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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Jean Hoefer Toal, Chief Justice of the South Carolina Supreme Court (Retired),
Acting as Circuit Court Judge

Appellate Case No. 2021-000341

William F. Tomz and Francis W. Tomz,
Individually and as Class Representatives, Respondents,

v.

Capital Investment Funding, LLC, by and through its Receiver, Jerry T. Saad,
And Arthur M. Field, Defendants,

Of Which Capital Investment Funding, LLC, by and through its Receiver,
Jerry T. Saad is a Respondent and Arthur M. Field is the Appellant.

In Re: Kathryn Taillon, Appellant.

RECORD ON APPEAL - VOLUME I

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STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
William F. Tomz and Francis W. Tomz,	)	
Individually and as Class Representatives,	)	CIVIL ACTION NO. 2008-CP-23-3665
	)	
Plaintiffs,	)	
	)	
vs.	)	AMENDED ORDER
	)	
Capital Investment Funding, LLC, and	)	
Arthur M. Field,	)	
	)	
Defendants.	)	
_____	)	

On December 17, 2020, this Court entered an order granting the Receiver's Motion for Declaratory Relief filed December 31, 2019. On December 18, 2020, Defendant Arthur Field ("Defendant Field") filed a motion to reconsider this order. Defendant¹ Kathryn Taillon ("Defendant Taillon") filed a motion to reconsider on December 21, 2020. The Receiver filed memoranda in opposition to each of these motions on January 18, 2021. Having carefully reviewed the legal arguments presented by the respective counsel, as well as the exhibits included therewith, for reasons set forth below, the Court denies the respective motions to reconsider filed by these defendants. Although, this Court declines to alter the result reached in its previous order, the Court substitutes this order for its previously issued order. The Court's alterations in this amended order respond to the well-argued motions of Defendants and the replies of the Receiver.

On October 8, 2013, in the criminal case against Arthur Field [*State v. Arthur Field*, C.A. No. 12-GS-47-08], the Honorable Cordell Maddox ordered, *inter alia*, Field to pay the noteholder/victims \$2,877,711.73 in restitution. On November 1, 2017, the Honorable Cordell

¹ The GSA was approved under the above-captioned case because this was the case that had jurisdiction over the Receiver and the class of noteholders. While Taillon was not a party to the original Tomz case, she was a defendant in one of the pending cases that were settled by way of the GSA: Capital Investment Funding, LLC v. Arthur Field, et al., C.A. No.: 15-CP-23-01263.

Maddox, heard Defendant Field's Motion to Reconsider Restitution (a motion agreed to in the GSA). All parties relevant to the Florida collection action were present and/or represented by counsel. On November 28, 2017, Judge Maddox entered an order modifying Defendant Field's restitution which converted any unpaid balance of restitution at the end of the required probation period into a civil judgment pursuant to S.C.S.A § 17-25-323. Defendant Field completed his probation in 2018 and an Order of Judgement was filed on November 5, 2018, in the amount of \$1,767,634.71, which represented the remaining unpaid balance of restitution.

The Court in the civil case approved the Global Settlement Agreement ("GSA"), as amended by the Addendum, on December 1, 2017. Pursuant to the Global Settlement Agreement ("GSA"), certain payments and property values paid and transferred under the GSA were to be credited towards Field's restitution ordered under *State of South Carolina v. Arthur Field*. The GSA specifically includes the term that "such unpaid balance of restitution may be converted to a civil judgment...." See Exhibit 1 to Receiver's Mot., p. 18, ¶ 1(A)(iv). As such, the GSA incorporates Field's future obligation to continue to pay his restitution ordered by Judge Maddox and does not release CIF's rights to collect under the civil judgment. The original GSA was executed by all parties on or about February 24, 2017. When Field agreed to the Addendum, he specifically recognized that any unpaid portion of his restitution would be converted to a civil judgment and continue to be due as a condition of the GSA. This judgment was contemplated and recognized by the GSA (as amended).

1. The Global Settlement Agreement Did Not Release Defendant Field's Liability or Obligations Due and Owing under His Criminal Restitution.

Both defendants argued that the Global Settlement Agreement ("GSA"), signed by the parties in February 2017 and approved with the Addendum by the Court on December 1, 2017, released all claims by all parties and bars the Receiver's collection action currently pending in the United States District Court in the Middle District of Florida: Capital Investment Funding, LLC

v. Arthur Field and Kathryn Taillon, Case No: 3:19-cv-606-TJC-JRK. A review of the original GSA and its Addendum does not support this contention. The original GSA included the following paragraph related to restitution:

8.B. Upon all parties to this Agreement having fully performed their obligations hereunder, no further restitution shall be due from Arthur Field and all restitution obligations of Arthur Field shall be declared SATISFIED IN FULL.

Notably, this paragraph was specifically deleted by the Addendum to the GSA which was signed by Mr. Field and his attorneys. While Ms. Taillon did not sign the Addendum, her counsel was present during the hearing to approve the GSA and the Addendum and raised no objections.² The GSA was approved only with the Addendum addressing restitution and Defendant Field's continuing obligation to satisfy the same. No party to the GSA appealed the December 1, 2017 Order approving the GSA as amended by the Addendum.

A civil settlement agreement, particularly one to which the State was not a party, cannot preclude court-ordered restitution. See, State v. Morgan, 417 S.C. 338, 343-44, 790 S.E.2d 27, 30 (2016). Field and Taillon argue the release in the GSA (paragraphs 4 & 5) "released" the restitution or any collection thereof. This cannot be effective as the State was not a party to the agreement. Additionally, the "release" of the obligation of restitution was specifically deleted from the GSA by the Addendum.

Additionally, the collection of the judgment is not a "claim" as contemplated by the GSA, but rather it is the enforcement by an action for collection of what was already owed and ordered. The civil judgment credited Defendant Field for payments already made on the restitution as well

² The Court notes that while there are a few parties who did not sign the Addendum, pursuant to Rule 43(k), SCRCP, the GSA and Addendum were put on the record before Judge Miller.

as payments received due to the GSA. The Court's order amending the GSA, to which Field and Taillon consented³, clearly did not fulfill the requirements of the criminal restitution.

Accordingly, the GSA did not operate as a release of Field's obligations due and owing under his criminal restitution.

2. The Receiver is the Proper Party to Collect on the Outstanding Civil Judgment Arising from Defendant Field's Obligations.

Defendants also argue that, even if the claims were not released, the Receiver is not the proper party who can collect on the civil judgment arising from Field's restitution deficiency. Defendants erroneously conflate criminal restitution with a civil settlement. Criminal restitution and civil settlements are separate and distinct remedies with differing considerations and a civil settlement does not prohibit a court from ordering restitution. See, State v. Morgan, 417 S.C. 338, 343-44, 790 S.E.2d 27, 30 (2016).

Defendants argue that the civil judgment for restitution is payable to the victims and the Receiver is not entitled to enforce the judgment. The Order of Judgment was filed with the Clerk for State Grand Jury on November 5, 2018, which converted the remaining balance of restitution owed at the end of Mr. Field's probation into a civil judgment. The Order specifically grants the judgment to Receiver Jerry Saad, as Receiver for Capital Investment Funding. S.C. Code Ann. § 17-25-323(D) and (E) authorizes the judgment creditor (the Receiver in this case) to enforce the civil judgment entered pursuant to 17-25-323 as any other civil judgment. In addition to the fact that the Receiver was involved in the GSA, as the criminal restitution judgment creditor, he is authorized to independently enforce and collect the civil judgment arising from Defendant Field's criminal restitution.

³ While Taillon was not present at the November 27, 2017 hearing to affirmatively consent to the Addendum, Taillon was present and participated in the negotiation of the addendum contents during the restitution modification hearing on November 1, 2016 in State v. Arthur Fields, C.A. No.: 12-GS-47-00008. Tr. At 75-76. Further, Taillon's counsel was present at the November 27, 2017 hearing to approve the GSA with the Addendum and raised no objections.

3. The Receiver's Motion does not Require a Separate Action under the South Carolina Declaratory Judgment Act Pursuant to South Carolina Code of Laws § 15-53-10, et seq.

Defendants also argue that the Receiver's motion does not comply with the terms of the South Carolina Uniform Declaratory Judgments Act. [S.C. Code of Laws § 15-53-10, *et seq.*] Although the Receiver couched his motion as being brought under the Declaratory Judgments Act ("SCUDJA"), this Court is not bound by the title of the Receiver's motion, but by its contents and its request. The Receiver's Motion merely seeks to clarify the contents of the GSA which, in essence, is to seek an interpretation of the GSA as it relates to the restitution. By the GSA's terms, this Court retains exclusive jurisdiction regarding interpretation and enforcement of the GSA.⁴ Thus, although the Receiver's motion sought relief under the SCUDJA, the contents of the Receiver's motion are clearly within the ambit of the GSA and this Court's exercise of continuing jurisdiction over its enforcement.

4. Additional Arguments Raised by Defendant Field Have No Merit.

a. This Court Has Subject-Matter Jurisdiction Over the Issues Before the Court.

Defendant Field argues that the Receiver's motion should be dismissed because it improperly attempts to exercise subject-matter jurisdiction over the Florida Homestead statute. Despite Field's argument, this Court makes no ruling or comment on the interpretation or application of the Florida Homestead statute to the particular facts of this case. This Court is simply addressing whether the GSA, the terms of which this court has exclusive jurisdiction to interpret and enforce, allows for the action commenced in Florida. Field and Taillon in their response to Receiver's collection action argue the GSA bars the

⁴ Exclusive judicial assignment is the province of the Chief Justice of the South Carolina Supreme Court who retains the power to assign cases to individual judges as needed. When Judge Miller recused himself from this case, he did so after Field moved for his recusal. Chief Justice Beatty assigned the undersigned to replace Judge Miller pursuant to his authority under the Constitution and laws of South Carolina.

Florida action. This jurisdictional argument requires the interpretation of the GSA by this Court which has exclusive trial jurisdiction to render such. This matter does not require a question of law to be certified to the South Carolina Supreme Court.

b. This Court Has Personal Jurisdiction Over Defendant Field.

Defendant Field argues that this Court does not have personal jurisdiction over him to rule upon the Receiver's motion. Despite the fact that Field misrepresents the timing of his Florida residency to this Court, such is irrelevant to the current motion. Field signed the GSA (including Addendum) and agreed that this Court would have sole and exclusive jurisdiction regarding any dispute related to enforcement, performance, or non-performance. Field thus agreed to this Court's exercise of personal jurisdiction over him and Taillon as it relates to the GSA.

The Receiver's motion seeks to address matters specifically arising from the GSA. Field specifically consented to the jurisdiction of this Court. His residency status before or after consenting to the GSA is irrelevant.

c. The Receiver's Motion is not Precluded by the Clerical Dismissal of this Case.

Field and Taillon both argue that because the Clerk of Court has dismissed this action, the Receiver is required to file a new action and re-serve the parties. The defendants' position ignores the longstanding principle under South Carolina law that a trial court has inherent jurisdiction to enforce settlement agreements entered before it. Kumar v. THIRD GENERATION, INC., 472 S.E.2d 637 (S.C. App. 1995), *citing*, Rock Smith Chevrolet, Inc. v. Smith, 309 S.C. 91, 419 S.E.2d 841 (Ct.App.1992). A motion to enforce the GSA and the Court's Order may be made in the case to which the GSA was approved and the Order entered.

d. The Receiver's Motion is not Barred by Res Judicata, Collateral Estoppel, or Issue Preclusion.

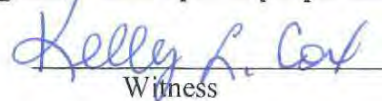
Defendant Field also argues that the Receiver's motion is barred by *res judicata* and collateral estoppel. These legal theories do not apply to the Receiver's action to collect the restitution civil judgment. The collection action is not a new claim, and thus the legal theories argued by Field are not applicable. The GSA did not release or preclude the Receiver's right to collect the remaining restitution, and his collection efforts are not barred by any of the argued legal theories.

e. The Award of Liquidated Damages to the Receiver is Applicable and Warranted.

Field argues that the imposition of liquidated damages was improper. The GSA included a liquidated damages clause to be imposed against any party who seeks to revoke or disqualify any term of this Agreement for any reason:

Subsequent to the execution of this Agreement (and its approval by the Court), should any party file any suit or claim wherein he/she/they/it attempt(s) to revoke or disqualify any term of this Agreement for any reason, the parties agree that the prevailing party shall be entitled a minimum of \$250,000.00 as liquidated damages for defending, responding or enforcing the terms of this Agreement. This figure is based upon and derived from the estimated attorney's fees and expenses past litigation has entailed between/among these parties for addressing issues of similar scope and anticipated magnitude. The Court may award a greater sum upon a proper showing by the prevailing party.


Arthur Field


Witness

The obligation to pay restitution was reinforced by its incorporation into the GSA and therefore Field's attempt to argue he is no longer obligated to pay restitution per the GSA is an attempt to disqualify the terms of the GSA. Further, Defendant Field's multiple filings within the state of Florida and his repeated efforts to deny this Court's jurisdiction and to

delay a speedy and just resolution of the matters pending, amply justify the imposition of the \$250,000.00 liquidated damages assessment.

As to the amount, Field specifically agreed to this amount when he negotiated and consented to the terms of the GSA. He cannot now argue that some other value or calculation is required.

As such, the Court finds, as the prevailing party, CIF is entitled to liquidated damages in the amount of \$250,000.00 against Defendant Field, and that such amount should be amended to any collection proceeding and/or judgment against him currently sought to be collected by Capital Investment Funding.

5. Additional Arguments Raised by Defendant Taillon Have No Merit.

a. All Necessary Parties to this Motion Consented to the GSA's Addendum.

Defendant Taillon argues that, because not all parties signed the Addendum, it is not enforceable as to Defendants Field and Taillon, who did consent to its inclusion. The Addendum as noted in the Order approving the GSA only applies to Field and his restitution. The Receiver seeks clarification on whether the GSA releases Field's continuing obligation to pay said restitution. No other parties are necessary to this motion.⁵

During the hearing approving the GSA and Addendum, counsel appeared on behalf of several parties including Taillon. The Order specifically notes that "upon inquiry of this Court, there were no objections to the Addendum." Thus, the GSA, a settlement agreement, became the Order of this Court. For that reason, the requiring of signatures was not a required formality in light of the fact that no one objected to the Addendum. Further, neither the Order approving the GSA, nor the Order approving the Addendum, was ever

⁵ *Supra* note 2.

appealed. It is way too late now to argue there was no voluntary assent to the GSA or the Addendum.

b. The Receiver has the Right to Collect the Judgment and Remains Accountable to this Court for Fulfillment of His Court-Appointed Duties as Receiver.

Defendant Taillon complains that the Receiver has collected but not distributed funds to the victims, per his charge by this Court. The Receiver was tasked with collecting all available assets for the benefit of the victims of CIF. The GSA does not change that. The Receiver remains an officer of the Court with an obligation to collect and administer all assets collected on behalf of CIF. The Receiver is not entitled to “pocket” any proceeds as Taillon suggests. The restitution is owed by Field to his victims and the Receiver was granted the civil judgment to collect and disburse these funds to the victims.

c. Defendant Field’s Payment (or Payments Made on His Behalf) Under the GSA Does Not Prevent the Receiver from Collecting on the Balance Owed on the Civil Judgment Arising from Field’s Restitution Shortage.

Defendant Taillon argues that the Receiver is barred from seeking additional monies from Defendant Field because in some scenarios victims of a crime who reach a civil settlement may be foreclosed from subsequently pursuing claims based upon restitution. Defendant Taillon cites the Wisconsin case, Huml v. Vlazny, 716 N.W.2d 807, 2006 WI 87 (Wis. 2006), in support of this argument. Taillon’s reliance upon this case is misplaced.

The Huml case began by looking at the purpose of criminal restitution and then the language of the settlement agreement. One of the important parts of this opinion outlines three ways to avoid double recovery when there is both criminal restitution and a civil settlement. Specifically, it allows for setoff.

Here, Field received setoff in his restitution from payments made under the GSA to avoid double recovery. With this setoff, there was still a balance of restitution due. Further, as discussed in detail above, the language of the GSA indicates that the obligation of restitution was not released upon approval of the GSA. The continuing obligation to pay restitution does not require further litigation and uncertainty. The obligation of restitution has been known to Field from the beginning and will end upon being paid in full. Any further litigation of this matter comes at Field's denial that he owes any further payments to his victims. Accordingly, the Receiver/victims in this case are not precluded from collecting on the balance of the civil judgment owed by Field under his restitution order.

d. The Civil Judgment was Not a Mere "Insurance Policy."

Taillon argues the agreement to convert the remaining restitution into a civil judgment was an insurance policy if the GSA fell through. This is far from an accurate statement. Restitution was ordered in Field's criminal case to compensate his victims. Further, the payments received in the GSA failed to reach the total amount of restitution ordered, and it was clear from the State and the Court that his remaining obligation would not be considered paid in full upon the approval of the GSA obligations. Nowhere in the record at any time before the Court entering an order approving the GSA (as amended with the Addendum) did Field or Taillon contend the judgment arising from any shortage from Field for his restitution obligations would not be enforceable because such was merely an insurance policy if the parties did not comply with the payments due under the GSA. The plain reading of the GSA and its Addendum, along with the sequence of hearings to obtain final approval, completely contradicts this interpretation.

e. **Judge Miller's Recusal Did Not Necessitate a Dismissal of the Receiver's Motion or This Action.**

Defendant Taillon argues that once Judge Miller had been removed from this case, the Receiver's motion should have been denied because the reason for his retaining jurisdiction was moot. Judge Miller's recusal did not require this case to be dismissed. While the GSA does list Judge Miller as having jurisdiction, it is this Court (not one specific judge) that retains jurisdiction over this matter.

Additionally, Judge Miller's recusal comes after Field's Motion to Recuse and several filed complaints against Judge Miller.

Finally, the undersigned has been appointed by Order of Chief Justice Donald Beatty dated November 9, 2020, to exercise exclusive jurisdiction over this matter. Field may not now claim that because Judge Miller has recused himself this case should now be dismissed. Judge Miller's recusal does not divest this court of jurisdiction.

Conclusion

For reasons stated herein, the motions to reconsider filed by Defendant Field and Taillon are DENIED. This Court's order of December 17, 2020 is reconsidered and this order shall be substituted therefor.

IT IS SO ORDERED!

Jean Hoefer Toal, Chief Justice of the
South Carolina Supreme Court (Retired),
Acting as Circuit Court Judge

March 1, 2021
Columbia, SC



Greenville Common Pleas

Case Caption: William F Tomz , plaintiff, et al vs. Capital Investment Funding Llc ,
defendant, et al
Case Number: 2008CP2303665
Type: Order/Other

So Ordered

Jean H. Toal

Electronically signed on 2021-03-01 16:47:33 page 12 of 12

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	FOR THE 13 th JUDICIAL CIRCUIT
	)	
William F. Tomz and Francis W. Tomz,	)	
Individually and as Class Representatives,	)	
	)	
Plaintiffs,	)	C/A NO. 2008-CP-23-3665
	)	
v.	)	
	)	ORDER GRANTING RECEIVER'S
	)	MOTION FOR DECLARATORY
Capital Investment Funding, LLC, and,	)	RELIEF
Arthur M. Field	)	
	)	
Defendants.	)	

This matter comes before the Court on the Receiver's Motion for Declaratory Relief Related to CIF's Judgment Collection Action in Florida filed December 31, 2019.¹ Defendant Arthur Field ("Field"), proceeding *pro se*, originally sought to remove this motion to federal court. Capital Investment Funding ("CIF") filed a motion to remand the matter back to this Court, which the federal magistrate promptly granted.

Since remanded, Defendant Field has filed no substantive response to the Receiver's motion.² Kathryn Taillon (Defendant in the Florida Action) filed a Response to Receiver's Motion for Declaratory Relief on September 26, 2020. The Court has reviewed the Receiver's motion and accompanying exhibits, along with Ms. Taillon's response and finds no need for a hearing. For reasons explained below, the Court grants the relief requested by CIF.

¹ Receiver filed a collection action in Florida to collect on the civil judgment entered on the remaining restitution balance owed by Arthur Field, which is currently pending in the United States District Court in the Middle District of Florida [*Capital Investment Funding, LLC v. Arthur Field and Kathryn Taillon*, Case No: 3:19-cv-606-TJC-JRK].

² Defendant Field did file a motion to recuse the presiding judge, the Honorable Edward W. Miller. As a result of Defendant Field's motion, Chief Justice Beatty assigned exclusive jurisdiction of this matter to me. The Court will address Defendant Field's motion to recuse separately.

On October 8, 2013, in the criminal case against Arthur Field [*State v. Arthur Field*, C.A. No. 12-GS-47-08], the Honorable Cordell Maddox ordered, *inter alia*, Field to pay the noteholder/victims \$2,877,711.73 in restitution. On November 1, 2017, the Honorable Cordell Maddox, heard Defendant Field's Motion to Reconsider Restitution (a motion agreed to in the GSA). All parties relevant to the Florida collection action were present and/or represented by counsel. On November 28, 2017, Judge Maddox entered an order modifying Defendant Field's restitution which converted any unpaid balance of restitution at the end of the required probation period into a civil judgment pursuant to S.C.S.A § 17-25-323. Defendant Field completed his probation in 2018 and an Order of Judgement was filed on November 5, 2018, in the amount of \$1,767,634.71, which represented the remaining unpaid balance of restitution.

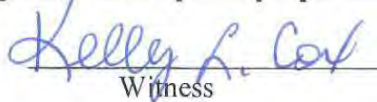
The Court in the civil case approved the Global Settlement Agreement ("GSA"), as amended, on December 1, 2017. Pursuant to the Global Settlement Agreement ("GSA"), certain payments and property values paid and transferred under the GSA were to be credited towards Field's restitution ordered under *State of South Carolina v. Arthur Field*. The GSA specifically includes the term that "such unpaid balance of restitution may be converted to a civil judgment...." See Exhibit 1 to Receiver's Mot., p. 18, ¶ 1(A)(iv). As such, the GSA incorporates Field's future obligation to continue to pay his restitution ordered by Judge Maddox and does not release CIF's rights to collect under the civil judgment. The original GSA was executed by all parties on or about February 24, 2017. When Field agreed to the Addendum, he specifically recognized that any unpaid portion of his restitution would be converted to a civil judgment and continue to be due as a condition of the GSA. This judgment was contemplated and recognized by the GSA (as amended).

The release of claims included in the GSA governed all claims among the parties, known and unknown, “**up to and including the present time**” (i.e., December 1, 2017) [Ex. 2, p. 2 (emphasis added)]. This release **did not** extinguish Field’s obligation to continue to pay his restitution even after the end of his probation. The parties to the GSA knew and understood that any shortage of restitution at the end of Field’s probation would be converted to a civil judgment as a continuing obligation. The collection of the civil judgment against Field is not a new claim but an enforcement of the GSA which required Field to pay in full his restitution ordered under his criminal case. Accordingly, any action commenced by CIF to collect on this judgment is entirely appropriate and authorized by the Global Settlement Agreement (as amended and approved).

Furthermore, as the prevailing party, CIF requests the Court to invoke the liquidated damages provision set forth within the GSA. The GSA includes a liquidated damages clause to be imposed against any party who seeks to revoke or disqualify any term of this Agreement for any reason:

Subsequent to the execution of this Agreement (and its approval by the Court), should any party file any suit or claim wherein he/she/they/it attempt(s) to revoke or disqualify any term of this Agreement for any reason, the parties agree that the prevailing party shall be entitled a minimum of \$250,000.00 as liquidated damages for defending, responding or enforcing the terms of this Agreement. This figure is based upon and derived from the estimated attorney’s fees and expenses past litigation has entailed between/among these parties for addressing issues of similar scope and anticipated magnitude. The Court may award a greater sum upon a proper showing by the prevailing party.


Arthur Field


Witness

This civil judgment entered in 2018 was clearly **not** released by a plain reading of the terms of the GSA. Defendant Field’s multiple filings within the state of Florida and his repeated efforts to deny this Court’s jurisdiction and to delay a speedy and just

resolution of the matters pending, amply justify the imposition of the \$250,000.00 liquidated damages assessment.

As such, the Court finds, as the prevailing party, CIF is entitled to liquidated damages in the amount of \$250,000.00 against Defendant Field, and that such amount should be amended to any collection proceeding and/or judgment against him currently sought to be collected by Capital Investment Funding.

AND IT IS SO ORDERED!

Jean Hoefer Toal, Chief Justice of the
South Carolina Supreme Court (Retired),
Acting as Circuit Court Judge

December __, 2020



Greenville Common Pleas

Case Caption: William F Tomz , plaintiff, et al vs. Capital Investment Funding Llc ,
defendant, et al

Case Number: 2008CP2303665

Type: Order/Relief

So Ordered

Jean H. Toal

Electronically signed on 2020-12-15 16:08:06 page 5 of 5

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	FOR THE 13 th JUDICIAL CIRCUIT
	)	
William F. Tomz and Francis W. Tomz,	)	
Individually and as Class Representatives,	)	
	)	
Plaintiffs,	)	C/A NO. 2008-CP-23-3665
	)	
v.	)	
	)	
Capital Investment Funding, LLC, and,	)	
Arthur M. Field	)	
	)	
Defendants.	)	

ORDER DISMISSING DEFENDANT'S MOTION TO RECUSE

Before the Court is Defendant Arthur M. Field's ("Field") Motion to Recuse filed on September 27, 2020. Plaintiff filed a Memorandum in Opposition to Defendant Field's Motion to Recuse on October 13, 2020, as amended October 14, 2020. The Court, finding that this motion is now moot, DISMISSES Defendant Field's Motion.

Defendant's motion seeks the recusal of Judge Edward Miller from this case. Judge Miller has in fact recused himself from this case, and by order of Chief Justice Beatty dated November 9, 2020, this case has been assigned exclusive jurisdiction to the Honorable Jean Hoefer Toal, retired Chief Justice of the Supreme Court.

THEREFORE, Defendant Field's Motion to Recuse is hereby DISMISSED.

AND IT IS SO ORDERED!

Jean Hoefer Toal, Chief Justice of the
South Carolina Supreme Court (Retired),
Acting as Circuit Court Judge

December __, 2020



Greenville Common Pleas

Case Caption: William F Tomz , plaintiff, et al vs. Capital Investment Funding Llc , defendant, et al

Case Number: 2008CP2303665

Type: Order/Other

So Ordered

Jean H. Toal

Electronically signed on 2020-12-15 16:06:35 page 2 of 2

The Supreme Court of South Carolina

William F. Tomz, et al.,

Plaintiffs,

v.

Capital Investment Funding,
LLC, et al.,

Defendants.

Greenville County
2008-CP-23-03665

FILED-CLERK OF COURT
PAUL B. WILSON
2020 NOV 12 AM 11:20

ORDER

The Honorable Edward W. Miller has recused himself from hearing any further matters regarding this case. Now therefore,

IT IS ORDERED that the Honorable Jean Hoefer Toal, retired Chief Justice of the Supreme Court, be vested with exclusive jurisdiction to hear and dispose of the above case. She shall decide all matters pertaining to this case, and pursuant to this assignment shall retain jurisdiction over this case regardless of where she may be assigned to hold court and may schedule such hearings as may be necessary at any time without regard as to whether there is a term of court scheduled.

Pursuant to this assignment, she is to have and exercise all powers and duties appertaining to a Circuit Judge of the Thirteenth Judicial Circuit while presiding over this matter.



Donald W. Beaty
Chief Justice

Columbia, South Carolina
November 9, 2020

FORM 4

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

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2008CP2303665**

William F Tomz	Frances W Tomz	Capital Investment Funding Llc	Arthur M Field

PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: ☐ Plaintiff ☐ Defendant ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

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

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

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

7/2/2018

Date

For Clerk of Court Office Use Only

This judgment was entered on **July 2, 2018**, and a copy mailed first class or placed in the appropriate attorney's box on **July 2, 2018**, to attorneys of record or to parties (when appearing pro se) as follows:

Gene McCain Connell Jr. PO Drawer 14547 Surfside Beach,
SC 29587

Stanley T. Case Butler Means Evins & Browne PA PO Box
451 Spartanburg, SC 29304
Bradford Neal Martin PO Box 10410 Greenville, SC 29603
Davyd Field 7 Shadetree Court Greer, SC 29651
Kirsten White 5 Aldgate Way Greer, SC 29650
Rodney F. Pillsbury 301 Rutherford St. Greenville, SC 29609
Micajah Pickett Caskey IV 146 State Street West Columbia,
SC 29169
George Brandt III 360 E. Henry St. Spartanburg, SC 29302
Thomas L. Stephenson 207 Whitsett St Greenville 29601

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of
Court - Clerk of Court

Court Reporter

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

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

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

William F. Tomz and Francis W. Tomz,
Individually and as Class Representatives,

Plaintiffs,

vs.

Capital Investment Funding, LLC, and
Arthur M. Field,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No.: 2008-CP-23-3665

**CRIMINAL CONTEMPT
ORDER**

19 JUL 2 PM 3:50
Paul Wickensimer CDC GVL SC

This matter is before the Court pursuant to a Rule to Show Cause as to Arthur Field. On November 27, 2017, a hearing was held and Field made representations to this Court, under Oath, regarding the underlying facts of this litigation. The November 27th hearing was adjourned and the matter continued until Field's representations could be verified. Another hearing was held on July 2, 2018, in which counsel for the Receiver presented testimonial and documentary evidence. Field failed to appear but was represented by counsel.

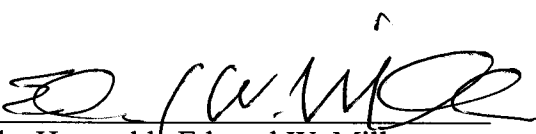
After hearing the evidence presented and comparing it to Field's remarks at the November 27th hearing, the Court finds that Field lied to the court and his conduct was "calculated to obstruct, degrade, and undermine the administration of Justice." *Brandt v. Gooding*, 368 S.C. 618, 628, 630 S.E.2d 259, 264 (2006). Therefore, this Court holds that Field is in Direct Criminal Contempt of this Court.

This Court orders Field either be imprisoned in the South Carolina Department of Corrections for a period of six months or pay a fine of \$1 Million dollars made payable to the Receiver in this case, Jerry Saad, and the source of the funds must be traceable and verifiable to

the satisfaction of this Court. Field must turn himself in to the Greenville County Detention Center at noon on July 3, 2018 to await transport to the South Carolina Department of Corrections, if he has not already paid the fine and provided the required source of those funds. Additionally, if Field fails to comply with this order a bench warrant will be issued for his arrest.

IT IS SO ORDERED.

July 2, 2018


The Honorable Edward W. Miller
Presiding Judge, 13th Judicial Circuit

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

William F. Tomz and Francis W. Tomz,
Individually and as Class Representatives,

Plaintiffs,

vs.

Capital Investment Funding, LLC, and
Arthur M. Field,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No.: 2008-CP-23-3665

ORDER

This order memorializes all rulings from the bench regarding the Hearing on December 7, 2017 in the above-captioned matter:

By order entered December 1, 2017, this Court has granted Plaintiffs' motion to approve the settlement of the Global Settlement Agreement ("GSA"), filed March 8, 2017. The GSA has been approved and its terms are now an order of the Court. Accordingly, all deeds shall be immediately recorded. All monies and payments due under the GSA shall be made and transferred in accordance with the respective terms of the GSA. CIF represented to the Court that it discharged its *lis pendens* on the St. Augustine property as required by the GSA. The appropriate orders of dismissal shall be filed in the respective courts as it pertains to the parties of the GSA.

Attorney for Allyson Field had tendered the insurance proceeds from State Farm Insurance for the roof damage claim at the Thornblade property. However, counsel for Ms. Field conditioned acceptance of the insurance funds. The court finds those conditions to be invalid. CIF's Receiver may deposit those funds into the CIF account without condition or limitation.

Insurance Claim Documentation for Thornblade Property

At the November 27, 2017 hearing, the Court ordered Mr. Field's counsel to obtain the records from the insurance company regarding the damages claim filed this spring to verify the statements Mr. Field gave under oath about that claim and the handling of insurance matters. Both

counsel for CIF and counsel for Mr. Field reported that the insurance carrier (State Farm) had not produced the requested information.

The Court has directed both parties, as named insureds under the policy, to obtain that information from State Farm as soon as possible. Once obtained, the parties are to provide the Court with unredacted complete copies. The Court will reconvene a hearing at that time, if necessary.

Contempt of Court for Kirsten White

In its December 1, 2017 order, the Court found Ms. White to be in contempt of court for her deliberate refusal to comply with the terms of the GSA. Ms. White appeared at the December 7, 2017 hearing. She acknowledged that she had received notices of the November 27, 2017 hearing. She provided no acceptable excuse for not attending it.

At the December 7, 2017 hearing, she acknowledged that she is obligated to vacate the premises on or before December 31, 2017.

Ms. White has been under obligation to permit CIF to inspect the premises since March 2017. Thus far, she has willfully refused to cooperate in permitting this to happen. At the hearing, these parties agreed that the inspection will occur on December 15, 2017 at 10:00 AM. Should the court learn that Ms. White has in any way obstructed this inspection from moving forward, the Court admonished Ms. White that a sheriff's deputy will be sent to bring her to court to explain why.

CIF stated that the few checks it had received from Ms. White for her monthly payment obligation under the GSA could not be negotiated because Ms. White made them out jointly to CIF and Kathryn Taillon. The Court orders that any amount Ms. White owes for the monthly payment obligations under the GSA will be deducted from her net proceeds she might otherwise be due from the sale of the house (in addition to the attorney's fees and penalties set forth in this

Court's order of December 1, 2017). The Court will address the amount of these fees and costs at its next hearing. CIF is directed to file its petition within ten (10) days of entry of this order.

Miscellaneous Items:

Regarding the entertainment royalty agreement, Arthur Field and CIF presented proposed agreements to each other. As of the hearing, no agreement had been finalized. The Court directs these parties to finalize an agreement on or before December 31, 2017. If additional time is needed, either party may file a request with the Court.

Also, under the terms of the GSA, Arthur Field understands that he is obligated to appear in this Court to testify under oath about the financial statement he has provided to CIF. Mr. Field is responsible for his own expenses and costs associated with traveling to the hearing. If the parties cannot agree to a time and date for this hearing, either party may notify the court about scheduling issues.

Any signatures missing from the Addendum attached to the December 1, 2017 order shall be provided to CIF no later than December 13, 2017. If any signatures have not been received by CIF by that time, CIF is instructed to notify this Court of such so that the matter may be dealt with accordingly.

It is so ordered, this ____ day of December, 2017.

The Honorable Edward W. Miller
Presiding Judge, 13th Judicial Circuit



Greenville Common Pleas

Case Caption: William F Tomz , plaintiff, et al vs. Capital Investment Funding Llc ,
defendant, et al
Case Number: 2008CP2303665
Type: Order/Other

So Ordered

s/ Edward W. Miller

Electronically signed on 2017-12-21 14:01:54 page 5 of 5

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

William F. Tomz and Francis W. Tomz,
Individually and as Class Representatives,

Plaintiffs,

vs.

Capital Investment Funding, LLC, and
Arthur M. Field,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No.: 2008-CP-23-3665

ORDER

This matter comes before me upon to address several motions and matters currently pending before the Court. By and through its court-appointed receiver ("Receiver"), Capital Investment Funding, LLC ("CIF") has filed the following motions:

1. Plaintiffs' Motion to Approve Class Settlement and ratify the Global Settlement Agreement (GSA) by the Class ("Motion To Approve GSA") dated 3/8/2017;
2. Plaintiffs' Amended Motion to Defendant Arthur Field Compelling Compliance To The Terms of the Global Settlement Agreement ("Motion To Comply-Field (Restitution)"), filed August 18, 2017. This motion alleged that Defendant Field (hereinafter "Defendant Field") has failed to fulfill his obligation under the terms of the GSA to schedule a hearing to modify his restitution and parole terms ("Restitution Hearing") and sought this Court to direct Defendant Field to have the Restitution Hearing promptly, or in the alternative, find that Defendant Field has willfully failed to comply with the material terms of the GSA and sanction him accordingly.
3. Plaintiffs' Motion As To Allyson Field, Kathryn Taillon & Arthur Field To Comply With The Terms of the Global Settlement Agreement ("Motion To Comply-Field (Insurance)"), filed July 26, 2017. This motion alleged the property located at 310 Thornblade Blvd., Greer, South Carolina ("Thornblade Property"), which is a material component of the GSA, incurred damaged from a hail storm that occurred in March 2017, and sought this Court to: (a) declare these parties are responsible for restoring the Thornblade Property to the condition existing at the time the GSA was executed; (b) order repairs to the Thornblade Property be conducted with this Court's oversight to ensure proper conduct, with due haste to minimize any additional consequential damages; (c) order the named parties to immediately deliver all insurance proceeds to CIF counsel, to be held in escrow, and require all receipts and disbursements of insurance proceeds related to such damage and repairs be conducted with this Court's oversight to ensure proper application of funds; and (d) declare that CIF is not

responsible for paying any deductible amount of the insurance policy; and sought appropriate sanctions and attorney fees; and

4. Plaintiffs' Motion to Kirsten White To Comply with the Terms of the Global Settlement Agreement Executed on February 24, 2017 ("Motion To Comply-White"), filed July 26, 2017. This motion sought to compel Kirsten White to comply with the Global Settlement Agreement ("GSA") regarding the insurance, inspection and sale of her residence and sought appropriate sanctions and attorney fees.

Each of these matters were addressed in a hearing held by this Court on November 27, 2017. The following counsel appeared on behalf of the following parties:

Capital Investment Funding:
George Brandt, III, Esq.
Stanley T. Case, Esq.
Rodney F. Pillsbury, Esq.

Arthur M. Field, Jr.:
Micajah P. Caskey, Esq.
Bradford Martin, Esq.

Allyson Field
Luke Burke, Esq.

Kathryn Taillon
Jeffrey P. Dunlaevy, Esq.

Regarding the Motion To Approve GSA

Upon its approval, the GSA settles all matters, claims and litigation recited therein between and among the parties to the agreement. By its terms the GSA also resolves matters pending in this case relate to multiple complaints as to Arthur Field's willful violations of the terms of the original Mediated Global Settlement Agreement, memorialized by order of this Court on August 24, 2009, including:

1. Orders and Rules to Show Cause dated 4/1/2013, 8/19/2013 and 10/1/2013 and rulings thereon, and appeal therefrom pending in the South Carolina Court of Appeals (Appellate #2013-002676);
2. Order and Rule to Show Cause dated 9/8/2016 and proceedings thereon;
3. Order to Produce Records dated 12/15/2016 and Supplemental Order dated 1/12/2017 and any and all subsequent proceedings thereon; and
4. Defendant Arthur Field's Motion to Dismiss all prior or pending Orders relating to Rules to Show Cause by Defendant Field dated 3/10/2017 and all subsequent proceedings thereon.

Counsel for CIF noted to this Court that a similar hearing on these matters was held by this Court on September 5, 2017. At that time, this Court:

1. Directed Defendant Field to request a hearing to take place on his motion to modify his restitution in the pending criminal case: State of South Carolina v. Arthur M. Field, C.A. 2012-GS-47-08 (Ct of General Sessions, Anderson County, SC);
2. Ordered Defendants Arthur Field, Kathryn Taillon and Allyson Field to complete all requirements regarding the 310 Thornblade Blvd. property; and
3. Ordered Defendant Kirsten White to comply with all outstanding the terms and obligations that pertained to her and her residence at 5 Aldgate Way, Greer, SC.

Counsel for CIF then updated the Court on the status of compliance with the GSA and with previous orders of this Court. The restitution hearing took place before Judge Cordell Maddox on November 1, 2017. The parties to that proceeding reached an agreement that was put on the record. This Court then confirmed that Judge Maddox had this day signed a written order memorializing those terms. Counsel for CIF then proffered an addendum to the GSA that reflects and incorporates the changes to the GSA affected by the matters agreed to in Judge Maddox's order. [Exhibit 1, Addendum] Upon inquiry of this Court, there were no objections to the Addendum.

This Court finds and concludes that, in accordance with the requirements of South Carolina law, the "Addendum to the Global Settlement Agreement" ("Addendum") presented to this Court at the hearing on November 27, 2017, properly incorporates the matters addressed by Judge Maddox in the above-referenced order. This Court further finds that the Addendum modifies the GSA solely to the issue of restitution order to be paid by Arthur Field in the matter: State of South Carolina v. Arthur M. Field, C.A. 2012-GS-47-08 (State Grand Jury of South Carolina), and does not affect any other party to the GSA other than Arthur Field. This Court further finds the amendments to the GSA as set forth in the Addendum are acceptable.

This Court notes that in the hearing of the Motion to Approve the GSA held on March 27, 2017, this Court took the matter under advisement and deferred a decision thereon. Since then, over the course of the last seven months, this Court has reflected and deliberated over the many comments made by Class members, who lost significant sums of money from their investment in CIF, and over the Receiver's testimony and recommendations. With the amendments to the GSA as set forth in the Addendum, this Court now concludes and finds that approval of the GSA is in the best interest of the Class. **Accordingly, this Court hereby approves the GSA as amended by the Addendum, and Orders that all parties to the GSA have been and shall continue to be duty bound to fulfill obligations set forth therein.**

This Court also reminds all parties to the GSA that this Court found and stated, in its Order dated October 25, 2017 the following:

1. The language of the GSA is clear, concise, specific, and unambiguous.
2. Section 14.I.vi. of the GSA specifically binds all parties to cooperate with each other fully, timely and without delay.
3. Section 14.I.vii. states emphatically that **TIME IS OF THE ESSENCE.**

This Court further reminds all parties to the GSA that, pursuant to Section 14.I.ii. of the GSA, this Court retains sole and exclusive jurisdiction relating to all matters of enforcement or non-performance of the GSA. This Court hereby notifies all parties to the GSA that this Court will enforce strict and timely adherence and performance by all parties to the GSA.

This Court further orders that all parties to the GSA sign the Addendum. **Due to the time deadlines set forth within the GSA, the Court directs all parties (or their counsel) to execute an original signature and their initials to the Addendum and to deliver such to CIF Attorney Rodney Pillsbury no later than 5:00 PM (EST) Thursday, November 30, 2017; provided however, that if any party is unable to deliver the original executed Addendum by that date and time, then such party shall scan/email or fax the executed Addendum to CIF Attorney**

Rodney Pillsbury [email: Rodney@pillsburyfirm.law] or [fax: 864-370-0599] by such time and then deliver the original executed Addendum to CIF Attorney Rodney Pillsbury's office: Pillsbury Law Firm, LLC, 25 Mills Ave., Greenville SC 29605 no later than 5:00 PM (EST) Wednesday, December 6, 2017.

Regarding Plaintiffs' Motion To Comply-Field (Restitution)

Counsel for CIF noted that, while this Court heard this Motion on September 5, 2017 and issued its Order on October 25, 2017 mandating Defendant Field to schedule the restitution hearing, this Court did not address Plaintiff's specific requests contained in the Motion seeking sanctions and attorney fees as a result of the Defendant Field's unreasonable delays and failure to timely schedule the restitution hearing as required under the GSA. This Court shall not rule on this request at this time, but rather will continue this matter until a hearing to be held by this Court on December 7, 2017, at which time this Court shall allow the parties to present information, testimony and evidence thereof.

Regarding Plaintiffs' Motion To Comply-Field (Insurance)

Counsel for CIF noted that, while this Court heard this Motion on September 5, 2017 and issued its Order on October 25, 2017 mandating delivery of insurance information to CIF and cooperation between all parties, this Court did not address Plaintiff's specific requests contained in the Motion seeking sanctions and attorney fees as a result of the defendants' unreasonable delays and failure to act as required under the GSA. Counsel for CIF further noted that the matter of the insurance proceeds is still unresolved as the defendants are still holding the insurance proceeds. Upon this Court's inquiry, Mr. Luke Burke, representing defendant Allyson Field, acknowledge that his firm did hold the insurance proceeds in its escrow account and has not delivered these funds to CIF because CIF has not demanded the funds. Counsel for CIF noted that no demands are necessary because the GSA explicitly states that all insurance proceeds are to be paid to CIF.

Upon further inquiry of the insurance matter, Field's counsel voluntarily proffered Defendant Arthur Field to give testimony on the matter.

Once sworn, Defendant Field provided a timeline of events. Other persons present took issue with the sequence and substance of Defendant Field's compliance with section 14 of the GSA as it pertains to naming CIF as an additional insured; his submitting a claim for property damage from a hail storm; his depositing of the insurance proceeds in his own bank account; and his subsequently transferring those funds to Allyson Field's counsel in two separate installments.

The Court is concerned about the veracity of the sworn testimony provided by Arthur Field on this matter. This Court ordered from the bench that the defendants' counsel obtain all of the insurance records from the insurance company and deliver such information to this Court by noon, on Monday, December 4, 2017. This Court shall review this insurance information and compare the information to the testimony provided by Defendant Field. This Court shall not rule on this matter at this time, but rather will continue this matter until a hearing to be held by this Court on December 7, 2017, at which time this Court shall allow the parties to present information, testimony and evidence thereof.

Regarding Plaintiffs' Motion to Compel Kirsten White

On July 26, 2017 Plaintiffs filed a motion to compel Kirsten White to comply with the terms and obligations of the GSA. Since executing the GSA in February 2017, Defendant White has failed to make her home available for inspection and has failed to contract with a real estate agent to list her house for sale, despite her explicit obligations to do so under the terms of the GSA. At the September 5, 2017 hearing, the Court examined Ms. White about her non-compliance. The Court rejected her excuses and explanations and ordered her to comply with the GSA – namely, to make the house available inspection; to provide the Receiver with all documentation related to homeowner's insurance coverage and, if applicable, all documentation related to

insurance claims for repairs; and to execute an agreement to sale the home with a licensed real estate agent of her choosing.

At the hearing on November 27, 2017, counsel for CIF informed the Court that every attempt to contact Defendant White via telephone, email, letter and text have has been ignored. Despite receiving notice of the hearing,¹ Defendant White failed to appear.

As a threshold matter, the Court grants Plaintiffs' motion to compel filed on July 26, 2017. Pursuant to Rule 37(a)(4) of the South Carolina Rules of Civil Procedure, the Court orders that Defendant White shall pay the attorney's fees and costs associated with the filing of Plaintiffs' motion. The Court directs counsel for Plaintiffs to file a petition for fees within ten (10) days of entry of this order, and the court will schedule a hearing at the appropriate time. Any fees and costs awarded shall be deducted from any sums otherwise due to Defendant White from the proceeds of the sale of the 5 Aldgate Way property, as set forth in the GSA.

In addition, based upon the Court's direct inquiry with Defendant White and her deliberate refusal to comply with the terms of the GSA which she freely and voluntarily negotiated and executed on her on accord, the Court finds Defendant White to be in willful contempt of her obligations of the GSA and of the orders of this Court, as memorialized in the order entered October 25, 2017. It should be noted that Defendant White has admitted in a prior hearing that she provided false and misleading deposition testimony regarding to the disappearance of the original noteholder files.

In the September 5, 2017 hearing, Defendant White indicated she would cooperate fully with CIF's counsel to facilitate the inspection and sale of the home. CIF's counsel reports that despite numerous attempts via every means possible, Defendant White has refused to respond, much less cooperate. The Court finds Defendant White to be in willful contempt of this court.

¹Arthur Field testified under oath that he sent a text to Kirsten White on November 26, 2017, reminding her about the hearing held on November 27, 2017.

Section 14 of the GSA addresses the exchanges of title and mortgages among the parties. Under Section 14(D)(viii)(d), Defendant White is scheduled to receive 80% of the net proceeds after satisfying CIF's mortgage and all other liens and expenses identified therein. Defendant White may purge herself of the finding of contempt with the payment of 10% of the net proceeds. Thus, under Section (D)(viii)(d), if Defendant White wishes to clear the finding of contempt, Defendant White will receive 70% of the net proceeds. The remaining 30% will go to CIF.

If Defendant White elects not to dissolve the contempt finding in this matter, or if this obligation is not settled within five (5) business days of the closing, the Court will hold a separate hearing to determine other penalties and/or punishments.

It is so ordered, this ____ day of November, 2017.

The Honorable Edward W. Miller
Presiding Judge, 13th Judicial Circuit



Greenville Common Pleas

Case Caption: William F Tomz , plaintiff, et al vs. Capital Investment Funding Llc ,
defendant, et al
Case Number: 2008CP2303665
Type: Order/Other

So Ordered

s/ Edward W. Miller

Electronically signed on 2017-12-01 10:08:52 page 9 of 9

Comp
miller

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
CIA NO. 2008-CP-23-3665

William F. Tomz and Frances W. Tomz,)
Individually and as Class Representatives,)
)
Plaintiff,)
)
vs.)
)
Capital Investment Funding, L.L.C. and)
Arthur M. Field,)
)
Defendants.)
)

ORDER APPROVING
DISBURSEMENT

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSCHNER
2014 DEC 18 PM 12 12

This matter is before the Court for the approval of the disbursement of certain funds to Class Members and for an award of interim attorney's fees. The Court had previously ordered Plaintiffs' counsel to send a copy of its Order of November 7, 2014 to each Class Member notifying them of their right to attend a hearing on December 17, 2014 at 2:00 p.m. at the Pickens County Courthouse, 214 East Main Street, Pickens, South Carolina 29671 and also advising each Class Member of the amount they would receive from a proposed net distribution to class members in the amount of \$1,000,000.

The Court has received from Class Counsel an Affidavit of Michelle C. Sanders, and employee of the offices of Kelaher, Connell and Connor, P.C., indicating that a Notice of Hearing and proposed disbursement were mailed to 684 Class Members. Further, the Receiver in this case and Class Counsel have been working together and Class Counsel has provided each address change or question by Class Members to the Receiver, who will be responsible for the disbursement of the funds.

Also, Class Counsel has been filing any comments from Class Members about the proposed settlement in the Greenville County Courthouse as required.

At the outset, the Court notes that this has been a long and arduous class action which was originally filed in the Harry County Court of Common Pleas and removed to the Greenville County Court of Common Pleas. The lawsuit originated out of an effort by Defendant Capital Investment Funding, LLC and Arthur M. Field to close the business, wind up the affairs, liquidate the assets, and pay the creditors of Capital Investment Funding, LLC. The Plaintiffs filed this putative class action and alleged that over 684 similarly

situated investors had invested more than \$38,000,000 with Capital Investment Funding, LLC. The details of this extensive and protracted litigation are set forth in a Petition filed by Class Counsel and are not necessary for resolution of this matter. Suffice it to say that the litigation has been protracted and that this case has been litigated in the civil and criminal courts of this state for the last seven and one-half years. Class Counsel and the Receiver have engaged in extensive investigation of the assets of Capital Investment Funding, LLC and have filed multiple lawsuits some of which are ongoing and will continue for some undefined time to come. While these lawsuits are expected to result in additional recoveries, it is apparent to the Court that most of the \$38,000,000 invested by the Class Members has been lost and will never be recovered.

The Court at this time is fulfilling its duty as required by the class action rule (SCRCP 23) which provides that all class actions shall be supervised by this Court. See SCRCP 23(d):

Orders in the Conduct of Actions. In the conduct of actions to which this rule applies, the court may make appropriate orders: ... (2) The court may at any time impose such terms as shall fairly and adequately protect the interest of the persons on whose behalf the action is brought or defended. It may order that notice be given in such a manner as it may direct of the pendency of the action by the party seeking to main the action on behalf of the class. It may order that notice be given in such matter as it may direct of a proposed settlement, an entry of judgment or any other proceeding in the action including notice to the absent persons that they may come in and present claims and defenses if they so desire.

See also Doe v. Bishop of Charleston, 214 WL 60341 (2014) (before absent class members can be finally bound by the resolution of a class action suit, they are entitled to a limited review on the issues, whether sufficient notice was given to putative class members and whether class members had adequate representation).

It is based on SCRCP 23(d) and the Doe case that the Court ordered notice be given to all class members. The Court is now satisfied that all class members were given notice in proper form as referenced by the Affidavit of Michelle C. Sanders and Class Counsel. The Court has also had an opportunity to review in detail the proposed interim settlement and disbursements. The Court acknowledges that the proposed settlement is only 2.6% of the amount lost by each Class Member, but it is still substantial. The Receiver has reported to the Court that of the 688 eligible Noteholders, 680 are allocated payments, four are not allocated payments because they opted out of the class and four others are not receiving payments because

they received settlement payments pursuant to the Global Mediated Settlement Agreement. Further, the Receiver reports that of the 688 Noteholders listed, there are 52 names listed twice, mostly because two investments were made -- one as an individual and the second in an IRA account.

The Court further notes that certain Noteholders opted out of the Class, but later rejoined the Class, and those Noteholders have been noted in the Receiver's records. Further, the following have opted out, but did not later rejoin the Class and are not entitled to a payment: William Durham (IRA), Jesse Eaves (IRA), Elvin Miller, and Beverly Whyte.

It should also be noted that the following Class Members received a separate settlement under the Global Mediated Settlement Agreement and are excluded from the Class: Jeanette Roberts (IRA), Richard Roberts (IRA), Richard Roberts (Individual) and Robert E. Lee.

The Receiver has also found discrepancies regarding certain Noteholders and what they are entitled to and has explained those to the Court. The Court is satisfied with the Receiver's investigation in regard to these various Noteholders and is very satisfied with the Receiver's diligence in determining who should receive any of the monies and how much they should receive.

Further, for purposes of understanding the complexity of this case, the Court offers a few statistics provided by the Receiver as follows:

- There are 684 checks to be paid out.
- The average check totals \$1,462.
- There are four checks over \$20,000 based on the amount those Class Members invested and the average of those four checks is \$31,622.
- There are 25 checks of more than \$5,000 but less than \$20,000 with the average amount paid out being \$7,336.
- There are 253 checks of more than \$1,000.00 but less than \$5,000 with the average amount being paid out as \$2,021.
- There are 393 checks of more than \$100 and less than \$1,000 with the average amount per class member being \$454; and

- There are 9 checks of less than \$100 with the average amount paid out of \$58.

The Court notes that the amounts paid out are not inconsequential and that Class Members are receiving a benefit from the services rendered by Class Counsel and the Receiver.

The Court now turns to the issue of attorneys' fees. Class Counsel has provided extensive affidavits of their involvement in this case. This Court has also been involved in this case since its inception in 2008. The Court finds it is appropriate to review *Jackson v. Speed*, 326 S.C. 289, 486 S.E.2d 750 (1997) in determining a reasonable amount of attorney's fees. In *Jackson*, the South Carolina Supreme Court identified the following factors a circuit court should consider in determining a reasonable fee: (1) the nature, extent and difficulty of the case; (2) the time necessarily devoted to the case; (3) the professional standing of counsel; (4) the contingency of the compensation; (5) the beneficial results obtained; and (6) the customary legal fees for similar services.

This Court is fully aware of the nature, extent and difficulty of this case. There have been numerous motions, appeals, Class counsel has appeared before the State Grand Jury and both Class Counsel in this case are still involved in extensive litigation to try to collect additional assets. This is not the normal case and has been exceedingly difficult.

Further, Affidavits of Class Counsel indicate the many hours that they have devoted to this case and convinced the Court a substantial amount of Class Counsel's time has been spent on this case over the past seven years.

As to the professional standing of Class Counsel, the Court is aware of Class Counsels' long experience handling litigation and it is detailed in the Affidavits of Gene M. Connell, Jr. and Stanley T. Case.

Further, this case was taken on a contingency basis and it was and has been unclear whether or not there would be any recovery. Class Counsel have used their time and resources and have obtained a beneficial result. Also, Class Counsel continues to look for additional assets and has litigation ongoing in New Jersey and in the Federal Courts in South Carolina.

Finally, Class Counsels' request for attorneys' fees in this case is for an award of \$333,333, which

is one-third of the proposed \$1,000,000 being disbursement to the Noteholders. If the amount requested is awarded, this amount would be equivalent to an award of twenty five percent (25%) of \$1,333,333, which is the combined total amount \$1,000,000 proposed to be disbursed to the Noteholders and the \$333,333 proposed to be disbursed to the attorneys. The Court takes notice that the legal contingency fees often applied in civil litigation in this state is one third of the proceeds.

In fact, if this case had not been taken on a contingency fee, the Court is convinced that the extensive civil and criminal litigation would not have uncovered the significant negligence and wrongdoing of the principals of Capital Investment Funding, LLC.

With regard to the proposed \$1,000,000 distribution to the Noteholders and the proposed \$333,333 payment of attorney fees, the Court acknowledges that the Court and Class Counsel have been kept apprised of the activities of the Receiver from inception in 2009 until now, and is apprised about the current financial status of the receivership. Furthermore, the Court has weighed the information, advice, recommendations received from the Receiver and Class Counsel, giving consideration to the remaining assets and ongoing litigation, including the costs and targeted recoveries from such litigation.

The Court therefore rules that the interim distribution to the Noteholders in the amount of \$1,000,000 at this time is appropriate. The Court further recognizes the use of attorney contingency fee agreement is legitimate and well-established practice by attorneys throughout this state and approves the fee in this case of one-third of the \$1,000,000 to be disbursed to the Noteholders, which equals a fee of \$333,333 to Class Counsel on an interim basis. However, because of the pending litigation and expected recoveries and other operating expenses of the Receiver, the Court directs the Receiver to pay one-half (1/2) of the legal fees earned or \$166,666 at this time and the balance of \$166,667 on July 1, 2015. The Court will continue to review requests for additional disbursements and fees in the future and will review all requests with appropriate consideration to the legal fee amounts payment of which have been approved by this order.

Accordingly,

IT IS ORDERED that the pro-rata disbursements to Class Members pursuant to the schedule

provided to the Court by the Receiver shall commence thirty (30) days after this Order is filed. The Receiver is further order to pay Class Counsel attorneys' fees as requested at the same time. Thus the Receiver shall pay these funds out on January 17, 2015 by check to the last known address of each Class Member.

AND IT IS SO ORDERED.



The Honorable Edward W. Miller
Thirteenth Judicial Circuit

December 17, 2014

Greenville, South Carolina

Capital Investment Funding LLC

Allocation of \$1 Million distribution To Noteholders In Class

As Of December 17, 2014

Check Count	IRA	Town	State	Adjusted Balances	Payment
1		Easley	SC	2,481,406.87	65,020.54
2		Taylors	SC	814,941.10	21,353.98
3		Greenville	SC	794,050.21	20,806.57
4	IRA	Greenville	SC	774,920.14	20,305.31
5		Pendleton	SC	466,494.72	12,223.60
6		Sarver	PA	399,841.27	10,477.08
7		Greenville	SC	397,025.47	10,403.30
8	IRA	West Union	SC	384,750.76	10,081.66
9		Mt Pleasant	SC	333,542.54	8,739.85
10		Brunson	SC	332,503.50	8,712.62
11		Liberty	SC	323,460.38	8,475.66
12		Spartanburg	SC	314,622.91	8,244.09
13		Central	SC	307,721.76	8,063.26
14		High Point	NC	297,763.53	7,802.33
15		Easley	SC	292,799.39	7,672.25
16		Greenville	SC	286,230.49	7,500.12
17	IRA	Greer	SC	279,670.74	7,328.24
18		Greenville	SC	270,613.25	7,090.90
19		Southport	NC	258,049.40	6,761.69
20		Murrells Inlet	SC	238,210.48	6,241.85
21		La France	SC	237,263.83	6,217.05
22	IRA	Greenville	SC	208,309.89	5,458.36
23		Taylors	SC	203,920.97	5,343.36
24		Greenville	SC	202,437.39	5,304.49
25		Longs	SC	199,296.60	5,222.19
26		Fair Play	SC	198,516.07	5,201.74
27		Murrells Inlet	SC	195,525.53	5,123.37
28		Honea Path	SC	194,984.22	5,109.19
29	IRA	Easley	SC	185,516.14	4,861.10
30		Greer	SC	180,945.26	4,741.33
31		Greenville	SC	176,128.89	4,615.12
32		Central	SC	175,292.44	4,593.20
33		Greer	SC	173,869.63	4,555.92
34		Liberty	SC	173,703.85	4,551.58
35		Greenville	SC	173,701.57	4,551.52
36	IRA	Liberty	SC	171,631.17	4,497.27
37	IRA	Mt Pleasant	SC	169,907.00	4,452.09
38		Little River	SC	168,731.78	4,421.29
39		Greer	SC	162,830.44	4,266.66
40		Conway	SC	161,759.28	4,238.59
41		Fountain Inn	SC	159,348.92	4,175.43
42		Simpsonville	SC	158,217.30	4,145.78
43		Murrells Inlet	SC	157,654.75	4,131.04
44		Conway	SC	153,843.88	4,031.19
45		Midlothian	VA	153,828.37	4,030.78
46		Taylors	SC	148,872.79	3,900.93
47		Greenville	SC	144,443.99	3,784.88
48	IRA	Greenville	SC	143,908.82	3,770.86
49		Taylors	SC	140,450.70	3,680.24
50	IRA	Pelzer	SC	139,436.20	3,653.66
51	IRA	Greenville	SC	226,001.50	3,619.92

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Check Count	IRA	Town	State	Adjusted Balances	Payment
52		Pelzer	SC	137,003.95	3,589.93
53		Greer	SC	135,241.42	3,543.74
54		Jamestown	NC	133,222.39	3,490.84
55	IRA	Easley	SC	130,751.99	3,426.11
56	IRA	Port Kent	NY	129,513.87	3,393.66
57		Greer	SC	126,924.01	3,325.80
58		Myrtle Beach	SC	125,881.16	3,298.48
59		Liberty	SC	125,412.60	3,286.20
60		Gray Court	SC	124,070.34	3,251.03
61		Campobello	SC	122,083.20	3,198.96
62		Six Mile	SC	121,350.57	3,179.76
63		Greenville	SC	119,105.95	3,120.94
64		Mauldin	SC	116,880.75	3,062.64
65		Myrtle Beach	SC	116,695.38	3,057.78
66		Spartanburg	SC	115,125.40	3,016.64
67		Simpsonville	SC	115,068.06	3,015.14
68		Walhalla	SC	111,157.82	2,912.68
69		Clemson	SC	110,671.59	2,899.94
70		Little River	SC	109,462.79	2,868.26
71		Charleston	SC	109,168.77	2,860.56
72		Woodruff	SC	109,096.91	2,858.68
73		Greer	SC	107,196.78	2,808.89
74		Chesnee	SC	106,934.55	2,802.02
75		Charleston	SC	106,289.46	2,785.11
76		Greenville	SC	105,339.93	2,760.23
77		Greer	SC	105,099.04	2,753.92
78		Greer	SC	103,365.74	2,708.50
79		Mt Pleasant	SC	102,234.89	2,678.87
80	IRA	Easley	SC	102,008.64	2,672.94
81		Loris	SC	101,222.61	2,652.35
82		Easley	SC	99,256.27	2,600.82
83		Greenville	SC	99,256.27	2,600.82
84	IRA	Easley	SC	99,254.51	2,600.78
85		Landrum	SC	99,254.52	2,600.78
86		Rock Hill	SC	99,254.51	2,600.78
87		Woodruff	SC	99,254.87	2,600.78
88		Cross Anchor	SC	99,253.74	2,600.76
89	IRA	Piedmont	SC	99,252.75	2,600.73
90	IRA	Natrona Heights	PA	99,252.75	2,600.73
91		Boiling Springs	SC	99,252.75	2,600.73
92		Mt. Pleasant	SC	99,252.75	2,600.73
93		Pawleys Island	SC	99,252.75	2,600.73
94		Pickens	SC	99,252.75	2,600.73
95		Greenville	SC	99,248.51	2,600.62
96		Moore	SC	99,243.94	2,600.50
97	IRA	Greer	SC	97,319.63	2,550.08
98	IRA	Boiling Springs	SC	97,073.40	2,543.62
99		Spartanburg	SC	94,273.29	2,470.25
100	IRA	Greenville	SC	93,395.51	2,447.25
101	IRA	Cowpens	SC	151,128.27	2,420.66
102		Greenville	SC	92,345.16	2,419.73
103	IRA	Lodge	SC	92,253.75	2,417.33
104	IRA	Pickens	SC	149,884.96	2,400.75
105		Greenville	SC	90,987.14	2,384.14
106		Anderson	SC	89,330.65	2,340.74

Check Count	IRA	Town	State	Adjusted Balances	Payment
107		Greer	SC	89,329.15	2,340.70
108		Greenville	SC	89,322.20	2,340.52
109		Greer	SC	85,847.13	2,249.46
110	IRA	Pendleton	SC	84,995.45	2,227.14
111		Pelzer	SC	84,956.90	2,226.13
112	IRA	Greenville	SC	84,917.39	2,225.10
113		Jamestown	NC	84,589.10	2,216.50
114	IRA	Greenville	SC	84,369.34	2,210.74
115		Greenville	SC	84,367.83	2,210.70
116		Pickens	SC	84,366.07	2,210.65
117	IRA	Greenville	SC	83,873.03	2,197.73
118		Little River	SC	83,160.42	2,179.06
119	IRA	Columbia	SC	82,741.01	2,168.07
120		Greenville	SC	82,701.25	2,167.03
121		Easley	SC	81,880.61	2,145.53
122		Honea Path	SC	81,382.49	2,132.47
123		Rochester	WA	79,402.55	2,080.59
124		Greer	SC	79,402.20	2,080.58
125		Greenville	SC	79,397.27	2,080.45
126		Townville	SC	79,388.10	2,080.21
127		Piedmont	SC	79,386.69	2,080.18
128	IRA	Summerville	SC	79,125.71	2,073.34
129	IRA	Cleveland	SC	129,033.16	2,066.76
130		Lexington	SC	78,140.50	2,047.52
131	IRA	Easley	SC	76,736.99	2,010.75
132		Port Kent	NY	76,122.68	1,994.65
133		Greer	SC	75,911.20	1,989.11
134	IRA	Greenville	SC	75,888.61	1,988.52
135		Laurens	SC	75,509.01	1,978.57
136	IRA	Pickens	SC	74,919.71	1,963.13
137		Easley	SC	74,457.43	1,951.02
138		Myrtle Beach	SC	74,443.52	1,950.65
139		Greenville	SC	74,439.56	1,950.55
140		Gaffney	SC	74,432.95	1,950.37
141		Myrtle Beach	SC	74,421.06	1,950.06
142		Charleston	SC	74,132.32	1,942.50
143	IRA	Myrtle Beach	SC	73,955.31	1,937.86
144		Greer	SC	73,464.02	1,924.98
145	IRA	Greer	SC	73,413.15	1,923.65
146	IRA	Piedmont	SC	71,663.39	1,877.80
147		Myrtle Beach	SC	71,217.55	1,866.12
148	IRA	Greenville	SC	115,472.36	1,849.55
149	IRA	Pickens	SC	115,271.61	1,846.33
150		Clemson	SC	69,479.39	1,820.58
151		Greenville	SC	69,477.02	1,820.51
152		Spartanburg	SC	69,475.61	1,820.48
153		Greer	SC	69,474.46	1,820.45
154		Easley	SC	69,474.46	1,820.45
155		Greenville	SC	69,473.21	1,820.41
156		Charleston	SC	69,471.63	1,820.37
157		Kingstree	SC	69,464.58	1,820.19
158		Simpsonville	SC	68,581.05	1,797.04
159		Key Largo	FL	67,665.32	1,773.04
160		Greenville	SC	64,508.64	1,690.33
161		Greenville	SC	63,128.11	1,654.15

Check Count	IRA	Town	State	Adjusted Balances	Payment
162		Spartanburg	SC	63,044.15	1,651.95
163	IRA	Pawleys Island	SC	62,807.67	1,645.76
164		West Columbia	SC	62,661.97	1,641.94
165		Greenville	SC	62,527.39	1,638.41
166		Tigerville	SC	62,091.06	1,626.98
167	IRA	Landrum	SC	62,032.97	1,625.46
168		Easley	SC	61,179.03	1,603.08
169	IRA	West Pelzer	SC	61,011.51	1,598.69
170	IRA	Longs	SC	60,424.24	1,583.30
171	IRA	Greer	SC	60,290.75	1,579.80
172		Greenville	SC	59,889.30	1,569.28
173		Little River	SC	59,762.19	1,565.95
174		Woodruff	SC	59,553.77	1,560.49
175		Hillsborough	NC	59,551.65	1,560.44
176		Townville	SC	59,547.41	1,560.33
177		N. Charleston	SC	59,546.36	1,560.30
178		Duncan	SC	59,525.23	1,559.75
179		Easley	SC	58,389.32	1,529.98
180		Myrtle Beach	SC	54,969.60	1,440.37
181	IRA	Greenville	SC	54,932.32	1,439.40
182		Greenville	SC	54,646.33	1,431.90
183		Anderson	SC	54,590.95	1,430.45
184		N. Myrtle Beach	SC	54,585.57	1,430.31
185		Taylors	SC	54,584.17	1,430.27
186		Liberty	SC	54,584.16	1,430.27
187		Taylors	SC	54,581.56	1,430.21
188		Charleston	SC	54,141.29	1,418.67
189		Williamston	SC	53,943.28	1,413.48
190		Piedmont	SC	53,699.75	1,407.10
191		Spartanburg	SC	53,112.38	1,391.71
192	IRA	Conway	SC	52,878.76	1,385.59
193		Myrtle Beach	SC	52,827.29	1,384.24
194		Easley	SC	52,568.56	1,377.46
195		Taylors	SC	52,429.49	1,373.81
196	IRA	Seneca	SC	52,371.31	1,372.29
197		Piedmont	SC	52,271.94	1,369.69
198		Williamston	SC	52,249.18	1,369.09
199		Spartanburg	SC	52,134.49	1,366.08
200	IRA	Piedmont	SC	52,100.29	1,365.19
201		Greer	SC	51,893.34	1,359.77
202		Reidville	SC	51,792.56	1,357.13
203	IRA	Greenville	SC	51,157.02	1,340.47
204		Pickens	SC	50,960.38	1,335.32
205		APO-AE	AE	50,874.13	1,333.06
206		Greer	SC	50,751.99	1,329.86
207	IRA	Greer	SC	50,655.41	1,327.33
208	IRA	Goose Creek	SC	50,407.85	1,320.84
209	IRA	Central	SC	50,311.78	1,318.32
210		Spartanburg	SC	49,633.70	1,300.56
211		Greenville	SC	49,628.14	1,300.41
212		Lodge	SC	49,627.25	1,300.39
213		Greenville	SC	49,626.37	1,300.36
214		Central	SC	49,624.61	1,300.32
215		Charleston	SC	49,624.61	1,300.32
216		Easley	SC	49,623.73	1,300.30

Check Count	IRA	Town	State	Adjusted Balances	Payment
217		W. Columbia	SC	49,622.86	1,300.27
218		N. Myrtle Beach	SC	49,621.97	1,300.25
219		Simpsonville	SC	49,621.97	1,300.25
220		Travelers Rest	SC	49,621.98	1,300.25
221		Greenville	SC	49,621.97	1,300.25
222		Greenville	SC	49,619.32	1,300.18
223		Charleston	SC	49,618.62	1,300.16
224		Piedmont	SC	49,487.13	1,296.72
225	IRA	Little River	SC	49,114.36	1,286.95
226		Easley	SC	49,073.40	1,285.87
227		Walhalla	SC	48,579.36	1,272.93
228	IRA	Greenville	SC	48,341.25	1,266.69
229	IRA	Myrtle Beach	SC	47,592.24	1,247.06
230	IRA	Easley	SC	46,954.75	1,230.36
231	IRA	Southport	NC	46,614.08	1,221.43
232		Taylors	SC	46,572.92	1,220.35
233	IRA	Easley	SC	46,396.30	1,215.73
234	IRA	Southport	NC	46,176.64	1,209.97
235		Murrells Inlet	SC	46,021.33	1,205.90
236	IRA	Spartanburg	SC	45,716.64	1,197.92
237	IRA	Lodge	SC	45,464.34	1,191.31
238	IRA	Pickens	SC	44,935.50	1,177.45
239		Goose Creek	SC	44,665.94	1,170.39
240		Pacolet	SC	44,661.80	1,170.28
241		Piedmont	SC	44,657.13	1,170.15
242		Greenville	SC	44,656.60	1,170.14
243		Moore	SC	44,655.81	1,170.12
244		Ware Shoals	SC	44,280.36	1,160.28
245	IRA	Greenville	SC	43,369.40	1,136.41
246		Greer	SC	43,249.29	1,133.27
247		Greer	SC	42,936.70	1,125.07
248		Easley	SC	42,276.41	1,107.77
249		Greenville	SC	41,687.63	1,092.35
250		Simpsonville	SC	41,657.76	1,091.56
251	IRA	Pickens	SC	41,410.29	1,085.08
252	IRA	Greenville	SC	41,357.05	1,083.68
253		Union	SC	41,186.65	1,079.22
254		Boiling Springs	SC	40,907.72	1,071.91
255		Moore	SC	40,693.16	1,066.29
256		Longs	SC	40,682.07	1,066.00
257		Myrtle Beach	SC	40,676.77	1,065.86
258	IRA	Easley	SC	40,303.96	1,056.09
259		Myrtle Beach	SC	40,190.94	1,053.13
260	IRA	Easley	SC	40,155.71	1,052.20
261		Greenville	SC	39,702.51	1,040.33
262		Greenville	SC	39,699.69	1,040.25
263		Gaffney	SC	39,697.58	1,040.20
264		Chesnee	SC	39,696.87	1,040.18
265		Spartanburg	SC	39,696.87	1,040.18
266		Belton	SC	39,696.16	1,040.16
267		Murrells Inlet	SC	39,695.91	1,040.16
268		Greer	SC	39,696.16	1,040.16
269		Williamston	SC	39,695.90	1,040.16
270		Greenville	SC	39,696.16	1,040.16
271		Inman	SC	39,695.46	1,040.14

Check Count	IRA	Town	State	Adjusted Balances	Payment
272		Ware Shoals	SC	39,695.45	1,040.14
273		Myrtle Beach	SC	39,695.46	1,040.14
274		Spartanburg	SC	39,694.75	1,040.13
275		Simpsonville	SC	39,694.76	1,040.13
276		Myrtle Beach	SC	39,694.75	1,040.13
277		New Orleans	LA	39,547.86	1,036.28
278	IRA	Easley	SC	39,542.86	1,036.15
279		Greenville	SC	39,295.61	1,029.67
280		Greer	SC	38,703.84	1,014.16
281	IRA	Easley	SC	38,625.85	1,012.12
282	IRA	Little River	SC	38,373.47	1,005.50
283	IRA	Greenville	SC	38,300.81	1,003.60
284	IRA	Myrtle Beach	SC	38,294.14	1,003.43
285	IRA	La France	SC	38,177.91	1,000.38
286		Kelseyville	CA	37,712.16	988.18
287	IRA	Lyman	SC	37,296.21	977.28
288	IRA	Easley	SC	36,441.88	954.89
289		Jonesville	SC	36,361.04	952.77
290		Greenville	SC	36,154.09	947.35
291		Piedmont	SC	36,136.49	946.89
292		Kannapolis	NC	35,728.45	936.20
293		Myrtle Beach	SC	35,471.63	929.47
294	IRA	Tailors	SC	35,135.47	920.66
295	IRA	Seneca	SC	34,771.07	911.11
296		Longs	SC	34,737.79	910.24
297		Greer	SC	34,735.37	910.17
298		Greenville	SC	34,733.52	910.13
299		Spartanburg	SC	34,733.53	910.13
300		Easley	SC	34,116.62	893.96
301		Easley	SC	34,073.19	892.82
302		Greer	SC	33,821.64	886.23
303		Greenville	SC	33,740.54	884.11
304		Simpsonville	SC	33,739.56	884.08
305		Greenville	SC	33,351.24	873.91
306		Myrtle Beach	SC	33,341.22	873.64
307		Mauldin	SC	32,749.67	858.14
308		Surfside Beach	SC	32,334.62	847.27
309		Boiling Springs	SC	32,252.33	845.11
310	IRA	La France	SC	32,224.20	844.37
311		Greenville	SC	32,178.24	843.17
312		Trenton	MI	31,590.15	827.76
313		Greenville	SC	31,343.71	821.30
314		Jonesville	SC	31,160.87	816.51
315	IRA	Greenville	SC	31,028.02	813.03
316		Easley	SC	30,907.74	809.88
317		Easley	SC	30,878.84	809.12
318	IRA	Central	SC	30,674.67	803.77
319		Greenville	SC	30,553.21	800.59
320	IRA	Simpsonville	SC	49,621.97	794.81
321		Surfside Beach	SC	29,992.26	785.89
322		Simpsonville	SC	29,774.76	780.19
323		Simpsonville	SC	29,773.18	780.15
324		Greer	SC	29,772.65	780.14
325		Easley	SC	29,771.60	780.11
326		Anderson	SC	29,771.18	780.10

Check Count	IRA	Town	State	Adjusted Balances	Payment
327		Spartanburg	SC	29,771.06	780.09
328		Greer	SC	29,771.07	780.09
329		Inman	SC	29,771.06	780.09
330		Spartanburg	SC	29,770.54	780.08
331		Greenville	SC	29,767.90	780.01
332		Greenville	SC	29,274.89	767.09
333	IRA	Greenville	SC	29,044.26	761.05
334		Taylors	SC	28,952.80	758.65
335		Inman	SC	28,419.83	744.69
336		Surfside Beach	SC	28,340.55	742.61
337		Greer	SC	28,252.08	740.29
338		Cowpens	SC	28,032.74	734.54
339		Winston Salem	NC	27,944.25	732.23
340		Spartanburg	SC	27,942.24	732.17
341		Simpsonville	SC	27,920.90	731.61
342		Simpsonville	SC	27,870.12	730.28
343		Greenville	SC	27,820.74	728.99
344		Greenville	SC	27,810.71	728.73
345		Greenville	SC	27,783.38	728.01
346		Greenville	SC	27,670.47	725.05
347		Lyman	SC	27,556.60	722.07
348		Spartanburg	SC	27,462.15	719.59
349		Landrum	SC	27,395.56	717.85
350		Moore	SC	27,334.85	716.26
351	IRA	Pelzer	SC	27,295.47	715.23
352		Taylors	SC	27,146.94	711.33
353	IRA	Wellford	SC	27,069.60	709.31
354	IRA	Easley	SC	26,975.59	706.84
355	IRA	Easley	SC	26,874.22	704.19
356		Saluda	SC	26,842.96	703.37
357		Greer	SC	26,798.97	702.22
358		Pickens	SC	26,629.96	697.79
359		Greenville	SC	25,813.85	676.40
360		Easley	SC	25,594.97	670.67
361	IRA	Moore	SC	25,564.08	669.86
362		Greer	SC	25,528.69	668.93
363		Greenville	NC	25,445.91	666.76
364		Simpsonville	SC	25,266.65	662.06
365	IRA	Myrtle Beach	SC	25,249.92	661.63
366		Mt Pleasant	SC	25,202.10	660.37
367		Mayo	SC	24,987.58	654.75
368		Pickens	SC	24,813.19	650.18
369		Simpsonville	SC	24,812.75	650.17
370		Greenville	SC	24,811.51	650.14
371		Easley	SC	24,810.98	650.12
372		Greer	SC	24,810.54	650.11
373		Gulf Breeze	FL	24,810.54	650.11
374		Landrum	SC	24,810.54	650.11
375		Greenville	SC	24,809.93	650.10
376		Taylors	SC	24,810.10	650.10
377		Taylors	SC	24,810.11	650.10
378		Belton	SC	24,810.11	650.10
379		Williamston	SC	24,810.10	650.10
380		Loris	SC	24,809.67	650.09
381		Greenville	SC	24,809.48	650.09

Check Count	IRA	Town	State	Adjusted Balances	Payment
382		Murrells Inlet	SC	24,809.76	650.09
383		Little River	SC	24,809.23	650.08
384		Greenville	SC	24,809.22	650.08
385		Murrells Inlet	SC	24,808.78	650.07
386		Anderson	SC	24,807.11	650.02
387	IRA	Easley	SC	24,567.14	643.74
388	IRA	Townville	SC	24,432.74	640.21
389		Boiling Springs	SC	24,399.80	639.35
390		Easley	SC	24,389.86	639.09
391	IRA	Easley	SC	24,313.25	637.08
392	IRA	Murrells Inlet	SC	24,276.68	636.12
393	IRA	Fair Play	SC	24,274.39	636.06
394		Liberty	SC	24,273.67	636.05
395		Wellford	SC	24,096.66	631.41
396		Spartanburg	SC	24,065.98	630.60
397	IRA	Murrells Inlet	SC	23,643.37	619.53
398	IRA	Greenville	SC	23,485.74	615.40
399	IRA	Abbeville	SC	23,258.00	609.43
400		Inman	SC	23,159.71	606.86
401	IRA	Winston Salem	NC	23,093.18	605.11
402	IRA	West Union	SC	22,824.89	598.08
403	IRA	Mauldin	SC	22,331.87	585.16
404	IRA	Easley	SC	21,866.39	572.97
405		Greenville	SC	21,861.20	572.83
406		Greenville	SC	21,832.36	572.08
407		Bellville	OH	21,758.14	570.13
408		Greenville	SC	21,687.07	568.27
409		Myrtle Beach	SC	21,506.92	563.55
410		Cowpens	SC	21,490.53	563.12
411		Liberty	SC	21,482.30	562.90
412		Greer	SC	21,262.06	557.13
413	IRA	Campobello	SC	21,159.50	554.44
414	IRA	Campobello	SC	21,159.50	554.44
415		Landrum	SC	20,912.94	547.98
416		Piedmont	SC	20,891.65	547.43
417		Pacolet	SC	20,667.78	541.56
418		Xenia	OH	20,622.78	540.38
419		Myrtle Beach	SC	20,324.55	532.57
420	IRA	Marietta	SC	20,298.21	531.88
421		Simpsonville	SC	20,209.73	529.56
422		Seneca	SC	20,167.78	528.46
423		Greenville	SC	19,862.99	520.47
424		Simpsonville	SC	19,856.78	520.31
425		Port Kent	NY	19,851.25	520.16
426		Greenville	SC	19,850.56	520.15
427		Greenville	SC	19,850.56	520.15
428		Greenville	SC	19,850.38	520.14
429		West Union	SC	19,849.50	520.12
430		Greenville	SC	19,848.79	520.10
431		Greenville	SC	19,848.43	520.09
432		Woodruff	SC	19,848.08	520.08
433		Taylors	SC	19,847.56	520.07
434		Greenville	SC	19,847.56	520.07
435		Spartanburg,	SC	19,847.38	520.06
436		Gaffney	SC	19,847.38	520.06

Check Count	IRA	Town	State	Adjusted Balances	Payment
437		Greenville	SC	19,847.38	520.06
438		Simpsonville	SC	19,847.38	520.06
439		Campobello	SC	19,847.39	520.06
440		Spartanburg	SC	19,847.37	520.06
441		Gray Court	SC	19,846.85	520.05
442		Longs	SC	19,845.00	520.00
443	IRA	Greenville	SC	19,680.59	515.69
444		W. Babylon	NY	19,465.91	510.07
445		Greenville	SC	19,286.16	505.36
446		Greenville	SC	19,264.73	504.80
447		Woodruff	SC	19,147.39	501.72
448		Lyman	SC	19,030.17	498.65
449		Clemson	SC	18,891.35	495.01
450		Duncan	SC	18,675.39	489.35
451		Travelers Rest	SC	18,358.23	481.04
452		Greenville	SC	18,284.69	479.12
453	IRA	Pickens	SC	18,174.21	476.22
454		Pickens	SC	18,108.43	474.50
455		Piedmont	SC	18,034.37	472.56
456		Piedmont	SC	17,880.11	468.51
457		Boiling Springs	SC	17,864.22	468.10
458		Woodruff	SC	17,862.65	468.06
459		Greenville	SC	17,687.09	463.46
460		Pawleys Island	SC	17,597.38	461.11
461	IRA	Pickens	SC	17,566.67	460.30
462	IRA	Easley	SC	17,538.21	459.56
463		Greer	SC	17,216.08	451.11
464		Schenectady	NY	17,108.66	448.30
465		Central	SC	17,044.73	446.62
466	IRA	Easley	SC	17,012.08	445.77
467		Summerville	SC	16,870.52	442.06
468		Piedmont	SC	16,753.45	438.99
469		Wando	SC	16,739.44	438.63
470	IRA	Greer	SC	16,716.44	438.02
471		Kingsport	TN	16,640.84	436.04
472		Murrells Inlet	SC	16,625.46	435.64
473		Conway	SC	16,610.96	435.26
474		Westminster	SC	16,435.59	430.66
475		Spartanburg	SC	16,435.04	430.65
476	IRA	Greenville	SC	16,312.52	427.44
477		Greer	SC	16,202.26	424.55
478		Taylors	SC	16,174.63	423.83
479		Greer	SC	16,122.46	422.46
480		Duncan	SC	16,039.84	420.29
481		Greenville	SC	15,878.34	416.06
482		Spartanburg	SC	15,712.66	411.72
483		Moore	SC	15,617.64	409.23
484		Little River	SC	15,518.85	406.64
485		Boiling Springs	SC	15,479.46	405.61
486		Greer	SC	15,329.61	401.68
487		Moore	SC	15,222.50	398.88
488	IRA	Greenville	SC	15,213.65	398.64
489		Myrtle Beach	SC	15,097.33	395.60
490		Lancaster	OH	15,069.88	394.88
491		Spartanburg	SC	15,019.34	393.55

Check Count	IRA	Town	State	Adjusted Balances	Payment
492	IRA	Duncan	SC	14,935.16	391.35
493		Mauldin	SC	14,886.34	390.07
494		Simpsonville	SC	14,886.32	390.07
495		Georgetown	SC	14,886.32	390.07
496		Xenia	OH	14,885.53	390.05
497		Greenville	SC	14,885.80	390.05
498		Easley	SC	14,885.53	390.05
499		Greenville	SC	14,885.53	390.05
500		Greenville	SC	14,885.54	390.05
501		Simpsonville	SC	14,885.80	390.05
502		Greenville	SC	14,885.80	390.05
503	IRA	Walhalla	SC	14,836.73	388.77
504		Simpsonville	SC	14,766.98	386.94
505		Walhalla	SC	14,734.52	386.09
506		Simpsonville	SC	14,501.20	379.98
507		Summerfield	FL	14,343.87	375.85
508	IRA	Pickens	SC	14,294.08	374.55
509		Central	SC	14,118.50	369.95
510		Taylors	SC	13,902.40	364.29
511		Greenville	SC	13,893.17	364.04
512		Mt. Pleasant	SC	13,891.43	364.00
513	IRA	Greer	SC	13,876.02	363.59
514	IRA	Landrum	SC	13,550.02	355.05
515		Union	SC	13,396.98	351.04
516		Pauline	SC	13,354.53	349.93
517	IRA	Townville	SC	13,057.62	342.15
518	IRA	Greer	SC	21,323.94	341.55
519		Greer	SC	12,950.09	339.33
520		Taylors	SC	12,900.79	338.04
521	IRA	Pickens	SC	12,697.17	332.71
522	IRA	Central	SC	12,346.07	323.51
523		Easley	SC	12,001.32	314.47
524		Pendleton	SC	11,987.80	314.12
525		Campobello	SC	11,977.23	313.84
526		Spartanburg	SC	11,909.78	312.07
527		Taylors	SC	11,908.85	312.05
528		Clemson	SC	11,908.43	312.04
529		Murrells Inlet	SC	11,908.43	312.04
530		Surfside Beach	SC	11,885.93	311.45
531		Slater	SC	11,685.05	306.18
532		N. Myrtle Beach	SC	11,633.98	304.85
533		Boiling Springs	SC	11,256.95	294.97
534		Columbia	SC	11,245.60	294.67
535	IRA	Liberty	SC	11,180.83	292.97
536		Brookfield	IL	11,178.71	292.92
537	IRA	Simpsonville	SC	11,167.40	292.62
538	IRA	Liberty	SC	11,140.35	291.91
539		N. Myrtle Beach	SC	10,984.54	287.83
540		Walhalla	SC	10,916.26	286.04
541		Greenville	SC	10,916.06	286.03
542		Easley	SC	10,707.17	280.56
543	IRA	Easley	SC	17,445.83	279.43
544		Easley	SC	10,560.04	276.71
545	IRA	Walhalla	SC	10,506.59	275.31
546	IRA	Greenville	SC	10,459.38	274.07
547		Murrells Inlet	SC	10,442.87	273.64

Check Count	IRA	Town	State	Adjusted Balances	Payment
548		Chappelle	SC	10,374.19	271.84
549		Greer	SC	10,333.78	270.78
550		Myrtle Beach	SC	10,326.15	270.58
551		Conway	SC	10,123.04	265.25
552		Conway	SC	10,123.04	265.25
553		Northampton	PA	9,926.50	260.10
554		Gaffney	SC	9,924.22	260.05
555		Nichols	SC	9,924.58	260.05
556		Northampton	PA	9,924.40	260.05
557		Greenville	SC	9,924.22	260.05
558		Greenville	SC	9,923.86	260.04
559		Easley	SC	9,923.86	260.04
560		Pickens	SC	9,923.86	260.04
561		Conway	SC	9,923.86	260.04
562		Greer	SC	9,923.86	260.04
563		Greer	SC	9,923.86	260.04
564		Pacolet	SC	9,924.04	260.04
565		Landrum	SC	9,923.86	260.04
566		Mauldin	SC	9,923.86	260.04
567		Spartanburg	SC	9,923.86	260.04
568		Greenville	SC	9,923.86	260.04
569		Little River	SC	9,923.86	260.04
570		Gray Court	SC	9,923.68	260.03
571		Taylors	SC	9,923.59	260.03
572		Williamston	SC	9,923.68	260.03
573		N. Myrtle Beach	SC	9,923.68	260.03
574		Greenville	SC	9,923.69	260.03
575		Vancouver	BC Car	9,923.80	260.03
576		Taylors	SC	9,923.68	260.03
577		Fair Play	SC	9,923.69	260.03
578		Greenville	SC	9,923.68	260.03
579		Johnstown	PA	9,923.68	260.03
580		Little River	SC	9,923.68	260.03
581		Landrum	SC	9,923.68	260.03
582		Longs	SC	9,923.16	260.02
583		Bonneau Beach	SC	9,923.16	260.02
584		Easley	SC	9,922.80	260.01
585		Spartanburg	SC	9,922.98	260.01
586		Myrtle Beach	SC	9,922.80	260.01
587		Spartanburg	SC	9,922.98	260.01
588		Spartanburg	SC	9,922.10	259.99
589	IRA	Taylors	SC	9,903.64	259.51
590	IRA	Murrells Inlet	SC	9,835.97	257.73
591		Murrells Inlet	SC	9,571.70	250.81
592	IRA	Union	SC	9,413.14	246.65
593	IRA	Goose Creek	SC	9,130.22	239.24
594		Forest City	NC	8,856.37	232.06
595	IRA	Union	SC	8,850.10	231.90
596		Greer	SC	8,722.76	228.56
597		Campobello	SC	8,622.43	225.93
598		Wellford	SC	8,531.51	223.55
599		Central	SC	8,500.55	222.74
600	IRA	La France	SC	8,327.60	218.21
601		Easley	SC	8,112.62	212.58
602	IRA	Greenville	SC	8,013.40	209.98
603		Simpsonville	SC	7,940.65	208.07
604		Spartanburg	SC	7,938.95	208.03
605		Little River	SC	7,939.09	208.03
606		Landrum	SC	7,834.42	205.29
607		Greer	SC	7,689.90	201.50
608		Conway	SC	7,667.75	200.92
609		Pickens	SC	7,442.77	195.02
610		Pendleton	SC	7,421.86	194.48
611		Spartanburg	SC	7,395.86	193.79
612		Spartanburg	SC	7,388.71	193.61
613		Taylors	SC	7,381.78	193.43
614		Greenville	SC	7,281.37	190.79
615		Piedmont	SC	6,945.85	182.00
616		Murrells Inlet	SC	6,778.37	177.61
617		Greenville	SC	6,642.93	174.07

Check Count	IRA	Town	State	Adjusted Balances	Payment
618		Greenville	SC	6,630.97	173.75
619	IRA	Inman	SC	6,443.22	168.83
620		Greenville	SC	6,237.58	163.44
621		Honolulu	HI	6,032.52	158.07
622		Georgetown	SC	5,954.21	156.02
623		Easley	SC	5,933.59	155.48
624		Travelers Rest	SC	5,894.87	154.46
625		Greer	SC	5,648.66	148.01
626		Spartanburg	SC	5,640.02	147.79
627	IRA	Greer	SC	5,547.80	145.37
628		Piedmont	SC	5,544.44	145.28
629		Greenville	SC	5,423.44	142.11
630		Nichols	SC	5,309.37	139.12
631		Myrtle Beach	SC	5,280.50	138.37
632		Duncan	SC	5,269.77	138.08
633		Spartanburg	SC	5,269.77	138.08
634		Piedmont	SC	5,243.66	137.40
635		Charleston	SC	5,226.62	136.95
636		Fountain Inn	SC	5,218.41	136.74
637		Fountain Inn	SC	5,218.41	136.74
638	IRA	Greenville	SC	8,480.86	135.84
639		Campobello	SC	5,160.83	135.23
640		Charlotte	NC	5,125.56	134.31
641		Spartanburg	SC	5,109.48	133.88
642		Simpsonville	SC	5,096.16	133.54
643		Little River	SC	5,079.88	133.11
644		Longs	SC	5,063.62	132.68
645		Greer	SC	5,028.03	131.75
646		Mt. Pleasant	SC	4,962.37	130.03
647		Duncan	SC	4,961.85	130.02
648		Taylors	SC	4,961.85	130.02
649		Woodruff	SC	4,961.85	130.02
650		Piedmont	SC	4,961.85	130.02
651		Easley	SC	4,961.85	130.02
652		Myrtle Beach	SC	4,961.85	130.02
653		Greer	SC	4,961.84	130.02
654		Portland	ME	4,961.94	130.02
655		Greenville	SC	4,961.85	130.02
656		La France	SC	4,961.94	130.02
657		Surfside Beach	SC	4,961.94	130.02
658		Landrum	SC	4,961.85	130.02
659		Greenville	SC	4,961.89	130.02
660		Greer	SC	4,962.03	130.02
661		Anderson	SC	4,961.85	130.02
662		Taylors	SC	4,961.79	130.01
663		Greer	SC	4,825.36	126.44
664		Greenville	NC	4,692.77	122.96
665	IRA	Surfside Beach	SC	4,589.90	120.27
666		Simpsonville	SC	4,272.32	111.95
667		Campobello	SC	4,267.81	111.83
668		Williamston	SC	4,085.39	107.05
669	IRA	Fair Play	SC	4,067.54	106.58
670		Greer	SC	3,969.47	104.01
671		Norris	SC	3,909.62	102.44
672		Simpsonville	SC	3,423.01	89.69
673		Walhalla	SC	3,046.13	79.82
674	IRA	Easley	SC	2,677.56	70.16
675		Easley	SC	2,238.00	58.64
676		Westminster	SC	2,178.95	57.10
677		Chesnee	SC	2,049.86	53.71
678		Liberty	SC	1,730.17	45.34
679		Liberty	SC	1,730.17	45.34
680		Greer	SC	991.86	25.99
				38,545,808.19	1,000,000.15

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

JUDGMENT IN A CIVIL CASE
CASE NO: 2008CP2303665

William F Tomz vs. Capital Funding Llc

CHECK ONE:

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

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

IT IS ORDERED AND ADJUDGED:

☐ See attached order;

☐ Statement of Judgment by the Court

Dated at Greenville, South Carolina, this .

Court Reporter:

PRESIDING JUDGE -

This judgment was entered on the 18th day of December, 2014, and a copy mailed first class this 18th day of December, 2014, to attorneys of record or to parties (when appearing pro se) as follows:

Gene McCain Connell Jr. PO Drawer 14547
Surfside Beach, SC 29587

Alan McCrory Wilson Attorney General P.O. Box
11549 Columbia, SC 29211-1549

~~Davey Field 7 Shadetree Court Greer, SC 29651~~

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court
- Clerk of Court

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

William F. Tomz and Frances W. Tomz,
Individually and as Class Representatives,
Plaintiffs,

Case No. 2008-CP-23-3665

versus

Capital Investment Funding, LLC and
Arthur M. Field,
Defendants.

Richard S. Roberts and Jeannette T.
Roberts,
Plaintiffs,

Case No. 2008-CP-23-5514

versus

Capital Investment Funding, LLC,
Bradford Financial Group, LLC, Dr.
Arthur Field, Rev. Brad Kelly, Dr. Calvin
L. Williams, Bart Kelly, The Lancaster
Group, LLC, Cosimo, LLC, Monmouth
Financial Group, Ltd., Lancaster Resources
(South Carolina), Inc., Capital Intrastate
Funding, LLC, F. Scott Pfeiffer, Krondor
Trading Co, LLC, Red Lion Trading House
LLC, First Alliance Enterprises, Inc.,
Tiger Transport Service, Inc., Credo Land
Holdings, LP, Thomas E. Moore, Bountiful
Bingo, LLC, and Kathryn Taillon
Defendants

Arthur M. Field,
Third Party Plaintiff

versus

John A. Hagins, Jr., and Covington,
Patrick, Hagins, Stern & Lewis, P.A.,
Third Party Defendants

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Record p. 058
copied given to Court

Troy Bridges, Polly W. Bridges,)
Joseph L. Baker, Ann T. Baker,)
Dennis Bates, Jennie Bates, Tom H. Badger,)
Hilda G. Badger, T. Lyell Garland,)
and Shirley Garland,)
Plaintiffs,)

Case No. 2008-CP-23-7457

versus)

Capital Investment Funding, LLC,)
Arthur M. Field, Bart Kelley, Brad)
Kelley, Calvin Williams; Lancaster)
Resources, Inc.; Lancaster Mortgage)
Bankers, LC, Bradford Financial Group,)
Monmouth Financial Group, Ltd., CIF TC)
LLC; Log Cabin Financial Group, LLC and)
Trazom, LLC,)
Defendants.)

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Robert E. Lee and Janey Lee,)
Plaintiffs,)

Case No. 2008-CP-39-1184

versus)

Bradford Financial Group, LLC, Capital)
Investment Funding, LLC, CIF TC, LLC,)
Arthur M. Field, Bart Kelly, Brad Kelly,)
Lancaster Mortgage Bankers, LLC,)
Lancaster Resources, Inc., Log Cabin)
Financial, LLC, Monmouth Financial Group)
Ltd., Trazom, LLC and Calvin Williams,)
Defendants.)

**MEDIATED GLOBAL SETTLEMENT AGREEMENT
AND ORDER APPROVING SETTLEMENT**

Now come the Parties set forth above and move this Honorable Court for an
Order approving this Mediated Global Settlement Agreement. Each of the parties
participated in a two-day mediation of all issues in these related cases with the Honorable

H. Samuel Stilwell acting as Mediator. Prior to, and outside of the mediation, Defendant Capital Investment Funding, LLC made certain financial records available to the Class Plaintiff's expert accountant for review, and met with the Class Plaintiffs' Attorneys and accountant on several occasions to answer questions regarding the financial condition of the Company. Capital Investment Funding also made the Independent Fraud Examiner's Report available to Class Counsel, in addition to the documents previously provided, under seal, to Class Counsel pursuant to Order of the Honorable Edward Miller.

After reviewing the books and records made available to the Class Counsel and after participation by all parties in the mediation and with the assistance of the Mediator, the parties have reached a Global Settlement Agreement, the terms of which are as follows:

Troy Bridges et al. versus Capital Investment Funding, LLC, et al.
Case No. 2008-CP-23-7457

1. Plaintiffs Troy Bridges, Polly W. Bridges, Joseph L. Baker, Ann T. Baker, Dennis Bates, Jennie Bates, Tom H. Badger, Hilda G. Badger, T. Lyell Garland, and Shirley Garland, shall join the Class of Plaintiffs in Tomz v. Capital Investment Funding, LLC as Class Plaintiffs, and shall share *pro rata* with the other Class Plaintiffs in that case.
2. The Complaint in this case as to Capital Investment Funding, LLC, Dr. Arthur Field, Lancaster Resources, Inc.; Lancaster Mortgage Bankers, LC, Bradford Financial Group, Monmouth Financial Group, Ltd., CIF TC, LLC, Trazom, LLC and Log Cabin Financial Group, LLC will be dismissed without prejudice, subject however to the same conditions outlined in paragraph 9 following.



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Brad Kelley, Bart Kelley and Calvin Williams hereby agree to cooperate and provide any and all information, records, emails, reports in their possession, if any, to the receiver which may be necessary based on their involvement with the company. This cooperation clause shall be an affirmative duty by Brad Kelley, Bart Kelley and Calvin Williams and they shall not be able to request payment for their cooperation. Further, Capital Investment Funding agrees that it has no officers and directors errors and omissions coverage and hereby affirmatively indicates that no such coverage exists. It is also agreed that Brad Kelley, Bart Kelley and Calvin Williams shall offer truthful testimony in any court proceeding, deposition or trial which may be necessary should the receiver decide to proceed with additional litigation. Notwithstanding the foregoing, Bart Kelley, Brad Kelley and Calvin Williams specifically reserve their ability to assert all rights, privileges and immunities accruing to them under any state or federal law and both the United States and State of South Carolina Constitutions. It is further agreed that without waiving any of his rights, Arthur Field shall also offer truthful testimony, shall agree to cooperate in any proceeding in state or federal court to include bankruptcy court and such cooperation shall include testimony and/or depositions which shall be without cost to the receiver or to the noteholders, however out of pocket expenses will be reimbursed while traveling more than fifty miles from Greenville, SC. Further, Dr. Field agrees that he shall give up any and all claim for any future payments on account of his employment contract and shall immediately resign his offices at Capital Investment Funding, but shall provide copies of all records, emails, reports, letters, documents, mortgages, notes and any other materials which shall support the receiver's right to collect from any individual or corporation which has been loaned any monies by



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Capital Investment Funding, LLC or its related companies. However, the parties acknowledge that Dr. Field has asserted state and federal statutory and constitutional privileges over these documents. In order to preserve whatever rights and expectations of privacy Dr. Field Capital Investment Funding, LLC and all related companies may have in these documents and in order enable Dr. Field and Capital Investment Funding, LLC and all related companies to deliver the documents to the Receiver without any delay, the Court by approving this Settlement Agreement does Order Dr. Field and Capital Investment Funding to turn over all records including all documents, emails, computer records, mortgages and the like to the Receiver within ten (10) days of the approval of this agreement and all of Dr. Field's rights shall run with the documents. The Court also Orders, by approval of this settlement, that the Receiver is working for the Court and that neither the Receiver, Class Counsel nor agent or employee of the Receiver or Class Counsel shall allow any person or entity to have or to have access to the documents turned over to the Receiver at any time by Dr. Field except upon written Order from Judge Miller. The Honorable Edward W. Miller retains jurisdiction over this matter to ensure compliance with this Order. Further the court makes these Orders with regard to the documents after a Fairness Hearing which was noticed to all Class Members and attended by many Class Members, all parties were present or represented by counsel and the SC Attorney General attended by designee as a Friend of the Court. After hearing from all parties who wished to be heard, the Attorney General as a Friend of the Court and several class members I find that the Orders regarding the documents contained herein are in the best interest of the class because the Receiver must have

the documents as soon as is possible so that he may begin marshalling the assets of Capital Investment Funding, LLC and without these Orders neither Capital Investment Funding, LLC or related companies nor Dr. Field would consent to turning over any documents and this Settlement would fail.

3. Upon receipt of documents from attorney Bruce Bannister demonstrating that Defendants, Brad Kelly and Bart Kelly,, received no assets of Capital Investment Funding, LLC, other than distributions from their paid-in Capital Accounts and/or annual earnings distributions prior to Capital Investment Funding declaring its winding up and Brad Kelly's W-2 and/or 1099 income, which shall be fully disclosed to Class Counsel, and have insufficient assets to respond to a judgment in favor of Class Plaintiffs then those Defendants will be dismissed with prejudice. It is agreed that the Defendant Calvin Williams has already provided documentation to Class Counsel showing that he has received no assets of Capital Investment Funding, LLC, other than distributions from his paid-in Capital Accounts and/or annual earnings distributions prior to Capital Investment Funding declaring its winding up received only such distributions and a total of \$5,000 by way of partial indemnification for attorneys fees. He has further provided documentation showing that he does not have sufficient assets to respond to a judgment and is entitled to be dismissed with prejudice by this Order. Provided, however, that in the event it is determined that the information provided by or on behalf of the above-named Defendants is inaccurate or false in any material respect, Class Counsel shall have the right to reinstate suit against these Defendants notwithstanding their dismissal with prejudice. All documentation produced shall be subject to an appropriate confidentiality order. It is



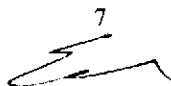
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further provided that Calvin Williams expressly denies any wrongdoing. Class Counsel has determined that Calvin Williams cannot respond to a judgment and shall be released and dismissed from all claims with prejudice. All actions set forth in this Order against Calvin Williams are dismissed with prejudice, and he is released from all claims raised or which could have been raised against him in these actions, including in the Tomz and any claims of the Class.

**William F. Tomz, et al. versus Capital Investment Funding, LLC
and Arthur M. Field
Case No. 2008-CP-23-3665**

4. Capital Investment Funding, LLC will record a Confession of Judgment to the Class Plaintiffs in the amount of \$38,491,321.92 upon approval of this Agreement.
5. Jerry Saad, CPA will be appointed Receiver of Capital Investment Funding to continue winding up the affairs of Capital Investment Funding in accordance with the SC Limited Liability Company Act, and exercising all the rights, duties and responsibilities vested in a receiver pursuant to the law of South Carolina. Without limiting any of the foregoing, the receiver shall take all actions necessary and prudent to collect the assets of Capital Investment Funding, LLC, prosecute and defend lawsuits on behalf of Capital Investment Funding, LLC, safeguard the privacy of Capital Investment Funding, LLC's and related companies and Arthur Field's documents and records in accordance with State and Federal law by producing documents only pursuant to a written Order from Judge Miller per the provision in Paragraph 2 above, manage and preserve the assets of Capital Investment Funding, LLC, and to make *pro rata* distributions of the assets and income of Capital Investment Funding, LLC to the Class Plaintiffs, and take such other actions



necessary or appropriate as may be required and/or approved by Class Co-Counsel or a court of competent jurisdiction.

6. Gene M. Connell, Jr. of Kelaher, Connell & Connor, PC and Stanley T. Case and Edward G. Smith of Butler, Means, Evins & Browne will be confirmed as Class Co-Counsel. Class Co-Counsel will oversee the activities of the Receiver. The Receiver will report to Class Co-Counsel no less than monthly, and Class Co-Counsel will be responsible to keep the Class informed of the progress of the winding up of the affairs of Capital Investment Funding, LLC.
7. Class Co-Counsel will be entitled to petition the Court for compensation for the prosecution of this Action and for oversight of the Receiver, and shall be paid for their services and reimbursed for costs as approved by the Court.
8. Arthur M. Field will resign as Manager of Capital Investment Funding, LLC upon Court approval of this agreement and the complaint in this action against Mr. Field will be dismissed without prejudice within five (5) days of such approval, subject to conditions hereafter set forth.
9. The parties agree that Class Counsel may reinstitute any claim or action dismissed without prejudice in Troy Bridges, et al. vs. Capital Investment Funding, LLC, et al., Case No. 2008-CP-23-7457 and William F. Tomz, et al. vs. Capital Investment Funding, LLC and Arthur M. Field, Case No. 2008-CP-23-3665 on behalf of the class within the time limit imposed by law or court rule. Other causes of action against parties not named in the Bridges or Tomz law suits are not affected by this settlement, except as to Calvin Williams as set forth herein. Further, the rights of the class under any state or federal securities law shall not

be affected by this settlement, except as to parties released or dismissed with prejudice. In consideration of Dr. Field being dismissed without prejudice in the above-referenced actions, Dr Field agrees to forego the severance pay allegedly due to him under his Employment Agreement. The parties further agree that in the event Class Counsel initiates a claim against Dr. Field he shall be entitled to all defenses, cross-claims and counterclaims that would have been available to him in the dismissed actions, specifically Troy Bridges, et al. vs. Capital Investment Funding, LLC, et al., Case No. 2008-CP-23-7457 and William F. Tomz, et al. vs. Capital Investment Funding, LLC and Arthur M. Field, Case No. 2008-CP-23-3665, and may also revive any claims to severance pay and indemnification as cross-claims against Capital Investment Funding, LLC, in addition to any other defenses, cross actions and counterclaims.

10. The Receiver shall be empowered to employ such persons as he deems necessary, with approval of the Class Co-Counsel, to carry out his work under this Agreement.
11. Receiver Saad will be entitled to a fee of \$200 per hour for his work as Receiver, and Class Co-Counsel shall review and approve all billings on behalf of the Class.
12. In accordance with Paragraph 3, tax returns and other financial documents of the Defendants Bart Kelley and Brad Kelley will be produced by Attorney Bruce Bannister within fifteen days of the execution of this agreement. Such documents will provide valid evidence that Defendants Bart Kelley and Brad Kelley have no assets of Capital Investment Funding and insufficient assets to respond to a judgment in favor of class plaintiffs. Such documents shall include tax returns and a list of assets, if any, which

any of these individuals may have in their respective names. All such information shall be subject to an appropriate confidentiality order.

13. The receiver shall obtain from Capital Investment Funding through its officers, agents and/or employees and Arthur Field on the day the receivership is approved by the court a complete and itemized listing of all cash and monies available to Capital Investing Funding to include all monies expected to be obtained by Capital Investment Funding within the following six months. The Receiver shall immediately send notice to all debtors of Capital Investment Funding advising them of the new address for payment. Further, Arthur Field and any and all employees of Capital Investment Funding agree to immediately turn over any and all funds due to Capital Investment Funding which are sent to them after the approval of the receivership. Such funds shall be forwarded to the receiver within 48 hours of receipt by Field. Further, a complete listing of any all real property shall be provided to the receiver at his address to include any and all notes, mortgages and other assets of any value to include records as to whether or not taxes have been paid on the aforementioned properties to include receipts for those tax payments and the Company will deliver its files on all properties, notes and mortgages at such time and to such reasonable place as the Receiver shall direct at Capital Investment Funding's expense. Inasmuch as Calvin Williams is dismissed with prejudice under the terms of paragraph 3 of this agreement, all potential claims of the Tomz, the Class, and all other plaintiffs as to Calvin Williams are hereby dismissed with prejudice and Calvin Williams will be released from all such claims.

Richard S. Roberts, et al. versus Capital Investment Funding, LLC, et al.
Case No. 2008-CP-23-5514



14. Plaintiffs Roberts or their designee shall receive as full and final settlement of their claim all the remaining Textile Mill Revitalization Act Tax Credits held by CIF TC, LLC, a wholly owned subsidiary of Capital Investment Funding, LLC.
15. Plaintiff Roberts or the designee taking possession of the Credits shall pay the Receiver the sum of \$0.20 for every \$1.00 of 2009 and 2010 Tax Credits when and if they are sold, as demonstrated annually by the delivery to the Receiver of the annual Tax Returns of CIF TC, LLC or any other entity then holding the Tax Credits.
16. Defendant Capital Investment Funding, LLC will transfer these Tax Credits by transferring the respective membership interests in CIF TC, LLC to the Roberts or their designee, free and clear of all claims or encumbrances, and hereby covenant to provide such further cooperation reasonably necessary to effect the transfer of the Tax Credits.
17. Because of the nature of the tax credits, a supplemental agreement detailing the terms of the transfer of the tax credits will be executed and is made a part of this Mediated Global Settlement Agreement by reference.
18. The Complaint in Roberts v. Capital Investment Funding, LLC will be dismissed with prejudice within five (5) days after the Order approving this Agreement is entered and proof provided to all defendants. The Roberts' four (4) Notes (##6684, 6686, 6859, and 6966) shall be marked "Satisfied" and surrendered to the Receiver within five (5) days.
19. Any and all Third Party Complaints filed against John A. Hagins and/or Covington, Patrick, Hagins, Stern & Lewis, PA will be dismissed with prejudice within five (5)

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days after the Order approving this Agreement is entered and proof provided to all defendants.

20. Plaintiff Roberts or his designee will take the entire risk and expense of selling the Tax Credits, and in the event they are not sold or are sold at a loss shall nonetheless have no further claim against the Company or any third party with respect to their Notes or the causes of action that were or could have been set forth in their Complaint, and shall enjoy the full benefit of any profit received from the sale of the Tax Credits, regardless of amount.

**Robert E. Lee and Janey Lee versus Bradford Financial Group, LLC, et al.
Case No. 2008-CP-39-1184**

21. Defendant Capital Investment Funding, LLC, without admission of liability and through its receiver Jerry Saad, CPA, shall pay to Plaintiffs Robert E. and Janey Lee within thirty (30) days of Court approval of the settlement by way of a certified check the sum of Twenty-Five Thousand and No/100 Dollars (\$25,000.00) in settlement of Lee v. Bradford Financial Group, LLC, et al. (Case No.: 2008-CP-39-1184).
22. Plaintiffs Robert E. and Janey Lee are hereby given permission to sell their Notes to a third party for Fifty Thousand and No/100 Dollars (\$50,000.00) and that third party shall be given leave to join the Class as a Class Plaintiff and to receive its pro rata share of the assets of the receivership. Third-party purchaser shall have forty-five (45) days after purchasing the Notes to opt in as a member of the Class. Failure to do so shall bar third-party purchaser's recovery claim. Additionally, third-party purchaser shall not be permitted to bring a separate action against Capital Investment Funding,

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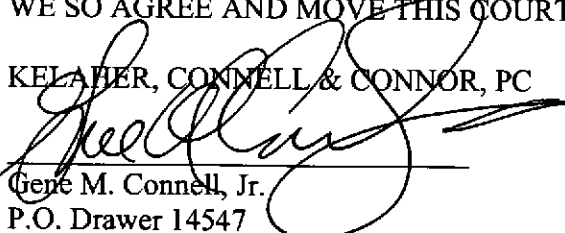
LLC or any person whom Capital Investment Funding, LLC is required or permitted to indemnify under the South Carolina Limited Liability Company Act.

23. Any potential class member of Lee v. Bradford Financial Group, LLC, et al. (Case No.: 2008-CP-39-1184) shall join or shall be allowed to join the Class of Plaintiffs in Tomz v. Capital Investment Funding, LLC, and Lee v. Bradford Financial Group, LLC, et al. (Case No.: 2008-CP-39-1184) will be dismissed with prejudice.

WHEREFORE, the Parties hereto, represented by the Attorneys set forth below, having negotiated in good faith and believing this settlement to be equitable to all, each pray this Honorable Court to approve this Global Mediated Settlement Agreement as being in the best interests of all parties after notice to all class members of a hearing at which all class members shall have a right to appear and object.

WE SO AGREE AND MOVE THIS COURT TO APPROVE:

KELAFER, CONNELL & CONNOR, PC


Gene M. Connell, Jr.

P.O. Drawer 14547

Surfside Beach, SC 29587

Attorneys for Plaintiffs William F. Tomz and Frances W. Tomz and Co-Counsel for the Certified Class of Plaintiffs

HARRISON, WHITE, SMITH & COGGINS, P.C.

John B. White, Jr.

P.O. Box 3547

Spartanburg, SC 29304

Attorney for Plaintiffs Robert E. Lee and Janey Lee

LLC or any person whom Capital Investment Funding, LLC is required or permitted to indemnify under the South Carolina Limited Liability Company Act.

23. Any potential class member of Lee v. Bradford Financial Group, LLC, et al. (Case No.: 2008-CP-39-1184) shall join or shall be allowed to join the Class of Plaintiffs in Tomz v. Capital Investment Funding, LLC, and Lee v. Bradford Financial Group, LLC, et al. (Case No.: 2008-CP-39-1184) will be dismissed with prejudice.

WHEREFORE, the Parties hereto, represented by the Attorneys set forth below, having negotiated in good faith and believing this settlement to be equitable to all, each pray this Honorable Court to approve this Global Mediated Settlement Agreement as being in the best interests of all parties after notice to all class members of a hearing at which all class members shall have a right to appear and object.

WE SO AGREE AND MOVE THIS COURT TO APPROVE:

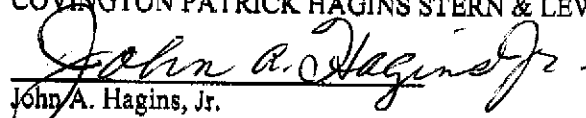
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Surfside Beach, SC 29587
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Certified Class of Plaintiffs

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P.O. Box 3547
Spartanburg, SC 29304
Attorney for Plaintiffs Robert E. Lee and Janey Lee

COVINGTON PATRICK HAGINS STERN & LEWIS


John A. Hagins, Jr.

P.O. Box 2343

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Attorneys for Plaintiff Richard S. Roberts and
Jeannette T. Roberts

BUTLER, MEANS, EVINS & BROWNE, P.A.

Stanley T. Case

P.O. Drawer 451

Spartanburg, SC 29304-0451

Attorneys for Plaintiffs Troy D. Bridges, Polly W. Bridges,
Joseph L. Baker, Ann T. Baker, Dennis Bates, Jennie
Bates, Tom H. Badger, Hilda G. Badger, T. Lyell Garland,
and Shirley Garland and Co-Counsel for the Certified Class of Plaintiffs

BANNISTER & WYATT, LLC

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Log Cabin Financial, LLC, and Trazom, LLC

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Kathryn Taillon*Pro Se*

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Joseph L. Baker, Ann T. Baker, Dennis Bates, Jennie
Bates, Tom H. Badger, Hilda G. Badger, T. Lyell Garland,
and Shirley Garland and Co-Counsel for the Certified Class of Plaintiffs

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Attorneys for Defendant Calvin Williams

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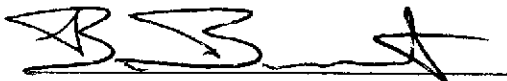
COVINGTON PATRICK HAGINS STERN & LEWIS

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Jeannette T. Roberts

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Joseph L. Baker, Ann T. Baker, Dennis Bates, Jennie
Bates, Tom H. Badger, Hilda G. Badger, T. Lyell Garland,
and Shirley Garland and Co-Counsel for the Certified Class of Plaintiffs

BANNISTER & WYATT, LLC



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Log Cabin Financial, LLC, and Trazom, LLC

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Kathryn Taillon
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Greer, SC 29650

COVINGTON PATRICK HAGINS STERN & LEWIS

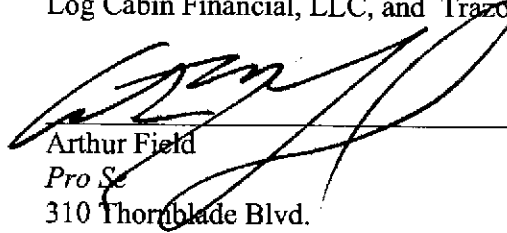
John A. Hagins, Jr.
P.O. Box 2343
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Attorneys for Plaintiff Richard S. Roberts and
Jeannette T. Roberts

BUTLER, MEANS, EVINS & BROWNE, P.A.

Stanley T. Case
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Spartanburg, SC 29304-0451
Attorneys for Plaintiffs Troy D. Bridges, Polly W. Bridges,
Joseph L. Baker, Ann T. Baker, Dennis Bates, Jennie
Bates, Tom H. Badger, Hilda G. Badger, T. Lyell Garland,
and Shirley Garland and Co-Counsel for the Certified Class of Plaintiffs

BANNISTER & WYATT, LLC

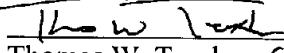
Bruce W. Bannister
P.O. Box 10007
Greenville, SC 29603
Attorney for Defendant Bart Kelley, Brad Kelley,
Log Cabin Financial, LLC, and Trazon, LLC



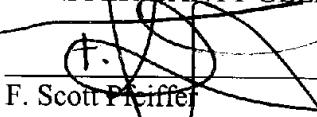
Arthur Field
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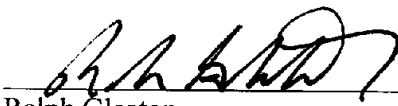
CARTER, SMITH, MERRIAM, ROGERS & TRAXLER, PA


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PFEIFFER GANTT GLEATON WYATT, PA


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Greenville, SC 29601
Attorneys for Defendants CIF TC, LLC, Bradford Financial Group, LLC and
Monmouth Financial Group, Ltd.,

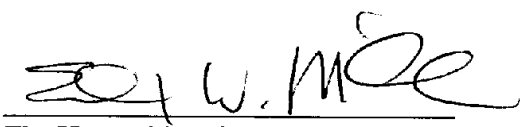
PFEIFFER GANTT GLEATON WYATT, PA


Ralph Gleaton
935 South Main St., Suite 203
Greenville, SC 29601
Attorneys for Capital Investment Funding, LLC, F. Scott Pfeiffer,
Red Lion Trading House, LLC, Capital Intrastate Funding, LLC,
Kronador Trading House, LLC, Bountiful Bingo, LLC, and Cosimo, LLC

I find, after a fairness hearing on the record, that the matters set forth above are fair, reasonable and in the best interest of the class.

IT IS THEREFORE ORDERED that the entirety of the Mediated Global Settlement Agreement as set out above should be and is adopted as an Order of this Court.

IT IS SO ORDERED!


The Honorable Edward W. Miller
Judge, Thirteenth Judicial Circuit

Greenville, SC
July 8/24, 2009

(T)

FILED

NOV 05 2018

JAMES R. PARKS
CLERK, STATE GRAND JURY

STATE GRAND JURY OF SOUTH CAROLINA

THE STATE OF SOUTH CAROLINA,)

Case No.: 2012-GS-47-08

ORDER OF JUDGMENT

v.)

ARTHUR M. FIELD,)

DEFENDANT.)

2018 NOV 20 AM 10:10
M. HOPE BLACKLEY

This matter is before me following a sentencing hearing, held in Anderson County on October 8, 2013, a hearing to modify restitution, held in Oconee County on November 1, 2017, and a probation revocation hearing, held before me in Anderson County on September 7, 2018. At each hearing the State was represented by Senior Assistant Deputy Attorney General S. Creighton Waters of the Attorney General's Office, and at the restitution modification hearing by Matthew C. Buchanan of S.C. Department of Probation, Parole and Pardon Services [DPPPS]. Defendant Arthur M. Field [Defendant] was represented at all three hearings by Mr. James Todd Rutherford, and also by Mr. Micajah Pickett Caskey, IV at the restitution modification hearing. This Court was informed that the victims were duly notified of the nature and time of the hearings.

On October 8, 2013, this Court sentenced Defendant to a lead active sentence of twenty-six (26) months, with credit given for 33 days served pre-trial in county jail, and 15 months on house arrest pursuant to an amendment to S.C. Code Ann. § 24-13-40 (Supp. 2015) allowing such credit. The suspended sentence for the fourteen

A TRUE COPY

Attest: James R. Parks, Clerk

By: Margaret J. Searcy
Deputy Clerk

Page 1 of 3

(14) charges was essentially ten (10) years. He also received 5 years' probation. A restitution order was also issued in the amount of \$2,877,711.73, with the victim being Jerry Saad, as Receiver for Capital Investment Funding, LLC ("CIF").

Defendant filed a Motion to Modify Restitution Order on or about March 31, 2017. The State replied in opposition to Defendant's motion on or about April 7, 2017. A hearing was held and an Order signed by me on November 27, 2017. That Order provided in pertinent part:

iv) To the extent any portion of the balance of such restitution remains unpaid at the end of the required probation period, after applying credit for the payments and properties described in (i), (ii), and (iii) above, such unpaid balance of restitution shall be converted to a civil judgment pursuant to the applicable laws under S.C.S.A. §17-25-328.

2018 NOV 20 AM 10:10
H. HOPE BLACKLEY
CLERK OF COURT
COMMON PLEAS

Additionally, the November 27, 2017 Order provided:

d. IT IS ORDERED that the Receiver shall provide this Court, the South Carolina Attorney General's Office, Defendant Field, and SCDPPPS with an accounting of the amounts received by the receivership pursuant to the GSA and this Order, and in particular the modification to the GSA as set forth above in subsection (4)(a) of this Order, by either September 15, 2018, or by the completion and performance of all obligations of the parties under the GSA, including sale or other disposition of property received by the Receiver pursuant to the GSA, whichever comes earlier. The purpose of this provision is to determine the remaining amount to be subject to a civil judgment by the conclusion of Defendant Field's probation. SCDPPPS will then use this information to calculate the amount of restitution remaining for the civil judgment. This Court retains jurisdiction to resolve any dispute as to these amounts.

At the probation revocation hearing on September 7, 2018, based on a finding by the Honorable Edward Miller of contempt of court, this Court held in abeyance its

finding until it could be sure the Defendant was competent. Shortly thereafter, on September 15, 2018, Receiver Jerry Saad provided the accounting as required by the November 27, 2017 Order. In it, he concluded that the Receiver had received \$301,794.96 from the Global Settlement Agreement. He projected that the sale of the Thornblade property, which has yet to be accomplished, would net \$700,000. The Court finds these amounts reasonable and correct, and together they total \$1,001,794.96 under the GSA. Finally, the Court is advised that the Receiver received a total of \$108,282.06 in payments through criminal restitution in the course of his probation. Accordingly:

\$2,877,711.73	(Original Restitution Amount Owed)
(\$1,001,794.96)	(GSA payments)
<u>(\$108,282.06)</u>	(DPPPS Restitution payments)
\$1,767,634.71	(Amount remaining)

This Court finds the above amount is restitution still due and owing, and is appropriately converted to a civil judgment pursuant to South Carolina Code § 17-25-323. It is therefore

ORDERED that the Receiver Jerry Saad, as Receiver for Capital Investment Funding, has judgment against the Defendant in the sum of \$1,767,634.71.

AND IT IS SO ORDERED.

This 30th day of Oct, 2018.

A. Ken, South Carolina.

The Honorable J. Cordell Maddox, Jr.
Circuit Court Judge

2018 NOV 20 AM 11:10
T. HOPE BLACKLEY
Jr.

FILED

NOV 28 2017

James R. Parks

STATE GRAND JURY OF SOUTH CAROLINA CLERK, STATE GRAND JURY

THE STATE OF SOUTH CAROLINA,

Case No.: 2012-GS-47-08

v.

ARTHUR M. FIELD,

DEFENDANT.

ORDER DENYING DEFENDANT'S
MOTION TO RECONSIDER
RESTITUTION, BUT ALLOWING
MODIFICATIONS TO RESTITUTION
IN LIGHT OF 08-CP-23-3665

This Order follows a hearing in Oconee County on November 1, 2017. The State was represented by Assistant Deputy Attorney General S. Creighton Waters of the Attorney General's Office. Defendant Arthur M. Field [Defendant] was represented by Mr. James Todd Rutherford. This Court was informed that the victims were duly notified of the nature and time of the hearing.

Defendant filed a Motion to Modify Restitution Order on or about March 31, 2017 seeking, amongst other things, to have this Court "ORDER Defendant's current restitution requirement now and forever satisfied," based on a Global Settlement Agreement reached in various civil actions related to the facts of this criminal case. The State replied in opposition to Defendant's motion on or about April 7, 2017.

Defendant's current motion rests on a settlement he crafted with multiple civil plaintiffs,¹ of whom some are the victims in this criminal action. This Court's understanding is that the settlement in the civil matter has various conditions

¹ The plaintiff lawyers were present at this hearing.

State v. Field

2012GS4708

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ORDER DENYING DEFENDANT'S MOTION TO RECONSIDER RESTITUTION, BUT ALLOWING
MODIFICATIONS TO RESTITUTION IN LIGHT OF 2008CP233665

requiring action by this Court.² At issue is §8 of the settlement agreement sets as conditions precedent³ the following:

Therefore, within five (5) days of all parties executing this Agreement and tendering the fully executed Agreement to Counsel for CIF, who will hold such in trust pending court approvals, Arthur Field shall file a motion with the court seeking modification to the terms and conditions of his restitution, and, subject to the requirements of South Carolina law and subject to Arthur Field having been fully compliant with all the terms and conditions of his restitution previously ordered by the court from the date of such order until such time as the court modifies such restitution as requested hereunder, including but not limited to all payments required thereunder having been made without interruptions or stoppages, Plaintiffs and the Receiver, together with their attorneys and agents, hereby consent to the relief sought by Arthur Field to modify his restitution obligations previously ordered by the court, provided such modification is as follows:

- A. The total restitution ordered to be paid by Arthur Field shall be reduced to the sum of: (i) the amounts paid through the date the restitution order is modified, plus (ii) the fulfillment of all terms and obligations by Arthur Field and all parties set forth in Paragraphs 1.C. and 1.D of this Agreement; and
- B. Upon all parties to this Agreement having fully performed their obligations hereunder, no further restitution shall be due from Arthur Field and all restitution obligations of Arthur Field shall be declared SATISFIED IN FULL; and
- C. Upon all parties to this Agreement having fully performed their obligations hereunder, Arthur Field shall be granted permission to live in Florida.

This Court is not the presiding court of the civil matter, nor is it a party — neither is the State. Similarly, the plaintiffs of the civil matter are not a party to this criminal action (even if they represent some of the victims). While this Court does not have jurisdiction to bless or modify sections of a civil settlement, it does retain statutory authority to modify restitution. The State of course remains opposed to any modification of restitution, asserting that the amount had already been decided by

² This Court nor the State are named parties in the civil matter and are not technically bound by any purported settlement as it relates to this independent criminal case, i.e. State v. Field, 2012GS4708.

³ As a condition precedent, per §10 the civil agreement goes so far as to declare the settlement "null and void" if Defendant's request(s) in §8 are denied. However, Defendant at the hearing before this Court requested and agreed to the denial of several parts to the civil agreement.

State v. Field,

2012GS4708

Page 2 of 10

ORDER DENYING DEFENDANT'S MOTION TO RECONSIDER RESTITUTION, BUT ALLOWING
MODIFICATIONS TO RESTITUTION IN LIGHT OF 2008CP233665

this Court, and it believed the provisions of the civil settlement did not represent the best interest of the victims of Defendant Field's crimes. The State also expressed concern that reliance on performance by Defendant Field, who was convicted of multiple counts of fraud, was a risk in and of itself. Of course, Defendant Field was in favor of his motion, but the civil plaintiffs' attorneys and CIF receiver Jerry Saad [Receiver] also supported Defendant Field's motion to modify, asserting on the record to this Court that this GSA was the product of extensive negotiation over fourteen months, and represented the best they felt they could get from Defendant Field, given his propensity to litigate and the costs and fatigue associated with that continued litigation.

While this Court understands and sees validity in the State's concerns and arguments, ultimately this Court asked the State if it would meet about its concerns with the Defendant and his representatives, and the plaintiffs' attorneys and Receiver, given that those civil parties had reached this agreement and both sides were in favor of it (the State did advise that many individual victims who were also members of the civil class were opposed to the modification). Given that the civil plaintiffs and Receiver remained in favor of accepting the GSA, the State after these discussions reported to the Court that it was agreeing to forego its objections to a number of concessions, as set forth below, that allayed some of its concerns.

Accordingly, this Court finds and concludes as follows:

1. Sworn Financial Declaration

- a. IT IS ORDERED, and the Defendant has agreed, to submit a sworn financial declaration to this Court and for the benefit of the court in the

State v. Field,

2012GS4708

Page 3 of 10

ORDER DENYING DEFENDANT'S MOTION TO RECONSIDER RESTITUTION, BUT ALLOWING
MODIFICATIONS TO RESTITUTION IN LIGHT OF 2008CP233665

civil matter. This Court has been informed that Defendant did provide what he purports to be a "FINANCIAL AFFIDAVIT of Arthur Field."

- b. This Court considers the contents of that "FINACIAL AFFIDAVIT of Arthur Field" and any document provided pursuant to section 1 of this Order to be sworn testimony before this Court, and this Court will consider any falsehoods to not only be contemptuous but also a condition precedent, among other remedies, to trigger the suspended portion of Defendant's sentences.
- c. IT IS ORDERED that on or before November 30, 2017, Defendant Field shall provide to the State, this Court, the civil plaintiff attorneys, and the Receiver a sworn affidavit, absent of limitations, reservations or qualification as to knowledge or "upon information and belief", attesting to all of assets which he owns, holds or controls, and Defendant will avail himself to testify under oath in this proceeding or the civil proceedings(s) as to the veracity of the affidavit.
- d. While as an initial matter this Court will leave it for the court in the civil matter to evaluate whether there are additional assets in this recent financial declaration that are inconsistent with the financial declaration(s) previously filed with the civil court, if this Court is advised of Defendant Field's noncompliance, false statement, or failure to perform under his probation, this Order or the GSA, this Court retains jurisdiction to enforce this Order and any modification to criminal restitution by any available means, to include by contempt proceedings, revocation of probation during the applicable time period, or modification of restitution and modification of this Order

2. Return of Earned Salary

- a. §14(I)(v) of the civil agreement provides Defendant credit for practically all the payments made (from practically any of the civil defendants) in the form

of "return of earned salary.":

v. The parties agree that any payment made by Taillon, Allyson Field, Arthur Field, or any entity or trust related to any of them, in cash or in kind, tangible or intangible, may be credited to the 'account' of Arthur Field, as 'return of earned salary', for all purposes related hereto, and for further purposes of rescinding restitution as described in Paragraph 8. However, such payments or transfers shall serve as sufficient consideration for (1) all releases running to all of the named parties or entities under Paragraphs 3, 4 and 5; and (2) all dismissals with prejudice of any past, pending or future matter, other than those related solely to enforcement of the obligations of this Agreement, as specifically set forth immediately above.

- b. Defendant ultimately agreed to remove this provision.
- c. IT IS THEREFORE ORDERED that only if this clause or any similar clause is fully and legally excised from the civil agreement, and otherwise rendered unenforceable, will the modifications to restitution in section (4) be applicable and enforceable.
- d. If this Court is advised of Defendant Field's noncompliance, false statement, failure to perform his probation or this Order or the GSA, or attempt to claim in name or effect restitution payments as "return of earned salary" on any tax return, this Court retains jurisdiction to enforce this Order and any modification to criminal restitution by any available means, to include by contempt proceedings, revocation of probation during the applicable time period, or modification of restitution and modification of this Order.

3. Probation Termination on Payment [PTUP]

- a. The State explained, and this Court agreed, that it was concerned that Defendant was seeking to escape the jurisdiction of this Court by seeking a modification declaring "no further restitution shall be due from [Defendant] and all restitution obligations of [Defendant] shall be declared SATISFIED IN FULL...". The State is opposed to any attempt of the GSA or this modification to trigger any PTUP clause of the current sentencing in place by this Court.

- b. Defendant is on probation with a substantial suspended sentence available. This Court will not modify Defendant's sentence by artificially declaring the restitution satisfied triggering PTUP.
- c. Therefore, Defendant Field will serve the entirety of his probation until the end of his term. Defendant Field is free to immediately apply to transfer his probation to Florida; however, no representations are made as to whether any such attempt to transfer will be successful, and the failure of Florida authorities to accept Field's transfer request is not a basis for escaping any other provision of this Order. IT IS ORDERED that Defendant Field must execute a waiver of extradition before leaving this State, and any failure to do so or refusal to return to South Carolina when commanded to do so by the South Carolina Department of Probation, Parole, and Pardon Services [SCDPPPS] or any Court is enforceable by any available means, to include by contempt proceedings, revocation of probation during the applicable time period, or modification of restitution and modification of this Order.
- d. IT IS ORDERED THAT any remaining unpaid restitution will be converted to a civil judgment at the conclusion of Defendant's probationary term, as set forth in the section (4) below.⁴ Defendant agreed to this provision.
- e. IT IS ORDERED that, in view of the value Defendant Field is promising to provide pursuant to the GSA, and in the event the GSA is approved by the court presiding under the civil receivership case, William F. Tomz and Francis W. Tomz, Individually and as Class Representatives vs. Capital Investment Funding, L.L.C. and Arthur M. Field, C.A. No. 2008-CP-23-3665, by November 29, 2017, Defendant shall no longer be required to pay the monthly restitution payments of \$3,200 each until and through the date Defendant's probation terminates. Such restitution was paid through

⁴ This Order does not address the timeline of any civil judgment or probationary term if the suspended portion of the sentences are triggered.

October 8, 2017, and Defendant Field's restitution shall be deemed current and in good standing as of that date if Defendant Field fully performs under the GSA and this Order and the GSA is approved by the court presiding under the civil receivership case." In the event the GSA is **not** approved by the court presiding under the aforementioned civil receivership case by November 29, 2017, Defendant shall continue paying the monthly restitution payments of \$3,200 each, including a payment the month of November 2017, until Defendant's probation has terminated, after which any unpaid amount of criminal restitution will be converted to a civil judgment pursuant to statutory law.

- f. If this Court is advised of Defendant Field's noncompliance, false statement, or failure to perform under his probation, this Order or the GSA, this Court retains jurisdiction to enforce this Order and any modification to criminal restitution by any available means, to include by contempt proceedings, revocation of probation during the applicable time period, or modification of restitution and modification of this Order. Additionally, any monthly restitution amounts not paid pursuant to these provisions can be held to be immediately due and payable.

4. Application to Restitution and Civil Judgment

- a. Pursuant to the conference and deliberation of the civil parties along with the State on November 1, 2017, Defendant Field, Class Counsel, and CIF's Receiver agreed to modify the GSA as follows: Paragraph 8.A. of the GSA shall be deleted in its entirety and replaced with the following:

A. Upon the parties set forth in Paragraphs 1.C. and 1.D. [of the GSA] having fully performed their obligations [t]hereunder:

- i) The value of the payments and properties paid and transferred to CIF by said parties pursuant to the terms and conditions of the GSA shall be applied as credit towards and thereby

reducing the \$2,877,711.73 restitution that Arthur Field has been ordered to pay under State of South Carolina v. Arthur Field, C.A. 12-GS-47-08, which has a current balance as of October 8, 2017 of \$2,769,430.00 according to DPPPS.

ii) The value of the payments shall be equal to the actual amount of cash paid to and received by CIF.

iii) The value of the properties transferred to CIF shall be equal to:

(1) The net amount of cash CIF deposits into its bank account from the sale and or liquidation of such properties; reduced by

(2) All cash payments expended by CIF for reasonable, actual expenses related to such properties, including but not limited to repairs, maintenance, fix up expenses, carrying costs (insurance, regime fees, etc.), selling expenses, property taxes, transfer taxes, and so forth.

iv) To the extent any portion of the balance of such restitution remains unpaid at the end of the required probation period, after applying credit for the payments and properties described in (i), (ii), and (iii) above, such unpaid balance of restitution shall be converted to a civil judgment pursuant to the applicable laws under S.C.S.A. §17-25-323.

B. Paragraphs 8.B. of the GSA shall be deleted in its entirety.

C. Paragraphs 8.C. of the GSA shall be deleted in its entirety.

D. The phrase “, as ‘return of earned salary’,” (including punctuations) shall be deleted from Paragraph 14.I.v. in its entirety.

b. Assuming the foregoing provision is executed by all relevant parties to the civil action(s), **and** the GSA as modified is approved by the court assigned the civil receivership action, **and** all other provisions of this Order, as well

as provisions of the GSA not inconsistent with this Order, are followed, then IT IS ORDERED that amounts received by the Receiver pursuant to the modification to the GSA as set forth above in subsection (4)(a) of this Order will be credited towards the remaining amount Defendant Field owes for criminal restitution on 2012-GS-47-08.

- c. IT IS ORDERED that the amounts paid or property transferred to CIF pursuant to the modification to the GSA as set forth above in subsection (4)(a) of this Order shall be made directly to the Receiver pursuant to the terms of the GSA not inconsistent with this Order. All money or property received by the Receiver pursuant to the GSA and this Order shall be distributed by the Receiver in accordance with his fiduciary duties.
- d. IT IS ORDERED that the Receiver shall provide this Court, the South Carolina Attorney General's Office, Defendant Field, and SCDPPPS with an accounting of the amounts received by the receivership pursuant to the GSA and this Order, and in particular the modification to the GSA as set forth above in subsection (4)(a) of this Order, by either September 15, 2018, or by the completion and performance of all obligations of the parties under the GSA, including sale or other disposition of property received by the Receiver pursuant to the GSA, whichever comes earlier. The purpose of this provision is to determine the remaining amount to be subject to a civil judgment by the conclusion of Defendant Field's probation.) SCDPPPS will then use this information to calculate the amount of restitution remaining for the civil judgment. This Court retains jurisdiction to resolve any dispute as to these amounts.
- e. IT IS ORDERED that the total remainder shall be converted to a civil judgment at the end of the probationary term payable to Defendant Field's criminal victim(s).⁵
- f. If this Court is advised of Defendant Field's noncompliance, false

⁵ This Court notes that Defendant agreed to the original restitution amount on October 11, 2013 for \$2,877,711.73. *State v. Field*, 2012GS4708, Page 9 of 10
 ORDER DENYING DEFENDANT'S MOTION TO RECONSIDER RESTITUTION, BUT ALLOWING
 MODIFICATIONS TO RESTITUTION IN LIGHT OF 2008CP2303665

statement, or failure to perform his probation, this Order or the GSA, this Court retains jurisdiction to enforce this Order and any modification to criminal restitution by any available means, to include by contempt proceedings, revocation of probation during the applicable time period, or modification of restitution and modification of this Order. Additionally, any monthly restitution amounts not paid pursuant to these provisions can be held to be immediately due and payable.

AND IT IS SO ORDERED.

This 27 day of Nov, 2017.

Salva, South Carolina.


The Honorable J. Cordell Maddox, Jr.
Circuit Court Judge

FORM 4

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

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2015CP2301263**

Capital Investment Funding LLC	Arthur Field Anthony Edgar Bart Kelley Elizabeth Hopper Kathryn Taillon	Allyson Field Ashley Morey Brad Kelley Eugene Hopper
PLAINTIFF(S)		DEFENDANT(S)
Submitted by:		Attorney for: ☐ Plaintiff ☐ Defendant ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☒ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☒ Rule 43(k), SCRPC (Settled); SETTLED
 IN FULL PER RODNEY PILLSBURY 5-22-18 FORMAL ORDER MAY FOLLOW ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

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

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

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

Rodney F. Pillsbury 301 Rutherford St. Greenville, SC 29609

Bart Kelley 145 Bethel Church Rd Westminster, SC 29693
Bruce Wyche Bannister PO Box 10007 Greenville, SC 29603
Luke Anthony Burke PO Box 10007 Greenville, SC 29603
Thomas L. Stephenson Stephenson And Murphy 207
 Whitsett St Greenville, SC 29601
Arthur Field 310 Thornblade Blvd Greer, SC 29650
Kirsten M White 5 Aldgate Way Greer, SC 29650
Jeffrey P. Dunlaevy 37 Villa Road, Suite 440 Greenville, SC
 29615

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Paul B. Wickensimer Greenville County Clerk Of
 Court - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

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



Greenville Common Pleas

Case Caption: Capital Investment Funding LLC vs. Arthur Field , defendant, et al

Case Number: 2015CP2301263

Type: Order/Form 4

So Ordered

s/ Robin B. Stilwell 2158

Electronically signed on 2018-06-12 17:11:44 page 3 of 3

The South Carolina Court of Appeals

William F. Tomz and Francis W. Tomz, Individually and as Class
Representatives, Respondents,

v.

Capital Investment Funding, LLC, and Arthur M. Field,
Defendants,

Of Whom Arthur M. Field is the Appellant,

And Capital Investment Funding, LLC, is a Respondent.

Appellate Case No. 2013-002676

ORDER

The Court held this case in abeyance to allow the parties time to pursue approval of the global settlement agreement. Our records reflect the circuit court approved the global settlement agreement on December 1, 2017. The terms of the global settlement agreement "settles all matters, claims[,] and litigation recited therein between and among *the parties* to the agreement, "and "also resolves matters pending in this case," including the April 1, 2013, August 19, 2013, and October 1, 2013 orders and rules to show cause; any subsequent rulings; and the pending appeal before this Court (Appellate Case No. 2013-002676). Accordingly, because the approved global settlement agreement and addendum "settles with prejudice all claims of every kind and nature which were raised or could have been raised," without objection, this appeal is dismissed. The remittitur will be sent pursuant to Rule 221(b) of the South Carolina Appellate Court Rules.

_____, J.
FOR THE COURT

Columbia, South Carolina

cc: Bradford Neal Martin, Esquire
Laura Wilcox Howle Teer, Esquire
Evan Brook Bristow, Esquire
George Brandt, III, Esquire
Stanley T. Case, Esquire
The Honorable Edward W. Miller

FILED

March 5, 2018

A TRUE COPY
ATTEST: ROBIN L. BLUME, CLERKUNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISIONBY: 
DEPUTY CLERK

William Tomz,	)	C/A No. 6:20-00312-BHH-JDA
	)	
Plaintiff,	)	
	)	
v.	)	ORDER
	)	
Arthur Field,	)	
Capital Investment Funding LLC,	)	
	)	
Defendants.	)	
_____	)	

Arthur Field ("Field"), proceeding pro se, filed a Notice of Removal that purports to remove an action from the Greenville County Court of Common Pleas at case number 2008-CP-23-3665 (the "State Court Action"). [See Doc. 1.] On February 5, 2020, Capital Investment Funding, LLC ("CIF") filed a motion to remand. [Doc. 8.] All pretrial proceedings in this matter were referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(e), D.S.C. Upon review, the undersigned finds that Field's attempt to remove the matter to this Court is improper and remands this matter to the state court for the reasons below.

BACKGROUND AND PROCEDURAL HISTORY

As noted, Field commenced this action by filing a Notice of Removal on January 28, 2020. [Doc. 1.] Field makes the following allegations and arguments in the Notice of Removal. The State Court Action was filed in February 2008 and was dismissed with prejudice on December 1, 2017, in light of a mediated Global Settlement Agreement ("GSA"). [*Id.* at 1.] Judgment was entered against CIF in the State Court Action. [*Id.* at 2.]

ELECTRONICALLY FILED - 2020 Feb 20 9:23 AM - GREENVILLE - COMMON PLEAS - CASE#2008CP2303665
ELECTRONICALLY FILED - 2020 Sep 26 2:52 PM - GREENVILLE - COMMON PLEAS - CASE#2008CP2303665

According to Field, CIF filed a motion seeking declaratory relief against Field (the “Motion”) on December 31, 2019, in the State Court Action, but CIF has not attempted to serve the Motion on Field in person. [*Id.*] CIF is the sole complainant in the Motion, and Field is the sole respondent. [*Id.* at 2.] Field contends that CIF filed the Motion in the State Court Action because Field, through counsel,¹ filed a motion to dismiss another action that involves the same parties and which is currently pending in the United States District Court for the Middle District of Florida, *Capital Investment Funding, LLC v. Arthur Field and Kathryn Taillon*, No. 3:19-cv-606-TJC (M.D. Fla. May 2, 2019) (the “Florida Action”). [*Id.*] In the Florida Action, CIF seeks a judgment “concerning Field’s homestead status and requests the sale of Field’s interest in such homestead property.” [*Id.*] Field contends that, by filing the Motion in the State Court Action, CIF is attempting to circumvent the dismissal of the Florida Action. [*Id.*]

Field submits that removal is proper and that this Court has original jurisdiction over this matter based on both diversity jurisdiction and federal question jurisdiction. [*Id.* at 3–5.] Field further alleges that CIF filed the Motion “in a previously dismissed case, using the old case caption.” [*Id.* at 3 (emphasis in original).] Field adds that he is a “non-party” in the State Court Action and the South Carolina courts do not have jurisdiction over him. [*Id.* at 3–4.]

¹While Field appears to be represented by counsel in the Florida Action, he is proceeding pro se in the present action before this Court.

APPLICABLE LAW

Liberal Construction of Pro Se Pleadings

Field is proceeding in this action pro se, which requires the Court to liberally construe his pleadings. *Estelle v. Gamble*, 429 U.S. 97, 106 (1976); *Haines v. Kerner*, 404 U.S. 519, 520 (1972); *Loe v. Armistead*, 582 F.2d 1291, 1295 (4th Cir. 1978); *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). Pro se pleadings are held to a less stringent standard than formal pleadings drafted by attorneys. *Haines*, 404 U.S. at 520; see also *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (*per curiam*). Even under this less stringent standard, however, the pro se Notice of Removal is still subject to *sua sponte* remand. *Id.* at 520–21. The mandated liberal construction means only that, if the Court can reasonably read the pleadings to state a valid claim on which a litigant could prevail, it should do so. *Barnett v. Hargett*, 174 F.3d 1128, 1133 (10th Cir. 1999). A court may not construct a litigant’s legal arguments for him. *Small v. Endicott*, 998 F.2d 411, 417–18 (7th Cir. 1993). Nor should a court “conjure up questions never squarely presented.” *Beaudett v. City of Hampton*, 775 F. 2d 1274, 1278 (4th Cir. 1985).

A defendant may remove to federal district court any civil action brought in a state court of which the district courts of the United States have original jurisdiction. 28 U.S.C. § 1441(a). In other words, a defendant in a state court case may remove a case to a federal district court only if the state court action could have been originally filed in a federal district court. *Id.* The defendant seeking removal has the burden of establishing federal court jurisdiction. *Wilson v. Republic Iron & Steel Co.*, 257 U.S. 92, 97 (1921).

The law is well settled that federal courts are courts of limited jurisdiction that possess only that power authorized by the Constitution or federal statute. *Willy v. Coastal*

Corp., 503 U.S. 131, 136-37 (1992). Because federal courts have limited jurisdiction and removal jurisdiction raises federalism concerns, there is no presumption that a federal district court has jurisdiction and the court must strictly construe the removal statute. *Id.*; see also *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 108–09 (1941). And because a federal court’s jurisdiction under the removal statutes essentially amounts to an infringement upon state sovereignty, see *id.* at 108-09, the strict construction of the removal statute requires that any doubts about federal jurisdiction be resolved against removal. *Cheshire v. Coca-Cola Bottling Affiliated, Inc.*, 758 F. Supp. 1098, 1102 (D.S.C. 1990); see also *Shamrock Oil*, 313 U.S. at 109 (explaining that, to insure that federal courts do not overstep constitutional bounds and delve into matters that are purely state law, federal precedent “scrupulously confine[s]” removal jurisdiction); *Mulcahey v. Columbia Organic Chem. Co.*, 29 F.3d 148, 151 (4th Cir. 1994) (holding that “remand is necessary” where any doubt exists for removal jurisdiction).

Remand of a case to state court following removal is governed by 28 U.S.C. § 1447(c) and (d). Remand is necessary if federal jurisdiction is absent, or even doubtful. *Mulcahey*, 29 F.3d at 151 (citing *In re Bus. Men’s Assur. Co. of Am.*, 992 F.2d 181, 183 (8th Cir. 1993); *Cheshire*, 758 F. Supp. at 1102; see also 28 U.S.C. § 1447(c) (“If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.”). Indeed, a district court may remand a case to state court *sua sponte* if federal subject matter jurisdiction is lacking. See *CitiMortgage, Inc. v. Corbitt*, No. 5:15-cv-00100-JMC, 2015 WL 545336, at *2 (D.S.C. Feb. 10, 2015); *Deutsche Bank Nat. Trust Co. v. Abraham*, No. 1:10-cv-1954-MBS, 2010 WL 3609373, at *2 (D.S.C. Aug.

18, 2010), *Report and Recommendation adopted by* 2010 WL 3609369 (D.S.C. Sept. 10, 2010).

DISCUSSION

Upon an examination of the Notice of Removal, along with the entire record before the Court, it is apparent that removal of this matter was improper because the State Court Action is closed. The removal statute requires that a case be pending; “a defendant cannot remove a case that has been closed.” *Benjamin v. Brice*, No. 0:07-cv-641-JFA-JRM, 2007 WL 1202762, at *3 (D.S.C. Apr. 20, 2007); see *Johnson v. Todd*, No. GJH-cv-17-2050, 2018 WL 4148753, at *4 (D. Md. Aug. 30, 2018) (explaining a case that is adjudicated in the state court cannot then be removed to a federal district court after the state case is already closed). Because Field purports to remove the State Court Action, which he concedes is closed, this case is remanded to the state court.

CONCLUSION AND ORDER

Based upon the foregoing, the Court concludes that removal was improper. Therefore, it is ordered that CIF’s motion [Doc. 8] to remand is GRANTED and this case is REMANDED to the state court.²

²“There is a split of authority as to whether a magistrate judge has the authority to remand a matter to state court.” *Burnett v. Johnson*, No. 3:19-cv-3278-MGL-SVH, 2019 WL 7763802, at *1 (D.S.C. Dec. 19, 2019), *Report and Recommendation adopted by* 2020 WL 473355 (D.S.C. Jan. 28, 2020); *Bank of Am., N.A. v. Guernsey*, No. 4:18-1594-cv-AMQ-TER, 2018 WL 4691592, at *3 n.2 (D.S.C. June 14, 2018) (“South Carolina federal district courts are split on whether a magistrate judge may order the remand of a case.”) (collecting cases), *Report and Recommendation adopted by* 2018 WL 4680132 (D.S.C. Sept. 28, 2018). “While many Courts have held that an order of remand is non-dispositive and can be issued by a United States Magistrate Judge in a non-consent case, it is not firmly established whether the undersigned can issue an order of remand, or whether a Report and Recommendation is required.” *Bank of Am., N.A. v. Lambright*, No. 2:19-cv-1723-RMG-BM, 2019 WL 6094524, at *4 n.2 (D.S.C. Aug. 8, 2019), *Report and*

IT IS SO ORDERED.

s/Jacquelyn D. Austin
United States Magistrate Judge

February 6, 2020
Greenville, South Carolina

Recommendation adopted by 2019 WL 4254096 (D.S.C. Sept. 9, 2019) (collecting cases). The Fourth Circuit “has not addressed whether a magistrate judge may issue an order of remand (as opposed to issuing a report and recommendation for the district court’s review).” *Jonas v. Unisun Ins. Co.*, 230 F.3d 1352 (4th Cir. 2000) (unpublished table decision). While magistrate judges in this District have issued orders on motions for remand in some circumstances, many magistrate judges elect to issue a report and recommendation instead of an order “out of an abundance of caution . . . so that the matter may be reviewed by the [d]istrict [j]udge before any remand of the case is certified.” *Krajeck v. Chestnut*, No. 2:18-cv-2882-DCN-BM, 2019 WL 943655, at *2 n.1 (D.S.C. Feb. 8, 2019), *Report and Recommendation adopted by* 2019 WL 935206 (D.S.C. Feb. 26, 2019). Nevertheless, especially given that removal here is clearly improper, the undersigned concludes that a simple Order to remand is proper without a report and recommendation in order to conserve judicial resources.

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

CAPITAL INVESTMENT
FUNDING, LLC, a South Carolina
limited liability company,

Plaintiff,

v.

Case No. 3:19-cv-606-TJC-JRK

ARTHUR FIELD and KATHRYN
TAILLON,

Defendants.

ORDER

This Case is before the Court on Plaintiff Capital Investment Funding's Motion for Continuance of Stay (Doc. 46), as well as the Parties' Status Reports (Docs. 44–46). Pro se defendants Arthur Field and Kathryn Taillon have filed a Motion for Injunctive Relief (Doc. 36) and Motions to Vacate Stay (Docs. 37, 39).

The Court has thoroughly reviewed filings from the parties. (Docs. 46, 47). The litigation in South Carolina is still ongoing, with defendant Field's Motion for Reconsideration currently pending before that court. (Doc. 46 at 4). Nothing has transpired in the South Carolina proceedings that alters the analysis in the Court's previous Order. (Doc. 24).

Accordingly, it is hereby

ORDERED:

1. Plaintiff's Motion to Continue Stay (Doc. 46) is **GRANTED**. The case remains stayed. No later than **April 29, 2021**, the parties will advise the Court of the status of the South Carolina proceedings.

2. Defendants' motions filed at Docs. 36, 37, 39, and 42 are **DENIED** without prejudice, subject to refile as appropriate when the case returns to the active docket.

3. The file remains administratively closed.

DONE AND ORDERED in Jacksonville, Florida the 26th day of February, 2021.



Timothy J. Corrigan
TIMOTHY J. CORRIGAN
United States District Judge

agb

Copies:

Counsel of record

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

CAPITAL INVESTMENT
FUNDING, LLC,

Plaintiff,

v.

Case No. 3:19-cv-606-J-32JRK

ARTHUR FIELD and KATHRYN
FIELD,

Defendants.

ORDER

At the December 3, 2019 status conference, an issue arose regarding where the parties should litigate issues involving their Global Settlement Agreement, which resolved earlier litigation in South Carolina state court. The parties have now filed briefs as to their positions (Docs. 22 and 23). Upon review, the Court has determined that this case should be stayed while plaintiff seeks consideration of these issues from the South Carolina state court. While it would be premature to determine how that court's views will affect this litigation, because the South Carolina judge retained "sole and exclusive jurisdiction regarding any dispute related to the enforcement, performance or non-performance of any future obligation contained [within the Global Settlement Agreement]," Doc. 23-1 at 13, this Court should permit that court to

assess whether any party's positions here violate that Agreement's terms. The Court can then determine with the parties how this matter should proceed. See In re Managed Care, 756 F.3d 1222, 1234 (11th Cir. 2014) (explaining that deference should be accorded to a court's reasonable interpretation of its own orders, including assessing parties' intentions in entering a settlement agreement and construing its terms, especially where the litigation was complicated) (citations omitted). Accordingly, it is hereby

ORDERED:

This case is stayed until further Order. The parties shall advise the Court of any rulings they receive from the South Carolina court, and in the event those proceedings remain ongoing, the parties shall advise the Court of their status no later than **April 15, 2020**. The Clerk shall administratively close the file during the pendency of the stay and shall terminate the pending motions (Docs. 15 & 18), which will be reactivated as appropriate when the case returns to the active docket.

DONE AND ORDERED in Jacksonville, Florida this 19th day of February, 2020.



TIMOTHY J. CORRIGAN
United States District Judge

s.

Copies:

Counsel of record

**U.S. District Court
District of South Carolina (Greenville)
CIVIL DOCKET FOR CASE #: 6:14-cv-02267-BHH**

Brooks et al v. Field et al
Assigned to: Honorable Bruce Howe Hendricks
Cause: 18:1964 Racketeering (RICO) Act

Date Filed: 06/11/2014
Date Terminated: 03/20/2017
Jury Demand: None
Nature of Suit: 470 Racketeer/Corrupt
Organization
Jurisdiction: Federal Question

Plaintiff

Harold Brooks
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Record p. 105

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V.

Defendant

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PRO SE

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TERMINATED: 06/02/2016

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Arthur M Field

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ThirdParty Plaintiff

Arthur M Field

V.

ThirdParty Defendant

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Counter Claimant

Capital Investment Funding LLC
TERMINATED: 08/15/2016

represented by **George Brandt , III**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Counter Defendant

Arthur M Field

Date Filed	#	Docket Text
06/11/2014	1	COMPLAINT against Arthur M Field, Frederick Scott Pfeiffer (Filing fee \$ 400 receipt number 0420-5382983.), filed by Sharon Finch, Benjamin Brooks, Harold Brooks, William F Tomz, Clara Louise Brooks. Service due by 10/14/2014 (Attachments: # 1 Exhibit A-Indictment Field & Pfeiffer 6/13/12, # 2 Exhibit B-Indictment Field & Pfeiffer 6/19/13, # 3 Exhibit C-Indicment Pfeiffer 6/19/13, # 4 Exhibit D-Field Plea Agreement 5/6/13, # 5 Exhibit E-Pfeiffer Plea Agreement 9/18/13, # 6 Exhibit F-Hearing Transcript 10/8/13, # 7 Exhibit G-Incident Report 4/14/14, # 8 Exhibit H-Global Mediated Settlement Agreement 8/24/09)(alew,) (Entered: 06/11/2014)
06/11/2014	3	Local Rule 26.01 Answers to Interrogatories by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz.(alew,) (Entered: 06/11/2014)
06/11/2014	4	Summons Issued as to Arthur M Field, Frederick Scott Pfeiffer. (Attachments: # 1 Summons Pfeiffer)(alew,) (Entered: 06/11/2014)
06/27/2014	5	Case Reassigned to Judge Honorable Bruce Howe Hendricks. Judge Honorable Mary G Lewis no longer assigned to the case. (suro,) (Entered: 06/27/2014)
06/30/2014	6	SUMMONS Returned Executed by Sharon Finch, Benjamin Brooks, Harold Brooks, William F Tomz, Clara Louise Brooks. Arthur M Field served on 6/21/2014, answer due 7/14/2014. (Attachments: # 1 Affidavit of Service of Arthur Field)(Pillsbury, Rodney) (Entered: 06/30/2014)
07/01/2014	7	Local Rule 26.01 Answers to Interrogatories by Arthur M Field.(mbro,) (Entered: 07/01/2014)
07/01/2014	8	Request for Referral to Magistrate Austin by Arthur M Field. Modified on 7/1/2014 to edit text (mbro,). (Entered: 07/01/2014)
07/01/2014	9	Case Reassigned to Judge Magistrate Judge Jacquelyn D Austin. (cwil,) (Entered: 07/01/2014)
07/02/2014	11	NOTICE OF CHANGE OF CASE NUMBER. New case number is 6-14-2267-BHH-JDA. Please make a note of it for future filings as well as Judge Austin's filing preferences. (kmca) (Entered: 07/02/2014)
07/09/2014	16	ORDER directing pro se Defendant Arthur M Field to notify Clerk in writing of any change of address. Signed by Magistrate Judge Jacquelyn D Austin on 7/9/14. (kmca) (Entered: 07/09/2014)
07/09/2014	17	***DOCUMENT MAILED 16 Order and copy policy, placed in U.S. Mail to Arthur M Field (kmca) (Entered: 07/09/2014)
07/11/2014	18	MOTION for Extension of Time by Arthur M Field. Response to Motion due by 7/28/2014. No proposed order.Motions referred to Jacquelyn D Austin.(kmca) (Entered: 07/11/2014)
07/14/2014	19	TEXT ORDER granting 18 Motion for extension of time. Defendant Field's responsive pleading is due by August 1, 2014. Signed by Magistrate Judge Jacquelyn D Austin on 7/14/14.(kmca) (Entered: 07/14/2014)
07/14/2014	20	***DOCUMENT MAILED 19 Order on Motion for Extension of Time, placed in U.S. Mail to Arthur M Field (kmca) (Entered: 07/14/2014)
07/25/2014	21	SUMMONS Returned Executed by Sharon Finch, Benjamin Brooks, Harold Brooks,

		William F Tomz, Clara Louise Brooks. Frederick Scott Pfeiffer served on 7/10/2014, answer due 7/31/2014. (Attachments: # 1 Affidavit of Service of Scott Pfeiffer)(Pillsbury, Rodney) (Entered: 07/25/2014)
07/25/2014	22	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz re 21 Summons Returned Executed: <i>Service of Fredrick Scott Pfeiffer</i> , served on pro se defendant Arthur Field (Pillsbury, Rodney) Modified on 7/28/2014: to add text (kmca). (Entered: 07/25/2014)
07/30/2014	23	MOTION for Leave to File Excess Pages by Arthur M Field. Response to Motion due by 8/18/2014. No proposed order.Motions referred to Jacquelyn D Austin.(kmca) (Entered: 07/31/2014)
07/30/2014	24	MOTION to Dismiss <i>in Two Parts</i> by Arthur M Field. Response to Motion due by 8/18/2014. (Attachments: # 1 Memo in Support part 1, # 2 Memo in Support part 2, # 3 Exhibit A Decision of JSC Friscia 4-11-14, case BER-L-3790-12, # 4 Exhibit B Sample CIF Senior Note Series 2006 1-9-07, # 5 Exhibit C Sample CIF application for floating rate note purchase 3-13-01 and 3-23-01, # 6 Exhibit D Sample CIF application for senior note purchase 11-21-06, # 7 Exhibit E Sample CIF dispute resolution and arbitration agreement 11-21-06, # 8 Exhibit F Sample CIF application for floating rate note purchase 7-7-04, # 9 Exhibit G Request for redemption 3-8-04, # 10 Exhibit H Request for redemption 7-24-03, # 11 Exhibit I Redemption request 11-8-03, # 12 Exhibit J CIF senior note 12-31-06, # 13 Exhibit K Memos to file 7-11-07 and 1-2-08, # 14 Exhibit L Mid-year report to note holders 7-14-07, # 15 Exhibit M Third quarter report to note holders 10-10-07, # 16 Exhibit N Field email 5-2-07, # 17 Exhibit O Letter from Hisanoa Marushima 4-5-08, # 18 Exhibit P Excerpts from CIF prospectus 3-17-03, # 19 Exhibit Q Excerpts from CIF prospectus 2005, # 20 Exhibit R Excerpts from 2004 CIF prospectus 3-19-04, # 21 Exhibit S Excerpts from official transcript 12-14-11 special meeting, <i>NOTE: best scan possible based on copies received</i> , # 22 Exhibit T Excerpts from official transcript 6-17-08)No proposed order.Motions referred to Jacquelyn D Austin.(kmca) (Attachments 14 and 21 replaced on 7/31/2014: to correct scan) (kmca). Modified on 8/18/2014: see 30 Contingent motion to strike and supplement (kmca). (Entered: 07/31/2014)
07/30/2014	25	MOTION for Extension of Time by Arthur M Field. Response to Motion due by 8/18/2014. No proposed order.Motions referred to Jacquelyn D Austin.(kmca) (Entered: 07/31/2014)
08/01/2014	26	ANSWER to 1 Complaint,, by Frederick Scott Pfeiffer. (Attachments: # 1 Exhibit Settlement Agreement, # 2 Certificate of Service)(Gleaton, Ralph) Modified on 8/4/2014: see 29 certificate of service (kmca). (Entered: 08/01/2014)
08/01/2014	27	Local Rule 26.01 Answers to Interrogatories by Frederick Scott Pfeiffer.(Gleaton, Ralph) Modified on 8/4/2014: see 29 certificate of service (kmca). (Entered: 08/01/2014)
08/04/2014	29	CERTIFICATE OF SERVICE by Frederick Scott Pfeiffer re 26 Answer to Complaint, 27 Local Rule 26.01 Answers to Interrogatories (Gleaton, Ralph) (Entered: 08/04/2014)
08/18/2014	30	<i>CONTINGENT</i> MOTION to Strike 1 Complaint-PRAYER FOR RELIEF, and <i>supplement to 24 motion to dismiss</i> by Arthur M Field. Response to Motion due by 9/5/2014. No proposed order.Motions referred to Jacquelyn D Austin.(kmca) (Entered: 08/18/2014)
08/18/2014	31	MOTION to Stay Discovery, MOTION for Protective Order, MOTION for Injunctive Relief or Other Relief Pursuant to 28 U.S.C. 1651(a) and 15 U.S.C. 78(u)-4(b)(3)(D) by Arthur Field. (Response to Motion due by 9/5/2014) (Attachments: # 1 Exhibit 1 - Document Purporting to be Subpoena Duces Tecum)No proposed order.Associated

		Cases: 6:12-cv-03401-BHH, 6:14-cv-02267-BHH-JDA. Motions referred to Jacquelyn D Austin. Modified on 8/18/2014 to edit text (mbro,). (Entered: 08/18/2014)
08/18/2014	32	First MOTION for Extension of Time to File Response/Reply to <i>Defendant Arthur Field's Motion to Dismiss</i> by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz. Response to Motion due by 9/5/2014. No proposed order.Motions referred to Jacquelyn D Austin.(Read, John) Modified on 8/21/2014: see 33 certificate of service (kmca). (Entered: 08/18/2014)
08/20/2014	33	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz re 32 First MOTION for Extension of Time to File Response/Reply to <i>Defendant Arthur Field's Motion to Dismiss</i> (Pillsbury, Rodney) (Entered: 08/20/2014)
08/21/2014	34	RESPONSE in Opposition re 32 First MOTION for Extension of Time to File Response/Reply to <i>Defendant Arthur Field's Motion to Dismiss</i> . Response filed by Arthur M Field.Reply to Response to Motion due by 9/2/2014. (Attachments: # 1 Exhibit front of envelope)(kmca) (Entered: 08/21/2014)
08/25/2014	36	TEXT ORDER granting Defendant Field's 23 Motion for leave to file excess pages in his two-part motion to dismiss. Signed by Magistrate Judge Jacquelyn D Austin on 8/25/14.(kmca) (Entered: 08/25/2014)
08/25/2014	37	TEXT ORDER denying Defendant Field's 25 Motion for extension of time. Pursuant to Rule 12(b)(6), Fed.R.Civ.P., a motion to dismiss for failure to state a claim upon which relief may be granted must be filed contemporaneously with or before the answer or other responsive pleading. Thus, the proper filing of a 12(b)(6) motion effectively stays the defendant's time within which to file an answer. If the motion to dismiss is denied, the defendant has ten days after notice that the court has denied the motion to file an answer. Therefore, any deadlines associated with filing motions or pleadings pursuant to Rules 13, 14, 19, 20 and /or 23 will commence when and if an answer is required to be filed in this matter. Signed by Magistrate Judge Jacquelyn D Austin on 8/25/14.(kmca) (Entered: 08/25/2014)
08/25/2014	38	TEXT ORDER denying 30 Contingent Motion to strike the prayer for relief in Plaintiff's Complaint and supplement to 24 motion to dismiss. Federal Rule of Civil Procedure 12(f) allows a court, acting either on its own or on motion made by a party, to "strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Thus, whether to grant a motion to strike under Rule 12(f) is within the sound discretion of the court, see <i>GTSI Corp. v. Wildflower Int'l, Inc.</i>, No. 1:09CV123, 2009 WL 2160451, at *4 (E.D.Va. July 17, 2009). Upon consideration, the Court finds the prayer for relief is neither a defense, redundant, immaterial, impertinent, nor is it scandalous matter. Accordingly, the motion is denied. Signed by Magistrate Judge Jacquelyn D Austin on 8/25/14.(kmca) (Entered: 08/25/2014)
08/25/2014	39	TEXT ORDER denying Defendant Field's 31 Motion to stay discovery and/or for protective order in a state court matter, <i>Tomz v. CIF and Field</i>, Case 2008-CP-23-3665, pending in Greenville County. This Court does not have the authority to make a ruling in a case that is not presently pending before it and over which it has no jurisdiction. Signed by Magistrate Judge Jacquelyn D Austin on 8/25/14.(kmca) (Entered: 08/25/2014)
08/25/2014	40	TEXT ORDER granting Plaintiff's 32 First Motion for extension of time in which to respond to Defendant Field's 24 Motion to dismiss. Plaintiff's response is due on or before September 8, 2014. (Response to 24 Motion due by 9/8/2014.) Signed by Magistrate Judge Jacquelyn D Austin on 8/25/14.(kmca) (Entered: 08/25/2014)

08/25/2014	41	***DOCUMENT MAILED 36 Order on Motion for Leave to File Excess Pages, 37 Order on Motion for Extension of Time, 38 Order on Motion to Strike, 39 Order on Motion to Stay/for Protective Order, 40 Order on Motion for Extension of Time to File Response/Reply, placed in U.S. Mail to Arthur M Field (kmca) (Entered: 08/25/2014)
09/02/2014	42	RESPONSE in Opposition re 24 MOTION to Dismiss. Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz.Reply to Response to Motion due by 9/12/2014. (Attachments: # 1 Exhibit A - Transcript - State v. Field, <i>relevant pages</i> , # 2 Exhibit B - Transcript - Field & Pfeiffer, <i>relevant pages</i>) (Pillsbury, Rodney) (Main Document 42 replaced on 9/3/2014: to replace with signed document). (Attachment 1 and 2 replaced on 9/3/2014: to only include relevant pages). (Additional attachment added on 9/3/2014: # 3 Certificate of Service to Pro Se Defendant Field). Modified on 9/3/2014: all edits provided by filing user (kmca). (Main Document 42 replaced on 9/4/2014: to correct footnote). (Additional attachment(s) added on 9/4/2014: # 4 Exhibit C - Field's Motion to Dismiss in NJ, # 5 Certificate of Service Exhibit C). Modified on 9/4/2014: all edits provided by filing user (kmca). (Entered: 09/02/2014)
09/05/2014	44	REPLY to 42 Response to 24 MOTION to Dismiss. Reply filed by Arthur M Field. (Attachments: # 1 Exhibit 1 Letter to CIF from Sharon Finch 4-15-04, # 2 Exhibit 2 Letter to CIF from George G Grant 4-8-04)(kmca) Modified on 9/8/2014: see 46 substitute reply (kmca). (Entered: 09/05/2014)
09/08/2014	45	MOTION for Leave to File Excess Pages <i>titled: motion for page enlargement</i> , by Arthur M Field. Response to Motion due by 9/25/2014. No proposed order.Motions referred to Jacquelyn D Austin.(kmca) (Entered: 09/08/2014)
09/08/2014	46	SUBSTITUTE REPLY to 42 Response to 24 MOTION to Dismiss. Reply filed by Arthur M Field. (Attachments: # 1 Exhibit Congressional Record)(kmca) (Entered: 09/08/2014)
02/11/2015	48	TEXT ORDER granting 45 Motion for leave to file excess pages. In his motion, Defendant Arthur Field seeks to file a substitute reply in support of his motion to dismiss. The Court will consider Defendant Field's 46 Substitute Reply when making a recommendation on his 24 Motion to dismiss. Signed by Magistrate Judge Jacquelyn D Austin on 2/11/15.(kmca) (Entered: 02/11/2015)
02/11/2015	49	***DOCUMENT MAILED 48 Order on Motion for Leave to File Excess Pages, placed in U.S. Mail to Arthur M Field (kmca) (Entered: 02/11/2015)
02/20/2015	50	REPORT AND RECOMMENDATION that 24 Motion to Dismiss filed by Arthur M. Field be DENIED. Objections to R&R due by 3/9/2015. Signed by Magistrate Judge Jacquelyn D. Austin on 2/20/2015. (amar) (Additional attachment(s) added on 2/23/2015: # 1 Notice of Right to File Objections) (kmca,). (Entered: 02/20/2015)
02/23/2015	51	***DOCUMENT MAILED 50 REPORT AND RECOMMENDATION, placed in U.S. Mail to Arthur M Field (kmca) (Entered: 02/23/2015)
02/27/2015	52	OBJECTION to 50 Report and Recommendation by Arthur M Field.Reply to Objections due by 3/16/2015. (kmca) (Entered: 03/02/2015)
02/27/2015	53	MOTION to Stay Discovery, MOTION for Protective Order, MOTION to Quash Discovery Demands by Arthur M Field. (Response to Motion due by 3/16/2015.) (Attachments: # 1 Exhibit A Plaintiff's first set of interrogatories)No proposed order.Motions referred to Jacquelyn D Austin.(kmca) (Entered: 03/02/2015)
03/02/2015	55	REPLY by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz to 52 Objection to Report and Recommendation . (Attachments: # 1 Certificate of Service)(Pillsbury, Rodney) (Entered: 03/02/2015)

03/11/2015	56	LIS PENDENS by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz. (Attachments: # 1 Exhibit Lis Pendens for St. Johns County Florida, # 2 Certificate of Service)(Pillsbury, Rodney) (Entered: 03/11/2015)
03/18/2015	57	ORDER RULING ON REPORT AND RECOMMENDATION adopts 50 Report and Recommendation, 24 Motion to Dismiss denied. Signed by Honorable Bruce Howe Hendricks on 3/18/2015. Modified on 3/18/2015 to remove attachment (gpre,). (Entered: 03/18/2015)
03/18/2015	58	***DOCUMENT MAILED 57 Order Ruling on Report and Recommendation, placed in U.S. Mail to Arthur M. Field. (gpre,) (Entered: 03/18/2015)
03/19/2015	60	TEXT ORDER denying 53 Motion to Stay; denying 53 Motion for Protective Order; denying 53 Motion to Quash. The Clerk is directed to enter a Scheduling Order in this matter. Signed by Magistrate Judge Jacquelyn D Austin on 3/19/15.(kmca) (Entered: 03/19/2015)
03/19/2015	61	***DOCUMENT MAILED 60 Order on Motion to Stay, Order on Motion for Protective Order, Order on Motion to Quash, placed in U.S. Mail to Arthur M. Field (kmca) (Entered: 03/19/2015)
03/23/2015	62	CONFERENCE AND SCHEDULING ORDER Rule 26(f) Conference Deadline 4/13/2015, 26(a) Initial Disclosures due by 4/27/2015, Rule 26 Report due by 4/27/2015, Motions to Amend Pleadings due by 5/18/2015, Plaintiffs ID of Expert Witness due by 6/17/2015, Defendants ID of Expert Witnesses Due by 7/17/2015, Records Custodian Affidavit due by 7/17/2015, Discovery due by 9/15/2015, Motions due by 10/15/2015, Bench Trial Deadline 1/13/2016, Mediation Due by 9/15/2015, Signed by Honorable Bruce Howe Hendricks on 3/23/2015. (gpre,) (Main Document 62 replaced by clerk on 3/23/2015) (gpre,). Modified on 3/23/2015 (gpre,). (Entered: 03/23/2015)
03/23/2015	63	MEDIATION ORDER Mediation Due by 9/15/2015, Signed by Honorable Bruce Howe Hendricks on 3/23/2015. (gpre,) (Entered: 03/23/2015)
03/23/2015	64	***DOCUMENT MAILED 63 Mediation Order, 62 Scheduling Order, LR 26.03 form, placed in U.S. Mail to Arthur M. Field (gpre,) (Entered: 03/23/2015)
03/24/2015	65	MOTION for Extension of Time to file any answers, counterclaims or other pleadings by Arthur M Field. Response to Motion due by 4/10/2015. (Attachments: # 1 Certificate of Service)No proposed order.Motions referred to Jacquelyn D Austin.(kric,) (Entered: 03/25/2015)
03/26/2015	66	TEXT ORDER directing Plaintiffs to respond to 65 motion for extension of time by March 31, 2015. Signed by Magistrate Judge Jacquelyn D Austin on 3/26/2015. (gpre,) (Entered: 03/26/2015)
03/26/2015	67	***DOCUMENT MAILED 66 Order placed in U.S. Mail to Arthur M. Field. (gpre,) (Entered: 03/26/2015)
03/31/2015	68	RESPONSE in Opposition re 65 MOTION for Extension of Time Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz.Reply to Response to Motion due by 4/10/2015 (Attachments: # 1 Exhibit 1 - Field v. Kearns, # 2 Exhibit 2 - Field v. Kriton, # 3 Exhibit 3 -Field v. McMaster, # 4 Exhibit 4 - Field 3rd Party Complaint)(Pillsbury, Rodney) (Entered: 04/01/2015)
04/01/2015	69	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz re 68 Response in Opposition to Motion, (Pillsbury, Rodney) (Entered: 04/01/2015)

04/02/2015	70	TEXT ORDER granting in part, denying in part 65 motion for extension of time. The Court declines to grant a 60-day extension of time; however, the Court will grant Defendant Field an extension until April 21, 2015. Accordingly, Defendant Field's responsive pleadings are due by April 21, 2015. Signed by Magistrate Judge Jacquelyn D Austin on 4/2/2015.(gpre,) (Entered: 04/02/2015)
04/02/2015	72	***DOCUMENT MAILED 70 Order on Motion for Extension of Time, placed in U.S. Mail to Arthur M. Field. (gpre,) (Entered: 04/02/2015)
04/08/2015	73	MOTION to Amend Scheduling Order (<i>Titled as RULE 26(F) Report and Request for Modification of Scheduling Order</i>) by Arthur M Field. Response to Motion due by 4/27/2015. No proposed order. Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 04/08/2015)
04/08/2015	74	Deficiency Memo re 73 Motion to Amend. See attached Deficiency Memo. Any response due is based on the filing date of the original document. Docket Correction due 4/18/2015. (gpre,) (Entered: 04/08/2015)
04/08/2015	75	***DOCUMENT MAILED 74 Deficiency Memo, 62 Scheduling Order, Form 26(f) Report, AO85, placed in U.S. Mail to Arthur M. Field. (gpre,) (Entered: 04/08/2015)
04/10/2015	76	TEXT ORDER directing Plaintiffs and Defendant Scott Pfeiffer to respond to 73 motion to amend scheduling order by April 17, 2015. Defendant Arthur Field seeks to be excused from any scheduling conference or, in the alternative, for the conference to be conducted in the presence of the Court. Plaintiffs and Defendant Scott Pfeiffer shall respond to this request by April 17, 2015. Signed by Magistrate Judge Jacquelyn D Austin on 4/10/2015. (gpre,) (Entered: 04/10/2015)
04/10/2015	77	***DOCUMENT MAILED 76 Order, placed in U.S. Mail to Arthur M. Field. (gpre,) (Entered: 04/10/2015)
04/10/2015	79	MOTION for Extension of Time to file answer and other related pleadings by Arthur M Field. Response to Motion due by 4/27/2015. (Attachments: # 1 Exhibit A - Proposed Consent)No proposed order.Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 04/13/2015)
04/13/2015	78	NOTICE of Appearance by Stanley Turner Case on behalf of Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz (Case, Stanley) (Entered: 04/13/2015)
04/13/2015	80	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz re 78 Notice of Appearance of <i>Stanley Turner Case</i> (Case, Stanley) (Entered: 04/13/2015)
04/13/2015	84	NOTICE of Request for Protection from Court Appearance by Arthur M Field for April 10 to April 21, 2015, June 25 to June 29, 2015; July 8 to July 15, 2015; August 4 to August 12, 2015; September 16 to September 21, 2015; October 8 to October 21, 2015. (Attachments: # 1 Envelope)(gpre,) (Entered: 04/14/2015)
04/13/2015	85	CONSENT to Jurisdiction by US Magistrate Judge by Arthur M Field. (Attachments: # 1 Envelope)(gpre,) (Entered: 04/14/2015)
04/14/2015	81	TEXT ORDER granting Defendant Field's 79 Motion for Extension of time to file answer or otherwise plead. Field's answer or other responsive pleading is due on or before April 30, 2015. No further extensions of time will be granted. Signed by Magistrate Judge Jacquelyn D Austin on 4/14/2015.(gpre,) (Entered: 04/14/2015)
04/14/2015	82	***DOCUMENT MAILED 81 Order on Motion for Extension of Time, placed in U.S. Mail to Arthur M. Field (gpre,) (Entered: 04/14/2015)

04/14/2015	83	RESPONSE to Motion re 73 MOTION to Amend/Correct Response filed by Frederick Scott Pfeiffer.Reply to Response to Motion due by 4/24/2015 (Gleaton, Ralph) (Entered: 04/14/2015)
04/17/2015	86	RESPONSE in Opposition re 73 MOTION to Amend/Correct Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz.Reply to Response to Motion due by 4/27/2015 (Attachments: # 1 Exhibit 1 - Do Not Email Me, # 2 Certificate of Service)(Pillsbury, Rodney) (Entered: 04/17/2015)
04/20/2015	88	TEXT ORDER denying 73 Rule 26(F) Report and Request for Modification of Scheduling Order. Defendant Field seeks to be excused from the Scheduling Conference in this matter and seeks to have the Scheduling Order reflect his extension of time to answer or otherwise plead in this matter. As an initial matter, Fields has failed to set forth any proof of "unjust treatment" by Plaintiff's counsel which would justify excusing him from the Scheduling Conference. Litigation is, by its nature, contentious. Second, the Scheduling Order is not designed to address initial pleading dates, thus the Court declines to include such date in the present Scheduling Order. Signed by Magistrate Judge Jacquelyn D Austin on 4/20/2015. (gpre,) (Entered: 04/20/2015)
04/20/2015	89	***DOCUMENT MAILED 88 Order on Motion to Amend/Correct,,, placed in U.S. Mail to Arthur M. Field (gpre,) (Entered: 04/20/2015)
04/27/2015	91	Local Rule 26.03 Answers to Interrogatories by Arthur M Field. (Attachments: # 1 Exhibit A-Excerpts from 2006 Prospects Concerning Arbitration)(gpre,) (Entered: 04/27/2015)
04/27/2015	92	Rule 26(f) Report by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz.(Pillsbury, Rodney) (Entered: 04/27/2015)
04/27/2015	93	Local Rule 26.03 Answers to Interrogatories by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz.(Pillsbury, Rodney) (Entered: 04/27/2015)
04/28/2015	94	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz re 92 Rule 26(f) Report, 93 Local Rule 26.03 Answers to Interrogatories (Pillsbury, Rodney) (Entered: 04/28/2015)
04/30/2015	95	REPORT to court regarding extension of time by Arthur M Field. (gpre,) (Entered: 05/01/2015)
04/30/2015	96	MOTION to Strike from jury rolls and other relief by Arthur M Field. Response to Motion due by 5/18/2015. No proposed order.Motions referred to Jacquelyn D Austin. (gpre,) (Entered: 05/01/2015)
04/30/2015	97	MOTION to Compel Arbitration by Arthur M Field. Response to Motion due by 5/18/2015. No proposed order.Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 05/01/2015)
04/30/2015	98	ANSWER to 1 Complaint (pages 1-45) by Arthur M Field. (Attachments: # 1 Pages 46-83)(gpre,) Modified on 5/1/2015; SEE ADDITIONAL ATTACHMENTS - EXHIBITS TO ANSWER document 99 (gpre,). (Entered: 05/01/2015)
04/30/2015	99	Additional Attachments to Main Document 98 Answer to Complaint. First attachment description: SUPPORTING DOCUMENTS - exhibits 1-42 to Answer. (Attachments: # 1 Supporting Documents, # 2 Supporting Documents, # 3 Supporting Documents, # 4 Supporting Documents, # 5 Supporting Documents, # 6 Supporting Documents, # 7

		Supporting Documents, # 8 Supporting Documents, # 9 Supporting Documents, # 10 Supporting Documents, # 11 Supporting Documents)(gpre) (Entered: 05/01/2015)
04/30/2015	100	COUNTERCLAIM against Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz, filed by Arthur M Field.(gpre), SUPPLEMENT 101 FILED 5/1/2015 (gpre,). (Entered: 05/01/2015)
05/01/2015	101	SUPPLEMENT (Substitute Counterclaim) by Arthur M Field to 100 Counterclaim. (gpre,) (Entered: 05/01/2015)
05/06/2015	102	MOTION for Extension of Time to File Response/Reply as to 97 MOTION to Compel <i>Arbitration</i> by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz. Response to Motion due by 5/26/2015. (Attachments: # 1 Certification of Consultation Pursuant to Local Rule 7.02, # 2 Certificate of Service)No proposed order.Motions referred to Jacquelyn D Austin.(Pillsbury, Rodney) (Entered: 05/06/2015)
05/07/2015	103	TEXT ORDER granting 102 motion for extension of time. Plaintiff's response to 97 motion to compel arbitration is due by June 8, 2015. Signed by Honorable Jacquelyn D. Austin on 5/7/2015.(kric,) Modified on 5/8/2015 to edit docket text (gpre,). (Entered: 05/07/2015)
05/07/2015	104	***DOCUMENT MAILED 103 Order on Motion for Extension of Time to File Response/Reply placed in U.S. Mail to Arthur M. Field (kric,) (Entered: 05/07/2015)
05/08/2015	105	MOTION to Quash or for Protective Order by Arthur M Field. Response to Motion due by 5/26/2015. (Attachments: # 1 Supporting Documents)No proposed order.Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 05/11/2015)
05/14/2015	106	THIRD PARTY COMPLAINT against Capital Investment Funding LLC, filed by Arthur M Field. (Attachments: # 1 Supporting Documents)(gpre,) (Entered: 05/14/2015)
05/14/2015	107	MOTION for Summons and Joinder by Arthur M Field. Response to Motion due by 6/1/2015. (Attachments: # 1 Exhibit Kelaher, Connell & Connor Letter)No proposed order.Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 05/14/2015)
05/18/2015	108	MOTION to Amend/Correct 1 Complaint,, by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz. Response to Motion due by 6/4/2015. (Attachments: # 1 Memo in Support, # 2 Draft Amended Complaint, # 3 Certificate of Service)No proposed order.Motions referred to Jacquelyn D Austin.(Pillsbury, Rodney) (Entered: 05/18/2015)
05/20/2015	109	MOTION to Dismiss <i>Counterclaims alleged by Defendant Field</i> by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz. Response to Motion due by 6/8/2015. (Attachments: # 1 Exhibit 1 - Transcript from Plea Hearing, # 2 Exhibit 2 - Field's Amended Complaint - Connecticut, # 3 Certificate of Service)No proposed order.Motions referred to Jacquelyn D Austin.(Pillsbury, Rodney) (Entered: 05/20/2015)
05/22/2015	110	MOTION to Abstain by Arthur M Field. Response to Motion due by 6/8/2015. (Attachments: # 1 Letter from Office of Attorney Ethics)No proposed order.Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 05/22/2015)
05/23/2015	111	RESPONSE in Opposition re 110 MOTION to Abstain Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz.Reply to Response to Motion due by 6/4/2015 (Attachments: # 1 Certificate of Service)(Pillsbury, Rodney) (Entered: 05/23/2015)
05/26/2015	112	RESPONSE in Opposition regarding 108 MOTION to Amend 1 Complaint, Response filed by Arthur M Field.Reply to Response to Motion due by 6/5/2015. (ncha,) (Entered: 05/26/2015)

		05/26/2015)
05/26/2015	113	MOTION to Compel <i>Discovery from Defendant Arthur Field</i> by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz. Response to Motion due by 6/12/2015. (Attachments: # 1 Exhibit 1 - Discovery Requests to Arthur Field, # 2 Exhibit 2 - Arthur Field's Response to Discovery Requests, # 3 Exhibit 3 - Letter to Arthur Field - Discovery Responses, # 4 Certificate of Service)No proposed order.Motions referred to Jacquelyn D Austin.(Pillsbury, Rodney). Modified on 6/15/2015 to replace incorrect Attachment 3 with correct document as provided by filing user (gpre,). (Entered: 05/26/2015)
05/26/2015	114	RESPONSE in Opposition re 105 MOTION to Quash Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz.Reply to Response to Motion due by 6/5/2015 (Pillsbury, Rodney) (Entered: 05/26/2015)
05/27/2015	116	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz re 114 Response in Opposition to Motion (Pillsbury, Rodney) (Entered: 05/27/2015)
05/29/2015	117	REPLY to Response to Motion re 110 MOTION to Abstain; Response filed by Arthur M Field. (ncha,) Supplement 121 filed 6/1/2015. (gpre,). (Entered: 06/01/2015)
05/29/2015	118	RESPONSE in Opposition re 109 MOTION to Dismiss <i>Counterclaims alleged by Defendant Field</i> ; Response filed by Arthur M Field.Reply to Response to Motion due by 6/8/2015. (ncha,) (Entered: 06/01/2015)
05/29/2015	119	MOTION to Strike References to Lila Kirton, and any documents not referred to in the pleadings, within 109 MOTION to Dismiss <i>Counterclaims alleged by Defendant Field</i> by Arthur M Field. Response to Motion due by 6/15/2015. Motion referred to Jacquelyn D Austin.(ncha,) (Entered: 06/01/2015)
06/01/2015	121	SUPPLEMENT by Arthur M Field to 117 Reply to Response to Motion. (gpre,) (Entered: 06/02/2015)
06/01/2015	122	RESPONSE in Opposition re 113 MOTION to Compel <i>Discovery from Defendant Arthur Field</i> . Response filed by Arthur M Field. Reply to Response to Motion due by 6/11/2015 (Attachments: # 1 Supporting Documents)(gpre,) (Entered: 06/02/2015)
06/01/2015	123	MOTION for Protective Order by Arthur M Field. Response to Motion due by 6/18/2015. (Attachments: # 1 Supporting Documents)No proposed order.Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 06/02/2015)
06/05/2015	124	SUR REPLY to REPLY to Response to Motion re 110 MOTION to Abstain Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz. (Attachments: # 1 Exhibit 1 - Presentment April 2, 2014, # 2 Exhibit 2 - Agreement, # 3 Certificate of Service)(Pillsbury, Rodney) (Entered: 06/05/2015)
06/08/2015	125	RESPONSE in Opposition re 97 MOTION to Compel <i>Arbitration</i> Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz.Reply to Response to Motion due by 6/18/2015 (Read, John) (Entered: 06/08/2015)
06/09/2015	127	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz re 125 Response in Opposition to Motion (Read, John) (Entered: 06/09/2015)
06/12/2015	130	REPLY to Response to Motion re 97 MOTION to Compel. Response filed by Arthur M Field. (Attachments: # 1 Supporting Documents) (gpre,) (Entered: 06/12/2015)
06/12/2015	131	RESPONSE in Opposition re 97 MOTION to Compel <i>Supplemental Response in</i>

		<i>Opposition to Motion to Compel Arbitration</i> Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz.Reply to Response to Motion due by 6/22/2015 (Attachments: # 1 Exhibit 1 - 1999 Prospectus, # 2 Exhibit 2 - 2003 Prospectus, # 3 Exhibit 3 - 2004 Prospectus, # 4 Exhibit 4 - 2005 Prospectus, # 5 Exhibit 5 - 2006 Prospectus, # 6 Exhibit 6 - Affidavit of Jerry Saad, # 7 Exhibit 7 - Arthur Field Discovery Requests, # 8 Certificate of Service)(Pillsbury, Rodney) (Entered: 06/12/2015)
06/15/2015	132	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz re 113 MOTION to Compel <i>Discovery from Defendant Arthur Field</i> (Pillsbury, Rodney) (Entered: 06/15/2015)
06/15/2015	133	REPLY to Response to Motion re 113 MOTION to Compel <i>Discovery from Defendant Arthur Field</i> Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz. (Attachments: # 1 Exhibit 1 - Blue Cross Blue Shield order, # 2 Certificate of Service)(Pillsbury, Rodney). Modified on 6/16/2015 to replace incorrect attachment #1 with correct document as provided by filing user (gpre,). (Entered: 06/15/2015)
06/15/2015	134	RESPONSE in Opposition re 119 MOTION to Strike 109 MOTION to Dismiss <i>Counterclaims alleged by Defendant Field</i> Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz.Reply to Response to Motion due by 6/25/2015 (Attachments: # 1 Exhibit 1 - Hearing Transcript)(Pillsbury, Rodney) (Entered: 06/15/2015)
06/15/2015	138	REPLY to Supplemental Response to Motion re 97 MOTION to Compel Arbitration. Response filed by Arthur M Field. (Attachments: # 1 Supporting Documents)(gpre,) (Entered: 06/16/2015)
06/16/2015	136	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz re 134 Response in Opposition to Motion, (Pillsbury, Rodney) (Entered: 06/16/2015)
06/16/2015	137	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, William F Tomz re 133 Reply to Response to Motion, (Pillsbury, Rodney) (Entered: 06/16/2015)
06/18/2015	139	RESPONSE in Opposition re 113 MOTION to Compel <i>Discovery from Defendant Arthur Field</i> . Response filed by Arthur M Field.Reply to Response to Motion due by 6/29/2015 (Attachments: # 1 Supporting Documents)(gpre,) Modified on 6/19/2015 to correct date filed (gpre,). (Entered: 06/19/2015)
06/18/2015	140	RESPONSE in Support re 123 MOTION for Protective Order Response filed by Arthur M Field. (Attachments: # 1 Supporting Documents)(gpre,) (Entered: 06/19/2015)
09/01/2015	144	TEXT ORDER granting 108 Plaintiffs Motion to Amend/Correct Complaint. Plaintiffs move to amend the Complaint to fully set forth the elements of Rule 23 for a class action. Plaintiffs proposed amendment is directed to Paragraph 2 of the complaint. Defendant Field objects to the amendment because Plaintiffs waited until the last day under the Scheduling Order to amend, the amendment will require him to re-plead, and the amendment will be prejudicial. [Doc. 112.] The Court disagrees with Defendant's arguments. Federal Rules of Civil Procedure Rule. 15(a) provides that once a defendant has filed a responsive pleading, a plaintiff may amend his complaint only with leave of court or by written consent of the defendant. Leave of court to amend shall be given freely when justice so requires. [L]eave to amend a pleading should be denied only when the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the

		amendment would have been futile. <i>Johnson v. Oroweat Foods Co.</i>, 785 F.2d 503, 509 (4th Cir. 1986) (citing <i>Foman v. Davis</i>, 371 U.S. 178, 182 (1962)). The Court fails to find any prejudice to Defendants by the amendment as the original Complaint likewise alleged that the action was being brought as a class action. [Doc. 1.] Further, the Court declines to follow Defendant Field's arguments related to bad faith and/or dilatory motive on the part of Plaintiffs. The proposed amended complaint merely sets out the elements required under Rule 23 in support of class certification. Accordingly, Plaintiffs shall have ten (10) days from the date of this order to file its the proposed amended complaint as the First Amended Complaint. Signed by Magistrate Judge Jacquelyn D Austin on 9/1/2015.(gpre,) (Entered: 09/01/2015)
09/01/2015	146	TEXT ORDER granting Plaintiffs' 113 Motion to Compel. While the Court can not compel Defendant Field to produce documents he does not possess, Defendant Field is, however, ordered to produce any and all documents within his possession, custody and/or control in accordance with the Rules of Civil Procedure requested in Plaintiffs' discovery requests. The fact that Defendant Field has previously produced these documents in other litigation does not relieve him of his obligation to produce them in this litigation. Accordingly, Defendant Field shall produce responsive documents, including the requested business tax returns, within twenty (20) days of this Order. To the extent any documents are being withheld for any reason, and/or are no longer in Field's custody or control, these documents are to be identified by category in a document log, to include the current custodian of the documents, and provided to Plaintiffs. Plaintiffs may submit a Motion for reasonable expenses, including an affidavit of costs and fees, incurred in filing the present Motion to Compel pursuant to Rule 37(a)(5)(A), Fed.R.Civ.P. Defendant Field's motion 123 for protective order is, likewise, denied. Signed by Magistrate Judge Jacquelyn D Austin on 9/1/2015.(gpre,) (Entered: 09/01/2015)
09/02/2015	147	DELETION OF DOCKET ENTRY NUMBER 142 & 143 Reason: Directed by chambers. (gpre,) (Entered: 09/02/2015)
09/02/2015	148	***DOCUMENT MAILED 144 Order on Motion to Amend/Correct, 146 Order on Motion to Compel, Order on Motion for Protective Order, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 09/02/2015)
09/02/2015	149	ORDER granting in part and denying in part Defendant Field's 105 Motion to Quash as explained in the order. Signed by Magistrate Judge Jacquelyn D Austin on 9/1/2015. (gpre,) (Entered: 09/02/2015)
09/02/2015	150	ORDER denying Defendant Field's 96 Motion to Strike from the jury roll. Signed by Magistrate Judge Jacquelyn D Austin on 9/1/2015.(gpre,) (Entered: 09/02/2015)
09/02/2015	151	***DOCUMENT MAILED 149 Order on Motion to Quash, 150 Order on Motion to Strike placed in U.S. Mail to Arthur Field (gpre,) (Entered: 09/02/2015)
09/10/2015	152	AMENDED COMPLAINT <i>First</i> against All Defendants, filed by William F Tomz, Frances W Tomz, Harold Brooks, Benjamin Brooks, Sharon Finch, Clara Louise Brooks. Service due by 1/11/2016 (Attachments: # 1 Exhibit A - Indictment of Field & Pfeiffer - 06.13.12, # 2 Exhibit B - Indictment of Field & Pfeiffer - 06.19.13, # 3 Exhibit C - Indictment Pfeiffer (Forgery) - 06.19.13, # 4 Exhibit D - Arthur Field Plea Agreement - 05.06.13, # 5 Exhibit E - Pfeiffer Plea Agreement - 09.18.13, # 6 Exhibit F - Portion of Hearing Transcript for Restitution - 10.08.13, # 7 Exhibit G - Incident Report Thornblade Theft - 04.14.14, # 8 Exhibit H - Global Mediated Settlement - 08.24.09) (Pillsbury, Rodney) (Entered: 09/10/2015)
09/10/2015	153	Summons Issued as to Arthur M Field. (gpre,) (Entered: 09/10/2015)

09/10/2015	154	TEXT ORDER finding as moot 107 motion for summons and joinder. Defendant Arthur M. Field ("Field") filed a Cross-Claim and/or Third-Party Complaint against Capital Investment Funding, LLC ("CIF") on May 14, 2015 [Doc. 106]; the same day, Field filed a motion for summons and joinder [Doc. 107]. Although, in his motion, Field refers to the claims against CIF as both cross-claims and third-party claims and cites to various Federal Rules of Civil Procedure, because CIF is not currently a party to this action, Field's claims against CIF constitute a Third-Party Complaint against CIF and are, therefore, governed by Rule 14 of the Federal Rules of Civil Procedure. Rule 14 governs Third-Party Practice and provides, "A defending party may, as third-party plaintiff, serve a summons and complaint on a nonparty who is or may be liable to it for all or part of the claim against it. But the third-party plaintiff must, by motion, obtain the court's leave if it files the third-party complaint more than 14 days after serving its original answer." In this case, Field filed his Answer on April 30, 2015 [Docs. 98, 99] and filed both the Third-Party Complaint and the motion for summons and joinder exactly 14 days later, on May 14, 2015 [Docs. 106, 107]. As such, Field does not need leave of this Court to serve the summons and Third-Party Complaint. Signed by Magistrate Judge Jacquelyn D Austin on 9/10/2015.(gpre,) (Entered: 09/10/2015)
09/10/2015	155	***DOCUMENT MAILED 154 Order on Motion for Joinder,,,,, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 09/10/2015)
09/17/2015	156	MOTION to Compel Arbitration and Stay/Dismiss. (Response to Motion due by 10/5/2015.), MOTION to Stay by Arthur M Field. (Attachments: # 1 Exhibit Letter to Rodney Pillsbury)No proposed order.Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 09/18/2015)
09/24/2015	157	REPORT AND RECOMMENDATION recommends that Fields motion to compel arbitration 97 be DENIED; motion to abstain 110 be DENIED; and motion to compel arbitration and to stay discovery 156 be DENIED. Objections to R&R due by 10/13/2015. Signed by Magistrate Judge Jacquelyn D Austin on 9/24/2015. (Attachments: # 1 Notice of Right to File Objection)(gpre,) (Entered: 09/24/2015)
09/24/2015	158	***DOCUMENT MAILED 157 REPORT AND RECOMMENDATION placed in U.S. Mail to Arthur Field. (gpre,) (Entered: 09/24/2015)
09/24/2015	159	ANSWER to 152 Amended Complaint,, by Frederick Scott Pfeiffer. (Attachments: # 1 Certificate of Service)(Gleaton, Ralph) (Entered: 09/24/2015)
09/25/2015	161	ANSWER AND AFFIRMATIVE DEFENSES to 152 Amended Complaint, by Arthur M Field.(gpre,) (Entered: 09/28/2015)
10/06/2015	162	MOTION for Sanctions <i>and Motion to Compel as to Defendant Arthur Field</i> by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz. Response to Motion due by 10/23/2015. (Attachments: # 1 Exhibit 1 - Transcript of Sentencing, # 2 Exhibit 2 - Arthur Field Motion in NJ, # 3 Exhibit 3 - Arthur Field Certification, # 4 Exhibit 4 - Letter from Field to Connell, # 5 Exhibit 5 - Camelot by the Sea, # 6 Exhibit 6 - Contract of Sale - Florida Home, # 7 Exhibit 7 - Arthur Field Negotiate Sale, # 8 Exhibit 8 - Plaintiffs Discovery Requests, # 9 Exhibit 9 - Field's Responses to Discovery, # 10 Exhibit 10 - Arthur Field - Math Tutor Ad, # 11 Exhibit 11 - Closing Balances, # 12 Exhibit 12 - Cash Deposits - Redacted, # 13 Exhibit 13 - HomeTrust Bank - Redacted, # 14 Exhibit 14 - First American International Bank, # 15 Exhibit 15 - People's Bank of Connecticut, # 16 Exhibit 16 - Wire Transfer from Davyd Field, # 17 Exhibit 17 - Affidavit of Taillon, # 18 Exhibit 18 - Check from Pelican Way, # 19 Exhibit 19 - Greenville Pops Check, # 20 Exhibit 20- Greenville Pops (P&L 2011), # 21 Exhibit 21 - Amended Promissory Note, # 22 Exhibit 22 - Trazom Check to Arthur Field, # 23 Exhibit 23 - Email from Rodney Pillsbury to Arthur Field)No

		proposed order.Motions referred to Jacquelyn D Austin.(Pillsbury, Rodney) (Attachment 18 replaced on 10/7/2015) (gpre,). (Attachment 15 replaced on 10/7/2015) (gpre,). (Attachment 11 replaced on 10/7/2015) (gpre,). (Attachment 14 replaced on 10/7/2015) (gpre,). (Attachment 19 replaced on 10/7/2015) (gpre,). See SUPPLEMENTAL MOTION 167 FILED 10/7/2015 (gpre,). See Second Motion and SUPPLEMENTAL MEMORANDUM 177 FILED 10/14/2015 (gpre,). (Entered: 10/06/2015)
10/06/2015	170	OBJECTION to 157 Report and Recommendation by Arthur M Field.Reply to Objections due by 10/23/2015. (Attachments: # 1 Exhibit A-Complaint Superior Court of New Jersey)(gpre,) (Entered: 10/08/2015)
10/07/2015	164	TEXT ORDER directing Defendant Field to respond to Plaintiff's 162 Motion for Sanctions and Motion to Compel on or before October 15, 2015. Signed by Magistrate Judge Jacquelyn D Austin on 10/7/2015. (gpre,) (Entered: 10/07/2015)
10/07/2015	165	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz re 162 MOTION for Sanctions <i>and Motion to Compel as to Defendant Arthur Field</i> (Pillsbury, Rodney) (Entered: 10/07/2015)
10/07/2015	166	***DOCUMENT MAILED 164 Order, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 10/07/2015)
10/07/2015	167	Supplemental MOTION for Sanctions <i>and Motion to Compel as to Defendant Arthur Field - Memorandum in Support Doc 162</i> by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz. Response to Motion due by 10/26/2015. (Attachments: # 1 Exhibit 1 - Plaintiffs Signature Card, # 2 Exhibit 2 - Field Business Card, # 3 Exhibit 3 - Opening Balance, # 4 Exhibit 4 - December 2008, # 5 Exhibit 5 - August 2009, # 6 Exhibit 6 - August 2011, # 7 Exhibit 7 - Buyers Statement)No proposed order.Motions referred to Jacquelyn D Austin.(Pillsbury, Rodney) SEE SECOND MOTION AND SUPPLEMENTAL MEMORANDUM 177 FILED 10/14/2015 (gpre,). (Entered: 10/07/2015)
10/08/2015	168	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz re 167 Supplemental MOTION for Sanctions <i>and Motion to Compel as to Defendant Arthur Field - Memorandum in Support Doc 162</i> (Pillsbury, Rodney) (Entered: 10/08/2015)
10/08/2015	169	MOTION for Summary Judgment by Frederick Scott Pfeiffer. Response to Motion due by 10/26/2015. (Attachments: # 1 Memo in Support, # 2 Exhibit Pfeiffer Sentencing Order, # 3 Exhibit Robert's Amended Complaint, # 4 Exhibit Richter Letter of Dec. 7, 2012, # 5 Exhibit Settlement Agreement, # 6 Exhibit Richter e-mail to Farrar Feb. 19, 2013, # 7 Exhibit Order of Hon. J. Cordell Maddox of April 23, 2013)No proposed order.Motions referred to Jacquelyn D Austin.(Gleaton, Ralph) (Entered: 10/08/2015)
10/08/2015	174	RESPONSE in Opposition re 162 MOTION for Sanctions <i>and Motion to Compel as to Defendant Arthur Field</i> , 167 Supplemental MOTION for Sanctions <i>and Motion to Compel as to Defendant Arthur Field - Memorandum in Support Doc 162</i> . Response filed by Arthur M Field. Reply to Response to Motion due by 10/19/2015. (Attachments: # 1 Exhibit A-Supplemental Response to Discovery, # 2 Exhibit B-Second Supplemental to Production Demands, # 3 Exhibit C-Email from Attorney Pillsbury to Legal Eagle, # 4 Exhibit E-Additional Email Threatening Field Received from Attorney Pillsbury, # 5 Exhibit F-MGSA Excerpt, # 6 Exhibit G-Letter of October 6, 2015 from Field to Pillsbury and Gleaton, # 7 Exhibit H-Email from Pillsbury)(gpre,) (Entered: 10/09/2015)
10/08/2015	175	MOTION to Compel by Arthur M Field. Response to Motion due by 10/26/2015. (Attachments: # 1 Exhibit A-Discovery Demands 5/18/2015 and Certificate of Service, #

		2 Exhibit B-Letter to Attorney Connell 10/1/2015)No proposed order.Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 10/09/2015)
10/09/2015	172	ROSEBORO ORDER directing clerk to forward summary judgment explanation to the opposing party and directing that party to respond in 34 days. Response due to 169 MOTION for Summary Judgment. Response to Motion due by 11/12/2015. Signed by Magistrate Judge Jacquelyn D Austin on 10/9/2015. (gpre,) (Entered: 10/09/2015)
10/09/2015	173	***DOCUMENT MAILED 172 Roseboro Order, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 10/09/2015)
10/14/2015	177	Second MOTION for Sanctions <i>Plaintiffs Supplemental Memorandum regarding their Motion to Compel and Motion for Sanctions as to Defendant Arthur Field</i> by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz. Response to Motion due by 11/2/2015. (Attachments: # 1 Certificate of Service)No proposed order.Motions referred to Jacquelyn D Austin.(Pillsbury, Rodney) (Entered: 10/14/2015)
10/15/2015	178	RESPONSE to Motion re 169 MOTION for Summary Judgment. Response filed by Arthur M Field.Reply to Response to Motion due by 10/26/2015 (gpre,) (Entered: 10/16/2015)
10/15/2015	179	RESPONSE in Opposition re 177 Second MOTION for Sanctions <i>Plaintiffs Supplemental Memorandum regarding their Motion to Compel and Motion for Sanctions as to Defendant Arthur Field</i> . Response filed by Arthur M Field.Reply to Response to Motion due by 10/26/2015 (Attachments: # 1 Exhibit A-Supplemental Response to Discovery, # 2 Exhibit B-Email from Field 10/13/15, # 3 Exhibit C-Emails between Field & Pillsbury 10/14/15, # 4 Exhibit D-Trazom LLC Profit & Loss)(gpre,) (Entered: 10/16/2015)
10/21/2015	180	TEXT ORDER granting 177 second supplemental memorandum regarding 162 motion to compel and for sanctions and 167 supplemental memorandum in support of motion to compel and for sanctions. In the present motion, Plaintiffs request that the Court hold their previously filed motions in abeyance pending further discovery Defendant Field has agreed to provide; they do not seek to compel additional discovery beyond the discovery issues raised in their first two motions. The Court will grant Plaintiffs' motion and hold 162 motion to compel and for sanctions and 167 supplemental memorandum in support of motion to compel and for sanctions in abeyance for forty-five days. However, the Court is not inclined to address discovery issues raised in a motion to compel through piecemeal briefing; therefore, any remaining issues at the end of the forty-five day period should be raised in a supplemental motion to compel that includes all outstanding discovery issues as of that date. Moreover, the Court is of the opinion that these are issues the parties should be able to resolve on their own during this forty-five day period without further Court intervention and strongly urges the parties to cooperatively participate in the discovery process. Accordingly, 162 motion to compel and for sanctions and 167 supplemental memorandum in support of motion to compel and for sanctions are held in abeyance, and Plaintiffs are ordered to file by November 30, 2015 either (a) a status report indicating that all discovery disputes have been resolved by the parties and an accompanying withdrawal of the pending motions to compel or (b) a supplemental motion to compel that includes a complete briefing of all discovery disputes as of that date. The Court is holding the currently filed motions to compel in abeyance solely to preserve the timeliness of Plaintiffs' currently filed motions but will rule on any subsequently filed supplemental motion to compel by reviewing only the briefing associated with the newly filed

		supplemental motion and will moot any previously filed motions to compel at that time. Signed by Magistrate Judge Jacquelyn D Austin on 10/21/2015.(gpre,) (Entered: 10/21/2015)
10/21/2015	181	***DOCUMENT MAILED 180 Order on Motion for Sanctions, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 10/21/2015)
10/26/2015	183	MOTION for Extension of Time to File Response/Reply as to 169 MOTION for Summary Judgment by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz. Response to Motion due by 11/12/2015. (Attachments: # 1 Certificate of Service)No proposed order.Motions referred to Jacquelyn D Austin.(Pillsbury, Rodney) (Entered: 10/26/2015)
10/26/2015	184	RESPONSE in Support re 183 MOTION for Extension of Time to File Response/Reply as to 169 MOTION for Summary Judgment Response filed by Frederick Scott Pfeiffer. (Gleaton, Ralph) (Entered: 10/26/2015)
10/26/2015	185	MOTION for Extension of Time to File Response/Reply as to 175 MOTION to Compel by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz. Response to Motion due by 11/12/2015. (Attachments: # 1 Certificate of Service)No proposed order.Motions referred to Jacquelyn D Austin. (Pillsbury, Rodney) (Entered: 10/26/2015)
10/27/2015	186	TEXT ORDER granting as unopposed 183 motion for extension of time. Plaintiffs' response to 169 motion for summary judgment is due by November 10, 2015. Plaintiffs' counsel is admonished, however, against filing motions for extension of time on the then-pending deadline. See Filing Preferences. Signed by Magistrate Judge Jacquelyn D Austin on 10/27/2015.(gpre,) Modified on 10/27/2015 to edit text (gpre,). (Entered: 10/27/2015)
10/27/2015	187	TEXT ORDER granting 185 motion for extension of time. Plaintiffs' response to 175 motion to compel is due by November 25, 2015. Plaintiffs' counsel is admonished, however, against filing motions for extension of time on the then-pending deadline. See Filing Preferences. Response to Motion due by 11/25/2015. Signed by Magistrate Judge Jacquelyn D Austin on 10/27/2015.(gpre,) (Entered: 10/27/2015)
10/27/2015	188	***DOCUMENT MAILED 186 Order on Motion for Extension of Time to File Response/Reply, 187 Order on Motion for Extension of Time to File Response/Reply, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 10/27/2015)
10/28/2015	189	Notice by Publication filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz. Publication date 9-29-2015 in the Investor's Business Daily. (Attachments: # 1 Notice Pursuant to PSLRA, # 2 Certificate of Service)(Connell, Gene) Modified on 10/28/2015 to edit text (gpre,). (Entered: 10/28/2015)
10/28/2015	190	AFFIDAVIT by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, Frances W Tomz. (Attachments: # 1 Affidavit of Harold Brooks, # 2 Affidavit of Clara Louise Brooks, # 3 Affidavit of Benjamin Brooks, # 4 Affidavit of Sharon Finch, # 5 Affidavit of William Tomz, # 6 Affidavit of Frances W. Tomz, # 7 Certificate of Service)(Connell, Gene) (Entered: 10/28/2015)
11/05/2015	191	TEXT ORDER denying 119 motion to strike references to Lila Kirton. The Court notes that Field submitted one document, captioned as a REPLY TO MOTION TO DISMISS COUNTERCLAIM AND MOTION TO STRIKE, which the Clerk appropriately docketed as both a response in opposition to the motion to dismiss counterclaims and a motion to strike references to Lila Kirton contained in the pending motion to dismiss counterclaims. Rule 12(f) of the Federal Rules of Civil

		Procedure allows a court, acting either on its own or on a motion, to "strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Generally, such motions are disfavored and are granted only when "the challenged allegations have no possible relation or logical connection to the subject matter of the controversy or cause some form of significant prejudice to one or more of the parties to the action." Affirmative Ins. Co. v. Williams, Civil Action No. 5:14-cv-04087-JMC, 2015 WL 3968436, at *4 (D.S.C. June 30, 2015 (citations and internal quotation marks omitted). Whether to grant a motion to strike under Rule 12(f) is within the sound discretion of the court. See GTSI Corp. v. Wildflower Int'l, Inc., No. 1:09cv123(JCC), 2009 WL 2160451, at *4 (E.D. Va. July 17, 2009). Because the litigation between Field and Kirton is a matter of public record, the Court declines to strike references to Ms. Kirton. Signed by Magistrate Judge Jacquelyn D Austin on 11/5/2015.(gpre,) (Entered: 11/05/2015)
11/05/2015	192	***DOCUMENT MAILED 191 Order on Motion to Strike, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 11/05/2015)
11/06/2015	193	MOTION for Sanctions by Frederick Scott Pfeiffer. Response to Motion due by 11/23/2015. (Attachments: # 1 Memo in Support, # 2 Exhibit Letter of 4.15.15 to Pillsbury and Connell, # 3 Affidavit Exhibit B Affidavit for Attorney's Fees, # 4 Exhibit McKenzie b. Norfolk S. Ry. Unpublished 4th Cir Opinion)No proposed order.Motions referred to Jacquelyn D Austin.(Gleaton, Ralph) (Entered: 11/06/2015)
11/06/2015	194	Summons on a Third Party Complaint Issued as to Capital Investment Funding LLC. (gpre,) (Entered: 11/06/2015)
11/06/2015	195	***DOCUMENT MAILED 194 Summons Issued. Copy for service of process given to Arthur Field at Greenville Intake. (gpre,) (Entered: 11/06/2015)
11/10/2015	196	RESPONSE in Opposition re 169 MOTION for Summary Judgment <i>or in the Alternative Leave to Serve a Third-Party Complaint</i> Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz.Reply to Response to Motion due by 11/20/2015 (Pillsbury, Rodney) Modified on 11/12/2015 to edit text (gpre,). (Entered: 11/11/2015)
11/11/2015	197	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz re 196 Response in Opposition to Motion, (Pillsbury, Rodney) (Entered: 11/11/2015)
11/12/2015	199	REPORT AND RECOMMENDATION recommends that Plaintiffs' 109 Motion to Dismiss Counterclaims be DENIED. Objections to R&R due by 12/3/2015. Signed by Magistrate Judge Jacquelyn D Austin on 11/12/2015. (Attachments: # 1 Notice of Right to File Objection)(gpre,) (Main Document 199 replaced on 11/13/2015: as directed by chambers to correct typo) (kmca). (Entered: 11/12/2015)
11/12/2015	200	***DOCUMENT MAILED: corrected 199 REPORT AND RECOMMENDATION placed in U.S. Mail to Arthur Field. (gpre,) Modified on 11/13/2015: to swap incorrect document for corrected document (kmca). (Entered: 11/12/2015)
11/17/2015	201	REPLY to Response to Motion re 169 MOTION for Summary Judgment Response filed by Frederick Scott Pfeiffer. (Gleaton, Ralph) (Entered: 11/17/2015)
11/19/2015	202	AFFIDAVIT of Publication of <i>Investor's Business Daily</i> by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz. (Attachments: # 1 Affidavit of Publication, # 2 Certificate of Service) (Connell, Gene) (Entered: 11/19/2015)
11/23/2015	203	RESPONSE in Opposition re 193 MOTION for Sanctions Response filed by Benjamin

		Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz.Reply to Response to Motion due by 12/3/2015 (Attachments: # 1 Exhibit Transcript of Hearing - 09.18.13)(Pillsbury, Rodney) (Entered: 11/23/2015)
11/24/2015	204	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz re 203 Response in Opposition to Motion, (Pillsbury, Rodney) (Entered: 11/24/2015)
12/04/2015	205	OBJECTION to 199 Report and Recommendation by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz.Reply to Objections due by 12/21/2015 (Attachments: # 1 Exhibit Hearing Transcript - July 23, 2009, # 2 Certificate of Service)(Pillsbury, Rodney) (Entered: 12/04/2015)
12/08/2015	207	SUMMONS Returned Executed Third Party Complaint served by Arthur M Field. Capital Investment Funding LLC served on 12/2/2015, answer due 12/23/2015. (Attachments: # 1 Proof of Service)(gpre,) (Entered: 12/08/2015)
12/11/2015	208	REPLY to Objections re 199 REPORT AND RECOMMENDATION. Response filed by Arthur M Field. (Attachments: # 1 Exhibit A-Notice of Right to File Objections, # 2 Exhibit B-CM/ECF NEF, # 3 Exhibit C-1:90cv00288 Memorandum Order, # 4 Exhibit D-14:cv-0198-CVE-TLW Opinion and Order, # 5 Exhibit E-Settlement Agreement)(gpre,) (Entered: 12/14/2015)
12/11/2015	209	MOTION to Compel by Arthur M Field. Response to Motion due by 1/4/2016. (Attachments: # 1 Exhibit A-Letter to Gene Connell Jr., # 2 Exhibit B-Certificate of Service)No proposed order.Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 12/14/2015)
12/18/2015	210	NOTICE of Appearance by George Brandt, III on behalf of Capital Investment Funding LLC (Attachments: # 1 Certificate of Service)(Brandt, George). Modified on 12/22/2015 to replace corrected attachment as provided by filing user (gpre,). (Entered: 12/18/2015)
12/18/2015	211	MOTION for Extension of Time to File Response/Reply as to 106 Third Party Complaint by Capital Investment Funding LLC. Response to Motion due by 1/7/2016. (Attachments: # 1 Certificate of Service)No proposed order.Motions referred to Jacquelyn D Austin.(Brandt, George) Modified on 12/22/2015 to replace corrected attachment as provided by filing user (gpre,). (Entered: 12/18/2015)
12/21/2015	212	TEXT ORDER granting 211 motion for extension of time. Third-Party Defendant Capital Investment Funding, LLC shall file a responsive pleading by January 12, 2016. Signed by Magistrate Judge Jacquelyn D Austin on 12/21/2015.(gpre,) (Entered: 12/21/2015)
12/21/2015	213	***DOCUMENT MAILED 212 Order on Motion for Extension of Time to File Response/Reply, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 12/21/2015)
12/22/2015	214	MOTION to Disqualify Counsel Rodney Pillsbury, John Read IV and George Brandt III and their respective law firms by Arthur M Field. Response to Motion due by 1/8/2016. (Attachments: # 1 Exhibit A - State Court Notice of Appearance, # 2 Exhibit B - Letter to SC Court of Appeals) No proposed order. Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 12/22/2015)
12/29/2015	215	MOTION to Compel by Arthur M Field. Response to Motion due by 1/15/2016. (Attachments: # 1 Exhibit A - Certificate of Service, # 2 Exhibit B - Letter)Motions referred to Jacquelyn D Austin.(abuc) (Entered: 12/29/2015)
12/30/2015	216	MOTION for Extension of Time to File Response/Reply as to 209 MOTION to Compel by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz. Response to Motion due by 1/19/2016. (Attachments: # 1

		Certificate of Service)No proposed order.Motions referred to Jacquelyn D Austin. (Pillsbury, Rodney) (Entered: 12/30/2015)
01/04/2016	217	TEXT ORDER granting 216 motion for extension of time. Plaintiffs' response to 209 motion to compel is due by February 3, 2016. Signed by Magistrate Judge Jacquelyn D Austin on 1/4/2016.(gpre,) (Entered: 01/04/2016)
01/04/2016	218	***DOCUMENT MAILED 217 Order on Motion for Extension of Time to File Response/Reply placed in U.S. Mail to Arthur Field. (gpre,) (Entered: 01/04/2016)
01/06/2016	219	MOTION for Extension of Time to File Response/Reply as to 214 MOTION to Disqualify Counsel by Capital Investment Funding LLC. Response to Motion due by 1/25/2016. (Attachments: # 1 Certificate of Service)No proposed order.Motions referred to Jacquelyn D Austin.(Brandt, George) (Entered: 01/06/2016)
01/06/2016	220	MOTION for Extension of Time to File Response/Reply as to 214 MOTION to Disqualify Counsel by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz. Response to Motion due by 1/25/2016. No proposed order.Motions referred to Jacquelyn D Austin.(Pillsbury, Rodney) (Entered: 01/06/2016)
01/07/2016	221	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz re 220 MOTION for Extension of Time to File Response/Reply as to 214 MOTION to Disqualify Counsel (Pillsbury, Rodney) (Entered: 01/07/2016)
01/07/2016	222	TEXT ORDER granting 219 motion for extension of time and granting 220 motion for extension of time. Although Plaintiffs and Third-Party Defendant propose separate deadlines extensions, the Court will grant all parties an additional twenty days to file a response in opposition 214 motion to disqualify counsel. Responses in opposition are due by January 28, 2016. Signed by Magistrate Judge Jacquelyn D Austin on 1/7/2016.(gpre,) (Entered: 01/07/2016)
01/07/2016	223	***DOCUMENT MAILED 222 Order on Motion for Extension of Time to File Response/Reply, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 01/07/2016)
01/12/2016	224	SUMMONS Returned Executed by William F Tomz, Frances W Tomz, Harold Brooks, Benjamin Brooks, Sharon Finch, Clara Louise Brooks. 152 First Amended Complaint served on Arthur Field on 1/11/16. (Attachments: # 1 Affidavit of Service, # 2 Certificate of Service)(Pillsbury, Rodney) Modified on 1/13/2016: to edit text (kmca). (Entered: 01/12/2016)
01/13/2016	225	<i>Third Party Defendant Capital Investment Funding, LLC's</i> ANSWER to 106 Third Party Complaint , COUNTERCLAIM against Arthur M Field by Capital Investment Funding LLC.(Brandt, George) (Entered: 01/13/2016)
01/13/2016	226	CERTIFICATE OF SERVICE by Capital Investment Funding LLC re 225 Answer to Third Party Complaint, Counterclaim <i>against Arthur Field</i> (Brandt, George) (Entered: 01/13/2016)
01/28/2016	227	RESPONSE in Opposition re 214 MOTION to Disqualify Counsel Response filed by Capital Investment Funding LLC.Reply to Response to Motion due by 2/8/2016 (Attachments: # 1 Exhibit 1 - Order and Rule to Show Cause)(Brandt, George) (Entered: 01/28/2016)
01/28/2016	228	RESPONSE in Opposition re 214 MOTION to Disqualify Counsel Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz.Reply to Response to Motion due by 2/8/2016 (Attachments: # 1 Exhibit

		1 - Summons & Complaint, # 2 Exhibit 2 - Order and Rule to Show Cause)(Pillsbury, Rodney) (Entered: 01/28/2016)
01/28/2016	238	MOTION to Dismiss CIF'S COUNTERCLAIM AND TO STAY DISCOVERY by Arthur M Field. Response to Motion due by 2/16/2016. (Attachments: # 1 Appendix AReferences from Second Amended Complaint, # 2 Appendix B Excerpts from A.G.'s Notice of Intent to Seek a Stop Order, # 3 Appendix C (no description), # 4 Table of Contents, # 5 Exhibit 1 -Official Transcript Excerpts, # 6 Exhibit 2 - Orders of Judge Miller, # 7 Exhibit 3 - Official Report of CIF Receiver, # 8 Exhibit 4 part 1 Second Amended Complaint, # 9 Exhibit 4 - Second Amended Complaint, # 10 Exhibit 5 - Official Transcript Excerpts, # 11 Exhibit 6 - Notice of Intent to Seek Stop Order)No proposed order.Motions referred to Jacquelyn D Austin.(gpre,) Additional attachments 239 240 filed on 1/28/2016 (gpre,). (Entered: 01/29/2016)
01/28/2016	239	Additional Attachments to Main Document 238 MOTION to Dismiss. First attachment description: Exhibit 7 - Amended Complaint 2008-cp-23-5514. (Attachments: # 1 Exhibit 8 - Complaint 2008-CP-23-7457, # 2 Exhibit 9 - Complaint 2008-cp-23-1184, # 3 Exhibit 10 - Letter from CIF Counsel transmitting CIF and Cosimo Records, # 4 Exhibit 11 - Production by Arthur Field to Court and Counsel, # 5 Exhibit 12 and 12A Order of Production of Judge Baxley, # 6 Exhibit 13 -Excerpts from CIF's Brief re: Testimony of CPA Expert Durant, # 7 Exhibit 14 - Affidavit of SC Atty Gen Special Investigator Joseph Jordan, # 8 Exhibit 15 - Transcript Excerpts TRO Motion and Rule to Show Cause, # 9 Exhibit 16 - Subpoena issued by CIF for Rule to Show Cause Hearing, # 10 Exhibit 17 - Affidavit of SC atty Gen Sec Div Specialist Tommy Windsor, # 11 Exhibit 18 - Order of Judge Few Dismissing TRO and Giving Receiver Access to CIF Bank Accounts)(gpre,) (Entered: 01/29/2016)
01/28/2016	240	Additional Attachments to Main Document 238 MOTION to Dismiss. First attachment description: Exhibit 19 - Mortgage & Contract Excerpts. (Attachments: # 1 Exhibit 20 - Official Report of CIF Receiver, # 2 Exhibit 21 - Transcript Excerpts Rule to Show Cause Hearing, # 3 Exhibit 22 - Proposed Status Conference and Cover Letter from Class Counsel, # 4 Exhibit 23 - Deed to Kathryn Taillon, # 5 Exhibit 24 - Deed from Kathryn Taillon to Allyson Field, # 6 Exhibit 25 - Mortgage Given by Allyson Field, # 7 Exhibit 26 - Deed to Arthur Field, # 8 Exhibit 27 - Order and Decision Dismissing Unjust Enrichment Based on Statute of Limitations, # 9 Exhibit 28 - Letter from Arthur Field re: Production to Class Counsel Connell)(gpre,) (Entered: 01/29/2016)
01/28/2016	241	MOTION TO TAKE JUDICIAL NOTICE in support of 238 239 240 MOTION to Dismiss CIF's Counterclaim and to Stay CIF's Discovery by Arthur M Field. Response to Motion due by 2/16/2016. No proposed order.Motions referred to Jacquelyn D Austin. (gpre,) (Entered: 01/29/2016)
01/29/2016	229	CERTIFICATE OF SERVICE by Capital Investment Funding LLC re 227 Response in Opposition to Motion to Disqualify 214 (Brandt, George) (Entered: 01/29/2016)
01/29/2016	230	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz re 228 Response in Opposition to Motion, <i>Arthur Field's Motion to Disqualify</i> 214 (Pillsbury, Rodney) (Entered: 01/29/2016)
01/29/2016	232	TEXT ORDER finding as moot 162 motion to compel and for sanctions and 167 supplemental memorandum in support of motion to compel and for sanctions. On October 21, 2015, the Court ordered Plaintiffs to file by November 30, 2015 either (a) a status report indicating that all discovery disputes have been resolved by the parties and an accompanying withdrawal of the pending motions to compel or (b) a supplemental motion to compel that included a complete briefing of all discovery disputes as of that date. [Doc. 180.] The Court also informed Plaintiffs that it would

		rule on any subsequently filed supplemental motion to compel and moot these pending motions. [Id.] Plaintiffs, however, failed to file either a status report or a supplemental motion. Accordingly, 162 motion to compel and for sanctions and 167 supplemental memorandum in support of motion to compel and for sanctions are found as moot. Signed by Magistrate Judge Jacquelyn D Austin on 1/29/2016.(gpre,) (Entered: 01/29/2016)
01/29/2016	233	***DOCUMENT MAILED 232 Order on Motion for Sanctions, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 01/29/2016)
01/29/2016	234	TEXT ORDER denying 214 Motion to Disqualify Counsel. Signed by Magistrate Judge Jacquelyn D Austin on 1/29/2016.(gpre,) (Entered: 01/29/2016)
01/29/2016	235	TEXT ORDER directing the parties to conduct mediation by March 31, 2016. Mediation was due to be completed in this case by September 15, 2015 [Docs. 62, 63]; however, there is no indication the parties conducted mediation nor did they move to extend the mediation deadline. The parties are advised that if they fail to conduct mediation by March 31, 2016, this action will be subject to dismissal for failure to comply with this Court's order pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. Signed by Magistrate Judge Jacquelyn D Austin on 1/29/2016. (gpre,) (Entered: 01/29/2016)
01/29/2016	236	***DOCUMENT MAILED 234 Order on Motion to Disqualify Counsel, 235 Order to Conduct Mediation, placed in U.S. Mail to Arthur Field. (gpre,) (Entered: 01/29/2016)
02/09/2016	242	TEXT ORDER denying 175 motion to compel; denying 209 motion to compel; and denying 215 motion to compel. With respect to 175 motion to compel, Defendant Field seeks to compel responses to "First Request for Discovery and Production upon Plaintiff Benjamin E. Brooks." Defendant Field served these discovery requests on Plaintiff Benjamin E. Brooks on May 18, 2015 [Doc. 175 at 1]; accordingly, responses were due by June 17, 2015, see Fed. R. Civ. P. 33(b)(2) & 34(b)(2) (stating that the responding party must serve responses to interrogatories and requests to produce within 30 days), and any motion to compel was due by July 8, 2015, see Local Civil Rule 37.01(A) (stating that a motion to compel discovery is due within 21 days after the response was due where no response has been received). Thus, Defendant Field's 175 motion to compel, filed four months later on October 8, 2015, is untimely. With respect to 209 motion to compel and 215 motion to compel, Defendant Field seeks to compel responses to "First Request for Discovery and Production upon Plaintiff William Tomz" and "First Request for Discovery and Production upon Plaintiff Sharon Finch." Defendant Field served these discovery requests on Plaintiff William Tomz on October 15, 2015 [Doc. 209 at 1] and on Plaintiff Sharon Finch on November 19, 2015 [Doc. 215 at 1]. However, under the Conference and Scheduling Order in this case, discovery was to be completed "no later than September 15, 2015," and all discovery requests were to be "served in time for the responses thereto to be served by this date." [Doc. 62 at 3 8.] Thus, these discovery requests were untimely. Signed by Magistrate Judge Jacquelyn D Austin on 2/9/2016.(gpre,) (Entered: 02/09/2016)
02/09/2016	243	***DOCUMENT MAILED 242 Order on Motion to Compel, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 02/09/2016)
02/12/2016	244	MOTION to Quash by Arthur M Field. Response to Motion due by 2/29/2016. (Attachments: # 1 Exhibit A Subpoena)No proposed order.Motions referred to Jacquelyn D Austin. <i>NOTE: motion was also signed by Kathryn Taillon, a non party in this case.</i> (kmca). Supplement 248 filed on 2/16/2016 (gpre,). (Entered: 02/12/2016)
02/12/2016	245	MOTION to Quash or Suppress by Arthur M Field. Response to Motion due by

		2/29/2016. (Attachments: # 1 Exhibit A Subpoena)No proposed order.Motions referred to Jacquelyn D Austin. <i>NOTE: motion was also signed by Kathryn Taillon, a non party in this case</i> (kmca) Supplement 248 filed on 2/16/2016 (gpre,). (Entered: 02/12/2016)
02/16/2016	248	SUPPLEMENT by Arthur M Field to 244 MOTION to Quash, 245 MOTION to Quash. (Attachments: # 1 Exhibit A - Subpoena and attachments issued January 15, 2016, # 2 Exhibit B - Subpoena and attachments issued October 15, 2015, # 3 Exhibit B - part 2 Subpoena and attachments, # 4 Exhibit C - Subpoena and attachments issued by plaintiffs Oct. 5, 2015, # 5 Exhibit D - Subpoena and attachments issued by plaintiffs Oct. 1, 2015, # 6 Exhibit E - Subpoena and attachments issued by plaintiffs Feb. 5, 2016, # 7 Exhibit F - Excerpts from Field's April 16, 2015 Responses)(gpre,) <i>Note: also signed by non-party Kathryn Taillon.</i> Modified on 2/17/2016 to correct date filed (gpre,). (Entered: 02/17/2016)
02/17/2016	246	RESPONSE in Opposition re 238 MOTION to Dismiss Response filed by Capital Investment Funding LLC.Reply to Response to Motion due by 2/29/2016 (Attachments: # 1 Exhibit 1 - CIF-Lion Financial Quickbooks File, # 2 Exhibit 2 - BB&T Signature Card & Checks, # 3 Exhibit 3 - Arthur Field email to Jerry Saad, # 4 Exhibit 4 - Salzman Affidavits, # 5 Exhibit 5 - BB&T Closing accounts, # 6 Exhibit 6 - Florida Capital Bank, # 7 Exhibit 7 - Arthur Field Letter received 02.11.10, # 8 Exhibit 8 - Order of Contempt, # 9 Certificate of Service)(Brandt, George) (Entered: 02/17/2016)
02/18/2016	249	MOTION to Quash by Arthur M Field. Response to Motion due by 3/7/2016. (Attachments: # 1 Exhibit A - Order granting plaintiff's motion to quash and denying defendant's motion to subpoena documents from third parties)No proposed order.Motions referred to Jacquelyn D Austin. <i>Note: Signed by non-party Kathryn Taillon.</i> (gpre,) (Entered: 02/18/2016)
02/22/2016	250	REPLY to Response to Motion re 238 MOTION to Dismiss the counterclaim filed by Arthur M Field. (Attachments: # 1 Exhibit A - 388 B.R. 106(D.N.J. 2008), # 2 Exhibit B - Loans as 7/25/2008, # 3 Exhibit C - Official Transcript Excerpts)(gpre,) Modified on 2/22/2016 to add text. <i>Best scan possible based on exhibits received.</i> (gpre,). (Entered: 02/22/2016)
03/04/2016	254	TEXT ORDER granting as unopposed 244 motion to quash and granting as unopposed 245 motion to quash. The Court construes both motions as seeking to quash the relevant subpoenas and quashes both subpoenas. Signed by Magistrate Judge Jacquelyn D Austin on 3/4/2016. (gpre,) (Entered: 03/04/2016)
03/04/2016	255	***DOCUMENT MAILED 254 Order on Motion to Quash, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 03/04/2016)
03/08/2016	256	TEXT ORDER granting as unopposed 249 motion to quash. The Court construes the motion as seeking to quash the relevant subpoena and quashes the subpoena. Signed by Magistrate Judge Jacquelyn D Austin on 3/8/2016. (kric,) (Entered: 03/08/2016)
03/08/2016	257	***DOCUMENT MAILED 256 Order on Motion to Quash, placed in U.S. Mail to Arthur M. Field. (kric,) (Entered: 03/08/2016)
03/15/2016	258	MOTION for Reconsideration re 256 Order on Motion to Quash, by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz. Response to Motion due by 4/1/2016. (Attachments: # 1 Affidavit of Tiffany Davenport, # 2 Exhibit 1 - Plaintiffs Discovery Requests, # 3 Exhibit Field's Responses to Discovery, # 4 Exhibit 3 - Check from AF to Hakuna Industries, # 5 Exhibit 5 - 2011 Tax Returns (actual), # 6 Exhibit 6 - 2011 Tax Returns (produced), # 7 Exhibit 7 - 2012 Tax Returns (actual), # 8 Exhibit 8 - 2012 Tax Returns (produced), # 9 Exhibit 9 - Pelican Financial, #

		10 Certificate of Service)No proposed order.Motions referred to Jacquelyn D Austin. (Pillsbury, Rodney) (Additional attachment(s) added on 3/16/2016 as provided by filing user: # 11 Exhibit 4 - Hakuna Industries Inc) (gpre,). (Entered: 03/15/2016)
03/16/2016	259	TEXT ORDER directing Defendant Field to respond to 258 motion for reconsideration by March 24, 2016. Signed by Magistrate Judge Jacquelyn D Austin on 3/16/2016. (gpre,) (Entered: 03/16/2016)
03/16/2016	260	***DOCUMENT MAILED 259 Order placed in U.S. Mail to Arthur Field (gpre,) (Entered: 03/16/2016)
03/18/2016	261	MOTION for Extension of Time to Complete Discovery by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz. Response to Motion due by 4/4/2016. (Attachments: # 1 Exhibit 1 - Plaintiffs' Discovery Requests, # 2 Exhibit 2 - Field's Discovery Responses, # 3 Exhibit 3 - Check from Arthur Field to Hakuna, # 4 Exhibit 4 - Hakuna Industries, Inc., # 5 Exhibit 5 - Affidavit of Tiffany Davenport, # 6 Certificate of Service)No proposed order.Motions referred to Jacquelyn D Austin.(Pillsbury, Rodney) (Entered: 03/18/2016)
03/24/2016	263	ORDER denying 258 motion to reconsider. On March 8, 2016, the Court granted as unopposed Defendant Field's motion to quash after Plaintiffs failed to file a response to the motion. [Doc. 256.] Plaintiffs' response to the motion was due by March 7, 2016. [See Doc. 249.] Plaintiffs contend their failure to respond was due to counsel's dealing with the death of a friend who passed away on February 27, 2016 and Plaintiffs' continued effort to obtain truthful information from Defendant Field. While the Court is aware of the monumental effort Plaintiffs have put into identifying Defendant Field's attempts to move money into various, often undisclosed accounts, the Court does not find this to be an appropriate basis to grant Plaintiffs' motion to reconsider. Under Rule 54(b) of the Federal Rules of Civil Procedure, any order... that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties... may be revised at any time before the entry of a final judgment. A courts discretion to review an interlocutory order is not subject to the strict standards applicable to motions for reconsideration of a final judgment but, rather, falls within the power of the court to reconsider an earlier ruling to reach the correct judgment under the law. Am. Canoe Assn v. Murphy Farms, Inc., 326 F.3d 505, 51415 (4th Cir. 2003). In considering whether to revise interlocutory decisions, courts in the Fourth Circuit have looked to whether the movant presented new arguments, new evidence that could not have been previously obtained through the exercise of due diligence, or whether the court has obviously misapprehended a partys position or the facts or applicable law. United States v. Duke Energy Corp., 218 F.R.D. 468, 474 (M.D.N.C. 2003) (quoting Fidelity State Bank, Garden City, Kan. v. Oles, 130 B.R. 578, 581 (D. Kan. 1991)). While this standard allows a court to conduct a de novo review of any of its prior rulings, a court should modify its prior ruling only when it is convinced either a prior ruling was incorrect or that changes in the record or the stage of the proceeding justify modification. See generally Charles Alan Wright, Arthur R. Miller, Edward H. Cooper, 18A Federal Practice and Procedure § 4478.1 (2d ed. 2010) (discussing competing interests). Here, Plaintiffs fail to meet this standard and, as such, the Court denies Plaintiffs' motion to reconsider. Signed by Magistrate Judge Jacquelyn D Austin on 3/24/2016. (amar) (Entered: 03/24/2016)
03/24/2016	264	ORDER denying 261 motion to extend time to complete discovery related to financial accounts. Under the Conference and Scheduling Order in this case, discovery closed on September 15, 2015. [Doc. 62.] The drafters of Rule 16 contemplated a courts scheduling orders would control the subsequent course of the action. Amcast Indus. Corp. v. Detrex Corp., 132 F.R.D. 213, 217 (N.D. Ind. 1990)

		(quoting Fed. R. Civ. P. 16 Advisory Committee Note to 1983 Amendment). Rule 16 authorizes a court to control and expedite pretrial discovery through a scheduling order and subsection (b)(4) provides that a schedule may be modified only for good cause and with the judges consent. Fed. R. Civ. P. 16. Indeed, a judges scheduling order is not a frivolous piece of paper, idly entered, which can be cavalierly disregarded by counsel without peril. Gestetner Corp. v. Case Equip. Co., 108 F.R.D. 138, 141 (D. Me. 1985). Scheduling orders are necessary tools in managing the courts caseload as [i]t is well known that we litigate these days under the burden of heavy caseloads and clogged court calendars. Id. Courts in the Fourth Circuit take so seriously the interest in the scheduling order that, not uncommonly, cases are dismissed pursuant to the courts inherent right to control litigation before it, which authority includes the power to order dismissal of an action for failure to comply with court orders. Ballard v. Carlson, 882 F.2d 93, 95 (4th Cir. 1989) (citing Fed. R. Civ. P. 41(b)). The Court cannot find that Plaintiffs' delay of over six months to seek an extension of the discovery deadline is an excusable delay. Admittedly, Plaintiffs had issued subpoenas to various financial institutions and were waiting on rulings related to these subpoenas between May and September 1, 2015. Plaintiffs were, therefore, aware that there was more to uncover related to the issue of Defendant Field's alleged money movement. Rather than timely move to extend the discovery deadline, Plaintiffs now appear to fault Defendant Field and the Court for Plaintiffs' failure to seek an extension of the deadline. Plaintiffs fail to appreciate that the parties in this case have collectively filed over 40 motions since April 2015, and the Court has been as diligent in ruling on the motions filed in this matter as possible. Moreover, Plaintiffs have failed to offer an explanation as to why it has taken over six months from the Court's ruling on September 1, 2015 to file the motion to extend time to complete discovery related to financial accounts. Accordingly, the Court finds no basis for extending the discovery deadline. Signed by Magistrate Judge Jacquelyn D Austin on 3/24/2016. (amar) (Entered: 03/24/2016)
03/24/2016	265	RESPONSE in Opposition re 258 MOTION for Reconsideration re 256 Order on Motion to Quash. Response filed by Arthur M Field.Reply to Response to Motion due by 4/4/2016 (Attachments: # 1 Exhibit A-Obituary and Funeral Book, # 2 Exhibit B-Pelican Way Financial Record from Florida Secretary of State)(gpre,) (Entered: 03/25/2016)
03/24/2016	266	RESPONSE in Opposition re 261 MOTION for Extension of Time to Complete Discovery. Response filed by Arthur M Field. Reply to Response to Motion due by 4/4/2016. (Attachments: # 1 Exhibit A-Correspondence Reflecting Document Production by Field, # 2 Exhibit B-Further Correspondence Reflecting Document Production by Field, # 3 Exhibit C-Further Correspondence Reflecting Document Production by Field, # 4 Exhibit D-Letter From Field to Pillsbury 11/14/15, # 5 Exhibit E-Correspondence From Field to Pillsbury 10/13/15, # 6 Exhibit F-Supplemental Response to Discovery, # 7 Exhibit G-Order Denying Motions to Compel, # 8 Exhibit H-Memorandum Opinion and Order, # 9 Exhibit I-Order C11-4047-MWB)(gpre,) (Entered: 03/25/2016)
03/25/2016	267	***DOCUMENT MAILED 264 Order on Motion for Extension of Time to Complete Discovery, 263 Order on Motion for Reconsideration, placed in U.S. Mail to Arthur Field. (gpre,) (Entered: 03/25/2016)
03/25/2016	268	ORDER RULING ON REPORT AND RECOMMENDATION adopts Report and Recommendation 157 , and adopts in part the Report and Recommendation 199 . Fields motion to compel arbitration 97 is DENIED, Fields motion to abstain 110 is DENIED, Fields motion to compel arbitration and stay discovery 156 is DENIED, and Plaintiffs motion to dismiss counterclaims 109 is GRANTED IN PART and DENIED IN PART. Fields cause of action for civil conspiracy is dismissed. However, Fields remaining causes of action set forth in his substitute counterclaim 101 may

		proceed. Signed by Honorable Bruce Howe Hendricks on 3/25/2016. (gpre,) (Entered: 03/25/2016)
03/25/2016	269	***DOCUMENT MAILED 268 Order Ruling on Report and Recommendation, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 03/25/2016)
03/30/2016	271	MOTION to Dismiss Plaintiff's Complaint and for Sanctions (Response to Motion due by 4/18/2016.) by Arthur M Field. (Attachments: # 1 Exhibit A-Certification of Arthur Field in Support of Motion, # 2 Exhibit B-Barnthouse v Wild Dunes Resort LLC, # 3 Exhibit C-Thornton v Art Inst. of Charlotte, # 4 Exhibit D-Belk v Smith, # 5 Exhibit E-Buckles v Colvin, # 6 Exhibit F-J.M.V. Logan County B'D of Educ.)No proposed order.Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 03/30/2016)
04/12/2016	273	JOINT MOTION to Dismiss <i>Voluntary - Defendant Scott Pfeiffer Without Prejudice</i> by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz, Capital Investment Funding LLC, Frederick Scott Pfeiffer. Response to Motion due by 4/29/2016. (Attachments: # 1 Certificate of Service)No proposed order.Motions referred to Jacquelyn D Austin.(Pillsbury, Rodney) Modified on 4/13/2016 to add joint filers listed on document (gpre,). (Entered: 04/12/2016)
04/18/2016	274	RESPONSE in Opposition re 271 MOTION to Dismiss MOTION for Sanctions Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz.Reply to Response to Motion due by 4/28/2016 (Attachments: # 1 Exhibit 1 - Email - 01.29.16, # 2 Exhibit 2 - Email - 02.05.16, # 3 Exhibit 3 - Email - 02.05.16, # 4 Exhibit 4 - Email - 02.19.16, # 5 Exhibit 5 - Email - 02.19.16, # 6 Exhibit 6 - Mediation PowerPoint, # 7 Certificate of Service)(Pillsbury, Rodney) (Entered: 04/18/2016)
04/21/2016	277	REPLY to Response to Motion re 271 MOTION to Dismiss MOTION for Sanctions. Response filed by Arthur M Field. (Attachments: # 1 Exhibit A-Excerpts Forte v County of Merced 2/13/15, # 2 Exhibit B-Marscella v. Wells Fargo Bank NA 1/13/16, # 3 Exhibit C-Winters v. Hartford 1/15/15, # 4 Exhibit D-Kiser v Salisbury P.D. 5/28/15, # 5 Exhibit E-Supplemental Certification of Field, # 6 Exhibit F-Email from Pillsbury 4/27/15, # 7 Exhibit G-Factors by Circuit Pertaining to Rule 41(B), # 8 Exhibit H-Naji v. Lincoln 1/12/2016, # 9 Exhibit I-Statement of Professional Services by Mediator McCoy 3/30/2016, # 10 Exhibit J-Mediatoar McCoy Letter of 2/15/16)(gpre,) (Entered: 04/22/2016)
04/21/2016	278	RESPONSE to Motion re 273 MOTION to Dismiss <i>Voluntary - Defendant Scott Pfeiffer Without Prejudice</i> . Response filed by Arthur M Field. Reply to Response to Motion due by 5/2/2016 (gpre,) (Entered: 04/22/2016)
04/26/2016	280	REPORT AND RECOMMENDATION recommends that Plaintiffs 273 motion to voluntarily dismiss Pfeiffer without prejudice be GRANTED; recommends that Pfeiffers 169 motion for summary judgment be FOUND AS MOOT; and recommends that Pfeiffers 193 motion for sanctions be FOUND AS MOOT. Objections to R&R due by 5/16/2016. Signed by Magistrate Judge Jacquelyn D Austin on 4/26/2016. (Attachments: # 1 Notice of Right to File Objection)(gpre,) (Entered: 04/26/2016)
04/26/2016	281	***DOCUMENT MAILED 280 REPORT AND RECOMMENDATION placed in U.S. Mail to Arthur Field (gpre,) (Entered: 04/26/2016)
04/26/2016	282	NOTICE of Request for Protection from Court Appearance by Rodney F Pillsbury for May 27, 2016 - June 6, 2016; July 1, 2016 - July 5, 2016; July 14, 2016 - July 18, 2016; and August 3, 2016 - August 5, 2016 (Attachments: # 1 Certificate of Service)(Pillsbury, Rodney) (Entered: 04/26/2016)

05/12/2016	<u>283</u>	MOTION to Certify Class by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz. Response to Motion due by 5/31/2016. (Attachments: # <u>1</u> Memo in Support, # <u>2</u> Exhibit 1 - Arthur Field Plea Agreement - 05.16.13, # <u>3</u> Exhibit 2 - Plea Hearing Excerpts - 05.06.13, # <u>4</u> Exhibit 3 - Sentencing Hearing Excerpts - 10.08.13, # <u>5</u> Exhibit 4 - Affidavit of Harold Brooks, # <u>6</u> Exhibit 5 - Affidavit of Jerry Saad, # <u>7</u> Exhibit 6 - Affidavit of Gene Connell, # <u>8</u> Exhibit 7 - Affidavit of Rodney Pillsbury, # <u>9</u> Exhibit 8 - Affidavit of Stan Case, # <u>10</u> Exhibit 9 - Global Mediated Settlement Agreement, # <u>11</u> Certificate of Service)No proposed order.Motions referred to Jacquelyn D Austin.(Pillsbury, Rodney) (Entered: 05/12/2016)
05/27/2016	<u>285</u>	RESPONSE in Opposition re <u>283</u> MOTION to Certify Class. Response filed by Arthur M Field.Reply to Response to Motion due by 6/6/2016 (Attachments: # <u>1</u> Brief in Support of Opposition and Objection, # <u>2</u> Exhibit A-M to Brief in Support)(gpre,) (Entered: 05/31/2016)
05/27/2016	<u>286</u>	MOTION to Strike all allegations in <u>152</u> Amended Complaint referring or related to class certification, MOTION to Dismiss (Response to Motion due by 6/13/2016.) by Arthur M Field. (Attachments: # <u>1</u> Memo in Support, # <u>2</u> Exhibit A-M to Brief in Support of Opposition)No proposed order.Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 05/31/2016)
06/02/2016	<u>288</u>	ORDER RULING ON REPORT AND RECOMMENDATION adopting <u>280</u> Report and Recommendation. Plaintiffs <u>273</u> motion to voluntarily dismiss Pfeiffer without prejudice is granted, Pfeiffers <u>169</u> motion for summary judgment is moot, and Pfeiffers <u>193</u> motion for sanctions is moot. Signed by Honorable Bruce Howe Hendricks on 6/2/2016. (gpre,) (Entered: 06/02/2016)
06/02/2016	289	***DOCUMENT MAILED <u>288</u> Order Ruling on Report and Recommendation, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 06/02/2016)
06/06/2016	<u>291</u>	REPLY to Response to Motion re <u>283</u> MOTION to Certify Class <i>Plaintiffs Reply to Defendant Field's Response in Opposition to Plaintiffs Motion to Certify Class</i> Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz. (Pillsbury, Rodney) (Entered: 06/06/2016)
06/07/2016	<u>292</u>	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz re <u>291</u> Reply to Response to Motion, (Pillsbury, Rodney) (Entered: 06/07/2016)
06/13/2016	<u>293</u>	RESPONSE in Opposition re <u>286</u> MOTION to Strike <u>152</u> Amended Complaint,, MOTION to Dismiss Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz.Reply to Response to Motion due by 6/23/2016 (Attachments: # <u>1</u> Certificate of Service)(Pillsbury, Rodney) (Entered: 06/13/2016)
06/13/2016	<u>295</u>	REPLY to Response to Motion re <u>286</u> MOTION to Strike <u>152</u> Amended Complaint, MOTION to Dismiss. Response filed by Arthur M Field. (gpre,) (Entered: 06/14/2016)
06/13/2016	<u>296</u>	REJOINDER IN SUPPORT OF by Arthur M Field to <u>285</u> Response in Opposition to Motion to Certify Class. (gpre,) (Entered: 06/14/2016)
07/25/2016	<u>297</u>	REPORT AND RECOMMENDATION recommends that Field's <u>238</u> motion to dismiss counterclaim be GRANTED and Field's <u>241</u> motion to take judicial notice be DENIED. Objections to R&R due by 8/11/2016 Signed by Magistrate Judge Jacquelyn D Austin on 7/25/2016. (Attachments: # <u>1</u> Notice of Right to File Objection)(gpre,) Modified on 7/26/2016 to edit text (gpre,). (Entered: 07/25/2016)
07/25/2016	298	***DOCUMENT MAILED <u>297</u> REPORT AND RECOMMENDATION placed in U.S.

		Mail to Arthur Field (gpre,) (Entered: 07/25/2016)
08/04/2016	299	MOTION to Dismiss <i>Voluntarily Dismiss its Counterclaims</i> by Capital Investment Funding LLC. Response to Motion due by 8/22/2016. (Attachments: # 1 Exhibit 1 - State Court Amended Complaint, # 2 Exhibit 2 - Order Denying Motions to Dismiss)No proposed order.Motions referred to Jacquelyn D Austin.(Brandt, George) (Entered: 08/04/2016)
08/04/2016	300	MOTION for Reconsideration re 297 REPORT AND RECOMMENDATION re 241 MOTION to take judicial notice re 240 Additional Attachments to Main Document,,, 239 Additional Attachments to Main Document,,, 238 MOTION to Dismiss filed by Arthur M Field, 238 MOTION to Dismiss fi <i>Reconsider the Court's Order Granting Field's Motion to Dismiss Counterclaims</i> by Capital Investment Funding LLC. Response to Motion due by 8/22/2016. (Attachments: # 1 Exhibit 1 - State Court Amended Complaint, # 2 Exhibit 2 - Order Denying Motions to Dismiss)No proposed order.Motions referred to Jacquelyn D Austin.(Brandt, George) (Entered: 08/04/2016)
08/04/2016	301	OBJECTION to 297 Report and Recommendation <i>Dismissing Its Counterclaim Against Field</i> by Capital Investment Funding LLC. Reply to Objections due by 8/22/2016 (Attachments: # 1 Exhibit 1 - State Court Amended Complaint, # 2 Exhibit 2 - Order Denying Motions to Dismiss)(Brandt, George) (Entered: 08/04/2016)
08/05/2016	302	CERTIFICATE OF SERVICE by Capital Investment Funding LLC re 299 MOTION to Dismiss <i>Voluntarily Dismiss its Counterclaims</i> (Brandt, George) (Entered: 08/05/2016)
08/05/2016	303	CERTIFICATE OF SERVICE by Capital Investment Funding LLC re 300 MOTION for Reconsideration re 297 REPORT AND RECOMMENDATION re 241 MOTION to take judicial notice re 240 Additional Attachments to Main Document,,, 239 Additional Attachments to Main Document,,, 238 MOTION to Dismiss filed by Arth (Brandt, George) (Entered: 08/05/2016)
08/05/2016	304	CERTIFICATE OF SERVICE by Capital Investment Funding LLC re 301 Objection to Report and Recommendation, (Brandt, George) (Entered: 08/05/2016)
08/05/2016	305	TEXT ORDER denying 300 motion for reconsideration. The undersigned issued the Report and Recommendation based on the record before the Court at the time the Report and Recommendation was filed. Pursuant to Rule 72(b)(2) of the Federal Rules of Civil Procedure, the proper mechanism for objecting to a disposition recommended by a magistrate judge is to file objections, which Capital Investment Funding LLC ("CIF") did in this case in addition to filing the instant motion. [See Doc. 301.] Accordingly, the instant motion is denied, and the Honorable Bruce H. Hendricks will rule on the Report and Recommendation, objections, and the underlying motion to dismiss counterclaim. The undersigned also notes that CIF has filed a motion to voluntarily dismiss its counterclaim. The parties' failure to notify the Court that this counterclaim was simultaneously being litigated in state court resulted in a waste of both the parties' and judicial resources. Thus, the parties are directed to advise the Court of any other claims that are simultaneously being litigated in any other court by filing a status report outlining all pending litigation between the parties and the causes of action by August 12, 2016. Signed by Magistrate Judge Jacquelyn D Austin on 8/5/2016.(gpre,) (Entered: 08/05/2016)
08/05/2016	306	***DOCUMENT MAILED 305 Order on Motion for Reconsideration,,,,, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 08/05/2016)
08/12/2016	308	REPLY <i>Joint Response of Plaintiffs and Third Party Defendant Regarding Status of Other Pending Litigation</i> by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Capital Investment Funding LLC, Sharon Finch, Frances W Tomz, William F Tomz to

		305 Order on Motion for Reconsideration, (Attachments: # 1 Exhibit Order, Rule to Show Cause (August 19, 2013), # 2 Exhibit Order, Rule to Show Cause (October 1, 2013), # 3 Exhibit Order, SC Court of Appeals (July 18, 2014), # 4 Exhibit Amended Complaint, CIF v. Field (C.A. No. 15-CP-23-01263 (Greenville County, SC, Court of Common Pleas), # 5 Exhibit Order Denying Defendants' Motions to Dismiss (June 30, 2016), # 6 Exhibit Complaint, CIF v. Calvary Asset Management (N.J. 2012), # 7 Exhibit Opinion, N.J. Superior Court (July 12, 2016))(Pillsbury, Rodney) Modified on 8/12/2016 to edit text (gpre,). (Entered: 08/12/2016)
08/12/2016	314	STATUS REPORT per Order 305 to report on claims brought by Arthur M Field. (gpre,) (Entered: 08/15/2016)
08/12/2016	315	RESPONSE in Opposition re 299 MOTION to Dismiss <i>Voluntarily Dismiss its Counterclaims</i> . Response filed by Arthur M Field.Reply to Response to Motion due by 8/22/2016 (Attachments: # 1 Exhibit A-Excerpts from Plaintiff Capital Investment Funding LLC's Consolidated Memo in Opposition to Defendants' Motions to Dismiss) (gpre,) (Entered: 08/15/2016)
08/12/2016	316	REPLY by Arthur M Field to 301 Objection to Report and Recommendation. (Attachments: # 1 Exhibit A-Excerpts from C.A. No. 10816-CB)(gpre,) (Entered: 08/15/2016)
08/15/2016	309	TEXT ORDER granting Third-Party Defendant/Counter Claimant Capital Investment Funding LLC's ("CIF") 299 Motion to Voluntarily Dismiss its Counterclaim, and denying as moot Defendant/Third-Party Plaintiff Arthur M. Field's ("Field") 238 Motion to Dismiss CIF's Counterclaim and to Stay Discovery and 241 Motion to Take Judicial Notice. CIF moved to voluntarily dismiss its unjust enrichment counterclaim against Field in the instant case because the same claim is pending in CIF's state court action against Field and others, which arises from the same set of facts and circumstances as the case sub judice. (See ECF No. 299 at 2-3.) The Honorable Perry Gravely, presiding state court judge, denied the state-court-defendants' (including Field) motions to dismiss on June 30, 2016 (ECF No. 299 -2), and CIF's unjust enrichment claim remains viable there. Accordingly, CIF's voluntary motion to dismiss is granted, and Field's motions to dismiss and to take judicial notice are denied as moot. However, the Court would note that the parties' failure to keep Magistrate Judge Austin appraised of the parallel litigation in state court resulted in the wasting of judicial resources. The Court has reviewed the Plaintiffs' and CIF's Joint Response (ECF No. 308) to Magistrate Judge Austin regarding the status of other pending litigation related to this case, and hereby instructs the parties to immediately notify the Court of subsequent developments in those cases that affect the disposition of issues pending here. Signed by Honorable Bruce Howe Hendricks on 8/15/16.(alew,) (Entered: 08/15/2016)
08/15/2016	310	***DOCUMENT MAILED 309 Order on Motion to Dismiss placed in U.S. Mail to Arthur Field (alew,) (Entered: 08/15/2016)
08/18/2016	317	TEXT ORDER granting in part 271 motion for sanctions. Defendant Field seeks dismissal of Plaintiffs' Amended Complaint and sanctions based on Plaintiffs' "repeated failure to comply with this [C]ourt's Orders after warning including failure to mediate in good faith." (Doc. 271 at 1.) Plaintiffs concede that the individual class representatives did not attend the mediation conference as required by Local Civil Rule 16.08(A)(2), D.S.C. (Doc. 274 .) Plaintiffs contend that "it is not normally the custom to have individual class representatives attend the mediation." [Id. at 3.] However, Local Civil Rule 16.08(A)(2) requires individual parties to attend the mediation conference "unless otherwise ordered by the court or agree upon by the parties." Here, Plaintiffs did not seek leave of Court to excuse the

		individual class representatives from the mediation conference nor did they indicate their intention not to have the class representatives attend either to the Court or to the other parties. Moreover, the Court has reviewed the PowerPoint submitted by Plaintiffs regarding what evidence was presented at mediation and finds that this evidence primarily relates to Field's current financial accounts and alleged movement of money after August 24, 2009, when Field was no longer in control of Capital Investment Funding, LLC ("CIF"). Although this evidence may be illustrative of Field's ability to pay any potential damages in this action, it is not relevant to the merits of the RICO claims raised in this case regarding the alleged fraud by Field, including creating sham entities and making misrepresentations so that CIF's, not Field's, financial position appeared to be better than it was. Finally, the Court is mindful that the parties failed to timely conduct the first mediation and were warned that the action would be subject to dismissal for failure to comply with the Court's Order to conduct mediation. (Doc. 235 .) Based on the foregoing, the undersigned finds that Plaintiffs failed to mediate in good faith. As such, the Court Orders the parties to conduct another mediation by October 15, 2016, and to mediate in good faith regarding the merits of Plaintiffs' RICO claims and not the potential damages in this action. Additionally, Plaintiffs are Ordered to pay for the second mediation. The portion of Defendant Field's motion seeking dismissal of the action remains pending for future consideration by the Court. Signed by Magistrate Judge Jacquelyn D Austin on 8/18/2016.(gpre,) (Entered: 08/18/2016)
08/18/2016	318	***DOCUMENT MAILED 317 Order on Motion for Sanctions, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 08/18/2016)
09/02/2016	320	Letter from Stanley T. Case. (Attachments: # 1 Supporting Documents Notice of Scheduled Mediation, # 2 Certificate of Service, # 3 Supporting Documents Text Order 317)(Case, Stanley) (Entered: 09/02/2016)
09/06/2016	321	MOTION for Disqualification of Mediator and Further Motion for Dismissal and Sanctions by Arthur M Field. Response to Motion due by 9/23/2016. (Attachments: # 1 Exhibit A-USCA No. 15-7661)No proposed order.Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 09/06/2016)
09/07/2016	322	TEXT ORDER directing all parties other than Field to respond to Field's 321 motion for disqualification of mediator by Friday, September 9, 2016, at 12:00 p.m. The Court construes the motion as a three-part motion, seeking to disqualify the mediator, for dismissal of the action, and for sanctions. The deadline for the portions of the motion dismissal and sanctions will remain September 23, 2016. Signed by Magistrate Judge Jacquelyn D Austin on 9/7/2016. (gpre,) (Entered: 09/07/2016)
09/07/2016	323	***DOCUMENT MAILED 322 Order, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 09/07/2016)
09/09/2016	325	RESPONSE in Opposition re 321 MOTION for Disqualification of Mediator <i>Joint</i> Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Capital Investment Funding LLC, Sharon Finch, Frances W Tomz, William F Tomz.Reply to Response to Motion due by 9/19/2016 (Attachments: # 1 Exhibit Email from Arthur Field (4.17.2015), # 2 Exhibit Email from Arthur Field (3.27.2015), # 3 Exhibit Email from Arthur Field (2.2.2016))(Pillsbury, Rodney) (Entered: 09/09/2016)
09/09/2016	326	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Capital Investment Funding LLC, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz re 325 Response in Opposition to Motion, (Pillsbury, Rodney) (Entered: 09/09/2016)

09/13/2016	328	TEXT ORDER finding as moot 321 motion for disqualification of mediator. Plaintiffs and Third-Party Defendant have informed the Court that the mediation has been rescheduled for the same time and date with one of Defendant's proposed mediators. (Doc. 325 at 3--4.) Accordingly, the portion of Defendant's motion seeking to disqualify the mediator is now moot. The portions of Defendant's motion seeking dismissal of the action and/or sanctions remain pending with a response deadline of September 23, 2016. Signed by Magistrate Judge Jacquelyn D Austin on 9/13/2016. (gpre,) (Entered: 09/13/2016)
09/13/2016	329	***DOCUMENT MAILED 328 Order, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 09/13/2016)
09/22/2016	330	MOTION for Extension of Time to File Response/Reply as to 321 MOTION for Disqualification of Mediator by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomz. Response to Motion due by 10/11/2016. (Attachments: # 1 Certificate of Service)No proposed order.Motions referred to Jacquelyn D Austin.(Pillsbury, Rodney) (Entered: 09/22/2016)
09/23/2016	331	TEXT ORDER granting 330 motion for extension of time. Plaintiffs' response to 321 motion to dismiss and for sanctions is due by October 7, 2016. Response to Motion due by 9/23/2016. Signed by Magistrate Judge Jacquelyn D Austin on 9/23/2016. (gpre,) (Entered: 09/23/2016)
09/23/2016	332	***DOCUMENT MAILED 331 Order on Motion for Extension of Time to File Response, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 09/23/2016)
10/08/2016	335	RESPONSE in Opposition re 321 MOTION for Disqualification of Mediator Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Capital Investment Funding LLC, Sharon Finch, Frances W Tomz, William F Tomz.Reply to Response to Motion due by 10/20/2016 (Pillsbury, Rodney) (Entered: 10/08/2016)
10/10/2016	336	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Capital Investment Funding LLC, Sharon Finch, Frances W Tomz, William F Tomz re 335 Response in Opposition to Motion, (Pillsbury, Rodney) (Entered: 10/10/2016)
10/17/2016	337	TEXT ORDER directing Defendant Field to update the Court by October 31, 2016, regarding his status and ability to participate in this action. On October 8, 2016, Plaintiffs and Third-Party Defendant filed a response to Defendant Field's motion seeking dismissal of the action and/or sanctions. (Doc. 335.) In the response, Plaintiffs and Third-Party Defendant indicated Defendant Field has enrolled in a mental health care facility. (Id. at 1.) Thus, Defendant Field is directed to update the Court regarding his status and ability to participate in this action by October 31, 2016. Signed by Magistrate Judge Jacquelyn D Austin on 10/17/2016. (gpre,) (Entered: 10/17/2016)
10/17/2016	338	***DOCUMENT MAILED 337 Order, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 10/17/2016)
10/31/2016	340	STATUS REPORT in response to order 337 by Arthur M Field. (kric,) (Entered: 10/31/2016)
11/15/2016	343	TEXT ORDER taking under advisement 271 motion to dismiss, 283 motion to certify class, 286 motion to strike or dismiss, and 321 motion to dismiss and/or for sanctions. The parties have indicated that they have reached a settlement agreement in principle. Accordingly, the Court declines to issue a Report and Recommendation on the pending motions unless the parties are unable to fully resolve the case. To that end, the parties are directed to provide the Court with a status report by

		December 5, 2016. Signed by Magistrate Judge Jacquelyn D Austin on 11/15/2016. (gpre,) (Entered: 11/15/2016)
11/15/2016	344	***DOCUMENT MAILED 343 Text Order on Motion for Miscellaneous Relief, Order on Motion to Dismiss, Order on Motion to Certify Class, Order on Motion to Strike, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 11/15/2016)
12/02/2016	347	STATUS REPORT by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Capital Investment Funding LLC, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz. (Attachments: # 1 Certificate of Service)(Pillsbury, Rodney) (Entered: 12/02/2016)
12/05/2016	348	TEXT ORDER directing Defendant Field to file a brief response to 347 status report by December 15, 2016. Signed by Magistrate Judge Jacquelyn D Austin on 12/5/2016. (gpre,) (Entered: 12/05/2016)
12/05/2016	349	***DOCUMENT MAILED 348 Order placed in U.S. Mail to Arthur Field. (gpre,) (Entered: 12/05/2016)
12/14/2016	351	STATUS REPORT and Request for Relief by Arthur M Field. (Attachments: # 1 Envelope)(gpre,) Supplement 360 filed on 1/9/2017 (gpre,). (Entered: 12/15/2016)
12/19/2016	352	NOTICE of Hearing: Status Conference set for 1/9/2017 10:00 AM in Greenville #1, Clement F Haynsworth Fed Bldg, 300 E Washington St, Greenville before Magistrate Judge Jacquelyn D Austin. <i>Parties are to be prepared to address issues regarding settlement agreement.</i> (gpre,) (Entered: 12/19/2016)
12/19/2016	353	***DOCUMENT MAILED 352 Notice of Hearing, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 12/19/2016)
01/05/2017	354	STATUS REPORT <i>Plaintiffs Response to Defendant Field's Status Report</i> by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz. (Attachments: # 1 Exhibit 1 - Order & Rule to Show Case, # 2 Exhibit 2 - Order and Rule to Show Cause, # 3 Exhibit 3 - Global Settlement Agreement, # 4 Exhibit 4 - Field Third Party Coplaint, # 5 Exhibit 5 - Email from Rodney F. Pillsbury)(Pillsbury, Rodney) (Entered: 01/05/2017)
01/06/2017	355	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz re 354 Status Report, (Pillsbury, Rodney) (Entered: 01/06/2017)
01/06/2017	356	NOTICE OF RESCHEDULED HEARING Status Conference set for 1/9/2017 10:00 AM cancelled and rescheduled to: <i>(time change only)</i> Status Conference set for 1/9/2017 01:00 PM in Greenville #1, Clement F Haynsworth Fed Bldg, 300 E Washington St, Greenville before Magistrate Judge Jacquelyn D Austin. (gpre,) (Entered: 01/06/2017)
01/06/2017	358	***DOCUMENT MAILED (AND EMAILED) 356 Notice of Rescheduled Hearing, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 01/06/2017)
01/09/2017	360	SUPPLEMENT by Arthur M Field to 351 Status Report. (gpre,) (Entered: 01/09/2017)
01/09/2017	361	STATUS REPORT <i>Plaintiffs Response to Defendant Field's Supplemental Status Report</i> by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz. (Attachments: # 1 Exhibit 1 - Pillsbury Email to Goldberg)(Pillsbury, Rodney) (Additional attachment(s) added on 1/9/2017: # 2 Exhibit 2 - Email from RFP to Field, # 3 Exhibit 3 - Email from Field, # 4 Certificate of Service) (gpre,). (Entered: 01/09/2017)
01/09/2017	362	Minute Entry. Proceedings held before Magistrate Judge Jacquelyn D Austin: Status Conference held on 1/9/2017. Defendant Field withdraws motion 271. Report

		and Recommendation will be prepared regarding motions 283, 286, and 321. Recommendation to be made to District Judge to set case for trial in May 2017. Court Reporter Debra Bull. (ncha,) (Entered: 01/09/2017)
01/09/2017	363	ORAL Withdrawal of Motion: 271 MOTION to Dismiss/MOTION for Sanctions by Arthur M Field per status conference on 1/09/2017. (ncha,) (Entered: 01/09/2017)
01/18/2017	366	MOTION for Default Judgment as to Harold Brooks, Benjamin Brooks, Clara Brooks, William Tomz, Frances Tomz, Sharon Finch by Arthur M Field. Response to Motion due by 2/1/2017. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # 1 Envelope)No proposed order.Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 01/19/2017)
01/18/2017	367	MOTION TO RECONSIDER, MOTION TO DISMISS (Response to Motion due by 2/1/2017. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45.), by Arthur M Field. (Attachments: # 1 Plea Agreement, # 2 Envelope)No proposed order.Motions referred to Jacquelyn D Austin. (gpre,) (Entered: 01/19/2017)
01/18/2017	368	REQUEST FOR ENTRY OF DEFAULT by Arthur M Field against plaintiffs Harold Brooks, Benjamin Brooks, Clara Brooks, William Tomz, Frances Tomz and Sharon Finch. (Attachments: # 1 Envelope)(gpre,)Refiled by clerk to correct event type. (Entered: 01/20/2017)
01/18/2017	369	Clerk's ENTRY OF DEFAULT as to Harold Brooks, Benjamin Brooks, Clara Brooks, William Tomz, Frances Tomz and Sharon Finch. (gpre,) (Entered: 01/20/2017)
01/20/2017	370	DELETION OF DOCKET ENTRY NUMBER 365 Reason: Refiled by Clerk to correct event type. Corrected Filing Document Number 368 . Modified filing date to that of original filing: 1/18/2017. (gpre,) (Entered: 01/20/2017)
01/26/2017	371	REPORT AND RECOMMENDATION recommends Plaintiffs' 283 MOTION to Certify Class be denied. Objections to R&R due by 2/9/2017 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. Signed by Magistrate Judge Jacquelyn D Austin on 142267. (Attachments: # 1 Notice of Right to File Objection)(gpre,) (Entered: 01/26/2017)
01/26/2017	372	***DOCUMENT MAILED 371 REPORT AND RECOMMENDATION placed in U.S. Mail to Arthur Field (gpre,) (Entered: 01/26/2017)
01/27/2017	373	REPORT AND RECOMMENDATION recommends that Field's motion to strike class allegations and to dismiss 286 be DENIED and Field's motion for dismissal and sanctions 321 be DENIED. Objections to R&R due by 2/10/2017 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. Signed by Magistrate Judge Jacquelyn D Austin on 1/27/2017. (gpre,) (Additional attachment(s) added on 1/30/2017: # 1 Notice of Right to File Objection) (gpre,). (Main Document 373 replaced on 1/30/2017) (gpre,). (Entered: 01/27/2017)
01/30/2017	374	***DOCUMENT MAILED 373 REPORT AND RECOMMENDATION placed in U.S. Mail to Arthur Field. (gpre,) (Entered: 01/30/2017)
02/01/2017	375	RESPONSE in Opposition re 367 MOTION to Dismiss MOTION for Reconsideration Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Capital Investment Funding LLC, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz.Reply to Response to Motion due by 2/8/2017 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # 1 Certificate of Service)(Pillsbury, Rodney) (Entered: 02/01/2017)
02/01/2017	376	RESPONSE in Opposition re 366 MOTION for Default Judgment as to Harold Brooks,

		Benjamin Brooks, Clara Brooks, William Tomz, Frances Tomz, Sharon Finch Response filed by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz. Reply to Response to Motion due by 2/8/2017 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # 1 Exhibit 1 - Arthur Field Emails)(Pillsbury, Rodney) (Entered: 02/01/2017)
02/02/2017	377	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz re 376 Response in Opposition to Motion,, (Pillsbury, Rodney) Modified on 2/2/2017 to replace incorrect document with correct document as provided by filing user(gpre,). (Entered: 02/02/2017)
02/06/2017	379	RESPONSE by Arthur M Field to 371 REPORT AND RECOMMENDATION re 283 MOTION to Certify Class filed by Frances W Tomz, Harold Brooks, William F Tomz, Clara Louise Brooks, Sharon Finch, Benjamin Brooks. (gpre,) (Entered: 02/07/2017)
02/06/2017	380	OBJECTION to 373 Report and Recommendation by Arthur M Field. Reply to Objections due by 2/21/2017 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (gpre,) (Entered: 02/07/2017)
02/06/2017	381	MOTION for Extension of Time to file responses in opposition by Arthur M Field. Response to Motion due by 2/21/2017. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. No proposed order. Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 02/07/2017)
02/08/2017	383	TEXT ORDER granting 381 motion for extension of time. Field's replies with respect to 366 motion for default judgment and 367 motion to reconsider, motion to dismiss are due by February 16, 2017. Signed by Magistrate Judge Jacquelyn D Austin on 02/08/2017.(gpre,) Modified on 2/9/2017 to edit text (gpre,). (Entered: 02/08/2017)
02/08/2017	384	TEXT ORDER directing the parties to provide the Court with a status report regarding settlement negotiations. In Field's most recent filing (Doc. 381), he indicated settlement negotiations have resumed. Accordingly, the parties shall provide a status report regarding settlement negotiations by February 16, 2017. Signed by Magistrate Judge Jacquelyn D Austin on 2/8/2017. (gpre,) (Entered: 02/08/2017)
02/08/2017	385	***DOCUMENT MAILED 384 Order, 383 Order on Motion for Extension of Time, placed in U.S. Mail to Arthur Field. (gpre,) (Entered: 02/08/2017)
02/09/2017	387	***DOCUMENT RE-MAILED 383 Order on Motion for Extension of Time, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 02/09/2017)
02/09/2017	388	OBJECTION to 371 Report and Recommendation by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz. Reply to Objections due by 2/23/2017 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # 1 Exhibit 1 - Plaintiffs Discovery Requests, # 2 Exhibit 2 - Field's Responses to discovery - Redacted, # 3 Exhibit 3 - Check to Field from Hakuna Industries, Inc., # 4 Exhibit 4 - Hakuna Industries, Inc. Information, # 5 Exhibit 5 - Affidavit of Tiffany Davenport, # 6 Exhibit 6 - Docket Spreadsheet)(Pillsbury, Rodney) (Entered: 02/09/2017)
02/10/2017	390	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz re 388 Objection to Report and Recommendation,, (Pillsbury, Rodney) (Entered: 02/10/2017)

02/16/2017	391	STATUS REPORT (per Order #384) by Arthur M Field. (gpre,) (Entered: 02/16/2017)
02/16/2017	392	REPLY to Response to Motion re 367 MOTION to Dismiss MOTION for Reconsideration. Reply filed by Arthur M Field. (gpre,) (Entered: 02/16/2017)
02/16/2017	393	REPLY to Response to Motion re 366 MOTION for Default Judgment as to Harold Brooks, Benjamin Brooks, Clara Brooks, William Tomz, Frances Tomz, Sharon Finch. Reply filed by Arthur M Field. (gpre,) (Main Document 393 replaced and Additional attachment(s) added on 2/22/2017: # 1 Exhibit A Certification of Field, # 2 Exhibit B Order in USDC Southern District of Florida, case 07-61438-CIV-COHN-SELTZER, # 3 Exhibit C Order in USDC Hawaii, case 12-00649 SOM-KSC). Modified on 2/22/2017: to separate exhibits from main document (kmca). (Entered: 02/16/2017)
02/16/2017	394	STATUS REPORT by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Capital Investment Funding LLC, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz. (Pillsbury, Rodney) (Entered: 02/16/2017)
02/17/2017	395	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Capital Investment Funding LLC, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz re 394 Status Report (Pillsbury, Rodney) (Entered: 02/17/2017)
02/17/2017	396	MOTION for Extension of Time to File Response/Reply as to 380 Objection to Report and Recommendation by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz. Response to Motion due by 3/3/2017. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # 1 Certificate of Service)No proposed order.Motions referred to Jacquelyn D Austin.(Pillsbury, Rodney) (Entered: 02/17/2017)
02/17/2017	397	TEXT ORDER directing the parties to provide the Court with a status report regarding settlement negotiations. Both parties have indicated they have agreed to settlement terms, but the settlement has not been finalized. [Docs. 391, 394.] Accordingly, the parties shall provide a status report regarding settlement negotiations by March 1, 2017. Signed by Magistrate Judge Jacquelyn D Austin on 2/17/2017. (kric,) (Entered: 02/21/2017)
02/21/2017	398	***DOCUMENT MAILED 397 Order, placed in U.S. Mail to Arthur M Field (kric,) (Entered: 02/21/2017)
02/21/2017	402	TEXT ORDER granting 396 Motion for Extension of Time to File Response/Reply re 380 Objection to 373 REPORT AND RECOMMENDATION re 286 MOTION to Strike 152 Amended Complaint,, MOTION to Dismiss filed by Arthur M Field, 321 MOTION for Disqualification of Mediator filed by Arthur M Field. Replies due by 3/8/2017. Signed by Honorable Bruce Howe Hendricks on 2/21/17.(alew,) (Entered: 02/21/2017)
02/21/2017	403	***DOCUMENT MAILED 402 Order on Motion for Extension of Time to File Response/Reply, placed in U.S. Mail to Arthur Field (alew,) (Entered: 02/21/2017)
02/21/2017	404	MOTION for Extension of Time to File Reply as to 371 REPORT AND RECOMMENDATION re 283 MOTION to Certify Class filed by Frances W Tomz, Harold Brooks, William F Tomz, Clara Louise Brooks, Sharon Finch, Benjamin Brooks by Arthur M Field. Response to Motion due by 3/7/2017. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. No proposed order.Motions referred to Jacquelyn D Austin.(kric,) (Entered: 02/21/2017)
02/22/2017	407	TEXT ORDER granting 404 Motion for Extension of Time to File Reply re 371 REPORT AND RECOMMENDATION re 283 MOTION to Certify Class filed by

		Frances W Tomz, Harold Brooks, William F Tomz, Clara Louise Brooks, Sharon Finch, Benjamin Brooks Replies due by 3/10/2017. Signed by Honorable Bruce Howe Hendricks on 2/22/2017.(kric,) Modified on 2/22/2017 to edit text (kric,). (Entered: 02/22/2017)
02/22/2017	408	***DOCUMENT MAILED 407 Order on Motion for Extension of Time to File Response/Reply, placed in U.S. Mail to Arthur M Field (kric,) (Entered: 02/22/2017)
03/01/2017	409	STATUS REPORT by Arthur M Field. (gpre,) (Entered: 03/02/2017)
03/01/2017	413	MOTION for Extension of Time by Arthur M Field request the Court hold all pending matters in abeyance and extend any deadlines previously granted to the parties by Judge Hendricks' Orders 402 and 407 . Response to Motion due by 3/15/2017. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. No proposed order.(gpre,) Modified on 3/3/2017 to correct date filed (gpre,). (Entered: 03/02/2017)
03/02/2017	410	TEXT ORDER directing Plaintiffs to provide the Court with a status report regarding settlement negotiations immediately upon receipt of this Text Order. The parties were directed to provide a status report by March 1, 2017 (Doc. 397), but Plaintiffs failed to comply with the previous Text Order. Signed by Magistrate Judge Jacquelyn D Austin on 3/2/2017. (gpre,) (Entered: 03/02/2017)
03/02/2017	411	***DOCUMENT MAILED 410 Order, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 03/02/2017)
03/02/2017	412	STATUS REPORT by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Capital Investment Funding LLC, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz. (Attachments: # 1 Exhibit 1 - Settlement Agreement, # 2 Certificate of Service) (Pillsbury, Rodney) (Entered: 03/02/2017)
03/02/2017	415	TEXT ORDER directing the parties to file another status report by March 8, 2017, or within 48 hours of all parties to the Global Settlement Agreement executing that agreement, whichever is earlier. Signed by Magistrate Judge Jacquelyn D Austin on 3/2/2017. (gpre,) (Entered: 03/02/2017)
03/02/2017	416	***DOCUMENT MAILED 415 Order, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 03/02/2017)
03/03/2017	418	TEXT ORDER granting 413 Motion for Extension of Time. All reply dates set out in Text Order (ECF No. 402) are moved to 3/15/17, and all reply dates set out in Text order (ECF No. 407) are moved to 3/17/17. Signed by Honorable Bruce Howe Hendricks on 3/3/2017.(gpre,) (Entered: 03/03/2017)
03/03/2017	419	***DOCUMENT MAILED 418 Order on Motion for Extension of Time, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 03/03/2017)
03/08/2017	421	STATUS REPORT by Arthur M Field. (Attachments: # 1 Exhibit A - Update Email 3/3/2017, # 2 Exhibit B - Notice of Hearing March 17, 2017 at 10:30 a.m. Greenville County Courthouse)(gpre,) (Entered: 03/08/2017)
03/08/2017	422	STATUS REPORT by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Capital Investment Funding LLC, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz. (Attachments: # 1 Exhibit 1 - Tomz Motion to Approve Class Settlement, # 2 Certificate of Service)(Pillsbury, Rodney) (Entered: 03/08/2017)
03/09/2017	423	TEXT ORDER directing the parties to file another status report by March 15, 2017, or within 48 hours of all parties to the Global Settlement Agreement executing that

		agreement, whichever is earlier. Signed by Magistrate Judge Jacquelyn D Austin on 3/9/2017. (gpre,) (Entered: 03/09/2017)
03/09/2017	425	***DOCUMENT MAILED 423 Order, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 03/09/2017)
03/10/2017	426	NOTICE of Request for Protection from Court Appearance by Gene McCain Connell, Jr for 5/8/17-5/15/17 (Connell, Gene) (Entered: 03/10/2017)
03/13/2017	427	NOTICE of Request for Protection from Court Appearance by Rodney F Pillsbury for 4/25/14-4/28/17; 5/18/17-5/27/17; and 7/17/17-7/21/17 (Attachments: # 1 Certificate of Service)(Pillsbury, Rodney) (Entered: 03/13/2017)
03/15/2017	428	NOTICE of Request for Protection from Court Appearance by Gene McCain Connell, Jr for 5/4/17-5/16/17 (Connell, Gene) (Entered: 03/15/2017)
03/15/2017	429	STATUS REPORT by Arthur M Field. (Attachments: # 1 Exhibit A-2008-cp-23-3665 Motion to Dismiss)(gpre,) (Entered: 03/15/2017)
03/15/2017	430	NOTICE of Request for Protection from Court Appearance by Arthur M Field for March 18, 2017 to April 12, 2017. (gpre,) (Entered: 03/15/2017)
03/15/2017	431	STATUS REPORT by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Capital Investment Funding LLC, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz. (Pillsbury, Rodney) (Entered: 03/15/2017)
03/16/2017	432	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Capital Investment Funding LLC, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz re 431 Status Report (Pillsbury, Rodney) (Entered: 03/16/2017)
03/16/2017	433	TEXT ORDER directing the parties to notify the Court within 24 hours of all parties to the Global Settlement Agreement signing the agreement. The parties should also file a copy of the Global Settlement Agreement with all signatures. Signed by Magistrate Judge Jacquelyn D Austin on 3/16/2017. (gpre,) (Entered: 03/16/2017)
03/16/2017	434	***DOCUMENT MAILED 433 Order, placed in U.S. Mail to Arthur Field (gpre,) (Entered: 03/16/2017)
03/17/2017	435	MOTION for Extension of Time as to Field's Reply to Plaintiffs' (Doc. 388) Objection to the Report (Doc. 371) regarding Motion for Certification by Arthur M Field. Response to Motion due by 3/31/2017. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. No proposed order.Motions referred to Jacquelyn D Austin.(gpre,) (Entered: 03/17/2017)
03/17/2017	438	STATUS REPORT by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Capital Investment Funding LLC, Arthur M Field, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz. (Attachments: # 1 Exhibit 1 - Settlement Agreement)(Pillsbury, Rodney) (Entered: 03/17/2017)
03/20/2017	439	CERTIFICATE OF SERVICE by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Capital Investment Funding LLC, Sharon Finch, Frances W Tomz, Frances W Tomz, William F Tomz re 438 Status Report, (Pillsbury, Rodney) (Entered: 03/20/2017)
03/20/2017	440	ORDER DISMISSING CASE without costs and without prejudice to the right of either party, upon good cause shown within sixty (60) days, to reinstate the action if settlement is not consummated. Signed by Honorable Bruce Howe Hendricks on 3/20/17. (alew,) (Entered: 03/20/2017)
03/20/2017	441	***DOCUMENT MAILED 440 Order Dismissing Case(60 Day Settlement Order), Record p. 145

		placed in U.S. Mail to Arthur M Field (alew,) (Entered: 03/20/2017)
05/16/2017	446	TEXT ORDER re 440 Order Dismissing Case extending the deadline to consummate the settlement an additional sixty (60) days. Signed by Honorable Bruce Howe Hendricks on 5/16/2017. (gpre,) (Entered: 05/16/2017)
05/16/2017	447	***DOCUMENT MAILED 446 Order placed in U.S. Mail to Arthur Field (gpre,) (Entered: 05/16/2017)
12/13/2017	448	DECLARATION by Benjamin Brooks, Clara Louise Brooks, Harold Brooks, Sharon Finch, Frances W Tomz, William F Tomzre 56 Lis Pendens <i>Cancellation of Lis Pendens</i> . (Attachments: # 1 Exhibit 1 - Lis Pendens, # 2 Exhibit 2 - Cancellation of Lis Pendens, # 3 Certificate of Service)(Pillsbury, Rodney) (Entered: 12/13/2017)

PACER Service Center			
Transaction Receipt			
12/16/2021 17:19:12			
PACER Login:	JPDunlaevy	Client Code:	
Description:	Docket Report	Search Criteria:	6:14-cv-02267-BHH
Billable Pages:	30	Cost:	3.00

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
William F. Tomz and Francis W. Tomz,	)	
Individually and as Class Representatives,	)	CIVIL ACTION NO. 2008-CP-23-3665
	)	
Plaintiffs,	)	
	)	
vs.	)	RECEIVER'S MOTION FOR
	)	DECLARATORY RELIEF
Capital Investment Funding, LLC, and	)	RELATED TO CIF'S JUDGMENT
Arthur M. Field,	)	COLLECTION ACTION IN
	)	FLORIDA
Defendants.	)	
_____	)	

Pursuant to South Carolina Code of Laws § 15-53-20, by and through its court-appointed receiver, Capital Investment Funding, LLC (“CIF”) moves for this Court to declare that its judgment collection action against Arthur Field, currently pending in the United States District Court in the Middle District of Florida [Capital Investment Funding, LLC v. Arthur Field and Kathryn Taillon, Case No: 3:19-cv-606-TJC-JRK] is just and proper under the terms of the Global Settlement Agreement (“GSA”). For convenience, the GSA – as amended with the Addendum executed by the parties on or around November 27, 2017, is attached hereto and incorporated herewith as Exhibit 1. The Court’s order approving the GSA with the addendum is attached as Exhibit 2.

Further, based upon the filings and conduct of Defendant Field in the Florida collection action, CIF further requests the Court impose the \$250,000.00 liquidated damages as set forth in the GSA [Ex. 1, p. 13]

Relevant Factual Background

1. Field's Restitution Obligation Under the GSA – as Amended

In the criminal case against Arthur Field [State v. Arthur Field, C.A. No.#13-CP-47-08], on October 8, 2013 the Honorable Cordell Maddox ordered, *inter alia*, Field to pay the noteholder/victims \$2,877,711.73 in restitution. After years of civil litigation in multiple forums, this Court approved the Global Settlement Agreement on December 1, 2017. Important for purposes here, the original GSA signed by the parties on or about February 24, 2017, allowed all payments made on behalf of the defendants to be credited as satisfaction in full of Field's criminal restitution obligations:

- B. Upon all parties to this Agreement having fully performed their obligations hereunder, no further restitution shall be due from Arthur Field and all restitution obligations of Arthur Field shall be declared SATISFIED IN FULL; and

[Ex. 1, p. 13, ¶ 8(b)]

However, the State of South Carolina, which was not a party to the civil agreement, objected to such a provision. On November 1, 2017 the Honorable Cordell Maddox, who presided over the criminal matters pertaining to Defendant Field, heard Defendant Field's Motion to Reconsider Restitution. All the parties relevant to the Florida collection action were present and/or represented by counsel at this hearing, including CIF, Arthur Field, Kathryn Taillon and Allison Field. After extensive argument and negotiations, the State of South Carolina reached an agreement with Defendant Field as to modifications to his existing restitution order.

On November 28, 2017, Judge Maddox entered an order to this effect. [Exhibit 3, Order Judge Cordell Maddox, November 28, 2017). In his order, Judge Maddox poignantly observed that Field's obligations for criminal restitution were separate and distinct from any civil settlement he may have reached with private parties:

This Court is not the presiding court of the civil matter, nor is it a party neither is the State. Similarly, the plaintiffs of the civil matter are not a party to this criminal action (even if they represent some of the victims). While this Court does not have jurisdiction to bless or modify sections of a civil settlement, it does retain statutory authority to modify restitution. The State of course remains opposed to any modification of restitution, asserting that the amount had already been decided by this Court, and it believed the provisions of the civil settlement did not represent the best interest of the victims of Defendant Field's crimes.

[Exhibit 3, pp. 2-3]

Of particular relevance to the pending Florida collection action, whereby Field contends he has been a legal resident of Florida since 2012, Judge Maddox noted that Field was (and continued to be) subject to probation in South Carolina.

The State explained, and this Court agreed, that it was concerned that Defendant was seeking to escape the jurisdiction of this Court by seeking a modification declaring "no further restitution shall be due from [Defendant] and all restitution obligations of [Defendant] shall be declared SATISFIED IN FULL ... ". The State is opposed to any attempt of the GSA or this modification to trigger any PTUP clause of the current sentencing in place by this Court reached an agreement regarding how payments made under the GSA affected Defendant Field's criminal restitution obligations.

Defendant is on probation with a substantial suspended sentence available. This Court will not modify Defendant's sentence by artificially declaring the restitution satisfied triggering PTUP.

Therefore, Defendant Field will serve the entirety of his probation until the end of his term. Defendant Field is free to immediately apply to transfer his probation to Florida;¹ however, no representations are made as to whether any such attempt to transfer will be successful, and the failure of Florida authorities to accept Field's transfer request is not a basis for escaping any other provision of this Order.

[*Id.* at pp. 5-6]

¹ Upon information and belief, Field's probation was never transferred to the State of Florida.

The parties (i.e., the State of South Carolina and Arthur Field) agreed – and the Court ordered - any remaining unpaid restitution will be converted to a civil judgment at the conclusion of Field’s probationary term. [*Id.* ¶ 3(d) at p. 6]

For this reason, the parties to the GSA executed an Addendum, which included the material parts of Judge Maddox’s order. Per the addendum, amounts paid by (or on behalf of Field) were credited towards his restitution obligation, but – importantly – any unpaid balance would be converted to a civil judgment pursuant to the applicable South Carolina law:

- iv. To the extent any portion of the balance of such restitution remains unpaid at the end of the required probation period, after applying credit for the payments and properties described above, such unpaid balance of restitution may be converted to a civil judgment pursuant to the applicable laws of the State of South Carolina.

[Ex. 1, p. 18, ¶ 1(A)(iv)]

This Court specifically incorporated the Addendum when the Court approved the Global Settlement Agreement by order entered December 1, 2017. [Ex. 2, p. 4]

2. Field’s Unpaid Restitution is Converted to a Civil Judgment in December, 2018.

As of December 4, 2018, with all credits given to Field under the GSA for restitution, a civil judgment was owed to CIF in the amount of \$1,767,634.71. [Ex. 4, Order of Judgment]. Thereafter, CIF initiated collection proceedings on the judgment in the State of Florida against the only asset of Field’s known to CIF at this time: his one-half (½) interest in a property located in St. Augustine, Florida. Importantly, the Florida collection action does not seek any claims or damages beyond what Defendant Field is currently obligated to pay CIF under the terms of the GSA (with its addendum) as approved by this Court.

Legal Discussion

In the Florida collection action, Defendant Field has argued (1) the GSA bars the collection action. [Exhibit 4, Field's Motion to Dismiss]. This argument is factually and legally flawed.

1. The Collection of the Judgment due from Field to CIF is Permitted by the GSA.

The rights to collect on its civil judgment against Field were specifically not released by the GSA. The original GSA was executed by all parties on or about February 24, 2017. When Field agreed to the Addendum, he specifically recognized that any unpaid portion of his restitution would be converted to a civil judgment. This judgment is contemplated and recognized by the GSA (as amended).

The release of claims, however, governed all claims among the parties, known and unknown, **“up to and including the present time”** (i.e., December 1, 2017) [Ex. 2, p. 2 (emphasis added)]

5. The parties to this Agreement do hereby release all other parties and their respective officers, directors, employees, agents, attorneys, and affiliates, of and from any and all suits, legal actions or claims of any nature whatsoever, known or unknown, **up to and including the present time**, including, but not limited to, claims described in Paragraph 4 of this Agreement, which include but are not limited to claims arising under all common and statutory laws, ordinances, rules or regulations of the United States of America and all the states of the United States, and specifically including the states of New Jersey and South Carolina, and their political subdivisions, and the public policies thereof. This release shall further include, but shall not be limited to, all those claims which were or could have been asserted in the litigation identified in Paragraph 3 of this Agreement (including any and all appeals), which actions shall be dismissed with prejudice, with each party to bear its/his/her own attorneys' fees and costs for all actions or appeals or related matters.

The parties knew and understood that any shortage of restitution at the end of Field's probation would be converted to civil judgment, which would occur in 2018. The judgment was not entered until November 5, 2018. When the GSA was approved in December 2017, CIF had no right to collect on a judgment that did not exist. Hence, CIF's right to collect on the civil judgment was specifically not released under the GSA.

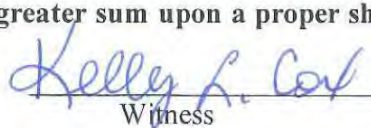
Furthermore, at the November 27, 2017 hearing approving the Addendum and incorporating it into the GSA, at no time did Field request CIF to forebear on any rights which might vest to CIF in the future to collect on the civil judgment expressly contemplated by the Addendum. Field could easily have requested to amend the release language of Paragraph 5 to include future rights which may accrue to CIF for any civil judgment related to his restitution obligations. His failure to do so further supports it was the intent of the parties not to release these rights and, in fact, preserve them under the GSA, as amended. Indeed, such a perverse construction would have directly undermined the spirit and intent of Judge Maddox's order modifying the terms of restitution. [Ex. 3]

2. CIF Requests the Imposition of the \$250,000 for Liquidated Damages.

The GSA included a liquidated damages clause to be imposed against any party who seeks to revoke or disqualify any term of this Agreement for any reason:

Subsequent to the execution of this Agreement (and its approval by the Court), should any party file any suit or claim wherein he/she/they/it attempt(s) to revoke or disqualify any term of this Agreement for any reason, the parties agree that the prevailing party shall be entitled a minimum of \$250,000.00 as liquidated damages for defending, responding or enforcing the terms of this Agreement. This figure is based upon and derived from the estimated attorney's fees and expenses past litigation has entailed between/among these parties for addressing issues of similar scope and anticipated magnitude. The Court may award a greater sum upon a proper showing by the prevailing party.


Arthur Field


Witness

Defendant Field has (once again) caused CIF to incur enormous fees and expenses arguing *ad nauseum* that the GSA released all claims against Field and barred the collection action in Florida. [See, e.g., the Motions and Briefs filed by Field, collectively grouped as Exhibit 4].

This civil judgment entered in 2018 was clearly **not** released by a plain reading of the terms of the GSA. For this reason, CIF requests the Court to impose the liquidated damages amount of \$250,000.00; payment of which, should be subject to the contempt powers of this Court.

Respectfully submitted,

/s/George Brandt, III

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 Attorney for Jerry T. Saad, Receiver

-and-

/s/Stanley T. Case

Stanley T. Case SC Bar No.001158
 BUTLER, MEANS, EVINS & BROWNE, P.A.
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 Spartanburg, SC 29304
 Phone: (864) 582-5630
 Fax: (864) 585-2034
 Attorney for the Class Action Plaintiffs
 (William F. Tomz and Francis W. Tomz,
 Individually and as Class Representatives)

December 31, 2019

Spartanburg, South Carolina

Global Settlement Agreement
Between Capital Investment Funding (and related parties)
And Arthur Field (and related parties)

1. The Parties:

- A. CIF, its court appointed receiver ("Receiver"), and its present employees, agents, attorneys, etc.
- B. The Class of Noteholders of CIF ("Plaintiffs")
- C. Arthur Field and his family, his and their attorneys, and his and their associates as follows:
- i. Arthur Field
 - ii. Kathryn ("Kate") Taillon (and Kathryn Taillon d/b/a Pelican Way Financial)
 - iii. Allyson Field
 - iv. Davyd Field (previously released)
 - v. Kirsten White (f/k/a Kirsten Gantt and Kirsten Gantt d/b/a Empire Document Service)
 - vi. Bart Kelley
 - vii. Brad Kelley
 - viii. Attorneys Bruce Bannister and Bannister, Wyatt & Stalvey, LLC
 - ix. Attorneys Thomas Stephenson and Stephenson & Murphy, LLC
 - x. Attorney Micajah P. Caskey, IV
 - xi. Attorney Todd Rutherford
 - xii. Attorneys Brad Martin and Bradford Neal Martin & Associates, P.A.
- D. Entities formerly controlled by Field or family members
- i. Aladdin's Café & Grill, LLC
 - ii. Cosimo, LLC
 - iii. Bolingbroke United (England) Ltd.
 - iv. Lion Financial, LLC
 - v. Krondor Trading Co., LLC
 - vi. Trazom, LLC
 - vii. Bradford Financial Group, LLC
 - viii. Monmouth Financial Group, Ltd
 - ix. Carolina Pops Orchestra, Inc.
 - x. Blenheim Properties, LLC;
 - xi. Bountiful Bingo, LLC;
 - xii. Pelican Way Financial, LLC
 - xiii. York Mortgage Funding, LLC
 - xiv. Epic Entertainment, LLC
 - xv. Epic Entertainment & Equipment Co., LLC
 - xvi. Mithril Funding, LLC
 - xvii. CIP TC, LLC
 - xviii. Young Players Support Group, Inc.
 - xix. RAAF Enterprises, LLC
 - xx. He Will Provide, LLC
 - xxi. Hakuna Industries, Inc.
 - xxii. Capital Intrastate Funding, LLC

Initials 1 AF 2 KT 3 AW 4 AK 5 SW
Initials 6 SG 7 AK 8 AK 9 AK 10 AK 11 AK 12 AK

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Initials 13 AK 14 AK 15 AK 16 AK
Initials 17 KT 18 KT 19 KT 20 KT 21 KT
Initials 22 SW 23 SW 24 SW 25 SW 26 SW 27 SW

2. The Properties:

- A. 310 Thornblade Blvd, Greer, SC ("Thornblade Property"), currently titled to Allyson Field and currently with no lien or mortgage
- B. 5 Aldgate Way, Greer, SC ("Aldgate Way Property"), currently titled to Kirsten White and currently subject to the following mortgages:
 - i. 1st Mortgage in the amount of \$175,000.00 payable to Pelican Way Financial, LLC
 - ii. 2nd Mortgage in the amount of \$33,000.00 to Arthur Field, Trustee
- C. 5489 Atlantic View, St. Augustine, FL, ("St. Augustine Property"), currently titled to Arthur Field and Kathryn Taillon and currently with no lien or mortgage

3. Pending Actions:

- A. Harold Brooks v. Arthur Field, C.A. No. 6:14-cv-02267-BHH-JDA (D.S.C. Greenville Div.), Federal Court case; Motion for class certification filed, but not yet ruled upon.
- B. Capital Investment Funding, LLC v. Arthur Field, et al., C.A. No.: 15-CP-23-01263 (13th Judicial Circuit, Court of Common Pleas, Greenville County, SC)
- C. Capital Investment Funding, LLC v. Calvary Asset Management, LLC, et al., C.A. No.: BER-L-3790-12 (Superior Ct. New Jersey, Bergen County, N.J.) ("Calvary Asset Management Case")
- D. William F. Tomz and Francis W. Tomz, Individually and as Class Representatives vs. Capital Investment Funding, L.L.C. and Arthur M. Field, C.A. No. 2008-CP-23-3665 (Court of Common Pleas, 13th Judicial Circuit, Greenville County, South Carolina) Class action of all noteholders previously approved ("Tomz Case").
- E. Capital Investment Funding v. Lancaster Resources, et. al., Docket No. 2:2008-CV-04714.

4. Global Settlement Agreement ("Agreement") of All Matters Among All Identified Parties Herein: Upon approval of the court in the Tomz Case ("the Court"), and except as otherwise enforcing the terms and agreements set forth herein, this Agreement settles with prejudice all claims of every kind and nature which were raised or could have been raised in any above-identified litigation, including any and all causes of action, direct claims, cross-claims, counter-claims, rights of offset, grievances, complaints, and other rights and actions otherwise derived from such, between and among all undersigned parties and all identified entities herein, including their employees, agents, and attorneys (both past and present) and their respective firms (past and present), and the Receiver, his firm, his employees agents, in every and all capacities (including capacity as agent, fiduciary, appointee, individual, or otherwise).

Terms of Settlement:

5. The parties to this Agreement do hereby release all other parties and their respective officers, directors, employees, agents, attorneys, and affiliates, of and from any and all suits, legal actions or claims of any nature whatsoever, known or unknown, up to and including the present time, including, but not limited to, claims described in Paragraph 4 of this Agreement, which include but are not limited to claims arising under all common and statutory laws, ordinances, rules or regulations of the United States of America and all the states of the United States, and specifically including the states of New Jersey and South Carolina, and their political subdivisions, and the public policies thereof. This release shall further include, but shall not be limited to, all those claims which were or could have been asserted in the litigation identified in Paragraph 3 of this Agreement (including any and all appeals), which actions shall be dismissed with prejudice, with each party to bear its/his/her own attorneys' fees and costs for all actions or appeals or related matters.

Initials 1

Initials

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Initials

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Initials

9. Additionally, Rules to Show Cause were issued to Arthur Field by the Court within the Tomz matter in April and August, 2013, and in September 2016, hearings were conducted, and Orders were issued thereon on October 1, 2013, December 15, 2016, and January 12, 2017. Field has appealed the October 1, 2013 Order and that appeal is currently pending in the South Carolina Court of Appeals. Arthur Field has expressed that his willingness to participate in and be bound to the terms and conditions of this Agreement are contingent upon all such matters being dismissed in accordance with the motion to which the parties have agreed.

Initials 12 ~~12~~ 13 ~~13~~ 14 ~~14~~ 15 ~~15~~ 16 ~~16~~
Initials 17 ~~17~~ 18 ~~18~~ 19 ~~19~~ 20 ~~20~~ 21 ~~21~~
Initials 22 ~~22~~ 23 ~~23~~ 24 ~~24~~ 25 ~~25~~ 26 ~~26~~ 27

Therefore, also within five (5) days of all parties executing this Agreement and tendering the fully executed Agreement to Counsel for CIF, who will hold such in trust pending court approvals, Arthur Field shall file a motion with the court seeking dismissal of all pending matters related to the Rule to Show Cause referred in this paragraph, and, subject to the requirements of South Carolina law, Plaintiffs and the Receiver, together with their attorneys and agents, will consent to the relief sought by Arthur Field in such motion.

10. In the event a court issues an order that denies Arthur Field's request for the modification to his restitution set forth in Paragraph 8 or issues an order that denies Arthur Field's Motion seeking dismissal of the pending matters as described in Paragraph 9, and/or otherwise imposes sanctions or penalties upon Arthur Field above and beyond fulfilling his obligations of this Agreement as set forth herein, then immediately upon the issuance of such order, this Agreement shall become immediately null and void, and all documents and monies previously delivered to be held in trust shall be returned to the parties as provided herein. Until such time of such occurrence, all parties to this Agreement are bound hereunder and may not modify any terms or conditions hereunder, and may not withdraw or terminate his or her or its participation hereunder.
11. In the event both courts issue orders granting the modification and dismissal sought as described in Paragraphs 8 and 9, then in such event, counsel of record shall file appropriate notices in each of the pending actions described in Paragraph 3 and will file a Joint Motion for Dismissal with the South Carolina Court of Appeals with regard to the pending appeal referenced in Paragraph 9 within five (5) days of having received the last of the two orders.
12. Within twenty-four (24) hours of full execution of this Agreement, Field shall allow a licensed home inspector and a certified appraiser to inspect the Thornblade Property. Neither the appraiser nor the home inspector will be accompanied by any attorneys or agents of the Receiver or the plaintiffs. Arthur Field and Kathryn Taillon shall cooperate with these parties so that they may conduct their appraisal and home inspection of the subject property. Arthur Field and Kathryn Taillon shall truthfully complete and sign real estate seller disclosure forms and shall advise these parties of any material matters about the premises and such shall constitute sufficient notice to the Receiver, CIF, and the Class as to known defects. Neither Allyson Field, nor Arthur Field, nor Taillon shall have any responsibility to cure such defects, but will permit Landlord (described below) to make such cures upon reasonable notice during reasonable business hours at Landlord's sole expense beginning any time after August 31, 2017, to assist in the sale of the premises.
13. After one week of the full execution of this Agreement, Kirsten White shall allow a licensed home inspector and a certified appraiser to inspect the Aldgate Way Property. Neither the appraiser nor the home inspector will be accompanied by any attorneys or agents of the Receiver or the plaintiffs. Kirsten White shall cooperate with these parties so that they may conduct their appraisal and home inspection of the subject property. Kirsten White shall truthfully complete and sign real estate seller disclosure forms and shall advise these parties of any material matters about the premises and such shall constitute sufficient notice to the Receiver, CIF, and the Class as to known defects. Kirsten White shall have no responsibility to cure such defects.

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14. Consideration Tendered By or On Behalf of Undersigned Parties

A. Thornblade Property

- i. With the execution of this Agreement, Allyson Field will execute in recordable form the General Warranty Deed attached hereto as **Exhibit 1**, which will transfer the Thornblade Property to CIF. The Deed will be held in trust by CIF counsel and will be recorded and delivered to the Receiver upon the Court's approval of the settlement. Transfer of the Thornblade Property will not be effected until the Deed is delivered to the Receiver. In the event the Court declines approval of the settlement or of any of the conditions precedent thereto set forth in Paragraphs 8 and 9 above, the Deed shall be null and void and shall be immediately (upon the Court's actions) returned as such to Allyson Field.
- ii. With the execution of this Agreement and until the effective time of transfer of the Thornblade Property, Allyson Field shall maintain and timely pay all costs of property, casualty and liability insurance coverages on the Thornblade Property, shall have such policies name CIF as the named insured, shall immediately deliver to CIF a certificate of insurance, and shall have all proceeds of such policies inure to and be directly paid to CIF.
- iii. With the execution of this Agreement and until the effective time of transfer of the Thornblade Property, Allyson Field shall pay all property taxes and regime fees (home owners association dues, etc...) applicable to the Thornblade Property; thereafter, CIF shall pay all taxes and regime fees and be solely responsible for such.
- iv. The Thornblade property shall be transferred in an 'as is' condition, as viewed by the Home Inspector referred to above in Paragraph 12.
- v. With the execution of this Agreement and until the effective time of transfer of the Thornblade Property, the Thornblade Property shall be free of all liens and encumbrances.
- vi. With the execution of this Agreement, CIF, Arthur Field and Kathryn Taillon shall execute the Lease attached hereto as **Exhibit 2**. The Lease will be held in trust by CIF counsel and will be effective and delivered to the Receiver immediately upon the Court's approval of the settlement. In the event the Court declines approval of the settlement, the Lease shall be null and void and shall be immediately (upon the Court's actions) returned as such to Arthur Field and Kathryn Taillon. The Lease provides for the following:
 - a. CIF shall be Landlord and Arthur Field and Kathryn Taillon shall be Tenants.
 - b. The Lease shall have a fixed term which terminates on November 30, 2017.
 - c. Tenants have the right to reside in the Thornblade Property until November 30, 2017.
 - d. Tenants shall pay no rent during the term of the Lease, but shall pay the utility bills and the reasonable cost of interior, non-structural maintenance.
 - e. Tenants shall vacate the Thornblade Property on or before November 30, 2017.
 - f. Upon vacating the premises, Tenants shall leave the premises in the same or better condition as it was at the time of inspection as provided in Paragraph 12 herein (excluding reasonable wear and tear and damage, if any, caused by the act of Landlord or its agents or contractors). If Tenants fail to leave the premises as required and Landlord, in good faith, reasonably determines that the actual reasonable cost to cure the deficiency will exceed \$1,000, then Landlord may give actual notice to Tenants of such deficiency and estimated cost of actual and reasonable cure. Tenants shall have 14 days after receipt of such notice to initiate and timely pursue a cure of same at their expense less any monies due from any insurer of Landlord, Tenants or third party. If not cured by Tenants in timely and reasonable and workmanlike fashion, or if Tenants do not initiate a cure within 14 days of notice, then Landlord may initiate and timely pursue a cure of the same. Upon Landlord's completion of such cure, Landlord may initiate a complaint to

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collect any reasonable and actual cost of cure in excess of insurable amounts, including actual and reasonable costs and fees. Tenants shall have the right to defend such claim or to seek indemnification from or implead any insurer or third party which may be responsible in whole or in part for such damage or the cost of repair or to subrogate such claim to Landlord in satisfaction of any third party damage. Landlord will not bring any such claim without a substantial belief in the merits thereof and without first giving Tenants sufficient opportunity to resolve such matter after actual notice aforesaid. The parties waive trial by jury of such claim. If such cure is covered by insurance insuring to benefit of Tenants, then Tenants may assign such portion of proceeds of insurance to Landlord as shall be applicable to damage to Landlord's fee interest in partial or total satisfaction of the actual cost of remediation, excluding therefrom any portion pertaining to Tenants' personal property or effects. In the event Landlord recovers any insurance, Landlord shall assign to Tenants any portion thereof which would pertain solely to destruction of Tenants' personal property or effects and give notice to Tenants of any deficiency and pursue such remedy as stated above for such deficiency in the manner described. The parties shall cooperate in any claim to any third party insurer or liability carrier. At Landlord's request, Tenants shall subrogate any claim against Third Party or Third Party insurer to Landlord in lieu of any claim against Tenants, but Tenants shall retain its right to apportionment in favor of Tenants' personal property damage or any personal injury to Tenants or guests and Landlord will timely pay to Tenants such portion upon recovery from insurer or Third Party without demand from Tenants.

- g. All items of personal property not affixed or attached to the Thornblade Property by nail, screws, glue, or other means of permanent attachment shall be deemed the personal property of Arthur Field, Kathryn Taillon, and/or Allyson Field, and shall be excluded from the terms of this Agreement and such shall remain the sole and exclusive property of the respective individual(s) at all times and no other party shall have any past, present or future claim thereto.
- h. Any dispute regarding the Lease shall be resolved by application to Judge Edward W. Miller, the presiding judge in the Tomz Case.

B. Kathryn Taillon's Note and Mortgage on Aldgate Way Property

- i. Kathryn Taillon is the assignee and holder of the Note and Mortgage on the Aldgate Way Property payable to and in favor of Pelican Way Financial, LLC ("Pelican Note and Mortgage") dated on or about May 5, 2010, and recorded on the Greenville County Land Records. The Pelican Note and Mortgage are in good standing as of the date hereof. All prior payments of the interest made or accruing on such Note have been credited to the account of Pelican Way Financial, LLC or Kathryn Taillon, and shall remain the sole and exclusive property of such and no party shall have any past, present or future claim thereto.
- ii. Kathryn Taillon represents that the Pelican Note and Mortgage are valid and enforceable, and the mortgage is a recorded and perfected first mortgage lien on the Aldgate Way Property, and is not subordinated to any other lien.
- iii. With the execution of this Agreement, Kathryn Taillon shall:
 - a. Execute in recordable form and deliver to CIF counsel the Assignment of Note and Mortgage attached hereto as Exhibit 3 ("Pelican Assignment"), which, upon the Court's approval of the settlement, shall transfer to CIF the ownership of the Pelican Note and Mortgage; and

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- b. Deliver to CIF counsel the originals of the Pelican Note and Mortgage (or, if originals are lost, valid affidavits of lost documents) and the assignment document that transferred ownership of the Pelican Note and Mortgage from Pelican Way Financial, LLC to Kathryn Taillon.
- iv. CIF counsel shall hold such original documents in trust counsel pending the Court's approval of the settlement.
- v. The Pelican Assignment and its transfer of the Pelican Note and Mortgage will not be effected unless and until the Court approves this settlement.
- vi. In the event the Court approves the settlement, the Pelican Assignment shall be effective immediately, shall be promptly released and delivered to CIF, and shall be recorded; additionally, the original Pelican Note and Mortgage shall be delivered to CIF.
- vii. In the event the Court declines approval of the settlement, the Pelican Assignment shall be null and void and shall be immediately (upon the Court's actions) returned as such to Kathryn Taillon together with the original Pelican Note and Mortgage.
- viii. Until the settlement is approved and the Pelican Assignment is effective, Kirsten White shall make all monthly interest payments due under the first mortgage in the amount of \$583.00 per month (which is otherwise payable to Kathryn Taillon) to CIF to be held in escrow. In the event the Court declines approval of the settlement, CIF shall remit such amounts it received to Kathryn Taillon. In the event the Court approves the settlement, CIF shall retain all amounts received and receive all future payments under the Pelican Note and Mortgage. All amounts otherwise due under the terms of the Pelican Note and Mortgage shall be paid in full from the proceeds of the sale of the Aldgate Way Property as provided herein.

C. Arthur Field, Trustee's Note and Mortgage on Aldgate Way Property

- i. Arthur Field is the holder of the Note and Mortgage on the Aldgate Way Property payable to and in favor of Arthur Field, Trustee ("Trustee Note and Mortgage") dated on or about October 1, 2010, and recorded on the Greenville County Land Records.
- ii. Arthur Field represents that the Trustee Note and Mortgage are valid and enforceable, and that the mortgage is a recorded and perfected second mortgage lien on the Aldgate Way Property, which is not subordinated to any other lien other than the Pelican Note and Mortgage.
- iii. The Trustee Note and Mortgage provides for simple (not compounded) interest to accrue at the rate of 4.5% per year and for the entire balance to be paid in full on or before October 1, 2014.
- iv. Arthur Field represents that no payments have been made or received on the Trustee Note and Mortgage through the date of the Agreement.
- v. Arthur Field further represents that he and Kirsten White, the maker of the Trustee Note and Mortgage, agreed to extend the due date of the Trustee Note and Mortgage to December 31, 2018.
- vi. Accordingly, Arthur Field represents that the Note and Mortgage are in good standing as of the date hereof and that as of the date of this Agreement, the outstanding balance due under the Trustee Note and Mortgage exceeds \$42,000.
- vii. With the execution of this Agreement, Arthur Field shall:
 - a. Execute in recordable form and deliver to CIF counsel the Assignment of Note and Mortgage attached hereto as Exhibit 4 ("Trustee Assignment"), which, upon the Court's approval of the settlement, shall transfer to CIF the ownership of the Trustee Note and Mortgage; and

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- b. Deliver to CIF counsel the originals of the Trustee Note and Mortgage and the assignment document. CIF counsel shall hold such original documents in trust counsel pending the Court's approval of the settlement.
- viii. The Trustee Assignment and its transfer of the Trustee Note and Mortgage will not be effected unless and until the Court approves this settlement.
- ix. In the event the Court approves the settlement, the Trustee Assignment shall be effective immediately, shall be promptly released and delivered to CIF, and shall be recorded; additionally, the original Trustee Note and Mortgage shall be delivered to CIF.
- x. In the event the Court declines approval of the settlement, the Trustee Assignment shall be null and void and shall be immediately (upon the Court's actions) returned as such to Arthur Field together with the original Trustee Note and Mortgage.
- xi. All amounts otherwise due under the terms of the Pelican Note and Mortgage shall be paid in full from the proceeds of the sale of the Aldgate Way Property as provided herein.

D. Aldgate Way Property

- i. With the execution of this Agreement, Kirsten White will execute in recordable form the General Warranty Deed attached hereto as **Exhibit 5**, which upon the Court's approval shall transfer the Aldgate Way Property to **CIF Properties, LLC**. The Deed shall be held in trust by CIF counsel and will be recorded and delivered to the Receiver upon the Court's approval of the settlement. Transfer of the Aldgate Way Property will not be effected until the Deed is delivered to the Receiver. In the event the Court declines approval of the settlement, the Deed shall be null and void and shall be immediately (upon the Court's actions) returned as such to Kirsten White.
- ii. With the execution of this Agreement, CIF Properties, LLC will execute in recordable form the \$50,000 Note and Mortgage attached hereto as **Exhibit 6** ("White Note and Mortgage"), which shall grant to Kirsten White a first mortgage on the Aldgate Way Property. The White Note and Mortgage shall bear zero interest through December 31, 2017 and thereafter shall bear interest at 2.5% per annum. The White Note and Mortgage shall provide that payment in full shall be made upon the sale, conveyance or transfer of the Aldgate Way Property. The White Note and Mortgage shall be held in trust by CIF counsel and will be recorded and delivered to Kirsten White upon the Court's approvals of the settlement. The obligation of the White Note and Mortgage will not be effected until the Court approve the settlement. In the event the Court declines approval of the settlement, the White Note and Mortgage shall be null and void and shall be immediately (upon the Courts' actions) returned as such to CIF.
- iii. With the execution of this Agreement, CIF, as assignee and holder of the Pelican Notes and Mortgages and the Trustee Note and Mortgage, will execute in recordable form the respective Subordination Agreements attached hereto as **Exhibit 7**. The effect of the Subordination Agreements shall be that the White Note and Mortgage shall be senior to and have priority of payment over the Pelican and Trustee Notes and Mortgages, and that the Pelican and Trustee Notes and Mortgages shall be subordinate to the White Note and Mortgage, thereby guarantying that upon the sale of the Aldgate Way Property, Kirsten White will receive full payment and complete satisfaction under the terms of the White Note and Mortgage before and ahead of any payments to CIF.
- iv. With the execution of this Agreement and until the effective time of transfer of the Aldgate Way Property, Kirsten White shall maintain and timely pay all costs of property, casualty and liability insurance coverages on the Aldgate Way Property, shall have such policies name CIF as the additional named insured, shall immediately deliver to CIF a certificate of insurance, and shall have all proceeds of such policies inure to and directly paid to CIF for the benefit of all named insured.

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- v. With the execution of this Agreement and until the effective time of transfer of the Aldgate Way Property, Kirsten White shall pay all property taxes and regime (home owners association, etc.) applicable to the Aldgate Way Property, and CIF shall pay all such taxes and regime fees thereafter and be solely responsible for such.
- vi. With the execution of this Agreement and until the effective time of transfer of the Aldgate Way Property, Kirsten White shall make and complete all routine interior repairs and shall pay all utility costs applicable to the Aldgate Way Property.
- vii. With the execution of this Agreement and until the effective time of transfer of the Aldgate Way Property, the Aldgate Way Property shall be free of all liens and encumbrances, except for the Pelican Note and Mortgage and the Trustee Note and Mortgage.
- viii. CIF and Kirsten White shall endeavor to close on the sale of the Aldgate Way Property no sooner than August 1, 2017 and no later than December 31, 2017 as follows:
- On or before May 1, 2017, Kirsten White shall engage the realtor of her choosing to list the Aldgate Way Property for immediate sale at any price above \$285,000, provided any such listing shall terminate no later than December 31, 2017.
 - In the event Kirsten White fails to engage a realtor to sell the Aldgate Way Property on or before May 1, 2017, or in the event the Aldgate Way Property is not sold by December 31, 2017, CIF may thereafter pursue the sale of the Aldgate Way Property without any interference from but with full cooperation of Kirsten White, and subject to the oversight of Judge Edward W. Miller, the presiding judge in the Tomz Case.
 - CIF shall arrange for and be responsible to pay for up to \$10,000 of repairs and fix up expenses deemed necessary to facilitate selling the property at a price comparable to similar properties on Aldgate Way or within 0.5 miles thereof. Such repairs shall be substantially completed by May 15, 2017, to enhance listing and sales price and to facilitate the sale of the Aldgate Way Property. Such repairs shall be made on reasonable notice during reasonable business hours and CIF or its agents shall obtain any necessary permits.
 - At the closing of the sale of the Aldgate Way Property (whether initiated by White before or by CIF after December 31, 2017), the gross sales proceeds shall be used to pay in the following order of priorities the following in amounts sufficient to satisfy and pay in full:
 - Seller's selling and closing costs (sales commissions and other closing costs and fees customarily paid by seller);
 - The White Note and Mortgage;
 - The Pelican Note and Mortgage;
 - The Trustee Note and Mortgage;
 - Reimbursement to CIF for amounts paid for actual, reasonable repairs and fix up costs as provided in Paragraph 14.D.viii.c.
 - Any repairs and fix up costs incurred but not paid by CIF before closing, repaid to such person(s) as shall have paid for such additional, necessary repairs upon presentation of actual receipts, with copies to CIF, Kirsten White, and closing attorney.
 - Payment to CIF for any unpaid rent due from Kirsten White as described in Paragraph 14.D.ix.c.
- In the event that, after paying these amounts in full, any gross sales proceeds remain to be disbursed, then 80% of such amounts remaining shall be paid to Kirsten White and 20% shall be paid to CIF.
- ix. With the execution of this agreement, CIF and Kirsten White shall execute the Lease attached hereto as **Exhibit 8**. The Lease will be held in trust by CIF counsel and will be effective and delivered to the Receiver immediately upon the Court's approval of the

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settlement. In the event the Court declines approval of the settlement, the Lease shall be null and void and shall be immediately (upon the Court's actions) returned as such to Kirsten White. The Lease provides for the following terms:

- a. CIF shall be Landlord and Kirsten White shall be Tenant.
- b. The Lease shall have a fixed term which terminates on December 31, 2017.
- c. During the term of the Lease, Tenant shall pay no (zero) rent to CIF from inception until September 30, 2017, and thereafter Tenant shall pay CIF \$1,500 per month for each month or part of a month until Tenant has vacated the premises. Tenant may at her option pay CIF each month or may have such amounts deducted from any sales proceeds otherwise due to her as provided in Paragraph 14.D.viii.d.7.
- d. Tenant has the right to reside in the Aldgate Way Property until December 31, 2017.
- e. Tenant shall peacefully vacate the Aldgate Way Property by December 31, 2017.
- f. Upon vacating the Aldgate Way Property, Tenant shall leave the premises in the same or better condition as it was at the time of inspection as provided in Paragraph 13 herein (excluding reasonable wear and tear and damage, if any, caused by the act of Landlord or its agents or contractors). If Tenant fails to leave the premises as required and Landlord, in good faith, reasonably determines that the actual reasonable cost to cure the deficiency will exceed \$1,000, then Landlord may give actual notice to Tenant of such deficiency and estimated cost of actual and reasonable cure. Tenant shall have 14 days after receipt of such notice to initiate and timely pursue a cure of same at her expense less any monies due from any insurer of Landlord, Tenant or third party. If not cured by Tenant in timely and reasonable and workmanlike fashion, or if Tenant does not initiate a cure within 14 days of notice, then Landlord may initiate and timely pursue a cure of the same. Upon Landlord's completion of such cure, Landlord may initiate a complaint to collect any reasonable and actual cost of cure in excess of insurable amounts, including actual and reasonable costs and fees. Tenant shall have the right to defend such claim or to seek indemnification from or implead any insurer or third party which may be responsible in whole or in part for such damage or the cost of repair or to subrogate such claim to Landlord in satisfaction of any third party damage. Landlord will not bring any such claim without a substantial belief in the merits thereof and without first giving Tenant sufficient opportunity to resolve such matter after actual notice aforesaid. The parties waive trial by jury of such claim. If such cure is covered by insurance inuring to benefit of Tenant, then Tenant may assign such portion of proceeds of insurance to Landlord as shall be applicable to damage to Landlord's fee interest in partial or total satisfaction of the actual cost of remediation, excluding therefrom any portion pertaining to Tenant's personal property or effects. In the event Landlord recovers any insurance, Landlord shall assign to Tenant any portion thereof which would pertain solely to destruction of Tenant's personal property or effects and give notice to Tenant of any deficiency and pursue such remedy as stated above for such deficiency in the manner described. The parties shall cooperate in any claim to any third party insurer or liability carrier. At Landlord's request, Tenant shall subrogate any claim against Third Party or Third Party insurer to Landlord in lieu of any claim against Tenant, but Tenant shall retain its right to apportionment in favor of Tenant's personal property damage or any personal injury to Tenant or guests and Landlord will timely pay to Tenant such portion upon recovery from insurer or Third Party without demand from Tenant. If damage is caused by Landlord's agents, contractors, or repair persons, Landlord shall immediately cure same and provide adequate shelter for White, if any damage interrupts her use of the property, and Landlord shall be

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liable for any claim made by agent, contractor or repair person or third party for personal or property damage resulting from such work.

- g. All items of personal property not affixed or attached to the Aldgate Way Property by nail, screws, glue, or other means of attachment shall be deemed the personal property of Kirsten White and shall be excluded from the terms of this agreement.
- h. Any dispute regarding the Lease shall be resolved by application to Judge Edward W. Miller, the presiding judge in the Tomz Case.

E. Payments by Kathryn Taillon and or York Mortgage Funding

Upon execution of this Agreement, Kathryn Taillon shall deliver to CIF counsel to be held in trust a bank certified check in the amount of \$10,000 made payable to CIF. Upon approval of the settlement by the Court, the funds shall be immediately delivered to the Receiver in full and further satisfaction of any York related direct, collateral or indirect claim against Taillon or any other person named herein, whether made by York, CIF, or any other party hereto or any collateral claim. In the event the Court declines approval of the settlement, the check or equivalent funds shall be returned to Kathryn Taillon.

F. Payment by Arthur Field and Kathryn Taillon to CIF:

- i. Upon execution of this Agreement, Kathryn Taillon shall deliver to CIF counsel to be held in trust a bank certified check in the amount of \$15,000 made payable to CIF. Upon approval of the settlement by the Court, the funds shall be immediately delivered to the Receiver in further satisfaction of any CIF related direct, collateral or indirect claim against Taillon or any other person, whether made by CIF, or any other party hereto. In the event the Court declines approval of the settlement, the check or equivalent funds shall be returned to Kathryn Taillon.
- ii. Upon the execution of this agreement, Arthur Field and Kathryn Taillon will execute in recordable form the Note and Mortgage for the St. Augustine Property, attached hereto as **Exhibit 9** and **Exhibit 10**, respectively, in favor of CIF, which is in the amount of \$105,000. The Note shall provide for 0.0% interest through December 31, 2017 and thereafter interest at a 3.0% annual rate compounded monthly and the entire balance of \$105,000 being due and payable in full on December 31, 2018, provided however that for every \$85 paid to CIF before December 31, 2017, the outstanding balance shall be reduced by an additional \$20. The Note and Mortgage will be held in trust by CIF counsel. In the event the Court declines approval of the settlement, the Mortgage and Note shall be null and void and shall be immediately (upon the Court's actions) returned as such to Arthur Field and Kathryn Taillon. In the event the Court approves the settlement, CIF Counsel will hold the Mortgage and Note in trust in anticipation of CIF receiving payment in full and complete satisfaction on or before December 31, 2017. In the event CIF does not receive payment in full payment on or before December 31, 2017, CIF counsel may have the mortgage recorded in St. John's Florida. All payments under the terms of this Note and Mortgage shall be on behalf of Kathryn Taillon, Arthur Field, and/or any entity related thereto as listed above. CIF shall release all *lis pendens* on all properties recorded in St. Johns County, Florida to enable the Arthur Field and Kathryn Taillon to acquire and remit such money to CIF, whether from personal funds, reverse mortgage, conventional mortgage, credit card loans or otherwise. Upon the execution of this Agreement and until the Note and Mortgage are paid in full, Arthur Field and Kathryn Taillon shall not allow any lien to be placed on the St. Augustine Property unless: (1) the lien is placed for the purpose of Arthur Field and or Kathryn Taillon borrowing money, the net proceeds of which are paid to CIF pursuant to their obligations under this Agreement, and the amount of the lien does not exceed the sum of 100% of the amounts paid to CIF plus costs incurred

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to acquire and close the loan and anticipated reasonable relocation costs to an interstate moving company; or (2) Arthur Field and or Kathryn Taillon obtain written consent of such from CIF, whose consent may be withheld at its sole discretion. Arthur Field and Kathryn Taillon may make periodic payments thereon and such shall reduce any outstanding balance. Only Arthur Field or Kathryn Taillon shall be responsible at any time for the outstanding balance.

G. Arthur Field Agreement To Share Proceeds From Certain Future Endeavors

Arthur Field expressed; (1) his desire and plans to create literary works and or presentations based on his experiences and events involving CIF; (2) his willingness and desire to dedicate significant time and effort in that endeavor; and (3) his willingness and desire to benefit CIF and its noteholders should such efforts bear economic benefits. Accordingly, upon the execution of this Agreement, Arthur Field shall prepare and execute a written definitive contract, negotiated in good faith with the Receiver, and shall present such contract to the Court for approval by March 31, 2017. The contract shall be between Arthur Field (and any entity he may create for this work) and CIF, and provide that CIF shall receive more than 50% of the gross profits (as reasonably defined) derived from any such endeavors. This agreement shall broadly cover all sources of revenues which are directly or indirectly derived from Arthur Field's experiences with CIF, including but not limited to writings, productions, films, media publications, interviews, lectures, licensing, and so forth.

H. Members of CIF Relinquish Limited Liability Company Membership

Upon execution of this Agreement, Arthur Field, Brad Kelley, Bart Kelley, and Log Cabin Financial, LLC shall each execute a recordable Membership Termination Agreement in the form attached hereto as **Exhibit 11**, which shall terminate such person's membership ownership interest in CIF and rights applicable thereunder and transfer such ownership interests and rights to the current class of noteholders of CIF. The executed Membership Termination Agreements shall be delivered to CIF counsel to be held in trust pending the Court's approval of this settlement. Upon approval of the settlement by the Court, all of the Membership Termination Agreements shall be immediately delivered to CIF and CIF shall pay the sum of \$1 per membership percentage interest transferred in full consideration thereof, whereupon each of the named persons shall thereafter have no ownership in CIF and all rights and claims thereof are forever relinquished. In the event the Court declines approval of the settlement, the Membership Termination Agreements shall be immediately returned to the respective persons.

I. Other Conditions:

- i. At the settlement approval hearing, Arthur Field will provide a verified financial statement of his assets and liabilities. The financial statement shall include actual amounts where reasonably available, reasonable estimates of values where actual amounts are not reasonably available, and nomenclature which clearly distinguishes between actual and estimated amounts. Arthur Field will attest under oath as to the veracity of such financial statement, including the basis for which amounts were determined. The financial statement itself will be confidential as to the Court, the Receiver, and its attorneys. The truthfulness of this financial statement is and will be a material representation upon which the Plaintiffs and the Receiver are relying as their basis for agreeing to the settlement.
- ii. Upon approval by the Court, this settlement will be full and final as to all parties identified herein, with the sole exception if it is later demonstrated Arthur Field has made a material misrepresentation to the Court regarding his verified financial disclosure set forth in sub-part i (above). This Agreement contains terms and conditions of certain events to happen in the future. The parties agree that the Judge Edward W. Miller, the presiding judge in the

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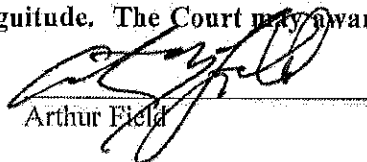
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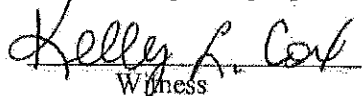
- Tomz Case, shall have sole and exclusive jurisdiction regarding any dispute related to the enforcement, performance or non-performance of any future obligation contained herein (including any integral components hereof).
- iii. To the extent any party is required to make any payment at any future date pursuant to this Agreement, that party specifically agrees that such obligation is non-dischargeable by bankruptcy.
 - iv. All documents referenced herein as Exhibits (Petitions, Leases, Assignments of Note and Mortgage, Deeds, and Note and Mortgage) are integral components of this Agreement and the settlement.
 - v. The parties agree that any payment made by Taillon, Allyson Field, Arthur Field, or any entity or trust related to any of them, in cash or in kind, tangible or intangible, may be credited to the 'account' of Arthur Field, as 'return of earned salary', for all purposes related hereto, and for further purposes of rescinding restitution as described in Paragraph 8. However, such payments or transfers shall serve as sufficient consideration for (1) all releases running to all of the named parties or entities under Paragraphs 3, 4 and 5; and (2) all dismissals with prejudice of any past, pending or future matter, other than those related solely to enforcement of the obligations of this Agreement, as specifically set forth immediately above.
 - vi. All parties to this Agreement shall cooperate with each other fully, timely, without delay or hindrance, where and when necessary in order for all parties to comply with the terms and conditions hereof. Such cooperation shall include, but not necessarily be limited to, providing proper and current physical and email addresses for notification purposes and executing documents reasonably necessary to effect the spirit, intent, and terms of this Agreement and the settlement.
 - vii. **Time is of the Essence.**

IMPORTANT ACKNOWLEDGMENT & DECLARATION BY ARTHUR FIELD

Prior to the execution of this Agreement, Arthur Field's representatives have reported that Mr. Field was recently admitted for in-patient psychiatric treatment. Arthur Field hereby acknowledges and declares that at the time of executing this Agreement that he is of sound mind, in full control of his mental faculties, and that he is freely and voluntarily entering into this binding Agreement. He hereby acknowledges and declares that he has had adequate time and opportunity to cognitively review and to negotiate the terms of this Agreement, and to consult with the legal counsel of his choosing. Mr. Field further acknowledges and declares that he has not forced, coerced or under any duress of by any means or manner before choosing to sign this Agreement.

Subsequent to the execution of this Agreement (and its approval by the Court), should any party file any suit or claim wherein he/she/they/it attempt(s) to revoke or disqualify any term of this Agreement for any reason, the parties agree that the that the prevailing party shall be entitled a minimum of \$250,000.00 as liquidated damages for defending, responding or enforcing the terms of this Agreement. This figure is based upon and derived from the estimated attorney's fees and expenses past litigation has entailed between/among these parties for addressing issues of similar scope and anticipated magnitude. The Court may award a greater sum upon a proper showing by the prevailing party.


Arthur Field


Witness

[Signature Pages to Follow]

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Page 13 of 16

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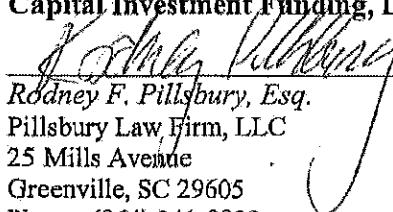
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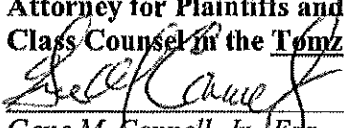
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By signature placed below, each of the undersigned acknowledges that he or she has read this Agreement, understands it, has received a complete copy of it including all Exhibits, has had the opportunity to review it with legal representation of his or her choice, and accordingly does hereby approve this Agreement, consents to it, and agrees to be bound to all of the terms contained within it, and asks the applicable court to approve this Agreement:

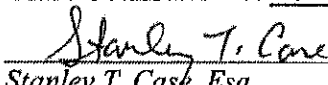
1. Attorney for Plaintiffs and
Capital Investment Funding, LLC


Rodney F. Pillsbury, Esq.
Pillsbury Law Firm, LLC
25 Mills Avenue
Greenville, SC 29605
Phone: (864) 241-9828
Email: Rodney@PillsburyFirm.Law

2. Attorney for Plaintiffs and as Co-Lead
Class Counsel in the Tomz matter


Gene M. Connell, Jr., Esq.
Kelaher, Connell & Connor, P.C.
Post Office Drawer 14547
Surfside Beach, SC 29587
Phone: (843) 238-5648
Email: gconnell@classactlaw.net

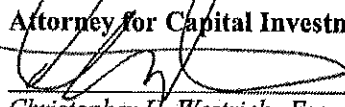
3. Attorney for Plaintiffs and as Co-Lead
Class Counsel in the Tomz matter


Stanley T. Case, Esq.
Butler Means Evins & Browne, P.A.
Post Office Drawer 451
Spartanburg, SC 29304
Phone: (864) 582-5630
Email: scase@butlermeans.com

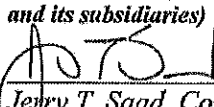
4. Attorney for Capital Investment Funding
LLC


George Brandt, III, Esq.
Henderson Brandt & Veith, P.A.
360 East Henry Street, Suite 101
Spartanburg, SC 29302
Phone: (864) 582-2962
Email: gbrandt@hbvlaw.com

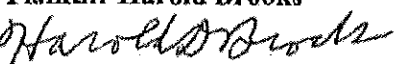
5. Attorney for Capital Investment Funding LLC


Christopher H. Westrick, Esq.
Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C.
5 Becker Farm Road Roseland, NJ 07068
Phone: (973) 994-1700
Email: CWestrick@carellabyrne.com

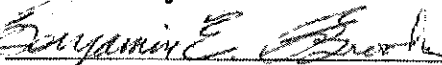
6. Court-appointed Receiver for Capital
Investment Funding, LLC (and as
Manager for Capital Investment Funding, LLC
and its subsidiaries)


Jerry T. Saad, Court Appointed Receiver and
Manager
Jerry T. Saad, CPA, PA
1249 S. Pleasantburg Dr. Greenville, SC 29605
Phone: (864) 422-9949
Email: jerryasad@charter.net

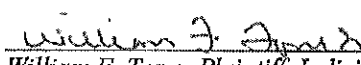
7. Plaintiff-Harold Brooks


Harold Brooks, Plaintiff, Individually and as
Personal Representative of Estate of Clara Louise
Brooks, Plaintiff

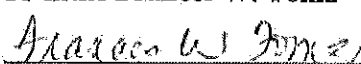
8. Plaintiff-Benjamin Brooks


Benjamin Brooks, Plaintiff, Individually

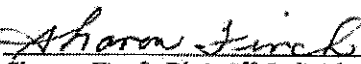
9. Plaintiff-William F. Tomz


William F. Tomz, Plaintiff, Individually

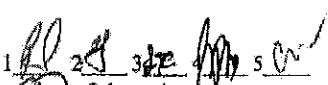
10. Plaintiff-Frances W. Tomz


Frances W. Tomz, Plaintiff, Individually

11. Plaintiff-Sharon Finch


Sharon Finch, Plaintiff, Individually

Signatures continue on next page

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Page 14 of 16

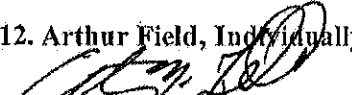
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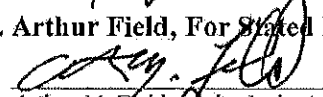
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By signature placed below, each of the undersigned acknowledges that he or she has read this Agreement, understands it, has received a complete copy of it including all Exhibits, has had the opportunity to review it with legal representation of his or her choice, and accordingly does hereby approve this Agreement, consents to it, and agrees to be bound to all of the terms contained within it, and asks the applicable court to approve this Agreement:

12. Arthur Field, Individually

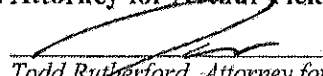

Arthur M. Field, Individually

13. Arthur Field, For Stated Entities

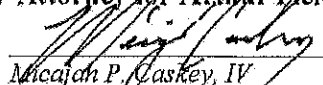

Arthur M. Field, as the Authorized Member or Manager for the following current or former entities:

i. Aladdin's Cafe & Grill, LLC	ix. Epic Entertainment & Equipment Co., LLC
ii. Castana, LLC	x. Mithril Funding, LLC
iii. Bollingbroke United (England) Ltd.	xi. CIFT, LLC
iv. Lion Financial, LLC	xii. Young Players Support Group, Inc.
v. Kronador Trading Co., LLC	xiii. RAAF Enterprises, LLC
vi. Bradford Financial Group, LLC	xiv. He Will Provide, LLC
vii. Monmouth Financial Group, Ltd	
viii. Carolina Pops Orchestra, Inc.	
ix. Epic Entertainment, LLC	

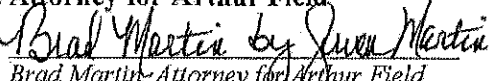
14. Attorney for Arthur Field


Todd Rutherford, Attorney for Arthur Field
2113 Park St.
Columbia, SC 29201
Phone (803) 256-3003

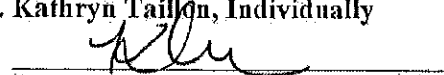
15. Attorney for Arthur Field


Micajah P. Caskey, IV
Attorney for Arthur Field
146 State St.
West Columbia, SC 29169
Phone (803) 724-3624
Email: micah@caskeylawfirm.com

16. Attorney for Arthur Field


Brad Martin, Attorney for Arthur Field
Bradford Neal Martin & Associates, PA
201 W. McAbee, Suite 302
Greenville, SC 29601
Phone (864) 552-9990
Email: bmartin@bnmlaw.com

17. Kathryn Taillon, Individually

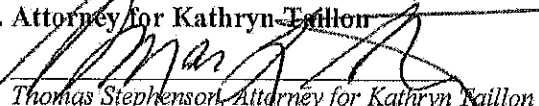

Kathryn Taillon, Individually

18. Kathryn Taillon, For Stated Entities Individually


Kathryn Taillon, as the Authorized Member or Manager for the following current or former entities:

i. Blenheim Properties, LLC;	iv. York Mortgage Funding, LLC
ii. Bountiful Bingo, LLC;	v. Hakuana Industries, Inc.
iii. Pelican Way Financial, LLC	

19. Attorney for Kathryn Taillon


Thomas Stephenson, Attorney for Kathryn Taillon
Stephenson & Murphy, LLC
207 Whitsett St.
Greenville, SC 29601
Phone (864) 370-9400
Email: tom@stephensonmurphy.com

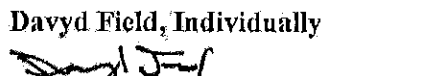
20. Allyson Field Individually


Allyson Field, Individually

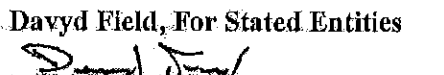
21. Attorney for Allyson Field


Bruce Bannister, Attorney for Allyson Field
Bannister, Wyatt & Stalvey, LLC
401 Pettigru St.
Greenville, SC 29601
Phone (864) 298-0084
Email: bbannister@bannisterwyatt.com

22. Davyd Field, Individually


Davyd Field, Individually

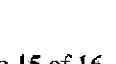
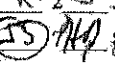
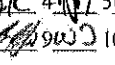
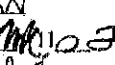
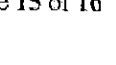
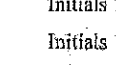
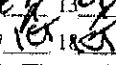
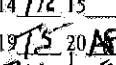
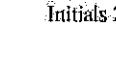
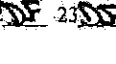
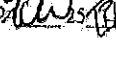
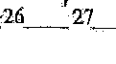
23. Davyd Field, For Stated Entities

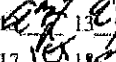
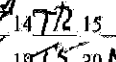
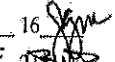
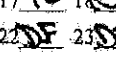
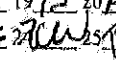
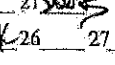
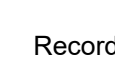

Davyd Field, as the Authorized Member or Manager for the following current or former entities:

i. Trazom, LLC	ii. Capital Intrastate Funding, LLC

24. Kirsten White, Individually

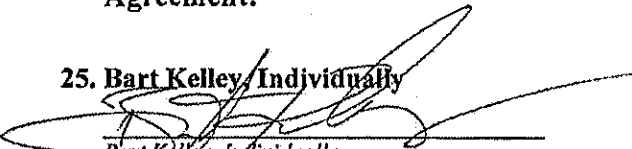

Kirsten White f/k/a Kirsten Ganti, Individually and as Owner of Empire Document Service

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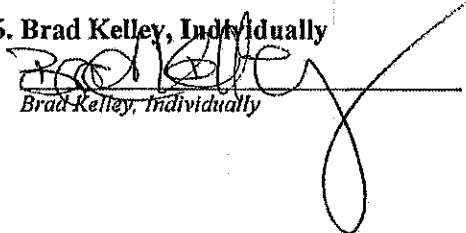
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Initials 17  18  19  20  21 
Initials 22  23  24  25  26 

By signature placed below, each of the undersigned acknowledges that he or she has read this Agreement, understands it, has received a complete copy of it including all Exhibits, has had the opportunity to review it with legal representation of his or her choice, and accordingly does hereby approve this Agreement, consents to it, and agrees to be bound to all of the terms contained within it, and asks the applicable court to approve this Agreement:

25. Bart Kelley, Individually


Bart Kelley, Individually

26. Brad Kelley, Individually


Brad Kelley, Individually

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Initials 6 JS 7 MS 8 MS 9 MS 10 MS 11 MS 12 MS

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Addendum
to
Global Settlement Agreement
Between Capital Investment Funding, LLC
and
its Noteholders, Receiver, Attorneys and Agents
and
Arthur Field, Kathryn Taillon, Kirsten White,
Allyson Field, Davyd Field,
and
Related Parties

This Addendum is made between the undersigned parties, is made effective as of 2-24-17, and is attached to and is hereinafter deemed an integral part of the Global Settlement Agreement ("GSA") dated 2-24-17, which is also made between the undersigned parties, the GSA having been fully executed by all parties as of 3-15-17, and this Addendum having been fully executed by all parties as of 11-28-17.

WHEREAS, the undersigned parties did enter into and fully executed the GSA effective as of 2-24-17;

WHEREAS, pursuant to Paragraph 8 of the GSA, Arthur Field filed a motion with the court seeking modification to certain terms and conditions of his criminal restitution order;

WHEREAS, on Wednesday, November 1, 2017, a hearing was held before Judge Maddox, the presiding judge assigned to Arthur Field's criminal restitution matter, and in that hearing, Judge Maddox suggested Arthur Field agreed to certain conditions and changes which affect the GSA as originally executed;

WHEREAS, Field did agree to such conditions and changes to the GSA;

WHEREAS, without Arthur Field agreeing to such conditions and changes, GSA will not be approved;

WHEREAS, each of the undersigned parties does desire the GSA to be approve and does derive a benefit from such change;

NOW, THEREFORE, the undersigned do hereby acknowledge, agree, affirm, confirm and warrant to modify the GSA as follows:

1. Paragraph 8.A. of the GSA shall be deleted in its entirety and replaced with the following:
 - A. Upon the parties set forth in Paragraphs 1.C. and 1.D. having fully performed their obligations hereunder:
 - i. The value of the payments and properties paid and transferred to CIF by said parties pursuant to the terms and conditions of this Agreement shall be applied as credit towards and thereby reducing the \$2,877,711.73 restitution that Arthur Field has been ordered to pay under State of South Carolina V. Arthur Field, C.A. 13-GS-47-08, which has a current balance as of October 8, 2017 of \$2,658,652.80 according to the South Carolina Department of Probation, Parole and Pardon Service;
 - ii. The value of the payments shall be equal to the actual amount of cash paid to CIF.
 - iii. The value of the properties transferred to CIF shall be equal to:
 1. The net amount of cash CIF deposits into its bank account from the sale and or liquidation of such properties; reduced by
 2. All cash payments expended by CIF for reasonable, actual expenses related to such properties, including but not limited to repairs, maintenance, fix up expenses, carrying costs (insurance, regime fees. etc.) selling expenses, property taxes, transfer taxes, and so forth.

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Page 1 of 5

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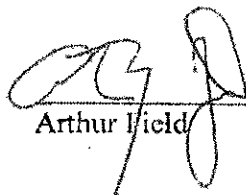
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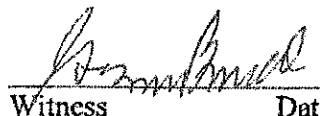
- iv. To the extent any portion of the balance of such restitution remains unpaid at the end of the required probation period, after applying credit for the payments and properties described above, such unpaid balance of restitution may be converted to a civil judgment pursuant to the applicable laws of the State of South Carolina.
2. Paragraphs 8.B. of the GSA shall be deleted in its entirety.
3. Paragraphs 8.C. of the GSA shall be deleted in its entirety.
4. The phrase “, as ‘return of earned salary’,” (including punctuations) shall be deleted from Paragraph 14.I.v. in its entirety.
5. Paragraph 14.I.i. of the GSA shall be deleted in its entirety and replaced with the following:
- i. On or before November 30, 2017, Arthur Field shall provide to the appropriate personnel at the South Carolina Office of the Attorney General and to CIF a sworn affidavit, absent of limitations, reservations or qualification as to knowledge or “upon information and belief”, attesting to all assets which he owns, holds or controls, and Defendant will avail himself to testify under oath on or before December 31, 2018.

IMPORTANT ACKNOWLEDGMENT & DECLARATION BY ARTHUR FIELD

Prior to the execution of this Addendum, Arthur Field's representatives have reported that Mr. Field was recently admitted for in-patient psychiatric treatment. Arthur Field hereby acknowledges and declares that at the time of executing this Addendum that he is of sound mind, in full control of his mental faculties, and that he is freely and voluntarily entering into the binding Global Settlement Agreement and this Addendum. He hereby acknowledges and declares that he has had adequate time and opportunity to cognitively review and to negotiate the terms of the Global Settlement Agreement and this Addendum, and to consult with the legal counsel of his choosing. Mr. Field further acknowledges and declares that he has not been forced, coerced or put under any duress by any means or manner before choosing to sign the Global Settlement Agreement and this Addendum.

Subsequent to the execution of the Global Settlement Agreement and this Addendum (and its approval by the Court), should any party file any suit or claim wherein he/she/they/it attempt(s) to revoke or disqualify any term of the Global Settlement Agreement or this Addendum for any reason, the parties agree that the that the prevailing party shall be entitled a minimum of \$250,000.00 as liquidated damages for defending, responding or enforcing the terms of the Global Settlement Agreement or this Addendum. This figure is based upon and derived from the estimated attorney's fees and expenses past litigation has entailed between/among these parties for addressing issues of similar scope and anticipated magnitude. The Court may award a greater sum upon a proper showing by the prevailing party.

 11/22/17
Arthur Field Date

 11/27/17
Witness Date

[Signatures to Follow]

Initials 1 2 3 AF 4 5
Initials 6 AF 7 8 W 9 W 10 W 11

Page 2 of 5

Initials 12 af 13 W 14 15 W 16 W
Initials 17 18 19 20 21
Initials 22 23 24 25 26 27

By signature placed below, each of the undersigned acknowledges that he or she has read this Addendum, understands it, has received a complete copy of it including all Exhibits, has had the opportunity to review it with legal representation of his or her choice, and accordingly does hereby approve this agreement, consents to it, and agrees to be bound to all of the terms contained within it, and asks the applicable courts to approve this Agreement, which includes this Addendum:

1. Attorney for Plaintiffs and
Capital Investment Funding, LLC

Rodney F. Pillsbury, Esq. Date
Pillsbury Law Firm, LLC
25 Mills Avenue
Greenville, SC 29605
Phone: (864) 241-9828
Email: Rodney@PillsburyFirm.Law

2. Attorney for Plaintiffs and as Co-Lead
Class Counsel in the Tomz matter

Gene M. Connell, Jr., Esq. Date
Kelaher, Connell & Connor, P.C.
Post Office Drawer 14547
Surfside Beach, SC 29587
Phone: (843) 238-5648
Email: gconnell@classactlaw.net

3. Attorney for Plaintiffs and as Co-Lead
Class Counsel in the Tomz matter

Stanley T. Case, Esq. Date
Butler Means Evins & Browne, P.A.
Post Office Drawer 451
Spartanburg, SC 29304
Phone: (864) 582-5630
Email: scase@butlermeans.com

4. Attorney for Capital Investment Funding
LLC

George Brandt, III., Esq. Date
Henderson Brandt & Veith, P.A.
360 East Henry Street, Suite 101
Spartanburg, SC 29302
Phone: (864) 582-2962
Email: gbrandt@hbvlaw.com

5. Attorney for Capital Investment Funding
LLC

Christopher H. Westrick, Esq. Date
Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C.
5 Becker Farm Road Roseland, NJ 07068
Phone: (973) 994-1700
Email: CWestrick@carellabyrne.com

6. Court-appointed Receiver for Capital
Investment Funding, LLC (and as
Manager for Capital Investment Funding, LLC
and its subsidiaries)

Jerry T. Saad, Court Appointed Date
Receiver and Manager
Jerry T. Saad, CPA, PA
1249 S. Pleasantburg Dr. Greenville, SC 29605
Phone: (864) 422-9949
Email: jerrysaad@charter.net

7. Plaintiff-Harold Brooks

Harold Brooks, Plaintiff, Individually Date
and as Personal Representative of Estate of
Clara Louise Brooks, Plaintiff

8. Plaintiff-Benjamin Brooks

Benjamin Brooks, Plaintiff, Individually Date

9. Plaintiff-William F. Tomz

William F. Tomz, Plaintiff, Individually Date

10. Plaintiff-Frances W. Tomz

Frances W. Tomz, Plaintiff, Individually Date

11. Plaintiff-Sharon Finch

Sharon Finch, Plaintiff, Individually Date

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Page 3 of 5

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Record p. 172

By signature placed below, each of the undersigned acknowledges that he or she has read this Addendum, understands it, has received a complete copy of it including all Exhibits, has had the opportunity to review it with legal representation of his or her choice, and accordingly does hereby approve this agreement, consents to it, and agrees to be bound to all of the terms contained within it, and asks the applicable courts to approve this Agreement, which includes this Addendum:

12. Arthur Field, Individually

Arthur M. Field, Individually 11/27/17
Date

13. Arthur Field, For Stated Entities

Arthur M. Field, as the Authorized 11/27/17
Member or Manager for the following
current or former entities:

i. Aloddy's Cafe & Grill, LLC	ix. Epic Entertainment & Equipment Co., LLC
ii. Cosmo, LLC	xi. Mithril Funding, LLC
iii. Ballingbroke United (England) Ltd.	xii. CHFTC, LLC
iv. Lian Financial, LLC	xiii. Young Players Support Group, Inc.
v. Krondor Trading Co., LLC	xiv. RAAF Enterprises, LLC
vi. Bradford Financial Group, LLC	xv. He Will Provide, LLC
vii. Monmouth Financial Group, Ltd	
viii. Carolina Pops Orchestra, Inc.	
ix. Epic Entertainment, LLC	

14. Attorney for Arthur Field

Todd Rutherford, Attorney
for Arthur Field Date
2113 Park St.
Columbia, SC 29201
Phone (803) 256-3003

15. Attorney for Arthur Field

Micajah P. Caskey, IV 11/27/17
Attorney for Arthur Field Date
146 State St.
West Columbia, SC 29169
Phone (803) 724-3624
Email: micah@caskeylawfirm.com

16. Attorney for Arthur Field on Appeal only

Brad Martin, Attorney for
Arthur Field Date
Bradford Neal Martin & Associates, PA
201 W. McAbee, Suite 302
Greenville, SC 29601
Phone (864) 552-9990
Email: bmartin@bnmlaw.com

17. Kathryn Taillon, Individually

Kathryn Taillon, Individually
Date

18. Kathryn Taillon, For Stated Entities Individually

Kathryn Taillon, as the Authorized
Member or Manager for the following
current or former entities:

i. Blenheim Properties, LLC;	iv. York Mortgage Funding, LLC
ii. Bountiful Bingo, LLC;	v. Hakuna Industries, Inc.
iii. Pelican Way Financial, LLC	

19. Attorney for Kathryn Taillon

Thomas Stephenson, Attorney
for Kathryn Taillon Date
Stephenson & Murphy, LLC
207 Whitsett St.
Greenville, SC 29601
Phone (864) 370-9400
Email: tom@stephensonmurphy.com

20. Allyson Field, Individually

Allyson Field, Individually
Date

21. Attorney for Allyson Field

Bruce Bannister, Attorney for Allyson Field
Bannister, Wyatt & Stalvey, LLC Date
401 Pettigru St.
Greenville, SC 29601
Phone (864) 298-0084
Email: bbannister@bannisterwyatt.com

22. Davyd Field, Individually

Davyd Field, Individually
Date

23. Davyd Field, For Stated Entities

Davyd Field, as the Authorized Member
or Manager for the following current Date
or former entities: Trazom, LLC and Capital Intrastate Funding, LLC

24. Kirsten White, Individually

Kirsten White f/k/a Kirsten Ganit,
Individually and as Owner of Empire Date
Document Service

Signatures continue on next page

Initials 1 2 3 4 5
Initials 6 7 8 9 10 11

Page 4 of 5

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Record p. 173

By signature placed below, each of the undersigned acknowledges that he or she has read this Addendum, understands it, has received a complete copy of it including all Exhibits, has had the opportunity to review it with legal representation of his or her choice, and accordingly does hereby approve this agreement, consents to it, and agrees to be bound to all of the terms contained within it, and asks the applicable courts to approve this Agreement, which includes this Addendum:

25. Bart Kelley, Individually

Bart Kelley, Individually Date

26. Brad Kelley, Individually

Brad Kelley, Individually Date

Initials 1 2 3 HE 4 5
Initials 6 52 7 8 9 10 11

Initials 12 13 14 15 16
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Record p. 174

Addendum
to
Global Settlement Agreement
 Between Capital Investment Funding, LLC
 and
its Noteholders, Receiver, Attorneys and Agents
 and
 Arthur Field, Kathryn Taillon, Kirsten White,
 Allyson Field, Davyd Field,
 and
Related Parties

This Addendum is made between the undersigned parties, is made effective as of 2-24-17, and is attached to and is hereinafter deemed an integral part of the Global Settlement Agreement ("GSA") dated 2-24-17, which is also made between the undersigned parties, the GSA having been fully executed by all parties as of 3-15-17, and this Addendum having been fully executed by all parties as of 11-28-17.

WHEREAS, the undersigned parties did enter into and fully executed the GSA effective as of 2-24-17;

WHEREAS, pursuant to Paragraph 8 of the GSA, Arthur Field filed a motion with the court seeking modification to certain terms and conditions of his criminal restitution order;

WHEREAS, on Wednesday, November 1, 2017, a hearing was held before Judge Maddox, the presiding judge assigned to Arthur Field's criminal restitution matter, and in that hearing, Judge Maddox suggested Arthur Field agreed to certain conditions and changes which affect the GSA as originally executed;

WHEREAS, Field did agree to such conditions and changes to the GSA;

WHEREAS, without Arthur Field agreeing to such conditions and changes, GSA will not be approved;

WHEREAS, each of the undersigned parties does desire the GSA to be approve and does derive a benefit from such change;

NOW, THEREFORE, the undersigned do hereby acknowledge, agree, affirm, confirm and warrant to modify the GSA as follows:

1. Paragraph 8.A. of the GSA shall be deleted in its entirety and replaced with the following:
 - A. Upon the parties set forth in Paragraphs 1.C. and 1.D. having fully performed their obligations hereunder:
 - i. The value of the payments and properties paid and transferred to CIF by said parties pursuant to the terms and conditions of this Agreement shall be applied as credit towards and thereby reducing the \$2,877,711.73 restitution that Arthur Field has been ordered to pay under State of South Carolina V. Arthur Field, C.A. 13-GS-47-08, which has a current balance as of October 8, 2017 of \$2,658,652.80 according to the South Carolina Department of Probation, Parole and Pardon Service;
 - ii. The value of the payments shall be equal to the actual amount of cash paid to CIF.
 - iii. The value of the properties transferred to CIF shall be equal to:
 1. The net amount of cash CIF deposits into its bank account from the sale and or liquidation of such properties; reduced by
 2. All cash payments expended by CIF for reasonable, actual expenses related to such properties, including but not limited to repairs, maintenance, fix up expenses, carrying costs (insurance, regime fees, etc.) selling expenses, property taxes, transfer taxes, and so forth.

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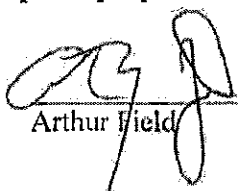
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- iv. To the extent any portion of the balance of such restitution remains unpaid at the end of the required probation period, after applying credit for the payments and properties described above, such unpaid balance of restitution may be converted to a civil judgment pursuant to the applicable laws of the State of South Carolina.
2. Paragraphs 8.B. of the GSA shall be deleted in its entirety.
3. Paragraphs 8.C. of the GSA shall be deleted in its entirety.
4. The phrase “, as ‘return of earned salary’,” (including punctuations) shall be deleted from Paragraph 14.I.v. in its entirety.
5. Paragraph 14.I.i. of the GSA shall be deleted in its entirety and replaced with the following:
 - i. On or before November 30, 2017, Arthur Field shall provide to the appropriate personnel at the South Carolina Office of the Attorney General and to CIF a sworn affidavit, absent of limitations, reservations or qualification as to knowledge or “upon information and belief”, attesting to all assets which he owns, holds or controls, and Defendant will avail himself to testify under oath on or before December 31, 2018.

IMPORTANT ACKNOWLEDGMENT & DECLARATION BY ARTHUR FIELD

Prior to the execution of this Addendum, Arthur Field's representatives have reported that Mr. Field was recently admitted for in-patient psychiatric treatment. Arthur Field hereby acknowledges and declares that at the time of executing this Addendum that he is of sound mind, in full control of his mental faculties, and that he is freely and voluntarily entering into the binding Global Settlement Agreement and this Addendum. He hereby acknowledges and declares that he has had adequate time and opportunity to cognitively review and to negotiate the terms of the Global Settlement Agreement and this Addendum, and to consult with the legal counsel of his choosing. Mr. Field further acknowledges and declares that he has not been forced, coerced or put under any duress by any means or manner before choosing to sign the Global Settlement Agreement and this Addendum.

Subsequent to the execution of the Global Settlement Agreement and this Addendum (and its approval by the Court), should any party file any suit or claim wherein he/she/they/it attempt(s) to revoke or disqualify any term of the Global Settlement Agreement or this Addendum for any reason, the parties agree that the that the prevailing party shall be entitled a minimum of \$250,000.00 as liquidated damages for defending, responding or enforcing the terms of the Global Settlement Agreement or this Addendum. This figure is based upon and derived from the estimated attorney's fees and expenses past litigation has entailed between/among these parties for addressing issues of similar scope and anticipated magnitude. The Court may award a greater sum upon a proper showing by the prevailing party.

 11/27/17
Arthur Field Date

 11/27/17
Witness Date

[Signatures to Follow]

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Page 2 of 5

Initials 12 13 14 15 16
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By signature placed below, each of the undersigned acknowledges that he or she has read this Addendum, understands it, has received a complete copy of it including all Exhibits, has had the opportunity to review it with legal representation of his or her choice, and accordingly does hereby approve this agreement, consents to it, and agrees to be bound to all of the terms contained within it, and asks the applicable courts to approve this Agreement, which includes this Addendum:

**1. Attorney for Plaintiffs and
Capital Investment Funding, LLC**

Rodney F. Pillsbury, Esq. Date
Pillsbury Law Firm, LLC
25 Mills Avenue
Greenville, SC 29605
Phone: (864) 241-9828
Email: Rodney@PillsburyLaw.com

**2. Attorney for Plaintiffs and as Co-Lead
Class Counsel in the Tomz matter**

Gene M. Connell, Jr., Esq. Date
Kelaher, Connell & Connor, P.C.
Post Office Drawer 14547
Surfside Beach, SC 29587
Phone: (843) 238-5648
Email: gconnell@classactlaw.net

**3. Attorney for Plaintiffs and as Co-Lead
Class Counsel in the Tomz matter**

Stanley T. Case Date
Stanley T. Case, Esq.
Butler Means Evins & Broome, P.A.
Post Office Drawer 451
Spartanburg, SC 29304
Phone: (864) 582-5630
Email: scase@butlermeans.com

**4. Attorney for Capital Investment Funding
LLC**

George Brandt, III, Esq. Date 11/27/17
Henderson Brandt & Veith, P.A.
360 East Henry Street, Suite 101
Spartanburg, SC 29302
Phone: (864) 582-2962
Email: gbrandt@hbvlaw.com

**5. Attorney for Capital Investment Funding
LLC**

Christopher H. Westrick, Esq. Date
Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C.
5 Becker Farm Road Roseland, NJ 07068
Phone: (973) 994-1700
Email: CWestrick@carellabyrne.com

**6. Court-appointed Receiver for Capital
Investment Funding, LLC (and as
Manager for Capital Investment Funding, LLC
and its subsidiaries)**

Jerry T. Saad Date 11-27-17
Jerry T. Saad, Court Appointed
Receiver and Manager
Jerry T. Saad, CPA, PA
1249 S. Pleasantburg Dr. Greenville, SC 29605
Phone: (864) 422-9949
Email: jerrysaad@charter.net

7. Plaintiff-Harold Brooks

Harold Brooks Date 11-27-17
Harold Brooks, Plaintiff, Individually
and as Personal Representative of Estate of
Clara Louise Brooks, Plaintiff

8. Plaintiff-Benjamin Brooks

Benjamin Brooks Date
Benjamin Brooks, Plaintiff, Individually

9. Plaintiff-William F. Tomz

William F. Tomz Date
William F. Tomz, Plaintiff, Individually

10. Plaintiff-Frances W. Tomz

Frances W. Tomz Date
Frances W. Tomz, Plaintiff, Individually

11. Plaintiff-Sharon Finch

Sharon Finch Date 11-27-17
Sharon Finch, Plaintiff, Individually

Signatures continue on next page

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Page 3 of 5

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By signature placed below, each of the undersigned acknowledges that he or she has read this Addendum, understands it, has received a complete copy of it including all Exhibits, has had the opportunity to review it with legal representation of his or her choice, and accordingly does hereby approve this agreement, consents to it, and agrees to be bound to all of the terms contained within it, and asks the applicable courts to approve this Agreement, which includes this Addendum:

12. Arthur Field, Individually

Arthur M. Field, Individually

11/27/17
Date

13. Arthur Field, For Stated Entities

Arthur M. Field, as the Authorized Member or Manager for the following current or former entities:

i. Aladdin's Cup & Grill, LLC	ix. Epic Entertainment & Equipment Co., LLC
ii. Cosmo, LLC	x. Mithril Funding, LLC
iii. Ballingbroke United (England) Ltd.	xi. CIE TC, LLC
iv. Lion Financial, LLC	xii. Young Players Support Group, Inc.
v. Krondor Trading Co., LLC	xiii. RAAF Enterprises, LLC
vi. Bradford Financial Group, LLC	xiv. The Will Provide, LLC
vii. Monmouth Financial Group, Ltd	
viii. Carolina Pops Orchestra, Inc.	
ix. Epic Entertainment, LLC	

14. Attorney for Arthur Field

Todd Rutherford, Attorney for Arthur Field
2113 Park St.
Columbia, SC 29201
Phone (803) 256-3003

11/28/17
Date

15. Attorney for Arthur Field

Micajah P. Cuskey, IV
Attorney for Arthur Field
146 State St.
West Columbia, SC 29169
Phone (803) 724-3624
Email: micajahcuskeylawfirm.com

11/27/17
Date

16. Attorney for Arthur Field on Appeal Only

Brad Martin, Attorney for Arthur Field
Bradford Neal Martin & Associates, PA
201 W. McAbee, Suite 302
Greenville, SC 29601
Phone (864) 552-9990
Email: bmartin@bomlaw.com

11/27/17
Date

17. Kathryn Taillon, Individually

Kathryn Taillon, Individually

Date

18. Kathryn Taillon, For Stated Entities Individually

Kathryn Taillon, as the Authorized Member or Manager for the following current or former entities:

i. Blenheim Properties, LLC;	iv. York Mortgage Funding, LLC
ii. Bountiful Bingo, LLC;	v. Hakuna Industries, Inc.
iii. Pelican Way Financial, LLC	

19. Attorney for Kathryn Taillon

Thomas Stephenson, Attorney for Kathryn Taillon
Stephenson & Murphy, LLC
207 Whitsett St.
Greenville, SC 29601
Phone (864) 370-9400
Email: tom@stephensonmurphy.com

Date

20. Allyson Field, Individually

Allyson Field, Individually

Date

21. Attorney for Allyson Field

Bruce Bannister, Attorney for Allyson Field
Bannister, Wyatt & Stalvey, LLC
401 Pettigru St.
Greenville, SC 29601
Phone (864) 298-0084
Email: bbannister@bannisterwyatt.com

Date

22. Davyd Field, Individually

Davyd Field, Individually

Date

23. Davyd Field, For Stated Entities

Davyd Field, as the Authorized Member or Manager for the following current or former entities: Trozon, LLC and Capital Intrastate Funding, LLC

Date

24. Kirsten White, Individually

Kirsten White f/k/a Kirsten Ganti, Individually and as Owner of Empire Document Service

Date

Signatures continue on next page

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Initials *DS* 8 9 10 11

Page 4 of 5

Initials *AP* 13 14 15 *ML* 16 *bm*

Initials 17 18 19 20 21

Initials 22 23 24 25 26 27

By signature placed below, each of the undersigned acknowledges that he or she has read this Addendum, understands it, has received a complete copy of it including all Exhibits, has had the opportunity to review it with legal representation of his or her choice, and accordingly does hereby approve this agreement, consents to it, and agrees to be bound to all of the terms contained within it, and asks the applicable courts to approve this Agreement, which includes this Addendum:

25. Bart Kelley, Individually

Bart Kelley, Individually Date

26. Brad Kelley, Individually

Brad Kelley, Individually Date

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Page 5 of 5

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Addendum
to
Global Settlement Agreement
 Between Capital Investment Funding, LLC
 and
its Noteholders, Receiver, Attorneys and Agents
 and
 Arthur Field, Kathryn Taillon, Kirsten White,
 Allyson Field, Davyd Field,
 and
Related Parties

This Addendum is made between the undersigned parties, is made effective as of 2-24-17, and is attached to and is hereinafter deemed an integral part of the Global Settlement Agreement ("GSA") dated 2-24-17, which is also made between the undersigned parties, the GSA having been fully executed by all parties as of 3-15-17, and this Addendum having been fully executed by all parties as of 11-28-17.

WHEREAS, the undersigned parties did enter into and fully executed the GSA effective as of 2-24-17;

WHEREAS, pursuant to Paragraph 8 of the GSA, Arthur Field filed a motion with the court seeking modification to certain terms and conditions of his criminal restitution order;

WHEREAS, on Wednesday, November 1, 2017, a hearing was held before Judge Maddox, the presiding judge assigned to Arthur Field's criminal restitution matter, and in that hearing, Judge Maddox suggested Arthur Field agreed to certain conditions and changes which affect the GSA as originally executed;

WHEREAS, Field did agree to such conditions and changes to the GSA;

WHEREAS, without Arthur Field agreeing to such conditions and changes, GSA will not be approved;

WHEREAS, each of the undersigned parties does desire the GSA to be approve and does derive a benefit from such change;

NOW, THEREFORE, the undersigned do hereby acknowledge, agree, affirm, confirm and warrant to modify the GSA as follows:

1. Paragraph 8.A. of the GSA shall be deleted in its entirety and replaced with the following:
 - A. Upon the parties set forth in Paragraphs 1.C. and 1.D. having fully performed their obligations hereunder:
 - i. The value of the payments and properties paid and transferred to CIF by said parties pursuant to the terms and conditions of this Agreement shall be applied as credit towards and thereby reducing the \$2,877,711.73 restitution that Arthur Field has been ordered to pay under State of South Carolina V. Arthur Field, C.A. 13-GS-47-08, which has a current balance as of October 8, 2017 of \$2,658,652.80 according to the South Carolina Department of Probation, Parole and Pardon Service;
 - ii. The value of the payments shall be equal to the actual amount of cash paid to CIF.
 - iii. The value of the properties transferred to CIF shall be equal to:
 1. The net amount of cash CIF deposits into its bank account from the sale and or liquidation of such properties; reduced by
 2. All cash payments expended by CIF for reasonable, actual expenses related to such properties, including but not limited to repairs, maintenance, fix up expenses, carrying costs (insurance, regime fees, etc.) selling expenses, property taxes, transfer taxes, and so forth.

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Page 1 of 5

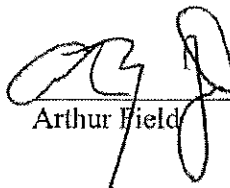
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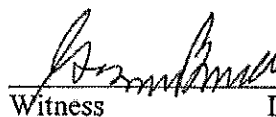
- iv. To the extent any portion of the balance of such restitution remains unpaid at the end of the required probation period, after applying credit for the payments and properties described above, such unpaid balance of restitution may be converted to a civil judgment pursuant to the applicable laws of the State of South Carolina.
2. Paragraphs 8.B. of the GSA shall be deleted in its entirety.
 3. Paragraphs 8.C. of the GSA shall be deleted in its entirety.
 4. The phrase “, as ‘return of earned salary’,” (including punctuations) shall be deleted from Paragraph 14.I.v. in its entirety.
 5. Paragraph 14.I.i. of the GSA shall be deleted in its entirety and replaced with the following:
 - i. On or before November 30, 2017, Arthur Field shall provide to the appropriate personnel at the South Carolina Office of the Attorney General and to CIF a sworn affidavit, absent of limitations, reservations or qualification as to knowledge or “upon information and belief”, attesting to all assets which he owns, holds or controls, and Defendant will avail himself to testify under oath on or before December 31, 2018.

IMPORTANT ACKNOWLEDGMENT & DECLARATION BY ARTHUR FIELD

Prior to the execution of this Addendum, Arthur Field's representatives have reported that Mr. Field was recently admitted for in-patient psychiatric treatment. Arthur Field hereby acknowledges and declares that at the time of executing this Addendum that he is of sound mind, in full control of his mental faculties, and that he is freely and voluntarily entering into the binding Global Settlement Agreement and this Addendum. He hereby acknowledges and declares that he has had adequate time and opportunity to cognitively review and to negotiate the terms of the Global Settlement Agreement and this Addendum, and to consult with the legal counsel of his choosing. Mr. Field further acknowledges and declares that he has not been forced, coerced or put under any duress by any means or manner before choosing to sign the Global Settlement Agreement and this Addendum.

Subsequent to the execution of the Global Settlement Agreement and this Addendum (and its approval by the Court), should any party file any suit or claim wherein he/she/they/it attempt(s) to revoke or disqualify any term of the Global Settlement Agreement or this Addendum for any reason, the parties agree that the prevailing party shall be entitled a minimum of \$250,000.00 as liquidated damages for defending, responding or enforcing the terms of the Global Settlement Agreement or this Addendum. This figure is based upon and derived from the estimated attorney's fees and expenses past litigation has entailed between/among these parties for addressing issues of similar scope and anticipated magnitude. The Court may award a greater sum upon a proper showing by the prevailing party.

 11/27/17
Arthur Field Date

 11/27/17
Witness Date

[Signatures to Follow]

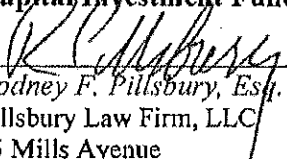
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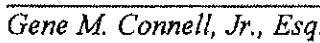
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By signature placed below, each of the undersigned acknowledges that he or she has read this Addendum, understands it, has received a complete copy of it including all Exhibits, has had the opportunity to review it with legal representation of his or her choice, and accordingly does hereby approve this agreement, consents to it, and agrees to be bound to all of the terms contained within it, and asks the applicable courts to approve this Agreement, which includes this Addendum:

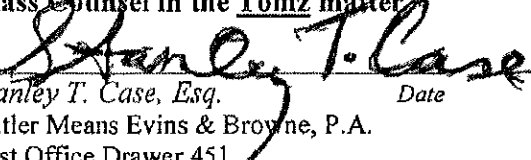
1. Attorney for Plaintiffs and
Capital Investment Funding, LLC


Rodney F. Pillsbury, Esq. Date
Pillsbury Law Firm, LLC
25 Mills Avenue
Greenville, SC 29605
Phone: (864) 241-9828
Email: Rodney@PillsburyLaw.com

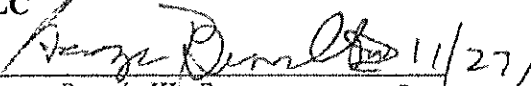
2. Attorney for Plaintiffs and as Co-Lead
Class Counsel in the Tomz matter


Gene M. Connell, Jr., Esq. Date
Kelahr, Connell & Connor, P.C.
Post Office Drawer 14547
Surfside Beach, SC 29587
Phone: (843) 238-5648
Email: gconnell@classactlaw.net

3. Attorney for Plaintiffs and as Co-Lead
Class Counsel in the Tomz matter


Stanley T. Case, Esq. Date
Butler Means Evins & Browne, P.A.
Post Office Drawer 451
Spartanburg, SC 29304
Phone: (864) 582-5630
Email: scase@butlermeans.com

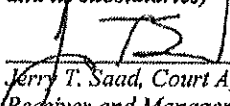
4. Attorney for Capital Investment Funding
LLC


George Brandt, III, Esq. Date 11/27/17
Henderson Brandt & Veith, P.A.
360 East Henry Street, Suite 101
Spartanburg, SC 29302
Phone: (864) 582-2962
Email: gbrandt@hbvlaw.com

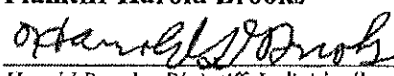
5. Attorney for Capital Investment Funding
LLC


Christopher H. Westrick, Esq. Date 11/27/17
Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C.
5 Becker Farm Road Roseland, NJ 07068
Phone: (973) 994-1700
Email: CWestrick@carellabyrne.com

6. Court-appointed Receiver for Capital
Investment Funding, LLC (and as
Manager for Capital Investment Funding, LLC
and its subsidiaries)


Jerry T. Saad, Court Appointed Date 11-27-17
Receiver and Manager
Jeffry T. Saad, CPA, PA
1249 S. Pleasantburg Dr. Greenville, SC 29605
Phone: (864) 422-9949
Email: jerrysaad@charter.net

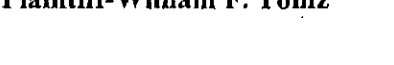
7. Plaintiff-Harold Brooks


Harold Brooks, Plaintiff, Individually Date 11-27-17
and as Personal Representative of Estate of
Clara Louise Brooks, Plaintiff

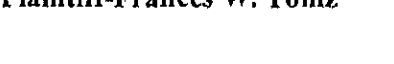
8. Plaintiff-Benjamin Brooks


Benjamin Brooks, Plaintiff, Individually Date

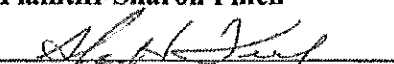
9. Plaintiff-William F. Tomz


William F. Tomz, Plaintiff, Individually Date

10. Plaintiff-Frances W. Tomz


Frances W. Tomz, Plaintiff, Individually Date

11. Plaintiff-Sharon Finch


Sharon Finch, Plaintiff, Individually Date 11-27-17

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By signature placed below, each of the undersigned acknowledges that he or she has read this Addendum, understands it, has received a complete copy of it including all Exhibits, has had the opportunity to review it with legal representation of his or her choice, and accordingly does hereby approve this agreement, consents to it, and agrees to be bound to all of the terms contained within it, and asks the applicable courts to approve this Agreement, which includes this Addendum:

12. Arthur Field, Individually

Arthur M. Field, Individually 11/27/17
Date

13. Arthur Field, For Stated Entities

Arthur M. Field, as the Authorized 11/27/17
Member or Manager for the following
current or former entities:

i. Aladdin's Cafe & Grill, LLC	ix. Epic Entertainment & Equipment Co., LLC
ii. Costano, LLC	x. Mithril Funding, LLC
iii. Bolingbroke United (England) Ltd.	xi. CHFC, LLC
iv. Lion Financial, LLC	xii. Young Players Support Group, Inc.
v. Krondor Trading Co., LLC	xiii. RAAF Enterprises, LLC
vi. Bradford Financial Group, LLC	xiv. The Will Provide, LLC
vii. Monmouth Financial Group, Ltd	
viii. Carolina Pops Orchestra, Inc.	
ix. Epic Entertainment, LLC	

14. Attorney for Arthur Field

Todd Rutherford, Attorney
for Arthur Field Date
2113 Park St.
Columbia, SC 29201
Phone (803) 256-3003

15. Attorney for Arthur Field

Micajah P. Caskey, IV 11/27/17
Attorney for Arthur Field Date
146 State St.
West Columbia, SC 29169
Phone (803) 724-3624
Email: micajah@caskeylawfirm.com

16. Attorney for Arthur Field on Appeal Only

Brad Martin, Attorney for
Arthur Field Date
Bradford Neal Martin & Associates, PA
201 W. McAbee, Suite 302
Greenville, SC 29601
Phone (864) 552-9990
Email: bmartin@bnmlaw.com

17. Kathryn Taillon, Individually

Kathryn Taillon, Individually
Date

18. Kathryn Taillon, For Stated Entities Individually

Kathryn Taillon, as the Authorized
Member or Manager for the following
current or former entities:

i. Blenheim Properties, LLC;	iv. York Mortgage Funding, LLC
ii. Bountiful Bingo, LLC;	v. Hakuna Industries, Inc.
iii. Pelican Way Financial, LLC	

19. Attorney for Kathryn Taillon

Thomas Stephenson, Attorney
for Kathryn Taillon Date
Stephenson & Murphy, LLC
207 Whitsett St.
Greenville, SC 29601
Phone (864) 370-9400
Email: tom@stephensonmurphy.com

20. Allyson Field, Individually

Allyson Field, Individually
Date

21. Attorney for Allyson Field

Bruce Bannister, Attorney for Allyson Field
Bannister, Wyatt & Stalvey, LLC Date
401 Pettigru St.
Greenville, SC 29601
Phone (864) 298-0084
Email: bbannister@bannisterwyatt.com

22. Davyd Field, Individually

Davyd Field, Individually
Date

23. Davyd Field, For Stated Entities

Davyd Field, as the Authorized Member
or Manager for the following current Date
or former entities: Trazom, LLC and Capital Intrastate Funding, LLC

24. Kirsten White, Individually

Kirsten White f/k/a Kirsten Gantt,
Individually and as Owner of Empire Date
Document Service

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Page 4 of 5

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By signature placed below, each of the undersigned acknowledges that he or she has read this Addendum, understands it, has received a complete copy of it including all Exhibits, has had the opportunity to review it with legal representation of his or her choice, and accordingly does hereby approve this agreement, consents to it, and agrees to be bound to all of the terms contained within it, and asks the applicable courts to approve this Agreement, which includes this Addendum:

25. Bart Kelley, Individually

Bart Kelley, Individually Date

26. Brad Kelley, Individually

Brad Kelley, Individually Date

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Page 5 of 5

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STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

William F. Tomz and Francis W. Tomz,
Individually and as Class Representatives,

Plaintiffs,

vs.

Capital Investment Funding, LLC, and
Arthur M. Field,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No.: 2008-CP-23-3665

**KATHRYN TAILLON'S RESPONSE
TO RECEIVER'S MOTION
FOR DECLARATORY RELIEF**

COMES NOW Kathryn Taillon and responds to the motion styled "Receiver's Motion for Declaratory Relief Related to CIF's Judgment Collection Action in Florida," which motion was filed on December 31, 2019, in the above-captioned action. The motion should be denied for lack of any legal or factual basis. The independent grounds for denial of the motion are as follows:

1. Kathryn Taillon and numerous other signatories to the GSA are not parties to this case.

The instant motion purports to seek declaratory relief, invoking the South Carolina Uniform Declaratory Judgments Act, SC Code § 15-53-10, *et. seq.* However, the Act applies only where all persons with an interest in the matter are properly made parties: "[w]hen declaratory relief is sought all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding." SC Code § 15-53-80. The signatories to the GSA included not only Arthur Field and CIF's Receiver Jerry Saad but numerous persons who tendered various forms of consideration, including Taillon, Allyson Field, Davyd Field, Kirstin White, Bart Kelley and Brad Kelley. None of these additional persons have been made parties to this matter through proper service of a formal

pleading.¹ If Saad wishes to maintain an action seeking declaratory relief concerning the rights and obligations of the parties to the GSA, he must serve and obtain jurisdiction over all parties to the GSA.

2. Several Parties to the GSA Have Not Even Received Notice of The Hearing.

The NEF's and Certificates of Service associated with the instant motion and notice of hearing reflect that several of the above-named parties were not notified of either. Once again, as parties to the GSA who tendered consideration in exchange for Saad's promise to discontinue his various lawsuits against Field, these persons are entitled to notice and a right to be heard in opposition to Saad's latest attempt to renege on that promise and advance yet another pretext for pursuing the claims against Field released in 2017. This proceeding cannot go forward without proper notice to all parties to the GSA, particularly those parties who tendered consideration to CIF, pursuant to the GSA, believing that in return they were obtaining a release of claims worth the paper it was printed on.

3. This Case is Closed; Saad Must File a New Action to Assert Its Claims.

Pursuant to the GSA, this action was to have been dismissed over two years ago. There is no reasonable dispute that this was among the pending cases that were conclusively ended by the execution of the GSA, and which were to be dismissed with prejudice. (GSA ¶ 3(d); 5.) Thus, neither Saad nor any other party may continue filing motions in this case as an alternative to bringing a new action. This was sufficiently obvious to U.S. Magistrate Judge Jacquelyn Austin that she raised the issue *sua sponte* and remanded this case on that basis without any party even mentioning the issue, following Field's attempt to remove it to federal court. (Remand Order

¹ Taillon previously made a limited appearance in this case to defend herself against Saad's motion, dated July 26, 2017, purporting to seek relief against Taillon for breach of the then-unratified GSA. Saad did not move to have her added as a party then or at any time since. Taillon submits this response purely for the limited purpose of addressing Saad's improper attempt to litigate here what should have been brought as a separate case. She does not submit to jurisdiction for any other purpose and expressly reserves all objections to being made a party to this matter.

(attached).) Saad's position that he has some sort of perpetual right to use this case as a vehicle to harass and threaten Field is contrary to the plain language of the GSA. This case is over.

4. The Declaratory Judgments Act Does Not Authorize Relief by Motion.

Even if Saad were otherwise entitled to leave this case open as a general means of litigating against Field indefinitely, the Declaratory Judgments Act does not authorize such action. Rather, the Act specifically preserves the right to trial by jury of any issues of fact raised in an action for declaratory judgment. (SC Code § 15-53-90; SCRCP 57.) Prior to any determination as to whether there are issues of fact for trial, the parties should be permitted to engage in responsive pleading and full discovery, as in any other action. Here, discovery would necessarily include inquiry into the intent of the parties concerning the execution of the original GSA and the Addendum, the execution of an Addendum by fewer than all the parties to the original GSA, and whether the assent of those parties that did sign the Addendum was voluntary in light of the Court's order that all parties sign.² At the very least, several of the parties and their attorneys are potential witnesses concerning the intent of the parties to the GSA and Addendum. Due process requires reasonable discovery and a jury trial on any contested factual issues. If, following an adequate discovery period, Saad wishes to move for summary judgment, he may do so according to the Rules of Civil Procedure. He may not circumvent the whole process by demanding relief by motion without even bothering to file or serve a complaint.

5. Prosecution of the Post-Restitution Judgment Was Waived in the GSA

Saad's position appears to be that he is entitled to prosecute an action in federal court in Florida to enforce a civil judgment obtained via the conversion of the remaining amount of

² As explained more fully below, the Addendum did not have the effect of exempting the post-restitution civil judgment from the scope of the GSA's release of claims. Nevertheless, discovery in an action for declaratory judgment would need to explore whether the Addendum was properly executed by all parties (proof of which Saad has not submitted), was entered into voluntarily by all parties in light of the fact that this Court made signing the Addendum compulsory, and was supported by valid consideration, among other potential issues.

restitution unpaid when Field's probation ended. Angry that Field and Taillon contested the federal court case, Saad convinced the Florida court to stay that case so he could litigate some portion of the dispute here. The goal, according to his motion, is a declaration that the Florida federal case "is just and proper under the terms of the [GSA]."

Setting aside the absurdity of asking a South Carolina state court to tell a Florida federal court whether one of its pending cases is "just and proper," the GSA does not support Saad's argument. All matters that were or could have been litigated in any of the then-pending lawsuits were released pursuant to the GSA. While it is true that the post-restitution civil judgment did not exist at that time, the release was not limited to judgments – it extended to all claims. The post-restitution civil judgment was based on claims that were well known by all relevant parties at the time the GSA was executed. The restitution was not designed as a narrow remedy to avoid any overlap with the civil claims; rather it was known to all parties that the civil claims and the restitution were designed as alternative remedies for the same alleged wrongs. If Field had paid the entire amount of restitution, his liability in the civil lawsuits would have gone down or been satisfied altogether, and if he had lost the civil lawsuits and paid damages, his liability for restitution would have gone down or been satisfied altogether. No one on either side of this dispute ever believed that the damage claims in the civil cases and the restitution in the criminal matter covered different alleged harms.

Because the post-restitution civil judgment covers the same claims as the civil lawsuits, the release reflected in Paragraphs 4 and 5 of the GSA bars any attempt by any party to the GSA to enforce that judgment. Otherwise, Field and the others who provided consideration to CIF would have had no reason to agree to the GSA in the first place. Resolving the civil lawsuits would have been pointless if all the same alleged damages were still recoverable once the restitution was converted to a civil judgment. Thus, the only reasonable construction of the GSA is that it released

all claims then known, regardless of whether they had been asserted in any particular action or were later capable of ripening into a civil judgment pursuant to South Carolina's restitution laws.

The Addendum does not change any of this. The reason the Addendum became necessary is that the Attorney General's Office objected to any arrangement whereby the GSA allowed the parties to reduce amounts of restitution, given that it was not a party to the GSA. Thus, the parties needed to revise the GSA to avoid such arrangement. Likewise, if the Attorney General allowed the restitution amount to simply evaporate once the term of probation ended, it faced the possibility of public criticism for allowing the probation period to end without restitution being paid. Thus, the Addendum provided for conversion of the remaining restitution to a civil judgment. This allowed the Attorney General to ensure it was not responsible for any waiver or reduction in restitution and at the same time it preserved the core of the original bargain: certain commitments by Field and the surrender of various property held by other parties would be traded for release of the right to keep pursuing Field for damages. Even assuming the Addendum was properly executed, its terms cannot be stretched to the point of nullifying the core of the original bargain.³ As such, Saad is not entitled to have this Court bless its Florida lawsuit because its Florida lawsuit is a plain violation of the GSA.

³ As for the argument that there was no point in stipulating that the leftover restitution would be converted into a civil judgment if that judgment could not be enforced, that argument ignores the true purpose of the civil judgment – insurance if the GSA fell through. In the event the GSA was invalidated for some reason, the civil judgment ensured CIF would not be left empty-handed. It was a Plan B and was never supposed to be operative alongside the GSA.

6. Saad is not Entitled to a Liquidated Damages Award of \$250,000.⁴

Saad seeks a windfall of \$250,000, relying on the following provision of the GSA:

Subsequent to the execution of this Agreement (and its approval by the Court), should any party file any suit or claim wherein he/she/they/it attempt(s) to revoke or disqualify any term of this Agreement for any reason, the parties agree that the prevailing party shall be entitled a minimum of \$250,000.00 as liquidated damages for defending, responding or enforcing the terms of this Agreement. This figure is based upon and derived from the estimated attorney's fees and expenses past litigation has entailed between/among these parties for addressing issues of similar scope and anticipated magnitude. The Court may award a greater sum upon a proper showing by the prevailing party.

There are several reasons this provision cannot be enforced here. First, as explained in detail above, Saad's underlying claim lacks merit. Thus, he cannot be found to be a prevailing party. Second, the provision only applies where "any party file[s] any suit or claim wherein he/she/they/it attempt(s) to revoke or disqualify any term of this Agreement for any reason." Field did not file a suit or claim attempting to revoke or disqualify the GSA. Rather, he sought to enforce his rights under the GSA in the Florida action. The plain language excerpted above makes clear that the liquidated damages provision does not apply in such circumstances.

Finally, the liquidated damages provision is an unlawful penalty and is therefore unenforceable. The standard for enforcing a liquidated damages provision in South Carolina is as follows:

whe[n] the sum stipulated is reasonably intended by the parties as the predetermined measure of compensation for actual damages that might be sustained by reason of nonperformance, the stipulation is for liquidated damages; and whe[n] the stipulation is not based upon actual damages in the contemplation of the parties, but is intended to provide punishment for breach of the contract, the sum stipulated is a penalty.

DD Danner, LLC v. SC LAUNCH!, Inc., No. 5743, 2020 S.C. App. LEXIS 63, at *13 (Ct. App. July 8, 2020), quoting *ERIE Ins. Co. v. Winter Constr. Co.*, 393 S.C. 455, 462, 713 S.E.2d 318,

⁴ Taillon is a party to the Florida litigation, which remains pending, and could result in the loss of her home. As such, she has an interest in ensuring that this Court does not punish Field merely for taking a position in that litigation. As such, Taillon requests that this Court consider her opposition to CIF's attempt to enforce the \$250,000 penalty against Field.

322 (Ct. App. 2011). Here, there are clear indications that the provision is designed as a penalty. First, it is easy to determine attorneys' fees arising from litigation over the GSA. Attorneys regularly record and bill their time and it is not unusual to submit such records in support of a request for fees. It would be especially inappropriate for Saad's counsel to resist providing accurate records of their time given that they are supposed to be working for CIF's creditors and making all efforts to conserve funds on behalf of such creditors, rather than litigating for the sake of litigating. Second the GSA provides for an adjustment up, in the event the liquidated damages amount is insufficient, but no corresponding adjustment down. One can hardly imagine a more glaring indication that the purpose of the provision is to serve as a penalty. Saad knows what his fees are – he pays them. If they exceed the amount stipulated (highly unlikely given the lack of progress in the Florida case), Saad will not hesitate to let this Court know. If they are below the amount stipulated, as they undoubtedly are, he can remain silent and reap a windfall. Ultimately, the entire exercise is simply a means of punishing Field.⁵

CONCLUSION

Taillon respectfully requests that the motion be denied and this matter dismissed with prejudice as the GSA requires. There is no legal justification to continue this case or enter any of the relief Saad is seeking.

Respectfully submitted this 26th day of September, 2020.

s/ Jeffrey P. Dunlaevy
 Jeffrey P. Dunlaevy (SC Bar No. 19678)
 Dunlaevy Law Firm
 37 Villa Road, Suite 440
 Greenville SC 29615
 864.208.9305
jeff@dunlaevylaw.com

⁵ Saad urges the Court to decide this matter pursuant to its contempt power so as to insulate a decision in his favor from judicial review and enhance his leverage over Field via another threat of incarceration. There is no legal justification for such an approach, particularly given the constitutional and federalism issues implicated by Saad's attempt to have this Court usurp the role of a federal judge to control his own docket.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	THIRTEENTH JUDICIAL CIRCUIT
William Tomz and Francis W. Tomz,	)	
Individually and as Class Representatives	)	
	)	CASE NUMBER 2008-CP-23-3665
Plaintiffs,	)	
	)	
vs.	)	NOTICE OF MOTION AND
	)	MOTION TO DISMISS RECEIVER'S
Capital Investment Funding, LLC	)	MOTION FOR DECLARATORY
and Arthur M. Field	)	RELIEF
	)	
Defendants.	)	
_____	)	

TO: STANLEY T. CASE, ESQ., ATTORNEY FOR PLAINTIFFS, and GEORGE BRANDT, III, ESQ., ATTORNEY FOR JERRY SAAD:

PLEASE TAKE NOTICE that Respondent Arthur M. Field, through his undersigned attorney, will move before the Court, at such place and time as the Court may appoint, pursuant to Rules 12(b)(1), 12(b)(2), 12(b)(3), 12(b)(6), and 12(h)(3), South Carolina Rules of Civil Procedure, as well as the Constitutions of the United States and of South Carolina, that this Court dismiss Receiver's Motion for Declaratory Relief Related to CIF's Judgment Collection Action in Florida. The Court should grant this motion to dismiss as set forth below.

OBJECTION TO PERSONAL JURISDICTION

Pursuant to Rule 12, SCRCP, Respondent Arthur M. Field objects to any assertion of personal jurisdiction in this matter. Field is a citizen and resident of Florida and reserves all rights. See *State v. Dudley*, 354 S.C. 514, 542, 581 S.E.2d 171, 186 (Ct.App. 2003)("A defendant may waive any complaints he may have regarding personal jurisdiction by failing to object to the lack of personal jurisdiction and by appearing to defend his case.") Field, through his undersigned attorney, files this motion subject to these objections.

INTRODUCTION

Receiver is the court-appointed receiver representing Capital Investment Funding, LLC (“CIF”). CIF is an entity citizen of the State of South Carolina. CIF has a registered agent at 1249 S. Pleasantburg Dr., Greenville, SC. It is a South Carolina Limited Liability Company in winding up since 2008.

Respondent Arthur Field is not subject to personal jurisdiction in South Carolina. Field is a citizen and a resident of the State of Florida. Arthur Field has been a resident of Florida since at least 2011. Field has a homestead residence at 5489 Atlantic View, St. Augustine, Florida, 32080. In September 2011, Field purchased a home and claimed a Homestead exemption pursuant to the Florida Constitution¹; in April 2012, Field obtained a driver’s license in Florida and registered to vote in Florida; in December 2013, Field filed a Declaration of Domicile in St. John’s County, Florida²; and, in January, 2017, the St. Johns County Tax Assessor granted Field a Homestead Exemption as to the property’s ad valorem taxes³. Ex. 1. Field has paid vehicle taxes in Florida since at least 2014. Ex. 2.

RELEVANT FACTUAL BACKGROUND

In the criminal case against Arthur Field, on October 8, 2013 the Honorable Cordell Maddox ordered, *inter alia*, Field to pay the noteholder/victims \$2,877,711.73. On November 1, 2017, Judge Maddox, who presided over the criminal matters pertaining to Field, heard Field’s Motion to Reconsider Restitution, supported by Receiver. On November 28, 2017, Judge Maddox entered an order modifying Field’s existing restitution order after the parties (i.e., the State of South Carolina and Arthur Field) agreed any remaining unpaid restitution would be entered as a

¹ See Art. X, § 4, Fla. Const.

² See § 222.17, Fla. Stat. (2013)

³ See Art. X, § 7, Fla. Const.

civil judgment at the conclusion of Field's probationary term.

After years of civil litigation in multiple forums, this Court ratified the Global Settlement Agreement ("GSA") on December 1, 2017. Ex. 3. Some parties to the GSA executed an Addendum which included the material parts of Judge Maddox's order. The addendum acknowledged that amounts paid to noteholder/victims by (or on behalf of Field) were credited towards his restitution payment obligation, and any unpaid balance would be converted to a civil judgment pursuant to the applicable South Carolina law. This Court specifically incorporated the Addendum when the Court approved the Global Settlement Agreement by order entered December 1, 2017.

In 2019, Receiver initiated litigation in Florida to seek enforcement of the civil judgment against Field's homestead in that state. On December 31, 2019, Receiver filed the instant motion in this long-closed case. On January 28, 2020, Field, a Florida resident, filed a *pro se* Notice of Removal to federal court. On February 6, 2020, United State Magistrate Judge Jacquelyn D. Austin found that "[u]pon an examination of the Notice of Removal, along with the entire record before the Court, it is apparent that removal of the matter was improper because the State Court Action is closed." Nonetheless, this motion is before this Court.

ARGUMENTS

This Court should deny Receiver's motion and all relief sought.

I. This Court Lacks Subject Matter Jurisdiction.

The subject matter jurisdiction of a court is fundamental and can be raised at any time. *Brown v. State*, 343 S.C. 342, 346, 540 S.E.2d 846, 848-49 (2001). The South Carolina Rules of Civil Procedure govern "the procedure in all South Carolina courts in all suits of a civil nature"

(Rule 1, SCRCP “Scope of Rules”) and expressly provide that the Rules “shall not be construed to extend or limit the jurisdiction of any court of this State” Rule 82(a), SCRCP (“Jurisdiction Unaffected”). Subject matter jurisdiction is the power to hear and determine cases of the general class to which the proceedings in question belong. *Skinner v. Westinghouse Elec. Corp.*, 380 S.C. 91, 93, 668 S.E.2d 795, 796 (2008).

The Receiver asks this Court to declare that litigation initiated by the Receiver in Florida is just and proper pursuant to South Carolina Code of Laws § 15-53-20. That statute provides, “Courts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed.” [Emphasis added.] S.C. Code Ann. § 15-53-20.

However, a federal court has subject matter jurisdiction over primarily two types of cases: (1) those involving “federal question jurisdiction,” which “aris[e] under the Constitution, laws, or treaties of the United States”; and (2) those involving “diversity jurisdiction,” which include parties who are residents of different states and the amount in controversy exceeds \$75,000. 28 U.S.C.A. §§ 1331, 1332. Section 1446(d) of the United States Code provides that after an action has been removed to federal court, “the State court shall proceed no further unless and until the case is remanded.” 28 U.S.C.A. § 1446(d). Here, the parties are residents of different states and federal subject matter jurisdiction is triggered because of the “diversity jurisdiction” prong of 28 U.S.C.A. §§ 1331. This Court does not have subject matter jurisdiction of Florida Homestead statutes.

To the extent Receiver relies on the GSA to assert that this Court has subject matter jurisdiction because of that agreement’s ¶ 14(I)(ii)⁴, that reliance is misplaced. South Carolina’s

⁴ ¶ 14(I)(ii) of the GSA provides, “The parties agree that the Judge Edward W. Miller, the presiding judge in the Tomz Case, shall have sole and exclusive jurisdiction regarding any dispute related to the enforcement, performance

Supreme Court addressed this question directly: "lack of jurisdiction of the subject matter cannot be waived even by consent and may be raised in this court without an exception." [Emphasis added.] *Petroleum Transp., Inc. v. Public Service Commission*, 179 S.E.2d 326, 255 S.C. 419 (S.C. 1971). "A court lacking subject matter jurisdiction has no authority to act regardless of the geographical location or consent of the litigants." *Nix v. Mercury Motor Express, Inc.*, 270 S.C. 477, 242 S.E.2d 683 (1978). The consent of the parties cannot convey subject matter jurisdiction. To the extent GSA ¶ 14(I)(ii) may purport to grant this Court subject matter jurisdiction, it is ineffective.

If the federal district court needs a South Carolina court to answer a question of law, the appropriate procedure is to certify the question to the South Carolina Supreme Court, not the Circuit Court.

The Court should dismiss Receiver's motion for lack of subject matter jurisdiction. R. 12(b)(1), SCRCP, and R. 12(h)(3) ("Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.")

II. This Court Lacks Personal Jurisdiction of Arthur Field.

As stated above, Field objects to personal jurisdiction in this case. Field is a Florida resident and this Court does not have personal jurisdiction in this matter. *See Stearns Bank Nat'l Ass'n v. Glenwood Falls, LP*, 373 S.C. 331, 337, 644 S.E.2d 793, 796 (Ct.App. 2007)("Although a court commonly obtains personal jurisdiction by the service of the summons and complaint, it may also obtain personal jurisdiction if the defendant makes a voluntary appearance.") and *State v. Dudley*, 354 S.C. 514, 542, 581 S.E.2d 171, 186 (Ct.App. 2003)("A defendant may waive any

or non-performance of any future obligation contained herein (including any integral components hereof.)" Ex. 3, pp. 12-13.

complaints he may have regarding personal jurisdiction by failing to object to the lack of personal jurisdiction and by appearing to defend his case."). In September 2011, Field purchased a home and claimed a Constitutional Homestead exemption; in April 2012, Field obtained a driver's license in Florida; in December 2013, Field filed a Declaration of Domicile in St. John's County, Florida; Field is registered to vote in Florida since 2012; and, Field obtained a Florida driver's license in April 2012. Ex. 1. Field has a homestead residence at 5489 Atlantic View, St. Augustine, Florida, 32080. *Id.* Field has paid vehicle taxes in Florida since at least 2014. Ex. 2. In January, 2017, the St. Johns Assessor granted Field an ad valorem tax Homestead exemption.

In *Southern Plastics Co. v. Southern Commerce Bank*, the South Carolina Supreme Court adopted the due process analysis articulated by the United States Supreme Court in regard to the exercise of personal jurisdiction. 423 S.E.2d 128, 310 S.C. 256 (S.C. 1992). "The determination of whether the requirements of due process are satisfied involves a two-prong analysis of (1) the 'power' prong, under which minimum contacts grant a court the 'power' to adjudicate the action; and (2) the 'fairness' prong, which requires the exercise of jurisdiction to be 'reasonable' or 'fair.'" *Id.* at 250, 423 S.E.2d at 131. "The plaintiff bears the burden of satisfying both tests." *Id.* at 259, 423 S.E.2d at 130. The Receiver has not met its burden to establish that this Court has personal jurisdiction over Arthur Field, a Florida resident.

The Court should dismiss Receiver's motion for lack of personal jurisdiction. See R. 12(b)(2), SCRC.P.

III. This Case is Closed; Receiver Must File a New Action to Pursue Remedy.

Pursuant to the GSA, this action was to have been dismissed. There is no reasonable dispute that this was among the pending cases that were conclusively ended by the execution of the GSA, and which were to be dismissed with prejudice. GSA ¶ 3(d) and ¶ 5. Thus, neither Receiver nor

any other party may continue filing motions in this case as an alternative to bringing a new action. The justiciable controversy at the heart of 2008-CP-23-3665 ended with the approval of the GSA. This was sufficiently obvious to U.S. Magistrate Judge Jacquelyn Austin that she raised the issue *sua sponte* and remanded this case on that basis without any party even mentioning the issue, following Field's attempt to remove it to federal court. Receiver's belief that it has some sort of perpetual right to use this case as a vehicle to harass and threaten Field is contrary to the plain language of the GSA. This case is over. This Court should deny Receiver's motion.

IV. The Declaratory Judgments Act Does Not Authorize Relief by Motion.

Receiver presents its motion under color of South Carolina Code of Laws § 15-53-20, *et seq.* (i.e., the "Declaratory Judgments Act"). Even if Receiver were otherwise entitled to leave this case open in perpetuity as a general means of litigating against Field indefinitely, the Declaratory Judgments Act does not authorize such action. Rather, the Act specifically preserves the right to trial by jury of any issues of fact raised in an action for declaratory judgment. S.C. Code Ann. § 15-53-90 and Rule 57, SCRCP. Prior to any determination as to whether there are issues of fact for trial, the parties should be permitted to engage in responsive pleading and full discovery as in any other action. Here, discovery would necessarily include inquiry into the intent of the parties concerning the execution of the original GSA and the Addendum, the execution of an Addendum by fewer than all the parties to the original GSA, and whether the assent of those parties that did sign the Addendum was voluntary in light of the Court's draconian order that all parties sign. At the very least, several of the parties and their attorneys are potential witnesses concerning the intent of the parties to the GSA and Addendum. Due process requires reasonable discovery and a jury trial on any contested factual issues. Receiver may not circumvent procedural and substantive due process requirements by demanding relief by motion in a closed case. The Court should deny Receiver's motion.

V. *Res Judicata*/Collateral Estoppel/Issue Preclusion Bar Receiver's Motion.

Res judicata bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between those parties. *Sub-Zero Freezer Co. v. R.J. Clarkson Co.*, 308 S.C. 188, 417 S.E.2d 569 (1992). Under the doctrine of *res judicata*, "[a] litigant is barred from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit." *Hilton Head Center of South Carolina, Inc. v. Public Service Comm'n of South Carolina*, 294 S.C. 9, 11, 362 S.E.2d 176, 177 (1987). To establish *res judicata*, the defendant must prove the following three elements: (1) identity of the parties; (2) identity of the subject matter; and (3) adjudication of the issue in the former suit. *Riedman Corp. v. Greenville Steel Structures, Inc.*, 308 S.C. 467, 419 S.E.2d 217.(1992); *Sealy v. Dodge*, 289 S.C. 543, 347 S.E.2d 504 (1986). In this motion, there is no dispute as to the identities of the parties. The second and third elements (identity of subject matter, and adjudication of the issue) are disputed. Receiver's motion argues that the judgment of Judge J. Cordell Maddox, Jr. entered on November 20, 2018, is a novel issue not included within the ambit of the 2008-CP-23-3665 litigation that was resolved in the GSA. Receiver's position is that its right to enforce that judgment developed subsequent to the ratification of the GSA on December 1, 2017, and consequently is not barred by ¶5 of the GSA⁵. Receiver's haste to read Paragraph 5, skips Paragraph 4 of the GSA, which provides, in part:

“this Agreement settles with prejudice all claims of every kind and nature which were raised or could have been raised in any above-identified litigation, including any and all causes of action, direct claims, cross-claims, counter-claims, rights of offset, grievances, complaints, and **other rights and actions otherwise derived from such, . . .**”

⁵ GSA ¶ 5 provides: “**The parties** to this Agreement do hereby **release all other parties...of and from any and all suits, legal actions or claims of any nature whatsoever, known or unknown, up to and including the present time**, including but not limited to, claims described in Paragraph 4 of the Agreement, which **include but are not limited to claims arising under all common and statutory laws, ordinances, rules or regulations** of the United States of America, and all the states of the United States,... and their political subdivisions, and the public policies thereof. **This release shall further include, but shall not be limited to, all those claims which were or could have been asserted** in the litigation identified..., which actions shall be dismissed with prejudice...” [Emphasis added.]

Judge Maddox's November 20, 2018, judgment is derived from the restitution that was contemplated in the GSA at ¶ 8(b), which he first ordered on October 8, 2013 and his Order of November 1, 2017 directing the Receiver to file a report in 2018 to liquidate the amount of the civil judgment. No hearing was held in 2018.

Receiver's motion confuses its right to payment of \$2,877,711.73 from Field (which vested in the October 8, 2013 restitution order) with its then-unripe ability to enforce a judgment for receipt of the money. There is no doubt that but for the restitution contemplated within the GSA, the civil judgment could not arise. In fact, the November 28, 2018, civil judgment order amount of \$1,767,634.71 is derived by subtracting payments attributable to Field and his family from the restitution amount identified in the October 8, 2013, restitution order and as specifically set forth in GSA ¶ 14(I)(v). Nothing in the Addendum restricts the enforceability or scope of GSA ¶ 4, ¶ 5 nor ¶ 14(I)(ii) (the settlement is full and final). CIF drafted the Addendum. Had it wished to narrow ¶ 4, ¶ 5 or ¶ 14, it should have so stated in the Addendum.

Surely Receiver does not dispute it had a right to payment beginning on October 8, 2013 – in numerous filings in this case it documented monies received attributable to Field pursuant to the order of that day. That Receiver's ability to enforce collection of those monies was limited by the operation of the criminal justice system vis-à-vis the Department of Pardon, Probation, or Parole, is not a negation of the existence of that right to payment. The right, if any, to CIF's claim pre-dated the effective date of the GSA and is merged into its broad releases. See *In re Managed Care*, 765 F.3d 1222 (11th Cir. 2014) and *Klay v. All Defendants*, 309 F.App'x 294 (11th Cir. 2009).

This Court should deny Receiver's attempt to reimagine the civil judgment amount as an independently created right to funds subsequent to the ratification of the GSA. That the Addendum to the GSA identified a changed form of the collection mechanism for their right to payment does not birth some future-developing right. The conversion of the restitution to a civil judgment

changed the collection mechanism, but it did not create a new, independent right that was unanticipated in the GSA, no matter how frustrated the Receiver is with its lack of foresight.

And, prior to the 2019 Florida litigation that Receiver initiated, Field was dismissed with prejudice from 2015-CP-23-01263 (S.C.), 6:14-cv-02267-BHH (D.S.C.), and BER-L-3760-12 (N.J.). The determination of whether the allegations raised in the 2019 Florida action are precluded by those dismissals with prejudice rests within the purview of the Middle District of Florida, not Judge Miller, who did not preside over either of those South Carolina civil matters or the New Jersey case against Field. *Consol. Coal Co. v. U.M.W. of A., Dist. 12, Local 1545*, 213 F.3d 404 at 407 (“Question of preclusive force of the first case, like any defense, is issue for the subsequent judge to decide.”); accord, *CSX Transp., Inc. v. General Mills, Inc.*, 846 F.3d 1333 (11th Cir. 2017).

Consequently, because these issues were adjudicated previously, and any issue therewith could have been raised, the Receiver cannot prevail in its motion. As a matter of law, this Court must deny Receiver’s motion.

VI. Liquidated damages are inappropriate.

This Court should deny Receiver’s inappropriate request for liquidated damages. The GSA provides:

Subsequent to the execution of this Agreement (and its approval by the Court), should any party **file any suit or claim** wherein he/she/they/it **attempt(s) to revoke or disqualify any term of this Agreement** for any reason, the parties agree that the that the prevailing party shall be entitled a minimum of \$250,000.00 as liquidated damages for defending, responding or enforcing the terms of this Agreement.

[Emphasis added.] GSA at p. 13.

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. *Ellie, Inc. v. Miccichi*, 358 S.C. 78, 93, 594 S.E.2d 485, 493 (Ct.App.2004). Here, the contractual language contemplates a party **filing** a suit or claim;

the GSA does not preclude any party from *responding* to a lawsuit initiated by another party. It is the Receiver, not Field, that has filed the lawsuit in Florida.

In the first alternative, if this Court were to find that Field's actions had fallen within the ambit of "file any suit or claim", the Court should reject Receiver's invitation to find the purpose of such an action to be an "attempt(s) to revoke or disqualify any term of [the GSA]". Receiver's entire argument in its motion is that the civil judgment arising from unpaid restitution is *not* subject to the terms of the GSA. The GSA liquidated damages clause does not preclude Field from defending an action that is not subject to the GSA. Receiver's motion presents a logical fallacy: if the restitution civil judgment is not prohibited by the GSA because it arises subsequent to the execution of the GSA and is therefore not a term of the agreement, the liquidated damages clause is silent as to that term which is not part of the agreement. And, if this Court rejects Receiver's specious argument and finds that the restitution civil judgment is not subject to the GSA, it cannot also conclude that Field is seeking to "revoke or disqualify" the GSA. In either result, Receiver's demand for liquidated damages fails.

In the second alternative, if this Court finds that Field's insistence on enforcing the GSA as-written is an attempt to revoke or disqualify part of it, this Court should hold that the liquidated damages provision is an unenforceable penalty. The dispositive test on whether a provision in a contract is for liquidated damages or is an unenforceable penalty was set forth by our supreme court in *Tate v. LeMaster*:

Implicit in the meaning of 'liquidated damages' is the idea of compensation; in that of 'penalty,' the idea of punishment. Thus, where the sum stipulated is reasonably intended by the parties as the predetermined measure of compensation for actual damages that might be sustained by reason of nonperformance, the stipulation is for liquidated damages; and where the stipulation is not based upon actual damages in the contemplation of the parties, but is intended to provide punishment for breach of the contract, the sum stipulated is a penalty.

231 S.C. 429, 441, 99 S.E.2d 39, 45–46 (1957). Receiver has not presented any evidence that its costs are reasonably proportionate to the amount sought, especially since Receiver did not even

file a responsive pleading to Field's counsel's Motion to Dismiss in Florida. The Court should reject Receiver's motion for liquidated damages.

CONCLUSION

THEREFORE, based on the foregoing, Arthur Field, through his undersigned counsel, subject to objections raised herein and without waiving any right(s), asks that this Court deny Receiver's motion for declaratory relief and its motion for award of damages.

Respectfully submitted,

/s Micajah P. Caskey, IV
Micajah P. "Micah" Caskey, IV
CASKEY LAW FIRM, P.A.
SC Bar No. 100350
146 State Street
West Columbia, SC 29169
Office: (803) 724-3624
Fax: (803) 626-1476
Email: micah@caskeylawfirm.com
Attorney for Arthur Field

Dated: September 27, 2020
West Columbia, South Carolina

NOTICE OF HOMESTEAD EXEMPTION

TO JERRY SAAD, RECEIVER, CAPITAL INVESTMENT FUNDING AND TO THE SHERIFF OF ST. JOHNS COUNTY, DAVID B. SHOAR AND HIS DEPUTIES, 4015 Lewis Speedway, St. Augustine, FL 32084

Re: Case # CA18-1513, Jerry Saad, as Receiver for Capital Investment Funding, LLC v. Arthur Field
TAKE NOTICE:

The undersigned does hereby claim a complete exemption in and to all real property owned by him located at 5489 Atlantic View, St. Augustine, St. Johns County, Florida, 32080 pursuant to Florida General Statutes, Sec. 222.01 and/or Sec. 222.02 and the Florida Constitution, Article X, Section 4, and Florida common law. Notice is given hereby and a copy of this shall be delivered directly to the Sheriff of St. Johns County immediately after recording.

The property is more fully described as LOT 3, Block G, Anastasia Hills, as recorded in Plat Book 3, page 25 having a Parcel ID # 1777600000.

A Declaration of Domicile was filed on December 3, 2013 in Official Record Book 3820 at page 382, pursuant to Florida Gen. Statute Sec. 222.17, to which reference is hereby made, fully incorporated herein as if set forth at length.

My entire interest in said property described is protected by Homestead. The real property was acquired by me as my HOMESTEAD on September 8, 2011 as evidenced in Book 3472 at page 300. I am registered to vote at such address and pay taxes to St. Johns County, and my driver's license issued in April, 2012 and renewed periodically reflects 5489 Atlantic View, St. Augustine, FL 32080 as my principal residence.

Pursuant to Florida law, the Notice of Levy on my interest in said property filed in OR 4694 at page 1575 is of no force and effect and demand for removal pursuant to statute is hereby made and all protection offered by Constitution, statute or case law is claimed.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL.

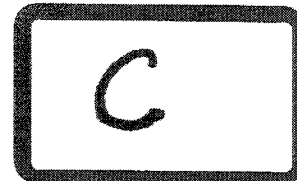
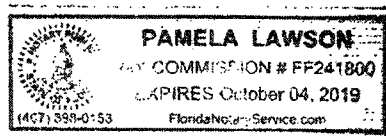

ARTHUR M. FIELD

STATE OF FLORIDA

COUNTY OF ST. JOHNS

St. Augustine, FL March 18, 2019

Subscribed and sworn to before me by Arthur Field, known to me.



CERTIFICATION OF SERVICE

Arthur Field hereby certifies that he has on this the 18th day of March, 2019, served a Notice of Homestead Exemption on

David B. Shoar, Sheriff of St. Johns County

4015 Lewis Speedway

St. Augustine, FL 32084

By delivering a true copy of the same Notice of Homestead Exemption to the Sheriff's Office, at the aforesaid address in accord with statute.



Arthur M. Field

Rec'd Susan Rade 2514 3/18/19

EXHIBIT 3

4/12/2019

Vehicle & Other Taxes Search - Greenville County, S.C.

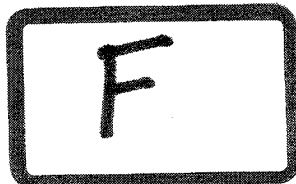
[Home](#) | [Search](#) | [Services](#) | [Legal Disclaimer](#)

Vehicle Tax Search Results

Search Results For: FIELD ARTHUR

Results Found: 17

Name	Account #	Taxes	Paid	Amount Due
FIELD ARTHUR M VIN#: 3MZBM1K74GM309648	2016 11 0443768 01 001 2016 MAZD	\$328.35 District: 195	\$328.35 10/14/2016	View Receipt
FIELD ARTHUR M VIN#: JM1BM1L71E1119866	2015 06 0768676 01 001 2014 MAZD	\$274.56 District: 195	\$274.56 05/22/2015	View Receipt
FIELD ARTHUR M VIN#: JM1BM1L71E1119866	2014 06 0152587 01 001 2014 MAZD	\$489.77 District: 195	\$489.77 05/14/2014	View Receipt
FIELD ARTHUR M VIN#: 4USBT33594LS51381	2013 06 0673248 01 001 2004 BMW	\$130.15 District: 195	\$130.15 05/29/2013	View Receipt
FIELD ARTHUR M VIN#: 4USBT33594LS51381	2012 06 0177087 01 001 2004 BMW	\$159.13 District: 195	\$159.13 05/10/2012	View Receipt
FIELD ARTHUR M VIN#: 4USBT33594LS51381	2011 06 0727411 01 001 2004 BMW	\$140.45 District: 195	\$140.45 05/18/2011	View Receipt
FIELD ARTHUR M VIN#: 4USBT33594LS51381	2010 06 0311426 01 001 2004 BMW	\$171.34 District: 195	\$171.34 05/18/2010	View Receipt
FIELD ARTHUR M VIN#: 4USBT33594LS51381	2009 06 0814216 01 001 2004 BMW	\$241.68 District: 195	\$241.68 05/14/2009	View Receipt
FIELD ARTHUR M VIN#: 4USBT33594LS51381	2008 06 0371972 01 001 2004 BMW	\$275.77 District: 195	\$275.77 05/16/2008	View Receipt
FIELD ARTHUR M VIN#: 4USBT33594LS51381	2007 06 0972015 01 001 2004 BMW	\$369.20 District: 195	\$369.20 05/11/2007	View Receipt
FIELD ARTHUR M VIN#: 4USCH9344YLG02805	2007 08 0040977 01 001 2000 BMW	\$0 District: 195	\$0	View Receipt
FIELD ARTHUR M VIN#: 4USBT33594LS51381	2006 06 0520420 01 001 2004 BMW	\$540.23 District: 195	\$540.23 05/19/2006	View Receipt
FIELD ARTHUR M VIN#: 4USCH9344YLG02805	2006 08 0613277 01 001 2000 BMW	\$230.16 District: 195	\$230.16 07/24/2006	View Receipt
FIELD ARTHUR M VIN#: 4USBT33594LS51381	2005 06 0150826 01 001 2004 BMW	\$501.36 District: 195	\$501.36 06/16/2005	View Receipt
FIELD ARTHUR M VIN#: 4USCH9344YLG02805	2005 08 0210122 01 001 2000 BMW	\$293.18 District: 195	\$293.18 07/29/2005	View Receipt
FIELD ARTHUR VIN#: 4USBT33594LS51381	2004 00 3732110 01 001 2004 BMW	\$672.11 District: 195	\$672.11 05/26/2004	View Receipt
FIELD ARTHUR M VIN#: 4USCH9344YLG02805	2004 08 0783657 01 001 2000 BMW	\$361.61 District: 195	\$361.61 10/25/2004	View Receipt



STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	THIRTEENTH JUDICIAL CIRCUIT
William Tomz and Francis W. Tomz,	)	
Individually and as Class Representatives	)	
	)	CASE NUMBER 2008-CP-23-3665
Plaintiffs,	)	
	)	
vs.	)	NOTICE OF MOTION AND
	)	MOTION TO RECONSIDER OR
Capital Investment Funding, LLC	)	ALTER OR AMEND ORDER OF
and Arthur M. Field	)	DECEMBER 17, 2020
	)	
Defendants.	)	
_____	)	

TO: STANLEY T. CASE, ESQ., ATTORNEY FOR PLAINTIFFS, and GEORGE BRANDT, III, ESQ., ATTORNEY FOR JERRY SAAD:

PLEASE TAKE NOTICE that Defendant Arthur M. Field, through his undersigned attorney, will move before the Court, at such place and time as the Court may appoint, pursuant to the Rules 59(e) and 60, South Carolina Rules of Civil Procedure, as well as the Constitutions of the United States and of South Carolina, that this Court reconsider, or alter or amend the Order Granting Receiver's Motion for Declaratory Relief that this Court entered on December 17, 2020.

OBJECTION TO PERSONAL JURISDICTION

Pursuant to Rule 12, SCRCP, Defendant Arthur M. Field objects to any assertion of personal jurisdiction in this matter. Field is a resident of Florida and reserves all rights. See *State v. Dudley*, 354 S.C. 514, 542, 581 S.E.2d 171, 186 (Ct.App. 2003)("A defendant may waive any complaints he may have regarding personal jurisdiction by failing to object to the lack of personal jurisdiction and by appearing to defend his case.") Field, through his undersigned attorney, files this motion subject to these objections and all other Rule 12(b) defenses.

ARGUMENT

I. Arguments in Defendant's Motion to Dismiss of September 27, 2020, Still Apply.

The Court entered its Order on Receiver's Motion for Declaratory Relief on December 17, 2020, without hearing. In its Order, the Court wrote, "[s]ince remanded, Defendant Field has filed no substantive response to the Receiver's motion." Order at 1. In footnote 2, the Court noted that Defendant Field did file a motion to recuse Judge Edward W. Miller in this case. *Id.* at n.2. The Court also wrote, "[t]he Court has reviewed the Receiver's motion and accompanying exhibits, along with Ms. Taillon's response and finds no need for a hearing. *Id.* at 1.

Defendant Field, however, filed a Motion to Dismiss Receiver's Motion for Declaratory Relief on September 27, 2020. The electronically-clocked copy of that motion is attached as Exhibit A. In that motion, Defendant Field presented six (6) arguments:

1. This Court Lacks Subject Matter Jurisdiction.
2. This Court Lacks Personal Jurisdiction of Arthur Field.
3. This Case is Closed; Receiver Must File a New Action to Pursue Remedy.
4. The Declaratory Judgments Act Does Not Authorize Relief by Motion.
5. Res Judicata/Collateral Estoppel/Issue Preclusion Bar Receiver's Motion.
6. Liquidated damages are inappropriate.

The Court's Order does not address any of these arguments or issues; given this Court's deep experience and demonstrated thoroughness in adjudicating all legal questions, it occurs to Defendant Field that these facts are incongruent. Based on the language that the Court used in its Order, and knowing that the Court did not have the benefit of a hearing on Receiver's motion, Defendant Field believes the Court was unaware of, or did not have opportunity to review or consider, his motion that was filed on September 27, 2020.

In support of this present motion, Defendant Field recites and incorporates the objections and arguments presented his September 27, 2020, Motion to Dismiss Receiver's Motion for Declaratory Judgment, which is attached hereto as Exhibit A for judicial economy. See *Wilder Corp. v. Wilke*, 330 S.C. 71, 497 S.E.2d 731, (1998)(proper use of a Rule 59(e) motion is to preserve issues raised to but not ruled upon by the trial court); *Walsh v. Woods*, 371 S.C. 319, 638 S.E.2d 85, (Ct.App. 2006)(issues must be preserved in a Rule 59(e) motion).

Defendant Field prays this Court reconsider, or alter or amend, its Order with Defendant's arguments, presented herein as Exhibit A, at front of mind.

II. This Issue Cannot Be Adjudicated in Circuit Court.

This case is closed. As this Court noted in its Order, "Defendant Arthur Field ("Field"), proceeding *pro se*, originally sought to remove this motion to federal court. Capital Investment Funding ("CIF") filed a motion to remand the matter back to this Court, which the federal magistrate promptly granted." *Id.* at 1. This is incomplete. A full recitation of the relevant procedural history must reflect that the result in the removal action was required because, as United States Magistrate Judge Austin ruled on February 6, 2020, "it is apparent that removal of this matter was improper because the State Court Action is closed. . . ." ¹ If this case is, in fact, open, Defendant Field has the absolute right to seek removal to federal court and should not be denied the opportunity to exert such a right.

If the Receiver wants to certify a question of law out of litigation in a Florida federal case, the proper venue is the South Carolina Supreme Court. Rule 244, SCACR. If the Receiver wants to pursue a declaratory judgment, a motion in Circuit Court is the improper mechanism for that.

¹ *Tomz v. CIF*, 6:20-00312-BHH-JDA, Order at 5 (D.S.C. Mag. Feb. 7, 2020)

See S.C. Code Ann. § 15-53-90 and Rule 57, SCRPC.

III. Awarding a \$250,000 Penalty is Unjust and Lacks Necessary Evidentiary Support.

This Court's December 17, 2020, Order awarded Receiver \$250,000 as "liquidated damages". The award of such a penalty runs against South Carolina jurisprudence on this issue. See, e.g., *Moser v. Gosnell*, 334 S.C. 425, 513 S.E.2d 123 (Ct.App. 1999).

This Court wrote in its Order, "Defendant Field's multiple filings within the state of Florida and his repeated efforts to deny this Court's jurisdiction and to delay a speedy and just resolution of the matters pending." Order at 4. Ignoring the several procedural failings of Receiver's motion, Receiver failed to introduce evidence or other support for the Court to rely upon in a finding of any delay. See *Foreign Academic & Cultural Exchange Services, Inc. v. Tripon*, 394 S.C. 197, 715 S.E.2d 331 (2011). In fact, court records contradict the suggestion that Field caused delays in the collection action. The docket record of 3:19-cv-0606-TJC-JRK in the Middle District of Florida, attached hereto as Exhibit C, reveal the opposite: Plaintiff/Receiver delayed that litigation. In Exhibit C, Document #19, CIF sought an extension of time, and in Exhibit C, Document #22, CIF filed its scheme to certify the instant question on South Carolina law to a South Carolina circuit court instead of the South Carolina Supreme Court.

CONCLUSION

THEREFORE, based on the foregoing, the Defendant, through his undersigned counsel, subject to objections raised herein, asks that this Court reconsider its ruling in the December 17, 2020, Order, or to alter or amend the ruling such that the Court dismisses or denies Receiver's motion; alternatively, Defendant Field asks that this Court reconsider its Order, or that it alters or amends, its Order such that it enters findings on the issues raised by Defendant in its September 27, 2020 motion and removes or sets aside the award of \$250,000.

Respectfully submitted,

/s/ Micajah P. Caskey, IV

Micajah P. "Micah" Caskey, IV

CASKEY LAW FIRM, P.A.

SC Bar No. 100350

146 State Street

West Columbia, SC 29169

Office: (803) 724-3624

Fax: (803) 626-1476

Email: micah@caskeylawfirm.com

Attorney for Arthur Field

Dated: December 18, 2020

West Columbia, South Carolina

ADMCLOSED, STAYED

U.S. District Court
Middle District of Florida (Jacksonville)
CIVIL DOCKET FOR CASE #: 3:19-cv-00606-TJC-JRK

Capital Investment Funding, LLC v. Field, et al.
Assigned to: Judge Timothy J. Corrigan
Referred to: Magistrate Judge James R. Klindt
Case in other court: Seventh Judicial Circuit Court, Division 55,
CA18-1513
Cause: Registration of Foreign Judgment

Date Filed: 05/22/2019
Date Terminated: 02/19/2020
Jury Demand: None
Nature of Suit: 190 Contract: Other
Jurisdiction: Diversity

Date Filed	#	Docket Text
05/22/2019	<u>1</u>	COMPLAINT and NOTICE OF REMOVAL <i>BASED ON DIVERSITY AND FEDERAL QUESTION</i> from St. Johns Circuit Court, case number CA18-1513 filed in State Court on 12/07/2018. Filing fee \$ 400, receipt number 113A-15495361 filed by All Defendants. (Attachments: # <u>1</u> State Court Other Documents, # <u>2</u> Affidavit, # <u>3</u> State Court Pending Motions "Exhibit A", # <u>4</u> State Court Docket Sheet, # <u>5</u> Supplement "Exhibit B")(Hughes, Douglas) Modified on 5/23/2019 to notify counsel's office to file full state court record and civil cover sheet (JSG). (Entered: 05/22/2019)
05/22/2019	<u>3</u>	PETITION for Declaratory Judgment to Determine Constitutional Homestead Status against Arthur Field, Kathryn Taillon filed by Capital Investment Funding, LLC. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F)(JSG) (Entered: 05/23/2019)
05/23/2019	<u>2</u>	NEW CASE ASSIGNED to Judge Timothy J. Corrigan and Magistrate Judge James R. Klindt. New case number: 3:19-cv-606-J-32JRK. (SJB) (Entered: 05/23/2019)
06/03/2019	<u>4</u>	NOTICE of designation under Local Rule 3.05 - track 2. Signed by Deputy Clerk on 6/3/2019. (Attachments: # <u>1</u> Case Management Report form, # <u>2</u> Consent to US Magistrate Judge Jurisdiction letter and form)(MD) (Entered: 06/03/2019)
06/04/2019	<u>5</u>	NOTICE of Filing Civil Cover Sheet and Record of State Court Documents by Arthur Field, Kathryn Taillon (Attachments: # <u>1</u> Civil Cover Sheet Civil Cover Sheet 6-4-19, # <u>2</u> State Court Other Documents Exemplified Foreign Final Judgment, # <u>3</u> State Court Other Documents Affidavit in Support of Recording Foreign Judgement, # <u>4</u> State Court Other Documents Payment \$408.50 Receipt, # <u>5</u> State Court Other Documents Recording Receipt, # <u>6</u> State Court Other Documents Exemplified Foreign Final Judgment, # <u>7</u> State Court Other Documents Affidavit in Support of Recording Foreign Judgment, # <u>8</u> State Court Other Documents Payment \$1.50 Receipt, # <u>9</u> State Court Other Documents Recording Receipt (2), # <u>10</u> State Court Other Documents Notice of Registration of Foreign Judgment, # <u>11</u> State Court Other Documents Certified Mail Receipt, # <u>12</u> State Court Other Documents Domestic Return Receipt, # <u>13</u> State Court Other Documents First Request for Continuance-Extension of Time, # <u>14</u> State Court Other Documents Certification, # <u>15</u> State Court Other Documents Proposed Writ of Execution, # <u>16</u> State Court Other Documents Order Scheduling Hearing-April 1, 2019, # <u>17</u> State Court Other Documents Returned Undeliverable (1)-Order Scheduling Hearing For Arthur Field, # <u>18</u> State Court Other Documents Returned Undeliverable (2)- Order Scheduling Hearing for Arthur Matthew Field, # <u>19</u> State Court Other Documents Motion to Strike Defendant's Request for Continuance, # <u>20</u> State Court Other Documents Plaintiff's Request for

		Judicial Notice, # <u>21</u> State Court Other Documents Motion to Reopen, # <u>22</u> State Court Other Documents Certification in Support of Motion to Reopen, # <u>23</u> State Court Other Documents Motion to Quash, # <u>24</u> State Court Other Documents Order Striking Defendant's Request for Continuance, # <u>25</u> State Court Other Documents Writ of Execution, # <u>26</u> State Court Other Documents Returned Undeliverable-Order Striking Defendant's Request for Continuance, # <u>27</u> State Court Other Documents Notice of Homestead Exemption, # <u>28</u> State Court Other Documents Payment \$42.00 Receipt, # <u>29</u> State Court Other Documents Request for Declaratory and-or Injunctive Relief, # <u>30</u> State Court Other Documents Motion for Order to Show Cause, # <u>31</u> State Court Other Documents Certification of Service, # <u>32</u> State Court Other Documents Order to Show Cause, # <u>33</u> State Court Other Documents Motion to Cancel Sale, # <u>34</u> State Court Other Documents Certification of Service, # <u>35</u> State Court Other Documents Brief in Support of Motion to Cancel Sale and Request for Declaratory and-or Injunctive and-or Other Relief, # <u>36</u> State Court Other Documents Proposed Order, # <u>37</u> State Court Other Documents Notice of Appearance-Arthur Field, # <u>38</u> State Court Other Documents Consent Order Cancelling Sale and Discharging Notice of Levy, # <u>39</u> State Court Other Documents Recorded Consent Order Cancelling Sale and Discharging Notice of Levy, # <u>40</u> State Court Other Documents Plaintiff's Petition for Declaratory Judgment to Determine Constitutional Homestead Status, # <u>41</u> State Court Other Documents Notice of Lis Pendens)(Hughes, Douglas). Modified on 6/5/2019 to edit text (JSG). (Entered: 06/04/2019)
07/02/2019	<u>6</u>	PROPOSED summons to be issued by Capital Investment Funding, LLC. (Currie, Allyson) (Entered: 07/02/2019)
07/02/2019	<u>7</u>	PROPOSED summons to be issued by Capital Investment Funding, LLC. (Currie, Allyson) (Entered: 07/02/2019)
07/03/2019	<u>8</u>	SUMMONS issued as to Arthur Field, Kathryn Taillon. (JSG) (Entered: 07/03/2019)
07/19/2019	<u>9</u>	ORDER directing defendants to supplement their representations regarding jurisdiction and removal no later than 8/9/2019. Signed by Judge Timothy J. Corrigan on 7/19/2019. (SRW) (Entered: 07/19/2019)
08/08/2019	<u>10</u>	RESPONSE re <u>9</u> Order by Capital Investment Funding, LLC. (Currie, Allyson) (Entered: 08/08/2019)
08/08/2019	<u>11</u>	SUPPLEMENT re <u>9</u> Order by Arthur Field, Kathryn Taillon. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Hughes, Douglas) (Entered: 08/08/2019)
10/15/2019	<u>12</u>	ORDER confirming jurisdiction; setting various deadlines (filings due 11/1/2019 if discovery is needed or if defendants are challenging service of process; otherwise, defendants' response to plaintiff's petition is due 11/15/2019, plaintiff permitted to file reply by 12/10/2019). Signed by Judge Timothy J. Corrigan on 10/15/2019. (SRW) (Entered: 10/15/2019)
10/24/2019	<u>13</u>	Unopposed MOTION to Substitute Attorney by Capital Investment Funding, LLC. (Orr, Michael) Motions referred to Magistrate Judge James R. Klindt. (Entered: 10/24/2019)
10/25/2019	<u>14</u>	ORDER granting <u>13</u> Plaintiff's Unopposed Motion for Substitution of Counsel; Michael Fox Orr, Kathleen Crowley, and the law firm of Orr Cook are substituted for Allyson B. Currie and the law firm of Upchurch, Bailey and Upchurch, P.A. as counsel of record for Plaintiff. Signed by Magistrate Judge James R. Klindt on 10/25/2019. (KAW) (Entered: 10/25/2019)
11/01/2019	<u>15</u>	MOTION to Dismiss by Kathryn Taillon (Hughes, Douglas) (Additional attachment(s) added on 11/4/2019: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C) (JSG). Modified on

		11/4/2019 to edit text, to separate exhibits from main document, and to notify counsel's office to file exhibits separately in the future (JSG). (Entered: 11/01/2019)
11/01/2019	<u>16</u>	RESPONSE re <u>12</u> Order filed by Capital Investment Funding, LLC. (Orr, Michael) (Entered: 11/01/2019)
11/12/2019	<u>17</u>	NOTICE of hearing: Status Conference set for 12/3/2019 at 2:00 PM in Jacksonville Courtroom 10D before Judge Timothy J. Corrigan.(SRW) (Entered: 11/12/2019)
11/15/2019	<u>18</u>	MOTION to Dismiss <i>With Prejudice</i> by Arthur Field. (Hughes, Douglas) (Entered: 11/15/2019)
11/15/2019	<u>19</u>	Unopposed MOTION for Extension of Time to Respond to <u>18</u> Motion to dismiss by Capital Investment Funding, LLC (Orr, Michael). Motions referred to Magistrate Judge James R. Klindt. Modified on 11/18/2019 to edit text and docket entry relationship (JSG). (Entered: 11/15/2019)
11/18/2019	<u>20</u>	ENDORSED ORDER granting <u>19</u> Motion to extend time to the extent that at the December 3, 2019 hearing, the Court will set a date for plaintiff to respond to both defendant Taillon's motion to dismiss <u>15</u> and defendant Field's motion to dismiss <u>18</u>. Signed by Judge Timothy J. Corrigan on 11/18/2019. (SRW) (Entered: 11/18/2019)
12/03/2019	<u>21</u>	MINUTE ENTRY. Proceedings held before Judge Timothy J. Corrigan: Status Conference held on 12/3/2019. Plaintiff's brief regarding where threshold issue involving Global Settlement Agreement should be litigated, limited to 5 pages, due by 12/17/19; Defendants' response, limited to 5 pages, due by 1/7/20. Court Reporter: Shelli Kozachenko. (MD) (Entered: 12/04/2019)
12/17/2019	<u>22</u>	BRIEF Regarding Jurisdiction Over Global Settlement Agreement re <u>21</u> Status Conference filed by Capital Investment Funding, LLC (Orr, Michael). Modified on 12/18/2019 to edit text (JSG). (Entered: 12/17/2019)
12/24/2019	<u>23</u>	DEFENDANT'S BRIEF on Proper Forum and Plaintiff's Request for Abstention filed by Arthur Field, Kathryn Taillon. (Attachments: # <u>1</u> Exhibit A)(Hughes, Douglas) Modified to edit text on 12/26/2019 (KKH). (Entered: 12/24/2019)
02/19/2020	<u>24</u>	ORDER staying case until further Order; the parties shall advise the Court of any rulings from the South Carolina court and shall file a status report no later than 4/15/2020; directing the Clerk to administratively close the file during the pendency of the stay, and to terminate the pending motions, to be reactivated once the stay is lifted. Signed by Judge Timothy J. Corrigan on 2/19/2020. (SRW) (Entered: 02/19/2020)
02/19/2020		Case Stayed. (JSG) (Entered: 02/20/2020)
03/13/2020	<u>25</u>	NOTICE to the Court by Arthur Field (JSG) Modified on 3/20/2020 to edit text (JSG). STRICKEN and removed per Court Order 29. (Entered: 03/13/2020)
03/13/2020	<u>26</u>	MOTION for Reconsideration or Vacate Stay as to Field re <u>24</u> Order by Arthur Field. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(JSG) Modified on 3/20/2020 to edit text (JSG). STRICKEN and removed per Court Order 29. (Entered: 03/13/2020)
03/13/2020	<u>27</u>	NOTICE to the Court by Kathryn Taillon (JSG) Modified on 3/20/2020 to edit text (JSG). STRICKEN and removed per Court Order 29. (Entered: 03/13/2020)
03/13/2020	<u>28</u>	MOTION for Reconsideration or Vacate Stay as to Taillon re <u>24</u> Order by Kathryn Taillon. (Attachments: # <u>1</u> Exhibit A)(JSG) Modified on 3/20/2020 to edit text (JSG). STRICKEN and removed per Court Order 29. (Entered: 03/13/2020)
03/19/2020	<u>29</u>	ENDORSED ORDER STRIKING <u>25</u>, <u>26</u>, <u>27</u>, <u>28</u>, as defendants are each represented

		by counsel and may not therefore file papers pro se. See Local Rule 2.03(d). Counsel for defendants shall provide a copy of this Order to his clients. The Clerk shall remove Docs. 25, 26, 27, 28 from the record. Signed by Judge Timothy J. Corrigan on 3/19/2020. (SRW) (Entered: 03/19/2020)
04/01/2020	<u>30</u>	MOTION to Withdraw <i>AS COUNSEL</i> by All Defendants. (Hughes, Douglas) Motions referred to Magistrate Judge James R. Klindt. (Entered: 04/01/2020)
04/02/2020	<u>31</u>	ORDER taking under advisement <u>30</u> Motion to Withdraw as Counsel; certificate of compliance with Local Rule 3.01(g) due 4/10/2020. Signed by Magistrate Judge James R. Klindt on 4/2/2020. (KAW) (Entered: 04/02/2020)
04/06/2020	<u>32</u>	JOINT CONSENT NOTICE to Substitute Appearance by Arthur Field, Kathryn Taillon (JSG) (Entered: 04/06/2020)
04/06/2020	<u>33</u>	CERTIFICATE of counsel re <u>30</u> MOTION to Withdraw <i>AS COUNSEL</i> , <u>31</u> Order on Motion to Withdraw <i>As Counsel</i> by Douglas Bradford Hughes on behalf of Arthur Field, Kathryn Taillon (Hughes, Douglas) (Entered: 04/06/2020)
04/09/2020	<u>34</u>	ORDER granting <u>30</u> Motion to Withdraw as Counsel; Douglas Bradford Hughes is permitted to withdraw as counsel for Defendants, with the exception of those duties required to properly transition the case to new counsel or to Defendants; the Clerk shall update the docket with Defendants' address provided in <u>32</u> Defendants' Notice of Consent. Signed by Magistrate Judge James R. Klindt on 4/9/2020.(BHC) (Entered: 04/09/2020)
04/09/2020	<u>35</u>	ORDER reminding Defendants of some of their responsibilities as <i>pro se</i> litigants; directing Defendants to review and comply with the provisions of this Order, as well as the Federal Rules of Civil Procedure, Local Rules of the Middle District of Florida, and any applicable statutes and regulations. Signed by Magistrate Judge James R. Klindt on 4/9/2020. (BHC) (Entered: 04/09/2020)
04/13/2020	<u>36</u>	MOTION for Injunctive Relief; and for Waiver of Security or Bond by Arthur Field. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Text of Proposed Order)(KKH) (Entered: 04/13/2020)
04/13/2020	<u>37</u>	MOTION to Vacate Stay <u>24</u> Order / Objection to New Stay by Arthur Field. (KKH) Motions referred to Magistrate Judge James R. Klindt. (Entered: 04/13/2020)
04/13/2020	<u>38</u>	STATUS report by Arthur Field. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(KKH) (Entered: 04/13/2020)
04/13/2020	<u>39</u>	STATUS REPORT and MOTION to Vacate Stay <u>24</u> Order / Objection to New Stay and Brief in Support by Kathryn Taillon. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C)(KKH) Motions referred to Magistrate Judge James R. Klindt. (Entered: 04/13/2020)
04/15/2020	<u>40</u>	STATUS report by Capital Investment Funding, LLC. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F)(Orr, Michael) (Entered: 04/15/2020)
05/15/2020	<u>41</u>	RESPONSE in Opposition re <u>39</u> MOTION to Vacate <u>24</u> Order, <u>37</u> MOTION to Vacate <u>24</u> Order filed by Capital Investment Funding, LLC. (Crowley, Kathleen) (Entered: 05/15/2020)
05/18/2020	<u>42</u>	MOTION to Strike <u>41</u> Response in Opposition to Motion by Arthur Field, Kathryn Taillon. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit A)(KKH) Motions referred to Magistrate Judge James R. Klindt. (Entered: 05/18/2020)
12/18/2020	<u>43</u>	ORDER directing the parties to advise the Court of the status of the South Carolina

proceedings no later than 1/21/2021 and to inform the Court of any orders or judgments in related cases. See order for details. Signed by Judge Timothy J. Corrigan on 12/18/2020. (AGB) (Entered: 12/18/2020)

EXHIBIT C

PACER Service Center			
Transaction Receipt			
12/18/2020 10:22:26			
PACER Login:	af4490:4192200:0	Client Code:	
Description:	Docket Report	Search Criteria:	3:19-cv-00606-TJC-JRK
Billable Pages:	5	Cost:	0.50

ELECTRONICALLY FILED - 2020 Dec 18 4:51 PM - GREENVILLE - COMMON PLEAS - CASE#2008CP2303665

STATE OF SOUTH CAROLINA**COUNTY OF GREENVILLE**William F. Tomz and Francis W. Tomz,
Individually and as Class Representatives,

Plaintiffs,

vs.

Capital Investment Funding, LLC, and
Arthur M. Field,

Defendants.

IN THE COURT OF COMMON PLEAS**C.A. No.: 2008-CP-23-3665****KATHRYN TAILLON'S MOTION TO
RECONSIDER ORDER GRANTING
RECEIVER'S MOTION
FOR DECLARATORY RELIEF**

COMES NOW Kathryn Taillon, pursuant to Rule 59(e), SCRCPP, and respectfully requests that the Court reconsider its Order granting the Receiver's Motion for Declaratory Relief Related to CIF's Judgment Collection Action in Florida. While the Order includes a statement to the effect that the Court considered the arguments previously raised by Taillon, it does not include any discussion or explanation as to why it rejected each such argument. Moreover, the Order erroneously concludes that the plain language of the GSA authorizes CIF to seek enforcement of a civil judgment arising from the conversion of restitution owed by Arthur Field in a separate criminal action. Finally, the Order concludes that Arthur Field violated the GSA by "multiple filings within the state of Florida and his repeated efforts to deny this Court's jurisdiction and to delay a speedy and just resolution of the matters pending." Respectfully, this description of events is not supported by the record and does not warrant the imposition of a \$250,000 penalty on Field in any event.

1. The Court Did Not Address Any of Taillon's Procedural Arguments.

Taillon previously argued that the South Carolina Uniform Declaratory Judgments Act, SC Code § 15-53-10, *et. seq.*, which is the ostensible basis for this Court's jurisdiction over the Receiver's motion, does not permit a court to issue a declaratory judgment as to the terms of a contract unless all interested parties are properly before the court. The Receiver has not disputed that several of the signatories to the GSA were not served with the motion and are not parties to this case. The Court did not address this issue.

Taillon argued, without any response from the Receiver, that the GSA expressly required that this action be dismissed, citing the GSA, Paragraphs 3D and 5. As such, if the Receiver wishes to seek relief for an alleged violation of the GSA, he is obliged to file a new action, just like any other party who feels the other side violated a settlement agreement. United States Magistrate Judge Jacquelyn Austin recognized how clear this point was when she raised it *sua sponte* as the sole basis for declining to exercise federal jurisdiction and remanding the case back to this court following Field's attempt to remove it to federal court. Yet the Court did not address this argument.

Permitting the Receiver to bypass the normal procedure that applies to all other litigants creates troubling due process issues. The parties are entitled to discovery concerning, *inter alia*, the intentions of the parties at the time they executed the GSA and the Addendum thereto, particularly in light of the irregular manner in which the Addendum was created. Between the date of the execution of the original GSA and the Addendum, several months passed during which Taillon and other parties surrendered their interests in personal residences, promptly followed by the Receiver performing renovations on those properties. During that same period, the Receiver filed motions accusing Field, Taillon and others of violating the GSA (which had not been

approved by Judge Miller and thus was not even operative), which were actively prosecuted. At a hearing in a separate criminal proceeding in front of Judge Cordell Maddox, the Attorney General raised objections to the GSA, leading to extensive off the record negotiations, and ultimately resulted in the creation of the Addendum. This was followed by a hearing before Judge Miller, who simply declared that all parties agreed to the Addendum and then ordered them all to sign it. (Receiver Motion Exh. 2, pg. 4 (“This Court further orders that all parties to the GSA sign the Addendum.”).)¹

Despite Judge Miller’s order, several of the parties and at least one listed Plaintiffs’ attorney did not sign the Addendum. (Receiver Motion Exh. 1, pgs. 19-21, 24-26, 29-31.) As such, the Addendum does not comply with Rule 43(k), SCRCP, which is a requirement for enforcement. *See, S.C. Human Affairs Comm’n v. Zeyi Chen*, 430 S.C. 509, 521, 846 S.E.2d 861, 867 (2020) (holding that noncompliance with Rule 43(k) “precludes a party from turning to contract or equitable principles” to enforce a settlement agreement and that “substantial compliance is not sufficient.”).

The sequence of events surrounding the creation of the Addendum would be an obvious subject of discovery in a proper declaratory judgment action. Moreover, a jury would be tasked with assessing the evidence, including the credibility of witnesses, who are likely to offer conflicting testimony concerning the parties’ intentions at the execution of the GSA and the

¹ Although the Order was signed December 1, 2017, it purported to require all parties to sign the Addendum no later than the day before - November 30, 2017. (Receiver Motion Exh. 2, pg. 4.) Even if the deadline had not been so absurd, contract law is based on voluntary assent, which is clearly in doubt when a judge orders a party to execute the contract.

Addendum.² The Court's apparent willingness to issue a declaratory judgment on a motion without any discovery, fact-finding by a jury, or even a hearing, is in stark conflict with the plain language of the Declaratory Judgments Act.

2. The Court's Order Does Not Address Taillon's Substantive Arguments

The Court's Order also does not address Taillon's position on the merits. Taillon argued that all matters that were or could have been litigated in any of the then-pending lawsuits were released pursuant to the GSA. Even as modified by the Addendum, the GSA's waiver language is as broad as it gets:

The parties to this Agreement do hereby release all other parties and their respective officers, directors, employees, agents, attorneys, and affiliates, of and from any and all suits, legal actions or claims of any nature whatsoever, known or unknown, up to and including the present time, including, but not limited to, claims described in Paragraph 4 of this Agreement, which include but are not limited to claims arising under all common and statutory laws, ordinances, rules or regulations of the United States of America and all the states of the United States, and specifically including the states of New Jersey and South Carolina, and their political subdivisions, and the public policies thereof.

(GSA § 5.) Notably, the release applies to "any and all . . . claims," and thus is not limited to causes of action then pending or which could have been brought at that time.

The relevant language added by the Addendum is far more modest and does not purport to alter the scope of the original waiver or release in any way. It merely acknowledges that the private settlement does not infringe on the state's right to convert unpaid restitution to a civil judgment:

- iv. To the extent any portion of the balance of such restitution remains unpaid at the end of the required probation period, after applying credit for the payments and properties described above, such unpaid balance of restitution may be converted to a civil judgment pursuant to the applicable laws of the State of South Carolina.

² As argued previously and below, Taillon submits that the language of the GSA, including the Addendum, provides unambiguously that the Receiver waived the right to pursue collection of the civil judgment or any other claim deriving from the factual allegations set forth in the pleadings of the various civil actions that were settled. In the alternative, at the very least, there is an ambiguity arising from the supposed conflict between Paragraph 5 of the GSA and the language of the Addendum. Any such ambiguity must be resolved by a jury.

(GSA Addendum § 1.A.iv.) The Addendum includes absolutely no language about the Receiver's right to enforce any civil judgment arising from the unpaid restitution. If the Receiver wished to carve out the right to enforce a civil judgment, it would have been necessary to revise Paragraph 5 of the GSA. This was not done.

The Court cites this very same language for the proposition that the parties agreed to allow CIF to pocket the settlement proceeds, wait for the unpaid restitution to be converted to a civil judgment, and then proceed to collection. Respectfully, it appears that the Court has mistakenly conflated two very different propositions. On one hand, there is no question that the Attorney General had the right to convert unpaid restitution to a civil judgment, provided he followed the statutory requirements. That is what the plain language of the Addendum says. On the other hand, it is an entirely different question whether the Receiver may enforce that civil judgment. The Addendum says absolutely nothing about that. Yet the Court's Order suggests the two propositions are one and the same: "[w]hen Field agree to the Addendum, he specifically recognized that any unpaid portion of his restitution would be converted to a civil judgment and continue to be due as a condition of the GSA." (Order pg. 2 (emphasis added).) The latter proposition does not follow from the first and is completely at odds with Paragraph 5 of the GSA, which was not modified by the Addendum.

In addition to the text of Paragraph 5 of the GSA, the underlying circumstances strongly support the view that the Receiver was not entitled to enforce the civil judgment. Judge Maddox, who presided over the change in the restitution terms that led to the Addendum, did not authorize the Receiver to exercise control over the civil judgment. Rather, he repeatedly acknowledged that the Receiver did not represent all the parties entitled to receive restitution. (Maddox Order pgs. 1 (describing the GSA as an agreement involving "multiple civil plaintiffs, of whom some are the

victims in this criminal action”) (emphasis added); 2 (“the plaintiffs of the civil matter are not a party to this criminal action (even if they represent some of the victims)”) (emphasis added).) Judge Maddox then provided that any unpaid restitution would be “converted to a civil judgment at the end of the probationary term payable to Defendant Field’s criminal victim(s).” (Maddox Order pg. 9 (emphasis added).) Thus, Judge Maddox was not simply rolling the unpaid restitution into the GSA for enforcement by the Receiver as soon as a civil judgment issued.

Likewise, the actions of the parties to the GSA do not support the view that the Receiver is entitled to enforce the civil judgment. As Judge Maddox’s Order notes, the Receiver and his counsel asserted “on the record” that the terms of the GSA “represented the best they felt they could get from Defendant Field.” (Maddox Order pg. 3.) If this Court’s reading of the GSA were correct, this admission would make no sense, as the Receiver was getting quite a bit more – the right to receive all the money and property called for in the GSA, plus all unpaid restitution, which would represent every penny Field was alleged to have owed.

In addition to Field, Taillon and other family members and related persons provided consideration by surrendering valuable property to the Receiver. The purpose of doing so was to purchase an end to litigation against Field. It would have been pointless for such parties to have surrendered their property if, as soon as the ink was dry on the GSA, the Receiver could sue Field again for amounts far exceeding the consideration called for in the GSA. The Court’s interpretation of the Addendum would mean that neither Field nor his family members received any consideration for their commitments – they surrendered property to which the Receiver had no legal claim in exchange for nothing. This absence of consideration would preclude enforcement of the GSA as a contract. Thus, both the Receiver and the other parties to the GSA acted as though they believed the painstakingly negotiated forfeiture of money and property called for in the GSA

was the last and only compensation the Receiver would receive. At the time the GSA was finalized, no one acted as though there was another pot of gold waiting for the Receiver in the form of the forthcoming civil judgment.

There is admittedly no controlling legal authority in South Carolina covering the factual circumstances of this case. Taillon has searched other jurisdictions for authority on point and discovered only one case. In *Huml v. Vlazny*, 716 N.W.2d 807 (WI 2006) (attached as Exhibit 1), the Wisconsin Supreme Court faced essentially the same question confronting this Court. A criminal defendant was placed on probation, with an obligation to pay restitution to his victims. He was also sued by the victims, which lawsuit was settled. Thereafter, his probation ended, his restitution was converted to a civil judgment, and the victim attempted to collect the civil judgment. *Id.* at 810-11. The defendant claimed that the prior settlement agreement barred the victim's attempt to enforce the civil judgment and the Wisconsin Supreme Court agreed.

The court observed that the settlement's agreement's release clause was comprehensive, including terms like "any," "all," and "whatsoever." *Id.* at 820. It found that this sweeping language was unambiguous and therefore barred the enforcement action as a matter of law. The court noted that if a victim wishes to preserve his right to enforce the civil judgment when settling a prior lawsuit under such circumstances, doing so "should be as simple as including an express exception in the settlement agreement." *Id.* at 819. The court also found that public policy considerations strongly favored the defendant's position, as a final settlement allows the parties to replace an uncertain future recovery with a finite and fixed form of compensation. *Id.*

The parallels between this case and *Huml* are impossible to miss. As in *Huml*, the parties in this case negotiated a settlement through counsel. Here, the negotiations were particularly protracted, resulting in a complicated agreement transferring money and real estate from not only

Field but several of his family members to the Receiver. The parties stressed repeatedly the need for finality and an end to costly litigation that had depleted Field's resources and had the potential to substantially reduce the funds available for distribution to CIF's members.

The Court's Order posits that the Addendum changed all this, and that the parties decided to go in for more uncertainty and litigation after all. If that were so, it would have been simple enough for the parties to modify Paragraph 5 of the GSA to include the "express exemption" for enforcement of the civil judgment that the Wisconsin Supreme Court has explained would be necessary effectively to modify a broad global release. Yet the parties left Paragraph 5 as is, and the Receiver and his lawyers explained to Judge Maddox that the compensation they negotiated via the GSA was "the best they felt they could get." (Maddox Order pg. 3.) The family members did not withdraw their contributions to the settlement, which they obviously would have done if they knew the Receiver would be back in court a year later pursuing a civil judgment for the entire amount of alleged restitution. And Judge Miller, anxious to have the matter concluded and presumably believing the Addendum would make no material change to the prior agreement, simply demanded that all parties sign so this matter could finally be concluded. The parties' execution of the Addendum, recognizing that the civil judgment eventually would be entered but declining to alter the terms of the global release, makes this an even stronger case for denial of enforcement than *Huml*.

As to why the Addendum was necessary if it did not alter the parties' essential bargain, the record reflects that it arose due to the Attorney General's intervention. The original GSA called for outright replacement of the restitution with payments to the Receiver pursuant to the parties' agreement. (GSA ¶ 8.) But the Attorney General was not a party to the GSA and was not comfortable with an arrangement pursuant to which a private settlement agreement displaced

Field's restitution obligations and divested it of any control over enforcement. (Maddox Order pgs. 2-3.) So the parties and the Attorney General crafted a compromise in which the restitution could be converted to a civil judgment in case the GSA fell through or Field breached his obligations thereunder. It was not the parties' intention to increase the consideration provided by Field and his family members to the Receiver but merely to provide an insurance policy if the private settlement fell apart. If the agreement fell through, Paragraph 5's release would have been inoperative and the beneficiaries of the civil judgment then would have been able to enforce it.

3. The Court Erred in Concluding that the Receiver is Entitled to a Liquidated Damages Award of \$250,000.

Taillon argued that the \$250,000 liquidated damage clause cannot be enforced because the Receiver is not entitled to prevail on the merits; the provision only applies where a party attempts to "revoke or disqualify" a term of the GSA, which Field has not done; and it is an unlawful penalty and is therefore unenforceable. The Court did not address the latter two arguments and Taillon therefore respectfully requests that it do so.

The Court concluded that the \$250,000 penalty against Field is warranted because of his "multiple filings within the state of Florida and his repeated efforts to deny this Court's jurisdiction and to delay a speedy and just resolution of the matters pending." Respectfully, this conclusion raises troubling sovereignty and due process concerns. Field's litigation tactics in federal court in Florida are a matter for that court. It is not appropriate for this Court to peer over another court's shoulder from hundreds of miles away and pass judgment on whether one of the litigants in that proceeding should be disciplined for "multiple filings." This Court should not interfere with the Florida federal court's control over its own docket by issuing disciplinary measures against litigants for their actions in that case.

To the extent this Court is worried about delay in the Florida case, it is noteworthy that the Florida court entered a stay of that proceeding over Field's (and Taillon's) objections, and Field has twice moved for revocation of the stay so that matter can proceed. It is the Receiver who has delayed the Florida case by insisting on freezing that case while he litigates here. Had the Receiver simply litigated his claim in Florida, this case might well be over by now.

It is not clear what the Court is referring to by "multiple efforts to deny this Court's jurisdiction." To the extent the Court is faulting Field for opposing the instant motion on jurisdictional grounds, Taillon respectfully submits that such grounds have merit as articulated above. Judge Austin found it so clear that this case was already closed that she raised the issue *sua sponte* as a basis for remand. The Declaratory Judgements Act clearly calls for notice to all parties to the contract and the right to trial by jury. Due process protections do not permit a litigant is to be punished by a \$250,000 fine merely for asserting statutory and constitutional rights. The GSA's prohibition on attempts to "revoke or disqualify" the terms of the agreement cannot be stretched into a broad mandate to punish a litigant for asserting his rights under South Carolina law and the GSA itself.

4. This Case Should Be Dismissed in Light of Judge Miller's Recusal

The basis for the Receiver's successful motion to stay the Florida federal case and litigate the dispute over the terms of the GSA here was that the GSA called for Judge Miller to exercise jurisdiction over all disputes about the GSA. "The parties agree that the Judge Edward W. Miller, the presiding judge in the Tomz Case, shall have sole and exclusive jurisdiction regarding any dispute related to the enforcement, performance or non-performance of any future obligation contained herein (including any integral components hereof)." (GSA ¶ 14.I.ii.) The Receiver demanded the Florida case be stayed pending its solicitation of a ruling from Judge Miller because

“Judge Miller has already considered multiple motions to enforce the agreement. Further, Judge Miller is familiar with all parties involved and extensively familiar with the facts of these claims and the procedural history of the GSA.” (Exh. 2 – Receiver’s Brief in Support of Stay of Florida Action, pgs. 3-4.) The Receiver candidly admitted that the GSA’s appointment of Judge Miller was the only basis for litigating any part of the dispute in South Carolina courts, as he was “unaware of any procedural mechanism which would permit this Court to transfer the issue to South Carolina.” (Id., pg. 4.)

Judge Miller has recused himself. As such, there is no longer any basis for this Court’s jurisdiction over this matter. The parties did not stipulate that the South Carolina courts generally would have jurisdiction over this dispute, and there is no other basis for this Court’s jurisdiction.

The Florida federal court is perfectly capable of construing the GSA. Respectfully, this Court has no particular background or expertise pertinent to this matter, having been appointed to this case less than two months ago. Any opinion this Court will render in this matter would merely be advisory, given that the underlying enforcement action is pending elsewhere.³ This case should be closed and the dispute in question returned to federal court in Florida where the parties can litigate the contract dispute.

CONCLUSION

Taillon respectfully requests the Court reconsider its Order dated December 17, 2020, deny the Receiver’s motion for declaratory judgment, and dismiss this case.

[SIGNATURE ON FOLLOWING PAGE]

³ If the outcome of this case was controlled by some unresolved question of South Carolina law, there is a procedure in place for the federal court to certify a question to the South Carolina Supreme Court. SCACR 244. None of the parties contends that certification is appropriate here.

Respectfully submitted this 22nd day of December, 2020.

s/ Jeffrey P. Dunlaevy
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STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
William F. Tomz and Francis W. Tomz,	)	
Individually and as Class Representatives,	)	CIVIL ACTION NO. 2008-CP-23-3665
	)	
Plaintiffs,	)	
	)	
vs.	)	RECEIVER'S MEMORANDUM
	)	IN OPPOSITION TO DEFENDANT
Capital Investment Funding, LLC, and	)	KATHRYN TAILLON'S MOTION TO
Arthur M. Field,	)	RECONSIDER and/or TO ALTER OR
	)	AMEND THE COURT'S ORDER OF
Defendants.	)	DECEMBER 17, 2020
	)	

On December 17, 2020, this Court entered an order granting the Receiver's motion for declaratory relief. On December 18, 2020, Defendant Field filed his motion to reconsider and/or his motion to alter or amend that order. By and through his counsel of record, the Receiver files this memorandum in opposition of Defendant Taillon's motion. For reasons set forth herein, Taillon's motion to reconsider should be DENIED.

At the behest of the presiding federal court judge in the pending judgment collection action (Capital Investment Funding, LLC, v. Arthur Field and Kathryn Taillon, C.A. 3:19-CV-00606-TJC-JRK (US District Ct., Mid. D. Fla.)), on December 31, 2019, the Receiver filed a motion for declaratory relief. Because Field argued in that litigation, *inter alia*, that the judgment collection action was improper because the Global Settlement Agreement ("GSA") had dismissed all of CIF's claims against all parties, the Receiver's motion sought a declaration from this Court that the judgment collection action in Florida was proper.

The GSA specified that Judge Edward Miller would have **sole and exclusive jurisdiction regarding any dispute related to the enforcement, performance, or non-performance of any future obligation** contained herein ...

- ii. Upon approval by the Court, this settlement will be full and final as to all parties identified herein, with the sole exception if it is later demonstrated Arthur Field has made a material misrepresentation to the Court regarding his verified financial disclosure set forth in sub-part i (above). This Agreement contains terms and conditions of certain events to happen in the future. The parties agree that the Judge Edward W. Miller, the presiding judge in the

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Initials 1 RP 2 AF 3 ME 4 JP 5 ME
 Initials 6 DS 7 ME 8 ME 9 ME 10 ME 11 AF
 Initials 12 JP 13 JP 14 JP 15 JP 16 JP
 Initials 17 JP 18 JP 19 JP 20 JP 21 JP
 Initials 22 JP 23 JP 24 JP 25 JP 26 JP 27 JP

Tomz Case, shall have sole and exclusive jurisdiction regarding any dispute related to the enforcement, performance or non-performance of any future obligation contained herein (including any integral components hereof).

A New Filing Was Not Required Because the Receiver's Motion Pertains to Interpretations of a Settlement Agreement Entered in this Action.

As the GSA envisioned, and just as all parties agreed, with Judge Miller retaining sole and exclusive jurisdiction over matters related to the GSA, and because that agreement was made a binding order of the court within this captioned case (Tomz v. Capital Investment Funding, LLC and Arthur Field, C.A. No. 2008-CP-23-3665 [Court of Common Pleas, Greenville County, South Carolina]), the Receiver filed his motion for declaratory relief in this case. Both Taillon and Field argue because the Tomz case was dismissed by the clerk following the approval of the GSA, this Court no longer has subject matter jurisdiction to address the motion presently before the court.

The defendants' position ignores the longstanding principle under South Carolina law that a trial court has inherent jurisdiction to enforce settlement agreements entered before it. Kumar v. THIRD GENERATION, INC., 472 S.E.2d 637 (S.C. App. 1995), *citing*, Rock Smith Chevrolet, Inc. v. Smith, 309 S.C. 91, 419 S.E.2d 841 (Ct.App.1992). Additionally, the complaining defendants specifically agreed that Judge Miller would retain sole jurisdiction over matters related to the GSA. No new filing was required.

Defendant Field's failed attempt to divest this Court of jurisdiction by removing this motion to federal court does not alter this Court's continued jurisdiction over the present motion by the Receiver. The fact that a federal magistrate denied Field's removal based upon a finding the clerk's office had dismissed the *Tomz* case does not change the character of the Receiver's relief, nor does it affect this Court's jurisdiction. The Receiver's motion pertains specifically to enforcement of the terms of the settlement agreement to which all parties consented and which was adopted by an order of this Court. For that reason, this Court has the inherent jurisdiction to preside over matters related to the settlement agreement which resolved the case.

Despite Defendant Taillon consenting to the Addendum of the GSA, she argues the Addendum is not binding because all parties and attorneys did not sign it. The addendum itself pertained to one defendant, and only one defendant – Arthur Field. The purpose of the addendum was to modify the original GSA to include the effect payments made under the GSA on Field's criminal restitution. For a detailed discussion of the procedural history as to why this was necessary, *see*, Receiver's Motion for Declaratory Relief Related to CIF'S Judgment Collection Action in Florida, filed December 31, 2021, pp. 2-4, which the Receiver incorporates herein by reference. Both Defendant Taillon and her attorney participated in the hearing in which the Addendum was accepted by the Court and incorporated as part of the GSA. [Exhibit 1, Hearing Transcript, November 27, 2017, pp. 1-20]

In her motion to reconsider, Defendant Taillon argues that the creation of the Addendum would be an obvious subject of discovery in a declaratory judgment action. [Taillon Motion to Reconsider, p. 3] Taillon participated and was present at the criminal hearing before Judge Maddox when Field sought to alter the terms of his probation and restitution. At no time did Taillon object to the Addendum or its inclusion with the GSA. [Ex. 2, Order approving GSA] Defendant Taillon neither filed a motion to alter or amend this Court's order of December 1, 2017,

nor did she appeal the same. As such, it is the law of the case, and Taillon can raise no new issue about the Addendum at this juncture.

The GSA did not preclude the Receiver's Collection of the Civil Judgment Against Field.

Similar to Field, Defendant Taillon argues that the release within the GSA precludes the current collection action pending in Florida. First, the rights to collect on its civil judgment against Field were specifically not released by the GSA. The original GSA was executed by all parties on or about February 24, 2017. When Field agreed to the Addendum, he specifically recognized that any unpaid portion of his restitution would be converted to a civil judgment. This judgment is contemplated and recognized by the GSA (as amended).

The release of claims, however, governed all claims among the parties, known and unknown, **“up to and including the present time”** (i.e., December 1, 2017) [Receiver's Motion for Declaratory Relief, Ex. 2, p. 2 (emphasis added)]

5. The parties to this Agreement do hereby release all other parties and their respective officers, directors, employees, agents, attorneys, and affiliates, of and from any and all suits, legal actions or claims of any nature whatsoever, known or unknown, **up to and including the present time**, including, but not limited to, claims described in Paragraph 4 of this Agreement, which include but are not limited to claims arising under all common and statutory laws, ordinances, rules or regulations of the United States of America and all the states of the United States, and specifically including the states of New Jersey and South Carolina, and their political subdivisions, and the public policies thereof. This release shall further include, but shall not be limited to, all those claims which were or could have been asserted in the litigation identified in Paragraph 3 of this Agreement (including any and all appeals), which actions shall be dismissed with prejudice, with each party to bear its/his/her own attorneys' fees and costs for all actions or appeals or related matters.

The parties knew and understood that any shortage of restitution at the end of Field's probation would be converted to civil judgment, which would occur in 2018. The judgment was not entered until November 5, 2018. When the GSA was approved in December 2017, CIF had no right to collect on a judgment that did not exist. Hence, CIF's right to collect on the civil judgment was specifically not released under the GSA.

Additionally, at the November 27, 2017 hearing approving the Addendum and incorporating it into the GSA, at no time did Field or Taillon request CIF to forebear on any rights which might vest to CIF in the future to collect on the civil judgment expressly contemplated by the Addendum. Field could easily have requested to amend the release language of Paragraph 5 to include future rights which may accrue to CIF for any civil judgment related to his restitution obligations. His failure to do so further supports it was the intent of the parties not to release these rights and, in fact, preserve them under the GSA, as amended. Indeed, such a perverse construction would have directly undermined the spirit and intent of Judge Maddox's order modifying the terms of restitution.

Taillon also argues that CIF is not the proper party to collect on the judgment. First of all, Taillon does not have standing to make this argument because conversion of Field's unpaid restitution is solely an issue for Defendant Field. Nonetheless this argument has no merit for two (2) reasons: (1) CIF/the Receiver is the proper (and, in fact, only party vested with the legal right to collect on this judgment; (2) neither Field nor Taillon timely raised this argument when the judgment was originally entered in South Carolina in November 20, 2018.

Following Field's completion of probation, Judge Maddox entered an Order of Judgment on November 20, 2018. [Ex. 3, Order of Judgment] In entering the judgment, Judge Maddox specifically ordered, "that the Receiver Jerry Saad, as Receiver for Capital Investment Funding, has judgment against the Defendant [Arthur Field] in the sum of \$1,767,624,71." [*Id.* p. 3] Given this, no other party but the Receiver has the right to collection on the restitution judgment.

Furthermore, Field did not challenge or appeal this order to contend the judgment should not be entered in the Receiver's name. As such, it is the law of the case and Field has waived any such challenge at this juncture.

Defendant Taillon cites the Wisconsin case, Huml v. Vlazny, 716 N.W.2d 807, 2006 WI 87 (Wis. 2006), in support of the proposition that a civil settlement may preclude the victim's collection of a restitution judgment. First, the conclusion reached by the Wisconsin court in Huml was based upon its analysis of a statutory scheme which South Carolina does not have related to probation and restitution. *See, generally, Huml* at pp. 812-816. More importantly, based upon the unique facts of its case, the court in Huml concluded that a settlement agreement between the victim and defendant **may** — depending upon its terms — preclude the victim from enforcing the judgment. *Id.* at 821 (emphasis added). The settlement agreement at issues in Huml discharged “in full” past, present and future claims. *Id.* at 820.

Here, the release of claims, however, governed all claims among the parties, known and unknown, “**up to and including the present time**” (i.e., December 1, 2017) [Ex. 2, p. 2 (emphasis added)]

5. The parties to this Agreement do hereby release all other parties and their respective officers, directors, employees, agents, attorneys, and affiliates, of and from any and all suits, legal actions or claims of any nature whatsoever, known or unknown, **up to and including the present time**, including, but not limited to, claims described in Paragraph 4 of this Agreement, which include but are not limited to claims arising under all common and statutory laws, ordinances, rules or regulations of the United States of America and all the states of the United States, and specifically including the states of New Jersey and South Carolina, and their political subdivisions, and the public policies thereof. This release shall further include, but shall not be limited to, all those claims which were or could have been asserted in the litigation identified in Paragraph 3 of this Agreement (including any and all appeals), which actions shall be dismissed with prejudice, with each party to bear its/his/her own attorneys' fees and costs for all actions or appeals or related matters.

Field knew at the time of settlement and at the time the GSA as amended with the Addendum, any shortage of restitution at the end of his probation would be converted to civil judgment, which would occur in 2018. Field could have easily requested the release of this potential future judgment, but he failed to do so. He cannot now retroactively seek to include it within the plain terms of the release.

The Imposition of Liquidated Damages is Warranted.

The Receiver incorporates all arguments raised in his response to Defendant Field's Motion to Reconsider as if set forth fully herein.

The Receiver has not yet sought the imposition of a similar sanction as to Defendant Taillon herself (although some of the arguments raised in her motion in opposition and the present motion are dubious, at best). The Receiver reserves the right to seek such a sanction to the extent her actions attempt to revoke or disqualify any of the terms of the GSA.

This Case should be Dismissed because of Judge Miller's Recusal.

Taillon argues that because Judge Miller recused himself from the case,¹ this motion should be dismissed. First, to do such would be to reward Field for his frivolous litigation tactics. Secondly, even though Judge Miller has withdrawn from this case, such does not prevent this Court from looking at the plain terms of the agreement and ruling upon the relief requested by the Receiver.

Conclusion

For these reasons, Defendant Taillon's motion to reconsider should be DENIED.

¹ As a result of Defendant Field's frivolous motion seeking his recusal, Judge Miller did recuse himself from this matter. However, this Court dismissed Field's motion to recuse. Although Court Administration has not reassigned the case as of this writing, based upon this Court's ruling, there is nothing to prevent Court Administration from doing so.

Respectfully submitted,

/s/Rodney F. Pillsbury

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(William F. Tomz and Francis W. Tomz,
Individually and as Class Representatives

January 18, 2021

1 STATE OF SOUTH CAROLINA
2 IN THE CIRCUIT COURT
3 COUNTY OF GREENVILLE

COPY
shardoon@sccourts.org

4 William F. Tomz,

5 Plaintiff,

6 vs.

TRANSCRIPT OF RECORD
2008-CP-23-3665

7 Capital Investment Funding, LLC, et al.,

8 Defendants.
9

10
11 November 27, 2017
12 Greenville, South Carolina

13 B E F O R E:

14 The Honorable EDWARD W. MILLER

15 APPEARANCES:

16 George Brandt, III, Representing the Plaintiffs
17 Stanley Case, Co-class counsel for CIF
18 Luke Burke, Representing Alison Field, Art Kelly, Brad
19 Kelly
20 Micajah Pickett Caskey, IV, Representing Arthur Field
21 Jeff Donley, Representing Katherine Talon
22 Rodney F. Pillsbury, Representing Kirsten White
23
24
25

1 PROCEEDINGS

2 THE COURT: Yes.

3 MR. BRANDT: May it please the Court,
4 Your Honor, Bob Brandt. I hardly know where to
5 start, Your Honor, but I will.6 THE COURT: Well, let me just ask this:
7 I've been getting these emails. Happy to be on
8 that email chain with the proposed order for
9 Judge Maddox, but I don't have a signed copy. Is
10 that signed, do you know?11 MR. BRANDT: Nor do we, although it is my
12 understanding, Your Honor, that the issues
13 regarding the order were resolved late last week,
14 and perhaps the Thanksgiving Holidays have
15 prevented Judge Maddox from actually signing the
16 order, but I believe that all of the parties had
17 resolved their differences regarding the language
18 contained in the order, and it was a mere
19 formality for the Court to sign it, for
20 Judge Maddox to sign it.21 So with that in mind, we're happy to
22 preface -- the purpose of the Court here today,
23 one of the several reasons we're here today is to
24 get the GSA approved by this Court, which is -- a
25 condition precedent is to resolve the issues

1 contained in Judge Maddox's order. We're happy to
2 go forward today, let the Court take it under
3 advisement, with the Court's permission and
4 approval, let us submit everything we have to
5 submit for today, wait for Judge Maddox who will
6 hopefully sign the order that's been approved by
7 all the parties, and then have the Court rule in
8 this matter.

9 I was very much hoping that it would not
10 be necessary to have any other hearings in this
11 matter. You know, there's a great deal of
12 litigation fatigue in this case, both for the
13 Court and the parties involved. But as a result
14 of some of the issues that I will bring up today
15 in my comments, I think that there might even be
16 other hearings in the future, but -- I see you
17 looking down. I'm looking down too, but -- you
18 know, I don't know what to do but to continue to
19 plow forward to hopefully resolve it.

20 And one of the key issues, obviously, is
21 getting that order is signed, which we hope is
22 signed. We don't know whether it is. And we can
23 take a break sometime during the course of this
24 matter and call down and find out if it's been
25 filed, but I don't have a copy yet.

1 THE COURT: All right. Give me just a
2 second. I'll see if I hear from him. Go ahead.

3 MR. BRANDT: If it please the Court,
4 Your Honor, we're here today on notice to
5 reconvene this hearing that contained the
6 following language: All pending motions,
7 including remaining issues involving the global
8 settlement agreement, the pending Rule to Show
9 Causes, the motion as to Kirsten White to comply
10 with the terms of the global settlement agreement,
11 and the Plaintiff's motion as to Alison Field,
12 Katherine Talon and Arthur Field to comply with
13 the terms of the global settlement agreement.

14 Plus today, we are here to address four
15 matters. The remaining issues on the global
16 settlement agreement, which we will go into
17 shortly, the pending Rule to Show Cause matters,
18 the motion to comply seeking Kirsten White to
19 comply with the global settlement agreement, and
20 the motion to comply seeking Alison Field,
21 Katherine Talon and Arthur Field to comply with
22 the GSA.

23 I would point out for the Court
24 initially, apparently, Miss White is not here. At
25 least I don't see her in the courtroom. We have

1 attempted to send her the appropriate
2 notifications. There's a certificate of service
3 in the file. We've attempted to call her. We've
4 done everything to contact her since the previous
5 hearings to discuss this, but she's not here, and
6 perhaps we will get into that later with
7 testimony.

8 Before we addressed the global settlement
9 agreement, I would like some comments about the
10 Rule to Show Cause and motions today. The Rule to
11 Show Cause matters had been continued from the
12 hearings that were held on September 29, 2016,
13 December 8th, 2016, March 17th, 2017, and
14 September 4th, 2017. These matters are still
15 pending. Your Honor has not ruled on them.

16 I would point out, paragraph 10 of the
17 global settlement agreement precludes an order of
18 sanctions against Arthur Field for anything other
19 than above and beyond fulfilling his obligations
20 under the global settlement agreement.

21 So, in other words, approval of the
22 global settlement agreement may render the Rule to
23 Show Cause matters moot while sanctions against
24 Mr. Field in these matters would render the global
25 settlement agreement void.

1 With regards to the motion to comply,
2 they were all related to enforcement of the global
3 settlement agreement. These motions were heard on
4 September 5th, and Your Honor signed an order on
5 October 25th, 2017, which stated, among other
6 things, that the global settlement agreement was
7 an executory contract, meaning that all parties
8 were duly bound to perform their respective
9 obligations under the global settlement agreement
10 even while the approval is pending. It declared
11 that the language of the global settlement
12 agreement was clear, concise, specific and
13 unambiguous. It was an acknowledgement that the
14 global settlement agreement specifically stated
15 and emphasized that time is of the essence.

16 It directed Miss White to act in
17 accordance with her obligations under the global
18 settlement agreement, and I believe that the Court
19 took a great deal of time with Miss White
20 confirming that she understood what her
21 obligations were.

22 It directed Alison Field, Katherine Talon
23 and Arthur Field to provide copies of the
24 insurance claim information to allow CIF full
25 access to the Thornblade property.

1 I would point out that a third motion was
2 also held on September 5th, and that was a motion
3 entitled Plaintiff's motion -- Plaintiff's Amended
4 Motion to Defendant, Arthur Field, Compelling
5 Compliance with the Terms of the GSA. Notice of
6 the reconvened hearing reference did not mention
7 that motion.

8 On November 1st, 2017, Judge Maddox did,
9 in fact, hold a hearing, and Judge Maddox
10 hopefully has signed the order, and I'll discuss
11 that in a minute.

12 I also point out to the Court with regard
13 to the three motions that were heard on
14 September 5th, each motion we ask the Court to
15 order sanctions and award attorney fees to the
16 Plaintiffs.

17 In the October 25th order signed by you,
18 you did not address those specific requests, and
19 we would be asking that these requests be
20 addressed and ruled on eventually by the Court,
21 either by a future hearing in this matter or at
22 the conclusion of this hearing when a court issues
23 an order.

24 That's an overview, and we are now ready
25 to proceed with the remaining issues of the global

1 settlement agreement.

2 With regards to the global settlement
3 agreement, more specifically, Judge Maddox here
4 has required by paragraph 8 of the global
5 settlement agreement, Mr. Field filed a motion
6 with Judge Maddox on March 31st, 2017 seeking to
7 modify his restitution, and, in essence, seeking
8 to substitute the global settlement agreement in
9 place of the \$2.8 million originally ordered by
10 Judge Maddox in the hearing that occurred in
11 October of 2017.

12 I'm going to give you some details about
13 the restitution hearing because I believe it's
14 relevant to some of the matters we have today.

15 You may recall, because the restitution
16 hearing had not been scheduled by August of 2017,
17 we filed a motion compelling, in accordance with
18 the GSA, on or about August 18th, and you heard
19 our motion on September 5th and issued your order
20 on October 25, 2017.

21 At the hearing, among other things, we
22 presented copies of 32 emails which
23 Clayton Waters had previously circulated to all
24 interested parties, including you, between the
25 Attorney General's Office, Judge Maddox, and

1 Mr. Fields' attorney Todd Rutherford with copies
2 of other interested parties.

3 These emails, in our opinion, illustrated
4 a history of effort -- or really a lack of effort
5 to schedule the hearing, and your October 25th
6 order discusses that in some detail.

7 At the conclusion of the hearing, you
8 ordered from the bench that Mr. Field's counsel
9 was to request a hearing before Judge Maddox and
10 have a pending motion for modification no later
11 than 45 days from September 5th, which would have
12 been, according to the calendar, October 20th,
13 2017, and that the request of the hearing was to
14 be submitted by Mr. Rutherford no later than two
15 days later by noon, which would have been
16 September 7th.

17 Well, in fact, by 11:45 on September 7th,
18 Mr. Rutherford sent an email to Mr. Maddox and you
19 requesting a hearing be held, and his email
20 suggested a restitution hearing the week of
21 November 13th which was in derogation from the
22 order from the bench.

23 Mr. Case, who is the co-class counsel for
24 CIF, sent an email to Mr. Rutherford and copied
25 everyone, including you, pointing out that the

1 dates requested did not comply with the order that
2 you made from the bench.

3 Still, on September 7th, Mr. Waters sent
4 an email to Mr. Rutherford, Judge Maddox, and
5 Your Honor, with copies to interested parties,
6 clarifying inaccurate claims by Mr. Rutherford
7 pertaining to requests to schedule the hearing.

8 Forty-one days later, on October 18th at
9 4:09 p.m., Mr. Rutherford emailed Mr. Jim Parks,
10 the Clerk of the Court for the South Carolina
11 State Grand Jury requesting that the restitution
12 be scheduled as quickly as possible.

13 We have nothing else from
14 Mr. Rutherford's office from September 7th to
15 October 18th.

16 And on October 23rd, Mr. Parks emailed
17 the interested parties that the hearing was
18 scheduled for November 1st, 2017.

19 I would point out, Your Honor, that the
20 global settlement agreement was signed by all
21 parties in February of 2017. Mr. Field filed his
22 motion for restitution modification on
23 March the 31st, 2016, and here we are seven months
24 later and the time is of the essence portion of
25 the global settlement agreement apparently has

1 escaped the understanding by Mr. Field and the
2 other parties.

3 Now, on November 1st, we, in fact, had a
4 hearing before Judge Maddox. Mr. Rutherford
5 appeared, along with the South Carolina Deputy
6 Attorney General, Mr. Waters. During the course
7 of the hearing, Mr. Maddox informed the parties
8 that he would not modify his prior restitution
9 order.

10 At Judge Maddox's suggestion, the parties
11 adjourned, held a conference in the courthouse to
12 discuss the potential compromise so that we could
13 resolve the issues.

14 In attendance at that meeting were
15 Mr. Field, with written permission of civil
16 counsel, Mr. Caskey, who is here, his counsel
17 Mr. Rutherford, Katherine Talon with the written
18 permission of her counsel, Mr. Stevenson,
19 Assistant attorney -- or Deputy Attorney General
20 Waters and his associates, Mr. Buchanan, who is
21 the general counsel for the South Carolina
22 Department of Probation and Parole and Pardon
23 Service, Mr. Saad and his counsel, myself,
24 Rodney Pillsbury, and class co-counsel, Mr. Case.

25 As a result of the conference, Mr. Field

1 agreed to modify the global settlement agreement
2 terms that Judge Maddox and Mr. Waters would not
3 object to.

4 And after the conference we --
5 Judge Maddox reconvened the hearing the same day
6 and Mr. Waters read into the record the
7 modifications to the global settlement agreement
8 that Mr. Field agreed to. There were no
9 objections raised by Mr. Field, his attorney,
10 Mr. Rutherford or by Miss Talon. These changes
11 were stated in full in order that we have
12 presented to Judge Maddox for his signature, which
13 I have indicated we do not have, but we hopefully
14 will have as early as today. We hope.

15 The pertinent portions of that would
16 modify the global settlement agreement as follows:
17 The restitution order by Judge Maddox would not be
18 modified. Instead, would be as originally
19 ordered, \$2,877,711.73. All payments and
20 properties received by CIF would be applied --
21 under the global settlement agreement would be
22 applied as credit against the restitution order.

23 To date, CIF has received \$108,282 as
24 restitution payments from Arthur Field paid
25 through the State.

1 CIF estimates that it will realize
2 approximately 1.3 million under the terms of the
3 global settlement agreement. And assuming that it
4 does receive that 1.3 million, the restitution
5 balance would be reduced to approximately
6 \$1.5 million.

7 At the end of the five-year probation
8 period that Mr. Fields was sentenced to by
9 Judge Maddox which ends in October of 2018, if
10 Mr. Field cannot or did not pay any more under the
11 remaining balance due under the restitution, the
12 unpaid balance would converted to a civil
13 judgment.

14 The phrase that was in the global
15 settlement agreement as return of earned salary
16 would be deleted from paragraph 14-IV of the
17 global settlement agreement because the Attorney
18 General's Office and Judge Maddox were under the
19 impression that it could be an income tax
20 advantage to Mr. Field, which was unacceptable.

21 Mr. Maddox's order as presented to
22 Judge Maddox for his signature also contained
23 provisions about Mr. Field's probation including
24 his application to transfer his probation to
25 Florida which required him to waive his

1 extradition rights and the State of South Carolina
2 would retain jurisdiction over all matters related
3 to his criminal sentence, restitution, and
4 probation, the unpaid balance of his restitution
5 being converted to a civil judgment. Mr. Field's
6 submission of a sworn financial affidavit in the
7 form that was acceptable to the State.

8 Judge Maddox's order also provides that
9 requirements of modifications to the GSA were to
10 be executed by all 21 parties of the agreement and
11 approved by you, Your Honor, and we have a copy of
12 that to submit to the Court that we believe
13 complies with the requirements of the modification
14 of the order by Judge Maddox.

15 With all that being said, we're here
16 today regarding the global settlement agreement.

17 Mr. Field has agreed to the modifications
18 set forth in Judge Maddox's order, and we note
19 that those changes have virtually no impact on any
20 fifth parties except Mr. Field while the changes
21 have a potential positive impact on the Plaintiff,
22 and that is having the civil judgment ordered by
23 the Court for any unpaid restitution despite the
24 extremely unlikely possibility of collecting such
25 a judgment.

1 As I stated, we have therefore prepared
2 an addendum to the global settlement agreement
3 which mirrors the relevant portions of
4 Judge Maddox's order.

5 The addendum to the global settlement
6 agreement needs to be circulated and signed by the
7 same 21 parties that originally signed the global
8 settlement agreement, and I would ask for a copy
9 of that so I can pass it up to the Court. When
10 it's found, I'll pass it up.

11 THE COURT: Has that been circulated to
12 everyone else?

13 MR. BRANDT: No.

14 THE COURT: Okay.

15 MR. BRANDT: But the order has been
16 circulated and the changes --

17 THE COURT: The addendum mirrors the
18 order?

19 MR. BRANDT: Yes, sir.

20 THE COURT: Okay.

21 MR. BRANDT: That's what I'm trying to
22 say.

23 THE COURT: Okay.

24 MR. BRANDT: We are asking for the global
25 settlement agreement with the conditions be

1 approved by the Court, and that the fully
2 delivered addendum be delivered by a certain date,
3 which we would like for tomorrow at 5:15. We are
4 suggesting that we be able to accept signed copies
5 by email or fax with original signatures to be
6 forwarded by November 30th.

7 And the reason for this is, the short
8 time frame is, under the global settlement
9 agreement, Mr. Fields is to vacate the property at
10 Thornblade by November 30th. They have scheduled
11 movers to move their belongings on November 28th,
12 and, of course, as the agreement states, time is
13 of the essence. There is a small unrelated matter
14 that relates to the personal belongings at the
15 property at Thornblade.

16 At the conference held on November 1st,
17 the parties agreed in connection with the lease
18 that is a portion of the global settlement
19 agreement that any belongings remaining at the
20 property that were not taken by Mr. Field when he
21 moved that a company be retained and that the
22 property be sold and the proceeds of the sale of
23 this property that is left be divided with
24 50 percent going to Mr. Field and 50 percent going
25 to CIF, and that is part and parcel of the ruling.

1 The company that was retained would not only sell
2 the goods, but would broom sweep the house and
3 leave it.

4 If the Court needs it, Mr. Saad is
5 available at this time for an overview including a
6 discussion of the addendum. If the court does not
7 need that, we will move on and proceed with the
8 matters that we requested. We apparently only
9 have one copy, Your Honor.

10 THE COURT: How many copies do you need?
11 Well, 20?

12 MR. BRANDT: I don't -- we can make the
13 necessary copies for distribution amongst the
14 people who need to sign it. I just wanted to make
15 sure that Mr. Field --

16 THE COURT: Well, if this is a new -- I
17 want the parties involved to have an opportunity
18 to look at it now.

19 MR. BRANDT: Okay.

20 THE COURT: So how many do you think?

21 MR. BRANDT: Five.

22 THE COURT. Who all is here?

23 MR. CASKEY: Your Honor, the Defendant,
24 Arthur Field is here. I'm Mica Caskey on behalf
25 of the Defendant. We got some other folks from

1 his legal team, if they want to introduce
2 themselves.

3 THE COURT: Yes.

4 MR. BURKE: Luke Burke, I'm here on behalf of
5 Alison Field, and also Art Kelly and Brad Kelly.

6 THE COURT: Okay.

7 MR. DONLEY: I'm Jeff Donley. I'm here
8 for Katherine Talon.

9 MR. MARTIN: I'm Brad Martin. I'm here on
10 the appeal that's pending, the old one, when we get
11 this settled.

12 THE COURT: Okay. No one here on behalf
13 of Kirsten White. Let's just make about 10
14 copies.

15 MR. BRANDT: While we wait on that, Your
16 Honor, would you like me to proceed?

17 THE COURT: Well, let me just ask
18 Mr. Caskey, any issue with what's been stated to
19 the Court at this point?

20 MR. CASKEY: Your Honor, no, but this
21 last portion we were talking about, the property
22 left at the home, I wasn't at that conference and
23 Arthur was telling me that that transfer to a
24 third party for the purposes of an auction and the
25 distribution of that value to the respective

1 parties was there, but there was some timing
2 issue, and maybe I can talk to counsel off line
3 here for a second and clarify that.

4 But, otherwise, Your Honor, we're good
5 with everything that Mr. Brandt has represented to
6 the Court.

7 THE COURT: You need to talk right now?

8 MR. BRANDT: If it pleases the Court,
9 probably two minutes.

10 THE COURT: All right.

11 MR. PILLSBURY: Your Honor, may it please
12 the Court, Rodney Pillsbury. As a technical
13 issue, I think Mr. Brandt said that the proceeds
14 were going to Mr. Field, and the other half to
15 CIF. It's actually going to Miss Talon to
16 represent the 50 percent interest of the
17 parties.

18 THE COURT: Okay.

19 (Off the record.)

20 MR. BRANDT: This is what I understand
21 regarding the furniture, Your Honor, that
22 Mr. Field has -- or Miss Talon, whoever, has taken
23 the steps to have the property moved and sold and
24 it will be taken care of. And even the property
25 be cleaned, is what my understanding is. That we

1 don't need to address that in the order other than
2 the proceeds from the sale of the property which
3 is negligible will be divided 50/50. Is that what
4 your understanding is?

5 THE COURT: The sale of the personal
6 property, correct?

7 MR. BRANDT: Yes.

8 MR. CASKEY: Talon gets.

9 MR. BRANDT: Talon gets the sale of the
10 personal property, so that would not be split
11 between the class or another group.

12 MR. CASKEY: Because they're selling
13 before.

14 MR. BRANDT: Okay, that's fine. We're
15 waiving any claim to the personal property. We
16 just get the keys on the 1st. That's fine.

17 MR. CASKEY: Thank you, Your Honor.

18 THE COURT: Okay.

19 MR. BRANDT: Your Honor, as far as the
20 Rule to Show Cause matters are concerned, if you
21 approve the global settlement agreement, and upon
22 the receipt of the fully executed addendum, then
23 the Rule to Show Cause matters could be dismissed
24 with no action taken. If the fully executed
25 addendum is not forthcoming by a date set by

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
William F. Tomz and Francis W. Tomz,	)	
Individually and as Class Representatives,	)	CIVIL ACTION NO. 2008-CP-23-3665
	)	
Plaintiffs,	)	
	)	
vs.	)	RECEIVER'S MEMORANDUM
	)	IN OPPOSITION TO DEFENDANT
Capital Investment Funding, LLC, and	)	ARTHUR FIELD'S MOTION TO
Arthur M. Field,	)	RECONSIDER and/or TO ALTER OR
	)	AMEND THE COURT'S ORDER OF
Defendants.	)	DECEMBER 17, 2020
	)	

On December 17, 2020, this Court entered an order granting the Receiver's motion for declaratory relief. On December 18, 2020, Defendant Field filed his motion to reconsider and/or his motion to alter or amend that order. By and through his counsel of record, the Receiver files this memorandum in opposition of Defendant Field's motion. For reasons set forth herein, Field's motion to reconsider should be DENIED.

At the behest of the presiding federal court judge in the pending judgment collection action (Capital Investment Funding, LLC, v. Arthur Field and Kathryn Taillon, C.A. 3:19-CV-00606-TJC-JRK (US District. Ct., Mid. D. Fla.)), on December 31, 2019, the Receiver filed a motion for declaratory relief. Because Field argued in that litigation, *inter alia*, that the judgment collection action was improper because the Global Settlement Agreement ("GSA") had dismissed all of CIF's claims against all parties, the Receiver's motion sought a declaration from this Court that the judgment collection action in Florida was proper.

The GSA specified that Judge Edward Miller would have **sole and exclusive jurisdiction regarding any dispute related to the enforcement, performance, or non-performance of any future obligation** contained herein ...

- ii. Upon approval by the Court, this settlement will be full and final as to all parties identified herein, with the sole exception if it is later demonstrated Arthur Field has made a material misrepresentation to the Court regarding his verified financial disclosure set forth in sub-part i (above). This Agreement contains terms and conditions of certain events to happen in the future. The parties agree that the Judge Edward W. Miller, the presiding judge in the

Initials 1 RF 2 AF 3 ME 4 JP 5 AW
Initials 6 DS 7 ME 8 JP 9 AW 10 ME 11 JP

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Initials 12 JP 13 ME 14 JP 15 AW 16 ME
Initials 17 JP 18 ME 19 JP 20 AW 21 ME
Initials 22 JP 23 ME 24 JP 25 AW 26 ME 27 JP

Tomz Case, shall have sole and exclusive jurisdiction regarding any dispute related to the enforcement, performance or non-performance of any future obligation contained herein (including any integral components hereof).

A New Filing Was Not Required Because the Receiver's Motion Pertains to Interpretations of a Settlement Agreement Entered in this Action.

As the GSA envisioned, and just as all parties agreed, with Judge Miller retaining sole and exclusive jurisdiction over matters related to the GSA, and because that agreement was made a binding order of the court within this captioned case (Tomz v. Capital Investment Funding, LLC and Arthur Field, C.A. No. 2008-CP-23-3665 [Court of Common Pleas, Greenville County, South Carolina]), the Receiver filed his motion for declaratory relief in this case. Both Taillon and Field argue because the Tomz case was dismissed by the clerk following the approval of the GSA, this Court no longer has subject matter jurisdiction to address the motion *sub justice*.

The defendants' position ignores the longstanding principle under South Carolina law that a trial court has inherent jurisdiction to enforce settlement agreements entered before it. Kumar v. THIRD GENERATION, INC., 472 S.E.2d 637 (S.C. App. 1995), *citing*, Rock Smith Chevrolet, Inc. v. Smith, 309 S.C. 91, 419 S.E.2d 841 (Ct.App.1992). Additionally, the complaining defendants specifically agreed that Judge Miller would retain sole jurisdiction over matters related to the GSA. No new filing was required.

In his motion for declaratory relief, the Receiver seeks a determination by this Court of the obligations and effect of the terms of the GSA. The GSA reserved jurisdiction with this Court and

with Judge Miller over such disputes specifically to avoid the delays Field proposes in his motion to dismiss and reaffirms in his motion to reconsider. Namely, Field argues that the remedy is for the Receiver to certify a question of law from a Florida federal case to the South Carolina Supreme Court. The reason the Receiver was adamant about including the reservation of jurisdiction with Judge Miller was to avoid that very protraction of litigation. Having been embroiled in litigation with Defendant Field, and witnessed the numerous false statements and frivolous motions, the Receiver insisted on eliminating these wasteful tactics which unnecessarily tie up the finite judicial resources of our courts by keeping jurisdiction with Judge Miller and including a liquidated damages provision for the tactics demonstrated by Field in these proceedings.

The Court has Personal Jurisdiction over Defendant Field.

Further evidence of Field's frivolous litigation tactics is his argument that he is not subject to personal jurisdiction of this court. Because the Receiver's motion seeks a ruling interpreting the GSA that Field signed and to which he agreed to be bound by the orders of this Court, Field cannot now claim the Court does not have jurisdiction over his person. Assuming *arguendo* that a new matter needed to be filed, this court would still have personal jurisdiction over Field. See, S.C. Code of Laws § 36-2-803 (A).¹

The Receiver's Motion is not Barred by *Res Judicata*.

The rights to collect on its civil judgment against Field were specifically not released by the GSA. The original GSA was executed by all parties on or about February 24, 2017. When Field agreed to the Addendum, he specifically recognized that any unpaid portion of his restitution

¹ SECTION 36-2-803. Personal jurisdiction based upon conduct.

(A) A court may exercise personal jurisdiction over a person who acts directly or by an agent as to a cause of action arising from the person's:

- (1) transacting any business in this State;
- (3) commission of a tortious act in whole or in part in this State;
- (7) entry into a contract to be performed in whole or in part by either party in this State;

would be converted to a civil judgment. This judgment is contemplated and recognized by the GSA (as amended).

The release of claims, however, governed all claims among the parties, known and unknown, **“up to and including the present time”** (i.e., December 1, 2017) [Ex. 2, p. 2 (emphasis added)]

5. The parties to this Agreement do hereby release all other parties and their respective officers, directors, employees, agents, attorneys, and affiliates, of and from any and all suits, legal actions or claims of any nature whatsoever, known or unknown, **up to and including the present time**, including, but not limited to, claims described in Paragraph 4 of this Agreement, which include but are not limited to claims arising under all common and statutory laws, ordinances, rules or regulations of the United States of America and all the states of the United States, and specifically including the states of New Jersey and South Carolina, and their political subdivisions, and the public policies thereof. This release shall further include, but shall not be limited to, all those claims which were or could have been asserted in the litigation identified in Paragraph 3 of this Agreement (including any and all appeals), which actions shall be dismissed with prejudice, with each party to bear its/his/her own attorneys' fees and costs for all actions or appeals or related matters.

The parties knew and understood that any shortage of restitution at the end of Field's probation would be converted to civil judgment, which would occur in 2018. The judgment was not entered until November 5, 2018. When the GSA was approved in December 2017, CIF had no right to collect on a judgment that did not exist. Hence, CIF's right to collect on the civil judgment was specifically not released under the GSA.

Furthermore, at the November 27, 2017 hearing approving the Addendum and incorporating it into the GSA, at no time did Field request CIF to forbear on any rights which might vest to CIF in the future to collect on the civil judgment expressly contemplated by the Addendum. Field could easily have requested to amend the release language of Paragraph 5 to include future rights which may accrue to CIF for any civil judgment related to his restitution obligations. His failure to do so further supports it was the intent of the parties not to release these rights and, in fact, preserve them under the GSA, as amended. Indeed, such a perverse construction

would have directly undermined the spirit and intent of Judge Maddox's order modifying the terms of restitution.

Imposition of Liquidated Damages are Warranted and Justified

Field further challenges the imposition of the liquidated damages provision set forth within the GSA. His filings and the arguments he has raised therein are evidence of the frivolous nature of the on-going litigation Field continues to drag out – which is specifically what the GSA's liquidated damages provision was designed to address. After CIF domesticated the civil judgment and gave notice to Field, Field/Taillon have collectively filed twenty-seven (27) motions and notices, all of which required CIF to respond, in state and federal court. Exhibit 1, Summary of filings in Florida Litigation.

Field files a motion to dismiss CIF's collection action in the federal litigation, so the Court there requests guidance from this Court on whether the GSA barred CIF's collection action. Importantly, in arguments to the Court in Florida, Field deliberately omitted the Addendum which addressed the status of the civil judgment. Nevertheless, the court in Florida was cognizant of the GSA provision that gave Judge Miller and this Court the sole jurisdiction over matters related to enforcement of the GSA.

So the Receiver promptly files a motion for declaratory relief so that the matter can get resolved and the collection action move forward. Instead of responding to the merits, Field – *pro se* – removes the matter to the Florida state court. After CIF is required to file a motion to remand, the federal court promptly dismisses Field's removal.

Knowing that his counsel had legislative immunity from the docket with the Receiver's motion still pending here, in April 2020 Field filed a motion to lift the stay in Florida. Then, to further delay and avoid the resolution of the instant motion, rather than filing a substantive response, Field filed a judicial grievance against Judge Miller and promptly filed a motion to recuse Judge Miller from hearing this motion, based upon the grievance Field just filed.

At the November 18, 2020 Public Hearing of the Judiciary Merit Selection Committee , Field repeatedly lied and misrepresented facts in a vain attempt to harm Judge Miller’s reappointment. Because Field’s grievance was part of his overall strategy to delay justice in this case, the repeated misrepresentations Field made (under oath) at the hearing further support the imposition of liquidated damages.

Counsel for the Receiver just received the transcripts yesterday afternoon. The number of lies Field told are plentiful and time has not permitted a line-by-line dissertation documenting each one. The receiver may supplement this memorandum with additional examples. But here are a few:

a. Field lied about his crimes.

15		CHAIRMAN RANKIN: What did you plead guilty
16		to?
17		MR. FIELD: I pleaded guilty to omitting
18		three sentences from a prospectus, that led to counts of
19		securities fraud. And the forgery count was for zero
20		dollars, based on my signing a stage name from New York on
21		a checking account that the bank knew was my checking
22		account.

Exhibit 2, p. 193 (transcript hearing page).

In fact, Defendant Field pled guilty to Eleven (11) Counts of Securities Fraud, Two (2) Counts of Criminal Conspiracy and One (1) Count of Forgery. [Exhibit 3, Plea Agreement of Arthur Field] Field attempts to trivialize his convictions demonstrates his complete lack of remorse for his crimes. For example, when Field states the forgery account was for “zero dollars, based upon [his] signing a stage name from New York on a checking account the bank knew was my checking account,” he ignores the fact that Field used these forgeries to conceal from investors

payments Field received business dealings. [See, Exhibit 4, Indictment of Arthur Field, State of South Carolina v. Arthur Field, et al., C.A. No.: 2012-GS-47-08]. The relevant excerpt from his indictment are as follows:

FIELD'S HIDDEN INTEREST IN BOLINGBROKE

On September 27, 2001, an entity was registered with the Wyoming Secretary of State named Bolingbroke United (England} Ltd ("Bolingbroke") Eventually, the registered agent listed with the Wyoming Secretary of State's Office was "Henry Rex", the supposed president of Bolingbroke. ... Additionally, a South Carolina Bank of America business investment account was opened on October 18, 2001 with the signatory listed as "H Rex". The Bolingbroke bank account used the PFEIFFER law firm address. For some reason, the bank did not certify the signature. **Ultimately, a number of checks would be issued on this account purportedly signed by "Henry Rex".**

Exhibit 4, pp. 7-8 (emphasis added).

FIELD used the fictitious name "Henry Rex" to conduct business for Bolingbroke, to further conceal FIELD's true ownership interest in Bolingbroke, and thus his interest in Cosimo.

Id. at p. 64

So the forgery was not a zero dollars. It was a vehicle he used to conceal his receipt of hundreds of thousands of dollars from investors.

b. **Field Lied About his Personal Contributions to the GSA Settlement**

One problem Field had regarding settlement payments is that ever since his arrest in 2012, Field claimed to be impoverished. Originally, Field claimed to have no income. At his criminal hearing before Judge Maddox on October 8, 2013, Defendant Field represented that he had virtually no money and no income. [Exhibit 5, Hearing Transcript, p. 67]

Ironically, less than three (3) months later, Field and Taillon summoned the police to their Thornblade mansion in Greer, South Carolina seeking assistance in evicting a live-in guest, **whom**

Field reported had stolen \$104,000.00 in cash.² [Exhibit 6, Incident report of Thornblade Residence] Originally, Field asked the officers to leave his name out of the report. [*Id.* at p. 2] Field explained to the officer, “he was indicted for Securities Fraud by the state, he went to jail, **and that he is now having to pay \$75,000 a month in restitution**” [*Id.* (emphasis added)] At the time, Field was paying less than \$400.00 per month, because he claimed he had no money.

Then it was learned that he was making substantial income from renting his multi-story mansion in St. Augustine. [Ex. 8, Field Advertisement, Camelot by the Sea] [Note: the contact information for the owner is Arthur Field with his cell number and personal email address] Once this was discovered, Field simply shifted all of the rental income into his wife, Kathryn Taillon’s name. But once he was outed, he was forced to pay an increased amount in restitution payments – but never the \$75,000 per month which he told the Greenville County Police Officer.

At the November 18, 2020 Public Hearing, Field lied about the amount that he himself had contributed towards the settlement:

17	CHAIRMAN RANKIN: And they are -- they are
18	trying to get that money back from you?
19	MR. FIELD: No. Well, the -- no, that's all
20	gone. I'm done. I was dismissed with prejudice in 2017.
21	We gave up our house. We gave up half a million dollars
22	besides. We paid a substantial amount, my wife and I. My
23	child, my son turned over millions of dollars. None of
24	which, not one penny, has been distributed to any of the
25	note holders.

² In 2014, Arthur Field (not Kathryn Taillon) claimed a theft loss of \$104,000 on his 2014 income taxes. [Exhibit 7, Form 4684 from Field’s income taxes.]

Exhibit 2, p. 194.

Field did not give up his house for the settlement. In fact, Field adamantly insisted at all times that he did not own the Thornblade estate and that he had no interest in the mansion in which he was living. The property was deeded to their barely emancipated daughter, Allyson Field. Field and Taillon never paid a half-million dollars.

Field said that his son turned over a million dollars. This was not true. The property was surrendered as a result of a foreclosure suit CIF had to bring.

Field said that the note holders never received a penny. This, too, is a lie. The receiver distributed a million dollars to the note holders following the sale of the property surrendered by Field's son.

The receiver respectfully reserves the opportunity to provide additional details underscoring the misrepresentations Field made at the November 28, 2020 Public Hearing of the Judicial Merit Selection Commission. As the Court can see, simply providing the background on just two (2) of Field's lies requires extensive production of documents and background information. This is one of the reasons the Receiver was insistent that Judge Miller retain jurisdiction for future disputes regarding the GSA, because Judge Miller has a working knowledge of the thirteen (13) year history of this litigation.

Additionally, as set forth in the Receiver's response to Field's motion to recuse, Field's motion to dismiss is the continuation of a lifelong pattern of frivolous litigation tactics. He specifically consented to have Judge Miller retain jurisdiction over matters related to the GSA. With one exception, Field's grievance relied upon hearing transcripts and events which all took place **prior** the final hearing approving the GSA, wherein Field explicitly consented to Judge Miller's jurisdiction.

Field agreed to the liquidated damages provision. The Receiver was adamant about including it given Field's lengthy history of lies and frivolous proceedings. His actions in this motion alone demonstrates the lengths and extent Field will go to thwart a resolution on the merits.

Conclusion

For these reasons, Field's motion to reconsider should be DENIED.

Respectfully submitted,

/s/Rodney F. Pillsbury

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(William F. Tomz and Francis W. Tomz,
Individually and as Class Representatives

January 18, 2021

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	THIRTEENTH JUDICIAL CIRCUIT
William Tomz and Francis W. Tomz, Individually and as Class Representatives	)	
	)	CASE NUMBER 2008-CP-23-3665
Plaintiffs,	)	
	)	
vs.	)	DEFENDANT'S MEMORANDUM IN
	)	OPPOSITION TO RECEIVER'S
Capital Investment Funding, LLC	)	JANUARY 19, 2021 MEMORANDUM
and Arthur M. Field	)	
	)	
Defendants.	)	
_____	)	

On January 4, 2021, this Court informed the parties to this litigation via e-mail that the Court would allow a response from Receiver to Defendant Field's Motion for Reconsideration of this Court's December 17, 2020 Order granting Receiver's Motion for Declaratory Relief. In that e-mail, this Court set a deadline for responses of January 14, 2021. On the day of that deadline, Receiver requested this Court extend the deadline to January 18, 2021. This Court granted that request. Receiver then filed one response on January 18, 2021, and then an additional, lengthier response on January 19, 2021. Given the salaciousness of the late-filed response, Defendant Field would be remiss if he did not tender this additional response¹.

OBJECTION TO PERSONAL JURISDICTION

Pursuant to Rule 12, SCRCF, Defendant Arthur M. Field objects to any assertion of personal jurisdiction in this matter. Field is a resident of Florida and reserves all rights. See *State v. Dudley*, 354 S.C. 514, 542, 581 S.E.2d 171, 186 (Ct.App. 2003) ("A defendant may waive any

¹ Field repeats all arguments set forth in his motion and adopts all those set forth in Taillon's motion. All objections as to personal and subject matter are preserved.

complaints he may have regarding personal jurisdiction by failing to object to the lack of personal jurisdiction and by appearing to defend his case.") Field, through his undersigned attorney, files this memorandum subject to these objections.

I. RECEIVER NEWLY ASSERTS ITS MOTION IS TO ENFORCE THE SETTLEMENT AGREEMENT.

Receiver seeks to avoid the procedural flaws associated with its improper institution of this matter as ‘arising under the Declaratory Judgments Act’ without having (a) filed a separate action by service of summons and complaint; (b) obtaining jurisdiction over Florida citizen Field; or, (c) afforded him a jury trial as required by statute. Receiver now characterizes this as a “motion to enforce a settlement agreement”—despite the unambiguously clear caption of its “Motion for Declaratory Relief”. It may not do so, and may not succeed on such ‘motion’, even assuming, *arguendo*, it had any procedural basis for such motion.

“Rule 43(k) SCRCF, is intended to prevent disputes as to the existence and terms of agreements regarding litigation.” *Ashfort Corp. v. Palmetto Constr. Group, Inc.*, 318 S.C. 492, 493-94, 458 S.E.2d 533, 534 (1995). It is applicable to settlement agreements. *Id.* “In South Carolina jurisprudence, settlement agreements are viewed as contracts.” *Pee Dee Stores, Inc. v. Doyle*, 381 S.C. 234, 241, 672 S.E.2d 799 (Ct. App. 2009). The Motion to Enforce Settlement has the legal effect of seeking summary judgment on the Settlement Agreement, and therefore, the summary judgment standard should apply. See *id.* (applying summary judgment standard to Motion to Enforce Settlement Agreement.) In *Pee Dee Stores*, the Court of Appeals held that general contract principles are applied in the construction of a settlement agreement.

Summary judgment is not appropriate if a contract is ambiguous. If the contract is not ambiguous, the facts shall be evaluated in the light most favorable to the non-moving party (i.e.,

Field). Rule 56, SCRCP. Thus, the initial determination for a court seeking to ascertain whether a grant of summary judgment based on a settlement agreement's interpretation is proper is whether the agreement is ambiguous, assuming, *arguendo*, such motion can even be properly laid before the court. *Id.* at 242, 672 S.E.2d at 803.

“A contract is ambiguous when the terms of the contract are reasonably susceptible to more than one interpretation.” *S.C. Dep't of Natural Res. v. Town of McClellanville*, 345 S.C. 617, 623, 550 S.E.2d 299, 302 (2001). In such event, the “parties’ intention [in a settlement agreement] is a question of fact to be ascertained by the trier of fact.” *Pee Dee Stores, Inc. v. Doyle*, 381 S.C. 234, 245, 672 S.E.2d 799, 804 (Ct. App. 2009). As noted in the *Pee Dee Stores* case, it would be reversible error for a trial court to grant a motion to enforce the settlement, if there is ambiguity in the meaning of a settlement agreement. *Id.* There must be a meeting of the minds for a contract to be enforceable, and Receiver’s latest argument would indicate there was no meeting of the minds between Receiver and all other parties.

Moreover, Receiver was the first party to breach material terms of the GSA. Specifically, Receiver violated GSA paragraphs 3-5 (requiring dismissal with prejudice and release of all claims) and 10 (forbidding CIF or Lead Plaintiffs from seeking any further relief or penalty against Field). The GSA stipulated this matter was to be dismissed with prejudice as to all parties.² “Where a contract is not performed, the party who is guilty of the first breach is generally the one upon whom all liability for the nonperformance rests.” *Silver v. Aabstract Pools & Spas, Inc.*, 376 S.C. 585, 594, 658 S.E.2d 539, 543 (Ct. App 2008).

As Receiver asserts, the GSA resolved all claims, known and unknown, up to and including the present time, i.e., December 1, 2017—its effective date. Consider the litigation tactics of

² Paragraphs 3 to 5 of the GSA, ratified on December 1, 2017. As a settlement of a Class Action, ratification by the court was required to make such contract ‘effective’.

Receiver subsequent to the ratification of the GSA. The latest litigation in this matter was brought after the GSA was ratified as a collection action by Receiver in Florida, not in South Carolina; it then became an action to determine Field's homestead rights. Field has not breached the GSA; he merely responded to Receiver's litigation. To be clear, in the instant matter, Field has only responded to Receiver's aggressive litigation tactics by seeking the specific performance of the GSA's sweeping releases and pointing out that the Florida matter was barred by preclusion. At no time did he contest jurisdiction of the Florida court. That collection is barred by the Florida Constitution is Receiver's problem, not Field's. Receiver's contravention of the GSA's terms is not, unfortunately, novel. Receiver, immediately after ratification of the GSA, insisted the court impose sanctions against Field, Taillon, and Allyson Field for 'the insurance claim for the roof from May 2017, prior to the GSA becoming an effective contract'. This was in direct contravention of paragraph 10 of the GSA and to which Field's Attorney Bradford Martin strenuously objected. As a direct result, Judge Miller held Field in contempt and sentenced him to prison. Receiver also sought and obtained sanctions against Kirsten White, a party to the GSA, for actions allegedly taken by her in June, 2017. Receiver's actions breached the GSA. Then, Receiver, and CIF's attorneys sought to increase Field's incarceration at a probation hearing, in September 2018, in further breach of paragraph 10 of the GSA and paragraph 14 declaring the GSA to be the full and final settlement of all claims. Yet, despite all of this, Field has not initiated litigation against Receiver. This Court should not accept Receiver's invitation to reimagine the litigation history of this case.

Receiver's newly styled motion to enforce the GSA urges the Court to somehow order specific performance based on an alleged breach of contract by Field, even though no actual relief can be granted in this court, as Receiver acknowledged in its original motion. However, even if this Court were to accept Receiver's specious re-writing of its own motion, (i.e., ignoring that this is a

Declaratory Judgment Act action), a motion to enforce settlement without the ability to actually enforce the settlement, the facts require a jury trial for Receiver to prevail.

II. RECEIVER NEWLY ASSERTS FIELD DID NOT APPEAL JUDGE MADDOX'S NOVEMBER 2018 ORDER.

Receiver contends it was Field's duty to appeal Judge Maddox's Order of November 2018, and/or the judgment CIF entered in a different jurisdiction, Spartanburg, shortly thereafter. Receiver failed to demonstrate that Field had any notice of either. In the November 27, 2017 Order, it was specified that the Receiver was to provide Field personally with an accounting. He did not. Nor was Field or his civil or criminal counsel present before Judge Maddox in 2018. Neither attorney received notice of Saad's action. Judge Maddox's Order indicates no hearing was held. Instead, the court merely accepted the report filed by Receiver Saad *ex parte*. Field was not served with the order in prison, and had no knowledge such order issued. Appeal was not possible by Field or anyone else acting on his behalf.

It is telling that Receiver entered that judgment in a newly docketed matter in Spartanburg. Court records do not reflect any service upon Field of the initiation of the action or the entry of judgment. Field only learned of the judgment after all appeal periods had lapsed. He had no means to timely appeal. Had Receiver intended to enforce such judgment as part of this case, it should have been docketed in Greenville within this matter, or as a companion matter to provide adequate and timely notice to Field and his attorneys. Instead, CIF purposely avoided giving notice to counsel for all the parties to prevent any timely objection being raised.

Such actions by Receiver underscore that all parties proceeded under the understanding such 'judgment' was fully anticipated prior to the GSA ratification and that it was intended such was to be encompassed within the releases set forth in the GSA and was merely a 'paper judgment'.

In light thereof, it would be inequitable to enforce this 'judgment' against Field.

III. TO PREJUDICE THIS COURT, RECEIVER AGAIN IMPUGNS FIELD'S CHARACTER. THIS IS NOT THE STANDARD FOR LIQUIDATED DAMAGES IN THE PLAIN LANGUAGE OF THE GSA.

The plain language of the GSA liquidated damages provision is very specific to its application. It is *only* to be applied in the instance Field filed a suit seeking to revoke the GSA. Field did not do so. Receiver sued Field in Florida, who then sought specific performance of the GSA as he and his counsel understood it. CIF does not dispute or contradict this.

The issue of who delayed is a red herring advanced by CIF to cover-up the shortfall of its inability to conform to the GSA mandate. The record demonstrates Field did not delay; CIF did. Field's Florida attorney filed a Motion to Dismiss in November, 2019, to which CIF did not respond. This was the only pleading Field filed after the court determined it had jurisdiction. The issue concerning South Carolina was raised by CIF at a status conference and the court abstained at CIF's request in February, 2020-- over Field's objection.

CIF filed its Motion for Declaratory Judgment on December 31, 2019, prior to the Middle District Court's abstention. Field timely filed a Notice of Removal based on diversity and requested the matter be transferred back to the Middle District of Florida, which had not yet stayed the case before it.

Field immediately moved to vacate the stay, as demonstrated in the docket report of the Middle District of Florida. The *Colorado River* doctrine does not permit such abstention stay. Field renewed this request on January 14, 2021. But, on January 21, 2021, CIF again requested the Florida District Court continue the stay, further delaying the Florida matter's resolution.

Nor can Field be penalized for his lawyer's exercise of the Legislative protection decreed by

the Supreme Court. For reasons outlined in the motion and herein, the undersigned moved to dismiss Receivers Motion for Declaratory Judgment. CIF did not respond until ordered to do so by this court. Even then, they could not do so by the deadline set, or even the extension of time granted *ex parte* by the court.

CIF has gone to great lengths to prejudice this Court against Field³, as it did in front of Judge Miller through repeated *ex parte* contacts. Field's actions in opposition to Judge Miller's re-election are not relevant to this case.⁴ The only issue germane to the liquidated damages clause is: did Field file a suit or claim seeking to revoke the GSA? He did not and Receiver has not disputed this fact. Under the plain, unambiguous language of the contract, damages are not permitted.

[SIGNATURE PAGE TO FOLLOW.]

³ Field did plead guilty to securities fraud and conspiracy. Not that it is relevant to this matter, but it is nonetheless true that the State stipulated at the entry of the plea that the forgery was for \$0 and no investor money whatsoever was involved. It is also irrelevant to the matter as is the theft of funds from Field's wife by a house guest. Nevertheless, Receiver has made of habit of raising these same points at every opportunity to besmirch Field. As this Court knows, at an evidentiary hearing none of this would be admissible.

⁴ The proceedings before the Judicial Merit Selection Commission are irrelevant to the matter before this court. Field moved to recuse Judge Miller based upon numerous ethical violations and obvious bias committed over a 10 year period. Field's attorneys filed multiple motions to recuse. The undersigned moved numerous times to recuse Judge Miller, including on the day the GSA was ratified. Field exercised his constitutional rights to file an opposition to Judge Miller's re-election and should not be punished for doing so. Field appeared to testify in support of his opposition. He did not expect to be cross-examined about his plea or the merits of the *Tomz* case.

CONCLUSION

THEREFORE, based on the foregoing, the Defendant, through his undersigned counsel, subject to objections raised herein, asks that this Court deny Receiver's motion for declaratory relief and its motion for award of damages.

Respectfully submitted,

/s Micajah P. Caskey, IV
Micajah P. "Micah" Caskey, IV
CASKEY LAW FIRM, P.A.
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Attorney for Arthur Field

Dated: January 25, 2021
West Columbia, South Carolina

STATE OF SOUTH CAROLINA

: COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

: THIRTEENTH JUDICIAL CIRCUIT

CAPITAL INVESTMENT FUNDING, LLC

: 2015-CP-23-01263

V.

: EXHIBIT IN SUPPORT OF ARTHUR FIELD'S

ARTHUR FIELD, ET AL.

: MOTION TO DISMISS WITH PREJUDICE

EXHIBIT #27

RECEIVER'S STATUS REPORT

2008-cp-23-3665

AS OF

DECEMBER 31, 2011

Jerry T. Saad, CPA, P.A.
Certified Public Accountant
1249 South Pleasantburg Drive Greenville, SC 29605

Office Phone: 864-277-9600
Office Fax: 864-422-9949
Mobile Phone: 864-907-1300
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Member
American Institute of
Certified Public Accountants
South Carolina Association of
Certified Public Accountants

Receiver's Status Report
To the Noteholders of Capital Investment Funding, LLC
As of December 31, 2011

January 15, 2012

To the Noteholders of Capital Investment Funding, LLC ("*Noteholders*"):

This is the fourth report presented to the Noteholders in connection with my services as Receiver for Capital Investment Funding, LLC and its wholly owned subsidiaries (*collectively referred to as "CIF"*). It is a cumulative overview of what I believe are the significant activities related to CIF from August 24, 2009, the date I was appointed Receiver, through December 31, 2011. This report is not a comprehensive and detailed description of all activities.

This report is presented in three sections:

1. **Discussion of Cash Balances and Cash Activities** (*pages 2 through 8*)
2. **Discussion of Legal and Litigation Activities** (*pages 8 through 11*)
3. **Discussion of CIF's Non-cash Assets: Customer Loans and Real Estate Properties** (*pages 12 through 18*)

1. Discussion of Cash Balances and Cash Activities

The following is a summary of the cash activities from **August 24, 2009 through December 31, 2011**, and the cash balances as of **December 31, 2011**.

Summary of Cash Balances and Cash Activities

Cash balances, as of August 24, 2009	\$ -0-
Total deposits from August 24, 2009 through December 31, 2011	1,209,138
Total disbursements from August 24, 2009 through December 31, 2011	<u>(1,054,624)</u>
Cash balances, as of December 31, 2011	<u>\$ 154,514</u>

Cash Activities

Cash activities from August 24, 2009 through December 31, 2011 include deposits and disbursements, which are summarized as follows:

Deposit Activity

Cash transferred from existing CIF accounts to new Receiver bank accounts	\$ 142,008
Proceeds from settlement of disputed claims	275,000
Proceeds received from sale of properties <i>(various properties)</i>	242,522
Payments received on loans that are current <i>(various loans)</i>	262,150
Payments received on loans that are in default <i>(various loans)</i>	216,430
Rents and rental expense reimbursements received <i>(various properties)</i>	49,498
Insurance recovery <i>(claim for vandalism to warehouse in Anderson County, SC)</i>	2,134
Return of funds held in trust for legal fees <i>(pre-Receiver)</i>	18,449
Interest earned on bank accounts	947
Total deposits	<u>\$1,209,138</u>

Disbursement Activity

Fees paid to Receiver	\$ 137,000
Legal fees and litigation costs	694,882
Appraisal and other professional fees	11,011
Property taxes <i>(various properties)</i>	83,045
Other property related expenditures <i>(various properties)</i>	46,328
General and administrative expenditures	57,358
Settlement payment <i>(required under Mediated Global Settlement Agreement)</i>	25,000
Total disbursements	<u>\$1,054,624</u>

Cash balance as of December 31, 2011 **\$ 154,514**

Discussion of Deposit Activity

Proceeds from settlement of disputed claims represents a cash payment received in November 2011. CIF entered into discussions about claims it asserted against certain third parties in 2011. The parties agreed to mediate the dispute. Through the mediation process a settlement was reached which provided for a payment to CIF in the amount of \$275,000. A condition of the settlement prohibits disclosure of any of the terms of the settlement to anyone except as required by law or court order. Attorney fees and costs related to this matter totaled \$108,081. Accordingly, CIF realized net cash proceeds in the amount of \$166,919.

Proceeds received from sale of properties

5 Residential lots and mill houses sold (<i>pre-August 24, 2009 contract</i>) (111 1 st St., 103 2 nd St., 113 2 nd St., 103 3 rd St., and 107 4 th St., Fountain Inn, SC)	\$ 19,497
Residential lot and single-wide mobile home (21 Burris Road, Lyman, SC)	27,792
Vacant residential lot (101 Bowknot Lane, Gray Court, SC)	7,582
Vacant residential lot (119 Sydney Lane, Fountain Inn, SC)	4,236
Vacant residential lot (Lot 101 Chavis St., Gray Court, SC)	3,427
Residential lot and partially constructed house (less than 50% complete) (6 Masters Woods Way, Easley, SC)	46,199
Midland Raceway Dragstrip (85 Acres Greeleyville, SC: down payment only)	50,000
Power-Utility easements on residential acreage (Saratoga County, NY)	8,914
Office furniture (CIF office desks and credenza)	175
Textile Mill Revitalization Act Tax Credits (<i>pursuant to Global Mediated Settlement Agreement</i>)	74,700
Total proceeds received from sale of properties	<u>\$242,522</u>

Sale of Residential Lots

All of the residential lots that were sold had been pledged as collateral on loans CIF made to several different parties prior to 2008. By 2008, the borrowers had defaulted on these loans. In order to avoid foreclosure, the borrowers deeded these properties to CIF prior to August 24, 2009. The five residential lots and mill houses located in Fountain Inn, SC were sold under the terms of a sales contract executed prior to August 24, 2009. All of these mill houses were in substantial disrepair and would have required significant costs to bring them up to code. Each of the remaining residential properties were evaluated and listed for sale by qualified real estate brokers in Upstate SC. Properties were marketed at sales prices suggested by the brokers, who derived their suggested prices from evaluations of comparable low-income residential lots in the market and physical condition of the properties, which were very poor in each case. Construction on the partially constructed house (6 Masters Woods Way) began in 2007, but had ceased in 2008. The house was sold "as is" being less than 50% complete at the time of sale in 2010.

Sale of Midland Raceway Dragstrip

Midland Raceway Dragstrip is ¼-mile asphalt racing drag strip on an 85-acre tract of land on a rural highway near Greeleyville, SC. The property also includes a cinder block two-story concession building and a concrete block bleacher with seating for approximately 200. The property has operated as Midway Dragstrip since 2004. CIF repossessed the property prior to 2008 and sold the property to an individual in or about 2008 under an installment payment contract. CIF acquired the property through a deed in lieu of foreclosure prior to August 2009. An informal appraisal of the property was obtained in 2010. Several parties expressed interest in buying the property.

In May 2011, the property was sold to Midland Dragstrip Properties, LLC, with its owners also obligated on the deferred payment obligations to CIF. The total sales price was \$200,000 with \$50,000 paid at closing and \$150,000 evidenced by a mortgage and promissory note. The note requires monthly payments of 12% interest and three semi-annual principal payments of \$50,000 each (*payable December 31, 2011, June 30, 2012, and December 31, 2012*). The buyer paid the first four monthly interest payments, but has made no payments since September 2011 and is in default.

The matter was turned over to legal counsel for collection, formal notice of demand was sent at the end of 2011. Absent payment, counsel expects to file a foreclosure action in February 2012. If the property is reacquired, it will be held for sale at a price of \$200,000. Several parties have inquired about the property status and have expressed an interest in purchasing the property under similar terms.

Power-Utility Easements

CIF owns approximately 90 acres of rural residential land located in Saratoga County, New York. In August 2011, the local power company requested an increase (*from 10 feet to a total of 20 feet*) in its existing power-utility easements on that acreage. In November 2011, CIF received \$8,914 for granting the easements. The easements are not expected to materially affect the marketability or value to be realized from the sale of the properties. The amounts received were based on the power company's internal appraisals. The power company also added a premium amount to the price to encourage acceptance and avoid a formal condemnation proceeding. Thus, the payments received represented a significant premium above the price per acre at which the properties are currently listed.

Sale of Office Furniture

In September 2009, CIF's office in Easley, SC was vacated. Two desks and a credenza were salvaged, advertised on *craigslist.com*, and sold to the Town of Duncan for \$175.

Sale of Textile Mill Revitalization Act Tax Credits

Textile Mill Revitalization Act Tax Credits represents payments received from the sale of South Carolina Income Tax Credits. The Mediated Global Settlement Agreement provided for CIF to receive "the sum of \$0.20 for every \$1.00 of 2009 and 2010 Tax Credits when and if they are sold." The credits were sold in December 2009 at a price equal to 50% of the gross amount of tax credits. However, a dispute arose among the buyer and CIF as whether the \$0.20 factor was to be applied to every dollar of proceeds paid or for every dollar of tax credits sold. The dispute was mediated to a compromise whereby CIF received a total of \$74,700. The compromise was agreed to avoid the costs and risks of litigation.

Payments received on loans that are current consist of the following:

Trazom, LLC (<i>monthly payments</i>)	\$123,936
Mr. Eric King (<i>monthly payments</i>)	9,464
Mr. Eric King (<i>loan paid in full – borrower refinanced with third party lender</i>)	<u>128,750</u>
Total payments received on loans that are current	<u>\$262,150</u>

Trazom, LLC ("Trazom") Loan

Trazom, LLC is a company which CIF was informed is owned entirely by Davyd Field, son of Arthur Field. The outstanding loan balance as of December 31, 2011 is \$994,237. The loan originated in 2006 as part of a workout arrangement with Tiger Transport Services, Inc. ("TTS"), a CIF customer that defaulted on a series of loans in 2006. Under the workout arrangement, Trazom acquired TTS's commercial warehouse (*located in Anderson County, SC*), borrowing \$2.65 million from CIF to do so. The CIF loan was originally secured by a first mortgage on the property.

In September 2007, Trazom borrowed \$1.6 million from a local bank, secured by a first mortgage on this property, using the proceeds to reduce the CIF loan by \$1.55 million. As a condition of the bank loan, CIF subordinated its mortgage to the bank (*putting CIF's mortgage in a second priority position*). In March 2008, CIF modified Trazom's loan by extending the maturity date of the loan to August 31, 2018, granting Trazom an option to extend the term until August 31, 2023, and changing the interest rate to 6.25%, increasing to 6.5% on September 1, 2013; 6.65% on September 1, 2015; and 6.8% on September 1, 2017 until paid in full. CIF was informed that the bank loan in the first mortgage position has a current outstanding balance of approximately \$1.6 million. The loan matured in or about October 2011; however, CIF is advised that the bank has agreed to renew the loan for 5 years, and the renewal loan documents are expected to be executed by February 2012.

Trazom's ability to pay its loan is purportedly dependent on lease revenues. The property has been leased by Inergy Automotive Systems (USA), LLC ("*Inergy*") since 2002. Inergy manufactures gas tanks for various automobile manufacturers. It owns and operates a large manufacturing plant located next to the Trazom warehouse. Inergy leases the property under a five year lease which expires in February 2012. CIF was informed that Inergy has agreed to an eight year lease renewal with Trazom and the renewal documents are expected to be executed by February 2012.

Eric King Loan

The Eric King loan was a residential mortgage loan to an individual borrower. The mortgage loan was secured by a first mortgage on the borrower's personal residence and required monthly payments to CIF in the amount of \$729. The borrower refinanced the house in 2010 and used the bank loan proceeds to pay off the remaining balance of the CIF loan, which was \$128,750.

Payments received on loans that are in default consist of the following:

Cornerstone Printing Loans (<i>monthly payments</i>)	\$ 61,457
Cornerstone Printing Loans (<i>proceeds from sale of collateral-commercial color printer</i>)	43,975
Lion Financial, LLC (<i>one lump sum payment</i>)	94,661
Mr. Trinidad Sabillon	10,337
Midland Raceway Dragstrip (<i>monthly payments – see comments on page 3</i>)	6,000
Total payments received on loans that are in default	<u>\$216,430</u>

Cornerstone Printing Loans

The Cornerstone Printing loans include two commercial loans, one secured by a first mortgage on a commercial building and one secured by printing equipment. The outstanding loan balances as of December 31, 2011 total approximately \$526,000. The original loans totaled \$410,000. Interest accrues at a rate of 16%. Cornerstone operates a commercial printing company in Greenville, SC. In 2008 and 2009, Cornerstone's business had fallen off so much that the company was on the verge of closing the business. In 2010, arrangements were made for one of my clients to buy printing services from Cornerstone. Since this business connection began, Cornerstone has made monthly payments to CIF, which totaled \$61,457 through December 31, 2011.

In June 2010, Cornerstone made arrangements to sell a large commercial color printer. The printer was purchased in 2007 at a price of \$150,000, and was pledged as collateral on the CIF Loan. The printer was initially used for high-volume production for a single customer and was no longer needed. After investigation of the market prices for similar used commercial printers, CIF approved the sale for \$43,975.

To the Noteholders of Capital Investment Funding, LLC

January 15, 2012

Page 6

Lion Financial, LLC ("Lion")

Lion Financial, LLC represents a lump sum payment received from the borrower. Lion was a South Carolina company that provided mortgage lending services to commercial and residential borrowers. Lion borrowed \$6.5 million in 2004 and 2005 from CIF. From 2004 through 2009, Lion paid CIF \$4.6 million in principal and approximately \$200,000 in interest. CIF was informed that the loan was secured by second mortgages on real estate properties, most of which were lost through foreclosure by first mortgage lenders. CIF was also informed that Lion liquidated its remaining assets in 2009, remitted all of its cash (*which totaled \$94,661*) to CIF, and has no assets. The outstanding loan balance as of December 31, 2011 is \$2,486,595 (*excluding accrued interest*).

Sabillon Loan

The Sabillon loan is a residential mortgage loan to two individual co-borrowers. The outstanding loan balance as of December 31, 2011 is approximately \$9,800. The mortgage loan is secured by a first mortgage on the borrowers' personal residence. The original loan was for \$21,500. The loan provides for monthly payments of \$397 and interest at an annual rate of 13.5%. The maturity date of the loan is May 2014. Sabillon is currently three payments behind and 120 days past due on the earliest payment. CIF is balancing the costs of collection against the probability of recovery.

Rents and rental expense reimbursements consist of the following:

Cream, LLC (<i>restaurant building, 610 Congaree Road, Greenville, SC</i>)	\$ 32,500
YH America SC, LLC (<i>warehouse, Anderson County, SC</i>)	16,998
Total rents and rental expense reimbursements	<u>\$ 49,498</u>

Rents Received From Cream, LLC

CIF received a total of \$32,500 in rents in 2009 and 2010 from Cream, LLC, which leased CIF's restaurant building located at 610 Congaree Road, Greenville, SC. CIF acquired the property in July 2009 in lieu of foreclosure subject to a first mortgage held by another bank. The first mortgage had an outstanding balance of approximately \$1.1 million. The lease was scheduled to expire in July 2011. The tenant used the building to operate a nightclub and paid monthly rent of \$6,500. Between August 24, 2009 and January 10, 2010, CIF received five (5) rent payments of \$6,500 each, for a total of \$32,500. However, the monthly mortgage payment to the bank was \$9,750; thus, the property resulted in cash outflow of \$3,250 each month. An appraisal was obtained for this property in December 2009 which reflected a market value of \$800,000. Based on the appraisal, the value of the property was \$300,000 less than the mortgage balance. Furthermore, because the previous owners did not pay property taxes for 2008 or 2009, the delinquent taxes on this building were in excess of \$50,000. CIF was not obligated on the loan to the bank and ceased making payments to the bank due to the adverse economics of continuing to hold the property. The last payment was made in November 2009. The bank notified the tenant in January to remit payment directly to the bank. The last rent payment received from the tenant was for January 2010. The bank foreclosed on the property in 2010.

Rents Received From YH America SC, LLC

CIF received a total of \$16,998 in rents from YH America SC LLC, in 2009 and 2010. YH America rented approximately 5% of a warehouse for storage of corporate records. The tenant vacated the property in February 2010. This warehouse has been vacant since February 2010. It has been offered for rent since 2009, but very little interest has been shown. The warehouse is in Anderson County, SC and was deeded to CIF in 2008 in lieu of foreclosure.

Insurance recovery represents proceeds received in 2011 from the insurance claim filed for vandalism to the warehouse in Anderson County, SC.

Return of funds held in trust for legal fees represents proceeds received from three different law firms that had received advance payments for legal services. The services were terminated in 2009 and the unused funds were returned to CIF.

Interest earned on bank accounts represents interest earned on cash held in money market accounts.

Discussion of Disbursement Activity

Fees paid to Receiver represent payments made to me for my services as Receiver. **\$137,000**

Legal fees and litigation costs paid include the following:

General Counsel for Receiver	\$ 48,815
Settlement of disputed claims	108,081
Ongoing Litigation	
Lawsuit in New Jersey (CIF claims against NJ entities and individuals for fraud and RICO)	77,683
Lawsuits in South Carolina (CIF claims against third parties for fraudulent foreclosure)	41,937
Lawsuit in South Carolina (legal malpractice claim against attorneys who represented CIF)	45,000
Collections from borrowers in default	
Collateral in South Carolina (Lake Keowee, SC)	17,383
Collateral in New Jersey (457 Carlton Road, Wyckoff, NJ)	3,841
Collateral in Oregon (5 acre rural residential lot, Columbia County, Oregon)	2,500
Bankruptcy costs	
Attorney fees and costs paid to monitor and represent CIF in NJ (LRI bankruptcies)	100,306
Attorney fees and costs paid for SD Trust, LLC Bankruptcy (Lake Keowee loans)	189,663
Attorney fees and costs paid for WE3 Company, Inc. Bankruptcy (Lake Keowee loans)	29,374
Attorney fees and costs paid for Cosimo, LLC Bankruptcy	8,654
Closing costs related to sale of properties	
Midland Raceway Dragstrip 85 Acres	960
SC Textile Rehabilitation Tax Credits Sale	3,615
Other legal fees and litigation related costs	8,250
Class action expert witness fees (Durant - Note: costs incurred prior to August 24, 2009)	8,820
Total legal fees and litigation costs	<u>\$694,882</u>
(Note: Legal and litigation activities are discussed more fully in subsequent pages.)	

Appraisal and other professional fees consist of the following:

Appraisal fees	\$ 8,080
Accounting fees - income tax return preparation for Cosimo, LLC	2,931
Total appraisal and other professional fees	<u>\$11,011</u>

Property taxes consist of property taxes paid on the various properties owned by CIF. **\$83,045**

Other property related expenditures consist of the following:

Mortgage payment to bank (<i>restaurant building, 610 Congaree Road Greenville, SC</i>)	\$29,261
Insurance expense (<i>warehouse in Anderson, SC and restaurant building in Greenville, SC</i>)	6,196
Utilities on rental properties (<i>warehouse in Anderson, SC</i>)	5,188
Repairs to properties (<i>various properties</i>)	2,683
Rent (<i>settlement past due amounts-old office in Easley, SC</i>)	3,000
Total other property related expenditures	<u>\$46,328</u>

General and administrative expenditures consist of the following:

Fees paid for bookkeeping and administrative support	\$47,496
Class mailing costs	5,756
Travel costs and other out of pocket expenses	4,106
Total general and administrative expenditures	<u>\$57,358</u>

Settlement payment represents a payment made as required under the Mediated Global Settlement Agreement. \$25,000

2. Discussion of Legal and Litigation Activities

This Receivership has been fraught with complex legal matters stemming from a multitude of unconventional, unorthodox, and questionable business dealings and practices. Legal and litigation activities have consumed the majority of my time as Receiver. My previous reports to the Noteholders provided detail discussions of various legal matters and described some details of facts and circumstances, illustrating material deficiencies and dereliction of management. The statements contained in my report are based upon investigation and are made upon information and belief. The determination of the ultimate facts will, of course, be made by the appropriate courts or other entities with legal jurisdiction. This report provides a general overview of the more significant legal and litigation matters encountered.

The various legal and litigation matters are grouped for discussion as follows:

- Civil Litigation and Bankruptcies in New Jersey
- Civil Litigation and Bankruptcies in South Carolina
- Other Legal Matters

Civil Litigation and Bankruptcies in New Jersey

These matters involve: (a) a civil lawsuit filed against Lancaster Resources, Inc. its subsidiaries (collectively "LRI") and certain related parties, and (b) related bankruptcy filings. LRI borrowed in excess of \$34 million from CIF over the course of seven years, having paid back all but \$18 million at the time it defaulted on its loans in 2008. CIF filed a lawsuit in federal court in New Jersey against LRI in 2008 alleging, among other charges, that LRI and its managers fraudulently recorded releases on CIF's mortgages. In 2009, LRI, most of its subsidiaries, and one of its principals filed for protection under federal bankruptcy laws. As a result of the bankruptcy filings, the civil lawsuit was "stayed" while the federal bankruptcy matter was active. Over the course of the bankruptcies, all of the real estate holdings of LRI and its subsidiaries have been lost through foreclosure actions instigated by first mortgage holders. The bankrupt entities are now in the final stages of liquidation. Having followed the activities in bankruptcy from 2009 through 2011, CIF does not expect to receive any cash payments or non-cash assets from LRI or its subsidiaries from their liquidations.

In November 2011, CIF (a) filed a motion in Bankruptcy Court to lift the restrictions and allow the civil lawsuit to move forward against LRI's principals and subsidiaries that were not in bankruptcy, and (b) filed an amended lawsuit, which expanded and included more specific claims, including a claim under the Racketeer Influenced and Corrupt Organization Act ("*RICO*"). A hearing to review the motion is expected to be scheduled for March 2012.

From August 24, 2009 through December 31, 2010, attorney fees paid in connection with these civil litigation and bankruptcy matters in New Jersey totaled \$177,989, including \$77,683 in attorney fees and costs related to the civil lawsuit and \$100,306 related to the bankruptcies.

Civil Litigation and Bankruptcies in South Carolina

These matters involve collection matters, three bankruptcy filings, and two related civil lawsuits filed, all related to "Four Related Entities".

In my Report to Noteholders dated January 26, 2011, a detailed discussion of legal and litigation matters is presented under the caption "Focus on Four Related Entities" (*see pages 3 through 8 of the January 26, 2011 Report*). The discussion centered on SD Trust, LLC, WE3 Company, Inc., Big Deal Land Company, LLC, and Rolling Hills Land Co., LLC (*collectively, "Four Entities"*), related by common ownership. Two principals owned 100% of two of the entities and more than 50% of the others. Between 2004 and 2007, the Four Entities collectively borrowed \$7.6 million from CIF (*through Cosimo, LLC*) and paid CIF (*through Cosimo, LLC*) \$1.4 million in principal and \$1.1 million in interest. The funds were borrowed to acquire and develop lakefront properties on Lake Keowee, SC and Lake Hartwell, GA (*individually "Project" and collectively the "Projects"*). As of December 31, 2011, the Four Entities owed CIF a combined total in excess of \$10 million, including over \$4 million of unpaid interest.

As discussed in my Report to Noteholders dated January 26, 2011, foreclosure actions and other litigation against CIF interests in 2010 prompted me to file for protection under Chapter 11 of the U.S. Bankruptcy laws for SD Trust (*April 2010*) and WE3 Company (*January 2011*). The decisions to file for bankruptcy protection were driven by the belief that SD Trust and WE3 could reorganize the Projects in ways that would pay secured and unsecured creditors (*including CIF*) substantially more than if the entities simply liquidated as a result of the litigation.

During 2010 and 2011, substantial time and resources were committed and expended in efforts to investigate, protect and salvage the Projects. Unfortunately, the complexities and irregularities encountered were overwhelming. Books and records were nonexistent. The Projects were found to be replete with violations of legal requirements and practical development problems, which I have concluded were the result of persistent material deficiencies and dereliction of management. Depositions were taken of the four principals, the attorney for the companies, Scott Pfeiffer, the first mortgage lender and his controller, and several other interested parties. The depositions and other investigative efforts revealed a pattern of irregular, deficient, and unscrupulous business practices, which were the root cause of the substantial dissipation of loan proceeds, compromise of the collateral, and erosion of the values of the Projects and Four Entities – to the direct detriment of CIF and others.

By the end of 2010, several third party real estate developers had been contacted and asked to provide proposals for purchasing and redeveloping the Projects. Those that responded expressed interest at values much lower than originally anticipated and significantly lower than the first mortgage balance, primarily because the conditions of the Projects were so much worse than originally expected and the underlying problems were so pervasive. The developers reported that their proposals had to factor in substantial costs for corrective measures and unknown contingencies. The end result was that no proposals were received that would result in any recovery of value to CIF. Consequently, it became clear that it was no longer economically feasible to continue efforts to resurrect the Projects.

After spending fourteen months, from April 2010 through July 2011, researching, investigating, and working towards a plan that would benefit CIF, a decision was made to cease the development efforts and to terminate the SD Trust and WE3 bankruptcies. In August 2011, the WE3 Company bankruptcy was dismissed and the SD Trust bankruptcy was converted to a Chapter 7 Bankruptcy (*liquidation through a Bankruptcy Trustee*). Over the fourteen month period, attorney fees paid in connection with the original collection actions and investigations and subsequent bankruptcy matters totaled \$236,420, including \$17,383 in attorney fees and costs related to collection actions and investigations and \$219,037 in attorney fees and costs related to the bankruptcies.

On a related but separate front, CIF and Cosimo, LLC (*Cosimo became a wholly owned subsidiary of CIF in July 2009*) had a foreclosure action filed against them in December 2010 by LOP Capital, LLC ("*LOP*"). My previous Report to Noteholders discussed the LOP matter in much detail. The following is an overview of the case.

In 2007, Cosimo loaned Rolling Hills Land Co., LLC (*one of the Four Entities*) over \$1 million. Cosimo's loan was secured by a mortgage on 63 acres of lake property owned by Rolling Hills, the property being located in Georgia on Lake Hartwell. In 2008, LOP, a newly formed unrelated party, loaned Rolling Hills \$1.337 million in a series of three loans, each of which were secured by a mortgage on the same property. Cosimo subordinated its mortgage to the first loan from LOP. Rolling Hills defaulted on its loans in 2008. In 2009, LOP obtained a Georgia judgment against Rolling Hills in the amount of \$1.536 million. Through subsequent legal proceedings, LOP obtained the property from Rolling Hills as partial payment on the Georgia judgment. LOP then claimed that, because the property was valued at \$1.384 million, the foreclosure action left LOP with a deficiency (*unpaid balance*) of \$152,143 on the Georgia judgment against Rolling Hills.

In December 2010, in an attempt to recover the deficiency on the Georgia judgment against Rolling Hills, LOP filed a foreclosure action against CIF and Cosimo. Attempting to foreclose on Cosimo's 40 acre parcel of land located on I-85 in Spartanburg County, SC, LOP asserted that Cosimo had assigned to LOP a mortgage on the Spartanburg property. To stay that action and for other reasons, in May 2011, Cosimo filed for protection under Chapter 11 of the U.S. Bankruptcy laws. While the bankruptcy stayed the foreclosure action temporarily, several months later the stay was lifted and the foreclosure action was remanded back to state court in October 2011. Accordingly, a decision was made to terminate the Cosimo bankruptcy, which was dismissed in September 2011.

In preparation for the LOP state court foreclosure hearing, in-depth investigation of the relevant facts revealed a bizarre series of events surrounding the LOP loans and its subsequent actions. The investigation also revealed a series of interrelated dealings and money transfers between the Four Entities, its principals and agents, and other parties. The foreclosure hearing was held in October, 2011, and was dismissed because of a technical oversight by LOP's counsel. However, LOP filed a new foreclosure action in state court against CIF and Cosimo in December 2011. CIF then filed notices to move the litigation to U.S. District Court in Greenville, SC. CIF and Cosimo also filed a separate lawsuit against LOP in U.S. District Court in Greenville, SC in December 2011. This separate lawsuit asserts claims against LOP and its principals and affiliates for fraud, conspiracy, and other unscrupulous actions. On January 9, 2012, CIF filed a motion to consolidate the two cases. These matters are expected to be prosecuted in 2012.

From December 2010 through December 31, 2011, attorney fees paid in connection with the Cosimo Bankruptcy and the LOP civil litigation totaled \$50,591, including \$41,937 in attorney fees and costs related to the civil lawsuit and \$8,654 related to the bankruptcy. The Spartanburg property that LOP is trying to foreclose is valued at \$500,000.

Other Legal Matters

Malpractice Lawsuit Against Pfeiffer Gantt & Gleaton, P.A. and Scott Pfeiffer Individually

In May 2011, CIF engaged attorneys to evaluate potential claims of malpractice by certain professionals including attorneys that had represented CIF since 2000. Upon advice from counsel, CIF formulated plans to pursue vigorous prosecution of these potential claims. In November 2011, CIF filed a lawsuit in Greenville, SC against Pfeiffer Gantt & Gleaton, P.A. and Scott Pfeiffer individually for claims of legal malpractice in connection with services provided regarding CIF's sale of securities to Noteholders. As of December 31, 2011, attorney fees paid in connection with this matter totaled \$45,000.

Other Potential Claims of Conspiracy, Fraud and Illegal Torts

Facts and information revealed through the various investigations give rise to a multitude of potential claims against numerous parties including the Four Entities and their principals, agents, affiliates, vendors, investors, and lenders. Additionally, similar factual patterns of management appear in loans to other entities, which may not be related to the Four Entities. Upon advice from counsel, CIF is formulating plans to pursue vigorous prosecution of these potential claims against borrowers, principals, agents, affiliates, vendors, investors, lenders and others.

Other Legal Activities

In 2009 and 2010, CIF was involved in several continuing legal matters that were not of direct benefit to CIF, including motions filed by Arthur Field in connection with subpoenas issued by the South Carolina Attorney General and a lawsuit filed by Arthur Field in federal court in 2009 against the State of South Carolina Attorney General and several employees of the Attorney General's Office. The matters were adjudicated without any material consequence to CIF.

General Reservation Related to Litigation. CIF's involvement in any litigation is based on legal counsels' and my understanding and assessment of relevant facts, the magnitude of the claims, and the application of legal and equitable principles. In every case, we have concluded that there is a reasonable expectation that continuation of the lawsuit will result in recoveries to CIF in excess of costs incurred. Those expectations will be monitored, reviewed, and evaluated as the cases progress, events occur, and expenditures for fees and costs are made each month. If in any case our expectations deteriorate to an unacceptable level, CIF will make every reasonable effort to promptly conclude the case. Otherwise, we will continue our efforts to vigorously pursue CIF's claims. However, in these cases as in any litigation, there are no assurances of an outcome favorable to CIF.

3. Discussion of CIF's Non-cash Assets: Customer Loans and Real Estate Properties

Overview

CIF's non-cash assets as of December 31, 2011, consist primarily of a conglomeration of 22 real estate mortgage loans to customers and several real estate properties acquired through customer loan defaults and foreclosures. The real estate mortgage loans and the real estate properties held by CIF are discussed in more detail below.

Real Estate Mortgage Loans To Customers

Real estate mortgage loans to customers consist of 22 loans with loan balances totaling approximately \$32 million.¹ Each of the mortgage loans has real estate pledged as collateral. Real estate properties pledged as collateral are located in South Carolina, New Jersey, and Oregon.

Two of the mortgage loans are in good standing. Those loans and their respective outstanding balances as of December 31, 2011 are summarized as follows:

<u>Borrower</u>	<u>Outstanding Balances</u>
Trazom, LLC	\$ 994,237
Sabillion	9,800
Total	<u>\$1,004,037</u>

As discussed on page 5, the Trazom loan is current. As discussed on page 6, the Sabillion loan is 120 days past due. Sabillion's October 2011 payment was received on January 4, 2012. Mr. Sabillion has a history of falling behind and catching up. Full payment is expected to be received by 2014. Both of these loans are secured by real estate, the values of which are believed to be higher than the outstanding balances.

The remaining 20 loans are all in default. The following is a summary of those loans and their respective outstanding principal balances as of December 31, 2011.²

<u>Borrower</u>	<u>Outstanding Balance</u>
Lancaster Resources, Inc.	\$17,057,623
Lancaster Mortgage Bankers, LLC	891,454
Lion Financial, LLC	2,486,595
SD Trust, LLC	2,051,155
WE3 Company, Inc.	2,671,200
Big Deal Land Company, LLC	500,000
Rolling Hills Land Co., LLC	932,100
Tcholok, LLC	2,500,000
12 Others less than \$1 million each	<u>1,882,001</u>
Totals	<u>\$30,972,128</u>

The liquidation value of these 22 loans as of December 31, 2010 is estimated to be \$677,000 for an immediate liquidation and \$2,173,000 for an orderly liquidation; both are enumerated further in Schedule 1 - Schedule of Identifiable Assets and Interim Estimates of Values presented at the end of this Report. These loans are briefly described below.

¹ Outstanding principal balances do not include any unpaid accrued interest charges.

² Outstanding principal balances do not include any unpaid accrued interest charges.

Lancaster Resources, Inc. ("LRI") – See discussion under Civil Litigation and Bankruptcies in New Jersey on page 8.

Lancaster Mortgage Bankers, LLC ("LMB") – LMB was a mortgage loan broker firm, which provided mortgage lending services to commercial and residential borrowers. It also traded multi-million dollar loan portfolios to mortgage investors. LMB filed for Chapter 7 Bankruptcy (liquidation) in August 2007 and was liquidated. LMB does not own any assets.

Lion Financial, LLC ("Lion") - See discussion under Payments received on loans that are in default on page 6.

SD Trust, LLC ("ST Trust") – See discussion under Civil Litigation and Bankruptcies in South Carolina on pages 9 and 10.

WE3 Company, Inc. ("WE3") – See discussion under Civil Litigation and Bankruptcies in South Carolina on pages 9 and 10.

Big Deal Land Company, LLC – See discussion under Civil Litigation and Bankruptcies in South Carolina on pages 9 and 10.

Rolling Hills Land Co., LLC ("Rolling Hills") – See discussion under Civil Litigation and Bankruptcies in South Carolina on pages 9 and 10.

Tcholak, LLC ("Tcholak") – Tcholak is owned by an unrelated person. In 2005, Tcholak borrowed approximately \$2.5 million to fund the purchase and development of several properties in Washington State and Oregon. CIF's mortgage loans were subordinate to bank mortgages. Tcholak defaulted on the bank mortgages and CIF's mortgages. In 2009, banks foreclosed on all but one property. The remaining parcel pledged as collateral is one 5 acre parcel in rural Columbia County, Oregon. CIF has a first mortgage position on this parcel. In 2008, an adjoining property owner filed a lawsuit challenging an easement related to the property. The lawsuit was settled in 2010 at no cost to CIF, while leaving a reasonable easement in place. Since then, an attorney has been engaged to foreclose on this parcel. The liquidation value of this property is estimated to be between \$40,000 and \$50,000. Tcholak does not have any other assets available for recovery.

12 Other loans less than \$1 million each – The following is a summary of other loans less than \$1 million each and their respective outstanding principal balances as of December 31, 2011.³

<u>Borrower</u>	<u>Outstanding Balance</u>
Cornerstone Printing, Inc.	\$ 333,378
Midland Raceway Dragstrip	150,000
Calvary Asset Management, LLC	305,779
39 Union Square, LLC	290,000
Earthartist Mountain Studio, LLC	527,500
7 loans each less than \$140,000	275,344
Totals	<u>\$1,882,001</u>

³ Outstanding principal balances do not include any unpaid accrued interest charges.

The following is a brief discussion of other loans less than \$1 million each:

Cornerstone Printing, Inc. - See discussion under Payments received on loans that are in default on page 5.

Midland Raceway Dragstrip - See discussion under Payments received from sale of properties on pages 3 and 4.

Calvary Asset Management, LLC ("Calvary") - CIF holds an interest in a residential house located in Wyckoff, New Jersey. CIF originally acquired the property by assignment of LRI's foreclosure rights against the borrower. CIF took title to the property in 2008 and subsequently sold the property to Calvary under a contract for sale, receiving only a promise to pay. At the time of the foreclosure, the house was in disrepair. Because the property was located in affluent residential section, Calvary entered a joint venture arrangement with a builder who demolished the old house and constructed a new house on the site. The new house has been for sale at a price of \$2.5 million since 2010. However, current economic conditions have hindered the marketability of the house. CIF should receive its loan balance, interest, and a share of the profits no later than when the property is sold.

39 Union Square, LLC - CIF purchased a condominium located in Newark, New Jersey from 39 Union Square, LLC, a subsidiary of LRI. CIF remitted full payment in the amount of \$290,000 in 2008, but never received a deed. In or about 2009, CIF obtained title through legal process. However, a bank also held a security interest in the condominium. CIF and the bank have disputed each other's claim of priority of the security interests. In December 2010, the condominium was sold to an unrelated third party. The bank's mortgage balance was deducted from the net proceeds from the sale. The remaining balance of approximately \$94,000 was deposited into an escrow account pending a resolution to the dispute between CIF and the bank.

Earthartist Mountain Studio, LLC ("Earthartist") - Earthartist is owned by an unrelated person. Earthartist borrowed \$527,500 in 2002 to fund the purchase and re-development of a 500,000 square foot five story textile mill in Seneca, SC. The mill had been shut down for more than a year prior to the purchase. The initial plans were for Earthartist to convert the property to a movie studio. The conversion required removing the four wooden floors thereby creating a spacious studio under a roof. Prior to the purchase, Clemson University acknowledged its intent to a joint project with Earthartist, but later withdrew because of budget cuts. Earthartist completed the purchase in 2002 without the support of Clemson. CIF (through Cosimo) financed 100% of the purchase. The loan was a one year note, due in full in May 2003. Earthartist began the conversion of the facility in 2002, but was unable to pay the loan at maturity. Nevertheless, it continued the conversion efforts through 2008. The costs of conversion were funded primarily by removing the heart pine wood flooring and selling it to residential builders in the Lake Keowee area. Proceeds from the sale of flooring were also used to pay interest on the mortgage loan. From 2002 through July 2008, Earthartist paid CIF (through Cosimo) regular monthly payments of interest, initially at a rate of 10%, then increasing to 14% in 2003. Those payments of interest totaled \$436,372. Because of the economic downturn in 2008, residential construction on Lake Keowee came to a standstill, and sales of the flooring ceased. As of this date, it is estimated that about 20% of the flooring remains intact. The conversion work was never completed. During the construction process, the owner retrofitted part of the facility to be a residential apartment, which is where he resided for at least four years.

Earthartist has been in default since 2003. CIF has a first mortgage position on this parcel and the personal guaranty of the owner. Earthartist is not known to have any other assets of value that would be available for recovery. An attorney has been engaged to foreclose on this parcel and to collect under the guaranty. The liquidation value of this loan (*including the guaranty of the owner*) is estimated to be between \$150,000 and \$400,000.

7 loans each less than \$140,000 – These real estate mortgage loans were made to different unrelated borrowers. The loans were secured by mortgages on real estate properties located in South Carolina. All of these loans are in default. One of the properties is subject to a foreclosure action by a bank which claims its mortgage is ahead of CIF's mortgage. CIF has filed a motion in opposition to the bank's claim. The values of the properties securing the loans are not expected to be significant. Efforts will be made to collect the loans in full or foreclose on the properties until such time as it is determined that the amounts to be recovered are not expected to cover the costs of collections.

Real Estate Properties Owned by CIF

The real estate properties owned by CIF are all held debt free. The properties were acquired primarily by voluntary transfers (*deeds in lieu of foreclosure*) from borrowers whose loans were in default. All of these transfers took place prior to August 2009. The properties owned are located in South Carolina and New York. The properties owned by CIF vary from vacant land ready to sell to untenable dilapidated houses in disrepair. Efforts have been focused on investigating and evaluating each property, making improvements and repairs where economically justified, and marketing and selling properties for values deemed appropriate, with due consideration of the physical conditions and histories of the properties and economic conditions of the market place.

The following is a list of real properties identified as being owned by CIF (*or its affiliates*) as of December 31, 2011:

<u>Location</u>	<u>Description</u>	<u>Status</u>
Anderson County, SC	65,000 square foot warehouse	vacant
Anderson County, SC	House–dilapidated	vacant
Laurens County, SC	Residential lot	vacant
Oconee County, SC	Residential lake lot (25% interest)	vacant
Pickens County, SC	House–dilapidated	vacant
Spartanburg County, SC	Commercial land–40 acres on I-85	vacant
Saratoga County, NY	Residential land–90 acres	vacant

Except as noted, these properties have been listed for sale with real estate brokers. Discussions of the more significant properties and related events follow.

65,000 Square Foot Warehouse in Anderson County, SC – This warehouse has been vacant since February 2010. The property is generally in good condition, except the building was vandalized in late 2010 and much of the electrical wiring was stolen. Police reports and insurance claims were filed. The property has been listed with a real estate broker and has been shown only a few times. The asking price was originally set at \$900,000, but the broker received no inquiries at that price. In early 2010, the price was reduced to an asking price of \$600,000. The broker has received a few inquiries and a verbal offer to purchase the property at \$350,000, which was not accepted. Based on the present commercial real estate market, the asking price has been reduced to \$450,000, based on the advice of the listing broker.

House-Dilapidated in Anderson County, SC – This property consists of a dilapidated house sitting on a small residential lot. The property is located in a low income area. The house is not habitable as it has irreversible structural defects and is only fit for demolition. The property is currently under contract for sale at a price of \$3,500 and closing is scheduled to occur in February 2012.

Residential lot in Laurens County, SC – This property consists of a small residential lot located in a low income area. The property is currently listed for sale with an asking price of \$5,000. CIF sold a similar lot on the same street in 2011 for \$5,000. I anticipate this lot will be sold in 2012.

Residential lake lot (25% interest) in Oconee County, SC – CIF holds a 25% ownership interest in a lake front lot on Lake Keowee South Carolina. The lot has limited access to water and dockage. The 75% owner is an unrelated third party. The lot is listed for sale at a price of \$200,000. The 75% owner has indicated he has received only a few inquiries about the lot. I will continue to monitor this property and make adjustments to the asking price in the future if deemed appropriate.

House-Dilapidated in Pickens County, SC – This property has major structural defects including broken floor joists, sagging and leaking roof, and electrical deficiencies. The property was cleaned out and is listed for sale “as is”. Currently, the asking price is listed at \$19,000. The real estate broker has received only a few inquiries about this property. I have discussed with the broker auctioning the property. I will continue to monitor this property and make adjustments to the asking price as appropriate.

Commercial land-40 acres on I-85 in Spartanburg, SC – This property is subject to a lawsuit filed against CIF by LOP Capital, LLC as described under Civil Litigation and Bankruptcies In South Carolina on page 10 above. The property consists of approximately 40 acres of undeveloped land located on the interchange of Interstate I-85 and Highway 221 in Spartanburg County, SC. The property has highway visibility, as do the adjacent properties owned by unrelated third parties. The previous owners purchased the property in 2002 for \$440,000, borrowing the funds from CIF to finance the purchase. After the purchase, one of the principals died. Soon after, being unable to repay CIF, the property was deeded back to CIF in lieu of foreclosure. The property has been listed for sale with a commercial real estate broker. The asking price is \$600,000.

In December 2010, one of the adjacent unrelated property owners offered to purchase a portion of the property. After some negotiations, a contract was signed to sell 10 of the 40 acres for \$125,000. The sale was originally scheduled to close by the end of February 2011, but was delayed pending the outcome of the litigation discussed above. The contract has been extended to August 31, 2012.

Residential land-90 acres in Saratoga County, NY – This property consists of five (5) separate parcels of undeveloped land totaling 90 acres located in a rural area in Saratoga County, NY. Four of the parcels are contiguous to each other and the fifth parcel is located within a mile of the others. The previous owner purchased the property in 2004 for \$600,000, borrowing the funds from CIF to finance the purchase. The borrower defaulted on the loans in 2008. Being unable to repay CIF, the property was deeded back to CIF in lieu of foreclosure in 2008. The property had been listed for sale with a commercial real estate broker at a total price of \$300,000. With very little signs of improvements in the economy and the real estate market in Saratoga, NY, the current asking price was reduced to \$269,000 in 2011, based on the advice of the listing broker.

Estimation of Potential Value of Loans and Properties

As of this date, the most significant assets of CIF (*and its subsidiaries*) consist of real estate mortgage loans to customers and real estate properties acquired through customer loan defaults and foreclosures. Accompanying this report is Schedule 1 – Schedule of Identifiable Assets and Interim Estimates of Values, which reflects estimates of liquidation values of these assets. The following is a summary of the information provided in that schedule:

	Immediate Liquidation Value	Orderly Liquidation Value
Mortgage Loans Secured By Real Estate		
South Carolina properties	\$ 677,000	\$1,803,000
Georgia properties	-	-
New Jersey properties	-	330,000
Washington properties	-	-
Oregon property	-	40,000
Total Mortgage Loans Secured By Real Estate	<u>\$ 677,000</u>	<u>\$2,173,000</u>
Real Estate		
South Carolina properties	\$ 269,000	955,000
New York properties	50,000	250,000
Total properties owned	<u>\$ 319,000</u>	<u>\$1,205,000</u>
Combined totals	<u>\$ 996,000</u>	<u>\$3,378,000</u>

It is important to know these values are estimates. The actual amounts ultimately realized will differ from the estimates and the differences may be significant. It is equally important to know that these values represent estimated gross proceeds to be realized upon sale and liquidation of assets. Operating expenses, legal fees, and Receiver fees will all be paid from such gross proceeds, and only the residual amounts after payments of such expenses will be available for distribution to Noteholders.

Value of Other Assets Not Reported

CIF has other assets of value, including claims and potential claims against third parties. The values of some of these assets may be significant in comparison to loan and real estate property values. However, measurement of such values is subjective and too speculative to assess at this time. Furthermore, to the extent such claims or potential claims involve litigation or pre-litigation negotiations, reporting on the values of such claims could have a detrimental impact on efforts to recover value from those claims. Accordingly, because of the nature of the claims and litigation processes that may be employed to prosecute such claims, disclosure of values will generally be made only when the claims are realized or settled.

Approach and Expectations For the Coming Months

My approach as Receiver for CIF in 2012 will be with the following priorities: (1) focusing on litigation by identifying, evaluating claims against third parties and, where appropriate, prosecuting the claims; (2) pursuing collection and foreclosure actions on the remaining loans; and (3) investigating alternative methods to sell the real estate properties.

Based on these and other factors, I do not anticipate collecting enough funds (*through the sale of properties or otherwise*) in 2012 to warrant cash payments to the Noteholders this year. On the other hand, any number of items could turn for the better:

- Litigation matters could be successful and result in large cash payments to CIF;
- Several of the large parcels could be sold at or near the current asking prices;
- The Trazom loan could be paid in full.

If any of those or similarly material and positive events occurs, we would have enough cash to warrant distributions to the Noteholders within that time period.

In the meantime, I appreciate the opportunity to serve.

Sincerely,

A handwritten signature in black ink, appearing to read "JTS", with a stylized flourish at the end.

Jerry T. Saad, CPA
As Court Appointed Receiver for
Capital Investment Funding, LLC

Capital Investment Funding, LLC (and subsidiaries)
Schedule 1 – Schedule of Identifiable Assets and Interim Estimates of Values
As of December 31, 2011

Part 1 - Collateral Properties Pledged On Mortgage Loans Receivables

Loan Reference	Collateral Property Description	Immediate Liquidation Value	Orderly Liquidation Value
<u>Collateral Properties Located In South Carolina</u>			
Trazom, LLC (See Note 1)	Warehouse Anderson SC (18 acres)	300,000	994,000
Sabillion (See Note 1)	104 5th Street Fountain Inn SC - house and lot	2,000	9,000
SD Trust, LLC	112 acres Sweetwater Subdivision Lake Keowee SC	-	-
WE3 Company, Inc.	70 acres Waters Edge Subdivision Lake Keowee SC	-	-
WE3 Company, Inc./Asante Properties, LLC	20 acres Waters Edge Subdivision Lake Keowee SC	-	-
Big Deal Land Co., LLC	14 Boat Docks	-	-
Cornerstone Commercial Properties, LLC	Warehouse Greenville SC	125,000	250,000
EarthArtist Mountain Studio, LLC	Cotton Mill Warehouse, Seneca, SC (27 acres)	150,000	400,000
Midway Raceway Dragstrip	85 acres drag strip racetrack, Greeleyville, SC	100,000	150,000
Total Properties Located In South Carolina		677,000	1,803,000
<u>Collateral Properties Located In Georgia</u>			
Rolling Hills Land Co., LLC & Big Deal Land Company, LLC	No longer secured - property lost in foreclosure	-	-
<u>Collateral Properties Located In New Jersey</u>			
Lancaster Resources Inc. et al	Skymark Condominiums, 48 units under construction, Pallisades NJ; Skymark Townhomes, 36 units under construction, Upper Saddle River NJ; Office building, estimated 7,000 square feet, Hackensack NJ; and Undeveloped land, 36 acres, Highway 46 Newark NJ	-	-
39 Union Square, LLC	39 Union Square Condominium, Unit 109, Newark NJ sold in 2010; net proceeds from sale held in closing attorneys' trust pending settlement of dispute between CIF and bank claiming priority liens	-	30,000
Calvary Asset Management LLC	Contract for Sale-457 Carlton Road Wyckoff NJ	-	300,000
Total Properties Located In New Jersey		-	330,000
<u>Collateral Properties Located In Washington State</u>			
Tcholok, LLC & Big Deal Land Company, LLC	No longer secured - property lost in foreclosure	-	-
<u>Collateral Property Located In Oregon</u>			
Tcholok, LLC & Big Deal Land Company, LLC	5 acre residential lot, rural Columbia County Oregon	-	40,000
Total Collateral Properties Pledged On Mortgage Loans Receivables		677,000	2,173,000

Note 1: These loans are not in default.

Capital Investment Funding, LLC (and subsidiaries)
Schedule 1 – Schedule of Identifiable Assets and Interim Estimates of Values
As of December 31, 2011

Part 2 - Real Estate Properties Owned By CIF

Property Location	Property Description	Immediate Liquidation Value	Orderly Liquidation Value
<u>South Carolina Properties</u>			
<u>Anderson County</u>			
5115 Old Greenville Hwy-Liberty	65,000 square foot warehouse	250,000	400,000
1 Hawthorne Street, Honea Path	Lot and dilapidated house	2,000	5,000
<u>Laurens County</u>			
112 Chavis Road, Gray Court	Golden Gate Estate Subdivision	2,000	5,000
<u>Oconee County</u>			
Keowee Key, Unit 16 Lot 21 (25% interest)	Empty lot	10,000	30,000
<u>Pickens County</u>			
806 Saluda Dam Rd	Lot and dilapidated house	5,000	15,000
<u>Spartanburg County</u>			
I-85 and Highway 221	40.5 acres vacant commercial property	-	500,000
Total Properties Located In South Carolina		269,000	955,000

New York Property

Saratoga Springs, NY

90 acres in Saratoga County

50,000	250,000

Total Real Estate Properties Owned By CIF

319,000	1,205,000

Recap of Part 1 and Part 2

Total Collateral Properties Pledged On Mortgage Loans Receivables

677,000 2,173,000

Total Real Estate Properties Owned By CIF

319,000 1,205,000

Total Properties

996,000	3,378,000

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

William F. Tomz and Frances W. Tomz,
Individually and as Class Representatives,

Plaintiff,

vs.

Capital Investment Funding, L.L.C. and
Arthur M. Field,

Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
C/A NO. 2008-CP-23-3665

2017 MAR -8 PM 3:48

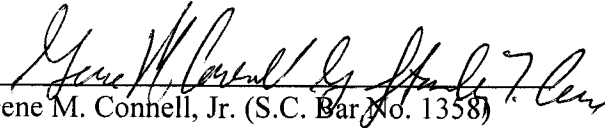
FILED-CLERK OF COURT
PAUL B. WICKENSIMER
GREENVILLE CO. SC

NOTICE OF MOTION AND MOTION
TO APPROVE CLASS SETTLEMENT

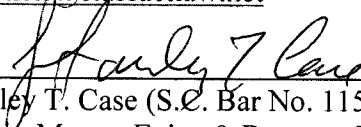
YOU WILL PLEASE TAKE NOTICE that the Plaintiff Class, through its Class Counsel shall move the Court to approve a settlement agreement between Arthur Field, Kathryn Tallon, Kirsten White, Allyson Field, Davyd Field and certain related companies and entities. Further, the Receiver will cause to be mailed the attached notice (Exhibit A) to all Class Members postage paid at their last known address.

WHEREFORE, Class Counsel requests the attached Settlement Agreement be approved by this Court.

Dated: March 2, 2017


Gene M. Connell, Jr. (S.C. Bar No. 1358)
Kelaher, Connell & Connor, P.C.
The Courtyard, Suite 209
1500 U. S. Highway 17 North
Post Office Drawer 14547
Surfside Beach, South Carolina 29587-4547
(843) 238-5648 (phone)
(843) 238-5050 (facsimile)
gconnell@classactlaw.net

Dated: March 2, 2017


Stanley T. Case (S.C. Bar No. 1158)
Butler, Means, Evins & Browne, P.A.
P. O. Box 451
Spartanburg, SC 29304
Phone: 864-582-5630
Fax: 864-585-2034
scase@butlermeans.com

Attorneys for Plaintiffs

ENTERED COMPUTER

EXHIBIT A

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
C/A NO. 2008-CP-23-3665

William F. Tomz and Frances W. Tomz,)
Individually and as Class Representatives,)

Plaintiff,)

vs.)

Capital Investment Funding, L.L.C. and)
Arthur M. Field,)

Defendants.)

NOTICE OF CLASS ACTION APPROVAL HEARING

YOU WILL PLEASE TAKE NOTICE that Class Counsel moves the Court for an Order approving a settlement agreement reached with Arthur Field, Kathryn Tallon, Kirsten White, Allyson Field, Davyd Field and certain related companies and entities.

The hearing to approve the settlement shall be on Friday, March 17, 2017 at 10:30 a.m. in the Greenville County Courthouse, Courtroom 4, 305 East North Street, Greenville, SC 29601. The complete settlement agreement is available for review by any Class Member upon request. Please contact Class Counsel at the addresses below:

Gene M. Connell, Jr., Esquire
Kelaher, Connell & Connor, P.C.
P. O. Drawer 14547
Surfside Beach, SC 29587
Phone: 843-238-5648
Fax: 843-238-5050
Email: gconnell@classactlaw.net

Stanley T. Case, Esquire
Butler, Means, Evins & Browne, P.A.
P. O. Box 451
Spartanburg, SC 29304
Phone: 864-582-5630
Fax: 864-585-2034
Email: scase@butlermeans.com

Please note, you do not have to attend to obtain your portion of the settlement. Also, no disbursements are being made at this time. You will be notified when any monies are to be paid out to the Class.

Dated: March 2, 2017

Gene M. Connell, Jr.
Kelaher, Connell & Connor, P.C.
The Courtyard, Suite 209
1500 U. S. Highway 17 North
Post Office Drawer 14547
Surfside Beach, South Carolina 29587-4547
Phone: 843-238-5648
Fax: 843-238-5050
Email: gconnell@classactlaw.net
Class Counsel

AND

Stanley T. Case
Butler, Means, Evins & Browne, P.A.
P. O. Box 451
Spartanburg, SC 29304
Phone: 864-582-5630
Fax: 864-585-2034
Email: scase@butlermeans.com
Class Counsel

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF Greenville13th JUDICIAL CIRCUIT

2017 MAR -8 PM 3:55

CASE NO.: 2008-CP-23-3665

William F. Tom2 and PAUL B. WICKENS
W. TOM2, Individually and as Co-Defendant
vs.
Capital Invest Funding LLC and
Arthur M. Field Defendant.

MOTION AND ORDER INFORMATION FORM AND COVERSHEET

Plaintiff's Attorney: <u>Stanley T. Case</u> , Bar No. <u>1158</u> Address: <u>234 North Church St. Spartanburg SC</u> Phone: <u>864-582-5630</u> Fax: <u>585-2034</u> E-mail: <u>scase@butlermeans.com</u> Other:		Defendant's Attorney: <u>Attorney for C.I.F.</u> <u>George Brandt</u> , Bar No. _____ Address: <u>Henry Street, Spartanburg, SC</u> Phone: _____ Fax: _____ E-mail: _____ Other:																			
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)		☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)																			
☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)		March 17, 2017 at 10:30																			
SECTION I: Hearing Information Nature of Motion: <u>Motion to Approve Class Settlement</u> Estimated Time Needed: <u>2 Hours</u> Court Reporter Needed: ☐ YES / ☐ NO																					
SECTION II: Motion/Order Type ☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order. <u>Stanley T. Case</u> Signature of Attorney for ☒ Plaintiff / ☐ Defendant Date submitted <u>March 8, 2017</u>																					
SECTION III: Motion Fee ☒ PAID - AMOUNT: \$ <u>25.00</u> ☐ EXEMPT: (check reason) <table border="0"> <tr> <td>☐ Rule to Show Cause in Child or Spousal Support</td> <td>☐ State Agency v. Indigent Party</td> </tr> <tr> <td>☐ Domestic Abuse or Abuse and Neglect</td> <td>☐ Post-Conviction Relief</td> </tr> <tr> <td>☐ Indigent Status</td> <td>☐ Motion for Execution (Rule 69, SCRCP)</td> </tr> <tr> <td>☐ Sexually Violent Predator Act</td> <td></td> </tr> <tr> <td>☐ Motion for Stay in Bankruptcy</td> <td></td> </tr> <tr> <td>☐ Motion for Publication</td> <td></td> </tr> <tr> <td>☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions</td> <td></td> </tr> <tr> <td colspan="2">Name of Court Reporter: _____</td> </tr> <tr> <td colspan="2">☐ Other: _____</td> </tr> </table>				☐ Rule to Show Cause in Child or Spousal Support	☐ State Agency v. Indigent Party	☐ Domestic Abuse or Abuse and Neglect	☐ Post-Conviction Relief	☐ Indigent Status	☐ Motion for Execution (Rule 69, SCRCP)	☐ Sexually Violent Predator Act		☐ Motion for Stay in Bankruptcy		☐ Motion for Publication		☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions		Name of Court Reporter: _____		☐ Other: _____	
☐ Rule to Show Cause in Child or Spousal Support	☐ State Agency v. Indigent Party																				
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☐ Motion for Stay in Bankruptcy																					
☐ Motion for Publication																					
☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions																					
Name of Court Reporter: _____																					
☐ Other: _____																					
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:		JUDGE CODE _____ Date: _____, 20__																			
CLERK'S VERIFICATION Collected by: <u>CJN</u> Date Filed: _____, 20__ ☐ MOTION FEE COLLECTED: \$ <u>25.00</u> ☐ CONTESTED - AMOUNT DUE: \$ _____																					

(Arthur Field is pro se for Settlement of Action filed by let March 17, 2017 at 10:30 Judge Edward Miller)

CK# 28524
Butler Means

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
William F. Tomz and Francis W.)
Tomz, Individually and as Class)
Representatives,)
Plaintiff,)
)
v.)
)
Capital Investment Funding,)
LLC and Arthur M. Field)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO. 2008-CP-23- 3665

**AFFIDAVIT OF MAILING
NOTICE OF CLASS ACTION
APPROVAL HEARING**

FILED-CLERK OF COURT
PAUL B. WICKENS
GREENVILLE CO. SC

2017 MAR -8 PM 3:48

I, Jerry Saad, being first duly sworn, say:

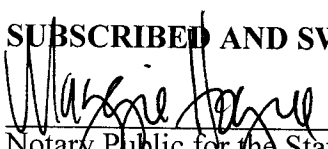
1. I am the duly appointed Receiver of Capital Investment Funding, LLC, pursuant to the August 24, 2009 Order of Judge Edward W. Miller in Tomz v. Capital Investment Funding, LLC, et al., Case No 2008-CP-23-5514 in the South Carolina Court of Common Pleas Thirteenth Judicial.
2. On March 3, 2017, pursuant to the order of Judge Edward W. Miller, I did cause to be mailed to each Class Member listed in the attached **Exhibit A** the **Notice of Class Action Approval Hearing** ("Notice" or "Notices"), a copy of which is attached hereto as **Exhibit B**.
3. The Notices were mailed to each Class Member using the addresses stated in **Exhibit A**, which reflects the last known address of each Class Member as of March 3, 2017.
4. Notices were placed in envelopes, with each envelope being affixed with sufficient first class postage and a label containing a Class Member's name and last known address as shown in **Exhibit A**, and being delivered to the United States Post Office located at 600 West Washington Street in Greenville, South Carolina at approximately 6:30 p.m. on March 3, 2017.
5. References to "Class Member" or "Class Members" herein include, where applicable, the duly appointed representatives of the same.

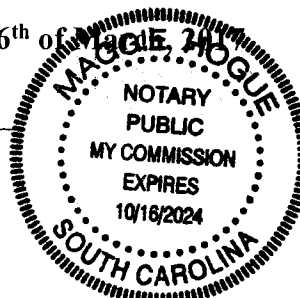
Further, affiant sayeth not.

Dated this 6th day of March, 2017.


Jerry Saad, Receiver for
Capital Investment Funding, LLC

SUBSCRIBED AND SWORN to before me this 6th of March, 2017.


Notary Public for the State of South Carolina
My commission expires on: 10 / 16 / 2024



ENTERED COMPUTER
Record p. 300

Exhibit A

Capital Investment Funding, LLC

A Notice of Class Action Approval Hearing

Was Mailed To Each Of The Following Class Members and Class Member Representatives
On March 3, 2017

#	First Name	Last Name	Ref	Address 1	Address 2	City	State	Zip Code
1	Hazel	Adams		1017 Sardis Rd		Union	SC	29379
2	Herbert	Adler		1009 Sea Horse Ct		N. Myrtle Beach	SC	29582
3	George	Ahrons		4561 Mandi Ave		Little River	SC	29566
4	Julius	Aiken, Jr.		410 Cherokee Drive		Greenville	SC	29615
5		Estate of Julius B. Aiken		410 Cherokee Drive		Greenville	SC	29615
6	Kenneth	Albright, Jr.		518 Allspice Lane		Myrtle Beach	SC	29579
7	Ann	Allen		19 Country Club Dr		Greer	SC	29651
8	Jimmy	Allsep		206 Knollview Rd		Central	SC	29630
9	Willimena	Allsep		206 Knoll View Rd		Central	SC	29630
10	Nancy	Anderson		215 Crescent Hill Rd		Pickens	SC	29671
11	Scott	Anderson		1335 Bud Arthur Bridge Rd		Cowpens	SC	29330
12		Angier Living Trust		c/o Elizabeth M. Angier	302 Lakeside Terrace	Greenville	SC	29615
13	William D.	Armstrong		P.O. Box 135		Gray Court	SC	29645
14	Arlie G.	Asay		456 Town Creek School Road		Pickens	SC	29671
15		Estate of Eula Asay		812 Trotter Rd		Pickens	SC	29671
16	Evelyn	Aughtman		105 Clairewood Ct		Greenville	SC	29615
17	Betty	Austin		137 Crystal Drive		Duncan	SC	29334
18	Edward L.	Austin		137 Crystal Drive		Duncan	SC	29334
19	Rodney	Austin		204 Bobo Rd		Wellford	SC	29385
20	Tom	Badger		17 Arbours West Lane		Moore	SC	29369
21		Sisters of St. Clare Monastery		FBO Sister Venita Baham	720 Clay Avenue	New Orleans	LA	70118
22	Melvin	Bailey		5 Horton Rd		Kingstree	SC	29556
23		Estate of Joseph Baker		c/o Connie Turner Hyatt	722 Kelly Road	Woodruff	SC	29388
24	Minnie	Baker		747 Hester Store Rd		Easley	SC	29640
25	George	Barna		3905 Lochview Dr		Myrtle Beach	SC	29588
26	Crafton	Barnett		301 Dill Rd		Landrum	SC	29356
27	John	Bartley		1610 Country Club Dr		High Point	NC	27262
28	Margaret	Barton		321 S. Glassy Mtn Rd		Landrum	SC	29356
29	Dennis	Bates		104 South Pointe Court		Moore	SC	29369
30		Estate of Grace Bayne		531 S. Bennetts Bridge Rd		Simpsonville	SC	29681
31	Lee	Beauregard		1309 Jonesville Rd		Simpsonville	SC	29681
32		Begley Family Rev. Trust		190 Gray Mans Loop		Pawleys Island	SC	29585
33	Johnny	Bell		200 Shirley Dr		Williamston	SC	29697
34	Wayne L.	Benjamin		215 Ridgecrest Drive		Easley	SC	29640
35	Wilma	Bergman		400 Yorkshire Dr		Greenville	SC	29615
36	Herman	Berry		127 Oakvale Rd		Greenville	SC	29611
37	Benjamin	Betsill, Jr.		430 S. Buckhorn Rd		Greenville	SC	29609
38	William	Beverly, Jr.		8 Live Oak Ave		Charleston	SC	29407
39	Eloise	Beverly		8 Live Oak Ave		Charleston	SC	29407
40	Jill	Bierwirth		807 Green Avenue		Greenville	SC	29605
41	Betty	Biscan		107 Videl Way		Simpsonville	SC	29681
42	William	Black		P.O. Box 716		Travelers Rest	SC	29690
43	Marie	Blankenship		5897 S Kings Hwy		Myrtle Beach	SC	29575
44	Dennis	Boehm		411 Layswood Drive		Greenville	SC	29615
45	Mary and Ralph	Boggess		111 Ella Drive		Easley	SC	29640
46	Richard	Bomar		502 Wemberly Ln		Simpsonville	SC	29681
47		Estate of John Boone		440 Georgia Dr.		Xenia	OH	45385
48	Lois	Boone		440 Georgia Dr.		Xenia	OH	45385
49	Doris	Bouren		115 Briarview Circle		Greenville	SC	29615
50		Estate of Hay Bradburn		c/o Vivian Bradburn, PR	201 Hart St.	Union	SC	29379
51	Edward	Breslin		9622 Indigo Creek Blvd		Murrells Inlet	SC	29576
52	Polly	Bridges		2170 Washington Rd		Spartanburg	SC	29302
53	Donald	Briggs		4151 Old Spartanburg Hwy		Moore	SC	29369
54	Bradford	Brinton		c/o Bradford T. Brinton	51 Ranchdale Crescent	Toronto	ON	M3A 2M1
55	Bradford	Brinton		c/o Bradford T. Brinton	51 Ranchdale Crescent	Toronto	ON	M3A 2M1
56	Marie	Brislin		209 King Charles Circle		Summerville	SC	29485
57	Timothy	Bromell		P.O. Box 22		Murrells Inlet	SC	29576
58	Clara L.	Brooks		77 Oak Grove Lake Rd		Greenville	SC	29615
59	Benjamin E.	Brooks		77 Oak Grove Lake Rd		Greenville	SC	29615
60	Harold	Brooks		77 Oak Grove Lake Rd		Greenville	SC	29615
61	Barbara	Brown		1050 New Farris Bridge Rd		Greenville	SC	29617
62	Charlie	Brown		325 McConnell Rd		Taylors	SC	29687
63	Estelle H.	Brown		4020 N. Hwy 101		Greer	SC	29651
64	Frankie	Brown		11 Lamont Lane		Greenville	SC	29611
65	H.D.	Brown		738 Hester Store Rd		Easley	SC	29640
66	Helen	Brown		325 McConnell Rd		Taylors	SC	29687
67		Estate of John C. Brown		225 Sweetbriar Way		Easley	SC	29640
68	Marjorie	Brown		325 McConnell Rd		Taylors	SC	29687
69	Mary Elizabeth	Brown		5212 Pogue St		Spartanburg	SC	29301
70	Talmdage L.	Brown		1484 Dover Road		Spartanburg	SC	29301
71	William	Brown		106 Forest Park Dr		Easley	SC	29642
72	John	Bruno		916 Tilghman Forest Dr		N. Myrtle Beach	SC	29582
73	Mary Ellen	Bryant		411 North Courtney Parkway, A-4		Merritt Island	FL	32953
74	David	Buchanan		4020 Blue Ridge Circle		Greer	SC	29651
75	David	Burgess		106 Porky Lane		Central	SC	29630
76	Pat	Burgess		5827 Reidville Road		Moore	SC	29369
77	James	Burgin		115 Azalea Court		Greenville	SC	29615

Exhibit A

Capital Investment Funding, LLC

A Notice of Class Action Approval Hearing

Was Mailed To Each Of The Following Class Members and Class Member Representatives
On March 3, 2017

#	First Name	Last Name	Ref	Address 1	Address 2	City	State	Zip Code
78	Olin	Burnett		322 Three Bridges Rd		Greenville	SC	29611
79	Charles	Abernethy	A	Estate of Charles T. Butler	1856 W. Windy Way	St. Johns	FL	32259
80	Leigh	Engkaninan	A	Estate of Charles T. Butler	2532 Zachary Woods Drive	Marietta	GA	30064
81	Suzanna	Wilcox	A	Estate of Charles T. Butler	PO Box 936	Granite Falls	NC	28630
82	Mildred H.	Byars		878 Picket Post Rd		Walhalla	SC	29691
83	Brent	Cain		159 Brookside Circle		Pickens	SC	29671
84	Elaine	Cain		159 Brookside Circle		Pickens	SC	29671
85	Leonard	Caldwell		100 Westside Court		Piedmont	SC	29673
86	Byrtie	Campbell		101551 Overseas Hwy #19		Key Largo	FL	33037
87	Lucille	Campbell		484 Gail Avenue		Greer	SC	29651
88	Robert	Campbell		108 Homestead Drive		Piedmont	SC	29673
89	Emilio	Campos		409 Longspur Ct		Duncan	SC	29334
90	Jeanette	Cantrell		1009 Dorothy St		Spartanburg	SC	29303
91	Tammy	Carithers Lee		517 Mapleton Dr		Greenville	SC	29607
92	William	Carithers		118 Tremont Ave		Greenville	SC	29605
93	John	Carpenter		P.O. Box 153		Williamston	SC	29697
94	Paula	Carpenter		P.O. Box 153		Williamston	SC	29697
95	James	Case		312 Spring Forest Dr		Simpsonville	SC	29681
96	Thomas	Cassell		902 Talley Bridge Rd		Cleveland	SC	29635
97	Thomas	Cathcart		329 W. Hampton Ave		Spartanburg	SC	29306
98	Georgia	Cava		13 Arizona Rd S		W. Babylon	NY	11704
99		Estate of Roy Chason		c/o Ms. Lois Chaston, PR	105 Wood Heights Ave	Taylors	SC	29687
100		Estate of William David Chastain	A	c/o 1320 Honeysuckle Street		Cayce	SC	29033
101		Estate of Kay Chastain Underwood	A	618 Memorial Drive Extension		Greer	SC	29651
102	Elizabeth	Connor	A	Estate of Elizabeth Chastain	1320 Honeysuckle Street	Cayce	SC	29033
103	Rev. Audrey	Chesney		1642 Lake Cunningham Rd		Greer	SC	29651
104	George H.	Chiles		216 Bluff Drive		Greenville	SC	29605
105	Edward	Cichocki		119 Cainhoy Landing Rd		Wando	SC	29492
106		Clark Family Living Trust		c/o Roger Clark, Trustee	107 N. Clemson Ave	Clemson	SC	29631
107	Michael	Coggins		179 Sloans Grove Rd		Spartanburg	SC	29307
108	Walter	Corbin		6675 Sandy Run Rd		Brunson	SC	29911
109	David	Cox		P.O. Box 2153		Easley	SC	29641
110	Geraldine	Cox		4481 Jordan Rd		Greer	SC	29651
111	James	Cox		526 S. Bennetts Bridge Rd		Simpsonville	SC	29681
112	Dorothy	Cox		526 S. Bennetts Bridge Rd		Simpsonville	SC	29681
113	Jim	Cox		634 Meece Bridge Rd		Taylors	SC	29687
114	Jimmy	Cox		640 Meece Bridge Rd		Taylors	SC	29687
115	Sam	Cox		4481 Jordan Rd		Greer	SC	29651
116	Jerald	Craig		210 Poole St. Ext.		Woodruff	SC	29388
117	Betty	Crawford		114 Hiwassee Dr		Greenville	SC	29617
118		Estate of Joseph D. Crawford		P.O.Box 52 Rt 1		Gray Court	SC	29645
119	Stuart	Creson		136 Long Ridge Dr		Murrells Inlet	SC	29576
120		Estate of Vallie Cromer		60 Allen Street		Greenville	SC	29605
121		Estate of Wister Cromer		60 Allen Street		Greenville	SC	29605
122	Ralph	Crooks		307 Kensington Road		Taylors	SC	29687
123	Jane B.	Culbreth		P.O. Box 778		Landrum	SC	29356
124	Michael	Curran		103 Calvert Court		Easley	SC	29642
125		Curtis Living Trust		c/o James W. Curtis, Jr. DMD	252 Harbor Heights Drive	Lexington	SC	29072
126	Willa L.	Cwik		3907 Sky Vista Ct		Kingsport	TN	37664
127	James	Dailey		520 Emily Ln		Piedmont	SC	29673
128	Stanley	Data		P.O. Box 2224		Murrells Inlet	SC	29576
129	Anne S.	Davis		1219 Trisail Lane		N. Myrtle Beach	SC	29582-
130	Betty	Davis		236 Piedmont Hwy		Piedmont	SC	29673
131	Clifford	Davis		29 Everleigh Ct.		Simpsonville	SC	29681
132	Lavone	Davis		215 Midway Dr		Spartanburg	SC	29301
133	Michael	Davis		541 Grogan Rd		Inman	SC	29349
134		Estate of Truman Davis		c/o Michael T. Davis	541 Grogan Road	Inman	SC	29349
135		Kymberly Ann DeNeyce Day		c/o Christopher M. Day, Trustee	50 Appian Circle	Simpsonville	SC	29681
136	Christopher M.	Day		50 Appian Circle		Simpsonville	SC	29681
137	Terry	Day		7 Stephanie Dr		West Pelzer	SC	29669
138	Marion	Del Giudice		43 Meadow Springs Ln		Greer	SC	29650
139	Joe	Dempsey		183 Ridgewood Dr		Inman	SC	29349
140	Iris	Denton		260 Applehill Way		Simpsonville	SC	29681
141	Manuel	DePina		17 Butler Springs Road		Greenville	SC	29615
142	Garvin	DeShields		109 Acorn Drive		Greer	SC	29651
143	Kenneth	Deuring		1602 Brentwood-Way		Simpsonville	SC	29680
144	Ann	DeVita		7967 Leeward Ln		Murrells Inlet	SC	29576
145	Paul	Dew III		4002 Stillpond Rd		Conway	SC	29526
146	Elizabeth	Dickard		105 Anzio Street		Easley	SC	29640
147		Estate of James Dills		555 Dean Rd		Greer	SC	29651
148	Ivalee	Dingler		117 Lorraine Dr		Summerville	SC	29485
149	Ray	Doane		4446 Parkland Dr		Myrtle Beach	SC	29579
150	Leland	Dobson		3510 Refuge Road		Central	SC	29630
151	Sylvia	Dobson		204 Drace Avenue		Greer	SC	29650-
152	Tommy	Dodgens		116 Cherokee Rd		Easley	SC	29642
153	Mary	Donnelly		174 Prince George Road		Easley	SC	29640
154		Lauren Dorrrity Trust		c/o Thomas Dorrrity, Trustee	1002 Old Easley Hwy	Greenville	SC	29611

Exhibit A

Capital Investment Funding, LLC

A Notice of Class Action Approval Hearing

Was Mailed To Each Of The Following Class Members and Class Member Representatives
On March 3, 2017

#	First Name	Last Name	Ref	Address 1	Address 2	City	State	Zip Code
155		Lindsey Dorrity Trust		c/o Thomas Dorrity, Trustee	1002 Old Easley Hwy	Greenville	SC	29611
156	Thomas	Dorrity		1002 Old Easley Hwy		Greenville	SC	29611
157	Jessie	Doty		1023 Trotter Rd		Pickens	SC	29671
158	Rodney	Doty		165 Gilliland Rd		Pickens	SC	29671
159	James	Dowis		115 Springdale St		Duncan	SC	29334
160		Drews Living Trust		568 Galera Lane		Mt. Pleasant	SC	29464
161	James	Dukes		PO Box 453		Honea Path	SC	29654
162	Betty Jo	Duncan		302 Sullivan Road		Simpsonville	SC	29680
163	William	Duncan, Jr.		335 Brandy Ln		Pickens	SC	29671
164	William	Duncan		335 Brandy Ln		Pickens	SC	29671
165	Henry	Dunne		577 Sand Ridge Rd		Conway	SC	29526
166	Bobby Ray	Dyar		130 Brim Court		Chesnee	SC	29323
167		Estate of William S.Eddins		c/o Susan Elizabeth Eddins Capps	104 Kennicott Lane	Easley	SC	29642
168	James	Edens		420 Gibson Rd		Easley	SC	29640
169	Emily	Edwards		212 Hunters Trail		Greenville	SC	29615
170	Ruth	Edwards		1510 Pickens Hwy		Walhalla	SC	29691
171	Robert	Ellis		202 Sherbourne Dr		Greenville	SC	29615
172	Lonnie	Ellison		128 Nottingham Circle		Duncan	SC	29334
173	Carl	Entrekin		114 Entrekin Lane		Liberty	SC	29657
174	Sandra	Esper		2787 Sanctuary Blvd		Conway	SC	29526
175	Betty	Evans		137 Cochran Dr		Greenville	SC	29611
176	Luther J.	Evans		108 Laurel Drive		Pendleton	SC	29670
177	William	Evert		6012 Magnolia Beach Rd, Apt. 503		Panama City Beac	FL	32408
178	Roger	Fair		1980 Mt Tabor Church Rd		Easley	SC	29640
179	Sharon H.	Finch		16 Knob Creek Ct		Greer	SC	29651
180	Cory	Finley UGMA		1445 Cedar Rock Church Rd		Easley	SC	29640
181	Judy	Finley		1445 Cedar Rock Church Rd		Easley	SC	29640
182	Janice	Fisher		137 Watergate Road		Lake Lure	NC	28746
183	Louise	Fleming		17 McLean St		Greenville	SC	29611
184	Elizabeth	Flemming		413 Helena St		Georgetown	SC	29440
185	Billy	Ford, Sr.		554 Harrison Bridge Rd		Simpsonville	SC	29680
186	Dorrance	Forrester		140 Midland Dr		Boiling Springs	SC	29316
187	Gregory	Fowler		2730 Meansville Rd		Jonesville	SC	29353
188	George W.	Frazier		2626 Scurry Island Rd		Chappells	SC	29037
189	Dewey	Friddle		308 Eastcliff Way		Greenville	SC	29611
190	Karen	Fritts		403 Cedar Run		Myrtle Beach	SC	29588
191	Dianne	Galloway		146 Doverside Drive		Columbia	SC	29212
192	June	Gardo		30 Springfield Ave		Greenville	SC	29611
193	Donald	Garigen		209 Sugar Tree Drive		Myrtle Beach	SC	29588
194	Shirley	Garland		311 Savanna Plains Dr		Spartanburg	SC	29307
195	T. Lyell	Garland		311 Savanna Plains Dr		Spartanburg	SC	29307
196	Gerald	Gaudreau		311 Iris Court		Greenville	SC	29611
197	Nettie	Gentry		6261 South Pine St		Pacolet	SC	29372
198	Franca	George		11 Bridgeton Ct		Greenville	SC	29615
199	Warren	George		4643 Laurendale Court		Rock Hill	SC	29732
200	Betty	Gibson		3194 Morningdale Dr		Mt. Pleasant	SC	29466
201	Gladys	Ginn		11 Lamont Ln		Greenville	SC	29611
202	George	Grant		423 Sweetwater Rd		Greer	SC	29650
203	Gloria	Gordon		1625 Spencer Creek Rd		Campobello	SC	29322
204	Daniel	Gordon		1625 Spencer Creek Rd		Campobello	SC	29322
205	Conrad	Gore		117 Bramblewood Circle		W. Columbia	SC	29172
206	Catherine	Gosnell		8618 Valley Falls Rd		Boiling Springs	SC	29316
207	George	Grant		423 Sweetwater Rd		Greer	SC	29650
208	George	Grant		423 Sweetwater Rd		Greer	SC	29650
209	M. H.	Graves		403 Wedgewood Drive		Greenville	SC	29609
210	William	Graves		403 Wedgewood Drive		Greenville	SC	29609
211	Ingrid	Groeger		425 Doleman Drive		Spartanburg	SC	29301
212	Klaus	Groeger		425 Doleman Drive		Spartanburg	SC	29301
213	M. Walker	Gunn		2 Waters Edge Ct		Charleston	SC	29414
214	Charles	Hafner		206 Pike Court		Simpsonville	SC	29681
215	Beulah	Hager		3400 Edwards Rd		Taylors	SC	29687
216	Bryan David	Hall		c/o Elizabeth Hall 1429 Circle Rd.		Easley	SC	29642
217	David F.	Hall, Jr.		1429 Circle Rd		Easley	SC	29642
218	Jason	Hammond		c/o Debra Lanford, Custodian	200 St. Andrews Blvd	Campobello	SC	29322
219	Timothy	Hammond		84 Aspen Loop		Pawleys Island	SC	29585
220	Arzilla	Harbin		2 Oakwood Dr		Greenville	SC	29609
221	Paige	Harbin		P.O. Box 31131		Greenville	SC	29608
222	Billy	Harriett		2105 Morningstar Dr		Lodge	SC	29082
223	Loretta	Harriett		2105 Morningstar Dr		Lodge	SC	29082
224	Betty	Harrington		124 Harrington Rd		Gaffney	SC	29341
225	Joyce M.	Hart		402 McElrath Road		Woodruff	SC	29388
226	Ernestine	Hawkins		4050 N. Hwy 14		Greer	SC	29651
227	John D.	Hawkins		4085 Berrys Mill Rd		Greer	SC	29651
228	Dean	Hayes		105 Meece Bridge Rd		Taylors	SC	29687
229	Ronnie	Head		222 Huskey Rd		Chesnee	SC	29323
230	Angelina	Healy		9736 Conifer Ln		Chesnee	SC	29576
231	Louise	Heath		101 Rolling Green Dr		Easley	SC	29640

Exhibit A**Capital Investment Funding, LLC****A Notice of Class Action Approval Hearing**

**Was Mailed To Each Of The Following Class Members and Class Member Representatives
On March 3, 2017**

#	First Name	Last Name	Ref	Address 1	Address 2	City	State	Zip Code
232	Thomas	Heath		101 Rolling Green Dr		Easley	SC	29640
233	Vivian M.	Heaton		115 Daniel Ave		Seneca	SC	29678
234		Estate of Herta Helmly		518 Allspice Ln		Myrtle Beach	SC	29579
235	Sam	Henley		1009 Harpers Way		Anderson	SC	29621
236	Gay	Henson		2612 Fewes Bridge Rd		Greer	SC	29651
237	Robert	Hester		17 Racine Ct		Greenville	SC	29617
238	J. F.	Hever		6 Brookdale Ave		Greenville	SC	29670
239	Granville	Hicks		35 Sherman Ln		Greenville	SC	29605
240	Reuben	Higginbotham		2415 Terrell St		Charleston	SC	29414
241	June	Hodgkinson		346 Driftwood Drive		Piedmont	SC	29673
242	Ray	Hodgkinson		346 Driftwood Drive		Piedmont	SC	29673
243	Jerry	Holcombe		1452 Genrty Mem. Hwy		Easley	SC	29640
244	Matthew	Holcombe		27218 NW CR 239		Alachua	FL	32615
245	Zachary	Holcombe		4001 Cobblestone Drive, Unit O-1		Greenville	NC	27834
246	Carol	Holden		246 Oakbrook Drive		Liberty	SC	29657
247	Donald	Holden		246 Oakbrook Drive		Liberty	SC	29657
248	Kay	Holt		5280 Rainbow Lake Road		Campobello	SC	29322
249	Melvin	Holt		155 Dove Haven Drive		Simpsonville	SC	29681
250	Frances	Howard		12530 Ashville Highway		Inman	SC	29349
251		Estate of H. Marshall Howell		c/o Boyd W. Howell	405 Bridge Road	Taylors	SC	29687
252	Troy	Huckaby		7 Sloan Lake Rd		Woodruff	SC	29388
253	Hubert	Hudson		155 Hudson Lane		Pickens	SC	29671
254	Sharon	Hudson		155 Hudson Lane		Pickens	SC	29671
255	Virginia	Hughes		101 Dellwood Drive		Easley	SC	29642
256	William T.	Hughes		101 Dellwood Drive		Easley	SC	29642
257		Hunters Ridge		P.O. Box 405		Myrtle Beach	SC	29578
258	Mariene	Huntington		12205 S.E. 175th Loop		Summerfield	FL	34491
259	Barbara	Huss		110 Ravenwood Circle		Piedmont	SC	29673
260	Clyde	Huss		110 Ravenwood Circle		Piedmont	SC	29673
261	Hilton	Hutchins		1289 Flatwood Rd		Spartanburg	SC	29303
262	Monroe	Hutchins		1357 Flatwood Rd		Spartanburg	SC	29303
263	Vickie	Hutchins		1302 Flatwood Rd		Spartanburg	SC	29303
264		John David Hymes, Jr. 2002 Trust		1823 Meadowood Lane		Longs	SC	29568
265	Steve	James		11 Capstone Court		Simpsonville	SC	29681
266	Katrina	Janes		210 Holly Lane		Greer	SC	29651
267	Mary Lou	Jenkins		120 Forest Cove Ln		Greer	SC	29651
268	Albert	Johnson		104 Mt. Olive Church Rd		Nichols	SC	29581
269	Lehman	Johnson		5040 Hwy 917		Nichols	SC	29581
270	Willard	Johnson		c/o S. Denise Johnson	229 Barberry Lane	Greer	SC	29651
271		Estate of Walter Joseph		c/o Blossom Joseph	1687 W. 49th Avenue	Vancouver	BC	V6M2S2
272	Joseph	Kaz		2307 Brevard Rd		Charleston	SC	29414
273	Johnny M.	Kelley		229 West Church Rd		Easley	SC	29642
274	James	Kemmerling		4363 Parkland Dr		Myrtle Beach	SC	29579
275	Almeta	Kennedy		104 Wellington Dr.		Mauldin	SC	29662
276	J. William	Kennedy, Jr.		109 Northwood Ave		Greenville	SC	29609
277	Ollie B.	Khan		6146 Bluebird Lane		Matthews	NC	28104
278	Maude	Kibbe		701 Avon Drive		Taylors	SC	29687
279	James	Kiernan		233 Turquoise Circle		Little River	SC	29566
280	Paul	Kimmell		6 Pembroke Ln		Taylors	SC	29687
281	William L.	Kimmons, Jr.		232 Overhill Drive		Duncan	SC	29334
282	Edwin	King		1556 Ruhamah Rd		Liberty	SC	29657
283	S. I.	King		807 Green Ave		Greenville	SC	29605
284	Brenda	Kirby		551 Jordan Rd		Lyman	SC	29365
285	Charles	Kirby		112 Rutledge St		Cowpens	SC	29330
286	Allen	Knight, Jr.		39 Jonathan Dr		Taylors	SC	29687
287	Allen	Knight		102 Knight Drive		Belton	SC	29627
288	Ben	Knight		100 Knight Drive		Belton	SC	29627
289	Jimmy	Laboon		102 Eastover Dr		Greer	SC	29651
290	Glenn	Lackey		1 Riggs Street		Greenville	SC	29611
291	Marianne	Lackey		1 Riggs Street		Greenville	SC	29611
292	Betty	Lafforthun		111 Monaco Circle		Clemson	SC	29631
293	Donald	Lancaster		1305 Fairmont Ave		Mt. Pleasant	SC	29464
294	James	Lancaster		203 Woodbridge Ct		Easley	SC	29642
295	Debra	Lanford		200 St. Andrews Blvd		Campobello	SC	29322
296	Marshall	Lawter		P.O. Box 311		Mayo	SC	29368
297	Carroll	League, Jr.		15 Edisto St		Greenville	SC	29605
298		Lenhardt Revocable Trust		4555 Mandi Ave		Little River	SC	29566
299	Patricia	Lenhardt		4555 Mandi Ave		Little River	SC	29566
300	James	Leonard		c/o Jimmie L. Davis	220 Thorncrest Drive	Pauline	SC	29374
301	Daisy	Lewers		18 Hidden Lake Ct		Piedmont	SC	29673
302		Estate of James E. Lewers		c/o Daisy R. Lewers	18 Hidden Lake Ct	Piedmont	SC	29673
303	Barbara	Lewis		3400 Edwards Rd		Taylors	SC	29687
304	Yvonne	Littlefield		150 Pine Drive		Pacolet	SC	29372
305	Angela	Littlejohn		164 Kingline St		Spartanburg	SC	29302
306	Warner	Littlejohn		1114 Peach Valley Circle		Spartanburg	SC	29303
307	Johnnie W.	Lockaby		425 Lockaby Rd		Piedmont	SC	29670
308	Gary	Lockhart		1112 Oakgrove Rd		Landrum	SC	29356

Exhibit A**Capital Investment Funding, LLC****A Notice of Class Action Approval Hearing****Was Mailed To Each Of The Following Class Members and Class Member Representatives****On March 3, 2017**

#	First Name	Last Name	Ref	Address 1	Address 2	City	State	Zip Code
309	Don	Lollis		169 Oak Hill Drive		Piedmont	SC	29673
310	Lewis	Lollis		1652 Chapman Rd		Fountain Inn	SC	29644
311	William	Lollis		FBO William Lollis	1652 Chapman Road	Fountain Inn	SC	29644
312		Lake Looper Trust		FBO Martha & James Looper	1180 Freeman Bridge Rd	Easley	SC	29640
313	Charley	Lovell		306 Rices Creek Church Rd.		Liberty	SC	29657
314	Guenter	Lueck		124 Pebble Creek Drive		Taylors	SC	29687
315	Vickii	Lumsden		2887 N. Cannon Blvd		Kannapolis	NC	28083
316	Macy	Lusk		780 Beech Springs Rd		Pelzer	SC	29669
317	Bonnie	Lusk		112 Allgood Drive		Pickens	SC	29671
318	Gerald	Lusk		780 Beechsprings Road		Pelzer	SC	29669
319	Frank	Lyon, Jr.		6010 Peavy Dr		Conway	SC	29527
320	Phil	Mabry		1261 Shadow Way		Greenville	SC	29615
321	Mary Ella	Machen		100 Woodtrace Circle		Greenville	SC	29615
322	Kaye	Madden		801 Hwy 14W		Landrum	SC	29356
323	Lawrence	Major, Jr.		128 Keenan Ave		Goose Creek	SC	29445
324	Michael	Malecki		207 Crestwood Dr		Sarver	PA	16055
325	Mary	Mankin		224 Lander Dr		Conway	SC	29526
326	Arthur	Manning		219 Maxie Avenue		Greenville	SC	29611
327	Hazel	Mansell		221 Rayfield Drive		Easley	SC	29640
328		Estate of Frances B. Martin		159 Brookside Circle		Pickens	SC	29671
329	Hisanao	Marushima		130 Kare Fre Blvd		West Union	SC	29696
330	Evelyn	Mason		382 Mt Lebanon Church Rd		Greer	SC	29651
331	Celena	Massey		P.O. Box 31		La France	SC	29656
332	Don	Massey		P.O. Box 486		La France	SC	29631
333		Estate of Floyd Massey		c/o Gary Massey	P.O. Box 31	La France	SC	29656
334	Horace	Massey		126 Courtney Circle		Greenville	SC	29617
335	Priscilla	Massingill		132 Dorr Circle		Easley	SC	29640
336	Richard	Massingill		132 Dorr Circle		Easley	SC	29640
337	James	Mauldin		17 Iselin St.		Liberty	SC	29657
338	Joe	McAbee		2280 Mays Bridge Rd		Greer	SC	29651
339	Virginia	McAbee		74 Burriss Rd		Lyman	SC	29365
340	James	McAdams		304 Conneross Rd.		Townville	SC	29689
341	Sara	McAdams		305 Conneross Rd.		Townville	SC	29689
342	Joyce	McCree		112 Glenrock St		Spartanburg	SC	29302
343	Paul	McCulloch		707 Plantation Dr		Surfside Beach	SC	29575
344	Betty	McDaniel		115 Daniel Avenue		Seneca	SC	29678
345	Jimmy	McDaniel		115 Daniel Avenue		Seneca	SC	29678
346	Edith	McEachren		1891-B Fairway Ridge		Surfside Beach	SC	29575
347	Gerald R.	McLaughlin		3 Selwyn Drive		Greenville	SC	29615
348	Joyce	McLaughlin		3 Selwyn Drive		Greenville	SC	29615
349	Randy	McLean		P.O. Box 535		Ware Shoals	SC	29692
350	Carl	McLemore		519 Kenilworth Dr		Greenville	SC	29615
351	Gayle C.	McLemore		519 Kenilworth Drive		Greenville	SC	29615
352	James	Medina		957 Charter Court		Mt Pleasant	SC	29464
353	Barbara G.	Keigley		8 Whitethorn Lane		Greenville	SC	29607-
354	Lawrence C	Merck		443 N. Garrett St		Central	SC	29630
355	Harry	Michael		224 Highgrove Circle		West Columbia	SC	29170
356		Alfred F. Miller Trust		Attorney Vaughn A. Terrinoni, Trustee	3976 Township Line Road	Bethlehem	PA	18020
357	Alfred	Miller		3007 Seemsville Rd		Northampton	PA	18067
358		Estate of Benjamin Millican		c/o Toni R. Kelley, Beneficiary	9720 Eagle Ranch Rd NW Apt 18:	Albuquerque	NM	87114
359	Dolores	Mizzero		1732 Norfolk Ave		Schenectady	NY	12303
360	Cynthia	Montgomery		56 Old Cedar Loop		Pawleys Island	SC	29585
361	Sarah L.	Moore		105 Crimson Leaf Lane		Liberty	SC	29657
362		Estate of Bill Moore		c/o Rebecca McCuen	2704 Locust Hill Road	Taylors	SC	29687
363	John	Moore		572 Green River Rd		Chesnee	SC	29323
364	Larry D.	Moore		160 Moore Lane		Piedmont	SC	29673
365	Thomas	Moore		122 Dalewood Drive		Simpsonville	SC	29681
366	Ralph	Morton, Jr.		105 Alpha Drive		Greenville	SC	29605
367	Robert	Morton		109 Mesa Raven Dr		Longs	SC	29568
368	Brenda	Mosser		121 Downing Road		Kennebunk	ME	04043
369	Kurt	Mosser		121 Downing Road		Kennebunk	ME	04043
370	Frederick	Moxley		14410 Tanager Wood Trail		Midlothian	VA	23114
371		Mountain Creek Baptist Church		255 W. Mtn Creek Church Rd		Greenville	SC	29609
372	Helmut	Mueller		214 White Drive		Mauldin	SC	29662
373	Raymond	Mullman, Jr.		243 Heathwood Dr		Spartanburg	SC	29307
374	Raymond	Mullman, Sr.		214 S. Ticonderoga Dr		Greer	SC	29650
375	Lee	Mustar		61 Washington Dr		Piedmont	SC	29673
376	Vijaykumar	Naik		226 Dartmoor Dr		Spartanburg	SC	29301
377	John	Napoli		150 Egg-A-Day Farm Rd		Spartanburg	SC	29307
378	Thomas D.	Nations		135 Mossie Smith Rd		Easley	SC	29642
379	Edward	Nelson		214 Harbin Ave		Greer	SC	29651
380	Frances	Nesmith		15 Bluewater Ln		Murrells Inlet	SC	29576
381	Gary	Nesmith		15 Bluewater Ln		Murrells Inlet	SC	29576
382		Estate of June Nesmith		c/o Gary Nesmith	15 Bluewater Ln	Murrells Inlet	SC	29576
383	Robert	Neuman		223 W. Poplar St.		Charleston	SC	29403
384	Suzanna L.	Nicholas		134 Lyndhurst Street		Spartanburg	SC	29307
385	Alton	Niles		2351 Hanging Rock Rd		Inman	SC	29349

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#	First Name	Last Name	Ref	Address 1	Address 2	City	State	Zip Code
386	Michael	Northstrom		8313 Vestige Ct		N. Charleston	SC	29418
387	John	O'Connor		2573 Hunters Trail		Myrtle Beach	SC	29588
388	Dan	Olds		313 Pinelake Rd		Spartanburg	SC	29301
389	James	Oller		15 Wheatstone Court		Greenville	SC	29617
390	Jane	Olson		107 Fitting Ave.		Bellville	OH	44813
391	Victor	Orosz		1477 Medinah Ln		Murrells Inlet	SC	29576
392	Donald B.	O'Shields		405 Devenger Rd		Greer	SC	29650
393	Mary	O'Shields		405 Devenger Rd		Greer	SC	29650
394	Ramona	Overpeck		16 Delta Dr		Greenville	SC	29617
395	Jerry	Pace		177 Red Gate Rd		Easley	SC	29640
396	Helen M.	Palmer		405 Watermarke Lane		Anderson	SC	29625
397	Nannie D.	Palmer		113 Lincoln Rd		Taylors	SC	29687
398	Bobbie	Parks		242 Batson Pate Drive		Easley	SC	29640
399	Thomas E.	Patterson		129 Gilliland Rd		Pickens	SC	29671
400	Barbara	Patton		115 South Baldwin Rd		Simpsonville	SC	29680
401	Lucille	Peace		403 Pine St		Greer	SC	29650
402	Ernie	Pennell		P.O. Box 11		Fair Play	SC	29643
403	Patsy	Pennell		P.O. Box 11		Fair Play	SC	29643
404	George	Perry		313 Barnett Rd		Liberty	SC	29657
405	Wendell	Peterson		132 High Hat Circle		Greenville	SC	29617
406	Eva	Pitcher		7109 Pony Trail Court		Hyattsville	MD	20782
407		Pleasant Ridge Baptist Church Educ T		P.O. Box 892		Walhalla	SC	29691
408		Estate of Beautrice Plemmons		c/o Carolyn Smith	700 Austin Woods Court	Greer	SC	29651
409		Estate of Fred O. Plemmonons		c/o Carolyn Smith	700 Austin Woods Court	Greer	SC	29651
410	John	Polony		391 Serpentine Dr Suite 330		Spartanburg	SC	29307
411	Rebecca	Polony		102 S. Bennington Dr		Spartanburg	SC	29307
412	Irene	Ponce		7 Wakefield Court		Greenville	SC	29615
413		Estate of James Poole		109 Powers Dr		Easley	SC	29640
414	Ruth	Poole		49 Brookside Drive, Apt. 116		Travelers Rest	SC	29690-
415	Joseph	Poskin		2706 Pearl Street		Natrona Heights	PA	15065
416	Stewart	Powers		596 Old Six Mile Rd		Central	SC	29630
417	Monique	Preseau		5535 Capulin Street		Keystone Heights	FL	32656
418	Franky	Price, Sr.		682 Fairview Rd		Gaffney	SC	29341
419	Sandy	Price		306 Trace Run		Myrtle Beach	SC	29588
420	Darrell	Pruitt		PO Box 663		Simpsonville	SC	29681
421	Darwin V.	Putnam		505 Windy Meadow Way		Simpsonville	SC	29680
422	Patricia	Putnam		505 Windy Meadow Way		Simpsonville	SC	29680
423	Dora	Reece		112 Goodridge Court		Greer	SC	29651
424	Roy	Reeves		1035 Anderson Hwy		Easley	SC	29642
425	Dorothy	Regon		102 Fairfield Ct		Easley	SC	29642
426	Bobby	Regon		102 Fairfield Court		Easley	SC	29640
427	Roy	Reid		118 Banner Dr		Greenville	SC	29611
428	Jacqueline	Rice		12 Meadow Springs Ln		Greer	SC	29650
429	Lucius	Rice, Jr.		1009 West Springs Hwy		Jonesville	SC	29353
430	Harold	Richardson		131 Oakridge St		Abbeville	SC	29620
431	Lewis T.	Roach		104 Bentwood Court		Piedmont	SC	29673
432	Calvin	Roach		7 Lynn Dr		Taylors	SC	29687
433	Michael	Roach		141 Gleneagles Rd		Campobello	SC	29322
434	Christine	Roberts		200 Rison Rd		Greenville	SC	29611
435	Carolyn	Rogers		151 Landis Dr		Spartanburg	SC	29302
436	Gene M.	Rollins		182 Andrew Road		Six Mile	SC	29682
437	Joann	Rollins		182 Andrew Road		Six Mile	SC	29682
438	Tammy	Rollins		P.O. Box 444		Norris	SC	29667
439		Estate of Billy Roper		c/o Joann Roper	PO Box 181	Pickens	SC	29671
440	Frances J.	Roper		166 Tigerville Road		Travelers Rest	SC	29690
441		Estate of Norman Roper		c/o Martha Jacqueline Roper	218 Sandpiper Way	Greenville	SC	29605
442	Fay	Rose		612 15th Ave S. #25		Surfside Beach	SC	29575
443	Robert	Rosenthal		415 Lake El Jema Dr		Piedmont	SC	29673
444	Henry	Ross		P.O. Box 3686		N. Myrtle Beach	SC	29582
445	Kirk	Ross		P.O. Box 3686		N. Myrtle Beach	SC	29582
446	Mary Ross	Marker		6780 Pinehaven Lane		Conway	SC	29526
447	David	Rothermel		16 Meadow Mist Tr		Greer	SC	29650
448	James	Rothrock		P.O. Box 692		Reidville	SC	29375
449	Lillian	Sanders		P.O. Box 26		Marietta	SC	29661
450	James	Sands		183 Waterford Dr		Inman	SC	29349
451	Dominic	Santaniello		3629 Kingsley Dr		Myrtle Beach	SC	29588
452	Karen	Sawyer		136 Beaumont Creek Lane		Greenville	SC	29609
453	Lorine	Schaeffer		15 Briargate Pl		Greenville	SC	29615
454	Marie	Schaffner		167 Retreat Pl		Little River	SC	29566
455		Estate of George Schmidt		c/o Ann Schmidt	4502 W. Harbour Ct, Unit W4	Little River	SC	29566
456	Hazel	Schmidt		4502 W. Harbour Ct, Unit W4		Little River	SC	29566
457	Raymond	Schmuck III		1139 Redwood Lane		Gulf Breeze	FL	32563
458	Diane	Schroeder		2278 Vereen Circle		Little River	SC	29566
459	Martha	Scranton		149 Ballston Avenue		Ballston Spa	NY	12020
460	Rebecca	Scruggs		1265 Old Metal Rd		Gaffney	SC	29340
461		Estate of Richard W. Seay		c/o Irma W. Seay	188 Glen Street	Sumter	SC	29483
462	Michael	Seeche		309 Miller Rd		Mauldin	SC	29662

Exhibit A

Capital Investment Funding, LLC

A Notice of Class Action Approval Hearing

Was Mailed To Each Of The Following Class Members and Class Member Representatives
On March 3, 2017

#	First Name	Last Name	Ref	Address 1	Address 2	City	State	Zip Code
463	Phillip K.	Sexton		729 Sharon Church Rd		Central	SC	29630
464	Constance	Shafto		286 Belcher Rd		Boiling Springs	SC	29316
465	Thomas R.	Shaleuly		961 Fargo St.		Mauldin	SC	29662
466	Earl	Shaw		P.O. Box 123		Longs	SC	29568
467		Estate of Bernadette Sheehan		4225 Prairie Ave		Brookfield	IL	60513
468	Bobbie Jean	Shepard		P.O. Box 709		Walhalla	SC	29691
469	Merrill	Shipman		402 Cloverdale Lane		Simpsonville	SC	29681
470		George E & Emily A Shockley Rev Liv		19 Country Club Drive		Greer	SC	29651
471	James E.	Shockley		26 Twin Springs Drive		Greenville	SC	29605
472	Ray	Sims		218 West Rd		Greer	SC	29650
473		Estate of John Singleton		3413 Cannon Pond Rd		Conway	SC	29527
474	Malcolm	Slay		1507 W. Parker St		Greenville	SC	29617
475	Lee	Smith		8 Lauren Leigh Ct		Greer	SC	29651
476	Ricky	Smith		c/o Marvin Holliday Trustee	P.O. Box 566	Liberty	SC	29657
477		Estate of Benjamin K. Smith		106 Skyland Drive		Easley	SC	29640
478	Tequela	Smith		c/o Marvin Holliday Trustee	P.O. Box 566	Liberty	SC	29657
479	William N.	Smith		307 Monroe Drive		Piedmont	SC	29673
480	Bobbie	Snipes		424 Lockaby Rd		Pendleton	SC	29670
481	Jan	Snyder		3777 Charles Pl		Little River	SC	29566
482	Barbara	Sons		109 Hearth Stone Rd		Easley	SC	29640
483	Larry	Sons, Sr.		109 Hearth Stone Ct		Easley	SC	29640
484	Shirley	Spencer		29 Monaview St		Greenville	SC	29617
485	Sara	Spivey		305 Latham Rd		Easley	SC	29640
486	Marion	Sprague		105 Saddle Ridge Court		Taylors	SC	29687
487	William	Sprouse, Sr.		13 Trey Lane		Ware Shoals	SC	29692
488	Ronald	Stahl		142 Planning Mill Road		Luray	VA	22835
489	Cathy	Davis		111 Skyland Circle		Greer	SC	29651
490	Randall	Stahl		100 Emma Street		Greenville	SC	29609
491	Joyce A.	Stallings		109 Woods Drive		Williamston	SC	29697
492		Estate of William T. Stallings		c/o Joyce Ann Stallings	109 Woods Drive	Williamston	SC	29697
493	Joan A.	Steadman		450 Pin Du Lac Drive		Central	SC	29630
494	John	Stephens		1400 Thornblade Blvd., Unit 30		Greer	SC	29650
495	James	Stepp, Sr.		715 East Suber Rd		Greer	SC	29650
496	Barbara	Stewart		214 Pierce Rd		Landrum	SC	29356
497	Linda	Stewart		108 Browning Dr		Greer	SC	29650
498	Lindsey	Stewart		214 Pierce Rd		Landrum	SC	29356
499	Jelka	Stojanovic		308 Earl Drive		Spartanburg	SC	29306
500	James	Sudduth		4012 Hwy 101-N		Greer	SC	29651
501	Jarrett	Sullivan		390 Harvey Gosnell Rd		Campobello	SC	29322
502	Reggie	Sullivan		390 Harvey Gosnell Rd		Campobello	SC	29322
503	Doris	Suttles		104 McArthur Street		Easley	SC	29642
504	James	Tascoff		3305 Edison Ave		Trenton	MI	48103
505		The Tascoff Living Trust		3305 Edison Ave		Trenton	MI	48103
506	Ashley	Taylor		P.O. Box 709		Walhalla	SC	29691
507	Evelyn	Taylor		3301 Sutton Oaks Lane		Greensboro	NC	27407
508	Gary	Taylor		5682 Inca Way		Kelseyville	CA	25451
509	Mary P.	Taylor		233 Earle Drive		Greenville	SC	29611
510	Ronald	Taylor		3301 Sutton Oaks Lane		Greensboro	NC	27407
511	Ruth	Taylor		962 Cummings Circle		Mt Pleasant	SC	29464
512		The PM Group		106 W. Stone Avenue		Greenville	SC	29609
513	Ricky	Theo		P.O.Box 429		Woodruff	SC	29388
514	Jack	Thomas		144 Wingo Street		Inman	SC	29349
515	James	Thomason		170 Quinn Rd		Wellford	SC	29385
516	Peggy	Thomson		801 Hwy 14 West		Landrum	SC	29356
517	James Roy	Thornton		136 Anita Dr		Spartanburg	SC	29302
518	Lewis	Thornton		P.O. Box 1193		Greenville	SC	29602
519	Ann C.	Thurston		138 Shannon Lake Circle		Greenville	SC	29615
520	M. Gordon	Thurston		138 Shannon Lake Circle		Greenville	SC	29615
521	Robert A.	Timmerman		7 Penarth Drive		Greenville	SC	29617
522	Carroll	Timms		550 Briarcliff Rd		Woodruff	SC	29388
523	Josephine K.	Tinsley		c/o Michael D. Tinsley	1221 Hanging Rock Rd	Boiling Springs	SC	29316
524	Lacey	Tinsley		1221 Hanging Rock Rd		Boiling Springs	SC	29316
525	Mira K.	Tinsley		1221 Hanging Rock Rd		Boiling Springs	SC	29316
526	Josephine	Tinsley		c/o Michael D. Tinsley	1221 Hanging Rock Rd	Boiling Springs	SC	29316
527		Estate of Elizabeth Elaine Todd		c/o Carolyn T. Stancell	133 Slippery Rock Drive	Pickens	SC	29671
528	Albert	Tollison		304 Murrell Road		Greenville	SC	29605
529	Frances	Tomz		5998 Dutchman Creek Road		Southport	NC	28461
530	William	Tomz		5998 Dutchman Creek Road		Southport	NC	28461
531	Miller Austin	Townsend		119 Hampton Rd		Liberty	SC	29657
532	Richard	Towse		219 Inverness Drive		Pawleys Island	SC	29585
533		Triplett Family Revocable Trust		c/o Nick Triplett	4125 Schoolhouse Circle	Little River	SC	29566
534	Frances	Tripp		101 Tripp Rd		Piedmont	SC	29673
535	John	Tubiolo		817 Miller Rd		Hillsborough	NC	27278
536	James	Tucker		1413 Hwy 17 South #150		Surfside Beach	SC	29575
537		Estate of Robert P. Upton		c/o Michael Upton, PR	PO Box 9535	Greenville	SC	29604
538	Judy	Van Natta		101 S. Buckhorn Rd		Greenville	SC	29609
539		Estate of John Vargas		727 Drawbridge Dr		Conway	SC	29526

Exhibit A**Capital Investment Funding, LLC****A Notice of Class Action Approval Hearing**

**Was Mailed To Each Of The Following Class Members and Class Member Representatives
On March 3, 2017**

#	First Name	Last Name	Ref	Address 1	Address 2	City	State	Zip Code
540	Vera	Vargas		727 Drawbridge Dr		Conway	SC	29526
541	Regina	Varnado		2224 Sunny Hill Drive		Lancaster	OH	43130
542		Estate of Carroll J. Vaughn		7614 187th Ave., SW		Rochester	WA	98579
543	Harry	Vaughn, Jr.		323 Piedmont Park Road		Greenville	SC	29609
544	Menefee	Vaughn, Jr.		323 Piedmont Park Road		Greenville	SC	29609
545	James	Vaught		600 Fox Bay Rd		Loris	SC	29569
546	Thomas	Vaught		2463 Hwy 9 W		Longs	SC	29568
547	Ronald J.	Veal		11 Camelot Lane		Greenville	SC	29611
548	Jimmie W.	Verdin		3208 Beaverdam Creek Rd		Gray Court	SC	29645
549	Jacqueline	Rice		12 Meadow Springs Lane		Greer	SC	29650
550	Paula	Plum		929 S.E. 6th Terrace		Cape Coral	FL	33990
551	Catherine	Vivona		2177 Pond View		Reston	VA	20191
552		Estate of Otto G. Vogel		397 Beechwood Drive		Greer	SC	29651
553	Ralph	Volk		107 Driftwood Dr		Bonneau Beach	SC	29431
554	Cecil E.	Waddell		1708 Davis Road		Woodruff	SC	29388
555	Joseph	Waddell		1701 Davis Rd		Woodruff	SC	29388
556	Deborah	Wade		120 Clearview Dr		Greer	SC	29651
557	Timothy	Waldrop		507 Rock Springs Rd		Easley	SC	29642
558		Walker & Whiteside		10 Ramsuer Ct		Greenville	SC	29607
559	Barry	Wall		220 Sunny Acre Rd		Pacolet	SC	29372
560	Maxine D.	Ward		202 Frank St		Westminster	SC	29693
561	James	Ware		3 Jean Avenue		Greenville	SC	29611
562	Clida	Waters		2389 Windmill Way		Myrtle Beach	SC	29579
563	Charles	Watson		107 Saddleback Circle		Goose Creek	SC	29445
564	David	Watson		100 Gosnell Dr		Travelers Rest	SC	29690
565	Ellen	Webb		469 Commonwealth Rd		Mt. Pleasant	SC	29466
566		Estate of Jerome Weissert		c/o Dianne Weissert	12611 River Crossing Way	Fredericksburg	VA	22407
567	Carole	West		1085 Zimmerman Lake Rd		Spartanburg	SC	29306
568	James R.	West		180 Saratoga Avenue		Spartanburg	SC	29302
569	Oleda	White		5897 S. Kings Hwy LW 24		Myrtle Beach	SC	29575
570	Dorothy	Wilkes		704 Mills Ave		Greenville	SC	29605
571	Charles	Williams III		1641 A East Main St		Westminster	SC	29693
572	Patricia A.	Williams		136 Tanglewood Drive		Greenville	SC	29611
573	Wayne W.	Willimon		7644 Highway 81 North		Easley	SC	29642
574	Joe H.	Wilson, Sr.		41 Cantera Circle		Greenville	SC	29615
575	Russell	Wise		503 Waltham Forest Dr		Murrells Inlet	SC	29576
576	Wanda	Witmer		115 Robbins Drive		Greenville	SC	29611
577	Marie	Wood		12 River Birch Way		Greer	SC	29650
578	Steve	Wood		P.O. Box 483		Greer	SC	29652
579	William	Wood		113 Lakeland Ave		Moore	SC	29369
580	Willie	Wood		P.O. Box 202		Tigerville	SC	29688
581	Leonard	Woodhurst		419 Lake Park Drive		Myrtle Beach	SC	29588
582	Albert	Woodson, Jr.		3501 North Hwy 81, Apt. 135		Anderson	SC	29621
583	Clarence	Woodson		1011 Garrison Road		Anderson	SC	29625
584	Velma	Woodson		1011 Garrison Road		Anderson	SC	29625
585	Octavia	Wright		305 Russell St		Easley	SC	29640
586	Jerry	Wynn		115 Folkshire Court		Greenville	SC	29611
587	Bob C.	Wynn		104 Hickory Hill Lane		Greenville	SC	29609
588	Joyce	Wynn		115 Folkshire Court		Greenville	SC	29611
589	Eva	Yates		3833 Moorefield Mem Hwy		Pickens	SC	29671
590	Eugene	Yetman		3107 Robyn Court		Little River	SC	29566
591	Hazel L.	Young		136 Wedgefield Village Rd		Georgetown	SC	29440
592	Rodney	Zander		132 Shipyard Circle		Anderson	SC	29621
593	Charles	Zollinger		128 Woodlake Dr		Murrells Inlet	SC	29576
594	Betty	Anderson		103 Glaneagles Court		Simpsonville	SC	29881
595	Fred	Anderson		112 Woodrow Street		Pickens	SC	29671
596	Earline	Batson		510 Piedmont Park Rd		Greenville	SC	29609
597	Ronald	Berg		9 Tilden Ct		Simpsonville	SC	29680
598	Marvin	Bright		333 Draytonville Road		Gaffney	SC	29340
599	Franklin	Burton		8586 Brookforest Drive		Charleston	SC	29406
600	Sue	Campbell		101 Foxfield Way		Greer	SC	29651
601	William H.	Chelf		4 Spring Valley Road		Greenville	SC	29615
602	Combs Family Trust			Helen Combs, Trustee	301 Rippleview Drive	Clemson	SC	29631
603	Betty	Couch		125 Hudgens Lake Road		Townville	SC	29689
604	Barbara	Dawes		115 Woodlake Village		Murrells Inlet	SC	29576
605	Elizabeth	Dickson		5 Yorkshire Drive		Greenville	SC	29615
606	Earnest	Duncan		9512 Hwy 178S		Saluda	SC	29138
607		Estate of W. Glenn Edgar		P.O. Box 1944		Easley	SC	29641
608	Henry	Holmes		301 Calina Heights		Greer	SC	29651
609	Juanita	Hughey		410 Lynell Drive		Moore	SC	29369
610	Edwin	Jarrell, Jr.		PO Box 1314		West Union	SC	29696
611	Edwin	Jud		43 Lawn Ave.		Portland	ME	04103
612	Irene	Karpinski		2 Smith Hollow Dr		Greenville	SC	29615
613	Barbara	Keigley		8 Whitethorn Lane		Greenville	SC	29607
614	Katie	Ladd		105 Theodore Dr		Greenville	SC	29611
615	A. Ray	Langdale		505 Mountain Creek Road		Greenville	SC	29609

Exhibit A

Capital Investment Funding, LLC

A Notice of Class Action Approval Hearing

Was Mailed To Each Of The Following Class Members and Class Member Representatives

On March 3, 2017

#	First Name	Last Name	Ref	Address 1	Address 2	City	State	Zip Code
616	Charles	Lee		262 Lee Road		Fair Play	SC	29643
617	Diane	LeMay		1242 Brighton Ave		Myrtle Beach	SC	29588
618	Jerome	Lipe		116 Galaxie Place		Spartanburg	SC	29307
619	Coralie	Liston		811 16th Avenue North		Surfside Beach	SC	29575
620	Mary	McClimon		3501 N. Hwy 81		Anderson	SC	29621
621	Dorothy	McWhite		PO Box 165		Slater	SC	29683
622		Sala Living Trust		Michael Sala, Trustee	100 Lands End Blvd	Myrtle Beach	SC	29572
623	Eloise	Monteith		3896 Old Vinyard Rd., Apt. 314		Winston Salem	NC	27104
624	Charles	Monteith		3895 Old Vinyard Rd., Apt. 314		Winston Salem	NC	27104
625	Ansel	Owens		106 Welcome St		Greenville	SC	29611
626	Harry	Porter		2181 Goodson Dr		Longs	SC	29568
627	Jacquelyn	Porter		2181 Goodson Dr		Longs	SC	29568
628	Opal	Prather		1416 Glencoe Drive		Mt. Pleasant	SC	29464
629	Dixie	Purdee		1206 Plantation Drive South		Simpsonville	SC	29881
630	Robert	Thomas		PO Box 78661		Charlotte	NC	28271
631	Thomas	Slavish		524 17th Avenue North		Surfside Beach	SC	29575
632	Leo	Spellman		PO Box 75		Port Kent	NY	12975
633	Emma	Stafford		297 W. Mountain Creek Church Road		Greenville	SC	29609
634	Marjorie	Stafford		297 W. Mountain Creek Church Road		Greenville	SC	29609
635	Wilda	Thackston		207 Oakland Way		Fountain Inn	SC	29644
636	James	Turner		11 Cornell Court		Greenville	SC	29611
637	Hazel	Vaughn		12 Callahan Avenue		Greenville	SC	29617
638	Loretta	Whitmire		806 N. Franklin Road		Greenville	SC	29617
639	Evelyn	Williams		2480 Stanford Road		Greer	SC	29651
640	Martin	Zernick		921 Grove Road		Greenville	SC	29605

Reconciliation Of Number Of Notices Mailed To Number of Noteholder Accounts

Total Number of Noteholder Accounts	688
Noteholder Accounts Eliminated From Mailing	
Noteholders Accounts That Opted Out of Class With No Settlement	(4)
Noteholders Account That Opted Out of Class With Mediated Settlement	(4)
Noteholders With Two Accounts (Regular & IRA) - Only One Notice Mailed	(51)
Additional Notices Mailed To Multiple Heirs / Beneficiaries of Deceased Noteholders	11
Total Notices Mailed	640

EXHIBIT B

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

**IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
C/A NO. 2008-CP-23-3665**

William F. Tomz and Frances W. Tomz,)
Individually and as Class Representatives,)
)
Plaintiff,)
)
vs.)
)
Capital Investment Funding, L.L.C. and)
Arthur M. Field,)
)
Defendants.)

**NOTICE OF CLASS ACTION
APPROVAL HEARING**

YOU WILL PLEASE TAKE NOTICE that Class Counsel moves the Court for an Order approving a settlement agreement reached with Arthur Field, Kathryn Taillon, Kirsten White, Allyson Field, Davyd Field and certain related companies and entities.

The hearing to approve the settlement shall be on Friday, March 17, 2017 at 10:30 a.m. in the Greenville County Courthouse, Courtroom 4, 305 East North Street, Greenville, SC 29601. The complete settlement agreement is available for review by any Class Member upon request. Please contact Class Counsel at the addresses below:

Gene M. Connell, Jr., Esquire
Kelaher, Connell & Connor, P.C.
P. O. Drawer 14547
Surfside Beach, SC 29587
Phone: 843-238-5648
Fax: 843-238-5050
Email: gconnell@classactlaw.net

Stanley T. Case, Esquire
Butler, Means, Evins & Browne, P.A.
P. O. Box 451
Spartanburg, SC 29304
Phone: 864-582-5630
Fax: 864-585-2034
Email: scase@butlermeans.com

Please note, you do not have to attend to obtain your portion of the settlement. Also, no disbursements are being made at this time. You will be notified when any monies are to be paid out to the Class.

Dated: March 3, 2017

Gene M. Connell, Jr.
Kelaher, Connell & Connor, P.C.
The Courtyard, Suite 209
1500 U. S. Highway 17 North
Post Office Drawer 14547
Surfside Beach, South Carolina 29587-4547
Phone: 843-238-5648
Fax: 843-238-5050
Email: gconnell@classactlaw.net
Class Counsel

AND

Stanley T. Case
Butler, Means, Evins & Browne, P.A.
P. O. Box 451
Spartanburg, SC 29304
Phone: 864-582-5630
Fax: 864-585-2034
Email: scase@butlermeans.com
Class Counsel

6-1
85805
STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Edward W. Miller, Circuit Court Judge

Appellate Case No. 2013-002676

Common Pleas Case No. 2008-CP-23-3665

RECEIVED

FEB 01 2018

SC Court of Appeals

William F. Tomz and Francis W. Tomz, Individually
and as Class Representatives, ... Respondents.

v.

Capital Investment Funding, LLC, and Arthur M. Field, Defendants, of Whom Capital
Investment Funding, LLC, by and through its Receiver, Jerry T. Saad, is Respondent,
and Arthur M. Field is the. Appellant

**MOTION TO DISMISS APPEAL AND RESPONDENTS'
MEMORANDUM IN SUPPORT OF MOTION TO DISMISS APPEAL**

Stanley T. Case (SC Bar No. 001158)
BUTLER, MEANS, EVINS & BROWNE, P.A.
P.O. Drawer 451
Spartanburg, SC 29304
(864) 582-5630
(864) 585-2034 fax
scase@butlermeans.com
Attorney for Respondents, William F. Tomz
And Francis W. Tomz, Individually and as
Class Representatives

George Brandt, III (SC Bar No. 00855)
ENDERSON, BRANDT & VIETH, P.A.
360 E. Henry Street, Suite 101
Spartanburg, SC 29302
(864) 583.5144
(864) 582-2927 fax
gbrandt@hbvlaw.com
Attorney for Capital Investment Funding, LLC,
by and through its Receiver, Jerry T. Saad

Pursuant to a mediated global settlement agreement and Order Approving Settlement, issued by the Honorable Edward W. Miller on August 24, 2009, the Respondent, Jerry T. Saad, was appointed Receiver of Capital Investment Funding, LLC, and entered into his duties as Receiver and began to marshal the assets of Capital Investment Funding, LLC.

On August 19, 2013, the Honorable Edward W. Miller issued an Order and Rule to Show Cause directed to Arthur M. Field based upon asserted violations of the Orders of the Court of Common Pleas including, specifically:

- i) The Order dated August 24, 2009 ("Global Settlement Order") appointing Jerry T. Saad, as Receiver ("the Receiver") for Capital Investment Funding, LLC ("CIF") and empowering him to take actions as such, including obtaining records and information;

- ii) The Order dated June 29, 2010 ("Production Order") elaborating on the mediated global settlement order by specifying the obligation to produce records, property and information;

- iii) The Order dated October 10, 2011 ("Privilege Order") clarifying the Receiver's authority to waive attorney/client privilege on behalf of certain entities.

A ruling on the Rule to Show Cause was held on September 17, 2013, and, based on the testimony at the hearing and the record, the Honorable Edward W. Miller found Arthur M. Field to be in contempt of the prior Orders issued by the Court.

On October 1, 2013, the Honorable Edward W. Miller issued his written Order confirming that Arthur M. Field was in contempt of the prior Orders issued by the Court. Following a Motion for Re-Consideration, which was denied by the court, Appellant,

Arthur M. Field, filed this Appeal on December 9, 2013, which is presently pending before the Court of Appeals.

During the pendency of this appeal, on or about March 8, 2017, a global settlement agreement between Capital Investment Funding, LLC (and related parties) and Arthur Field (and related parties) was reached and a motion was made to approve the class settlement and ratify the global settlement agreement ("GSA") by the class ("Motion to Approve GSA").

Following the filing of the Motion to Approve GSA, the Court of Appeals was notified that the Global Settlement Agreement had been reached and the appeal was held in abeyance pending the approval of the Global Settlement Agreement by the Honorable Edward W. Miller in accordance with its terms.

On December 1, 2017, the Honorable Edward W. Miller signed and filed an Order Approving the Global Settlement Agreement. That Order is attached as Exhibit 1 to this Motion. There has been no appeal from that Order.

Pursuant to Judge Miller's Order, this appeal has been resolved. Judge Miller's Order provides in pertinent part, as follows:

Regarding the Motion to Approve GSA

Upon its approval, the GSA settles all matters, claims and litigation recited therein between and among the parties to the agreement. By its terms the GSA also resolves matters pending in this case relate to multiple complaints as to Arthur Field's willful violations of the terms of the original Mediated Global Settlement Agreement, memorialized by Order of this Court on August 24, 2009, including:

1. Orders and Rules to Show Cause dated 4/1/2013, 8/19/2013 and 10/1/2013 and rulings thereon, and appeal therefrom, pending in the South Carolina Court of Appeals (Appellate #2013-002676).

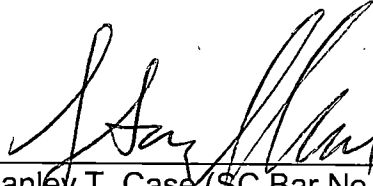
In an Order executed and filed December 21, 2017, the Honorable Edward W. Miller confirmed that the Global Settlement Agreement was approved on December 1, 2017, and that appropriate Orders of Dismissal shall be filed in the respective courts as it pertains to the parties of the GSA. The Order of Judge Miller entered December 21, 2017, specifically provided:

"By Order entered December 1, 2017, this Court has granted Plaintiff's Motion to Approve the Global Settlement Agreement ("GSA") filed March 8, 2017. The GSA has been approved and its terms are now an Order of the Court. Accordingly, all deeds shall be immediately recorded. All monies and payments due under the GSA shall be made and transferred in accordance with the respective terms of the GSA. CIF represented to the Court that it discharged its lis pendens on the St. Augustine property, as required by the GSA. The appropriate Orders of Dismissal shall be filed in the respective courts as it pertains to the parties of the GSA."

This appeal, which is pending in the Court of Appeals (*William Tomz, et al. v. Capital Investment Funding, LLC, et al.*, Appellate Case no. 2013-002676) is one of the pending matters which must be dismissed in accordance with the settlement which was approved on December 1, 2017.

Accordingly, the undersigned Respondents hereby move the Court of Appeals, pursuant to Rule 240 of the Appellate Court Rules, to dismiss the appeal filed in this action.

Respectfully submitted,



Stanley T. Case (SC Bar No. 001158)
BUTLER, MEANS, EVINS & BROWNE, P.A.
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Spartanburg, SC 29304
(864) 582-5630
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scase@butlermeans.com
Attorney for Respondents, William F. Tomz
And Francis W. Tomz, Individually and as
Class Representatives



George Brandt, III (SC Bar No. 00855)
HENDERSON, BRANDT & VIETH, P.A.
360 E. Henry Street, Suite 101
Spartanburg, SC 29302
(864) 583.5144
(864) 582-2927 fax
gbrandt@hbvlaw.com
Attorney for Capital Investment Funding, LLC,
by and through its Receiver, Jerry T. Saad

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Edward W. Miller, Circuit Court Judge

Appellate Case No. 2013-002676

Common Pleas Case No. 2008-CP-23-3665

RECEIVED

FEB 01 2018

SC Court of Appeals

William F. Tomz and Francis W. Tomz, Individually
and as Class Representatives, ...

Respondents.

v.

Capital Investment Funding, LLC, and Arthur M. Field, Defendants, of Whom Capital
Investment Funding, LLC, by and through its Receiver, Jerry T. Saad, is Respondent,
and Arthur M. Field is the. Appellant

**MEMORANDUM IN SUPPORT OF
MOTION TO DISMISS APPEAL**

Stanley T. Case (SC Bar No. 001158)
BUTLER, MEANS, EVINS & BROWNE, P.A.
P.O. Drawer 451
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(864) 582-5630
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scase@butlermeans.com
Attorney for Respondents, William F. Tomz
And Francis W. Tomz, Individually and as
Class Representatives

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Attorney for Capital Investment Funding, LLC,
by and through its Receiver, Jerry T. Saad

This Memorandum is submitted in support of the Respondent's Motion to Dismiss the Appeal which is pending in the Court of Appeals in the above-referenced matter. (*William Tomz, et al. v. Capital Investment Funding, LLC, et al.*, Appellate Case no. 2013-002676).

This appeal is from an Order of the Honorable Edward W. Miller issued on October 1, 2013, in which he ruled that the Appellant, Arthur M. Field, was in contempt of the prior Orders issued by the court. During the pendency of this appeal, in March of 2017, the parties reached a Global Settlement Agreement, which included the Respondents and the Appellant, Arthur Field. See, executed Global Settlement Agreement between Capital Investment Funding (and related parties) and Arthur Field (and related parties) attached as Exhibit 1 to this Memorandum, and incorporated by reference.

A Notice of Motion and Motion to Approve Class Settlement was filed in the Court of Common Pleas, Thirteenth Judicial Circuit, seeking approval of the Global Settlement Agreement ("GSA"). Importantly, the GSA includes a specific provision in Paragraph 11 which requires the Appellant, Arthur Field and Respondent to jointly file a Motion to Dismiss this appeal.

Following the filing of the Motion to Approve the GSA, the Court of Appeals was notified that the GSA had been reached and this appeal was held in abeyance pending the approval of the GSA by the Honorable Edward W. Miller in accordance with the terms of the GSA.

On December 1, 2017, the Honorable Edward W. Miller signed and filed an Order approving the GSA. Judge Miller's Order is attached to the Respondent's Motion

to Dismiss as Exhibit 1 to Respondent's Motion. The December 1, 2017, Order was not appealed.

Pursuant to the Order of the Honorable Edward W. Miller, dated and filed December 1, 2017, this appeal has been resolved. Pursuant to Judge Miller's Order, this appeal has been resolved and is moot. Accordingly, the Court of Appeals should enter its Order dismissing this appeal.

Judge Miller's Order, which approved the GSA set forth in detail the pertinent history with regard to the approval of the GSA and that approval of the GSA would resolve this appeal:

Regarding the Motion to Approve GSA

Upon its approval, the GSA settles all matters, claims and litigation recited therein between and among the parties the agreement. By its terms the GSA also resolves matters pending in this case relate to multiple complaints as to Arthur Field's willful violations of the terms of the original Mediated Global Settlement Agreement, memorialized by order of this Court on August 24, 2009, including:

1. Orders and Rules to Show Cause dated 4/1/2013, 8/19/2013 and 10/1/2013 and rulings thereon, and appeal therefrom pending in the South Carolina Court of Appeals (Appellate #2013-002676);
2. Order and Rule to Show Cause dated 9/8/2016 and proceedings thereon;
3. Order to Produce Records dated 12/15/2016 and Supplemental Order dated 1/12/2017 and any and all subsequent proceedings thereon; and
4. Defendant Arthur Field's Motion to Dismiss all prior or pending Orders relating to Rules to Show Cause by Defendant Field dated 3/10/2017 and all subsequent proceedings thereon.

Counsel for CIF noted to this Court that a similar hearing on these matters was held by this Court on September 5, 2017. At that time, this Court:

1. Directed Defendant Field to request a hearing to take place on his motion to modify his restitution in the pending criminal case: State of South Carolina v. Arthur M. Field, C.A. 2012-GS-47-08 (Ct of General Sessions, Anderson County, SC):
2. Ordered Defendants Arthur Field, Kathryn Taillon and Allyson Field to complete all requirements regarding the 310 Thornblade Blvd. property; and
3. Ordered Defendant Kirsten White to comply with all outstanding the terms and obligations that pertained to her and her residence at 5 Aldgate Way, Greer, SC.

Counsel for CIF then updated the Court on the status of compliance with the GSA and with previous orders of this Court. The restitution hearing took place before Judge Cordell Maddox on November 1, 2017. The parties to that proceeding reached an agreement that was put on the record. This Court then confirmed that Judge Maddox had this day signed a written order memorializing those terms. Counsel for CIF then proffered an addendum to the GSA that reflects and incorporates the changes to the GSA affected by the matters agreed to in Judge Maddox's order (Exhibit 1, Addendum) Upon inquiry of this Court, there were no objections to the Addendum.

This Court finds and concludes that, in accordance with the requirements of South Carolina law, the "Addendum to the Global Settlement Agreement" ("Addendum") presented to this Court at the hearing on November 27, 2017, properly incorporates the matters addressed by Judge Maddox in the above-referenced order. This Court further finds that the Addendum modifies the GSA solely to the issue of restitution order to be paid by Arthur Field in the matter: State of South Carolina v. Arthur M. Field, C.A. 2012-GS-47-08 (State Grand Jury of South Carolina), and does not affect any other party to the GSA other than Arthur Field. This Court further finds the amendments to the GSA as set forth in the Addendum are acceptable.

The Court notes that in the hearing of the Motion to Approve the GSA held on March 27, 2017, this Court took the matter under advisement and deferred a decision thereon. Since then, over the course of the last seven months, this Court has reflected and deliberated over the many comments made by Class members, who lost significant sums of money from their investment in CIF, and over the Receiver's testimony and recommendations. With the amendments to the GSA as set forth in the Addendum, this Court now concludes and finds that approval of the GSA is in the best

interest of the Class. Accordingly, this Court hereby approves the GSA as amended by the Addendum, and Orders that all parties to the GSA have been and shall continue to be duty bound to fulfill obligations set forth therein.

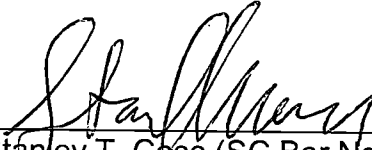
In an Order executed and filed December 21, 2017, which is attached hereto and incorporated as Exhibit 2, the Honorable Edward W. Miller confirmed that the Global Settlement Agreement was approved on December 1, 2017, and that appropriate Orders of Dismissal shall be filed in the respective courts as it pertains to the parties of the GSA. The Order of Judge Miller entered December 21, 2017, specifically provided:

"By Order entered December 1, 2017, this Court has granted Plaintiff's Motion to Approve the Global Settlement Agreement ("GSA") filed March 8, 2017. The GSA has been approved and its terms are now an Order of the Court. Accordingly, all deeds shall be immediately recorded. All monies and payments due under the GSA shall be made and transferred in accordance with the respective terms of the GSA. CIF represented to the Court that it discharged its lis pendens on the St. Augustine property, as required by the GSA. The appropriate Orders of Dismissal shall be filed in the respective courts as it pertains to the parties of the GSA."

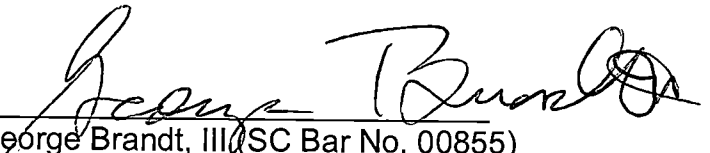
This appeal, which is pending in the Court of Appeals (*William Tomz, et al. v. Capital Investment Funding, LLC, et al.*, Appellate Case no. 2013-002676) is one of the pending matters which must be dismissed in accordance with the settlement which was approved on December 1, 2017.

Accordingly, the undersigned Respondents assert that they are entitled to the dismissal of the appeal filed in this action and request that their motion to dismiss the appeal made pursuant to Rule 240 of the Appellate Court Rules be granted by the Court of Appeals.

Respectfully submitted.



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Attorney for Capital Investment Funding, LLC,
by and through its Receiver, Jerry T. Saad

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

William F. Tomz and Francis W. Tomz,
Individually and as Class Representatives,

Plaintiffs,

vs.

Capital Investment Funding, LLC, and
Arthur M. Field,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No.: 2008-CP-23-3665

ORDER

This matter comes before me upon to address several motions and matters currently pending before the Court. By and through its court-appointed receiver ("Receiver"), Capital Investment Funding, LLC ("CIF") has filed the following motions:

1. Plaintiffs' Motion to Approve Class Settlement and ratify the Global Settlement Agreement (GSA) by the Class ("Motion To Approve GSA") dated 3/8/2017;
2. Plaintiffs' Amended Motion to Defendant Arthur Field Compelling Compliance To The Terms of the Global Settlement Agreement ("Motion To Comply-Field (Restitution)"), filed August 18, 2017. This motion alleged that Defendant Field (hereinafter "Defendant Field") has failed to fulfill his obligation under the terms of the GSA to schedule a hearing to modify his restitution and parole terms ("Restitution Hearing") and sought this Court to direct Defendant Field to have the Restitution Hearing promptly, or in the alternative, find that Defendant Field has willfully failed to comply with the material terms of the GSA and sanction him accordingly.
3. Plaintiffs' Motion As To Allyson Field, Kathryn Taillon & Arthur Field To Comply With The Terms of the Global Settlement Agreement ("Motion To Comply-Field (Insurance)"), filed July 26, 2017. This motion alleged the property located at 310 Thornblade Blvd., Greer, South Carolina ("Thornblade Property"), which is a material component of the GSA, incurred damaged from a hail storm that occurred in March 2017, and sought this Court to: (a) declare these parties are responsible for restoring the Thornblade Property to the condition existing at the time the GSA was executed; (b) order repairs to the Thornblade Property be conducted with this Court's oversight to ensure proper conduct, with due haste to minimize any additional consequential damages; (c) order the named parties to immediately deliver all insurance proceeds to CIF counsel, to be held in escrow, and require all receipts and disbursements of insurance proceeds related to such damage and repairs be conducted with this Court's oversight to ensure proper application of funds; and (d) declare that CIF is not

responsible for paying any deductible amount of the insurance policy; and sought appropriate sanctions and attorney fees; and

4. Plaintiffs' Motion to Kirsten White To Comply with the Terms of the Global Settlement Agreement Executed on February 24, 2017 ("Motion To Comply-White"), filed July 26, 2017. This motion sought to compel Kirsten White to comply with the Global Settlement Agreement ("GSA") regarding the insurance, inspection and sale of her residence and sought appropriate sanctions and attorney fees.

Each of these matters were addressed in a hearing held by this Court on November 27, 2017. The following counsel appeared on behalf of the following parties:

Capital Investment Funding:
George Brandt, III, Esq.
Stanley T. Case, Esq.
Rodney F. Pillsbury, Esq.

Arthur M. Field, Jr.:
Micajah P. Caskey, Esq.
Bradford Martin, Esq.

Allyson Field
Luke Burke, Esq.

Kathryn Taillon
Jeffrey P. Dunlaevy, Esq.

Regarding the Motion To Approve GSA

Upon its approval, the GSA settles all matters, claims and litigation recited therein between and among the parties to the agreement. By its terms the GSA also resolves matters pending in this case relate to multiple complaints as to Arthur Field's willful violations of the terms of the original Mediated Global Settlement Agreement, memorialized by order of this Court on August 24, 2009, including:

1. Orders and Rules to Show Cause dated 4/1/2013, 8/19/2013 and 10/1/2013 and rulings thereon, and appeal therefrom pending in the South Carolina Court of Appeals (Appellate #2013-002676);
2. Order and Rule to Show Cause dated 9/8/2016 and proceedings thereon;
3. Order to Produce Records dated 12/15/2016 and Supplemental Order dated 1/12/2017 and any and all subsequent proceedings thereon; and
4. Defendant Arthur Field's Motion to Dismiss all prior or pending Orders relating to Rules to Show Cause by Defendant Field dated 3/10/2017 and all subsequent proceedings thereon.

Counsel for CIF noted to this Court that a similar hearing on these matters was held by this Court on September 5, 2017. At that time, this Court:

1. Directed Defendant Field to request a hearing to take place on his motion to modify his restitution in the pending criminal case: State of South Carolina v. Arthur M. Field, C.A. 2012-GS-47-08 (Ct of General Sessions, Anderson County, SC);
2. Ordered Defendants Arthur Field, Kathryn Taillon and Allyson Field to complete all requirements regarding the 310 Thornblade Blvd. property; and
3. Ordered Defendant Kirsten White to comply with all outstanding the terms and obligations that pertained to her and her residence at 5 Aldgate Way, Greer, SC.

Counsel for CIF then updated the Court on the status of compliance with the GSA and with previous orders of this Court. The restitution hearing took place before Judge Cordell Maddox on November 1, 2017. The parties to that proceeding reached an agreement that was put on the record. This Court then confirmed that Judge Maddox had this day signed a written order memorializing those terms. Counsel for CIF then proffered an addendum to the GSA that reflects and incorporates the changes to the GSA affected by the matters agreed to in Judge Maddox's order. [Exhibit 1, Addendum] Upon inquiry of this Court, there were no objections to the Addendum.

This Court finds and concludes that, in accordance with the requirements of South Carolina law, the "Addendum to the Global Settlement Agreement" ("Addendum") presented to this Court at the hearing on November 27, 2017, properly incorporates the matters addressed by Judge Maddox in the above-referenced order. This Court further finds that the Addendum modifies the GSA solely to the issue of restitution order to be paid by Arthur Field in the matter: State of South Carolina v. Arthur M. Field, C.A. 2012-GS-47-08 (State Grand Jury of South Carolina), and does not affect any other party to the GSA other than Arthur Field. This Court further finds the amendments to the GSA as set forth in the Addendum are acceptable.

This Court notes that in the hearing of the Motion to Approve the GSA held on March 27, 2017, this Court took the matter under advisement and deferred a decision thereon. Since then, over the course of the last seven months, this Court has reflected and deliberated over the many comments made by Class members, who lost significant sums of money from their investment in CIF, and over the Receiver's testimony and recommendations. With the amendments to the GSA as set forth in the Addendum, this Court now concludes and finds that approval of the GSA is in the best interest of the Class. **Accordingly, this Court hereby approves the GSA as amended by the Addendum, and Orders that all parties to the GSA have been and shall continue to be duty bound to fulfill obligations set forth therein.**

This Court also reminds all parties to the GSA that this Court found and stated, in its Order dated October 25, 2017 the following:

1. The language of the GSA is clear, concise, specific, and unambiguous.
2. Section 14.I.vi. of the GSA specifically binds all parties to cooperate with each other fully, timely and without delay.
3. Section 14.I.vii. states emphatically that **TIME IS OF THE ESSENCE.**

This Court further reminds all parties to the GSA that, pursuant to Section 14.I.ii. of the GSA, this Court retains sole and exclusive jurisdiction relating to all matters of enforcement or non-performance of the GSA. This Court hereby notifies all parties to the GSA that this Court will enforce strict and timely adherence and performance by all parties to the GSA.

This Court further orders that all parties to the GSA sign the Addendum. **Due to the time deadlines set forth within the GSA, the Court directs all parties (or their counsel) to execute an original signature and their initials to the Addendum and to deliver such to CIF Attorney Rodney Pillsbury no later than 5:00 PM (EST) Thursday, November 30, 2017; provided however, that if any party is unable to deliver the original executed Addendum by that date and time, then such party shall scan/email or fax the executed Addendum to CIF Attorney**

Rodney Pillsbury [email: Rodney@pillsburyfirm.law] or [fax: 864-370-0599] by such time and then deliver the original executed Addendum to CIF Attorney Rodney Pillsbury's office: Pillsbury Law Firm, LLC, 25 Mills Ave., Greenville SC 29605 no later than 5:00 PM (EST) Wednesday, December 6, 2017.

Regarding Plaintiffs' Motion To Comply-Field (Restitution)

Counsel for CIF noted that, while this Court heard this Motion on September 5, 2017 and issued its Order on October 25, 2017 mandating Defendant Field to schedule the restitution hearing, this Court did not address Plaintiff's specific requests contained in the Motion seeking sanctions and attorney fees as a result of the Defendant Field's unreasonable delays and failure to timely schedule the restitution hearing as required under the GSA. This Court shall not rule on this request at this time, but rather will continue this matter until a hearing to be held by this Court on December 7, 2017, at which time this Court shall allow the parties to present information, testimony and evidence thereof.

Regarding Plaintiffs' Motion To Comply-Field (Insurance)

Counsel for CIF noted that, while this Court heard this Motion on September 5, 2017 and issued its Order on October 25, 2017 mandating delivery of insurance information to CIF and cooperation between all parties, this Court did not address Plaintiff's specific requests contained in the Motion seeking sanctions and attorney fees as a result of the defendants' unreasonable delays and failure to act as required under the GSA. Counsel for CIF further noted that the matter of the insurance proceeds is still unresolved as the defendants are still holding the insurance proceeds. Upon this Court's inquiry, Mr. Luke Burke, representing defendant Allyson Field, acknowledge that his firm did hold the insurance proceeds in its escrow account and has not delivered these funds to CIF because CIF has not demanded the funds. Counsel for CIF noted that no demands are necessary because the GSA explicitly states that all insurance proceeds are to be paid to CIF.

Upon further inquiry of the insurance matter, Field's counsel voluntarily proffered Defendant Arthur Field to give testimony on the matter.

Once sworn, Defendant Field provided a timeline of events. Other persons present took issue with the sequence and substance of Defendant Field's compliance with section 14 of the GSA as it pertains to naming CIF as an additional insured; his submitting a claim for property damage from a hail storm; his depositing of the insurance proceeds in his own bank account; and his subsequently transferring those funds to Allyson Field's counsel in two separate installments.

The Court is concerned about the veracity of the sworn testimony provided by Arthur Field on this matter. This Court ordered from the bench that the defendants' counsel obtain all of the insurance records from the insurance company and deliver such information to this Court by noon, on Monday, December 4, 2017. This Court shall review this insurance information and compare the information to the testimony provided by Defendant Field. This Court shall not rule on this matter at this time, but rather will continue this matter until a hearing to be held by this Court on December 7, 2017, at which time this Court shall allow the parties to present information, testimony and evidence thereof.

Regarding Plaintiffs' Motion to Compel Kirsten White

On July 26, 2017 Plaintiffs filed a motion to compel Kirsten White to comply with the terms and obligations of the GSA. Since executing the GSA in February 2017, Defendant White has failed to make her home available for inspection and has failed to contract with a real estate agent to list her house for sale, despite her explicit obligations to do so under the terms of the GSA. At the September 5, 2017 hearing, the Court examined Ms. White about her non-compliance. The Court rejected her excuses and explanations and ordered her to comply with the GSA – namely, to make the house available inspection; to provide the Receiver with all documentation related to homeowner's insurance coverage and, if applicable, all documentation related to

insurance claims for repairs; and to execute an agreement to sale the home with a licensed real estate agent of her choosing.

At the hearing on November 27, 2017, counsel for CIF informed the Court that every attempt to contact Defendant White via telephone, email, letter and text have has been ignored. Despite receiving notice of the hearing,¹ Defendant White failed to appear.

As a threshold matter, the Court grants Plaintiffs' motion to compel filed on July 26, 2017. Pursuant to Rule 37(a)(4) of the South Carolina Rules of Civil Procedure, the Court orders that Defendant White shall pay the attorney's fees and costs associated with the filing of Plaintiffs' motion. The Court directs counsel for Plaintiffs to file a petition for fees within ten (10) days of entry of this order, and the court will schedule a hearing at the appropriate time. Any fees and costs awarded shall be deducted from any sums otherwise due to Defendant White from the proceeds of the sale of the 5 Aldgate Way property, as set forth in the GSA.

In addition, based upon the Court's direct inquiry with Defendant White and her deliberate refusal to comply with the terms of the GSA which she freely and voluntarily negotiated and executed on her on accord, the Court finds Defendant White to be in willful contempt of her obligations of the GSA and of the orders of this Court, as memorialized in the order entered October 25, 2017. It should be noted that Defendant White has admitted in a prior hearing that she provided false and misleading deposition testimony regarding to the disappearance of the original noteholder files.

In the September 5, 2017 hearing, Defendant White indicated she would cooperate fully with CIF's counsel to facilitate the inspection and sale of the home. CIF's counsel reports that despite numerous attempts via every means possible, Defendant White has refused to respond, much less cooperate. The Court finds Defendant White to be in willful contempt of this court.

¹Arthur Field testified under oath that he sent a text to Kirsten White on November 26, 2017, reminding her about the hearing held on November 27, 2017.

Section 14 of the GSA addresses the exchanges of title and mortgages among the parties. Under Section 14(D)(viii)(d), Defendant White is scheduled to receive 80% of the net proceeds after satisfying CIF's mortgage and all other liens and expenses identified therein. Defendant White may purge herself of the finding of contempt with the payment of 10% of the net proceeds. Thus, under Section (D)(viii)(d), if Defendant White wishes to clear the finding of contempt, Defendant White will receive 70% of the net proceeds. The remaining 30% will go to CIF.

If Defendant White elects not to dissolve the contempt finding in this matter, or if this obligation is not settled within five (5) business days of the closing, the Court will hold a separate hearing to determine other penalties and/or punishments.

It is so ordered, this ____ day of November, 2017.

The Honorable Edward W. Miller
Presiding Judge, 13th Judicial Circuit



Greenville Common Pleas

Case Caption: William F Tomz , plaintiff, et al vs. Capital Investment Funding Llc ,
defendant, et al
Case Number: 2008CP2303665
Type: Order/Other

So Ordered

s/ Edward W. Miller

Electronically signed on 2017-12-01 10:08:52 page 9 of 9

Global Settlement Agreement
Between Capital Investment Funding (and related parties)
And Arthur Field (and related parties)

1. The Parties:

- A. CIF, its court appointed receiver ("Receiver"), and its present employees, agents, attorneys, etc.
- B. The Class of Noteholders of CIF ("Plaintiffs")
- C. Arthur Field and his family, his and their attorneys, and his and their associates as follows:
 - i. Arthur Field
 - ii. Kathryn ("Kate") Taillon (and Kathryn Taillon d/b/a Pelican Way Financial)
 - iii. Allyson Field
 - iv. Davyd Field (previously released)
 - v. Kirsten White (f/k/a Kirsten Gantt and Kirsten Gantt d/b/a Empire Document Service)
 - vi. Bart Kelley
 - vii. Brad Kelley
 - viii. Attorneys Bruce Bannister and Bannister, Wyatt & Stalvey, LLC
 - ix. Attorneys Thomas Stephenson and Stephenson & Murphy, LLC
 - x. Attorney Micajah P. Caskey, IV
 - xi. Attorney Todd Rutherford
 - xii. Attorneys Brad Martin and Bradford Neal Martin & Associates, P.A.
- D. Entities formerly controlled by Field or family members
 - i. Aladdin's Café & Grill, LLC
 - ii. Cosimo, LLC
 - iii. Bolingbroke United (England) Ltd.
 - iv. Lion Financial, LLC
 - v. Krondor Trading Co., LLC
 - vi. Trazom, LLC
 - vii. Bradford Financial Group, LLC
 - viii. Monmouth Financial Group, Ltd
 - ix. Carolina Pops Orchestra, Inc.
 - x. Blenheim Properties, LLC;
 - xi. Bountiful Bingo, LLC;
 - xii. Pelican Way Financial, LLC
 - xiii. York Mortgage Funding, LLC
 - xiv. Epic Entertainment, LLC
 - xv. Epic Entertainment & Equipment Co., LLC
 - xvi. Mithril Funding, LLC
 - xvii. CIF TC, LLC
 - xviii. Young Players Support Group, Inc.
 - xix. RAAF Enterprises, LLC
 - xx. He Will Provide, LLC
 - xxi. Hakuna Industries, Inc.
 - xxii. Capital Intrastate Funding, LLC

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2. The Properties:
- A. 310 Thornblade Blvd, Greer, SC ("Thornblade Property"), currently titled to Allyson Field and currently with no lien or mortgage
 - B. 5 Aldgate Way, Greer, SC ("Aldgate Way Property"), currently titled to Kirsten White and currently subject to the following mortgages:
 - i. 1st Mortgage in the amount of \$175,000.00 payable to Pelican Way Financial, LLC
 - ii. 2nd Mortgage in the amount of \$33,000.00 to Arthur Field, Trustee
 - C. 5489 Atlantic View, St. Augustine, FL, ("St. Augustine Property"), currently titled to Arthur Field and Kathryn Taillon and currently with no lien or mortgage
3. Pending Actions:
- A. Harold Brooks v. Arthur Field, C.A. No. 6:14-cv-02267-BHH-JDA (D.S.C. Greenville Div.), Federal Court case; Motion for class certification filed, but not yet ruled upon.
 - B. Capital Investment Funding, LLC v. Arthur Field, et al., C.A. No.: 15-CP-23-01263 (13th Judicial Circuit, Court of Common Pleas, Greenville County, SC)
 - C. Capital Investment Funding, LLC v. Calvary Asset Management, LLC, et al., C.A. No.: BER-L-3790-12 (Superior Ct. New Jersey, Bergen County, N.J.) ("Calvary Asset Management Case")
 - D. William F. Tomz and Francis W. Tomz, Individually and as Class Representatives vs. Capital Investment Funding, L.L.C. and Arthur M. Field, C.A. No. 2008-CP-23-3665 (Court of Common Pleas, 13th Judicial Circuit, Greenville County, South Carolina) Class action of all noteholders previously approved ("Tomz Case").
 - E. Capital Investment Funding v. Lancaster Resources, et. al., Docket No. 2:2008-CV-04714.
4. Global Settlement Agreement ("Agreement") of All Matters Among All Identified Parties Herein: Upon approval of the court in the Tomz Case ("the Court"), and except as otherwise enforcing the terms and agreements set forth herein, this Agreement settles with prejudice all claims of every kind and nature which were raised or could have been raised in any above-identified litigation, including any and all causes of action, direct claims, cross-claims, counter-claims, rights of offset, grievances, complaints, and other rights and actions otherwise derived from such, between and among all undersigned parties and all identified entities herein, including their employees, agents, and attorneys (both past and present) and their respective firms (past and present), and the Receiver, his firm, his employees agents, in every and all capacities (including capacity as agent, fiduciary, appointee, individual, or otherwise).

Terms of Settlement:

5. The parties to this Agreement do hereby release all other parties and their respective officers, directors, employees, agents, attorneys, and affiliates, of and from any and all suits, legal actions or claims of any nature whatsoever, known or unknown, up to and including the present time, including, but not limited to, claims described in Paragraph 4 of this Agreement, which include but are not limited to claims arising under all common and statutory laws, ordinances, rules or regulations of the United States of America and all the states of the United States, and specifically including the states of New Jersey and South Carolina, and their political subdivisions, and the public policies thereof. This release shall further include, but shall not be limited to, all those claims which were or could have been asserted in the litigation identified in Paragraph 3 of this Agreement (including any and all appeals), which actions shall be dismissed with prejudice, with each party to bear its/his/her own attorneys' fees and costs for all actions or appeals or related matters.

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6. This settlement is conditioned upon the approval of the current class of noteholders in William F. Tomz and Francis W. Tomz, Individually and as Class Representatives vs. Capital Investment Funding, L.L.C. and Arthur M. Field, C.A. No. 2008-CP-23-3665. Upon execution of this Agreement, Plaintiffs' class counsel in that matter will promptly (no more than 10 days) petition the Court for approval of this settlement. In the event approval of this settlement is denied in any of the matters referenced in Paragraph 3, this settlement shall terminate as provided herein.
7. Within ten (10) days of executing this Agreement, the parties in Harold Brooks v. Arthur Field, C.A. No. 6:14-cv-02267-BHH-JDA will jointly request the court enter a Rubin order, whereby the case is placed on inactive status to allow the parties sixty (60) days to effectuate this final settlement. The parties in that case will also submit a joint motion requesting the Court to vacate the Report and Recommendation of the Magistrate Judge regarding Plaintiffs' Motion for Class Certification (Doc. 371) entered on January 26, 2017.
8. Arthur Field has expressed a desire to move to Florida, has represented that his ability to do so depends upon changes in the current status of the terms and conditions of his restitution as set by the Court in State of South Carolina v. Arthur Field, C.A. 13-GS-47-08 (County of Anderson, South Carolina), and has expressed that his willingness to participate in and be bound to the terms and conditions of this Agreement are contingent upon modifications to the terms and conditions of his restitution as set forth herein.

Therefore, within five (5) days of all parties executing this Agreement and tendering the fully executed Agreement to Counsel for CIF, who will hold such in trust pending court approvals, Arthur Field shall file a motion with the court seeking modification to the terms and conditions of his restitution, and, subject to the requirements of South Carolina law and subject to Arthur Field having been fully compliant with all the terms and conditions of his restitution previously ordered by the court from the date of such order until such time as the court modifies such restitution as requested hereunder, including but not limited to all payments required thereunder having been made without interruptions or stoppages, Plaintiffs and the Receiver, together with their attorneys and agents, hereby consent to the relief sought by Arthur Field to modify his restitution obligations previously ordered by the court, provided such modification is as follows:

- A. The total restitution ordered to be paid by Arthur Field shall be reduced to the sum of: (i) the amounts paid through the date the restitution order is modified, plus (ii) the fulfillment of all terms and obligations by Arthur Field and all parties set forth in Paragraphs 1.C. and 1.D of this Agreement; and
 - B. Upon all parties to this Agreement having fully performed their obligations hereunder, no further restitution shall be due from Arthur Field and all restitution obligations of Arthur Field shall be declared SATISFIED IN FULL; and
 - C. Upon all parties to this Agreement having fully performed their obligations hereunder, Arthur Field shall be granted permission to live in Florida.
9. Additionally, Rules to Show Cause were issued to Arthur Field by the Court within the Tomz matter in April and August, 2013, and in September 2016, hearings were conducted, and Orders were issued thereon on October 1, 2013, December 15, 2016, and January 12, 2017. Field has appealed the October 1, 2013 Order and that appeal is currently pending in the South Carolina Court of Appeals. Arthur Field has expressed that his willingness to participate in and be bound to the terms and conditions of this Agreement are contingent upon all such matters being dismissed in accordance with the motion to which the parties have agreed.

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Therefore, also within five (5) days of all parties executing this Agreement and tendering the fully executed Agreement to Counsel for CIF, who will hold such in trust pending court approvals, Arthur Field shall file a motion with the court seeking dismissal of all pending matters related to the Rule to Show Cause referred in this paragraph, and, subject to the requirements of South Carolina law, Plaintiffs and the Receiver, together with their attorneys and agents, will consent to the relief sought by Arthur Field in such motion.

10. In the event a court issues an order that denies Arthur Field's request for the modification to his restitution set forth in Paragraph 8 or issues an order that denies Arthur Field's Motion seeking dismissal of the pending matters as described in Paragraph 9, and/or otherwise imposes sanctions or penalties upon Arthur Field above and beyond fulfilling his obligations of this Agreement as set forth herein, then immediately upon the issuance of such order, this Agreement shall become immediately null and void, and all documents and monies previously delivered to be held in trust shall be returned to the parties as provided herein. Until such time of such occurrence, all parties to this Agreement are bound hereunder and may not modify any terms or conditions hereunder, and may not withdraw or terminate his or her or its participation hereunder.
11. In the event both courts issue orders granting the modification and dismissal sought as described in Paragraphs 8 and 9, then in such event, counsel of record shall file appropriate notices in each of the pending actions described in Paragraph 3 and will file a Joint Motion for Dismissal with the South Carolina Court of Appeals with regard to the pending appeal referenced in Paragraph 9 within five (5) days of having received the last of the two orders.
12. Within twenty-four (24) hours of full execution of this Agreement, Field shall allow a licensed home inspector and a certified appraiser to inspect the Thornblade Property. Neither the appraiser nor the home inspector will be accompanied by any attorneys or agents of the Receiver or the plaintiffs. Arthur Field and Kathryn Taillon shall cooperate with these parties so that they may conduct their appraisal and home inspection of the subject property. Arthur Field and Kathryn Taillon shall truthfully complete and sign real estate seller disclosure forms and shall advise these parties of any material matters about the premises and such shall constitute sufficient notice to the Receiver, CIF, and the Class as to known defects. Neither Allyson Field, nor Arthur Field, nor Taillon shall have any responsibility to cure such defects, but will permit Landlord (described below) to make such cures upon reasonable notice during reasonable business hours at Landlord's sole expense beginning any time after August 31, 2017, to assist in the sale of the premises.
13. After one week of the full execution of this Agreement, Kirsten White shall allow a licensed home inspector and a certified appraiser to inspect the Aldgate Way Property. Neither the appraiser nor the home inspector will be accompanied by any attorneys or agents of the Receiver or the plaintiffs. Kirsten White shall cooperate with these parties so that they may conduct their appraisal and home inspection of the subject property. Kirsten White shall truthfully complete and sign real estate seller disclosure forms and shall advise these parties of any material matters about the premises and such shall constitute sufficient notice to the Receiver, CIF, and the Class as to known defects. Kirsten White shall have no responsibility to cure such defects.

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14. Consideration Tendered By or On Behalf of Undersigned Parties

A. Thornblade Property

- i. With the execution of this Agreement, Allyson Field will execute in recordable form the General Warranty Deed attached hereto as **Exhibit 1**, which will transfer the Thornblade Property to CIF. The Deed will be held in trust by CIF counsel and will be recorded and delivered to the Receiver upon the Court's approval of the settlement. Transfer of the Thornblade Property will not be effected until the Deed is delivered to the Receiver. In the event the Court declines approval of the settlement or of any of the conditions precedent thereto set forth in Paragraphs 8 and 9 above, the Deed shall be null and void and shall be immediately (upon the Court's actions) returned as such to Allyson Field.
- ii. With the execution of this Agreement and until the effective time of transfer of the Thornblade Property, Allyson Field shall maintain and timely pay all costs of property, casualty and liability insurance coverages on the Thornblade Property, shall have such policies name CIF as the named insured, shall immediately deliver to CIF a certificate of insurance, and shall have all proceeds of such policies inure to and be directly paid to CIF.
- iii. With the execution of this Agreement and until the effective time of transfer of the Thornblade Property, Allyson Field shall pay all property taxes and regime fees (home owners association dues, etc...) applicable to the Thornblade Property; thereafter, CIF shall pay all taxes and regime fees and be solely responsible for such.
- iv. The Thornblade property shall be transferred in an 'as is' condition, as viewed by the Home Inspector referred to above in Paragraph 12.
- v. With the execution of this Agreement and until the effective time of transfer of the Thornblade Property, the Thornblade Property shall be free of all liens and encumbrances.
- vi. With the execution of this Agreement, CIF, Arthur Field and Kathryn Taillon shall execute the Lease attached hereto as **Exhibit 2**. The Lease will be held in trust by CIF counsel and will be effective and delivered to the Receiver immediately upon the Court's approval of the settlement. In the event the Court declines approval of the settlement, the Lease shall be null and void and shall be immediately (upon the Court's actions) returned as such to Arthur Field and Kathryn Taillon. The Lease provides for the following:
 - a. CIF shall be Landlord and Arthur Field and Kathryn Taillon shall be Tenants.
 - b. The Lease shall have a fixed term which terminates on November 30, 2017.
 - c. Tenants have the right to reside in the Thornblade Property until November 30, 2017.
 - d. Tenants shall pay no rent during the term of the Lease, but shall pay the utility bills and the reasonable cost of interior, non-structural maintenance.
 - e. Tenants shall vacate the Thornblade Property on or before November 30, 2017.
 - f. Upon vacating the premises, Tenants shall leave the premises in the same or better condition as it was at the time of inspection as provided in Paragraph 12 herein (excluding reasonable wear and tear and damage, if any, caused by the act of Landlord or its agents or contractors). If Tenants fail to leave the premises as required and Landlord, in good faith, reasonably determines that the actual reasonable cost to cure the deficiency will exceed \$1,000, then Landlord may give actual notice to Tenants of such deficiency and estimated cost of actual and reasonable cure. Tenants shall have 14 days after receipt of such notice to initiate and timely pursue a cure of same at their expense less any monies due from any insurer of Landlord, Tenants or third party. If not cured by Tenants in timely and reasonable and workmanlike fashion, or if Tenants do not initiate a cure within 14 days of notice, then Landlord may initiate and timely pursue a cure of the same. Upon Landlord's completion of such cure, Landlord may initiate a complaint to

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collect any reasonable and actual cost of cure in excess of insurable amounts, including actual and reasonable costs and fees. Tenants shall have the right to defend such claim or to seek indemnification from or implead any insurer or third party which may be responsible in whole or in part for such damage or the cost of repair or to subrogate such claim to Landlord in satisfaction of any third party damage. Landlord will not bring any such claim without a substantial belief in the merits thereof and without first giving Tenants sufficient opportunity to resolve such matter after actual notice aforesaid. The parties waive trial by jury of such claim. If such cure is covered by insurance inuring to benefit of Tenants, then Tenants may assign such portion of proceeds of insurance to Landlord as shall be applicable to damage to Landlord's fee interest in partial or total satisfaction of the actual cost of remediation, excluding therefrom any portion pertaining to Tenants' personal property or effects. In the event Landlord recovers any insurance, Landlord shall assign to Tenants any portion thereof which would pertain solely to destruction of Tenants' personal property or effects and give notice to Tenants of any deficiency and pursue such remedy as stated above for such deficiency in the manner described. The parties shall cooperate in any claim to any third party insurer or liability carrier. At Landlord's request, Tenants shall subrogate any claim against Third Party or Third Party insurer to Landlord in lieu of any claim against Tenants, but Tenants shall retain its right to apportionment in favor of Tenants' personal property damage or any personal injury to Tenants or guests and Landlord will timely pay to Tenants such portion upon recovery from insurer or Third Party without demand from Tenants.

- g. All items of personal property not affixed or attached to the Thornblade Property by nail, screws, glue, or other means of permanent attachment shall be deemed the personal property of Arthur Field, Kathryn Taillon, and/or Allyson Field, and shall be excluded from the terms of this Agreement and such shall remain the sole and exclusive property of the respective individual(s) at all times and no other party shall have any past, present or future claim thereto.
- h. Any dispute regarding the Lease shall be resolved by application to Judge Edward W. Miller, the presiding judge in the Tomz Case.

B. Kathryn Taillon's Note and Mortgage on Aldgate Way Property

- i. Kathryn Taillon is the assignee and holder of the Note and Mortgage on the Aldgate Way Property payable to and in favor of Pelican Way Financial, LLC ("Pelican Note and Mortgage"), dated on or about May 5, 2010, and recorded on the Greenville County Land Records. The Pelican Note and Mortgage are in good standing as of the date hereof. All prior payments of the interest made or accruing on such Note have been credited to the account of Pelican Way Financial, LLC or Kathryn Taillon, and shall remain the sole and exclusive property of such and no party shall have any past, present or future claim thereto.
- ii. Kathryn Taillon represents that the Pelican Note and Mortgage are valid and enforceable, and the mortgage is a recorded and perfected first mortgage lien on the Aldgate Way Property, and is not subordinated to any other lien.
- iii. With the execution of this Agreement, Kathryn Taillon shall:
 - a. Execute in recordable form and deliver to CIF counsel the Assignment of Note and Mortgage attached hereto as **Exhibit 3** ("Pelican Assignment"), which, upon the Court's approval of the settlement, shall transfer to CIF the ownership of the Pelican Note and Mortgage; and

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- b. Deliver to CIF counsel the originals of the Pelican Note and Mortgage (or, if originals are lost, valid affidavits of lost documents) and the assignment document that transferred ownership of the Pelican Note and Mortgage from Pelican Way Financial, LLC to Kathryn Taillon.
- iv. CIF counsel shall hold such original documents in trust counsel pending the Court's approval of the settlement.
- v. The Pelican Assignment and its transfer of the Pelican Note and Mortgage will not be effected unless and until the Court approves this settlement.
- vi. In the event the Court approves the settlement, the Pelican Assignment shall be effective immediately, shall be promptly released and delivered to CIF, and shall be recorded; additionally, the original Pelican Note and Mortgage shall be delivered to CIF.
- vii. In the event the Court declines approval of the settlement, the Pelican Assignment shall be null and void and shall be immediately (upon the Court's actions) returned as such to Kathryn Taillon together with the original Pelican Note and Mortgage.
- viii. Until the settlement is approved and the Pelican Assignment is effective, Kirsten White shall make all monthly interest payments due under the first mortgage in the amount of \$583.00 per month (which is otherwise payable to Kathryn Taillon) to CIF to be held in escrow. In the event the Court declines approval of the settlement, CIF shall remit such amounts it received to Kathryn Taillon. In the event the Court approves the settlement, CIF shall retain all amounts received and receive all future payments under the Pelican Note and Mortgage. All amounts otherwise due under the terms of the Pelican Note and Mortgage shall be paid in full from the proceeds of the sale of the Aldgate Way Property as provided herein.

C. Arthur Field, Trustee's Note and Mortgage on Aldgate Way Property

- i. Arthur Field is the holder of the Note and Mortgage on the Aldgate Way Property payable to and in favor of Arthur Field, Trustee ("Trustee Note and Mortgage") dated on or about October 1, 2010, and recorded on the Greenville County Land Records.
- ii. Arthur Field represents that the Trustee Note and Mortgage are valid and enforceable, and that the mortgage is a recorded and perfected second mortgage lien on the Aldgate Way Property, which is not subordinated to any other lien other than the Pelican Note and Mortgage.
- iii. The Trustee Note and Mortgage provides for simple (not compounded) interest to accrue at the rate of 4.5% per year and for the entire balance to be paid in full on or before October 1, 2014.
- iv. Arthur Field represents that no payments have been made or received on the Trustee Note and Mortgage through the date of the Agreement.
- v. Arthur Field further represents that he and Kirsten White, the maker of the Trustee Note and Mortgage, agreed to extend the due date of the Trustee Note and Mortgage to December 31, 2018.
- vi. Accordingly, Arthur Field represents that the Note and Mortgage are in good standing as of the date hereof and that as of the date of this Agreement, the outstanding balance due under the Trustee Note and Mortgage exceeds \$42,000.
- vii. With the execution of this Agreement, Arthur Field shall:
 - a. Execute in recordable form and deliver to CIF counsel the Assignment of Note and Mortgage attached hereto as **Exhibit 4** ("Trustee Assignment"), which, upon the Court's approval of the settlement, shall transfer to CIF the ownership of the Trustee Note and Mortgage; and

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- b. Deliver to CIF counsel the originals of the Trustee Note and Mortgage and the assignment document. CIF counsel shall hold such original documents in trust counsel pending the Court's approval of the settlement.
- viii. The Trustee Assignment and its transfer of the Trustee Note and Mortgage will not be effected unless and until the Court approves this settlement.
- ix. In the event the Court approves the settlement, the Trustee Assignment shall be effective immediately, shall be promptly released and delivered to CIF, and shall be recorded; additionally, the original Trustee Note and Mortgage shall be delivered to CIF.
- x. In the event the Court declines approval of the settlement, the Trustee Assignment shall be null and void and shall be immediately (upon the Court's actions) returned as such to Arthur Field together with the original Trustee Note and Mortgage.
- xi. All amounts otherwise due under the terms of the Pelican Note and Mortgage shall be paid in full from the proceeds of the sale of the Aldgate Way Property as provided herein.

D. Aldgate Way Property

- i. With the execution of this Agreement, Kirsten White will execute in recordable form the General Warranty Deed attached hereto as **Exhibit 5**, which upon the Court's approval shall transfer the Aldgate Way Property to CIF Properties, LLC. The Deed shall be held in trust by CIF counsel and will be recorded and delivered to the Receiver upon the Court's approval of the settlement. Transfer of the Aldgate Way Property will not be effected until the Deed is delivered to the Receiver. In the event the Court declines approval of the settlement, the Deed shall be null and void and shall be immediately (upon the Court's actions) returned as such to Kirsten White.
- ii. With the execution of this Agreement, CIF Properties, LLC will execute in recordable form the \$50,000 Note and Mortgage attached hereto as **Exhibit 6** ("White Note and Mortgage"), which shall grant to Kirsten White a first mortgage on the Aldgate Way Property. The White Note and Mortgage shall bear zero interest through December 31, 2017 and thereafter shall bear interest at 2.5% per annum. The White Note and Mortgage shall provide that payment in full shall be made upon the sale, conveyance or transfer of the Aldgate Way Property. The White Note and Mortgage shall be held in trust by CIF counsel and will be recorded and delivered to Kirsten White upon the Court's approvals of the settlement. The obligation of the White Note and Mortgage will not be effected until the Court approve the settlement. In the event the Court declines approval of the settlement, the White Note and Mortgage shall be null and void and shall be immediately (upon the Courts' actions) returned as such to CIF.
- iii. With the execution of this Agreement, CIF, as assignee and holder of the Pelican Notes and Mortgages and the Trustee Note and Mortgage, will execute in recordable form the respective Subordination Agreements attached hereto as **Exhibit 7**. The effect of the Subordination Agreements shall be that the White Note and Mortgage shall be senior to and have priority of payment over the Pelican and Trustee Notes and Mortgages, and that the Pelican and Trustee Notes and Mortgages shall be subordinate to the White Note and Mortgage, thereby guarantying that upon the sale of the Aldgate Way Property, Kirsten White will receive full payment and complete satisfaction under the terms of the White Note and Mortgage before and ahead of any payments to CIF.
- iv. With the execution of this Agreement and until the effective time of transfer of the Aldgate Way Property, Kirsten White shall maintain and timely pay all costs of property, casualty and liability insurance coverages on the Aldgate Way Property, shall have such policies name CIF as the additional named insured, shall immediately deliver to CIF a certificate of insurance, and shall have all proceeds of such policies inure to and directly paid to CIF for the benefit of all named insured.

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- v. With the execution of this Agreement and until the effective time of transfer of the Aldgate Way Property, Kirsten White shall pay all property taxes and regime (home owners association, etc.) applicable to the Aldgate Way Property, and CIF shall pay all such taxes and regime fees thereafter and be solely responsible for such.
- vi. With the execution of this Agreement and until the effective time of transfer of the Aldgate Way Property, Kirsten White shall make and complete all routine interior repairs and shall pay all utility costs applicable to the Aldgate Way Property.
- vii. With the execution of this Agreement and until the effective time of transfer of the Aldgate Way Property, the Aldgate Way Property shall be free of all liens and encumbrances, except for the Pelican Note and Mortgage and the Trustee Note and Mortgage.
- viii. CIF and Kirsten White shall endeavor to close on the sale of the Aldgate Way Property no sooner than August 1, 2017 and no later than December 31, 2017 as follows:
 - a. On or before May 1, 2017, Kirsten White shall engage the realtor of her choosing to list the Aldgate Way Property for immediate sale at any price above \$285,000, provided any such listing shall terminate no later than December 31, 2017.
 - b. In the event Kirsten White fails to engage a realtor to sell the Aldgate Way Property on or before May 1, 2017, or in the event the Aldgate Way Property is not sold by December 31, 2017, CIF may thereafter pursue the sale of the Aldgate Way Property without any interference from but with full cooperation of Kirsten White, and subject to the oversight of Judge Edward W. Miller, the presiding judge in the Tomz Case.
 - c. CIF shall arrange for and be responsible to pay for up to \$10,000 of repairs and fix up expenses deemed necessary to facilitate selling the property at a price comparable to similar properties on Aldgate Way or within 0.5 miles thereof. Such repairs shall be substantially completed by May 15, 2017, to enhance listing and sales price and to facilitate the sale of the Aldgate Way Property. Such repairs shall be made on reasonable notice during reasonable business hours and CIF or its agents shall obtain any necessary permits.
 - d. At the closing of the sale of the Aldgate Way Property (whether initiated by White before or by CIF after December 31, 2017), the gross sales proceeds shall be used to pay in the following order of priorities the following in amounts sufficient to satisfy and pay in full:
 - 1. Seller's selling and closing costs (sales commissions and other closing costs and fees customarily paid by seller);
 - 2. The White Note and Mortgage;
 - 3. The Pelican Note and Mortgage;
 - 4. The Trustee Note and Mortgage;
 - 5. Reimbursement to CIF for amounts paid for actual, reasonable repairs and fix up costs as provided in Paragraph 14.D.viii.c.
 - 6. Any repairs and fix up costs incurred but not paid by CIF before closing, repaid to such person(s) as shall have paid for such additional, necessary repairs upon presentation of actual receipts, with copies to CIF, Kirsten White, and closing attorney.
 - 7. Payment to CIF for any unpaid rent due from Kirsten White as described in Paragraph 14.D.ix.c.

In the event that, after paying these amounts in full, any gross sales proceeds remain to be disbursed, then 80% of such amounts remaining shall be paid to Kirsten White and 20% shall be paid to CIF.

- ix. With the execution of this agreement, CIF and Kirsten White shall execute the Lease attached hereto as **Exhibit 8**. The Lease will be held in trust by CIF counsel and will be effective and delivered to the Receiver immediately upon the Court's approval of the

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settlement. In the event the Court declines approval of the settlement, the Lease shall be null and void and shall be immediately (upon the Court's actions) returned as such to Kirsten White. The Lease provides for the following terms:

- a. CIF shall be Landlord and Kirsten White shall be Tenant.
- b. The Lease shall have a fixed term which terminates on December 31, 2017.
- c. During the term of the Lease, Tenant shall pay no (zero) rent to CIF from inception until September 30, 2017, and thereafter Tenant shall pay CIF \$1,500 per month for each month or part of a month until Tenant has vacated the premises. Tenant may at her option pay CIF each month or may have such amounts deducted from any sales proceeds otherwise due to her as provided in Paragraph 14.D.viii.d.7.
- d. Tenant has the right to reside in the Aldgate Way Property until December 31, 2017.
- e. Tenant shall peacefully vacate the Aldgate Way Property by December 31, 2017.
- f. Upon vacating the Aldgate Way Property, Tenant shall leave the premises in the same or better condition as it was at the time of inspection as provided in Paragraph 13 herein (excluding reasonable wear and tear and damage, if any, caused by the act of Landlord or its agents or contractors). If Tenant fails to leave the premises as required and Landlord, in good faith, reasonably determines that the actual reasonable cost to cure the deficiency will exceed \$1,000, then Landlord may give actual notice to Tenant of such deficiency and estimated cost of actual and reasonable cure. Tenant shall have 14 days after receipt of such notice to initiate and timely pursue a cure of same at her expense less any monies due from any insurer of Landlord, Tenant or third party. If not cured by Tenant in timely and reasonable and workmanlike fashion, or if Tenant does not initiate a cure within 14 days of notice, then Landlord may initiate and timely pursue a cure of the same. Upon Landlord's completion of such cure, Landlord may initiate a complaint to collect any reasonable and actual cost of cure in excess of insurable amounts, including actual and reasonable costs and fees. Tenant shall have the right to defend such claim or to seek indemnification from or implead any insurer or third party which may be responsible in whole or in part for such damage or the cost of repair or to subrogate such claim to Landlord in satisfaction of any third party damage. Landlord will not bring any such claim without a substantial belief in the merits thereof and without first giving Tenant sufficient opportunity to resolve such matter after actual notice aforesaid. The parties waive trial by jury of such claim. If such cure is covered by insurance insuring to benefit of Tenant, then Tenant may assign such portion of proceeds of insurance to Landlord as shall be applicable to damage to Landlord's fee interest in partial or total satisfaction of the actual cost of remediation, excluding therefrom any portion pertaining to Tenant's personal property or effects. In the event Landlord recovers any insurance, Landlord shall assign to Tenant any portion thereof which would pertain solely to destruction of Tenant's personal property or effects and give notice to Tenant of any deficiency and pursue such remedy as stated above for such deficiency in the manner described. The parties shall cooperate in any claim to any third party insurer or liability carrier. At Landlord's request, Tenant shall subrogate any claim against Third Party or Third Party insurer to Landlord in lieu of any claim against Tenant, but Tenant shall retain its right to apportionment in favor of Tenant's personal property damage or any personal injury to Tenant or guests and Landlord will timely pay to Tenant such portion upon recovery from insurer or Third Party without demand from Tenant. If damage is caused by Landlord's agents, contractors, or repair persons, Landlord shall immediately cure same and provide adequate shelter for White, if any damage interrupts her use of the property, and Landlord shall be

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liable for any claim made by agent, contractor or repair person or third party for personal or property damage resulting from such work.

- g. All items of personal property not affixed or attached to the Aldgate Way Property by nail, screws, glue, or other means of attachment shall be deemed the personal property of Kirsten White and shall be excluded from the terms of this agreement.
- h. Any dispute regarding the Lease shall be resolved by application to Judge Edward W. Miller, the presiding judge in the Tomz Case.

E. Payments by Kathryn Taillon and or York Mortgage Funding

Upon execution of this Agreement, Kathryn Taillon shall deliver to CIF counsel to be held in trust a bank certified check in the amount of \$10,000 made payable to CIF. Upon approval of the settlement by the Court, the funds shall be immediately delivered to the Receiver in full and further satisfaction of any York related direct, collateral or indirect claim against Taillon or any other person named herein, whether made by York, CIF, or any other party hereto or any collateral claim. In the event the Court declines approval of the settlement, the check or equivalent funds shall be returned to Kathryn Taillon.

F. Payment by Arthur Field and Kathryn Taillon to CIF:

- i. Upon execution of this Agreement, Kathryn Taillon shall deliver to CIF counsel to be held in trust a bank certified check in the amount of \$15,000 made payable to CIF. Upon approval of the settlement by the Court, the funds shall be immediately delivered to the Receiver in further satisfaction of any CIF related direct, collateral or indirect claim against Taillon or any other person, whether made by CIF, or any other party hereto. In the event the Court declines approval of the settlement, the check or equivalent funds shall be returned to Kathryn Taillon.
- ii. Upon the execution of this agreement, Arthur Field and Kathryn Taillon will execute in recordable form the Note and Mortgage for the St. Augustine Property, attached hereto as **Exhibit 9 and Exhibit 10**, respectively, in favor of CIF, which is in the amount of \$105,000. The Note shall provide for 0.0% interest through December 31, 2017 and thereafter interest at a 3.0% annual rate compounded monthly and the entire balance of \$105,000 being due and payable in full on December 31, **2018**, provided however that for every \$85 paid to CIF before December 31, 2017, the outstanding balance shall be reduced by an additional \$20. The Note and Mortgage will be held in trust by CIF counsel. In the event the Court declines approval of the settlement, the Mortgage and Note shall be null and void and shall be immediately (upon the Court's actions) returned as such to Arthur Field and Kathryn Taillon. In the event the Court approves the settlement, CIF Counsel will hold the Mortgage and Note in trust in anticipation of CIF receiving payment in full and complete satisfaction on or before December 31, 2017. In the event CIF does not receive payment in full payment on or before December 31, 2017, CIF counsel may have the mortgage recorded in St. John's Florida. All payments under the terms of this Note and Mortgage shall be on behalf of Kathryn Taillon, Arthur Field, and/or any entity related thereto as listed above. CIF shall release all *lis pendens* on all properties recorded in St. Johns County, Florida to enable the Arthur Field and Kathryn Taillon to acquire and remit such money to CIF, whether from personal funds, reverse mortgage, conventional mortgage, credit card loans or otherwise. Upon the execution of this Agreement and until the Note and Mortgage are paid in full, Arthur Field and Kathryn Taillon shall not allow any lien to be placed on the St. Augustine Property unless: (1) the lien is placed for the purpose of Arthur Field and or Kathryn Taillon borrowing money, the net proceeds of which are paid to CIF pursuant to their obligations under this Agreement, and the amount of the lien does not exceed the sum of 100% of the amounts paid to CIF plus costs incurred

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to acquire and close the loan and anticipated reasonable relocation costs to an interstate moving company; or (2) Arthur Field and or Kathryn Taillon obtain written consent of such from CIF, whose consent may be withheld at its sole discretion. Arthur Field and Kathryn Taillon may make periodic payments thereon and such shall reduce any outstanding balance. Only Arthur Field or Kathryn Taillon shall be responsible at any time for the outstanding balance.

G. Arthur Field Agreement To Share Proceeds From Certain Future Endeavors

Arthur Field expressed: (1) his desire and plans to create literary works and or presentations based on his experiences and events involving CIF; (2) his willingness and desire to dedicate significant time and effort in that endeavor; and (3) his willingness and desire to benefit CIF and its noteholders should such efforts bear economic benefits. Accordingly, upon the execution of this Agreement, Arthur Field shall prepare and execute a written definitive contract, negotiated in good faith with the Receiver, and shall present such contract to the Court for approval by March 31, 2017. The contract shall be between Arthur Field (and any entity he may create for this work) and CIF, and provide that CIF shall receive more than 50% of the gross profits (as reasonably defined) derived from any such endeavors. This agreement shall broadly cover all sources of revenues which are directly or indirectly derived from Arthur Field's experiences with CIF, including but not limited to writings, productions, films, media publications, interviews, lectures, licensing, and so forth.

H. Members of CIF Relinquish Limited Liability Company Membership

Upon execution of this Agreement, Arthur Field, Brad Kelley, Bart Kelley, and Log Cabin Financial, LLC shall each execute a recordable Membership Termination Agreement in the form attached hereto as **Exhibit 11**, which shall terminate such person's membership ownership interest in CIF and rights applicable thereunder and transfer such ownership interests and rights to the current class of noteholders of CIF. The executed Membership Termination Agreements shall be delivered to CIF counsel to be held in trust pending the Court's approval of this settlement. Upon approval of the settlement by the Court, all of the Membership Termination Agreements shall be immediately delivered to CIF and CIF shall pay the sum of \$1 per membership percentage interest transferred in full consideration thereof, whereupon each of the named persons shall thereafter have no ownership in CIF and all rights and claims thereof are forever relinquished. In the event the Court declines approval of the settlement, the Membership Termination Agreements shall be immediately returned to the respective persons.

I. Other Conditions:

- i. At the settlement approval hearing, Arthur Field will provide a verified financial statement of his assets and liabilities. The financial statement shall include actual amounts where reasonably available, reasonable estimates of values where actual amounts are not reasonably available, and nomenclature which clearly distinguishes between actual and estimated amounts. Arthur Field will attest under oath as to the veracity of such financial statement, including the basis for which amounts were determined. The financial statement itself will be confidential as to the Court, the Receiver, and its attorneys. The truthfulness of this financial statement is and will be a material representation upon which the Plaintiffs and the Receiver are relying as their basis for agreeing to the settlement.
- ii. Upon approval by the Court, this settlement will be full and final as to all parties identified herein, with the sole exception if it is later demonstrated Arthur Field has made a material misrepresentation to the Court regarding his verified financial disclosure set forth in sub-part i (above). This Agreement contains terms and conditions of certain events to happen in the future. The parties agree that the Judge Edward W. Miller, the presiding judge in the

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Page 12 of 16

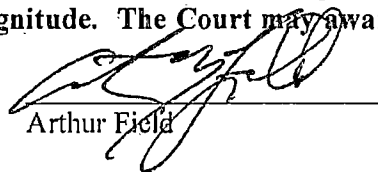
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Record p. 342

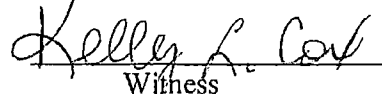
- Tomz Case, shall have sole and exclusive jurisdiction regarding any dispute related to the enforcement, performance or non-performance of any future obligation contained herein (including any integral components hereof).
- iii. To the extent any party is required to make any payment at any future date pursuant to this Agreement, that party specifically agrees that such obligation is non-dischargeable by bankruptcy.
 - iv. All documents referenced herein as Exhibits (Petitions, Leases, Assignments of Note and Mortgage, Deeds, and Note and Mortgage) are integral components of this Agreement and the settlement.
 - v. The parties agree that any payment made by Taillon, Allyson Field, Arthur Field, or any entity or trust related to any of them, in cash or in kind, tangible or intangible, may be credited to the 'account' of Arthur Field, as 'return of earned salary', for all purposes related hereto, and for further purposes of rescinding restitution as described in Paragraph 8. However, such payments or transfers shall serve as sufficient consideration for (1) all releases running to all of the named parties or entities under Paragraphs 3, 4 and 5; and (2) all dismissals with prejudice of any past, pending or future matter, other than those related solely to enforcement of the obligations of this Agreement, as specifically set forth immediately above.
 - vi. All parties to this Agreement shall cooperate with each other fully, timely, without delay or hindrance, where and when necessary in order for all parties to comply with the terms and conditions hereof. Such cooperation shall include, but not necessarily be limited to, providing proper and current physical and email addresses for notification purposes and executing documents reasonably necessary to effect the spirit, intent, and terms of this Agreement and the settlement.
 - vii. **Time is of the Essence.**

IMPORTANT ACKNOWLEDGMENT & DECLARATION BY ARTHUR FIELD

Prior to the execution of this Agreement, Arthur Field's representatives have reported that Mr. Field was recently admitted for in-patient psychiatric treatment. Arthur Field hereby acknowledges and declares that at the time of executing this Agreement that he is of sound mind, in full control of his mental faculties, and that he is freely and voluntarily entering into this binding Agreement. He hereby acknowledges and declares that he has had adequate time and opportunity to cognitively review and to negotiate the terms of this Agreement, and to consult with the legal counsel of his choosing. Mr. Field further acknowledges and declares that he has not forced, coerced or under any duress of by any means or manner before choosing to sign this Agreement.

Subsequent to the execution of this Agreement (and its approval by the Court), should any party file any suit or claim wherein he/she/they/it attempt(s) to revoke or disqualify any term of this Agreement for any reason, the parties agree that the that the prevailing party shall be entitled a minimum of \$250,000.00 as liquidated damages for defending, responding or enforcing the terms of this Agreement. This figure is based upon and derived from the estimated attorney's fees and expenses past litigation has entailed between/among these parties for addressing issues of similar scope and anticipated magnitude. The Court may award a greater sum upon a proper showing by the prevailing party.


Arthur Field


Witness

[Signature Pages to Follow]

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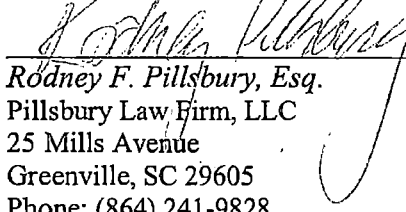
Page 13 of 16

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Record p. 343

By signature placed below, each of the undersigned acknowledges that he or she has read this Agreement, understands it, has received a complete copy of it including all Exhibits, has had the opportunity to review it with legal representation of his or her choice, and accordingly does hereby approve this Agreement, consents to it, and agrees to be bound to all of the terms contained within it, and asks the applicable court to approve this Agreement:

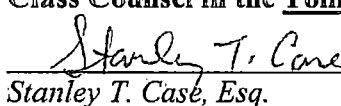
1. **Attorney for Plaintiffs, and
Capital Investment Funding, LLC**


Rodney F. Pillsbury, Esq.
Pillsbury Law Firm, LLC
25 Mills Avenue
Greenville, SC 29605
Phone: (864) 241-9828
Email: Rodney@PillsburyFirm.Law

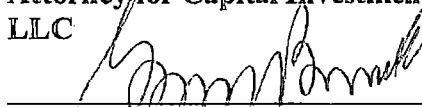
2. **Attorney for Plaintiffs and as Co-Lead
Class Counsel in the Tomz matter**


Gene M. Connell, Jr., Esq.
Kelaher, Connell & Connor, P.C.
Post Office Drawer 14547
Surfside Beach, SC 29587
Phone: (843) 238-5648
Email: gconnell@classactlaw.net

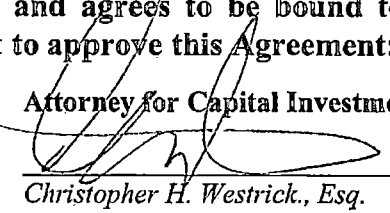
3. **Attorney for Plaintiffs and as Co-Lead
Class Counsel in the Tomz matter**


Stanley T. Case, Esq.
Butler Means Evins & Browne, P.A.
Post Office Drawer 451
Spartanburg, SC 29304
Phone: (864) 582-5630
Email: scase@butlermeans.com

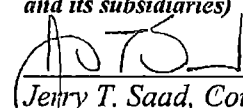
4. **Attorney for Capital Investment Funding
LLC**


George Brandt, III., Esq.
Henderson Brandt & Veith, P.A.
360 East Henry Street, Suite 101
Spartanburg, SC 29302
Phone: (864) 582-2962
Email: gbrandt@hbvlaw.com

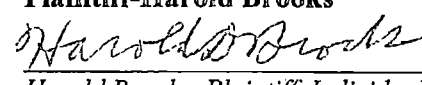
5. **Attorney for Capital Investment Funding LLC**


Christopher H. Westrick, Esq.
Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C.
5 Becker Farm Road Roseland, NJ 07068
Phone: (973) 994-1700
Email: CWestrick@carellabyrne.com

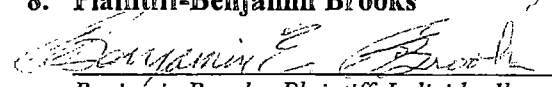
6. **Court-appointed Receiver for Capital
Investment Funding, LLC (and as
Manager for Capital Investment Funding, LLC
and its subsidiaries)**


Jerry T. Saad, Court Appointed Receiver and
Manager
Jerry T. Saad, CPA, PA
1249 S. Pleasantburg Dr. Greenville, SC 29605
Phone: (864) 422-9949
Email: jerryasad@charter.net

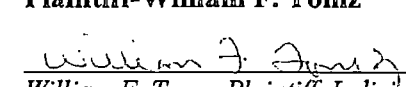
7. **Plaintiff-Harold Brooks**


Harold Brooks, Plaintiff, Individually and as
Personal Representative of Estate of Clara Louise
Brooks, Plaintiff

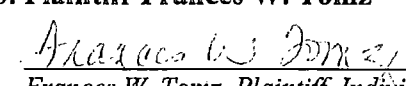
8. **Plaintiff-Benjamin Brooks**


Benjamin Brooks, Plaintiff, Individually

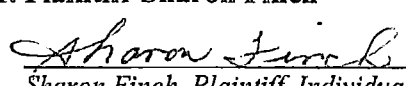
9. **Plaintiff-William F. Tomz**


William F. Tomz, Plaintiff, Individually

10. **Plaintiff-Frances W. Tomz**


Frances W. Tomz, Plaintiff, Individually

11. **Plaintiff-Sharon Finch**

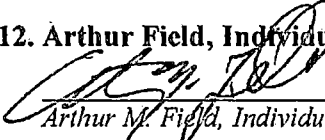

Sharon Finch, Plaintiff, Individually

Signatures continue on next page

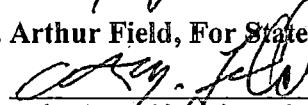
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By signature placed below, each of the undersigned acknowledges that he or she has read this Agreement, understands it, has received a complete copy of it including all Exhibits, has had the opportunity to review it with legal representation of his or her choice, and accordingly does hereby approve this Agreement, consents to it, and agrees to be bound to all of the terms contained within it, and asks the applicable court to approve this Agreement:

12. Arthur Field, Individually


Arthur M. Field, Individually

13. Arthur Field, For Stated Entities

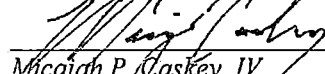

Arthur M. Field, as the Authorized Member or Manager
for the following current or former entities:

i. Aladdin's Café & Grill, LLC	ix. Epic Entertainment & Equipment Co., LLC
ii. Casino, LLC	x. Mithril Funding, LLC
iii. Balingbroke United (England) Ltd.	xi. CIF TC, LLC
iv. Lion Financial, LLC	xii. Young Players Support Group, Inc.
v. Krondor Trading Co., LLC	xiii. RAAF Enterprises, LLC
vi. Bradford Financial Group, LLC	xiv. He Will Provide, LLC
vii. Monmouth Financial Group, Ltd	
viii. Carolina Pops Orchestra, Inc.	
ix. Epic Entertainment, LLC	

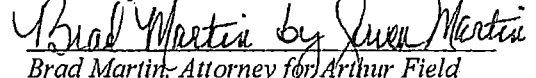
14. Attorney for Arthur Field


Todd Rutherford, Attorney for Arthur Field
2113 Park St.
Columbia, SC 29201
Phone (803) 256-3003

15. Attorney for Arthur Field


Micajah P. Caskey, IV
Attorney for Arthur Field
146 State St.
West Columbia, SC 29169
Phone (803) 724-3624
Email: micah@caskeylawfirm.com

16. Attorney for Arthur Field


Brad Martin, Attorney for Arthur Field
Bradford Neal Martin & Associates, PA
201 W. McAbee, Suite 302 with permission
Greenville, SC 29601
Phone (864) 552-9990
Email: bmartin@bnmlaw.com

17. Kathryn Taillon, Individually

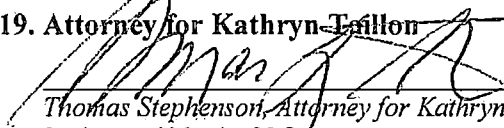

Kathryn Taillon, Individually

18. Kathryn Taillon, For Stated Entities Individually

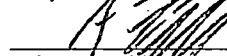

Kathryn Taillon, as the Authorized Member or Manager
for the following current or former entities:

i. Blenheim Properties, LLC;	iv. York Mortgage Funding, LLC
ii. Bountiful Bingo, LLC;	v. Hakuna Industries, Inc.
iii. Pelican Way Financial, LLC	

19. Attorney for Kathryn Taillon


Thomas Stephenson, Attorney for Kathryn Taillon
Stephenson & Murphy, LLC
207 Whitsett St.
Greenville, SC 29601
Phone (864) 370-9400
Email: tomm@stephensonmurphy.com

20. Allyson Field, Individually


Allyson Field, Individually

21. Attorney for Allyson Field


Bruce Bannister, Attorney for Allyson Field
Bannister, Wyatt & Stalvey, LLC
401 Pettigru St.
Greenville, SC 29601
Phone (864) 298-0084
Email: bbannister@bannisterwyatt.com

22. Davyd Field, Individually

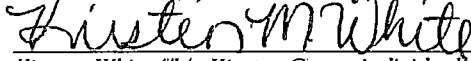

Davyd Field, Individually

23. Davyd Field, For Stated Entities


Davyd Field, as the Authorized Member or Manager for
the following current or former entities:

i. Trazom, LLC	ii. Capital Intrastate Funding, LLC

24. Kirsten White, Individually

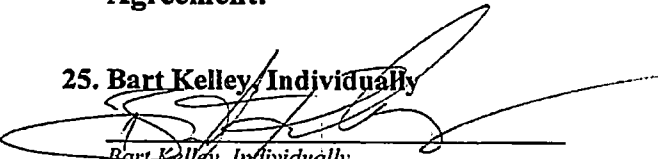

Kirsten White f/k/a Kirsten Gantt, Individually and as
Owner of Empire Document Service

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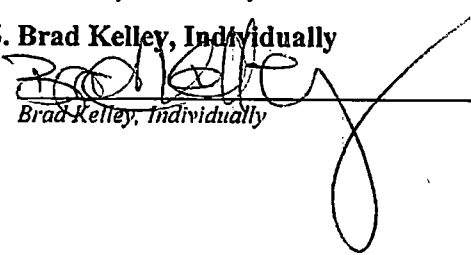
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By signature placed below, each of the undersigned acknowledges that he or she has read this Agreement, understands it, has received a complete copy of it including all Exhibits, has had the opportunity to review it with legal representation of his or her choice, and accordingly does hereby approve this Agreement, consents to it, and agrees to be bound to all of the terms contained within it, and asks the applicable court to approve this Agreement:

25. Bart Kelley, Individually


Bart Kelley, Individually

26. Brad Kelley, Individually


Brad Kelley, Individually

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STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

William F. Tomz and Francis W. Tomz,
Individually and as Class Representatives,

Plaintiffs,

vs.

Capital Investment Funding, LLC, and
Arthur M. Field,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No.: 2008-CP-23-3665

ORDER

This order memorializes all rulings from the bench regarding the Hearing on December 7, 2017 in the above-captioned matter:

By order entered December 1, 2017, this Court has granted Plaintiffs' motion to approve the settlement of the Global Settlement Agreement ("GSA"), filed March 8, 2017. The GSA has been approved and its terms are now an order of the Court. Accordingly, all deeds shall be immediately recorded. All monies and payments due under the GSA shall be made and transferred in accordance with the respective terms of the GSA. CIF represented to the Court that it discharged its *lis pendens* on the St. Augustine property as required by the GSA. The appropriate orders of dismissal shall be filed in the respective courts as it pertains to the parties of the GSA.

Attorney for Allyson Field had tendered the insurance proceeds from State Farm Insurance for the roof damage claim at the Thornblade property. However, counsel for Ms. Field conditioned acceptance of the insurance funds. The court finds those conditions to be invalid. CIF's Receiver may deposit those funds into the CIF account without condition or limitation.

Insurance Claim Documentation for Thornblade Property

At the November 27, 2017 hearing, the Court ordered Mr. Field's counsel to obtain the records from the insurance company regarding the damages claim filed this spring to verify the statements Mr. Field gave under oath about that claim and the handling of insurance matters. Both

counsel for CIF and counsel for Mr. Field reported that the insurance carrier (State Farm) had not produced the requested information.

The Court has directed both parties, as named insureds under the policy, to obtain that information from State Farm as soon as possible. Once obtained, the parties are to provide the Court with unredacted complete copies. The Court will reconvene a hearing at that time, if necessary.

Contempt of Court for Kirsten White

In its December 1, 2017 order, the Court found Ms. White to be in contempt of court for her deliberate refusal to comply with the terms of the GSA. Ms. White appeared at the December 7, 2017 hearing. She acknowledged that she had received notices of the November 27, 2017 hearing. She provided no acceptable excuse for not attending it.

At the December 7, 2017 hearing, she acknowledged that she is obligated to vacate the premises on or before December 31, 2017.

Ms. White has been under obligation to permit CIF to inspect the premises since March 2017. Thus far, she has willfully refused to cooperate in permitting this to happen. At the hearing, these parties agreed that the inspection will occur on December 15, 2017 at 10:00 AM. Should the court learn that Ms. White has in any way obstructed this inspection from moving forward, the Court admonished Ms. White that a sheriff's deputy will be sent to bring her to court to explain why.

CIF stated that the few checks it had received from Ms. White for her monthly payment obligation under the GSA could not be negotiated because Ms. White made them out jointly to CIF and Kathryn Taillon. The Court orders that any amount Ms. White owes for the monthly payment obligations under the GSA will be deducted from her net proceeds she might otherwise be due from the sale of the house (in addition to the attorney's fees and penalties set forth in this

Court's order of December 1, 2017). The Court will address the amount of these fees and costs at its next hearing. CIF is directed to file its petition within ten (10) days of entry of this order.

Miscellaneous Items:

Regarding the entertainment royalty agreement, Arthur Field and CIF presented proposed agreements to each other. As of the hearing, no agreement had been finalized. The Court directs these parties to finalize an agreement on or before December 31, 2017. If additional time is needed, either party may file a request with the Court.

Also, under the terms of the GSA, Arthur Field understands that he is obligated to appear in this Court to testify under oath about the financial statement he has provided to CIF. Mr. Field is responsible for his own expenses and costs associated with traveling to the hearing. If the parties cannot agree to a time and date for this hearing, either party may notify the court about scheduling issues.

Any signatures missing from the Addendum attached to the December 1, 2017 order shall be provided to CIF no later than December 13, 2017. If any signatures have not been received by CIF by that time, CIF is instructed to notify this Court of such so that the matter may be dealt with accordingly.

It is so ordered, this ____ day of December, 2017.

The Honorable Edward W. Miller
Presiding Judge, 13th Judicial Circuit



Greenville Common Pleas

Case Caption: William F Tomz , plaintiff, et al vs. Capital Investment Funding Llc ,
defendant, et al
Case Number: 2008CP2303665
Type: Order/Other

So Ordered

s/ Edward W. Miller

Electronically signed on 2017-12-21 14:01:54 page 5 of 5

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	THIRTEENTH JUDICIAL CIRCUIT
William Tomz and Francis W. Tomz,	)	
Individually and as Class Representatives	)	
	)	CASE NUMBER 2008-CP-23-3665
Plaintiffs,	)	
	)	
vs.	)	NOTICE OF MOTION AND
	)	MOTION TO RECUSE
Capital Investment Funding, LLC	)	
and Arthur M. Field	)	
	)	
Defendants.	)	
_____	)	

TO: STANLEY T. CASE, ESQ., ATTORNEY FOR PLAINTIFFS, and GEORGE BRANDT, III, ESQ., ATTORNEY FOR JERRY SAAD:

PLEASE TAKE NOTICE that Defendant Arthur M. Field, through his undersigned attorney, will move before the Court, at such place and time as the Court may appoint, pursuant to the South Carolina Rules of Appellate Procedure and the Judicial Canons, as well as the Constitutions of the United States and of South Carolina, that this Court recuse itself from this matter. Movant and his counsel do not lightly make this motion. The Court should grant this motion as set forth below.

OBJECTION TO PERSONAL JURISDICTION

Pursuant to Rule 12, SCRCPP, Defendant Arthur M. Field objects to any assertion of personal jurisdiction in this matter. Field further objects to the insufficiency of process and the insufficiency of service of process.

Field is a resident of Florida and reserves all rights. See *State v. Dudley*, 354 S.C. 514, 542, 581 S.E.2d 171, 186 (Ct.App. 2003) ("A defendant may waive any complaints he may have regarding personal jurisdiction by failing to object to the lack of personal jurisdiction and by

appearing to defend his case.") Field, through his undersigned attorney, files this motion subject to these objections.

LAW / STANDARD

South Carolina's Code of Judicial Conduct states, "A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities." Section 2(A), Code of Judicial Conduct (CJC), Rule 501, SCACR. "The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired." *Commentary* to Section 2(A), CJC, Rule 501, SCACR. "A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned. . . ." Section 3(E)(1), CJC, Rule 501, SCACR. "Under this rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless whether any of the specific rules in Section 3E(1) apply." *Commentary* to Section 3(E)(1), CJC, Rule 501, SCACR.

"Under Canon 3(E)(1)(a), a judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to, instances where he has a personal bias or prejudice against a party." *Patel v. Patel*, 359 S.C. 515, 599 S.E.2d 114(2004).

The due process clauses of the United States and South Carolina constitutions require that Judge Miller disqualify himself from participation in this matter. As stated by the United States Supreme Court, "[u]nder our precedents there are objective standards that require recusal when 'the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.'" *Caperton v. A. T. Massey Coal Co.*, 566 U.S. 868 (2009) (citing *Withrow v. Larkin*, 421 U.S. 35, 47, 95 S. Ct. 1456, 43 L. Ed. 2d 712 (1975)). In *Caperton*, the Supreme Court held that the Fourteenth Amendment was violated when one of the majority justices of the West Virginia Supreme Court refused to recuse himself due to receiving large

campaign contributions from, and through the efforts of, the corporation's principal. The Supreme Court held that actual bias and prejudice need not be shown in order to establish a constitutional deprivation of due process. Objective standards may require recusal whether or not actual bias on the part of a judge exists or can be proved. The failure to consider objective standards requiring recusal is not consistent with the imperatives of due process, the *Caperton* Court held.

The *Caperton* Court held that the true constitutional test was not actual prejudice or actual bias, but the question is whether, "under a realistic appraisal of psychological tendencies and human weakness," the interest "poses such a risk of actual bias or prejudgment that the practice must be forbidden if the guarantee of due process is to be adequately implemented." *Id.*, citing *Withrow*, 421 U.S., at 47, 95 S. Ct. 1456, 43 L. Ed. 2d 712.

In the recent case of *Ledford v. Dep't of Pub. Safety*, 428 S.C. 387, 835 S.E.2d 509 (S.C. 2019), the South Carolina Supreme Court addressed the issue of recusal in a *per curiam* opinion. In *Ledford*, a Worker's Compensation Commission commissioner subject to the Code of Judicial Conduct, the Supreme Court held that the commissioner's comments toward Ledford required recusal. In that case, the commissioner said "'while [Ledford] may be a former member of the South Carolina Highway Patrol ACE Team, he was not a member of the 'Truth Team[.]'" *Id.* The commissioner also said in proceedings that she "'did not believe anything [Ledford] said except his name and age.'..." required recusal. *Id.*

FACTS RELATING TO THIS MOTION

This motion is made on the basis of (A) comments made by Judge Edward Miller to or about Arthur Field during hearings or other proceedings that occurred during the long course of litigation in this case and (B) the inherent, inescapable conflict of interest raised where Defendant Arthur Field has filed formal written complaints concerning the conduct of Judge Miller during litigation to the Judicial Merit Selection Commission, which is currently screening Judge Miller

for his re-election candidacy to the bench.

**A. Biased, Disparaging, or Unfair Comments made by Judge Edward Miller to or
about Arthur Field**

1. Special Meeting of Capital Investment Funding, December 14, 2011.

On December 14, 2011, Judge Miller presided over a special meeting of plaintiff class members, including prosecutors from the Attorney General's office, to update the class on the progress of the class action litigation. Prior to any indictment ever being presented to a Grand Jury, in response to a question about the existence of an investigation, Judge Miller said, "we sat in this courtroom when we settled this matter in '09 and that was how we were able to get an agreement was that Mr. Field refused to give up his Fifth Amendment Rights. If he's innocent, I don't know why he would need those" Ex. A, p. 67.

2. Rule to Show Cause Hearing on September 17, 2013.

On September 12, 2013, Field's attorney, Bradford Martin, Esq., filed for a continuance in the case on due process grounds because he was new to complex, years-old case; Martin then brought that motion to the attention of Judge Miller during the September 17, 2013 hearing. Ex. B, p. 3. Judge Miller denied the motion and castigated Attorney Martin, "[s]o let me get this straight, your client stole forty million dollars and now he's the victim?" Ex. B, p.7. Asked by Attorney Martin to clarify, Judge Miller reiterated, "I said your client stole forty million dollars and now he claims to be the victim." Ex. B, p. 7. Attorney Martin again attempted to clarify what Judge Miller was saying in the Rule to Show Cause hearing by then asking, "Your Honor, are you claiming that you have knowledge that my client stole forty million dollars?" Judge Miller replied, "Mr. Martin, you're not going to ask me questions in this proceeding."

Field has only ever pled guilty to charges of securities fraud based on omissions from

investment fund prospectuses and conspiracy thereto; Field has never been charged with embezzlement, larceny, or other financial crime.

In another exchange during the direct examination of Field by Attorney Martin, Field was asked if he had ever filed a grievance against the receiver or counsel. Ex. B, p. 167. Judge Miller then seized the opportunity to begin *sua sponte* questioning of Field, asking “How about the judge?” *Id.* Field demurred, confirming with Judge Miller “You want me to answer it on the record?” *Id.* Field then acknowledged having filed grievances against Judge Few and Judge Miller. *Id.* Field testified that he had withdrawn both, but Judge Miller then curtly challenged that statement: “[w]ell, you did not withdraw one against me. It was summarily dismissed.” *Id.* Attorney Martin’s questions to Field to clarify the *sua sponte* questioning by Judge Miller were then abruptly halted by the Court without any objection from opposing counsel. Ex. B, p. 168.

3. Rule to Show Cause Hearing on September 29, 2016.

On September 29, 2016, Judge Miller presided over a Rule to Show Cause hearing without Arthur Field or his attorneys present; Field had been admitted for inpatient psychiatric treatment at a local medical facility. During the hearing evidence adverse to Field was introduced and admitted into the record without any ability for Field to object to or otherwise confront such evidence. At one point in the hearing, Judge Miller allowed unsworn, unnamed speakers from the gallery to address the Court. One speaker said “[Field] is very smart, manipulative and narcissistic. He’s an evil person and a very good chameleon. . . [Field] doesn’t know the difference between right and wrong.” Ex. C, pp. 99-100. Judge Miller immediately replied, “Well, I agree with everything you said except the last part about knowing the difference between right and wrong. I think [Field] knows. [Field] just doesn’t care.” Ex. C, pp. 99-100. The exchange continued with the unnamed speaker saying, “and I think the family is equally manipulative as he is,” to which Judge Miller then replied, “All right. I agree with you completely.” Judge Miller added, “I’ve

been telling Mr. Saad all these years as we went through this, [Field] will be held accountable in this life or the next.” Ex. C, p.100.

B. Arthur Field has Filed Complaints Regarding Judge Miller That Remain Active

The Global Settlement Agreement was approved by this Court on December 1, 2017, dismissing with prejudice all matters against Field. The clear terms of that agreement notwithstanding, Judge Miller entertained a Rule to Show Cause hearing on July 2, 2018, wherein Judge Miller held Field in Criminal Contempt and sentenced him to six (6) months in prison.

Having endured ten years of litigation before Judge Miller that included the above comments, Field exercised his constitutional rights to speak to authorities about his experiences in appearing before Judge Miller. In June 2020, Field filed a grievance against Judge Edward Miller with the Disciplinary Counsel for review and action by the South Carolina Commission on Judicial Conduct. Additionally, because Judge Miller is currently seeking re-election to his seat on the circuit court, Field filed a complaint with the South Carolina Judicial Merit Selection Commission, the body charged with screening candidates for all judicial posts. At present, Judge Miller’s candidacy for re-election is active and the screening process is on-going.

ARGUMENT

The governing authority on recusal could not be more clear, nor could the factual circumstances more clearly fit within the ambit of that governing authority. “A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned. . . .” Section 3(E)(1), CJC, Rule 501, SCACR. Taken individually, any of the comments made by Judge Miller regarding Arthur Field each reveal – *at least* – a reasonable question as to whether Judge Miller could be impartial; taken together, it strains credulity to believe that a true neutral party could conclude that no reasonable question of impartiality exists.

The suggestion that a citizen invoking his or her Fifth Amendment right somehow implies guilt offends even the most novice understanding of the American justice system. Judge Miller, an experienced jurist with a long career in the law, knows that the ability to exercise constitutional rights is fundamental. Encouraging any conclusion that the exercise of those rights would only occur if there was, in fact, guilt is *prima facie* evidence of bias or partiality. The same is to be said about comments underscoring characterization of Field as “manipulative and narcissistic” and “evil”. As applied to a litigant by the judge, it takes Olympic-level mental gymnastics to begin to understand the use of those terms as anything other than indicative of conclusions reached about the litigant by the judge. A lay person could be forgiven for referring to the acts which Field was indicted for as ‘stealing’, but in the context of this matter, where Attorney Bradford Martin was explaining the need for a continuance on due process grounds, Judge Miller’s comments can only be understood as manifest personal animus.

As this Court knows, the judicial selection process in South Carolina is rigorous and thorough. The implications of the screening process are necessarily determinative of the candidate’s career options. By definition, a successful screening is something that the judicial candidate wants -- even the candidate that only offers for a judicial service out of some altruistic *noblesse oblige*. A judicial candidate that is actively engaged in the screening process for re-election must necessarily consider the record submitted to the Judicial Merit Selection Commission. Where, then, a citizen has submitted information to the screening commission that is adverse to the candidate’s definitional interest, no reasonable person could *not* be left with a question as to the candidate’s impartiality toward the proponent of the information. This case does not even require the neutral arbiter to apply such common sense – no imagination, at all, is required; the September 17, 2013, hearing is explicit: Judge Miller interjected himself into the testimony of Field to raise his preoccupation with a previous grievance filing by Field against the judge.

The combined effect of Judge Miller's several comments about Field and the perception of the implications of Field's submissions to the Judicial Merit Selection Commission require that recusal be granted in this case. The Code of Judicial Conduct requires nothing less.

RELIEF

THEREFORE, based on the foregoing, the Defendant asks that this Court grant this motion for recusal.

IN WITNESS WHEREOF, the undersigned Micajah P. Caskey, IV, on behalf of Arthur Field, moves the Court recuse himself from this matter.

Respectfully submitted,

/s Micajah P. Caskey, IV

Micajah P. "Micah" Caskey, IV, Esq.

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Attorney for Arthur Field

Dated: September 26, 2020

West Columbia, South Carolina

EXHIBIT C

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
William Tomz and Francis W. Tomz,	)	
Individually and as Class Representatives	)	CASE NUMBER 2008-CP-23-3665
	)	
Plaintiffs,	)	
	)	
vs.	)	NOTICE OF MOTION AND
	)	MOTION TO RECUSE
Capital Investment Funding, LLC	)	
and Arthur M. Field	)	
	)	
Defendants.	)	
_____	)	

EXHIBIT C**TRANSCRIPT EXCERPTS****HEARING OF SEPTEMBER 29, 2016**

Pursuant to Rule 12, SCRCPP, Defendant Arthur M. Field objects to any assertion of personal jurisdiction in this matter. Field further objects to the insufficiency of process and the insufficiency of service of process.

EXHIBIT C

ELECTRONICALLY FILED - 2020 Sep 27 9:52 AM - GREENVILLE - COMMON PLEAS - CASE#2008CP2303665

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	Case No(s) : 2008CP2303665
	)	
William F. Tomz, et al,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	
Capital Funding, LLC, et al,	)	
	)	
Defendant.	)	

September 29, 2016
Greenville, South Carolina

B E F O R E:

HONORABLE EDWARD W. MILLER, Judge.

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

STANLEY T. CASE, Esquire
Attorney for the Class Action Plaintiffs

GEORGE BRANDT, III, Esquire
Attorney for Jerry T. Saad

TOM STEPHENSON, Esquire
Attorney for Kathryn Taillon

Teresa B. Johnson, CVR-M, CM
Certified Court Reporter
P.O. Box 2812
Greenville, S.C. 29602

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EXHIBIT C

ELECTRONICALLY FILED - 2020 Sep 27 9:52 AM - GREENVILLE - COMMON PLEAS - CASE#2008CP2303665

I N D E X

DIRECT CROSS REDIRECT RECROSS

Remarks	4
Kathryn Taillon	
by Mr. Brandt	15
Kirsten White	
by Mr. Brandt	75
Certificate of Reporter	101

EXHIBIT C

ELECTRONICALLY FILED - 2020 Sep 27 9:52 AM - GREENVILLE - COMMON PLEAS - CASE#2008CP2303665

<u>EXHIBITS PAGE</u>			
<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
PLAINTIFF EXHIBITS			
P-1	Account Statement	16	16
P-2	Account Statement	19	19
P-3	Account Statement	19	19
P-4	Account Statement	20	20
P-5	Account Statement	20	20
P-6	BB&T check	21	21
P-7	BB&T signature card	23	23
P-8	BB&T signature card	25	25
P-9	Prospectus	26	26
P-10	Letter to Eric Pantasari	35	35
P-11	Letter to Tracy Meyers	38	38
P-12	Statement	39	39
P-13	Floating Notes	40	40
P-14	Letter to Sharon Finch	46	46
P-15	Letter	47	47
P-16	Registered Agent Info	50	50
P-17	Statement of Dissolution	50	50
P-18	Articles of Termination	51	51
P-19	Huss Investment	59	59
P-20	Lackey Investment	60	60
P-21	Lancaster Investment	61	61
P-22	2011 Tax Return	65	65

EXHIBIT C

ELECTRONICALLY FILED - 2020 Sep 27 9:52 AM - GREENVILLE - COMMON PLEAS - CASE#2008CP2303665

EXHIBITS PAGE

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
PLAINTIFF EXHIBITS			
P-23	Check - Lion Financial	78	78
P-24	Satisfaction	80	80
P-25	Check - Empire Document Service	82	82
P-26	Motion to Set Aside Default	90	90
P-27	Motion to Dismiss	92	92
P-28	Brief in Support	95	95
P-29	Motion for Injunctive Relief	95	95

DEFENSE EXHIBITS

(No exhibits offered.)

COURT EXHIBITS

(No exhibits offered.)

P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 29th day of September, 2016 at approximately 2:04 p.m.)

THE COURT: We are here on Tomz versus CIF for a rule to show cause.

MR. BRANDT: Please the Court, Your Honor, I would like to first submit affidavits of service on the, uh, rule to show cause order served on Mr. Field in this matter and also rule to show cause for Kathryn Taillon and Kirsten White that I would like to present to the Court.

THE COURT: Okay.

MR. CASE: And I believe Ms. Taillon and Kirsten White -- I'm Stanley Case, attorney for the class, I believe they were witness subpoenas for the rule to show cause hearing, Your Honor.

THE COURT: All right.

MR. BRANDT: If it pleases the Court, Your Honor, we believe -- my name is Buck Brandt. I represent Mr. Saad, who is the receiver in this case, who was appointed by order of this court in behalf of Capital Investment Funding to marshal the assets and proceed under the

1 mediated global settlement agreement and order
2 approving the settlement that was issued in, I
3 believe, 2009, August of 2009. It was a
4 previous hearing held on this matter in -- I
5 can't remember the exact date. Some time ago.
6 The Court issued this order requiring Mr. Field
7 to do certain things. That was on September
8 30th, 2013.

9 Mr. Saad has filed an affidavit with the
10 Court that we would like to make a -- as
11 evidence of this proceeding. We would like to
12 introduce it into evidence in this proceeding.
13 It sets out how Mr. Field had violated the
14 terms and conditions of the orders of this
15 court.

16 We believe that it is a prima facie case of
17 contempt by Mr. Field. We believe under the law
18 of South Carolina, it shifts the burden of
19 responsibility to establish his defense or
20 inability to comply with the court order. I can
21 not help but notice that Mr. Field is not here.
22 So I guess I have to defer to the Court how to
23 proceed in this matter.

24 **THE COURT:** Well, where is he? Does
25 anybody know?

1 **MR. STEPHENSON:** Your Honor, may I speak?

2 **THE COURT:** Yes, sir, Mr. Stephenson.

3 **MR. STEPHENSON:** For the record, my name
4 is Tom Stephenson. I do not represent Arthur
5 Field. I have never represented Arthur Field.
6 I'm not here on behalf of Arthur Field. I'm
7 here because his wife, Kate Taillon, was
8 subpoenaed and she asked me to come.

9 **THE COURT:** Okay.

10 **MR. STEPHENSON:** So what I am going to
11 tell you is based on what I have been told. I
12 was informed, as were counsel for Mr. Saad,
13 that Mr. Field was in the Carolina Center for
14 Behavioral Health. I'm informed it's some sort
15 of mental hospital. He's been there for about a
16 week on a daily basis, from 9:00 to 3:00. I
17 furnished with a letter because it was
18 furnished to me and I didn't want to surprise
19 anybody.

20 A week or so ago, I sent that letter to
21 you. Several days ago.

22 And so he was there from 9:00 to 3:00.
23 Yesterday, I was informed that he was committed
24 by the Carolina Behavioral Health Center. I'm
25 going to read the letter. Today, Mr. Field's

1 treatment provider at the Carolina Center for
2 Behavioral Health deemed it necessary to
3 hospitalize Mr. Field for his own safety. Mr.
4 Field's discharge date is yet to be determined.
5 I did secure this letter. I talked to his
6 people. I believe it is genuine and I'm glad to
7 hand it up to the Court ---

8 **THE COURT:** Okay.

9 **MR. STEPHENSON:** --- if the Court wants to
10 see it. I am also informed that a global
11 settlement was entered into before mediator
12 Harry Goldberg, mediator from Columbia. I did
13 not participate in this mediation. My client
14 did not participate in this mediation. Others
15 did not participate in this mediation. But the
16 mediation settlement purports to settle
17 everything. I understand that Mr. Field was
18 there. This global settlement provides that my
19 client, his wife, will pay \$10,000 in cash --

20 **MR. BRANDT:** Please the Court, Your Honor.
21 I'm not sure we need to go into this.

22 **THE COURT:** Wait. Let him finish. Let him
23 finish.

24 **MR. BRANDT:** Excuse me.

25 **THE COURT:** Go ahead. Go ahead.

1 **MR. STEPHENSON:** That bothers me.

2 **THE COURT:** Hey, hey. Just --

3 **MR. BRANDT:** I beg your pardon.

4 **MR. STEPHENSON:** The settlement agreement
5 says my client will pay \$10,000, I think, to
6 Mr. Saad and will authorize a mortgage to be
7 placed on a house which she owns. She's willing
8 to sign it. She will sign it today. It also
9 requires other people to do certain things. I
10 am informed everybody, including Mr. Field,
11 will sign it. I'm also informed and I have in
12 my possession, a power of attorney that
13 authorizes Ms. White to sign on his behalf.
14 This power of attorney was entered into on July
15 the 12th of 2012. It's not something he entered
16 into today. It was something that was entered
17 into some time ago.

18 This power of attorney, according to what I
19 have been told, is probably filed at the RMC
20 office and therefore it could be acted upon.
21 Again, I'm not here for him. Okay? I'm here
22 because my client asked me to be here. There
23 she is. I'm also informed that Ms. White is
24 also here unrepresented. There she is.

25 **THE COURT:** Okay.

1 **MR. STEPHENSON:** Now, I attempted to
2 persuade these fine gentlemen to call you this
3 week and apprise you of all that and see where
4 you wanted to go. None of them wanted to do it.

5 **THE COURT:** Well, let me -- let's
6 straighten -- let me put some background on the
7 record. Mr. Saad was appointed as receiver in
8 this case, so he acts on my behalf. This case
9 has been assigned to me. It was assigned to me
10 in '08 or '09 when Judge Few had to recuse
11 himself. I've been involved in it ever since.
12 I'm in fairly regular communication with the
13 receiver in this case. Mr. Field has alleged
14 that that is improper ex parte communication,
15 which, in my mind, demonstrates a fundamental
16 lack of understanding of what a receivership
17 is.

18 But having said that, I am aware of the
19 mediation that you all have engaged in. Not
20 you, Mr. Stephenson, but the parties have
21 engaged in. I am aware that, uh, some of the
22 terms of that proposed global settlement are,
23 uh, -- which has not been executed and I
24 understand that -- let me just say this, this
25 case needs to be put to rest. It has caused

1 more anxiety and hard feelings over a long
2 period of time than almost any other civil case
3 I have ever been involved in.

4 Having said that, based on Mr. Field's
5 conduct over the past seven or eight years and
6 the fact that all of a sudden, he has committed
7 to a mental institution on the eve of this rule
8 to show case after having reviewed the
9 affidavit, I find it -- I find that very
10 curious. I will say this, I will not accept an
11 attorney in fact signature on a settlement
12 agreement involving this case. I agree that
13 this matter needs to be resolved.

14 I don't mean to be pointed with you, Mr.
15 Stephenson. But if he's been committed to a
16 mental institution, then there's no way that
17 this agreement could stand scrutiny in the
18 future. He could come back, and based on his
19 past conduct, he would come back and try to
20 overturn this agreement if he thought it was to
21 his advantage. That is my experience with him
22 that -- in my personal dealings with him. So
23 there's no way that that agreement is going to
24 get signed today or approved today. He's got to
25 do it.

1 I don't have any idea -- I don't know who
2 the witnesses are. It seems to me that that
3 power of attorney must have been executed at
4 about the time that Mr. Field was going to
5 enter a plea of guilty in the State Grand Jury
6 proceedings in this case. I have no idea what
7 the purpose of it is, whether or not it's been
8 rescinded. All of that would have to be fully
9 examined. So that's the groundwork that -- some
10 background that I would put on the record with
11 respect to this rule to show case.

12 I totally agree that this matter should be
13 concluded. The 600 or so class members are
14 getting pennies on the dollar. There is money
15 there that has been hidden and diverted,
16 unaccounted for. If Mr. Field had been
17 forthright, we wouldn't -- this would have been
18 over a long time ago. But he has monkeyed with
19 the judicial system for the last six or eight
20 years.

21 So what I would propose to do today, we
22 can't -- I hope everybody hears that -- this
23 case needs to end, I'm sure, much to the
24 chagrin of class members who have lost life
25 savings in a Ponzi scheme basically. But we

1 need to proceed with this -- the purpose of
2 this rule to show cause hearing with the
3 understanding that at some point this case
4 needs to be resolved if there's any way we can
5 get it resolved.

6 So does that sort of -- now, Mr.
7 Stephenson, what would you like to say?

8 **MR. STEPHENSON:** I'm sort of here
9 unwittingly.

10 **THE COURT:** Right.

11 **MR. STEPHENSON:** I don't represent Arthur
12 Field. I was trying to be of help to the court
13 and ---

14 **THE COURT:** And you are. You are.

15 **MR. STEPHENSON:** --- to everybody as to
16 what his situation is claiming to be. I'm not
17 representing him.

18 **THE COURT:** Right. Right. And I appreciate
19 you being here. But this is a matter -- what I
20 would propose to do is -- y'all intend to call
21 witnesses?

22 **MR. BRANDT:** Yes, sir.

23 **THE COURT:** Okay. Then I would propose to
24 go forward with whatever you're intending to
25 do. If we have to -- I intend to reconvene the

1 hearing when Mr. Field has been released and
2 certified that he's competent. And we'll come
3 back. Right now, we're just going to go forward
4 with collecting evidence with respect to the
5 issues that are presented in the rule to show
6 cause. I don't know that I can believe that Mr.
7 Field was involuntarily committed. I have --
8 based on his past, I would have to have medical
9 proof that that was the case. So with all due
10 respect, we will proceed with the hearing.

11 Okay.

12 All right. Mr. Brandt.

13 Thank you, Mr. Stephenson.

14 **MR. BRANDT:** Please the Court. Your Honor,
15 I would like for Ms. White, who is a witness in
16 this case, to be sequestered and I would like
17 to call Ms. Taillon to the witness stand.

18 **THE COURT:** Okay. Ms. White, if you will,
19 wait in one of the rooms right outside the
20 courtroom, thank you very much.

21 (WHEREUPON, Ms. White exits the courtroom.)

22 **THE COURT:** Come on around if you would.
23 Put your left hand on the Bible. Raise your
24 right hand.

25 I have to do it.

KATHRYN TAILLON

having first been duly sworn, testifies as follows:

THE COURT: Thank you very much. Please have a seat. Please state your full name for the record.

THE WITNESS: Kathryn Taillon.

THE COURT: Okay.

DIRECT EXAMINATION

BY MR. BRANDT:

Q Ms. Taillon, are you married to Arthur Field?

A Yes, I am.

Q How long have you been married to him?

A I have been married to him approximately 30 years.

Q Okay. You participate in business activities with him?

A (Indiscernible.)

Q I'm going to show you a document and ask you if you can identify this. Tell me what it is and what it means to you.

A This is a York Mortgage Funding statement and it is showing \$10,000 in the account as of -- it looks like December 31, 2008.

Q 2008?

1 **A** That's what I'm looking at.

2 **Q** Okay. And what are the last four digits of
3 the number of that ---

4 **A** 63 --

5 **Q** --- account?

6 **A** 6333.

7 **MR. BRANDT:** All right. 6333. All right.

8 I'd like to introduce this into evidence.

9 **THE COURT:** Okay. Anything?

10 **(WHEREUPON, Plaintiff's Exhibit 1 is marked for**
11 **identification and admitted into the record.)**

12 **BY MR. BRANDT:**

13 **Q** What is the --

14 I'll show it to you. I'm sorry.

15 What is the address on this?

16 **A** 310 Thornblade Boulevard.

17 **Q** Okay. And do you reside at 310?

18 **A** Currently, yes.

19 **Q** And how long have you resided there?

20 **A** I don't remember. It's been probably 10 --

21 **Q** 10 or 12 years?

22 **A** Somewhere like that, yeah.

23 **Q** That is your address now?

24 **A** That's where I'm living right now.

25 **Q** Okay. Are you a resident of South Carolina?

1 **A** No, I'm a resident of Florida.

2 **Q** Okay. And how long have you been a resident
3 of Florida?

4 **A** Probably about -- I can't remember the day.
5 I would have to check my license and see, but it's
6 been at least three or four years, if not more.

7 **Q** Do you -- you say you are a resident of
8 Florida, but you live here. How many days a year do
9 you spend in Florida?

10 **A** Well, I was trying to spend at least six
11 months. But with everything going on here, I wasn't
12 able to get there.

13 **Q** Okay. So you have not established your
14 residency in Florida, but you are claiming residence?

15 **A** I'm claiming residence. I have my driver's
16 license and I vote there.

17 **Q** But you haven't lived there?

18 **A** I've lived there, but not for extensive
19 periods of time.

20 **Q** Okay.

21 **A** I would like to live there.

22 **Q** Okay. This is dated 2008, December 2008; is
23 that right? That exhibit?

24 **A** If that's what it said, yes.

25 **Q** Okay. I'll show you another one in June of

1 2009 and ask if you can identify that.

2 A I can identify what it says on it.

3 Q Okay. What is it?

4 A It's an account statement for York Mortgage
5 Funding.

6 Q How much money is in the bank?

7 A 10,108.90.

8 Q Okay. There is a check that had been
9 written out on June 19th ---

10 A Okay.

11 Q --- reflected on here. Is that correct?

12 A I guess. I don't remember.

13 Q I'm going to show you attached to it a copy
14 of that check and ask if that looks like a York
15 Mortgage Funding check.

16 A It says York Mortgage Funding on it.

17 Q Okay. For how much?

18 A It looks \$2.

19 Q And who is it made payable to?

20 A Secretary of State.

21 Q And who signed it?

22 A It looks like Arthur Field.

23 Q Okay. That's your husband, is that correct?

24 A Yes.

25 MR. BRANDT: I'd like to introduce this as

1 Exhibit number 2, please.

2 (WHEREUPON, Plaintiff's Exhibit 2 is marked for
3 identification and admitted into the record.)

4 BY MR. BRANDT:

5 Q I'm showing you another one dated as of
6 August 31st, 2009. How much money was in the account
7 on that time?

8 A 10,108.90.

9 Q Okay. Same address for the --

10 A Yes.

11 Q So you were receiving these, is that right,
12 at Thornblade?

13 A Well, York -- it was York Mortgage Funding.
14 It was going to Thornblade Boulevard.

15 Q Okay. Well, you resided there?

16 A Yes.

17 Q So you received it there?

18 A It came to that address, yes.

19 MR. BRANDT: I'd like to have that marked
20 please.

21 (WHEREUPON, Plaintiff's Exhibit 3 is marked for
22 identification and admitted into the record.)

23 BY MR. BRANDT:

24 Q Here's another one, ma'am. This is one is
25 dated your balance as of 1/29/2010 for York Funding.

1 **A** Yes.

2 **Q** Same thing?

3 **A** Uh-huh.

4 **Q** How much money was in the account?

5 **A** 10,108.90.

6 **Q** Okay.

7 **MR. BRANDT:** I'd like to introduce that
8 please.

9 **(WHEREUPON, Plaintiff's Exhibit 4 is marked for**
10 identification and admitted into the record.)

11 **THE COURT:** You've handed up two copies.

12 **MR. BRANDT:** I'm sorry.

13 **BY MR. BRANDT:**

14 **Q** I'll show you another one, ma'am, dated as
15 of March 31st, 2011 and ask if you can identify that.

16 **A** Yes, the account was closed out.

17 **Q** Okay. I'd like to introduce that. Same
18 address, is that right?

19 **A** (No audible response.)

20 **(WHEREUPON, Plaintiff's Exhibit 5 is marked for**
21 identification and admitted into the record.)

22 **BY MR. BRANDT:**

23 **Q** I'm going to ask if you can identify this.

24 **A** I can identify it. It's a check.

25 **Q** Okay. Who is it made payable to?

1 **A** I can't read it.

2 **Q** I'll represent to you that it's made
3 payable to you.

4 **A** Okay.

5 **Q** Okay. And it's for how much?

6 **A** It's for the account balance.

7 **Q** Okay.

8 **MR. BRANDT:** If we may have this marked
9 please.

10 **(WHEREUPON, Plaintiff's Exhibit 6 is marked for**
11 identification and admitted into the record.)

12 **BY MR. BRANDT:**

13 **Q** This is Exhibit 6. I ask if you can
14 identify the attachment, which is part of Exhibit 6.

15 **A** It looks like it's the account and it was
16 closed out.

17 **Q** Okay. And whose signature is on that?

18 **A** That's Arthur Field's.

19 **Q** Okay. So Arthur Field had the authority to
20 sign -- to close out the account?

21 **A** I would have to look at the signature
22 cards, but I would assume he would. I mean, I don't
23 know. It was that long ago that I can't remember. I'm
24 assuming there were signature cards.

25 **Q** It's got the same account number.

1 **A** Okay.

2 **Q** And it's got your name on the check?

3 **A** Uh-huh.

4 **Q** Is that correct?

5 **A** Yes.

6 **Q** And this is Exhibit 6. So that means you
7 received the funds and deposited it into your
8 account, is that right?

9 **A** I did receive the funds.

10 **Q** You did?

11 **A** It was made out to me. I did work for York,
12 and I typed notes for them for several years and I
13 never received a pay check.

14 **Q** Okay. I'm going to ask if you can identify
15 this.

16 **A** Okay. It looks like a signature card.

17 **Q** Okay. And whose signatures are on there?

18 **A** My name and Arthur's name.

19 **Q** Okay. And are those your social security
20 numbers?

21 **A** I know that's mine. I don't remember what
22 his is. I would assume it is.

23 **Q** And the date on this account was opened on
24 May 9th, 2002; is that correct?

25 **A** It says May 8th.

1 **Q** May 8th, 2002. Does it appear that you
2 signed on May 9th, 2002?

3 **A** That's what it looks like.

4 **MR. BRANDT:** Okay. I'd like to introduce
5 that please as Exhibit 7, I believe.

6 **(WHEREUPON, Plaintiff's Exhibit 7 is marked for**
7 **identification and admitted into the record.)**

8 **BY MR. BRANDT:**

9 **Q** Now, you worked with York Funding, correct?

10 **A** Uh, yeah. I did notes and I kept the books
11 for I don't remember how many years.

12 **Q** Okay. You participated in it from its
13 inception; is that correct?

14 **A** I don't remember. I truly don't remember.

15 **Q** You don't remember anything about --

16 **A** I don't remember when I started
17 participating.

18 **Q** Okay. Do you recall having a banking
19 relationship with BB&T of South Carolina as shown by
20 these documents?

21 **A** I -- I must have. My name is on it. I can't
22 remember doing it now.

23 **Q** How many accounts did you open under York
24 Funding?

25 **A** I don't know. One? I mean, I have no idea.

1 I don't remember.

2 Q Okay. What other banks did you open
3 accounts in other than BB&T?

4 A In 2003?

5 Q Well, any time.

6 A In 2003, I truly don't remember what bank
7 accounts I opened. I'm sure York was a business and
8 that was an account. Usually, each business has a
9 separate account. I don't know. I didn't open every
10 business account. I don't do that. I mean, I just
11 don't remember.

12 Q Let me ask you if you can identify that.

13 A This looks like what you just showed me. Is
14 that correct?

15 Q Look at the account number on there, ma'am,
16 on the front page.

17 A Okay.

18 Q Right there. Is it different? What are the
19 last four digits of that?

20 A 779.

21 Q Okay. That's different than the other one,
22 is it not?

23 A I guess so.

24 Q And is it your signature?

25 A That is my signature.

1 Q And is that your husband's signature?

2 A That looks like my sig --

3 Q Okay.

4 A It looks like my husband's signature.

5 Q Same date as the other one?

6 A Yes.

7 (WHEREUPON, Plaintiff's Exhibit 8 is marked for
8 identification and admitted into the record.)

9 BY MR. BRANDT:

10 Q So there was more than one bank account.
11 You don't remember, but there was at least another
12 bank account?

13 A I don't remember. I apologize, but I don't
14 remember.

15 Q Well, you took \$10,000 out of that account,
16 correct?

17 A I guess. I mean, that's what the check
18 says.

19 Q What did you take out of this account that
20 was just produced?

21 A I don't know.

22 Q You don't have any idea?

23 A I don't remember. I know I did work for
24 York and I never got paid for York and I know that
25 that account was sitting dormant for, I think, a few

1 years. I got a call from BB&T. They said it's just --
2 it was just there.

3 Q Let me ask you if you can identify this.

4 A That's a prospectus.

5 Q Okay. And what's the date of the
6 prospectus?

7 A June 5, 2002.

8 Q Okay. And did you assist in the preparation
9 of this prospectus?

10 A No.

11 Q You don't know anything about it?

12 A No, I did not assist in this.

13 Q You know nothing about it?

14 A I didn't assist in the writing of this
15 prospectus.

16 Q Okay. Did you participate in the
17 preparation of the information in this prospectus?

18 A No, I did not. I was working full-time and
19 I was not -- I did not participate in writing any
20 prospectus.

21 (WHEREUPON, Plaintiff's Exhibit 9 is marked for
22 identification and admitted into the record.)

23 BY MR. BRANDT:

24 Q Do you know anything about York Funding as
25 far as its formation? I'd like to introduce that.

1 **A** As far as its formation, no. I mean I typed
2 up notes for them and I did some of the
3 recordkeeping, but I never formed -- I mean, I never
4 wrote a prospectus. I wouldn't even know -- I mean, I
5 never participated in that. I had a full-time job and
6 I was working.

7 **Q** Okay. Were you the manager of York Mortgage
8 Funding, LLC?

9 **A** I may have been in the beginning.

10 **Q** Did you oversee all of the operations and
11 the financial aspects of the business?

12 **A** Did I oversee all of that? I don't remember
13 when it began. I mean, I was a manager. I knew about
14 it. I did a lot of the administrative work for it.

15 **Q** What kind of administrative work?

16 **A** Typing the notes.

17 **Q** How many notes did you type?

18 **A** I don't remember.

19 **Q** Well, did you type one?

20 **A** Well, I at least typed one. But I don't
21 remember. It was a long time ago. I truly don't
22 remember. I don't believe there was a lot, but I
23 don't know how many.

24 **Q** Could it have been several hundred?

25 **A** I don't think so.

1 Q When you did the notes, did you put them in
2 sequence? In other words, did you start with note
3 1000 and go up?

4 A I don't remember. I don't remember.

5 Q I'm going to ask you to look at page 13 of
6 the prospectus.

7 A Uh-huh.

8 Q These are all members of the management,
9 members in management. Are you familiar with all
10 those names?

11 A I am familiar with those names. This was
12 back in 2002. To the best of my knowledge, I was not
13 in York for much longer after this.

14 Q Oh, you weren't?

15 A I'm not sure. I mean, I don't remember. I
16 remember my name here and I remember this. This was
17 in 2002. I can't -- I can't testify as to anything
18 else if I don't remember.

19 Q Okay. Well, now this refreshes your memory
20 a bit showing you what your interest, your ownership
21 interest in it is.

22 A Yes.

23 Q What was your ownership interest?

24 A It says 48 percent.

25 Q Okay. And who is the trust of B. Parker

1 Greenville, South Carolina?

2 A Who is it?

3 Q Yes.

4 A Who is she?

5 Q Yeah.

6 A I -- I know who she is and I know where
7 she's from.

8 Q Well, who is it and where is she from?

9 A Her name -- excuse me. You don't have to be
10 rude.

11 Q I'm not intending to be. Please tell me who
12 she is and where she's from.

13 A Her name is Betty Parker and she was in, I
14 believe, Trumbull, Connecticut.

15 Q Okay. Is she alive or dead?

16 A She is -- to the best of my knowledge, she
17 is dead.

18 Q Okay. Who was the trustee, if you know, of
19 the trust of B. Parker?

20 A I don't know because I think it changed. I
21 don't remember.

22 Q Okay. Was Arthur Field?

23 A He may have, but I don't remember. I can't
24 answer that truthfully if I don't see the documents.
25 I just don't know. I think there were more than one

1 at some point.

2 Q Who would another one had been?

3 A I think it might have been one of the
4 relatives.

5 Q Okay. But you and the trust of B. Parker
6 had 96 percent of York Funding, correct?

7 A That's what it says in 2003.

8 Q Okay. And under number 3 on that same page

9 ---

10 A Uh-huh.

11 Q --- does it not say on the last line, as
12 manager, you, oversee all operations and financial
13 aspects of the business?

14 A Yes.

15 Q Okay. So was this true at the time that you

16 --

17 A It was just beginning. And yes, I would
18 have. It just beginning and I don't remember what was
19 going on at that point now because it was 2003. I
20 truly don't remember.

21 Q Okay. Do you know what Capital Investment
22 Funding is?

23 A Do I know what it is?

24 Q Yeah, yes, ma'am.

25 A It's a business.

1 Q Yes, ma'am. And who ran that business?

2 A Who ran that business? There were several
3 people that ran that business.

4 Q Did Arthur Field -- was he a principle in
5 running that business?

6 A Arthur Field was one of the people that ran
7 that business.

8 Q Okay. Did York Funding do business with
9 Capital Investment Funding?

10 A To the best of my knowledge, I don't
11 believe so, but I am not sure, unless they were
12 transferring money from CIF to York.

13 Q Okay. So as part of your job then, you
14 would prepare the notes you are telling me for York?

15 A Yes.

16 Q For people who invested money in York?

17 A Yes.

18 Q Okay. And you the only employee? You said
19 you were employed. Who else was employed?

20 A For York, I was -- I don't know if there
21 was anybody else. I don't remember. There may have
22 been independent contractors. I just don't remember.

23 Q Was Arthur Field employed by York?

24 A I don't know. I don't know if he was an
25 employee of the company or not.

1 Q Do you know if he was paid by the company?

2 A I don't know if he got paid. I know when I
3 did the work, I did not get paid.

4 Q You didn't?

5 A No.

6 Q Why would you --

7 A I don't know why. I mean, it was just -- at
8 some point, I was hoping maybe I could get paid. But
9 you know, it didn't happen until --

10 Q Where are the records for York?

11 A Where are the records for York? I don't
12 have any records for York.

13 Q Where are they?

14 A I don't have them.

15 Q I didn't ask you that, ma'am. I asked if
16 you knew where they were.

17 A Do you mean like computer records?

18 Q Any records.

19 A I don't know.

20 Q Well, the address on the bank accounts have
21 your address on them.

22 A Uh-huh.

23 Q It says you are the managing member of the
24 company. You are familiar with all operations and
25 financial aspects of the business. Where are the

1 records?

2 **A** I don't know where the records are. There
3 really weren't any records to keep. There might be
4 bank accounts. I think you probably have them.

5 **Q** Well, you said you prepared notes.

6 **A** Yes, but I don't keep copies of the notes.
7 They are certificates.

8 **Q** What about the original certificates that
9 York would have --

10 **A** The original certificates would go to the
11 noteholders.

12 **Q** Okay. And you are saying that as the --
13 overseeing all operations and financial aspects of
14 the business that you would prepare original notes,
15 have them signed, send out the original notes and did
16 not keep any financial records?

17 **A** As far as I know. I don't have copies of
18 the notes. Maybe that was an oversight at the time
19 and I wasn't thinking clearly.

20 **Q** Well, now, it says that you have an MBA in
21 business from the University of New Haven ---

22 **A** Yes.

23 **Q** --- in finance and economics from Sacred
24 Heart University.

25 **A** Yes.

1 Q And it says you're experienced in pension,
2 benefit management, legal administration, retail and
3 financial services, you are employed by the law firm
4 of Bannister and Wyatt PC in Greenville.

5 A Yes.

6 Q And you are a member of the Easley God
7 Squad Powerlifting Team and hold several world
8 records.

9 A Not anymore.

10 Q Okay. But are you saying with all that
11 education that you wouldn't think it would be
12 necessary to keep the records of the business?

13 A I screwed up. I mean, I don't know. It was
14 a long time ago. I don't remember. We moved here. I
15 had to start all over with the job. I wasn't paying
16 attention and I just don't remember.

17 Q Well, you said you moved here. You were
18 living here. The address of the business was where
19 you were living.

20 A Yes.

21 Q So did you keep your business records at
22 that location?

23 A I kept business records at that location. I
24 don't have hard copies of anything. I can go back and
25 see if I can find something. But I don't know. I

1 truly don't remember. I don't remember doing a whole
2 lot of work on it.

3 Q Let me try to refresh your memory a bit
4 more. Look at that document please or that package of
5 documents.

6 A Uh-huh.

7 Q What is that?

8 A It looks like an application for a
9 securities registration.

10 Q For?

11 A It looks like York Mortgage Funding.

12 Q Okay.

13 MR. BRANDT: I'd like to introduce this
14 please.

15 (WHEREUPON, Plaintiff's Exhibit 10 is marked for
16 identification and admitted into the record.)

17 BY MR. BRANDT:

18 Q Now, looking at the letter dated April 9th,
19 it appears that this was signed by Mr. Field. Is that
20 correct or incorrect?

21 A I have a question for you.

22 THE COURT: No, ma'am. You don't get to
23 ask questions.

24 BY MR. BRANDT:

25 Q Is that Mr. Field's signature?

1 **A** It looks like his signature. These copies
2 came from the South Carolina Attorney General.

3 **Q** Yes, ma'am. That's not what I'm asking,
4 ma'am. I'm asking if that's his signature at the
5 bottom of this letter.

6 **A** It looks like his signature, yes.

7 **Q** Okay. So wouldn't it be a fair statement to
8 say that these are documents that were sent into the
9 office of the Attorney General to register York
10 Funding?

11 **A** Yes.

12 **Q** York Mortgage Funding, LLC?

13 **A** York Mortgage Funding, LLC, yes.

14 **Q** And this is April 9th, 2002.

15 **A** Yes.

16 **Q** And this is when you were the general
17 manager of the business?

18 **A** Yes.

19 **Q** Does that refresh your memory any?

20 **A** Slightly. Again, it was 2002. I'm doing the
21 best I can and I apologize, sir.

22 **Q** No apology necessary.

23 **MR. BRANDT:** I believe that was Exhibit 9,
24 Your Honor.

25 **THE COURT:** That was 10.

1 MR. BRANDT: 10.

2 BY MR. BRANDT:

3 Q This is your signature on the application
4 though, is it not?

5 A That looks like my signature, yes.

6 Q It's in two places on there.

7 A I see that.

8 Q Okay. So you actually filed the certificate
9 and you were the managing partner or member; is that
10 right?

11 A In that year, yes.

12 Q Okay. I'll ask if you can identify that.

13 A I don't know what you want me to say.

14 Q This appears to be a letter from the
15 Attorney General's office that confirms the
16 securities listed below have been registered for sale
17 and authorized.

18 A Okay.

19 Q And it says the type, floating rate notes,
20 Series 2002, do not less than six months after
21 issuance at \$1000. Is that correct?

22 A That's what it says.

23 Q Okay. It also says in the paragraph above
24 that that the registration expires one year from June
25 5th, 2002.

1 **A** Okay.

2 **Q** And Arthur Field sent in the application
3 and received it back. Was this your address, at the
4 time, in Easley?

5 **A** Yes.

6 **MR. BRANDT:** Okay. I'd like to introduce
7 this please.

8 **(WHEREUPON, Plaintiff's Exhibit 11 is marked for**
9 **identification and admitted into the record.)**

10 **BY MR. BRANDT:**

11 **Q** What was Mr. Field's position with the
12 company?

13 **A** What was his position?

14 **Q** Yes, what was his position with York
15 Mortgage Funding LLC?

16 **A** He worked with it.

17 **Q** Did he have -- did he have an official
18 capacity that he operated on, such as manager or
19 president?

20 **A** I don't know if there were ever any -- I
21 mean, I don't know if there was ever any titles. I
22 mean, I don't remember.

23 **Q** In October of -- was he involved in the
24 business from the time that it was begun until the
25 time that it was --

1 **A** I believe so, yes.

2 **Q** Well, you were the managing member. You
3 would know, wouldn't you?

4 **A** I said I believed so, yes.

5 **(WHEREUPON, Plaintiff's Exhibit 12 is marked for**
6 **identification and admitted into the record.)**

7 **BY MR. BRANDT:**

8 **Q** Okay. All right. I'm going to show you this
9 and ask if you would review that please.

10 **A** I don't know what this is.

11 **Q** I will represent to you that it is a
12 statement under oath by Mr. Field representing York
13 Mortgage Funding LLC dated -- it took place on
14 Wednesday, October 8th, 2003 -- and ask if Mr. Field
15 worked for the company at that time and was he
16 authorized to testify in behalf of the company at
17 that time.

18 **A** I can't answer that question. I don't know.
19 He obviously testified and this is his statement, but
20 I can't testify as to what he said or why he -- why
21 they took his testimony. I don't know.

22 **Q** I'm not asking that, ma'am. I'm asking if
23 he was authorized to speak for the company. Did he
24 have a position with the company and was authorized
25 to speak for it?

1 **A** I would assume yes. If they wanted him to
2 take testimony, I'm sure that he did.

3 **Q** Okay. Thank you. (Pause.)

4 **(WHEREUPON, Plaintiff's Exhibit 13 is marked for**
5 identification and admitted into the record.)

6 **BY MR. BRANDT:**

7 **Q** I'm going to ask you to look at this,
8 ma'am. And I'm going to ask you to see if you
9 recognize what those are.

10 **A** These are notes.

11 **Q** Are they notes for York Mortgage Funding
12 LLC?

13 **A** Yes.

14 **Q** Are they issued to different people?

15 **A** As far as I can see, yes.

16 **Q** All right. And we testified earlier that
17 you prepared the notes. These are notes that you
18 prepared?

19 **A** These are most likely -- I mean, I can't
20 remember preparing these exact ones, but it would
21 have been something that I would have done.

22 **Q** If you would, look at the first note,
23 please, ma'am, and tell me the date on it up at the
24 top.

25 **A** July 18th, 2002.

1 Q Okay. And what is the note number?

2 A 105.

3 Q Okay. And that was issued to Ned or Laura
4 Favre, it looks like?

5 A Uh-huh.

6 Q And who signed in behalf of York?

7 A It looks like Arthur.

8 Q Okay. And what is his position?

9 A It says president.

10 Q Okay. And this is at the very founding of
11 the company. Did you appoint him or was there an
12 election for him as president or do you recall?

13 A I don't remember.

14 Q The second note is dated what?

15 A July 16th, 2004.

16 Q Okay. And what is the note number?

17 A 1059.

18 Q Okay. And that was issued to Mr. and Mrs.
19 Lackey?

20 A Yes.

21 Q Signed by Mr. Field?

22 A Yes.

23 Q And the next one?

24 A 1075, June 29th, 2004.

25 Q And that was to whom? First Truck -- Trust

1 Corp?

2 A Yes.

3 Q For Mr. Huss?

4 A Yes.

5 Q IRA. And the next one?

6 A James or Jill Lancaster.

7 Q Dated?

8 A March 16th, 2004.

9 Q And what's the note number?

10 A 1084.

11 Q Okay. What's the next one?

12 A Lancaster note number 1130.

13 Q Okay. And that was dated March 16th, 2005?

14 A That's -- yes.

15 Q It says senior note, Series 2005.

16 A Uh-huh.

17 Q Does that make any difference to you?

18 A It probably did, but I don't remember.

19 Q Okay. And what is the note number on that?

20 A 1130.

21 Q And the next one?

22 A 1136.

23 Q Dated what date?

24 A March 15th, 2005.

25 Q And that's in behalf of the Pennell, Patsy

1 Pennell; is that right?

2 A Yes.

3 Q Okay. Signed by Arthur Field?

4 A Uh-huh.

5 Q And the next one is dated what?

6 A Can't read it.

7 Q Okay. Can you tell what note number it is?

8 A 1137.

9 Q And is that in behalf of Mr. Huss?

10 A Yes.

11 Q Signed by?

12 A Arthur Field.

13 Q And the next one?

14 A December 29, 2005, 1164.

15 Q And that was to Mr. Huss also?

16 A Uh-huh.

17 Q And then the next one?

18 A 1183.

19 Q Dated?

20 A September 15th, 2005.

21 Q Signed by Mr. Field?

22 A Yes.

23 Q To Mr. Pennell -- Ms. Pennell. And the next
24 one, what is the note number?

25 A 1196.

1 Q Dated July 26th, 2005.

2 A Yes.

3 Q In behalf of Mr. Lackey and Ms. Lackey,
4 correct?

5 A Yes.

6 Q And the next one?

7 A September 16th, 2005.

8 Q To looks like Mr. and Mrs. Lancaster?

9 A That's -- yes.

10 Q And the note number, 1201?

11 A Yes.

12 Q And then the next one?

13 A 1245.

14 Q That's note number 1245?

15 A Uh-huh.

16 Q July 26th, 2006?

17 A Yes.

18 Q As to Mr. and Mrs. Lackey. And then the
19 final one is note number what?

20 A 1361.

21 Q Okay. And that's dated January 2007?

22 A Yes.

23 Q And that's to the Lackeys also; is that
24 correct?

25 A Yes. Uh-huh.

1 Q You were the manager of York Mortgage
2 Funding and you testified that you prepared these
3 notes?

4 A Yes.

5 Q Okay. And they started off at 1005 and they
6 went all the way up to 1361, the ones that we have.

7 A If they are in sequential order, and they
8 may not be. I mean, I just don't know. A lot of them
9 could have been mistakes. If they are not printed out
10 right, then they are destroyed.

11 Q Okay. Did that happen?

12 A It could have happened. Then it probably
13 did happen.

14 Q Okay. You ran the --

15 A I know that -- I know that I did not type
16 over 1000 notes anyway because I could never, ever do
17 that and keep a job and do everything. That's not it.
18 That's not the case.

19 Q This is 300 and -- if you are doing it
20 sequentially, this was all 1005 to 1361, so it's
21 about 356. That's possible?

22 A I don't recall that many people. I really
23 don't.

24 Q It's possible that you issued that many
25 notes.

1 A I don't know. I don't think so, but I don't
2 know.

3 (WHEREUPON, Plaintiff's Exhibit 14 is marked for
4 identification and admitted into the record.)

5 BY MR. BRANDT:

6 Q I'd ask if you can identify this.

7 A It's a letter from Arthur to Sharon Finch.

8 Q This is on York Mortgage Funding stationery
9 dated August 6th, 2003?

10 A Uh-huh.

11 Q What does it look like it is?

12 A It's a letter telling her that, I guess,
13 her note is going to mature.

14 Q So just the typical information from the
15 president, Arthur Field, to a noteholder, is that
16 right?

17 A That's what it looks like to me.

18 Q Okay. And the address, it looks like there
19 are three office addresses on here?

20 A Uh-huh.

21 Q And it looks like your four telephone
22 numbers.

23 A Okay. Uh-huh. Actually, there's three phone
24 numbers and a fax number.

25 Q Three phone numbers and a fax number,

1 right.

2 (WHEREUPON, Plaintiff's Exhibit 15 is marked for
3 identification and admitted into the record.)

4 BY MR. BRANDT:

5 Q I'm going to show you another document and
6 ask if you can identify that.

7 A I've never seen this document.

8 Q I'm not asking you that. I'm asking if you
9 can just identify what it is.

10 A I don't know. I've never seen it.

11 Q Okay. I'm going to call your attention to
12 paragraph 6.

13 A Uh-huh.

14 Q It says certificate 5530 with attached
15 detail summary, check number 1741, in the amount of
16 \$40 and an investment authorization form. Please note
17 the exchange of this certificate from York Mortgage
18 Funding LLC to Capital Investment Funding.

19 A Uh-huh.

20 Q Please post funds to passbook as investment
21 cash income. You see that?

22 A Yes.

23 Q Okay. Does that mean that York Mortgage
24 Funding exchanged notes with Capital Investment
25 Funding?

1 **A** I don't know. I mean, I don't know. I
2 didn't do this and I don't know about this. I can't
3 -- I can't --

4 **Q** Are you denying that that occurred?

5 **A** I'm not admitting or denying it. I don't
6 know. I don't want to admit something if I'm not sure
7 if it's true or not.

8 **Q** I don't blame you. I'm not asking you to.
9 Just as an aside, ma'am, looking at the addresses ---

10 **A** Uh-huh.

11 **Q** --- and telephone numbers ---

12 **A** Uh-huh.

13 **Q** --- for the Capital Investment Funding LLC
14 letter ---

15 **A** Uh-huh.

16 **Q** --- are they all exactly the same as York
17 Mortgage Funding?

18 **A** They appear to be, yes.

19 **Q** In fact, the only difference is the logo.

20 **A** Uh-huh.

21 **Q** Did Capital Investment Funding and York
22 Mortgage Funding have their business in the same
23 business location?

24 **A** That's what's on the letterhead. I don't
25 know. I mean I did York work from my house.

1 Q Well, once again, ma'am, it says according
2 to this that you were the managing member and that
3 you were in charge of all operations. Do you know
4 where your offices were and do you recognize those
5 three offices?

6 A I recognize those three offices, yes.

7 Q And is that where the business operated?

8 A It probably operated there and it probably
9 did some -- I mean, I did work out of my home. I
10 wasn't in there day to day. I wasn't in those
11 offices. I was working.

12 Q Where were you working?

13 A I was working, at that point, I believe, at
14 Bannister and Wyatt.

15 Q You were preparing the notes all the way up
16 through 2007 working with the business, at least
17 according to the exhibit that was previously --

18 A I believe so.

19 Q Okay. Do you know when, uh, the business
20 was incorporated?

21 A Not off the top of my head, I don't.

22 Q Okay. I'm going to show you something from
23 the Secretary of State for York Mortgage Funding.

24 A Uh-huh.

25 Q And it represents that you are the

1 registered agent for service of process.

2 A Uh-huh.

3 Q Does this appear to be an official document
4 showing when you were incorporated?

5 A It was incorporated in 2002 and dissolved
6 in 2009.

7 Q All right. I'd like to introduce this.

8 (WHEREUPON, Plaintiff's Exhibit 16 is marked for
9 identification and admitted into the record.)

10 BY MR. BRANDT:

11 Q I'm going to ask if you can identify this.

12 A This was, I guess, when it was dissolved.
13 Statement of Disassociation.

14 Q Right. Who was it signed by?

15 A It is signed by Arthur Field.

16 Q And what is his capacity on there?

17 A It says member manager.

18 Q And the date is June 3rd, 2009?

19 A Yes.

20 Q And it says member disassociated March
21 15th, 2003.

22 A Uh-huh.

23 (WHEREUPON, Plaintiff's Exhibit 17 is marked for
24 identification and admitted into the record.)

25 BY MR. BRANDT:

1 Q That's not correct based on your earlier
2 testimony then, is it?

3 A I don't know what you mean.

4 Q You said you were working with the company
5 up preparing notes in 2007.

6 A I might have been. I mean, I don't
7 remember. I may not have been a member at that point,
8 but I might have been typing notes.

9 Q Okay. And this was filed, was it not,
10 looking at the bottom, June 6th --

11 A 2009.

12 Q June 16th, 2009. And it looks like that \$2
13 check that was made payable to the Secretary of State
14 there. Is that right? That's that \$2 check we saw
15 earlier?

16 A Probably.

17 Q Okay.

18 A That's what it looks like.

19 MR. BRANDT: Did I introduce that, Your
20 Honor?

21 THE COURT: Yes.

22 (WHEREUPON, Plaintiff's Exhibit 18 is marked for
23 identification and admitted into the record.)

24 BY MR. BRANDT:

25 Q Uh, I'm going to show you articles of

1 termination ---

2 **A** Uh-huh.

3 **Q** --- and ask if you recognize that.

4 **A** I know what it is. I don't remember it, but
5 I see it.

6 **Q** This was filed --

7 **A** 2009?

8 **Q** Looks like June 24, 2009 on the bottom
9 right-hand side.

10 **A** Uh-huh.

11 **Q** And it's signed by whom?

12 **A** Arthur Field.

13 **Q** And it says it's in what capacity?

14 **A** Looks like manager.

15 **Q** And it's dated June 3rd, 2009?

16 **A** Yes.

17 **Q** Okay. And what happened to anything that
18 was in -- I mean, you terminated the LLC.

19 **A** Uh-huh.

20 **Q** And it was closed?

21 **A** Uh-huh.

22 **Q** What happened to the funds in there?

23 **A** The funds as of --

24 **Q** Well, this is 2009.

25 **A** Uh-huh.

1 Q Closed up shop.

2 A Uh-huh.

3 Q What happened to the money that was still
4 in that business?

5 A Was that the bank statement that you showed
6 me earlier?

7 Q Well, I'm asking you. I mean, you were the
8 manager.

9 A I mean, I don't remember. It was a long
10 time ago. If that's what was on the bank statement,
11 that's what was on the bank statement.

12 Q Okay. So there was still money in there and
13 you ended up getting it all, right?

14 A I took it. I mean, it was what I was owed
15 for doing my work. I never took a paycheck from York
16 ever. I don't believe there were any noteholders or
17 -- left that made -- there may have been some, but no
18 one ever made a claim. I got a call from the bank, as
19 far as I recall, like that that account was dormant.

20 Q Did you, as the manager, do the banking?

21 A I did some of the banking.

22 Q Okay. So you deposited the funds received
23 from the notes?

24 A Not all the time. I mean, there were people
25 in the office that did that too.

1 Q Okay.

2 A I don't know. Like I said, I did some of
3 it. I didn't do all of it.

4 Q Okay. But you had several, several, at
5 least according to the evidence submitted to the
6 court, noteholders.

7 A Well, I don't know how many. I would have
8 to really research that if I can find any
9 documentation on it. I don't want to give you a
10 number that is incorrect.

11 Q Did you ever talk to the noteholders? Did
12 they ever call in and you talk to them ---

13 A No.

14 Q --- as managing member?

15 A No.

16 Q You never did? Was Arthur Field really
17 running that entire show?

18 A I don't know if Arthur Field was running
19 the entire show. It was -- it was with CIF.
20 Obviously, they were working --

21 Q Hand and glove?

22 A Well, I don't know if it was hand and
23 glove.

24 Q Well, you --

25 A I don't know -- I don't exactly know what

1 you're trying to imply.

2 Q I don't either. I'm asking you -- I have
3 been asking you about the relationship between
4 Capital Investment Funding and York Mortgage Funding
5 LLC.

6 A I don't really know about Capital
7 Investment Funding because I really didn't have any
8 dealings with Capital Investment Funding.

9 Q All the offices --

10 A I was never in the offices.

11 Q Okay. You were a managing member but you
12 were never there. You were in charge of all the
13 financial aspects of the company, but you were never
14 there?

15 A I was never in the offices, no.

16 Q Okay.

17 A And if that was a mistake and I probably
18 should have been better at it, but I didn't know. I
19 had no idea.

20 Q There is a tax ID number on the, uh, -- on
21 the signature cards for the company.

22 A Okay.

23 Q So the tax ID, you, as a financial person,
24 you assisted and you got a financial, I mean, a tax
25 ID number. Did you file tax returns for the company?

1 **A** I think Arthur did. I may have assisted
2 him. I don't remember.

3 **Q** Okay. Did you sign the tax returns as a
4 managing member?

5 **A** I would have to see the tax returns. I
6 don't know. I don't remember.

7 **Q** Did you ever have any meetings with any of
8 the members listed on the prospectus?

9 **A** The members listed on the prospectus as far
10 as York?

11 **Q** Mr. Field as trustee for the trust and the
12 other members.

13 **A** I had spoken with them. I mean, I'm
14 acquainted with them.

15 **Q** Mr. Field is not mentioned in that
16 prospectus; is he?

17 **A** I don't know. I mean, I'd have to see it
18 again. I don't know.

19 **Q** Well, let me show you -- I'll represent to
20 you that his name is not in there.

21 **A** Okay.

22 **Q** Did he have that prospectus prepared?

23 **A** I don't know. I don't know if he did.

24 **Q** Do you know who else would have?

25 **A** I'm sure he was -- I mean, the prospectus

1 could have been prepared by his attorney.

2 Q Ma'am, this is a rule to show cause filed
3 summoning Mr. Field to come to court. You understand
4 that?

5 A Yes.

6 Q And you lived with Mr. Field?

7 A Yes.

8 Q Okay. And did you have an opportunity to
9 read the affidavit submitted by Mr. Saad in this?

10 A I've read parts of it, yes.

11 Q I'd like you to look at this document
12 please.

13 A Okay.

14 Q I'll represent to you, ma'am, that these
15 are a series of documents and notes that are similar
16 to records for York Funding and ask if you will look
17 through there and see if you recognize these to be
18 records of York Mortgage Funding LLC.

19 A They appear to be -- well, it says Capital
20 Investment Funding on this too.

21 Q Take your time.

22 A It looks like both. I mean, you've got York
23 and there is York. And these must be from the files,
24 what it looks like that was in all these files, which
25 I don't have, but you have.

1 Q I'll represent to you, ma'am, that as
2 stated on page 1, the certificate 1075 was issued.
3 This is one of the certificates we were talking about
4 earlier for Mr. Huss. You see that? That's the first
5 document in.

6 A Uh-huh.

7 Q And it had a maturity date of March 29th,
8 2005; is that correct?

9 A That's what it says.

10 Q And then March 9th of 2005, another
11 certificate was issued, 1137, ---

12 A Uh-huh.

13 Q --- with a maturity date of December 2005.

14 A Uh-huh.

15 Q And I'll represent to you that that is in
16 this package also. December 29th, 2005, another note
17 was issued, certificate 1164 with maturity date of
18 September 29th, 2006. I'll represent to you that that
19 note is in here as note number, as I said, 1164. Then
20 you see the part that says the switch?

21 A Yeah, was that part of the notes?

22 Q And --

23 A Was this part of York's notes?

24 Q I am asking you if Capital Investment
25 Funding ever received any money from York to pay the

1 obligation represented in the \$100,000 note?

2 **A** I can't remember. I don't know.

3 **Q** Did York ever transfer notes to Capital
4 Investment Funding?

5 **A** Transfer?

6 **Q** Yes. Transfer the obligation to repay the
7 notes.

8 **A** I'm not sure. It was a long time ago. I
9 really don't remember. I would like to say it's a
10 possibility. I just -- I don't want to say something
11 that is incorrect.

12 **(WHEREUPON, Plaintiff's Exhibit 19 is marked for**
13 **identification and admitted into the record.)**

14 **BY MR. BRANDT:**

15 **Q** Okay. Would you look through and see if
16 there are any documents in this that are not records
17 that appear to be of York?

18 **A** I don't know if this is a record or not.

19 **Q** Well, the first one is not. I'll represent
20 to you the first one is not. That is a compilation of
21 the information contained in the package.

22 **A** Okay. It looks like -- no, it's --

23 **Q** Documents that you prepared and are
24 familiar with.

25 **A** I don't know if I prepared them. I mean, I

1 see checks going to Mr. Huss as far as payments on
2 his note.

3 Q Do they appear to be all documents that
4 were prepared?

5 A They appear to be documents for Mr. Huss.

6 Q Okay. And it appears based on the notes
7 issued that he purchased notes.

8 A It looks like that to me, yes.

9 Q Okay. That's all. Thank you.

10 (WHEREUPON, Plaintiff's Exhibit 20 is marked for
11 identification and admitted into the record.)

12 BY MR. BRANDT:

13 Q I'm going to show you another one for Mr.
14 Glen Lackey.

15 A Uh-huh.

16 Q And ask if you can just do the same thing.
17 Just look through that. See if there's anything in
18 there that --

19 A I mean, I can look at this and I can attest
20 to it looks like it's part of a file and you
21 obviously have all of these files from York, which I
22 don't have. I see where I typed notes if I, in fact,
23 typed these. It looks like I did.

24 Q Uh-huh.

25 A But I don't know. I mean, I -- that's what

1 I can tell you.

2 Q But those documents appear to be original
3 documents. Who, for instance, signed the checks in
4 there?

5 A It looks like Arthur Field.

6 Q Who was he? The president of the company or
7 a member of the company?

8 A I would say so, yes. I just don't know
9 which. I really don't.

10 Q Or both?

11 A I don't know that.

12 Q You have Lancaster?

13 A No, Lackey.

14 (WHEREUPON, Plaintiff's Exhibit 21 is marked for
15 identification and admitted into the record.)

16 BY MR. BRANDT:

17 Q I'm going to ask you to look at this last
18 one for Mr. and Mrs. Lancaster.

19 A Uh-huh.

20 Q See if that appears to be the same type of
21 documents.

22 A (Reviewing.)

23 They look like documents.

24 Q They fit the pattern of the other documents
25 that are original York documents that you

1 participated in preparing for Mr. Field?

2 **A** I participated in preparing for the notes.

3 **Q** That's the only thing you did?

4 **A** That's pretty much what I did. I typed up
5 the notes and I did some of the banking. And that is
6 what I did.

7 **Q** Okay. Do you know how much money York
8 received in notes? How much money over time?

9 **A** I have no idea.

10 **Q** Was it \$10,000?

11 **A** I don't know. I don't know. I have no
12 documents in front of me. I don't know the answer to
13 that. I'm sorry.

14 **Q** I've shown you several hundred thousand
15 dollars worth of notes.

16 **Q** And some of these may have been redeemed. I
17 mean, I don't know. I don't know how much was in
18 there. I have no idea.

19 **Q** Do you know what York did with the funds it
20 received from the investors?

21 **A** I believe they worked with -- Scott
22 Pfeiffer was the attorney. I believe he did a lot of
23 the lending. I don't -- I didn't do the lending. I
24 don't know where the money went.

25 **Q** Well, you were a signature on the bank. You

1 got the last \$10,000.

2 **A** I did. I did and that is part of our
3 settlement agreement that we were trying to work
4 through. I am involved in that global mediated
5 settlement where it specifically said that I have to
6 pay back \$10,000.

7 **Q** Ma'am, do you know what happened to the
8 money that was deposited in that account prior to
9 that \$10,000 being deposited?

10 **A** I'm sure that notes were redeemed. I'm sure
11 that money was invested. I can't tell you where it
12 went or what it -- where the money went.

13 **MR. BRANDT:** I believe that's all I have,
14 Your Honor.

15 **THE COURT:** Anything you want to ask?

16 **MR. STEPHENSON:** No, sir, Your Honor.

17 **MR. BRANDT:** Excuse me one second, Your
18 Honor. Beg the Court's indulgence.

19 **BY MR. BRANDT:**

20 **Q** Did you -- did you -- that \$10,000 was
21 income to you; was it not?

22 **A** That was income to me.

23 **Q** Okay. And did you claim that on your taxes
24 for the year that you received it?

25 **A** I don't remember.

1 that right?

2 **THE WITNESS:** I do. Not right now though.

3 **THE COURT:** Do you know where he is?

4 **THE WITNESS:** Right now?

5 **THE COURT:** Yes.

6 **THE WITNESS:** Yes, Carolina Behavioral
7 Center.

8 **THE COURT:** And how long has he been
9 there?

10 **THE WITNESS:** As an inpatient -- he's been
11 a patient there since I believe it was last
12 week. He was admitted to the emergency room on
13 Tuesday night. Then I brought him into Carolina
14 Behavioral Center the next day.

15 **THE COURT:** What was the admission for
16 Tuesday night?

17 **THE WITNESS:** I've got the medical records
18 with me. If you would like, I could show them to
19 you. I've got the admission. It was --

20 **THE COURT:** Well, you could just tell me.

21 **THE WITNESS:** It was a panic attack. It
22 was a mental breakdown. It was -- he -- he -- he
23 was shaking, like, uncontrollably and he could
24 barely walk.

25 **THE COURT:** You know the cause of that?

1 **THE WITNESS:** Stress. I mean, he's been
2 under a lot of stress. There's a lot of
3 lawsuits. We're trying and we've been trying to
4 mediate this and trying to finish it and we
5 thought we were very close to an agreement that
6 everybody is on board with. And we were all set
7 to go with this and then it keeps breaking down
8 and we don't know why. We're all set.

9 If you don't think I can sign on his
10 behalf, it will have to wait until he gets out
11 because he's -- I visited him yesterday. I'm
12 sorry if you don't think it's true, but I've
13 seen him and he's -- you know, it's not a fun
14 place to be.

15 **THE COURT:** You have any idea what the
16 prognosis is? How long he's going to be there?
17 When he's going to get out?

18 **THE WITNESS:** Well, he was talking -- he
19 had -- he was speaking with a psychiatrist
20 yesterday. I have yet to see the notes on it.
21 But unfortunately, visiting hours are only on
22 Wednesdays and on Saturdays. I saw him
23 yesterday, but I didn't have any notes. I know
24 that he actively wants to settle this so that we
25 could just finally shut the door on this and

1 move on. And we are ready to do this. I
2 understand, Your Honor, that it -- you don't
3 think it would be acceptable if I signed on his
4 behalf for such a huge settlement.

5 **THE COURT:** Correct. He's going to have to
6 do it, unless he was totally and completely
7 incapacitated and there's medical evidence that
8 confirms that.

9 **THE WITNESS:** I can't get him out right
10 now.

11 **THE COURT:** Okay. I understand that. We're
12 going to reconvene this hearing when he is able
13 to be here. I represent to you that my
14 understanding is that everyone who came to the
15 table at that mediation is interested in
16 resolving the civil aspects of this -- of the
17 lawsuits involved and putting this matter --
18 finishing this matter.

19 **THE WITNESS:** Can I answer that question?

20 **THE COURT:** That's not a question.

21 **THE WITNESS:** Oh, I was just going to say,
22 yes.

23 **THE COURT:** Okay. Anything else?

24 **MR. BRANDT:** No, sir.

25 **THE COURT:** All right. Thank you. You can

1 step down. I'll ask one more question. Where did
2 the \$156,000 in cash that was taken out of your
3 house, where did that come from?

4 **THE WITNESS:** The \$160,000 --

5 **THE COURT:** 156,000 in cash. You called
6 the police and they came to --

7 **THE WITNESS:** Oh, oh, oh, I didn't know
8 what you were talking about. That was
9 devastating actually.

10 **THE COURT:** Where did that money come
11 from?

12 **THE WITNESS:** That money came -- some of
13 it came from my parents and I had been putting
14 money away because I have been really scared
15 about what's going on. If anything happened to
16 Arthur, the last time when I had to try to post
17 bail, I needed money and I had been taking some
18 money from my parents. I had been putting some
19 -- I had money of my own and I just kept it. I
20 had a friend of mine -- can I tell you this
21 story?

22 **THE COURT:** Sure.

23 **THE WITNESS:** He was living with us. He
24 was destitute. He had no where to go. He came in
25 and he lived with us for over a year and he took

1 everything we had and it was devastating.

2 **THE COURT:** Why did you tell the police
3 you didn't want to prosecute?

4 **THE WITNESS:** I didn't tell the police I
5 didn't want to prosecute. That's not what I
6 said. What they said, they said they found the
7 matter closed and they had nothing else that
8 they could do. I didn't -- I -- I didn't see any
9 way I could actively open it. I actually did
10 call an investigator about two months ago about
11 reopening it because I found out why these
12 people decided to close the case, which I did
13 not know that.

14 **THE COURT:** What was that?

15 **THE WITNESS:** They thought -- the
16 investigator thought -- the investigator that
17 wrote up the report wasn't even at our house.
18 This investigator just wrote it up from notes.
19 What -- the investigator thought was I was in
20 cahoots with this man that was staying there. I
21 was feeding him the money and we were going to
22 go run away and live off this money, which was
23 absolutely absurd. And, I mean, to this day, I
24 can not believe that happened because I had
25 known this man since he was like 13 and I was,

1 you know, I was a power lifter with him. I felt
2 badly for him and I took him in. This is what I
3 got for it.

4 **THE COURT:** Okay.

5 **THE WITNESS:** My father had given me a
6 large sum of money. He knew about that too. I
7 converted it to cash. He knew where it was and
8 he took all that.

9 **THE COURT:** Converted it to -- how did you
10 receive it?

11 **THE WITNESS:** A check.

12 **THE COURT:** When did you get that?

13 **THE WITNESS:** It was during the time that
14 this man was living there. I don't remember what
15 year that was anymore. It was two or three years
16 ago.

17 **THE COURT:** And your father sent you a
18 check for what reason?

19 **THE WITNESS:** Because he was -- he was
20 selling off some of his collections and it was
21 going to be part of my inheritance, which his
22 now gone.

23 **THE COURT:** Tell me what bank that check
24 came from.

25 **THE WITNESS:** I was a Connecticut bank. It

1 might have been like Putnam Bank or something. I
2 don't remember.

3 **THE COURT:** Okay. Anything else? All
4 right. Thank you. You can step down. Thank you.

5 **MR. BRANDT:** Call Ms. White.

6 **MR. STEPHENSON:** Is my client excused?

7 **MR. BRANDT:** Well, I would say stay until
8 the conclusion of the hearing. I don't care,
9 Your Honor.

10 **THE COURT:** Well, this hearing is going to
11 continue because Mr. Field is not here. So I --
12 as far as staying for the remainder of today, I
13 don't have any --

14 You all want her to stay?

15 **MR. BRANDT:** I have no -- I don't care if
16 she stays. I would like the subpoena to -- if
17 necessary, she'd come back to the other hearing
18 when it's reconvened based on the same subpoena
19 so we do not have to serve her.

20 **THE COURT:** This subpoena will continue in
21 full force and effect and when notified -- they
22 will notify your attorney if this hearing is
23 reconvened and they want you to be present. You
24 understand that?

25 **THE WITNESS:** Understood.

1 **THE COURT:** Okay. All right. Thank you.
2 The other thing I would ask is that you please
3 apprise your lawyer when Mr. Field is released.

4 **THE WITNESS:** Yes, sir.

5 **THE COURT:** Okay. And Mr. Stephenson, I'd
6 ask that you inform the court or counsel when
7 she does that. Are you continuing in your
8 representation?

9 **MR. STEPHENSON:** That remains to be seen as
10 to what it morphs into. I have limited
11 representation.

12 **THE COURT:** Okay.

13 **MR. STEPHENSON:** I don't represent Arthur
14 Field. If I am told of his status, I will relay
15 it to the Court.

16 **THE COURT:** Okay. Thank you very much.

17 **MR. BRANDT:** Shall I get her? I don't know
18 where she is.

19 **THE COURT:** Yeah. We don't have a bailiff.
20 Oh, no. Yeah, we do.

21 (WHEREUPON, there is a pause.)

22 **MR. STEPHENSON:** She's on the phone with
23 her attorney, Your Honor.

24 **THE COURT:** Okay. Didn't know she had an
25 attorney.

1 **MR. STEPHENSON:** Again, I don't represent
2 this lady. I'm informed that she's represented
3 by Charles Grove. I didn't know that. He wants
4 to talk to Rodney. I've got nothing to do with
5 that.

6 **THE COURT:** Okay. Thank you for that
7 information.

8 Rodney, you're not involved in this rule to
9 show cause.

10 **MR. RODNEY PILLSBURY:** No, Your Honor.

11 **MR. BRANDT:** It's news to me, Your Honor.
12 That's the first I've heard. She's just a
13 witness anyway.

14 **THE COURT:** Well, as soon as she gets off
15 the phone, she needs to get in here.

16 **MR. BRANDT:** My examination of her will be
17 very brief.

18 **THE COURT:** Okay. Do we have any
19 noteholders here?

20 **MR. BRANDT:** Yes, sir.

21 **THE COURT:** All right. Ma'am, if you will,
22 come and put your left hand on the Bible.

23 **THE WITNESS:** Where to?

24 **THE COURT:** Right here.

25 **THE BAILIFF:** Put your left hand on the

1 Bible and raise your right.

2 **KIRSTEN WHITE**

3 having first been duly sworn, testifies as follows:

4 **THE COURT:** Please have a seat and state
5 your name for the record.

6 **THE BAILIFF:** Turn around this way.

7 **MS. WHITE:** Where?

8 **THE BAILIFF:** Right here.

9 **MS. WHITE:** Yes. Thank you.

10 **THE COURT:** State your --

11 **MS. WHITE:** Uh, --

12 **THE COURT:** Yeah. Go ahead. State your
13 name.

14 **MS. WHITE:** Kirsten White.

15 **DIRECT EXAMINATION**

16 **BY MR. BRANDT:**

17 **Q** Okay. Ms. White, I just need to ask you a
18 few questions. Tell me a little bit about yourself.
19 How old are you?

20 **A** 47.

21 **Q** Okay. Are you married or not married?

22 **A** I, uh, -- I'm married.

23 **Q** Okay. Are you separated from --

24 **A** I was recently separated, not legally
25 separated.

1 Q Okay.

2 A I'm currently --

3 Q You have any children?

4 A Uh, yes.

5 Q Okay. How many children do you have?

6 A I have three.

7 Q What are their ages?

8 A 12, 14 and 17.

9 Q What's your educational background?

10 A I have a business degree from Furman.

11 Q And what is your work history for the last
12 10 years?

13 A Uh, goodness. Uh, --

14 Q Well, are you employed now?

15 A I'm not.

16 Q Okay. When were you last employed?

17 A Last year.

18 Q With whom are you employed?

19 A Maggie Bailey, the attorney.

20 Q Pardon?

21 A Maggie Bailey.

22 Q Who is that?

23 A She's an attorney.

24 Q Okay. And do you work -- have you been

25 working in the legal profession for a long period of

1 of yours too?

2 A Yes.

3 Q Okay. And Mr. Field didn't participate in
4 that at all?

5 A Some. They both did.

6 Q Okay. Did Mr. Field approach you in March
7 of 2009 about buying a note from Lion Financial?

8 A Yes.

9 Q Okay. Tell me about that.

10 A I don't remember. I did give a four-hour
11 deposition last November.

12 Q Okay.

13 A I used some notes back then. I don't have
14 those notes anymore.

15 Q Okay.

16 A And I don't remember the details.

17 Q I'm going to ask if you can identify this
18 \$52,500 check dated March of 2009.

19 A Yes. That's mine.

20 Q Is that a check that you --

21 I'd like to introduce that.

22 (WHEREUPON, Plaintiff's Exhibit 23 is marked for
23 identification and admitted into the record.)

24 BY MR. BRANDT:

25 Q Is that a check that you used to buy this

1 **A** I don't recall the details. I'm telling you
2 I don't remember.

3 **Q** Okay. Well, were you involved in it?

4 **A** As -- yes.

5 **Q** Isn't it true, ma'am, really that Mr. Field
6 asked you to do this?

7 **A** He asked me if I would, yes.

8 **Q** And he provided the money for it?

9 **A** I don't remember -- I don't know if it was
10 him or a company. I don't know.

11 **Q** Okay. But you didn't have \$52,500?

12 **A** I did not.

13 **Q** Okay. And that note was eventually paid
14 off, was it not?

15 **A** It was.

16 **Q** This was a note that was owed by Gary and
17 Lori Malvern, correct, to Lion Financial?

18 **A** Uh, --

19 **Q** And that note was assigned to you along
20 with the mortgage?

21 **A** That sounds correct. I really don't
22 remember many details.

23 **(WHEREUPON, Plaintiff's Exhibit 24 is marked for**
24 identification and admitted into the record.)

25 **BY MR. BRANDT:**

1 **Q** I'm going to ask you if, in September of
2 2012, if you signed this satisfaction of that
3 mortgage on the property because it was paid off
4 soon, before its maturity by the Malverns.

5 **A** He was able to -- his credit had been --
6 his credit was very bad in years prior. He was able
7 to rebuild his credit. He went to Lending Tree and
8 found a way to borrow money some years later, many
9 years later. I believe the mortgage originated in
10 2006. So his credit greatly improved over -- between
11 2006 and 2012.

12 **Q** That six-year period.

13 **A** That is my understanding.

14 **Q** Okay. You didn't get the money though when
15 he paid you, did you? You didn't get -- whatever was
16 left that was due on that note, you didn't get it,
17 did you?

18 **A** I don't -- I don't remember if I had a
19 small residual of that. I don't -- I really don't
20 remember.

21 **Q** In your deposition, you said you didn't get
22 it. Have you changed your testimony from that?

23 **A** I don't remember today. I don't remember
24 today.

25 **Q** Have you ever worked in the document

1 were bought to me, I think, initially by Legal Eagle.
2 They had the boxes. Yes, it was Legal Eagle or
3 something like that. It was not him.

4 Q Okay.

5 A Someone, a company, an actual company, I
6 believe it was Legal Eagle, had possession of all of
7 the boxes.

8 Q And you didn't do anything but make copies
9 of them. You didn't do any indexes? You didn't do any
10 --

11 A No, I wasn't provided an inventory of any
12 of names to know if I had them all.

13 Q So you don't know if you had all of the
14 notes or not or all of the note files?

15 A All of the applications? No, I don't know.

16 Q In fact, Mr. Field took some documents and
17 told you not to copy them, representing that they
18 were duplicates or something like that.

19 A Oh, they were. We separated them out. They
20 were duplicates.

21 Q Okay.

22 A They were exactly the same.

23 Q Okay. So you had --

24 A It would have been so many more pages and
25 so much more data to do identical pages.

1 Q To save paper, so to speak?

2 A Uh, no, not paper because it was already on
3 paper.

4 Q Okay.

5 A To save time and data space.

6 Q So --

7 A They were identical.

8 Q So your only contact was Mr. Field and he
9 gave you -- apparently, he had conversations with you
10 during the course of your copying, is that right?

11 A Maybe occasionally, yeah. Once I got the
12 boxes, I handled it.

13 Q Uh, what did you do with the records after
14 you copied them?

15 A Uh, they had to be moved out of the
16 Maribeth Center, out of my office.

17 Q Now, these were offices you rented for a
18 month or two?

19 A Several months, many months.

20 Q How many months?

21 A Several months.

22 Q Two or three months?

23 A Longer than two or three.

24 Q Okay.

25 A I don't remember the dates.

1 **Q** It was just a little space that you made to
2 do this project?

3 **A** Right.

4 **Q** You paid a little bit of rent?

5 **A** Yes, I did.

6 **Q** Okay. And I think you made, out of this
7 \$17,500, maybe \$15,000 in two or three months. 15-
8 plus-thousand dollars?

9 **A** I believe my note was about nine over
10 several months.

11 **Q** Okay.

12 **A** It was -- I could figure out the dates if I
13 thought about it. From June 2009 until some time in
14 early 2010.

15 **Q** So you said something happened to them. You
16 had to move them out. What did you do with them?

17 **A** I don't know what happened to the boxes.

18 **Q** You just walked out the door and left them?

19 **A** Yes.

20 **Q** You left the box -- you rented a space and
21 you walked out the door and left the records for this
22 company there?

23 **A** Yes.

24 **Q** Well, at your deposition, ma'am, I believe
25 you said that you had them put in the dumpster. Which

1 is it?

2 A I did say that.

3 Q Well, which is true? This one or that one?

4 A I want to set the record straight today.

5 Q Okay. So let's do set the record straight.

6 You didn't tell the truth at your deposition that you
7 put them in the dumpster. You walked out the door and
8 left them in the space that you rented.

9 A And when I went back to turn in the keys,
10 they were not there.

11 Q Okay. Did you tell Mr. Field that you did
12 that?

13 A That I did what?

14 Q That you left the records there. He knew --

15 A I don't remember what I told him.

16 Q Well, you were in contact with him, were
17 you not?

18 A Yes, I guess.

19 Q Okay. So Mr. Field knew that the records
20 that he gave you to copy were in that and you were
21 walking out and leaving them there?

22 A I don't know what he knew.

23 Q Didn't you talk to him and tell him?

24 A I don't remember. This was 2010.

25 Q Okay. Uh, you still have a relationship

1 with Mr. Field? Any kind?

2 **A** Yes.

3 **Q** Okay.

4 **A** But not --

5 **Q** How often do you see him?

6 **A** It varies a lot.

7 **Q** When is the last time you saw him?

8 **A** Uh, last Tuesday night when I took him to
9 the emergency room with Kate, I think. I think that
10 was the last time.

11 **Q** So what was his condition?

12 **A** Very bad.

13 **Q** Okay. He was afraid of coming to this
14 hearing?

15 **A** Yes. He was afraid y'all were going to put
16 him in jail. That has been his -- I'm just telling
17 you what his fear is.

18 **Q** Okay.

19 **A** We took him to his doctor. His doctor said
20 put him in the car and take him to the emergency room
21 and get him out of crisis.

22 **Q** You and his wife?

23 **A** Yes.

24 **Q** Now, it's not a big secret, is it, that his
25 wife knows that you had a romantic relationship with

1 Mr. Field?

2 A She does. She does.

3 Q Yet, you're still sufficiently a friend
4 that you would go over and help ---

5 A That is what happened.

6 Q --- take him to the emergency room?

7 A That is what happened.

8 Q Okay. You're a defendant in one or two
9 lawsuits; are you not?

10 A One, yes.

11 Q One in federal court?

12 A Uh, I don't think so. Isn't it state court?

13 Q Well, have you been in the United States
14 District Court, docket number 6:13-CV-02326 MGL-JDA?

15 A I don't know.

16 Q You don't?

17 A I don't. That number doesn't mean anything
18 to me.

19 Q Okay. So it's a surprise to you that you
20 are a defendant in a federal lawsuit against you?

21 A That particular one. I don't know if it was
22 that one. I don't know the number.

23 Q Okay.

24 A There was one. It was dismissed.

25 Q There was one that was dismissed?

1 **A** And I don't know if it's the one to which
2 you are referring.

3 **Q** Were you ever -- let me ask you if you can
4 identify this.

5 I'd like this marked please.

6 **(WHEREUPON, Plaintiff's Exhibit 26 is marked for**
7 **identification and admitted into the record.)**

8 **BY MR. BRANDT:**

9 **Q** Take your time to look at that.

10 **A** I'm not quite sure what it is. I see my
11 name on it. I'm not quite sure what it is.

12 **Q** Okay. This is the document, I will
13 represent to you, that was filed on December 31st,
14 2013 in Capital Investment Funding versus Arthur
15 Field, et al, which would include you as a defendant.

16 **A** Okay.

17 **Q** And it was filed electronically on December
18 21st, 2013, and it appears, if you will look on the
19 last page, that you signed it.

20 **A** Okay.

21 **Q** Is that your signature?

22 **A** That is my signature.

23 **Q** Okay. So you were aware of this lawsuit
24 then?

25 **A** Yes. Now, that I see which one you are

1 referring.

2 **Q** Okay. Looking at this lawsuit, on page 3 of
3 7, there is a discussion that says White learned of
4 the default on December 30th, 2013 through an
5 acquaintance and never received, nor reviewed, any
6 pleading in this matter. It appears that one day
7 later, this motion to set aside the default and to
8 dismiss was filed by you in the federal court.

9 **A** Can you please go back to that sentence?

10 **Q** Yes, ma'am. I've got a copy of it right
11 here for you.

12 **A** Are they the same thing?

13 **Q** Yes.

14 **A** Uh, I'm not sure what that means. I don't
15 remember the contents of this document.

16 **Q** You signed it?

17 **A** Yes, I imagined I knew what it was at the
18 time. Right now, I don't. I'm not quite sure what it
19 is.

20 **Q** Did you do the research necessary to
21 prepare this document?

22 **A** No.

23 **Q** Who did?

24 **A** I don't remember it.

25 **Q** Isn't it true, ma'am, that Arthur Field

1 prepared this in its entirety and got you to sign it
2 and you signed it?

3 **A** I don't know for sure who prepared it. I
4 really don't. It was not me.

5 **Q** What contact did you have with Mr. Field
6 regarding this?

7 **A** I don't remember. This was years ago. I do
8 not remember.

9 **Q** Okay.

10 **A** I don't remember.

11 **(WHEREUPON, Plaintiff's Exhibit 27 is marked for**
12 **identification and admitted into the record.)**

13 **BY MR. BRANDT:**

14 **Q** I'm going to show you this and ask if you
15 recognize that. See if it's your signature on the
16 last page of this document.

17 **A** That is my signature.

18 **Q** Okay. And what is this styled?

19 **A** I'm sorry. What was the question?

20 **Q** What does it say it is? It's a motion to
21 dismiss by you.

22 **A** Yes.

23 **Q** And this is filed in your case, signed by
24 you. The date that it was filed was two months later
25 on February 14th, 2014. Did you do the research

1 necessary and did you prepare this document?

2 **A** No.

3 **Q** Isn't it true, ma'am, that Mr. Field
4 prepared that document and got you to sign it?

5 **A** I think that's -- that's possibly what
6 happened. I didn't prepare it.

7 **THE COURT:** Well, let me just interrupt.
8 If you didn't do it, who did it.

9 **MS. WHITE:** I don't know because I
10 wasn't there.

11 **THE COURT:** You signed it?

12 **MS. WHITE:** I did.

13 **THE COURT:** Who had you sign it?

14 **MS. WHITE:** Arthur had -- I guess it was
15 Arthur.

16 **THE COURT:** No guessing about this.

17 **MS. WHITE:** Well, each document -- I
18 don't remember each one individually, but I
19 think it was him.

20 **THE COURT:** Did anyone else present you
21 documents to sign?

22 **MS. WHITE:** I see what you're asking.
23 No.

24 **THE COURT:** But you clearly did not
25 prepare these documents?

1 **MS. WHITE:** No.

2 **THE COURT:** Arthur Field presented them
3 to you for your signature, is that right?

4 **MS. WHITE:** Yes.

5 **THE COURT:** And these are filed
6 electronically. Did you do it from your
7 computer?

8 **MS. WHITE:** I don't know if it was ever
9 done from my computer, if I had a copy of it,
10 I'm not sure. I just can tell you I didn't
11 prepare it.

12 **THE COURT:** But they were presented to
13 you -- I'm not trying to put words in your
14 mouth.

15 **MS. WHITE:** Right. I'm trying to
16 comprehend what you are saying and I'm trying to
17 remember.

18 **THE COURT:** Well, this is vital.

19 **MS. WHITE:** Okay.

20 **THE COURT:** You did not prepare them.
21 Tell me -- tell me -- and I'm just telling you,
22 now is the time to make a clean breast of this.

23 **MS. WHITE:** Yes, sir. That is what I'm
24 trying to do. I really am.

25 **THE COURT:** Are you sure that Arthur

1 Field is the one that presented these documents
2 to you for your signature to be filed with the
3 court?

4 MS. WHITE: Yes.

5 THE COURT: Okay. I'm sorry to interrupt.

6 (WHEREUPON, Plaintiff's Exhibit 28 is marked for
7 identification and admitted into the record.)

8 BY MR. BRANDT:

9 Q I'm going to prepare -- I'm going to show
10 you a brief dated the same day that was filed, and
11 ask if this was your signature on this document.

12 A Yes.

13 Q Was this too prepared by Arthur Field,
14 given to you for your signature and electronically
15 filed in this case?

16 A I believe it was, yes.

17 Q Okay. And you did not prepare it?

18 A No.

19 Q And he gave it to you.

20 (WHEREUPON, Plaintiff's Exhibit 29 is marked for
21 identification and admitted into the record.)

22 BY MR. BRANDT:

23 Q I'm going to show you another one, ma'am,
24 this was dated and electronically filed on July 8th,
25 2014 in the same case and ask if that is signa --

1 your signature on it.

2 **A** Yes.

3 **Q** And ask if Mr. Field prepared this
4 document, had you sign it and filed it?

5 **A** May I see it?

6 **Q** Yes.

7 **A** (Reviewing.)

8 Yes.

9 **MR. BRANDT:** That's all I have, Your
10 Honor.

11 **THE COURT:** All right. Ms. White, thank
12 you very much. I'm going to tell you that
13 because Mr. Field did not come, we're going to
14 have to reconvene this hearing so I can not
15 release you from the subpoena. The subpoena
16 remains in full force and effect. When we need
17 you to come back, we'll contact you and tell you
18 -- we'll give you plenty of warning about when
19 you should come back. Okay.

20 **MS. WHITE:** Yes.

21 **THE COURT:** You don't have any idea about
22 when he's going to be released; do you?

23 **MS. WHITE:** I don't.

24 **THE COURT:** Okay. Anything else?

25 **MR. BRANDT:** No, sir. Not at this time.

1 **THE COURT:** You are free to go. We have
2 your contact information, I presume?

3 **MR. RODNEY PILLSBURY:** No, we just have
4 an address, Your Honor.

5 **THE COURT:** You have a phone number so we
6 can call you so we don't have to send somebody
7 out.

8 **MS. WHITE:** Yes, I would prefer that.

9 **THE COURT:** I'm sure you would.

10 **MR. BRANDT:** What is that?

11 **THE COURT:** She is going to provide phone
12 numbers so we can contact her for the next
13 hearing so she'll know. She's indicated on the
14 record, under oath, she will come pursuant to a
15 phone call.

16 **MR. BRANDT:** Do you know what the number
17 is, ma'am?

18 **MS. WHITE:** (864)420-7555.

19 **MR. BRANDT:** Thank you.

20 **THE COURT:** Okay. Thank you very much.

21 **MS. WHITE:** Thank you.

22 **THE COURT:** Yes, ma'am.

23 Okay. Yeah. Well, I just want for the
24 record, Mr. Saad, you have filed your affidavit
25 with the court, is that correct?

1 **MR. STEPHENSON:** That's correct, Your
2 Honor.

3 **THE COURT:** And that indicates that the --
4 you adopt and incorporate for this hearing all
5 the exhibits and your affidavit as submitted, is
6 that right?

7 **MR. STEPHENSON:** Yes, sir.

8 **MR. BRANDT:** And I think I moved to
9 introduce all the documents that we presented. I
10 just wanted to make sure.

11 **THE COURT:** Yes. I've got 1 through 29.
12 All right. We will reconvene this hearing when
13 we learn that Mr. Field is available.

14 To the noteholders, uh, I just want to
15 thank you all for -- I don't remember you all.
16 You probably remember me. Probably have my
17 picture on the wall and you use it as a
18 dartboard. I don't blame you.

19 But -- Buck, could you step aside? I
20 can't see.

21 I want to thank you all for being here. I
22 want to -- I hope you all appreciate the efforts
23 that Mr. Saad and the legal teams have gone
24 through to try and collect this. I hope you all
25 can see the incredible difficulties that, uh,

1 they faced. I wish I had better news for you. I
2 will tell you that you all have any sentiment
3 with respect to the settlement of the case --
4 are y'all --

5 **SPEAKER:** What do you mean?

6 **THE COURT:** Well, what we're talking about
7 doing is putting this -- putting an end to it,
8 all these lawsuits. We can't find where the pot
9 of gold is. I think I just -- at some point,
10 we've got to, for your piece of mind, put the
11 thing to rest.

12 **SPEAKER:** I agree with you. I do. Matter
13 of fact, he's still doing damage.

14 **THE COURT:** Okay. Yes, ma'am.

15 **SPEAKER:** I know the money is not coming.
16 I know the money is gone. He is very smart,
17 manipulative and narcissistic. He's an evil
18 person and a very good chameleon. I have seen
19 him -- judge, I have seen him interchange money
20 to people and then on the other side giving this
21 appearance of having no money, taking advantage
22 of people. He plays to whatever. He doesn't know
23 the difference between right and wrong.

24 **THE COURT:** Well, I agree with everything
25 you said except the last part about knowing the

1 difference between right and wrong. I think he
2 knows. He just doesn't care. I'm not trying to
3 pick at you.

4 **SPEAKER:** And I think the family is
5 equally manipulative as he is.

6 **THE COURT:** All right. I agree with you
7 completely. So if we can, uh, --

8 **SPEAKER:** I would like him to be held
9 accountable in some way.

10 **THE COURT:** Yes, ma'am. I've been telling
11 Mr. Saad all these years as we went through
12 this, he will be held accountable in this life
13 or the next. I want to tell you I honestly
14 believe that these gentlemen have done
15 everything they can to make him accountable in
16 this life. We're -- they don't have the evil
17 genius that he has to be able to unwind that
18 thing. So anyway, I want to thank you all for
19 being here. We'll let you know when the next
20 hearing is.

21
22 **(WHEREUPON, the proceedings conclude at**
23 **approximately 4:01 p.m.)**
24
25

EXHIBIT C
CERTIFICATE

101

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville, South Carolina, on this 14th day of November, 2016.

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

Teresa B. Johnson

Official Court Reporter

ELECTRONICALLY FILED - 2020 Sep 27 9:52 AM - GREENVILLE - COMMON PLEAS - CASE#2008CP2303665

*William F. Tomz and Francis W. Tomz,
Individually and as Class Representatives,*
vs.
*Capital Investment Funding, LLC, and
Arthur M. Field*
C.A. NO. 2008-CP-23-3665

PLAINTIFF'S MEMORANDUM IN OPPOSITION
TO DEFENDANT FIELD'S MOTION TO RECUSE

EXHIBIT 14

Affidavit of Jerry Saad Receiver for Capital Investment Funding

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	CIVIL ACTION NO. 2008-CP-23- 3665
	)	
William F. Tomz and Francis W.	)	
Tomz, Individually and as Class	)	
Representatives,	)	
Plaintiff,	)	
	)	
v.	)	AFFIDAVIT OF JERRY T. SAAD
	)	RECEIVER FOR CAPITAL
	)	INVESTMENT FUNDING, LLC
Capital Investment Funding,	)	
LLC and Arthur M. Field	)	
	)	
Defendants.	)	
	)	

I, Jerry Saad, being first duly sworn, say:

1. I am 65 years old. I was born and raised in Greenville South Carolina, and have been a permanent resident of Greenville South Carolina my whole life.
2. I am presently, and have been since 1979, a Certified Public Accountant, licensed in the State of South Carolina. My company, of which I am the 100% owner, serves over 1,000 individual and small business clients, and employs 22 persons, including 6 other CPAs. Over my career of more than 40 years, I have worked with numerous complex and troubled businesses and a multitude of civil litigation actions.
3. Over the course of my career, I have testified as an expert witness and as a fact witness in more than 30 legal proceedings, and have participated in numerous legal proceedings before Honorable Judges Henry Herlong, Henry Floyd, Joseph Anderson, Ross Anderson, Thurmond Bishop, Helen Burris, John Waites, John Few, John Breeden, Charles Simmons, Debora Faulkner, Gordon Cooper, and Casey Manning.
4. From 2006 until the successful conclusion of the case in 2008, I served as Liquidating Trustee in U.S. Bankruptcy Court in Spartanburg, South Carolina under the supervision of Honorable Judge John Waites. In 2005, I was appointed and served until the successful conclusion of the case in 2008 as Court Appointed Receiver in U.S. District Court in Spartanburg, South Carolina, under the Honorable Judge Henry Floyd.
5. On August 24, 2009, I was appointed Receiver of Capital Investment Funding, LLC ("CIF") by order of the Honorable Judge Edward W. Miller ("Judge Miller") in Tomz v. Capital Investment Funding, LLC, et al., Case No 2008-CP-23-5514 in the South Carolina Court of Common Pleas Thirteenth Judicial Circuit ("Tomz Case"). Judge Miller was assigned to the Tomz Case on or about 2009, after Judge John Few recused himself from the case, following Mr. Arthur Field's filing of a motion that Judge Few, who now serves as a justice on the South Carolina Supreme Court, recuse himself from the case because Mr. Field had a grievance against him.
6. I have served continuously as Receiver for CIF for **more than eleven (11) years**. During that course of time, I have reported my activities and findings as Receiver directly to the Court through Judge Miller, who has, in my opinion, based upon my considerable experience set forth above, always acted as a picture of judicial decorum, exhibiting poise and extreme restraint towards each of the various defendants in the Tomz Case, but most specifically Mr. Field.

7. Notably, in October 2013, after five years of proclaiming in numerous meetings and court proceedings of his absolute innocence, Mr. Field admitted in court and in writing to a multitude of his lies and deceptions, which were characterized in court by Judge Maddox as the definition of a ponzi scheme, and which was the root cause of the \$38 million loss to the noteholders of CIF.

8. In my opinion, throughout my eleven year tenure as Receiver, Judge Miller has consistently and always rendered his decisions in CIF matters based on and fully supported by the relevant law and amply credible evidence properly presented to him, giving care to weigh the interests of the 680 noteholders of CIF, who were the victims of Mr. Field's elaborate self-admitted \$38 million fraud.

9. Furthermore, in my opinion, Judge Miller's restraint and correctness is remarkable and extraordinarily admirable, when viewed in context with the plethora of actions Mr. Field has cunningly and persistently employed over the years; actions which I characterize, in my opinion, as devious, deceitful, dishonest, dastardly, manipulative, misleading, scheming, and underhanded for the purpose of obstructing and delaying proper judicial actions towards himself. In the course of eleven years, CIF has been involved in five other cases against Mr. Field. In each of those cases in front of other judges, Mr. Field has employed these same scurrilous tactics. **Various court records, including multiple affidavits from me, are replete with those actions**, which include (but only as a very small example):

- a. Filing three motions, including the one presently outstanding, seeking the judge to recuse himself from this Tomz Case;
- b. Coordinating with his son to file grievance complaints against the attorneys representing CIF, all of which were summarily dismissed;
- c. Aiding, influencing and or directing his son to file a grievance against me as Receiver, which was summarily dismissed;
- d. Filing affidavits with the court replete with false statements, which if believed, would result in substantial personal and or financial benefit to Mr. Field;
- e. Repeatedly making false statements under oath in Court;
- f. Willfully and blatantly violating multiple terms of the Global Settlement Agreement;
- g. Taking devious and affirmative steps to divert insurance proceeds from the Receiver to Mr. Field's own pocket;
- h. Improperly handling, destroying and or disposing of volumes of documents and business records of CIF, then lying to the Court about such after the fact;
- i. Drafting, preparing, and assisting in the execution and filing of various legal documents on behalf of co-defendants in various court proceedings, which, upon information and belief, as pointed out by the Honorable Perry Gravely, constituted a felony in South Carolina for his unauthorized practice of law;
- j. Making false statements under oath that he was a resident of the State of Florida in 2012 and after, when facts clearly reflect his residency in the State of South Carolina began prior to 2000 and did not end until he moved to Florida in 2019, as he was under the jurisdiction of (i) South Carolina Department of Probation, Parole and Pardon Services from 2012 until his probation was concluded in October 2018, and (ii) the South Carolina Department of Corrections while incarcerated from July 2018 until February 2019.

10. Over the course of the past eleven years during the course of performing my duties as Receiver, under advice of counsel, I have filed multiple Rule To Show Cause actions and Motions To Compel to bring to the Court's attention numerous violations and acts of Mr. Field which impaired and delayed my efforts to liquidate CIF and violated numerous orders of the court. In these actions, all of which included substantial evidence of malfeasance by Mr. Field, and all of which resulted in substantial obstacles and delays to me as Receiver, Judge Miller did not impose any of the monetary sanctions I asked for, but instead ordered Mr. Field simply to comply, which I view as exemplars of judicial restraint by Judge Miller.

11. In 2018, as Receiver, I presented to the Court evidence including insurance records and testimony of an insurance official, which clearly contradicted two affidavits Mr. Field had previously submitted to the Court and Mr. Field's sworn testimony made to the Court in a previous hearing. Based on the substantial, clear and convincing evidence, most of which was produced by the unrelated third party insurance company, Judge Miller found Mr. Field to be in Direct Criminal Contempt of Court because he lied to the Court and his conduct was "calculated to obstruct, degrade, and undermine the administration of Justice." Notably, while Judge Miller could have imposed a *maximum sentence of 2 years of incarceration*, Judge Miller showed reasonable restraint and limited the sentence to six months.

12. I believe Mr. Field's recent actions in filing grievances against Judge Miller and to seek his recusal from the Tomz Case are a *direct response* to the civil action in US District Court in Florida, in which Mr. Field *misled* that court to believe that the terms of the Global Settlement Agreement ("GSA")¹, which he signed in the Tomz Case in 2017, settled the civil "restitution" judgment against him². Pursuant to Mr. Field's false claims, I filed a Motion in 2019 with Judge Miller seeking a Declaration that the GSA did not settle the future restitution judgment. My Motion also seeks recovery of monetary damages from Mr. Field that are allowed under the GSA for having to seek enforcement of the terms of the GSA. I view Mr. Field's actions as consistent with his prior actions and what I characterize as his *modus operandi*: to delay, defuse, obscure, and redirect attention away from his culpability, in efforts to avoid and delay justice.

13. The In the Motion he filed seeking Judge Miller to recuse himself from the Tomz Case, Mr. Field included the following comment:

"Field has filed formal written complaints concerning the conduct of Judge Miller during litigation to the Judicial Merit Selection Commission, which is currently screening Judge Miller for his re-election candidacy to the bench"

I believe this comment is easily interpreted as a threat to Judge Miller's reelection as a jurist, as the Motion is signed and filed by Mr. Field's counsel, Mr. Micah Caskey, who is a State House Representative serving as a member of the House Judiciary Committee. Surely, Mr. Caskey will recuse himself from the House vote. I expect Judge Miller will ignore the threat and rule on the Motion after due deliberation of the facts and the law.

14. I believe it critical to note that, having spent thousands of hours dealing with Mr. Field, and understanding his litigious nature, and having experienced his *modus operandi*, as Receiver, I required the GSA to include this provision:

"The parties agree that the Judge Edward W. Miller, the presiding judge in the Tomz Case, shall have sole and exclusive jurisdiction regarding any dispute related to the enforcement, performance or non-performance of any future obligation contained herein (including any integral components hereof)."

This provision was and is necessary to prevent Mr. Field from re-litigating the issues agreed to in the GSA. Judge Miller is the person most familiar with the complex litigation history and the repeated

¹ After years of protracted and ultra-complex litigation and months of intense negotiations, *consuming tens of thousands of hours of labor, forty five (45) parties*, including myself as Receiver, Mr. Field, and all other plaintiffs, defendants, and attorneys representing plaintiffs and defendants, (collectively, "Settling Parties"), consummated and executed the ***Global Settlement Agreement*** dated February 24, 2017 ("GSA") to settle ***all claims*** between the Settling Parties, including: (i) all *prior claims and appeals* under this action (C.A. No.: 2008-CP-23-3665, also referred to as the "Tomz Case"); (2) all claims under the other four civil lawsuits which were active at the time the GSA was executed; and (iii) any and all other claims arising from any action or lack thereof occurring *prior* to the execution of the GSA which could otherwise be asserted; (collectively, "Settled Matters"). Judge Miller approved the GSA at a hearing held on November 27, 2017, and issued its Order approving the GSA on December 1, 2017.

² Mr. Field was ordered in his criminal sentencing in 2012 to pay restitution in the amount of \$2,877,711.73. At the end of Mr. Field's 5 year probation period as of November 20, 2018, the amount of unpaid restitution was \$1,767,634.71. As mandated by South Carolina Code Section 17-25-328, the amount of unpaid restitution was converted to a civil judgment in favor of me as Receiver. That judgment was recorded as a foreign judgment in Florida in 2018, followed by collection proceedings filed in Florida in 2018, all while Mr. Field was incarcerated in South Carolina. In 2019, after being released from prison, Mr. Field proffered as a defense against the judgment his assertion that the 2017 GSA settled that judgment. However, on the contrary, the GSA clearly sets forth the claims that were settled, and this judgment was not one of them.

misrepresentations Defendant Field continues to assert in his desperate attempt to avoid accountability and responsibility for his actions. Mr. Field's most recent grievance and motion for recusal is just the most recent example in a long line of his continuing efforts to delay and obstruct justice in this matter.

In Summary

15. Based on my eleven years of dealing with Mr. Field: I believe he is among the most vile, unscrupulous, untruthful, manipulative, deceitful person that I have ever dealt with in either my personal or professional life; I believe Mr. Field to be a master of deception; I believe Mr. Field is the embodiment of a narcissist; I believe Mr. Field's taking of money from CIF noteholders under false and fraudulent pretenses meets Merriam-Webster's definition of "stealing", which is "*to take the property of another wrongfully*"; I believe Mr. Field is devoid of conscience and incapable of remorse; I believe Mr. Field has no intention of helping CIF noteholders recover any funds, despite his multiple declarations to the contrary – his actions have consistently contradicted his words by extraordinary efforts— before and after his admission of guilt - to obfuscate the facts and obstruct my efforts as Receiver to recover funds on behalf of the noteholders.

16. Based on my eleven years of dealing with him: I believe Judge Miller to be a highly intelligent, highly skilled jurist, who has exhibited incredible patience throughout an eleven year ordeal, a case that was originally expected to be settled in less than three years, but through the escapades of Mr. Field has extended into its 12th year, and is only now at its near end.

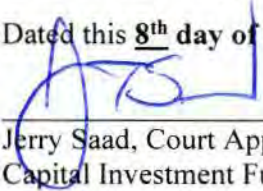
17. Moreover, a proper and thorough review of the full transcripts and voluminous filings of not just the Tomz Case, but the numerous ancillary cases³ that came into the receivership, would support my opinion that Judge Miller's actions over the course of eleven years have been prudent and proper, without emotional influence, but with reflection of facts and evidence duly presented.

18. In my opinion, no other jurist would have acted with any more caution or deliberation given the same circumstances.

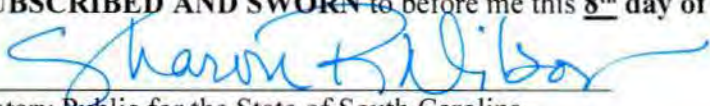
19. When listening to the cries of foul, consider the source and history thereof.

Further, affiant sayeth not.

Dated this 8th day of October, 2020.


Jerry Saad, Court Appointed Receiver for
Capital Investment Funding, LLC

SUBSCRIBED AND SWORN to before me this 8th day of October, 2020.


Notary Public for the State of South Carolina

My commission expires on: 9/9/2021



Sharon R. Wilson
NOTARY PUBLIC
State of South Carolina
My Commission Expires
September 9, 2021

³ (1) William F. Tomz and Francis W. Tomz, Individually and as Class Representatives vs. Capital Investment Funding, L.L.C. and Arthur M. Field, C.A. No. 2008-CP-23-3665 (Greenville County, SC); (2) Harold Brooks v. Arthur Field, C.A. No. 6:14-cv-02267-BHH-JDA (US District Court-Greenville SC Div.); (3) Capital Investment Funding, LLC v. Arthur Field, et al., C.A. No.: 15-CP-23-01263 (Greenville County, SC); (4) Capital Investment Funding v. Lancaster Resources, et. al., Docket No. 2:2008-CV-04714 (Bergen County, NJ); (5) Capital Investment Funding, LLC v. Calvary Asset Management, LLC, et al., C.A. No.: BER-L-3790-12 (Bergen County, NJ); (6) Capital Investment Funding, LLC v LOP Capital, LLC et al., 6:11-cv-03321-MGL-KFM (US District Court-Greenville SC Div.); (7) LOP Capital, LLC v Cosimo, LLC, Capital Investment Funding, LLC et al., 2009-CP-42-6973 (Spartanburg County, SC); (8) SD Trust, LLC, Debtor, Case No. 10-03185-hb Chapter 11 (USBC District of South Carolina); (9) Oritani Bank f/k/a Oritani Savings Bank v v Capital Investment Funding, LLC, Docket No. C-18-13 (Bergen County, NJ); (10) Capital Investment Funding, LLC v Trazom, LLC, 2012-CP-04-2103 (Anderson County, SC); (11) The National Bank of South Carolina v. He Will Provide, LLC et al., C.A. No.: 2010-CP-23-4785 (Greenville County, SC).

*William F. Tomz and Francis W. Tomz,
Individually and as Class Representatives,
vs.
Capital Investment Funding, LLC, and
Arthur M. Field
C.A. NO. 2008-CP-23-3665*

PLAINTIFF'S MEMORANDUM IN OPPOSITION
TO DEFENDANT FIELD'S MOTION TO RECUSE

EXHIBIT 15
Affidavit of Stan Case – October 12, 2020

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

FIFTEENTH JUDICIAL CIRCUIT

CA NO. 2008-CP-23-3665

William F. Tomz and Frances W. Tomz,)
 Individually and as Class Representatives,)

Plaintiff,)

vs.)

Capital Investment Funding, L.L.C. and)
 Arthur M. Field,)

Defendants.)

**AFFIDAVIT OF
 STANLEY T. CASE**

PERSONALLY APPEARED before me, Stanley T. Case, who first being duly sworn,
 deposes and states as follows:

BACKGROUND OF CLASS COUNSEL

1. My name is Stanley T. Case. I am a member of the law firm of Butler, Means, Evins & Browne, P.A. I am licensed to practice law in the United States District Court for South Carolina, the United States Fourth Circuit Court of Appeals, the South Carolina Supreme Court and the United States Supreme Court. I graduated from the University of South Carolina School of Law in 1976 and served as Law Clerk to Chief Justice J. Woodrow Lewis of the South Carolina Supreme Court before I began a private practice in Spartanburg, South Carolina. I practice in the areas of civil litigation, business litigation, trust and estate litigation, insurance defense, medical malpractice defense, workers' compensation defense, and commercial and government law.

2. I have been involved in the following reported cases, among others, which originated in South Carolina :

- *Russell v. Wachovia Bank*, 370 S.C. 5, 633 S.E.2d 722 (2006). In this case, the South Carolina Supreme Court held that Fourth Circuit Court of Appeals Judge Donald Russell's children lacked probable cause to challenge his estate plan and held that the no contest clauses in the estate plan documents were valid and enforceable. The Court further held that Mildred Russell Neiman should be held accountable for filing a false affidavit and entered sanctions against her under the South Carolina Frivolous Proceedings Act, S.C. Code Ann. § 15-36-10.
- *Russell v. Wachovia Bank* 353 S.C. 208, 578 S.E.2d 329 (2003). In this case the South Carolina Supreme Court affirmed the order of the circuit judge which granted summary judgment with regard to the validity of Judge Donald Russell's estate plan.
- *Multimedia Publishing Co. v. Greenville Spartanburg Airport District*, 991 F.2d 154 (4th Cir. 1992). In this case, the Fourth Circuit Court of Appeals held that the Greenville Spartanburg Airport terminal was not a public forum with regard to the determination of whether a ban on the placement of news racks in the secured areas of the airport infringed upon the first amendment rights of certain newspapers. The Court affirmed the decision of the district court which found that the restriction constituted infringement of first amendment rights.
- *Lightner v. Duke Power Co.*, 719 F.Supp. 1310 D.C.S.C. 1989). Duke Power moved to dismiss the action of Moses Lightner, a state employee, on the grounds that he was not a real party in interest under FRCP 17(a). The Federal District Court granted Duke's motion to join the South Carolina School Board Insurance Trust as a party plaintiff in order to give Duke an opportunity to present all defenses it had against the real party in interest and to prevent a multiplicity of lawsuits if Lightner was found not to be the real party in interest.
- *Roman v. Sunny Slope Farms, Inc.*, 817 F.2d 1116 (4th Cir. 1987), cert. den'd. -- U.S. --, 108 S. Ct. 163, 98 L.Ed.2d 117 (1987). In this case, a claim was brought under the Federal Agricultural Worker's Protection Act. The Fourth Circuit Court of Appeals affirmed the ruling of the district court that the Federal Agricultural Worker's Protection Act was not intended to preempt the workers' compensation laws of the State of South Carolina and ruled that the exclusive remedy available for the alleged occupational disease for the worker in question was a claim under the South Carolina Workers' Compensation Act.
- *Gentry v. Milliken*, 307 S.C. 235, 414 S.E.2d 180 (S.C.App. 1992). In this case, the South Carolina Court of Appeals ruled that an employee of a contractor employed in a mill is a statutory employee of an owner if the work performed by the employee is part of the general trade business or occupation of the owner. The installation of an assembly line was determined to be part of the general trade and business of Magnolia Finishing Company.
- *Camp v. Spartan Mills*, 302 S.C. 348, 396 S.E.2d 121 (S.C.App. 1990). In this

case, the claimant slipped on snow and ice on a city street which separated the mill from the employee parking lot. The Court of Appeals held that the act of leaving the employer's premises is in the course of one's employment if the employee leaves the premises as contemplated at the close of the work day. However, the court determined that reasonable minds could conclude that the circumstances for the delay of four hours exceeded a reasonable margin of time for leaving the workplace, even with the inclement weather, and affirmed the finding of the Commission that worker's compensation benefits should be denied.

- *Koon v. Spartan Mills*, 286 S.C. 190, 332 S.E.2d 544 (1985). The South Carolina Industrial Commission disallowed benefits to the claimant on the ground that he had received a diagnosis of occupational asthma. The court determined that the record contained evidence which allowed reasonable minds to reach the Commission's conclusion that the claimant was disabled by cotton dust working at a previous occupation, but not from working in any occupation and accordingly affirmed the denial of the benefits.

FACTUAL BACKGROUND

The above-referenced matter originated out of an effort by Defendant, Capital Investment Funding, LLC and Arthur M. Field to wind up the investment corporation and close the business of Capital Investment Funding, LLC. The matter was certified as a class action in 2008. The named Plaintiffs and similarly situated investors had invested a total of Thirty Eight Million Dollars in Capital Investment Funding, LLC., hereinafter referred to as "CIF".

In 2008, the case was transferred from Horry County to Greenville County and the Honorable John C. Few, who was Chief Administrative Judge for civil matters in the Thirteenth Judicial Circuit, issued a series of orders in Greenville County and certified a class of all of the noteholders. Judge Few also appointed the undersigned, Stanley T. Case, as Co-Class Counsel with Attorney Gene Connell of Horry County in this matter. The order appointing the undersigned as co-counsel by Judge Few was entered in April of 2008, and provided that a mediation should be held pursuant to the court's order certifying the class.

The mediation was held in Greenville County, South Carolina. The mediated global settlement, which established a receivership, was executed by the parties involved following a

mediation conducted by the Honorable H. Samuel Stilwell, retired Judge of the South Carolina Court of Appeals. The order approving settlement was signed by the Honorable Edward W. Miller in August of 2009. The order appointed Jerry Saad, CPA, of Greenville, S.C, as receiver in the case to collect any assets and safeguard the property of Capital Investment Funding, LLC.

Jerry Saad has been actively involved as the Receiver for CIF since 2009, and has filed and been involved in extensive litigation to discover assets of the class. He and class counsel and other attorneys retained by the receiver also attended the guilty pleas of Arthur M. Field and Attorney Scott Fredrick Pfeiffer for securities violations. Receiver Saad has been involved in selling and locating assets in Florida, New Jersey, Oregon, South Carolina and Washington State. Receiver Saad has also hired counsel and initiated lawsuits in New Jersey and South Carolina and Florida seeking to obtain assets for the class. Jerry Saad's numerous appearances before the courts over a period of over ten years are a matter of record and he has continued to provide reports to South Carolina Circuit Judge Edward W. Miller in this case.

On December 18, 2014, the Honorable Edward W. Miller issued an order approving a disbursement of a net distribution to class members in the amount of One Million Dollars. The funds were made available at that time due to efforts by the receiver and counsel to obtain, through litigation, the sale and closing of a warehouse in Anderson County owned by Capital Investment Funding and some of its various entities.

Prior to and since December 18, 2014, the receiver and class counsel and counsel retained by the receiver have been involved in extraordinary efforts to obtain additional assets for the receivership, have been involved in litigation in the United States District Court for South Carolina in a RICO action handled by the Honorable Bruce Howe Hendricks, have been involved in extensive litigation in matters decided by the Honorable Edward W. Miller in the

Court of Common Pleas in Greenville County, and have been involved in numerous hearings before the Honorable J. Cordell Maddox, Jr., Circuit Court Judge, in a State Grand Jury of South Carolina case entitled *The State of South Carolina v. Arthur M. Field*.

In November of 2017, The Honorable J. Cordell Maddox issued an Order which Denied the Defendant Field's motion to modify or re-consider restitution, but allowed certain modifications to the restitution in light of the matter under consideration before Judge Miller (Greenville County Court of Common Pleas Case no. 2008-CP-23-3665 which is the Receivership action currently being handled by the Honorable Edward W. Miller).

On December 1, 2017, Judge Miller issued an order which granted a motion by the class plaintiffs to approve the class settlement and ratify the global settlement agreement (GSA) by the class ("Motion to Approve GSA" dated March 8, 2017). In the Order dated December 1, 2017, the Honorable Edward W. Miller made the following order:

Accordingly, this Court hereby approves the GSA as amended by the addendum, and orders that all parties to the GSA have been and shall continue to be duty bound to fulfill obligations set forth therein.

The Mediated Global Settlement Agreement executed in March of 2017, hereinafter GSA, listed the following actions in which the receiver and the undersigned class counsel and other counsel retained by the receiver have been involved:

- A. ***Harold Brooks v. Arthur Field***, C.A. No. 6:14-cv-00267-BHH-JDA (D.S.C. Greenville Div.), Federal Court Action, South Carolina;
- B. ***Capital Investment Funding, LLC v. Arthur Field, et al.***, C.A. No. 15-CP23-01263 (13th Judicial Circuit, Court of Common Pleas, Greenville County)
- C. ***Capital Investment Funding, LLC v. Calvary Asset Management, LLC, et al.*** C.A. No.: BER-L-3790-12 (Superior Ct. New Jersey, Bergen County, N.J.)
- D. ***William F. Tomz and Francis W. Tomz, Individually and as Class Representatives vs. Capital Investment Funding, LLC and Arthur M. Field***, C.A. No. 2008-CP-23-3665 (Court of Common Pleas, 13th Judicial Circuit,

Greenville County)

- E. ***Capital Investment Funding v. Lancaster Resources, et al.***,
Docket No. 2:2008-CV-04714, Federal Court Action, New Jersey

Prior to and following the Order of Judge Miller on December 1, 2017, the undersigned class counsel and other class counsel and counsel retained by the receiver continued to work diligently to require the Defendant, Arthur M. Field, and his family members and associates to comply with the orders of Judge Miller and Judge Maddox and those efforts continue. Certain of the attorneys retained by Arthur Field and his family members were members of the South Carolina Legislature and the proceedings were often delayed due to the attorneys "legislative immunity" related to court proceedings.

The Mediated Global Settlement Agreement (GSA) approved by Judge Miller on December 1, 2017, was achieved by the diligent efforts of the receiver and the undersigned class counsel and other attorneys retained by the receiver, including, but not limited to, attorney Rodney F. Pillsbury, of Greenville County, South Carolina, and attorney George Brandt, III, of Spartanburg County, and Gene Connell, of Horry County. These efforts included the filing and handling of a federal lawsuit styled *Brooks, et al. v. Field, et al.*, in the US District Court for the District of South Carolina (Greenville), which was designated as #6:14-CV-02267-BHH-JDA.

The Mediated Global Settlement (GSA) approved by the Honorable Edward W. Miller on December 1, 2017, directed the sale of certain properties that were obtained through the above-referenced federal action and other actions against Defendant Arthur Field and certain family members and associates. The above-referenced federal action included allegations under the 1964 Racketeering (RICO) Act. The initial Federal Complaint was filed on June 11, 2014, by lead counsel, Rodney F. Pillsbury. The federal action was complex and continued for an extended period of time. There was a Court mandated mediation in the federal action which

resulted in the ultimate achievement of the Mediated Global Settlement Agreement (GSA), which was approved by the Honorable Edward W. Miller in December of 2017.

The undersigned counsel and Attorney George Brandt, III, who was retained by the receiver, have also been involved in matters before the South Carolina Court of Appeals, which related to appeals filed by Arthur M. Field in 2018, concerning orders issued by Judge Miller. Both of the appeals were dismissed by the South Carolina Court of Appeals.

Arthur Field's first appeal in 2018 was designated Appellate Case no. 2018-00219, and was dismissed on April 5, 2018, in an order issued by the Honorable Paul E. Short, Jr. Arthur Field's second appeal in 2018, followed a criminal contempt order issued by the Honorable Edward W. Miller filed on July 2, 2018. In the second appeal filed by Arthur Field, the undersigned counsel, acting as class counsel and Attorney George Brandt, III, acting as attorney for Capital Investment Funding, LLC, had to perform substantial appellate legal work to respond to Arthur M. Field's Petitions for Writ of Supersedeas. On August 24, 2018, the South Carolina Court of Appeals entered an Order signed by the Honorable H. Bruce Williams which denied Arthur Field's Petition for a Supersedeas. On November 16, 2018, the South Carolina Court of Appeals dismissed the second appeal filed by Arthur Field in 2018, which was designated as Appellate Case no. 2018-001264, based upon withdrawal of the appeal by Arthur M. Field.

As indicated above, pursuant to Orders of the Honorable J Cordell Maddox , at the end of Arthur Field's probation, the unpaid balance of Defendant Field's restitution was converted to a civil judgment in favor of CIF against him. The unpaid balance of Field's restitution was in the amount of \$1,767,643.71. Thereafter, CIF sought to collect on its civil judgment against Field with regard to the one asset Field has publicly acknowledged owning, namely, his one-half interest in a mansion located in St. Augustine, Florida.

Due to Field's obligations under his sentence pursuant to his Guilty Plea, CIF believes that Field does not qualify for protection under Florida's liberal homestead exemption. In the case filed by the Receiver in Florida (originally filed in state court, but which Field removed to federal court), Field proffered the erroneous argument that the Florida judgment collection was invalid because the GSA operated as a complete release of all claims against him. When questions arose over the intent and effect of the GSA, CIF sought clarification from Judge Miller and filed its Motion for Declaratory Relief in this action. CIF did exactly what the GSA specifically requires, and provides, that Judge Miller will hear any disputes about the future performance or non-performance over obligations arising from the GSA. CIF filed its declaratory motion in this matter on December 31, 2019.

Because Defendant Field specifically consented to have Judge Miller retain jurisdiction over matters like those raised in CIF's Motion for Declaratory Relief, this matter is properly before the Honorable Edward W. Miller for the substantive determination of the merits of CIF's Motion for Declaratory Relief.

In his affidavit dated October 8, 2020, the Receiver Jerry Saad accurately states:

"Over the course of the past eleven years during the course of performing my duties as Receiver, under advice of counsel, I have filed multiple Rule To Show Cause actions and Motions To Compel to bring to the Court's attention numerous violations and acts of Mr. Field which impaired and delayed my efforts to liquidate CIF and violated numerous orders of the court. In these actions, all of which included substantial evidence of malfeasance by Mr. Field, and all of which resulted in substantial obstacles and delays to me as Receiver, Judge Miller did not impose any of the monetary sanctions I asked for, but instead ordered Mr. Field simply to comply, which I view as exemplars of judicial restraint by Judge Miller."

....

"I believe it critical to note that, having spent thousands of hours dealing with Mr. Field, and understanding his litigious nature, and having experienced his *modus operandi*, as Receiver, I required the GSA to include this provision:

"The parties agree that the Judge Edward W. Miller, the presiding judge in the Tomz Case, shall have sole and exclusive jurisdiction regarding any dispute related to the enforcement, performance or non-performance of any future obligation contained herein (including any integral components hereof)."

This provision was and is necessary to prevent Mr. Field from re-litigating the issues agreed to in the GSA. Judge Miller is the person most familiar with the complex litigation history and the repeated misrepresentations Defendant Field continues to assert in his desperate attempt to avoid accountability and responsibility for his actions. Mr. Field's most recent grievance and motion for recusal is just the most recent example in a long line of his continuing efforts to delay and obstruct justice in this matter."

....

"Based on my eleven years of dealing with him: I believe Judge Miller to be a highly intelligent, highly skilled jurist, who has exhibited incredible patience throughout an eleven year ordeal, a case that was originally expected to be settled in less than three years, but through the escapades of Mr. Field has extended into its 12th year, and is only now at its near end.

Moreover, a proper and thorough review of the full transcripts and voluminous filings of not just the Tomz Case, but the numerous ancillary cases that came into the receivership, would support my opinion that Judge Miller's actions over the course of eleven years have been prudent and proper, without emotional influence, but with reflection of facts and evidence duly presented."

I wholeheartedly agree with the above Statements of the Receiver Jerry Saad in his Affidavit dated October 8, 2020.

FURTHER THE AFFIANT SAYETH NOT.

Stanley T. Case
Stanley T. Case

SWORN AND SUBSCRIBED before me,
this 12th day of Oct, 2020.

Donna W. Woody
Notary Public for South Carolina

My Commission Expires: 1-21-25



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	CIVIL ACTION NO. 2008-CP-23- 3665
William F. Tomz and Francis W.	)	
Tomz, Individually and as Class	)	
Representatives,	)	
Plaintiff,	)	AFFIDAVIT OF JERRY T. SAAD, CPA,
	)	RECEIVER FOR CAPITAL
v.	)	INVESTMENT FUNDING, LLC
	)	
Capital Investment Funding,	)	
LLC and Arthur M. Field	)	
	)	
Defendants.	)	
	)	

I, Jerry Saad, being first duly sworn, say:

- On or about August 24, 2009, I was appointed as receiver of Capital Investment Funding, LLC ("CIF") by order of Judge Edward W. Miller in Tomz v. Capital Investment Funding, LLC, et al., Case No 2008-CP-23-5514 in the South Carolina Court of Common Pleas Thirteenth Judicial Circuit.
- After several years of on-going litigation involving CIF and its investors as plaintiffs in multiple lawsuits, on or about February 24, 2017, forty-four (44) parties, including Kirsten White ("Defendant White") entered a Global Settlement Agreement ("GSA"). [Exhibit 1, Global Settlement Agreement, dated February 24, 2017] Prior to executing the final version, Defendant White, who appeared in the litigation *pro se*, specifically negotiated every material term of the GSA that applied to her, many of which were significantly modified at her insistence pursuant to negotiation thereof.
- In accordance with the terms of the GSA, Plaintiffs promptly filed a motion to approve the settlement on March 8, 2017. The Court granted Plaintiffs' motion and approved the settlement on December 1, 2017.

4. Under the terms of the GSA, Defendant White was obligated to undertake certain actions regarding her residence at 5 Aldgate Way, Greer, South Carolina (“Aldgate Property”) *while approval of the GSA was pending*. More specifically, Defendant White was required to:
 - a. allow a licensed home inspector and a certified appraiser to inspect the Aldgate Property [Section 13 of the GSA];
 - b. complete and sign real estate seller disclosure forms and advise the parties of any material matters about the Aldgate Property, thereby providing sufficient notice to the Receiver, CIF, and the Class as to known defects. [Section 13 of the GSA];
 - c. **have CIF named as an additional named insured on insurance policies covering the Aldgate Property, immediately deliver to CIF a certificate of such insurance, and have all proceeds of such policies inure to and directly paid to CIF for the benefit of all named insured.** [Section 14. D. iv. of the GSA]; and
 - d. *on or before May 1, 2017*, engage a realtor to list the Aldgate Property for immediate sale at any price above \$285,000, and have such listing terminate no later than December 31, 2017. [Sections 14. D. vii. a. & b. of the GSA].
5. Despite repeated requests seeking her compliance [*see, e.g.,* Exhibit 2, Letter to Kirsten White, June 21, 2017], Defendant White disregarded her obligations under the GSA.
6. As a direct result of Defendant White’s continued noncompliance, Plaintiffs filed a motion with the Court seeking to compel Defendant White’s compliance with her obligations to the GSA. [Exhibit 3, Motion to Compel, filed July 26, 2017]
7. A hearing was held on September 5, 2017. Defendant White was ordered to comply with the GSA, including making her home available for inspection and providing copies of all homeowner’s insurance information. [Exhibit 4, Order entered October 27, 2017]
8. Despite the Court’s order, Defendant White continued to defy the Court’s order by willfully withhold information regarding insurance and claims she filed for property losses.
9. The Court held a follow-up hearing on this and other pending matters on November 27, 2017. Despite having actual notice of the hearing, Defendant White did not attend. The Court found her in contempt of court. The Court ordered her to comply and further ordered a reduction in the amount of proceeds she would receive from the sale of her home. [Exhibit 5, Order, filed December 1, 2017]

10. On December 7, 2017, another hearing was held, which included Defendant White's ongoing contempt of court. While Defendant White appeared at this hearing and acknowledged she had received notices of the November 27, 2017 hearing, the Court found Defendant White provided no acceptable excuse for not attending the November 27, 2017. [Exhibit 6, Order, filed December 21, 2017]
11. As of the December 7, 2017 hearing, Defendant White: (i) had still refused to cooperate in making her home available for inspection; (ii) had not signed the relevant paperwork such that the home could be marketed; and (iii) had not provided insurance information regarding homeowner's coverage including CIF as a named insured and information on any claims.
12. Following the December 7, 2017 hearing, Defendant White *still* refused to provide any information *she* had regarding homeowner's insurance and any claims filed, albeit, after multiple requests, Defendant White apparently directed the general contractor responsible for repairing the roof on the Aldgate Property to email information to me. On January 3 and January 10, 2018, the general contractor emailed to me copies of his invoice to repair the roof, a letter from the insurance company, and damage and repair assessment sheets prepared by or for the insurance company.
13. Through my efforts and those of CIF counsel, I was able to obtain information about homeowner's coverage directly from the insurance carrier, Travelers. [Exhibit 7, Insurance information received from Insurance Agent]. However, this information was not complete because it did not provide details about insurance monies Defendant White received.
14. On January 11, 2018, CIF's counsel emailed Defendant White a copy of the materials received from Travelers. Counsel poignantly told Defendant White that CIF still did not have the information about checks deposited or what work was completed. [Exhibit 8, email from Rodney F. Pillsbury to Kirsten White]
15. Defendant White still refused to provide the required information.

16. As a result of Defendant White's continued refusal to cooperate and provide the required information requested, CIF's attorneys issued a subpoena to Travelers demanding production of the insurance information. [Exhibit 9, Subpoena *duces tecum*]
17. Travelers responded to the subpoena and provided a copy of their entire claims file. [Exhibit 10, Documents received from Travelers Insurance] From these documents, the following facts and information were determined:
- a. After executing the GSA on February 24, 2017, which obligated Defendant White to have CIF named as an additional insured on her homeowner's policy, Defendant White failed to do so. Travelers' records are absent of any reference to CIF as a named insured.
 - b. The Aldgate Property suffered hail storm damage on or about March 21, 2017.
 - c. On or before April 8, 2017, Defendant White submitted a claim with her homeowner's insurance company, Travelers, for damages to the roof and interior of the home.
 - d. On or about April 8, 2017, an agent for Travelers inspected the Aldgate Property, assessed the damage from the hail storm, and delivered to Defendant White a report reflecting damages with a claim value of \$34,763.
 - e. On April 13, 2017, upon information and belief, **Arthur Field ("Defendant Field") and or his wife, Kathryn Taillon (Defendant Taillon")**, conspiring with Defendant White, wrote and or facilitated an email to Travelers. [Exhibit 10, Documents received from Travelers Insurance]. The email included the following statements, which facilitated the payment of insurance claims funds **directly to Defendant White:**¹

I hold the mortgage on property owned by Kirsten White located in Greer, SC, claim #H2W5308.

The mortgagee was my entity Pelican Way Financial, LLC.

That entity was wound up by me under Florida law on December 28, 2016 in accord with Florida Law.

To partially effectuate the winding up, I--as sole member and manager--assigned the Note and Mortgage dated May 4, 2010 recorded 5/5/2010 in Mortgage Book 5078, pg 327, amended 10/1/2010 in Book 5095, pg 159 to me, as an individual. The assignment was dated December 13, 2016 and recorded in the Greenville County Land Records on 12/27/2016.

Pelican Way Financial, LLC was then wound up and notice of dissolution was filed with the State of Florida per Fl. G.S. 605.0711. The Assignment vests sole title in me, Kathryn Taillon. The LLC no longer exists.

Any check for payment of property damage claim should be paid to Kirsten White and/or Kathryn Taillon. However, I give my consent to have the check drawn solely to White, if that is permitted. [Emphasis added] I realize the need to expedite the repairs so further damage to the property does not occur.
 - f. Related to the aforementioned claim, Travelers issued two (2) checks totaling **\$35,585.36 made jointly payable to Defendant White and Kathryn Taillon** as follows:

¹ The email was sent from Arthur Field's email account: DJArthurF@gmail.com. The email contains no signature. Kathryn Taillon's name appears at the end of the email. Both Arthur Field and Kathryn Taillon are parties to the GSA and have intimate knowledge of the GSA and its terms requiring Field and Taillon to provide insurance coverage on their house at 310 Thornblade and Kirsten White to provide insurance coverage on her house at house at 5 Aldgate.

- i. On April 19, 2017, Travelers issued a check in the amount of \$28,756.80. The back of the check *appears* to have been endorsed by **Defendant White and Defendant Taillon**. *Notably, Defendant Taillon's name and signature appear on the back of the check; however, the signature is not consistent with Defendant Taillon's signatures that appear on other documents of record.*
 - ii. On June 16, 2017, Travelers issued a check in the amount of \$6,826.53. The back of the check *appears* to have been endorsed by **Defendant White and Defendant Taillon**. *Notably, Defendant Taillon's signature on the back of this check is consistent with Defendant Taillon's signatures that appear on other documents of record.*
 - g. Defendant White paid a contractor the sum of **\$16,869.00** to repair the ***roof only***. [Exhibit 11, Contractor invoice 5 Aldgate Way]
 - h. The handwritten note on the general contractor's invoice reads as follows:

We originally agreed to do all work. After the roofing and siding were complete we were paid for that portion only and were asked to hold off on the rest until further notice. Mark Crosby
 - i. **Defendant White kept \$18,716.36 of the insurance proceeds, which the insurance company issued to pay for repairing damages sustained to the interior of the house. Defendant White did not do the repair work.**
 - j. **All of the above was done at a time when Defendant White was specifically required under the terms of the GSA to list CIF as an additional named insured such that all proceeds from any claim would go directly to CIF.**
18. Defendant White did vacate the Aldgate Property on or before December 31, 2017. However, **Defendant White did not make repairs to the interior of the house for the damages caused by water intrusion from the hail storm, despite receiving insurance proceeds which I understand were required to be used to pay for the same.**
19. Within days prior to her vacating the Aldgate Property, Defendant White informed CIF *for the first time* that she had engaged a realtor to sale the Aldgate Property. On December 30, 2017, Ms. Kristen Miller, a real estate agent with Redefy Real Estate, contacted me and emailed me a copy of the real estate sales listing agreement for the Aldgate Property that she and Defendant White had entered into on May 1, 2017, and which terminated on May 1, 2018. In a subsequent email to me dated January 2, 2018, Ms. Miller stated:

I began speaking with Kirsten White back last Feb when she let me know she was going to need to sell the house. On May 1st we signed the listing agreement and decided that the actual listing in the MLS would be determined when she was out of the house and it was ready to be shown. I was unaware up until a few days ago that she was to have it sold by Dec. 31st. It is my understanding that she just thought she needed to be out by Dec. 31st, but then went back and looked at the agreement that said it was supposed to be sold by then.

[Exhibit 12, January 2, 2018 email from Kristen Miller to Jerry Saad]

20. Paragraph 14.D.viii of the GSA required Defendant White to:
 - a. engage a realtor to list the Aldgate Property *for immediate sale*;
 - b. provide for the listing engagement to terminate no later than ***December 31, 2017***; and
 - c. **endeavor to sell the property no later than December 31, 2017.**
21. The Court's December 1, 2017 Order for the November 27, 2017 hearing states:

“This Court also reminds all parties to the GSA that this Court found and stated, in its Order dated October 25, 2017 Section 14.I.vii. of the GSA states emphatically that **Time is of the Essence.**”
22. Based on the foregoing paragraph 19, Defendant White purposefully and willfully took actions which violated the terms of the GSA; more specifically, Defendant White: (a) engaged a realtor to sell the Aldgate Property with *a contract term ending four months after December 31, 2017*; and (b) consciously endeavored to *not sell* the Aldgate Property until after December 31, 2017.
23. Pursuant to the terms of the GSA [Section 14.D.ix.c. of the GSA] and the Lease Agreement referenced thereunder, Defendant White was obligated to pay rent to CIF in the amount of \$1,500 per month for the months of October, November, and December 2017. As of this date, Defendant White has not paid CIF any amounts as rents. Accordingly, as of this date, Defendant White owes CIF \$4,500 for the monthly rental payments Defendant was obligated to pay from October 1, 2017 through December 31, 2017.
24. Pursuant to the terms of the GSA [Sections 14.B. and 14.C. of the GSA], Defendant Field *assigned* a promissory note and mortgage (“Field Note/Mortgage”) to CIF and Defendant Taillon *assigned* a promissory note and mortgage (“Taillon Note/Mortgage”) to CIF. The Field Note/Mortgage and Taillon Note/Mortgage were signed by Defendant White as debtor, and are secured by mortgages recorded on the house owned by Defendant White.
25. Pursuant to the terms of the GSA [Section 14. B. viii. of the GSA], Defendant White was obligated to pay CIF (and CIF alone) monthly payments in the amount of \$583.33 per month, representing monthly mortgage payments on the Taillon Note/Mortgage described in

paragraph 24 above, with the first payment commencing April 2017 and the last payment ending upon the sale of the Aldgate Property. As of this date, Defendant White delivered to CIF only four (4) checks, representing monthly payments for May 2017 through August 2017. Each check was in the amount of \$583.33. However, because one check was made payable to Kathryn Taillon and three checks were made payable to CIF and Kathryn Taillon, *CIF was unable to deposit any of the checks*. This matter was addressed at the December 7, 2017 hearing, whereby the Court ordered that amounts owed by Defendant White are to be deducted from the net proceeds that Defendant White might otherwise receive from the sale of the Aldgate Property. As of this date, CIF has not received from Defendant White any other monthly mortgage payments on the Taillon Note/Mortgage. As of this date, pursuant to the terms of the promissory note as amended, the balances due on the Taillon Note/Mortgage is **\$222,590.23**, which includes:

- a. the original principal balance of **\$175,000.00**; and
- b. unpaid interest in the amount of **\$47,590.23**, calculated at the rate of 4.0% per annum from *April 1, 2017 through the date of maturity, October 1, 2014*, and calculated at the *default rate* of 10.0% per annum from *October 1, 2014 through June 19, 2018*.

After June 19, 2018, the per diem amount of interest on the Taillon Note/Mortgage is \$48.61.

[Exhibit 13, Loan Schedule of Balance Due on Taillon Note /Mortgage]

26. Defendant White is obligated to pay CIF (and CIF alone) amounts due under the terms of the Field Note/Mortgage. As of this date, pursuant to the terms of the promissory note as amended, Defendant White has made no payments on the Field Note/Mortgage. As of this date, pursuant to the terms of the promissory note as amended, the balances due on the Field Note/Mortgage is **\$44,463.38**, which includes:

- a. the original principal balance of **\$33,000.00**; and
- b. unpaid interest in the amount of **\$11,463.38**, calculated at the rate of 4.5% per annum from *inception, October 1, 2010, through June 19, 2018*.

After June 19, 2018, the per diem amount of interest on the Field Note/Mortgage is \$4.13.

[Exhibit 14, Loan Schedule of Balance Due on Field Note /Mortgage]

27. Pursuant to the terms of the GSA [Section 14. D. ii. of the GSA], CIF issued a promissory note and mortgage (“CIF Note/Mortgage”) to Defendant White. The CIF Note/Mortgage obligates CIF to pay Kirsten White \$50,000, and provides for no interest through December 31, 2017 and requires payment of interest accruing at the rate of 2.5% per annum beginning January 1, 2018. The CIF Note/Mortgage is secured by a recorded mortgage on the Aldgate Property. Pursuant to an executed and recorded subordination agreement, the Field Note/Mortgage and Taillon Note/Mortgage are subordinate to the CIF Note/Mortgage. Accordingly, upon the sale of the Aldgate Property, proceeds from the sale will be paid first to Defendant White to satisfy CIF’s obligations under the CIF Note/Mortgage. As of this date, pursuant to the terms of the promissory note, CIF has made no payments and the balance due on the CIF Field Note/Mortgage is **\$50,586.82**, which includes:

- a. the original principal balance of **\$50,000.00**; and
- b. unpaid interest in the amount of **\$586.82**, calculated at the rate of 2.5% per annum from *January 1, 2018 through June 19, 2018*.

After June 19, 2018, the per diem amount of interest on the CIF Note/Mortgage is \$3.47.

[Exhibit 15, Loan Schedule of Balance Due on CIF Note /Mortgage]

28. In December 2017, I engaged the Greenville SC real estate firm, Access Realty, LLC (“Access Realty”), to list the Aldgate Property for sale. Upon inspection of the property in December 2017, Access Realty informed me significant damages related to storm water intrusion existed and advised me of the repairs needed to properly market the Aldgate Property for sale. With my approval, Access Realty oversaw the repairs made by Apex Development, LLC (“Apex”) in or about January and February 2018. Apex used the storm damage report prepared by Travelers for guidance in determining the damage caused by the storm. Apex repaired that damage and made other minor repairs to the property. CIF paid Apex a total of \$7,747.52 for the services repairing the property.

29. On or about March 9, 2018, Access listed the Aldgate Property for sale at a price of \$299,950. From March 9, 2018 through June 14, 2018, the property was shown a total of 31 times. In April 2018, CIF received one offer for \$275,000; CIF countered that offer, but the buyer removed their offer from consideration. Upon advice of Access Realty, the asking price was reduced in early June 2018 to \$289,900, with an offer of a \$5,000 allowance for floorcovering and countertops. On June 15, 2018, a second offer in the amount of \$265,000 was received. On June 18, 2018, a contract was negotiated and executed with the potential buyer. The contract provides for a purchase price of \$282,500, less a \$5,650 allowance credited to buyer to pay a portion of buyer's closing costs, and the closing to occur on or before July 23, 2018.
30. Based on the foregoing paragraphs 23 through 29, if the sale of the Aldgate Property occurs on July 23, 2018, without any further instructions from the Court, the sales proceeds will be disbursed and allocated as follows:

a.	Gross Sales Proceeds		\$282,500
b.	Selling Expenses		
	i. Allowance for buyer's closing costs	\$ 5,650	
	ii. Real estate sales commissions (6.00%)	19,950	
	iii. Seller closing costs (deed stamps, etc. estimated)	<u>2,000</u>	
	iv. Total Selling Expenses	<u>24,600</u>	(24,600)
c.	Net Sales Proceeds Available After Selling Expenses		257,900
d.	Payment to Defendant White for CIF Note/Mortgage		<u>(50,569)</u>
	Net Sales Proceeds Available to Pay CIF		207,331
e.	Amounts Due To CIF		
	i. Payment to CIF-Taillon Note/Mortgage	222,347	
	ii. Payment to CIF-Field Note/Mortgage	44,443	
	iii. Payment to Apex Development, LLC-repairs	7,748	
	iv. Payment to Advantage Inspection Upstate Inc.-repairs	350	
	v. Payment to CIF- 3 months rents Defendant White	<u>4,500</u>	
	vi. Total Amounts Due to CIF	<u>\$279,388</u>	<u>(279,388)</u>
f.	Shortfall (Disbursements in Excess of Sales Proceeds)		<u>(\$88,357)</u>

In other words, absent any further instructions from the Court, the sales proceeds will not be sufficient to pay in full items 30.e, and CIF will thus be left **\$88,357 short of the amounts it is otherwise entitled to receive.**

31. Paragraph 14.D.vii.d. of the GSA provides that CIF shall be entitled to 20% of the excess proceeds from the sale of the Aldgate Property after deducting the payments set forth in paragraph 30 above. Based on the determination set forth in paragraph 30, ***CIF will not receive any excess. This result renders the Court's December 1, 2017 order, which offered Defendant White the opportunity to purge herself of the Court's previous finding of contempt by allowing CIF to retain 30% instead of 20% of the net proceeds, of no value to CIF and of no consequence for Defendant White.***
32. I negotiated every term of the GSA, over the course of more than one year, in good faith and in reasonable reliance on the good faith performance of all parties who negotiated and signed the GSA, including Defendant White.
33. As the GSA stated in bold and as this Court acknowledged, **Time is of the Essence** with regards to all matters concerning this GSA. This term was (and is) a major condition of the GSA, as the GSA was intended to *quickly conclude extremely protracted litigations, which bore great financial burden to CIF, but bore greater emotional and financial burden to the 680 Noteholders of CIF, many, if not most, of whom are elderly, and many of whom have passed away while helplessly hoping for the conclusion of matters.* Respectfully, for the elderly, “**Time is of The Essence**” carries a particularly special and powerful meaning.
34. Based on the foregoing coupled with the history of other substantial events, actions and dealings with Defendant White, the details of which I believe to be too voluminous to add to this already capacious discourse, Defendant White has consistently and repetitiously ignored, contradicted, and defied the duties imposed upon her by the GSA and the orders of this Court; her actions and lack thereof have resulted, time and time again, in substantial and significant delays, losses, costs, and burdens for CIF, much if not most of which can never recovered.

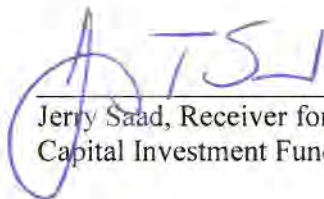
35. In summary:

- a. Although not a factor in the Rule to Show Cause to be brought before the Court at this time, the Court should remember Defendant White's long history of thwarting the efforts of CIF and its Noteholders to pursue their recovery prior to the consummation of the GSA, including:
 - i. Defendant White's role in scanning CIF records in 2009 prior to my appointment as Receiver, which included:
 1. Defendant White and Defendant Field presenting creating a clandestine, illusionary façade to make her appear as though she were a legitimate bona fide document scanning company, when in fact she had no experience or expertise as such at all;
 2. Defendant White, working under the direction of Defendant Field, professing to have scanned all the CIF records, when in fact, electronic copies of over 140 Noteholder files have never been delivered;
 3. Most importantly, Defendant White, after being under the direction of Defendant Field, provide two (2) counts of what happened to the original CIF records, which were never delivered to me as Receiver: her first version was that she threw to records in a dumpster and had two (2) unknown men help her; later recanting that story, she then provided a second version testifying that she left the records in the warehouse and does not know what happened to them. In either case, her actions were at best reckless and grossly negligent, but could very well have been willful and purposeful.
 - ii. In March 2009, Defendant White acted as a straw investor for Defendant Field when she borrowed \$52,500 from Defendant Field's private company, Bolingbroke United (England), LTD, in a complex scheme that resulted in unrecovered losses to CIF.
 - iii. At the September 29, 2016, Defendant White admitted that substantially complex legal documents filed in U.S. District Court on her behalf as a Pro Se litigant in December 2013 and February 2014 were prepared by Arthur Field, who was not licensed to practice law in the State of South Carolina.
- b. More recently, in 2017 and 2018, Defendant White steadfastly refused to provide the insurance information to CIF *before and after* this Court issued its Orders on October 25, 2017, December 1, 2017, and December 7, 2017.
- c. With no cooperation forthcoming from Defendant White, CIF obtained the relevant insurance information by issuing a subpoena duces tecum to the insurance company.
- d. Defendant White's actions and lack thereof obscured and hid the facts that she violated the GSA as follows:
 - i. She did not have CIF named as additional insurance on the homeowner's policy on the Aldgate Property;
 - ii. She filed an insurance claim for storm damage on the Aldgate Property without advising CIF;
 - iii. She conspired with Defendant Field and or Defendant Taillon to receive the insurance proceeds directly from the insurance company, thereby and denying CIF its right to receive all insurance proceeds as set forth in the GSA;
 - iv. She accepted and deposited \$35,585.36 from the insurance company for the insurance claim; however, she paid \$16,869.00 to repair the **roof only**, and willfully retaining the balance of **\$18,716.36** to further her own benefit;
 - v. She decisively took no judicious actions to sell the Aldgate Property;
 - vi. She did not adhere to the duties of Time is of the Essence.

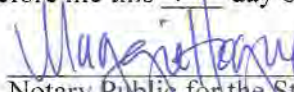
I bring these matters to the attention of this Court with the hope and expectation that this Court, upon duly weighing all relevant facts, will make fair and proper rulings to right the aforementioned injustices that have inflicted CIF and its 680 Noteholders.

Further, affiant sayeth not.

Dated this 19th day of June, 2018.


Jerry Saad, Receiver for
Capital Investment Funding, LLC

SUBSCRIBED AND SWORN to before me this 19 day of June, 2016.


Notary Public for the State of South Carolina
My commission expires on: 10.16.2024

