

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge

Case No.: 2019-002038

RECEIVED

AUG 13 2020

SC Court of Appeals

Jon H. Attridge and Janet L. Attridge, Robert W. Bankov, Virginia J. Bankov, Tom Bolton, Guy I. Collier, Nancy L. Collier, Richard Jay Coleman, Marlene Coleman, Russell G. Dimke, Sandra A. Dimke, James G. Goodwin, Jr., Carol A. Goodwin, George J. Lovett, Wilna W. Lovett, Peter Marzluff, Deborah C. Marzluff, Gary Okey, Nancy Okey, Michael Pellecchia, Janice S. Pellecchia, Frank H. Roberts, Sr., Richard Swilpa, Michele Gallant, Phyllis A. Kaupp-Seas, Robert P. Brendza, and Robin E. Brendza individually and in their derivative capacity on behalf of Bull Point Plantation Property Owners Association

..... Respondents,

vs

The Board of Directors of Bull Point Plantation Property Owners Association, Inc., Bull Point Plantation Property Owners Association, Inc., Bull Point SC, LLC, William E. Gavigan, Michael Carey, Christopher J. Quick, James Riordan; DB Aster, LLC; and GSI, LLC,
..... Defendants/Counterclaimants,

Of which Bull Point SC, LLC, William E. Gavigan, Michael Carey, Christopher J. Quick; James Riordan; and GSI, LLC are

..... Appellants

And

Bull Point, SC, LLC, and William E. Gavigan,

..... Third-Party Plaintiffs/Appellants,

vs

Joseph P. D'Ambrosio, Mary D'Ambrosio, Michael Powers, Harriett Bosiack, Robert Wolfson, James Hayes, Steve Andrews, Ron Lambe, Dave Prezvys, Rivers Reach at Pocotaligo, LLC, Rivers Reach Realty, LLC, and Jon Does 1-10, ... Third-Party Defendants.

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STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

JON H. ATTRIDGE, and JANET L
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KAUPP-SEAS, ROBERT P.
BRENDZA, and ROBIN E. BRENDZA
individually and in their derivative
capacity on behalf of BULL POINT
PLANTATION PROPERTY OWNERS
ASSOCIATION,

Plaintiffs,

-vs-

THE BOARD OF DIRECTORS OF
BULL POINT PLANTATION
PROPERTY OWNERS
ASSOCIATION, INC.; BULL POINT
SC, LLC; WILLIAM E. GAVIGAN;
MICHAEL CAREY; and JAMES
RIORDAN,

Defendants.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

CASE No.: 2018-CP-07-_____

SUMMONS

TO: THE 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 at his offices at 288 Meeting Street, Ste. 200, Post Office Drawer H, Charleston, South Carolina, 29402, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the Complaint and judgment by default will be rendered against you.

BARNWELL WHALEY
PATTERSON & HELMS, LLC

By: s/ M. Dawes Cooke
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Attorneys for Plaintiffs

November 30, 2018
Charleston, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L. ATTRIDGE, ROBERT W. BANKOV, VIRGINIA J. BANKOV, TOM BOLTON, GUY I. COLLIER, NANCY L. COLLIER, RICHARD JAY COLEMAN, MARLENE COLEMAN, RUSSELL G. DIMKE, SANDRA A. DIMKE, JAMES G. GOODWIN JR., CAROL A. GOODWIN, GEORGE J. LOVETT, WILNA W. LOVETT, PETER MARZLUFF, DEBORAH C. MARZLUFF, GARY OKEY, NANCY OKEY, MICHAEL PELLECCCHIA, JANICE S. PELLECHIA, FRANK H. ROBERTS SR., RICHARD SWILPA, MICHELE GALLANT, PHYLLIS K. KAUPP-SEAS, ROBERT P. BRENDZA, and ROBIN E. BRENDZA individually and in their derivative capacity on behalf of BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION,

Plaintiffs,

-VS-

THE BOARD OF DIRECTORS OF BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION, INC.; BULL POINT SC, LLC; WILLIAM E. GAVIGAN; MICHAEL CAREY; and JAMES RIORDAN,

Defendants.

CASE NO.: 2018-CP-07-_____

**Complaint for Declaratory Judgment,
Injunctive Relief, and Accounting
(Non-Jury)**

Plaintiffs, Jon H. Attridge, Janet L. Attridge, Robert W. Bankov, Virginia J. Bankov, Tom Bolton, Guy I. Collier, Nancy L. Collier, Richard Jay Coleman, Marlene F. Coleman, Russell G. Dimke, Sandra A. Dimke, James G. Goodwin Jr., Carol A. Goodwin, George J. Lovett, Wilna W. Lovett, Peter W. Marzluff, Deborah C. Marzluff, Gary Okey, Nancy Okey, Michael Pellechia, Janice S. Pellechia, Frank S. Roberts Sr., Richard Swilpa and Michele Gallant, Phyllis A. Kaupp

Seas, Robert P. Brendza and Robin E. Brendza, by and through undersigned counsel, individually and derivatively on behalf of the Bull Point Plantation Property Owners Association, Inc., submit this verified Complaint and allege the following upon personal knowledge unless otherwise stated:

This lawsuit centers on a private waterfront residential community located in Seabrook, Beaufort County, South Carolina, called Bull Point Plantation. Bull Point Plantation has established an assessment plan to pool funds to pay for the expenses of the community. The original Declaration of Covenants, Conditions and Restrictions of Bull Point Plantation ("Declarations"), recorded in September 1995, provided for establishment of a capital reserve fund to cover maintenance, repair, and replacement of common areas, to cover emergency casualty repairs not covered by insurance, and to cover unforeseen operating contingencies or deficiencies arising from unpaid assessments. In October 2011, the original Declarant for Bull Point adopted the (second) Fifteenth Amendment to Declarations, which renamed the reserve fund the Contingency Fund, provided for the Contingency Fund to be deposited into a separate account, and established a Contingency Fund committee to approve spending from the Contingency Fund account. The committee would comprise Members of the Association other than the Declarant, its employees, agents, or owners, and would be elected by the Members of the Association. The Contingency Fund would be used for the same purposes as the original capital reserve fund, with the addition that it could also be used to acquire additional Common Areas and/or other amenities for the enjoyment of the Members.

Moreover, the purpose and function of the Contingency Fund was to have the Declarant cede operational control of decision making on Contingency Fund monies. In reliance on this concession, Members approved budgets with funds specifically designated to the Contingency Fund to be administered under Member oversight. The original Declarant agreed to these terms in an arms-length transaction and the Fifteenth Amendment was duly recorded in the Beaufort

County Register of Deeds, giving the current purported Declarant actual and/or constructive notice.

The Declarant has the power to appoint and remove members of the Board of Directors of Bull Point Plantation Property Owners Association, Inc. The current purported Declarant has recently misused this power to eliminate the Contingency Fund and the Contingency Fund committee, effectively giving itself unfettered control of, and access to, the Contingency Fund, which upon information and belief currently stands at more than eight hundred thousand dollars. Recently, at the instruction of the purported Declarant, the Board of Directors held a secret special meeting and voted to ask the purported Declarant to eliminate the Fifteenth Amendment to the Declarations "based on the operational needs of the community." The Effective Date of the Eighteenth Amendment to the Declarations was November 16th, 2018.

Upon information and belief, the Defendants have caused, and intend to cause in the future, Contingency Fund monies to be spent for purposes not authorized or appropriate for those funds; including, but not limited to, to underwriting the cost of providing utilities infrastructure to unimproved lots that the purported Declarant or its related entities own, and to fund the purported Declarant's legal fees. The purported Declarant improperly amended the Declarations, and the Board of Directors breached its fiduciary duties in requesting the amendment, as the misuse of Contingency Funds that Members paid in good faith reliance upon the oversight of the Contingency Fund committee constitutes unlawful self-dealing and is not fair to the Association. Further, the amendment of the Declarations is impermissible because it materially alters the Members' rights to the use and enjoyment of the Common properties whose maintenance and repair is subject to the Contingency Fund and because not all Owners have consented to the Declarant amending the Declarations.

PARTIES

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1. Plaintiffs Jon H. Attridge, Janet L. Attridge, Robert W. Bankov, Virginia J. Bankov, Tom Bolton, Guy I. Collier, Nancy L. Collier, Richard Jay Coleman, Marlene F. Coleman, Russell G. Dimke, Sandra A. Dimke, James G. Goodwin Jr., Carol A. Goodwin, George J. Lovett, Wilna W. Lovett, Peter W. Marzluff, Deborah C. Marzluff, Gary Okey, Nancy Okey, Michael Pellechia, Janice S. Pellechia, Frank S. Roberts Sr., Richard Swilpa and Michele Gallant, Phyllis A. Knaupp Seas, Robert P. Brendza and Robin E. Brendza own property in Bull Point Plantation Development. They are citizens and residents of the State of South Carolina, are or at relevant times have been members of the Bull Point Plantation Property Owners Association, Inc. For the purposes of this Complaint they are representatives of the Bull Point Plantation Property Owners Association and are pursuing the causes of action herein both on their own behalf and derivatively on behalf of the Bull Point Plantation Property Owners Association and against the Bull Point Plantation Property Owners Association and the other Defendants.

2. The Bull Point Plantation Property Owners Association, Inc., ("Bull Point POA" or "Association") is a non-profit corporation organized and existing under the laws of South Carolina, and is located, and has its principal place of business in Beaufort County, South Carolina.

3. Defendant Bull Point SC, LLC ("Declarant") is a separate Limited Liability Company incorporated under the laws of South Carolina and is currently the purported declarant of the Bull Point Plantation (although it does not meet the definition of Declarant under the Declarations). Declarant has its primary place of business in Beaufort County, South Carolina.

4. William E. Gavigan ("Gavigan") is the managing member of Declarant and is a citizen of and resides in South Carolina.

5. The individuals named below are, or have been, members of the Board of Directors of the Bull Point POA and are named in their official capacities (collectively "Directors"):

a. William E. Gavigan is the president of the Board of Directors of the Bull Point

Plantation Property Owners Association, and is citizen of and resides in South Carolina;

b. Michael Carey is, or was during the relevant time period, a member and/or officer of the Board of Directors of the Bull Point Plantation Property Owners Association and is a citizen of and resides in South Carolina.

c. James Riordan is, or was during the relevant time period, a member and/or officer of the Board of Directors of the Bull Point Plantation Property Owners Association and is a citizen of and resides in South Carolina.

FACTUAL BACKGROUND

6. Bull Point is a private waterfront community located in in Beaufort County, South Carolina.

7. The Bull Point POA is established through the Declarations of Covenants, Conditions, and Restrictions for Bull Point Plantation ("Declarations"), which were recorded with the Register of Deeds for Beaufort County, South Carolina on September 25, 1995, in Book 805, at Page 218. The Declarations empower the Bull Point POA to assess funds from members to pay Bull Point POA's operating expenses. See Section 9 of the Declaration of Covenants, Conditions and Restrictions of Bull Point Plantation (attached hereto as Exhibit 1).

8. Although Defendant Declarant is not the original developer of the community, it is bound by the current Declarations which have been adopted and amended from time to time.

9. On or about October 10, 2011, the former declarant, as a result of negotiations with the Owners/Members of the Bull Point POA, amended the Declarations to create a Contingency Fund, that would be kept in an account separate from the general funds of the POA and could be used only for specific purposes and only after being approved by a Contingency Fund committee. The committee would comprise Members of the Association other than Declarant, its employees, agents,

or owners. See Fifteenth Amendment to the Declaration of Covenants, Conditions and Restrictions of Bull Point Plantation (attached hereto as Exhibit 2).

10. Since 2011, the Members of the Association have contributed to the Contingency Fund in good faith reliance upon the oversight and controls put into place by the Fifteenth Amendment to the Declarations.

11. On or about September 29, 2018, the Defendant Board of Directors of the Bull Point POA, at the direction of Defendants Declarant and Gavigan, met and voted: a) to provide a legal defense to “those persons named in the ‘D’Ambrosio litigation”, even though the pleadings in that litigation specifically allege that the Defendant Gavigan acted outside his authority as a representative of the Bull Point POA; b) voted to request that the Contingency Fund committee approve payment of up to thirty-five thousand dollars (\$35,000) to provide power and/or data infrastructure to unimproved lots, including lots owned by Declarant and Defendant Gavigan or their related entities; and c) voted to request that the Contingency Fund committee approve reimbursement legal fees of Defendant Gavigan’s legal counsel for legal work ostensibly done on behalf of the POA but in fact done on behalf of Gavigan and Declarant.

12. On or about October 27, 2018, the Contingency Fund committee met and considered the foregoing requests of the Board of Directors of the POA. The committee rejected the request for reimbursement of legal fees. It approved the payment of up to twenty-five thousand dollars (\$25,000) to provide power and/or data infrastructure to unimproved lots, but some members opposed this because these expenses should be borne by the individual lot owners, not by the Contingency Fund.

13. On or about November 16, 2018, at Defendant Declarant’s instruction, the Defendant Board of Directors held a secret special meeting whereupon it was voted to eliminate the Fifteenth Amendment to the Declarations, “based on the operational needs of the community.” See: Letter of William E. Gavigan to Bull Point Members Dated November 17, 2018 (attached hereto as Exhibit 3).

14. The Eighteenth Amendment to the Declarations eliminates the Fifteenth Amendment, thereby eliminating the Contingency Fund and the Contingency Fund committee. See Eighteenth Amendment to the Declaration of Covenants, Conditions and Restrictions of Bull Point Plantation (attached hereto as Exhibit 4). The effect of these changes is to eliminate independent oversight over the moneys that comprised the Contingency Fund and to permit Declarant and Defendant Gavigan unfettered access to Association funds, including the former Contingency Fund, subject only to approval by the Board of Directors, which Defendants Declarant and Gavigan control.

A. Amendment of the Declarations

15. The declarant may amend the Declarations except in certain instances, including that "in the event such amendment materially alters or changes any Owner's right to the use of and enjoyment of his Lot, Dwelling, or the Common Areas as set forth in the Declaration or adversely affects the title to any Lot, such amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Owners affected thereby." See Exhibit 1 Section 13.02.

16. The enactment of Amendment 18 to the Declarations materially alters and changes all Member/Owners' rights to the use of and enjoyment of their Lots, Dwellings, or the Common Areas. The annual assessments, particularly the assessments for the Contingency Fund, are specifically intended to maintain, improve, acquire, and repair Common Areas and amenities, the use and enjoyment of which is expressly made a vested benefit of ownership of property in Bull Point. Thus, enactment of Amendment 18 would require the written consent of a majority of the Owners, which Defendant Declarant did not obtain.

17. The Declarations also states that "Each Owner, by acceptance of a deed or other conveyance to a Lot, agrees to be bound by such amendments as are permitted by this Section 13.02.," See

Exhibit 1, Section 13.02. However, not all owners accepted a deed or other conveyance of a Lot¹, some owners accepted a deed or other conveyance of a Dwelling², e.g. the buyers purchased a home instead of an unimproved lot. As a result, those owners that were deeded and/or conveyed a Dwelling did not agree to be bound by Amendments to the Declarations made by Declarant under Section 13.02.

18. Bull Point SC LLC does not meet the definition of Declarant as set out in the Declarations. The Declarant is defined as a "...successor-in-title, or any party which acquires said Declarant's entire interest with respect to the Property and the Additional Property at the time of such acquisition pursuant to Foreclosure of a Mortgage encumbering said Declarant's interest in the Property and the Additional Property."³ (emphasis added); Bull Point SC LLC did not acquire its interest through a foreclosure of a mortgage, but rather through a sale. As a result, Bull Point SC, LLC does not have the authority to amend the Declarations or to appoint and/or remove member of the Board of Directors.

B. Duties of Directors and Officers

19. Throughout the time at issue and at present, Defendant members of the Bull Point POA Board of Directors and Officers owed a fiduciary duty to the Bull Point POA Members.

20. Under South Carolina Code Ann. Sec. 33-31-830(a), the Defendant Directors owe a duty to act in good faith; to act with the care an ordinarily prudent person in a like position would exercise under similar circumstance; and to act in a manner the director reasonably believes to be in the best interests of the corporation.

21. Under South Carolina Code Ann. Sec. 33-31-831, a conflict of interest transaction is a

¹ See Exhibit 1 Section 1.01(t).

² See Id. Section 1.01(l);

³ See Id. Section 1.01(j) (emphasis added).

transaction with the corporation in which a director of the corporation has a direct or indirect interest. A conflict of interest transaction is voidable if the transaction was not fair to the corporation at the time it was entered into.

22. Under South Carolina Code Ann. Sec. 33-31-841, a corporate Officer owes a duty to act in good faith; to act with the care an ordinarily prudent person in a like position would exercise under similar circumstance; and to act in a manner the director reasonably believes to be in the best interests of the corporation.

23. The Defendants have breached the foregoing duties in the following particulars:

- a. By requesting and/or approving the expenditure of Contingency Fund monies to pay for the provision of utilities to unimproved lots, including lots which the Defendants own or in which they have a financial interest;
- b. By requesting the expenditure of Contingency Fund monies to pay legal fees that benefit the Defendants but not the POA;
- c. By causing the enactment of the Eighteenth Amendment and repeal of the Fifteenth Amendment to the Declarations, removing the independent oversight of reserve funds;
- d. By causing the enactment of the Eighteenth Amendment and repeal of the Fifteenth Amendment to the Declarations without obtaining the consent of a majority of the Owners.
- e. By causing to be approved conflict of interest transactions that are not fair to the Association.
- f. By operating under and enforcing an amendment to the Declarations, in violation of their fiduciary and statutory duties.

B. Inspection of Association Records

24. Under South Carolina Code Ann. 33-31-1602(b) and (c) a member is entitled to inspect and

copy any the accounting records of the corporation if the member: 1) makes a good faith demand to do so, 2) describes with reasonable particularity, the purpose and the records the member desires to inspect, and 3) the records are directly connected to the purpose.

25. Under the Declarations, Declarant is responsible for funding deficits up to the amount of the Association's budget, See Exhibit 1, Section 9.11.

26. Declarant promised to pay dues on his approximately 31 lots, although he did not have to per the Declarations. In reliance on this, the Board adopted the stated budget. Declarant never did pay these dues and consequently there was an \$80,000.00 deficit in the budget.

27. Declarant then claimed that by not performing budgeted maintenance on community amenities, raising gate fees, and cutting back on other expenses he covered the budget shortfall.

28. On August 16, 2018, a letter was sent to Defendant William Gavigan as registered agent for the POA. The letter requested records that were required to be kept in pursuant to South Carolina Code Ann. Sec. 33-31-1601. The request properly asked to inspect (1) the minutes of all Board of Director Meeting including special or regular meetings; (2) Minutes of any meetings of the Contingency Fund committee; (3) a list of all members of the POA; (4) the POA articles of incorporation and all amendments then currently in effect; and (5) any and all underlying records used to the prepare the POAs financial statements. This list includes: POA financial records themselves for the past year through the present, PAO bank account statements, up to date balance sheets, invoices supporting amounts paid from POA bank accounts, and records showing annual dues paid, including by the Declarant. See Letter from Joseph D. Ambrosio et al. to the Board of Directors of the Bull Point POA dated August 16, 2018 attached hereto as Exhibit 5.

29. Declarant, through counsel responded in a letter dated August 25, 2018 and agreed allow inspection of the records listed out in S.C. Code Ann Sec. 33-31-1601(e). This limited list was only what the POA was mandated to keep at its principal office. The letter further asserted that the requests

to inspect under S.C. Code Ann. Sections 33-31-1602(b) and (c) was "vague and arguably not in keeping with the intent or letter of the statute." See Letter from Ian Ford Esq. to Joseph P. D'Ambrosio Esq. dated August 25, 2018 attached hereto Exhibit 6.

30. On August 28, 2018 declarant allowed Joseph P. D'Ambrosio and Mary A. D'Ambrosio to inspect and copy a number of records which included balance sheets without any supporting documentation, rendering it impossible to determine the accuracy of the presented balance sheets. The absence of those documents defeated the purpose of the request for inspection and did not comply with Defendants' legal duty.

C. Bull Point POA derivative action allegations

31. Pursuant to Rule 23(b)(1) of the South Carolina Rules of Civil Procedure, Plaintiffs bring this action derivatively on behalf of and for the benefit of the Bull Point POA to redress injuries suffered, and yet to be suffered, by the Bull Point POA as a direct and proximate result of the Defendants' conduct. The Bull Point POA is a named Defendant solely as a party necessary to effect complete relief to the Plaintiffs in their representative capacities.

32. Plaintiffs will adequately and fairly represent the interests of the Bull Point POA and its similarity situated members in this litigation.

33. Plaintiff is a member of the Bull Point POA and was an active member of the Bull Point POA during all times relevant to the Defendant's wrongful course of action herein alleged.

34. The wrongful acts complained of herein subject the Bull Point POA to continuing harm.

35. Plaintiff is a proper party to enforce the rights of the Bull Point POA, where, as here, the Bull Point POA and its board members failed to enforce such rights.

36. The Defendants' actions complained of herein were not authorized by the Declarations, by-laws, or rules and regulations of the Bull Point POA, nor were they authorized by South Carolina law and are therefore *ultra vires*, unlawful, and unauthorized. As a result, the actions complained of herein

are not subject to protection under the business judgment rule, and any reasonable, good faith inquiry into the wrongdoing would conclude that Plaintiff's claims are legitimate and in the best interests of the Bull Point POA.

37. The acts complained of herein are and will continue to be to the detriment of the Bull Point POA.

38. Defendant's wrongful actions set out herein were willful, in bad faith, and beyond the scope of the authority granted to Defendants and served no legitimate business purpose. As a result, the acts described herein were not, nor could have been, the product of a reasonable, valid, or good faith exercise of business judgment.

39. The Defendant Directors are antagonistic, adversely interested, and have continued and/or initiated the improper practices complained of herein.

40. In order to bring this suit, the Directors would be forced to sue themselves or persons with whom they have extensive business and personal entanglements, which they will not do, thereby excusing a specific demand on the Directors.

JURISDICTION AND VENUE

41. Plaintiffs bring this action as a declaratory judgment action pursuant to § 15-53-10, et seq., Code of Laws of South Carolina (1976), for the purpose of determining a question in controversy between the parties as more fully appears herein. Plaintiff also brings this action pursuant to the common-law and statutory general jurisdiction of this Court.

42. Venue is appropriate because the acts and omissions complained of herein took place in Beaufort County, South Carolina, and the property that is the subject of this action is located in Beaufort County.

FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment pursuant to S.C. Code Ann. §§ 15-53-10-15-53-140
and Rule 57 SCRPC as to all Defendants)

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43. For this cause of action, Plaintiffs incorporate all allegations set forth above as if fully set forth herein.

44. Plaintiffs bring this cause of action against Defendants pursuant to S.C. Code Ann. §§ 15-53-10 through 15-53-140 and Rule 57 of the SCRPC seeking declarations:

- a. That the Defendants did not have the authority to amend the Declarations to eliminate the Fifteenth Amendment to the Declarations; and
- b. That the Contingency Fund can be used only for the purposes specified in the Fifteenth Amendment to the Declaration, and not for the private benefit of the Declarant or others.

45. The South Carolina Declaratory Judgment Act provides that this Court has the power to declare the rights, status, and other legal relations whether or not further relief is or could be claimed, S.C. Code Ann. §15-53-20.

46. Due to the facts, conditions, and circumstances set forth in this Complaint, an actual and justiciable controversy exists.

**FOR A SECOND CAUSE OF ACTION
(Injunction)**

47. Plaintiffs restate and reallege each and every prior allegation above as if fully set forth herein.

48. Plaintiffs will be irreparable harmed if an injunction is not issued enjoining the Eighteenth Amendment to the Declarations from going into effect.

49. Plaintiffs lack an adequate remedy at law to recover damages arising from the elimination of the Contingency Fund and/or the unauthorized disbursement of funds from the Contingency Fund without proper oversight by the elected representatives.

50. Plaintiffs seek an injunction from this Court:

(09855342.DOCX.1)

- a. Prohibiting the Defendants from repealing or refusing to comply with the (second) Fifteenth Amendment to the Declaration of Covenants, Conditions, and Restrictions of Bull Point Planation;
- b. Prohibiting the Defendants from authorizing the expenditure of Contingency Fund monies for purposes other than those authorized by the Fifteenth Amendment, and specifically for the private benefit of the Declarant or others;
- c. Imposing a constructive trust upon all moneys comprising the Contingency Fund, to the extent that they have been disbursed or spent for purposes other than permitted by the (second) Fifteenth Amendment to the Declarations; and
- d. As the Court deems appropriate for injunctive relief.

**FOR A THIRD CAUSE OF ACTION
(Accounting)**

51. Plaintiffs restate and reallege each and every prior allegation above as if fully set forth herein.

52. Plaintiffs have made a good faith inquiry for a proper purpose, the purpose of the inspection and the records sought were described with particularity, and records are directly connected with that purpose.

53. Plaintiffs pray that an accounting of the Bull Point POA and for any other such relief provided by S.C. Code Ann. §§ 33-31-101 *et seq.*, as the Court deems appropriate and proper to protect the rights of Plaintiff.

**FOR A FOURTH CAUSE OF ACTION
(Failure to allow inspection and copying of records in violation
of S.C. Code Ann. §33-31-1601 *et seq.*)**

54. Under South Carolina Code Ann. Sec. 33-31-1601(b) a corporation shall keep appropriate accounting records.

55. Under South Carolina Code Ann. Sec. 33-31-1602(b) a member of a non-profit corporation is entitled to inspect and copy the accounting records of a corporation at a reasonable time and place and location specified by the corporation upon five business days prior notice.

56. South Carolina Code Ann. Sec. 33-31-1602(c) sets out the grounds of a proper request to inspect and copy records and Plaintiffs wrote a letter in good faith, describing with reasonable particularity the purpose and the records sought; and the records requested are directly connected with

that purpose and gave more than five business days prior notice. See Exhibit 5.

57. As members of the Bull Point POA, Plaintiffs were entitled to inspect and copy the appropriate accounting records showing the affairs and finances of the Bull Point POA.

58. On August 28, 2018 Defendant provided some accounting records but did not include the documents upon which the balance sheets were based, making it impossible to verify their accuracy.

PLAINTIFF'S REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests that this court inquire into this matter and issue an order:

- a. Entering a Declaration as set forth above;
- b. Granting injunctive relief as set forth above;
- c. Ordering an Accounting of the Association Contingency Fund, as set forth above;
- d. Allowing the representative members to inspect and copy the accounting records as set forth above; and
- e. Any further relief that this Court deems just and proper

Respectfully Submitted,

BARNWELL WHALEY PATTERSON & HELMS, LLC

By: s/M. Dawes Cooke, Jr.

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Attorney for Plaintiff

November 30 2018
Charleston, South Carolina

EXHIBIT 1

EXHIBIT "A"

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR BULL POINT PLANTATION**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR BULL POINT PLANTATION is made this 17th day of January, 2000, by BULL POINT LLC, A SOUTH CAROLINA LIMITED LIABILITY COMPANY.

WITNESSETH:

WHEREAS, Bull Point LLC, "Declarant", is the Owner of certain real property located in Beaufort County, South Carolina, known as Bull Point Plantation described in Exhibit "A"; and

WHEREAS, as hereinafter provided in this Declaration, Declarant has retained and reserved the right, privilege and option at its sole discretion to submit to the provisions of this Declaration, now, and from time to time, as a part of the Bull Point Plantation all or a portion of the real property described in Exhibit "A", attached hereto and incorporated herein by reference;

NOW, THEREFORE, Declarant hereby declares that all of the property described in Exhibit "B" shall be held, transferred, sold, conveyed, leased, occupied, and used subject to the following easements, restrictions, covenants, charges, liens, and conditions which are for the purpose of protecting the value and desirability of and which shall touch and concern and run with the title to the real property subjected to this Declaration and which shall be binding on all parties having any right, title or interest in the above described properties or any portion thereof, and their respective heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof. Declarant hereby retains and reserves the right privilege, and option to subject to the provisions of this Declaration at a later time, and from time to time, all or any portion of the real property described in Exhibit "A" attached hereto.

ARTICLE 1 DEFINITIONS

1.01 Definitions: When used in this Declaration, unless the context shall prohibit or otherwise require, the following words shall have all of the following meanings and all definitions shall be applicable to the singular and plural forms of such terms.

(a) "Additional Property" shall mean and refer to the real property described in Exhibit "A", SAVE AND EXCEPT THE REAL PROPERTY DESCRIBED IN EXHIBIT "B" (Phase I and Phase II).

(b) "Architectural Review Board of Bull Point" shall mean and refer to the committee who shall be appointed by the Association's Board of Directors to approve exterior and structural construction; improvements, additions, and changes in all areas of the Development.

(c) "Articles of Incorporation" shall mean and refer to the Article of Bull Point Plantation Owners Association, Inc. as amended from time to time.

(d) "Assessment" shall mean and refer to an Owner's share of the Common Expenses or other charges from time to time assessed against an Owner by the Association in the manner herein provided.

(e) "Association" shall mean and refer to Bull Point Plantation Owners Association, Inc. a South Carolina non-profit corporation.

(f) "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

(g) "By-Laws of the Association" or the "By-Laws" shall mean and refer to those By-Laws of Bull Point Plantation Owners Association Inc. which govern the administration and operation of the Association, as the same may be amended from time to time.

(h) "Common Areas" shall mean and refer to all real and Personal Property now or hereinafter owned by the Association for the common use and enjoyment of the Owners. The Common Areas are to be owned by the Association at a time in the sole discretion of the Declarant, in the future set by Declarant. The designation of any land and/or improvements as Common Areas shall not mean or imply that the public at large acquires any easement of use or enjoyment therein.

(i) "Common Expenses" shall mean and refer to expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of reserves, pursuant to the provisions of this Declaration.

(j) "Declarant" shall mean and refer to Bull Point, LLC which has executed this Declaration with respect to the Property and the Additional Property at the time of such transfer to said successor-in-title, or any party which acquires said Declarant's entire interest with respect to the Property and the Additional Property at the time of such acquisition pursuant to Foreclosure of a Mortgage encumbering said Declarant's interest in the Property and the Additional Property.

(k) "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions for a portion of Bull Point Plantation and all amendments thereof filed for record in the records of the RMC Office of Beaufort County, South Carolina.

(l) "Development" with an initial capital letter, shall mean and refer to the Property and all improvements located or constructed thereon.

(m) "Dwelling" with an initial capital letter, shall mean and refer to any improved Property intended for use as a single family detached Dwelling located within the Development.

(n) "Foreclosure" shall mean and refer to, without limitation, the judicial Foreclosure of a Mortgage or the conveyance of secured Property by a deed in lieu of a

judicial Foreclosure.

(o) "Institutional Mortgage" shall be deemed to mean a Mortgage held by a bank, trust company, insurance company, or other recognized lending institution, or by an institutional or governmental purchase of Mortgage loans in the secondary market, such as the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(p) "Lease" shall mean and refer to any Lease, sub-Lease, or rental contract, whether oral or written.

(q) "Limited Common Element" shall mean and refer to all real and personal property now or hereinafter owned by the Association for the use and enjoyment of designated Owners of Lots.

(r) "Limited Common Expense Assessment" shall mean and refer to each designated share of expenses and other charges from time to time assessed against a designated owner for the maintenance and upkeep of a Limited Common Element.

(s) "Living Space" shall mean and refer to enclosed and covered areas that are heated and/or cooled within a Dwelling.

(t) "Lot" shall mean and refer to any unimproved portion of the Property upon which it is intended that a single-family residence shall be constructed. A Lot of land shall be deemed unimproved and thus considered to be a Lot, rather than a Dwelling, until the improvements constructed thereon are sufficiently complete to reasonably permit habitation thereof. Upon such completion, such Lot and the improvements thereon shall collectively be considered to be a Dwelling for purposes of this Declaration.

(u) "Mortgage" with an initial capital letter, shall mean and refer to a Mortgage, security deed of trust, installment land sales contract, or other similar security instrument granting, creating, or conveying a lien upon, a security interest in, or a security title to a Lot.

(v) "Mortgagee" with an initial capital letter shall mean and refer to the holder of a Mortgage.

(w) "Occupant" shall mean and refer to any Person, including, without limitation, any Owner or any guest, invitee, lessee, tenant, or family member of an Owner, occupying or otherwise using a Dwelling, boat dock space or boat ramp within the Development.

(x) "Owner" with an initial capital letter shall mean and refer to one or more persons, including Declarant, who or which owns fee simple title to any Lot, Dwelling, or other Property in the Development, excluding, however, those Persons having such an interest under a Mortgage. In the event that there is recorded in the Register of Deeds Office for Beaufort County, South Carolina, any installment land sales contract covering any Lot, the Owner of such Lot shall be the purchaser under said contract and not the fee simple title holder. An installment land sales contract shall be an instrument whereby the purchaser is required to make payments for a Lot for a period extending beyond nine (9) months from the date of the contract, and where the purchaser does not receive title to such Lot until all such payments are made, although the purchaser is given use of such Lot.

(y) "Person" shall mean and refer to a natural Person, corporation, partnership, Association, trust, or other legal entity, or any combination thereof.

(z) "Property" with an initial capital letter, shall mean and refer to those tracts or parcels of land described on Exhibit "B", together with all improvements thereon, and upon submission to the provisions of this Declaration, the tracts or parcels of land described in Exhibit "A", or any portion thereof, together with all improvements thereon.

(aa) "Recreational Amenities" shall include such recreational facilities and improvements as are from time to time located within the Common Areas and the easement areas established pursuant to Section 3.03 hereof.

(bb) "Site Plans" shall mean and refer to that certain plat showing Bull Point Subdivision Phase I, a Section of Tomotley Plantation, Sheldon Township, prepared by Gasque & Associates, Inc., dated September 21, 1995, and recorded in Register of Deeds Office for Beaufort County in Plat Book 54, Page 40 and plat showing Bull Point Subdivision Phase II, a section of Tomotley Plantation, Sheldon Township, prepared by Gasque & Associates, Inc., dated November 8, 1995, and recorded in the Register of Deeds Office for Beaufort County in Plat Book 55, Page 76. Additional plats shall be included for future phases under this definition.

ARTICLE II PLAN OF DEVELOPMENT

2.01 Plan of Development of Property The property shall consist of Phase I and Phase II lots as shown in section 1.01 (bb). The dimensions of the Lots are shown on the Site Plan. All Lots within Phase I and Phase II of the Development and in future phases shall be and are hereby restricted exclusively to single-family residential use. Declarant shall have the right, but not the obligation for so long as Declarant owns any Lot primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development, to make improvements and changes to all Common Areas to all Lots owned by the Declarant, including without limitation, (i) installation and/or maintenance of any improvements in and to the Common Areas, including Recreational Amenities, (ii) changes in the location of the boundaries of any Lots owned by the Declarant or of the Common Areas, (iii) installation and maintenance of any water, sewer, and other utility systems and facilities, and (iv) installation of security, refuse, and/or other Development support facilities. The Declarant retains the right to designate Limited Common Elements which shall be for the use and benefit of owners as designated by the Declarant in its sole discretion.

2.02 Plan of Development of Additional Property. Declarant hereby reserves the option, to be exercised in its sole discretion, to submit from time to time the Additional Property or a portion or portions thereof to the provisions of this Declaration and thereby to cause the Additional Property or a portion or portions thereof to become part of the Property. Declarant intends that the Additional Property will be developed with a maximum of not to exceed 300 Lots in the Development, together with roads, drainage systems, and other improvements serving such Dwellings. However, Declarant reserves the right, but is not obligated to develop Property with more or fewer lots, provided that Declarant is in compliance with the applicable provisions of the Beaufort County Development Standards Ordinance and/or any other applicable government regulations, ordinances, etc. This option may be exercised by the Declarant in accordance with the following rights, conditions, and limitations, which are the only conditions and limitations of such option to add all or any portion of the Additional Property to the Development.

(a) The option may be exercised from time to time during a period of thirty (30) years from the date of this Declaration; provided, however, that the Declarant reserves the right to terminate such option at any time prior to the expiration of such thirty (30) year period by executing and filing an agreement evidencing such termination on the records of the Register of Deeds Office for Beaufort County, South Carolina, and, except for such termination by Declarant, no other circumstances will terminate such option prior to the expiration of the thirty (30) year period.

(b) The legal description of the Additional Property is set forth in as Exhibit "A" less and excepting Phase I and Phase II described in Exhibit "B". Portions of the Additional Property may be added to the Development at different times, and there are no limitations fixing the boundaries of those portions of regulating the order or sequence, in which such portions may be added to the Development.

(c) If the Additional Property or any portion thereof is added to the Development, the Lots and the Dwellings constructed thereon will be restricted exclusively to the residential use and associated activities and amenities and will be subject to standards and restrictions set forth in Article X hereof. In addition, all Dwellings and other improvements

constructed thereon will be substantially consistent in terms of quality of design construction to those Dwellings and improvements located elsewhere within the Development.

(d) If the Additional Property or any portion thereof is added to the Development, Declarant reserves the right to designate the boundaries of the Lots as well as the Common Areas, if any, to be added to the Development in connection therewith.

(e) Should the option to add the Additional Property, or any portion thereof, not be exercised within the term specified herein or be terminated by Declarant, such option shall in all respects expire and be of no further force and effect. In the event that such option expires or is terminated, as aforesaid, Declarant shall not be obligated to impose on the Additional Property or any portion thereof any covenants, conditions, or restrictions the same as or similar to those contained herein, provided that the Additional Property shall be restricted to residential use and associated amenities.

(f) The option reserved by Declarant to cause all or any portion of the Additional Property to become part of the Development shall in no way be construed to impose upon Declarant any obligation to add all or any portion of the Additional Property to the Development or to construct thereon any improvement.

The option reserved under this Section 2.02 may be exercised by Declarant only by the execution of an amendment to this Declaration which shall be filed in the Register of Deeds office for Beaufort County, South Carolina, together with a revision of or an addition to the Site Plan showing the Additional Property or such portion or portions thereof as are being added to the Development by such amendment. At the discretion of Declarant, Declarant shall convey to the Association the Common Areas, if any, contained within the Additional Property, or such portion thereof so submitted, such conveyance to be subject to the lien of taxes not yet due and payable, all easements and restrictions of record, utility easements serving or otherwise encumbering the Property and/or the Additional Property, and any exceptions which would be disclosed by a survey or a physical inspection of such parcels. Any such amendment shall expressly submit the Additional Property or such portion thereof to all the provisions of this Declaration, and upon the exercise, if any, of such option or options, the provisions of this Declaration shall then be construed as embracing the real Property or such portion or portions thereof so submitted to the terms hereof, together with all improvements located thereon. If the additional Property or any portion or portions thereof is added to the Development, then from and after the addition to the Development of the Additional Property or such portion or portions by such amendment to this Declaration, the number of votes in the Association shall be increased by the number of Lots to be located on the Additional Property or such portion or portions thereof as are added so that there shall continue to be one vote in the Association per Lot in the Development.

2.04 Water and Sewer Facilities. The submitted Property shall not have private or public utility water or sewer utility services and these services shall be provided at the present time by a well and septic tank which will be installed and maintained by each Lot Owner. Declarant shall have the right, at its sole option, to install public and/or community water or sewer utilities.

2.05 Interest Subject to Plan of Development. Every purchaser of a Lot or Dwelling shall purchase such Lot or Dwelling and every Mortgagee and lien-holder holding an interest therein shall take title, or hold such security interest with respect thereto, with notice of Declarant's plan of Development as herein set forth, and Declarant shall have and does hereby specifically reserve the right to amend the plan of Development and to add the Additional Property or any portion or portions thereof to the Development as hereinabove provided, and, with respect to each Lot located within the Additional Property, to convey to the purchaser thereof the title to the Lot and its appurtenant membership and voting rights in the Association. Any provision of this Declaration to the contrary notwithstanding, the provisions of the foregoing plan of Development set

forth in this Article II may not be abrogated, modified, rescinded, supplemented, or amended in whole or in part without prior written consent of Declarant.

ARTICLE III PROPERTY RIGHTS

3.01 General. Each Lot and Dwelling and shall for all purposes constitute Real Property which shall be owned in fee simple absolute, and which, subject to the provisions of this Declaration, may be conveyed, transferred, and encumbered the same as any other Real Property. Each Owner shall be entitled to the exclusive ownership and possession of his Lot and Dwelling, subject to the provisions of this Declaration, including without limitation, the provisions of this Article III. The ownership of each Lot and Dwelling shall include and there shall pass with Lot and Dwelling as an appurtenance thereto, whether or not separately described, all of the right and interest in and to the Common Areas as established hereunder, which shall include, but not be limited to, membership in the Association. Each Owner shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically pass to his successor-in-title to his Lot, and upon such transfer, such former Owner shall simultaneously transfer and endorse to this successor-in-title any certificates or other evidences of his membership in the Association. Lots shall not be subdivided, and except as provided in Sections 2.01 and 3.06 hereof, the boundaries between Lots shall remain as established in accordance with the Site Plan, unless the relocation thereof is made with the consent of at least a majority of the Owners of lots including the Declarant, so long as Declarant owns a Lot or Dwelling primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development.

3.02 Owner's Easement of Enjoyment. Subject to the provisions of this Declaration and the rules, regulations, fees, and charges from time to time established by the Board of Directors in accordance with the By-Laws and the terms hereof, every Owner, his family, tenants, and guests shall have a non-exclusive right, privilege, and easement of use and enjoyment in and to the Common Areas transferred to the Association, such easement to be appurtenant to and to pass and run with title to each Lot and Dwelling, subject to the following provisions.

(a) The right of the Association to borrow money (i) for the purpose of improving the Development or any portion thereof, (ii) for acquiring additional Common Areas, (iii) for constructing, repairing, maintaining or improving any facilities located or to be located within the Development, or (iv) for providing the services authorized herein, and subject to the provisions of Section 8.02 hereof, to give as security for the payment of any such loan a Mortgage or other security instrument conveying all or a portion of the Common Areas; provided, however, that the lien and encumbrance of any such security instrument given by the Association shall be subject and subordinate to any and all rights, interests, options, license, easements, and privileges herein reserved or established for the benefit of Declarant, any Owner, or the holder of any Mortgage, irrespective of when such Mortgage is executed or given.

(b) The rights and easements reserved to Declarant in Sections 3.03(a), 3.04, 3.05, 3.06, 3.07, 3.10, 3.11, and 3.12 hereof.

(c) The right of the Association to grant and accept easements as provided in Section 3.07 hereof, and to dedicate or transfer fee simple title to all or any portion of the Common Areas to any public agency or authority, public service district, public or private

utility, or other Person, provided that any such transfer of the simple title must be approved by a majority of those present in Person or by proxy at a duly held meeting of the Association and by Declarant, for so long as Declarant owns any Lot or Dwelling primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development.

(d) The rights and easements reserved in Section 3.04 hereof for the benefit of the Association, its directors, officers, agents, and employees.

(e) The rights and easements reserved in Section 3.10 hereof for the benefit of the Additional Property.

3.03 Recreational Amenities.

(a) Subject to the terms and provisions of the Declaration and the rules, fees and charges from time to time established by the Declarant or the Board of Directors, every Owner and his family, tenants, and guests shall have the non-exclusive right, privilege and easement of access to and the use and enjoyment of the Recreational Amenities.

(b) In the event of any multiple Ownership of a Lot or Dwelling which is permitted hereunder by Section 10.26 hereof, no more than four (4) Owners of such Lot or Dwelling, as well as his/her spouse and children under the age of twenty-one (21), shall be entitled to the use of the Recreational Amenities, and such Owner shall be designated in writing to the Board of Directors by all such co-Owners.

(c) The Declarant shall construct the below described Recreational Amenities, subject to the approval of all required regulatory agencies.

(d) Clubhouse, Tennis Court and Swimming Pool. Declarant shall construct a Clubhouse, two (2) Tennis Courts and a Swimming Pool in Phase III of the Development. Construction of these amenities, or a portion of these amenities, will be commenced within four (4) months from the date of closing on the seventieth (70th) Lot sale to individual purchases in Phase I and II.

3.04 Access. All Owners, by accepting title to Lots or Dwellings conveyed subject to this Declaration, waive all rights, except for limited Common Recreation Amenities as designated by the Declarant, of uncontrolled and unlimited access, ingress, and egress to and from such Lot or Dwelling and acknowledge and agree that such access, ingress and egress shall be limited to roads, sidewalks, walkways, trails, and waterways located within the Development from time to time, provided that pedestrian and vehicular access to and from all Lots shall be provided at all times. There is reserved unto Declarant, the Association, and their respective successors and assigns the right and privilege, but not the obligation, (i) to control access to and from Huspah Creek or other waterways from time to time located within or contiguous to the Development; and (ii) to maintain guarded or electronically-monitored gates or some other device, in the sole discretion of Declarant, controlling vehicular access to and from the Development.

3.05 Easements for Declarant. During the period that Declarant owns any Lot primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development, Declarant shall have an alienable and transferable right and easement on, over, through, under, and across the Common Areas for the purpose of constructing Dwellings and other improvements in and to the Lots and the Additional Property and for installing, maintaining, repairing, and replacing such other improvements in and to the Lots and the Additional Property and for installing, maintaining, repairing, and replacing such other improvements to the Property (including the Recreational Amenities and other portions of the Common Areas) as are contemplated by this Declaration or as Declarant desires, in its sole discretion, including, without

limitation, any improvements or changes permitted and described by Article II hereof, and for the purpose of doing all things reasonable necessary and proper in connection therewith, provided in no event shall Declarant have the obligation to do any of the foregoing.

3.06 Changes in Boundaries; Additions to Common Areas.

Declarant expressly reserves for itself and its successors and assigns, the right to change and realign the boundaries of the Common Areas and any Lots owned by Declarant, including the realignment of boundaries between adjacent Lots owned by Declarant, provided that any such change or realignment of boundaries shall not materially decrease the acreage of the Common Areas and shall be evidenced by a revision of or an addition to the Site Plan which shall be recorded in the plat records of the RMC office of Beaufort County, South Carolina. In addition, Declarant reserves the right, but shall not have the obligation, to convey to the Association at any time and from time to time any portion of the Additional Property, such real Property to be conveyed to the Association as an addition to the Common Areas and subject to the title exceptions set forth in Section 2.02 hereof.

3.07 Easements for Utilities. There is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the alienable, transferable, and perpetual right and easement as well as the power to grant and accept easements to and from any public authority or agency, public service district, public or private utility, or other Person, upon, over, under, and across (i) all of the Common Areas, (ii) all areas set forth by the Declarant for the purpose of installing, replacing, repairing, maintaining, and using master television antennas and/or cable systems, security and similar systems, and all utilities, including, but not limited to, storm sewers and drainage systems and electrical, gas, telephone, water and sewer lines. Such easements may be granted or accepted by Declarant, its successors or assigns, or by the Board of Directors, provided, however, that for so long as Declarant owns any Lot primarily for the purpose of the sale or has the unexpired option to add the Additional Property or any portion thereof to the Development, the Board of Directors must obtain the written consent of Declarant prior to granting and accepting any such easements. To the extent possible, all utility lines and facilities serving the Development and located therein shall be located underground. By the virtue of any such easement and facilities, it shall be expressly permissible for the providing utility company or other supplier or servicer, with respect to the portions of the Development so encumbered, (i) to erect and maintain pipes, lines, manholes, pumps, and other necessary equipment and facilities, (ii) to cut and remove any trees, bushes, or shrubbery, (iii) to grade, excavate, or fill, or (iv) to take other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, and use of such utilities and systems.

3.08 Easements for Association. There is hereby reserved a general right and easement for the benefit of the Association, its directors, officers, agents, employees, including, but not limited to, any manager employed by the Association and any other employees of such manager, to enter upon any Lot, Dwelling, or any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the Owner or Occupant of the area directly affected thereby.

3.09 Sales Construction Offices and Temporary Residential and Maintenance Buildings. Notwithstanding any provisions or restrictions herein to the contrary, there is hereby reserved for the benefit of Declarant and its successors and assigns the alienable and transferable right and easement in and to the Property for the maintenance of signs, sales offices, construction

offices, business offices, and model Dwellings, together with such other facilities as in the sole opinion of the Declarant may be reasonably required, or incidental to the completion, improvement, and/or sale of Lots, Dwellings, Common Areas, or the Additional Property, for so long as Declarant owns any Lot primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development.

3.10 Easements for Additional Property. There is hereby reserved for Declarant, and its successors, assigns, and successors-in-title to the additional Property, for the benefit of and as an appurtenance to the Additional Property and as a burden upon the Property, perpetual, non-exclusive rights and easements for (i) pedestrian, vehicular, and boating access, ingress, egress, parking, and docking over, across, within on all roads, sidewalks, trails, parking facilities, lagoons, lakes, and docks from time to time located within the Common Areas or within easements serving the Common Areas; (ii) the installation, maintenance, repair, replacement and use within the Common Areas and those portions of Lots and Dwellings encumbered pursuant to Section 3.05 hereof of security systems and utility and drainage facilities and distribution lines, including, without limitation, drainage systems, storm sewers, and electrical, gas, telephone, water, sewer, and master television antennas and/or cable system lines, and (iii) drainage and discharge of surface water onto and across the Property provided that such drainage and discharge shall not materially damage or affect the Development or any improvements from time to time located thereon. Furthermore, in the event that the Additional Property or any portion or portions thereof are not added to the Development, the Owners of residential lots located herein shall have, and there is hereby reserved for their benefit and as an appurtenance to their respective residential lots, the perpetual, non-exclusive right and easement of access to the use and enjoyment of all Recreational Amenities, except for limited common Recreational Amenities, on a basis which is equal and equivalent to that enjoyed by Owners, provided, however, that as a condition precedent to the use of the Recreational Amenities by any such other of a residential unit within any portion of the Additional Property not so added to the Development, such Owner shall pay the Association annual Assessment for the use of the Recreational Amenities and shall be subject to all covenants rules and regulations pertaining to said use.

3.11. Maintenance Easement. Subject to the terms of Section 5.02 (b) hereof, there is hereby reserved for the benefit of Declarant, the Association, and their respective agents, employees, successors, and assigns, an alienable, transferable, and perpetual right and easement to enter upon any Lot and upon unimproved portions of any Dwelling for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps, or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety, and appearance within the Development, provided that such easements shall not impose any duty of obligation upon Declarant or the Association to perform such actions. Furthermore, there is hereby reserved for the benefit of Declarant, the Association, and their respective agents, employees, successors and assigns, an alienable, transferable, and perpetual right and easement, but not the obligation, to enter upon any Lots which are located within seventy-five (75) feet from the water's edge of any lagoon, marina, pond, or other body of water within the Development, for the purpose of mowing such area and keeping the same clear and free from unsightly growth and trash, as well as for the purpose of maintaining such bodies of water, such maintenance to include, without limitation, dredging and the maintenance of reasonable water quality standards.

3.12 Environmental Easement. There is hereby reserved for the benefit of Declarant, the Association, and their respective agents, employees, successors, and assigns, an alienable, transferable, and perpetual right and easement on, over, and across all Lots and all

unimproved portions of Dwellings for the purpose of taking any action necessary to effect compliance with environmental rules, regulations, and procedures from time to time promulgated or instituted by the Board of Directors or by any governmental entity, such easement to include, without limitation, the right to implement erosion control procedures and practices, the right to drain standing water, and the right to dispense pesticides.

3.13 Wells and Effluent. There is hereby reserved for the benefit of Declarant, the Association and their respective affiliates, agents, employees, successors and assigns, an alienable, transferable, and perpetual right and easement (i) to pump water from lagoons, ponds, lakes, and other bodies of water located within the Development, (ii) to drill, install, locate, maintain, and use wells, pumping stations, water towers, siltation basins and tanks, and related water and sewer treatment facilities and systems within the Common Areas, including any within any portion of the Recreational Amenities.

3.14 Encroachments. There shall exist valid and perpetual easements, appurtenant to any Lot located adjacent to any lagoons, ponds, lakes and other bodies of water from time to time located within the Common Areas, for the encroachment of docks, bulkheads, boat slips, and for the maintenance, repair and replacement thereof for so long as such encroachment exists, provided that the location of such docks, bulkheads, boat slips, and boathouses shall be subject to the prior approval of the Architectural Review Board pursuant to Article X hereof.

3.15 No Partition: There shall be no judicial partition of the Property or any part thereof, nor shall any Person acquiring any interest in the Property or any part thereof seek any such judicial partition unless the Property has been removed from the provisions of this Declaration.

3.16 Easements for Walks, Trails and Signs. There is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the alienable, transferable, and perpetual right and easement upon, over and across Lots and Common Areas within thirty five feet (35') of the street or road right of way for the installation, maintenance, and use of sidewalks, jogging trails, traffic directional signs, and related improvements.

ARTICLE IV MEMBERSHIP

4.01 Membership. Every Owner shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Lot, and Ownership of a Lot shall be the sole qualification for such membership. In the event that fee title to a Lot is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto shall automatically pass to such transferee, notwithstanding any failure of the transferor to endorse to his transferee any certificates or other evidences of such membership. The foregoing is not intended to include Mortgages or any other Persons who hold an interest merely as security for the performance of any obligation, and the giving of a security interest shall not terminate or otherwise affect an Owner's membership in the Association. Notwithstanding any of the foregoing to the contrary, no Owner, whether one or more Persons, shall have more than one membership per Lot. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges and membership, including the right to vote and to hold an office in the Association, may be exercised by a member or a member's spouse, but in no event shall more than one vote be cast or more than one office held for each Lot. When more than one Person holds an interest in any Lot, the vote for such Lot shall be exercised as those Owners of such Lot themselves determine and advise the Secretary or an Assistant Secretary of the Association prior to any meeting. In the absence of such advice, the vote appurtenant to such Lot shall be suspended in the event more than one Person seeks to exercise it. The voting weight appurtenant to each Lot is equal and each Lot shall have one (1) vote. Such voting weight shall continue to be equal upon the addition of all or a portion of the Additional Property to the Development, and each Lot or therein shall have one (1) vote. Each Owner, by acceptance of a deed or other conveyance for a Lot, consents and agrees to the dilution of his voting interest in the Association by virtue of the submission from time to time of the Additional Property or any portion thereof to the terms of this Declaration as provided herein.

ARTICLE V MAINTENANCE

5.01 Responsibility of Owners and Associations. Unless specifically identified herein or in another Declaration as being the responsibility of the Association or any other designated Association, all maintenance and repair of Dwellings and the areas within a Dwelling area not considered a common element or Common Area, together with all other improvements thereon or therein and all lawns, landscaping, and grounds on and within a Lot or shall be the responsibility of the Owner of such Lot. As provided for in Section 5.02 (b) hereof, each shall also be obligated to pay for the cost incurred by the Association for repairing, replacing, maintaining, or cleaning any item which is the responsibility of such Owner, but which responsibility of such Owner fails or refuses to discharge. No Owner shall (i) decorate, change, or otherwise alter the appearance of any portion of the exterior of a Dwelling unless such decoration, change or alteration is first approved, in writing by the Architectural Review Board as provided in Article X hereof, or (ii) do any work which, in the reasonable opinion of the Architectural Review Board, would jeopardize the soundness and safety of the Development, reduce the value thereof, or impair any easement or hereditament thereto, without in every such case obtaining the written approval of the Architectural Review Board and the Owners and Mortgagees of Lots directly affected thereby or benefiting from such easement or hereditament.

5.02 Association's Responsibility.

(a) Except as may be herein otherwise specifically provided, the Association shall maintain and keep in good repair all portions of the Common Areas, which responsibility shall include the operation, maintenance, repair, and replacement of the following, including but not limited to: (i) all roads, walks, trails, lagoons, ponds, parking lots, landscaped areas, and other improvements situated within the Common Areas or within easements encumbering Lots pursuant to Section 3.13 hereof, (ii) such security program and utility lines, pipes, plumbing, wires, conduits, and related systems which are a part of the Common Areas and which are not maintained by a public authority, public service district, public or private utility, or other Person, and (iii) all lawns, trees, shrubs, hedges, grass, and other landscaping situated within or upon the Common Areas. The Association shall not be liable for injury or damage to any Person or Property (a) caused by the elements or by any Owner or any other Person, (b) resulting from any rain or other surface water which may leak or flow from any portion of the Common Areas, or (c) caused by any pipe, plumbing, drain, conduit, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, breaking down or as a result of the repair of the same. Nor shall the Association be liable to any Owner for loss or damage, by theft or otherwise, of any Property of such Owner which may be stored in or upon any portion of the areas or any other portion of the Property. No diminution or abatement of Assessments or recreational charges shall be claimed or allowed by reason of any alleged failure of the

Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such Assessments and recreational charges being a separate and independent covenant on the part of each Owner.

(b) In the event that Declarant or the Board of Directors determines that: (i) any Owner has failed or refused to discharge properly Owner's obligation with regard to the maintenance, cleaning, repair or replacement of items for which Owner is responsible hereunder, or (ii) that the need for maintenance, cleaning, repair, or replacement which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, his family, tenants, guests, or invitees, and is not covered or paid for by insurance in whole or in part, then, in either event, Declarant or the Association, except in the event of an emergency situation, may give such Owner written notice of Declarant's or the Association's intent to provide such necessary maintenance, cleaning, repair, or replacement, at the sole cost and expense of such owner and setting forth with reasonable particularity the maintenance, cleaning, repairs or replacement deemed necessary. Except in the event of emergency situations, such Owner shall have fifteen (15) days within which to complete the same in a good and workmanlike manner, or in the event that such maintenance, cleaning, repair, or replacement is not capable of completion within said fifteen (15) day period, to commence said maintenance, cleaning, repair or replacement and diligently proceed to complete the same in a good and workmanlike manner. In the event of emergency situations or the failure of any Owner to comply with the provisions hereof after such notice, Declarant or the Association may provide (but shall not have the obligation to so provide) any such maintenance, cleaning, repair or replacement at the sole cost and expense of such Owner as the case may be, and said cost shall be added to and become a part of the Assessment to which such Owner and his Lot or areas within the lot area not considered a common element or Common Area, are subject, and shall become a lien against such Lot and improvements, on areas of the Lot not considered a common element or Common Area. In the event that Declarant undertakes such maintenance, cleaning, repair or replacement, the Association shall promptly reimburse Declarant for Declarant's costs and expenses.

ARTICLE VI INSURANCE AND CASUALTY LOSSES

6.01 Insurance.

(a) The Board of Directors or its duly authorized agents shall have the authority to and shall obtain and continue in effect adequate Property insurance, in such form as the Board deems appropriate, for the benefit of the Association and insuring all insurable improvements in and to the Common Areas against loss or damage by fire or other hazards, including, without limitation, extended coverage, flood, vandalism, and malicious mischief, such coverage to be in an amount sufficient to cover the full replacement cost (without depreciation but subject to such deductible levels as are deemed reasonable by the Board) of any repair or reconstruction in the event of damage or destruction from any such hazard.

(b) The Board or its duly authorized agents shall have the authority to and shall obtain and continue in effect a public liability policy covering all the Common Areas and all damage or injury caused by the negligence of the Association, its members, its directors and officers, or any of its agents. Such public liability policy shall provide such coverage as is determined to be necessary by the Board of Directors.

(c) The Board or its authorized agents shall have the authority and may obtain (i) Worker's Compensation Insurance to the extent necessary to comply with any applicable laws, (ii) errors and omission insurance, and (ii) such other types and amounts of insurance as may be determined by the Board to be necessary or desirable.

(d) All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for each of the Owners and costs of all such coverage shall be a common expense. Exclusive authority to adjust losses under policies obtained by the Association and hereafter in force with respect to the Development shall be vested in the Board of Directors; provided, however, that no Mortgages or other security holder of the Common Areas having an interest in such losses may be prohibited from participating in the settlement negotiation, if any, related thereto. Insofar as permitted by law, the Association shall be required to make every effort to secure insurance policies with the provisions hereinafter set forth.

- (i) All policies shall be written with a company licensed to do business in the State of South Carolina and holding a rating of A+ or better in such financial categories as established by Best's Insurance Reports, if such a company is available or, if not available, its equivalent rating or the best rating possible.
- (ii) All Property insurance policies shall be for the benefit of the Owners and their Mortgagees as their interested may appear.

- (iii) All Policies shall contain a waiver of the insurer's right to cancel without first giving thirty (30) days prior written notice of such cancellation to the Association and to any Mortgagee to which a Mortgagee endorsement has been issued.
- (iv) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners or their Mortgagees, and all policies shall contain a provision that the "other insurance" clauses in such policies exclude from consideration policies obtained by individual Owners or their Mortgagees.
- (iv) All policies shall contain a waiver of subrogation by the insurer as to any claims against the Association, the Association's directors and officers, the Owners, and their respective families, servants, agents, tenants, guests, and invitees, including, without limitation, the Association's manager.
- (v) All policies shall contain a provision that no policy may be cancelled, invalidated, or suspended on account of the conduct of one or more of the individual Owners or their respective families, servants, agents, employees, tenants, guests, and invitees, or other account of the acts of any director, officer, employee, or agent of the Association or of its manager, without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within the defect may be cured.
- (e) It shall be the individual responsibility of each Owner at his own expense to provide, as Owner sees fit, public liability, Property damage, title, and other insurance with respect to his own lot and Dwelling. The Board of Directors may require all Owners and/or other Associations to carry public liability and Property damage insurance with respect to their respective Lots and Dwellings and to furnish copies or certificates thereof to the Association.

6.02 Damage or Destruction to Common Areas. Immediately after the damage or destruction by fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance, and; in any such event, the Board shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Property. Repair or reconstruction, as used in this Article VI, means repairing or restoring the damaged Property to substantially the same condition in which it existed prior to the fire or other casualty. Unless within sixty (60) days following any damage or destruction to all or a part of the Common Areas, Declarant, for so long as Declarant owns Dwelling areas within a Dwelling area not considered a common element or Common Area, primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development, together with at least seventy-five percent (75%) of the total vote of the Association, shall otherwise agree, the Association shall restore or replace such damaged improvements. If the insurance proceeds, if any, for such damage or destruction are not sufficient to defray the cost thereof, and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Directors may levy a special Assessment against all Owners, without the necessity of a vote pursuant to Section 9.04 hereof, such special Assessment to be in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. Such a special Assessment shall be levied against the Owners equally in the same manner as annual Assessments are levied and additional special Assessments and may be made at any time during or following the completion of any repair or reconstruction. Any and all sums paid to the Association

under by virtue of such Assessments shall be held by and for the benefit of the Association together with the insurance proceeds, if any, for such damage or destruction. Such insurance proceeds and Assessments shall be disbursed by the Association in payment for such repair or reconstruction pursuant to and in accordance with such method of distribution as is established by the Board of Directors. Any proceeds remaining after defraying such costs shall be retained by and for the benefit of the Association. If it is determined that the damage or destruction for which the insurance proceeds are paid shall not be repaired or reconstructed, such proceeds shall be retained by and for the benefit of the Association, and the ruins of the Common Areas damaged or destroyed by fire or other casualty shall be cleared and the Common Areas left in a clean, orderly, safe, and sightly condition.

6.03 Damage or Destruction to Lots. In the event of damage or destruction by fire or other casualty to any Dwelling and in the further event that either the Owner of such Dwelling responsible for the repair and replacement of such Dwelling elects not to repair or rebuild the damaged or destroyed Dwelling, such Owner making such election shall promptly clear away the ruins and debris of any damaged improvements or vegetation and leave such Dwelling in a clean, orderly, safe and sightly condition. Should such Owner elect to repair or rebuild such Lot, Dwelling or other improvements, such Owner shall repair or rebuild such Dwelling, or other improvements to substantially the same condition as existed prior to such fire or other casualty and in accordance with all applicable standards, restrictions, and provisions of this Declaration (including, without limitation, Article X hereof) and all applicable zoning, subdivision, building and other governmental regulations. All such work of repair or construction shall be commenced promptly following such damage or destruction and shall be carried through diligently to conclusion.

ARTICLE VII CONDEMNATION

7.01 Condemnation of Common Areas. Whenever all or any part of the Common Areas of the Development shall be taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof by the Board acting on the agreement of at least seventy-five percent (75%) of the total vote of the Association and of Declarant, for so long as Declarant owns a Dwelling primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development, the award or proceeds made or collected for such taking or sale in lieu thereof shall be payable to the Association and shall be disbursed or held as follows:

(a) If the taking or sale in lieu thereof involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking Declarant, for so long as Declarant owns a Lot or Dwelling primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development, together with at least seventy-five percent (75%) of the total membership of the Association, shall otherwise agree, the Association shall restore or replace such improvements so taken, to the extent practicable, on the remaining lands included in the Common Areas which are available therefor, in accordance with the plans approved by the Board of Directors, the Architectural Review Board, and by Declarant, for so long as Declarant owns a Lot primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development. If the awards or proceeds are not sufficient to defray the cost of such repair and replacement and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Directors may levy a special Assessment against all Owner, without the necessity of a vote pursuant to Section 9.04 hereof, such special assessment to be in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. Such a special Assessment shall be levied against the Owners equally in the same manner as annual Assessments are levied, and additional special Assessments may be made at any time during or following the completion of any repair or reconstruction. If such improvements are not to be repaired or restored, the award or proceeds shall be retained by and for the benefit of the Association.

(b) If the taking or sale in lieu thereof does not involve any improvements to the Common Areas, or if there are net funds remaining after any such restoration or replacement

of such improvements is completed, then such award proceeds, or net funds shall be retained by and for the benefit of the Association.

(c) If the taking or sale in lieu thereof includes all or any part of a Lot and also includes any part of the Common Areas, then a court of competent jurisdiction shall apportion such award or proceeds and such award or proceeds shall be disbursed to the Association and the Owners so affected so as to give just compensation to the Owners of any Dwelling taken for their interest in such Dwelling; provided, however, such apportionment may instead be resolved by the agreement of (i) the Board of Directors, (ii) the Owners of all Dwellings wholly or partially taken or sold, together with the Mortgagees for each such Dwelling, and (iii) Declarant, for so long as Declarant owns a Lot primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development.

7.02 Condemnation of Dwellings.

(a) In the event that all or any part of a Dwelling is taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof, and in the further event that the Owner of such Dwelling responsible for the maintenance and repair of such Dwelling elects not to restore the remainder of the Dwelling, then such Owner making such election shall promptly clear away any remaining improvements damaged or destroyed by such taking or conveyance and shall leave such Dwelling in a clean, orderly, safe, and sightly condition. In addition, if the size or configuration of such Dwelling remaining after such taking or conveyance is insufficient to permit the restoration of the remaining improvements thereon or therein to their condition prior to such taking or conveyance in compliance with all applicable standards, restrictions, and provisions of this Declaration and all applicable zoning, subdivision, building and other governmental regulations, then such Owner shall have the option, after clearing away all remaining improvements or portions thereof and placing the remainder in a clean, orderly, safe, and sightly condition referred to above, of deeding the remaining portion of the Lot as a part of the Common Areas; and thereafter any such Owner shall not have any further voting rights or membership rights or privileges in the Association or with respect to the Development and shall not be subject to any further Assessments imposed by the Association and payable after the date of such deeding.

(b) In the event that any part of a Lot is taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof, and if the Owner of such Dwelling responsible for the maintenance and repair of such Dwelling elects to restore the remainder of the Dwelling such Owner making such election shall restore such remainder of such Dwelling as nearly as practicable to the same condition it was in prior to such taking or conveyance and in accordance with all applicable standards, restrictions, and provisions of this Declaration and all applicable zoning, subdivision, building, and other governmental regulations. All such work of restoration shall be commenced promptly following such taking or conveyance and shall be carried through diligently to conclusion.

ARTICLE VIII ADMINISTRATION

8.01 Common Areas. The Association, subject to the rights of Declarant and the rights and duties of the Owners set forth in this Declaration and the By-Laws of the Association, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including furnishings and equipment related thereto) and shall keep the same in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions thereof. Except to the extent otherwise required by the provisions of the South Carolina Code relating to non-profit corporations all matters pertaining to this Declaration, the By-Laws, or the Association may be exercised by the Board of Directors, acting through the officers of the Association, without any further consent or action on the part of the Owners. As provided in Section 12.01 hereof and notwithstanding another provision to the contrary contained in any instruments evidencing or establishing the Development, Declarant shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following events shall occur: (i) the expiration of twenty-five (25) years after the date of the recording of this Declaration; or (ii) the surrender by Declarant of the authority to appoint and remove directors and officers of the Association by an express amendment to this Declaration executed and recorded by Declarant. Each Owner, by acceptance of a deed to or other conveyance of a Lot vests in Declarant such authority to appoint and remove directors and officers of the Association as provided by this Section 8.01 and by Section 12.01 hereof.

8.02 Duties and Powers. The duties and powers of the Association shall be those set forth in the provisions of the South Carolina Code relating to non-profit corporations, this Declaration, the By-Laws, and the Articles, together with those reasonably implied to effect the purposes of the Association; provided, however, that if there are conflicts or inconsistencies among the South Carolina Code, this Declaration, the By-Laws, or the Articles, the provisions of the South Carolina Code, this Declaration, the By-Laws and the Articles, in that order, shall prevail, and each Owner of a Lot or Dwelling by acceptance of a deed or other conveyance thereof, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies. The Association may

exercise any other right or privilege given to it expressly by this Declaration or by law, together with every other right or privilege reasonably to be implied from the existence or any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Such powers of the association shall include, but shall not be limited to, the power to purchase one or more Lots and to hold, Lease, Mortgage, sell, and convey the same. Such duties may include, but shall not be limited to, arranging with governmental agencies, public service districts, public or private utilities, or others, as a common expense or by billing directly to Lots to furnish trash collections, water, sewer, and/or security service for the Common Areas and/or the Lots and Dwellings. Notwithstanding the foregoing provisions of this Sections 8.02 or any other provision of this Declaration to the contrary, for so long as Declarant shall own any Lot primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development, the Association shall not, without the consent of Declarant, borrow money or pledge, Mortgage, or hypothecate all or any portion of the Common Areas.

8.03 Agreements. Subject to the prior approval of Declarant for so long as Declarant owns a Lot primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development, all agreements and determinations lawfully authorized by the Board of Directors shall be binding upon all Owners, their heirs, legal representatives, successors, and assigns, and all others having an interest in the Development or the privilege of possession and enjoyment of any part of the Development; and in performing its responsibilities hereunder, the Association, through its Board of Directors, shall have the authority to delegate to Persons of its choice such duties of the Association as may be determined by the Board of Directors. In furtherance of the foregoing and not in limitation thereof, the Association may obtain and pay for the services of any Person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other Personnel as the Association shall deem necessary or desirable for the proper operation of the Development, whether such Personnel are furnished or employed directly by the Association or by any Person or entity with whom or with which it contracts. All costs and expenses incident to the employment of a manager shall be a common expense. During the term of such management agreement, such manager may, if authorized by the Board of Directors, exercise all of the powers and shall be responsible for the performance of all the duties specifically and exclusively reserved to the directors, officers or members of the Association by this Declaration or the By-Laws. Such manager may be an individual, corporation, or other legal entity, as the Board of Directors shall determine, and may be bounded in such a manner as the Board of Directors may require, with the cost of acquiring any such bond to be a common expense. In addition, the Association may pay for, and the Board of Directors may hire and contract for, such legal and accounting services as are necessary or desirable in connection with the operation of the Development or the enforcement of this Declaration, the By-Laws, or the rules and regulations of the Association.

8.04 Management Agreement. Bull Point Plantation, LLC or an affiliate shall be employed as the manager of the Association and the Development for such period of time as Declarant has the right to appoint and remove officers and directors of the Association, with the option on the part of Bull Point Plantation LLC or its affiliates to renew such employment for three (3) successive one year terms from and after the termination of such appointment and removal right. Every grantee of any interest in the Development by acceptance of a deed or other conveyance of such interest, shall be deemed to ratify such management agreement.

8.05 Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire and hold tangible and intangible Personal Property and real Property and may dispose of the same by sale or otherwise. All funds received and title to all properties acquired by the Association and the proceeds thereof, after deducting therefrom

the costs incurred by the Association in acquiring or selling the same, shall be held by and for the benefit of the Association. The shares of the Owners in the funds and assets of the Association cannot be individually assigned, hypothecated, or transferred in any manner, except to the extent that a transfer of the Ownership of a Lot also transfers the membership in the Association which is an appurtenance to such Lot.

8.06 Rules and Regulations. As provided in Article XII hereof, the Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Lots, Dwellings, and Common Areas, which rules and regulations shall be consistent with the rights and duties established by this Declaration.

ARTICLE IX ASSESSMENTS

9.01 Purpose of Assessments. The Assessments for Common Expenses and Limited Common Expenses provided for herein shall be used for purposes including, but not limited to: repairing private streets (except those located within a privately owned Lot), walkways and like community areas, private lighting systems, storm drainage and other non-publicly owned or political bodies' grounds, maintenance, building(s) and related Property, security and cable television lines, maintaining the common waterfront, lagoons and other bodies of water in a clean and orderly condition, repairing damage caused by Common Area erosion, replacing any existing landscaping, providing for pest control when needed; and for the general purposes of prompting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of the Development, and maintaining the Development and preservation of an attractive community appearance, and, maintaining the privacy, security and general safety of the Owners and Occupants of the Development; all as may be more specifically authorized from time to time by the Board of Directors. The limited common Assessments for Common Expenses shall be used for upkeep and maintenance of the Limited Common Elements as designated by the Declarant.

9.02 Creation of Lien and Personal Obligation of Assessments. Each Owner of a Lot or Dwelling, by acceptance of a deed or other conveyance thereof, whether or not it shall be so expressed such deed or conveyance, is deemed to covenants and agree to pay to the Association: (a) annual Assessments, such Assessments to be established and collected as provided in Section 9.03 hereof, (b) special Assessments, such Assessments to be established and collected as provided in Section 9.04 hereof, (c) individual or specific Assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, fines as may be imposed against such Lot or Dwelling in accordance with Article XII hereof. Any such Assessments or recreational charges, together with late charges, simple interest at the rate of eighteen percent (18%) per annum, or at such other maximum interest rate as established by South Carolina law, and court costs and attorneys' fees incurred to enforce or collect such Assessments or recreational

charges, shall be an equitable charge and a continuing lien upon the Lot and Dwelling, the Owner of which is responsible for payment. Each Owner shall be Personally liable for Assessments or recreational charges coming due while he is the Owner of a Lot or Dwelling, and his grantee shall take title to such Lot or Dwelling subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee therefor; provided, however, the lien for unpaid Assessments or recreational charges shall not apply to the holder of any first priority Institutional Mortgage or to the holder of any Mortgage securing a loan made by Declarant, its affiliates, successors, or assigns, and who takes title to a Lot or Dwelling through Foreclosure sale after the effective date of the Assessment. In the event of co-Ownership of any Lot or Dwelling, all of such co-Owners shall be jointly and severally liable for the entire amount of such Assessments and recreational charges. Assessments and recreational charges shall be paid in such manner and on such dates as may be fixed by the Board of Directors, provided that unless otherwise provided by the Board, the annual Assessments shall be paid in equal monthly installments.

9.03 Computation of Annual Assessments. Each Owner of a Lot and each Owner of a Dwelling shall pay the Association the sum of SEVEN HUNDRED FIFTY AND NO/100 (\$750.00) DOLLARS per year per Lot. From and after January 1, 2000, it shall be the duty of the Board at least thirty (30) days prior to the Association's annual meeting to prepare a budget covering the estimated Common Expenses during the coming year, such budget to include a capital contribution or reserve account if necessary for the capital needs of the Association. The annual Assessment for each Lot is equal to the annual budget divided by the total number of Lots. The Board shall cause the budget and the proposed total of the annual Assessments to be levied against Lots as may be required for the following year to be delivered to each Owner at least fifteen (15) days prior to such meeting. Upon the addition of the Additional Property or any portion thereof to the Development, Assessments shall continue to be equal and the Lots sold to Owners being added to the Development shall thenceforth pay Assessments which are equal to those imposed upon Lots previously in the Development. In such event, the Association's budget shall be accordingly revised by the Board, without the necessity of approval by the Owners, to include Common Expenses and Assessments related to such additional Lots. The budget and the annual Assessments shall become effective unless disapproved at the annual meeting by either (i) Declarant, for so long as Declarant has the authority to appoint and remove directors and officers of the Association, or (ii) a vote of a majority of the votes of the Owners who are voting in Person or by proxy at such meeting. Notwithstanding the foregoing, in the event the proposed budget is not approved or the Board fails for any reason to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget and annual Assessments in effect for the then current year shall be increased in proportion to the percentage increase, if any, for the then current year, in the Consumer Price Index (all Urban Consumers, United States City Average, All Items 1957-59-100), or its successor index, or at the option of the Board may be increased up to fifteen percent (15%) of the maximum authorized payment for the previous year, and such increased budget shall have been approved as provided above. If any budget at any time proves inadequate for any reasons, then the Board may call a meeting of the Association for the approval of a special Assessment as provided in Section 9.04 hereof. The Common Expenses to be funded by the annual Assessments may include, but shall not necessarily be limited to, the following:

- (i) management fees and expenses of administration, including legal and accounting fees;
- (ii) utility charges for utilities serving the Common Areas and charges for other common services for the Development, including trash collection and security services, if any such services or charges are provided or paid by the Association;
- (iii) the cost of any policies of insurance purchased for the benefit of all the Owners

and the Association as required or permitted by this Declaration, including fire, flood, and other hazard coverage, public liability coverage, and such other insurance coverage as the Board of Directors determines to be in the interest of the Association and the Owners;

(iv) the expenses of maintenance, operation, and repair of those portions of the Common Areas which are the responsibility of the Association under the provisions of this Declaration;

(v) the expenses of the Architectural Review Board which are not defrayed by plan review charges;

(vi) ad valorem real and personal property taxes assessed and levied against the Common Areas;

(vii) the expenses for conducting recreational, cultural, or other related programs for the benefit of the Owners and their families, tenants, guest, and invitees;

(viii) such other expenses as may be determined from time to time by the Board of Directors of the Association to be Common Expenses, including without limitation, taxes and governmental charges not separately assessed against Lots and Dwellings;

(ix) the establishment and maintenance of a reasonable reserve fund or funds (a) for maintenance, repair, and replacement of those portions of the Common Areas which are the responsibility of the Association and which must be maintained, repaired, or replaced on a periodic basis, (b) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds, and (c) to cover unforeseen operating contingencies or deficiencies arising from unpaid Assessments or liens, as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board of Directors;

(x) the establishment of a mosquito and tick control program and;

(xi) for such further items that the Board may, in its discretion, deem necessary.

9.04 Special Assessments. In addition to the annual Assessments authorized above, the Association, acting through its Board of Directors, may levy, in any Assessment year, special Assessments for Common Expenses, applicable to that year only, provided that except as otherwise permitted in Sections 6.02 and 7.01 hereof, any such Assessment shall be approved by (i) Declarant, for so long as Declarant owns any Lot primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development; and (ii) by a majority of the votes of the Owners who are voting in Person or by proxy at a meeting duly called for this purpose in accordance with the provisions of Section 9.06 hereof. The Board of Directors may make such Special Assessments payable in installments over a period which may, in the Board's discretion, extend in excess of the fiscal year in which adopted. Such special Assessments are to be pro-rated among the Lots equally as provided with respect to annual Assessments.

9.05 Individual Assessments. Any expenses of the Association occasioned by the conduct of less than all of the Owners or by the family, tenants, agents, guests, or invitees of any Owner shall be specially assessed against such Owners and their respective Lots and/or Dwellings. The individual Assessments provided for in this Section 9.05 shall be levied by the Board of Directors and the amount and due date of such Assessments so levied by the Board shall be as specified by the Board.

9.06 Limited Common Element Assessments. Any expenses of the Association for the maintenance and upkeep of Limited Common Elements which shall be assessed against the Owners designated to have the right and use of the Limited Common Element.

9.07 Notice of Meetings and Quorum. Written notice of the annual meeting of the Association, as well as any other meeting called for the purpose of taking any action authorized

under Section 9.03 and 9.04 hereof, shall be sent to all members not less than fifteen (15) days nor more than forty-five (45) days in advance of such meetings. With respect to annual meetings, the presence of members or proxies entitled to cast over fifty percent (50) of all the votes of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be the presence in person or by proxy of members having one-third (1/3) of the total votes of the Association. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

9.08 Liens. All sums assessed against any Lot pursuant to this Declaration, together with court costs, reasonable attorney's fees, late charges, and interest as provided herein, shall be secured by an equitable charge and continuing lien on such Lot in favor of the Association. Furthermore, all recreational charges which are charged by an Owner, his family, tenants, or guests with respect to his use or the use by his family, tenants, or guests of the Recreational Amenities shall be the Personal obligation of such Owner and shall be an equitable charge and continuing lien against the Lot of such Owner. Such liens shall be superior to all other liens and encumbrances on such Lot except only for (i) liens of ad valorem taxes, and (ii) liens for all sums unpaid on a first priority Institutional Mortgage or on any Mortgage to Declarant, or its affiliates, successors; or assigns, and all amounts advanced pursuant to any such Mortgage and secured thereby in accordance with the terms of such instrument. Notwithstanding the foregoing to the contrary, the subordination of Assessments and recreational charges to the lien of such Mortgages shall only apply to such Assessments and recreational charges which have become due and payable prior to a Foreclosure. All other Persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded shall be deemed to consent that such liens or encumbrances shall be inferior to such future liens for Assessments and recreational charges as provided herein, whether or not such prior consent shall be specifically set forth in the instruments creating such liens or encumbrances.

9.09 Effect of Non-payment; Remedies of the Association.

Any Assessments or recreational charges of any Owner or any portions thereof which are not paid when due shall be delinquent. Any Assessments or recreational charges delinquent for a period of more than ten (10) days after the date when due shall incur a late charge in an amount as may be determined by the Board from time to time and shall also commence to accrue simple interest at the rate of eighteen percent (18%) per annum. A lien and equitable charge as herein provided for each Assessment or recreational charge shall attach simultaneously as the same shall become due and payable, and if an Assessment or recreational charge has not been paid within thirty (30) days, the entire unpaid balance of the Assessment or recreational charge may be accelerated at the option of the Board and be declared due and payable in full. The continuing lien and equitable charge of such Assessment or recreational charge shall include the late charge established by the Board of Directors, interest on the principal amount due at the rate of eighteen percent (18%) per annum, all costs of collection (including reasonable attorney's fees and court costs), and any other amounts provided or permitted hereunder or by law. In the event that the Assessment or recreational charge remains unpaid after sixty (60) days from the original due date, the Association may, as the Board shall determine, institute suit to collect such amounts and to foreclose its lien. The equitable charge and lien provided for in this Article shall be in favor of the Association, and each Owner, by his acceptance of a deed or other conveyance to a Lot, vests in the Association and its agents the right and power to bring all actions against him personally for the collection of such Assessments and recreational charges as a debt and/or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real Property. The Association shall have the power to bid on the Lot at any Foreclosure sale and to acquire, hold, Lease, Mortgage, and convey the same. No Owner may waive or otherwise escape liability for the Assessments and recreational charges provided for herein, including by way of illustration but not limitation, non-use of the Common Areas or abandonment of

his Lot, and an Owner shall remain Personally liable for Assessments, recreational charges, interest, and late charges which accrue prior to a sale, transfer, or other conveyance of his Lot which is recorded in the Register of Deeds Office for Beaufort County.

9.10 Certificate. The Treasurer, any Assistant Treasurer, or the manager of the Association shall, within ten (10) days of a written request and upon payment of such fee as is from time to time determined by the Board of Directors, furnish to any Owner or such Owner's Mortgage which requests the same, a certificate in writing signed by said Treasurer, Assistant Treasurer, or Manager setting forth whether the Assessments and recreational charges for which such Owner is responsible have been paid, and, if not paid, the outstanding amount due and owing, together with all fines, accrued interest, and other penalty charges. Such Certificates shall be conclusive evidence of payment of any Assessments and recreational charges stated therein.

9.11 Date of Commencement of Annual Assessments. The annual Assessments provided for herein shall commence as to each Lot on the day on which such Lot is conveyed to a Person other than Declarant and shall be due and payable in such manner and on such schedule as the Board of Directors may provide. Annual Assessments and any outstanding special Assessments shall be adjusted for such Lot according to the number of months then remaining in the then fiscal year of the Association and the number of days then remaining in the month in which such Lot is first conveyed. Annual and special Assessments for Lots in portions of the Additional Property hereafter submitted to the terms of this Declaration shall commence with respect to each such Lot on the later of (i) the day on which such Lot is conveyed to a Person other than Declarant or (ii) the day of the recording of the amendment to the Declaration so submitting such parcels, and annual and special Assessments for each such Lot shall be adjusted according to the number of months then remaining in the fiscal year of the Association and the number of days then remaining in the month in which such Assessments commence. Anything contained herein to the contrary notwithstanding, Declarant shall not be responsible for the payment of annual or special Assessments on Lots which it or its affiliates own and which do not contain occupied residences, provided that Declarant covenants and agrees to pay annual and special Assessments for each Lot owned by Declarant or an affiliate and containing occupied residences. Furthermore, Declarant has the authority hereunder to appoint and remove directors of the Association, provided, however, that the budget, Assessments, and deficiencies, if any, shall be annually reviewed by Declarant, and the Board of Directors and during such period Declarant's obligation for funding deficits shall only be up to the amount of the Association's budget.

ARTICLE X
ARCHITECTURAL STANDARDS AND USE RESTRICTIONS

10.01 Purpose. In order to preserve the natural setting and beauty of the Development, to establish and preserve a harmonious and aesthetically pleasing design for the Development, and to protect and promote the value of the Development, the Lots and Dwellings and all improvements located therein or thereon shall be subject to the restrictions set forth in this Article X. Every grantee of any interest in the Development, by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article X.

10.02 Architectural Review Board. The Board of Directors shall establish the Architectural Review Board which shall consist of up to seven (7) (but not less than three (3)) members, all of whom shall be Owners and who may or may not be members of the Board of Directors, provided that prior to the termination of Declarant's right to appoint and remove officers and directors of the Association, such members do not have to be Owners. The regular term of office for each member shall be one year, coinciding with the fiscal year of the Association. Any member appointed to the Board may be removed with or without cause by the Board at any time by written notice of such appointee, and successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former member. Notwithstanding the foregoing to the contrary, any member appointed to the Architectural Review Board by the Board shall be subject to the prior approval of Declarant until the date which is three (3) years from and after the date of which Declarant's right to appoint and remove officers and directors of the Association is terminated. The Architectural Review Board shall elect a chairman and he, or in his absence, the vice chairman, shall be the presiding officer at its meetings. The Architectural Review Board shall meet at least once in each calendar month, as well as upon call of the chairman, and all meetings

shall be held at such place as may be designated by the chairman. Three (3) members shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present in Person or a proxy at a meeting of the Architectural Review Board shall constitute the action of the Architectural Review Board is authorized to retain the services of consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist the Architectural Review Board in performing its functions set forth herein. Each member of the Architectural Review Board may be paid a stipend or honorarium as from time to time determined by the Board.

10.03 Permitted Improvements. No improvements of any nature whatsoever shall be constructed, altered, added to, or maintained upon any part of the Development, except (i) for Dwellings and other improvements which are constructed by Declarant, (ii) such improvements which are approved by the Architectural Review Board in accordance with this Article X, or (iii) improvements which pursuant to this Article X do not require the consent of the Architectural Review Board.

10.04 Construction of Improvements.

(a) All building, structures, or other improvements (excepting sidewalks and driveways) on or with respect to any Lot shall be located only within the setback lines specified by guidelines established by the Architectural Review Board, provided that the Architectural Review Board shall be empowered to grant variances with respect to such setback lines. To assure that Dwellings and other structures will be located so that the maximum view, privacy, and breeze will be available to each Dwelling or structure, Dwellings and structures will be located with regard to the location of trees and vegetation and other aesthetic and environmental considerations, as well as the precise site and location of any other Dwellings or structures within the Development.

(b) No construction of improvements on Lot shall be undertaken or conducted on any Sundays, or holidays as established by the Architectural Review Board except for (i) construction activities of Declarant, (ii) emergency situations involving the potential loss, injury, or damage to Person or Property, and (iii) as otherwise permitted by the Architectural Review Board.

(c) The Architectural Review Board, in its sole discretion, may require that any contractor and/or subcontractor, exclusive of those of Declarant, for any planned improvements on Lots within the Development post payment and/or performance bonds with the Architectural Review Board to assure that such contractor or subcontractor shall satisfactorily complete such improvements, such bonds to be in the name of the Association and to be in form and amount satisfactory to the Architectural Review Board.

Furthermore, the Architectural Review Board, in its sole discretion, may require that an Owner place in escrow with the Architectural Review Board a sum of no more than FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00) in order to assure the completion of all improvements, including landscaping, in accordance with approved plans and specifications, within the time periods provided in this Section 10.04 and in Section 10.06 hereof. The exterior of any improvements permitted by this Declaration shall be completed within one year after the construction of same shall have been commenced, except where the Architectural Review Board allows for an extension of time because such completion within such time is impossible or would result in great hardship to the Owner or builder thereof due to strikes, national emergencies, fires, floods, lightning, earthquakes, or other casualties. In the event that such improvements or landscaping are not completed in accordance with approved plans and specifications within the provided periods, the Architectural Review Board shall be entitled to collect on or enforce any payment or performance bonds required

hereunder so as to ensure the proper completion of any such improvements. Furthermore, the Architectural Review Board shall be entitled to retain any sums so held in escrow as a penalty for such failure to complete, and such sums shall be remitted to and shall be the Property of the Association. Any such sums so held in such escrow shall, at the discretion of the Architectural Review Board, be invested so as to earn interest, and any interest earned thereon shall be paid to the Owner making such escrow deposit, if his escrow deposit is refunded, or, if remitted to the Association, shall be the Property of the Association.

(d) Dwellings may not be temporarily or permanently occupied until the exteriors thereof have been completed. No temporary house, shack, tent, barn, or other outbuilding shall be permitted on any Lot at any time, except as provided in Section 10.19 hereof and except for temporary structures for social functions as may be permitted by rules and regulations promulgated by the Board. During the continuance of construction by an Owner such Owner shall require its contractors to maintain the Lot in a reasonably clean and uncluttered condition and, to the extent possible, all construction trash and debris shall be kept within refuse containers. Upon completion of construction, such Owners shall cause its contractors to immediately remove all equipment, tools, and construction material and debris from the Lot on which such construction has been completed.

10.05 Architectural Approval. To preserve the architectural and aesthetic appearance of the Development, no construction of improvements of any nature whatsoever shall be commenced or maintained by any Owner, other than Declarant, with respect to the construction or exterior of any Dwelling or with respect of any other portion of the Development, including, but not limited to, the construction or installation of sidewalks, driveways, parking Lots, mail boxes, decks, patios, courtyards, swimming pools, tennis courts, greenhouses, playhouses, awnings, walls, fences, docks, wharves, bulkheads, boat slips, boathouses, exterior lights, garages, guest or servants' quarters, stables or other outbuildings, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, painting or staining of any exterior surface), unless and until two (2) copies of the plans and specifications and related data, including if required by the Architectural Review Board, a survey showing the location of trees of six inches (6") in diameter at a height of six feet (6'), Live Oaks and other significant vegetation on such Lot showing the nature, color, type, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony of external design, location, and appearance in relation to surrounding structures, vegetation and topography by the Architectural Review Board. One copy of such plans, specifications, and related data so submitted shall be retained in the records of the Architectural Review Board, and the other copy shall be returned to the Owner marked "approved" or "disapproved". The Architectural Review Board shall establish a fee sufficient to cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys retained in accordance with the terms hereof. The fee initially established for such review shall be ONE HUNDRED AND NO/100 DOLLARS (\$100.00) for submission, and the Architectural Review Board shall have the right to increase this amount from time to time. Notwithstanding the foregoing, an Owner may make interior improvements and alterations within his Dwelling without the necessity of approval or review by the Architectural Review Board. The Architectural Review Board shall have the sole discretion to determine whether plans and specification submitted for approval are accepted to the Association. In connection with approval rights and to prevent excessive drainage or surface water run-off, the Architectural Review Board shall have the right to establish a maximum percentage of a Lot which may be covered by Dwellings, building structures, or other improvements, which standards shall be promulgated on the basis of topography, percolation rate of the soil types and conditions, vegetation cover, and other environmental factors. Following approval of any plans and specifications by the Architectural Review Board, representatives or agents of the Architectural Review Board, representatives or agents of the Architectural Review Board shall have the right

during reasonable hours to enter upon and inspect any Lots, or other improvements with respect to which construction is underway to determine whether or not the plans and specifications therefor have been approved and are being complied with. In the event the Architectural Review Board shall determine that such plans and specifications have not been approved or are not being complied with, the Architectural Review Board shall be entitled to enjoin further constructions and to require the removal or correction of any work-in-place which does not comply with approved plans and specifications. In the event the Architectural Review Board fails to approve or disapprove in writing any proposed plans and specifications within forty-five (45) days after such plans and specifications shall have been submitted, such plans and specifications will be deemed to have been expressly approved. Upon approval of plans and specifications, no further approval under this Article X shall be required with respect thereto, unless such construction has not substantially commenced within six (6) months of the approval of such plans and specifications (e.g. clearing and grading, pouring of footings, etc.) or unless such plans specifications are materially altered or changed. Refusal of approval of plans and specifications may be based by the Architectural Review Board upon any grounds which is consistent with the objects and purposes of this Declaration, including purely aesthetic consideration, so long as such grounds are not arbitrary or capricious.

10.06 Landscaping Approval. To preserve the aesthetic appearance of the Development, no landscaping, grading, excavation, or filling of any nature whatsoever shall be implemented and installed by any Owner other than Declarant, unless and until the plans therefor have been submitted to and approved in writing by the Architectural Review Board. The provisions of Section 10.05 hereof regarding time for approval of plans, right to inspect, right to enjoin and/or require removal, etc. shall also be applicable to any proposed landscaping, clearing, grading, excavation, or filling. Such plans shall include a calculation of the area to be covered by grass lawns versus the area to be left in a natural state, and the Architectural Review Board shall be entitled to promulgate standards with respect to such coverages. Furthermore, no hedge or shrubbery planting or newly planted tree(s) which obstructs sight-lines at elevations as established by the Architectural Review Board shall be placed or permitted to remain on any Lot within the Development.

No Owner other than Declarant, shall be entitled to cut, remove, or mutilate any trees, shrubs, bushes, or other vegetation having a trunk diameter of six inches (6") or more at a point of six feet (6') above ground level, without obtaining the prior approval of the Architectural Review Board, provided that dead or diseased trees which are inspected and certified as dead or diseased by the Architectural Review Board or its representatives, as well as other dead or diseased shrubs, bushes, or other vegetation, shall be cut and removed promptly from any Lot by the Owner of such Lot. All of the landscaping of Lots must be completed within ninety (90) days of issue of certificate of occupancy.

All landscaping shall be maintained by the Owner to the level equal to or greater than the landscape plan originally approved by the Architectural Review Board. Such maintenance shall include watering, weeding, using herbicides, removing dead branches, mowing grass and replenishing mulches (pine straw, bark, etc.) so as to maintain a neat appearance.

10.07 Approval Not a Guarantee. No approval of plans and specifications and no publication of architectural standards shall be construed as representing or implying that such plans, specifications or standards will, if followed, result in properly designed improvements. Such approvals and standards shall in no event be construed as representing or guaranteeing that any Dwelling or other improvement built in accordance therewith will be designed and/or built in a good and workmanlike manner. Neither Declarant, the Association, nor the Architectural Review Board shall be responsible or liable for any defects in any plans or specifications submitted, revised, or approved pursuant to the terms of this Article X, nor any defects in construction undertaken pursuant to such plans and specifications.

10.08 Use of Lots and Dwellings. Except as permitted by Section 3.09 and 10.20 hereof, each Lot shall be used for residential purposes only, and no trade or business of any kind may be carried on therein. The use of a portion of a Dwelling as an office by an Owner or his tenant shall not be considered to be a violation of this covenant if such use does not create regular customer, client, or employee traffic, provided that in no event shall any Lot be used as the office of or storage area for any building contractor or real estate developer. Furthermore, the operation of the Recreational Amenities, food and beverage facilities, if any, without limitation the charging and collecting of membership fees, garden plot or mini-farm rentals, dock and boat slip fees, tennis court fees, Health Club fees, and the operation in Common Areas for which a fee may be charged, shall be expressly permitted within the Development exclusive of Lots or Dwelling and shall not be deemed to be a violation of the terms of this Section 10.08. Lease or rental of a single family Dwelling shall not be considered to be a violation of this covenant so long as the Lease is in compliance with rules and regulations as may be promulgated and published from time to time by the Board of Directors. All Leases shall be required to be in writing, and, prior to the commencement of any such Lease, the Owner shall provide the Secretary of the Association and the managing agent of the Association, if any, with copies of such Lease. Any lessee or tenant shall in all respects be subject to the terms and conditions of this Declaration and the rules and regulations adopted hereunder.

10.09 Boats and Watercrafts. a). No Persons shall be entitled to live or reside on any yacht, boat, or other watercraft from time to time docked, moored, or otherwise located within the Development, provided that the Board of Directors may establish rules and regulations permitting the temporary occupancy of any such yachts, boats, or other watercraft. In addition, no sewage effluent, treated or otherwise, shall be discharged from any yacht, boat, or other watercraft into any lagoon, pond, or other body of water within or adjacent to the Development. Owners and their tenants shall not be entitled to Lease or rent any boat slips, boathouses, wharf, dock, or bulkhead space adjacent to Lots to Persons other than other Owners or their tenants. b). The Board of Directors shall establish rules and regulations for the use of community docks and other facilities by the Owners and their guests.

10.10 Signs. Except as may be required by legal proceedings, no signs or advertising posters of any kind shall be maintained or permitted within any windows or on the exterior of any improvements, trees, or utility structures located within the Development, without the express written permission of the Architectural Review Board. The approval of any signs and posters, including, without limitation, name and address signs, shall be upon such conditions as may be from time to time determined by the Architectural Review Board and may be arbitrarily withheld. Notwithstanding the foregoing, the restrictions of this Section 10.10 shall not apply to Declarant or its assigns. In addition, the Board of Directors, on behalf of the Association, shall have the right to erect reasonable and appropriate signs on any portion of the Common Areas and within those easement areas established in Section 3.15 hereof.

10.11 Mail Boxes. All mailboxes shall be constructed in compliance with guidelines established by the Architectural Review Board which may be amended from time to time by the Architectural Review Board.

10.12 Antennas. Antennas guidelines shall be established by the Architectural Review Board and may be amended from time to time by the Architectural Review Board. No radio or television signal nor any electro-magnetic radiation is permitted to originate from any Lot which may interfere with the receipt of any television or radio signal within the Development.

10.13 Security Systems. Inasmuch as Declarant or the Association shall install a central security system within the Development, with the capability of providing security services to each Dwelling and other buildings within the Development, each Owner shall install and maintain such security system to and within each Dwelling and other buildings. Declarant assumes no liability for any installed security systems.

10.14 Water Wells and Septic Tanks. Water wells and ATU Septic Systems shall be installed in compliance with the South Carolina Department of Health and Environmental Control regulations and other applicable governmental regulations. The location of the water well and septic tanks shall be submitted to the Architectural Review Board at the time of submission of plans for construction of a Dwelling and shall be subject to the approval of the Architectural Review Board.

10.15 Pets.

a) With the exception of Declarant and as provided in Section 10.15 (b), no animals, livestock, birds, or poultry of any kind shall be raised, bred, or kept by any Owner, his family, tenants, or guests, upon any portion of the Development, provided that a reasonable number of generally recognized house pets may be kept in Dwellings, subject to rules and regulations adopted by the Association, through its Board of Directors, and further provided that such pet or pets are kept or maintained solely as domestic pets and not for any commercial purpose. No pet shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Common Areas. Pets shall be under leash at all times when walked or exercised in any portion of the Common Areas or on Property not owned by a pet Owner, and no pet shall be permitted to leave its excrement on any portion of the Common Areas, and the Owner of such pet shall immediately remove the same. Upon the written request of any Owner, the Board of Directors may conclusively determine, in its sole and absolute discretion, whether, for purposes of this Section 10.15(a), a particular pet is a generally recognized house pet or such pet is a nuisance, and the Board shall have the right to require the Owner of a particular pet to remove such pet from the Development if such pet is found to be a nuisance or to be in violation of these restrictions. The Board of Directors shall have the further right, subject to Section 12.03 hereof, to fine any Owner (in an amount not to exceed FIFTY AND NO/100 DOLLARS (\$50.00) per violation for the violation of these pet restrictions by such Owner, his family, tenants or guest, and an Owner shall be liable to the Association for the cost or repair of any damage to the Common Areas caused by the pet of such Owner, his family, tenants or guests, or of an Occupant of such Owner's Lot. Any such fine or cost of repair shall be added to and become a part of the portion of any Assessment next coming due to which such Lot and its Owner are subject.

(b) Owners shall have the right to own and stall horses on portions of the subject Property subject to rules and regulations as established by the Board of Directors.

10.16 Hunting and Fishing. No hunting will be allowed on Property dedicated to the within Declaration. Fishing will be allowed in the Development in areas from time to time designated by Declarant or the Board of Directors subject to rules and regulations established by the Board of Directors.

10.17 Limitations as to Use of Bodies of Water. The lagoons, lakes, ponds and other bodies of water within the Development are intended for the use and enjoyment of the Declarant and the Association, their guest and invitees and for the enhancement of the Development. To provide for the full enjoyment of the aforesaid water courses and bodies of water and to preserve water quality and to minimize erosion due to water turbulence, no boats and no combustion type engines shall be operated in said water courses or bodies of water within the Development without

the written consent of Declarant, so long as Declarant owns a Lot primarily for the purpose of sale or has the unexpired option to add Additional Property or any portion thereof to the Development, and after the Declarant has sold all its Lots and has no further Additional Property for Development, the Association, which permission may be arbitrarily withheld.

Declarant retains Ownership of all bodies of water referred to above and expressly reserves unto itself, its successors and assigns, every reasonable use and enjoyment of said lagoons, water courses and other bodies of water in a manner not inconsistent with this Declaration. It is further expressly recognized that said lagoon and bodies of water perform valuable drainage functions requiring water levels to be raised and lowered from time to time in connection with the Development. Declarant expressly retains all rights to adjust water levels as requirements dictate. Declarant shall have the right at its sole discretion, to deed any lagoon, lake or pond to the Association. The use and enjoyment by Owner of the thirteen (13) acre lake and any other lakes or ponds constructed on the property shall be subject to the rules and regulations as established by the Declarant and the Association. Owners of Lots fronting on the thirteen (13) acre lake and any other future lake or pond as designated by the Declarant, shall be deeded to ownership of a Lot to the high water mark. No docks, boardwalks or other structures may be constructed by individual Lot Owners on fresh water lakes/ponds located in Phase I or Phase II or on additional property.

10.18 Nuisances. No rubbish or debris of any kind shall be dumped, placed, or permitted to accumulate upon any portion of the Development, nor shall any nuisances or odors be permitted to exist or operate upon or arise from the Development, so as to render any portion thereof unsanitary, unsightly, offensive, or detrimental to Persons using or occupying any other portions of the Development. Noxious or offensive activities shall not be carried on in any Lot or Dwelling or in any part of the Common Areas, and each Owner, his family, tenants, guests, invitees, servants, and agents shall refrain from any act or use of a Lot or of the Common Areas which could cause disorderly, unsightly, or unkempt conditions, or which could cause embarrassment, discomfort, annoyance, or nuisances to the Occupants of other portions of the Development, or which could result in a cancellation of any insurance for any portion of the Development, or which would be in violation of any law or governmental code or regulation. Without limiting the generality of the foregoing provisions, no exterior speakers, horns, whistles, bells, or other sound devices, except fire alarm devices used exclusively for such purposes, shall be located, used or placed within the Development. Nor shall any materials such as peat bags, hose reels, left over lumber, etc. be allowed to be stored in outside areas within public view. Also, without limiting the generality of the foregoing, except within, screened service yard, air drying of clothes is prohibited, nor shall any clothing, rugs or other items be hung over any railing, fence, hedge or wall.

10.19 Motor Vehicles, Trailers, Boats, Etc. Each Owner shall provide for parking of their automobiles off streets and roads within the Development after the issuance of a certificate of occupancy of the Dwellings. Subject to the terms of this Section 10.19 there shall be no outside storage or parking upon any Lot within any portion of the Common Areas (other than areas provided therefor within the Common Areas, if any) of any mobile home, trailer (either with or without wheels), motor home, tractor, boats, truck (other than pick-up trucks), commercial vehicles of any type, camper, motorcycle, boats, motorized bicycle, motorized go-cart, or any other related forms of combustion driven or towed transportation devices. Furthermore, the Board of Directors may at any time prohibit mobile homes, motor homes, campers, trailers of any kind, motorcycles, motorized bicycles, motorized go-carts, and other vehicles, or any of them, from entering and/or being kept, placed, stored, maintained, or operated upon any portion of the Development if in the opinion of the Board of Directors such prohibition shall be in the best interests of the Development. No Owners or other Occupants of any portion of the Development shall repair or restore any vehicle of any kind upon or within any Lot within any portion of the Common Areas, except (i) within enclosed garages

or workshops or (ii) for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility. In Declarant's discretion, rental storage space for the above mentioned vehicles, boats, etc. may be provided in Declarant's maintenance area.

10.20 Sale and Construction Activities. Notwithstanding any provisions or restrictions contained in this Declaration to the contrary, it shall be expressly permissible for Declarant and its agents, employees, successors, and assigns to maintain and carry on such facilities and activities as may be reasonably required, convenient, or incidental to the completion, improvement, and sale of Lots and Dwellings or the developing of Lots, Dwellings, Common Areas, and Additional Property, including, without limitation, the installation and operation of sales, construction trailers, and temporary and permanent residential trailers and offices, signs, and model Dwellings, provided that the location of any construction trailers of any assignees of Declarant's rights under this Section 10.20 shall be subject to Declarant's approval. The right to maintain and carry on such facilities and activities shall include specifically the right to use Dwellings as model residences, and to use any Dwelling as an office for the sale of Lots and Dwellings and for related activities.

10.21 Multiple Ownership. No Lot or Dwelling may be owned by more than four (4) Owners at any one time. For purposes of this restriction, a married couple constitutes a single Owner. Furthermore, no Lots or Dwellings may be sold under any time-sharing, time-interval, or similar right-to-use programs. Notwithstanding the foregoing to the contrary, a Lot may be owned by a corporation or partnership so long as such corporation or partnership does not have more than four (4) designated users; provided, however, that the foregoing prohibition shall not apply to Declarant, its affiliates, or their respective successors or assigns. Designated user(s) shall be filed with the Board of Directors upon closing of said Lot and shall be updated annually.

10.22 Repurchase Option. Subject to the provisions of Section 13.06 hereof, Declarant hereby reserves unto itself and its successors and assigns the right and option to purchase any Lot within the Development which is offered for sale by the Owner thereof, such option to be at the price and on the terms and conditions of any bona fide offer for such Lot which is acceptable to such Owner and which is made in writing to such Owner by a third party. Upon the receipt of any such offer by an Owner, such Owner shall promptly submit a copy of the same to Declarant, and Declarant shall have a period of thirty (30) days from and after the presentation of such offer to Declarant in which to exercise its purchase option by giving such Owner written notice of such exercise. If Declarant fails to respond or to exercise such purchase option within said thirty (30) day period, Declarant shall be deemed to have waived such purchase option. If Declarant declines to exercise such option, Declarant shall execute an instrument evidencing its waiver of its repurchase option, which instrument shall be in recordable form. In the event that Declarant does not exercise its purchase option and such sale to a third party is not consummated on such terms within three (3) months of the date in which the offer is transmitted to Declarant, the terms and limitations of this Section 10.22 shall again be imposed upon any sale by such Owner. If Declarant shall elect to purchase such Lot, the transaction shall be consummated with sixty (60) days following delivery of written notice by Declarant to such Owner of Declarant's decision to so purchase such Lot.

10.23 Garage. All detached Dwellings are required to have a covered carport or garage in accordance with guidelines as are established by the Architectural Review Board and as may be amended from time to time by the Architectural Review Board.

**ARTICLE XI
SPECIAL RESTRICTIONS AFFECTING ALL WATERFRONT,
LAGOON AND MARSHLAND AREAS**

11.01 Conditions for Erection of Docks and Decks. Owners of Lots fronting on the navigable water ways may erect docks which are approved by Declarant upon the Property located between the outer boundary of their Lots or parcels and contiguous to same and the low water mark upon complying with the following terms and conditions:

(a) Complete plans and specifications, including site, color or finish must be submitted to the Architectural Review Board, with the written consent of Declarant, so long as Declarant owns a Lot primarily for the purpose of sale or has the unexpired option to add Additional Property or any portion thereof to the Development.

(b) Written approval of the Architectural Review Board, with the written consent of Declarant, so long as Declarant owns a Lot, Dwelling primarily for the purpose of sale or has the unexpired option to add Additional Property or any portion thereof to the Development is obtained.

(c) Written approval of any local, state or federal governmental departments or agencies which have jurisdiction over construction in or near salt marshlands must be secured.

Any alteration of the plans and specifications or of the Completed structure must also be submitted to the Architectural Review Board in writing and the Architectural Review Board's approval in writing must be similarly secured prior to construction, the Architectural Review Board reserving the same rights to disapprove alterations as it retains for disapproving the original structure.

11.02 Maintenance of Docks and Decks. All Lot Owners who construct or cause to be constructed said docks, must maintain said structures in good repair and keep the same safe, clean and orderly in appearance at all times, and further agree to paint or otherwise treat with preservatives all wood or metal located above the high water mark, exclusive of pilings and to maintain such paint or preservatives in an attractive manner. The Architectural Review Board shall be the judge as to whether the docks are safe, clean, and orderly in appearance, and properly painted or preserved in accordance with reasonable standards. Upon notification by the ARB to an Owner, in writing, that said dock fails to meet acceptable standards, said Lot Owner shall thereupon remedy such conditions within thirty (30) days to the satisfaction of the Architectural Review Board, and that failing to so remedy such conditions, the Lot or parcel Owners hereby covenant and agree that the Architectural Review Board, with the written consent of Declarant, so long as Declarant owns a Lot primarily for the purpose of sale or has the unexpired option to add Additional Property or any portion thereof to the Development, may make the necessary repairs, but is not obligated to make such repairs or take such actions as will bring the said dock up to acceptable standards, all such repairs and actions to be at the expense, solely of the Lot Owner in question. The Architectural Review Board, with the written consent of Declarant, so long as Declarant owns a Lot primarily for the purpose of sale or has the unexpired option to add Additional Property or any portion thereof to the Development, shall be entitled to reimbursement for such expenditures in the same manner and under the same terms as is provided in Section 9.09.

11.03 Entry by Board of Directors, Architectural Review Board or Declarant.

Whenever the Board of Directors, Architectural Review or Declarant is permitted by these covenants to correct, repair, clean, preserve, clear out or do any action on the Property of any Lot, or on the easement areas adjacent thereto, entering the Property and taking such action shall not be deemed a trespass.

ARTICLE XII RULE MAKING

12.01 Rules and Regulations. Subject to the provisions hereof, the Board of Directors may establish reasonable rules and regulations concerning the use of Lots, Dwellings and the Common Areas and facilities located thereon. Copies of such rules and regulations and amendments thereto shall be furnished by the Association to all Owners prior to the effective date of such rules and regulations and amendments thereto. Such rules and regulations shall be binding upon the Owners, their families, tenants, guests, invitees, servants and agents, until and unless any such rule or regulation be specifically overruled, cancelled, or modified by the Board of Directors or in a regular or special meeting of the Association by the vote of the Owners, in Person or by proxy, holding a majority of the total votes in the Association, provided that in the event of such vote, such action must also be approved by Declarant, for so long as Declarant owns any Lot primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to the Development.

12.02 Authority and Enforcement. Subject to the provisions of Section 12.03 hereof, upon the violation of this Declaration, the By-Laws, or any rules and regulations duly

adopted hereunder, including, without limitation, the failure to timely pay any Assessments or recreational charges, the Board shall have the power (i) to impose reasonable monetary fines which shall constitute an equitable charge and a continuing lien upon the Lot, the Owners, Occupants, or guests of which are guilty of such violation, (ii) to suspend an Owner's right to vote in the Association, or (iii) to suspend an Owner's right (and the right of such Owner's family, guests, and tenants and of the co-Owners of such Owner and their respective families, guests, and tenants) to use any of Recreational Amenities, and the Board shall have the power to impose all or any combination of these sanctions. An Owner shall be subject to the foregoing sanctions in the event of such a violation by such Owner, his family, guests, or tenants or by his co-Owners or the family, guest, or tenants of his co-Owners. Any such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty (30) days.

12.03 Procedure. Except with respect to the failure to pay Assessments or recreational charges, the Board shall not impose a fine, suspend voting rights, or infringe upon or suspend any other rights of an Owner or other Occupant of the Development for violations of the Declaration, the By-Laws, or any rules and regulations of the Association, unless and until the following procedure is followed:

(a) Written demand to cease and desist from an alleged violation shall be served upon the Owner responsible for such violation specifying:

- (i) The alleged violation;
- (ii) The action required to abate the violation; and;
- (iii) A time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one, or if the violation is not a continuing one, a statement that any further violation of the same provision of this Declaration, the By-Laws or of the rules and regulations of the Association may result in the imposition of sanctions after notice and hearing.

(b) Within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation subsequently occurs, the Board may serve such Owner with written notice of a hearing to be held by the Board in executive session. The notice shall contain:

- (i) The nature of the alleged violation;
- (ii) The time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice;
- (iii) An invitation to attend the hearing and produce any statement, evidence, and witnesses on his behalf; and
- (iv) The proposed sanction to be imposed.

(c) The hearing shall be held in an executive session of the Board of Directors pursuant to the notice and shall afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation of be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer, director, or other individual who delivered such notice. The notice requirement shall be deemed satisfied if an alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction imposed, if any.

ARTICLE XIII GENERAL PROVISIONS

13.01 Control by Declarant. NOTWITHSTANDING ANY OTHER LANGUAGE OR PROVISION TO THE CONTRARY IN THIS DECLARATION, IN THE ARTICLES OF INCORPORATION, OR IN THE BY-LAWS OF THE ASSOCIATION, Declarant hereby retains to right to appoint and remove any member of members of the Board of Directors of the Association by and for the term set forth in Section 8.01 hereof. Every grantee of any interest in the Development, by acceptance of a deed or other conveyance of such interest, agrees that Declarant shall have the authority to appoint and remove directors and officers of the Association in accordance with the foregoing provisions of this Section 13.01 and the provisions of Section 8.01. Upon the expiration of the period of Declaration's right to appoint and remove directors and officers of the Association pursuant to the provisions of Section 8.01 and this Section 13.01, such right shall pass to the Owners, including Declarant if Declarant then owns one or more Lots, and a special meeting of the Association shall be called within a reasonable time thereafter. At such special meeting Owners shall elect a new Board of Directors which shall undertake the responsibilities of the Board of Directors, and Declarant shall deliver all books, accounts, and records, if any, which Declarant has

kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period and which Declarant has in its possession.

13.02 Amendments by Declarant. During any period in which Declarant retains the right to appoint and remove any directors and officers of the Association, Declarant may amend this Declaration by an instrument in writing filed and recorded in the Records of the Office of the Clerk of Court for Beaufort County, South Carolina, without the approval of any Owner or Mortgagee; provided, however, that, with the exception of the addition of any portion of the Additional Property to the terms of this Declaration, (i) in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of his Lot, Dwelling, or the Common Areas as set forth in this Declaration or adversely affects the title to any Lot, such amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Owners affected thereby, or (ii) in the event that such amendment would materially and adversely affect the security title and interest of any Mortgagee, such amendment shall be valid only upon the written consent thereto of all such Mortgagees so affected. Notwithstanding the foregoing to the contract, the expiration or termination of the right of Declarant to appoint and remove any directors and officers of the Association shall not terminate Declarant's right to amend the Declaration for the purpose of submitting the Additional Property or any portion thereof to the provisions of this Declaration as provided in Section 2.02 hereof. Any amendment made pursuant to this Section 13.02 shall be certified by Declarant as having been duly approved by Declarant, and by such Owners and Mortgagees if required and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself. Each Owner, by acceptance of a deed or other conveyance to a Lot, agrees to be bound by such amendments as are permitted by this Section 13.02 and further agrees that, if requested to do so by Declarant, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Development (a) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule, or regulation or any judicial determination which shall be in conflict therewith, (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lots to this Declaration, (c) if such amendment is required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchase to make or purchase to make or purchase Mortgage loans on any Lot, Dwelling, or other improvements subject to this Declaration.

13.03 Amendments by Association. Amendments to this Declaration, other than those authorized by Section 13.02 hereof, shall be proposed and adopted in the following manner.

(a) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each member of the Association.

(b) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board of Directors or by members of the Association. Such amendment must be approved by Owners holding at least three-fourths (3/4) of the total votes in the Association; provided, however, (i) that any amendment which materially and adversely affects the security title and interest of any Mortgage must be approved by such Mortgagee, and (ii) during any period in which Declarant owns a Lot primarily for the purpose of sale or has the unexpired option under this Declaration to add the Additional Property or any portion thereof to the Development, such amendment must be approved by Declarant.

13.04 Enforcement. Each Owner shall comply strictly with the By-laws and the

published rules and regulations of the Association adopted pursuant to this Declaration, as either of the same may be lawfully amended from time to time, and with the covenants, conditions, and restrictions set forth in this Declaration and in the deed or other instrument of conveyance to his Lot, if any. Failure to comply with any of the same shall be grounds for imposing fines, for suspending voting rights or rights of use in and to the Recreational Amenities, or for instituting an action to recover sums due; for damages, and/or for injunctive relief, such actions to be maintainable by Declarant, the Board of Directors on behalf of the Association, or, in a proper case, by an aggrieved Owner. Should Declarant or the Association employ legal counsel to enforce any of the foregoing, all costs incurred in such enforcement, including court costs and reasonable attorneys fees, shall be paid by the violating Owner. Inasmuch as the enforcement of the provisions of this Declaration, the By-Laws, and the rules and regulations of the Association are essential for the effectuation of the general plan of Development contemplated hereby and for the protection of present and future Owners, it is hereby declared that any breach thereof may not adequately be compensated by recovery of damages, and that Declarant, the Association, or any aggrieved Owner, in addition to all other remedies, may require and shall be entitled to the remedy of injunction to restrain any such violation or breach or any threatened violation or breach. No delay, failure, or omission on the part of Declarant, the Association, or any aggrieved Owner in exercising any right, power, or remedy herein provided shall be construed as an acquiescence thereto nor shall be deemed a waiver of the right to enforce such right, power, or remedy thereafter as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against Declarant or the Association for or on any violation or breach, or threatened violation or breach, by any Person of the provisions of this Declaration, the By-Laws, or any rules and regulations of the Association, however long continued.

13.05 Duration. The provisions of this Declaration shall run with and bind title to the Property, shall be binding up and inure to the benefit of all Owners and Mortgagees and their respective heirs, executors, legal representatives, successors, and assigns, and shall be and remain in effect for a period of thirty (30) years from and after the date of the recording of this Declaration, provided that right and easements which are stated herein to have a longer duration shall have such longer duration. Upon the expiration of said thirty (30) year period, this Declaration shall be automatically renewed for successive ten (10) year period. The number of ten (10) year renewal periods shall be unlimited, with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration, if, during the last year of an initial thirty (30) year period or the last year of any ten (10) year renewal period, seventy-five percent (75%) of the total votes of the Association are cast in favor of terminating this Declaration at the end of the then current term. In the event that the Association votes to terminate this Declaration, an instrument evidencing such termination shall be filed of record in the Records of the Clerk of Court for Beaufort County, South Carolina, such instrument to contain a certificate wherein the President of the Association swears that such termination was duly adopted by the requisite number of votes. Every purchaser or grantee of any interest in any Property, by acceptance of a deed or other conveyance therefore, thereby agrees that the provisions of this Declaration shall run with and bind title to the Property as provided hereby.

13.06 Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rules against perpetuities, then such provision shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Mrs. Barbara Bush, wife of U. S. President George Herbert Walker Bush.

13.07 Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarant or the Board of Directors will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implications as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration shall be the date of its filing for record on the Records of the Register of Deeds for Beaufort County, South Carolina. The captions of each Article are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer. This Declaration shall be construed under and in accordance with the laws of the State of South Carolina.

13.08 General and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities as thought in each case fully expressed.

13.09 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any Person or to any Property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provisions or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

13.10 Rights of Third Parties. This Declaration shall be recorded for the benefit of Declarant, the Owners, and their Mortgagees as herein provided, and by such recording, no adjoining Property Owner or third party shall have any right, title or interest whatsoever in the Development, except as provided herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and, subject to the rights of Declarant and Mortgagees as herein provided, the Owners shall have the right to extend, modify, amend, or otherwise change the provisions of this Declaration without the consent, permission, or approval of any adjoining Owner or third party.

13.11 Notice of Sale, Lease, or Mortgagee. In the event an Owner sells, Leases, Mortgages, or otherwise disposes of any Lot, the Owner must promptly furnish to the Association in writing the name and address of such purchaser, lessee, Mortgagee, or transferee.

13.12 No Trespass. Whenever the Association, Declarant, the Architectural Review Board, and their respective successors, assigns, agents or employees are permitted by this Declaration to enter upon or correct, repair, clean, maintain, preserve, or do any other action within any portion of the Development, the entering thereon and the taking of such action shall not deem to be trespass.

13.13 Notices. Notices required hereunder shall be in writing and shall be delivered by hand or sent by United States mail, postage pre-paid. All notices to Owners shall be delivered or sent to such addresses as have been designated in writing to the Association, or if no address has been so designated, at the addresses of such Owner's respective Lots. All notices of the Association shall be delivered or sent in care of Declarant to Declarant's main office in Beaufort, South Carolina, or to such other address as the Association may from time to time notify the Owners. All notices to Declarant shall be delivered or sent to Declarant's office in Beaufort, South Carolina, or to such

other address as Declarant may from time to time notify the Association. Notices to Mortgagees shall be delivered or sent to such addresses as such Mortgagees specify in writing to the Association.

IN WITNESS WHEREOF, duly authorized officers of the undersigned Declarant have executed this Declaration under seal, this _____ day of _____, 2000.

Signed, sealed and Delivered in the Presence of:

DECLARANT:

BULL POINT, LLC

A South Carolina Limited Liability Company

BY: _____

Its: Managing Partner

BY: _____

Its: Managing Partner

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

PROBATE

PERSONALLY appeared before me this undersigned witness who, on oath, says that (s)he saw the within named BULL POINT, LLC, a South Carolina Limited Liability Company, by its Managing Partners, sign, seal, and as its act and deed deliver the within written Agreement and that (s)he with the other witness whose signature appears above witnessed the execution thereof.

SWORN TO and subscribed to before me this _____ day of _____, 2000.

Notary Public for South Carolina

My Commission Expires: _____

EXHIBIT "A"

All that certain piece, parcel or tract of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, being that portion of Tomotley Plantation known as Bull Point, consisting of 694.1 acres, more or less, and two out-Islands containing 18.5 acres and 5.0 acres, as will be more fully shown on that certain plat entitled plat of Tomotley Plantation, Sheldon Township, Beaufort County, South Carolina, prepared by Rod C. Spann, R.L.S., and R. D. Trogon, Jr., R.L.S., dated March 31, 1981, and recorded in the RMC Office for Beaufort County, South Carolina on January 23, 1985, in Book 32 of Plats, at Page 201.

AND ALSO: All of Seller's right, title and interest in and to all marshlands, tidelands and freshwater and saltwater wetlands as shown on the above referred to plat of Tomotley Plantation.

LESS AND EXCEPTING THEREFROM, all that certain piece, parcel or tract of land, with improvements thereon, containing 15.08 acres and being more particularly described in the Title of Real Estate from Norman H. Volk, as Trustee, (Seller), to the South Carolina Department of Highways and Public Transportation, (Purchaser), dated the 19th day of October, 1992, and recorded in the RMC Office for Beaufort County, South Carolina on March 10, 1993, in Book 620 of Deeds, at Page 1240.

The plat of Tomotley Plantation is incorporated herein and made a part hereof by reference for a more complete description of the 694.1 acre tract, the 18.5 acre tract, the 5.0 acre tract and all marshlands, tidelands and freshwater and saltwater wetlands as shown on the above referred to plat.

EXHIBIT "B"

PHASE I, BULL POINT PLANTATION

All those certain pieces, parcels, Lots of land located in the Sheldon Township, Beaufort County, South Carolina, containing 53 Lots as shown on a plat showing the Bull Point subdivision, Phase I, a section of Tomotley Plantation, Garden's Corner, prepared by David Gasque, R.L.S., dated September 21, 1995 and recorded in the Office of the RMC for Beaufort County on September 26,

1995, in Plat Book 54 at Page 40. Said plat being incorporated herein and made a part hereof by reference for a more complete description.

PHASE II, BULL POINT PLANTATION

All those certain pieces parcels and Lots of land, with improvements thereon, being in Sheldon Township, Garden's Corner, Beaufort County, South Carolina, containing 92.91 acres as shown on a plat of the Bull Point subdivision, Phase II, a section of Tomotley Plantation, prepared by David Gasque, R.L.S., dated November 8, 1995 and recorded in the Office of the RMC for Beaufort County on February 5, 1995, in Plat Book 55 at page 76. Said plat being incorporated herein and made a part hereof by reference for a more complete description.

EXHIBIT 2

10/24/2011
Bull Point
8/10/2011

BEAUFORT COUNTY SC - ROD
BK 83092 PGS 2121-2122
FILE NUM 2011053695
10/24/2011 11:20:38 AM
REC'D BY B BING RCPT# 659395
RECORDING FEE 12.00

STATE OF SOUTH CAROLINA)
)
)
COUNTY OF BEAUFORT) FIFTEENTH AMENDMENT TO DECLARATION
) OF COVENANTS, CONDITIONS AND
) RESTRICTIONS FOR BULL POINT
) PLANTATION

This Fifteenth Amendment to Declaration of Covenants, Conditions and Restrictions for BULL POINT PLANTATION is made this 10th day of October, 2011 by BULL POINT LLC, a South Carolina Limited Liability Company, (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, BULL POINT, LLC and METROPOLITAN PROPERTIES, INC., executed a Declaration of Covenants, Conditions and Restrictions for BULL POINT PLANTATION dated the 22nd day of September, 1995 which was recorded in Deed Book 805 at Page 218 on September 26, 1996 in the Office of the Register of Deeds for Beaufort County, South Carolina (the "Declaration"); and

WHEREAS, the Declarant has executed fourteen (14) Amendments to the Declaration which have been recorded in the Register of Deeds Office for Beaufort County, South Carolina; and

WHEREAS, all of the previous amendments have been deleted with the exception of the Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth and Fourteenth Amendments; and

WHEREAS, Declarant is desirous of entering into this Fifteenth Amendment amending the Declaration as previously amended, as provided for herein; and,

NOW, THEREFORE, Declarant hereby further amends the Declaration as follows:

I. Article IX, Section 9.03 is amended as follows:

After the word "Association," in line 6 add "The capital contribution or reserve account referenced in the previous sentence shall be hereafter defined as the "Contingency Fund", which shall be deposited into a separate Contingency Fund account when collected and disbursed pursuant to Section 9.03 Subsection (ix) only after first being approved by the representative(s) of the Association who must be a Member(s) other than the Declarant, its employees, agents, or owners and shall be elected by a majority vote of those Members in good standing attending the Annual Meeting in person or by proxy. Control of and signing authority for all Contingency Fund accounts will lie solely with said elected representative(s); provided however that in the event all of said elective representative(s) resign or otherwise elect not to serve prior to the next Annual Meeting, the Members by mailed written secret ballots, after first having received ten (10) days written notice with a

ballot shall, by majority vote of those who return the ballots within said ten (10) day period, elect a successor representative(s). The ballots shall be prepared and mailed out by the Declarant with a return addressed envelope."

2. Article IX, Section 9.03 subsection (ix) is amended as follows:

(ix) the establishment and maintenance of a reasonable reserve fund or funds the Contingency Fund (a) to provide for maintenance, repair, and replacement of those portions of the Common Areas which are the responsibility of the Association and which must be maintained, repaired, or replaced on a periodic basis, (b) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds, and (c) to cover unforeseen operating contingencies or deficiencies arising from unpaid Assessments or liens, as well as from emergency expenditures and other matters, and (d) to acquire additional Common Areas and/or other amenities for the enjoyment of the Members, all as may be authorized from time to time by the Board of Directors and approved by the elected representative(s).

2. Except as previously amended, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have set their hands and seals this day and year first written above:

WITNESSES:

DECLARANT
BULL POINT, LLC
A South Carolina Limited Liability Co.

By: Shane E. Hubbard, Jr.

Its: Managing Member

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

ACKNOWLEDGMENT
under S.C. Code § 30-5-30(C)

I, the undersigned notary public, do hereby certify that the within named BULL POINT, LLC, a South Carolina Limited Liability Company, by its managing members personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness to before me this 10 day of October, 2011.

Notary Public for South Carolina

My Commission Expires: 9/7/16

2

EXHIBIT 3



BULL POINT PLANTATION

Property Owners Association, Inc.

November 17, 2018

Via Email

Bull Point Members
Seabrook, SC 29940

Re: *Eighteenth Amendment to CC&R's*

Dear Members:

On behalf of the Board of Directors, we write to inform you of a change to the governance of Bull Point Plantation Property Owners Association, Inc. (the "Association") by the Declarant; specifically, to the Fifteenth Amendment

On November 16, 2018, the Board of Directors held a Special Meeting, among other things, to discuss end of year business, including roadways, power and data, and other issues at Bull Point. At the meeting, the Board voted unanimously to request the Declarant amend the CC&R's to eliminate the Fifteenth Amendment based on the operational needs of the community. Subsequently, the Board wrote the Declarant and requested that it delete the Fifteenth Amendment that had been adopted on October 24, 2011 and which amended Section 9.03 of the CC&R's. Following the Board's request, the Declarant recorded the Eighteenth Amendment to the Declaration of Covenants, Conditions and Restrictions for Bull Point Plantation. As a result, Section 9.03 of the Declaration reverts back to the language of Section 9.03 that was in effect following the adoption of the Ninth Amendment in January 2000.

Our Association is financially sound, and the Board wants to reassure members regarding Association funds. Specifically, no funds are being diverted away from the Association. Rather, all Association capital and reserve funds remain under the direct control of the Board of Directors, who are the sole body authorized under state law to approve distributions.

Should you have any questions regarding the foregoing, please do not hesitate to contact the Board of Directors.

Very Truly Yours,

BULL POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.

Billy Gavigan,
President

cc: Ian Ford, Esq.
Michael Carey
Jim Riordan

000067

Prepared by:
S. Jahue Moore, Esq.
Moore Taylor Law Firm, PA
1700 Sunset Blvd.
West Columbia, SC 29169

**STATE OF SOUTH CAROLINA) EIGHTEENTH AMENDMENT TO
COUNTY OF BEAUFORT) DECLARATION OF COVENANTS,
) CONDITIONS AND RESTRICTIONS FOR
) BULL POINT PLANTATION**

This Eighteenth Amendment to the Declaration of Covenants, Conditions and Restrictions for Bull Point Plantation is made this 16th day of November 2018 by BULL POINT SC, LLC, a South Carolina limited liability company (hereafter the "Declarant").

WITNESSETH:

WHEREAS, in September 1995, BULL POINT LLC, a South Carolina limited liability company, and METROPOLITAN PROPERTIES, INC., a South Carolina corporation, executed that document entitled "*Declaration of Covenants, Conditions and Restrictions for Bull Point Plantation*" (the "Declaration"), which Declaration was recorded with the Register of Deeds for Beaufort County, South Carolina on September 25, 1995, in Book 805, at Page 218;

WHEREAS, on December 28, 2012, Bull Point, LLC (the "Original Declarant") executed that document entitled "*Assignment of Rights Under Declaration*," recorded with the Register of Deeds on January 8, 2013, in Book 3205 at Page 2101, pursuant to which the Original Declarant transferred to DB Aster, LLC, a Pennsylvania limited liability company, all its rights as the Declarant;

WHEREAS, on August 18, 2017, DB Aster, LLC executed that document entitled "*Assignment of Rights Under Declaration*," recorded with the Register of Deeds on August 21, 2017, in Book 3600 at Pages 2579-2586, pursuant to which DB Aster, LLC transferred to GSI, LLC, a South Carolina limited liability company, all its rights as the Declarant;

WHEREAS, on August 21, 2017, GSI, LLC executed that document entitled "*Assignment of Rights Under Declaration*," recorded with the Register of Deeds on August 21, 2017, in Book 3600 at Pages 3641-3643, pursuant to which GSI, LLC transferred to Bull Point SC, LLC, a South Carolina limited liability company, all its rights as the Declarant; and

WHEREAS, prior to January 2000, the Original Declarant had executed eight numbered amendments and two amendments that were unnumbered, each of which were recorded in the Register of Deeds for Beaufort County, South Carolina;

WHEREAS, in January 2000, the Original Declarant adopted that document entitled "*Ninth Amendment to Declaration of Covenants, Conditions and Restrictions for Bull Point Plantation*,"

which document was recorded on February 4, 2000, in Book 1257, at Pages 1959-2020 (hereafter the "Ninth Amendment");

WHEREAS, the Ninth Amendment deleted in their entirety the First, Second, Third, Fourth, Fifth, Sixth, and Seventh Amendments;

WHEREAS, the Ninth Amendment amended the Declaration in its entirety by attaching as Exhibit A and incorporating said exhibit as a restatement of the Declaration;

WHEREAS, from January 2000 to November 2009, the Original Declarant adopted five additional numbered amendments, each of which were recorded in the Register of Deeds for Beaufort County, South Carolina;

WHEREAS, in November 2009, the Original Declarant adopted the first of two documents entitled "*Fifteenth Amendment to Declaration of Covenants, Conditions and Restrictions for Bull Point Plantation*," which document was recorded on March 18, 2010, in Book 02941, at Pages 1746-1747 (hereafter the "(First) Fifteenth Amendment");

WHEREAS, in October 2011, the Original Declarant adopted the second of two documents entitled "*Fifteenth Amendment to Declaration of Covenants, Conditions and Restrictions for Bull Point Plantation*," which document was recorded on October 24, 2011, in Book 03092, at Pages 2121-2122 (hereafter the "(Second) Fifteenth Amendment");

WHEREAS, the (Second) Fifteenth Amendment amended Section 9.03 of the Declaration by, among other things, identifying the capital contribution or reserve account referenced in Section 9.03 as the "Contingency Fund";

WHEREAS, the (Second) Fifteenth Amendment further amended Section 9.03, among other things, by giving to certain Members elected by a majority of the Members the sole authority to approve disbursement of Contingency Fund funds and, further, by giving said elected Members sole signing authority over Contingency Fund bank accounts;

WHEREAS, the Declarant desires to adopt this Eighteenth Amendment to amend the Declaration, as previously amended, as provided for herein.

NOW, THEREFORE, Declarant hereby amends the Declaration as follows:

1. The (Second) Fifteenth Amendment as defined herein above is deleted in its entirety, with the result that the language of Section 9.03 as set forth in the Ninth Amendment, set forth below, applies hereafter:

"9.03 Computation of Annual Assessments. Each Owner of a Lot and each Owner of a Dwelling shall pay the Association the sum of SEVEN HUNDRED FIFTY AND NO./100 (\$750.00) DOLLARS per year per Lot. From and after January 1, 2000, it shall be the duty of the Board at least thirty (30) days prior to the Association's annual meeting to prepare a budget

covering the estimated Common Expenses during the coming year, such budget to include a capital contribution or reserve account if necessary for the capital needs of the Association. The annual Assessment for each Lot is equal to the annual budget divided by the total number of Lots. The Board shall cause the budget and the proposed total of the annual Assessments to be levied against Lots as may be required for the following year to be delivered to each Owner at least fifteen (15) days prior to such meeting. Upon the addition of the Additional Property or any portion thereof to the Development, Assessments shall continue to be equal and the Lots sold to Owners being added to the Development shall thenceforth pay Assessments which are equal to those imposed upon Lots previously in the Development. In such event, the Association's budget shall be accordingly revised by the Board, without the necessity of approval by the Owners, to include Common Expenses and Assessments related to such additional Lots. The budget and the annual Assessments shall become effective unless disapproved at the annual meeting by either (i) Declarant, for so long as Declarant has the authority to appoint and remove directors and officers of the Association, or (ii) a vote of a majority of the votes of the Owners who are voting in Person or by proxy at such meeting. Notwithstanding the foregoing, in the event the proposed budget is not approved or the Board fails for any reason to determine the budget for the succeeding year, then and until such time as a budget shall have been determined provided herein, the budget and annual Assessments in effect for the then current year shall be increased in proportion to the percentage increase, if any, for the then current year, in the Consumer Price Index (all Urban Consumers, United States City Average, All Items 1957-59-100), or its successor index, or at the option of the Board may be increased up to fifteen percent (15%) of the maximum authorized payment for the previous year, and such increased budget shall have been approved as provided above. If any budget at any time proves inadequate for any reasons, then the Board may call a meeting of the Association for the approval of a special Assessment as provided in Section 9.04 hereof. The Common Expenses to be funded by the annual Assessments may include, but shall not necessarily be limited to, the following:

- (i) management fees and expenses of administration, including legal and accounting fees;
- (ii) utility charges for utilities serving the common areas and charges for other common services for the Development, including trash collection and security services, if any such services or charges are provided or paid by the Association;
- (iii) the cost of any policies of insurance purchased for the benefit of all the owners and the Association as required or permitted by this

Declaration, including fire, flood, and other hazard coverage, public liability coverage, and such other insurance coverage as the Board of Directors determines to be in the interests of the Association and the owners;

- (iv) the expenses of maintenance, operation, and repair of those portions of the common areas which are the responsibility of the Association under the provisions of this Declaration;
- (v) the expenses of the Architectural Review Board which are not defrayed by plan review charges;
- (vi) ad valorem real and personal property taxes assessed and levied against the common areas;
- (vii) the expenses for conducting recreational, cultural, or other related programs for the benefit of the owners and their families, tenants, guests, and invitees;
- (viii) such other expenses as maybe determined from time to time by the Board of Directors of the Association to be common expenses, including without limitation, taxes and governmental charges not separately assessed against lots and dwellings.
- (ix) the establishment and maintenance of a reasonable reserve fund or funds (a) for maintenance, repair, and replacement of those portions of the common areas which are the responsibility of the Association and which must be maintained, repaired, or replaced on a periodic basis, (b) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds, and (c) to cover unforeseen operating contingencies or deficiencies arising from unpaid assessments or liens, as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board of Directors.
- (x) the establishment of a mosquito and tick control program; and
- (xi) for such further items that the Board may, in its discretion, deem necessary."

[Remainder of page intentionally blank.]

2. Except as previously amended, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned has set its hand and seals this day and year first written above.

WITNESSES

DECLARANT

BULL POINT SC, LLC,
A South Carolina Limited Liability Company




By:



William E. Gavigan,
Manager

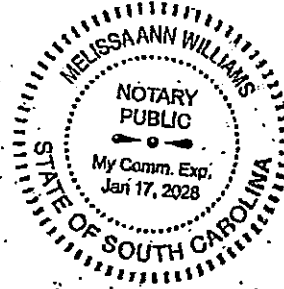
STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT
under S.C. Code § 30-5-30 (C)

I, the undersigned notary public, do hereby certify that the within named BULL POINT SC, LLC, a South Carolina limited liability company, by its manager, WILLIAM E. GAVIGAN, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness to me before this 16th day
of November 2018.

Melissa Ann Williams
Notary Public for South Carolina
My Commission Expires: 1-17-2028



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EXHIBIT 5

VIA HAND DELIVERY ON August 16, 2018 TO BULL POINT POA OFFICE AND VIA
EMAIL TO EACH OF THE BELOW MEMBERS OF THE BOARD:

William E. Gavigan (as Director and Registered Agent for Bull Point Plantation Property
Owners Association, Inc.)
114 Barnaby Bluff
Seabrook, SC 29940

James Riordan
244 Bull Point Drive
Seabrook, SC 29940

Michael Carey
1513 DeAnne Dr.
Beaufort, SC 29902

Re: Bull Point POA Members Records Request
Pursuant to S.C Statute §33-31-1601, et seq

Dear Members of the Board:

As discussed at the 7/10/2018 Board of Directors meeting, please allow this to serve as a records request made by the undersigned members of the Bull Point POA (hereafter referred to as the "POA"). In that regard, S.C Statute §33-31-1601, et seq, states in pertinent part as follows:

SECTION 33-31-1601. Corporate records.

- (a) A corporation shall keep as permanent records minutes of all meetings of its members and board of directors, a record of all actions taken by the members or directors without a meeting, and a record of all actions taken by committees of the board of directors as authorized by Section 33-31-825(d).
- (b) A corporation shall maintain appropriate accounting records.
- (c) A corporation or its agent shall maintain a record of its members in a form that permits preparation of a list of the name and address of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast.
- (d) A corporation shall maintain its records in written form or in another form capable of a written form within a reasonable time.
- (e) A corporation shall keep a copy of the following records at its principal office:
 - (1) its articles or restated articles of incorporation and all amendments to them currently in effect;
 - (2) its bylaws or restated bylaws and all amendments to them currently in effect;
 - (3) resolutions adopted by its board of directors relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members;
 - (4) the minutes of all meetings of members and records of all actions approved by the members for the past three years;
 - (5) all written communications to members generally within the past three years, including the financial statements furnished for the past three years under Section 33-31-1620;
 - (6) a list of the names and business or home addresses of its current directors and officers; and
 - (7) its most recent report of each type required to be filed by it with the Secretary of State under this chapter.

Letter to Bull Point Board of Directors
 Re: POA Members Request for Records
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SECTION 33-31-1602. Inspection of records by members.

- (a) Subject to subsection (e) and Section 33-31-1603(c), a member is entitled to inspect and copy, at a reasonable time and location specified by the corporation, any of the records of the corporation described in Section 33-31-1601(e) if the member gives the corporation written notice or a written demand at least five business days before the date on which the member wishes to inspect and copy.
- (b) Subject to subsection (e), a member is entitled to inspect and copy, at a reasonable time and reasonable location specified by the corporation, any of the following records of the corporation if the member meets the requirements of subsection (c) and gives the corporation written notice at least five business days before the date on which the member wishes to inspect and copy:
 - (1) excerpts from any records required to be maintained under Section 33-31-1601(a), to the extent not subject to inspection under Section 33-31-1602(a);
 - (2) accounting records of the corporation; and
 - (3) subject to Section 33-31-1605, the membership list.
- (c) A member may inspect and copy the records identified in subsection (b) only if:
 - (1) the member's demand is made in good faith and for a proper purpose;
 - (2) the member describes with reasonable particularity the purpose and the records the member desires to inspect; and
 - (3) the records are directly connected with this purpose.
- (d) This section does not affect:
 - (1) the right of a member to inspect records under Section 33-31-720 or, if the member is in litigation with the corporation, to the same extent as any other litigant; or
 - (2) the power of a court, independently of this chapter, to compel the production of corporate records for examination.
- (e) The articles or bylaws of a religious corporation may limit or abolish the right of a member under this section to inspect and copy any corporate record.

SECTION 33-31-1604. Court-ordered inspection.

- (a) If a corporation does not allow a member who complies with Section 33-31-1602(a) to inspect and copy any records required by that subsection to be available for inspection, the circuit court in the county where the corporation's principal office in this State, or, if none in this State, its registered office, is located may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the member.
- (b) If a corporation does not within a reasonable time allow a member to inspect and copy any other record, the member who complies with Section 33-31-1602(b) and (c) may apply to the circuit court in the county where the corporation's principal office in this State, or if none in this State, its registered office, is located for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.
- (c) If the court orders inspection and copying of the records demanded, it also shall order the corporation to pay the member's costs, including reasonable counsel fees, incurred to obtain the order unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the member to inspect the records demanded.
- (d) If the court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding member.

Pursuant to the above, request is made by the undersigned POA members for the following records from January 1, 2017 through August 1, 2018:

- ✓ 1. All POA financial records, including but not limited to, statements of all POA bank accounts and up to date balance sheet reflecting all unpaid invoices.
- ~~2. All checks issued on POA bank accounts, including, but not limited to, cancelled checks, check registers.~~
- ✓ 3. All invoices supporting amounts reflected in issued POA bank account checks.
- ~~4. Records reflecting all persons who have check writing authority and/or are authorized to access POA bank accounts, online or otherwise.~~
- ✓ 5. Records showing annual dues paid by all members including the Declarant.
- ~~6. All records pertaining to voting at the 2017 Annual Meeting, including but not limited to, ballots cast, records regarding tabulation of ballots, all proxies.~~
- ✓ 7. Minutes of all Board of Directors meetings, including, special or regular meetings.
- ✓ 8. Minutes of meetings of all other POA Committees, including, but not limited to, the Contingency Fund Committee and the Wildlife Committee.
- ✓ 9. List of all members of the POA with information required by §33-31-1601(c) and §33-31-720 (a).
- ✓ 10. The POA articles or restated articles of incorporation and all amendments currently in effect;
- ✓ 11. POA Bylaws, including those currently in effect.
12. POA Rules and Regulations, including those currently in effect.
- ✓ 13. Financial records of all accounts of Declarant for the use and benefit of the POA
- ✓ 14. Records pertaining all contractors fees charged (at the front gate or otherwise), including checks received, amount of cash received and sign in sheets.
- ~~15. All competitive bids, estimates or proposals received for the proposed POA security system.~~
- ~~16. All competitive bids, estimates or proposals received for the proposed computer purchase discussed at the 7/10/2018 Board meeting.~~

Method of Production - in the interest of reducing costs we are requesting that the above records be produced in digital format on CD or portable data storage (thumb drive). If for some reason this cannot be done, please contact Joseph P. D'Ambrosio at jdambrosio@dambrosiolaw.net.

Date of Production - We are requesting that the records be produced on August 28, 2018 at 10:00 A.M.

Place of Production -- Joseph P. D'Ambrosio will pick up the records at the POA Office located at 114 Bull Point Drive.

These records are being requested by the undersigned POA members in connection with their genuine, good-faith concerns regarding the solvency, fiscal soundness and proper record-keeping practices of the POA, including but not limited to, the Declarant's 8/7/2018 email

Letter to Bull Point Board of Directors
 Re: POA Members Request for Records
 4 | Page

regarding payment of annual dues, the lack of response to POA members requests for open voting procedures, and also in relation to the pending lawsuits involving the POA.

Thank you for your time and attention to this matter.

Respectfully,

<u>Light B. B.</u>	Lot <u>168 & 169</u>	Lot _____
<u>Mary A. O'Connor</u>	Lot <u>168 & 169</u>	Lot _____
<u>George Lavett</u>	Lot <u>129</u>	Lot _____
<u>Walter Lavett</u>	Lot <u>129</u>	Lot _____
<u>Robert S. Brundage</u>	Lot <u>103</u>	Lot _____
<u>Robert Brundage</u>	Lot <u>103</u>	Lot _____
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Letter to Bull Point Board of Directors
Re: POA Members Request for Records
4 Page

regarding payment of annual dues, the lack of response to POA members requests for open voting procedures, and also in relation to the pending lawsuits involving the POA.

Thank you for your time and attention to this matter.

Respectfully,

Richard Jay Olson
Maureen J. Coleman

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Letter to Bull Point Board of Directors
Re: POA Members Request for Records
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regarding payment of annual dues, the lack of response to POA members requests for open voting procedures, and also in relation to the pending lawsuits involving the POA.

Thank you for your time and attention to this matter.

Respectfully,

James H. Gordon Jr.
Carol A. Gordon

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Letter to Bull Point Board of Directors
Re: POA Members Request for Records
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regarding payment of annual dues, the lack of response to POA members requests for open voting procedures, and also in relation to the pending lawsuits involving the POA.

Thank you for your time and attention to this matter.

Respectfully,

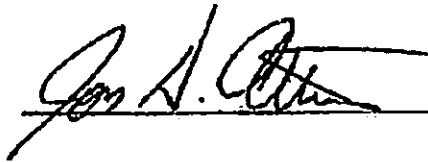
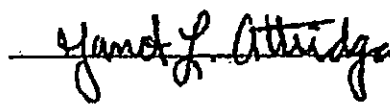
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Letter to Bull Point Board of Directors
Re: POA Members Request for Records
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regarding payment of annual dues, the lack of response to POA members requests for open voting procedures, and also in relation to the pending lawsuits involving the POA.

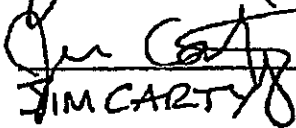
Thank you for your time and attention to this matter.

Respectfully,

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Thank you for your time and attention to this matter.

Respectfully,

 JIM CARTHY	Lot <u>46</u>	Lot _____
 JIM CARTHY	Lot <u>106</u>	Lot _____
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Letter to Bull Point Board of Directors
Re: POA Members Request for Records
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regarding payment of annual dues, the lack of response to POA members requests for open voting procedures, and also in relation to the pending lawsuits involving the POA.

Thank you for your time and attention to this matter.

Respectfully,

<u>Alice B. Nix</u>	Lot <u>46</u>	_____	Lot _____
<u>J. R. Nix</u>	Lot <u>47</u>	_____	Lot _____
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Letter to Bull Point Board of Directors
Re: POA Members Request for Records
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regarding payment of annual dues, the lack of response to POA members requests for open voting procedures, and also in relation to the pending lawsuits involving the POA.

Thank you for your time and attention to this matter.

Respectfully,

<u>Stone Andrews</u> Steven Andrews	Lot 4	_____	Lot _____
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Letter to Bull Point Board of Directors
Re: BPA Members Request for Records
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Sandra A. Dente 1 of 6
John Smith 1 of 6

1 of 6
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1 of 6

Letter to Bull Point Board of Directors

Re: POA Members Request for Records

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regarding payment of annual dues, the lack of response to POA members requests for open voting procedures, and also in relation to the pending lawsuits involving the POA.

Thank you for your time and attention to this matter.

Respectfully,

Keith Fauver Lot 72
KEITH FAUVER

Patricia A. Fauver Lot 72
PATRICIA A. FAUVER

_____ Lot _____	_____ Lot _____
_____ Lot _____	_____ Lot _____
_____ Lot _____	_____ Lot _____
_____ Lot _____	_____ Lot _____
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_____ Lot _____	_____ Lot _____

Lot

Lot

000088

Joseph P. D'Ambrosio

From: M EJP <mej2c@gmail.com>
Sent: Thursday, August 9, 2018 9:04 PM
To: Joe D'Ambrosio
Subject: Request for POA Records.

"By typing my name below I intend to sign the August 2018 records request to the POA Board emailed to me on 8/8/2018."

Michael and Janice Pellecchia, 171 Bull Point Drive.

Joseph P. D'Ambrosio

From: Thomas Sherman <nhvn43@gmail.com>
Sent: Wednesday, August 8, 2018 3:40 PM
To: Joseph D'Ambrosio
Subject: Statutory records request

Joseph,

Please include us in the request for records and thank you for all the information you have provided.

"By typing my name below I intend to sign the August 2018 records request to the POA Board emailed to me on 8/8/2018."

Thomas and Kathryn Sherman
Lot192
330-533-6418

Joseph P. D'Ambrosio

From: Rick Winer <rickwiner0212@gmail.com>
Sent: Wednesday, August 8, 2018 12:11 PM
To: jpdlaw@bellsouth.net
Subject: Records Request

By typing my name below I intend to sign the August 2018 records request to the POA Board emailed to me on 8/8/2018.

Rick Winer
Darcy Winer

22 Sheldon Lane

Joseph P. D'Ambrosio

From: Bob Wolfson <rwolfson59@gmail.com>
Sent: Wednesday, August 8, 2018 12:10 PM
To: jpdlaw@bellsouth.net
Subject: POA SIG

By typing my name below I intend to sign the August 2018 records request to the POA Board emailed to me on 8/8/2018.

ROBERT WOLFSON

EXHIBIT 6

FORD WALLACE THOMSON LLC
ATTORNEYS AT LAW

August 25, 2018

By e-mail: jdambrosio@dambrosiolaw.net

Joseph P. D'Ambrosio, Esq.
2385 NW Executive Center Dr.
Suite 100
Boca Raton, FL 33431

Re: Document request to Bull Point POA

Dear Joe:

This law firm represents Bull Point Plantation Property Owners Association, Inc., with regard your letter dated August 16, 2018, requesting certain records under S.C. Code § 33-31-1601 *et seq.* Thank you for speaking with me the other day.

Bull Point POA will have the following records ready for review on August 28, 2018, at the clubhouse:

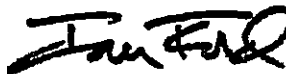
- (1) its articles or restated articles of incorporation and all amendments to them currently in effect;
- (2) its bylaws or restated bylaws and all amendments to them currently in effect;
- (3) resolutions adopted by its board of directors relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members;
- (4) the minutes of all meetings of members and records of all actions approved by the members for the past three years;
- (5) all written communications to members generally within the past three years, including the financial statements furnished for the past three years under § 33-31-1620;
- (6) a list of the names and business or home addresses of its current directors and officers; and

(7) its most recent report of each type required to be filed by it with the Secretary of State.

With regard to certain other items listed in the letter—all cancelled checks; all invoices; etc.—Bull Point POA respectfully disagrees that all of those records are required to be made available under applicable law, and objects to the requests as overly broad and unduly burdensome. The POA is willing to have a good faith discussion as to what additional materials may be reviewed, but pursuant to § 33-31-1602(b) requests a more complete articulation with reasonable particularity of the purpose of this request and how the requested records are directly connected to that purpose. The purpose articulated in the letter is, respectfully, vague and arguably not in keeping with the intent or letter of the statute.

With kind regards, I am,

Very truly yours,



Ian S. Ford

Ian.Ford@FordWallace.com

cc: William Gavigan

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L. ATTRIDGE, ROBERT W. BANKOV, VIRGINIA J. BANKOV, TOM BOLTON, GUY I. COLLIER, NANCY L. COLLIER, RICHARD JAY COLEMAN, MARLENE COLEMAN, RUSSELL G. DIMKE, SANDRA A. DIMKE, JAMES G. GOODWIN JR., CAROL A. GOODWIN, GEORGE J. LOVETT, WILNA W. LOVETT, PETER MARZLUFF, DEBORAH C. MARZLUFF, GARY OKEY, NANCY OKEY, MICHAEL PELLECCIA, JANICE S. PELLECHIA, FRANK H. ROBERTS SR., RICHARD SWILPA, MICHELE GALLANT, PHYLLIS K. KAUPP-SEAS, ROBERT P. BRENDZA, and ROBIN E. BRENDZA individually and in their derivative capacity on behalf of BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION, INC.,

Civil Action No. 2018-CP-07-2345

AMENDED SUMMONS

Plaintiffs/Counterclaim Defendants,
-vs-

THE BOARD OF DIRECTORS OF BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION, INC.; BULL POINT SC, LLC; WILLIAM E. GAVIGAN; MICHAEL CAREY; CHRISTOPHER J. QUICK; JAMES RIORDAN, DB ASTER, LLC, and GSI, LLC,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E. GAVIGAN,

Third-Party Plaintiffs,

-vs-

JOSEPH P. D'AMBROSIO, MARY D'AMBROSIO, MICHAEL POWERS, HARRIET BOSIACK, ROBERT WOLFSON, JAMES HAYES, STEVE ANDREWS, RON

LAMBE, DAVE PREZVYS, RIVERS
REACH AT POCOTALIGO, LLC, RIVERS
REACH REALTY, LLC AND JOHN DOES
1-10,

Third-Party Defendants.

TO: THE DEFENDANTS ABOVE NAMED

YOU ARE HEREBY SUMMONED and required to answer the Verified Amended Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Verified Amended Complaint on the subscriber at his offices at 288 Meeting Street, Ste. 200, Post Office Drawer H, Charleston, South Carolina, 29402, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Verified Amended Complaint within the time aforesaid, the Plaintiffs in this action will apply to the Court for the relief demanded and judgment by default will be rendered against you.

BARNWELL WHALEY
PATTERSON & HELMS, LLC

By: /s/ M. Dawes Cooke, Jr.
M. Dawes Cooke, Jr. (S.C. Bar #1376)
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June 13, 2019
Charleston, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L. ATTRIDGE, ROBERT W. BANKOV, VIRGINIA J. BANKOV, TOM BOLTON, GUY I. COLLIER, NANCY L. COLLIER, RICHARD JAY COLEMAN, MARLENE COLEMAN, RUSSELL G. DIMKE, SANDRA A. DIMKE, JAMES G. GOODWIN JR., CAROL A. GOODWIN, GEORGE J. LOVETT, WILNA W. LOVETT, PETER MARZLUFF, DEBORAH C. MARZLUFF, GARY OKEY, NANCY OKEY, MICHAEL PELLECCIA, JANICE S. PELLECHIA, FRANK H. ROBERTS SR., RICHARD SWILPA, MICHELE GALLANT, PHYLLIS A. KAUPP-SEAS, ROBERT P. BRENDZA, and ROBIN E. BRENDZA individually and in their derivative capacity on behalf of BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION, INC,

Civil Action No. 2018-CP-07-2345

**VERIFIED AMENDED COMPLAINT
FOR DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF, AND
ACCOUNTING
(NON-JURY)**

Plaintiffs/Counterclaim Defendants,

-vs-

THE BOARD OF DIRECTORS OF BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION, INC.; BULL POINT SC, LLC; WILLIAM E. GAVIGAN; MICHAEL CAREY; CHRISTOPHER J. QUICK; JAMES RIORDAN, DB ASTER, LLC, and GSI, LLC,

Defendants/Counterclaimants,
and
BULL POINT SC, LLC and WILLIAM E. GAVIGAN,

Third-Party Plaintiffs,

-vs-

JOSEPH P. D'AMBROSIO, MARY D'AMBROSIO, MICHAEL POWERS,

HARRIET BOSIACK, ROBERT WOLFSON,
JAMES HAYES, STEVE ANDREWS, RON
LAMBE, DAVE PREZVYS, RIVERS
REACH AT POCOTALIGO, LLC, RIVERS
REACH REALTY, LLC AND JOHN DOES
1-10,

Third-Party Defendants.

Plaintiffs, Jon H. Attridge, Janet L. Attridge, Robert W. Bankov, Virginia J. Bankov, Tom Bolton, Guy I. Collier, Nancy L. Collier, Richard Jay Coleman, Marlene F. Coleman, Russell G. Dimke, Sandra A. Dimke, James G. Goodwin Jr., Carol A. Goodwin, George J. Lovett, Wilna W. Lovett, Peter W. Marzluff, Deborah C. Marzluff, Gary Okey, Nancy Okey, Michael Pellecchia, Janice S. Pellechia, Frank S. Roberts Sr., Richard Swilpa and Michele Gallant, Phyllis A. Kaupp-Seas, Robert P. Brendza and Robin E. Brendza, by and through undersigned counsel, individually and derivatively on behalf of the Bull Point Plantation Property Owners Association, Inc., submit this Amended Complaint and allege the following upon personal knowledge unless otherwise stated:

This lawsuit centers on a private waterfront residential community located in Seabrook, Beaufort County, South Carolina, called Bull Point Plantation. The Articles of Incorporation for Bull Point Homeowners Association (now known as Bull Point Plantation Property Owners Association) were filed on September 26th, 1995. The original Declaration of Covenants, Conditions and Restrictions of Bull Point Plantation were recorded on September 26th, 1995. These Declarations have been amended from time to time. The Ninth Amendment, recorded February 4th, 2000, substantially revised the original Declaration of Covenants, Conditions and Restrictions of Bull Point Plantation. This document is referred to hereafter as the Declarations.

The Articles of Incorporation and the Declarations, along with the Bylaws, are the

governing documents for the Bull Point Plantation Property Owners Association (the "POA"). The Articles of Incorporation provide, among other things, that the Directors of the POA are to be elected by the members. The South Carolina Nonprofit Corporations Act provides that in the event of a conflict among governing documents, the Articles of Incorporation take precedence.

The Declarations set out rights and duties of the members, the POA, and the Declarant. The Declarations provide, in section 1.01(j), "'Declarant' shall mean and refer to Bull Point, LLC [the original Declarant, unrelated to the Defendant Bull Point SC, LLC] which has executed this Declaration with respect to the Property and the Additional Property at the time of such transfer to said successor-in-title, or any party which acquires said Declarant's entire interest with respect to the Property and the Additional Property at the time of such acquisition pursuant to Foreclosure of a Mortgage encumbering said Declarant's interest in the Property and the Additional Property."

In or about August 2017, Defendant Bull Point SC, LLC acquired from GSI, LLC (another company owned by Gavigan), most but not all of GSI, LLC's interest in the Property of Bull Point Plantation. Immediately prior thereto, GSI, LLC had purchased from an unrelated company named DB Aster, LLC, most but not the entire interest of the original Declarant, Bull Point, LLC. Even though the Defendant Bull Point SC, LLC purported to acquire the Declarant's rights from GSI, LLC, in fact the Declarations do not permit the Declarant's rights to be assigned to either GSI, LLC or to the Defendant Bull Point, SC, LLC, because these companies did not acquire the entire interest of Bull Point, LLC and because they did not acquire the interest pursuant to foreclosure.

Even though the Defendant Bull Point SC, LLC is not the Declarant, since its acquisition of most of the Declarant's property interests it has held itself out as the Declarant and has purported to exercise the rights of the Declarant. Among other things, the Defendant Bull Point SC, LLC has purported to appoint all the members of the POA Board, including appointing Defendant

Gavigan President. These appointments are invalid, both because Defendant Bull Point SC, LLC is not the Declarant and because the aforesaid Articles of Incorporation require that POA Directors be elected by the members of the POA. Additionally, Bull Point SC, LLC, Gavigan, and/or their related companies that own Lots in Bull Point Plantation have failed to pay dues and assessments on their properties, and the Defendant Directors have failed to collect the dues and assessments owed on those properties.

The Defendant Bull Point SC, LLC has also improperly purported to amend the Declarations in order to seize control over the POA's "Contingency Fund". The 1995 Declarations provided for establishment of a capital reserve fund to cover maintenance, repair, and replacement of common areas, to cover emergency casualty repairs not covered by insurance, and to cover unforeseen operating contingencies or deficiencies arising from unpaid assessments. In October 2011, the then-Declarant adopted the (second) Fifteenth Amendment to Declarations, which renamed the reserve fund the Contingency Fund, provided for the Contingency Fund to be deposited into a separate bank account, and established a Contingency Fund committee to approve spending from the Contingency Fund account. The committee would comprise Members of the Association other than the Declarant, its employees, agents, or owners, and would be elected by the Members of the Association. The Contingency Fund would be used for the same purposes as the original capital reserve fund, with the addition that it could also be used to acquire additional Common Areas and/or other amenities for the enjoyment of the Members.

Moreover, the purpose and function of the Contingency Fund was to have the Declarant cede operational control of decision making on Contingency Fund monies. In reliance on this concession, Members approved budgets with funds specifically designated to the Contingency Fund to be administered under Member oversight. The then-Declarant agreed to these terms in an

arms-length transaction and the Fifteenth Amendment was duly recorded in the Beaufort County Register of Deeds, giving the public, including the Defendants, actual and/or constructive notice.

The Defendant Bull Point SC, LLC claims to have the power to appoint and remove members of the Board of Directors of Bull Point Plantation Property Owners Association, Inc. Bull Point SC, LLC has misused this asserted power to eliminate the Contingency Fund and the Contingency Fund committee, effectively giving itself unfettered control of, and access to, the Contingency Fund, which upon information and belief currently stood at more than eight hundred thousand dollars. In November 2018, at the instruction Gavigan, the Board of Directors held a secret special meeting and voted to ask Gavigan and Bull Point SC, LLC to eliminate the Fifteenth Amendment to the Declarations “based on the operational needs of the community.” The Effective Date of the Eighteenth Amendment to the Declarations was November 16th, 2018.

Upon information and belief, the Defendants have caused, and intend to cause in the future, Contingency Fund monies to be spent for purposes not authorized or appropriate for those funds; including, but not limited to, to underwriting the cost of providing utilities infrastructure to unimproved lots that Gavigan, Bull Point SC, LLC, or their related entities own, and to fund their legal fees. The Defendant Bull Point SC, LLC improperly attempted to amend the Declarations, and its Board of Directors breached its fiduciary duties by requesting the amendment, as the misuse of Contingency Funds that Members paid in good faith reliance upon the oversight of the Contingency Fund committee constitutes unlawful self-dealing and is not fair to the Association.

Further, the amendment of the Declarations is impermissible because it materially alters the Members’ rights to the use and enjoyment of the Common properties whose maintenance and repair is subject to the Contingency Fund and because: a) Bull Point SC, LLC does not have the legal right to amend the Declarations; and b) even if the Bull Point SC LLC did have that right,

not all Owners have consented to the Declarant amending the Declarations.

This action is brought to restore the Contingency Fund, which is vital to the Bull Point Plantation POA, and to place the governance of Bull Point Plantation in its rightful place, a Board of Directors duly elected by the members of the POA.

PARTIES

1. Plaintiffs Jon H. Attridge, Janet L. Attridge, Robert W. Bankov, Virginia J. Bankov, Tom Bolton, Guy I. Collier, Nancy L. Collier, Richard Jay Coleman, Marlene F. Coleman, Russell G. Dimke, Sandra A. Dimke, James G. Goodwin Jr., Carol A. Goodwin, George J. Lovett, Wilna W. Lovett, Peter W. Marzluff, Deborah C. Marzluff, Gary Okey, Nancy Okey, Michael Pellechia, Janice S. Pellechia, Frank S. Roberts Sr., Richard Swilpa and Michele Gallant, Phyllis A. Kaupp-Seas, Robert P. Brendza and Robin E. Brendza own property in Bull Point Plantation Development. They are citizens and residents of the State of South Carolina are or at relevant times have been members of the Bull Point Plantation Property Owners Association, Inc. For the purposes of this Complaint they are representatives of the Bull Point Plantation Property Owners Association and are pursuing the causes of action herein both on their own behalf and derivatively on behalf of the Bull Point Plantation Property Owners Association and against the Bull Point Plantation Property Owners Association and the other Defendants.

2. The Bull Point Plantation Property Owners Association, Inc., (“Bull Point POA” or “Association”) is a non-profit corporation organized and existing under the laws of South Carolina, and is located, and has its principal place of business in Beaufort County, South Carolina.

3. Defendant Bull Point SC, LLC (“Declarant”) is a separate Limited Liability Company incorporated under the laws of South Carolina and is currently the purported Declarant of Bull Point Plantation (although it does not meet the definition of Declarant under the Declarations). Declarant

has its primary place of business in Beaufort County, South Carolina.

4. William E. Gavigan (“Gavigan”) is the managing member of Defendant Bull Point SC, LLC and is a citizen of and resides in South Carolina.

5. The individuals named below are, or have been, members of the Board of Directors of the Bull Point POA and are named in their official capacities (collectively “Directors”):

- a. William E. Gavigan is the president of the Board of Directors of the Bull Point Plantation Property Owners Association, Inc., and is citizen of and resides in South Carolina;
- b. Michael Carey is, and was during the relevant time period, a member and/or officer of the Board of Directors of the Bull Point Plantation Property Owners Association, Inc., and is a citizen of and resides in South Carolina.
- c. James Riordan was during the relevant time period, a member and/or officer of the Board of Directors of the Bull Point Plantation Property Owners Association, Inc., and is a citizen of and resides in South Carolina.
- d. Christopher J. Quick is a member and/or officer of the Board of Directors of the Bull Point Plantation Property Owners Association, Inc. and is citizen of and resides in South Carolina.

FACTUAL BACKGROUND

6. Defendant, GSI, LLC is joined at the Court’s direction as a party which may have a potential interest in the subject of the action, necessitating its joinder pursuant to S.C. Code of Laws, Ann., § 15-53-80.

7. Defendant, DB Aster, LLC is joined at the Court’s direction as a party which may have a potential interest in the subject of the action, necessitating its joinder pursuant to S.C. Code of Laws,

Ann., § 15-53-80.

8. Bull Point is a private waterfront community located in in Beaufort County, South Carolina.

9. The Bull Point POA was established through Articles of Incorporation filed on September 26th, 1995 and by Declarations of Covenants, Conditions, and Restrictions for Bull Point Plantation (“Declarations”) that were first recorded with the Register of Deeds for Beaufort County, South Carolina on September 26th, 1995, in Book 805, at Page 218. The Declarations empower the Bull Point POA to assess funds from members to pay Bull Point POA’s operating expenses. See Section 9 of the Declaration of Covenants, Conditions and Restrictions of Bull Point Plantation (attached hereto as Exhibit 1).

10. Although Defendants Bull Point SC, LLC and Gavigan are not the original developer of the community, they are bound by the current Declarations, which have been duly enacted and were adopted by the Bull Point POA Board and filed of record with the Beaufort County RMC on February 4th, 2000.

11. On or about October 10th, 2011, the then-Declarant, as a result of negotiations with the Owners/Members of the Bull Point POA, amended the Declarations to create a Contingency Fund, that would be kept in an account separate from the general funds of the Bull Point POA and could be used only for specific purposes and only after being approved by a Contingency Fund committee. The committee would comprise Members of the Association other than Declarant, its employees, agents, or owners. See Fifteenth Amendment to the Declaration of Covenants, Conditions and Restrictions of Bull Point Plantation (attached hereto as Exhibit 2).

12. Since 2011, the Members of the Association have contributed to the Contingency Fund in good faith reliance upon the oversight and controls put into place by the Fifteenth Amendment to the

Declarations.

13. On or about September 29th, 2018, the Defendant Board of Directors of the Bull Point POA, at the direction of Defendants alleged Declarant and Gavigan, met and voted: a) to provide a legal defense to “those persons named in the ‘D’Ambrosio litigation””, even though the pleadings in that litigation specifically allege that the Defendant Gavigan acted outside his authority as a representative of the Bull Point POA; b) voted to request that the Contingency Fund committee approve payment of up to thirty-five thousand dollars (\$35,000.00) to provide power and/or data infrastructure to unimproved lots, including lots owned by Declarant and Defendant Gavigan or their related entities; and c) voted to request that the Contingency Fund committee approve reimbursement legal fees of Defendant Gavigan’s legal counsel for legal work ostensibly done on behalf of the POA but in fact done on behalf of Gavigan and the alleged Declarant.

14. On or about October 27th, 2018, the Contingency Fund committee met and considered the foregoing requests of the Board of Directors of the Bull Point POA. The committee rejected the request for reimbursement of legal fees. It approved the payment of up to twenty-five thousand dollars (\$25,000.00) to provide power and/or data infrastructure to unimproved lots, but some members opposed this because these expenses should be borne by the individual lot owners, not by the Contingency Fund.

15. On or about November 16th, 2018, at Defendants Gavigan’s and Bull Point SC, LLC’s instruction, the Defendant Board of Directors held a secret special meeting whereupon it was voted to eliminate the Fifteenth Amendment to the Declarations, “based on the operational needs of the community.” See: Letter of William E. Gavigan to Bull Point Members Dated November 17, 2018 (attached hereto as Exhibit 3).

16. The Eighteenth Amendment to the Declarations purports to eliminate the Fifteenth

Amendment, thereby eliminating the Contingency Fund and the Contingency Fund committee. See Eighteenth Amendment to the Declaration of Covenants, Conditions and Restrictions of Bull Point Plantation (attached hereto as Exhibit 4). The effect of these changes would be to eliminate independent oversight over the moneys that comprised the Contingency Fund and to permit Defendants Bull Point SC, LLC and Gavigan unfettered access to Association funds, including the former Contingency Fund, subject only to approval by the Board of Directors, which the alleged Declarant and Gavigan control.

A. Amendment of the Declarations

17. An actual Declarant may amend the Declarations except in certain instances, including that “in the event such amendment materially alters or changes any Owner’s right to the use of and enjoyment of his Lot, Dwelling, or the Common Areas as set forth in the Declaration or adversely affects the title to any Lot, such amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Owners affected thereby.” See Exhibit 1 Section 13.02.

18. If Bull Point SC, LLC is Declarant, which is denied, its enactment of Eighteenth Amendment to the Declarations would materially alter and change all Member/Owners’ rights to the use of and enjoyment of their Lots, Dwellings, or the Common Areas. The annual assessments, particularly the assessments for the Contingency Fund, are specifically intended to maintain, improve, acquire, and repair Common Areas and amenities, the use and enjoyment of which is expressly made a vested benefit of ownership of property in Bull Point. Thus, enactment of the Eighteenth Amendment would require the written consent of a majority of the affected Owners, which Defendant Declarant did not obtain.

19. The Declarations also states that “Each Owner, by acceptance of a deed or other conveyance

to a Lot, agrees to be bound by such amendments as are permitted by this Section 13.02..." See Exhibit 1, Section 13.02. However, not all owners accepted a deed or other conveyance of a Lot¹, some owners accepted a deed or other conveyance of a Dwelling², e.g. the buyers purchased a home instead of an unimproved lot. As a result, those owners that were deeded and/or conveyed a Dwelling did not agree to be bound by Amendments to the Declarations made by Declarant under Section 13.02.

20. Bull Point SC, LLC is not the Declarant of Bull Point Plantation. The Declarations provide. In section 1.01(j), "'Declarant' shall mean and refer to Bull Point, LLC which has executed this Declaration with respect to the Property and the Additional Property at the time of such transfer to said successor-in-title, or any party which acquires said Declarant's entire interest with respect to the Property and the Additional Property at the time of such acquisition pursuant to Foreclosure of a Mortgage encumbering said Declarant's interest in the Property and the Additional Property."

Bull Point SC, LLC did not acquire its interest through a foreclosure of a mortgage, but rather through a sale. Also, it did not acquire the entire interest of the Declarant Bull Point, LLC. As a result, Bull Point SC, LLC does not have the authority to amend the Declarations or to appoint and/or remove members of the POA Board of Directors.

B. Election and Duties of Directors and Officers

21. The Articles of Incorporation of the Bull Point Plantation POA require that Directors of the POA be elected by the members. The South Carolina Nonprofit Corporations Act provides that the provisions of the Articles of Incorporation prevail over conflicting provisions of other governing documents.

¹ See Exhibit 1 Section 1.01(t).

² See Id. Section 1.01(l).

22. Throughout the time at issue and at present, Defendant members of the Bull Point POA Board of Directors and Officers owed a fiduciary duty to the Bull Point POA Members.

23. Under South Carolina Code Ann. Sec. 33-31-830(a), the Defendant Directors owe a duty to act in good faith; to act with the care an ordinarily prudent person in a like position would exercise under similar circumstance; and to act in a manner the director reasonably believes to be in the best interests of the corporation.

24. Under South Carolina Code Ann. Sec. 33-31-831, a conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a direct or indirect interest. A conflict of interest transaction is voidable if the transaction was not fair to the corporation at the time it was entered into.

25. Under South Carolina Code Ann. Sec. 33-31-841, a corporate Officer owes a duty to act in good faith; to act with the care an ordinarily prudent person in a like position would exercise under similar circumstance; and to act in a manner the director reasonably believes to be in the best interests of the corporation.

26. The Defendants have breached the foregoing duties in the following particulars:

- a. By requesting and/or approving the expenditure of Contingency Fund monies to pay for the provision of utilities to unimproved lots, including lots which the Defendants own or in which they have a financial interest;
- b. By requesting the expenditure of Contingency Fund monies to pay legal fees that benefit the Defendants but not the Bull Point POA;
- c. By causing the enactment of the Eighteenth Amendment and repeal of the Fifteenth Amendment to the Declarations, removing the independent oversight of reserve funds;
- d. By causing the enactment of the Eighteenth Amendment and repeal of the Fifteenth

Amendment to the Declarations without obtaining the consent of a majority of the Owners.

- e. By causing to be approved conflict of interest transactions that are not fair to the Association.
- f. By operating under and enforcing an amendment to the Declarations, in violation of their fiduciary and statutory duties.
- g. By Defendant, Bull Point SC, LLC and its principal, Defendant William E. Gavigan took actions under the Declaration of Covenants when they, in fact, were not and are not Declarants as that term is clearly defined by the Covenants, resulting in its actions with respect to the contingency fund, and all other actions taken as putative Declarant, which are nullities, and either void or voidable.

C. Inspection of Association Records

27. Under South Carolina Code Ann. 33-31-1602(b) and (c) a member is entitled to inspect and copy any the accounting records of the corporation if the member: 1) makes a good faith demand to do so, 2) describes with, reasonable particularity, the purpose and the records the member desires to inspect, and 3) the records are directly connected to the purpose.

28. Under the Declarations, Declarant is responsible for funding deficits up to the amount of the Association's budget, See Exhibit 1, Section 9.11.

29. Alleged Declarant promised to pay dues on his approximately 31 lots, although he did not have to per the Declarations if he is Declarant, which is denied. In reliance on this, the Board adopted the stated budget. Declarant never did pay these dues and consequently there was an \$80,000.00 deficit in the budget.

30. Alleged Declarant then claimed that by not performing budgeted maintenance on community

amenities, raising gate fees, and cutting back on other expenses he covered the budget shortfall.

31. On August 16, 2018, a letter was sent to Defendant William Gavigan as registered agent for the POA. The letter requested records that were required to be kept in pursuant to South Carolina Code Ann. Sec. 33-31-1601. The request properly asked to inspect (1) the minutes of all Board of Director Meeting including special or regular meetings; (2) Minutes of any meetings of the Contingency Fund committee; (3) a list of all members of the POA; (4) the POA articles of incorporation and all amendments then currently in effect; and (5) any and all underlying records used to the prepare the POAs financial statements. This list includes: POA financial records themselves for the past year through the present, POA bank account statements, up to date balance sheets, invoices supporting amounts paid from POA bank accounts, and records showing annual dues paid, including by the Declarant. See Letter from Joseph D'Ambrosio et al. to the Board of Directors of the Bull Point POA dated August 16, 2018 attached hereto as Exhibit 5.

32. Declarant, through counsel responded in a letter dated August 25, 2018 and agreed allow inspection of the records listed out in S.C. Code Ann Sec. 33-31-1601(e). This limited list was only what the POA was mandated to keep at its principal office. The letter further asserted that the requests to inspect under S.C. Code Ann. Sections 33-31-1602(b) and (c) was "vague and arguably not in keeping with the intent or letter of the statute." See Letter from Ian Ford Esq. to Joseph P. D'Ambrosio Esq. dated August 25, 2018 attached hereto Exhibit 6.

33. On August 28, 2018 declarant allowed Joseph P. D'Ambrosio and Mary A. D'Ambrosio to inspect and copy a number of records which included balance sheets without any supporting documentation, rendering it impossible to determine the accuracy of the presented balance sheets. The absence of those documents defeated the purpose of the request for inspection and did not comply with Defendants' legal duty.

D. Bull Point POA derivative action allegations

34. Pursuant to Rule 23(b)(1) of the South Carolina Rules of Civil Procedure, Plaintiffs bring this action derivatively on behalf of and for the benefit of the Bull Point POA to redress injuries suffered, and yet to be suffered, by the Bull Point POA as a direct and proximate result of the Defendants' conduct. The Bull Point Plantation Property Owners Association, Inc. is a named Defendant solely as a party necessary to effect complete relief to the Plaintiffs in their representative capacities.

35. Plaintiffs will adequately and fairly represent the interests of the Bull Point POA and its similarity situated members in this litigation.

36. Plaintiffs are members of the Bull Point POA and were active members of the Bull Point POA during all times relevant to the Defendant's wrongful course of action herein alleged.

37. The wrongful acts complained of herein subject the Bull Point POA to continuing harm.

38. Plaintiffs are the proper parties to enforce the rights of the Bull Point POA, where, as here, the Bull Point POA and its board members failed to enforce such rights. In particular Plaintiffs objected to alleged Declarants amendment to the Contingency Fund apparatus adapted by the (2) 15th Amendment to no avail. Moreover, the effort was futile and further efforts would have been futile because it was the acts of the Defendants which were wrongful, and Plaintiffs' failed objection proved that Defendants were not about to rectify their acts for the benefits of the POA members.

39. The Defendants' actions complained of herein were not authorized by the Declarations, by-laws, or rules and regulations of the Bull Point POA, nor were they authorized by South Carolina law and are therefore *ultra vires*, unlawful, and unauthorized. As a result, the actions complained of herein are not subject to protection under the business judgment rule, and any reasonable, good faith inquiry into the wrongdoing would conclude that Plaintiffs' claims are legitimate and in the best interests of the Bull Point POA.

40. The acts complained of herein are and will continue to be to the detriment of the Bull Point POA and its members.

41. Defendant's wrongful actions set out herein were willful, in bad faith, and beyond the scope of the authority granted to Defendants and served no legitimate business purpose. As a result, the acts described herein were not, nor could have been, the product of a reasonable, valid, or good faith exercise of business judgment.

42. The Defendant Directors are antagonistic, adversely interested, and have continued and/or initiated the improper practices complained of herein.

43. In order to bring this suit, the Directors would be forced to sue themselves or persons with whom they have extensive business and personal entanglements, which they will not do, thereby excusing a specific demand on the Directors.

JURISDICTION AND VENUE

44. Plaintiffs bring this action as a declaratory judgment action pursuant to § 15-53-10, et seq., Code of Laws of South Carolina (1976), for the purpose of determining a question in controversy between the parties as more fully appears herein. Plaintiff also brings this action pursuant to the common-law and statutory general jurisdiction of this Court.

45. Venue is appropriate because the acts and omissions complained of herein took place in Beaufort County, South Carolina, and the property that is the subject of this action is located in Beaufort County.

FOR A FIRST CAUSE OF ACTION (Declaratory Judgment as to the Contingency Fund, pursuant to S.C. Code Ann. §§ 15-53-10-15-53-140 and Rule 57 SCRCP as to all Defendants)

46. For this cause of action, Plaintiffs incorporate all allegations set forth above as if fully set forth herein.

47. Plaintiffs bring this cause of action against Defendants pursuant to S.C. Code Ann. §§ 15-53-10 through 15-53-140 and Rule 57 of the SCRCF seeking declarations:

- a. That the Defendants did not have the authority to amend the Declarations to eliminate the Fifteenth Amendment to the Declarations; and
- b. That the Contingency Fund can be used only for the purposes specified in the Fifteenth Amendment to the Declaration, and not for the private benefit of the alleged Declarant or others.

48. The South Carolina Declaratory Judgment Act provides that this Court has the power to declare the rights, status, and other legal relations whether or not further relief is or could be claimed, S.C. Code Ann. §15-53-20.

49. Due to the facts, conditions, and circumstances set forth in this Complaint, an actual and justiciable controversy exists.

**FOR A SECOND CAUSE OF ACTION
(Injunction as to the Contingency Fund)**

50. Plaintiffs restate and reallege each and every prior allegation above as if fully set forth herein.

51. Plaintiffs will be irreparable harmed if an injunction is not issued enjoining the Eighteenth Amendment to the Declarations from going into effect.

52. Plaintiffs lack an adequate remedy at law to recover damages arising from the elimination of the Contingency Fund and/or the unauthorized disbursement of funds from the Contingency Fund without proper oversight by the elected representatives.

53. Plaintiffs seek an injunction from this Court:

- a. Prohibiting the Defendants from repealing or refusing to comply with the (second) Fifteenth Amendment to the Declaration of Covenants, Conditions, and Restrictions of Bull Point Planation;
- b. Prohibiting the Defendants from authorizing the expenditure of Contingency Fund monies for purposes other than those authorized by the Fifteenth Amendment, and

- specifically for the private benefit of the Declarant or others;
- c. Imposing a constructive trust upon all moneys comprising the Contingency Fund, to the extent that they have been disbursed or spent for purposes other than permitted by the (second) Fifteenth Amendment to the Declarations;
- d. Injunctive relief necessary to enforce the declarations sought in the remaining Causes of Action herein; and
- e. Such further injunctive relief as the Court deems appropriate.

**FOR A THIRD CAUSE OF ACTION
(Accounting)**

54. Plaintiffs restate and reallege each and every prior allegation above as if fully set forth herein.

55. Plaintiffs have made a good faith inquiry for a proper purpose, the purpose of the inspection and the records sought were described with particularity, and records are directly connected with that purpose.

56. Plaintiffs pray that an accounting of the Bull Point POA and for any other such relief provided by S.C. Code Ann. §§ 33-31-101 *et seq.*, as the Court deems appropriate and proper to protect the rights of Plaintiff.

**FOR A FOURTH CAUSE OF ACTION
(Failure to allow inspection and copying of records in violation
of S.C. Code Ann. §33-31-1601 et seq.)**

57. Under South Carolina Code Ann. Sec. 33-31-1601(b) a corporation shall keep appropriate accounting records.

58. Under South Carolina Code Ann. Sec. 33-31-1602(b) a member of a non-profit corporation is entitled to inspect and copy the accounting records of a corporation at a reasonable time and place and location specified by the corporation upon five business days prior notice.

59. South Carolina Code Ann. Sec. 33-31-1602(c) sets out the grounds of a proper request to inspect and copy records and Plaintiffs wrote a letter in good faith, describing with reasonable particularity the purpose and the records sought; and the records requested are directly connected with that purpose and gave more than five business days prior notice. See Exhibit 5.

60. As members of the Bull Point POA, Plaintiffs were entitled to inspect and copy the appropriate accounting records showing the affairs and finances of the Bull Point POA.

61. On August 28, 2018 Defendant provided some accounting records but did not include the documents upon which the balance sheets were based, making it impossible to verify their accuracy.

FOR A FIFTH CAUSE OF ACTION
(Declaratory Judgment as to Declarant's Rights, pursuant to S.C. Code Ann. §§ 15-53-10- 15-53-140 and Rule 57 SCRCP as to all Defendants)

62. Plaintiffs restate and reallege each and every prior allegation above as if fully set forth herein.

63. On August 21, 2017, the 2000 Declarations were the controlling documents that were in effect. These Declarations were properly recorded and had been in place since February 4th, 2000.

64. On December 28th, 2013 Bull Point, LLC purportedly assigned its Declarancy rights to DB Aster, LLC. On August 21, 2017, DB Aster LLC purportedly assigned its Declarancy rights to GSI, LLC as part of a sale of its interests in the property. Shortly thereafter, also on August 21st, 2017, GSI, LLC purportedly assigned its Declarancy interests to Bull Point SC, LLC. GSI, LLC obtained its interest in Bull Point Plantation subject to the Declarations then in place, the 2000 Declarations.

65. Bull Point SC, LLC does not meet the definition of Declarant as set out in the current Declarations, effective in the year 2000. The Declarations state that “‘Declarant’ shall mean and refer to Bull Point, LLC³ which has executed this Declaration with respect to the Property and the Additional Property at the time of such transfer to said successor-in-title, or any party which acquires said Declarant’s entire interest with respect to the Property and the Additional Property at the time of such acquisition pursuant to Foreclosure of a Mortgage encumbering said Declarant’s interest in the

³ Bull Point, LLC and Bull Point SC, LLC are completely unrelated entities

Property and the Additional Property.⁴ (emphasis added).

66. The 2000 Declarations clearly provide that the only way to acquire the Declarancy is through foreclosure, and neither Defendant Bull Point SC, LLC nor its predecessor GSI, LLC obtained the property pursuant to a foreclosure of the mortgage encumbering the prior Declarant's interest.

67. Bull Point SC, LLC did not acquire its interest through a foreclosure of a mortgage, but rather through a sale. As a result, Bull Point SC, LLC does not have the authority to amend the Declarations or to appoint and/or remove member of the Board of Directors.

68. In addition, Bull Point SC, LLC did not acquire the entire interest of the Declarant Bull Point, LLC as required by section 1.01(j) of the Declarations. Here, DB Aster, LLC conveyed certain parcels of land to third-parties and reserved rights to repurchase. Further, GSI, LLC, which purchased DB Aster, LLC's interest, did not convey all of that interest to Bull Point, LLC.

69. Additionally, in the purported assignment of the Declarant's rights, Bull Point SC, LLC disclaimed all responsibilities, liabilities and obligations of its predecessor in interest and therefore did not acquire the entire interest of the prior Declarant as required by section 1.01(j) of the Declarations.

70. As a result, under the Declarations, Bull Point SC, LLC is not the Declarant and does not own the Declarant's rights under the Declarations, and its actions as such are nullities and are void or voidable.

**FOR A SIXTH CAUSE OF ACTION
(Declaratory Judgment as to Election of Directors, pursuant to S.C. Code Ann. §§ 15-53-10-15-53-140 and Rule 57 SCRCP as to all Defendants)**

71. The Bull Point Declarations are "Bylaws" as defined under Section 140(4) of the South

⁴ See Id. Section 1.01(j) (emphasis added).

Carolina Non-Profit Corporation Act, irrespective of the name or names by which the Declarations/Bylaws have been given.

72. South Carolina State law, specifically the Nonprofit Corporation Act (hereinafter “Nonprofit Corporation Act” or “the Act”), controls Bull Point’s governing documents. The Bull Point governing documents acknowledge that State law controls the priority of its governing documents. The Nonprofit Corporation Act orders the priority of the governing documents in the following way: a) First, the provisions of the Act; b) Second, Bull Point Articles of Incorporation; and then c) Bull Point Declarations/Bylaws.

73. Section 33-31-206(b) of the Nonprofit Corporation Act mandates that Bylaws cannot conflict with South Carolina law or Bull Point’s Articles of Incorporation.

74. Bull Point Declarations/Bylaws conflict with Bull Point’s Articles of Incorporation, as the Articles require the Board of Directors to be elected by the members rather than appointed by the Declarant.

75. Under §§33-31-140(4) and 206(b) of the South Carolina Nonprofit Corporation Act and the Bull Point governing documents, the current Board of Directors is illegally constituted because it was appointed by the Declarant, rather than elected by the members.

FOR A SEVENTH CAUSE OF ACTION
(Declaratory Judgment as to Amendment of Governing Documents, pursuant to S.C. Code
Ann. §§ 15-53-10- 15-53-140 and Rule 57 SCRCP as to all Defendants)

76. Section 1021(d) of the South Carolina Nonprofit Corporation Act mandates that an amendment to the Declarations/Bylaws which changes or modifies the method of computation of dues must be approved by the members.

77. Section 33-31-1030 of the Nonprofit Corporation Act mandates that the Declarations/Bylaws of a mutual benefit corporation, such as Bull Point Plantation POA, cannot

require an amendment to be approved in writing by a third-party such as the Declarant.

78. Section 13.03, entitled Amendments by Association of the Declarations/Bylaws requires that the Eighteenth Amendment must be approved by a vote of three-fourths (¾) of the members in good standing.

79. Defendant Bull Point SC, LLC's improper enactment of the Eighteenth Amendment to rescind the Fifteenth Amendment violates Sections 33-31-1021(d) and 1030 of the Act and Section 13.03 of the Declarations itself.

FOR AN EIGHTH CAUSE OF ACTION
(Declaratory Judgment as to Repeal of Amendment, pursuant to S.C. Code Ann. §§ 15-53-10- 15-53-140 and Rule 57 SCRPC as to all Defendants)

80. Section 33-31-1021(b) of the South Carolina Nonprofit Corporation Act mandates that Bull Point POA's members may amend or repeal the POA's Declarations/Bylaws even though they may be amended or repealed by its Board of Directors.

81. Section 33-31-1021(a)(2) of the Act provides that Bull Point's Board of Directors may not repeal an Amendment to the Declarations/Bylaws enacted by the members that expressly prohibits the Board of Directors from repealing it.

82. Accordingly, the POA members have the right to repeal the Eighteenth Amendment and enact an Amendment similar to the Fifteenth Amendment, and to also prohibit the Board from repealing it any Amendment without following the rules set out in the Declarations.

FOR A NINTH CAUSE OF ACTION
(Declaratory Judgment as to Responsibility to Pay Assessments, pursuant to S.C. Code Ann. §§ 15-53-10- 15-53-140 and Rule 57 SCRPC as to all Defendants)

83. Plaintiffs restate and reallege each and every prior allegation above as if fully set forth herein.

84. As a result of Bull Point SC, LLC not being the Declarant as defined by Section 1.01(j) of the Declarations Bull Point SC, LLC is an ordinary Owner under Section 1.01(x) of the Declarations

and, as such, is liable for assessments under Article IX of the Declarations.

85. The liability for assessments owed by Bull Point SC, LLC began in August 21st, 2017.

86. To date no assessments have been received from the property owned by GSI, LLC and/or Bull Point SC, LLC, and the POA Board has not sought to collect these assessments.

87. The Board of Directors of the POA should be required to levy assessments as to Bull Point SC, LLC.

PLAINTIFFS' REQUEST FOR RELIEF

WHEREFORE, Plaintiffs request that this Court inquire into this matter and issue an order:

- a. Entering a Declaration as set forth above;
- b. Granting injunctive relief as set forth above;
- c. Ordering an Accounting of the Association Contingency Fund, as set forth above;
- d. Allowing the representative members to inspect and copy the accounting records as set forth above;
- e. Requiring an election for directors of the POA Board by the Bull Point POA members be held immediately;
- f. Awarding the injunctive relief set forth in the Second Cause of Action above;
- g. Declaring that Bull Point SC, LLC is not the Declarant;
- h. Declaring that the members of Bull Point POA can repeal the Eighteenth Amendment and enact a new Amendment which may prohibit repeal by the Board;
- i. Declaring that the purported powers of the Defendant Bull Point SC, LLC to amend the Bylaws are invalid under State law; and
- j. Declaring that property owned by Bull Point SC, LLC and GSI, LLC in Bull Point Plantation

are subject to assessments and that these assessments have been due since August 21, 2017; and
k. Any further relief that this Court deems just and proper.

Respectfully Submitted,

BARNWELL WHALEY PATTERSON & HELMS, LLC

By: /s/ Marvin D. Infinger, Esq.
M Dawes Cooke, Jr.
Marvin D. Infinger
P.O. Drawer H (29402)
288 Meeting Street, Suite 200
Charleston, SC 29401
mdc@barnwell-whaley.com
minfinger@barnwell-whaley.com
Telephone: 843-577-7700
Facsimile: 843-577-7708
Attorneys for Plaintiffs

June 13, 2019
Charleston, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L. ATTRIDGE, ROBERT W. BANKOV, VIRGINIA J. BANKOV, TOM BOLTON, GUY I. COLLIER, NANCY L. COLLIER, RICHARD JAY COLEMAN, MARLENE COLEMAN, RUSSELL G. DIMKE, SANDRA A. DIMKE, JAMES G. GOODWIN JR., CAROL A. GOODWIN, GEORGE J. LOVETT, WILNA W. LOVETT, PETER MARZLUFF, DEBORAH C. MARZLUFF, GARY OKEY, NANCY OKEY, MICHAEL PELLECCCHIA, JANICE S. PELLECHIA, FRANK H. ROBERTS SR., RICHARD SWILPA, MICHELE GALLANT, PHYLLIS K. KAUPP-SEAS, ROBERT P. BRENDZA, and ROBIN E. BRENDZA individually and in their derivative capacity on behalf of BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-vs-

THE BOARD OF DIRECTORS OF BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION, INC.; BULL POINT SC, LLC; WILLIAM E. GAVIGAN; MICHAEL CAREY; and JAMES RIORDAN,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E. GAVIGAN,

Third-Party Plaintiffs,

-vs-

**VERIFICATION OF
JON H. ATTRIDGE
THE AMENDED COMPLAINT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

Third-Party Defendants.

I, JON H. ATTRIDGE, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


JON H. ATTRIDGE

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared JON H. ATTRIDGE, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 25th day of March 2019.




NOTARY PUBLIC, State of South Carolina at Large

My

Commission

Expires: 3/8/2023

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L. ATTRIDGE, ROBERT W. BANKOV, VIRGINIA J. BANKOV, TOM BOLTON, GUY I. COLLIER, NANCY L. COLLIER, RICHARD JAY COLEMAN, MARLENE COLEMAN, RUSSELL G. DIMKE, SANDRA A. DIMKE, JAMES G. GOODWIN JR., CAROL A. GOODWIN, GEORGE J. LOVETT, WILNA W. LOVETT, PETER MARZLUFF, DEBORAH C. MARZLUFF, GARY OKEY, NANCY OKEY, MICHAEL PELLECCIA, JANICE S. PELLECHIA, FRANK H. ROBERTS SR., RICHARD SWILPA, MICHELE GALLANT, PHYLLIS K. KAUPP-SEAS, ROBERT P. BRENDZA, and ROBIN E. BRENDZA individually and in their derivative capacity on behalf of BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-VS-

THE BOARD OF DIRECTORS OF BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION, INC.; BULL POINT SC, LLC; WILLIAM E. GAVIGAN; MICHAEL CAREY; and JAMES RIORDAN,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E. GAVIGAN,

Third-Party Plaintiffs,

-VS-

**VERIFICATION OF
JANET L. ATTRIDGE
THE AMENDED COMPLAINT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

Third-Party Defendants.

I, JANET L. ATTRIDGE, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.

Janet L. Attridge
JANET L. ATTRIDGE

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared JANET L. ATTRIDGE, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 25th day of March 2019.



Liz Brown
NOTARY PUBLIC, State of South Carolina at Large

My

Commission

Expires: 3/8/2023

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L.
ATTRIDGE, ROBERT W. BANKOV,
VIRGINIA J. BANKOV, TOM BOLTON,
GUY I. COLLIER, NANCY L. COLLIER,
RICHARD JAY COLEMAN, MARLENE
COLEMAN, RUSSELL G. DIMKE,
SANDRA A. DIMKE, JAMES G.
GOODWIN JR., CAROL A. GOODWIN,
GEORGE J. LOVETT, WILNA W.
LOVETT, PETER MARZLUFF, DEBORAH
C. MARZLUFF, GARY OKEY, NANCY
OKEY, MICHAEL PELLECCCHIA, JANICE
S. PELLECHIA, FRANK H. ROBERTS SR.,
RICHARD SWILPA, MICHELE
GALLANT, PHYLLIS K. KAUPP-SEAS,
ROBERT P. BRENDZA, and ROBIN E.
BRENDZA individually and in their
derivative capacity on behalf of BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION,

**VERIFICATION OF
CAROL A. GOODWIN
THE AMENDED COMPLAINT**

Plaintiffs/Counterclaim Defendants,

-vs-

THE BOARD OF DIRECTORS OF BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.; BULL
POINT SC, LLC; WILLIAM E. GAVIGAN;
MICHAEL CAREY; and JAMES
RIORDAN,

Defendants/Counterclaimants,

And
BULL POINT SC, LLC and WILLIAM E.
GAVIGAN,

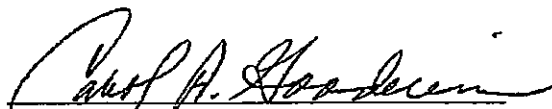
Third-Party Plaintiffs,

-vs-

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

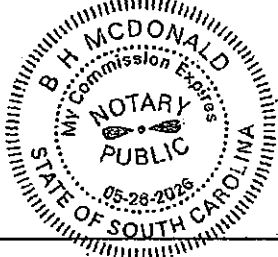
Third-Party Defendants.

I, CAROL A. GOODWIN, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


CAROL A. GOODWIN

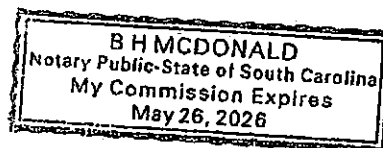
BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared CAROL A. GOODWIN, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 2nd day of March 2019.




NOTARY PUBLIC, State of South Carolina at Large

My Commission Expires:



STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L
ATTRIDGE, ROBERT W. BANKOV,
VIRGINIA J. BANKOV, TOM BOLTON,
GUY I. COLLIER, NANCY L. COLLIER,
RICHARD JAY COLEMAN, MARLENE
COLEMAN, RUSSELL G. DIMKE,
SANDRA A. DIMKE, JAMES G.
GOODWIN JR., CAROL A. GOODWIN,
GEORGE J. LOVETT, WILNA W.
LOVETT, PETER MARZLUFF, DEBORAH
C. MARZLUFF, GARY OKEY, NANCY
OKEY, MICHAEL PELLECCIA, JANICE
S. PELLECHIA, FRANK H. ROBERTS SR.,
RICHARD SWILPA, MICHELE
GALLANT, PHYLLIS K. KAUPP-SEAS,
ROBERT P. BRENDZA, and ROBIN E.
BRENDZA individually and in their
derivative capacity on behalf of BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-VS-

THE BOARD OF DIRECTORS OF BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.; BULL
POINT SC, LLC; WILLIAM E. GAVIGAN;
MICHAEL CAREY; and JAMES
RIORDAN,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E.
GAVIGAN,

Third-Party Plaintiffs,

-VS-

**VERIFICATION OF
JAMES G. GOODWIN JR.
THE AMENDED COMPLAINT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

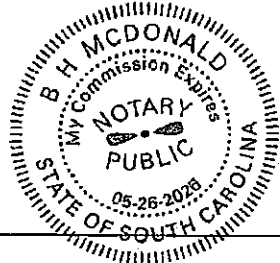
Third-Party Defendants.

I, JAMES G. GOODWIN JR., first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


JAMES G. GOODWIN JR.

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared JAMES G. GOODWIN JR., who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 28 day of March 2019.

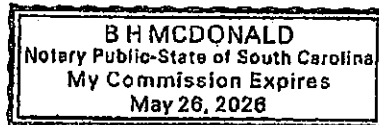



NOTARY PUBLIC, State of South Carolina at Large

My

Commission

Expires:



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STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L.
ATTRIDGE, ROBERT W. BANKOV,
VIRGINIA J. BANKOV, TOM BOLTON,
GUY I. COLLIER, NANCY L. COLLIER,
RICHARD JAY COLEMAN, MARLENE
COLEMAN, RUSSELL G. DIMKE,
SANDRA A. DIMKE, JAMES G.
GOODWIN JR., CAROL A. GOODWIN,
GEORGE J. LOVETT, WILNA W.
LOVETT, PETER MARZLUFF, DEBORAH
C. MARZLUFF, GARY OKEY, NANCY
OKEY, MICHAEL PELLECCIA, JANICE
S. PELLECHIA, FRANK H. ROBERTS SR.,
RICHARD SWILPA, MICHELE
GALLANT, PHYLLIS K. KAUPP-SEAS,
ROBERT P. BRENDZA, and ROBIN E.
BRENDZA individually and in their
derivative capacity on behalf of BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-VS-

THE BOARD OF DIRECTORS OF BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.; BULL
POINT SC, LLC; WILLIAM E. GAVIGAN;
MICHAEL CAREY; and JAMES
RIORDAN,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E.
GAVIGAN,

Third-Party Plaintiffs,

-VS-

**VERIFICATION OF
DEBORAH C. MARZLUFF
THE AMENDED COMPLAINT**

{00884563.DOCX.1 }

000131

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

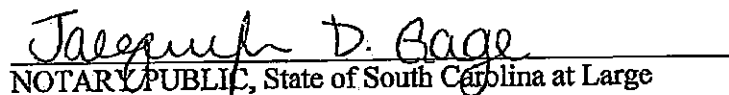
Third-Party Defendants.

I, DEBORAH C. MARZLUFF, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


DEBORAH C. MARZLUFF

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared DEBORAH C. MARZLUFF, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 27 day of March 2019.


NOTARY PUBLIC, State of South Carolina at Large

3/23/2028

My

Commission

Expires:

JACQUELYNN D. GAGE
Notary Public
State of South Carolina
My Commission Expires March 23, 2028



STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L.
ATTRIDGE, ROBERT W. BANKOV,
VIRGINIA J. BANKOV, TOM BOLTON,
GUY I. COLLIER, NANCY L. COLLIER,
RICHARD JAY COLEMAN, MARLENE
COLEMAN, RUSSELL G. DIMKE,
SANDRA A. DIMKE, JAMES G.
GOODWIN JR., CAROL A. GOODWIN,
GEORGE J. LOVETT, WILNA W.
LOVETT, PETER MARZLUFF, DEBORAH
C. MARZLUFF, GARY OKEY, NANCY
OKEY, MICHAEL PELLECCIA, JANICE
S. PELLECHIA, FRANK H. ROBERTS SR.,
RICHARD SWILPA, MICHELE
GALLANT, PHYLLIS K. KAUPP-SEAS,
ROBERT P. BRENDZA, and ROBIN E.
BRENDZA individually and in their
derivative capacity on behalf of BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-VS-

THE BOARD OF DIRECTORS OF BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.; BULL
POINT SC, LLC; WILLIAM E. GAVIGAN;
MICHAEL CAREY; and JAMES
RIORDAN,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E.
GAVIGAN,

Third-Party Plaintiffs,

-VS-

**VERIFICATION OF
PETER W. MARZLUFF
THE AMENDED COMPLAINT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

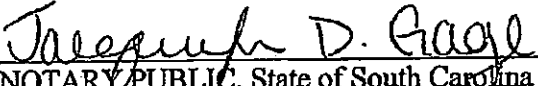
Third-Party Defendants.

I, PETER W. MARZLUFF, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


PETER W. MARZLUFF

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared PETER W. MARZLUFF, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 27 day of March 2019.


NOTARY PUBLIC, State of South Carolina at Large

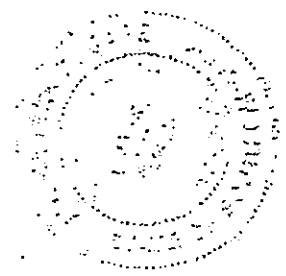
3/23/2028

My

Commission

Expires:

JACQUELYNN D. GAGE
Notary Public
State of South Carolina
My Commission Expires March 23, 2028



STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L.
ATTRIDGE, ROBERT W. BANKOV,
VIRGINIA J. BANKOV, TOM BOLTON,
GUY I. COLLIER, NANCY L. COLLIER,
RICHARD JAY COLEMAN, MARLENE
COLEMAN, RUSSELL G. DIMKE,
SANDRA A. DIMKE, JAMES G.
GOODWIN JR., CAROL A. GOODWIN,
GEORGE J. LOVETT, WILNA W.
LOVETT, PETER MARZLUFF, DEBORAH
C. MARZLUFF, GARY OKEY, NANCY
OKEY, MICHAEL PELLECCIA, JANICE
S. PELLECHIA, FRANK H. ROBERTS SR.,
RICHARD SWILPA, MICHELE
GALLANT, PHYLLIS K. KAUPP-SEAS,
ROBERT P. BRENDZA, and ROBIN E.
BRENDZA individually and in their
derivative capacity on behalf of BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-VS-

THE BOARD OF DIRECTORS OF BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.; BULL
POINT SC, LLC; WILLIAM E. GAVIGAN;
MICHAEL CAREY; and JAMES
RIORDAN,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E.
GAVIGAN,

Third-Party Plaintiffs,

-VS-

**VERIFICATION OF
MICHELE GALLANT
THE AMENDED COMPLAINT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

Third-Party Defendants.

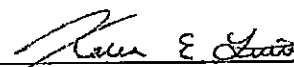
I, MICHELE GALLANT, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


MICHELE GALLANT

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared MICHELE GALLANT, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 27 day of March 2019.

KALEA E. LITTLE
Notary Public - State of South Carolina
My Commission Expires July 6, 2027


NOTARY PUBLIC, State of South Carolina at Large

My

Commission

Expires:

July 6, 2027

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L.
ATTRIDGE, ROBERT W. BANKOV,
VIRGINIA J. BANKOV, TOM BOLTON,
GUY I. COLLIER, NANCY L. COLLIER,
RICHARD JAY COLEMAN, MARLENE
COLEMAN, RUSSELL G. DIMKE,
SANDRA A. DIMKE, JAMES G.
GOODWIN JR., CAROL A. GOODWIN,
GEORGE J. LOVETT, WILNA W.
LOVETT, PETER MARZLUFF, DEBORAH
C. MARZLUFF, GARY OKEY, NANCY
OKEY, MICHAEL PELLECCIA, JANICE
S. PELLECHIA, FRANK H. ROBERTS SR.,
RICHARD SWILPA, MICHELE
GALLANT, PHYLLIS K. KAUPP-SEAS,
ROBERT P. BRENDZA, and ROBIN E.
BRENDZA individually and in their
derivative capacity on behalf of BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-vs-

THE BOARD OF DIRECTORS OF BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.; BULL
POINT SC, LLC; WILLIAM E. GAVIGAN;
MICHAEL CAREY; and JAMES
RIORDAN,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E.
GAVIGAN,

Third-Party Plaintiffs,

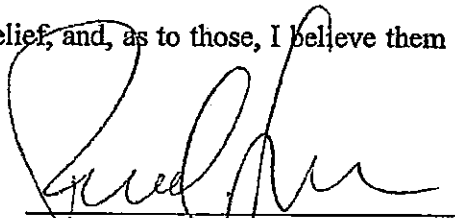
-vs-

**VERIFICATION OF
RICHARD SWILPA
THE AMENDED COMPLAINT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

Third-Party Defendants.

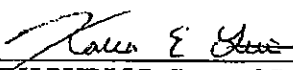
I, RICHARD SWILPA, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


 RICHARD SWILPA

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared RICHARD SWILPA, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 27 day of March 2019.

KALEA E. LITTLE
Notary Public - State of South Carolina
My Commission Expires July 6, 2027


 NOTARY PUBLIC, State of South Carolina at Large

My Commission Expires:
July 6, 2027

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L.
ATTRIDGE, ROBERT W. BANKOV,
VIRGINIA J. BANKOV, TOM BOLTON,
GUY I. COLLIER, NANCY L. COLLIER,
RICHARD JAY COLEMAN, MARLENE
COLEMAN, RUSSELL G. DIMKE,
SANDRA A. DIMKE, JAMES G.
GOODWIN JR., CAROL A. GOODWIN,
GEORGE J. LOVETT, WILNA W.
LOVETT, PETER MARZLUFF, DEBORAH
C. MARZLUFF, GARY OKEY, NANCY
OKEY, MICHAEL PELLECCIA, JANICE
S. PELLECHIA, FRANK H. ROBERTS SR.,
RICHARD SWILPA, MICHELE
GALLANT, PHYLLIS K. KAUPP-SEAS,
ROBERT P. BRENDZA, and ROBIN E.
BRENDZA individually and in their
derivative capacity on behalf of BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-VS-

THE BOARD OF DIRECTORS OF BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.; BULL
POINT SC, LLC; WILLIAM E. GAVIGAN;
MICHAEL CAREY; and JAMES
RIORDAN,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E.
GAVIGAN,

Third-Party Plaintiffs,

-VS-

**VERIFICATION OF
WILNA W. LOVETT
THE AMENDED COMPLAINT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

Third-Party Defendants.

I, WILNA W. LOVETT, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.

Wilna W. Lovett
WILNA W. LOVETT

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared WILNA W. LOVETT, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 26th day of March 2019.

M. Murphy
NOTARY PUBLIC, State of South Carolina at Large

My

Commission

Expires:

11/15/26

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L.
ATTRIDGE, ROBERT W. BANKOV,
VIRGINIA J. BANKOV, TOM BOLTON,
GUY I. COLLIER, NANCY L. COLLIER,
RICHARD JAY COLEMAN, MARLENE
COLEMAN, RUSSELL G. DIMKE,
SANDRA A. DIMKE, JAMES G.
GOODWIN JR., CAROL A. GOODWIN,
GEORGE J. LOVETT, WILNA W.
LOVETT, PETER MARZLUFF, DEBORAH
C. MARZLUFF, GARY OKEY, NANCY
OKEY, MICHAEL PELLECCCHIA, JANICE
S. PELLECHIA, FRANK H. ROBERTS SR.,
RICHARD SWILPA, MICHELE
GALLANT, PHYLLIS K. KAUPP-SEAS,
ROBERT P. BRENDZA, and ROBIN E.
BRENDZA individually and in their
derivative capacity on behalf of BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-vs-

THE BOARD OF DIRECTORS OF BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.; BULL
POINT SC, LLC; WILLIAM E. GAVIGAN;
MICHAEL CAREY; and JAMES
RIORDAN,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E.
GAVIGAN,

Third-Party Plaintiffs,

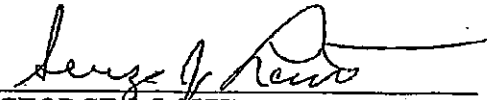
-vs-

**VERIFICATION OF
GEORGE J. LOVETT
THE AMENDED COMPLAINT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

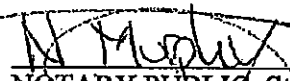
Third-Party Defendants.

I, GEORGE J. LOVETT, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


GEORGE J. LOVETT

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared GEORGE J. LOVETT, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 26th day of March 2019.


NOTARY PUBLIC, State of South Carolina at Large

My Commission

Expires:

11/15/26

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L.
ATTRIDGE, ROBERT W. BANKOV,
VIRGINIA J. BANKOV, TOM BOLTON,
GUY I. COLLIER, NANCY L. COLLIER,
RICHARD JAY COLEMAN, MARLENE
COLEMAN, RUSSELL G. DIMKE,
SANDRA A. DIMKE, JAMES G.
GOODWIN JR., CAROL A. GOODWIN,
GEORGE J. LOVETT, WILNA W.
LOVETT, PETER MARZLUFF, DEBORAH
C. MARZLUFF, GARY OKEY, NANCY
OKEY, MICHAEL PELLECCIA, JANICE
S. PELLECHIA, FRANK H. ROBERTS SR.,
RICHARD SWILPA, MICHELE
GALLANT, PHYLLIS K. KAUPP-SEAS,
ROBERT P. BRENDZA, and ROBIN E.
BRENDZA individually and in their
derivative capacity on behalf of BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-VS-

THE BOARD OF DIRECTORS OF BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.; BULL
POINT SC, LLC; WILLIAM E. GAVIGAN;
MICHAEL CAREY; and JAMES
RIORDAN,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E.
GAVIGAN,

Third-Party Plaintiffs,

-VS-

**VERIFICATION OF
PHYLLIS A. KAUPP-SEAS
THE AMENDED COMPLAINT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH . AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

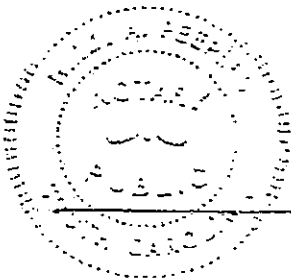
Third-Party Defendants.

I, PHYLLIS A. KAUPP-SEAS, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.

Phyllis A. Kaupp-Seas
PHYLLIS A. KAUPP-SEAS

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared PHYLLIS A. KAUPP-SEAS, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 26th day of March, 2019.



Heidi A. Peeples
NOTARY PUBLIC, State of South Carolina at Large

My

Commission

Expires:

My Commission Expires 2/23/2021

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L.
ATTRIDGE, ROBERT W. BANKOV,
VIRGINIA J. BANKOV, TOM BOLTON,
GUY I. COLLIER, NANCY L. COLLIER,
RICHARD JAY COLEMAN, MARLENE
COLEMAN, RUSSELL G. DIMKE,
SANDRA A. DIMKE, JAMES G.
GOODWIN JR., CAROL A. GOODWIN,
GEORGE J. LOVETT, WILNA W.
LOVETT, PETER MARZLUFF, DEBORAH
C. MARZLUFF, GARY OKEY, NANCY
OKEY, MICHAEL PELLECCIA, JANICE
S. PELLECHIA, FRANK H. ROBERTS SR.,
RICHARD SWILPA, MICHELE
GALLANT, PHYLLIS K. KAUPP-SEAS,
ROBERT P. BRENDZA, and ROBIN E.
BRENDZA individually and in their
derivative capacity on behalf of BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-VS-

THE BOARD OF DIRECTORS OF BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.; BULL
POINT SC, LLC; WILLIAM E. GAVIGAN;
MICHAEL CAREY; and JAMES
RIORDAN,

Defendants/Counterclaimants,

and

BULL POINT SC, LLC and WILLIAM E.
GAVIGAN,

Third-Party Plaintiffs,

-VS-

**VERIFICATION OF
ROBIN E. BRENDZA
THE AMENDED COMPLAINT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

Third-Party Defendants.

I, ROBIN E. BRENDZA, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.

Robin E. Brendza
ROBIN E. BRENDZA

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared ROBIN E. BRENDZA, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 25 day of March 2019.

Kendelin Sue Anderson
NOTARY PUBLIC, State of South Carolina at Large

My

Commission
My Commission Expires
February 27, 2023

Expires:

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L.
ATTRIDGE, ROBERT W. BANKOV,
VIRGINIA J. BANKOV, TOM BOLTON,
GUY I. COLLIER, NANCY L. COLLIER,
RICHARD JAY COLEMAN, MARLENE
COLEMAN, RUSSELL G. DIMKE,
SANDRA A. DIMKE, JAMES G.
GOODWIN JR., CAROL A. GOODWIN,
GEORGE J. LOVETT, WILNA W.
LOVETT, PETER MARZLUFF, DEBORAH
C. MARZLUFF, GARY OKEY, NANCY
OKEY, MICHAEL PELLECCCHIA, JANICE
S. PELLECHIA, FRANK H. ROBERTS SR.,
RICHARD SWILPA, MICHELE
GALLANT, PHYLLIS K. KAUPP-SEAS,
ROBERT P. BRENDZA, and ROBIN E.
BRENDZA individually and in their
derivative capacity on behalf of BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-vs-

THE BOARD OF DIRECTORS OF BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.; BULL
POINT SC, LLC; WILLIAM E. GAVIGAN;
MICHAEL CAREY; and JAMES
RIORDAN,

Defendants/Counterclaimants,

and

BULL POINT SC, LLC and WILLIAM E.
GAVIGAN,

Third-Party Plaintiffs,

-vs-

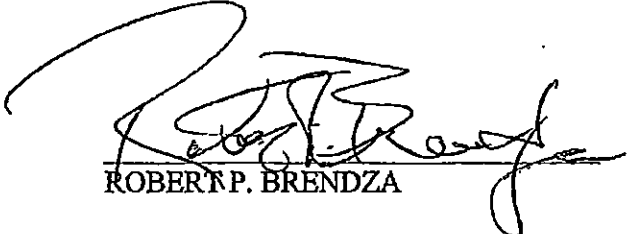
Civil Action No.: 2018-CP-07-2345

**VERIFICATION OF
ROBERT P. BRENDZA
THE AMENDED COMPLAINT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSLACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

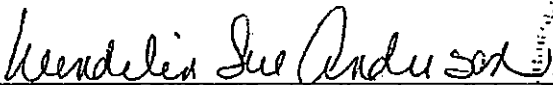
Third-Party Defendants.

I, ROBERT P. BRENDZA, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


ROBERT P. BRENDZA

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared ROBERT P. BRENDZA, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 25 day of March 2019.

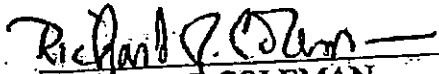

NOTARY PUBLIC, State of South Carolina at Large

My Commission Expires: February 27, 2023

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

Third-Party Defendants.

I, RICHARD J. COLEMAN, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


RICHARD J. COLEMAN

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared RICHARD J. COLEMAN, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 25th day of March 2019.

JULIANNE HUTTON
Notary Public
Christchurch
New Zealand


NOTARY PUBLIC, State of South Carolina at Large
~~CHRISTCHURCH, NEW ZEALAND~~
My Commission Expires:

IS FOR LIFE

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

Third-Party Defendants.

I, MARLENE F. COLEMAN, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.

Marlene F. Coleman
MARLENE F. COLEMAN

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared MARLENE F. COLEMAN, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 25th day of March 2019.

JULIANNE HUTTON
Notary Public
Christchurch
New Zealand

[Signature]
NOTARY PUBLIC, State of South Carolina at Large
CHRISTCHURCH, NEW ZEALAND
My Commission Expires:

IS FOR LIFE

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

Third-Party Defendants.

I, RUSSELL G. DIMKE, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


RUSSELL G. DIMKE

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared RUSSELL G. DIMKE, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 25th day of March 2019.

JULIANNE HUTTON
Notary Public
Christchurch
New Zealand


NOTARY PUBLIC, State of South Carolina at Large

My

Commission

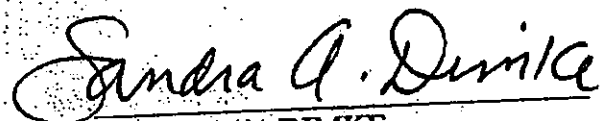
Expires:

IS FOR LIFE

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

Third-Party Defendants.

I, SANDRA A. DIMKE, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


SANDRA A. DIMKE

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared SANDRA A. DIMKE, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 25th day of March 2019.

JULIANNE HUTTON
Notary Public
Christchurch
New Zealand


NOTARY PUBLIC, State of South Carolina at Large

My

Commission

Expires:

IS FOR LIFE

000152

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L
ATTRIDGE, ROBERT W. BANKOV,
VIRGINIA J. BANKOV, TOM BOLTON,
GUY I. COLLIER, NANCY L. COLLIER,
RICHARD JAY COLEMAN, MARLENE
COLEMAN, RUSSELL G. DIMKE,
SANDRA A. DIMKE, JAMES G.
GOODWIN JR., CAROL A. GOODWIN,
GEORGE J. LOVETT, WILNA W.
LOVETT, PETER MARZLUFF, DEBORAH
C. MARZLUFF, GARY OKEY, NANCY
OKEY, MICHAEL PELLECCIA, JANICE
S. PELLECHIA, FRANK H. ROBERTS SR.,
RICHARD SWILPA, MICHELE
GALLANT, PHYLLIS K. KAUPP-SEAS,
ROBERT P. BRENDZA, and ROBIN E.
BRENDZA individually and in their
derivative capacity on behalf of BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-vs-

THE BOARD OF DIRECTORS OF BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.; BULL
POINT SC, LLC; WILLIAM E. GAVIGAN;
MICHAEL CAREY; and JAMES
RIORDAN,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E.
GAVIGAN,

Third-Party Plaintiffs,

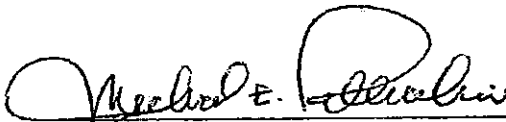
-vs-

**VERIFICATION OF
MICHAEL J. PELLECCIA
THE AMENDED COMPLAINT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

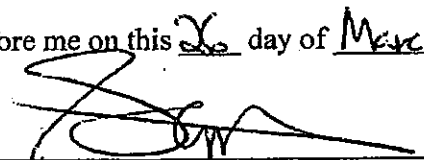
Third-Party Defendants.

I, MICHAEL J. PELLECCCHIA, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


MICHAEL J. PELLECCCHIA

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared MICHAEL J. PELLECCCHIA, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

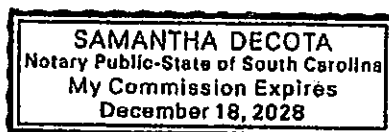
SWORN AND SUBSCRIBED before me on this 26 day of March 2019.


NOTARY PUBLIC, State of South Carolina at Large

My

Commission

Expires: Dec 18 2021



STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L.
ATTRIDGE, ROBERT W. BANKOV,
VIRGINIA J. BANKOV, TOM BOLTON,
GUY I. COLLIER, NANCY L. COLLIER,
RICHARD JAY COLEMAN, MARLENE
COLEMAN, RUSSELL G. DIMKE,
SANDRA A. DIMKE, JAMES G.
GOODWIN JR., CAROL A. GOODWIN,
GEORGE J. LOVETT, WILNA W.
LOVETT, PETER MARZLUFF, DEBORAH
C. MARZLUFF, GARY OKEY, NANCY
OKEY, MICHAEL PELLECCCHIA, JANICE
S. PELLECHIA, FRANK H. ROBERTS SR.,
RICHARD SWILPA, MICHELE
GALLANT, PHYLLIS K. KAUPP-SEAS,
ROBERT P. BRENDZA, and ROBIN E.
BRENDZA individually and in their
derivative capacity on behalf of BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-vs-

THE BOARD OF DIRECTORS OF BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.; BULL
POINT SC, LLC; WILLIAM E. GAVIGAN;
MICHAEL CAREY; and JAMES
RIORDAN,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E.
GAVIGAN,

Third-Party Plaintiffs,

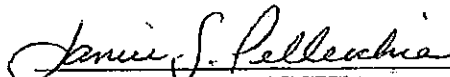
-vs-

**VERIFICATION OF
JANICE S. PELLECCCHIA
THE AMENDED COMPLAINT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

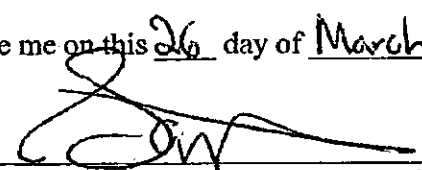
Third-Party Defendants.

I, JANICE S. PELLECCCHIA, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.

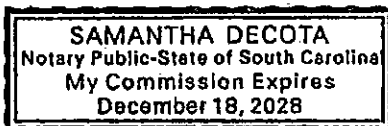

JANICE S. PELLECCCHIA

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared JANICE S. PELLECCCHIA, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 26 day of March 2019.


NOTARY PUBLIC, State of South Carolina at Large

My Commission Expires: Dec 18 2028



JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSLACK, ROBERT
WOLSTON, JAMES HAYES, STEVE
ANDREWS, RON LANDE, DAVE
PREZYVS, RIVERS REACH, AT
FOCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

Third-Party Defendants.

I, TOM BOLTON, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


TOM BOLTON

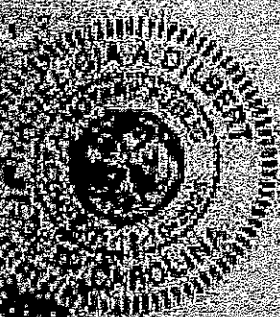
BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared TOM BOLTON, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 05th day of March, 2019.



NOTARY PUBLIC, State of South Carolina at Large

My Commission Expires: 12-10-2025



STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L. ATTRIDGE, ROBERT W. BANKOV, VIRGINIA J. BANKOV, TOM BOLTON, GUY I. COLLIER, NANCY L. COLLIER, RICHARD JAY COLEMAN, MARLENE COLEMAN, RUSSELL G. DIMKE, SANDRA A. DIMKE, JAMES G. GOODWIN JR., CAROL A. GOODWIN, GEORGE J. LOVETT, WILNA W. LOVETT, PETER MARZLUFF, DEBORAH C. MARZLUFF, GARY OKEY, NANCY OKEY, MICHAEL PELLECCCHIA, JANICE S. PELLECHIA, FRANK H. ROBERTS SR., RICHARD SWILPA, MICHELE GALLANT, PHYLLIS K. KAUPP-SEAS, ROBERT P. BRENDZA, and ROBIN E. BRENDZA individually and in their derivative capacity on behalf of BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-vs-

THE BOARD OF DIRECTORS OF BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION, INC.; BULL POINT SC, LLC; WILLIAM E. GAVIGAN; MICHAEL CAREY; and JAMES RIORDAN,

Defendants/Counterclaimants,

and

BULL POINT SC, LLC and WILLIAM E. GAVIGAN,

Third-Party Plaintiffs,

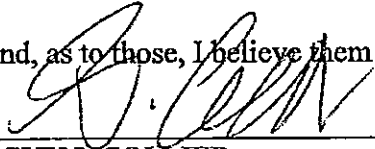
-vs-

**VERIFICATION OF
GUY I. COLLIER
THE AMENDED COMPLAINT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

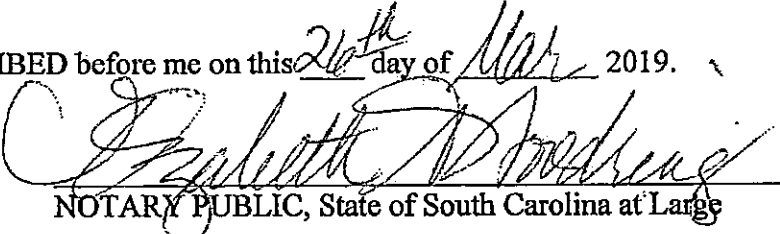
Third-Party Defendants.

I, GUY I. COLLIER, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


GUY I. COLLIER

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared GUY I. COLLIER, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 26th day of Mar 2019.


NOTARY PUBLIC, State of South Carolina at Large

My

Commission

Expires:

3/27/20



Elizabeth A. Woodring
NOTARY PUBLIC
State of South Carolina
My Commission Expires
March 27 2022

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L. ATTRIDGE, ROBERT W. BANKOV, VIRGINIA J. BANKOV, TOM BOLTON, GUY I. COLLIER, NANCY L. COLLIER, RICHARD JAY COLEMAN, MARLENE COLEMAN, RUSSELL G. DIMKE, SANDRA A. DIMKE, JAMES G. GOODWIN JR., CAROL A. GOODWIN, GEORGE J. LOVETT, WILNA W. LOVETT, PETER MARZLUFF, DEBORAH C. MARZLUFF, GARY OKEY, NANCY OKEY, MICHAEL PELLECCIA, JANICE S. PELLECCIA, FRANK H. ROBERTS SR., RICHARD SWILPA, MICHELE GALLANT, PHYLLIS K. KAUPP-SEAS, ROBERT P. BRENDZA, and ROBIN E. BRENDZA individually and in their derivative capacity on behalf of BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-VS-

THE BOARD OF DIRECTORS OF BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION, INC.; BULL POINT SC, LLC; WILLIAM E. GAVIGAN; MICHAEL CAREY; and JAMES RIORDAN,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E. GAVIGAN,

Third-Party Plaintiffs,

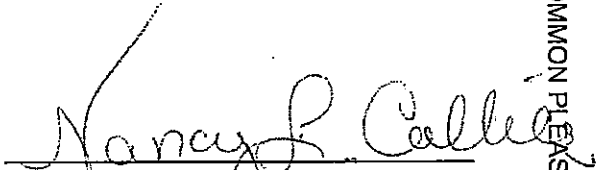
-VS-

**VERIFICATION OF
NANCY L. COLLIER
THE AMENDED COMPLAINT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

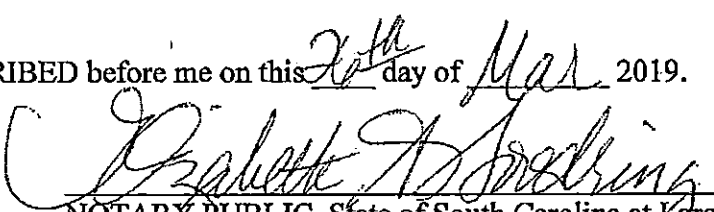
Third-Party Defendants.

I, NANCY L. COLLIER, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


NANCY L. COLLIER

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared NANCY L. COLLIER, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 20th day of Mar, 2019.

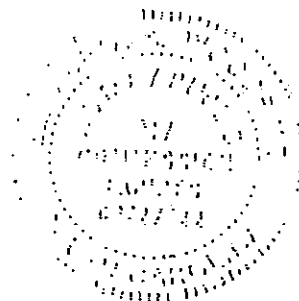

NOTARY PUBLIC, State of South Carolina at Large

3/27/22

My

Commission

Expires:



Elizabeth A. Woodring
NOTARY PUBLIC
State of South Carolina
My Commission Expires
March 27, 2022

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L. ATTRIDGE, ROBERT W. BANKOV, VIRGINIA J. BANKOV, TOM BOLTON, GUY I. COLLIER, NANCY L. COLLIER, RICHARD JAY COLEMAN, MARLENE COLEMAN, RUSSELL G. DIMKE, SANDRA A. DIMKE, JAMES G. GOODWIN JR., CAROL A. GOODWIN, GEORGE J. LOVETT, WILNA W. LOVETT, PETER MARZLUFF, DEBORAH C. MARZLUFF, GARY OKEY, NANCY OKEY, MICHAEL PELLECCIA, JANICE S. PELLECHIA, FRANK H. ROBERTS SR., RICHARD SWILPA, MICHELE GALLANT, PHYLLIS K. KAUPP-SEAS, ROBERT P. BRENDZA, and ROBIN E. BRENDZA individually and in their derivative capacity on behalf of BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-VS-

THE BOARD OF DIRECTORS OF BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION, INC.; BULL POINT SC, LLC; WILLIAM E. GAVIGAN; MICHAEL CAREY; and JAMES RIORDAN,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E. GAVIGAN,

Third-Party Plaintiffs,

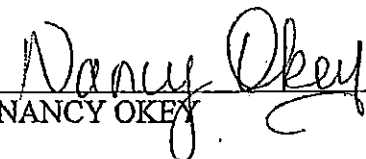
-VS-

**VERIFICATION OF
NANCY OKEY
THE AMENDED COMPLAINT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSLACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

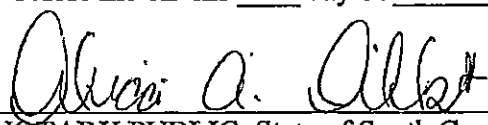
Third-Party Defendants.

I, NANCY OKEY, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


NANCY OKEY

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared NANCY OKEY, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 25th day of March 2019.


NOTARY PUBLIC, State of South Carolina at Large

My

Commission

Expires: 12-10-2025



STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L
ATTRIDGE, ROBERT W. BANKOV,
VIRGINIA J. BANKOV, TOM BOLTON,
GUY I. COLLIER, NANCY L. COLLIER,
RICHARD JAY COLEMAN, MARLENE
COLEMAN, RUSSELL G. DIMKE,
SANDRA A. DIMKE, JAMES G.
GOODWIN JR., CAROL A. GOODWIN,
GEORGE J. LOVETT, WILNA W.
LOVETT, PETER MARZLUFF, DEBORAH
C. MARZLUFF, GARY OKEY, NANCY
OKEY, MICHAEL PELLECCIA, JANICE
S. PELLECHIA, FRANK H. ROBERTS SR.,
RICHARD SWILPA, MICHELE
GALLANT, PHYLLIS K. KAUPP-SEAS,
ROBERT P. BRENDZA, and ROBIN E.
BRENDZA individually and in their
derivative capacity on behalf of BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-VS-

THE BOARD OF DIRECTORS OF BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.; BULL
POINT SC, LLC; WILLIAM E. GAVIGAN;
MICHAEL CAREY; and JAMES
RIORDAN,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E.
GAVIGAN,

Third-Party Plaintiffs,

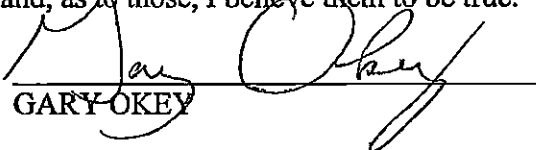
-VS-

**VERIFICATION OF
GARY OKEY
THE AMENDED COMPLAINT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

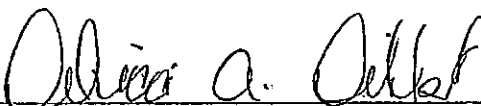
Third-Party Defendants.

I, GARY OKEY, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


GARY OKEY

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared GARY OKEY, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

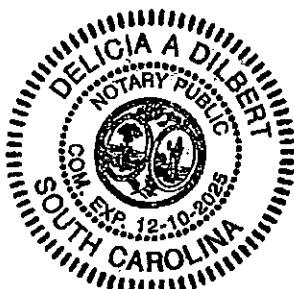
SWORN AND SUBSCRIBED before me on this 8th day of March 2019.


NOTARY PUBLIC, State of South Carolina at Large

My

Commission

Expires: 12-10-2025



STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

JON H. ATTRIDGE and JANET L.
ATTRIDGE, ROBERT W. BANKOV,
VIRGINIA J. BANKOV, TOM BOLTON,
GUY I. COLLIER, NANCY L. COLLIER,
RICHARD JAY COLEMAN, MARLENE
COLEMAN, RUSSELL G. DIMKE,
SANDRA A. DIMKE, JAMES G.
GOODWIN JR., CAROL A. GOODWIN,
GEORGE J. LOVETT, WILNA W.
LOVETT, PETER MARZLUFF, DEBORAH
C. MARZLUFF, GARY OKEY, NANCY
OKEY, MICHAEL PELLECCIA, JANICE
S. PELLECHIA, FRANK H. ROBERTS SR.,
RICHARD SWILPA, MICHELE
GALLANT, PHYLLIS K. KAUPP-SEAS,
ROBERT P. BRENDZA, and ROBIN E.
BRENDZA individually and in their
derivative capacity on behalf of BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-VS-

THE BOARD OF DIRECTORS OF BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.; BULL
POINT SC, LLC; WILLIAM E. GAVIGAN;
MICHAEL CAREY; and JAMES
RIORDAN,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E.
GAVIGAN,

Third-Party Plaintiffs,

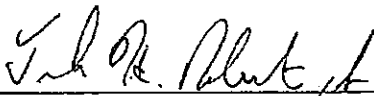
-VS-

**VERIFICATION OF
FRANK S. ROBERTS SR.
THE AMENDED COMPLAINT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

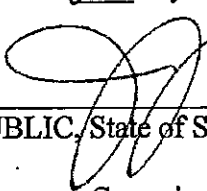
Third-Party Defendants.

I, FRANK S. ROBERTS SR, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


FRANK S. ROBERTS SR.

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared FRANK S. ROBERTS SR., who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 26th day of March 2019.


NOTARY PUBLIC, State of South Carolina at Large

My

Commission

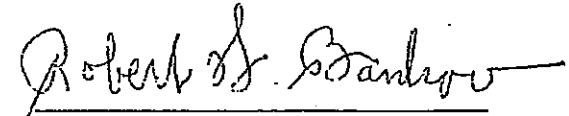
Expires:

6/16/2026

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

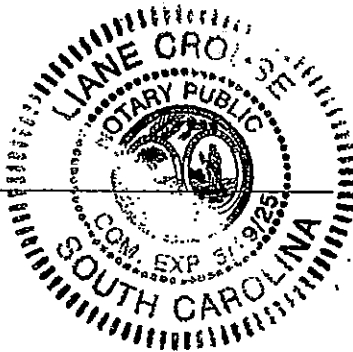
Third-Party Defendants.

I, ROBERT W. BANKOV, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.


ROBERT W. BANKOV

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared ROBERT W. BANKOV, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 26 day of March 2019.

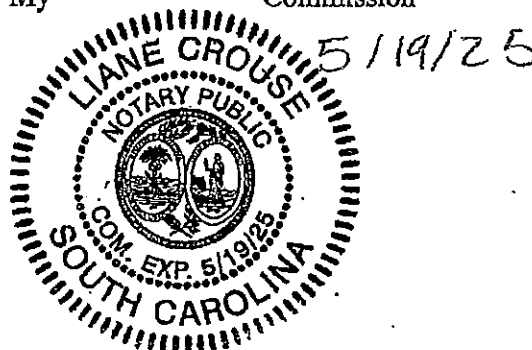



NOTARY PUBLIC, State of South Carolina at Large

My

Commission

Expires:



JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT
WOLFSON, JAMES HAYES, STEVE
ANDREWS, RON LAMBE, DAVE
PREZVYS, RIVERS REACH AT
POCOTALIGO, LLC, RIVERS REACH
REALTY, LLC AND JOHN DOES 1-10,

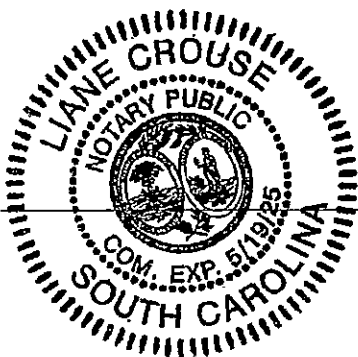
Third-Party Defendants.

I, VIRGINIA J. BANKOV, first being duly sworn, depose, and upon their oath say that I have read the Verified Amended Complaint in this case and, further, that the averments, as set forth in the Verified Amended Complaint are true and correct, based upon my own knowledge, except to those matters that stated on information and belief, and, as to those, I believe them to be true.

Virginia J. Bankov
VIRGINIA J. BANKOV

BEFORE ME THE UNDERSIGNED AUTHORITY, personally appeared VIRGINIA J. BANKOV, who being first duly sworn on oath, state that they signed the above Verification and that all statements are true and correct to the best of their knowledge.

SWORN AND SUBSCRIBED before me on this 26 day of March 2019.



[Signature]
NOTARY PUBLIC, State of South Carolina at Large

My

Commission

Expires:

5/19/25

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

) IN THE COURT OF COMMON PLEAS
) FOURTEENTH JUDICIAL CIRCUIT
) Civil Action No. 2018-CP-07-2345

JON H. ATTRIDGE and JANET L
ATTRIDGE, ROBERT W. BANKOV,
VIRGINIA J. BANKOV, TOM BOLTON,
GUY I. COLLIER, NANCY L. COLLIER,
RICHARD JAY COLEMAN, MARLENE
COLEMAN, RUSSELL G. DIMKE,
SANDRA A. DIMKE, JAMES G.
GOODWIN JR, CAROL A. GOODWIN,
GEORGE J. LOVETT, WILNA W.
LOVETT, PETER MARZLUFF,
DEBORAH C. MARZLUFF, GARY
OKEY, NANCY OKEY, MICHAEL
PELLECCIA, JANICE S. PELLECHIA,
FRANK H. ROBERTS SR., RICHARD
SWILPA, MICHELE GALLANT,
PHYLLIS A. KAUPP-SEAS, ROBERT P.
BRENDZA, and ROBIN E. BRENDZA
individually and in their derivative capacity
on behalf of BULL POINT PLANTATION
PROPERTY OWNERS ASSOCIATION,
INC.,

Plaintiffs/Counterclaim Defendants,

vs

THE BOARD OF DIRECTORS OF BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.; BULL
POINT SC, LLC; WILLIAM E.
GAVIGAN; MICHAEL CAREY;
CHRISTOPHER J. QUICK; JAMES
RIORDAN, DB ASTER, LLC, and GSI,
LLC,

Defendants/Counterclaimants,

and

BULL POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC., BULL

**ANSWER OF DEFENDANTS TO THE
AMENDED COMPLAINT**

AND

**COUNTERCLAIMS AND THIRD-
PARTY COMPLAINTS OF BULL
POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.
WILLIAM E. GAVIGAN, BULL POINT
SC, LLC, AND GSI, LLC**

(JURY TRIAL REQUESTED)

POINT SC, LLC, GSI, LLC and WILLIAM	)
E. GAVIGAN,	)
	)
Third-Party Plaintiffs,	)
	)
vs	)
	)
STEVE ANDREWS, HARRIET	)
BOSIACK, JOSEPH P. D'AMBROSIO,	)
MARY D'AMBROSIO, TODD BAKER,	)
JAMES HAYES, RON LAMBE,	)
MICHAEL POWERS, DAVE PRZYBYS,	)
ROBERT WOLFSON, HUSPAH	)
PROPERTIES, LLC, RIVERS REACH AT	)
POCOTALIGO, LLC, RIVERS REACH	)
REALTY, LLC AND JOHN DOES 1-10,	)
	)
Third-Party Defendants.	)

NOW COME Defendants MICHAEL CAREY, WILLIAM E. GAVIGAN, CHRISTOPHER J. QUICK, and JAMES RIORDAN (the "Individual Defendants"), and BULL POINT SC, LLC ("Bull Point SC") and GSI, LLC (collectively "Defendants" and "Answering Parties") and answer the Amended Complaint of Plaintiffs, denying all allegations not specifically admitted, and stating as follows:

INTRODUCTION

The gravamen of the Amended Complaint relates to the effort of a very small minority of members of Bull Point Plantation Property Owners Association, Inc. (the "POA") to violate the laws of South Carolina and further a conspiracy to enrich themselves at the expense of their neighbors. They have also unlawfully conspired to use the funds of the POA to wrest control of the development from successive Declarants, including Bull Point SC, LLC, and as evidenced by this lawsuit, they continue to do so. The actions of Plaintiffs, and of other related Third-Party

Defendants, have unlawfully injured some of the Defendants, who assert counterclaims against the Plaintiffs and Third-Party claims against other parties who are Third-Party Defendants.

Specifically, Plaintiffs attempt to assert the following nine (9) causes of action in their Amended Complaint:

1. A request for a Declaratory Judgment related to the "Contingency Fund," which is described, and which some Plaintiffs have sought to use for their own private, illegal, and improper purposes.
2. A request for an Injunction related to the Contingency Fund, designed to permit some Plaintiffs to assert control over the Contingency Fund for their own private, illegal, and improper purposes.
3. A request for an Accounting related to the accounting records, which have already been made available to Plaintiffs in discovery, and also prior to this lawsuit.
4. A cause of action that appears to request injunctive relief to allow Plaintiffs to review documents that have already been made available to them.
5. A request for a Declaratory Judgment related to the status of Bull Point SC, LLC, GSI, LLC, and DB Aster, LLC, in their respective roles as the "Declarant" of the development. In attacking the actions of these parties, at least some of the Plaintiffs appear to contradict their own prior sworn testimony as to the identity of the "Declarant," and are estopped from offering contradictory sworn statements in support of their various claims.
6. A request for a Declaratory Judgment related to the election of the Board of Directors. In attempting to support this claim, Plaintiffs omit, misrepresent, or ignore important sections of the law and of the governing documents.
7. A request for a Declaratory Judgment, via two separate causes of action (the Seventh and Eighth), related to the enactment of the Eighteenth Amendment to the Declarations, in which a minority party represented by Plaintiffs seek to control the "Contingency Fund" in a manner to benefit themselves at the expense of their neighbors and other members, including attempts to remove money from the fund across state lines and assert control over the fund without POA oversight.
8. A request for a Declaratory Judgment requiring Bull Point SC, LLC to pay assessments, presumably pursuant to a finding that Bull Point SC, LLC is not the Declarant.

These allegations and causes of action are groundless and should be dismissed with prejudice.

BACKGROUND

Bull Point Plantation is a 700-acre waterfront residential community located in Beaufort County, South Carolina. Since 1995, the community has been governed by certain covenants, conditions and restrictions (“CCRs” or “Declarations”), which give to the developer/declarant certain enumerated powers under the CCRs (hereafter the “Declarant Rights”), and all owners belong to a non-profit corporation that is the property owners association, or POA.

In 2012, the original developer and Declarant, Bull Point, LLC, lost Bull Point Plantation through foreclosure. Shortly thereafter, it was compelled to assign the Declarant Rights to a subsidiary of the party that purchased Bull Point. In the years following, the community and the Declarant Rights were owned, respectively, by: (1) Bull Point, LLC, (2) DB Aster, LLC, (3) GSI, LLC, and (4) Bull Point SC, LLC. GSI, LLC and Bull Point SC, LLC are companies owned directly or indirectly by William Gavigan.

For more than a decade and continuing through the present, a small minority of owners have come together to acquire the property rights and Declarant Rights to Bull Point Plantation. Their actions, not all of which were lawful, included: creating a shadow entity that was named similar to the POA (i.e., the “Shadow POA”), opening up bank accounts in the name of the Shadow POA, filing lawsuits purportedly on behalf of the POA but which were in a name other than the POA, recording documents purportedly on behalf of the POA but which were in a name other than the POA, and spending POA monies for non-POA purposes, including for the personal enrichment of some of the plaintiffs.

After DB Aster, LLC, and GSI, LLC entered into a contract for GSI to purchase Bull Point, Plaintiffs and Third-Party Defendants took steps to interfere with the purchase. This included making defamatory statements intended to harm Gavigan. After the purchase occurred, Plaintiffs and Third-Party Defendants took steps to interfere with Gavigan's ability to manage Bull Point. This has included filing multiple civil actions, including the within action, filing multiple complaints with regulatory agencies to obstruct him, and harassing his personnel.

ANSWER TO VERIFIED AMENDED COMPLAINT

1. In Paragraph 1 of Plaintiffs' Amended Complaint, Plaintiffs attempt to identify themselves. It is denied that each of them have proper standing as a "member" of the POA. Further, Defendants deny that Plaintiffs are acting in a derivative fashion, because (1) they have failed to satisfy the elements of Rule 23(b)(1), SCRCF, including, but not limited to, the failure to satisfy the demand requirements, (2) Plaintiffs do not fairly and adequately represent the interests of the members similarly situated in enforcing the right of the POA because of the selfish motives underlying their pursuit of this litigation, and (3) Plaintiffs do not meet the requirements of contemporaneous and continuing membership. Unless otherwise admitted, the remaining allegations in Paragraph 1 of Plaintiffs' Amended Complaint are denied.

2. Defendants admit that the POA is a South Carolina non-profit corporation and is located in Beaufort County, South Carolina. Unless otherwise admitted, the remaining allegations in Paragraph 2 of Plaintiffs' Amended Complaint are denied.

3. Defendants admit that Bull Point SC, LLC is a South Carolina limited liability company and is the Declarant of Bull Point Plantation. Unless otherwise admitted, the remaining allegations in Paragraph 3 of Plaintiffs' Amended Complaint are denied.

4. Defendants admit that William Gavigan is the Managing Member of Bull Point SC, LLC and that he resides in South Carolina.

5. Defendants admit the allegations of Paragraph 5 that the Individual Defendants were or are members of the POA's Board of Directors, although not all of them were officers of the POA at all relevant times. Unless otherwise admitted, the remaining allegations in Paragraph 5 of Plaintiffs' Amended Complaint are denied.

PLAINTIFFS' BACKGROUND ALLEGATIONS

6. With regard to Paragraphs 6 and 7 of the Amended Complaint, this Court has ruled that Plaintiffs must include GSI, LLC and DB Aster, LLC, as "necessary parties" given the nature of their allegations and causes of action.

7. With regard to Paragraphs 8 through 11 of the Amended Complaint, the Bull Point Plantation is a 700-acre waterfront residential community located in Beaufort County, South Carolina. Since 1995, the community has been governed by "CCRs" or "Declarations," which give to the developer/declarant certain enumerated powers under the "Declarant Rights," and all owners belong to a non-profit corporation that is the property owners association, or POA. Bull Point SC, LLC is bound by the Declarations, although "the current Declarations" to Bull Point Plantation include the Declaration of Covenants, Conditions and Restrictions for Bull Point Plantation adopted and recorded September 26, 1995, and *all* amendments recorded subsequent thereto. Defendants deny and demand strict proof of the remaining allegations in Paragraphs 8 through 11 of the Amended Complaint.

8. Defendants deny the allegations of Paragraph 12 of the Amended Complaint. Specifically, Defendants deny that "the Members of the Association have contributed to the Contingency Fund." There is no mechanism in the Declaration for members to contribute to a

fund. Rather, at all times relevant hereto, the POA has maintained a capital contribution or reserve account, which account was defined as the "Contingency Fund" with the adoption of the Fifteenth Amendment.¹ At all times, all funds deposited into the capital contribution or reserve account and/or Contingency Fund were by way of the POA's annual assessment process.

9. Defendants admit in part and deny in part the allegations of Paragraph 13 of the Amended Complaint. It is admitted that there was a meeting of the Board of Directors on September 29, 2018 and, further, that the Board approved certain funding. It is denied that any actions were done on behalf of Gavigan and/or Declarant.

10. Defendants admit in part and deny in part the allegations of Paragraph 14 of the Amended Complaint. It is admitted that there was a meeting of the Board of Directors on September 29, 2018 and, further, that the Board approved certain funding.

11. Defendants admit that there was a meeting of the Board of Directors on or about November 16, 2018. Unless otherwise admitted, the remaining allegations in Paragraph 15 of Plaintiffs' Amended Complaint are denied.

12. Defendants admit that the Eighteenth Amendment to the Declarations deleted the Fifteenth Amendment. Unless otherwise admitted, the remaining allegations in Paragraph 16 of Plaintiffs' Amended Complaint are denied.

¹ There are *two* amendments entitled "FIFTEENTH AMENDMENT TO DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BULL POINT PLANTATION." The first document entitled Fifteenth Amendment is dated November 12, 2009 and was recorded on March 18, 2010. The second document entitled Fifteenth Amendment is dated October 10, 2011 and was recorded on October 24, 2011. The document referred to in this pleading is the *second* Fifteenth Amendment.

A. Amendment of the Declarations.

13. With regard to Paragraphs 17 through 20 of the Amended Complaint, the documents referenced by Plaintiffs speak for themselves. Bull Point SC, LLC is the Declarant of the Bull Point development. Unless otherwise admitted, the remaining allegations in Paragraphs 17 through 20 of the Amended Complaint are denied.

B. Amendment of the Declarations.

14. With regard to Paragraphs 21 through 26 of the Amended Complaint, the documents and statutes referenced by Plaintiffs speak for themselves. Otherwise, Plaintiffs vainly attempt to allege that Defendants breached their obligations as members of the Board of Directors through a series of self-serving but otherwise baseless allegations. Unless otherwise admitted, the remaining allegations in Paragraphs 21 through 26 of the Amended Complaint are denied.

C. Inspections of Association Records.

15. With regard to Paragraphs 27 through 33 of the Amended Complaint, the documents and statutes referenced by Plaintiffs speak for themselves. Otherwise, Plaintiffs curiously and disingenuously omit from their allegations that the documents they purportedly seek have been made available through the discovery process as governed by the South Carolina Rules of Civil Procedure. Unless otherwise admitted, the remaining allegations in Paragraphs 27 through 33 of the Amended Complaint are denied.

D. Bull Point POA Derivative Action Allegations.

16. With regard to Paragraphs 34 through 43 of the Amended Complaint, the documents and statutes referenced by Plaintiffs speak for themselves. Otherwise, Defendants deny that Plaintiffs are acting in a derivative fashion, because (1) they have failed to satisfy the elements of Rule 23(b)(1), SCRCF, including, but not limited to, the failure to satisfy the demand

requirements, (2) Plaintiffs do not fairly and adequately represent the interests of the members similarly situated in enforcing the right of the POA because of the selfish motives underlying their pursuit of this litigation, and (3) Plaintiffs do not meet the requirements of contemporaneous and continuing membership. Unless otherwise admitted, the remaining allegations in Paragraphs 34 through 43 of the Amended Complaint are denied.

JURISDICTION AND VENUE

17. With regard to Paragraphs 44 through 45 of the Amended Complaint, to the extent Plaintiffs have raised justiciable claims, the Defendants do not object to jurisdiction and venue in this Court. Unless otherwise admitted, the remaining allegations in Paragraphs 44 through 45 of the Amended Complaint are denied.

FIRST CAUSE OF ACTION
(DECLARATORY JUDGMENT AS TO THE CONTINGENCY FUND)

18. Defendants incorporate their responses to Plaintiffs' previous allegations as if fully set forth herein.

19. Defendants deny the allegations set forth in Paragraphs 46 through 49 of the Amended Complaint.

SECOND CAUSE OF ACTION
(INJUNCTION AS TO THE CONTINGENCY FUND)

20. Defendants incorporate their responses to Plaintiffs' previous allegations as if fully set forth herein.

21. Defendants deny the allegations set forth in Paragraphs 50 through 53 of the Amended Complaint.

THIRD CAUSE OF ACTION
(ACCOUNTING)

22. Defendants incorporate their responses to Plaintiffs' previous allegations as if fully set forth herein.

23. Defendants deny the allegations set forth in Paragraphs 54 through 56 of the Amended Complaint.

FOURTH CAUSE OF ACTION
(ALLEGED FAILURE TO ALLOW INSPECTION AND COPYING)

24. Defendants incorporate their responses to Plaintiffs' previous allegations as if fully set forth herein.

25. Defendants deny the allegations set forth in Paragraphs 57 through 61 of the Amended Complaint.

FIFTH CAUSE OF ACTION
(DECLARATORY JUDGMENT AS TO THE DECLARANT)

26. Defendants incorporate their responses to Plaintiffs' previous allegations as if fully set forth herein.

27. Defendants state that Declarant rights were properly assigned among the sequential Declarants, including Bull Point SC, LLC. Unless otherwise admitted, the remaining allegations in Paragraphs 62 through 70 of the Amended Complaint are denied.

SIXTH CAUSE OF ACTION
(DECLARATORY JUDGMENT AS TO THE ELECTION OF DIRECTORS)

28. Defendants incorporate their responses to Plaintiffs' previous allegations as if fully set forth herein.

29. Defendants deny the allegations set forth in Paragraphs 71 through 75 of the Amended Complaint.

SEVENTH CAUSE OF ACTION
(DECLARATORY JUDGMENT AS TO THE AMENDMENT OF THE DECLARATIONS)

30. Defendants incorporate their responses to Plaintiffs' previous allegations as if fully set forth herein.

31. Defendants deny the allegations set forth in Paragraphs 76 through 79 of the Amended Complaint.

EIGHTH CAUSE OF ACTION
(DECLARATORY JUDGMENT AS TO THE AMENDMENT OF THE DECLARATIONS)

32. Defendants incorporate their responses to Plaintiffs' previous allegations as if fully set forth herein.

33. Defendants deny the allegations set forth in Paragraphs 80 through 82 of the Amended Complaint.

NINTH CAUSE OF ACTION
(DECLARATORY JUDGMENT AS TO THE ASSESSMENTS)

34. Defendants incorporate their responses to Plaintiffs' previous allegations as if fully set forth herein.

35. Defendants deny the allegations set forth in Paragraphs 83 through 87 of the Amended Complaint.

NOW THEREFORE, having fully answered the allegations in Plaintiffs' Complaint, the Defendants now set forth their **DEFENSES AND AFFIRMATIVE DEFENSES**:

FIRST DEFENSE
(SCRCP, Rule 12(b)(6))

1. Defendants aver that Plaintiffs' Complaint, and each cause of action therein, fails to state facts sufficient to constitute a cause of action pursuant to South Carolina Rules of Civil Procedure, Rule 12(b)(6).

SECOND DEFENSE
(Waiver, Estoppel, Laches, and the Statute of Limitations)

2. Defendants aver that Plaintiffs' Complaint, and each cause of action therein, are barred by the doctrines of waiver, estoppel, laches, and the applicable Statute of Limitations.

THIRD DEFENSE
(Ratification and Acquiescence)

3. Defendants aver that Plaintiffs' Complaint, and each cause of action therein, are barred by the doctrines of ratification and acquiescence.

FOURTH DEFENSE
(Unclean Hands)

4. Defendants aver that Plaintiffs' Complaint, and each cause of action therein, are barred by the unclean hands of Plaintiffs.

FIFTH DEFENSE
(Business Judgement Rule)

5. Defendants aver that Plaintiffs are barred from relief or recovery, in any capacity, pursuant to the Business Judgment Rule.

SIXTH DEFENSE
(Reasonable Business Purpose)

6. Defendants aver that Plaintiffs' claims are barred on the ground that all actions taken by Defendants was for a legitimate and reasonable business purpose.

SEVENTH DEFENSE
(Lack of Standing)

7. Defendants aver that one or more Plaintiffs lack standing to maintain this action and, therefore, it must be dismissed.

8. Defendants reserve any additional and further defenses as may be revealed by additional information during the course of discovery and investigation, and as is consistent with the applicable Rules of Civil Procedure.

COUNTERCLAIMS AND THIRD-PARTY COMPLAINT

NOW THEREFORE, having fully answered the Verified Amended Complaint, Defendants pray that the Verified Amended Complaint be dismissed with costs, and for such other and further relief as the Court deems appropriate, Defendants GAVIGAN and BULL POINT SC, LLC set forth their COUNTERCLAIMS, and Third-Party Plaintiffs BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION, INC., WILLIAM E. GAVIGAN, BULL POINT SC, LLC, and GSI, LLC allege their THIRD-PARTY COMPLAINT as follows:

GENERAL ALLEGATIONS

PARTIES

1. BULL POINT SC, LLC ("Bull Point SC") is, and at all relevant times herein mentioned was, a limited liability company duly organized and existing under the laws of the State of South Carolina, with its registered agent located at 270 W. Coleman Boulevard, Mount Pleasant, South Carolina 29464.

2. GSI, LLC ("GSI") is, and at all relevant times herein mentioned was, a limited liability company duly organized and existing under the laws of the State of South Carolina, with its registered agent located at 270 W. Coleman Boulevard, Mount Pleasant, South Carolina 29464.

3. WILLIAM E. GAVIGAN ("Gavigan") is, and at all relevant times herein mentioned was, a resident of South Carolina, with a mailing address of 2216 Moss Street, Beaufort, South Carolina 29902.

4. BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION (the "Shadow POA") was at all relevant times herein mentioned a South Carolina non-profit corporation, currently dissolved, with its principal place of business located at 114 Bull Point Drive, Seabrook, SC 29940.²

5. HUSPAH PROPERTIES, LLC ("Huspah Properties") is, and at all relevant times herein mentioned was, a South Carolina limited liability company, currently dissolved, with its principal place of business located at 101 Bull Point Drive, Seabrook, SC 29940.

6. RIVERS REACH AT POCOTALIGO, LLC ("Rivers Reach at Pocotaligo") is, and at all relevant times herein mentioned was, a South Carolina limited liability company, with its principal place of business located at 166 Bull Point Drive, Seabrook, SC 29940, and a former member of the POA.

7. RIVERS REACH REALTY, LLC ("Rivers Reach Realty") is, and at all relevant times herein mentioned was, a South Carolina limited liability company, with its principal place of business located at 166 Bull Point Drive, Seabrook, SC 29940.

8. STEVEN ANDREWS is a licensed engineer and ANDREWS ENGINEERING, INC. is a South Carolina corporation with a registered place of business at 2712 Bull Street, Beaufort, South Carolina 29902.

² As alleged, *infra*, Bull Point Plantation Property Owners Association (the "Shadow POA") is *not* the same entity as Bull Point Plantation Property Owners Association, Inc. (the "POA").

9. JON H. ATTRIDGE and JANET L. ATTRIDGE (collectively the "Attridges") are husband and wife and at all relevant times herein mentioned were residents of South Carolina, with a mailing address of 78 Tomotley Baroney Drive, Seabrook, South Carolina 29940, and a member of Huspah Properties LLC.

10. ROBERT WILLIAM BANKOV and VIRGINIA JEANNETTE BANKOV (the "Bankovs") are husband and wife at all relevant times herein mentioned were the owners of Lot 190, Bull Point Plantation.

11. TOM BOLTON ("Bolton") is, and at all relevant times herein mentioned was, a resident of South Carolina, with a mailing address of 170 Bull Point Drive Seabrook, SC 29940, and a member of Huspah Properties LLC.

12. HARRIET BOSIACK ("Bosiack") is, and at all relevant times herein mentioned was, a resident of South Carolina, with a mailing address of 218 Bull Point Drive, Seabrook, SC 29940.

13. ROBERT BRENDZA and ROBIN E. BRENDZA (the "Brendzas") are husband and wife and at all relevant times herein mentioned were residents of South Carolina, with a mailing address of 158 Bull Point Drive, Seabrook, South Carolina 29940, and a member of Huspah Properties LLC.

14. RICHARD JAY COLEMAN and MARLENE COLEMAN (collectively the "Colemans") are husband and wife and at all relevant times herein mentioned were residents of South Carolina, with a mailing address of 121 Bull Point Drive, Seabrook, SC 29940, and a member of Huspah Properties LLC.

15. GUY I. COLLIER and NANCY L. COLLIER (collectively the "Colliers") are husband and wife and at all relevant times herein mentioned were residents of South Carolina,

with a mailing address of 90 Tomotley Baroney Drive, Seabrook, South Carolina 29940, and a member of Huspah Properties LLC, and a member of Huspah Properties LLC.

16. JOSEPH P. D'AMBROSIO and MARY D'AMBROSIO (collectively the "D'Ambrosios") are husband and wife and at all relevant times herein mentioned were residents of South Carolina with a mailing address of 83 Barnaby Bluff Road, Seabrook, South Carolina 29940. TODD BAKER is also a resident of South Carolina and has acted in concert with the D'Ambrosios.

17. RUSSELL G. DIMKE and SANDRA A. DIMKE (collectively the "Dimkes") are husband and wife and at all relevant times herein mentioned were residents of South Carolina, with a mailing address of 80 Tomotley Baroney Drive, Seabrook, South Carolina 29940, and a member of Huspah Properties LLC.

18. JAMES G. GOODWIN JR. and CAROL A. GOODWIN (collectively the "Goodwins") are husband and wife and at all relevant times herein mentioned were residents of South Carolina, with a mailing address of 164 Bull Point Drive, Seabrook, South Carolina 29940, and a member of Huspah Properties LLC.

19. JAMES HAYES ("Hayes") is, and at all relevant times herein mentioned was, a resident of South Carolina, with a mailing address of 500 Candida Dr., Beaufort, South Carolina 29906.

20. PHYLLIS K. KAUPP-SEAS ("Kaupp-Seas") is, and at all relevant times herein mentioned was, a resident of South Carolina, with a mailing address of 226 Bull Point Drive, Seabrook, SC 29940.

21. RON LAMBE ("Lambe") is, and at all relevant times herein mentioned was, a resident of South Carolina, with a mailing address of 115 Bull Point Drive, Seabrook, South Carolina 29940, and a member of Huspah Properties LLC.

22. GEORGE J. LOVETT and WILNA W. LOVETT (collectively the "Lovetts") are husband and wife and at all relevant times herein mentioned were residents of South Carolina, with a mailing address of 191 Bull Point Drive, Seabrook, South Carolina 29940, and a member of Huspah Properties LLC.

23. PETER MARZLUFF and DEBORAH C. MARZLUFF (collectively the "Marzluffs") are husband and wife and at all relevant times herein mentioned were residents of South Carolina, with a mailing address of 242 Bull Point Drive, Seabrook, South Carolina 29940, and a member of Huspah Properties LLC.

24. GARY OKEY and NANCY OKEY (collectively the "Okeys") are husband and wife and at all relevant times herein mentioned were residents of South Carolina, with a mailing address of 70 Bull Point Drive, Seabrook, South Carolina 29940, and a member of Huspah Properties LLC.

25. MICHAEL PELLECCCHIA and JANICE S. PELLECHIA (collectively the "Pellacchias") are husband and wife and at all relevant times herein mentioned were residents of South Carolina, with a mailing address of 171 Bull Point Drive, Seabrook, South Carolina 29940, and a member of Huspah Properties LLC.

26. MICHAEL POWERS ("Powers") is, and at all relevant times herein mentioned was, a resident of South Carolina, with a mailing address of 101 Bull Point Drive, Seabrook, South Carolina 29940.

27. FRANK H. ROBERTS SR. ("Roberts") is, and at all relevant times herein mentioned was, a resident of South Carolina, with a mailing address of 148 Bull Point Drive, Seabrook, South Carolina 29940.

28. RICHARD SWILPA ("Swilpa") is, and at all relevant times herein mentioned was, a resident of South Carolina, with a mailing address of 168 Bull Point Drive, Seabrook, SC 29940.

29. DAVE PRZYBYS ("Przybys") is, and at all relevant times herein mentioned was, a resident of South Carolina, with a mailing address of 164 Bella Way, Beaufort, SC 29906.

30. ROBERT WOLFSON ("Wolfson") is, and at all relevant times herein mentioned was, a resident of South Carolina, with a mailing address of 166 Bull Point Drive, and was at certain relevant times a principal, among others, of Bull Point, LLC and Old South Properties, Inc., and counter-defendants Huspah Properties, LLC, Rivers Reach Realty, LLC, and Rivers Reach at Pocataligo, LLC.

History of the Declarancy of Bull Point Plantation

31. On January 20, 1995, Bull Point LLC was formed as a South Carolina limited liability company. This company was owned by various parties during the early development of Bull Point Plantation but is now a Gavigan-affiliated company.

32. On January 23, 1995, Metropolitan Properties, Inc. acquired the first tract that would become Bull Point Plantation.

33. On September 22, 1995, Bull Point LLC and Metropolitan Properties, Inc., recorded the Declaration of Covenants, Conditions and Restrictions for Bull Point Plantation (the "Declaration").

34. Between December 14, 1995 and July 24, 1997, Bull Point LLC and Metropolitan Properties, Inc. recorded six numbered amendments. Thereafter, Bull Point LLC alone was the Declarant to Bull Point Plantation.

35. Prior to 2012, Bull Point LLC encumbered its interests in Bull Point Plantation with one or more financial institutions, including BB&T, which debt ultimately was acquired by German American Capital Corporation ("GACC"), a Pennsylvania corporation.

36. Bull Point LLC failed to honor its commitments and on February 21, 2012, it filed a voluntary petition for bankruptcy. Based thereon, GACC moved to foreclose on the property.

37. On January 23, 2012, Bull Point, LLC's interest in Bull Point Plantation was sold at public auction to GACC. On July 5, 2012, the United States Marshall executed that *Deed by Judicial Order*, which Deed was recorded on July 9, 2012, in Book 03156, at Pages 0955-0967. Subsequently, GACC transferred its interest in Bull Point to defendant DB ASTER, LLC, a Pennsylvania limited liability company and wholly owned subsidiary of GACC.

38. On December 28, 2012, Bull Point LLC and DB Aster, LLC executed that *Assignment of Rights Under Declaration*, pursuant to which Bull Point, LLC transferred to DB Aster the Declarant Rights to Bull Point Plantation. The Assignment was recorded on January 8, 2013, in Book 03205, at Pages 2101-2104.

39. On February 23, 2016, defendant DB Aster (the "Seller") and defendant and Third-Party Plaintiff GSI, LLC (the "Buyer") entered into that written agreement entitled Purchase and Sale Agreement (the "Purchase Agreement") pursuant to which GSI contracted to purchase, among other things, twenty-seven (27) improved, single-family, residential lots, one hundred fifty-three (153) undeveloped acres, and certain intangible personal property, including the Declarant Rights.

40. The purchase of DB Aster's interest in Bull Point did not occur as contracted and GSI, LLC commenced an action, among other things, for specific performance.

41. On or about August 10, 2017, GSI and DB Aster entered into an amended written agreement, pursuant to which agreement GSI agreed to pay to DB Aster, LLC the sum of \$1.2 million for the real, personal and intangible property referenced above.

42. Effective August 18, 2017, DB Aster, LLC transferred to GSI, LLC executed that *Title to Real Estate*, pursuant to which it transferred to GSI, LLC all its rights, title and interest in and to that real property referenced in Paragraph 39 above. This document was recorded on August 21, 2017, in Book 3600, at Pages 2571-2578.

43. On August 18, 2017, DB Aster, LLC and GSI, LLC also executed that *Assignment of Rights Under Declaration*, pursuant to which DB Aster, LLC transferred to GSI, LLC the Declarant Rights to Bull Point Plantation. The Assignment was recorded on August 21, 2017, in Book 3600, at Pages 2579-2586.

44. On August 21, 2017, GSI, LLC executed that *Title to Real Estate*, pursuant to which it transferred to Bull Point SC, LLC all of its rights, title and interest in and to that real property referenced in Paragraph 39 above, excepting Lots 170 and 260. This document was recorded on August 21, 2017, in Book 3600, at Pgs. 2594-2600.

45. On August 21, 2017, GSI, LLC also executed that document entitled *Assignment of Rights Under Declaration*, pursuant to which GSI, LLC transferred to Bull Point SC, LLC the Declarant Rights to Bull Point Plantation.

46. This Assignment was recorded on August 21, 2017, in Book 3600, at Pgs. 2641-2643.

The Unauthorized Formation of a "Shadow POA" Entity

47. As alleged further herein below, a small minority of owners has sought to wrest control of Bull Point Plantation, both its real property and the Declarant Rights, from the developer/Declarant. These efforts often were improper and illegal. As alleged below, this included the formation of another South Carolina nonprofit corporation that was named similarly, but not identically, to the POA. These dissident minority owners subsequently and wrongly used this shadow entity to advance their interest in obtaining control at Bull Point Plantation.

48. On January 2, 2007, Nonprofit Corporation Articles of Incorporation were filed with the South Carolina Secretary of State for a new entity called the "Bull Point Plantation Property Owners Association" (hereafter the "Shadow POA"). The Articles of Incorporation were purportedly signed by Stancel Kirkland.

49. The Articles of Incorporation for the Shadow POA listed the entity's registered agent office as 114 Barnaby Bluff, Seabrook, SC 29940, which is the same address as the real POA's Community Center.

50. The Articles of Incorporation for the Shadow POA listed the entity's incorporator as "Bull Point POA" and list its principal place of business as 114 Barnaby Bluff, Seabrook, SC 29940.

51. The POA's Owners did *not* approve the formation of the Shadow POA.

52. The POA's Board of Directors did *not* approve the formation of the Shadow POA.

53. On March 20, 2013, Articles of Dissolution for a Nonprofit Corporation were filed for the Shadow POA. Although purportedly signed by Stancel Kirkland, upon information and belief, it is alleged that Kirkland did not sign these Articles of Dissolution.

54. Upon information and belief, the POA alleges that POA funds were used to pay to dissolve the Shadow POA. The POA's Board of Directors did *not* approve using POA funds for this purpose.

Unauthorized Banking Transactions

55. As alleged herein above, on February 23, 2016, DB Aster, LLC contracted with GSI, LLC to sell its Bull Point-related assets, including real property, personal property, and intangibles, to GSI, LLC.

56. Soon after entering into the purchase and sale agreement, Gavigan visited Bull Point and met with several persons, including Ron Lambe, Gary Okey and Peter Marzluff.

57. Unbeknownst to defendants and third-party plaintiffs, after Gavigan met with Lambe, Marzluff and Okey, these individuals took certain actions regarding the Contingency Fund account monies which, at best, were intended among other things, to undermine Gavigan's interest in purchasing Bull Point and/or his ability to effectively manage it after he purchased it. These actions may be described as efforts to weaken the POA. All of these transactions, set forth below, were unauthorized.

The Unauthorized Transfer of Funds to First Federal Bank

58. On or about April 21, 2011, the POA opened an account with CBC National Bank, Account No. 90203828 (hereafter the "FFB Account").³

59. From 2011 through 2016, the FFB Account was little used, with only one transaction being recorded on March 2, 2011.

60. On February 29, 2016, Lambe caused \$125,000 to be transferred from the Bull Point Contingency Fund Account to the FFB Account.

³ On or about August 2018, CBC National Bank merged with First Federal Bank, and is hereafter referred to as "FFB".

61. The transfer of funds was not disclosed to the Board of Directors prior to the transfer. The Board of Directors did not approve the transfer of funds to FFB.

*The Fraudulent Opening of the First Internet Bank of Indiana Account
and Unauthorized Transfer of POA Funds*

62. On or about March 10, 2016, Ron Lambe, Peter Marzluff, and Gary Okey completed an application to open a new bank account with First Internet Bank of Indiana. This resulted in the opening of First Internet Bank Account No. 301007721 (hereafter the "First Internet Bank Account").

63. On March 10, 2016, Ron Lambe signed Bull Point POA Contingency Acct Check No. 1050, in the amount of \$250,000.00, and caused said funds to be deposited with First Internet Bank.

64. The opening of the First Internet Bank Account was fraudulent in multiple respects, specifically:

- a. The application listed the date the entity was established as "1/2/2007." This is the date the Shadow POA was established, not the Association. The Association was formed on September 26, 1995.
- b. The application included a Certificate of Authority.
 - (1) On said certificate, Lambe, Marzluff and Okey certified that the Board of Directors had adopted a resolution authorizing the POA to open the bank account. In fact, the Board of Directors did not authorize an account to be opened.

- (2) On said certificate, Lambe, Marzluff and Okey certified that Lambe and Okey were Officers. On said date, Okey was not an officer of the POA.

*The Fraudulent Opening of the Ameris Bank Account
and Unauthorized Transfer of POA Funds*

65. On or about March 16, 2016, Ron Lambe, Peter Marzluff, and Gary Okey completed an application to open a new bank account, ostensibly, for the Association.

66. This resulted in the opening of Ameris Bank Account No. 2048676460.

67. Subsequently, in March 2016, Lambe, Marzluff and Okey caused to be transferred to Ameris Bank the sum of \$250,000.

68. The opening of the Ameris Bank Account was fraudulent in multiple respects; specifically:

- a. The application listed the entity name as "Bull Point Plantation Property Owners." On said date, there was no entity with this name registered with the South Carolina Secretary of State.
- b. The application listed the date the entity was established as "01/02/2007." This is not the date that the POA was established (which was 09/26/1995); rather, as alleged herein, this is the date that Bull Point Plantation Property Owners Association (*i.e.*, the Shadow POA) was established.
- c. The application stated that a resolution was adopted as of "03/16/2016." The Board of Directors did not have a Regular Meeting or Special Meeting on March 16, 2016, for any reason, and no such resolution was adopted on

said date. The Board of Directors also did not adopt a resolution by unanimous written consent on said date.

- d. The application listed Ron Lambe, Gary Okey, and Peter Marzluff as "Authorized Signers." These individuals were not authorized signers because, among other things, (1) the POA's Bylaws expressly provide in Article VIII, Section 8(a), that the President shall sign all written instruments, and (2) the Board of Directors did not approve these persons to be authorized signers.

Defamation by Counter-defendants and/or Third-Party Defendants

69. As alleged above, on or about 2012 a group of homeowners informally referred to as the Bull Point Investor Group took steps to acquire the Declarant Rights to Bull Point. These homeowners were unsuccessful in their efforts, but their interest in doing so did not end.

70. In early 2016, shortly after DB Aster and GSI entered into the purchase agreement referenced above, a variation of the Bull Point Investor Group resurfaced. More specifically, third-party defendant Wolfson enlisted several property owners in Bull Point Plantation to come together, inter alia, to purchase the property for themselves and/or to acquire the Declarant Rights to Bull Point or, alternatively, to impede, obstruct, and interfere with GSI's purchase of Bull Point. These property owners included, but were not limited to, counter-defendants and/or third-party defendants Robert Wolfson, Robert Brendza, Russell Dimke, Carol Goodwin, James Goodwin, Jr., Ron Lambe, Debbie Marzluff, Peter Marzluff, Gary Okey, Michael Pellacchia, and Michael Powers (individually and collectively, the "Investor Group Counter-defendants").

71. To scare and coerce other property owners within Bull Point to join their cabal, one or more members of the Investor Group or their affiliates took the liberty to spread false and

malicious rumors about Gavigan and his companies, including GSI, LLC, Bull Point SC, LLC, and Gavigan Construction, LLC.

72. On April 10, 2017, in an email to various members of Bull Point (specifically, to those persons a part of the Investor Group and/or Huspah Properties as defined herein), Harriett Bosiack stated that: "Billy Gavigan (Gavigan Homes) ... is presently working on duplexes for Bull Point."

73. The Bosiack publication was false in that Gavigan and the Gavigan Group do not and never have had plans to build duplexes at Bull Point.

74. On multiple occasions Joseph D'Ambrosio has published false and defamatory statements regarding William E. Gavigan, Bull Point SC, LLC and/or Gavigan Construction, LLC. For example:

- a. On or about December 2018/January 2019, D'Ambrosio forwarded to numerous persons emails originally published by Baker. The Baker emails were false as to Gavigan and Bull Point SC, LLC and, therefore, it was equally tortious for D'Ambrosio to forward the emails.
- b. On May 23, 2019, D'Ambrosio sent an email to numerous persons within Bull Point, in which he stated that a Sheriff's report stated, "Billy Gavigan brought a loaded handgun on to grade-school property grounds." This publication was false because the Sheriff's report did not so state and the underlying claim did not happen.

75. On multiple occasions James Hayes has published false and defamatory statements regarding William E. Gavigan and/or his companies. For example:

- a. In the summer of 2018, at an Annual Meeting of Azalea Square, another residential community then owned by William E. Gavigan or a Gavigan Group company, Hayes and Przybys orally stated to persons within that Gavigan was dishonorably discharged from the United States Marine Corps. This publication was false because Gavigan was in the Marine Corps for 12 years and honorably discharged. This false publication caused harm because Azalea Square is situated near a Marine Base and much of the community is military, thus damaging Gavigan's reputation.

76. In December 2016, in an email to various members of Bull Point (specifically, to persons a part of the Investor Group and/or Huspah Properties as defined herein), Ronald Lambe stated: "Billy Gavigan will hurt the values in this neighborhood and I have found not one soul who wants him in here in any capacity."

77. The Lambe publication was false in that there were and are individuals (i.e., Owners) at Bull Point Plantation who wanted and continue to want Gavigan involved with Bull Point.

78. In the spring of 2017, Bill and Marie Shotter, the owners of Lot 162, retained Gavigan Construction, LLC to construct their home. Subsequently, in or about March or April 2017, defendant Peter Marzluff orally stated to Mr. and Mrs. Shotter that Gavigan Construction, LLC did not have a building license.

79. The Marzluff publication was false because Gavigan, through Gavigan Construction LLC, has had a license since 2013. Further, permits and licenses are publicly displayed at the construction site during the construction.

80. On September 1, 2016, Michael Powers stated in an email to various members of Bull Point that it is their (*i.e.*, the Investor Group's) hope that "Gavigan will pack his bags and go home." On December 11, 2016, Powers in an email to various members of Bull Point stated: "the Gavigan Companies posses [sic] a threat to our properties. And, while Bob [Wolfson] may or may not have well-articulated the threat or a strategy to resolve, I do think that the issue raised is real."

81. On multiple occasions Robert Wolfson, individually and/or through entities in which he is a principal, such as Rivers Reach Realty, LLC has published false and defamatory statements regarding William E. Gavigan, Bull Point SC, LLC and/or Gavigan Construction, LLC.

For example:

- a. On June 25, 2017, in an email to Richard McWhorter, Rivers Reach Realty, LLC (*i.e.*, Robert Wolfson) stated that GSI did not close on the DB Aster Purchase Agreement because Gavigan "did not have the money at that time." The same email stated that [the Gavigan Group] "were low income tract builders."
- b. At various times in 2016 and 2017, Robert Wolfson stated orally to numerous persons at Bull Point that Gavigan was not licensed.

82. The June 25, 2017 statement was false because GSI had the funding necessary to acquire Bull Point on June 25, 2017. The reality is that GSI did not close because the original purchase agreement stated that GSI would be purchasing improved lots when in fact certain lots were unimproved.

83. The publication regarding licensure was false because Gavigan, through Gavigan Construction LLC, has had a license since 2013. Further, permits and licenses have been publicly displayed at all construction sites at Bull Point during the respective construction.

84. The Rivers Reach Realty and Robert Wolfson publication was further false because Gavigan Group is not and has never been low income tract builders.

85. Each of the above persons who made a defamatory comment other than Hayes and Przybys were members of Huspah Properties, LLC, and the defamatory comments made by them were directly or indirectly in conjunction with them being a part of Huspah Properties, LLC. Thus, the defamatory comments are deemed also made by Huspah Properties, LLC.

86. As alleged above, each of the above publications was and is false, defamatory, and has caused injury to the Counterclaimants and Third Party Plaintiffs.

87. The intent of the Investor Group, known as “block-busting” in the real estate industry, was to drive down property values and to compel owners to sell their properties at fire-sale prices. The impact of the defamation alleged above in large measure accomplished the Investor Group’s goal. More specifically, in the period immediately prior to GSI’s acquisition, Bull Point property values rapidly became deflated with several lot owners selling their properties at what may best be characterized as fire-sale prices, with some lots selling for as low as \$3,000.

Additional Tortious Actions Against Counterclaimants and Third-Party Plaintiffs

88. In addition to the defamation, the Investor Group took other steps to formalize their efforts to interfere with and obstruct GSI’s purchase of Bull Point. The group’s business plan and strategies included, among other things, hiring an attorney to evaluate having the Declarant modify the Association’s Declaration to restrict the ability of a successor Declarant to operate as it chose, and to create a plan to use POA funds in furtherance of their for-profit venture.

89. The Investor Group’s strategies also included raising capital to purchase the Declarant Rights directly from DB Aster, LLC. A major irony here is that one scenario had the

Investor Group “borrowing” Contingency Fund monies to acquire the Declarant Rights; that is, using the Contingency Fund monies for for-profit purposes.

90. The Investor Group was sufficiently assured of its ability to raise capital and to acquire the Declarant Rights that on April 27, 2017, the Investor Group caused to be formed Huspah Properties, LLC, a South Carolina limited liability company, with counter-defendant Michael Powers as its registered agent. Subsequently, the group proceeded to raise monies from counter-defendants, with each unit in the new entity selling for \$10,000.00. By way of example, on May 25, 2017, third-party defendant Rivers Reach at Pocotaligo paid \$20,000.00 to Robert Wolfson and with these proceeds, Wolfson paid \$20,000.00 to Huspah Properties, LLC to purchase two units in the investment. Rivers Reach at Pocotaligo also paid \$10,000.00 directly to Fred Kuhn, Esq., of Moss & Kuhn, P.A., for legal services which led to commencement of a legal action against Gavigan and his companies in furtherance of the above-mentioned scheme. These payments by Rivers Reach at Pocotaligo were all the more egregious because all revenue into Rivers Reach at Pocotaligo were from Jasper County bond money which were pursuant to a Special Service Contract between the county and the company were restricted to development of the infrastructure of the development commonly referred to Rivers Reach at Pocotaligo aka the Setting at Mackay Point.

91. As alleged above, on August 18, 2017, GSI, LLC acquired all of DB Aster, LLC’s interests in Bull Point, including the Declarant Rights, and on August 21, 2017, GSI, LLC assigned everything to Bull Point SC, LLC. Shortly thereafter, on August 24, 2017, Huspah Properties, LLC filed Articles of Termination.

92. Notwithstanding the formal termination of Huspah Properties, LLC, the Investor Group remained steadfast in their objective. To that end, the individual members took further

steps to interfere, and continue to interfere, with and obstruct the Declarant's operation and oversight, including:

- a. contacting Gavigan's investors to disparage him and his companies;
- b. stating to prospective clients that Gavigan did not have a business license; and
- c. filing multiple legal actions to tie-up Gavigan's resources, discussed in detail below.

Intentional Strategy to Obstruct Gavigan's Businesses

93. Early on in their association, the Investor Group determined that one approach to weaken Gavigan, and thus the Declarant, would be to embroil him in multiple legal actions as a way of tying up his time, money and resources.

94. The Investor Group began to implement the strategy. To that end, over the last eighteen months, various plaintiffs owned by or associated with the principals of the Investor Group and/or the individuals themselves commenced several actions, including:

- a. *Old South Properties, Inc. v. William E. Gavigan, et al.*, Case No. 2018CP0700144;
- b. *D'Ambrosio v. William E. Gavigan*, Case No. 2018CP0701859 (and cases consolidated therewith); and
- c. *Attridge et al v. The Board of Directors of Bull Point Plantation Property Owners Association, Inc., et al.*, Case No. 2018CP0702345 (the within "Action").

While not a resident of Bull Point Plantation, third-party defendant Hayes was and is also intimately involved with the actions of the other third-party and counterclaim-defendants to

interfere with Counter-claimant's efforts to manage Bull Point Plantation. More specifically, Hayes is an employee of Andrews Engineering, whose principal, third-party defendant Andrews, is an owner in Bull Point. While not directly associated with the Investor Group and/or the Operations Committee, Andrews' relationship with the original Declarant, Bull Point, LLC, and its principals dates back to the beginnings of Bull Point, and Counter-claimants are informed and believe and thereon allege that Andrew would materially benefit if counter-defendants were successful in their efforts to interfere with and obstruct Counterclaimant. To that end, Hayes, who resides at Azalea Square, another community owned and managed by the Gavigan Companies, has taken several aggressive steps to undermine the Gavigan Companies' management and administration of Azalea Square. These actions have also included defamation of Gavigan, the Gavigan Companies, and its agents and attorneys.

Conspiracy against Gavigan

95. From the time that it became known that GSI, LLC was contracted to purchase Bull Point, counter-defendants/third-party defendants, including the Investor Group, met and communicated on multiple occasions to interfere with Gavigan and to further their efforts to acquire Bull Point and the Declarant Rights. These efforts included retaining Barry Johnson, Esq., of Johnson & Davis, P.A, paid for partly with Contingency Fund moneys, inter alia, to communicate with DB Aster, to present their alternative interests in acquiring Bull Point and/or the Declarant Rights, and to impede Gavigan.

96. Wolfson formed the idea of taking the Declarant Rights and/or Bull Point Plantation from the Declarant. Wolfson then arranged multiple meetings with several owners, including Goodwin, Brendza, Pellacchia, Okey and Lambe, to take steps to effectuate this goal, including in

forming Huspah Properties, LLC. Each individual named herein worked toward and communicated with each other in furtherance of this goal.

97. During 2018, Joseph and Mary D'Ambrosio filed numerous allegations against Gavigan with Beaufort County alleging among other things, damaging wetlands. All of the allegations were determined to be unfounded.

98. During 2018, the conspiracy against Gavigan reached into another of his developments, Azalea Square, through the concerted efforts of Steve Andrews, engineer at Bull Point Plantation, and his employee, James Hayes.

99. James Hayes resides in Azalea Square and has sought to ruin Gavigan's reputation as a real estate developer by publishing defaming remarks and accusations against Gavigan by email and on social media with the help of Dave Przybys.

100. Hayes has also threatened to ruin Gavigan by filing complaints with the LLR and the Town of Port Royal against him and his employees.

101. Overt action in furtherance of the goals and conspiracy referenced above, include, but are not limited to:

- a. Misappropriating Contingency Fund monies to pay for legal services to evaluate their for-profit plan.
- b. Publishing a plan to acquire the Declarant Rights and circulating said plan among a limited number of owners.
- c. Commencing legal actions against Gavigan without a legal basis to do so.
- d. Filing false claims with the South Carolina LLR, the Town of Port Royal and Beaufort County.

- e. Using public bond money, including money from Rivers Reach at Pocatigo, LLC, to pay attorney's fees and costs for legal actions adverse to Gavigan and Bull Point SC, LLC when such funds were prohibited from such use under a Special Services Agreement with Jasper County.

Damages Related to Gavigan

102. All the actions outlined above have harmed Gavigan and Gavigan's related entities in that it has caused them to incur extensive legal fees and, more broadly, damaged the reputation of Gavigan individually, as well as his companies. By way of example, there recently was a wildly successful promotional event at Bull Point that resulted in over 60 properties being sold in one day. Ordinarily, such a sale would have resulted in some construction contracts being awarded Gavigan, but has not resulted in any construction contracts at Bull Point since the dissident minority owners commenced their efforts to acquire Bull Point and to harm Gavigan and his entities.

FIRST CAUSE OF ACTION

(Defamation Claim of William E. Gavigan, GSI, LLC, and Bull Point SC, LLC against Baker, Bosiack, D'Ambrosio, Hayes, Lambe, Marzluff, Powers, Przybys, Wolfson, Huspah Properties, LLC, and Rivers Reach Realty, LLC)

103. Counterclaimants and Third-Party Plaintiffs repeat and reallege Paragraphs 1 through 102, inclusive, above and incorporate the same herein by reference.

104. Counter-defendant and Third-Party Defendants Baker, Bosiack, D'Ambrosio, Hayes, Lambe, Marzluff, Powers, Przybys, Wolfson, Huspah Properties, LLC, and Rivers Reach Realty, LLC each made a false and defamatory statement concerning William E. Gavigan, Gavigan Construction LLC, GSI, LLC, and/or Bull Point SC, LLC, all as alleged herein above.

105. The false and defamatory statements were an unprivileged publication to a third party, all as alleged herein above.

106. Each false and defamatory statement was the fault of the person or entity that made the statement, all as alleged herein above.

107. Defendants and Third-Party Plaintiffs William E. Gavigan, Gavigan Construction LLC, GSI, LLC, and Bull Point SC, LLC were harmed, all as alleged herein above.

108. The false and defamatory statements are actionable irrespective of harm because they maliciously presented Gavigan as unfit in his business as a real estate developer and/or were disparaging of entities in which he has an interest. Gavigan and the entities in which he has an interest were harmed by said statements and have suffered damages to reputation as evidenced by tangible losses to business.

109. In making the defamatory statements alleged herein above, the publishers acted with malice, oppression, or fraud, and each are thus responsible for punitive damages in an amount to be proven at trial according to proof.

SECOND CAUSE OF ACTION

(Tortious Interference with Prospective Business Relations Claim of William E. Gavigan, GSI, LLC, and Bull Point SC, LLC against Plaintiffs and D'Ambrosio, Powers, Wolfson, Hayes, Andrews, Lamb, Przybys, Rivers Reach at Pocatigo, LLC, Rivers Reach Realty, LLC and Does 1-10)

110. Counterclaimants and Third-Party Plaintiffs repeat and reallege Paragraphs 1 through 109, inclusive, above and incorporate the same herein by reference.

111. From the time it became known that GSI, LLC was under contract to purchase Bull Point, Counterclaim-defendants and Third-Party Defendants have sought to intentionally interfere with his prospective business relations to acquire and develop Bull Point as well as his development of other communities, all as alleged herein above.

112. Counterclaim-defendants and Third-Party Defendants used improper methods of unfounded litigation, defamation, duress, and sharp dealing to negate Gavigan's prospective contracts.

113. Because of these methods, Gavigan, Bull Point SC, LLC, and companies owned by Gavigan have suffered damage of lost contracts and profits resulting therefrom.

114. In so acting, Counterclaim-defendants and Third-Party Defendants acted with malice, oppression, or fraud, and each are thus responsible for punitive damages in an amount to be proven at trial according to proof.

THIRD CAUSE OF ACTION

(Civil Conspiracy against Plaintiffs and D'Ambrosio, Hayes, Lambe, Powers, Przybys, Wolfson, and Does 1-10)

115. Counterclaimants and Third-Party Plaintiffs repeat and reallege Paragraphs 1 through 114, inclusive, above and incorporate the same herein by reference.

116. Counterclaim-defendants and Third-Party Defendants combined, starting in 2016 and continuing through the present, to damage Gavigan and Gavigan-related entities, all as alleged herein above.

117. Counterclaim-defendants' and Third-Party Defendants' purpose for combining was to injure Gavigan and his related businesses, including Bull Point SC, LLC. The "additional acts" in furtherance of the conspiracy include, but are not limited to, the willful act of formation of a separate group to purchase Bull Point, the formulation of a plan to injure Gavigan by the filing of [o]n-going lawsuits [that] would drive away potential property/home buyers and depress property values during the period of litigation [*sic*],” and the implementation of the scheme by the conspirators.

118. "Special damages" suffered as a result of the conspiracy include personal mental and emotion stress suffered by Gavigan, individually, costs of the recovery and analysis of data and evidence related to the conspiracy, attorney's fees related to fighting the litigation that formed part of the conspiracy, and loss of profits suffered by Gavigan and his business are actual damages resulting from the conspired acts of the Counterclaim-defendants and Third-Party Defendants to gain unfettered control of Bull Point unrelated to the First and Second Counterclaims and Third-Party Claims.

FOURTH CAUSE OF ACTION
***(Declaratory Judgment that Bull Point SC, LLC
is the Declarant to Bull Point Plantation)***

119. Counterclaimants and Third-Party Plaintiffs repeat and reallege Paragraphs 1 through 118, inclusive, above and incorporate the same herein by reference.

120. Bull Point SC, LLC seeks a declaratory judgment that it is the Declarant and, therefore, the only party with right, title and interest to the Declarant Rights, based on:

- a. In 2013, Bull Point, LLC assigned to DB Aster, LLC the Declarant Rights to Bull Point Plantation, all as alleged herein above.
- b. On August 18, 2017, DB Aster, LLC assigned to GSI, LLC the Declarant Rights to Bull Point Plantation, all as alleged herein above.
- c. On August 21, 2017, GSI, LLC assigned to Bull Point SC, LLC the Declarant Rights to Bull Point Plantation, all as alleged herein above.

FIFTH CAUSE OF ACTION

(Declaratory Judgment that "Bull Point Plantation Property Owners Association" is not related in any capacity with "Bull Point Plantation Property Owners Association, Inc.")

121. Counterclaimants and Third-Party Plaintiffs repeat and reallege Paragraphs 1 through 120, inclusive, above and incorporate the same herein by reference.

122. Pursuant to S.C. Code Ann. §§ 15-53-10 through 15-53-140, inclusive, and SCRCF, Rule 57, the POA and Bull Point SC, LLC seek a declaration:

- a. That Bull Point Plantation Property Owners Association, Inc. is not associated with Bull Point Plantation Property Owners Association, all as alleged herein above.
- b. That the POA has no obligations to or liabilities arising from or related to any association whatsoever with the Shadow POA.

SIXTH CAUSE OF ACTION

(Declaratory Judgment that the Ameris Bank Account is Owned by the POA)

123. Counterclaimants and Third-Party Plaintiffs repeat and reallege Paragraphs 1 through 122, inclusive, above and incorporate the same herein by reference.

124. The Ameris Bank Account was opened without the knowledge and/or approval of the POA's Board of Directors, all as alleged herein above.

125. POA monies were transferred to the Ameris Bank Account without the knowledge and/or approval of the POA's Board of Directors, all as alleged herein above.

126. The POA herewith requests this court declare that the Ameris Bank Account and all monies therein are the sole and exclusive property of the POA.

SEVENTH CAUSE OF ACTION
(Injunction as to Ameris Bank Account)

127. Counterclaimants and Third-Party Plaintiffs repeat and reallege Paragraphs 1 through 126, inclusive, above and incorporate the same herein by reference.

128. The Ameris Bank Account was opened without the authority of the Board of Directors, all as alleged herein above.

129. The Ameris Bank Account was funded with POA monies without the authority of the Board of Directors, all as alleged herein above.

130. The purported signers to the Ameris Bank Account are Ronald Lambe, Peter Marzluff, and Gary Okey, all as alleged herein above.

131. The POA seeks an injunction from this Court:

- a. That Ronald Lambe, Peter Marzluff, and Gary Okey be prohibited from taking any actions relating to or in connection with the Ameris Bank Account, including withdrawing or transferring money from the account.
- b. Such further injunctive relief as the Court deems appropriate.

EIGHTH CAUSE OF ACTION
***(Declaratory Judgment that the First Internet Bank of
Indiana Account is Owned by the POA)***

132. Counterclaimants and Third-Party Plaintiffs repeat and reallege Paragraphs 1 through 131, inclusive, above and incorporate the same herein by reference.

133. The First Internet Bank of Indiana Account was opened without the knowledge and/or approval of the POA's Board of Directors, all as alleged herein above.

134. POA monies were transferred to the First Internet Bank of Indiana Account without the knowledge and/or approval of the POA's Board of Directors, all as alleged herein above.

135. The POA herewith requests this court declare that the First Internet Bank of Indiana Account and all monies therein are the sole and exclusive property of the POA.

NINTH CAUSE OF ACTION

(Injunction of the First Internet Bank of Indiana Account is Owned by the Association)

136. Counterclaimants and Third-Party Plaintiffs repeat and reallege Paragraphs 1 through 135, inclusive, above and incorporate the same herein by reference.

137. The First Internet Bank Account was opened without the authority of the Board of Directors, all as alleged herein above.

138. The First Internet Bank Account was funded with POA monies without the authority of the Board of Directors, all as alleged herein above.

139. The purported signers to the First Internet Bank are Ronald Lambe, Peter Marzluff, and Gary Okey, all as alleged herein above.

140. The POA seeks an injunction from this Court:

- a. That Ronald Lambe, Peter Marzluff, and Gary Okey be prohibited from taking any actions relating to or in connection with the Ameris Bank Account, including withdrawing or transferring money from the account.
- b. Such further injunctive relief as the Court deems appropriate.

TENTH CAUSE OF ACTION

(Breach of Contract against Coleman, Dimke, Lambe, Lovett, Marzluff, and Okey and Does 1-10)

141. Counterclaimants and Third-Party Plaintiffs repeat and reallege Paragraphs 1 through 140, inclusive, above and incorporate the same herein by reference.

142. Counterclaim-defendants and Third-Party Defendants Russell Dimke, Richard Jay Coleman, Ronald Lambe, Richard Lovett, Peter Marzluff, and Gary Okey (hereafter individually and collectively the "Breaching Parties") are members of the Association and by virtue thereof are

a contracting party of the Declaration of Covenants, Conditions and Restrictions for Bull Point Plantation, as amended (the "Declaration"), all as alleged herein above.

143. The POA performed its obligations under the Declaration, all as alleged herein above.

144. Breaching Parties breached the Declaration and the related governing documents (*i.e.*, the Bylaws), among other things, by:

- a. Causing the name of the POA to be changed, by submitting Articles of Amendment to Articles of Incorporation to the South Carolina Secretary of State, without the consent of the Owners or the approval of the Board of Directors, all as alleged herein above.
- b. Causing one or more bank accounts to be opened in the name of the POA without the approval of the Board of Directors, all as alleged herein above.
- c. Causing POA funds to be transferred without the approval of the Board of Directors, all as alleged herein above.
- d. Causing legal actions to be commenced and/or documents to be recorded that purported to be in the name of the POA but which were in a false name, all as alleged herein above.

145. As a proximate result of the breach of Breaching Parties, and each of them, the POA has suffered general damages in an amount unknown presently, but reasonably believed to exceed \$100,000.00.

146. As a further proximate result of the breach of Breaching Parties, and each of them, the POA has sustained incidental and consequential damages, including without limitation the right to recover attorney's fees and other costs incurred in addition to any other relief to which it may

be entitled as costs of suit and not as damages, pursuant to the Declarant, in an amount presently unknown but reasonably believed to exceed \$100,000.00, according to proof.

PRAYER

WHEREFORE, William E. Gavigan, Bull Point SC, LLC, and GSI, LLC pray for judgment against Counter-Defendants and Third-Party Defendants, and each of them, as follows:

A. FIRST CAUSE OF ACTION (Defamation)

1. For general, incidental, and consequential damages in an amount presently unknown but in excess of the jurisdictional requirement for this Court and in an amount to be determined at the time of trial;
2. For exemplary and punitive damages, according to proof at trial;
3. Pre-judgment and post-judgment interest;
4. For costs of suit incurred herein; and
5. For such other and further relief as the Court may deem just and proper.

B. SECOND CAUSE OF ACTION (Tortious Interference)

1. For general, incidental, and consequential damages in an amount presently unknown but in excess of the jurisdictional requirement for this Court and in an amount to be determined at the time of trial;
2. For exemplary and punitive damages, according to proof at trial;
3. For costs of suit incurred herein; and
4. For such other and further relief as the Court may deem just and proper.

C. THIRD CAUSE OF ACTION (Civil Conspiracy)

1. For “special” damages unrelated to other causes of action and in an amount presently unknown but in excess of the jurisdictional requirement for this Court and in an amount to be determined at the time of trial;
2. For punitive damages, according to proof at trial;
3. For costs of suit incurred herein; and
4. For such other and further relief as the Court may deem just and proper.

D. FOURTH CAUSE OF ACTION (Declaratory Judgment that Bull Point SC, LLC is the Declarant)

1. For a declaration that Bull Point SC, LLC is the Declarant to Bull Point Plantation;
2. For reasonable attorneys’ fees according to proof;
3. For costs of suit incurred herein; and
4. For such other and further relief as the Court may deem just and proper.

E. FIFTH CAUSE OF ACTION (Declaratory Judgment that Bull Point Plantation Property Owners Association, Inc. is not related in any capacity to Bull Point Plantation Property Owners Association)

1. For a declaration as requested;
2. For reasonable attorneys’ fees according to proof;
3. For costs of suit incurred herein; and
4. For such other and further relief as the Court may deem just and proper.

F. SIXTH CAUSE OF ACTION (Declaratory Judgment that the POA is the Sole Entity with an Interest in the Ameris Bank Account)

1. For a declaration that Bull Point Plantation Property Owners Association, Inc. is the sole and exclusive entity with right, title and interest in and to the Ameris Bank Account, as that term is defined herein above.
2. For a declaration that Bull Point Plantation Property Owners Association, Inc.'s Board of Directors may designate the person or persons with signature authority to the Ameris Bank Account, as that term is defined herein above.
3. For such other and further relief as the Court may deem just and proper.

G. SEVENTH CAUSE OF ACTION (Injunction of the Ameris Bank Account)

1. For an injunction that:
 - a. That Ronald Lambe, Peter Marzluff, and Gary Okey be prohibited from taking any actions relating to or in connection with the Ameris Bank Account, including withdrawing or transferring money from the account.
 - b. Such further injunctive relief as the Court deems appropriate.
2. For such other and further relief as the Court may deem just and proper.

H. EIGHTH CAUSE OF ACTION (Declaratory Judgment that the POA is the Sole Entity with an Interest in the First Internet Bank of Indiana Account)

1. For a declaration that Bull Point Plantation Property Owners Association, Inc. is the sole and exclusive entity with right, title and interest in and to the First Internet Bank of Indiana Account, as that term is defined herein above.

2. For a declaration that Bull Point Plantation Property Owners Association, Inc.'s Board of Directors may designate the person or persons with signature authority to the First Internet Bank of Indiana Account, as that term is defined herein above.
3. For such other and further relief as the Court may deem just and proper.

I. NINTH CAUSE OF ACTION (Injunction of the First Internet Bank of Indiana Account)

1. For an injunction that:
 - a. Ronald Lambe, Peter Marzluff, and Gary Okey be prohibited from taking any actions relating to or in connection with the First Internet Bank of Indiana Account, including withdrawing or transferring money from the account.
 - b. Such further injunctive relief as the Court deems appropriate.
2. For such other and further relief as the Court may deem just and proper.

J. TENTH CAUSE OF ACTION (Breach of Contract)

1. For general, incidental, and consequential damages in an amount presently unknown but in excess of the jurisdictional requirement for this Court and in an amount to be determined at the time of trial;
2. For reasonable attorney's fees according to proof;
3. For costs of suit incurred herein; and
4. For such other and further relief as the Court may deem just and proper.

This the 15th day of July, 2019.

Signature page to follow

RICHARDSON PLOWDEN & ROBINSON, P.A.

s/Eugene H. Matthews

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COUNSEL FOR BULL POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC. AND WILLIAM E.
GAVIGAN

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO.: 2018-CP-07-02345

JON H. ATTRIDGE and JANET L. ATTRIDGE, ROBERT W. BANKOV, VIRGINIA J. BANKOV, TOM BOLTON, GUY I. COLLIER, NANCY L. COLLIER, RICHARD JAY COLEMAN, MARLENE COLEMAN, RUSSELL G. DIMKE, SANDRA A. DIMKE, JAMES G. GOODWIN JR., CAROL A. GOODWIN, GEORGE J. LOVETT, WILNA W. LOVETT, PETER MARZLUFF, DEBORAH C. MARZLUFF, GARY OKEY, NANCY OKEY, MICHAEL PELLECCIA, JANICE S. PELLECHIA, FRANK H. ROBERTS SR., RICHARD SWILPA, MICHELE GALLANT, PHYLLIS K. KAUPP-SEAS, ROBERT P. BRENDZA, and ROBIN E. BRENDZA individually and in their derivative capacity on behalf of BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-VS-

THE BOARD OF DIRECTORS OF BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION, INC.; BULL POINT SC, LLC; WILLIAM E. GAVIGAN; MICHAEL CAREY; CHRISTOPHER J. QUICK; JAMES RIORDAN; DB ASTER, LLC; AND GSI, LLC,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E. GAVIGAN,

Third-Party Plaintiffs,

-VS-

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR PARTIAL
SUMMARY JUDGMENT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSIACK, ROBERT WOLFSON,
JAMES HAYES, STEVE ANDREWS, RON
LAMBE, DAVE PREZVYS, RIVERS
REACH AT POCOTALIGO, LLC, RIVERS
REACH REALTY, LLC AND JOHN DOES
1-10,

Third-Party Defendants.

YOU WILL PLEASE TAKE NOTICE that within ten days after service of this notice or as soon thereafter as it may be heard, Plaintiffs, Jon H. Attridge, Janet L. Attridge, Robert W. Bankov, Virginia J. Bankov, Tom Bolton, Guy I. Collier, Nancy L. Collier, Richard Jay Coleman, Marlene Coleman, Russell G. Dimke, Sandra A. Dimke, James G. Goodwin Jr., Carol A. Goodwin, George J. Lovett, Wilna W. Lovett, Peter Marzluff, Deborah C. Marzluff, Gary Okey, Nancy Okey, Michael Pellecchia, Janice S. Pellechia, Frank H. Roberts Sr., Richard Swilpa, Michelle Gallant, Phyllis K. Kaupp-Seas, Robert P. Brendza, and Robin E. Brendza individually and in their derivative capacity on behalf of BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION, by and through their undersigned counsel, will move before this Honorable Court, pursuant to Rule 56, South Carolina Rules of Civil Procedure, for an Order granting partial summary judgment to Plaintiffs on the grounds that there exist no genuine issues of material fact and that Plaintiffs are entitled to judgment as a matter of law. The relief requested and the grounds therefor are set out more fully in the accompanying Memorandum of Authorities.

This motion will be based on the pleadings filed in this matter, along with any affidavits, memoranda, and oral argument presented to the Court.

BARNWELL WHALEY
PATTERSON & HELMS, LLC

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Attorneys for Plaintiffs

July 2, 2019
Charleston, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO.: 2018-CP-07-02345

JON H. ATTRIDGE and JANET L. ATTRIDGE, ROBERT W. BANKOV, VIRGINIA J. BANKOV, TOM BOLTON, GUY I. COLLIER, NANCY L. COLLIER, RICHARD JAY COLEMAN, MARLENE COLEMAN, RUSSELL G. DIMKE, SANDRA A. DIMKE, JAMES G. GOODWIN JR., CAROL A. GOODWIN, GEORGE J. LOVETT, WILNA W. LOVETT, PETER MARZLUFF, DEBORAH C. MARZLUFF, GARY OKEY, NANCY OKEY, MICHAEL PELLECCIA, JANICE S. PELLECHIA, FRANK H. ROBERTS SR., RICHARD SWILPA, MICHELE GALLANT, PHYLLIS K. KAUPP-SEAS, ROBERT P. BRENDZA, and ROBIN E. BRENDZA individually and in their derivative capacity on behalf of BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION,

Plaintiffs/Counterclaim Defendants,

-VS-

THE BOARD OF DIRECTORS OF BULL POINT PLANTATION PROPERTY OWNERS ASSOCIATION, INC.; BULL POINT SC, LLC; WILLIAM E. GAVIGAN; MICHAEL CAREY; CHRISTOPHER J. QUICK; JAMES RIORDAN; DB ASTER, LLC; AND GSI, LLC,

Defendants/Counterclaimants,

and
BULL POINT SC, LLC and WILLIAM E. GAVIGAN,

Third-Party Plaintiffs,

-VS-

**MEMORANDUM IN SUPPORT OF
PLAINTIFFS' MOTION FOR PARTIAL
SUMMARY JUDGMENT**

JOSEPH P. D'AMBROSIO, MARY
D'AMBROSIO, MICHAEL POWERS,
HARRIET BOSLACK, ROBERT WOLFSON,
JAMES HAYES, STEVE ANDREWS, RON
LAMBE, DAVE PREZVYS, RIVERS
REACH AT POCOTALIGO, LLC, RIVERS
REACH REALTY, LLC AND JOHN DOES
1-10,

Third-Party Defendants.

Plaintiffs, by and through their undersigned counsel, submit this memorandum of law in support of their motion for partial summary judgment.

BACKGROUND

Plaintiffs commenced this suit individually and in their derivative capacity as property owners and members of the Bull Point Plantation Property Owners' Association (the "Association" or the "POA"), for injunctive relief and for a declaratory judgment as to the rights of the Association and its members under the Declaration of Covenants, Conditions and Restrictions of Bull Point Plantation ("Declarations"). In short, Plaintiffs contend that Defendant Bull Point SC, LLC -- which is owned by the Defendant Gavigan -- has wrongly claimed that it is the Declarant of Bull Point Plantation and assumed the Declarant's rights. Bull Point SC, LLC has purported to appoint all the members of the Association's Board of Directors and name Gavigan President of the Board. It has also seized control of the Association's Contingency Fund (similar to a Capital Reserve Fund) by purporting to amend the Declarations to eliminate the Fund and the Contingency Fund Committee, which is responsible for managing the Fund. Prior to Defendant Gavigan's purported amendment of the Declarations, the Contingency Fund Committee, by virtue of express language in Amendment 15, was comprised of representatives elected by the POA members, thereby giving the POA members control over how the Contingency Fund was used.

Additionally, at the November 2018 Annual Meeting, members were not allowed to elect

directors to the POA Board and instead, new directors were appointed by Bull Point SC, LLC. Plaintiffs filed this suit after Defendants purported to amend the Declarations to dissolve the Contingency Fund Committee and to seize control of the Contingency Fund, which at the time was over \$900,000.

Under the Declarations, the "Declarant" is empowered, among other things, to appoint all the members of the POA Board and unilaterally (with certain limitations) to amend the Declarations. The Declarant is also exempt from paying assessments on the properties in Bull Point Plantation that it holds for sale. The Defendants have wrongfully purported to exercise all of these rights in claiming to be the Declarant of Bull Point Plantation.

In the instant Motion for Partial Summary Judgment, Plaintiffs seek the following declarations:

First, that under the terms of the Declarations, Defendant, Bull Point SC, LLC is not the Declarant and therefore cannot exercise the Declarant's rights and the actions taken by the Defendant as putative Declarant are invalid.

Second, in the alternative, that even if Bull Point SC, LLC is the Declarant, the South Carolina Nonprofit Corporations Act and the Bull Point Plantation governing documents provide that the members of the Association are entitled to elect the Association's Board of Directors, rather than the Directors being appointed by the Declarant and that an immediate election be held in this regard.

SUMMARY OF ARGUMENTS

Defendant Bull Point SC, LLC (of which Defendant Gavigan is the sole member) is not the Declarant as defined in the Declarations. Under South Carolina law, Declarant's rights are assignable only in strict conformity with the terms of the Declarations. Bull Point Plantation's

Declarations provide that the Declarant can be only the original Declarant, Bull Point, LLC (no relationship to Defendant Bull Point SC, LLC), “or any party which acquires *said Declarant’s entire interest* with respect to the [Property within Bull Point Plantation] *pursuant to Foreclosure of a Mortgage* encumbering said Declarant’s interest in the [property].” (Emphasis added). Defendant Bull Point SC, LLC did not acquire any interest of Bull Point, LLC through foreclosure. Rather, Bull Point, LLC’s interest passed through two intermediary owners – DB Aster, LLC and GSI, LLC -- before Defendant Bull Point SC, LLC purchased it. Defendant Bull Point SC, LLC is therefore not the Declarant under the definition in the Declarations.

Furthermore, Defendant Bull Point SC, LLC, did not acquire Bull Point LLC’s entire interest with respect to the Property. It did not even acquire the entire interest of the Declarant Bull Point SC, LLC’s successor in title, DB Aster, LLC. In fact, Defendant Bull Point SC, LLC did not acquire the entire interest of its own immediate predecessor in title, GSI, LLC. For this reason as well, Defendant Bull Point SC, LLC is not the Declarant and cannot exercise Declarant’s rights under the Declarations, including the rights to amend the Declarations and to appoint the Association’s Board of Directors.

Even if Defendant Bull Point SC, LLC was the Declarant, it would not have the right to appoint the Directors of the Association, as it has purported to do. The South Carolina Nonprofit Corporations Act mandates that Bull Point’s Declarations cannot contain provisions inconsistent with its Articles of Incorporation. The Declarations provide that the Declarant can remove and appoint Directors; however, the Articles of Incorporation provide for Directors to be elected by the members of the Association. The South Carolina Nonprofit Corporation Act provides that when governing documents conflict, precedence is given to the Articles of Incorporation. As a matter of law, then, the Board-election provision in the Bull Point Plantation’s Articles of

Incorporation takes precedence over the other governing documents, including the Declarations relied on by the Defendants. Therefore, even if Defendant Bull Point SC, LLC is the Declarant, it cannot deny association members the right to elect POA Board directors and it cannot remove duly elected directors. Therefore, the members are entitled to an immediate election of their Board of Directors.

FACTS

A. The Articles of Incorporation, the Declarations, and the Bylaws

Bull Point Plantation is a private waterfront community located in Seabrook in Beaufort County, South Carolina. On September 26, 1995, the Bull Point Plantation Homeowners Association, Inc.¹ was incorporated by filing Articles of Incorporation (hereinafter “Articles”) with the State of South Carolina Secretary of State. In addition to the standard Nonprofit Corporation Articles of Incorporation form, this document includes a typewritten “Articles of Incorporation, Bull Point Homeowners Association, Inc.” The document contains ten articles that set out the framework of the Association. Section 6 sets out the establishment and maintenance of the Board of Directors. It lists the initial three members of the Board of Directors by name. It then proceeds to prescribe the selection of future Directors. Beginning with the first annual meeting, the members of the Association were to elect Directors in staggered terms (e.g., one Director for a one (1) year term, one Director for a two (2) year term, and one Director for a three (3) year term). By the fourth annual meeting, Bull Point Plantation POA members were supposed to be electing members of the Board of Directors every year for one (1) year terms. See Section 6 of the Articles of Incorporation for Bull Point Property Owners Association, Inc., attached hereto as EXHIBIT

¹ The Articles were amended on July 5th, 2006, and filed with the South Carolina Secretary of State on August 14th, 2006 changing the name of the entity from Bull Point Homeowners Association, Inc. to Bull Point Plantation Property Owners Association, Inc.

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A. The Articles of Incorporation make no provision for the Declarant to appoint or remove Directors.

The Declarations were first recorded in 1995, revised in 2000, and amended numerous times thereafter. Among other things, the Declarations define “Declarant” and set out the Declarant’s rights. The Declarations conflict with the Articles of Incorporation in one important respect, by providing that the Declarant has the authority to appoint and remove members of the Board of Directors. See Sections 8.01 and 13.01 of the Declaration (attached as Exhibit 1 to the Amended Complaint). The Declarations purport not to give the members the right to elect Directors until the Declarant’s rights expire. (Section 13.01).

The Bylaws (EXHIBIT B) were reputedly enacted in 1995, but they were first formally recorded on January 10, 2019 in order to comply with the new South Carolina Homeowners Association Act, S.C. Code Ann. Sec. 27-30-110 (2018) et seq. As will be shown later, when there is any conflict between governing documents, the Nonprofit Corporations Act resolves these conflicts in favor of the Articles of Incorporation.

B. GSI, LLC and Bull Point SC, LLC Purchase

The Bull Point Plantation Property Owners’ Association was formed in 1995 by developer Bull Point LLC² in Beaufort County, South Carolina. Bull Point, LLC was eventually unable to meet its financial obligations and filed for bankruptcy protection. Bull Point, LLC’s remaining property was foreclosed upon and sold at public auction on January 23, 2012, wherein the developer’s lender, German American Capital Corporation (“GACC”) submitted a successful credit bid of \$5.4 million dollars. On July 9, 2012, GACC acquired Bull Point, LLC’s real estate interests in Bull Point Plantation. See Duly Recorded Deed by Judicial Order attached hereto as

² No relation to the purported Declarant Bull Point SC LLC.

EXHIBIT C. GACC simultaneously assigned its bid to its affiliated company, DB Aster, LLC. See Id. On December 28, 2012, Bull Point LLC purported to assign to DB Aster, LLC its Declarancy Rights. The purported assignment was recorded on January 8, 2013. See Assignment of Rights Under Declaration attached hereto as EXHIBIT D.

On or about February 23, 2016, DB Aster entered into a contract with GSI, LLC, ("GSI") a Gavigan-owned entity, to sell its remaining Bull Point Plantation property. On or about June 7, 2016, DB Aster declared GSI, LLC in default under the contract. Litigation ensued between GSI, LLC and DB Aster. The parties entered into a new contract on August 9, 2017, and the suit was dismissed on August 10. On August 21, 2017, GSI purchased the property owned by DB Aster for \$1.2 million. Title was conveyed by Limited Warranty Deed. See: Title to Real Estate by DB Aster to GSI attached hereto as EXHIBIT E. Also, on August 21, 2017 a document was recorded which purported to assign the Declarant's rights from DB Aster to GSI, LLC. See: Assignment and Assumption of Declarant's Rights attached hereto as EXHIBIT F. On the same day, GSI, LLC assigned most of its interest to Defendant Bull Point SC, LLC, of which Gavigan is also the sole member. (EXHIBIT G). GSI, LLC also executed an "Assignment of Rights Under Declaration" to Bull Point SC, LLC. (EXHIBIT H). This purported assignment differs from the previous assignments from Bull Point, LLC to DB Aster and from DB Aster to GSI, LLC, in that this assignment "specifically excludes any and all claims, demands, responsibilities, liabilities and obligations of or against Declarant, whether in tort or contract, being an expressed or implied warranty, or resulting from Assignor's acts or failures to act, and arising under the Declaration or Assignor's development activities or the exercise of control of the Bull Point Property Owners Association prior to the date hereof."

Critically, Defendant Bull Point SC, LLC did not acquire the entire interest of the original

Declarant, Bull Point, LLC. In fact, it did not acquire the entire interest of the original Declarant's successor, DB Aster, LLC. It did not even acquire the entire interest of DB Aster's immediate successor in title, GSI, LLC. As noted above, DB Aster obtained Declarant Bull Point LLC's interest in the Bull Point Property from its affiliate, German American Capital, which acquired the interest through foreclosure in July 2012. DB Aster did not sell that entire interest to GSI, LLC, however. Between July 2012 and August 21, 2017, when it sold its interest to GSI, LLC, DB Aster made a conveyance of property to the Bull Point Plantation POA (in September 2012, EXHIBIT I). It also sold at least five individual lots (EXHIBITS J, K, L, M, and N). Therefore, GSI, Inc. did not acquire the entire former interest of the original Declarant.

Nor did GSI, LLC convey *its* entire interest to the Defendant Bull Point SC, LLC. On September 1, 2017 GSI, LLC conveyed a parcel, Lot 260 of Phase V-B, "that being a portion of that same property conveyed to GSI, LLC by DB Aster, LLC ...", to Craig Elachie, LLC (EXHIBIT O). Further, GSI, LLC still owns a parcel, Lot 170 located at 87 Barnaby Bluff (EXHIBIT P). Thus, Defendant Bull Point SC, LLC did not acquire the entire interest of GSI, LLC, let alone the entire interest of the Declarant Bull Point, LLC. Of course, it did not obtain *any* interest in Bull Point Plantation pursuant to foreclosure of a mortgage. A chronology showing the foregoing transactions is attached as EXHIBIT Q.

Nevertheless, since August 2017 Defendant Bull Point SC, LLC has purported to exercise Declarant's rights, among other ways by purporting to remove and appoint the members of the Board of Directors of the Association, including appointing Defendant Gavigan as President; by unilaterally purporting to amend the Declarations; and by not paying assessments on the Lots that it owns individually or through related entities.

STANDARD OF REVIEW

Summary Judgment is appropriate when there is no genuine issue of material fact such that the moving party is entitled to prevail as a matter of law. Rule 56(c), SCRCP. "The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder." George v. Fabri, 345 S.C. 440, 452 548 S.E.2d 868, 874 (2001). "Where a motion for summary judgment presents a question as to the construction of a written contract, the question is one of law if the language employed by the agreement is plain and unambiguous." MCG Management of Charleston, Inc. v. Kinghorn Ins. Co., 336 S.C. 542, 546 520 S.E. 2d 820, 822 (Ct. App. 1999). "See S.C. Dep't of Natural Res. v. Town of McClellanville, 345 S.C. 617, 623, 550 S.E.2d 299, 302-303 (2001) (stating the determination of whether a contract's language is ambiguous is a question of law); Thalia S. ex rel. Gromacki v. Progressive Select Ins. Co., 401 S.C. 395, 399, 736 S.E.2d 863, 865 (Ct. App. 2012) (stating the construction and enforcement of an unambiguous contract is a question of law for the court and thus can be properly disposed of at summary judgment); Hawkins v. Greenwood Dev. Corp., 328 S.C. 585, 592, 493 S.E.2d 875, 878 (Ct. App. 1997) (defining an ambiguous contract as one where the terms of the contract are inconsistent on their face or are reasonably susceptible of more than one interpretation); ERIE Ins. Co. v. Winter Constr. Co., 393 S.C. 455, 461, 713 S.E.2d 318, 321 (Ct. App. 2011) ("When the language of a contract is clear, explicit, and unambiguous, the language of the contract alone determines the contract's force and effect and the court must construe it according to its plain, ordinary, and popular meaning."). "The fundamental rule in construing covenants and restrictive

agreements is that the intention of the parties *as shown by the agreement*, governs.” Forest Land Co. v. Black, 216 S.C. 255 57 S.E.2d. 420 (1950) (emphasis added).

ARGUMENT

- I. Defendant Bull Point SC, LLC is not the Declarant of Bull Point Plantation because the Declarations do not permit the assignment of Declarant’s rights except through foreclosure of the original Declarant’s entire interest, and Bull Point SC, LLC did not obtain the interest of the original Declarant through foreclosure and it did not obtain the original Declarant’s entire interest.

- a. Defendant Bull Point SC, LLC did not obtain the original Declarant’s interest pursuant to foreclosure.

Plaintiffs are entitled to summary judgment on their claim for a declaratory judgment that Bull Point SC, LLC is not the Declarant of Bull Point Plantation as that term is unambiguously defined in Section 1.01(j) of the Declarations. The Declarations confer numerous specific rights upon the “Declarant”. These include, among other things, the right to remove and appoint Directors of the Association; to amend the Declarations in certain circumstances; and to be exempt from paying assessments on unoccupied lots. The Declarations define “Declarant” as follows:

“Declarant” shall mean and refer to Bull Point, LLC which has executed this Declaration with respect to the Property and the Additional Property at the time of such transfer to said successor-in-title, or any party which acquires said Declarant’s entire interest with respect to the Property and the Additional Property at the time of such acquisition pursuant to Foreclosure of a Mortgage encumbering said Declarant’s interest in the Property and the Additional Property.

See Exhibit 1 to Amended Complaint, Section 1.01(j). As shown in the factual recitation above, Bull Point SC, LLC did not acquire any of the interest – let alone the entire interest (see the following section) -- of the original Declarant, Bull Point, LLC³ through foreclosure. German American Capital Corporation acquired the interest of Bull Point, LLC through foreclosure after

³ Though Defendant Gavigan gave Defendant Bull Point SC, LLC a similar name to the original Declarant, the two companies are not in any way related to one another. Defendant Gavigan, who owns Defendant Bull Point SC, LLC, had no interest in Bull Point, LLC.

Bull Point, LLC filed for bankruptcy. German American Capital Corporation then assigned its interest to its affiliate, DB Aster, LLC. DB Aster later sold its interest to GSI, LLC (owned by Defendant Gavigan) at arm's length for \$1.2 million, and GSI, LLC assigned its interest to Bull Point SC, LLC. Defendant Gavigan owns GSI, LLC and Bull Point SC, LLC, but neither he nor they had any relationship to German American or to DB Aster. In fact, Bull Point SC, LLC litigated against DB Aster over the sale. Defendant Bull Point SC, LLC acquired none of its interest in Bull Point Plantation through foreclosure of a mortgage. Either of these facts alone disqualifies Bull Point SC, LLC as the Declarant as defined in Section 1.01(j) of the Declarations.

As shown in statement of Facts above, the original Declarant, Bull Point, LLC executed an assignment of Declarant's rights to DB Aster, LLC. DB Aster executed a similar purported assignment to GSI, LLC when it sold its interest in the real estate, which was not the entire interest of Bull Point LLC. GSI, LLC in turn executed a purported assignment of rights (albeit different than the previous assignments because it excluded liabilities and obligations of the previous Declarant). Declarant's rights are not freely assignable, however. They are assignable only if, and strictly in accordance with, the terms of the Declarations. "Restrictive covenants⁴ are contractual in nature. Hoffman v. Cohen, 262 S.C. 71, 75, 202 S.E.2d 363, 365 (1974). The language of a restrictive covenant is to be construed according to the plain and ordinary meaning attributed to it at the time of execution." Hardy v. Aiken, 631 S.E.2d 539, 369 S.C. 160 (S.C. 2006). The transferability of Declarant's rights depends on whether the Declarations make them transferable. Highlands Prop. Owners Ass'n, Inc. v. Shumaker Land, LLC, 397 S.C. 432, 437, 724 S.E.2d 685, 687 (Ct. App. 2012) is directly on point. Like this case, Highlands involved a dispute between property owners and a developer hinging on whether the developer was in fact the Declarant. In

⁴ The Declarations are, of course, covenants. Their full title is "Declaration of Covenants, Conditions and Restrictions of Bull Point Plantation."

{00880100.DOCX.2 }

deciding this issue, the Court of Appeals looked to the language of the association's Declarations and the definition of "Declarant", which was as follows:

"Declarant" shall mean and refer to HIGHLANDS DEVELOPMENT LIMITED PARTNERSHIP, or any other person or entity who succeeds to the title of Declarant to any portion of the Properties by sale or assignment of all of the interests of the Declarant in the Properties, *if the instrument of sale or assignment expressly so provides....*

724 S.E.2d at 687 (emphasis by the Court). The developer/putative Declarant had acquired certain lots from the prior Declarant through a deed that did not refer to or assign the Declarant's rights. The transfer of Declarant rights occurred fourteen months later through a separate assignment document. The Association members, pointing to the fact that the deed did not expressly provide for a transfer of Declarant rights, took the position that the developer/putative Declarant was in fact not the Declarant under the definition in the Declarations. This is exactly the situation here. In applying the above definition, the Highland's Court recognized the issue as one of contract law:

"The law in this state regarding the construction and interpretation of contracts is well settled." Conner v. Alvarez, 285 S.C. 97, 101, 328 S.E.2d 334, 336 (1985). When the language of a contract is clear, explicit, and unambiguous, the language of the contract alone determines the contract's force and effect. Ellie, Inc. v. Miccichi, 358 S.C. 78, 93, 594 S.E.2d 485, 493 (Ct. App. 2004). In addition, "[w]here an agreement is clear and capable of legal interpretation, the court's only function is to interpret its lawful meaning, discover the intention of the parties as found within the agreement, and give effect to it." Id. (citing Heins v. Heins, 344 S.C. 146, 158, 543 S.E.2d 224, 230 (Ct. App. 2001)).

Highlands Prop. Owners Ass'n v. Shumaker Land, LLC, *supra*, 397 S.C. at 437, 724 S.E.2d at 687.

In applying the above principles, the Court first found the definition of "Declarant" to be unambiguous. The Court then went on to apply the definition of Declarant, looking to the plain language of the definition:

We find the Covenants, when read in their entirety, support a finding that Shumaker LLC is not the Declarant. As noted previously, Article I, Section 7 of the Covenants defines

Declarant as the "HIGHLANDS DEVELOPMENT LIMITED PARTNERSHIP, or any other person or entity who succeeds to the title of Declarant . . . by sale or assignment of all of the interests of the Declarant in the Properties, *if the instrument of sale or assignment expressly so provides.*" [emphasis by the Court]. HDLP, as the original Declarant under the Covenants, conveyed the property to Shumaker on July 28, 2006. The deed to Shumaker does not reference any rights held by HDLP as Declarant, nor does the deed purport to transfer any of those rights to Shumaker. Because the deed does not expressly convey the Declarant's rights to Shumaker upon taking title to the seven lots, Shumaker does not qualify as a Declarant under Article I, Section 7 of the Covenants."

Highlands Prop. Owners Ass'n v. Shumaker Land, LLC, 397 S.C. 432, 437, 724 S.E.2d 685, 688 (Ct. App. 2012). In other words, the purported assignee of the Declarancy rights was not the Declarant because the purported assignment agreement did not meet the requirements set out in the Declaration's definition of Declarant.

As the Highlands decision demonstrates, under South Carolina law the definition of "Declarant" must be strictly observed and all requirements for transfer of Declarant's rights complied with. In this case, the definition requires that a successor: 1) Acquire the original Declarant's entire interest by foreclosure. The Defendant Bull Point SC, LLC does not meet this requirement.

b. Defendant Bull Point SC, LLC is not the Declarant of Bull Point Plantation because it did not acquire the original Declarant's entire interest in Bull Point Plantation.

The Declarations, at Section 1.01(j), impose two requirements for an entity other than the original Declarant, Bull Point SC, LLC to be the Declarant. One, as discussed in the previous section, is that the putative Declarant have acquired Bull Point, LLC's interest in the Property through foreclosure. The other is that the putative Declarant have acquired Bull Point LLC's *entire interest* with respect to the Property of Bull Point Plantation. The Defendant Bull Point SC, LLC completely fails this requirement. First, DB Aster, LLC did not sell Bull Point LLC's entire former interest to GSI, LLC. As set out in the statement of Facts above, prior to its sale to GSI, LLC, DB Aster conveyed part of the Property to the Bull Point Plantation Property Owners' Association.

(EXHIBIT I). It also sold at least five individual lots. (EXHIBITS J, K, L, M, and N)(See also EXHIBIT Q). Thus, GSI, LLC did not acquire Bull Point LLC's entire interest with respect to the Property.

Further, Defendant Bull Point SC, LLC did not even acquire GSI, LLC's entire interest in the remaining Property. EXHIBIT O shows that on November 1, 2017 GSI, LLC – *after* – its assignment of interests to Defendant Bull Point SC, LLC – GSI, LLC conveyed a parcel, Lot 260 of Phase V-B to Craig Elachie, LLC, “that being a portion of that same property conveyed to GSI, LLC by DB Aster, LLC” Further, EXHIBIT P reflects that GSI, LLC still owns a parcel, Lot 170 located at 87 Barnaby Bluff. (See also EXHIBIT Q). Thus, Defendant Bull Point SC, LLC clearly did not acquire the “entire interest” of GSI, LLC relating to the Property of Bull Point Plantation, let alone the entire interest of the Declarant Bull Point, LLC.

For this reason alone, Plaintiffs are entitled to a declaration that Defendant Bull Point SC, LLC is not the Declarant and cannot exercise the Declarant's rights under the Declarations.

c. The original Declarant's intent was to strictly limit assignability of Declarant's rights.

The developer's prescience in prohibiting the sale of Declarant's rights is borne out by what has happened to Bull Point Plantation. The Defendants Gavigan and Bull Point SC, LLC are real estate investors who bought some twenty-seven lots and 153 undeveloped acres at a “fire sale” after the original Declarant filed for bankruptcy and its lender foreclosed its mortgage. Immediately upon purporting to assume the rights of the Declarant, Gavigan replaced the entire Board of Directors of the POA, naming himself President. He then directed the Board in a secret meeting to ask him (as purported Declarant) to amend the Declarations to turn the Contingency Fund – almost a million dollars that the members had contributed over the years -- over to him, a request which he quickly obliged. He has also engaged in a relentless campaign of harassment

against any members of the Association who have questioned his actions, including – most recently – by filing spurious counterclaims and third-party claims in this action and by causing the Association to file a separate spurious suit against members of the former Contingency Fund Committee. To add insult to injury, the Defendant Bull Point SC, LLC expressly declined to accept the liabilities and obligations of the previous Declarant along with the Declarant's rights. This is the very kind of nightmare that the developer never intended to inflict upon the community that it was creating. The Declarant's rights in Bull Point Plantation were never intended to be a commodity to be bought and sold among real estate speculators.

For the foregoing reasons, the Plaintiffs are entitled to a declaration that the Defendant Bull Point SC, LLC is not the Declarant of Bull Point Plantation and that actions taken by Bull Point SC, LLC in connection with control of the POA Board are invalid. To ensure continuity and provide for orderly governance, the Plaintiffs are further entitled to an immediate election of a new Board of Directors.

- d. **As a matter of law, the Bull Point POA Articles of Incorporation prevail over the Declarations, thus requiring the Board of Directors to be elected by the members of the Association, not appointed by the Declarant.**

If the Court agrees that Defendant Bull Point SC, LLC is not the Declarant of Bull Point Plantation, then it need go no further because the Defendants' actions taken as the purported Declarant – including appointing the Board of Directors of the Association – are void. But even if Defendant Bull Point SC, LLC is the Declarant, Plaintiffs are entitled to a declaratory judgment that the Defendant's appointment of the Board of Directors was a nullity because it contravened the provisions of the Association's Articles of Incorporation and most significantly, the South Carolina Nonprofit Corporations Act.⁵

⁵ See: S.C. Code Ann. §33-31-10 *et seq*
{00880100.DOCX.2 }

The South Carolina Nonprofit Corporation Act of 1994 (SCNPCA) governs mutual benefit corporations and homeowners' associations such as the Bull Point Plantation Property Owners Association. Bull Point's own Declarations provide that South Carolina law govern any conflicts in its interpretation. (See Section 8.02 of the Declarations, Exhibit 1 to the Amended Complaint). As with many legislative acts, the SCNPCA contains a Definitions section which provides the meanings of material terms used therein. In that regard, §33-31-104(4) defines the term "Bylaws":

“Bylaws” means the code or codes of rules, other than the articles, adopted pursuant to this chapter for the regulation or management of the affairs of the corporation *irrespective of the name or names by which the rules are designated.*”

S.C. Code Ann. §33-31-104(4) (emphasis added).

It is significant to note that, although the legislature would have been aware that governing documents such as the Bull Point Declarations and similar covenants running with the land were widely used in governing homeowners' associations, no governing documents other than the Articles of Incorporation and the above defined bylaws are recognized in the Act — the main legislation designed to govern such associations. It is clear from this that the South Carolina General Assembly, in enacting the SCNPCA, has intentionally set up a statutory scheme whereby all governing documents other than the Articles of Incorporation are referred to as “bylaws” in the Act. In fact, the Official Comments to §33-31-104 expressly state, “The term ‘bylaws’ has a particularly expansive definition. The term refers to the code or codes of rules, other than the articles, adopted for regulation or management of corporate affairs regardless of the name by which such rules are designated.” Accordingly, Bull Point's Declarations of Covenants, Conditions and Restrictions are referred to as a “bylaw” in the SCNPCA.

Turning to the issue of the priority an association's governing documents should be given, the SCNPCA states in pertinent part as follows:

SECTION 33-31-206. Bylaws.

(a) The incorporators or board of directors of a corporation shall adopt bylaws for the corporation.

(b) The bylaws may contain any provision for regulating and managing the affairs of the corporation *that is not inconsistent with law or the articles of incorporation.*

(emphasis added): Accordingly, Bull Point's Declarations, which constitute a "bylaw" under §33-31-104(4), cannot contain provisions that are inconsistent with its Articles of Incorporation. Therefore, the provisions of the Articles of Incorporation are given priority over any inconsistent provision of the Declarations/Bylaws.

The Bull Point Plantation Declarations conflict with the Articles of Incorporation in one important respect. The Articles of Incorporation provide for the election of the Board members by the members of the Association, whereas the Declarations purport to allow the Declarant, during the term of the Declarancy, to appoint and remove the members of the Association's Board of Directors. As shown in the statement of Facts above, the Association's Articles of Incorporation provide for the annual election of members of the Board of Directors:

At the first annual meeting, the members shall elect one (1) Director for a term of one (1) year, one Director for a term of two (2) years and one (1) Director for a term of three (3) years. At each annual meeting thereafter, the members shall elect one (1) Director for a term of one (1) year.

(EXHIBIT A, Section 6). This provision is inconsistent with the Declarations/Bylaws, which purport to allow the Declarant to appoint and remove members of the Board of Directors:

NOTWITHSTANDING ANY OTHER LANGUAGE OR PROVISION TO THE CONTRARY IN THIS DECLARATION, IN THE ARTICLES OF INCORPORATION, OR IN THE BY-LAWS OF THE ASSOCIATION, Declarant hereby retains the right to appoint and remove any member or members of the Board of Directors of the Association by and for the term set forth in Section 8.01 hereof.

(Exhibit 1 to Amended Complaint, Section 13.01) (capitalization in original). However, the Declarations/Bylaws provide (as they must) that the Nonprofit Corporation Act takes precedence in the event of a conflict among the governing documents:

Duties and Powers. The duties and powers of the Association shall be those set forth in the provisions of the South Carolina Code relating to non-profit corporations, this Declaration, the By-Laws, and the Articles, together with those reasonably implied to effect the purposes of the Association; provided, however, that if there are conflicts or inconsistencies among the South Carolina Code, this Declaration, the By-Laws, or the Articles, *the provisions of the South Carolina Code, this Declaration, the By-Laws and the Articles, in that order, shall prevail*, and each Owner of a Lot or Dwelling by acceptance of a deed or other conveyance thereof, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies.

(Exhibit 1 to Amended Complaint, Section 8.02) (emphasis added). Thus, the Declarations expressly conform themselves to the Nonprofit Corporation Act, which expressly conforms them to the Articles of Incorporation. The Board of Directors of the Association must therefore be elected by the members, not appointed by the Defendant Bull Point SC, LLC.⁶

Based on the above, Plaintiffs are entitled to a declaratory judgment that the Defendants' purported appointment of the Board of Directors was a nullity and that the actions of the illegally appointed Board are nullities. To enforce this declaration, the Court should also order an immediate election of all three members of the Association's Board of Directors in order to avoid harm to the Bull Point community and provide for administrative control over necessary Association functions.

⁶ The Act elsewhere protects the rights of members to elect their Board members. Section 33-31-804 states, "(a) If the corporation has members entitled to vote for directors, all the directors, except the initial directors, *must be elected* at the first annual meeting of members, *and at each annual meeting thereafter*, unless the articles or bylaws provide some other time or method of election, or provide that some of the directors are appointed by some other person or designated." (emphasis added)

CONCLUSION

For the reasons set forth above, Plaintiffs are entitled to summary judgment on their claim for declaratory judgment that the Defendant Bull Point SC, LLC is not the Declarant of Bull Point Plantation and cannot exercise Declarant's rights. In the alternative, Plaintiffs are entitled to a declaration that the Defendant Bull Point SC, LLC does not have the authority to appoint Directors of the Association, that the purported appointment of the Defendant Directors was invalid, and that the ultra vires actions of the Defendant Directors are void.

BARNWELL WHALEY
PATTERSON & HELMS, LLC

s/M. Dawes Cooke, Jr.
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Marvin D. Infinger (S.C. Bar No. 2880)
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minfinger@barnwell-whaley.com
Attorneys for Plaintiffs

July 2, 2019
Charleston, South Carolina

EXHIBIT A

(Attridge et al. v. Bull Point SC, LLC et al.)



ARTICLES OF INCORPORATION

Section 33-31-1601(e)(1)

STATE OF NORTH CAROLINA
SECRETARY OF STATE
TODD HILL
NONPROFIT CORPORATION
ARTICLES OF INCORPORATION



1. The name of the corporation is Bull Point Homeowners Association, Inc.
2. The legal registered office of the corporation is 1700 Sunset Blvd
West Columbia Lexington SC 29111
City, County, State Zip Code
- The name of the registered agent of the corporation at that office is SHARON RICHARD
3. Check (A), (B), or (C) whichever is applicable. Check only one box.
- a. ☐ (A) The corporation is a public benefit corporation.
- b. ☐ (B) The corporation is a religious corporation.
- c. ☐ (C) The corporation is a mutual benefit corporation.
4. Check (A) or (B) whichever is applicable.
- a. ☐ (A) The corporation will have members.
- b. ☐ (B) This corporation will not have members.
5. The address of the principal office of the corporation is 1700 Sunset Blvd
West Columbia Lexington SC 29111
City, County, State Zip Code
6. If this corporation is to be a public benefit or religious corporation (see A, B, or C, of 3.2. in the instructions), complete either (a) or (b) whichever is applicable, to describe how the remaining assets of the corporation will be distributed upon dissolution of the corporation.
- a. ☐ (a) Upon dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such asset not so disposed of shall be disposed of as by the court of common pleas of the county in which the principal office of the corporation is then located, consistently for such purposes as to such corporation or corporations, or such asset shall determine, which are designated and specified exclusively for such purposes.
- b. ☐ (b) Upon dissolution of the corporation, consistent with law, the remaining assets of the corporation shall be distributed to _____.
7. If the corporation is a mutual benefit corporation (see "c" of 3.2. in the instructions), complete either (a) or (b) whichever is applicable, to describe how the remaining assets of the corporation will be distributed upon dissolution of the corporation.
- a. ☐ (a) Upon dissolution of the mutual benefit corporation the (a) remaining assets shall be distributed to its members, or if it has no members, to those persons to whom the corporation holds itself out as lending or making.
- b. ☐ (b) Upon dissolution of the mutual benefit corporation the (a) remaining assets, consistent with law, shall be distributed to _____.
8. The optional provisions which the corporation chooses to include in the articles of incorporation are as follows (see 22-11-502(a) of the 1978 North Carolina Code, for applicable provisions therein, and the instructions to this form):

Apr 24 2018
REFERENCE ID: 1804231836503

ARTICLES OF INCORPORATION

BULL POINT HOMEOWNERS ASSOCIATION, INC.

1. In compliance with S33-31-10 of the South Carolina Code of Laws (1976), as amended, the undersigned, have this date voluntarily associated themselves together for the purpose of forming a Corporation not for profit and do hereby certify that the name of the Corporation is Bull Point Homeowners Association, Inc. (hereinafter referred to as the "Association").

2. The principal office of the Association is located at 1700 Sunset Blvd., Post Office Box 5709, West Columbia, South Carolina, 29171. Stancel E. Kirkland is hereby appointed the initial registered agent of this Corporation.

3. This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed is to provide for maintenance, preservation and architectural control of the residence lots and common area within that certain tract of property known as the Bull Point Property, and to promote the health, safety and welfare of the residents within the above-described property, and any additions thereto as may hereafter be brought within the jurisdiction of this Association for the purpose of:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions (hereinafter referred to as the "Declaration"), applicable to the property recorded or to be recorded in the RMC Office for Beaufort County and as the same may be amended from time to time as herein provided, said Declaration being incorporated herein as if set forth verbatim;

(b) fix, levy, collect and enforce payment by any lawful means or charges or assessments pursuant to the terms of the Declaration, and to pay all expenses in connection therewith, and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire, own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the Association;

(d) borrow money, with the assent of two-thirds of each class of members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

Apr 24 2018

REFERENCE ID: 1804231836503


Mark H. Hines

(e) dedicate, sell or transfer all or any part of the common area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds of each class of members agreeing to such dedication, sale or transfer.

(f) exercise any and all powers, rights and privileges which a Corporation organized under the Non-Profit Corporation Law for the State of South Carolina may now or hereafter have or exercise.

4. Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessment by the Association, including contracts, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as a security for performance of any obligation. Membership shall be pertinent to and may not be separated from ownership of any lot which is subject to assessment by the Association.

5. The Association shall have one (1) class of voting memberships as described in the By-Laws of the Association.

6. The affairs of this Association shall be managed by a Board of three (3) Directors who need not be members of the Association. The number of Directors may be changed by amendment of the By-Laws of the Association. The names and addresses of the persons who are to act in the capacity of Directors until the selection of their successors are:

(a) Stancel E. Kirkland	1700 Sunset Blvd. West Columbia, SC 29169
(b) Jerry L. Eddins	Post Office Box 3455 Cayce-West Columbia, SC 29171
(c) Robert L. Wolfson	652 South Reeves Street Dataw Island, SC 29920

At the first annual meeting, the members shall elect one (1) Director for a term of one (1) year, one (1) Director for a term of two (2) years and one (1) Director for a term of three (3) years. At each annual meeting thereafter, the members shall elect one (1) Director for a term of one (1) year.

7. The Association may dissolve with the assent given in writing and signed by not less than two-thirds of each class of members. Upon dissolution of the Association, other than merger or consolidation, the assets of the Association shall be dedicated to the appropriate public agency to be used for purposes similar to these for which this Association was created. In the event such

Apr 24 2018

REFERENCE ID: 1804231836503

Mark Howard
dedication is refused, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, thrust or other organization to be devoted to such similar purposes.

8. The Corporation shall exist perpetually.

9. Amendment of these Articles shall require the assent of seventy-five (75%) percent of the entire membership.

10. The Association shall manage and control the common areas, subject to the rights of Declarant and rights of owners set forth in the Declaration of Covenants, Conditions, and Restrictions recorded in the Office of the RMC for Beaufort County, South Carolina.

IN WITNESS WHEREOF, for purposes of forming this Corporation under the laws of the State of South Carolina, we, the undersigned, hereby constitute as the Incorporators of this Association have executed these Articles of Incorporation this 22 day of September, 1995.

WITNESSES:

Christa Harris
Holly Moore

BULL POINT HOMEOWNERS ASSOCIATION, INC.

Stancel E. Kirkland
STANCEL E. KIRKLAND

EXHIBIT B

(Attridge et al. v. Bull Point SC, LLC et al.)

BEAUFORT COUNTY SC - ROD
BK 3729 Pgs 591-599
FILE NUM 2019001999
01/10/2019 02:25:30 PM
REC'D BY rbins RCPT# 917703
RECORDING FEES \$15.00

ELECTRONICALLY FILED - 2019 JUL 02 4:49 PM - BEAUFORT - COMMON PLEAS - CASE#2018CP0702345

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

AFFIDAVIT TO RECORD

IN RE: Bull Point Plantation Property Owners Association, Inc.

The undersigned officer of Bull Point Plantation Property Owners Association, Inc., (the "Association") hereby certifies that the document attached hereto as Exhibit A are the Bylaws of the Association and were duly adopted by the Board of Directors of the Association and that the same are being recorded in order to comply with the South Carolina Homeowners Association Act; Title 27, Chapter 30, Section 110, et. seq.; South Carolina Code of Laws (1976).

Bull Point Plantation Property Owners
Association, Inc.

By: _____

William E. Gavigan,
President

SWORN TO BEFORE ME THIS
10th day of January, 2019

Kalea E. Little

Notary Public for South Carolina

KALEA E. LITTLE
Notary Public - State of South Carolina
My Commission Expires July 6, 2027

EXHIBIT A

Bylaws

of

Bull Point Plantation

Property Owners Association, Inc.

BY-LAWS
OF
BULL POINT HOMEOWNERS ASSOCIATION, INC.

ARTICLE I - NAME AND LOCATION

The name of the Corporation is Bull Point Homeowners Association, Inc., hereinafter referred to as the "Association". The principal office of the Corporation shall be located at 1700 Sunset Boulevard, West Columbia, South Carolina, but meetings of the Members and Directors shall be held at such places within the State of South Carolina, County of Beaufort, as may be designated by the Board of Directors.

ARTICLE II - DEFINITIONS

Section 1. "Association" shall mean and refer to Bull Point Homeowners Association, Inc., its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Restrictions, Charges and Liens, and such additions thereto as may be hereafter brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 4. "Lots" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area or Easement Area.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more person or entities of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Declarant" shall mean and refer to Bull Point Homeowners Association, Inc., its successors and assigns.

Section 7. "Declaration" shall mean and refer to the Declaration of Covenants, Restrictions, Easements, Charges and Liens applicable to the Properties recorded in the RMC Office of Beaufort County, South Carolina.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided for in the Declaration.

ARTICLE III - MEETINGS OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within one (1) year from the date of

incorporation of the Association, and each subsequent regular annual meeting of the Members shall be held on the same day of the same month of each year thereafter, at the hour of 6:30 o'clock p.m. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of 40% of the Members who are entitled to vote.

Section 3. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, together with a proxy, postage prepaid, at least fifteen (15) days before such meeting to each Members entitled to vote thereat, addressed to the Members' address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. Quorum and voting at meetings or the Membership is governed by the Declaration.

Section 5. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

ARTICLE IV - BOARD OF DIRECTORS

Section 1. Number. The affairs of this Association shall be managed by a Board of three (3) Directors, who need not be Members of the Association. The election of Directors is subject to the terms of Article VIII (Administration) of the Declaration.

Section 2. Term of Office. At the first annual meeting the Members shall elect one (1) Director for the term of one (1) year, one (1) Director for the term of two (2) years, and one (1) Director for the term of three (3) years; and at each annual meeting thereafter the Members shall elect one (1) Director for a term of one (1) year.

Section 3. Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 4. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all of the Directors. Any action so approved shall have the same

effect as though taken at a meeting of the Directors.

ARTICLE V - NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual Meeting. The Nominating Committee shall consist of a Chairman, who shall be a Member of the Board of Directors, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many appointments for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members of Non-Members.

Section 2. Election. Election to the Board of Directors shall be made by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The three (3) persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI - MEETING OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time and place on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by or at the request of the President of the Association, or by any two (2) Directors, after not less than three (3) days notice to each Director.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every Act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VII - POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board shall have the following powers:

(a) to adopt and publish rules and regulations governing the use of the Common Properties and facilities and the personal conduct of the Members and their guests and invitees thereon, and to establish penalties for the infraction thereof.

(b) suspend the voting rights and right to use recreational facilities, if any, of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations.

(c) to exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the Membership by other provisions of these By-Laws or the Declaration.

(d) declare the office of a Member of the Board of Directors to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board of Directors.

(e) employ a manager, an independent contractor, or other such employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting where such statement is requested in writing by one-fourth (1/4) of the Class A Members who are entitled to vote.

(b) supervise all officers, agents and employees of this Association and see that their duties are properly performed.

(c) as more fully provided in this Declaration to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period.

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period.

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the Owner personally obligated to pay the same.

(d) issue, or cause an appropriate office to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association.

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may be deemed appropriate.

(g) cause the Common Area to be maintained.

ARTICLE VIII - OFFICERS AND THEIR DUTIES

Section 1. Enumeration. The Officers of this Association shall be a President, Vice-President, who shall at all times by Members of the Board of Directors, a Secretary and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of Officers shall take place at the first meeting of the Board of Directors following such annual meeting of the Members.

Section 3. Term. The Officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign or shall be removed or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other Officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

Section 5. Resignation and Removal. Any Officer may be removed from office with or without cause by the Board. Any Officer may resign at any time given written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice, or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the Officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any other office except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the Officers are as follows:

(a) President - shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other

written instruments and shall co-sign all checks and promissory notes.

(b) Vice-President - shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board;

(c) Secretary - shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it to all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association, together with their addresses; and shall perform such other duties as required by the Board;

(d) Treasurer - shall receive and deposit in appropriate monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare any annual budget and a statement of income and expenditures to be presented to the Membership at its regular annual meeting; and deliver a copy of each to the Members.

ARTICLE IX - COMMITTEES

The Association shall appoint an Architectural Control Committee, as provided for in the Declaration, and a Nominating Committee, as provided for in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purposes.

ARTICLE X - BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at a reasonable cost.

ARTICLE XI - ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments, which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six (6%) percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose

the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Areas or abandonment of his Lot.

ARTICLE XII - CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words "BULL POINT HOMEOWNERS ASSOCIATION, INC."

ARTICLE XIII - AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is Class B Membership.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIV - MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of the incorporation.

In the event of a conflict between the By-Laws and the Declaration of Covenants and Restrictions for the Bull Point Property, then the terms of the Declaration of Covenants and Restrictions shall control.

IN WITNESS WHEREOF, I, being the President of the Bull Point Homeowners Association, Inc. have hereunto set my hand this 26th day of September, 1995.

Witnesses:

Bull Point Homeowners Association,
Inc.

BY: *John E. Kilduff*

BY: _____

BY: _____

EXHIBIT C

(Attridge et al. v. Bull Point SC, LLC et al.)

ALL that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 32, on a plat entitled "PLAT SHOWING BULL POINT SUBDIVISION, PHASE ONE, A SECTION OF TO MOTLEY PLANTATION, SHELDON TOWNSHIP, GARDENS CORNER, BEAUFORT COUNTY, SOUTH CAROLINA", prepared by David E. Gasque, RLS, dated September 21, 1995, with latest revision date of November 27, 1996 and recorded in Plat Book 58 at Page 110 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

The property herein is the same property Bull Point, LLC obtained by deed dated January 23, 1995 and recorded in Record Book 756 at Page 196 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No. R700-027-000-0082-0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 78 on a plat entitled "Plat Showing Bull Point Subdivision, Phase II, A Section of Tomotley Plantation, Sheldon Township, Gardens Comer, Beaufort County, South Carolina", prepared by David E. Gasque, RLS, dated November 8, 1995, with latest revision date of August 28, 2000 and recorded in Plat Book 75 at Page 180 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

The property herein is the same property Bull Point, LLC obtained by deed dated January 18, 1996 and recorded in Record Book 834 at Page 834 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No. R700-027-000-0130-0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 159, 161 and 170, on a plat entitled "Subdivision Plat of Bull Point Plantation, Phase III, a Portion of Tomotley Plantation, Prepared for: Bull Point Plantation, LLC, Gardens Comer, Beaufort County, South Carolina", prepared by David E. Gasque, RLS, dated May 2, 2002, and recorded in Plat Book 87 at Page 22 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property Bull Point, LLC obtained by deed dated January 23, 1997 and recorded in Record Book 918 at Page 2559 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS Nos.: R700-020-000-0133-0000

R700-020-000-0131-0000; and
R700-020-000-0151-0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 232, 234, 237, 239, 241, 242, 243, 244, 245, 246, 250, 251, and 252, of Phase IV, Bull Point Plantation on a plat entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase IV, Beaufort County, South Carolina", prepared by Gary Blair Burgess, RLS, Andrews Engineering Co., Inc., dated February 24, 2005, revised March 15, 2005, and recorded in Plat Book 105 at Page 106 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property Bull Point, LLC obtained by deed dated October 7, 2002 and recorded in Record Book 1644 at Page 1492 at the office of the Register of Deeds for Beaufort County, South Carolina and by deed dated January 23, 1997 and recorded in Record Book 918 at Page 2559 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS Nos.: R700-020-000-0197-0000
R700-020-000-0199-0000
R700-020-000-0202-0000
R700-020-000-0204-0000
R700-020-000-0205-0000
R700-020-000-0206-0000
R700-020-000-0207-0000
R700-020-000-0208-0000
R700-020-000-0209-0000
R700-020-000-0210-0000
R700-020-000-0214-0000
R700-020-000-0215-0000
R700-020-000-0216-0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 253, 255, 256 and 258, Big Bull Island, Bull Point Plantation, Phase V -A, as shown on that certain plat prepared by Andrews & Burgess, Inc., Engineering Surveying, dated May 19, 2005, last revised on May 9, 2007, entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase V-A, Big Bull Island, Beaufort County, South Carolina" and recorded in Plat Book 119 at Page 195 at the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property Bull Point, LLC obtained by deed dated January 23, 1997 and recorded in Record Book 918 at Page 2559 at the office of the Register of Deeds for Beaufort County, South Carolina and by

deed dated October 7, 2002 and recorded in Record Book 1644 at Page 1492 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS Nos.: R700-020-000-0177-0000
R700-026-000-0172-0000
R700-026-000-0173-0000
R700-026-000-0148-0000

AND ALSO, All that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 260, of Phase V-B, Bull Point Plantation on a plat consisting of two sheets entitled "Subdivision Plat of Phase V - B, Bull Point Plantation, A Portion of Tomotley Plantation, Prepared for Bull Point, LLC, Gardens Corner, Beaufort County, South Carolina", prepared by David E. Gasque, RLS #10506, dated November 9, 1998, last revised March 17, 2003, and recorded in Plat Book 92 at Pages 34 & 35 at the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property Bull Point, LLC obtained by deed dated October 7, 2002 and recorded in Record Book 1644 at Page 1492 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No.: R700-020-000-179-0000

AND ALSO, All that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 261, of Phase V-B, Bull Point Plantation on a plat consisting of two sheets entitled "Subdivision Plat of Phase V - B, Bull Point Plantation, A Portion of Tomotley Plantation, Prepared for Bull Point, LLC, Gardens Corner, Beaufort County, South Carolina", prepared by David E. Gasque, RLS #10506, dated November 9, 1998, last revised March 17, 2003, and recorded in Plat Book 92 at Pages 34 & 35 at the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property Bull Point, LLC obtained by deed dated October 7, 2002 and recorded in Record Book 1644 at Page 1492 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No.: R700-020-000-0180-0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 213, 214, 216, 218, 224, 225, 226, 227 of Phase VI, Bull Point Plantation on a plat entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase VI, Beaufort County, South Carolina", prepared by Gary Blair Burgess, RLS, Andrews Engineering Co., Inc., dated February 24, 2005, revised March 15, 2005, and recorded in Plat Book 105 at Page 105 in the office

of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property Bull Point, LLC obtained by deed dated January 23, 1997 and recorded in Record Book 918 at Page 2559 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS Nos.: R700-020-000-0232-0000

R700-020-000-0233-0000

R700-020-000-0235-0000

R700-020-000-0237-0000

R700-020-000-0242-0000

R700-020-000-0243-0000

R700-020-000-0244-0000

R700-020-000-0245-0000

AND ALSO, All that certain piece, parcel or tract of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, containing 156.465 acres and being shown and designated as Phase VII, Bull Point Plantation on a plat entitled "Boundary Survey for Bull Point, LLC", prepared by K. Merchant, Andrews & Burgess, Inc., dated September 20, 2007, revised December 4, 2007, and recorded in Plat Book 123 at Page 37 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

SAVE AND EXCEPT, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, being shown and designated as Septic Lots 253-S, 259-S, 260-S, 261-S and 262-S, Bull Point Plantation on a plat entitled "Boundary Survey for Bull Point, LLC", prepared by K. Merchant, Andrews & Burgess, Inc., dated September 20, 2007, revised December 4, 2007, and recorded in Plat Book 123 at Page 37 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

Subject to that certain 15 Sanitary Sewer Easement as shown on a plat entitled "Boundary Survey for Bull Point, LLC", prepared by K. Merchant, Andrews & Burgess, Inc., dated September 20, 2007, revised December 4, 2007, and recorded in Plat Book 123 at Page 37 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

Subject to any and all applicable Covenants, Restrictions, Conditions, Easements and Rights-of-way as set forth at the office of the Register of Deeds for Beaufort County, South Carolina.

The property herein is a portion of the same property Bull Point, LLC obtained by deed dated January 23, 1997 and recorded in Record Book 918 at Page 2559 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS Nos.: R700-020-00-0193-0000

R700-020-000-0127-0000

R700-020-000-0054-0000

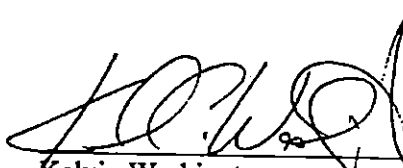
TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the said premises belonging, or in anywise incident or appertaining; and all the estate, right, title, claim and interest whatsoever of the parties to the cause aforesaid, and each of them, in and to the same, and of all other persons rightfully claiming from, under, or by these or any of them.

TO HAVE AND TO HOLD, all and singular the premises before mentioned unto said Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, I, the United States Marshal for the District of South Carolina, under and by virtue of the aforesaid Order and Decree, have here unto set my hand and seal, this 5 day of July, 2012.

SIGNED, SEALED AND DELIVERED
In the Presence Of:





Kelvin Washington
United States Marshal for the District of
South Carolina

STATE OF SOUTH CAROLINA**COUNTY OF BEAUFORT**

PERSONALLY APPEARED before me Mary Harper and made oath that
 s/he saw Kelvin Washington, United States Marshal for the District of South Carolina, sign, seal
 and deliver the within Deed; and, that deponent together with Charles R. Smith
 signed their names as witnesses thereto.

SWORN to and subscribed before me
 this 5th day of July, 2012

Cheryl Stetan (L.S.)
 Notary Public for South Carolina
 My Commission Expires: 3/31/13

Mary Harper
 Witness

ENTER IN GRANTOR INDEX:

Kelvin Washington
 United States Marshal for the District of South
 Carolina

ENTER IN GRANTEE INDEX:

D B Aster, LLC
 Attn: Ted Schroeder
 c/o Gibraltar Capital
 250 Gibraltar Road
 Horsham, Pennsylvania 19044

RETURN TO:

Julio E. Mendoza, Jr., Esquire
 NEXSEN PRUET, LLC
 1230 Main Street, Suite 700 (29201)
 Post Office Drawer 2426
 Columbia, South Carolina 29202
 Attorneys for German American Capital
 Corporation

INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

- (1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
- (2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
- (3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
- (4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;
- (6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
- (7) that constitute a contract for the sale of timber to be cut;
- (8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
- (9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust, in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any of the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
- (11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership;
- (12) that constitute a corrective deed or a quitclaim used to confirm title vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed;
- (13) transferring realty subject to a mortgage to the mortgagee whether by a deed in lieu of foreclosure executed by the mortgagee or deed pursuant to foreclosure proceedings;
- (14) transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty; and
- (15) transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act.

EXHIBIT A

ALL that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 32, on a plat entitled "PLAT SHOWING BULL POINT SUBDIVISION, PHASE ONE, A SECTION OF TO MOTLEY PLANTATION, SHELDON TOWNSHIP, GARDENS CORNER, BEAUFORT COUNTY, SOUTH CAROLINA", prepared by David E. Gasque, RLS, dated September 21, 1995, with latest revision date of November 27, 1996 and recorded in Plat Book 58 at Page 110 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

The property herein is the same property Bull Point, LLC obtained by deed dated January 23, 1995 and recorded in Record Book 756 at Page 196 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No. R700-027-000-0082-0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 78 on a plat entitled "Plat Showing Bull Point Subdivision, Phase II, A Section of Tomotley Plantation, Sheldon Township, Gardens Comer, Beaufort County, South Carolina", prepared by David E. Gasque, RLS, dated November 8, 1995, with latest revision date of August 28, 2000 and recorded in Plat Book 75 at Page 180 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

The property herein is the same property Bull Point, LLC obtained by deed dated January 18, 1996 and recorded in Record Book 834 at Page 834 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No. R700-027-000-0130-0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 159, 161 and 170, on a plat entitled "Subdivision Plat of Bull Point Plantation, Phase III, a Portion of Tomotley Plantation, Prepared for: Bull Point Plantation, LLC, Gardens Comer, Beaufort County, South Carolina", prepared by David E. Gasque, RLS, dated May 2, 2002, and recorded in Plat Book 87 at Page 22 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property Bull Point, LLC obtained by deed dated January 23, 1997 and recorded in Record Book 918 at Page 2559 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS Nos.: R700-020-000-0133-0000
R700-020-000-0131-0000; and
R700-020-000-0151-0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 232, 234, 237, 239, 241, 242, 243, 244, 245, 246, 250, 251, and 252, of Phase IV, Bull Point Plantation on a plat entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase IV, Beaufort County, South Carolina", prepared by Gary Blair Burgess, RLS, Andrews Engineering Co., Inc., dated February 24, 2005, revised March 15, 2005, and recorded in Plat Book 105 at Page 106 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property Bull Point, LLC obtained by deed dated October 7, 2002 and recorded in Record Book 1644 at Page 1492 at the office of the Register of Deeds for Beaufort County, South Carolina and by deed dated January 23, 1997 and recorded in Record Book 918 at Page 2559 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS Nos.: R700-020-000-0197-0000

R700-020-000-0199-0000

R700-020-000-0202-0000

R700-020-000-0204-0000

R700-020-000-0205-0000

R700-020-000-0206-0000

R700-020-000-0207-0000

R700-020-000-0208-0000

R700-020-000-0209-0000

R700-020-000-0210-0000

R700-020-000-0214-0000

R700-020-000-0215-0000

R700-020-000-0216-0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 253, 255, 256 and 258, Big Bull Island, Bull Point Plantation, Phase V -A, as shown on that certain plat prepared by Andrews & Burgess, Inc., Engineering Surveying, dated May 19, 2005, last revised on May 9, 2007, entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase V-A, Big Bull Island, Beaufort County, South Carolina" and recorded in Plat Book 119 at Page 195 at the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property Bull Point, LLC obtained by deed dated January 23, 1997 and recorded in Record Book 918 at Page 2559 at the office of the Register of Deeds for Beaufort County, South Carolina and by deed dated October 7, 2002 and recorded in Record Book 1644 at Page 1492 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS Nos.: R700-020-000-0177-0000

R700-026-000-0172-0000

R700-026-000-0173-0000

R700-026-000-0148-0000

AND ALSO, All that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 260, of Phase V-B, Bull Point Plantation on a plat consisting of two sheets entitled "Subdivision Plat of Phase V - B, Bull Point Plantation, A Portion of Tomotley Plantation, Prepared for Bull Point, LLC, Gardens Comer, Beaufort County, South Carolina", prepared by David E. Gasque, RLS #10506, dated November 9, 1998, last revised March 17, 2003, and recorded in Plat Book 92 at Pages 34 & 35 at the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property Bull Point, LLC obtained by deed dated October 7, 2002 and recorded in Record Book 1644 at Page 1492 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No.: R700-020-000-179-0000

AND ALSO, All that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 261, of Phase V-B, Bull Point Plantation on a plat consisting of two sheets entitled "Subdivision Plat of Phase V - B, Bull Point Plantation, A Portion of Tomotley Plantation, Prepared for Bull Point, LLC, Gardens Corner, Beaufort County, South Carolina", prepared by David E. Gasque, RLS #10506, dated November 9, 1998, last revised March 17, 2003, and recorded in Plat Book 92 at Pages 34 & 35 at the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property Bull Point, LLC obtained by deed dated October 7, 2002 and recorded in Record Book 1644 at Page 1492 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No.: R700-020-000-0180-0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 213, 214, 216, 218, 224, 225, 226, 227 of Phase VI, Bull Point Plantation on a plat entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase VI, Beaufort County, South Carolina", prepared by Gary Blair Burgess, RLS, Andrews Engineering Co., Inc., dated February 24, 2005, revised March 15, 2005, and recorded in Plat Book 105 at Page 105 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property Bull Point, LLC obtained by deed dated January 23, 1997 and recorded in Record Book 918 at Page 2559 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS Nos.: R700-020-000-0232-0000
R700-020-000-0233-0000

R700-020-000-0235-0000
 R700-020-000-0237-0000
 R700-020-000-0242-0000
 R700-020-000-0243-0000
 R700-020-000-0244-0000
 R700-020-000-0245-0000

AND ALSO, All that certain piece, parcel or tract of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, containing 156.465 acres and being shown and designated as Phase VII, Bull Point Plantation on a plat entitled "Boundary Survey for Bull Point, LLC", prepared by K. Merchant, Andrews & Burgess, Inc., dated September 20, 2007, revised December 4, 2007, and recorded in Plat Book 123 at Page 37 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

SAVE AND EXCEPT, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, being shown and designated as Septic Lots 253-S, 259-S, 260-S, 261-S and 262-S, Bull Point Plantation on a plat entitled "Boundary Survey for Bull Point, LLC", prepared by K. Merchant, Andrews & Burgess, Inc., dated September 20, 2007, revised December 4, 2007, and recorded in Plat Book 123 at Page 37 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

Subject to that certain 15 Sanitary Sewer Easement as shown on a plat entitled "Boundary Survey for Bull Point, LLC", prepared by K. Merchant, Andrews & Burgess, Inc., dated September 20, 2007, revised December 4, 2007, and recorded in Plat Book 123 at Page 37 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

Subject to any and all applicable Covenants, Restrictions, Conditions, Easements and Rights-of-way as set forth at the office of the Register of Deeds for Beaufort County, South Carolina.

The property herein is a portion of the same property Bull Point, LLC obtained by deed dated January 23, 1997 and recorded in Record Book 918 at Page 2559 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS Nos.: R700-020-00-0193-0000
 R700-020-000-0127-0000
 R700-020-000-0054-0000

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	027	000	0082	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	027	000	0130	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0133	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0131	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0151	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	1990	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0197	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0202	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0204	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0205	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0206	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0207	0000	00

ADD DMP Record 7/16/2012 14:36:17

-> Book/Page O BK 3156 PG 968A

BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0208	0000	00

ADD DMP Record 7/16/2012 14:36:17

-> Book/Page O BK 3156 PG 968A

BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0209	0000	00

ADD DMP Record 7/16/2012 14:36:17

-> Book/Page O BK 3156 PG 968A

BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0210	0000	00

ADD DMP Record 7/16/2012 14:36:17

-> Book/Page O BK 3156 PG 968A

BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0214	0000	00

ADD DMP Record 7/16/2012 14:36:17

-> Book/Page O BK 3156 PG 968A

BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0215	0000	00

ADD DMP Record 7/16/2012 14:36:17

-> Book/Page O BK 3156 PG 968A

BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0216	0000	00

ADD DMP Record 7/16/2012 14:36:17

-> Book/Page O BK 3156 PG 968A

BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0177	0000	00

ADD DMP Record 7/16/2012 14:36:17

-> Book/Page O BK 3156 PG 968A

BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	026	000	0172	0000	00

ADD DMP Record 7/16/2012 14:36:17

-> Book/Page O BK 3156 PG 968A

BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	026	000	0173	0000	00

ADD DMP Record 7/16/2012 14:36:17

-> Book/Page O BK 3156 PG 968A

BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	026	000	0148	0000	00

ADD DMP Record 7/16/2012 14:36:17

-> Book/Page O BK 3156 PG 968A

BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0179	0000	00

ADD DMP Record 7/16/2012 14:36:17

-> Book/Page O BK 3156 PG 968A

BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0180	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968B
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0232	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968B
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0233	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968B
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0235	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968B
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0237	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968B
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0242	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968B
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0243	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968B
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0244	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968B
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0245	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968B
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0193	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968B
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0252	0000	00

ADD DMP Record 7/16/2012 14:36:17
 -> Book/Page O BK 3156 PG 968B
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0127	0000	00

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.

2. The property being transferred is located as set forth in Exhibit A attached hereto, bearing the following Beaufort County Parcel Numbers: R700-027-000-0082-0000, R700-027-000-0130-0000, R700-020-000-0133-0000, R700-020-000-0131-0000, R700-020-000-0151-0000, R700-020-000-0197-0000, R700-020-000-0199-0000, R700-020-000-0202-0000, R700-020-000-0204-0000, R700-020-000-0205-0000, R700-020-000-0206-0000, R700-020-000-0207-0000, R700-020-000-0208-0000, R700-020-000-0209-0000, R700-020-000-0210-0000, R700-020-000-0214-0000, R700-020-000-0215-0000, R700-020-000-0216-0000, R700-020-000-0177-0000, R700-026-000-0172-0000, R700-026-000-0173-0000, R700-026-000-0148-0000, R700-020-000-179-0000, R700-020-000-0180-0000, R700-020-000-0232-0000, R700-020-000-0233-0000, R700-020-000-0235-0000, R700-020-000-0237-0000, R700-020-000-0242-0000, R700-020-000-0243-0000, R700-020-000-0244-0000, R700-020-000-0245-0000, R700-020-00-0193-0000, R700-020-000-0127-0000, R700-020-000-0054-0000. The property was transferred by Deed of Kelvin Washington, United States Marshal for the District of South Carolina to DB Aster, LLC on July 5, 2012.

3. Check one of the following: The deed is
(a) _____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
(b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
(c) X _____ exempt from the deed recording fee under exemption #13(See Information section of affidavit):
Grantee is the Plaintiff in an equity action of foreclosure
(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):

(a) _____ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$ _____.
(b) _____ The fee is computed on the fair market value of the realty which is _____.
(c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

5. Check Yes ___ or No ___ to the following: A lien or encumbrance on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____.

6. The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here: _____

(b) Place the amount listed in item 5 above here: _____

(If no amount is listed, place zero here.)

(c) Subtract Line 6(b) from Line 6(a) and place result here: _____

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$ _____.
\$ _____

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney for German American Capital Corporation.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

SWORN to before me this 5th

day of July, 2012

Manuel P. [Signature]
Notary Public for South Carolina
My Commission Expires: 7/15/20

Julio E. Mendoza, Jr.
Responsible Person Connected with the Transaction

Julio E. Mendoza, Jr., Esquire
Print or Type Name Here

THIS AFFIDAVIT INSERTED, PER ATTORNEY, TO CLARIFY EXEMPTION

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

DALE BATE, ROD

AFFIDAVIT

Page 1 of 2

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.

2. The property being transferred is located as set forth in Exhibit A attached hereto, bearing the following Beaufort County Parcel Numbers: R700-027-000-0082-0000, R700-027-000-0130-0000, R700-020-000-0133-0000, R700-020-000-0131-0000, R700-020-000-0151-0000, R700-020-000-0197-0000, R700-020-000-0199-0000, R700-020-000-0202-0000, R700-020-000-0204-0000, R700-020-000-0205-0000, R700-020-000-0206-0000, R700-020-000-0207-0000, R700-020-000-0208-0000, R700-020-000-0209-0000, R700-020-000-0210-0000, R700-020-000-0214-0000, R700-020-000-0215-0000, R700-020-000-0216-0000, R700-020-000-0177-0000, R700-026-000-0172-0000, R700-026-000-0173-0000, R700-026-000-0148-0000, R700-020-000-179-0000, R700-020-000-0180-0000, R700-020-000-0232-0000, R700-020-000-0233-0000, R700-020-000-0235-0000, R700-020-000-0237-0000, R700-020-000-0242-0000, R700-020-000-0243-0000, R700-020-000-0244-0000, R700-020-000-0245-0000, R700-020-00-0193-0000, R700-020-000-0127-0000, R700-020-000-0054-0000. The property was transferred by Deed of Kelvin Washington, United States Marshal for the District of South Carolina to DB Aster, LLC on July 5, 2012

3. Check one of the following: The deed is

- (a) _____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
- (b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
- (c) X _____ exempt from the deed recording fee under exemption #13 (See Information section of affidavit): DB Aster, LLC is a wholly -owned limity liability company of German American Capital Corporation and it is, therefore, exempt from deed recording fees.
(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):

- (a) _____ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$ _____.
- (b) _____ The fee is computed on the fair market value of the realty which is _____.
- (c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

5. Check Yes ___ or No ___ to the following: A lien or encumbrance on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____.

6. The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here: _____

(b) Place the amount listed in item 5 above here: _____

(If no amount is listed, place zero here.)

(c) Subtract Line 6(b) from Line 6(a) and place result here: _____

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$ _____.

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney for German American Capital Corporation.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Julio E. Mendoza Jr.
Responsible Person Connected with the Transaction

SWORN to before me this 17th

day of August 2012

[Signature]
Notary Public for South Carolina

My Commission Expires: 3/15/20

Julio E. Mendoza, Jr., Esquire
Print or Type Name Here

ELECTRONICALLY FILED - 2019 Jul 02 4:49 PM - BEAUFORT - COMMON PLEAS - CASE#2018CP0702345

14 SW
19 SW
Hepburn

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

**DEED
BY
JUDICIAL ORDER**

BEAUFORT COUNTY SC- ROD
BK 03156 PGS 0955-0967B
DATE: 07/09/2012 02:37:50 PM
INST # 2012037839 RCPT# 684751

ELECTRONICALLY FILED - 2019 Jul 02 4:49 PM - BEAUFORT - COMMON PLEAS - CASE#2018CP0702345

WHEREAS a foreclosure action in the United States District Court for the District of South Carolina, Beaufort Division, by German American Capital Corporation, Plaintiff, against Bull Point, LLC, Robert L Wolfson, Ervin Mathias, Bull Point Property Owner's Association Inc., John J Maddray, Nona M Maddray, Bull Point Plantation Property Owners Association, South Carolina Department of Revenue, Defendants, Case No. 9:11-cv-00629-SB came before the Honorable Sol Blatt, Jr., United States District Judge; and

WHEREAS the United States District Judge did order and decree on January 23, 2012, that the property hereinafter described should be sold at public sale by the United States Marshal on the terms and for the purposes stated in the Second Amended Order Granting Summary Judgment (the "Order and Decree") filed January 23, 2012; and

WHEREAS the United States Marshal for the District of South Carolina, after public advertisement of the said property as required by law, openly and publicly, at public auction, sold the said property for the highest bid received to German American Capital Corporation on January 23, 2012, for the credit bid of Five Million Three Hundred Thousand Dollars and 00/100 (\$5,300,000.00) which sale remained open for upset bids for a period of thirty (30) days with no upset bids having been received, and German American Capital Corporation having paid the costs. Thereafter, German American Capital Corporation assigned its successful bid to DB Aster, LLC (the "Grantee") by virtue of an Assignment of Bid.

NOW, KNOW ALL MEN, that I, the undersigned United States Marshal for the District of South Carolina, in consideration of the said bid paid as aforesaid, the receipt of which is hereby acknowledged, have granted, bargained, sold and released, and by these presents, do grant, bargain, sell and release unto said Grantee, its successors and assigns:

EXHIBIT D

(Attridge et al. v. Bull Point SC, LLC et al.)

45W
9 7032
Nelsen

BEAUFORT COUNTY SC - ROD
BK 03205 PGS 2101-2104
FILE NUM 2013001325
01/08/2013 12:59:28 PM
REC'D BY S WASHINGTON RCPT# 679256
RECORDING FEES 9.00

ELECTRONICALLY FILED - 2019 JUL 02 4:49 PM - BEAUFORT - COMMON PLEAS - CASE#2018CP0702345

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

ASSIGNMENT OF RIGHTS UNDER
DECLARATION (Book 805, Page 218)

THIS ASSIGNMENT of Rights Under Declaration (Book 805, Page 218) ("Assignment") is made this 28th day of December, 2012, by and between BULL POINT LLC, a South Carolina limited liability company ("ASSIGNOR") and DB ASTER, LLC, a Delaware limited liability company ("ASSIGNEE").

WHEREAS, ASSIGNOR is the holder of certain rights as "Declarant" under the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BULL POINT PLANTATION, recorded September 26, 1995 in the Office of Register of Deeds for Beaufort County in Book 805 at page 218, as supplemented and amended (the said Declaration as supplemented and amended being hereinafter referred to as the "Declaration," and the rights of Declarant thereunder being the "Declarant Rights"); and

WHEREAS, pursuant to that certain Assignment of Bid in Case No. 9:11-cv-00629-SB, In the United States District Court for the District of South Carolina, Beaufort Division dated February 2, 2012, Assignee has acquired from Assignor the property of the development known as "Bull Point Plantation" and subjected to the plan and operation of the Declaration, and in furtherance of said conveyance Assignor has agreed to assign to Assignee all of its Declarant Rights under the Declaration.

NOW, THEREFORE, for and in consideration of the sum of Ten (\$10.00) Dollars paid by ASSIGNEE, the receipt and adequacy and sufficiency of which are hereby acknowledged, ASSIGNOR does hereby agree as follows:

1. Assignment of Declarant Rights. Pursuant to the Declaration, ASSIGNOR hereby transfers, assigns, conveys, bargains, sells, and sets over unto ASSIGNEE, its successors and assigns, absolutely and irrevocably, all of ASSIGNOR'S right, title and interest in and to the Declarant Rights.
2. Assumption of Declarant Rights. ASSIGNEE hereby assumes all duties, obligations, and liabilities of Declarant under the Declaration which arise from or in connection with the Declarant Rights from and after the date hereof. ASSIGNEE'S assumption specifically excludes any and all claims, demands, responsibilities, liabilities and obligations of or against Declarant, whether in tort or contract, being an expressed or implied warranty, or resulting from ASSIGNOR'S acts or failures to act, and arising under the Declaration or ASSIGNOR'S development activities or the exercise of control of the Bull Point Property Owners Association prior to the date hereof. ASSIGNEE covenants to perform and observe from and after the date hereof each and every duty, and discharge every liability of the Declarant under the Declaration according to the tenor of the terms and conditions of the Declaration, and to be bound by the terms and conditions thereof as if ASSIGNEE were identified in the Declaration as Declarant.
3. Governing Law: This Assignment shall be governed by and construed in accordance with the laws of South Carolina.

IN WITNESS WHEREOF, ASSIGNOR and ASSIGNEE have caused this Assignment to be executed the day and year first above written.

SIGNED, SEALED AND
DELIVERED IN THE
PRESENCE OF:

BULL POINT, LLC

Carrie J. Fori
Witness Signature

By: Stacy E. Kirkland

Carrie E. M. DeP
Notary Signature

Its: Managing Member

STATE OF SOUTH CAROLINA)
COUNTY OF Lexington)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 28th day of December, 2012, by BULL POINT, LLC, by Stacy E. Kirkland, its Managing Member.

Carrie E. M. DeP (SEAL)
NOTARY PUBLIC for South Carolina

My Commission expires: November 11, 2022
(AFFIX SEAL)

SIGNED, SEALED AND
DELIVERED IN THE
PRESENCE OF:

DB ASTER, LLC

[Signature]
Witness Signature

By: [Signature] - STEPHEN HANFORD

Its: Vice President

[Signature]
Notary Signature

STATE OF Pennsylvania
COUNTY OF Montgomery

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 3rd day of January, 2013, by DB ASTER, LLC, by Stephen Hanford its Vice President.

[Signature] (SEAL)
NOTARY PUBLIC for Montgomery County, PA
My Commission expires: 4-15-2016
(AFFIX SEAL)

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
HEATHER L. DIXON, Notary Public
Horsham Twp., Montgomery County
My Commission Expires April 15, 2016

SIGNED, SEALED AND
DELIVERED IN THE
PRESENCE OF:

DB ASTER, LLC

Seck Davis
Witness Signature

By: Michael Greiner

Its: Vice President

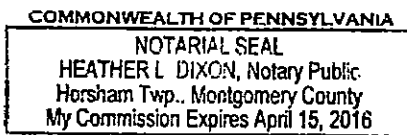
Heather L Dixon
Notary Signature

STATE OF Pennsylvania)
COUNTY OF Montgomery)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 3rd day of January, 2013, by DB ASTER, LLC, by Michael Greiner, its Vice President.

Heather L Dixon (SEAL)
NOTARY PUBLIC for Montgomery County, PA
My Commission expires: 4-15-2016
(AFFIX SEAL)



Prepared by:

Nexsen Pruet, LLC
1230 Main Street, Ste 700
Columbia, SC 29201

EXHIBIT E

(Attridge et al. v. Bull Point SC, LLC et al.)

280
12
N. O'Brien
9333

BEAUFORT COUNTY SC - ROD
BK 3600 Pgs 2587-2593
FILE NUM 2017045469
08/21/2017 01:19:51 PM
REC'D BY sherrellw RCPT# 6131
RECORDING FEES \$12.00

GENERAL ASSIGNMENT

THIS GENERAL ASSIGNMENT ("Assignment") is entered into as of the 18 day of August, 2017 (the "Effective Date"), by and between DB ASTER, LLC, a Delaware limited liability company (the "Assignor") and GSI LLC, a South Carolina limited liability company (the "Assignee") with reference to the following facts:

A. Seller and Buyer have entered into that certain Purchase and Sale Agreement dated as of August 10, 2017 ("Purchase Agreement"), in which Seller has agreed to sell and Buyer has agreed to purchase the real property described in EXHIBIT "A" attached thereto and the improvements located thereon (collectively, the "Property"). All capitalized terms used but not defined in this Assignment shall have the meanings ascribed to them in the Purchase Agreement.

B. Pursuant to the Purchase Agreement, Seller has agreed to assign, without recourse, representation or warranty, to Buyer all of Seller's right, title and interest in and to any Developer's Rights, plans, specifications, reports, licenses, permits, entitlements, surveys, maps, agreements, and contracts relating to the Property in Seller's actual possession that survive Closing and to the extent assignable (collectively, the "Contracts and Documents") subject to any rights of consent as provided therein.

THEREFORE, for valuable consideration, Seller and Buyer agree as follows:

1. Assignment. Seller hereby assigns, sells and transfers to Buyer, without recourse and without representation or warranty, and subject to the encumbrances set forth in the Limited Warranty Deed from Seller to Buyer of even date herewith, all of Seller's right, title and interest, if any, in and to the Contracts and Documents (subject to any rights of consent as provided therein).

2. Assumption. Buyer hereby accepts such assignment and assumes all of the benefits and obligations of the Contracts and Documents, and agrees to perform all of the obligations of Seller under such Contracts and Documents. Buyer further agrees to indemnify, defend and hold Seller harmless from and against any and all cost, loss, harm or damage which may arise under such Contracts and Documents from and after the date hereof.

3. Counterparts. This Assignment may be executed in counterparts, each of which shall be deemed an original, and both of which together shall constitute one and the same instrument.

4. Miscellaneous. This Assignment shall be binding on the parties and their respective successors and assigns. The headings to paragraphs of this Assignment are for convenient reference only and shall not be used in interpreting this Assignment.

5. Governing Law. This Assignment shall be governed by and interpreted in accordance with the laws of the state in which the Property is located applicable to contracts made and to be wholly performed in such state, without regard to conflicts or choice of law rules that would result in the application of other laws.

ELECTRONICALLY FILED - 2019 Jul 02 4:49 PM - BEAUFORT - COMMON PLEAS - CASE#2018CP0702345

000278

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment to be executed under seal as of the Effective Date.

ASSIGNOR:

DB ASTER, LLC
a Delaware limited liability company

By: [Signature] (SEAL)
Name: Danella Turbe
Its: Vice-President

By: [Signature] (SEAL)
Name: Joseph Steinhauser
Its: Vice-President

ASSIGNEE:

GSI, LLC,
a South Carolina limited liability company

By: [Signature] (SEAL)
Name: Manager
Its: Manager

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment to be executed under seal as of the Effective Date.

ASSIGNOR:

DB ASTER, LLC
a Delaware limited liability company

By:  (SEAL)
Name: Danelle Hurbe
Its: Vice-President

By:  (SEAL)
Name: Joseph Steinhauser
Its: Vice-President

ASSIGNEE:

GSI, LLC,
a South Carolina limited liability company

By:  8-19-17 (SEAL)
Name: Billy Gage
Its: President

EXHIBIT "A"**Property Description**

[27 Lots, 153 Acres, & 5 Septic Lots - Bull Point]

ALL those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 159, 161, and 170, on a plat entitled "Subdivision Plat of Bull Point Plantation, Phase III, a portion of Tomotely Plantation, Prepared for: Bull Point Plantation, LLC, Gardens Corner, Beaufort County, South Carolina," prepared by David E. Gasque, RLS, dated May 2, 2002, and recorded in Plat Book 87 at Page 22 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property DB Aster, LLC obtained by Deed by Judicial Order, dated July 5, 2012 and recorded on July 9, 2012, at Book 03156 at Page 0955 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No. R700-020-000-0131-0000
 R700-020-000-0133-0000
 R700-020-000-0151-0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 232, 234, 237, 239, 241, 242, 243, 244, 245, 246, 250, 251, and 252, of Phase IV, Bull Point Plantation on a plat entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase IV, Beaufort County, South Carolina," prepared by Gary Blair Burgess, RLS, Andrews Engineering Co., Inc., dated February 24, 2005, revised March 15, 2005, and recorded in Plat Book 105 at Page 106 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property DB Aster, LLC obtained by Deed by Judicial Order, dated July 5, 2012 and recorded on July 9, 2012, at Book 03156 at Page 0955 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No. R700-020-000-0197-0000
 R700-020-000-0199-0000
 R700-020-000-0202-0000
 R700-020-000-0204-0000
 R700-020-000-0205-0000
 R700-020-000-0206-0000
 R700-020-000-0207-0000

R700-020-000-0208-0000
 R700-020-000-0209-0000
 R700-020-000-0210-0000
 R700-020-000-0214-0000
 R700-020-000-0215-0000
 R700-020-000-0216-0000

AND ALSO, All that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 253, Big Bull Island, Bull Point Plantation, Phase V-A, as shown on that certain plat prepared by Andrews & Burgess, Inc., Engineering Surveying, dated May 19, 2005, last revised on May 9, 2007, entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase V-A, Big Bull Island, Beaufort County, South Carolina" and recorded in Plat Book 119 at Page 195 at the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property DB Aster, LLC obtained by Deed by Judicial Order, dated July 5, 2012 and recorded on July 9, 2012, at Book 03156 at Page 0955 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No. R700-020-000-0177-0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 260 & 261, of Phase V-B, Bull Point Plantation on a plat consisting of two sheets entitled "Subdivision Plat of Phase V-B, Bull Point Plantation, a portion of Tomotley Plantation, Prepared for Bull Point, LLC, Gardens Corner, Beaufort County, South Carolina," prepared by David E. Gasque, RLS #10506, dated November 9, 1998, last revised March 17, 2003, and recorded in Plat Book 92 at Pages 34 & 35 at the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property DB Aster, LLC obtained by Deed by Judicial Order, dated July 5, 2012 and recorded on July 9, 2012, at Book 03156 at Page 0955 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No. R700-020-000-0179-0000
 R700-020-000-0180-0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 213, 214, 216, 218, 224, 225, 226, 227, of Phase VI, Bull Point Plantation on a plat entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase VI, Beaufort County, South Carolina," prepared by Gary Blair Burgess, RLS, Andrews Engineering Co., Inc., dated February 24, 2005,

revised March 15, 2005, and recorded in Plat Book 105 at Page 105 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property DB Aster, LLC obtained by Deed by Judicial Order, dated July 5, 2012 and recorded on July 9, 2012, at Book 03156 at Page 0955 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No. R700-020-000-0232-0000
 R700-020-000-0233-0000
 R700-020-000-0235-0000
 R700-020-000-0237-0000
 R700-020-000-0242-0000
 R700-020-000-0243-0000
 R700-020-000-0244-0000
 R700-020-000-0245-0000

AND ALSO, All that certain piece, parcel or tract of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, containing 156.465 acres and being shown and designated as Phase VII, Bull Point Plantation on a plat entitled "Boundary Survey for Bull Point, LLC," prepared by K. Merchant, Andrews & Burgess, Inc., dated September 20, 2007, revised December 4, 2007, and recorded in Plat Book 123 at Page 37 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

SAVE AND EXCEPT, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, being shown and designated as Septic Lots 253-S, 259-S, 260-S, 261-S and 262-S, Bull Point Plantation on a plat entitled "Boundary Survey for Bull Point, LLC," prepared by K. Merchant, Andrews & Burgess, Inc., dated September 20, 2007, revised December 4, 2007, and recorded in Plat Book 123 at Page 37 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

Subject to that certain 15 Sanitary Sewer Easement as shown on a plat entitled "Boundary Survey for Bull Point, LLC," prepared by K. Merchant, Andrews & Burgess, Inc., dated September 20, 2007, revised December 4, 2007, and recorded in Plat Book 123 at Page 37 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

Subject to any and all applicable Covenants, Restrictions, Conditions, Easements and Rights-of-way as set forth at the office of the Register of Deeds for Beaufort County, South Carolina.

A portion of the property herein is a portion of the same property DB Aster, LLC obtained by Deed

by Judicial Order, dated July 5, 2012 and recorded on July 9, 2012, at Book 03156 at Page 0955 at the office of the Register of Deeds for Beaufort County, South Carolina.

AND

A portion of the property herein is a portion of the same property DB Aster, LLC obtained Quit-Claim Deed, dated August 11, 2014 and recorded August 13, 2014, at Book 3340 at Page 801 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No. R700-020-000-0193-000

AND ALSO, All those certain lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 253-S, 259-S, 260-S, 261-S and 262-S, on that certain Subdivision Plat of Phase V-B, Bull Point Plantation, a portion of Tomotley Plantation, prepared for Bull Point, LLC, Gardens Corner, prepared by Gasque & Associates, Inc. dated November 9, 1998, last revised March 17, 2003 and recorded March 18, 2003 in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 92, at page 34; and further shown on Boundary Survey for Bull Point LLC, Bull Point Phase VII, prepared by K. Merchant, and Michael L. Ray, Andrews & Burgess, Inc. dated September 20, 2007, last revised December 4, 2007 and recorded December 14, 2007 in said Office in Plat Book 123, at page 37; the boundary surveys are specifically incorporated herein by reference and reference to said boundary surveys are craved for the particulars as to metes, courses, distances, size, shape, dimensions, measurements, bounds, and boundaries.

The property herein is the same property DB Aster, LLC obtained by Limited Warranty Deed, dated December 28, 2012 and recorded on January 3, 2013, at Book 03204 at Page 2481 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No.: R700 020 000 0190 0000
 R700 020 000 0189 0000
 R700 020 000 0188 0000
 R700 020 000 0187 0000
 R700 020 000 0250 0000

EXHIBIT F

(Attridge et al. v. Bull Point SC, LLC et al.)

894
13 9333
D. Johnson

After recording return to:
Darrell Thomas Johnson, Jr.
300 Main Street,
P.O. Box 1124
Hardeeville, SC 29927

BEAUFORT COUNTY SC - REC
BK 3600 Pgs 2579-2586
FILE NUM 2017045468
08/21/2017 01:19:51 PM
REC'D BY sherrellw RCP
RECORDING FEES \$13.00

Electronically Filed - 2019 Jul 02 4:49 PM - BEAUFORT - COMMON PLEAS - CASE#2018CP0702345

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ASSIGNMENT AND ASSUMPTION OF DECLARANT'S RIGHTS

THIS ASSIGNMENT AND ASSUMPTION OF DECLARANT'S RIGHTS ("Assignment") is entered into as of the 18 day of August, 2017 (the "Effective Date"), by and between DB ASTER, LLC, a Delaware limited liability company (the "Assignor") and GSI LLC, a South Carolina limited liability company (the "Assignee").

WHEREAS, the Property, as described in Exhibit "A" attached hereto, is encumbered by that certain Declaration of Covenants, Conditions, and Restrictions for Bull Point Plantation dated September 22, 1995, and recorded in Book 805 at Page 218, in the Office of the Register of Deeds for Beaufort County, South Carolina, as amended (the "Declaration"); and

WHEREAS, Assignor is the Declarant under the Declaration; and

WHEREAS, Assignor has agreed to assign and Assignee has agreed to accept and assume all of the rights and obligations of Declarant under the Declaration.

NOW, THEREFORE, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee do hereby agree as follows:

1. **Assignment of Rights of Declarant.** Assignor does, effective as of the date of the recording hereof, hereby grant, bargain, sell, assign, transfer, and convey to Assignee, its successors and assigns, all of Assignor's rights, title, interest, powers, privileges and immunities as "**Declarant**" under the Declaration. Accordingly, effective as of the date of the recording hereof, Assignee is hereby designated the "**Declarant**" under the Declaration, and all rights, title, interest, powers, privileges and immunities of the Assignor in and to such status as "**Declarant**" under the Declaration shall cease as of the date of the recording hereof. Assignor does hereby covenant and warrant unto Assignee, its successors, successors-in-title and assigns that Assignor has made no other assignment or delegation of any of the rights, title, interest, powers, privileges and

immunities of Assignor as said Declarant, and that Assignor has neither done any act nor failed to do any act which might prohibit Assignee from, or limit Assignee in, acting under any of the provisions of this Assignment or the Declaration.

2. Assumption of Obligations Under Declaration. Assignee, upon the recording of this Assignment, does hereby assume and agree to perform all obligations of Declarant under the Declaration arising from and after the date of recording of this Assignment. Assignor shall in no event be liable for any responsibilities, liabilities, agreements or obligations of Assignee as Declarant or otherwise under the Declaration arising after the recording of this Assignment. Assignee agrees to indemnify and hold Assignor, its shareholders, directors, officers and employees, harmless from and against any claim, cost or expense, including, without limitation, court costs and attorneys' fees actually and reasonably incurred, based on Assignee's exercise of its rights as Declarant or failure to perform its obligations as Declarant under the Declaration on or after the date of this Assignment.

3. Successors and Assigns. The assignment of rights, title, interest, powers, privileges and immunities contained in this Assignment shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

4. Definitions. Unless otherwise defined herein, the capitalized words used in this Assignment shall have the same meaning as set forth in the Declaration.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment and Assumption of Declarant's Rights to be executed under seal as of the Effective Date.

ASSIGNOR:

WITNESSES:

DB ASTER, LLC,
a Delaware limited liability company

Tom Truf

By: Shanelle Iturbe (SEAL)
Name: Shanelle Iturbe
Its: Vice-President

Margaret Doyle

By: Joseph Stinkhiser (SEAL)
Name: Joseph Stinkhiser
Its: Vice-President

STATE OF PENNSYLVANIA)

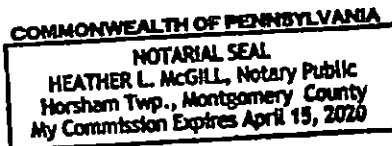
COUNTY OF MONTGOMERY)

ACKNOWLEDGEMENT

I, the undersigned Notary Public for the State of Pennsylvania, do hereby certify that Shanelle Iturbe and Joseph Stinkhiser, each Vice-Presidents of DB ASTER, LLC, a Delaware limited liability company personally appeared before me this day and, in the presence of the two witnesses above named, acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 16th day of August, 2017.

Heather L. McGill
Notary Public
My commission expires: 4-15-20



000288

WITNESSES:

Mary
Km. J

ASSIGNEE:

GSI, LLC,
a South Carolina limited liability company

By: [Signature] (SEAL)

Name: William Gavigan

Its: Manager

STATE OF SOUTH CAROLINA)
COUNTY OF Beaufort)

ACKNOWLEDGEMENT

I, the undersigned Notary Public for the State of South Carolina, do hereby certify that William Gavigan, a Manager of GSI LLC, a South Carolina limited liability company, personally appeared before me this day and, in the presence of the two witnesses above named, acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 14th day of August, 2017.

[Signature]
Notary Public
My commission expires:

EXHIBIT "A"**Property Description**

[27 Lots, 153 Acres, & 5 Septic Lots - Bull Point]

ALL those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 159, 161, and 170, on a plat entitled "Subdivision Plat of Bull Point Plantation, Phase III, a portion of Tomotely Plantation, Prepared for: Bull Point Plantation, LLC, Gardens Corner, Beaufort County, South Carolina," prepared by David E. Gasque, RLS, dated May 2, 2002, and recorded in Plat Book 87 at Page 22 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property DB Aster, LLC obtained by Deed by Judicial Order, dated July 5, 2012 and recorded on July 9, 2012, at Book 03156 at Page 0955 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No. R700-020-000-0131-0000
 R700-020-000-0133-0000
 R700-020-000-0151-0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 232, 234, 237, 239, 241, 242, 243, 244, 245, 246, 250, 251, and 252, of Phase IV, Bull Point Plantation on a plat entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase IV, Beaufort County, South Carolina," prepared by Gary Blair Burgess, RLS, Andrews Engineering Co., Inc., dated February 24, 2005, revised March 15, 2005, and recorded in Plat Book 105 at Page 106 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property DB Aster, LLC obtained by Deed by Judicial Order, dated July 5, 2012 and recorded on July 9, 2012, at Book 03156 at Page 0955 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No. R700-020-000-0197-0000
 R700-020-000-0199-0000
 R700-020-000-0202-0000
 R700-020-000-0204-0000
 R700-020-000-0205-0000
 R700-020-000-0206-0000
 R700-020-000-0207-0000

R700-020-000-0208-0000
 R700-020-000-0209-0000
 R700-020-000-0210-0000
 R700-020-000-0214-0000
 R700-020-000-0215-0000
 R700-020-000-0216-0000

AND ALSO, All that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 253, Big Bull Island, Bull Point Plantation, Phase V-A, as shown on that certain plat prepared by Andrews & Burgess, Inc., Engineering Surveying, dated May 19, 2005, last revised on May 9, 2007, entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase V-A, Big Bull Island, Beaufort County, South Carolina" and recorded in Plat Book 119 at Page 195 at the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property DB Aster, LLC obtained by Deed by Judicial Order, dated July 5, 2012 and recorded on July 9, 2012, at Book 03156 at Page 0955 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No. R700-020-000-0177-0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 260 & 261, of Phase V-B, Bull Point Plantation on a plat consisting of two sheets entitled "Subdivision Plat of Phase V-B, Bull Point Plantation, a portion of Tomotley Plantation, Prepared for Bull Point, LLC, Gardens Corner, Beaufort County, South Carolina," prepared by David E. Gasque, RLS #10506, dated November 9, 1998, last revised March 17, 2003, and recorded in Plat Book 92 at Pages 34 & 35 at the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property DB Aster, LLC obtained by Deed by Judicial Order, dated July 5, 2012 and recorded on July 9, 2012, at Book 03156 at Page 0955 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No. R700-020-000-0179-0000
 R700-020-000-0180-0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 213, 214, 216, 218, 224, 225, 226, 227, of Phase VI, Bull Point Plantation on a plat entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase VI, Beaufort County, South Carolina," prepared by Gary Blair Burgess, RLS, Andrews Engineering Co., Inc., dated February 24, 2005,

revised March 15, 2005, and recorded in Plat Book 105 at Page 105 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

The property herein is a portion of the same property DB Aster, LLC obtained by Deed by Judicial Order, dated July 5, 2012 and recorded on July 9, 2012, at Book 03156 at Page 0955 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No. R700-020-000-0232-0000
 R700-020-000-0233-0000
 R700-020-000-0235-0000
 R700-020-000-0237-0000
 R700-020-000-0242-0000
 R700-020-000-0243-0000
 R700-020-000-0244-0000
 R700-020-000-0245-0000

AND ALSO, All that certain piece, parcel or tract of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, containing 156.465 acres and being shown and designated as Phase VII, Bull Point Plantation on a plat entitled "Boundary Survey for Bull Point, LLC," prepared by K. Merchant, Andrews & Burgess, Inc., dated September 20, 2007, revised December 4, 2007, and recorded in Plat Book 123 at Page 37 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

SAVE AND EXCEPT, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, being shown and designated as Septic Lots 253-S, 259-S, 260-S, 261-S and 262-S, Bull Point Plantation on a plat entitled "Boundary Survey for Bull Point, LLC," prepared by K. Merchant, Andrews & Burgess, Inc., dated September 20, 2007, revised December 4, 2007, and recorded in Plat Book 123 at Page 37 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

Subject to that certain 15 Sanitary Sewer Easement as shown on a plat entitled "Boundary Survey for Bull Point, LLC," prepared by K. Merchant, Andrews & Burgess, Inc., dated September 20, 2007, revised December 4, 2007, and recorded in Plat Book 123 at Page 37 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

Subject to any and all applicable Covenants, Restrictions, Conditions, Easements and Rights-of-way as set forth at the office of the Register of Deeds for Beaufort County, South Carolina.

A portion of the property herein is a portion of the same property DB Aster, LLC obtained by Deed

by Judicial Order, dated July 5, 2012 and recorded on July 9, 2012, at Book 03156 at Page 0955 at the office of the Register of Deeds for Beaufort County, South Carolina.

AND

A portion of the property herein is a portion of the same property DB Aster, LLC obtained Quit-Claim Deed, dated August 11, 2014 and recorded August 13, 2014, at Book 3340 at Page 801 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No. R700-020-000-0193-000

AND ALSO, All those certain lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 253-S, 259-S, 260-S, 261-S and 262-S, on that certain Subdivision Plat of Phase V-B, Bull Point Plantation, a portion of Tomotley Plantation, prepared for Bull Point, LLC, Gardens Corner, prepared by Gasque & Associates, Inc. dated November 9, 1998, last revised March 17, 2003 and recorded March 18, 2003 in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 92, at page 34; and further shown on Boundary Survey for Bull Point LLC, Bull Point Phase VII, prepared by K. Merchant, and Michael L. Ray, Andrews & Burgess, Inc. dated September 20, 2007, last revised December 4, 2007 and recorded December 14, 2007 in said Office in Plat Book 123, at page 37; the boundary surveys are specifically incorporated herein by reference and reference to said boundary surveys are craved for the particulars as to metes, courses, distances, size, shape, dimensions, measurements, bounds, and boundaries.

The property herein is the same property DB Aster, LLC obtained by Limited Warranty Deed, dated December 28, 2012 and recorded on January 3, 2013, at Book 03204 at Page 2481 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No.: R700 020 000 0190 0000
 R700 020 000 0189 0000
 R700 020 000 0188 0000
 R700 020 000 0187 0000
 R700 020 000 0250 0000

EXHIBIT G

(Attridge et al. v. Bull Point SC, LLC et al.)

280
13 9552
W. Johnson

RECORDED
2017 Sep -01 08:29 AM

Beaufort
BEAUFORT COUNTY AUDITOR

BEAUFORT COUNTY SC - ROD
BK 3600 Pgs 2594-2600
FILE NUM 2017045470
08/21/2017 01:19:51 PM
REC'D BY sherrellw RCPT# 135
RECORDING FEES \$13.00

ELECTRONICALLY FILED - 2019 Jul 02 4:49 PM - BEAUFORT - COMMON PLEAS - CASE#2018CP0702345

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

KNOW ALL MEN BY THESE PRESENTS, That, **GSI, LLC**, hereinafter referred to as Grantor, in the State aforesaid, for and in consideration of the sum of **TEN AND NO/100TH'S DOLLARS (\$10.00) TRANSFER TO A RELATED ENTITY**, to it, paid by **BULL POINT SC, LLC OF 4 ADDISON STREET, BEAUFORT, SOUTH CAROLINA 29907**, hereinafter referred to as Grantee, in the State aforesaid, (the receipt of which is hereby acknowledged) have, granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said Grantee, Grantee's successors and assigns, forever, the following described real property to-wit:

ALL those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 159 and 161, on a plat entitled "Subdivision Plat of Bull Point Plantation, Phase III, a portion of Tomotely Plantation, Prepared for: Bull Point Plantation, LLC, Gardens Corner, Beaufort County, South Carolina," prepared by David E. Gasque, RLS, dated May 2, 2002, and recorded in Plat Book 87 at Page 22 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

TMS No. R700 020 000 0131 0000
 R700 020 000 0133 0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 232, 234, 237, 239, 241, 242, 243, 244, 245, 246, 250, 251, and

000295

252, of Phase IV, Bull Point Plantation on a plat entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase IV, Beaufort County, South Carolina," prepared by Gary Blair Burgess, RLS, Andrews Engineering Co., Inc., dated February 24, 2005, revised March 15, 2005, and recorded in Plat Book 105 at Page 106 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

TMS No. R700 020 000 0197 0000
 R700 020 000 0199 0000
 R700 020 000 0202 0000
 R700 020 000 0204 0000
 R700 020 000 0205 0000
 R700 020 000 0206 0000
 R700 020 000 0207 0000
 R700 020 000 0208 0000
 R700 020 000 0209 0000
 R700 020 000 0210 0000
 R700 020 000 0214 0000
 R700 020 000 0215 0000
 R700 020 000 0216 0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 253, Big Bull Island, Bull Point Plantation, Phase V A, as shown on that certain plat prepared by Andrews & Burgess, Inc., Engineering Surveying, dated May 19, 2005, last revised on May 9, 2007, entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase V A, Big Bull Island, Beaufort County, South Carolina" and recorded in Plat Book 119 at Page 195 at the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

TMS No. R700 020 000 0177 0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 261, of Phase V B, Bull Point Plantation on a plat consisting of two sheets entitled "Subdivision Plat of Phase V B, Bull Point Plantation, a portion of Tomotley Plantation, Prepared for Bull Point, LLC, Gardens Corner, Beaufort County, South Carolina," prepared by David E. Gasque, RLS #10506, dated November 9, 1998, last revised March 17, 2003, and recorded in Plat Book 92 at Pages 34 & 35 at the office of the Register of

Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

TMS No. R700 020 000 0180 0000

AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 213, 214, 216, 218, 224, 225, 226, 227, of Phase VI, Bull Point Plantation on a plat entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase VI, Beaufort County, South Carolina," prepared by Gary Blair Burgess, RLS, Andrews Engineering Co., Inc., dated February 24, 2005, revised March 15, 2005, and recorded in Plat Book 105 at Page 105 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

TMS No. R700 020 000 0232 0000
 R700 020 000 0233 0000
 R700 020 000 0235 0000
 R700 020 000 0237 0000
 R700 020 000 0242 0000
 R700 020 000 0243 0000
 R700 020 000 0244 0000
 R700 020 000 0245 0000

AND ALSO, All that certain piece, parcel or tract of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, containing 156.465 acres and being shown and designated as Phase VII, Bull Point Plantation on a plat entitled "Boundary Survey for Bull Point, LLC," prepared by K. Merchant, Andrews & Burgess, Inc., dated September 20, 2007, revised December 4, 2007, and recorded in Plat Book 123 at Page 37 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

Subject to that certain 15 Sanitary Sewer Easement as shown on a plat entitled "Boundary Survey for Bull Point, LLC," prepared by K. Merchant, Andrews & Burgess, Inc., dated September 20, 2007, revised December 4, 2007, and recorded in Plat Book 123 at Page 37 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances,

reference may be had to the aforementioned plat of record.

Subject to any and all applicable Covenants, Restrictions, Conditions, Easements and Rights of way as set forth at the office of the Register of Deeds for Beaufort County, South Carolina.

A portion of the property herein is a portion of the same property DB Aster, LLC obtained by Deed by Judicial Order, dated July 5, 2012 and recorded on July 9, 2012, at Book 03156 at Page 0955 at the office of the Register of Deeds for Beaufort County, South Carolina.

AND

A portion of the property herein is a portion of the same property DB Aster, LLC obtained Quit-Claim Deed, dated August 11, 2014 and recorded August 13, 2014, at Book 3340 at Page 801 at the office of the Register of Deeds for Beaufort County, South Carolina.

TMS No. R700 020 000 0193 0000

AND ALSO, All those certain lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 253 S, 259 S, 260 S, 261 S and 262 S, on that certain Subdivision Plat of Phase V-B, Bull Point Plantation, a portion of Tomotley Plantation, prepared for Bull Point, LLC, Gardens Corner, prepared by Gasque & Associates, Inc. dated November 9, 1998, last revised March 17, 2003 and recorded March 18, 2003 in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 92, at page 34; and further shown on Boundary Survey for Bull Point LLC, Bull Point Phase VII, prepared by K. Merchant, and Michael L. Ray, Andrews & Burgess, Inc. dated September 20, 2007, last revised December 4, 2007 and recorded December 14, 2007 in said Office in Plat Book 123, at page 37; the boundary surveys are specifically incorporated herein by reference and reference to said boundary surveys are craved for the particulars as to metes, courses, distances, size, shape, dimensions, measurements, bounds, and boundaries.

TMS No.: R700 020 000 0190 0000
 R700 020 000 0189 0000
 R700 020 000 0188 0000
 R700 020 000 0187 0000
 R700 020 000 0250 0000

The above being those same parcels conveyed to GSI, LLC by deed of DB ASTER, LLC recorded in Record Book 3600 at Page 2511, in the Office of the ROD for Beaufort County, South Carolina.

THIS DEED WAS PREPARED BY THE LAW OFFICE OF DARRELL THOMAS JOHNSON, JR., 300 MAIN STREET, HARDEEVILLE, SC 29927, WITH THE BENEFIT OF A TITLE EXAMINATION AND WITHOUT OPINION AS TO THE APPLICATION OF THE DEVELOPMENT STANDARDS ORDINANCE OR SIMILAR ORDINANCES OR REGULATIONS. LAW OFFICE FILE NO: 07-604-18-500-17.

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantee, Grantee's Successors and Assigns forever.

And the Grantor does hereby bind Grantor's Successors and Assigns, to warrant and forever defend all and singular the said premises unto the said Grantee, Grantee's Successors and Assigns, against Grantor and Grantor's Successors and Assigns and against every person whomsoever lawfully claiming, or to claim the same or any part thereof.

WITNESS ITS Hand and Seal this 21st day of August in the year of our Lord two thousand seventeen and in the two hundred and forty-first year of sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

GSI, LLC

BY: BLANG SC, INC.;

ITS: MEMBER

BY: W. E. Gavigan 8-21-17 9:00am

WILLIAM E. GAVIGAN

ITS: PRESIDENT

**AFFIDAVIT OF TRUE CONSIDERATION
and
CLAIM FOR EXEMPTION FORM:**

STATE RECORDING FEE - S.C. CODE OF LAWS SECTION 12-24-40:
APPLICABLE COUNTY & MUNICIPAL TRANSFER FEE ORDINANCES

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

PERSONALLY appeared before me the undersigned, who is duly sworn, deposes and says that the following is a true and correct statement concerning the CONSIDERATION for the conveyance set forth below, and concerning any EXEMPTION claimed under the laws of the State of South Carolina and Town of Hilton Head Island, South Carolina:

GRANTOR: GSI, LLC

GRANTEE: BULL POINT SC, LLC

GRANTEE MAILING ADDRESS: 4 ADDISON ST., BEAUFORT, SC 29907

DATE OF CONVEYANCE: AUGUST 17, 2017

TRUE CONSIDERATION: TRANSFER TO RELATED ENTITY

TAX DISTRICT/MAP/PARCEL NO.: R700 020 000 0131 0000; R700 020 000 0133; 0000 R700 020 000 0197 0000; R700 020 000 0199 0000; R700 020 000 0202 0000; R700 020 000 0204 0000; R700 020 000 0205 0000; R700 020 000 0206 0000; R700 020 000 0207 0000; R700 020 000 0208 0000; R700 020 000 0209 0000; R700 020 000 0210 0000; R700 020 000 0214 0000; R700 020 000 0215 0000; R700 020 000 0216 0000; R700 020 000 0180 0000; R700 020 000 0232 0000; R700 020 000 0233 0000; R700 020 000 0235 0000; R700 020 000 0237 0000; R700 020 000 0242 0000; R700 020 000 0243 0000; R700 020 000 0244 0000; R700 020 000 0245 0000; R700 020 000 0193 000; R700 020 000 0190 0000; R700 020 000 0189 0000; R700 020 000 0188 0000; R700 020 000 0187 0000; R700 020 000 0250 0000

(NOTE: This information must also appear on the Deed.)

STATE RECORDING FEE EXEMPTION (if applicable): This transfer is exempt from the statutory Recording Fee required by the State of South Carolina in accordance with Section 12-24-40, subparagraph 8.

TRANSFER FEE EXEMPTION (if applicable): This transfer is exempt under Ordinance # _____ of _____, subparagraph _____.

Signed: _____

Printed Name: _____

Sworn to and subscribed before me
this 20 day of August, 2017.

Notary Public for South Carolina

My Commission Expires: 06/28/20

RMCOFFICE USE ONLY

State Fees Collected: \$ _____

Recording Date: _____

Transfer Fees Collected: \$ _____

Book: _____ Page: _____

000301

ADD DMP Record 8/30/2017 10:53:52
 -> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0131	0000	00

ADD DMP Record 8/30/2017 10:53:52
 -> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0133	0000	00

ADD DMP Record 8/30/2017 10:53:52
 -> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0197	0000	00

ADD DMP Record 8/30/2017 10:53:52
 -> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0199	0000	00

ADD DMP Record 8/30/2017 10:53:52
 -> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0202	0000	00

ADD DMP Record 8/30/2017 10:53:52
 -> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0204	0000	00

ADD DMP Record 8/30/2017 10:53:52
 -> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0205	0000	00

ADD DMP Record 8/30/2017 10:53:52
 -> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0206	0000	00

ADD DMP Record 8/30/2017 10:53:52
 -> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0207	0000	00

ADD DMP Record 8/30/2017 10:53:52
 -> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0208	0000	00

ADD DMP Record 8/30/2017 10:53:52
 -> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0209	0000	00

ADD DMP Record 8/30/2017 10:53:52
 -> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0210	0000	00

ADD DMP Record 8/30/2017 10:53:52
 --> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0214	0000	00

ADD DMP Record 8/30/2017 10:53:52
 --> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0215	0000	00

ADD DMP Record 8/30/2017 10:53:52
 --> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0216	0000	00

ADD DMP Record 8/30/2017 10:53:52
 --> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0177	0000	00

ADD DMP Record 8/30/2017 10:53:52
 --> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0180	0000	00

ADD DMP Record 8/30/2017 10:53:52
 --> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0232	0000	00

ADD DMP Record 8/30/2017 10:53:52
 --> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0233	0000	00

ADD DMP Record 8/30/2017 10:53:52
 --> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0235	0000	00

ADD DMP Record 8/30/2017 10:53:52
 --> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0237	0000	00

ADD DMP Record 8/30/2017 10:53:52
 --> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0242	0000	00

ADD DMP Record 8/30/2017 10:53:52
 --> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0243	0000	00

ADD DMP Record 8/30/2017 10:53:52
 --> Book/Page O BK 3600 PG 2601A
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0244	0000	00

ADD DMP Record 8/30/2017 10:53:52
--> Book/Page O BK 3600 PG 2601B
BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0245	0000	00

ADD DMP Record 8/30/2017 10:53:52
--> Book/Page O BK 3600 PG 2601B
BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R070	020	000	0193	3000	00

ADD DMP Record 8/30/2017 10:53:52
--> Book/Page O BK 3600 PG 2601B
BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0190	0000	00

ADD DMP Record 8/30/2017 10:53:52
--> Book/Page O BK 3600 PG 2601B
BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0189	0000	00

ADD DMP Record 8/30/2017 10:53:52
--> Book/Page O BK 3600 PG 2601B
BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0188	0000	00

ADD DMP Record 8/30/2017 10:53:52
--> Book/Page O BK 3600 PG 2601B
BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0187	0000	00

ADD DMP Record 8/30/2017 10:53:52
--> Book/Page O BK 3600 PG 2601B
BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0250	0000	00

ELECTRONICALLY FILED - 2019 JUL 02 4:49 PM - BEAUFORT - COMMON PLEAS - CASE#2018CP0702345

EXHIBIT H

(Attridge et al. v. Bull Point SC, LLC et al.)

3-848
Dorville
Johnson



BEAUFORT COUNTY SC - ROD
BK 3600 Pgs 2641-2643
FILE NUM 2017045480
08/21/2017 01:34:03 PM
REC'D BY pbaxley RCPT# 821357
RECORDING FEES \$8.00

STATE OF SOUTH CAROLINA) ASSIGNMENT OF RIGHTS UNDER
COUNTY OF BEAUFORT) DECLARATION (Book 805, Page 218)
)
)

THIS ASSIGNMENT of Rights Under Declaration (Book 805, Page 218) ("Assignment") is made this 21st day of August, 2017, by and between GSI, LLC, a South Carolina limited liability company ("Assignor") and BULL POINT SC, LLC, a South Carolina limited liability company ("Assignee").

WHEREAS, BULL POINT LLC, a South Carolina limited liability company, and METROPOLITAN PROPERTIES, INC., a South Carolina corporation (collectively the "Original Declarant"), executed that document entitled "Declaration of Covenants, Conditions and Restrictions for Bull Point Plantation," dated the September 22, 1995, which Declaration was recorded in Book of Deeds 805, at Page 218, on September 26, 1996 in the Office of the Register of Deeds for Beaufort County, South Carolina (the said Declaration as supplemented and amended being hereinafter referred to as the "Declaration," and the rights of Declarant thereunder being the "Declarant Rights");

WHEREAS, on December 28, 2012, the Original Declarant executed that document entitled "Assignment of Rights Under Declaration," recorded with the Register of Deeds on January 8, 2013, in Book 3205 at Page 2101, pursuant to which the Original Declarant transferred to DB ASTER, LLC, a Pennsylvania limited liability company, all of its rights under the Declaration; and

WHEREAS, on August 18, 2017, DB Aster, LLC executed that document entitled "Assignment of Rights Under Declaration," pursuant to which GSI, LLC transferred to GSI, LLC, a South Carolina limited liability company, all of its rights as the Declarant; and

WHEREAS, on August 21, 2017, GSI, LLC executed that document entitled "Assignment of Rights Under Declaration," pursuant to which GSI, LLC transferred to BULL POINT SC, LLC, a South Carolina limited liability company, all of its rights as the Declarant; and

WHEREAS, Assignor is the Declarant under the Declaration; and

WHEREAS, Assignor has agreed to assign to Assignee, and Assignee has agreed to accept and assume, all of Assignor's rights and obligations under the Declaration.

NOW, THEREFORE, for and in consideration of the sum of Ten (\$10.00) Dollars paid by Assignee, the receipt and adequacy and sufficiency of which are hereby acknowledged, Assignor does hereby agree as follows:

1. Assignment of Declarant Rights. Pursuant to the Declaration, Assignor hereby transfers, assigns, conveys, bargains, sells, and sets over unto Assignee, its successors and assigns, absolutely and irrevocably, all of Assignor's right, title and interest in and to the Declarant Rights.

Assignment of Rights Under Declaration - 1

ELECTRONICALLY FILED - 2019 Jul 02 4:49 PM - BEAUFORT - COMMON PLEAS - CASE#2018CPO702345

2. Assumption of Declarant Rights. Assignee hereby assumes all duties, obligations, and liabilities of Declarant under the Declaration which arise from or in connection with the Declarant Rights from and after the date hereof. Assignee's assumption specifically excludes any and all claims, demands, responsibilities, liabilities and obligations of or against Declarant, whether in tort or contract, being an expressed or implied warranty, or resulting from Assignor's acts or failures to act, and arising under the Declaration or Assignor's development activities or the exercise of control of the Bull Point Property Owners Association prior to the date hereof. Assignee covenants to perform and observe from and after the date hereof each and every duty, and discharge every liability of the Declarant under the Declaration according to the tenor of the terms and conditions of the Declaration, and to be bound by the terms and conditions thereof as if Assignee were identified in the Declaration as Declarant.

3. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of South Carolina.

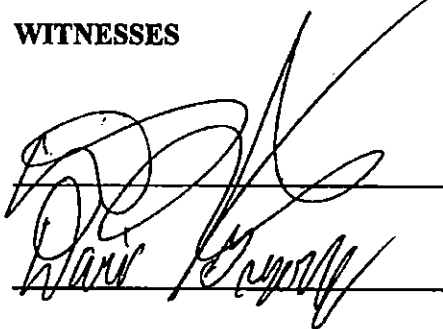
[Signatures on following page 3]

Assignment of Rights Under Declaration - 2

000307

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment of Rights Under Declaration to be executed the day and year first above written.

WITNESSES



ASSIGNOR

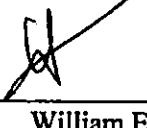
GSI, LLC,
A South Carolina limited liability company

By: 

William E. Gavigan,
Manager

ASSIGNEE

BULL POINT SC, LLC,
A South Carolina limited liability company

By: 

William E. Gavigan,
Manager

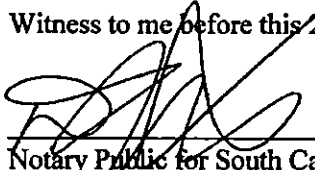
Dated: August 21, 2017 at 11:00 am EST

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT
under S.C. Code § 30-5-30 (C)

I, the undersigned notary public, do hereby certify that William E. Gavigan personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness to me before this 21st day of August 2017.



Notary Public for South Carolina
My Commission Expires: 4/29/2025

Assignment of Rights Under Declaration - 3

EXHIBIT I

(Attridge et al. v. Bull Point SC, LLC et al.)

5 PB
11
Russ Dimke

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT) QUITCLAIM DEED
(OF ALL RIGHT, TITLE AND
INTEREST)

KNOW ALL MEN BY THESE PRESENTS that the undersigned (whether, one or more, individually and collectively hereinafter referred to as the "Grantor") in consideration of the sum of Five and no/100 Dollars (\$5.00) and other valuable consideration to said Grantor well and truly paid by the Grantee hereinafter named (whether one or more, hereinafter individually and collectively referred to as the "Grantee"), the receipt and adequacy of which are hereby acknowledged, has remised, released and forever quitclaimed, and by these presents does remise, release and forever quitclaim unto:

BULL POINT PROPERTY OWNERS ASSOCIATION, INC.

BEAUFORT COUNTY SC- ROD
BK 03177 PGS 2705-2709
DATE: 09/27/2012 11:07:14 AM
INST # 2012055952 RCPT# 689206

All right title and interest of the Grantor in and to:

See Exhibit "A" attached hereto.

THE MAILING ADDRESS OF GRANTEE:

Bull Point Property Owners Association, Inc.
~~97 Bull Point Drive~~ 114 BARNABY BLUFF
Seabrook, SC 29940

TOGETHER WITH ALL AND SINGULAR the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the said premises and interest quitclaimed above unto the said Grantee and the successors and assigns of Grantee, forever, so that neither the said Grantor, nor the heirs, successors, assigns, executors or administrators of Grantor nor any other person or persons claiming under the Grantor, or any of them, shall at any time hereafter, by any way or means, have, claim or demand any right or title to the aforesaid premises or appurtenances or any part or parcel thereof, forever.

ADD DMP Record 10/2/2012 04:00:28 PM
BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0127	0000	00

ADD DMP Record 10/2/2012 04:00:33 PM
BEAUFORT COUNTY TAX MAP REFERENCE

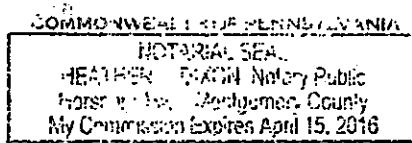
Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0252	0000	00

STATE OF Pennsylvania
COUNTY OF Montgomery

ACKNOWLEDGEMENT

I, Heather L. Dixon, a notary public for the Commonwealth of Pennsylvania, do hereby certify that Stephen Nansfeld as Vice President of DB Aster, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal (where an official seal is required by law) official seal this 24th day of September, 2012.



[Signature] (SEAL)
Signature of Notary Public
My commission expires: 4-15-2016

EXHIBIT "A"

All that certain piece, parcel or lot of land, consisting of 9.42 acres, with improvements thereon, situate, lying and being in Sheldon Township, Beaufort County, South Carolina and being shown and designated on a plat prepared for Bull Point LLC dated the 18th day of September 2007 and recorded in the office of the Register of Deeds Office for Beaufort County, South Carolina on December 14, 2007 in Plat Book 00123 at page 0038. Said plat is incorporated herein for a more complete description.

TMS No. R700 020 000 0252 0000

AND

All that certain piece, parcel or lot of land, consisting of 2.551 acres situate, lying and being in Beaufort County, South Carolina and being shown and designated as Parcel 2 on a plat prepared for Bull Point LLC dated the 4th day of December 2007 and recorded in the office of the Register of Deeds Office for Beaufort County, South Carolina on December 14, 2007 in Plat Book 00123 at page 0037. Said plat is incorporated herein for a more complete description.

TMS No. R700 020 000 0127 0000

STATE OF SOUTH CAROLINA)

BEAUFORT COUNTY ROD

) AFFIDAVIT OF TRUE CONSIDERATION and
 COUNTY OF BEAUFORT) CLAIM FOR EXEMPTION from RECORDING FEES

PERSONALLY appeared before me the undersigned, who is duly sworn, deposed, and says that the following is a true and correct statement concerning the CONSIDERATION for the conveyance set forth below, and concerning any EXEMPTION claimed by the Filer under the laws of the State of South Carolina, the Town of Hilton Head, or as otherwise provided by law.

GRANTOR

NAME: DB Astor, LLC

GRANTEE

NAME: Bull Point Property Owners Association, Inc.GRANTEE MAILING ADDRESS: 114 Bannaby BluffSEABROOK, SC 29940

DATE OF

CONVEYANCE: Sept. 24, 2012

TRUE CONSIDERATION:

\$ 5 and no other consideration

TAX DISTRICT/MAP/PARCEL NO:

R700-020-000-0252-0000-(NOTE: This information must appear on any Deed, and any Plat, whether attached or filed separately.)R700-020-000-0127-0000

STATE RECORDING FEE EXEMPTION - 12-24-40, sub-par # _____

(Per S.C. Code Sect. 12-24-40. Note Subparagraph No.)

TOWN OF HILTON HEAD ISLAND TRANSFER FEE EXEMPTION Sub-par # _____

(Per Town Ordinance 90-26, et seq. Note Subparagraph No.)

OTHER EXEMPTION - Please Cite Federal, State or other Code as applicable, and describe Exemption below:

Signed:



Printed Name:

RUSSELL DIMKE

As (Capacity):

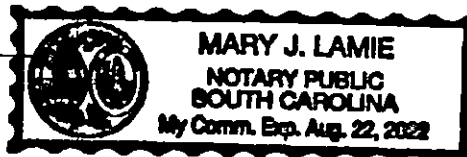
SECRETARY/TREASURERBull Point Plantation POA

SWORN TO BEFORE ME,

this 27 day of September, 2012SIGNED: Mary J. Lamie

Notary Public for South Carolina

My Commission Expires: _____



000313

WITNESS the hand and seal of the Grantor this 24th day of September, 2012.

IN THE PRESENCE OF:

GRANTOR:

DB ASTER, LLC, a Delaware limited liability company

An Currell

By: MS (SEAL)

Witness 1

Name: Ted Schroeder

Ally Amello-Husbe

Its: Vice President

Witness 2

DB ASTER, LLC, a Delaware limited liability company

By: [Signature] (SEAL)

Name: Stephen Mansfield

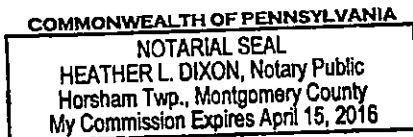
Its: Vice President

STATE OF Pennsylvania
COUNTY OF Montgomery

)
) **ACKNOWLEDGEMENT**
)

I, Heather L. Dixon, a notary public for the Commonwealth of Pennsylvania, do hereby certify that Ted Schroeder as Vice President of DB Aster, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal (where an official seal is required by law) official seal this 24th day of September, 2012.



[Signature] (SEAL)
Signature of Notary Public
My commission expires: 4-15-2016

[SIGNATURES TO FOLLOW ON NEXT PAGE]

EXHIBIT J

(Attridge et al. v. Bull Point SC, LLC et al.)

3-80
10-404
Harper

RECORDED
2017 Jun -14 12:13 PM

Beaufort
BEAUFORT COUNTY AUDITOR

Recording Requested By and
When Recorded Mail to:

Weidner, Wegmann &
Harper, LLC
6 Professional Village Circle
Beaufort, South Carolina 29907

BEAUFORT COUNTY SC - R0D
BK 3573 Pgs 2301-2303
FILE NUM 2017024814
05/10/2017 11:10:46 AM
REC'D BY sherrellw RCPT# 84950
RECORDING FEES \$10.00
County Tax \$77.00
State Tax \$182.00

ADD DMP Record 6/6/2017 01:42:08 PM
BEAUFORT COUNTY TAX MAP REFERENCE
Dist Map SMap Parcel Block Week
R700 027 000 0082 0000 00

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

LIMITED WARRANTY DEED

THIS LIMITED WARRANTY DEED is made this 5th day of May, 2017, by and between:

GRANTOR

DB ASTER, LLC,
a Delaware limited liability company
250 Gibraltar Road
Horsham, PA 19044

GRANTEE

KIMBERLY SUE MEREDITH,
AS TRUSTEE OF THE KIMBERLY SUE
MEREDITH LIVING TRUST U/A DATED
MAY 31, 2016
99 Bull Point Drive
Seabrook, South Carolina 29940

The designation Grantor and Grantee as used herein shall include said parties, their successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

KNOW ALL MEN BY THESE PRESENTS, that Grantor, for and in consideration of the sum of Seventy Thousand and 00/100 Dollars (\$70,000.00) paid by Grantee to Grantor, the receipt and sufficiency of which is hereby acknowledged, **SUBJECT TO** the matters set forth below, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto Grantee, the real estate (the "Premises") described as follows:

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION

Derivation: This being a portion of the property conveyed to Grantor herein by Deed by Judicial Order from United States Marshal for the District of South Carolina dated July 5, 2012, and recorded July 9, 2012, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 3156 at Page 955.

THIS CONVEYANCE and the warranties herein contained are expressly made **SUBJECT TO**: All easements, covenants, restrictions, conditions, rights of way, etc. of record, governmental regulations, and ad valorem taxes for the current year not yet due and payable.

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the Premises belonging or in any way incident or appertaining, including, but

NPHH1:465600.1-DE-(JDL) 900000-00349

000316

not limited to, all improvements of any nature located on the Premises and all easements and rights-of-way appurtenant to the Premises.

SUBJECT TO THE MATTERS SET FORTH ABOVE TO HAVE AND TO HOLD all and singular the Premises unto Grantee and Grantee's heirs, successors and assigns forever.

AND, SUBJECT TO the matters set forth above, Grantor does hereby bind Grantor and Grantor's successors and assigns, to warrant and forever defend all and singular the Premises unto Grantee and Grantee's successors and assigns against Grantor and Grantor's successors lawfully claiming, or to claim, the same or any part thereof but no others.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

SIGNED, SEALED and DELIVERED
in the Presence of

DB ASTER, LLC,
a Delaware limited liability company

Ann Caswell
Witness #1

By: *Joseph Steinheiser* (L.S.)
Name: Joseph Steinheiser
Its: Vice President

Brooke Mylee
Witness #2

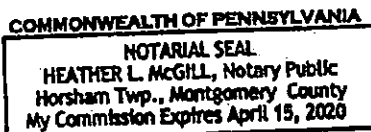
By: *Janelle Turbe* (L.S.)
Name: Janelle Turbe
Its: Vice President

STATE OF Pennsylvania)
COUNTY OF Montgomery)

ACKNOWLEDGEMENT

I, the undersigned Notary Public for the State of Pennsylvania do hereby certify that Joseph Steinheiser and Janelle Turbe, both as Vice-Presidents of DB ASTER, LLC, a Delaware limited liability company, personally appeared before me this day and, in the presence of the two witnesses above named, acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 5th day of May, 2017.



Brooke Mylee (SEAL)
Notary Public for
My Commission expires: 4-15-20

This Deed was prepared without the benefit of a title search by Jeffrey D. Locker, Nexsen Pruet, LLC, P. O. Box 23526, Hilton Head Island, SC 29925.

NPIHH1:465600.1-DE-(JDL) 900000-00349

EXHIBIT A

Legal Description

ALL that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 32, on a plat entitled "PLAT SHOWING BULL POINT SUBDIVISION, PHASE ONE, A SECTION OF TOMOTLEY PLANTATION, SHELDON TOWNSHIP, GARDENS CORNER, BEAUFORT COUNTY, SOUTH CAROLINA", prepared by David E. Gasque, RLS, dated September 21, 1995, with latest revision date of November 27, 1996 and recorded in Plat Book 58 at Page 110 in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

TMS No. R700-027-000-0082-0000.

Grantor holds right of repurchase option for said property and by this conveyance does consent to the transfer of the said property to Grantees and does specifically waive any and all rights of repurchase but does reserve its right of repurchase as to any future transfer.

NPHH1:465600.1-DE-(JDL) 900000-00349.

EXHIBIT K

(Attridge et al. v. Bull Point SC, LLC et al.)

3/10/18 EVERSOLE 1353

RECORDED
2017 May -18 04:34 PM

[Signature]
BEAUFORT COUNTY AUDITOR

BEAUFORT COUNTY SC - ROD
BK 3569 Pgs 2875-2877
FILE NUM 2017020995
04/26/2017 02:22:25 PM
REC'D BY rbing RCPT# 847132
RECORDING FEES \$10.00
County Tax \$319.00
State Tax \$754.00

ADD DMP Record 5/18/2017 03:48:42 PM
BEAUFORT COUNTY TAX MAP REFERENCE
Dist Map SMap Parcel Block Week
R700 026 000 0148 0000 00

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT) LIMITED WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, That **DB ASTER, LLC**, a Delaware limited liability company (the "Grantor"), in the State aforesaid, for and in consideration of the sum of **TWO HUNDRED NINETY THOUSAND and 00/100 DOLLARS (\$290,000.00)**, to it in hand paid at and before the sealing of these presents by **PATRICK T. TRAINOR and CHERYL S. TRAINOR** (the "Grantees"), 9716 14TH NW, Seattle, WA 98117, in the State aforesaid the receipt whereof is hereby acknowledged, has granted, bargained, sold and released, and by these Presents does grant, bargain, sell and release unto the said Grantees, as joint tenants with rights of survivorship and not as tenants in common, forever, the following described property, to-wit:

ALL that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina and being shown and designated as **Lot 258, Big Bull Island, Bull Point Plantation, Phase V-A**, as shown on that certain plat prepared by Andrews & Burgess, Inc., Engineering Surveying, dated May 19, 2005, last revised May 9, 2007 entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase V-A, Big Bull Island, Beaufort County, South Carolina," and recorded in Plat Book 119 at Page 195, in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

TAX ID: R700 026 000 0148 0000

Grantor holds right of repurchase option for said property and by this conveyance does consent to the transfer of the said property to Grantees and does specifically waive any and all rights of repurchase but does reserve its right of repurchase as to any future transfer.

NPHH1:458842.1-DE-(JDL) 048555-00065

000320 17-8765

ELECTRONICALLY FILED - 2019 Jul 02 4:49 PM - BEAUFORT - COMMON PLEAS - CASE#2018CP0702345

This being a portion of the property conveyed to Grantor herein by Deed by Judicial Order from United States Marshal for the District of South Carolina dated July 5, 2012, and recorded July 9, 2012, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 3156 at Page 955.

SAID PROPERTY is conveyed subject to all applicable Covenants, Restrictions, Conditions, Easements, etc. recorded in the Office of the Register of Deeds for Beaufort County, South Carolina.

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the Property belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the Property before mentioned unto the said Grantees as joint tenants with rights of survivorship and not as tenants in common, their Heirs and Assigns, forever.

AND Grantor does hereby bind itself, its Successors and Assigns, to warrant and forever defend, all and singular, the Property unto the said Grantees, their Heirs and Assigns, against Grantor and its Successors and Assigns, only against itself and its Successors and Assigns lawfully claiming or to claim the same, or any part thereof, by, through or under it.

NPHH1:458842.1-DE-(JDL) 048555-00065

000321

IN WITNESS WHEREOF, DB ASTER, LLC, a Delaware limited liability company, has caused these Presents to be executed in its name by its duly authorized Agent, and its seal to be hereto affixed this 20th day of March, 2017.

SIGNED, SEALED and DELIVERED
in the Presence of

DB ASTER, LLC,
a Delaware limited liability company

2) Ann Currell
Witness #1

1) By: Joseph Steinhilber (L.S.)
Name: Joseph Steinhilber
Its: Vice President

3) Brachuff Moyill
Witness #2

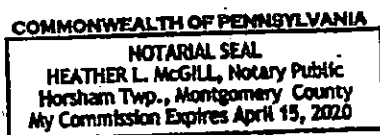
1) By: Janelle Turbe (L.S.)
Name: Janelle Turbe
Its: Vice President

STATE OF Pennsylvania)
COUNTY OF Montgomery)

ACKNOWLEDGEMENT

I, the undersigned Notary Public for the State of Pennsylvania, do hereby certify that 4) Joseph Steinhilber, Vice President and Janelle Turbe, Vice President of DB ASTER, LLC, a Delaware limited liability company, personally appeared before me this day and, in the presence of the two witnesses above named, acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 30th day of March, 2017.



Brachuff Moyill (SEAL)
Notary Public for:
My Commission expires:

This Deed was prepared without the benefit of a title search by Jeffrey D. Locker, Nexsen Pruet, LLC, P. O. Box 23526, Hilton Head Island, SC 29925.

EXHIBIT L

(Attridge et al. v. Bull Point SC, LLC et al.)

3/10/17
Gilbert
52833

RECORDED
2017 Mar -31 10:01 AM

B. B. B. B.
BEAUFORT COUNTY AUDITOR

BEAUFORT COUNTY SC - ROD
BK 3558 Pgs 2523-2525
FILE NUM 2017012659
03/14/2017 12:49:04 PM
REC'D BY pbaxley RCPT# 842633
RECORDING FEES \$10.00
County Tax \$203.50
State Tax \$481.00

Recording Requested By and
When Recorded Mail to:

ADD DMP Record 3/28/2017 09:56:10 AM
BEAUFORT COUNTY TAX MAP REFERENCE
Dist Map SMap Parcel Block Week
R700 026 000 0173 0000 00

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

LIMITED WARRANTY DEED

THIS LIMITED WARRANTY DEED is made this 10th day of March, 2017, by and between:

GRANTOR

DB ASTER, LLC,
a Delaware limited liability company
250 Gibraltar Road
Horsham, PA 19044

GRANTEE

JAMES T. SMITH and
KIMBERLY M. SMITH
396 East Shoreline Drive
North Augusta, SC 29841

The designation Grantor and Grantee as used herein shall include said parties, their successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

KNOW ALL MEN BY THESE PRESENTS, that Grantor, for and in consideration of the sum of One Hundred Eighty-Five Thousand and 00/100 Dollars (\$185,000.00) paid by Grantee to Grantor, the receipt and sufficiency of which is hereby acknowledged, **SUBJECT TO** the matters set forth below, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto Grantee, as joint tenants with rights of survivorship and not as tenants in common, the real estate (the "Premises") described as follows:

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION

Derivation: This being a portion of the property conveyed to Grantor herein by Deed by Judicial Order from United States Marshal for the District of South Carolina dated July 5, 2012, and recorded July 9, 2012, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 3156 at Page 955.

THIS CONVEYANCE and the warranties herein contained are expressly made **SUBJECT TO**: Easements, covenants, restrictions, conditions and rights of way of record, governmental regulations, and ad valorem taxes for the current year not yet due and payable. SAID

TOGETHER with all and singular, the rights, members, hereditaments and

NPHH1:455369.1-DE-(JDL) 048555-00062

1101450A

000324

appurtenances to the Premises belonging or in any way incident or appertaining, including, but not limited to, all improvements of any nature located on the Premises and all easements and rights-of-way appurtenant to the Premises.

TO HAVE AND TO HOLD all and singular the Premises unto Grantee and Grantee's heirs, successors and assigns forever.

AND, SUBJECT TO the matters set forth above, Grantor does hereby bind Grantor and Grantor's successors and assigns, to warrant and forever defend all and singular the Premises unto Grantee and Grantee's heirs, successors and assigns against Grantor and Grantor's successors lawfully claiming, or to claim, the same or any part thereof but no others.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

SIGNED, SEALED and DELIVERED
in the Presence of

DB ASTER, LLC,
a Delaware limited liability company

Becky Jarvis
Witness #1

By: Janelle Iturbe (L.S.)
Name: Janelle Iturbe
Its: Vice President

Heather L. McGill
Witness #2

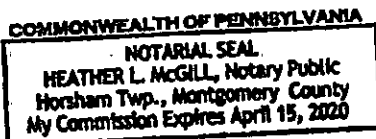
By: Graig Bantle (L.S.)
Name: Graig Bantle
Its: Vice President

STATE OF Pennsylvania)
COUNTY OF Montgomery)

ACKNOWLEDGEMENT

I, the undersigned Notary Public for the State of Pennsylvania, do hereby certify that 4) Janelle Iturbe and Graig Bantle, both as Vice-Presidents of DB ASTER, LLC, a Delaware limited liability company, personally appeared before me this day and, in the presence of the two witnesses above named, acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 9th day of March, 2017.



Heather L. McGill (SEAL)
Notary Public for
My Commission expires: 4-15-20

This Deed was prepared without the benefit of a title search by Jeffrey D. Locker, Nexsen Pruet, LLC, P. O. Box 23526, Hilton Head Island, SC 29925.

EXHIBIT A**Legal Description**

ALL that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina and being shown and designated as Lot 256, Big Bull Island, Bull Point Plantation, Phase V-A, as shown on that certain plat prepared by Andrews & Burgess, Inc., Engineering Surveying, dated May 19, 2005, last revised May 9, 2007 entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase V-A, Big Bull Island, Beaufort County, South Carolina," and recorded in Plat Book 119 at Page 195, in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

TAX ID: R700 026 000 0173 0000.

Grantor holds right of repurchase option for said property and by this conveyance does consent to the transfer of the said property to Grantees and does specifically waive any and all rights of repurchase but does reserve its right of repurchase as to any future transfer.

EXHIBIT M

(Attridge et al. v. Bull Point SC, LLC et al.)

4
10
PT
8389

RECORDED
2017 Mar -22 11:20 AM

BEAUFORT COUNTY AUDITOR

BEAUFORT COUNTY SC - ROD
BK 3556 Pgs 2502-2505
FILE NUM 2017011074
03/06/2017 01:28:08 PM
REC'D BY rwebb RCPT# 841707
RECORDING FEES \$10.00
County Tax \$192.50
State Tax \$455.00

ADD DMP Record 3/17/2017 05:12:12 PM
BEAUFORT COUNTY TAX MAP REFERENCE
Dist Map SMap Parcel Block Week
R700 026 000 0172 0000 00

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT) LIMITED WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, That **DB ASTER, LLC**, a Delaware limited liability company (the "Grantor"), in the State aforesaid, for and in consideration of the sum of **ONE HUNDRED SEVENTY-FIVE THOUSAND and 00/100 DOLLARS (\$175,000.00)**, to it in hand paid at and before the sealing of these presents by **WARREN P. JOHNSON and KRISTEN C. JOHNSON** (the "Grantees"), P. O. Box 1125, Hardeeville, SC 29927, in the State aforesaid the receipt whereof is hereby acknowledged, has granted, bargained, sold and released, and by these Presents does grant, bargain, sell and release unto the said Grantees as joint tenants with rights of survivorship and not as tenants in common, forever, the following described property, to-wit:

ALL that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina and being shown and designated as **Lot 255**, Big Bull Island, Bull Point Plantation, Phase V-A, as shown on that certain plat prepared by Andrews & Burgess, Inc., Engineering Surveying, dated May 19, 2005, last revised May 9, 2007 entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase V-A, Big Bull Island, Beaufort County, South Carolina," and recorded in Plat Book 119 at Page 195, in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

TAX ID: R700 026 000 0172 0000

Grantor holds right of repurchase option for said property and by this conveyance does consent to the transfer of the said property to Grantees and does specifically waive any and all rights of repurchase but does reserve its right of repurchase as to any future transfer.

NPHH1:453407.1-DE-(JDL) 048555-00065

000328

This being a portion of the property conveyed to Grantor herein by Deed by Judicial Order from United States Marshal for the District of South Carolina dated July 5, 2012, and recorded July 9, 2012, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 3156 at Page 955.

SAID PROPERTY is conveyed subject to all applicable Covenants, Restrictions, Conditions, Easements, etc. recorded in the Office of the Register of Deeds for Beaufort County, South Carolina.

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the Property belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the Property before mentioned unto the said Grantees as joint tenants with rights of survivorship and not as tenants in common, their Heirs and Assigns, forever.

AND Grantor does hereby bind itself, its Successors and Assigns, Executors and Administrators, to warrant and forever defend, all and singular, the Property unto the said Grantees, their Heirs and Assigns, against Grantor and its Successors and Assigns, only against itself and its Successors and Assigns lawfully claiming or to claim the same, or any part thereof, by, through or under it.

NPHH1:453407.1-DE-(JDL) 048555-00065

000329

IN WITNESS WHEREOF, DB ASTER, LLC, a Delaware limited liability company, has caused these Presents to be executed in its name by its duly authorized Agent, and its seal to be hereto affixed this 28th day of February, 2017.

SIGNED, SEALED and DELIVERED
in the Presence of

DB ASTER, LLC,
a Delaware limited liability company

2) Becky Davis
Witness #1

1) By: Alyce Miller Turbe (L.S.)
Name: Janelle Turbe
Its: Vice President

3) Heather L. McGill
Witness #2

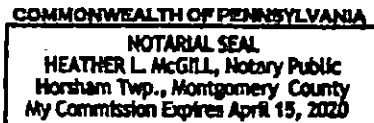
1) By: Joseph Stenheiser (L.S.)
Name: Joseph Stenheiser
Its: Vice President

STATE OF Pennsylvania)
COUNTY OF Montgomery)

ACKNOWLEDGEMENT

I, the undersigned Notary Public for the State of Pennsylvania, do hereby certify that 4) Janelle Turbe, Vice President and Joseph Stenheiser, Vice President of DB ASTER, LLC, a Delaware limited liability company, personally appeared before me this day and, in the presence of the two witnesses above named, acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 28th day of February, 2017.



5) Heather L. McGill (SEAL)
Notary Public for
My Commission expires: 4-15-20

This Deed was prepared without the benefit of a title search by Jeffrey D. Locker, Nexsen Pruet, LLC, P. O. Box 23526, Hilton Head Island, SC 29925.

NPHH1:453407.1-DE-(JDL) 048555-00065

000330

**AFFIDAVIT OF TRUE CONSIDERATION
and
CLAIM FOR EXEMPTION FORM:**

**STATE RECORDING FEE - S.C. CODE OF LAWS SECTION 12-24-40:
APPLICABLE COUNTY & MUNICIPAL TRANSFER FEE ORDINANCES**

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

PERSONALLY appeared before me the undersigned, who is duly sworn, deposes and says that the following is a true and correct statement concerning the **CONSIDERATION** for the conveyance set forth below, and concerning any **EXEMPTION** claimed under the laws of the State of South Carolina and Town of Hilton Head Island, South Carolina:

GRANTOR: DB ASTER, LLC

GRANTEE: WARREN P. JOHNSON & KRISTEN C. JOHNSON

GRANTEE MAILING ADDRESS: POST OFFICE BOX 1125, HARDEEVILLE, SC 29927

DATE OF CONVEYANCE: FEBRUARY 28, 2017

TRUE CONSIDERATION: \$175,000.00

TAX DISTRICT/MAP/PARCEL NO.: R700-026-000-0172-0000
(NOTE: This information must also appear on the Deed.)

STATE RECORDING FEE EXEMPTION (if applicable): This transfer is exempt from the statutory Recording Fee required by the State of South Carolina in accordance with Section 12-24-40, subparagraph _____.

TRANSFER FEE EXEMPTION (if applicable): This transfer is exempt under Ordinance # _____ of _____, subparagraph _____. *1 2 12*

Sworn to and subscribed before me
this 2nd day of March, 2017.

Notary Public for South Carolina
My Commission Expires:



Printed Name: Mills L. Morrison, Jr.

My Commission Expires, _____

RMC OFFICE USE ONLY

State Fees Collected: \$ _____

Recording Date: _____

Transfer Fees Collected: \$_____

Book: _____ Page: _____

EXHIBIT N

(Attridge et al. v. Bull Point SC, LLC et al.)

3/10/17
AB

RECORDED
2017 Mar -13 04:54 PM

[Signature]
BEAUFORT COUNTY AUDITOR

BEAUFORT COUNTY SC - ROD
BK 3552 Pgs 3252-3254
FILE NUM 2017008212
02/16/2017 03:28:35 PM
REC'D BY pbaxley RCPT# 240030
RECORDING FEES \$10.00
County Tax \$132.00
State Tax \$312.00

ADD DMP Record 2/28/2017 03:43:02 PM
BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	027	000	0130	0000	00

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT) LIMITED WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, That **DB ASTER, LLC**, a Delaware limited liability company (the "Grantor"), in the State aforesaid, for and in consideration of the sum of **ONE HUNDRED TWENTY THOUSAND and 00/100 DOLLARS (\$120,000.00)**, to it in hand paid at and before the sealing of these presents by **GARY DEAN WARLICK and RESIE ROSAL WARLICK** (the "Grantees"), 1 Dogwood Ave., Glassboro, NJ 08028, in the State aforesaid the receipt whereof is hereby acknowledged, has granted, bargained, sold and released, and by these Presents does grant, bargain, sell and release unto the said Grantees as joint tenants with rights of survivorship and not as tenants in common, forever, the following described property, to-wit:

ALL that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina and being shown and designated as **Lot 78** on a plat entitled "Plat Showing Bull Point Subdivision, Phase II, A Section of Tomotley Plantation, Sheldon Township, Gardens Corner, Beaufort County, South Carolina," prepared by David E. Gasque, RLS, dated November 8, 1995, with latest revision date of August 28, 2000 and recorded in Plat Book 75 at Page 180, in the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances, reference may be had to the aforementioned plat of record.

TAX ID: R700 027 000 0130 0000

Grantor holds right of repurchase option for said property and by this conveyance does consent to the transfer of the said property to Grantees and does specifically waive any and all rights of repurchase but does reserve its right of repurchase as to any future transfer.

NPHH1:450817.1-DE-(JDL) 048555-00064

24477

000333

This being a portion of the property conveyed to Grantor herein by Deed by Judicial Order from United States Marshal for the District of South Carolina dated July 5, 2012, and recorded July 9, 2012, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 3156 at Page 955.

SAID PROPERTY is conveyed subject to all applicable Covenants, Restrictions, Conditions, Easements, etc. recorded in the Office of the Register of Deeds for Beaufort County, South Carolina.

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the Property belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the Property before mentioned unto the said Grantees as joint tenants with rights of survivorship and not as tenants in common, their Heirs and Assigns, forever.

AND Grantor does hereby bind itself, its Successors and Assigns, Executors and Administrators, to warrant and forever defend, all and singular, the Property unto the said Grantees, their Heirs and Assigns, against Grantor and its Successors and Assigns, only against itself and its Successors and Assigns lawfully claiming or to claim the same, or any part thereof, by, through or under it.

NPHH1:450817.1-DE-(JDL) 048555-00064

000334

IN WITNESS WHEREOF, DB ASTER, LLC, a Delaware limited liability company, has caused these Presents to be executed in its name by its duly authorized Agents, and its seal to be hereto affixed this 9th day of February, 2017.

SIGNED, SEALED and DELIVERED
in the Presence of

An Carroll
Witness #1
Matthew McMill
Witness #2

An Carroll
Witness #1
Matthew McMill
Witness #2

DB ASTER, LLC,
a Delaware limited liability company

By: Janelle Iturbe (L.S.)
Name: Janelle Iturbe
Its: Vice President

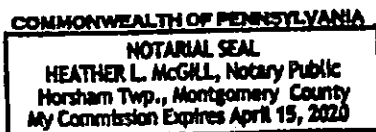
By: Joseph Steinheiser (L.S.)
Name: Joseph Steinheiser
Its: Vice President

STATE OF Pennsylvania)
COUNTY OF Montgomery)

ACKNOWLEDGEMENT

I, the undersigned Notary Public for the State of Pennsylvania, do hereby certify that Janelle Iturbe, as Vice President and Joseph Steinheiser, as Vice President of DB ASTER, LLC, a Delaware limited liability company, personally appeared before me this day and, in the presence of the two witnesses above named, acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 9th day of February, 2017.



Matthew McMill (SEAL)
Notary Public for.
My Commission expires:

This Deed was prepared without the benefit of a title search by Jeffrey D. Locker, Nexsen Pruet, LLC, P. O. Box 23526, Hilton Head Island, SC 29925.

NPHH1:450817.1-DE-(JDL) 048555-00064

000335

EXHIBIT O

(Attridge et al. v. Bull Point SC, LLC et al.)

3-10-18
Dany

RECORDED
2017 Sep -22 01:47 PM

BEAUFORT COUNTY AUDITOR

BEAUFORT COUNTY SC - ROD
BK 3604 Pgs 1674-1676
FILE NUM 2017048444
09/01/2017 04:42:01 PM
REC'D BY pbaxley RCPT# 862989
RECORDING FEES \$10.00

ELECTRONICALLY FILED - 2019 Jul 02 4:49 PM - BEAUFORT - COMMON PLEAS - CASE#2018CP0702345

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

KNOW ALL MEN BY THESE PRESENTS, That, **GSI, LLC**, hereinafter referred to as Grantor, in the State aforesaid, for and in consideration of the sum of **TEN AND NO/100TH'S DOLLARS (\$10.00) AND OTHER CONSIDERATIONS**, to it, paid by **CRAIG ELACHIE, LLC**, a Texas Limited Liability Company with a mailing address of 26546 Mambrino, Mission Viejo, CA 92691, hereinafter referred to as "Grantee", in the State aforesaid, (the receipt of which is hereby acknowledged) have, granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said Grantee, Grantee's Successors and Assigns, forever, the following described real property to-wit:

All that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 260 of Phase V-B, Bull Point Plantation on a plat consisting of two sheets entitled "Subdivision Plat of Phase V-B, Bull Point Plantation, a portion of Tomotley Plantation, Prepared for Bull Point, LLC, Gardens Corner, Beaufort County, South Carolina," prepared by David E. Gasque, RLS #10506, dated November 9, 1998, last revised March 17, 2003, and recorded in Plat Book 92 at Pages 34 & 35 at the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description as to metes, bounds, courses and distances reference may be had to the aforementioned plat of record.

This being a portion of that same property conveyed to GSI, LLC by deed of DB ASTER, LLC recorded in Record Book 3600 at Page 2571 in the Office of the ROD for Beaufort County, South Carolina.

TMS No. R700-020-000-0179-0000

THIS DEED WAS PREPARED BY THE LAW OFFICE OF DARRELL THOMAS JOHNSON, JR., 300 MAIN STREET, HARDEEVILLE, SC 29927, WITH THE BENEFIT OF A TITLE EXAMINATION AND WITHOUT OPINION AS TO THE APPLICATION OF THE DEVELOPMENT STANDARDS ORDINANCE OR SIMILAR ORDINANCES OR REGULATIONS. LAW OFFICE FILE NO: 07604-18-500-17.

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Grantees, Grantee's Successors and Assigns forever.

ADD DMP Record 9/14/2017 11:01:52 AM
BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R700	020	000	0179	0000	00

000337

And the Grantor does hereby bind Grantor's Successors and Assigns, to warrant and forever defend all and singular the said premises unto the said Grantees, Grantee's Successors and Assigns, against Grantor and Grantor's Successors and Assigns and against every person whomsoever lawfully claiming, or to claim the same or any part thereof.

WITNESS ITS Hand and Seal this 1st day of September, in the year of our Lord Two Thousand Seventeen and in the two hundred and forty-first year of sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED IN
THE PRESENCE OF

GSI, LLC

BY: Blang SC, Inc.;
ITS: MEMBER

BY: William E. Gavigan
WILLIAM E. GAVIGAN
ITS: PRESIDENT

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I, the undersigned Notary Public, do hereby certify that the within-named GSI, LLC, By: Blang SC, Inc., Its: Member, By: William E. Gavigan, Its: President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 1st day of September, 2017.

Deborah A. Rodgers (Seal)
TYPE OR PRINT NAME OF NOTARY
Notary Public for S.C.
My Commission Expires: 3/25/2024



000338

**AFFIDAVIT OF TRUE CONSIDERATION
and
CLAIM FOR EXEMPTION FORM:**

STATE RECORDING FEE - S.C. CODE OF LAWS SECTION 12-24-40:
APPLICABLE COUNTY & MUNICIPAL TRANSFER FEE ORDINANCES

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

PERSONALLY appeared before me the undersigned, who is duly sworn, deposes and says that the following is a true and correct statement concerning the CONSIDERATION for the conveyance set forth below, and concerning any EXEMPTION claimed under the laws of the State of South Carolina and Town of Hilton Head Island, South Carolina:

GRANTOR: GSI, LLC

GRANTEE: CRAIG ELACHIE, LLC

GRANTEE MAILING ADDRESS: 26546 Mamborio Mission Viejo CA 92691

DATE OF CONVEYANCE: Sept. 1, 2017

TRUE CONSIDERATION: Gift to friend % wholly owned LLC

TAX DISTRICT/MAP/PARCEL NO.: R700 020 000 0179 0000

(NOTE: This information must also appear on the Deed.)

STATE RECORDING FEE EXEMPTION (if applicable): This transfer is exempt from the statutory Recording Fee required by the State of South Carolina in accordance with Section 12-24-40, subparagraph 1.

TRANSFER FEE EXEMPTION (if applicable): This transfer is exempt under Ordinance # N/A
of _____, subparagraph not within scope.

Signed: [Signature]
Printed Name: GARY D. GRANT

Sworn to and subscribed before me
this 1 day of Sept-5, 2017.

Notary Public for South Carolina
My Commission Expires: May 26, 2022



RMC OFFICE UŠM

State Fees Collected: \$

Recording Date: _____

Transfer Fees Collected: \$

Book: _____ Page: _____

EXHIBIT P

(Attridge et al. v. Bull Point SC, LLC et al.)



Beaufort County, South Carolina

generated on 6/27/2019 1:45:37 PM EDT

Property ID (PIN)	Alternate ID (AIN)	Parcel Address	Data refreshed as of	Assess Year	Pay Year
R700 020 000 0151 0000	10478521	87 BARNABY BLF,	6/25/2019	2018	2019

Current Parcel Information

Owner	GSI LLC	Property Class Code	ResVac Platted&Unplatted
Owner Address	PO BOX 1756 BEAUFORT SC 29901	Acreage	6.8300
Legal Description	LOT 170 BULL POINT PLANT S/D PH III POR OF TOMOTLEY PLANT PB87 PGS22-22A TOT AC INCL 0.33 AC WETLAND		

Historic Information

Tax Year	Land	Building	Market	Taxes	Payment
2018	\$34,000		\$34,000	\$690.87	\$0.00
2017	\$195,000		\$195,000	\$2,973.53	\$3,494.56
2016	\$195,000		\$195,000	\$2,896.42	\$2,896.42
2015	\$195,000		\$195,000	\$2,771.82	\$2,771.82
2014	\$195,000		\$195,000	\$2,839.06	\$2,839.06
2013	\$195,000		\$195,000	\$2,746.64	\$2,746.64
2012	\$300,000		\$300,000	\$3,802.26	\$3,802.26
2011	\$300,000		\$300,000	\$3,750.60	\$3,750.60
2010	\$300,000		\$300,000	\$3,720.54	\$4,403.62
2009	\$300,000		\$300,000	\$3,654.84	\$4,328.07

Sales Disclosure

Grantor	Book & Page	Date	Deed	Vacant	Sale Price
Multiple Owners	3600 2571	8/16/2017	LI		\$1,200,000
BULL POINT LLC	3156 955	7/5/2012	Sp		\$5,300,000
UNKNOWN OWNER 10478521		12/31/1776	Or		\$0
		12/31/1776	Or		\$0

Improvements

Building	Type	Use Code Description	Constructed Year	Stories	Rooms	Square Footage	Improvement Size

000341

EXHIBIT Q

(Attridge et al. v. Bull Point SC, LLC et al.)

CHRONOLOGY OF TRANSACTIONS

9/26/1995	Bull Point	Bull Point Homeowners Association filed Articles of Incorporation <i>Section 6: The affairs of this Association shall be managed by a Board of three (3) Directors who need not be members of the Association</i> ... <i>At the first annual meeting, the members shall elect one (1) Director for a term of one (1) year, one (1) Director for a term of two (2) years and one (1) Director for a term of three (3) years. At each annual meeting thereafter, the members shall elect one (1) Director for a term of one (1) year.</i>	Exhibit A
9/26/1995	Bull Point	Bylaws of Bull Point Homeowners Association enacted <i>Section 6. "Declarant" shall mean and refer to Bull point Homeowners Association, Inc., its successors and assigns"</i>	Exhibit B
7/9/2012	GACC → DB Aster	German American Capital Company (GACC) assigns the successful bid at foreclosure auction of the Bull Point neighborhood in Beaufort, South Carolina to DB Aster: <i>All that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 32, on a plat entitled 'PLAT SHOWING BULL POINT SUBDIVISION PHASE ONE...dated September 21, 1995 with latest revision date of November 27, 1996 and recorded in Plat Book 58 at Page 110...and also all those certain pieces, parcels or lots of land...on a plat entitled 'Plat Showing Bull Point Subdivision Phase II...Phase III...Phase IV...Phase V...Phase V-B... Lots 213, 214, 216, 218, 224, 225, 226, 227 of Phase VI...Phase VII...</i>	Exhibit C
9/24/2012	DB Aster → Bull Point Plantation POA	DB Aster conveyance to Bull Point Property Owners Association: <i>All that certain piece, parcel or lot of land, consisting of 9.42 acres, with improvements thereon, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated on a plat prepared for Bull Point LLC...</i> AND <i>All that certain piece, parcel or lot of land, consisting of 2.551 acres situate, lying and being in Beaufort County, South Carolina and being shown and designated as Parcel 2 on a plat prepared for Bull Point</i>	Exhibit I

000343

		<i>LLC...in Plat Book 00123 at page 0037. Said plat is incorporated herein for a more complete description.</i>	
12/28/2012	Bull Point, LLC → DB Aster	Bull Point, LLC assigns its rights as "Declarant" under the Declaration of Covenants, Conditions, and Restrictions for Bull Point Plantation dated September 26, 1995, to DB Aster (Book 805, Page 218, Beaufort County, SC ROD)	Exhibit D
2/9/2017	DB Aster → Warlick	Limited Warranty Deed entered between DB Aster and Gary Dean Warlick and Resie Rosal Warlick, stating: <i>...and by these Presents does grant, bargain, sell and release unto the said Grantees as joint tenants with rights of survivorship and not as tenants in common, forever, the following described property, to-wit:</i> <i>ALL that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina and being shown and designated as Lot 78 on a plat entitled "Plat Showing Bull Point Subdivision, Phase II..."</i> <i>...</i> <i>This being a portion of the property conveyed to Grantor herein by Deed by Judicial Order ...dated July 5, 2012...</i>	Exhibit N
2/28/2017	DB Aster → Johnson	Limited Warranty Deed entered between DB Aster and Warren P. Johnson and Kristen C. Johnson, stating <i>...and by these Presents does grant, bargain, sell and release unto the said Grantees as joint tenants with rights of survivorship and not as tenants in common, forever, the following described property, to-wit:</i> <i>ALL that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina and being shown and designated as Lot 255, Big Bull Island, Bull Point Plantation, Phase V-A, as shown on that certain plat...entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase V-A, Big Bull Island, Beaufort County, South Carolina"...</i> <i>...</i> <i>This being a portion of the property conveyed to Grantor herein by Deed by Judicial Order ...dated July 5, 2012...</i>	Exhibit M

000344

3/10/2017	DB Aster →Smith	Limited Warranty Deed entered between DB Aster and James T. Smith and Kimberly M. Smith, stating: <i>...and by these presents does grant, bargain, sell and release unto Grantee, as joint tenants with rights of survivorship and not as tenants in common, the real estate (the "Premises") described as follows:</i> <i>Exhibit A:</i> <i>ALL that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina and being shown and designated as Lot 256, Big Bull Island, Bull Point Plantation, Phase V-A, as shown on that certain plat ... "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase V-A, Big Bull Island, Beaufort County, South Carolina" ...</i> <i>...</i> <i>Derivation: This being a portion of the property conveyed to Grantor herein by Deed by Judicial Order ...dated July 5, 2012...</i>	Exhibit L
3/30/2017	DB Aster →Trainor	Limited Warranty Deed entered between DB Aster and Patrick T. Trainor and Cheryl S. Trainor, stating <i>...and by these Presents does grant, bargain, sell and release unto the said Grantees, as joint tenants with rights of survivorship and not as tenants in common, forever, the following described property, to-wit:</i> <i>ALL that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina and being shown and designated as Lot 258, Big Bull Island, Bull Point Plantation, Phase V-A, as shown on that certain plat...entitled "Subdivision Plat for Bull Point, LLC, Bull Point Plantation, Phase V-A, Big Bull Island, Beaufort County, South Carolina" ...</i> <i>...</i> <i>This being a portion of the property conveyed to Grantor herein by Deed by Judicial Order ...dated July 5, 2012...</i>	Exhibit K
5/5/2017	DB Aster →K. Meredith	Limited Warranty Deed entered between DB Aster and Kimberly Sue Meredith, stating	Exhibit J

000345

		<i>...that Grantor, for and in consideration of the sum of Seventy Thousand and 00/100 Dollars (\$70,000.00) paid by Grantee to Grantor...the real estate described as follows: See Attached Exhibit A:</i> <i>All that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 32, on a plat entitled 'PLAT SHOWING BULL POINT SUBDIVISION, PHASE ONE...dated September 21, 1995 with latest revision date of November 27, 1996 and recorded in Plat Book 58 at Page 110...</i> <i>Derivation: This being a portion of the property conveyed to Grantor herein by Deed by Judicial Order ...dated July 5, 2012...</i>	
8/21/2017	DB Aster → GSI	DB Aster sells to GSI: <i>...Seller has agreed to sell and Buyer has agreed to purchase the real property described in <u>EXHIBIT "A"</u> ...</i> <i>EXHIBIT "A"</i> <i>[27 Lots, 153 Acres, & 5 Septic Lots- Bull Point]</i> <i>All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 159, 161, and 170 on a plat entitled 'Subdivision Plat of Bull Point Plantation, Phase III...</i> <i>The property herein is a portion of the same property DB Aster, LLC obtained by Deed by Judicial Order, dated July 5, 2012....</i>	Exhibit E
8/21/2017	DB Aster →GSI	DB Aster assigns an apportionment of its rights as "Declarant" under the Declaration of Covenants, Conditions and Restrictions for Bull Point Plantation dated September 22, 1995: <i>WHEREAS, the Property, as described in Exhibit 'A' attached hereto, is encumbered by that certain Declaration of Covenants, Conditions, and Restrictions for Bull Point Plantation dated September 22, 1995, and recorded in Book 805 at Page 218, in the Office of the Register of Deeds for Beaufort County, South Carolina, as amended (the 'Declaration)...</i> <i>Exhibit A:</i> <i>"[27 Lots, 153 Acres, & 5 Septic Lots- Bull Point]"</i>	Exhibit F

000346

		<i>All those certain pieces or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 159, 161, and 170 on a plat entitled 'Subdivision Plat of Bull Point Plantation, Phase III...the property herein is a portion of the same property DB Aster, LLC obtained by Deed by Judicial Order dated July 5, 2012....</i>	
8/21/2017	GSI → Bull Point SC, LLC	GSI transferred Title to Bull Point SC, LLC <i>...and by these presents do grant, bargain, sell and release unto the said Grantee, Grantee's successors and assigns, forever, the following described property, to-wit:</i> <i>ALL those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lots 159 and 161, on a plat entitled "Subdivision Plat of Bull Point Plantation, Phase III, ...</i> <i>AND ALSO, All those certain pieces, parcels or lots of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina, and being shown and designated as Lot 232, 234, 237, 239, 241, 242, 243, 244, 245, 246, 250, 251, and 252, of Phase IV, Bull Point Plantation...</i> <i>AND ALSO, All those certain pieces, parcels or lots of land... designated as Lots 253...</i> <i>AND ALSO, All those certain pieces, parcels or lots of land...designated as Lot 261...</i> <i>AND ALSO, All those certain pieces, parcels or lots of land...designated as Lot 213, 214, 216, 218, 224, 225, 226, 227...</i> <i>AND ALSO, All that certain piece, parcel or tract of land...containing 156.465 acres and being shown and designated as Phase VII, Bull Point Plantation...</i> <i>...</i> <i>A portion of the property herein is a portion of the same property DB Aster, LLC obtained by Deed by Judicial Order, dated July 5, 2012...</i>	Exhibit G
8/21/2017	GSI → Bull Point SC, LLC	Assignment of Rights Under Declaration (Book 805, page 218) <i>WHEREAS, Assignor has agreed to assign to Assignee, and Assignee has agreed to accept and assume, all of Assignor's rights and obligations under the Declaration.</i>	Exhibit H

000347

		<i>...Assignor does hereby agree as follows:</i> 2. <u>Assumption of Declarant Rights.</u> <i>Assignee hereby assumes all duties, obligations, and liabilities of Declarant under the Declaration... Assignee's assumption specifically excludes any and all claims, demands, responsibilities, liabilities and obligations of or against Declarant...and arising under the Declaration or Assignor's development activities or the exercise of control of the Bull Point Property Owners Association prior to the date hereof....</i>	
9/1/2017	GSI→Craig Elachie, LLC	GSI Conveyance of Lot 260 Phase V-B <i>...and by these presents do grant, bargain, sell and release unto the said Grantee, Grantee's Successors and Assigns, forever, the following described real property, to-wit:</i> <i>ALL that certain piece, parcel or lot of land, situate, lying and being in Sheldon Township, Beaufort County, South Carolina and being shown and designated as Lot 260 of Phase V-B, Bull Point Plantation on a plat consisting of two sheets entitled "Subdivision Plat of Phase V-B, Bull Point Plantation..."</i>	Exhibit O
6/25/2019	GSI	Beaufort County Property Card, listing GSI, LLC as Owner of Lot 170, located at 87 Barnaby Bluff	Exhibit P

000348

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT) FOURTEENTH JUDICIAL CIRCUIT
) Civil Action No. 2018-CP-07-2345

JON H. ATTRIDGE and JANET L)
ATTRIDGE, ROBERT W. BANKOV,)
VIRGINIA J. BANKOV, TOM BOLTON,)
GUY I. COLLIER, NANCY L. COLLIER,)
RICHARD JAY COLEMAN, MARLENE)
COLEMAN, RUSSELL G. DIMKE,)
SANDRA A. DIMKE, JAMES G.)
GOODWIN JR, CAROL A. GOODWIN,)
GEORGE J. LOVETT, WILNA W.)
LOVETT, PETER MARZLUFF,)
DEBORAH C. MARZLUFF, GARY)
OKEY, NANCY OKEY, MICHAEL)
PELLECCIHA, JANICE S. PELLECHIA,)
FRANK H. ROBERTS SR., RICHARD)
SWILPA, MICHELE GALLANT,)
PHYLLIS A. KAUPP-SEAS, ROBERT P.)
BRENDZA, and ROBIN E. BRENDZA)
individually and in their derivative capacity)
on behalf of BULL POINT PLANTATION)
PROPERTY OWNERS ASSOCIATION,)
INC.,)
))
Plaintiffs/Counterclaim Defendants,)
))
vs)
))
THE BOARD OF DIRECTORS OF BULL)
POINT PLANTATION PROPERTY)
OWNERS ASSOCIATION, INC.; BULL)
POINT SC, LLC; WILLIAM E.)
GAVIGAN; MICHAEL CAREY;)
CHRISTOPHER J. QUICK; JAMES)
RIORDAN, DB ASTER, LLC, and GSI,)
LLC,)
))
Defendants/Counterclaimants,)
))
and)
))
BULL POINT PLANTATION PROPERTY)
OWNERS ASSOCIATION, INC., BULL)

POINT SC, LLC, GSI, LLC and WILLIAM	)
E. GAVIGAN,	)
	)
Third-Party Plaintiffs,	)
	)
vs	)
	)
STEVE ANDREWS, HARRIET	)
BOSIACK, JOSEPH P. D'AMBROSIO,	)
MARY D'AMBROSIO, JAMES HAYES,	)
RON LAMBE, MICHAEL POWERS,	)
DAVE PRZYBYS, ROBERT WOLFSON,	)
HUSPAH PROPERTIES, LLC, RIVERS	)
REACH AT POCOTALIGO, LLC,	)
RIVERS REACH REALTY, LLC AND	)
JOHN DOES 1-10,	)
	)
Third-Party Defendants.	)

NOW COME Defendants and Counterclaimants Bull Point SC, LLC, William E. Gavigan, Michael Carey, Christopher J. Quick, James Riordan, and Third-Party Plaintiffs Bull Point Plantation Property Owners Association, Inc., Bull Point SC, LLC, and GSI, LLC (collectively referenced as the "Bull Point Plantation Defendants"), by and through their undersigned counsel, and move this Honorable Court, pursuant to Rule 56, South Carolina Rules of Civil Procedure, for an Order granting partial summary judgment to the Bull Point Plantation Defendants on the Fifth and Sixth Causes of Action of Plaintiffs' Amended Complaint. The Bull Point Plantation Defendants also respond in this pleading to Plaintiff's Partial Motion for Summary Judgment.

Because the motion of the Plaintiffs has no basis, it should be dismissed. Furthermore, the Bull Point Plantation Defendants have filed this Motion for Partial Summary Judgment as to the same issues addressed by the Plaintiffs: (1) whether Bull Point SC, LLC is the Declarant of Bull Point Plantation, and (2) whether, as Declarant, Bull Point SC, LLC can appoint and remove the

members of the Board of Directors and Officers of the Bull Point Plantation Property Owners Association, Inc. (“BPPPOA”).

For the reasons set forth below, the Bull Point Plantation Defendants request that this Court GRANT their Motion for Partial Summary Judgment and DISMISS the Fifth and Sixth Causes of Action of Plaintiffs’ Amended Complaint.¹

INTRODUCTION

Bull Point Plantation is a residential development in Beaufort County, South Carolina that was established in 1995. Bull Point Plantation operates through a “Declarant,” which is Bull Point SC, LLC, and a homeowners association currently known as the BPPPOA, which currently has approximately 250 lots. Six phases have been developed to date, and a seventh phase of over 156 acres has been permitted for approximately 45 additional lots.

Bull Point SC, LLC has been the Declarant since August 21, 2017, and currently owns property in the development, including the entire seventh phase, as well as ten (10) additional lots.

Plaintiffs’ lawsuit, and others like it that have recently been filed, are a part of a conspiracy of a decidedly small minority² of members of the BPPPOA to seize control of the “Declarant Rights” of the development. In fact, almost all of the Plaintiffs formed a corporation in 2017 called “Huspah Properties, LLC” with the stated intent to purchase and/or seize the Declarant Rights (or “Declarancy”) of the development. Most notably, the “Receipt for Purchase of Share(s)” in

¹ In resolving these causes of action, and finding that Bull Point SC, LLC is the Declarant, the Court should also dismiss the First, Second, and Ninth Causes of Action of Plaintiffs’ Amended Complaint – in addition to dismissing the Fifth and Sixth Causes of Action – as these claims rely on Plaintiffs’ incorrect allegation that Bull Point SC, LLC is not the Declarant.

² At most, no more than 15 members joined this lawsuit as a Plaintiff. Almost all were associated with Huspah Properties, LLC.

Huspah Properties, LLC actually states that “the principal purpose of the Company is to purchase the Declarency [*sic*] for the Development known as Bull Point Plantation located in Seabrook, South Carolina.” (*“Receipt for Purchase of Share(s)” attached as Exhibit “A”*) (emphasis added).³

With remarkable clarity, members of this conspiracy (who now comprise most of the Plaintiffs in this lawsuit), actually memorialized their conspiracy in a memorandum dated April 27, 2017, which was then circulated among the conspirators by e-mail on April 28, 2017. (*“Current Situation” Memorandum attached as Exhibit “B”*). In their memorandum, their stated goal was to purchase the Declarant Rights from DB Aster, LLC, the then-Declarant of Bull Point Plantation, by using money taken from the BPPPOA’s “contingency fund” for their own private purposes. Failing that, the conspirators “could enter into extended/constant litigation to attempt to enforce the current covenant and rules & regulations.” The conspirators acknowledged to themselves that their scheme of “[o]n-going lawsuits would drive away potential property/home buyers and depress property values during the period of litigations [*sic*]. It might be hard to get widespread participation by the homeowners and money for legal expenses.” (*Exhibit “B”*) (emphasis added).

As a part of their stated conspiracy, Plaintiffs have filed pleadings in this lawsuit that have no basis in law or fact. These pleadings are simply a part of their stated and ongoing conspiracy to file numerous frivolous lawsuits to take the Declarant Rights from the lawful Declarant, Bull Point SC, LLC, and/or to force Bull Point SC, LLC to abandon the development and allow the small minority of BPPPOA members to control the affairs of the development and enrich

³ Given Plaintiffs’ previous attempt to obtain Declarant Rights by purchase, their current argument that Declarant Rights can only be transferred by foreclosure appears particularly disingenuous.

themselves at the expense of their neighbors, as some of them have done (or attempted to do) in the past.

GOVERNING DOCUMENTS OF THE BULL POINT DEVELOPMENT

There are three documents that most apply to the issues before the Court. First, Stancel E. Kirkland executed the Articles of Incorporation of the BPPPOA – then called the Bull Point Homeowners Association, Inc. – through a two-page form filed with the S.C. Secretary of State on September 26, 1995. Kirkland also filed three “associated” pages with the two-page form. *(Articles of Incorporation and associated documents, attached as Exhibit “C”).*⁴

Second, to the extent that the three “associated” pages are considered to be a part of the Articles of Incorporation, they expressly incorporate the “Declaration of Covenants, Conditions and Restrictions (hereinafter referred to as the “Declaration”), applicable to the property recorded or to be recorded in the RMC Office for Beaufort County and as the same may be amended from time to time as herein, said Declaration being incorporated herein as if set forth verbatim...” *(Declaration of Covenants, Conditions, and Restrictions for Bull Point Plantation, hereinafter the “Declaration,” attached as Exhibit “D”)* (emphasis added). As a consequence, the “Declaration” and its Amendments are fully a part of the Articles of Incorporation “as if set forth verbatim...”. The Declaration has been amended on a number of occasions since 1995, including

⁴ Plaintiffs failed to produce the second page of the two-page form that was filed with the S.C. Secretary of State on September 26, 1995, which was signed by the single incorporator, Stancel Kirkland. Mr. Kirkland also signed that document as the sole director. As such, the three “associated” pages that were filed with the two-page form appear to be in conflict with the two-page form, especially since they do not include signatures of the three directors named in the associated pages. S.C. Code Ann. § 33-31-202(d) (“Each incorporator and director named in the articles must sign the articles.”).

the Ninth Amendment recorded on February 4, 2000, which restated the Declaration. Finally, the Declaration – fully a part of the Articles of Incorporation – states in Section 8.02 as follows:

The duties and powers of the Association that shall be those set forth in the provisions of the South Carolina Code relating to non-profit corporations, this Declaration, the By-Laws, and the Articles, together with those reasonably implied to effect the purposes of the Association; provided, however, that if there are conflicts or inconsistencies among the South Carolina Code, this Declaration, the By-Laws, or the Articles, the provisions of the South Carolina Code, **this Declaration, the By-Laws, and the Articles, in that Order, shall prevail**, and each Owner of a Lot or Dwelling by acceptance of a deed or other conveyance thereof, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies.

(emphasis added).

Third, the By-Laws of the BPPPOA were executed on September 26, 1995. The By-Laws provide that, “in the event of a conflict between the By-Laws and the Declaration of Covenants and Restrictions for the Bull Point Property, then the terms of the Declaration of Covenants and restrictions shall control.” (*By-Laws of the Bull Point Plantation Property Owners Association, Inc., attached as Exhibit “E”*).

FACTUAL RECORD AS TO THE “DECLARANT”

As an initial matter, the chain of ownership of the Declarant Rights from Bull Point LLC, to Bull Point SC, LLC is not in dispute.

- DB Aster, LLC acquired certain property in the Bull Point development from Bull Point, LLC on February 2, 2012.
- Later, on December 28, 2012, Bull Point, LLC transferred the Declarant Rights **by assignment** to DB Aster, LLC. (*See Affidavit of William E. Gavigan, attached as Exhibit “F,” which includes as exhibits the “Assignment of Rights under Declaration” of December 28, 2012, and Minutes of the BPPPOA annual meeting of November 17, 2012*).
- Following a sale of certain property from DB Aster, LLC to GSI, LLC in August 2017, DB Aster, LLC assigned Declarant Rights to GSI, LLC on August 18, 2017.

(See Exhibit "F," which includes as exhibits the Assignment and Assumption of Declarant's Rights, dated August 18, 2017).

- Thereafter, on August 21, 2017, GSI, LLC assigned the Declarant Rights to Bull Point SC, LLC. *(See Exhibit "F," which includes the Assignment of Rights under Declaration, dated August 21, 2017).*

On January 17, 2000, the Declaration identified Bull Point, LLC as the "Declarant," and did so in several provisions, including the preamble as well as Section 1.01(j), which includes a definition of "Declarant."⁵ The Declaration also references a Declarant's "assigns" in numerous provisions:

- Preamble – the Declaration states that "shall touch and concern and run with the title to the real property subjected to this Declaration and shall be binding on all parties having any right, title or interest in the above described properties or any portion thereof, and their respective heirs, successors, successors-in-title, and assigns..."
- Property Rights – 3.04 (Access) – "There is reserved unto Declarant, the Association, and their respective successors and assigns the right and privilege..."
- Property Rights – 3.07 (Easements for Utilities) – "There is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns..."
- Property Rights – 3.09 (Sales Construction Offices and Temporary Residential and Maintenance Buildings) – "[T]here is hereby reserved for the benefit of Declarant and its successors and assigns..."
- Property Rights – 3.10 (Easements for Additional Property) – "[T]here is hereby reserved for Declarant, and its successors, assigns, and successors-in-title to the additional Property..."
- Property Rights – 3.11 (Maintenance Easement) – "Subject to the terms of Section 5.02 (b) hereof, there is hereby reserved for the benefit of Declarant, the Association, and their respective agents, employees, successors, and assigns..."

⁵ S.C. Code Ann. § 30-27-320(3) defines "Declarant" as a person or group of persons acting in concert who...reserve or succeed to a special declarant right, which means a right created under the declaration or bylaws for the person or group to exercise authority in addition to regular declarant rights in a unit of real property."

- Property Rights – 3.12 (Environmental Easement) – “There is hereby reserved for the benefit of **Declarant**, the Association, and their respective agents, employees, successors, and **assigns**...”
- Property Rights – 3.13 (Wells and Effluent) – “There is hereby reserved for the benefit of **Declarant**, the Association and their respective affiliates, agents, employees, successors and **assigns**...”
- Property Rights – 3.16 (Easements for Walks, Trails and Signs) – “There is hereby reserved for the benefit of **Declarant**, the Association, and their respective successors and **assigns**...”
- Architectural Standards and Use Restrictions – 10.10 (Signs) – “Notwithstanding the foregoing, the restrictions of this Section 10.10 shall not apply to **Declarant or its assigns**.”
- General Provisions – 13.05 (Duration) – “The provisions of this Declaration shall run with and bind title to the Property, shall be binding up and inure to the benefit of all **Owners** [including **Declarant**] and Mortgagees and their respective heirs, executors, legal representatives, successors, and **assigns**, and shall be and remain in effect for a period of thirty (30) years from and after the date of the recording of this Declaration, provided that right and easements which are stated herein to have a longer duration shall have such longer duration. Upon the expiration of said thirty (30) year period, this Declaration shall be automatically renewed for successive ten (10) year period.”
- General Provisions – 13.12 (No Trespass) – “Whenever the Association, **Declarant**, the Architectural Review Board, and their respective successors, **assigns**, agents or employees...”

(*Exhibit “D”*) (emphasis added).

Indeed, several of the parties in this matter adverse to the Bull Point Plantation Defendants have already admitted – by sworn affidavit previously filed in this lawsuit – that Bull Point SC, LLC is the Declarant.

- Plaintiff Russell Dimke identified Bull Point SC, LLC as the “developer and Declarant of Bull Point POA...” and attested that “Mr. Gavigan became the new developer/Declarant and took over control of the POA Board.” Dimke also attested under oath that “[a]s managing member of the developer/Declarant, Bull Point SC, LLC, Mr. Gavigan has control over the POA Board, including the power to appoint and remove any member or members of Board of Directors and/or any other officers of the Association.” (*Affidavit of Russell G. Dimke*, ¶¶ 6, 11, and 15, attached as *Exhibit “G”*).

- In his sworn affidavit, Plaintiff Gary Okey represented that he resigned shortly after “William Gavigan and Bull Point SC, LLC took over as Declarant.” (*Affidavit of Gary Okey*, ¶ 5, attached as Exhibit “H”).
- In his sworn affidavit, Plaintiff Peter W. Marzluff specifically identifies the Declarant as Bull Point SC, LLC. (*Affidavit of Peter W. Marzluff*, ¶ 8, attached as Exhibit “I”).

**FACTUAL RECORD AS TO THE APPOINTMENT OR ELECTION OF MEMBERS
TO THE BOARD OF DIRECTORS OF THE BPPPOA**

Regarding election, designation, and appointment of directors, South Carolina’s Non-Profit Corporation Act provides as follows:

If the corporation has members entitled to vote for directors, all the directors, except the initial directors, must be elected at the first annual meeting of members, and at each annual meeting thereafter, **unless the articles or bylaws provide some other time or method of election, or provide that some of the directors are appointed by some other person or designated.**

S.C. Code Ann. § 33-31-804(a) (emphasis added).

In this case, as set forth above, the Articles of Incorporation specifically incorporate the Declaration. In turn, regarding the Declarant’s right to appoint and remove the BPPPOA’s Directors and Officers, the Declaration clearly provides as follows:

- General Provisions – 13.01 (Control by Declarant) – the Declaration provides that “NOTWITHSTANDING ANY OTHER LANGUAGE OR PROVISION TO THE CONTRARY IN THIS DECLARATION, IN THE ARTICLES OF INCORPORATION, OR IN THE BY-LAWS OF THE ASSOCIATION, **Declarant hereby retains the right to appoint and remove any member or members of the Board of Directors of the Association by and for the term set forth in Section 8.01 hereof. Every grantee⁶ of any interest in the Development, by acceptance of a deed or other conveyance of such interest, agrees that Declarant shall have the authority to appoint and remove directors and officers of the Association in accordance with the foregoing provisions of this Section 13.01 and the provisions of Section 8.01.**”

⁶ Obviously, this includes all Plaintiffs in this action.

- Administration – 8.01 (Common Areas) – Declarant shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following events shall occur: (i) the expiration of twenty-five (25) years after the date of the recording of this Declaration; or (ii) the surrender by Declarant of the authority to appoint and remove directors and officers of the Association by an express amendment to this Declaration executed and recorded by Declarant. Each Owner, by acceptance of a deed to or other conveyance of a Lot vests in Declarant such authority to appoint and remove directors and officers of the Association as provided by this Section 8.01 and by Section 12.01 hereof.

(*Exhibit “D”*) (emphasis added).

Furthermore, for over twenty years, the Declarant of the Bull Point Plantation development has appointed Board members of the BPPPOA, or have permitted the members to elect no more than one voting member of the Board. (*See Exhibit “F”*). Indeed, in their memorandum of April 27, 2017, Plaintiffs admit as follows:

There is nothing in the Covenants or Amendments spelling out how the property owners elect 1 voting POA Board member and the Declarant appoints 2 others – thus controlling the Board. This seems to have just been permitted by the Declarant (Bull Point LLC) and followed since that time without any change in the Covenants.

The Covenants say that for 25 years the Declarant has the power “to appoint and remove all POA Board members.”

(*Exhibit “B”*) (emphasis in the original).

STANDARD OF REVIEW UNDER RULE 56, SCRPC

Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. *Gadson v. Hembree*, 364 S.C. 316, 613 S.E.2d 533 (2005); *Montgomery v. CSX Transp., Inc.*, 362 S.C. 529, 608 S.E.2d 440 (S.C. App. 2004). Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied. *Baugus v. Wessinger*, 303 S.C. 412, 401

S.E.2d 169 (1991); *Nelson v. Charleston County Parks & Recreation Comm'n*, 362 S.C. 1, 605 S.E.2d 744 (S.C. App. 2004).

However, when reasonable minds cannot differ on plain, palpable, and indisputable facts, summary judgment should be granted. *Ellis v. Davidson*, 358 S.C. 509, 595 S.E.2d 817 (S.C. App. 2004). The party seeking summary judgment has the burden of clearly establishing the absence of a genuine issue of material fact. *McCall v. State Farm Mut. Auto. Ins. Co.*, 359 S.C. 372, 597 S.E.2d 181 (S.C. App. 2004).

Where the burden of proof is a preponderance of the evidence standard, the non-moving party must only submit a mere scintilla of evidence to withstand a motion for summary judgment. *Hancock v. Mid-South Mgmt. Co., Inc.*, 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009); *Bass v. Gopal, Inc.*, 395 S.C. 129, 134, 716 S.E.2d 910, 912 (2011).

In construing contracts, such as the Governing Documents, the Court's "primary objective is to ascertain and give effect to the intention of the parties." *Ecclesiastes Prod. Ministries v. Outparcel Assocs., LLC*, 374 S.C. 483, 497, 649 S.E.2d 494, 501 (S.C. App. 2007). "Contracts should be liberally construed so as to give them effect and carry out the intention of the parties." *Id.* "The parties' intention must, in the first instance, be derived from the language of the contract." *Id.* "To discover the intention of a contract, the court must first look to its language—if the language is perfectly plain and capable of legal construction, it alone determines the document's force and effect." *Id.* at 498, 649 S.E.2d at 501. **"The parties' intention must be gathered from the contents of the entire agreement and not from any particular clause thereof."** *Id.* at 498, 649 S.E.2d at 502 (emphasis added); *Cullen v. McNeal*, 390 S.C. 470, 483, 702 S.E.2d 378, 385 (S.C. App. 2010).

In this case, the Plaintiffs' argument fails from the very beginning, wrongly focusing entirely on one narrow provision and failing to interpret the Governing Documents as the law of South Carolina directs, namely, failing to gather the intention of the parties "from the contents of the entire document and not from any particular clause thereof."

As set forth below, Plaintiffs' claims and motion must be dismissed.

LEGAL ARGUMENT

I. BULL POINT SC, LLC IS CLEARLY THE "DECLARANT" AND MAY EXERCISE THE RIGHTS OF THE DECLARANT.

A. UNDER THE ARTICLES OF INCORPORATION, AND THE DECLARATION AND ITS AMENDMENTS THAT ARE INCORPORATED INTO THE ARTICLES OF INCORPORATION, AND THE BY-LAWS, IT IS CLEAR THAT BULL POINT SC, LLC IS THE DECLARANT OF BULL POINT PLANTATION.

In reviewing the language Governing Documents and the undisputed history of assignment of Declarant Rights, it is clear that Bull Point SC, LLC is the Declarant of Bull Point Plantation. In their memorandum supporting their Partial Motion for Summary Judgment, Plaintiffs focus exclusively – and for them, fatally – on a single provision of the Declaration – Section 1.01(j) – rather than construing the entire document, which not only identifies the then-current Declarant by name, but also enshrines its right to have "assigns." Plaintiffs also neglect to reference their own admissions that Bull Point SC, LLC is the Declarant. For these reasons alone, Plaintiffs' motion must be dismissed.

In this case, Plaintiffs have failed abjectly to address the provisions of the Governing Documents that clearly and unmistakably reference a Declarant's "assigns." As referenced above, the Governing Documents state over one dozen times that the Declarant may have "assigns." Even the preamble states at length that the Declaration "shall touch and concern and run with the title

to the real property subjected to this Declaration and shall be binding on all parties [including a Declarant] having any right, title or interest in the above described properties or any portion thereof, and their respective heirs, successors, successors-in-title, and assigns...”

Nor is there anything unusual about a Declarant assigning its rights as a Declarant to a third party. South Carolina jurisprudence has long recognized that a contract or property right can be validly assigned in either law or equity. *Moore v. Weinberg*, 373 S.C. 209, 220, 644 S.E.2d 740, 745 (S.C. App. 2007), *aff'd*, 383 S.C. 583, 681 S.E.2d 875 (2009). It is axiomatic that an “interest in the property assigned can be present, future, or contingent; it may represent contract rights to money, property, or performance, or rights to causes of action.” 5 S.C. Jur. *Assignments* § 2 (2006).

In fact, the Declaration and its amendments identify both GSI, LLC and Bull Point SC, LLC, in their respective turns, as Declarants. Section 1.01(k) notes that the “Declaration” shall include “all amendments thereof filed for record in the records of the RMC Office of Beaufort County, South Carolina.” This includes the Seventeenth Amendment, filed with the RMC Office of Beaufort County on August 21, 2017 at 1:34 p.m., which identifies GSI, LLC as the Declarant. (*Seventeenth Amendment to the Declaration, attached in Exhibit “F”*). The Declaration also includes the Eighteenth Amendment, which memorializes the assignment of all Declarant Rights from GSI, LLC to Bull Point SC, LLC, and which was filed with the RMC Office of Beaufort County on November 16, 2018. (*Eighteenth Amendment to the Declaration, attached as Exhibit “J”*). For this reason alone, the Court must find that Bull Point SC, LLC is the Declarant.

Plaintiffs not only neglect to refer to the entire Declaration, rather than an isolated provision of the Declaration, they also mistakenly rely on *Highlands Prop. Owners Ass’n, Inc. v. Shumaker Land, LLC*, 397 S.C. 432, 724 S.E.2d 685 (S.C. App. 2012), to support their argument that the Declarant’s Rights cannot be assigned. The covenants at issue in *Shumaker* are quite different

from the Declaration at issue in the instant case. In *Shumaker*, the covenants required that an assignment of Declarant right could be effective “if the instrument of sale or assignment expressly so provides.” Because the deed to Shumaker Land, LLC did not reference the rights of the Declarant, it did not receive an assignment of these rights.

No such requirement exists in the instant case.⁷ Instead, the applicable precedent in this case is *Cullen v. McNeal*, 390 S.C. 470, 483, 702 S.E.2d 378, 385 (S.C. App. 2010), *cert. dismissed as improvidently granted*, 411 S.C. 270, 768 S.E.2d 401 (2015). In *Cullen*, the Court found that it was entirely appropriate for a successor-in-interest to assume the authority as a “Developer,” or declarant, through an “Assignment of Developer’s Rights.” 390 S.C. at 487, 702 S.E.2d at 387 (“McNeal did not become a successor developer through a deed, but rather through the Assignment of Developer’s Rights. The Developers also note McNeal was specifically identified as the successor developer by the grantor.”) In the instant case, the “definition” of Declarant in Section 1.01(j) unsurprisingly names the entity that was the Declarant at the time of execution – Bull Point, LLC. It also references other ways that Declarant Rights might be transferred, but in no way restricts the Declarant from transferring Declarant Rights by assignment to another party. In fact, the Declaration does not forbid transfer of Declarant Rights by assignment, and actually references a Declarant’s “assigns” on multiple occasions. Indeed, not only have Declarant Rights been assigned no fewer than three (3) times since December 2012, Plaintiffs themselves have conspired to purchase the Declarant Rights for their own purposes. (*See Exhibits “A” and “B”*).

For these reasons alone, Plaintiffs’ argument on this point must be dismissed.

⁷ Indeed, most if not all of the Plaintiffs were fully aware that the Declarant could – and did – transfer Declarant’s Rights as of December 28, 2012. For that reason alone, they are estopped from challenging a transfer of Declarant Rights by the doctrine of laches, discussed below.

B. THE COURT MAY ALSO RELY ON EVIDENCE IN THE RECORD TO DETERMINE THE RIGHTS OF THE PARTIES PURSUANT TO THE DECLARATION, INCLUDING BULL POINT SC, LLC'S RIGHT TO ACT AS THE DECLARANT.

Furthermore, the record before the Court establishes clearly that Bull Point SC, LLC is the Declarant. *Cullen*, 390 S.C. at 482, 702 S.E.2d at 384 (“While the circuit court relied upon evidence presented at trial in its order, the evidence relied upon was used to determine the rights of both parties pursuant to the Declarations. The circuit court did not use extrinsic evidence to ascertain the intention of the parties.”).

In determining the rights of the parties pursuant to the Declaration, the Court should take note of the following:

- As referenced above, three of the Plaintiffs have, in this case, presented sworn affidavits to this Court identifying Bull Point SC, LLC as the Declarant.
- In Exhibit A, Plaintiffs reference on multiple occasions their plan to “purchase” the Declarancy, and to “pursue a possible sale of the Declarancy to the Property Owners after the investors buy the Declarancy and Property from DB Aster...”
- The minutes of the Board of Directors Meeting of the Bull Point Property Owners Association on February 1, 2013, which were prepared by Plaintiff Russell Dimke, affirmatively acknowledge that the **“Declarant Rights as specified in the Bull Point Plantation Covenants have now been legally transferred from Bull Point LLC to DB Aster, LLC.”** This transfer was accomplished by an assignment of Declarant Rights from Bull Point, LLC to DB Aster, LLC. (*See Exhibit “F”*) (emphasis added).

For these reasons alone, the Court should dismiss Plaintiffs’ claims and grant summary judgment as requested by the Bull Point Plantation Defendants.

C. PLAINTIFFS’ ARGUMENT THAT TRANSFER OF DECLARANT RIGHTS CAN ONLY BE ACCOMPLISHED BY FORECLOSURE WHOLLY IGNORES SOUTH CAROLINA LAW AND THE VERY TERMS OF DECLARATION.

Plaintiffs’ argument that Bull Point SC, LLC (or for that matter, BD Aster, LLC) is not the Declarant because it did not acquire their predecessor’s entire interest by foreclosure fails for the

same reason. By focusing solely on one part of one provision of the Governing Documents, instead of the entirety of these documents, Plaintiffs' interpretation of the meaning of these documents is fatally flawed from the start.

The standards for construing the meaning of a contract are well-established. As set forth above, the law of South Carolina demands that a court must derive the parties' intention from the language in the document itself. Contrary to the Plaintiffs' effort to have the Court focus solely on a single provision of the document, the Court must instead derive the parties' intention from "the contents of the entire agreement and not from any particular clause thereof." *Cullen*, 390 S.C. at 483, 702 S.E.2d at 385.

While it is certainly true that a party can obtain Declarant Rights by acquiring the existing Declarant's "entire interest with respect to the Property and the Additional Property at the time of such acquisition pursuant to a foreclosure of a Mortgage encumbering said Declarant's interest in the Property and Additional Property," as provided for in Section 1.01(j) of the Declaration, Plaintiff's faulty interpretation would require the Court to ignore over a dozen sections of the Declaration that specifically reference a Declarant's "assigns." In essence, Plaintiffs seek to rob Bull Point SC, LLC of its rights as Declarant by asking the Court (1) to ignore well-established South Carolina law and (2) to ignore whole sections of the documents.

Furthermore, to grant Plaintiffs' motion, Plaintiffs would also have to convince the Court to (1) ignore years of an established course of dealing of which Plaintiffs are fully aware, and (2) ignore the sworn statements of Plaintiffs acknowledging that Bull Point SC, LLC is the Declarant. As set forth above, Plaintiffs have been fully aware since 2012 that the Declarant Rights to the Bull Point development have been transferred by assignment, and have been assigned no fewer than three times since 2012. (*Exhibit "F"*). Further, and most damaging to Plaintiffs' argument,

at least three Plaintiffs themselves' have stated in sworn affidavits filed in this action that Bull Point SC, LLC is the Declarant. (*See Exhibits "G," "H," and "I"*). Plaintiffs cannot now attempt to create an issue of fact by contradicting their own prior sworn testimony.⁸

For these reasons alone, the Court should dismiss Plaintiffs' claims and grant summary judgment as requested by the Bull Point Plantation Defendants.

D. PLAINTIFFS ARE EQUITABLY ESTOPPED FROM ARGUING THAT BULL POINT SC, LLC IS NOT THE DECLARANT.

Even if the Plaintiffs' arguments and characterizations of the facts were accurate – which they are not – Plaintiffs are equitably estopped from arguing that Bull Point SC, LLC is not the Declarant.

The essential elements of equitable estoppel are divided between the estopped party (in this case, the Plaintiffs) and the party claiming estoppel (in this case, Bull Point SC, LLC). *Strickland v. Strickland*, 375 S.C. 76, 84–85, 650 S.E.2d 465, 470 (2007). The elements of equitable estoppel as related to the party being estopped are:

- conduct which amounts to a false representation, or conduct which is calculated to convey the impression that the facts are otherwise than, and inconsistent with, those which the party subsequently attempts to assert;
- the intention that such conduct shall be acted upon by the other party; and
- actual or constructive knowledge of the real facts.

The party asserting estoppel must show:

- lack of knowledge, and the means of knowledge, of the truth as to the facts in question;

⁸ *Coves Darden, LLC v Ibanez*, 2013 WL 12377622, at *2 (S.C.Com.Pl. Dec. 20, 2013); *Cothran v. Brown*, 357 S.C. 210 (S.C. 2004) (“[A] court may disregard a subsequent affidavit as a ‘sham,’ that is, as not creating an issue of fact for purposes of summary judgment, by submitting the subsequent affidavit to contradict that party’s own prior sworn statement.”)

- reliance upon the conduct of the party estopped; and
- a prejudicial change of position in reliance on the conduct of the party being estopped.

375 S.C. at 84–85, 650 S.E.2d at 470; *Boyd v. Bellsouth Tel. Tel. Co., Inc.*, 369 S.C. 410, 422, 633 S.E.2d 136, 142 (2006).

The record in this case clearly establishes that Plaintiffs are estopped from arguing that Bull Point SC, LLC is not the Declarant.

- Plaintiffs have specifically represented that Bull Point, LLC lawfully assigned its rights as Declarant to DB Aster, LLC, as in the approved Minutes of the February 1, 2013 Board of Directors Meeting, authored by Plaintiff Russ Dimke. (*See Exhibit "F"*).
- Plaintiffs have specifically represented on numerous occasions that DB Aster, LLC was the Declarant. (*See Exhibit "F"*).
- Plaintiffs submitted these representations to Gavigan, upon which Gavigan (through GSI, LLC) relied and acted in completing the purchase of the property and Declarant's Rights at the Bull Point development.

A straightforward application of these principals estops Plaintiffs from now arguing that GSI, LLC or its assignee, Bull Point SC, LLC, could not be the Declarant of the Bull Point development.

II. AS DECLARANT, BULL POINT SC, LLC CLEARLY HAS THE RIGHT TO APPOINT AND REMOVE MEMBERS OF THE BOARD OF DIRECTORS OF BPPPOA.

Given the language of the Governing Documents and the undisputed practice of over twenty years, Plaintiffs' argument that the Declarant does not have the right to appoint and remove members of the Board of Directors of BPPPOA is especially baseless.

As indicated above, the BPPPOA's Articles of Incorporation not only wholly incorporate the Declaration "as if set forth verbatim," the Declaration clearly sets forth that its provisions take precedence over other provisions of the Articles of Incorporation, or the By-Laws. Declaration, Section 8.02. In two separate sections of the Declaration, 8.01 and 13.01, and in the clearest possible terms, the Declarant has the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association.

This result is the unremarkable and rather obvious result of looking to the language of the Governing Documents and giving effect to the "entire agreement and not from any particular clause thereof." *Cullen*, 390 S.C. at 483, 702 S.E.2d at 385.

Furthermore, to the extent the Court wishes to review evidence regarding over twenty years of prior practice at Bull Point Plantation – all of which was well known and accepted by Plaintiffs – it is undisputed that Plaintiffs themselves have acknowledged that the Declaration specifically provides that "for 25 years the Declarant has the power 'to appoint and remove all POA Board members.'" (*Exhibit "A"*); *Cullen*, 390 S.C. at 482, 702 S.E.2d at 384 ("While the circuit court relied upon evidence presented at trial in its order, the evidence relied upon was used to determine the rights of both parties pursuant to the Declarations. The circuit court did not use extrinsic evidence to ascertain the intention of the parties.").

Indeed, even a cursory review of the minutes of Annual Meetings indicate, again and again, that Plaintiffs were fully aware of the process by which the Declarant appointed Board members and Officers of the BPPPOA and its predecessors, and actually participated in this process. (*See Exhibit "F"*). In this regard, Plaintiffs' claims appear to be subject to dismissal under the doctrine of laches. "Laches" is defined as "neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been

done.” ” *Gordon v. Drews*, 358 S.C. 598, 612, 595 S.E.2d 864, 871 (S.C. App. 2004) (quoting *Muir v. C.R. Bard, Inc.*, 336 S.C. 266, 296, 519 S.E.2d 583, 598 (S.C. App. 1999)). “Delay alone is not enough to constitute laches; it must be unreasonable, and the party asserting laches must show prejudice.” *Gordon*, 358 S.C. at 612, 595 S.E.2d at 871 (quoting *Brown v. Butler*, 347 S.C. 259, 265, 554 S.E.2d 431, 434 (S.C. App. 2001)); *Queen’s Grant II Horizontal Prop. Regime v. Greenwood Dev. Corp.*, 368 S.C. 342, 359, 628 S.E.2d 902, 912 (S.C. App. 2006). In the instant case, Plaintiffs have acknowledged the right of the Declarant to appoint Officers and Directors for over twenty years. Laches bars Plaintiffs from now seeking to injure the Declarant by now seeking belatedly to rob it of the right to appoint Officers and Directors.

For these reasons, Plaintiffs’ arguments regarding the Declarant’s rights to appoint and remove Board Members and Officers of the BPPPOA must be dismissed.

CONCLUSION

For the reasons set forth above, the Bull Point Plantation Defendants respectfully request that the Court GRANT their Motion for Partial Summary Judgment, DENY the motion of the Plaintiffs, and GRANT the Bull Point Plantation Defendants any other such relief as the Court deems just and proper.

This the 19th day of September, 2019.

Signature page to follow

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COUNSEL FOR BULL POINT PLANTATION PROPERTY
OWNERS ASSOCIATION, INC., BULL POINT SC, LLC, GSI,
LLC, AND WILLIAM E. GAVIGAN

EXHIBIT A
HUSPAH PROPERTIES, LLC
RECEIPT FOR PURCHASE OF SHARES

HUSPAH PROPERTIES, LLC
101 BULL POINT DRIVE
SEABROOK, SOUTH CAROLINA 29940

RECEIPT FOR PURCHASE OF SHARE(S)

The following shall set forth the terms and conditions by which a property owner(s) at Bull Point Plantation, Seabrook South Carolina (hereinafter simply the "Purchaser") agrees to purchase share(s) in Huspah Properties, LLC. (hereinafter simply the "Company"). Intending to be legally bound hereby, the Purchaser and the Company agree to the following:

1. The cost of each share shall be \$10,000.00
2. Purchaser agrees that he/she/it has read or has been given the right and opportunity to read the Operating Agreement for the Company dated May 15, 2017 (hereinafter simply the "Agreement") and furthermore agrees to be legally bound by the terms, conditions, responsibilities and requirements of the Agreement.
3. The parties agree that each share purchased shall entitle the Purchaser to one (1) vote on any issue requiring membership voting as required by the Agreement.
4. The parties agree that the principal purpose of the Company is to purchase the Declerency for the Development known as Bull Point Plantation located in Seabrook, South Carolina. If for any reason the Company cannot or decides not to purchase said Declerency then all money given by the Purchaser to the Company for the purchase of Share(s) less Purchaser's proportional share of expenses, if any, shall be refunded to the Purchaser by the Company within a reasonable time of the decision not to purchase the Declerency.

2
Number of Shares Purchased

\$20,000.00
Purchase Amount

Robert Watson
Robert Watson 5/25/17
Purchaser Date
Date

Company Representative

Print_

Purchaser

Date 5/25/17

Print

ROBERT L WOLFSON 01-06
PH 843-441-1112
166 BULL POINT DR.
SEABROOK, SC 29940-2305

64-175/612

5566

DATE 5/25/17

PAY TO THE ORDER OF

PAY TO THE ORDER OF Hispah Properties LLC \$ 20,000.00
Twenty Thousand & 00/100 DOLLARS

DOLLARS

1

உறுதிப்படுத்தப்பட்டது

Ameris Bank

MEMO purchase 2 units

Robert Waepser

IN RE: OPERATING AGREEMENT OF
HUSPAH PROPERTIES, LLC

SIGNATURE PAGE TO BE INCORPORATED INTO AGREEMENT

Intending to be bound by the foregoing Agreement, I (we) have executed this
Signature Page and intend that it be incorporated into the foregoing Agreement

this 25th day of May, 2017.

Robert Wolfson
Signature

Leigh Wolfson
Signature

Robert Wolfson
Printed Name

Leigh Wolfson
Printed Name

166 Bull Pt Dr.
Address Seabrook, SC
29940

166 Bull Pt Dr.
Address Seabrook, SC
29940

EXHIBIT B
“CURRENT SITUATION” MEMORANDUM
DATED APRIL 27, 2017

Exhibit 8

From: Pete Marzluff [<mailto:pmarzluff@bullpointpoa.com>]
Sent: Monday, May 1, 2017 10:32 AM
To: 'Annette Goodell'
Subject: FW: Informational Meeting for Homeowners on Thursday, May 3rd at 6 pm

From: Pete Marzluff [<mailto:pmarzluff@gmail.com>]
Sent: Saturday, April 29, 2017 9:56 AM
To: pmarzluff@bullpointpoa.com
Subject: FW: Informational Meeting for Homeowners on Thursday, May 3rd at 6 pm


2017-04-27_CURRE
NT SITUATION.docx

From: JAMES G GOODWIN JR [<mailto:jgoodwi@clemson.edu>]
Sent: Friday, April 28, 2017 10:29 PM
To: juha@aol.com; richardh.printer@gmail.com; claudia@hoffmanprinter.com; jikinard0415@yahoo.com; bjinard0415@gmail.com; akitchen1101@gmail.com; tgw0808@gmail.com; pmarzluff@gmail.com; dcmarzluff@gmail.com; endotroy@mac.com; fourfunkids@me.com; ramcap@aol.com; tinalouise93@aol.com; lmeredith@iceautomationgroup.com; kmeredith@yahoo.com; phillip_morton@msn.com; ellen_morton@msn.com; lamarnix@gmail.com; aliceb.nix@gmail.com; parksgl@aol.com; ekparks@aol.com; scpeers@centurylink.net; ipeers18@gmail.com; mejp2c@gmail.com; seajan16@gmail.com; mispowers17@gmail.com; 2nancypowers@gmail.com; mmreibel@gmail.com; guilford3@sbcglobal.net; bowspetals@aol.com
Subject: Informational Meeting for Homeowners on Thursday, May 3rd at 6 pm

Dear Bull Point Homeowners and Neighbors,

You are invited to attend an Informational Meeting for Homeowners on Thursday, May 3rd at 6 pm at the Bull Point Clubhouse. Attached is a document that will provide a significant amount of information. Please read it prior to attending the meeting and bring a copy with you.

As you may know, the property owned by DB Aster and the Declarancy of Bull Point is the subject of a current law suit against DB Aster by Gavigan LLC, a Beaufort property developer. Details and the status of this law suit, as well as its potential effects on Bull Point Homeowners, will be shared at this meeting.

We chose Bull Point for a reason. Our Bull Point Community is now at a crossroads. If the unique character of Bull Point is lost, it won't be easily recovered. Together, we have the opportunity to maintain the standards and amazing life style of Bull Point.

A group of your neighbors are developing a strategy to take property owner control of Bull Point to promote and ensure continued quality of the development and homes built here. Please join us on May 3rd to hear the details of this plan and how you can become involved. Multiple meetings with small groups of homeowners are being held to ensure that all questions are able to be addressed. Meetings are being held the Week of May 1 because time is of the essence and we need to act quickly.

Please RSVP by e-mail to me (jgoodwi@clemson.edu) if you are interested and can attend this meeting on May 3rd. If you are unable to attend for any reason but would like to attend a meeting on May 2nd or May 4th at 6 pm in the Clubhouse, please let me know and I will arrange it. If anyone is out of town during this period but would be interested in finding out more information, let me also know and we will arrange a telephone call with you or a meeting once you return.

Best Regards,

Jim Goodwin

James G. Goodwin, Jr., PhD
Professor Emeritus of Chemical Engineering
Clemson University
Cell 864-650-3807

Current Situation

Concerned Bull Point Property Owners

4/27/17

1. Current Status of Bull Point Declarancy Law Suit

Law suit deals with Sale of Bull Point Declarancy & Property of DB Aster to Gavigan LLC.

DB Aster negotiated to sell to Gavigan LLC the rest of its ownership of Bull Point Plantation, including

- 1) the Declarancy
- 2) 29 existing lots
- 3) 153 acres of woodland in Phase 7.

The price for all that now stands at \$1.2 million.

Gavigan did not show up for the closing even after an extension in June of 2016. DB Aster withdrew the offer, and Gavigan sued. In the past 1-2 months, the case went to mediation; but Gavigan did not accept the mediated result. The case is now moving forward with a trial sometime in the future, perhaps in 4-6 months. At any time, Gavigan could accept the deal on the table, resulting in the sale going through.

2. Three Possible Resolutions

- a. Gavigan wins the suit and acquires B.Pt property and Declarancy.
 - He would be in total control of the POA Board and the ARB.
 - He could keep the covenants as is. (doubtful)
 - He could keep the covenants but build cheap 2000 sq. ft. houses selling at \$200-300K/house)
 - He could try to change the covenants (or create the 153 acres as a slightly different entity with different rules) allowing smaller houses, duplexes, etc.
 - He will almost certainly NOT pay POA fees since this is not required of the Declarant until 2020.
 - Homeowner-investors could negotiate to buy the Declarancy and property from him. This would, probably, significantly raise the current purchase price from \$1.2 million to something significantly more (\$1.6-3 million?), since he would know we would want it and to provide a ROI to his investors.
 - Some of the homeowners could enter into extended/constant litigation to attempt to enforce the current covenant and rules & regulations. This would involve legal costs which would never be recoverable. There is a basis for such litigation but

the outcome is unknown. On-going law suits would drive away potential property/home buyers and depress property values during the period of litigations. It might be hard to get widespread participation by the homeowners and money for legal expenses.

b. DB Aster wins suit but sells to a 3rd party.

- DB Aster, if it wins the law suit with Gavigan LLC, will put the property back on the market for significantly more than \$1.2 million (\$1.8-2 million).
- An unknown group of outside investors (3rd party) buying the offer would probably focus on maximizing profit of the investment – not necessarily on preserving Bull Point as initially planned.
- Such a group would probably NOT pay POA fees since it is not required.
- Homeowner-investors could negotiate to buy the Declarancy/property from this party. This would, most likely, significantly raise the purchase price from \$1.2 million to \$3 million since the 3rd party would want to make a significant profit flipping it since it would be giving up making significantly more over 5-10 years.

c. DB Aster settles the law suit with Gavigan LLC (pays him to drop the suit) and sells the Declarancy and property to BPt Homeowner-Investors.

- We could preserve the character and value of Bull Point pursuant to the developed plan.
- The Homeowners (represented by those who are investors) would gain access and control of the Declarancy, 29 existing lots and 153 acres of undeveloped Bull Point property.
- The cost would probably be \$1.2 million + the cost to DB Aster to get Gavigan LLC to drop the law suit (\$75,000 or more, perhaps). Gavigan will surely want to recoup all his costs to date + make a profit. Realistic cost to do this would be \$1.2-1.4 million.

3. Important Facts From BPt Declaration (Covenants)

a. Expiration date of the BPt Declarancy (barring amendment of the Covenants:

Sept. 22, 2020 25 years from the filing of the original Declaration, Sept. 22, 1995, as long as the Declarant owns at least 1 lot.

Sept. 22, 2025 For 30 years from filing of the Declaration, the Declarant may submit additional property to be included in the Declaration – **right to amend Plan of Development**. Fewer or more lots than originally planned and different common areas are permitted (limitations only from Zoning Commission and Beaufort County). Multi-family or less expensive houses???

b. Governance

There is nothing in the Covenants or Amendments spelling out how the property owners elect 1 voting POA board member and the Declarant appoints 2 others – thus controlling the Board. This seems to have just been permitted by the Declarant (Bull Point LLC) and followed since that time without any change of the Covenants.

The Covenants say that for 25 years the Declarant has the power “to appoint and remove all the POA Board members.”

According to the Covenants, the POA Board appoints all the members of the ARB. Thus, the ARB is also determined by the Declarant.

The only person not appointed by the Declarant (according to the Covenants) is the Homeowner member(s) of the Contingency Fund Committee elected annually by the Property Owners at the Annual Meeting.

c. Amendment of the covenants of B.Pt.

The Declarant can amend the Covenants during the 25-year period provided the amendment does not “materially alter or change any Owner’s right to the use and enjoyment of his lot. Dwelling, or the Common Areas as set forth in the Covenants... or adversely affects the title to any lot.” If that is the case, the amendment can only go through with “the written consent of a majority of the then existing Owners affected.” [Section 13.02 Amendments by Declarant, Amendment 9, page 53]

“The right to the use and enjoyment of property” in legal terms is broad and generally can include 4 types of harm: (1) physical harm to the person’s property, (2) physical harm to the person(s) occupying the property, (3) mental disturbance or annoyance of the person(s) occupying the property, and (4) **interference that causes economic loss or depreciation of the property.** It would be on this basis that the Bull Point Homeowners would probably litigate changes in the size, occupancy, and value of homes being built. However, there would be no guarantee that the litigation would win. Furthermore, it may be hard to litigate until after damage is done to the community value.

The POA Board of Directors or the members of the POA can propose amendments, but they must pass with a vote of 75% of the total votes of the POA. However, the Declarant (during the 25-year Declarancy period) can veto (“must approve”) the amendment.

- d. Could a declarant successfully petition the County to change the existing land density at Bull Point to build condos/apartments etc?
- Within the existing developed portion of Bull Point?
 - Within the undeveloped 153 acres of Bull Point?

PERHAPS???

e. Assessment of Owners

Could all home & property owners be assessed a fixed amount to fund the initiative to buy out the declarant? This would preclude the need for investors and the "POA" would become the Declarant and owner of the property up for sale.

Probably not, since this would have to be done by the POA Board that is totally controlled by DB Aster according to the Covenants. It would be self-serving by DB Aster to force the BPt property owners to essentially buy itself (DB Aster) out. It would possibly be illegal or challengeable in court, and/or something that DB Aster would not want to get involved in because of the current law suit and in order not to impede its exit from Bull Point. Lot owners who are trying to sell their lots would probably be significantly opposed to being taxed ca. \$6,000 each in addition to the normal annual POA fee.

f. Contingency Fund of the POA

The Contingency Fund can only be expended upon approval by the POA elected representative(s) who are property owners (cannot be the Declarant) and who was/were elected by a majority of property owners or their proxies at the Annual Meeting of the POA. [Amendment 15b (Oct. 10, 2011)]

Could the Declarant take over and use the Contingency Fund for whatever the Declarant wished? Not according to the current Covenants [Amendment 15b (Oct. 10, 2011)].

Could the current BPt POA or the property owners use funds from the POA to help purchase (with a buy-in or a loan) the Declarancy and property from DB Aster? It only would be possible if the property owners on the Contingency Committee approve such an expenditure. However, nothing in Amendment 15b of the BPt Covenants precludes this if they feel this would be in the interest of the property owners "to acquire additional Common Areas and/or other amenities for the enjoyment of the Members" [see Amendment 15b, amended Article IX, section 9.03, subsection (ix)].

However, the Contingency Fund does not contain nearly enough money to completely buy out DB Aster. Also, if all of the Fund was used, this would leave Bull Point exposed if a genuine emergency arose necessitating major expenditures.

One possibility could be to pursue the possible sale of the Declarancy to the Property Owners after the investors buy the Declarancy and Property from DB Aster – with appropriate guarantees put into the Declaration by amendment to protect what the investors wished to do (unlikely to be at odds with the non-investors of the POA).

So, it could be possible that the POA might find a way to participate in or facilitate the acquisition of the BPt Declarancy and properties for the benefit of all the property owners.

4. Most Likely Solution to Take Property Owner Control of the Declarancy

- a. Put together an investment group of BPt Property Owners.
- b. Incorporate as an LLC (Huspah Properties, LLC).
- c. Attempt to get DB Aster to settle law suit out of court and sell Declarancy and property to Huspah Properties, LLC and possibly in part to the POA ultimately..
- d. Market properties and consider putting some land into nature conservancy to return all invested capital + profit to investors within a maximum of 7 years.

5. Statement of Huspah Properties, LLC Intentions

Huspah Properties, LLC desires to maintain the Bull Point Covenants and Operations as they are and to maintain Bull Point Plantation as a friendly community brought together by a common love of nature and the beauty of the Lowcountry. Any development will be consistent with the current vision of Bull Point as a place of beauty and value. As part of its purchase Huspah Properties, LLC would become the Declarant for the last 3 years of existence of the Declarancy. While the investors are not motivated simply by a desire to invest in real estate development for profit but rather to maintain the unique status of Bull Point as a community, it is only natural that there be some possibility for profit given the capital invested and financial liability assumed by each of the investors. The investors consider themselves Bull Point home/property owners and neighbors first and foremost and event-driven investors second.

6. Plan for Purchase of B.Pt. Declarancy and DB Aster Property

Raising of Capital

- Purchase by interested homeowners of shares in Huspah Properties, LLC
- 1 share = \$10,000
- Total number of shares = 200
- Initially sell up to 140 shares to raise ca. \$1.4 million
- At least 60 shares would be held in reserve if needed to raise additional capital following a vote by the stockholders. Vote would be proportional to the number of shares held.
- It is possible that to raise the total amount necessary, a loan of \$400,000-600,000 might be necessary – guaranteed to the extent possible by the value of the property.

7. Steps Required

- Presentation of Plans to the Homeowners and Lot owners.
- Signing up of investors with level of commitment (no. of shares).
- Letter of Intent to DB Aster from Huspah Properties, LLC to alert DB Aster.
- Decision of DB Aster to pursue settlement of case and sale to Huspah Properties, LLC.
- Input of investment from participants and possible arrangement of a loan to Huspah Properties, LLC if additional monies are needed.
- Signing of Contract-to-Purchase by Huspah Properties, LLC with DB Aster.
- DB Aster negotiations with Gavigan LLC.
- Settlement of Gavigan Law Suit.
- Purchase of Declarancy and property from DB Aster by Huspah Properties, LLC.

8. What would be the personal liability to an individual Investor?

It is planned to raise ca. \$200,000 more than the purchase price to be used for expenses during the initial 1-2 years. This would be used to cover:

- property taxes
- marketing costs
- administration and legal Fees

until they would be paid for by on-going lot sales. The Declarant does not have to pay POA fees on existing lots that it has not sold. Thus, for up to 3 years, POA fees would not be paid for lots held. After September 2020, POA fees would have to be paid for lots held by Huspah Properties, LLC. It is important to note, in order to get the Declarancy in the hands of at least a subset of BPT property owners, the financial aspects of the deal have to be reasonable in order to maximize property owner participation.

If a loan had to be taken out for initial purchase or development, most of it should be able to be guaranteed by the value of the property purchased/held. For too large a loan, a bank might require at least part be guaranteed personally by the shareholders. However, this is unacceptable to most potential investors and will be avoided.

The financial plan for Huspah Properties, LLC suggests that payback of the initial investment to the stockholders should be able to start the first year of operation, based on a projected sale of 4 lots in that initial year. However, a more conservative expectation would be that payback to investors would begin in year 2.

9. Financial Plans and Pay Back

Plans call for a payback to shareholders of all their capital spent on purchase of stock within 7 years along with potential profit and tax write-offs.

Option 1:

- a. Market and sell existing 28 lots over 7 years.
- b. Put Phase 7 (153 acres) into nature conservancy in perpetuity and get Tax Write-off (maybe as much as \$5 million, divided up among the stock holders and usable for up to 5 years).
- c. Projected ROI = 12.2%/year for 7 years (including taxes saved).

Option 2:

- a. Market and sell existing 28 lots over 7 years.
- b. Develop Phase 7 (153 acres) into 45 lots with a 10-acre lake and a 40-acre park.
- c. Put 40-acre park and 10-acre lake into nature conservancy in perpetuity and get Tax Write-off (maybe as much as \$1.3 million, divided up among the stock holders and usable for up to 5 years).
- d. Projected ROI = 17.8%/year for 7 years (including taxes saved).

Option 3:

- a. Market and sell existing 28 lots over 7 years.
- b. Sell to a Developer 113 acres of Phase 7 (153 acres) to be subdivided into 45 lots with a 10-acre lake.
- c. Put 40-acre park into nature conservancy in perpetuity and get Tax Write-off (maybe as much as \$1 million, divided up among the stock holders and usable for up to 5 years).
- d. Keep Declarancy for POA.
- e. Projected ROI = 7.1%/year for 7 years (including taxes saved).

OPTION #1

We Sell the 28 Existing Lots and put 153 acres into Nature Conservancy		
Initial Purchase Price		\$1,300,000
Capital for Initial Operating Expenses		\$100,000
No. of Investment Shares @ \$10,000/share	140	\$1,400,000
28 Lots sold over 7 years		
Revenue		\$1,821,450
Less: Operating Expenses		(\$475,740)
Liability to Investors		(\$1,400,000)
Net on Total Initial Investment		(\$54,290)
Net/share on initial investment		(\$388)
Tax Deduction for putting 153 acres into nature conservancy		\$5,000,000
Value of Tax Deduction for 25% tax bracket (useable over 5 years)		\$1,250,000
	per share for 140 shares	\$8,929
Return over and above each \$10,000 Share (assuming 25% tax bracket)		\$8,541
Total ROI		85%
ROI/Year (assuming 7 years)		12.2%

OPTION #2

We Sell the 28 Existing Lots and Develop the 153 acres			
10 Acre Lake, 40 Acre Park all put into nature conservancy			
Initial Purchase Price			\$1,300,000
Capital for Initial Operating Expenses			\$100,000
No. of Investment Shares @ \$10,000/share	140	\$1,400,000	
Revenue: 28 Lots sold over 7 years			\$1,821,450
Less: Operating Expenses			(\$475,740)
Liability to Investors			(\$1,400,000)
Net on Total Initial Investment			(\$54,290)
Net/share on initial investment			(\$388)
153 acre development			
Average Sales Price per Lot	71,133		
Total Lots	45		
Total Sales			\$3,200,985
Less:			
Infrastructure Costs	(1,281,000)		
Bond to Cover Development Costs	4%	(62,992)	
Property Taxes for Two Years	3%	(68,582)	
Comm, Taxes, Admin, Legal		(293,810)	
Total Expenses			(\$1,706,384)
Return over and above investment			\$1,494,601
	Per Share	For 140 shares	\$10,676
Tax Deduction for putting 50 acres into nature conservancy			\$1,200,000
Value of Tax Deduction for 25% tax bracket (useable over 5 years)			\$300,000
	per share	for 140 shares	\$2,143
Return over and above each \$10,000 Share (assuming 25% tax bracket)			\$12,431
Total ROI			124%
ROI/Year (assuming 7 years)			17.8%
POA Benefit Additional Revenue / Year	45 lots	\$2,711	\$121,995

OPTION #3			
We Sell the 28 Existing Lots, Sell 113 acres to a Developer, and Put 40-Acre Park in Nature Conservancy			
Initial Purchase Price			\$1,300,000
Capital for Initial Operating Expenses			\$100,000
Initial Purchase Price			\$1,300,000
Capital for Initial Operating Expenses			\$100,000
No. of Investment Shares @ \$10,000/share	140	\$1,400,000	
28 Lots sold over 7 years			
Revenue			\$1,821,450
Less: Operating Expenses			(\$475,740)
Sale of 113 acres to a Developer			\$500,000
Liability to Investors			(\$1,400,000)
Net on Total Initial Investment			\$445,710
Net/share on initial investment			\$3,184
Tax Deduction for putting 40 acres into nature conservancy			\$1,000,000
Value of Tax Deduction for 25% tax bracket (useable over 5 years)			\$250,000
	per share	for 140 shares	\$1,786
Return over and above each \$10,000 Share (assuming 25% tax bracket)			\$4,969
Total ROI			50%
ROI/Year (assuming 7 years)			7.1%
POA Benefit Additional Revenue / Year	45 lots	\$2,711	\$121,995