

EXHIBIT G

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
BRANCH BANKING AND TRUST
COMPANY,

Plaintiff,

vs.

GRAPHIC EXPRESS, LLC, LANNY R.
GUNTER II, and HARRY B.
BENENHALEY,

Defendants.

) IN THE COURT OF COMMON PLEAS

) C.A. NO.: 2012-CP-40-0249

) **MEMORANDUM IN SUPPORT OF**
) **PLAINTIFF'S MOTION FOR**
) **SUMMARY JUDGMENT**

JEANNETTE W. MCGRID
C.C.P. & C.S.

2012 AUG 28 AM 10:50

FILED

RICHLAND COUNTY

This matter is before the Court on a Motion for Summary Judgment filed by the plaintiff, Branch Banking and Trust Company ("Plaintiff"). Plaintiff moves this Court to grant summary judgment in its favor pursuant to Rule 56 of the South Carolina Rules of Civil Procedure on the grounds that there is no issue of material fact and Plaintiff is entitled to judgment in its favor as a matter of law.

FACTS AND PROCEDURAL BACKGROUND

On or about October 19, 2009, Plaintiff provided credit to the Defendant, Graphic Express, LLC, pursuant to a Promissory Note and Security Agreement ("Note"), wherein Graphic Express, LLC promised to pay \$82,000.00, plus interest, as set forth more fully in the Complaint.

In order to induce Plaintiff to enter into the Note with Defendant Graphic Express, LLC, Defendants Lanny R. Gunter II and Harry B. Benenhaley executed an agreement personally guaranteeing payment of all obligations of Graphic Express, LLC, plus costs, fees, and any other obligations due to Plaintiff under the Contract. Pursuant to the terms of the Guaranty Agreement, Defendants Lanny R. Gunter II and Harry B. Benenhaley are

liable for the full amount due under the Note.

Defendant Graphic Express, LLC failed to make monthly payments when due and is in default pursuant to the terms of the Note. As of November 23, 2011, the outstanding past due balance is in the amount of Fifty Thousand Two Hundred Sixty Three and 06/100 Dollars (\$50,263.06), plus interest subsequently accruing at a per diem rate of \$11.01, plus attorneys' fees and costs. Plaintiff has made demand upon Defendants for the sums due and after such demand, Defendants have failed to cure the default. Plaintiff is entitled to judgment for the collection of amounts due to it under the Note.

On January 11, 2012, Plaintiff served Defendants with a Summons and a Verified Complaint. Subsequently on February 29, 2012, Defendants filed a one-page Answer to the Complaint, in which Defendants generally denied all allegations of the Complaint. Defendants neither raised any affirmative defenses nor made any counterclaims against Plaintiff. On March 27, 2012, Plaintiff served Interrogatories, Requests for Production of Documents, and Requests for Admissions on Defendants' counsel. Discovery was sent by Plaintiff in attempt to ascertain any and all unresolved issues. Copies of those discovery requests are attached hereto as **Exhibit A**, and are incorporated herein by reference.

On April 13, 2012, Defendants' counsel responded to Plaintiff's Requests for Admissions only, in which they summarily denied all requests. A copy of Defendants' responses is attached hereto as **Exhibit B**. On or about April 30, 2012, counsel for Plaintiff sent Defendants' counsel a letter stating he had failed to respond to Plaintiff's Interrogatories and Requests for Production of Documents, and requesting that he forward

responses within fourteen (14) days. A copy of this letter is attached hereto as **Exhibit C**, and is incorporated herein. One month later on May 31, 2012, Plaintiff's counsel filed a Motion to Compel Defendants' discovery responses.

APPLICABLE LAW AND ANALYSIS

Plaintiff filed this action on January 13, 2012. During the six and one-half months of this litigation, Defendants have failed to: (1) offer any information or evidence whatsoever to support any legal defense; (2) request any written discovery; (3) take any depositions of Plaintiff; (4) respond to Plaintiff's written discovery requests.

"[S]ummary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law." Pittman v. Grand Strand Entm't, Inc., 611 S.E.2d 922, 925 (S.C. 2005); Rule 56, SCRPC. Once the party moving for summary judgment meets the initial burden of showing the absence of evidentiary support for the opponent's case, the opponent may not simply rest on the mere allegations contained in the pleadings. Grant v. Mount Vernon Mills, 634 S.E.2d 15, 17 (S.C. Ct. App. 2006). "Rather, the nonmoving party must come forward with specific facts showing there is a genuine issue for trial." Id. at 17-18.

Responsive pleadings that simply deny allegations supporting a valid cause of action are not sufficient to raise plain, palpable and disputable facts which may otherwise defeat summary judgment. Garrett v. Reese, 204 S.E.2d 432 (S.C. 1974); Main v. Corley, 316 S.E.2d 406 (S.C. 1984). Further, unsupported allegations or denials that simply create an inference are insufficient to withstand summary judgment. Main v. Corley, 316 S.E.2d 406 (S.C. 1984).

In the present case, Defendants have offered only a vague, sweeping denial of all allegations against them. They have not raised any affirmative defenses, have not raised any counterclaims, and have not offered a scintilla of evidence in support of their denial of liability. Defendants may not rest on a general denial raised in their pleadings, but rather must set forth specific facts showing there is a genuine issue for trial. They have failed to do so, and Plaintiff is thus entitled to judgment in its favor as a matter of law.

CONCLUSION

Based upon the foregoing authority and arguments, Branch Banking and Trust Company respectfully requests that this Court award it summary judgment and the relief requested in the Complaint.



Laura G. Simons
CLAWSON AND STAUBES, LLC
126 Seven Farms Drive, Suite 200
Charleston, SC 29492-8144
Telephone (843) 577-2026

Attorneys for Plaintiff

Charleston, South Carolina

August 1, 2012

EXHIBIT A

**CLAWSON
AND
STAUBES**
LLC

R. Timothy Whisler
twhisler@clawsonandstaubes.com

March 27, 2012

File No.: 2011-0010.027

S. Jahue Moore, Esquire
Moore, Taylor & Thomas, P.A.
1700 Sunset Boulevard
P. O. Box 5709
West Columbia, SC 29171

Re: Branch Banking and Trust Company v. Graphic Express, LLC, et al.
Case No: 2012-CP-40-0249

Dear Jake:

Enclosed herewith please find our Interrogatories, Request for Admissions, and Request for Production to the Defendants, which are herewith served upon you.

Please advise me of the volume of documents available in response to our Request for Production. If the cost of copying your client's records is expected to be less than \$100, please copy and send your producible documents. If the cost is expected to exceed \$100 then please let me know so that I can make an appointment to review the file and mark it for copying.

With kindest regards, I remain

Very truly yours,

CLAWSON AND STAUBES, LLC



R. Timothy Whisler

RTW/bke
Enclosures

www.clawsonandstaubes.com
126 Seven Farms Drive, Suite 200, Charleston, South Carolina 29492
Fax: (843) 722-2867 / Office: (843) 577-2026

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
BRANCH BANKING AND TRUST)
COMPANY,)

Plaintiff,)

vs.)

GRAPHIC EXPRESS, LLC, LANNY R.)
GUNTER II, and HARRY B.)
BENENHALEY,)

Defendants.)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2012-CP-40-0249

PLAINTIFF'S INTERROGATORIES

JEANELOFE W. McBRIDE
C.S.P. & G.S.
2012 MAR 31 PM 1:48

RICHLAND COUNTY
FILED

TO: S. JAHUE MOORE, ESQUIRE, ATTORNEY FOR THE DEFENDANTS:

PURSUANT to Rule 33 of the South Carolina Rules of Civil Procedure, Plaintiff, Branch Banking and Trust Company ("BB&T"), requests Defendant to answer under oath all of the following Interrogatories not objected to within the time allowable:

These Interrogatories are continuing in character and require the filing of supplementary answers in accordance with Rule 26(e) of the South Carolina Rules of Civil Procedure, if before trial the party to whom these Interrogatories are directed obtains further or different information after the initial answer. Supplementary answers should include the date upon and manner in which such further or different information came to the attention of the answering party.

1. Give the names and addresses of persons known to the parties or their Counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

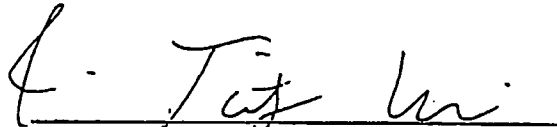
2. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

3. Set forth a list of photographs, plats, sketches, letters, emails, loan documents, payment stubs, checks, statements, or other prepared documents in possession of the parties that relate to the claim, counterclaim, or any defenses in the case.

4. List the names and addresses of any expert witnesses whom the party proposes to use as a witness at the trial of the case.

5. State with particularity the facts and list any documents which you contend give rise to or support any other counterclaims and /or defenses claimed and alleged by Defendants.

CLAWSON & STAUBES, LLC



R. Timothy Whisler
126 Seven Farms Drive, Suite 200
Charleston, South Carolina 29492
(843) 577-2026
Attorneys for Plaintiff

Charleston, South Carolina
March 26, 2012

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
BRANCH BANKING AND TRUST)
COMPANY,)

Plaintiff,)

vs.)

GRAPHIC EXPRESS, LLC, LANNY R.)
GUNTER II, and HARRY B.)
BENENHALEY,)

Defendants.)

IN THE COURT OF COMMON PLEAS
CASE NO.: 2012-CP-40-0249

PLAINTIFF'S REQUEST
FOR PRODUCTION

2012 MAY 31 PM 1:48
FILED
RICHLAND COUNTY
JANETTE W. McBRIDE
C.C.P. & G.S.

TO: S. JAHUE MOORE, ESQUIRE, ATTORNEY FOR THE DEFENDANTS:

The Plaintiff, Branch Banking and Trust Company ("BB&T"), by its undersigned counsel, request that Defendants, pursuant to Rule 34 of the SCRCP, provide to Plaintiff within thirty (30) days of the date of this request, the requested documents:

1. Copies of any and all statements given by the plaintiff and/or defendant which are in the possession of the Defendants or Defendants' attorney, whether written or recorded or on a tape recorder or otherwise.
2. Copies of any and all statements given by other witnesses whose testimony is expected to be presented, either live or by deposition at trial, to the incidents and matters complained of herein which are in the possession of the Defendants or Defendants' attorney, whether written or recorded or on a tape recorder or otherwise.
3. Copies of any and all written reports by consultants or experts of the Defendants or Defendants' attorney or other consultants and/or experts relating to the Defendants' claims, and/or any other expert witnesses retained for use at trial or identified as witnesses

at trial in Defendants' responses to any Interrogatories.

4. Copies of any and all statements, memoranda, reports, letters, emails, loan documents, payment stubs, checks, other prepared documents or other materials which in any other way might relate to the Defendants' claim or defense, herein which are within the possession of the Defendants or Defendants' attorney, whether written or recorded or on a tape recorder or otherwise.

5. To permit the Plaintiff to inspect, to photograph and otherwise copy any and all documents, charts, or accountings which the Defendants or Defendants' attorney may have which relate to the matters alleged herein, to include negatives of such photographs.

6. Any documents (as defined in SCRC 34(a)), and tangible things of whatever nature and description which you intend to introduce into evidence or to use as impeachment or evidence at trial of this case.

7. Any documents identified or listed by Defendants in response to Plaintiff's Interrogatories.

It is requested that the production of the foregoing documents and things be made on the thirtieth (30th) day of following service of this request to produce at the office of Clawson & Staubes, LLC, 126 Seven Farms Drive, Suite 200, Charleston, South Carolina 29492.

CLAWSON & STAUBES, LLC

A handwritten signature in cursive script, appearing to read "R. Timothy Whisler", is written over a horizontal line.

R. Timothy Whisler
126 Seven Farms Drive, Suite 200
Charleston, South Carolina 29492
(843) 577-2026
Attorneys for Plaintiff

Charleston, South Carolina
March 26, 2012

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

BRANCH BANKING AND TRUST)
COMPANY,)

Plaintiff,)

vs.)

GRAPHIC EXPRESS, LLC, LANNY R.)
GUNTER II, and HARRY B.)
BENENHALEY,)

Defendants.)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2012-CP-40-0249

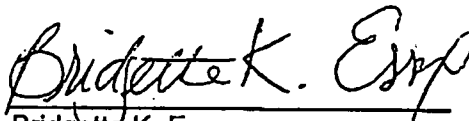
CERTIFICATE OF MAILING

2012 MAY 31 PM 1:48
ANETTE W. McBRIDE
C.C.P. & G.S.

RICHLAND COUNTY
FILED

I hereby certify that I have caused a copy of the **Plaintiff's Interrogatories, Plaintiff's Request for Admissions to Defendants, and Plaintiff's Request for Production** in this matter to be deposited in the United States mail with postage prepaid and affixed thereto, addressed as follows, on the 27th day of March , 2012

S. Jahue Moore, Esquire
Moore, Taylor & Thomas, P.A.
1700 Sunset Boulevard
P. O. Box 5709
West Columbia, SC 29171



Bridgette K. Essex
Paralegal for R. Timothy Whisler
Clawson AND Staubes, LLC
126 Seven Farms Drive, Suite 200
Charleston, SC 29492
Telephone: (843) 577-2026
Facsimile: (843) 722-2867

Attorney for Plaintiff

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

BRANCH BANKING AND TRUST)
COMPANY,)

Plaintiff,)

vs.)

GRAPHIC EXPRESS, LLC, LANNY R.)
GUNTER II, and HARRY B.)
BENENHALEY,)

Defendants.)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2012-CP-40-0249

**PLAINTIFF'S REQUEST FOR
ADMISSIONS TO DEFENDANTS**

TO: S. JAHUE MOORE, ESQUIRE, ATTORNEY FOR THE DEFENDANTS:

PURSUANT to Rule 36 of the South Carolina Rules of Civil Procedure, Branch Banking and Trust Company ("BB&T"), requests that the Defendants admit the truth of the statements set forth herein within thirty (30) days after service hereof upon you.

If objection is made by you to a request, the reasons therefore shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that you qualify or deny the remainder. You may not give lack of information or knowledge as a reason for failure to admit or deny unless you state that you have made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny.

Additionally, pursuant to Rule 36(a) of the South Carolina Rules of Civil Procedure, all of the below requests are deemed admitted if not responded to and returned within thirty (30) days after service.

Requests for Admissions

1. That on or about October 19, 2009, for value received, the Defendant, Graphic Express, LLC, executed and delivered to BB&T, a Promissory Note and Security Agreement (the "Note").

ADMIT DENY

2. That under the terms of the Note, the Defendant promised to pay the Plaintiff the sum of \$82,000.00 Dollars, plus interest.

ADMIT DENY

3. That the Defendant is presently in default under the terms of the Note.

ADMIT DENY

4. That according to the terms and conditions of the Note it is provided that in the event of default in the payment of any installment when due, the entire principal and accrued interest shall at once become due and payable after appropriate notice, at the option of the holders.

ADMIT DENY

5. That the Defendants, Lanny R. Gunter, II and Harry B. Benenhaley, executed agreements personally guaranteeing payment of all obligations of Graphic Express, LLC plus costs, fees and any other obligations due Plaintiff under the Note.

ADMIT DENY

6. That the Defendants are liable for the full amount due under the Note.

ADMIT DENY

7. That the Plaintiff has made demand upon the Defendants for payment under the terms of the Note.

ADMIT DENY

8. The Defendants have failed to pay the amounts due the Plaintiff pursuant to the Note.

____ ADMIT ____ DENY

9. That the Plaintiff, according to the terms of the Note is entitled to attorneys fees for its attorneys, together with the costs and disbursements of this action as provided for in the Note.

____ ADMIT ____ DENY

10. That the Plaintiff has made the Defendants aware of their intention to collect attorney's fees and costs as provided for in the Note.

____ ADMIT ____ DENY

11. You have heretofore received originals or copies of the Exhibits (in some form), attached to the Complaint, incorporated herein by reference, served on the Defendants in this action.

____ ADMIT ____ DENY

CLAWSON & STAUBES, LLC

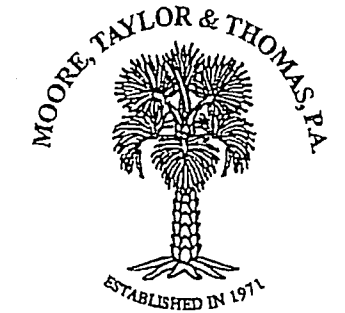


R. Timothy Whisler
126 Seven Farms Drive, Suite 200
Charleston, South Carolina 29492
(843) 577-2026
Attorneys for Plaintiff

Charleston, South Carolina
March 26, 2012

EXHIBIT B

S. JAHUE MOORE
J. MARK TAYLOR*
DAVID L. THOMAS†
C. VANCE STRICKLIN, JR.
JAMES EDWARD BRADLEY
SHEILA McNAIR ROBINSON
ROBERT D. HAZEL
CHRISTIAN G. SPRADLEY††
C. DAVID SAWYER, JR.††
WILLIAM H. EDWARDS
STANLEY L. MYERS
JANE H. DOWNEY**
S. JAHUE MOORE, JR.
JOHN C. BRADLEY, JR.



1700 SUNSET BOULEVARD (HWY. 378)
POST OFFICE BOX 5709
WEST COLUMBIA, SOUTH CAROLINA 29171
TELEPHONE (803) 796-9160
FAX (803) 791-8410

April 13, 2012

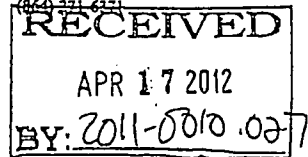
MELISSA K. MOORE
WILLIAM B. FORTINO
R. NICHOLS "NICK" RILEY, JR.
M. BROOKS BIEDIGER
AMBER L. CARY

RETIRED:
BILLY C. COLEMAN††

††SALUDA OFFICE:
(864) 445-4544 OR (866) 604-4544

†GREENVILLE OFFICE:

(864) 371-6271



R. Timothy Whisler, Esquire
CLAWSON & STAUBES, LLC
126 Seven Farms Drive, Suite 200
Charleston, SC 29462

RE: BB&T v. Graphic Express, LLC, et al
C.A. No.: 2012-CP-40-0249

Dear Mr. Whisler:

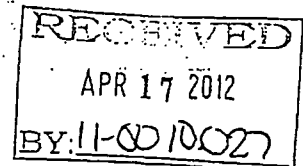
You will please find enclosed a copy of the Defendants' Response to Request for Admissions with regard to the above matter. I would appreciate your acknowledging receipt of and accepting service of same by dating and signing the enclosed copy of this letter and returning same to me in the envelope provided for your convenience.

Thank you for your assistance and cooperation in this matter.

Yours very truly,

S. Jahue Moore

SJM:dc
Enclosure
cc w/encl.: Graphic Express



STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Branch Banking and Trust Company,)
)
Plaintiff,)

C.A. No.: 2012-CP-40-0249

vs.)

**DEFENDANTS' RESPONSE TO
REQUEST FOR ADMISSIONS**

Graphic Express, LLC; Lanny R. Gunter, II;)
and Harry B. Benenhaley,)
)
Defendants.)

1. Denied.
2. Denied.
3. Denied.
4. Denied.
5. Denied.
6. Denied.
7. Denied.
8. Denied.
9. Denied.
10. Denied.
11. Denied.

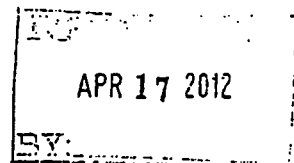
MOORE, TAYLOR & THOMAS, P.A.

BY: _____

S. Jahue Moore
1700 Sunset Boulevard
P. O. Box 5709
West Columbia, SC 29171
(803) 796-9160

ATTORNEY FOR THE DEFENDANTS

West Columbia, South Carolina
April 13, 2012

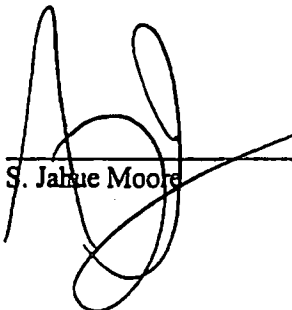


STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

AFFIDAVIT OF SERVICE BY MAIL

PERSONALLY appeared before me S. Jahue Moore who, on oath, says that he is an Attorney for the Defendants in this action; and that he has this day effected service of the **DEFENDANTS' RESPONSE TO REQUEST FOR ADMISSIONS** upon the Attorney for the Plaintiff, by placing a copy of said **DEFENDANTS' RESPONSE TO REQUEST FOR ADMISSIONS** in an envelope in the United States Mail, with sufficient postage affixed thereto, addressed as follows:

R. Timothy Whisler, Esquire
CLAWSON & STAUBES, LLC
126 Seven Farms Drive, Suite 200
Charleston, SC 29462



S. Jahue Moore

SWORN to before me this _____
day of _____, 2012.

_____(SEAL)
Notary Public for South Carolina
My Commission Expires: _____

EXHIBIT C

**CLAWSON
AND
STAUBES**
LLC

R. Timothy Whisler
twhisler@clawsonandstaubes.com

April ³⁰ 26, 2012

File No.: 2011-0010.027

S. Jahue Moore, Esquire
Moore, Taylor & Thomas, P.A.
1700 Sunset Boulevard
P. O. Box 5709
West Columbia, SC 29171

Re: Branch Banking and Trust Company v. Graphic Express, LLC, Lanny R.
Gunter II, and Harry B. Benenhaley
Case No: 2012-CP-40-0249

Dear Jake:

A review of my file shows that I have not received your responses to our Interrogatories and Request for Production. If you do not require any appreciable additional time to respond, please forward your discovery responses within the next fourteen (14) days so that I will not need to file a Motion to protect my client's interests

With every best wish, we remain

Sincerely yours,

CLAWSON AND STAUBES, LLC



R. Timothy Whisler

RTW/bke

www.clawsonandstaubes.com
126 Seven Farms Drive, Suite 200, Charleston, South Carolina 29492
Fax: (843) 722-2867 / Office: (843) 577-2026