

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Court of Common Pleas

Gordon G. Cooper, Master-In-Equity
Trial Court Case No. 2011-CP-42-0500

Appellate Case No. 2019-000404

RECEIVED
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SC Court of Appeals

Super Suds, LLC, Appellant,

v.

Carolina Properties Holdings, LLC, Walter W. Parker, IV, the United States of America by
and through the U.S. Small Business Administration, Carolina Clean Greer I, LLC, and
Community Development & Improvement Corporation, Defendants,

Of Which Carolina Properties Holdings, LLC, and Walter W. Parker, IV are the Respondents.

**RECORD ON APPEAL
VOLUME II**

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

SUPER SUDS, LLC,

Plaintiff,

vs.

C.A. 2011-CP-42-0500

CAROLINA PROPERTIES HOLDINGS, LLC, WALTER
W. PARKER, IV, THE UNITED STATES OF AMERICA
BY AND THROUGH THE U.S. SMALL BUSINESS
ADMINISTRATION, CAROLINA CLEAN GREER I,
LLC, AND COMMUNITY DEVELOPMENT &
IMPROVEMENT CORPORATION,

Defendants.

D E P O S I T I O N

WITNESS: WALTER W. PARKER, IV

DATE: June 14, 2018

TIME: 12:09 P.M.

LOCATION: LeGrand Law Firm, LLC
 310 Mills Avenue, Suite 103
 Greenville, South Carolina 29605

TAKEN BY: Attorneys for the Plaintiff

REPORTED BY: Jeanne M. McLaren, RMR, CSR

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25 Also Present: Ms. Virginia Parker

(INDEX AT REAR OF TRANSCRIPT)

1 STIPULATION

2 It is stipulated by and among Counsel that
3 this deposition is being taken in accordance with the
4 South Carolina Rules of Civil Procedure, Rule 30; that
5 all objections as to Notice of this deposition are
6 hereby waived; that all objections except as to form are
7 reserved until the time of trial; and that the deponent
8 reserves reading and signing of this deposition.

9 * * * * * * * *

10 WALTER W. PARKER, IV, being first duly
11 sworn, testified as follows:

12 EXAMINATION

13 BY MR. LeGRAND:

14 Q. Mr. Parker, would you state your name for the
15 record, please.

16 A. Walter Wellington Parker, IV.

17 Q. You are one of the defendants in this action?

18 A. Yes.

19 Q. Okay. Let me give you some instructions
20 before we go further. You probably have done this
21 before --

22 A. No.

23 Q. -- but during the course of this deposition,
24 I'm going to ask you questions, which you must answer
25 verbally so that the court reporter can take down your

1 answer. You understand that?

2 A. Yes.

3 Q. Please ask me, rather than your own counsel,
4 for clarifications, definitions, explanation of words,
5 questions or documents presented during the course of
6 this deposition with the exception that we are going
7 to -- by agreement, we're going to walk through this
8 large stack of documents, and then you'll have a break
9 to confer with your counsel. You understand that?

10 A. Yes.

11 Q. Okay. And then once we've done that, then you
12 will not be able to confer with your counsel about a
13 document. You understand that?

14 A. Yes.

15 Q. Okay. If you need to take a break, just let
16 me know. You know where everything is now, but you, at
17 that point, may not engage in a private conversation or
18 discussion with anyone off the record about the subject
19 matter of this deposition. And again, you have the
20 right to ask me to clarify a question or a document;
21 otherwise, if you answer a question, I'm going to assume
22 that you understood the question. Do you understand
23 that?

24 A. Yes.

25 Q. All right. What is your date of birth?

- 1 A. September 5th, 1960.
- 2 Q. And where were you born?
- 3 A. Washington, D.C.
- 4 Q. Where do you live now?
- 5 A. Atlanta, Georgia.
- 6 Q. Give me some cities, backing up from Atlanta.
- 7 Where have you lived prior to Atlanta?
- 8 A. Madison, Georgia. Beaufort, South Carolina in
- 9 two different locations, and Spartanburg,
- 10 South Carolina.
- 11 Q. And where are you employed currently?
- 12 A. Choice Hotels.
- 13 Q. And what's your position with Choice Hotels?
- 14 A. Director of real estate, land acquisitions.
- 15 Q. And what are the dates of your employment with
- 16 Choice Hotels?
- 17 A. I believe 11-15, to present.
- 18 Q. So November of 2015?
- 19 A. Yes.
- 20 Q. And in the Atlanta area?
- 21 A. Right.
- 22 Q. What was your employment prior to November of
- 23 2015?
- 24 A. Self-employed.
- 25 Q. Doing what?

1 A. Real estate development and brokerage, realty
2 brokerage.

3 Q. From what year to what year?

4 A. 2010 to 2015.

5 Q. And was that in Atlanta?

6 A. It was -- it started in Beaufort,
7 South Carolina, and then we moved to Madison, Georgia
8 and then for a short period in Atlanta.

9 Q. When you were in Beaufort, were you employed
10 with a construction company?

11 A. No.

12 Q. You were independent or self-employed in
13 Beaufort in real estate development?

14 A. Right.

15 Q. And prior to Beaufort, where were you?

16 A. Spartanburg.

17 Q. Where were you employed in Spartanburg?

18 A. I was at Advance America and Extended Stay
19 America.

20 Q. What is Advance America?

21 A. They're a payday loan operation.

22 Q. What was your job at Advance America?

23 A. Real estate manager.

24 Q. Give me some example of your job duties or
25 responsibilities with Advance America.

1 A. Site selection for branch -- branches.

2 Q. So you were not on the lending side of this?

3 A. No.

4 Q. And how long were you at Advance America?

5 A. Three years.

6 Q. Give me the dates.

7 A. Gosh, I think it --

8 MS. PARKER: '03.

9 THE WITNESS: Yeah. It was '03 to '06. Yeah,
10 that's right.

11 BY MR. LeGRAND:

12 Q. And you moved --

13 A. To Beaufort after that.

14 Q. So in 2006, you moved to Beaufort?

15 A. Right.

16 Q. So while you were in -- you worked for

17 Advance America from 2003 to 2006. So who did you work
18 for prior to 2003?

19 A. Extended Stay America.

20 Q. And what is that company? What do they do?

21 A. A hotel company.

22 Q. Okay. What did you do for Extended Stay?

23 A. Real estate manager.

24 Q. And what were your job duties or
25 responsibilities?

- 1 A. Site selection for new hotel locations.
- 2 Q. Where?
- 3 A. Eastern half of the United States.
- 4 Q. So not -- in other words, not limited to
- 5 South Carolina?
- 6 A. No.
- 7 Q. What states?
- 8 A. I handled New York, Pennsylvania, Maryland,
- 9 Virginia, North Carolina, Virginia, South Carolina,
- 10 Georgia and part of Florida.
- 11 Q. How long were you with Extended Stay?
- 12 A. I believe it was eight years.
- 13 Q. So that would be until 2003?
- 14 A. Yes.
- 15 Q. So when did you start at Advance America -- I
- 16 mean, excuse me, Extended Stay?
- 17 A. It was in 1996.
- 18 Q. And what did you do prior to 1996?
- 19 A. I was with Equitable Real Estate in Atlanta.
- 20 Q. What were your duties there?
- 21 A. Asset manager.
- 22 Q. What does that mean?
- 23 A. We were managing loan -- large loan portfolios
- 24 for savings and loans that were in default.
- 25 Q. And how long were you with -- so it's

1 Equitable Real Estate?

2 A. Um-hum.

3 Q. How long were you with them?

4 A. It was about three years.

5 Q. From 1996 backwards, so about --

6 A. '93'ish, yeah, I think.

7 Q. What was your title?

8 A. I think -- I was called an asset manager.

9 Q. Okay. How many loans were in the portfolio of
10 defaulted loans?

11 A. Many.

12 Q. Give me an idea.

13 A. Thousands.

14 Q. Thousands?

15 A. Yeah.

16 Q. So you were managing thousands of loans?

17 A. No. Not just me, but our group was.

18 Q. How many were you managing, and how did that
19 work?

20 A. Three or four, you know, at a time.

21 Q. So what do you mean you managed --

22 A. So we were preparing Workouts for the
23 lenders -- or, excuse me, for the borrowers.

24 Q. And that would include -- give me an example
25 of what that would include.

1 A. You know, it could be a shopping center loan
2 that a borrower had defaulted on back in late -- let me
3 see, early -- early nineties. And these are resolution
4 trusts, RTC deals. You know, the REMICS were -- the
5 real estate investment mortgage conduits -- that we were
6 managing.

7 Q. So you worked on Workout Agreements? Is that
8 what you're --

9 A. Yeah.

10 Q. Help me understand that a little bit more.

11 A. We worked with the borrowers to come up with a
12 resolution if we weren't able to resolve -- you know, if
13 we weren't able to come up with a satisfactory
14 resolution for the borrower, we would initiate
15 foreclosure.

16 Q. So you were primarily working for the lenders
17 in this role?

18 A. I think we were working on behalf of the
19 federal government.

20 Q. Okay.

21 A. The REMICS were federally owned, you know.

22 Q. But you would have direct contact with both
23 the lenders and the borrowers?

24 A. You know, lenders were no longer in the
25 picture. We were -- we ostensibly became the lender.

1 You know, we were managing on behalf of RTC -- third
2 party -- it was third party services, you know, for the
3 REMIC.

4 Q. Okay. So for the REMIC, then -- which I
5 guess, through the RTC, became the owner of the loan --
6 you were essentially working on behalf of the lender?

7 A. Right. I suppose so, yeah. Yeah.

8 Q. And you then would work out deals with
9 borrowers?

10 A. Right.

11 Q. You are one of the members of
12 Carolina Properties Holdings, LLC?

13 A. I don't even think it exists anymore. But
14 yeah, I guess -- I guess so, yes.

15 Q. And the other member of that LLC was who?

16 A. My wife.

17 Q. And what's her name?

18 A. Virginia Parker.

19 Q. Okay. And were you the only two members of
20 Carolina Properties Holdings, LLC?

21 A. Yes.

22 Q. How many pieces of real estate were in that
23 entity?

24 A. One.

25 Q. So this was a single asset entity?

1 A. Correct.

2 Q. And you're here today because

3 Carolina Properties Holdings is the primary defendant in
4 this foreclosure action?

5 A. Yes.

6 Q. And Carolina Properties Holdings, which we may
7 refer to just Carolina Properties, if that's okay, or
8 CPH, Carolina Properties, you purchased the car wash
9 property that's the subject of this action in that LLC;
10 is that correct?

11 A. Yes.

12 Q. Tell me about Carolina Clean Greer I, LLC.

13 A. That was the company we set up to -- to run
14 the business, car wash business.

15 Q. Okay. So that was the operating entity?

16 A. Operating entity, yeah.

17 Q. And that is also a South Carolina limited
18 liability company?

19 A. Yes.

20 Q. And you are or were a member of that company?

21 A. Yes.

22 Q. And were there any other members?

23 A. My wife Virginia.

24 Q. Any other members than the two of you?

25 A. No.

1 Q. And did it have any other role, any other
2 duties or any other property that it managed?

3 A. No.

4 Q. So, again, this was a single purpose entity?

5 A. Correct.

6 Q. And Carolina Clean -- if we may abbreviate it
7 that way --

8 A. (Nods head).

9 Q. -- owned the equipment, is that --

10 A. Yes.

11 Q. Well, this was Carolina Clean Greer I. Is
12 there a Carolina Clean Greer II?

13 A. No.

14 Q. All right. Do you have other investments or
15 businesses right now?

16 A. No.

17 Q. None?

18 A. None.

19 Q. You've previously invested, though, in some
20 rental property?

21 A. Yes.

22 Q. Give me some ideas of what you've owned. Is
23 it --

24 A. I owned an apartment building in Spartanburg.

25 Q. When was that?

1 A. Let's see, 2000 -- I owned it for about a year
2 and a half in 2000 -- '99 to 2001,
3 somewhere -- somewhere in that time period.

4 Q. Any other rental property?

5 A. No.

6 Q. Residential, commercial?

7 A. We owned some -- we owned a house or two that
8 we rented, but we were, you know, in the process of
9 selling. As we moved from Spartanburg to Beaufort, we
10 had -- we had a house that we rented until we could sell
11 it.

12 Q. Do you have any other LLCs --

13 A. No.

14 Q. -- other than these two?

15 A. No.

16 Q. Partnerships that might have investments?

17 A. No.

18 Q. Corporations?

19 A. I do have a corporation.

20 Q. What is that?

21 A. Walt Parker Properties, Inc.

22 Q. What does Walt Parker Properties, Inc. do?

23 A. It is a brokerage operation, real estate
24 brokerage.

25 Q. Is it active?

1 A. Not so much.

2 Q. What --

3 A. I mean -- you know, my wife and I
4 have -- worked the business together, and she
5 occasionally will -- she's also in the real estate
6 business, and she will occasionally have a sale and run
7 it through that.

8 Q. So you're a licensed real estate broker?

9 A. Yes.

10 Q. And is that a Georgia corporation?

11 A. Yes.

12 Q. And so it is active, and she does function --
13 or does real estate through that?

14 A. Correct.

15 Q. Do you have any other businesses, investments?

16 A. Investments? I mean, I've got a 401k, that
17 sort of thing.

18 Q. But as far as businesses?

19 A. Real estate, no.

20 Q. Real estate?

21 A. No, no.

22 Q. How many other -- how many employees are there
23 for Walt Parker Properties Inc.?

24 A. One -- or two. I mean, the both of us.

25 Q. Now is where I'd like to walk through these

1 documents, get them introduced, if that's okay with your
2 counsel because now I think is when I jump off into
3 documents. And it's pretty document intensive from here
4 on.

5 A. Okay.

6 Q. So if we could, let me just walk
7 through -- let me hand you this stack.

8 A. Um-hum.

9 Q. These have been premarked by our court
10 reporter, and I want to go through these and make sure
11 that you and I are on same page with the same documents.
12 Look at Plaintiff's Exhibit Number 1. Can you identify
13 that?

14 A. It's titled "real estate."

15 Q. Okay. And you've seen this before?

16 A. Yes.

17 Q. Okay. Look at Plaintiff's Exhibit 2, and this
18 is a plat. Can you identify that?

19 A. Yes.

20 Q. And you've seen this before?

21 A. Yes.

22 Q. And this is a plat that was recorded in plat
23 book -- of course, we're referring to
24 Spartanburg County, but plat book 154, page 279, right?

25 A. Um-hum, yes.

1 Q. Plaintiff's Exhibit Number 3, can you identify
2 this?

3 A. Yes.

4 Q. What is this?

5 A. This is a sketch of the car wash on the site.

6 Q. All right. Plaintiff's Exhibit Number 4, can
7 you identify this?

8 A. This is the promissory note.

9 Q. With BB&T?

10 A. BB&T.

11 Q. Can you state the date of that?

12 A. October 21st, 2005.

13 Q. Let's go to Plaintiff's Exhibit Number 5.
14 You've seen this before?

15 A. Yes.

16 Q. What is this?

17 A. Mortgage.

18 Q. What is the date?

19 A. Let's see, October 21st, 2005.

20 Q. Who is the mortgagor?

21 A. BB&T.

22 Q. That's the mortgagee. The mortgagor?

23 A. Carolina Properties Holdings.

24 Q. And this was recorded in Spartanburg County,
25 ROD office, in real estate mortgage book 3542, page 190?

1 A. Yes.

2 Q. And let me direct you to Plaintiff's Exhibit
3 Number 6. You have seen this before?

4 A. Yes.

5 Q. What is this?

6 A. This is the guaranty agreement.

7 Q. And what is the date?

8 A. 10-21-2015.

9 Q. And have you signed this one?

10 A. Walter W. Parker, IV.

11 Q. You, right?

12 A. Yes.

13 Q. Go to Plaintiff's Exhibit 7. Can you identify
14 this?

15 A. Note modification agreement.

16 Q. And what's the date?

17 A. 11-14-2006.

18 Q. And who signed this?

19 A. I did.

20 Q. All right. Let's go to Plaintiff's Number 8.

21 Can you identify this?

22 A. Modification renewal and reinstatement of
23 note, dated February 12th, 2007.

24 Q. And who signed this one?

25 A. I did.

- 1 Q. Okay. And Plaintiff's Number 9?
- 2 A. Note modification agreement, dated
- 3 12-18-2007 -- did we say? Yeah.
- 4 Q. I think -- yes.
- 5 A. Yeah.
- 6 Q. The first line -- in addition to the date on
- 7 the right, I believe the first line of the --
- 8 A. Oh, there it is. Yeah, December 6th, 2007.
- 9 Um-hum.
- 10 Q. And on page 4, whose signature is on that?
- 11 A. Mine.
- 12 Q. And then look at Plaintiff's Number 10.
- 13 A. It's January 2014 -- January 14th, 2004? No,
- 14 2008. I guess, 2008.
- 15 Q. And this is a note modification agreement?
- 16 A. Note modification.
- 17 Q. And who signed this one?
- 18 A. I did.
- 19 Q. Let's go to Plaintiff's Exhibit Number 11.
- 20 A. Okay. It's a note modification agreement
- 21 dated July 3rd, 2008.
- 22 Q. And who signed this one?
- 23 A. I signed this.
- 24 Q. Then look at Plaintiff's Exhibit Number 12,
- 25 okay?

- 1 A. Okay. That's a note modification dated
2 December 11th, 2008.
- 3 Q. And who signed this one?
- 4 A. I signed it.
- 5 Q. And then Plaintiff's Number 13?
- 6 A. Note modification agreement, December 9th,
7 2009.
- 8 Q. And who signed this one?
- 9 A. I signed it.
- 10 Q. Plaintiff's Number 14?
- 11 A. Note modification agreement dated January 5th,
12 2010.
- 13 Q. And who signed this one?
- 14 A. Walt -- I did.
- 15 Q. Plaintiff's Number 15?
- 16 A. Note modification agreement, dated 5-19-2010.
- 17 Q. And who signed this one?
- 18 A. I signed it.
- 19 Q. Okay. Plaintiff's Number 16?
- 20 A. This is --
- 21 Q. What is this?
- 22 A. Answer and counterclaim.
- 23 Q. And look on page 2. Who signed this one?
- 24 A. I signed it.
- 25 Q. And you signed this one on behalf of, at this

1 point, Carolina Properties Holdings, LLC and
2 Walter W. Parker, IV?

3 A. Yes.

4 Q. Okay. Let's go to 17, consent to amend
5 complaint?

6 A. Yes.

7 Q. You've seen this before --

8 A. Yes.

9 Q. -- right? And you signed this one as well?

10 A. Yes.

11 Q. Also for the same two, Carolina Properties
12 Holdings --

13 A. Yes.

14 Q. -- LLC and yourself individually?

15 A. Yes.

16 Q. Plaintiff's Number 18, can you identify this?

17 A. Letter from Leon Jones, the attorney that
18 represented me in the settlement with BB&T.

19 Q. And what's the date of this letter?

20 A. July 6th, 2011.

21 Q. And I am going quickly because I just want to
22 identify them, and then we're going to let you all
23 confer.

24 A. Sure.

25 Q. So Plaintiff's Number 19?

- 1 A. July 8th, letter from McNair.
- 2 Q. July 8th of 2011?
- 3 A. Excuse me. July 8th, 2011, letter from -- I
- 4 guess, this is Weyman Carter.
- 5 Q. And it's to whom?
- 6 A. To Leon Jones.
- 7 Q. Who was your attorney in Atlanta at that time?
- 8 A. Yes.
- 9 Q. All right. Let's look at Plaintiff's Exhibit
- 10 Number 20.
- 11 A. Okay.
- 12 Q. What is this?
- 13 A. This is a letter from Staci Close, attorney
- 14 with Jones and Walden, dated August 9, 2011.
- 15 Q. It's actually, a letter to her?
- 16 A. Excuse me. A letter to her from
- 17 Weyman Carter.
- 18 Q. And just to clarify, the first letter -- one
- 19 letter was from Leon Jones to Weyman Carter at --
- 20 Jones and Walden to Weyman Carter. This is from
- 21 Staci Close. Do you know who she was?
- 22 A. She was an attorney with Jones and Walden.
- 23 Yes.
- 24 Q. All right. Let's go to Plaintiff's Number 21.
- 25 Can you identify this?

1 A. This is a letter from Weyman Carter to
2 Staci Close.

3 Q. What's the date?

4 A. September 19th, 2011.

5 Q. All right. And let's look at Plaintiff's
6 Number 22. Can you identify this one?

7 A. This is from Weyman Carter to me and
8 Staci Close.

9 Q. Okay. And what's the date of that email?

10 A. 9-22, and then I guess there's another one in
11 here, a thread, from me to Weyman Carter.

12 Q. What's the date of the email from you to
13 Weyman Carter?

14 A. September 21st, 2011.

15 Q. All right. Let's go to Plaintiff's Number 23.

16 A. This is from Allan Hill to me in response to
17 an email, and it's dated September 20th, 2011. And then
18 that's in response to an email from me on the same date.

19 Q. Okay. Let's go to Plaintiff's Number 24. Can
20 you identify this?

21 A. Settlement agreement and mutual release of
22 claims document.

23 Q. And you have seen this one before?

24 A. Yes.

25 Q. And if you'll look at page 5, who signed this?

1 A. I did.

2 Q. Two times?

3 A. Yes.

4 Q. Once for yourself?

5 A. And once as guarantor.

6 Q. As guarantor?

7 A. Yeah.

8 Q. And then once for Carolina Properties

9 Holdings, LLC?

10 A. Right.

11 Q. Who was the witness on this?

12 A. My wife Virginia.

13 Q. And then if you will look at Plaintiff's

14 Number 25, what is this?

15 A. This is a letter from BB&T to me, customer,

16 dated -- what is the date? September -- or let's see.

17 Q. And I don't think it's actually dated. I'm

18 not sure --

19 A. It's not dated.

20 Q. I'm not sure why, but I don't think it's

21 dated. But that is from?

22 A. BB&T to me, yeah.

23 Q. And from Beverly Gilstrap, banking officer, to

24 you?

25 A. Yes.

- 1 Q. Okay. And then Plaintiff's Number 26?
- 2 A. Stipulation of dismissal as to counterclaims
- 3 only.
- 4 Q. And if you would -- you've seen this document
- 5 before?
- 6 A. Yes.
- 7 Q. Okay. And if you would look at page 2.
- 8 A. Um-hum.
- 9 Q. And who signed there?
- 10 A. I did.
- 11 Q. Individually and?
- 12 A. On behalf of Carolina Properties Holdings.
- 13 Q. And then let's go to Plaintiff's Number 27.
- 14 A. Deed in lieu of foreclosure document.
- 15 Q. And you've seen this document before?
- 16 A. Yes.
- 17 Q. And look at page 2.
- 18 A. Yes.
- 19 Q. You signed this document?
- 20 A. Yes.
- 21 Q. On behalf of Carolina Properties
- 22 Holdings, LLC?
- 23 A. Yes.
- 24 Q. What date did you sign it?
- 25 A. October 24th, 2011.

1 Q. Can you identify the witnesses? And I know
2 it's fuzzy, but --

3 A. Do I -- can I identify the names written
4 there?

5 Q. Yes, yes. That's what I'm asking. I'm having
6 trouble reading these names.

7 A. Stephanie -- the second line looks like
8 Stephanie Moxley. And the first line is
9 Carrie Britton -- yeah. I'm not sure.

10 Q. And this was signed in Beaufort --

11 A. Yes.

12 Q. -- South Carolina. Do you know these -- I
13 mean, was this at an attorney's office, or --

14 A. It was at bank. It was a bank branch, if I
15 recall.

16 Q. Do you know which bank?

17 A. I do not remember.

18 Q. Okay. And then lastly, Plaintiff's
19 Exhibit Number 28.

20 A. Yes.

21

22 Q. Can you identify this?

23 A. Yes. This is an email from Allan to you.

24 Q. And below that?

25 A. And below that is from me to Allan.

1 Q. And what is the date of that email?

2 A. August 18th, 2011.

3 Q. Okay. I think we've now identified all 28
4 documents.

5 A. Great.

6 Q. And at this point, if you all would like to
7 have an opportunity to confer over these documents, it
8 is also 12:37, would you all like to take a break?

9 MR. HILL: That would be good.

10 (Lunch break at 12:38 P.M. until
11 1:47 P.M.)

12 BY MR. LeGRAND:

13 Q. Mr. Parker, you've previously been sworn, and
14 we've had a break and now we're ready to go?

15 A. Yes.

16 Q. Okay. And you've had an opportunity to confer
17 with your counsel about all 28 of the documents?

18 A. We have, yeah.

19 Q. And I know I rushed through some things
20 earlier. I want to go back and ask a couple more
21 questions --

22 A. Okay.

23 Q. -- if I may?

24 A. All right.

25 Q. Tell me your educational background.

1 A. I have a Bachelor's of Art from
2 Emory University.

3 Q. In what field?

4 A. Political science.

5 Q. Any other higher education?

6 A. No.

7 Q. And I wasn't quite clear that in your
8 employment background from -- I understand from 2010 to
9 2015, you were self-employed?

10 A. Right, um-hum.

11 Q. And that was in Spartanburg?

12 A. Right -- well, no, no, no. 2010 to 2015, it
13 was Beaufort --

14 Q. Right, right, right.

15 A. -- Madison, Atlanta.

16 Q. Okay. So Beaufort was what year?

17 A. '15 -- excuse me, 2010, and then -- just for a
18 few months. And then we moved to Madison. The majority
19 of the time I was self-employed in Madison.

20 Q. Okay.

21 A. But there were a few years -- a few months in
22 Beaufort and a few months in Atlanta.

23 Q. And then from 2006 -- I know you worked for
24 Advance America 2003 to 2006?

25 A. Right.

1 Q. What about 2006 to 2010?

2 A. From 2006 to 2007, I worked at Toll Brothers.

3 It's a land acquisition manager.

4 Q. Now, what is Toll Brothers?

5 A. A home builder.

6 Q. Where was that?

7 A. Beaufort. That's what took us to Beaufort.

8 Q. Okay. I think that's why I thought that you

9 had worked for a builder in Beaufort.

10 A. (Nods head).

11 Q. You had told me that before. So you worked

12 for Toll Brothers for one or two years?

13 A. About one year.

14 Q. And then from 2007 --

15 A. To '10.

16 Q. Yeah.

17 A. It was BB&T.

18 Q. You worked for BB&T?

19 A. Right.

20 Q. Where?

21 A. In Beaufort.

22 Q. So it was 2007 to 2010?

23 A. Right.

24 Q. So right now, Advance America, Extended Stay,

25 these are all -- so really, you've been working for

- 1 George Johnson for quite a while?
- 2 A. Right.
- 3 Q. All right. Then BB&T from 2007 to 2010, and
- 4 that was all in Beaufort?
- 5 A. Right.
- 6 Q. What was your title and position?
- 7 A. Business Services Officer.
- 8 Q. What does that mean?
- 9 A. Primarily, I was a commercial
- 10 real -- commercial lender.
- 11 Q. So you were probably a vice president?
- 12 A. I was a vice president, yeah.
- 13 Q. So a commercial lender in 2007 to 2010, and
- 14 all in Beaufort?
- 15 A. Right.
- 16 Q. Okay. What location at BB&T?
- 17 A. Beaufort.
- 18 Q. I mean, do they have more than one branch?
- 19 A. In Beaufort?
- 20 Q. Yeah.
- 21 A. No, just one.
- 22 Q. So this was --
- 23 A. They had one in Bluffton.
- 24 Q. So this is like out on Lady's Island?
- 25 A. Yes.

1 Q. All right. Who was your immediate manager?

2 A. Eric Lowman.

3 Q. And what was his title or job?

4 A. He was the branch manager.

5 Q. And then why did you leave BB&T in 2010?

6 A. I was released.

7 Q. And for what reason?

8 A. The reason was -- mainly because of this loan.

9 I was in default on this loan.

10 Q. And what level loan authority, as a VP,
11 commercial lender -- what level loan authority would you
12 have had?

13 A. I think I had \$50,000 of lending authority.

14 Q. And then if I -- I think most banks have a
15 hierarchical system --

16 A. Um-hum.

17 Q. -- above that?

18 A. Right.

19 Q. Tell me where --

20 A. I don't really remember what those numbers
21 were.

22 Q. Okay. And who would have to approve something
23 above 50?

24 A. Mr. Lowman first and then others.

25 Q. Okay.

1 MR. HILL: How do you spell "Lowman"?

2 BY MR. LeGRAND:

3 Q. Is "Lowman" L-o-m-a-n? Is that --

4 A. L-o-w-m-a-n.

5 Q. L-o-w-m-a-n, all right. Let me take you back
6 to 2005. Let's talk about this real estate. Then you
7 purchased the real estate, that is the subject of this
8 action, in 2005; is that correct?

9 A. Yes.

10 (Plaintiff's Exhibit No. 1, Deed conveyed
11 to Carolina Properties Holdings, LLC, is
12 identified for testimony.)

13 BY MR. LeGRAND:

14 Q. And I'll direct your attention to Plaintiff's
15 Exhibit Number 1, just as an aid, but this is the deed
16 that conveyed title to whom?

17 A. Carolina Properties Holdings, LLC.

18 Q. And what was the purchase price?

19 A. \$212,000.

20 Q. And you paid cash for this?

21 A. Yes.

22 Q. So you did not finance this purchase?

23 A. Right, that's correct.

24 Q. All right. But at the time what was on that
25 piece of property?

1 A. It was a house.

2 (Plaintiff's Exhibit No. 2, plat in
3 reference to the deed conveyed to Carolina
4 Properties Holdings, LLC, is identified for
5 testimony.)

6 BY MR. LeGRAND:

7 Q. And let me direct your attention to the plat,
8 which is Plaintiff's Exhibit Number 2. And also, by way
9 of reference, this is plat book 154 at page 279; is that
10 correct?

11 A. Yes.

12 Q. And this is the plat that was referenced in
13 the deed?

14 A. Yes.

15 Q. And this plat shows the real estate as existed
16 when you purchased it?

17 A. Yes.

18 Q. And so it had a house on it at the time?

19 A. No. I'm thinking back on it. It used to have
20 a house. I think it had already been torn down. So it
21 was -- it was vacant land. Yeah.

22 Q. Okay. Because this plat would indicate --

23 A. Yeah. But it had already been torn down when
24 I bought it.

25 Q. So the one-story brick -- or what is a

1 one-story block building was not there when you bought
2 it?

3 A. That's right. It was used as a-- as I recall,
4 it was a garage, a car auto -- you know, auto repair
5 shop.

6 Q. You mean when you bought it?

7 A. No.

8 Q. Before you --

9 A. Yeah, before it was torn down.

10 Q. Well, who are these folks that you bought it
11 from, James (sic) Cooley and Rajai Marzouca?

12 A. I don't know. I never met them.

13 Q. Who was your closing attorney?

14 A. I don't remember.

15 Q. And tell me about -- let's talk about
16 converting this to a car wash.

17 (Plaintiff's Exhibit No. 3, sketch of site
18 plan for Mr. Parker's car wash that was built,
19 is identified for testimony.)

20 BY MR. LeGRAND:

21 Q. And at this point, I'll direct you to
22 Plaintiff's Exhibit Number 3, which -- first of all,
23 let's back up. Tell me, what is this document?

24 A. It's the sketch plan of the car wash to be
25 built on the site.

1 Q. And who prepared this for you?

2 A. I don't remember. Is it on here? Let's see,
3 Dowell & Company, engineers.

4 Q. Okay.

5 A. Yeah.

6 Q. The one that I blew up, so we can see -- you
7 can't see the -- we prepared it on this, so yes. And
8 this document is entitled "Site Plan for Walt Parker
9 Laser Wash"?

10 A. Yes.

11 Q. So did you get specifications or plans from
12 somebody else to figure out how to do this?

13 A. Carolina Pride was the equipment provider, and
14 they helped with these sketch plans.

15 Q. Carolina Pride?

16 A. Right.

17 Q. Okay.

18 A. They were the provider of the Laser 4000 car
19 wash equipment.

20 Q. So somebody at Carolina Pride said -- gave you
21 the specifications and --

22 A. Yes.

23 Q. -- the sketch?

24 A. Right.

25 Q. And then you had this engineer put it on a

1 site drawing for you?

2 A. Correct.

3 Q. And the name on the plat is Douglas Dowell,
4 professional engineer. Does that name ring a bell?

5 A. It really doesn't. I don't -- I don't
6 remember that.

7 Q. Who did you deal with at Carolina Pride?

8 A. I don't remember their names.

9 Q. Where are they located?

10 A. They have offices in -- I think they have an
11 office in Charlotte and one -- I think there's probably
12 one in -- I was dealing with somebody here in
13 Greenville.

14 Q. And did you begin -- when did you begin work
15 on converting this to a car wash?

16 A. Very soon after I purchased it.

17 Q. So your purchase was August -- like August
18 23rd, 2005?

19 A. Right.

20 Q. And you would have begun -- you say you began
21 very soon after that?

22 A. Yeah, 30 to 60 days probably.

23 Q. Okay.

24 A. We had to get site plan approval, and so
25 forth, with the City of Greer.

1 Q. And at some point -- well, let me back up.

2 The blowup is easier to see, but this design was for a
3 two bay car wash?

4 A. Yes.

5 Q. And the traffic flows in which direction?

6 A. If you're entering from Wade Hampton, it flows
7 counterclockwise. It looks like around the -- around
8 the -- you know, coming off this way, go in and
9 circulate that way -- enter from the rear and go out on
10 the front.

11 Q. And this also has two vacuum stations?

12 A. Yes.

13 Q. Where was the sign to be, approximately?

14 A. It was to be located in the best possible
15 place it could be, and --

16 Q. Well, the reason is, I don't see the sign on
17 here. That's why I'm asking.

18 A. It probably wasn't on at this point.

19 Q. Okay. And then you constructed the car wash
20 in accordance with this plan or design?

21 A. Pretty much.

22 Q. What do you mean, "pretty much"? What was
23 different?

24 A. I mean, you know, it's -- you know, 95 percent
25 is what we did, I think. I don't think we changed it

- 1 much. I mean, there may have been -- you know, the
2 width of the driveway might have been slightly different
3 than what's shown here.
- 4 Q. Now, you got a loan from BB&T --
5 A. Yes.
6 Q. -- to complete this?
7 A. (Nods head).
8 Q. You would have submitted, not just the
9 drawings, but a complete business plan to BB&T?
10 A. Right.
11 Q. Who did you deal with at BB&T?
12 A. A fellow in Spartanburg. I don't know why I
13 just can't remember -- I can't remember his name. I can
14 see him. I can't think of his name.
15 Q. If you think of it, let me know.
16 A. Okay, yeah.
17 Q. Did you give him a plan?
18 A. Yes.
19 Q. So that would have had the costs --
20 A. Right.
21 Q. -- projected costs to complete?
22 A. Right.
23 Q. And did you also project the income?
24 A. Yes.
25 Q. Do you recall those numbers?

1 A. You know, they were provided to me by the
2 equipment -- you know, Carolina Pride gave me some
3 estimates on what I could expect.

4 Q. Do you know what the numbers were?

5 A. I was thinking they were in the 100,000-dollar
6 per bay.

7 Q. Gross?

8 A. Gross per year.

9 Q. But that would have required an on-site
10 manager?

11 A. No.

12 Q. So they were projecting you could do \$200,000
13 gross per year out of this location without --

14 A. Well, when you say "on-site," what do you mean
15 by that?

16 Q. Well, thank you. Not somebody there all day.
17 I'm talking about somebody here who checks on this --

18 A. Yeah.

19 Q. -- location --

20 A. That's correct, that's correct.

21 Q. -- on a daily basis.

22 A. One person, that's right, in my -- you know,
23 if I weren't there.

24 Q. Right. Did they give you an estimate of the
25 costs that are the expenses for running this?

1 A. Yes.

2 Q. And do you recall what those were to be?

3 A. Not really.

4 Q. Do you know what they told you the net income
5 would be?

6 A. I don't remember the numbers.

7 Q. So in October of 2005, you had arranged this
8 loan with BB&T?

9 A. Right.

10 (Plaintiff's Exhibit No. 4, BB&T
11 promissory note, is identified for testimony.)

12 BY MR. LeGRAND:

13 Q. All right. Let me direct you to Plaintiff's
14 Number 4, which is the promissory note. There we go.
15 So this is a -- can you identify this document for me?

16 A. A promissory note.

17 Q. And who is the -- what's the borrower's name?

18 A. Carolina Properties Holdings.

19 Q. And this is made payable to whom?

20 A. Carolina Properties Holdings.

21 Q. Actually, it's made payable to the lender?

22 A. Oh, it's made payable to the lender.

23 Q. And who was the lender?

24 A. BB&T.

25 Q. And the amount, what is the amount?

1 A. \$585,000.

2 Q. And the interest rate?

3 A. 7.5 percent?

4 Q. It is fuzzy, but that appears to be correct.

5 And you've already identified this document as being one

6 that you signed; is that correct?

7 A. Yes.

8 Q. All right. So you signed this for

9 Carolina Properties Holdings, LLC as the member or

10 manager?

11 A. Yes.

12 Q. And do you recognize the witness's signature?

13 A. Do not.

14 Q. But this would have been your closing

15 attorney?

16 A. I suppose -- it could have been, yes.

17 Q. Go further back -- one more page back after

18 the BB&T signature page. They have a prepayment fee

19 addendum, and that's your signature as well?

20 A. Yes.

21 Q. Okay. And then another page back is a

22 document, BB&T -- is entitled "Attachment to BB&t note."

23 Do you see which page we're on? It's called "Attachment

24 to BB&t Note." Come back one, that one right there.

25 A. Yeah.

1 Q. So what is the -- what does this document or
2 this page of the document do?

3 A. Let's see, this is payment terms.

4 Q. And what --

5 A. The payment terms.

6 Q. What were the payment terms on this note?

7 A. Interest only for the first 12 months starting
8 on 11-21-2005 and PNI, principal and interest, in 12
9 monthly payments beginning after that -- excuse
10 me -- yeah, starting on 11-21-2006. And then principal
11 and interest payments, 36 principal and interest
12 payments, beginning on 11-21 in a different amount of
13 \$7100 a month.

14 Q. And then the maturity date is also stated
15 there?

16 A. Yes.

17 Q. What is it?

18 A. 10-21-2010.

19 Q. And let me direct your attention back to the
20 first page of the note. The borrower's address, the top
21 left, is what?

22 A. 528 Glendalyn Avenue, Spartanburg.

23 Q. And that was your home address --

24 A. Yes.

25 Q. -- at the time? All right.

1 (Plaintiff's Exhibit No. 5, Carolina
2 Properties Holdings, LLC mortgage to BB&T, is
3 identified for testimony.)

4 BY MR. LeGRAND:

5 Q. Let's go to the -- the next document I have is
6 Number 5, which is the mortgage.

7 A. Okay.

8 Q. So this is a mortgage from Carolina Properties
9 Holdings, LLC?

10 A. Correct.

11 Q. And it's in favor of BB&T?

12 A. Yes.

13 Q. Let me ask you to look at page 3. And that is
14 your signature for Carolina Properties Holdings, LLC?

15 A. Yes.

16 Q. And go to page 5. And the property
17 description is the same as the deed into Carolina
18 Properties Holdings that we looked at?

19 A. It should be.

20 Q. And the last page, which has some recording
21 information, lists an attorney's name in Spartanburg?

22 A. That's it. That's him -- that is he.

23 Q. And who is that?

24 A. Tim Richey.

25 Q. So he did your closing?

1 A. Yes.

2 Q. Did he do both closings for you, when you
3 purchased in August and this loan closing?

4 A. I can't remember. I think -- I'm pretty sure
5 he did. Yeah.

6 (Plaintiff's Exhibit No. 6, Carolina
7 Properties Holdings, LLC Guaranty Agreement
8 with BB&T, is identified for testimony.)

9 BY MR. LeGRAND:

10 Q. All right. Then let's go to Plaintiff's
11 Number 6. Can you identify this document?

12 A. Guaranty agreement.

13 Q. And this is your personal guaranty agreement?

14 A. Yes.

15 Q. And you signed it on page 3?

16 A. Yes.

17 Q. And this is an unlimited guaranty agreement?

18 A. Without reading it, I don't know. But I
19 suppose it is.

20 (Plaintiff's Exhibit No. 7, 11-14-2006
21 Carolina Properties Holdings, LLC mortgage loan
22 modification with BB&T, is identified for
23 testimony.)

24 BY MR. LeGRAND:

25 Q. All right. Let's go to Plaintiff's Number 7.

1 Now, as a preface, this begins the series of nine
2 modifications.

3 A. Yeah, okay.

4 Q. So you recall modifying this loan?

5 A. Yes.

6 Q. Multiple times?

7 A. Yes.

8 Q. Okay. So the Plaintiff's Exhibit Number 7,
9 you can identify this?

10 A. Yes, a note modification.

11 Q. And what's the date?

12 A. 11-14-2006.

13 Q. And let me -- look at the last page, if you
14 would. That is your signature for Carolina Properties
15 Holdings, LLC?

16 A. Yes.

17 Q. Let me go back to the first page. The bottom
18 of the first page, do you see the part that says, "The
19 following scheduled payments are deferred"?

20 A. Yes.

21 Q. What does that -- can you tell us what that
22 is?

23 A. Following schedule payments are deferred,
24 \$2202.56 principal --

25 Q. So, to tie these two together, this is roughly

1 a year after the original loan closing; is that correct?

2 A. Right.

3 Q. And so this was after the 12 payments of
4 interest only?

5 A. Um-hum.

6 Q. This was roughly the date and time of the
7 first scheduled principal and interest payment?

8 A. Right.

9 Q. So in other words -- well, what is the bank
10 doing with this document for you?

11 A. They are deferring the principal amount.

12 Q. Did they also schedule the
13 interest -- principal and interest to begin at a
14 different date?

15 A. Yeah. It looks like it.

16 Q. Look at page -- what is essentially page 3 of
17 this thing -- called "Attachment to BB&T note."

18 A. Um-hum.

19 Q. That might help you there. What are they
20 doing with the payments here?

21 A. Principal and interest paid in nine monthly
22 payments of \$5600 starting on 2-21-2007.

23 Q. So they've deferred the principal payments and
24 kicked that over to February --

25 A. Right.

1 Q. -- at that point?

2 A. Um-hum.

3 Q. All right. Then let's go to Plaintiff's
4 Number 8.

5 (Plaintiff's Exhibit No. 8, 2-12-2007
6 Carolina Properties Holdings, LLC mortgage loan
7 modification with BB&T, is identified for
8 testimony.)

9 BY MR. LeGRAND:

10 Q. Can you identify this document?

11 A. Modification renewal, reinstatement of note.

12 Q. And what's the date of the modification?

13 A. February 12th, 2007.

14 Q. All right. Look at page 4. And who signed
15 this one?

16 A. I did.

17 Q. And flip one more page to a document -- or the
18 heading called "Attachment."

19 A. Um-hum.

20 Q. What are they doing here with the payments?

21 A. Interest paid in one monthly payment starting
22 on 3-20-2007. Principal and interest paid to -- let's
23 see, principal and interest paid in ten monthly payments
24 of \$5600 starting on 4-21-2007.

25 Q. So what they did here was -- I mean, this was

1 just a couple of months after the previous modification.
2 So what they've done is kicked the principal and
3 interest payment one more month out; is that correct?

4 A. Yes.

5 Q. All right.

6 (Plaintiff's Exhibit No. 9, 12-2007
7 Carolina Properties Holdings, LLC mortgage loan
8 modification with BB&T, is identified for
9 testimony.)

10 BY MR. LeGRAND:

11 Q. Let's go to Plaintiff's Number 9. And if you
12 will identify this one, please.

13 A. Note modification agreement.

14 Q. And look at page 4 again.

15 A. Yes.

16 Q. Is that your signature?

17 A. Yes.

18 Q. And what is BB&T doing with this document?

19 And I'll direct you to the middle of the first page --

20 A. Let's see --

21 Q. -- where they put an X in the block that says,
22 "payable in consecutive monthly installments."

23 A. Payable in consecutive monthly installments,
24 principal and interest, commencing on
25 1-21-2000 -- whatever. I can't --

1 Q. Yeah. It's probably 2008, since this was done
2 in December of '07.

3 A. Okay.

4 Q. Does that make sense?

5 A. Um-hum. And then 35 -- is it 35 equal
6 payments --

7 Q. I think that's 35.

8 A. -- \$5600?

9 Q. So to link these, again, what they've done is
10 they've extended the time for the principal and interest
11 payments to begin; is that correct?

12 A. (Nods head.)

13 Q. Is that --

14 A. Yes.

15 Q. Sorry. We have to get it on the record.

16 A. Yes.

17 Q. But also, while we're in that same section,
18 that surety date has not changed --

19 A. Correct.

20 Q. -- right? So the surety date is still
21 October 19, 2010, correct?

22 A. Yes.

23 Q. Okay. Let's go to Plaintiff's Number 10.

24 (Plaintiff's Exhibit No. 10, 1-14-2008

25 Carolina Properties Holdings, LLC mortgage loan

1 modification with BB&T, is identified for
2 testimony.)

3 BY MR. LeGRAND:

4 Q. Can you identify this one?

5 A. Note modification agreement dated
6 January 14th, 2008.

7 Q. That's what it looks like. So this is one
8 month after the previous modification; is that correct?

9 A. Yeah.

10 Q. All right. Look at the -- let's look at the
11 signature page, which on this one is page 4 again. And
12 is that your signature?

13 A. Yes.

14 Q. For Carolina Properties Holdings?

15 A. Yes.

16 Q. Go to page 5, which is an -- it's called
17 "Attachment to BB&T note." And tell me what
18 they're doing -- I'm sorry, page 5 of the same -- yeah,
19 number 10 there.

20 A. Okay. One, two, three, four, five, okay.

21 Q. Do you see it at the top? It's the one that
22 says, "Attachment to BB&T note."

23 A. Yes.

24 Q. And the first section, what are they doing
25 with the payments there?

1 A. Interest paid in six monthly payments starting
2 on 1-21-2008, principal and interest paid in 36 monthly
3 payments of \$5600 starting on -- 7-21-2008? Is that
4 right?

5 Q. That's what it looks like.

6 A. Yeah.

7 Q. And then the last typed-in section there?

8 A. One final payment of all -- totaling principal
9 and interest -- I can't read that.

10 Q. I think -- if I may help you by reading it?

11 A. Yeah.

12 Q. I think what it says is, with one final
13 payment of all remaining principal and
14 interest -- principal and accrued interest due on
15 October something, 2010?

16 A. Yeah.

17 Q. Does that sound right?

18 A. Um-hum.

19 Q. Does that look right?

20 A. Um-hum.

21 Q. Again, to link these documents, what they've
22 done -- I mean, this is pretty typical for banks, is
23 when you get to one time period with the interest, if
24 you need to make a change here, they do a modification
25 agreement?

1 A. Right.

2 Q. So they have, again, extended the
3 interest-only period under this loan?

4 A. Right.

5 (Plaintiff's Exhibit No. 11, 7-3-2008
6 Carolina Properties Holdings, LLC mortgage loan
7 modification with BB&T, is identified for
8 testimony.)

9 BY MR. LeGRAND:

10 Q. Okay. Let's go to Plaintiff's Exhibit
11 Number 11.

12 A. It's a note modification dated July 3rd, 2008.

13 Q. And once again, look at page 4.

14 A. Yes.

15 Q. And that is your signature?

16 A. That is my signature.

17 Q. Okay. And this time go back to page 1. They
18 didn't do the attachment. They did the -- it looks like
19 they did the modification of payments on page 1. Is
20 that -- does that look right, in the middle where they
21 put an X --

22 A. Yes.

23 Q. -- in the block?

24 A. Um-hum.

25 Q. What are they doing with this?

1 A. It looks like it's now 27 payments at \$4600.

2 Q. So now the payment has been reduced from \$5600
3 a month down to \$4600 a month?

4 A. Right.

5 Q. And the maturity date is this -- it looks like
6 October the 21st on this one?

7 A. Yes.

8 Q. Of 2010?

9 A. (Nods head).

10 Q. So is that -- that's correct?

11 A. That's what -- that's what it says. Yeah.

12 Q. All right. Let's go to Plaintiff's Number 12.

13 (Plaintiff's Exhibit No. 12, 12-11-2008

14 Carolina Properties Holdings, LLC mortgage loan

15 modification with BB&T, is identified for

16 testimony.)

17 BY MR. LeGRAND:

18 Q. And if you'll identify this one, please.

19 A. Note modification agreement dated

20 December 11th, 2008.

21 Q. Go to page 4. Is that your signature?

22 A. Yes.

23 Q. For the LLC?

24 A. Yes.

25 Q. And just as -- so Ginny didn't need to --

1 excuse me, your wife Virginia, did not need to sign any
2 of these on behalf of the LLC; is that correct?

3 A. That's correct.

4 Q. Okay. Let's go back to page 1, then. So what
5 is BB&T doing with the interest rate here?

6 A. Changing the interest rate.

7 Q. Do you see that X where they -- right up at
8 the top where they put "variable," do you see that?

9 A. Um-hum.

10 Q. So they change it to a variable rate?

11 A. Yes.

12 Q. At what rate?

13 A. One percent.

14 Q. Over?

15 A. Over prime.

16 Q. Over prime?

17 A. Yes.

18 Q. And then they use their attachment form again
19 on the -- which I think would be about page 5, right
20 after your signature page?

21 A. Um-hum.

22 Q. What have they done here with the payments?

23 A. Principal and interest paid in 12 monthly
24 payments of \$4600.

25 Q. And the line above that?

- 1 A. The line above it says, "interest paid in 10
2 monthly payments starting on 1-21-2009."
- 3 Q. And then the principal and interest beginning?
- 4 A. Yes, um-hum.
- 5 Q. And then the maturity date, it's the last
6 line, is still the same?
- 7 A. Yes.
- 8 Q. October 21, 2010?
- 9 A. Yes.
- 10 Q. So then what they've done here is we've -- you
11 went along, from the modification in July of 2008, to
12 this modification in December of '08. So five months
13 later you were not making these payments at \$4600 a
14 month, or you were?
- 15 A. I don't -- I don't know.
- 16 Q. Okay. But in that time period, you went back
17 to BB&T and asked to -- you must have asked them -- is
18 that what you did, to go to interest only?
- 19 A. Yeah, I must have.
- 20 Q. Do you know who you were dealing with at BB&T
21 at that point?
- 22 A. It was the Spartanburg office here.
- 23 Q. And you don't remember his name?
- 24 A. I don't remember the fellow's name.
- 25 Q. Tom Eller, does that ring a bell?

1 A. No. It wasn't Tom -- well, the gentleman that
2 made the loan -- that made the loan was not
3 Tom Eller, but I think Tom Eller maybe was the branch
4 manager or --

5 Q. The city executive or something?

6 A. -- the city exec. But I don't -- I don't
7 remember if that name is right or not.

8 Q. Okay.

9 A. He officed in Spartanburg, though.

10 Q. Okay. If you remember his name, let me know.

11 A. Okay.

12 Q. Let's go to Plaintiff's Number 13.

13 (Plaintiff's Exhibit No. 13, 12-9-2009
14 Carolina Properties Holdings, LLC mortgage loan
15 modification with BB&T, is identified for
16 testimony.)

17 BY MR. LeGRAND:

18 Q. Can you identify this document?

19 A. Loan modification agreement, dated
20 December 9th, 2009.

21 Q. And let's go to page 4. And this is your
22 signature?

23 A. Yes.

24 Q. Just --

25 A. I see Tom Eller's name there. That's him.

1 Q. So that's how -- yeah.

2 A. Okay.

3 Q. But he was not the loan officer or the -- I
4 mean, this wasn't a loan that was his responsibility?

5 A. That's correct.

6 Q. Just --

7 A. Well, I think it maybe became his
8 responsibility.

9 Q. Like as a city exec --

10 A. Yeah.

11 Q. -- that's what his --

12 A. Right.

13 Q. Okay. And then let's go back to the first
14 page. And it looks like the interest was still at prime
15 plus one?

16 A. Yes.

17 Q. And then they had -- and you have to go down
18 there, check block, "System, accrued interest payable
19 monthly" --

20 A. Um-hum.

21 Q. -- "January 21, 2010 through March 21, 2010";
22 is that correct?

23 A. Yes.

24 Q. And then to back up one check block. What did
25 they do with principal and interest?

1 A. This box?

2 Q. Well, the check block above the -- where I --
3 let me see that we're on the right one here. Yes. What
4 are they doing with this -- in this section where they
5 say, "payable in consecutive monthly installments of
6 principal and interest"? Do you see right there?

7 A. Yeah. Principal and interest commencing on
8 4-21-2010, continuing on the same day of each calendar
9 period thereafter in six equal payments of 45-something.

10 Q. And the maturity date is still --

11 A. The final date is October 21st, 2010. Yeah.

12 Q. So again, you -- at this point, to get to this
13 modification agreement, you must have contacted BB&T and
14 asked to go back to interest-only payments for a period?

15 A. Yes.

16 Q. Okay. Let's go to Plaintiff's Number 14.

17 (Plaintiff's Exhibit No. 14, 1-5-2010

18 Carolina Properties Holdings, LLC mortgage loan
19 modification with BB&T, is identified for
20 testimony.)

21 BY MR. LeGRAND:

22 Q. And if you'll identify this document.

23 A. Note modification, dated January 5th, 2010.

24 Q. And go to page 4.

25 A. Okay.

1 Q. Is that your signature?

2 A. Yes.

3 Q. All right. Let's go back to page 1. What are
4 they doing -- what is BB&T doing with this modification
5 agreement? Look at the bottom where there's a check
6 block.

7 A. Um-hum.

8 Q. And it says, "The following scheduled payments
9 are deferred." What are they doing here?

10 A. Deferring principal payment.

11 Q. So this is a month after the previous
12 modification, so they've deferred principal for another
13 month?

14 A. Right.

15 Q. But the previous modification still had
16 interest only through March? So that was still in place
17 at this point?

18 A. Um-hum.

19 (Plaintiff's Exhibit No. 15, 5-19-2010
20 Carolina Properties Holdings, LLC mortgage loan
21 modification with BB&T, is identified for
22 testimony.)

23 BY MR. LeGRAND:

24 Q. All right. Let's go to Number 15.

25 A. Yeah. Note modification agreement, dated

1 May 19th, 2010.

2 Q. And go to page 4. Is that your signature?

3 A. Yes.

4 Q. Who's the witness?

5 A. Tom Eller.

6 Q. Okay. And when you were at BB&T, you knew
7 Tom?

8 A. I knew him by phone. I never met him until, I
9 think, I had to sign that.

10 Q. Right. At this point, in 2011, you were
11 living in Beaufort, though?

12 A. Right, yeah.

13 Q. So did you come up here?

14 A. Yeah.

15 Q. So you would have gone to the BB&T office
16 here --

17 A. Um-hum.

18 Q. -- met with Tom --

19 A. Right.

20 Q. -- worked out the modifications? So these
21 modifications that Tom witnessed were done --

22 A. In his presence, yeah.

23 Q. You physically came?

24 A. Yes, that's right.

25 Q. Okay. Now, back to this modification

1 agreement. Let's talk about what they're doing here.
2 Look at the -- you know, BB&T has all these options, and
3 then they check a block. Go down to the second X'ed
4 block, which is right there. And it says, "Accrued
5 interest..." What is this doing here?

6 A. "Accrued interest is payable monthly
7 commencing June 19th, 2010."

8 Q. And?

9 A. "Continuing on the same day of each calendar
10 period thereafter with one final payment of the
11 remaining interest due on October 19th, 2010."

12 Q. And to back up, the check block, or the X'ed
13 block above that, where it says "principal," what are
14 they saying here?

15 A. "Principal plus any accrued interest, not
16 otherwise scheduled herein, is due in full at maturity
17 on 10-19-2010."

18 Q. So what they've done here is, again, they've
19 gone back to an interest-only payment schedule?

20 A. Um-hum.

21 Q. So at this point, you must have requested
22 them -- again, as you did before -- that you go back to
23 interest only and that would have been because the
24 business was not generating enough income to --

25 A. Yes.

1 Q. -- make the payments --

2 A. Yes.

3 Q. -- regular payments? And so that is the last
4 modification agreement that we have -- or this was the
5 last one that you're aware of?

6 A. Yes.

7 Q. And so the maturity date was October 19, 2010;
8 is that correct?

9 A. Yes.

10 Q. Okay. So let's back up a little bit in time,
11 then. You borrowed money from the SBA --

12 A. Yes.

13 Q. -- also?

14 A. Yes.

15 Q. And you had a loan authorization agreement
16 that you signed. Initially, it was \$133,000; is that
17 correct?

18 A. Yes.

19 Q. What was the purpose of that loan?

20 A. It was just, you know, operational cash and
21 repairs.

22 Q. And the reason I'm asking is you borrowed
23 \$585,000 from BB&T?

24 A. Um-hum.

25 Q. So maybe we should back up. Tell me what that

1 \$585,000 went for.

2 A. That was equipment, construction of the
3 building, site work and working capital.

4 Q. But it was not enough to complete everything?

5 A. Yeah. The construction took longer than I
6 expected.

7 Q. And it must have cost more?

8 A. It cost more, yeah.

9 Q. How much more?

10 A. I don't recall. More than -- more than it
11 should have. I was building it from Beaufort, you know,
12 by telephone.

13 Q. Um-hum. And so from October of 2005, when you
14 borrowed the money from BB&T, to February of -- excuse
15 me, December of 2007, you were still not operational?

16 A. I don't think I became -- yeah. That's
17 correct.

18 Q. Do you know when you became operational?

19 A. If I was to venture a guess, I think it
20 was -- let's see, I think it was early in 2007.

21 Q. Then why did you go back in December of 2007,
22 and borrow \$133,000 from SBA?

23 A. You know, I just wasn't making any money, and
24 we were in a drought.

25 Q. You mean a real --

1 A. South Carolina had a drought. A federal
2 disaster -- it was an SBA disaster loan.

3 Q. All right. So what did the -- then, let's go
4 back to what did the \$133,000 go -- what did that do? I
5 mean, what did you do with that money?

6 A. It was -- it was used for, you know, funding
7 the -- funding the debt, primarily, any shortfalls in
8 the debt that I was -- that I owed BB&T.

9 Q. So you paid the BB&T loan with this loan?

10 A. Pretty much, hoping that business would
11 improve.

12 Q. Now, the note that you signed with them, both
13 of you -- you and your wife signed that note; isn't that
14 correct?

15 A. Um-hum.

16 Q. You then modified that loan in June of 2008?

17 A. (Nods head).

18 Q. And borrowed more money --

19 A. Yes.

20 Q. -- is that correct?

21 A. Yes.

22 Q. And so you borrowed an additional \$26,500 from
23 SBA?

24 A. Yes.

25 Q. So that modification was for \$159,500?

1 A. Yes.

2 Q. And what did you do with the additional money?

3 A. All working capital.

4 Q. So "working capital," meaning you're paying --
5 well, you tell me. What were you doing with this -- for
6 working capital?

7 A. Make up shortfalls and any -- any net
8 operating income that was -- that I needed for a debt
9 payment to BB&T.

10 Q. So again, you're paying BB&T with this --

11 A. Yes.

12 Q. -- money that you borrowed from SBA?

13 A. Yes.

14 Q. And both of you -- in this instance, both you
15 and your wife signed unconditional agreements with SBA?

16 A. Yes.

17 Q. The equipment, let's talk about the equipment.
18 Where did you -- you talked about Carolina Pride. I
19 don't know anything about them. Did you buy the
20 equipment from them?

21 A. I bought the equipment from a colleague who
22 owned car washes in North Carolina.

23 Q. Who was that?

24 A. Charlie Bell.

25 Q. So you didn't buy it from Carolina Pride?

- 1 A. No. I ended up not buying it from them.
- 2 Q. And where did he get the equipment?
- 3 A. Carolina Pride.
- 4 Q. So he was using this equipment at a car wash
- 5 in North Carolina?
- 6 A. Yes.
- 7 Q. How long had the equipment been used there?
- 8 A. Five years.
- 9 Q. So this equipment had been -- was used when
- 10 you bought it?
- 11 A. Yes.
- 12 Q. And had been used for five years?
- 13 A. Yes.
- 14 Q. But it was a two bay car wash setup?
- 15 A. Yeah, yes. I mean, it had two automatic bays
- 16 on-site.
- 17 Q. And how did you finance that equipment?
- 18 A. It was -- it was used -- the funds were -- I
- 19 paid for the equipment with -- actually, some of it with
- 20 cash at the beginning of the transaction. And I think I
- 21 borrowed -- you know, some of it was in the proceeds of
- 22 the BB&T loan.
- 23 Q. Do you know how much you paid for the
- 24 equipment?
- 25 A. Let's see, you know, with installation and

1 everything, it was over \$100,000.

2 Q. Well, then tell me about this loan with
3 Community Development and Improvement Corporation.

4 A. It was -- it was -- it was a loan where I used
5 the equipment as collateral.

6 Q. But they loaned the money to Carolina Clean
7 Greer, LLC --

8 A. Yes.

9 Q. -- Carolina Greer I, LLC?

10 A. Yes.

11 Q. Why did Carolina Clean borrow the money
12 instead of Carolina Properties?

13 A. I don't remember why we did that.

14 Q. So how much money did you borrow from -- we'll
15 call them "CDIC." How much did you --

16 A. \$50,000.

17 Q. Do you know when that was?

18 A. I don't remember exactly. I mean, I
19 could -- let me see, 2010 -- 2009, somewhere in that
20 range -- neighborhood.

21 Q. Do you remember the terms?

22 A. No.

23 Q. So let me -- kind of follow me. Let's recap
24 this. So you borrowed -- you paid \$212,000 for the
25 land?

1 A. Yes.

2 Q. And then you borrowed 585,000 from BB&T?

3 A. Yes.

4 Q. You borrowed a total of 159,500 from SBA?

5 A. Yes.

6 Q. And then you, and/or the other company,
7 borrowed \$50,000 from CDIC?

8 A. Yes.

9 Q. So at this point, you had over \$1,000,000
10 invested in this two bay car wash?

11 A. Yes.

12 Q. But the payments on the SBA loan were not
13 being made at this point?

14 A. At which point?

15 Q. Well, when you borrowed money from SBA, you
16 were using that money to pay BB&T's payments of
17 interest. How were you making the SBA payments?

18 A. Probably from my own cash flow --

19 Q. And then --

20 A. -- present cash flow.

21 Q. The CDIC loan, how were you making that
22 payment?

23 A. Same way.

24 Q. And did Carolina Properties pay CDIC to
25 operate it?

1 A. Ask me -- I'm sorry.

2 Q. And let me back up, then. You had told me
3 that CDIC -- Carolina Clean -- I'm sorry. I got myself
4 even confused here --

5 A. Okay.

6 Q. -- with all these names. Carolina Clean was
7 the operator of the car wash?

8 A. Yes.

9 Q. And Carolina Properties held title to the real
10 estate?

11 A. Yes.

12 Q. Okay. So was Carolina Properties paying
13 CDIC -- I mean, paying Carolina Clean, or was
14 Carolina Clean paying Carolina Properties?

15 A. I don't remember how we paid them. I mean, we
16 just --

17 Q. So there wasn't --

18 A. It probably wouldn't be a separate account.

19 MR. HYDE: When we get to a stopping place,
20 can we take a little break?

21 MR. LeGRAND: Sure. Do you want to take a
22 break?

23 THE WITNESS: Sure, yeah.

24 (Recess taken from 2:36 P.M. until
25 2:44 P.M.)

1 BY MR. LeGRAND:

2 Q. Okay, Mr. Parker. We've had a break.

3 A. Yes.

4 Q. And while we had that break, did you have any
5 conversations with anyone?

6 A. No.

7 Q. Not your counsel, perhaps your wife?

8 A. My wife, yeah.

9 Q. But not about the deposition or this case?

10 A. No, no.

11 Q. I think we got up to October 2010.

12 A. Yes.

13 Q. All right. So to back up, though, you had
14 been operating, or in operation at this car wash
15 location, from -- did you tell me 2008 or 2007?

16 A. I'm thinking -- I said 2007. I think -- I
17 think that's when it was. Yeah.

18 Q. Do you know about what month?

19 A. I think it was probably the first quarter of
20 2007.

21 Q. But you were in Beaufort at this point?

22 A. Right.

23 Q. How did you run this car wash five hours away?

24 A. I had somebody going by daily to check on it
25 and clean -- you know, make sure things were operating,

1 and I had a number of people that worked there.

2 Q. How many?

3 A. I mean, not at one time, but I had, you know,
4 one person work for several months and then another
5 person -- you know, he would leave and I'd get somebody
6 else.

7 Q. Were these full time or part time?

8 A. They're part time.

9 Q. So you had one person at a time?

10 A. Right.

11 Q. And do you know what they did or what their
12 job duties were?

13 A. They did similar work that Ken described, you
14 know, clean -- pick up the trash, empty the trash, check
15 the chemical levels, collect the money and make
16 deposits.

17 Q. How often did they collect the money and make
18 deposits?

19 A. It varied. Sometimes we'd collect it weekly.
20 Sometimes we'd collect it more frequently than that.

21 Q. And then you got a report?

22 A. Yes.

23 Q. Of the deposit or --

24 A. Of the deposit, yes.

25 Q. And that's how you continued to run it through

1 the end of October or October of 2010?

2 A. Right.

3 Q. But at this point, you had not paid the 2009
4 taxes; is that correct?

5 A. In 2010, I didn't pay the 2009 taxes?

6 Q. That's right. Was that correct?

7 A. That's correct.

8 Q. And then, of course, the same thing for the
9 2010 taxes, which came due at the end of 2010?

10 A. Right.

11 Q. But you were still operating the car wash in
12 late 2010?

13 A. Yes.

14 Q. So the loan matured October 19, 2010. And
15 then BB&T filed its foreclosure action February of 2011?
16 Does that sound right?

17 A. That sounds about right.

18 Q. They would have sent you a demand letter; is
19 that right?

20 A. Yes.

21 Q. Did you have conversations with anyone at BB&T
22 about it?

23 A. Yes.

24 Q. Do you know who you talked to?

25 A. I talked to Eric Lowman about it.

1 Q. So he was your immediate supervisor?

2 A. Right, um-hum.

3 Q. Still?

4 A. Um-hum.

5 Q. And what did he have to say about that?

6 A. He said -- he said: Let's let us look into
7 this for you, and then the next thing I know -- you
8 know, they asked me to resign -- I mean, they asked me
9 to leave.

10 Q. When did you leave?

11 A. It was in 2010, I think.

12 Q. After the maturity date?

13 A. Yeah. Soon after the maturity date.

14 Q. So it would have been sometime in November or
15 December of 2010?

16 A. Yeah. I think October or November.

17 Q. Then, in April, you filed an answer and
18 counterclaim -- and now we're back on these documents.

19 A. Right.

20 Q. So this is Plaintiff's Number 16.

21 (Plaintiff's Exhibit No. 16, answer and
22 counterclaim filed by Mr. Parker, is identified
23 for testimony.)

24 BY MR. LeGRAND:

25 Q. So you filed this answer and counterclaim,

1 correct?

2 A. Yes.

3 Q. And that's your signature on page 2?

4 A. Yes.

5 Q. Okay. So you are filing this on behalf of
6 yourself individually?

7 A. Yes.

8 Q. And on behalf of Carolina Properties
9 Holdings, LLC?

10 A. Yes.

11 Q. Would you read the highlighted portion in line
12 number 2 there?

13 A. "Defendants admit the allegations contained in
14 these paragraphs."

15 Q. And which paragraphs -- I'm sorry --

16 A. One through 26 of the complaint.

17 Q. All right. Then let me direct your attention
18 to Plaintiff's Number 17.

19 (Plaintiff's Exhibit No. 17, consent to
20 amend complaint, is identified for testimony.)

21 BY MR. LeGRAND:

22 Q. What is this document?

23 A. This is a consent to amend complaint.

24 Q. And you signed the bottom?

25 A. Yes.

1 Q. And you signed for you individually, correct?

2 A. Yes.

3 Q. And you signed for Carolina Properties

4 Holdings, LLC?

5 A. Yes.

6 Q. And by this time, your address on this
7 document -- so we're in -- I believe this was filed with
8 the Court, it looks like, July of 2011 --

9 A. Um-hum.

10 Q. -- is that correct?

11 A. Yes, yeah.

12 Q. Okay. And by this time, you were living in
13 Madison, Georgia?

14 A. Yes.

15 Q. So from the end of 2010, to seven months
16 later, you're in Madison, Georgia?

17 A. Yeah.

18 Q. I'm not familiar with that. Where is Madison?

19 A. It's between Augusta and Atlanta off I-20 near
20 Athens.

21 Q. During this time period, were you still
22 operating the car wash? Let me --

23 A. What time period?

24 Q. Let me back up. Yeah. We left off the car
25 wash in late 2010, and you were still operating the car

1 wash --

2 A. Um-hum.

3 Q. -- right? And then I fast-forwarded you to
4 July -- let's back up. So in that seven-month time
5 period, from, let's say, the beginning of 2011 forward,
6 were you still operating the car wash?

7 A. Yes.

8 Q. Okay. When did you cease operating the car
9 wash?

10 A. When I turned the key over to -- to Ken.

11 Q. Do you know when that was?

12 A. Not exactly -- not the exact date, but it
13 was -- it was soon after I delivered the deed in lieu of
14 foreclosure.

15 Q. How did you deliver that key to him?

16 A. At his office.

17 Q. So now you're in Madison, Georgia. You came
18 here --

19 A. Yes.

20 Q. -- to deliver the key?

21 A. Yes.

22 Q. And that's the reason you came here?

23 A. Yeah. My mother lives in Landrum, and I
24 probably saw her while I was here.

25 Q. But do you remember when that was?

1 A. You know, let's see, I can look at the --

2 Q. Go ahead and look. I mean, I'm -- we can go
3 through some more, and we'll come back to that point.

4 A. Yeah. Let's come back to it.

5 Q. All right. Were you attempting to sell the
6 car wash --

7 A. Yes.

8 Q. -- during -- how did that -- did you list it
9 with a realtor, or exactly how did you do that?

10 A. I tried a number of things. I had a sign
11 up -- a "For Sale by Owner" sign up. I tried to get
12 somebody to lease/purchase it.

13 Q. How many people did you talk to?

14 A. Not many. It was in the middle of the
15 recession.

16 Q. When did you start trying to sell it?

17 A. It was probably at the beginning of 2009.

18 Q. So with a sign out front?

19 A. Yeah.

20 Q. And you just -- any other efforts?

21 A. I -- I met personally with some people,
22 including Ken, to see if they would be willing to buy it
23 and then some of the neighbors that were, you know, on
24 Wade Hampton Boulevard there near -- you know, the Honda
25 dealership, you know, the Toyota dealership.

1 Q. Did you have an asking price that --
2 A. I had -- yeah.
3 Q. What was the asking price?
4 A. It was enough to cover the debt.
5 Q. Which was -- you were asking for enough to
6 cover all three debts?
7 A. Yes.
8 Q. So at this point, that would have been roughly
9 what number?
10 A. A million, yeah.
11 Q. A million?
12 A. Yeah.
13 Q. And obviously nobody agreed to buy it?
14 A. That's correct.
15 Q. Do you remember how many people you talked to?
16 A. No.
17 Q. Do you remember -- other than Ken, do you
18 remember who else you talked to?
19 A. I spoke with the guy next door to me who was a
20 title pawn guy.
21 Q. A what?
22 A. A title pawn.
23 Q. Okay.
24 A. And had a used car lot there, I think.
25 Q. Oh, okay.

1 A. And I talked to the Honda dealer. I talked to
2 the Toyota dealer. It was advertised.

3 Q. Where?

4 A. I think it was an internet ad, you know, on a
5 car wash website or -- I don't -- it may have been just
6 been on like LoopNet or something like that -- or
7 something similar to LoopNet.

8 Q. Well, how did you get in on LoopNet? I mean,
9 that's a commercial real estate site --

10 A. Yeah.

11 Q. -- right? So did you go through a commercial
12 broker?

13 A. No. It's -- it's a free --

14 Q. You don't have to be a broker --

15 A. No.

16 Q. -- to be on LoopNet?

17 A. No.

18 Q. But you were "still operating, --

19 A. Yes.

20 Q. -- on into 2011?

21 A. Yes.

22 Q. Same method? You had a person here
23 operating --

24 A. Right.

25 Q. -- or going out there?

1 A. And for a period of time I operated it. You
2 know, but it was --

3 Q. How did you do that from --

4 A. -- such a short period of time.

5 Q. How did you do that from Madison, Georgia?

6 A. Well, I was self-employed, as you recall, and
7 I had the ability to move from Madison to Greer.

8 Q. Okay. What was the problem with selling it?
9 Why was there no interest?

10 A. It was -- it was in the middle of the
11 recession.

12 Q. And that plus the price being very high?

13 A. That plus -- yeah.

14 Q. And the debt -- or the price/debt?

15 A. Yeah.

16 Q. And at this point, it was not generating
17 sufficient income to service all three debts?

18 A. Correct.

19 Q. Do you know what -- do you have an idea or an
20 opinion as to the value of the property in 2011?

21 A. I really, you know, don't know. I mean, I
22 really don't have an opinion. It certainly wasn't worth
23 a million.

24 Q. Do you remember when you approached Ken about
25 buying the property?

1 A. It was probably six to nine months before the
2 note sale transaction.

3 Q. So April or May of 2011?

4 A. Yeah, if that's six to nine months.

5 Q. Well, I'm trying to count it. So let's use
6 late September as the -- so September -- it would have
7 been May or earlier --

8 A. Yes.

9 Q. -- of 2011?

10 A. Um-hum, yeah. It's a guess.

11 Q. I mean, I'm just counting on my hands here.
12 And did you approach him with that same million-dollar
13 purchase price or sales price?

14 A. Not at that point.

15 Q. Well, how did you approach him?

16 A. I approached him, you know, here's -- you
17 know, here's my car wash. You're familiar with it.
18 Here's what the numbers look like. I'm, you know, up
19 against the wall with the bank, and would you be
20 interested in buying the car wash? And I don't remember
21 what I offered it to him for. You know, maybe -- maybe
22 I said, make an offer.

23 Q. Do you remember what his response was?

24 A. He said, yeah. I might be interested in
25 buying it.

1 Q. But not at a million dollars?

2 A. Right.

3 Q. You said you had the numbers on the -- what
4 other information? You had the income numbers?

5 A. The income numbers and the expense numbers.

6 Q. Any other information you would have provided
7 to Ken?

8 A. I probably gave him the loan balances.

9 Q. Is this the same information you would have
10 given to any other -- to the other buyers that you
11 talked to -- prospects you talked to?

12 A. Yes.

13 Q. And in your amended answer, that your counsel
14 filed, they stated that you abandoned the car wash.
15 That's not in that document. I just -- I'm trying to
16 find out: When did that occur?

17 A. When did I abandon the car wash?

18 Q. Yes.

19 A. I think -- I interpret that to mean that's
20 when I gave him the key.

21 Q. Okay. But you don't remember when that would
22 be?

23 A. Not yet. I would have to go back and look.

24 Q. Okay, no problem. Well, as I said, we'll keep
25 working through these --

1 A. Sure.

2 Q. -- and see if we get there. Let me direct
3 your attention to now -- I think we're up to
4 Plaintiff's 18.

5 (Plaintiff's Exhibit No. 18, 7-6-2011
6 letter from Mr. Parker's attorney to BB&T's
7 attorney, is identified for testimony.)

8 BY MR. LeGRAND:

9 Q. Can you identify this document?

10 A. Is that this consent to amend involving --

11 Q. No. It's that letter.

12 A. Yeah, letter from my attorney to BB&T's
13 counsel.

14 Q. And that is dated July 6th, 2011?

15 A. Right.

16 Q. And your attorney was Leon Jones in Atlanta?

17 A. Right.

18 Q. And Leon Jones is a bankruptcy specialist?

19 A. Um-hum.

20 Q. You have to say "yes" or "no."

21 A. Yes, yes.

22 Q. Sorry. And so you had discussions with
23 Mr. Jones about bankruptcy?

24 A. Yes.

25 Q. How long had you been talking to him about

1 that?

2 A. I had one meeting with him about it.

3 Q. Prior to the letter?

4 A. Prior to the letter, yeah.

5 Q. And the conversation was centered on this car
6 wash, or were there other issues?

7 A. No, this -- just this.

8 Q. And this letter is -- or was the result of
9 that meeting?

10 A. Yes.

11 Q. Let me -- if I may, I want to -- that one I
12 highlighted. This one I did not. So I'm going to ask
13 you to read a highlighted portion. Let me get all my
14 highlighting done right. Would you read the highlighted
15 portion.

16 A. "Mr. Parker has no assets personally to
17 satisfy judgment, and if unsuccessful in resolving this
18 matter through settlement, he may be left with no other
19 option than to file a Chapter 7 bankruptcy."

20 Q. And he wrote this letter to Weyman Carter with
21 your authorization?

22 A. Yes.

23 Q. All right. Let's look at Plaintiff's
24 Number 19.

25 (Plaintiff's Exhibit No. 19, 7-8-2011

1 letter from BB&T's attorney Carter to
2 Mr. Parker's attorney Jones, is identified for
3 testimony.)

4 BY MR. LeGRAND:

5 Q. And can you identify this document?

6 A. This is a letter to Leon Jones from
7 Weyman Carter.

8 Q. And what is the date of that letter?

9 A. July 8th, 2011.

10 Q. And what is the substance of this letter? Is
11 this a response to the previous letter from Mr. Jones to
12 Weyman Carter?

13 A. Yes.

14 Q. Let me, if I may, highlight a portion of this
15 one as well just to simplify this. Okay. Would you
16 read that highlighted portion, please.

17 A. "I am writing in response to the settlement
18 proposal contained in your letter of July 6, 2011. The
19 BB&T account officer is willing to recommend a
20 resolution in the form of a sale of the promissory note
21 for a cash payment of \$297,000."

22 Q. Okay.

23 (Plaintiff's Exhibit No. 20, 7-6-2011
24 letter from BB&T's attorney Carter to
25 Mr. Parker's attorney Close, is identified for

1 testimony.)

2 BY MR. LeGRAND:

3 Q. And then let's go to Plaintiff's Number 20.

4 Can you identify this letter?

5 A. This is a letter to Staci from Weyman Carter.

6 Q. And Staci --

7 A. Staci is with Jones & Walden.

8 Q. Staci Close?

9 A. Staci Close.

10 Q. And she was an attorney?

11 A. Yes.

12 Q. In your initial meeting with Leon Jones, you
13 met with Staci Close as well?

14 A. No. She -- she became involved as a junior
15 partner -- or a junior attorney on this.

16 Q. So the first letter from Leon Jones was July
17 the 6th. So now we're a month down the road?

18 A. Um-hum.

19 Q. This is August --

20 A. Yes.

21 Q. -- the 9th, 2011. Would you read the -- so
22 let's back up. So from Weyman Carter to Staci, BB&T is
23 offering to sell the note for \$200,000; is that correct?

24 A. Yes.

25 Q. And would you read the two highlighted

1 portions there?

2 A. "The note sale will be pursuant to a Note
3 Purchase and Sale Agreement to be prepared by BB&T."

4 "The note sale is subject to a condition
5 precedent that the borrower and guarantor enter into a
6 Settlement Agreement with BB&T that will contain terms
7 acceptable to the bank including the dismissal of the
8 existing counterclaim with prejudice and a global from
9 the borrower and guarantor in favor of the bank."

10 (Plaintiff's Exhibit No. 21, 9-19-11
11 letter from BB&T's attorney Carter to
12 Mr. Parker's attorney Close, is identified for
13 testimony.)

14 BY MR. LeGRAND:

15 Q. Let's look at Plaintiff's Exhibit Number 21.
16 And can you identify this letter?

17 A. A letter from Weyman Carter to Staci Close.

18 Q. And by this time -- so we've now gone from
19 August the 9th to September the 19th, so roughly almost
20 five and a half weeks later, correct?

21 A. Yes.

22 Q. Would you read that highlighted portion?

23 A. "I have attached a draft Settlement Agreement
24 and Release of Claims and a proposed Stipulation of
25 Dismissal of Counterclaim for Mr. Parker to review and

1 signature."

2 Q. And attached to the letter is a draft
3 settlement agreement unsigned; is that correct?

4 A. Yes.

5 Q. And stipulation dismissal also unsigned,
6 correct?

7 A. Yes.

8 Q. So you talked to Leon Jones and Staci Close
9 about this transaction?

10 A. Yeah. I was in arrears with Leon Jones, so I
11 don't think I really got a lot of advice from him at
12 this point on this document since they weren't -- unless
13 I brought my account current, they weren't going to
14 offer any assistance.

15 Q. Let's look at Plaintiff's Number 22.

16 (Plaintiff's Exhibit No. 22, email thread
17 between BB&T's attorney Carter to Mr. Parker's
18 attorney Close and Mr. Parker, is identified
19 for testimony.)

20 BY MR. LeGRAND:

21 Q. And if you can identify this document?

22 A. This is an email thread from Weyman Carter to
23 me and Staci Close. And I wrote something back to --
24 or, excuse me, I guess he's responding to my email of
25 September 21st.

1 Q. Well, go to page 2 --

2 A. Okay.

3 Q. -- because these are slightly cumbersome.

4 When you print these out, they're in reversed

5 chronological order. So the first item is really on

6 page 2, correct?

7 A. Yes.

8 Q. And that's an email from you to Weyman Carter?

9 A. Yes, right.

10 Q. What is the date of that email?

11 A. September 20th, 2011.

12 Q. And I highlighted -- I highlighted the whole
13 thing. Would you read that into the record, please.

14 A. "This is to memorialize our conversation
15 earlier today relative to paragraph 4. (No Release by
16 Bank) of the Settlement Agreement and Mutual Release of
17 Claims document. I heard you say that the bank will not
18 release its claim against Carolina Properties and me, so
19 that it could in turn sell its claim to the note
20 purchaser. And when the transaction is complete, the
21 Bank will no longer possess the claims against
22 Carolina Properties and me, but rather the note
23 purchaser will own these rights.

24 "Please, let me know if my understanding is
25 correct."

1 Q. Okay. Let's go back to page 1 of this
2 document. And Weyman Carter's response at 3:33 P.M. was
3 what? And I highlighted --

4 A. "That is correct."

5 Q. So you're reading that? Let me start back.
6 If you would, read the highlighted response from
7 Weyman Carter.

8 A. "That is correct."

9 Q. All right. So basically, in a
10 two-minute -- you emailed him at 3:31, and he e-mailed
11 you back two minutes later, is what it looks like?

12 A. (Nods head).

13 Q. Is that correct?

14 A. (Nods head).

15 Q. You have to --

16 A. Yes, yes.

17 Q. All right. Let's look at Plaintiff's
18 Number 23.

19 (Plaintiff's Exhibit No. 23, 9-20-2011
20 email chain between Mr. Parker and his
21 attorney, Allan Hill, is identified for
22 testimony.)

23 BY MR. LeGRAND:

24 Q. All right. So we're on number 23. Can you
25 identify this document?

1 A. This is an email from me to Allan Hill.

2 Q. Okay. And then, just as we did before, let's
3 go to the bottom of it, which is what?

4 A. It says: "Alan, I'm preparing to" --

5 Q. Let's back up. Let's identify it first, if
6 you would.

7 A. It's an email from me to Allan.

8 Q. Okay. What date?

9 A. On September 20th, 2011.

10 Q. And what time?

11 A. 4:13.

12 Q. So about 30, 40 minutes after the email
13 exchange --

14 A. Yes.

15 Q. -- with you and Weyman Carter?

16 A. Yes.

17 Q. If you would read the highlighted portion into
18 the record, please.

19 A. "Allan, I am preparing to execute the
20 Settlement Agreement and Stipulation of Dismissal, which
21 is a condition precedent to the BB&T note sale. I
22 wanted to memorize the verbal agreement we have that
23 Ken Howard, Super Suds, LLC and/or the new note holder
24 will not pursue a deficiency judgment against
25 Carolina Properties or me. Also, I heard you say that

1 Ken Howard, Super Suds, LLC and/or the new note holder
2 would not be filing a 1099 for the forgiveness of debt.

3 "Please let me know if my understanding is
4 correct."

5 Q. Okay. And then your response came -- I mean,
6 sorry, Allan's response came the same day, at 4:50 P.M.,
7 correct?

8 A. Yes.

9 Q. Would you read the highlighted portion?

10 A. "Your understanding is correct."

11 Q. All right. Let's go to Plaintiff's
12 Exhibit 24.

13 (Plaintiff's Exhibit No. 24, settlement
14 agreement and mutual release of claims between
15 Carolina Properties Holdings, Mr. Parker
16 individually and BB&T bank, is identified for
17 testimony.)

18 BY MR. LeGRAND:

19 Q. Can you identify this document?

20 A. This is the settlement agreement and mutual
21 release of claims.

22 Q. And this is between what parties?

23 A. Between me -- or Carolina Properties Holdings,
24 me as a guarantor and BB&T.

25 Q. And look back at pages 5 and 6. This is a

1 fully executed document, right?

2 A. Yes.

3 Q. And on page 5, you have signed this document?

4 A. Yes.

5 Q. Twice?

6 A. Yes.

7 Q. So for you individually as guarantor?

8 A. Yes.

9 Q. And you signed as a member of
10 Carolina Properties Holdings, LLC?

11 A. Yes.

12 Q. And who is the witness?

13 A. Virginia Parker.

14 Q. Your wife?

15 A. Yes.

16 Q. Go back to, if you would, to page 2 and
17 items 3 and 4. They are highlighted. If you would read
18 those highlighted portions, please.

19 A. "Dismissal of counterclaim. Borrower and
20 Guarantor will dismiss the counterclaim asserted in the
21 foreclosure action with prejudice. The dismissal may be
22 accomplished by means of a Stipulation of Dismissal or;
23 by submission of a Motion or Proposed Order seeking
24 dismissal of the counterclaim at the direction of the
25 Bank."

1 Q. And then number 4?

2 A. "No release by bank. Borrower and Guarantor;
3 acknowledge the Bank is not releasing its claim against
4 Borrower and Guarantor under this Agreement but the
5 Bank's entry into an agreement to sell the Note to the
6 third party identified by Borrower and Guarantor is
7 sufficient consideration for this Agreement."

8 Q. And you delivered this agreement that you
9 signed to Weyman Carter; is that correct?

10 A. Yes.

11 Q. And did you -- I guess you mailed this
12 overnight?

13 A. Yes.

14 Q. How did you get it delivered to him?

15 A. I mailed it.

16 Q. And the effective date of this settlement
17 agreement is what -- on page 1?

18 A. It looks like September 19th, 2011.

19 Q. Okay. Let me direct you to Number 25.

20 (Plaintiff's Exhibit No. 25, non-dated
21 letter from BB&T to Mr. Parker informing him of
22 new note holder, is identified for testimony.)

23 BY MR. LeGRAND:

24 Q. Well, I think we've already identified that
25 this one actually doesn't have a date?

1 A. Right.

2 Q. It's not -- it's a letter but not dated?

3 A. Yes.

4 Q. But can you identify the letter?

5 A. It's a letter from the bank noticing me of --
6 or noticing the borrower of the new note holder.

7 Q. And would you read that highlighted portion?

8 A. "Effective September 23rd, 2011, the
9 above-referenced loan with BB&T was sold to
10 Super Suds, LLC."

11 Q. Okay. And who signed the letter at the
12 bottom?

13 A. Beverly Gilstrap.

14 Q. Did you know Beverly while you were at BB&T?

15 A. No.

16 Q. Let's go, if you would, to Plaintiff's
17 Number 26.

18 (Plaintiff's Exhibit No. 26, Stipulations
19 of dismissal of counterclaims by Carolina
20 Properties Holdings and Mr. Parker
21 individually, is identified for testimony.)

22 BY MR. LeGRAND:

23 Q. And if you'll identify this document, please?

24 A. Stipulation of dismissal as to counterclaims
25 only.

1 Q. And this appears to have been filed with the
2 Court; does it not?

3 A. Yes.

4 Q. Look at page 2. Is that your signature at the
5 top?

6 A. Yes.

7 Q. In here they put one signature line for both?

8 A. Yes.

9 Q. For you individually and for
10 Carolina Properties Holdings, LLC, correct?

11 A. Yes.

12 Q. You're not a South Carolina licensed attorney,
13 though?

14 A. Right.

15 Q. All right. So at this point, you signed an
16 answer and counterclaim on behalf of Carolina Properties
17 Holdings, correct?

18 A. I signed the --

19 Q. That was earlier?

20 A. Yes.

21 Q. One of the earlier documents?

22 A. Yes.

23 Q. You signed the stipulation of dismissal on
24 behalf of you and Carolina Properties Holdings, LLC?

25 A. Yes.

1 Q. And you signed the stipulation of dismissal on
2 behalf of you and CPH, LLC?

3 A. (Nods head).

4 Q. And you signed the consent to amend for you
5 individually and for CPH, LLC?

6 A. Yes.

7 Q. Okay. Let's go to Number 27.

8 (Plaintiff's Exhibit No. 27, deed in lieu
9 of foreclosure, is identified for testimony.)

10 BY MR. LeGRAND:

11 Q. And if you can identify this document?

12 A. The deed in lieu foreclosure document.

13 Q. You've seen this one before?

14 A. Yes.

15 Q. Look at page 2. We looked -- we went through
16 this process --

17 A. Yes.

18 Q. -- earlier?

19 A. Right.

20 Q. That is your signature --

21 A. Yes.

22 Q. -- for Carolina Properties Holdings, LLC?

23 A. Yes.

24 Q. And that is dated October 24, 2011?

25 A. Yes.

1 Q. And did you have -- between the first time we
2 looked at this and now, do you have any recollection of
3 these folks?

4 A. I remember they were in a bank branch that I
5 went to when I was -- I don't know. I was in Beaufort,
6 I guess. I was in Beaufort.

7 Q. But this was almost a year after you left BB&T
8 and Beaufort.

9 A. Yeah. But it wasn't a BB&T branch, it
10 probably was a branch that had a notary.

11 Q. Okay. But by October of 2011, you were living
12 in Madison?

13 A. Right.

14 Q. Okay. In --

15 A. I think I happened to be in -- when I got this
16 document to sign, I was in Beaufort, I think is what it
17 was, visiting.

18 Q. All right. Let's look at the next document.
19 This is Number 28. We're at the end.

20 (Plaintiff's Exhibit No. 28, 8-18-11 email
21 between Mr. Parker and his attorney,
22 Allan Hill, is identified for testimony.)

23 BY MR. LeGRAND:

24 Q. Can you identify this one, please?

25 A. This is an email from me to Allan.

1 Q. Okay. And Allan Hill, right?

2 A. Allan Hill.

3 Q. And what's the date of the email?

4 A. August 18th, 2011.

5 Q. At 11:40 A.M.?

6 A. 11:40 A.M., yes.

7 Q. And would you read the highlighted portion.

8 A. "SBA Disaster Loan. The borrower name is
9 Carolina Properties Holdings, LLC. SBA disaster loan
10 number 30849260-03. Derenda Fisher was my point of
11 contact. Greg Dixon Lead Loan Specialist, was the
12 individual who said they would take \$2,000 to go away."

13 Q. Okay. So to back up to the deed in lieu of
14 foreclosure, this was witnessed and notarized in
15 Beaufort; is that correct?

16 A. (Nods head).

17 Q. But you were living in Madison at the time?

18 A. Right.

19 Q. And you mailed this document back to
20 Allan Hill's office; is that correct?

21 A. Yes.

22 Q. Not overnight, just regular mail or --

23 A. It could have been overnight. It probably was
24 because I wanted to make sure he got it.

25 Q. Okay. And if you will look at the highlighted

1 portion there on page 1, would you read number -- we're
2 on the deed in lieu of foreclosure, Plaintiff's
3 Exhibit 27. Would you read the highlighted portion,
4 please.

5 A. "The loan balance of said mortgage and the
6 note secured by said mortgage is the sum of \$601,427.10,
7 together with accrued interest computed at the annual
8 rate as set forth in the note."

9 Q. Now, this is not signed by Super Suds, is it?

10 A. No.

11 Q. It's not signed by Ken Howard, is it?

12 A. No.

13 Q. And it's not signed by Allan Hill?

14 A. Well, there's no place for Ken to sign it.

15 And there's no place for -- well, there is a place for
16 Allan to sign.

17 Q. But --

18 A. But the answer's no.

19 Q. Okay. Does it mention the SBA loan?

20 A. No.

21 Q. And you've dealt with enough Workouts and
22 other things in your prior -- in a prior career with the
23 REMIC deals. So do you know what I'm talking about when
24 I use the phrase an "estoppel affidavit"?

25 MR. HYDE: Object to form.

1 BY MR. LeGRAND:

2 Q. Yeah. Do you know what an estoppel affidavit
3 is?

4 MR. HYDE: Object to form.

5 BY MR. LeGRAND:

6 Q. Did you sign an estoppel affidavit?

7 MR. HYDE: Object to form.

8 BY MR. LeGRAND:

9 Q. Did you sign an affidavit that dealt with
10 liens -- other liens on --

11 MR. HYDE: Object to form.

12 MR. LeGRAND: He still needs to answer this
13 question.

14 BY MR. LeGRAND:

15 Q. Did you sign an affidavit in conjunction with
16 this deed in lieu of foreclosure that referenced the
17 other liens on this property?

18 MR. HYDE: Object to the form.

19 BY MR. LeGRAND:

20 Q. You'll have to answer. He can object to the
21 form, but you still have to answer the question.

22 A. I don't remember.

23 Q. Did you sign any other document or affidavit
24 that related to the value of the property?

25 MR. HYDE: Object to form.

1 THE WITNESS: Possibly.

2 BY MR. LeGRAND:

3 Q. Do you have that document?

4 A. No.

5 MR. HYDE: Object to form to that previous
6 question as well.

7 BY MR. LeGRAND:

8 Q. And then you had talked to a bankruptcy lawyer
9 in July of 2011, correct?

10 A. Yes.

11 Q. But you were not -- you had not filed a
12 bankruptcy case at this point, in October of 2011?

13 A. Correct.

14 Q. Did you have other judgments against you or
15 against Carolina Properties Holdings?

16 A. No.

17 Q. And you've already told me that this was a
18 single asset entity, correct?

19 A. Yes.

20 Q. Carolina Properties Holdings, LLC --

21 A. Yes.

22 Q. -- was a single asset entity? Did you obtain
23 a certificate of compliance from the Department of
24 Revenue -- South Carolina Department of Revenue for this
25 transaction?

1 A. I don't remember if I did or not.

2 Q. Did you prepare an LLC resolution that would
3 have authorized you, as a manager of this LLC, to convey
4 this property?

5 A. No.

6 Q. Was there an order of dismissal that you
7 signed, or agreed to, as part of this deed in lieu of
8 foreclosure transaction?

9 A. No.

10 Q. Were there any other documents that you signed
11 in relation to this deed in lieu of foreclosure?

12 A. Not that I remember.

13 Q. So there's no settlement agreement that you
14 signed with Super Suds relating to this case?

15 MR. HYDE: Object to form.

16 BY MR. LeGRAND:

17 Q. Is there a settlement agreement that you have
18 signed with Super Suds for this case?

19 MR. HYDE: Object to form.

20 THE WITNESS: No.

21 MR. LeGRAND: Could we take a five-minute
22 break?

23 (Pause in proceedings.)

24 MR. LeGRAND: Back on the record.

25 BY MR. LeGRAND:

1 Q. Mr. Parker, you're still under oath. And when
2 we took that break, did you have conversations with --

3 A. No.

4 Q. You had conversations but not --

5 A. Not related.

6 Q. -- to the deposition?

7 A. Correct.

8 Q. Okay. I have just a few more questions before
9 we wrap this up.

10 A. Okay.

11 Q. Let's go back to 2011.

12 A. Okay.

13 Q. You said that -- I believe I recall this
14 correctly, that you had been trying to sell the car wash
15 since late 2009?

16 A. Yeah, that's about right.

17 Q. And you had advertised it? You had a sign out
18 front?

19 A. Yes.

20 Q. You had an internet ad?

21 A. Yes.

22 Q. Had it on LoopNet?

23 A. Yeah. I don't think it was a LoopNet, but it
24 was something like LoopNet. It may have been just -- I
25 can't remember -- I don't think LoopNet was around back

1 then, but something --

2 Q. I think it was.

3 A. Maybe it was.

4 Q. It doesn't --

5 A. I don't think it was that. I think it was

6 something similar.

7 Q. It does not matter. And then you went to

8 the -- now, the Honda dealer is where in relation to

9 this property?

10 A. I think -- it's across the street --

11 Q. On Wade Hampton?

12 A. Wade Hampton, yeah.

13 Q. So you went to the Honda dealer to see if they

14 were interested?

15 A. Um-hum.

16 Q. "Yes"?

17 A. Yes, yes.

18 Q. Do you know who you talked to there?

19 A. No. It was a woman. And it may not have been

20 the Honda dealer. It may have been another franchise,

21 but it was a woman that was running the operation there.

22 I can't remember who it was, the name.

23 Q. Do you know how many times you talked with

24 this person?

25 A. Twice by phone.

1 Q. And this would have been approximately what
2 time?

3 A. It would have been, you know, anywhere from
4 between -- late 2009 to early 2010.

5 Q. You also talked to the Toyota dealer?

6 A. Yes.

7 Q. Where are they in relation to this property?

8 A. If -- I may be mistaken on the brand again. I
9 think either Toyota or Nissan is next door -- right next
10 door to me. And it's whatever that is.

11 Q. All right.

12 A. It might be Nissan, I can't remember. But
13 that's where they're located, right next door.

14 Q. And do you know who you talked to there?

15 A. No.

16 Q. Do you know how many times you talked to them?

17 A. Multiple. Yeah, two or three. In fact, I had
18 an arrangement with him. They were using my car wash to
19 wash some of their vehicles.

20 Q. And this would have been what time period?

21 A. Same time period, '9 to '10 -- late '9, early
22 '10.

23 Q. And you were attempting to sell them the car
24 wash?

25 A. Yes.

1 Q. And what was their response?

2 A. No, no.

3 Q. And the same with the Honda dealer?

4 A. Right.

5 Q. And you don't remember anyone else you talked
6 to?

7 A. There were -- there was a fellow that actually
8 responded to my sign who came onto the property and was
9 going to make an attempt to lease/purchase it. And I
10 gave it a go, and it didn't work out.

11 Q. And when was that?

12 A. About the same time -- probably in 2010,
13 somewhere.

14 Q. So you signed a lease purchase agreement with
15 him?

16 A. It was more of a handshake than any written
17 agreement.

18 Q. Do you know what the terms were?

19 A. No, I don't remember.

20 Q. So he was supposed to be paying you monthly
21 lease payments?

22 A. Yep.

23 Q. Do you --

24 A. You know, it was -- it was a trial period. He
25 was -- he wanted to see how it would go, and then he was

1 going to start making payments to me, but it was a way
2 for me to have somebody operate the car wash.

3 Q. So he was operating it and --

4 A. And I was collecting the money at the time.

5 Q. And that was --

6 A. And he got -- he got an hourly -- I paid him
7 hourly to do that. And he wanted to see how -- you
8 know, how it would work.

9 Q. Did you give him a purchase price or --

10 A. Yeah, but I don't remember -- I really just
11 don't remember the details.

12 Q. Do you know who that was?

13 A. I can't even think of his name at this point.

14 Q. And how long did that last, the trial period?

15 A. Probably nine months -- six, nine months.

16 Q. So possibly through the latter part of 2010?

17 A. Yeah, that's right.

18 Q. Did you have any other people that you talked
19 to?

20 A. No.

21 Q. And then in 2011, you approached Ken about
22 buying it?

23 A. Yes.

24 Q. And how did you get Ken's number, or how did
25 you find out about Ken?

1 A. Well, Ken had approached me right -- about the
2 time I was under construction and asked me if I would be
3 willing to sell the property in 2005. He made me an
4 offer, and I declined it.

5 Q. Do you remember those terms?

6 A. I think he offered me a half a million dollars
7 for the property at that point.

8 Q. He offered you half a million dollars?

9 A. Yes.

10 Q. For an undeveloped piece of property?

11 A. Well, it was partially developed.

12 Q. And so in 2011, you contacted him, I guess, by
13 cell phone or --

14 A. Right, because he also operated the car wash
15 for me for a period of time.

16 Q. Ken operated this car wash for you?

17 A. Yes. Yes, he did.

18 Q. When was that?

19 A. Right after I opened.

20 Q. And do you know what time period this would
21 have been?

22 A. Let's see, well, it opened in 2007, I think
23 early 2007, so about then. It was right after we first
24 opened.

25 Q. And how long did that last?

1 A. Not very long because he was charging me a lot
2 of money to do it.

3 Q. And so then back to 2011, you contacted him
4 about buying the car wash again?

5 A. Right. Because I thought he had a pretty good
6 understanding of how the car wash worked, you know, how
7 the -- he was familiar with it.

8 Q. Um-hum. And when you approached him or when
9 you -- I guess you called him, right? But he was right
10 down the road --

11 A. Yes.

12 Q. -- or had another location down the road?
13 What did you -- what did you tell him?

14 A. I told him that, you know, my car wash is for
15 sale. Are you interested in buying it?

16 Q. And what was his response?

17 A. He said, I might be. And I said, well, would
18 you like to make an offer?

19 Q. And?

20 A. And he made an offer.

21 Q. Of what amount?

22 A. 200,000.

23 Q. All right. So that was -- that was by the
24 summer of 2011?

25 A. Let's see, that sounds about right. Yeah.

1 Q. Okay. And you talked to him that once, we
2 know, in the summer of 2011?

3 A. Yes.

4 Q. And then you brought him the keys?

5 A. Correct.

6 Q. So that was it as far as the conversations
7 with Ken?

8 A. Yes.

9 Q. One follow-up question on the answer and
10 counterclaim you filed in April of 2011. You asked that
11 the plaintiff's complaint relative to the deficiency
12 judgment be dismissed, but that was one of the
13 counterclaims, your breach of verbal agreement, the
14 third defense in the counterclaim; is that correct?

15 A. Yes.

16 Q. By the way, I'm on --

17 A. Sixteen.

18 Q. -- Exhibit 16, yes.

19 A. Okay.

20 Q. And then the stipulation of dismissal, you
21 agreed to dismiss that counterclaim --

22 A. Yes.

23 Q. -- is that correct? Okay.

24 A. With prejudice, right.

25 Q. With prejudice. What was the arrangement with

1 BB&T for you -- why did you agree to dismiss your
2 counterclaim against BB&T?

3 A. I had no advice on what to do, and I just went
4 along with it.

5 Q. But Leon Jones was representing you when you
6 did the stipulation of dismissal and this -- your
7 representation with him is, at least, from July of 2011
8 through September of 2011. And the stipulation of
9 dismissal and the settlement agreement is the same -- is
10 September the 19th.

11 A. Okay.

12 Q. So Leon Jones was representing you during that
13 time?

14 A. I suppose he was. Those dates -- yeah. They
15 coincide with those dates, yeah.

16 Q. Okay. I don't have any further questions for
17 you at this time. I think you'll have an opportunity to
18 read your testimony and make corrections. I think
19 you'll have 30 days to do that.

20 A. Okay.

21 Q. But at this point, that concludes this
22 deposition.

23 MR. LeGRAND: We'll go off the record.

24 (The deposition was concluded at 3:48 P.M.)

25

1 SIGNATURE OF DEPONENT

2 I, the undersigned, Walter W. Parker, IV, do
3 hereby certify that I have read the foregoing deposition
4 and find it to be a true and accurate transcription of
5 my testimony, with the following corrections, if any:

6 PAGE LINE CHANGE REASON

7

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WALTER W. PARKER, IV

DATE

1 CERTIFICATE OF REPORTER

2 I, Jeanne M. McLaren, CSR, RMR,
3 Registered Merit Reporter and Notary Public for the
4 State of South Carolina at Large, do hereby certify:

5 That reading and signing of the foregoing
6 deposition by the witness is reserved.

7 That the foregoing deposition was taken
8 before me on the date and at the time and location
9 stated on the title page of this transcript; that the
10 deponent was duly sworn to testify to the truth, the
11 whole truth and nothing but the truth; that the
12 testimony of the deponent and all objections made at the
13 time of the examination were recorded stenographically
14 by me and were thereafter transcribed; that the
15 foregoing deposition, as typed to the best of my
16 ability, is a true, accurate and complete record of the
17 testimony of the deponent and of all objections made at
18 the time of the examination.

19 I further certify that I am neither
20 related to nor counsel for any party to the cause
21 pending or interested in the events thereof.

22 Witness my hand, I have hereunto affixed
23 by signature on this, the 19th day of June, 2018, at
24 Landrum, Greenville County, South Carolina.

25

Jeanne M. McLaren
Registered Merit Reporter
Notary Public
State of South Carolina at Large
My Commission expires:
October 22, 2022

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DEED83--UPG906

764.40

DEE-2005-44088
Recorded 2 Pages on 8/26/2005 12:08:09 PM
Recording Fee: \$10.00 Documentary Stamps: \$784.40
Office of Register of Deeds, Spartanburg, S.C.
Stephen Ford, Register



Space above this line for recording information

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG) TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS THAT, JONES M. COOLEY, JR. AND RAJAI Y. MARZOUCA, herein referred to as Grantor for and in consideration of the sum of TWO HUNDRED AND TWELVE THOUSAND AND 00/100 DOLLARS (\$212,000.00) paid by CAROLINA PROPERTIES HOLDINGS, LLC, hereinafter referred to as Grantee in the State aforesaid, the receipt of which is hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said CAROLINA PROPERTIES HOLDINGS, LLC, its successors, heirs, and assigns forever:

ALL THAT PIECE, parcel of lot of land, with improvements thereon or to be constructed thereon, being shown as 0.56 acres on a survey for Jones Cooley and Rajai Marzouca, dated April 24, 2003, by Site Design, Inc. recorded in Plat book 154, Page 279, in the Office of the Register of Deeds in Spartanburg County.

This being the same property conveyed to Jones M. Cooley, Jr. and Rajai Y. Marzouca by Deed of Elsie Lue Beach, George Beach, Rebecca Beach, and Raymond Beach recorded on June 10, 2003, in Deed Book 78 B, Page 018, in the Office of the Register of Deeds for Spartanburg County, and subject to all restrictions, easements, rights-of-way, and roadways of record on the recorded plats or on the premises.

Property Address: 748 East Wade Hampton Boulevard
Greer, South Carolina 29651

Grantee Address: 520 Glendalyn Avenue
Spartanburg, South Carolina 29302

Tax/Map No.: 9-3-10-92

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantees, its successors, heirs and assigns forever.



DEED 83 -- UPG 907

AND THE GRANTORS do hereby bind Grantors' heirs, executors and administrators, to warrant and forever defend all and singular the said premises unto the said Grantee, its successors, heirs and assigns, against Grantors and Grantors' heirs and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS my Hand and Seal this 23rd day of August, 2005.

Signed, Sealed and Delivered
in the Presence of:

Della P Little
Key B. W.
Della P Little
Key B. W.

Key B. W.
James M. Belfrage

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Personally appeared before me the undersigned and made oath that he saw the within-named Grantors sign, seal and as their act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that he with the other witness subscribed above witnessed the execution thereof.

Key B. W.

SWORN to before me this 23rd day of August, 2005.

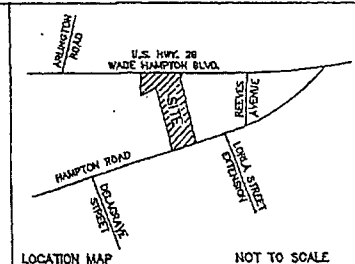
Della P Little
Notary Public, for South Carolina
County of Spartanburg
My Commission Expires: 09-29-08

NOTE: EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE: EASEMENTS OF WAY, EASEMENTS OTHER THAN POSSIBLE EASEMENTS THAT WERE VISIBLE AT THE TIME OF MAKING THIS SURVEY, BUILDING SETBACK LINES, RESTRICTIVE COVENANTS, SUBDIVISION RESTRICTIONS, ZONING OR OTHER LAND USE REGULATIONS AND ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.

THIS SURVEY DOES NOT CONSTITUTE A TITLE RESEARCH, FLOOD STUDY, WETLAND Delineation OR ENVIRONMENTAL INSPECTION BY SURVEYOR.

PLAT-1546279

PLT-2000-0008
Recorded 1 Page on 07/07/2003 7:44:48 PM
Recording Fee \$18.00 Documentary Stamp: \$0.00
Office of Registrar of Deeds, Spartanburg, S.C.
Spartanburg, South Carolina



I HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE LEGISLATIVE STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS B SURVEY AS SPECIFIED THEREIN. ALSO THERE ARE NO KNOWN VISIBLE ENCROACHMENTS OR PROJECTIONS AFFECTING THE PROPERTY OTHER THAN THOSE SHOWN. THIS STRUCTURE IS NOT LOCATED IN A DESIGNATED FIRM FLOOD HAZARD AREA.

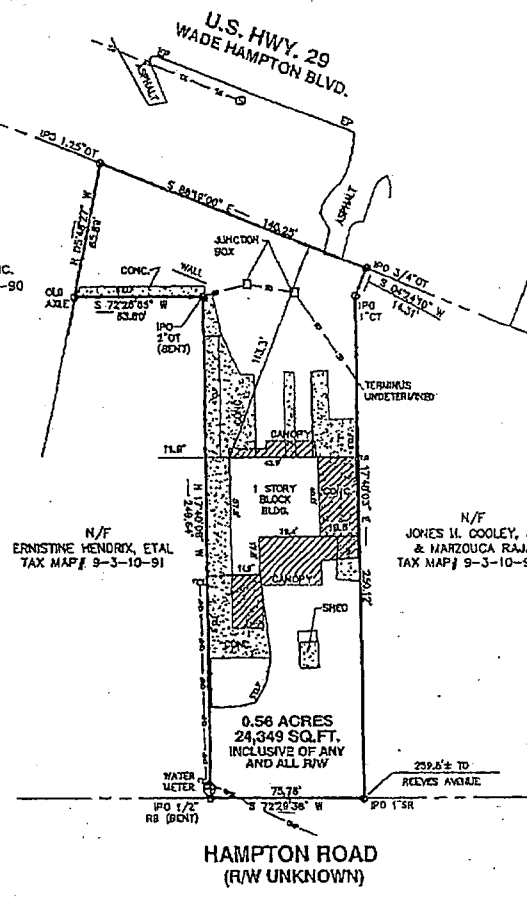
Joe F. Cooley
JOE F. COOLEY, P.L.S.
S.C. REG. NO. 14501

REFERENCE PLAT:
1.1 PLAT ENTITLED "PROPERTY OF CONWAY T. BEACH", DATED JAN. 10, 1987,
PREPARED BY TRI-STATE SURVEYORS, RECORDED IN PLAT BOOK 99 PAGE 684.

N/F
SHRI SAI BABA INC.
TAX MAP # 9-3-10-90

N/F
ERNESTINE HENDRIX, ETAL
TAX MAP # 9-3-10-91

N/F
JONES II. COOLEY, JR.
& MARZOUCIA RAJAI
TAX MAP # 9-3-10-93.1



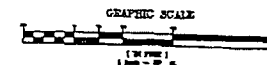
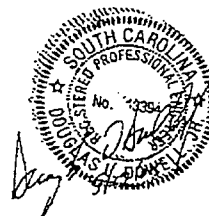
APPROVED BY CITY OF GREER
Approved for recording in the office of the
County Registrar of Merit Conveyance
[Signature]
Director, Building & Zoning, or
Planning & Zoning Commission
Date: 10-5-03

PLAINTIFF'S
EXHIBIT
NO. 2

LEGEND

1. BUILDING LINE	2. CONCRETE	3. CHOP TOP	4. DRAINAGE EASEMENT	5. EASE OF EASEMENT	6. EASE OF EASEMENT	7. EASE OF EASEMENT	8. EASE OF EASEMENT	9. EASE OF EASEMENT	10. EASE OF EASEMENT
11. EASE OF EASEMENT	12. EASE OF EASEMENT	13. EASE OF EASEMENT	14. EASE OF EASEMENT	15. EASE OF EASEMENT	16. EASE OF EASEMENT	17. EASE OF EASEMENT	18. EASE OF EASEMENT	19. EASE OF EASEMENT	20. EASE OF EASEMENT
21. EASE OF EASEMENT	22. EASE OF EASEMENT	23. EASE OF EASEMENT	24. EASE OF EASEMENT	25. EASE OF EASEMENT	26. EASE OF EASEMENT	27. EASE OF EASEMENT	28. EASE OF EASEMENT	29. EASE OF EASEMENT	30. EASE OF EASEMENT

SURVEY FOR JONES COOLEY & RAJAI MARZOUCIA SPARTANBURG COUNTY, SOUTH CAROLINA			
SCALE 1" = 40'	PROPERTY ADDRESS 740 WADE HAMPTON BLVD.	DATE 4/24/03	DATE 9-3-10-92
SDI SITE DESIGN, INC. CIVIL ENGINEERS AND SURVEYORS 800 EAST WASHINGTON STREET, SUITE B GREENVILLE, SOUTH CAROLINA 29601 (854) 271-0096		DRAWN BY SB	

[illegible]

Borrower: CAROLINA PROPERTIES HOLDINGS LLC

Account Number: 000001

Address: 520 GLENDALE AVE

SPARTANBURG, SC 29102-2011

BB&T

of South Carolina

Note Number: 00001

SPARTANBURG

Date: October 21, 2005

PROMISSORY NOTE

BORROWER(S) REPRESENTS HEREBY THAT THE LOAN EVIDENCED HEREBY IS BEING OBTAINED FOR BUSINESS/COMMERCIAL PURPOSES. For value received, the undersigned, jointly and severally, if more than one, promises to pay to BRANCH BANKING AND TRUST COMPANY OF SOUTH CAROLINA, a South Carolina banking corporation (the "Bank"), or order, at said bank or any of its offices in the above referenced city for such other place or places that may be hereinafter designated by Bank, the sum of

FIVE HUNDRED EIGHTY-FIVE THOUSAND DOLLARS & 00/100

Dollars (\$ 585,000.00)

, in immediately available coin or currency of the United States of America. ☒ Borrower shall pay a prepayment penalty as set forth in the Prepayment Penalty Addendum attached hereto.

Interest shall accrue from the date hereof on the unpaid balance outstanding from time to time at the:

☒ Fixed rate of 7.500 % per annum.

☐ Variable rate of the Bank's Prime Rate plus _____ % per annum to be adjusted _____ as the Bank's

Prime Rate changes. If checked here ☐ the interest rate will not exceed a(n) ☐ fixed ☐ average maximum rate of _____ % or a ☐ floating maximum rate of the greater of _____ % or the Bank's Prime Rate; and the interest rate will not decrease below a fixed minimum rate of _____ %. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank

will be made: ☐ when Note is repaid in full by Borrower ☐ annually beginning on _____

☐ Fixed rate of _____ % per annum through _____ which automatically converts on

_____ to a variable rate equal to the Bank's Prime Rate plus _____ % per annum which shall be adjusted

as such Prime Rate changes.

☐

Principal and interest is payable as follows:

☐ Principal (plus any accrued interest not otherwise scheduled herein) is due in full at maturity on _____

☐ Principal plus accrued interest

☐ Payable in consecutive _____ installments of ☐ Principal ☐ Principal and interest } commencing on _____

and continuing on the same day of each calendar period thereafter, in _____ equal payments of \$ _____, with one final payment of

all remaining principal and accrued interest due on _____

☐ Check/line Payment Option: 2% of outstanding balance is payable monthly commencing on _____

and continuing on the same day of each calendar period thereafter, with one final payment of all remaining principal and accrued interest due

on _____

☐ Accrued interest is payable _____ commencing on _____ and continuing on the same day of

each calendar period thereafter, with one final payment of all remaining interest due on _____

☐ Bank reserves the right in its sole discretion to adjust the fixed payment due hereunder _____ on

_____ and continuing on the same day of each calendar period thereafter, in order to maintain an

amortization period of no more than _____ months from the date of this Note. Borrower understands the payment may increase if

interest rates increase.

☐ Prior to an event of default, Borrower may borrow, repay, and reborrow hereunder pursuant to the terms of the Loan Agreement, hereinafter

defined.

☒ See Attachment to BURT Note dated 10/21/2005 in the amount of \$585,000.00 for repayment schedule.

☐ Borrower hereby authorizes Bank to automatically debit from its demand deposit or savings account(s) with Bank or other bank, any

payment(s) due under this Note on the date(s) due. Borrower shall provide appropriate account number(s) for account(s) at Bank or other

bank.

The undersigned shall pay to Bank a late fee in the amount of five percent (5%) of any installment past due for fifteen (15) or more days. When any installment payment is past due for fifteen (15) or more days, subsequent payments shall first be applied to the past due balance. In addition, the undersigned shall pay to Bank a returned payment fee if the undersigned or any other obligor hereon makes any payment at any time by check or other instrument, or by any electronic means, which is returned to Bank because of nonpayment due to non-sufficient funds.

All interest shall be computed and charged for the actual number of days elapsed on the basis of a year consisting of three hundred sixty (360) days. In the event periodic accruals of interest shall exceed any periodic fixed payment amount described above, the fixed payment amount shall be immediately increased, or additional supplemental interest payments required on the same periodic basis as specified above (increased fixed payments or supplemental payments to be determined in the Bank's sole discretion), in such amounts and at such times as shall be necessary to pay all accruals of interest for the period and all accruals of unpaid interest from previous periods. Such adjustments to the fixed payment amount or supplemental payments shall remain in effect for so long as the interest accruals shall exceed the original fixed payment amount and shall be further adjusted upward or downward to reflect changes in the variable interest rate; provided that unless elected otherwise above, the fixed payment amount shall not be reduced below the original fixed payment amount. However, Bank shall have the right, in its sole discretion, to lower the fixed payment amount below the original payment amount.

This Note is given by the undersigned in connection with the following agreements (if any) between the undersigned and the Bank:

Mortgage(s) / Deed of Trust(s) granted in favor of Bank or mortgagee / beneficiary:

☒ dated 10/21/2005 in the maximum principal amount of \$ 585,000.00

granted by Carolina Properties Holdings, LLC

dated _____ in the maximum principal amount of \$ _____

granted by _____

ACCOUNT# / NOTES
000001 00001

14725C mch



Page 1 of 4

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011-03-2 AM 9:03
M. HOPE BLACKLEY

PLAINTIFF'S
EXHIBIT
NO. 1
6/14/18

Security Agreement(s) granting a security interest to Bank:

☐ dated _____ given by _____

☐ dated _____ given by _____

☐ Securities Account Pledge and Security Agreement dated _____, executed by _____

☐ Control Agreement(s) dated _____, covering ☐ Deposit Account(s) ☐ Investment Property
☐ Letter of Credit Rights ☐ Electronic Chattel Paper

☐ Assignment of Certificate of Deposit, Security Agreement, and Power of Attorney (for Certificated Certificates of Deposit) dated _____, executed by _____

☐ Pledge and Security Agreement for Publicly Traded Certificated Securities dated _____, executed by _____

☐ Assignment of Life Insurance Policy as Collateral dated _____, executed by _____

☐ Loan Agreement dated _____, executed by Borrower and ☐ Guarantor(s).

All of the terms, conditions and covenants of the above described agreements (the "Agreements") are expressly made a part of this promissory note (the "Note") by reference in the same manner and with the same effect as if set forth herein at length and any holder of this Note is entitled to the benefits of and remedies provided in the Agreements and any other agreements by and between the undersigned and the Bank.

No delay or omission on the part of the holder in exercising any right hereunder shall operate as a waiver of such right or of any other right of such holder, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same or of any other right on any future occasion. Every one of the undersigned and every endorser or guarantor of this Note regardless of the time, order or place of signing waives presentment, demand, protest and notices of every kind and assents to any one or more extensions or postponements of the time of payment or any other indulgences, to any substitutions, exchanges or releases of collateral if at any time there be available to the holder collateral for this Note, and to the additions or releases of any other parties or persons primarily or secondarily liable.

The failure to pay any part of the principal or interest when due on this Note or to fully perform any covenant, obligation or warranty on this or on any other liability to the Bank by any affiliate (as defined in 11 USC Section 101(2)), or by any guarantor or surety of this Note (said affiliate, guarantor, and surety are herein called "Obligor") or if any financial statement or other representation made to the Bank by any of the undersigned or any Obligor shall be found to be materially incorrect or incomplete; or if any of the undersigned shall fail to furnish information to the Bank sufficient to verify the identity of the undersigned as required under the USA Patriot Act or in the event the default pursuant to any of the Agreements or any other obligation of any of the undersigned or any Obligor in favor of the Bank; or in the event the Bank demands that the undersigned secure or provide additional security for its obligations under this Note and security deemed adequate and sufficient by the Bank is not given when demanded; or in the event one or more of the undersigned or any Obligor shall die, terminate its existence, allow the appointment of a receiver for any part of its property, make an assignment for the benefit of creditors, or where a proceeding under bankruptcy or insolvency laws is initiated by or against any of the undersigned or any Obligor or in the event the Bank should otherwise deem itself, its security interest, or any collateral unsafe or insecure or should the Bank in good faith believe that the prospect of payment or other performance is impaired; or if there is an attachment, execution, or other judicial seizure of all or any portion of the Borrower's or any Obligor's assets, including an action or proceeding to seize any funds on deposit with the Bank, and such seizure is not discharged within 20 days; or if final judgment for the payment of money shall be rendered against the Borrower or any Obligor which is not covered by insurance or debt cancellation and shall remain undischarged for a period of 30 days unless such judgment or execution thereon is effectively stayed; or the termination of any guaranty agreement given in connection with this Note, then any one of the same shall be a material default hereunder and this Note and other debts due the Bank by any one or more of undersigned shall immediately become due and payable without notice, at the option of the Bank. From and after any event of default hereunder, interest shall accrue on the sum of the principal balance and accrued interest then outstanding at the variable rate equal to the Bank's Prime Rate plus 5% per annum ("Default Rate"), provided that such rate shall not exceed at any time the highest rate of interest permitted by the laws of the State of North Carolina; and further provided that such rate shall apply after judgment. In the event of any default, the then remaining unpaid principal amount and accrued but unpaid interest then outstanding shall bear interest at the Default Rate called for hereunder until such principal and interest have been paid in full. In addition, upon default, the Bank may pursue its full legal remedies at law or equity, and the balance due hereunder may be charged against any obligation of the Bank to any party, including any Obligor. Bank shall not be obligated to accept any check, money order, or other payment instrument marked "payment in full" on any disputed amount due hereunder, and Bank expressly reserves the right to reject all such payment instruments. Borrower agrees that tender of its check or other payment instrument so marked will not satisfy or discharge its obligation under this Note, disputed or otherwise, even if such check or payment instrument is lawfully processed by Bank unless in fact such payment is in fact sufficient to pay the amount due hereunder.

WAIVER OF TRIAL BY JURY. UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, THE UNDERSIGNED HEREBY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS NOTE OR ANY LOAN DOCUMENT EXECUTED IN CONNECTION HERewith OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN THE UNDERSIGNED AND BANK. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BANK TO MAKE THE LOAN EVIDENCED BY THIS NOTE. FURTHER, THE UNDERSIGNED HEREBY CERTIFY THAT NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BANK WOULD NOT SEEK TO ENFORCE THIS WAIVER OR RIGHT TO JURY TRIAL PROVISION IN THE EVENT OF LITIGATION. NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION.

Unless otherwise required under a Loan Agreement, if applicable, and as long as any indebtedness evidenced by this Note remains outstanding or as long as Bank remains obligated to make advances, the undersigned shall furnish annually an updated financial statement in a form satisfactory to Bank, which, when delivered shall be the property of the Bank.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2017 FEB -2 AM 9:03
M. HOPE BLACKLEY

The term "Prime Rate," if used herein, means the rate of interest per annum announced by the Bank from time to time and adopted as its Prime Rate. The Prime Rate is one of several rate indexes employed by the Bank when extending credit. Any change in the interest rate resulting from a change in the Bank's Prime Rate shall become effective as of the opening of business on the effective date of the change. If this Note is placed with an attorney for collection, the undersigned agrees to pay, in addition to principal and interest, all costs of collection, including reasonable attorneys' fees which the undersigned agrees shall be equal to 15% of the principal and interest outstanding at the time of acceleration or other action by Lender to collect the sums due hereunder, unless the actual attorneys' fees incurred, based upon Bank's counsel's normal hourly fees chargeable to Bank, shall be greater than 15% of principal and interest, in which case such billed amount based on such hourly rate shall be the attorneys' fee payable hereunder. All obligations of the undersigned and of any Obligor shall bind his heirs, executors, administrators, successors, and/or assigns. Use of the masculine pronoun herein shall include the feminine and the neuter, and also the plural. If more than one party shall execute this Note, the term "undersigned" as used herein shall mean all the parties signing this Note and each of them, and all such parties shall be jointly and severally obligated hereunder. Whenever possible, each provision of this Note shall be interpreted in such a manner to be effective and valid under applicable law, but if any provision of this Note shall be prohibited by or invalid under such law, such provision shall be ineffective but only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Note. All of the undersigned hereby waive all exemptions and homestead laws. The proceeds of the loan evidenced by this Note may be paid to any one or more of the undersigned. No waivers and modifications shall be valid unless in writing and signed by the Bank. In case of conflict between the terms of this Note and the Loan Agreement or Commitment Letter issued in connection herewith, the priority of controlling terms shall be first this Note, then the Loan Agreement, and then the Commitment Letter. This Note shall be governed by and construed in accordance with the laws of South Carolina.

(SIGNATURES ON FOLLOWING PAGE)

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SPARTANBURG COUNTY
2011-03-21 10:03
M. HOPE BLACKLEY

BB&T

of South Carolina

PROMISSORY NOTE SIGNATURE PAGE

Borrower: CAROLINA PROPERTIES HOLDINGS LLC

Account Number: 442

Note Number: 00001

Note Amount: \$ 383,000.00

Date: 10/21/2005

Right of Right to Copy of Appraisal. If a 1-4 family residential dwelling is pledged as collateral for this Note, you, the undersigned, have a right to a copy of the real estate appraisal report used in connection with your application for credit. If you wish to receive a copy, please notify in writing the branch office where you applied for credit. You must forward your request to the Bank no later than 90 days after the date of this Note. In your request letter, please provide your name, mailing address, appraised property address, the date of this Note, and the Account and Note Numbers shown on the front of this Note.

Waiver of Appraisal Rights. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. TO THE FULLEST EXTENT PERMITTED BY LAW AND AS A MATERIAL INDUCEMENT FOR LENDER TO MAKE THE LOAN, MORTGAGOR HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.

IN WITNESS WHEREOF, the undersigned, on the day and year first written above, has caused this note to be executed under seal.

If Borrower is a Corporation:

WITNESS:

NAME OF CORPORATION

By: _____ (SEAL)

Title: _____

By: _____ (SEAL)

Title: _____

If Borrower is a Partnership, Limited Liability Company, or Limited Liability Partnership:

WITNESS:

CAROLINA PROPERTIES HOLDINGS LLC

LIMITED PARTNERSHIP, L.L.C. OR LLP

By: Walter W Parker, IV (SEAL)

TYPICAL PARTNER OR MANAGER

By: _____ (SEAL)

GENERAL PARTNER OR MANAGER

By: _____ (SEAL)

GENERAL PARTNER OR MANAGER

If Borrower is an Individual:

WITNESS:

(SEAL)

Additional Co-makers:

WITNESS:

(SEAL)

(SEAL)

(SEAL)

(SEAL)

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PREPAYMENT FEE ADDENDUM TO PROMISSORY NOTE

CALCULATION OF PREPAYMENT FEE

Each prepayment of the principal of the Note, in whole or in part and whether voluntary, mandatory, upon acceleration or otherwise, shall be made after giving the Bank at least one day's prior notice and shall be accompanied by an additional amount deemed necessary by the Bank to compensate the Bank for any losses, costs or expenses which the Bank may incur as a result of such prepayment. If Borrower makes a prepayment without having given prior notice to the Bank, the prepayment compensation shall be payable on demand. The determination of prepayment compensation due the Bank hereunder shall be made by the Bank in good faith and shall be conclusive absent manifest error.

The prepayment schedule/formula shall be (check applicable box):

(X) For any principal prepayment of the Note, the Borrower shall pay _____ % of the amount of the principal prepayment if made between October 21, 2005 and October 20, 2006; _____ % of the amount of the principal prepayment if made between October 21, 2006 and October 20, 2007; _____ % of the amount of the principal prepayment if made between October 21, 2007 and October 20, 2008; _____ % of the amount of the principal prepayment if made between October 21, 2008 and October 20, 2009; _____ % of the amount of the principal prepayment if made between October 21, 2009 and October 20, 2010; _____ N/A % of the amount of the principal prepayment if made between N/A and N/A; _____ N/A % of the amount of the principal prepayment if made between N/A and N/A; _____ N/A % of the amount of the principal prepayment if made between N/A and N/A; _____ N/A % of the amount of the principal prepayment if made between N/A and N/A; _____ N/A % of the amount of the principal prepayment if made between N/A and N/A.

If Borrower Is a Corporation:

WITNESS:

NAME OF CORPORATION

By: _____ /SEAL/

Title

By: _____ (REAL)

Tiles:

If Borrower is a Partnership, Limited Liability Company, or Limited Liability Partnership:

WITNESS,

CAROLINA PROPERTIES HOLDINGS LLC

JOHN P. FATH BISHOP, LLC, ON LP

By: [Signature] (SEAL)

Walter H Parker, IV GENERAL PARTNER OR MANAGER

By: _____ (SEAL)

GENERAL PARTNER OR MANAGER

By: _____ (GEAL)

GENERAL PARTNER OR MANAGER

.If Borrower Is an Individual:

WITNESS:

16EAL

Additional Co-makers:

WITNESSES:

15654

38EAL

SEAL

(BEAL)

ACCOUNT# / NOTE#
7547 00001



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1 of 1

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ATTACHMENT TO BB&T NOTE

Account Number: 097542

Note Number: 00001

Attachment of BB&T Promissory Note dated 10/21/2005 in the amount of \$585,000.00 between Branch Banking & Trust Company of South Carolina as Bank, and CAROLINA PROPERTIES HOLDINGS LLC, as Borrower.

1. Repayment terms of this note are as follows:

Interest paid in 12 Monthly payments starting on 11/21/2005

Principal & Interest paid in 12 Monthly payments of \$5,600.00 starting on 11/21/2006

Principal & Interest paid in 36 Monthly payments of \$7,100.00 starting on 11/21/2007

All unpaid principal and accrued interest shall be due in full on maturity, 10/21/2010.

11. Mortgage granted in favor of Bank as beneficiary;

1 dated _____ for the maximum principal amount of \$ _____

Printed by _____

☐ dated _____ in the maximum principal amount of \$ _____

granted by _____

☐ dated _____ is the maximum adoption amount of \$ _____

01100
printed by

in the maximum principal amount of \$

Printed by

 dated in the maximum principal amount of \$

printed by _____

III. Security Agreements conveying a security interest in favor of Banks

☐ dated _____ given by _____

☐ dried physan by

_____ dated _____

IV. Additional Agreements, Assignments, Pledges or other security instruments:

[illegible]

ACCOUNT# / NOTE#	
542	0000



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Page 1 of 2

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IN WITNESS WHEREOF, the undersigned, on the day and year first written above, has caused this note to be executed under seal.

If Borrower is a Corporation:

WITNESS:

NAME OF CORPORATION
By: _____ (SEAL)
Title _____
By: _____ (SEAL)
Title _____

If Borrower is a Partnership, Limited Liability Company, or Limited Liability Partnership:

WITNESS:

CAROLINA PROPERTIES HOLDINGS LLC
NAME OF PARTNERSHIP, LLC, or LLP
By: _____ (SEAL)
Walter W Parker, IV GENERAL PARTNER OR MANAGER
By: _____ (SEAL)
GENERAL PARTNER OR MANAGER
By: _____ (SEAL)
GENERAL PARTNER OR MANAGER

WITNESS:

If Borrower is an Individual

Additional Co-makers

(SEAL)
(SEAL)
(SEAL)
(SEAL)

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

REH 3542 PAGE 190

BB&T
of South Carolina

MORTGAGE OF REAL ESTATE

THIS MORTGAGE, made this 21st day of October, 2005, by Carolina Properties Holdings, LLC (hereinafter referred to as "Mortgagor"), and granted and given to BRANCH BANKING AND TRUST COMPANY OF SOUTH CAROLINA (hereinafter referred to as "Mortgagee"), a corporation organized and existing under the laws of the State of South Carolina, whose address is 380 E MAIN ST, SPARTANBURG, SC 29302-1944.

WHEREAS, CAROLINA PROPERTIES HOLDINGS LLC is indebted to Mortgagee, as evidenced by a certain promissory note dated the 21st day of October, 2005, executed in favor of Mortgagee in the principal sum of FIVE HUNDRED EIGHTY-FIVE THOUSAND DOLLARS & 00/100 Dollars (\$ 585,000.00), and any renewals, extensions or modifications thereto, the terms of which are incorporated herein by reference. Where used herein, the term "Note" or "Notes" shall be deemed to include the note above described, along with any other notes, additional advance agreements, or other documents now or hereafter evidencing any debt whatsoever incurred by Mortgagor and payable to Mortgagee.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that the Mortgagor, for and in consideration of the aforesaid indebtedness and in order to secure the payment thereof together with any renewals or extensions or modifications thereof, and also to secure in accordance with § 28-3-50, As Amended, of the Code of Laws of South Carolina (1976) or any such successor statute as may apply:

1. All future advances and readvances that may subsequently be made to the Mortgagor evidenced by the Note(s) and by all renewals and extensions thereof; and
2. All other indebtedness of Mortgagor to Mortgagee, now or hereafter existing, whether direct or indirect, the maximum amount of all indebtedness outstanding at any one time secured hereby not to exceed \$ 585,000.00 plus interest thereon, all charges and expenses of collection incurred by Mortgagee including Court costs and reasonable attorneys' fees, not granted, bargained, sold, assigned, released and does by these presents grant, bargain, sell, assign and release unto the Mortgagee, its successors and assigns the following described property:

Please see attached Exhibit "A" for legal description

MTG-2005-55431
Recorded 5 Pages on 10/24/2005 2:01:16 PM
Recording Fee: \$11.00 Documentary Stamp: \$0.00
Office of Register of Deeds, Spartanburg, S.C.
Stephen Ford, Register

Together with all and singular improvements thereon and the rights, members, hereditaments and appurtenances to the same belonging or in any way appertaining; all the rents, issues, and profits thereof (provided, however that, unless otherwise agreed, the Mortgagor shall be entitled to collect and retain the said rents, issues, and profits until default hereunder); and including all heating, plumbing, and lighting fixtures, and equipment now or hereafter attached to or used in connection with the real estate herein described (herein collectively the "Property").

TO HAVE AND TO HOLD, all the said Property unto the Mortgagee, its successors and assigns forever.

The Mortgagor covenants that he is lawfully seized of the premises herein above described in fee simple absolute for such other estate, if any, as is stated hereinbefore, that he has good, right, and lawful authority to sell, convey, or encumber the same, and that the premises are free and clear of all liens and encumbrances whatsoever except as listed in the title opinion or title insurance policy which Mortgagee has obtained in the transaction in which Mortgagee obtained this Mortgage. The Mortgagor further covenants to warrant and forever defend title to the premises as herein conveyed unto the Mortgagee, from and against all persons whomsoever lawfully claiming the same or any part thereof.

The Mortgagor (and where more than one, each jointly and severally) covenants and agrees as follows:

1. That if he is a maker or obligor on the Note(s), he will promptly pay the principal of and interest on the indebtedness evidenced by the said Note(s) and any subsequent note or agreement evidencing additional advances, at the time and in the manner therein provided. Mortgagor shall timely pay and perform any obligation, covenant or warranty contained not only in this mortgage but also any other mortgage, or writing which gives rise to, or which may constitute a lien upon any of the Property. Upon request of Mortgagee, Mortgagor promptly shall furnish satisfactory evidence of such payment or performance. Mortgagor shall not enter into, terminate, cancel or amend any material lease or contract affecting the Property or any part thereof without the prior written consent of the Mortgagee.



2. That the lien of this instrument shall remain in full force and effect during any postponement or extension of the time of payment of or any other modification relating to the indebtedness or any part thereof secured hereby.

3. That he will pay as they become due all mortgage loan insurance premiums, taxes, assessments, warof rates, and other governmental or municipal charges, fines or impositions, assessed against the property hereby mortgaged. If the Mortgagor fails to make any payments provided for in this section or any other payments for taxes, assessments, or the like, the Mortgagee may pay the same, and all sums so paid shall bear interest at the same rate as the principal debt secured hereby (from the date of such advance) and shall be secured by this mortgage.

4. That he will keep the Property in as good order and condition as it is now, reasonable wear and tear excepted, and will not commit or permit any waste thereof.

5. That he will produce and continuously maintain fire and such other hazard insurance as the Mortgagee may require on the improvements which form a part of the Property, now or hereafter on said premises, and will pay promptly when due any premiums therefor. If he fails to do so, the Mortgagee may cause the same to be done and reimburse itself for such premiums and expenses, and the same shall be secured by this mortgage. All insurance shall be carried in companies approved by the Mortgagee and the policies and renewals thereof shall be held by the Mortgagee and have attached thereto loss payable clauses in favor of and in form acceptable to the Mortgagee. In event of loss, Mortgagor will give immediate notice by mail to the Mortgagee, who may make proof of loss if not made promptly by the Mortgagor, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to the Mortgagee and Mortgagee jointly, and the insurance proceeds, or any part thereof, may be applied by the Mortgagee at its option either to the reduction of the indebtedness hereby secured or to the restoration of the property damaged.

6. That he hereby assigns all the rents, issues, and profits of the Property from and after any default hereunder, and should legal proceedings be instituted pursuant to this instrument, then the Mortgagee shall have the right to have appointed a receiver of the rents, issues, and profits, who, after deducting all charges and expenses attending such proceedings and the execution of his trust as receiver, shall apply the residue of the rents, issues, and profits toward the payment of the debt secured hereby. Mortgagor hereby appoints Mortgagee as Mortgagor's attorney-in-fact to collect any rents and profits, with or without suit, and to apply the same, less expenses of collection to any indebtedness owing under the Note(s) in any manner as Mortgagee may desire.

7. That he will pay as they become due the principal and interest on all notes, obligations, contracts or agreements, secured by any mortgage, lien, or security interest having priority over this mortgage as to the Property described herein. If the Mortgagor fails to make any of the payments as provided in this section, Mortgagee may pay the same and add any amounts so paid to the principal debt, and all sums so paid shall bear interest at the same rate as the principal debt secured hereby and shall be secured by this mortgage.

8. Mortgagor for itself, its successors, and assigns represents, warrants and agrees that (a) neither Mortgagor nor any other person has used or installed any Hazardous Material (as hereinafter defined) on the Property or received any notice from any governmental agency, entity or other person with regard to Hazardous Materials on, from or affecting the Property; (b) neither Mortgagor or any other person has violated any applicable Environmental Laws (as hereinafter defined) relating to or affecting the Property; (c) the Property are presently in compliance with all Environmental Laws; there are no circumstances presently existing upon or under the Property, or relating to the Property which may violate any applicable Environmental Laws, and there is not now pending, or threatened, any action, suit, investigation or proceeding against Mortgagor relating to the Property (or against any other party relating to the Property) seeking to enforce any right or remedy under any of the Environmental Laws; (d) the Property shall be kept free of Hazardous Materials, and shall not be used to generate, manufacture, transport, treat, store, handle, dispose, or process Hazardous Materials; (e) Mortgagor shall not cause nor permit the installation of Hazardous Materials in the Property nor a release of Hazardous Material onto or from the Property or suffer the presence of Hazardous Materials on the Property; (f) Mortgagor shall at all times comply with and ensure compliance by all other parties with all applicable Environmental Laws relating to or affecting the Property and shall keep the Property free and clear of any liens imposed pursuant to any applicable Environmental Laws; (g) the Mortgagor has obtained and will at all times continue to obtain and/or maintain all licenses, permits and/or other governmental or regulatory actions necessary to comply with Environmental Laws (the "Permits") and the Mortgagor is in full compliance with the terms and provisions of the Permits and will continue to comply with the terms and provisions of the Permits; (h) Mortgagor shall immediately give the Beneficiary oral and written notice in the event that Mortgagor receives any notice from any governmental agency, entity, or any other party with regard to Hazardous Materials on, from or affecting the Property and shall conduct and complete all investigations, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting the Property in accordance with all applicable Environmental Laws. The Mortgagor hereby agrees to indemnify the Mortgagee and hold the Mortgagee harmless from and against any and all losses, liabilities, damages, injuries (including, without limitation, attorneys' fees) and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against Mortgagee for, with respect to, or as a direct or indirect result of (a) the presence, on, or under, or the escape, spillage, emission or release from the Property of any Hazardous Material regardless of whether or not caused by or within the control of Mortgagor, (b) the violation of any Environmental Laws relating to or affecting the Property, whether or not caused by or within the control of Mortgagor, (c) the failure by Mortgagor to comply fully with the terms and provisions of this paragraph, or (d) any warranty or representation made by Mortgagor in this paragraph being false or untrue in any material respect. For purposes of this Mortgage, "Hazardous Materials" means and includes petroleum products, any flammable explosives, radioactive materials, asbestos or any material containing asbestos, and/or any hazardous, toxic or dangerous waste, substance or material defined as such in (or for the purposes of) the Environmental Laws. For the purpose of this Mortgage, "Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, any "Super Fund" or "Super Lien" law, or any other federal, state, or local law, regulation, or decree regulating, relating to, or imposing liability or standards of conduct concerning any petroleum products, any flammable explosives, radioactive materials, asbestos or any material containing asbestos, and/or any hazardous, toxic or dangerous waste, substance or material, as may now or at any time hereafter be in effect. The obligations and liabilities of Mortgagor under this paragraph shall survive the foreclosure of the Mortgage, the delivery of a deed in lieu of foreclosure, the cancellation or release of record of this Mortgage or the payment and cancellation of the Note; or if otherwise expressly permitted in writing by the Mortgagee, the sale or alienation of any part of the Property.

9. Mortgagor shall be in default under this mortgage upon the occurrence of any of the following.

(a) Default in the payment or performance of any of the obligations, or of any covenant or warranty, in this mortgage, in the Note(s), or other document executed in connection herewith, or in any other note of Mortgagor to Mortgagee or any contract between Mortgagor and Mortgagee; or in any contract between any third party and Mortgagee made for the benefit of Mortgagor; or

(b) Any warranty, representation or statement made or furnished to Mortgagee by or on behalf of Mortgagor in connection with this transaction proving to have been false in any material respect when made or furnished; or

(c) Loss, theft, substantial damage, destruction to or of the Property, or the assertion or making of any levy, seizure, mechanic's lien or attachment thereof or thereon; or

(d) Death, dissolution, termination of existence, insolvency, business failure, appointment of a Receiver for any part of the property or assignment for the benefit of creditors by, filing of a bankruptcy petition by or against, or the inability to pay debts in the ordinary course of business of the Mortgagor or any co-maker, endorser, guarantor or surety for Mortgagor; or

(e) Failure of a corporate Mortgagor or co-maker, endorser, guarantor or surety for Mortgagor to maintain its corporate existence in good standing; or

(f) Upon the entry of any monetary judgment of the assessment or filing of any tax lien against Mortgagor; or upon the issuance of any writ of garnishment or attachment against any property, debts due or rights of Mortgagor; or

REF: 351.2 PAGE 1.92

(g) The sale (including sale by land contract upon delivery of possession, transfer or encumbrance of all or any part of the Property or any interest therein, or any change in the ownership or control of any corporate or partnership Mortgagor, without Mortgagee's prior written consent; or

(h) If Mortgagee should otherwise deem itself, its security interest, the Property or the Indebtedness evidenced by the Note(s) unsafe or insecure; or should Mortgagee otherwise believe that the prospect of payment or other performance is impaired.

10. It is agreed that the Mortgagor shall hold and enjoy the premises above conveyed until there is a default under this mortgage or in the Note(s) secured hereby. If there is a default in any of the terms, conditions or covenants of this mortgage or of any of the Note(s) secured hereby, then at the option of the Mortgagee, and without prior notice to the Mortgagor, all sums then owing by the Mortgagor or any other obligor on the Note(s) to the Mortgagee shall become immediately due and payable, the Mortgagee may in addition pursue all other rights and remedies available against any Mortgagor or any borrower or other obligor under the Note(s) under applicable provisions of South Carolina Law and of any other law governing the Note(s). This mortgage shall remain as security for full payment of all Indebtedness evidenced by the Note(s) and for performance of any obligation evidenced by the Note(s) or any document executed in connection therewith, notwithstanding the sale or release of any or all of the Property, the assumption by another party of Mortgagor's obligations under the Note(s) or this mortgage, the forbearance or extension of time or payment of the Indebtedness evidenced by the Note(s) or any one of same or the release of any party who has assumed or incurred any obligation for the repayment of any Indebtedness evidenced by the Note(s) and secured by this mortgage. None of the foregoing shall in any way affect the full force and effect of the lien of this mortgage or impair the Mortgagee's right to any other remedies against the Mortgagor or any other obligors under the Note(s). Any forbearance by the Mortgagee in exercising any right or remedy hereunder or otherwise afforded by applicable law; shall not be a waiver of or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Mortgagee shall not be a waiver of Mortgagee's right to accelerate maturity of the Indebtedness evidenced by the Note(s) secured hereby. Time is of the essence the payment or performance of any of the obligations, or of any covenant or warranty contained in this mortgage, or in any of the Note(s) or any other document related thereto.

11. Mortgagor understands that upon default hereunder, along with other remedies set out herein and in the above referenced Note(s), the Mortgagee may foreclose upon the mortgaged premises and ask for a deficiency judgment pursuant to §29-3-680 of the South Carolina Code of Laws (1976). Mortgagor hereby expressly waives and relinquishes any appraisal rights which Mortgagor may have under §29-3-680 a, Leasq., South Carolina Code of Laws (1976), as Amended, and understands and agrees that a deficiency judgment, if pursued by Mortgagee, shall be determined by the highest priced bid at the judicial sale of the Property.

12. The covenants herein contained shall bind, and the benefits and advantages shall inure to, the respective heirs, executors, administrators, successors, and assigns of the parties hereto. Whenever used, the singular number shall be applicable to all genders and the term "Mortgagee" shall include any payee of the Indebtedness hereby secured or any transferee thereof whether by operation of law or otherwise. The liability of the Mortgagor hereunder shall, if more than one, be joint and several. The designations "corporate", "corporation", and "partnership" include limited liability companies and limited liability partnerships.

13. **WAIVER OF TRIAL BY JURY.** UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, THE UNDERSIGNED HEREBY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS MORTGAGE OR ANY LOAN DOCUMENT EXECUTED IN CONNECTION HERewith OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN THE UNDERSIGNED AND MORTGAGEE. THIS PROVISION IS A MATERIAL INDUCEMENT FOR MORTGAGEE TO MAKE THE LOAN SECURED BY THIS MORTGAGE. FURTHER, THE UNDERSIGNED HEREBY CERTIFY THAT NO REPRESENTATIVE OR AGENT OF MORTGAGEE, NOR MORTGAGEE'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT MORTGAGEE WOULD NOT SEEK TO ENFORCE THIS WAIVER OR RIGHT TO JURY TRIAL PROVISION IN THE EVENT OF LITIGATION. NO REPRESENTATIVE OR AGENT OF MORTGAGEE, NOR MORTGAGEE'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION.

Waiver of Appraisal Rights. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. TO THE FULLEST EXTENT PERMITTED BY LAW AND AS A MATERIAL INDUCEMENT FOR LENDER TO MAKE THE LOAN, MORTGAGOR HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.

IN WITNESS WHEREOF, each Mortgagor has executed this Mortgage this day and year first above written.

Signed, sealed and delivered in the presence of:

If Mortgagor is a Corporation:

_____ (SEAL)	By: _____	NAME OF CORPORATION
_____ (SEAL)	Title: _____	
_____ (SEAL)	By: _____	
_____ (SEAL)	Title: _____	

If Mortgagor is a Partnership, Limited Liability Company, or Limited Liability Partnership:

_____ (SEAL)	By: _____	Carolina Properties Holdings, LLC
_____ (SEAL)	By: _____	NAME OF PARTNERSHIP, LLC, OR LLP
_____ (SEAL)	By: _____	Walter W Parker, _____
_____ (SEAL)	By: _____	GENERAL PARTNER OR MANAGER
_____ (SEAL)	By: _____	GENERAL PARTNER OR MANAGER
_____ (SEAL)	By: _____	GENERAL PARTNER OR MANAGER
_____ (SEAL)	By: _____	GENERAL PARTNER OR MANAGER

If Mortgagor is an individual:

_____ (SEAL)	_____	TYPE NAME OF MORTGAGOR
_____ (SEAL)	_____	
_____ (SEAL)	_____	TYPE NAME OF MORTGAGOR
_____ (SEAL)	_____	

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SPARTANBURG COUNTY
2017 FEB -2 AM 9:03
JUDGE BLANKLEY

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STATE OF SOUTH CAROLINA
COUNTY OF _____

PROBATE

PERSONALLY appeared before me, the undersigned witness and made oath that s/he saw the within-named _____ a South Carolina corporation, by _____, its _____, sign, seal and as its act and deed, deliver the within-written instrument for the uses and purposes therein mentioned and that s/he together with the other witness that witnessed the execution thereof.

SWORN TO and subscribed before me this _____ day of _____, _____

Witness

Notary Public for South Carolina

My commission expires: _____

STATE OF SOUTH CAROLINA
COUNTY OF _____

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within-named _____, a South Carolina general partnership, by _____, its general partner, sign, seal and as its act and deed, deliver the within-written instrument for the uses and purposes therein mentioned, and that s/he together with the other witness whose signature appears above, witnessed the execution thereof.

SWORN TO and subscribed before me this _____ day of _____, _____

Witness

Notary Public for South Carolina

My commission expires: _____

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

PROBATE

PERSONALLY appeared before me, the undersigned witness and made oath that s/he saw Carolina Properties Holdings, LLC, a South Carolina limited liability company / limited partnership that by Walter W. Parker, IV, its member or manager / general partner, sign, seal and as its act and deed, and deliver the foregoing within-written instrument for the uses and purposes therein mentioned and that s/he together with the other witness who witnessed the execution thereof.

SWORN TO and subscribed before me this 21st day of October, 2005.

Daniel Little (SEAL)

Notary Public for South Carolina

My commission expires: 09-29-08

STATE OF SOUTH CAROLINA
COUNTY OF _____

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within-named _____, sign, seal and as his/her act and deed, deliver the within-written instrument for the uses and purposes therein mentioned, and that s/he together with the other witness whose signature appears above, witnessed the execution thereof.

SWORN TO and subscribed before me this _____ day of _____, _____

Witness

Notary Public for South Carolina

My commission expires: _____

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CLERK OF COURT
SPARTANBURG COUNTY
2011 FEB -2 AM 3:03
M. HOPPE-BLACKLEY

REK 3542 PAGE 194

EXHIBIT A:

All that piece, parcel or lot of land, with improvements thereon or to be constructed thereon, being shown as 0.56 acres on a survey for Jones Cooley and Rajai Marzouca, dated April 24, 2003, by Site Design, Inc. recorded in Plat Book 154, Page 279, in the Office of the Register of Deeds in Spartanburg County.

This being the same property conveyed to the mortgagor herein by deed of Jones M. Cooley, Jr. and Rajai Y. Marzouca as recorded August 26, 2005, in Deed Book 83-U, Page 906, Office of the Register of Deeds for Spartanburg County.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 FEB -2 PM 9:33
M. HOPE BLACKLEY

FILED
CLERK OF COURT
SPARTANBURG COUNTY
JAN 17 - 2 PM 1963
M. HOPE BLACKLEY

Office of Registrar of Deeds
Spartanburg, South Carolina
Recorded in 117
Book 350 Page 100
deputy of Deeds,
Spartanburg, South Carolina

James H. Ritchie
302 S. Pine St
Spartanburg SC 29302

BB&T

of South Carolina

GUARANTY AGREEMENT

BRANCH BANKING AND TRUST COMPANY OF SOUTH CAROLINA
SPARTANBURG, SC

10/21/2005

Dear Sirs:

As an Indemnitor to Branch Banking and Trust Company of South Carolina ("Bank") to extend credit to and to otherwise deal with CAROLINA PROPERTIES HOLDINGS LLC ("Borrower"), and in consideration thereof, the undersigned (and each of the undersigned jointly and severally if more than one) hereby absolutely and unconditionally guarantees to Bank and its successors and assigns the due and punctual payment of any and all notes, drafts, debts, obligations and liabilities, primary or secondary (whether by way of endorsement or otherwise), of Borrower, at any time, now or hereafter, incurred with or held by Bank, together with interest, as and when the same become due and payable, whether by acceleration or otherwise, in accordance with the terms of any such notes, drafts, debts, obligations or liabilities or agreements evidencing any such indebtedness, obligation or liability including all renewals, extensions and modifications thereof. The obligation of the undersigned is a guarantee of payment and not of collection.

The undersigned is Bank's debtor for all indebtedness, obligations and liabilities for which this Guaranty is made, and Bank shall also at all times have a lien on and security interest in all stocks, bonds and other securities of the undersigned at any time in Bank's possession and the same shall at Bank's option be held, administered and disposed of as collateral to any such indebtedness, obligation or liability of the Borrower, and Bank shall also at all times have the right of set-off against any deposit account of the undersigned with Bank in the same manner and to the same extent that the right of set-off may exist against the Borrower.

It is understood that any such notes, drafts, debts, obligations and liabilities may be accepted or created by or with Bank at any time and from time to time without notice to the undersigned, and the undersigned hereby expressly waives presentment, demand, protest, and notice of dishonor of any such notes, drafts, debts, obligations and liabilities or other evidences of any such indebtedness, obligation or liability.

Bank may receive and accept from time to time any securities or other property as a collateral to any such notes, drafts, debts, obligations and liabilities, and may surrender, compromise, exchange and release absolutely the same or any part thereof at any time without notice to the undersigned and without in any manner affecting the obligation and liability of the undersigned hereby created. The undersigned agrees that Bank shall have no obligation to protect, perfect, secure or insure any security interests, liens or encumbrances now or hereafter held for the indebtedness, obligations and liabilities for which this Guaranty is made.

This obligation and liability on the part of the undersigned shall be a primary, and not a secondary, obligation and liability, payable immediately upon demand without recourse first having been had by Bank against the Borrower or any other guarantor, person, firm or corporation, and without first resorting to any property held by Bank as collateral security; and the undersigned hereby waives the benefits of all provisions of law, for stay or delay of execution or sale of property or other satisfaction of judgment against the undersigned on account of obligation and liability hereunder until judgment be obtained therefor against the Borrower and execution thereon returned unsatisfied, or until it is shown that the Borrower has no property available for the satisfaction of the indebtedness, obligation or liability guaranteed hereby, or until any other proceedings can be had; and the undersigned further agrees that the undersigned is responsible for any obligation or debt, or portion thereof, of the Borrower to the Bank which has been paid by the Borrower to the Bank and which the Bank is subsequently required to return to the Borrower or a trustee for the Borrower in any bankruptcy or insolvency proceeding; and the undersigned further agrees that none of the undersigned shall have any right of subrogation, reimbursement or indemnity whatsoever, nor any right of recourse to security for the debts and obligations of the Borrower to Bank unless and until all of the debts and obligations of the Borrower to Bank have been paid in full. The undersigned hereby waives any claim or right to be a creditor of the Borrower's bankruptcy estate which may arise upon payment by the undersigned of any obligation under this Guaranty.

Check applicable box:

- ☒ This Guaranty is unlimited and applies to all indebtedness of Borrower, whether now existing or hereafter arising.
- ☐ This Guaranty applies to all indebtedness of Borrower evidenced by its promissory note number _____ dated _____ (including all extensions, renewals, and modifications thereof) in the principal amount of \$ _____.
- ☐ This Guaranty is limited to an amount of \$ _____ plus accrued interest, late fees, costs of collection (including attorneys' fees) and all other obligations and indebtedness which may accrue or be incurred with respect to the Borrower's indebtedness and obligations to Bank.

To secure the payment of all obligations of the undersigned hereunder, the undersigned hereby grants a security interest and lien in the following goods and property owned by the undersigned:

The undersigned hereby agrees to execute and deliver to Bank any security agreement, deed of trust, mortgage, UCC financing statement or other document required by the Bank in order to protect its security interest or lien in the Collateral. This document shall constitute a security agreement under the Uniform Commercial Code of South Carolina ("Code"), and in addition to having all other legal rights and remedies, the Bank shall have all rights and remedies of a secured party under the Code.

ACCOUNT# / NOTE#
542 00001



1457BC (03/02)

Page 1 of 4



This agreement shall inure to the benefit of Bank, its successors and assigns, and the owners and holders of any of the indebtedness, obligations and liabilities hereby guaranteed, and shall remain in force until a written notice revoking it has been received by Bank; but such revocation shall not release the undersigned from liability to Bank, its successors and assigns, or the owners and holders of any of the indebtedness, obligations and liabilities hereby guaranteed, for any indebtedness, obligation or liability of the Borrower which is hereby guaranteed and then in existence or from any renewals, extensions or modifications thereof in whole or in part, whether such renewals, extensions or modifications are made before or after such revocation, with or without notice to the undersigned. The undersigned waives presentment, demand, protest and notices of every kind and assents to any one or more extensions, modifications, renewals or postponements of the time or amount of payment or any other indulgences given to Borrower. The undersigned shall be responsible for and shall reimburse the Bank for all costs and expenses incurred by the Bank in connection with the enforcement of this Guaranty or the protection or preservation of any right or claim of the Bank in connection herewith, including without limitation costs and expenses incurred by the Bank in connection with its attempts to collect the indebtedness, obligations, and liabilities guaranteed hereby. Cost and expenses shall include reasonable attorneys' fees which the undersigned agrees shall be equal to 15% of the principal and interest outstanding at the time of action by Lender described above, unless the actual attorney's fees incurred, based upon Bank's counsel's normal hourly fees chargeable to Bank, shall be greater than 15% of principal and interest in which case such billed amount based on such hourly rate shall be the attorneys' fee payable hereunder.

If the Borrower is a corporation, this instrument covers all indebtedness, obligations and liabilities to Bank purporting to be made or undertaken on behalf of such corporation by any such officer or agent of said corporation without regard to the actual authority of such officer or agent. The term "corporation" shall include associations of all kinds and all purported corporations, whether correctly and legally chartered and organized.

The undersigned warrants, and represents to the Bank that: (i) this Guaranty is its legally binding obligation, enforceable against the undersigned in accordance with its terms; (ii) the execution and delivery of this Guaranty does not violate or constitute a breach of any agreement to which the undersigned is a party; (iii) that there is no litigation, claim, action or proceeding pending or, to the best knowledge of the undersigned, threatened against the undersigned which would materially adversely affect the financial condition of the undersigned or his/her ability to fulfill his/her obligations hereunder; (iv) that the undersigned has knowledge of the Borrower's financial condition and affairs; and (v) unless otherwise required in a Loan Agreement, if applicable, as long as any Obligations remain outstanding or as long as Bank remains obligated to make advances, the undersigned shall furnish annually an updated financial statement in a form satisfactory to Bank, which, when delivered shall be the property of Bank.

This Guaranty is made in and shall be construed in accordance with the laws and judicial decisions of the State of South Carolina. The undersigned agrees that any dispute arising out of this Guaranty shall be adjudicated in either the state or federal courts of South Carolina and in no other forum. For that purpose, the undersigned hereby submits to the jurisdiction of the state and/or federal courts of South Carolina. The undersigned waives any defense that venue is not proper for any action brought in any federal or state court in the State of South Carolina.

WAIVER OF TRIAL BY JURY. UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, THE UNDERSIGNED HEREBY WAIVE THE RIGHT TO TRIAL BY JURY ON ANY MATTERS OR CLAIMS ARISING OUT OF THIS GUARANTY OR THE BORROWER'S NOTE(S), AND THE RELATED LOAN DOCUMENTS EXECUTED IN CONNECTION HERewith OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN THE UNDERSIGNED AND THE BANK OR THE BORROWER AND THE BANK. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BANK TO ACCEPT THIS GUARANTY AND TO MAKE THE LOAN(S) TO THE BORROWER. FURTHER, THE UNDERSIGNED HEREBY CERTIFY THAT NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BANK WOULD NOT SEEK TO ENFORCE THIS WAIVER OR RIGHT TO JURY TRIAL PROVISION IN THE EVENT OF LITIGATION, NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION.

SIGNATURES ON FOLLOWING PAGE

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CLERK OF COURT
SPARTANBURG COUNTY
2011 FEB -2 AM 9:03
M. HOPE BLADWELL

Waiver of Appraisal Rights. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any delinquency owing in connection with the transaction. TO THE FULLEST EXTENT PERMITTED BY LAW AND AS A MATERIAL INDUCEMENT FOR LENDER TO MAKE THE LOAN, GUARANTOR HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.

Witness the signature and seal of each of the undersigned.

If Guarantor is a Corporation:

WITNESS:

NAME OF CORPORATION

By: _____ (SEAL)

Title: _____

By: _____ (SEAL)

Title: _____

If Guarantor is a Partnership, Limited Liability Company, or Limited Liability Partnership:

WITNESS:

NAME OF PARTNERSHIP, LLC OR LLP

By: _____ (SEAL)
GENERAL PARTNER OR MANAGER

By: _____ (SEAL)
GENERAL PARTNER OR MANAGER

By: _____ (SEAL)
GENERAL PARTNER OR MANAGER

If Guarantor is an Individual

WITNESS:

WALTER W PARKER IV

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CLERK OF COURT
SPARTANBURG COUNTY
2017 FEB -2 AM 9:03
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA

PROBATE

COUNTY OF Spartanburg

PERSONALLY appeared before me, the undersigned witness and made oath that s/he saw the within-named Carolina Property Holdings, a South Carolina corporation, by Walter W. Parker, IV, its member, sign, seal and as its act and deed, deliver the within-written instrument for the uses and purposes therein mentioned and that s/he together with the other witness that witnessed the execution thereof.

SWORN TO and subscribed before me this 21st day of October, 2005

Delia P. Little (SEAL)

Notary Public for South Carolina

My commission expires: 09-29-08

Witness

STATE OF SOUTH CAROLINA

PROBATE

COUNTY OF _____

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within-named _____, a South Carolina general partnership, by _____, its general partner, sign, seal and as its act and deed, deliver the within-written instrument for the uses and purposes therein mentioned, and that s/he together with the other witnesses whose signature appears above, witnessed the execution thereof.

SWORN TO and subscribed before me this _____ day of _____,

(SEAL)

Notary Public for South Carolina

My commission expires: _____

Witness

STATE OF SOUTH CAROLINA

PROBATE

COUNTY OF _____

PERSONALLY appeared before me, the undersigned witness and made oath that s/he saw _____, a South Carolina limited liability company / limited partnership that by _____, its member or manager / general partner, sign, seal and as its act and deed, deliver the foregoing within-written instrument for the uses and purposes therein mentioned and that s/he together with the other witness witnessed the execution thereof.

SWORN TO and subscribed before me this _____ day of _____,

(SEAL)

Notary Public for South Carolina

My commission expires: _____

Witness

STATE OF SOUTH CAROLINA

PROBATE

COUNTY OF _____

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within-named _____, sign, seal and as his/her act and deed, deliver the within-written instrument for the uses and purposes therein mentioned, and that s/he together with the other witness whose signature appears above, witnessed the execution thereof.

SWORN TO and subscribed before me this _____ day of _____,

(SEAL)

Notary Public for South Carolina

My commission expires: _____

Witness

FILED
CLERK OF COURT
SPARTANBURG COUNTY
OCT -2 AM 9:03
JUDITH BLACKLEY

Maker CAROLINA PROPERTIES HOLDINGS LLC
 Address 19 TUSCARORA TRI.
BEAUFORT, SC 29906-9193

000001542
 Customer Number
00001
 Note Number

BB&T
 of South Carolina
 NOTE MODIFICATION AGREEMENT

\$85,000.00 Original Amount of Note 10/21/2005 Original Date \$85,000.00 Modification Amount 11/14/2006 Modification Date

This Note Modification Agreement (hereinafter "Agreement") is made and entered into this 14th day of November, 2006, by and between CAROLINA PROPERTIES HOLDINGS LLC, maker(s), co-maker(s), endorser(s), or other obligor(s) on the Promissory Note (as defined below), hereinafter also referred to jointly and severally as Borrower(s); Branch Banking and Trust Company of South Carolina, a South Carolina banking corporation, hereinafter referred to as Bank; and

owners other than Borrower(s) if any of any property pledged to secure performance of Borrower(s)'s obligations to Bank, hereinafter referred to jointly and severally as Debtor(s)/Grantor(s).

Whereas, Borrower(s) has previously executed a Promissory Note payable to Bank, which Promissory Note includes the original Promissory Note and all renewals, extensions and modifications thereof, collectively "Promissory Note", said Promissory Note being more particularly identified by description of the original note above; and Borrower(s) and Bank agree that said Promissory Note is modified only to the limited extent as is hereinafter set forth; that all other terms, conditions, and covenants of said Promissory Note remain in full force and effect, and that all other obligations and covenants of Borrower(s), except as herein modified, shall remain in full force and effect, and binding between Borrower(s) and Bank; and Whereas Debtor(s)/Grantor(s), if different from Borrower(s), has agreed to the terms of this modification; NOW THEREFORE, in mutual consideration of the premises, the sum of Ten Dollars (\$10) and other good and valuable consideration, each to the other parties paid, the parties hereby agree that said Promissory Note is amended as hereinafter described:

☐ Borrower shall pay a prepayment penalty as set forth in the Prepayment Penalty Addendum attached hereto.

INTEREST RATE, PRINCIPAL AND INTEREST PAYMENT TERMS MODIFICATIONS (If the extent no change is made, existing terms continue. Sections not completed are deleted.)

Interest shall accrue from the date hereof on the unpaid principal balance outstanding from time to time at the:

☐ Fixed Rate of _____ % per annum.

☐ Variable rate of the Bank's Prime Rate plus _____ % per annum to be adjusted _____ as the Bank's Prime Rate changes.

☐ As of the Modification Date, any fixed, floating, or average maximum rate and fixed minimum rate in effect by virtue of the Promissory Note(s) are hereby deleted. If checked here ☐ the interest rate will not exceed said ☐ fixed ☐ average maximum rate of _____ % or a ☐ floating maximum rate of the greater of _____ % or the Bank's Prime Rate; and the interest rate will not decrease below a fixed minimum rate of _____ %. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made: ☐ when the Note is repaid in full by Borrower ☐ annually beginning on _____.

Principal and interest are payable as follows:

☐ Principal (plus any accrued interest not otherwise scheduled herein) is due in full at maturity on _____.
☐ Principal plus accrued interest is due in full at maturity on _____.
☐ Payable in consecutive installments of ☐ Principal ☐ Principal and Interest commencing on _____.

and continuing on the same day of each calendar period thereafter, in _____ equal payments of \$ _____, with one final payment of all remaining principal and accrued interest due on _____.

☐ Check/Line Payment Option: 2% of outstanding balance is payable monthly commencing on _____ and continuing on the same day of each month thereafter, with one final payment of all remaining principal and accrued interest due on _____.

☐ Accrued interest is payable _____ commencing on _____ and continuing on the same day of each calendar period thereafter, with one final payment of all remaining interest due on _____.

☐ Bank reserves the right in its sole discretion to adjust the fixed payment due hereunder _____ on _____ and continuing on the same day of each calendar period thereafter, in order to maintain an amortization period of no more than _____ months from the date of this Note. Borrower understands the payment may increase if interest rates increase.

☐ At the Borrower's request, the Bank has agreed to readvance the principal amount of \$ _____ The outstanding principal balance under the Promissory Note prior to the readvance is \$ _____ making the total outstanding principal balance now due under the Promissory Note and this Agreement to be \$ _____ ("Modification Amount").

☒ See Attachment to BB&T Note dated 11/14/2006 in the amount of \$85,000.00 for repayment schedule.

☐ Borrower hereby authorizes Bank to automatically debit from his demand deposit or savings account(s) with Bank or other bank, any payment(s) due under this Note on the date(s) due. Borrower shall provide appropriate account number(s) for account(s) at Bank or other bank.

The following scheduled payment(s) is (are) delinquent:

☒ \$ 2,002.56 principal } payment(s) due on 11/21/2005
☐ \$ _____ interest

is (are) hereby delinquent. Payments will resume on _____ according to the schedule contained herein or to the existing schedule (if no other changes are made herein).

ACCOUNTS / NOTES

000001542 00001

137880 (page)



Page 1 of 4

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 SPARTANBURG COUNTY
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 M. HOPE BLACKBURN



The Borrower(s) promises to pay Bank, or order, a late fee in the amount of five percent (5%) of any installment past due for ten (10) or more days. Where any installment payment is past due for ten (10) or more days, subsequent payments shall first be applied to this past due balance. In addition, the undersigned shall pay to Bank a returned payment fee if the undersigned or any other obligor hereon makes any payment of any time by check or other instrument or by any electronic means, which is returned to Bank because of nonpayment due to insufficient funds.

COLLATERAL: ☐ The Promissory Note, as modified, and the performance of the terms of any agreement or instrument relating to, evidencing, or securing the Promissory Note, as modified, shall be additionally secured by collateral hereinafter described, a new security instrument shall be executed by Borrower(s), and/or Debtor(s)/Grantor(s), and all other steps necessary to perfect or record the Bank's lien with priority acceptable to Bank shall be taken.

Deed(s) of Trust / Mortgage(s) granted in favor of Bank as beneficiary / mortgagee:

☐ dated _____ in the maximum principal amount of \$ _____
granted by _____

☐ dated _____ in the maximum principal amount of \$ _____
granted by _____

Security Agreement(s) granting a security interest to Bank:

☐ dated _____ given by _____

☐ dated _____ given by _____

☐ Secured Account Pledge and Security Agreement dated _____, executed by _____

☐ Control Agreement(s) dated _____, covering ☐ Deposit Account(s) ☐ Investment Property
☐ Letter of Credit Right(s) ☐ Electronic Chattel Paper

☐ Assignment of Certificate of Deposit, Security Agreement, and Power of Attorney for Certificated Certificate of Deposit dated _____, executed by _____

☐ Pledge and Security Agreement for Publicly Traded Certificated Securities dated _____, executed by _____

☐ Assignment of Life Insurance Policy as Collateral dated _____, executed by _____

☐ Loan Agreement dated _____, executed by Borrower and ☐ Guarantor(s).

☐ The collateral hereinafter described shall be and hereby is pledged as security interest for payment of the aforesaid Promissory Note(s).

OTHER:

If the Promissory Note being modified by this Agreement is signed by more than one person or entity, the modified Promissory Note shall be the joint and several obligation of all signers and the property and liability of each and all of them. It is expressly understood and agreed that this Agreement is a modification only and not a novation. The original obligation of the Borrower(s) as evidenced by the Promissory Note above described is not extinguished hereby. It is also understood and agreed that except for the modification(s) contained herein said Promissory Note, and any other Loan Documents or Agreements evidencing, securing or relating to the Promissory Note and all singular terms and conditions thereof, shall be and remain in full force and effect. This Agreement shall not release or affect the liability of any co-makers, obligors, endorsers or guarantors of said Promissory Note. Borrower and Debtor(s)/Grantor(s), if any, jointly and severally consent to the terms of this Agreement, waive any objection thereto, affirm any and all obligations to Bank and certify that there are no defenses or offsets against said obligations to the Bank, including without limitation the Promissory Note. Bank expressly reserves all rights as to any party with right of recourse on the aforesaid Promissory Note.

In the event periodic accruals of interest shall exceed any periodic fixed payment amount described above, the fixed payment amount shall be immediately increased or supplemental interest payments required on the same periodic basis as specified above (increased fixed payments or supplemental payments) to be determined in the Bank's sole discretion, in such amounts and at such times as shall be necessary to pay all accruals of interest for the period and all accruals of unpaid interest from previous periods. Such adjustments to the fixed payment amount or supplemental payments shall remain in effect for so long as any interest accruals shall exceed the original fixed payment amount and shall be further adjusted upward or downward to reflect changes in any variable interest rate based on an index such as the Bank's Prime Rate; provided that unless elected otherwise above, the fixed payment amount shall not be reduced below the original fixed payment amount. However, Bank shall have the right, in its sole discretion, to lower the fixed payment amount below the original payment amount. Notwithstanding any other provision contained in this agreement, in no event shall the provisions of this paragraph be applicable to any Promissory Note which requires disclosures pursuant to the Consumer Protection Act (Truth-in-Lending Act), 15 USC § 1601, et seq., as implemented by Regulation Z.

FILED
CLERK OF COURT
SPRINGFIELD COUNTY
2015-2-27 AM 9:03
M. ROSE BLACKLEY

ATTACHMENT TO BB&T NOTE

Account Number 7542
Note Number 00001

Attachment of BB&T Promissory Note dated 11/14/2006 in the amount of \$585,000.00 between Branch Banking & Trust Company of South Carolina as Bank, and CAROLINA PROPERTIES HOLDINGS LLC as Borrower.

I. Repayment terms of this note are as follows:

Principal & Interest paid in 9 Monthly payments of \$5,600.00 starting on 07/21/2007

Principal & Interest paid in 36 Monthly payments of \$7,100.00 starting on 11/21/2007

All unpaid principal and accrued interest due in full at maturity, 10/21/10.

II. Mortgage granted in favor of Bank as beneficiary:

☐ dated _____ in the maximum principal amount of \$ _____
granted by _____
☐ dated _____ in the maximum principal amount of \$ _____
granted by _____
☐ dated _____ in the maximum principal amount of \$ _____
granted by _____
☐ dated _____ in the maximum principal amount of \$ _____
granted by _____
☐ dated _____ in the maximum principal amount of \$ _____
granted by _____

III. Security Agreement(s) conveying a security interest in favor of Bank:

☐ dated _____ given by _____
☐ dated _____ given by _____
☐ dated _____ given by _____
☐ dated _____ given by _____
☐ dated _____ given by _____

IV. Additional Agreements, Assignments, Pledges or other security instruments:

☐ _____
☐ _____
☐ _____
☐ _____
☐ _____
☐ _____
☐ _____
☐ _____
☐ _____
☐ _____

ACCOUNTS / NOTES
7542 00001



T4735C (01/01)

Page 1 of 2

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CLERK OF COURT
SPARTANBURG COUNTY
2011-12-2 AM 9:03
M. HOPE BLACKLEY

IN WITNESS WHEREOF, the undersigned, on the day and year first written above, has caused this note to be executed under seal,

If Borrower Is a Corporation:

WITNESS:

HANDS OF COMPLETION

By: _____ (SEAL)

Title _____

By: _____ (SEAL)

TS# _____

If Borrower is a Partnership, Limited Liability Company, or Limited Liability Partnership:

Witness:

CAROLINA PROPERTIES HOLDINGS LLC

NAME OF PARTNERSHIP, LLC, OR LP

By: [Signature] SPECIAL AGENT IN CHARGE (GPA)

Walter H Parker IV

By: _____ ADMIRAL, FLEET IN CHARGE, PACIFIC (SEA)

~~ORIGINAL DESTROYED~~

By: _____ (REAL)

GENERAL PRINCIPLES OF MATHEMATICS

WITNESS:

If Borrower Is an Individual

- (SEAL)

WITNESS:

Additional Co-makers

(5EAL)

- (92A1)

— (SEAL)

- 15EAL

14730C psd11

Page 2 of 2

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CLERK OF COURT
SPARTANBURG COUNTY
MAY 19 1963
RECEIVED
MAY 19 1963

BB&T SPARTANBURG, South Carolina

Customer Number 242 Note Number 00001

BORROWER: CAROLINA PROPERTIES HOLDINGS LLC
ADDRESS: 19 TUSCARORA TRL
BEAUFORT SC 29906-9191

MODIFICATION, RENEWAL AND RESTATEMENT OF NOTE
(FOR NOTES ACQUIRED BY MERGER)

\$ 585,000.00	10/21/2003	\$ 585,000.00	02/11/2007
Original amount of Note	Original Date	Modification Amount	Modification Date

THIS MODIFICATION, RENEWAL AND RESTATEMENT OF NOTE ("Note") is made this 12th day of February, 2007, by and between CAROLINA PROPERTIES HOLDINGS LLC (jointly and severally "Borrowers"), and BRANCH BANKING AND TRUST COMPANY ("Bank"), a North Carolina banking corporation. This Note renews, modifies, restates, and constitutes a substitution of and for that Promissory Note dated 10/21/2003 (the "Original Note") from the Borrowers payable to the order of BRANCH BANKING & TRUST CO OF SC ("Predecessor"). The Bank is the holder of the Original Note as successor by merger with Predecessor.

FOR VALUABLE CONSIDERATION RECEIVED, the parties hereto agree that said Original Note is amended in its entirety as follows:

☐ Borrowers shall pay a prepayment penalty as set forth in the Prepayment Penalty Addendum attached hereto.

INTEREST RATE, PRINCIPAL AND INTEREST PAYMENT TERM MODIFICATIONS

Interest shall accrue from the date hereof on the unpaid principal balance outstanding from time to time at this:

☒ Fixed Rate of 7.800 % per annum.

☐ Variable rate of the Bank's Prime Rate plus _____ % per annum to be adjusted _____ as the Bank's Prime Rate changes.

☐ As of the Modification Date, any fixed, floating, or average maximum rate and fixed minimum rate in effect by virtue of the Original Note are hereby deleted. If checked here ☐ the interest rate will not exceed a) ☐ fixed ☐ average maximum rate of _____ % or a ☐ floating minimum rate of the greater of _____ % or the Bank's Prime Rate; and the interest rate will not decrease below a fixed minimum rate of _____ %. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made: ☐ when the Note is repaid in full by Borrower ☐ annually beginning on _____.

☐ Principal and interest are payable as follows:

☐ Principal (plus any accrued interest not otherwise scheduled herein) } is due in full at maturity on _____.

☐ Principal plus accrued interest

☐ Payable in consecutive _____ installments of ☐ Principal ☐ Principal and interest } commencing on _____

and continuing on the same day of each calendar period thereafter, in _____ equal payments of \$ _____, with one final payment of all remaining principal and accrued interest due on _____.

☐ Choiceless Payment Option: 2% of outstanding balance is payable monthly commencing on _____ and continuing on the same day of each month thereafter, with one final payment of all remaining principal and accrued interest due on _____.

☐ Accrued interest is payable _____ commencing on _____ and continuing on the same day of each calendar period thereafter, with one final payment of all remaining interest due on _____.

☐ Bank reserves the right in its sole discretion to adjust the fixed payment due hereunder _____ on _____ and continuing on the same day of each calendar period thereafter, in order to maintain an amortization period of no more than _____ months from the date of the final principal payment due hereunder. Borrower understands the payment may increase if interest rates increase.

☒ See Attachment to BB&T Note dated 02/12/2007 in the amount of \$585,000.00 for repayment schedule.

☐ Borrower hereby authorizes Bank to automatically draft from its demand deposit or savings account(s) with Bank or other bank, any payment(s) due under the Note on the date(s) due. Borrower shall provide appropriate account number(s) for account(s) at Bank or other bank.

ACCOUNT # / NOTE
242 00001



130850 10010

Page 1 of 4

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CLERK OF COURT
SPARTANBURG COUNTY
2007-2 AM 9:03
M. J. DEARLEY



The following scheduled payment(s) is (are) deferred:

☐ principal } payment(s) due on _____
☐ interest }

is (are) hereby deferred. Payments will resume on _____ according to the schedule contained herein or to the existing schedule if no other changes are made herein.

☐ Prior to an event of default, the Borrowers may borrow, repay, and reborrow hereunder pursuant to the terms of the Agreements, as hereinafter defined, between the Borrowers and the Bank.

The Original Note may have been executed in connection with a loan agreement, deed of trust, mortgage, security agreement, assignment of leases and rents, and/or other documents evidencing a loan or security interest (together with all amendments, extensions and substitutions thereof, the "Agreements"). All of the terms, covenants and conditions of the Agreements remain in full force and effect and the Bank and any subsequent holder of the Original Note is entitled to the benefits of the remedies provided in the "Agreements" and any other agreements between the Borrowers and the Bank.

The indebtedness and obligations of the Borrowers evidenced by the Original Note are not extinguished hereby, and the Borrowers acknowledge that this Note constitutes a modification, restatement, and substitution for the Original Note. This execution and delivery of this Note shall in no way impair the security now held for the indebtedness evidenced by the Original Note, and all such security, including the Agreements, shall secure payment of this Note to the same extent as the Original Note.

☐ The collateral hereinafter described shall be and hereby is deleted as security interest for payment of the aforesaid Promissory Note:

☐ The Note and the performance of the terms and obligations contained in the Agreements shall be additionally secured by collateral described below, a new security instrument shall be executed by Borrower and Debtor(s)/Grantor(s), and all other steps necessary to perfect or record the Bank's lien with priority acceptable to Bank shall be taken.

Deed(s) of Trust / Mortgage(s) granted in favor of Bank as beneficiary / mortgagee:

☐ dated _____ in the maximum principal amount of \$ _____

granted by _____

☐ dated _____ in the maximum principal amount of \$ _____

granted by _____

Security Agreement(s) granting a security interest to Bank:

☐ dated _____ given by _____

☐ dated _____ given by _____

☐ Repurchase Agreement and Security Agreement dated _____, executed by _____

☐ Control Agreement(s) dated _____, covering ☐ Deposit Account(s) ☐ Investment Property
☐ Letter of Credit Rights ☐ Electronic Chattel Paper

☐ Assignment of Certificate of Deposit, Security Agreement, and Power of Attorney for Certificated Certificates of Deposit dated _____, executed by _____

☐ Pledge and Security Agreement for Publicly Traded Certificated Securities dated _____, executed by _____

☐ Assignment of Life Insurance Policy as Collateral dated _____, executed by _____

☐ Loan Agreement dated _____, executed by Borrower and ☐ Guarantor(s).

☐ _____

The term "Prime Rate" as used herein means the rate of interest per annum announced by the Bank from time to time and adopted as its Prime Rate, which is one of several rate indexes utilized by the Bank when extending credit, and not necessarily the lowest rate. Any change in the interest rate resulting from a change in the Bank's Prime Rate shall become effective after the opening of business on the effective date of the change. All interest shall be computed and charged for the actual number of days elapsed on the basis of a year consisting of 360 days. From and after the date of any event of default under this Note, interest shall accrue at the rate of the Bank's Prime Rate plus 5.0% per annum, provided however that such rate shall not exceed at any time the highest rate of interest permitted under the law of the State of South Carolina (the "Default Rate").

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In the event periodic accruals of interest shall exceed any periodic fixed payment amount described above, the fixed payment amount shall be immediately increased, or additional supplemental interest payments required on the same periodic basis as specified above increased fixed payments or supplemental payments to be determined in the Bank's sole discretion, in such amounts and at such times as shall be necessary to pay all accruals of interest for the period and all accruals of unpaid interest from previous periods. Such adjustments to the fixed payment amount or supplemental payments shall remain in effect for so long as the interest accruals shall exceed the original fixed payment amount and shall be further adjusted upward or downward to reflect changes in the variable interest rate; provided that unless elected otherwise above, the fixed payment amount shall not be reduced below the original fixed payment amount. However, Bank shall have the right, in its sole discretion, to lower the fixed payment amount below the original payment amount. Notwithstanding any other provision contained in this agreement, in no event shall the provisions of this paragraph be applicable to any promissory note which requires disclosures pursuant to the Consumer Protection Act (Truth-in-Lending Act), 15 USC § 1601, et seq., as implemented by Regulation Z.

Payments may be made at any of the Bank's offices in the above-referenced city or such other place or places that may be hereafter designated by Bank. Payments will be credited to the outstanding balance on the date actually received which may result in the accrual of additional interest if the payment is not received on the due date. The Borrowers shall pay to Bank a fee for the amount of 0.0% of any installment paid due 15 or more days. Where any installment payment is paid due for 15 or more days, subsequent payments shall first be applied to the past due balance. In addition, the undersigned shall pay to Bank a returned payment fee if the undersigned or any other obligor heron makes any payment at any time by check or other instrument, or by any electronic means, which is returned to Bank because of nonpayment due to insufficient funds.

No delay or omission on the part of the holder of this Note in exercising any right hereunder shall operate as a waiver of such right or of any other right of such holder, nor any delay, omission, or waiver on any one occasion be deemed a bar to or a waiver of the same or of any other right on any future occasion. Borrowers and each endorser or guarantor of this Note, regardless of the time, order or place of signing, waives presentment, demand, protest and notices of every kind, and consents to any one or more extensions or postponements of the time of payment or any indulgences, to any substitutions, exchanges or release of collateral if at any time there shall be available to the holder collateral for this Note, and to the addition of or release of any other parties or person primarily or secondarily liable herefor.

The failure to pay any part of the principal or interest when due on this Note or to fully perform any covenant or obligation under the Agreement or on any other liability to Bank by the Borrowers, by any affiliate of the undersigned as defined in 11 USC § 101(12), or by any guarantor, endorser, or surety of this Note (said affiliate, surety or guarantor herein called Obligor); or if any financial statement or other representation or warranty made to Bank by Borrowers or by any Obligor shall be found to be materially incorrect or incomplete or if any of the Borrowers shall fail to furnish information to the Bank sufficient to verify the identity of the Borrowers as required under the USA Patriot Act; or in the event of a default under any of the Agreements or any other obligation of Borrowers; or in the event Bank demands that Borrowers secure or provide additional security for their obligations under the Note and security deemed adequate and sufficient by Bank is not given when demanded; or in the event any of Borrowers or any Obligor shall do, terminate its existence, or shall allow the appointment of a receiver for any part of their property, make an assignment for the benefit of creditors, or where a proceeding under bankruptcy or insolvency laws is initiated by or against any of Borrowers or any Obligor; or in the event Bank shall otherwise deem itself, its liens and security interests, or any collateral unsafe or insecure; or should Bank in good faith believe that the prospect of payment or performance is impaired; or if there is an attachment, execution, or other judicial seizure of all or any portion of the Borrowers' or any Obligor's assets, including an action or proceeding to seize any funds on deposit with the Bank, and such seizure is not discharged within twenty (20) days or if final judgment for the payment of money shall be rendered against the Borrowers or any Obligor which is not covered by insurance or debt cancellation and shall remain undischarged for a period of thirty (30) days unless such judgment or execution thereon is effectively stayed; if a judgment or taxation is filed against any of the Borrowers; or the termination of any guaranty agreement given in connection with this Note, then any one of the same shall be a material default hereunder, and this Note and any other indebtedness due the Bank by Borrowers shall immediately become due and payable at the option of the Bank without notice, or demand of any kind, which are hereby waived. In the event of any default, the then remaining principal balance outstanding plus any accrued interest then outstanding shall bear interest at the Default Rate until such principal and interest have been paid in full, and such rate shall apply from and after the date of any judgment obtained against Borrowers. In addition, upon default Bank may pursue its full legal remedies at law or equity, and the balance due hereunder may be charged against obligations of the Bank to Borrowers or any Obligor. Bank shall not be obligated to accept any check, money order, or other payment instrument marked "payment in full" on any disputed amount due hereunder, and Bank expressly reserves the right to reject all such payment instruments. Borrower agrees that tender of his check or other payment instrument so marked will not satisfy or discharge its obligation under this Note, disputed or otherwise, even if such check or payment instrument is inadvertently processed by Bank unless in fact such payment is in fact sufficient to pay the amount due hereunder.

WAIVER OF TRIAL BY JURY. UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, THE UNDERSIGNED HEREBY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS NOTE OR ANY LOAN DOCUMENT EXECUTED IN CONNECTION HERewith OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN THE UNDERSIGNED AND BANK. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BANK TO MAKE THE LOAN EVIDENCED BY THIS NOTE. FURTHER, THE UNDERSIGNED HEREBY CERTIFY THAT NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BANK WOULD NOT SEEK TO ENFORCE THIS WAIVER OR RIGHT TO JURY TRIAL PROVISION IN THE EVENT OF LITIGATION. NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION.

Unless otherwise required under a Loan Agreement, if applicable, and as long as any indebtedness evidenced by this Note remains outstanding or as long as Bank remains obligated to make advances, the undersigned shall furnish annually an updated financial statement in a form satisfactory to Bank, which, when delivered shall be the property of the Bank.

If this Note is placed with an attorney for collection, Borrowers, jointly and severally, agree to pay, in addition to principal and interest, all costs of collection, including but not limited to reasonable attorney's fees. All obligations of Borrowers and of any Obligor shall bind their respective heirs, executors, administrators, personal representatives, successors and assigns. Each provision of the Note shall be interpreted in such a manner to be effective and valid under applicable law, but if any provision of this Note shall be prohibited or invalid under such law, such invalid provision shall not invalidate the remainder of such provision or the remaining provisions of this Note.

This Note shall not release or affect the liability of any co-maker, endorser or obligor under the Original Note, Borrowers and Obligors, if any, jointly and severally consent to the terms of this Modification, waive any objection thereto, affirm any and all obligations to Bank and certify that there are no defenses or offsets against said obligations of Bank, including without limitation, the Note, Bank expressly reserves all rights as to any party with right of recourse on this Note. From time to time the maturity date of this Note may be extended, or the Note may be renewed in whole or in part, or a new note of different form may be substituted for this Note. The rate of interest on this Note may be modified, or changes may be made in consideration of loan extensions, and the holder hereof, from time to time may waive or surrender, either in whole or in part any rights, guarantees, security interest, or liens, given for the benefit of the holder in connection with the payment and the securing of the payment of this Note. However, no such occurrence shall in any manner affect, limit, modify, or otherwise impair any rights, guarantees or security of the holder not specifically waived, released, or surrendered in writing, nor shall the Borrowers, or any Obligor, either primarily or contingently, be released by reason of the occurrence of any such event. The holder hereof, from time to time, shall have the unlimited right to release any person who might be liable hereon, and any such release shall not affect or discharge the liability of any other person who is or might be liable hereon. The Bank may, at its option charge any fees for the modification, renewal, extension, or amendment of any terms of this Note permitted by applicable law. No waivers or modifications shall be valid unless in writing and signed by the Bank. In case of a conflict between the terms of this Note and the Loan Agreement or Commitment Letter issued in connection therewith, the priority of controlling terms shall be that this Note, then the Loan Agreement, and then the Commitment Letter. This Note shall be governed by, and construed in accordance with the laws of South Carolina.

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M. HOPE CLACKLEY

Notice of Right to Copy of Appraisal. If a 1-4 family residential dwelling is pledged as collateral for this Note, you, the undersigned, have a right to a copy of the real estate appraisal report used in connection with your application for credit. If you wish to receive a copy, please notify in writing the branch office where you applied for credit. You must forward your request to the Bank no later than 60 days after the date of this Note. In your request letter, please provide your name, mailing address, appraised property address, the date of this Note, and the account and note numbers shown on the front of this Note.

IN WITNESS WHEREOF, the undersigned, on the day and year first written above, has caused this instrument to be executed under seal,

If Borrower is a Corporation:

WITNESS:

NAME OF CORPORATION
By: _____ (SEAL)
Title: _____
By: _____ (SEAL)
Title: _____

If Borrower is a Partnership, Limited Liability Company, or Limited Liability Partnership:

WITNESS:

June Deaton

CAROLINA PROPERTIES HOLDINGS LLC
LIMITED LIABILITY COMPANY, LLC, OR LLP
By: *John* _____ (SEAL)
GENERAL PARTNER OR MANAGER
By: _____ (SEAL)
GENERAL PARTNER OR MANAGER
By: _____ (SEAL)
GENERAL PARTNER OR MANAGER

If Borrower is an Individual:

WITNESS:

_____ (SEAL)

Additional Borrowers and Debtors/Grantors/Guarantors:

WITNESS:

_____ (SEAL)

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SPARTANBURG COUNTY
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ATTACHMENT TO BB&T NOTE

Account Number 00001

Note Number 00001

Attachment of BB&T Promissory Note dated 02/12/2007 in the amount of \$585,000.00 between Branch Banking & Trust Company as Bank, and CAROLINA PROPERTIES HOLDINGS LLC as Borrower.

I. Repayment terms of this note are as follows:

Interest paid in 1 Monthly payments starting on 03/20/2007
Principal & Interest paid in 10 Monthly payments of \$5,600.00 starting on 04/21/2007
Principal & Interest paid in 34 Monthly payments of \$7,100.00 starting on 01/21/2008

II. Mortgage granted in favor of Bank as beneficiary:

☐ dated _____ in the maximum principal amount of \$ _____
granted by _____
☐ dated _____ in the maximum principal amount of \$ _____
granted by _____
☐ dated _____ in the maximum principal amount of \$ _____
granted by _____
☐ dated _____ in the maximum principal amount of \$ _____
granted by _____
☐ dated _____ in the maximum principal amount of \$ _____
granted by _____

III. Security Agreement(s) conveying a security interest in favor of Bank:

☐ dated _____ given by _____
☐ dated _____ given by _____
☐ dated _____ given by _____
☐ dated _____ given by _____
☐ dated _____ given by _____

IV. Additional Agreements, Assignments, Pledges or other security instruments:

☐ _____
☐ _____
☐ _____
☐ _____
☐ _____
☐ _____
☐ _____
☐ _____
☐ _____
☐ _____

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M. ROPE BLADKLEY

ACCOUNT # / NOVEN
00001 00001



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If Borrower is a Partnership, Limited Liability Company, or Limited Liability Partnership:

WITNESS: James Deaton

If Borrower is an Individual

WITNESS: _____ Additional _____

_____ (SEAL)

Page 2 of 2

BB&T
CAROLINA PROPERTIES HOLDINGS LLC
19 TUSCORA TRL
REALESTATE 255-9117

Customer Number
00001
Note Number

BB&T

NOTE MODIFICATION AGREEMENT

Original Amount of Note \$11,000.00 Original Date 07/27/2007 Modification Amount \$29,878.65 Modification Date 12/12/2007

This Note Modification Agreement (hereinafter Agreement) is made and entered into this 12th day of December, 2007 by and between CAROLINA PROPERTIES HOLDINGS LLC, maker(s), co-maker(s), endorser(s), or other obligor(s) on the Promissory Note (as defined below), hereinafter also referred to jointly and severally as Borrower(s); Branch Banking and Trust Company, a North Carolina banking corporation, hereinafter referred to as Bank and

owners other than Borrower(s) (if any) of any property pledged to secure performance of Borrower(s)'s obligations to Bank, hereinafter referred to jointly and severally as Debtor(s)/Grantor(s). Whereas the Borrower(s) has previously executed a Promissory Note payable to Bank, which Promissory Note includes the original Promissory Note and all renewals, extensions and modifications thereto, collectively "Promissory Note," said Promissory Note being more particularly identified by description of the original note above; and Borrower(s) and Bank agree that said Promissory Note be modified only to the limited extent as is hereinafter set forth; that all other terms, conditions, and covenants of said Promissory Note remain in full force and effect, and that all other obligations and covenants of Borrower(s), except as herein modified, shall remain in full force and effect, and binding between Borrower(s) and Bank and Whereas Debtor(s)/Grantor(s), if different from Borrower(s), has agreed to the terms of this modification; NOW THEREFORE, in mutual consideration of the promises, the sum of Ten Dollars (\$10) and other good and valuable consideration, each to the other parties paid, the parties hereto agree that said Promissory Note is amended as hereinafter described:

☐ Borrower shall pay a prepayment penalty as set forth in the Prepayment Penalty Addendum attached hereto.

INTEREST RATE, PRINCIPAL AND INTEREST PAYMENT TERM MODIFICATIONS (If no change is made, existing terms continue. Sections not completed are deleted)

Interest shall accrue from the date hereof on the unpaid principal balance outstanding from time to time at the:

☐ Fixed Rate of _____ % per annum.

☐ Variable rate of the Bank's Prime Rate plus _____ % per annum to be adjusted _____ as the Bank's Prime Rate changes.

☐ As of this Modification Date, any fixed, floating, or average maximum rate and fixed minimum rate in effect by virtue of the Promissory Note(s) are hereby deleted. If checked here ☐ the interest rate will not exceed a(n) ☐ fixed ☐ average maximum rate of _____ % or a

☐ floating maximum rate of the greater of _____ % or the Bank's Prime Rate; and the interest rate will not decrease below a fixed minimum rate of _____ %. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made: ☐ when the rate is repaid in full by Borrower ☐ annually beginning on _____.

Principal and interest are payable as follows:

☐ Principal (plus any accrued interest not otherwise scheduled herein) is due in full maturity on _____.

☐ Principal (plus accrued interest)

☒ Payable in consecutive _____ installments of ☐ Principal ☒ Principal and interest } commencing on 01/01/2008

and continuing on the same day of each calendar period thereafter, in _____ equal payments of \$ 3,500.00 with one final payment of all remaining principal and accrued interest due on 12/12/2010.

☐ Checkline Payment Option: 2% of outstanding balance is payable monthly commencing on _____

and continuing on the same day of each month thereafter, with one final payment of all remaining principal and accrued interest due

on _____

☐ Accrued interest is payable _____ commencing on _____ and continuing on the same day of each calendar period thereafter, with one final payment of all remaining interest due on _____.

☐ Bank reserves the right in its sole discretion to adjust the fixed payment due hereunder _____ on _____ and continuing on the same day of each calendar period thereafter, in order to maintain an amortization period of no more than _____ months from the date of the initial principal payment due hereunder. Borrower understands the payment may increase if interest rates increase.

☐ At the Borrower's request, the Bank has agreed to advance the principal amount of \$ _____, The outstanding principal balance under the Promissory Note prior to the advance is \$ _____, making the total outstanding principal balance now due under the Promissory Note and this Agreement to be \$ 329,878.65 ("Modification Amount").

☐ _____
☐ _____
☐ Borrower hereby authorizes Bank to automatically debit from its demand deposit or savings account(s) with Bank or other bank, any payment(s) due under this Note on the date(s) due. Borrower shall provide appropriate account number(s) for account(s) at Bank or other bank.

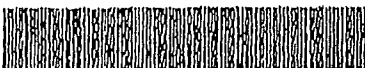
The following scheduled payment(s) is (are) deferred:

☐ \$ _____ principal } payment(s) due on _____
☐ \$ _____ interest }

is (are) hereby assumed. Payments will resume on _____ according to the schedule contained herein or to the addendum schedule (if no other changes are made herein).

ACCOUNTS / NOTES

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137350 jerry



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The Borrower(s) promises to pay Bank, or order, a late fee in the amount of five percent (5%) of any installment past due for ten (10) or more days. Where any installment payment is past due for ten (10) or more days, subsequent payments shall first be applied to the past due balance. In addition, the undersigned shall pay to Bank a returned payment fee if the undersigned or any other obligor hereon makes any payment at any time by check or other instrument, or by any electronic means, which is returned to Bank because of nonpayment due to non-sufficient funds.

COLLATERAL: ☐ The Promissory Note, as modified, and the performance of the terms of any agreement or instrument relating to, evidencing, or securing the Promissory Note, as modified, shall be additionally secured by collateral hereinafter described. A new security instrument shall be executed by Borrower(s), and/or Debtor(s)/Grantor(s), and all other steps necessary to perfect or record the Bank's lien with priority acceptable to Bank shall be taken.

Deed(s) of Trust / Mortgage(s) granted in favor of Bank as beneficiary / mortgagee:

☐ dated _____ in the maximum principal amount of \$ _____
granted by _____
☐ dated _____ in the maximum principal amount of \$ _____
granted by _____

Security Agreement(s) granting a security interest to Bank:

☐ dated _____ given by _____
☐ dated _____ given by _____
☐ Securities Account Pledge and Security Agreement dated _____, executed by _____
☐ Control Agreement(s) dated _____, covering ☐ Deposit Account(s) ☐ Intellectual Property
☐ Letter of Credit Rights ☐ Electronic Control Paper
☐ Assignment of Certificate of Deposit, Security Agreement, and Power of Attorney (for Certificates of Deposit) dated _____, executed by _____
☐ Pledge and Security Agreement for Publicly Traded Securities dated _____, executed by _____
☐ Assignment of Life Insurance Policy as Collateral dated _____, executed by _____
☐ Loan Agreement dated _____, executed by Borrower and ☐ Guarantor(s).
☐ _____

☐ The collateral hereinafter described shall be and hereby is deemed as security interest for payment of the abovesaid Promissory Note:

OTHER:

If the Promissory Note being modified by this Agreement is signed by more than one person or entity, the modified Promissory Note shall be the joint and several obligation of all signers and the property and liability of each and all of them. It is expressly understood and agreed that this Agreement is a modification only and not a novation. The original obligation of the Borrower(s) as evidenced by the Promissory Note above described is not extinguished hereby. It is also understood and agreed that except for the modification(s) contained herein said Promissory Note, and any other Loan Documents or Agreements evidencing, securing or relating to the Promissory Note and all singular terms and conditions thereof, shall be and remain in full force and effect. This Agreement shall not release or affect the liability of any co-maker, endorser, or guarantor of said Promissory Note. Borrower and Debtor(s)/Guarantor(s), if any, jointly and severally consent to the terms of this Agreement, waive any objection thereto, affirm any and all obligations to Bank, and certify that there are no defenses or claims against said obligations of the Bank, including without limitation the Promissory Note. Bank expressly reserves all rights as to any party with right of recourse on the abovesaid Promissory Note.

In the event periodic accruals of interest shall exceed any periodic fixed payment amount described above, the fixed payment amount shall be immediately increased or supplemental interest payments required on the same periodic basis as specified above (increased fixed payments or supplemental payments to be determined in the Bank's sole discretion), in such amounts and at such times as shall be necessary to pay all accruals of interest for the period and all accruals of unpaid interest from previous periods. Such adjustments to the fixed payment amount or supplemental payments shall remain in effect for so long as any interest accruals shall exceed the original fixed payment amount and shall be further adjusted upward or downward to reflect changes in any variable interest rate based on an index such as the Bank's Prime Rate; provided that unless stated otherwise above, the fixed payment amount shall not be reduced below the original fixed payment amount. However, Bank shall have the right, in its sole discretion, to lower the fixed payment amount below the original payment amount. Notwithstanding any other provision contained in this agreement, in no event shall the provisions of this paragraph be applicable to any Promissory Note which requires disclosures pursuant to the Consumer Protection Act (Truth in Lending Act, 15 USC § 1601, et seq., as implemented by Regulation Z.

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Borrower agrees that the only interest charge is the interest actually stated in this Note, and that any loan or origination fee shall be deemed charges rather than interest, which charges are fully earned and non-refundable. It is further agreed that any late charges are not a charge for the use of money but are imposed to compensate Bank for some of the administrative services, costs and losses associated with any delinquency or default under this Note, and said charges shall be fully earned and non-refundable when assessed. All other charges imposed by Bank upon Borrower in connection with this Note and the loan including, without limitation, any commitment fees, loan fees, facility fees, origination fees, discount points, default and late charges, prepayment fees, attorney's fees and reimbursements for costs and expenses paid by Bank to third parties or for damages incurred by Bank are and shall be deemed to be charges made to compensate Bank for underwriting and administrative services and costs, other services, and costs or losses incurred and to be incurred by Bank in connection with this Note and the loan and shall under no circumstances be deemed to be charges for the use of money. All such charges shall be fully earned and non-refundable when due.

The Bank may, at its option, charge any fees for the modification, renewal, extension, or amendment of any of the terms of the Promissory Note(s) as permitted by applicable law.

In the words "Prime Rate", "Bank Prime Rate", "BBB Prime Rate", "Bank's Prime Rate" or "BBB's Prime Rate" are used in this Agreement, they shall refer to the rate announced by the Bank from time to time as its Prime Rate. The Bank makes loans both above and below the Prime Rate and uses indexes other than the Prime Rate. Prime Rate is the name given a rate index used by the Bank and does not in itself constitute a representation of any preferred rate of movement.

Unless otherwise provided herein, it is expressly understood and agreed by and between Borrower(s), Debtor(s)/Grantor(s) and Bank that any and all collateral (including but not limited to real property, personal property, fixtures, inventory, accounts, instruments, general intangibles, documents, chattel paper, and equipment) given as security to insure faithful performance by Borrower(s) and any other third party of any and all obligations to Bank, however created, whether now existing or hereafter arising, shall remain as security for the Promissory Note as modified hereby.

It is understood and agreed that if Bank has released collateral herein, it shall not be required or obligated to take any further steps to release said collateral from any lien or security interest unless Bank determines, in its sole discretion, that it may do so without consequence to its secured position and relative priority to other collateral; and unless Borrower(s) bears the reasonable cost of such action. No delay or omission on the part of the Bank in exercising any right hereunder shall operate as a waiver of such right or of any other right of the Bank, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same, or of any other right on any further occasion. Each of the parties signing this Agreement regarding any of the time, order or place of signing waives presentment, demand, protest, and notices of every kind, and assents to any one or more extensions or postponements of the time of payment or any other indulgence, to any substitution, exchange or release of collateral if at any time there is available to the Bank collateral for the Promissory Note, as amended, and to the addition or release of any other parties or persons primary or secondarily liable. Whenever possible the provisions of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement prohibited by or invalid under such law, such provisions shall be ineffective to the extent of any such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. All rights and obligations arising hereunder shall be governed by and construed in accordance with the laws of the state which governs the interpretation and enforcement of the Promissory Note.

From and after any event of default under this Agreement, the Promissory Note, or any related deed of trust, security agreement or loan agreement, interest shall accrue on the sum of the principal balance and accrued interest then outstanding at the variable rate equal to the Bank's Prime Rate plus 5% per annum ("Default Rate"), provided that such rate shall not exceed at any time the highest rate of interest permitted by the laws of the State of South Carolina; and further that such rate shall apply after judgement. In the event of any default, the then remaining unpaid principal amount and accrued but unpaid interest then outstanding shall bear interest at the Default Rate until such principal and interest have been paid in full. Bank shall not be obligated to accept any check, money order, or other payment instrument marked "payment in full" on any disputed amount due hereunder, and Bank expressly reserves the right to reject all such payment instruments. Borrower agrees that tender of the check or other payment instrument so marked will not satisfy or discharge its obligation under this Note, disputed or otherwise, even if such check or payment instrument is subsequently processed by Bank unless in fact such payment is in fact sufficient to pay the amount due hereunder.

WAIVER OF TRIAL BY JURY. UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, THE UNDERSIGNED HEREBY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS AGREEMENT, THE PROMISSORY NOTE OR ANY LOAN DOCUMENT EXECUTED IN CONNECTION HERewith OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN THE UNDERSIGNED AND BANK. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BANK TO MAKE THE LOAN EVIDENCED BY THE PROMISSORY NOTE AND THIS AGREEMENT. FURTHER, THE UNDERSIGNED HEREBY CERTIFY THAT NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BANK WOULD NOT SEEK TO ENFORCE THIS WAIVER OR RIGHT TO JURY TRIAL PROVISION IN THE EVENT OF LITIGATION. NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION.

Unless otherwise required under a loan Agreement, if applicable, and as long as any indebtedness evidenced by this Promissory Note, as modified by this Agreement remains outstanding or as long as Bank remains obligated to make advances, the undersigned shall furnish annually an updated financial statement in a form satisfactory to Bank, which, when delivered shall be the property of the Bank. Further, the undersigned agree to provide any and all documentation requested by the Bank in order to verify the identity of the undersigned in accordance with the USA Patriot Act.

(SIGNATURES ON FOLLOWING PAGE)

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SARATOGA COUNTY
2017-02-27 PM 5:00
CLERK OF COURT

Maker CAROLINA PROPERTIES HOLDINGS, LLC
 Address 10 TUSCARORA TRI.
210400TSC 21004-9101

Account Number
 00001
 Note Number

BB&T

NOTE MODIFICATION AGREEMENT

\$ 515,000.00 Original Amount of Note 01/12/2001 Original Date \$ 547,543.55 Modification Amount 01/18/2001 Modification Date

This Note Modification Agreement (hereinafter "Agreement") is made and entered into this 14th day of January, 2001, by and between CAROLINA PROPERTIES HOLDINGS, LLC, maker(s), co-maker(s), endorser(s), or other obligor(s) on the Promissory Note (as defined below), hereinafter also referred to jointly and severally as Borrower(s); Branch Banking and Trust Company, a North Carolina banking corporation, hereinafter referred to as Bank; and

owners other than Borrower(s) (if any) of any property pledged to secure performance of Borrower(s)'s obligations to Bank, hereinafter referred to jointly and severally as Debtor(s) or Debtor(s).
 Whereas, Borrower(s) has previously executed a Promissory Note payable to Bank, which Promissory Note includes the original Promissory Note and its renewals, extensions and modifications thereto, collectively "Promissory Note", said Promissory Note being more particularly identified by description of the original note above; and Borrower(s) and Bank agree that said Promissory Note be modified only to the limited extent as is hereinafter set forth; that all other terms, conditions, and covenants of said Promissory Note remain in full force and effect, and that all other obligations and covenants of Borrower(s), except as hereby modified, shall remain in full force and effect, and binding between Borrower(s) and Bank; and Whereas Debtor(s) or Debtor(s), if different from Borrower(s), has agreed to the terms of this modification; NOW THEREFORE, in mutual consideration of the premises, the sum of Ten Dollars (\$10) and other good and valuable consideration, each to the other parties set forth, the parties hereto agree that said Promissory Note is amended as hereinafter described:

☐ Borrower shall pay a prepayment penalty as set forth in the Prepayment Penalty Addendum attached hereto.

INTEREST RATE, PRINCIPAL AND INTEREST PAYMENT TERM MODIFICATIONS (To the extent no change is made, existing terms continue. Sections not completed are deleted.)

Interest shall accrue from the date hereof on the unpaid principal balance outstanding from time to time at the:

☒ Fixed Rate of 7.500 % per annum.

☐ Variable rate of the Bank's Prime Rate plus % per annum to be adjusted at the Bank's Prime Rate changes.

☐ As of the Modification Date, any fixed, floating, or average maximum rate in effect by virtue of the Promissory Note(s) are hereby deleted. If checked here ☐ the interest rate will not exceed a(n) ☐ fixed ☐ average maximum rate of % or a ☐ floating maximum rate of the greater of % or the Bank's Prime Rate; and the interest rate will not decrease below a fixed minimum rate of %. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made: ☐ when the Note is repaid in full by Borrower ☐ annually beginning on .

Principal and interest are payable as follows:

☐ Principal (plus any accrued interest) not otherwise scheduled herein } is due in full at maturity on
☐ Principal plus accrued interest }
☐ Payable in consecutive installments of ☐ Principal ☐ Principal and interest } commencing on

and continuing on the same day of each calendar period thereafter, in equal payments of \$ with one final payment of all remaining principal and accrued interest due on .

☐ Choiceless Payment Option: 2% of outstanding balance is payable monthly commencing on

and continuing on the same day of each month thereafter, with one final payment of all remaining principal and accrued interest due on .

☐ Accrued interest is payable commencing on and continuing on the same day of each calendar period thereafter, with one final payment of all remaining interest due on .

☐ Bank reserves the right in its sole discretion to adjust the final payment due hereunder on and continuing on the same day of each calendar period thereafter, in order to maintain an amortization period of no more than months from the date of the final principal payment due hereunder. Borrower understands the payment may increase if interest rates increase.

☐ At the Borrower's request, the Bank has agreed to readvance the principal amount of \$. The outstanding principal balance under the Promissory Note prior to the readvance is \$, making the total outstanding principal balance now due under the Promissory Note and this Agreement to be \$ 547,543.55 ("Modification Amount").

☒ See Attachment to BB&T Note dated 01/12/2001 in the amount of \$547,543.55 for repayment schedule.

☐ Borrower hereby authorizes Bank to automatically debit from its demand deposit or savings account(s) with Bank or other bank, any payment(s) due under this Note on its date(s) due. Borrower shall provide a appropriate account number(s) for account(s) at Bank or other bank.

The following scheduled payment(s) is (are) deferred:

☐ \$ principal } payment(s) due on
☐ \$ interest }

is (are) hereby deferred. Payments will resume on according to the schedule contained hereby or to the existing schedule (if no other changes are made hereby).

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The Borrower(s) promises to pay Bank, or order, a late fee in the amount of five percent (5%) of any installment past due for ten (10) or more days. Where any installment payment is past due for ten (10) or more days, subsequent payments shall first be applied to the past due balance. In addition, the undersigned shall pay to Bank a returned payment fee if the undersigned or any other obligor hereon makes any payment at any time by check or other instrument, or by any electronic means, which is returned to Bank because of nonpayment due to non-sufficient funds.

COLLATERAL: ☐ The Promissory Note, as modified, and the performance of the terms of any agreement or instrument relating to, evidencing, or securing the Promissory Note, as modified, shall be additionally secured by collateral hereinafter described. A new security instrument shall be executed by Borrower(s), and/or Debtor(s)/Grantor(s), and all other steps necessary to perfect or record the Bank's lien with priority acceptable to Bank shall be taken.

Deed(s) of Trust / Mortgage(s) granted in favor of Bank as beneficiary / mortgagee:

☐ dated _____ in the maximum principal amount of \$ _____
granted by _____
☐ dated _____ in the maximum principal amount of \$ _____
granted by _____

Security Agreement(s) granting a security interest to Bank:

☐ dated _____ given by _____
☐ dated _____ given by _____

☐ Securities Account Pledge and Security Agreement(s) dated _____, executed by _____

☐ Control Agreement(s) dated _____, covering ☐ Deposit Account(s) ☐ Investment Property
☐ Letter of Credit Rights ☐ Electronic Collateral Paper

☐ Assignment of Certificate of Deposit, Security Agreement, and Power of Attorney (for Certificated Certificates of Deposit) dated _____, executed by _____

☐ Pledge and Security Agreement for Publicly Traded Certificated Securities dated _____, executed by _____

☐ Assignment of Life Insurance Policy as Collateral dated _____, executed by _____

☐ Loan Agreement dated _____, executed by Borrower and ☐ Guarantor(s).

☐ _____

☐ The collateral hereinafter described shall be and hereby is pledged as security interest for payment of the aforesaid Promissory Note:

OTHER:

If the Promissory Note being modified by this Agreement is signed by more than one person or entity, the modified Promissory Note shall be the joint and several obligation of all signers and the property and liability of each and all of them. It is expressly understood and agreed that this Agreement is a modification only and not a novation. The original obligation of the Borrower(s) as evidenced by the Promissory Note above described is not extinguished hereby. It is also understood and agreed that except for the modification(s) contained herein said Promissory Note, and any other Loan Documents or Agreements evidencing, securing or relating to the Promissory Note and all singular terms and conditions thereof, shall be read herein in full force and effect. This Agreement does not release or affect the liability of any co-makers, obligors, and/or guarantors of said Promissory Note. Borrower and Debtor(s)/Grantor(s), if any, jointly and severally consent to the terms of this Agreement, waive any objection thereto, affirm any and all obligations to Bank and certify that there are no defenses or offsets against and obligations to the Bank, including without limitation the Promissory Note. Bank expressly reserves all rights as to any party with right of recourse on the aforesaid Promissory Note.

In the event periodic accruals of interest shall exceed any periodic fixed payment amount described above, the fixed payment amount shall be immediately increased or supplemental interest payments required on the same periodic basis as specified above (increased fixed payments or supplemental payments to be determined in the Bank's sole discretion). In such amounts and at such times as shall be necessary to pay all accruals of interest for the period and all accruals of unpaid interest from previous periods. Such adjustments to the fixed payment amount or supplemental payments shall remain in effect for so long as any interest accruals shall exceed the original fixed payment amount and shall be further adjusted upward or downward to reflect changes in any variable interest rate based on an index such as the Bank's Prime Rate; provided that unless elected otherwise above, the fixed payment amount shall not be reduced below the original fixed payment amount. However, Bank shall have the right, in its sole discretion, to lower the fixed payment amount below the original payment amount. Notwithstanding any other provision contained in this agreement, in no event shall the provisions of this paragraph be applicable to any Promissory Note which requires disclosures pursuant to the Consumer Protection Act (Truth in Lending Act), 15 U.S.C. § 1601, et seq., as implemented by Regulation Z.

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Borrower agrees that the only interest charge is the interest actually stated in this Note, and that any loan or origination fee shall be deemed charges rather than interest, which charges are fully earned and non-refundable. It is further agreed that any late charges are not a charge for the use of money but are imposed to compensate Bank for some of the administrative services, costs and losses associated with any delinquency or default under this Note, and said charges shall be fully earned and non-refundable when assessed. All other charges imposed by Bank upon Borrower in connection with this Note and the loan including, without limitation, any commitment fees, loan fees, facility fees, origination fees, discount points, default and late charges, prepayment fees, statutory attorneys' fees and reimbursements for costs and expenses paid by Bank to third parties or for damages incurred by Bank are and shall be deemed to be charges made to compensate Bank for underwriting and administrative services and costs, other services, and costs or losses incurred and to be incurred by Bank in connection with this Note and the loan and shall under no circumstances be deemed to be charges for the use of money. All such charges shall be fully earned and non-refundable when due.

The Bank may, at its option, charge any fees for the modification, renewal, extension, or amendment of any of the terms of the Promissory Note(s) as permitted by applicable law.

In the words "Prime Rate", "Bank Prime Rate", "BBT Prime Rate", "Bank's Prime Rate" or "BBT's Prime Rate" are used in this Agreement, they shall refer to the rate announced by the Bank from time to time as its Prime Rate. The Bank makes loans both above and below the Prime Rate and uses indexes other than the Prime Rate. Prime Rate is the name given to rate index used by the Bank and does not in itself constitute a representation of any preferred rate or treatment.

Unless otherwise provided herein, it is expressly understood and agreed by and between Borrower(s), Debtor(s)/Guarantor(s) and Bank that any and all collateral (including but not limited to real property, personal property, fixtures, inventory, accounts, instruments, general intangibles, documents, chattel paper, and equipment) given as security to insure faithful performance by Borrower(s) and any other third party of any and all obligations to Bank, however created, whether now existing or hereafter arising, shall remain as security for the Promissory Note as modified hereby.

It is understood and agreed that if Bank has released collateral herein, it shall not be required or obligated to take any further steps to release said collateral from any lien or security interest unless Bank determines, in its sole discretion, that it may do so without consequence to its secured position and relative priority in other collateral and unless Borrower(s) bears the reasonable cost of such action. No delay or omission on the part of the Bank in exercising any right hereunder shall operate as a waiver of such right or of any other right of the Bank, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same, or of any other right on any further occasion. Each of the parties signing this Agreement regardless of the time, order or place of signing waives presentment, demand, protest, and notices of every kind, and assents to any one or more extensions or postponements of the time of payment or any other indulgence, to any substitutions, exchanges or releases of collateral if at any time there is available to the Bank collateral for the Promissory Note, as amended, and to the additions or releases of any other parties or persons primarily or secondarily liable. Whenever possible the provisions of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, and if any provision of this Agreement prohibited by or invalid under such law, such provisions shall be ineffective to the extent of any such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. All rights and obligations arising hereunder shall be governed by and construed in accordance with the laws of the same state which governs the interpretation and enforcement of the Promissory Note.

From and after any event of default under this Agreement, the Promissory Note, or any related deed of trust, security agreement or loan agreement, interest shall accrue on the sum of the principal balance and accrued interest then outstanding at the variable rate equal to the Bank's Prime Rate plus 5% per annum ("Default Rate"), provided that such rate shall not exceed at any time the highest rate of interest permitted by the laws of the State of South Carolina; and further that such rate shall apply after judgment. In the event of any default, the then remaining unpaid principal amount and accrued but unpaid interest then outstanding shall bear interest at the Default Rate until such principal and interest have been paid in full. Bank shall not be obligated to accept any check, money order, or other payment instrument marked "payment in full" on any disputed amount due hereunder, and Bank expressly reserves the right to reject all such payment instruments. Borrower agrees that lender of its check or other payment instrument so marked will not satisfy or discharge its obligation under this Note, disputed or otherwise, even if such check or payment instrument is inadvertently processed by Bank unless in fact such payment is in fact sufficient to pay the amount due hereunder.

WAVEN OF TRIAL BY JURY. UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, THE UNDERSIGNED HEREBY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS AGREEMENT, THE PROMISSORY NOTE OR ANY LOAN DOCUMENT EXECUTED IN CONNECTION HERewith OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN THE UNDERSIGNED AND BANK. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BANK TO MAKE THE LOAN EVIDENCED BY THE PROMISSORY NOTE AND THIS AGREEMENT. FURTHER, THE UNDERSIGNED HEREBY CERTIFY THAT NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BANK WOULD NOT SEEK TO ENFORCE THIS WAIVER OR RIGHT TO JURY TRIAL PROVISION IN THE EVENT OF LITIGATION. NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION.

Unless otherwise required under a Loan Agreement, if applicable, and as long as any indebtedness evidenced by this Promissory Note, as modified by this Agreement remains outstanding or as long as Bank remains obligated to make advances, the undersigned shall furnish annually an updated financial statement in a form satisfactory to Bank, which, when delivered shall be the property of the Bank. Further, the undersigned agree to provide any and all documentation requested by the Bank in order to verify the identity of the undersigned in accordance with the USA Patriot Act.

(SIGNATURES ON FOLLOWING PAGE)

14735C (07/04)

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M. HOPE BLACKLEY

BB&T

NOTE MODIFICATION SIGNATURE PAGE

Borrower: CAROLINA PROPERTIES HOLDINGS LLC
Account Number: [REDACTED] Note Number: 00001
Modification Amount: \$67,819.55 Modification Date: 01/17/2008

Notice of Right to Copy of Appraisal: If a 1-4 family residential dwelling is pledged as collateral for this Agreement, you, the undersigned, have a right to copy of the real estate appraisal report used in connection with your application for credit. You must forward your request to the Bank no later than 90 days after the date of this Agreement. In your request letter, please provide your name, mailing address, appraised property address, the date of this Agreement, and the account and note numbers shown on the front of this Agreement.

IN WITNESS WHEREOF, the undersigned, on the day and year first written above, has caused this Instrument to be executed under seal.

If Borrower Is a Corporation:

WITNESS;

NAME OF CORPORATION

By: _____ (SEAL)

Title: _____

By: _____ {SEAL}

Tilla: _____

If Borrower is a Partnership, Limited Liability Company, or Limited Liability Partnership:

WITNESS:

~~CAROLINA PROPERTIES HOLDINGS LLC~~
NAME OF PARTNERSHIP, LLC OR LLP

By: W. L. [Signature] (SEAL)

GENERAL PARTNER OR MANAGER

By: _____ (SEAL)

GENERAL PARTNER OR MANAGER

By _____ (SEAL)

DEATH PARTNER OR MURDERER

If Borrower Is an Individual:

WITNESS:

____(REAL)

Additional Borrowers and Debtors/Grantors/Guarantors:

WITNESS:

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(9EAL)

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R. HOFER BLANKLEY

ATTACHMENT TO BB&T NOTE

Account Number: 11111111
Note Number: 00001

Attachment of BB&T Promissory Note dated 01/21/2008 in the amount of \$567,845.55 between Branch Banking & Trust Company as Bank, and CAROLINA PROPERTIES HOLDINGS LLC as Borrower.

I. Repayment terms of this note are as follows:

Interest paid in 6 Monthly payments starting on 01/21/2008

Principal & Interest paid in 36 Monthly payments of \$5,500.00 starting on 07/21/2008

with one final payment of all remaining principal and accrued interest due on 10/21/2018

II. Mortgage granted in favor of Bank as beneficiary:

- ☐ dated _____ in the maximum principal amount of \$ _____
granted by _____
☐ dated _____ in the maximum principal amount of \$ _____
granted by _____
☐ dated _____ in the maximum principal amount of \$ _____
granted by _____
☐ dated _____ in the maximum principal amount of \$ _____
granted by _____
☐ dated _____ in the maximum principal amount of \$ _____
granted by _____

III. Security Agreement(s) conveying a security interest in favor of Bank:

- ☐ dated _____ given by _____
☐ dated _____ given by _____
☐ dated _____ given by _____
☐ dated _____ given by _____
☐ dated _____ given by _____

IV. Additional Agreements, Assignments, Pledges or other security instruments:

- ☐ _____
☐ _____
☐ _____
☐ _____
☐ _____
☐ _____
☐ _____
☐ _____
☐ _____
☐ _____

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IN WITNESS WHEREOF, the undersigned, on this day and year first written above, has caused this Note to be executed under seal.

If Borrower Is a Corporation:

WITNESS:

HAWK DR CORPORATION

By: _____ (SEAL)

T100: _____

By: _____ (SEAL)

Time: _____

If Borrower Is a Partnership, Limited Liability Company, or Limited Liability Partnership:

WITNESSES

CAROLINA PROPERTIES HOLDINGS LLC

HAZ OF FARTHERAW, U.C. OR U.P.

By: [Signature] (SEAL)

Time: _____

By: _____ (SEAL)

Ti(10): _____

By: _____ (SEAL)

This: _____

If Borrower Is an Individual:

WITNESS:

-(SEAL)

Additional Co-makers:

WITNESS;

-(SEAL)

---(SEAL)

-(SEAL)

-(SEAL)

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Page 2 of 2

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M. HOPE BLACKEY

Name CAROLINA PROPERTIES HOLDINGS LLC
 Address 19 TUSCARORA TR.
DEAFORT, SC 29906-9193

Customer Number
 00001
 Note Number

BB&T

NOTE MODIFICATION AGREEMENT

\$ 545,000.00
 Original Amount of Note

12/12/2007
 Original Date

\$ 567,842.45
 Modification Amount

07/03/2008
 Modification Date

This Note Modification Agreement (hereinafter Agreement) is made and entered into this 3rd day of July, 2008, by and between CAROLINA PROPERTIES HOLDINGS LLC (hereinafter referred to as the "Borrower"), its maker(s), co-maker(s), endorser(s), or other obligor(s) on the Promissory Note (as defined below), hereinafter also referred to jointly and severally as Borrower(s); Branch Banking and Trust Company, a North Carolina banking corporation, hereinafter referred to as Bank; and

owners other than Borrower(s) (if any) of any property pledged to secure performance of Borrower(s)'s obligations to Bank, hereinafter referred to jointly and severally as Debtor(s)/Grantor(s).

Witnesseth: Whereas, Borrower(s) has previously executed a Promissory Note payable to Bank, which Promissory Note includes the original Promissory Note and all renewals, extensions and modifications thereof, collectively "Promissory Note", said Promissory Note being more particularly identified by description of the original note above; and Borrower(s) and Bank agree that said Promissory Note be modified only to the extent as is hereinafter set forth; that all other terms, conditions, and covenants of said Promissory Note remain in full force and effect, and that all other obligations and covenants of Borrower(s), except as herein modified, shall remain in full force and effect and binding between Borrower(s) and Bank; and Whereas Debtor(s)/Grantor(s), if different from Borrower(s), has agreed to the terms of this modification; NOW THEREFORE, in mutual consideration of the premises, the sum of Ten Dollars (\$10) and other good and valuable consideration, each to the other parties paid, the parties hereto agree that said Promissory Note is amended as hereinafter described:

☐ Borrower shall pay a prepayment penalty as set forth in the Prepayment Penalty Addendum attached hereto.

INTEREST RATE, PRINCIPAL AND INTEREST PAYMENT TERM MODIFICATIONS (To the extent no change is made, existing terms continue. Sections not completed are deleted.)

Interest shall accrue from the date hereof on the unpaid principal balance outstanding from time to time at the:

☐ Fixed Rate of _____ % per annum.

☐ Variable rate of the Bank's Prime Rate plus _____ % per annum to be adjusted _____ as the Bank's Prime Rate changes.

☐ As of the Modification Date, any fixed, floating, or average maximum rate and fixed minimum rate in effect by virtue of the Promissory Note(s) are hereby deleted. If checked here ☐ the interest rate will not exceed a(n) ☐ fixed ☐ average maximum rate of _____ % or a ☐ floating maximum rate of the greater of _____ % or the Bank's Prime Rate; and the interest rate will not decrease below a fixed minimum rate of _____ %. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made: ☐ when the Note is repaid in full by Borrower ☐ annually beginning on _____.

Principal and interest are payable as follows:

☐ Principal (plus any accrued interest) otherwise scheduled herein

☐ Principal plus accrued interest

☒ Payable in consecutive _____ Monthly _____ installments of ☐ Principal ☒ Principal and interest } commencing on 07/17/2008

and continuing on the same day of each calendar period thereafter, in _____ 27 _____ equal payments of \$ 4,600.00, with one final payment of all remaining principal and accrued interest due on 10/21/2010.

☐ Check/line Payment Option: 2% of outstanding balance is payable monthly commencing on _____ and continuing on the same day of each month thereafter, with one final payment of all remaining principal and accrued interest due on _____.

☐ Accrued interest is payable _____ commencing on _____ and continuing on the same day of each calendar period thereafter, with one final payment of all remaining interest due on _____.

☐ Bank reserves the right in its sole discretion to adjust the fixed payment due hereunder _____ on _____ and continuing on the same day of each calendar period thereafter, in order to maintain an amortization period of no more than _____ months from the date of the initial principal payment due hereunder. Borrower understands the payment may increase if interest rates increase.

☐ At the Borrower's request, the Bank has agreed to readvance the principal amount of \$ _____ The outstanding principal balance under the Promissory Note prior to the readvance is \$ _____, making the total outstanding principal balance now due under the Promissory Note and this Agreement to be \$ _____ ("Modification Amount").

☐ Borrower hereby authorizes Bank to automatically debit from its demand deposit or savings account(s) with Bank or other bank, any payment(s) due under this Note on the date(s) due. Borrower shall provide appropriate account number(s) or account(s) at Bank or other bank.

The following scheduled payment(s) is (are) deferred:

☐ \$ _____ principal } payment(s) due on _____
☐ \$ _____ interest

is (are) hereby deferred. Payments will resume on _____ according to the schedule contained herein or to the existing schedule (if no other changes are made herein).

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Page 1 of 4

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 M. JOSE BLANCHLEY



The Borrower(s) promises to pay Bank, or order, a late fee in the amount of five percent (5%) of any installment past due for ten (10) or more days. Where any installment payment is past due for ten (10) or more days, subsequent payments shall first be applied to the past due balance. In addition, the undersigned shall pay to Bank a returned payment fee if the undersigned or any other obligor hereon makes any payment of any time by check or other instrument, or by any electronic means, which is returned to Bank because of nonpayment due to nonsufficient funds.

COLLATERAL: ☐ The Promissory Note, as modified, and the performance of the terms of any agreement or instrument relating to, evidencing, or securing the Promissory Note, as modified, shall be additionally secured by collateral hereinafter described, a new security instrument shall be executed by Borrower(s), and/or Debtor(s)/Grantor(s), and all other steps necessary to perfect or record the Bank's lien with priority acceptable to Bank shall be taken.

Deed(s) of Trust / Mortgage(s) granted in favor of Bank as beneficiary / mortgagee:

☐ dated _____ in the maximum principal amount of \$ _____
granted by _____
☐ dated _____ in the maximum principal amount of \$ _____
granted by _____

Security Agreement(s) granting a security interest to Bank:

☐ dated _____ given by _____

☐ dated _____ given by _____

☐ Secured Account Pledge and Security Agreement dated _____, executed by _____
☐ Control Agreement(s) dated _____, covering ☐ Deposit Account(s), ☐ Investment Property
☐ Letter of Credit Rights ☐ Electronic Check/Paper
☐ Assignment of Certificate of Deposit, Security Agreement, and Power of Attorney (for Certificated Certificate of Deposit) dated _____
_____, executed by _____
☐ Pledge and Security Agreement for Publicly Traded Certificated Securities dated _____, executed by _____
☐ Assignment of Life Insurance Policy as Collateral dated _____, executed by _____

☐ Loan Agreement dated _____, executed by Borrower and ☐ Guarantor(s).

☐ _____
☐ _____
☐ The collateral hereinafter described shall be and hereby is dated as security interest for payment of the aforesaid Promissory Note:

OTHER:

If the Promissory Note being modified by this Agreement is signed by more than one person or entity, the modified Promissory Note shall be the joint and several obligation of all signers and the property and liability of each and all of them. It is expressly understood and agreed that this Agreement is a modification only and not a revision. The original obligation of the Borrower(s) as evidenced by the Promissory Note above described is not extinguished hereby. It is also understood and agreed that except for the modification(s) contained herein said Promissory Note, and any other Loan Documents or Agreements evidencing, securing or relating to the Promissory Note and all singular terms and conditions thereof, shall be and remain in full force and effect. This Agreement shall not release or affect the liability of any co-makers, obligors, endorser or guarantors of said Promissory Note, Borrower and Debtor(s)/Grantor(s). If any, jointly and severally consent to the terms of this Agreement, waive any objection thereto, affirm any and all obligations to Bank and certify that there are no delinquencies or offsets against said obligations of the Bank, including without limitation the Promissory Note. Bank expressly reserves all rights as to any party with right of recourse on the aforesaid Promissory Note.

In the event periodic accruals of interest shall exceed any periodic fixed payment amount described above, the fixed payment amount shall be immediately increased or supplemental interest payments required on the same periodic basis as specified above (increased fixed payments or supplemental payments to be determined in the Bank's sole discretion), in such amounts and at such times as shall be necessary to pay all accruals of interest for the period and all accruals of unpaid interest from previous periods. Such adjustments to the fixed payment amount or supplemental payments shall remain in effect for so long as any interest accruals shall exceed the original fixed payment amount and shall be further adjusted upward or downward to reflect changes in any variable interest rate based on an index such as the Bank's Prime Rate; provided that unless elected otherwise above, the fixed payment amount shall not be reduced below the original fixed payment amount. However, Bank shall have the right, in its sole discretion, to lower the fixed payment amount below the original payment amount. Notwithstanding any other provision contained in this agreement, in no event shall the provisions of this paragraph be applicable to any Promissory Note which requires disclosures pursuant to the Consumer Protection Act (Truth-in-Lending Act), 15 USC § 1601, et seq., as implemented by Regulation Z.

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M. HOPE BLACKLEY

Borrower agrees that the only interest charge is the interest actually stated in this Note, and that any loan or origination fee shall be deemed charges rather than interest, which charges are fully earned and non-refundable. It is further agreed that any late charges are not a charge for the use of money but are imposed to compensate Bank for some of the administrative services, costs and losses associated with any delinquency or default under this Note, and said charges shall be fully earned and non-refundable when accrued. All other charges imposed by Bank upon Borrower in connection with this Note and the loan including, without limitation, any commitment fees, loan fees, facility fees, origination fees, discount points, default and late charges, prepayment fees, statutory attorneys' fees and reimbursements for costs and expenses paid by Bank to third parties or for damages incurred by Bank are and shall be deemed to be charges made to compensate Bank for underwriting and administrative services and costs, other services, and costs or losses incurred and to be incurred by Bank in connection with this Note and the loan and shall under no circumstances be deemed to be charges for the use of money. All such charges shall be fully earned and non-refundable when due.

The Bank may, at its option, charge any fees for the modification, renewal, extension, or amendment of any of the terms of the Promissory Note(s) as permitted by applicable law.

In the words "Prime Rate", "Bank Prime Rate", "BBAT Prime Rate", "Bank's Prime Rate" or "BBAT's Prime Rate" are used in this Agreement, they shall refer to the rate announced by the Bank from time to time as its Prime Rate. The Bank makes loans both above and below the Prime Rate and uses indexes other than the Prime Rate. Prime Rate is the name given a rate index used by the Bank and does not in itself constitute a representation of any preferred rate or treatment.

Unless otherwise provided herein, it is expressly understood and agreed by and between Borrower(s), Debtor(s)/Grantor(s) and Bank that any and all collateral (including but not limited to real property, personal property, fixtures, inventory, accounts, instruments, general intangibles, documents, chattel paper, and equipment) given as security to insure faithful performance by Borrower(s) and any other third party of any and all obligations to Bank, however created, whether now existing or hereafter arising, shall remain as security for the Promissory Note as modified hereby.

It is understood and agreed that if Bank has released collateral herein, it shall not be required or obligated to take any further steps to release said collateral from any lien or security interest unless Bank determines, in its sole discretion, that it may do so without consequence to its secured position and relative priority in other collateral; and unless Borrower(s) bears the reasonable cost of such action. No delay or omission on the part of the Bank in exercising any right hereunder shall operate as a waiver of such right or of any other right of the Bank, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same, or of any other right on any further occasion. Each of the parties signing this Agreement regardless of the time, order or place of signing waives presentment, demand, protest, and notices of every kind, and assents to any one or more extensions or postponements of the time of payment or any other indulgence, to any substitutions, exchanges or releases of collateral that at any time there is available to the Bank collateral for the Promissory Note, as amended, and to the provisions or releases of any other parties or persons primarily or secondarily liable. Whenever possible the provisions of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement prohibited by or invalid under such law, such provisions shall be ineffective to the extent of any such prohibition or invalidity, without invalidating the remainder of or the remaining provisions of this Agreement. All rights and obligations arising hereunder shall be governed by and construed in accordance with the laws of the same state which governs the interpretation and enforcement of the Promissory Note.

From and after any event of default under this Agreement, the Promissory Note, or any related deed of trust, security agreement or loan agreement, interest shall accrue on the sum of the principal balance and accrued interest then outstanding at the variable rate equal to the Bank's Prime Rate plus 5% per annum ("Default Rate"), provided that such rate shall not exceed at any time the highest rate of interest permitted by the laws of the State of North Carolina; and further that such rate shall apply after judgement. In the event of any default, the then remaining unpaid principal amount and accrued but unpaid interest then outstanding shall bear interest at the Default Rate until such principal and interest have been paid in full. Bank shall not be obligated to accept any check, money order, or other payment instrument marked "payment in full" on any disputed amount due hereunder, and Bank expressly reserves the right to reject all such payment instruments. Borrower agrees that tender of its check or other payment instrument so marked will not satisfy or discharge its obligation under this Note, disputed or otherwise, even if such check or payment instrument is inadvertently processed by Bank unless in fact such payment is in fact sufficient to pay the amount due hereunder.

WAIVER OF TRIAL BY JURY. UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, THE UNDERSIGNED HEREBY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS AGREEMENT, THE PROMISSORY NOTE OR ANY LOAN DOCUMENT EXECUTED IN CONNECTION HERewith OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN THE UNDERSIGNED AND BANK. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BANK TO MAKE THE LOAN EVIDENCED BY THE PROMISSORY NOTE AND THIS AGREEMENT. FURTHER, THE UNDERSIGNED HEREBY CERTIFY THAT NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BANK WOULD NOT SEEK TO ENFORCE THIS WAIVER OR RIGHT TO JURY TRIAL PROVISION IN THE EVENT OF LITIGATION. NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION.

Unless otherwise required under a Loan Agreement, if applicable, and as long as any indebtedness evidenced by this Promissory Note, as modified by this Agreement remains outstanding or as long as Bank remains obligated to make advances, the undersigned shall furnish annually an updated financial statement in a form satisfactory to Bank, which, when delivered shall be the property of the Bank. Further, the undersigned agree to provide any and all documentation requested by the Bank in order to verify the identity of the undersigned in accordance with the USA Patriot Act.

(SIGNATURES ON FOLLOWING PAGE)

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CLERK OF COURT
SPARTANBURG COUNTY
2017 FEB -2 AM 9:03
M. HOPE BLACKLEY

BB&T

NOTE MODIFICATION SIGNATURE PAGE

Borrower: CAROLINA PROPERTIES HOLDINGS LLC

Account Number: [REDACTED] 542

No. Number: 00001

Modification Amount 569,849.55

Modification Date: 07/01/2001

Notice of Right to Copy of Appraisal: If a 1-4 family residential dwelling is pledged as collateral for this Agreement, you, the undersigned, have a right to copy of the real estate appraisal report used in connection with your application for credit. You must forward your request to the Bank no later than 60 days after the date of this Agreement. In your request letter, please provide your name, mailing address, appraised property address, the date of this Agreement, and the account and note numbers shown on the front of this Agreement.

IN WITNESS WHEREOF, the undersigned, on the day and year first written above, has caused this instrument to be executed under seal.

If Borrower Is a Corporation:

WITNESS:

NAME OF CORPORATION

By: _____ (SEAL)

Πηγή: _____

By: _____ (SEAL)

NAME: _____

If Borrower is a Partnership, Limited Liability Company, or Limited Liability Partnership:

WITNESS:

CAROLINA PROPERTIES HOLDINGS LLC

HALL OF PARTNERSHIP, LUCY ON LIP

By: [Signature] (SEAL)

GENERAL PARTNER OR MANAGER

By: _____ (SEAL)

GENERAL PANTHER OR MANAGER

By: _____ (SEAL)

GENERAL FACTS ON MANAGER

If Borrower is an Individual:

WITNESS;

____(BEAL)

Additional Borrowers and Debtors/Grantors/Guarantors:

WITNESS:

(SEAL)

(SEAL)

(SEAL)

{SEAL}

(5EAL)

{SEAL}

13755G (P401)

Page 4 of 4

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SMARTLANDS COUNTY
AUG 17 2003
P. HOPE BLACKLEY

Maker CAROLINA PROPERTIES HOLDINGS LLC
 Address 17175 CAROLINA TRAIL
BEAUFORT SC 29506-0191

Customer Number
00001
 Note Number

BB&T

NOTE MODIFICATION AGREEMENT

\$ 585,000.00 Original Amount of Note \$ 562,889.14 Modification Amount
 02/17/2007 Original Date 12/11/2008 Modification Date

This Note Modification Agreement (hereinafter "Agreement") is made and entered into this 11th day of December, 2008, by and between CAROLINA PROPERTIES HOLDINGS LLC, maker(s), co-maker(s), endorser(s), or other obligor(s) on the Promissory Note (as defined below), hereinafter also referred to jointly and severally as Borrower(s); Branch Banking and Trust Company, a North Carolina banking corporation, hereinafter referred to as Bank; and

owners other than Borrower(s) (if any) of any property pledged to secure performance of Borrower(s)'s obligations to Bank, hereinafter referred to jointly and severally as Debtor(s)/Grantor(s).

Whereas, Borrower(s) has previously executed a Promissory Note payable to Bank, which Promissory Note includes the original Promissory Note and all renewals, extensions and modifications thereof, collectively "Promissory Note", said Promissory Note being more particularly identified by description of the original note above; and Borrower(s) and Bank agree that said Promissory Note be modified only to the limited extent as is hereinafter set forth; that all other terms, conditions, and covenants of said Promissory Note remain in full force and effect, and that all other obligations and covenants of Borrower(s), except as herein modified, shall remain in full force and effect, and binding between Borrower(s) and Bank; and Whereas Debtor(s)/Grantor(s), if different from Borrower(s), has agreed to the terms of this modification; NOW THEREFORE, in mutual consideration of the premises, the sum of Ten Dollars (\$10) and other good and valuable consideration, each to the other parties paid, the parties hereto agree that said Promissory Note is extended as hereinafter described:

☐ Borrower shall pay a prepayment fee as set forth in the Prepayment Fee Addendum attached hereto.

INTEREST RATE, PRINCIPAL AND INTEREST PAYMENT TERM MODIFICATIONS (to the extent no change is made, existing terms continue; sections not completed are deleted)

Interest shall accrue from the date hereof on the unpaid principal balance outstanding from time to time at the:

☐ Fixed Rate of _____ % per annum.

☒ Variable rate of the Bank's Prime Rate plus 1.000 % per annum to be adjusted Daily as the Bank's Prime Rate changes.

☐ As of the Modification Date, any fixed, floating, or average maximum rate and fixed minimum rate in effect by virtue of the Promissory Note(s) are hereby deleted. If checked here ☐ the interest rate will not exceed (a) ☐ fixed ☐ average maximum rate of _____ % or a floating maximum rate of the greater of _____ % or the Bank's Prime Rate; and the interest rate will not decrease below a fixed minimum rate of _____ %. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made ☐ when the Note is repaid in full by Borrower ☐ annually beginning on _____.

Principal and interest are payable as follows:

☐ Principal (plus any accrued interest not otherwise scheduled herein) is due in full at maturity on _____.

☐ Principal plus accrued interest

☐ Payable in consecutive _____ installments of ☐ Principal ☐ Principal and interest commencing on _____.

and continuing on the same day of each calendar period thereafter, in _____ equal payments of \$ _____ with one final payment of all remaining principal and accrued interest due on _____.

☐ Checkroll Payment Option: 2% of outstanding balance is payable monthly commencing on _____ and continuing on the same day of each month thereafter, with one final payment of all remaining principal and accrued interest due on _____.

☐ Accrued interest is payable _____ commencing on _____ and continuing on the same day of each calendar period thereafter, with one final payment of all remaining interest due on _____.

☐ Bank reserves the right in its sole discretion to adjust the fixed payment due hereunder _____ on _____ and continuing on the same day of each calendar period thereafter, in order to maintain an amortization period of no more than _____ months from the date of the final principal payment due hereunder. Borrower understands the payment may increase if interest rates increase.

☐ At the Borrower's request, the Bank has agreed to reduce the principal amount of \$ _____, The outstanding principal balance under the Promissory Note prior to the reduction is \$ _____, making the total outstanding principal balance now due under the Promissory Note and this Agreement to be \$ _____ ("Modification Amount").

☒ See Attachment to BB&T Note dated 12/11/2008 in the amount of \$562,889.14 for repayment schedule.

☐ Borrower hereby authorizes Bank to automatically draft from its demand deposit or savings account(s) with Bank or other bank, any payment(s) due under this Note on the date(s) due. Borrower shall provide appropriate account number(s) for account(s) at Bank or other bank.

The following scheduled payment(s) is (are) deferred:

☐ \$ _____ principal } payment(s) due on _____
☐ \$ _____ interest

is (are) hereby deferred. Payments will resume on _____ according to the schedule contained herein or to the existing schedule (if no other changes are made herein).

ACCOUNTS / NOTES

Customer # 00001

137550 (new)



Page 1 of 4

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 M. HOPE SLACKLEY



The Borrower(s) promises to pay Bank, or order, a late fee in the amount of five percent (5%) of any installment past due for ten (10) or more days. Where any installment payment is past due for ten (10) or more days, subsequent payments shall first be applied to the past due balance. In addition, the undersigned shall pay to Bank a returned payment fee if the undersigned or any other obligor hereon makes any payment at any time by check or other instrument, or by any electronic means, which is returned to Bank because of nonpayment due to non-sufficient funds.

COLLATERAL: ☐ The Promissory Note, as modified, and the performance of the terms of any agreement or instrument relating to, evidencing, or securing the Promissory Note, as modified, shall be additionally secured by collateral hereinafter described; a new security instrument shall be executed by Borrower(s), and/or Debtor(s)/Grantor(s), and all other steps necessary to perfect or record the Bank's lien with priority acceptable to Bank shall be taken.

Deed(s) of Trust / Mortgage(s) granted in favor of Bank as beneficiary / mortgagee:

☐ dated _____ in the maximum principal amount of \$ _____
granted by _____

☐ dated _____ in the maximum principal amount of \$ _____
granted by _____

Security Agreement(s) granting a security interest to Bank:

☐ dated _____ given by _____

☐ dated _____ given by _____

☐ Securities Account Pledge and Security Agreement dated _____, executed by _____

☐ Control Agreement(s) dated _____, covering ☐ Deposit Account(s) ☐ Investment Property
☐ Letter of Credit Rights ☐ Electronic Chattel Paper

☐ Assignment of Certificate of Deposit, Security Agreement, and Power of Attorney (for Certificated Certificates of Deposit) dated _____, executed by _____

☐ Pledge and Security Agreement for Publicly Traded Certificated Securities dated _____, executed by _____

☐ Assignment of Life Insurance Policy as Collateral dated _____, executed by _____

☐ Loan Agreement dated _____, executed by Borrower and ☐ Guarantor(s).

☐ The collateral hereinafter described shall be and hereby is pledged as security interest for payment of the aforesaid Promissory Note;

OTHER:

If the Promissory Note being modified by this Agreement is signed by more than one person or entity, the modified Promissory Note shall be the joint and several obligation of all signers and the property and liability of each and all of them. It is expressly understood and agreed that this Agreement is a modification only and not a novation. The original obligation of the Borrower(s) as evidenced by the Promissory Note above described is not extinguished hereby. It is also understood and agreed that except for the modification(s) contained herein said Promissory Note, and any other Loan Documents or Agreements evidencing, securing or relating to the Promissory Note and all singular terms and conditions thereof, shall be and remain in full force and effect. This Agreement shall not release or affect the liability of any co-signers, obligors, endorser or guarantors of said Promissory Note. Borrower and Debtor(s)/Grantor(s), if any, jointly and severally consent to the terms of this Agreement, waive any objection thereto, within any and all obligations to Bank and certify that there are no defenses or offsets against said obligations to the Bank, including without limitation the Promissory Note. Bank expressly reserves all rights as to any party with right of recourse on the aforesaid Promissory Note.

In the event periodic accruals of interest shall exceed any periodic fixed payment amount described above, the fixed payment amount shall be immediately increased or supplemental interest payments required on the same periodic basis as specified above (increased fixed payments or supplemental payments to be determined in the Bank's sole discretion). In such amounts and at such times as shall be necessary to pay all accruals of interest for the period and all consists of unpaid interest from previous periods. Such adjustments to the fixed payment amount or supplemental payments shall remain in effect for as long as any interest accruals shall exceed the original fixed payment amount and shall be further adjusted upward or downward to reflect changes in any variable interest rate based on an index such as the Bank's Prime Rate; provided that unless elected otherwise above, the fixed payment amount shall not be reduced below the original fixed payment amount. However, Bank shall have the right, in its sole discretion, to lower the fixed payment amount below the original payment amount. Notwithstanding any other provision contained in this agreement, in no event shall the provisions of this paragraph be applicable to any Promissory Note which requires disclosures pursuant to the Consumer Protection Act (Truth-in-Lending Act), 15 USC § 1601, et seq., as implemented by Regulation Z.

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M. HOPE BLACKLEY

Borrower agrees that the only interest charge is the interest actually stated in this Note, and that any loan or origination fee shall be deemed charges rather than interest, which charges are fully earned and non-refundable. It is further agreed that any late charges are not a charge for the use of money but are imposed to compensate Bank for some of the administrative services, costs and losses associated with any delinquency or default under this Note, and said charges shall be fully earned and non-refundable when incurred. All other charges imposed by Bank upon Borrower in connection with this Note and the loan including, without limitation, any commitment fees, loan fees, facility fees, origination fees, discount points, default and late charges, prepayment fees, statutory attorney's fees and reimbursements for costs and expenses paid by Bank to third parties or for damages incurred by Bank are and shall be deemed to be charges made to compensate Bank for underwriting and administrative services and costs, other services, and costs or losses incurred and to be incurred by Bank in connection with this Note and the loan and shall under no circumstances be deemed to be charges for the use of money. All such charges shall be fully earned and non-refundable when due.

The Bank may, at its option, charge any fees for the modification, renewal, extension, or amendment of any of the terms of this Promissory Note(s) as permitted by applicable law.

In the words "Prime Rate", "Bank Prime Rate", "BB&T Prime Rate", "Bank's Prime Rate" or "BB&T's Prime Rate" are used in this Agreement, they shall refer to the rate announced by the Bank from time to time as its Prime Rate. The Bank makes loans both above and below the Prime Rate and uses indexes other than the Prime Rate. Prime Rate is the name given a rate index used by the Bank and does not in itself constitute a representation of any preferred rate or treatment.

Unless otherwise provided herein, it is expressly understood and agreed by and between Borrower(s), Debtor(s)/Grantor(s) and Bank that any and all collateral (including but not limited to real property, personal property, fixtures, inventory, accounts, instruments, general intangibles, documents, chattel paper, and equipment) given as security to insure faithful performance by Borrower(s) and any other third party of any and all obligations to Bank, however created, whether now existing or hereafter arising, shall remain as security for the Promissory Note as modified hereby.

It is understood and agreed that if Bank has released collateral herein, it shall not be required or obligated to take any further steps to release said collateral from any lien or security interest unless Bank determines, in its sole discretion, that it may do so without consequence to its secured position and relative priority in other collateral; and unless Borrower(s) bears the reasonable cost of such action. No delay or omission on the part of the Bank in exercising any right hereunder shall operate as a waiver of such right or of any other right of the Bank, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same, or of any other right on any further occasion. Each of the parties signing this Agreement regardless of the time, order or place of signing waives presentment, demand, protest, and notices of every kind, and consents to any one or more extensions or postponements of the time of payment or any other indulgences, to any substitutions, exchanges or releases of collateral if at any time there is available to the Bank collateral for the Promissory Note, as amended, and to the addition or release of any other parties or persons primarily or secondarily liable. Whenever possible the provisions of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement prohibited by or invalid under such law, such provisions shall be ineffective to the extent of any such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. All rights and obligations arising hereunder shall be governed by and construed in accordance with the laws of the same state which governs the interpretation and enforcement of the Promissory Note.

From and after any event of default under this Agreement, the Promissory Note, or any related deed of trust, security agreement or loan agreement, interest shall accrue on the sum of the principal balance and accrued interest then outstanding at the variable rate equal to the Bank's Prime Rate plus 5% per annum ("Default Rate"), provided that such rate shall not exceed at any time the highest rate of interest permitted by the laws of the State of South Carolina; and further that such rate shall apply after judgement. In the event of any default, the then remaining unpaid principal amount and accrued but unpaid interest then outstanding shall bear interest at the Default Rate until such principal and interest have been paid in full. Bank shall not be obligated to accept any check, money order, or other payment instrument marked "payment in full" on any disputed amount due hereunder, and Bank expressly reserves the right to reject all such payment instruments. Borrower agrees that tender of its check or other payment instrument so marked will not satisfy or discharge its obligation under this Note, disputed or otherwise, even if such check or payment instrument is inadvertently processed by Bank unless in fact such payment is in fact sufficient to pay the amount due hereunder.

WAIVER OF TRIAL BY JURY. UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, THE UNDERSIGNED HEREBY WAIVES THE RIGHT TO TRIAL BY JURY OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS AGREEMENT, THE PROMISSORY NOTE OR ANY LOAN DOCUMENT EXECUTED IN CONNECTION HERewith OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN THE UNDERSIGNED AND BANK. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BANK TO MAKE THE LOAN EVIDENCED BY THE PROMISSORY NOTE AND THIS AGREEMENT. FURTHER, THE UNDERSIGNED HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BANK WOULD NOT SEEK TO ENFORCE THIS WAIVER OR RIGHT TO JURY TRIAL PROVISION IN THE EVENT OF LITIGATION. NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION.

Unless otherwise required under a Loan Agreement, if applicable, and as long as any indebtedness evidenced by this Promissory Note, as modified by this Agreement remains outstanding or as long as Bank remains obligated to make advances, the undersigned shall furnish annually an updated financial statement in a form satisfactory to Bank, which, when delivered shall be the property of the Bank. Further, the undersigned agrees to provide any and all documentation requested by the Bank in order to verify the identity of the undersigned in accordance with the USA Patriot Act.

(SIGNATURES ON FOLLOWING PAGE)

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2017 FEB -2 AM 9:03
M. HOPE BLACKLEY

BB&T

NOTE MODIFICATION SIGNATURE PAGE

Borrower: CAROLINA PROPERTIES HOLDINGS LLC

Account Number: XXXXXXXXXX750

Nota Number 00001

Modification Amounts \$62,881.14

Modification Date: 12/11/2003

Notice of Right to Copy of Appraisal: If a 1-4 family residential dwelling is pledged as collateral for this Agreement, you, the undersigned, have a right to copy of the real estate appraisal report used in connection with your application for credit. You must forward your request to the Bank no later than 90 days after the date of this Agreement. In your request letter, please provide your name, mailing address, appraised property address, the date of this Agreement, and the account and note numbers shown on the front of this Agreement.

IN WITNESS WHEREOF, the undersigned, on the day and year first written above, has caused this instrument to be executed under seal.

If Borrower Is a Corporation:

WITNESS:

NAME OF CORPORATION

By: _____ (SEAL)

TO: _____

By: _____ (SEAL)

Time: _____

If Borrower is a Partnership, Limited Liability Company, or Limited Liability Partnership:

WITNESS:

CAROLINA PROPERTIES HOLDINGS LLC

NAME OF PARTNERSHIP, U.C. OR LLP

By: [Signature] (SEAL)

Title: Member

By: _____ (SEAL)

Time: _____

By: _____ (SEAL)

TYPE: _____

If Borrower is an Individual:

WITNESS:

-(SEAL)

Additional Borrowers and Debtors/Grantors/Guarantors:

WITNESS:

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

13738C (00007)

Page 4 of 4

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SPARLANBURG COUNTY
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M. HOPE BLACKLEY

(IN WITNESS WHEREOF, the undersigned, on the day and year first written above, has caused this Note to be executed under seal.

If Borrower is a Corporation:

WITNESS:

NAME OF CORPORATION

By: _____ (SEAL)

Title: _____

By: _____ (SEAL)

Title: _____

If Borrower is a Partnership, Limited Liability Company, or Limited Liability Partnership:

WITNESS:

CAROLINA PROPERTIES HOLDINGS LLC

NAME OF PARTNERSHIP, LLC, OR LLP

By: Amy Dean (SEAL)

Title: Member

By: _____ (SEAL)

Title: _____

By: _____ (SEAL)

Title: _____

If Borrower is an Individual:

WITNESS:

_____ (SEAL)

Additional Co-makers:

WITNESS:

_____ (SEAL)

_____ (SEAL)

_____ (SEAL)

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SPARTANBURG COUNTY
2017 FEB -2 AM 9:03
M. HOPE BLACKLEY

Motor CAROLINA PROPERTIES HOLDINGS LLC

Address 19 YUSCANDRA TRL

BEAUFORT, SC 29906-2193

7342

Customer Humboldt

Home Numbers

BB&T

NOTE MODIFICATION AGREEMENT

\$ 385,000.00
Original Amount of

02/12/2007
Original Date

8 561 NOV 59
Washington Avenue

12/09/2009
Mod 6410n Pa

Original Amount of Note

06/12/2002
Original Date

Hosts in Amount

Modification Per

This Note Modification Agreement (hereinafter Agreement) is made and entered into this 9th day of December, 2009, by and between CAROLINA PROPERTIES HOLDINGS LLC, maker(s), co-maker(s), endorser(s), or other obligor(s) on the Promissory Note (as defined below), hereinafter also referred to jointly and severally as Borrower(s); Branch Banking and Trust Company, a North Carolina banking corporation, hereinafter referred to as Bank; and

owns other than Borrower(s) (if any) of any property pledged to secure performance of Borrower(s)'s obligations to Bank, hereinafter referred to jointly and severally as Debtor(s)/Grantor(s).

Witnesses as Debitors(signatures)
Whereas Whiterose, Brownw(e)s has previously executed a Promissory Note payable to Bank, which Promissory Note includes the original Promissory Note, and all renewals, extensions and modifications thereto, collectively "Promissory Note," said Promissory Note being more particularly identified by recitation of the original promissory note number(s) and date(s); and whereas Bank agrees that said Promissory Note be modified only in the limited extent as is hereinafter set forth; that all other terms, conditions, covenants of said Promissory Note remain in full force and effect, and that all other obligations and covenants of Brownw(e)s, except as herein modified, shall remain in full force and effect, and binding between Brownw(e)s and Bank and Whereas Dabrowski's Grantor(s), if different from Brownw(e)s, has agreed to the terms of this modification; NOW THEREFORE, in mutual consideration of the premises, its sum of Ten Dollars (\$10) and other good and valuable considerations, each to the other parties paid , the parties hereto agree that said Promissory Note is amended as hereinafter described:

☐ Borrower shall pay a prepayment fee as set forth in the Prepayment Fee Addendum attached hereto.

INTEREST RATE, PRINCIPAL AND INTEREST PAYMENT TERM MODIFICATIONS (To the extent no change is made, existing terms continue. Sections not completed are deleted.)

Interest shall accrue from the date hereof on the unpaid principal balance outstanding from time to time at the

Fluid Rate of	% por osium.

☒ Variable rate of the Bank's Prime Rate plus 1.000 % per annum to be adjusted Daily as the Bank's Prime Rate changes.

As of the Modification Date, any fixed, floating, or average maximum rate and fixed minimum rate in effect by virtue of the Prepayment Note(s) are hereby deleted. If checked here ☒ the interest rate will not exceed a(n) ☒ fixed ☐ average maximum rate of 99.000 % or a(n) ☐ floating minimum rate of the greater of % of the Bank's Prime Rate; and the interest rate will not decrease below a fixed minimum rate of 2.250 %. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made: when the Note is repaid in full by Borrower annually beginning on .

Principal and interest are payable as follows:

Principal (for any account interest not otherwise scheduled herein)

Principal plus accrued interest

☒	Payable in consecutive _____ Monthly _____ installments of	☐	Principal	} commencing on <u>04/21/2010</u>
		☒	Principal and Interest	

and continuing on the same day of each calendar period thereafter, in 6 equal payments of \$ 432.13, with one final payment of all remaining principal and accrued interest due on 12/31/2010.

☐ **Choice Line Payment Option:** 2% of outstanding balance is payable monthly commencing on _____ and continuing on the same day of each month thereafter, with one final payment of all remaining principal and accrued interest due on _____.

☒ Accrued interest is payable Monthly commencing on January 21, 2010 and continuing on the same day of each calendar period thereafter, with one final payment of all remaining interest due on March 21, 2010.

☐ Bank reserves the right in its sole discretion to adjust the fixed payment due hereunder _____ on _____ and continuing on _____ the same day of each calendar period thereafter, in order to maintain an amortization period of no more than _____ months from the date of the initial principal payment due hereunder. Borrower understands the payment may increase if interest rates increase.

☐ At the Borrower's request, the Bank has agreed to reschedule the principal amount of \$_____. The outstanding principal balance under the Promissory Note prior to the reschedule is \$_____ making the total outstanding principal balance now due under the Promissory Note and this Agreement to be \$_____ ("Modification Amount").

☐ Borrower hereby authorizes Bank to automatically debit from its demand deposit or savings account(s) with Bank or other bank, any payment(s) due under this Note on the date(s) due. Borrower shall provide appropriate account number(s) for account(s) at Bank or other bank.

The following scheduled payment(s) is (are) deferred:

X \$ 2,343.97 principal
 \$ interest
 } payment(s) due on 11/21/2009

is (are) hereby deferred. Payments will resume on 04/27/2019 according to the schedule contained herein or to the existing schedule (if no other changes are made herein).

ACCOUNTS/NOTES

00001

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Frankford

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY



The Borrower(s) promises to pay Bank, or order, a late fee in the amount of five percent (5%) of any installment past due for ten (10) or more days. Where any installment payment is past due for ten (10) or more days, subsequent payments shall first be applied to the past due balance. In addition, the undersigned shall pay to Bank a returned payment fee if the undersigned or any other obligor hereon makes any payment at any time by check or other instrument, or by any electronic means, which is returned to Bank because of nonpayment due to non-sufficient funds.

COLLATERAL: ☐ The Promissory Note, as modified, and the performance of the terms of any agreement or instrument relating to, evidencing, or securing the Promissory Note, as modified, shall be additionally secured by collateral hereinafter described, a new security instrument shall be executed by Borrower(s), and/or Debtor(s)/Grantor(s), and all other steps necessary to perfect or record the Bank's lien with priority acceptable to Bank shall be taken. In addition to Bank's right of offset and to any liens and security interests granted to Bank in the Agreements, the undersigned hereby grants to Bank a security interest in all of its depository accounts with and investment property held by Bank, which shall serve as collateral for the indebtedness and obligations evidenced by this Note.

Deed(s) of Trust / Mortgage(s) granted in favor of Bank as beneficiary / mortgagee:

☐ dated _____ in the maximum principal amount of \$ _____
granted by _____

☐ dated _____ in the maximum principal amount of \$ _____
granted by _____

Security Agreement(s) granting a security interest to Bank:

☐ dated _____ given by _____

☐ dated _____ given by _____

☐ Securities Account Pledge and Security Agreement dated _____, executed by _____

☐ Control Agreement(s) dated _____, covering ☐ Deposit Account(s) ☐ Investment Property.
☐ Letter of Credit Rights ☐ Electronic Chattel Paper

☐ Assignment of Certificate of Deposit, Security Agreement, and Power of Attorney (for Certificated Certificates of Deposit) dated _____, executed by _____

☐ Pledge and Security Agreement for Publicly Traded Certificated Securities dated _____, executed by _____

☐ Assignment of Life Insurance Policy as Collateral dated _____, executed by _____

☐ Loan Agreement dated _____, executed by Borrower and ☐ Guarantor(s).

☐ _____

☐ _____

☐ The collateral hereinafter described shall be and hereby is pledged as security interest for payment of the aforesaid Promissory Note:

OTHER:

If the Promissory Note being modified by this Agreement is signed by more than one person or entity, the modified Promissory Note shall be the joint and several obligation of all signers and the property and liability of each and all of them. It is expressly understood and agreed that this Agreement is a modification only and not a novation. The original obligation of the Borrower(s) as evidenced by the Promissory Note above described is not extinguished hereby. It is also understood and agreed that except for the modification(s) contained herein said Promissory Note, and any other Loan Documents or Agreements evidencing, securing or relating to the Promissory Note and all singular terms and conditions thereof, shall be and remain in full force and effect. This Agreement shall not release or affect the liability of any co-makers, obligors, endorsers or guarantors of said Promissory Note, Borrower and Debtor(s)/Grantor(s), if any, jointly and severally consent to the terms of this Agreement, waive any objection thereto, affirm any and all obligations to Bank and certify that there are no defenses or offsets against said obligations or the Bank, including without limitation the Promissory Note. Bank expressly reserves all rights as to any party with right of recourse on the aforesaid Promissory Note.

In the event periodic accruals of interest shall exceed any periodic fixed payment amount described above, the fixed payment amount shall be immediately increased or supplemental interest payments required on the same periodic basis as specified above (increased fixed payments or supplemental payments to be determined in the Bank's sole discretion) to such amounts and at such times as shall be necessary to pay all accruals of interest for the period and all accruals of unpaid interest from previous periods. Such adjustments to the fixed payment amount or supplemental payments shall remain in effect for so long as any interest accruals shall exceed the original fixed payment amount and shall be further adjusted upward or downward to reflect changes in any variable interest rate based on an index such as the Bank's Prime Rate; provided that unless elected otherwise above, the fixed payment amount shall not be reduced below the original fixed payment amount. However, Bank shall have the right, in its sole discretion, to lower the fixed payment amount below the original payment amount. Notwithstanding any other provision contained in this agreement, in no event shall the provisions of this paragraph be applicable to any Promissory Note which requires disclosures pursuant to the Consumer Protection Act (Truth-in-Lending Act), 16 USC § 1601, et seq., as implemented by Regulation Z.

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Borrower agrees that the only interest charge is the interest actually stated in this Note, and that any loan or origination fee shall be deemed charges rather than interest, which charges are fully earned and non-refundable. It is further agreed that any late charges are not a charge for the use of money but are imposed to compensate Bank for some of the administrative services, costs and losses associated with any delinquency or default under this Note, and said charges shall be fully earned and non-refundable when assessed. All other charges imposed by Bank upon Borrower in connection with this Note and the loan including, without limitation, any commitment fees, loan fees, facility fees, origination fees, discount points, default and late charges, prepayment fees, attorney's fees and reimbursements for costs and expenses paid by Bank to third parties or for damages incurred by Bank are and shall be deemed to be charges made to compensate Bank for underwriting and administrative services and costs, other services, and costs or losses incurred and to be incurred by Bank in connection with this Note and the loan and shall under no circumstances be deemed to be charges for the use of money. All such charges shall be fully earned and non-refundable when due.

The Bank may, at its option, charge any fees for the modification, renewal, extension, or amendment of any of the terms of the Promissory Note(s) as permitted by applicable law.

In the words "Prime Rate", "Bank Prime Rate", "BBB Prime Rate", "Bank's Prime Rate" or "BBB's Prime Rate" are used in this Agreement, they shall refer to the rate announced by the Bank from time to time as its Prime Rate. The Bank makes loans both above and below the Prime Rate and uses indexes other than the Prime Rate. Prime Rate is the name given a rate index used by the Bank and does not in itself constitute a representation of any preferred rate of treatment.

Unless otherwise provided herein, it is expressly understood and agreed by and between Borrower(s), Debtor(s)/Grantor(s) and Bank that any and all collateral (including but not limited to real property, personal property, fixtures, inventory, accounts, instruments, general intangibles, documents, chattel paper, and equipment) given as security to insure faithful performance by Borrower(s) and any other third party of any and all obligations to Bank, however created, whether now existing or hereafter arising, shall remain as security for the Promissory Note as modified hereby.

It is understood and agreed that if Bank has released collateral herein, it shall not be required or obligated to take any further steps to release said collateral from any lien or security interest unless Bank determines, in its sole discretion, that it may do so without consequence to its secured position and relative priority in other collateral, and unless Borrower(s) bears the reasonable cost of such action. No delay or omission on the part of the Bank in exercising any right hereunder shall operate as a waiver of such right or of any other right of the Bank, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same, or of any other right on any further occasion. Each of the parties signing this Agreement regardless of the time, order or place of signing waives presentment, demand, protest, and notices of every kind, and assents to any one or more extensions or postponements of the time of payment or any other indulgence, to any substitutions, exchanges or releases of collateral if at any time there is available to the Bank collateral for the Promissory Note, as amended, and to the additions or releases of any other parties or persons primarily or secondarily liable. Whenever possible the provisions of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is prohibited by or invalid under such law, such provisions shall be ineffective to the extent of any such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. All rights and obligations arising hereunder shall be governed by and construed in accordance with the laws of the same state which governs the interpretation and enforcement of the Promissory Note.

From and after any event of default under this Agreement, the Promissory Note, or any related deed of trust, security agreement or loan agreement, interest shall accrue on the sum of the principal balance and accrued interest then outstanding at the variable rate equal to the Bank's Prime Rate plus 5% per annum ("Default Rate"), provided that such rate shall not exceed at any time the highest rate of interest permitted by the laws of the State of South Carolina; and (unless that such rate shall apply after judgement. In the event of any default, the then remaining unpaid principal amount and accrued but unpaid interest then outstanding shall bear interest at the Default Rate until such principal and interest have been paid in full. Bank shall not be obligated to accept any check, money order, or other payment instrument marked "payment in full" on any disputed amount due hereunder, and Bank expressly reserves the right to reject all such payment instruments. Borrower agrees that tender of a check or other payment instrument so marked will not satisfy or discharge its obligation under this Note, disputed or otherwise, even if such check or payment instrument is inadvertently processed by Bank unless in fact such payment is in fact sufficient to pay the amount due hereunder.

WAIVER OF TRIAL BY JURY. UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, THE UNDERSIGNED HEREBY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS AGREEMENT, THE PROMISSORY NOTE OR ANY LOAN DOCUMENT EXECUTED IN CONNECTION HERewith OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN THE UNDERSIGNED AND BANK. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BANK TO MAKE THE LOAN EVIDENCED BY THE PROMISSORY NOTE AND THIS AGREEMENT. FURTHER, THE UNDERSIGNED HEREBY CERTIFY THAT NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BANK WOULD NOT SEEK TO ENFORCE THIS WAIVER OR RIGHT TO JURY TRIAL PROVIDED IN THE EVENT OF LITIGATION. NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION.

Unless otherwise required under a Loan Agreement, if applicable, and as long as any indebtedness evidenced by this Promissory Note, as modified by this Agreement remains outstanding or as long as Bank remains obligated to make advances, the undersigned shall furnish annually an updated financial statement in a form satisfactory to Bank, which, when delivered shall be the property of the Bank. Further, the undersigned agree to provide any and all documentation requested by the Bank in order to verify the identity of the undersigned in accordance with the USA Patriot Act.

(SIGNATURES ON FOLLOWING PAGE)

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SPARTANBURG COUNTY
2011 FEB -2 AM 9:03
M. HOPE BLACKLEY

BB&T

NOTE MODIFICATION SIGNATURE PAGE

Borrower: CAROLINA PROPERTIES HOLDINGS LLC
Account Number: Note Number: 00001
Modification Amount: 561,825.39 Modification Date: 12/09/2009

Notice of Right to Copy of Appraisal: If a 1-4 family residential dwelling is pledged as collateral for this Agreement, you, the undersigned, have a right to copy of the real estate appraisal report used in connection with your application for credit. You must forward your request to the Bank no later than 90 days after the date of this Agreement. In your request letter, please provide your name, mailing address, appraised property address, the date of this Agreement, and the account and note numbers shown on the front of this Agreement.

IN WITNESS WHEREOF, the undersigned, on the day and year first written above, has caused this instrument to be executed under seal.

If Borrower is a Corporation:

WITNESS:

NAME OF CORPORATION

By: _____ (SEAL)

Title: _____

By: _____ (SEAL)

Title: _____

If Borrower is a Partnership, Limited Liability Company, or Limited Liability Partnership:

WITNESS:

CAROLINA PROPERTIES HOLDINGS LLC

NAME OF PARTNERSHIP, LLC, OR LLP

By: Maury J. Brown (SEAL)

Title: Member

By: _____ (SEAL)

Title: _____

By: _____ (SEAL)

Title: _____

If Borrower is an Individual:

WITNESS:

(SEAL)

Additional Borrowers and Debtors/Grantors/Guarantors:

WITNESS:

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

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M. HOPE BLACKLEY

Maker CAROLINA PROPERTIES HOLDINGS LLCAddress 19 TUXCARORA TRLDEAFORT, SC 29046-9197

Customer Number

00001

Note Number

BB&T

NOTE MODIFICATION AGREEMENT

\$ 585,000.00
Original Amount of Note02/12/2007
Original Date\$ 441,400.50
Modification Amount01/02/2010
Modification Date

This Note Modification Agreement (hereinafter Agreement) is made and entered into this 30 day of January, 2010 by and between CAROLINA PROPERTIES HOLDINGS LLC maker(s), co-maker(s), endorser(s), or other obligor(s) on the Promissory Note (as defined below), hereinafter also referred to jointly and severally as Borrower(s); Branch Banking and Trust Company, a North Carolina banking corporation, hereinafter referred to as Bank; and

owners other than Borrower(s) (if any), of any property pledged to secure performance of Borrower(s)'s obligations to Bank, hereinafter referred to jointly and severally as Debtor(s)/Grantor(s).

Whereas, Borrower(s) has previously executed a Promissory Note payable to Bank, which Promissory Note includes the original Promissory Note and all renewals, extensions and modifications thereof, collectively "Promissory Note", said Promissory Note being more particularly identified by description of the original note above; and Borrower(s) and Bank agree that said Promissory Note be modified only to the limited extent as is hereinafter set forth; that all other terms, conditions, and covenants of said Promissory Note remain in full force and effect and that all other obligations and covenants of Borrower(s), except as herein modified, shall remain in full force and effect, and binding between Borrower(s) and Bank; and Whereas Debtor(s)/Grantor(s), if different from Borrower(s), has agreed to the terms of this modification; NOW THEREFORE, in mutual consideration of the premises, the sum of Ten Dollars (\$10) and other good and valuable consideration, each to the other parties paid, the parties hereto agree that said Promissory Note is amended as hereinafter described:

☐ Borrower shall pay a prepayment fee as set forth in the Prepayment Fee Addendum attached hereto.

INTEREST RATE, PRINCIPAL AND INTEREST PAYMENT TERM MODIFICATIONS (To the extent no change is made, existing terms continue. Sections not completed are deleted.)

Interest shall accrue from the date hereof on the unpaid principal balance outstanding from time to time at this:

☐ Fixed Rate of _____ % per annum.

☐ Variable rate of the Bank's Prime Rate plus _____ % per annum to be adjusted _____ as the Bank's Prime Rate changes.

☐ As of the Modification Date, any fixed, floating, or average maximum rate and fixed minimum rate in effect by virtue of the Promissory Note(s) are hereby deleted. If checked here ☐ the interest rate will not exceed a(n) ☐ fixed ☐ average maximum rate of _____ % or a floating maximum rate of the greater of _____ % or the Bank's Prime Rate; and the interest rate will not decrease below a fixed minimum rate of _____ %. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made: ☐ when the Note is repaid in full by Borrower ☐ annually beginning on _____.

Principal and interest are payable as follows:

☐ Principal (plus any accrued interest not otherwise scheduled hereto)

☐ Principal plus accrued interest

☐ Payable in consecutive _____ installments of _____

_____ is due in full at maturity on _____

☐ Principal

☐ Principal and interest

commencing on _____

and continuing on the same day of each calendar period thereafter, in _____ equal payments of \$ _____, with one final payment of all remaining principal and accrued interest due on _____.

☐ Choice Line Payment Option: 2% of outstanding balance is payable monthly commencing on _____

and continuing on the same day of each month thereafter, with one final payment of all remaining principal and accrued interest due on _____.

☐ Accrued interest is payable _____ commencing on _____ and continuing on the same day of each calendar period thereafter, with one final payment of all remaining interest due on _____.

☐ Bank reserves the right in its sole discretion to adjust the fixed payment due hereunder _____ on _____ and continuing on the same day of each calendar period thereafter, in order to maintain an amortization period of no more than _____ months from the date of the initial principal payment due hereunder. Borrower understands the payment may increase if interest rates increase.

☐ At the Borrower's request, the Bank has agreed to rescind the principal amount of \$ _____, The outstanding principal balance under the Promissory Note prior to the rescission is \$ _____, making the total outstanding principal balance now due under the Promissory Note and this Agreement to be \$ _____ ("Modification Amount").

☐ Borrower hereby authorizes Bank to automatically draft from its demand deposit or savings account(s) with Bank or other bank, any payment(s) due under this Note on the date(s) due. Borrower shall provide appropriate account number(s) for account(s) at Bank or other bank.

The following scheduled payment(s) is (are) deferred:

☒ \$ 2,610.76 principal

☐ \$ _____ interest

} payment(s) due on 12/21/2009

is (are) hereby deferred. Payments will resume on _____ according to the schedule contained herein or to the existing schedule (if no other changes are made herein).

ACCOUNT / NOTE

1542 00001

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Page 4 of 4

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M. HOPE BLACKLEY



The Borrower(s) promises to pay Bank, or order, a late fee in the amount of five percent (5%) of any installment past due for ten (10) or more days. Where any installment payment is past due for ten (10) or more days, subsequent payments shall first be applied to the past due balance. In addition, the undersigned shall pay to Bank a returned payment fee if the undersigned or any other obligor hereon makes any payment at any time by check or other instrument, or by any electronic means, which is returned to Bank because of nonpayment due to non-sufficient funds.

COLLATERAL: ☐ The Promissory Note, as modified, and the performance of the terms of any agreement or instrument relating to, evidencing, or securing the Promissory Note, as modified, shall be additionally secured by collateral hereinafter described, a new security instrument shall be executed by Borrower(s), and/or Debtor(s)/Grantor(s), and all other steps necessary to perfect or record the Bank's lien with priority acceptable to Bank shall be taken. In addition to Bank's right of offset and to any liens and security interests granted to Bank in the Agreement, the undersigned hereby grants to Bank a security interest in all of its depository accounts with and investment property held by Bank, which shall serve as collateral for the indebtedness and obligations evidenced by this Note.

Deed(s) of Trust / Mortgage(s) granted in favor of Bank as beneficiary / mortgagee:

- ☐ dated _____ in the maximum principal amount of \$ _____
granted by _____
- ☐ dated _____ in the maximum principal amount of \$ _____
granted by _____

Security Agreement(s) granting a security interest to Bank:

- ☐ dated _____ given by _____
- ☐ dated _____ given by _____
- ☐ Securities Account Pledge and Security Agreement dated _____, executed by _____
- ☐ Control Agreement(s) dated _____, covering ☐ Deposit Account(s) ☐ Investment Property
☐ Letter of Credit Rights ☐ Electronic Chattel Paper
- ☐ Assignment of Certificate of Deposit, Security Agreement, and Power of Attorney (for Certificated Certificates of Deposit) dated _____, executed by _____
- ☐ Pledge and Security Agreement for Publicly Traded Certificated Securities dated _____, executed by _____
- ☐ Assignment of Life Insurance Policy as Collateral dated _____, executed by _____
- ☐ Loan Agreement dated _____, executed by Borrower and ☐ Guarantor(s).
- ☐ _____
- ☐ _____
- ☐ The collateral hereinafter described shall be and hereby is deleted as security interest for payment of the aforesaid Promissory Note:

OTHER:

If the Promissory Note being modified by this Agreement is signed by more than one person or entity, the modified Promissory Note shall be the joint and several obligation of all signers and the property and liability of each and all of them. It is expressly understood and agreed that this Agreement is a modification only and not a novation. The original obligation of the Borrower(s) as evidenced by the Promissory Note above described is not extinguished hereby. It is also understood and agreed that except for the modification(s) contained herein said Promissory Note, and any other Loan Documents or Agreements evidencing, securing or relating to the Promissory Note and all original terms and conditions thereof, shall be and remain in full force and effect. This Agreement shall not release or affect the liability of any co-makers, obligors, endorser or guarantors of said Promissory Note. Borrower and Debtor(s)/Grantor(s), if any, jointly and severally consent to the terms of this Agreement, waive any objection thereto, affirm any and all obligations to Bank and certify that there are no defenses, or offsets against said obligations or the Bank, including without limitation the Promissory Note. Bank expressly reserves all rights as to any party with right of recourse on the aforesaid Promissory Note.

In the event periodic accruals of interest shall exceed any periodic fixed payment amount described above, the fixed payment amount shall be immediately increased or supplemental interest payments required on the same periodic basis as specified above (increased fixed payments or supplemental payments to be determined in the Bank's sole discretion), in such amounts and at such times as shall be necessary to pay all accruals of interest for the period and all accruals of unpaid interest from previous periods. Such adjustments to the fixed payment amount or supplemental payments shall remain in effect for so long as any interest accruals shall exceed the original fixed payment amount and shall be further adjusted upward or downward to reflect changes in any variable interest rate based on an index such as the Bank's Prime Rate; provided that unless elected otherwise above, the fixed payment amount shall not be reduced below the original fixed payment amount. However, Bank shall have the right, in its sole discretion, to lower the fixed payment amount below the original payment amount. Notwithstanding any other provision contained in this agreement, in no event shall the provisions of this paragraph be applicable to any Promissory Note which requires disclosures pursuant to the Consumer Protection Act (Truth-in-Lending Act), 16 USC § 1601, et seq., as implemented by Regulation Z.

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M. HOPE BLACKLEY

Borrower agrees that the only interest charge is the interest actually stated in this Note, and that any loan or origination fee shall be deemed charges rather than interest, which charges are fully earned and non-refundable. It is further agreed that any late charges are not a charge for the use of money but are imposed to compensate Bank for some of the administrative services, costs and losses associated with any delinquency or default under this Note, and said charges shall be fully earned and non-refundable when incurred. All other charges imposed by Bank upon Borrower in connection with this Note and the loan including, without limitation, any commitment fees, loan fees, facility fees, origination fees, discount points, default and late charges, prepayment fees, statutory attorneys' fees and reimbursements for costs and expenses paid by Bank to third parties or for damages incurred by Bank are and shall be deemed to be charges made to compensate Bank for underwriting and administrative services and costs, other services, and costs or losses incurred and to be incurred by Bank in connection with this Note and the loan and shall under no circumstances be deemed to be charges for the use of money. All such charges shall be fully earned and non-refundable when due.

The Bank may, at its option, charge any fees for the modification, renewal, extension, or amendment of any of the terms of the Promissory Note(s) as permitted by applicable law.

In the words "Prime Rate", "Bank Prime Rate", "BB&T Prime Rate", "Bank's Prime Rate" or "BB&T's Prime Rate" are used in this Agreement, they shall refer to the rate announced by the Bank from time to time as its Prime Rate. The Bank makes loans both above and below the Prime Rate and uses indexes other than the Prime Rate. Prime Rate is the name given a rate index used by the Bank and does not in itself constitute a representation of any preferred rate or treatment.

Unless otherwise provided herein, it is expressly understood and agreed by and between Borrower(s), Debtor(s)/Grantor(s) and Bank that any and all collateral (including but not limited to real property, personal property, fixtures, inventory, accounts, instruments, general intangibles, documents, chattel paper, and equipment) given as security to insure faithful performance by Borrower(s) and any other third party of any and all obligations to Bank, however created, whether now existing or hereafter arising, shall remain as security for the Promissory Note as modified hereby.

It is understood and agreed that if Bank has released collateral herein, it shall not be required or obligated to take any further steps to release said collateral from any lien or security interest unless Bank determines, in its sole discretion, that it may do so without consequence to its secured position and relative priority in other collateral; and unless Borrower(s) bears the reasonable cost of such action. No delay or omission on the part of the Bank in exercising any right hereunder shall operate as a waiver of such right or of any other right of the Bank, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same, or of any other right on any further occasion. Each of the parties signing this Agreement regardless of the time, order or place of signing waives presentment, demand, protest, and notice of every kind, and assents to any one or more extensions or postponements of the time of payment or any other indulgence, to any substitutions, exchanges or releases of collateral if at any time there is available to the Bank collateral for the Promissory Note, as amended, and to the addition or release of any other parties or persons primarily or secondarily liable. Whenever possible the provisions of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is prohibited by or invalid under such law, such provisions shall be ineffective to the extent of any such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. All rights and obligations arising hereunder shall be governed by and construed in accordance with the laws of the state which governs the interpretation and enforcement of the Promissory Note.

From and after any event of default under this Agreement, the Promissory Note, or any related deed of trust, security agreement or loan agreement, interest shall accrue on the sum of the principal balance and accrued interest then outstanding at the variable rate equal to the Bank's Prime Rate plus 5% per annum ("Default Rate"), provided that such rate shall not exceed at any time the highest rate of interest permitted by the laws of the State of South Carolina; and further that such rate shall apply after judgment. In the event of any default, the then remaining unpaid principal amount and accrued but unpaid interest then outstanding shall bear interest at the Default Rate until such principal and interest have been paid in full. Bank shall not be obligated to accept any check, money order, or other payment instrument marked "payment in full" on any delinquent amount due hereunder, and Bank expressly reserves the right to reject all such payment instruments. Borrower agrees that tender of its check or other payment instrument so marked will not satisfy or discharge its obligation under this Note, disputed or otherwise, even if such check or payment instrument is inadvertently processed by Bank unless in fact such payment is in fact sufficient to pay the amount due hereunder.

WAIVER OF TRIAL BY JURY. UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, THE UNDERSIGNED HEREBY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS AGREEMENT, THE PROMISSORY NOTE OR ANY LOAN DOCUMENT EXECUTED IN CONNECTION HERewith OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN THE UNDERSIGNED AND BANK. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BANK TO MAKE THE LOAN EVIDENCED BY THE PROMISSORY NOTE AND THIS AGREEMENT. FURTHER, THE UNDERSIGNED HEREBY CERTIFY THAT NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BANK WOULD NOT SEEK TO ENFORCE THIS WAIVER OR RIGHT TO JURY TRIAL PROVISION IN THE EVENT OF LITIGATION. NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION.

Unless otherwise required under a Loan Agreement, if applicable, and as long as any indebtedness evidenced by this Promissory Note, as modified by this Agreement remains outstanding or as long as Bank remains obligated to make advances, the undersigned shall furnish annually an updated financial statement in a form satisfactory to Bank, which, when delivered shall be the property of the Bank. Further, the undersigned agree to provide any and all documentation requested by the Bank in order to verify the identity of the undersigned in accordance with the USA Patriot Act.

(SIGNATURES ON FOLLOWING PAGE)

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CLERK OF COURT
SPARTANBURG COUNTY
2011 FEB -2 AM 9:00
M. HOPE BLACKLEY

BB&T

NOTE MODIFICATION SIGNATURE PAGE

Buttower: CAROLINA PROPERTIES HOLDINGS LLC

Account Number: [REDACTED]

No. Number: 00001

Modification Amount: 561,808.99

Modification Date: 01/05/2010

Notice of Right to Copy of Appraisal: If a 1-4 family residential dwelling is pledged as collateral for this Agreement, you, the undersigned, have a right to a copy of the real estate appraisal report used in connection with your application for credit. You must forward your request to the Bank no later than 90 days after the date of this Agreement. In your request letter, please provide your name, mailing address, appraised property address, the date of this Agreement, and the account and note numbers shown on the front of this Agreement.

IN WITNESS WHEREOF, the undersigned, on the day and year first written above, has caused this instrument to be executed under seal.

If Borrower Is a Corporation:

WTTNESS:

NAME OF CORPORATION

By: _____ (SEAL)

Time: _____

By: _____ (SEAL)

TIME: _____

If Borrower Is a Partnership, Limited Liability Company, or Limited Liability Partnership:

WITNESS:

CAROLINA PROPERTIES HOLDINGS LLC

NAME OF PARTNERSHIP, I.E., OR LLP

By: [Signature] (SEAL)

Title: Member

By: _____ (SEAL)

Title: _____

By: _____ (SEAL)

Time: _____

If Borrower is an Individual:

WITNESS:

-(SEAL)

Additional Borrowers and Debtors/Grantors/Guarantors:

WITNESS:

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

{SEAL}

137356 (9097)

Page 4 of 4

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SPARTANBURG COUNTY
2011 FEB -2 AM 9:03
M. HOPE BLACKLEY

Maker CAROLINA PROPERTIES HOLDINGS LLC
 Address 500 CRAVEN ST
BEAUFORT SC 29902-5373

Customer Number
00001
 Note Number

BB&T

NOTE MODIFICATION AGREEMENT

\$ 581,000.00 Original Amount of Note 02/12/2007 Original Date \$ 561,508.59 Modification Amount 05/18/2010 Modification Date

This Note Modification Agreement (hereinafter Agreement) is made and entered into this 19th day of May, 2010 by and between CAROLINA PROPERTIES HOLDINGS LLC maker(s), co-maker(s), endorser(s), or other obligor(s) on the Promissory Note (as defined below), hereinafter also referred to jointly and severally as Borrower(s); Branch Banking and Trust Company, a North Carolina banking corporation, hereinafter referred to as Bank; and

owners other than Borrower(s) (if any) of any property pledged to secure performance of Borrower(s)'s obligations to Bank, hereinafter referred to jointly and severally as Debtor(s)/Grantor(s).

Witnesseth: Whereas, Borrower(s) has previously executed a Promissory Note payable to Bank, which Promissory Note includes the original Promissory Note and all renewals, extensions and modifications thereof, collectively "Promissory Note", said Promissory Note being more particularly identified by description of the original note above; and Borrower(s) and Bank agree that said Promissory Note be modified only to the limited extent as is hereinafter set forth; that all other terms, conditions, and covenants of said Promissory Note remain in full force and effect, and that all other obligations and covenants of Borrower(s), except as herein modified, shall remain in full force and effect, and binding between Borrower(s) and Bank; and Whereas Debtor(s)/Grantor(s), if different from Borrower(s), has agreed to the terms of this modification; NOW THEREFORE, in mutual consideration of the premises, the sum of Ten Dollars (\$10) and other good and valuable consideration, each to the other parties paid, the parties hereto agree that said Promissory Note is amended as hereinafter described:

☐ Borrower shall pay a prepayment fee as set forth in the Prepayment Fee Addendum attached hereto.

INTEREST RATE, PRINCIPAL AND INTEREST PAYMENT TERM MODIFICATIONS (To the extent no change is made, existing terms continue. Sections not completed are deleted.)

Interest shall accrue from the date hereof on the unpaid principal balance outstanding from time to time at the:

☐ Fixed Rate of _____ % per annum.

☐ Variable rate of the Bank's Prime Rate plus _____ % per annum to be adjusted _____ as the Bank's Prime Rate changes.

☐ As of the Modification Date, any fixed, floating, or average maximum rate and fixed minimum rate in effect by virtue of the Promissory Note(s) are hereby deleted. If checked here ☐ the interest rate will not exceed a(n) ☐ fixed ☐ average maximum rate of _____ % or a ☐ floating maximum rate of the greater of _____ % or the Bank's Prime Rate; and the interest rate will not decrease below a fixed minimum rate of _____ %. If an average maximum rate is specified, a determination of any required reimbursement of interest by Bank will be made ☐ when the Note is repaid in full by Borrower ☐ annually beginning on _____.

Principal and interest are payable as follows:

☒ Principal (plus any accrued interest not otherwise scheduled herein) } is due in full at maturity on 10/19/2010
☐ Principal plus accrued interest }
☐ Payable in consecutive _____ installments of ☐ Principal ☐ Principal and interest } commencing on _____

and continuing on the same day of each calendar period thereafter, in _____ equal payments of \$ _____, with one final payment of all remaining principal and accrued interest due on _____.

☐ **Choice Line Payment Option:** 2% of outstanding balance is payable monthly commencing on _____ and continuing on the same day of each month thereafter, with one final payment of all remaining principal and accrued interest due on _____.

☒ Accrued interest is payable _____ Monthly commencing on June 19, 2010 and continuing on the same day of each calendar period thereafter, with one final payment of all remaining interest due on October 19, 2010.

☐ Bank reserves the right in its sole discretion to adjust the fixed payment due hereunder _____ on _____ and continuing on the same day of each calendar period thereafter, in order to maintain an amortization period of no more than _____ months from the date of the initial principal payment due hereunder. Borrower understands the payment may increase if interest rates increase.

☐ At the Borrower's request, the Bank has agreed to readvance the principal amount of \$ _____, The outstanding principal balance under the Promissory Note prior to the advance is \$ _____, making the total outstanding principal balance now due under the Promissory Note and this Agreement to be \$ _____ ("Modification Amount").

☐ Borrower hereby authorizes Bank to automatically draft from its demand deposit or savings account(s) with Bank or other bank, any payment(s) due under this Note on the date(s) due. Borrower shall provide appropriate account number(s) for account(s) at Bank or other bank.

The following scheduled payment(s) is (are) deferred:

☒ \$ 4,082.50 principal } payment(s) due on 05/21/2010, 04/21/2010
☐ \$ _____ interest }

is (are) hereby deferred. Payments will resume on 06/19/2010 according to the schedule contained herein or to the existing schedule (if no other changes are made herein).

ACCOUNTS / NOTES

7542 00001

1373SC (000)



Page 11 of 14

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The Borrower(s) promises to pay Bank, or order, a late fee in the amount of five percent (5%) of any installment past due for ten (10) or more days. Where any installment payment is past due for ten (10) or more days, subsequent payments shall first be applied to the past due balance. In addition, the undersigned shall pay to Bank a returned payment fee if the undersigned or any other obligor hereon makes any payment at any time by check or other instrument, or by any electronic means, which is returned to Bank because of nonpayment due to non-sufficient funds.

COLLATERAL: ☐ The Promissory Note, as modified, and the performance of the terms of any agreement or instrument relating to, evidencing, or securing the Promissory Note, as modified, shall be additionally secured by collateral hereinafter described, a new security instrument shall be executed by Borrower(s), and/or Debtor(s)/Grantor(s), and all other steps necessary to perfect or record the Bank's lien with priority acceptable to Bank shall be taken. In addition to Bank's right of off-set and to any liens and security interests granted to Bank in the Agreements, the undersigned hereby grants to Bank a security interest in all of its depository accounts with and investment property held by Bank, which shall serve as collateral for the indebtedness and obligations evidenced by this Note.

Deed(s) of Trust / Mortgage(s) granted in favor of Bank as beneficiary / mortgagee:

☐ dated _____ in the maximum principal amount of \$ _____
granted by _____

☐ dated _____ in the maximum principal amount of \$ _____
granted by _____

Security Agreement(s) granting a security interest to Bank:

☐ dated _____ given by _____

☐ dated _____ given by _____

☐ Securities Account Pledge and Security Agreement dated _____, executed by _____

☐ Control Agreement(s) dated _____, covering ☐ Deposit Account(s) ☐ Investment Property
☐ Letter of Credit Rights ☐ Electronic Chattel Paper

☐ Assignment of Certificate of Deposit, Security Agreement, and Power of Attorney (for Certificated Certificates of Deposit) dated _____, executed by _____

☐ Pledge and Security Agreement for Publicly Traded Certificated Securities dated _____, executed by _____

☐ Assignment of Life Insurance Policy as Collateral dated _____, executed by _____

☐ Lease Agreement dated _____, executed by Borrower and ☐ Guarantor(s).

☐ _____

☐ _____

☐ The collateral hereinafter described shall be and hereby is pledged as security interest for payment of the aforesaid Promissory Note:

OTHER _____

If the Promissory Note being modified by this Agreement is signed by more than one person or entity, the modified Promissory Note shall be the joint and several obligation of all signers and the property and liability of each and all of them. It is expressly understood and agreed that this Agreement is a modification only and not a novation. The original obligation of the Borrower(s) as evidenced by the Promissory Note above described is not extinguished hereby. It is also understood and agreed that except for the modification(s) contained herein said Promissory Note, and any other Loan Documents or Agreements evidencing, securing or relating to the Promissory Note and all singular terms and conditions thereof, shall be and remain in full force and effect. This Agreement shall not release or affect the liability of any co-makers, obligors, endorsers or guarantors of said Promissory Note, Borrower and Debtor(s)/Grantor(s). If any, jointly and severally consent to the terms of this Agreement, waive any objection thereto, affirm any and all obligations to Bank and certify that there are no defenses or offsets against said obligations or the Bank, including without limitation the Promissory Note, Bank expressly reserves all rights as to any party with right of recourse on the aforesaid Promissory Note.

In the event periodic accruals of interest shall exceed any periodic fixed payment amount described above, the fixed payment amount shall be immediately increased or supplemental interest payments required on the same periodic basis as specified above (increased fixed payments or supplemental payments to be determined in the Bank's sole discretion). In such amounts and at such times as shall be necessary to pay all accruals of interest for the period and all accruals of unpaid interest from previous periods. Such adjustments to the fixed payment amount or supplemental payments shall remain in effect for so long as any interest accruals shall exceed the original fixed payment amount and shall be further adjusted upward or downward to reflect changes in any variable interest rate based on an index such as the Bank's Prime Rate; provided that unless elected otherwise, above, the fixed payment amount shall not be reduced below the original fixed payment amount. However, Bank shall have the right, in its sole discretion, to lower the fixed payment amount below the original payment amount. Notwithstanding any other provision contained in this agreement, in no event shall the provisions of this paragraph be applicable to any Promissory Note which requires disclosures pursuant to the Consumer Protection Act (Truth-in-Lending Act), 15 USC § 1601, et seq., as implemented by Regulation Z.

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Borrower agrees that the only interest charge is the interest actually stated in this Note, and that any loan or origination fee shall be deemed charges rather than interest, which charges are fully earned and non-refundable. It is further agreed that any late charges are not a charge for the use of money but are imposed to compensate Bank for some of the administrative services, costs and losses associated with any delinquency or default under this Note, and said charges shall be fully earned and non-refundable when accrued. All other charges imposed by Bank upon Borrower in connection with this Note and the loan including, without limitation, any commitment fees, loan fees, facility fees, origination fees, discount points, default and late charges, prepayment fees, statutory attorney's fees and reimbursements for costs and expenses paid by Bank to third parties or for damages incurred by Bank and shall be deemed to be charges made to compensate Bank for underwriting and administrative services and costs, other services, and costs or losses incurred and to be incurred by Bank in connection with this Note and the loan and shall under no circumstances be deemed to be charges for the use of money. All such charges shall be fully earned and non-refundable when due.

The Bank may, at its option, charge any loss for the modification, renewal, extension, or amendment of any of the terms of the Promissory Note(s) as permitted by applicable law.

In the words "Prime Rate", "Bank Prime Rate", "BB&T Prime Rate", "Bank's Prime Rate" or "BB&T's Prime Rate" are used in this Agreement, they shall refer to the rate announced by the Bank from time to time as its Prime Rate. The Bank makes loans both above and below the Prime Rate and uses indexes other than the Prime Rate. Prime Rate is the name given a rate index used by the Bank and does not in itself constitute a representation of any preferred rate or treatment.

Unless otherwise provided herein, it is expressly understood and agreed by and between Borrower(s), Debtor(s)/Grantor(s) and Bank that any and all collateral (including but not limited to real property, personal property, fixtures, inventory, accounts, instruments, general intangibles, documents, chattel paper, and equipment) given as security to insure faithful performance by Borrower(s) and any other third party of any and all obligations to Bank, however created, whether now existing or hereafter arising, shall remain as security for the Promissory Note as modified hereby.

It is understood and agreed that if Bank has released collateral herein, it shall not be required or obligated to take any further steps to release said collateral from any lien or security interest unless Bank determines, in its sole discretion, that it may do so without consequence to its secured position and relative priority in other collateral; and unless Borrower(s) bears the reasonable cost of such action. No delay or omission on the part of the Bank in exercising any right hereunder shall operate as a waiver of such right or of any other right of the Bank, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of this same, or of any other right on any further occasion. Each of the parties signing this Agreement regardless of the time, order or place of signing waives presentment, demand, protest, and notices of every kind, and assents to any one or more extensions or postponements of the time of payment or any other indulgences, to any substitutions, exchanges or releases of collateral if at any time there is available to the Bank collateral for the Promissory Note, as amended, and to the additions or releases of any other parties or persons primarily or secondarily liable. Whenever possible the provisions of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is prohibited by or invalid under such law, such provisions shall be ineffective to the extent of any such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. All rights and obligations arising hereunder shall be governed by and construed in accordance with the laws of the same state which governs the interpretation and enforcement of the Promissory Note.

From and after any event of default under this Agreement, the Promissory Note, or any related deed of trust, security agreement or loan agreement, interest shall accrue on the sum of the principal balance and accrued interest then outstanding at the variable rate equal to the Bank's Prime Rate plus 5% per annum ("Default Rate"), provided that such rate shall not exceed at any time the highest rate of interest permitted by the laws of the State of South Carolina; and further that such rate shall apply after judgement. In the event of any default, the then remaining unpaid principal amount and accrued but unpaid interest then outstanding shall bear interest at the Default Rate until such principal and interest have been paid in full. Bank shall not be obligated to accept any check, money order, or other payment instrument marked "payment in full" on any disputed amount due hereunder, and Bank expressly reserves the right to reject all such payment instruments. Borrower agrees that tender of its check or other payment instrument so marked will not satisfy or discharge its obligation under this Note, disputed or otherwise, even if such check or payment instrument is inadvertently processed by Bank unless in fact such payment is in fact sufficient to pay the amount due hereunder.

WAIVER OF TRIAL BY JURY. UNLESS EXPRESSLY PROHIBITED BY APPLICABLE LAW, THE UNDERSIGNED HEREBY WAIVES THE RIGHT TO TRIAL BY JURY OF ANY MATTERS OR CLAIMS ARISING OUT OF THIS AGREEMENT, THE PROMISSORY NOTE OR ANY LOAN DOCUMENT EXECUTED IN CONNECTION HERewith OR OUT OF THE CONDUCT OF THE RELATIONSHIP BETWEEN THE UNDERSIGNED AND BANK. THIS PROVISION IS A MATERIAL INDUCEMENT FOR BANK TO MAKE THE LOAN EVIDENCED BY THE PROMISSORY NOTE AND THIS AGREEMENT. FURTHER, THE UNDERSIGNED HEREBY CERTIFY THAT NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT BANK WOULD NOT SEEK TO ENFORCE THIS WAIVER OR RIGHT TO JURY TRIAL PROVISION IN THE EVENT OF LITIGATION. NO REPRESENTATIVE OR AGENT OF BANK, NOR BANK'S COUNSEL, HAS THE AUTHORITY TO WAIVE, CONDITION OR MODIFY THIS PROVISION.

Unless otherwise required under a Loan Agreement, if applicable, and as long as any indebtedness evidenced by this Promissory Note, as modified by this Agreement remains outstanding or as long as Bank remains obligated to make advances, the undersigned shall furnish annually an updated financial statement in a form satisfactory to Bank, which, when delivered shall be the property of the Bank. Further, the undersigned agrees to provide any and all documentation requested by the Bank in order to verify the identity of the undersigned in accordance with the USA Patriot Act.

(SIGNATURES ON FOLLOWING PAGE)

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SPARTANBURG COUNTY
2011 FEB -2 AM 9:04
M. HOPE BLACKLEY

BB&T

NOTE MODIFICATION SIGNATURE PAGE

Borrower: CAROLINA PROPERTIES HOLDINGS LLC

Account Number:

Note Number: 00001

Modification Amount: 161,304.92

Modification Date: 02/19/2010

Notice of Right to Copy of Appraisal: If a 1-4 family residential dwelling is pledged as collateral for this Agreement, you, the undersigned, have a right to copy of the real estate appraisal report used in connection with your application for credit. You must forward your request to the Bank no later than 90 days after the date of this Agreement. In your request letter, please provide your name, mailing address, appraised property address, the date of this Agreement, and the account and note numbers shown on the front of this Agreement.

IN WITNESS WHEREOF, the undersigned, on the day and year first written above, has caused this instrument to be executed under seal.

If Borrower is a Corporation:

WITNESS:

NAME OF CORPORATION

By: _____ (SEAL)

Title: _____

By: _____ (SEAL)

Title: _____

If Borrower is a Partnership, Limited Liability Company, or Limited Liability Partnership:

WITNESS:

CAROLINA PROPERTIES HOLDINGS LLC

NAME OF PARTNERSHIP, LLC, OR LLP

By: _____ (SEAL)

Title: Member

By: _____ (SEAL)

Title: _____

By: _____ (SEAL)

Title: _____

If Borrower is an Individual:

WITNESS:

(SEAL)

Additional Borrowers and Debtors/Grantors/Guarantors:

WITNESS:

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

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SPARTANBURG COUNTY
2011 FEB -2 AM 9:04
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Branch Banking and Trust Company,

Plaintiff,

v.

Carolina Properties Holdings, LLC,
Walter W. Parker IV and the United States
Of America by and through the US Small
Business Administration,

Defendants.

IN THE COURT OF COMMON PLEAS

CASE NUMBER 2011-CP-42-0500

ANSWER AND COUNTERCLAIM

Defendants, Carolina Properties Holdings, LLC and Walter W. Parker IV,
answering the Complaint of the Plaintiff and asserting counterclaim, would respectfully
show as follows:

FOR A FIRST DEFENSE

1. Defendants deny all allegations of the Complaint unless expressly admitted herein.
2. Responding to Paragraphs 1 through 26 of the Complaint, Defendants admit the allegations contained in these paragraphs.
3. Defendants deny the allegations contained in Paragraphs 27 and 28 and demand strict proof thereof.

**FOR A SECOND DEFENSE
(Unclean Hands)**

4. Defendants incorporate herein by reference the foregoing paragraphs of this Answer to the extent consistent with this defense.
5. Plaintiff's Complaint is barred by the doctrine of unclean hands.

**FOR A THIRD DEFENSE AND BY WAY OF COUNTERCLAIM
CAUSE OF ACTION
(Breach of Verbal Agreement)**



6. Defendants incorporate herein by reference the foregoing paragraphs of this Answer to the extent consistent with this defense and cause of action.

7. The value of the business property as determined by the Plaintiff was sufficient to waive deficiency judgment against Defendants.

8. The Plaintiff through its agent verbally agreed to waive the deficiency judgment against Defendants.

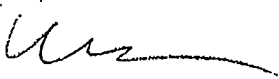
9. The Plaintiff has since reneged on this agreement.

WHEREFORE, having fully answered the Plaintiff's Complaint, Defendants respectfully request:

A. That Plaintiff's Complaint relative to deficiency judgment be dismissed;
and

B. Such other and further relief as the Court deems just and proper.

Sincerely,



Walter W. Parker IV
Defendant

Beaufort, South Carolina
April 18, 2011

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG)

Civil Action 2011-CP-42-0500

Branch Banking and Trust Company,)

Plaintiff,)

vs.)

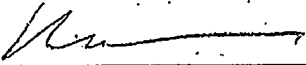
CONSENT TO AMEND
COMPLAINT

Carolina Properties Holdings, LLC,)
Walter W. Parker IV, and the United States)
Of America by and through the U.S. Small)
Business Administration,)

Defendants.)

Whereas, the Summons and Complaint in this foreclosure action were filed in the Clerk of Court's office for Spartanburg County on February 2, 2011. The Plaintiff seeks to amend the complaint to add two (2) additional Defendants, Carolina Clean Greer I, LLC and Community Development & Improvement Corporation and to change the address of the Defendant Walter W. Parker, IV; therefore, pursuant to Rule 15 (a), South Carolina Rules of Civil Procedure, the undersigned defendants hereby consent to the filing and service of an Amended Complaint.

WE CONSENT:


Walter W. Parker, IV
CAROLINA PROPERTIES HOLDINGS, LLC
961 Saye Creek Drive
Madison, GA 30650


Walter W. Parker, IV, individually
961 Saye Creek Drive
Madison, GA 30650

Page 1 of 2

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I CONSENT:



George J. Conits
Assistant U.S. Attorney
55 Beattie Place, Suite 700
Greenville, SC 29601
(864) 282-2100

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

JONES & WALDEN, LLC
ATTORNEYS AT LAW

21 EIGHTH STREET NE
ATLANTA, GEORGIA 30309
TELEPHONE (404) 564-9300
FACSIMILE (404) 564-9301
INTERNET www.joneswalden.com

July 6, 2011

VIA FACSIMILE and U.S. MAIL

Weyman C. Carter, Esquire
McNair Law Firm, P.A.
Post Office Box 447
Greenville, South Carolina 29602

Re: **CONFIDENTIAL SETTLEMENT OFFER-NOT ADMISSIBLE**
BB&T v. Walter W. Parker, IV et al.; Case No. 2011-CP-42-0500
Promissory Note dated October 21, 2005

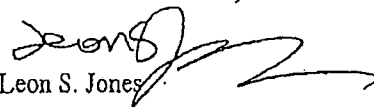
Dear Mr. Carter:

This letter is written on behalf of Mr. Parker as an attempt to resolve the above-referenced matter in lieu of further litigation. Mr. Parker has a third party who is willing to purchase BB&T's position on the promissory note for \$200,000.00. As you are aware, Mr. Parker has no assets to personally satisfy a judgment, and if unsuccessful in resolving this matter through settlement, he may be left with no other option than to file for Chapter 7 bankruptcy. This is an avenue which we have discussed with Mr. Parker, and it is our advice that he qualifies for such relief and that he understands that he will have no other options if the Bank is not willing to consider this proposal. Therefore, it is in your client's best interest to consider this proposal as its most viable opportunity to recover on the note.

This offer will expire thirty (30) days from the date of this letter. We look forward to hearing from you.

Sincerely,

JONES & WALDEN, LLC


Leon S. Jones

cc: Walter Parker



M McNAIR
ATTORNEYS

July 8, 2011

Weyman C. Carler

wcarler@mcnair.net
T (864) 271-4940
F (864) 271-4015

Via Fax ((404) 564-9301)

Leon S. Jones
Jones & Walden, LLC
21 Eighth Street NE
Atlanta, GA 30309

Re: BB&T v. Carolina Properties Holdings, LLC, et al.; Spartanburg
County, SC Civil Action No. 2011-CP-420-0500; SETTLEMENT
COMMUNICATION

Dear Mr. Jones:

I am writing in response to the settlement proposal contained in your letter of July 6, 2011. The BB&T account officer is willing to recommend a resolution in the form of a sale of the promissory note for a cash payment of \$297,000.00. Any note sale would be in the form of agreement acceptable to BB&T which will provide for a sale on an "as-is" basis with no warranties. The bank would also require that the counterclaims asserted in the above referenced action be dismissed with prejudice and that the borrower and guarantor execute a global release in favor of BB&T.

Please let me know if the note sale and settlement can proceed on this basis. I will leave the counterproposal open for ten (10) days unless further extended in writing.

I understand that you will not be making an appearance in the action in South Carolina. As a result I am communicating directly with Mr. Parker on issues directly relating to the lawsuit. I am sending him today a draft Amended Complaint to request his written consent to the filing of same. I am also serving Second Interrogatories and Second Requests for Production. I informed Mr. Parker that I would grant an extension of his deadline to respond to the first discovery requests in consideration of his written consent to the amendment of the Complaint.

With kind regards, I remain,

McNair Law Firm, P. A.
Poinsett Plaza, Suite 700
104 South Main Street
Greenville, SC 29601

Mailing Address
Post Office Box 447
Greenville, SC 29602

mcnair.net



MCNAIR
ATTORNEYS

August 9, 2011

Weyman C. Carler

wcarler@mcnair.net
T (864) 271-4940
F (864) 271-4016

Via Fax ((404) 564-9301)

Staci L. Close
Jones & Walden, LLC
21 Eighth Street NE
Atlanta, GA 30309

Re: Settlement Communication; BB&T v. Carolina Properties Holdings,
LLC, et al.; Spartanburg County Civil Action No. 2011-CP-42-0500

Dear Staci:

BB&T hereby accepts the offer contained in your letter of July 18, 2011 to sell its promissory note for a net cash price of \$200,000, on the following terms that I hope you will find acceptable:

- The note sale will be pursuant to a Note Purchase and Sale Agreement to be prepared by BB&T containing terms acceptable to the bank; the sale will be "as is" with no warranties. Copies of loan documents will be made available to the purchaser pursuant to the Confidentiality Agreement that has been executed.
- The note sale is subject to a condition precedent that the borrower and guarantor enter into a Settlement Agreement with BB&T that will contain terms acceptable to the bank including the dismissal of the existing counterclaim with prejudice and a global release from the borrower and guarantor in favor of the bank.

I have asked the bank to provide a Note Sale Agreement and I will prepare a draft Settlement Agreement along with a Stipulation or proposed Order dismissing the counterclaim.

McNair Law Firm, P. A.
Poinsett Plaza, Suite 700
104 South Main Street
Greenville, SC 29601

Mailing Address
Post Office Box 447
Greenville, SC 29602

mcnair.net



Staci L. Close
August 9, 2011
Page 2

MCNAIR
ATTORNEYS

With kind regards, I remain,

Sincerely,

McNAIR LAW FIRM, P.A.



Weyman C. Carter

cc: Beverly Gilstrap, BB&T

MCNAIR
ATTORNEYS

September 19, 2011

Weyman C. Carter

wcarter@mcnair.net
T (864) 271-4940
F (864) 271-4015

Via E-mail to sclose@joneswalden.com

Staci L. Close
Jones & Walden, LLC
21 Eighth Street NE
Atlanta, GA 30309

Re: Settlement Communication; BB&T v. Carolina Properties Holdings,
LLC, et al.; Spartanburg County Civil Action No. 2011-CP-42-0500

Dear Staci:

BB&T has entered into a Note Purchase and Sale Agreement with a closing date of September 23, 2011.

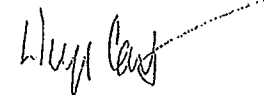
I have attached a draft Settlement Agreement and Release of Claims and a proposed Stipulation of Dismissal of Counterclaim for Mr. Parker's review and signature.

Please send me an image of the executed documents by email or fax with originals to be received on or before Friday. The execution of the attached documents is a condition precedent to the Note Sale Agreement which much close by Friday.

With kind regards, I remain,

Sincerely,

MCNAIR LAW FIRM, P.A.


Weyman C. Carter

Enclosures

cc: Beverly Gilstrap, BB&T

McNair Law Firm, P.A.
Poinsett Plaza, Suite 700
104 South Main Street
Greenville, SC 29601

Mailing Address
Post Office Box 447
Greenville, SC 29602

mcnair.net



SETTLEMENT AGREEMENT
AND
MUTUAL RELEASE OF CLAIMS

This Settlement Agreement and Mutual Release of Claims ("Agreement") is entered into to be effective as of September 19, 2011 by and between Branch Banking and Trust Company (the "Bank"), Carolina Properties Holdings, LLC, (the "Borrower"), and Walter W. Parker IV ("Guarantor"). The Bank, the Borrower, and the Guarantor are referred to collectively as the "Parties".

WHEREAS, the Borrower and Guarantor are obligated to the Bank on commercial loan number 9520407542-00001 (the "Loan") evidenced by a \$585,000.00 promissory note dated October 21, 2005 (as amended, the "Note") secured by a Mortgage recorded in the Office of the Register of Deeds for Spartanburg County, South Carolina in Mortgage Book 3542 at Page 190 (the "Mortgage");

WHEREAS, the Bank filed an action against the Borrower and Guarantor and others in the Court of Common Pleas for Spartanburg County, South Carolina under Civil Action 2011-CP-42-0500 (the "Foreclosure Action") seeking foreclosure of the Mortgage and the entry of a deficiency judgment against Borrower and Guarantor;

WHEREAS, the Borrower and Guarantor filed an answer dated April 18, 2011 in the Foreclosure Action asserting a counterclaim against the Bank;

WHEREAS, the Borrower and Guarantor made a settlement proposal to the Bank whereby the Bank would sell the Note to a third party; and WHEREAS, the Bank has entered into a Note Sale Agreement that is expressly conditioned upon the execution of this Settlement Agreement by the Borrower and Guarantor;

WHEREAS, in order to induce Bank to enter into the Note Sale Agreement, the Borrower and Guarantor agree to dismiss their counterclaim in the Foreclosure Action with prejudice, and to

waive and release any claims against BB&T arising out of or related to the Loan, including the counterclaim asserted in the Foreclosure Action.

NOW, THEREFORE, in consideration of the mutual promises and representations to be performed as set forth below, the parties agree as follows:

1. AGREEMENT. The Borrower and Guarantors execute this Agreement in order to settle the counterclaim asserted in the Foreclosure Action and to resolve and waive other claims as described herein.

2. RELEASE BY BORROWER AND GUARANTORS. Borrower and Guarantor do hereby forever RELEASE the Bank and its present or former officers, managers, directors, shareholders, employees, agents, attorneys, representatives, parent corporations, subsidiaries, and affiliates (collectively referred to as "Bank Affiliates"), from any claim arising out of the making, funding, administration or collection of the Loan, including the counterclaim asserted in the Foreclosure Action or any counterclaim that could have been asserted in the Foreclosure Action.

3. DISMISSAL OF COUNTERCLAIM. Borrower and Guarantor will dismiss the counterclaim asserted in the Foreclosure Action, with prejudice. The dismissal may be accomplished by means of a Stipulation of Dismissal or by submission of a Motion or a proposed Order seeking dismissal of the counterclaim, at the election of the Bank.

4. NO RELEASE BY BANK. Borrower and Guarantor acknowledge that Bank is not releasing its claims against Borrower and Guarantor under this Agreement but that Bank's entry into an agreement to sell the Note to the third party identified by Borrower and Guarantor is sufficient consideration for this Agreement.

5. REPRESENTATIONS. The Parties each acknowledge, represent, warrant and confirm the following:

a. That each Party has carefully read and understands the effect of this Agreement and that each Party has had the opportunity to obtain the assistance of separate legal

counsel in carefully reviewing, discussing and considering all terms of this Agreement.

b. That no Party's execution of this Agreement is based upon any reliance upon any representation, understanding or agreement not expressly set forth herein.

c. That each Party executes this Agreement as his or her or its free and voluntary act, without any duress, coercion or undue influence exerted by or on behalf of any other Party;

d. That acceptance of this Agreement or any act related hereto is in no way an admission of any fault or liability by any Party hereto;

e. That this Agreement constitutes the entire agreement between the Parties hereto and is a final and complete release of those matters set forth herein. This Agreement embodies the entire agreement with respect to the respective rights, obligations and liabilities of the parties hereto and supersedes all prior agreements and understandings, if any, relating to the subject matter hereof;

f. That each of the Parties is the sole owner of his, her, or its claims or causes of action being released herein and that no Party has conveyed or assigned any interest in any such claims or causes of action to any person or entity not a Party hereto;

g. That each Party has full and complete authorization and power to execute this Agreement in the capacity herein stated and this Agreement is a valid, binding and enforceable obligation of the Party so executing and does not violate any law, rule, regulation, contract or agreement otherwise enforceable by or against the Party so executing.

6. SEVERABILITY. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

7. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND

CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF SOUTH CAROLINA AND THE LAWS OF THE UNITED STATES OF AMERICA APPLICABLE TO TRANSACTIONS WITHIN THE STATE OF SOUTH CAROLINA.

8. BINDING AGREEMENT. This Agreement is binding upon the Parties, their heirs, executors, administrators, assigns, successors in interest, predecessors in interest, and anyone claiming by, through or under any one of the Parties.

9. COUNTERPARTS. This agreement may be executed in multiple identical counterparts, each of which when executed shall be deemed an original.

10. ACKNOWLEDGEMENTS. The Parties acknowledge that one or both of the Borrower or Guarantor may have loans, debts, credits, or other relationships with the Bank other than the Loan that is the subject of the Foreclosure Action (as defined in this Agreement).

11. FINAL ACKNOWLEDGEMENT. THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

BORROWER:

Carolina Properties Holdings, LLC

By: _____

Its: _____

Witness

GUARANTOR:

Walter W. Parker IV

Witness

BANK:

Branch Banking and Trust Company

By: _____

Its: _____

Witness

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF SPARTANBURG	)	CIVIL ACTION NO.: 2011-CP-42-0500
	)	
Branch Banking and Trust Company,	)	
	)	
Plaintiff,	)	
	)	
v.	)	STIPULATION OF DISMISSAL AS
	)	TO COUNTERCLAIMS ONLY
Carolina Properties Holdings, LLC,	)	
Walter W. Parker IV, the United States	)	
of America by and through the US Small	)	
Business Administration, Carolina Clean	)	
Greer I, LLC and Community Development	)	
& Improvement Corporation,	)	
	)	
Defendants.	)	

Pursuant to South Carolina Rule of Civil Procedure 41(a)(1)(B), the Defendants Carolina Properties Holdings, LLC and Walter W. Parker IV hereby dismiss the counterclaim asserted in this action against Branch Banking and Trust Company, with prejudice.

The other parties who have appeared in the action consent to the dismissal of the counterclaims.

The dismissal shall be as to the counterclaims only; the claims asserted by the Plaintiff, and claims asserted by other parties, if any, shall remain pending.

Weyman C. Carter SC Bar #15255
McNAIR LAW FIRM, P.A.
Post Office Box 447
Greenville, SC 29602
Tel: (864) 271-4940
Fax: (864) 271-4940

Attorney for Plaintiff

Walter W. Parker IV , individually and
on behalf of Carolina Properties Holdings, LLC
961 Saye Creek Drive
Madison, GA 30650
(706) 342-9115

George J. Conits / SC Bar #1356
Assistant United States Attorney
Post Office Box 10067
Greenville, SC 29603
(864) 282-2100

Attorney for the United States of America

Howard R. Kinard / SC Bar #74912
Johnson, Smith, Hibbard and Wildman Law Firm, L.L.P.
Post Office Drawer 5587
Spartanburg, SC 29304
(864) 582-8121

Attorney for Community Development & Improvement Corporation

Subject: RE: BB&T v Carolina Properties Holdings
Date: 9/22/2011 2:08 PM
From: "Carter, Weyman" <wcarter@mcnair.net>
To: "Walter Parker" <wwparker4@gmail.com>
Cc: "Staci Close" <sclose@joneswalden.com>

Have you transmitted the original documents? By what means, please?

M C N A I R
ATTORNEYS

Weyman C. Carter
Shareholder
wcarter@mcnair.net

McNair Law Firm, P.A.
Greenville Office Poinsett Plaza, 104 South Main Street | Suite 700 | Greenville, SC 29601
864 271 4940 Main | 864 271 4015 Fax
Mailing Post Office Box 447 | Greenville, SC 29602
VCard | Bio URL | Web site

From: Walter Parker [mailto:wwparker4@gmail.com]
Sent: Wednesday, September 21, 2011 2:29 PM
To: Carter, Weyman
Subject: Re: BB&T v Carolina Properties Holdings

Weyman,

Here are the signature pages for the Settle Agreement and Mutual Release of Claims as well as the Stipulation of Dismissal as to Counterclaims documents for your records. Original to be delivered.

Best,
Walt

On Tue, Sep 20, 2011 at 3:33 PM, Carter, Weyman <WCarter@mcnair.net> wrote:
That is correct.

M C N A I R
ATTORNEYS

Weyman C. Carter
Shareholder
wcarter@mcnair.net

McNair Law Firm, P.A.
Greenville Office Poinsett Plaza, 104 South Main Street | Suite 700 | Greenville, SC 29601
864 271 4940 Main | 864 271 4015 Fax
Mailing Post Office Box 447 | Greenville, SC 29602
VCard | Bio URL | Web site

From: Walter Parker [mailto:wwparker4@gmail.com]

about:blank

610



9/12/2016

Sent: Tuesday, September 20, 2011 3:31 PM
To: Carter, Weyman
Subject: BB&T v Carolina Properties Holdings

Weyman,

This is to memorialize our conversation earlier today relative to paragraph 4 (No Release by Bank) of the Settle Agreement and Mutual Release of Claims document. I heard you say that the bank will not release its claims against Carolina Properties and me, so that it could in turn sell its claim to the note purchaser. And when the transaction is complete the Bank will no longer possess the claims against Carolina Properties and me, but rather the note purchaser will own these rights.

Please let me know if my understanding is correct.

Best Regards,
Walt Parker

CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that any US Federal Tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the internal revenue code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein. This advice may not be forwarded (other than within the taxpayer to which it has been sent) without our express written consent. To read more about this disclosure, please see http://www.mcnaair.net/D1D330/portalresource/IRS_Circular_230.pdf

PRIVILEGE AND CONFIDENTIALITY NOTICE: This communication (including any attachments) is being sent by or on behalf of a lawyer or law firm and may contain confidential or legally privileged information. The sender does not intend to waive any privilege, including the attorney-client privilege, that may attach to this communication. If you are not the intended recipient, you are not authorized to intercept, read, print, retain, copy, forward or disseminate this communication. If you have received this communication in error, please notify the sender immediately by email and delete this communication and all copies.

Charles LeGrand

From: Allan Hill <ahill@greenvillelaw.net>
Sent: Friday, September 09, 2016 6:01 PM
To: Charles LeGrand
Subject: FW: BB&T v. Carolina Properties Holdings LLC and Walter W. Parker

S. Allan Hill
Attorney, CPA
819 E. North St.
Greenville, SC 29601
(864)242-4995
(864)331-3050 Direct Dial
(864)242-5500 fax
ahill@greenvillelaw.net

From: S. Allan Hill [<mailto:ahill@greenvillelaw.net>]
Sent: Tuesday, September 20, 2011 4:50 PM
To: 'Walter Parker'
Subject: RE: BB&T v. Carolina Properties Holdings LLC and Walter W. Parker

Walt,

Your understanding is correct.

S. Allan Hill
Attorney, CPA
819 E. North St.
Greenville, SC 29601
(864)242-4995
(864)242-5500 fax
ahill@greenvillelaw.net

From: Walter Parker [<mailto:wwparker4@gmail.com>]
Sent: Tuesday, September 20, 2011 4:13 PM
To: ahill@greenvillelaw.net
Cc: rebecca@greenvillelaw.net
Subject: BB&T v. Carolina Properties Holdings LLC and Walter W. Parker

Allen,

I am preparing to execute the Settlement Agreement and Stipulation of Dismissal, which is a condition precedent to the BB&T note sale. I wanted to memorialize the verbal agreement we have that Ken Howard, Super Suds LLC and/or the new note holder will not pursue a deficiency judgment against Carolina Properties Holdings LLC or me. Also, I heard you say that Ken Howard, Super Suds LLC and/or the new note holder would not be filing a 1099 for the forgiveness of debt.

Please let me know if my understanding is correct.



Best Regards,
Walt Parker
843-473-9365

**SETTLEMENT AGREEMENT
AND
MUTUAL RELEASE OF CLAIMS**

This Settlement Agreement and Mutual Release of Claims ("Agreement") is entered into to be effective as of September 19, 2011 by and between Branch Banking and Trust Company (the "Bank"), Carolina Properties Holdings, LLC, (the "Borrower"), and Walter W. Parker IV ("Guarantor"). The Bank, the Borrower, and the Guarantor are referred to collectively as the "Parties".

WHEREAS, the Borrower and Guarantor are obligated to the Bank on commercial loan number 9520407542-00001 (the "Loan") evidenced by a \$585,000.00 promissory note dated October 21, 2005 (as amended, the "Note") secured by a Mortgage recorded in the Office of the Register of Deeds for Spartanburg County, South Carolina in Mortgage Book 3542 at Page 190 (the "Mortgage");

WHEREAS, the Bank filed an action against the Borrower and Guarantor and others in the Court of Common Pleas for Spartanburg County, South Carolina under Civil Action 2011-CP-42-0500 (the "Foreclosure Action") seeking foreclosure of the Mortgage and the entry of a deficiency judgment against Borrower and Guarantor;

WHEREAS, the Borrower and Guarantor filed an answer dated April 18, 2011 in the Foreclosure Action asserting a counterclaim against the Bank;

WHEREAS, the Borrower and Guarantor made a settlement proposal to the Bank whereby the Bank would sell the Note to a third party; and WHEREAS, the Bank has entered into a Note Sale Agreement that is expressly conditioned upon the execution of this Settlement Agreement by the Borrower and Guarantor;

WHEREAS, in order to induce Bank to enter into the Note Sale Agreement, the Borrower and Guarantor agree to dismiss their counterclaim in the Foreclosure Action with prejudice, and to



waive and release any claims against BB&T arising out of or related to the Loan, including the counterclaim asserted in the Foreclosure Action.

NOW, THEREFORE, in consideration of the mutual promises and representations to be performed as set forth below, the parties agree as follows:

1. AGREEMENT. The Borrower and Guarantors execute this Agreement in order to settle the counterclaim asserted in the Foreclosure Action and to resolve and waive other claims as described herein.

2. RELEASE BY BORROWER AND GUARANTORS. Borrower and Guarantor do hereby forever RELEASE the Bank and its present or former officers, managers, directors, shareholders, employees, agents, attorneys, representatives, parent corporations, subsidiaries, and affiliates (collectively referred to as "Bank Affiliates"), from any claim arising out of the making, funding, administration or collection of the Loan, including the counterclaim asserted in the Foreclosure Action or any counterclaim that could have been asserted in the Foreclosure Action.

3. DISMISSAL OF COUNTERCLAIM. Borrower and Guarantor will dismiss the counterclaim asserted in the Foreclosure Action, with prejudice. The dismissal may be accomplished by means of a Stipulation of Dismissal or by submission of a Motion or a proposed Order seeking dismissal of the counterclaim, at the election of the Bank.

4. NO RELEASE BY BANK. Borrower and Guarantor acknowledge that Bank is not releasing its claims against Borrower and Guarantor under this Agreement but that Bank's entry into an agreement to sell the Note to the third party identified by Borrower and Guarantor is sufficient consideration for this Agreement.

5. REPRESENTATIONS. The Parties each acknowledge, represent, warrant and confirm the following:

a. That each Party has carefully read and understands the effect of this Agreement and that each Party has had the opportunity to obtain the assistance of separate legal

counsel in carefully reviewing, discussing and considering all terms of this Agreement.

b. That no Party's execution of this Agreement is based upon any reliance upon any representation, understanding or agreement not expressly set forth herein.

c. That each Party executes this Agreement as his or her or its free and voluntary act, without any duress, coercion or undue influence exerted by or on behalf of any other Party;

d. That acceptance of this Agreement or any act related hereto is in no way an admission of any fault or liability by any Party hereto;

e. That this Agreement constitutes the entire agreement between the Parties hereto and is a final and complete release of those matters set forth herein. This Agreement embodies the entire agreement with respect to the respective rights, obligations and liabilities of the parties hereto and supersedes all prior agreements and understandings, if any, relating to the subject matter hereof;

f. That each of the Parties is the sole owner of his, her, or its claims or causes of action being released herein and that no Party has conveyed or assigned any interest in any such claims or causes of action to any person or entity not a Party hereto;

g. That each Party has full and complete authorization and power to execute this Agreement in the capacity herein stated and this Agreement is a valid, binding and enforceable obligation of the Party so executing and does not violate any law, rule, regulation, contract or agreement otherwise enforceable by or against the Party so executing.

6. SEVERABILITY. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

7. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND

CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF SOUTH CAROLINA AND THE LAWS OF THE UNITED STATES OF AMERICA APPLICABLE TO TRANSACTIONS WITHIN THE STATE OF SOUTH CAROLINA.

8. BINDING AGREEMENT. This Agreement is binding upon the Parties, their heirs, executors, administrators, assigns, successors in interest, predecessors in interest, and anyone claiming by, through or under any one of the Parties.

9. COUNTERPARTS. This agreement may be executed in multiple identical counterparts, each of which when executed shall be deemed an original.

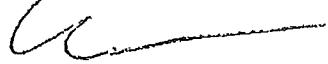
10. ACKNOWLEDGEMENTS. The Parties acknowledge that one or both of the Borrower or Guarantor may have loans, debts, credits, or other relationships with the Bank other than the Loan that is the subject of the Foreclosure Action (as defined in this Agreement).

11. FINAL ACKNOWLEDGEMENT. THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

BORROWER:

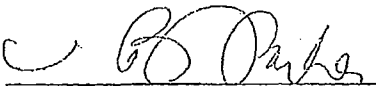
Carolina Properties Holdings, LLC

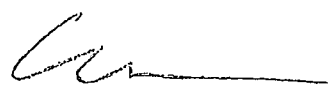

Witness

By: 

Its: Member

GUARANTOR:


Witness

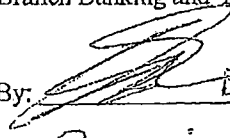

Walter W. Parker IV

BANK:

Branch Banking and Trust Company


Witness

By:

 BEVERLY S. GILSTRAP

Its:

BANKING OFFICER

Asset Name: Carolina Properties Holdings
Asset Number: 9520407542-00001

Asset Resolution Group
Mailcode: 900-01-02-30
PO Box 408
Greenville, SC 29602
(864) 242-8582
Fax (864) 242-8428

Walter W. Parker IV
Carolina Properties Holdings, LLC
961 Saye Creek Drive
Madison, GA 30650

**IMPORTANT NOTICE REGARDING YOUR
BRANCH BANKING AND TRUST COMPANY Loan**

Dear Customer:

Effective September 23, 2011, the above referenced loan with Branch Banking and Trust Company was sold to Super Suds LLC. If you request or otherwise receive from Branch Banking and Trust Company a statement regarding your loan after September 1, 2011 you might have received inaccurate information. Please disregard such statement and contact Super Suds, LLC for your balance information.

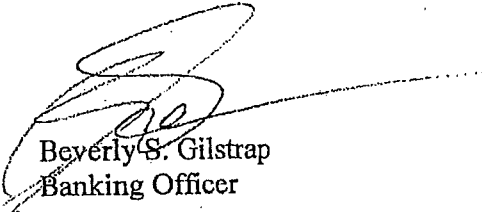
PAYMENTS:

Please do not send any future payments to Branch Banking and Trust Company after September 23, 2011. Sending payments to Branch Banking and Trust Company may delay the date such payment is credited to your loan. **Super Suds LLC or its agent or affiliate** will be contacting you shortly with specific instructions about where to send your payments. However, if your payment is due before you receive these instructions, you should make your payment to Super Suds LLC, and mail it along with this letter to:

Super Suds LLC
200 Ford Street
Greer, SC 29650

Do not delay payment until your notification of account purchase statement and new payment instructions arrive or you may be subject to a late payment charge.

Thank you for your patronage and cooperation.
Branch Banking and Trust Company


Beverly S. Gilstrap
Banking Officer



STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG
Branch Banking and Trust Company,
Plaintiff,

v.

Carolina Properties Holdings, LLC,
Walter W. Parker IV, the United States
of America by and through the US Small
Business Administration, Carolina Clean
Greer I, LLC and Community Development
& Improvement Corporation,
Defendants.

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: 2011-CP-42-0500

**STIPULATION OF DISMISSAL AS
TO COUNTERCLAIMS ONLY**

Pursuant to South Carolina Rule of Civil Procedure 41(a)(1)(B), the Defendants Carolina Properties Holdings, LLC and Walter W. Parker IV hereby dismiss the counterclaim asserted in this action against Branch Banking and Trust Company, with prejudice.

The other parties who have appeared in the action consent to the dismissal of the counterclaims.

The dismissal shall be as to the counterclaims only; the claims asserted by the Plaintiff, and claims asserted by other parties, if any, shall remain pending.

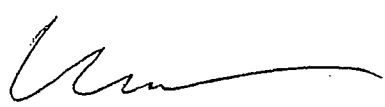


Weyman C. Carter SC Bar #15255
McNAIR LAW FIRM, P.A.
Post Office Box 447
Greenville, SC 29602
Tel: (864) 271-4940
Fax: (864) 271-4940

Attorney for Plaintiff

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 OCT 27 AM 9:57
M. HOPE BLACKLEY




Walter W. Parker IV , individually and
on behalf of Carolina Properties Holdings, LLC
961 Saye Creek Drive
Madison, GA 30650
(706) 342-9115

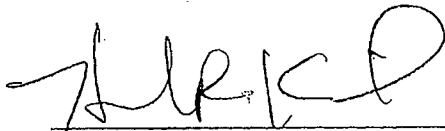
FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 OCT 27 AM 9:57
M. HOPE BLACKLEY


George J. Conits / SC Bar #1356
Assistant United States Attorney
Post Office Box 10067
Greenville, SC 29603
(864) 282-2100

Attorney for the United States of America

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 OCT 27 AM 9:57
M. HOPE BLACKLEY

0



Howard R. Kinard / SC Bar #74912
Johnson, Smith, Hibbard and Wildman Law Firm, L.L.P.
Post Office Drawer 5587
Spartanburg, SC 29304
(864) 582-8121

Attorney for Community Development & Improvement Corporation

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 OCT 27 AM 9:57
M. HOPE BLACKLEY

Space above this line for recording information

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

DEED IN LIEU OF FORECLOSURE
(No Title Examination)

KNOW ALL MEN BY THESE PRESENTS, that **Carolina Properties Holdings, LLC**, in consideration of Ten and NO/100ths (\$10.00) DOLLARS, and as a deed in lieu of foreclosure, the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto **Super Suds, LLC**, its successors and assigns forever;

SEE ATTACHED SCHEDULE "A"

TMS#: 9 03-10 092.00

This conveyance is made subject to any and all existing reservations, easements, rights of way, zoning ordinances, setback lines, and restrictions or protective covenants that may appear of public record or on the premises affecting the property herein conveyed.

Grantee's Address: Super Suds, LLC, 200 Ford Street, Greer, SC 29650

The consideration for this deed is the satisfaction and cancellation of an indebtedness from the Grantor to the Grantee as evidenced by its mortgage dated October 21, 2005, which mortgage was recorded in the ROD Office for Spartanburg County in ROD Mortgage Book 3542, at Page 190. The loan balance of said mortgage and the note secured by said mortgage is the sum of \$601,427.10, together with accrued interest computed at the annual rate as set forth in the note.

Grantor, in executing and delivering this deed to Grantee, acknowledges that this is an absolute deed and not a mortgage. Grantor further acknowledges that he is conveying complete title to the above described property to the Grantee herein, and the Grantor has no further interest of any nature whatsoever in and to the above described property or any improvements thereon.

TOGETHER WITH all and singular the rights, members, hereditaments and appurtenances to said premises belonging, or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned unto grantee(s), and the grantee(s)' successors and assigns forever. And the grantor(s) do(es) hereby bind the grantor(s) and the grantor(s)' heirs, executors and administrators to warrant and forever defend all and singular said premises unto grantee(s) and grantee(s)' successors and against every person whomsoever lawfully claiming or to claim the same or any part thereof.



WITNESS the grantor's(s) hand(s) and seal(s) this 24 day of October, 2011.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

Carolina Properties Holdings, LLC

[Signature] [Signature]

By: Walter W. Parker, IV
Its: Manager

[Signature]

STATE OF SOUTH CAROLINA)

COUNTY OF Beaufort)

ACKNOWLEDGMENT

I, a Notary Public, within and for the State and County aforesaid, do hereby certify that the foregoing instrument of writing was this day produced to me in the above State and County by the Principal and was executed and acknowledged to be the free act and voluntary deed of the Principal.

WITNESS my signature this 24 day of October, 2011.

[Signature]

Notary Public for: South Carolina
My Commission expires: _____

My Commission Expires September 12, 2017

PREPARED BY: S. Allan Hill, a Professional Corporation, Attorney/CPA, 819 E. North Street, Greenville, SC 29601

SCHEDULE "A"

ALL that piece, parcel or lot of land, with all improvements thereon or to be constructed thereon, being shown as 0.56 acres on a survey for Jones Cooley and Raja Marzouca, dated April 24, 2003, by Site Design, Inc. recorded in Plat Book 154, Page 279, in the Spartanburg County ROD Office.

This being the same property conveyed to the Grantor herein by Jones M. Colley, Jr. and Rajai Y. Marzouca recorded in the Spartanburg County ROD office on August 26, 2005, in Deed Book 83-U at Page 906.

TMS#: 9 03-10 092.00

Grantor's Name: **Carolina Properties Holdings, LLC**

PREPARED BY: S. Allan Hill, a Professional Corporation, Attorney/CPA, 819 E. North Street, Greenville, SC 29601

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

)
)
) **AFFIDAVIT FOR EXEMPT TRANSFERS**

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on the back of this affidavit and I understand such information.
2. The property being transferred bearing County Tax Map Number 9 03-10 092.00 was transferred by Carolina Properties Holdings, LLC to Super Suds, LLC on _____, 2011.
3. The deed is exempt from the deed recording fee because (See information section of affidavit):

(13) transferring realty subject to a mortgage to the mortgagee whether by a deed in lieu of foreclosure executed by the mortgage or deed pursuant to foreclosure proceedings;
4. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney for the Grantee
5. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

S. Allan Hill, Attorney at Law
819 E. North Street
Greenville, SC 29601
(864) 242-4995

SWORN to before me this _____ day of _____, 2011.

Notary Public for South Carolina
My Commission Expires:

Charles LeGrand

From: Allan Hill <ahill@greenvillelaw.net>
Sent: Tuesday, December 27, 2016 4:50 PM
To: Charles LeGrand
Subject: FW: Contact Information for SBA and CDIC

Just found this.

S. Allan Hill
Attorney, CPA
819 E. North St.
Greenville, SC 29601
(864)242-4995
(864)331-3050 Direct Dial
(864)242-5500 fax
ahill@greenvillelaw.net

From: Walter Parker [<mailto:wwparker4@gmail.com>]
Sent: Thursday, August 18, 2011 11:40 AM
To: ahill@greenvillelaw.net
Subject: Contact Information for SBA and CDIC

Allen,

It was a pleasure to speak with you. Here is the contact information I promised:

SBA Disaster Loan

The borrower name is Carolina Properties Holdings LLC SBA Disaster loan number 30849260-03. Derenda Fisher was my point of contact. Greg Dixon Lead Loan Specialist was the individual who said they would take \$2,000 to go away. His number is 714/564-2880.

Derenda Fisher
Loan Specialist
US Small Business Administration
National Disaster Loan Resolution Center
200 W. Santa Ana Blvd., Suite 180
Santa Ana, CA 92701-4134
714-564-2809
202-741-6752 Fax
Derenda.Fisher@SBA.Gov

Community Development and Improvement Corporation

The borrower name is Carolina Clean Greer I, LLC & Carolina Properties Holdings LLC Loan number is 20019. The lender contact is Fred Gibbs with Banc Capital and Financial Services P.O. Box 3218 Spartanburg, SC 29304. His telephone is 864-576-6678

CDIC
P.O. Box 90
Graniteville, SC 29829



864-649-6673

Thanks,

Walt

843-473-9365

1 STATE OF SOUTH CAROLINA
2 COUNTY OF SPARTANBURG

COURT OF COMMON PLEAS

3 SUPER SUDS, LLC,
4
5 PLAINTIFF,
6
7 -VS-
8

TRANSCRIPT OF TESTIMONY

9 CAROLINA PROPERTIES HOLDINGS,
10 LLC, WALTER W. PARKER, IV, THE
11 UNITED STATES OF AMERICA BY
12 AND THROUGH THE US SMALL
13 BUSINESS ADMINISTRATION,
14 CAROLINA CLEAN GREER IM, LLC
15 AND COMMUNITY DEVELOPMENT
16 & IMPROVEMENT CORPORATION,
17
18 DEFENDANTS.

(2011CP42-0500)

13 REFERENCE HELD: JULY 17, 2018.

14 B E F O R E: HONORABLE GORDON G. COOPER,
15 MASTER-IN-EQUITY FOR SPARTANBURG COUNTY.

16 LEGRAND LAW FIRM, LLC
17 BY: CHARLES D. LEGRAND, ESQUIRE
18 Attorneys for the Plaintiff.

19 BY: S. ALLAN HILL, ESQUIRE
20 Attorney for the Plaintiff.

21 LAW OFFICES OF BARBARA E. BRUNSON, LLC
22 BY: BARBARA E. BRUNSON, ESQUIRE
23 Attorneys for the Defendants Carolina Properties Holdings,
24 LLC and Walter W. Parker, IV.

25 HYDE LAW FIRM, P.A.
BY: SAMANTHA L. NICHOLSON, ESQUIRE
Attorneys for the Defendants Carolina Properties Holdings,
LLC and Walter W. Parker, IV.

Sarah Hollis, Court Reporter

1 THE COURT: We go on the record in the case of Super Suds, LLC, versus Carolina Properties
2 Holdings, LLC, Walter W. Parker IV, the United States of America by and through the US Small
3 Business Administration, Carolina Clean Greer I, LLC and Community Development &
4 Improvement Corporation. Case Number 2011CP42-0500. The Plaintiff has a Motion in
5 Support of Declaration under 43(k). Is that correct?
6 MR. LEGRAND: That is correct, Your Honor.
7 THE COURT: All right. And that is the only motion of the Plaintiff, is that correct?
8 MR. LEGRAND: Yes, Your Honor.
9 THE COURT: Okay. The Defendant has motions?
10 MS. NICHOLSON: A Motion to Dismiss, Your Honor, and alternative Summary Judgment.
11 THE COURT: All right. Is the Plaintiff ready to proceed with the motion?
12 MR. LEGRAND: We are ready to proceed, Your Honor.
13 THE COURT: All right.
14 MR. LEGRAND: May it please the Court.
15 THE COURT: All right.
16 MR. LEGRAND: We filed a Motion under 43(k) for a Declaration that the Defendants have not
17 presented a written settlement agreement that complied with the requirements of Rules 43(k).
18 And that the absence of such an agreement does not support or extinguishes essentially six (6) of
19 their causes of action. I want to raise a couple of factual points. I think that you have heard the
20 factual background at least twice but there are a couple of key points and dates that I want to
21 raise for the Court. There is a series of facts and circumstances and occurrence between July of
22 2011 and October of 2011. The timing of these facts is important because they all occurred
23 during the pendency of this action. The action was filed in February of 2011 and in July of 2011,
24 Leon Jones, an attorney in Atlanta, wrote a letter to Weyman Carter that is dated July 8, 2011,
25 and I have a copy for the Court. And as you can see in this letter Leon Jones is saying to

1 Weyman Carter this letter is written on behalf of Mr. Parker in an attempt to resolve the above
2 referenced matter. That letter is the beginning of this series of occurrences that led to this
3 dispute today. Ultimately there was a settlement agreement that the Defendants Carolina
4 Properties Holdings and Walt Parker entered into with BB&T. That agreement is dated
5 September 22, but I think that the first page of the agreement says that it is effective September
6 19, 2011. There is also correspondence between BB&T and probably Weyman Carter, but there
7 was certainly communications that are referenced in emails and faxes and letters with Leon Jones
8 and an attorney named Stacy Close at the Firm of Jones & Walden in Atlanta, that resulted in a
9 separate loan sale agreement between BB&T and Super Suds which Super Suds, of course, is
10 now the Plaintiff in this action. As a result of all of those communications Super Suds agreed to
11 purchase the BB&T loan. That loan sale agreement, which I did not have you a copy, but that
12 loan sale agreement was separate from this action is dated September 23. So the settlement
13 agreement between Parker and Carolina Properties and the loan sale agreement are essentially
14 contemporaneous. There are a couple of other dates that I wanted to point out for the Court.
15 Walt Parker and Carolina Properties Holdings had agreed as apart of that settlement agreement
16 with BB&T to dismiss their counterclaims that they had filed against BB&T. So from
17 September 23 or the 19 or 22, whatever date that was, the date it was effective, we think it might
18 have been signed September 22 by Walt Parker but I don't think that is relevant or that it matters.
19 A Stipulation of Dismissal was filed and signed by Walt Parker on behalf of himself and
20 Carolina Properties Holdings dismissing those counterclaims. So that is about a month later and
21 then on October 31, 2011, there was an Order substituting the Plaintiff and substituting counsel
22 in the action. There are a couple of other dates and key points I want to make. But first, is an
23 email exchange between Walt Parker and Alan Hill the Plaintiff's counsel. This first one is
24 dated August 18, 2011 and you will notice that in this email exchange Walt Parker is telling
25 Allan Hill now this is August 18, so now we are back a month before the settlement with BB&T

1 and he says to Allan Hill, Greg Dixon under the heading SBA Disaster Loan, Greg Dixon, Lead
2 Loan Specialist, was the individual who said that they would take Two thousand & no/100
3 (\$2,000.00) dollars to go away. The second email is an exchange also on September 20, so we
4 are back to that same two or three day time period. This is an email exchange of once again
5 between Walt Parker and Allan Hill. This one at the bottom of that page from Walt Parker says,
6 Allan I am preparing to execute the Settlement Agreement and Stipulation of Dismissal, which is
7 a condition precedent to the BB&T note sale. And here is the key point, I wanted to
8 memorialize the verbal agreement we have that Ken Howard, Super Suds LLC and/or the new
9 note holder will not pursue a deficiency judgment against Carolina Properties Holdings LLC or
10 me. Also, I heard you say that Ken Howard, Super Suds LLC and /or the new nos holder would
11 not be filing a 1099 for the forgiveness of the debt. And you can see above that Allan Hill
12 replied back and said Walt your understanding is correct. So there are three key dates in these
13 series of transactions and communications. The first is August 18, 2011, where the email from
14 Walt Parker to Allan Hill, the email that says Greg Dixon was the individual who said that SBA
15 would take Two thousand & no/100 (\$2,000.00) dollars to go away. The second key date - - -
16 THE COURT: Wait a minute. Is it the SBA or is it - - there is another?
17 MR. LEGRAND: There is, Your Honor. There is a - - -
18 THE COURT: Are we talking about two different companies?
19 MR. LEGRAND: Yes sir.
20 THE COURT: Community Development & Improvement Corporation.
21 MR. LEGRAND: Right. And you will recall that CDIC has a - - -
22 THE COURT: That was the one that Mr. Kinard was apart of?
23 MR. LEGRAND: That is correct.
24 THE COURT: Okay.
25 MR. LEGRAND: And I can't remember the date but the last time that we were here we had a

1 status conference with you at 3:00 and he had a hearing at 2:30 to be relieved as counsel.
2 THE COURT: Right.
3 MR. LEGRAND: That UCC Financing Statement expired or so that lien expired without being
4 renewed.
5 THE COURT: Okay.
6 MR. LEGRAND: So that is also referred to in that email but the point of this one, since it has
7 expired, I am not focusing on that I am focusing only on the SBA lien. So the first key date is
8 that August email that the SBA would take Two thousand & no/100 (\$2,000.00) dollars to go
9 away. The second key date is September 20. The email from Walt Parker to Allan Hill saying
10 he wanted to memorialize the verbal agreement that the new note holder will not pursue a
11 deficiency judgment. The third key date and the Defendants have referred to this in their
12 memorandum of law is October 24. This is the date that Walt Parker signed a deed in lieu of
13 foreclosure on behalf of Carolina Properties Holdings. I didn't give you a copy of that. I think
14 that has been given to you a couple of times. I want to point out a couple of things about that
15 deed in lieu of foreclosure, also. There is one signature and one document. What is absence in
16 that transaction or occurrence that occurred on October 24th would be a Certificate of Compliance
17 from the Department of Revenue. This was a single asset entity. So as you know they either
18 needed an Affidavit, but this is not a majority of the assets or they need a Certificate of
19 Compliance from the Department of Revenue. There is also no estoppel affidavit concerning
20 liens for the value of the property or pending bankruptcies. There is no settlement agreement.
21 There is no Order of Dismissal and there is no LLC Resolution. That deed in lieu of foreclosure,
22 the original, is still in Allan Hill's file because he never recorded it because he told Walt Parker
23 that he would use that deed if he were able to get the SBA loan or mortgage satisfied. So there
24 is no agreement to dismiss and I want to point out one other thing about the September 20 email.
25 This is an email that says from Walt Parker to Allan Hill he wants to memorialize the verbal

1 agreement that the new note holder will not pursue a deficiency judgement. That statement
2 presumes that this case is going to go forward in the usual fashion for a foreclosure. The only
3 time that you would get a deficiency judgment would be after the Order of Foreclosure and Sale
4 and then after the sale. In other words, this action was pending the entire time and it continues
5 to be pending today. It was pending during the entire roughly three (3) months that all of this
6 occurred until late July , August, September and October, so maybe three and a half (3.5)
7 months. And Rule 43(k) says that there are three (3) conditions for a settlement agreement to be
8 binding. First is that the written agreement must be reduced to a consent order or stipulation
9 signed by counsel and entered into the record. That didn't happen. The second is that an
10 agreement can be made in open court and noted on the record. That didn't happen. The third,
11 is that the agreement can be reduced to writing and signed by the parties and their counsel. That
12 didn't happen. The only thing that the Defendants have in writing is one signature on a deed
13 which has never been used or recorded. In fact, it has not been accepted but effectively disputed
14 by the continuation of the foreclosure case. So the Defendants under the *Farnsworth* case can't
15 meet the requirements of 43(k) because they have no written settlement agreement. Six (6) of
16 their causes of action failed for that reason. And the first is their breach of contract, the breach
17 of contract and merger arguments. So the merger argument is in the third defense beginning
18 with paragraph 15 of their Amended Answer or the Answer to the Amended Complaint. But I
19 want to point out in paragraph 16 that says, Ken Howard and Super Suds were aware that junior
20 liens attach to the property and here is the important part, and agreed that satisfaction of those
21 liens would be the sole responsibility of Ken Howard and Super Suds. There is no agreement
22 for that. There is not even an email that says that. Paragraph 25 of their Answer to the
23 Amended Complaint, this is their breach of contract, now we have got a defense and a
24 counterclaim. Paragraph 25 says that the Defendants will show that the resumption of this
25 mortgage foreclosure is a breach of contract in which the Defendants tendered the deed in lieu of

1 foreclosure in consideration of Super Suds, one - dismissal of the foreclosure action and two the
2 assumption of the junior liens. First, I want to point out that there is no resumption of this
3 foreclosure action. It was never dismissed. It was not pursued actively for a while but has been
4 for the last two years. Secondly, they are alleging a contract which doesn't exist. They have
5 nothing, not even again an email that supports a contract. But then they are alleging that Super
6 Suds agreed to do two things. Dismiss the case and assume the junior liens. There is no Order
7 of Dismissal and there is no settlement agreement. The unconscionably argument, I believe I
8 covered their fraud argument, beginning in paragraph 37, so this is fraud, ninth defense in the
9 counterclaim. Paragraph 38, Super Suds and Ken Howard fraudulently induced the Defendants
10 to convey a deed in lieu of foreclosure and then lets skip down by representing that Super Suds
11 would, one, take the property subject to the junior liens and, two, Plaintiff would dismiss this
12 foreclosure action, There is still no agreement that the Plaintiff would dismiss this foreclosure
13 action and taking the property subject to the junior liens makes no sense. So we are up to those
14 three, the same facts, the same allegations and the same results. They have no agreement and
15 their allegations and their defenses and counterclaims fail on these points. The
16 unconscionability is paragraph 46 and from paragraph 47 they said the Defendants delivered the
17 deed in lieu of foreclosure without representation of counsel and believed that Plaintiff would
18 dismiss the foreclosure and assume responsibility for the debts owed to the junior lienholders.
19 First of all, as you can see, the first part of that is just fallaciously false. This whole thing got
20 started because an attorney representing Walt Parker wrote a letter to Weyman Carter on July 8,
21 2011. And the emails between Weyman Carter, BB&T and the Jones Walden Firm continued
22 on through at least September 23, which were related to when the document was going to come
23 back. So the unconscionability again assumes the two agreements. One, that the Plaintiff
24 would dismiss the foreclosure and two, assume responsibility for the junior liens. And then their
25 last argument that fails on the 43(k) grounds is the accord and satisfaction, which is 57 and 58.

1 There are no facts alleged here but there is no agreement by the Plaintiff to satisfy this debt.
2 They have one signature on a deed but they have no written settlement agreement that complied
3 with Rule 43(k). Now on that basis and for that reason those six defenses, some of which are
4 counterclaims, fail. At this point we have had two (2) years of delay, reams of paper in
5 discovery, all day depositions, motions, and status conferences and they still have not produced a
6 written agreement. There certainly were discussions and emails back in 2011, at this point, I
7 mean you have got documentation on the letters and some of the emails and those emails
8 certainly refer to discussions that there is no written settlement agreement with Super Suds. To
9 contrast that with the settlement agreement that Carolina Properties Holdings and Walt Parker
10 entered into with BB&T and we think it was the effective date of September 19 but not with
11 Super Suds and not with Ken Howard. I have nothing further on the 43(k) argument, Your
12 Honor.

13 THE COURT: All right.

14 MS. NICHOLSON: Your Honor, may it please the Court. I am Samantha Nicholson here on
15 behalf of Walt Parker and Carolina Properties Holdings. In response to the Plaintiff's
16 Declaration under Rule 43(k). We contend that Plaintiff's reliance on Rule 43(k) is misplaced
17 here. The Defendants have not made any motion to compel settlement but we are relying on the
18 valid delivery of an executed deed in lieu of foreclosure and the issues must be addressed here
19 first as to whether or not Rule 43(k) applies and secondly whether or not Rule 43(k) is satisfied.
20 And the Plaintiff's rely on *Farnsworth* and then divulges straight into an argument about whether
21 or not Rule 43(k) is satisfied. But we need to back up today and decide whether or not Rule
22 43(k) should apply. Let me first look to a few facts that we would like to address: Super Suds
23 is contending that Walt Parker acted unilaterally in executing and delivering a deed in lieu of
24 foreclosure but this deed in lieu of foreclosure was drafted by Allan Hill and signed by Walt
25 Parker as manager for Super Suds and delivered back to Allan Hill completing constructive

1 delivery with intent to convey and then to grant the acceptance. We don't believe that there is
2 any conditional delivery and if there were, that it could be proven. Super Suds also contends
3 that Hill communicated with Parker in 2012 concerning the possibility of dismissing Super Suds'
4 Amended Complaint but we don't believe that Super Suds should be allowed to rely on the
5 testimony of Allan Hill to assert this fact. We don't think that any facts of that nature has been
6 presented on the record as to this statement or those communications that they could be proven
7 and since Super Suds continues to note that Allan Hill is here of record that those statements
8 should be used. Super Suds also contends that Hill accepted delivery of the deed in lieu and in
9 trust and continues to hold it in trust in connection with the settlement. We don't believe that this
10 was accepted in trust, again there is nothing that was ever stated to Walt Parker that upon receipt
11 that this would be held in trust but again it was constructive delivery. Super Suds also contends
12 that all of those actions again have been on behalf of Super Suds and we agree with that. That
13 he was acting on behalf of Super Suds when Walt Parker delivered the deed in lieu. And then
14 the actions of Super Suds are compared with that of BB&T and Walt Parker to the actions with
15 Super Suds and Walt Parker and we would like to note some distinctive actions there as well.
16 At the time when some of these communications were taking place back in 2011, Walt Parker
17 did have the attorney in connection with his communications with BB&T. Walt Parker was
18 never represented as to his communications with Allan Hill. All communications with Allan
19 Hill were specifically between Walt Parker and Allan Hill. Leon Jones was again not apart of
20 those communications and the representation by Leon Jones actually ended with Walt Parker in
21 the arrears and he could not continue that representation and was in deed a pro se litigant for the
22 remainder of the communication that occurred in 2011. So as to whether or not Rule 43(k)
23 applies, we believe that it does not apply because Rule 43(k) is an agreement of counsel. The
24 Rule states no agreement between counsel affecting the proceedings in an action shall be binding
25 unless reduced to the form of a consent order or written stipulation signed by counsel and entered

1 on the record. This being the first condition. And second, unless made in open court and noted
2 upon the record, is second. The third, reduced to writing and signed by the parties and their
3 counsel. So where Plaintiff relies on *Farnsworth v. Davis Heating*, we believe that you should
4 also look to *Farnsworth* in their reading of whether or not Rule 43(k) should apply. And my
5 apologies, I have some presentations for the Court. We believe that it is important to note that
6 the case says whether or not Rule 43(k) is applying to settlement agreements signed by counsel
7 and here our issues are as to whether or not this deed in lieu of foreclosure is valid and dismisses
8 this action. We have never made a motion to compel a settlement agreement. And we believe
9 that under the Rules of statutory construction, the Plaintiff ordinary meaning without resort to
10 subtle or force construction should limit or expand this Rule. So again the title of this Rule
11 being agreement of counsel. Where two of the conditions of this Rule rely on it being an
12 agreement between counsel, being signed by counsel or signed by the parties and their counsel.
13 So the purpose of Rule 43(k) is to place the burden on counsel to place settlement agreements on
14 the record. It also is to motivate attorneys to protect client's interest by reducing the agreement
15 to writing. And to relieve the Court in trying to determine any existence of an agreement. But
16 here a Rule that is intended to motivate counsel to place an agreement on the record shouldn't be
17 used against Walt Parker where he was pro se. Only one counsel was involved and that counsel
18 placed no agreement on the record. Here there were also no conditions to the delivery or
19 acceptance of the deed in lieu. The terms of that deed in lieu are clear and need no additional
20 explanation. And we haven't claimed that deed in lieu is in and of itself a settlement agreement.
21 There are certain things that are going to happen by operation of law that my co-counsel, Ms.
22 Brunson will elaborate on later that are applicable here. But again as to a settlement agreement
23 we have not stated that there is a settlement that we need to compel. Furthermore, an attempt to
24 answer whether or not Rule 43(k) is satisfied, as the second issue, is only going to reinforce that
25 Rule 43(k) does not apply. Because requiring this pro se litigant to meet conditions that require

1 a signature by counsel isn't possible. We will concede that no statement was made in open court
2 and noted on the record related to any settlement agreement. And we would like to go back to
3 this time line that was referenced. On September 20, 2011, Walt Parker emails Allan Hill
4 confirming his understanding about not pursuing a deficiency is correct which Hill confirms is
5 correct. At the time Walt Parker believes that there is going to be a validly executed deed in lieu
6 of foreclosure. Walt Parker is not an attorney and wants to confirm that there is going to be no
7 deficiency. Super Suds bases any claim related to that email on a presumption. I believe that
8 they said that they presume that foreclosure won't occur. I don't believe that presumption can
9 be found in that email. I believe that Walt Parker anticipated a deed in lieu of foreclosure meant
10 deed in lieu of foreclosure. Then on October 24, Walt Parker executes the deed and delivers it
11 to Allan Hill and beyond that silence, nothing is happening for years. This just remains on the
12 docket and you will see in the meantime that Ken Howard in his deposition under Tab 5, he
13 states that he thought that he was the property owner until questions started rising. We don't
14 think that equity should allow applying Rule 43(k), it should apply here to whether or not a deed
15 in lieu was properly executed and delivered. If there is failure to comply with Rule 43(k) it
16 shouldn't be used now to benefit Super Suds for failing to place any sort of agreement on the
17 record. It was stated that there was no certificate of compliance, no affidavit, no estoppel
18 affidavit, settlement agreement or order of dismissal. We have some questions about that, too.
19 But unfortunately, we don't have answers as to why that didn't happen when what did happen
20 was a valid delivery of a deed in lieu of foreclosure and my client's belief that it in deed was a
21 deed in lieu of foreclosure to end this action. So we believe that finding that Rule 43(k) does not
22 apply would uphold equity and we contend that Rule 43(k) should not apply here. That the
23 Court does have within its power the ability to do everything to ensure that just results are
24 reached to the fullest extent possible. And that an attempt to utilize Rule 43(k) is an attempt to
25 leave this action pending since 2011 and now continued to litigate it on what we believe would

1 be an unmerited claim where a valid deed in lieu is present. As to some of the defenses in the
2 counterclaims this attempts to extinguish, we don't believe that the lack of a settlement
3 agreement is going to extinguish some of these defenses and counterclaims. We do believe that
4 merger of title occurred upon the valid execution of the delivery of the deed in lieu of
5 foreclosure. And that occurred upon that valid delivery. We don't believe that would be
6 dependant on the settlement agreement. We also believe that our claim of the violation of the
7 South Carolina Unfair Trade Practices Act would be based on an unfair or deceptive act and is
8 not based on a binding contract. That where Super Suds has been operating its business on the
9 property at issue since 2011 and causing Walt Parker to believe that this delivery of deed in lieu
10 is conveying the title but continued to support a violation of that act. Where this issue remains
11 on the docket and they continue to pursue a deficiency. Again to establish fraud, we don't
12 believe that is going to be something that is a condition of this valid Rule 43(k) settlement
13 agreement. There may be a need for additional discovery but where Super Suds and Walt Parker
14 believed that this delivery of the deed in lieu is sufficient for foreclosure which was then
15 evidenced by the delivery of the relinquishment of the possession of property and then the
16 foreclosure action persisting this could still uphold our claim of fraud. As to breach of contract,
17 accord and satisfaction, those claims would possibly need to be substantiated by additional
18 discovery. We think that there is sufficient information here to prove a meeting of the minds for
19 that one particular document that again must conform to Rule 43(k). We haven't contended that
20 is present. But we do believe that there was a bargain for exchange between the parties and what
21 was bargained for was then provided in the deed in lieu and that our defense of accord and
22 satisfaction could continue to stand because that satisfied a debt owed. Your Honor, I can
23 conclude that we ask that you find that Rule 43(k) is not applicable here but we have this pro se
24 litigant negotiating and then delivering a valid deed in lieu of foreclosure to the attorney Allan
25 Hill about October 24, 2011. And that his belief that would cause merger of title to occur and

1 this action to be resolved is really the issue here. And that if we are required to be held to the
2 standards of Rule 43(k) that equity would not occur. And that Rule should not be used against
3 our client where there was only one counsel but yet we should be able to continue with our other
4 defenses and counterclaims which again contends or are substantiated beyond specifically a Rule
5 43(k) settlement agreement that we have not motioned to compel. Thank you.

6 MR. LEGRAND: Your Honor, if I may reply to her comments?

7 THE COURT: Yes.

8 MR. LEGRAND: First on the Rule 43(k) there are three conditions under Rule 43(k).

9 Actually, when the *Farnsworth* case was decided on only two and it didn't reference that third
10 one but the third one is reduced to writing and signed by the parties and their counsel. So yes,
11 the first two conditions deal with consent orders, counsel putting matters on record, or
12 agreements on the record in open court but the third one was added in 2009 and that is it be
13 reduced to writing and signed by the parties and their counsel. That was not done. The other
14 thing that Ms. Nicholson pointed out about the title of Rule 43 which says conduct of trial and
15 43(k) is entitled agreements of counsel. I would point out in the *Ashfort* case, the same type of
16 argument was made and the appellant in that case argued that the title to Rule 43(k) which at that
17 time was called evidence and conduct of trial showed that 43(k) is limited to agreements relating
18 to evidence of evidentiary trial notes. The Court said that is without merits. The unambiguous
19 language of 43(k) contains no such limitation and the title may not limit the plain meaning of the
20 Rule. The other thing that I want to point out from the *Ashfort* case is the purpose of 43(k).
21 The Court said contrary to the appellants' argument, the application of Rule 43(k) will not result
22 in uncertainty regarding settlements. Instead, the application of Rule 43(k) will increase the
23 certainty of settlement agreements by avoiding disputes such as the one in this case. And then
24 quoting from C.J.S., the Court said the purpose of Rules such as 43(k) is to prevent fraudulent
25 claims of oral stipulations to present disputes as to the existence and terms of agreements and to

1 relieve the court of the necessity of determining such disputes, which it has been said are often
2 more perplexing than the case itself. That is from the *Ashfort* case. Ms. Nicholson begin the
3 argument about the merger of title which I think comes up in their Motion to Dismiss although I
4 can go right into the merger on title on delivery of a deed, if you would like at this time or we can
5 turn it back to them to comment.

6 THE COURT: Lets see where we are at this point.

7 MS. NICHOLSON: I believe if we could keep those separate for the purpose of clarity.

8 THE COURT: That is what I am thinking. Right.

9 MS. NICHOLSON: That would be helpful.

10 THE COURT: All right. So on the 43(k) argument motion are we complete with that?

11 MS. NICHOLSON: May I have one rebuttal, Your Honor.

12 THE COURT: Short.

13 MS. NICHOLSON: Very short.

14 THE COURT: All right.

15 MS. NICHOLSON: Regarding *Ashfort* the question in that case was whether or not Rule
16 43(k) was going to be applicable to a settlement agreement. They were trying to argue you know
17 about the settlement agreement itself and again yes limit that. Here the title only, the title of the
18 Rule itself being an agreement of counsel, we are not trying to use that title to limit the use we
19 are only trying to use that title to show the purpose which has then later shown in three (3) other
20 places within the Rule. And as we pointed out the purpose of the Rule, yes, is as to terms of
21 settlement agreements that we contend we are not trying to compel here and it is about the
22 burden placed on the counsel. It is all relative to the burden placed on the counsel regarding
23 settlement agreements. We believe what has happened here is clear and that it is not a burden
24 placed on the Court to determine what is happening here and that is what you are going to see
25 discussed later. What might be a larger burden is providing an accounting and we will also get

1 to that later. Thank you, Your Honor.

2 THE COURT: All right.

3 MR. LEGRAND: The only point I would make, Your Honor, is to dispute one factual statement
4 and that was the timing of the delivery of the deed from Allan Hill's office, now he did prepare
5 the deed to Mr. Parker and in relation to the September 20 email and that September 20 email
6 predates the preparation of the deed in lieu of foreclosure. So in other words, Mr. Parker was
7 saying he wanted to make sure that there was no deficiency judgment against him and then there
8 was the deed in lieu of foreclosure.

9 THE COURT: All right. So that is the 43(k) argument?

10 MR. LEGRAND: Yes, Your Honor.

11 THE COURT: All right. So where are we - - that is all of the Plaintiff's motions, correct?

12 MR. LEGRAND: Yes, Your Honor. I think that we are up to their motions now.

13 THE COURT: All right. So lets go to the Motion to Dismiss or in the alternative Motion for
14 Summary Judgment. Correct?

15 MS. BRUNSON: Judge Cooper we are basing this on a motion for summary judgment:

16 THE COURT: All right.

17 MS. BRUNSON: If I may, we also have a notebook, if it please the Court.

18 THE COURT: All right.

19 MS. BRUNSON: Thank you.

20 THE COURT: When you are ready counsel.

21 MS. BRUNSON: May it please the Court, I am Barbara Brunson, here on behalf of Walt Parker
22 and Carolina Properties Holdings, LLC. I am arguing a motion for summary judgment and this
23 motion is grounded in the doctrine of merger. We believe that as a matter of law, this deed in
24 lieu, deed in lieu of foreclosure that was drafted by Allan Hill, attorney for Super Suds, conveyed
25 legal title to the mortgagee and when that deed in lieu was accepted and it was returned to Allan

1 Hill and accepted by him and they have admitted that he has been holding it. That extinguished
2 the equitable interest that the mortgagee had. He had legal title and it also extinguished the debt.
3 This merger operates by operation of law. The debt having been extinguished and the mortgage
4 having been extinguished there is nothing to foreclose on and this Court can dismiss this case as
5 a matter of law. At the time Super Suds accepted the deed in lieu of foreclosure, as it has been
6 pointed out by Mr. LeGrand the counsel for Super Suds, Allan Hill, was definitely aware that
7 there were junior liens that attached to the property. That can be seen from this email exchange
8 that has been quoted wherein Walt gave Mr. Hill contact information for the SBA and the other
9 junior lien holders. There was a foreclosure pending in which the junior lien holders were
10 named as part of that action. And their liens were properly filed of record in the RMC Office for
11 Spartanburg County. We believe that deciding this case on the question of merger is the most
12 straight forward and most appropriate means of dealing with the case sufficiently at this point in
13 time. As cited in my brief, the South Carolina Courts have addressed the issue of merger for a
14 couple of hundred of years and have flushed out the standard of review that should be used. In
15 the interpretation of a deed as an equitable matter and the clear and unambiguous language of the
16 deed is a question of law for the Court. If you will look at Tab 4, Your Honor, that is where the
17 deed in lieu is located in the package that I gave you. We contend that the language in this deed
18 in lieu is as clear and unambiguous as it can be and certainly meets the standards. The Court
19 need not look to parol or extrinsic evidence to make a decision. The Court can look at the deed
20 in lieu of foreclosure. And keeping in mind that the deed in lieu of foreclosure was drafted by
21 the attorney for the mortgagee or guarantee. The deed provides that consideration for this deed
22 is the satisfaction and cancellation of an indebtedness from the Grantor to the Grantee. Listing
23 the recordings. The record says the amount of the loan that is being cancelled. Grantor in
24 executing and delivering this deed to grantee acknowledges that this is an absolute deed and not a
25 mortgage. Grantor further acknowledges that he is conveying complete title to the above

1 described property to the grantee herein. The Grantor has no further interest of any nature
2 whatsoever in and to the above described property and improvements. This is clearly the
3 language drafted by the Plaintiff's attorney conveys fee simple title extinguishes the debt and
4 completes the transaction. I noted that Mr. LeGrand has argued that this is only signed by Walt
5 Parker. Well only the grantor need sign the deed. It constitutes a valid deed. Language should
6 be construed against the drafter and it was drafted by the Plaintiff's attorney. It clearly conveys
7 title. That conveyance was taken subject to liens that the Plaintiff was aware of, if not they
8 should have been aware of it. He is a sophisticated business man. He had employed counsel
9 that my client couldn't afford at that point in time. We don't believe that the Court need look
10 beyond the four corners of this deed as the language is clear and unambiguous. The courts that
11 have addressed the issue of merger and have noted that if there is ambiguous language or if the
12 deed is not clear then the Court should look to the intent of the parties. I believe that, it is not
13 necessary to do that but if the Court wants to look at extrinsic evidence and the intent of the
14 parties we could show that the content was consistent with a deed in lieu of foreclosure that
15 extinguished the debt and eliminated the foreclosure. The first point I would use to support that
16 is upon Allan Hill's acceptance of the deed in lieu of foreclosure Ken Howard, Super Suds
17 manager and owner, assumed possession of the property, made improvements to the property,
18 changed the driveway, if I recall correctly, put up a new sign using the signage for his business
19 and began operating the business there. That was in 2011. He has continued all of this time to
20 operate a business there presumably paying his property taxes. He has combined the income and
21 expenses from this location with the income and expenses of the other four (4) car washes that he
22 owns. Such that no clear accounting can apparently be given to us as to what the net income is
23 and what expenses are associated with this property. As opposed to his other properties. This
24 also goes to show an intent for ownership. In his deposition which is cited in my brief, Ken
25 Howard stated that upon purchasing that note and mortgage from BB&T and taking possession of

1 the property he didn't expect to receive any more monies from Walt Parker. He thought that he
2 had title to the property. He was using the property and he had no intention of pursuing any
3 deficiency or debts against Walt Parker. Again knowledge of the junior liens can be directly
4 attributed to Allan Hill, attorney for Super Suds, can also be imputed from the records where the
5 liens were filed of record and the foreclosure action that was pending at the time clearly
6 identified the junior lien holders. There is also uncontroverted email correspondence between
7 Walt Parker and Allan Hill giving him contact information for the junior lien holders. So in
8 summary, we believe that the deed in lieu of foreclosure controls the matter at this point. That it
9 is clear and unambiguous that the transfer of title to the property occurred. The legal and
10 equitable interest vested in the mortgagee. The debt was extinguished and there is no longer a
11 foreclosure feasible, there being no underlying debt or additional parties to the action. We have a
12 merger of the right of redemption and the equitable property. We believe that the Court can look
13 just to the deed in lieu of foreclosure. That these ambiguous emails back and forth don't bring
14 us any where. We can look right at the language drafted by the attorney for Super Suds to
15 determine what the intent of the parties is. If we go beyond that as I have noted in summarizing
16 the other evidence of intent of the parties such as possession of the property, there is plenty of
17 extrinsic evidence that can also support our argument that this deed in lieu was intended to
18 complete the transaction. And finally I would add that with respect to the 43(k), I would just
19 reiterate what my co-counsel has said. The merger argument as it arises by operation of law. It
20 is not dependent on whether there was a settlement agreement. What it depends on is whether
21 there was a transfer of title. And we argue that there was plainly and clearly under the terms of
22 the deed in lieu drafted by the Plaintiff's attorney. And that concludes my argument. I would
23 like to reserve time for rebuttal.

24 THE COURT: All right. Counsel

25 MR. LEGRAND: Your Honor, Ms. Brunson states the law correctly. The merger as she

1 provides that is the second step in the analysis. The first step is whether there was an effective
2 delivery of the deed. And there was not. In South Carolina there are cases of *May v. Jeter* and
3 *Branton v. Martin*, the guarantee has the right to disclaim or repudiate a conveyance revesting
4 title in the grantor. The *May v. Jeter* case effectively held that manual transfer of a deed to the
5 grantee is not necessary or is not the answer to the question. It does not constitute valid delivery
6 So the delivery of the deed to Allan Hill was conditional. That email, August 18 from Walt
7 Parker to Allan Hill saying that the SBA will take Two thousand & no/100 (\$2,000.00) dollars to
8 go away makes this whole thing condition on that. If Allan Hill had accepted that deed then Ken
9 Howard could have just paid Two hundred thousand & No/100 (\$200,000.00) dollars. Then
10 Ken Howard just paid Two hundred thousand & no/100 (\$200,000.00) dollars to buy the BB&T
11 loan. And he would have had to then turn around and pay off a Two hundred thousand & no/100
12 (\$200,000.00) dollar SBA loan. That makes absolutely no sense. The whole point of taking the
13 deed in lieu or preparing a deed in lieu goes back to that August 18 email where he says that the
14 SBA will take Two thousand & no/100 (\$2,000.00) dollars to go away. So the point is it was
15 conditional. The other point about delivery is that also under the *Branton v. Martin* case the
16 court referred back to a 1913 case and said the *Larisey* case expressly recognized that a
17 presumption of acceptance arises from the beneficial character of a voluntary conveyance, even
18 where the grantee has no knowledge of its execution or delivery. Well in this case the
19 beneficial character, there is no benefit to a deed in lieu of foreclosure whereas had Mr. Hill
20 recorded that deed then all of sudden Super Suds just took a piece of property that now has
21 another Two hundred thousand & no/100 (\$200,000.00) dollar lien on it. That makes no sense
22 because they could have and once they found out that the SBA wouldn't go away for Two
23 thousand & no/100 (\$2,000.00) dollars they could finished this foreclosure within a matter of
24 months. And that is where the case was by late October of 2011. All it needed to happen in
25 October of 2011 was an Order of Reference, a hearing, advertising and the sale. This could have

1 been done by January or February of 2012. So why would he in October accept a deed in lieu of
2 foreclosure and pay Two hundred thousand & no/100 (\$200,000.00) dollars when he could have
3 -- he thought it would be Two thousand & no/100 (\$2,000.00) dollars and they would go away.
4 So if you go back to that point had the SBA taken the Two thousand & no/100 (\$2,000.00)
5 dollars in satisfaction of their mortgage, that would have been a good move. A good step, very
6 expeditious because it would have saved another four or five months in the foreclosure process, it
7 would have saved probably Two thousand & no/100 (\$2,000.00) dollars in fees, maybe more in
8 attorney's fees, and at least Two thousand & no/100 (\$2,000.00) dollars in advertising, reference
9 fees and court commissions. So the deed under the *Branton* case was not delivered. He has it.
10 It is still in his possession but delivery, manual delivery or transmission is not the answer to the
11 question. So that is the first part about the deed. The second part is merger. And in merger
12 cases and she states the law correctly, at the end of it, of the equation. But under the *First*
13 *Federal v. Finn* and *McCreary v. Coggeshall*; however, you pronounce it, and *McCraney v.*
14 *Morris*, and *Thompson v. Hudgens*. When no intention to prevent merger has been expressed and
15 can not be implied then a presumption of merger arises in favor of merger. But then *McCraney*,
16 in the *McCraney* case the court said if the estate be subject to other encumbrances which he, I
17 believe the mortgagee, is under no obligation to pay and it is better for him to preserve the lien of
18 the prior mortgage rather than to extinguish it, and let the next subsequence encumbrances into
19 its place of priority. These facts may be taken as sufficient grounds for inferring that his
20 intention was to preserve the mortgage rather than to extinguish it. That is exactly what
21 happened in this case. So upon finding out that the SBA will not release its mortgage for the
22 Two thousand & no/100 (\$2,000.00) dollars then it certainly is not beneficial.
23 THE COURT: When did that occur?
24 MR. LEGRAND: When did what? Which part?
25 THE COURT: The statement that you just made. That the SBA would not take the Two

1 thousand & no/100 (\$2,000.00) dollars to go away. I didn't see that in - - -
2 MR. LEGRAND: No, it is not in there. That would have been probably about December 2011
3 or January of 2012, when there was finally an email back to Mr. Hill from the SBA saying here is
4 a link to the step by step process. Well it turns out that they don't release mortgages for Two
5 thousand & no/100 (\$2,000.00) dollars. The step by step process that Mr. Parker alluded to and
6 put in his email is how you got the redemption, the right of redemption in favor of the USA.
7 How do you get that released after the foreclosure sale. So everybody was moving forward under
8 the mistaken idea that the SBA would take Two thousand & no/100 (\$2,000.00) dollars to go
9 away, which would have been great. They could have taken the deed in lieu of foreclosure but it
10 was October or November or something like that and recorded it and paid the SBA the Two
11 thousand & no/100 (\$2,000.00) dollars but by January, I believe is when it was of 2012 that Mr.
12 Hill found out that the SBA will not do that. That is when the delivery is effectively repudiated.
13 So both delivery and merger come back to the same question. And that is the beneficial
14 character or lack of beneficial character in favor of the guarantee. So to have accepted that deed
15 in lieu of foreclosure would have been just not beneficial that would have been detrimental to the
16 tune of Two hundred thousand & no/100 (\$200,000.00) dollars or more to Super Suds. Also,
17 that is why they want to continue with the foreclosure. I would like to make one other point
18 here. Ms. Brunson stated that the debt was extinguished by this deed. The mortgage interest, if
19 there were a merger the subordinate interest of the mortgage merges with the greater or higher
20 interest of legal title but the debt is not extinguished. The debt is still there. So that is under the
21 *Lever v. Lighting Galleries* case. The debt and the mortgage itself are two distinct things. So
22 the debt still exist. So the debt is not extinguished. And so Your Honor to conclude my points
23 on the Defendants' Motion to Dismiss and based on the merger argument it all comes down to
24 was this a beneficial conveyance for the grantee and if so, yes Mr. Hill has it in his possession.
25 But it was not beneficial to Super Suds. It is detrimental to Super Suds. Therefore, the delivery

1 fails under the cases and the merger fails under the cases. And I have nothing further.

2 THE COURT: Let me ask you if the determination was made in 2012 that the SBA would not
3 negotiate or whatever, what was the a basis for such a delay in bringing this action back to be
4 heard. We are talking almost - - well where we are right now is seven (7) years.

5 MR. LEGRAND: Right.

6 THE COURT: But there was five (5) years in there that it sat.

7 MR. LEGRAND: Right. And I filed a notice of appearance in August of 2016 with the idea of
8 Super Suds hiring me to finish this foreclosure. To push it on through. I can say for the last
9 two (2) years we have worked diligently.

10 THE COURT: I understand but what I am saying is if a determination was made about the
11 status of the SBA indebtedness why did it sit there for that period of time?

12 MR. LEGRAND: I think Mr. Hill was having conversations with Howard Kinard about that
13 UCC and I think he was also having conversations with the SBA and with well I don't think with
14 George Conits but with the SBA, also. So I think that there was an Order of Reference in 2014
15 and I think that was - - -

16 THE COURT: That was 2014. Right.

17 MR. LEGRAND: And I think there was another hearing. It may have been a status conference.
18 I wasn't involved in it but I think that Judge Cole insisted on moving this off of the docket into
19 the Master's Office. But Mr. Hill never recorded that deed and it is still sitting here. And it is
20 still not beneficial to the Plaintiff to have that deed forced on us because that would mean that
21 Super Suds would hold title on this property. We have none of the other evidences of title and
22 assurances that you would need from an LLC, the certificate of compliance, the estoppel
23 affidavit, the LLC resolutions. We need all of that documentation to give an assurance of title.
24 So at this point if that deed is forced on Super Suds, which they don't want, then we wind up
25 with Super Suds owning that property subject to a lien in favor of the SBA which is now I think

1 closer to Two hundred twenty thousand & no/100 (\$220,000.00) dollars.

2 THE COURT: Is there anything that has been produced that indicates following the delivery of

3 the deed in lieu to Mr. Hill as far as the conditions of his holding the deed or additional

4 requirements of closing and certifications that you are talking about? I haven't seen any of that.

5 I just want to make sure that I am not missing it.

6 MR. LEGRAND: I don't think there was.

7 THE COURT: There was nothing further after the delivery of the deed.

8 MR. LEGRAND: I don't think that there was any other letters of communications because he

9 was working with the SBA or trying to communicate.

10 THE COURT: But there is nothing in the documents that have been submitted?

11 MR. LEGRAND: No. You are talking about between Mr. Hill and Walt Parker or somebody

12 connected - - -

13 THE COURT: Right.

14 MR. LEGRAND; I don't think that there is any thing.

15 THE COURT: Something that says I have received your deed and I am holding it in escrow

16 pending my working something out with the SBA or I also need the certifications of the

17 corporation or LLC to determine if you have the right - - -

18 MR. LEGRAND: No.

19 THE COURT: So there is nothing as far as that is concerned?

20 MR. LEGRAND: No, Your Honor.

21 THE COURT: All right. Counsel.

22 MS. BRUNSON: I would like to address several points in response, Your Honor. There were

23 no communications to Walt Parker that this was a conditional deed. And more particularly there

24 is no language in the deed that says that it is conditional. Expressed, unambiguous clear

25 language in the conveyance of the property. If they had wanted this deed to be conditional they

1 should have added that language in the deed. Their lawyer prepared the deed. Walt Parker was
2 in financial distress in the aftermath of the great recession. He owed Six hundred thousand &
3 no/100 (\$600,000.00) dollars on the loan to BB&T that was purchased at a bargain price of Two
4 hundred thousand & no/100 (\$200,000.00) dollars by Super Suds. I don't buy that this doesn't
5 make sense for Super Suds. This man with Super Suds is business experienced in running car
6 washes, profitable car washes. This is a businessman who represented in the purchase of the
7 sale with BB&T that he was sophisticated and he had done his due diligence. The second point
8 that I would like to raise is, extinguishment of the debt. The clear language of the deed says that
9 the debt is canceled, the deed in lieu. You need look no further than that. Recording the deed is
10 not a prerequisite for the delivery of the deed. It was delivered and an unconditional delivery.
11 And we can determine that from the face of the deed in lieu. And as to the amount of time that
12 elapsed we have a time line to five (5) years of being in radar debt space or whatever my co-
13 counsel said. We weren't in control of the situation then. Mr. Parker had gone on living his life
14 thinking that this was a concluded matter until I believe 2015 or 2016. We can not explain why
15 the other documents that might have been attendant to a deed in lieu of foreclosure were not
16 prepared. Walt Parker relied on Super Suds and their attorney Allen Hill. Walt was not
17 represented by counsel with respect to the Super Suds deal. He had run out of money and was
18 dealing directly with Allan Hill. So again we argue that the face of the deed controls this. We
19 don't need to look to any of the extrinsic evidence. It is clear that the debt was cancelled. That
20 a conveyance occurred and there are no conditions of delivery expressed in the deed or otherwise
21 expressed to Walt Parker. One other point. We do have a copy of an attorney general opinion
22 citing some cases regarding acceptance and it is noted in *American Jurisprudence* that
23 acceptance is primarily a matter of the grantee's intention, hence, the significant inquiry is as to
24 his or her intention as manifested by her words and acts. Here again Super Suds took possession
25 of the property, ran the business, co-mingled the profits and expenses with his other businesses.

1 Made subsequent improvements to the property. Mr. Howard stated in his deposition that he did
2 not expect to get any more money from Walt Parker after taking possession of the property and
3 completing this deal. If there were misunderstandings between Super Suds and its attorney, I
4 can't explain that. I can't explain the five (5) years. But I can look to the deed and I can read
5 clearly and unambiguously what the intent of the parties were. Thank you.

6 THE COURT: All right. Counsel.

7 MR. LEGRAND: And lastly, Your Honor. To deny their motion would leave us right back
8 where this case should have been in the fall of 2012. And that is we are here in the Master's
9 Office. We have a hearing to advertise to go to foreclosure sale and the SBA lien is
10 extinguished just like Super Suds intended when they bought the loan. And that is what every
11 body intended in the summer and fall of 2011. So to allow the case to go forward as a regular
12 foreclosure, dismissing the counterclaims, would be exactly what was intended and would be
13 what equity demands in this case.

14 MS. BRUNSON: If I may respond to that, Your Honor.

15 THE COURT: Yes.

16 MS. BRUNSON: That ignores the fact that there is a personal guarantee that Walt Parker gave
17 on the SBA loan. So if that lien is extinguished it falls really on his shoulders. When he made
18 a desperate attempt to convey the property and have negotiations go forth between BB&T and
19 Super Suds and he felt that this was resolving the issue by having the second mortgage holder's
20 lien attach to the property that was taken by Super Suds. So to allow this case to go on doesn't
21 bring us right back to where the parties intended it to be. That was not the intention of Walt
22 Parker when he conveyed that title.

23 MR. LEGRAND: Your Honor, could Mr. Hill be allowed to make a final comment for the
24 Plaintiff?

25 MS. BRUNSON: Your Honor, I am concerned about this final comment because Mr. Hill can

1 comment if he is commenting as an attorney but not as a witness. He is an attorney of record but
2 we sought to have him deposed, we sought that and were denied that opportunity. He has made
3 some statements in the brief that we think should be excluded on the basis of its parol evidence,
4 it is hearsay, and he is an attorney of record and not a witness. Despite the fact that we had
5 earlier tried to make him a witness.

6 MR. LEGRAND: He is an attorney of record. He is an officer of the court. And he is still an
7 attorney of record in this case and he can answer perhaps some of the comments and arguments
8 made by the Defendants,

9 THE COURT: But we are here on just the motions and not an evidentiary hearing.

10 MR. LEGRAND: Yes, Your Honor.

11 THE COURT: And the purpose would be to introduce evidence or make arguments?

12 MR. HILL: Can I have one minute. I can tell Mr. LeGrand what we were talking about and you
13 will not have to get into what I say or don't. It is just with regard to what she just last said.

14 THE COURT: Don't explain it to me any further.

15 MR. HILL: Yes sir.

16 THE COURT: If you gentlemen want to step out and discuss it and then come back in. I don't
17 want it to go on the record. Those are sensitive microphones right over you.

18 MR. HILL: Yes sir. Thank you.

19 MR. LEGRAND: Yes sir.

20 THE COURT: We will take a break for a moment.

21 MR. LEGRAND: Yes sir. Thank you.

22 (Break)

23 (Back on the Record)

24 THE COURT: Mr. LeGrand?

25 MR. LEGRAND: Yes sir. This is the last comment to dispute one point that Ms. Brunson

1 made and that is about that it is practical to proceed because to do so would leave Mr. Parker
2 obligated on a personal guaranty agreement to the SBA. That is true but also the email that Mr.
3 Parker sent in August of 2011 that says the SBA will take Two thousand & no/100 (\$2,000.00)
4 dollars to go away. They would take Two thousand & no/100 (\$2,000.00) dollars to release the
5 mortgage lien and not to, that is the implication of that. Not to satisfy the debt. He was still
6 obligated on that personal guaranty agreement. The note, the mortgage and the personal
7 guaranty agreement are three (3) different obligations. So for that Two thousand & no/100
8 (\$2,000.00) dollar that we now know they would release their equity of redemption but the
9 implication of that email is that they would release that mortgage for Two thousand & no/100
10 (\$2,000.00) dollars not the note and not the personal guaranty. So we would be right back to
11 where we were and should have been in the fall of 2011, ready for foreclosure hearing,
12 advertising and a sale. And then that SBA mortgage is extinguished and we are right where we
13 should have been in January or February of 2012.

14 MS. BRUNSON: I don't know if you want to hear me again, but I would just reiterate that the
15 language in the deed in lieu involves when that conveyance took place the junior liens attached to
16 the property. The agreement and intent of the parties can be read from the deed in lieu drafted
17 by the Plaintiff's attorney. Walt Parker is not an attorney. He was doing the best that he could
18 in a desperate situation. And I again would disagree that allowing this case to go forward would
19 bring the parties back to what they intended. It would not be what they intended. Mr. Parker
20 believed that the SBA loan would be handled after the conveyance with the deed in lieu.

21 THE COURT: Counsel anything further?

22 MR. LEGRAND: Nothing further from the Plaintiff, Your Honor.

23 THE COURT: All right. Anything further?

24 MS. NICHOLSON: Nothing further, Your Honor.

25 THE COURT: All right. As to the Plaintiff's motion relating to the 43(k), I am going to find

1 that 43(k) is not applicable to the present case given the fact that there were not two (2) attorneys
2 involved. Mr. Parker was unrepresented at the point of that - - that point in time where the
3 agreement was reached. In as far as the Motion for Summary Judgment filed by the Defendants,
4 I am going to grant the Motion for Summary Judgment filed by the Defendants on several
5 ground. One is that the deed in lieu of foreclosure, I find that it completed the transaction.
6 There was no follow-up from the attorney for Super Suds as to the conditions of the holding of
7 the deed. The deed states fully that there was a satisfaction and cancellation of that debt. There
8 was an immediate possession of the subject property by Super Suds of the operations and taking
9 all of the income or whatever from that property. No accounting, he was not a mortgagee in
10 possession. He took it as the owner. There was a substantial period of time before this case
11 was again moved along. Not because of the present counsel but it just sat there for whatever
12 reason but there was nothing from the attorney for Super Suds as to anything following the
13 delivery of the deed in lieu of foreclosure so I find that it merged into the mortgage. To allow
14 any other result after this period of time, and I don't know what the status of the business is at
15 this point, but the point is until today I can only assume that the business is still operating by
16 Super Suds. So that is my findings, more based on the equitable considerations and that is that
17 following the delivery of the deed in lieu of foreclosure there was no follow-up from the attorney
18 for Super Suds as to the additional requirements. The conditions under which he was holding
19 the deed on behalf of Super Suds with the assumption being made that delivery was complete
20 and the agreement was consummated. So that is my ruling. And counsel if you will prepare the
21 Order that will recite what I have just gone over on the record as far as my findings and include
22 in the order as far as the 43(k) findings.

23 MS. BRUNSON: Do you want it in one order or two separate orders?

24 THE COURT: Lets do it in two. One will be the order as far as the 43(k) and the second will
25 be the granting of summary judgment to the Defendants.

1 MS. BRUNSON: Yes sir.

2 THE COURT: And if you would run those orders by counsel before submitting them.

3 MS. BRUNSON: Yes sir. Thank you.

4 THE COURT: All right.

5 MS. NICHOLSON: Thank you, Your Honor.

6 THE COURT: All right.

7 MR. LEGRAND: Thank you, Your Honor.

8 THE COURT: All right.

9 -----END OF MOTIONS-----

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1 STATE OF SOUTH CAROLINA

2 COURT OF COMMON PLEAS

3 COUNTY OF SPARTANBURG

4

5 CERTIFICATE

6

7 I, the undersigned Sarah Hollis, Court Reporter for the Master-In-Equity for the County
8 of Spartanburg, State of South Carolina, do hereby certify that the foregoing is a true and
9 accurate Transcript of Motions of the proceedings had at the hearing of the captioned case, before
10 the Honorable Gordon G. Cooper, Master-In-Equity for Spartanburg County, South Carolina, on
11 the 17th day of July 2018.

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

13

14

15

16

17 **SWORN** to before me this
18 27th day of July 2018.

19

20 Spartanburg, South Carolina.

21

22

23 Sharon S. Winstead
24 Notary Public for South Carolina
25 My Commission Expires: September 13, 2026.

1 STATE OF SOUTH CAROLINA
2 COUNTY OF SPARTANBURG

COURT OF COMMON PLEAS

3 SUPER SUDS, LLC,

4 PLAINTIFF,

5 -VS-

6 CAROLINA PROPERTIES HOLDINGS,
7 LLC, WALTER W. PARKER, IV, THE
8 UNITED STATES OF AMERICA BY
9 AND THROUGH THE US SMALL
10 BUSINESS ADMINISTRATION,
11 CAROLINA CLEAN GREER IM, LLC
AND COMMUNITY DEVELOPMENT
& IMPROVEMENT CORPORATION,

DEFENDANTS.

TRANSCRIPT OF MOTIONS

(2011CP42-0500)

Spartanburg, South Carolina

12
13 REFERENCE HELD:

JANUARY 17, 2019.

14 B E F O R E:

HONORABLE **GORDON G. COOPER**,
MASTER-IN-EQUITY FOR SPARTANBURG COUNTY.

15
16 LEGRAND LAW FIRM, LLC

17 BY: **CHARLES D. LEGRAND**, ESQUIRE
Attorneys for the Plaintiff.

18 BY: **S. ALLAN HILL**, ESQUIRE
19 Attorney for the Plaintiff.

20 LAW OFFICES OF BARBARA E. BRUNSON, LLC

21 BY: **BARBARA E. BRUNSON**, ESQUIRE
Attorneys for the Defendants Carolina Properties Holdings,
LLC and Walter W. Parker, IV.

22 HYDE LAW FIRM, P.A.

23 BY: **SAMANTHA L. NICHOLSON**, ESQUIRE
Attorneys for the Defendants Carolina Properties Holdings,
24 LLC and Walter W. Parker, IV.

25 Sarah Hollis, Court Reporter

1 THE COURT: We go on the record in the case of Super Suds, LLC, versus Carolina Properties
2 Holdings, LLC, Walter W. Parker IV, the United States of America by and through the US Small
3 Business Administration, Carolina Clean Greer I, LLC and Community Development &
4 Improvement Corporation. Case Number 2011CP42-0500. We are here on two matters. One is
5 the Motion for Reconsideration and the other is the Motion to Strike, is that correct?

6 MR. LEGRAND: Yes, Your Honor.

7 THE COURT: All right. Which matter shall we take first?

8 MS. NICHOLSON: Your Honor, we would contend that we do the Motion to Strike first so that
9 we can determine what facts we are dealing with in the other two motions.

10 THE COURT: All right. Let do that then. Are you ready to proceed?

11 MS. NICHOLSON: Yes, Your Honor.

12 THE COURT: All right.

13 MS. NICHOLSON: Your Honor, I am Samantha Nicholson here on behalf of Carolina
14 Properties Holdings and Walter Parker. And we have submitted a Motion to Strike. This
15 Motion to Strike Submission and Affidavit that was submitted on behalf of Super Suds. This
16 submission was placed by Charles LeGrand to submit an Affidavit of Attorney Allan Hill.
17 Again to review us, on July 17, 2018, you heard a Motion to Dismiss and a Motion for a
18 Declaration under Rule 43(k). And the Court heard those Motions based on the record at that
19 time. After that we were waiting on a Transcript from the Court and counsel were hashing out
20 disagreements over the Order itself and so we are in a grey period between the time where the
21 Court had ruled from the bench and we had not received a signed order as to the matter. Charles
22 LeGrand submits this Affidavit of Allan Hill on September 7, 2018 and then it was September
23 27, 2018 that the Order granting Summary Judgment and Denying the Declaration under Rule
24 43(k) was entered onto the record. And then again on October 8, we had the Motion to
25 Reconsider each of those Orders and then our Motion brought us here. We would contend that

1 this Affidavit and the Submission was not a timely submission nor did it have any legal basis.
2 So at the time when it was submitted they claimed that they were submitting this under Rule 12
3 but the Affidavit would have been required to be filed two (2) days before the hearing on July 17.
4 And instead, it is filed September 7, 2018. I did calculate that and that was fifty two (52) days
5 after the hearing. And the Affidavit itself nor does the submission of the Affidavit state that its
6 is being submitted based on Rule 12. It is just a filing that was submitted to the Court. But the
7 Plaintiff states that the Affidavit was submitted to support Plaintiff's denial but beyond that it is
8 not based on what would come later as a Motion to Reconsider. It just seems to be submitting
9 that they do not agree with what is happened in this case. But most important we would content
10 that this Affidavit is an attempt to convert legal arguments into evidentiary testimony. A lot of
11 the contents of this Affidavit are statements that were made by Charles LeGrand or statements
12 that were made in memorandum to the Court where Allan Hill has inflicted all these statements
13 from both the memorandum and the hearing that were asserted as legal argument and now
14 includes them as an Affidavit in Fact and I believe that the Plaintiffs admit that this is what they
15 are trying to do. We don't believe that they should be permitted to submit this Affidavit of Fact
16 into the record after the Court has ruled on all pending matters with their legal basis. Again Hill
17 has been deemed not a necessary witness and in the Plaintiff's memorandum in opposition of the
18 Motion to Disqualify Allan Hill as Counsel they claimed Allan Hill is not a necessary witness.
19 They stated to the extent testimony is needed to develop and prove their theory, that they can rely
20 on testimony of the parties to this action or third party fact witnesses. So our question is, if
21 Allan Hill is not a necessary witness then why is this Affidavit necessary here. We don't believe
22 that it should be so. We believe that it would not be possible to rely on Allan Hill's testimony at
23 trial. Rule 3.7 of the South Carolina Rules of Professional Conduct states that lawyers should
24 not advocate in a trial in which the lawyer is likely to be a necessary witness but again this is not
25 the case here. And then we point to Rule 3.4, he is compel to South Carolina Rules of

1 Professional Conduct which states a lawyer shall not in a trial assert personal knowledge of facts
2 and issues except when testifying as a witness, or state a personal opinion as to the justness of the
3 cause. So here if Allan Hill were testifying as a witness in the trial there would be the
4 opportunity to possibly cross examine but he would be restricted in that he shouldn't assert the
5 personal knowledge of those facts. And as we have thorough arguments about Rule 3.7, the
6 exceptions to Rule 3.7 to allow an attorney to testify would be related to the advice and the
7 counsel that they have given in their role as that attorney. Again Allan Hill claims that he is
8 strictly sticking to the fact that he is acting as an attorney here. I also turn us to whether or not
9 this would be consistent with the Rules of Evidence. Because if the Plaintiff claims that they are
10 submitting this Affidavit on the basis of Rule 12 which again was not stated in their submission
11 but then they would have to turn to Rule 56(e). And according to Rule 56(e) of the Rules of
12 Civil Procedure they would be required to comply with the Rules of Evidence, of course. And
13 so under Rule 56(e) you would permit affidavits and they could also be supplemented or opposed
14 by deposition. And I again note that we were not given the opportunity to depose Allan Hill so
15 we would be precluded from that opportunity and we don't believe that this would be admissible
16 testimony at trial. Again it would be legal arguments by counsel rather than facts as to the
17 matters that are stated here. The timing again creates another issue. Because the timing of this
18 Affidavit being submitted after the Court ruled from the bench seems like this Affidavit would be
19 an inappropriate attempt of evidence in the form of a closing argument. If this were a closing
20 argument at trial it would be limited to the facts on the record and these new evidentiary facts
21 should not be presented as a closing argument. It would be inappropriate after the Court had
22 ruled. As to the issue of hearsay, each of the statements within this Affidavit again were
23 submitted as a written assertion. They were assertions that were Charles LeGrand's statements
24 and they were not made while testifying but they were offered to prove the truth of the matter.
25 This is an Affidavit that would be factual testimony. Most importantly, we look again to Rule

1 12, which if this is submitted based on Rule 12, as Rule 12(f) states that you may strike material
2 that is redundant, immaterial, or impertinent. So the arguments that are included here are the
3 ones that have already been included in the memorandum. There are arguments that have
4 already been included at hearings, *Ad nauseam*. I think we are very familiar with the facts in this
5 case and what has already been submitted on the record. So we would certainly claim that the
6 arguments and the statements are redundant. And moreover, it would also be immaterial and
7 impertinent again because of the timing issue. They were filed after the Court ruled on the facts.
8 They were filed before there was any Motion to Reconsider. They were filed just as a filing. A
9 filing submitting an affidavit. And there was really no legal permissible avenue for counsel to
10 submit this affidavit. I don't believe that counsel should be allowed to circumvent Rule 3.7 or
11 Rule 3.4 of the Rules of Professional Conduct in attempting to assert personal knowledge of facts
12 at issue here. And I don't believe that Allan Hill should be allowed to testify as to his personal
13 knowledge when the Court has already stated that he is not a necessary witness. And if the
14 Plaintiff were going to take fifty two (52) days to submit an untimely affidavit, I believe that they
15 also could have found the time to submit any of these other witnesses or facts that they claimed
16 they would have. So I don't believe that now the Plaintiff should be allowed to have again legal
17 arguments submitted as to facts on the record. We again move to strike the Plaintiff's
18 Submission and the Affidavit of Allan Hill. I just clarify the last note. I believe that Plaintiff
19 has pointed out that we aren't pointing to exactly which statements are hearsay. I would say that
20 the huge statement that was said by someone who was not Allan Hill which would be all of the
21 statements by Charles LeGrand would be hearsay offered to the proof of the matter. That is all
22 Your Honor. Thank you.
23 THE COURT: All right. Thank you. Mr. LeGrand.
24 MR. LEGRAND: May it please the Court, Your Honor.
25 THE COURT: All right.

1 MR. LEGRAND: I am going to first clarify that I am going to argue the Motion to Strike and
2 Mr. Hill is going to argue the Motion to Reconsider under Rule 43(k). And then I will argue the
3 Motion to Reconsider under the Motion to Dismiss or Summary Judgment. First of all, I think
4 under the Motion to Strike that it should not be granted because the submission of Mr. Hill's
5 affidavit was made necessary because of two (2) orders of this Court. The first was dated
6 September 1, 2017 and that was the order where this Court found that Mr. Hill would not be
7 disqualified as counsel because he was not a witness on the merits of the case. The merits of the
8 case being the underlying promissory note and mortgage and the background to the foreclosure.
9 He is not a witness to that case. He is substituted as counsel and this Court ruled that he
10 shouldn't be disqualified as counsel because he was not a witness to those facts. The Court went
11 on in that Order to hold and first of all we are citing Rule 43(k) the current version, the after 2009
12 version, where there are three (3) ways to settle a case. First, by a consent order or written
13 stipulation signed by counsel and entered in the record. The second way is an agreement made
14 in open court and noted on the record. The third way is a settlement agreement reduced to
15 writing, signed by the parties and their counsel. And this Court went further and said no
16 agreement effecting this proceeding is binding unless one of the conditions of Rule 43(k) is met.
17 And quoting another sentence from this Court's order, if CPH and Parker moved to compel a
18 purported settlement the Court will consider said motion and will determine what information it
19 requires, if any, of Parker, Hill or any other witness as to whether in 2011 an enforceable
20 settlement agreement was made under Rule 43(k). So that order made Mr. Hill's actions
21 relevant under the settlement agreement. And then the Order entered last September 27, which
22 was based on the July hearing. The Court essentially held that the possession by the Plaintiff
23 was effectively -- took this out of Rule 43(k). So what we are establishing by the Affidavit of
24 Mr. Hill is that there was no settlement agreement in 2011. There was a deed in lieu of
25 foreclosure that Mr. Parker signed on behalf of CPH. But significantly, Mr. Hill didn't sign that.

1 Super Suds didn't sign it and that is the most important point, that the Plaintiff did not sign that
2 deed in lieu of foreclosure. So there is no settlement agreement that complies with Rule 43(k)
3 and that is the reason that Mr. Hill's affidavit was submitted to counter those parts of the order
4 that this Court entered on September 27. So the Defendant's Motion to Dismiss as Ms.
5 Nicholson pointed out was heard in July of that year and the Court effectively held that the
6 Motion to Dismiss was a motion to enforce -- the Court essentially made that a motion to
7 enforce the settlement agreement. Because what happened there was a deed in lieu of
8 foreclosure. A single document with one signature. And that is as I pointed out in July that
9 single document is insufficient even for a deed in lieu of foreclosure much less a settlement
10 agreement. So that is the reason that Mr. Hill's affidavit is necessary and the Motion to Strike
11 should be denied. Because under 43(k) we either had a settlement agreement that complies with
12 that Rule or we don't. And in this case there is not one. So we would ask the Court to deny the
13 Motion to Strike.

14 THE COURT: All right. Counsel.

15 MS. NICHOLSON: Your Honor, again I continue to be confused by this submission and the
16 legal basis. Again as we both have pointed out, September 1, 2017 there was an order. It was
17 an order saying that Allan Hill was not a necessary witness and counsel read from that. But I
18 will read again, if Carolina Property Holdings and Parker moved to compel a purported
19 settlement the Court will consider said motion and will determine what information it requires, if
20 any, of Parker, Hill or any other witness as to whether in 2011 an enforceable settlement
21 agreement was made under Rule 43(k). Carolina Property Holdings and Parker have not moved
22 to compel accorded settlement and then the Court didn't even have an opportunity to consider a
23 motion because it wasn't on the table or whether or not it needed any information from Hill
24 because that wasn't the context of what this affidavit was submitted under. And I don't believe
25 that Rule 43(k) is a basis for submission of an affidavit. The Plaintiff states that what they were

1 doing by submitting the affidavit was establishing that there was no settlement agreement. And I
2 believe that the Court had just heard a hearing based on Motion in Opposition as to whether or
3 not you were going to have a declaration about there being a settlement agreement. So I don't
4 understand why the Plaintiff would unilaterally submit an affidavit to establish that there was not
5 a settlement agreement when the Court had just ruled on the issue that didn't apply here and that
6 is not what was happening in the current situation. And furthermore to submit an affidavit
7 telling the Court what you effectively did or did not rule seems a little out of place to me. What
8 the Court did do, was at the last hearing on the issue itself limited the statements of Allan Hill to
9 what would be legal arguments and very hesitantly allowing LeGrand to speak on his behalf for
10 those legal arguments. I think that we should have the same tendered nature here as to whether
11 or not we should allow Allan Hill to again circumvent these rules to submit legal argument as
12 facts and I don't understand why they would be basing - - it says the submission of an affidavit
13 on Rule 43(k) to establish something into the Court when it seems like it would be the Court's
14 rule to establish whether or not they were going to rule on an effective settlement agreement.
15 And continue to hold and we will argue the motion as to Rule 43(k) in a moment. We would
16 like to limit this as much as we can as to whether or not to strike this specific affidavit but again
17 counsel is trying to make this all about the settlement agreement. That is not the basis of our
18 legal argument. It is not what is at issue here. The basis is different rules that we should look to
19 Rule 12 and Rule 56 Rules of Evidence and Rules of Professional Conduct. Again we move to
20 strike, Your Honor. Thank you.

21 THE COURT: All right.

22 MR. LEGRAND: Your Honor, I don't see how the Court can rule on whether there was a
23 settlement agreement or not without considering what Mr. Hill had to say. The alleged
24 settlement agreement was through Mr. Hill. Mr. Parker and Mr. Hill, it is through those two (2)
25 parties. So I think the Court has to consider this Affidavit and the substance of Mr. Hill's

1 statements in that Affidavit. So we would ask the Court to deny that Motion. And under Rule
2 12 the Court can consider any of this evidence.

3 MS. NICHOLSON: Your Honor, again this affidavit was not given to us in advance. It was
4 given to us fifty two (52) days after a hearing and we are not purporting to compel a settlement
5 agreement and continue to use those terms. Thank you, Your Honor.

6 THE COURT: Based on the arguments of the Defendants the Motion to Strike is granted. All
7 right. Now lets go to the Motion for Reconsideration.

8 MR. LEGRAND: There are two (2) Your Honor. Mr. Hill is going to take the first motion.

9 THE COURT: All right.

10 MR. HILL: May it please the Court, Your Honor. A little housekeeping. We filed this
11 morning in reply to the Defendants' response to our Motion to Reconsider denying under Rule
12 43(j). I have got a copy for the Court, if you don't happen to have one.

13 THE COURT: No, I was not aware of that filing.

14 MR. HILL: Okay. May I approach?

15 THE COURT: Yes.

16 MR. HILL: I will give a printed copy to the Defendant.

17 THE COURT: All right.

18 MR. HILL: This was their response to our Motion and Motion brief or whatever you call it in
19 this case. It was filed yesterday so we didn't have time to get the Reply filed any quicker than
20 this morning with the final changes. If it seems like I am a little nervous. I am not normally
21 nervous speaking to the Court but I have never heard my name called so many times in court..
22 This case was ruled upon after the Court ruled in the September 1 Order that no agreement
23 affecting this proceeding is binding unless one of the conditions of Rule 43(k) is met. And that
24 ruling was based on the fact that they asked that I be -- I am sorry, Your Honor, I started talking
25 without you having a chance to read that. I will let you --

1 THE COURT: No, I am fine. Go ahead.

2 MR. HILL: The purpose as I understood it ruled that I did not have to be disqualified and made
3 to testify was because the testimony that I would give was with regards to the circumstances
4 surrounding this whole situation and because the Court found that Rule 43(k) was going to apply
5 there was no need for me to give our side so to speak of what happened. Now I understand that
6 the Defendants don't want to call this or any of this their Motion for Summary Judgment or the
7 alternative Motion for Summary Judgment on the contents. They don't want to call it that to
8 enforce the settlement agreement is that they realize that there is no settlement agreement that
9 they could enforce. They want to fall back on the common law partial performance and the
10 evidence of what happened and evidence of what the agreement was, that kind of thing. But we
11 were not allowed to say anything as to that. At the last hearing in fact, I wasn't allowed to
12 speak. I had to step out into the hallway for fear that I might say something in the record.
13 Based on that 43(k) ruling that I was not a necessary witness if 43(k) was going to apply. So
14 when the Court ruled that 43(k) does not apply to determine that there is no enforceable
15 settlement agreement then that opened up the window for the evidence to be provided by one of
16 the parties that was supposedly part of that arrangement, me. I am the one who had the
17 conversations and the e-mail correspondence with Mr. Parker over the course of this up until he
18 hired the Hyde Law Firm to represent him. And you have got our brief there, of course. The
19 first point is that the Defendants didn't follow the proper procedure for filing for relief from this
20 and under 59 or 60 they never filed any motion under that. And so they shouldn't be allowed to
21 have this happen as it did. Any how, if they had done it like that, if they had appealed the
22 Court's earlier findings then the Plaintiff would have had an opportunity to respond to it at that
23 time. But what happened was we didn't come in here asking that the 43(k) be found to be
24 controlling. That had already been ruled on. What we came in here for and she just mentioned
25 a minute ago when she was talking up here, she said that the Court has already heard the

1 argument about whether 43(k) applied in the last hearing. That is not what happened. What we
2 came in here for was for a declaration that because 43(k) applied several of their causes of action
3 should be taken out. What happened was the Court found that was in fact not going to happen
4 as far as their cause of action and not only that but the Court reversed itself and said that 43(k)
5 did not apply in this action. And so we feel like that when the motion to enforce the settlement
6 agreement which is basically what their motion the last time was for but styled as a summary
7 judgment action. That is when we get to if 43(k) doesn't apply we get to submit the evidence for
8 that. The ruling spends a lot of time, they try to say no motion to enforce the agreement was
9 made but then the other thing that they harp on is that Mr. Parker and Carolina Properties
10 Holdings, LLC, were not represented during the time that they claim a settlement agreement was
11 made and a deed in lieu was given over. They are asking the Court and was successful in asking
12 the Court to basically reward Mr. Parker for not having an attorney for himself or for his LLC. I
13 don't have to tell this Court having heard stories about an unrepresented LLC is part of the action
14 how the judges are not in favor of that and they will point it out quickly and the rules that the
15 Defendant has to operate within aren't changed because he is pro se. The Defendants want to
16 point out that the plain reading of the statute, the Rules, call for counsel that is meant to only
17 apply when there is counsel involved. And they did say one thing in their response which I
18 completely agree with. They say the intention of Rule 43(k) is to prevent disputes as to the
19 existence and terms of agreements. We would not be here today if there was an agreement that
20 met the requirements of Rule 43(k). The Court found that the intention of the parties in your last
21 ruling was evident by a number of factors. And whenever a sentence starts out the court found
22 out well found something based on a number of factors, we know that we are not talking about
23 Rule 43(k) at that point because there is no question of what factors are going to be considered
24 and not only that but when the Court ruled that they denied the motion that we had to apply Rule
25 43(k) and strike causes of action from there. It went further and decided that Rule 43(k) didn't

1 apply and then it went further and looked into the facts and circumstances that it had at that time
2 and that it had based on the fact that the Court had denied the Plaintiff the opportunity to put any
3 facts into evidence with regards to that. All it had was the facts that the Defense was asking to
4 be considered at that time. And it talks about the possession of Super Suds, the number of years
5 that Super Suds has operated the business on the property, and I would just offer to the Court the
6 following: this case is based on a Six hundred thousand & no/100 (\$600,000.00) dollar note,
7 promissory note that was owned by BB&T and secured by a first mortgage on the property. That
8 property also had a Two hundred thousand plus SBA loan behind it and had a UCC on it. And
9 those facts are not in dispute. Those are why the caption is who is named here. And we know
10 what has happened there. We also know from evidence afterwards that BB&T sold its Six
11 hundred thousand & no/100 (\$600,000.00) dollar note position to Super Suds for Two hundred
12 thousand & no/100 (\$200,000.00) dollars. A flat Two hundred thousand & no/100
13 (\$200,000.00) dollars and Super Suds bought the property, the note and the mortgage, and by
14 doing so had the position of being first position on the property and was under an imbecile
15 position of having a Six hundred thousand & no/100 (\$600,000.00) dollar position for Two
16 hundred thousand & no/100 (\$200,000.00) dollars. So he knows that nobody is going to outbid
17 him at the sale with a Six hundred thousand & no/100 (\$600,000.00) dollar note. He is going to
18 end up with that property at the foreclosure sale. It would be silly for BB&T to sell, I think the
19 Court can take judicial notice that BB&T is not in a habit of taking something that they have got
20 a first position on and getting rid of it for a third of its value that it could get at the foreclosure
21 sale. They sold that note for Two hundred thousand & no//100 (\$200,000.00) dollars because
22 that is what it was worth, that is what the underlying collateral was worth. And that is all my
23 client was willing to pay because of that situation. So it doesn't make sense that my client
24 would agree to take that position and then would agree to pull forward the SBA mortgage on top
25 of the first mortgage well in place of the first mortgage and move the SBA's Two hundred

1 thousand dollars mortgage into first position. That is the reason that Rule 43(k) required that the
2 parties and counsel, it is our position, they have to sign the agreement because there is no -- you
3 don't have to know my client to know that a reasonable person would not agree to have a second
4 mortgage come forward as a result of filing a deed in lieu. And that is exactly why the deed in
5 lieu wasn't filed, of course, he realized that when you file a deed in lieu whatever is behind it is
6 still there. The only reason that you take a deed in lieu is if you recorded it then it is going to be
7 without anything behind it in this case. If the Court's ruling of September 27th is not reverse
8 with regards to this 43(k) then that means that there is going to be a special provision for parties
9 that are not represented with regard to settlement agreements. And the Supreme Court has not --
10 well they have set this up as a rule, as I say I agree completely that their purpose of doing that
11 was to prevent disputes as to the existence of terms and agreements. When it is all written down
12 we don't have to you know wonder what anybody heard or what they thought. The Defendants
13 have one last reply to our motion and they say that the reason the Court should not reverse it is
14 because the Court has provided a just remedy and I just re-titled that to say that they are saying
15 that the ends justify the means. It was their position it appears that because the matter was
16 handled the way that it was in this case that we should find that the first mortgage goes away and
17 the deed in lieu of foreclosure is treated as a settlement agreement. And they say at the end of
18 their argument, they say and the Plaintiff would be unjustly enriched by precluding Defendants
19 from asserting defenses to the 43(k) claim. The Plaintiff, Super Suds, would be unjustly
20 enriched by precluding Defendants from asserting their defenses to the 43(k). Nobody is
21 keeping them from asserting their defenses but how would Super Suds be unjustly enriched by
22 getting the property for which they had a first mortgage of Six hundred thousand dollars plus and
23 also having waived the right to deficiency for Mr. Parker. It is already in the record but I would
24 call the Court's attention to the e-mail from Mr. Parker to myself that is in the record. It is Mr.
25 Parker's September 20, 2011 e-mail. He says Allan, we were on a first name basis at that point.

1 And he said I am preparing to execute the settlement agreement and stipulation of dismissal
2 which is a condition preceded to the BB&T note sale. Well it sounds like it but it wasn't written
3 by an attorney it was written by Mr. Parker. He is talking about the agreement between himself
4 and BB&T. This is before Super Suds has bought the note. And has gotten the note transferred
5 to them. So he says, I want to memorialize the verbal agreement that we have that Ken
6 Howard, Super Suds, LLC, and or the new note holder will not pursue a deficiency judgment
7 against Carolina Property Holdings, LLC, or me. Also, I heard you say that Ken Howard, Super
8 Suds, LLC, and or the new note holder would not be filing as 1099 for the forgiveness of debt.
9 So Mr. Parker realizes here that a regular note holder in this case, BB&T could pursue the
10 foreclosure and he had filed a counterclaim against them and he was going to dismiss his
11 counterclaims in favor of, if the sale went through, to Super Suds of the note but he wants to
12 make sure that Super Suds doesn't have the intention of getting a deficiency against him or his
13 LLC. And he puts that in writing to me in an e-mail and my response on the same page that I
14 printed out here. It says, Walt on September 20, the same day, about half an hour later. It says
15 Walt your understanding is correct. And his understanding was correct in that Super Suds was
16 not going to pursue a deficiency. So that means he walks away from Four hundred thousand
17 dollars of possible deficiency. They tried to sell the note, the testimony is in the record he tried
18 to sell the note for quite a while and the reason that the note was being sold and the reason that
19 this thing had the delay that it had, well the largest reason is because there was a UCC on the
20 equipment. And I don't have to talk to this Court about the problem of the UCC on equipment
21 and how they fair in a foreclosure when the questions about when it attached and is that
22 equipment a fixture or not and all of that. So we had that and we had the people who had the
23 UCC to hold things up but what is authentic here is that there is not going to be a deficiency. So
24 Mr. Parker and Carolina Property Holdings gets to walk away from a Four hundred thousand &
25 no/100 (\$400,000.00) dollar deficiency, possible deficiency, and he also wants to make sure that

1 he is not going to get deemed for the forgiveness of the indebtedness that may come about
2 because Super Suds is not insured by the FDIC, as was the BB&T. Super Suds didn't have the
3 obligation under the FDIC rules to file a 1099 for someone who is getting a forgiveness of
4 indebtedness on something like this if they waived a deficiency. So who would be unjustly
5 enriched here, is the question. But that is not enough for Mr. Parker. He wants Mr. Howard
6 and Super Suds to also pay for his SBA lien that is behind that first mortgage. And Mr. Howard
7 would have offered to take and pay for the SBA mortgage at the time he was making his offer to
8 buy this note if he wanted to pay for all of that but what we do know is that he was willing to pay
9 Two hundred thousand & no/100 (\$200,000.00) dollars for the note. They offered that to him
10 once. He offered that to them once and they turned it down. They came back to him and said
11 does that offer still - - -

12 THE COURT: Mr. Hill, I am going to interrupt you.

13 MR. HILL: Yes sir.

14 THE COURT: And you have throughout your argument crossed over from your argument to
15 testifying. And I don't appreciate the arguments - - your testimony being clothes as arguments
16 as far as the motion. There have been distinct and I had to stop you.

17 MR. HILL: Yes sir.

18 THE COURT: Because you are going outside of the Motion that was filed and testifying. So I
19 want you to conclude your argument as to the Motion and not go into arguments or testimony.

20 MR. HILL: Yes sir. Understood.

21 THE COURT: All right.

22 MR. HILL: Yes sir. We filed the reply to the Defendants response to our motion and it is self
23 explanatory but what our position is that the rules were not drafted with the intention of making
24 it possible for a unrepresented party to get any better treatment. I would say that they point out
25 two cases in their response to our motion that talks about how pro se parties were not penalized.

1 And we are not asking the Court to penalize anybody. And what they are talking about is in
2 those cases the pro se party did something that is normally required to be done by an attorney but
3 the Court didn't throw it out because it wasn't done. What the pro se person did in those two
4 cases that they refer to is the pro se people, parties, they did what was correct but they just didn't
5 have an attorney do it. In one case, I think it was the personal representative who filed an appeal
6 and that is supposed to only be done by an attorney. So they didn't throw the appeal out they
7 just said he needs to get an attorney to go forward with that. Contrast that with what we have
8 here which is the notion that because there was no attorney Rule 43(k) doesn't apply. And the
9 Rules apply to pro se parties whether there is counsel involved or not. And we point out in our
10 Reply that in Rule 5(b) the Court uses the term attorney instead of counsel. If the Court meant
11 to - - if they want to rely on the plain reading of this, when one keeps his own counsel he is
12 counsel for himself and pro se Defendants or Plaintiffs are by definition keeping their own
13 counsel. So the Court rules that if no counsel is involved then they do not need to follow the
14 Rules of 43(k) then that means that if you have a pro se person in mediation they can come in and
15 say we have reached an agreement. We didn't have anything signed but as far as I am concerned
16 we have reached an agreement. I was there. Their attorney said he would do this and such.
17 And this is exactly what they were trying to avoid by having this Rule that said hey we are not
18 going to end an action unless there is an agreement in writing and to find that it doesn't apply
19 because there is no attorney involved we believe is an incorrect reading of the statute. Thank
20 you, Your Honor.

21 THE COURT: All right. Counsel.

22 MS. NICHOLSON: Thank you, Your Honor. May it please the Court. Again Plaintiff seems
23 to contend that no agreement affecting this proceeding is binding unless one of the conditions of
24 Rule 43(k) is met. And the Defendants do dispute whether or not Rule 43(k) applies here. We
25 believe that the Plaintiffs misplaced the importance of Rule 43(k) and we again remind the Court

1 and everyone here that the Defendants have not made any motion to compel settlement
2 agreement. They continue to rely on the validity of an executed deed in lieu of foreclosure.
3 And I will attempt to leave the argument as to summary judgment to my co-counsel. But I do
4 think that it is important to go back and recap a little bit of the facts here. In that, Allan Hill
5 prepared a deed in lieu of foreclosure and then sent that deed to Walt Parker. He signed that
6 deed and delivered it back to Allan Hill. Allan Hill did not communicate any sort of
7 disallowance of the deed but said that the Plaintiff took immediate possession of the property and
8 operated the business thereon since 2011. This Court ruled that a merger of title occurred on
9 delivery and acceptance of this deed in lieu of foreclosure. And that Plaintiff would then hold
10 the title to the property preventing their standing to foreclose on the property. And the Court's
11 decision was one based upon standing and not upon a settlement agreement. And it is difficult
12 to divide the issue of Rule 43(k) as to what the Plaintiff is seeking to use it for between our
13 separate issue of summary judgment, but again I will attempt to keep that separate here. So the
14 Court ruled ultimately on the issue of summary judgment in that title was conveyed to the
15 property and it is not the intention of the parties to enter into a settlement agreement. But the
16 Plaintiffs want to hold the Defendants to coming up with some sort of settlement agreement. A
17 piece of paper or something to pull out somewhere that just doesn't exist as to specifically the
18 two words settlement agreement which is not what we purport is at issue here. Again in our
19 response we do note that the Court looked to the plain ruling of Rule 43(k) and the Rule does
20 state no agreement between counsels affecting the proceedings and action shall be binding unless
21 reduced to the form of a consent order, a written stipulation signed by counsel and entered into
22 the records. You are familiar with the Rule. But we do not believe that any sort of denial of a
23 declaration under Rule 43(k) is relief from a prior order. We believe that the Plaintiff is
24 attempting to use dicta in an order that related to Allan Hill as a necessary witness to be a ruling
25 on the use of Rule 43(k). When the Court ruled on whether or not Allan Hill was a necessary

1 witness the ruling was as to that issue. This sentence in the Order is exactly the same as the
2 sentence in Rule 43(k) but they haven't deleted the phrase between counsel making this sentence
3 that they are relying on saying that the Court's ruling against itself an attempt to change the
4 wording of Rule 43(k) and then stand on this issue of Rule 43(k), yet again. We don't believe
5 that an order on separate issues should be used to amend the Rules of Civil Procedure. So they
6 say if Carolina Properties Holdings and Parker moved to compel afforded settlement agreement
7 the Court will consider any motion and determine what is required and whether or not there is an
8 enforceable settlement agreement. That is the reason that 43(k) was even inserted into the prior
9 order by the Court. The Court used that language to say, okay we get to the point where we are
10 trying to determine whether or not Defendants are compelling a settlement agreement. Then we
11 will look to what information we need at that time. And what information we may need from
12 Allan Hill. It is all within the context of whether or not Allan Hill is a necessary witness. It is
13 not in the context of whether or not Rule 43(k) applies. The Plaintiffs also contend that they
14 need a modification of the Order that stated that the Court considered the full record. We
15 believe that the Court considered the full record. That is something that we would be amendable
16 to, if they would like to see something in the order that states that the Court considered the whole
17 record. We think that would be perfectly fine but we do believe that any motion to reconsider
18 summary judgment should remain on a separate argument and shouldn't be contemplated with
19 Rule 43(k) as they have attempted to do in their Motion to Reconsider. Again just looking to the
20 use of the term settlement agreement the Plaintiffs wanted an executed deed in lieu of
21 foreclosure. The Court got into a settlement agreement and they continue to talk about the
22 affective ruling of the Court and keep saying that the Court has effectively compel a settlement
23 agreement. The Defendants have effectively compelled a settlement agreement. That is not
24 what has happened here. This deed in lieu of foreclosure has been executed, delivered and the
25 title was conveyed. We would like to leave it at that. And the argument is not that a lack of

1 counsel applies to whether or not Rule 43(k) applies. We did look at it but we did not believe in
2 rewarding anyone for violating a rule. If we look to equity we can look and see that we don't
3 believe that the Plaintiff should be allowed to use Rule 43(k) to continue to circumvent what has
4 happened under the law and continue to pursue an unmerited claim and this unmerited claim that
5 has been on the docket since 2011. If anything, that is something that should prevent them from
6 any assertion of any sort of unclean hands as to the use of 43(k) and the Court should not reward
7 them for sitting on their rights. The Defendants are essentially shielded from having Rule 43(k)
8 used against them in contravention of the Rule's intent. I did not intend on arguing again the
9 issues of Rule 43(k) but we can do so. I will speak as to the cases that we have cited. The cases
10 that we cited about when a party is pro se, it was recited basically to state that there could be an
11 amendable defect. So the consequences of what this pro se party has done should then have the
12 appropriate amendment to what has already happened. Therefore, it shouldn't be that just
13 because the party was acting pro se that the Rule could be used against them to change the result
14 of what happened. We are not at all attempting to change the rules and in order of really talking
15 about 43(k). We do believe that if the Court were to change their ruling today that we should be
16 provided the opportunity to depose Allan Hill. Again an opportunity that has continued to be
17 denied. And again the Court didn't rule solely on 43(k). The Court ruled as to summary
18 judgment and we believe that again the just remedy should be provided here and the Court
19 should uphold their ruling. That is all, Your Honor.

20 THE COURT: All right. Mr. Hill.

21 MR. HILL: Thank you, Your Honor. Your Honor, I would call your attention to - - she talks
22 about the title to the property. I would call your attention to the title to the document to which
23 they have spent so much time and that is the deed in lieu of foreclosure. The deed in lieu of
24 foreclosure is the settlement of the foreclosure action. It is by definition a settlement agreement
25 if there is one in place and she mentioned also that she is trying to cure an amendable defect.

1 You can't use an amendable defect to force the opposing party to consent in this case. And I
2 would just like to state that it was not my intention to testify. I was trying to stick with what was
3 in the record and what the Court could recognize as a matter of judicial notice with regard to the
4 pleadings and the circumstances. And what the Court can infer, because it sees so much of it. So
5 I apologize. It was not my intention to try to stray from that.

6 MS. NICHOLSON: Your Honor, I would just say that we weren't using the terms amendable
7 defect to specifically refer to exactly what has happened. It was assuming again that 43(k) is to
8 circumvent what has already happened here. That is not an admission of any defect.

9 THE COURT: All right.

10 MS. NICHOLSON: And Your Honor, if nothing further, and whether or not we are going to
11 move straight into the next motion we would like to request a small break at some point. Thank
12 you.

13 THE COURT: Well lets do it now then. We will take about a five minute break and start back
14 at ten after.

15 MS. NICHOLSON: Thank you, Your Honor.

16 (OFF THE RECORD)

17 (BACK ON THE RECORD)

18 THE COURT: All right. Mr. LeGrand.

19 MR. LEGRAND: Thank you. This is the Motion to Reconsider the Court's Order on the
20 Defendant's Motion to Dismiss. The timing of this is important. The Plaintiff had filed a
21 Motion for a Declaration on April 18, 2018. The Defendant has filed a Motion to Dismiss on
22 April 5, 2017. This Court held a status conference on May 21, 2018 and directed us to have a
23 hearing and conduct discovery and have a hearing by July and we did that on July 17. Eight (8)
24 days before that hearing the Defendant filed a brief and it was in support of their Motion to
25 Dismiss and in the Alternative for Summary Judgment. But it was a brief in support of or a

1 memorandum in support of. So in the first place it was not a motion made, a timely made
2 motion, more than ten (10) days before the hearing. So there were only two (2) motions before
3 the Court that day. The Motion to Dismiss by the Defendant and the Motion for Declaration
4 under 43(k). Under Rule 12, the Court may convert a 12(b)6 to a Motion for Summary
5 Judgment and provided that all parties are given a reasonable opportunity to present all pertinent
6 material. Under Rule 56 the Court has to give ten (10) days notice of that motion. We cited in
7 our brief the *Baird v. Charleston County* case which was decided in 1999. And one of the
8 questions was whether a conversion of the 12(b)6 motion to summary judgment was proper and
9 the Court overturned the trial court on that issue and stated that the trial court may treat a 12(b)6
10 motion for summary judgment if the parties are afforded a reasonable opportunity to respond to
11 such matters in accordance with Rule 56(c) and Rule 56(e) of the South Carolina Rules of Civil
12 Procedure. They found that the trial court improperly converted the 12(b)6 motions to summary
13 judgment motions. And then stated because the trial court did not give notice to the parties prior
14 to the hearing that it was going to consider affidavits and hear the 12(b)6 motions as motions for
15 summary judgment. And so the Supreme Court overturned the trial court in the *Baird* case on
16 that basis. So for those reasons, I think the Court should reconsider and withdraw the motion of
17 September 27 from the Order, September 27 as being first a motion not timely filed and secondly
18 that the Plaintiff should have been allowed either directed by the court or allowed to supplement
19 the record in opposition to the summary judgment motion. The Court's order of September 27,
20 specifically states and this is on Page 6 and 7 of the Court's order from September 27. The
21 Court went into the provisions of the deed in lieu of foreclosure. It doesn't indicate that it is
22 conditional and then on Page 7 the Order states that Super Suds has produced no evidence that
23 Mr. Hill made such a representation to Parker nor has Super Suds produced any other evidence to
24 indicate that its attorney's acceptance of the deed in lieu was conditional. That was the purpose
25 of filing the Affidavit of Allan Hill which you have now stricken. We should be allowed to

1 supplement the record to show that this deed in lieu of foreclosure was conditional or other facts
2 relating to that deed in lieu of foreclosure. The Court should withdraw that order for two (2)
3 reasons. The motion and the conversion was not timely done. Two, we were not allowed an
4 opportunity to supplement the record. And then Your Honor, I would point out, well we have
5 argued a lot about Rule 43(k). Their motion to dismiss and for the conversion to summary
6 judgment argued that the deed in lieu of foreclosure was effectively delivered, therefore, there
7 was a merger of title. Therefore, we don't have a lien and therefore we can't foreclose. We
8 have no basis or no standing to bring this case or to continue the case. What they were
9 essentially doing is using Rule 43(k), using the deed in lieu of foreclosure to circumvent Rule
10 43(k). Ms. Nicholson mentioned that we were trying to use Rule 43(k) to circumvent the deed
11 in lieu of foreclosure but they are actually doing the reverse. They are using the deed in lieu of
12 foreclosure which was one (1) document with one (1) signature to circumvent a court rule. And
13 a court rule which the Defendant with or without an attorney is bound by. And so the deed in
14 lieu is almost necessarily conditional. First of all it is in lieu of a foreclosure so that means that
15 it is a settlement of a pending foreclosure action. It has only one signature and so by the time
16 that deed in lieu of foreclosure was signed this case had been pending eight (8) months. So Rule
17 43(k) is both mandatory and specific. And requires the parties to settle this case and could have
18 had an agreement signed by the Plaintiff by not doing that and by granting their motion to
19 dismiss the Court has effectively imputed on the Defendant who impeded the Plaintiff's signature
20 in lieu of the requirements of 43(k) and by so doing the Court has effectively forced a deal on the
21 Plaintiff that the Plaintiff neither wanted nor agreed to. So that means that here we are today, if
22 this order is not overturned or withdrawn then Super Suds would theoretically have to go and
23 payoff that second mortgage. So in addition to paying Two hundred thousand & no/100
24 (\$200,000.00) dollars to buy the promissory note and mortgage from BB&T they now could
25 double that to pay off the SBA. That is not the deal that he wanted or agreed to. But that is

1 what they are doing. They are using this almost to say I gotcha, so here is this deed that he
2 signed that the Plaintiff never signed to force the Plaintiff to pay off the Defendants legitimate
3 debt to the SBA. And in their argument and in the motion to dismiss or order to dismiss of
4 September 27, effectively and before it goes into language about what the Plaintiff did and he
5 took possession of the property and he operated the business and things like that and change the
6 signage. That is undisputed. But that is imputing also an exception to Rule 43(k). That is
7 saying essentially that if you take possession or in this case apply performance then that overrides
8 the strict requirements of 43(k). So the Motion to Dismiss and the Order to Dismiss are
9 alternative ways as it is styled now Order for Summary Judgment should be withdrawn and we
10 should have the opportunity to respond with evidence and affidavits. If we are given the ample
11 notice to do so. Thank you, Your Honor.

12 THE COURT: All right. Counsel.

13 MR. LEGRAND: If I may, Your Honor. One other - - I just want to make one point. Mr. Hill
14 if you just said that he was not disqualified as counsel because he is not a witness as to the
15 merits. It would be at some point whether today or at another time appropriate for the Court to
16 inquire directly from the Court to Mr. Hill as to the circumstances of the purported or alleged
17 settlement and deed in lieu of foreclosure. So he is here today obviously if you wish to do that
18 now. Thank you, Your Honor.

19 THE COURT: All right. Counsel.

20 MS. BRUNSON: May it please the Court, I am Barbara Brunson. I am here on behalf of
21 Carolina Properties and Walt Parker. Mr. LeGrand began his arguments by reciting the time
22 frame in which the notice of the conversion to grant the summary judgment was given and also in
23 his brief he made statements with regards to whether or not the Court ruled on the conversion to
24 summary judgment and I would also like to point out that no objections were raised at the prior
25 hearing nor in the eight (8) days after the memorandum of law clearly stating that we will argue

1 the motion to dismiss or for summary judgment and with the arguments based on summary
2 judgment motion. So I would contend that there was more than adequate notice that this would
3 be a motion for summary judgment and I just wanted to share with you that portion of the
4 Transcript, if I may approach. I don't want to misrepresent anything to the Court but I believe
5 the issue of summary judgment was raised at prior status conferences but I can't state under oath
6 nor testify that was the case. Nevertheless, we complied with the scheduling order that the Court
7 set forth and we completed our discovery in a timely manner with Super Suds and we filed our
8 memorandum in support of our motion for summary judgment in a timely manner giving them an
9 eight (8) days notice that we would make these arguments. So I would submit that there is no
10 prejudice. There was plenty of time and plenty of notice and the objection is not timely made.
11 They should have made that earlier. The arguments from both Mr. Hill and Mr. LeGrand today
12 wanting to supplement the record and if that were to be the case, and I could be repeating what
13 my co-counsel said, we would have to go back through discovery so that we can depose Allan
14 Hill in all fairness since he was not disqualified when we initially moved for that to be done.
15 And then to the issue on whether this case is controlled by Rule 43 or the deed in lieu of
16 foreclosure and argument that the deed in lieu of foreclosure is an actuality an effort to backdoor
17 into a written settlement agreement. I personally think the doctrine of merger controls this case.
18 That a deed was drafted, prepared by Super Suds' counsel and presented to Mr. Parker when he
19 was not represented by counsel. That he signed that, delivered it and it should be as in the
20 original order read against the drafter. And in that deed in lieu there was no conditional
21 language. It could have been easily included in there. It simply states that deed in lieu was
22 taken in full and complete satisfaction of the debt. So I think the law of merger is applicable
23 here. That the Court correctly ruled in the original order and there is no confusion between Rule
24 43 and the doctrine of merger. The deed in lieu is not a backhanded way to be a settlement
25 agreement. It simply is what it is. It is a deed that transfer title that was drafted by Super Suds'

1 attorney and contained no conditional language. I just want to briefly touch on the unjust
2 enrichment arguments that have come up and to the arguments that Mr. Hill presented. They
3 step over into the hearsay area not only because he is attempting to testify but he is attempting to
4 put on the record what he believes he thought and what Ken Howard who is the president of
5 Super Suds thought. And he should not be allowed to do that, as you noted. I also would like
6 to point out that I would argue that Super Suds got a deal. They bought a Six hundred thousand
7 & no/100 (\$600,000.00) dollar note for Two hundred thousand & no/100 (\$200,000.00) dollars.
8 Dispute what was represented in that email the foreclosure still seeks a deficiency, if I remember
9 correctly. They have represented that they were going to seek a deficiency. And Super Suds has
10 operated that property and reaped the profits of it. If it was acting under a mortgage, the rents
11 and profits should have been accounted for so that they can be given to the property owner and
12 that was not the case here. That was argued at the last hearing and that was ruled on at the last
13 hearing. So that concludes my rebuttal.

14 THE COURT: All right. Mr. LeGrand.

15 MR. LEGRAND: Your Honor, if the Court would choose to grant our motion to withdraw or to
16 change the Rule 43(k) order and summary judgment order and we would go into Mr. Hill's
17 knowledge about the settlement agreement for the lack thereof and they have said that they would
18 have to have a deposition. We would ask that deposition be limited and scoped according – well
19 that the order would be limited and scoped to the subject matter of the settlement agreement, the
20 deed in lieu of foreclosure and the communications with Mr. Parker in that time frame. And
21 obviously he can not be ordered to testify about confidential communications with his client or
22 any thing prior to that. So in other words he was not involved in making the loan or bringing the
23 initial foreclosure action. And it should be limited in scope only to the communications between
24 Mr. Hill, Mr. Parker and that deed in lieu of foreclosure. And the only other point I want to
25 make is in response to Ms. Brunson's comment about the property being operated or run by

1 Super Suds. Theoretically, the property or business on that property being run or managed by
2 the mortgagee. The mortgagee would theoretically have a deed or an accounting to the
3 Defendant. But that accounting would be to account for profits and those profits would be
4 applied to the reduction of the balance due on the Plaintiff's debt, which at this point the last time
5 that we calculated it earlier this year it was in excess of Seven hundred fifty thousand & no/100
6 (\$750,000.00) dollars. That would be the profits that he has had since October of 2011, which
7 could be applied to reduce the balance of that debt. I have nothing further, Your Honor.
8 THE COURT: All right. Ms. Brunson.
9 MS. BRUNSON: If we have to go back and depose Mr. Hill and I don't think that should be the
10 case. We, of course, can not interfere with any privileged conversations. We do want to look to
11 the conversations he has had with Walt Parker but not strictly to the deed in lieu of foreclosure.
12 We do believe that there were some irregularities that happened subsequent to that and we want
13 to also depose him as to why this case lingered so long and as to why he signed Walt Parker's
14 name for a consent to the Order of Reference and some other matters in the case. So I would
15 stipulate that we would like to depose him on those issues. For rents and profits, I would like to
16 again point out that Super Suds can't even separate what rents and profits come from this as
17 opposed to its other car washes. And the idea of applying the rents and profits to the Seven
18 hundred fifty thousand & no/100 (\$750,000.00) dollar debt defeated the argument that the
19 deficiency was being waived. I would point that out. That is my argument. Thank you.
20 THE COURT: All right. Mr. LeGrand.
21 MR. LEGRAND: Nothing further from the Plaintiff, Your Honor.
22 THE COURT: Anything further?
23 MS. NICHOLSON: Nothing further, Your Honor.
24 THE COURT: All right. When we were here during the summary judgment part the intention
25 of my order and still is to do equity relating to this whole entire situation. I took into

1 consideration the length of time that the Super Suds, the now Plaintiff, operated the car wash and
2 that the signage was changed, all of those matters. And during either a conference or at the
3 hearing when the question came up as to the ability of Super Suds to create an accounting
4 counsel, Mr. LeGrand said that he is not able because - - not able to create an accounting on this
5 property because of the commingling of the funds from this particular location and his other
6 remaining locations. Having heard all of that and considered all of that it was an equitable
7 decision that what needed to be done should be done. And that was another consideration in my
8 granting the summary judgment because at the end of the day based on counsel's representation
9 that an accounting could not be had exactly as to what went on here. So with all of those
10 statements being made I am denying the motion, both of the motions filed by the Plaintiff herein.
11 Counsel will you prepare the order?
12 MS. NICHOLSON: Yes, Your Honor.
13 THE COURT: I want an order on each motion.
14 MS. NICHOLSON: Yes, Your Honor.
15 THE COURT: And would you provide a copy of that to counsel for the Plaintiff.
16 MS. NICHOLSON: Yes, Your Honor.
17 THE COURT: All right.
18 MR. HILL: Judge may I say something. I have been accused of an ethical violation that I
19 would like to speak to on the record.
20 THE COURT: The reason that I am hesitating is that I don't know that this is the proper point
21 and that is because of my ruling now.
22 MR. HILL: My action has been brought up twice in briefs and then again just now by Ms.
23 Brunson about my signing on behalf of Mr. Parker for the Order of Reference to this Court. And
24 I have never been able to respond to that and I have got to come over here, I just had a case
25 referred to you this week and I don't want to be over here with somebody saying that I signed

1 somebody's name to a document without their permission and it was after the point was made
2 that I was able to find proof of the fact that I did not do so. And I think that I need to be allowed
3 to state that. If nothing else for your benefit because you have read it two or three times and they
4 say in the brief today the alleged consent of Mr. Parker.

5 THE COURT: Well quite frankly Mr. Hill that issue was never a consideration of mine.

6 MR. HILL: I understand that.

7 THE COURT: And I did not make a ruling on that issue.

8 MR. HILL: Yes sir. It is a big deal to me.

9 THE COURT: I understand that. But if you want to make a statement on the record or file
10 something at any point that is fine.

11 MR. HILL: All right. Can I say something now?

12 THE COURT: Yes.

13 MR. HILL: Thank you. This case was on the docket downstairs and Judge Cole asked us to
14 move it or refer it up here. Howard Kinard couldn't get in touch with his client at that time.
15 That is one of the reasons that it lingered so long. And we ended up moving it up to this Court
16 with an Order of Reference. I called Mr. Parker and I asked him for his permission to sign his
17 name and I signed it with his permission. I didn't forge his name. As I recall I signed it. And I
18 have only done that four or five times. And it is more common now that there is electronic filing
19 that you give somebody permission and you get an email about that and go forward. But at that
20 time I just talked to him on the phone and told him that we were having to move it from circuit
21 court to Master's and I asked his permission to do so. It wasn't until this came up that -- well
22 Mr. Hyde had first said and we don't know why Mr. Hill decided to sign Mr. Parker's name on
23 that and I was you know flabbergasted first of all being accused of that and so I went back and
24 looked. I have got an email because what happened was I was driving down the road and I had
25 called Mr. Parker and when he called into my office my secretary knew that I had been trying to

1 get in touch with him so she put him on hold and she conference us together. And so she heard
2 the conversation. So she sends an email to Charlie LeGrand right after that. It is dated
3 September 22, 2014, that says, Dear Charlie, Allan asked me to forward you the email that he
4 received from Howard Kinard, see below. Agreeing to refer the case to the Master. Also, I
5 conference Allan in with Walter Parker, the Defendant in the case, who filed the counterclaim a
6 few minutes ago on the phone and he told Allan over the phone that he had no problem with
7 referring the case to the Master, either. Please let me know if you have any questions.
8 Sincerely, Rebecca L. Jones. So no question that I got his permission to do it and you know I
9 was telling Charlie on the way over here when I got out of law school or in law school somebody
10 told me, they gave me good advice, don't ever witness a document that you didn't see the person
11 sign. Don't ever witness a will so that way when you get called into court and they say is that
12 your signature and you can say yes. And they say did you see that person sign and you can say
13 yes. And how could you remember that with all of the hundreds of documents that you have
14 done and then I can say that is because I did it that way every time and this is no difference than
15 that case. Whatever, I did wrong in this case I did not file that without Mr. Parker's permission.
16 He may have forgotten it, I don't doubt that years pass and you forget things like that but that is
17 what happened and I am just thankful that I was able to find the contemporaneous email that bore
18 out what I thought happened. Thank you.

19 THE COURT: And quite frankly Mr. Hill had that been an issue that could have, should have
20 been raised immediately after it came up I would have had a hearing on it but obviously it was
21 not until later and I did not have an issue with it. I did not have a problem with it.

22 MR. HILL: Good. Thank you. I just don't want something on the record that I was doing
23 something unethical.

24 THE COURT: Well as to the reference the way that it was signed, you signed it with approval
25 of Mr. Parker.

1 MR. HILL: Yes sir.
2 THE COURT: And had I had an issue prior to that I would have sent it back downstairs.
3 MR. HILL: Yes sir.
4 THE COURT: So as far as I was concerned at that time and still I consider it was a proper
5 referral.
6 MR. HILL: Thank you.
7 THE COURT: All right. Counsel if you will prepare the orders.
8 MS. NICHOLSON: Yes sir.
9 THE COURT: And again run that by the attorneys for their review prior to e-filing.
10 MS. NICHOLSON: Yes, Your Honor.
11 THE COURT: All right.

12 -----END OF HEARING-----
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1 STATE OF SOUTH CAROLINA

2

COURT OF COMMON PLEAS

3 COUNTY OF SPARTANBURG

4

5

CERTIFICATE

6

7 I, the undersigned Sarah Hollis, Court Reporter for the Master-In-Equity for the County
8 of Spartanburg, State of South Carolina, do hereby certify that the foregoing is a true and
9 accurate Transcript of Motions of the proceedings had at the hearing of the captioned case, before
10 the Honorable Gordon G. Cooper, Master-In-Equity for Spartanburg County, South Carolina, on
11 the 17th day of January, 2019.

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

13



14

Sarah Hollis
Court Reporter

15

16

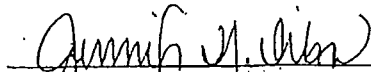
17 SWORN to before me this
2nd day of April, 2019.

18

Spartanburg, South Carolina.

19

20



21

Notary Public for South Carolina
My Commission expires: January 2, 2025

22

23

24

25

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Super Suds, LLC,

Plaintiff,

v.

Carolina Properties Holdings, LLC
Walter W. Parker IV, the United States
Of America by and through the US Small
Business Administration, Carolina Clean
Greer I, LLC and Community Development
& Improvement Corporation,

Defendants.

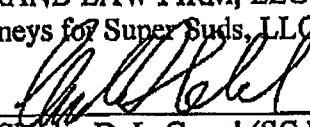
IN THE COURT OF COMMON PLEAS

NOTICE OF APPEARANCE

2011-CP-42-0500

Charles D. LeGrand of LeGrand Law Firm, LLC has been retained to represent the plaintiff, Super Suds, LLC, in this action and requests that the Court note his appearance for the record. All notices and other documents mailed by the court should be addressed as follows: Charles D. LeGrand, LeGrand Law Firm, LLC, 310 Mills Avenue, Suite 103, Greenville, SC 29605. S. Allan Hill will continue as co-counsel for plaintiff.

LeGRAND LAW FIRM, LLC
Attorneys for Super Suds, LLC

By: 

Charles D. LeGrand (SC Bar# 009910)
310 Mills Ave., Suite 103
Greenville, SC 29605
(864) 242-6461

Greenville, SC

Date: August 3, 2016

CLERK OF COURT
SPARTANBURG COUNTY
2016 AUG -9 AM 11:22
M. HOPE BLACKLEY

CHARLES D. LEGRAND

PAIGE PHILLIPS ECKLES

LEGRAND LAW FIRM
310 MILLS AVE. SUITE 103
GREENVILLE, SC 29605
(864) 242-6461 | FAX (864) 235-0186
WWW.LEGRANDLAW.COM

August 3, 2016

Sharon Winstead
Office of the Master in Equity
180 Magnolia Street, Suite 901
Spartanburg County Courthouse
Spartanburg, South Carolina 29306

RE: Super Suds, LLC v. Carolina Properties Holdings, LLC, et al.
C.A # 2011-CP-42-0500

Dear Ms. Winstead:

Enclosed please find the original and two copies of the Certificate of Service by Mail, the Notice of Appearance, and an Amended Lis Pendens for filing in your office. Please return the clocked copies in the envelope I have provided.

Thank you for your attention to this matter.

Yours truly,



Susan Schmarder,
Legal Assistant

Enclosures

CLERK
SPARTANBURG COUNTY
2016 AUG -9 AM 11:22
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)
Super Suds, LLC,)
Plaintiff,)
v.)
Carolina Properties Holdings, LLC)
Walter W. Parker IV, the United States)
Of America by and through the US Small)
Business Administration, Carolina Clean)
Greer I, LLC and Community Development)
& Improvement Corporation,)
Defendants.)

IN THE COURT OF COMMON PLEAS

AMENDED LIS PENDENS
(Non-Jury Foreclosure)
(Deficiency Demanded)

2011-CP-42-0500

NOTICE IS HEREBY GIVEN that an action has commenced, and is pending in this Court, upon a Complaint of the above named plaintiff against the above named defendant(s) for the foreclosure of a mortgage bearing the date of October 21, 2005, given by Carolina Properties Holdings, LLC to Branch Banking and Trust Company, recorded October 24, 2005, in the Spartanburg County ROD office in Real Estate Mortgage Book 3542 at Page 190.

The mortgaged premises affected by the foreclosure were, at the time of the commencement of this action, owned by Carolina Properties Holdings, LLC; the encumbered property is described on the mortgage as follows:

ALL that piece, parcel or lot of land, with improvements thereon or to be constructed thereon, being shown as 0.56 acres on a survey for Jones Colley and Rajai Marzouca dated April 24, 2003, by Site Design, Inc., recorded in Plat book 154, Page 279, in the Office of the Register of Deeds for Spartanburg County.

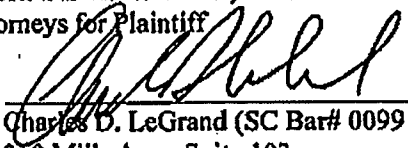
This being the property conveyed to Carolina Properties Holdings, LLC by deed of Jones M. Cooley, Jr., and Rajai Y. Marzouca as recorded August 26, 2005, in Deed Book 33-U, Page 906, in the Office of the Register of Deeds for Spartanburg County.

CLERK OF COURT
SPARTANBURG COUNTY
2016 JUN 14 AM 11:23
H. H. BLACKLEY

Property Address: 14115 East Wade Hampton Boulevard, Greer, SC

Tax Map #9 03-10 092.00

LeGRAND LAW FIRM, LLC
Attorneys for Plaintiff

By: 

Charles D. LeGrand (SC Bar# 009910)
310 Mills Ave., Suite 103
Greenville, SC 29605
(864) 242-6461

Greenville, SC

Date: August 3, 2016

CLERK OF COURT
SPARTANBURG COUNTY
2016 AUG -9 AM 11:22
H. HOPE BLACKLEY

Super Suds Llc	Foreclosure/Exhibits	Filing		09/09/2016-13:55	03/09/2019-13:55	
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Super Suds Llc	Foreclosure/Exhibits	Filing		09/09/2016-13:55	03/09/2019-13:55	
Super Suds Llc	Foreclosure/Exhibits	Filing		09/09/2016-13:55	03/09/2019-13:55	
Super Suds Llc	Notice/Notice of Hearing	Filing		08/31/2016-10:23	03/09/2019-10:23	
Palker, Walter W IV	Notice/Notice of Appearance	Filing		08/29/2016-17:53	03/09/2019-17:53	
Carolina Properties Holdings Llc	Notice/Notice of Appearance	Filing		08/29/2016-17:53	03/09/2019-17:53	
Super Suds Llc	Amended/Amended LP	Filing		08/09/2016-11:24	03/09/2019-11:24	
Super Suds Llc	Notice of Appearance	Filing		08/09/2016-11:23	03/09/2019-11:23	
Super Suds Llc	Service/Certificate Of Service by mail	Filing		08/09/2016-11:23	03/09/2019-11:23	
Super Suds Llc	Service/Certificate Of Service as to Virginia Beverly Parker	Filing		09/25/2014-11:12	03/09/2019-11:12	
United States Of America By And Through The	Service/Certificate Of Service	Filing		09/25/2014-11:10	03/09/2019-11:10	
Super Suds Llc	Order/Referred to Master	Order		09/25/2014-11:07	03/09/2019-11:07	
Super Suds Llc	Order/Order Filing Fee	Filing		09/25/2014-11:05	03/09/2019-11:05	
Hill, S. Allan	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:57	03/09/2019-16:57	
Kinard, Howard R.	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:57	03/09/2019-16:57	
Conits, George John	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:57	03/09/2019-16:57	
Palker, Walter W IV	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:57	03/09/2019-16:57	
Carolina Properties Holdings Llc	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:57	03/09/2019-16:57	
Kinard, Howard R.	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:55	03/09/2019-16:55	
Carolina Properties Holdings Llc	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:55	03/09/2019-16:55	
Palker, Walter W IV	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:55	03/09/2019-16:55	
Conits, George John	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:55	03/09/2019-16:55	
Hill, S. Allan	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:55	03/09/2019-16:55	

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	
	)	
Super Suds, LLC,	)	
	)	PLAINTIFF'S SUBMISSION OF
Plaintiff	)	AFFIDAVIT OF COUNSEL
	)	
vs.	)	
	)	C.A. No.: 2011-CP-42-0500
Carolina Properties Holdings, LLC, Walter	)	
W. Parker, IV, the United States of America	)	
by and through the U.S. Small Business	)	
Administration, Carolina Clean Greer I,	)	
LLC, and Community Development &	)	
Improvement Corporation	)	
	)	
Defendants.	)	
	)	

On July 17, 2018, the Court heard motions concerning whether under the South Carolina Rules of Civil Procedure, certain communications and actions, which occurred **after** this civil action was filed, among Plaintiff, and Defendants Walter W. Parker, IV, and Carolina Properties Holdings, Inc., resulted in an enforceable agreement to dismiss Plaintiff's Amended Complaint. Plaintiff, and Allan Hill, as an attorney of record for Plaintiff and as an officer of the court under Rule 407 [1], South Carolina Rules of Professional Conduct, SCACR, have stated in the record of this case the facts supporting Plaintiff's denial of an alleged settlement agreement, both in filings and at hearings (Plaintiff's Denial). Plaintiff's Denial has been recognized and summarized by this Court in its September 1, 2017, Order Denying Motion to Disqualify Allan Hill as Counsel and Motion to Compel Deposition. Reserving its position that this issue is controlled by Rule 43(k), SCRCP, Plaintiff submits that there is no other rule or law that governs the form in which the Court receives evidence of such an alleged agreement affecting the proceedings in a civil action, and that Plaintiff's Denial is fully and properly supported in the

record. However, in furtherance of his roles as an attorney and as an officer of the court, Allan Hill has executed the attached Affidavit verifying what he has represented to this Court as to Plaintiff's Denial. Plaintiff submits this Affidavit for all purposes, including without limitation, in support of Plaintiff's Denial, and in opposition to the relief sought by Defendants Walter W. Parker, IV, and Carolina Properties Holdings, LLC.

LeGrand Law Firm, LLC

Attorney for the Plaintiff

s/ Charles D. LeGrand

Charles D. LeGrand (SC Bar #9910)

Attorney for the Plaintiff

310 Mills Ave., Suite 103

Greenville, SC 29605

(864) 242-6461

Greenville, SC

Date: September 7, 2018

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Super Suds, LLC,

Plaintiff

vs.

Carolina Properties Holdings, LLC, Walter
W. Parker, IV, the United States of America
by and through the U.S. Small Business
Administration, Carolina Clean Greer I,
LLC, and Community Development &
Improvement Corporation

Defendants.

IN THE COURT OF COMMON PLEAS

AFFIDAVIT OF S. ALLAN HILL

C.A. No.: 2011-CP-42-0500

Personally appeared before me, S. Allan Hill ("Hill"), counsel of record for Super Suds, LLC ("Super Suds") in the above-captioned action, who being duly sworn, hereby affirms and verifies the following facts on record in the above-captioned action (the "Action"):

1. "Super Suds contends as follows: (1) Hill communicated with [Defendant Walter W. Parker, IV or "Parker"] in 2011 concerning the possibility of dismissing Super Suds' Amended Complaint, if [United States Small Business Administration, or "SBA"] and CDIC would release their respective claims and liens, in which event Super Suds could accept a [Deed in Lieu of Foreclosure, or "DIL"] from [Carolina Properties Holdings, LLC, or "CPH"] and receive clear title to the Property; (2) Hill prepared a DIL for execution by CPH, which CPH executed and delivered to Hill in trust, pending the possible resolution of the subordinate liens; (4) Hill accepted delivery of the DIL in trust, and continues to hold it in trust in connection with the possible settlement of certain claims in this Action, but has not been able to obtain resolution of the remaining

subordinate lien of the SBA; (5) All of Hill's actions and communications in this Action have been on behalf of Super Suds as one of its attorney of record; and (6) Super Suds and its attorneys have not made a written or other settlement agreement with CPH or Parker, which is enforceable under Rule 43(k), SCRCF, thereby necessitating the continued prosecution of this Action."¹

2. "On February 2, 2011, Branch Banking & Trust Company ("BB&T") filed the above-captioned action (the "Action") to foreclose a CPH mortgage (the "Mortgage") which secures a CPH note (the "Note") (the Note and Mortgage are referred to collectively as the "Loan")."²
3. "The United States of America, by and through the Small Business Administration (the "SBA") is a defendant, because it holds a subordinate mortgage on the Property."³
4. "On April 21, 2011, Parker filed an Answer and Counterclaim, *pro se*, and purportedly on behalf of CPH."⁴
5. "Super Suds purchased the Loan from BB&T in 2011."⁵
6. "Allan Hill represented Super Suds in connection with the purchase of the Loan."⁶
7. "On October 31, 2011, Super Suds was substituted for BB&T as plaintiff, and Allan Hill was substituted as plaintiff's counsel in this Action."⁷
8. "Attempting to resolve the Action, the parties engaged in settlement negotiations in the fall of 2011. As part of those negotiations, the parties agreed that Defendants would execute a DIL to be held in trust while Super Suds tried to negotiate lien releases with the subordinate

¹ Order Denying Motion to Disqualify Allan Hill as Counsel and Motion to Compel Deposition, p. 2 filed September 1, 2017 ("September 1 Order").

² September 1 Order, p. 2.

³ September 1 Order, p. 2.

⁴ Plaintiff's Memorandum in Support of Motion for Declaration under Rule 43(k), SCRCF, p. 2 filed July 9, 2018

⁵ September 1 Order, p. 2.

⁶ *Id.*

⁷ *Id.*

lienholders. Super Suds was unsuccessful in resolving the subordinate liens, and no valid and binding settlement agreement was entered into and executed by Super Suds and Defendants as required by the South Carolina Rules of Civil Procedure. As such, Super Suds never accepted and recorded the deed, and title remains vested with Defendant, Carolina Properties Holdings, LLC.”⁸

9. “No agreement affecting this proceeding is binding unless one of the conditions of Rule 43(k), SCRPC, is met.”⁹
10. “CPH and Parker have not contended that a consent order or stipulation in open court proves their settlement contention, and they have not yet presented to this Court a written settlement agreement.”¹⁰
11. “None of the prescribed methods of consummating an agreement affecting the Action were accomplished pursuant to Rule 43(k), SCRPC. Super Suds, acting through its counsel Hill, attempted to negotiate a settlement of the Action by using a DIL.”¹¹
12. “Super Suds was unable to obtain lien releases from junior lienholders and thus never entered into a binding settlement agreement with Defendants.”¹²
13. As part of the communications relating to the sale of the Loan to Super Suds and Super Suds’ substitution in the Action, Parker requested in a September 20, 2011 email Allan Hill confirm that Super Suds would not seek a deficiency judgment in the Action or issue a Form 1099 for debt forgiveness.¹³

⁸ Plaintiff’s Memorandum in Opposition to Motion to Compel, p. 2, filed August 11, 2017 (“Plaintiff’s August 11 Memo”).

⁹ September 1 Order, p. 4.

¹⁰ *Id.*

¹¹ Plaintiff’s August 11 Memo, p. 6.

¹² *Id.*

¹³ See Transcript of Testimony from July 17, 2018 Hearing (“July 17 Transcript”), p. 4, ll. 7-11.

14. By reply email, Allan Hill confirmed that Super Suds would not seek a deficiency judgment or issue the referenced Form 1099.¹⁴
15. "So the first key date is that August email that the SBA would take [\$2,000] to go away. The second key date is September 20. The email from Walt Parker to Allan Hill saying he wanted to memorialize the verbal agreement that the new note holder will not pursue a deficiency judgment. The third key date and the Defendants have referred to this in their memorandum of law is October 24. This is the date that Walt Parker signed a [DIL] on behalf of [CPH]."¹⁵
16. "I want to point out a couple of things about that [DIL], also. There is one signature and one document. What is absence (sic) in that transaction or occurrence that occurred on October 24th would be a Certificate of Compliance from the Department of Revenue. This was a single asset entity. So as you know they either needed an Affidavit, but this is not a majority of the assets or they need a Certificate of Compliance from the Department of Revenue. There is also no estoppel affidavit concerning liens for the value of the property or pending bankruptcies. There is no settlement agreement. There is no Order of Dismissal and there is no LLC Resolution."¹⁶
17. "That [DIL], the original, is still in Allan Hill's file because he never recorded it because he told Walt Parker that he would use that deed if he were able to get the SBA loan or mortgage satisfied."¹⁷
18. "But I want to point out in paragraph 16 (of Parker's and CPH's Amended Answer) that say, Ken Howard and Super Suds were aware that junior liens attach to the property and

¹⁴ July 17 Transcript, p. 4, ll. 11-12.

¹⁵ July 17 Transcript, p. 5, ll. 7-13.

¹⁶ July 17 Transcript, p. 5, ll. 14-21.

¹⁷ July 17, Transcript, p. 5, ll. 21-23.

here is the important part, and agreed that satisfaction of those liens would be the sole responsibility of Ken Howard and Super Suds. There is no agreement for that. There is not even an email that says that.”¹⁸

19. “Mr. Hill never recorded the [DIL] and it is still sitting here. And it is still not beneficial to the Plaintiff to have that deed forced on us because that would mean Super Suds would hold title on this property. We have none of the other evidences of title and assurances tht you would need from a LLC, the certificate of compliance, the estoppel affidavit, the LLC resolutions.”¹⁹

20. “[T]he email Mr. Parker sent in August of 2011 that says the SBA will take [\$2,000.00] to go away. They would take [\$2,000.00] to release the mortgage lien and not to, that is the implication of that. Not to satisfy the debt. He was still obligated on that personal guaranty agreement.”

21. “So everybody was moving forward under the mistaken idea that the SBA would take [\$2,000] to go away, which would have been great. They could have taken the [DIL] but it was October or November or something like that and recorded it and paid the SBA the [\$2,000] but by January, I believe is when it was of 2012 that Mr. Hill found out the SBA will not do that.”²⁰

22. “That is when the delivery is effectively repudiated.”²¹

23. “To have accepted that [DIL] would have been just not beneficial that would have been detrimental to the tune of [\$200,000] or more to Super Suds.”²²

¹⁸ July 17 Transcript, p. 6, ll. 18-22.

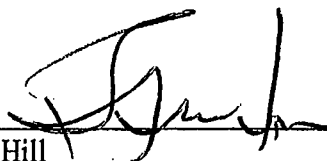
¹⁹ July 17 Transcript, p. 22, ll. 19-23.

²⁰ July 17 Transcript, p. 21, ll. 7-12.

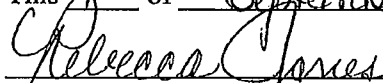
²¹ July 17 Transcript, p. 21, ll. 7-12.

²² July 17 Transcript, p. 21, ll. 14-16.

FURTHER AFFIANT SAYETH NOT.


S. Allan Hill

SWORN TO AND SUBSCRIBED before me
This 7th of September, 2018.


Rebecca Jones

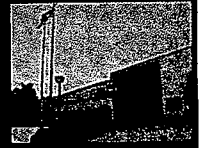
Notary Public for SC

My Commission Expires: _____





Spartanburg County Seventh Judicial Circuit Public Index



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Switch View

Branch Banking And Trust Company , plaintiff, et al VS Carolina Properties Holdings Llc , defendant, et al

Case Number:	2011CP4200500	Court Agency:	Common Pleas	Filed Date:	02/02/2011
Case Type:	Common Pleas	Case Sub Type:	Foreclosure 420	File Type:	Non-Jury
Status:	Disposed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court		
Disposition:	Ended by Non Jury	Disposition Date:	03/09/2019	Disposition Judge:	Cooper, Gordon G.
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

Case Parties	Judgments	Tax Map Information	Associated Cases	Actions	Financials	
Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Super Suds Llc	Appeal/Notice of Appeal to Court of Appeals	Action		03/09/2019-09:44	03/09/2019-09:44	
Super Suds Llc	Appeal/Notice of Appeal to Court of Appeals	Action		03/09/2019-09:44	03/09/2019-09:44	
Super Suds Llc	NEF(03-08-2019 09:44:43 AM) Appeal/Notice of Appeal to C...	Filing		03/08/2019-09:53	03/09/2019-09:53	
Carolina Properties Holdings Llc	NEF(02-13-2019 08:35:31 AM) Order/Other	Filing		02/13/2019-08:35	03/09/2019-08:35	
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Carolina Properties Holdings Llc	Order/Other	Order		02/13/2019-08:34	03/09/2019-08:34	
Carolina Properties Holdings Llc	NEF(02-12-2019 04:32:20 PM) Proposed Order/Other	Filing		02/12/2019-16:54	03/09/2019-16:54	
Carolina Properties	Order/Order Cover Sheet \$25.00	Filing		02/12/2019-16:32	03/09/2019-16:32	

707

Holdings Llc						
Carolina Properties Holdings Llc	NEF(02-06-2019 10:56:56 AM) Master/Order/Other	Filing		02/06/2019-10:57	03/09/2019-10:57	
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Carolina Properties Holdings Llc	NEF(02-05-2019 04:33:59 PM) Order/Order Cover Sheet \$25....	Filing		02/05/2019-16:47	03/09/2019-16:47	
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Hill, Allan S	Motion/Relieve As Counsel	Motion		12/14/2018-08:26	03/09/2019-08:26	
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Carolina	NEF(10-15-2018 03:17:07	Filing		10/16/2018-	03/09/2019-	

Properties Holdings Llc	PM) Motion/Strike			10:42	10:42	
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Super Suds Llc	Filing/Exhibits	Filing		09/07/2018-13:34	03/09/2019-13:34	
Super Suds Llc	Filing/Exhibits	Filing		09/07/2018-13:34	03/09/2019-13:34	
Super Suds Llc	Filing/Exhibits	Filing		09/07/2018-13:32	03/09/2019-13:32	
Super Suds Llc	Filing/Exhibits	Filing		09/07/2018-13:32	03/09/2019-13:32	
Super Suds Llc	Filing/Exhibits	Filing		09/07/2018-13:32	03/09/2019-13:32	
Super Suds Llc	Filing/Exhibits	Filing		09/07/2018-13:32	03/09/2019-13:32	
Super Suds Llc	Filing/Exhibits	Filing		09/07/2018-13:32	03/09/2019-13:32	
Super Suds Llc	Filing/Exhibits	Filing		09/07/2018-13:32	03/09/2019-13:32	

Llc				13:32	13:32	
Super Suds Llc	Filing/Exhibits	Filing		09/07/2018-13:29	03/09/2019-13:29	
Super Suds Llc	Filing/Exhibits	Filing		09/07/2018-13:29	03/09/2019-13:29	
Super Suds Llc	Filing/Exhibits	Filing		09/07/2018-13:29	03/09/2019-13:29	
Super Suds Llc	Filing/Exhibits	Filing		09/07/2018-13:29	03/09/2019-13:29	
Super Suds Llc	Filing/Exhibits	Filing		09/07/2018-13:29	03/09/2019-13:29	
Super Suds Llc	Filing/Exhibits	Filing		09/07/2018-13:26	03/09/2019-13:26	
Super Suds Llc	Filing/Exhibits	Filing		09/07/2018-13:26	03/09/2019-13:26	
Super Suds Llc	Filing/Exhibits	Filing		09/07/2018-13:26	03/09/2019-13:26	
Super Suds Llc	Filing/Exhibits	Filing		09/07/2018-13:26	03/09/2019-13:26	
Super Suds Llc	Filing/Exhibits	Filing		09/07/2018-13:26	03/09/2019-13:26	
Super Suds Llc	Filing/ Desposition	Filing		09/07/2018-13:22	03/09/2019-13:22	
Super Suds Llc	NEF(07-09-2018 05:36:37 PM) Memo/Memo in Support	Filing		07/10/2018-09:35	03/09/2019-09:35	
Carolina Properties Holdings Llc	NEF(07-09-2018 08:09:38 PM) Memo/Memo in Support	Filing		07/10/2018-08:47	03/09/2019-08:47	
Carolina Properties Holdings Llc	Memo/Memo in Support	Filing		07/09/2018-20:09	03/09/2019-20:09	
Carolina Properties Holdings Llc	Response	Filing		07/09/2018-20:09	03/09/2019-20:09	
Super Suds Llc	Memo/Memo in Support	Filing		07/09/2018-17:36	03/09/2019-17:36	
Community Development & Improvement Corporation	NEF(05-21-2018 03:51:00 PM) Order/Relieve Counsel	Filing		05/21/2018-15:51	03/09/2019-15:51	
Community Development & Improvement Corporation	Order/Relieve Counsel	Order		05/21/2018-15:51	03/09/2019-15:51	
Community Development & Improvement Corporation	NEF(05-09-2018 01:18:07 PM) Notice/Notice of Hearing and...	Filing		05/09/2018-14:25	03/09/2019-14:25	
Community Development	Notice/Notice of Hearing and Service	Filing		05/09/2018-13:18	03/09/2019-13:18	

& Improvement Corporation						
Super Suds Llc	NEF(04-18-2018 03:47:35 PM) Motion/Other	Filing		04/18/2018-16:10	03/09/2019-16:10	
Super Suds Llc	Motion/Other/Declaration Under Rule 43(K) SCRCP	Motion		04/18/2018-15:47	03/09/2019-15:47	
Community Development & Improvement Corporation	NEF(04-17-2018 02:52:39 PM) Motion/Relieve As Counsel	Filing		04/17/2018-16:21	03/09/2019-16:21	
Community Development & Improvement Corporation	Order/Order Cover Sheet \$25.00	Filing		04/17/2018-14:52	03/09/2019-14:52	
Community Development & Improvement Corporation	Motion/Relieve As Counsel	Motion		04/17/2018-14:52	03/09/2019-14:52	
Super Suds Llc	NEF(01-10-2018 03:55:13 PM) Reply/Reply to Counterclaim	Filing		01/10/2018-16:00	03/09/2019-16:00	
Super Suds Llc	Reply/Reply to Counterclaim	Filing		01/10/2018-15:55	03/09/2019-15:55	
Palker, Walter W IV	NEF(12-06-2017 02:18:58 PM) Answer/Amended Answer And Co...	Filing		12/06/2017-14:37	03/09/2019-14:37	
Palker, Walter W IV	Answer/Amended Answer And Counterclaim	Filing		12/06/2017-14:18	03/09/2019-14:18	
Branch Banking And Trust Company	NEF(12-05-2017 02:04:04 PM) Master/Order/Form 4	Filing		12/05/2017-14:04	03/09/2019-14:04	
Branch Banking And Trust Company	Master/Order/Form 4/Proposed Answer to Amended Complaint	Order		12/05/2017-14:04	03/09/2019-14:04	
Palker, Walter W IV	NEF(10-31-2017 11:50:10 AM) Order/Order Cover Sheet \$25....	Filing		10/31/2017-12:48	03/09/2019-12:48	
Palker, Walter W IV	Order/Order Cover Sheet \$25.00	Filing		10/31/2017-11:50	03/09/2019-11:50	
Palker, Walter W IV	Return Mail	Filing		09/19/2017-10:02	03/09/2019-10:02	
Carolina Properties Holdings Llc	Return mail	Filing		09/12/2017-15:29	03/09/2019-15:29	
Carolina Properties Holdings Llc	Notice/Notice of Appearance	Filing		09/01/2017-10:05	03/09/2019-10:05	
Hill, Allan S	Order/Disqualify	Order		09/01/2017-09:46	03/09/2019-09:46	

Super Suds Llc	Order/Compel	Order		09/01/2017-09:27	03/09/2019-09:27	
Hill, Allan S	Order/Order Cover Sheet \$25.00	Filing		08/31/2017-17:08	03/09/2019-17:08	
Super Suds Llc	Order/Discovery and Disclosure of Evidence	Order		08/31/2017-15:08	03/09/2019-15:08	
Super Suds Llc	Order/Order Cover Sheet \$25.00	Filing		08/25/2017-11:28	03/09/2019-11:28	
Super Suds Llc	Order/Order Cover Sheet \$25.00	Filing		08/25/2017-11:28	03/09/2019-11:28	
Carolina Properties Holdings Llc	Notice/Notice of Hearing and Service	Filing		08/14/2017-09:37	03/09/2019-09:37	
Super Suds Llc	Memo/Memo in Opposition Motion to Compel	Filing		08/11/2017-12:13	03/09/2019-12:13	
Super Suds Llc	Memo/Memo in Opposition Motion to Amend	Filing		08/11/2017-12:13	03/09/2019-12:13	
Palker, Walter W IV	Affidavit/Affidavit of Walt W Parker IV	Filing		08/04/2017-18:22	03/09/2019-18:22	
Super Suds Llc	Motion/Protection from Discovery	Motion		08/04/2017-13:52	03/09/2019-13:52	
Super Suds Llc	Motion/Compel	Motion		08/04/2017-13:52	03/09/2019-13:52	
Hill, Allan S	Notice/Notice of Appearance	Filing		07/28/2017-11:48	03/09/2019-11:48	
Hill, Allan S	Notice/Notice of Appearance	Filing		07/28/2017-11:46	03/09/2019-11:46	
Hill, Allan S	Memo/Memo in Opposition to Motion to Disqualify Counsel	Filing		07/28/2017-11:46	03/09/2019-11:46	
Palker, Walter W IV	Motion/Alter and/or Amend	Motion		06/14/2017-09:02	03/09/2019-09:02	
Carolina Properties Holdings Llc	Notice/Notice of Appearance	Filing		06/07/2017-18:03	03/09/2019-18:03	
Palker, Walter W IV	Motion/Compel	Motion		05/26/2017-13:14	03/09/2019-13:14	
Palker, Walter W IV	Motion/Disqualify	Motion		05/26/2017-13:14	03/09/2019-13:14	
Palker, Walter W IV	Memo/Memo in Support	Filing		05/26/2017-13:14	03/09/2019-13:14	
Super Suds Llc	Master/Order/Form 4	Order		04/19/2017-11:37	03/09/2019-11:37	
Carolina Properties Holdings Llc	Motion/Dismiss	Motion		04/05/2017-15:39	03/09/2019-15:39	
Super Suds Llc	Affidavit/Non Military Service	Filing		09/12/2016-11:33	03/09/2019-11:33	
Super Suds Llc	Foreclosure/Exhibits	Filing		09/09/2016-13:55	03/09/2019-13:55	
Super Suds Llc	Foreclosure/Exhibits	Filing		09/09/2016-13:55	03/09/2019-13:55	

Super Suds Llc	Foreclosure/Exhibits	Filing		09/09/2016-13:55	03/09/2019-13:55	
Super Suds Llc	Foreclosure/Exhibits	Filing		09/09/2016-13:55	03/09/2019-13:55	
Super Suds Llc	Foreclosure/Exhibits	Filing		09/09/2016-13:55	03/09/2019-13:55	
Super Suds Llc	Foreclosure/Exhibits	Filing		09/09/2016-13:55	03/09/2019-13:55	
Super Suds Llc	Notice/Notice of Hearing	Filing		08/31/2016-10:23	03/09/2019-10:23	
Palker, Walter W IV	Notice/Notice of Appearance	Filing		08/29/2016-17:53	03/09/2019-17:53	
Carolina Properties Holdings Llc	Notice/Notice of Appearance	Filing		08/29/2016-17:53	03/09/2019-17:53	
Super Suds Llc	Amended/Amended LP	Filing		08/09/2016-11:24	03/09/2019-11:24	
Super Suds Llc	Notice of Appearance	Filing		08/09/2016-11:23	03/09/2019-11:23	
Super Suds Llc	Service/Certificate Of Service by mail	Filing		08/09/2016-11:23	03/09/2019-11:23	
Super Suds Llc	Service/Certificate Of Service as to Virginia Beverly Parker	Filing		09/25/2014-11:12	03/09/2019-11:12	
United States Of America By And Through The	Service/Certificate Of Service	Filing		09/25/2014-11:10	03/09/2019-11:10	
Super Suds Llc	Order/Referred to Master	Order		09/25/2014-11:07	03/09/2019-11:07	
Super Suds Llc	Order/Order Filing Fee	Filing		09/25/2014-11:05	03/09/2019-11:05	
Hill, S. Allan	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:57	03/09/2019-16:57	
Kinard, Howard R.	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:57	03/09/2019-16:57	
Conits, George John	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:57	03/09/2019-16:57	
Palker, Walter W IV	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:57	03/09/2019-16:57	
Carolina Properties Holdings Llc	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:57	03/09/2019-16:57	
Kinard, Howard R.	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:55	03/09/2019-16:55	
Carolina Properties Holdings Llc	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:55	03/09/2019-16:55	
Palker, Walter W IV	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:55	03/09/2019-16:55	
Conits, George John	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:55	03/09/2019-16:55	
Hill, S. Allan	Roster/Notice of Motions Roster Publication Sent	Action		09/22/2014-16:55	03/09/2019-16:55	

Hill, S. Allan	Roster/Notice of Motions Roster Publication Sent	Action		09/03/2014- 11:15	03/09/2019- 11:15	
Conits, George John	Roster/Notice of Motions Roster Publication Sent	Action		09/03/2014- 11:15	03/09/2019- 11:15	
Kinard, Howard R.	Roster/Notice of Motions Roster Publication Sent	Action		09/03/2014- 11:15	03/09/2019- 11:15	
Carolina Properties Holdings Llc	Roster/Notice of Motions Roster Publication Sent	Action		09/03/2014- 11:15	03/09/2019- 11:15	
Palker, Walter W IV	Roster/Notice of Motions Roster Publication Sent	Action		09/03/2014- 11:15	03/09/2019- 11:15	
Palker, Walter W IV	Roster/Notice of Motions Roster Publication Sent	Action		09/03/2014- 11:10	03/09/2019- 11:10	
Carolina Properties Holdings Llc	Roster/Notice of Motions Roster Publication Sent	Action		09/03/2014- 11:10	03/09/2019- 11:10	
Kinard, Howard R.	Roster/Notice of Motions Roster Publication Sent	Action		09/03/2014- 11:10	03/09/2019- 11:10	
Conits, George John	Roster/Notice of Motions Roster Publication Sent	Action		09/03/2014- 11:10	03/09/2019- 11:10	
Hill, S. Allan	Roster/Notice of Motions Roster Publication Sent	Action		09/03/2014- 11:10	03/09/2019- 11:10	
Branch Banking And Trust Company	Bench Trial	Motion		05/01/2014- 16:24	09/26/2014- 16:24	
Hill, S. Allan	Roster/Notice of Case Roster Publication Sent	Action		04/28/2014- 14:27	03/09/2019- 14:27	
Kinard, Howard R.	Roster/Notice of Case Roster Publication Sent	Action		04/28/2014- 14:27	03/09/2019- 14:27	
Conits, George John	Roster/Notice of Case Roster Publication Sent	Action		04/28/2014- 14:27	03/09/2019- 14:27	
Kinard, Howard R.	Roster/Notice of Case Roster Publication Sent	Action		03/28/2014- 15:04	03/09/2019- 15:04	
Hill, S. Allan	Roster/Notice of Case Roster Publication Sent	Action		03/28/2014- 15:04	03/09/2019- 15:04	
Conits, George John	Roster/Notice of Case Roster Publication Sent	Action		03/28/2014- 15:04	03/09/2019- 15:04	
Hill, S. Allan	Roster/Notice of Case Roster Publication Sent	Action		03/28/2014- 14:47	03/09/2019- 14:47	
Kinard, Howard R.	Roster/Notice of Case Roster Publication Sent	Action		03/28/2014- 14:47	03/09/2019- 14:47	
Conits, George John	Roster/Notice of Case Roster Publication Sent	Action		03/28/2014- 14:47	03/09/2019- 14:47	
Conits, George John	Roster/Notice of Case Roster Publication Sent	Action		01/16/2014- 14:25	03/09/2019- 14:25	
Kinard, Howard R.	Roster/Notice of Case Roster Publication Sent	Action		01/16/2014- 14:25	03/09/2019- 14:25	
Hill, S. Allan	Roster/Notice of Case Roster Publication Sent	Action		01/16/2014- 14:25	03/09/2019- 14:25	
Hill, S. Allan	Roster/Notice of Case Roster Publication Sent	Action		01/16/2014- 14:21	03/09/2019- 14:21	
Conits, George John	Roster/Notice of Case Roster Publication Sent	Action		01/16/2014- 14:21	03/09/2019- 14:21	

Kinard, Howard R.	Roster/Notice of Case Roster Publication Sent	Action		01/16/2014-14:21	03/09/2019-14:21	
Kinard, Howard R.	Roster/Notice of Case Roster Publication Sent	Action		01/15/2014-11:12	03/09/2019-11:12	
Conits, George John	Roster/Notice of Case Roster Publication Sent	Action		01/15/2014-11:12	03/09/2019-11:12	
Hill, S. Allan	Roster/Notice of Case Roster Publication Sent	Action		01/15/2014-11:12	03/09/2019-11:12	
Conits, George John	Roster/Notice of Case Roster Publication Sent	Action		01/15/2014-10:03	03/09/2019-10:03	
Hill, S. Allan	Roster/Notice of Case Roster Publication Sent	Action		01/15/2014-10:03	03/09/2019-10:03	
Kinard, Howard R.	Roster/Notice of Case Roster Publication Sent	Action		01/15/2014-10:03	03/09/2019-10:03	
Kinard, Howard R.	Roster/Notice of Case Roster Publication Sent	Action		01/06/2014-15:28	03/09/2019-15:28	
Hill, S. Allan	Roster/Notice of Case Roster Publication Sent	Action		01/06/2014-15:28	03/09/2019-15:28	
Conits, George John	Roster/Notice of Case Roster Publication Sent	Action		01/06/2014-15:28	03/09/2019-15:28	
Conits, George John	Roster/Notice of Case Roster Publication Sent	Action		01/06/2014-15:24	03/09/2019-15:24	
Hill, S. Allan	Roster/Notice of Case Roster Publication Sent	Action		01/06/2014-15:24	03/09/2019-15:24	
Kinard, Howard R.	Roster/Notice of Case Roster Publication Sent	Action		01/06/2014-15:24	03/09/2019-15:24	
Kinard, Howard R.	Roster/Notice of Case Roster Publication Sent	Action		04/10/2013-10:46	03/09/2019-10:46	
Carter, Weyman C.	Roster/Notice of Case Roster Publication Sent	Action		04/10/2013-10:46	03/09/2019-10:46	
Conits, George John	Roster/Notice of Case Roster Publication Sent	Action		04/10/2013-10:46	03/09/2019-10:46	
Branch Banking And Trust Company	Order/Consent Order Substituting Parties	Order		10/31/2011-00:00	03/09/2019-00:00	
Branch Banking And Trust Company	Order/Form 4/	Order		10/31/2011-00:00	03/09/2019-00:00	
Branch Banking And Trust Company	Motion/Motion/Order Filing Fee	Filing		10/27/2011-10:01	03/09/2019-10:01	
Branch Banking And Trust Company	Stipulation Of Dismissal as To Counterclaims Only	Filing		10/27/2011-00:00	03/09/2019-00:00	
Community Development & Improvement Corporation	Service/Affidavit Of Service	Filing		10/03/2011-00:00	03/09/2019-00:00	
Branch	Service/Certificate Of	Filing		09/12/2011-	03/09/2019-	

Banking And Trust Company	Service			00:00	00:00	
Community Development & Improvement Corporation	Answer/Answer	Filing		09/12/2011-00:00	03/09/2019-00:00	
Branch Banking And Trust Company	Amended/Amended Lis Pendens	Filing		08/01/2011-00:00	03/09/2019-00:00	
Carolina Properties Holdings Llc	Service/Certificate Of Service	Filing		07/27/2011-00:00	03/09/2019-00:00	
Branch Banking And Trust Company	Summons	Filing		07/27/2011-00:00	03/09/2019-00:00	
United States Of America By And Through The	Service/Certificate Of Service	Filing		07/27/2011-00:00	03/09/2019-00:00	
Palker, Walter W IV	Service/Certificate Of Service	Filing		07/27/2011-00:00	03/09/2019-00:00	
Branch Banking And Trust Company	Filing/Filing Of Consent To Amend Complaint	Filing		07/25/2011-00:00	03/09/2019-00:00	
Branch Banking And Trust Company	Filing/Filing Of Exhibit A-D	Filing		07/25/2011-00:00	03/09/2019-00:00	
Branch Banking And Trust Company	Amended/Amended Complaint	Filing		07/25/2011-00:00	03/09/2019-00:00	
United States Of America By And Through The	Service/Certificate Of Service	Filing		05/23/2011-09:22	03/09/2019-09:22	
Palker, Walter W IV	Service/Certificate Of Service	Filing		05/23/2011-09:22	03/09/2019-09:22	
Branch Banking And Trust Company	Reply/Reply To Counterclaim	Filing		05/23/2011-09:22	03/09/2019-09:22	
Carolina Properties Holdings Llc	Answer/Answer & Counterclaim	Filing		04/21/2011-08:19	03/09/2019-08:19	
Palker, Walter W IV	Answer/Answer & Counterclaim	Filing		04/21/2011-08:19	03/09/2019-08:19	
Carolina Properties Holdings Llc	Service/Affidavit Of Service	Filing		03/29/2011-12:57	03/09/2019-12:57	

Palker, Walter W IV	Service/Affidavit Of Service	Filing		03/29/2011- 12:57	03/09/2019- 12:57	
United States Of America By And Through The	Service/Certificate Of Service by mail	Filing		03/23/2011- 14:23	03/09/2019- 14:23	
United States Of America By And Through The	Answer/Answer	Filing		03/23/2011- 14:21	03/09/2019- 14:21	
United States Of America By And Through The	Acceptance Of Service and Consent to Order of Reference	Filing		03/10/2011- 11:53	03/09/2019- 11:53	
Branch Banking And Trust Company	Verification/Verified	Filing		02/02/2011- 09:15	03/09/2019- 09:15	
Branch Banking And Trust Company	Property Description: 14115 E Wade Hampton Blvd Greer SC	Filing		02/02/2011- 09:14	03/09/2019- 09:14	
Branch Banking And Trust Company	ADR/Alternative Dispute Resolution (Workflow)	Filing		02/02/2011- 09:11	03/09/2019- 09:11	
Branch Banking And Trust Company	Property Description: Tax Map # 9-03-10-092.00	Filing		02/02/2011- 09:11	03/09/2019- 09:11	
Branch Banking And Trust Company	Summons & Complaint	Filing		02/02/2011- 09:10	03/09/2019- 09:10	

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas
Gordon G. Cooper, Master-In-Equity
Trial Court Case No. 2011-CP-42-0500

Appellate Case No. 2019-000404

Super Suds, LLC, Appellant,

v.

Carolina Properties Holdings, LLC, Walter W. Parker, IV, the United States of America by
and through the U.S. Small Business Administration, Carolina Clean Greer I, LLC, and
Community Development & Improvement Corporation, Defendants,

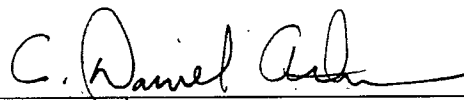
Of Which Carolina Properties Holdings, LLC, and Walter W. Parker, IV are the Respondents.

CERTIFICATE OF COUNSEL

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

November 27, 2019

By:



Michael B.T. Wilkes (S.C. Bar #6107)

C. Daniel Atkinson (S.C. Bar #72721)

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Attorneys for Super Suds, LLC, Appellant

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