Holeman.

If these be your verdicts, so say you all by raising your right hand.

(Whereupon all jurors raised their right hand)

THE COURT: All right. All twelve jurors do.

I'm going to let the lawyers look at the indictments and see if they have any questions as to the form of the verdicts.

MR. GHENT: Only the numbers, Your Honor.

THE COURT: All right. Anything from the State before the jury's dismissed?

MR. GHENT: Nothing from the State. And we thank the jurors for their service.

THE COURT: Mr. Shealy, anything for the jury before the jury's dismissed?

MR. SHEALY: Not with the jury, Judge. I ---

THE COURT: Okay. Members of the jury panel, thank you for your help. We're not going to start another trial, obviously, because it's Thursday afternoon. I have other matters dealing with non-jury issues tomorrow.

So thank you for your assistance. You'll be mailed a check. If you need any kind of statement to take back to work or somewhere, you can go by the clerk's office and they will give you a statement saying you were here and not somewhere else.

So have a -- Mr. Foreman, I need you to come stay for a

minute and sign the indictments. And the rest of you can be dismissed. Thank you.

(Whereupon the jury exited the courtroom at 1:57 pm)

(Whereupon Court's exhibit 5 was marked)

THE COURT: All right. The jury's been dismissed. Anything from the State?

MR. GHENT: Nothing, Your Honor.

THE COURT: Defense?

MR. SHEALY: Judge, I'd make a motion for a new trial based on my prior ---

THE COURT: All right. That motion's denied. This was not an easy case for the jury. It was well tried and well argued by both sides. But I deny that motion.

Now, Mr. -- bring Mr. Holcomb around for sentencing or you can just stay right there. But, first, any prior record?

MR. GHENT: Nothing to speak of, Your Honor.

THE COURT: All right.

MR. GHENT: I will say that -- the one other matter we'd ask the Court to address that I don't think we got to was setting an amount on bond on the other charges pending. I know it was raised, but I don't think we've ever got an order ---

THE COURT: I never heard a thing about -- that I can recall, but I'll -- I'll do something with that also. Does

he have any prior record?

MR. GHENT: No, sir.

THE COURT: All right. Mr. Shealy.

MR. SHEALY: Thank you, Your Honor. My client's forty-six years old. He does have one twenty-five year old daughter who's a student at North Greenville. He has a GED, he tells me, but he attended Southside Christian for a number of years. He was also -- has some college, the University of Colorado at Denver. He studied business and construction law.

He's been a salesman now for about twenty-eight years. As the State has said, he's not been in trouble before. I think there is a fishing over the limit charge on his record.

THE COURT: A what kind?

MR. SHEALY: A fishing over the limit.

THE COURT: Oh, okay.

MR. SHEALY: Judge, he has been in jail -- he was initially in jail for ten days. And then he has actually been in jail since August the 5th of 2014. So that's seven hundred and seventy-six days in total that he has spent in custody.

Your Honor, he has fallen off a roof. He has mental health issues as you've seen with the reports. He's currently on medication. He's on Seroquel, Effexor, Prozac,

Wellbutrin. And he's also on Phenobarbital for seizures related to that fall off of the roof.

The fall happened in Missouri shortly after this incident allegedly occurred. Obviously, we still have issues with the jury's verdict, but we understand that Your Honor needs to sentence him.

His family is here. His mother and his sister are here. I'm not going to ask them to stand up or anything, but they're here. His sister's been here all through the trial. His mother is here today. Thank you, Your Honor.

THE COURT: All right. Do you have sentencing sheets?

MR. GHENT: Oh, my gosh. No, sir, I don't.

MADAME CLERK: They come from the solicitor's office. So I guess you'll have to -- we'll have to find somebody from the solicitor's office to ---

MR. GHENT: Your Honor, may I step out?

THE COURT: Well, let's do this. Go ahead and -- we need the sentencing sheets.

MR. GHENT: Yes, sir.

MR. SHEALY: Yes, sir. I was going to ask, do you just want to go ahead and sentence him and then we'll deal with the sentencing sheets or ---

THE COURT: We can do it that way. Go ahead. What's the State's position?

MR. GHENT: Your Honor, the State's position, I'd like

to clarify, the Court asked me if he had a prior record. The answer was no. Has he ever been in trouble before? Yes. Oh, yes, he has. There's a big difference between the two.

There are two serious charges pending against him. He attacks, and sues, and accuses and files against everybody and anybody. The officer, Mr. Kindley, executed a warrant, which is not required in our jail. It's not required in any detention facility. And as a matter of precaution we got a warrant over some information that had been provided by inmates to us.

This man has attacked the victim's family. He's attacked others. He is definitely a danger. People are genuinely afraid of him. He's threatened an assistant solicitor who was prosecuting him. He's threatened Mr. Martin on the case.

Again, this is, while routinely it might be, well, I'm going to do this or that, we ask for a five year sentence because he's almost maxed out as it is and we need to get bonds posted on the other cases. And I'm going to try and get those cases moved as quickly as I can, Your Honor.

I'm not asking for anything consecutive, but he does need to get time because we do not want him frightening other people, attacking other people, suing other people. He thinks he's a lawyer. He thinks he's a brilliant

businessman. And he just doesn't get it.

It is not a day when there is a large margin for error when it comes to threatening public officials. I'm going to say this, whenever I have cases where judges were threatened, I took them very seriously and the judges took them very seriously.

I want to get my other cases tried. I intend to add at least one, maybe two other indictments in addition to those I've already filed. I've cleaned up the other ones. This case took a lot of work.

This man simply does not get it. He is, I think, potentially dangerous. I don't know for sure. I don't intend to find out. I don't intend for the County of Greenville to find out on my watch.

Please, Your Honor, give him the maximum of five years. It's fine if it's concurrent, but please do that, Your Honor, because saying he doesn't have a record is not the same thing as saying he's been a good citizen. He's been anything but. He's a predator. Thank you.

MR. SHEALY: Judge, if I may respond. He's asking you to sentence him on things that are just ---

THE COURT: I'm not going to -- I'm not going to do that.

MR. SHEALY: Thank you, Judge.

THE COURT: He's got other charges pending. And let's

wait a minute. Some of the jurors are coming in, which is fine.

(Pause)

THE COURT: All right. Mr. Holcomb, anything you want to say?

MR. HOLCOMB: There wasn't any problems like this until I fell off the roof. And I didn't get a chance to put any witnesses up. The State spent a lot of money ---

(Whereupon Mr. Shealy was speaking to Mr. Holcomb)

MR. HOLCOMB: But I didn't mean for it to happen this way. So -- and I apologize and would like to make it right.

THE COURT: Well, is the State not asking for restitution?

MR. GHENT: Your Honor, at this time we would, but he's locked up. We intend to go forward on the other charges, the threats and other things. And as I say, I take it very seriously.

Suddenly, you know, he's -- no, sir. I mean, I think it's going to be fruitless. He'll be claiming that we're taking advantage of his poverty or whatever. So I, again, go back to my position, he needs to serve time.

THE COURT: All right. Mr. Holcomb, I see this as one of -- one basic event. So the sentences I impose will not be consecutive. I'm not -- I know you've got other charges pending and we'll talk about bond on that. And I'm

seriously not taking those into consideration.

Other than the fact that I don't believe you would be a good probationer, I'm just being up-front with you, I don't think you're -- I think probation would be something that would be setting you up to fail, quite frankly. And I don't want to do that.

I'm going to sentence you to five years on each of these. They're to run concurrent. And I'm giving you credit for seven hundred and seventy-six days, which means you're pretty close to maxing out on those. So that's what the sentence would be on those.

Now, Mr. Shealy, are you ready to go forward on setting bond or do you ...

MR. SHEALY: I am, Your Honor.

THE COURT: All right. Mr. Holcomb, you want to go ahead and set bond on your other charges today or you want some time to digest what's happened today and talk to your attorney?

(Whereupon Mr. Shealy was speaking to Mr. Holcomb)

MR. SHEALY: I suppose, Judge, we're going to wait on those ---

THE COURT: Okay. I'll ---

MR. SHEALY: I'll file a motion.

THE COURT: Yeah. I think this is sort of a sea-change in where things have been as far as setting bond and, you

know, how that ought to be taken into consideration. So at this time there are no bonds on the threatening, obstructing justice and the one I've never heard of, dealing with somebody -- interfering with constitutional rights. There are no bonds on those.

So until a bond is set, Mr. Holcomb, even if you've maxed out on this, there won't -- you won't be released. All right. Thank you.

MR. GHENT: Thank you, Your Honor.

THE COURT: I thank everybody for their courtesies.

(Whereupon the Defendant exited the courtroom)

THE COURT: We've got a few housekeeping matters if you don't mind. I'm going to hand the verdict forms back. And, Madame Clerk, you did get the foreman to sign the indictments?

MADAME CLERK: I did.

THE COURT: All right. Well, I'm going to let each of you look at the indictments. They've been signed by the foreman. Just not yet -- wait just a minute and let's go through everything, what I've got to do, and then I'll turn them over to ---

MR. GHENT: And I'm really sorry about the sentencing sheets, Your Honor.

THE COURT: Well, you get the sentencing sheets and I'll be here until they're signed.

Now, I have sealed and placed an order stating my reasons for sealing some of the documentation handed up to me on the 6th. Not on the -- anyway, handed up to me earlier. I have a packet of things that were not sealed. And I, quite frankly, think the only thing to do is return them back to the person that gave them to me, which is Mr. Ghent.

MR. GHENT: May I approach?

THE COURT: Yes, sir.

MR. GHENT: Thank you, sir.

THE COURT: I also have sealed exhibit 1, which is a mental health report, Court's exhibit 1. And I believe that was the criminal responsibility one. I can't remember which one it was. No, that was the -- anyway, it must have been the competency, not the criminal -- competency. So that's been sealed.

I can't think of any other housekeeping matters other than getting the sentencing sheets filled out and signed. Anything else from the State?

MR. GHENT: Nothing from the State, Your Honor.

THE COURT: Anything?

MR. SHEALY: No, Your Honor. Do you need my client to sign the sentencing sheets ---

THE COURT: Well, ---

MR. SHEALY: --- or can I just sign it for him?

THE COURT: I think you can sign it. I don't believe that we can compel someone who has -- if someone pleads guilty, they sign.

MR. SHEALY: Yes, sir.

THE COURT: That question -- sometimes counsel, Defense counsel gets their client to sign those. Some say they don't have to because they're not agreeing to anything. And I'm kind of toward the latter.

MR. SHEALY: Yes, sir.

THE COURT: I don't know that they have to. It would be nice if he did sign it acknowledging what's set forth thereon, but he doesn't -- I don't think he has to.

MR. SHEALY: Okay. Because ---

THE COURT: I certainly couldn't make him. If he came in here and didn't -- and said he wasn't going to sign it, I don't know what I could do to make him sign it.

MR. SHEALY: Yes, sir.

THE COURT: So ...

MR. SHEALY: Okay. That just logistically would be difficult.

THE COURT: Well, I'll leave that up to you. If you want to see if he'll sign it, fine. If he does, fine. If he doesn't want to, there's nothing -- that's neither here nor there as far as I'm concerned.

MR. SHEALY: Okay.

MR. GHENT: Thank you, Your Honor.

THE COURT: All right. We'll be at ease then til ten in the morning for those who need to report back.

MR. GHENT: Thank you, Your Honor. I'll go follow up on the sentencing sheets right now.

THE COURT: Okay.

(Hearing Ended at 2:10 pm)

(End of Volume Two of Two)

(End of Requested Transcript of Record)

Certificate of Reporter

I, the undersigned, Susan W. Hudgins, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenville County, South Carolina, on the 6th - 8th day of September 2016.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

January 20, 2017

S/Susan W. Hudgins

Circuit Court Reporter

MC GINN, ROBERT



40-0Z17-728

StateFarm™

State Farm
Centralized Catastrophe Services
P.O. Box 2323
Bloomington, IL 61702-2323
Fax: 877-732-6556

Structural Damage Claim Policy

When you have a covered structural damage claim to your real property, you should know:

- We want you to receive quality repair work to restore the damages to your property.
- We will provide you with a detailed estimate of the scope of the damage and costs of repairs. Should the contractor you select have questions concerning our estimate, they should contact your claim representative directly.
- Depending upon the complexity of your repair, our estimate may or may not include an allowance for general contractor's overhead and profit. If you have questions regarding general contractor's overhead and profit and whether general contractor services are appropriate for your loss, please contact your claim representative before proceeding with repairs.
- There may be building codes, ordinances, laws, or regulations that affect the repairs of your property. These items may or may not be covered by your policy. Please contact your claim representative if you have any questions regarding coverage which may be available under your policy.
- If you select a contractor whose estimate is the same as or lower than our estimate, based on the same scope of damages, we will pay based upon their estimate. If your contractor's estimate is higher than ours, you should contact your claim representative prior to beginning repairs.
- State Farm® cannot authorize any contractor to proceed with work on your property. Repairs should proceed only with your authorization.
- State Farm does not guarantee the quality of the workmanship of any contractor or guarantee that the work will be accomplished within any specific time frame.
- It is understood that the contractor is hired by you, our insured, and that they work for you - not State Farm.

If you have any questions or need additional information regarding your claim, please contact your claim representative immediately.

StateFarm

Building Estimate Summary Guide

40-0Z17-728

This summary guide is based on a sample estimate and is provided for reference only. Please refer to the estimate for specifics of your claim.

State Farm Insurance

Insured:	Smith, Joe & Jane	Estimate:	00-0000-000
Property:	1 Main Street	Claim Number:	00-0000-000
	Anywhere, IL 00000-0000	Policy Number:	00-00-0000-0
Type of Loss:	Other	Price List:	ILBL8F_NOV09A Restoration/Service/ Remodel F = Factored in. D = Do Not Apply
Deductible:	$500.00		

Summary for Dwelling

Line Item Total			5,953.10
Material Sales Tax	@	10.000%	152.00
Subtotal			6,105.10
General Contractor Overhead	@	10.0%	610.51
General Contractor Profit	@	10.0%	610.51
Replacement Cost Value (Including General Contractor Overhead and Profit)			7,326.12
Less Depreciation (Including Taxes)			**(832.50)**
Less General Contractor Overhead & Profit on Recoverable & Non-recoverable Depreciation			**(166.50)**
Less Deductible			**(500.00)**
Net Actual Cash Value Payment			$5,827.12

Maximum Additional Amounts Available If Incurred:

Total Line Item Depreciation (Including Taxes)	832.50		
Less Non-recoverable Depreciation (Including Taxes)	**<520.00>**		
Subtotal		312.50	
General Contractor O&P on Depreciation	166.50		
Less General Contractor O&P on Non-recoverable Depreciation	**<104.00>**		
Subtotal		62.50	
Total Maximum Additional Amount Available If Incurred			375.00
Total Amount of Claim If Incurred			$6,202.12

Claim Representative

ALL AMOUNTS PAYABLE ARE SUBJECT TO THE TERMS, CONDITIONS AND LIMITS OF YOUR POLICY.

1. **Line Item Total** - Total value of all line items in the estimate plus adjustments for *base service charges*. Base Service Charges are additional charges that account for the cost the contractor or service provider incurs when mobilizing, scheduling, and transporting people and materials to the job site, and may be included in the line item portion of your estimate.
2. **General Contractor's Overhead and Profit** - General contractor's charge for coordinating your repairs.
3. **Replacement Cost Value (RCV)** - Estimated cost to repair or replace damaged property.
4. **Depreciation** - The decrease in the value of property over a period of time due to wear, tear, condition, and obsolescence. A portion or all of this amount may be eligible for replacement cost benefits.
5. **Deductible** - The insurer will pay for losses, up to the policy limits, in excess of your applicable deductible.
6. **Net Actual Cash Value Payment (ACV)** - The repair or replacement cost of the damaged part of the property less *depreciation* and *deductible*.
7. **Non Recoverable Depreciation** - *Depreciation* applied to items that are not eligible for replacement cost benefits.
8. **Total Maximum Additional Amount if Incurred** - Total amount of recoverable depreciation after actual repair or replacement of the property.
9. **Total Amount of Claim if Incurred** - Total amount of the claim, including *net actual cash value payment and total maximum additional amount available if incurred.*

You may be contacted in the future by a State Farm Reinspector to review the handling of your claim. We appreciate your cooperation.

State Farm

MC GINN, ROBERT 40-0Z17-728

Insured:	MC GINN, ROBERT	Estimate:	40-0Z17-728
Property:	[redacted] BEAVER DAM RD TRAVELERS REST, SC 29690-8900	Claim Number:	400Z17728
		Policy Number:	40-BV-8467-0
Business:	[redacted]-8221	Price List:	SCGV9F_MAY12
Cellular:	[redacted]-4522		Restoration/Service/Remodel
Type of Loss:	Hail		F = Factored In, D = Do Not Apply
Deductible:	$1,000.00		
Date of Loss:	4/5/2012		
Date Inspected:	5/23/2012		

Summary for Dwelling

Line Item Total				7,004.50
Material Sales Tax	@	6.000% x	2,941.49	176.49
Replacement Cost Value				7,180.99
Less Depreciation (Including Taxes)				(1,885.96)
Less Deductible				(1,000.00)
Net Actual Cash Value Payment				$4,295.03

Maximum Additional Amounts Available If Incurred:

Total Line Item Depreciation (Including Taxes)	1,885.96	
Total Maximum Additional Amount Available If Incurred		1,885.96
Total Amount of Claim If Incurred		$6,180.99

Rehm, Leslie
[redacted]-8676 x 7804

ALL AMOUNTS PAYABLE ARE SUBJECT TO THE TERMS, CONDITIONS AND LIMITS OF YOUR POLICY.

You may be contacted in the future by a State Farm Reinspector to review the handling of your claim. We appreciate your cooperation.

StateFarm

Explanation of Building Replacement Cost Benefits
Homeowner Policy
Dwelling

To: Name: MC GINN, ROBERT
Address: [redacted] BEAVER DAM RD
City: TRAVELERS REST
State/Zip: SC, 29690-8900

Insured: MC GINN, ROBERT
Date of Loss: 4/5/2012 .
Claim Number: 400Z17728
Cause of Loss: HAIL

Your insurance policy provides replacement cost coverage for some or all of the loss or damage to your dwelling or structures. Replacement cost coverage pays the actual and necessary cost of repair or replacement, without a deduction for depreciation, subject to your policy's limit of liability. To receive replacement cost benefits you must:

1. Complete the actual repair or replacement of the damaged part of the property within two years of the date of loss; and
2. Notify us within 30 days after the work has been completed.
3. Confirm completion of repair or replacement, by submitting invoices, receipts or other documentation to your agent or claim office.

Until these requirements have been satisfied, our payment(s) to you will be for the actual cash value of the damaged part of the property, which may include a deduction for depreciation.

Without waiving the above requirements, we will consider paying replacement cost benefits prior to actual repair or replacement if we determine repair or replacement costs will be incurred because repairs are substantially under way or you present a signed contract acceptable to us.

The estimate to repair or replace your damaged property is **$7,180.99**. The enclosed claim payment to you of **$4,295.03** is for the actual cash value of the damaged property at the time of loss, less any deductible that may apply. We determined the actual cash value by deducting depreciation from the estimated repair or replacement cost. Our estimate details the depreciation applied to your loss. Based on our estimate, the additional amount available to you for replacement cost benefits (recoverable depreciation) is **$1,885.96**.

If you cannot have the repairs completed for the repair/replacement cost estimated, please contact your claim representative prior to beginning repairs.

All policy provisions apply to your claim.

State Farm

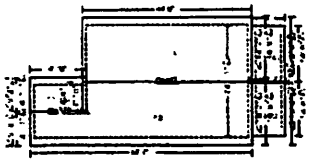
MC GINN, ROBERT 40-0Z17-728

Dwelling Interior

0.00 SF Walls	0.00 SF Ceiling	0.00 SF Walls & Ceiling
0.00 SF Floor	0.00 SF Short Wall	0.00 LF Floor Perimeter
0.00 SF Long Wall		0.00 LF Ceil. Perimeter

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
NO DAMAGE AT THE TIME OF THE INSPECTION, PER INSURED					
Totals: Dwelling Interior			**0.00**	**0.00**	**0.00**

Dwelling Exterior



Roof1

2,185.03 Surface Area	21.85 Number of Squares
281.17 Total Perimeter Length	68.58 Total Ridge Length

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
1. Remove Tear off, haul and dispose of comp. shingles - 3 tab	21.85 SQ	33.49	731.76		731.76
2. Detach & Reset Digital satellite system with one receiver	1.00 EA	19.63	19.63		19.63
3. R&R Continuous ridge vent - shingle-over style	68.58 LF	6.33	434.11		434.11
4. 3 tab - 25 yr. - composition shingle roofing - incl. felt	24.33 SQ	143.52	3,491.84	(1,336.45)	2,155.39
Totals: Roof1			**4,677.34**	**1,336.45**	**3,340.89**

Front Elevation **Formula Elevation 24' 11" x 8' 6" x 4' 5"**

266.82 SF Walls	0.00 SF Ceiling	266.82 SF Walls & Ceiling
0.00 SF Floor	266.82 SF Short Wall	24.92 LF Floor Perimeter
266.82 SF Long Wall		26.44 LF Ceil. Perimeter

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
5. R&R Rural mailbox	1.00 EA	40.09	40.09	(20.15)	19.94

State Farm

MC GINN, ROBERT

40-0Z17-728

CONTINUED - Front Elevation

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
6. Clean with pressure/chemical spray	480.15 SF	0.21	100.83		100.83
The above line item measurements includes the front elevation siding and the deck.					
7. Stain & finish wood siding	266.82 SF	0.85	226.80	(73.96)	152.84
8. Stain/finish deck handrail	48.67 LF	3.40	165.48	(39.03)	126.45
9. Stain/finish deck	269.33 SF	0.47	126.59	(37.33)	89.26
The above line item measurement includes the deck and stairs.					
10. Stain & finish Post/wood beam 12"x12"	26.67 LF	5.38	143.48	(35.12)	108.36
11. Stain & finish post/wood beam 6"x6"	53.75 LF	2.68	144.05	(35.12)	108.93
12. Paint door or window opening - Large - 2 coats (per side)	1.00 EA	20.55	20.55	(4.01)	16.54
Totals: Front Elevation			**967.87**	**244.73**	**723.14**

Right Elevation — **Formula Elevation 42' 9" x 8' 6" x 0"**

Subroom 1: Right Elevation Offset (Rear) — **Formula Elevation 13' 10" x 8' 6" x 0"**

480.96 SF Walls	0.00 SF Ceiling	480.96 SF Walls & Ceiling
0.00 SF Floor	480.96 SF Short Wall	56.58 LF Floor Perimeter
480.96 SF Long Wall		56.58 LF Ceil. Perimeter

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
13. Clean with pressure/chemical spray	552.96 SF	0.21	116.12		116.12
The above line item measurements includes the right elevation siding and the deck.					
14. Stain & finish wood siding	480.96 SF	0.85	408.82	(133.32)	275.50
15. Stain/finish deck handrail	22.00 LF	3.40	74.80	(17.64)	57.16
16. Stain/finish deck	97.00 SF	0.47	45.59	(13.44)	32.15

CONTINUED - Right Elevation

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
The above line item measurement includes the deck and stairs.					
* 17. R&R Downspout - aluminum - up to 5"	12.00 LF	4.07	48.84	(15.55)	33.29
18. R&R Window screen, 10 - 16 SF	1.00 EA	27.54	27.54	(11.27)	16.27
19. Paint door or window opening - 2 coats (per side)	2.00 EA	17.42	34.84	(6.81)	28.03
Totals: Right Elevation			**756.55**	**198.03**	**558.52**

Rear Elevation

0.00 SF Walls	0.00 SF Ceiling	0.00 SF Walls & Ceiling
0.00 SF Floor	0.00 SF Short Wall	0.00 LF Floor Perimeter
0.00 SF Long Wall		0.00 LF Ceil. Perimeter

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
****THERE WAS NO EVIDENCE OF WIND OR HAIL DAMAGE NOTED TO THE REAR ELEVATION DURING THE INSPECTION****					
Totals: Rear Elevation			**0.00**	**0.00**	**0.00**

Left Elevation

0.00 SF Walls	0.00 SF Ceiling	0.00 SF Walls & Ceiling
0.00 SF Floor	0.00 SF Short Wall	0.00 LF Floor Perimeter
0.00 SF Long Wall		0.00 LF Ceil. Perimeter

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
****THERE WAS NO EVIDENCE OF WIND OR HAIL DAMAGE NOTED TO THE LEFT ELEVATION DURING THE INSPECTION****					
Totals: Left Elevation			**0.00**	**0.00**	**0.00**

Area Totals: Dwelling Exterior

State Farm

MC GINN, ROBERT 40-0Z17-728

747.77 SF Walls	747.77 SF Short Wall	747.77 SF Walls and Ceiling
747.77 SF Long Wall		81.50 LF Floor Perimeter
397.31 Exterior Wall Area		83.02 LF Ceil. Perimeter
2,185.03 Surface Area	21.85 Number of Squares	281.17 Total Perimeter Length
68.58 Total Ridge Length		

Total: Dwelling Exterior			**6,401.76**	**1,779.21**	**4,622.55**

Metal Shed

0.00 SF Walls	0.00 SF Ceiling	0.00 SF Walls & Ceiling
0.00 SF Floor	0.00 SF Short Wall	0.00 LF Floor Perimeter
0.00 SF Long Wall		0.00 LF Ceil. Perimeter

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
****THERE WAS NO EVIDENCE OF WIND OR HAIL DAMAGE NOTED TO THE METAL SHED DURING THE INSPECTION****					
Totals: Metal Shed			**0.00**	**0.00**	**0.00**

Debris Removal

0.00 SF Walls	0.00 SF Ceiling	0.00 SF Walls & Ceiling
0.00 SF Floor	0.00 SF Short Wall	0.00 LF Floor Perimeter
0.00 SF Long Wall		0.00 LF Ceil. Perimeter

DESCRIPTION	QUANTITY	UNIT COST	RCV	DEPREC.	ACV
20. Haul debris - per pickup truck load - including dump fees	1.00 EA	89.60	89.60		89.60
Totals: Debris Removal			**89.60**	**0.00**	**89.60**
Line Item Subtotals: 40-0Z17-728			**6,491.36**	**1,779.21**	**4,712.15**

State Farm

MC GINN, ROBERT 40-0Z17-728

Adjustments for Base Service Charges	Adjustment
Carpenter - Mechanic	98.10
Cleaning Technician	51.12
General Laborer	25.15
Painter	76.38
Roofer	164.43
Siding Installer	97.96
Total Adjustments for Base Service Charges:	513.14

LINE ITEM TOTALS: 40-0Z17-728	**7,004.50**	**1,779.21**	**5,225.29**

Grand Total Areas:

747.77 SF Walls	747.77 SF Short Wall	747.77 SF Walls and Ceiling
747.77 SF Long Wall		81.50 LF Floor Perimeter
		83.02 LF Ceil. Perimeter
397.31 Exterior Wall Area		
2,185.03 Surface Area	21.85 Number of Squares	281.17 Total Perimeter Length
68.58 Total Ridge Length		

Trade Summary

Includes all applicable Tax, General Contractor O&P, and Base Service Charges

DESCRIPTION	LINE ITEM QNTY	REPL. COST TOTAL	ACV	NON-REC. DEPREC.	MAX ADDL. AMT AVAIL.
CLN CLEANING					
Clean with pressure/chemical spray	1,033.11 SF	$268.69	$268.69	$0.00	$0.00
TOTAL CLEANING		**$268.69**	**$268.69**	**$0.00**	**$0.00**
DMO GENERAL DEMOLITION					
Haul debris - per pickup truck load - including dump fees	1.00 EA	$89.60	$89.60	$0.00	$0.00
TOTAL GENERAL DEMOLITION		**$89.60**	**$89.60**	**$0.00**	**$0.00**
ELS ELECTRICAL - SPECIAL SYSTEMS					
Detach & Reset Digital satellite system with one receiver	1.00 EA	$44.78	$44.78	$0.00	$0.00
TOTAL ELECTRICAL - SPECIAL SYSTEMS		**$44.78**	**$44.78**	**$0.00**	**$0.00**
PNT PAINTING					
Stain & finish Post/wood beam 12"x12"	26.67 LF	$153.49	$116.26	$0.00	$37.23
Stain & finish post/wood beam 6"x6"	53.75 LF	$154.09	$116.86	$0.00	$37.23
Stain/finish deck	366.33 SF	$184.71	$130.89	$0.00	$53.82
Stain/finish deck handrail	70.67 LF	$256.91	$196.85	$0.00	$60.06
Paint door or window opening - 2 coats (per side)	2.00 EA	$37.16	$29.94	$0.00	$7.22
Paint door or window opening - Large - 2 coats (per side)	1.00 EA	$21.93	$17.68	$0.00	$4.25
Stain & finish wood siding	747.78 SF	$683.09	$463.37	$0.00	$219.72
TOTAL PAINTING		**$1,491.38**	**$1,071.85**	**$0.00**	**$419.53**
RFG ROOFING					
3 tab - 25 yr. - composition shingle roofing - incl. felt	24.33 SQ	$3,773.10	$2,356.46	$0.00	$1,416.64
Remove Tear off, haul and dispose of comp. shingles - 3 tab	21.85 SQ	$731.76	$731.76	$0.00	$0.00
R&R Continuous ridge vent - shingle-over style	68.58 LF	$464.83	$464.83	$0.00	$0.00
TOTAL ROOFING		**$4,969.69**	**$3,553.05**	**$0.00**	**$1,416.64**
SFG SOFFIT, FASCIA, & GUTTER					
R&R Downspout - aluminum - up to 5"	12.00 LF	$148.35	$131.87	$0.00	$16.48
TOTAL SOFFIT, FASCIA, & GUTTER		**$148.35**	**$131.87**	**$0.00**	**$16.48**
SPE SPECIALTY ITEMS					
R&R Rural mailbox	1.00 EA	$98.85	$77.49	$0.00	$21.36

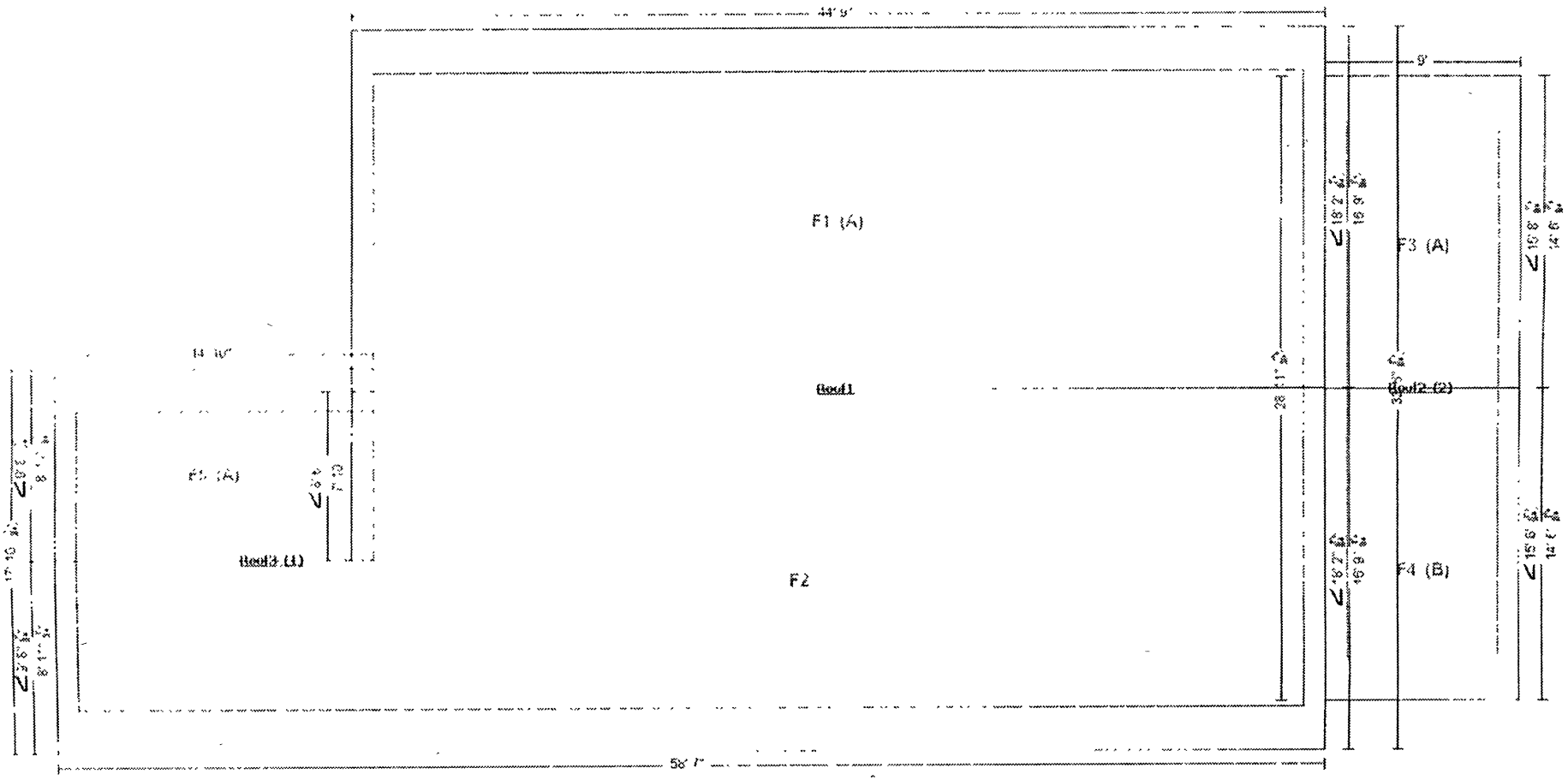
Note: Slight variances may be found within report sections due to rounding

Trade Summary

Includes all applicable Tax, General Contractor O&P, and Base Service Charges

DESCRIPTION	LINE ITEM QNTY	REPL. COST TOTAL	ACV	NON-REC. DEPREC.	MAX ADDL. AMT AVAIL.
SPE SPECIALTY ITEMS					
TOTAL SPECIALTY ITEMS		**$98.85**	**$77.49**	**$0.00**	**$21.36**
WDR WINDOW REGLAZING & REPAIR					
R&R Window screen, 10 - 16 SF	1.00 EA	$69.65	$57.70	$0.00	$11.95
TOTAL WINDOW REGLAZING & REPAIR		**$69.65**	**$57.70**	**$0.00**	**$11.95**
TOTALS		**$7,180.99**	**$5,295.03**	**$0.00**	**$1,885.96**

Note: Slight variances may be found within report sections due to rounding


F1 (A)
F3 (A)
F2
F4 (B)
F5 (A)
Bed1
Bed2 (2)
Bed3 (1)
9'
58' 7"

446

WORK STARTED IN JULY

CAROLINA HOME RENOVATORS

Carolina Home Renovators
[redacted] Rocky Creek Rd [redacted]
Greenville, SC 29615
(864) 208-6232
www.carolinahomerenovators.com

PROPOSAL 13-011973

REPRESENTATIVE: DEAN & JARED
PHONE: 208-6232
DATE: 5-25-2012

To: ROBERT MCGINN
[redacted] BEAVER DAM RD
TRAVELERS REST SC 29690

Cell
Home: [redacted]-4926
Work:
Email:

Permit needed: ☐ City ☐ County GREENVILLE

We herby submit specifications and estimate for:

Remove all existing roof materials ☐ to Deck ☒ Install Over Existing Roof

Replace with GREENTREE METAL Metal Roof

Color of Roof chosen by Homeowner

Roof will be secure against inclement weather at the end of each day

Replace all PVC plumbing boot covers and stationary vents

CERTIFIED COPY
CRIMINAL JUSTICE SUPPORT
RECORDS DIVISION
9/2/16

Step and Counter flash all walls, chimneys. Brick/ Stucco.

Clean Grounds of debris from jobs

Roof Replacement has a Waranty ☒ Labor 10 YRS ☒ Materials 40 YRS

Sheets of Decking Included Extras at $ Per Sheet OSR/ Plywood

EXTERIOR REPAIRS - STAIN SIDING & DECK
PAINT DOOR

SC 54106
LICENSE registration (LLR Website)

WE PROPOSE hereby to furnish material and labor, complete in accordance with these specifications, for the sum of:

Payable as follows: Total Due Upon Completion $ 7180.99 -
#4295.03 TO START #2885.96 - UPON COMPLETION -

All material is guaranteed to be as specified. Interest at the rate of one and on-half percent (1.5%) per month will be charged on any balence due more than thirty (30) days past scheduled payment date. All work to be completed in a workmanlike manner according to standard practices. Any alternatives or deviations from the above specifications involving extra cost will be executed only upon written orders and will become an extra charge over and above the estimate. Customer will pay Contractor $0.20 per square foot per layer for any additional layers or tear off. Contractor is not responsible for incidental or collateral damage to the interior or furnishings of the structure or structures and landscaping on which the Contractor is performing the work specified in the Agreement. Contractor is responsible only for damage directly resulting from any negligent act on the part of Contractor's workers. Customer agrees to pay resonable attorney's fees and court costs, if any, incurred by Contractor in collecting any balence due. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other neccessary insurance. There will be a $25 fee for any returned checks. We reserve the right to cancel this contract for any reason up until day of installation.

NOTE. This proposal may be withdrawn by us if not accepted within 30 days.

ACCEPTANCE OF PROPOSAL I have read and understand this proposal. The prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Customer Signature [redacted] Date [redacted]

CHR Signature Dean A. Holmes Date 5-25-12

STATE'S EXHIBIT 6 9/6/16 SH

5 JUN 2013 12 49

-5 FEB 2013 21 48

449

13-0119731

Check Copy

STATE'S EXHIBIT 67
9/6/16 SH

ROBERT McGINN
[redacted] BEAVER DAM ROAD
TRAVELERS REST, SC 29690

1040

67-737/532
BRANCH 1

May 29 2012
Date

Pay to the Order of Carolina Foothills Federal Credit Union

$ 4295.03

Four thousand two hundred ninety-five and 03/100 Dollars

Security Features Details on Back.

Bank of TRAVELERS REST

VALUE PACK CHECKING

For Partial payment on

⑈053207371⑈ [redacted] ⑈ 1040

Harland Clarke

S/TPB 02/20/2013

S/IPB 02/20/2013

450

ENCLOSE HERE

X Columbus Home Renovations Dave Hazlett

13-011973

FEB 2013 21 48

Account Agreement

Date: 09/14/2011

Institution Name & Address

Bank of Travelers Rest
PO Box 1067
Travelers Rest, SC 29690

IMPORTANT ACCOUNT OPENING INFORMATION: Federal law requires us to obtain sufficient information to verify your identity. You may be asked several questions and to provide one or more forms of identification to fulfill this requirement. In some instances we may use outside sources to confirm the information. The information you provide is protected by our privacy policy and federal law.

Enter **Non-Individual Owner Information** on page 2. There is additional **Owner/Signer Information** space on page 2.

Owner/Signer Information 1

Name	Robert M Mcginn
Relationship	Joint Owner
Address	[redacted] Beaver Dam Rd, Travelers Rest, SC 29690
Mailing Address (if different)	
Home Phone	[redacted]-4522
Work Phone	
Mobile Phone	[redacted]-4522
E-Mail	[redacted]
Birth Date	[redacted]/1965
SSN/TIN	[redacted]
Gov't Issued Photo ID (Type, Number, State, Issue Date, Exp Date)	[redacted] South Carolina 03/30/2009 10/14/2014
Other ID (Description, Details)	
Employer	
Previous Financial Inst	

Owner/Signer Information 2

Name	Christine B Mcginn
Relationship	
Address	[redacted] Beaver Dam Rd, Travelers Rest, SC 29690
Mailing Address (if different)	
Home Phone	[redacted]-1173
Work Phone	
Mobile Phone	[redacted]-1173
E-Mail	
Birth Date	[redacted]/1958
SSN/TIN	[redacted]
Gov't Issued Photo ID (Type, Number, State, Issue Date, Exp. Date)	[redacted] South Carolina 01/31/2006 10/09/2016
Other ID (Description, Details)	
Employer	
Previous Financial Inst	

Internal Use

Account Title & Address

Robert M Mcginn
Christine B Mcginn

[redacted] Beaver Dam Rd
Travelers Rest, SC 29690

Ownership of Account

The specified ownership will remain the same for all accounts.

- ☐ Individual
- ☒ Joint with Survivorship (not as tenants in common)
- ☐ Joint with No Survivorship (as tenants in common)
- ☐ Corporation - For Profit
- ☐ Corporation - Nonprofit
- ☐ Partnership
- ☐ Sole Proprietorship
- ☐ Limited Liability Company
- ☐ Trust-Separate Agreement Dated: _____
- ☐ _____

Beneficiary Designation

(Check appropriate ownership above.)

- ☐ Revocable Trust
- ☐ Pay-On-Death (POD)
- ☐ _____

Beneficiary Name(s), Address(es), and SSN(s)

(Check appropriate beneficiary designation above.)

☐ If checked, this is a temporary account agreement.

Number of signatures required for withdrawal: One

Signature(s)

The undersigned authorize the financial institution to investigate credit and employment history and obtain reports from consumer reporting agency(ies) on them as individuals. Except as otherwise provided by law or other documents, each of the undersigned is authorized to make withdrawals from the account(s), provided the required number of signatures indicated above is satisfied. The undersigned personally and as, or on behalf of, the account owner(s) agree to the terms of, and acknowledge receipt of copy(ies) of, this document and the following:

- ☒ Terms and Conditions
- ☒ Electronic Fund Transfers
- ☒ Substitute Checks
- ☐ Common Features
- ☒ Privacy
- ☒ Truth in Savings
- ☒ Funds Availability
- ☒ Personal Banking Brochure

☐ Authorized Signer (See Owner/Signer Information for Authorized Signer designation(s).)

1 [x _____]
Robert M Mcginn

2 [x _____]
Christine B Mcginn

3 [x Claire W Cummins] 4 [x]
Claire W Cummins

STATE'S EXHIBIT 31
9/6/16 SH

452

Account Agreement

Date: 09/14/2011

Institution Name & Address

Bank of Travelers Rest
PO Box 1067
Travelers Rest, SC 29690

Internal Use

Account Title & Address

Robert M Mcginn
Christine B Mcginn

[redacted] Beaver Dam Rd
Travelers Rest, SC 29690

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Enter Non-Individual Owner Information on page 2. There is additional Owner/Signer Information space on page 2.

Ownership of Account

The specified ownership will remain the same for all accounts.

- ☐ Individual
- ☒ Joint with Survivorship (not as tenants in common)
- ☐ Joint with No Survivorship (as tenants in common)
- ☐ Corporation - For Profit
- ☐ Corporation - Nonprofit
- ☐ Partnership
- ☐ Sole Proprietorship
- ☐ Limited Liability Company
- ☐ Trust-Separate Agreement Dated: _____
- ☐ _____

Beneficiary Designation

(Check appropriate ownership above.)

- ☐ Revocable Trust
- ☐ Pay-On-Death (POD)
- ☐ _____

Beneficiary Name(s), Address(es), and SSN(s)

(Check appropriate beneficiary designation above.)

Owner/Signer Information 1

Name	Robert M Mcginn
Relationship	Joint Owner
Address	[redacted] Beaver Dam Rd, Travelers Rest, SC 29690
Mailing Address (if different)	
Home Phone	[redacted]-4522
Work Phone	
Mobile Phone	[redacted]-4522
E-Mail	[redacted]
Birth Date	[redacted] 1965
SSN/TIN	[redacted]
Gov't Issued Photo ID (Type, Number, State, Issue Date, Exp Date)	[redacted] South Carolina 03/30/2009 10/14/2014
Other ID (Description, Details)	
Employer	
Previous Financial Inst	

Owner/Signer Information 2

Name	Christine B Mcginn
Relationship	
Address	[redacted] Beaver Dam Rd, Travelers Rest, SC 29690
Mailing Address (if different)	
Home Phone	[redacted]-1173
Work Phone	
Mobile Phone	[redacted]1173
E-Mail	
Birth Date	[redacted]/1958
SSN/TIN	[redacted]
Gov't Issued Photo ID (Type, Number, State, Issue Date, Exp. Date)	[redacted] South Carolina 01/31/2006 10/09/2016
Other ID (Description, Details)	
Employer	
Previous Financial Inst	

☐ If checked, this is a temporary account agreement.

Number of signatures required for withdrawal: One

Signature(s)

The undersigned authorize the financial institution to investigate credit and employment history and obtain reports from consumer reporting agency(ies) on them as individuals. Except as otherwise provided by law or other documents, each of the undersigned is authorized to make withdrawals from the account(s), provided the required number of signatures indicated above is satisfied. The undersigned personally and as, or on behalf of, the account owner(s) agree to the terms of, and acknowledge receipt of copy(ies) of, this document and the following:

- ☒ Terms and Conditions
- ☒ Electronic Fund Transfers
- ☒ Substitute Checks
- ☐ Common Features
- ☒ Privacy
- ☒ Truth in Savings
- ☒ Funds Availability
- ☒ Personal Banking Brochure

☐ Authorized Signer (See Owner/Signer Information for Authorized Signer designation(s).)

1 [X _____]
Robert M Mcginn

2 [X _____]
Christine B Mcginn

3 [X Claire W Cummins] 4 [X _____]
Claire W Cummins



[redacted]

Jun 27, 2012

Pg 1 of 5

Robert M Mcginn
Christine B Mcginn
Claire W Cummins
2017 N Hwy 25
Travelers Rest SC 29690

IMPORTANT NOTICE REGARDING CUTOFF TIMES

Bank of Travelers Rest would like to make you aware of important deposit cutoff times on your accounts. If you transfer funds using Online Banking before 9:00 pm on a business day that we are open, we will consider that day to be the day of your deposit. Transfers made on or after 9:00 pm or on a day that we are not open will be considered to be made on the next business day we are open. If you make a deposit at an ATM before 2:00 pm on a business day that we are open, we will consider that to be the day of your deposit. We will consider deposits received at an ATM on or after 2:00 pm or on a day that we are not open to be made on the next business day we are open.

ValuePack Checking

05/24/2012	Beginning Balance		58.17
	19 Deposits/Other Credits	+	11,130.15
	52 Checks/Other Debits	-	11,189.90
06/27/2012	Ending Balance 35 Days in Statement Period		1.58-

05/24/2012	Beginning Balance		58.17
05/24/2012	IB Transfer Deposit	626.21	684.38
	From DDA [redacted] 2374		
05/24/2012	ATM Withdrawal	102.50-	581.88
	5598 NORTH HWY 14 LANDRUM SC		
05/25/2012	IB Transfer Deposit	100.00	681.88
	From DDA [redacted]		
05/25/2012	Debit Card Debit	453.16-	228.72
	WAL MART SUPER CENTER TRAVELERS RES SC		
05/25/2012	Debit Card Debit	21.02-	207.70
	WALGREENS TRAVELERS RES SC		
05/29/2012	Deposit	4,300.00	4,507.70
05/29/2012	IB Transfer Deposit	526.00	5,033.70
	From DDA [redacted]		
05/29/2012	ATM Withdrawal	320.00-	4,713.70
	PLAZA DRIVE TRAV REST SC		
05/29/2012	Debit Card Debit	128.59-	4,585.11
	WAL MART SUPER CENTER TRAVELERS RES SC		
05/29/2012	ATM Withdrawal	118.71-	4,466.40
	AUTOPAY DISH NTWK 800 894 9131 CO		
05/29/2012	ATM Withdrawal	100.00-	4,366.40
	PLAZA DRIVE TRAV REST SC		
05/29/2012	Debit Card Debit	50.00-	4,316.40
	REG INFECTIOUS DISEASE SPARTANBURG SC		
05/29/2012	Debit Card Debit	15.78-	4,300.62

[redacted]

Robert M Mcginn

	WALGREENS 11463 TRAVELERS RES SC			
05/30/2012	Check	1040	4,295.03-	5.59
06/01/2012	IB Transfer Deposit		939.46	945.05
	From DDA [redacted] 2401			
06/01/2012	IB Transfer W/D		250.00-	695.05
	To DDA [redacted]			
06/01/2012	Returned Item Fee		35.00-	660.05
	Item(s) Presented 05/31/2012			
06/04/2012	IB Transfer Deposit		225.00	885.05
	From DDA [redacted]			
06/04/2012	IB Transfer Deposit		150.00	1,035.05
	From DDA [redacted]			
06/04/2012	Debit Card Debit		395.23-	639.82
	WAL MART 5487 TRAVELERS RE SC			
06/04/2012	ATM Withdrawal		220.00-	419.82
	PLAZA DRIVE TRAV REST SC			
06/04/2012	Debit Card Debit		198.97-	220.85
	WAL MART SUPER CENTER TRAVELERS RES SC			
06/04/2012	Debit Card Debit		25.00-	195.85
	MOUNTAIN VIEW FAMILY M GREER SC			
06/04/2012	Debit Card Debit		23.85-	172.00
	SPINX 178 TRAVELERS RE SC			
06/04/2012	Debit Card Debit		2.96-	169.04
	SPINX 178 TRAVELERS RE SC			
06/04/2012	ACH Payment		134.48-	34.56
	STATE FARM RO 27 SFPP			
06/05/2012	IB Transfer Deposit		1,176.21	1,210.77
	From DDA [redacted] PAYCHECK FOR 6/8			
06/05/2012	IB Transfer W/D		560.00-	650.77
	To DDA [redacted]			
06/06/2012	Transfer Deposit		200.00	850.77
	From DDA XXXXX[redacted]			
06/06/2012	ATM Withdrawal		300.00-	550.77
	PLAZA DRIVE TRAV REST SC			
06/06/2012	ATM Withdrawal		260.00-	290.77
	PLAZA DRIVE TRAV REST SC			
06/06/2012	Debit Card Debit		80.00-	210.77
	ACUPUNCTURE CENTER OF GR GREENVILLE SC			
06/06/2012	Debit Card Debit		12.00-	198.77
	EXPERIAN CREDITREPOR 866 5416937 CA			
06/06/2012	Transfer Charge		10.00-	188.77
	Transfer Charge			
06/07/2012	Debit Card Debit		107.33-	81.44

Robert M Mcginn

	WAL MART SUPER CENTER TRAVELERS RES SC			
06/07/2012	Debit Card Debit		16.19-	65.25
	WALGREENS 11463 TRAVELERS RES SC			
06/11/2012	IB Transfer Deposit		250.00	315.25
	From DDA [redacted]			
06/11/2012	IB Transfer Deposit		50.00	365.25
	From DDA [redacted]			
06/11/2012	Debit Card Debit		100.00-	265.25
	HENDERSONVILLE HENDERSONVILL NC			
06/11/2012	ATM Withdrawal		80.00-	185.25
	15 ROE CENTER CT TRAV REST SC			
06/12/2012	IB Transfer Deposit		80.00	265.25
	From DDA [redacted]			
06/12/2012	Debit Card Debit		64.89-	200.36
	WALGREENS HENDERSONVILL NC			
06/12/2012	Debit Card Debit		63.31-	137.05
	INGLES STORE 177 FLAT ROCK NC			
06/12/2012	Debit Card Debit		54.73-	82.32
	WALGREENS HENDERSONVILL NC			
06/13/2012	Deposit		933.00	1,015.32
06/14/2012	ATM Withdrawal		240.00-	775.32
	PLAZA DRIVE TRAV REST SC			
06/14/2012	Debit Card Debit		113.64-	661.68
	LOWE S 1718 GREENVILLE SC			
06/15/2012	ATM Withdrawal		202.50-	459.18
	2601 WOODRUFF RD SIMPSONVILLE SC			
06/18/2012	IB Transfer Deposit		500.00	959.18
	From DDA [redacted]			
06/18/2012	ATM Withdrawal		500.00-	459.18
	BUNCOMBE ROAD GREENVILLE SC			
06/18/2012	Debit Card Debit		155.54-	303.64
	WAL MART 5487 TRAVELERS RE SC			
06/18/2012	Debit Card Debit		80.00-	223.64
	ACUPUNCTURE CENTER OF GR GREENVILLE SC			
06/19/2012	ATM Withdrawal		83.00-	140.64
	100 LITTLE TEXAS RD TRAVELERS RES SC			
06/20/2012	Transfer Deposit		194.26	334.90
	From DDA XXXXX[redacted]			
06/20/2012	ATM Withdrawal		102.50-	232.40
	2601 LOCUST HILL R TAYLORS SC			
06/20/2012	Check	1041	165.32-	67.08
06/20/2012	Transfer Charge		10.00-	57.08
	Transfer Charge			

[redacted]

Robert M Mcginn

06/21/2012	IB Transfer Deposit From DDA [redacted] 2510	500.00	557.08
06/22/2012	ATM Withdrawal 2601 LOCUST HILL R TAYLORS SC	102.50-	454.58
06/22/2012	Debit Card Debit SPINX 190 TAYLORS SC	62.29-	392.29
06/22/2012	Check 1042	100.00-	292.29
06/25/2012	IB Transfer Deposit From DDA [redacted]	180.00	472.29
06/25/2012	Debit Card Debit WAL MART SUPER CENTER TRAVELERS RES SC	170.77-	301.52
06/25/2012	ATM Withdrawal PLAZA DRIVE TRAV REST SC	160.00-	141.52
06/25/2012	ATM Withdrawal PLAZA DRIVE TRAV REST SC	140.00-	1.52
06/26/2012	Transfer Deposit From DDA XXXXX[redacted]	200.00	201.52
06/26/2012	ATM Withdrawal AUTOPAY DISH NTWK 800 894 9131 CO	126.11-	75.41
06/26/2012	Transfer Charge Transfer Charge	10.00-	65.41
06/27/2012	ATM Withdrawal 4001 HWY 101 WOODRUFF SC	62.00-	3.41
06/27/2012	Accr Earning Pymt Added to Account	.01	3.42
06/27/2012	Maintenance Fee	5.00-	1.58-

	Total For This Period	Total Year-to-Date
Total Overdraft Fees	.00	247.50
Total Return Item Fees	35.00	35.00

Earnings Summary

** Below is an itemization of the Earnings paid this period. **

Interest Paid This Period	0.01	Annual Percentage Yield Earned	0.03 %
Interest Paid YTD	0.18	Days in Earnings Period	35

[redacted]

Jun 27, 2012

Robert M Mcginn

---------- Service Charge Summary ----------

Maintenance Fee		5.00
Total	06/27/2012	5.00

458

PO Box 531
16 Foundry Drive
Hartwell, Ga. 30643
Plant. (706) 377-7663
Fax: (706) 377-6012

STATE'S EXHIBIT 33 9/16/16 SH

"The Coolest Roof Around"

Statement

To:

Carolina Home Renovators
Dean Holcomb
[redacted] Rocky Creek Road Rd
Greenville,SC 29615

We Appreciate Your Business!!!!

All payments are applied to oldest invoices first.

Date	Amount Due
1/29/2016	$0.00

Date	Transaction	Amount	Balance
12/31/2010	Balance forward		0.00
12/09/2011	INV #6587.	2,783.09	2,783.09
12/09/2011	PMT	-2,783.09	0.00
12/15/2011	INV #6645.	151.82	151.82
12/15/2011	PMT	-151.82	0.00
12/29/2011	INV #6763.	434.61	434.61
12/29/2011	INV #6764.	1,846.89	2,281.50
12/29/2011	PMT	-2,281.50	0.00
01/16/2012	INV #6930.	600.32	600.32
01/16/2012	PMT	-600.32	0.00
03/01/2012	INV #7517.	2,380.68	2,380.68
03/02/2012	PMT Ben-Hartwell	-2,380.68	0.00
03/12/2012	INV #7666.	111.53	111.53
03/12/2012	PMT	-111.53	0.00
03/13/2012	INV #7689.	39.20	39.20
03/13/2012	PMT Ben-Hartwell	-39.20	0.00
03/13/2012	INV #7697.	239.20	239.20
03/13/2012	PMT Ben-Hartwell	-239.20	0.00
03/14/2012	INV #7717.	1,300.17	1,300.17
03/14/2012	INV #7718.	117.96	1,418.13
03/14/2012	PMT Ben-Hartwell	-1,418.13	0.00
03/16/2012	INV #7746.	96.57	96.57
03/19/2012	INV #7786.	135.06	231.63
03/20/2012	INV #7794.	43.75	275.38
03/20/2012	PMT wayne hartwell	-43.75	231.63
03/20/2012	PMT wayne hartwell	-231.63	0.00
04/23/2012	INV #8237.	2,866.88	2,866.88
04/23/2012	PMT #2363. Ben-Hartwell	-2,866.88	0.00
04/25/2012	INV #8279.	132.49	132.49
04/25/2012	PMT hartwell-brian	-132.49	0.00
05/01/2012	INV #8366.	24.05	24.05
05/29/2012	INV #8752.	3,179.16	3,203.21
05/29/2012	PMT Hartwell-TR	-3,203.21	0.00

CURRENT	1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	Amount Due
0.00	0.00	0.00	0.00	0.00	$0.00

GREEN TREE METALS
PO Box 531
16 Foundry Drive
Hartwell, Ga. 30643
Plant: (706) 377-7663
Fax : (706) 377-6012

"The Coolest Roof Around"

ENERGY STAR

We Appreciate Your Business!!!!

PAID 05/29/2012

STATE'S EXHIBIT 34 9/6/16 SH

Bill To	Deliver To
Carolina Home Renovators Dean Holcomb [redacted] Rocky Creek Road Rd Greenville,SC 29615	

Date	P.O. No.	Terms	Invoice #	Project	Rep
5/29/2012		Due on receipt	8752		BA

Description	Panel QTY	Feet	Inches	Total Qty	Total
BUNDLE4					
Tuff Rib 29ga, Hawaiian Blue	1	18	0	18	34.02
Tuff Rib 29ga, Hawaiian Blue	1	15	0	15	28.35
Tuff Rib 29ga, Hawaiian Blue	1	12	0	12	22.68
Tuff Rib 29ga, Hawaiian Blue	1	9	0	9	17.01
Tuff Rib 29ga, Hawaiian Blue	1	6	0	6	11.34
Tuff Rib 29ga, Hawaiian Blue	1	3	0	3	5.67
BUNDLE5					
Tuff Rib 29ga, Hawaiian Blue	2	11	1	22.2	41.96
Tuff Rib 29ga, Hawaiian Blue	2	10	6	21	39.69
Tuff Rib 29ga, Hawaiian Blue	2	7	6	15	28.35
Tuff Rib 29ga, Hawaiian Blue	2	4	6	9	17.01
Drip Edge,29ga, Hawaiian Blue				11	65.45
W Valley,29ga, Hawaiian Blue				12	235.20
Standard Ridge, 29ga, Hawaiian Blue				14	201.74
Rake Gable, Standard,29ga, Hawaiian Blue				19	166.25
Side Wall, Standard,29ga, Hawaiian Blue				2	27.96
3 Gray Round Pipe Flashing 1/4" to 4"-8" base (Constant Heat 212F & Intermittent Heat at 275F)				2	25.74
#10x1.5 Woodbinder Hawaiian Blue 250 per bag				3.500	252.00
SolarSeal Hawaiian Blue 11oz				5	29.95
Aerosol Paint, 6oz, Hawaiian Blue				1	9.95
Aerosol Paint, 6oz, Cocoa Brown				1	9.95

I certify that the above invoice has been counted and verified as correct and that all items were delivered undamaged and in good order.
Sign_____ **Date**_____

Panels should be kept dry if not installed within a few days.

Ask about our Energy Star approved Roofing Panels and 2011 TAX CREDIT...www.energystar.gov

All payments are applied to oldest invoices first.

We Appreciate Your Business!

Subtotal	
Sales Tax (7.0%)	
Total	

Manufacturer of Quality Roofing and Siding

GreenTreeMetals.com

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PAID 05/29/2012

Bill To	Deliver To
Carolina Home Renovators Dean Holcomb [redacted] Rocky Creek Road Rd Greenville,SC 29615	

Date	P.O. No.	Terms	Invoice #	Project	Rep
5/29/2012		Due on receipt	8752		BA

Description	Panel QTY	Feet	Inches	Total Qty	Total
Tuff Rib 29ga, Hawaiian Blue	10	9	3	92.5	174.83
Tuff Rib 29ga, Hawaiian Blue	2	6	8	13.3	25.14
Tuff Rib 29ga, Hawaiian Blue	2	3	8	7.33	13.85
Tuff Rib 29ga, Hawaiian Blue	1	15	0	15	28.35
Tuff Rib 29ga, Hawaiian Blue	2	11	6	23	43.47
Tuff Rib 29ga, Hawaiian Blue	1	8	0	8	15.12
Tuff Rib 29ga, Hawaiian Blue	1	16	0	16	30.24
BUNDLE2				74	139.86
Tuff Rib 29ga, Hawaiian Blue	4	18	6	358.3	677.19
Tuff Rib 29ga, Hawaiian Blue	20	17	11	31	58.59
Tuff Rib 29ga, Hawaiian Blue	2	15	6	25	47.25
Tuff Rib 29ga, Hawaiian Blue	2	12	6	9.5	17.96
Tuff Rib 29ga, Hawaiian Blue	1	9	6	6.5	12.29
Tuff Rib 29ga, Hawaiian Blue	1	6	6	3.5	6.62
Tuff Rib 29ga, Hawaiian Blue	1	3	6	11.5	21.74
Tuff Rib 29ga, Hawaiian Blue	1	11	6	15	28.35
Tuff Rib 29ga, Hawaiian Blue	1	15	0		
BUNDLE3				134.16	253.56
Tuff Rib 29ga, Hawaiian Blue	7	19	2	37	69.93
Tuff Rib 29ga, Hawaiian Blue	2	18	6	31	58.59
Tuff Rib 29ga, Hawaiian Blue	2	15	6	25	47.25
Tuff Rib 29ga, Hawaiian Blue	2	12	6	19	35.91
Tuff Rib 29ga, Hawaiian Blue	2	9	6	13	24.57
Tuff Rib 29ga, Hawaiian Blue	2	6	6	7	13.23
Tuff Rib 29ga, Hawaiian Blue	2	3	3		

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Sign_____ **Date**_____

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Total	

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PAID 05/29/2012

Bill To	Deliver To
Carolina Home Renovators Dean Holcomb [redacted] Rocky Creek Road Rd Greenville,SC 29615	

Date	P.O. No.	Terms	Invoice #	Project	Rep
5/29/2012		Due on receipt	8752		BA

Description	Panel QTY	Feet	Inches	Total Qty	Total
Delivery Charge					65.00

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Sign_____ **Date**_____

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We Appreciate Your Business!

Subtotal	$3,179.16
Sales Tax (7.0%)	$0.00
Total	$3,179.16

Manufacturer of Quality Roofing and Siding

GreenTreeMetals.com

GREEN TREE METALS
PO Box 531
16 Foundry Drive
Hartwell, Ga. 30643
Plant: (706) 377-7663
Fax : (706) 377-6012

"The Coolest Roof Around"

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Preciate Your Business!!!!

PAID 05/29/2012

Bill To	Deliver To
Carolina Home Renovators Dean Holcomb [redacted] Rocky Creek Road Rd Greenville,SC 29615	[redacted] LEE ST Lyman, SC

Date	P.O. No.	Terms	Invoice #	Project	Rep
5/29/2012		Due on receipt	8752		BA

Description	Panel QTY	Feet	Inches	Total Qty	Total
Tuff Rib 29ga, Hawaiian Blue	10	9	3	92.5	174.83
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Tuff Rib 29ga, Hawaiian Blue	1	8	0	8	15.12
Tuff Rib 29ga, Hawaiian Blue	1	16	0	16	30.24
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Tuff Rib 29ga, Hawaiian Blue	4	18	6	74	139.86
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Tuff Rib 29ga, Hawaiian Blue	1	6	6	6.5	12.29
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Tuff Rib 29ga, Hawaiian Blue	2	18	6	37	69.93
Tuff Rib 29ga, Hawaiian Blue	2	15	6	31	58.59
Tuff Rib 29ga, Hawaiian Blue	2	12	6	25	47.25
Tuff Rib 29ga, Hawaiian Blue	2	9	6	19	35.91
Tuff Rib 29ga, Hawaiian Blue	2	6	6	13	24.57
Tuff Rib 29ga, Hawaiian Blue	2	3	3	7	13.23

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Subtotal	
Sales Tax (7.0%)	
Total	

Manufacturer of Quality Roofing and Siding

GreenTreeMetals.com

S/IPB 06/14/2013

14 JAN 2013 09:11

STATE'S EXHIBIT 35 9/16/16 SH

13-011973

PO Box 531
16 Foundry Drive
Hartwell, Ga. 30643
Plant: (706) 377-7663
Fax : (706) 377-6012

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PAID 05/29/2012

Bill To	Deliver To
Carolina Home Renovators Dean Holcomb [redacted] Rocky Creek Road Rd Greenville,SC 29615	

Date	P.O. No.	Terms	Invoice #	Project	Rep
5/29/2012		Due on receipt	8752		BA

Description	Panel QTY	Feet	Inches	Total Qty	Total
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We Appreciate Your Business!

Subtotal	
Sales Tax (7.0%)	
Total	

Manufacturer of Quality Roofing and Siding

GreenTreeMetals.com

14 JUN 2013 09:11

3:11-cv-00114-2013

13-011973

GREEN TREE METALS
PO Box 531
16 Foundry Drive
Hartwell, Ga. 30643
Plant: (706) 377-7663
Fax : (706) 377-6012

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ENERGY STAR

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PAID 05/29/2012

Bill To	Deliver To
Carolina Home Renovators Dean Holcomb [redacted] Rocky Creek Road Rd Greenville,SC 29615	

Date	P.O. No.	Terms	Invoice #	Project	Rep
5/29/2012		Due on receipt	8752		BA

Description	Panel QTY	Feet	Inches	Total Qty	Total
Delivery Charge					65.00

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All payments are applied to oldest invoices first.

We Appreciate Your Business!

Subtotal	$3,179.16
Sales Tax (7.0%)	$0.00
Total	$3,179.16

Manufacturer of Quality Roofing and Siding

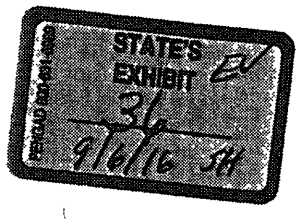
GreenTreeMetals.com

RECEIVED 14 Jun 2013 09 11
S. IHB 06/14/2013

SOUTH CAROLINA FARM BUREAU MUTUAL INS CO

CLAIMS
COPY

7283701



SUSAN CLARKE
KENNETH CLARKE
[redacted] LEE ST
LYMAN, SC 29365-9520-69

08 12

IMCLCK (01/2003) REMITTANCE STATEMENT 7283701

CLAIMANT	POLICY ITEM	COVG/LOSS	CAUSE OF LOSS	ENDORSEMENT	DISP	AMOUNT
01	001	A	14	20120705173909 CLAIM NO 0125444 ADJUSTER: 1I PRINT DT: 07/05/2012		********705 34

DETACH BEFORE CASHING

SOUTH CAROLINA FARM BUREAU MUTUAL INSURANCE COMPANY

PO Box 2124 West Columbia, SC 29171-2124

67-448
539

BANK OF AMERICA
COLUMBIA, S C

7283701

DATE	PAY THIS AMOUNT
07/05/2012	*********705.34

NOT VALID AFTER 90 DAYS

Full Payment For ANY AND ALL CLAIMS Date of Accident 04/05/2012

Insured SUSAN CLARKE

Claim Number HO0125444 Policy Number HO0439887 County 42 Adjuster 1I

SEVEN HUNDRED FIVE DOLLARS AND THIRTY-FOUR CENTS **********

PAY TO THE ORDER OF
SUSAN CLARKE
KENNETH CLARKE
[redacted] LEE ST
LYMAN, SC 29365-9520-69

CLAIMS CHECK - SC

JUL 09 2012

VOID/NON-NEGOTIABLE

AUTHORIZED SIGNATURE

VOID OVER $705 34

⑈7283701⑈ ⑆[redacted]⑆ 000764134839⑈

MM 7-9-12

466

FARM BUREAU INSURANCE

Claim Department
Inter-Office Communication

To: Mark Gore
Insured: Susan Clark
Claim No: HO 125444
Loss Date: 4/5/12
Enclosures: RCC, Estimate from Roofer, CC

From: Brent Boyleston
Date: 7/5/12
Policy No: HO 439887
CC:

STATUS REPORT

DISPOSITION: REceived RCC sheet and estimate from roofer, Paid per attached

RESERVE: None

OUTSTANDING. None

Please close file

Cl. 1R

ENTERED JUL 09 2012

MB
7-9-12

JUL 09 2012

FARM BUREAU INSURANCE
2124
29171-2124
Toll-Free:1.800.799.7500
www.scfbins.com

Post Office Box 467
West Columbia SC

STATEMENT AS TO FULL COST OF REPAIR OR REPLACEMENT UNDER THE REPLACEMENT COST SUBJECT TO THE TERMS AND CONDITIONS OF THIS POLICY

SURED: Susan Clarke CLAIM NO.: HO 125444

)LICY NO.: HO 439887 POLICY FORM:[X] HO-9 [ ] HO-3 [ ] DF-3 ENDORSEMENT: [ ] HO-290

)LICY INCLUDES PERSONAL PROPERTY REPLACEMENT COVERAGE [X] Yes [ ] No

\TE OF LOSS: 04/05/2012 CAUSE OF LOSS _____

)VERAGE A: $138,000.00 COVERAGE B: $0.00 COVERAGE C:$0.00

=AR POLICY HOLDER.

ne of the most important provisions of your insurance policy is REPLACEMENT COST COVERAGE This =PLACEMENT COST applies to your dwelling, other structures that are buildings and depending on the policy form ıu choose, may also apply to your personal property. This coverage provides for the full cost of repairs to or placement of your damaged property without deduction for depreciation. The repairs must be completed with like ıd quality of material before the full cost is payable.

ur claims adjuster has made an evaluation of your claim based on the actual cost to make repair to or replacement ıur damaged property without deduction for depreciation. The repairs must be completed with like kind and quality material before the full cost is payable.

ur claims adjuster has made an evaluation of your claim based on the actual cost to make repair to or replacement ıur damaged property. After the damaged property has been repaired or replaced, we will pay you either the amount recoverable depreciation (line 3 amount) or the amount actually spent to repair or replace your property in excess the actual cash value of the loss (line 4 amount), whichever is less.

ıe total of our original payment plus our payment of the additional claim amount will equal the total cost of the pairs to your damaged property less your policy deductible amount.

1. THE FULL COST OF REPAIR OR REPLACEMENT IS:	$6,580.07
2. LESS NON - RECOVERABLE DEPRECIATION:	$0.00
3. LESS RECOVERABLE DEPRECIATION:	$705.34
4. ACTUAL CASH VALUE OF THE LOSS IS (LINE 1 MINUS 4 MINUS 5)	$5,874.73
5. LESS DEDUCTIBLE:	$1,000.00
6. ACTUAL CASH VALUE CLAIM IS (LINE 4 MINUS LINE 5)	**$4,874.73**
7 (RECOVERABLE DEPRECIATION)	
ADDITIONAL CLAIM, TO BE FILED IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE REPLACEMENT COST COVERAGE WILL NOT EXCEED:	$705.34

EQUEST FOR PAYMENT OF ADDITIONAL CLAIM AMOUNT AS INDICATED ON LINE 7 MUST BE CCOMPANIED BY PAID BILLS, RECEIPTS, AND / OR CANCELLED CHECKS.

OUR SIGNATURE BELOW IS YOUR AFFIDAVIT THAT THE WORK AS SPECIFIED IN THE ESTIMATE OR EPAIR OR REPLACEMENT HAS BEEN COMPLETED.

RECEIVED JUL 0 5 2012

'SOL®
RM REP-1/3 0-SP4 E

Invoice

Date: June 15, 2012
Invoice #: 3362
Customer ID: Clark

To. Susan Clark
[redacted] Lee St
Lyman, SC 29365
Claim # HO 125444

Salesperson	Job	Payment Terms	Due Date
Carolina Home Renovators	Clark	Due upon receipt	

Qty	Description	Unit Price	Line Total
	Remove Composition Shingle Roofing		$ -
	Install Metal Roof		-
			-
			-
			-
			-
			-
			-
			-
			-
			-
			-
			-
			-
			-
			-
	Deductable		(1,000 00)
	ACV		(4,874 73)

Subtotal	$	6,580 07
Credits		(5,874.73)
Total	$	705.34

Make all checks payable to **Carolina Home Renovators**
Thank you for your business!

[redacted] Rocky Creek Rd, #[redacted], Greenville, SC 29615 (864) 208-6232 (866) 295-9621 dean@carolinahomerenovators com

JUL 09 2012

SOUTH CAROLINA FARM BUREAU MUTUAL INS CO

CLAIMS
COPY

7280493

SUSAN CLARKE
KENNETH CLARKE
AND WELLS FARGO BANK
[redacted] LEE ST
LYMAN, SC 29365-9520-69

CLOSED- EM

OP 8R

SMCLCK (01/2003) REMITTANCE STATEMENT 7280493

CLAIMANT	POLICY ITEM	COVG/LOSS	CAUSE OF LOSS	ENDORSEMENT	DISP	AMOUNT
01	001	A	14	20120417142423 CLAIM NO: 0125444 ADJUSTER: 1I PRINT DT: 04/17/2012	Y	*******4,874 43

DETACH BEFORE CASHING

SOUTH CAROLINA FARM BUREAU MUTUAL INSURANCE COMPANY

PO Box 2124 West Columbia, SC 29171-2124

67-448
539

BANK OF AMERICA
COLUMBIA, S C

7280493

DATE	PAY THIS AMOUNT
04/17/2012	*******4,874.43

In Full Payment For ANY AND ALL CLAIMS Date of Accident 04/05/2012

Insured SUSAN CLARKE

Claim Number HO0125444 Policy Number HO0439887 County 42 Adjuster 1I

NOT VALID AFTER 90 DAYS

[redacted] *FOUR THOUSAND EIGHT HUNDRED SEVENTY-FOUR DOLLARS AND FORTY-THREE CENTS* *********

CLAIMS CHECK - SC

PAY TO THE ORDER OF
SUSAN CLARKE
KENNETH CLARKE
AND WELLS FARGO BANK
[redacted] LEE ST
LYMAN, SC 29365-9520-69

VOID/NON-NEGOTIABLE

AUTHORIZED SIGNATURE

VOID OVER $4,874 43

APR 20 2012
4-20-12

⑈7280493⑈ ⑆[redacted]⑆ 000764134839⑈

470

Booth, John

From:	Booth, John
Sent:	Wednesday, April 18, 2012 8:30 AM
To:	Abstance, Debbie
Subject:	FW: HO 125444
Attachments:	Clarke.PDF

Debbie:

- Archive email
- Close 1I & Open to 8R
- Res: A-14- S706

Johnny Booth, AIC
Field Supervisor
SC Farm Bureau Mutual Insurance Co.
Southern Farm Bureau Casualty Insurance Co.
(mobile) [redacted]*9809*
(email) [redacted]

From: Boyleston, Brent
Sent: Tuesday, April 17, 2012 2:26 PM
To: Booth, John
Subject: HO 125444

Johnny,

Paid per attached. Please close file.

Thanks,

Brent Boyleston
SC Farm Bureau

SC Farm Bureau
45 Aaron Tippin Dr.
Greer, SC 29651
(864)879-1782

TO: Mark Gore
SC Farm Bureau
45 Aaron Tippin Dr.
Greer, SC 29651

ADJ FILE NUMBER: HO 125444
CO CLAIM NUMBER: HO 125444
CAT NUMBER:

RE: POLICY #: HO 439887
INSURED: Susan Clarke
LOSS: [redacted] Lee St
Lyman, SC 29365
CLAIMANT:

DATE OF LOSS: 04/05/2012
TYPE OF LOSS: Hail
DATE RECEIVED: 04/16/2012
DATE INSPECTED: 04/16/2012

COVERAGE				RESERVE
$138,000.00	Item BUILDING	Ded:	$1,000.00	$0.00
$0.00	Item A.P.S	Ded:	$0.00	$0.00
$0.00	Item U.P.P / CONTENTS	Ded:	$0.00	$0.00
$0.00	Item A.L.E.	Ded:	$0.00	$0.00

Forms: HO 9
Co-insurance: [X] No [ ] Yes Penalty: %
Mortgagees: Wells Fargo

RISK
Building Type:
Building Age:
Total Living: 0.0
Replacement Cost: $0.00
Depreciation: $0.00
Actual Cash Value: $0.00

ORIGIN Hail

ADJUSTMENT Confirmed Coverage. Viewed damage and paid per attached.

PAYMENT

$4,874.43	Item Coverage A	Payable To: Insured
	Item	Payable To:
	Item	Payable To:
	Item	Payable To:

SUBROGATION: [X] No [ ] Yes (See Remarks)
SALVAGE: [X] No [ ] Yes (See Remarks)

REMARKS Please close file

ENCLOSURES

[X] Building Worksheets ()	[X] Photographs ()	[ ] Proof of Loss
[ ] Content Worksheets ()	[ ] Narrative (pp)	[X] R/C Proof
[X] CC	[X] Diagram	[ ]

ADJUSTER: Brent Boyleston
DATE: 04/16/2012
THANK YOU FOR THIS ASSIGNMENT

472

FARM BUREAU INSURANCE

South Carolina Farm Bureau Mutual Insurance Company

Post Office Box 2124
West Columbia SC 29171-2124
Toll-Free:1.800.799.7500
www.scfbins.com

STATEMENT AS TO FULL COST OF REPAIR OR REPLACEMENT UNDER THE REPLACEMENT COST SUBJECT TO THE TERMS AND CONDITIONS OF THIS POLICY

INSURED: Susan Clarke CLAIM NO.: HO 125444

POLICY NO.: HO 439887 POLICY FORM:[X] HO-9 [ ] HO-3 [ ] DF-3 ENDORSEMENT: [ ] HO-290

POLICY INCLUDES PERSONAL PROPERTY REPLACEMENT COVERAGE [X] Yes [ ] No

DATE OF LOSS: 04/05/2012 CAUSE OF LOSS: _____

COVERAGE A: $138,000.00 COVERAGE B: $0.00 COVERAGE C:$0.00

DEAR POLICY HOLDER:

One of the most important provisions of your insurance policy is REPLACEMENT COST COVERAGE. This REPLACEMENT COST applies to your dwelling, other structures that are buildings and depending on the policy form you choose, may also apply to your personal property. This coverage provides for the full cost of repairs to or replacement of your damaged property without deduction for depreciation. The repairs must be completed with like and quality of material before the full cost is payable.

Our claims adjuster has made an evaluation of your claim based on the actual cost to make repair to or replacement your damaged property without deduction for depreciation. The repairs must be completed with like kind and quality of material before the full cost is payable.

Our claims adjuster has made an evaluation of your claim based on the actual cost to make repair to or replacement your damaged property. After the damaged property has been repaired or replaced, we will pay you either the amount of recoverable depreciation (line 3 amount) or the amount actually spent to repair or replace your property in excess of the actual cash value of the loss (line 4 amount), whichever is less.

The total of our original payment plus our payment of the additional claim amount will equal the total cost of the repairs to your damaged property less your policy deductible amount.

1. THE FULL COST OF REPAIR OR REPLACEMENT IS:	$6,580.07
2. LESS NON - RECOVERABLE DEPRECIATION:	$0.00
3. LESS RECOVERABLE DEPRECIATION:	$705.34
4. ACTUAL CASH VALUE OF THE LOSS IS (LINE 1 MINUS 4 MINUS 5)	$5,874.73
5. LESS DEDUCTIBLE:	$1,000.00
6. ACTUAL CASH VALUE CLAIM IS (LINE 4 MINUS LINE 5)	**$4,874.73**
7. (RECOVERABLE DEPRECIATION)	
ADDITIONAL CLAIM, TO BE FILED IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE REPLACEMENT COST COVERAGE WILL NOT EXCEED:	$705.34

REQUEST FOR PAYMENT OF ADDITIONAL CLAIM AMOUNT AS INDICATED ON LINE 7 MUST BE ACCOMPANIED BY PAID BILLS, RECEIPTS, AND / OR CANCELLED CHECKS.

YOUR SIGNATURE BELOW IS YOUR AFFIDAVIT THAT THE WORK AS SPECIFIED IN THE ESTIMATE OR REPAIR OR REPLACEMENT HAS BEEN COMPLETED.

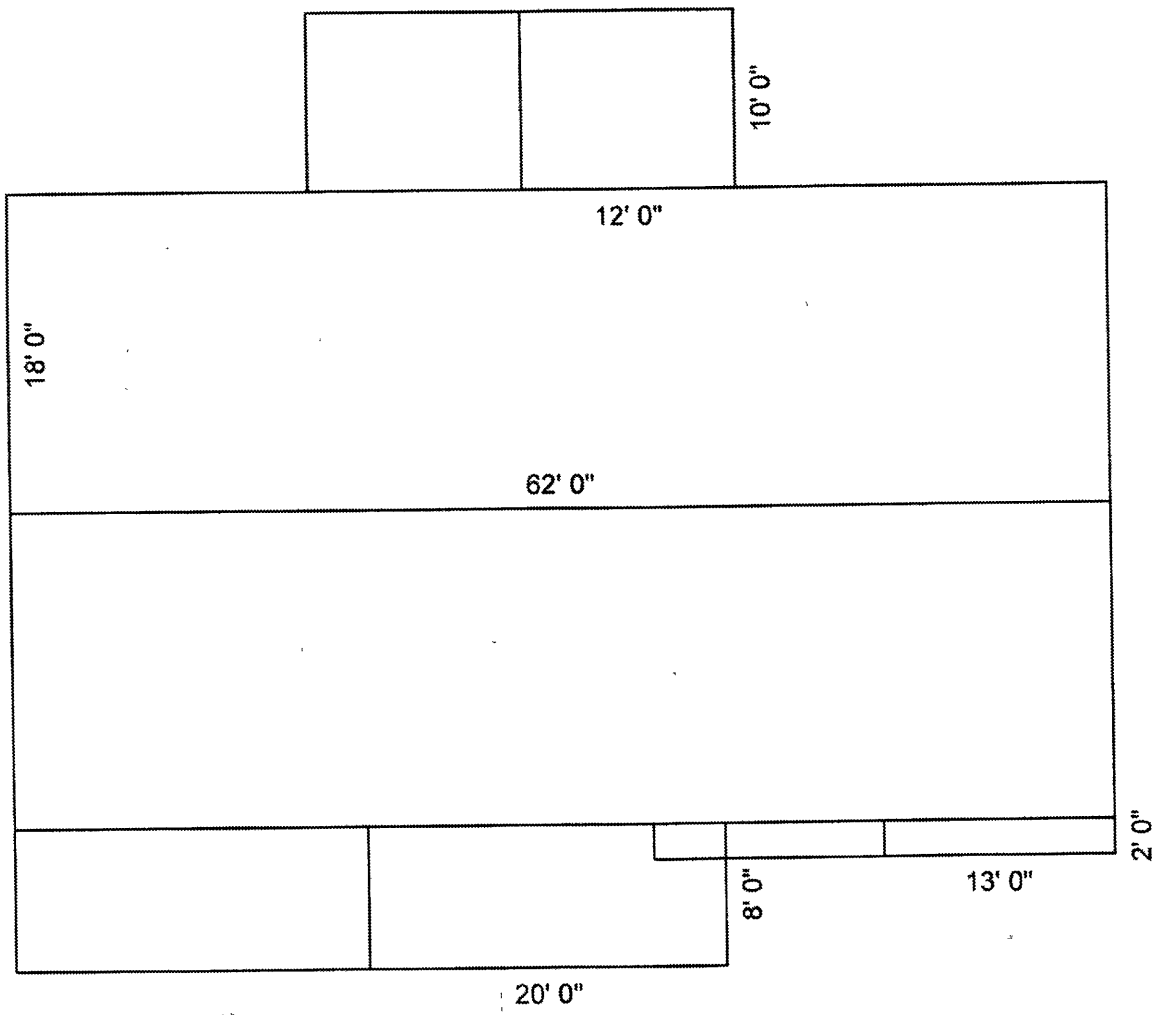
INSURED SIGNATURE

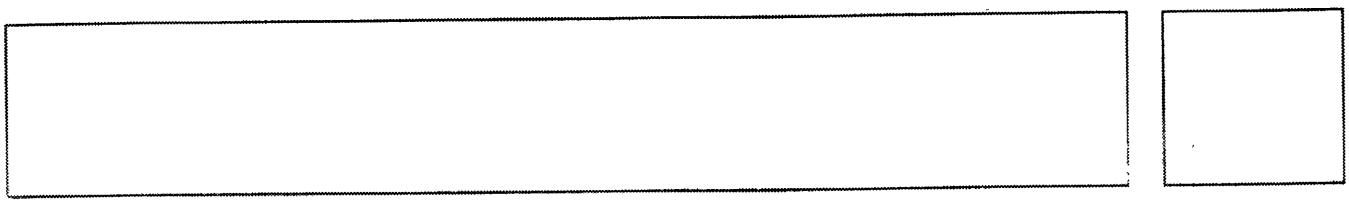
DATE

FARM BUREAU INSURANCE

INSURED	: Susan Clarke
LOCATION	: [redacted]Lee St . Lyman, SC 29365
COMPANY	. SC Farm Bureau 45 Aaron Tippin Dr. : Greer, SC 29651

DATE OF REPORT	: 04/16/2012
DATE OF LOSS	: 04/05/2012
POLICY NUMBER	: HO 439887
CLAIM NUMBER	. HO 125444
OUR FILE NUMBER	: HO 125444
ADJUSTER NAME	: Brent Boyleston





SMSOL®
Adjuster CAD/3.0-SP4 e

INSURED	Susan Clarke	DATE OF REPORT	04/16/2012
LOCATION	[redacted] Lee St	DATE OF LOSS	04/05/2012
	Lyman, SC 29365	POLICY NUMBER	HO 439887
COMPANY	SC Farm Bureau	CLAIM NUMBER	HO 125444
	45 Aaron Tippin Dr.	OUR FILE NUMBER	HO 125444
	Greer, SC 29651	ADJUSTER NAME	Brent Boyleston

Estimate Section: **Roof**

Square/Rectangle:	21.96	SQ	(Rectangle 61' x 18')
Square/Rectangle:	2.40	SQ	(Rectangle: 10' x 12')
Square/Rectangle:	3.20	SQ	(Rectangle: 8' x 20')
Square/Rectangle:	0.48	SQ	(Rectangle: 2' x 12')
Total Squares:	30.84	SQ	(28.04 with 10.00% waste)

Quantity	Description	Unit Cost	RCV	DEP	ACV
30.8 SQ	Remove and Replace Architectural Composition Shingles	$185.00	$5,698.00	$597.15	$5,100.85
83.0 LF	Remove and Replace Ridge Vent	$5.31	$440.73	$49.18	$391.55
2.0 EA	Remove and Replace Plumbing Boot (Cone)	$13.25	$26.50	$2.62	$23.88
2.0 EA	Remove and Replace Single Vent Stack	$94.23	$188.46	$10.25	$178.21
	Totals For Roof		**$6,353.69**	**$659.20**	**$5,694.49**

Repair Item Totals	**$6,353.69**	**$659.20**	**$5,694.49**
Applicable Sales Tax	$226.38	$46.14	$180.24
Estimate Grand Totals	$6,580.07	$705.34	$5,874.73
Policy Deductible	($1,000.00)		($1,000.00)
BUILDING FINAL TOTALS	**$5,580.07**		**$4,874.73**
Recoverable Depreciation		$705.34	
Non-Recoverable Depreciation			

*** *This is an estimate of recorded damages and is subject to review and final approval by the insurance carrier.* ***

INSURED	: Susan Clarke	DATE OF REPORT	: 04/16/2012
LOCATION	: [redacted] Lee St	DATE OF LOSS	: 04/05/2012
	: Lyman, SC 29365	POLICY NUMBER	: HO 439887
COMPANY	: SC Farm Bureau	CLAIM NUMBER	: HO 125444
	: 45 Aaron Tippin Dr.	OUR FILE NUMBER	: HO 125444
	: Greer, SC 29651	ADJUSTER NAME	: Brent Boyleston

ESTIMATE TOTALS

ESTIMATE TOTAL PAGE ITEMS	RCV	DIFF	ACV
Repair Item Totals	**$6,353.69**	**$659.20**	**$5,694.49**
Applicable Sales Tax Rate: 7.00% (Includes M,E)	$226.38	$46.14	$180.24
Estimate Grand Totals	$6,580.07	$705.34	$5,874.73
Less Deductible	($1,000.00)		($1,000.00)
BUILDING FINAL TOTALS	**$5,580.07**	**$705.34**	**$4,874.73**
RECOVERABLE DEPRECIATION *		**$705.34**	
NON-RECOVERABLE DEPRECIATION		**$0.00**	

*This amount represents the total recoverable depreciation for this estimate. Any payable recoverable depreciation is subject to policy coverage limit. Please check policy coverage limit prior to issuing any recoverable depreciation reimbursements.

Notice:

Please read this notice carefully. It contains important information about your claim and this estimate:

South Carolina Farm Bureau Mutual Insurance Company (Mutual) or Palmetto Casualty Insurance Company (Palmetto) has prepared this itemized estimate to repair the covered damage to your property. If you have hired a person to make repairs and that person has questions concerning this estimate, you or the person you have hired to make the repairs should contact your adjuster promptly.

Depending upon the complexity of your repairs, this estimate may or may not include an allowance for general contractor's overhead and profit. If you have any questions regarding general contractor's overhead and profit, please contact your adjuster before proceeding with repairs.

Any person you have hired to make repairs is hired by you and works for you - not (Mutual) or (Palmetto). (Mutual) or (Palmetto) does not guarantee the quality or the workmanship of any person you have hired, and does not guarantee that the repairs will be accomplished within any specific time frame.

*** *This is an estimate of recorded damages and is subject to review and final approval by the insurance carrier.* ***

INSURED	: Susan Clarke	DATE OF REPORT	: 04/16/2012
LOCATION	: [redacted] Lee St	DATE OF LOSS	: 04/05/2012
	: Lyman, SC 29365	POLICY NUMBER	: HO 439887
COMPANY	: SC Farm Bureau	CLAIM NUMBER	: HO 125444
	: 45 Aaron Tippin Dr.	OUR FILE NUMBER	: HO 125444
	: Greer, SC 29651	ADJUSTER NAME	: Brent Boyleston

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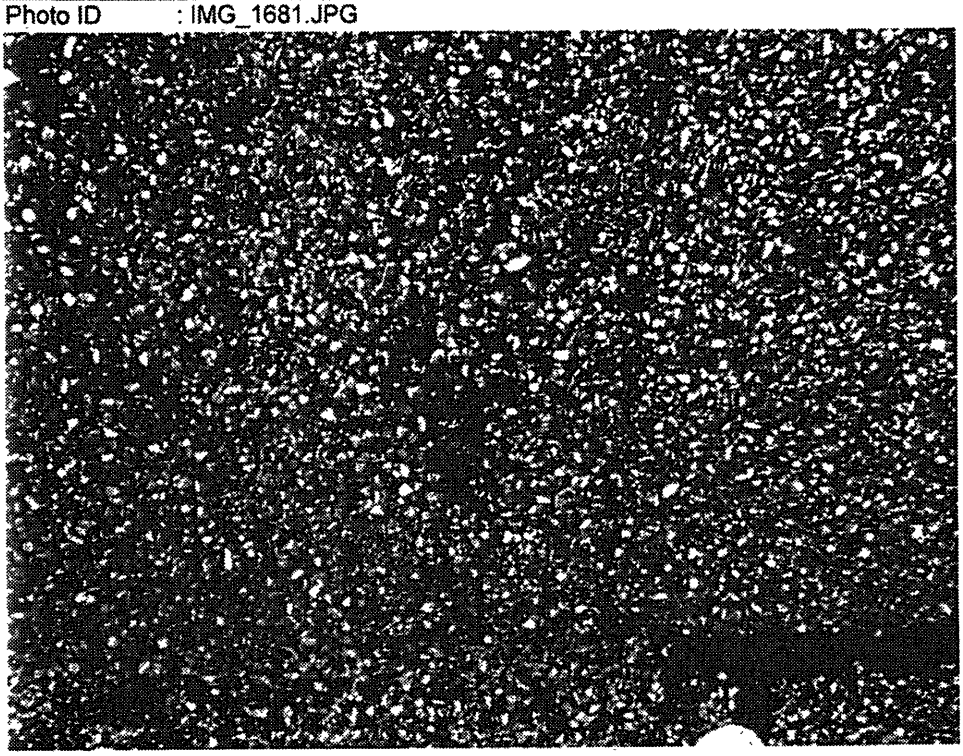


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Date : 4/16/12
Taken By : Adjuster

Comment :

IMG_1681

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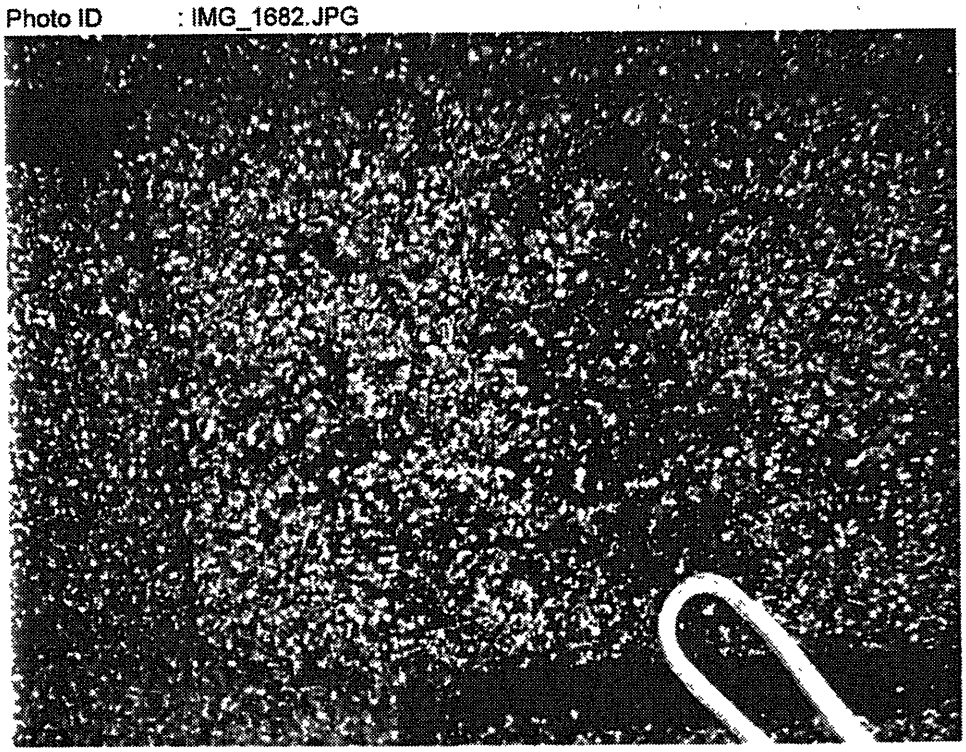


Photo # : 2
Date : 4/16/12
Taken By : Adjuster

Comment :

IMG_1682

INSURED	Susan Clarke	DATE OF REPORT	: 04/16/2012
LOCATION	[redacted] Lee St	DATE OF LOSS	: 04/05/2012
	Lyman, SC 29365	POLICY NUMBER	: HO 439887
COMPANY	: SC Farm Bureau	CLAIM NUMBER	HO 125444
	: 45 Aaron Tippin Dr.	OUR FILE NUMBER	: HO 125444
	Greer, SC 29651	ADJUSTER NAME	: Brent Boyleston

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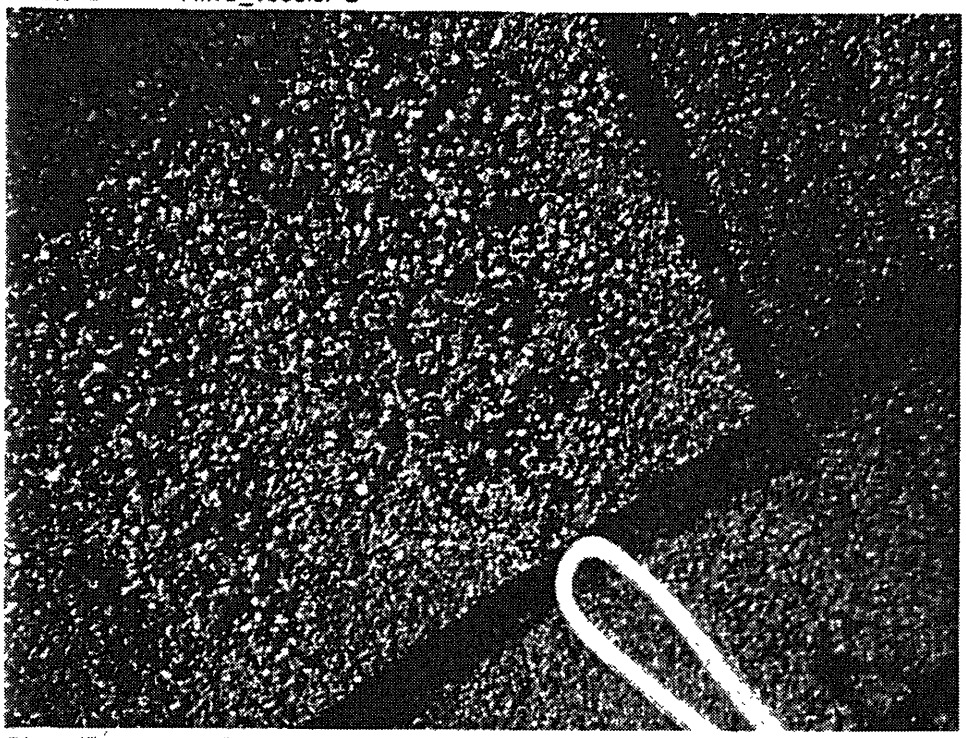


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Taken By : Adjuster

Comment :

IMG_1683

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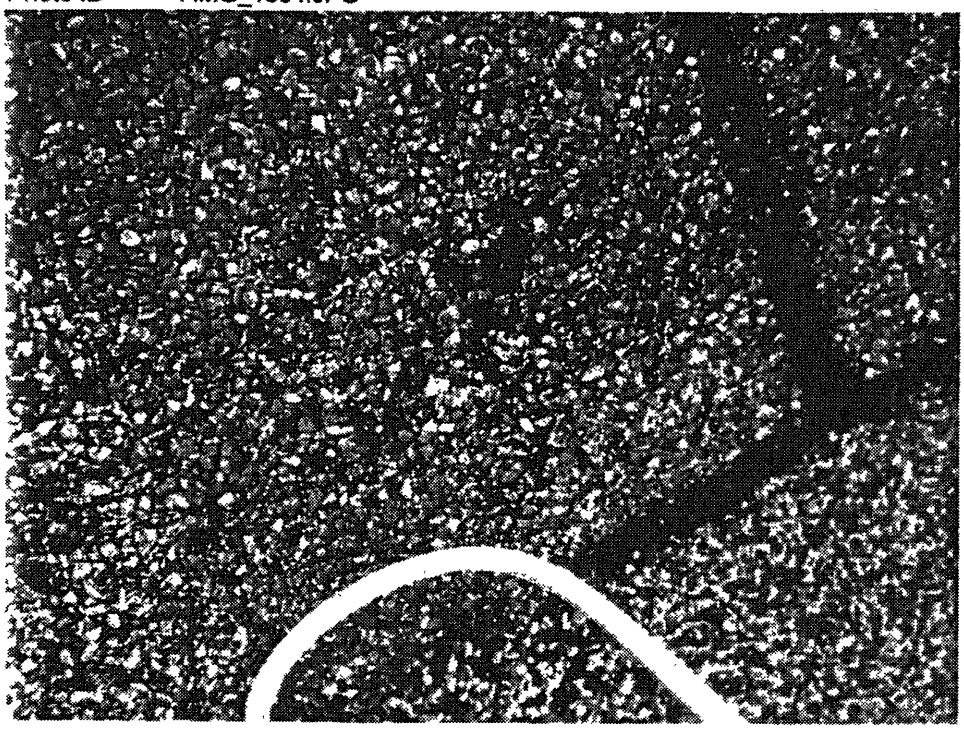


Photo # : 4
Date : 4/16/12
Taken By : Adjuster

Comment :

IMG_1684

FARM BUREAU INSURANCE

INSURED	: Susan Clarke	DATE OF REPORT	04/16/2012
LOCATION	: [redacted] Lee St	DATE OF LOSS	: 04/05/2012
	: Lyman, SC 29365	POLICY NUMBER	: HO 439887
COMPANY	: SC Farm Bureau	CLAIM NUMBER	: HO 125444
	: 45 Aaron Tippin Dr.	OUR FILE NUMBER	HO 125444
	: Greer, SC 29651	ADJUSTER NAME	: Brent Boyleston

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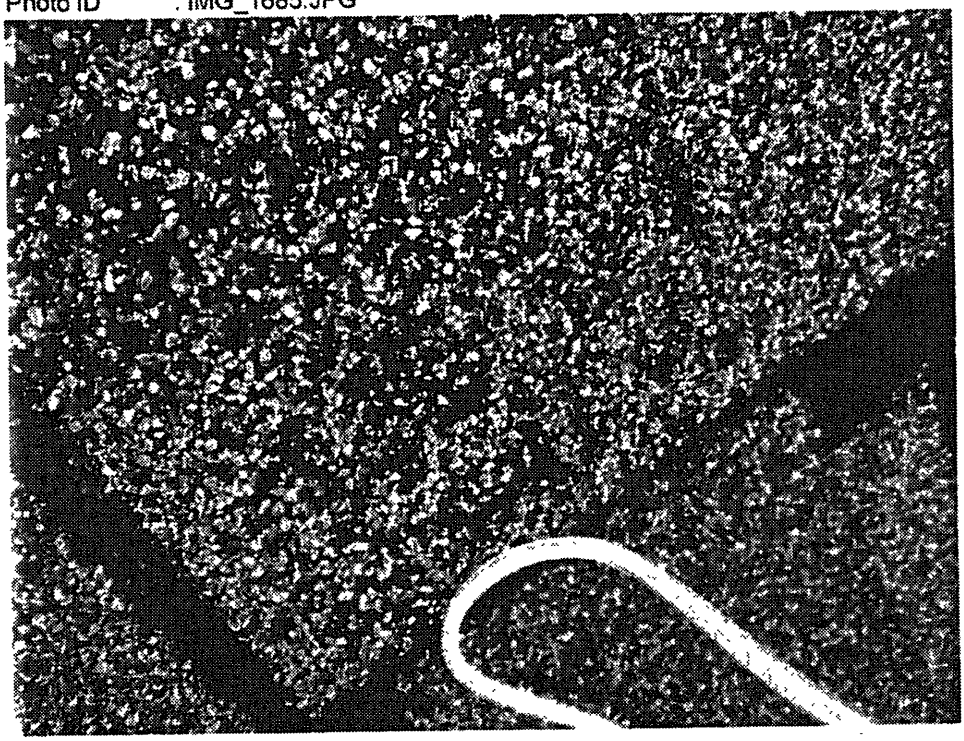


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Date : 4/16/12
Taken By : Adjuster

Comment :

IMG_1685

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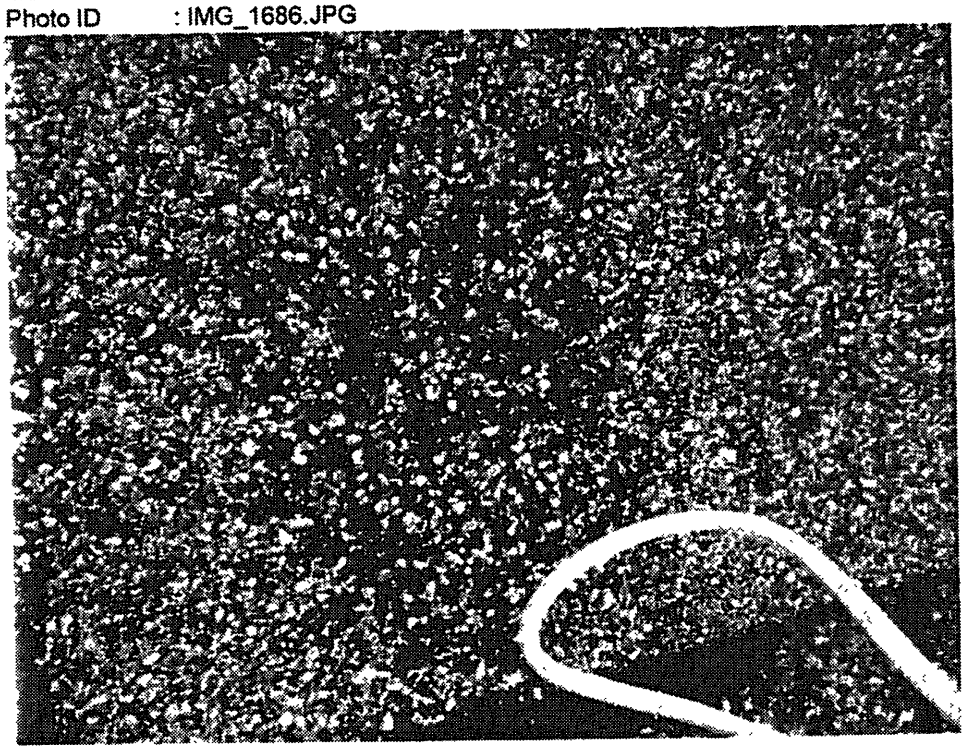


Photo # : 6
Date : 4/16/12
Taken By : Adjuster

Comment :

IMG_1686

INSURED	Susan Clarke	DATE OF REPORT	: 04/16/2012
LOCATION	: [redacted]Lee St	DATE OF LOSS	: 04/05/2012
	Lyman, SC 29365	POLICY NUMBER	: HO 439887
COMPANY	: SC Farm Bureau	CLAIM NUMBER	HO 125444
	: 45 Aaron Tippin Dr.	OUR FILE NUMBER	: HO 125444
	: Greer, SC 29651	ADJUSTER NAME	: Brent Boyleston

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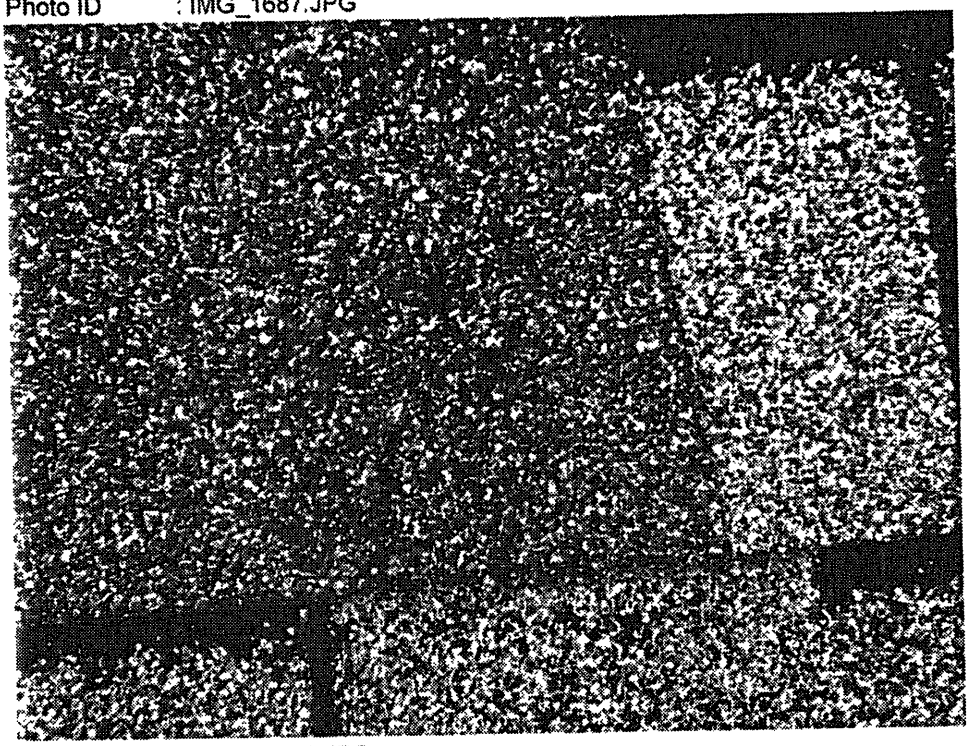


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Date . 4/16/12
Taken By : Adjuster

Comment :

IMG_1687

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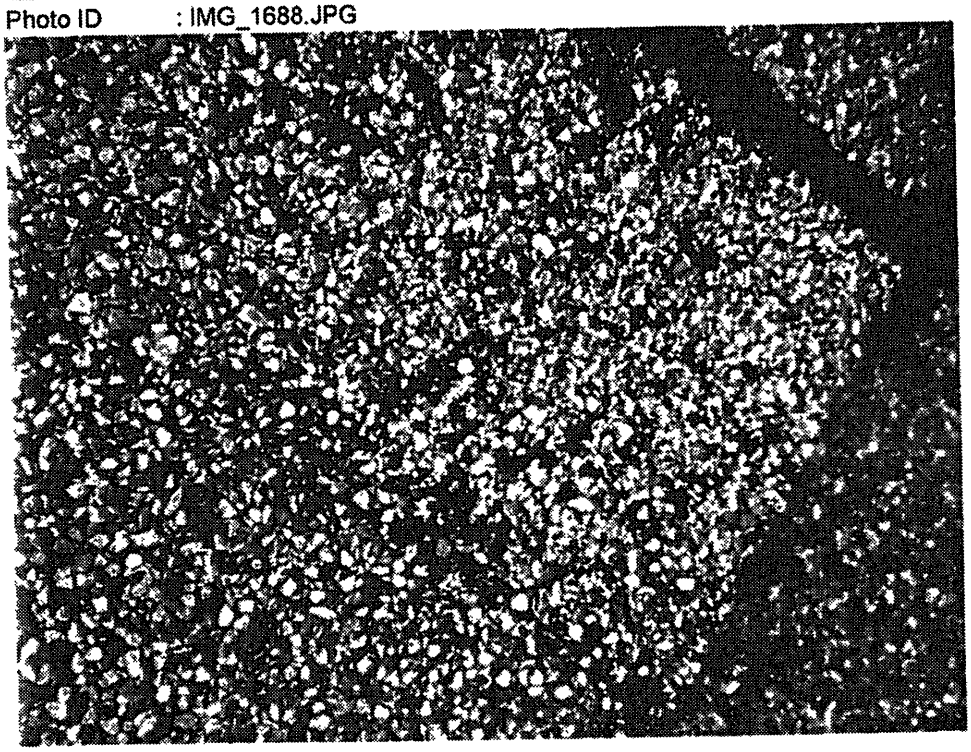


Photo # : 8
Date : 4/16/12
Taken By : Adjuster

Comment :

IMG_1688

FARM BUREAU INSURANCE

INSURED	: Susan Clarke	DATE OF REPORT	: 04/16/2012
LOCATION	: [redacted] Lee St	DATE OF LOSS	04/05/2012
	: Lyman, SC 29365	POLICY NUMBER	: HO 439887
COMPANY	: SC Farm Bureau	CLAIM NUMBER	: HO 125444
	: 45 Aaron Tippin Dr.	OUR FILE NUMBER	: HO 125444
	: Greer, SC 29651	ADJUSTER NAME	Brent Boyleston

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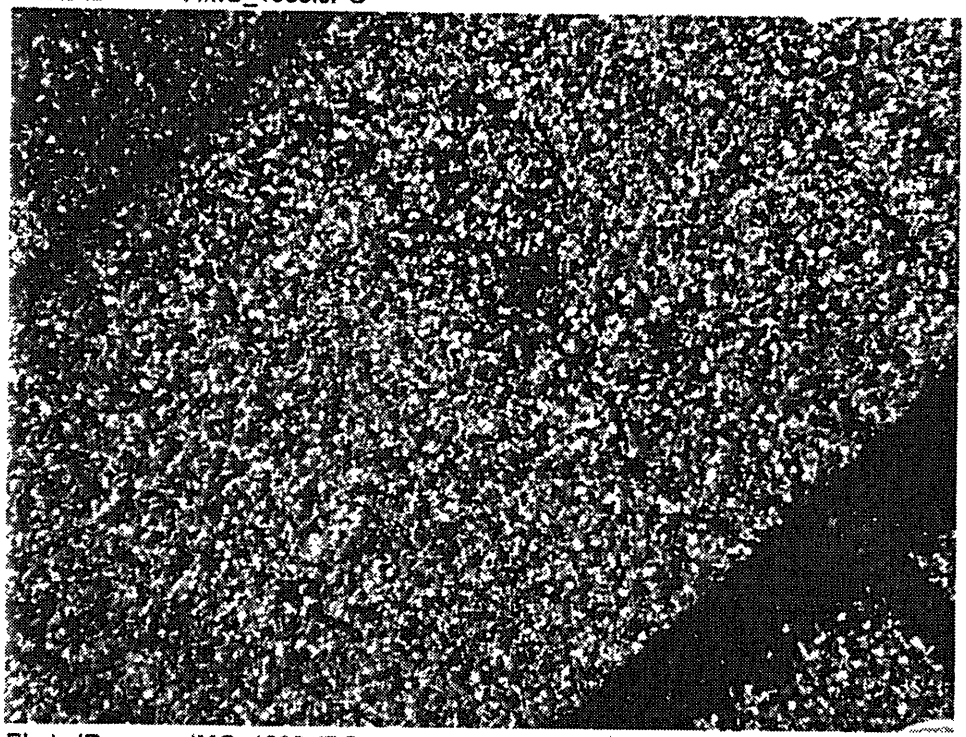


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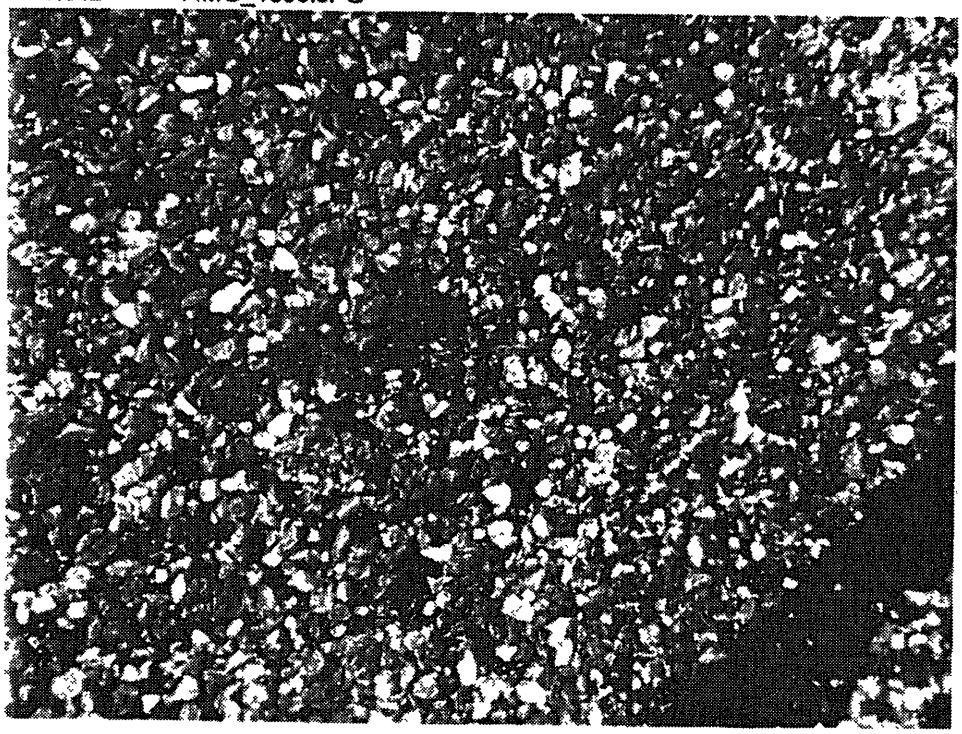


Photo # : 10
Date : 4/16/12
Taken By : Adjuster

Comment :

IMG_1690

INSURED	: Susan Clarke	DATE OF REPORT	04/16/2012
LOCATION	: [redacted] Lee St	DATE OF LOSS	: 04/05/2012
	: Lyman, SC 29365	POLICY NUMBER	: HO 439887
COMPANY	SC Farm Bureau	CLAIM NUMBER	HO 125444
	: 45 Aaron Tippin Dr.	OUR FILE NUMBER	: HO 125444
	: Greer, SC 29651	ADJUSTER NAME	: Brent Boyleston

Photo ID : IMG_1691.JPG



Photo # : 11
Date : 4/16/12
Taken By : Adjuster

Comment :

IMG_1691

08/30/2016 HOMEOWNER LOSS NOTICE

CLAIM #: HO 0125444 1 POLICY #: HO 0439887 MEMBER #: 000885362

CLAIM STATUS: CLOSE TIME OF ACCID: 0400PM ACCIDENT DATE: 04/05/2012
CATASTROPHE : XREF #: INPUT BY BCH 04/09/2012

INSURED NAME : SUSAN CLARKE PHONE (H): [redacted] 2596
: KENNETH CLARKE (W):
ADDRESS : [redacted] LEE ST (W): [redacted] 2596
CITY/STATE/ZIP: LYMAN SC 29365 9520 COUNTRY: USA

POLICE REPORT : NO REPO CHARGED: NONE REPORTED 04/08/2012 BY OTHER

PLACE OF LOSS : [redacted] LEE ST
DESCRIPTION AND COMMENTS : INS REPORTED HAIL DAMAGES TO ROOF AT INS HOME NONE

SEVERITY : 0
WITNESS NAME : PHONE (H):
: (W):
ADDRESS :
CITY/STATE/ZIP:

EFF DATE: 08/05/2011 POL STATUS : PAID POL ACCT #:
DEC DATE: 08/05/2011 DEC # : 001 COMPANY : MUT UMBREL POL: NO
EXP DATE: 08/05/2012 AMD # : 001 SERV COUNTY: 042 AGENT : 0031348 0B

COVERAGE INFORMATION FOR POLICY ITEM # 001 DWELLING

				REINSURANCE INFORMATION:		
COVG A:	138000	COVG E:	300000	CONTRACT	CATG AMT/CODE	LEVL
COVG B:	13800	COVG F:	5000	AMAG	282900	Z
COVG C:	103500	COVG L:				
COVG D:	27600	COVG M:				

PERIL GROUPS: DEDUCT: 1000

CONSTR YEAR: 1999 SEASONAL : NO
CONSTR TYPE: FRAME PROT CLASS: 004 RESID PREMISES FT:

PROPERTY LOCATION

[redacted] LEE ST LYMAN SC 29365 9520
[redacted] LEE ST, LYMAN, SC 29365-9520

INTERESTED PARTIES FOR POLICY ITEM # 001

MORTGAGEE
NAME : WELLS FARGO HOME MORTGAGE
:
:
ADDR : PO BOX 660455
:
CITY : DALLAS
: TX 75266 0455

FORMS: HO9 EN9207

ENDORSEMENTS FOR POLICY ITEM # : 001

08/30/2016 MEMBERSHIP AND CLAIM HISTORY PAGE 1

CLAIM #: HO125444

MEMBER NAME : SUSAN CLARK
:
ADDRESS : [redacted] LEE ST
CITY : LYMAN
STATE : SC 29365-9520 COUNTY : SPARTANBURG

MEMBER # : 000885362
STATUS : PAID
TYPE : ASSOCIATE
EXP DATE : 08/01/2017
PHONE (H): [redacted] [redacted]-2596

08/30/2016 POLICY CLAIM HISTORY FOR HO 0439887

CLAIM NO	DATE OF LOSS	STATUS	ADJ TOT ROOF	LOSS CDE	CAUSE	TOTAL PAID
HO0125444	04/05/2012	CLOSE	1R	A	14	5,579.77
TOTAL FOR ALL CLAIMS:						5,579.77

08/30/2016 MEMBERSHIP CLAIM HISTORY FOR 000885362

CLAIM NO	POLICY NO	DATE OF LOSS	STATUS	ADJ	LSS CD	CAUSE	TOTAL PAID
AU0381601	AU1082172	01/29/2014	CLOSE	9B	COMP		344.44
AU0443120	AU1082172	05/14/2015	CLOSE	9B	GERM		75.00
TOTAL FOR ALL CLAIMS:							5,999.21

Journal Voucher 08/18/16 10:49AM 51083 46 451 NCB BR:0010

XXX88-70 CLARK/KENNETH WAYNE EFF DT:08/18/16 11955
-6.00 FROM CHECKING ACCOUNT
ITEM FEES: .00 BAL: [redacted]

FD CHECK COPIES EFF DT:08/18/16 11955
AMT: 6.00 TO F & T TYPE SUM

FOUNDERS
FEDERAL CREDIT UNION

800-845-1614
foundersfcu.com

STATE'S EXHIBIT 67
37
9/6/16 SH

[redacted]

STATE'S EXHIBIT 38 9/6/16 SH

PayLOGICS

Founders FCU
User nbolding7943 | Log Out |

Current Business Date Work Status:

ITEM SUMMARY

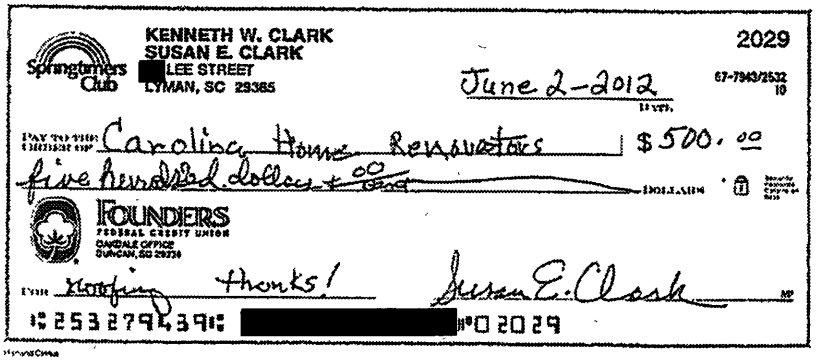
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Print to PDF

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[illegible]	[illegible]
[illegible]	$500.00
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	6/8/2012

COMMENTS

Comment	User Name	Title
[illegible]		



KENNETH W. CLARK
SUSAN E. CLARK
[redacted] LEE STREET
LYMAN, SC 29365

Springfarmers Club

2029

June 2-2012

67-7943/2532
10

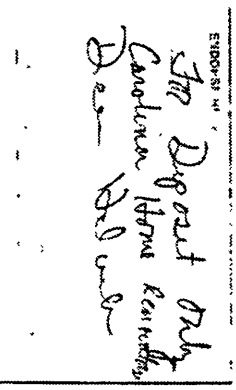
PAY TO THE ORDER OF Carolina Home Renovations $500.00

five hundred dollars + 00 DOLLARS

FOUNDERS FEDERAL CREDIT UNION
DANDALE OFFICE
DURHAM, SC 29334

FOR Roofing thanks! Susan E. Clark

⑈253279439⑈ [redacted] ⑈0 2029



For Deposit Only
Carolina Home Renovations
Dec — [illegible]

STATE'S EXHIBIT 39 9/6/16 SH

PayLOGICS

Founders FCU
User: nbolding7943 [Log Out]

Current Business Date Work Status:

ITEM SUMMARY

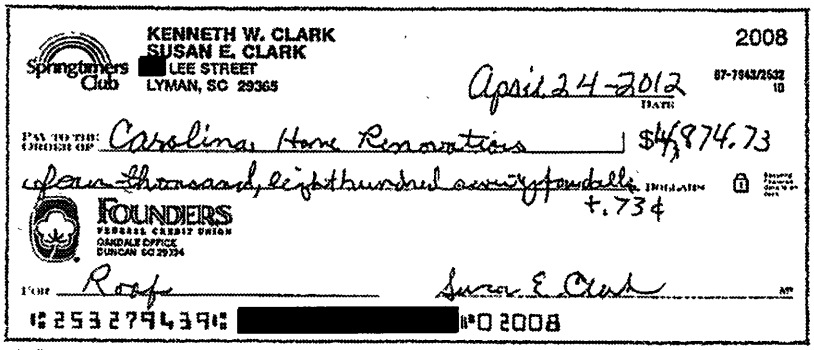
Options

Print to PDF

[illegible]	[illegible]
Item Type:	Pure Drafts
Amount:	$4,874.73
Routing Number:	[illegible]
Account Number:	[redacted]
Check Number:	
Processing Date:	
ITD:	[illegible]
Business Date:	4/27/2012

COMMENTS

Comment	User Name	Time
No Comments		



KENNETH W. CLARK
SUSAN E. CLARK
[redacted] LEE STREET
LYMAN, SC 29365

Springtimers Club

2008

April 24-2012 (DATE)

87-7943/2532 (ID)

PAY TO THE ORDER OF Carolina Home Renovations $4,874.73

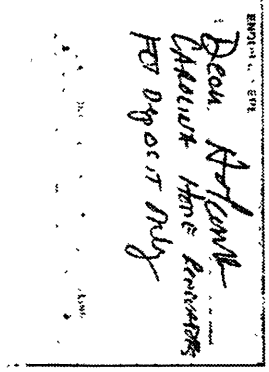
four thousand, eight hundred seventy-four dollars and 73¢

FOUNDERS FEDERAL CREDIT UNION
GANDALE OFFICE
DURHAM SC 29334

FOR Roof

Susan E Clark

⑆253279439⑆ [redacted] ⑈0 2008



Pay to the order of Carolina Home Renovations
For Deposit Only

STATE'S EXHIBIT 40 9/6/16 SK

PayLOGICS

Founders FCU
User nbolding7943 [Log Out]

Current Business Date Work Status:
Back to Search Results

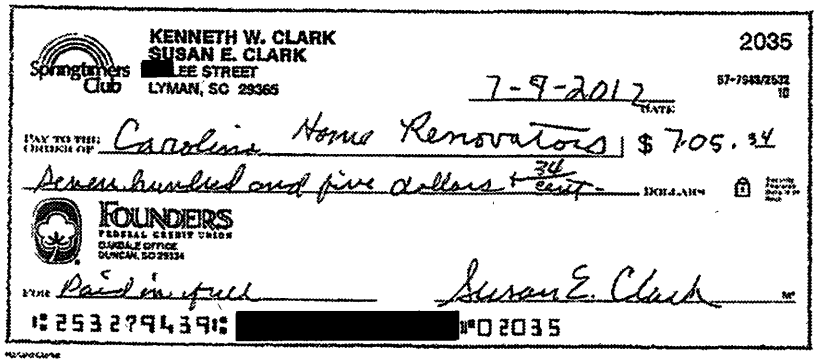
Options
Print to PDF

ITEM SUMMARY

PayLOGICS ISN	[illegible]
Work Type	[illegible]
Amount	$705.34
Routing Number	[illegible]
Account Number	[redacted]
[illegible]	[illegible]
[illegible]	[illegible]
ABA	122105278
[illegible] Date	[illegible]

COMMENTS

Comment	User Name	Date
No comments		



KENNETH W. CLARK
SUSAN E. CLARK
[redacted] LEE STREET
LYMAN, SC 29365

Springfarmers Club

2035

57-7543/2532
10

7-9-2012
DATE

PAY TO THE ORDER OF Carolina Home Renovations | $ 705.34

Seven hundred and five dollars + 34 cent. DOLLARS

FOUNDERS
FEDERAL CREDIT UNION
DUNCAN OFFICE
DUNCAN, SC 29334

FOR Paid in full

Susan E. Clark

⑆253279439⑆ [redacted] ⑈2035

Bear Creek Drive
Deposit only
Carolina Home Renovations

CAROLINA HOME RENOVATORS
[redacted] ROCKY CREEK RD [redacted]
GREENVILLE, SC 29615
(864) 208-6232

2414

[redacted]

6-8-2012
Date

Pay to the Order of Jared Richardson $ 330.00

Three Hundred & Thirty Dollars

Wells Fargo Bank, N.A.
South Carolina
wellsfargo.com

For CLEAN

Dean R. Hogan

⑆053207766⑆ [redacted] ⑈2414

STATE'S EXHIBIT 47
9/9/16 SH

⑆053207766⑆ [redacted] ⑈2414

REQUEST 000065723740000000 330.00
ROLL ECIA 20120611 000004085718444
JOB ECIA E ACCT [redacted]9556
REQUESTOR U408173
16656279 08/08/2016 Research 16656876 HOGAN HISTORICAL 000

Summons and Subpoenas Department
D1111-016
Charlotte NC 28201

CAROLINA HOME RENOVATORS
[redacted] ROCKY CREEK RD [redacted]
GREENVILLE, SC 29615
(864) 208-6232

Contractor Net Check
4R

2410
67-778/532-9429 [redacted]

6-1-2012
Date

Pay to the Order of Jarred RICHARDSON $ 400—

Four hundred & 00/100 Dollars

Security Features. Details on Back

WELLS FARGO Wells Fargo Bank, N.A.
South Carolina
wellsfargo.com

For

Dean Holcombe

⑆053207766⑆ [redacted] ⑈0 2 4 1 0

STATE'S EXHIBIT 48
9/7/16 SH

4085717746

REQUEST 00006572374000000 400.00
ROLL ECIA 20120604 000004085717746
JOB ECIA E ACCT [redacted]9556
REQUESTOR U408173
16656279 08/08/2016 Research 16656876 HOGAN HISTORICAL: 000

Summons and Subpoenas Department
D1111-016
Charlotte NC 28201

CAROLINA HOME RENOVATORS
[redacted] ROCKY CREEK RD [redacted]
GREENVILLE, SC 29615
(864) 208-6232

2413
67-778/532 [redacted]

6-8-2017
Date

Pay to the Order of WILL BYRD $ 490-

Four Hundred Ninety Dollars

WELLS FARGO Wells Fargo Bank, N.A. South Carolina wellsfargo.com

For CLARKE'S SAFETY REPAIR Dean A. Hogan

⑆053207766⑆ [redacted] ⑈2413

STATE'S EXHIBIT 49 9/21/16 SH

REQUEST 00006572374000000 490.00
ROLL ECIA 20120608 000004183575390
JOB ECIA E ACCT [redacted] 9556
REQUESTOR U308173
16656279 08/08/2016 Research 16656876 HOGAN HISTORICAL 000

Summons and Subpoenas Department
D1111-01
Charlotte NC 28201

CAROLINA HOME RENOVATORS
[redacted] ROCKY CREEK RD [redacted]
GREENVILLE, SC 29615
(864) 208-6232

2411
07-776/532 9429

6-1-2012
Date

Pay to the Order of WILL BYRD $ 500 00

FIVE HUNDRED & 00/100 Dollars

Wells Fargo Bank N.A.
South Carolina
wellsfargo.com

For

Deray A. Holcombe

⑆053207766⑆ [redacted] ⑈02411

[redacted]

STATE'S EXHIBIT
50
9/9/16 SH

REQUEST 0606572374000000 500.00
ROLL ECIA 20120604 000004183574482
JOB ECIA E ACCT [redacted] 9556
REQUESTOR U408173
16656279 08/08/2016 Research 16656876 HOGAN HISTORICAL: 000

Summons and Subpoenas Department
D1111-016
Charlotte NC 28201

STATE'S EXHIBIT EV 55 9/7/16 SH

CAROLINA HOME RENOVATORS
[redacted]

2411

6-1-2017

PAY TO THE ORDER OF Will Byrd $ 500 00

FIVE HUNDRED & NO/100

[redacted]

FOR McGinn

Dan A. Helmet

[redacted]

WITNESSES

J T Martin

Greenville County Sheriffs Office

5/16/2013

ARREST WARRANT NUMBER
2013A2330202932

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Guilty

Foreperson of Petit Jury

Date: 8 Sep 2016

AMENDED INDICTMENT
DOCKET NO. 2013-GS-23-005223
RDG

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

August **TERM 2016**

THE STATE

vs.

DEAN ALTON HOLCOMB

Amended Indictment for

CDR - 3423

BREACH OF TRUST

VIOLATION § 16-13-0230(A)(B)(2)
Felony -F

ENTERED

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

AMENDED INDICTMENT FOR
BREACH OF TRUST

AUG 2 3 2016

At a Court of General Sessions, convened on the Grand Jurors of Greenville County present upon their oath:

BREACH OF TRUST

That in Greenville County on or about May 25, 2012, the Defendant, Dean Alton Holcomb, did enter into a contract to replace the damaged roof at the home of the victim Robert McGinn, with some additional repairs that included staining a deck and siding and painting the door of said home at [redacted] Beaver Dam Road in Travelers Rest. The contract called for an initial payment by the victim of $4,295.03 and a final payment of $2,885.96 upon completion.

The victim on May 29, 2012 paid $4,295.03 to Defendant Dean Alton Holcomb for the partial payment of the repairs. The Defendant did not ever repair the roof as agreed upon and instead misappropriated the monies paid to him by the victim, in whole or in substantial part for other uses in his business and otherwise acted with unlawful and fraudulent intent in dealings with the victim, Robert McGinn, all of this constituting the crime of breach of trust with fraudulent intent in excess of $2,000 but less than $10,000 in violation of Section §16-13-0230(A),(B)(2) of the South Carolina Code Of Laws (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SOLICITOR – Bar # 2439

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FOR THE 13TH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE)	
)	Indictment No.: 2013-GS-23-005223
State of South Carolina,)	
)	
Plaintiff,)	
)	
v.)	VERDICT FORM AS TO
)	BREACH OF TRUST
Dean Alton Holcomb,)	
)	
Defendant.)	
)	

(1) ___✓___ We find the defendant guilty of Breach of Trust in the following amount:

___✓___ (A) In an amount greater than $2000.

_____ (B) In an amount less than $2000.

(2) _____ We find the defendant not guilty.

Foreperson
Jason Holeman

September 8, 2016
Greenville, SC

DOCKET NO.: 2015-GS-23-

JH

WITNESSES

Greenville County Sheriff's Office

DOB [redacted] 70 WM

SSN [redacted]

ARREST WARRANT NUMBER

DIRECT PRESENTMENT

ACTION OF GRAND JURY

TRUE BILL

Wayne Richardson

FOREMAN GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Guilty

Foreperson of Petit Jury
Date: 8 Sep 2016

The State of South Carolina

County of Greenville

Walt Wilkins, Solicitor

COURT OF GENERAL SESSIONS

June 2015 **TERM**

THE STATE
v.

DEAN ALTON HOLCOMB

Indictment for

OBTAINING PROPERTY/MONEY BY FALSE PRETENSES

SC Code: 16-13-240 (1)
CDR Code: 3473
Class FE/E

ENTERED
NOCT

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT

At a Court of General Sessions, convened on JUN 30 2015, the Grand Jurors of Greenville County present upon their oath:

OBTAINING PROPERTY/MONEY BY FALSE PRETENSES

That the Defendant, Dean Alton Holcomb, did in Greenville County, on or about May 25, 2012, represent to the victim, Robert McGinn, in Greenville County that Defendant, acting in Greenville County through his business, Carolina Home Renovations, would repair the roof of the victim's house in Greenville County; in line therewith, Defendant did accept from the victim a written instrument, check #1040, drawn on the Bank of Traveler's Rest on the victim's account with said bank, said check in the amount of $4,295.00, (said amount being greater than $2,000, but less than $10,000). The repairs to victim's roof were never made by the Defendant or his business, as Defendant had represented.

Defendant made these representations, accepted said payment in line therewith, endorsed and negotiated/cashed said check, all by false pretenses and representations, with the intent to cheat and defraud the victim of the instrument and money obtained by Defendant from the victim.

All this in violation of the laws of South Carolina, and S.C. Code Ann. Section 16-13-240(2) (1976 as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

ASSISTANT SOLICITOR, 7TH JUDICIAL CIRCUIT
FOR THE 13th JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FOR THE 13TH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE)	
)	Indictment No.: 2013-GS-23-005223
State of South Carolina,)	
)	
Plaintiff,)	
)	
v.)	VERDICT FORM AS TO
)	OBTAINING PROPERTY/MONEY BY
Dean Alton Holcomb,)	FALSE PRETENSES
)	
Defendant.)	
)	

(1) ✓ We find the defendant guilty of Obtaining Property/Money By False Pretenses in the following amount:

✓ (A) In an amount greater than $2000.

_____ (B) In an amount less than $2000.

(2) _____ We find the defendant not guilty.

Foreperson
Jason Holeman

September 8, 2016
Greenville, SC

500

STATE OF SOUTH CAROLINA)

COUNTY OF Greenville)
STATE VS.)
Dean Alton Holcomb)
AKA:)

Race: WHITE Sex: M Age: 46)
DOB: [redacted]-1970 [redacted])
Address: [redacted] Rocky Creek Rd Apt [redacted])
City,State,Zip: Greenville, SC 29615)
DL#: [redacted] SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

In disposition of the said indictment comes now the Defendant who was

TO: Breach of Trust > 2,000 < 10,000

in violation of § 16-13-230(A)(B)(2) of the S.C. Code of Laws, bearing CDR Code # 3423

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Russell Ghent 2439 _____ _____ 77727
Conflict, Cases Russell Ghent SC Bar# Defendant Attorney for Defendant SC Bar#

1478052

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013-GS-23-5223
A/W#: 2013A2330202932
Date of Offense: 5/25/2012
S.C. Code § : 16-13-230(A)(B)(2)
CDR Code #: 3423

SENTENCE SHEET

#2

☒ CONVICTED OF or ☐ PLEADS

WHEREFORE, the Defendant is commited to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 5 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____ _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 776 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered **PTUP** _____

Total: $ _____ plus 20% fee: _____ $ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E begining _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____

$ _____ paid to Public Defender Fund

Other: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 61.6 (Public Def/Probation)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$ 3.75
TOTAL		$ 128.75

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Paul B Wickenheiser
Court Reporter: Susan Hudgens

Presiding Judge John C Hayes III
Judge Code: 2049
Sentence Date: 9/8/16

SCCA/217 (07/2016)

STATE OF SOUTH CAROLINA)
IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville)
STATE VS.)
Dean Alton Holcomb)
AKA:)
Race: WHITE Sex: M Age: 46)
DOB: [redacted]-1970 SS#: [redacted])
Address: [redacted] Rocky Creek Rd Ap[redacted])
City,State,Zip: Greenville, SC 29615)
DL#: [redacted] SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐)

INDICTMENT/CASE#: 2015-GS-23-4600A
A/W#: Direct Presentment
Date of Offense: 5/25/2012
S.C. Code § : 16-13-240(1)
CDR Code #: 3473

SENTENCE SHEET
#1

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐PLEADS
TO: Obtaining Property by False Pretenses
in violation of § 16-13-240(1) of the S.C. Code of Laws, bearing CDR Code # 3473
☐ NON-VIOLENT ☐ VIOLENT ☐SERIOUS ☐MOST SERIOUS ☐Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐§17-25-45

The charge is: ☒As Indicted, ☐Lesser Included Offense, ☐Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Russell Grant 2857 _____ _____ 7884
Conflict, Cases Russell Grant SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited to the ☒ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of 5 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years
and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment
of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____ _____
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 776 days
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐**RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 61.6 (Public Def/Probation)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$ 3.75
TOTAL		$ 128.75

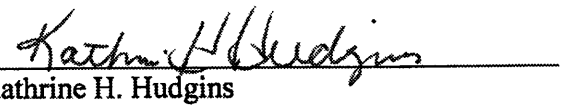
☐ Appointed PD or appointed other counsel, Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Paul B. Wideman III
Court Reporter: Susan Hudgens
Presiding Judge John C. Hayes III
Judge Code: 2419
Sentence Date: 4/18/16

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 7th day of February, 2018.