

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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FEB 25 2021

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

**SC Court of Appeals**

The Honorable Michael G. Nettles, Circuit Court Judge

Appellate Case No. 2019-001488  
Civil Action Case No. 2018-CP-40-06344

MB Hutson/MB Hudson, ..... Appellant,

v.

Penn America Insurance Company,  
Global Indemnity Group, Inc.,  
Timothy J. Newton, Esq., J.R. Murphy, Esq.,  
John Doe #1, John Doe #2, ..... Respondents.

**APPENDIX TO AMENDED RECORD ON APPEAL**

MB Hutson/MB Hudson  
Post Office Box 2755  
Orangeburg, SC 29116-2755  
(803) 308-2714

APPELLANT PRO SE

Christian Stegmaier, Esq.  
Laura Baer, Esq.  
Collins & Lacy P.C.  
1330 Lady Street, Sixth Floor, 29201  
Post Office Box 12487, Columbia, SC 29211

ATTORNEYS FOR RESPONDENTS  
PENN AMERICA INS. CO. & GLOBAL  
INDEMNITY GROUP, INC.

Timothy J. Newton, Esq.,  
J.R. Murphy, Esq.,  
Murphy & Grantland, P.A.  
4406 Forest Drive, Columbia, SC (29206)  
P.O. Box 6648, Columbia, SC 29260

RESPONDENTS PRO SE

## INDEX

Exhibit 1 to Affidavit of Timothy Newton:

“Bates stamped document EJECT\_00001 thru EJECT\_000356”<sup>1</sup> .....1342

Exhibit 2 to Affidavit of Timothy Newton:

“Clarendon County Public Index”<sup>2</sup> .....1698

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<sup>1</sup> The entirety of this Exhibit was designated for inclusion in the Record but only a portion of it was included in the Amended Record on Appeal filed with the Court. For the two sections submitted were provided out of order. For ease of reference, the entirety of Exhibit 1 is provided in this Appendix.

Pagination in this Appendix continues from the last page of the Amended Record on Appeal, which is Huston’s Certification of Compliance at R. 1341.

<sup>2</sup> This Exhibit was designated for inclusion in the Record but inadvertently excluded from the Amended Record on Appeal filed with the Court. The parties agreed to its submission via this Appendix to the Record on Appeal.

COMMON PLEAS  
Clerk : Beulah Roberts  
PO Box 136  
Manning, SC 29102  
Phone:(803) 435-4443 Fax:(803) 435-4844

Received From: Tim Newton

Date : 6/21/2019

Paying for: Tim Newton,

RECEIPT # 12675

Clerk: c14tdavis

Payment Type: Check

\$20.00

Reference #: 4363

Total Paid

20.00

Comment: Copy Fees 2011-CP-602  
Non-Refundable

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF CLARENDON )

Civil Action No.: 2011-CP-14-602

TLC Holdings, LLC, )

Plaintiff, )

v. )

M.B. Hudson a/k/a M.B. Hutson, )

Defendant. )

## TEMPORARY RESTRAINING ORDER

M.B. Hudson a/k/a M.B. Hutson, )

Defendant and Third Party Plaintiff, )

v. )

Richard U. Clark, Jimmy S. Lovell and  
James C. Thigpen, )

Third Party Defendants )

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FILED IN THIS OFFICE  
12/30/13  
13 Jan 14 B. Kader  
CLERK OF COURT  
CLARENDON COUNTY, SC

2013 DEC 30 PM 12:40

This matter is before this Court by way of Defendant and Third Party Plaintiff M.B. Hudson a/k/a M.B. Hutson's ("Defendant") motion pursuant to Rule 65, SCRPC for a temporary restraining order enjoining Plaintiff TLC Holdings, LLC ("Plaintiff") and its subsidiaries, successors, and assigns from terminating the Consent Order and Settlement Agreement in the above-captioned case and from pursuing the Affidavit of Default signed by Plaintiff on or about December 6, 2013. In support of the motion, Defendant has submitted for Court review a copy of the filed Motion to Set Aside Affidavit of Default in this action, its supporting documents and the affidavit of M.B. Hutson, all of which are filed as of December 27, 2013. The Court also

granted an emergency ex parte motion hearing on January 8, 2014, 2:30 p.m., Ctroom 3A, Sumter County Judicial Center, 215 N. Harris St., Sumter SC. The Court finds that Plaintiff's Motion to Set Aside Affidavit of Default seeks to set



aside Plaintiff's Affidavit of Default due to Plaintiff's failure to perform actions expressly required of it in the Settlement Agreement and Consent Order. Defendant asserts that, if he failed to comply in any way with the Settlement Agreement, that non-compliance is a direct and proximate result of Plaintiff's failure to perform an action expressly required of it in the Settlement Agreement. Despite Plaintiff's non-compliance, it continues to pursue an Affidavit of Default against Defendant to force Defendant to vacate the Property (described with specificity in the Settlement Agreement).

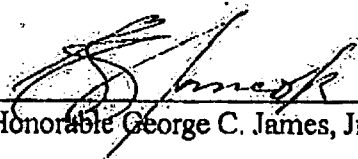
Rule 65, SCRCP, provides that a party may seek a temporary restraining order from the Court in certain instances. A party seeking injunctive relief must demonstrate irreparable harm, a likelihood of success on the merits, and the absence of an adequate remedy at law. See Rawlinson Road Homeowners Ass'n, Inc. v. Jackson, 395 S.C. 25, 35, 716 S.E.2d 337, 343 (Ct. App. 2011).

This Court finds that, were the Plaintiff permitted to terminate the Settlement Agreement and Consent Order, as well as pursue the Affidavit of Default, Defendant would suffer irreparable harm in the form of Defendant having to vacate his residence on the Property within fifteen (15) days of notice of the affidavit of default and would cause Defendant to incur a financial loss in excess of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) and lose his sole means of financial support. Defendant will also likely succeed on the merits of this case as it appears that, if Defendant failed to comply in any way with the Settlement Agreement, his non-compliance is a direct and proximate result of Plaintiff's failure to perform an action expressly required of it in the Settlement Agreement. There is no adequate remedy at law available, and because Plaintiff has already filed an Affidavit of Default, this Court finds by a preponderance of the evidence that a temporary restraining order without notice is appropriate as irreparable harm could occur prior to the scheduling of a hearing.

THEREFORE, IT IS ORDERED that Plaintiff hereby enjoined from terminating the Consent Order and Settlement Agreement in the above-captioned case and from pursuing the Affidavit of Default signed by Plaintiff on or about December 6, 2013. The terms of this Order remain in effect until January 9, 2014. Defendant is required to submit security in the amount of \$1,000.00, which the Court deems proper for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained.

IT IS SO ORDERED.

Entered at 9:00 a.m. on December 30, 2013.

  
The Honorable George C. James, Jr.

Sumter, South Carolina

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 11 CP- 14- 602

TLC Holdings, LLC

207 B. Hunter

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

The Court

Attorney for : ☐ Plaintiff ☐ Defendant  
or  
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):  
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (format order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.  
Additional information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

| Judgment in Favor of<br>(List name(s) below) | Judgment Against<br>(List name(s) below) | Judgment Amount To be Enrolled<br>(List amount(s) below) |
|----------------------------------------------|------------------------------------------|----------------------------------------------------------|
|                                              |                                          | \$                                                       |
|                                              |                                          | \$                                                       |
|                                              |                                          | \$                                                       |

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code

Date

Wynne Bvd. 859

H. Greenleaf Nelson, Esq.

**Court Reporter:**

**This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.**

[illegible]

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF CLARENDON )

CASE NUMBER: 11-CP-14-602

TLC Holdings, LLC, )

Plaintiff, )

v. )

M.B. Hudson a/k/a M.B. Hutson, )

**ORDER**

Defendant. )

M.B. Hudson a/k/a M.B. Hutson, )

Defendant and Third Party Plaintiff, )

v. )

Richard U. Clark, Jimmy S. Lovell and )  
James C. Thigpen, )

Third Party Defendants. )

Before the Court is the Motion to Set Aside Affidavit of Default (the "Affidavit of Default Motion") and Motion for Temporary Restraining Order ("TRO Motion" and, together with the Affidavit of Default Motion, the "Motions") filed in the above-captioned action on December 30, 2013 by Defendant and Third Party Plaintiff, M.B. Hudson a/k/a M.B. Hutson ("Defendant", "Hutson" or the "Debtor"). On January 8, 2014 (the "Petition Date"), during this Court's previous hearing on the Motions, Defendant filed a bankruptcy petition under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. Section 101 *et seq.* (the "Bankruptcy Code"), which is pending in the United States Bankruptcy Court for the District of South Carolina (the "Bankruptcy Court"), Case Number 14-00165-jw (the "Bankruptcy Case"). By Order Granting Limited Relief from the Automatic Stay filed on February 21, 2014 (the "Stay Relief Order"), the Bankruptcy Court granted relief from the automatic bankruptcy stay to Plaintiff, TLC Holdings, LLC ("Plaintiff" or "TLC"), for the limited purpose of allowing this Court to determine "whether the Debtor had any property interest in the Property<sup>1</sup> as of the bankruptcy

<sup>1</sup> The term "Property", as used in the Stay Relief Order, means the property located generally at 5277 Dingle Pond Road, Summerton, Clarendon County, South Carolina, along Lake Marion, upon which the Defendant has been operating a business known as the "Big Water Resort". The Consent Order and Settlement Agreement, as defined below, use a similar definition for the term "Property", and this Court will adopt the same definition of that term for purposes of this Order.



petition date, January 8, 2014, and, if so, whether the Debtor presently has any remaining property interest in the Property". Stay Relief Order at 4.

This Court conducted a hearing on March 6, 2014 (the "March Hearing"), attended by Plaintiff and its attorneys, R. Wayne Byrd and Thomas L. Harper, Jr., and by Defendant and his attorney, H. Freeman Belser, to consider the Motions and the issues presented to this Court through the Stay Relief Order.

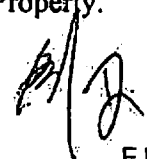
This Court has given careful consideration to the Stay Relief Order, and to the scope of the issues properly before this Court for ruling in light of the procedural posture of this case as of the Petition Date. As set forth more fully below, this Court has concluded that, pursuant to the Stay Relief Order, this Court is authorized by the Bankruptcy Court to decide the Motions that were pending in this action on the Petition Date. To the extent that the Stay Relief Order could be interpreted as requesting or directing that this Court decide issues or matters beyond the scope of the Motions, this Court has concluded that such issues are beyond what has been presented to this Court, and declines to do so. As to the Motions before the Court, for the reasons set forth below, the Court concludes that the Motions should be denied.

The court notes that after advising counsel of the ruling set forth herein, the court, by email, inquired of the parties as to their positions on the issue of whether the court had the authority to rule on the issues set forth in this order. The potential predicament is that the Bankruptcy Court issued the fourteen day stay so this court could rule on the issue of whether the Defendant had any interest in the Property; however, the court is not addressing that specific question in this order. The Defendant maintains that the granting of the stay was to address only that narrow issue and that since this court is not addressing that narrow issue, this court is precluded from addressing any other issues. The Plaintiff maintains the court has the authority to address the issues set forth in this order. The court concludes the stay does not prohibit it from issuing the ruling set forth herein.

### FINDINGS OF FACT AND PROCEDURAL HISTORY

1. On December 14, 2011, Plaintiff filed its Summons and Complaint in this action (the "Complaint"), seeking to eject Defendant from the Property and recover money damages from Defendant for Defendant's alleged breach of a Lease Purchase Agreement related to the Property, which was dated on or about December 15, 2010, and entered among Plaintiff, Defendant and the Third Party Defendants named above (the "Lease Purchase Agreement").

2. By Answer and Counterclaim and Affirmative Defense and Motion to Dismiss and Third Party Complaint filed in this action on January 3, 2012 (the "Answer and Counterclaims"), Defendant, through counsel, asserted various affirmative defenses, counterclaims and third party complaints against Plaintiff and the members of Plaintiff relating to the Lease Purchase Agreement and the circumstances surrounding the parties' execution of the same and the Defendant's prospective lease and purchase of the Property from Plaintiff. In the Answer and Counterclaims, Defendant asserted, *inter alia*, that he had obtained an equitable interest in the Property and was entitled to a right of redemption therefor, and that Plaintiff had made various misrepresentations or material omissions regarding facts related to the Property, and had interfered with Defendant's development and/or operation of the Property.



3. Plaintiff and Defendant settled all claims brought in Plaintiff's Complaint and in Defendant's Answer and Counterclaims by virtue of a Settlement Agreement dated as of March 30, 2012, among Plaintiff, Defendant, and the Third Party Defendants (the "Settlement Agreement"). The parties sought this Court's approval of the Settlement Agreement, and its adoption as the Order of this Court, which was effected by virtue of a Consent Order entered in this action on April 13, 2012 (the "Consent Order"). The Consent Order expressly incorporates the Settlement Agreement by reference, and approves the terms thereof.

4. The Settlement Agreement, as approved by the Consent Order, amended the Lease Purchase Agreement in several respects, including the following:

a. It extended the term of the lease contained in the Lease Purchase Agreement, whereby Hutson was obligated to pay base rent each month to TLC, as well as the property taxes owing on the Property and the rent owing to the South Carolina Public Service Authority (the "Santee Cooper Rent").

b. It imposed an "Approval Deadline" by which Hutson must obtain the "Approvals", which was defined as all necessary governmental approvals for the development and subdivision of the Property, so that Hutson's subdivision plat of the Property could be recorded. The Approval Deadline was July 31, 2012, with three thirty (30) day extension rights which, if exercised, could extend the Approval Deadline to approximately November 1, 2012.

c. It required Hutson to close on the purchase of a portion of the Property within 15 days after he received his Approvals, which thus would have to occur prior to the end of November, 2012.

d. It contained a provision whereby Hutson acknowledged that he owed an "Arrearage" under the Lease Purchase Agreement of \$199,969.19 as of March 31, 2012, and it expressly obligated Hutson to repay the Arrearage not later than December 31, 2012. Settlement Agreement ¶ 4.

e. It obligated TLC to review any "Qualified Plat" provided to it by Hutson, and either approve or provide comments thereto. It defined a "Qualified Plat" as "a proposed subdivision plat of a portion of the [Property], which is prepared by a registered South Carolina land surveyor, and which meets the minimum standards for the practice of land surveying under South Carolina law". Settlement Agreement ¶ 5. If TLC approved a Qualified Plat presented to it, then it was obligated to write a letter to the Clarendon County Planning Commission (the "Planning Commission") requesting that the Planning Commission approve that Qualified Plat.

f. Except for a letter due from TLC to the Planning Commission by April 3, 2012, as to which there is no dispute that TLC delivered, TLC was not obligated to deliver other letters to the Planning Commission unless and until it was presented with a Qualified Plat.

g. It expressly and conspicuously provided, in all capital letters, that Hutson's obligations under the Settlement Agreement were not conditioned upon his receipt of the Approvals. Settlement Agreement ¶ 8.

5. In addition, Section 3 of the Settlement Agreement provides that in the event that Defendant fails to comply with the terms of the Settlement Agreement, "unless such failure is a direct and proximate result of TLC's failure to perform an action expressly required of it in this Settlement Agreement", then the Plaintiff was entitled to "the following immediate relief, without further order of the Court or notice to Defendant or his counsel of record: (a) termination of the [Lease Purchase] Agreement, (b) cancellation of the Lis Pendens [filed by Defendant in this case], (c) immediate vacation of the Property by Defendant except for his personal residence thereon, which shall be vacated within fifteen (15) days; and (d) the provisions of Section 23 shall be effective".

6. Section 23 of the Settlement Agreement contains an automatic release by Defendant, as of the date of termination of the Lease Purchase Agreement, whereby Defendant is deemed to have released, forever discharged and promised never to sue TLC, the Third Party Defendants, and parties related thereto (defined more fully therein as the "TLC Parties") from all claims, known or unknown, and arising at law or in equity, relating to the Lease Purchase Agreement or the relationship between the parties (herein, the "TLC Release").

7. By December 31, 2012, Defendant had breached several provisions of the Settlement Agreement, including:

- a. failing to obtain the Approvals by the Approval Deadline;
- b. failing to close upon the purchase of at least eight acres of the Property by the closing deadline imposed therein (which was approximately November 15, 2012); and
- c. failing to pay the Arrearage prior to December 31, 2012.

8. It is undisputed by the parties that each of the foregoing breaches remains uncured at present. Defendant acknowledges that he has not received his Approvals, nor purchased any portion of the Property, nor repaid the Arrearage.<sup>2</sup>

9. By letter from Plaintiff's counsel to Defendant dated February 7, 2013, Plaintiff notified Hutson that he was in default of the Settlement Agreement and Lease Purchase Agreement for, among other things, failing to pay the Arrearage, failing to pay rent owing thereunder, permitting a mechanics' lien to be filed against the Property by Blue Line Consulting, LLC, and failing to pay the 2012 property taxes for the Property prior to their delinquency on or before January 15, 2013.

<sup>2</sup> Plaintiff alleges that other defaults by Hutson exist under the Lease Purchase Agreement, including failing to pay the 2012 property taxes for the Property prior to their delinquency, failing to pay the Santee Cooper Rent arising after the date of the Settlement Agreement, permitting a mechanic's lien to be filed against the Property, failing to construct certain road improvements to the Property, and failing to comply with certain covenants governing insurance as required under the Settlement Agreement.



10. Defendant did not cure the defaults outlined in the February 7, 2013 letter.

11. By letter dated December 10, 2013, Hutson was advised by Plaintiff's counsel that Plaintiff had exercised its right under the Settlement Agreement to terminate the Lease Purchase Agreement (the "LPA Termination Letter").

12. On December 11, 2013, in accordance with the Consent Order, Plaintiff filed an Affidavit of Default in this action (the "Affidavit of Default"). Plaintiff enclosed a copy of the Affidavit of Default in the LPA Termination Letter.

13. On December 30, 2013, prior to being ejected from the Property, Hutson filed the Motions, along with a supporting affidavit by Hutson (the "Hutson Affidavit"). In the Motions, Hutson alleged that TLC failed to perform an action expressly required of it in the Settlement Agreement, and that it was that failure by TLC which caused Hutson to be unable to perform his obligations under the Settlement Agreement. Hutson Affidavit ¶ 4.a. Specifically, Hutson alleges the following:

a. that Plaintiff approved the proposed subdivision plat, but failed to provide a letter to the Planning Commission that requested that the Planning Commission approve the subdivision. See TRO Motion ¶ 7.a.

b. that Plaintiff made "verbal assurances" to Hutson that were incorrect, and/or that Plaintiff failed to make "important disclosures" to him regarding the Property. See TRO Motion ¶ 7.b.; Hutson Affidavit ¶ 4.b.

c. that Plaintiff failed to provide notice to Defendant regarding the filing of liens against the Property, or of Defendant's failure to pay property taxes with regard to the Property. TRO Motion ¶ 7.c.; Hutson Affidavit ¶ 4.c.

14. This Court issued a Temporary Restraining Order (the "TRO") on December 30, 2013, enjoining Plaintiff from pursuing further proceedings arising from its issuance of an Affidavit of Default. The TRO was to be in effect through January 9, 2014, pursuant to Rule 65, SCRCP.

15. The sole relief requested in the Motions was for this Court to set aside the Plaintiff's Affidavit of Default due to the alleged failure of the Plaintiff to perform actions required of it in the Settlement Agreement and Consent Order. The pertinent issues before this Court in the Motions were whether the Plaintiff had failed or refused to perform certain obligations owing by it under the Settlement Agreement and Consent Order, and whether any such failure had been the "direct and proximate" cause of the Defendant's failure to perform his obligations. The Motions and the Hutson Affidavit did not assert any claim by Defendant to a right of redemption or other equitable interest in the Property.

16. The Court scheduled a hearing on the Motions for January 8, 2014 (the "January Hearing"). The sole purpose of the January Hearing was for this Court to determine whether the TRO should be extended. At no time prior to March 6, 2014 was this Court presented with the issue of whether the Defendant had an equitable interest in the Property that

survived the entry of the Settlement Agreement and Consent Order, and the filing of the Affidavit of Default.

17. During the course of the January Hearing, the Court was advised by the Defendant's attorney that the Defendant had just filed a Chapter 11 petition in the Bankruptcy Court. Therefore, this Court adjourned the hearing, as the Chapter 11 filing automatically stayed further proceedings.

18. On January 24, 2014, Plaintiff filed a Motion for Relief from Automatic Stay or, in the Alternative, for an Order Determining that the Automatic Stay is Inapplicable (the "Stay Relief Motion") in the Bankruptcy Court. It appears that, in the Stay Relief Motion, Plaintiff argued, *inter alia*, that the Property should not be considered property of the Debtor's bankruptcy estate because the Lease Purchase Agreement had been terminated prior to the Petition Date, thereby extinguishing any property interest the Defendant had in the Property. It also appears that Defendant argued in defense of the Stay Relief Motion that he had an equitable interest in the Property, which Plaintiff claimed was asserted previously in Defendant's Answer and Counterclaims, and resolved with finality by the Consent Order and Settlement Agreement.

19. On February 21, 2014, the Bankruptcy Court entered the Stay Relief Order in which it determined that the issue of whether the Defendant has any interest in the Property is a matter of state law, and that considerations of judicial economy, and this Court's familiarity with the dispute, supported its conclusion that this Court is the more appropriate forum to consider the arguments of the parties and to determine what interest, if any, the Defendant has in the Property. The Stay Relief Order granted relief from the automatic bankruptcy stay to Plaintiff for the limited purpose of allowing either Plaintiff or Defendant to seek a determination by this Court of "whether the Debtor had any property interest in the Property as of the bankruptcy petition date, January 8, 2014, and, if so, whether the Debtor presently has any remaining property interest in the Property". Stay Relief Order at 4.

20. On or about February 28, 2014, counsel for the Plaintiff contacted this Court for the purpose of scheduling a hearing. The March Hearing was held in Florence County on March 6, 2014.<sup>3</sup> At the March Hearing, counsel for Defendant submitted a supporting memorandum of law in which Defendant argued that it was a "vendee in possession" of the Property as of the Petition Date, and that, accordingly, Defendant was entitled to claim an equitable interest, and right of redemption, in the Property.

### CONCLUSIONS OF LAW

1. In the Stay Relief Order, the Bankruptcy Court determined that this Court was better situated to determine (a) whether the Debtor had any property interest in the Property as of the Petition Date, and (b) if so, whether he has any property interest in the Property at present. At the March Hearing, this Court repeatedly inquired of the parties whether they believed this Court had the authority, based on the matters pending before it, to issue a final decision on the

<sup>3</sup> This Court notes that, with the consent of the parties, the March Hearing was conducted within fourteen days of the entry of the Stay Relief Order, and that this Order is being entered more than fourteen days following the entry of the Stay Relief Order. This Court makes no determination of whether any stay under Fed. R. Bankr. P. 4001(a)(3) has now expired, nor any determination of the legal effect of the existence or expiration thereof.

merits on these two issues. The parties, through their counsel, insist that this Court does. This Court concludes it does not. All that was presented to this Court prior to the Petition Date was the issue raised in the two Motions. While the issue of whether the Lease Purchase Agreement was properly terminated was before the Court on the Petition Date, the question of whether that termination, if it stands, thereby extinguished any property interest the Defendant had in the Property was not. Again, the issue presented by the Motions is whether the Defendant's failure to perform under the Settlement Agreement and Consent Order was directly and proximately caused by the Plaintiff's failure to perform, not whether the Defendant has retained some sort of equitable or legal interest in the Property by virtue of improvements or other value he has added to the Property. Any notation in the Defendant's Motions, or in the Plaintiff's Stay Relief Motion, that the movant was also seeking "such other and further relief as may be just and proper", does not expand the matters presented to this Court, or this Court's jurisdiction, into the one now urged by the parties.

2. As to the TRO Motion, the Court will now address the issue of whether the TRO should be extended. In so doing, the Court will address the relevant issues raised at the March Hearing as if they had been raised at the January Hearing, when the TRO was still in effect.<sup>4</sup> The law is well-settled in South Carolina that an injunction is a drastic remedy and may only be granted when the party seeking the relief demonstrates (1) he will suffer irreparable harm if the injunction is not granted, (2) he will likely succeed on the merits of the litigation, and (3) there is an inadequate remedy at law. See *AJG Holdings, LLC v. Dunn*, 382 S.C. 43, 674 S.E.2d 505 (Ct. App. 2009). The remedy of an injunction is drastic and should only be applied when legal rights are unlawfully invaded or legal duties are willfully or wantonly neglected. *LeFurgy v. Long Cove Club Owners Assoc., Inc.*, 313 S.C. 555, 443 S.E.2d 577 (Ct. App. 1994). The party seeking an injunction is not required to prove an absolute legal right, but must present a reasonable question as to the existence of such a right. The court may consider the merits of a case to the extent necessary to determine whether a temporary injunction is warranted. "Once a *prima facie* showing has been made entitling the [moving party] to injunctive relief, a temporary injunction will be granted without regard to the ultimate termination of the case on the merits." *AJG Holdings, LLC*, 382 S.C. at 50-51.

3. Having considered the arguments of Defendant and the evidence presented by the parties, this Court concludes that the Defendant has not demonstrated that his failure to perform his obligations under the Settlement Agreement is a direct and proximate result of Plaintiff's failure to perform an action expressly required of it under the Settlement Agreement. The evidence presented at the March Hearing was convincing that the Defendant breached several provisions of the Settlement Agreement approved by the Court, and made part of the Order of this Court in the Consent Order filed on April 13, 2012. For example, Defendant admits that he has not repaid the Arrearage, nor did he obtain the Approvals by the Approval Deadline, nor has he purchased any portion of the Property. Evidence of other defaults by Defendant was presented at the March Hearing, including his failure to pay rent and property

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<sup>4</sup> Pursuant to S.C.R.Civ.P. 65, the TRO was scheduled to expire ten days after its issuance, on January 9, 2014. See TRO. This Court knows of no authority, and none was presented by the parties, addressing whether the Chapter 11 automatic stay also stayed the expiration of the TRO, and, if so, whether the expiration of the fourteen day 4001(a)(3) Stay has now caused the TRO to expire.

taxes required under the Lease Purchase Agreement as modified by the Settlement Agreement, and permitting a mechanic's lien to be filed against the Property.

4. Defendant contends in the Hutson Affidavit that TLC approved a subdivision plat of the Property but failed to submit a requisite letter to the Planning Commission. See TRO Motion ¶ 7.a. The Settlement Agreement does require TLC to consider a proposed Qualified Plat submitted by Hutson and, if approved, submit a letter in support thereof to the Planning Commission. But in his sworn examination taken in the Bankruptcy Case pursuant to F. R. Bankr. P. 2004 (the "2004 Examination"), Hutson admitted that he had not provided a "Qualified Plat" to TLC for consideration prior to January, 2014, well past the Approval Deadline in November, 2012. 2004 Examination p. 460 lns.16-18.

5. With respect to Defendant's allegations in Paragraph 7.b. of the TRO Motion that Plaintiff made "verbal assurances" to Hutson that were incorrect, or that Plaintiff failed to make "important disclosures" to him, Hutson made those same allegations in his Answer and Counterclaims filed in this action on January 3, 2012, and those allegations were included in the settlement of this action pursuant to the Settlement Agreement, which was approved by the Consent Order. Hutson admitted in his 2004 Examination that these all arose prior to the Settlement Agreement. 2004 Examination p. 515, ln.4 – p. 516, ln. 21. Thus, those alleged misstatements or omissions, even if true, were known to Defendant prior to the entry of the Consent Order, and were the basis of the settlement of this action pursuant to the Settlement Agreement which was approved by the Consent Order.

6. With respect to Defendant's allegations in Paragraph 7.c. of the TRO Motion that no notice was provided by Plaintiff to Defendant regarding liens placed on the Property, or any nonpayment of real property taxes, those allegations are likewise unfounded. In the letter from Plaintiff's counsel to Defendant dated February 7, 2013, Plaintiff expressly advised Hutson that he was in default for, among other things, "permitting a lien to be filed against the Property by Blue Line Consulting, LLC" and "failing to pay the 2012 property taxes for the Property prior to their delinquency on or before January 15, 2013". While the mechanic's lien may have subsequently lapsed by statute, the 2012 property taxes were never paid by Defendant.

7. Accordingly, there has been no *prima facie* showing by the Defendant that the injunction should be extended. The allegations contained in the Hutson Affidavit are refuted by his own testimony in the 2004 Examination, and by the documentary evidence presented by Plaintiff. Defendant has failed to establish that he would be likely to succeed on the merits of his claim that his breaches of the Settlement Agreement were caused by the Plaintiff. The assertions set forth in the Hutson Affidavit must have a reasonable factual basis, and this Court concludes that they do not.

8. Because the Defendant has not established that he is likely to prevail on the merits of his claim, there is no need for this Court to examine whether the Defendant will suffer irreparable harm if the relief is not granted, nor whether the Defendant has an adequate remedy at law. This Court declines to extend the TRO or otherwise to grant an injunction in Defendant's favor against the enforcement of the Consent Order and Settlement Agreement according to their terms.

9. As to the Affidavit of Default Motion, because this Court concludes that Defendant defaulted under the terms of the Consent Order and Settlement Agreement, and that those defaults were not the "direct and proximate result of TLC's failure to perform an action expressly required of it" under the Settlement Agreement, the Defendant's Motion to Set Aside Affidavit of Default is likewise denied.

10. Pursuant to the express terms of the Consent Order, effective upon the filing of the Affidavit of Default in this action on December 11, 2013, Plaintiff was entitled to the following immediate relief, without further order of the Court or notice to Defendant or his counsel of record: (a) termination of the Lease Purchase Agreement, (b) cancellation of the Lis Pendens [filed by Defendant in this case], (c) immediate vacation of the Property by Defendant except for his personal residence thereon, which shall be vacated within fifteen (15) days; and (d) the provisions of Section 23 shall be effective". Consent Order at ¶ 2.

11. Therefore, the Lease Purchase Agreement was terminated, according to its terms as modified by the Settlement Agreement and Consent Order, as of December 11, 2013 (the "Termination Date"), and Hutson was required to vacate the Property immediately, except only for his personal residence thereon, which he was required to vacate within fifteen (15) days (i.e., December 26, 2013).

12. In the TRO Motion, Defendant acknowledges receiving a copy of the Affidavit of Default on December 18, 2013. TRO Motion ¶ 4. Even if this Court were inclined to commence the fifteen (15) day period for vacating his residence from the date Defendant says he received the Affidavit of Default on December 18, 2013, Defendant was still required to vacate that residence by January 2, 2014. Defendant's rights to possession of the remainder of the Property, other than his residence, expired no later than December 18, 2013, and his right to remain in his residence would have lapsed not later than January 2, 2014.

### ORDER

NOW, THEREFORE, it is hereby:

ORDERED, that this Court declines to extend the TRO or otherwise grant an injunction against Plaintiff's enforcement of the Consent Order and Settlement Agreement.

FURTHER ORDERED, that the Motion to Set Aside Affidavit of Default is denied.

FURTHER ORDERED, that the Settlement Agreement and Consent Order are to be enforced according to their terms.

FURTHER ORDERED, that, in conjunction with enforcing the Consent Order according to its terms, pursuant to Paragraph 2 of the Consent Order, upon the filing of the Affidavit of Default on December 11, 2013, Plaintiff was and is entitled to, and is hereby awarded, the following immediate relief, without the need for further Order of this Court:

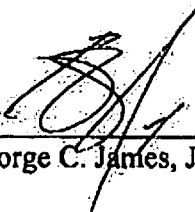
(a) The Lease Purchase Agreement was deemed automatically terminated and of no further force or effect;

(b) The lis pendens filed by Defendant against the Property was deemed automatically cancelled, terminated of record, and of no further force or effect; and

(c) Defendant was required immediately to vacate the Property, except only with respect to his personal residence located thereon, as to which he was obligated to vacate the same within fifteen (15) days following receipt of a copy of the Affidavit of Default, or the posting of a copy of the Affidavit of Default upon such residence, whichever first occurs.

FURTHER ORDERED, that pursuant to the Consent Order, Defendant is deemed to have granted the TLC Release to the TLC Parties, as set forth more fully in Section 23 of the Settlement Agreement.

IT IS SO ORDERED.

  
George C. James, Jr., Circuit Judge

March 20, 2014



**BURN**  
**LAW FIRM, LLC**

Stephen "Chip" Burn  
cburn@burnlawfirmllc.com

Sarah W. Guthrie  
sguthrie@burnlawfirmllc.com

March 5, 2014

Beulah G. Roberts  
Clarendon County Clerk of Court  
P.O. Box 136  
Manning, SC 29102-0136

In Re: TLC Holdings, LLC v. M.B. Hutson  
Civil Action No.: 2011-CP-14-602

Dear Clerk Roberts:

Enclosed please find one original and one copy of a Consent Order to be Relieved as Counsel for Defendant and Third Party Plaintiff, M.B. Hutson. Please file the original and return the clocked-in copy in the enclosed, postage paid return envelope. By copy of this letter, I am hereby serving the other parties with a copy of the same.

Thank you for your assistance with this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely yours,

BURN LAW FIRM, LLC



Stephen "Chip" Burn, Esquire

Enc

Cc: Thomas L. Harper, Jr., Esq.  
James C. Thigpen  
M.B. Hutson

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF CLARENDON )

THIRD JUDICIAL CIRCUIT

CASE NO.: 2011-CP-14-602

TLC Holdings, LLC )

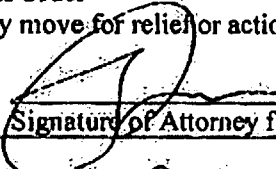
**MOTION AND ORDER INFORMATION  
FORM AND COVERSHEET**

Plaintiff, )

vs. )

M.B. Hudson a/k/a M.B. Hutson )

Defendant. )

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Plaintiff's Attorney:<br>_____, Bar No. _____<br>Address: _____<br>Phone: _____ Fax: _____<br>E-mail: _____ Other: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Defendant's Attorney:<br>Stephen "Chip" Burn, Esq., Bar No. 69479<br>Address: _____<br>945 East Main St, Ste D, Lexington, SC 29072<br>Phone: (803) 358-7220 Fax (888) 791-2057<br>E-mail: cburn@burnlawfirmllc.com Other: _____ |
| <input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)<br><input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)<br><input checked="" type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                  |
| <b>SECTION I: Hearing Information</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                  |
| Nature of Motion: _____<br>Estimated Time Needed: _____ Court Reporter Needed: <input type="checkbox"/> YES / <input type="checkbox"/> NO                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                  |
| <b>SECTION II: Motion/Order Type</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                  |
| <input checked="" type="checkbox"/> Written motion attached<br><input type="checkbox"/> Form Motion/Order<br>I hereby move for relief or action by the court as set forth in the attached proposed order.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                  |
| <div style="display: flex; justify-content: space-between;"> <div> <br/>           Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant         </div> <div>           March 5, 2014<br/>           Date submitted         </div> </div>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                  |
| <b>SECTION III: Motion Fee</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                  |
| <input checked="" type="checkbox"/> PAID - AMOUNT: \$ <u>25.00</u><br><input type="checkbox"/> EXEMPT: (check reason) <div style="display: flex; flex-wrap: wrap;"> <div style="width: 50%;"> <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support<br/> <input type="checkbox"/> Domestic Abuse or Abuse and Neglect<br/> <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party<br/> <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief<br/> <input type="checkbox"/> Motion for Stay in Bankruptcy<br/> <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)<br/> <input type="checkbox"/> Proposed order submitted at request of the court; or,<br/>             reduced to writing from motion made in open court per judge's instructions<br/>             Name of Court Reporter: _____<br/> <input type="checkbox"/> Other: _____           </div> <div style="width: 50%;"></div> </div> |                                                                                                                                                                                                                                  |
| <b>JUDGE'S SECTION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                  |
| <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order.<br><input type="checkbox"/> Other: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | JUDGE CODE _____<br>Date: _____                                                                                                                                                                                                  |
| <b>CLERK'S VERIFICATION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                  |
| Collected by: _____ Date Filed: _____<br><input type="checkbox"/> MOTION FEE COLLECTED: \$ _____<br><input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                  |

SCCA 233 (11/2003)

EJECT\_000018

1359



STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )

IN THE COURT OF COMMON PLEAS  
Civil Action No.: 2011-CP-14-602

TLC Holdings, LLC, )  
 )  
Plaintiff, )  
 )  
v. )

M.B. Hudson a/k/a M.B. Hutson, )  
 )  
Defendant. )

**CONSENT ORDER TO BE  
RELIEVED AS COUNSEL**

M.B. Hudson a/k/a M.B. Hutson, )  
 )  
Defendant and Third Party Plaintiff, )  
 )  
v. )

Richard U. Clark, Jimmy S. Lovell and )  
James C. Thigpen, )  
 )  
Third Party Defendants )

This matter comes before me upon application of Stephen C. Burn, Jr., attorney for the Defendant and Third Party Plaintiff (hereinafter, "Defendant"), seeking to be relieved as attorney of record for the Defendant, upon the grounds that Defendant no longer wishes to be represented by counsel in this matter.

THEREFORE, for good cause shown, and with their signatures affixed hereto,

IT IS HEREBY ORDERED that Stephen C. Burn, Jr., Esquire, be relieved as the attorney of record for all further action in the representation of M.B. Hudson a/k/a M.B. Hutson in connection with the above-referenced action.

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AND IT IS SO ORDERED.

This 3 day of March, 2014.  
Jurata, South Carolina.

I CONSENT:

[Signature]  
Stephen C. Burn, Jr., Esquire

[Signature]  
The Honorable George C. James, Jr.  
Third Judicial Circuit

I CONSENT:

[Signature]  
M.B. Hudson a/k/a M.B. Hutson

[Signature]

STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )  
TLC Holdings, LLC, )  
Plaintiff, )  
v. )  
M.B. Hudson a/k/a M.B. Hutson, )  
Defendant. )

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2011-CP-14-602

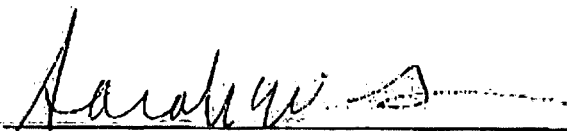
**CERTIFICATE OF SERVICE**

M.B. Hudson a/k/a M.B. Hutson,  
Defendant and Third Party Plaintiff,  
v.  
Richard U. Clark, Jimmy S. Lovell and  
James C. Thigpen,  
Third Party Defendants

I, Sarah W. Guthrie, Esq., an employee of Burn Law Firm, LLC, attorney for the Defendant and Third Party Plaintiff, do hereby certify that I have served the foregoing **CONSENT ORDER TO BE RELIEVED AS COUNSEL** in the above-captioned case, by causing a copy of the same to be personally deposited in a United States Postal Service mail box, with the return address clearly visible, postage prepaid, addressed to the attorney(s) of record as indicated below:

Thomas L. Harper, Jr., Esq.  
Womble, Carlyle, Sandridge & Rice, LLP  
P.O. Box 999  
Charleston, SC 29402

James C. Thigpen  
1271 Challenger Court  
Summerton, SC 29148

  
Sarah W. Guthrie, Esq.

March 5, 2014

STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )

IN THE COURT OF COMMON PLEAS  
IN THE THIRD JUDICIAL CIRCUIT  
Case Number 2011-CP-14-602

TLC Holdings, LLC, )  
Plaintiff, )

v. )  
M.B. Hudson a/k/a M.B. Hutson, )  
Defendant. )

**HUTSON'S MEMORANDUM IN  
SUPPORT OF HIS POSITION THAT  
HE HAD AN INTEREST IN BIG  
WATER RESORT PROPERTY ON  
JANUARY 8, 2014 AND THAT HIS  
INTEREST REMAINS INTACT**

M.B. Hudson a/k/a M.B. Hutson, )  
Defendant and Third )  
Party Plaintiff, )

v. )  
Richard U. Clark, Jimmy S. Lovell, )  
and James C. Thigpen, )  
Third Party Defendants. )

On February 21, 2014, The Honorable United States Bankruptcy Judge John E. Waites signed an Order Granting Limited Relief from the Automatic Stay in Case Number 14-00164-jw, In re: Morris Beach Hutson, for a State Court determination of whether the Debtor, who is also the Defendant and Third Party Plaintiff herein ("Hutson"), had an interest in Big Water Resort under South Carolina law on January 8, 2014, the date the bankruptcy was filed, and, if so, whether the interest remains intact. Hutson respectfully submits this memorandum in support of his position that he does have an interest in the real property.

As set forth in further detail herein, Hutson had a property interest in the real property at the Big Water Resort under South Carolina on January 8, 2014, and that remains intact today, for two reasons:

1. Because Hutson's alleged non-compliance with the April 2012 Settlement Agreement is the direct and proximate result of the wrongful actions and omissions of TLC and its shareholders, to wit: Clark, Lovell, and Thigpen.

2. Because Hutson is a vendee in possession of land under an executory land contract with rights that arise by operation of law under the doctrines of equitable conversion and equitable redemption, regardless of whether he defaulted on the April 2012 Settlement Agreement.

### Factual Background

Big Water Resort is a development on Lake Marion that has been in operation since approximately 2002. In December 2010, Hutson and TLC agreed that Hutson would purchase the business at Big Water Resort and would develop and purchase the real property where the business is located. Two contracts were executed in December 2010 to memorialize those agreements: (1) a Membership Interest Purchase Agreement and (2) a Lease Purchase Agreement. Since December 2010, Hutson has owned and operated the business at the Big Water Resort, been in possession of the real property where the Big Water Resort is located, and expended substantial time, money, and resources trying to develop and purchase the Big Water Resort.

Although Hutson has not been able to purchase the real property where the Big Water Resort is located, which is what the parties anticipated would happen when they signed the December 2010 agreements, Hutson's efforts at Big Water Resort have added significant value to the property. Hutson has been able to achieve this, even though his efforts and progress have been substantially impaired by material non-disclosures by TLC and its shareholders relating to the business and the development potential of the real property, and by the failure to TLC and its shareholders to perform as they were required to perform under the April 2012 Settlement Agreement.

First, Hutson has been able to restructure the memberships at the Big Water Resort in a manner that allows the business to generate revenue. Prior to December 2010, TLC purported to sell lifetime membership interests to members of the public that purportedly provided the members with lifetime membership rights with free camping. By requiring the members to pay in full up front, TLC effectively stripped the business of the ability to generate revenue in the future based on usage in the future. TLC and its shareholders, Clark, Lovell, and Thigpen, withheld the nature of the lifetime membership agreements to Hutson prior to the execution of the December 2010 agreements. As a result, instead of Mr. Hutson being able to focus his time and money on operating the business and developing the real estate, Mr. Hutson was forced to cut expenses by reducing payroll and increase revenue by raising costs for the members of Big Water Resort.

Second, Hutson has converted the former clubhouse into a restaurant that is leased and operated by a third party. The restaurant provides a revenue stream that did not exist before December 2010.

Third, Hutson has been able to secure a commitment from the Town of Summerton to provide water and sewer service to the Big Water Resort. Prior to December 2010, TLC had been informed that DHEC had issued a moratorium on the

water and sewer line to this area, which meant that the Big Water Resort would be prohibited from tapping into the system. Unfortunately, however, TLC withheld this known fact to Hutson prior to the execution of the December 2010 agreements. Upon discovery, Hutson expended considerable time and money have the moratorium lifted.

In an effort to quantify the value added by his efforts, Hutson had the Big Water Resort evaluated by a certified appraiser and licensed real estate agent from Summerton named Bonham K. Gardner. Mr. Gardner issued a report on February 28, 2014. In his professional opinion, the efforts by Hutson have added between \$700,000 and \$1,400,000 in value to the development. The main reason for the increase in value is the lifting of the water and sewer moratorium, because the Big Water Resort had no development value without it. There is value from the membership restructuring and the restaurant, too, but Mr. Gardner did not estimate a specific value for those improvements.

In addition to the added value to the Big Water Resort identified by Mr. Gardner, Hutson has also invested approximately \$300,000 in the Big Water Resort and literally thousands of hours of work to accomplish the purpose and intent of the December 2010 agreements.

At times since December 2010, the relationship between Hutson and TLC, Clark, Lovell, and Thigpen has been tumultuous, to say the least. In November 2011, this case was commenced by TLC against Hutson for breach of the Lease Purchase Agreement. Hutson responded by filing counterclaims and a third party complaint against Clark, Lovell, and Thigpen, in which he alleged material non-disclosures of limitations on the business itself (i.e. lifetime memberships) and on the feasibility of further development of Big Water Resort (i.e. water and sewer moratorium). On March 30, 2012, the parties entered into a Settlement Agreement relating to the claims, counterclaims, and third party claims. The Settlement Agreement was incorporated into a Court Order on April 12, 2012. The purpose of the Settlement Agreement was to try to "reboot" and to outline a plan that would allow the parties to do what they set out to do in December 2010.

After the Court Order was entered, pursuant to paragraph 5 of the Settlement Agreement, Hutson submitted a proposed subdivision plat to TLC. On June 22, 2012, TLC's attorney sent a letter to the Clarendon County Planning Commission stating that his client had approved the proposed subdivision plat.

However, TLC itself did not and has not provided a letter to the Clarendon County Planning Commission as it was expressly required to do by paragraph 5 of the April 2012 Settlement Agreement, which required TLC to provide a further letter to the Clarendon County Planning Commission further requesting that it "approve the subdivision of the Premises into not less than two (2) adjacent and unimproved acres of property, and the further subdivision of such acres into smaller individual lots, all of which must be contiguous." The April 2012 Settlement Agreement Expressly provided that this letter was to be in addition to the letter from TLC's attorney. Significantly, the content of the letter was to be different from the letter from TLC's attorney. Hutson has

inquired about this requirement repeatedly since 2012, but the letter has never been provided and no legitimate reason has ever been articulated for that failure.

During the twenty (20) month period between April 2012 and December 2013, Hutson paid TLC a total of \$136,000.00 in accordance with the April 2012 Settlement Agreement. Hutson stopped making payments in September 2013, but that was because Clark and Lovell specifically told him to slow down because they intended to foreclose on their own partner, Thigpen.

During the twenty (20) month period between April 2012 and December 2013, neither party strictly complied with (or required strict compliance with) the terms of the Settlement Agreement. There were several reasons, including, but not limited to, (1) the failure by TLC, after approving the proposed subdivision plat in April 2012, to provide a letter to the Clarendon County Planning Commission authorizing Hutson to proceed, (2) the internal disputes between TLC's shareholders about their relative rights relating to the Big Water Resort property, (3) the requests by two of TLC's shareholders (Clark and Lovell) to slow down development progress so they could oust the third (Thigpen), (4) the implication by one of TLC's shareholders (Thigpen) that he was trying to stunt the progress of the development to protect his interest in the Big Water Resort, (5) the lack of cooperation by TLC with the development, and (6) continuing negotiations that diverged from the April 2012 Settlement Agreement.

Hutson filed Chapter 11 Bankruptcy on January 8, 2014. After a hearing, The Honorable United States Bankruptcy Judge John E. Waites signed an Order Granting Limited Relief from the Automatic Stay, in which Judge Waites concluded that: "The Court will provide limited relief from the automatic stay so that either TLC or the Debtor can seek a State Court determination of the following two issues: (1) Whether the Debtor had any property interest in the Property on January 8, 2014, the bankruptcy petition date; and, if so, (2) Whether the Debtor presently has any remaining property interest in the Property."

### Argument

As set forth below, Hutson had a property interest in the real property at the Big Water Resort on January 8, 2014, and that remains intact today, because (1) his non-compliance with the April 2012 Settlement Agreement is the direct and proximate result of the wrongful actions and omissions of TLC and Clark, Lovell, and Thigpen, and (2) he is a vendee in possession of land under an executory land contract with rights that arise by operation of law regardless of whether he defaulted on the April 2012 Settlement Agreement.

1. Hutson's non-compliance with the April 2012 Settlement Agreement is the direct and proximate result of the wrongful actions and omissions of TLC and Clark, Lovell, and Thigpen.

The first default by either party under the April 2012 Settlement Agreement was the failure by TLC to provide a letter to the Clarendon County Planning Commission in the Summer of 2012. Paragraph 5 of the Settlement Agreement expressly required TLC to provide such a letter after it approved the proposed subdivision plat. The Consent Order stated that time was of the essence. TLC approved the plat on or before June 22, 2012, when its lawyer sent a letter to the Planning Commission, but TLC never took the next step by sending a letter itself conveying different information. Although Hutson was unable to perform some of his obligations under the April 2012 Settlement Agreement, his inability to do so was precipitated by TLC's initial default. In September of 2013, he stopped making payments to TLC because Clark and Lovell told him to slow down because they intended to foreclose on Thigpen and TLC, and they would then give a new contract to Hutson.

The significance of TLC's initial default cannot be understated. Hutson was not the legal title holder to the property. Therefore, he could only act with the cooperation of TLC. TLC's obligation to cooperate included the letter identified in paragraph 5 of the April 2012 Settlement Agreement.

The failure by TLC to provide the required letter had the effect of derailing the April 2012 Settlement Agreement. Thereafter, the parties tried to accomplish the purpose and intent of the April 2012 Settlement Agreement, but were unable to do so. On his part, Hutson continued to pay TLC pursuant to the Settlement Agreement and to try to move the development forward. However, although TLC was willing to accept Hutson's money, TLC itself did not and has not provided a letter to the Clarendon County Planning Commission as it was expressly required to do by paragraph 5 of the April 2012 Settlement Agreement. This should have happened in the Summer of 2012, but TLC has never done this, even though paragraph 25 of the Settlement Agreement provided that time was of the essence.

Perhaps TLC's failure to provide the letter is the result of an internal dispute among the members that threatened the entire deal. As set forth above, Clark and Lovell informed Hutson of their desire to rid themselves of Thigpen in the Summer of 2013. Because Hutson has not cooperated fully with them, they apparently feel the need to try to oust Hutson first. What is happening now is two of the shareholders of TLC (Clark and Lovell) are trying to oust Hutson from the Big Water Resort so that they can then oust the third shareholder (Thigpen). Clark and Lovell should be estopped from doing this, because they should not be able to demand strict compliance with the April 2012 Settlement Agreement now, (1) when the alleged defaults by Hutson were caused by their own initial default in the Summer of 2012, and (2) because Clark and Lovell expressly told Hutson that strict compliance with the April 2012 Settlement Agreement was not required because of their plan to oust Clark and Lovell. TLC has waived the right to enforce strict compliance with the April 2012 Settlement Agreement, which did not contain a non-waiver provision.

It is well established in South Carolina that one who prevents the performance of a condition [precedent] of a contract cannot benefit from, or take advantage of, or



complaint about the other party's resulting nonperformance in an action on the contract. *Willms Trucking Co. v. JW Constr. Co.*, 314 S.C. 170, 442 S.E.2d 197 (Ct. App. 1994); *Champion v. Whaley*, 280 S.C. 116, 311 S.E.2d 404 (Ct. App. 1984). Therefore, because Hutson's defaults under the April 2012 Settlement Agreement were precipitated by TLC's initial default, Hutson still had a property interest in the Big Water Resort on January 8, 2014, and that interest remains intact today.

2. Hutson is a vendee in possession of land under an executory land contract with rights that arise by operation of law, regardless of whether he defaulted on the April 2012 Settlement Agreement.

An executory contract is defined as a contract that has not been fully completed or performed at the time it is executed. *Black's Law Dictionary* (5th ed.) p. 512. Both the December 2010 Lease Purchase Agreement and the April 2012 Settlement Agreement are executory contracts for the sale of the Big Water Resort real estate; both Agreements required the purchase of the Big Water Resort real estate by Hutson from TLC, even though there were terms of the Agreements that were to be performed by TLC and by Hutson in the future. As set forth below, this means that Hutson has an interest in the Big Water Resort as a matter of law under the doctrines of equitable conversion and equitable redemption, even if it is determined that Hutson defaulted under the April 2012 Settlement Agreement.

#### Equitable Conversion

The South Carolina Court of Appeals discussed the doctrine of equitable conversion in *Southern Pole Buildings, Inc. v. Williams*, 89 S.C. 521, 347 S.E.2d 121 (Ct.App. 1986), and *Brooks v. Council of Co-Owners of Stones Throw Horizontal Property Regime I*, 315 S.C. 474, 477, 445 S.E.2d 630, 632 (1994). In both cases, the Court stated the well established rule in South Carolina that a purchaser under an executory land contract acquires equitable title to the real estate even though the purchase money has not changed hands.

In *Southern Pole Buildings*, the owner of real property argued that a material man who had been hired by a vendee in possession under an executory contract was unable to obtain a mechanic's lien on the property because the vendee in possession lacked the requisite interest in the property. The Court of Appeals refused to accept the owner's argument, holding that:

"As vendee in possession of the land under an executory contract of sale, Mrs. Williams was considered the owner of an equitable interest in the property that was subject to the attachment of a mechanics lien." *Id.*, 289 S.C. 521, 524, 347 S.E.2d 121, 122 (Ct.App. 1986).

In *Brooks*, the Supreme Court dealt with the issue of whether a vendee in possession of a condominium had an interest in the condominium that would enable

him to pursue a nuisance claim against the Regime. Although the Court held that the vendee in possession did not have an interest in the property because the express language of the contract stated that no equitable interest passed to the vendee until the closing, the Court did recite the general rule:

"The theory of equitable conversion provides that under an executory contract for the sale of real estate the equitable estate passes to the purchaser and the bare legal title for security purposes remains in the vendor. The doctrine of equitable conversion, however, does not apply when equitable considerations intervene or the parties intend otherwise." Id. 315 S.C. 474, 477, 445 S.E.2d 630, 632 (1994).

Applying the doctrine of equitable conversion, as articulated by the Appellate Courts of South Carolina, to the facts of this case leads to the inescapable conclusion that Hutson has an equitable interest in the Big Water Resort real estate by virtue of the executory land contracts. The fact that legal title has not changed hands does not control. Therefore, Hutson still had a property interest in the Big Water Resort on January 8, 2014, and that interest remains intact today.

In this case, unlike Brooks, there is no language in either the December 2010 Land Purchase Agreement or the April 2012 Settlement Agreement that expressly provided that Hutson did not obtain an interest in the property, legal or equitable, until the closing.<sup>1</sup>

It is noteworthy that one of the defaults alleged by TLC against Hutson was the fact that an engineer retained by Hutson filed a mechanics lien against the Big Water Resort real property. Although TLC has been aware of this lien, it has taken no action to challenge the propriety of the mechanics lien on the grounds that Hutson did not have a property interest in the Big Water Resort. Even if TLC tried, it would not be able to do so now, because Hutson, like the purchaser in Southern Pole Buildings, has an equitable interest in the Big Water Resort real estate.

#### Equitable Redemption

The South Carolina Supreme Court discussed the doctrine of equitable redemption at length in Lewis v. Premium Inv. Corp., 351 S.C. 167, 568 S.E.2d 361 (2002). The issue in Lewis was whether a vendee in possession under an executory land contract had an interest in the real property, even though she had defaulted on the contract and even though the contract had a forfeiture provision that purported to

<sup>1</sup> In Brooks, the contract between the parties stated:

**"23. INTENTION OF THE PARTIES**

This Agreement is, and is intended to be, an executory contract for the sale of real estate, and except for the lien created in favor of Buyer herein, shall not be construed as passing or having passed ownership, title or interest in the subject premises, either legal or equitable, until the closing of title as provided herein." Id. 315 S.C. 474, 477, 445 S.E.2d 630, 632 (1994).

extinguish her rights. The Supreme Court held that the vendee had a right of redemption that was not automatically extinguished by the language of the contract. Rather, the Court held that the master-in-equity was required to consider a number of factors in determining whether redemption was equitable under the circumstances. Those factors included the amount of the purchaser's equity, the length of period and the number of defaults, the amount of the monthly payments in relation to the rental value, the value of the improvements to the property, and the adequacy of the property's maintenance. Id., 351 S.C. at 173-4, 568 S.E.2d at 364-5 (2002).

Applying Lewis factors to the facts of this case leads to the conclusion that Hutson had a property interest in the Big Water Resort on January 8, 2014 that remains intact today. A finding that Hutson does not have an interest would result in a windfall to TLC that would be inequitable under the circumstances, especially considering there is no forfeiture provision in the April 2012 Settlement Agreement.

As to Hutson's equity in the property, the improvements that he has made to the property, and the adequacy of maintenance of the property, Hutson has improved and added substantial value to the Big Water Resort real property since December 2010 by (1) restructuring the memberships, (2) converting the clubhouse into a restaurant leased to a third party, and (3) securing a commitment from the Town of Summerton to provide water and sewer service to the Big Water Resort. Hutson's contributions to the value of the Big Water Resort real property have been evaluated by Mr. Gardner, who assigned a substantial value to them. This is in addition to the hundreds of thousands of dollars that he has invested in the development and the thousands of hours that he has spent trying to move the development forward. There is no allegation by TLC or its shareholders that Hutson has not properly maintained the Big Water Resort.

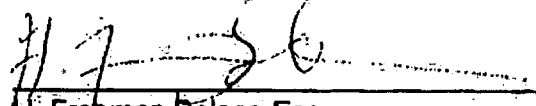
As to the alleged defaults by Hutson under the April 2012 Settlement Agreement, as set forth in detail above, Hutson's non-compliance is the direct and proximate result of the wrongful actions and omissions of TLC and Clark, Lovell, and Thigpen. To wit, (1) TLC's failure to provide the required letter to the Clarendon County Planning Commission, and (2) the express representations of Clark and Lovell to Hudson about their intentions to delay the development of Big Water Resort until they had the opportunity to oust Thigpen. As set forth above, during the twenty (20) month period between April 2012 and December 2013, Hutson paid TLC a total of \$136,000.00 in accordance with the April 2012 Settlement Agreement. Hutson stopped making payments in September 2013, but that was because Clark and Lovell specifically told him to slow down because they intended to foreclose on their own partner, Thigpen.

#### Conclusion

For the reasons set forth herein, Hutson prays that this Court issue a order stating that he had a property interest in the Big Water Resort on January 8, 2014 that remains intact today.

Respectfully submitted,

**BELSER & BELSER, P.A.**



H. Freeman Belser, Esq.

1901 Main Street, Suite 1550 (29201)

Post Office Box 96

Columbia, South Carolina 29202

(803) 929-0096

[freeman@belserspa.com](mailto:freeman@belserspa.com)

Columbia, South Carolina

March 6, 2014

STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )

IN THE COURT OF COMMON PLEAS  
IN THE THIRD JUDICIAL CIRCUIT  
Case Number 2011-CP-14-602

TLC Holdings, LLC, )  
Plaintiff, )

v. )

M.B. Hudson a/k/a M.B. Hutson, )  
Defendant. )

**NOTICE OF APPEARANCE OF  
H. FREEMAN BELSER, ESQ. AS  
COUNSEL OF RECORD FOR THE  
DEFENDANT AND THIRD PARTY  
PLAINTIFF**

M.B. Hudson a/k/a M.B. Hutson, )  
Defendant and Third )  
Party Plaintiff, )

v. )

Richard U. Clark, Jimmy S. Lovell, )  
and James C. Thigpen, )  
Third Party Defendants. )

2014 JUN 25 - 7 AM 10:46

TO: R. Wayne Byrd, Esq., Thomas Lawton Harper, Jr., Esq., and Jana Bebergal Baker, Esq., Counsel for the Plaintiffs and Third Party Defendants

PLEASE TAKE NOTICE THAT H. Freeman Belser of the law firm of Belser & Belser, P.A. has been retained by the Defendant and Third Party Plaintiff to represent his interests as counsel of record in this case.

**BELSER & BELSER, P.A.**

  
H. Freeman Belser, Esq.  
1901 Main Street, Suite 1550 (29201)  
Post Office Box 96  
Columbia, South Carolina 29202  
(803) 929-0096  
[freeman@belserpa.com](mailto:freeman@belserpa.com)

Columbia, South Carolina

March 6, 2014

STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )

IN THE COURT OF COMMON PLEAS  
Civil Action No.: 2011-CP-14-602

TLC Holdings, LLC, )  
Plaintiff, )

v. )

M.B. Hudson a/k/a M.B. Hutson, )  
Defendant. )

**CONSENT ORDER TO BE  
RELIEVED AS COUNSEL**

M.B. Hudson a/k/a M.B. Hutson, )  
Defendant and Third Party Plaintiff, )

v. )

Richard U. Clark, Jimmy S. Lovell and )  
James C. Thigpen, )  
Third Party Defendants )

RECEIVED  
CLERK OF COURT  
2019 JUN 27 7 AM 10:46

This matter comes before me upon application of Stephen C. Burn, Jr., attorney for the Defendant and Third Party Plaintiff (hereinafter, "Defendant"), seeking to be relieved as attorney of record for the Defendant, upon the grounds that Defendant no longer wishes to be represented by counsel in this matter.

THEREFORE, for good cause shown, and with their signatures affixed hereto,

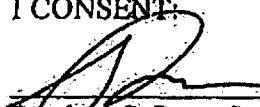
IT IS HEREBY ORDERED that Stephen C. Burn, Jr., Esquire, be relieved as the attorney of record for all further action in the representation of M.B. Hudson a/k/a M.B. Hutson in connection with the above-referenced action.

AND IT IS SO ORDERED.

  
The Honorable George C. James, Jr.  
Third Judicial Circuit

This 6 day of March, 2014.  
Flower, South Carolina.

I CONSENT:

  
Stephen C. Burn, Jr., Esquire

I CONSENT:

  
M.B. Hudson a/k/a M.B. Hutson

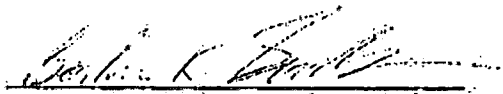
STATE OF SOUTH CAROLINA        )       IN THE COURT OF COMMON PLEAS  
COUNTY OF CLARENDON         )

AFFIDAVIT OF BONHAM K. GARDNER

1. My name is Bonham K. Gardner. I am a licensed real estate agent and a certified residential appraisal. A copy of my resume is attached to this Affidavit.
2. I was hired by M.B. Hutson to determine whether he has added value to the Big Water Resort development.
3. I considered the following information in developing my opinions:
  - a. Interview of Mr. Hutson.
  - b. Review of public records.
  - c. Telephone interviews with county officials and former members of the Big Water Resort development.
  - d. Review of letters from government offices.
  - e. Review of the engineering plans for the development.
  - f. Site visit and inspection.
4. My opinions are also based on my knowledge, experience, and training.
5. In my professional opinion, Mr. Hutson has added significant value to the Big Water Resort development. Specifically,
  - a. He was able to lift the water and sewer moratorium that had been in place on the system that services this development. The development value of the Big Water Resort is non-existence without it. However, with the water and sewer moratorium lifted, the development value is substantial.
  - b. He was able to bring a viable restaurant to the development.
  - c. He was able to change the membership structure for the development, which provides a revenue stream that was not in existence before his arrival.
6. I have prepared a written report dated February 27, 2014. It is attached to this Affidavit and I am incorporating everything stated therein into this Affidavit.
7. I am a member of the Clarendon County Planning Commission Board of Appeals. I have served in that capacity for approximately ten years.



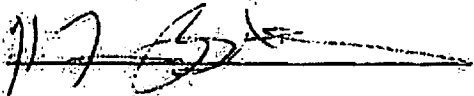
8. Based on my education, training, and experience, combined with my knowledge of the local residential market, the Big Water Resort development is a viable project that would be a successful venture once the necessary approvals are in place.



Bonham K. Gardner

SWORN TO AND SUBSCRIBED BEFORE ME

This 3rd day of March, 2014



Notary Public for South Carolina

My Commission Expires: 7/10/22

**Bonham K. Gardner**  
P.O. Box 303  
Manning, SC 29102  
Phone: (803) 435-4629  
Email: [bonhamgardner@aol.com](mailto:bonhamgardner@aol.com)

**Objective**

Seeking a position within the real estate profession, that may include appraising, sales, and Consultations.

**Qualifications**

- SC Certified Residential Appraiser – CR 2596
- FHA Appraiser ID - LVDHN7
- SC Residential Home Builder – RBB 20021
- SC Licensed Real Estate Salesman – 10827
- Clarendon County Board of Zoning Appeals

**Education**

1990 – 1994

Golf Course Management – Horry Georgetown Technical College

1993 – 1994

L-1, L-2, L-3, CR, C-1 Appraisal Courses – Horry Georgetown Technical College

1994 - Present

Required to obtain 14 hours of continuing education annually to maintain license

**Employment**

1994 – Current

Real Estate Appraiser – Gardner Appraisals

**Job Description**

Complete appraisal assignments for various lenders, including residential, land and review assignments. I am also a FHA approved appraiser. I also have experience with commercial and nonresidential agricultural appraisal assignments.

**Background**

I have been appraising real estate for approximately 15 years. I learned the fundamentals of appraising real estate from my father Theodore B. Gardner, who has been appraising real estate or involved in a related field for the past 50 years and is a SC Certified General Appraiser. While I was in High School & College I would gather data for my father to use in his reports. (i.e. public records, sales data, demographic information) I have primarily appraised properties in rural areas of South Carolina that require extensive legwork in order to perform assignments. I feel I have a vast knowledge of residential and non residential appraisal practices. I continue to attend educational seminars annually and keep current with USPAP standards.

BONHAM K. GARDNER

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P.O. Box 303  
Manning, SC 29102  
Phone (803) 435 8679

February 27, 2014

Mr. Mr. M.B. Hudson  
Big Water Resort, LLC  
5215 Dingle Pond Rd.  
Summerton, South Carolina 29149

Re: Real Estate Consultation of proposed & existing development.

Dear Mr. Hudson:

At your request, have prepared a report for you explaining the existing development and proposed developments for the purpose determining the economic impact and equitable interest of said property. I am a SC Certified Residential Appraiser and SC Licensed Real Estate Agent. This is not an appraisal and I am not representing myself as an appraiser. I am representing this report as a Real Estate Professional with knowledge of the subjects market with respect to residential development.

I was engaged by Mr. M.B. Hudson to examine all aspects pertinent to this developments new creation of economic growth and market development since Mr. Hudson took control in December of 2010. I was asked to do this to assist Mr. Hudson and his Legal Council to determine if an Equitable Interest exist for the property with Mr. Hudson as the owner which is the subject of this report. I have been informed that my findings are to be used as evidence for a legal proceeding set for March of 2014.

The opinion of my findings have been developed by reviewing a purchase agreement for the membership of Big Water Resort, LLC. I inspected a development in Summerton, SC 29148, known as Big Water Resort. I reviewed the current tax assessments and recorded records available via Clarendon County public records pertaining to TLC Holdings, LLC and Big Water Resort, LLC. I have reviewed engineered plans of proposed development of the existing Big Water Resort. I have talked with local planning and municipal councils to get an understanding of the what is involved to reach a final approval of said development. I have researched data of surrounding properties and talked with colleagues with knowledge of similar developments. Results of my findings are as follows;

Purchase Agreement

The purchase agreement was executed on December 30, 2010. It appears that all parties involved have signed the agreement with M.B. Hudson being referred to as purchaser and Richard Clark, Jimmy Lovell, and James Thigpen being referred to as seller. Big Water Resort, LLC was indicated as the Company which interest was being purchased. The document is an not recorded in Clarendon County. I did not see any extraordinary or misleading wording in the purchase agreement.

Big Water Resort Inspection Existing Improvements

Big Water Resort is located on Lake Marion in Clarendon County, SC at exit 102 of I-95. The property is currently a campground that offers RV hook ups and cabin rentals to the public. The Real Estate includes a boat ramp, marina , swimming pool and a restaurant. The property is accessed by rock gravel roads. The facilities' appear to be in average condition and there were campers and tenants occupying and using the existing amenities as well as the facilities.

Public Records

Recorded Title to the property is in the name of TLC Holdings, LLC. The property consist of several parcels and can be identified by Clarendon County Tax Map numbers;

- 035-06-02-007-00 - 3.2 acres - Fee Simple Estate
- 035-06-02-001-00 - 30.4 acres - Fee Simple Estate
- 035-05-00-004-00 - 5.77 acres - Leasehold Estate

TLC Holdings has title to others that make up this development but these three are the ones that pertain to this report.

Proposed Engineered Plans

These plans include existing and proposed development of parcels 035-06-02-007-00 & 035-06-02-001-00. Plans show that 16.05 acres of the 38 acres would be used for new development that would be incorporated with existing infrastructure and existing campground improvements. The proposed development would include 90 to 100 fee simple lots that would range in size 3,500 sq. ft to 5,700 sq. ft. The lots plan to be offered with 2 bedroom cabins, and offered access to existing waterfront existing amenities.

The Leasehold parcel is a key element to the success of this development. This parcel is a commercial lease with SCPSA and currently runs through 2027. This parcel contains the swimming pool, restaurant, marina boat ramp, beach and waterfront cabins. These features are part of the current development and would be part of the proposed development.

Upon reviewing all of the documentation that was provided to me and the additional data I gathered via public records. I have reached to conclusion that in order for Mr. Hudson to have an Equitable Interest in this property, in my opinion there would have to be several elements to take place after the execution of the contract. Mr. Hudson needs to show evidence that fee simple estate can be obtained unencumbered. Approvals for the proposed improvements can be obtained based on his involvement. Clear evidence that he has increased cash flow as a result of his direct management and business practices that were not part of the original business when purchase agreement was entered.

Based on the documents that I have reviewed one key factor to the approval of the proposed development was that water and sewer must be available to this property. Although water and sewer runs adjacent the property it is not available to property owners due to a moratorium that is in place by the Town of Summerton. As a direct result of Mr. Hudson's efforts the moratorium has been lifted for Big Water Resort, subject to 4 items that will have to be done to get final approval from Clarendon County for the subdivision of the planed development. It is my opinion that the fact that water and sewer is available to this development creates stability to the project and has increased the marketability of Big Water Resort, as well given the project another source of significant income to be derived as a result the sale of these proposed lots and cabins. How can one value the equity this aspect of the approval process creates? The project would not move to any further with out water and sewer being available, therefore the project would not exist.

Hypothetically, to determine the value of this development based on the proposed plans you would have to set an existing land value. For this Hypothetical example take the land values of the current assessments of the two parcels to be included in the proposed development. Clarendon County 2013 assessment records indicate \$29,000 per acre as if vacant. Now take the number proposed lots that will be part of the planed development, based on Clarendon County tax assessors 2013 assessed values of similar sized lots on similar areas of Lake Marion, assessed values range from \$20,000 per lot to \$54,000 per lot. So put a conservative assessment of \$30,000 per lot for the proposed development. Then 90 to 100 lots would have an assessed range of \$2,700,000 to \$3,000,000. So then take 15.5 acres are to be used with Phase I of the Big Water Resort project. Just Phase I of the planed development has increased the assessed value of the project to \$160,000 to \$190,000 per acre. Now subtract the cost of completing the project so that these lots and cabins can be marketed. Based on current estimates of construction of similar projects, \$1,000,000 to 1,500,000 would be needed to bring Phase I to completion. Now an assessed value of \$75,000 to 120,000 per acre as a completed project. So subtract the original assessed value of \$29,000 per acre from a completed projects assessed values of \$75,000 to 120,000 per acre. A hypothetical Equitable Interest could be \$46,000 to \$90,000 per acre. 15.5 acres proposed Phase I would create an Equitable Interest of \$700,000 to \$1,400,000 based on Clarendon County Assessment Values and if the project is brought to completion. I have not made any value conclusions, the values used in this hypothetical scenario are base upon current Clarendon County Assessment values of the current property and assessments of similar lots with respect to size and location.

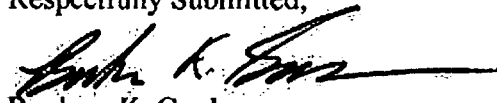
Upon execution of the purchase agreement the building located waterfront of the property, know as a community center or club house and was available for the resorts members and guest was getting little or no use. Mr. Hudson was able to get the required approvals to convert this building to a functional restaurant. This building is now leased to a Chef/Owner for \$3,000 per month and the lease agreement is performance based. There restaurant is open on Thursday thru Saturday 5:00pm to 10:00pm. It receives 300 to 500 customers per week. I feel the conversion of the restaurant has created additional income for the resort that did not exist when the purchase agreement was executed. To say what amount of Equitable Interest has been created due to the conversion of the building is inconclusive due to the fact that the restaurant has not been open long enough to give creditable income data. However it is my opinion that the restaurant has created value that did not exist previously.

Big Water Resort when established was advertised as a RV/Waterfront resort. Memberships to the resort were sold to individuals for a set fee. Each membership was had a lifetime value to the purchaser and could be transferred. The members were allowed to use the facilities for the life time of the member. Each member was required an annual maintenance fee. This fee was intended to maintain the property. If the members did not pay the annual fee then the membership canceled. At one point it is documented that 700 memberships were sold. The resort was only open to members. Therefore the only income derived was from members dues because the project could not handle additional members. It is my understanding that Mr. Hudson made the necessary business decisions to reduce the membership to the point that he could open the resort to the public. This decision by Mr. Hudson has resulted in additional cash flow that did not exist when he executed the purchase agreement. The opinions I have made as to the memberships is based on verbal data that has been provided by Mr. Hudson and data from past members.

In conclusion it's my opinion that an Equitable Interest does exist for Mr. Hudson based on the findings mentioned above. I give these opinions based on my professional experience as a Licensed Real Estate service provider serving Clarendon County and Lake Marion for the past 18 years. I also recommend that if Mr. Hudson would like a more accurate indication of the true value of the properties mentioned in this report, that he have a appraisal completed of the entire Resort "As Is" and a second appraisal completed subject to completion of proposed development. I have created a file and I have all of the data used to develop my opinions and findings in this file. I'm more that happy to produce these documents upon request.

I certify that I have no interest, present nor contemplated, in this property and that neither the employment to prepare the analysis, nor the compensation is contingent upon the findings of this report. I also certify that the opinions based on the properties that are subject of this report to be uncontaminated, or have any adverse effect, due to hazardous conditions unobserved by the physical inspection of the property.

Respectfully Submitted,



Bonham K. Gardner

STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )

IN THE COURT OF COMMON PLEAS  
IN THE THIRD JUDICIAL CIRCUIT  
Case Number 2011-CP-14-602

TLC Holdings, LLC, )  
Plaintiff, )

v. )

M.B. Hudson a/k/a M.B. Hutson, )  
Defendant. )

**AFFIDAVIT OF M.B. HUTSON**

M.B. Hudson a/k/a M.B. Hutson, )  
Defendant and Third )  
Party Plaintiff, )

v. )

Richard U. Clark, Jimmy S. Lovell, )  
and James C. Thigpen, )  
Third Party Defendants. )

The Affiant hereby deposes and say that:

1. My name is Morris Beach Hutson. I am the Defendant and the Third Party Plaintiff in the above referenced case.
2. My relationship with TLC and Clark, Lovell, and Thigpen began in December 2010, when we entered into two contracts relating to a development in Clarendon County called Big Water Resort ("the Resort"). The Resort is located on the northern shore of Lake Marion just east of the Interstate 95 bridge.
3. The first agreement was a Membership Interest Purchase Agreement ("MIPA"), under the terms of which I purchased 100% of the membership interests in a South Carolina limited liability company called Big Water Resort, LLC ("BWR, LLC"). BWR, LLC operated the business at the Resort, which consisted of cabin rentals, RV campsites, board and RV storage, and general recreational activities.
4. The second agreement was a Lease Purchase Agreement ("LPA"), under the terms of which I agreed to apply for and acquire the essential approvals



necessary to develop the real property where the Resort was located with the support of TLC and Clark, Lovell, and Thigpen. Under the LPA, I also agreed to purchase the real property where the Resort was located on an acreage release basis subject to approvals from Clarendon County.

5. Copies of the LPA and MIPA are attached hereto. To this day, I am working to apply for and acquire the essential approvals necessary to develop in order to purchase the Resort. I also continue to operate the business at the Resort. Over the course of the past three years, I estimate that I have spent approximately \$300,000 on the development of the Resort and pursuant to the LPA. That is in addition to the thousands of hours that I have invested in operating the business and the Resort and pursuing the development potential, including hundreds of meetings and thousand of miles of travel.
6. After the LPA and MIPA were executed in December 2010, I quickly learned that there were two major obstacles to the successful development of the Resort and the operation of the business. Neither of these obstacles were disclosed to me prior to the signing of the LPA and the MIPA.
7. The first obstacle was that TLC and Clark, Lovell, and Thigpen had entered into lifetime membership contracts with members of the public that allowed them to use the Resort for free. These contracts, the full nature of which was not disclosed to me, substantially impaired my ability to operate the business at a profit, which in turn impaired my ability to fund the development. I was able to work my way through these problems only by (a) substantially reducing the number of employees at the Resort and (b) reducing the number of memberships by increasing the costs at the Resort, which outraged the members.
8. The second obstacle was that a moratorium had been placed on the Town of Summerton water and sewer system that prohibited any extension or tap-in to the Resort. It took me approximately a year and a half to work around this obstacle, but I was eventually able to lift the moratorium and acquire approvals for water and sewer tap-ins from the Town of Summerton. Summerton also agreed to take over the water and sewer and to accept and maintain it as a part of its system.
9. It took great effort on my part to work around the membership obstacle and the water and sewer moratorium obstacle. However, these obstacles prevented me from doing everything that was required of me under the LPA and the MIPA. My efforts caused financial hardship as well because I was unable to make a profit with the business or to proceed with the development in a timely manner. Clark, Lovell, and Thigpen provided no assistance whatsoever in dealing with these obstacles, even though they were aware of them prior to December 2010 and did not disclose them to me.

10. In November 2011, TLC brought this case to eject me from the property. I then filed a Third Party Complaint against Clark, Lovell, and Thigpen relating to the non-disclosure of the membership and water and sewer issues.
11. On March 30, 2012, the parties signed a Settlement Agreement. On April 12, 2012, the Court entered a Consent Order incorporating the terms of the Settlement Agreement. The Settlement Agreement was binding on all of the parties in the litigation and required things of both me and other parties. The purpose of the Settlement Agreement was to try to resolve our disputes and to outline a plan to accomplish the things that needed to be done to complete the development of the Resort and my purchase thereof.
12. I have not complied in full with the Settlement Agreement. However, my non-compliance is a direct and proximate result of the actions and omissions of TLC and Clark, Lovell, and Thigpen.
13. First, TLC has failed to comply with the requirement of paragraph 5 of the Settlement Agreement that, after approving my proposed subdivision plat of the Resort, it provide a letter to the Clarendon County Planning Commission requesting that it "approve the subdivision of the Premises into not less than two (2) adjacent and unimproved acres of property, and the further subdivision of such acres into smaller individual lots, all of which must be contiguous." TLC approved the proposed subdivision plat of the Resort in April 2012. However, TLC has never provided the required letter to the Planning Commission that would have allowed me to proceed with the development and to strictly comply with the terms of the Settlement Agreement. This failure by TLC is significant because I am not the legal title holder to the property and can only act as a developer of the Resort with the express authorization of TLC. I believe that I would have been able to strictly comply with the Settlement Agreement if TLC had cooperated as it was required to do under the Settlement Agreement.
14. Second, Clark and Lovell specifically asked me to slow down the development approval process. Specifically, in approximately June of 2013, Clark and Lovell flew to South Carolina to meet with me in private at my cabin on the Resort to discuss their desire to foreclose on the third shareholder of TLC: Mr. Thigpen. Clark and Lovell told me that Mr. Thigpen had unilaterally taken out a loan on the property years before without their permission and that they believed that Thigpen should not receive any more money from the development of the Resort because Clark and Lovell were required to payoff the loan when Thigpen defaulted on it. At this meeting, Clark and Lovell informed me that they had formed a new company to foreclose on TLC, thereby extinguishing any residual interest of Mr. Thigpen. They asked for my cooperation by slowing down with my approval requests to allow for the foreclosure to go through. I voiced my concerns to Clark and Lovell, but they told me not to worry about it and even offered me a new contract that they would prepare. I refused to sign this contract because it was too one-sided, even though I offered to negotiate a more fair

contract. That issue was never resolved, but I continued my efforts to obtain the necessary approvals because they wanted me to eventually be able to buy the property once Thigpen was out. The fact that TLC and Clark, Lovell, and Thigpen are now trying to eject me again is inconsistent with our dealing in the 22 months between April 2012 and December 2013, during which time they repeatedly told me that they would work with me. Mrrs. Clark and Lovell never indicated to me that they were going to require strict compliance with the Settlement Agreement.

15. Third, Mr. Thigpen, the TLC shareholder who is at odds with Mrrs. Clark and Lovell, met with me at Shoney's in Manning in January 2014 and indicated to me (a) that he did not want me to purchase the property because he believed that Mrrs. Clark and Lovell would try to prevent him from receiving any proceeds of the sale, (b) that he was entitled to a "commission" of \$1,500,000, and (c) that he had been in constant contact with the County in an effort to prevent me from making progress with the development of the Resort. I believe that I would have been able to comply with the Settlement Agreement had I received cooperation from TLC and its shareholders rather than resistance.

  
 Morris Beach Hutson

SWORN TO AND SUBSCRIBED BEFORE ME

This 4<sup>th</sup> Day of March, 2014

  
 Notary Public for South Carolina

My Commission Expires: 2/10/22

**MEMBERSHIP INTEREST PURCHASE AGREEMENT**

THIS MEMBERSHIP INTEREST PURCHASE AGREEMENT (the "Agreement") is made and entered into as of the \_\_\_\_ day of December 2010, by and among M. B. HUDSON (referred to herein as "Purchaser"), RICHARD U. CLARK, JIMMY S. LOVELL and JAMES C. THIGPEN (referred to herein collectively "Seller") and THE BIG WATER RESORT, LLC, a South Carolina limited liability company (referred to herein as "Company").

**WITNESSETH:**

**WHEREAS**, Seller is all the members of the Company with said membership interest subject to the terms and conditions of that certain Operating Agreement of The Big Water Resort, LLC dated December 1, 2002 and its Amendment dated June 3, 2008 ("Operating Agreement"). All capitalized terms not defined herein shall have those meanings set forth in the Operating Agreement; and

**WHEREAS**, Seller desires to sell all of their Membership Interest in the Company, which equals One Hundred Percent (100%) of the outstanding membership interests (referred to as the "Interest") to Purchaser, and Purchaser desires to purchase said Interest, being bound to the terms and conditions of the Operating Agreement.

**NOW THEREFORE**, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant, consent and agree as follows:

1. **Sale and Purchase.** Subject to the terms and conditions hereinafter set forth, Seller hereby sells, transfers, assigns and conveys the Interest to Purchaser, and Purchaser, in reliance on the representations made by Seller herein, accepts the sale, transfer, assignment and conveyance of the Interest from Seller in consideration for the

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payment of the purchase Price (as defined below), subject to the terms and conditions set forth herein.

2. **Purchase Price.** The purchase price payable by Purchaser for the Interest is Five Hundred Thousand and 00/100 Dollars (\$500,000.00) ("Purchase Price") which shall be paid as follows at Closing:

(a) Ten and 00/100 Dollars (\$10.00) shall be paid by Purchaser to Seller;

(b) Purchaser shall execute a Promissory Note made payable to Seller for the balance of the Purchase Price, in form acceptable to Seller, which shall be due and payable upon the closing of the purchase of the membership interests in TLC Holdings, LLC, a South Carolina limited liability company also owned by Seller; and

(c) Purchaser shall assign, hypothecate and pledge the Interest to Seller as collateral for the Promissory Note, in form acceptable to Seller.

3. **Closing.** The closing of the sale and purchase shall take place on December 30, 2010 at the Law Office of Andrew F. Tucker, 385 2<sup>nd</sup> Avenue, Suite 1, Dayton, Tennessee or at such place as the parties may mutually agree.

4. **Actions at the Closing.**

(a) At the closing the Seller shall deliver to the Buyer the following:

(i) Membership Interest certificates for One Hundred percent (100%) of the Interest to be sold by Seller in the Company;

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- (ii) A Certificate of Good Standing from the State of South Carolina;
- (iii) A list of all debts and obligations of the Company and principal balance(s) of said debts and obligations as of the date of Closing, each of which are to be assumed by Purchaser at Closing, except only those loans made by Messrs. Clark and Lovell to the Company, which shall be repaid from the Purchase Price.
- (iv) A list of all assets of the Company, including all cash on hand, all of which shall be assigned to Purchaser at Closing except for receivables/client reserve fund from Universal Guardian Acceptance (which Purchaser agrees shall remain the property of Seller, and any payments received by Purchaser after Closing shall promptly be remitted to Seller);
- (v) A commitment letter to finance the balance of the Purchase Price at six percent (6%) per annum for up to five (5) years based upon a 240 month amortization schedule, with principal and interest payable monthly, upon Purchaser's closing on the purchase of the membership interests in TLC, LLC, a South Carolina limited liability company; and

(b) At the closing the Buyer and Seller shall deliver to the Seller:

- (i) Ten and 00/100 Dollars (\$10.00) in Cash;
- (ii) A Promissory Note in the amount of \$499,990.00 payable to Seller for the balance of the Purchase Price which shall be due and payable upon the Closing (as defined in the Lease Purchase Agreement of even date among Seller, Purchaser and TLC Holdings, LLC; and

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(iii) An assignment, hypothecation and pledge agreement of the Interest as collateral for the Promissory Note.

5. **Representations and Warranties by Seller.** Seller represents, warrants and covenants to Purchaser as follows:

(a) **Capitalization and Interest.** The Interest represents 100% of Seller's capital and equity interest in the Company. There are no options, warrants or other rights to subscribe for or purchase any interest in the Company or securities convertible into or exchangeable for, or which otherwise confer on any holder any right to acquire, any interest in the Company, nor are the Company or Seller committed to issue any such option, warrant or other right.

(b) **Title.** Seller is the sole legal and equitable owner of the Interest, and Seller's absolute title thereto is not the subject of any claim or challenge threatened or asserted by any third party. Company has good and marketable title to all of its properties and assets. Further, there are no actions, suits or proceedings, either at law or in equity, or before any commission or administrative authority, or any kind now pending in any manner involving Company, or any of its property, or to the knowledge of Sellers, threatened.

(c) **No Liens or Restrictions.** The Interests are not subject to any security interest, lien, restriction on transfer, "buy-sell" agreement, voting agreement, redemption agreement, option, or other agreements.

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(d) **Consents.** No consents, authorizations or approvals of governmental authorities are necessary in order for Seller to perform its obligations pursuant to this Agreement.

(e) **Organization and Operation of Company.** The Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of South Carolina, has full corporate power to own its own property and carry on its business as and where it is now being conducted, in compliance with all laws, regulation and orders applicable to its business. The Operating Agreement of Company is in full force and effect and no amendments, modifications, changes or deletions have been made thereto. Further, Company does not control, directly or indirectly, any other corporation, association or business organization.

(f) **Taxes.** Company has filed with the appropriate governmental agencies all tax returns required to be filed by it prior to the date of this Agreement, and it has paid taxes due by it as reflected on said returns.

6. **Covenants of Seller.** Prior to or pending the closing, the Seller covenants that:

(a) Seller will cause Company to maintain itself at all times as a corporation duly organized, validly existing and in good standing under the laws of the State of South Carolina and to operate in a good and diligent manner and not engage in

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any transaction or make any commitment or expenditure other than in the ordinary course of business, except such transactions, commitments and expenditures as shall be required or contemplated by this Agreement or which shall be presented to and approved by Purchaser (such approval not to be unreasonably withheld).

(b) Seller will cause Company to maintain in full force and effect all policies of insurance.

(c) Seller will cause Company to cooperate fully with Purchaser, his counsel, accountants and other representatives in connection with the closing and the consummation of the transaction herein contemplated, and make available to Purchaser, his counsel, accountants and other representatives all pertinent information with respect to the condition, business property, assets and liabilities of Company and afford Purchaser, his counsel, accountants or other representatives access during normal business hours to all the physical properties of the Company.

#### 7. Miscellaneous.

(a) **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, supersedes all prior understandings, commitments and agreements and may be amended only by a writing signed on behalf of each party. There are no agreements, promises, warranties, representations, inducements, covenants or undertakings other than those expressly set forth in this Agreement.

(b) **Notices.** Any notices or consents required or permitted by this Agreement shall be in writing and shall be deemed delivered if delivered in person or

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if sent by certified mail, postage prepaid, return receipt requested, as following, unless such address is changed by written notice hereunder:

(i) If the Seller:

James C. Thigpen  
P.O. Box 1257  
7860 Wash Davis Road  
Summerton, South Carolina 29148

Richard U. Clark  
3124 Great Wood Way  
Knoxville, Tennessee 37922

Jimmy S. (Steve) Lovell  
20 Ambriance Drive  
Burr Ridge, Illinois 60527

(ii) If to Purchaser:

M. B. HUDSON  
c/o ANDREW F. TUCKER, ESQ.  
385 2<sup>nd</sup> Avenue, Suite 1  
Dayton, Tennessee 37321

(iii) If to Company:

THE BIG WATER RESORT, LLC  
P.O. Box 1257  
7860 Wash Davis Road  
Summerton, South Carolina 29148

(c) **Assignment.** This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and permitted assigns, but neither this Agreement nor any of the rights, interest or obligations hereunder shall be assigned by either of the parties hereto without

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the prior written consent of the other party, nor is this Agreement intended to confer upon any other person except the parties any rights or remedies hereunder.

(d) **Governing Law.** This Agreement shall be construed as to both validity and performance and enforced in accordance with and governed by the laws of the State of South Carolina.

(e) **Captions.** The section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties and shall not in any way affect the meaning or interpretation of this Agreement.

(f) **Further Action.** The parties shall execute and deliver all documents, provide all information and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement.

(g) **Expenses, Etc.** Except as otherwise provided in this Agreement, whether or not the transactions contemplated by this Agreement are consummated. Seller and Purchaser shall pay their own expenses and the fees and expenses of their counsel, financial advisors, accountants and other experts.

(h) **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of such counterparts shall together constitute one and

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the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories. This Agreement may be executed and delivered by facsimile or other means of electronic communication; any original signatures that are initially delivered by electronic communication shall be physically delivered with reasonable promptness thereafter.

[Signatures on Next Page]

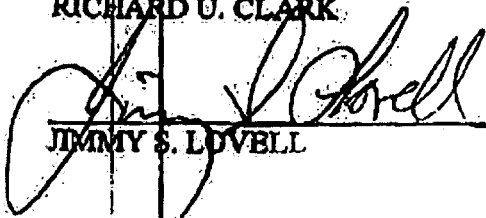
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IN WITNESS WHEREOF, the parties have set their hands hereto on the date first above written.

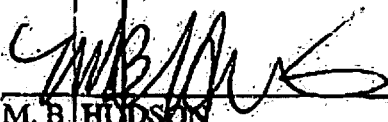
**SELLER:**

RICHARD U. CLARK

  
JIMMY S. LOVELL

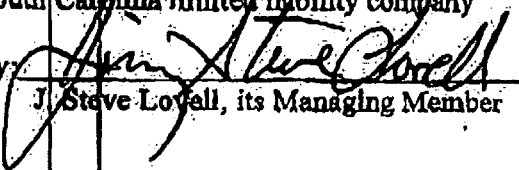
JAMES C. THIGPEN

**PURCHASER:**

  
M. B. HUDSON

**COMPANY:**

THE BIG WATER RESORT, LLC, a  
South Carolina limited liability company

By:   
J. Steve Lovell, its Managing Member

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IN WITNESS WHEREOF, the parties have set their hands hereto on the date first  
above written.

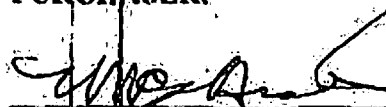
**SELLER:**

\_\_\_\_\_  
RICHARD U. CLARK

\_\_\_\_\_  
JIMMY S. LOVELL

  
\_\_\_\_\_  
JAMES C. THIGPEN

**PURCHASER:**

  
\_\_\_\_\_  
M. B. HUDSON

**COMPANY:**

THE BIG WATER RESORT, LLC, a  
South Carolina limited liability company

By: \_\_\_\_\_  
J. Steve Lovell, its Managing Member

IN WITNESS WHEREOF, the parties have set their hands hereto on the date first above written.

**SELLER:**

  
RICHARD U. CLARK

JIMMY S. LOVELL

JAMES C. THIGPEN

**PURCHASER:**

  
M. B. HUDSON

**COMPANY;**

THE BIG WATER RESORT, LLC, a  
South Carolina limited liability company

By:   
J. Steve Lovell, its Managing Member

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### LEASE PURCHASE AGREEMENT

THIS LEASE PURCHASE AGREEMENT (this "Agreement") is made as of the \_\_\_\_ day of December, 2010 (the "Effective Date"), by and between TLC HOLDINGS, LLC, a South Carolina Limited Liability Company ("TLC" or "Landlord"), RICHARD U. CLARK, JIMMY S. LOVELL and JAMES C. THIGPEN (collectively, the "Members", and together with TLC, the "Seller"), and M. B. HUDSON, AND/OR HIS HEIRS, SUCCESSORS AND PERMITTED ASSIGNEES ("Purchaser").

#### WITNESSETH:

WHEREAS, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase, (a) the following described premises in Clarendon County, South Carolina, herein sometimes called the "Premises" being more particularly described on the attached EXHIBIT "A" along with all furniture, fixtures, equipment, machinery, vehicles and other personal property that may be owned, leased, licensed or otherwise in the possession of TLC (collectively the "Property") and (b) all membership interests of the Members in TLC (hereinafter "Stock"); and

WHEREAS, from the Effective Date until such time that the sale of the Premises to Purchaser shall be consummated, Seller agrees to lease the Premises to Purchaser as provided below.

NOW, THEREFORE, for and in consideration of the premises and the covenants and agreements herein contained and for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby mutually covenant and agree as follows:



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Handwritten initials in ink, appearing to be "RUC" and "JCT".

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**SECTION 1  
PURCHASE AGREEMENT**

1.1. Purchaser hereby agrees to purchase the Premises, Property and Stock from Seller and Seller hereby agrees to sell the Premises, Property and Stock to Purchaser as provided herein. Such purchase transaction shall close not later than December 30, 2012 (the "Closing"), provided, however, that Purchaser may accelerate the Closing by providing Seller written notice of Purchaser's intent to close the transaction no less than (a) ten (10) days from the date of the written request by Purchaser, if all mortgages upon the Premises have previously been satisfied; or (b) ninety (90) days from the date of the written request by Purchaser, if any such mortgage encumbers the Premises.

1.2. The parties ultimately intend for this transaction to be a sale of Stock of Seller, which has all right, title and interest in Premises and Property. In such event, the Premises and Property shall remain the property of TLC at Closing, and the Purchaser shall purchase and assume, and the Members shall sell and assign, the Stock in TLC to Purchaser at Closing. The purchase price for the Premises, Property and Stock (the "Purchase Price") shall be either the Incentive Purchase Price or the Standard Purchase Price, as defined herein. In the event Purchaser closes the purchase prior on or before September 1, 2011, the Purchase Price for the Premises, Property and Stock shall be an amount equal to Six Million and 00/100 Dollars (\$6,000,000.00) ("Incentive Purchase Price"). If the closing is after September 1, 2011, the Purchase Price for the Premises, Property and Stock shall be an amount equal to Seven and 00/100 Dollars (\$7,000,000.00) ("Standard Purchase Price").

1.3. Purchaser shall have the exclusive right to close on any portion of the Premises, which is unimproved, in tracts of one (1) acre or more (each, a "Subparcel") at any time during the term of the Agreement for a Purchase Price of One Hundred Forty-Five Thousand and

00/100 Dollars (\$145,000.00) per acre. Such closing shall occur as soon as practical after written request is sent from Purchaser to Seller pursuant to Section 20, not to exceed ninety (90) days from the date of the written request except in the event the Seller has been unable to obtain a release on said Subparcel(s) from the Bank that currently holds a first position mortgage on the Premises within 90 days following receipt of Purchaser's written request (hereinafter the "Release Period"). If such event occurs prior to September 1, 2011, the right to purchase the Premises for the Incentive Purchase Price shall be extended for one (1) day for each day that Seller fails to obtain a release of the Premises after the expiration of the Release Period. Any such closing proceeds shall be applied to the Purchase Price for the entire Premises.

The parties acknowledge that the Purchaser intends to develop and construct condominiums or other residential dwelling structures on certain portions of the unimproved Premises. In the event Purchaser closes on any one or more unimproved Subparcel(s) as referenced in this Section 1.3, Purchaser shall pay thirty-five percent (35%) of the gross profits from the sale of any and all residential dwelling units to the Seller which shall be applied to reduce the Purchase Price for the entire Premises. As used herein, "gross profits" means the gross sales proceeds, reduced only by Purchaser's actual costs of construction of any improvements on such land. Purchaser shall be prohibited from selling such Subparcel(s), or portions thereof, except as part of the bona fide sale thereof at retail to an arm's length third party purchaser unaffiliated with Seller. If Purchaser fails to close on the entire property within the timeframes set forth in this Agreement, Seller shall have the option to repurchase any undeveloped parcel released under this Paragraph 1.3 for the price paid by Purchaser to Seller for such parcel, and an option to repurchase any improved parcel that has not been resold under the terms of this Paragraph 1.3 for the price paid by Purchaser for such parcel plus the actual costs of

the improvement(s) undertaken thereon by Purchaser. The provisions of this section shall survive the Closing (until such time as Seller has received the entire Purchase Price owing under this Agreement in cash) and any termination of this Agreement.

1.4. At Closing, the Purchase Price due hereunder, less adjustments and expenses provided herein, will be paid to Seller, either: (i) in cash, by cashier's check, or by wire transfer; or (ii) by Purchaser executing a Promissory Note payable to the Seller for an amount up to and including the full Purchase Price, to be financed for five (5) years at six percent (6.0%) interest per annum, based on a twenty (20) year amortization. Payments on said Promissory Note shall be made monthly to the Seller, with all amounts owing thereunder to be paid not later than the maturity date five (5) years following Closing. The Promissory Note shall be secured by a first position mortgage on the Premises conveyed at said Closing, and by a first-priority, perfected security interest in the Stock.

In the event the \$500,000.00 purchase price for The Big Water Resort, LLC, a South Carolina limited liability company, which has common members of the Seller herein, is financed by Promissory Note made from Purchaser to Members, the terms and conditions of which are more particularly set forth in the Membership Interest Purchase Agreement of even date herewith, then both Promissory Notes shall provide that a default under either one of the Promissory Notes will be deemed a default under the other Promissory Note, thereby permitting Seller to seek all rights and remedies available therein, including but not limited to foreclosure on the Premises and Stock.

1.5. At the Closing, in exchange for the Purchase Price, the Members shall convey to Purchaser or its designee, by assignment agreement, all of the Stock in TLC; provided that, at and as of Closing, TLC hold marketable title to the Premises, subject to (i) utility and drainage

easements of record, (ii) the rights of the public in any streets and highways, if any, adjoining the Land, (iii) zoning and building laws, ordinances, resolutions, and regulations, (iv) ad valorem real estate taxes and assessments for public improvements not due and payable as of the date of closing, and (v) any additional encumbrances subject to which Seller accepted title to the real property being conveyed. Purchaser shall, within ninety (90) days after the Effective Date, investigate Seller's title to the Premises and identify any exceptions to title which are not acceptable to Purchaser (any such exception being referred to herein as a "Title Exception"). Purchaser shall within ninety (90) days after the Effective Date provide Seller notice of any such Title Exception. If Purchaser does not notify Seller in writing of Title Exceptions within ninety (90) days after the Effective Date, then Purchaser shall be deemed to have accepted title to the Premises with all exceptions and conditions. If Purchaser timely notifies Seller of Title Exceptions (other than Title Exceptions that can be cured by the payment of money to satisfy any liens as of the Closing, which Title Exceptions shall be cured as of Closing), Seller may (but shall not be required to) cause all Title Exceptions to be deleted as exceptions from the title commitment, as the case may be, on or prior to thirty (30) days prior to Closing (the "Cure Deadline"). If Seller fails or refuses to cure any Title Exceptions prior to the Cure Deadline, then Purchaser may, as its sole and exclusive remedy for the existence of, or Seller's failure to cure, such Title Exceptions before the Cure Deadline, elect to terminate this Agreement, or waive its right to terminate this Agreement in writing and accept the title commitment with all uncured Title Exceptions. If Purchaser terminates this Agreement pursuant to this Section 1.5, then neither party shall have any further obligation under this Agreement, except for such obligations of the parties as are expressly stated to survive the termination of this Agreement.

Each party shall be responsible for and shall pay fifty percent (50%) of all other closing costs.

Each party shall be responsible for the fees of its respective counsel.

1.6. Seller shall use the closing proceeds to have any lien or encumbrance on the Premises and Stock released.

1.7. Upon the completion of the purchase transaction, but not prior thereto (whether or not any delay in the completion of or the failure to complete such purchase shall be the fault of Seller), this Agreement and all obligations hereunder (including, but not limited to, the obligations to pay Rent) shall terminate with respect to any portion of the Premises being purchased, provided that neither party shall be released with respect to obligations and liabilities of Purchaser and Seller, actual or contingent, under this Agreement which arose on or prior to the date of the closing of the purchase, or which expressly survive the termination of this Agreement.

1.8. This Purchase Agreement shall not be assigned or transferred by the Purchaser without the prior written consent of Seller, which shall not be unreasonably withheld.

1.9. In the event of any default or breach of Purchaser's obligations under this Section 1, Seller shall be entitled to terminate this Agreement and retain all rent paid hereunder, and in addition, to specifically enforce Purchaser's obligations under Section 11.2 herein. In the event of any default or breach of Seller's obligations under this Section 1, Purchaser may, in the alternative, either terminate this Agreement or requiring specific performance on the part of Seller. Purchaser and Seller each hereby waive the right to money damages against the other party for matters arising out of this Agreement.

1.10. Purchaser hereby acknowledges that Seller has made no representations or warranties regarding the Premises. Purchaser has inspected the Premises to Purchaser's

complete and total satisfaction. Purchaser (i) is accepting the Premises for purposes of the lease as provided in provisions below; and (ii) at the time of Closing will be purchasing the Premises on an "AS IS" basis, that is, with all defects that may exist, if any, except as otherwise provided herein.

## SECTION 2 TERM AND POSSESSION

2.1. Unless the Primary Term is extended upon the mutual agreement of the parties, the primary term of this Agreement (the "Primary Term") shall commence on January 1, 2011 and shall expire on the earlier of December 30, 2012 or the actual date of Closing.

2.2. Possession of the Premises shall pass to Purchaser on January 1, 2011, provided that Purchaser has closed on its purchase of The Big Water Resort, LLC.

## SECTION 3 PREMISES

TLC leases the Premises and Property to Purchaser, and Purchaser leases the Premises and Property from TLC, on the terms and conditions set forth in this Agreement.

## SECTION 4 RENT

During the Primary Term of this Agreement, including any extensions thereof, Purchaser shall pay TLC as rent (the "Rent") for the Premises the sum of Ten Thousand and 00/100 Dollars (\$10,000.00) per month for the first seven (7) months of the Primary Term, and the sum of Eight Thousand and 00/100 Dollars (\$8,000.00) per month for the remaining months in the Primary Term. Rent shall be paid in advance on the first day of each month during the Primary Term, without demand or deduction, to TLC at its notice address for Richard U. Clark as set forth in Section 20, or at such other place as Seller may designate by written notice to Purchaser. The

first monthly rent payment is due on or before January 1, 2011, being the date that Purchaser receives possession.

**SECTION 5  
TAXES; PERMITTED CONTESTS**

5.1. Purchaser shall pay all real estate taxes and assessments levied against the Premises which become due and payable during the Primary Term. However, any installments of taxes and assessments relating to the periods at the commencement of the Primary Term shall be prorated between Purchaser and TLC based on the number of days during the applicable taxing period each party shall occupy the Premises. Seller shall furnish to Purchaser copies of tax bills together with statements of the amount due from Purchaser. Purchaser shall pay those amounts within 30 days after receipt of Seller's statements. Purchaser shall provide Seller a copy of the receipt from the tax collector as proof of payment within the 30 days from the date of payment. Purchaser's obligations under this Section shall survive the expiration or termination of this Agreement.

5.2. Purchaser shall not be required, nor shall Seller have the right, to pay, discharge, or remove any taxes, charges, liens or encumbrances, or to comply with any legal requirements applicable to the Premises or the Land, as long as Purchaser contests the existence, amount, or validity of the matter in question by appropriate proceedings and Purchaser provides written notice to Seller of such contest proceeding. This right of Purchaser to withhold performances while proceedings are pending shall apply only if Purchaser's proceedings effectively prevent any lien, sale, forfeiture, or loss of the Premises or Land or Seller's rights under this Agreement. Nothing contained in this Section shall be deemed to relieve Purchaser from any obligation to pay the Rent. Purchaser shall pay to Seller at least one hundred (100%) of the contested amount

as reasonable security (the "Contest Security") as may be demanded by Seller to insure ultimate payment of the amounts and compliance with the legal requirements contested, and/or any potential sale or forfeiture of the Premises or any rent or other sum required to be paid by Purchaser under this Agreement. Seller may use the Contest Security to pay any amount reasonably necessary to release any lien or prevent any sale, forfeiture, or loss of the Premises. Any portion of the Contest Security not required for such purpose shall be returned to the Purchaser.

#### SECTION 6 UTILITIES

During the Primary Term, Purchaser shall obtain and pay for all sewer, water, electric, heat, trash removal, and other utility services furnished to or consumed on the Premises. Seller shall not be required to provide any utility service to Purchaser and shall not be responsible for any interruption in service.

#### SECTION 7 INSURANCE

7.1. Immediately upon commencement of the Primary Term, Purchaser shall procure and maintain, at Purchaser's sole expense (i) employer's liability and worker's compensation insurance as prescribed by applicable law; (ii) comprehensive general liability insurance (with products, completed operations, dramshop and independent contractors coverage) and comprehensive automobile liability insurance, all on an occurrence basis, with single-limit coverage for personal and bodily injury and property damage of at least Five Million Dollars (\$5,000,000) for each occurrence, and (iii) any other insurance as required from time to time by any franchisor. In connection with all significant construction at the Premises during the Primary Term, Purchaser shall cause the general contractor to maintain with an insurer approved by Seller and Purchaser comprehensive general liability insurance (with products, completed

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operations and independent contractors coverage) in at least the amount of Five Million Dollars (\$5,000,000) for each occurrence with Seller named as additional insured. Purchaser shall name Seller, franchisor and any mortgagee as additional insureds under these policies.

7.2. Purchaser shall keep the Buildings insured against loss by fire and all the risks and perils usually covered by an "all risk of physical loss" endorsement to a policy of fire insurance upon property comparable to the Premises, in an amount equal to not less than the greater of the replacement cost of the Buildings or the Purchase Price, and with Seller and any other holder of any mortgage on the Premises as additional insureds as their interests may appear.

7.3. The policies required by Sections 7.1 and 7.2 shall contain an agreement by the insurer that it will not cancel the policy except after ten (10) days prior written notice to Seller and Purchaser and that any loss otherwise payable under the policy shall be payable notwithstanding any act or negligence of Seller or Purchaser that might, absent such agreement, result in a forfeiture of all or a part of the insurance payment.

7.4. At the commencement of the term of this Agreement, Purchaser shall deliver to Seller certificates of the insurance required to be maintained under this Section. Purchaser shall also deliver to Seller at least ten (10) days prior to the expiration date of any such policy (or of any renewal policy), certificates for the renewal policy of this insurance.

#### SECTION 8 WAIVER OF LIABILITY AND SUBROGATION

Seller and Purchaser on behalf of themselves and all others claiming under them, including any insurer, waive all claims against each other, including all rights of subrogation, for loss or damage to their respective property (including, but not limited to, the Premises) arising from fire, smoke damage, windstorm, hail, vandalism, theft, malicious mischief, and any of the

other perils normally insured against in an "all risk of physical loss" insurance policy, regardless of whether insurance against those perils is in effect with respect to such party's property and regardless of the negligence of either party; provided, however, that this release shall be applicable and in force and effect only with respect to loss or damage fully covered by insurance and occurring during such time. As the Purchaser's insurance policy shall contain a clause or endorsement to the effect that any such release shall not adversely affect or impair said policies or prejudice the right of the Purchaser to recover thereunder. If either party so requests, the other party shall obtain from its insurer a written waiver of all rights of subrogation that it may have against the other party. If extra costs shall be charged therefor, each party shall advise the other thereof and of the amount of the extra cost, and the other party at its election, may pay the same, but shall not be obligated to do so.

#### SECTION 9 INDEMNIFICATION

Purchaser shall indemnify and hold Seller harmless against any and all claims, liabilities, damages, or losses resulting from injury or death of any person or damage to property occurring on or about the Premises or in any manner in conjunction with the use and occupancy of the Premises in whole or in part, unless the death, injury, or damage was sustained as a result of any tortuous or negligent act of Seller or Seller's agents.

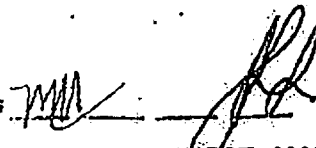
#### SECTION 10 MAINTENANCE

Seller shall have no obligation for maintenance of the Premises whatsoever. During the Primary Term, Purchaser shall, at its sole expense, (a) maintain the Premises in good condition, including but not limited to all structural, electrical, plumbing, and HVAC, excepting only for reasonable wear and tear; (b) provide all necessary maintenance, repair, and replacements of, and keep in good operating condition, the water, gas, electrical, plumbing, heating, ventilating, air

conditioning, and all other mechanical and utility systems and facilities serving the Premises; (c) keep the sidewalks, parking areas, and drives on or about the Premises in a clean, sightly, and sanitary condition; (d) maintain and preserve the quantity and quality of the soft goods inventory (e.g., bedding and towels) and all furniture, fixtures, and equipment such as beds, televisions, clocks, lamps, desks, chairs, etc., except for reasonable wear and tear and loss due to the ordinary course of business (collectively, the soft goods and the furniture, fixtures, and equipment shall be referred to herein as the "Personal Property"); and (e) keep all grass mowed, shrubbery trimmed, and the yards free of excessive weed growth, so that the lawns and yards shall at all times be maintained in a neat and presentable condition. Until Purchaser has consummated the purchase of the Premises, Seller shall maintain ownership of the Personal Property, including any additions thereto made in the ordinary course of the operation of the Premises as a resort and campground due to wear and tear. Purchaser shall assume Seller's existing service and maintenance contracts related to the Premises (the "Service Contracts") including, without limitation, any property management system, the pest control agreement, the fire extinguisher service agreement, and any sprinkler system service contract. If Purchaser shall terminate any Service Contracts prior to the expiration of any such contract, Purchaser shall be solely responsible for any early termination expenses. Prior to such time that title to the Premises shall be conveyed to Purchaser, Purchaser shall notify Seller of any proposed changes it intends to make to the Service Contracts. Seller shall have the right, within its reasonable discretion, to approve or reject any proposed changes to the Service Contracts.

#### SECTION 11 ALTERATIONS

11.1. Purchaser shall have the right to make structural modifications, alterations and improvements listed on the attached EXHIBIT "B" without the Seller's prior written approval, in



addition to paving, installation of sewer water lines, drilling of water wells, obtaining dock permits, obtaining architectural and engineering approval as necessary. Seller may, at Seller's sole discretion, require Purchaser to provide bonds to ensure the construction and completion of any Alterations prior to commencement by Purchaser.

11.2. As part of such Alterations, Purchaser shall repave all private roads, parking lots and recreational vehicle ("RV") parking spaces on the Premises within seven (7) months following execution of this Agreement.

11.3. All modifications, alterations, and improvements shall be made in a good and workmanlike manner and shall not weaken the structure of the Buildings or materially lessen its value. All modifications, alterations, and improvements shall become the property of Seller at the expiration or earlier termination of this Agreement. Purchaser may, without Seller's consent, make nonstructural modifications, alterations, and improvements. Purchaser shall promptly pay its contractors and materialmen for all work done and performed by Purchaser, so as to prevent the assertion or imposition of liens upon or against the Premises.

11.4. Purchaser shall not remove any Personal Property from the Premises without replacing the removed Personal Property with new Personal Property of like quality. Purchaser may, without Seller's consent, install temporary partitions, shelves, bins, equipment, trade fixtures, and other personal property. Those items installed by Purchaser, other than replacement Personal Property as provided elsewhere herein, shall remain Purchaser's property and may be removed by Purchaser prior to the expiration or earlier termination of this Agreement.

11.5. Purchaser shall repair any damage to the Premises caused by that removal. Purchaser shall be solely responsible, at its own expense, for any and all improvements to the Premises required by any governmental or regulatory agency (collectively referred to as

"Required Improvements"). No amounts spent by Purchaser for the Required Improvements shall reduce or change the Purchase Price in any manner.

#### SECTION 12 DAMAGE AND DESTRUCTION

If, during the Primary Term, or any extension thereof, the Premises are damaged by fire or other casualty so as to be rendered untenable either in whole or in substantial part, Purchaser, within thirty (30) days of receipt of any insurance proceeds shall pay the Purchase Price to the Seller and Seller shall deliver a deed to the damaged Premises to Purchaser each as provided in Section 1 above.

#### SECTION 13 CONDEMNATION, LOSS OF ACCESS

If (i) all or part of the Premises shall be taken or condemned by a competent authority for a public or quasi-public use or purpose or if there is a negotiated purchase by such authority under threat of a taking (collectively, a "taking"), and if the loss of the part so taken substantially interferes with the use of the Premises by Purchaser, or (ii) due to any such taking, access to the Premises by motor vehicles as operated by Purchaser, its contractors, and its customers in the course of Purchaser's business as previously conducted is impaired or terminated, then Purchaser shall be entitled to all condemnation proceeds due to Seller as a result of such taking and Purchaser shall purchase the Premises from Seller as provided in Section 1 above.

#### SECTION 14 DEFAULT

14.1. If any of the following events ("defaults") shall occur: (i) Purchaser fails to pay the rent or any other sums payable by Purchaser under this Agreement (other than those obligations set forth in Section 1), and the failure continues for a period of fifteen (15) business days after the date due and payable; or (ii) Purchaser fails to perform any other obligations under

this Agreement (other than those obligations set forth in Section 1) and the failure continues for thirty (30) days after written notice from Seller, or for an unreasonable period of time if thirty (30) days is not reasonably sufficient time to repair, remedy, or correct the obligation breached, and Purchaser commences cure within such thirty (30) day period and diligently pursues cure to completion, then Seller may re-enter the Premises, with or without terminating this Agreement; and if Seller so elects by giving written notice to Purchaser, Seller also may terminate this Agreement. If Seller at any time terminates this Agreement for any default other than those arising under Section 1, then, in addition to any other remedy it may have, it may recover from Purchaser all reasonable damages it may incur by reason of the default, including the cost of recovering the Premises, specific performance of Purchaser's obligation to purchase the Premises under Section 1, and the value at the time of termination of the excess, if any, of the amount of rent and charges reserved in this Agreement for the remainder of the term over the then reasonable rental value of the Premises for the remainder of the stated term, both figures being discounted to present value. Alternatively, Seller may elect to keep this Agreement in effect and recover monthly from Purchaser an amount equal to the rent and other charges due less the amount, if any, of any rentals which Seller may receive by reletting the Premises; however, nothing contained in this Section shall be deemed to impose upon Seller any duty to relet the Premises beyond the duties to mitigate, if any, imposed by law.

14.2. If Purchaser shall fail to make any payment within fifteen (15) business days after the date due, a late payment of five percent (5%) of the payment shall be due. If Purchaser shall fail to perform any act required to be made or performed under this Agreement, Seller, without waiving or releasing any obligation or default, may (but shall be under no obligation to), at any time, and upon reasonable notice to Purchaser, make the payment or perform the act for the

account of and at the expense of Purchaser, and may enter upon the Premises for that purpose and take all actions as may be necessary to correct Purchaser's breach. No such entry shall be deemed an eviction of Purchaser. All sums so paid by Seller and all costs and expenses (including, but not limited to, reasonable attorneys' fees and expenses) so incurred, together with interest at the rate of ten percent (10%) per annum from the date of payment, shall constitute additional rent and shall be paid by Purchaser to Seller on demand.

14.3. In the event Purchaser is in default under the terms of this Agreement, other than the payment of Rent, then in any such event Seller may provide written notice of such default to Purchaser pursuant to this Section. Upon the expiration of thirty (30) days following the giving of such notice, if Purchaser (i) has failed to cure such default or (ii) in the case of a default (other than the payment of money) which by its nature cannot be completely cured within such thirty (30) day period, Purchaser does not within such period commence to cure the default, and diligently pursue and complete the cure in a reasonable period of time, then in either such event Seller may do all things necessary or desirable to remedy such default and perform the obligations of Purchaser which have not been fully or properly performed. Purchaser hereby irrevocably appoints Seller as his attorney-in-fact to enter upon the property and to complete the Building Improvements and the Purchaser Improvements and perform any other obligation of Purchaser that Purchaser has not fully and properly performed. Purchaser shall immediately upon demand reimburse for all costs and expenses incurred by Seller in connection with the foregoing plus interest to make such payment within thirty (30) days of written demand, and Seller may set off the amount of all costs and expenses incurred by Seller in connection with the foregoing, plus interest at the rate set forth in Section 14.2 against rent payment coming due under this Agreement.

14.4. The aforementioned 30-day period of time permitted for Seller to cure its default and the periods of time permitted for Purchaser to cure defaults hereunder shall be extended if the default cannot be cured within the time period allowed herein, so long as such party is diligently and continuously attempting to cure. The cure periods shall also be extended for any period of time during which the defaulting party is delayed in, or prevented from, curing due to fire or other casualty, or acts of God, strikes, lockouts, power shortages or outages, enactment, adoption, or promulgation of new laws, or the application or enforcement of laws. Notwithstanding the foregoing, there shall be no extended period in which to cure a monetary default.

#### SECTION 15 USE OF PREMISES

The Premises may be used, occupied, or sublet by Purchaser for the campground, hospitality, resort, retail fuel station and store business and any other uses as may be permitted by law, ordinance and/or zoning regulations and in the ordinary course of business without Seller's prior written consent, except that Purchaser shall not be entitled to request any change in permitted use or zoning laws affecting the Premises prior to Closing absent Seller's prior consent.

#### SECTION 16 COMPLIANCE WITH LAWS

During the Primary Term, Purchaser, at its expense, shall comply with all present and future laws and regulations applicable to its use and occupancy of the Premises. Purchaser agrees to hold Seller harmless from any cost, expense, or liability that may be imposed or assessed against Seller in connection with Purchaser's noncompliance with any such law, regulation, or requirements.



## SECTION 17 REPAIRS

Purchaser shall be obligated to make, and Seller shall have no responsibility for, any structural repairs, modifications, or additions to the Premises, including, but not limited to, any repairs, modifications or additions to the Premises required pursuant to the Americans with Disabilities Act.

## SECTION 18 ASSIGNMENT AND SUBLETTING

In accordance with the campground, hospitality and resort industry, Purchaser shall have the right to sublet all or any portion of the Premises in the normal course of business without the prior written consent of Seller. Notwithstanding the foregoing, Purchaser shall be able to assign this Agreement, whether in whole or in part, with the prior written consent of Seller, which shall not unreasonably be withheld. Any such assignment shall require the Assignee to assume and become bound to perform and observe all of the covenants and agreements of Purchaser under this Agreement. No such assignment shall relieve the assignor of its obligations hereunder.

TLC currently holds a lease from South Carolina Public Service Authority ("SCPSA"). Seller will use its reasonable best effort to obtain any and all approvals for the sublease thereof to Purchaser. Any and all payments to SCPSA under this lease shall be the sole responsibility of Purchaser. Any lease payments previously made to SCPSA by Seller shall be prorated as of January 1, 2011, and on that date, Purchaser shall reimburse Seller for the unexpired portion of the prepaid lease term.

**SECTION 19  
SUBBORDINATION OF LEASE**

Seller hereby warrants and represents that the existing lease for the portion of the Premises containing the retail fuel station and store shall be subordinate to this Agreement. Seller hereby assigns to Purchaser any and all rents and income from the retail fuel station and store lease.

**SECTION 20  
NOTICES**

All notices to be given to either party shall be deemed given if made in writing and deposited in the United States mail, postage prepaid, return receipt requested, and addressed to the parties at the following addresses:

**SELLER:**

TLC HOLDINGS, LLC  
James C. Thigpen  
P.O. Box 1257  
7860 Wash Davis Road  
Summerton, South Carolina 29148

Richard U. Clark  
3124 Great Wood Way  
Knoxville, Tennessee 37922

Jimmy S. (Steve) Lovell  
20 Ambriance Drive  
Burr Ridge, Illinois 60527

**PURCHASER:**

M. B. HUDSON  
c/o ANDREW F. TUCKER, ESQ.  
385 2<sup>nd</sup> Avenue, Suite 1  
Dayton, Tennessee 37321

Either party may change its notice address by giving notice of the change to the other.

## SECTION 21 MORTGAGES AND LIENS

Seller currently has two (2) liens encumbering the Premises. It is clearly understood between the parties that Seller shall not allow any further or additional liens to be placed or encumber the Premises at any time during the Primary term or any extension thereof.

There are two pending actions relating to the campground property in the Court of Common Pleas for Clarendon County, South Carolina, one captioned *First Citizens Bank vs. Thigpen, et al.*, Case No. 08-CP-14-559, and the second captioned *Edwards vs. TLC Holdings, et al.*, Case No. 09-CP-14-58. Seller covenants, consents and agrees that these actions shall be dismissed or otherwise addressed on or before Closing on the entire Premises, so that said pending legal actions shall in no way encumber the Property or hinder said Closing. There is no other pending or threatened litigation, nor any legal or administrative action of any kind or character whatsoever, affecting the Property or any portion thereof.

Purchaser shall not permit any liens, whether consensual, judgment or statutory, to be placed on or encumber the Premises. Should any such lien be asserted or filed, Purchaser shall bond against or discharge the same within ten (10) days after written request by Seller. In the event Purchaser fails to remove said lien within said ten (10) days, Seller may, at its sole option, elect to satisfy and remove the lien by paying the full amount claimed or otherwise, without investigating the validity thereof. Seller's election to discharge liens as provided hereunder shall not be construed to be a waiver or cure of Purchaser's default hereunder.

## SECTION 22 SUCCESSORS AND ASSIGNS

Subject to the provisions of Section 14, this Agreement shall bind and inure to the benefit of the respective heirs, personal representatives, successors, and permitted assigns of Seller and Purchaser.

**SECTION 23  
PURCHASER'S PROPERTY**

All trade fixtures, furnishings, equipment, and other personal property placed or maintained on the Premises shall be at Purchaser's sole risk, and Seller shall not be liable for any loss or damage to such property from any cause whatsoever, and shall not provide any insurance on such property.

**SECTION 24  
QUIET ENJOYMENT**

Seller covenants that, if Purchaser pays the rent and performs all of its obligations under this Agreement, Purchaser shall peaceably and quietly enjoy and possess the Premises throughout the term subject only to the conditions set forth in this Agreement.

**SECTION 25  
SIGNS**

Any and all signs placed on the Premises by Purchaser shall be maintained in compliance with all applicable governmental laws and regulations.

**SECTION 26  
NONWAIVER**

No waiver of any condition or covenant of this Agreement by either party shall be deemed to imply or constitute a further waiver of the same or any other condition or covenant, and nothing contained in this Agreement shall be construed to be a waiver on the part of Seller of any right or remedy in law or otherwise.

**SECTION 27  
RIGHT OF ENTRY**

Upon reasonable notice to Purchaser, Seller shall have the right to enter the Premises during normal business hours to examine its condition; to make any repairs Seller deems

necessary for the safety, preservation, or improvement of the Premises. Each entry by Seller in accordance with this Section 27 shall be made in such a manner as will not unreasonably interfere with Purchaser's use of the Premises.

## SECTION 28 ENVIRONMENTAL MATTERS

28.1. Seller represents and warrants to Purchaser that to the best of Seller's knowledge, as of the date hereof, no "Hazardous Substances" (as hereafter defined), or any other toxic material or medical waste are present on or in the Building or Land, other than fuel sold by the convenience store; or other amounts used in the ordinary course of the businesses operated upon the Premises (and, as to those, all are in material compliance with applicable law), and Seller shall indemnify Purchaser against any and all claims, demands, liabilities, losses and expenses, including consultant fees, court costs and reasonable attorneys' fees, arising out of any breach of the foregoing warranty.

28.2. Except for Hazardous Substances or other toxic materials or medical waste brought, kept, or used in the Premises in commercial quantities similar to those quantities usually kept on similar premises by others in the same business, profession, or medical specialty, and which are used and kept in compliance with applicable public health, safety, and environmental laws, Purchaser shall not allow any Hazardous Substance or other toxic material or medical waste to be located in, on, or under the Premises or allow the Premises to be used for the manufacturing, handling, storage, distribution, or disposal of any Hazardous Substance or other toxic material.

28.3. Purchaser shall at all times and in all respects comply with all federal, state, or local laws, ordinances, regulations, and orders applicable to the Premises or the use thereof relating to industrial hygiene, the handling, storage and disposal of medical waste, environmental

protection, or the use, analysis, generation, manufacture, storage, disposal, or transportation of any Hazardous Substance, toxic material, or medical waste.

28.4. If Purchaser becomes aware of the presence of any Hazardous Substance in or on the Premises (except for those Hazardous Substances or other toxic material or medical waste brought, kept, or used in the Premises by Purchaser in commercial quantities similar to those quantities usually kept on similar premises by others in the same business, profession, or medical specialty and which are used and kept in compliance with applicable public health, safety, and environmental laws) or if Purchaser, or the Premises, becomes subject to any order of any federal, state, or local agency to repair, close, detoxify, decontaminate, or otherwise cleanup the Premises, Purchaser shall, at its own cost and expense, carry out and complete any repair, closure, detoxification, decontamination, or other cleanup of the Premises; provided that Purchaser shall not be responsible for any of the foregoing relating to any Hazardous Substance, or other toxic materials, or medical waste located on, in, or under the Premises on the date of this Agreement, all of which shall be the responsibility of Seller pursuant to Section 28.1. If Purchaser fails to implement and diligently pursue any such repair, closure, detoxification, decontamination, or other cleanup of the Premises, Seller shall have the right, but not the obligation, to carry out such action and to recover all of the costs and expenses from Purchaser.

28.5. "Hazardous Substances" as such term is used in this Agreement means any hazardous or toxic substance, material, or waste regulated or listed pursuant to any federal, state, or local environmental law, including without limitation, the Clean Air Act, the Clean Water Act, the Toxic Substances Control Act, the Comprehensive Environmental Response Compensation and Liability Act, the Resource Conservation and Recovery Act, the Federal Insecticide, Fungicide, Rodenticide Act, the Safe Drinking Water Act, and the Occupational Safety and

Health Act, except for any reference to petroleum or petroleum products. The parties hereby acknowledge that the Premises has a retail gasoline and diesel service station located thereon, and any reference to Hazardous Substances specifically exclude petroleum or petroleum products.

#### SECTION 29 PARTIAL INVALIDITY

If any provision of this Agreement or its application to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of that provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

#### SECTION 30 MEMORANDUM OF LEASE

In addition to the execution of this Agreement, the parties shall execute a memorandum of this agreement in recordable form, which, in addition to the matters which may be required by applicable law, shall also include a description of the Premises leased hereunder, and those provisions (other than the amount of rent and the Purchase Price) requested by any party hereto.

#### SECTION 31 ENTIRE AGREEMENT

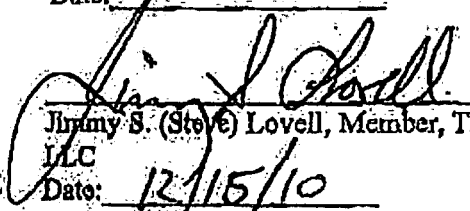
This Agreement contains the entire agreement between the parties and cannot be amended unless the amendment is in writing and executed by the party against whom the enforcement of the amendment is sought.

IN WITNESS WHEREOF, this Agreement has been executed as of the date and year  
written herein below.

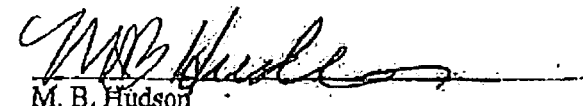
SELLER:  
TLC Holdings, LLC

James C. Thigpen, Member, TLC Holdings, LLC  
Date: \_\_\_\_\_

Richard U. Clark, Member, TLC Holdings, LLC  
Date: \_\_\_\_\_

  
Jimmy S. (Steve) Lovell, Member, TLC Holdings,  
LLC  
Date: 12/15/10

PURCHASER:

  
M. B. Hudson

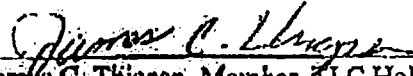
Date: 12/16/10



[Signatures on Next Page]

IN WITNESS WHEREOF, this Agreement has been executed as of the date and year written herein below.

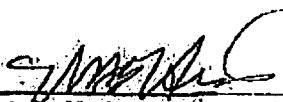
SELLER:  
TLC Holdings, LLC

  
James C. Thigpen, Member, TLC Holdings, LLC  
Date: 12/15/10

Richard U. Clark, Member, TLC Holdings, LLC  
Date: \_\_\_\_\_

Jimmy S. (Steve) Lovell, Member, TLC Holdings, LLC  
Date: \_\_\_\_\_

PURCHASER:

  
M. B. Hudson

Date: 12/15/10

IN WITNESS WHEREOF, this Agreement has been executed as of the date and year  
written herein below.

**SELLER:**  
**TLC Holdings, LLC**

James C. Thigpen, Member, TLC Holdings, LLC  
Date: \_\_\_\_\_

Richard U. Clark  
Richard U. Clark, Member, TLC Holdings, LLC  
Date: 12/15/2010

Jimmy S. (Steve) Lovell, Member, TLC Holdings, LLC  
Date: \_\_\_\_\_

**PURCHASER:**

M. B. Hudson  
M. B. Hudson

Date: 12/15/2010

EXHIBIT A A legal description of the TLC real property

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

(02008344.)

EJECT\_000085

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF CLARENDON ) CASE NO.: 11-CP-14-602

TLC Holdings, LLC,  
  
Plaintiff,  
  
vs.  
  
M.B. Hudson a/k/a M.B. Hutson,  
  
Defendant.

**AFFIDAVIT OF  
THOMAS L. HARPER, JR.**

\_\_\_\_\_  
M. B. Hudson a/k/a M. B. Hutson,  
Defendant and Third Party Plaintiff,  
  
v.  
  
Richard U. Clark, Jimmy S. Lovell and James  
C. Thigpen,  
  
Third Party Defendants.

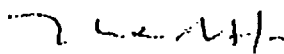
COMES NOW, Thomas L. Harper, Jr., who, being duly sworn, deposes and says as follows:

1. I am an attorney for Plaintiff, TLC Holdings, LLC ("Plaintiff", "TLC" or the "Company"), and have personal knowledge of the matters contained in this affidavit.
2. Attached hereto as a composite **Exhibit A** is are true and correct excerpts from the transcript of the Rule 2004 examination of the Morris B. Hutson (the "Defendant"), which examination was taken, under oath, in the Defendant's bankruptcy case pending in the United States Bankruptcy Court for the District of South Carolina, Case Number 14-00165-jw.
3. Attached hereto as a composite **Exhibit B** is a true, correct and complete copy of two letters written to Defendant by Marie Rose, the director of the Clarendon County Planning

WCSR 31795978v1

Commission. In his Rule 2004 examination, the Defendant acknowledged having received these letters from the Clarendon County Planning Commission.

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
Thomas L. Harper, Jr.

SWORN to before me this 3<sup>rd</sup>  
day of March, 2014.

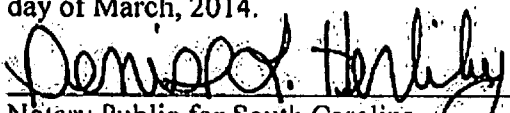
  
\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: 6-18-19

**EXHIBIT A**  
**(Excerpts from Hutson 2004 Examination)**

See attached.

1 up in 30 minutes. I went over there and picked it  
2 up, and then I gave it to Tom.

3 (Exhibit No. 33 marked for  
4 identification.)

5 A Now, this is a survey, but not a plat.

6 BY MR. BYRD:

7 Q Did you just read the definition of a  
8 qualified plat in the settlement agreement?

9 A Yes, sir, we did.

10 Q And what it says is surveyed by a land  
11 surveyor, certified land surveyor. Correct?

12 A It did.

13 Q And Mathis & Muldrow provided that to you  
14 on January 14, 2014?

15 A Yes, sir.

16 Q Before January 14, 2014, you had never,  
17 ever provided a qualified plat, had you?

18 A No, sir. We saw no need to.

19 Q Good deal.

20 A It was in here (indicating), and that  
21 would provide it.

22 Q Let's talk about the restaurant lease.  
23 We know who the lessor is. Correct?

24 A It's on the bottom of the lease.

25 Q -- Who is the lessor? --

1 problem for me, a real problem, because they don't  
2 comply with what they have written in the rule book.  
3 It's horribly frustrating.

4 Q Mr. Hutson, you talked a bit on Friday  
5 and then again today about pending litigation  
6 involving the property being an impediment to your  
7 getting your approvals. Is that right?

8 A Such as what?

9 Q You said that you went with your engineer  
10 and maybe your lawyer, too, I can't remember, but I  
11 know your engineer to a planning commission meeting  
12 and they said that there was litigation pending and  
13 they wouldn't consider your --

14 A That's right.

15 Q Did that happen before we settled the  
16 case with that settlement agreement that was filed  
17 in early April, or after?

18 A No, it was before.

19 Q In fact, in the settlement agreement  
20 there's a provision that says that TLC will write a  
21 letter to Clarendon County --

22 A Right, but not in the first agreement.  
23 But my point of that whole thing was, because of  
24 that requirement that they have that they enforced,  
25 even though it's not in their bylaws, it delayed me



1 I would say six to eight months at least. And yet  
2 I'm overpaying TLC \$10,000 a month. Then I find out  
3 about the moratorium on the sewer.

4 Q Let me stop you right there, Mr. Hutson,  
5 and ask you this very clearly. Are you saying that  
6 you found out about the sewer moratorium after April  
7 1, 2012, when the settlement agreement was signed?

8 A No.

9 Q It was before, wasn't it?

10 A Before, that's correct.

11 Q Black Water Utility Electric Co-op  
12 overcharge, that was before the settlement agreement  
13 was filed, wasn't it?

14 A That's correct.

15 Q The Roger Edwards litigation was before  
16 the settlement agreement. Right?

17 A I don't know much about that. But I had  
18 heard that there were liens on the property.

19 Q The bank litigation was before the  
20 settlement in April of 2012, wasn't it?

21 A That's correct. But again, those were  
22 reasons why I couldn't close sooner on some of the  
23 property where I could take out -- And there is a  
24 way where you could take out like five acres.

25 Q But that's why we settled the case in

1 April of 2012, isn't it, Mr. Hutson?

2 A I felt like that I shouldn't have never  
3 signed what I did sign, because really it wasn't my  
4 fault. I couldn't get my approvals. I was working  
5 my butt off to get the approvals. You know that. I  
6 had many conversations with you about where I was  
7 with the approvals. I spent weeks and weeks and  
8 weeks with engineers and architects. And then the  
9 green space became a great issue over there with  
10 Clarendon County. It was crazy.

11 (Exhibit No. 37 marked for  
12 identification.)

13 BY MR. HARPER:

14 Q Mr. Hutson, I'm going to hand you Exhibit  
15 No. 37. Do you think you've ever seen this letter  
16 before?

17 A Yes.

18 Q This is a letter I wrote to David  
19 Epperson with the Planning Commission on April 3 --

20 A '12, right.

21 Q -- 2012, just four days after the date of  
22 our settlement agreement. Right?

23 A Yes.

24 Q Four days after the settlement agreement  
25 I faxed a letter to David Epperson, and in that

1 wouldn't be in the fix that I'm in right now.

2 Even if we reached an agreement where I  
3 could go ahead and get my approvals, I was thinking  
4 how could something be drawn to keep Jim Thigpen  
5 from going to the county and causing problems. I  
6 don't know. But I know that he has a problem with  
7 TLC, and he's got a problem with me. He never  
8 wanted me to develop that property. He never wanted  
9 me to buy it. And Richard Clark has admitted to me  
10 that Thigpen never wanted me to buy the property.

11 Q Mr. Hutson, if you exercise the three  
12 30-day extension rights from July 31, I'll tell you  
13 that that does not go out past November 15th. There  
14 is some cushion in there. I'm just doing that so  
15 that nobody has to sit here and do math.

16 Did you have the approvals by November  
17 15, 2012? I'm not asking you what your excuse is,  
18 but did you have them?

19 A No.

20 Q You don't have them now, so you didn't  
21 have them by November 30th?

22 A No. I got kicked out and had to start  
23 over. Start over is a lot quicker than starting  
24 from scratch.

25 Q Mr. Hutson, we've gone through my letter

1 you have failed to meet the contingency requirements  
2 of the sketch plan approval," and then it skips a  
3 second, "and failed to meet the deadline for  
4 application acceptance for the November 19, 2013  
5 Clarendon County Planning Commission meeting, your  
6 performance zone certificate has expired and your  
7 sketch plan extension will expire on November 4th."

8 A See, it hadn't even expired.

9 Q Right. It was expiring in about two  
10 weeks.

11 A Right. But you've got to wonder why  
12 would they jump so fast to get this thing out. It's  
13 just another Thigpen issue. They are kicking me out  
14 because my time is going to expire when the time  
15 hadn't even expired.

16 Q Mr. Hutson, let's go back to the  
17 settlement agreement if we could, please. I'm going  
18 to ask you to read -- I would ask you to read the  
19 entirety of paragraph No. 8 that's on page 3.

20 A "The parties acknowledge that this  
21 settlement agreement is not contingent upon Hudson's  
22 receipt of the approvals."

23 Q Mr. Hutson, the June and October 2013  
24 letters that we just went through all relate to  
25 deficiencies in your package that arose after

1 December 31, 2013.. Right?

2 To ask it another way, our June letter  
3 says you've asked for an extension on sketch plan  
4 approval and you can have it if you do these things.  
5 Well, that's obviously in 2013. Right?

6 A Right.

7 Q And then she writes you in October and  
8 says you didn't do these things --

9 A I don't use Paul Weissenstein anymore  
10 because of that one sentence.

11 Q That sentence says that TLC is not  
12 responsible for whether Clarendon County approves  
13 your thing or not?

14 A TLC knew I couldn't close without getting  
15 the approvals. They knew it was impossible. You  
16 drew this.

17 Q And you signed it?

18 A Yeah, I was stupid enough to sign it.

19 But, still again, if I had been able to  
20 get my approvals and if TLC had had better -- if  
21 they made proper disclosures to me, they could have  
22 speeded me up a lot. They intentionally did not.  
23 And everybody wants to overlook that stuff.

24 Q What's TLC got to do with your green  
25 space, Mr. Hutson?--Nothing.

**EXHIBIT B**  
**(Planning Commission Letters to Hutson)**

See attached.

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

Clarendon County  
**Planning Commission**  
411 Sunset Drive, Manning, SC 29102  
Telephone: (803) 435-8672 / Fax: (803) 435-2208

June 25, 2013

M. B. Hudson  
Big Water Campground  
5215 Dingle Pond Road  
Summerton, South Carolina 29148

RE: Big Water Subdivision Sketch Plan

Dear Mr. Hudson:

This letter is in response to your request for an extension of the sketch plan approval for the above referenced subdivision. During the June 18, 2013 Planning Commission meeting, the Commission granted an extension of the sketch plan approval through November 4, 2013 contingent upon the original following requirements:

1. A minimum 30% of the existing trees, evenly distributed and proportionate throughout the proposed development, and all live oaks twelve inches (12") or larger in diameter must be saved. To meet this requirement, you must submit an existing tree survey and a proposed greenspace/landscape plan incorporating the saved trees and the proposed new greenspace/landscaping. This must be submitted with the preliminary plans/plat submission.
2. In compliance with the Clarendon County Comprehensive Plan, the development must be supported by public water and sewer from a public utility service.
3. The public water system must be able to support a fire suppression system as required by the Clarendon County Fire Department.

As previously instructed, please refer to the Clarendon County Unified Development Code for all of the specific requirements to submit preliminary plans and plats. In addition, the revised Big Water Campground site plan must be submitted with the preliminary plans and plat. Incomplete application packages and/or plans and plats that do not meet the contingency requirements will not be accepted. Sketch plan approval will expire on November 4, 2013 unless a complete application package for preliminary plans/plat approval has been submitted. Per Article VI, Section 61.03 of the Unified Development Code, no further extensions shall be granted.



Web: [clarendoncountygov.org](http://clarendoncountygov.org)

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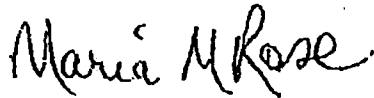
M. B. Hudson

Page 2

June 25, 2013

Thank you for your cooperation. If I can be of any further assistance, please do not hesitate to call me.

Sincerely,

A handwritten signature in cursive script that reads "Maria M. Rose".

Maria M. Rose  
Planning Director

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344



Clarendon County  
Planning Commission  
411 Sunset Drive, Manning, SC 29102  
Telephone: (803) 435-8672 / Fax: (803) 435-2208

October 22, 2013.

M. B. Hudson  
Big Water Campground  
5215 Dingle Pond Road  
Summerton, South Carolina 29148

RE: Incomplete Preliminary/Site Plans/Plat Submittal for Big Water Development

Dear Mr. Hudson:

This letter is in response to your submittal of preliminary plans and plats for the Big Water Subdivision development and revised site plan for Big Water Campground. After review of the package submitted, I find the application package incomplete and unacceptable for Planning Commission review. I have enclosed your check number 1088 in the amount of \$740.00, as payment cannot be received for an incomplete submittal.

Deficiencies include the omission of the greenspace/landscaping survey and plans, the revised site plan for the remaining campground, and other items highlighted and specified for submittal in the enclosed two letters mailed to you on September 5, 2012 and June 25, 2013, there are numerous other items required on the preliminary plans/plat checklist that were not included in the submittal package. There were no DHEC application packages or DHEC permits to construct for water, sewer or grading and stormwater management, etc.

Due to the fact the submittal was not complete the staff did not review the engineered plans for accuracy or compliance to the requirements of the Clarendon County Unified Development Code. This letter is not meant to state or cover all deficiencies in the preliminary/site plans/plat submittal for the Big Water development.

Because you have failed to meet the contingency requirements of the sketch plan approval for the Big Water Subdivision and failed to meet the deadline for application acceptance for the November 19, 2013 Clarendon County Planning Commission meeting, your Performance Zone



Web: [clarendoncountygov.org](http://clarendoncountygov.org)

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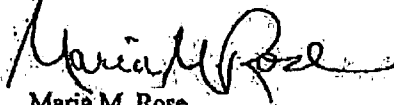
ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

M. B. Hudson  
Page 2  
October 22, 2013

Certificate has expired and your sketch plan extension will expire on November 4, 2013. If you continue to have interest in further development of the Big Water property, it will be necessary to begin the process from the beginning with the Performance Zone Certification application and process.

Thank you for your interest in development in Clarendon County.

Sincerely,



Maria M. Rose  
Planning Director

Enclosures: Letter Dated September 5, 2012  
Letter Dated June 25, 2013  
Big Park Management Inc. Check #1088

Copy to: ✓ TLC Holdings, LLC



**BURN**  
**LAW FIRM, LLC**

**Stephen "Chip" Burn**  
Attorney-at-Law  
cburn@burnlawfirmllc.com

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

January 8, 2014

Beulah G. Roberts  
Clarendon County Clerk of Court  
P.O. Box 136  
Manning, SC 29102-0136

In Re: TLC Holdings, LLC v. M.B. Hutson  
Civil Action No.: 2011-CP-14-602

Dear Clerk Roberts:

Enclosed please find two (2) copies of a Notice of Bankruptcy Case Filing by M.B. Hutson, the Defendant and Third Party Plaintiff in the above-referenced matter. Please file one copy and return the other, clocked-in copy in the enclosed, postage paid return envelope.

By copy of this letter, I am hereby serving the other parties with a copy of the same.

Thank you for your assistance with this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely yours,

BURN LAW FIRM, LLC

Stephen "Chip" Burn, Esquire

Enc

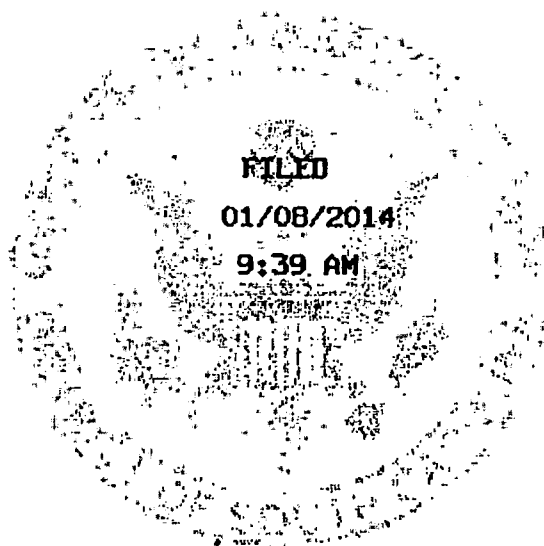
Cc: The Honorable George C. James, Jr.  
R. Wayne Byrd, Esq.  
James C. Thigpen

United States Bankruptcy Court  
District of South Carolina

**Notice of Bankruptcy Case Filing**

A bankruptcy case concerning the debtor(s) listed below was filed under Chapter 11 of the United States Bankruptcy Code, entered on 01/08/2014 at 09:58 AM and filed on 01/08/2014.

**Morris Beach Hutson**  
5215 Dingle Pond Road  
Summerton, SC 29148  
423-834-4828  
SSN / ITIN: xxx-xx-6337  
aka MB Hutson



The case was assigned case number 14-00165. -

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

If you would like to view the bankruptcy petition and other documents filed by the debtor, they are available at our *Internet* home page <http://ecf.scb.uscourts.gov> or at the Clerk's Office, J. Bratton Davis United States, Bankruptcy Courthouse, 1100 Laurel Street, Columbia, SC 29201-2423.

You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.

**Laura A. Austin**  
Clerk, United States  
Bankruptcy Court

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2011-CP-14-602

TLC Holdings, LLC, )

Plaintiff, )

v. )

M.B. Hudson a/k/a M.B. Hutson, )

Defendant. )

**CERTIFICATE OF SERVICE**

M.B. Hudson a/k/a M.B. Hutson, )

Defendant and Third Party Plaintiff, )

v. )

Richard U. Clark, Jimmy S. Lovell and )  
James C. Thigpen, )

Third Party Defendants )

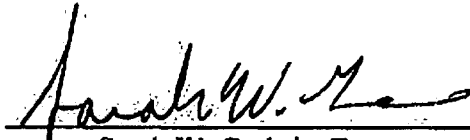
I, Sarah W. Guthrie, Esq., an employee of Burn Law Firm, LLC, attorney for the Defendant and Third Party Plaintiff, do hereby certify that I have served the foregoing **NOTICE OF BANKRUPTCY CASE FILING** in the above-captioned case, by causing a copy of the same to be personally deposited in a United States Postal Service mail box, with the return address clearly visible, postage prepaid, addressed to the attorney(s) of record as indicated below:

*Remainder of page intentionally left blank*

R. Wayne Byrd, Esq.  
Turner Padgett Graham & Laney, P.A.  
P.O. Box 2116  
Myrtle Beach, SC 29578

ATTORNEYS FOR TLC HOLDINGS, LLC,  
RICHARD U. CLARK, AND JIMMY S. LOVELL

James C. Thigpen  
1271 Challenger Court  
Summerton, SC 29148

  
\_\_\_\_\_  
Sarah W. Guthrie, Esq.

January 8, 2014.

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2011-CP-14-602

TLC Holdings, LLC,

Plaintiff,

v.

M.B. Hudson a/k/a M.B. Hutson,

Defendant.

**NOTICE AND SUBSTITUTION  
OF ATTORNEY**

M.B. Hudson a/k/a M.B. Hutson,

Defendant and Third Party Plaintiff,

v.

Richard U. Clark, Jimmy S. Lovell and  
James C. Thigpen,

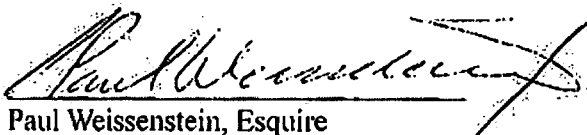
Third Party Defendants

PLEASE TAKE NOTICE that the Defendant and Third Party Plaintiff, M.B. Hutson, substitutes Stephen "Chip" Burn, Esq., Burn Law Firm, LLC, 945 East Main Street, Suite D, Lexington, South Carolina 29072 as his attorney of record in the above-captioned action in the place of Paul Weissenstein, Jr., Esq., Weissenstein Law Firm, LLC, 106 Broad Street, Sumter, South Carolina 29150.

I ACCEPT:

I CONSENT:

  
Stephen "Chip" Burn, Esquire  
BURN LAW FIRM, LLC  
945 East Main Street, Ste. D  
Lexington, South Carolina 29072  
(803) 358-7220

  
Paul Weissenstein, Esquire  
WEISSENSTEIN LAW FIRM, LLC  
106 Broad Street  
Sumter, South Carolina 29150  
(803) 418-5700

January 16, 2014

January 3, 2014

I CONSENT:



A handwritten signature in black ink, appearing to read 'M. B. Hudson', is written over a horizontal line.

M. B. Hudson

*Defendant and Third Party Plaintiff*

January 3, 2014



STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2011-CP-14-602

TLC Holdings, LLC, )  
Plaintiff, )

v. )

M.B. Hudson a/k/a M.B. Hutson, )  
Defendant. )

**CERTIFICATE OF SERVICE**

M.B. Hudson a/k/a M.B. Hutson, )  
Defendant and Third Party Plaintiff, )

v. )

Richard U. Clark, Jimmy S. Lovell and )  
James C. Thigpen, )

Third Party Defendants )

I, Sarah W. Guthrie, Esq., an employee of Burn Law Firm, LLC, attorney for the Defendant and Third Party Plaintiff, do hereby certify that I have served the foregoing **NOTICE AND SUBSTITUTION OF ATTORNEY** in the above-captioned case, by causing a copy of the same to be personally deposited in a United States Postal Service mail box, with the return address clearly visible, postage prepaid, addressed to the attorney(s) of record as indicated below:

*Remainder of page intentionally left blank*



**BURN**  
**LAW FIRM, LLC**

Stephen "Chip" Burn  
Attorney-at-Law  
cburn@burnlawfirmllc.com

January 6, 2014

Beulah G. Roberts  
Clarendon County Clerk of Court  
P.O. Box 136  
Manning, SC 29102-0136

In Re: TLC Holdings, LLC v. M.B. Hutson  
Civil Action No.: 2011-CP-14-602

Dear Clerk Roberts:

Regarding the above-referenced matter, enclosed please find the original and one copy of the Notice and Substitution of Attorney for the Defendant and Third Party Plaintiff, M.B. Hutson. Please file the original and return the clock-in copy in the enclosed, postage paid return envelope.

By copy of this letter, I am hereby serving the other parties with a copy of the same.

Thank you for your assistance with this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely yours,

BURN LAW FIRM, LLC

Sarah W. Guthrie, Esquire for  
Stephen "Chip" Burn, Esquire

Enc

Cc: Paul Weissenstein, Esq.  
R. Wayne Byrd, Esq.  
James C. Thigpen

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )

IN THE COURT OF COMMON PLEAS  
THIRD JUDICIAL CIRCUIT  
DOCKET NO. 2011-CP-14-602

TLC Holdings, LLC, )

Plaintiff, )

AFFIDAVIT OF PERSONAL SERVICE

v. )

M. B. Hudson a/k/a M. B. Hutson, )

Defendant. )

M. B. Hudson a/k/a M. B. Hutson, )

Defendant and Third Party Plaintiff, )

v. )

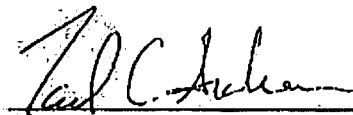
Richard U. Clark, Jimmy S. Lovell, and )  
James C. Thigpen, )

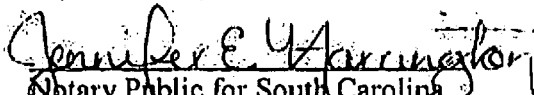
Third Party Defendants. )

The undersigned, Tad Graham, being duly sworn states the he delivered the original Subpoena in the above captioned action to the Defendant and Third Party Plaintiff, M. B. Hudson a/k/a M. B. Hutson, by personally delivering said document to him, at Big Water Resort, 5277 Dingle Pond Road, Cabin #1, Summerton, SC 29148, on the 6th day of January, 2014 at 7:55 P.M.

Furthermore that he is not a party to this action; he is not related to any party of this action; nor is he interested in the outcome.

SWORN TO before me this 7  
day of January, 2014

  
Tad Graham

  
Notary Public for South Carolina  
My Commission Expires: 10/29/2018

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF CLARENDON ) CASE NO.: 11-CP-14-602

TLC Holdings, LLC,  
  
Plaintiff,  
  
vs.  
  
M.B. Hudson a/k/a M.B. Hutson,  
  
Defendant.

**AFFIDAVIT OF  
THOMAS L. HARPER, JR.**

\_\_\_\_\_  
M. B. Hudson a/k/a M. B. Hutson,  
Defendant and Third Party Plaintiff,  
  
v.  
  
Richard U. Clark, Jimmy S. Lovell and James  
C. Thigpen,  
  
Third Party Defendants.

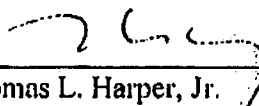
COMES NOW, Thomas L. Harper, Jr., who, being duly sworn, deposes and says as follows:

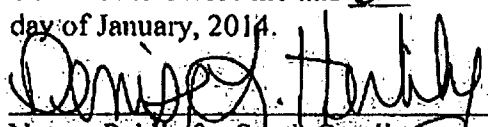
1. I am an attorney for Plaintiff, TLC Holdings, LLC ("Plaintiff", "TLC" or the "Company"), and have personal knowledge of the matters contained in this affidavit.

2. Attached hereto is a true, correct and complete copy of the Affidavit of Richard U. Clark, the original of which will be filed in this action prior to the hearing on the Defendant and Third Party Plaintiff's Motion for Temporary Restraining Order dated December 27, 2013 (the "TRO Motion") filed in this action by Defendant M. B. Hudson a/k/a M. B. Hutson ("Hutson").

*[Signature Page Follows]*

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
Thomas L. Harper, Jr.

SWORN to before me this 6<sup>th</sup>  
day of January, 2014.  
  
\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: 6-18-19

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF CLARENDON ) CASE NO.: 11-CP-14-602

TLC Holdings, LLC,  
Plaintiff,

vs.

M.B. Hudson a/k/a M.B. Hutson,  
Defendant.

**AFFIDAVIT OF  
RICHARD U. CLARK**

M. B. Hudson a/k/a M. B. Hutson,  
Defendant and Third Party Plaintiff,

v.

Richard U. Clark, Jimmy S. Lovell and James  
C. Thigpen,

Third Party Defendants.

COMES NOW, Richard U. Clark, who, being duly sworn, deposes and says as follows:

1. I am a member of Plaintiff, TLC Holdings, LLC ("Plaintiff", "TLC" or the "Company"), and have personal knowledge of the matters contained in this affidavit.

2. I have reviewed the Defendant and Third Party Plaintiff's Motion for Temporary Restraining Order dated December 27, 2013 (the "TRO Motion") filed in this action by Defendant M. B. Hudson a/k/a M. B. Hutson ("Hutson"), and the Affidavit of M.B. Hutson submitted in support of the TRO Motion (the "Hutson Affidavit").

3. Hutson has never presented a proposed subdivision plat to me for consideration.

4. After due investigation, I am informed and believe that Hutson has never presented

any other member, attorney or representative of Plaintiff with a proposed Qualified Plat<sup>1</sup> for consideration. He has submitted various sketch plans, master plans, and other drawings, but no survey or plat of the Property prepared by a registered South Carolina land surveyor that meets the minimum standards for the practice of land surveying under South Carolina law.

5. Despite being under no obligation to do so under the terms of the Settlement Agreement, TLC provided various letters of support to the Clarendon County Planning Commission (the "Planning Commission") at Hutson's request up until the time that Hutson defaulted under the Settlement Agreement in and around December, 2012 by, *inter alia*,:

- a. failing to obtain the Approvals by the Approval Deadline;
- b. failing to close upon the purchase of a portion of the Property not later than the Closing Deadline; and
- c. failing to pay the Arrearage prior to December 31, 2012.<sup>2</sup>

6. Hutson has never cured the December 2012 Defaults, in addition to other defaults by him under the Settlement Agreement, all of which remain uncured and outstanding.

7. In November, 2013, despite the December 2012 Defaults remaining uncured and outstanding, Hutson requested that Plaintiff submit an additional letter to the Planning Commission in support of his proposed development of the Property.

8. At that time, and continuing until the present day, Hutson had still never delivered a proposed Qualified Plat to Plaintiff for consideration. And then, and now, he has still not cured the

---

<sup>1</sup> Capitalized terms used herein without definition have the meaning given such terms in the Settlement Agreement (as that term is defined in the Affidavit of Default submitted by Richard U. Clark filed in this action on December 11, 2013).

<sup>2</sup> The foregoing are sometimes referred to herein as the "December 2012 Defaults", but are not intended to comprise a complete list of defaults by Hutson under the Consent Order and Settlement Agreement, nor are they a waiver or limitation of any rights of Plaintiff against Hutson.

December 2012 Defaults.

9. Accordingly, Plaintiff elected not to write a letter of support for Hutson's rezoning request in November, 2013.

10. I have reviewed Hutson's allegations set forth in Paragraph 7.b. of the TRO Motion and Paragraph 4.b. of the Hutson Affidavit, that Plaintiff made "verbal assurances" to Hutson that were incorrect, or that Plaintiff failed to make "important disclosures" to him. First, I deny those allegations. Second, Hutson made those same allegations when this action was first brought in 2011, and those allegations were the basis of the settlement of this action pursuant to the Settlement Agreement, which was approved by the Consent Order, and which resulted in Plaintiff agreeing to give Hutson more time to purchase the Property, which he failed to do in accordance with the Settlement Agreement.

11. In Paragraph 7.c. of the TRO Motion, and in Paragraph 4.c. of the Hutson Affidavit, Hutson avers that "[n]o notice was provided by Plaintiff to Defendant regarding any issues related to liens that may have been placed on the property or any property tax issues that may have arisen with regard to the property."

12. These assertions by Hutson are incorrect. By letter from our attorney, Thomas L. Harper, Jr., to Hutson dated February 7, 2013, Plaintiff expressly advised Hutson that he was in default "for, among other things, ... (b) permitting a lien to be filed against the Property by Blue Line Consulting, LLC ...; [and] (c) failing to pay the 2012 property taxes for the Property prior to their delinquency on or before January 15, 2013".

13. In addition, I had multiple conversations with Hutson in 2013 which I reminded him that he had not paid the 2012 property taxes, and/or inquired whether he had paid off the mechanics

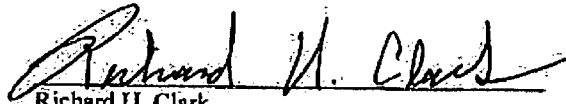


lien.

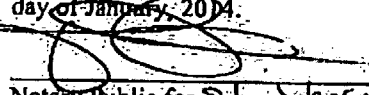
14. Despite the Plaintiff's demands set forth in the February 7, 2013 default letter, and in my subsequent conversations with Hutson, Hutson has never paid the 2012 property taxes for the Property as required by the Consent Order and Settlement Agreement. He has never paid the Arrearage. He never closed upon the purchase of any portion of the Property. He never obtained the Approvals by the Approval Deadline.

*[Signature Page Follows]*

FURTHER AFFIANT SAYETH NOT.

  
Richard U. Clark

SWORN to before me this 4  
day of January, 2014.

  
Notary Public for St Johns, Florida  
My Commission Expires: 2/10/16



DANIELLE DARDEN  
MY COMMISSION # EE 161281  
EXPIRES: February 10, 2016  
Bonded Thru Budget Notary Services

WCSR 31705039v11WCSR 31705039v1

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1457

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF CLARENDON ) CASE NO.: 11-CP-14-602

TLC Holdings, LLC,

Plaintiff,

vs.

M.B. Hudson a/k/a M.B. Hutson,

Defendant.

**AFFIDAVIT OF  
THOMAS L. HARPER, JR.**

M. B. Hudson a/k/a M. B. Hutson,

Defendant and Third Party Plaintiff,

v.

Richard U. Clark, Jimmy S. Lovell and James  
C. Thigpen,

Third Party Defendants.

COMES NOW, Thomas L. Harper, Jr., who, being duly sworn, deposes and says as follows:

1. I am an attorney for Plaintiff, TLC Holdings, LLC ("Plaintiff", "TLC" or the "Company"), and have personal knowledge of the matters contained in this affidavit.

2. I have reviewed the Defendant and Third Party Plaintiff's Motion for Temporary Restraining Order dated December 27, 2013 (the "TRO Motion") filed in this action by Defendant M. B. Hudson a/k/a M. B. Hutson ("Hutson"), and the Affidavit of M.B. Hutson submitted in support of the TRO Motion (the "Hutson Affidavit").

3. In the TRO Motion, and in the Hutson Affidavit, Hutson avers that Plaintiff failed to perform an action expressly required of it in the Settlement Agreement. Specifically, Hutson alleges

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that "Plaintiff approved the proposed subdivision plat, [but] Plaintiff failed to provide a letter to the Clarendon County Planning Commission that requested that the Clarendon County Planning Commission approve the subdivision...." See TRO Motion ¶ 7.a.; Hutson Affidavit ¶ 4.a.

4. After due investigation, I am unaware of any requests by Hutson to Plaintiff seeking letters of support from Plaintiff to the Planning Commission which Plaintiff refused to provide prior to December 31, 2012. Plaintiff did not refuse to provide any such letter until after Hutson had already defaulted under the terms of the Settlement Agreement, as set forth below.

5. Despite being under no obligation to do so under the terms of the Consent Order and Settlement Agreement (as those terms are defined in the Affidavit of Default submitted by Richard U. Clark filed in this action on December 11, 2013<sup>1</sup>), the Plaintiff did, in fact, submit various letters to the Clarendon County Planning Commission (the "Planning Commission") at Hutson's request, urging the Planning Commission to approve various submittals by Hutson regarding the development of the Property (the "Accommodation Letters"), up until the time that Hutson defaulted under the Settlement Agreement. Copies of the Accommodation Letters are attached hereto as a composite **Exhibit A** and incorporated herein by this reference.

6. Pursuant to the Settlement Agreement, Hutson was obligated, *inter alia*, to:
- a. obtain all Approvals for the development of the subdivision of the Property, including bonding of water and sewer installation, prior to November 15, 2012 (See Settlement Agreement ¶ 5 and ¶ 12, which permit Hutson to extend the Approval Deadline from July 31, 2012 until approximately November 15, 2012, under certain conditions set forth therein);

---

<sup>1</sup> Capitalized terms used herein without definition have the meaning given such terms in the Settlement Agreement.

- b. close upon the purchase of a portion of the Property not later than the Closing Deadline, which was 15 days after the Approval Deadline (i.e., approximately December 1, 2012, if Hutson exercised the various extensions granted therein) (see Settlement Agreement ¶ 6); and
- c. pay the Arrearage prior to December 31, 2012 (see Settlement Agreement ¶ 16).

7. By December 31, 2012, Hutson had breached each of the foregoing covenants in the Settlement Agreement, by, *inter alia*,:

- a. failing to obtain the Approvals by the Approval Deadline;
- b. failing to close upon the purchase of a portion of the Property not later than the Closing Deadline; and
- c. failing to pay the Arrearage prior to December 31, 2012.

(The foregoing are sometimes referred to herein as the "December 2012 Defaults", but are not intended to comprise a complete list of defaults by Hutson under the Consent Order and Settlement Agreement, nor are they a waiver or limitation of any rights of Plaintiff against Hutson.)

8. By letter dated February 7, 2013 (the "February 2013 Default Letter"), Hutson was advised by me, as counsel for Plaintiff, that he was in default of the Consent Order and Settlement Agreement "for, among other things, ... (b) permitting a lien to be filed against the Property by Blue Line Consulting, LLC ...; (c) failing to pay the 2012 property taxes for the Property prior to their delinquency on or before January 15, 2013; (d) failing to repay the Arrearage before December 31, 2012; and (e) failing to close upon [the] purchase of the Property by the deadline imposed under the Agreements." A copy of the February 2013 Default Letter is attached hereto as **Exhibit B**.

9. Hutson has never cured the December 2012 Defaults, in addition to other defaults by him under the Settlement Agreement, all of which remain uncured and outstanding.

10. In November, 2013, despite the December 2012 Defaults remaining uncured and outstanding, Hutson contacted me and requested that Plaintiff submit an additional letter to the Planning Commission in support of his proposed development of the Property. The letter that Hutson sought in November, 2013, pertained to the proposed rezoning of the Property, not to any proposed subdivision plat of the Property.

11. On November 21, 2013, I spoke by telephone with Maria Rose, head of the Planning Commission, who advised me that all of Hutson's prior approvals had lapsed due to his failure to meet the conditions thereof, and that as a result, he was having to "start all over" with the Planning Commission. He had applied for a rezoning request for the Property to be scheduled for hearing during the Planning Commission's monthly meeting for December, 2013. She informed me that due to the necessary sequencing of development applications and approvals, even under the most ambitious timetable possible, Hutson could not complete his development process, and obtain the Planning Commission's approval of a proposed subdivision plat, until some time in 2014.

12. At that time, and continuing until the present day, Hutson had still never delivered a proposed Qualified Plat to Plaintiff for consideration. And then, and now, he has still not cured the December 2012 Defaults.

13. Accordingly, Plaintiff elected not to write a letter of support for Hutson's rezoning request in November, 2013.

14. In addition, despite his allegations to the contrary, Hutson has never presented a proposed subdivision plat to Plaintiff for consideration. Section 5 of the Settlement Agreement

provides that Plaintiff's obligation to consider a proposed subdivision plat of the Property, and, if such proposed subdivision plat is acceptable to Plaintiff, to then request that the Planning Commission approve the subdivision of the Property, are conditioned upon Hutson presenting Plaintiff with a "Qualified Plat". A "Qualified Plat", as defined in the Settlement Agreement, is "a proposed subdivision plat of a portion of the Premises ... which is prepared by a registered South Carolina land surveyor, and which meets the minimum standards for the practice of land surveying under South Carolina law." Settlement Agreement ¶ 5.

15. After due investigation, I am informed and believe that Hutson has never presented Plaintiff with a proposed Qualified Plat for consideration. He has submitted various sketch plans, master plans, and other drawings, but no survey or plat of the Property prepared by a registered South Carolina land surveyor that meets the minimum standards for the practice of land surveying under South Carolina law. Under the express terms of the Settlement Agreement, Plaintiff's obligations to consider, approve and endorse Hutson's plans for the Property are limited to a proposed Qualified Plat prepared by a registered South Carolina land surveyor.

16. Plaintiff was not obligated to request that the Planning Commission approve the subdivision of the Property until Plaintiff has approved a proposed Qualified Plat submitted to it by Hutson. Section 5 of the Settlement Agreement provides: "Upon TLC's approval of a proposed subdivision plat, TLC would provide a letter to the Clarendon County Planning Commission ... requesting that the Clarendon County Planning Commission approve the subdivision of the Premises". Because Hutson never submitted a proposed Qualified Plat to Plaintiff for consideration, Plaintiff was never obligated to make any request of the Planning Commission to permit the

subdivision of the Property.<sup>2</sup>

17. With respect to Hutson's allegations set forth in Paragraph 7.b. of the TRO Motion and Paragraph 4.b. of the Hutson Affidavit, that Plaintiff made "verbal assurances" to Hutson that were incorrect, or that Plaintiff failed to make "important disclosures" to him, I am informed and believe that those alleged assurances or omissions were known to him prior to the entry of the Consent Order, and were the basis of the settlement of this action pursuant to the Settlement Agreement which was approved by the Consent Order, resulting in Plaintiff agreeing to give Hutson more time to purchase the Property, which he failed to do in accordance with the Settlement Agreement.

18. In Paragraph 7.c. of the TRO Motion, and in Paragraph 4.c. of the Hutson Affidavit, Hutson avers that "[n]o notice was provided by Plaintiff to Defendant regarding any issues related to liens that may have been placed on the property or any property tax issues that may have arisen with regard to the property."

19. These assertions by Hutson are incorrect. The February 2013 Default Letter expressly advised Hutson that he was in default "for, among other things, ... (b) permitting a lien to be filed against the Property by Blue Line Consulting, LLC ...; [and] (c) failing to pay the 2012 property taxes for the Property prior to their delinquency on or before January 15, 2013".

20. Despite the Plaintiff's demands set forth in the February 2013 Default Letter, Hutson has never paid the 2012 property taxes for the Property as required by the Consent Order and Settlement Agreement. Hutson also has never provided evidence that the mechanics lien filed

---

<sup>2</sup> The Settlement Agreement does obligate Plaintiff to write and advise the Planning Commission that, while Plaintiff was reserving its rights to approve any draft subdivision plat prior to its formal submission to the Planning Commission, Plaintiff requests that Hutson and his professionals be permitted to consult with Clarendon County officials in



against the Property by Blue Line Consulting, LLC was ever paid off and satisfied.

21. Attached hereto as **Exhibit C** is a true and correct copy of the Negotiation Protocol Agreement dated February 8, 2013, among Hutson, Plaintiff and Richard U. Clark and Jimmy S. Lovell.

*[Signature Page Follows]*

---

conjunction with the preparation of a proposed subdivision plat. Plaintiff fulfilled this obligation by letter to the Planning Commission dated April 3, 2012, a copy of which is attached hereto in **Exhibit A**.

FURTHER AFFIANT SAYETH NOT.

Thomas L. Harper, Jr.

SWORN to before me this 6<sup>th</sup>  
day of January, 2014.

Denise Herlihy  
Notary Public for South Carolina  
My Commission Expires: 6-18-19

**EXHIBIT A**  
**Accommodation Letters**

SEE ATTACHED

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

**WOMBLE  
CARLYLE  
SANDRIDGE  
& RICE**  
A PROFESSIONAL LIMITED  
LIABILITY COMPANY

5 Exchange Street  
Charleston, SC 29401

Mailing Address:  
Post Office Box 999  
Charleston, SC 29401  
Telephone: (843) 722-3400  
Fax: (843) 723-7398  
www.wcsr.com

April 3, 2012

THOMAS L. HARPER, JR.  
ATTORNEY AT LAW  
E-Mail: tharper@wcsr.com  
Direct Dial: (843) 720-4648  
Fax: (843) 723-7398

**By Fax (803-435-2653), Email, and Regular Mail**  
Clarendon County Planning Commission  
Attn: David Epperson, Esq.  
412 N Brooks Street  
Manning, SC 29102

Re: Big Water Resort / M. B. Hudson  
WCSR File No. 78195.0006.0

Dear Mr. Epperson:

This law firm represents TLC Holdings, LLC ("TLC"), the owner of the real property located in Clarendon County upon which the Big Water Resort is located (the "Property"). Pursuant to a Lease Purchase Agreement (the "Agreement") between TLC and M.B. Hudson ("Hudson"), TLC leases the Property to Mr. Hudson, who has the right thereunder to purchase the Property, and certain portions thereof, on the terms set forth therein.

I believe you are aware that there was litigation pending between TLC and Mr. Hudson with respect to the Agreement. That litigation is in the process of being settled pursuant to a Settlement Agreement between TLC and Mr. Hudson (the "Settlement Agreement"), under the terms of which the Agreement remain in effect, subject to certain amendments thereto as set forth in the Settlement Agreement.

I understand that Mr. Hudson previously may have submitted materials to the Clarendon County Planning Commission pertaining to the subdivision and development of portions of the Property. Please be advised that, pursuant to the Settlement Agreement, TLC has reserved the right, as the Property owner, to approve any draft subdivision plat prepared by Mr. Hudson prior to its formal submission to the Clarendon County Planning Commission for consideration and approval. However, in an effort to facilitate Mr. Hudson's application process, TLC hereby requests that Mr. Hudson and his professionals be permitted to consult with Clarendon County officials in conjunction with the preparation of a proposed subdivision for consideration by TLC (and, if approved by TLC, formal submission to the Planning Commission for consideration).

Unless TLC has approved a proposed subdivision plat, which approval would be

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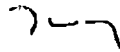
ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

Clarendon County Planning Commission  
Attn: David Epperson, Esq.  
April 2, 2012  
Page 2

indicated by a subsequent letter from TLC or its undersigned counsel, my client would request that no such subdivision plat should be formally considered by the Planning Commission unless accompanied by a letter from TLC or its counsel approving such proposed plat.

We appreciate your and the Planning Commission's consideration in this regard. Please call me if you have any questions about this request.

Sincerely yours,



Thomas L. Harper, Jr.

TLH/dlh

cc: TLC Holdings, LLC

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WOMBLE  
CARLYLE  
SANDRIDGE  
& RICE

A PROFESSIONAL LIMITED  
LIABILITY COMPANY

April 13, 2012

5 Exchange Street  
Charleston, SC 29401

Mailing Address:  
Post Office Box 999  
Charleston, SC 29402  
Telephone: (843) 722-3100  
Fax: (843) 723-7398  
www.wcsr.com

THOMAS L. HARPER, JR.  
ATTORNEY AT LAW  
E-Mail: tharper@wcsr.com  
Direct Dial: (843) 720-4648  
Fax: (843) 723-7398

By Fax (803-435-2653), Email, and Regular Mail  
Clarendon County Planning Commission  
Attn: David Epperson, Esq.  
412 N Brooks Street  
Manning, SC 29102

Re: Big Water Resort / M. B. Hudson

Dear Mr. Epperson:

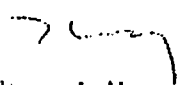
As set out in my letter to you of April 3, 2012, my client, TLC Holdings, LLC ("TLC"), has rights to approve certain matters submitted to the Clarendon County Planning Commission (the "Commission") by M.B. Hudson ("Hudson") with respect to the subdivision and development of portions of the real property upon which the Big Water Resort is operated (the "Property"), pursuant to an agreement between TLC and Mr. Hudson (the "Agreement").

Attached hereto is a preliminary site plan of a portion of the Property, which we understand Mr. Hudson is presenting to the Commission for consideration. TLC has approved the attached site plan for consideration by the Commission, subject to certain conditions as between TLC and Mr. Hudson, and to which Mr. Hudson has agreed. Those conditions relate to the terms of the potential sale of the Property by TLC to Mr. Hudson, and do not affect the Commission's ability to consider the attached site plan when submitted by Mr. Hudson. Accordingly, TLC hereby requests that the Commission consider Mr. Hudson's application for approval of the attached site plan.

This is without prejudice to TLC's rights pursuant to the Agreement to approve or reject a proposed subdivision plat of the Property prior to its submission to the Commission, which approval would be indicated by a subsequent letter from TLC or its undersigned counsel to the Commission. I understand that such a proposed plat would be prepared if and after the Commission has approved the attached site plan.

Thank you again for your and the Commission's consideration in this regard. Please call me if you have any questions about this request.

Sincerely yours,

  
Thomas L. Harper, Jr.

TLH/dlh

cc: TLC Holdings, LLC

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WOMBLE  
CARLYLE  
SANDRIDGE  
& RICE  
A LIMITED LIABILITY  
PARTNERSHIP

June 22, 2012

5 Exchange Street  
Charleston, SC 29401

Mailing Address:  
Post Office Box 999  
Charleston, SC 29402  
Telephone: (843) 722-3400  
Fax: (843) 723-7398  
www.wcsr.com

THOMAS L. HARPER, JR.  
ATTORNEY AT LAW  
E-Mail: tharper@wcsr.com  
Direct Dial: (843) 720-4648  
Fax: (843) 723-7398

By Fax (803-435-2653), Email, and Regular Mail  
Clarendon County Planning Commission  
Attn: David Epperson, Esq.  
111 South Brooks Street  
Manning, SC 29102

Re: Big Water Resort / M. B. Hudson

Dear Mr. Epperson:

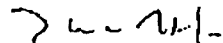
As set out in my letters to you of April 3 and April 13, 2012, my client, TLC Holdings, LLC ("TLC"), has rights to approve certain matters submitted to the Clarendon County Planning Commission (the "Commission") by M.B. Hudson ("Hudson") with respect to the subdivision and development of portions of the real property upon which the Big Water Resort is operated (the "Property"), pursuant to an agreement between TLC and Mr. Hudson (the "Agreement").

Attached hereto is a proposed Master Plan and Site Layout of the Property, which we understand Mr. Hudson is presenting to the Commission for consideration. TLC has approved the attached documents for consideration by the Commission, subject to certain conditions as between TLC and Mr. Hudson, and without prejudice to TLC's rights under the Agreement, as to all of which Mr. Hudson has agreed. Accordingly, TLC hereby requests that the Commission consider Mr. Hudson's application for approval of the attached Master Plan and Site Layout.

This is without prejudice to TLC's rights pursuant to the Agreement to approve or reject a proposed subdivision plat of the Property prior to its submission to the Commission, which approval would be indicated by a subsequent letter from TLC or its undersigned counsel to the Commission. I understand that such a proposed plat would be prepared if and after the Commission has approved the attached Master Plan and Site Layout.

Thank you again for your and the Commission's consideration in this regard. Please call me if you have any questions about this request.

Sincerely yours,

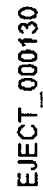


Thomas L. Harper, Jr.

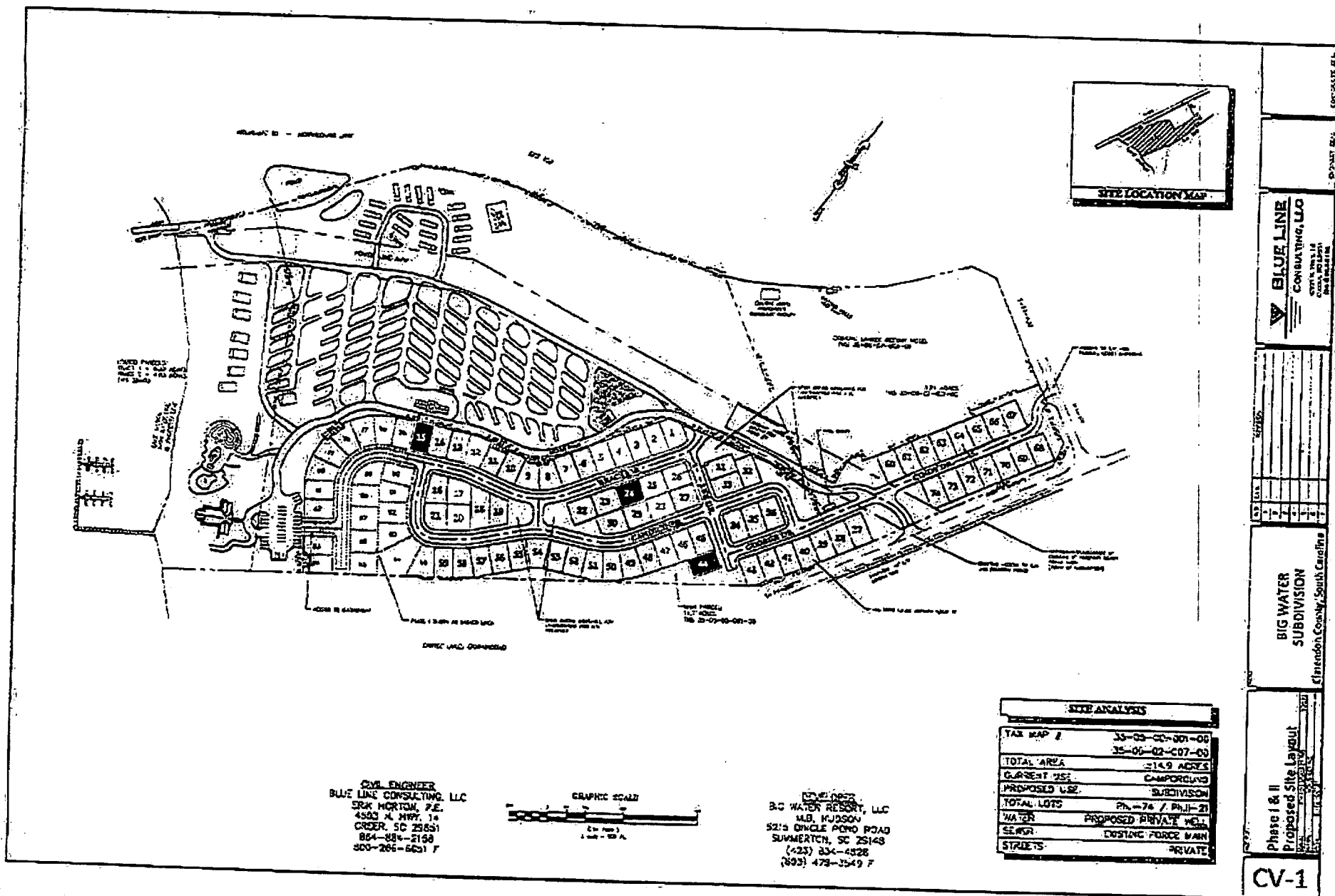
TLH/dlh

Enclosures

cc: TLC Holdings, LLC







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**EXHIBIT B**  
**February 2013 Default Letters**

SEE ATTACHED

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WOMBLE  
CARLYLE  
SANDRIDGE  
& RICE  
A LIMITED LIABILITY  
PARTNERSHIP  
February 7, 2013

5 Exchange Street  
Charleston, SC 29401

Mailing Address:  
Post Office Box 999  
Charleston, SC 29407  
Telephone: (843) 722-3400  
Fax: (843) 723-7398  
www.wcsr.com

THOMAS L. HARPER, JR.  
ATTORNEY AT LAW  
E-Mail: tharper@wcsr.com  
Direct Dial: (843) 720-4648  
Fax: (843) 723-7398

By Email and Regular Mail  
M. B. Hutson  
5215 Dingle Pond Road  
Summerton, SC 29148

Re: Lease Purchase Agreement (the "Lease" or the "Agreement") dated December 15, 2010, by and among TLC Holdings, LLC, M.B. Hudson a/k/a M.B. Hutson, Richard U. Clark, Jimmy S. Lovell, and James C. Thigpen for property located in Clarendon County, South Carolina commonly known as the Big Water Resort (the "Premises" or the "Property") WCSR File No. 78195.0006.0

Dear Mr. Hutson:

As you know, this law firm represents TLC Holdings, LLC, Richard Clark and Steve Lovell with respect to the Agreement, as modified by that Settlement Agreement dated as of March 30, 2012 (together, the "Agreements"). Capitalized terms used in this letter without definition have the meaning given those terms in the Agreements.

You are in default of the Agreements for, among other things, (a) failing to pay to TLC the February rent installment of \$8,000 on or before February 1, 2013; (b) permitting a lien to be filed against the Property by Blue Line Consulting, LLC in the amount of \$4,450 (the "Mechanics Lien"); (c) failing to pay the 2012 property taxes for the Property prior to their delinquency on or before January 15, 2013; (d) failing to repay the Arrears before December 31, 2012; and (e) failing to close upon your purchase of the Property by the deadline imposed under the Agreements. The foregoing is not an exhaustive list of defaults, and TLC does not waive its rights under the Agreements, which are hereby reserved.

Each of the foregoing constitutes a default under the Agreements entitling TLC to exercise the various remedies outlined therein or granted under applicable law, including the right to terminate the same and have you ejected from the Property, all without further notice to you. This letter is without prejudice to TLC's rights under the Agreements, all of which are expressly reserved.

When you and I spoke in December, you told me that the monthly rent installments would continue to be made on time, and that you would be paying off the Mechanics Lien in mid-December and would provide evidence of the same. To date, I have not received evidence that the Mechanics Lien has been discharged. The December and January rent payments were ultimately made, albeit late, and now February's rent is delinquent.

--- During our December telephone call, you also mentioned that you would be presenting me, to forward on to my client for consideration, a preliminary master plan of the Property. I understand that the

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CALIFORNIA / DELAWARE / GEORGIA / MARYLAND / NORTH CAROLINA / SOUTH CAROLINA / VIRGINIA / WASHINGTON, D.C.

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approval of this preliminary plan by Clarendon County is necessary in order for you to be in a position to present a final subdivision plat of the Property to TLC for consideration, and ultimately close upon the Property in phases. Having not received the plan before today, approximately two months after our call, it would appear that a closing in February is all but impossible. That would put the first closing, if at all, several months past the date required under the Agreements.

It is apparent from these defaults that you are unable to comply with the Agreements. The time has come either for the parties to part ways, or for you to propose realistic business terms, that you can demonstrate to my clients that you will be able to meet, and allow my clients to decide whether they want to consider a modification of the Agreements. TLC makes no commitment to considering a modification of the Agreements. As noted above, it is reserving all of its rights arising from your various defaults under the Agreements.

That said, upon your satisfaction of certain conditions outlined below, Steve and Richard would be willing to meet with you to discuss a restructuring of the Agreements. That meeting must occur at the Property within the next thirty (30) days. During that meeting, Messrs. Clark and Lovell would be permitted to inspect all portions of the Property, and review all of your studies, plans and other reports regarding your intended development of the Property. You would need to answer any questions they had about your proposed financing and disposition of the project, and produce copies of marketing materials, contracts, reservations agreements and other documentation demonstrating how you will have the funds necessary to close on the purchase of the entire Property, within a revised timeline that my clients may find acceptable. Again, the Seller will not be bound to agree to restructure the Agreements, and its offer to meet under certain conditions is not a waiver of its rights to enforce the Agreements in light of your various defaults thereunder.

Before such a meeting could take place, however, you would need to satisfy the following pre-conditions:

1. You must pay to TLC the monthly installment of rent owing for February, 2013; and
2. You must execute and return to me a copy of the enclosed Pre-Negotiation Agreement.

If these terms are acceptable, please execute and return the Pre-Negotiation Agreement to me before next Friday, February 15, 2013. This is a standard agreement used to facilitate negotiations between creditor and debtor in default situations such as this one. The document is not negotiable, and must be signed before my clients will discuss the Agreements or the Property with you further.

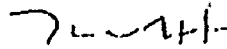
Upon receipt of the signed Pre-Negotiation Agreement from you, Richard will contact you to coordinate schedules for the meeting at the Property.

Although I do not plan to attend myself, I think it would be useful for Paul and me to be available for a conference call with the parties later that day if the meeting bears fruit.

M. B. Hutson  
February 7, 2013  
Page 3

Please consider the enclosed and return the signed agreement to me before the end of next week if you are interested. I look forward to hearing from you.

Sincerely yours,



Thomas L. Harper, Jr.

TLH/dlh

cc: TLC

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**EXHIBIT C**  
**Negotiation Protocol Agreement**

SEE ATTACHED

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

## NEGOTIATION PROTOCOL AGREEMENT

THIS NEGOTIATION PROTOCOL AGREEMENT (this "Agreement") is entered into as of February 8, 2013, by and among M.B. Hudson a/k/a M.B. Hutson, on the one hand ("Purchaser" or "Tenant"), and TLC Holdings, LLC, Richard U. Clark, and Jimmy S. Lovell, on the other hand (together, "Seller").

### RECITALS:

The undersigned parties are parties to that certain Lease Purchase Agreement (the "Lease") dated December 15, 2010, for property located in Clarendon County, South Carolina commonly known as the Big Water Resort (the "Property"), pursuant to which Tenant was to lease the Property for a period of time and would also have the right to purchase the same, on the terms set forth therein. The Lease was modified by that certain Settlement Agreement dated as of March 30, 2012, a true, accurate and complete copy of which is attached hereto as Exhibit A (the "Settlement Agreement"). Purchaser and Seller (the "Parties") have commenced or are about to commence discussions and negotiations (the "Negotiations") concerning the Lease, as modified by the Settlement Agreement (the Settlement Agreement and the Lease are collectively referred to herein as the "Agreements"), including without limitation the obligations of Purchaser under the Agreements (the "Obligations"). Without liability for failing to do so, the Parties plan to discuss various courses of action with respect to the Agreements, the Obligations and Property that might be in their mutual interests. The Parties are entering into this Agreement to set forth certain agreements regarding such Negotiations.

### AGREEMENT:

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Negotiations.

A. Although the Parties intend to commence or continue Negotiations concerning the Agreements, Obligations and Property, none of the Parties shall have any obligation to modify, amend and/or restructure the Agreements or any Obligations in connection with any such Negotiations or otherwise.

B. Each of the Purchaser and Seller may terminate the Negotiations as to himself or itself at any time, in its sole discretion, with or without cause, and without liability of any kind arising out of the Negotiations, by written notice to the other Parties in accordance with this Agreement, unless the Parties enter into a Definitive Agreement, as defined below. The Parties acknowledge that they have entered into this Agreement in order to encourage the Negotiations to be open, frank, direct and without legal prejudice or risk of exposure to liability as a result thereof. Unless a Definitive Agreement is executed and delivered by the Parties, none of the Purchaser or Seller shall have any obligation or liability by virtue of the commencement, continuance or termination of the Negotiations. Without limiting the foregoing, the Negotiations may be terminated quickly by any of the Parties (but only as to himself or itself), with or without cause, by written notice to the other Parties in accordance with this Agreement, or the Negotiations may continue for a period of time but not result in any agreement among the Parties. An agreement may be reached on some points to be discussed, but not on all points. The Parties may agree in principle, or reach a tentative agreement, but not be able to agree on written documents. New facts may come to light, or a Party may change its mind even without new facts. There may be internal disagreement or a failure to obtain all internal and/or external approvals required by a Party. In any of these various circumstances or any other circumstances (similar or dissimilar, foreseen or unforeseen),

none of the parties shall waive any rights or incur any liability by having had the Negotiations, or by the passage of time associated therewith, unless and until a Definitive Agreement is executed and delivered by each of the Parties, and any such Definitive Agreement shall waive rights or impose liability only to the extent expressly provided therein.

C. Notwithstanding anything to the contrary in this Agreement, and subject to any applicable notice, grace or cure periods, Seller may exercise any right or remedy available to Seller pursuant to the Agreements, under applicable law or in equity during the pendency of the Negotiations, and nothing herein shall operate to restrict, inhibit or prohibit Seller from exercising any such right or remedy, except that as consideration for this Agreement, Seller agrees that it shall not terminate the Agreements without terminating the Negotiations in accordance with this Agreement.

D. Without limiting the generality of the foregoing, nothing contained herein shall be construed as (a) a commitment by Seller to grant or extend any accommodations to Purchaser, (b) a commitment by Seller to restructure or extend the Agreements or any Obligation, or otherwise modify the Agreements or Obligations, or (c) a waiver, release or modification of, or (except as provided in subsection 1.C above) a forbearance from exercising any of, Seller's rights, remedies, powers and privileges at law and/or in equity, or under the Agreements.

E. The Parties agree that any Negotiations that may have occurred prior to the date of this Agreement are hereby made expressly subject to the terms of this Agreement, and none of the Parties is bound by any of such previous Negotiations unless and until a Definitive Agreement is executed and delivered by the Parties, and then only to the extent expressly provided in such Definitive Agreement.

2. Only Written Agreements, Amendments and Waivers. While the Purchaser and Seller, or any of them, may reach tentative agreement, or an agreement in principle, on one or more preliminary issues during the course of the Negotiations, Seller and Purchaser have agreed that none of the parties shall be bound by any such agreement during the course of Negotiations unless and until such agreement has been reduced to a written agreement executed and delivered by all of the Parties (any such agreement being referenced herein as a "Definitive Agreement"). Without limiting the foregoing, the Parties agree that (i) the Agreements and this Agreement may only be amended, changed or modified, in whole or in part, by a Definitive Agreement, and (ii) no term sheet, e-mail, memoranda or other communication outlining or describing Negotiations or proposed agreements, nor any response to or failure to respond to any such communication, shall constitute an agreement or the basis on which any Party may claim reliance.

3. Not Admissible in Evidence. The Parties acknowledge and agree that any and all Negotiations are in the nature of settlement negotiations, and therefore the Negotiations and communications of any type made in the course of the Negotiations may not be used for any other purpose including, without limitation, in connection with any litigation or any other proceeding, proof of admission of liability or any other evidentiary purposes. Any and all Negotiations and communications made in the course of the Negotiations shall not be discoverable or admissible in any litigation or proceeding; provided, however, if made relevant, this Agreement shall be admissible in any legal, judicial, administrative or other proceeding.

4. Agreements. Notwithstanding any other provisions of this Agreement or any claims of any Party to the contrary, Purchaser acknowledge and agree that the Agreements shall not be deemed modified as a result of any Negotiations unless, until and to the extent otherwise provided in a Definitive Agreement.



5. Waiver. Notwithstanding anything to the contrary herein, the Parties acknowledge that Seller does not waive or release the Purchaser or any other person or entity from any liability or obligation under the Agreements as a result of any Negotiations unless and until a Definitive Agreement is executed by the Parties, and then only if and to the extent so provided in the Definitive Agreement. No Negotiations or other action undertaken pursuant to this Agreement, nor any decision by Seller not to exercise any rights or remedies under the Agreements, shall constitute a waiver or release of, or be deemed to prejudice, any person, entity, default, breach, right or remedy, unless and until a Definitive Agreement is executed by the Parties, and then only if and to the extent so provided in the Definitive Agreement.

6. Advice from Independent Counsel. THE PURCHASER ACKNOWLEDGE AND AGREE THAT HE HAS RECEIVED THE ADVICE OF INDEPENDENT COUNSEL SELECTED BY HIM, OR THE OPPORTUNITY TO OBTAIN SUCH ADVICE, BEFORE ENTERING INTO THIS AGREEMENT, AND HAS NOT RELIED UPON SELLER OR ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR ATTORNEYS CONCERNING ANY ASPECT OF THIS AGREEMENT.

PURCHASER BY EXECUTION HEREOF ACKNOWLEDGES THAT: (I) HE HAS READ AND UNDERSTOOD THIS AGREEMENT IN ITS ENTIRETY PRIOR TO SIGNING AND FULLY AGREES TO EACH, ALL AND EVERY PROVISION HEREOF; AND (II) HE HAS RECEIVED A COPY HEREOF; AND (III) NO COERCION, DURESS OR UNDUE INFLUENCE WERE BROUGHT TO BEAR UPON THE PURCHASER IN CONNECTION WITH THIS AGREEMENT.

7. Judicial Interpretation. Should any provision of this Agreement require judicial interpretation, it is agreed that a court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against any Party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same.

8. Material Inducement Relationships. Each Party understands that the other Parties hereto would not enter into or continue Negotiations without this Agreement clarifying the nature and terms of such Negotiations. Purchaser agree that Seller has no fiduciary, partnership or special relationship with Purchaser. The sole relationship between Seller, on the one hand, and the Purchaser, on the other hand, is as a landlord/seller and tenant/purchaser, respectively. Purchaser agree that Seller has not acted and will not act as a fiduciary, broker, financial adviser, asset manager, agent or otherwise for them or any of them.

9. Notices. All notices, demands and requests which may be given or which are required to be given by any Party to another Party under this Agreement, and any termination of Negotiations, shall be in writing and shall be deemed effective: (i) immediately, when personally delivered to the intended recipient; (ii) three (3) business days after having been sent, by certified or registered mail, return receipt requested, addressed to the intended recipient at the address specified below; (iii) immediately, when delivered in person to the address set forth below for the party to whom the notice was given; (iv) at noon of the business day next following after having been deposited into the custody of a nationally recognized overnight delivery service, addressed to such party at the address specified below; or (v) immediately, upon actual receipt. Any notice sent as required by this section and refused by recipient shall be deemed delivered as of the date of such refusal. Unless and until changed as provided below, the addresses for notices given pursuant to this Agreement shall be as follows:

If to any Seller: c/o Richard Clark  
3124 Great Wood Way  
Knoxville, TN 37922

with a copy to: Womble, Carlyle, Sandridge & Rice, LLP  
Attn: Thomas L. Harper, Jr.  
5 Exchange Street  
Charleston, SC 29401

If to Purchaser: M. B. Hutson  
5215 Dingle Pond Road  
Summerton, SC 29148

with a copy to: Paul Weissenstein, Esquire  
Weissenstein Law Firm, LLC  
106 Broad Street  
Sumter, SC 29151-2446

Each Party shall have the right to designate a different individual, or address for notices under this Agreement by giving a notice in writing to the other Parties in the manner provided above at least ten (10) days prior to the effective date of the change.

10. Miscellaneous. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall constitute one and the same instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart for each of the Parties. Delivery by facsimile or scan attached to an email by any of the Parties hereto of an executed counterpart of this Agreement shall be effective and enforceable as an original executed counterpart hereof. This Agreement may not be supplemented, changed, waived, discharged, terminated, modified or amended except in written form executed by all of the Parties. Wherever in this Agreement any word or combination of words (including defined terms) connotes number or gender, such word or combination of words shall be deemed of such number (singular or plural) and such gender (masculine, neuter or feminine) as the context and circumstances may require. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, personal and legal representatives, successors and assigns. This Agreement represents the final agreement between the Parties with respect to the subject matter hereof and supersedes all previous negotiations, discussions and agreements between the Parties regarding the subject matter hereof, and no parol evidence of any prior or other agreement shall be permitted to contradict or vary its terms. There are no promises, terms, conditions or obligations other than those contained in this Agreement and the Agreements. There are no unwritten oral agreements between the Parties. Time shall be of the essence in the performance of all obligations under this Agreement. This Agreement shall be governed by and interpreted in accordance with the laws of the State of South Carolina, without regard to the conflict of law rules thereof.

[Remainder of Page Left Blank Intentionally]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives under seal as of the date first above written.

TLC Holdings, LLC, a  
South Carolina limited liability company

By Richard U. Clark  
Richard U. Clark, its Member

Richard U. Clark  
Richard U. Clark

Jimmy S. Lovell  
Jimmy S. Lovell

M.B. Hudson a/k/a M.B. Hutson  
M.B. Hudson a/k/a M.B. Hutson

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF CLARENDON )

CASE NUMBER: 11-CP-14-602

TLC Holdings, LLC, )

Plaintiff, )

v. )

M.B. Hudson a/k/a M.B. Hutson, )

Defendant. )

**CERTIFICATE OF SERVICE**

M.B. Hudson a/k/a M.B. Hutson, )

Defendant and Third Party Plaintiff, )

v. )

Richard U. Clark, Jimmy S. Lovell and )  
James C. Thigpen, )

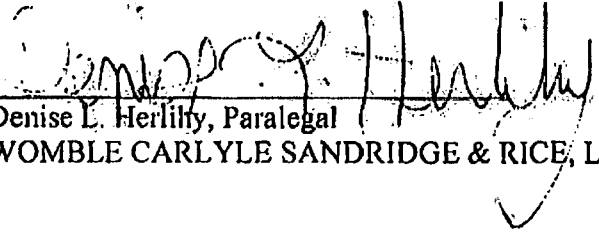
Third Party Defendants. )

I do hereby certify that on the 10<sup>th</sup> day of December, 2013, I served a copy of the *Affidavit of Default* upon Counsel of Record and on M.B. Hudson a/k/a M.B. Hutson in the within entitled matter by sending a copy of the same in an envelope with the correct postage prepaid addressed to:

Paul Weissenstein, Jr., Esq. (via first class mail delivery)  
106 Broad Street  
Post Office Box 2446  
Sumter, SC 29151  
(803) 418-5700  
*Attorneys for Defendant and Third Party Plaintiff*  
*M.B. Hudson a/k/a M.B. Hutson*

M.B. Hutson (via Federal Express delivery)  
5215 Dingle Pond Road  
Summerton, SC 29148

Delivery via Federal Express to M.B. Hudson a/k/a M.B. Hutson of the Affidavit  
of Default was made on December 17, 2013.

  
Denise L. Herlihy, Paralegal  
WOMBLE CARLYLE SANDRIDGE & RICE, LLP

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

TLC Holdings, LLC

Plaintiff,

vs.

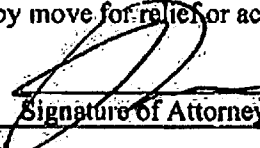
M.B. Hudson a/k/a M.B. Hutson

Defendant.

IN THE COURT OF COMMON PLEAS  
THIRD JUDICIAL CIRCUIT

CASE NO.: 2011-CP-14-602

**MOTION AND ORDER INFORMATION  
FORM AND COVERSHEET**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |                                                                                                                                                                                                                                                                     |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>Plaintiff's Attorney:</b><br>_____, Bar No. _____<br><b>Address:</b> _____<br><b>Phone:</b> _____ <b>Fax:</b> _____<br><b>E-mail:</b> _____ <b>Other:</b> _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |  | <b>Defendant's Attorney:</b><br>Stephen C. Burn, Esq., Bar No. 69479<br><b>Address:</b> _____<br>945 East Main St, Ste D, Lexington, SC 29072<br><b>Phone:</b> 803-358-7220 <b>Fax:</b> 888-791-2057<br><b>E-mail:</b> cburn@burnlawfirmllc.com <b>Other:</b> _____ |  |
| <input checked="" type="checkbox"/> <b>MOTION HEARING REQUESTED</b> (attach written motion and complete <b>SECTIONS I and III</b> )<br><input type="checkbox"/> <b>FORM MOTION, NO HEARING REQUESTED</b> (complete <b>SECTIONS II and III</b> )<br><input type="checkbox"/> <b>PROPOSED ORDER/CONSENT ORDER</b> (complete <b>SECTIONS II and III</b> )                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  |                                                                                                                                                                                                                                                                     |  |
| <b>SECTION I: Hearing Information</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |                                                                                                                                                                                                                                                                     |  |
| Nature of Motion: Motion to Set Aside Affidavit of Default<br>Estimated Time Needed: .5 hrs      Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |  |                                                                                                                                                                                                                                                                     |  |
| <b>SECTION II: Motion/Order Type</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |                                                                                                                                                                                                                                                                     |  |
| <input checked="" type="checkbox"/> Written motion attached<br><input type="checkbox"/> Form Motion/Order<br>I hereby move for relief or action by the court as set forth in the attached proposed order.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  |                                                                                                                                                                                                                                                                     |  |
| <br>Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  | December 27, 2013<br>Date submitted                                                                                                                                                                                                                                 |  |
| <b>SECTION III: Motion Fee</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |                                                                                                                                                                                                                                                                     |  |
| <input checked="" type="checkbox"/> <b>PAID - AMOUNT:</b> \$ _____<br><input type="checkbox"/> <b>EXEMPT:</b> (check reason)<br><input type="checkbox"/> Rule to Show Cause in Child or Spousal Support<br><input type="checkbox"/> Domestic Abuse or Abuse and Neglect<br><input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party<br><input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief<br><input type="checkbox"/> Motion for Stay in Bankruptcy<br><input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP)<br><input type="checkbox"/> Proposed order submitted at request of the court; or,<br>reduced to writing from motion made in open court per judge's instructions<br>Name of Court Reporter: _____<br><input type="checkbox"/> Other: _____ |  |                                                                                                                                                                                                                                                                     |  |
| <b>JUDGE'S SECTION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  |                                                                                                                                                                                                                                                                     |  |
| <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order.<br><input type="checkbox"/> Other: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |  | <b>JUDGE CODE</b> _____<br>Date: _____                                                                                                                                                                                                                              |  |
| <b>CLERK'S VERIFICATION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  |                                                                                                                                                                                                                                                                     |  |
| Collected by: _____ Date Filed: _____<br><input type="checkbox"/> <b>MOTION FEE COLLECTED:</b> \$ _____<br><input type="checkbox"/> <b>CONTESTED - AMOUNT DUE:</b> \$ _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  |                                                                                                                                                                                                                                                                     |  |

SCCA 233 (11/2003)

EJECT\_000144

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ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2011-CP-14-602

TLC Holdings, LLC, )

Plaintiff, )

v. )

M.B. Hudson a/k/a M.B. Hutson, )

Defendant. )

**NOTICE OF MOTION AND  
MOTION TO SET ASIDE  
AFFIDAVIT OF DEFAULT**

M.B. Hudson a/k/a M.B. Hutson, )

Defendant and Third Party Plaintiff, )

v. )

Richard U. Clark, Jimmy S. Lovell and )  
James C. Thigpen, )

Third Party Defendants )

2019 JUN 25 10:47 AM  
CLERK OF COURT  
RICHLAND COUNTY

PLEASE TAKE NOTICE that the Defendant and Third Party Plaintiff, M.B. Hutson, by and through his undersigned attorney, will move before the presiding Judge of the Court of Common Pleas for Clarendon County, on the tenth day after service hereof or at such time and place as is convenient to the Court and counsel for an Order setting aside the Affidavit of Default filed December 11, 2013 finding Defendant to be in default, pursuant to the Settlement Agreement and Consent Order filed in the above-captioned case on the grounds that, to the extent Defendant has failed to comply in any way with the Settlement Agreement, that non-compliance is a direct and proximate result of Plaintiff's failure to perform an action or actions expressly required of it in the Settlement Agreement.

This motion shall be based upon the pleadings, applicable law, arguments of counsel, and any additional relevant matter accepted by this Court.

Respectfully submitted,



---

Stephen "Chip" Burn, Esquire  
BURN LAW FIRM, LLC  
945 East Main Street, Ste. D  
Lexington, South Carolina 29072  
(803) 358-7220  
ATTORNEY FOR DEFENDANT AND  
THIRD PARTY PLAINTIFF

Lexington, South Carolina  
December 22, 2013

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344



STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2011-CP-14-602

TLC Holdings, LLC,

Plaintiff,

v.

M.B. Hudson a/k/a M.B. Hutson,

Defendant.

**CERTIFICATE OF SERVICE**

M.B. Hudson a/k/a M.B. Hutson,

Defendant and Third Party Plaintiff,

v.

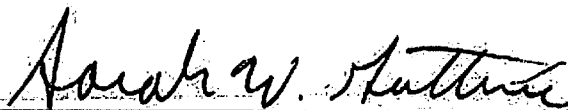
Richard U. Clark, Jimmy S. Lovell and  
James C. Thigpen,

Third Party Defendants

I, Sarah W. Guthrie, Esq., an employee of Burn Law Firm, LLC, attorney for the Defendant and Third Party Plaintiff, do hereby certify that I have served the foregoing **NOTICE OF MOTION AND MOTION TO SET ASIDE AFFIDAVIT OF DEFAULT** in the above-captioned case, by causing a copy of the same to be personally deposited in a United States Postal Service mail box, with the return address clearly visible, postage prepaid, addressed to the attorney(s) of record as indicated below:

ATTORNEY FOR THE PLAINTIFF:

Thomas L. Harper, Jr., Esq.  
Womble Carlyle Sandridge & Rice, LLP  
P.O. Box 999  
Charleston, SC 29402



Sarah W. Guthrie, Esq.

December 27, 2013

STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2011-CP-14-602

TLC Holdings, LLC,

Plaintiff,

v.

M.B. Hudson a/k/a M.B. Hutson,

Defendant.

# TEMPORARY RESTRAINING ORDER

M.B. Hudson a/k/a M.B. Hutson,

Defendant and Third Party Plaintiff,

v.

Richard U. Clark, Jimmy S. Lovell and  
James C. Thigpen,

Third Party Defendants

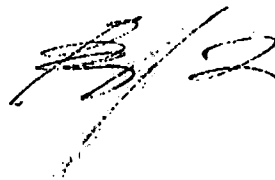
SEUL  
2013 OCT 30 PM 12:40

This matter is before this Court by way of Defendant and Third Party Plaintiff M.B. Hudson a/k/a M.B. Hutson's ("Defendant") motion pursuant to Rule 65, SCRPC for a temporary restraining order enjoining Plaintiff TLC Holdings, LLC ("Plaintiff") and its subsidiaries, successors, and assigns from terminating the Consent Order and Settlement Agreement in the above-captioned case and from pursuing the Affidavit of Default signed by Plaintiff on or about December 6, 2013. In support of the motion, Defendant has submitted for Court review a copy of the filed Motion to Set Aside Affidavit of Default in this action, its supporting documents and the affidavit of M.B. Hutson, all of which are filed as of December 27, 2013. The Court also granted an emergency ex parte motion hearing on January 8, 2014, 2:30 p.m., Ctroom 301, Sumter County Judicial Center, 215 N. Harris St., Sumter SC. The Court finds that Plaintiff's Motion to Set Aside Affidavit of Default seeks to set

aside Plaintiff's Affidavit of Default due to Plaintiff's failure to perform actions expressly required of it in the Settlement Agreement and Consent Order. Defendant asserts that, if he failed to comply in any way with the Settlement Agreement, that non-compliance is a direct and proximate result of Plaintiff's failure to perform an action expressly required of it in the Settlement Agreement. Despite Plaintiff's non-compliance, it continues to pursue an Affidavit of Default against Defendant to force Defendant to vacate the Property (described with specificity in the Settlement Agreement).

Rule 65, SCRC, provides that a party may seek a temporary restraining order from the Court in certain instances. A party seeking injunctive relief must demonstrate irreparable harm, a likelihood of success on the merits, and the absence of an adequate remedy at law. See Rawlinson Road Homeowners Ass'n, Inc. v. Jackson, 395 S.C. 25, 35, 716 S.E.2d 337, 343 (Ct. App. 2011).

This Court finds that, were the Plaintiff permitted to terminate the Settlement Agreement and Consent Order, as well as pursue the Affidavit of Default, Defendant would suffer irreparable harm in the form of Defendant having to vacate his residence on the Property within fifteen (15) days of notice of the affidavit of default and would cause Defendant to incur a financial loss in excess of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) and lose his sole means of financial support. Defendant will also likely succeed on the merits of this case as it appears that, if Defendant failed to comply in any way with the Settlement Agreement, his non-compliance is a direct and proximate result of Plaintiff's failure to perform an action expressly required of it in the Settlement Agreement. There is no adequate remedy at law available, and because Plaintiff has already filed an Affidavit of Default, this Court finds by a preponderance of the evidence that a temporary restraining order without notice is appropriate as irreparable harm could occur prior to the scheduling of a hearing.



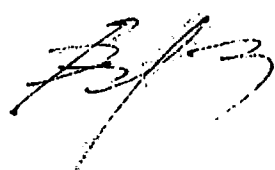
THEREFORE, IT IS ORDERED that Plaintiff hereby enjoined from terminating the Consent Order and Settlement Agreement in the above-captioned case and from pursuing the Affidavit of Default signed by Plaintiff on or about December 6, 2013. The terms of this Order remain in effect until January 9, 2014. Defendant is required to submit security in the amount of \$1,000.00, which the Court deems proper for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained.

IT IS SO ORDERED.

Entered at 9:00 a.m. on December 30, 2013.

  
The Honorable George C. James, Jr.

Sumter, South Carolina



STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

TLC Holdings, LLC

Plaintiff,

vs.

M.B. Hudson a/k/a M.B. Hutson

Defendant.

IN THE COURT OF COMMON PLEAS  
THIRD JUDICIAL CIRCUIT

CASE NO.: 2011-CP-14-602

MOTION AND ORDER INFORMATION  
FORM AND COVERSHEET

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  |                                                                                                                                                                                                                               |  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>Plaintiff's Attorney:</b><br>_____, Bar No. _____<br>Address: _____<br>Phone: _____ Fax _____<br>E-mail: _____ Other: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  | <b>Defendant's Attorney:</b><br>Stephen "Chlp" Burn, Bar No. 69479<br>Address: _____<br>945 East Main St, Ste D, Lexington, SC 29072<br>Phone: 803-358-7220 Fax 888-791-2057<br>E-mail: cburn@burnlawfirmllc.com Other: _____ |  |
| <input checked="" type="checkbox"/> <b>MOTION HEARING REQUESTED</b> (attach written motion and complete SECTIONS I and III)<br><input type="checkbox"/> <b>FORM MOTION, NO HEARING REQUESTED</b> (complete SECTIONS II and III)<br><input checked="" type="checkbox"/> <b>PROPOSED ORDER/CONSENT ORDER</b> (complete SECTIONS II and III)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |  |                                                                                                                                                                                                                               |  |
| <b>SECTION I: Hearing Information</b><br>Nature of Motion: Motion for Temporary Restraining Order<br>Estimated Time Needed: .5 hours Court Reporter Needed: <input type="checkbox"/> YES / <input checked="" type="checkbox"/> NO                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |                                                                                                                                                                                                                               |  |
| <b>SECTION II: Motion/Order Type</b><br><input checked="" type="checkbox"/> Written motion attached<br><input type="checkbox"/> Form Motion/Order<br>I hereby move for relief or action by the court as set forth in the attached proposed order.<br><br><div style="display: flex; justify-content: space-between;"><div>Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant</div><div>December 27, 2019<br/>Date submitted</div></div>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |                                                                                                                                                                                                                               |  |
| <b>SECTION III: Motion Fee</b><br><input checked="" type="checkbox"/> <b>PAID - AMOUNT: \$</b> _____<br><input type="checkbox"/> <b>EXEMPT:</b> (check reason)<br><div style="display: flex; flex-wrap: wrap;"><div style="width: 50%;"><input type="checkbox"/> Rule to Show Cause in Child or Spousal Support<br/><input type="checkbox"/> Domestic Abuse or Abuse and Neglect<br/><input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party<br/><input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief<br/><input type="checkbox"/> Motion for Stay in Bankruptcy<br/><input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)<br/><input type="checkbox"/> Proposed order submitted at request of the court; or,<br/>reduced to writing from motion made in open court per judge's instructions<br/>Name of Court Reporter: _____<br/><input type="checkbox"/> Other: _____</div><div style="width: 50%; text-align: right; vertical-align: top;">RECEIVED<br/>JUN 28 2019<br/>PM 12:43</div></div> |  |                                                                                                                                                                                                                               |  |
| <b>JUDGE'S SECTION</b><br><input type="checkbox"/> Motion Fee to be paid upon filing of the attached order.<br><input type="checkbox"/> Other: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  | JUDGE CODE _____<br>Date: _____                                                                                                                                                                                               |  |
| <b>CLERK'S VERIFICATION</b><br>Collected by: _____ Date Filed: _____<br><input type="checkbox"/> MOTION FEE COLLECTED: \$ _____<br><input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                                                                                                                                                                                                                               |  |

SCCA 233 (11/2003)

EJECT\_000151

STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2011-CP-14-602

TLC Holdings, LLC,

Plaintiff,

v.

M.B. Hudson a/k/a M.B. Hutson,

Defendant.

**DEFENDANT AND THIRD PARTY  
PLAINTIFF'S MOTION FOR  
TEMPORARY RESTRAINING ORDER**

M.B. Hudson a/k/a M.B. Hutson,

Defendant and Third Party Plaintiff,

v.

Richard U. Clark, Jimmy S. Lovell and  
James C. Thigpen,

Third Party Defendants

Pursuant to Rule 65, SCRCP, Defendant and Third Party Plaintiff M.B. Hudson a/k/a M.B. Hutson ("Defendant") moves for a temporary restraining order enjoining Plaintiff TLC Holdings, LLC ("Plaintiff") and its subsidiaries, successors, and assigns from terminating the Consent Order and Settlement Agreement in the above-captioned case (copies of which are attached hereto as Exhibit A) and from pursuing the Affidavit of Default signed by Plaintiff on or about December 6, 2013 (a copy of which is attached hereto as Exhibit B). In support of the instant motion, Defendant, by way of attached affidavit (attached hereto as Exhibit C), would show as follows:

1. Defendant has concurrently filed with this motion a Motion to Set Aside Affidavit of Default in the above-captioned case. In pertinent part, the Motion to Set Aside Affidavit

of Default seeks to set aside Plaintiff's Affidavit of Default due to Plaintiff's failure to perform actions expressly required of it in the Settlement Agreement and Consent Order.

2. Defendant entered into a Lease Purchase Agreement with TLC Holdings, LLC, Richard U. Clark, Jimmy S. Lovell, and James G. Thigpen, which was executed on December 15, 2010 (the "Initial Agreement").
3. As a result of a dispute that arose regarding the terms of the Initial Agreement, litigation was commenced, which culminated in a Settlement Agreement and Consent Order, which incorporated the Initial Agreement.
4. On December 18, 2013, Defendant received notice that Plaintiff filed an Affidavit of Default with the Clarendon County Clerk of Court, which would terminate the Consent Order and Settlement Agreement in the above-captioned matter.
5. Rule 65, SCRPC, provides that a party may seek a temporary restraining order from the Court in certain instances. A party seeking injunctive relief must demonstrate irreparable harm, a likelihood of success on the merits, and the absence of an adequate remedy at law. See Rawlinson Road Homeowners Ass'n, Inc. v. Jackson, 395 S.C. 25, 35, 716 S.E.2d 337, 343 (Ct. App. 2011).
6. If Plaintiff is permitted to terminate the Settlement Agreement and Consent Order and pursue the Affidavit of Default, Defendant will suffer irreparable harm. The Affidavit of Default serves to force Defendant to vacate the Property (described with specificity in the Settlement Agreement). This would include Defendant having to vacate his residence on the Property within fifteen (15) days of notice of the affidavit of default and would cause Defendant to incur a financial loss in excess of Five Hundred Thousand

and 00/100 Dollars (\$500,000.00) and lose his sole means of financial support.

7. Defendant will likely succeed on the merits of this motion. If Defendant failed to comply in any way with the Settlement Agreement, that non-compliance is a direct and proximate result of Plaintiff's failure to perform an action expressly required of it in the Settlement Agreement, to wit:
  - a. That, pursuant to Paragraph 5 of the Settlement Agreement, upon Plaintiff's approval of a proposed subdivision plat, Plaintiff was to provide a letter to the Clarendon County Planning Commission that requested that the Clarendon County Planning Commission approve the subdivision. While Plaintiff approved the proposed subdivision plat, Plaintiff failed to provide a letter to the Clarendon County Planning Commission that requested that the Clarendon County Planning Commission approve the subdivision, in violation of the Settlement Agreement and Consent Order.
  - b. That Plaintiff made verbal assurances to Defendant with regard to obtaining approvals, dismissal of litigation, setting up utilities, amongst other issues. These assurances proved to be erroneous; further, important disclosures regarding these issues were not made to Defendant (See Exhibit D, attached hereto).
  - c. No notice was provided by Plaintiff to Defendant regarding any issues related to liens that may have been placed on the property or any property tax issues that may have arisen with regard to the property.
8. Due to Plaintiff's seeking to force Defendant to vacate the Property under the terms of the Consent Order, which contain no provisions for review of unilateral steps taken by the Plaintiff, Defendant would show that there is no adequate remedy at law and



immediate injunctive relief is necessary.

9. Defendant would further show that, in accordance with Rule 65, SCRCP, the irreparable injury will result before notice can be served and a hearing had thereon. Pursuant to the Settlement Agreement, Consent Order and Affidavit of Default, Defendant must immediately vacate the Property, and, within fifteen (15) days following notice of the Affidavit of Default, his residence.

Consequently, Defendant asks that the Court issue a temporary restraining order enjoining Plaintiff from terminating the Consent Order and Settlement Agreement in the above-captioned case, from pursuing the Affidavit of Default signed by Plaintiff on or about December 6, 2013 and for such other and further relief as may be just and proper.

Respectfully submitted,

  
 Stephen "Chip" Burn, Esquire  
 BURN LAW FIRM, LLC  
 945 East Main Street, Ste. D  
 Lexington, South Carolina 29072  
 (803) 358-7220  
 ATTORNEY FOR DEFENDANT AND  
 THIRD PARTY PLAINTIFF

Lexington, South Carolina  
 December 27, 2013

**RULE 11, SCRCP CERTIFICATION:**

Undersigned counsel certifies that consultation would serve no useful purpose as to the foregoing motion for temporary restraining order.

BY: 

Stephen "Chip" Burn

December 27, 2013

EXHIBIT A

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CLARENDON

CASE NUMBER: 11-CP-14-602

TLC Holdings, LLC,

Plaintiff,

v.

M.B. Hudson a/k/a M.B. Hutson,

Defendant.

CONSENT ORDER

M.B. Hudson a/k/a M.B. Hutson,

Defendant and Third Party Plaintiff,

v.

Richard U. Clark, Jimmy S. Lovell and  
James C. Thigpen,

Third Party Defendants.

DEPOTIFIED TRUE COPY  
OF ORIGINAL FILED IN THIS OFFICE  
DATE 4/13/12  
Beverly N. Roberts  
CLERK OF COURT  
CLARENDON COUNTY, SC

THIS MATTER comes before me pursuant to (a) a Motion for Order Requiring Tenant to Pay All Rent Due, or, in the Alternative, for Appointment of Receiver filed in the above-captioned action by Plaintiff, TLC Holdings, LLC ("Plaintiff", "TLC" or "Landlord"), against Defendant, M.B. Hudson a/k/a M.B. Hutson ("Defendant", "Hudson", or "Tenant"); and (b) a Motion to Dismiss filed by Defendant in this action.

BACKGROUND AND PROCEDURAL HISTORY

This action concerns a Lease Purchase Agreement dated December 15, 2010 (the "Lease" or the "Agreement"), by and among Plaintiff, as landlord, Hudson, as tenant, and Richard U. Clark, Jimmy S. Lovell, and James C. Thigpen (the "Third-Party Defendants"), for property located in Clarendon County, South Carolina, more fully

described in the Lease and commonly known as the Big Water Resort (the "Premises" or the "Property"). Plaintiff has filed this ejectment action against Defendant with respect to the Agreement. Defendant has also recorded a Lis Pendens in this action against the Premises and the Plaintiff and Third Party Defendants (the "Lis Pendens"). In his Answer and Counterclaim and Affirmative Defense and Motion to Dismiss and Third Party Complaint filed in this action, Hudson has asserted counterclaims against Plaintiff, as well as other claims against the Third Party Defendants. However, the Third Party Defendants have not been served with pleadings filed in this action, and none of the Third Party Defendants have made an appearance in this action.

It appears that the parties have agreed to a settlement of the pending motions, and all other matters at issue with respect to the Agreement, or which could have been asserted in this litigation, on those terms set forth in that certain Settlement Agreement dated as of March 30, 2012, a copy of which is attached hereto as Exhibit "A" and its terms incorporated herein by this reference (the "Settlement Agreement").

#### ORDER

NOW, THEREFORE, upon Motion of the Plaintiff, and with the consent of the Defendant, as the only parties having appeared in this action, it is hereby

**ORDERED, ADJUDGED AND DECREED** as follows:

1. The Settlement Agreement is hereby approved by this Court and incorporated into this Consent Order by this reference;
2. In the event that Hudson fails to comply with the terms of the Settlement Agreement, unless such failure is a direct and proximate result of TLC's failure to perform an action expressly required of it in the Settlement Agreement, time being of the



essence, then the Plaintiff is entitled to file an Affidavit of Default in this action, without notice to Defendant or his counsel of record, and, effectively immediately upon the filing of such Affidavit of Default, Plaintiff is hereby awarded the following immediate relief, without the need for further Order of this Court:

- a) The Agreement shall be deemed automatically terminated and of no further force or effect;
- b) The Lis Pendens shall be deemed automatically cancelled, terminated of record, and of no further force or effect;
- c) Mr. Hudson shall be required immediately to vacate the Property, except only with respect to his personal residence located thereon, as to which he shall be obligated to vacate the same within fifteen (15) days following receipt of a copy of the Affidavit of Default, or the posting of a copy of the Affidavit of Default upon such residence, whichever first occurs (the "Vacation Deadline").

3. In the event that Hudson fails to vacate the Premises by the Vacation Deadline, then the Sheriff of Clarendon County is hereby directed to immediately evict Hudson therefrom, remove any personal property then and there remaining on the Premises, and put the Landlord in peaceful possession of the Premises. Landlord is hereby authorized to change the locks of the Premises effective 11:59 p.m. on the Vacation Deadline.

4. Prior to any such default by Hudson under the Settlement Agreement and the Lease as modified by the Settlement Agreement, the Lease remains in full force and effect in accordance with its terms, as modified by this Settlement Agreement, and during

the Primary Term (as defined in the Lease, and as may be extended as provided in the Settlement Agreement), Hudson shall have full possession of the Property in accordance with, and subject to, the terms of the Lease as modified by the Settlement Agreement.

SO ORDERED.

Judge

Manning, South Carolina  
April 12, 2012

*[Signatures Continue on Following Page]*

STATE OF SOUTH CAROLINA, COUNTY OF CLARENDON  
IN THE COURT OF COMMON PLEAS  
CASE NO. 11-CP-14-602  
TLC HOLDINGS, LLC, VS. M.B. HUDSON A/K/A M.B. HUTSON

CONSENT ORDER

WE MOVE:

WOMBLE, CARLYLE, SANDRIDGE  
& RICE, LLP

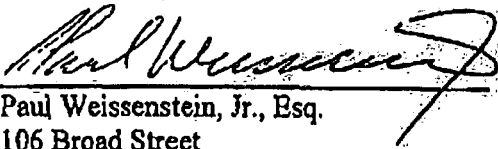
  
Thomas L. Harper, Jr., Esq.  
5 Exchange Street  
Post Office Box 999  
Charleston, SC 29402  
(843) 722-3400

*Attorneys for Plaintiff  
TLC Holdings, LLC*

Charleston, South Carolina  
April 3, 2012

WE CONSENT:

WEISSENSTEIN LAW FIRM, LLC

  
Paul Weissenstein, Jr., Esq.  
106 Broad Street  
Post Office Box 2446  
Sumter, SC 29151  
(803) 418-5700

*Attorneys for Defendant and Third Party  
Plaintiff M.B. Hudson a/k/a M.B. Hutson*

Sumter, South Carolina  
April 3, 2012

[Signatures Continue on Following Page]

STATE OF SOUTH CAROLINA, COUNTY OF CLARENDON  
IN THE COURT OF COMMON PLEAS  
CASE NO. 11-CP-14-602  
TLC HOLDINGS, LLC, VS. M.B. HUDSON A/K/A M.B. HUTSON

CONSENT ORDER

WE AGREE:

TLC HOLDINGS, LLC

  
Richard U. Clark, its Member

April 3, 2012

*Plaintiff and Third Party Defendant*

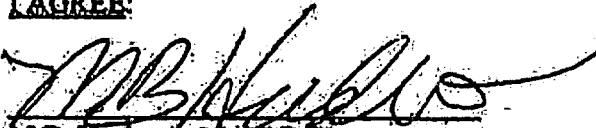
*[Signatures Continue on Following Page]*



STATE OF SOUTH CAROLINA, COUNTY OF CLARENDON  
IN THE COURT OF COMMON PLEAS  
CASE NO. 11-CP-14-602  
TLC HOLDINGS, LLC, VS. M.B. HUDSON A/K/A M.B. HUTSON

CONSENT ORDER

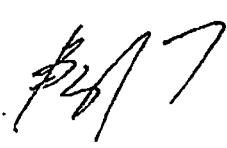
LAGREE:

  
M.B. Hudson a/k/a M.B. Hutson

April 3, 2012

*Defendant and Third Party Plaintiff*

WCSR 7205819v1



EJECT\_000162



STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CLARENDON

CASE NUMBER: 11-CP-14-602

TLC Holdings, LLC,

Plaintiff,

v.

M.B. Hudson a/k/a M.B. Hutson,

Defendant.

## SETTLEMENT AGREEMENT

M.B. Hudson a/k/a M.B. Hutson,

Defendant and Third Party Plaintiff

v.

Richard U. Clark, Jimmy S. Lovell and  
James C. Thigpen,

Third Party Defendants

CERTIFIED TRUE COPY  
OF ORIGINAL FILED IN THIS OFFICE

DATE

4/13/12

Bentley B. Roberts  
CLERK OF COURT  
CLARENDON COUNTY, SC

Plaintiff, TLC Holdings, LLC, ("Plaintiff", "TLC" or "Landlord"), by and through its undersigned attorneys, and Defendant, M.B. Hudson a/k/a M.B. Hutson ("Defendant", "Hudson", or "Tenant"), by and through his undersigned attorney, hereby agree to a settlement of the above-captioned litigation on the following terms, effective as of March 30, 2012:

1. Reference is made to that certain Lease Purchase Agreement (the "Lease" or the "Agreement") dated December 15, 2010, by and among Landlord, Tenant, Richard U. Clark, Jimmy S. Lovell, and James C. Thigpen for property located in Clarendon County, South Carolina commonly known as the Big Water Resort (the "Premises" or the "Property"). Capitalized terms used in this Settlement Agreement without definition have the meaning given such terms in the Lease.

2. This Settlement Agreement shall be incorporated into a Consent Order (the "Consent Order") entered in the above-referenced case (the "Litigation"). Although Richard U. Clark, Jimmy S. Lovell and James C. Thigpen are parties to this Settlement Agreement by virtue of being parties to the Agreement, and are named as Third Party Defendants in the Litigation, they have not been served with pleadings in the Litigation and shall not be deemed to have appeared in the Litigation by their execution of this Settlement Agreement. This Settlement Agreement shall be binding upon all of the

undersigned parties even though Richard U. Clark, Jimmy S. Lovell and James C. Thigpen have not appeared in the Litigation and are not parties to the Consent Order.

3. Plaintiff and Defendant hereby agree that the arrearage due by Tenant under the Lease totals \$199,969.19 as of March 31, 2012 (the "Arrearage"). The parties acknowledge the Arrearage includes late fees but not interest or Plaintiff's legal fees, which Plaintiff agrees not to include in the Arrearage.

4. Pursuant to the Consent Order, in the event that Mr. Hudson fails to comply with the terms of this Settlement Agreement, unless such failure is a direct and proximate result of TLC's failure to perform an action expressly required of it in this Settlement Agreement, time being of the essence, then the Plaintiff is entitled to the following immediate relief, without further order of the court or notice to Defendant or his attorney: (a) termination of the Agreement, (b) cancelation of the lis pendens filed by Hudson in this action, (c) immediate vacation of the Property by Mr. Hudson except for his personal residence, which shall be vacated within 15 days, enforceable by the Clarendon County sheriff; and (d) the provisions of Section 23 shall be effective. Prior to any such default by Hudson hereunder, the parties acknowledge that the Lease remains in full force and effect in accordance with its terms, as modified by this Settlement Agreement, and during the Primary Term (as may be extended as provided herein), Hudson shall have full possession of the Property in accordance with, and subject to, the terms of the Lease as modified by this Settlement Agreement.

5. Upon entry of the Consent Order, and the preparation of a proposed subdivision plat by Hudson of a portion of the Premises substantially as shown on Exhibit "A" attached hereto, Hudson shall present the proposed subdivision plat to TLC for approval, which shall not be unreasonably withheld. Within five (5) business days after receipt of the proposed Qualified Plat (as defined herein), TLC shall either approve the same or provide Hudson with specific comments thereto. A "Qualified Plat" is a proposed subdivision plat of a portion of the Premises substantially as shown on Exhibit "A" attached hereto, which is prepared by a registered South Carolina land surveyor, and which meets the minimum standards for the practice of land surveying under South Carolina law. The Approval Deadline (as defined below) shall be extended day-for-day for each day beyond such five (5) business day period until TLC provides Hudson with the foregoing approval or comments. Within five (5) business days following receipt of TLC's comments to a Qualified Plat, Hudson shall cause his surveyor to revise the Qualified Plat to address TLC's comments, and resubmit the revised Qualified Plat. If the revised Qualified Plat incorporates TLC's comments, then the Approval Deadline shall be extended day-for-day for each day after the revised Qualified Plat is presented to TLC until TLC either approves the same or provides additional comments thereto to Hudson, which shall be incorporated into the proposed subdivision plat; provided, however, that in no event shall the extension of the Approval Deadline pursuant to this sentence exceed thirty (30) days for any reason. Upon TLC's approval of a proposed subdivision plat, TLC would provide a letter to the Clarendon County Planning Commission, Attn: David Epperson, requesting that the Clarendon County Planning Commission approve the subdivision of the Premises into not less than two (2) adjacent and unimproved acres of the Property, and the further subdivision of such acres into

smaller individual lots, all of which must be contiguous. In addition, by April 3, 2012, TLC's attorney shall write the Clarendon County Planning Commission, Attn: David Epperson, and advise it that, while TLC is reserving its rights under this Settlement Agreement to approve any draft subdivision plat prior to its formal submission to the Planning Commission for consideration and approval - and advising the Planning Commission that no such subdivision plat should be considered by the Planning Commission unless accompanied by a letter from TLC or its counsel approving such proposed plat - TLC requests that Mr. Hudson and his professionals be permitted to consult with Clarendon County officials in conjunction with the preparation of a proposed subdivision for consideration by TLC (and, if approved by TLC, formal submission to the Planning Commission for consideration). Hudson may present alternative proposed subdivision plats to TLC for consideration. Mr. Hudson will pay for the survey(s) and all other expenses necessary to obtain all Approvals (as herein defined). Mr. Hudson will have until July 31, 2012 (as may be extended as provided herein, the "Approval Deadline") to obtain the Approvals (as defined herein). Mr. Hudson will have the right to extend the Approval Deadline for two (2) periods of thirty (30) days each (each, an "Approval Extension") if, prior to the then-applicable Approval Deadline, Mr. Hudson delivers to TLC written notice of his exercise of an Approval Extension, together with payment, by wire transfer, of \$8,000, none of which will be applied to the Purchase Price, but one one-half of which will be applied to the Arrearage, with the remainder not applicable to either the Purchase Price or the Arrearage but instead in consideration of the extension of the Approval Deadline.

6. Once the Clarendon County Planning Commission and any other governmental agency that is required to approve the development of the subdivision of the Property, including appraisals, and bonding of water and sewer installation, grants its approval of the subdivision plat in full and complete so that same can be recorded (the "Approvals"), then Mr. Hudson will have fifteen (15) days to close (the "Closing Deadline") upon his purchase of not less than two (2) acres of the Property pursuant to the approved subdivision plat (such closing being referred to herein as the "Initial Closing", with the portion of the Property being purchased by Hudson at the Initial Closing being referred to herein as the "Initial Closing Property").

7. The Purchase Price for the Initial Closing Property, which must be paid in cash, shall be \$145,000.00 per acre, which will be applied to the Purchase Price under the Agreement.

8. THE PARTIES ACKNOWLEDGE THAT THIS SETTLEMENT AGREEMENT IS NOT CONTINGENT UPON HUDSON'S RECEIPT OF THE APPROVALS.

9. At or before the Initial Closing, Mr. Hudson will provide to TLC a written statement from the realtor (Susan Stroman) that she is cancelling her commission contract with TLC and that, in lieu thereof, she will be paid by Mr. Hudson for her commissions for the sale(s) of portions of the Property pursuant to the Agreement as modified by this Settlement Agreement, both with respect to interim sales of acreage, such as the Initial Closing, and the ultimate purchase of the entire Property (the "Stroman Evidence"). In

other words, whatever commission Susan Stroman or her company would be entitled to under the Agreement shall be owing by Mr. Hudson, not TLC, and the Purchase Price to TLC is net of any such commissions (and the Purchase Price owing by Hudson shall be in addition to the commission owing to Stroman or her company). Absent the Stroman Evidence prior to the Initial Closing, TLC shall not be obligated to close, and Mr. Hudson shall be in default of this Settlement Agreement.

10. At the Initial Closing, in addition to the \$145,000 per acre release price which will apply to the Purchase Price, Mr. Hudson will pay to TLC, in cash, the following (together, the "Additional Initial Closing Payments"): (a) the sum of \$140,000.00, to be applied by TLC towards the Arrearage, unless the Initial Closing Property exceeds eight (8) acres, in which case the Arrearage shall be paid in full at the Initial Closing; and (b) the Arreared Additional Rent (as defined herein). The Additional Initial Closing Payments will not be applied to the Purchase Price, and are a material component of this Settlement Agreement, without which TLC shall not be obligated to close upon the sale of such acreage to Mr. Hudson, who would then be in default. However it is anticipated that the Additional Initial Closing Payments will be paid at the Initial Closing, and not prior thereto.

11. If prior to the Closing Deadline, Hudson has any unexercised Approval Extensions (i.e., if he obtained the Approvals prior to having to exercise both of the Approval Extensions), then he shall be permitted to exercise any remaining Approval Extension(s) to extend the Closing Deadline.

12. In addition to the two Approval Extensions described above, Mr. Hudson will have a third (3<sup>rd</sup>) thirty (30) day extension right, which may be used either to extend the Approval Deadline a third time, or to extend the Closing Deadline (the "Third Extension") if, prior to the then-applicable Approval Deadline (if Hudson elects to use the Third Extension to extend the Approval Deadline a third time), or prior to the Closing Deadline (if Hudson elects to use the Third Extension to extend the Closing Deadline), Mr. Hudson delivers to TLC written notice of his exercise of the Third Extension, together with payment, by wire transfer, of \$8,000, none of which will be applied to the Purchase Price or the Arrearage, and is solely an extension fee. For avoidance of doubt: one-half of the Approval Extension fees are applicable to the Arrearage, but none of the Third Extension fee is applicable to the Arrearage.

13. Beginning April 1, 2012, Hudson shall pay to TLC the Rent for the Premises of \$8,000 per month, in advance on or before the first day of each month during the Term, without notice, demand, deduction, or offset. Payment shall be made to TLC by wire transfer only, pursuant to wire instructions provided by TLC to Hudson. Notwithstanding the foregoing, the April, 2012 payment may be received by TLC not later than 5:00 p.m. on April 3, 2012. Rent for all future months shall be payable on or before the first of such month, even if the first day of a calendar month occurs on a weekend or day the banks are closed.

14. Beginning April 1, 2012, in addition to the monthly base rent of \$8,000, Mr. Hudson will also begin to accrue the obligation to pay, each month, the "Estimated

Additional Rent Payments", which means 1/12<sup>th</sup> of the yearly estimated amount of "Additional Rent" owing under the Lease (i.e., real estate taxes for the Property, annual insurance premiums, and the lease rent owing to the South Carolina Public Service Authority, which are the responsibility of Hudson under the Lease), in advance on or before the first day of each month during the Term, without notice, demand, deduction, or offset; provided, however, that the Estimated Additional Rent Payments shall be deferred for that period from April 1, 2012, until the Initial Closing. The amount of Estimated Additional Rent Payments owing for that period from April 1, 2012 until the Initial Closing, and which is being deferred hereby, is referred to herein as the "Arreared Additional Rent". The Estimated Additional Rent Payments shall be based on the most recent invoices therefor (e.g., the 2011 taxes for the Property, the most recent insurance premiums, and the most recent SCPSA rent amount), but Hudson shall remain liable for the actual amount of such charges in the event the estimated Additional Rent is insufficient (and entitled to a refund in the event of overpayment). After the Initial Closing, the right to defer payment of the Estimated Additional Rent Payments shall lapse, and Hudson shall pay such amounts on or before the first day of each calendar month in addition to the Rent, all by wire transfer to TLC.

15. Having begun to receive the Additional Rent in advance (subject to the deferral thereof prior to the Initial Closing only), TLC shall be responsible for remitting payment of those items to the applicable party (e.g., the Clarendon County tax collector, the insurance company, and SCPSA), but Mr. Hudson would remain liable for them as provided in the Lease. Not less than 10 days before those payments are due, Mr. Hudson would remit the difference between those charges and the amount he had previously paid to TLC by way of the monthly Estimated Additional Rent Payments. (For example: the 2012 property taxes for the Property will be due in January, 2013, before Hudson has paid a full year's worth of Estimated Additional Rent Payments. Not later than January 5, 2013, Hudson shall pay to TLC the difference between the actual tax bill and the amount of Estimated Additional Rent Payments allocable to the property taxes, and then TLC would remit those funds to the Clarendon County tax collector.)

16. Mr. Hudson will pay all of the Arrearage not later than the earlier to occur of (a) December 31, 2012; and (b) the closing on the sale of a more than eight (8) acres of the Property pursuant to this Settlement Agreement and the Agreement, whether individually or when aggregated with land previously purchased hereunder. (In other words, at the time that Hudson buys, or causes to be bought, more than eight (8) acres of the Property, whether in a single closing or when combined with land previously purchased, all of the Arrearage must be repaid in addition to the \$145,000 per acre price.)

17. Not later than May 15, 2012, Mr. Hudson will pay to TLC by wire transfer all of the amounts received from Universal Financing since the Lease was executed, which amount totals approximately \$5,000.

18. In the event of any default by Hudson in the payment of amounts owing under this Settlement Agreement, he will be in default of this Settlement Agreement and the Agreement itself, with no grace period and no right to notice of default, and TLC shall be entitled to the relief set forth in Section 4 above.

19. Provided that Mr. Hudson has fully complied with the Settlement Agreement as of December 31, 2012, including repaying the Arrearage in full, and provided that he has paid the 2012 property taxes by that date (which would otherwise be due on January 15, 2013, pursuant to South Carolina law), then, as of December 31, 2012, (a) the Primary Term of the Lease shall be automatically extended until October 31, 2013 (with Hudson entitled to possession of the Premises during such extended Primary Term, upon the terms and conditions of this Settlement Agreement and the Lease as expressly modified hereby); (b) the Purchase Price for the Property will remain \$6,000,000 through October 31, 2013, provided that: (i) the unpaid amount is paid in cash; and (ii) Hudson has provided the Stroman Evidence as provided herein; and (c) the \$500,000.00 promissory note given by Hudson with respect to the purchase of the membership interests in The Big Water Resort, LLC, shall be automatically amended to extend the maturity date thereunder to October 31, 2013. The Agreement is hereby amended to delete any right of Hudson, or obligation of TLC, to permit Hudson to finance the purchase of the Property through the delivery of a promissory note to TLC (as described in Section 1.4(ii) of the Agreement), and the entire Purchase Price shall be paid in cash.

20. Mr. Hudson shall, at his expense, commence paving all private roads, parking lots and recreational vehicle ("RV") parking spaces on the Premises by February 28, 2013, and complete such work not later than May 31, 2013.

21. Not later than April 4, 2012, Mr. Hudson shall deliver to TLC a written statement, signed by him, that neither Mr. Hudson nor any of his companies have made any commitments to anyone on behalf of TLC and/or its members (i.e., Messrs. Clark, Lovell and Thigpen) with respect to the Property, and that any agreements made by Mr. Hudson or any of his companies with respect to the Property have been on behalf of The Big Water Resort, LLC, or another Hudson-company, but not TLC or its members.

22. Provided he is in compliance with this Settlement Agreement, Hudson would continue to have the right to purchase unimproved acreage upon the Property in excess of the Initial Closing Property at the same \$145,000 per acre price as set forth above, up until December 31, 2012 (and, if he complies with the Settlement Agreement, including repaying all of the Arrearage by that date, such deadline would be extended until October 31, 2013 as provided above), but any additional acreage would have to be adjacent to the acreage already purchased unless at or before the closing upon the purchase of such additional, non-contiguous acreage, Hudson repays the Arrearage in full in addition to the \$145,000 per acre price.

23. As a material consideration of this Settlement Agreement, in the event of the termination of the Agreement pursuant to Section 4 above as a result of Hudson breach hereof, then automatically and without further action of the parties, as of the date of such termination (the "Termination Date"), Hudson shall be deemed to have released, forever discharged and promised never to sue TLC, Richard U. Clark, Jimmy S. Lovell, and James C. Thigpen, and their respective agents, attorneys, insurance companies, parent companies, subsidiaries, affiliates, predecessors, successors, or assigns (together, the "TLC Parties"), from any and all injuries, personal or property, known or unknown,

causes of action, demands, warranty claims, damages, suits at law or in equity, of whatsoever kind and nature, or because of any matter or thing done, omitted or suffered to be done, by the TLC Parties, prior to and including the Termination Date, on account of all injuries and damages, including attorneys' fees and litigation expenses, arising from the Lease or the relationship between Hudson, on the one hand, and TLC, Richard U. Clark, Jimmy S. Lovell, and James C. Thigpen, on the other hand, and any causes of action, known or unknown, relating to the Lease, including any and all claims alleged, or which could have been alleged, in the Litigation.

24. As a material consideration of this Settlement Agreement, in the event of the termination of the Agreement pursuant to Section 4 above as a result of Hudson breach hereof, and provided that Hudson has timely vacated the Property in accordance with this Settlement Agreement and surrendered the same to Landlord in the same condition as is required under the terms of the Lease upon a termination or expiration of the Primary Term thereof, then automatically and without further action of the parties, as of the Termination Date, the TLC Parties shall be deemed to have released, forever discharged and promised never to sue Hudson and his agents, attorneys, insurance companies, parent companies, subsidiaries, affiliates, predecessors, successors, or assigns (together, the "Hudson Parties"), from any and all injuries, personal or property, known or unknown, causes of action, demands, warranty claims, damages, suits at law or in equity, of whatsoever kind and nature, or because of any matter or thing done, omitted or suffered to be done, by the Hudson Parties, prior to and including the Termination Date, on account of all injuries and damages, including attorneys' fees and litigation expenses, arising from the Lease or the relationship between Hudson, on the one hand, and TLC, Richard U. Clark, Jimmy S. Lovell, and James C. Thigpen, on the other hand, and any causes of action, known or unknown, relating to the Lease, including any and all claims alleged, or which could have been alleged, in the Litigation.

25. The foregoing terms and conditions are to be strictly enforced, and time is of the essence with regard to each and every term of this Settlement Agreement.

26. The parties further covenant and agree that this written instrument expresses the entire agreement between the said parties, and there is no other agreement oral or otherwise varying or modifying the terms of this Settlement Agreement. This Settlement Agreement will inure to the benefit of and bind the respective heirs, personal representatives, successors, and permitted assigns of the parties to it. If any clause or provision of this Settlement Agreement is determined to be illegal, invalid, or unenforceable under any present or future law by the final judgment of a court of competent jurisdiction, the remainder of this Settlement Agreement will not be affected thereby. It is the intention of the parties that if any such provision is held to be illegal, invalid, or unenforceable, there will be added in lieu thereof a provision as similar in terms to that provision as is possible and be legal, valid, and enforceable.

27. Each and every term, covenant and condition of the Lease is incorporated herein such that the Lease and this Settlement Agreement shall be read and construed as one instrument. The Lease, as hereby amended, remains in full force and effect, and except as expressly stated herein, all terms and conditions of the Lease remain

unchanged. If there is a conflict between this Settlement Agreement and the Lease, then the provisions of this Settlement Agreement shall control.

28. This Settlement Agreement may be executed in counterpart, each of which shall be deemed an original but all of which shall constitute one document. This Settlement Agreement shall not constitute evidence of a settlement between the parties until such time as a counterpart of this document has been executed by each party hereto.

29. This Settlement Agreement and all matters relating thereto shall be governed by and construed and interpreted in accordance with the laws of the State of South Carolina.

[Remainder of Page Left Blank Intentionally]



IN WITNESS WHEREOF, the parties have executed this Settlement Agreement  
as of March 30, 2012.

TLC HOLDINGS, LLC

By: Richard U. Clark  
Richard U. Clark, its Member

Richard U. Clark  
Richard U. Clark

Jimmy S. Loyell  
Jimmy S. Loyell

James C. Thigpen  
James C. Thigpen

M.B. Hudson a/k/a M.B. Hutson

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

WCSR 7205929v2

1-787 P.002/002 F-368

18034782002

03-APR-2012 06:45PM FROM-ISLAND ENTERPRISES

EJECT\_000171

1512

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement  
as of March 30, 2012.

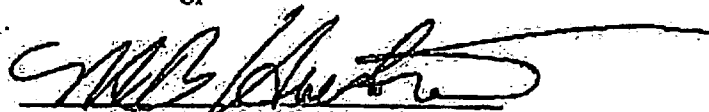
TLC HOLDINGS, LLC

By: \_\_\_\_\_  
Richard U. Clark, its Member

\_\_\_\_\_  
Richard U. Clark

\_\_\_\_\_  
Jimmy S. Lovell

\_\_\_\_\_  
James C. Thigpen

  
\_\_\_\_\_  
M.B. Hudson a/k/a M.B. Hutson

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344



**EXHIBIT A**

**See attached**



LAKE

APPROX

ENTRANCE

Road 390

THE PERSONS IN THESE TWO VEHICLES  
OPERATING ON THE RAILROAD OF THE  
STATE OF TEXAS ARE THE ONLY  
ONE IN THE STATE OF TEXAS  
WHICH ARE NOT IN THE STATE OF TEXAS

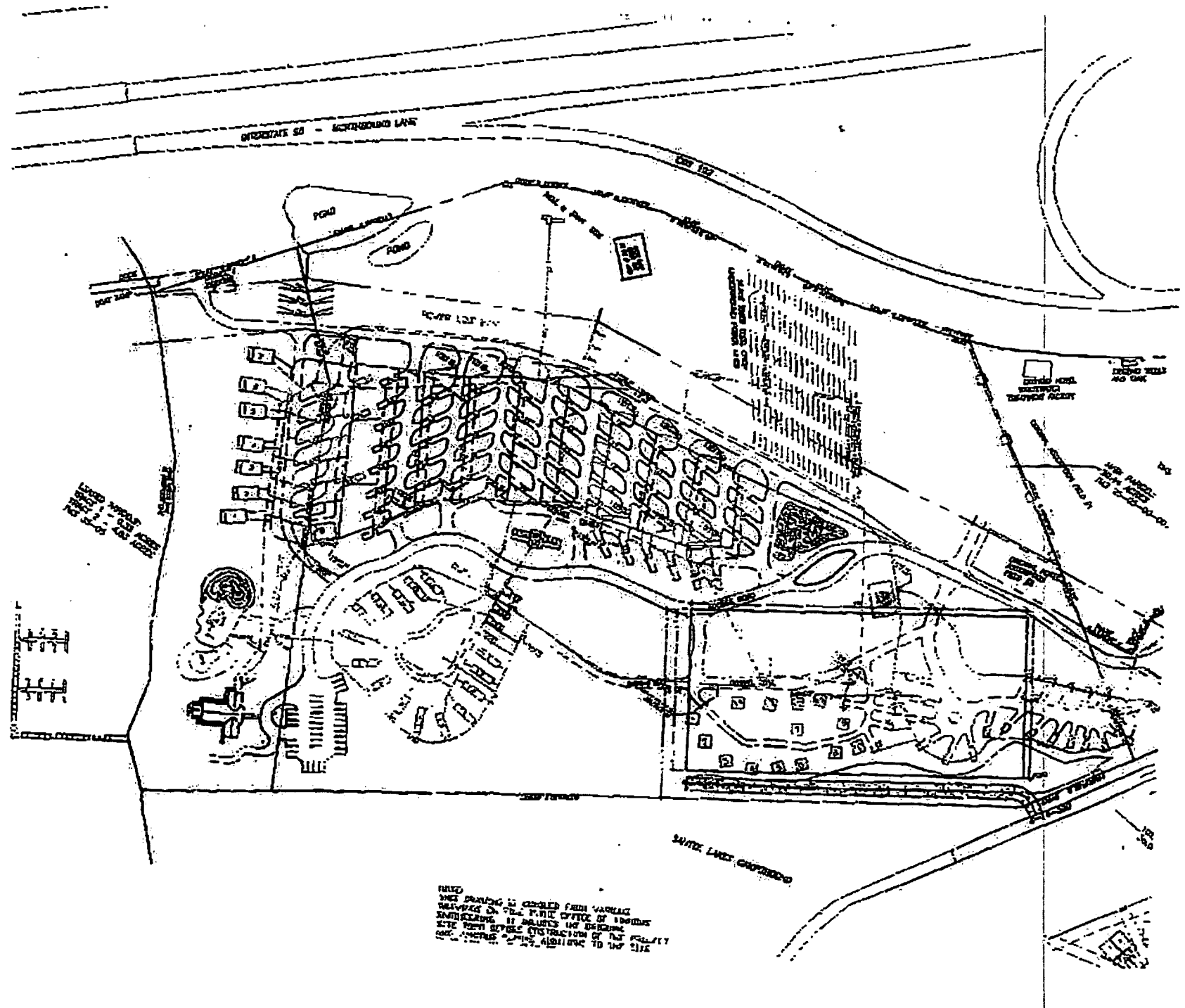


EXHIBIT B

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF CLARENDON ) CASE NO.: 11-CP-14-602

TLC Holdings, LLC,

Plaintiff,

vs.

M.B. Hudson a/k/a M.B. Hutson,

Defendant.

AFFIDAVIT OF DEFAULT

M. B. Hudson a/k/a M. B. Hutson,

Defendant and Third Party Plaintiff,

v.

Richard U. Clark, Jimmy S. Lovell and James  
C. Thigpen,

Third Party Defendants.

COMES NOW, Richard U. Clark, who, being duly sworn, deposes and says as follows:

1. I am a Member of Plaintiff, TLC Holdings, LLC ("TLC" or the "Company"), and have personal knowledge of the matters contained in this affidavit. I am duly authorized by TLC to give this affidavit on its behalf.

2. This Affidavit constitutes an "Affidavit of Default" given pursuant to Paragraph #2 of that Consent Order entered in the above-captioned case on April 13, 2012, a copy of which is attached hereto as Exhibit A.

3. Defendant M. B. Hudson a/k/a M. B. Hutson ("Hutson") has failed to comply with the terms of the Settlement Agreement (which is attached to the Consent Order and incorporated therein

by reference).

4. Hutson has failed to comply with the terms of the Settlement Agreement, and has breached the Settlement Agreement, for the following reasons, among others:

- a. Hutson has failed to repay the Arrearage (as defined in the Settlement Agreement) before December 31, 2012, as required under the Settlement Agreement;
- b. Hutson has permitted a lien to be filed against the Property (as defined in the Settlement Agreement);
- c. Hutson has failed to pay the 2012 property taxes for the Property prior to their delinquency, as required under the Settlement Agreement;
- d. Hutson has failed to close upon the purchase of the Property by the Closing Deadline imposed under the Settlement Agreement;
- e. Hutson has failed to carry the requisite liability insurance, or otherwise to comply with the covenants governing insurance, as required under the Settlement Agreement;
- f. Hutson has failed to commence paving of the roads, parking lots and parking spaces within the Premises (as defined in the Settlement Agreement) by February 28, 2013, as required under the Settlement Agreement; and
- g. Hutson has failed to complete paving of the roads, parking lots and parking spaces within the Premises by May 31, 2013, as required under the Settlement Agreement.

5. TLC has complied with its obligations under the Settlement Agreement timely and fully.

FURTHER AFFIANT SAYETH NOT.

Richard U. Clark  
Richard U. Clark

SWORN to before me this 6<sup>th</sup>  
day of December, 2013.

Heather Lorraine Williams  
Notary Public for Tennessee  
My Commission Expires: 5-7-17

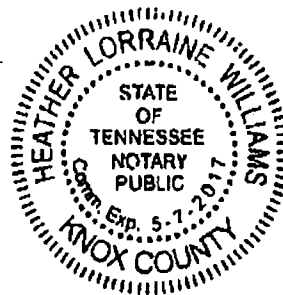




**EXHIBIT C**

STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2011-CP-14-602

TLC Holdings, LLC, )  
Plaintiff, )

v. )

M.B. Hudson a/k/a M.B. Hutson, )  
Defendant. )

**AFFIDAVIT OF M.B. HUTSON**

M.B. Hudson a/k/a M.B. Hutson, )  
Defendant and Third Party Plaintiff, )

v. )

Richard U. Clark, Jimmy S. Lovell and )  
James C. Thigpen, )

Third Party Defendants )

**PERSONALLY APPEARED BEFORE ME**, the deponent, who, being duly sworn,  
deposes and states the following:

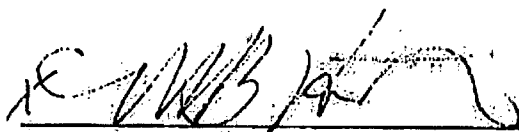
1. That I, M.B. Hutson, am the Defendant and Third Party Plaintiff in the above-captioned case, and I have personal knowledge of the matters contained in this affidavit.
2. That I entered into a Lease Purchase Agreement with TLC Holdings, LLC, Richard U. Clark, Jimmy S. Lovell, and James G. Thigpen, which was executed on December 15, 2010 (the "Initial Agreement").

2019 JUN 25 PM 12:43  
CLERK OF COURT  
RICHLAND COUNTY

3. That as a result of a dispute that arose regarding the terms of the Initial Agreement, litigation was commenced, which culminated in a Settlement Agreement and Consent Order, which incorporated the Initial Agreement.
4. That I am of the opinion that if I, as Defendant and Third Party Plaintiff in the above-captioned case, have failed to comply in any way with the Settlement Agreement, that non-compliance is a direct and proximate result of Plaintiff's failure to perform an action expressly required of it in the Settlement Agreement, to wit:
  - a. That, pursuant to Paragraph 5 of the Settlement Agreement, upon Plaintiff's approval of a proposed subdivision plat, Plaintiff was to provide a letter to the Clarendon County Planning Commission that requested that the Clarendon County Planning Commission approve the subdivision. While Plaintiff approved the proposed subdivision plat, Plaintiff failed to provide a letter to the Clarendon County Planning Commission that requested that the Clarendon County Planning Commission approve the subdivision, in violation of the Settlement Agreement and Consent Order.
  - b. That Plaintiff made verbal assurances to me with regard to obtaining approvals, dismissal of litigation, setting up utilities, amongst other issues. These assurances proved to be erroneous; further, important disclosures regarding these issues were not made to me.
  - c. No notice was provided by Plaintiff to me regarding any issues related to liens that may have been placed on the property or any property tax issues that may have arisen with regard to the property.

5. That on December 18, 2013, I received notice that Plaintiff filed an Affidavit of Default with the Clarendon County Clerk of Court, which would terminate the Consent Order and Settlement Agreement in the above-captioned matter and force me to vacate the Property (described with specificity in the Settlement Agreement). This would include my having to vacate my residence on the Property within fifteen (15) days of notice of the affidavit of default and would cause me to incur a financial loss in excess of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) and lose my sole means of financial support.
6. That Plaintiff intends to proceed with terminating the Consent Order and Settlement Agreement in the above-captioned matter in spite of the foregoing facts showing that any non-compliance is a direct and proximate result of Plaintiff's failure to perform an action expressly required of it in the Settlement Agreement.

Further the Affiant Sayeth Naught

  
M.B. Hutson

Sworn to and Subscribed before me  
this 26<sup>th</sup> day of December, 2013.

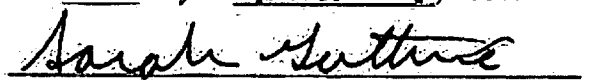
  
Notary Public for the State of South Carolina  
My Commission Expires: 09/07/2017

EXHIBIT D

NO. 705 D01

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

TLC HOLDINGS, LLC  
P.O. BOX 700  
SUMMERTON, SC 29148

March 26, 2003

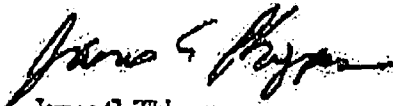
Mrs. Beth Henson Phillips  
Honorable Mayor  
City of Summerton  
P.O. Box 217  
Summerton, SC 29148

Dear Beth:

As you know, my company, TLC Holdings, Inc., has acquired approximate fifty acres of land on Lake Marion at I-95 exit number 102. Our intention is to develop a family campground and resort that will be a major asset to Clarendon County and bring in visitors from throughout the southeast. We will employ 15-20 sales, marketing and administrative personnel with an anticipated payroll of \$600,000 per year in this department. In addition, we will employ approximately twenty people to operate the campground, marina and country store with anticipated annual payroll of \$400,000 per year.

The problem we have is the absence of water and sewer service to this location. The cost of constructing a stand alone water and sewer treatment facility makes the project financially risky. We certainly would like to proceed with this project. Does the town of Summerton have any excess capacity or plans to expand into this area? Please let us know if you could be of assistance in getting this project started.

Yours truly,

  
James C. Thigpen

EJECT\_000182

1523

Beth H. Phillips  
MAYOR

**COUNCIL**

Noonie Stukes - Mayor Pro-tem  
Henry Lawson  
Haulean Smith  
Aloe Doctor-Wearing  
Pete Richardson  
Ken Wells



# Town of Summerton

Post Office Box 217  
SUMMERTON, S.C. 29148

Mary Johnson  
CLERK/DIRECTOR OF  
TOWN AFFAIRS  
Douglas T. Riley  
CHIEF OF POLICE  
William W. Brailsford  
PUBLIC WORKS DIRECTOR

Office Phone:  
485-2526

Fax:  
485-2914

Police Phone:  
485-4395

April 23, 2003

Jim Thigpen  
TLC Holdings Inc.  
P.O. Box 700  
Summerton, SC 29148

Dear Mr. Thigpen:

The Town of Summerton at this time, cannot fulfill your request for water service for your project at exit 102, North Santee.

We did have our engineers, B.P. Barber & Associates, prepare a preliminary cost analysis on running water to your project. The attached letter, addressed to me, dated April 10, 2003, is the result of their findings.

As per our conversations, the Town of Summerton and the surrounding community is very excited about all of your future plans as they will have a positive affect on the Summerton community at large.

Thank you for your continued investment in our community.

Sincerely,

Beth H. Phillips  
Mayor of Summerton

C: Town Council Members

Enclosure

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

EJECT\_000183

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF CLARENDON )  
CASE NO.: 11-CP-14-602

TLC Holdings, LLC,

Plaintiff,

vs.

M.B. Hudson a/k/a M.B. Hutson,

Defendant.

**AFFIDAVIT OF DEFAULT**

M. B. Hudson a/k/a M. B. Hutson,

Defendant and Third Party Plaintiff,

v.

Richard U. Clark, Jimmy S. Lovell and James  
C. Thigpen,

Third Party Defendants.

COMES NOW, Richard U. Clark, who, being duly sworn, deposes and says as follows:

1. I am a Member of Plaintiff, TLC Holdings, LLC ("TLC" or the "Company"), and have personal knowledge of the matters contained in this affidavit. I am duly authorized by TLC to give this affidavit on its behalf.

2. This Affidavit constitutes an "Affidavit of Default" given pursuant to Paragraph #2 of that Consent Order entered in the above-captioned case on April 13, 2012, a copy of which is attached hereto as **Exhibit A**.

3. Defendant M. B. Hudson a/k/a M. B. Hutson ("Hutson") has failed to comply with the terms of the Settlement Agreement (which is attached to the Consent Order and incorporated therein

by reference).

4. Hutson has failed to comply with the terms of the Settlement Agreement, and has breached the Settlement Agreement, for the following reasons, among others:

- a. Hutson has failed to repay the Arrearage (as defined in the Settlement Agreement) before December 31, 2012, as required under the Settlement Agreement;
- b. Hutson has permitted a lien to be filed against the Property (as defined in the Settlement Agreement);
- c. Hutson has failed to pay the 2012 property taxes for the Property prior to their delinquency, as required under the Settlement Agreement;
- d. Hutson has failed to close upon the purchase of the Property by the Closing Deadline imposed under the Settlement Agreement;
- e. Hutson has failed to carry the requisite liability insurance, or otherwise to comply with the covenants governing insurance, as required under the Settlement Agreement;
- f. Hutson has failed to commence paving of the roads, parking lots and parking spaces within the Premises (as defined in the Settlement Agreement) by February 28, 2013, as required under the Settlement Agreement; and
- g. Hutson has failed to complete paving of the roads, parking lots and parking spaces within the Premises by May 31, 2013, as required under the Settlement Agreement.

5. TLC has complied with its obligations under the Settlement Agreement timely and fully.

FURTHER AFFIANT SAYETH NOT.

Richard U. Clark  
Richard U. Clark

SWORN to before me this 6<sup>th</sup>  
day of December, 2013.

Heather Lorraine Williams  
Notary Public for Tennessee  
My Commission Expires: 5-7-17

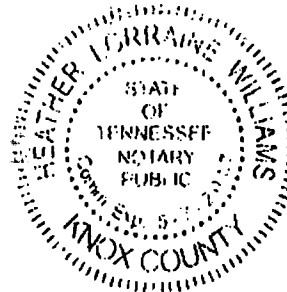




**EXHIBIT A**  
**(Copy of Consent Order)**

See attached.

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CLARENDON

CASE NUMBER: 11-CP-14-602

TLC Holdings, LLC,

Plaintiff,

v.

M.B. Hudson a/k/a M.B. Hutson,

Defendant.

## CONSENT ORDER

M.B. Hudson a/k/a M.B. Hutson,

Defendant and Third Party Plaintiff,

v.

Richard U. Clark, Jimmy S. Lovell and  
James C. Thigpen,

Third Party Defendants.

CERTIFIED TRUE COPY  
OF ORIGINAL FILED IN THIS OFFICE  
DATE 4/13/12  
*Baugh N. Roberts*  
CLERK OF COURT  
CLARENDON COUNTY, SC

THIS MATTER comes before me pursuant to (a) a Motion for Order Requiring Tenant to Pay All Rent Due, or, in the Alternative, for Appointment of Receiver filed in the above-captioned action by Plaintiff, TLC Holdings, LLC ("Plaintiff", "TLC" or "Landlord"), against Defendant, M.B. Hudson a/k/a M.B. Hutson ("Defendant", "Hudson", or "Tenant"); and (b) a Motion to Dismiss filed by Defendant in this action.

BACKGROUND AND PROCEDURAL HISTORY

This action concerns a Lease Purchase Agreement dated December 15, 2010 (the "Lease" or the "Agreement"), by and among Plaintiff, as landlord, Hudson, as tenant, and Richard U. Clark, Jimmy S. Lovell, and James C. Thigpen (the "Third Party Defendants"), for property located in Clarendon County, South Carolina, more fully

described in the Lease and commonly known as the Big Water Resort (the "Premises" or the "Property"). Plaintiff has filed this ejectment action against Defendant with respect to the Agreement. Defendant has also recorded a Lis Pendens in this action against the Premises and the Plaintiff and Third Party Defendants (the "Lis Pendens"). In his Answer and Counterclaim and Affirmative Defense and Motion to Dismiss and Third Party Complaint filed in this action, Hudson has asserted counterclaims against Plaintiff, as well as other claims against the Third Party Defendants. However, the Third Party Defendants have not been served with pleadings filed in this action, and none of the Third Party Defendants have made an appearance in this action.

It appears that the parties have agreed to a settlement of the pending motions, and all other matters at issue with respect to the Agreement, or which could have been asserted in this litigation, on those terms set forth in that certain Settlement Agreement dated as of March 30, 2012, a copy of which is attached hereto as Exhibit "A" and its terms incorporated herein by this reference (the "Settlement Agreement").

### ORDER

NOW, THEREFORE, upon Motion of the Plaintiff, and with the consent of the Defendant, as the only parties having appeared in this action, it is hereby

### **ORDERED, ADJUDGED AND DECREED** as follows:

1. The Settlement Agreement is hereby approved by this Court and incorporated into this Consent Order by this reference;
2. In the event that Hudson fails to comply with the terms of the Settlement Agreement, unless such failure is a direct and proximate result of TLC's failure to perform an action expressly required of it in the Settlement Agreement, time being of the



essence, then the Plaintiff is entitled to file an Affidavit of Default in this action, without notice to Defendant or his counsel of record, and, effectively immediately upon the filing of such Affidavit of Default, Plaintiff is hereby awarded the following immediate relief, without the need for further Order of this Court:

- a) The Agreement shall be deemed automatically terminated and of no further force or effect;
- b) The Lis Pendens shall be deemed automatically cancelled, terminated of record, and of no further force or effect;
- c) Mr. Hudson shall be required immediately to vacate the Property, except only with respect to his personal residence located thereon, as to which he shall be obligated to vacate the same within fifteen (15) days following receipt of a copy of the Affidavit of Default, or the posting of a copy of the Affidavit of Default upon such residence, whichever first occurs (the "Vacation Deadline").

3. In the event that Hudson fails to vacate the Premises by the Vacation Deadline, then the Sheriff of Clarendon County is hereby directed to immediately evict Hudson therefrom, remove any personal property then and there remaining on the Premises, and put the Landlord in peaceful possession of the Premises. Landlord is hereby authorized to change the locks of the Premises effective 11:59 p.m. on the Vacation Deadline.

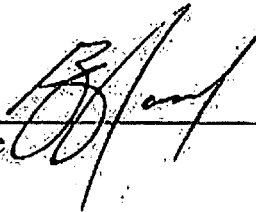
4. Prior to any such default by Hudson under the Settlement Agreement and the Lease as modified by the Settlement Agreement, the Lease remains in full force and effect in accordance with its terms, as modified by this Settlement Agreement, and during



the Primary Term (as defined in the Lease, and as may be extended as provided in the Settlement Agreement), Hudson shall have full possession of the Property in accordance with, and subject to, the terms of the Lease as modified by the Settlement Agreement.

SO ORDERED.

Judge



Manning, South Carolina  
April 12, 2012

*[Signatures Continue on Following Page]*



STATE OF SOUTH CAROLINA, COUNTY OF CLARENDON  
IN THE COURT OF COMMON PLEAS  
CASE NO. 11-CP-14-602  
TLC HOLDINGS, LLC, VS. M.B. HUDSON A/K/A M.B. HUTSON

CONSENT ORDER

WE MOVE:

WOMBLE, CARLYLE, SANDRIDGE  
& RICE, LLP



Thomas L. Harper, Jr., Esq.  
5 Exchange Street  
Post Office Box 999  
Charleston, SC 29402  
(843) 722-3400

*Attorneys for Plaintiff  
TLC Holdings, LLC*

Charleston, South Carolina  
April 3, 2012

WE CONSENT:

WEISSENSTEIN LAW FIRM, LLC

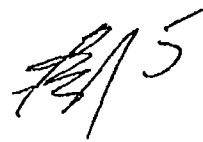


Paul Weissenstein, Jr., Esq.  
106 Broad Street  
Post Office Box 2446  
Sumter, SC 29151  
(803) 418-5700

*Attorneys for Defendant and Third Party  
Plaintiff M.B. Hudson a/k/a M.B. Hutson*

Sumter, South Carolina  
April 3, 2012

[Signatures Continue on Following Page]



STATE OF SOUTH CAROLINA, COUNTY OF CLARENDON  
IN THE COURT OF COMMON PLEAS  
CASE NO. 11-CP-14-602  
TLC HOLDINGS, LLC, VS. M.B. HUDSON A/K/A M.B. HUTSON

CONSENT ORDER

WE AGREE:

TLC HOLDINGS, LLC

  
Richard U. Clark, its Member

April 3, 2012

*Plaintiff and Third Party Defendant*

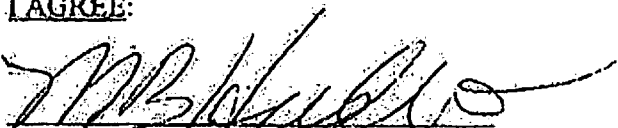
*[Signatures Continue on Following Page]*



STATE OF SOUTH CAROLINA, COUNTY OF CLARENDON  
IN THE COURT OF COMMON PLEAS  
CASE NO. 11-CP-14-602  
TLC HOLDINGS, LLC, VS. M.B. HUDSON A/K/A M.B. HUTSON

CONSENT ORDER

I AGREE:



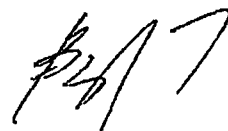
M.B. Hudson a/k/a M.B. Hutson

April 3, 2012

*Defendant and Third Party Plaintiff*

WCSR 7205819v1

7



EJECT\_000194

1535



**EXHIBIT "A"**

**(Copy of Settlement Agreement)**

SEE ATTACHED

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF CLARENDON )

CASE NUMBER: 11-CP-14-602

TLC Holdings, LLC, )

Plaintiff, )

v. )

M.B. Hudson a/k/a M.B. Hutson, )

Defendant. )

## SETTLEMENT AGREEMENT

M.B. Hudson a/k/a M.B. Hutson, )

Defendant and Third Party Plaintiff )

v. )

Richard U. Clark, Jimmy S. Lovell and  
James C. Thigpen, )

Third Party Defendants )

CERTIFIED TRUE COPY  
OF ORIGINAL FILED IN THIS OFFICEDATE 4/13/12Bertha S. Roberts  
CLERK OF COURT  
CLARENDON COUNTY, SC

Plaintiff, TLC Holdings, LLC, ("Plaintiff", "TLC" or "Landlord"), by and through its undersigned attorneys, and Defendant, M.B. Hudson a/k/a M.B. Hutson ("Defendant", "Hudson", or "Tenant"), by and through his undersigned attorney, hereby agree to a settlement of the above-captioned litigation on the following terms, effective as of March 30, 2012:

1. Reference is made to that certain Lease Purchase Agreement (the "Lease" or the "Agreement") dated December 15, 2010, by and among Landlord, Tenant, Richard U. Clark, Jimmy S. Lovell, and James C. Thigpen for property located in Clarendon County, South Carolina commonly known as the Big Water Resort (the "Premises" or the "Property"). Capitalized terms used in this Settlement Agreement without definition have the meaning given such terms in the Lease.

2. This Settlement Agreement shall be incorporated into a Consent Order (the "Consent Order") entered in the above-referenced case (the "Litigation"). Although Richard U. Clark, Jimmy S. Lovell and James C. Thigpen are parties to this Settlement Agreement by virtue of being parties to the Agreement, and are named as Third Party Defendants in the Litigation, they have not been served with pleadings in the Litigation and shall not be deemed to have appeared in the Litigation by their execution of this Settlement Agreement. This Settlement Agreement shall be binding upon all of the

undersigned parties even though Richard U. Clark, Jimmy S. Lovell and James C. Thigpen have not appeared in the Litigation and are not parties to the Consent Order.

3. Plaintiff and Defendant hereby agree that the arrearage due by Tenant under the Lease totals \$199,969.19 as of March 31, 2012 (the "Arrearage"). The parties acknowledge the Arrearage includes late fees but not interest or Plaintiff's legal fees, which Plaintiff agrees not to include in the Arrearage.

4. Pursuant to the Consent Order, in the event that Mr. Hudson fails to comply with the terms of this Settlement Agreement, unless such failure is a direct and proximate result of TLC's failure to perform an action expressly required of it in this Settlement Agreement, time being of the essence, then the Plaintiff is entitled to the following immediate relief, without further order of the court or notice to Defendant or his attorney: (a) termination of the Agreement, (b) cancelation of the lis pendens filed by Hudson in this action, (c) immediate vacation of the Property by Mr. Hudson except for his personal residence, which shall be vacated within 15 days, enforceable by the Clarendon County sheriff; and (d) the provisions of Section 23 shall be effective. Prior to any such default by Hudson hereunder, the parties acknowledge that the Lease remains in full force and effect in accordance with its terms, as modified by this Settlement Agreement, and during the Primary Term (as may be extended as provided herein), Hudson shall have full possession of the Property in accordance with, and subject to, the terms of the Lease as modified by this Settlement Agreement.

5. Upon entry of the Consent Order, and the preparation of a proposed subdivision plat by Hudson of a portion of the Premises substantially as shown on **Exhibit "A"** attached hereto, Hudson shall present the proposed subdivision plat to TLC for approval, which shall not be unreasonably withheld. Within five (5) business days after receipt of the proposed Qualified Plat (as defined herein), TLC shall either approve the same or provide Hudson with specific comments thereto. A "Qualified Plat" is a proposed subdivision plat of a portion of the Premises substantially as shown on **Exhibit "A"** attached hereto, which is prepared by a registered South Carolina land surveyor, and which meets the minimum standards for the practice of land surveying under South Carolina law. The Approval Deadline (as defined below) shall be extended day-for-day for each day beyond such five (5) business day period until TLC provides Hudson with the foregoing approval or comments. Within five (5) business days following receipt of TLC's comments to a Qualified Plat, Hudson shall cause his surveyor to revise the Qualified Plat to address TLC's comments, and resubmit the revised Qualified Plat. If the revised Qualified Plat incorporates TLC's comments, then the Approval Deadline shall be extended day-for-day for each day after the revised Qualified Plat is presented to TLC until TLC either approves the same or provides additional comments thereto to Hudson, which shall be incorporated into the proposed subdivision plat; provided, however, that in no event shall the extension of the Approval Deadline pursuant to this sentence exceed thirty (30) days for any reason. Upon TLC's approval of a proposed subdivision plat, TLC would provide a letter to the Clarendon County Planning Commission, Attn: David Epperson, requesting that the Clarendon County Planning Commission approve the subdivision of the Premises into not less than two (2) adjacent and unimproved acres of the Property, and the further subdivision of such acres into

smaller individual lots, all of which must be contiguous. In addition, by April 3, 2012, TLC's attorney shall write the Clarendon County Planning Commission, Attn: David Epperson, and advise it that, while TLC is reserving its rights under this Settlement Agreement to approve any draft subdivision plat prior to its formal submission to the Planning Commission for consideration and approval – and advising the Planning Commission that no such subdivision plat should be considered by the Planning Commission unless accompanied by a letter from TLC or its counsel approving such proposed plat – TLC requests that Mr. Hudson and his professionals be permitted to consult with Clarendon County officials in conjunction with the preparation of a proposed subdivision for consideration by TLC (and, if approved by TLC, formal submission to the Planning Commission for consideration). Hudson may present alternative proposed subdivision plats to TLC for consideration. Mr. Hudson will pay for the survey(s) and all other expenses necessary to obtain all Approvals (as herein defined). Mr. Hudson will have until July 31, 2012 (as may be extended as provided herein, the "Approval Deadline") to obtain the Approvals (as defined herein). Mr. Hudson will have the right to extend the Approval Deadline for two (2) periods of thirty (30) days each (each, an "Approval Extension") if, prior to the then-applicable Approval Deadline, Mr. Hudson delivers to TLC written notice of his exercise of an Approval Extension, together with payment, by wire transfer, of \$8,000, none of which will be applied to the Purchase Price, but one one-half of which will be applied to the Arrearage, with the remainder not applicable to either the Purchase Price or the Arrearage but instead in consideration of the extension of the Approval Deadline.

6. Once the Clarendon County Planning Commission and any other governmental agency that is required to approve the development of the subdivision of the Property, including appraisals, and bonding of water and sewer installation, grants its approval of the subdivision plat in full and complete so that same can be recorded (the "Approvals"), then Mr. Hudson will have fifteen (15) days to close (the "Closing Deadline") upon his purchase of not less than two (2) acres of the Property pursuant to the approved subdivision plat (such closing being referred to herein as the "Initial Closing", with the portion of the Property being purchased by Hudson at the Initial Closing being referred to herein as the "Initial Closing Property").

7. The Purchase Price for the Initial Closing Property, which must be paid in cash, shall be \$145,000.00 per acre, which will be applied to the Purchase Price under the Agreement.

8. THE PARTIES ACKNOWLEDGE THAT THIS SETTLEMENT AGREEMENT IS NOT CONTINGENT UPON HUDSON'S RECEIPT OF THE APPROVALS.

9. At or before the Initial Closing, Mr. Hudson will provide to TLC a written statement from the realtor (Susan Stroman) that she is cancelling her commission contract with TLC and that, in lieu thereof, she will be paid by Mr. Hudson for her commissions for the sale(s) of portions of the Property pursuant to the Agreement as modified by this Settlement Agreement, both with respect to interim sales of acreage, such as the Initial Closing, and the ultimate purchase of the entire Property (the "Stroman Evidence"). In

other words, whatever commission Susan Stroman or her company would be entitled to under the Agreement shall be owing by Mr. Hudson, not TLC, and the Purchase Price to TLC is net of any such commissions (and the Purchase Price owing by Hudson shall be in addition to the commission owing to Stroman or her company). Absent the Stroman Evidence prior to the Initial Closing, TLC shall not be obligated to close, and Mr. Hudson shall be in default of this Settlement Agreement.

10. At the Initial Closing, in addition to the \$145,000 per acre release price which will apply to the Purchase Price, Mr. Hudson will pay to TLC, in cash, the following (together, the "Additional Initial Closing Payments"): (a) the sum of \$140,000.00, to be applied by TLC towards the Arrearage, unless the Initial Closing Property exceeds eight (8) acres, in which case the Arrearage shall be paid in full at the Initial Closing; and (b) the Arreared Additional Rent (as defined herein). The Additional Initial Closing Payments will not be applied to the Purchase Price, and are a material component of this Settlement Agreement, without which TLC shall not be obligated to close upon the sale of such acreage to Mr. Hudson, who would then be in default. However it is anticipated that the Additional Initial Closing Payments will be paid at the Initial Closing, and not prior thereto.

11. If prior to the Closing Deadline, Hudson has any unexercised Approval Extensions (i.e., if he obtained the Approvals prior to having to exercise both of the Approval Extensions), then he shall be permitted to exercise any remaining Approval Extension(s) to extend the Closing Deadline.

12. In addition to the two Approval Extensions described above, Mr. Hudson will have a third (3<sup>rd</sup>) thirty (30) day extension right, which may be used either to extend the Approval Deadline a third time, or to extend the Closing Deadline (the "Third Extension") if, prior to the then-applicable Approval Deadline (if Hudson elects to use the Third Extension to extend the Approval Deadline a third time), or prior to the Closing Deadline (if Hudson elects to use the Third Extension to extend the Closing Deadline), Mr. Hudson delivers to TLC written notice of his exercise of the Third Extension, together with payment, by wire transfer, of \$8,000, none of which will be applied to the Purchase Price or the Arrearage, and is solely an extension fee. For avoidance of doubt: one-half of the Approval Extension fees are applicable to the Arrearage, but none of the Third Extension fee is applicable to the Arrearage.

13. Beginning April 1, 2012, Hudson shall pay to TLC the Rent for the Premises of \$8,000 per month, in advance on or before the first day of each month during the Term, without notice, demand, deduction, or offset. Payment shall be made to TLC by wire transfer only, pursuant to wire instructions provided by TLC to Hudson. Notwithstanding the foregoing, the April, 2012 payment may be received by TLC not later than 5:00 p.m. on April 3, 2012. Rent for all future months shall be payable on or before the first of such month, even if the first day of a calendar month occurs on a weekend or day the banks are closed.

14. Beginning April 1, 2012, in addition to the monthly base rent of \$8,000, Mr. Hudson will also begin to accrue the obligation to pay, each month, the "Estimated

Additional Rent Payments", which means 1/12<sup>th</sup> of the yearly estimated amount of "Additional Rent" owing under the Lease (i.e., real estate taxes for the Property, annual insurance premiums, and the lease rent owing to the South Carolina Public Service Authority, which are the responsibility of Hudson under the Lease), in advance on or before the first day of each month during the Term, without notice, demand, deduction, or offset; provided, however, that the Estimated Additional Rent Payments shall be deferred for that period from April 1, 2012, until the Initial Closing. The amount of Estimated Additional Rent Payments owing for that period from April 1, 2012 until to the Initial Closing, and which is being deferred hereby, is referred to herein as the "Arreared Additional Rent". The Estimated Additional Rent Payments shall be based on the most recent invoices therefor (e.g., the 2011 taxes for the Property, the most recent insurance premiums, and the most recent SCPA rent amount), but Hudson shall remain liable for the actual amount of such charges in the event the estimated Additional Rent is insufficient (and entitled to a refund in the event of overpayment). After the Initial Closing, the right to defer payment of the Estimated Additional Rent Payments shall lapse, and Hudson shall pay such amounts on or before the first day of each calendar month in addition to the Rent, all by wire transfer to TLC.

15. Having begun to receive the Additional Rent in advance (subject to the deferral thereof prior to the Initial Closing only), TLC shall be responsible for remitting payment of those items to the applicable party (e.g., the Clarendon County tax collector, the insurance company, and SCPA), but Mr. Hudson would remain liable for them as provided in the Lease. Not less than 10 days before those payments are due, Mr. Hudson would remit the difference between those charges and the amount he had previously paid to TLC by way of the monthly Estimated Additional Rent Payments. (For example: the 2012 property taxes for the Property will be due in January, 2013, before Hudson has paid a full year's worth of Estimated Additional Rent Payments. Not later than January 5, 2013, Hudson shall pay to TLC the difference between the actual tax bill and the amount of Estimated Additional Rent Payments allocable to the property taxes, and then TLC would remit those funds to the Clarendon County tax collector.)

16. Mr. Hudson will pay all of the Arrearage not later than the earlier to occur of (a) December 31, 2012; and (b) the closing on the sale of a more than eight (8) acres of the Property pursuant to this Settlement Agreement and the Agreement, whether individually or when aggregated with land previously purchased hereunder. (In other words, at the time that Hudson buys, or causes to be bought, more than eight (8) acres of the Property, whether in a single closing or when combined with land previously purchased, all of the Arrearage must be repaid in addition to the \$145,000 per acre price.)

17. Not later than May 15, 2012, Mr. Hudson will pay to TLC by wire transfer all of the amounts received from Universal Financing since the Lease was executed, which amount totals approximately \$5,000.

18. In the event of any default by Hudson in the payment of amounts owing under this Settlement Agreement, he will be in default of this Settlement Agreement and the Agreement itself, with no grace period and no right to notice of default, and TLC shall be entitled to the relief set forth in Section 4 above.

19. Provided that Mr. Hudson has fully complied with the Settlement Agreement as of December 31, 2012, including repaying the Arrearage in full, and provided that he has paid the 2012 property taxes by that date (which would otherwise be due on January 15, 2013, pursuant to South Carolina law), then, as of December 31, 2012, (a) the Primary Term of the Lease shall be automatically extended until October 31, 2013 (with Hudson entitled to possession of the Premises during such extended Primary Term, upon the terms and conditions of this Settlement Agreement and the Lease as expressly modified hereby); (b) the Purchase Price for the Property will remain \$6,000,000 through October 31, 2013, provided that: (i) the unpaid amount is paid in cash; and (ii) Hudson has provided the Stroman Evidence as provided herein; and (c) the \$500,000.00 promissory note given by Hudson with respect to the purchase of the membership interests in The Big Water Resort, LLC, shall be automatically amended to extend the maturity date thereunder to October 31, 2013. The Agreement is hereby amended to delete any right of Hudson, or obligation of TLC, to permit Hudson to finance the purchase of the Property through the delivery of a promissory note to TLC (as described in Section 1.4(ii) of the Agreement), and the entire Purchase Price shall be paid in cash.

20. Mr. Hudson shall, at his expense, commence paving all private roads, parking lots and recreational vehicle ("RV") parking spaces on the Premises by February 28, 2013, and complete such work not later than May 31, 2013.

21. Not later than April 4, 2012, Mr. Hudson shall deliver to TLC a written statement, signed by him, that neither Mr. Hudson nor any of his companies have made any commitments to anyone on behalf of TLC and/or its members (i.e., Messrs. Clark, Lovell and Thigpen) with respect to the Property, and that any agreements made by Mr. Hudson or any of his companies with respect to the Property have been on behalf of The Big Water Resort, LLC, or another Hudson-company, but not TLC or its members.

22. Provided he is in compliance with this Settlement Agreement, Hudson would continue to have the right to purchase unimproved acreage upon the Property in excess of the Initial Closing Property at the same \$145,000 per acre price as set forth above, up until December 31, 2012 (and, if he complies with the Settlement Agreement, including repaying all of the Arrearage by that date, such deadline would be extended until October 31, 2013 as provided above), but any additional acreage would have to be adjacent to the acreage already purchased unless at or before the closing upon the purchase of such additional, non-contiguous acreage, Hudson repays the Arrearage in full in addition to the \$145,000 per acre price.

23. As a material consideration of this Settlement Agreement, in the event of the termination of the Agreement pursuant to Section 4 above as a result of Hudson breach hereof, then automatically and without further action of the parties, as of the date of such termination (the "Termination Date"), Hudson shall be deemed to have released, forever discharged and promised never to sue TLC, Richard U. Clark, Jimmy S. Lovell, and James C. Thigpen, and their respective agents, attorneys, insurance companies, parent companies, subsidiaries, affiliates, predecessors, successors, or assigns (together, the "TLC Parties"), from any and all injuries, personal or property, known or unknown,

causes of action, demands, warranty claims, damages, suits at law or in equity, of whatsoever kind and nature, or because of any matter or thing done, omitted or suffered to be done, by the TLC Parties, prior to and including the Termination Date, on account of all injuries and damages, including attorneys' fees and litigation expenses, arising from the Lease or the relationship between Hudson, on the one hand, and TLC, Richard U. Clark, Jimmy S. Lovell, and James C. Thigpen, on the other hand, and any causes of action, known or unknown, relating to the Lease, including any and all claims alleged, or which could have been alleged, in the Litigation.

24. As a material consideration of this Settlement Agreement, in the event of the termination of the Agreement pursuant to Section 4 above as a result of Hudson breach hereof, and provided that Hudson has timely vacated the Property in accordance with this Settlement Agreement and surrendered the same to Landlord in the same condition as is required under the terms of the Lease upon a termination or expiration of the Primary Term thereof, then automatically and without further action of the parties, as of the Termination Date, the TLC Parties shall be deemed to have released, forever discharged and promised never to sue Hudson and his agents, attorneys, insurance companies, parent companies, subsidiaries, affiliates, predecessors, successors, or assigns (together, the "Hudson Parties"), from any and all injuries, personal or property, known or unknown, causes of action, demands, warranty claims, damages, suits at law or in equity, of whatsoever kind and nature, or because of any matter or thing done, omitted or suffered to be done, by the Hudson Parties, prior to and including the Termination Date, on account of all injuries and damages, including attorneys' fees and litigation expenses, arising from the Lease or the relationship between Hudson, on the one hand, and TLC, Richard U. Clark, Jimmy S. Lovell, and James C. Thigpen, on the other hand, and any causes of action, known or unknown, relating to the Lease, including any and all claims alleged, or which could have been alleged, in the Litigation.

25. The foregoing terms and conditions are to be strictly enforced, and time is of the essence with regard to each and every term of this Settlement Agreement.

26. The parties further covenant and agree that this written instrument expresses the entire agreement between the said parties, and there is no other agreement oral or otherwise varying or modifying the terms of this Settlement Agreement. This Settlement Agreement will inure to the benefit of and bind the respective heirs, personal representatives, successors, and permitted assigns of the parties to it. If any clause or provision of this Settlement Agreement is determined to be illegal, invalid, or unenforceable under any present or future law by the final judgment of a court of competent jurisdiction, the remainder of this Settlement Agreement will not be affected thereby. It is the intention of the parties that if any such provision is held to be illegal, invalid, or unenforceable, there will be added in lieu thereof a provision as similar in terms to that provision as is possible and be legal, valid, and enforceable.

27. Each and every term, covenant and condition of the Lease is incorporated herein such that the Lease and this Settlement Agreement shall be read and construed as one instrument. The Lease, as hereby amended, remains in full force and effect, and except as expressly stated herein, all terms and conditions of the Lease remain





unchanged. If there is a conflict between this Settlement Agreement and the Lease, then the provisions of this Settlement Agreement shall control.

28. This Settlement Agreement may be executed in counterpart, each of which shall be deemed an original but all of which shall constitute one document. This Settlement Agreement shall not constitute evidence of a settlement between the parties until such time as a counterpart of this document has been executed by each party hereto.

29. This Settlement Agreement and all matters relating thereto shall be governed by and construed and interpreted in accordance with the laws of the State of South Carolina.

[Remainder of Page Left Blank Intentionally]



IN WITNESS WHEREOF, the parties have executed this Settlement Agreement  
as of March 30, 2012.

TLC HOLDINGS, LLC

By: Richard U. Clark  
Richard U. Clark, Its Member

Richard U. Clark  
Richard U. Clark

Jimmy S. Loyell  
Jimmy S. Loyell

James C. Thigpen  
James C. Thigpen

M.B. Hudson a/k/a M.B. Hutson

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IN WITNESS WHEREOF, the parties have executed this Settlement Agreement  
as of March 30, 2012.

TLC HOLDINGS, LLC

By: \_\_\_\_\_

Richard U. Clark, its Member

\_\_\_\_\_  
Richard U. Clark

\_\_\_\_\_  
Jimmy S. Lovell

\_\_\_\_\_  
James C. Thigpen

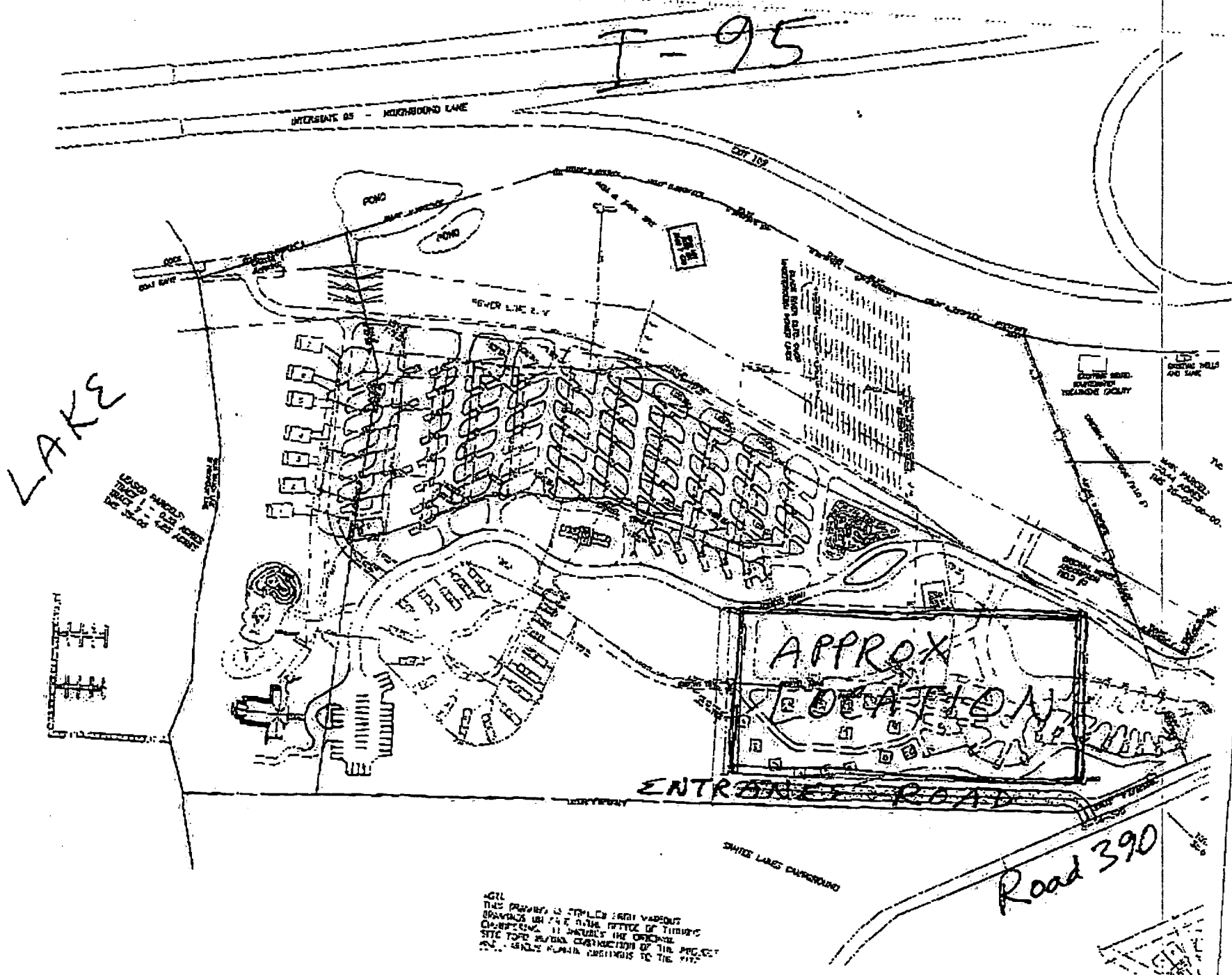
  
\_\_\_\_\_  
M.B. Hudson a/k/a M.B. Hutson

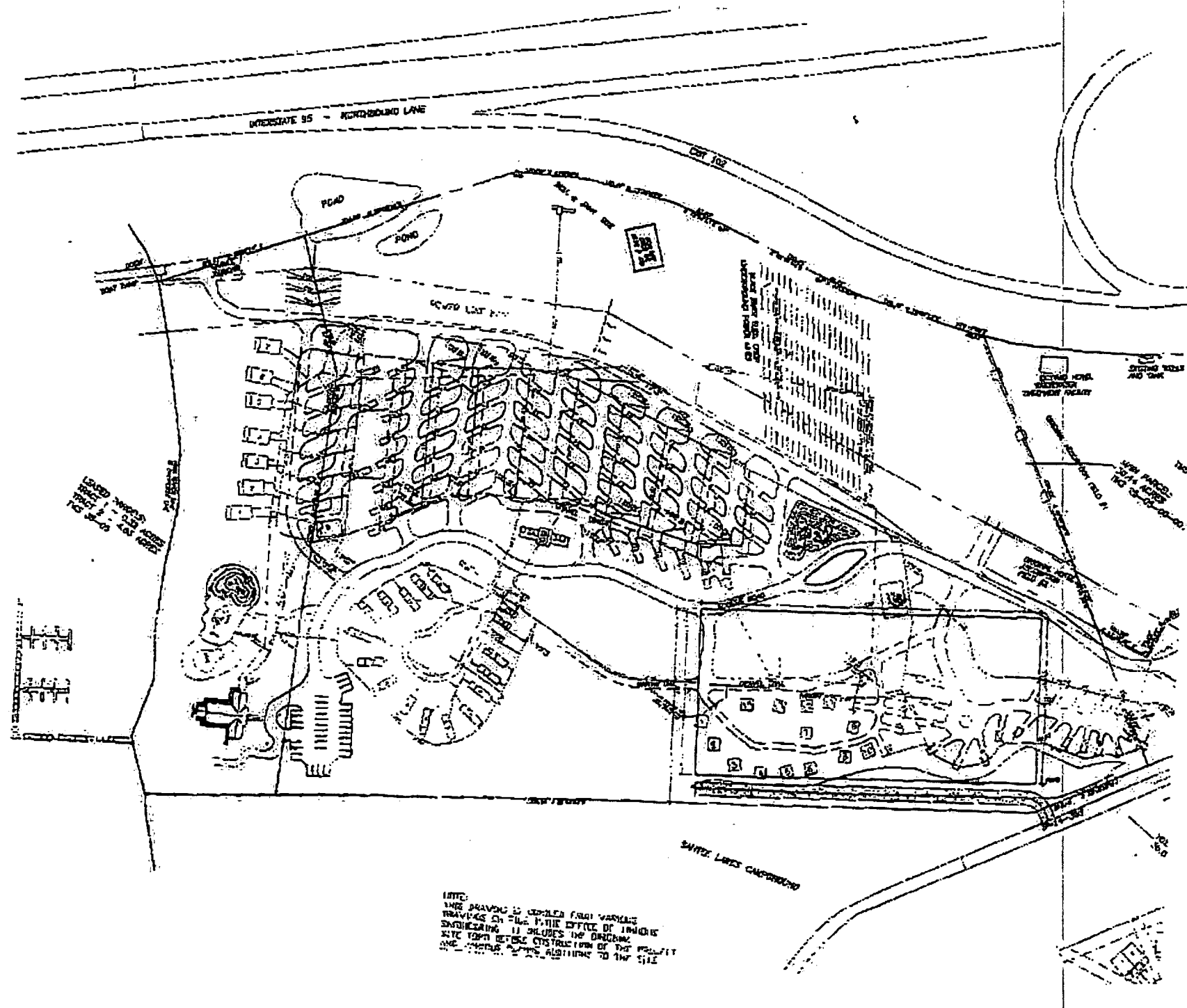
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**EXHIBIT A**

**See attached**

*BA*





NOTE:  
THE DRAWING IS DERIVED FROM VARIOUS  
DRAWINGS ON THE FILE OFFICE OF INDIAN  
ENGINEERING. IT INCLUDES THE ORIGIN  
SITE FROM BEFORE CONSTRUCTION OF THE PROJECT  
AND THE PROPOSED ADDITIONS TO THE SITE

WOMBLE  
CARLYLE  
SANDRIDGE  
& RICE  
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PARTNERSHIP



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Charleston, SC 29401

Mailing Address:  
Post Office Box 999  
Charleston, SC 29402  
Telephone: (843) 722-3400  
Fax: (843) 723-7398  
www.wcsr.com

THOMAS L. HARPER, JR.  
ATTORNEY  
E-Mail: tharper@wcsr.com  
DIRECT DIAL: (843) 720-4648

December 10, 2013

**VIA FEDERAL EXPRESS**

Clarendon County Clerk of Court  
3 W. Keitt Street  
Manning, SC 29102

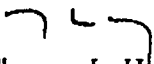
Re: TLC Holdings, LLC vs. M.B. Hudson a/k/a M.B. Hutson, et al.  
Case No. 11-CP-14-602  
WCSR File No.: 78195.0006.0

Dear Sir or Madam:

I enclose duplicate originals of an Affidavit of Default filed on behalf of the Plaintiff TLC Holdings, LLC in the above referenced case. Please return a filed copy to me in the enclosed prepaid Federal Express envelope.

If you need any additional information, please do not hesitate to contact me.

Sincerely,

  
Thomas L. Harper, Jr.

TLHjr/dlh

Enclosures

cc: A. Paul Weissenstein, Jr., Esquire (w/encl.)

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF CLARENDON )

CASE NUMBER: 11-CP-14-602

TLC Holdings, LLC, )

Plaintiff, )

v. )

M.B. Hudson a/k/a M.B. Hutson, )

Defendant. )

**CONSENT ORDER**

M.B. Hudson a/k/a M.B. Hutson, )

Defendant and Third Party Plaintiff, )

v. )

Richard U. Clark, Jimmy S. Lovell and  
James C. Thigpen, )

Third Party Defendants. )

THIS MATTER comes before me pursuant to (a) a Motion for Order Requiring Tenant to Pay All Rent Due, or, in the Alternative, for Appointment of Receiver filed in the above-captioned action by Plaintiff, TLC Holdings, LLC ("Plaintiff", "TLC" or "Landlord"), against Defendant, M.B. Hudson a/k/a M.B. Hutson ("Defendant", "Hudson", or "Tenant"); and (b) a Motion to Dismiss filed by Defendant in this action.

**BACKGROUND AND PROCEDURAL HISTORY**

This action concerns a Lease Purchase Agreement dated December 15, 2010 (the "Lease" or the "Agreement"), by and among Plaintiff, as landlord, Hudson, as tenant, and Richard U. Clark, Jimmy S. Lovell, and James C. Thigpen (the "Third Party Defendants"), for property located in Clarendon County, South Carolina, more fully



described in the Lease and commonly known as the Big Water Resort (the "Premises" or the "Property"). Plaintiff has filed this ejectment action against Defendant with respect to the Agreement. Defendant has also recorded a Lis Pendens in this action against the Premises and the Plaintiff and Third Party Defendants (the "Lis Pendens"). In his Answer and Counterclaim and Affirmative Defense and Motion to Dismiss and Third Party Complaint filed in this action, Hudson has asserted counterclaims against Plaintiff, as well as other claims against the Third Party Defendants. However, the Third Party Defendants have not been served with pleadings filed in this action, and none of the Third Party Defendants have made an appearance in this action.

It appears that the parties have agreed to a settlement of the pending motions, and all other matters at issue with respect to the Agreement, or which could have been asserted in this litigation, on those terms set forth in that certain Settlement Agreement dated as of March 30, 2012, a copy of which is attached hereto as **Exhibit "A"** and its terms incorporated herein by this reference (the "Settlement Agreement").

### ORDER

NOW, THEREFORE, upon Motion of the Plaintiff, and with the consent of the Defendant, as the only parties having appeared in this action, it is hereby

**ORDERED, ADJUDGED AND DECREED** as follows:

1. The Settlement Agreement is hereby approved by this Court and incorporated into this Consent Order by this reference;
2. In the event that Hudson fails to comply with the terms of the Settlement Agreement, unless such failure is a direct and proximate result of TLC's failure to perform an action expressly required of it in the Settlement Agreement, time being of the

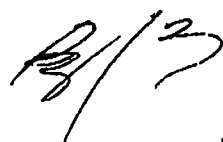


essence, then the Plaintiff is entitled to file an Affidavit of Default in this action, without notice to Defendant or his counsel of record, and, effectively immediately upon the filing of such Affidavit of Default, Plaintiff is hereby awarded the following immediate relief, without the need for further Order of this Court:

- a) The Agreement shall be deemed automatically terminated and of no further force or effect;
- b) The Lis Pendens shall be deemed automatically cancelled, terminated of record, and of no further force or effect;
- c) Mr. Hudson shall be required immediately to vacate the Property, except only with respect to his personal residence located thereon, as to which he shall be obligated to vacate the same within fifteen (15) days following receipt of a copy of the Affidavit of Default, or the posting of a copy of the Affidavit of Default upon such residence, whichever first occurs (the "Vacation Deadline").

3. In the event that Hudson fails to vacate the Premises by the Vacation Deadline, then the Sheriff of Clarendon County is hereby directed to immediately evict Hudson therefrom, remove any personal property then and there remaining on the Premises, and put the Landlord in peaceful possession of the Premises. Landlord is hereby authorized to change the locks of the Premises effective 11:59 p.m. on the Vacation Deadline.

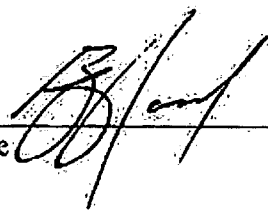
4. Prior to any such default by Hudson under the Settlement Agreement and the Lease as modified by the Settlement Agreement, the Lease remains in full force and effect in accordance with its terms, as modified by this Settlement Agreement, and during



the Primary Term (as defined in the Lease, and as may be extended as provided in the Settlement Agreement), Hudson shall have full possession of the Property in accordance with, and subject to, the terms of the Lease as modified by the Settlement Agreement.

SO ORDERED.

Judge



Manning, South Carolina

April 12, 2012

*[Signatures Continue on Following Page]*



STATE OF SOUTH CAROLINA, COUNTY OF CLARENDON  
IN THE COURT OF COMMON PLEAS  
CASE NO. 11-CP-14-602  
TLC HOLDINGS, LLC, VS. M.B. HUDSON A/K/A M.B. HUTSON

CONSENT ORDER

WE MOVE:

WOMBLE, CARLYLE, SANDRIDGE  
& RICE, LLP

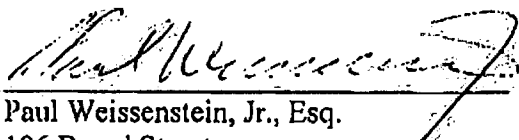
  
Thomas L. Harper, Jr., Esq.  
5 Exchange Street  
Post Office Box 999  
Charleston, SC 29402  
(843) 722-3400

*Attorneys for Plaintiff  
TLC Holdings, LLC*

Charleston, South Carolina  
April 3, 2012

WE CONSENT:

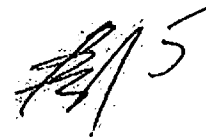
WEISSENSTEIN LAW FIRM, LLC

  
Paul Weissenstein, Jr., Esq.  
106 Broad Street  
Post Office Box 2446  
Sumter, SC 29151  
(803) 418-5700

*Attorneys for Defendant and Third Party  
Plaintiff M.B. Hudson a/k/a M.B. Hutson*

Sumter, South Carolina  
April 3, 2012

[Signatures Continue on Following Page]



STATE OF SOUTH CAROLINA, COUNTY OF CLARENDON  
IN THE COURT OF COMMON PLEAS  
CASE NO. 11-CP-14-602  
TLC HOLDINGS, LLC, VS. M.B. HUDSON A/K/A M.B. HUTSON

CONSENT ORDER

WE AGREE:

TLC HOLDINGS, LLC

  
Richard U. Clark, its Member

April 3, 2012

*Plaintiff and Third Party Defendant*

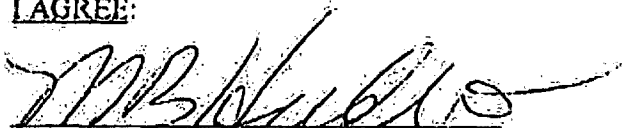
*[Signatures Continue on Following Page]*

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STATE OF SOUTH CAROLINA, COUNTY OF CLARENDON  
IN THE COURT OF COMMON PLEAS  
CASE NO. 11-CP-14-602  
TLC HOLDINGS, LLC, VS. M.B. HUDSON A/K/A M.B. HUTSON

CONSENT ORDER

I AGREE:

  
M.B. Hudson a/k/a M.B. Hutson

April 3, 2012

*Defendant and Third Party Plaintiff*

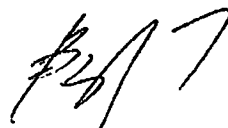


EXHIBIT "A"

(Copy of Settlement Agreement)

SEE ATTACHED

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF CLARENDON )

CASE NUMBER: 11-CP-14-602

TLC Holdings, LLC, )

Plaintiff, )

v. )

M.B. Hudson a/k/a M.B. Hutson, )

Defendant. )

**SETTLEMENT AGREEMENT**

M.B. Hudson a/k/a M.B. Hutson, )

Defendant and Third Party Plaintiff )

v. )

Richard U. Clark, Jimmy S. Lovell and  
James C. Thigpen, )

Third Party Defendants )

Plaintiff, TLC Holdings, LLC, ("Plaintiff", "TLC" or "Landlord"), by and through its undersigned attorneys, and Defendant, M.B. Hudson a/k/a M.B. Hutson ("Defendant", "Hudson", or "Tenant"), by and through his undersigned attorney, hereby agree to a settlement of the above-captioned litigation on the following terms, effective as of March 30, 2012:

1. Reference is made to that certain Lease Purchase Agreement (the "Lease" or the "Agreement") dated December 15, 2010, by and among Landlord, Tenant, Richard U. Clark, Jimmy S. Lovell, and James C. Thigpen for property located in Clarendon County, South Carolina commonly known as the Big Water Resort (the "Premises" or the "Property"). Capitalized terms used in this Settlement Agreement without definition have the meaning given such terms in the Lease.

2. This Settlement Agreement shall be incorporated into a Consent Order (the "Consent Order") entered in the above-referenced case (the "Litigation"). Although Richard U. Clark, Jimmy S. Lovell and James C. Thigpen are parties to this Settlement Agreement by virtue of being parties to the Agreement, and are named as Third Party Defendants in the Litigation, they have not been served with pleadings in the Litigation and shall not be deemed to have appeared in the Litigation by their execution of this Settlement Agreement. This Settlement Agreement shall be binding upon all of the



undersigned parties even though Richard U. Clark, Jimmy S. Lovell and James C. Thigpen have not appeared in the Litigation and are not parties to the Consent Order.

3. Plaintiff and Defendant hereby agree that the arrearage due by Tenant under the Lease totals \$199,969.19 as of March 31, 2012 (the "Arrearage"). The parties acknowledge the Arrearage includes late fees but not interest or Plaintiff's legal fees, which Plaintiff agrees not to include in the Arrearage.

4. Pursuant to the Consent Order, in the event that Mr. Hudson fails to comply with the terms of this Settlement Agreement, unless such failure is a direct and proximate result of TLC's failure to perform an action expressly required of it in this Settlement Agreement, time being of the essence, then the Plaintiff is entitled to the following immediate relief, without further order of the court or notice to Defendant or his attorney: (a) termination of the Agreement, (b) cancelation of the lis pendens filed by Hudson in this action, (c) immediate vacation of the Property by Mr. Hudson except for his personal residence, which shall be vacated within 15 days, enforceable by the Clarendon County sheriff; and (d) the provisions of Section 23 shall be effective. Prior to any such default by Hudson hereunder, the parties acknowledge that the Lease remains in full force and effect in accordance with its terms, as modified by this Settlement Agreement, and during the Primary Term (as may be extended as provided herein), Hudson shall have full possession of the Property in accordance with, and subject to, the terms of the Lease as modified by this Settlement Agreement.

5. Upon entry of the Consent Order, and the preparation of a proposed subdivision plat by Hudson of a portion of the Premises substantially as shown on Exhibit "A" attached hereto, Hudson shall present the proposed subdivision plat to TLC for approval, which shall not be unreasonably withheld. Within five (5) business days after receipt of the proposed Qualified Plat (as defined herein), TLC shall either approve the same or provide Hudson with specific comments thereto. A "Qualified Plat" is a proposed subdivision plat of a portion of the Premises substantially as shown on Exhibit "A" attached hereto, which is prepared by a registered South Carolina land surveyor, and which meets the minimum standards for the practice of land surveying under South Carolina law. The Approval Deadline (as defined below) shall be extended day-for-day for each day beyond such five (5) business day period until TLC provides Hudson with the foregoing approval or comments. Within five (5) business days following receipt of TLC's comments to a Qualified Plat, Hudson shall cause his surveyor to revise the Qualified Plat to address TLC's comments, and resubmit the revised Qualified Plat. If the revised Qualified Plat incorporates TLC's comments, then the Approval Deadline shall be extended day-for-day for each day after the revised Qualified Plat is presented to TLC until TLC either approves the same or provides additional comments thereto to Hudson, which shall be incorporated into the proposed subdivision plat; provided, however, that in no event shall the extension of the Approval Deadline pursuant to this sentence exceed thirty (30) days for any reason. Upon TLC's approval of a proposed subdivision plat, TLC would provide a letter to the Clarendon County Planning Commission, Attn: David Epperson, requesting that the Clarendon County Planning Commission approve the subdivision of the Premises into not less than two (2) adjacent and unimproved acres of the Property, and the further subdivision of such acres into

smaller individual lots, all of which must be contiguous. In addition, by April 3, 2012, TLC's attorney shall write the Clarendon County Planning Commission, Attn: David Epperson, and advise it that, while TLC is reserving its rights under this Settlement Agreement to approve any draft subdivision plat prior to its formal submission to the Planning Commission for consideration and approval – and advising the Planning Commission that no such subdivision plat should be considered by the Planning Commission unless accompanied by a letter from TLC or its counsel approving such proposed plat – TLC requests that Mr. Hudson and his professionals be permitted to consult with Clarendon County officials in conjunction with the preparation of a proposed subdivision for consideration by TLC (and, if approved by TLC, formal submission to the Planning Commission for consideration). Hudson may present alternative proposed subdivision plats to TLC for consideration. Mr. Hudson will pay for the survey(s) and all other expenses necessary to obtain all Approvals (as herein defined). Mr. Hudson will have until July 31, 2012 (as may be extended as provided herein, the "Approval Deadline") to obtain the Approvals (as defined herein). Mr. Hudson will have the right to extend the Approval Deadline for two (2) periods of thirty (30) days each (each, an "Approval Extension") if, prior to the then-applicable Approval Deadline, Mr. Hudson delivers to TLC written notice of his exercise of an Approval Extension, together with payment, by wire transfer, of \$8,000, none of which will be applied to the Purchase Price, but one one-half of which will be applied to the Arrearage, with the remainder not applicable to either the Purchase Price or the Arrearage but instead in consideration of the extension of the Approval Deadline.

6. Once the Clarendon County Planning Commission and any other governmental agency that is required to approve the development of the subdivision of the Property, including appraisals, and bonding of water and sewer installation, grants its approval of the subdivision plat in full and complete so that same can be recorded (the "Approvals"), then Mr. Hudson will have fifteen (15) days to close (the "Closing Deadline") upon his purchase of not less than two (2) acres of the Property pursuant to the approved subdivision plat (such closing being referred to herein as the "Initial Closing", with the portion of the Property being purchased by Hudson at the Initial Closing being referred to herein as the "Initial Closing Property").

7. The Purchase Price for the Initial Closing Property, which must be paid in cash, shall be **\$145,000.00 per acre**, which will be applied to the Purchase Price under the Agreement.

8. THE PARTIES ACKNOWLEDGE THAT THIS SETTLEMENT AGREEMENT IS NOT CONTINGENT UPON HUDSON'S RECEIPT OF THE APPROVALS.

9. At or before the Initial Closing, Mr. Hudson will provide to TLC a written statement from the realtor (Susan Stroman) that she is cancelling her commission contract with TLC and that, in lieu thereof, she will be paid by Mr. Hudson for her commissions for the sale(s) of portions of the Property pursuant to the Agreement as modified by this Settlement Agreement, both with respect to interim sales of acreage, such as the Initial Closing, and the ultimate purchase of the entire Property (the "Stroman Evidence"). In



other words, whatever commission Susan Stroman or her company would be entitled to under the Agreement shall be owing by Mr. Hudson, not TLC, and the Purchase Price to TLC is net of any such commissions (and the Purchase Price owing by Hudson shall be in addition to the commission owing to Stroman or her company). Absent the Stroman Evidence prior to the Initial Closing, TLC shall not be obligated to close, and Mr. Hudson shall be in default of this Settlement Agreement.

10. At the Initial Closing, in addition to the \$145,000 per acre release price which will apply to the Purchase Price, Mr. Hudson will pay to TLC, in cash, the following (together, the "Additional Initial Closing Payments"): (a) the sum of \$140,000.00, to be applied by TLC towards the Arrearage, unless the Initial Closing Property exceeds eight (8) acres, in which case the Arrearage shall be paid in full at the Initial Closing; and (b) the Arreared Additional Rent (as defined herein). The Additional Initial Closing Payments will not be applied to the Purchase Price, and are a material component of this Settlement Agreement, without which TLC shall not be obligated to close upon the sale of such acreage to Mr. Hudson, who would then be in default. However it is anticipated that the Additional Initial Closing Payments will be paid at the Initial Closing, and not prior thereto.

11. If prior to the Closing Deadline, Hudson has any unexercised Approval Extensions (i.e., if he obtained the Approvals prior to having to exercise both of the Approval Extensions), then he shall be permitted to exercise any remaining Approval Extension(s) to extend the Closing Deadline.

12. In addition to the two Approval Extensions described above, Mr. Hudson will have a third (3<sup>rd</sup>) thirty (30) day extension right, which may be used either to extend the Approval Deadline a third time, or to extend the Closing Deadline (the "Third Extension") if, prior to the then-applicable Approval Deadline (if Hudson elects to use the Third Extension to extend the Approval Deadline a third time), or prior to the Closing Deadline (if Hudson elects to use the Third Extension to extend the Closing Deadline), Mr. Hudson delivers to TLC written notice of his exercise of the Third Extension, together with payment, by wire transfer, of \$8,000, none of which will be applied to the Purchase Price or the Arrearage, and is solely an extension fee. For avoidance of doubt: one-half of the Approval Extension fees are applicable to the Arrearage, but none of the Third Extension fee is applicable to the Arrearage.

13. Beginning April 1, 2012, Hudson shall pay to TLC the Rent for the Premises of \$8,000 per month, in advance on or before the first day of each month during the Term, without notice, demand, deduction, or offset. Payment shall be made to TLC by wire transfer only, pursuant to wire instructions provided by TLC to Hudson. Notwithstanding the foregoing, the April, 2012 payment may be received by TLC not later than 5:00 p.m. on April 3, 2012. Rent for all future months shall be payable on or before the first of such month, even if the first day of a calendar month occurs on a weekend or day the banks are closed.

14. Beginning April 1, 2012, in addition to the monthly base rent of \$8,000, Mr. Hudson will also begin to accrue the obligation to pay, each month, the "Estimated

Additional Rent Payments", which means 1/12<sup>th</sup> of the yearly estimated amount of "Additional Rent" owing under the Lease (i.e., real estate taxes for the Property, annual insurance premiums, and the lease rent owing to the South Carolina Public Service Authority, which are the responsibility of Hudson under the Lease), in advance on or before the first day of each month during the Term, without notice, demand, deduction, or offset; provided, however, that the Estimated Additional Rent Payments shall be deferred for that period from April 1, 2012, until the Initial Closing. The amount of Estimated Additional Rent Payments owing for that period from April 1, 2012 until to the Initial Closing, and which is being deferred hereby, is referred to herein as the "Arreared Additional Rent". The Estimated Additional Rent Payments shall be based on the most recent invoices therefor (e.g., the 2011 taxes for the Property, the most recent insurance premiums, and the most recent SCPSA rent amount), but Hudson shall remain liable for the actual amount of such charges in the event the estimated Additional Rent is insufficient (and entitled to a refund in the event of overpayment). After the Initial Closing, the right to defer payment of the Estimated Additional Rent Payments shall lapse, and Hudson shall pay such amounts on or before the first day of each calendar month in addition to the Rent, all by wire transfer to TLC.

15. Having begun to receive the Additional Rent in advance (subject to the deferral thereof prior to the Initial Closing only), TLC shall be responsible for remitting payment of those items to the applicable party (e.g., the Clarendon County tax collector, the insurance company, and SCPSA), but Mr. Hudson would remain liable for them as provided in the Lease. Not less than 10 days before those payments are due, Mr. Hudson would remit the difference between those charges and the amount he had previously paid to TLC by way of the monthly Estimated Additional Rent Payments. (For example: the 2012 property taxes for the Property will be due in January, 2013, before Hudson has paid a full year's worth of Estimated Additional Rent Payments. Not later than January 5, 2013, Hudson shall pay to TLC the difference between the actual tax bill and the amount of Estimated Additional Rent Payments allocable to the property taxes, and then TLC would remit those funds to the Clarendon County tax collector.)

16. Mr. Hudson will pay all of the Arrearage not later than the earlier to occur of (a) December 31, 2012; and (b) the closing on the sale of a more than eight (8) acres of the Property pursuant to this Settlement Agreement and the Agreement, whether individually or when aggregated with land previously purchased hereunder. (In other words, at the time that Hudson buys, or causes to be bought, more than eight (8) acres of the Property, whether in a single closing or when combined with land previously purchased, all of the Arrearage must be repaid in addition to the \$145,000 per acre price.)

17. Not later than May 15, 2012, Mr. Hudson will pay to TLC by wire transfer all of the amounts received from Universal Financing since the Lease was executed, which amount totals approximately \$5,000.

18. In the event of any default by Hudson in the payment of amounts owing under this Settlement Agreement, he will be in default of this Settlement Agreement and the Agreement itself, with no grace period and no right to notice of default, and TLC shall be entitled to the relief set forth in Section 4 above.



19. Provided that Mr. Hudson has fully complied with the Settlement Agreement as of December 31, 2012, including repaying the Arrearage in full, and provided that he has paid the 2012 property taxes by that date (which would otherwise be due on January 15, 2013, pursuant to South Carolina law), then, as of December 31, 2012, (a) the Primary Term of the Lease shall be automatically extended until October 31, 2013 (with Hudson entitled to possession of the Premises during such extended Primary Term, upon the terms and conditions of this Settlement Agreement and the Lease as expressly modified hereby); (b) the Purchase Price for the Property will remain \$6,000,000 through October 31, 2013, provided that: (i) the unpaid amount is paid in cash; and (ii) Hudson has provided the Stroman Evidence as provided herein; and (c) the \$500,000.00 promissory note given by Hudson with respect to the purchase of the membership interests in The Big Water Resort, LLC, shall be automatically amended to extend the maturity date thereunder to October 31, 2013. The Agreement is hereby amended to delete any right of Hudson, or obligation of TLC, to permit Hudson to finance the purchase of the Property through the delivery of a promissory note to TLC (as described in Section 1.4(ii) of the Agreement), and the entire Purchase Price shall be paid in cash.

20. Mr. Hudson shall, at his expense, commence paving all private roads, parking lots and recreational vehicle ("RV") parking spaces on the Premises by February 28, 2013, and complete such work not later than May 31, 2013.

21. Not later than April 4, 2012, Mr. Hudson shall deliver to TLC a written statement, signed by him, that neither Mr. Hudson nor any of his companies have made any commitments to anyone on behalf of TLC and/or its members (i.e., Messrs. Clark, Lovell and Thigpen) with respect to the Property, and that any agreements made by Mr. Hudson or any of his companies with respect to the Property have been on behalf of The Big Water Resort, LLC, or another Hudson-company, but not TLC or its members.

22. Provided he is in compliance with this Settlement Agreement, Hudson would continue to have the right to purchase unimproved acreage upon the Property in excess of the Initial Closing Property at the same \$145,000 per acre price as set forth above, up until December 31, 2012 (and, if he complies with the Settlement Agreement, including repaying all of the Arrearage by that date, such deadline would be extended until October 31, 2013 as provided above), but any additional acreage would have to be adjacent to the acreage already purchased unless at or before the closing upon the purchase of such additional, non-contiguous acreage, Hudson repays the Arrearage in full in addition to the \$145,000 per acre price.

23. As a material consideration of this Settlement Agreement, in the event of the termination of the Agreement pursuant to Section 4 above as a result of Hudson breach hereof, then automatically and without further action of the parties, as of the date of such termination (the "Termination Date"), Hudson shall be deemed to have released, forever discharged and promised never to sue TLC, Richard U. Clark, Jimmy S. Lovell, and James C. Thigpen, and their respective agents, attorneys, insurance companies, parent companies, subsidiaries, affiliates, predecessors, successors, or assigns (together, the "TLC Parties"), from any and all injuries, personal or property, known or unknown,



causes of action, demands, warranty claims, damages, suits at law or in equity, of whatsoever kind and nature, or because of any matter or thing done, omitted or suffered to be done, by the TLC Parties, prior to and including the Termination Date, on account of all injuries and damages, including attorneys' fees and litigation expenses, arising from the Lease or the relationship between Hudson, on the one hand, and TLC, Richard U. Clark, Jimmy S. Lovell, and James C. Thigpen, on the other hand, and any causes of action, known or unknown, relating to the Lease, including any and all claims alleged, or which could have been alleged, in the Litigation.

24. As a material consideration of this Settlement Agreement, in the event of the termination of the Agreement pursuant to Section 4 above as a result of Hudson breach hereof, and provided that Hudson has timely vacated the Property in accordance with this Settlement Agreement and surrendered the same to Landlord in the same condition as is required under the terms of the Lease upon a termination or expiration of the Primary Term thereof, then automatically and without further action of the parties, as of the Termination Date, the TLC Parties shall be deemed to have released, forever discharged and promised never to sue Hudson and his agents, attorneys, insurance companies, parent companies, subsidiaries, affiliates, predecessors, successors, or assigns (together, the "Hudson Parties"), from any and all injuries, personal or property, known or unknown, causes of action, demands, warranty claims, damages, suits at law or in equity, of whatsoever kind and nature, or because of any matter or thing done, omitted or suffered to be done, by the Hudson Parties, prior to and including the Termination Date, on account of all injuries and damages, including attorneys' fees and litigation expenses, arising from the Lease or the relationship between Hudson, on the one hand, and TLC, Richard U. Clark, Jimmy S. Lovell, and James C. Thigpen, on the other hand, and any causes of action, known or unknown, relating to the Lease, including any and all claims alleged, or which could have been alleged, in the Litigation.

25. The foregoing terms and conditions are to be strictly enforced, and time is of the essence with regard to each and every term of this Settlement Agreement.

26. The parties further covenant and agree that this written instrument expresses the entire agreement between the said parties, and there is no other agreement oral or otherwise varying or modifying the terms of this Settlement Agreement. This Settlement Agreement will inure to the benefit of and bind the respective heirs, personal representatives, successors, and permitted assigns of the parties to it. If any clause or provision of this Settlement Agreement is determined to be illegal, invalid, or unenforceable under any present or future law by the final judgment of a court of competent jurisdiction, the remainder of this Settlement Agreement will not be affected thereby. It is the intention of the parties that if any such provision is held to be illegal, invalid, or unenforceable, there will be added in lieu thereof a provision as similar in terms to that provision as is possible and be legal, valid, and enforceable.

27. Each and every term, covenant and condition of the Lease is incorporated herein such that the Lease and this Settlement Agreement shall be read and construed as one instrument. The Lease, as hereby amended, remains in full force and effect, and except as expressly stated herein, all terms and conditions of the Lease remain



unchanged. If there is a conflict between this Settlement Agreement and the Lease, then the provisions of this Settlement Agreement shall control.

28. This Settlement Agreement may be executed in counterpart, each of which shall be deemed an original but all of which shall constitute one document. This Settlement Agreement shall not constitute evidence of a settlement between the parties until such time as a counterpart of this document has been executed by each party hereto.

29. This Settlement Agreement and all matters relating thereto shall be governed by and construed and interpreted in accordance with the laws of the State of South Carolina.

[Remainder of Page Left Blank Intentionally]



IN WITNESS WHEREOF, the parties have executed this Settlement Agreement  
as of March 30, 2012.

TLC HOLDINGS, LLC

By: Richard U. Clark  
Richard U. Clark, Its Member

Richard U. Clark  
Richard U. Clark

Jimmy S. Loyell  
Jimmy S. Loyell

James C. Thigpen  
James C. Thigpen

M.B. Hudson a/k/a M.B. Hutson  
M.B. Hudson a/k/a M.B. Hutson

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IN WITNESS WHEREOF, the parties have executed this Settlement Agreement  
as of March 30, 2012.

**TLC HOLDINGS, LLC**

By: \_\_\_\_\_  
Richard U. Clark, its Member

\_\_\_\_\_  
Richard U. Clark

\_\_\_\_\_  
Jimmy S. Lovell

\_\_\_\_\_  
James C. Thigpen

  
\_\_\_\_\_  
M.B. Hudson a/k/a M.B. Hutson

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**EXHIBIT A**

**See attached**

Handwritten signature and initials, possibly "B/1" or "B/12", written in dark ink.

LAKE

I-95

INTERSTATE 95 - HOUGHBOUND LANE

EXIT 102

POND

POND

POUGH LANE E.V.

CELESTIAL JEWELS  
PHOTO - 125 1000  
1-8

APPROX  
LOCATION

ENTRANCE ROAD

Road 390

WHITE LANE CHURCH

ALL  
THIS DRAWING IS COPIED FROM VARIOUS  
DRAWINGS ON THE SITE OFFICE OF THURTELL  
CONSTRUCTION. IT ACCURATELY REPRODUCES  
THE TOP PLANS EXISTING AT THE TIME OF  
THE DRAWING. NO OTHER INFORMATION IS TO BE  
RELIED UPON FOR THE PROJECT.

## FORM 4

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

## JUDGMENT IN A CIVIL CASE

CASE NO. 2011-CP-14-602M B Hudson

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: \_\_\_\_\_

Attorney for : ☐ Plaintiff ☐ Defendant  
or  
☐ Self-Represented Litigant

## DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☒ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☒ Rule 43(k), SCRPC (Settled); ☐ Other \_\_\_\_\_
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other \_\_\_\_\_
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):  
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other \_\_\_\_\_

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court: Case settled.

## ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : \_\_\_\_\_

## INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

| Judgment in Favor of<br>(List name(s) below) | Judgment Against<br>(List name(s) below) | Judgment Amount To be Enrolled<br>(List amount(s) below) |
|----------------------------------------------|------------------------------------------|----------------------------------------------------------|
|                                              |                                          | \$                                                       |
|                                              |                                          | \$                                                       |
|                                              |                                          | \$                                                       |

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

2/27  
Judge Code4/4/12  
Date

For Clerk of Court Office Use Only

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ to attorneys of record or to parties (when appearing pro se) as follows:

Jana Bebergale

ATTORNEY(S) FOR THE PLAINTIFF(S)

A. P. Weissenstein

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: \_\_\_\_\_

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# CASE HISTORY FOR CASE 2011CP1400602

TLC Holdings LLC VS M B Hudson

FILED DATE: 11/29/2011

CASE TYPE: CP/Real Prop/Other 499

STATUS: Settled

JUDGE: Clerk Of Court C P, G S, And Family Court

## CASE PARTIES:

Plaintiff TLC Holdings LLC

Defendant Hudson, M B

Plaintiff Attorney Baker, Jana Bebergal

5 Exchange Street, P.O. Box 999, Charleston, SC 29402

Defendant Attorney Weissenstein, A. P. Jr.

Attorney at Law, 106 Broad St., Sumter, SC 29150

## CASE HISTORY FOR CASE 2011CP1400602

TLC Holdings LLC

Age: Unknown

DOB: Unknown

DL#:

SSN: 000-00-0000

| COST                                                                 | ORIGINAL | BALANCE DUE | DISBURSED | PAY PRIORITY |
|----------------------------------------------------------------------|----------|-------------|-----------|--------------|
| Action: Summons & Complaint                                          |          |             |           |              |
| Civil Filing Fee County 44%/100%                                     | \$44.00  | \$0.00      | \$44.00   | 999          |
| Civil Filing Fee State 56%                                           | 56.00    | 0.00        | 56.00     | 999          |
| SCJD Filing Fee Proviso \$50 / \$25                                  | 50.00    | 0.00        | 50.00     | 999          |
| Motion/Order Filing Fee \$25                                         | 25.00    | 0.00        | 25.00     | 999          |
| Action: Summons & Complaint                                          |          |             |           |              |
| Civil Filing Fee County 44%/100%                                     | 44.00    | 0.00        | 44.00     | 999          |
| Civil Filing Fee State 56%                                           | 56.00    | 0.00        | 56.00     | 999          |
| SCJD Filing Fee Proviso \$50 / \$25                                  | 50.00    | 0.00        | 50.00     | 999          |
| Action: Lis Pendens (\$10.00)                                        |          |             |           |              |
| Lis Pendens \$10                                                     | 10.00    | 0.00        | 10.00     | 999          |
| Action: Motion/Motion For Order Requiring Tenant to Pay all Rent Due |          |             |           |              |
| Motion/Order Filing Fee \$25                                         | 25.00    | 0.00        | 25.00     | 999          |

Print Date: 04/11/2012

Print Time: 5:26:23PM

Requested By: C14SBRANG

CaseHistory.rpt V6.1

Page 1 of 2

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Total: \$360.00 \$0.00 \$360.00

| DATE      | TIME     | EVENT DESCRIPTION                                                                                                                                                                                                                                          |
|-----------|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1/29/2011 | 3:58 PM  | Filing recorded: Summons & Complaint                                                                                                                                                                                                                       |
| 2/14/2011 | 10:42 AM | Filing recorded: Summons & Complaint                                                                                                                                                                                                                       |
| 2/14/2011 | 10:43 AM | Filing recorded: Other/Verification                                                                                                                                                                                                                        |
| 1/10/2012 | 9:58 AM  | Filing recorded: Affidavit/Affidavit of Service                                                                                                                                                                                                            |
| 1/25/2012 | 4:15 PM  | Filing recorded: Lis Pendens (\$10.00)                                                                                                                                                                                                                     |
| 1/26/2012 | 2:25 PM  | Filing recorded: Affidavit/Affidavit of Service (2)                                                                                                                                                                                                        |
| 1/6/2012  | 9:18 AM  | Filing recorded: Other/Plaintiff's Reply to Counterclaims                                                                                                                                                                                                  |
| 1/6/2012  | 9:19 AM  | Filing recorded: Other/Certificate of Service                                                                                                                                                                                                              |
| 1/21/2012 | 8:27 AM  | Filing recorded: Notice/Notice of Motion                                                                                                                                                                                                                   |
| 1/24/2012 | 8:28 AM  | Motion/Motion For Order Requiring Tenant to Pay all Rent Due                                                                                                                                                                                               |
| 1/11/2012 | 5:22 PM  | Filing recorded: Other/Form 4 Case Settled                                                                                                                                                                                                                 |
| 1/29/2011 | 4:00 PM  | Received payment of \$150 from Jana Bebergal Baker for TLC Holdings LLC. Printed receipt #4705.                                                                                                                                                            |
| 1/30/2011 | 12:14 PM | Received payment of \$25 from Jana Bebergal Baker for TLC Holdings LLC. Printed receipt #4712.                                                                                                                                                             |
| 2/15/2011 | 10:42 AM | Received payment of \$150 from Jana Bebergal Baker for TLC Holdings LLC. Printed receipt #4753.                                                                                                                                                            |
| 1/25/2012 | 4:15 PM  | Received payment of \$10 from Jana Bebergal Baker for TLC Holdings LLC. Printed receipt #4875.                                                                                                                                                             |
| 1/24/2012 | 8:28 AM  | Received payment of \$25 from Jana Bebergal Baker for TLC Holdings LLC. Printed receipt #4947.                                                                                                                                                             |
| 1/12/2012 | 12:00 AM | C14SBRANG recorded the following Case Note: Motion MOFREE - Motion/Motion For Order Requiring Tenant to Pay all Rent Due added to Roster: 13 - Motion's Roster, Wednesday, April 4, 2012 @10:00 A.M.<br>Roster Begin Date 2012-04-04 - End Date 2012-04-04 |
| 1/3/2012  | 12:00 AM | C14SBRANG recorded the following Case Note: Case Settled. Stipulation of Dismissal forthcoming.                                                                                                                                                            |

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

Int Date: 04/11/2012  
Int Time: 5:26:23PM  
Requested By: C14SBRANG

CaseHistory.rpt V6.1

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STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF CLARENDON )  
CASE NO.: 11-CP-14-602

TLC Holdings, LLC,

Plaintiff,

vs.

M.B. Hudson a/k/a M.B. Hutson,

Defendant.

**NOTICE OF MOTION AND MOTION  
FOR ORDER REQUIRING TENANT  
TO PAY ALL RENT DUE, OR, IN THE  
ALTERNATIVE, FOR APPOINTMENT  
OF RECEIVER**

M. B. Hudson a/k/a M. B. Hutson,

Defendant and Third Party Plaintiff,

v.

Richard U. Clark, Jimmy S. Lovell and James  
C. Thigpen,

Third Party Defendants.

The Plaintiff, TLC Holdings, LLC, ("Plaintiff", "TLC" or "Landlord"), landlord of Defendant, M.B. Hudson a/k/a M.B. Hutson ("Defendant", "Hutson", or "Tenant"), hereby moves the court for: (a) an order pursuant to S.C. Code Ann. §§ 27-37-150 and 27-37-155 requiring Tenant to pay Rent (as defined in the Lease) owed to Landlord through January 30, 2012 and Rent that continues to accrue until this Motion is heard; or (b) in the alternative, for an order appointing a receiver to manage the Premises (as defined herein), pursuant to South Carolina Rule of Civil Procedure 66 and S.C. Code Ann. §§ 15-65-10 *et. seq.*

#### **I. Motion for Rents.**

Tenant has failed to comply with the requirements of S.C. Code Ann. §§ 27-37-150 and 27-37-155. Landlord filed a Breach of Lease and Ejectment action on or about December 14,



2011 for Tenant's failure to pay Rent and other sums due under the terms of the Lease Purchase Agreement (the "Lease") dated December 15, 2011, by and among Landlord, Richard U. Clark, Jimmy S. Lovell, and James C. Thigpen, and Tenant, for property located in Clarendon County, South Carolina commonly known as the Big Water Resort (the "Premises"). A copy of the Lease is attached hereto and incorporated herein by reference as Exhibit "A." As shown by the Complaint on file with the Court, Tenant owed Landlord the sum of \$78,186.44 as of November 22, 2011. Rent continues to accrue since the filing of the above-referenced action. Accordingly, as of the date of this Motion and pursuant to the terms of the Lease, the sum of \$165,840.07 as of January 26, 2012 is now due and owing from Tenant to Landlord. A chart showing the amounts due from Tenant to Landlord through January 26, 2012 is attached hereto and incorporated herein by reference as Exhibit "B."

Plaintiff duly served Tenant and its counsel with the Summons, Complaint, Application for Ejectment and Rule to Vacate or Show Cause. Tenant, through his counsel, filed an answer or other responsive pleading in response to the Complaint. Tenant requested a jury trial. However, Tenant failed to pay Landlord Rent in contravention to the terms of the Lease. Therefore, Tenant is in violation of, without limitation, S.C. Code Ann. §§ 27-37-150 and 27-37-155 for failing to pay Landlord Rent through the date of this Motion, which amounts to the sum of \$165,840.07 as of January 26, 2012. Accordingly, Plaintiff is entitled to the immediate payment of \$165,840.07 as of January 26, 2012, together with Rent accruing after that date in accordance with the Lease. If Tenant fails to pay Landlord this amount, then pursuant to S.C. Code Ann. §§ 27-37-150 and 27-37-155, Tenant must be evicted from the Premises without a jury trial.

## II. Motion to Appoint Receiver.

In the alternative to the foregoing, Plaintiff hereby moves for an Order appointing a Receiver to manage the Premises, pursuant to South Carolina Rule of Civil Procedure 66 and South Carolina Code Sections 15-65-10 *et. seq.* Plaintiff requests that the Court grant the Receiver power and authority necessary and appropriate to do the following: (i) to take possession of said Premises, and manage and maintain the same during the pendency of this action; and (ii) to collect the rents, revenues and profits from the Premises, and hold such rents and profits pending further Order of this Court in the foregoing action. Plaintiff does not seek to grant the Receiver the power to operate the "Big Water Club", which is a separate business operation held by a separate entity which is not a party to this action, and which is owned by Hutson, but does seek to empower the Receiver to recover possession of the Premises from Hutson and the Big Water Club if the Rent owing under the Lease is not paid as required thereunder.

The grounds for this motion are that (a) the Plaintiff has an apparent right to the Premises that is the subject of the action by virtue of the termination of the Lease in October, 2011; (b) the Premises is currently in the possession of Hutson, a party adverse to Plaintiff; and (c) the Premises, or its rents, revenues and profits, are in danger of being lost or materially injured or impaired. Without limiting the foregoing, as set forth more fully in the affidavit of Richard U. Clark attached hereto as Exhibit "C", Hutson has failed to pay: (a) the property taxes owing upon the Premises, jeopardizing the loss of the same at a delinquent tax sale if Plaintiff had not paid the taxes itself; (b) various insurance premiums required to be maintained under the Lease, which has caused the possible loss of liability insurance coverage protecting the Premises and

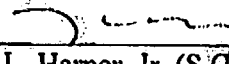
TLC; and (c) rent owing to the South Carolina Public Service Authority for the lakefront portion of the Premises, jeopardizing the value of the remainder of the Premises.

In addition, as set forth more fully in the affidavit of Richard U. Clark, it appears that Hutson intentionally misled Plaintiff about his true identity prior to the execution of the Lease. In numerous conversations, and in the Lease and other documentation executed concurrently therewith by the parties, Defendant identified his surname as "Hudson" when in fact it is "Hutson". A search of the public records indicates that Defendant Hutson has a history of arrests, criminal warrants, and public complaints related to his business practices, facts which Plaintiff was unable to discover before the Lease was signed due to Hutson's intentional misrepresentation of his name. See Clark Affidavit ¶ 13. Those facts would have led TLC to refuse to sign the Lease had it been able to investigate Defendant's true identity before the Lease was signed. See Clark Affidavit ¶¶ 13 and 14. Defendant's prior record, coupled with his concealment of his true identity, evidences that the Premises are in danger while in his possession.

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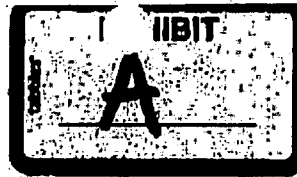
This Motion is based on the exhibits attached hereto, the pleadings on record, any additional supporting and/or responsive affidavits, South Carolina law, and the pleadings on file with the Court, a supporting memorandum to be filed with the Court as well as the argument of counsel. The motion is further based upon such other materials and evidence that may be submitted to the Court at the hearing on this Motion or otherwise.

WOMBLE, CARLYLE, SANDRIDGE & RICE, LLP

  
Thomas L. Harper, Jr. (S.C. Bar # 11335)  
Jana B. Baker (S.C. Bar # 72487)  
5 Exchange Street (29401-2530)  
P.O. Box 999  
Charleston, South Carolina 29402-0999  
Telephone: 843-722-3400

ATTORNEYS FOR PLAINTIFF

February 16, 2012  
Charleston, South Carolina



### LEASE PURCHASE AGREEMENT

THIS LEASE PURCHASE AGREEMENT (this "Agreement") is made as of the \_\_\_\_ day of December, 2010 (the "Effective Date"), by and between **TLC HOLDINGS, LLC**, a South Carolina Limited Liability Company ("TLC" or "Landlord"), **RICHARD U. CLARK, JIMMY S. LOVELL and JAMES C. THIGPEN** (collectively, the "Members", and together with TLC, the "Seller"), and **M. B. HUDSON, AND/OR HIS HEIRS, SUCCESSORS AND PERMITTED ASSIGNEES** ("Purchaser").

#### WITNESSETH:

WHEREAS, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase, (a) the following described premises in Clarendon County, South Carolina, herein sometimes called the "Premises" being more particularly described on the attached EXHIBIT "A" along with all furniture, fixtures, equipment, machinery, vehicles and other personal property that may be owned, leased, licensed or otherwise in the possession of TLC (collectively the "Property") and (b) all membership interests of the Members in TLC (hereinafter "Stock"); and

WHEREAS, from the Effective Date until such time that the sale of the Premises to Purchaser shall be consummated, Seller agrees to lease the Premises to Purchaser as provided below.

NOW, THEREFORE, for and in consideration of the promises and the covenants and agreements herein contained and for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby mutually covenant and agree as follows:

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## SECTION 1 PURCHASE AGREEMENT

1.1. Purchaser hereby agrees to purchase the Premises, Property and Stock from Seller and Seller hereby agrees to sell the Premises, Property and Stock to Purchaser as provided herein. Such purchase transaction shall close not later than December 30, 2012 (the "Closing"), provided, however, that Purchaser may accelerate the Closing by providing Seller written notice of Purchaser's intent to close the transaction no less than (a) ten (10) days from the date of the written request by Purchaser, if all mortgages upon the Premises have previously been satisfied; or (b) ninety (90) days from the date of the written request by Purchaser, if any such mortgage encumbers the Premises.

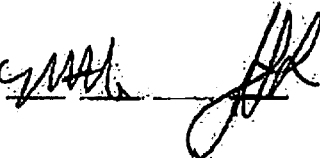
1.2. The parties ultimately intend for this transaction to be a sale of Stock of Seller, which has all right, title and interest in Premises and Property. In such event, the Premises and Property shall remain the property of TLC at Closing, and the Purchaser shall purchase and assume, and the Members shall sell and assign, the Stock in TLC to Purchaser at Closing. The purchase price for the Premises, Property and Stock (the "Purchase Price") shall be either the Incentive Purchase Price or the Standard Purchase Price, as defined herein. In the event Purchaser closes the purchase prior on or before September 1, 2011, the Purchase Price for the Premises, Property and Stock shall be an amount equal to Six Million and 00/100 Dollars (\$6,000,000.00) ("Incentive Purchase Price"). If the closing is after September 1, 2011, the Purchase Price for the Premises, Property and Stock shall be an amount equal to Seven and 00/100 Dollars (\$7,000,000.00) ("Standard Purchase Price").

1.3. Purchaser shall have the exclusive right to close on any portion of the Premises, which is unimproved, in tracts of one (1) acre or more (each, a "Subparcel") at any time during the term of the Agreement for a Purchase Price of One Hundred Forty-Five Thousand and

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00/100 Dollars (\$145,000.00) per acre. Such closing shall occur as soon as practical after written request is sent from Purchaser to Seller pursuant to Section 20, not to exceed ninety (90) days from the date of the written request except in the event the Seller has been unable to obtain a release on said Subparcel(s) from the Bank that currently holds a first position mortgage on the Premises within 90 days following receipt of Purchaser's written request (hereinafter the "Release Period"). If such event occurs prior to September 1, 2011, the right to purchase the Premises for the Incentive Purchase Price shall be extended for one (1) day for each day that Seller fails to obtain a release of the Premises after the expiration of the Release Period. Any such closing proceeds shall be applied to the Purchase Price for the entire Premises.

The parties acknowledge that the Purchaser intends to develop and construct condominiums or other residential dwelling structures on certain portions of the unimproved Premises. In the event Purchaser closes on any one or more unimproved Subparcel(s) as referenced in this Section 1.3, Purchaser shall pay thirty-five percent (35%) of the gross profits from the sale of any and all residential dwelling units to the Seller which shall be applied to reduce the Purchase Price for the entire Premises. As used herein, "gross profits" means the gross sales proceeds, reduced only by Purchaser's actual costs of construction of any improvements on such land. Purchaser shall be prohibited from selling such Subparcel(s), or portions thereof, except as part of the bona fide sale thereof at retail to an arm's length third party purchaser unaffiliated with Seller. If Purchaser fails to close on the entire property within the timeframes set forth in this Agreement, Seller shall have the option to repurchase any undeveloped parcel released under this Paragraph 1.3 for the price paid by Purchaser to Seller for such parcel, and an option to repurchase any improved parcel that has not been resold under the terms of this Paragraph 1.3 for the price paid by Purchaser for such parcel plus the actual costs of

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the improvement(s) undertaken thereon by Purchaser. The provisions of this section shall survive the Closing (until such time as Seller has received the entire Purchase Price owing under this Agreement in cash) and any termination of this Agreement.

1.4. At Closing, the Purchase Price due hereunder, less adjustments and expenses provided herein, will be paid to Seller, either: (i) in cash, by cashier's check, or by wire transfer; or (ii) by Purchaser executing a Promissory Note payable to the Seller for an amount up to and including the full Purchase Price, to be financed for five (5) years at six percent (6.0%) interest per annum, based on a twenty (20) year amortization. Payments on said Promissory Note shall be made monthly to the Seller, with all amounts owing thereunder to be paid not later than the maturity date five (5) years following Closing. The Promissory Note shall be secured by a first position mortgage on the Premises conveyed at said Closing, and by a first-priority, perfected security interest in the Stock.

In the event the \$500,000.00 purchase price for The Big Water Resort, LLC, a South Carolina limited liability company, which has common members of the Seller herein, is financed by Promissory Note made from Purchaser to Members, the terms and conditions of which are more particularly set forth in the Membership Interest Purchase Agreement of even date herewith, then both Promissory Notes shall provide that a default under either one of the Promissory Notes will be deemed a default under the other Promissory Note, thereby permitting Seller to seek all rights and remedies available therein, including but not limited to foreclosure on the Premises and Stock.

1.5. At the Closing, in exchange for the Purchase Price, the Members shall convey to Purchaser or its designee, by assignment agreement, all of the Stock in TLC; provided that, at and as of Closing, TLC hold marketable title to the Premises, subject to (i) utility and drainage

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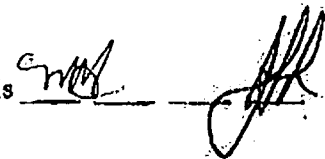


casements of record, (ii) the rights of the public in any streets and highways, if any, adjoining the Land, (iii) zoning and building laws, ordinances, resolutions, and regulations, (iv) ad valorem real estate taxes and assessments for public improvements not due and payable as of the date of closing, and (v) any additional encumbrances subject to which Seller accepted title to the real property being conveyed. Purchaser shall, within ninety (90) days after the Effective Date, investigate Seller's title to the Premises and identify any exceptions to title which are not acceptable to Purchaser (any such exception being referred to herein as a "Title Exception"). Purchaser shall within ninety (90) days after the Effective Date provide Seller notice of any such Title Exception. If Purchaser does not notify Seller in writing of Title Exceptions within ninety (90) days after the Effective Date, then Purchaser shall be deemed to have accepted title to the Premises with all exceptions and conditions. If Purchaser timely notifies Seller of Title Exceptions (other than Title Exceptions that can be cured by the payment of money to satisfy any liens as of the Closing, which Title Exceptions shall be cured as of Closing), Seller may (but shall not be required to) cause all Title Exceptions to be deleted as exceptions from the title commitment, as the case may be, on or prior to thirty (30) days prior to Closing (the "Cure Deadline"). If Seller fails or refuses to cure any Title Exceptions prior to the Cure Deadline, then Purchaser may, as its sole and exclusive remedy for the existence of, or Seller's failure to cure, such Title Exceptions before the Cure Deadline, elect to terminate this Agreement, or waive its right to terminate this Agreement in writing and accept the title commitment with all uncured Title Exceptions. If Purchaser terminates this Agreement pursuant to this Section 1.5, then neither party shall have any further obligation under this Agreement, except for such obligations of the parties as are expressly stated to survive the termination of this Agreement.

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Each party shall be responsible for and shall pay fifty percent (50%) of all other closing costs.

Each party shall be responsible for the fees of its respective counsel.

1.6. Seller shall use the closing proceeds to have any lien or encumbrance on the Premises and Stock released.

1.7. Upon the completion of the purchase transaction, but not prior thereto (whether or not any delay in the completion of or the failure to complete such purchase shall be the fault of Seller), this Agreement and all obligations hereunder (including, but not limited to, the obligations to pay Rent) shall terminate with respect to any portion of the Premises being purchased, provided that neither party shall be released with respect to obligations and liabilities of Purchaser and Seller, actual or contingent, under this Agreement which arose on or prior to the date of the closing of the purchase, or which expressly survive the termination of this Agreement.

1.8. This Purchase Agreement shall not be assigned or transferred by the Purchaser without the prior written consent of Seller, which shall not be unreasonably withheld.

1.9. In the event of any default or breach of Purchaser's obligations under this Section 1, Seller shall be entitled to terminate this Agreement and retain all rent paid hereunder, and in addition, to specifically enforce Purchaser's obligations under Section 11.2 herein. In the event of any default or breach of Seller's obligations under this Section 1, Purchaser may, in the alternative, either terminate this Agreement or requiring specific performance on the part of Seller. Purchaser and Seller each hereby waive the right to money damages against the other party for matters arising out of this Agreement.

1.10. Purchaser hereby acknowledges that Seller has made no representations or warranties regarding the Premises. Purchaser has inspected the Premises to Purchaser's

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complete and total satisfaction. Purchaser (i) is accepting the Premises for purposes of the lease as provided in provisions below; and (ii) at the time of Closing will be purchasing the Premises on an "AS IS" basis, that is, with all defects that may exist, if any, except as otherwise provided herein.

## **SECTION 2 TERM AND POSSESSION**

2.1. Unless the Primary Term is extended upon the mutual agreement of the parties, the primary term of this Agreement (the "Primary Term") shall commence on January 1, 2011 and shall expire on the earlier of December 30, 2012 or the actual date of Closing.

2.2. Possession of the Premises shall pass to Purchaser on January 1, 2011, provided that Purchaser has closed on its purchase of The Big Water Resort, LLC.

## **SECTION 3 PREMISES**

TLC leases the Premises and Property to Purchaser, and Purchaser leases the Premises and Property from TLC, on the terms and conditions set forth in this Agreement.

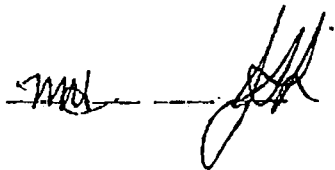
## **SECTION 4 RENT**

During the Primary Term of this Agreement, including any extensions thereof, Purchaser shall pay TLC as rent (the "Rent") for the Premises the sum of Ten Thousand and 00/100 Dollars (\$10,000.00) per month for the first seven (7) months of the Primary Term, and the sum of Eight Thousand and 00/100 Dollars (\$8,000.00) per month for the remaining months in the Primary Term. Rent shall be paid in advance on the first day of each month during the Primary Term, without demand or deduction, to TLC at its notice address for Richard U. Clark as set forth in Section 20, or at such other place as Seller may designate by written notice to Purchaser. The

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first monthly rent payment is due on or before January 1, 2011, being the date that Purchaser receives possession.

**SECTION 5  
TAXES; PERMITTED CONTESTS**

5.1. Purchaser shall pay all real estate taxes and assessments levied against the Premises which become due and payable during the Primary Term. However, any installments of taxes and assessments relating to the periods at the commencement of the Primary Term shall be prorated between Purchaser and TLC based on the number of days during the applicable taxing period each party shall occupy the Premises. Seller shall furnish to Purchaser copies of tax bills together with statements of the amount due from Purchaser. Purchaser shall pay those amounts within 30 days after receipt of Seller's statements. Purchaser shall provide Seller a copy of the receipt from the tax collector as proof of payment within the 30 days from the date of payment. Purchaser's obligations under this Section shall survive the expiration or termination of this Agreement.

5.2. Purchaser shall not be required, nor shall Seller have the right, to pay, discharge, or remove any taxes, charges, liens or encumbrances, or to comply with any legal requirements applicable to the Premises or the Land, as long as Purchaser contests the existence, amount, or validity of the matter in question by appropriate proceedings and Purchaser provides written notice to Seller of such contest proceeding. This right of Purchaser to withhold performances while proceedings are pending shall apply only if Purchaser's proceedings effectively prevent any lien, sale, forfeiture, or loss of the Premises or Land or Seller's rights under this Agreement. Nothing contained in this Section shall be deemed to relieve Purchaser from any obligation to pay the Rent. Purchaser shall pay to Seller at least one hundred (100%) of the contested amount

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as reasonable security (the "Contest Security") as may be demanded by Seller to insure ultimate payment of the amounts and compliance with the legal requirements contested, and/or any potential sale or forfeiture of the Premises or any rent or other sum required to be paid by Purchaser under this Agreement. Seller may use the Contest Security to pay any amount reasonably necessary to release any lien or prevent any sale, forfeiture, or loss of the Premises. Any portion of the Contest Security not required for such purpose shall be returned to the Purchaser.

#### SECTION 6 UTILITIES

During the Primary Term, Purchaser shall obtain and pay for all sewer, water, electric, heat, trash removal, and other utility services furnished to or consumed on the Premises. Seller shall not be required to provide any utility service to Purchaser and shall not be responsible for any interruption in service.

#### SECTION 7 INSURANCE

7.1. Immediately upon commencement of the Primary Term, Purchaser shall procure and maintain, at Purchaser's sole expense (i) employer's liability and worker's compensation insurance as prescribed by applicable law; (ii) comprehensive general liability insurance (with products, completed operations, dramshop and independent contractors coverage) and comprehensive automobile liability insurance, all on an occurrence basis, with single-limit coverage for personal and bodily injury and property damage of at least Five Million Dollars (\$5,000,000) for each occurrence, and (iii) any other insurance as required from time to time by any franchisor. In connection with all significant construction at the Premises during the Primary Term, Purchaser shall cause the general contractor to maintain with an insurer approved by Seller and Purchaser comprehensive general liability insurance (with products, completed

operations and independent contractors coverage) in at least the amount of Five Million Dollars (\$5,000,000) for each occurrence with Seller named as additional insured. Purchaser shall name Seller, franchisor and any mortgagee as additional insureds under these policies.

7.2. Purchaser shall keep the Buildings insured against loss by fire and all the risks and perils usually covered by an "all risk of physical loss" endorsement to a policy of fire insurance upon property comparable to the Premises, in an amount equal to not less than the greater of the replacement cost of the Buildings or the Purchase Price, and with Seller and any other holder of any mortgage on the Premises as additional insureds as their interests may appear.

7.3. The policies required by Sections 7.1 and 7.2 shall contain an agreement by the insurer that it will not cancel the policy except after ten (10) days prior written notice to Seller and Purchaser and that any loss otherwise payable under the policy shall be payable notwithstanding any act or negligence of Seller or Purchaser that might, absent such agreement, result in a forfeiture of all or a part of the insurance payment.

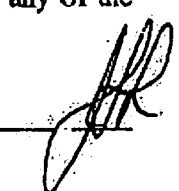
7.4. At the commencement of the term of this Agreement, Purchaser shall deliver to Seller certificates of the insurance required to be maintained under this Section. Purchaser shall also deliver to Seller at least ten (10) days prior to the expiration date of any such policy (or of any renewal policy), certificates for the renewal policy of this insurance.

#### SECTION 8 WAIVER OF LIABILITY AND SUBROGATION

Seller and Purchaser on behalf of themselves and all others claiming under them, including any insurer, waive all claims against each other, including all rights of subrogation, for loss or damage to their respective property (including, but not limited to, the Premises) arising from fire, smoke damage, windstorm, hail, vandalism, theft, malicious mischief, and any of the

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other perils normally insured against in an "all risk of physical loss" insurance policy, regardless of whether insurance against those perils is in effect with respect to such party's property and regardless of the negligence of either party; provided, however, that this release shall be applicable and in force and effect only with respect to loss or damage fully covered by insurance and occurring during such time. As the Purchaser's insurance policy shall contain a clause or endorsement to the effect that any such release shall not adversely affect or impair said policies or prejudice the right of the Purchaser to recover thereunder. If either party so requests, the other party shall obtain from its insurer a written waiver of all rights of subrogation that it may have against the other party. If extra costs shall be charged therefor, each party shall advise the other thereof and of the amount of the extra cost, and the other party at its election, may pay the same, but shall not be obligated to do so.

#### SECTION 9 INDEMNIFICATION

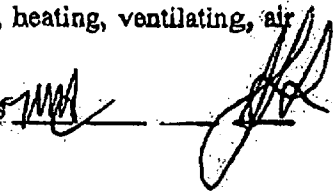
Purchaser shall indemnify and hold Seller harmless against any and all claims, liabilities, damages, or losses resulting from injury or death of any person or damage to property occurring on or about the Premises or in any manner in conjunction with the use and occupancy of the Premises in whole or in part, unless the death, injury, or damage was sustained as a result of any tortuous or negligent act of Seller or Seller's agents.

#### SECTION 10 MAINTENANCE

Seller shall have no obligation for maintenance of the Premises whatsoever. During the Primary Term, Purchaser shall, at its sole expense, (a) maintain the Premises in good condition, including but not limited to all structural, electrical, plumbing, and HVAC, excepting only for reasonable wear and tear; (b) provide all necessary maintenance, repair, and replacements of, and keep in good operating condition, the water, gas, electrical, plumbing, heating, ventilating, air

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conditioning, and all other mechanical and utility systems and facilities serving the Premises; (c) keep the sidewalks, parking areas, and drives on or about the Premises in a clean, sightly, and sanitary condition; (d) maintain and preserve the quantity and quality of the soft goods inventory (e.g., bedding and towels) and all furniture, fixtures, and equipment such as beds, televisions, clocks, lamps, desks, chairs, etc., except for reasonable wear and tear and loss due to the ordinary course of business (collectively, the soft goods and the furniture, fixtures, and equipment shall be referred to herein as the "Personal Property"); and (e) keep all grass mowed, shrubbery trimmed, and the yards free of excessive weed growth, so that the lawns and yards shall at all times be maintained in a neat and presentable condition. Until Purchaser has consummated the purchase of the Premises, Seller shall maintain ownership of the Personal Property, including any additions thereto made in the ordinary course of the operation of the Premises as a resort and campground due to wear and tear. Purchaser shall assume Seller's existing service and maintenance contracts related to the Premises (the "Service Contracts") including, without limitation, any property management system, the pest control agreement, the fire extinguisher service agreement, and any sprinkler system service contract. If Purchaser shall terminate any Service Contracts prior to the expiration of any such contract, Purchaser shall be solely responsible for any early termination expenses. Prior to such time that title to the Premises shall be conveyed to Purchaser, Purchaser shall notify Seller of any proposed changes it intends to make to the Service Contracts. Seller shall have the right, within its reasonable discretion, to approve or reject any proposed changes to the Service Contracts.

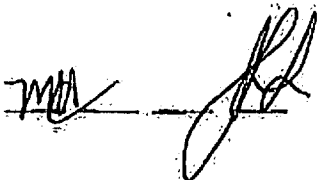
## SECTION 11 ALTERATIONS

11.1. Purchaser shall have the right to make structural modifications, alterations and improvements listed on the attached EXHIBIT "B" without the Seller's prior written approval, in

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addition to paving, installation of sewer water lines, drilling of water wells, obtaining dock permits, obtaining architectural and engineering approval as necessary. Seller may, at Seller's sole discretion, require Purchaser to provide bonds to ensure the construction and completion of any Alterations prior to commencement by Purchaser.

11.2. As part of such Alterations, Purchaser shall repave all private roads, parking lots and recreational vehicle ("RV") parking spaces on the Premises within seven (7) months following execution of this Agreement.

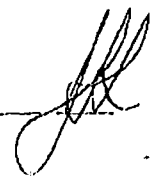
11.3. All modifications, alterations, and improvements shall be made in a good and workmanlike manner and shall not weaken the structure of the Buildings or materially lessen its value. All modifications, alterations, and improvements shall become the property of Seller at the expiration or earlier termination of this Agreement. Purchaser may, without Seller's consent, make nonstructural modifications, alterations, and improvements. Purchaser shall promptly pay its contractors and materialmen for all work done and performed by Purchaser, so as to prevent the assertion or imposition of liens upon or against the Premises.

11.4. Purchaser shall not remove any Personal Property from the Premises without replacing the removed Personal Property with new Personal Property of like quality. Purchaser may, without Seller's consent, install temporary partitions, shelves, bins, equipment, trade fixtures, and other personal property. Those items installed by Purchaser, other than replacement Personal Property as provided elsewhere herein, shall remain Purchaser's property and may be removed by Purchaser prior to the expiration or earlier termination of this Agreement.

11.5. Purchaser shall repair any damage to the Premises caused by that removal. Purchaser shall be solely responsible, at its own expense, for any and all improvements to the Premises required by any governmental or regulatory agency (collectively referred to as

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"Required Improvements"). No amounts spent by Purchaser for the Required Improvements shall reduce or change the Purchase Price in any manner.

## SECTION 12 DAMAGE AND DESTRUCTION

If, during the Primary Term, or any extension thereof, the Premises are damaged by fire or other casualty so as to be rendered untenable either in whole or in substantial part, Purchaser, within thirty (30) days of receipt of any insurance proceeds shall pay the Purchase Price to the Seller and Seller shall deliver a deed to the damaged Premises to Purchaser each as provided in Section 1 above.

## SECTION 13 CONDEMNATION, LOSS OF ACCESS

If (i) all or part of the Premises shall be taken or condemned by a competent authority for a public or quasi-public use or purpose or if there is a negotiated purchase by such authority under threat of a taking (collectively, a "taking"), and if the loss of the part so taken substantially interferes with the use of the Premises by Purchaser, or (ii) due to any such taking, access to the Premises by motor vehicles as operated by Purchaser, its contractors, and its customers in the course of Purchaser's business as previously conducted is impaired or terminated, then Purchaser shall be entitled to all condemnation proceeds due to Seller as a result of such taking and Purchaser shall purchase the Premises from Seller as provided in Section 1 above.

## SECTION 14 DEFAULT

14.1. If any of the following events ("defaults") shall occur: (i) Purchaser fails to pay the rent or any other sums payable by Purchaser under this Agreement (other than those obligations set forth in Section 1), and the failure continues for a period of fifteen (15) business days after the date due and payable; or (ii) Purchaser fails to perform any other obligations under

this Agreement (other than those obligations set forth in Section 1) and the failure continues for thirty (30) days after written notice from Seller, or for an unreasonable period of time if thirty (30) days is not reasonably sufficient time to repair, remedy, or correct the obligation breached, and Purchaser commences cure within such thirty (30) day period and diligently pursues cure to completion, then Seller may re-enter the Premises, with or without terminating this Agreement; and if Seller so elects by giving written notice to Purchaser, Seller also may terminate this Agreement. If Seller at any time terminates this Agreement for any default other than those arising under Section 1, then, in addition to any other remedy it may have, it may recover from Purchaser all reasonable damages it may incur by reason of the default, including the cost of recovering the Premises, specific performance of Purchaser's obligation to purchase the Premises under Section 1, and the value at the time of termination of the excess, if any, of the amount of rent and charges reserved in this Agreement for the remainder of the term over the then reasonable rental value of the Premises for the remainder of the stated term, both figures being discounted to present value. Alternatively, Seller may elect to keep this Agreement in effect and recover monthly from Purchaser an amount equal to the rent and other charges due less the amount, if any, of any rentals which Seller may receive by reletting the Premises; however, nothing contained in this Section shall be deemed to impose upon Seller any duty to relet the Premises beyond the duties to mitigate, if any, imposed by law.

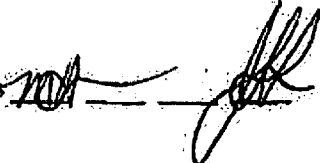
14.2. If Purchaser shall fail to make any payment within fifteen (15) business days after the date due, a late payment of five percent (5%) of the payment shall be due. If Purchaser shall fail to perform any act required to be made or performed under this Agreement, Seller, without waiving or releasing any obligation or default, may (but shall be under no obligation to), at any time, and upon reasonable notice to Purchaser, make the payment or perform the act for the

account of and at the expense of Purchaser, and may enter upon the Premises for that purpose and take all actions as may be necessary to correct Purchaser's breach. No such entry shall be deemed an eviction of Purchaser. All sums so paid by Seller and all costs and expenses (including, but not limited to, reasonable attorneys' fees and expenses) so incurred, together with interest at the rate of ten percent (10%) per annum from the date of payment, shall constitute additional rent and shall be paid by Purchaser to Seller on demand.

14.3. In the event Purchaser is in default under the terms of this Agreement, other than the payment of Rent, then in any such event Seller may provide written notice of such default to Purchaser pursuant to this Section. Upon the expiration of thirty (30) days following the giving of such notice, if Purchaser (i) has failed to cure such default or (ii) in the case of a default (other than the payment of money) which by its nature cannot be completely cured within such thirty (30) day period, Purchaser does not within such period commence to cure the default, and diligently pursue and complete the cure in a reasonable period of time, then in either such event Seller may do all things necessary or desirable to remedy such default and perform the obligations of Purchaser which have not been fully or properly performed. Purchaser hereby irrevocably appoints Seller as his attorney-in-fact to enter upon the property and to complete the Building Improvements and the Purchaser Improvements and perform any other obligation of Purchaser that Purchaser has not fully and properly performed. Purchaser shall immediately upon demand reimburse for all costs and expenses incurred by Seller in connection with the foregoing plus interest to make such payment within thirty (30) days of written demand, and Seller may set off the amount of all costs and expenses incurred by Seller in connection with the foregoing, plus interest at the rate set forth in Section 14.2 against rent payment coming due under this Agreement.

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14.4. The aforementioned 30-day period of time permitted for Seller to cure its default and the periods of time permitted for Purchaser to cure defaults hereunder shall be extended if the default cannot be cured within the time period allowed herein, so long as such party is diligently and continuously attempting to cure. The cure periods shall also be extended for any period of time during which the defaulting party is delayed in, or prevented from, curing due to fire or other casualty, or acts of God, strikes, lockouts, power shortages or outages, enactment, adoption, or promulgation of new laws, or the application or enforcement of laws. Notwithstanding the foregoing, there shall be no extended period in which to cure a monetary default.

#### SECTION 15 USE OF PREMISES

The Premises may be used, occupied, or sublet by Purchaser for the campground, hospitality, resort, retail fuel station and store business and any other uses as may be permitted by law, ordinance and/or zoning regulations and in the ordinary course of business without Seller's prior written consent, except that Purchaser shall not be entitled to request any change in permitted use or zoning laws affecting the Premises prior to Closing absent Seller's prior consent.

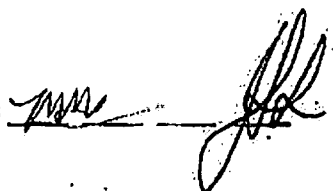
#### SECTION 16 COMPLIANCE WITH LAWS

During the Primary Term, Purchaser, at its expense, shall comply with all present and future laws and regulations applicable to its use and occupancy of the Premises. Purchaser agrees to hold Seller harmless from any cost, expense, or liability that may be imposed or assessed against Seller in connection with Purchaser's noncompliance with any such law, regulation, or requirements.

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# **SECTION 17 REPAIRS**

Purchaser shall be obligated to make, and Seller shall have no responsibility for, any structural repairs, modifications, or additions to the Premises, including, but not limited to, any repairs, modifications or additions to the Premises required pursuant to the Americans with Disabilities Act.

# **SECTION 18 ASSIGNMENT AND SUBLETTING**

In accordance with the campground, hospitality and resort industry, Purchaser shall have the right to sublet all or any portion of the Premises in the normal course of business without the prior written consent of Seller. Notwithstanding the foregoing, Purchaser shall be able to assign this Agreement, whether in whole or in part, with the prior written consent of Seller, which shall not unreasonably be withheld. Any such assignment shall require the Assignee to assume and become bound to perform and observe all of the covenants and agreements of Purchaser under this Agreement. No such assignment shall relieve the assignor of its obligations hereunder..

TLC currently holds a lease from South Carolina Public Service Authority ("SCPSA"). Seller will use its reasonable best effort to obtain any and all approvals for the sublease thereof to Purchaser. Any and all payments to SCPSA under this lease shall be the sole responsibility of Purchaser. Any lease payments previously made to SCPSA by Seller shall be prorated as of January 1, 2011, and on that date, Purchaser shall reimburse Seller for the unexpired portion of the prepaid lease term.

**SECTION 19  
SUBORDINATION OF LEASE**

Seller hereby warrants and represents that the existing lease for the portion of the Premises containing the retail fuel station and store shall be subordinate to this Agreement. Seller hereby assigns to Purchaser any and all rents and income from the retail fuel station and store lease.

**SECTION 20  
NOTICES**

All notices to be given to either party shall be deemed given if made in writing and deposited in the United States mail, postage prepaid, return receipt requested, and addressed to the parties at the following addresses:

**SELLER:**                   TLC HOLDINGS, LLC  
James C. Thigpen  
P.O. Box 1257  
7860 Wash Davis Road  
Summerton, South Carolina 29148

Richard U. Clark  
3124 Great Wood Way  
Knoxville, Tennessee 37922

Jimmy S. (Steve) Lovell  
20 Ambriance Drive  
Burr Ridge, Illinois 60527

**PURCHASER:**           M. B. HUDSON  
c/o ANDREW F. TUCKER, ESQ.  
385 2<sup>nd</sup> Avenue, Suite 1  
Dayton, Tennessee 37321

Either party may change its notice address by giving notice of the change to the other.

## SECTION 21 MORTGAGES AND LIENS

Seller currently has two (2) liens encumbering the Premises. It is clearly understood between the parties that Seller shall not allow any further or additional liens to be placed or encumber the Premises at any time during the Primary term or any extension thereof.

There are two pending actions relating to the campground property in the Court of Common Pleas for Clarendon County, South Carolina, one captioned *First Citizens Bank vs. Thigpen, et al.*, Case No. 08-CP-14-559, and the second captioned *Edwards vs. TLC Holdings, et al.*, Case No. 09-CP-14-58. Seller covenants, consents and agrees that these actions shall be dismissed or otherwise addressed on or before Closing on the entire Premises, so that said pending legal actions shall in no way encumber the Property or hinder said Closing. There is no other pending or threatened litigation, nor any legal or administrative action of any kind or character whatsoever, affecting the Property or any portion thereof.

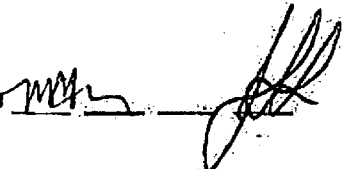
Purchaser shall not permit any liens, whether consensual, judgment or statutory, to be placed on or encumber the Premises. Should any such lien be asserted or filed, Purchaser shall bond against or discharge the same within ten (10) days after written request by Seller. In the event Purchaser fails to remove said lien within said ten (10) days, Seller may, at its sole option, elect to satisfy and remove the lien by paying the full amount claimed or otherwise, without investigating the validity thereof. Seller's election to discharge liens as provided hereunder shall not be construed to be a waiver or cure of Purchaser's default hereunder

## SECTION 22 SUCCESSORS AND ASSIGNS

Subject to the provisions of Section 14, this Agreement shall bind and inure to the benefit of the respective heirs, personal representatives, successors, and permitted assigns of Seller and Purchaser.

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**SECTION 23  
PURCHASER'S PROPERTY**

All trade fixtures, furnishings, equipment, and other personal property placed or maintained on the Premises shall be at Purchaser's sole risk, and Seller shall not be liable for any loss or damage to such property from any cause whatsoever, and shall not provide any insurance on such property.

**SECTION 24  
QUIET ENJOYMENT**

Seller covenants that, if Purchaser pays the rent and performs all of its obligations under this Agreement, Purchaser shall peaceably and quietly enjoy and possess the Premises throughout the term subject only to the conditions set forth in this Agreement.

**SECTION 25  
SIGNS**

Any and all signs placed on the Premises by Purchaser shall be maintained in compliance with all applicable governmental laws and regulations.

**SECTION 26  
NONWAIVER**

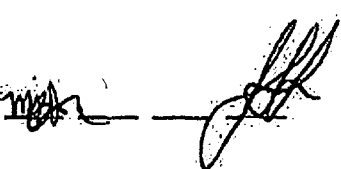
No waiver of any condition or covenant of this Agreement by either party shall be deemed to imply or constitute a further waiver of the same or any other condition or covenant, and nothing contained in this Agreement shall be construed to be a waiver on the part of Seller of any right or remedy in law or otherwise.

**SECTION 27  
RIGHT OF ENTRY**

Upon reasonable notice to Purchaser, Seller shall have the right to enter the Premises during normal business hours to examine its condition; to make any repairs Seller deems

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necessary for the safety, preservation, or improvement of the Premises. Each entry by Seller in accordance with this Section 27 shall be made in such a manner as will not unreasonably interfere with Purchaser's use of the Premises.

## **SECTION 28 ENVIRONMENTAL MATTERS**

28.1. Seller represents and warrants to Purchaser that to the best of Seller's knowledge, as of the date hereof, no "Hazardous Substances" (as hereafter defined), or any other toxic material or medical waste are present on or in the Building or Land, other than fuel sold by the convenience store; or other amounts used in the ordinary course of the businesses operated upon the Premises (and, as to those, all are in material compliance with applicable law), and Seller shall indemnify Purchaser against any and all claims, demands, liabilities, losses and expenses, including consultant fees, court costs and reasonable attorneys' fees, arising out of any breach of the foregoing warranty.

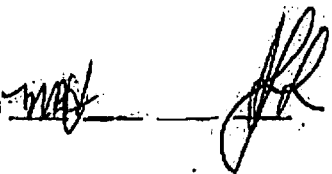
28.2. Except for Hazardous Substances or other toxic materials or medical waste brought, kept, or used in the Premises in commercial quantities similar to those quantities usually kept on similar premises by others in the same business, profession, or medical specialty, and which are used and kept in compliance with applicable public health, safety, and environmental laws, Purchaser shall not allow any Hazardous Substance or other toxic material or medical waste to be located in, on, or under the Premises or allow the Premises to be used for the manufacturing, handling, storage, distribution, or disposal of any Hazardous Substance or other toxic material.

28.3. Purchaser shall at all times and in all respects comply with all federal, state, or local laws, ordinances, regulations, and orders applicable to the Premises or the use thereof relating to industrial hygiene, the handling, storage and disposal of medical waste, environmental

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protection, or the use, analysis, generation, manufacture, storage, disposal, or transportation of any Hazardous Substance, toxic material, or medical waste.

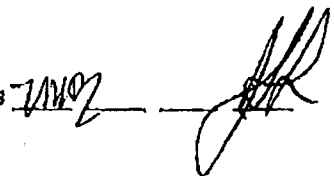
28.4. If Purchaser becomes aware of the presence of any Hazardous Substance in or on the Premises (except for those Hazardous Substances or other toxic material or medical waste brought, kept, or used in the Premises by Purchaser in commercial quantities similar to those quantities usually kept on similar premises by others in the same business, profession, or medical specialty and which are used and kept in compliance with applicable public health, safety, and environmental laws) or if Purchaser, or the Premises, becomes subject to any order of any federal, state, or local agency to repair, close, detoxify, decontaminate, or otherwise cleanup the Premises, Purchaser shall, at its own cost and expense, carry out and complete any repair, closure, detoxification, decontamination, or other cleanup of the Premises; provided that Purchaser shall not be responsible for any of the foregoing relating to any Hazardous Substance, or other toxic materials, or medical waste located on, in, or under the Premises on the date of this Agreement, all of which shall be the responsibility of Seller pursuant to Section 28.1. If Purchaser fails to implement and diligently pursue any such repair, closure, detoxification, decontamination, or other cleanup of the Premises, Seller shall have the right, but not the obligation, to carry out such action and to recover all of the costs and expenses from Purchaser.

28.5. "Hazardous Substances" as such term is used in this Agreement means any hazardous or toxic substance, material, or waste regulated or listed pursuant to any federal, state, or local environmental law, including without limitation, the Clean Air Act, the Clean Water Act, the Toxic Substances Control Act, the Comprehensive Environmental Response Compensation and Liability Act, the Resource Conservation and Recovery Act, the Federal Insecticide, Fungicide, Rodenticide Act, the Safe Drinking Water Act, and the Occupational Safety and

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Health Act, except for any reference to petroleum or petroleum products. The parties hereby acknowledge that the Premises has a retail gasoline and diesel service station located thereon, and any reference to Hazardous Substances specifically exclude petroleum or petroleum products.

#### **SECTION 29 PARTIAL INVALIDITY**

If any provision of this Agreement or its application to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of that provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

#### **SECTION 30 MEMORANDUM OF LEASE**

In addition to the execution of this Agreement, the parties shall execute a memorandum of this agreement in recordable form, which, in addition to the matters which may be required by applicable law, shall also include a description of the Premises leased hereunder, and those provisions (other than the amount of rent and the Purchase Price) requested by any party hereto.

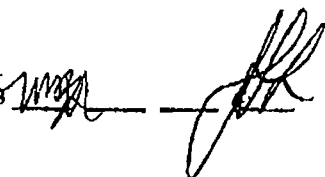
#### **SECTION 31 ENTIRE AGREEMENT**

This Agreement contains the entire agreement between the parties and cannot be amended unless the amendment is in writing and executed by the party against whom the enforcement of the amendment is sought.

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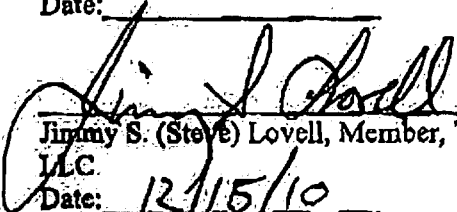
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IN WITNESS WHEREOF, this Agreement has been executed as of the date and year  
written herein below.

**SELLER:**  
**TLC Holdings, LLC**

James C. Thigpen, Member, TLC Holdings, LLC  
Date: \_\_\_\_\_

Richard U. Clark, Member, TLC Holdings, LLC  
Date: \_\_\_\_\_

  
Jimmy S. (Steve) Lovell, Member, TLC Holdings,  
LLC.  
Date: 12/15/10

**PURCHASER:**

  
M. B. Hudson

Date: 12/16/10

[Signatures on Next Page]

IN WITNESS WHEREOF, this Agreement has been executed as of the date and year  
written herein below.

**SELLER:**  
TLC Holdings, LLC

  
James C. Thigpen, Member, TLC Holdings, LLC  
Date: 12/15/10

Richard U. Clark, Member, TLC Holdings, LLC  
Date: \_\_\_\_\_

Jimmy S. (Steve) Lovell, Member, TLC Holdings,  
LLC  
Date: \_\_\_\_\_

**PURCHASER:**

  
M. B. Hudson  
Date: 12/15/10

IN WITNESS WHEREOF, this Agreement has been executed as of the date and year  
written herein below.

**SELLER:**  
**TLC Holdings, LLC**

James C. Thigpen, Member, TLC Holdings, LLC  
Date: \_\_\_\_\_

Richard U. Clark  
Richard U. Clark, Member, TLC Holdings, LLC  
Date: 12/15/2010

Jimmy S. (Steve) Lovell, Member, TLC Holdings,  
LLC  
Date: \_\_\_\_\_

**PURCHASER:**

M. B. Hudson  
M. B. Hudson

Date: 12/15/2010

EXHIBIT A \_ A legal description of the TLC real property

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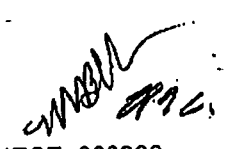
  
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**EXHIBIT A****A. CAMPGROUND KNOWN AS BIG WATER RESORT:**

All that certain piece, parcel or tract of land lying, being and situate in School District No. 1 of Clarendon County, South Carolina, containing 30.44 acres according to plat hereinafter described and measuring and bounding as follows: beginning at an old iron found on the North bound exit ramp right of way from Interstate 95 at Exit 102, thence N 62 degrees 24'24" E for 3.66 feet along the right of way to a concrete monument, thence N 62 degrees 08'56" E for 120.09 feet along the right of way to an iron, thence N 70 degrees 36'47" E for 160.27 feet along the right of way to an iron, thence N 79 degrees 57'21" E for 93.40 feet along the right of way to a concrete monument, thence N 82 degrees 19'44" E for 190.85 feet along the right of way to a concrete monument, thence N 81 degrees 00'07" E for 82.23 feet along the right of way to an iron, thence N 74 degrees 05'12" E for 189.38 feet along the right of way to an iron, thence N 72 degrees 17'50" E for 38.91 feet along the right of way to an iron, thence S 56 degrees 09'56" E for 439.73 feet along the property line of lands being conveyed to Lee-Moore Oil Company, Inc. to an iron, thence S 56 degrees 09'26" E for 114.35 feet along the property line of land being conveyed to Lee-Moore Oil Company, Inc. to an iron, thence S 56 degrees 09'26" E for 253.97 feet along the property line of W. R. Williams to a concrete monument found on the 33 foot right of way of SC Highway S-14-390, thence S 33 degrees 10'55" W for 219.18 feet along the right of way to an iron, thence S 56 degrees 49'43" W for 1356.96 feet along the property line of Robert Malanuk to a concrete monument, thence N 25 degrees 40'07" W for 660.32 feet along the property line of the South Carolina Public Service Authority to an iron, thence N 25 degrees 42' W for 77.70 feet along the property line of the South Carolina Public Service Authority to a concrete monument, thence N 47 degrees 35' W for 248.5 feet along the property line of the South Carolina Public Service Authority to an iron, thence N 39 degrees 05'14" E for 394.98 feet along the right of way of Interstate 95 to the point of beginning. SUBJECT HOWEVER, to an easement to the Carolina Power and Light Company recorded in Deed Book A-26 at Page 165, also easement for absorption field recorded in Deed Book A-61 at Page 342, also sign lot and right of way recorded in Deed Book A-126 at page 478 and an easement from W. R. Williams, et al recorded in Deed Book A-109 at Page 551. SUBJECT to Black River Electric Coop. Power line easement as shown on plat described below. Subject to any visible and unrecorded easements and right of ways not revealed by current survey.

For a more particular description, reference may be had to a plat by H. F. Oliver, Surveyor, dated February 19, 1988, recorded in the Office of the RMC for Clarendon County in Plat Book 39 at page 123.



FOR DERIVATION, SEE BELOW.

Said tract being designated as Clarendon Tax Map No. 035-05-00-001-00.

**TRACT II:**

ALSO: All that piece, parcel, or tract of land lying, being and situate in School District No. 1 of Clarendon County, South Carolina, containing 3.21 acres on a plat hereinafter referred to, and bounding and measuring as follows: on the Northeast by SC Highway S-14-400 and measuring thereon 243.71 feet; on the Southeast by SC Highway S-14-390 and measuring thereon 618.30 feet; on the Southwest by lands of Lee Moore Oil Company, Inc. and measuring thereon 253.99 feet; on the Northwest by lands of Lee Moore Oil Company, Inc. and measuring thereon 755.15 feet.

For a more particular description of said tract reference may be had to a plat made by H. F. Oliver, Surveyor, dated March 15, 1988, recorded in the Office of the RMC for Clarendon County in Plat Book 44 at Page 36.

Said tract being designated as Clarendon Tax Map No. 035-06-02-007-00.

Said tracts having been conveyed to TLC Holdings, LLC by Deed of The Big Water Resort, LLC, dated 23 April, 2003, recorded on 9 May, 2003 in the Office of the RMC for Clarendon County in Deed Book A-497 at Page 00009.

TOGETHER WITH the Leasehold interest in that certain Lease between the Seller and the South Carolina Public Service Authority, pertaining to the waterfront property adjacent to the premises above described.

All buildings, fixtures, equipment used in the operation of the campground facility located on the above described premises.

SUBJECT HOWEVER to those certain Restrictive Covenants dated 3 November, 2003, recorded in the Office of the RMC for Clarendon County and any Amendments thereto and subject to certain Contracts between the Optionor and members of The Big Water Resort and others.

SUBJECT FURTHER, to all easements and rights of way of record.

B. CONVENIENCE STORE. That certain convenience store facility and the lands adjacent thereto known as "Big Water Country Store and Restaurant" described as follows:

All that piece, parcel or tract of land with buildings and improvements located thereon lying, being and situate Northwest of the Intersection of SC Highway S-14-390 and SC Highway S-14-400 in School District 1 of Clarendon County, South Carolina, containing 3.73 acres, being designated as Tract 2A on the plat

*MBA*

hereinafter referred to and bounding and measuring as follows: On the Northeast by Tract B on said plat and measuring thereon 439 feet; on the Southeast by the right of way of SC Highway S-14-400 and measuring thereon 318.4 feet; on the South by the intersection of SC Highway S-14-390 and SC Highway S-14-400, and measuring thereon 68.4 feet; On the Southwest by right-of-way of SC highway S-14-390, and measuring thereon 367.8 feet; on the Northwest by the arc of the curve of an intersection of an access strip and SC Highway S-14-390 and measuring thereon along said arc 50.58 feet and by said access strip and measuring thereon 338 feet.

For a more particular description of said tract, reference may be had to a plat made by H.F. Oliver, RLS, dated February 23, 1973, recorded in the Office of the Clerk of Court for Clarendon County in Plat Book 25 at Page 94, whereon said tract is designated as Tract 2A.

**FOR DERIVATION, SEE BELOW.**

Said premises being designated as Clarendon Tax Map Parcel N. 035-06-02-005-00.

**ALSO:**

All that certain piece, parcel, or tract of land, lying, being, and situate in School District No. 1 of the County of Clarendon, State of South Carolina, containing 2.50 acres and being designated as Tract B-1, according to plat hereinafter described and measuring and bounding, now or formerly, as follows: On the Northeast by lands of Ruby P. Levi, and measuring thereon 428.96 feet; On the Southeast by Tract B-2, and measuring thereon 304.55 feet; On the Southwest by lands of H.F. Swilley, a 50 foot access strip and lands of C&M Petroleum, and measuring thereon 281.99 feet; and on the Northwest by Highway Right-of-Way, and measuring thereon 340.64 feet.

For a more particular description, reference may be had to a plat by R.G. Mathis Land Surveying dated November 2, 1988, and recorded in the Office of the Clerk of Court of Clarendon County in Plat Book 42 at Page 86.

**ALSO:**

All of that certain piece, parcel, or strip of land, shown as an "Access Strip" on that certain plat prepared by H.F. Oliver, RLS, dated February 23, 1973, and recorded in the Office of the Clerk of Court in Plat Book 25 at Page 94, according to which plat, said property is bounded, now or formerly, and measures as follows: On the Northeast by Tract B on said Plat and measuring thereon a distance of 50 feet; On the Southeast by Tract 2-A and measuring thereon a distance of 338 feet; On the Southwest by the right-of-way of S.C. Highway S-14-390; and on the Northwest by Tract 1-A, and measuring thereon a distance of 338 feet.

*ma*

SUBJECT, HOWEVER, to such easements of right-of-way for utilities and roadways as shall appear upon said plats.

FOR DERIVATION, SEE BELOW.

Above Tract B-1 and Access Strip being designated as Clarendon TMP#035-06-02-008-00.

**ALSO:**

All that piece, parcel, or tract of land together with any improvements located thereon, lying and being situate in Clarendon County, South Carolina, being designated as Tract B-2 on the plat hereinafter referred to, containing 2.5 acres and bounding, now or formerly, and measuring as follows: On the North by lands of Ruby P. Levi and measuring thereon 357.64 feet; On the East by the right-of-way of South Carolina Highway S-14-400, and measuring thereon 304.55 feet; On the South by lands of H.F. Swilley and measuring thereon 357.64 feet; On the West by Tract B-1 on said Plat, and measuring thereon 304.55 feet.

Above tracts having been conveyed to TLC Holdings, LLC by Deed of Santee Interstate Systems, Inc., Shawn M. Reardon and Cynthia C. Reardon by Deed dated 18 September, 2003, and recorded in the Office of the RMC for Clarendon County in Deed Book A-508, at Page 310.

Said lot begin designated as Clarendon County Tax Map Parcel No. 035-06-02-002-00.

Together with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise appertaining to the above tracts.

**C. ROGER'S TRACT**

All that certain piece, parcel or tract of land, lying, being and situate in the County of Clarendon, State of South Carolina, containing 57.81 acres, more or less, being described as follows: Beginning at an iron new ly placed on the 33 foot right-of-way of South Carolina Highway S-14-300, thence, North 30 degrees, 50 feet, 7 inches, East for 3346.76 feet along the 33 right-of-way of South Carolina Highway S-14-390 and South Carolina Highway S-14-400 to an old concrete monument. Thence, North 77 degrees, 20 feet, 33 inches, East for 71.68 feet along a site angle created by a 90 degrees Bend in South Carolina Highway S-14-400 to an old concrete monument. Thence, South 58 degrees, 20 feet, 23 inches, East for 1555.29 feet along the right-of-way of South Carolina Highway 400 to a new iron. Thence, South 71 degrees, 39 feet, 58 inches, West for 908.20 feet along the property line of the South Carolina Public Service Authority to an old concrete monument. Thence, South 49 degrees, 33 feet, 49 inches, West for 350.86 feet along the property line of the South Carolina Public Service Authority to an old concrete monument. Thence, South 45 degrees, 50 feet, 18 inches, West for 1076.74 feet



along the property line of the South Carolina Public Service Authority to an old concrete monument. Thence, South 64 degrees, 37 feet, 33 inches, West for 634.11 feet along the property line of the South Carolina Public Service Authority to an old concrete monument. Thence, South 56 degrees, 47 feet, 48 inches, West for 524.93 feet along the property line of the South Carolina Public Service Authority to an old concrete monument. Thence, South 57 degrees, 28 feet, 19 inches, West for 350.08 feet along the property line of Robert Malenvik to the point of beginning.

For a more particular description of said tract, reference may be had to a plat made by H. F. Oliver, RLS, dated 17 March 1988, recorded in the Office of the Clerk of Court for Clarendon County in Plat Book 39 at Page 204.

Said premises having been conveyed to TLC Holdings, LLC by deed of Rodney L. Rogers dated May 19, 2008 and recorded May 21, 2008 in the Office of the Clerk of Court for Clarendon County in Deed Book A-699 at Page 275.

Said tract being designated as Clarendon County Tax Map Parcel Number 035-00-00-013-00.



EJECT\_000271

**EXHIBIT B - A list of improvements that Purchaser wishes to make w/o additional approvals  
from Seller.**

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

(02008344.)

27

Initials

*AKC - WMB*

EJECT\_000272

1613

**EXHIBIT B****(Amounts Owed by Defendant under Lease Purchase Agreement as of 1/26/12)**

|                                          |             |                      |
|------------------------------------------|-------------|----------------------|
| <b>BASE RENT, CALCULATED AS FOLLOWS:</b> |             | <b>\$58,000.00</b>   |
| July 2011                                | \$10,000.00 |                      |
| August 2011                              | 8,000.00    |                      |
| September 2011                           | 8,000.00    |                      |
| October 2011                             | 8,000.00    |                      |
| November 2011                            | 8,000.00    |                      |
| December 2011                            | 8,000.00    |                      |
| January 2012                             | 8,000.00    |                      |
| <b>RENT DUE AND OWING TO SCPSA</b>       |             | <b>\$22,860.00</b>   |
| <b>LIABILITY INSURANCE</b>               |             | <b>\$13,326.44</b>   |
| (1) \$5679.85                            |             |                      |
| (2) \$7646.59                            |             |                      |
| <b>PROPERTY TAXES</b>                    |             | <b>\$71,653.63</b>   |
| <b>TOTAL</b>                             |             | <b>\$165,840.07*</b> |

\* -- Exclusive of (but Plaintiff reserves the right to collect, pursuant to the terms of the Lease Agreement) interest, late fees, and Plaintiff's attorneys' fees and litigation costs, together with other damages and amounts allowed under the Lease Purchase Agreement or applicable law, all of which are to be added to the foregoing amounts and are owing by Defendant.



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|                                             |   |                                      |
|---------------------------------------------|---|--------------------------------------|
| STATE OF SOUTH CAROLINA                     | ) | IN THE COURT OF COMMON PLEAS         |
|                                             | ) |                                      |
| COUNTY OF CLARENDON                         | ) | CASE NO.: 11-CP-14-602               |
|                                             | ) |                                      |
| TLC Holdings, LLC,                          | ) |                                      |
|                                             | ) |                                      |
| Plaintiff,                                  | ) |                                      |
|                                             | ) | <b>AFFIDAVIT OF RICHARD U. CLARK</b> |
| vs.                                         | ) |                                      |
|                                             | ) |                                      |
| M.B. Hudson a/k/a M.B. Hutson,              | ) |                                      |
|                                             | ) |                                      |
| Defendant.                                  | ) |                                      |
| <hr/>                                       |   |                                      |
| M. B. Hudson a/k/a M. B. Hutson,            | ) |                                      |
|                                             | ) |                                      |
| Defendant and Third Party Plaintiff,        | ) |                                      |
|                                             | ) |                                      |
| v.                                          | ) |                                      |
|                                             | ) |                                      |
| Richard U. Clark, Jimmy S. Lovell and James | ) |                                      |
| C. Thigpen,                                 | ) |                                      |
|                                             | ) |                                      |
| Third Party Defendants.                     | ) |                                      |
| <hr/>                                       |   |                                      |

COMES NOW, Richard U. Clark, who, being duly sworn, deposes and says as follows:

1. I am a Member of Plaintiff TLC Holdings, LLC ("TLC" or the "Company"), and have personal knowledge of the matters contained in this affidavit. I am duly authorized by TLC to give this affidavit on its behalf.
2. I have read the Complaint, the Application for Ejectment, and the Motion for Order Requiring Tenant to Pay All Rent Due or, in the Alternative, for Appointment of Receiver (the "Motion") filed in this action by Plaintiff and know the contents thereof, and the same are true to the best of my knowledge, except as to the matters therein stated to be on information and belief, and as to those matters, I believe them to be true.



3. In or around December, 2010, I was introduced to the Defendant in this action, M.B. Hudson a/k/a Morris B. Hutson ("Defendant" or "Hutson"). In the numerous conversations I had with him, he consistently identified himself as being named "M.B. Hudson".

4. Hutson approached TLC about purchasing the Clarendon County real property which is the subject of this action and which is commonly known as the Big Water Resort (the "Property"). At the time that he approached us, the Property was not listed or being actively marketed for sale.

5. When Hutson approached us and offered to purchase the Property, he originally offered to structure the transaction as a traditional purchase agreement whereby he would purchase the Property within 60 business days following the date the contract was signed, paying the entire purchase price at that closing. There was no lease component in his initial proposal.

6. However, before a purchase agreement was signed, and while he was conducting his due diligence investigations about the Property, Hutson discovered that there was no available water and sewer capacity to support the construction of new development at the Property, and that future development of the Property would require the extension or expansion of additional sewer facilities to the Property. He disclosed this information to Steve Lovell (another TLC member) and me before any agreement was executed.

7. Hutson advised Lovell and me that, in light of the additional time and money that such infrastructure would require, he wanted to structure our agreement not as an "all cash" purchase within 60 business days following the date the contract was signed, but instead as a "lease/purchase" arrangement, which included both (a) a right to purchase the Property within two years (not 60 business days), and (b) a lease of the Property, which would permit Hutson, during the course of up to two years, to take possession of the Property, paying monthly rent and operating expenses related

thereto, and operating the Big Water Club thereon, while he proceeded to extend or expand water and sewer capacity to the Property in order to facilitate the future development he envisioned.

8. The foregoing discussions occurred prior to the drafting and negotiation of the Lease Purchase Agreement which is the subject of this action.

9. Based on the statements Hutson made to me prior to the execution of any agreement, I am informed and believe that he was fully aware of the lack of water and sewer capacity for future development at the Property before he executed the Lease Purchase Agreement.

10. Hutson had his attorney prepare the Lease Purchase Agreement, including his requested 2-year lease of the Property. That Lease Purchase Agreement (the "Lease", the "Lease Purchase Agreement", or the "Agreement") was executed on or about December 15, 2010, by and among TLC, Defendant, Lovell, James C. Thigpen and me.

11. Pursuant to the commercial lease contained within the Agreement, TLC delivered possession of the Property to Hutson, who has remained in possession of the Property since that time.

12. After the Lease was executed, I learned that the Defendant is not named "M.B. *Hudson*", as he had identified himself in all prior communications with Lovell and me, but is instead named "Morris B. *Hutson*". In numerous conversations with Lovell and me, and in various legal documents executed by him and TLC in conjunction with the Lease, the Defendant had always identified his last name as "Hudson".

13. After discovering that the Defendant's true last name was "Hutson", and not "Hudson", I conducted an investigation of "Morris Hutson". In the course of that investigation, I obtained evidence from a public records search that revealed, among other things, that Hutson had been an interstate fugitive from Georgia, extradited from the State of Florida, and had been involved

in real estate or business transactions in Tennessee and Georgia for which the other parties had filed or posted public complaints against his conduct.

14. Irrespective of whether these public records showing the existence of civil and criminal complaints against the Defendant are true and correct – and I am not saying that they are – TLC, Lovell and I would not have executed the Agreement with the Defendant had we known of the existence of those complaints and records beforehand.

15. Upon information and belief, had Hutson disclosed his true identity to Lovell and me prior to the execution of the Lease, allowing us to investigate him adequately, we would have discovered complaints and records against him, and TLC and we would not have executed the Lease Purchase Agreement.

16. Since the Lease was executed, Hutson has failed to pay TLC, the landlord under the Lease, rent and other sums due under the terms of the Lease. As shown by the Complaint on file with the Court, Tenant owed Landlord the sum of \$78,186.44 as of November 22, 2011. Rent continues to accrue since the filing of the above-referenced action.

17. As of January 26, 2012, Hutson owes TLC the sum of \$165,840.07 under the terms of the Lease, exclusive of interest, late fees, and Plaintiff's attorneys' fees and litigation costs, all of which are owing under the terms of the Lease. A schedule showing the amounts due from Tenant to Landlord through January 26, 2012 is attached hereto and incorporated herein by reference as Exhibit "A".

18. Pursuant to the Lease Purchase Agreement, as a result of Hutson's numerous breaches thereof, TLC terminated the Lease Purchase Agreement as of October 17, 2011, by written notice delivered to Hutson.

19. Despite the termination of the Lease Purchase Agreement in October, 2011, and despite not having paid Rent owing since July, 2011, more than seven (7) months ago, Hutson has continued to occupy the Property and refuses to vacate the same.

20. Despite not having paid the Rent owing to TLC under the Lease, Hutson has continued to receive rents, revenues and profits from the Property, including, without limitation, rents owing by the truck stop operator and rents received from certain cabin or storage rentals. In addition, Hutson is operating his business, the Big Water Resort, upon the Property, and, upon information and belief, he is collecting dues and other revenues from his Big Water Resort club members.

21. Without limiting the foregoing, Hutson has also failed to pay rent owing to South Carolina Public Service Authority for a portion of the Big Water Resort situated along Lake Marion, as required under the Lease. As a result of Hutson's failure, TLC was required to pay such amounts to protect the leasehold interest. The amounts that TLC advanced, which are properly owing by Hutson to TLC, are shown on **Exhibit "A"**.

22. Hutson has failed to pay the real estate taxes owing upon the Property, as required under the Lease. As a result of Hutson's failure, TLC was required to pay such amounts to avoid delinquency and possible tax sale of the Property. The amounts that TLC advanced, which are properly owing by Hutson to TLC, are shown on **Exhibit "A"**.

23. Hutson has failed to pay the insurance owing upon the Property, as required under the Lease. As a result of Hutson's failure, TLC was required to pay the premiums on such policies to protect the Property. The amounts that TLC advanced, which are properly owing by Hutson to TLC, are shown on **Exhibit "A"**.

24. In early February, I received another notice that the insurance that Hutson is required to maintain under the Lease to protect the Property and TLC was scheduled to be cancelled for nonpayment of premiums. TLC advanced funds to pay the premium on the prior policy (the amounts of which are included on Exhibit "A"), but that policy is about to lapse and, according to this February notice, Hutson has failed to pay this premium, further jeopardizing TLC and the Property to uninsured liability.

25. I am informed and believe that Hutson has failed to pay certain utility bills owing for the Property, as required under the Lease. I am informed and believe that as a result of Hutson's failure, electricity service to the Property was suspended during this winter, which jeopardized the Property and improvements thereon.

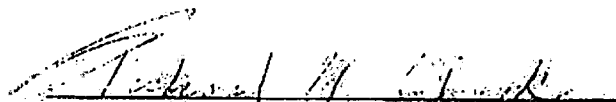
26. Since the Lease was executed, Hutson has collected various rentals, dues and revenues from the lease or operation of the Property, all without paying the rent he owes to TLC as landlord under the Lease, as well as the taxes, insurance, and certain other operating expenses pertaining to the Property.

27. As a result of Hutson's breach of the Lease, TLC terminated the Lease, and is entitled to possession of the Property.

28. The property remains in the possession of Hutson, who is retaining the rents and profits thereof, all of which, along with the Property itself, are in danger of being lost or materially injured or impaired.

29. I am informed and believe that Defendant does not have sufficient working capital to preserve and protect the rents and profits derived from the Property, further jeopardizing those revenues to which Plaintiff is entitled under the Loan Documents.

FURTHER AFFIANT SAYETH NOT.

  
Richard U. Clark

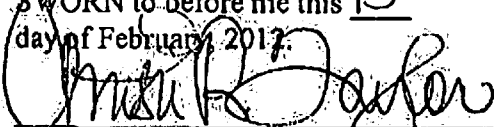
SWORN to before me this 15<sup>th</sup>  
day of February, 2017.  
  
Notary Public for Tennessee  
My Commission Expires: 11-30-2013



**EXHIBIT A****(Amounts Owning by Defendant under Lease Purchase Agreement as of 1/26/12)**

|                                          |             |                      |
|------------------------------------------|-------------|----------------------|
| <b>BASE RENT, CALCULATED AS FOLLOWS:</b> |             | <b>\$58,000.00</b>   |
| July 2011                                | \$10,000.00 |                      |
| August 2011                              | 8,000.00    |                      |
| September 2011                           | 8,000.00    |                      |
| October 2011                             | 8,000.00    |                      |
| November 2011                            | 8,000.00    |                      |
| December 2011                            | 8,000.00    |                      |
| January 2012                             | 8,000.00    |                      |
| <b>RENT DUE AND OWING TO SCPSA</b>       |             | <b>\$22,860.00</b>   |
| <b>LIABILITY INSURANCE</b>               |             | <b>\$13,326.44</b>   |
| (1)                                      | \$5679.85   |                      |
| (2)                                      | \$7646.59   |                      |
| <b>PROPERTY TAXES</b>                    |             | <b>\$71,653.63</b>   |
| <b>TOTAL</b>                             |             | <b>\$165,840.07*</b> |

\* -- Exclusive of (but Plaintiff reserves the right to collect, pursuant to the terms of the Lease Agreement) interest, late fees, and Plaintiff's attorneys' fees and litigation costs, together with other damages and amounts allowed under the Lease Purchase Agreement or applicable law, all of which are to be added to the foregoing amounts and are owing by Defendant.

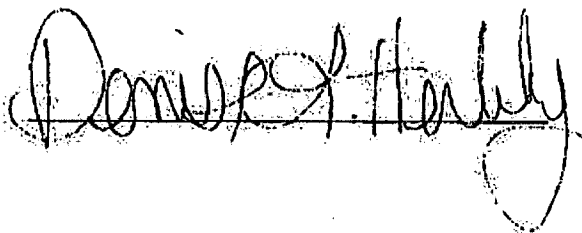
CERTIFICATE OF SERVICE

I do hereby certify that on the 16<sup>th</sup> day of February, 2012, I served a copy of the within *NOTICE OF MOTION AND MOTION FOR ORDER REQUIRING TENANT TO PAY ALL RENT DUE, OR, IN THE ALTERNATIVE, FOR APPOINTMENT OF RECEIVER* to Counsel of Record in the within entitled matter by sending a copy of the same in an envelope with the correct postage prepaid addressed to:

Paul Weissenstein, Jr.  
Weissenstein Law Firm, LLC  
106 Broad Street  
P.O. Box 2446  
Sumter, SC 29151-2446

ATTORNEYS FOR DEFENDANT

WOMBLE CARLYLE SANDRIDGE & RICE, LLP

A handwritten signature in black ink, appearing to read "Denise G. Hardy", is written over a horizontal line.



STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

TLC HOLDINGS, LLC

Plaintiff,

vs.

M.B. HUDSON a/k/a M.B. HUTSON

Defendant.

IN THE COURT OF COMMON PLEAS  
THIRD JUDICIAL CIRCUIT

CASE NO.: 2011-CP-14-602

MOTION AND ORDER INFORMATION  
FORM AND COVERSHEET

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                 |                                                                         |                                                         |                                                              |                                                 |                                          |                                                        |                                                        |                                                 |                                                                |                                                                                |                                                                            |  |                               |  |                                       |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|---------------------------------------------------------|--------------------------------------------------------------|-------------------------------------------------|------------------------------------------|--------------------------------------------------------|--------------------------------------------------------|-------------------------------------------------|----------------------------------------------------------------|--------------------------------------------------------------------------------|----------------------------------------------------------------------------|--|-------------------------------|--|---------------------------------------|--|
| <b>Plaintiff's Attorney:</b><br>Thomas L. Harper, Jr., Bar No. 11553<br>Address:<br>Womble Carlyle Sandridge & Rice, LLP<br>PO Box 999, Charleston, SC 29402<br>Phone: 843/722-3400 Fax 843/723-7398<br>E-mail: tharper@wcsr.com Other: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>Defendant's Attorney:</b><br>Paul Welssenstein, Jr., Bar No. _____<br>Address:<br>Welssenstein Law Firm, LLC<br>106 Broad Street, PO Box 2446<br>Sumter, SC 29151-2446<br>Phone: 803/418-5700 Fax 803/934-1505<br>E-mail: _____ Other: _____ |                                                                         |                                                         |                                                              |                                                 |                                          |                                                        |                                                        |                                                 |                                                                |                                                                                |                                                                            |  |                               |  |                                       |  |
| <input checked="" type="checkbox"/> <b>MOTION HEARING REQUESTED</b> (attach written motion and complete SECTIONS I and III)<br><input type="checkbox"/> <b>FORM MOTION, NO HEARING REQUESTED</b> (complete SECTIONS II and III)<br><input type="checkbox"/> <b>PROPOSED ORDER/CONSENT ORDER</b> (complete SECTIONS II and III)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                 |                                                                         |                                                         |                                                              |                                                 |                                          |                                                        |                                                        |                                                 |                                                                |                                                                                |                                                                            |  |                               |  |                                       |  |
| <b>SECTION I: Hearing Information</b><br>Nature of Motion: Motion for Order Requiring Tenant to Pay All Rent Due, et al.<br>Estimated Time Needed: 15 minutes      Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                 |                                                                         |                                                         |                                                              |                                                 |                                          |                                                        |                                                        |                                                 |                                                                |                                                                                |                                                                            |  |                               |  |                                       |  |
| <b>SECTION II: Motion/Order Type</b><br><input checked="" type="checkbox"/> Written motion attached<br><input type="checkbox"/> Form Motion/Order<br>I hereby move for relief or action by the court as set forth in the attached proposed order.<br><br><div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="width: 60%;">           Signature of Attorney for <input type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant         </div> <div style="width: 35%; text-align: right;">           Date submitted: 2/16/12         </div> </div>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                 |                                                                         |                                                         |                                                              |                                                 |                                          |                                                        |                                                        |                                                 |                                                                |                                                                                |                                                                            |  |                               |  |                                       |  |
| <b>SECTION III: Motion Fee</b><br><input checked="" type="checkbox"/> <b>PAID - AMOUNT: \$</b><br><input type="checkbox"/> <b>EXEMPT:</b> (check reason) <table style="width: 100%; margin-top: 5px;"> <tr> <td><input type="checkbox"/> Rule to Show Cause in Child or Spousal Support</td> <td><input type="checkbox"/> State Agency v. Indigent Party</td> </tr> <tr> <td><input type="checkbox"/> Domestic Abuse or Abuse and Neglect</td> <td><input type="checkbox"/> Post-Conviction Relief</td> </tr> <tr> <td><input type="checkbox"/> Indigent Status</td> <td><input type="checkbox"/> Motion for Stay in Bankruptcy</td> </tr> <tr> <td><input type="checkbox"/> Sexually Violent Predator Act</td> <td><input type="checkbox"/> Motion for Publication</td> </tr> <tr> <td><input type="checkbox"/> Motion for Execution (Rule 69, SCRCP)</td> <td><input type="checkbox"/> Proposed order submitted at request of the court; or,</td> </tr> <tr> <td colspan="2">reduced to writing from motion made in open court per judge's instructions</td> </tr> <tr> <td colspan="2">Name of Court Reporter: _____</td> </tr> <tr> <td colspan="2"><input type="checkbox"/> Other: _____</td> </tr> </table> |                                                                                                                                                                                                                                                 | <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support | <input type="checkbox"/> State Agency v. Indigent Party | <input type="checkbox"/> Domestic Abuse or Abuse and Neglect | <input type="checkbox"/> Post-Conviction Relief | <input type="checkbox"/> Indigent Status | <input type="checkbox"/> Motion for Stay in Bankruptcy | <input type="checkbox"/> Sexually Violent Predator Act | <input type="checkbox"/> Motion for Publication | <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) | <input type="checkbox"/> Proposed order submitted at request of the court; or, | reduced to writing from motion made in open court per judge's instructions |  | Name of Court Reporter: _____ |  | <input type="checkbox"/> Other: _____ |  |
| <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <input type="checkbox"/> State Agency v. Indigent Party                                                                                                                                                                                         |                                                                         |                                                         |                                                              |                                                 |                                          |                                                        |                                                        |                                                 |                                                                |                                                                                |                                                                            |  |                               |  |                                       |  |
| <input type="checkbox"/> Domestic Abuse or Abuse and Neglect                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <input type="checkbox"/> Post-Conviction Relief                                                                                                                                                                                                 |                                                                         |                                                         |                                                              |                                                 |                                          |                                                        |                                                        |                                                 |                                                                |                                                                                |                                                                            |  |                               |  |                                       |  |
| <input type="checkbox"/> Indigent Status                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <input type="checkbox"/> Motion for Stay in Bankruptcy                                                                                                                                                                                          |                                                                         |                                                         |                                                              |                                                 |                                          |                                                        |                                                        |                                                 |                                                                |                                                                                |                                                                            |  |                               |  |                                       |  |
| <input type="checkbox"/> Sexually Violent Predator Act                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <input type="checkbox"/> Motion for Publication                                                                                                                                                                                                 |                                                                         |                                                         |                                                              |                                                 |                                          |                                                        |                                                        |                                                 |                                                                |                                                                                |                                                                            |  |                               |  |                                       |  |
| <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <input type="checkbox"/> Proposed order submitted at request of the court; or,                                                                                                                                                                  |                                                                         |                                                         |                                                              |                                                 |                                          |                                                        |                                                        |                                                 |                                                                |                                                                                |                                                                            |  |                               |  |                                       |  |
| reduced to writing from motion made in open court per judge's instructions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                 |                                                                         |                                                         |                                                              |                                                 |                                          |                                                        |                                                        |                                                 |                                                                |                                                                                |                                                                            |  |                               |  |                                       |  |
| Name of Court Reporter: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                 |                                                                         |                                                         |                                                              |                                                 |                                          |                                                        |                                                        |                                                 |                                                                |                                                                                |                                                                            |  |                               |  |                                       |  |
| <input type="checkbox"/> Other: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                 |                                                                         |                                                         |                                                              |                                                 |                                          |                                                        |                                                        |                                                 |                                                                |                                                                                |                                                                            |  |                               |  |                                       |  |
| <b>JUDGE'S SECTION</b><br><input type="checkbox"/> Motion Fee to be paid upon filing of the attached order.<br><input type="checkbox"/> Other: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>JUDGE CODE</b> _____<br><br>Date: _____                                                                                                                                                                                                      |                                                                         |                                                         |                                                              |                                                 |                                          |                                                        |                                                        |                                                 |                                                                |                                                                                |                                                                            |  |                               |  |                                       |  |

**CLERK'S VERIFICATION**

Collected by: \_\_\_\_\_ Date Filed: \_\_\_\_\_

☐ MOTION FEE COLLECTED: \$ \_\_\_\_\_

☐ CONTESTED - AMOUNT DUE: \$ \_\_\_\_\_

SCCA 233 (11/2003)

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WOMBLE  
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A PROFESSIONAL LIMITED  
LIABILITY COMPANY

February 16, 2012

5 Exchange Street  
Charleston, SC 29401

Mailing Address:  
Post Office Box 999  
Charleston, SC 29402  
Telephone: (843) 722-3400  
Fax: (843) 723-7398  
www.wcsr.com

THOMAS L. HARPER, JR.  
ATTORNEY AT LAW  
E-Mail: [tharper@wcsr.com](mailto:tharper@wcsr.com)  
DIRECT DIAL: 843-720-4636  
FAX: 843-723-7398

**VIA FEDERAL EXPRESS**

Clarendon County Clerk of Court  
Clarendon County Courthouse  
3 West Keitt Street  
Manning SC 29102

Re: TLC Holdings, LLC vs. M.B. Hudson a/k/a M.B. Hutson,  
Case No. 11-CP-14-602  
WCSR File No. 78195.0006.0

Dear Sir/Madam:

Please find enclosed for filing in the above matter the original and one copy of the Plaintiff's Notice of Motion and Motion for Order Requiring Tenant to Pay all Rent Due, Or, In the Alternative, For Appointment of Receiver. I have also enclosed the motion coversheet and our check in the sum of \$25.00. Please return a clocked in copy to me in the envelope provided. By copy of this letter I am serving the Defendant, through his counsel of record, with the same. Thank you for your assistance in this matter.

Sincerely yours,

*Thomas L. Harper, Jr.*

Thomas L. Harper, Jr.

TLH/dlh  
Enclosure(s)  
Cc: Paul Weissenstein, Esquire (w/encl.)

WCSR 7141511v1

EJECT\_000285

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ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

STATE OF SOUTH CAROLINA  
COUNTY OF CLARENDON

IN THE COURT OF COMMON PLEAS  
THIRD JUDICIAL CIRCUIT CASE NUMBER:  
CASE NO.: 2011-CP-14-602

TLC Holdings, LLC,

Plaintiff,

v.

M. B. Hudson a/k/a M. B. Hutson,

Defendant.

**PLAINTIFF'S REPLY TO  
COUNTERCLAIMS**

M. B. Hudson a/k/a M. B. Hutson,

Defendant and Third Party Plaintiff,

v.

Richard U. Clark, Jimmy S. Lovell and James  
C. Thigpen,

Third Party Defendants.

Plaintiff TLC Holdings, LLC ("Plaintiff"), responding to the Counterclaims of Defendant M. B. Hudson a/k/a M. B. Hutson ("Hutson" or "Defendant"), respectfully shows this Court as follows:

**FOR A FIRST DEFENSE**

1. Plaintiff denies each and every allegation contained in the Answer and Counterclaim and Affirmative Defense and Motion to Dismiss and Third Party Complaint (collectively, "Answer and Counterclaim") not specifically hereinafter admitted. All terms not defined herein shall have the definitions contained in the Plaintiff's Complaint.

2. Paragraphs (a) — (d) and 1-31 of Defendant's Answer and Counterclaim are

responses to the Plaintiff's Complaint and require no response from Plaintiff and/or Third Party Defendants. To the extent a response is required, Plaintiff denies each and every allegation stated therein except for the allegations admitted by Defendant in the Plaintiff's Complaint.

**AS TO THE COUNTERCLAIMS AND THIRD-PARTY CLAIMS**

3. In response and by way of reply and answer to Paragraphs 32 and 33 of Defendant's Answer and Counterclaim, Plaintiff incorporates by reference its responses contained in the preceding paragraphs.

4. Upon information and belief, Plaintiff admits the allegations contained in Paragraph 34.

5. Plaintiff admits the allegations contained in Paragraph 35.

6. In responding to Paragraph 36 of Defendant's Answer and Counterclaim, Plaintiff only admits so much of said paragraph that alleges that Third-Party Defendants are members of the Plaintiff. By way of further response, Plaintiff craves reference to the terms of the Lease Purchase Agreement and denies any allegations inconsistent therewith. Plaintiff denies the remaining allegations set forth in Paragraph 36 and demand strict proof thereof.

7. Plaintiff admits the allegations contained in Paragraph 37.

8. In responding to Paragraph 38 of Defendant's Answer and Counterclaim, Plaintiff craves reference to the documents on file with the Clarendon County Register of Deeds Office and denies any allegations inconsistent therewith. The remaining allegations are conclusions of law to which no response is required. To the extent a response is required, Plaintiff denies same and demand strict proof thereof.

9. In responding to Paragraph 39 of Defendant's Answer and Counterclaim, Plaintiff only admits so much of said paragraph that alleges Plaintiff, Third Party Defendants and

Defendant entered into a Lease Purchase Agreement. Accordingly, Plaintiff craves reference to the terms of the Lease Purchase Agreement and denies any allegations inconsistent therewith. By way of further response, Plaintiff cannot admit or deny that the Lease Purchase Agreement attached to the Complaint is a true and accurate copy of the document, and therefore denies same and demands strict proof thereof.

**IN RESPONSE TO THE CLAIM, COUNTERCLAIM AND FIFTH DEFENSE**

10. In response and by way of reply and answer to Paragraph 40 of Defendant's Answer and Counterclaim, Plaintiff incorporates by reference its responses contained in the preceding paragraphs.

11. In responding to Paragraph 41 of Defendant's Answer and Counterclaim, Plaintiff craves reference to the documents on file with the Clarendon County Register of Deeds Office and denies any allegations inconsistent therewith. By way of further response, Plaintiff craves reference to the terms of the Lease Purchase Agreement and denies any allegations inconsistent therewith. Plaintiff denies the remaining allegations set forth in Paragraph 41.

12. Plaintiff denies the allegations in Paragraph 42 of Defendant's Answer and Counterclaim.

13. In responding to Paragraph 43 of Defendant's Answer and Counterclaim, Plaintiff craves reference to the terms of the Lease Purchase Agreement and denies any allegations inconsistent therewith. Plaintiff denies the remaining allegations set forth in Paragraph 43.

14. In responding to Paragraph 44 of Defendant's Answer and Counterclaim, Plaintiff denies that a copy of a letter of the Town of Summerton was attached as an exhibit to the Defendant's Answer and Counterclaim. Plaintiff denies that it was aware of any moratorium. Plaintiff denies the remaining allegations set forth in Paragraph 44.

15. In responding to Paragraph 45 of Defendant's Answer and Counterclaim, Plaintiff craves reference to the terms of the Lease Purchase Agreement and denies any allegations inconsistent therewith. By way of further response, Plaintiff denies the remaining allegations set forth in Paragraph 45.

16. In responding to Paragraph 46 of Defendant's Answer and Counterclaim, Plaintiff lacks sufficient information to form a belief as to the truth of the allegations set forth in the last three sentences of Paragraph 46 of Defendants' Answer and Counterclaim since the allegations pertain to the Defendant and others and are not against them. To the extent the allegations are against them, Plaintiff denies same and demand strict proof thereof. By way of further response, Plaintiff craves reference to the terms of the Lease Purchase Agreement and denies any allegations inconsistent therewith. Plaintiff denies any remaining allegations set forth in Paragraph 46.

17. In responding to Paragraph 47 of Defendant's Answer and Counterclaim, Plaintiff lacks sufficient information to form a belief as to the truth of the allegations since they do not know the intended definition of the term "contract." To the extent a response is required, Plaintiff craves reference to the terms of the "contract" and denies any allegations inconsistent therewith.

18. Plaintiff denies the allegations in Paragraph 48 of Defendant's Answer and Counterclaim. Without limiting the foregoing, Plaintiff alleges and would show that, prior to the execution of the Lease Purchase Agreement, Defendant expressly raised and discussed with some of the Third Party Defendants that Defendant was aware of the lack of available sewer capacity at the real property which is the subject of the Lease Purchase Agreement, and that the Lease Purchase Agreement was revised at Defendant's request prior to its execution to reflect the

additional time Defendant would require to obtain such additional capacity.

19. Answering Paragraph 49 of Defendant's Answer and Counterclaim, Plaintiff craves reference to the terms of the Lease Purchase Agreement and denies any allegations inconsistent therewith. Plaintiff denies any remaining allegations set forth in said Paragraph, including, without limitation, any allegation that the pending litigation has impaired Defendant's ability to purchase the subject property.

20. In responding to Paragraph 50 of Defendant's Answer and Counterclaim, Plaintiff craves reference to the terms of the Lease Purchase Agreement and denies any allegations inconsistent therewith. Plaintiff denies the remaining allegations set forth in Paragraph 50 and demand strict proof thereof.

**IN RESPONSE TO THE CLAIM, COUNTERCLAIM AND SIXTH DEFENSE**

21. In response and by way of reply and answer to Paragraph 51 of Defendant's Answer and Counterclaim, Plaintiff incorporates by reference its responses contained in the preceding paragraphs

22. Plaintiff lacks sufficient information to form a belief as to the truth of the allegations set forth in the last two sentences of Paragraph 52 of Defendant's Answer and Counterclaim, and therefore denies same and demands strict proof thereof. Plaintiff denies that the Lease Purchase Agreement was drafted by the Seller, but admits that it was executed by Plaintiff. Upon information and belief, no individual named "M.B. Hudson" executed the Lease Purchase Agreement, as the Defendant is properly named "Morris B. Hutson". Upon information and belief, Mr. Hutson concealed his correct name in an effort to prevent Plaintiff and the Third Party Defendants from discovering Mr. Hutson's prior history of deception in real estate transactions spanning various states, including, without limitation, Tennessee and Georgia.



By way of further response, Plaintiff craves reference to the terms of the Lease Purchase Agreement and denies any allegations inconsistent therewith. Plaintiff denies all remaining allegations against it and demand strict proof thereof.

23. Plaintiff denies the allegations set forth in Paragraph 53 of Defendant's Answer and Counterclaims and demands strict proof thereof.

**IN RESPONSE TO THE CLAIM, COUNTERCLAIM AND SEVENTH DEFENSE**

24. In response and by way of reply and answer to Paragraph 54 of Defendant's Answer and Counterclaim, Plaintiff incorporates by reference its responses contained in the preceding paragraphs.

25. Plaintiff only admits so much of the allegations in Paragraph 55 that alleges Defendant is in possession of the property subject to this Ejectment Action, but Plaintiff maintains that Defendant is wrongfully in possession of said property. By way of further response, Plaintiff craves reference to the terms of the Lease Purchase Agreement and denies and allegations inconsistent therewith. Plaintiff denies all remaining allegations in said Paragraph and demand strict proof thereof.

26. Some of the allegations contained in Paragraph 56 of Defendant's Answer and Counterclaims are conclusions to which no response is required. To the extent a response is required, Plaintiff denies same and demand strict proof thereof. Plaintiff denies the remaining allegations set forth in Paragraph 56 of Defendant's Answer and Counterclaims and demands strict proof thereof.

**IN RESPONSE TO THE CLAIM, COUNTERCLAIM AND EIGHTH DEFENSE**

27. In response and by way of reply and answer to Paragraph 57 of Defendant's Answer and Counterclaim, Plaintiff incorporates by reference its responses contained in the

preceding paragraphs.

28. In responding to Paragraph 58 of Defendant's Answer and Counterclaim, Plaintiff is without sufficient information to admit or deny that a moratorium existed and therefore denies same. Plaintiff denies that an individual named "M.B. Hudson" executed the Lease Purchase Agreement. Plaintiff denies that Defendant was unaware of the lack of excess water or sewer capacity for additional development upon the property prior to the execution of the Lease Purchase Agreement. Plaintiff craves reference to the terms of the Lease Purchase Agreement and denies any allegations inconsistent therewith. Plaintiff denies the remaining allegations set forth in Paragraph 58 and demand strict proof thereof.

29. Plaintiff denies the allegations set forth in Paragraphs 59 and 60 of Defendant's Answer and Counterclaims and demands strict proof thereof.

**IN RESPONSE TO THE CLAIM, COUNTERCLAIM AND NINTH DEFENSE**

30. In response and by way of reply and answer to Paragraph 61 of Defendant's Answer and Counterclaim, Plaintiff incorporates by reference its responses contained in the preceding paragraphs.

31. Plaintiff denies the allegations set forth in Paragraph 62 and subsections (a) – (d) of Defendant's Answer and Counterclaims and demand strict proof thereof.

**IN RESPONSE TO THE CLAIM, COUNTERCLAIM AND TENTH DEFENSE**

32. In response and by way of reply and answer to Paragraph 63 of Defendant's Answer and Counterclaim, Plaintiff incorporates by reference its responses contained in the preceding paragraphs.

33. Plaintiff only admits so much of Paragraph 64 as alleges that the property subject \_\_\_\_\_ to this action is known as Big Water Resort and has members who come upon the property, and

occasionally bring guests. Plaintiff denies all remaining allegations set forth and said Paragraph them and demand strict proof thereof.

34. In responding to Paragraph 65 of Defendant's Answer and Counterclaim, Plaintiff craves reference to the terms of the Lease Purchase Agreement and denies any allegations inconsistent therewith. Plaintiff denies the remaining allegations set forth in Paragraph 65 and demand strict proof thereof.

35. Plaintiff denies the allegations set forth in Paragraph 66 of Defendant's Answer and Counterclaims and demands strict proof thereof.

**IN RESPONSE TO THE CLAIM, COUNTERCLAIM AND ELEVENTH DEFENSE**

36. In response and by way of reply and answer to Paragraph 67 of Defendant's Answer and Counterclaim, Plaintiff incorporates by reference its responses contained in the preceding paragraphs.

37. In answering Paragraph 68 of Defendant's Answer and Counterclaim, Plaintiff admits that it and the Third Party Defendants executed the Lease Purchase Agreement. Upon information and belief, Plaintiff denies that an individual named "M.B. Hudson" executed the Lease Purchase Agreement, or that the Defendant who has made an appearance in this case, and who executed the Lease Purchase Agreement, is or has ever legally been named "M.B. Hudson". Plaintiff is informed and believes that Morris B. Hutson concealed his true identity and deceived Plaintiff and the Third Party Defendants as to his true identity in inducing them to execute the Lease Purchase Agreement, which they would not have done had they been aware of the true identity of Defendant. By way of further response, Plaintiff craves reference to the terms of the Lease Purchase Agreement and denies any allegations inconsistent therewith.

38. Answering Paragraph 69 of Defendant's Answer and Counterclaim, Plaintiff

craves reference to the terms of the Lease Purchase Agreement and denies any allegations inconsistent therewith. Plaintiff denies any remaining allegations set forth in said Paragraph.

39. In responding to Paragraph 70 of Defendant's Answer and Counterclaim, Plaintiff cannot admit or deny such allegations since it does not know Defendant's intended meaning of the term "Agreement" since it is not defined. To the extent "Agreement" means Lease Purchase Agreement, Plaintiff craves reference to the terms of the Lease Purchase Agreement and denies any allegations inconsistent therewith and demand strict proof thereof. Without limiting the foregoing, Plaintiff would respond that utilities were installed at the subject property, but denies that it has refused to pay amounts owing by it therefor. Plaintiff denies any remaining allegations set forth in said Paragraph.

40. In responding to Paragraphs 71 and 72 of Defendant's Answer and Counterclaim, Plaintiff is without sufficient information to admit or deny the allegations contained therein and therefore denies same. Plaintiff maintains that Defendant was responsible to pay the utilities furnished to or consumed on the Premises, and Defendant breached the Lease Purchase Agreement for, among other things, failure to pay for the utilities. Plaintiff denies the remaining allegations set forth in Paragraph 71 and 72 and demands strict proof thereof.

41. Plaintiff denies the allegations set forth in Paragraph 73 and demand strict proof thereof.

42. Plaintiff denies the allegations set forth in Paragraph 74 and demand strict proof thereof. Without limiting the foregoing, Plaintiff would allege that Defendant is not entitled to use Plaintiff's taxpayer identification number for the provision of services to Defendant. Upon information and belief, Plaintiff further denies that electricity service to the property was terminated as a result of the actions of Plaintiff or the Third Party Defendants, but instead alleges

that such termination was a result of the failure by Defendant to pay amounts owing by Defendant to the utility provider.

43. Plaintiff lacks sufficient information to form a belief as to the truth of the allegations set forth in Paragraph 75 of Defendant's Answer and Counterclaim, and therefore denies same and demand strict proof thereof.

44. Plaintiff denies the allegations set forth in Paragraph 76 and subsections (a) – (g) of Defendant's Answer and Counterclaims and demands strict proof thereof.

**IN RESPONSE TO THE CLAIM, COUNTERCLAIM AND TWELTH DEFENSE**

45. In response and by way of reply and answer to Paragraph 77 of Defendant's Answer and Counterclaim, Plaintiff incorporates by reference its responses contained in the preceding paragraphs.

46. Plaintiff admits the allegations set forth in Paragraph 78, but would further allege that the amounts owing under the Lease Purchase Agreement have continued to accrue and exceed those amounts at present.

47. Plaintiff denies the allegations set forth in Paragraphs 79 and 80 and demand strict proof thereof.

**IN RESPONSE TO THE CLAIM, COUNTERCLAIM AND THIRTEENTH DEFENSE**

48. In response and by way of reply and answer to Paragraph 81 of Defendant's Answer and Counterclaim, Plaintiff incorporates by reference its responses contained in the preceding paragraphs.

49. Plaintiff lacks sufficient information to form a belief as to the truth of the allegations set forth in Paragraph 82 of Defendant's Answer and Counterclaim and therefore denies same and demand strict-proof-thereof.—Without limiting the foregoing, Plaintiff denies

that an individual named "Hudson" executed the Lease Purchase Agreement, or that the Defendant who has made an appearance in this case, and who executed the Lease Purchase Agreement, is or has ever legally been named "Hudson". Plaintiff is informed and believes that Morris B. Hutson concealed his true identity and deceived Plaintiff and the Third Party Defendants as to his true identity in inducing them to execute the Lease Purchase Agreement, which they would not have done had they been aware of the true identity of Defendant.

50. Plaintiff lacks sufficient information to form a belief as to the truth of the allegations set forth in Paragraphs 83 and 84 of Defendant's Answer and Counterclaim and therefore denies same and demand strict proof thereof.

51. Plaintiff denies the allegations set forth in Paragraphs 85 and 86 demand strict proof thereof.

**IN RESPONSE TO THE CLAIM, COUNTERCLAIM AND FOURTEENTH DEFENSE**

52. In response and by way of reply and answer to Paragraph 87 of Defendant's Answer and Counterclaim, Plaintiff incorporates by reference its responses contained in the preceding paragraphs.

53. In answering Paragraph 88 of Defendant's Answer and Counterclaim, Plaintiff admits that it and the Third Party Defendants executed the Lease Purchase Agreement. Upon information and belief, Plaintiff denies that an individual named "M.B. Hudson" executed the Lease Purchase Agreement, or that the Defendant who has made an appearance in this case, and who executed the Lease Purchase Agreement, is or has ever legally been named "M.B. Hudson". Plaintiff is informed and believes that Morris B. Hutson concealed his true identity and deceived Plaintiff and the Third Party Defendants as to his true identity in inducing them to execute the Lease Purchase Agreement, which they would not have done had they been aware of the true

identity of Defendant. By way of further response, Plaintiff craves reference to the terms of the Lease Purchase Agreement and denies any allegations inconsistent therewith. By way of further response, Plaintiff denies that Defendant is performing or attempting to perform the obligations of "Purchaser" under the Lease Purchase Agreement, and alleges that Defendant is in breach thereof.

54. Plaintiff denies the allegations set forth in Paragraphs 89, 90 and 91 and demand strict proof thereof.

55. Plaintiff is informed and believes that no response is required to the wherefore clause where Defendant claims he is entitled to relief, however, to the extent a response is required, Plaintiff denies same and demand strict proof thereof.

**FOR A SECOND DEFENSE TO DEFENDANTS' COUNTERCLAIMS**  
(Failure to State a Claim)

56. Defendant has failed to state a cause of action in his Counterclaims and Third-Party Complaint upon which relief can be granted, and therefore, the Counterclaims and the Third Party Complaint must be dismissed pursuant to Rule 12 of the South Carolina Rules of Civil Procedure.

**AS AN ADDITIONAL AFFIRMATIVE DEFENSE**  
(Failure to Mitigate)

57. Plaintiff pleads that Defendant is barred from recovery, in whole or in part, for failing to mitigate damages and/or failing to avoid avoidable consequences.

**AS AN ADDITIONAL AFFIRMATIVE DEFENSE**  
(Estoppel/Waiver/Laches)

58. Some or all of Defendant's purported Counterclaims and Third Party claims are barred by the equitable doctrines of estoppel, waiver, and/or laches.

**AS AN ADDITIONAL AFFIRMATIVE DEFENSE**

**(Unclean Hands)**

59. Defendant's Counterclaims and Third Party claims are barred by the equitable doctrine of unclean hands.

**AS AN ADDITIONAL AFFIRMATIVE DEFENSE**  
**(Compliance with Applicable Law)**

60. Plaintiff would show that any actions taken by Plaintiff and Third Party Defendants and/or procedures followed by Plaintiff and Third Party Defendants concerning the Plaintiff and Third Party Defendants and Lease Purchase Agreement were taken in good faith, in a reasonable manner, and that said actions and/or procedures were authorized by contract or law, reasonable in time and manner, and therefore, the Defendant is precluded from recovery against the Plaintiff and Third Party Defendants.

**AS AN ADDITIONAL AFFIRMATIVE DEFENSE**  
**(Good Faith)**

61. With respect to the Defendant, Plaintiff and Third-Party Defendants have at all times acted in good faith and in compliance with any laws and contracts.

**AS AN ADDITIONAL AFFIRMATIVE DEFENSE**  
**(Prior Breach)**

62. Plaintiff would show that some or all of Defendant's purported Counterclaims and Third Party Claims are barred by the Defendant's prior breach of the parties' contract.

**AS AN ADDITIONAL AFFIRMATIVE DEFENSE**  
**(Consent)**

63. Plaintiff would show that Defendant's purported Counterclaims and Third Party Claims are barred by the doctrine of consent.

**AS AN ADDITIONAL AFFIRMATIVE DEFENSE**  
**(Failure to Perform)**

64. Plaintiff would show that the Defendant failed to perform under the Lease



Purchase Agreement, and, therefore, these claims must be dismissed.

**AS AN ADDITIONAL AFFIRMATIVE DEFENSE**  
**(Waiver)**

65. Plaintiff would show that Defendant's purported Counterclaims and Third Party Claims are barred by the doctrine of waiver.

**AS AN ADDITIONAL AFFIRMATIVE DEFENSE**  
**(Compliance with the Lease Purchase Agreement)**

66. Plaintiff incorporates by reference all of the terms, conditions, exclusions, exceptions, and limitations of the Lease Purchase Agreement and would show that it performed all of its obligations thereunder.

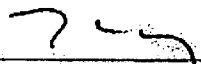
**AS AN ADDITIONAL AFFIRMATIVE DEFENSE**  
**(Setoff/Recoupment)**

67. Plaintiff would show that the Defendant is in possession of property pursuant to the Lease Purchase Agreement and has promised to pay Rent and other sums to Plaintiff. Plaintiff would show that the Defendant has no basis for the affirmative relief he seeks in his Answer and Counterclaims, but if the court were to grant such relief, Plaintiff would be entitled to repayment for rent and other sums due under the Lease Purchase Agreement, plus interest, as a recoupment and/or setoff against such relief, and Plaintiff would also be entitled to an order of this Court recognizing and declaring Plaintiff's equitable right to repayment in full, plus interest.

[Remainder of Page Left Blank Intentionally]

WHEREFORE, having fully replied to the Counterclaims and Third Party Complaint of M. B. Hudson a/k/a M. B. Hutson, Plaintiff prays that this Court inquire into the matters and facts set forth in the pleadings, issue its Order dismissing the Counterclaims and Third-Party Claims of the Defendant and grant the relief requested by the Plaintiff in its Complaint.

WOMBLE CARLYLE SANDRIDGE & RICE PLLC

  
\_\_\_\_\_  
Thomas L. Harper, Jr. (S.C. Bar # 11553)  
Jana Baker (SC Bar #72487)  
5 Exchange Street  
Charleston, SC 29401  
(843) 722-3400

ATTORNEYS FOR PLAINTIFF

Charleston, South Carolina  
February 1, 2012

STATE OF SOUTH CAROLINA  
COUNTY OF CLARENDON

IN THE COURT OF COMMON PLEAS  
THIRD JUDICIAL CIRCUIT CASE NUMBER:  
CASE NO.: 2011-CP-14-602

TLC Holdings, LLC,

Plaintiff,

v.

M. B. Hudson a/k/a M. B. Hutson,

Defendant.

**CERTIFICATE OF SERVICE**

M. B. Hudson a/k/a M. B. Hutson,

Defendant and Third Party Plaintiff,

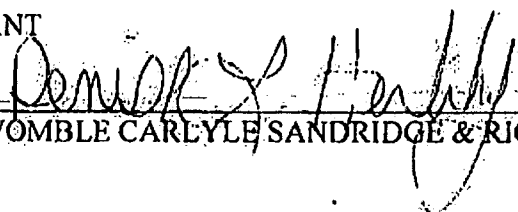
v.

Richard U. Clark, Jimmy S. Lovell and James  
C. Thigpen,

Third Party Defendants.

I do hereby certify that on the 1<sup>st</sup> day of February, 2012, I served a copy of the within  
*REPLY TO ANSWER AND COUNTERCLAIMS OF DEFENDANT, FIRST INTERROGATORIES  
TO DEFENDANT and FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO  
DEFENDANT* upon Counsel of Record in the within entitled matter by sending a copy of the  
same in an envelope with the correct postage prepaid addressed to:

Paul Weissenstein , Esq.  
Weissenstein Law Firm, LLC  
PO Box 2446  
Sumter SC 29151-2446  
ATTORNEY FOR DEFENDANT

  
WOMBLE CARLEY SANDRIDGE & RICE, LLP

**WOMBLE  
CARLYLE  
SANDRIDGE  
& RICE**

A PROFESSIONAL LIMITED  
LIABILITY COMPANY

February 1, 2012

5 Exchange Street  
Charleston, SC 29401

Mailing Address:  
Post Office Box 999  
Charleston, SC 29402  
Telephone: (843) 722-3400  
Fax: (843) 723-7398  
www.wcsr.com

THOMAS L. HARPER, JR.  
ATTORNEY AT LAW  
E-Mail: [tharper@wcsr.com](mailto:tharper@wcsr.com)  
DIRECT DIAL: 843-720-4636  
FAX: 843-723-7398

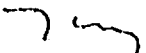
Clarendon County Clerk of Court  
Clarendon County Courthouse  
3 West Keitt Street  
Manning SC 29102

Re: TLC Holdings, LLC vs. M.B. Hudson a/k/a M.B. Hutson  
Case No. 11-CP-14-602  
WCSR File No. 78195.0006.0

Dear Sir/Madam:

Please find enclosed for filing in the above matter the original and one copy of the Plaintiff's Reply to Counterclaims. Please return a clocked in copy to me in the envelope provided. By copy of this letter I am serving the Defendant, through his counsel of record, with the same. Thank you for your assistance in this matter.

Sincerely yours,

  
Thomas L. Harper, Jr.

TLH/dlh  
Enclosure(s)  
Cc: Paul Weissenstein, Esquire (w/encl.)

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

WOMBLE  
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A PROFESSIONAL LIMITED  
LIABILITY COMPANY  
January 25, 2012

5 Exchange Street  
Charleston, SC 29401

Mailing Address:  
Post Office Box 999  
Charleston, SC 29402  
Telephone: (843) 722-3400  
Fax: (843) 723-7398  
www.wcsr.com

DENISE L. HERLIHY  
PARALEGAL  
E-Mail: dherlihy@wcsr.com  
Direct Dial: (843) 720-4651  
Fax: (843) 723-7398

Clarendon County Clerk of Court  
Circuit Court  
Post Office Drawer E  
Manning, SC 29102

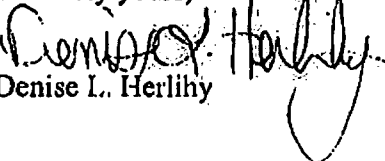
RE: TLC Holdings, LLC vs. M.B. Hudson a/k/a M.B. Hutson  
Case No. 11-CP-14-602  
WCSR File No. 78195.0006.0

Dear Sir/Madam:

Enclosed for filing in your office please find an original and one copy of two separate *Affidavits of Service*. Please return a filed copy of each affidavit to me in the enclosed self-addressed stamped envelope..

Please do not hesitate to contact me if you have any questions or concerns

Sincerely yours,

  
Denise L. Herlihy

/dlh  
Enclosures

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

WCSR 7110694v1

EJECT\_000303

1644

# AFFIDAVIT OF SERVICE

State of South Carolina

County of Clarendon

Common Pleas Court

Case Number: 11-CP-14-602

Plaintiff:

TLC Holdings, LLC

vs.

Defendant:

M B. Hudson a/k/a MB Hutson

For:

Womble Carlyle Sandridge & Rice

Received by FALCON EXPRESS SERVICES, LLC to be served on A. Paul Weissenstein Jr., 106 Broad Street, Sumter, SC. I, Betty Sallee, being duly sworn, depose and say that on the 18 day of Jan, 2012 at 1:25 p.m., executed service by delivering a true copy of the Summons, Complaint, Verification, Rule to Vacate or Show Cause and Application for Ejectment in accordance with state statutes in the manner marked below:

( ) INDIVIDUAL SERVICE: Served the within-named person.

(☒) SUBSTITUTE SERVICE: By serving Samuel E. Emrich as his Secretary

( ) POSTED SERVICE: After attempting service on \_\_\_/\_\_\_ at \_\_\_ and on \_\_\_/\_\_\_ at \_\_\_ to a conspicuous place on the property described herein.

( ) NON SERVICE: For the reason detailed in the Comments below.

Military Status: ( ) Yes or ( ) No If yes, what branch? \_\_\_\_\_

Marital Status: ( ) Married or ( ) Single Name of Spouse \_\_\_\_\_

## COMMENTS:

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

Subscribed and Sworn to before me on the 18<sup>th</sup> day of Jan, 2012, by the affiant who is personally known to me.

[Signature]  
NOTARY PUBLIC

Betty Sallee  
PROCESS SERVER # \_\_\_\_\_  
Appointed in accordance  
with State Statutes

FALCON EXPRESS SERVICES, LLC  
P.O. Box 874  
Charleston, SC 29402-0874  
(843) 577-9696

Our Job Serial Number: 2012000094

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EJECT\_000304

1645

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

# AFFIDAVIT OF SERVICE

State of South Carolina

County of Clarendon

Common Pleas Court

Case Number: 11-CP-14-602

Plaintiff:

TLC Holdings, LLC

vs.

Defendant:

M B. Hudson a/k/a MB Hutson

For:

Womble Carlyle Sandridge & Rice

Received by FALCON EXPRESS SERVICES, LLC to be served on M. B. Hudson a/k/a M. B. Hutson, 5215 Dingle Pond Road, Summerton, SC 29418. I, Betty Betty, being duly sworn, depose and say that on the 18 day of Jan, 2012 at 11:50 a.m., executed service by delivering a true copy of the Summons, Complaint, Verification, Rule to Vacate or Show Cause and Application for Ejectment in accordance with state statutes in the manner marked below:

☒ INDIVIDUAL SERVICE: Served the within-named person.

☐ SUBSTITUTE SERVICE: By serving \_\_\_\_\_ as \_\_\_\_\_.

☐ POSTED SERVICE: After attempting service on \_\_\_/\_\_\_ at \_\_\_ and on \_\_\_/\_\_\_ at \_\_\_ to a conspicuous place on the property described herein.

☐ NON SERVICE: For the reason detailed in the Comments below.

Military Status: ☐ Yes or ☐ No If yes, what branch? \_\_\_\_\_

Marital Status: ☐ Married or ☐ Single Name of Spouse \_\_\_\_\_

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

Subscribed and Sworn to before me on the 18<sup>th</sup> day of JANUARY, 2012 by the affiant who is personally known to me.

NOTARY PUBLIC

Betty Betty

PROCESS SERVER # \_\_\_\_\_  
Appointed in accordance  
with State Statutes

FALCON EXPRESS SERVICES, LLC  
P.O. Box 874  
Charleston, SC 29402-0874  
(843) 577-9696

Our Job Serial Number: 2012000093

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EJECT\_000305

1646

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )  
TLC Holdings, LLC, )  
Plaintiff(s), )  
Vs. )  
M. B. Hudson aka M. B. Hutson, )  
Defendant and Third Party Plaintiff, )  
Vs. )  
Richard U. Clark, Jimmy S. Lovell and )  
James C. Thigpen, )  
Third Party Defendants. )

IN THE COURT OF COMMON PLEAS  
THIRD JUDICIAL CIRCUIT  
CASE NUMBER: 2011-CP-14-602

LIS PENDENS  
(Jury Trial Demanded)

TO: THE DEFENDANTS ABOVE NAMED;

PLEASE TAKE NOTICE that an action has been commenced and is now pending by the Defendant and Third Party Plaintiff against the Plaintiff and Third Party Defendants, in regard to the property described on Exhibit A attached hereto consisting of five (5) pages whereby the Defendant and Third Party Plaintiff has alleged and claims an ownership interest in the property based on a Lease Purchase Agreement entered into between the parties dated December 15-16, 2010.

Sumter, SC  
January 25, 2012

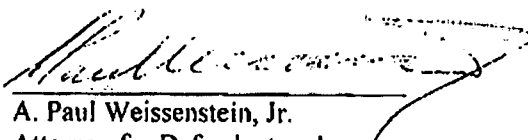
  
A. Paul Weissenstein, Jr.  
Attorney for Defendant and  
Third Party Plaintiff  
PO Box 2446  
Sumter, SC 29151  
(803) 418-5700



EXHIBIT AA. CAMPGROUND KNOWN AS BIG WATER RESORT:

All that certain piece, parcel or tract of land lying, being and situate in School District No. 1 of Clarendon County, South Carolina, containing 30.44 acres according to plat hereinafter described and measuring and bounding as follows: beginning at an old iron found on the North bound exit ramp right of way from Interstate 95 at Exit 102, thence N 62 degrees 24'24" E for 3.66 feet along the right of way to a concrete monument, thence N 62 degrees 08'56" E for 120.09 feet along the right of way to an iron, thence N 70 degrees 36'47" E for 160.27 feet along the right of way to an iron, thence N 79 degrees 57'21" E for 93.40 feet along the right of way to a concrete monument, thence N 82 degrees 19'44" E for 190.85 feet along the right of way to a concrete monument, thence N 81 degrees 00'07" E for 82.23 feet along the right of way to an iron, thence N 74 degrees 05'12" E for 189.38 feet along the right of way to an iron, thence N 72 degrees 17'50" E for 38.91 feet along the right of way to an iron, thence S 56 degrees 09'56" E for 439.73 feet along the property line of lands being conveyed to Lee-Moore Oil Company, Inc. to an iron, thence S 56 degrees 09'26" E for 114.35 feet along the property line of land being conveyed to Lee-Moore Oil Company, Inc. to an iron, thence S 56 degrees 09'26" E for 253.97 feet along the property line of W. R. Williams to a concrete monument found on the 33 foot right of way of SC Highway S-14-390, thence S 33 degrees 10'55" W for 219.18 feet along the right of way to an iron, thence S 56 degrees 49'43" W for 1356.96 feet along the property line of Robert Malanuk to a concrete monument, thence N 25 degrees 40'07" W for 660.32 feet along the property line of the South Carolina Public Service Authority to an iron, thence N 25 degrees 42' W for 77.70 feet along the property line of the South Carolina Public Service Authority to a concrete monument, thence N 47 degrees 35' W for 248.5 feet along the property line of the South Carolina Public Service Authority to an iron, thence N 39 degrees 05'14" E for 394.98 feet along the right of way of Interstate 95 to the point of beginning. SUBJECT HOWEVER, to an easement to the Carolina Power and Light Company recorded in Deed Book A-26 at Page 165, also easement for absorption field recorded in Deed Book A-61 at Page 342, also sign lot and right of way recorded in Deed Book A-126 at page 478 and an easement from W. R. Williams, et al recorded in Deed Book A-109 at Page 551. SUBJECT to Black River Electric Coop. Power line easement as shown on plat described below. Subject to any visible and unrecorded easements and right of ways not revealed by current survey.

For a more particular description, reference may be had to a plat by H. F. Oliver, Surveyor, dated February 19, 1988, recorded in the Office of the RMC for Clarendon County in Plat Book 39 at page 123.



FOR DERIVATION, SEE BELOW.

Said tract being designated as Clarendon Tax Map No. 035-05-00-001-00.

**TRACT II:**

ALSO: All that piece, parcel, or tract of land lying, being and situate in School District No. 1 of Clarendon County, South Carolina, containing 3.21 acres on a plat hereinafter referred to, and bounding and measuring as follows: on the Northeast by SC Highway S-14-400 and measuring thereon 243.71 feet; on the Southeast by SC Highway S-14-390 and measuring thereon 618.30 feet; on the Southwest by lands of Lee Moore Oil Company, Inc. and measuring thereon 253.99 feet; on the Northwest by lands of Lee Moore Oil Company, Inc. and measuring thereon 755.15 feet.

For a more particular description of said tract reference may be had to a plat made by H. F. Oliver, Surveyor, dated March 15, 1988, recorded in the Office of the RMC for Clarendon County in Plat Book 44 at Page 36.

Said tract being designated as Clarendon Tax Map No. 035-06-02-007-00.

Said tracts having been conveyed to T.L.C Holdings, LLC by Deed of The Big Water Resort, LLC, dated 23 April, 2003, recorded on 9 May, 2003 in the Office of the RMC for Clarendon County in Deed Book A-497 at Page 00009.

TOGETHER WITH the Leasehold interest in that certain Lease between the Seller and the South Carolina Public Service Authority, pertaining to the waterfront property adjacent to the premises above described.

All buildings, fixtures, equipment used in the operation of the campground facility located on the above described premises.

SUBJECT HOWEVER to those certain Restrictive Covenants dated 3 November, 2003, recorded in the Office of the RMC for Clarendon County and any Amendments thereto and subject to certain Contracts between the Optionor and members of The Big Water Resort and others.

SUBJECT FURTHER, to all easements and rights of way of record.

B. CONVENIENCE STORE. That certain convenience store facility and the lands adjacent thereto known as "Big Water Country Store and Restaurant" described as follows:

All that piece, parcel or tract of land with buildings and improvements located thereon lying, being and situate Northwest of the Intersection of SC Highway S-14-390 and SC Highway S-14-400 in School District 1 of Clarendon County, South Carolina, containing 3.73 acres, being designated as Tract 2A on the plat

*MB*

EJECT\_000308

hereinafter referred to and bounding and measuring as follows: On the Northeast by Tract B on said plat and measuring thereon 439 feet; on the Southeast by the right of way of SC Highway S-14-400 and measuring thereon 318.4 feet; on the South by the intersection of SC Highway S-14-390 and SC Highway S-14-400, and measuring thereon 68.4 feet; On the Southwest by right-of-way of SC highway S-14-390, and measuring thereon 367.8 feet; on the Northwest by the arc of the curve of an intersection of an access strip and SC Highway S-14-390 and measuring thereon along said arc 50.58 feet and by said access strip and measuring thereon 338 feet.

For a more particular description of said tract, reference may be had to a plat made by H.F. Oliver, RLS, dated February 23, 1973, recorded in the Office of the Clerk of Court for Clarendon County in Plat Book 25 at Page 94, whereon said tract is designated as Tract 2A.

FOR DERIVATION, SEE BELOW.

Said premises being designated as Clarendon Tax Map Parcel N. 035-06-02-005-00.

ALSO:

All that certain piece, parcel, or tract of land, lying, being, and situate in School District No. 1 of the County of Clarendon, State of South Carolina, containing 2.50 acres and being designated as Tract B-1, according to plat hereinafter described and measuring and bounding, now or formerly, as follows: On the Northeast by lands of Ruby P. Levi, and measuring thereon 428.96 feet; On the Southeast by Tract B-2, and measuring thereon 304.55 feet; On the Southwest by lands of H.F. Swilley, a 50 foot access strip and lands of C&M Petroleum, and measuring thereon 281.99 feet; and on the Northwest by Highway Right-of-Way, and measuring thereon 340.64 feet.

For a more particular description, reference may be had to a plat by R.G. Mathis Land Surveying dated November 2, 1988, and recorded in the Office of the Clerk of Court of Clarendon County in Plat Book 42 at Page 86.

ALSO:

All of that certain piece, parcel, or strip of land, shown as an "Access Strip" on that certain plat prepared by H.F. Oliver, RLS, dated February 23, 1973, and recorded in the Office of the Clerk of Court in Plat Book 25 at Page 94, according to which plat, said property is bounded, now or formerly, and measures as follows: On the Northeast by Tract B on said Plat and measuring thereon a distance of 50 feet; On the Southeast by Tract 2-A and measuring thereon a distance of 338 feet; On the Southwest by the right-of-way of S.C. Highway S-14-390; and on the Northwest by Tract 1-A, and measuring thereon a distance of 338 feet.

*mm*

SUBJECT, HOWEVER, to such easements of right-of-way for utilities and roadways as shall appear upon said plats.

FOR DERIVATION, SEE BELOW.

Above Tract B-1 and Access Strip being designated as Clarendon TMP#035-06-02-008-00.

**ALSO:**

All that piece, parcel, or tract of land together with any improvements located thereon, lying and being situate in Clarendon County, South Carolina, being designated as Tract B-2 on the plat hereinafter referred to, containing 2.5 acres and bounding, now or formerly, and measuring as follows: On the North by lands of Ruby P. Levi and measuring thereon 357.64 feet; On the East by the right-of-way of South Carolina Highway S-14-400, and measuring thereon 304.55 feet; On the South by lands of H.F. Swilley and measuring thereon 357.64 feet; On the West by Tract B-1 on said Plat, and measuring thereon 304.55 feet.

Above tracts having been conveyed to TLC Holdings, LLC by Deed of Santee Interstate Systems, Inc., Shawn M. Reardon and Cynthia C. Reardon by Deed dated 18 September, 2003, and recorded in the Office of the RMC for Clarendon County in Deed Book A-508, at Page 310.

Said lot begin designated as Clarendon County Tax Map Parcel No. 035-06-02-002-00.

Together with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise appertaining to the above tracts.

**C. ROGER'S TRACT**

All that certain piece, parcel or tract of land, lying, being and situate in the County of Clarendon, State of South Carolina, containing 57.81 acres, more or less, being described as follows: Beginning at an iron nail placed on the 33 foot right-of-way of South Carolina Highway S-14-300, thence, North 30 degrees, 50 feet, 7 inches, East for 3346.76 feet along the 33 right-of-way of South Carolina Highway S-14-390 and South Carolina Highway S-14-400 to an old concrete monument. Thence, North 77 degrees, 20 feet, 33 inches, East for 71.68 feet along a site angle created by a 90 degrees Bend in South Carolina Highway S-14-400 to an old concrete monument. Thence, South 58 degrees, 20 feet, 23 inches, East for 1555.29 feet along the right-of-way of South Carolina Highway 400 to a new iron. Thence, South 71 degrees, 39 feet, 58 inches, West for 908.20 feet along the property line of the South Carolina Public Service Authority to an old concrete monument. Thence, South 49 degrees, 33 feet, 49 inches, West for 350.86 feet along the property line of the South Carolina Public Service Authority to an old concrete monument. Thence, South 45 degrees, 50 feet, 18 inches, West for 1076.74 feet

*MEH*

EJECT\_000310

along the property line of the South Carolina Public Service Authority to an old concrete monument. Thence, South 64 degrees, 37 feet, 33 inches, West for 634.11 feet along the property line of the South Carolina Public Service Authority to an old concrete monument. Thence, South 56 degrees, 47 feet, 48 inches, West for 524.93 feet along the property line of the South Carolina Public Service Authority to an old concrete monument. Thence, South 57 degrees, 28 feet, 19 inches, West for 350.08 feet along the property line of Robert Malenik to the point of beginning.

For a more particular description of said tract, reference may be had to a plat made by H. F. Oliver, RLS, dated 17 March 1988, recorded in the Office of the Clerk of Court for Clarendon County in Plat Book 39 at Page 204.

Said premises having been conveyed to TLC Holdings, LLC by deed of Rodney L. Rogers dated May 19, 2008 and recorded May 21, 2008 in the Office of the Clerk of Court for Clarendon County in Deed Book A-699 at Page 275.

Said tract being designated as Clarendon County Tax Map Parcel Number 035-00-00-013-00.

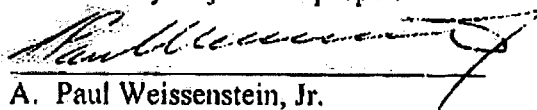
|                                |   |                              |
|--------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA        | ) | IN THE COURT OF COMMON PLEAS |
|                                | ) |                              |
| COUNTY OF CLARENDON            | ) | THIRD JUDICIAL CIRCUIT       |
|                                | ) | CASE NUMBER: 11-CP-14-602    |
| TLC Holdings, LLC,             | ) |                              |
|                                | ) |                              |
| Plaintiff(s),                  | ) | ANSWER BY DEFENDANT TO       |
|                                | ) | APPLICATION FOR EJECTMENT    |
|                                | ) | (Jury Trial Demanded)        |
| Vs.                            | ) |                              |
|                                | ) |                              |
| M. B. Hudson aka M. B. Hutson, | ) |                              |
|                                | ) |                              |
| Defendant,                     | ) |                              |

The Defendant in this matter would respectfully show the court as follows:

1. On November 30, 2011, the Defendant was served with a Rule to Vacate or Show Cause. The Defendant filed a Notice of Motion and Motion to Dismiss in a response to that Rule to Vacate or Show Cause on December 8, 2011.
2. Thereafter, as part of the same civil action, the Plaintiff filed and served a Summons and Verified Complaint on the Defendant, and the Defendant then filed an Answer and Counterclaim and Affirmative Defense and Motion to Dismiss and Third Party Complaint and Verification in response to that Complaint.
3. The Plaintiff has now served on the Defendant a copy of the Application for Ejectment that gave rise to the Rule to Vacate or Show Cause to which the Defendant makes this additional response.
4. The Defendant is informed and believes that the Plaintiff commenced this action with the filing of a document titled an Application for Ejectment. The South Carolina Rules of Civil Procedure provide that "a civil action is commenced when a Summons and Complaint are filed with the Clerk of Court..." Rule 3(a) SCRPC. Rule 7(a) SCRPC sets forth the names of

pleadings, including a Complaint. That rule does not list as a pleading an Application for Ejectment. In fact, Rule 7 states in part "No other pleadings shall be allowed..."

5. For the reasons set forth herein, and for the reasons set forth in the previous motions and Answer, Counterclaim, Affirmative Defense and Third Party Complaint, the Defendant prays that the Application for Ejectment be denied, that the Complaint be dismissed, and that Defendant be granted such other and further relief as may be just and proper.



A. Paul Weissenstein, Jr.  
Attorney for M.B. Hudson  
PO Box 2446  
Sumter, SC 29151  
803-418-5700  
pwlaw@ftc-i.net

Sumter, SC  
January 23, 2012

A. Paul Weissenstein, Jr.

**Weissenstein Law Firm, LLC**

*Attorney at Law*

106 Broad Street

Post Office Box 2446

Sumter, South Carolina 29151-2446

Telephone: (803) 418-5700

Facsimile: (803) 934-1505

E-Mail: [pwlaw@tlc-i.net](mailto:pwlaw@tlc-i.net)



January 23, 2012

Honorable Beulah G. Roberts  
Clerk of Courts, Clarendon County  
PO Box 136  
Manning, SC 29102

Re: TLC Holdings, LLC  
Vs: M.B. Hudson a/k/a M.B. Hutson  
2011-CP-14-602

Dear Ms. Roberts,

There is enclosed and presented to you for filing Answer by Defendant to Application for Ejectment. I have enclosed a copy of the first page that I ask you to clock in and return to me in the envelope provided.

Yours very truly,

A handwritten signature in dark ink, appearing to read 'A. Paul Weissenstein, Jr.', with a large, sweeping flourish at the end.

A. Paul Weissenstein, Jr.

APWjr/lle  
Enclosures

Cc: Thomas L. Harper, Jr., Esquire

EJECT\_000314



WOMBLE  
CARLYLE  
SANDRIDGE  
& RICE

A PROFESSIONAL LIMITED  
LIABILITY COMPANY

January 6, 2012

5 Exchange Street  
Charleston, SC 29401

Mailing Address:  
Post Office Box 999  
Charleston, SC 29402  
Telephone: (843) 722-3400  
Fax: (843) 723-7398  
www.wcsr.com

DENISE L. HERLIHY  
PARALEGAL

E-Mail: dherlihy@wcsr.com  
Direct Dial: (843) 720-4651  
Fax: (843) 723-7398

Clarendon County Clerk of Court  
Circuit Court  
Post Office Drawer E  
Manning, SC 29102

RE: TLC Holdings, LLC vs. M.B. Hudson a/k/a M.B. Hutson  
Case No. 11-CP-14-602  
WCSR File No. 78195.0006.0

Dear Sir/Madam:

Enclosed for filing in your office please find an original and one copy of the *Affidavit of Service on M.B. Hudson a/k/a M.B. Hutson*. Please return a filed copy of the affidavit to me in the enclosed self-addressed stamped envelope..

Please do not hesitate to contact me if you have any questions or concerns

Sincerely yours,

Denise L. Herlihy

/dlh  
Enclosures

WCSR 7087731v1

EJECT\_000315

1656

ELECTRONICALLY FILED - 2019 Jun 25 10:47 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344

**AFFIDAVIT OF SERVICE**

State of South Carolina

County of Clarendon

Common Pleas Court

Case Number: 11-CP-14-602

Plaintiff:

TLC Holdings, LLC

vs.

Defendant:

M B. Hudson a/k/a MB Hutson

For:

Womble Carlyle Sandridge &amp; Rice

Received by FALCON EXPRESS SERVICES, LLC to be served on M. B. Hudson a/k/a M. B. Hutson, 5215 Dingle Pond Road, Summerton, SC 29418. I, Betty Sally, being duly sworn, depose and say that on the 30 day of Nov, 2011 at 12:42 p.m., executed service by delivering a true copy of the RULE TO VACATE OR SHOW CAUSE in accordance with state statutes in the manner marked below:

☒ INDIVIDUAL SERVICE: Served the within-named person.

☐ SUBSTITUTE SERVICE: By serving \_\_\_\_\_ as \_\_\_\_\_

☐ POSTED SERVICE: After attempting service on \_\_\_\_/\_\_\_\_ at \_\_\_\_ and on \_\_\_\_/\_\_\_\_ at \_\_\_\_ to a conspicuous place on the property described herein.

☐ NON SERVICE: For the reason detailed in the Comments below.

Military Status: ☐ Yes or ☐ No If yes, what branch? \_\_\_\_\_

Marital Status: ☐ Married or ☐ Single Name of Spouse \_\_\_\_\_

COMMENTS:

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.

Subscribed and Sworn to before me on the 30<sup>th</sup> day of NOVEMBER, 2011 by the affiant who is personally known to me.

\_\_\_\_\_  
NOTARY PUBLIC

Betty Sally  
PROCESS SERVER # \_\_\_\_\_  
Appointed in accordance  
with State Statutes

FALCON EXPRESS SERVICES, LLC  
P.O. Box 874  
Charleston, SC 29402-0874  
(843) 577-9696

Our Job Serial Number: 2011001997

**Weissenstein Law Firm, LLC**

*Attorney at Law*

106 Broad Street

Post Office Box 2446

Sumter, South Carolina 29151-2446

Telephone: (803) 418-5700

Facsimile: (803) 934-1505

E-Mail: [pwlaw@ftc-i.net](mailto:pwlaw@ftc-i.net)



A. Paul Weissenstein, Jr.

December 29, 2011

Honorable Beulah G. Roberts  
Clerk of Courts, Clarendon County  
PO Box 136  
Manning, SC 29102

Re: TLC Holdings, LLC  
Vs: M.B. Hudson a/k/a M.B. Hutson  
2011-CP-14-602

Dear Ms. Roberts,

There is enclosed and presented to you for filing Motion to Dismiss, Answer, Counterclaim, Affirmative Defense and Third Party Complaint together with Verification, Summons and Motion Coversheet and a check in the amount of \$25.00. Please file the motion and return clocked copies to me.

Yours very truly,

A handwritten signature in cursive script, appearing to read "A. Paul Weissenstein, Jr.", written over a horizontal line.

A. Paul Weissenstein, Jr.

APWjr/lle  
Enclosures  
Cc: Thomas L. Harper, Jr., Esquire

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

TLC Holdings, LLC

Plaintiff

v.

MB Hudson aka MB Hutson

Defendant

v.

Richard U. Clark, Jimmy S. Lovell and James C. Thigpen,

Third Party Defendants

IN THE COURT OF COMMON PLEAS

CASE NO.

2011-CP-14-602

MOTION AND ORDER INFORMATION  
FORM AND COVER SHEET

Plaintiff's Attorney:

Thomas L. Harper, Jr., Bar No.

Address:

phone:

fax:

e-mail:

other:

Defendant's Attorney:

A. Paul Weissenstein, Jr., Bar No. 6013

Address:

PO Box 2446, Sumter, SC 29151

phone: 803-418-5700 fax: 803-934-1505

e-mail: pwlaw@fic-i.net other:

- ☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)  
☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)  
☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

## SECTION I: Hearing Information

Nature of Motion:

Estimated Time Needed:

Court Reporter Needed: ☒ YES / ☐ NO

## SECTION II: Motion/Order Type

- ☒ Written motion attached  
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☐ Plaintiff / ☒ Defendant

December 29, 2011

Date submitted

## SECTION III: Motion Fee

- ☒ PAID - AMOUNT: 25.00  
☐ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support  
 (check reason) ☐ Domestic Abuse or Abuse and Neglect  
☐ Indigent Status ☐ State Agency v. Indigent Party  
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief  
☐ Motion for Stay in Bankruptcy  
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)  
☐ Proposed order submitted at request of the court; or,  
 reduced to writing from motion made in open court per judge's instructions  
 Name of Court Reporter:  
☐ Other: Rule 55 and 60, SCRCP

## JUDGE'S SECTION

- ☐ Motion Fee to be paid upon filing of the attached order.  
☐ Other:

JUDGE

CODE:

Date:

## CLERK'S VERIFICATION

Collected by: \_\_\_\_\_

Date Filed: \_\_\_\_\_

- ☐ MOTION FEE COLLECTED: \_\_\_\_\_  
☐ CONTESTED - AMOUNT DUE: \_\_\_\_\_

STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )  
TLC Holdings, LLC, )  
Plaintiff(s), )  
M. B. Hudson aka M. B. Hutson, )  
Defendant and Third Party Plaintiff, )  
Vs. )  
Richard U. Clark, Jimmy S. Lovell and )  
James C. Thigpen, )  
Third Party Defendants. )

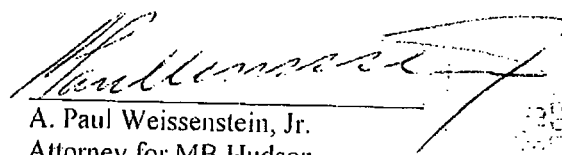
IN THE COURT OF COMMON PLEAS  
THIRD JUDICIAL CIRCUIT  
CASE NUMBER: 2011-CP-14-602

SUMMONS  
TO  
THIRD PARTY COMPLAINT  
(Jury Trial Demanded)

TO: THE PLAINTIFF AND THIRD PARTY DEFENDANTS ABOVE NAMED;

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the subscriber, A. Paul Weissenstein, Jr., at his office at 106 Broad Street (Post Office Box 2446), Sumter, South Carolina 29151-2446, within thirty (30) days after the service hereof exclusive of the day of service; and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

Sumter, SC  
December 29, 2011

  
A. Paul Weissenstein, Jr.  
Attorney for MB Hudson  
PO Box 2446  
Sumter, SC 29151  
(803) 418-5700

|                                       |   |                              |
|---------------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA               | ) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF CLARENDON                   | ) |                              |
| TLC Holdings, LLC,                    | ) | THIRD JUDICIAL CIRCUIT       |
|                                       | ) | CASE NUMBER: 2011-CP-14-602  |
| Plaintiff(s),                         | ) |                              |
|                                       | ) | ANSWER                       |
| Vs.                                   | ) | AND                          |
|                                       | ) | COUNTERCLAIM                 |
|                                       | ) | AND                          |
|                                       | ) | AFFIRMATIVE DEFENSE          |
|                                       | ) | AND                          |
|                                       | ) | MOTION TO DISMISS            |
| M. B. Hudson aka M. B. Hutson,        | ) | AND                          |
|                                       | ) | THIRD PARTY COMPLAINT        |
| Defendant and Third Party Plaintiff,  | ) | (Jury Trial Demanded)        |
|                                       | ) |                              |
| Vs.                                   | ) |                              |
|                                       | ) |                              |
| Richard U. Clark, Jimmy S. Lovell and | ) |                              |
| James C. Thigpen,                     | ) |                              |
|                                       | ) |                              |
| <u>Third Party Defendants.</u>        | ) |                              |

### MOTION TO DISMISS

PLEASE take notice that at 10:00 AM on the tenth (10<sup>th</sup>) day after service hereof, or as soon as counsel may be heard, the Defendant will move to dismiss the Summons and Complaint of the Plaintiff herein pursuant to Rule 12(b)(4) and 12(b)(5), SCRCF as follows:

- a) The Plaintiff previously served a Rule to Show on the Defendant, without copy of any Petition, Application, or other pleading.
- b) Within ten (10) days of that service, on December 8, 2011, Defendant filed and served his Motion to Dismiss, which motion is still pending.
- c) Plaintiff has now filed and served a Summons and Verified Complaint, but without the Rule to Show Cause, and still without the Petition, Application, or other pleading that resulted in issuance of the Rule to Show Cause.

d) The Defendant is informed and believes that the Plaintiff has failed to properly serve the Defendant in this matter, and the Plaintiff's case should be dismissed.

Without waiving his rights under this motion, or the motion filed December 8, 2011, the Defendant, M. B. Hudson aka M. B. Hutson, does hereby answer the Complaint of the Plaintiff herein as follows:

#### FOR A FIRST DEFENSE

1. Each allegation of the Complaint is denied unless specifically admitted or explained.
2. The Defendant admits the allegations of Paragraph 1 of the Complaint on information and belief.
3. As to Paragraph 2, the Defendant admits that he resides and does business in Clarendon County, South Carolina but would show that he is a Purchaser pursuant to the Lease Purchase Agreement.
4. The Defendant admits the allegations of Paragraph 3.
5. The Defendant does not believe that Paragraph 4 requires an answer but if one is required then the Defendant denies same.
6. As to the allegations of Paragraph 5, Defendant admits that on about December 16, 2010, a Lease Purchase Agreement was entered into for property at 5215 Dingle Pond Road, Summerton, S.C., generally known as The Big Water Resort and would admit that the Lease Purchase Agreement is attached as Exhibit A to the Plaintiff's Complaint. However, the Defendant is throughout that document referred to as a Purchaser and not as a Tenant.
7. The Defendant admits so much of the allegations of Paragraph 6 as alleged that portions of the Lease Purchase Agreement call for the payment of monthly rent, payment of

annual rent to the South Carolina Public Service Authority, and insurance premiums, but denies any remaining allegations of said Paragraph 6.

8. The Defendant denies so much of the allegations of Paragraph 7 of the Complaint as alleges complete performance by the Plaintiff of its obligations, and also as alleges that there has been a breach of the terms of the Lease Purchase Agreement by the Defendant but would show that all the payments called for in the Lease Purchase Agreement have not been paid by the Defendant due to the lack of disclosures by the Plaintiff.

9. As to the allegations of Paragraph 8, the Defendant admits that there are amounts which the Lease Purchase Agreement called for Defendant to pay to Plaintiff which are unpaid to the Plaintiff but is uncertain as to any balance due and demands strict proof thereof.

10. As to the allegations of Paragraph 9, the Defendant admits that the Lease Purchase Agreement provided that the Purchaser would be responsible for costs and expenses (including, but not limited to, reasonable attorney's fees and expenses), but only if Plaintiff can prove that it is entitled to recover same as a result of any legal actions.

11. The Defendant denies the allegations of Paragraph 10 of the Complaint.

12. The Defendant is informed and believes that Paragraph 11 does not require a response but if a response is required, the Defendant denies same and demands strict proof thereof.

13. The Defendant denies the allegations of Paragraphs 12, 13, and 14 of the Complaint.

14. As to the allegations of Paragraph 15, the Defendant admits that the Plaintiff sent a letter dated October 15, 2011 but is informed and believes that the language of the letter should speak for itself. Further, the Defendant denies that the Lease Purchase Agreement



and/or South Carolina law will allow the Plaintiff to cancel on its own a contract under which a Defendant has made expenditures toward the purchase of a piece of real property.

15. The Defendant denies the allegations of Paragraphs 16 and 17 of the Complaint.

16. Throughout the Complaint, the Plaintiff has attempted to label the Defendant as a Tenant. The Lease Purchase Agreement entered into between the parties referred to the Defendant only as a Purchaser and that relationship was the intent of the parties. In preparing this responsive pleading, the Defendant assumes that any references by the Plaintiff to "tenant" is merely scrivener's error and is intended to refer to the Defendant, M.B. Hudson aka M.B. Hutson. The Defendant has responded to the Complaint as though the Plaintiff has so intended.

#### FOR A SECOND DEFENSE

17. Each matter set forth above is re-alleged as fully as if set forth herein.

18. As to the allegation that a landlord / tenant relationship existed between the Plaintiff and Defendant, the Defendant denies that allegation and would respectfully show the Court that the Defendant is in fact a Purchaser under the Lease Purchase Agreement, which was prepared by the Sellers, attached as Exhibit A of the Complaint and incorporated herein by reference. Throughout that document, Defendant is referred to only as a Purchaser, and not as a Lessee or tenant.

19. While the Defendant has not paid all of the rent payments that have become due, the Defendant denies that grounds for ejectment exist, and thus the relief sought by the Plaintiff should be denied.

20. The Plaintiff has requested the ejectment of the Defendant from the premises that is the subject of a lease purchase agreement.

21. For the Court to grant the Plaintiff the relief sought would cause the Plaintiff to receive an unjust enrichment.

22. Thus the relief sought by the Plaintiff should be denied.

FOR A THIRD DEFENSE

23. Each matter set forth above is re-alleged as fully as if set forth herein.
24. The Plaintiff has requested the ejectment of the Defendant from the premises that is the subject of a lease purchase agreement.
25. For the Court to grant the Plaintiff the relief sought would cause the Defendant to suffer irreparable harm.

26. Thus the relief sought by the Plaintiff should be denied.

FOR A FOURTH DEFENSE

27. Each matter set forth above is re-alleged as fully as if set forth herein.
28. The Plaintiff, Third Party Defendants and Defendant entered into a Lease Purchase Agreement by which Defendant would acquire from the Plaintiff and Third Party Defendants the property that is the subject of this action.
29. Pursuant to that Lease Purchase Agreement, Defendant has made large expenditures of sums to maintain and develop the property.
30. Defendant has an equity of redemption in the property and thus cannot be evicted from the property without protection of his equity of redemption and/or investments into the maintenance and development of the property.

31. Thus the relief sought by the Plaintiff should be denied.

FOR A THIRD PARTY COMPLAINT

32. Each matter set forth above is re-alleged as fully as set forth herein.
33. Defendant/Third Party Plaintiff, hereinafter referred to as Defendant, would show unto the Court as follows:
34. The Defendant is a citizen and resident of Clarendon County, South Carolina.

35. The Defendant is informed and believes that the Plaintiff is an LLC organized under the laws of the State of South Carolina.

36. The Third Party Defendants are owners or members of TLC Holdings, LLC and, with TLC Holdings, LLC, are Sellers of the premises described in the Complaint as shown and described in the Lease Purchase Agreement.

37. On information and belief, the Defendant Thigpen is a citizen and resident of Clarendon County, South Carolina, the Defendant Clark is a citizen and resident of Knoxville, Tennessee, and the Defendant Lovell is a citizen and resident of Burr Ridge, Illinois.

38. The Defendant is informed and believes that all three of the Third Party Defendants, as owners of the property that is the subject of this action, are subject to the jurisdiction of this Court.

39. On or about December 15, 2010, Plaintiff, TLC Holdings, LLC, and Third Party Defendants, Clark, Lovell, and Thigpen, individually and as members of TLC Holdings, LLC, entered into a Lease Purchase Agreement to sell to M. B. Hudson as Purchaser the property hereinafter described. The Lease Purchase Agreement is attached to the Complaint as Exhibit A, and is also attached hereto and made a part hereof as Exhibit A.

#### FOR A CLAIM, COUNTERCLAIM, AND FIFTH DEFENSE

40. Each matter set forth above is re-alleged as fully as if set forth herein.

41. The property that is the subject of this action was owned by one or more of the Sellers being, according to the Lease Purchase Agreement, the Plaintiff and Third Party Defendants since at least May 19, 2008. Defendant is informed and believes that Plaintiff and/or the Third Party Defendants may have had some interest in the property prior to that time. The Sellers did enter into the Lease Purchase Agreement with Hudson on or about the 15<sup>th</sup> day of December 2010 to sell to Hudson said property. Section 1 of the Lease Purchase

Agreement consisting of more than five (5) pages was titled a Purchase Agreement and dealt with the terms and conditions of the Purchase by Hudson of the premises from the Sellers and anticipated the construction of improvements on the property by the Purchaser.

42. However, Sellers knew that defects existed in regard to the premises in that the South Carolina Public Health and Environmental Control had imposed a moratorium on the property that prevented the property from tying into public water and sewer services.

43. In fact the Lease Purchase Agreement in Section 11.1 called for the installation of sewer and water lines and other improvements.

44. However, the Sellers did not disclose the existence of this moratorium to the Purchaser. However, the Sellers knew of the existence of this moratorium as shown by the letter of The Town of Summerton dated April 23, 2003, attached hereto as Exhibit B.

45. The Agreement provided in Paragraph 11.1 that Purchaser, without prior written approval of Sellers, could install new sewer and water lines, but Sellers knew or should have known at the time of the preparation of this contract that new sewer and water lines would have no purpose because the project was operating at capacity and, because of the moratorium placed on the property, that the capacity could not be presently increased. This problem was material and was not disclosed by the Sellers to Hudson.

46. The Sellers in the Agreement require the Defendant to repave the existing roads, but it would make no sense to pave such roads prior to the installation of underground utilities that would require the roads to be damaged or otherwise destroyed and requiring repair or repavement because of the anticipated installation of additional water and sewer lines. Further, Progress Energy has for many months, subsequent to entering into the Agreement by Hudson, driven large vehicles onto the property in order to work on transmission lines extending across Lake Marion. Such large vehicles would have caused damage to the roads. Hudson has been

asked by Progress Energy to delay resurfacing of the roads until it had finished its work. Hudson had provided this information to the Sellers.

47. The contract, prepared by the Sellers, provides in part that "the parties acknowledge that Purchaser plans to develop and construct condominiums or other residential dwelling structures on certain portions of the unimproved premises."

48. However, the Sellers did not make any disclosure to Purchaser that there was no sewer capacity at that time that the Agreement was being negotiated for any such further development on the property as then existed.

49. Pursuant to the contract, Hudson caused a title examination to be made of the premises and found that the Plaintiff was involved in litigation affecting the premises. The Sellers in the contract disclosed the existence of that litigation, but set forth a Covenant, Consent and Agreement that included language that said "Seller covenants, consents and agrees that these actions shall be dismissed or otherwise addressed on or before closing of the entire premises, so that said pending legal actions shall in no way encumber the property or hinder such closing." To date, those actions are still pending and Hudson has been unable to proceed to purchase the property.

50. The Agreement provides that Hudson could purchase the property on or before September 1, 2011 for the sum of Six Million and 00/100 (\$6,000,000.00) Dollars, but that after that date the price would increase to Seven Million and 00/100 (\$7,000,000.00) Dollars. Because Seller has not caused the two actions referred to in the Agreement to be dismissed or otherwise addressed, Purchaser is informed and believes that the deadline to purchase the property for Six Million and 00/100 (\$6,000,000.00) Dollars should be extended until those actions are resolved. Pursuant to the provision regarding the extension of time to close beyond September 1, 2011, if that provision is not granted, Hudson will suffer damage in the amount of

One Million and 00/100 (\$1,000,000.00) Dollars. Therefore the Complaint should be dismissed and the Agreement should be modified to extend the payment due date and the ultimate closing date.

FOR A SIXTH DEFENSE, COUNTERCLAIM AND THIRD PARTY CLAIM

51. Each matter set forth above is re-alleged as fully as if set forth herein.

52. The Lease Purchase Agreement was prepared by the Seller and was executed by the parties thereto. That Agreement anticipated the purchase of the property that is the subject of this action by Hudson. The sale of the property was for the benefit of both parties, and Purchaser is informed and believes that the Sellers consider this Agreement as imposing an obligation on the part of the Purchaser to complete the purchase of the property. Pursuant to and in reliance on that Agreement, Hudson has caused certain improvements to be made to the property and has incurred expense in making said improvements, including expense in hiring attorneys, architects, electricians and engineers in trying to develop and maintain the property pursuant to the Lease Purchase Agreement. Hudson has incurred expenses in excess of Thirty Eight Thousand and 00/100 (\$38,000.00) Dollars in hiring and retaining these professionals.

53. If Hudson is ejected from the property, he will have lost those funds and have been damaged by that loss. Hudson should be entitled to be reimbursed by the Plaintiff and /or Third Party Defendants in the amount in excess of Thirty Eight Thousand and 00/100 (\$38,000.00) Dollars.

FOR A SEVENTH DEFENSE, COUNTERCLAIM AND THIRD PARTY CLAIM

54. Each matter set forth above is realleged as fully as if set forth herein.

55. The Lease Purchase Agreement provided terms and conditions for the purchase of the premises by Hudson as Purchaser from the Plaintiff and Third Party Defendants as Sellers. Pursuant to that Lease Purchase Agreement, Hudson has taken possession of the

property and taken steps to develop the property pursuant to the Agreement and prior to closing on that Purchase Agreement. Hudson therefore asserts an ownership interest in the property and thus the issue of title to the real property shall come into question.

56. Thus the parties have proceeded as though this Lease Purchase Agreement is a Purchase Contract, and Hudson is entitled to an equity of redemption, and cannot be subject to eviction as though the Agreement was merely a lease.

#### FOR AN EIGHTH DEFENSE, COUNTERCLAIM AND THIRD PARTY CLAIM

57. Each matter as set forth above is re-alleged as fully as if set forth herein.

58. The Seller and the Purchaser entered into a Lease Purchase Agreement and anticipated the development of the property by the Purchaser. However, because the sewer and water capacity had previously been reached for the project, and because a moratorium existed that did not allow the property to tie onto public water and sewer service, the Purchaser was unable to develop the property as anticipated in the contract. A condition for lifting the moratorium would be to construct a pump station at an estimated cost of about Two Hundred Eighty Thousand and 00/100 (\$280,000.00) Dollars. Those matters were or should have been known to the Sellers at the time that the contract was negotiated, but not disclosed to the Purchaser. The value of the property to the Purchaser was based in a large part on the ability of the Purchaser to immediately begin development of the property.

59. Had the Seller disclosed these problems to the Purchaser, Purchaser would not have agreed to pay such large rent prices, nor would Purchaser have agreed to pay such a large sales price, nor would Purchaser have agreed to such early price increases and closing deadlines.

60. Purchaser has been damaged by the actions of the Seller in not disclosing these matters. As a result of the damage suffered by Purchaser, the amount of rental payment should

be adjusted downward, and the sales price should also be adjusted downward by amounts to be determined.

FOR A NINTH DEFENSE, COUNTERCLAIM AND THIRD PARTY CLAIM

61. Each matter set forth above is re-alleged as fully as if set forth herein.

62. In the negotiation of the Lease Purchase Agreement, the Sellers made certain representations to Hudson that improvements could be made to the property but failed to disclose either that the property was at maximum sewer capacity or that additional water and sewer from public utilities was presently unavailable. This made the representations by the Sellers regarding future development of the property false, and those representations were material. The Sellers knew of the false representations but intended that the Purchaser act upon the representations. Hudson had no knowledge of the falsity of the representations but relied on the truth of those representations and entered into the contract. Hudson had the right to rely on those representations and has suffered a consequent and proximate injury. As a result of the fraud and misrepresentations of the Sellers, the Defendant has suffered actual damages including but not limited to the following:

a. Rental payments paid to the Plaintiff by the Defendant in the amount of about Sixty Thousand and 00/100 (\$60,000.00) Dollars,

b. Additional development costs incurred to date, including hiring attorneys, architects and engineers in the amount of about Thirty Eight Thousand and 00/100 (\$38,000.00) Dollars, plus insurance premiums, employee salaries, and other payments.

c. Almost a year of Purchaser's own time spent on the project during which time Purchaser was unable to attempt to earn funds on any other project or from any other source.

d. In addition, Hudson should be entitled to recover punitive damages from the Sellers.



FOR A TENTH DEFENSE, COUNTERCLAIM AND THIRD PARTY CLAIM

63. Each matter set forth above is re-alleged as fully as if set forth herein.

64. The property that is the subject of this action is commonly known as the Big Water Resort. It is a resort property with about six hundred (600) members who are members of the general public, and who bring guests to the property. The development and use of the property affects the public interest. Hudson has been damaged by the acts or practices of the Sellers, and those acts or practices have affected the public interest in that the conduct by the Sellers are capable of repetition.

65. Hudson and the Sellers entered into a Lease Purchase Agreement and Hudson relied on representations made by the Sellers regarding the condition of the property at the time the agreement was negotiated and prior to and subsequent to its execution. Sellers made misrepresentations to the Purchaser or otherwise concealed relevant and material statements of facts regarding the condition, usefulness, and ability to develop the property. The concealment of those facts constitute unfair or deceptive acts or practices in the conduct of trade or commerce.

66. Hudson has suffered damages as set forth above, and is entitled to recover for those damages as well as recover treble damages and attorney's fees, and the case should be dismissed.

FOR AN ELEVENTH DEFENSE, COUNTERCLAIM AND THIRD PARTY CLAIM

67. Each matter set forth above is re-alleged as fully as if set forth herein.

68. Hudson and Plaintiff and third party Defendants entered into a Lease Purchase Agreement on December 15, 2010 as set forth above.

69. That Agreement required Hudson to pay utility bills on the property.

70. Prior to entering into the Agreement with Hudson, Sellers had undertaken the installation of underground electrical utilities with Black River Electric Cooperative. The Defendant is informed and believes that Black River had advised the Plaintiff and Third Party Defendants that there would be a substantial charge for installing underground utilities instead of above ground utilities, but the Defendant is informed that the Plaintiff and Third Party Defendants never paid for that installation.

71. Defendant is informed that the cost of that installation has been added to the monthly electric bill by Black River, and has resulted in the Defendant having to pay electrical utilities charges in excess of \$110,000.00 in less than one year since signing the Lease Purchase Agreement.

72. The Defendant is informed and believes that at least \$50,000.00 to \$60,000.00 of those utility payments were to pay for the underground utility installation that was the responsibility of the Plaintiff and Third Party Defendants. The Plaintiff and Third Party Defendants knew or should have known of that charge, and failed to disclose said charges to the Defendant prior to or at any time subsequent to the entry into the Lease Purchase Agreement.

73. That failure to disclose the liability of Sellers and their assigns (the Defendant), and the resulting charges billed to and paid by the Defendant in keeping utility power on at the premises was material and the failure to disclose those underground utility charges constituted a false representation to the Defendant that the electrical utilities would be for ordinary electrical power usage. Sellers knew of the false representations of their nondisclosure but intended that the Purchaser act upon the representations. Hudson had no knowledge of the falsity of the representations but relied on the truth of those representations and entered into the

Lease Purchase Agreement. Hudson had the right to rely on those representations and has suffered a consequent and proximate injury.

74. Defendant is informed and believes that the Plaintiff and/or Third Party Defendants contacted Black River and cancelled use of its tax identification number, without notice to Defendant, resulting in termination of electric utility service in late November 2011.

75. The Defendant then had to refund deposits and rental fees for customers who had made reservations.

76. As a result of the fraud and misrepresentations of the Sellers, the Defendant has suffered actual damages including but not limited to:

- a. Payment of excess utility bills in an amount estimated at this time at approximately \$60,000.00,
- b. Suffering from power outage at the property because of his inability to pay the excessive utility charges, which affected the membership of the resort and the general public,
- c. Loss of profits suffered by Defendant due to not having electrical service on the property due to the excessive utility charges.
- d. Loss of goodwill of customers as a result of the cancellation of utility services.
- e. Financial losses incurred by the Defendant in trying to raise funds in order to pay the utility charges,
- f. Attorney's fees and other expenses incurred in trying to ascertain the reason for the excess cost of the utility services and in trying to negotiate extensions to allow payment of the excess utility charges,
- g. Diversion of funds to pay excessive utility bills, the excess portions of which could have been used to pay any the contractual obligations alleged to be due to the Sellers pursuant to the Lease Purchase Agreement.

FOR A TWELTH DEFENSE, COUNTERCLAIM, AFFIRMATIVE DEFENSE AND THIRD PARTY CLAIM

77. Each matter set forth above is re-alleged as fully as if set forth herein.

78. The Plaintiff has alleged that the Defendant is past due to the Plaintiff the sum of Seventy Eight Thousand One Hundred Eighty Six and 44/100 (\$78,186.44) Dollars.

79. The Defendant has made payments in the form of excess utility payments, and development costs incurred due to the nondisclosure by Sellers of the matters set forth above.

80. Defendant is informed and believes that those payments constitute payment of any debt alleged by Plaintiff to be past due, and Defendant should be entitled to credit on his account with the Sellers.

FOR A THIRTEENTH DEFENSE, COUNTERCLAIM AND THIRD PARTY CLAIM

81. Each matter set forth above is re-alleged as fully as if set forth herein.

82. Pursuant to the Lease Purchase Agreement, Hudson had incurred large sums of money and time in preparing an application to Clarendon County Council in order to try to further develop the property as anticipated in that Lease Purchase Agreement.

83. The County Council meeting was held December 20, 2011, at which time Defendant anticipated receiving conceptual approval which would allow him to commence construction.

84. However, after executive session, approval was denied based on pending litigation involving the property.

85. Defendant is informed and believes that such notification of pending litigation involving the property was made by the Plaintiff or Third Party Defendant and was designed to delay and hinder the Defendant from further performance pursuant to the Lease Purchase Agreement.

86. As a result, the Defendant has suffered damages, including but not limited to all of the costs and expenses incurred in his efforts to perform under the Agreement, and expenses arising from the delay of such development.

FOR A FOURTEENTH DEFENSE, COUNTERCLAIM AND THIRD PARTY CLAIM

87. Each matter set forth above is re-alleged as fully as if set forth herein.

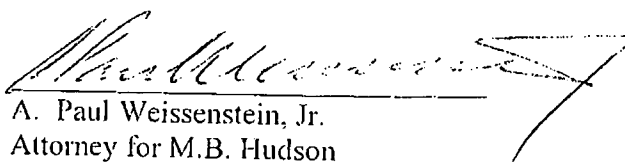
88. The Plaintiff, Defendant and Third Party Defendant entered into a Lease Purchase Agreement on about December 15, 2010, and pursuant to that Agreement, Defendant has performed by making payments and trying to proceed with the anticipated development of the property.

89. Defendant is informed and believes that the Plaintiff and Third Party Defendant have deliberately and maliciously taken steps to try to cause Defendant to fail at this project in order for them to try to recover same with the value of the project enhanced through Defendant's efforts.

90. These actions by the Plaintiff and Third Party Defendant show bad faith on their part.

91. Defendant has been damaged by the efforts of Plaintiff and Third Party Defendants and should be entitled to recover actual damages, punitive damages, and costs and expenses.

WHEREFORE having answered the Complaint in this matter, Hudson prays that the Court dismiss the Complaint and grant to the Defendant judgment against the Plaintiff and Third Party Defendants for actual damages for the amounts set forth herein, for treble damages, attorney's fees, and punitive damages, and grant to the Defendant such other and further relief as may be just and proper.



A. Paul Weissenstein, Jr.  
Attorney for M.B. Hudson  
PO Box 2446  
Sumter, SC 29151  
803-418-5700  
pwlaw@ftc-i.net

Sumter, SC  
December 29, 2011

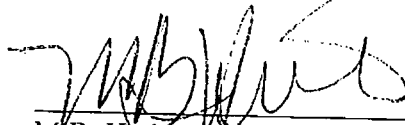
STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )  
TLC Holdings, LLC, )  
Plaintiff(s), )  
Vs. )  
M. B. Hudson aka M. B. Hutson, )  
Defendant and Third Party Plaintiff, )  
Vs. )  
Richard U. Clark, Jimmy S. Lovell and )  
James C. Thigpen, )  
Third Party Defendants. )

IN THE COURT OF COMMON PLEAS  
THIRD JUDICIAL CIRCUIT  
CASE NUMBER: 2011-CP-14-602

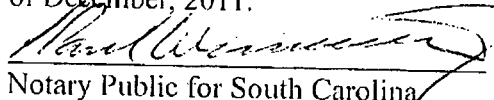
VERIFICATION

Personally appeared before me, M. B. Hudson who being sworn, deposes and says as follows:

- 1) I am M.B. Hudson aka M.B. Hutson, the Defendant in this action.
- 2) I am personally familiar with the matters set forth in this Answer, Counterclaim, and Third Party Complaint, and know that the facts stated therein are true of my own knowledge except as to those matters stated on information and belief, and as to those matters, I believe them to be true.

  
M.B. Hudson

SWORN to before me this 29 day  
of December, 2011.

 (L.S.)  
Notary Public for South Carolina  
My Commission Expires: August 31, 2011

WOMBLE  
CARLYLE  
SANDRIDGE  
& RICE  
A PROFESSIONAL LIMITED  
LIABILITY COMPANY

5 Exchange Street  
Charleston, SC 29401

Mailing Address:  
Post Office Box 999  
Charleston, SC 29402  
Telephone: (843) 722-3400  
Fax: (843) 723-7398  
www.wcsr.com

Thomas L. Harper, Jr.  
Attorney At Law  
Direct Dial: 843-720-4648  
E-mail: tharper@wcsr.com

December 13, 2011

**VIA FEDERAL EXPRESS**  
Clarendon County Clerk of Court  
3 West Keitt Street  
Manning SC 29102

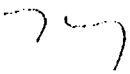
**Re:** TLC Holdings, LLC vs. M.B. Hudson a/k/a M.B. Hutson  
WCSR File No. 78195.0006.0

Dear Madam Clerk:

This law firm represents the Plaintiff in the referenced matter, which is an Application for Ejectment pursuant to S.C. Code Ann. Section 27-37-10 *et seq.*, filed on November 29, 2011. Judge Cothran issued his Rule to Vacate or Show Cause on November 29, 2011, a copy of which is enclosed. The Defendant has alleged that a Summons and Complaint are necessary pleadings as part of the statutory ejectment process, and while we do not agree, have enclosed for filing a separate Summons and Complaint in this action. Although we paid the filing fee to initiate this action when the Application for Ejectment was filed, out of an abundance of caution, we are enclosing herewith a separate check in like amount.

Please file these pleadings and return a clocked-in copy to us in the enclosed envelope. By copy of this letter I am serving the Defendant, through its counsel of record, with the same.

Sincerely yours,

  
Thomas L. Harper, Jr.

TLH/dlh  
Enclosure(s)

cc: A. Paul Weissenstein, Jr., Esquire (w/encl.)

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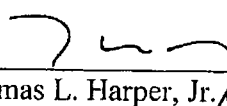


|                                |   |                              |
|--------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA        | ) | IN THE COURT OF COMMON PLEAS |
|                                | ) |                              |
| COUNTY OF CLARENDON            | ) | CASE NO.: 11-CP-14-602       |
|                                | ) |                              |
| TLC HOLDINGS, LLC,             | ) |                              |
|                                | ) |                              |
| Plaintiff,                     | ) |                              |
|                                | ) | <b>SUMMONS</b>               |
| vs.                            | ) |                              |
|                                | ) |                              |
| M.B. HUDSON A/K/A M.B. HUTSON, | ) |                              |
|                                | ) |                              |
| Defendant.                     | ) |                              |
|                                | ) |                              |

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the Plaintiff, TLC Holdings, LLC ("Plaintiff"), or its attorneys, Womble, Carlyle, Sandridge & Rice, LLP, Attention: Thomas L. Harper, Jr., 5 Exchange Street, Charleston, South Carolina 29401, within thirty (30) days from the date of such service; and if you fail to answer the Complaint within the time aforesaid, Plaintiff will apply to the Court for judgment by default for the relief demanded in the Complaint.

WOMBLE, CARLYLE, SANDRIDGE &  
RICE, LLP

  
\_\_\_\_\_  
Thomas L. Harper, Jr. (SC Bar No.: 11553)  
5 Exchange Street  
P.O. Box 999  
Charleston, SC 29402  
Telephone (843) 722-3400  
Facsimile (843) 723-7398

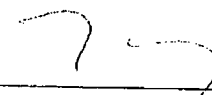
ATTORNEYS FOR PLAINTIFF

Charleston, South Carolina  
December 13, 2011

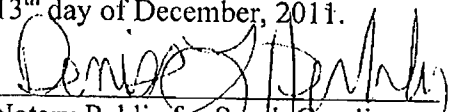
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|--------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA        | ) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF CLARENDON            | ) |                              |
| TLC HOLDINGS, LLC,             | ) | CASE NO.: 11-CP-14-_____     |
|                                | ) |                              |
| Plaintiff,                     | ) |                              |
|                                | ) |                              |
| vs.                            | ) | <b>VERIFICATION</b>          |
|                                | ) |                              |
| M.B. HUDSON A/K/A M.B. HUTSON, | ) |                              |
|                                | ) |                              |
| Defendant.                     | ) |                              |
|                                | ) |                              |

Personally appeared before me, Thomas L. Harper, Jr., who, being duly sworn, deposes and says as follows:

I am an attorney with the firm of Womble, Carlyle, Sandridge & Rice, LLP and am acting as the attorney for the above-captioned Plaintiff. I have read the foregoing Complaint and know the contents thereof and the same is true to the best of my knowledge, except as to the matters therein stated to be on information and belief, and as to those matters, I believe them to be true. The sources of my information and the grounds of my belief are the statements and documents furnished to me by my client, the Plaintiff.

  
 \_\_\_\_\_  
 Thomas L. Harper, Jr.

SWORN to before me this  
 13<sup>th</sup> day of December, 2011.

  
 \_\_\_\_\_  
 Notary Public for South Carolina  
 My Commission Expires: 6/18/19

|                                |   |                              |
|--------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA        | ) | IN THE COURT OF COMMON PLEAS |
|                                | ) |                              |
| COUNTY OF CLARENDON            | ) | CASE NO.: 11-CP-14-602       |
|                                | ) |                              |
| TLC HOLDINGS, LLC,             | ) |                              |
|                                | ) |                              |
| Plaintiff,                     | ) |                              |
|                                | ) | <b>COMPLAINT</b>             |
| vs.                            | ) | (Breach of Lease)            |
|                                | ) | (Ejectment)                  |
| M.B. HUDSON A/K/A M.B. HUTSON, | ) | (Non-Jury)                   |
|                                | ) |                              |
| Defendant.                     | ) |                              |
|                                | ) |                              |

Plaintiff, TLC Holdings, LLC ("Plaintiff"), by and through its undersigned attorneys, complaining of the Defendant, M.B. Hudson, a/k/a M.B. Hutson ("Tenant"), alleges and says as follows:

1. Plaintiff is a limited liability company organized and existing under the laws of the State of South Carolina.
2. Upon information and belief, Tenant is an individual residing and doing business in the County of Clarendon, State of South Carolina.
3. This action concerns real property located in the County of Clarendon, State of South Carolina.

**AS A FIRST CAUSE OF ACTION**  
**(Breach of Lease)**

4. Plaintiff realleges and reiterates each and every allegation set forth above as if set forth fully herein verbatim.
5. On or about December 16, 2010, Plaintiff and Tenant entered into a Lease Purchase Agreement for, among other things, the rental of real property located at 5215 Dingle Pond Road, Summerton, SC 29148, generally known as the "Big Water Resort"

(the "Leased Premises") (the "Lease" or the "Agreement"). A copy of the Lease is attached hereto as Exhibit "A" and incorporated herein by reference.

6. Pursuant to the Lease, and as set forth more fully in the Lease, Tenant agreed to pay (a) monthly rent to the Plaintiff; (b) annual rent to the South Carolina Public Service Authority with respect to a portion of the Premises; (b) the premiums owing upon various insurance policies required to be maintained by Defendant thereunder (the "Insurance Policies").

7. Despite complete performance by Plaintiff of its obligations under the Lease, Tenant has breached the Lease by failing to pay (a) monthly rent to the Plaintiff for the period beginning with the month of July, 2011, and continuing through date of this Complaint; (b) annual rent to the South Carolina Public Service Authority (which amounts Plaintiff was compelled to pay of Tenant's behalf and for which Plaintiff is entitled to reimbursement pursuant to the terms of the Lease); and (c) the premiums owing upon the Insurance Policies (which amounts Plaintiff was compelled to pay of Tenant's behalf and for which Plaintiff is entitled to reimbursement pursuant to the terms of the Lease).

8. The total amount due and owing by Tenant to the Plaintiff under the Lease as of November 22, 2011, equals Seventy-Eight Thousand One Hundred Eighty-Six and 44/100 (\$78,186.44) Dollars, plus default interest and late fees owing upon such amounts as set forth in the Lease.

9. The Lease provides that Plaintiff may recover from Tenant its reasonable attorneys' fees and costs of collection in enforcing its rights under the Lease. Plaintiff

has retained and employed the law firm of Womble, Carlyle, Sandridge & Rice, LLP for the purpose of instituting and prosecuting this action.

10. As a direct and proximate result of Tenant's breach of the Lease, Plaintiff has suffered damages in the above amounts, and is entitled to recover these amounts from Tenant, together with all rent owing for the remainder of the term of the Lease, and Plaintiff's reasonable attorneys' fees and costs of collection in this matter.

**AS A SECOND CAUSE OF ACTION**  
**(Ejectment)**

11. Plaintiff realleges and reiterates each and every allegation set forth above as if set forth fully herein verbatim.

12. As outlined more fully above, Tenant has violated the terms and conditions of the Lease, and has breached the same, by its failure to pay the monthly rent and other amounts owing under the Lease when due.

13. Tenant has forfeited any and all right to possession of the Leased Premises by its failure to perform specific obligations under the Lease.

14. Pursuant to the Lease, upon the foregoing defaults by Tenant, Plaintiff is entitled to terminate the Lease.

15. By letter dated October 15, 2011, Landlord advised Tenant that it had terminated the Agreement as a result of Tenant's defaults.

16. As a result of the Termination of the Agreement, the term of the Lease has expired.

17. Plaintiff has elected to eject Tenant from the Leased Premises pursuant to Plaintiff's rights under South Carolina Code § 27-37-10, *et seq.*

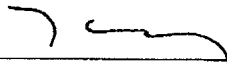
WHEREFORE, Plaintiff prays that this Honorable Court issue its Order:

A. Granting Plaintiff judgment against Defendant Lesa Hall Patton and Robert T. Patton, jointly and severally, under the First Cause of Action in the amount of Seventy-Eight Thousand One Hundred Eighty-Six and 44/100 (\$78,186.44) Dollars as of November 22, 2011, plus default interest and late fees owing upon such amounts as set forth in the Lease, together with Plaintiff's reasonable attorneys' fees and costs of collection.

B. Issuing a written rule requiring the Tenant to vacate the Leased Premises occupied by them or to show cause why they should not be ejected before this Honorable Court within ten days after service of a copy of such rule upon Tenant; and

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

WOMBLE, CARLYLE, SANDRIDGE &  
RICE, LLP

  
\_\_\_\_\_  
Thomas L. Harper, Jr. (SC Bar No.: 11553)  
5 Exchange Street  
P.O. Box 999  
Charleston, SC 29402  
Telephone (843) 722-3400  
Facsimile (843) 723-7398

ATTORNEYS FOR PLAINTIFF

Charleston, South Carolina  
December 13, 2011

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

TLC HOLDINGS, LLC

☐ Plaintiff

v.

M.B. Hudson A/K/A M.B. Hutson,

☒ Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.

2011-CP-14-602

MOTION AND ORDER INFORMATION  
FORM AND COVER SHEET

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  |                                                                                                                                                                                         |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Plaintiff's Attorney:<br>Address:<br>phone: fax:<br>e-mail: other:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |  | Defendant's Attorney:<br>A. Paul Weissenstein, Jr., Bar No. 6013<br>Address:<br>PO Box 2446 Sumter, SC 29151<br>phone: 803-418-5700 fax: 803-934-1505<br>e-mail: pwlaw@ftc-i.net other: |  |
| <input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)<br><input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)<br><input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |                                                                                                                                                                                         |  |
| <b>SECTION I: Hearing Information</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |                                                                                                                                                                                         |  |
| Nature of Motion:<br>Estimated Time Needed: Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |  |                                                                                                                                                                                         |  |
| <b>SECTION II: Motion/Order Type</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |                                                                                                                                                                                         |  |
| <input checked="" type="checkbox"/> Written motion attached<br><input type="checkbox"/> Form Motion/Order<br>I hereby move for relief or action by the court as set forth in the attached proposed order.<br><div style="display: flex; justify-content: space-between;"><div>Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant</div><div>December 7, 2011<br/>Date submitted</div></div>                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |                                                                                                                                                                                         |  |
| <b>SECTION III: Motion Fee</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |                                                                                                                                                                                         |  |
| <input checked="" type="checkbox"/> PAID - AMOUNT: 25.00<br><input type="checkbox"/> EXEMPT: (check reason) <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support<br><input type="checkbox"/> Domestic Abuse or Abuse and Neglect<br><input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party<br><input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief<br><input type="checkbox"/> Motion for Stay in Bankruptcy<br><input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)<br><input type="checkbox"/> Proposed order submitted at request of the court; or,<br>reduced to writing from motion made in open court per judge's instructions<br>Name of Court Reporter:<br><input type="checkbox"/> Other: Rule 55 and 60, SCRPC |  |                                                                                                                                                                                         |  |
| <b>JUDGE'S SECTION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |  |                                                                                                                                                                                         |  |
| <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order.<br><input type="checkbox"/> Other:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  | JUDGE: _____<br>CODE: _____ Date: _____                                                                                                                                                 |  |
| <b>CLERK'S VERIFICATION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |                                                                                                                                                                                         |  |
| Collected by: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |  | Date Filed: _____                                                                                                                                                                       |  |
| <input type="checkbox"/> MOTION FEE COLLECTED: _____<br><input type="checkbox"/> CONTESTED - AMOUNT DUE: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |                                                                                                                                                                                         |  |

SCCA/233 (11-03)

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|                               |   |                              |
|-------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA       | ) | IN THE COURT OF COMMON PLEAS |
|                               | ) | CASE NUMBER: 2011-CP-14-602  |
| COUNTY OF CLARENDON           | ) |                              |
| TLC Holdings, LLC,            | ) |                              |
|                               | ) |                              |
| Plaintiff,                    | ) | NOTICE OF MOTION AND MOTION  |
| Vs.                           | ) |                              |
|                               | ) |                              |
| M.B.Hudson A/K/A M.B. Hutson, | ) |                              |
|                               | ) |                              |
| Defendant.                    | ) |                              |

TO: Thomas L. Harper, Jr., Attorney for TLC Holdings, LLC:

Please take notice that at 10:00 A.M. on the tenth (10th) day after service hereof, or as soon thereafter as counsel may be heard, the undersigned will move before the court to dismiss the case and Rule to Vacate or Show Cause filed by the Plaintiff in this matter. The grounds for said motion are as follows:

1) The Plaintiff previously filed an action for ejectment in the magistrate's court for Clarendon County. The Defendant filed an Answer and Counterclaim and Written Undertaking. At the hearing, the court dismissed the action with leave for Plaintiff to bring action in the Court of Common Pleas.

2) On November 30, 2011, the Defendant was served with a Rule to Vacate or Show Cause. That Rule instructed the Defendant to show cause "within ten (10) days from the date of service of this verified pleading and rule why you should not be ejected from the said premises." The Defendant was not served with a Summons and Complaint or any verified pleading but only with the Rule to Vacate or Show Cause as shown by the Affidavit of the Defendant attached hereto and made a part hereof.

3) The Defendant objects to the Rule to Vacate or Show Cause pursuant to Rule 12(b)(4) SCRCF for insufficiency of process, 12(b)(5) for insufficiency of service of process, and 12(b)(6) for failure to state facts sufficient to constitute a cause of action.



4) Further, Defendant moves pursuant to Rule 12(b)(2)SCRCP to dismiss the case for lack of jurisdiction over the Defendant as the Defendant has neither been summoned before this Court, nor has he been served with any pleadings other than a Rule to Vacate or Show Cause.

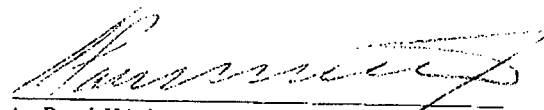
5) Pursuant to the order from the Magistrate's Court action, the Defendant and/or his attorney agreed to accept service of process, but that order did not require the Defendant to go seek and find any pleadings that may have been filed in the action.

WHEREFORE, the Defendant moves that either the action be dismissed or that the Plaintiff be required to cause service of process to be made upon the Defendant or Defendant's counsel of all of the pleadings filed by the Plaintiff in this matter including the Rule to Vacate or Show Cause and any other pleadings that had been filed in the matter, and that the Defendant be given the full ten (10) days from receipt of those properly filed and served pleadings in which to respond to the Rule to Vacate or Show Cause.

December 7, 2011

Sumter, SC

Weissenstein Law Firm, L.L.C.



A. Paul Weissenstein Jr.  
Attorney for M.B. Hudson  
PO Box 2446  
Sumter, SC 29151  
(803) 418-5700

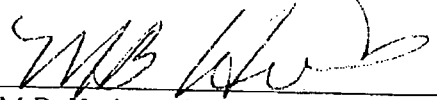
STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )  
TLC Holdings, LLC, )  
Plaintiff, )  
Vs. )  
M.B.Hudson A/K/A M.B. Hutson, )  
Defendant. )

IN THE COURT OF COMMON PLEAS  
CASE NUMBER: 2011-CP-14-602

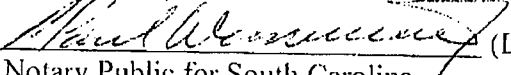
## AFFIDAVIT

Personally appeared before me, M. B. Hudson, who being sworn, deposes and says as follows:

- 1) I am M.B. Hudson aka M.B. Hutson, the Defendant named herein.
- 2) On November 30, 2010, two female persons came to see me and brought to me a Rule to Vacate or Show Cause, copy of which is attached hereto. This was the only piece of paper that they brought to me. I asked the process server if that was all there is, one paper, and she replied yes, that she gave me what she had. The next day, I immediately took it to my attorney and he asked me for the other papers. He said that we were required to respond to the verified pleading and rule, but the rule was the only paper that I received.
- 3) We have previously told Plaintiff's attorney that either my attorney or I would be willing to accept service, but the attorney apparently chose to have me served by process servers but the only paper that they served on me was the one page.

  
M.B. Hudson aka M.B. Hutson

SWORN to before me this 7th day  
of December, 2011.

 (L.S.)  
Notary Public for South Carolina  
My Commission Expires: August 31, 2011

STATE OF SOUTH CAROLINA )

COUNTY OF CLARENDON )

TLC HOLDINGS, LLC, )

Plaintiff, )

vs. )

M.B. HUDSON A/K/A M.B. HUTSON, )

Defendant. )

IN THE COURT OF COMMON PLEAS

CASE NO.: 11-CP-14- 602

## RULE TO VACATE OR SHOW CAUSE

TO: M.B. HUDSON A/K/A M.B. HUTSON:

Upon application for ejectment filed by the Plaintiff in the above-referenced matter, you the Defendant and lessee of the premises noted in the Complaint are ordered to vacate the said premises immediately or to show cause before me at this court, located at 3 W. Keitt Street, Manning, South Carolina, within ten (10) days from the date of service of this verified pleading and rule why you should not be ejected from the said premises. FAILURE TO VACATE THE PREMISES OR TO RESPOND TO THIS COURT WITHIN THE TIME PERIOD SET ABOVE MAY RESULT IN THE ISSUANCE OF A WARRANT OF EJECTMENT.

AND IT IS SO ORDERED, this 29 day of November, 2011 in Manning, South Carolina.

151 R. J. J. Collier Jr.  
Judge

CERTIFIED TRUE COPY  
OF ORIGINAL FILED IN THIS OFFICE

DATE 11/29/11Paula H. RobertsCLERK OF COURT  
CLARENDON COUNTY, SC

WCSR 7040944v1

EJECT\_000349

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**Weissenstein Law Firm, LLC**

*Attorney at Law*

106 Broad Street

Post Office Box 2446

Sumter, South Carolina 29151-2446

Telephone: (803) 418-5700

Facsimile: (803) 934-1505

E-Mail: [pwlaw@ftc-i.net](mailto:pwlaw@ftc-i.net)



A. Paul Weissenstein, Jr.

December 8, 2011

Honorable Beulah G. Roberts  
Clerk of Courts, Clarendon County  
PO Box 136  
Manning, SC 29102

Re: TLC Holdings, LLC  
Vs: M.B. Hudson a/k/a M.B. Hutson  
2011-CP-14-602

Dear Ms. Roberts,

There is enclosed and presented to you for filing Notice of Motion and Motion together with Motion Coversheet and a check in the amount of \$25.00. Please file the motion and return clocked copies to me.

Yours very truly,

A handwritten signature in dark ink, appearing to read 'A. Paul Weissenstein, Jr.'.

A. Paul Weissenstein, Jr.

APWjr/lle  
Enclosures

Cc: Thomas L. Harper, Jr., Esquire

STATE OF SOUTH CAROLINA )  
COUNTY OF CLARENDON )

IN THE COURT OF COMMON PLEAS

CASE NO.: 11-CP-14- 602

TLC HOLDINGS, LLC,

Plaintiff,

vs.

M.B. HUDSON A/K/A M.B. HUTSON,

Defendant.

**RULE TO VACATE OR SHOW CAUSE**

TO: M.B. HUDSON A/K/A M.B. HUTSON:

Upon application for ejectment filed by the Plaintiff in the above-referenced matter, you the Defendant and lessee of the premises noted in the Complaint are ordered to vacate the said premises immediately or to show cause before me at this court, located at 3 W. Keitt Street, Manning, South Carolina, within ten (10) days from the date of service of this verified pleading and rule why you should not be ejected from the said premises. FAILURE TO VACATE THE PREMISES OR TO RESPOND TO THIS COURT WITHIN THE TIME PERIOD SET ABOVE MAY RESULT IN THE ISSUANCE OF A WARRANT OF EJECTMENT.

AND IT IS SO ORDERED, this 29 day of November, 2011 in Manning, South Carolina.

151 R. Jewell Cothran Jr.  
Judge

BEULAH G. ROBERTS  
CLERK OF COURT  
CLARENDON COUNTY, SC  
2011 NOV 29 PM 2:56

CERTIFIED TRUE COPY  
OF ORIGINAL FILED IN THIS OFFICE

DATE 11/29/11

Beulah G. Roberts

CLERK OF COURT  
CLARENDON COUNTY, SC

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

TLC HOLDINGS, LLC

Plaintiff,

vs.

M.B. HUDSON a/k/a M.B. HUTSON

Defendant.

IN THE COURT OF COMMON PLEAS  
THIRD JUDICIAL CIRCUITCASE NO.: 2011-CP- M - 00602**MOTION AND ORDER INFORMATION  
FORM AND COVERSHEET****Plaintiff's Attorney:**

Jana B. Baker, Bar No. 72487

**Address:**Womble Carlyle Sandridge & Rice, LLP  
PO Box 999, Charleston, SC 29402  
Phone: 843/722-3400 Fax 843/723-7398  
E-mail: ja\_baker@wcsr.com Other: \_\_\_\_\_**Defendant's Attorney:**

, Bar No. \_\_\_\_\_

**Address:**

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_ Other: \_\_\_\_\_

- ☐ **MOTION HEARING REQUESTED** (attach written motion and complete SECTIONS I and III)  
☐ **FORM MOTION, NO HEARING REQUESTED** (complete SECTIONS II and III)  
☒ **PROPOSED ORDER/CONSENT ORDER** (complete SECTIONS II and III)

**SECTION I: Hearing Information**

Nature of Motion: Rule to Vacate or Show Cause

Estimated Time Needed: \_\_\_\_\_ Court Reporter Needed: ☐ YES/ ☐ NO**SECTION II: Motion/Order Type**☒ Written motion attached☒ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☒ Plaintiff / ☐ DefendantNovember 22, 2011  
Date submitted**SECTION III: Motion Fee**☒ PAID - AMOUNT: \$ 25.00☐ EXEMPT:

(check reason)

- ☐ Rule to Show Cause in Child or Spousal Support  
☐ Domestic Abuse or Abuse and Neglect  
☐ Indigent Status ☐ State Agency v. Indigent Party  
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief  
☐ Motion for Stay in Bankruptcy  
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)  
☐ Proposed order submitted at request of the court; or,  
reduced to writing from motion made in open court per judge's instructions  
Name of Court Reporter: \_\_\_\_\_  
☒ Other: Rule to Vacate or Show Cause

**JUDGE'S SECTION**☐ Motion Fee to be paid upon filing of the attached order.☐ Other: \_\_\_\_\_

JUDGE CODE \_\_\_\_\_

Date: \_\_\_\_\_

**CLERK'S VERIFICATION**

Collected by: \_\_\_\_\_ Date Filed: \_\_\_\_\_

☐ MOTION FEE COLLECTED: \$ \_\_\_\_\_☐ CONTESTED - AMOUNT DUE: \$ \_\_\_\_\_

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CLARENDON )  
 )  
TLC HOLDINGS, LLC,

Plaintiff,

**VS.**

M.B. HUDSON A/K/A M.B. HUTSON,  
Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.: 11-CP-14-

### RULE TO VACATE OR SHOW CAUSE

TO: M.B. HUDSON A/K/A M.B. HUTSON:

Upon application for ejectment filed by the Plaintiff in the above-referenced matter, you the Defendant and lessee of the premises noted in the Complaint are ordered to vacate the said premises immediately or to show cause before me at this court, located at 3 W. Keitt Street, Manning, South Carolina, within ten (10) days from the date of service of this verified pleading and rule why you should not be ejected from the said premises. FAILURE TO VACATE THE PREMISES OR TO RESPOND TO THIS COURT WITHIN THE TIME PERIOD SET ABOVE MAY RESULT IN THE ISSUANCE OF A WARRANT OF EJECTMENT.

AND IT IS SO ORDERED, this 17 day of November, 2011 in Manning,  
South Carolina.

Judge

WOMBLE  
CARLYLE  
SANDRIDGE  
& RICE

A PROFESSIONAL LIMITED  
LIABILITY COMPANY

November 22, 2011

5 Exchange Street  
Charleston, SC 29401

Mailing Address:  
Post Office Box 999  
Charleston, SC 29402  
Telephone: (843) 722-3400  
Fax: (843) 723-7398  
www.wcsr.com

THOMAS L. HARPER, JR.  
ATTORNEY AT LAW  
E-Mail: tharper@wcsr.com  
DIRECT DIAL: 843-720-4636  
FAX: 843-723-7398

**VIA FEDERAL EXPRESS**

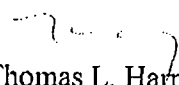
Clarendon County Clerk of Court  
Clarendon County Courthouse  
3 West Keitt Street  
Manning SC 29102

Re: TLC Holdings, LLC vs. M.B. Hudson a/k/a M.B. Hutson  
Case No. 11-CP-14-                      
WCSR File No. 78195.0006.0

Dear Sir/Madam:

Please find enclosed for filing in the above matter the original and two copies of the Application of Ejectment and Rule to Vacate or Show Cause along with two checks, one for \$150.00 to commence this action, and a second check in the amount of \$25.00 representing the fee for the court's execution of the Rule to Vacate or Show Cause. Please have the presiding judge execute the Rule to Vacate or Show Cause, and return a copy of the executed Rule to Vacate together with the clocked in copies of the other pleading to me in the envelope provided. Thank you for your assistance in this matter.

Sincerely yours,

  
Thomas L. Harper, Jr.

TLH/dlh  
Enclosure(s)

WCSR 7041011v1

EJECT\_000354

1695

ELECTRONICALLY FILED - 2019 Jun 25 3:36 PM - RICHLAND - COMMON PLEAS - CASE#2018CP4006344



|                                |   |                                  |
|--------------------------------|---|----------------------------------|
| STATE OF SOUTH CAROLINA        | ) | IN THE COURT OF COMMON PLEAS     |
|                                | ) |                                  |
| COUNTY OF CLARENDON            | ) | CASE NO.: 11-CP-14-_____         |
|                                | ) |                                  |
| TLC HOLDINGS, LLC,             | ) |                                  |
|                                | ) |                                  |
| Plaintiff,                     | ) |                                  |
|                                | ) | <b>APPLICATION FOR EJECTMENT</b> |
| vs.                            | ) |                                  |
|                                | ) |                                  |
| M.B. HUDSON A/K/A M.B. HUTSON, | ) |                                  |
|                                | ) |                                  |
| Defendant.                     | ) |                                  |
|                                | ) |                                  |

Plaintiff, TLC Holdings, LLC ("Plaintiff" or "Landlord"), by and through its undersigned counsel, states that Plaintiff is the landlord-lessor of the premises herein described. The premises are within the jurisdiction of Clarendon County and are located at **5215 Dingle Pond Road, Summerton, SC 29148, generally known as the "Big Water Resort"**.

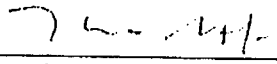
Plaintiff further states that, with regard to the above-describes premises, a landlord - tenant relationship exists between the Plaintiff and the Defendant M.B. Hudson a/k/a M.B. Hutson ("Tenant" or "Defendant"), the tenant-lessee, as is evidenced by that certain Lease Purchase Agreement between Plaintiff and Defendant dated December 16, 2010, a copy of which is attached to this application (the "Lease").

Grounds for this ejectment are (1) that Tenant fails or refuses to pay the rent when due and when demanded; and (2) the terms and conditions of the lease have been violated by Tenant as set forth herein. Tenant has failed to pay rent owing for the period of July, 2011, through the date hereof (a total of five (5) months). Tenant has failed to maintain insurance as required by the Lease. Tenant has failed to pay the rental owing to the South Carolina Public Service Authority as required by the Lease. In addition, upon

information and belief, Tenant did knowingly and intentionally misrepresent his identity to Plaintiff by executing the Lease, and identifying himself during the negotiations thereof, as "M.B. Hudson", when his correct name is M.B. Hutson.

The total amount owing by Tenant as of November 22, 2011, equals \$78,186.44, plus default interest, late charges, and Plaintiff's reasonable attorneys' fees, all as are due and owing to Plaintiff pursuant to the terms of the Lease.

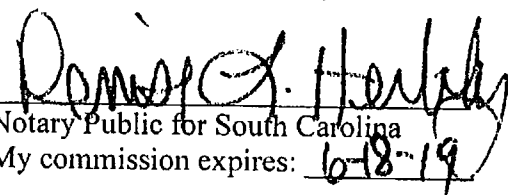
WOMBLE, CARLYLE, SANDRIDGE & RICE, LLP

  
\_\_\_\_\_  
Thomas L. Harper, Jr. (ID No. 11553)  
Five Exchange Street  
P.O. Box 999  
Charleston, SC 29402  
(843) 722-3400

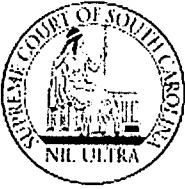
ATTORNEYS FOR PLAINTIFF

Charleston, South Carolina  
November 22, 2011

SWORN to and Subscribed before me,  
this 22<sup>nd</sup> day of November, 2011.

  
\_\_\_\_\_  
Notary Public for South Carolina  
My commission expires: 6-18-19

## Exhibit 2



## Clarendon County Third Judicial Circuit Public Index



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[SC.GOV Home Page](#)

| TLC Holdings LLC VS M B Hudson |                                 |                   |                                           |                    |                 |
|--------------------------------|---------------------------------|-------------------|-------------------------------------------|--------------------|-----------------|
| Case Number:                   | 2011CP1400602                   | Court Agency:     | Common Pleas                              | Filed Date:        | 11/29/2011      |
| Case Type:                     | Common Pleas                    | Case Sub Type:    | Real Prop/Other 499                       | File Type:         | Jury            |
| Status:                        | Settled                         | Assigned Judge:   | Clerk Of Court C P, G S, And Family Court |                    |                 |
| Disposition:                   | Withdrawn or Settled by Parties | Disposition Date: | 04/05/2012                                | Disposition Judge: | Newman, Clifton |
| Original Source Doc:           |                                 | Original Case #:  |                                           |                    |                 |
| Judgment Number:               |                                 | Court Roster:     |                                           |                    |                 |

### Case Parties

Click the  icon to show associated parties.

| Name                                                                                                                    | Address                                                           | Race | Sex | Year Of Birth | Party Type         | Party Status | Last Updated |
|-------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|------|-----|---------------|--------------------|--------------|--------------|
|  Baker, Jana Bebergal                | 5 Exchange Street P.O. Box 999 Charleston SC 29402                |      |     |               | Plaintiff Attorney |              | 11/29/2011   |
|  Belser, H Freeman                   | 1901 Main Street, Suite 1550 Post Office Box 96 Columbia SC 29202 |      |     |               | Defendant Attorney |              | 03/07/2014   |
| Burn, Stephen C. Jr. (Inactive)                                                                                         | 945 East Main Street, Ste. D Lexington SC 29072                   |      |     |               | Defendant Attorney |              | 03/07/2014   |
|  Byrd, R. Wayne                      | PO Box 2116 Myrtle Beach SC 29578                                 |      |     |               | Plaintiff Attorney |              | 01/08/2014   |
|  Harper, Thomas Lawton Jr.           | PO Box 999 Charleston SC 29402                                    |      |     |               | Plaintiff Attorney |              | 01/14/2014   |
|  Hudson, M B                         |                                                                   |      |     |               | Defendant          |              | 03/17/2014   |
| Belser, H Freeman                                                                                                       | 1901 Main Street, Suite 1550 Post Office Box 96 Columbia SC 29202 |      |     |               | Defendant Attorney |              | 03/07/2014   |
| Weissenstein, A. Paul Jr.(Inactive)                                                                                     | 106 Broad Street Sumter SC 29150                                  |      |     |               | Defendant Attorney |              | 01/14/2014   |
|  TLC Holdings LLC                    |                                                                   |      |     |               | Plaintiff          |              | 04/11/2012   |
|  Weissenstein, A. Paul Jr.(Inactive) | 106 Broad Street Sumter SC 29150                                  |      |     |               | Defendant Attorney |              | 01/14/2014   |
| Hudson, M B                                                                                                             |                                                                   |      |     |               | Defendant          |              | 03/17/2014   |

### Actions

| Name             | Description                           | Type   | Motion Roster | Begin Date       | Completion Date | Documents |
|------------------|---------------------------------------|--------|---------------|------------------|-----------------|-----------|
| TLC Holdings LLC | Other/Form 4 Order of the Court       | Filing |               | 03/21/2014-14:53 |                 |           |
| Hudson, M B      | Order/Consent Order to Be Relieved as | Order  |               | 03/11/2014-09:58 |                 |           |

|                           |                                                        |        |  |                  |                  |  |
|---------------------------|--------------------------------------------------------|--------|--|------------------|------------------|--|
|                           | Counsel-Steven Burn                                    |        |  |                  |                  |  |
| Hudson, M B               | Memo/Memo in Support of his position                   | Filing |  | 03/07/2014-11:55 |                  |  |
| Hudson, M B               | Notice/Notice of Appearance                            | Filing |  | 03/07/2014-11:55 |                  |  |
| Burn, Stephen C. Jr.      | Order/Consent Order to be Relieved as Counsel          | Order  |  | 03/07/2014-10:45 |                  |  |
| TLC Holdings LLC          | Affidavit/Affidavit of Bonham Gardner                  | Filing |  | 03/04/2014-09:17 |                  |  |
| TLC Holdings LLC          | Affidavit/Affidavit of M.B. Hudson                     | Filing |  | 03/04/2014-09:15 |                  |  |
| TLC Holdings LLC          | Other/Notice of Bankruptcy and Certificate of Service  | Filing |  | 01/13/2014-11:52 |                  |  |
| Hudson, M B               | Notice/Notice and Substitution of Attorney and Service | Filing |  | 01/08/2014-09:44 |                  |  |
| TLC Holdings LLC          | Affidavit/Affidavit of Personal Service                | Filing |  | 01/07/2014-10:40 |                  |  |
| TLC Holdings LLC          | Affidavit/Affidavit of Thomas L. Harper Jr. (2)        | Filing |  | 01/06/2014-10:44 |                  |  |
| TLC Holdings LLC          | Other/Entry of Appearance                              | Filing |  | 01/02/2014-15:21 |                  |  |
| Hudson, M B               | Motion/Motion to Set Aside Affidavit of Default        | Filing |  | 12/30/2013-15:16 | 03/21/2014-15:16 |  |
| Hudson, M B               | Motion/Motion For Restraining Order                    | Filing |  | 12/30/2013-15:12 | 12/30/2013-15:12 |  |
| TLC Holdings LLC          | Other/Temporary Restraining Order                      | Filing |  | 12/30/2013-15:09 |                  |  |
| TLC Holdings LLC          | Affidavit/Affidavit of Default                         | Filing |  | 12/11/2013-08:47 |                  |  |
| TLC Holdings LLC          | Other/Consent Order for Settlement Agreement           | Filing |  | 04/13/2012-09:12 |                  |  |
| TLC Holdings LLC          | Other/Form 4 Case Settled                              | Filing |  | 04/11/2012-17:22 |                  |  |
| Baker, Jana Bebergal      | Notice of Motions Roster Publication Sent              | Action |  | 03/19/2012-12:12 | 04/05/2012-12:12 |  |
| Baker, Jana Bebergal      | Notice of Motions Roster Publication Sent              | Action |  | 03/19/2012-12:12 | 04/05/2012-12:12 |  |
| Baker, Jana Bebergal      | Notice of Motions Roster Publication Sent              | Action |  | 03/19/2012-12:12 | 04/05/2012-12:12 |  |
| Weissenstein, A. Paul Jr. | Notice of Motions Roster Publication Sent              | Action |  | 03/19/2012-12:12 | 04/05/2012-12:12 |  |
| Weissenstein, A. Paul Jr. | Notice of Motions Roster Publication Sent              | Action |  | 03/19/2012-12:12 | 04/05/2012-12:12 |  |
| Weissenstein, A. Paul Jr. | Notice of Motions Roster Publication Sent              | Action |  | 03/19/2012-12:12 | 04/05/2012-12:12 |  |
| TLC Holdings LLC          |                                                        | Motion |  |                  |                  |  |

|                  |                                                              |        |  |                  |                  |  |
|------------------|--------------------------------------------------------------|--------|--|------------------|------------------|--|
|                  | Motion/Motion For Order Requiring Tenant to Pay all Rent Due |        |  | 02/24/2012-08:28 | 04/05/2012-08:28 |  |
| TLC Holdings LLC | Notice/Notice of Motion                                      | Filing |  | 02/21/2012-08:27 | 04/05/2012-08:27 |  |
| TLC Holdings LLC | Other/Certificate of Service                                 | Filing |  | 02/06/2012-09:19 | 04/05/2012-09:19 |  |
| TLC Holdings LLC | Other/Plaintiff's Reply tp Counterclaims                     | Filing |  | 02/06/2012-09:18 | 04/05/2012-09:18 |  |
| TLC Holdings LLC | Affidavit/Affidavit of Service (2)                           | Filing |  | 01/26/2012-14:25 | 04/05/2012-14:25 |  |
| TLC Holdings LLC | Lis Pendens (\$10.00)                                        | Filing |  | 01/25/2012-16:15 | 04/05/2012-16:15 |  |
| Hudson, M B      | Answer/Answer to Application for Ejectment                   | Filing |  | 01/24/2012-16:06 | 04/05/2012-16:06 |  |
| TLC Holdings LLC | Affidavit/Affidavit of Service                               | Filing |  | 01/10/2012-09:58 | 04/05/2012-09:58 |  |
| Hudson, M B      | Other/Jury Demand                                            | Filing |  | 01/03/2012-16:57 | 04/05/2012-16:57 |  |
| Hudson, M B      | Other/Affirmative Defense and third pary complaint w/ verifi | Filing |  | 01/03/2012-16:56 | 04/05/2012-16:56 |  |
| Hudson, M B      | Other/Counterclaim                                           | Filing |  | 01/03/2012-16:55 | 04/05/2012-16:55 |  |
| Hudson, M B      | Answer/Answer                                                | Filing |  | 01/03/2012-16:55 | 04/05/2012-16:55 |  |
| Hudson, M B      | Motion/Dismiss                                               | Motion |  | 01/03/2012-16:55 | 04/05/2012-16:55 |  |
| TLC Holdings LLC | Other/Verification                                           | Filing |  | 12/14/2011-10:43 | 04/05/2012-10:43 |  |
| TLC Holdings LLC | Summons & Complaint                                          | Filing |  | 12/14/2011-10:42 | 04/05/2012-10:42 |  |
| Hudson, M B      | Motion/Motion For                                            | Motion |  | 12/08/2011-12:02 | 04/05/2012-12:02 |  |
| Hudson, M B      | Notice/Notice of Motion                                      | Filing |  | 12/08/2011-12:01 | 04/05/2012-12:01 |  |
| TLC Holdings LLC | Summons & Complaint                                          | Filing |  | 11/29/2011-15:58 | 04/05/2012-15:58 |  |

## Financials

| Summary                             |           |                            |               |                  |        |
|-------------------------------------|-----------|----------------------------|---------------|------------------|--------|
| Fine/Costs:                         | \$485.00  | Total Paid for fine/costs: | \$485.00      | Balance Due:     | \$0.00 |
| Costs                               |           |                            |               |                  |        |
| Description                         | Cost Code | Amount                     | Charge Action | Disbursed Amount |        |
| Lis Pendens \$10                    | LISPEN    | \$10.00                    |               | \$10.00          |        |
| SCJD Filing Fee Proviso \$50 / \$25 | SCJDPV    | \$50.00                    |               | \$50.00          |        |
| Motion/Order Filing Fee \$25        | MOTION    | \$25.00                    |               | \$25.00          |        |
| Motion/Order Filing Fee \$25        | MOTION    | \$25.00                    |               | \$25.00          |        |
| Motion/Order Filing Fee \$25        | MOTION    | \$25.00                    |               | \$25.00          |        |
| Motion/Order Filing Fee \$25        | MOTION    | \$25.00                    |               | \$25.00          |        |
|                                     | CVFFCN    | \$44.00                    |               | \$44.00          |        |

|                                        |        |         |  |         |
|----------------------------------------|--------|---------|--|---------|
| Civil Filing Fee County<br>44% / 100%  |        |         |  |         |
| Motion/Order Filing<br>Fee \$25        | MOTION | \$25.00 |  | \$25.00 |
| Motion/Order Filing<br>Fee \$25        | MOTION | \$25.00 |  | \$25.00 |
| SCJD Filing Fee Proviso<br>\$50 / \$25 | SCJDPV | \$50.00 |  | \$50.00 |
| Civil Filing Fee State<br>56%          | CVFFST | \$56.00 |  | \$56.00 |
| Motion/Order Filing<br>Fee \$25        | MOTION | \$25.00 |  | \$25.00 |
| Civil Filing Fee State<br>56%          | CVFFST | \$56.00 |  | \$56.00 |
| Civil Filing Fee County<br>44% / 100%  | CVFFCN | \$44.00 |  | \$44.00 |

| Payments     |                |            |                          |                |
|--------------|----------------|------------|--------------------------|----------------|
| Payment Date | Receipt Number | Entered By | Transaction Type<br>Code | Payment Amount |
| 03/17/2014   | 7018           | c14sbrang  | PY                       | \$25.00        |
| 12/31/2013   | 6799           | c14sbrang  | PY                       | \$25.00        |
| 12/31/2013   | 6801           | c14sbrang  | PY                       | \$25.00        |
| 02/24/2012   | 4947           | c14sbrang  | PY                       | \$25.00        |
| 01/25/2012   | 4875           | c14sbrang  | PY                       | \$10.00        |
| 01/03/2012   | 4787           | c14sbrang  | PY                       | \$25.00        |
| 12/15/2011   | 4753           | c14sbrang  | PY                       | \$150.00       |
| 12/08/2011   | 4738           | c14sbrang  | PY                       | \$25.00        |
| 11/30/2011   | 4712           | c14sbrang  | PY                       | \$25.00        |
| 11/29/2011   | 4705           | c14sbrang  | PY                       | \$150.00       |

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