

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BARNWELL COUNTY
Court of Common Pleas

Clifton Newman, Circuit Court Judge

Case No. 2018-CP-06-00383

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SC Court of Appeals

United States of America.....Respondent,

v.

Edgar Payton, Willie Payton, Hattie Payton, F. Hamilton Dicks,
III, the United States of America, acting through the Small Business
Administration, successors in interest to Still & Williams, Inc.,
SC Electric & Gas Co., and David Payton.....Defendants,

Of Whom, Edgar Payton is Appellant.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
COUNTY OF BARNWELL)

United States of America,)
Plaintiff,)

vs.)

Edgar Payton, Willie Payton,)
Hattie Payton, F. Hamilton Dicks, III,)
the United States of America, acting)
through the Small Business)
Administration, successors in interest)
to Still & Williams, Inc., SC Electric)
& Gas Co., and David Payton,)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE SECOND JUDICIAL CIRCUIT
C/A NO. 2018-CP-0600383

ORDER GRANTING PLAINTIFF'S
MOTION TO STRIKE REQUEST FOR
JURY TRIAL AND TO REFER

Plaintiff United States of America ("Plaintiff") filed a motion to strike Defendant Edgar Payton, Willie Payton, Hattie Payton, and David Payton's request for a jury trial and to refer this matter to a Special Referee for Barnwell County pursuant to Rule 53, SCRCPP. Plaintiff brought this action to foreclose three mortgages in its Amended Complaint filed on October 30, 2018.

Edgar Payton submitted his Answer and Counterclaim on January 4, 2019, which included allegations that Plaintiff treated him differently from white farmers. In his Answer and Counterclaim, Edgar Payton specifically requested a jury trial. Plaintiff then filed its Reply and motion to strike Edgar Payton's jury trial demand and refer the case to a Special Referee.

Willie Payton, Hattie Payton, and David Payton submitted their Answer and Counterclaim on January 10, 2019, which included defenses and counterclaims to quiet title, adverse possession, reimbursement for betterments, and statute of limitations. In their Answer and Counterclaim, Willie Payton, Hattie Payton, and David Payton specifically requested a jury trial. Plaintiff then filed its Reply and motion to strike their jury trial demand and refer the case

to a Special Referee.

Defendants' counterclaims are permissive and do not warrant a jury trial. Defendants are entitled to a jury trial on their counterclaims in an equitable action only if the counterclaims are legal and compulsory. *Carolina First Bank v. BADD, LLC*, 414 S.C. 289, 778 S.E.2d 106 (S.C. 2015); *see also* Rule 13(a), SCRPC. A counterclaim is compulsory if it arises out of the same transaction or occurrence that is the subject matter of the opposing party's claim. *Id.* To determine if a counterclaim is compulsory, the court analyzes "whether there is a 'logical relationship' between the claim and the counterclaim." *Mullinax v. Bates*, 317 S.C. 394, 396, 453 S.E.2d 894, 895 (1995). In a mortgage foreclosure, the "logical relationship" test asks whether the counterclaim would affect the lender's right to enforce the note. *See Carolina First Bank*, 414 S.C. at 295, 778 S.E.2d at 109.

Here, the execution of the notes and mortgages is the "transaction or occurrence" for the purpose of determining the compulsory character of Defendants' counterclaims. Defendant Eddie Payton admits that he did not make payments on the notes and mortgages. Answer, ¶ 11. His discrimination counterclaim relates to his subsequent requests for additional financing and other loans and does not affect the execution or enforceability of the notes and mortgages.¹ Even if Defendant Eddie Payton prevailed on this counterclaim, the result would not affect Plaintiff's right to enforce the notes and mortgages. Applying the logical relationship test, I find this counterclaim is permissive.

In regards to Defendants' statute of limitations defense, there is no federal limitations period applicable to a mortgage foreclosure action brought by the United States. *UMLIC VP LLC v. Matthias*, 364 F.3d 125 (3d Cir. 2004). In addition, it is well settled that the United

¹ Eddie Payton's discrimination claim in the *Pigford, et al. v. Veneman* class action lawsuit was denied on November 1, 2000.

States is not bound by state statutes of limitations or subject to the defense of laches in enforcing its rights. *United States v. Summerlin*, 310 U.S. 414, 416 (1940). As such, Defendants' statute of limitations defense does not bar Plaintiff's foreclosure action and does not entitle Defendants to a jury trial.

Willie Payton, Hattie Payton, and David Payton's adverse possession claim is permissive as it did not arise out of the same transaction or occurrence as the notes secured by the mortgages which are the subject of the foreclosure complaint². Even if valid, this counterclaim would not avoid default on the notes and mortgages and therefore fails the logical relationship test. Defendants have presented other defenses and counterclaims including quiet title, reimbursement for betterments, laches, and unclean hands which seek equitable relief for which they are not entitled to a jury trial.

A party is deemed to have waived his constitutional right to a jury trial on a counterclaim asserted in an equitable action when the counterclaim is permissive. *Carolina First Bank*, 414 S.C. at 297, 778 S.E.2d at 110, *see also Johnson v. S.C. Nat'l Bank*, 292 S.C. 51, 55, 354 S.E.2d 895, 897 (1987) (stating a defendant waives his right to a jury trial by asserting a permissive counterclaim in an equitable action). In *Carolina First Bank*, the South Carolina Supreme Court determined that a guarantor, who was joined in a foreclosure action pursuant to a statutory right of a lender to join a guarantor when a deficiency is sought, had permissive counterclaims, rather than compulsory counterclaims. The guarantor asserted civil conspiracy and breach of contract counterclaims which the Court found to be permissive claims as they did not arise out of the same transaction or occurrence because they bore no logical relationship to either the execution

² Plaintiff does not seek to foreclose on Willie Payton and Hattie Payton's interest in the 44 acre parcel (TMS 056-00-00-016). David Payton has an interest in a life estate in 28 acres of the 44 acres, which interest was deeded to him by Eddie Payton on December 10, 2009. Plaintiff seeks to foreclose on 16 of the 28 acres in which David Payton has a life estate interest.

or enforceability of the guaranty agreements. As a result, the guarantor was deemed to have waived his right to a jury trial because he asserted permissive counterclaims in an equitable action.

Carolina First Bank clearly applies to the case before this Court because Defendants' counterclaims including discrimination, adverse possession, and their defense of statute of limitations do not arise out of the same transaction or occurrence because they do not affect the enforceability of the notes and mortgages. Accordingly, Defendants waived their rights to a jury trial by asserting permissive counterclaims in this foreclosure action.

IT IS ORDERED that Plaintiff's Motion to Strike Request for Jury Trial and to Refer is granted, and this action is referred to a Special Referee in Barnwell County.

IT IS SO ORDERED.



The Honorable Clifton Newman, Second Judicial Circuit

~~May~~ Aug 9, 2019

Barnwell, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF BARNWELL

United States of America

Plaintiff,

vs.

Edgar Payton, Willie Payton, Hattie Payton,
F. Hamilton Dicks, III, the United States of
America, acting through the Small Business
Administration, successors in interest to
Still & Williams, Inc., SC Electric & Gas
Co., and David Payton,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE SECOND JUDICIAL CIRCUIT
Case No. 2018-CP-0600383

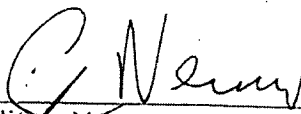
**ORDER DENYING
MOTION TO ALTER OR AMEND**

This matter is before the Court on a Motion to Alter or Amend the Order of the Court filed on August 26, 2019.

Having fully considered the 59(e) Motion of the Plaintiff, the Court finds that the Order of the Court should not be Altered or Amended.

The Motion to Alter or Amend is therefore denied.

AND IT IS SO ORDERED this 6th day of September 2019.


Clifton Newman
Presiding Judge



Barnwell Common Pleas

Case Caption: United States Of America VS Edgar Payton , defendant, et al
Case Number: 2018CP0600383
Type: Master/Order/Other

So Ordered

s/ Clifton B. Newman, 2127

Electronically signed on 2019-09-06 16:17:25 page 2 of 2

STATE OF SOUTH CAROLINA)
)
COUNTY OF BARNWELL)
)
United States of America,)
Plaintiff,)
)
vs.)
)
Edgar Payton, Willie Payton,)
Hattie Payton, F. Hamilton Dicks, III,)
the United States of America, acting)
through the Small Business)
Administration, successors in interest)
to Still & Williams, Inc., SC Electric)
& Gas Co., and David Payton,)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE SECOND JUDICIAL CIRCUIT
C/A NO. 2018-CP-0600383

AMENDED SUMMONS

NON-JURY

TO THE DEFENDANT(S) ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to the said Complaint on the subscribers at their offices: 248 West Evans Street, P O Box 1909, Florence, South Carolina 29503-1909, Tel. No. (843) 662-3258, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

DATED at Florence, S.C., this 30th day of October, 2018.

WILLCOX, BUYCK & WILLIAMS, P.A.

By: s/Katherine McLean Ryan
Katherine McLean Ryan #101063
Walker H. Willcox #72608
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Attorneys for Plaintiff

STATE OF SOUTH CAROLINA)
COUNTY OF BARNWELL)
United States of America,)
Plaintiff,)
vs.)
Edgar Payton, Willie Payton,)
Hattie Payton, F. Hamilton Dicks, III,)
the United States of America, acting)
through the Small Business)
Administration, successors in interest)
to Still & Williams, Inc., SC Electric)
& Gas Co., and David Payton,)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE SECOND JUDICIAL CIRCUIT
C/A NO. 2018-CP-0600383

AMENDED COMPLAINT

NON-JURY

MORTGAGE FORECLOSURE

The Plaintiff, complaining of the Defendant herein, would show to the Court:

1. That this is an action for foreclosure of a mortgage of real estate situate in Florence County, South Carolina. **This is an attempt to collect a debt and any information obtained will be used for that purpose.**
2. The United States Department of Agriculture is an agency of the United States of America and at all times hereinafter mentioned, acted for and on behalf of the Plaintiff, and the United States of America is the real party in interest in this action.
3. The real estate which is the subject of this action is situated in the State of South Carolina and in Barnwell County, South Carolina and consists of seven tracts of land and is more fully described in Exhibit 1, appended hereto and made a part hereof as if set out in full.

4. The Defendant, Edgar Payton, hereinafter referred to as borrower, upon information and belief, is a citizen and resident of Barnwell County, South Carolina.

5. The Defendants, Edgar Payton, Willie Payton, Hattie Payton, Production Credit Association, the United States of America, acting through the Small Business Administration, Still & Williams, Inc., SC Electric & Gas Co., and David Payton, upon information and belief, are citizens and residents of or doing business in Barnwell County, South Carolina, and may claim an interest in the subject property.

6(a). The borrower, Edgar Payton, for valuable consideration, made, executed and delivered unto the United States of America, acting through the United States Department of Agriculture, four promissory notes in writing and under seal wherein and whereby the borrower promised to pay to the order of the United States of America, through its aforesaid agency, the following amount on the dates and at the interest rates set out as follows:

<u>TYPE OF LOAN</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>INTEREST RATE</u>
1. EM	3/26/79	\$43,800.00	8.5%
2. EM	4/15/82	\$237,900.00	16.00%
3. EM	4/15/82	\$121,010.46	3.00%
4. EM	4/15/82	\$215,031.81	5.00%

6(b). Two of the promissory notes identified above have been renewed as follows:

<u>TYPE OF RENEWAL</u>	<u>RENEWAL DATE</u>	<u>RENEWAL AMT</u>	<u>RENEWAL INT RATE</u>
1. Reamortization	4/15/82	\$121,010.46	3.00%
2. Reamortization	4/15/82	\$215,031.81	5.00%

The promissory notes are attached hereto as Exhibit 2.

7. As of September 24, 2018, there was due upon the notes described in paragraph 6 above, principal and interest balances, and daily rates of accrual as follows:

	<u>PRINCIPAL BALANCE</u>	<u>INTEREST BALANCE</u>	<u>DAILY ACCRUAL</u>
1.	\$42,053.56	\$106,725.75	\$9.7933
2.	\$209,611.41	\$1,186,559.12	\$91.8845
3.	\$121,010.46	\$132,302.56	\$9.9461
4.	\$212,932.47	\$382,461.74	\$29.1688

There was due upon the notes described above and the mortgages described below, the total sum of \$2,421,540.82 as of September 24, 2018, with interest accruing thereafter at the total daily rate of \$143.2611 and including administrative charges of \$27,883.75 due. Eighteen days have passed since September 24, 2018. Using the \$143.2611 per diem rate of interest, as of October 12, 2018, there is due upon said notes and security instruments the total sum of \$2,424,119.52 with interest accruing thereafter at the total daily rate of \$143.2611.

8. In order to secure payment of the notes identified in paragraph 6 above, Edgar Payton, made, executed and delivered unto the United States three real estate mortgages, with proper renunciation of dower, where appropriate, encumbering certain real property situated in Barnwell County, South Carolina, and properly recorded in the Office of the Register of Deeds for Barnwell County, South Carolina on March 28, 1979, March 31, 1981, and April 15, 1982. The mortgages are described as follows:

<u>DATE OF FILING</u>	<u>RECORDED IN BOOK</u>	<u>PAGE</u>	<u>NOTES SECURED BY EACH MORTGAGE</u>	<u>TRACTS SECURED BY EACH MORTGAGE</u>
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3/28/79	15-X	041	1, 3	1, 2, 3, 4, 5, 6, 7
3/31/81	16-N	251	1, 3, 4	1, 2, 3, 4, 5, 6, 7, 8
4/15/82	16-S	739	1, 2, 3, 4	1, 2, 3, 4, 5, 6, 7, 8

The tracts of land referenced in this chart are fully set out in the property description attached hereto as Exhibit 1 which, as indicated above, is attached hereto and made a part hereof as if set out in full. The mortgages are attached hereto as Exhibit 3.

9. The aforesaid notes and mortgages set out above, all held by the United States, are in default in that the payments have not been made thereunder when due and the account has not been reinstated although due demand for payment has been made by the United States. The United States elected and does hereby elect to declare the entire amount due upon the aforesaid notes and mortgages to be immediately payable, together with all costs, fees, attorney fees, advances made thereunder for taxes, insurance premiums, and all sums advanced in connection with the mortgages and mortgaged premises and property under the terms of the loan instruments and applicable USDA regulations.

10. The defendant, Willie Payton, is made a party to this action by virtue of an interest in the property described in Plaintiff's mortgage on the parcel with TMS No. 056-00-00-016, as tenant in common by virtue of Item IV in the Last Will and Testament of Angus Payton, Sr., who died on April 23, 1971, his estate being of record in the Probate Court for Barnwell County in Book 510, Page 9, there being no mutual exchange of conveyances of the undivided interests of the 5 devisees nor a plat of record indicating formal allotment of the tracts among the 5 devisees. This potential claim may be barred by the 40 year statute of limitations, in that the Barnwell County Tax Assessor has assigned a separate tax map number to an individual 8-acre parcel

allotted to Willie Payton, and there have been no claims made by any cotenant that the informal division in kind of the 44 acre tract referred to in Angus Payton, Sr.'s Will and recognized by the Tax Assessor is invalid.

11. The defendant, Hattie Payton, is made a party to this action by virtue of an interest in the property described in Plaintiff's mortgage on the parcel with TMS No. 056-00-00-016, as tenant in common by virtue of Item IV in the Last Will and Testament of Angus Payton, Sr., who died on April 23, 1971, his estate being of record in the Probate Court for Barnwell County in Book 510, Page 9, there being no mutual exchange of conveyances of the undivided interests of the 5 devisees nor a plat of record indicating formal allotment of the tracts among the 5 devisees. This potential claim may be barred by the 40 year statute of limitations, in that the Barnwell County Tax Assessor has assigned a separate tax map number to an individual 8-acre parcel allotted to Hattie Payton, and there have been no claims made by any cotenant that the informal division in kind of the 44 acre tract referred to in Angus Payton, Sr.'s Will and recognized by the Tax Assessor is invalid.

12. The defendant, F. Hamilton Dicks, is made a party to this action by virtue of the mortgage by and between Eddie Payton and Production Credit Association dated June 17, 1975, and recorded July 2, 1975, in Book 14-V, Page 196 in the principal amount of \$200,000.00; Affidavit recorded July 3, 1975 in Book 14-T at Page 167; Assignment to F. Hamilton Dicks recorded December 9, 1987 in Book 75 at Page 125; Assignment to Enterprise Bank of South Carolina recorded January 14, 1988 in Book 77 at Page 240; and Assignment to F. Hamilton Dicks recorded October 30, 1989 in Book 121 at Page 206, Barnwell County Records. F. Hamilton Dicks may claim an interest in the property that is the subject of this action, which

interest is senior to the liens of the Plaintiff herein. This mortgage is unenforceable due to the lapse of the statute of limitations found in S. C. Code Ann. Section 15-3-520.

13. The defendant, the United States of America, acting through the Small Business Administration, is made a party to this action by virtue of a mortgage dated November 2, 1977 and recorded November 4, 1977, in Book 15-K, Page 607 in the principal amount of \$270,000.00. The lien of this mortgage was subordinated in favor of Plaintiff by document recorded March 28, 1979 in Book 15-O at Page 66 in the Office of the Clerk of Court for Barnwell County, South Carolina. Small Business Administration may claim an interest in the property that is the subject of this action, which interest is junior to the liens of the Plaintiff herein.

14. The defendant successor in interest to Still & Williams, Inc. is made a party to this action by virtue of a mortgage dated June 13, 1984, and recorded June 15, 1984, in Book 17-N, Page 237 in the principal amount of \$207,607.28 in the Office of the Clerk of Court for Barnwell County, South Carolina. The maturity date of such mortgage is June 13, 1985. This mortgage is unenforceable due to the lapse of the statute of limitations found in S. C. Code Ann. Section 15-3-520. Successor in interest to Still & Williams, Inc. may claim an interest in the property that is the subject of this action, which interest is junior to the liens of the Plaintiff herein.

15. South Carolina Electric and Gas Company, Condemnor, may have a claim in the property described in Plaintiff's mortgages as a result of two judgments recorded January 5, 2006, in the Office of the Clerk of Court for Barnwell County, South Carolina under Judgment Roll Numbers 05-CP-06-174 and 05-CP-06-175. The judgments give a Right-of-Way to South Carolina Electric and Gas Company recorded in Book 11-U at Page 330 in the Office of the Clerk of Court for Barnwell County, South Carolina. South Carolina Electric and Gas Company may

claim an interest in the property that is the subject of this action, which interest is junior to the liens of the Plaintiff herein.

16. The defendant, David Payton, is made a party to this action as he may have a claim in the property described in Plaintiff's mortgage on the parcel with TMS No. 056-00-00-016 by virtue of a Life Estate deeded to David Payton, recorded on December 10, 2009 in Book 906, page 177, in the Clerk of Court's Office for Barnwell County. This claim is junior and inferior to Plaintiff's mortgage.

17. That the Plaintiff in all respects complied with the *Code of Laws* of South Carolina relating to the bringing of the foreclosure action and has duly performed all of the conditions on its part prior to the institution of this suit.

18. That the action is for foreclosure and should be referred to a Special Referee.

19. The Plaintiff does not request a deficiency judgment should the sale of the security be insufficient to satisfy all of the amounts due the Plaintiff on the notes.

20. Said mortgages executed by the Borrower provide for the recovery of reasonable attorney fees in such instance of default.

WHEREFORE, the Plaintiff prays:

(a) That the amount due upon the United States' above described notes and mortgages be ascertained and determined by the Court.

(b) That the United States have judgment of foreclosure for the amount found to be due and owing, together with all costs and expenses of this action and of the sale of the property, and all items considered goods, fixtures and equipment of the mortgaged premises, and that all

right, title, interest, and equity of redemption of the defendants and of any person holding by, through, or under them be forever barred in and to the mortgaged premises and property.

(c) That the property described in Exhibit 1 be sold at public sale free and clear of all liens, and that the proceeds of sale be applied as follows:

First, to the costs and expenses of this action, including attorneys' fees for Plaintiff, and the sale of the property, as decreed by the Court.

Second, to the payment and discharge of the amount due on the United States' notes and mortgages.

Third, the surplus, if any, be distributed according to the law.

(d) For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

WILLCOX, BUYCK, & WILLIAMS, P.A.

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Attorneys for Plaintiff

October 30, 2018

TRACT NO. 1

All that certain tract of land situate, lying and being in Seven Pines School District, County of Barnwell, State of South Carolina, containing 159.12 acres, as shown on plat prepared by J. J. Foy, R.L.S., dated January 25, 1975, and recorded in Plat Book L at Page 265, of the Barnwell County records, and being bounded as follows: on the North by lands now or formerly of Dr. H. W. Gibson and S. C. Highway No. 20; on the East by lands now or formerly of Eddie Payton, lands of Willie Payton, lands of Hattie Mae Payton and lands of Adlease Sebastian; on the South by lands now or formerly of Lucius Hankinson and lands of Dr. H. W. Gibson; and on the West by lands now or formerly of R. L. Richardson and of Dr. H. W. Gibson.

This being the same property conveyed to Eddie Payton by Deed of Geoffrey P. Hull, dated March 17, 1975 and recorded March 21, 1975 in Deed Book 14-U at Page 89, Office of the Register of Deeds, Barnwell County, S.C.

TMS 055-00-00-011

TRACT NO. 2

All that certain tract of land containing 44 acres, more or less, situate, lying and being in Diamond School District, County of Barnwell, State of South Carolina, being shown and designated on plat of record in Deed Book 8-U at Page 443, of the Barnwell County Records, and being bounded as follows: on the North by lands now or formerly of Maggie Owens; on the East by lands now or formerly of Fred Crawford; on the South by lands now or formerly of Fred Arant; and on the West by lands now or formerly of Moses Williams.

This being the same property conveyed to Edgar Payton by Deed of Moses Williams, Queen Esther W. Holston, Marion Williams, Daniel Williams, Lucille Hankerson and Inez Price, dated October 1, 1971 and recorded October 15, 1971 in Deed Book 13-W at Page 161, Office of the Clerk of Court, Barnwell County, S.C.

TMS 057-00-00-024

TRACT NO. 3

All that certain piece, parcel or tract of land situate, lying and being in Red Oak Township, Barnwell County, South Carolina, containing eight (8) acres, more or less, and being a part of a 44-acre tract of land; said 44-acre tract of land being bounded as follows: on the North by property of Angus Payton Estate; on the East by property of Mary Bush McCormack; on the South by property of McDuffie Hankerson; and on the West by property of Louise P. Lightsey.

This is the same property conveyed to Eddie Payton by deed of David Payton, dated August 28, 1972, and recorded on September 1, 1972, in Book 14-A, Page 179, of the Barnwell County Records.

TMS 056-00-00-016 [portion]

EXHIBIT 1

TRACT NO. 4

All that certain piece, parcel or tract of land situate, lying and being in Red Oak Township, Barnwell County, South Carolina, containing eight (8) acres, more or less, and being a part of a 44-acre tract of land; said 44-acre tract of land being bounded as follows: on the North by property of Angus Payton Estate; on the East by property of Mary Bush McCormack; on the South by property of McDuffie Hankerson; and on the West by property of Louise P. Lightsey.

This is the same property conveyed to Eddie Payton by deed of Thelma Payton Bradley, dated February 8, 1973, and recorded on February 9, 1973, in Book 14-D, Page 139, of the Barnwell County Records.

TMS 056-00-00-016 [portion]

TRACT NO. 5

All that certain piece, parcel or tract of land situate, lying and being in the County of Barnwell, State of South Carolina, in Red Oak Township containing 47.9 acres, more or less, and being bounded on the North by land now or formerly Blanche P. Harris; bounded on the East by land now or formerly of Angus Payton Estate; bounded on the South by lands now or formerly of Angus Payton Estate; and bounded on the West by land now or formerly of Louise P. Lightsey.

This being the same property conveyed to Edgar Payton, II, by Deed of Lottee Payton, dated September 12, 1972 and recorded September 14, 1972 in Deed Book 14-A at Page 215, Office of the Clerk of Court, Barnwell County, S.C.

TMS 056-00-00-002

TRACT NO. 6

All that certain tract of land, with improvements thereon, situate in Diamond School District, County of Barnwell, State of South Carolina, containing 93 acres, more or less, and being bounded now or formerly as follows: on the North by lands now or formerly of J. B. Morris and lands now or formerly of Leon Tobin; on the East by lands now or formerly of H. W. Sanders; and on the South by other lands of H. W. Sanders; and on the West by lands now or formerly of Ruby Snelling and a public road separating said tract from lands now or formerly of Joshua Sanders, said tract being more particularly on a plat made by J. B. Ellis dated October 20, 1933 and recorded in Plat Book A at Page 4, of the Barnwell County Records.

This being the same property conveyed to Edgar Payton by Deed of Clottee Payton, dated August 30, 1972 and recorded August 30 in Deed Book 14-A at Page 174, Office of the Clerk of Court, Barnwell County, S.C.

TMS 056-00-00-007

EXHIBIT 1

TRACT NO. 7

All that certain tract of land situate, lying and being in Diamond School District, County of Barnwell, State of South Carolina, containing 19.07 acres, more or less, and being bounded now or formerly as follows: on the North by lands now or formerly of Moses Williams; on the East by lands now or formerly of Estelle Weathersby; on the South by lands now or formerly of Edgar Payton; and on the West by lands now or formerly of the Estate of July Sanders.

This being the same property conveyed to Edgar Payton by Deed of Moses Williams, dated January 20, 1975 and recorded January 21, 1975 in Deed Book 14-R at Page 481, Office of the Clerk of Court, Barnwell County, S.C.

TMS 057-00-00-023

TRACT NO. 8

All that certain piece, parcel or tract of land containing 69.7 acres, more or less, and being known as Tract No. 7, of the partition of the Ransome Snelling Estate, situate, lying and being in Diamond School District, County of Barnwell, State of South Carolina, said tract being bounded, now or formerly, and measuring as follows: North by lands now or formerly of C. R. Snelling, being known as Tract No. 6 of the Ransome Snelling Estate, and measuring thereon 1900 feet; on the East by lands now or formerly of the Estate of Harry Sims and measuring thereon 1600 feet; on the South by lands now or formerly of Molair and measuring thereon 2508 feet; and on the West by lands now or formerly of the Estate of Sam Williams and measuring thereon 1420 feet. Said tract of land being more fully shown and described on a plat of the Estate lands of Ransome Snelling prepared by E. G. Hay, R.L.S., dated August, 1955, and recorded in Bundle 585, Package 16, of the records in the Office of the Clerk of Court for Barnwell County.

This being the same property conveyed to Eddie Payton by Deed of Theodore Snelling and Marie Morris, dated September 20, 1979 and recorded September 20, 1979 in Deed Book 16-B at Page 311, Office of the Clerk of Court, Barnwell County, S.C.

TMS 057-00-00-016

EXHIBIT 1

UNITED STATES DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATION

PROMISSORY NOTE

KIND OF LOAN

Type: EM

Pursuant to:

- ☒ Consolidated Farm & Rural Development Act
☐ Emergency Agricultural Credit Adjustment Act of 1978

ACTION REQUIRING NOTE

- ☐ Initial loan ☐ Rescheduling
☒ Subsequent loan ☐ Reamortization
☐ Consolidation & subsequent loan ☐ Credit sale
☐ Consolidation ☐ Deferred payments

Name EDDIE PAYTON	
State SOUTH CAROLINA	County BARNWELL
Case No. 46-06-247725922	Date MARCH 26, 1979

FOR VALUE RECEIVED, the undersigned Borrower(s) and any comakers jointly and severally promise to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, (herein called the "Government"), or its assigns, at its office in BARNWELL, SOUTH CAROLINA

_____, or at such other place as the Government may hereafter designate in writing, the principal sum of FORTY THREE THOUSAND EIGHT HUNDRED AND NO/100----- dollars

(\$ 43,800.00), plus interest on the unpaid principal balance at the RATE of

EIGHT AND ONE HALF percent (8½ %) per annum. If this note is for a Limited Resource loan (indicated in the "Kind of Loan" box above) the Government may CHANGE THE RATE OF INTEREST, in accordance with regulations of the Farmers Home Administration, not more often than quarterly, by giving the Borrower thirty (30) days prior written notice by mail to the Borrower's last known address. The new interest rate shall not exceed the highest rate established in regulations of the Farmers Home Administration for the type of loan indicated above.

Principal and interest shall be paid in 41 installments as indicated below, except as modified by a different rate of interest, on or before the following dates:

\$ <u>3872.00</u> on January 1, 19 <u>80</u> ;	\$ <u>NA</u> on January 1, 19 <u> </u> ;
\$ <u>NA</u> on January 1, 19 <u> </u> ;	\$ <u>NA</u> on January 1, 19 <u> </u> ;
\$ <u>NA</u> on January 1, 19 <u> </u> ;	\$ <u>NA</u> on January 1, 19 <u> </u> ;
\$ <u>NA</u> on January 1, 19 <u> </u> ;	\$ <u>NA</u> on January 1, 19 <u> </u> ;
\$ <u>NA</u> on January 1, 19 <u> </u> ;	\$ <u>NA</u> on January 1, 19 <u> </u> ;

and \$ 3872.00 thereafter on January 1st of each year until the principal and interest are fully paid except that the final installment of the entire indebtedness evidenced hereby, if not sooner paid, shall be due and

payable 40 years from the date of this note, and except that prepayments may be made as provided below. The consideration for this note shall also support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan funds shall be advanced to the Borrower as requested by Borrower and approved by the Government. Approval by the Government will be given provided the advance is requested for a purpose authorized by the Government. Interest shall accrue on the amount of each advance from its actual date as shown in the Record of Advances at the end of this note. Borrower authorizes the Government to enter the amount(s) and date(s) of such advance(s) in the Records of Advances.

For each rescheduled, reamortized or consolidated note, interest accrued to the date of this instrument shall be added to principal and such new principal shall accrue interest at the rate evidenced by this instrument.

Every payment made on any indebtedness evidenced by this note shall be applied first to interest accrued as of the date of receipt of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Borrower. Refunds and extra payments, as defined in the regulations (7 CFR §1861.2) of the Farmers Home Administration according to the source of funds involved, shall, after payment of interest, be applied to the last installment to become due under this note and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this note and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder. While this note is held by an insured holder, prepayments made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on an installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an installment due date basis shall be the date of the prepayment by Borrower, and the Government will pay the interest to which the holder is entitled accruing between such date and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection of this note or to preserve or protect any security for the loan or otherwise expended under the terms of any security agreement or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand.

Property constructed, improved, purchased, or refinanced in whole or in part with the loan evidenced hereby shall not be leased, assigned, sold, transferred, or encumbered, voluntarily or otherwise, without the written consent of the Government. Unless the Government consents otherwise in writing, Borrower will operate such property as a farm if this is a Farm Ownership loan.

If "Consolidation and subsequent loan," "Consolidation," "Rescheduling," or "Reamortization" is indicated in the "Action Requiring Note" block above, this note is given to consolidate, reschedule or reamortize, but not in satisfaction of the unpaid principal and interest on the following described note(s) or assumption agreement(s) (new terms):

FACE AMOUNT	INT. RATE	DATE	ORIGINAL BORROWER	LAST INSTALL. DUE
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19

Security instruments taken in connection with the loans evidenced by these described notes and other related obligations are not affected by this consolidating, rescheduling or reamortizing. These security instruments shall continue to remain in effect and the security given for the loans evidenced by the described notes shall continue to remain as security for the loan evidenced by this note, and for any other related obligations.

REFINANCING (GRADUATION) AGREEMENT: If at any time it shall appear to the Government that the Borrower may be able to obtain financing from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept a loan(s) in sufficient amount to pay this note in full and, if the lender is a cooperative, to pay for any necessary stock.

DEFAULT: Failure to pay when due any debt evidenced hereby or perform any covenant of agreement hereunder shall constitute default under this and any other instrument evidencing a debt of Borrower owing to, insured or Guaranteed by the Government or securing or otherwise relating to such debt; and default under any such other instrument shall constitute default hereunder. **UPON ANY SUCH DEFAULT**, the Government at its option may declare all or any part of any such indebtedness immediately due and payable.

This Note is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farm and Rural Development Act, or the Emergency Agricultural Credit Adjustment Act of 1978 and for the type of loan as indicated in the "Kind of Loan" block above. This Note shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not inconsistent with the express provisions hereof.

Presentment, protest, and notice are hereby waived.

Eddie Payton
(Borrower)

(Borrower)

Rt. 1, Box 18

Barnwell, SC 29812

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RECORD OF ADVANCES					
AMOUNT	DATE	AMOUNT	DATE	AMOUNT	DATE
\$ 43,800.00	3-12-79	\$		\$	
\$		\$		\$	
\$		\$		\$	
\$		\$		\$	
TOTAL				\$ 43,800.00	

PROMISSORY NOTE

Name EDDIE PAYTON		KIND OF LOAN Type: <u>EM</u> Pursuant to: ☒ Consolidated Farm & Rural Development Act ☐ Emergency Agricultural Credit Adjustment Act of 1978	
State SOUTH CAROLINA	County BARNWELL		ACTION REQUIRING NOTE ☐ Initial loan ☒ Subsequent loan ☐ Consolidation & subsequent loan ☐ Consolidation ☐ Rescheduling ☐ Reamortization ☐ Credit sale ☐ Deferred payments
Case No. 46-06-247725922	Date APRIL 15, 1982		
Fund Code 43	Loan No. 04		

FOR VALUE RECEIVED, the undersigned Borrower(s) and any comakers jointly and severally promise to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, (herein called the "Government"), or its assigns, at its office in BARNWELL, SOUTH CAROLINA

_____, or at such other place as the Government may hereafter designate in writing, the principal sum of TWO HUNDRED THIRTY SEVEN THOUSAND NINE HUNDRED AND NO/100----- dollars

(\$ 237,900.00 _____), plus interest on the unpaid principal balance at the RATE of SIXTEEN

percent (16 %) per annum. If this note is for a Limited Resource loan (indicated in the "Kind of Loan" box above) the Government may CHANGE THE RATE OF INTEREST, in accordance with regulations of the Farmers Home Administration, not more often than quarterly, by giving the Borrower thirty (30) days prior written notice by mail to the Borrower's last known address. The new interest rate shall not exceed the highest rate established in regulations of the Farmers Home Administration for the type of loan indicated above.

Principal and interest shall be paid in TWO installments as indicated below, except as modified by a different rate of interest, on or before the following dates:

\$ <u>265,119.00</u>	on January 1, 19 <u>83</u>	\$ <u>NA</u>	on January 1, 19 _____
\$ <u>NA</u>	on January 1, 19 _____	\$ <u>NA</u>	on January 1, 19 _____
\$ <u>NA</u>	on January 1, 19 _____	\$ <u>NA</u>	on January 1, 19 _____
\$ <u>NA</u>	on January 1, 19 _____	\$ <u>NA</u>	on January 1, 19 _____
\$ <u>NA</u>	on January 1, 19 _____	\$ <u>NA</u>	on January 1, 19 _____
\$ <u>NA</u>	on January 1, 19 _____	\$ <u>NA</u>	on January 1, 19 _____
\$ <u>NA</u>	on January 1, 19 _____	\$ <u>NA</u>	on January 1, 19 _____

and \$ NA thereafter on January 1st of each year until the principal and interest are fully paid except that the final installment of the entire indebtedness evidenced hereby, if not sooner paid, shall be due and payable ONE years from the date of this note, and except that prepayments may be made as provided below. The consideration for this note shall also support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan funds shall be advanced to the Borrower as requested by Borrower and approved by the Government. Approval by the Government will be given provided the advance is requested for a purpose authorized by the Government. Interest shall accrue on the amount of each advance from its actual date as shown in the Record of Advances at the end of this note. Borrower authorizes the Government to enter the amount(s) and date(s) of such advance(s) in the Records of Advances.

For each rescheduled, reamortized or consolidated note, interest accrued to the date of this instrument shall be added to principal and such new principal shall accrue interest at the rate evidenced by this instrument.

Every payment made on any indebtedness evidenced by this note shall be applied first to interest accrued as of the date of receipt of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Borrower. Refunds and extra payments, as defined in the regulations (7 CFR §1951.8) of the Farmers Home Administration according to the source of funds involved, shall, after payment of interest, to be applied to the last installment to become due under this note and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this note and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder. While this note is held by an insured holder, prepayments made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on an installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an installment due date basis shall be the date of the prepayment by Borrower, and the Government will pay the interest to which the holder is entitled accruing between such date and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection of this note or to preserve or protect any security for the loan or otherwise expended under the terms of any security agreement or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand.

Property constructed, improved, purchased, or refinanced in whole or in part with the loan evidenced hereby shall not be leased, assigned, sold, transferred, or encumbered, voluntarily or otherwise, without the written consent of the Government. Unless the Government consents otherwise in writing, Borrower will operate such property as a farm if this is a Farm Ownership loan.

If "Consolidation and subsequent loan," "Consolidation," "Rescheduling," or "Reamortization" is indicated in the "Action Requiring Note" block above, this note is given to consolidate, reschedule or reamortize, but not in satisfaction of the unpaid principal and interest on the following described note(s) or assumption agreement(s) (new terms):

FACE AMOUNT	INT. RATE	DATE	ORIGINAL BORROWER	LAST INSTALL. DUE
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19

Security instruments taken in connection with the loans evidenced by these described notes and other related obligations are not affected by this consolidating, rescheduling or reamortizing. These security instruments shall continue to remain in effect and the security given for the loans evidenced by the described notes shall continue to remain as security for the loan evidenced by this note, and for any other related obligations.

REFINANCING (GRADUATION) AGREEMENT: If at any time it shall appear to the Government that the Borrower may be able to obtain financing from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept a loan(s) in sufficient amount to pay this note in full and, if the lender is a cooperative, to pay for any necessary stock.

DEFAULT: Failure to pay when due any debt evidenced hereby or perform any covenant of agreement hereunder shall constitute default under this and any other instrument evidencing a debt of Borrower owing to, insured or Guaranteed by the Government or securing or otherwise relating to such debt; and default under any such other instrument shall constitute default hereunder. **UPON ANY SUCH DEFAULT**, the Government at its option may declare all or any part of any such indebtedness immediately due and payable.

This Note is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farm and Rural Development Act, or the Emergency Agricultural Credit Adjustment Act of 1978 and for the type of loan as indicated in the "Kind of Loan" block above. This Note shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not inconsistent with the express provisions hereof.

Presentment, protest, and notice are hereby waived.

(SEAL)

(SEAL)

Eddie Payton
Eddie Payton

(Borrower)

(Borrower)

Rt. 2, Box 347

Barnwell, SC 29812

RECORD OF ADVANCES					
AMOUNT	DATE	AMOUNT	DATE	AMOUNT	DATE
\$ 237,900.	4-7-82	\$		\$	
\$		\$		\$	
\$		\$		\$	
\$		\$		\$	
TOTAL				\$ 237,900.	

PROMISSORY NOTE

Name EDDIE PAYTON		KIND OF LOAN Type: <u>EM</u> Pursuant to: ☐ Consolidated Farm & Rural Development Act ☐ Emergency Agricultural Credit Adjustment Act of 1978
State SOUTH CAROLINA	County BARNWELL	
Case No. 46-06-247725922	Date APRIL 15, 1982	ACTION REQUIRING NOTE ☐ Initial loan ☐ Rescheduling ☐ Subsequent loan ☒ Reamortization ☐ Consolidation & subsequent loan ☐ Credit sale ☐ Consolidation ☐ Deferred payments
Fund Code	Loan No.	

FOR VALUE RECEIVED, the undersigned Borrower(s) and any comakers jointly and severally promise to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, (herein called the "Government"), or its assigns, at its office in BARNWELL, SOUTH CAROLINA

_____, or at such other place as the Government may hereafter designate in writing, the principal sum of ONE HUNDRED TWENTY ONE THOUSAND TEN AND 46/100----- dollars

(\$ 121,010.46), plus interest on the unpaid principal balance at the RATE of

THREE

percent (3 %) per annum. If this note is for a Limited Resource loan (indicated in the "Kind of Loan" box above) the Government may CHANGE THE RATE OF INTEREST, in accordance with regulations of the Farmers Home Administration, not more often than quarterly, by giving the Borrower thirty (30) days prior written notice by mail to the Borrower's last known address. The new interest rate shall not exceed the highest rate established in regulations of the Farmers Home Administration for the type of loan indicated above.

Principal and interest shall be paid in 18 installments as indicated below, except as modified by a different rate of interest, on or before the following dates:

\$ <u>9192.00</u>	on January 1, 19 <u>83</u> ;	\$ <u>NA</u>	on January 1, 19 ____;
\$ <u>NA</u>	on January 1, 19 ____;	\$ <u>NA</u>	on January 1, 19 ____;
\$ <u>NA</u>	on January 1, 19 ____;	\$ <u>NA</u>	on January 1, 19 ____;
\$ <u>NA</u>	on January 1, 19 ____;	\$ <u>NA</u>	on January 1, 19 ____;
\$ <u>NA</u>	on January 1, 19 ____;	\$ <u>NA</u>	on January 1, 19 ____;
\$ <u>NA</u>	on January 1, 19 ____;	\$ <u>NA</u>	on January 1, 19 ____;
\$ <u>NA</u>	on January 1, 19 ____;	\$ <u>NA</u>	on January 1, 19 ____;
and \$ <u>9192.00</u>	thereafter on January 1st of each year until the principal and interest are fully		

paid except that the final installment of the entire indebtedness evidenced hereby, if not sooner paid, shall be due and payable 17 years from the date of this note, and except that prepayments may be made as provided below. The consideration for this note shall also support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan funds shall be advanced to the Borrower as requested by Borrower and approved by the Government. Approval by the Government will be given provided the advance is requested for a purpose authorized by the Government. Interest shall accrue on the amount of each advance from its actual date as shown in the Record of Advances at the end of this note. Borrower authorizes the Government to enter the amount(s) and date(s) of such advance(s) in the Records of Advances.

For each rescheduled, reamortized or consolidated note, interest accrued to the date of this instrument shall be added to principal and such new principal shall accrue interest at the rate evidenced by this instrument.

Every payment made on any indebtedness evidenced by this note shall be applied first to interest accrued as of the date of receipt of the payment and then to principal.

EXHIBIT E

EXHIBIT 2

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Borrower. Refunds and extra payments, as defined in the regulations (7 CFR §1951.8) of the Farmers Home Administration according to the source of funds involved, shall, after payment of interest, be applied to the last installment to become due under this note and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this note and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder. While this note is held by an insured holder, prepayments made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on an installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an installment due date basis shall be the date of the prepayment by Borrower, and the Government will pay the interest to which the holder is entitled accruing between such date and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection of this note or to preserve or protect any security for the loan or otherwise expended under the terms of any security agreement or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand.

Property constructed, improved, purchased, or refinanced in whole or in part with the loan evidenced hereby shall not be leased, assigned, sold, transferred, or encumbered, voluntarily or otherwise, without the written consent of the Government. Unless the Government consents otherwise in writing, Borrower will operate such property as a farm if this is a Farm Ownership loan.

If "Consolidation and subsequent loan," "Consolidation," "Rescheduling," or "Reamortization" is indicated in the "Action Requiring Note" block above, this note is given to consolidate, reschedule or reamortize, but not in satisfaction of the unpaid principal and interest on the following described note(s) or assumption agreement(s) (new terms):

FACE AMOUNT	INT. RATE	DATE	ORIGINAL BORROWER	LAST INSTALL. DUE
\$ 127,130.00	3 %	3-26- 1979	Eddie Payton	1-1- 1999
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19

Security instruments taken in connection with the loans evidenced by these described notes and other related obligations are not affected by this consolidating, rescheduling or reamortizing. These security instruments shall continue to remain in effect and the security given for the loans evidenced by the described notes shall continue to remain as security for the loan evidenced by this note, and for any other related obligations.

REFINANCING (GRADUATION) AGREEMENT: If at any time it shall appear to the Government that the Borrower may be able to obtain financing from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept a loan(s) in sufficient amount to pay this note in full and, if the lender is a cooperative, to pay for any necessary stock.

DEFAULT: Failure to pay when due any debt evidenced hereby or perform any covenant of agreement hereunder shall constitute default under this and any other instrument evidencing a debt of Borrower owing to, insured or Guaranteed by the Government or securing or otherwise relating to such debt; and default under any such other instrument shall constitute default hereunder. **UPON ANY SUCH DEFAULT**, the Government at its option may declare all or any part of any such indebtedness immediately due and payable.

This Note is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farm and Rural Development Act, or the Emergency Agricultural Credit Adjustment Act of 1978 and for the type of loan as indicated in the "Kind of Loan" block above. This Note shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not inconsistent with the express provisions hereof.

Presentment, protest, and notice are hereby waived.

(SEAL)

Eddie Payton

Eddie Payton

(Borrower)

(SEAL)

(Borrower)

Rt. 2, Box 347

Barnwell, SC 29812

RECORD OF ADVANCES					
AMOUNT	DATE	AMOUNT	DATE	AMOUNT	DATE
\$		\$		\$	
\$		\$		\$	
\$		\$		\$	
\$		\$		\$	
TOTAL				\$	

PROMISSORY NOTE

Name EDDIE PAYTON		KIND OF LOAN Type: <u>EM</u> Pursuant to: ☒ Consolidated Farm & Rural Development Act ☐ Emergency Agricultural Credit Adjustment Act of 1978
State SOUTH CAROLINA	County BARNWELL	ACTION REQUIRING NOTE ☐ Initial loan ☐ Rescheduling ☐ Subsequent loan ☒ Reamortization ☐ Consolidation & subsequent loan ☐ Credit sale ☐ Consolidation ☐ Deferred payments
Case No. 46-06-247725922	Date APRIL 15, 1982	
Fund Code	Loan No. 00	

FOR VALUE RECEIVED, the undersigned Borrower(s) and any comakers jointly and severally promise to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, (herein called the "Government"), or its assigns, at its office in BARNWELL, SOUTH CAROLINA

, or at such other place as the Government may hereafter designate in writing, the principal sum of TWO HUNDRED FIFTEEN THOUSAND THIRTY ONE AND 81/100 dollars

(\$ 215,031.81), plus interest on the unpaid principal balance at the RATE of FIVE

percent (5 %) per annum. If this note is for a Limited Resource loan (indicated in the "Kind of Loan" box above) the Government may CHANGE THE RATE OF INTEREST, in accordance with regulations of the Farmers Home Administration, not more often than quarterly, by giving the Borrower thirty (30) days prior written notice by mail to the Borrower's last known address. The new interest rate shall not exceed the highest rate established in regulations of the Farmers Home Administration for the type of loan indicated above.

Principal and interest shall be paid in 15 installments as indicated below, except as modified by a different rate of interest, on or before the following dates:

\$ <u>66,586.00</u>	on January 1, 19 <u>83</u>	\$ <u>66,586.00</u>	on January 1, 19 <u>84</u>
\$ <u>66,586.00</u>	on January 1, 19 <u>85</u>	\$ <u>4698.00</u>	on January 1, 19 <u>86</u>
\$ <u>NA</u>	on January 1, 19 <u>87</u>	\$ <u>NA</u>	on January 1, 19 <u>88</u>
\$ <u>NA</u>	on January 1, 19 <u>89</u>	\$ <u>NA</u>	on January 1, 19 <u>90</u>
\$ <u>NA</u>	on January 1, 19 <u>91</u>	\$ <u>NA</u>	on January 1, 19 <u>92</u>
\$ <u>NA</u>	on January 1, 19 <u>93</u>	\$ <u>NA</u>	on January 1, 19 <u>94</u>
\$ <u>NA</u>	on January 1, 19 <u>95</u>	\$ <u>NA</u>	on January 1, 19 <u>96</u>
\$ <u>NA</u>	on January 1, 19 <u>97</u>	\$ <u>NA</u>	on January 1, 19 <u>98</u>
\$ <u>NA</u>	on January 1, 19 <u>99</u>	\$ <u>NA</u>	on January 1, 19 <u>00</u>

and \$ 4698.00 thereafter on January 1st of each year until the principal and interest are fully paid except that the final installment of the entire indebtedness evidenced hereby, if not sooner paid, shall be due and payable 14 years from the date of this note, and except that prepayments may be made as provided below. The consideration for this note shall also support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan funds shall be advanced to the Borrower as requested by Borrower and approved by the Government. Approval by the Government will be given provided the advance is requested for a purpose authorized by the Government. Interest shall accrue on the amount of each advance from its actual date as shown in the Record of Advances at the end of this note. Borrower authorizes the Government to enter the amount(s) and date(s) of such advance(s) in the Records of Advances.

For each rescheduled, reamortized or consolidated note, interest accrued to the date of this instrument shall be added to principal and such new principal shall accrue interest at the rate evidenced by this instrument.

Every payment made on any indebtedness evidenced by this note shall be applied first to interest accrued as of the date of receipt of the payment and then to principal.

EXHIBIT F

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Borrower. Refunds and extra payments, as defined in the regulations (7 CFR §1951.8) of the Farmers Home Administration according to the source of funds involved, shall, after payment of interest, to be applied to the last installment to become due under this note and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this note and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder. While this note is held by an insured holder, prepayments made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on an installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an installment due date basis shall be the date of the prepayment by Borrower, and the Government will pay the interest to which the holder is entitled accruing between such date and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection of this note or to preserve or protect any security for the loan or otherwise expended under the terms of any security agreement or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand.

Property constructed, improved, purchased, or refinanced in whole or in part with the loan evidenced hereby shall not be leased, assigned, sold, transferred, or encumbered, voluntarily or otherwise, without the written consent of the Government. Unless the Government consents otherwise in writing, Borrower will operate such property as a farm if this is a Farm Ownership loan.

If "Consolidation and subsequent loan," "Consolidation," "Rescheduling," or "Reamortization" is indicated in the "Action Requiring Note" block above, this note is given to consolidate, reschedule or reamortize, but not in satisfaction of the unpaid principal and interest on the following described note(s) or assumption agreement(s) (new terms):

FACE AMOUNT	INT. RATE	DATE	ORIGINAL BORROWER	LAST INSTALL. DUE
\$ 369,080.00	5 %	3-31- ,1981	Eddie Payton	1-1- ,1996
\$	%	,19		,19
\$	%	,19		,19
\$	%	,19		,19
\$	%	,19		,19
\$	%	,19		,19
\$	%	,19		,19

Security instruments taken in connection with the loans evidenced by these described notes and other related obligations are not affected by this consolidating, rescheduling or reamortizing. These security instruments shall continue to remain in effect and the security given for the loans evidenced by the described notes shall continue to remain as security for the loan evidenced by this note, and for any other related obligations.

REFINANCING (GRADUATION) AGREEMENT: If at any time it shall appear to the Government that the Borrower may be able to obtain financing from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept a loan(s) in sufficient amount to pay this note in full and, if the lender is a cooperative, to pay for any necessary stock.

DEFAULT: Failure to pay when due any debt evidenced hereby or perform any covenant of agreement hereunder shall constitute default under this and any other instrument evidencing a debt of Borrower owing to, insured or Guaranteed by the Government or securing or otherwise relating to such debt; and default under any such other instrument shall constitute default hereunder. **UPON ANY SUCH DEFAULT**, the Government at its option may declare all or any part of any such indebtedness immediately due and payable.

This Note is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farm and Rural Development Act, or the Emergency Agricultural Credit Adjustment Act of 1978 and for the type of loan as indicated in the "Kind of Loan" block above. This Note shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not inconsistent with the express provisions hereof.

Presentment, protest, and notice are hereby waived.

(SEAL)

Eddie Payton
Eddie Payton (Borrower)

(SEAL)

(Borrower)

Rt. 2, Box 347

Barnwell SC 29812

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RECORD OF ADVANCES					
AMOUNT	DATE	AMOUNT	DATE	AMOUNT	DATE
\$		\$		\$	
\$		\$		\$	
\$		\$		\$	
\$		\$		\$	
TOTAL				\$	

USDA-FmHA

Form FmHA 427-1 SC
(Rev. 10-25-77)

REAL ESTATE MORTGAGE FOR SOUTH CAROLINA

THIS MORTGAGE is made and entered into by Eddie Payton

residing in Barnwell County, South Carolina, whose post office address is
Route 1, Box 18, Barnwell, South Carolina 29812,
 herein called "Borrower," and:

WHEREAS Borrower is indebted to the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, herein called the "Government," as evidenced by one or more promissory note(s) or assumption agreement(s), herein called "note," which has been executed by Borrower, is payable to the order of the Government, authorizes acceleration of the entire indebtedness at the option of the Government upon any default by Borrower, and is described as follows:

<u>Date of Instrument</u>	<u>Principal Amount</u>	<u>Annual Rate of Interest</u>	<u>Due Date of Final Installment</u>
March 26, 1979	\$127,130.00	3	March 26, 1999
March 26, 1979	43,800.00	8 1/2	March 26, 2019

And the note evidences a loan to Borrower, and the Government, at any time, may assign the note and insure the payment thereof pursuant to the Consolidated Farm and Rural Development Act, or Title V of the Housing Act of 1949;

And it is the purpose and intent of this instrument that, among other things, at all times when the note is held by the Government, or in the event the Government should assign this instrument without insurance of the note, this instrument shall secure payment of the note; but when the note is held by an insured holder, this instrument shall not secure payment of the note or attach to the debt evidenced thereby, but as to the note and such debt shall constitute an indemnity mortgage to secure the Government against loss under its insurance contract by reason of any default by Borrower:

NOW, THEREFORE, in consideration of the loan(s) and (a) at all times when the note is held by the Government, or in the event the Government should assign this instrument without insurance of the payment of the note, to secure prompt payment of the note and any renewals and extensions thereof and any agreements contained therein, including any provision for the payment of an insurance or other charge, (b) at all times when the note is held by an insured holder, to secure performance of Borrower's agreement herein to indemnify and save harmless the Government against loss under its insurance contract by reason of any default by Borrower, and (c) in any event and at all times to secure the prompt payment of all advances and expenditures made by the Government, with interest, as hereinafter described, and the performance of every covenant and agreement of Borrower contained herein or in any supplementary agreement, Borrower does hereby grant, bargain, sell, release, and assign unto the Government, with general warranty, the following property situated in the State of South Carolina, County(ies) of Barnwell:

TRACT NO. 1:

ALL THAT CERTAIN TRACT OF LAND SITUATE, LYING AND BEING IN SEVEN PINES SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, CONTAINING 159.12 ACRES, AS SHOWN ON PLAT PREPARED BY J. J. FOY, R. L. S., DATED JANUARY 25, 1975, AND RECORDED IN PLAT BOOK L, AT PAGE 265, OF THE BARNWELL COUNTY RECORDS, AND BEING BOUNDED AS FOLLOWS: NORTH BY LANDS OF DR. H. W. GIBSON AND S. C. HIGHWAY NO. 20; EAST BY LANDS OF EDDIE PAYTON, LANDS OF WILLIE PAYTON, LANDS OF HATTIE MAE PAYTON AND LANDS OF ADLESE SEBASTIAN; SOUTH BY LANDS OF LUCIUS HANKINSON AND LANDS OF DR. H. W. GIBSON; AND WEST BY LANDS OF R. L. RICHARDSON AND LANDS OF DR. H. W. GIBSON. THIS IS THE SAME PROPERTY CONVEYED TO EDDIE PAYTON BY DEED OF GEOFFREY P. HULL, DATED MARCH 17, 1975, AND RECORDED ON MARCH 21, 1975, IN BOOK 14-U, PAGE 089, OF THE RECORDS OF BARNWELL COUNTY.

ALSO:TRACT NO. 2:

ALL THAT CERTAIN TRACT OF LAND, CONTAINING 44 ACRES, MORE OR LESS, SITUATE IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, BEING SHOWN AND DESIGNATED ON PLAT OF RECORD IN DEED BOOK 8-U, AT PAGE 443, OF THE BARNWELL COUNTY RECORDS, AND BEING BOUNDED AS FOLLOWS: NORTH BY LANDS OF MAGGIE OWENS; EAST BY LANDS OF FRED CRAWFORD; SOUTH BY LANDS OF FRED ARANT; AND WEST BY LANDS OF MOSES WILLIAMS. THIS

IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF MOSES WILLIAMS, ET AL., DATED OCTOBER 1, 1971, AND RECORDED ON OCTOBER 15, 1971, IN BOOK 13-W, PAGE 161, OF THE RECORDS OF BARNWELL COUNTY.

ALSO:

TRACT NO. 3:

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN RED OAK TOWNSHIP, BARNWELL COUNTY, SOUTH CAROLINA, CONTAINING EIGHT (8) ACRES, MORE OR LESS, AND BEING A PART OF A 44-ACRE TRACT OF LAND; SAID 44-ACRE TRACT OF LAND BEING BOUNDED AS FOLLOWS: ON THE NORTH BY PROPERTY OF ANGUS PAYTON ESTATE; ON THE EAST BY PROPERTY OF MARY BUSH MCCORMACK; ON THE SOUTH BY PROPERTY OF MCDUFFIE HANKERSON; AND ON THE WEST BY PROPERTY OF LOUISE P. LIGHTSEY. THIS IS THE SAME PROPERTY CONVEYED TO EDDIE PAYTON BY DEED OF DAVID PAYTON, DATED AUGUST 28, 1972, AND RECORDED ON SEPTEMBER 1, 1972, IN BOOK 14-A, PAGE 179, OF THE BARNWELL COUNTY RECORDS.

ALSO:

TRACT NO. 4:

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN RED OAK TOWNSHIP, BARNWELL COUNTY, SOUTH CAROLINA, CONTAINING EIGHT (8) ACRES, MORE OR LESS, AND BEING A PART OF A 44-ACRE TRACT OF LAND; SAID 44-ACRE TRACT OF LAND BEING BOUNDED AS FOLLOWS: ON THE NORTH BY PROPERTY OF ANGUS PAYTON ESTATE; ON THE EAST BY PROPERTY OF MARY BUSH MCCORMACK; ON THE SOUTH BY PROPERTY OF MCDUFFIE HANKERSON; AND ON THE WEST BY PROPERTY OF LOUISE P. LIGHTSEY. THIS IS THE SAME PROPERTY CONVEYED TO EDDIE PAYTON BY DEED OF THELMA PAYTON BRADLEY, DATED FEBRUARY 8, 1973, AND RECORDED ON FEBRUARY 9, 1973, IN BOOK 14-D, PAGE 139, OF THE BARNWELL COUNTY RECORDS.

SEE SCHEDULE ATTACHED.

together with all rights, interests, easements, hereditaments and appurtenances thereunto belonging, the rents, issues, and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the thereof, including, but not limited to, ranges, refrigerators, clothes washers, clothes dryers, or carpeting purchased or financed in whole or in part with loan funds, all water, water rights, and water stock pertaining thereto, and all payments at any time owing to Borrower by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein-all of which are herein called "the property";

TO HAVE AND TO HOLD the property unto the Government and its assigns forever in fee simple.

BORROWER for himself, his heirs, executors, administrators, successors and assigns WARRANTS THE TITLE to the property to the Government against all lawful claims and demands whatsoever except any liens, encumbrances, easements, reservations, or conveyances specified hereinabove, and COVENANTS AND AGREES as follows:

(1) To pay promptly when due any indebtedness to the Government hereby secured and to indemnify and save harmless the Government against any loss under its insurance of payment of the note by reason of any default by Borrower. At all times when the note is held by an insured holder, Borrower shall continue to make payments on the note to the Government, as collection agent for the holder.

(2) To pay to the Government such fees and other charges as may now or hereafter be required by regulations of the Farmers Home Administration.

(3) If required by the Government, to make additional monthly payments of 1/12 of the estimated annual taxes, assessments, insurance premiums and other charges upon the mortgaged premises.

(4) Whether or not the note is insured by the Government, the Government may at any time pay any other amounts required herein to be paid by Borrower and not paid by him when due, as well as any costs and expenses for the preservation, protection, or enforcement of this lien, as advances for the account of Borrower. All such advances shall bear interest at the rate borne by the note which has the highest interest rate.

(5) All advances by the Government as described in this instrument, with interest, shall be immediately due and payable by Borrower to the Government without demand at the place designated in the latest note and shall be secured hereby. No such advances by the Government shall relieve Borrower from breach of his covenant to pay. Any payment made by Borrower may be applied on the note or any indebtedness to the Government secured hereby, in any order the Government determines.

(6) To use the loan evidenced by the note solely for purposes authorized by the Government.

(7) To pay when due all taxes, liens, judgments, encumbrances and assessments lawfully attaching to or assessed against the property and promptly deliver to the Government without demand receipts evidencing such payments.

(8) To keep the property insured as required by and under insurance policies approved by the Government and, at its request, to deliver such policies to the Government.

SCHEDULE "A"

ALSO:

TRACT NO. 5:

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN THE STATE OF SOUTH CAROLINA, COUNTY OF BARNWELL, IN THE RED OAK TOWNSHIP, CONTAINING 47.9 ACRES, MORE OR LESS, AND BOUNDED ON THE NORTH BY LANDS OF BLANCHE P. HARRIS; ON THE EAST BY LAND OF ANGUS PAYTON ESTATE; ON THE SOUTH BY LANDS OF ANGUS PAYTON ESTATE; AND ON THE WEST BY LAND OF LOUISE P. LIGHTSEY. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF LOTTEE PAYTON, DATED SEPTEMBER 12, 1972, AND RECORDED ON SEPTEMBER 14, 1972, IN BOOK 14-A, PAGE 215, OF THE BARNWELL COUNTY RECORDS.

ALSO:

TRACT NO. 6:

ALL THAT CERTAIN TRACT OF LAND, WITH IMPROVEMENTS THEREON, SITUATE IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, CONTAINING 93 ACRES, MORE OR LESS, AND BEING BOUNDED, NOW OR FORMERLY, AS FOLLOWS: NORTH BY LANDS OF J. B. MORRIS AND LANDS OF LEON TOBIN; EAST BY LANDS OF H. W. SANDERS; SOUTH BY LANDS OF H. W. SANDERS; AND WEST BY LANDS OF RUBY SNELLING AND A PUBLIC ROAD SEPARATING SAID TRACT FROM LANDS OF JOSHUA SANDERS, SAID TRACT BEING MORE PARTICULARLY DESCRIBED ON A PLAT MADE BY J. B. ELLIS, DATED OCTOBER 20, 1933, AND RECORDED IN PLAT BOOK A, AT PAGE 4, OF THE BARNWELL COUNTY RECORDS. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF CLOTTEE PAYTON, DATED AUGUST 30, 1972, AND RECORDED ON AUGUST 30, 1972, IN BOOK 14-A, PAGE 174, OF THE BARNWELL COUNTY RECORDS.

ALSO:

TRACT NO. 7:

ALL THAT CERTAIN TRACT OF LAND SITUATE, LYING AND BEING IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, CONTAINING 19.07 ACRES, MORE OR LESS, AND BEING BOUNDED, NOW OR FORMERLY, AS FOLLOWS: NORTH BY LANDS OF MOSES WILLIAMS; EAST BY LANDS OF ESTELLE WEATHERSBY; SOUTH BY LANDS OF EDGAR PAYTON; AND WEST BY LANDS OF THE ESTATE OF JULY SANDERS. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF MOSES WILLIAMS DATED JANUARY 20, 1975, AND RECORDED ON JANUARY 21, 1975, IN BOOK 14-R, PAGE 481, OF THE BARNWELL COUNTY RECORDS.

THE WITHIN MORTGAGE AS TO TRACTS 2, 4, 6 AND 7 IS A SECOND MORTGAGE JUNIOR AND SUBORDINATE TO THAT MORTGAGE IN FAVOR OF BARNWELL PRODUCTION CREDIT ASSOCIATION, DATED JUNE 17, 1975, AND RECORDED IN MORTGAGE BOOK 14-V, AT PAGE 196, OF THE RECORDS OF BARNWELL COUNTY.

E. P

3-26-79

THE WITHIN MORTGAGE IS A THIRD MORTGAGE AS TO TRACTS 1 AND 5 JUNIOR TO THAT CERTAIN MORTGAGE IN FAVOR OF THE FEDERAL LAND BANK, DATED MARCH 21, 1975, AND RECORDED IN BOOK 14-Q, AT PAGE 481, OF THE RECORDS OF BARNWELL COUNTY AND JUNIOR AND SUBORDINATE TO THAT CERTAIN MORTGAGE IN FAVOR OF BARNWELL PRODUCTION CREDIT ASSOCIATION, DATED JUNE 17, 1975, AND RECORDED IN BOOK 14-V, AT PAGE 196, OF THE RECORDS OF BARNWELL COUNTY.

043

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(9) To maintain improvements in good repair and make repairs required by the Government; operate the property in a good and husband-like manner; comply with such farm conservation practices and farm and home management plans as the Government from time to time may prescribe; and not to abandon the property, or cause or permit waste, lessening or impairment of the security covered hereby, or without the written consent of the Government, cut, remove, or lease any timber, gravel, oil, gas, coal, or other minerals except as may be necessary for ordinary domestic purposes.

(10) To comply with all laws, ordinances, and regulations affecting the property. **TWEE G' LICKING**

(11) To pay or reimburse the Government for expenses reasonably necessary or incidental to the protection of the lien and priority hereof and to the enforcement of or the compliance with the provisions hereof and of the note and any supplementary agreement (whether before or after default, including but not limited to costs of evidence or title to any survey of the property, costs of recording this and other instruments, attorneys' fees, trustees' fees, court costs, and expenses of advertising, selling, and conveying the property).

(12) Neither the property nor any portion thereof or interest therein shall be leased, assigned, sold, transferred, or encumbered, voluntarily or otherwise, without the written consent of the Government. The Government shall have the sole and exclusive rights as mortgagee hereunder, including but not limited to the power to grant consents, partial releases, substitutions, and satisfaction, and no insured holder shall have any right, title or interest in or to the lien or any benefits hereof.

(13) At all reasonable times the Government and its agents may inspect the property to ascertain whether the covenants and agreements contained herein or in any supplementary agreement are being performed.

(14) The Government may extend and defer the maturity of and renew and reamortize the debt evidenced by the note or any indebtedness to the Government secured hereby, release from liability to the Government any party so liable thereon, release portions of the property from and subordinate the lien hereof, and waive any other rights hereunder, without affecting the lien or priority hereof or the liability of the Government of Borrower or any other party for payment of the note or indebtedness secured hereby except as specified by the Government in writing.

(15) If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, upon the Government's request, apply for and accept such loan in sufficient amount to pay the note and any indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.

(16) Default hereunder shall constitute default under any other real estate, or under any personal property or other security instrument held or insured by the Government and executed or assumed by Borrower, and default under any such other security instrument shall constitute default hereunder.

(17) SHOULD DEFAULT occur in the performance or discharge of any obligation in this instrument or secured by this instrument, or should any one of the parties named as Borrower die or be declared an incompetent, a bankrupt, or an insolvent, or make an assignment for the benefit of creditors, the Government at its option, with or without notice, may: (a) declare the entire amount unpaid under the note and any indebtedness to the Government hereby secured immediately due and payable, (b) for the account of Borrower incur and pay reasonable expenses for repair or maintenance of and take possession of, operate or rent the property, (c) upon application by it and production of this instrument, without notice of hearing of said application, have a receiver appointed for the property, with the usual powers of receivers in like cases, (d) foreclose this instrument as provided herein or by law, and (e) enforce any and all other rights and remedies provided herein or by present or future law.

(18) The proceeds of foreclosure sale shall be applied in the following order to the payment of: (a) costs and expenses incident to enforcing or complying with the provisions hereof, (b) any prior liens required by law or a competent court to be paid, (c) the debt evidenced by the note and all indebtedness to the Government secured hereby, (d) inferior liens of record required by law or a competent court to be paid, (e) at the Government's option, any other indebtedness of Borrower owing to or insured by the Government, and (f) any balance to Borrower. At foreclosure or other sale of all or any part of the property, the Government and its agents may bid and purchase as a stranger and may pay the Government's share of the purchase price by crediting such amount on any debts of Borrower owing to or insured by the Government, in the order prescribed above.

(19) Borrower agrees that the Government will not be bound by any present or future State laws, (a) providing for valuation, appraisal, homestead or exemption of the property, (b) prohibiting maintenance of an action for a deficiency judgment or limiting the amount thereof or the time within which such action may be brought, (c) prescribing any other statute of limitations, (d) allowing any rights of redemption or rate it may charge, as a condition of approving a transfer of the property to a new Borrower. Borrower expressly waives the benefit of any such State law. Borrower hereby relinquishes, waives, and conveys all rights, inchoate or consummate, of descent, dower, and curtesy.

(20) If any part of the loan for which this instrument is given shall be used to finance the purchase, construction or repair of property to be used as an owner-occupied dwelling (herein called "the dwelling"), and if Borrower intends to sell or rent the dwelling and has obtained the Government's consent to do so (a) neither Borrower nor anyone authorized to act for him, will, after receipt of a bona fide offer, refuse to negotiate for the sale or rental of the dwelling or will otherwise make unavailable or deny the dwelling to anyone because of race, color, religion, sex or national origin, and (b) Borrower recognizes as illegal and hereby disclaims, and will not comply with or attempt to enforce any restrictive covenants on dwelling relating to race, color, religion, sex or national origin.

(21) This instrument shall be subject to the present regulations of the Farmers Home Administration, and to its future regulations not inconsistent with the express provisions hereof.

(22) Notices given hereunder shall be sent by certified mail, unless otherwise required by law, addressed, unless and until some other address is designated in a notice so given, in the case of the Government to Farmers Home Administration, United States Department of Agriculture, at Columbia, South Carolina, 29201, and in the case of Borrower to him at the address shown in the Farmers Home Administration Finance Office records (which normally will be the same as the post office address shown above).

(23) If any provision of this instrument or application thereof to any person or circumstances is held invalid, such invalidity will not affect other provisions or applications of the instrument which can be given effect without the invalid provision or application, and to that end the provisions hereof are declared to be severable.

IN WITNESS WHEREOF, Borrower has hereunto set Borrower's hand(s) and seal(s) this 26th day

of March, 1979

Signed, Sealed, and Delivered in the presence of:

[Signature]
(Witness)
[Signature]
(Witness)

045

Eddie Payton (SEAL)

070

(SEAL)

EXHIBIT 3

046

AFFIDAVIT OF SUBSCRIBING WITNESS

STATE OF SOUTH CAROLINA

COUNTY OF BARNWELLBefore me, H. Edward Smith

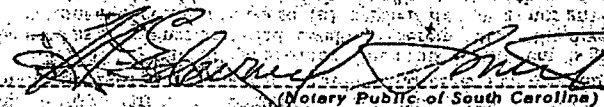
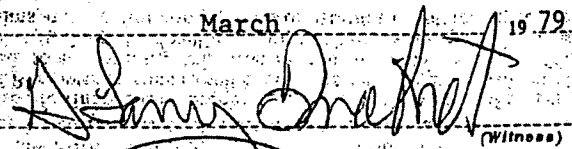
Notary Public of South Carolina, personally appeared

G. Larry Inabinet

and made oath

that he saw the within named Eddie Payron

sign, seal and

as His act and deed, deliver the within written mortgage for the uses and purposes therein mentioned, andthat he with H. Edward Smith witnessed the execution thereof, and subscribed their names as witnesser thereto.SWORN to and subscribed before me, this 22nd day of March 19 79
(Notary Public of South Carolina)
(Witness)

(SEAL)

October 13, 1982

My commission expires on

NO. **RENUNCIATION OF DOWER**
MORTGAGOR A SINGLE MAN

STATE OF SOUTH CAROLINA

COUNTY OF

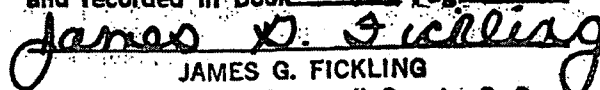
I, James G. Fickling, Notary Public of South Carolina, do hereby certify unto all whom it may concernthat Mrs. [Name], the wife of the within named [Name], did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, its successors and assigns, all her interest and estate, and also all her right and claim of dower, of, in or to all and singular the premises within mentioned and released.GIVEN under my hand and seal, this 22nd day of March, 19 79

(SEAL)

(Signature of Wife)

My commission expires on

(Notary Public of South Carolina)

I hereby certify that the within instrument was
filed for record in the office of the Clerk of
Court at 10:00 A.M. o'clock on the 28th
day of MARCH 19 79 and was duly indexed
and recorded in Book 15-X Page 041

JAMES G. FICKLING

C.C.C.P. & G.S., Barnwell County, S. C.

Position 5

USDA-FmHA
Form FmHA 427-1 SC
(Rev. 3-7-80)

REAL ESTATE MORTGAGE FOR SOUTH CAROLINA

THIS MORTGAGE is made and entered into by Eddie Payton, a/ka/ Edgar Payton

residing in BARNWELL County, South Carolina, whose post office address is
ROUTE 2, BOX 347, BARNWELL, South Carolina 29812

herein called "Borrower," and :

WHEREAS Borrower is indebted to the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, herein called the "Government," as evidenced by one or more promissory note(s) or assumption agreement(s), herein called "note," which has been executed by Borrower, is payable to the order of the Government, authorizes acceleration of the entire indebtedness at the option of the Government upon any default by Borrower, and is described as follows:

<u>Date of Instrument</u>	<u>Principal Amount</u>	<u>Annual Rate of Interest</u>	<u>Due Date of Final Installment</u>
3/26/79	\$127,130.00	3%	3/26/1999
3/26/79	43,800.00	8½%	3/26/2019
3/31/81	369,080.00	5%	3/31/1996

(If the interest rate is less than _____% for farm ownership or operating loan(s) secured by this instrument, then the rate may be changed as provided in the note.)

And the note evidences a loan to Borrower, and the Government, at any time, may assign the note and insure the payment thereof pursuant to the Consolidated Farm and Rural Development Act, or Title V of the Housing Act of 1949, or any other statutes administered by the Farmers Home Administration;

And it is the purpose and intent of this instrument that, among other things, at all times when the note is held by the Government, or in the event the Government should assign this instrument without insurance of the note, this instrument shall secure payment of the note; but when the note is held by an insured holder, this instrument shall not secure payment of the note or attach to the debt evidenced thereby, but as to the note and such debt shall constitute an indemnity mortgage to secure the Government against loss under its insurance contract by reason of any default by Borrower;

And this instrument also secures the recapture of any interest credit or subsidy which may be granted to the Borrower by the Government pursuant to 42 U.S.C. §1490a.

NOW, THEREFORE, in consideration of the loan(s) and (a) at all times when the note is held by the Government, or in the event the Government should assign this instrument without insurance of the payment of the note, to secure prompt payment of the note and any renewals and extensions thereof and any agreements contained therein, including any provision for the payment of an insurance or other charge, (b) at all times when the note is held by an insured holder, to secure performance of Borrower's agreement herein to indemnify and save harmless the Government against loss under its insurance contract by reason of any default by Borrower, and (c) in any event and at all times to secure the prompt payment of all advances and expenditures made by the Government, with interest, as hereinafter described, and the performance of every covenant and agreement of Borrower contained herein or in any supplementary agreement, Borrower does hereby grant, bargain, sell, release, and assign unto the Government, with general warranty, the following property situated in the State of

South Carolina, County(ies) of BARNWELL

"SEE ATTACHED SCHEDULE"

ADDRESS OF FARMERS HOME ADMINISTRATION: P.O. BOX 158, BARNWELL, S.C. 29812

FmHA 427-1 SC (Rev. 3-7-80)

EXHIBIT 3

EXHIBIT H 37

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together with all rights, interests, easements, hereditaments and appurtenances thereunto belonging, the rents, issues, and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the use thereof, including, but not limited to, ranges, refrigerators, clothes washers, clothes dryers, or carpeting purchased or financed in whole or in part with loan funds, all water, water rights, and water stock pertaining thereto, and all payments at any time owing to Borrower by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein-all of which are herein called "the property";

TO HAVE AND TO HOLD the property unto the Government and its assigns forever in fee simple.

BORROWER for Borrower's self, Borrower's heirs, executors, administrators, successors and assigns WARRANTS THE TITLE to the property to the Government against all lawful claims and demands whatsoever except any liens, encumbrances, easements, reservations, or conveyances specified hereinabove, and COVENANTS AND AGREES as follows:

(1) To pay promptly when due any indebtedness to the Government hereby secured and to indemnify and save harmless the Government against any loss under its insurance of payment of the note by reason of any default by Borrower. At all times when the note is held by an insured holder, Borrower shall continue to make payments on the note to the Government, as collection agent for the holder.

(2) To pay to the Government such fees and other charges as may now or hereafter be required by regulations of the Farmers Home Administration.

(3) If required by the Government, to make additional monthly payments of 1/12 of the estimated annual taxes, assessments, insurance premiums and other charges upon the mortgaged premises.

(4) Whether or not the note is insured by the Government, the Government may at any time pay any other amounts required herein to be paid by Borrower and not paid by Borrower when due, as well as any costs and expenses for the preservation, protection, or enforcement of this lien, as advances for the account of Borrower. All such advances shall bear interest at the rate borne by the note which has the highest interest rate.

(5) All advances by the Government as described by this instrument, with interest, shall be immediately due and payable by Borrower to the Government without demand at the place designated in the latest note and shall be secured hereby. No such advance by the Government shall relieve Borrower from breach of Borrower's covenant to pay. Any payment made by Borrower may be applied on the note or any indebtedness to the Government secured hereby, in any order the Government determines.

(6) To use the loan evidenced by the note solely for purposes authorized by the Government.

(7) To pay when due all taxes, liens, judgments, encumbrances, and assessments lawfully attaching to or assessed against the property, and promptly deliver to the Government without demand receipts evidencing such payments.

(8) To keep the property insured as required by and under insurance policies approved by the Government and, at its request, to deliver such policies to the Government.

(9) To maintain improvements in good repair and make repairs required by the Government; operate the property in a good and husbandmanlike manner; comply with such farm conservation practices and farm and home management plans as the Government from time to time may prescribe; and not to abandon the property, or cause or permit waste, lessening or impairment of the security covered hereby, or, without the written consent of the Government, cut, remove, or lease any timber, gravel, oil, gas, coal, or other minerals except as may be necessary for ordinary domestic purposes.

(10) To comply with all laws, ordinances, and regulations affecting the property.

TRACT NO. 1

ALL THAT CERTAIN TRACT OF LAND SITUATE, LYING AND BEING IN SEVEN PINES SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, CONTAINING 159.12 ACRES, AS SHOWN ON PLAT PREPARED BY J.J. FOY, RLS, DATED JANUARY 25, 1975, AND RECORDED IN PLAT BOOK L, AT PAGE 265, OF THE BARNWELL COUNTY RECORDS, AND BEING BOUNDED AS FOLLOWS: NORTH BY LANDS OF DR. H.W. GIBSON AND S.C. HIGHWAY NO. 20; EAST BY LANDS OF EDDIE PAYTON, LANDS OF WILLIE PAYTON, LANDS OF HATTIE MAE PAYTON AND LANDS OF ADLESE SEBASTIAN; SOUTH BY LANDS OF LUCIUS HANKINSON AND LANDS OF DR. H.W. GIBSON; AND WEST BY LANDS OF R.L. RICHARDSON AND LANDS OF DR. H.W. GIBSON. THIS IS THE SAME PROPERTY CONVEYED TO EDDIE PAYTON BY DEED OF GEOFFREY P. HULL, DATED MARCH 17, 1975, AND RECORDED ON MARCH 21, 1975, IN BOOK 14-U, PAGE 089, OF THE RECORDS OF BARNWELL COUNTY.

TRACT NO. 2

ALL THAT CERTAIN TRACT OF LAND, CONTAINING 44 ACRES, MORE OR LESS, SITUATE IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, BEING SHOWN AND DESIGNATED ON PLAT OF RECORD IN DEED BOOK 8-U, AT PAGE 443, OF THE BARNWELL COUNTY RECORDS, AND BEING BOUNDED AS FOLLOWS: NORTH BY LANDS OF MAGGIE OWENS; EAST BY LANDS OF FRED CRAWFORD; SOUTH BY LANDS OF FRED ARANT; AND WEST BY LANDS OF MOSES WILLIAMS. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF MOSES WILLIAMS, ET AL., DATED OCTOBER 1, 1971, AND RECORDED ON OCTOBER 15, 1971, IN BOOK 13-W, PAGE 161, OF THE RECORDS OF BARNWELL COUNTY.

TRACT NO. 3

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN RED OAK TOWNSHIP, BARNWELL COUNTY, SOUTH CAROLINA, CONTAINING EIGHT (8) ACRES, MORE OR LESS, AND BEING A PART OF A 44 ACRE TRACT OF LAND; SAID 44 ACRE TRACT OF LAND BEING BOUNDED AS FOLLOWS: ON THE NORTH BY PROPERTY OF ANGUS PAYTON ESTATE; ON THE EAST BY PROPERTY OF MARY BUSH MCCORMACK; ON THE SOUTH BY PROPERTY OF MCDUFFIE HANKERSON; AND ON THE WEST BY PROPERTY OF LOUISE P. LIGHTSEY. THIS IS THE SAME PROPERTY CONVEYED TO EDDIE PAYTON BY DEED OF DAVID PAYTON, DATED AUGUST 28, 1972, AND RECORDED ON SEPTEMBER 1, 1972, IN BOOK 14-A, PAGE 179, OF THE BARNWELL COUNTY RECORDS.

TRACT NO. 4

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN RED OAK TOWNSHIP, BARNWELL COUNTY, SOUTH CAROLINA, CONTAINING EIGHT (8) ACRES, MORE OR LESS, AND BEING A PART OF A 44 ACRE TRACT OF LAND; SAID 44 ACRE TRACT OF LAND BEING BOUNDED AS FOLLOWS: ON THE NORTH BY PROPERTY OF ANGUS PAYTON ESTATE; ON THE EAST BY PROPERTY OF MARY BUSH MCCORMACK; ON THE SOUTH BY PROPERTY OF MCDUFFIE HANKERSON; AND ON THE WEST BY PROPERTY OF LOUISE P. LIGHTSEY. THIS IS THE SAME PROPERTY CONVEYED TO EDDIE PAYTON BY DEED OF THELMA PAYTON BRADLEY, DATED FEBRUARY 8, 1973, AND RECORDED ON FEBRUARY 9, 1973 IN BOOK 14-D, PAGE 139 OF THE BARNWELL COUNTY RECORDS.

TRACT NO. 5

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN THE STATE OF SOUTH CAROLINA, COUNTY OF BARNWELL, IN THE RED OAK TOWNSHIP, CONTAINING 47.9 ACRES, MORE OR LESS, AND BOUNDED ON THE NORTH BY LANDS OF BLANCHE P. HARRIS; ON THE EAST BY LANDS OF ANGUS PAYTON ESTATE; ON THE SOUTH BY LANDS OF ANGUS PAYTON ESTATE; AND ON THE WEST BY LAND OF LOUISE P. LIGHTSEY. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF LOTTEE PAYTON, DATED SEPTEMBER 12, 1972, AND RECORDED ON SEPTEMBER 14, 1972 IN BOOK 14-A, PAGE 215, OF THE BARNWELL COUNTY RECORDS.

TRACT NO. 6

ALL THAT CERTAIN TRACT OF LAND, WITH IMPROVEMENTS THEREON, SITUATE IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, CONTAINING 93 ACRES, MORE OR LESS, AND BEING BOUNDED, NOW OR FORMERLY, AS FOLLOWS: NORTH BY LANDS OF J.B. MORRIS AND LANDS OF LEON TOBIN; EAST BY LANDS OF H.W. SANDERS; SOUTH BY LANDS OF H.W. SANDERS; AND WEST BY LANDS OF RUBY SNELLING AND A PUBLIC ROAD SEPARATING SAID TRACT FROM LANDS OF JOSHUA SANDERS, SAID TRACT BEING MORE PARTICULARLY DESCRIBED ON A PLAT MADE BY J.B. ELLIS, DATED OCTOBER 20, 1933, AND RECORDED IN PLAT BOOK A, AT PAGE 4, OF THE BARNWELL COUNTY RECORDS. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF CLOTTEE PAYTON, DATED AUGUST 30, 1972, AND RECORDED ON AUGUST 30, 1972, IN BOOK 14-A, AT PAGE 174, OF THE BARNWELL COUNTY RECORDS.

TRACT NO. 7

ALL THAT CERTAIN TRACT OF LAND SITUATE, LYING AND BEING IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, CONTAINING 19.07 ACRES, MORE OR LESS, AND BEING BOUNDED, NOW OR FORMERLY, AS FOLLOWS: NORTH BY LANDS OF MOSES WILLIAMS; EAST BY LANDS OF ESTELLE WEATHERSBY; SOUTH BY LANDS OF EDGAR PAYTON; AND WEST BY LANDS OF THE ESTATE OF JULY SANDERS. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF MOSES WILLIAMS, DATED JANUARY 20, 1975, AND RECORDED ON JANUARY 21, 1975, IN BOOK 14-R, PAGE 481, OF THE BARNWELL COUNTY RECORDS.

TRACT NO. 8

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND, CONTAINING 69.7 ACRES, AND BEING KNOWN AS TRACT NO. 7, OF THE PARTITION OF THE RANSOME SNELLING ESTATE, SITUATE, LYING AND BEING IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA; SAID TRACT BEING BOUNDED, NOW OR FORMERLY, AND MEASURING AS FOLLOWS: NORTH BY LANDS OF C.R. SNELLING, BEING KNOWN AS TRACT NO. 6 OF THE RANSOME SNELLING ESTATE, AND MEASURING THEREON 1900 FEET; EAST BY LANDS OF THE ESTATE OF HARRY SIMS AND MEASURING THEREON 1660 FEET; SOUTH BY LANDS OF MOLAIR AND MEASURING THEREON 2508 FEET; AND WEST BY LANDS OF THE ESTATE OF SAM WILLIAMS AND MEASURING THEREON 1420 FEET. SAID TRACT OF LAND BEING MORE FULLY SHOWN AND DESCRIBED ON A PLAT OF THE ESTATE LANDS OF RANSOME SNELLING PREPARED BY E.G. HAY, RLS, DATED AUGUST, 1955, AND RECORDED IN BUNDLE 585, PACKAGE 16, OF THE RECORDS IN THE OFFICE OF THE CLERK OF COURT FOR BARNWELL COUNTY; ALL OF WHICH WILL MORE FULLY APPEAR BY REFERENCE TO THE AFOREMENTIONED PLAT INCORPORATED HEREIN AND MADE A PART OF THIS DESCRIPTION.

BEING THE SAME PREMISES CONVEYED TO EDDIE PAYTON BY DEED OF THEODORE SNELLING AND MARIE MORRIS, DATED SEPTEMBER 20, 1979, AND RECORDED SEPTEMBER 20, 1979, IN DEED BOOK 16-B, AT PAGE 311 WITH THE CLERK OF COURT FOR BARNWELL COUNTY.

THIS MORTGAGE, AS TO TRACT NO. 8, IS A FIRST LIEN.

THIS MORTGAGE, IS FIFTH IN PRIORITY AS TO TRACTS 1, 2, 4, 5, 6 AND 7 AND FOURTH IN PRIORITY AS TO TRACT NO. 3, TRACTS 1-7 BEING SUBJECT TO THE FOLLOWING MORTGAGES: TRACT NO. 1 AND TRACT NO. 5 BEING SUBJECT TO A MORTGAGE FROM EDDIE PAYTON, TO FEDERAL LAND BANK OF COLUMBIA, DATED MARCH 21, 1975, RECORDED MARCH 21, 1975 IN MORTGAGE BOOK 14-Q, AT PAGE 481, WITH THE CLERK OF COURT FOR BARNWELL COUNTY; TRACTS NO. 1, 2, 4, 5, 6 AND 7 BEING SUBJECT TO A MORTGAGE TO BARNWELL PRODUCTION CREDIT ASSOCIATION, DATED JUNE 17, 1975, RECORDED JULY 2, 1975 IN MORTGAGE BOOK 14-V, AT PAGE 196 WITH THE CLERK OF COURT FOR BARNWELL COUNTY; TRACTS NOS. 1, 2, 3, 4, 5, 6, AND 7 BEING SUBJECT TO A MORTGAGE TO ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION, DATED NOVEMBER 2, 1977, RECORDED NOVEMBER 4, 1977 IN MORTGAGE BOOK 15-K, AT PAGE 607, WITH THE CLERK OF COURT FOR BARNWELL COUNTY. SAID MORTGAGE BEING SUBORDINATED TO SUBSEQUENT MORTGAGE OF FARMERS HOME ADMINISTRATION, NOT TO EXCEED AN AMOUNT OF ONE HUNDRED SEVENTY THOUSAND NINE HUNDRED THIRTY (\$170,930.00) DOLLARS, SAID SUBORDINATION FILED FOR RECORD IN BOOK 15-O, AT PAGE 366, ON MARCH 28, 1979 WITH THE CLERK OF COURT FOR BARNWELL COUNTY; TRACTS NO. 1, 2, 3, 4, 5, 6 AND 7 BEING SUBJECT TO A MORTGAGE TO FARMERS HOME ADMINISTRATION, DATED MARCH 26, 1979, RECORDED MARCH 28, 1979 IN MORTGAGE BOOK 15-X, AT PAGE 041, WITH THE CLERK OF COURT FOR BARNWELL COUNTY.

(11) To pay or reimburse the Government for expenses reasonably necessary or incidental to the protection of the lien and priority hereof and to the enforcement of or the compliance with the provisions hereof and of the note and any supplementary agreement (whether before or after default), including but not limited to costs of evidence of title to and survey of the property, costs of recording this and other instruments, attorneys' fees, trustees' fees, court costs, and expenses of advertising, selling, and conveying the property.

(12) Neither the property nor any portion thereof or interest therein shall be leased, assigned, sold, transferred, or encumbered voluntarily or otherwise, without the written consent of the Government. The Government shall have the sole and exclusive rights as mortgagee hereunder, including but not limited to the power to grant consents, partial releases, subordinations, and satisfaction, and no insured holder shall have any right, title or interest in or to the lien or any benefits hereof.

(13) At all reasonable times the Government and its agents may inspect the property to ascertain whether the covenants and agreements contained herein or in any supplementary agreement are being performed.

(14) The Government may (a) extend or defer the maturity of, and renew and reschedule the payments on, the debt evidenced by the note or any indebtedness to the Government secured by this instrument, (b) release any party who is liable for the debt from the liability to the Government, (c) release portions of the property and subordinate its lien, and (d) waive any other of its rights under this instrument. Any and all this can and will be done without affecting the lien or the priority of this instrument or Borrower's or any other party's liability to the Government for payment of the note or debt secured by this instrument unless the Government says otherwise in writing. HOWEVER, any forbearance by the Government—whether once or often—in exercising any right or remedy under this instrument, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

(15) If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will upon the Government's request, apply for and accept such loan in sufficient amount to pay the note and any indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.

(16) Default hereunder shall constitute default under any other real estate, or under any personal property, or other security instrument held or insured by the Government and executed or assumed by Borrower, and default under any such other security instrument shall constitute default hereunder.

(17) SHOULD DEFAULT occur in the performance or discharge of any obligation in this instrument or secured by this instrument, or should the parties named as Borrower die or be declared incompetent, or should any one of the parties named as Borrower be declared a bankrupt or an insolvent, or make an assignment for the benefit of creditors, the Government, at its option, with or without notice, may: (a) declare the entire amount unpaid under the note and any indebtedness to the Government hereby secured immediately due and payable, (b) for the account of Borrower incur and pay reasonable expenses for repair or maintenance of and take possession of, operate or rent the property, (c) upon application by it and production of this instrument, without other evidence and without notice of hearing of said application, have a receiver appointed for the property, with the usual powers of receivers in like cases, (d) foreclose this instrument as provided herein or by law, and (e) enforce any and all other rights and remedies provided herein or by present or future laws.

(18) The proceeds of foreclosure sale shall be applied in the following order to the payment of: (a) costs and expenses incident to enforcing or complying with the provisions hereof, (b) any prior liens required by law or a competent court to be so paid, (c) the debt evidenced by the note and all indebtedness to the Government secured hereby, (d) inferior liens of record required by law or a competent court to be so paid, (e) at the Government's option, any other indebtedness of Borrower owing to or insured by the Government, and (f) any balance to Borrower. At foreclosure or other sale of all or any part of the property, the Government and its agents may bid and purchase as a stranger and may pay the Government's share of the purchase price by crediting such amount on any debts of Borrower owing to or insured by the Government, in the order prescribed above.

(19) Borrower agrees that the Government will not be bound by any present or future State laws, (a) providing for valuation, appraisal, homestead or exemption of the property, (b) prohibiting maintenance of an action for a deficiency judgment or limiting the amount thereof or the time within which such action may be brought, (c) prescribing any other statute of limitations, (d) allowing any rights of redemption or possession following any foreclosure sale, or (e) limiting the conditions which the Government may by regulation impose, including the interest rate it may charge, as a condition of approving a transfer of the property to a new Borrower. Borrower expressly waives the benefit of any such State law. Borrower hereby relinquishes, waives, and conveys all rights, inchoate or consummate, of descent and dower.

(20) If any part of the loan for which this instrument is given shall be used to finance the purchase, construction or repair of property to be used as an owner-occupied dwelling (herein called "the dwelling") and if Borrower intends to sell or rent the dwelling and has obtained the Government's consent to do so (a) neither Borrower nor anyone authorized to act for Borrower will, after receipt of a bona fide offer, refuse to negotiate for the sale or rental of the dwelling or will otherwise make unavailable or deny the dwelling to anyone because of race, color, religion, sex or national origin, and (b) Borrower recognizes as illegal and hereby disclaims, and will not comply with or attempt to enforce any restrictive covenants on the dwelling relating to race, color, religion, sex or national origin.

(21) This instrument shall be subject to the present regulations of the Farmers Home Administration, and to its future regulations not inconsistent with the express provisions hereof.

(22) Notices given hereunder shall be sent by certified mail, unless otherwise required by law, and addressed, unless and until some other address is designated in a notice so given, in the case of the Government to Farmers Home Administration at Columbia, South Carolina 29201, and in the case of Borrower at the address shown in the Farmers Home Administration Finance Office records (which normally will be the same as the post office address shown above).

(23) If any provision of this instrument or application thereof to any person or circumstances is held invalid, such invalidity will not affect other provisions or applications of the instrument which can be given effect without the invalid provision or application, and to that end the provisions hereof are declared to be severable.

IN WITNESS WHEREOF, Borrower has hereunto set Borrower's hand(s) and seal(s) this 31st day

of March, 19 81

Signed, Sealed, and Delivered in the presence of:

Rexford S. Murphy
(Witness)
George J. Mahan
(Witness)

Eddie Payton
EDDIE PAYTON, a/k/a EDGAR PAYTON (SEAL)

(SEAL)

AFFIDAVIT OF SUBSCRIBING WITNESS

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STATE OF SOUTH CAROLINA)
) ss:
COUNTY OF BARNWELL)

Before me, GEORGE L. INABINET, Notary Public of South Carolina, personally appeared

PENNY D. MURPHY

and made oath that S he saw the within named EDDIE PAYTON, a/k/a EDGAR PAYTON sign, seal and as HIS act and deed, deliver the within written mortgage for the uses and purposes therein mentioned, and that S he with GEORGE L. INABINET witnessed the execution thereof, and subscribed their names as witness thereto.

SWORN to and subscribed before me, this 31st day of MARCH, 19 81.

George L. Inabinet
(Notary Public of South Carolina)
(SEAL)

Penny D. Murphy
(Witness)

My commission expires on 1/16/91

NO RENUNCIATION OF DOWER
MORTGAGOR A SINGLE MAN

STATE OF SOUTH CAROLINA)
) ss:
COUNTY OF BARNWELL)

I, GEORGE L. INABINET, Notary Public of South Carolina, do hereby certify unto all whom it may concern that Mrs. _____, the wife of the within named _____, did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, its successors and assigns, all her interest and estate, and also all her right and claim of dower, of, in or to all and singular the premises within mentioned and released.

GIVEN under my hand and seal, this _____ day of _____, 19 ____.

(SEAL)

My commission expires on _____

George L. Inabinet
(Signature of Wife)
(Notary Public of South Carolina)

I hereby certify that the within instrument was filed for record in the office of the Clerk of Court at 12:05 P M o'clock on the 31st day of MARCH 1981 and was duly indexed and recorded in Book 16-N Page 231

James G. Fickling
JAMES G. FICKLING
S.C.C.P. & G.S., Barnwell County, S.

Position 5

USDA-FmHA
Form FmHA 427-1 SC
(Rev. 3-7-80)

REAL ESTATE MORTGAGE FOR SOUTH CAROLINA

THIS MORTGAGE is made and entered into by EDDIE PAYTON, a/k/a/ EDGAR PAYTON

residing in BARNWELL County, South Carolina, whose post office address is
Rt. 2, Box 347, Barnwell, South Carolina 29812
herein called "Borrower," and :

WHEREAS Borrower is indebted to the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, herein called the "Government," as evidenced by one or more promissory note(s) or assumption agreement(s), herein called "note," which has been executed by Borrower, is payable to the order of the Government, authorizes acceleration of the entire indebtedness at the option of the Government upon any default by Borrower, and is described as follows:

<u>Date of Instrument</u>	<u>Principal Amount</u>	<u>Annual Rate of Interest</u>	<u>Due Date of Final Installment</u>
3-26-79	\$127,130.00 ⁰⁶	3%	3-26-1999
3-26-79	43,800.00 ⁰²	8½	3-26-2019
3-31-81	369,080.00 ⁰⁰	5	3-31-1996
4-15-82	237,900.00 ⁰⁴	16	1-1-1983

(If the interest rate is less than _____% for farm ownership or operating loan(s) secured by this instrument, then the rate may be changed as provided in the note.)

And the note evidences a loan to Borrower, and the Government, at any time, may assign the note and insure the payment thereof pursuant to the Consolidated Farm and Rural Development Act, or Title V of the Housing Act of 1949, or any other statutes administered by the Farmers Home Administration;

And it is the purpose and intent of this instrument that, among other things, at all times when the note is held by the Government, or in the event the Government should assign this instrument without insurance of the note, this instrument shall secure payment of the note; but when the note is held by an insured holder, this instrument shall not secure payment of the note or attach to the debt evidenced thereby, but as to the note and such debt shall constitute an indemnity mortgage to secure the Government against loss under its insurance contract by reason of any default by Borrower;

And this instrument also secures the recapture of any interest credit or subsidy which may be granted to the Borrower by the Government pursuant to 42 U.S.C. §1490a.

NOW, THEREFORE, in consideration of the loan(s) and (a) at all times when the note is held by the Government, or in the event the Government should assign this instrument without insurance of the payment of the note, to secure prompt payment of the note and any renewals and extensions thereof and any agreements contained therein, including any provision for the payment of an insurance or other charge, (b) at all times when the note is held by an insured holder, to secure performance of Borrower's agreement herein to indemnify and save harmless the Government against loss under its insurance contract by reason of any default by Borrower, and (c) in any event and at all times to secure the prompt payment of all advances and expenditures made by the Government, with interest, as hereinafter described, and the performance of every covenant and agreement of Borrower contained herein or in any supplementary agreement, Borrower does hereby grant, bargain, sell, release, and assign unto the Government, with general warranty, the following property situated in the State of

South Carolina, County(ies) of Barnwell

"See attached schedule"

Address of Farmers Home Administration: P. O. Box 158, Barnwell SC 29812

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EXHIBIT I

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together with all rights, interests, easements, hereditaments and appurtenances thereunto belonging, the rents, issues, and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the use thereof, including, but not limited to, ranges, refrigerators, clothes washers, clothes dryers, or carpeting purchased or financed in whole or in part with loan funds, all water, water rights, and water stock pertaining thereto, and all payments at any time owing to Borrower by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein-all of which are herein called "the property";

TO HAVE AND TO HOLD the property unto the Government and its assigns forever in fee simple.

BORROWER for Borrower's self, Borrower's heirs, executors, administrators, successors and assigns WARRANTS THE TITLE to the property to the Government against all lawful claims and demands whatsoever except any liens, encumbrances, easements, reservations, or conveyances specified hereinabove, and COVENANTS AND AGREES as follows:

(1) To pay promptly when due any indebtedness to the Government hereby secured and to indemnify and save harmless the Government against any loss under its insurance of payment of the note by reason of any default by Borrower. At all times when the note is held by an insured holder, Borrower shall continue to make payments on the note to the Government, as collection agent for the holder.

(2) To pay to the Government such fees and other charges as may now or hereafter be required by regulations of the Farmers Home Administration.

(3) If required by the Government, to make additional monthly payments of 1/12 of the estimated annual taxes, assessments, insurance premiums and other charges upon the mortgaged premises.

(4) Whether or not the note is insured by the Government, the Government may at any time pay any other amounts required herein to be paid by Borrower and not paid by Borrower when due, as well as any costs and expenses for the preservation, protection, or enforcement of this lien, as advances for the account of Borrower. All such advances shall bear interest at the rate borne by the note which has the highest interest rate.

(5) All advances by the Government as described by this instrument, with interest, shall be immediately due and payable by Borrower to the Government without demand at the place designated in the latest note and shall be secured hereby. No such advance by the Government shall relieve Borrower from breach of Borrower's covenant to pay. Any payment made by Borrower may be applied on the note or any indebtedness to the Government secured hereby, in any order the Government determines.

(6) To use the loan evidenced by the note solely for purposes authorized by the Government.

(7) To pay when due all taxes, liens, judgments, encumbrances, and assessments lawfully attaching to or assessed against the property, and promptly deliver to the Government without demand receipts evidencing such payments.

(8) To keep the property insured as required by and under insurance policies approved by the Government and, at its request, to deliver such policies to the Government.

(9) To maintain improvements in good repair and make repairs required by the Government; operate the property in a good and husbandmanlike manner; comply with such farm conservation practices and farm and home management plans as the Government from time to time may prescribe; and not to abandon the property, or cause or permit waste, lessening or impairment of the security covered hereby, or, without the written consent of the Government, cut, remove, or lease any timber, gravel, oil, gas, coal, or other minerals except as may be necessary for ordinary domestic purposes.

(10) To comply with all laws, ordinances, and regulations affecting the property.

EXHIBIT 3

TRACT NO. 1

✓ ALL THAT CERTAIN TRACT OF LAND SITUATE, LYING AND BEING IN SEVEN PINES SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, CONTAINING 159.12 ACRES, AS SHOWN ON PLAT PREPARED BY J.J. FOY, RLS, DATED JANUARY 25, 1975, AND RECORDED IN PLAT BOOK L, AT PAGE 265, OF THE BARNWELL COUNTY RECORDS, AND BEING BOUNDED AS FOLLOWS: NORTH BY LANDS OF DR. H.W. GIBSON AND S.C. HIGHWAY NO. 20; EAST BY LANDS OF EDDIE PAYTON, LANDS OF WILLIE PAYTON, LANDS OF HATTIE MAE PAYTON AND LANDS OF ADLESE SEBASTIAN; SOUTH BY LANDS OF LUCIUS HANKINSON AND LANDS OF DR. H.W. GIBSON; AND WEST BY LANDS OF R.L. RICHARDSON AND LANDS OF DR. H.W. GIBSON. THIS IS THE SAME PROPERTY CONVEYED TO EDDIE PAYTON BY DEED OF GEOFFREY P. HULL, DATED MARCH 17, 1975, AND RECORDED ON MARCH 21, 1975, IN BOOK 14-U, PAGE 089, OF THE RECORDS OF BARNWELL COUNTY. E.P.

TRACT NO. 2

✓ ALL THAT CERTAIN TRACT OF LAND, CONTAINING 44 ACRES, MORE OR LESS, SITUATE IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, BEING SHOWN AND DESIGNATED ON PLAT OF RECORD IN DEED BOOK 8-U, AT PAGE 443, OF THE BARNWELL COUNTY RECORDS, AND BEING BOUNDED AS FOLLOWS: NORTH BY LANDS OF MAGGIE OWENS; EAST BY LANDS OF FRED CRAWFORD; SOUTH BY LANDS OF FRED ARANT; AND WEST BY LANDS OF MOSES WILLIAMS. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF MOSES WILLIAMS, ET AL., DATED OCTOBER 1, 1971, AND RECORDED ON OCTOBER 15, 1971, IN BOOK 13-W, PAGE 161, OF THE RECORDS OF BARNWELL COUNTY. E.P.

TRACT NO. 3

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN RED OAK TOWNSHIP, BARNWELL COUNTY, SOUTH CAROLINA, CONTAINING EIGHT (8) ACRES, MORE OR LESS, AND BEING A PART OF A 44 ACRE TRACT OF LAND; SAID 44 ACRE TRACT OF LAND BEING BOUNDED AS FOLLOWS: ON THE NORTH BY PROPERTY OF ANGUS PAYTON ESTATE; ON THE EAST BY PROPERTY OF MARY BUSH MCCORMACK; ON THE SOUTH BY PROPERTY OF MCDUFFIE HANKERSON; AND ON THE WEST BY PROPERTY OF LOUISE P. LIGHTSEY. THIS IS THE SAME PROPERTY CONVEYED TO EDDIE PAYTON BY DEED OF DAVID PAYTON, DATED AUGUST 28, 1972, AND RECORDED ON SEPTEMBER 1, 1972, IN BOOK 14-A, PAGE 179, OF THE BARNWELL COUNTY RECORDS. E.P.

TRACT NO. 4

✓ ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN RED OAK TOWNSHIP, BARNWELL COUNTY, SOUTH CAROLINA, CONTAINING EIGHT (8) ACRES, MORE OR LESS, AND BEING A PART OF A 44 ACRE TRACT OF LAND; SAID 44 ACRE TRACT OF LAND BEING BOUNDED AS FOLLOWS: ON THE NORTH BY PROPERTY OF ANGUS PAYTON ESTATE; ON THE EAST BY PROPERTY OF MARY BUSH MCCORMACK; ON THE SOUTH BY PROPERTY OF MCDUFFIE HANKERSON; AND ON THE WEST BY PROPERTY OF LOUISE P. LIGHTSEY. THIS IS THE SAME PROPERTY CONVEYED TO EDDIE PAYTON BY DEED OF THELMA PAYTON BRADLEY, DATED FEBRUARY 8, 1973, AND RECORDED ON FEBRUARY 9, 1973 IN BOOK 14-D, PAGE 139 OF THE BARNWELL COUNTY RECORDS. E.P.

TRACT NO. 5

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN THE STATE OF SOUTH CAROLINA, COUNTY OF BARNWELL, IN THE RED OAK TOWNSHIP, CONTAINING 47.9 ACRES, MORE OR LESS, AND BOUNDED ON THE NORTH BY LANDS OF BLANCHE P. HARRIS; ON THE EAST BY LANDS OF ANGUS PAYTON ESTATE; ON THE SOUTH BY LANDS OF ANGUS PAYTON ESTATE; AND ON THE WEST BY LAND OF LOUISE P. LIGHTSEY. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF LOTTEE PAYTON, DATED SEPTEMBER 12, 1972, AND RECORDED ON SEPTEMBER 14, 1972 IN BOOK 14-A, PAGE 215, OF THE BARNWELL COUNTY RECORDS, E.P.

TRACT NO. 6

ALL THAT CERTAIN TRACT OF LAND, WITH IMPROVEMENTS THEREON, SITUATE IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, CONTAINING 93 ACRES, MORE OR LESS, AND BEING BOUNDED, NOW OR FORMERLY, AS FOLLOWS: NORTH BY LANDS OF J.B. MORRIS AND LANDS OF LEON TOBIN; EAST BY LANDS OF H.W. SANDERS; SOUTH BY LANDS OF H.W. SANDERS; AND WEST BY LANDS OF RUBY SNELLING AND A PUBLIC ROAD SEPARATING SAID TRACT FROM LANDS OF JOSHUA SANDERS, SAID TRACT BEING MORE PARTICULARLY DESCRIBED ON A PLAT MADE BY J.B. ELLIS, DATED OCTOBER 20, 1933, AND RECORDED IN PLAT BOOK A, AT PAGE 4, OF THE BARNWELL COUNTY RECORDS. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF CLOTTEE PAYTON, DATED AUGUST 30, 1972, AND RECORDED ON AUGUST 30, 1972, IN BOOK 14-A, AT PAGE 174, OF THE BARNWELL COUNTY RECORDS. E.P.

TRACT NO. 7

ALL THAT CERTAIN TRACT OF LAND SITUATE, LYING AND BEING IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, CONTAINING 19.07 ACRES, MORE OR LESS, AND BEING BOUNDED, NOW OR FORMERLY, AS FOLLOWS: NORTH BY LANDS OF MOSES WILLIAMS; EAST BY LANDS OF ESTELLE WEATHERSBY; SOUTH BY LANDS OF EDGAR PAYTON; AND WEST BY LANDS OF THE ESTATE OF JULY SANDERS. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF MOSES WILLIAMS, DATED JANUARY 20, 1975, AND RECORDED ON JANUARY 21, 1975, IN BOOK 14-R, PAGE 481, OF THE BARNWELL COUNTY RECORDS, E.P.

TRACT NO. 8

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND, CONTAINING 69.7 ACRES, AND BEING KNOWN AS TRACT NO. 7, OF THE PARTITION OF THE RANSOME SNELLING ESTATE, SITUATE, LYING AND BEING IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA; SAID TRACT BEING BOUNDED, NOW OR FORMERLY, AND MEASURING AS FOLLOWS: NORTH BY LANDS OF C.R. SNELLING, BEING KNOWN AS TRACT NO. 6 OF THE RANSOME SNELLING ESTATE, AND MEASURING THEREON 1900 FEET; EAST BY LANDS OF THE ESTATE OF HARRY SIMS AND MEASURING THEREON 1660 FEET; SOUTH BY LANDS OF MOLAIR AND MEASURING THEREON 2500 FEET; AND WEST BY LANDS OF THE ESTATE OF SAM WILLIAMS AND MEASURING THEREON 1420 FEET. SAID TRACT OF LAND BEING MORE FULLY SHOWN AND DESCRIBED ON A PLAT OF THE ESTATE LANDS OF RANSOME SNELLING PREPARED BY E.G. HAY, JR., DATED AUGUST, 1955, AND RECORDED IN BUNDLE 585, PACKAGE 16, OF THE RECORDS IN THE OFFICE OF THE CLERK OF COURT FOR BARNWELL COUNTY; ALL OF WHICH WILL MORE FULLY APPEAR BY REFERENCE TO THE AFOREMENTIONED PLAT INCORPORATED HEREIN AND MADE A PART OF THIS DESCRIPTION.

BEING THE SAME PREMISES CONVEYED TO EDDIE PAYTON BY DEED OF THEODORE SNELLING AND MARIE MORRIS, DATED SEPTEMBER 20, 1979, AND RECORDED SEPTEMBER 20, 1979, IN DEED BOOK 16-B, AT PAGE 311 WITH THE CLERK OF COURT FOR BARNWELL COUNTY.

THIS MORTGAGE, AS TO TRACT NO. 8, IS A SECOND LIEN.

THIS MORTGAGE, IS SIXTH IN PRIORITY AS TO TRACTS 1, 2, 4, 5, 6, and 7 AND FIFTH IN PRIORITY AS TO TRACT NO. 3.

(11) To pay or reimburse the Government for expenses reasonably necessary or incidental to the protection of the lien and priority hereof and to the enforcement of the provisions hereof and of the note and any supplementary agreement (whether before or after default), including but not limited to costs of evidence of title and survey of the property, costs of recording this and other instruments, attorneys' fees, trustees' fees, court costs, and expenses of advertising, selling, and conveying the property.

(12) Neither the property nor any portion thereof or interest therein shall be leased, assigned, sold, transferred, or encumbered voluntarily or otherwise, without the written consent of the Government. The Government shall have the sole and exclusive rights as mortgagee hereunder, including but not limited to the power to grant consents, partial releases, subordinations, and satisfaction, and no insured holder shall have any right, title or interest in or to the lien or any benefits hereof.

(13) At all reasonable times the Government and its agents may inspect the property to ascertain whether the covenants and agreements contained herein or in any supplementary agreement are being performed.

(14) The Government may (a) extend or defer the maturity of, and renew and reschedule the payments on, the debt evidenced by the note or any indebtedness to the Government secured by this instrument, (b) release any party who is liable under the note or for the debt from liability to the Government, (c) release portions of the property and subordinate its lien, and (d) waive any other of its rights under this instrument. Any and all this can and will be done without affecting the lien or the priority of this instrument or Borrower's or any other party's liability to the Government for payment of the note or debt secured by this instrument unless the Government says otherwise in writing. HOWEVER, any forbearance by the Government—whether once or often—in exercising any right or remedy under this instrument, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

(15) If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will upon the Government's request, apply for and accept such loan in sufficient amount to pay the note and any indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.

(16) Default hereunder shall constitute default under any other real estate, or under any personal property, or other security instrument held or insured by the Government and executed or assumed by Borrower, and default under any such other security instrument shall constitute default hereunder.

(17) SHOULD DEFAULT occur in the performance or discharge of any obligation in this instrument or secured by this instrument, or should the parties named as Borrower die or be declared incompetent, or should any one of the parties named as Borrower be declared bankrupt or an insolvent, or make an assignment for the benefit of creditors, the Government, at its option, with or without notice, may: (a) declare the entire amount unpaid under the note and any indebtedness to the Government hereby secured immediately due and payable, (b) for the account of Borrower incur and pay reasonable expenses for repair or maintenance of and take possession of, operate or rent the property, (c) upon application by it and production of this instrument, without other evidence and without notice of hearing of said application, have a receiver appointed for the property, with the usual powers of receivers in like cases, (d) foreclose this instrument as provided herein or by law, and (e) enforce any and all other rights and remedies provided herein or by present or future laws.

(18) The proceeds of foreclosure sale shall be applied in the following order to the payment of: (a) costs and expenses incident to enforcing or complying with the provisions hereof, (b) any prior liens required by law or a competent court to be so paid, (c) the debt evidenced by the note and all indebtedness to the Government secured hereby, (d) inferior liens of record required by law or a competent court to be so paid, (e) at the Government's option, any other indebtedness of Borrower owing to or insured by the Government, and (f) any balance to Borrower. At foreclosure or other sale of all or any part of the property, the Government and its agents may bid and purchase as a stranger and may pay the Government's share of the purchase price by crediting such amount on any debts of Borrower owing to or insured by the Government, in the order prescribed above.

(19) Borrower agrees that the Government will not be bound by any present or future State laws, (a) providing for valuation, appraisal, homestead or exemption of the property, (b) prohibiting maintenance of an action for a deficiency judgment or limiting the amount thereof or the time within which such action may be brought, (c) prescribing any other statute of limitations, (d) allowing any rights of redemption or possession following any foreclosure sale, or (e) limiting the conditions which the Government may by regulation impose, including the interest rate it may charge, as a condition of approving a transfer of the property to a new Borrower. Borrower expressly waives the benefit of any such State law. Borrower hereby relinquishes, waives, and conveys all rights, inchoate or consummate, of descent and dower.

(20) If any part of the loan for which this instrument is given shall be used to finance the purchase, construction or repair of property to be used as an owner-occupied dwelling (herein called "the dwelling") and if Borrower intends to sell or rent the dwelling and has obtained the Government's consent to do so (a) neither Borrower nor anyone authorized to act for Borrower will, after receipt of a bona fide offer, refuse to negotiate for the sale or rental of the dwelling or will otherwise make unavailable or deny the dwelling to anyone because of race, color, religion, sex or national origin, and (b) Borrower recognizes as illegal and hereby disclaims, and will not comply with or attempt to enforce any restrictive covenants on the dwelling relating to race, color, religion, sex or national origin.

(21) This instrument shall be subject to the present regulations of the Farmers Home Administration, and to its future regulations not inconsistent with the express provisions hereof.

(22) Notices given hereunder shall be sent by certified mail, unless otherwise required by law, and addressed, unless and until some other address is designated in a notice so given, in the case of the Government to Farmers Home Administration at Columbia, South Carolina 29201, and in the case of Borrower at the address shown in the Farmers Home Administration Finance Office records (which normally will be the same as the post office address shown above).

(23) If any provision of this instrument or application thereof to any person or circumstances is held invalid, such invalidity will not affect other provisions or applications of the instrument which can be given effect without the invalid provision or application, and to that end the provisions hereof are declared to be severable.

IN WITNESS WHEREOF, Borrower has hereunto set Borrower's hand(s) and seal(s) this 15th day

of April, 19 82

Signed, Sealed, and Delivered in the presence of:

Nancy M. Elroy

(Witness)

Eddie Payton

(SEAL)

Edaine D. Smith

(Witness)

(SEAL)

AFFIDAVIT OF SUBSCRIBING WITNESS

STATE OF SOUTH CAROLINA)

COUNTY OF Barnwell) ss:Before me, Elaine F. Surles

, Notary Public of South Carolina, personally appeared

Nancy L. McElroy

and made oath

that S he saw the within named Eddie Payton, a/k/a/ Edgar Payton

sign, seal and

as his

act and deed, deliver the within written mortgage for the uses and purposes therein mentioned, and

that S he with Elaine F. Surles witnessed the execution thereof, and subscribed their names as witnesser thereto.SWORN to and subscribed before me, this 15th day of April, 19 82.Elaine F. Surles

(Notary Public of South Carolina)

(SEAL)

Nancy L. McElroy

(Witness)

My commission expires on 7-31-91

RENUNCIATION OF DOWER

STATE OF SOUTH CAROLINA)

COUNTY OF _____) ss:

I, _____, Notary Public of South Carolina, do hereby certify unto all whom it may concern that Mrs. _____, the wife of the within named _____

did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, its successors and assigns, all her interest and estate, and also all her right and claim of dower, of, in or to all and singular the premises within mentioned and released.

GIVEN under my hand and seal, this _____ day of _____, 19 ____.

(SEAL)

(Signature of Wife)

My commission expires on _____

(Notary Public of South Carolina)

Recorded this 15th day of April
19 82, at 11:39 A M, in
Book 16-5 Page 739James G. Fickling
James G. Fickling
Clerk of Court, Barnwell County, SCFILED FOR RECORD
1982 APR 15 AM 11:39JAMES G. FICKLING
CLERK OF COURT
BARNWELL CO. S.C.*

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SECOND JUDICIAL CIRCUIT
COUNTY OF BARNWELL	)	
	)	CASE NO. 2018-CP-06-00383
United States of America,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	EDDIE PAYTON'S ANSWER AND
	)	COUNTERCLAIM TO AMENDED
	)	COMPLAINT
	)	(JURY TRIAL DEMANDED)
Edgar Payton, Willie Payton, Hattie Payton,	)	
Production Credit Association, the United	)	
States of America, acting through the Small	)	
Business Association, Still & Williams, Inc.	)	
SC Electric & Gas Co., Edisto Farm Credit,	)	
ACA Successor in Interest to Federal Land,	)	
Bank of Columbia, David Payton,	)	
	)	
Defendants.	)	

TO THE ABOVE - NAMED PLAINTIFF AND THEIR ATTORNEY:

The Defendant Eddie Payton (Eddie Payton or Eddie) answering the complaint of the Plaintiff would respectfully show this Court:

1. He denies all allegations of the complaint not specifically admitted in this pleading and demands strict proof thereof.
2. Paragraph 1 is admitted, except this action is pending in Barnwell County, South Carolina.
3. Paragraph 2 upon information and belief is admitted.
4. Paragraph 3 is admitted, except that Exhibit 1 refers to 8 tracts of property
5. Paragraph 4 is admitted.
6. Paragraph 5 is admitted as it applies to Hattie Payton, David Payton and Willie Payton.

The rest of the paragraph is denied.

7. Paragraph 6(a) is admitted.
8. Eddie Payton denies 6(b) at present in as much as he does not remember whether the mortgages were renewals of debt.
9. As to Paragraph 7, Eddie Payton lacks information and knowledge to form an opinion or belief as to the correctness thereof and therefore denies the same and demands an accounting for all amounts plaintiff claims is owed.
10. As to Paragraph 8, Eddie Payton admits he gave mortgages to the plaintiff to secure loans it made to him, but craves reference to the actual mortgage(s) and denies the rest of the paragraph.
11. Paragraph 9 is admitted in as much as it states Eddie Payton has not made payments. The remainder of the rest is denied.
12. As to Paragraphs 10 and 11, Eddie Payton admits that the 44-acre tract of land referenced in the mortgage was land willed to Eddie and his siblings. Although no plats were prepared or deeds exchanged, the devisees did divide the land among themselves and have occupied their respective portions. Further, Eddie did purchase lands from some of the devisees. The remainder of the paragraph is denied.
13. As to Paragraph 12, it is admitted F. Hamilton Dicks acquired some interest in Mortgages given to Production Credit Association. The rest of the paragraph is denied
14. As to Paragraph 13, it is admitted that the United States, acting through the Small Business Administration did acquire a mortgage on the property. The rest of the paragraph is denied. It is further asserted that the mortgage referenced in this paragraph is in favor of the Plaintiff, regardless of its position and what agency of the Plaintiff the mortgage was given. To the extent it is necessary to join the United States, acting through the Small Business

Administration as a party to this action, it should be realigned and designated as Plaintiff in this case, since it is the Plaintiff.

15. As to Paragraph 14, it is admitted that Eddie Payton did give a mortgage to Still and Williams, Inc. The rest of the paragraph is denied.

16. Paragraph 15 and 16 are denied.

17. As to Paragraph 17, Eddie Payton admits Plaintiff is required to comply with South Carolina Code of Laws in bringing this foreclosure action, but at this juncture lack sufficient information and knowledge to form an opinion or belief as to whether it has complied and therefore demands strict proof thereof.

18. Paragraphs 18 is denied to the extent any pleading raises an issue triable by a jury.

19. Paragraphs 19 is admitted.

20. Paragraph 20 is admitted in as much as it states the mortgage has an attorney's fee clause.

The remainder of the paragraph is denied.

For a Second Defense

21. Plaintiff is barred from foreclosure by the Statute of limitations.

For a Third Defense

22. Plaintiff is barred from foreclosure by the equitable defense of Laches.

For a Fourth Defense

23. Plaintiff is barred from foreclosure by the equitable defense of unclean hands.

For an Fifth Defense.

24. Plaintiff is barred from foreclosure by the equitable maxim: "He who seeks equity must do equity."

For a Sixth Defense

25. Plaintiff's delay in bringing this action has deprived Eddie Payton of a meaningful opportunity to be heard and to present defenses available to him, depriving him is rights of due process under the United States Constitution. Plaintiff's delay has also caused defendant not to be eligible for programs which existed in the last that allowed family farmers to save all or portions of their family farm and/or home. Eddie Payton has been prejudiced by these delays and the delays have placed his property interests in jeopardy. Plaintiff is informed and believes this violation bars Plaintiff from foreclosing on the mortgages above. Further, he is informed and believes he is entitled to reasonable attorney fees in this action as well as expert fees with costs.

For a Seventh Defense by way of Counterclaim

26. Eddie Payton is an African-American citizen of the United States.
27. Plaintiff, through its agents and employees, treated Eddie Payton differently from white farmers by denying him access to emergency loan programs, loan modification programs and forgiveness of debt programs which were provided to white farmers.
28. Further, Plaintiff offered white farmers in foreclosure actions the ability to keep tracts of land where their family home was located. Although request has been made, no such offer has been made to Payton who lives on one of the tracts being foreclosed on.
29. As a result of this treatment Payton stands to lose his home as a result of Plaintiffs foreclosure when white farmers situated in the same position did not. This has caused Eddie Payton to incur the services of an attorney. The fear of losing his family home has caused Eddie Payton, much mental and emotional pain and suffering to the point of becoming physically ill. Eddie, who cares for his disabled adult child. If the Plaintiff is successful in

its foreclosure. Further damages will be incurred in the loss of his family home. Eddie Payton is informed and believes he is entitled to a verdict against the defendant in an amount to be determined by a jury. He is also informed and believes he is entitled to the costs of this action as well as attorney fees and the costs of any expert fees incurred.

For an Eighth Defense

30. Eddie Payton reserves the right to seek amendment of it's pleading as additional facts come to light and to assert any additional affirmative defenses, counter-claims, or third party at he deems just and appropriate.

Wherefore, Eddie Payton prays Plaintiff's action be dismissed; for judgment against the defendant in an amount to be determined by the trier of fact; for attorney's fees, expert fees and the costs of this action; and for such other and further relief as this court deems just and proper.

s/ Daniel W. Williams

Daniel W. Williams (S.C. Bar No. 10233)
Bedingfield & Williams, LLC
P.O. Box 616
40 Wall Street
Barnwell, SC 29812
Phone: (803) 259-2759
Fax: (803) 259-5922
Email: Dan@DanWilliamsLaw.com
Attorney for Eddie Payton

January 4, 2019
Barnwell, South Carolina

STATE OF SOUTH CAROLINA)
)
 BARNWELL COUNTY)
)
 United State of America,)
 Plaintiff,)
)
)
 v.)
)
)
 Edgar Payton, Willie Payton,)
 Hattie Payton, F. Hamilton Dicks, III,))
 the United State of America, acting)
 through the Small Business)
 Administration, successors in interest))
 to Still & Williams, Inc., SC Electric)
 & Gas Co., and David Payton,)
)
)
Defendants.)

IN THE COURT OF COMMON PLEAS
 SECOND JUDICIAL CIRCUIT

2018-CP-06-00383

Answer & Counterclaim/Cross Claim
 of Willie Payton, Hattie Payton
 and David Payton
 (Jury Trial Demanded)

Defendants Willie Payton, Hattie Payton and David Payton answer plaintiffs complaint as follows. Any allegation that is not specifically admitted or otherwise qualified is denied.

- 1) Defendants admit paragraph 1.
- 2) Defendants admit paragraph 2 in that the United States Department of Agriculture is an agency of the United States of America.
- 3) Defendants admit paragraph 3 in that the tracts of land described in Exhibit 1 are situated within Barnwell County, South Carolina.
- 4) Defendants admit paragraph 4.
- 5) Defendants admit that each of them has an interest in property inherited from Estate of Angus Payton and otherwise acquired. Defendants understand that certain parcels of the subject property as described in Exhibit 1 may have a title history linked to the property inherited

from the Estate of Angus Payton. Defendants lack sufficient information to admit or deny the remainder of the paragraph.

6) Defendants lack sufficient information to admit and therefore denies paragraph 6(a), 6(b), 7, 8, and 9.

7) As to paragraph 10, defendant Willie Payton admits that he has an interest in certain property from the estate of Angus Payton. Defendant Willie Payton denies that there is any statute of limitations or other bar to his ownership of this property or exercise of his ownership of the property.

8) As to paragraph 11, defendant Hattie Payton admits that she has an interest in certain property from the estate of Angus Payton. Defendant Hattie Payton denies that there is any statute of limitations or other bar to his ownership of this property or exercise of his ownership of the property.

9) Defendants lack sufficient information to admit and therefore denies paragraphs 12, 13, 14, and 15.

10) Defendants deny paragraph 16.

11) Defendants lack sufficient information to admit paragraph 17 and is therefore denied. Defendants demand strict adherence to the South Carolina Code of Laws regarding foreclosure actions.

12) Defendants deny paragraphs 18-20.

For a First Defense & By Way of Counterclaim/Crossclaim
(Quiet Title)

13) Defendants allege the above paragraphs as if repeated.

14) Defendants acquired an undivided interest in certain property in Barnwell County as described in plaintiff's Exhibit 1 from the Estate of Angus Payton as filed in the Barnwell County property in Bundle/file 510 at package 9, said property being approximately 44 acres. The Last Will & Testament of Angus Payton provided for the number of acres for each devisee. Each devisee, including defendants Willie Payton, Hattie Payton and David Payton, began to assume use and ownership of that number of acres as provided for in the Estate of Angus Payton.

15) The transfer of ownership of property by will is effective upon death. The ownership of the property was recorded in the Barnwell County Probate court, a public record.

16) Because defendant Eddie Payton did not have ownership of the property at the time he executed the mortgage, plaintiff's interest pursuant to this mortgage is invalid as to that property owned by the defendants Willie Payton, Hattie Payton, and David Payton.

17) Defendants Willie Payton, Hattie Payton, and David Payton have been in exclusive ownership and control of their respective parcels pursuant to the Estate of Angus Payton and have not executed any documents granting defendant Eddie Payton authority to place a lien or mortgage upon their interests. Therefore, their interests should be declare free and clear of the subject mortgage.

18) Defendants ask the court to declare their respective interests and respective parcels or tracts as designated by the Estate of Angus Payton and divided by the devisees to be

free and clear of said mortgage and to require the other parties to present deeds and releases to quiet the title to each respective tract.

4

For A Second Defense & By Way of Counter Claim/Cross Claim
(Adverse Possession)

- 19) Defendants allege the above paragraphs as if repeated.
- 20) Defendants have been in continuous, actual, open, hostile, notorious and exclusive possession of property of their respective property which may be included in that property described in Exhibit 1 of plaintiff's complaint and as devised from the Estate of Angus Payton for more than 40 years.
- 21) As such, each asserts ownership by adverse possession and asserts that such possession and ownership took place before defendants Eddie Payton's execution of a note and mortgage to the plaintiff.
- 22) Defendants ask the court to declare their ownership in their respective parcels and to declare said tracts free from any encumbrance of defendant Eddie Payton.

For a Third Defense and By Way of Counterclaim/Crossclaim
(Betterments)

- 23) Defendants allege the paragraphs as if repeated.
- 24) Defendant have owned and occupied the property devised to each from the estate of Angus Payton, making certain improvements thereto. Defendants assert that they are entitled to compensation and reimbursement for said betterments.

For a Fourth Defense & By Way of Counterclaim
(Statute of Limitations)

25) Defendants allege the above paragraphs as if repeated.

26) Defendants assert that the claims against them and foreclosure of their interests is barred by the statute of limitations.

For a Fifth Defense & By Way of Counterclaim
(Laches)

27) Defendants allege the above paragraphs as if repeated.

28) Defendants assert that any claim against them is barred by the equitable defense of laches. Defendants' rights to the property in question has been of public record and discoverable by plaintiff for more than thirty years. Plaintiff should be barred from now denying that right due to its dilatory acts and omissions in not discovering defendants' rights through a proper search of the records.

29) Defendants Hattie Payton, Willie Payton, and David Payton are innocent without act or omission in bringing about the status of this litigation and therefore lack sufficient information regarding all aspects of this litigation. Defendants reserve the right to amend the pleadings in an appropriate manner as such facts are determined.

HAVING FULLY ANSWERED Plaintiff's complaint, Defendants Willie Payton, Hattie Payton and David Payton asks the court to deny plaintiff's request for relief and deny the foreclosure of their interests in the subject property, if any; for the requirement of the execution of deeds and released to life any cloud upon title and declare their respective interest free and clear

from the encumbrances of plaintiff and/or the co-defendants as set forth above; and such other relief as this court finds just and equitable.

January 10, 2019

/s/ Martha M. Rivers

Martha M. Rivers
Rivers Law LLC
12923 Main St
Williston, SC 29853
(803) 266-2290
(803) 266-2588 (fax)

Attorney for Defendants Hattie Payton,
Willie Payton and David Payton

STATE OF SOUTH CAROLINA)
COUNTY OF BARNWELL)
United States of America,)
Plaintiff,)
vs.)
Edgar Payton, Willie Payton,)
Hattie Payton, F. Hamilton Dicks, III,)
the United States of America, acting)
through the Small Business)
Administration, successors in interest)
to Still & Williams, Inc., SC Electric)
& Gas Co., and David Payton,)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE SECOND JUDICIAL CIRCUIT
C/A NO. 2018-CP-0600383

REPLY TO DEFENDANT EDGAR PAYTON'S
COUNTERCLAIM

Plaintiff responds to Edgar Payton's Counter-Claim as follows:

1. Lacks information and knowledge to form an opinion or belief as to the correctness thereof the allegations set forth in paragraph 26.
2. Denies the allegations set forth in paragraph 27.
3. Denies the allegations set forth in paragraph 28.
4. Denies the allegations set forth in paragraph 29.
5. Plaintiff denies every allegation that is not otherwise expressly admitted, qualified, or explained.

AFFIRMATIVE DEFENSES

6. Edgar Payton's Counter-Claim fails to state a claim upon which relief can be granted against Plaintiff.
7. Edgar Payton's Counter-Claim is barred, in whole or in part, by the equitable doctrines of

laches, waiver and estoppel.

8. Edgar Payton has failed to mitigate his damages, if any.
9. Plaintiff at all times acted in good faith.
10. The doctrine of Sovereign Immunity precludes Edgar Payton's claims.
11. Edgar Payton failed to exhaust administrative remedies and the Court lacks subject matter jurisdiction to hear the discrimination claims.
12. Plaintiff is not a "person" subject to suit pursuant to 42 U.S.C. § 1983.
13. The acts, conduct, and/or omissions complained of by Edgar Payton regarding Plaintiff were not motivated by discriminatory intent and/or purposeful discrimination.
14. The alleged acts, conduct, and/or omissions of Plaintiff were not sufficiently serious to implicate the provisions of the United States Constitution.
15. Plaintiff reserves the right to allege other Affirmative Defenses as they may arise during the course of discovery.

WHEREFORE, Plaintiff requests that the Court dismiss the Counter-Claim, award Plaintiff the costs and reasonable attorneys' fees in defending the Counter-Claim, the relief pled in the complaint, and any other relief the Court deems just and equitable

Respectfully submitted,

WILLCOX, BUYCK, & WILLIAMS, P.A.

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January 14, 2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SECOND JUDICIAL CIRCUIT
COUNTY OF BARNWELL	)	C/A NO. 2018-CP-0600383
	)	
United States of America,	)	
Plaintiff,	)	
	)	REPLY TO DEFENDANT WILLIE PAYTON,
vs.	)	HATTIE PAYTON, AND DAVID PAYTON'S
	)	COUNTERCLAIMS
Edgar Payton, Willie Payton,	)	
Hattie Payton, F. Hamilton Dicks, III,	)	
the United States of America, acting	)	
through the Small Business	)	
Administration, successors in interest)	)	
to Still & Williams, Inc., SC Electric	)	
& Gas Co., and David Payton,	)	
	)	
Defendants.	)	

Plaintiff responds to Willie Payton, Hattie Payton, and David Payton's Counter-Claims as follows:

1. Denies the allegations set forth in paragraph 13.
 2. Admits that Willie Payton, Hattie Payton, and David Payton acquired an interest in certain property in Barnwell County as described in Plaintiff's Exhibit 1 from the Estate of Angus Payton and denies the remaining allegations set forth in paragraph 14.
 3. The allegations contained in paragraph 15 are legal opinions to which no response is required. Except as otherwise stated, the allegations contained in paragraph 15 are denied.
 4. Denies the allegations set forth in paragraph 16.
 5. Denies the allegations set forth in paragraph 17.
 6. The allegations and/or statements contained in paragraph 18 do not require a response.
- To the extent a response is required, the allegations set forth in paragraph 18 are denied.

7. Denies the allegations set forth in paragraph 19.
8. Denies the allegations set forth in paragraph 20.
9. Denies the allegations set forth in paragraph 21.
10. The allegations and/or statements contained in paragraph 22 do not require a response.

To the extent a response is required, the allegations set forth in paragraph 22 are denied.

11. Denies the allegations set forth in paragraph 23.
12. Denies the allegations set forth in paragraph 24.
13. Denies the allegations set forth in paragraph 25.
14. Denies the allegations set forth in paragraph 26.
15. Denies the allegations set forth in paragraph 27.
16. Denies the allegations set forth in paragraph 28.
17. Lacks sufficient knowledge or information to form an opinion or belief as to the truth or falsity thereof the allegations set forth in paragraph 29 and therefore denies the same and demands strict proof thereof.
18. Plaintiff denies every allegation that is not otherwise expressly admitted, qualified, or explained.

FOR A FIRST DEFENSE

FAILURE TO STATE A CLAIM

19. Willie Payton, Hattie Payton, and David Payton's Counter-Claims fail to state a claim upon which relief can be granted against Plaintiff.

FOR A SECOND DEFENSE

LACHES, WAIVER, AND ESTOPPEL

20. Willie Payton, Hattie Payton, and David Payton's Counter-Claims are barred, in whole or in part, by the equitable doctrines of laches, waiver and estoppel.

FOR A THIRD DEFENSE

FAILURE TO MITIGATE

21. Willie Payton, Hattie Payton, and David Payton have failed to mitigate their damages, if any.

FOR A FOURTH DEFENSE

PLAINTIFF ACTED IN GOOD FAITH

22. Plaintiff at all times acted in good faith.

FOR A FIFTH DEFENSE

SOVEREIGN IMMUNITY

23. The doctrine of Sovereign Immunity precludes Willie Payton, Hattie Payton, and David Payton's claims.

24. Plaintiff reserves the right to allege other Affirmative Defenses as they may arise during the course of discovery.

WHEREFORE, Plaintiff requests that the Court dismiss the Counter-Claims, award Plaintiff the costs and reasonable attorneys' fees in defending the Counter-Claims, the relief pled in the complaint, and any other relief the Court deems just and equitable

Respectfully submitted,

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Attorneys for Plaintiff

January 29, 2019

1 State of South Carolina) In the Court
2 County of Barnwell) Of Common Pleas

3 Docket Number: 2018CP0600383
4

5 United States of America,)
6 Plaintiff,)

7 vs.)
8

Transcript of Record

9 Edgar Payton, Willie Payton,)
10 Hattie Payton, F. Hamilton)
11 Dicks III, the United States of)
12 America acting through the Small)
13 Business Administration,)
14 Successors in interest to)
15 Still & Williams, Inc., and SC)
16 Electric & Gas Company, and)
17 David Payton,)
18 Defendants.)

19 May 13, 2019
20 Barnwell, South Carolina

21 B E F O R E:

22 The Honorable Clifton Newman, Judge.

23 A P P E A R A N C E S:

24 Katherine M. Ryan, Esquire
25 Attorney for the Plaintiff

Daniel W. Williams, Esquire
Martha M. Rivers, Esquire
Attorneys for the Defendants

Brenda J. Sigwald, Circuit Court Reporter
To The Honorable Doyet A. Early III
P.O. Box 206, Jackson, South Carolina 29831

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E X H I B I T S

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(REPORTER'S NOTE: There were no exhibits
entered during this hearing.)

1 THE COURT: All right. Motion to strike, request a
2 jury trial, and a motion to refresh. Yes?

3 MS. RYAN: Your Honor, I'm Katherine Ryan here on
4 behalf of the plaintiff. This is an equitable action for
5 foreclosure on notes and mortgages on real property in
6 Barnwell County. It's pursuant to Rules 53 and 71.
7 Plaintiff has requested the Court to refer this action to a
8 special referee for Barnwell County. All defendants except
9 for Edgar, Willie, Hattie, and David, have not answered or
10 have consented to the request to refer. Defendants Willie,
11 Edgar, Hattie, and David submitted answers and
12 counterclaims requesting a jury trial.

13 We've moved to strike this request and refer due to
14 the fact that their counterclaims are permissive and
15 missimile sought and equitable in nature.

16 As discussed in the motion, the defendant is
17 entitled to a jury trial on his counterclaims in an
18 equitable action only if the claims are legal and
19 compulsory. And in a foreclosure action, the counterclaim
20 is compulsory when there's a logical relationship between
21 the counterclaim and enforceability of the note.

22 If defendants prevailed on their counter claims,
23 the results would not affect whether Plaintiff can enforce
24 the notes and the mortgages.

25 First, Edgar Payton's discrimination counterclaim

1 is permissive because does not invalidate the notes and
2 mortgages. In his answer, Mr. Edgar Payton admitted that
3 he had not made payments on the notes and mortgages. So
4 therefore, even if his claim is valid, which we deny, it
5 would not affect the enforceability of the notes and
6 mortgages. So therefore it's a permissive counterclaim.

7 He also raises defenses of latches, unclean hands,
8 and the statute of limitations and is seeking equitable
9 relief and, therefore, doesn't have a right to a jury trial
10 for those.

11 And in regards to Willie, Hattie, and David, they
12 are not entitled to a jury trial on their counterclaims as
13 they are equitable in nature.

14 First as to Hattie and Willie Payton, we're not
15 trying to foreclose on their two particular parcels. They
16 have two 8 acre parcels which are part of the 40 acre tract
17 and I've talked with their counsel previously and we are
18 not in dispute over their interest.

19 And as to David Payton, he has an interest in a
20 life estate in 28 acres of the 44 acre parcel.

21 And their counterclaims of quiet title, latches,
22 and request of evidence are equitable in nature and don't
23 entitled them to a jury trial. And the adverse possession
24 claim is permissive as it would not affect the default on
25 the notes.

1 And there's no logical relationship between the
2 counterclaims in the foreclosure action as the claims are
3 permissive and the defendants have waived any right to a
4 jury trial by bringing this equitable action. And as such,
5 we request the Court to strike the demand for a jury trial
6 and refer this action to special referee.

7 THE COURT: All right. Yes, sir.

8 MR. WILLIAMS: Thank you, Your Honor. This is a
9 foreclosure action 37-year-old -- brought 37 years after
10 the default or the alleged default in this case by the
11 United States Government against Mr. Payton. One of the
12 causes that we have is that Mr. Payton was not given the
13 same rights to refinance, the same rights to have his
14 interest rates lowered that other farmers in the area was,
15 in particular white farmers. We believe that there is a
16 logical relationship to the foreclosure action because the
17 ruling in that case or the finding of the jury in that case
18 could affect the enforceability of the note, but also could
19 ultimately affect the amount that's being foreclosed on.

20 There's roughly 400 to 500 acres being foreclosed
21 on, 37 years after the mortgage. Back in the 80's, as
22 you'll recall, we had rates upwards of 16 percent. One of
23 those mortgages accruing interest for the government at 16
24 percent since 1980 and they're attempting to use that
25 interest in the foreclosure. Had Mr. Payton been given

1 rights that other farmers were given to reduce those
2 interest rates, it would be a lot less. For that reason
3 the foreclosure of any equity at that point in time, it
4 could affect the enforcement of the notes and mortgages in
5 this case. Therefore, we believe a jury trial is proper.

6 THE COURT: Any response?

7 MS. RYAN: Well, Your Honor, these -- that relates
8 to subsequent requests for additional financing and
9 assistance with other loans and that is just based on
10 separate occurrences. That's why we would say that's
11 permissive. Also it doesn't necessarily attack the
12 validity of the notes and mortgages. So that...

13 And that's all, Your Honor.

14 THE COURT: Ms. Rivers.

15 MS. RIVERS: Judge, I represent Hattie, Willie, and
16 David Payton. They are the siblings of Eddie Payton, the
17 mortgagee -- mortgagor, pardon me -- in this case. The 8
18 acre parcel Ms. Ryan's correct, we spoke last week and she
19 indicated that they are not trying to foreclose on their 8
20 acre parcels. The problem I have that's muddled up right
21 now is that that was from a will in which there was never
22 partition action or deeds of partition done. They each had
23 interest that they then kind of lived on their 8 acres and
24 got the tax assessor to tax them individually. And the
25 original complaint appeared to try to foreclose on that.

1 Ms. Ryan has called me and said they're not seeking to
2 foreclosure on the interest. But in the, David's life
3 estate also came out of that in some transaction. I'm not
4 real certain at this point whether we can technically
5 dismiss our action for adverse possession because I don't
6 know how that's going the lay out at this juncture.

7 THE COURT: Pardon, you're last statement.

8 MS. RIVERS: I said I'm not very certain that I can
9 dismiss the claim for adverse possession at this time
10 because I'm not certain as to how this is going to lay out
11 as the deeds have not actually been done to separate out.
12 The government is choosing to say these 8 acres and these 8
13 acres and that may work out fine, Your Honor, but at this
14 point in the case, I cannot say that.

15 THE COURT: It sort of seems that y'all started in
16 the middle of the story. Can you go back to beginning and
17 give me some kind, some understanding as to what this
18 entire thing's all about, some history here.

19 MS. RIVERS: Judge, Mr. Payton farmed this land and
20 he mortgaged it. And Mr. Williams can probably speak
21 better to this than I can. However, part of the land was
22 inherited and there were no partition deeds done on the
23 inherited land, so his siblings have been drawn into this
24 action as well. It appears that he may have been allowed
25 to mortgage interest that were not his or mortgage land in

1 which he did not have a hundred percent interest would be
2 the better way to say it.

3 THE COURT: Well, the question of visiting a
4 permissive counterclaim versus, what's the reverse of
5 permissive?

6 MS. RYAN: Compulsory.

7 THE COURT: Compulsory versus permissive
8 counterclaim.

9 MS. RIVERS: If you're seeking to foreclose on
10 property in which I have an interest, I don't see how I
11 can't forward and say that I own an ownership outside of
12 the mortgage. And if you're allow today foreclose on that
13 land as stated, it is definitely going to affect me and my
14 interest to my holding that land. And, Judge, if part of
15 my defense end up being an adverse possession, which is
16 pled currently, and we'll see how far that goes, Your
17 Honor, that is not a permissive defense. That is a
18 compulsory defense to come forward.

19 THE COURT: So the distinction between to two being
20 what? Compulsory versus permissive.

21 MS. RIVERS: Your Honor, I have the case law here
22 if you'd like to look at it.

23 THE COURT: Tell me about it.

24 MS. RIVERS: Thank you, Your Honor.

25 One is that it has to have a logical connection to

1 the plaintiff's action in that it needs to be brought
2 forward in a single action rather than a defense in which I
3 can go out and sue the government or sue Mr. Payton in a
4 cross-claim separately and it would not be involved in the
5 questions and law presented to the Court in this action.

6 THE COURT: All right. Yes, sir, what do you --
7 you're Mr. Braithewaite?

8 MR. WILLIAMS: I'm Dan Williams, Your Honor.

9 THE COURT: Mr. Williams, I'm sorry.

10 MR. WILLIAMS: I represent Eddie Payton.

11 THE COURT: Mr. Dan Williams. Yes, sir,
12 Mr. Williams, on the top of page number 2, the caption is
13 not there, just your name. Yes, sir.

14 MR. WILLIAMS: To shed some light on the claims, I
15 think that Ms. Rivers has for the siblings. Angus Payton
16 gave to his three or four grandchildren 40 acres of land.
17 He divided it into 8 acre parcels and said each of you get
18 8 acres. The will doesn't say where those 8 acres are.

19 Now, the Payton children have staked out their
20 land. They say this is where our 8 acres is, but there's
21 never been a survey done, there's never been deeds done,
22 dividing the property up between them. It's just -- it's
23 just where they between themselves say sit.

24 Now, Eddie Payton, I guess 7 or 8 years after this
25 will, gave a mortgage on this piece of property, along with

1 about 9 other pieces of property to the government. So the
2 will controls --

3 THE COURT: Totally 400 acres?

4 MR. WILLIAMS: Roughly.

5 THE COURT: All right.

6 MR. WILLIAMS: Roughly. So the will controls, but
7 the siblings own part of this property. What is court's
8 got to determine or the parties have to agree is where this
9 property is and if they don't agree then I think what
10 Ms. Rivers is saying, she's entitled to a jury trial under
11 adverse possession. And adverse possession is --

12 THE COURT: The children are not being foreclosed
13 on?

14 MR. WILLIAMS: Well, I think what the government
15 has said is, we're foreclosing on this 40 acre tract of
16 land and they haven't specified which part of the 40 acres
17 they're foreclosing on.

18 THE COURT: Well the children where parties?

19 MR. WILLIAMS: They're parties.

20 THE COURT: Okay.

21 MR. WILLIAMS: The siblings, the siblings of Eddie
22 Payton.

23 THE COURT: So the eight children --

24 MR. WILLIAMS: Right. There are three of them I
25 think.

1 THE COURT: There are three...

2 MR. WILLIAMS: There was Eddie, David, Willie, and
3 Hattie. Now Eddie is the farmer that I represent. He's
4 the one that gave the government the mortgage and it was on
5 the 40 acres that they all were devised by Angus.

6 THE COURT: And how could the government get a
7 mortgage on --

8 MR. WILLIAMS: Shouldn't have been able --

9 THE COURT: -- 40 acres unless there's clear title
10 to it.

11 MR. WILLIAMS: Shouldn't have been able to.

12 THE COURT: Okay.

13 MR. WILLIAMS: But it was done back in the late
14 70's, early 80's. This, this mortgage -- these mortgages
15 where 37 years old. He, like other farmers in the early
16 80's, he borrowed the money and he couldn't pay it back.

17 THE COURT: You can borrow the money even though
18 you don't own the land clear.

19 MR. WILLIAMS: Well, shouldn't have been able to.
20 But that's what happened.

21 THE COURT: All right.

22 MR. WILLIAMS: And so I think what Ms. Rivers is
23 saying is that adverse possession comes into this if the
24 government tries to say, No, no, you were intended to be
25 given this piece of property over here, but you've been

1 living on this property here.

2 THE COURT: And an adverse possession claim is
3 permissive or compulsory?

4 MR. WILLIAMS: It's compulsory in this case because
5 if she doesn't bring it, she may very well lose her rights.

6 THE COURT: All right. When did your guy
7 supposedly default on mortgage?

8 MR. WILLIAMS: The best I -- I wasn't in law school
9 when this happened. Okay? That's how long ago it was.
10 Best I can tell it was '83 or '84. Right after --

11 THE COURT: Is there a statute of limitations or it
12 doesn't apply to the government, or...

13 MR. WILLIAMS: Well, I think it does apply since
14 they brought the action in State court and the statute of
15 limitations is procedural.

16 THE COURT: How many years is it.

17 MR. WILLIAMS: I think it's 20 years after default.

18 THE COURT: And when was the default?

19 MR. WILLIAMS: In '83 or '84.

20 THE COURT: So is that a defense that's being
21 raised in this?

22 MR. WILLIAMS: It is.

23 THE COURT: Okay. You know, I haven't read any of
24 this. I'm just trying to get familiar with it to be able
25 to -- I see these motions are on file, but I didn't review

1 them in advance of coming here.

2 MR. WILLIAMS: Yes, sir.

3 THE COURT: You know, we have 30 or 40 things, I
4 don't know what to read and what not to read in advance.

5 MR. WILLIAMS: Yes, sir.

6 THE COURT: All right. Anything else you want to
7 say while you have the floor?

8 MR. WILLIAMS: I don't think so, Your Honor.
9 Again, Mr. Payton's -- the counterclaims could affect the
10 enforceability of the loan and the amount -- it's bound to
11 be enforceable with the amount of the actual mortgage.
12 That may allow for us to ask for marshaling of the order
13 where only certain pieces of property are sold and so for
14 that reason, we think they the compulsory.

15 THE COURT: All right. Ms. Ryan?

16 MS. RYAN: Well, first of all in terms of that 40
17 acre tract of land, if you'll -- attached to the complaint
18 is the legal description. And we're only seeking to
19 foreclose on two 8 acre parcels that are part of the 44
20 acres. So we're not trying to foreclose on the who he will
21 go section.

22 THE COURT: Two 8 acre parcels that's part of the
23 40 acres?

24 MS. RYAN: Yes, sir, that would be -- well, the 44
25 acres that was willed by Angus Payton to the siblings, that

1 totaled 44 acres and each sibling, Eddie got 12 acres and
2 then the other siblings all got 8.

3 THE COURT: So the two 8 acre parcels that you're
4 foreclosing on, does that affect the portion that
5 Ms. Rivers's folks live on?

6 MS. RYAN: Right. Well, the one 8 acre portion he
7 purchased from Thelma Payton, one of his siblings; and the
8 other 8 acre portion he purchased from David. So it
9 doesn't apply to Willie or Hattie, but it applies to David.
10 So he, when he purchased that --

11 THE COURT: David is your client?

12 MS. RIVERS: Your Honor, yes. David is.

13 THE COURT: All right.

14 MS. RYAN: And then in 2000 -- so at that point
15 after he purchased the two 8 acre parcels, he then owned 28
16 acres of the 44 acres. And that's when he mortgaged 16
17 acres. And then in 2009 he granted a life estate in the 28
18 acres.

19 THE COURT: Is there a statute of limitations
20 applicable to this as far as the government?

21 MS. RYAN: Well, I submit that the statute of
22 limitations does not apply to the government so --

23 THE COURT: So is that based on case, case law of
24 some sort?

25 MS. RYAN: Case and the statute. 28 US C, Section

1 2415 and in Section C, it's about, Time for Commencing
2 Actions brought by the United States, Section C says,
3 Nothing herein shall be deemed to limit the time for
4 bringing an action to establish the title to, or right of
5 possession of, real or personal property.

6 And I also have a case UMLICVP versus Matthias,
7 which says, that there is no federal limitations period
8 applicable to mortgage foreclosure actions and as well, the
9 United States is not bound by any statute of limitations
10 unless Congress explicitly express one.

11 And also in regards to that statute of limitations,
12 it would not start to run, David's interest in the
13 properties, he obtained that in 2009 from the life estate,
14 so even if it were to apply, his interest, he didn't have.

15 THE COURT: He received a life estate or...

16 MS. RYAN: Right. Mr. Payton, Eddie Payton granted
17 him a life estate in 2009.

18 THE COURT: So he had a life estate based on the
19 deed; is he also an heir based on --

20 MS. RYAN: Well, when he -- well, he did inherit,
21 but he sold that property to Eddie. So we've got a deed
22 from Thelma and David to Eddie. And then, Eddie then
23 granted the life estate, giving the same property back to
24 David.

25 THE COURT: All right.

1 MS. RYAN: But he had already mortgaged that
2 property to the government before he deeded the life
3 estate. And I still submit that adverse possession would
4 still be permissive because it's still going to affect the
5 default. He admitted to not paying the notes and
6 mortgages, so he is in default. So adverse possession
7 would not affect his default.

8 THE COURT: Is that based on a case of some sort
9 that adverse possession does not affect a default or -- is
10 that litigated in the Courts?

11 MS. RYAN: Well, that's based on, just from the
12 Carolina First Bank, where it says that there has to be a
13 logical relationship between the counterclaim and the
14 enforceability of the note. So adverse possession would
15 not affect the enforceability of the note, so it would be
16 permissive.

17 THE COURT: So this Carolina First versus BADD
18 case, it was a 2015, kind of summarize that case for me.
19 Walk me through it, what it's about.

20 MS. RYAN: Well that is, basically that a guarantor
21 was joined in a foreclosure action and he asserted a civil
22 conspiracy and breach of contract counterclaim and those
23 were held to be permissive because they did not rise on the
24 same transaction occurrence because they bore no logical
25 relationship to the enforceability of that guarantee. And

1 so we say the same thing here that that adverse possession
2 would have no bearing on the enforceability on the notes
3 and mortgages. And because he raised those permissive
4 counterclaims, he waived his right to the jury trial.

5 THE COURT: So where a party raises a, or files for
6 a counterclaim and the action is equitable, is the
7 counterclaim separated from the equitable claim and
8 litigated separately or what happens?

9 MS. RYAN: Right. If it is found to be compulsory,
10 then there would be a trial on that.

11 THE COURT: Pardon?

12 MS. RYAN: It would be on the compulsory part.
13 They are permissible and/or equitable, then there's no jury
14 trial.

15 THE COURT: All right. How about that case,
16 Counselor, Mr. Williams?

17 MR. WILLIAMS: Well, again I think the reason that
18 they said in that case that it was permissive is because it
19 didn't go to the enforceability of the loan. And I think
20 in this case whether or not they made these offers, whether
21 or not they reduce the interest like they should have
22 reduced -- they did for other farmers -- does go to the
23 enforceability of the notes and to the amounts of the notes
24 to be foreclosed on.

25 THE COURT: So you filed a -- this is a

1 discrimination case?

2 MR. WILLIAMS: Yes, sir. And for that reason, I
3 think a jury trial is -- we are entitled to that.

4 Now, you ask an interesting question and that is do
5 you bifurcate the legal and equitable proceedings. And I
6 think the answer to that is yes. But you hear the legal
7 case first and then you hear a equitable case. And I,
8 there's cases on that, and I apologize for not bringing
9 one, but I can find that if needed to.

10 THE COURT: All right. Anything else anyone else
11 wants to say about it.

12 MS. RYAN: I still think in terms of the
13 discrimination claim, I mean, he admitted in the complaint
14 that he did not make payments on the notes and the
15 mortgages. So I think, you know, the discrimination claim
16 is not related to this and he's admitted that he's in
17 default.

18 THE COURT: This is a farmers discrimination where
19 back during that period of time, a number of farmers
20 claimed that they, some farmers were getting preferential
21 loans and et cetera. Has any of those cases been litigated
22 anywhere in the United States? Has it ever been
23 successfully pursued?

24 MR. WILLIAMS: There was a big settlement a long
25 time ago, in the 90's for that. I don't know that there's

1 ever been a case that went to trial where a ruling was
2 issued.

3 THE COURT: So a settlement, you mean just this big
4 settlement. Black farmer's settlement?

5 MR. WILLIAMS: Right. Right.

6 THE COURT: Pigford v Glickman?

7 MR. WILLIAMS: That's it. All right.

8 THE COURT: Well, I'm going to take this under
9 advisement. Do you all want to send me anything else for
10 me to look at? I see where the, where the Government has
11 filed a memo in support and attached that case, all of
12 which I'll need to review.

13 Have you all filed anything?

14 MR. WILLIAMS: I have not. I can submit a proposed
15 order. If you'd like a memo, I can submit one of those
16 also.

17 MS. RIVERS: Same here, Your Honor.

18 THE COURT: Pardon.

19 MR. WILLIAMS: Same.

20 MS. RYAN: Yes, sir, I can submit a proposed order.

21 THE COURT: All right. If you submit a proposed
22 order then submit some supporting cases, documentation,
23 statutory authority.

24 How many days do you need to submit that? My
25 number one law clerk here has, how many more days to go?

1 THE CLERK: Two weeks.

2 THE COURT: Two weeks to go.

3 MR. WILLIAMS: I guess I could do it in 10 days,
4 Your Honor.

5 THE COURT: Okay.

6 MR. WILLIAMS: Would that be okay?

7 THE COURT: Yes, sir. Ten days. If you'll serve
8 it by e-mail and copy opposing sides and opposing sides can
9 comment within a couple of days if you want.

10 All right. Very good. It's under advisement.

11 MS. RIVERS: Thank you.

12 * * * * * END OF TRANSCRIPT * * * * *

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1 State of South Carolina)
2 County of Aiken) **Certificate of Reporter**

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4
5
6 I, Brenda J. Sigwald, Official Court Reporter for
7 the Second Judicial Circuit of the State of South Carolina,
8 do hereby certify that the foregoing is a true, accurate,
9 and complete Transcript of Record of the proceedings had
10 and evidence introduced in the trial of the captioned case,
11 relative to appeal, in the Court of Common Pleas in and for
12 the State of South Carolina on the 13th day of May 2019.

13 I FURTHER CERTIFY that I am neither kin, counsel,
14 nor of interest to any party hereto.

15 IN WITNESS WHEREOF, I have hereunto set my hand and
16 seal at Aiken County, this 10th day of December 2019.

17
18
19
20
21 Brenda J. Sigwald

22 Brenda J. Sigwald,
23 Court Reporter and Notary Public
24 For the State of South Carolina
25 My commission expires
 January 4, 2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SECOND JUDICIAL CIRCUIT
COUNTY OF BARNWELL	)	C/A NO. 2018-CP-0600383
	)	
United States of America,	)	
Plaintiff,	)	
	)	
vs.	)	MOTION TO STRIKE REQUEST FOR
	)	JURY TRIAL AND MOTION TO REFER
	)	
Edgar Payton, Willie Payton,	)	
Hattie Payton, F. Hamilton Dicks, III,	)	
the United States of America, acting	)	
through the Small Business	)	
Administration, successors in interest)	)	
to Still & Williams, Inc., SC Electric	)	
& Gas Co., and David Payton,	)	
	)	
Defendants.	)	

Plaintiff commenced this equitable action to foreclose on a note and mortgage covering real property situate in Barnwell County.

Pursuant to Rules 53 and 71, SCRCP, Plaintiff requests that the Court refer this action to J. Martin Harvey as Special Referee for Barnwell County to preside over all future matters concerning this action, to make a final determination as to the debt owed and enter final judgment in this action. All defendants except Edgar Payton, Willie Payton, Hattie Payton and David Payton have not answered or consent to the request to refer. Please see the attached signed consent to refer.

In addition, Defendants Edgar Payton, Willie Payton, Hattie Payton and David Payton, presented permissive counter-claims in this equitable action. Consequently, Defendants waived any right they have to a jury trial on the claims. *Carolina First Bank v. BADD, LLC*, 778 S.E.2d 106, 110 (S.C. 2015). Defendants' request for a jury trial must be stricken and this action should be heard by a special referee.

WILLCOX, BUYCK, & WILLIAMS, P.A.

By: s/Katherine McLean Ryan
Katherine McLean Ryan #101063
Walker H. Willcox #72608
PO Box 1909
Florence, SC 29503-1909
(843) 662-3258 - Tel.
(843) 662-1342 - Fax
Email: wwillcox@willcoxlaw.com
Email: kryan@willcoxlaw.com
Attorneys for Plaintiff

March 28, 2019
Plaintiff's Motion to Refer and Strike

STATE OF SOUTH CAROLINA)
COUNTY OF BARNWELL)

United States of America,)
Plaintiff,)

vs.)

Edgar Payton, Willie Payton,)
Hattie Payton, F. Hamilton Dicks, III,)
the United States of America, acting)
through the Small Business)
Administration, successors in interest)
to Still & Williams, Inc., SC Electric)
& Gas Co., and David Payton,)

Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE SECOND JUDICIAL CIRCUIT
C/A NO. 2018-CP-0600383

**CONSENT TO REFERENCE OF MATTER
TO SPECIAL REFEREE**

As attorney for Defendant SC Electric & Gas Co., I hereby consent to reference of this matter to a Special Referee for Barnwell County as is designated by Plaintiff pursuant to Rules 53 and 71, SCRCP.

s/ Jay E. Bressler
Jay E. Bressler
Attorney for SC Electric & Gas Co.

March 28, 2019

Cayce, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SECOND JUDICIAL CIRCUIT
COUNTY OF BARNWELL	)	C/A NO. 2018-CP-0600383
	)	
United States of America,	)	
Plaintiff,	)	MEMORANDUM IN SUPPORT OF
	)	PLAINTIFF'S MOTION TO STRIKE
vs.	)	AND REFER
	)	
Edgar Payton, Willie Payton,	)	
Hattie Payton, F. Hamilton Dicks, III,	)	
the United States of America, acting	)	
through the Small Business	)	
Administration, successors in interest)	)	
to Still & Williams, Inc., SC Electric	)	
& Gas Co., and David Payton,	)	
	)	
Defendants.	)	

Plaintiff submits this memorandum in support of its motion to strike Defendant Edgar Payton, Willie Payton, Hattie Payton, and David Payton's demand for a jury trial and motion to refer this matter to a Special Referee.

FACTS AND PROCEDURAL HISTORY

On March 26, 1979 Plaintiff and Edgar Payton entered into a Promissory Note wherein Plaintiff loaned Edgar Payton the principal amount of \$43,800.00 with an interest rate of 8.5% per annum. On April 15, 1982, Plaintiff and Edgar Payton entered into three additional Promissory Notes wherein Plaintiff loaned Edgar Payton the principal amounts of \$237,900.00, \$121,010.46, and \$215,031.81 with interest rates of 16%, 3%, and 5%, respectively. Exhibit A, Promissory Notes.

To secure the notes, Edgar Payton granted three mortgages to Plaintiff against eight tracts of real property situate in Barnwell County ("real property"). Exhibit B, Mortgages. Edgar Payton is in default of the Notes, and Plaintiff commenced this action to foreclose on the real property. Although Edgar Payton admits that he has not made payments on the notes and

mortgages, he submitted an answer and counterclaims requesting a jury trial. Plaintiff requests that the Court strike Edgar Payton's jury demand and refer this matter to a Special Referee.

Willie Payton and Hattie Payton were made parties to this action by virtue of an interest in a portion of the property described in Plaintiff's mortgage on the parcel with TMS No. 056-00-00-016, as tenants in common acquired from the Estate of Angus Payton. David Payton was made a party to this action by virtue of his interest in a Life Estate in a portion of the same parcel deeded to him by Eddie Payton and recorded on December 10, 2009. Willie Payton, Hattie Payton, and David Payton submitted an answer and counterclaims requesting a jury trial. Plaintiff requests that the Court strike Willie Payton, Hattie Payton, and David Payton's jury demand and refer this matter to a Special Referee.

ANALYSIS

Actions to foreclose liens on real property shall be tried by the court and shall ordinarily be referred to a master pursuant to Rule 53. Rule 71(a), SCRCF. This rule follows well established law that a mortgage foreclosure is an action in equity, and a party is not entitled to a jury trial in the proceeding. *Carolina First Bank v. BADD, LLC*, 778 S.E.2d 106, 108 (S.C. 2015). The Court determines as a matter of law whether a party is entitled to a jury trial. *Id.*

Edgar Payton appears to assume that his counterclaim that Plaintiff allegedly treated him differently from white farmers provides a basis for his jury trial request. However, a defendant is entitled to a jury trial on his counterclaims only if the claims are legal and compulsory. *Carolina First Bank*, 778 S.E.2d at 109. In a foreclosure action, a counterclaim is compulsory when there is a logical relationship between the counterclaim and the enforceability of the note.¹ *Id.*

Edgar Payton's counterclaim is based on allegations that Plaintiff denied him access to emergency loan programs and other loan programs which were provided to white farmers, and

¹ Edgar Payton seeks monetary damages and damages for emotional distress on his counterclaim.

that Plaintiff denied him the opportunity to keep the tract of land where his family home was located when this opportunity had been provided to white farmers in foreclosure actions. Answer, ¶ 27 - 28. However, Edgar Payton admits that he has not made payments on the notes and mortgages. Answer, ¶ 11. The counterclaim, even if valid which is denied, will not avoid default of the notes. Consequently, the counterclaim does not affect the enforceability of the notes and mortgages.

Willie Payton, Hattie Payton, and David Payton have presented counterclaims to quiet title, adverse possession, reimbursement for betterments, statute of limitations, and laches. Even if these counterclaims were valid, which is denied, they would not avoid default on the notes and mortgages. As such, the counterclaims do not affect the enforceability of the note and mortgage.

A logical relationship does not exist between the counterclaims and this foreclosure action. Therefore, the claims are permissive, and Defendants are not entitled to a jury trial on their counterclaims. Plaintiff requests that the Court strike the demand for a jury trial and refer this action to a Special Referee.

WILLCOX, BUYCK, & WILLIAMS, P.A.

By: s/Katherine McLean Ryan
 Katherine McLean Ryan #101063
 Walker H. Willcox #72608
 PO Box 1909
 Florence, SC 29503-1909
 (843) 662-3258 - Tel.
 (843) 662-1342 - Fax
 Email: wwillcox@willcoxlaw.com
 Email: kryan@willcoxlaw.com
 Attorneys for Plaintiff

May 10, 2019

Form FmHA 1940-17
(11-1-78)UNITED STATES DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATION

PROMISSORY NOTE

Name EDDIE PAYTON		KIND OF LOAN Type: <u>EM</u> Pursuant to: ☒ Consolidated Farm & Rural Development Act ☐ Emergency Agricultural Credit Adjustment Act of 1978	
State SOUTH CAROLINA	County BARNWELL	ACTION REQUIRING NOTE ☐ Initial loan ☐ Rescheduling ☒ Subsequent loan ☐ Reamortization ☐ Consolidation & subsequent loan ☐ Credit sale ☐ Consolidation ☐ Deferred payments	
Case No. 46-06-247725922	Date MARCH 26, 1979		

FOR VALUE RECEIVED, the undersigned Borrower(s) and any comakers jointly and severally promise to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, (herein called the "Government"), or its assigns, at its office in BARNWELL, SOUTH CAROLINA

_____, or at such other place as the Government may hereafter designate in writing, the principal sum of FORTY THREE THOUSAND EIGHT HUNDRED AND NO/100----- dollars

(\$ 43,800.00), plus interest on the unpaid principal balance at the RATE of

EIGHT AND ONE HALF percent (8½%) per annum. If this note is for a Limited Resource loan (indicated in the "Kind of Loan" box above) the Government may CHANGE THE RATE OF INTEREST, in accordance with regulations of the Farmers Home Administration, not more often than quarterly, by giving the Borrower thirty (30) days prior written notice by mail to the Borrower's last known address. The new interest rate shall not exceed the highest rate established in regulations of the Farmers Home Administration for the type of loan indicated above.

Principal and interest shall be paid in 41 installments as indicated below, except as modified by a different rate of interest, on or before the following dates:

\$ <u>3872.00</u> on January 1, 19 <u>80</u> ;	\$ <u>NA</u> on January 1, 19 ____;
\$ <u>NA</u> on January 1, 19 ____;	\$ <u>NA</u> on January 1, 19 ____;
\$ <u>NA</u> on January 1, 19 ____;	\$ <u>NA</u> on January 1, 19 ____;
\$ <u>NA</u> on January 1, 19 ____;	\$ <u>NA</u> on January 1, 19 ____;
\$ <u>NA</u> on January 1, 19 ____;	\$ <u>NA</u> on January 1, 19 ____;

and \$ 3872.00 thereafter on January 1st of each year until the principal and interest are fully paid except that the final installment of the entire indebtedness evidenced hereby, if not sooner paid, shall be due and

payable 40 years from the date of this note, and except that prepayments may be made as provided below. The consideration for this note shall also support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan funds shall be advanced to the Borrower as requested by Borrower and approved by the Government. Approval by the Government will be given provided the advance is requested for a purpose authorized by the Government. Interest shall accrue on the amount of each advance from its actual date as shown in the Record of Advances at the end of this note. Borrower authorizes the Government to enter the amount(s) and date(s) of such advance(s) in the Records of Advances.

For each rescheduled, reamortized or consolidated note, interest accrued to the date of this instrument shall be added to principal and such new principal shall accrue interest at the rate evidenced by this instrument.

Every payment made on any indebtedness evidenced by this note shall be applied first to interest accrued as of the date of receipt of the payment and then to principal.

EXHIBIT A

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Borrower. Refunds and extra payments, as defined in the regulations (7 CFR §1861.2) of the Farmers Home Administration according to the source of funds involved, shall, after payment of interest, be applied to the last installment to become due under this note and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this note and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder. While this note is held by an insured holder, prepayments made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on an installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an installment due date basis shall be the date of the prepayment by Borrower, and the Government will pay the interest to which the holder is entitled accruing between such date and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection of this note or to preserve or protect any security for the loan or otherwise expended under the terms of any security agreement or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand.

Property constructed, improved, purchased, or refinanced in whole or in part with the loan evidenced hereby shall not be leased, assigned, sold, transferred, or encumbered, voluntarily or otherwise, without the written consent of the Government. Unless the Government consents otherwise in writing, Borrower will operate such property as a farm if this is a Farm Ownership loan.

If "Consolidation and subsequent loan," "Consolidation," "Rescheduling," or "Reamortization" is indicated in the "Action Requiring Note" block above, this note is given to consolidate, reschedule or reamortize, but not in satisfaction of the unpaid principal and interest on the following described note(s) or assumption agreement(s) (new terms):

FACE AMOUNT	INT. RATE	DATE	ORIGINAL BORROWER	LAST INSTALL. DUE
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19

Security instruments taken in connection with the loans evidenced by these described notes and other related obligations are not affected by this consolidating, rescheduling or reamortizing. These security instruments shall continue to remain in effect and the security given for the loans evidenced by the described notes shall continue to remain as security for the loan evidenced by this note, and for any other related obligations.

REFINANCING (GRADUATION) AGREEMENT: If at any time it shall appear to the Government that the Borrower may be able to obtain financing from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept a loan(s) in sufficient amount to pay this note in full and, if the lender is a cooperative, to pay for any necessary stock.

DEFAULT: Failure to pay when due any debt evidenced hereby or perform any covenant of agreement hereunder shall constitute default under this and any other instrument evidencing a debt of Borrower owing to, insured or Guaranteed by the Government or securing or otherwise relating to such debt; and default under any such other instrument shall constitute default hereunder. **UPON ANY SUCH DEFAULT**, the Government at its option may declare all or any part of any such indebtedness immediately due and payable.

This Note is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farm and Rural Development Act, or the Emergency Agricultural Credit Adjustment Act of 1978 and for the type of loan as indicated in the "Kind of Loan" block above. This Note shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not inconsistent with the express provisions hereof.

Presentment, protest, and notice are hereby waived.

Eddie Payton
(Borrower)

(Borrower)

Rt. 1, Box 18

Barnwell, SC 29812

RECORD OF ADVANCES					
AMOUNT	DATE	AMOUNT	DATE	AMOUNT	DATE
\$ 43,800.00	3-12-79	\$		\$	
\$		\$		\$	
\$		\$		\$	
\$		\$		\$	
TOTAL				\$ 43,800.00	

PROMISSORY NOTE

Name EDDIE PAYTON		KIND OF LOAN Type: <u>EM</u> Pursuant to: ☒ Consolidated Farm & Rural Development Act ☐ Emergency Agricultural Credit Adjustment Act of 1978
State SOUTH CAROLINA	County BARNWELL	
Case No. 46-06-247725922	Date APRIL 15, 1982	ACTION REQUIRING NOTE ☐ Initial loan ☒ Subsequent loan ☐ Consolidation & subsequent loan ☐ Consolidation ☐ Rescheduling ☐ Reamortization ☐ Credit sale ☐ Deferred payments
Fund Code 43	Loan No. 04	

FOR VALUE RECEIVED, the undersigned Borrower(s) and any comakers jointly and severally promise to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, (herein called the "Government"), or its assigns, at its office in BARNWELL, SOUTH CAROLINA

_____, or at such other place as the Government may hereafter designate in writing, the principal sum of TWO HUNDRED THIRTY SEVEN THOUSAND NINE HUNDRED AND NO/100----- dollars

(\$ 237,900.00), plus interest on the unpaid principal balance at the RATE of SIXTEEN

percent (16 %) per annum. If this note is for a Limited Resource loan (indicated in the "Kind of Loan" box above) the Government may CHANGE THE RATE OF INTEREST, in accordance with regulations of the Farmers Home Administration, not more often than quarterly, by giving the Borrower thirty (30) days prior written notice by mail to the Borrower's last known address. The new interest rate shall not exceed the highest rate established in regulations of the Farmers Home Administration for the type of loan indicated above.

Principal and interest shall be paid in TWO installments as indicated below, except as modified by a different rate of interest, on or before the following dates:

\$ <u>265,119.00</u>	on January 1, 19 <u>83</u>	\$ <u>NA</u>	on January 1, 19 _____
\$ <u>NA</u>	on January 1, 19 _____	\$ <u>NA</u>	on January 1, 19 _____
\$ <u>NA</u>	on January 1, 19 _____	\$ <u>NA</u>	on January 1, 19 _____
\$ <u>NA</u>	on January 1, 19 _____	\$ <u>NA</u>	on January 1, 19 _____
\$ <u>NA</u>	on January 1, 19 _____	\$ <u>NA</u>	on January 1, 19 _____
\$ <u>NA</u>	on January 1, 19 _____	\$ <u>NA</u>	on January 1, 19 _____
\$ <u>NA</u>	on January 1, 19 _____	\$ <u>NA</u>	on January 1, 19 _____

and \$ NA thereafter on January 1st of each year until the principal and interest are fully paid except that the final installment of the entire indebtedness evidenced hereby, if not sooner paid, shall be due and payable ONE years from the date of this note, and except that prepayments may be made as provided below. The consideration for this note shall also support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan funds shall be advanced to the Borrower as requested by Borrower and approved by the Government. Approval by the Government will be given provided the advance is requested for a purpose authorized by the Government. Interest shall accrue on the amount of each advance from its actual date as shown in the Record of Advances at the end of this note. Borrower authorizes the Government to enter the amount(s) and date(s) of such advance(s) in the Records of Advances.

For each rescheduled, reamortized or consolidated note, interest accrued to the date of this instrument shall be added to principal and such new principal shall accrue interest at the rate evidenced by this instrument.

Every payment made on any indebtedness evidenced by this note shall be applied first to interest accrued as of the date of receipt of the payment and then to principal.

EXHIBIT A

EXHIBIT D

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Borrower. Refunds and extra payments, as defined in the regulations (7 CFR §1951.8) of the Farmers Home Administration according to the source of funds involved, shall, after payment of interest, be applied to the last installment to become due under this note and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this note and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder. While this note is held by an insured holder, prepayments made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on an installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an installment due date basis shall be the date of the prepayment by Borrower, and the Government will pay the interest to which the holder is entitled accruing between such date and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection of this note or to preserve or protect any security for the loan or otherwise expended under the terms of any security agreement or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand.

Property constructed, improved, purchased, or refinanced in whole or in part with the loan evidenced hereby shall not be leased, assigned, sold, transferred, or encumbered, voluntarily or otherwise, without the written consent of the Government. Unless the Government consents otherwise in writing, Borrower will operate such property as a farm if this is a Farm Ownership loan.

If "Consolidation and subsequent loan," "Consolidation," "Rescheduling," or "Reamortization" is indicated in the "Action Requiring Note" block above, this note is given to consolidate, reschedule or reamortize, but not in satisfaction of the unpaid principal and interest on the following described note(s) or assumption agreement(s) (new terms):

FACE AMOUNT	INT. RATE	DATE	ORIGINAL BORROWER	LAST INSTALL. DUE
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19

Security instruments taken in connection with the loans evidenced by these described notes and other related obligations are not affected by this consolidating, rescheduling or reamortizing. These security instruments shall continue to remain in effect and the security given for the loans evidenced by the described notes shall continue to remain as security for the loan evidenced by this note, and for any other related obligations.

REFINANCING (GRADUATION) AGREEMENT: If at any time it shall appear to the Government that the Borrower may be able to obtain financing from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept a loan(s) in sufficient amount to pay this note in full and, if the lender is a cooperative, to pay for any necessary stock.

DEFAULT: Failure to pay when due any debt evidenced hereby or perform any covenant of agreement hereunder shall constitute default under this and any other instrument evidencing a debt of Borrower owing to, insured or Guaranteed by the Government or securing or otherwise relating to such debt; and default under any such other instrument shall constitute default hereunder. **UPON ANY SUCH DEFAULT,** the Government at its option may declare all or any part of any such indebtedness immediately due and payable.

This Note is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farm and Rural Development Act, or the Emergency Agricultural Credit Adjustment Act of 1978 and for the type of loan as indicated in the "Kind of Loan" block above. This Note shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not inconsistent with the express provisions hereof.

Presentment, protest, and notice are hereby waived.

(SEAL)

(SEAL)

Eddie Payton
Eddie Payton

(Borrower)

(Borrower)

Rt. 2, Box 347

Barnwell, SC 29812

ELECTRONICALLY FILED - 2019 May 10 2:40 PM - BARNWELL - COMMON PLEAS - CASE#2018CP0600383

RECORD OF ADVANCES					
AMOUNT	DATE	AMOUNT	DATE	AMOUNT	DATE
\$ 237,900.	4-7-82	\$		\$	
\$		\$		\$	
\$		\$		\$	
\$		\$		\$	
TOTAL				\$ 237,900.	

PROMISSORY NOTE

Name EDDIE PAYTON		KIND OF LOAN Type: <u>EM</u> Pursuant to: ☐ Consolidated Farm & Rural Development Act ☐ Emergency Agricultural Credit Adjustment Act of 1978
State SOUTH CAROLINA	County BARNWELL	
Case No. 46-06-247725922	Date APRIL 15, 1982	ACTION REQUIRING NOTE ☐ Initial loan ☐ Rescheduling ☐ Subsequent loan ☒ Reamortization ☐ Consolidation & subsequent loan ☐ Credit sale ☐ Consolidation ☐ Deferred payments
Fund Code	Loan No.	

FOR VALUE RECEIVED, the undersigned Borrower(s) and any comakers jointly and severally promise to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, (herein called the "Government"), or its assigns, at its office in BARNWELL, SOUTH CAROLINA

_____, or at such other place as the Government may hereafter designate in writing, the principal sum of ONE HUNDRED TWENTY ONE THOUSAND TEN AND 46/100----- dollars

(\$ 121,010.46), plus interest on the unpaid principal balance at the RATE of THREE percent (3 %) per annum. If

this note is for a Limited Resource loan (indicated in the "Kind of Loan" box above) the Government may CHANGE THE RATE OF INTEREST, in accordance with regulations of the Farmers Home Administration, not more often than quarterly, by giving the Borrower thirty (30) days prior written notice by mail to the Borrower's last known address. The new interest rate shall not exceed the highest rate established in regulations of the Farmers Home Administration for the type of loan indicated above.

Principal and interest shall be paid in 18 installments as indicated below, except as modified by a different rate of interest, on or before the following dates:

\$ <u>9192.00</u>	on January 1, 19 <u>83</u> ;	\$ <u>NA</u>	on January 1, 19 _____;
\$ <u>NA</u>	on January 1, 19 _____;	\$ <u>NA</u>	on January 1, 19 _____;
\$ <u>NA</u>	on January 1, 19 _____;	\$ <u>NA</u>	on January 1, 19 _____;
\$ <u>NA</u>	on January 1, 19 _____;	\$ <u>NA</u>	on January 1, 19 _____;
\$ <u>NA</u>	on January 1, 19 _____;	\$ <u>NA</u>	on January 1, 19 _____;
\$ <u>NA</u>	on January 1, 19 _____;	\$ <u>NA</u>	on January 1, 19 _____;
\$ <u>9192.00</u>	on January 1, 19 _____;	\$ <u>NA</u>	on January 1, 19 _____;

and \$ 9192.00 thereafter on January 1st of each year until the principal and interest are fully paid except that the final installment of the entire indebtedness evidenced hereby, if not sooner paid, shall be due and payable 17 years from the date of this note, and except that prepayments may be made as provided below. The consideration for this note shall also support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan funds shall be advanced to the Borrower as requested by Borrower and approved by the Government. Approval by the Government will be given provided the advance is requested for a purpose authorized by the Government. Interest shall accrue on the amount of each advance from its actual date as shown in the Record of Advances at the end of this note. Borrower authorizes the Government to enter the amount(s) and date(s) of such advance(s) in the Records of Advances.

For each rescheduled, reamortized or consolidated note, interest accrued to the date of this instrument shall be added to principal and such new principal shall accrue interest at the rate evidenced by this instrument.

Every payment made on any indebtedness evidenced by this note shall be applied first to interest accrued as of the date of receipt of the payment and then to principal.

EXHIBIT E

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Borrower. Refunds and extra payments, as defined in the regulations (7 CFR §1951.8) of the Farmers Home Administration according to the source of funds involved, shall, after payment of interest, be applied to the last installment to become due under this note and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this note and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder. While this note is held by an insured holder, prepayments made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on an installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an installment due date basis shall be the date of the prepayment by Borrower, and the Government will pay the interest to which the holder is entitled accruing between such date and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection of this note or to preserve or protect any security for the loan or otherwise expended under the terms of any security agreement or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand.

Property constructed, improved, purchased, or refinanced in whole or in part with the loan evidenced hereby shall not be leased, assigned, sold, transferred, or encumbered, voluntarily or otherwise, without the written consent of the Government. Unless the Government consents otherwise in writing, Borrower will operate such property as a farm if this is a Farm Ownership loan.

If "Consolidation and subsequent loan," "Consolidation," "Rescheduling," or "Reamortization" is indicated in the "Action Requiring Note" block above, this note is given to consolidate, reschedule or reamortize, but not in satisfaction of the unpaid principal and interest on the following described note(s) or assumption agreement(s) (new terms):

FACE AMOUNT	INT. RATE	DATE	ORIGINAL BORROWER	LAST INSTALL. DUE
\$ 127,130.00	3 %	3-26- 1979	Eddie Payton	1-1- 1999
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19

Security instruments taken in connection with the loans evidenced by these described notes and other related obligations are not affected by this consolidating, rescheduling or reamortizing. These security instruments shall continue to remain in effect and the security given for the loans evidenced by the described notes shall continue to remain as security for the loan evidenced by this note, and for any other related obligations.

REFINANCING (GRADUATION) AGREEMENT: If at any time it shall appear to the Government that the Borrower may be able to obtain financing from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept a loan(s) in sufficient amount to pay this note in full and, if the lender is a cooperative, to pay for any necessary stock.

DEFAULT: Failure to pay when due any debt evidenced hereby or perform any covenant of agreement hereunder shall constitute default under this and any other instrument evidencing a debt of Borrower owing to, insured or Guaranteed by the Government or securing or otherwise relating to such debt; and default under any such other instrument shall constitute default hereunder. UPON ANY SUCH DEFAULT, the Government at its option may declare all or any part of any such indebtedness immediately due and payable.

This Note is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farm and Rural Development Act, or the Emergency Agricultural Credit Adjustment Act of 1978 and for the type of loan as indicated in the "Kind of Loan" block above. This Note shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not inconsistent with the express provisions hereof.

Presentment, protest, and notice are hereby waived.

(SEAL)

Eddie Payton
Eddie Payton (Borrower)

(SEAL)

(Borrower)

Rt. 2, Box 347

Barnwell, SC 29812

RECORD OF ADVANCES					
AMOUNT	DATE	AMOUNT	DATE	AMOUNT	DATE
\$		\$		\$	
\$		\$		\$	
\$		\$		\$	
\$		\$		\$	
TOTAL				\$	

PROMISSORY NOTE

Name EDDIE PAYTON		KIND OF LOAN Type: <u>EM</u> Pursuant to: ☒ Consolidated Farm & Rural Development Act ☐ Emergency Agricultural Credit Adjustment Act of 1978
State SOUTH CAROLINA	County BARNWELL	
Case No. 46-06-247725922	Date APRIL 15, 1982	
Fund Code	Loan No. 00	
		ACTION REQUIRING NOTE ☐ Initial loan ☐ Subsequent loan ☐ Consolidation & subsequent loan ☐ Consolidation ☐ Rescheduling ☒ Reamortization ☐ Credit sale ☐ Deferred payments

FOR VALUE RECEIVED, the undersigned Borrower(s) and any comakers jointly and severally promise to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, (herein called the "Government"), or its assigns, at its office in BARNWELL, SOUTH CAROLINA

_____, or at such other place as the Government may hereafter designate in writing, the principal sum of TWO HUNDRED FIFTEEN THOUSAND THIRTY ONE AND 81/100----- dollars

(\$ 215,031.81), plus interest on the unpaid principal balance at the **RATE** of **FIVE**

percent (5 %) per annum. If this note is for a Limited Resource loan (indicated in the "Kind of Loan" box above) the Government may **CHANGE THE RATE OF INTEREST**, in accordance with regulations of the Farmers Home Administration, not more often than quarterly, by giving the Borrower thirty (30) days prior written notice by mail to the Borrower's last known address. The new interest rate shall not exceed the highest rate established in regulations of the Farmers Home Administration for the type of loan indicated above.

Principal and interest shall be paid in 15 installments as indicated below, except as modified by a different rate of interest, on or before the following dates:

\$ <u>66,586.00</u>	on January 1, 19 <u>83</u>	\$ <u>66,586.00</u>	on January 1, 19 <u>84</u>
\$ <u>66,586.00</u>	on January 1, 19 <u>85</u>	\$ <u>4698.00</u>	on January 1, 19 <u>86</u>
\$ <u>NA</u>	on January 1, 19 <u> </u>	\$ <u>NA</u>	on January 1, 19 <u> </u>
\$ <u>NA</u>	on January 1, 19 <u> </u>	\$ <u>NA</u>	on January 1, 19 <u> </u>
\$ <u>NA</u>	on January 1, 19 <u> </u>	\$ <u>NA</u>	on January 1, 19 <u> </u>
\$ <u>NA</u>	on January 1, 19 <u> </u>	\$ <u>NA</u>	on January 1, 19 <u> </u>
\$ <u>NA</u>	on January 1, 19 <u> </u>	\$ <u>NA</u>	on January 1, 19 <u> </u>
and \$ <u>4698.00</u>	thereafter on January 1st of each year until the principal and interest are fully paid except that the final installment of the entire indebtedness evidenced hereby, if not sooner paid, shall be due and payable <u>14</u> years from the date of this note, and except that prepayments may be made as provided below. The consideration for this note shall also support any agreement modifying the foregoing schedule of payments.		

If the total amount of the loan is not advanced at the time of loan closing, the loan funds shall be advanced to the Borrower as requested by Borrower and approved by the Government. Approval by the Government will be given provided the advance is requested for a purpose authorized by the Government. Interest shall accrue on the amount of each advance from its actual date as shown in the Record of Advances at the end of this note. Borrower authorizes the Government to enter the amount(s) and date(s) of such advance(s) in the Records of Advances.

For each rescheduled, reamortized or consolidated note, interest accrued to the date of this instrument shall be added to principal and such new principal shall accrue interest at the rate evidenced by this instrument.

Every payment made on any indebtedness evidenced by this note shall be applied first to interest accrued as of the date of receipt of the payment and then to principal.

EXHIBIT F

EXHIBIT A

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Borrower. Refunds and extra payments, as defined in the regulations (7 CFR §1951.8) of the Farmers Home Administration according to the source of funds involved, shall, after payment of interest, to be applied to the last installment to become due under this note and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this note and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder. While this note is held by an insured holder, prepayments made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on an installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an installment due date basis shall be the date of the prepayment by Borrower, and the Government will pay the interest to which the holder is entitled accruing between such date and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection of this note or to preserve or protect any security for the loan or otherwise expended under the terms of any security agreement or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand.

Property constructed, improved, purchased, or refinanced in whole or in part with the loan evidenced hereby shall not be leased, assigned, sold, transferred, or encumbered, voluntarily or otherwise, without the written consent of the Government. Unless the Government consents otherwise in writing, Borrower will operate such property as a farm if this is a Farm Ownership loan.

If "Consolidation and subsequent loan," "Consolidation," "Rescheduling," or "Reamortization" is indicated in the "Action Requiring Note" block above, this note is given to consolidate, reschedule or reamortize, but not in satisfaction of the unpaid principal and interest on the following described note(s) or assumption agreement(s) (new terms):

FACE AMOUNT	INT. RATE	DATE	ORIGINAL BORROWER	LAST INSTALL. DUE
\$ 369,080.00	5 %	3-31- , 1981	Eddie Payton	1-1- , 1996
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19
\$	%	, 19		, 19

Security instruments taken in connection with the loans evidenced by these described notes and other related obligations are not affected by this consolidating, rescheduling or reamortizing. These security instruments shall continue to remain in effect and the security given for the loans evidenced by the described notes shall continue to remain as security for the loan evidenced by this note, and for any other related obligations.

REFINANCING (GRADUATION) AGREEMENT: If at any time it shall appear to the Government that the Borrower may be able to obtain financing from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept a loan(s) in sufficient amount to pay this note in full and, if the lender is a cooperative, to pay for any necessary stock.

DEFAULT: Failure to pay when due any debt evidenced hereby or perform any covenant of agreement hereunder shall constitute default under this and any other instrument evidencing a debt of Borrower owing to, insured or Guaranteed by the Government or securing or otherwise relating to such debt; and default under any such other instrument shall constitute default hereunder. **UPON ANY SUCH DEFAULT**, the Government at its option may declare all or any part of any such indebtedness immediately due and payable.

This Note is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farm and Rural Development Act, or the Emergency Agricultural Credit Adjustment Act of 1978 and for the type of loan as indicated in the "Kind of Loan" block above. This Note shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not inconsistent with the express provisions hereof.

Presentment, protest, and notice are hereby waived.

(SEAL)

(SEAL)

Eddie Payton
Eddie Payton

(Borrower)

(Borrower)

Rt. 2, Box 347

Barnwell SC 29812

ELECTRONICALLY FILED - 2019 May 10 2:40 PM - BARNWELL - COMMON PLEAS - CASE#2018CP0600383

RECORD OF ADVANCES					
AMOUNT	DATE	AMOUNT	DATE	AMOUNT	DATE
\$		\$		\$	
\$		\$		\$	
\$		\$		\$	
\$		\$		\$	
TOTAL				\$	

USDA-FmHA

Form FmHA 427-1 SC
(Rev. 10-25-77)

REAL ESTATE MORTGAGE FOR SOUTH CAROLINA

THIS MORTGAGE is made and entered into by Eddie Payton

residing in Barnwell County, South Carolina, whose post office address is
Route 1, Box 18, Barnwell, South Carolina 29812,
 herein called "Borrower," and:

WHEREAS Borrower is indebted to the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, herein called the "Government," as evidenced by one or more promissory note(s) or assumption agreement(s), herein called "note," which has been executed by Borrower, is payable to the order of the Government, authorizes acceleration of the entire indebtedness at the option of the Government upon any default by Borrower, and is described as follows:

<u>Date of Instrument</u>	<u>Principal Amount</u>	<u>Annual Rate of Interest</u>	<u>Due Date of Final Installment</u>
March 26, 1979	\$127,130.00	3	March 26, 1999
March 26, 1979	43,800.00	8 1/2	March 26, 2019

And the note evidences a loan to Borrower, and the Government, at any time, may assign the note and insure the payment thereof pursuant to the Consolidated Farm and Rural Development Act, or Title V of the Housing Act of 1949;

And it is the purpose and intent of this instrument that, among other things, at all times when the note is held by the Government, or in the event the Government should assign this instrument without insurance of the note, this instrument shall secure payment of the note; but when the note is held by an insured holder, this instrument shall not secure payment of the note or attach to the debt evidenced thereby, but as to the note and such debt shall constitute an indemnity mortgage to secure the Government against loss under its insurance contract by reason of any default by Borrower:

NOW, THEREFORE, in consideration of the loan(s) and (s) at all times when the note is held by the Government, or in the event the Government should assign this instrument without insurance of the payment of the note, to secure prompt payment of the note and any renewals and extensions thereof and any agreements contained therein, including any provision for the payment of an insurance or other charge, (b) at all times when the note is held by an insured holder, to secure performance of Borrower's agreement herein to indemnify and save harmless the Government against loss under its insurance contract by reason of any default by Borrower, and (c) in any event and at all times to secure the prompt payment of all advances and expenditures made by the Government, with interest, as hereinafter described, and the performance of every covenant and agreement of Borrower contained herein or in any supplementary agreement, Borrower does hereby grant, bargain, sell, release, and assign unto the Government, with general warranty, the following property situated in the State of South Carolina, County(ies) of Barnwell:

TRACT NO. 1: ALL THAT CERTAIN TRACT OF LAND SITUATE, LYING AND BEING IN SEVEN PINES SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, CONTAINING 159.12 ACRES, AS SHOWN ON PLAT PREPARED BY J. J. FOY, R. L. S., DATED JANUARY 25, 1975, AND RECORDED IN PLAT BOOK L, AT PAGE 265, OF THE BARNWELL COUNTY RECORDS, AND BEING BOUNDED AS FOLLOWS: NORTH BY LANDS OF DR. H. W. GIBSON AND S. C. HIGHWAY NO. 20; EAST BY LANDS OF EDDIE PAYTON, LANDS OF WILLIE PAYTON, LANDS OF HATTEE MAE PAYTON AND LANDS OF ADLESE SEBASTIAN; SOUTH BY LANDS OF LUCIUS HANKINSON AND LANDS OF DR. H. W. GIBSON; AND WEST BY LANDS OF R. L. RICHARDSON AND LANDS OF DR. H. W. GIBSON. THIS IS THE SAME PROPERTY CONVEYED TO EDDIE PAYTON BY DEED OF GEOFFREY P. HULL, DATED MARCH 17, 1975, AND RECORDED ON MARCH 21, 1975, IN BOOK 14-U, PAGE 089, OF THE RECORDS OF BARNWELL COUNTY.

ALSO:

TRACT NO. 2: ALL THAT CERTAIN TRACT OF LAND, CONTAINING 44 ACRES, MORE OR LESS, SITUATE IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, BEING SHOWN AND DESIGNATED ON PLAT OF RECORD IN DEED BOOK 8-U, AT PAGE 443, OF THE BARNWELL COUNTY RECORDS, AND BEING BOUNDED AS FOLLOWS: NORTH BY LANDS OF MAGGIE OWENS; EAST BY LANDS OF FRED CRAWFORD; SOUTH BY LANDS OF FRED ARANT; AND WEST BY LANDS OF MOSES WILLIAMS. THIS

IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF MOSES WILLIAMS, ET AL., DATED OCTOBER 1, 1971, AND RECORDED ON OCTOBER 15, 1971, IN BOOK 13-W, PAGE 161, OF THE RECORDS OF BARNWELL COUNTY.

ALSO:

TRACT NO. 3:

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN RED OAK TOWNSHIP, BARNWELL COUNTY, SOUTH CAROLINA, CONTAINING EIGHT (8) ACRES, MORE OR LESS, AND BEING A PART OF A 44-ACRE TRACT OF LAND; SAID 44-ACRE TRACT OF LAND BEING BOUNDED AS FOLLOWS: ON THE NORTH BY PROPERTY OF ANGUS PAYTON ESTATE; ON THE EAST BY PROPERTY OF MARY BUSH MCCORMACK; ON THE SOUTH BY PROPERTY OF MCDUFFIE HANKERSON; AND ON THE WEST BY PROPERTY OF LOUISE P. LIGHTSEY. THIS IS THE SAME PROPERTY CONVEYED TO EDDIE PAYTON BY DEED OF DAVID PAYTON, DATED AUGUST 28, 1972, AND RECORDED ON SEPTEMBER 1, 1972, IN BOOK 14-A, PAGE 179, OF THE BARNWELL COUNTY RECORDS.

ALSO:

TRACT NO. 4:

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN RED OAK TOWNSHIP, BARNWELL COUNTY, SOUTH CAROLINA, CONTAINING EIGHT (8) ACRES, MORE OR LESS, AND BEING A PART OF A 44-ACRE TRACT OF LAND; SAID 44-ACRE TRACT OF LAND BEING BOUNDED AS FOLLOWS: ON THE NORTH BY PROPERTY OF ANGUS PAYTON ESTATE; ON THE EAST BY PROPERTY OF MARY BUSH MCCORMACK; ON THE SOUTH BY PROPERTY OF MCDUFFIE HANKERSON; AND ON THE WEST BY PROPERTY OF LOUISE P. LIGHTSEY. THIS IS THE SAME PROPERTY CONVEYED TO EDDIE PAYTON BY DEED OF THELMA PAYTON BRADLEY, DATED FEBRUARY 8, 1973, AND RECORDED ON FEBRUARY 9, 1973, IN BOOK 14-D, PAGE 139, OF THE BARNWELL COUNTY RECORDS.

SEE SCHEDULE ATTACHED.

together with all rights, interests, easements, hereditaments and appurtenances thereunto belonging, the rents, issues, and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the thereof, including, but not limited to, ranges, refrigerators, clothes washers, clothes dryers, or carpeting purchased or financed in whole or in part with loan funds, all water, water rights, and water stock pertaining thereto, and all payments at any time owing to Borrower by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein-all of which are herein called "the property".

TO HAVE AND TO HOLD the property unto the Government and its assigns forever in fee simple.

BORROWER for himself, his heirs, executors, administrators, successors and assigns WARRANTS THE TITLE to the property to the Government against all lawful claims and demands whatsoever except any liens, encumbrances, easements, reservations, or conveyances specified hereinabove, and COVENANTS AND AGREES as follows:

(1) To pay promptly when due any indebtedness to the Government hereby secured and to indemnify and save harmless the Government against any loss under its insurance of payment of the note by reason of any default by Borrower. At all times when the note is held by an insured holder, Borrower shall continue to make payments on the note to the Government, as collection agent for the holder.

(2) To pay to the Government such fees and other charges as may now or hereafter be required by regulations of the Farmers Home Administration.

(3) If required by the Government, to make additional monthly payments of 1/12 of the estimated annual taxes, assessments, insurance premiums and other charges upon the mortgaged premises.

(4) Whether or not the note is insured by the Government, the Government may at any time pay any other amounts required herein to be paid by Borrower and not paid by him when due, as well as any costs and expenses for the preservation, protection, or enforcement of this lien, as advances for the account of Borrower. All such advances shall bear interest at the rate borne by the note which has the highest interest rate.

(5) All advances by the Government as described in this instrument, with interest, shall be immediately due and payable by Borrower to the Government without demand at the place designated in the latest note and shall be secured hereby. No such advances by the Government shall relieve Borrower from breach of his covenant to pay. Any payment made by Borrower may be applied on the note or any indebtedness to the Government secured hereby, in any order the Government determines.

(6) To use the loan evidenced by the note solely for purposes authorized by the Government.

(7) To pay when due all taxes, liens, judgments, encumbrances and assessments lawfully attaching to or assessed against the property and promptly deliver to the Government without demand receipts evidencing such payments.

(8) To keep the property insured as required by and under insurance policies approved by the Government and, at its request, to deliver such policies to the Government.

SCHEDULE "A"

ALSO:

TRACT NO. 5:

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN THE STATE OF SOUTH CAROLINA, COUNTY OF BARNWELL, IN THE RED OAK TOWNSHIP, CONTAINING 47.9 ACRES, MORE OR LESS, AND BOUNDED ON THE NORTH BY LANDS OF BLANCHE P. HARRIS; ON THE EAST BY LAND OF ANGUS PAYTON ESTATE; ON THE SOUTH BY LANDS OF ANGUS PAYTON ESTATE; AND ON THE WEST BY LAND OF LOUISE P. LIGHTSEY. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF LOTTEE PAYTON, DATED SEPTEMBER 12, 1972, AND RECORDED ON SEPTEMBER 14, 1972, IN BOOK 14-A, PAGE 215, OF THE BARNWELL COUNTY RECORDS.

ALSO:

TRACT NO. 6:

ALL THAT CERTAIN TRACT OF LAND, WITH IMPROVEMENTS THEREON, SITUATE IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, CONTAINING 93 ACRES, MORE OR LESS, AND BEING BOUNDED, NOW OR FORMERLY, AS FOLLOWS: NORTH BY LANDS OF J. B. MORRIS AND LANDS OF LEON TOBIN; EAST BY LANDS OF H. W. SANDERS; SOUTH BY LANDS OF H. W. SANDERS; AND WEST BY LANDS OF RUBY SNELLING AND A PUBLIC ROAD SEPARATING SAID TRACT FROM LANDS OF JOSHUA SANDERS, SAID TRACT BEING MORE PARTICULARLY DESCRIBED ON A PLAT MADE BY J. B. ELLIS, DATED OCTOBER 20, 1933, AND RECORDED IN PLAT BOOK A, AT PAGE 4, OF THE BARNWELL COUNTY RECORDS. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF CLOTTEE PAYTON, DATED AUGUST 30, 1972, AND RECORDED ON AUGUST 30, 1972, IN BOOK 14-A, PAGE 174, OF THE BARNWELL COUNTY RECORDS.

ALSO:

TRACT NO. 7:

ALL THAT CERTAIN TRACT OF LAND SITUATE, LYING AND BEING IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, CONTAINING 19.07 ACRES, MORE OR LESS, AND BEING BOUNDED, NOW OR FORMERLY, AS FOLLOWS: NORTH BY LANDS OF MOSES WILLIAMS; EAST BY LANDS OF ESTELLE WEATHERSBY; SOUTH BY LANDS OF EDGAR PAYTON; AND WEST BY LANDS OF THE ESTATE OF JULY SANDERS. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF MOSES WILLIAMS, DATED JANUARY 20, 1975, AND RECORDED ON JANUARY 21, 1975, IN BOOK 14-B, PAGE 481, OF THE BARNWELL COUNTY RECORDS.

THE WITHIN MORTGAGE AS TO TRACTS 2, 4, 6 AND 7 IS A SECOND MORTGAGE JUNIOR AND SUBORDINATE TO THAT MORTGAGE IN FAVOR OF BARNWELL PRODUCTION CREDIT ASSOCIATION, DATED JUNE 17, 1975, AND RECORDED IN MORTGAGE BOOK 14-V, AT PAGE 196, OF THE RECORDS OF BARNWELL COUNTY.

E. P

3-26-79

THE WITHIN MORTGAGE IS A THIRD MORTGAGE AS TO TRACTS 1 AND 5 JUNIOR TO THAT CERTAIN MORTGAGE IN FAVOR OF THE FEDERAL LAND BANK, DATED MARCH 21, 1975, AND RECORDED IN BOOK 14-Q, AT PAGE 481, OF THE RECORDS OF BARNWELL COUNTY AND JUNIOR AND SUBORDINATE TO THAT CERTAIN MORTGAGE IN FAVOR OF BARNWELL PRODUCTION CREDIT ASSOCIATION, DATED JUNE 17, 1975, AND RECORDED IN BOOK 14-V, AT PAGE 196, OF THE RECORDS OF BARNWELL COUNTY.

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ELECTRONICALLY FILED - 2019 May 10 2:40 PM - BARNWELL COMMON PLEAS CASE#2018CP0600983

(9) To maintain improvements in good repair and make repairs required by the Government; operate the property in a good and husband-like manner; comply with such farm conservation practices and farm and home management plans as the Government from time to time may prescribe; and not to abandon the property, or cause or permit waste, lessening or impairment of the security covered hereby, or without the written consent of the Government, cut, remove, or lease any timber, gravel, oil, gas, coal, or other minerals except as may be necessary for ordinary domestic purposes.

(10) To comply with all laws, ordinances, and regulations affecting the property. **TWEE G' LICKING**

(11) To pay or reimburse the Government for expenses reasonably necessary or incidental to the protection of the lien and priority hereof and to the enforcement of or the compliance with the provisions hereof and of the note and any supplementary agreement (whether before or after default, including but not limited to costs of evidence of title to any survey of the property, costs of recording this and other instruments, attorneys' fees, trustees' fees, court costs, and expenses of advertising, selling, and conveying the property).

(12) Neither the property nor any portion thereof or interest therein shall be leased, assigned, sold, transferred, or encumbered, voluntarily or otherwise, without the written consent of the Government. The Government shall have the sole and exclusive rights as mortgagee hereunder, including but not limited to the power to grant consents, partial releases, substitutions, and satisfaction, and no insured holder shall have any right, title or interest in or to the lien or any benefits hereof.

(13) At all reasonable times the Government and its agents may inspect the property to ascertain whether the covenants and agreements contained herein or in any supplementary agreement are being performed.

(14) The Government may extend and defer the maturity of and renew and reamortize the debt evidenced by the note or any indebtedness to the Government secured hereby, release from liability to the Government any party so liable thereon, release portions of the property from and subordinate the lien hereof, and waive any other rights hereunder, without affecting the lien or priority hereof or the liability of the Government of Borrower or any other party for payment of the note or indebtedness secured hereby except as specified by the Government in writing.

(15) If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, upon the Government's request, apply for and accept such loan in sufficient amount to pay the note and any indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.

(16) Default hereunder shall constitute default under any other real estate, or under any personal property or other security instrument held or insured by the Government and executed or assumed by Borrower, and default under any such other security instrument shall constitute default hereunder.

(17) SHOULD DEFAULT occur in the performance or discharge of any obligation in this instrument or secured by this instrument, or should any one of the parties named as Borrower die or be declared an incompetent, a bankrupt, or an insolvent, or make an assignment for the benefit of creditors, the Government at its option, with or without notice, may: (a) declare the entire amount unpaid under the note and any indebtedness to the Government hereby secured immediately due and payable, (b) for the account of Borrower incur and pay reasonable expenses for repair or maintenance of and take possession of, operate or rent the property, (c) upon application by it and production of this instrument, without notice of hearing of said application, have a receiver appointed for the property, with the usual powers of receivers in like cases, (d) foreclose this instrument as provided herein or by law, and (e) enforce any and all other rights and remedies provided herein or by present or future law.

(18) The proceeds of foreclosure sale shall be applied in the following order to the payment of: (a) costs and expenses incident to enforcing or complying with the provisions hereof, (b) any prior liens required by law or a competent court to be so paid, (c) the debt evidenced by the note and all indebtedness to the Government secured hereby, (d) inferior liens of record required by law or a competent court to be so paid, (e) at the Government's option, any other indebtedness of Borrower owing to or insured by the Government, and (f) any balance to Borrower. At foreclosure or other sale of all or any part of the property, the Government and its agents may bid and purchase as a stranger and may pay the Government's share of the purchase price by crediting such amount on any debts of Borrower owing to or insured by the Government, in the order prescribed above.

(19) Borrower agrees that the Government will not be bound by any present or future State laws, (a) providing for valuation, appraisal, homestead or exemption of the property, (b) prohibiting maintenance of an action for a deficiency judgment or limiting the amount thereof or the time within which such action may be brought, (c) prescribing any other statute of limitations, (d) allowing any rights of redemption or possession following any foreclosure sale, or (e) limiting the conditions which the Government may by regulation impose, including the interest rate it may charge, as a condition of approving a transfer of the property to a new Borrower. Borrower expressly waives the benefit of any such State law. Borrower hereby relinquishes, waives, and conveys all rights, inchoate or consummate, of descent, dower, and curtesy.

(20) If any part of the loan for which this instrument is given shall be used to finance the purchase, construction or repair of property to be used as an owner-occupied dwelling (herein called "the dwelling") and if Borrower intends to sell or rent the dwelling and has obtained the Government's consent to do so (a) neither Borrower nor anyone authorized to act for him, will, after receipt of a bona fide offer, refuse to negotiate for the sale or rental of the dwelling or will otherwise make unavailable or deny the dwelling to anyone because of race, color, religion, sex or national origin, and (b) Borrower recognizes as illegal and hereby disclaims, and will not comply with or attempt to enforce any restrictive covenants on dwelling relating to race, color, religion, sex or national origin.

(21) This instrument shall be subject to the present regulations of the Farmers Home Administration, and to its future regulations not inconsistent with the express provisions hereof.

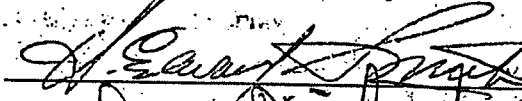
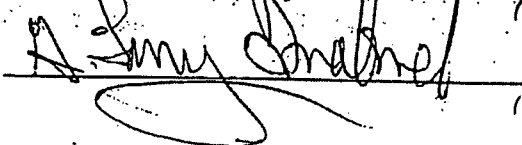
(22) Notices given hereunder shall be sent by certified mail, unless otherwise required by law, addressed, unless and until some other address is designated in a notice so given, in the case of the Government to Farmers Home Administration, United States Department of Agriculture, at Columbia, South Carolina, 29201, and in the case of Borrower to him at the address shown in the Farmers Home Administration Finance Office records (which normally will be the same as the post office address shown above).

(23) If any provision of this instrument or application thereof to any person or circumstances is held invalid, such invalidity will not affect other provisions or applications of the instrument which can be given effect without the invalid provision or application, and to that end the provisions hereof are declared to be severable.

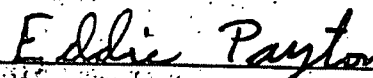
IN WITNESS WHEREOF, Borrower has hereunto set Borrower's hand(s) and seal(s) this 26th day

of March, 1979

Signed, Sealed, and Delivered in the presence of:


(Witness)

(Witness)

045

 (SEAL)

070 (SEAL)

EXHIBIT B

046

AFFIDAVIT OF SUBSCRIBING WITNESS

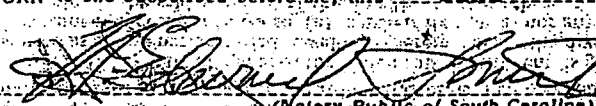
STATE OF SOUTH CAROLINA

COUNTY OF BARNWELLBefore me, H. Edward Smith

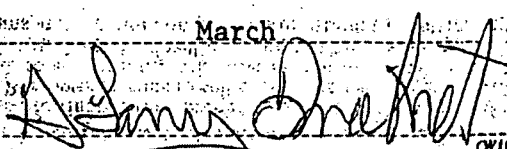
, Notary Public of South Carolina, personally appeared

G. Larry Inabinet

and made oath

that he saw the within named Eddie Payton sign, seal andas his act and deed, deliver the within written mortgage for the uses and purposes therein mentioned, andthat he with H. Edward Smith witnessed the execution thereof, and subscribed their names as witnesser thereto.SWORN to and subscribed before me, this 22nd day of March, 1979

(Notary Public of South Carolina)



(Witness)

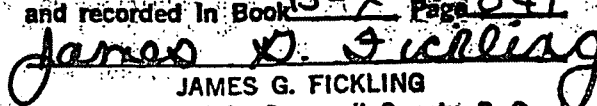
(SEAL) My commission expires on October 13, 1982My commission expires on October 13, 1982NO. RENUNCIATION OF DOWER
MORTGAGOR A SINGLE MAN.

STATE OF SOUTH CAROLINA

COUNTY OF BARNWELLI, James G. Fickling, Notary Public of South Carolina, do hereby certify unto all whom it may concernthat Mrs. [Name], the wife of the within named [Name], did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, its successors and assigns, all her interest and estate, and also all her right and claim of dower, of, in or to all and singular the premises within mentioned and released.GIVEN under my hand and seal, this 19 day of March, 1979

(SEAL)

(Signature of Wife)

My commission expires on October 13, 1982 (Notary Public of South Carolina)I hereby certify that the within instrument was
filed for record in the office of the Clerk of
Court at 10:00 A.M. o'clock on the 28th
day of MARCH 1979 and was duly indexed
and recorded in Book 15-X Page 041

JAMES G. FICKLING

C.C.C.P. & G.S., Barnwell County, S. C.

ELECTRONICALLY FILED - 2019 May 10 2:40 PM - BARNWELL - COMMON PLEAS - CASE#2018CP0600383

Position 5

USDA-FmHA
Form FmHA 427-1 SC
(Rev. 3-7-80)

REAL ESTATE MORTGAGE FOR SOUTH CAROLINA

THIS MORTGAGE is made and entered into by Eddie Payton, a/ka/ Edgar Payton

residing in BARNWELL County, South Carolina, whose post office address is
ROUTE 2, BOX 347, BARNWELL, South Carolina 29812

herein called "Borrower," and :

WHEREAS Borrower is indebted to the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, herein called the "Government," as evidenced by one or more promissory note(s) or assumption agreement(s), herein called "note," which has been executed by Borrower, is payable to the order of the Government, authorizes acceleration of the entire indebtedness at the option of the Government upon any default by Borrower, and is described as follows:

<u>Date of Instrument</u>	<u>Principal Amount</u>	<u>Annual Rate of Interest</u>	<u>Due Date of Final Installment</u>
3/26/79	\$127,130.00	3%	3/26/1999
3/26/79	43,800.00	8½%	3/26/2019
3/31/81	369,080.00	5%	3/31/1996

(If the interest rate is less than _____% for farm ownership or operating loan(s) secured by this instrument, then the rate may be changed as provided in the note.)

And the note evidences a loan to Borrower, and the Government, at any time, may assign the note and insure the payment thereof pursuant to the Consolidated Farm and Rural Development Act, or Title V of the Housing Act of 1949, or any other statutes administered by the Farmers Home Administration;

And it is the purpose and intent of this instrument that, among other things, at all times when the note is held by the Government, or in the event the Government should assign this instrument without insurance of the note, this instrument shall secure payment of the note; but when the note is held by an insured holder, this instrument shall not secure payment of the note or attach to the debt evidenced thereby, but as to the note and such debt shall constitute an indemnity mortgage to secure the Government against loss under its insurance contract by reason of any default by Borrower;

And this instrument also secures the recapture of any interest credit or subsidy which may be granted to the Borrower by the Government pursuant to 42 U.S.C. §1490a.

NOW, THEREFORE, in consideration of the loan(s) and (a) at all times when the note is held by the Government, or in the event the Government should assign this instrument without insurance of the payment of the note, to secure prompt payment of the note and any renewals and extensions thereof and any agreements contained therein, including any provision for the payment of an insurance or other charge, (b) at all times when the note is held by an insured holder, to secure performance of Borrower's agreement herein to indemnify and save harmless the Government against loss under its insurance contract by reason of any default by Borrower, and (c) in any event and at all times to secure the prompt payment of all advances and expenditures made by the Government, with interest, as hereinafter described, and the performance of every covenant and agreement of Borrower contained herein or in any supplementary agreement, Borrower does hereby grant, bargain, sell, release, and assign unto the Government, with general warranty, the following property situated in the State of

South Carolina, County(ies) of BARNWELL

"SEE ATTACHED SCHEDULE"

ADDRESS OF FARMERS HOME ADMINISTRATION: P.O. BOX 158, BARNWELL, S.C. 29812

FmHA 427-1 SC (Rev. 3-7-80)

EXHIBIT B

EXHIBIT H 113

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together with all rights, interests, easements, hereditaments and appurtenances thereunto belonging, the rents, issues, and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the use thereof, including, but not limited to, ranges, refrigerators, clothes washers, clothes dryers, or carpeting purchased or financed in whole or in part with loan funds, all water, water rights, and water stock pertaining thereto, and all payments at any time owing to Borrower by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein-all of which are herein called "the property";

TO HAVE AND TO HOLD the property unto the Government and its assigns forever in fee simple.

BORROWER for Borrower's self, Borrower's heirs, executors, administrators, successors and assigns WARRANTS THE TITLE to the property to the Government against all lawful claims and demands whatsoever except any liens, encumbrances, easements, reservations, or conveyances specified hereinabove, and COVENANTS AND AGREES as follows:

(1) To pay promptly when due any indebtedness to the Government hereby secured and to indemnify and save harmless the Government against any loss under its insurance of payment of the note by reason of any default by Borrower. At all times when the note is held by an insured holder, Borrower shall continue to make payments on the note to the Government, as collection agent for the holder.

(2) To pay to the Government such fees and other charges as may now or hereafter be required by regulations of the Farmers Home Administration.

(3) If required by the Government, to make additional monthly payments of 1/12 of the estimated annual taxes, assessments, insurance premiums and other charges upon the mortgaged premises.

(4) Whether or not the note is insured by the Government, the Government may at any time pay any other amounts required herein to be paid by Borrower and not paid by Borrower when due, as well as any costs and expenses for the preservation, protection, or enforcement of this lien, as advances for the account of Borrower. All such advances shall bear interest at the rate borne by the note which has the highest interest rate.

(5) All advances by the Government as described by this instrument, with interest, shall be immediately due and payable by Borrower to the Government without demand at the place designated in the latest note and shall be secured hereby. No such advance by the Government shall relieve Borrower from breach of Borrower's covenant to pay. Any payment made by Borrower may be applied on the note or any indebtedness to the Government secured hereby, in any order the Government determines.

(6) To use the loan evidenced by the note solely for purposes authorized by the Government.

(7) To pay when due all taxes, liens, judgments, encumbrances, and assessments lawfully attaching to or assessed against the property, and promptly deliver to the Government without demand receipts evidencing such payments.

(8) To keep the property insured as required by and under insurance policies approved by the Government and, at its request, to deliver such policies to the Government.

(9) To maintain improvements in good repair and make repairs required by the Government; operate the property in a good and husbandmanlike manner; comply with such farm conservation practices and farm and home management plans as the Government from time to time may prescribe; and not to abandon the property, or cause or permit waste, lessening or impairment of the security covered hereby, or, without the written consent of the Government, cut, remove, or lease any timber, gravel, oil, gas, coal, or other minerals except as may be necessary for ordinary domestic purposes.

(10) To comply with all laws, ordinances, and regulations affecting the property.

TRACT NO. 1

ALL THAT CERTAIN TRACT OF LAND SITUATE, LYING AND BEING IN SEVEN PINES SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, CONTAINING 159.12 ACRES, AS SHOWN ON PLAT PREPARED BY J.J. FOY, RLS, DATED JANUARY 25, 1975, AND RECORDED IN PLAT BOOK L, AT PAGE 265, OF THE BARNWELL COUNTY RECORDS, AND BEING BOUNDED AS FOLLOWS: NORTH BY LANDS OF DR. H.W. GIBSON AND S.C. HIGHWAY NO. 20; EAST BY LANDS OF EDDIE PAYTON, LANDS OF WILLIE PAYTON, LANDS OF HATTIE MAE PAYTON AND LANDS OF ADLESE SEBASTIAN; SOUTH BY LANDS OF LUCIUS HANKINSON AND LANDS OF DR. H.W. GIBSON; AND WEST BY LANDS OF R.L. RICHARDSON AND LANDS OF DR. H.W. GIBSON. THIS IS THE SAME PROPERTY CONVEYED TO EDDIE PAYTON BY DEED OF GEOFFREY P. HULL, DATED MARCH 17, 1975, AND RECORDED ON MARCH 21, 1975, IN BOOK 14-U, PAGE 089, OF THE RECORDS OF BARNWELL COUNTY.

TRACT NO. 2

ALL THAT CERTAIN TRACT OF LAND, CONTAINING 44 ACRES, MORE OR LESS, SITUATE IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, BEING SHOWN AND DESIGNATED ON PLAT OF RECORD IN DEED BOOK 8-U, AT PAGE 443, OF THE BARNWELL COUNTY RECORDS, AND BEING BOUNDED AS FOLLOWS: NORTH BY LANDS OF MAGGIE OWENS; EAST BY LANDS OF FRED CRAWFORD; SOUTH BY LANDS OF FRED ARANT; AND WEST BY LANDS OF MOSES WILLIAMS. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF MOSES WILLIAMS, ET AL., DATED OCTOBER 1, 1971, AND RECORDED ON OCTOBER 15, 1971, IN BOOK 13-W, PAGE 161, OF THE RECORDS OF BARNWELL COUNTY.

TRACT NO. 3

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN RED OAK TOWNSHIP, BARNWELL COUNTY, SOUTH CAROLINA, CONTAINING EIGHT (8) ACRES, MORE OR LESS, AND BEING A PART OF A 44 ACRE TRACT OF LAND; SAID 44 ACRE TRACT OF LAND BEING BOUNDED AS FOLLOWS: ON THE NORTH BY PROPERTY OF ANGUS PAYTON ESTATE; ON THE EAST BY PROPERTY OF MARY BUSH MCCORMACK; ON THE SOUTH BY PROPERTY OF MCDUFFIE HANKERSON; AND ON THE WEST BY PROPERTY OF LOUISE P. LIGHTSEY. THIS IS THE SAME PROPERTY CONVEYED TO EDDIE PAYTON BY DEED OF DAVID PAYTON, DATED AUGUST 28, 1972, AND RECORDED ON SEPTEMBER 1, 1972, IN BOOK 14-A, PAGE 179, OF THE BARNWELL COUNTY RECORDS.

TRACT NO. 4

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN RED OAK TOWNSHIP, BARNWELL COUNTY, SOUTH CAROLINA, CONTAINING EIGHT (8) ACRES, MORE OR LESS, AND BEING A PART OF A 44 ACRE TRACT OF LAND; SAID 44 ACRE TRACT OF LAND BEING BOUNDED AS FOLLOWS: ON THE NORTH BY PROPERTY OF ANGUS PAYTON ESTATE; ON THE EAST BY PROPERTY OF MARY BUSH MCCORMACK; ON THE SOUTH BY PROPERTY OF MCDUFFIE HANKERSON; AND ON THE WEST BY PROPERTY OF LOUISE P. LIGHTSEY. THIS IS THE SAME PROPERTY CONVEYED TO EDDIE PAYTON BY DEED OF THELMA PAYTON BRADLEY, DATED FEBRUARY 8, 1973, AND RECORDED ON FEBRUARY 9, 1973 IN BOOK 14-D, PAGE 139 OF THE BARNWELL COUNTY RECORDS.

TRACT NO. 5

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN THE STATE OF SOUTH CAROLINA, COUNTY OF BARNWELL, IN THE RED OAK TOWNSHIP, CONTAINING 47.9 ACRES, MORE OR LESS, AND BOUNDED ON THE NORTH BY LANDS OF BLANCHE P. HARRIS; ON THE EAST BY LANDS OF ANGUS PAYTON ESTATE; ON THE SOUTH BY LANDS OF ANGUS PAYTON ESTATE; AND ON THE WEST BY LAND OF LOUISE P. LIGHTSEY. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF LOTTEE PAYTON, DATED SEPTEMBER 12, 1972, AND RECORDED ON SEPTEMBER 14, 1972 IN BOOK 14-A, PAGE 215, OF THE BARNWELL COUNTY RECORDS.

TRACT NO. 6

ALL THAT CERTAIN TRACT OF LAND, WITH IMPROVEMENTS THEREON, SITUATE IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, CONTAINING 93 ACRES, MORE OR LESS, AND BEING BOUNDED, NOW OR FORMERLY, AS FOLLOWS: NORTH BY LANDS OF J.B. MORRIS AND LANDS OF LEON TOBIN; EAST BY LANDS OF H.W. SANDERS; SOUTH BY LANDS OF H.W. SANDERS; AND WEST BY LANDS OF RUBY SNELLING AND A PUBLIC ROAD SEPARATING SAID TRACT FROM LANDS OF JOSHUA SANDERS, SAID TRACT BEING MORE PARTICULARLY DESCRIBED ON A PLAT MADE BY J.B. ELLIS, DATED OCTOBER 20, 1933, AND RECORDED IN PLAT BOOK A, AT PAGE 4, OF THE BARNWELL COUNTY RECORDS. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF CLOTTEE PAYTON, DATED AUGUST 30, 1972, AND RECORDED ON AUGUST 30, 1972, IN BOOK 14-A, AT PAGE 174, OF THE BARNWELL COUNTY RECORDS.

TRACT NO. 7

ALL THAT CERTAIN TRACT OF LAND SITUATE, LYING AND BEING IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, CONTAINING 19.07 ACRES, MORE OR LESS, AND BEING BOUNDED, NOW OR FORMERLY, AS FOLLOWS: NORTH BY LANDS OF MOSES WILLIAMS; EAST BY LANDS OF ESTELLE WEATHERSBY; SOUTH BY LANDS OF EDGAR PAYTON; AND WEST BY LANDS OF THE ESTATE OF JULY SANDERS. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF MOSES WILLIAMS, DATED JANUARY 20, 1975, AND RECORDED ON JANUARY 21, 1975, IN BOOK 14-R, PAGE 481, OF THE BARNWELL COUNTY RECORDS.

TRACT NO. 8

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND, CONTAINING 69.7 ACRES, AND BEING KNOWN AS TRACT NO. 7, OF THE PARTITION OF THE RANSOME SNELLING ESTATE, SITUATE, LYING AND BEING IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA; SAID TRACT BEING BOUNDED, NOW OR FORMERLY, AND MEASURING AS FOLLOWS: NORTH BY LANDS OF C.R. SNELLING, BEING KNOWN AS TRACT NO. 6 OF THE RANSOME SNELLING ESTATE, AND MEASURING THEREON 1900 FEET; EAST BY LANDS OF THE ESTATE OF HARRY SIMS AND MEASURING THEREON 1660 FEET; SOUTH BY LANDS OF MOLAIR AND MEASURING THEREON 2508 FEET; AND WEST BY LANDS OF THE ESTATE OF SAM WILLIAMS AND MEASURING THEREON 1420 FEET. SAID TRACT OF LAND BEING MORE FULLY SHOWN AND DESCRIBED ON A PLAT OF THE ESTATE LANDS OF RANSOME SNELLING PREPARED BY E.G. HAY, RLS, DATED AUGUST, 1955, AND RECORDED IN BUNDLE 585, PACKAGE 16, OF THE RECORDS IN THE OFFICE OF THE CLERK OF COURT FOR BARNWELL COUNTY; ALL OF WHICH WILL MORE FULLY APPEAR BY REFERENCE TO THE AFOREMENTIONED PLAT INCORPORATED HEREIN AND MADE A PART OF THIS DESCRIPTION.

BEING THE SAME PREMISES CONVEYED TO EDDIE PAYTON BY DEED OF THEODORE SNELLING AND MARIE MORRIS, DATED SEPTEMBER 20, 1979, AND RECORDED SEPTEMBER 20, 1979, IN DEED BOOK 16-B, AT PAGE 311 WITH THE CLERK OF COURT FOR BARNWELL COUNTY.

THIS MORTGAGE, AS TO TRACT NO. 8, IS A FIRST LIEN.

THIS MORTGAGE, IS FIFTH IN PRIORITY AS TO TRACTS 1, 2, 4, 5, 6 AND 7 AND FOURTH IN PRIORITY AS TO TRACT NO. 3, TRACTS 1-7 BEING SUBJECT TO THE FOLLOWING MORTGAGES: TRACT NO. 1 AND TRACT NO. 5 BEING SUBJECT TO A MORTGAGE FROM EDDIE PAYTON, TO FEDERAL LAND BANK OF COLUMBIA, DATED MARCH 21, 1975, RECORDED MARCH 21, 1975 IN MORTGAGE BOOK 14-Q, AT PAGE 481, WITH THE CLERK OF COURT FOR BARNWELL COUNTY; TRACTS NO. 1, 2, 4, 5, 6 AND 7 BEING SUBJECT TO A MORTGAGE TO BARNWELL PRODUCTION CREDIT ASSOCIATION, DATED JUNE 17, 1975, RECORDED JULY 2, 1975 IN MORTGAGE BOOK 14-V, AT PAGE 196 WITH THE CLERK OF COURT FOR BARNWELL COUNTY; TRACTS NOS. 1, 2, 3, 4, 5, 6, AND 7 BEING SUBJECT TO A MORTGAGE TO ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION, DATED NOVEMBER 2, 1977, RECORDED NOVEMBER 4, 1977 IN MORTGAGE BOOK 15-K, AT PAGE 607, WITH THE CLERK OF COURT FOR BARNWELL COUNTY. SAID MORTGAGE BEING SUBORDINATED TO SUBSEQUENT MORTGAGE OF FARMERS HOME ADMINISTRATION, NOT TO EXCEED AN AMOUNT OF ONE HUNDRED SEVENTY THOUSAND NINE HUNDRED THIRTY (\$170,930.00) DOLLARS, SAID SUBORDINATION FILED FOR RECORD IN BOOK 15-O, AT PAGE 366, ON MARCH 28, 1979 WITH THE CLERK OF COURT FOR BARNWELL COUNTY; TRACTS NO. 1, 2, 3, 4, 5, 6 AND 7 BEING SUBJECT TO A MORTGAGE TO FARMERS HOME ADMINISTRATION, DATED MARCH 26, 1979, RECORDED MARCH 28, 1979 IN MORTGAGE BOOK 15-X, AT PAGE 041, WITH THE CLERK OF COURT FOR BARNWELL COUNTY.

(11) To pay or reimburse the Government for expenses reasonably necessary or incidental to the protection of the lien and priority hereof and to the enforcement of or the compliance with the provisions hereof and of the note and any supplementary agreement (whether before or after default), including but not limited to costs of evidence of title to and survey of the property, costs of recording this and other instruments, attorneys' fees, trustees' fees, court costs, and expenses of advertising, selling, and conveying the property.

(12) Neither the property nor any portion thereof or interest therein shall be leased, assigned, sold, transferred, or encumbered voluntarily or otherwise, without the written consent of the Government. The Government shall have the sole and exclusive rights as mortgagee hereunder, including but not limited to the power to grant consents, partial releases, subordinations, and satisfaction, and no insured holder shall have any right, title or interest in or to the lien or any benefits hereof.

(13) At all reasonable times the Government and its agents may inspect the property to ascertain whether the covenants and agreements contained herein or in any supplementary agreement are being performed.

(14) The Government may (a) extend or defer the maturity of, and renew and reschedule the payments on, the debt evidenced by the note or any indebtedness to the Government secured by this instrument, (b) release any party who is liable for the debt from the liability to the Government, (c) release portions of the property and subordinate its lien, and (d) waive any other of its rights under this instrument. Any and all this can and will be done without affecting the lien or the priority of this instrument or Borrower's or any other party's liability to the Government for payment of the note or debt secured by this instrument unless the Government says otherwise in writing. HOWEVER, any forbearance by the Government—whether once or often—in exercising any right or remedy under this instrument, or otherwise afforded by applicable law, shall not be a waiver or preclude the exercise of any such right or remedy.

(15) If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will upon the Government's request, apply for and accept such loan in sufficient amount to pay the note and any indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.

(16) Default hereunder shall constitute default under any other real estate, or under any personal property, or other security instrument held or insured by the Government and executed or assumed by Borrower, and default under any such other security instrument shall constitute default hereunder.

(17) SHOULD DEFAULT occur in the performance or discharge of any obligation in this instrument or secured by this instrument, or should the parties named as Borrower die or be declared incompetent, or should any one of the parties named as Borrower be declared bankrupt or an insolvent, or make an assignment for the benefit of creditors, the Government, at its option, with or without notice, may: (a) declare the entire amount unpaid under the note and any indebtedness to the Government hereby secured immediately due and payable, (b) for the account of Borrower incur and pay reasonable expenses for repair or maintenance of and take possession of, operate or rent the property, (c) upon application by it and production of this instrument, without other evidence and without notice of hearing of said application, have a receiver appointed for the property, with the usual powers of receivers in like cases, (d) foreclose this instrument as provided herein or by law, and (e) enforce any and all other rights and remedies provided herein or by present or future laws.

(18) The proceeds of foreclosure sale shall be applied in the following order to the payment of: (a) costs and expenses incident to enforcing or complying with the provisions hereof, (b) any prior liens required by law or a competent court to be so paid, (c) the debt evidenced by the note and all indebtedness to the Government secured hereby, (d) inferior liens of record required by law or a competent court to be so paid, (e) at the Government's option, any other indebtedness of Borrower owing to or insured by the Government, and (f) any balance to Borrower. At foreclosure or other sale of all or any part of the property, the Government and its agents may bid and purchase as a stranger and may pay the Government's share of the purchase price by crediting such amount on any debts of Borrower owing to or insured by the Government, in the order prescribed above.

(19) Borrower agrees that the Government will not be bound by any present or future State laws, (a) providing for valuation, appraisal, homestead or exemption of the property, (b) prohibiting maintenance of an action for a deficiency judgment or limiting the amount thereof or the time within which such action may be brought, (c) prescribing any other statute of limitations, (d) allowing any rights of redemption or possession following any foreclosure sale, or (e) limiting the conditions which the Government may by regulation impose, including the interest rate it may charge, as a condition of approving a transfer of the property to a new Borrower. Borrower expressly waives the benefit of any such State law. Borrower hereby relinquishes, waives, and conveys all rights, inchoate or consummate, of descent and dower.

(20) If any part of the loan for which this instrument is given shall be used to finance the purchase, construction or repair of property to be used as an owner-occupied dwelling (herein called "the dwelling") and if Borrower intends to sell or rent the dwelling and has obtained the Government's consent to do so (a) neither Borrower nor anyone authorized to act for Borrower will, after receipt of a bona fide offer, refuse to negotiate for the sale or rental of the dwelling or will otherwise make unavailable or deny the dwelling to anyone because of race, color, religion, sex or national origin, and (b) Borrower recognizes as illegal and hereby disclaims, and will not comply with or attempt to enforce any restrictive covenants on the dwelling relating to race, color, religion, sex or national origin.

(21) This instrument shall be subject to the present regulations of the Farmers Home Administration, and to its future regulations not inconsistent with the express provisions hereof.

(22) Notices given hereunder shall be sent by certified mail, unless otherwise required by law, and addressed, unless and until some other address is designated in a notice so given, in the case of the Government to Farmers Home Administration at Columbia, South Carolina 29201, and in the case of Borrower at the address shown in the Farmers Home Administration Finance Office records (which normally will be the same as the post office address shown above).

(23) If any provision of this instrument or application thereof to any person or circumstances is held invalid, such invalidity will not affect other provisions or applications of the instrument which can be given effect without the invalid provision or application, and to that end the provisions hereof are declared to be severable.

IN WITNESS WHEREOF, Borrower has hereunto set Borrower's hand(s) and seal(s) this 31st day

of March, 19 81

Signed, Sealed, and Delivered in the presence of:

Rennay D. Murphy
(Witness)
George J. Mahan
(Witness)

Eddie Payton
EDDIE PAYTON, a/k/a EDGAR PAYTON (SEAL)

(SEAL)

AFFIDAVIT OF SUBSCRIBING WITNESS

260

STATE OF SOUTH CAROLINA)
) ss:
COUNTY OF BARNWELL)

Before me, GEORGE L. INABINET, Notary Public of South Carolina, personally appeared PENNY D. MURPHY

and made oath that S he saw the within named EDDIE PAYTON, a/k/a EDGAR PAYTON sign, seal and as HIS act and deed, deliver the within written mortgage for the uses and purposes therein mentioned, and that S he with GEORGE L. INABINET witnessed the execution thereof, and subscribed their names as witnesser thereto.

SWORN to and subscribed before me, this 31st day of MARCH, 19 81.

George L. Inabinet
(Notary Public of South Carolina)
(SEAL)

Penny D. Murphy
(Witness)

My commission expires on 1/16/91

NO RENUNCIATION OF DOWER
MORTGAGOR A SINGLE MAN

STATE OF SOUTH CAROLINA)
) ss:
COUNTY OF BARNWELL)

I, GEORGE L. INABINET, Notary Public of South Carolina, do hereby certify unto all whom it may concern that Mrs. _____, the wife of the within named _____, did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread or fear of any person or persons whomsoever; renounce, release and forever relinquish unto the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, its successors and assigns, all her interest and estate, and also all her right and claim of dower, of, in or to all and singular the premises within mentioned and released.

GIVEN under my hand and seal, this _____ day of _____, 19 ____.

(SEAL)

My commission expires on _____

George L. Inabinet
(Notary Public of South Carolina)

I hereby certify that the within instrument was filed for record in the office of the Clerk of Court at 12:05 P M o'clock on the 31st day of MARCH 1981 and was duly indexed and recorded in Book 16-N Page 251

James G. Fickling
JAMES G. FICKLING
S.C.C.P. & G.S., Barnwell County, S.

Position 5

USDA-F
Form FmHA 427-1 SC
(Rev. 3-7-80)

REAL ESTATE MORTGAGE FOR SOUTH CAROLINA

THIS MORTGAGE is made and entered into by EDDIE PAYTON, a/k/a/ EDGAR PAYTON

residing in BARNWELL County, South Carolina, whose post office address is
Rt. 2, Box 347, Barnwell, South Carolina 29812

herein called "Borrower," and :

WHEREAS Borrower is indebted to the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, herein called the "Government," as evidenced by one or more promissory note(s) or assumption agreement(s), herein called "note," which has been executed by Borrower, is payable to the order of the Government, authorizes acceleration of the entire indebtedness at the option of the Government upon any default by Borrower, and is described as follows:

<u>Date of Instrument</u>	<u>Principal Amount</u>	<u>Annual Rate of Interest</u>	<u>Due Date of Final Installment</u>
3-26-79	\$127,130.00 ⁰⁵	3%	3-26-1999
3-26-79	43,800.00 ⁰²	8½	3-26-2019
3-31-81	369,080.00 ⁰⁰	5	3-31-1996
4-15-82	237,900.00 ⁰⁴	16	1-1-1983

(If the interest rate is less than _____% for farm ownership or operating loan(s) secured by this instrument, then the rate may be changed as provided in the note.)

And the note evidences a loan to Borrower, and the Government, at any time, may assign the note and insure the payment thereof pursuant to the Consolidated Farm and Rural Development Act, or Title V of the Housing Act of 1949, or any other statutes administered by the Farmers Home Administration;

And it is the purpose and intent of this instrument that, among other things, at all times when the note is held by the Government, or in the event the Government should assign this instrument without insurance of the note, this instrument shall secure payment of the note; but when the note is held by an insured holder, this instrument shall not secure payment of the note or attach to the debt evidenced thereby, but as to the note and such debt shall constitute an indemnity mortgage to secure the Government against loss under its insurance contract by reason of any default by Borrower;

And this instrument also secures the recapture of any interest credit or subsidy which may be granted to the Borrower by the Government pursuant to 42 U.S.C. §1490a.

NOW, THEREFORE, in consideration of the loan(s) and (a) at all times when the note is held by the Government, or in the event the Government should assign this instrument without insurance of the payment of the note, to secure prompt payment of the note and any renewals and extensions thereof and any agreements contained therein, including any provision for the payment of an insurance or other charge, (b) at all times when the note is held by an insured holder, to secure performance of Borrower's agreement herein to indemnify and save harmless the Government against loss under its insurance contract by reason of any default by Borrower, and (c) in any event and at all times to secure the prompt payment of all advances and expenditures made by the Government, with interest, as hereinafter described, and the performance of every covenant and agreement of Borrower contained herein or in any supplementary agreement, Borrower does hereby grant, bargain, sell, release, and assign unto the Government, with general warranty, the following property situated in the State of

South Carolina, County(ies) of Barnwell

"See attached schedule"

Address of Farmers Home Administration: P. O. Box 158, Barnwell SC 29812

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FmHA 427-1 SC (Rev. 3-7-80)

710

together with all rights, interests, easements, hereditaments and appurtenances thereunto belonging, the rents, issues, and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the use thereof, including, but not limited to, ranges, refrigerators, clothes washers, clothes dryers, or carpeting purchased or financed in whole or in part with loan funds, all water, water rights, and water stock pertaining thereto, and all payments at any time owing to Borrower by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein-all of which are herein called "the property";

TO HAVE AND TO HOLD the property unto the Government and its assigns forever in fee simple.

BORROWER for Borrower's self, Borrower's heirs, executors, administrators, successors and assigns WARRANTS THE TITLE to the property to the Government against all lawful claims and demands whatsoever except any liens, encumbrances, easements, reservations, or conveyances specified hereinabove, and COVENANTS AND AGREES as follows:

(1) To pay promptly when due any indebtedness to the Government hereby secured and to indemnify and save harmless the Government against any loss under its insurance of payment of the note by reason of any default by Borrower. At all times when the note is held by an insured holder, Borrower shall continue to make payments on the note to the Government, as collection agent for the holder.

(2) To pay to the Government such fees and other charges as may now or hereafter be required by regulations of the Farmers Home Administration.

(3) If required by the Government, to make additional monthly payments of 1/12 of the estimated annual taxes, assessments, insurance premiums and other charges upon the mortgaged premises.

(4) Whether or not the note is insured by the Government, the Government may at any time pay any other amounts required herein to be paid by Borrower and not paid by Borrower when due, as well as any costs and expenses for the preservation, protection, or enforcement of this lien, as advances for the account of Borrower. All such advances shall bear interest at the rate borne by the note which has the highest interest rate.

(5) All advances by the Government as described by this instrument, with interest, shall be immediately due and payable by Borrower to the Government without demand at the place designated in the latest note and shall be secured hereby. No such advance by the Government shall relieve Borrower from breach of Borrower's covenant to pay. Any payment made by Borrower may be applied on the note or any indebtedness to the Government secured hereby, in any order the Government determines.

(6) To use the loan evidenced by the note solely for purposes authorized by the Government.

(7) To pay when due all taxes, liens, judgments, encumbrances, and assessments lawfully attaching to or assessed against the property, and promptly deliver to the Government without demand receipts evidencing such payments.

(8) To keep the property insured as required by and under insurance policies approved by the Government and, at its request, to deliver such policies to the Government.

(9) To maintain improvements in good repair and make repairs required by the Government; operate the property in a good and husbandmanlike manner; comply with such farm conservation practices and farm and home management plans as the Government from time to time may prescribe; and not to abandon the property, or cause or permit waste, lessening or impairment of the security covered hereby, or, without the written consent of the Government, cut, remove, or lease any timber, gravel, oil, gas, coal, or other minerals except as may be necessary for ordinary domestic purposes.

(10) To comply with all laws, ordinances, and regulations affecting the property.

EXHIBIT B

TRACT NO. 1

✓ ALL THAT CERTAIN TRACT OF LAND SITUATE, LYING AND BEING IN SEVEN PINES SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, CONTAINING 159.12 ACRES, AS SHOWN ON PLAT PREPARED BY J.J. FOY, RLS, DATED JANUARY 25, 1975, AND RECORDED IN PLAT BOOK L, AT PAGE 265, OF THE BARNWELL COUNTY RECORDS, AND BEING BOUNDED AS FOLLOWS: NORTH BY LANDS OF DR. H.W. GIBSON AND S.C. HIGHWAY NO. 20; EAST BY LANDS OF EDDIE PAYTON, LANDS OF WILLIE PAYTON, LANDS OF HATTIE MAE PAYTON AND LANDS OF ADLESE SEBASTIAN; SOUTH BY LANDS OF LUCIUS HANKINSON AND LANDS OF DR. H.W. GIBSON; AND WEST BY LANDS OF R.L. RICHARDSON AND LANDS OF DR. H.W. GIBSON. THIS IS THE SAME PROPERTY CONVEYED TO EDDIE PAYTON BY DEED OF GEOFFREY P. HULL, DATED MARCH 17, 1975, AND RECORDED ON MARCH 21, 1975, IN BOOK 14-U, PAGE 089, OF THE RECORDS OF BARNWELL COUNTY. E.P.

TRACT NO. 2

✓ ALL THAT CERTAIN TRACT OF LAND, CONTAINING 44 ACRES, MORE OR LESS, SITUATE IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, BEING SHOWN AND DESIGNATED ON PLAT OF RECORD IN DEED BOOK 8-U, AT PAGE 443, OF THE BARNWELL COUNTY RECORDS, AND BEING BOUNDED AS FOLLOWS: NORTH BY LANDS OF MAGGIE OWENS; EAST BY LANDS OF FRED CRAWFORD; SOUTH BY LANDS OF FRED ARANT; AND WEST BY LANDS OF MOSES WILLIAMS. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF MOSES WILLIAMS, ET AL., DATED OCTOBER 1, 1971, AND RECORDED ON OCTOBER 15, 1971, IN BOOK 13-W, PAGE 161, OF THE RECORDS OF BARNWELL COUNTY. E.P.

TRACT NO. 3

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN RED OAK TOWNSHIP, BARNWELL COUNTY, SOUTH CAROLINA, CONTAINING EIGHT (8) ACRES, MORE OR LESS, AND BEING A PART OF A 44 ACRE TRACT OF LAND; SAID 44 ACRE TRACT OF LAND BEING BOUNDED AS FOLLOWS: ON THE NORTH BY PROPERTY OF ANGUS PAYTON ESTATE; ON THE EAST BY PROPERTY OF MARY BUSH MCCORMACK; ON THE SOUTH BY PROPERTY OF MCDUFFIE HANKERSON; AND ON THE WEST BY PROPERTY OF LOUISE P. LIGHTSEY. THIS IS THE SAME PROPERTY CONVEYED TO EDDIE PAYTON BY DEED OF DAVID PAYTON, DATED AUGUST 28, 1972, AND RECORDED ON SEPTEMBER 1, 1972, IN BOOK 14-A, PAGE 179, OF THE BARNWELL COUNTY RECORDS. E.P.

TRACT NO. 4

✓ ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN RED OAK TOWNSHIP, BARNWELL COUNTY, SOUTH CAROLINA, CONTAINING EIGHT (8) ACRES, MORE OR LESS, AND BEING A PART OF A 44 ACRE TRACT OF LAND; SAID 44 ACRE TRACT OF LAND BEING BOUNDED AS FOLLOWS: ON THE NORTH BY PROPERTY OF ANGUS PAYTON ESTATE; ON THE EAST BY PROPERTY OF MARY BUSH MCCORMACK; ON THE SOUTH BY PROPERTY OF MCDUFFIE HANKERSON; AND ON THE WEST BY PROPERTY OF LOUISE P. LIGHTSEY. THIS IS THE SAME PROPERTY CONVEYED TO EDDIE PAYTON BY DEED OF THELMA PAYTON BRADLEY, DATED FEBRUARY 8, 1973, AND RECORDED ON FEBRUARY 9, 1973 IN BOOK 14-D, PAGE 139 OF THE BARNWELL COUNTY RECORDS. E.P.

TRACT NO. 5

✓ ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN THE STATE OF SOUTH CAROLINA, COUNTY OF BARNWELL, IN THE RED OAK TOWNSHIP, CONTAINING 47.9 ACRES, MORE OR LESS, AND BOUNDED ON THE NORTH BY LANDS OF BLANCHE P. HARRIS; ON THE EAST BY LANDS OF ANGUS PAYTON ESTATE; ON THE SOUTH BY LANDS OF ANGUS PAYTON ESTATE; AND ON THE WEST BY LAND OF LOUISE P. LIGHTSEY. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF LOTTEE PAYTON, DATED SEPTEMBER 12, 1972, AND RECORDED ON SEPTEMBER 14, 1972 IN BOOK 14-A, PAGE 215, OF THE BARNWELL COUNTY RECORDS. E.P

TRACT NO. 6

✓ ALL THAT CERTAIN TRACT OF LAND, WITH IMPROVEMENTS THEREON, SITUATE IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, CONTAINING 93 ACRES, MORE OR LESS, AND BEING BOUNDED, NOW OR FORMERLY, AS FOLLOWS: NORTH BY LANDS OF J.B. MORRIS AND LANDS OF LEON TOBIN; EAST BY LANDS OF H.W. SANDERS; SOUTH BY LANDS OF H.W. SANDERS; AND WEST BY LANDS OF RUBY SNELLING AND A PUBLIC ROAD SEPARATING SAID TRACT FROM LANDS OF JOSHUA SANDERS, SAID TRACT BEING MORE PARTICULARLY DESCRIBED ON A PLAT MADE BY J.B. ELLIS, DATED OCTOBER 20, 1933, AND RECORDED IN PLAT BOOK A, AT PAGE 4, OF THE BARNWELL COUNTY RECORDS. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF CLOTTEE PAYTON, DATED AUGUST 30, 1972, AND RECORDED ON AUGUST 30, 1972, IN BOOK 14-A, AT PAGE 174, OF THE BARNWELL COUNTY RECORDS. E.P

TRACT NO. 7

✓ ALL THAT CERTAIN TRACT OF LAND SITUATE, LYING AND BEING IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA, CONTAINING 19.07 ACRES, MORE OR LESS, AND BEING BOUNDED, NOW OR FORMERLY, AS FOLLOWS: NORTH BY LANDS OF MOSES WILLIAMS; EAST BY LANDS OF ESTELLE WEATHERSBY; SOUTH BY LANDS OF EDGAR PAYTON; AND WEST BY LANDS OF THE ESTATE OF JULY SANDERS. THIS IS THE SAME PROPERTY CONVEYED TO EDGAR PAYTON BY DEED OF MOSES WILLIAMS, DATED JANUARY 20, 1975, AND RECORDED ON JANUARY 21, 1975, IN BOOK 14-R, PAGE 481, OF THE BARNWELL COUNTY RECORDS. E.P

TRACT NO. 8

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND, CONTAINING 69.7 ACRES, AND BEING KNOWN AS TRACT NO. 7, OF THE PARTITION OF THE RANSOME SNELLING ESTATE, SITUATE, LYING AND BEING IN DIAMOND SCHOOL DISTRICT, COUNTY OF BARNWELL, STATE OF SOUTH CAROLINA; SAID TRACT BEING BOUNDED, NOW OR FORMERLY, AND MEASURING AS FOLLOWS: NORTH BY LANDS OF C.R. SNELLING, BEING KNOWN AS TRACT NO. 6 OF THE RANSOME SNELLING ESTATE, AND MEASURING THEREON 1900 FEET; EAST BY LANDS OF THE ESTATE OF HARRY SIMS AND MEASURING THEREON 1660 FEET; SOUTH BY LANDS OF MOLAIR AND MEASURING THEREON 2508 FEET; AND WEST BY LANDS OF THE ESTATE OF SAM WILLIAMS AND MEASURING THEREON 1420 FEET. SAID TRACT OF LAND BEING MORE FULLY SHOWN AND DESCRIBED ON A PLAT OF THE ESTATE LANDS OF RANSOME SNELLING PREPARED BY E.G. HAY, JR., DATED AUGUST, 1955, AND RECORDED IN BUNDLE 585, PACKAGE 16, OF THE RECORDS IN THE OFFICE OF THE CLERK OF COURT FOR BARNWELL COUNTY; ALL OF WHICH WILL MORE FULLY APPEAR BY REFERENCE TO THE AFOREMENTIONED PLAT INCORPORATED HEREIN AND MADE A PART OF THIS DESCRIPTION.

BEING THE SAME PREMISES CONVEYED TO EDDIE PAYTON BY DEED OF THEODORE SNELLING AND MARIE MORRIS, DATED SEPTEMBER 20, 1979, AND RECORDED SEPTEMBER 20, 1979, IN DEED BOOK 16-B, AT PAGE 311 WITH THE CLERK OF COURT FOR BARNWELL COUNTY.

THIS MORTGAGE, AS TO TRACT NO. 8, IS A SECOND LIEN.

THIS MORTGAGE, IS SIXTH IN PRIORITY AS TO TRACTS 1, 2, 4, 5, 6, and 7 AND FIFTH IN PRIORITY AS TO TRACT NO. 3.

(11) To pay or reimburse the Government for expenses reasonably necessary or incidental to the protection of the lien and priority hereof and to the enforcement of or the compliance with the provisions hereof and of the note and any supplementary agreement (whether before or after default), including but not limited to costs of evidence of title and survey of the property, costs of recording this and other instruments, attorneys' fees, trustees' fees, court costs, and expenses of advertising, selling, and conveying the property.

(12) Neither the property nor any portion thereof or interest therein shall be leased, assigned, sold, transferred, or encumbered voluntarily or otherwise, without the written consent of the Government. The Government shall have the sole and exclusive rights as mortgagee hereunder, including but not limited to the power to grant consents, partial releases, subordinations, and satisfaction, and no insured holder shall have any right, title or interest in or to the lien or any benefits hereof.

(13) At all reasonable times the Government and its agents may inspect the property to ascertain whether the covenants and agreements contained herein or in any supplementary agreement are being performed.

(14) The Government may (a) extend or defer the maturity of, and renew and reschedule the payments on, the debt evidenced by the note or any indebtedness to the Government secured by this instrument, (b) release any party who is liable under the note or for the debt from liability to the Government, (c) release portions of the property and subordinate its lien, and (d) waive any other of its rights under this instrument. Any and all this can and will be done without affecting the lien or the priority of this instrument or Borrower's or any other party's liability to the Government for payment of the note or debt secured by this instrument unless the Government says otherwise in writing. HOWEVER, any forbearance by the Government—whether once or often—in exercising any right or remedy under this instrument, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

(15) If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will upon the Government's request, apply for and accept such loan in sufficient amount to pay the note and any indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.

(16) Default hereunder shall constitute default under any other real estate, or under any personal property, or other security instrument held or insured by the Government and executed or assumed by Borrower, and default under any such other security instrument shall constitute default hereunder.

(17) SHOULD DEFAULT occur in the performance or discharge of any obligation in this instrument or secured by this instrument, or should the parties named as Borrower die or be declared incompetent, or should any one of the parties named as Borrower be declared bankrupt or an insolvent, or make an assignment for the benefit of creditors, the Government, at its option, with or without notice, may: (a) declare the entire amount unpaid under the note and any indebtedness to the Government hereby secured immediately due and payable, (b) for the account of Borrower incur and pay reasonable expenses for repair or maintenance of and take possession of, operate or rent the property, (c) upon application by it and production of this instrument, without other evidence and without notice of hearing of said application, have a receiver appointed for the property, with the usual powers of receivers in like cases, (d) foreclose this instrument as provided herein or by law, and (e) enforce any and all other rights and remedies provided herein or by present or future laws.

(18) The proceeds of foreclosure sale shall be applied in the following order to the payment of: (a) costs and expenses incident to enforcing or complying with the provisions hereof, (b) any prior liens required by law or a competent court to be so paid, (c) the debt evidenced by the note and all indebtedness to the Government secured hereby, (d) inferior liens of record required by law or a competent court to be so paid, (e) at the Government's option, any other indebtedness of Borrower owing to or insured by the Government, and (f) any balance to Borrower. At foreclosure or other sale of all or any part of the property, the Government and its agents may bid and purchase as a stranger and may pay the Government's share of the purchase price by crediting such amount on any debts of Borrower owing to or insured by the Government, in the order prescribed above.

(19) Borrower agrees that the Government will not be bound by any present or future State laws, (a) providing for valuation, appraisal, homestead or exemption of the property, (b) prohibiting maintenance of an action for a deficiency judgment or limiting the amount thereof or the time within which such action may be brought, (c) prescribing any other statute of limitations, (d) allowing any rights of redemption or possession following any foreclosure sale, or (e) limiting the conditions which the Government may by regulation impose, including the interest rate it may charge, as a condition of approving a transfer of the property to a new Borrower. Borrower expressly waives the benefit of any such State law. Borrower hereby relinquishes, waives, and conveys all rights, inchoate or consummate, of descent and dower.

(20) If any part of the loan for which this instrument is given shall be used to finance the purchase, construction or repair of property to be used as an owner-occupied dwelling (herein called "the dwelling") and if Borrower intends to sell or rent the dwelling and has obtained the Government's consent to do so (a) neither Borrower nor anyone authorized to act for Borrower will, after receipt of a bona fide offer, refuse to negotiate for the sale or rental of the dwelling or will otherwise make unavailable or deny the dwelling to anyone because of race, color, religion, sex or national origin, and (b) Borrower recognizes as illegal and hereby disclaims, and will not comply with or attempt to enforce any restrictive covenants on the dwelling relating to race, color, religion, sex or national origin.

(21) This instrument shall be subject to the present regulations of the Farmers Home Administration, and to its future regulations not inconsistent with the express provisions hereof.

(22) Notices given hereunder shall be sent by certified mail, unless otherwise required by law, and addressed, unless and until some other address is designated in a notice so given, in the case of the Government to Farmers Home Administration at Columbia, South Carolina 29201, and in the case of Borrower at the address shown in the Farmers Home Administration Finance Office records (which normally will be the same as the post office address shown above).

(23) If any provision of this instrument or application thereof to any person or circumstances is held invalid, such invalidity will not affect other provisions or applications of the instrument which can be given effect without the invalid provision or application, and to that end the provisions hereof are declared to be severable.

IN WITNESS WHEREOF, Borrower has hereunto set Borrower's hand(s) and seal(s) this 15th day

of April, 19 82

Signed, Sealed, and Delivered in the presence of:

Nancy M. Elroy
(Witness)

Eddie Payton
(SEAL)

Elaine D. Smith
(Witness)

(SEAL)

EXHIBIT B

AFFIDAVIT OF SUBSCRIBING WITNESS

46

STATE OF SOUTH CAROLINA)

COUNTY OF Barnwell) ss:Before me, Elaine F. Surles, Notary Public of South Carolina, personally appearedNancy L. McElroy

and made oath

that s he saw the within named Eddie Payton, a/k/a/ Edgar Payton sign, seal andas his act and deed, deliver the within written mortgage for the uses and purposes therein mentioned, andthat s he with Elaine F. Surles witnessed the execution thereof, and subscribed their names as witnesser thereto.SWORN to and subscribed before me, this 15th day of April, 19 82.Elaine F. Surles

(Notary Public of South Carolina)

(SEAL)

Nancy L. McElroy

(Witness)

My commission expires on 7-31-91

RENUNCIATION OF DOWER

STATE OF SOUTH CAROLINA)

COUNTY OF _____) ss:

I, _____, Notary Public of South Carolina, do hereby certify unto all whom it may concern that Mrs. _____, the wife of the within named _____

did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, its successors and assigns, all her interest and estate, and also all her right and claim of dower, of, in or to all and singular the premises within mentioned and released.

GIVEN under my hand and seal, this _____ day of _____, 19 _____

(SEAL)

(Signature of Wife)

My commission expires on _____

(Notary Public of South Carolina)

Recorded this 15th day of April
19 82, at 11:39 A M, in
Book 16-5 Page 739James G. Fickling
James G. Fickling
Clerk of Court, Barnwell County, SC

FILED FOR RECORD

1982 APR 15 AM 11:39

JAMES G. FICKLING
CLERK OF COURT
BARNWELL CO. S.C.

STATE OF SOUTH CAROLINA)

COUNTY OF BARNWELL)

United States of America,)

Plaintiff,)

vs.)

Eddie Payton, Willie Payton, Hattie Payton,)
 Production Credit Association, the United)
 States of America, acting through the Small)
 Business Association, Still & Williams, Inc.)
 SC Electric & Gas Co., Edisto Farm Credit,)
 ACA Successor in Interest to Federal Land,)
 Bank of Columbia, David Payton,)

Defendants.)

IN THE COURT OF COMMON PLEAS
 SECOND JUDICIAL CIRCUIT

CASE NO. 2018-CP-06-00383

DEFENDANTS' JOINT
 NOTICE OF MOTION AND MOTION
 TO ALTER OR AMEND

TO THE PLAINTIFF AND ALL CO-DEFENDANTS:

YOU WILL TAKE NOTICE that the Defendant Eddie Payton and the Defendant's siblings, Willie, Hattie, and David Payton, hereby move to alter or amend the Order of this Court filed August 16, 2019 which strikes this case from the jury roster. Defendants received notice of the Order upon its electronic filing on August 16, 2019.

The grounds of this motion are:

1. The Court failed to consider that a logical relationship exists between the counterclaim in this case since it affects the amount of the lien which the Plaintiff seeks to enforce; therefore, the counterclaim is compulsory.
2. While not before the Court, the Order issued by the Court impermissibly ruled on Plaintiff's statute of limitations defense, effectively striking it as a defense in this case.
3. The court failed to consider a claim for adverse possession is triable by a jury, and in this case is compulsory since it must be adjudicated before foreclosure can occur. Sibling

Defendants Willie, Hattie and David Payton claim an interest in a portion of a 44-acre tract of land inherited from their grandfather, Angus Payton. Plaintiff attempts to foreclose on the entire interest in the 44-acre tract. Plaintiff has represented to the Court that it does not seek to foreclose on Willie Payton and Hattie Payton's interest. However, a dispute exists as to where Willie Payton's and Hattie Payton's interest in the 44-acre tract is situated, and it may be necessary to establish the location of their interest, in whole or part, through adverse possession.

4. A copy of the Defendants' proposed order supporting their position is attached to this motion.

You are invited to attend or participate in the hearing as you deem proper.

Respectfully Submitted,

BEDINGFIELD & WILLIAMS, LLC

s/Daniel W. Williams

Daniel W. Williams, Esquire
Attorney for Defendant Edgar Payton
P.O. Box 616
Barnwell, SC 29812
dan@danwilliamslaw.com
803-259-2759

s/Martha M. Rivers

Martha M. Rivers, Esquire
RIVERS LAW, LLC
Attorney for Defendants David Payton, Willie
Payton and Hattie Payton
12923 Main Street
Williston, SC 29853

August 26, 2019
Barnwell, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SECOND JUDICIAL CIRCUIT
COUNTY OF BARNWELL	)	
	)	CASE NO. 2018-CP-06-00383
United States of America.	)	
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER DENYING PLAINTIFF'S
	)	MOTION TO STRIKE FROM JURY
	)	ROSTER
Eddie Payton, Willie Payton, Hattie Payton,	)	
Production Credit Association, the United	)	
States of America, acting through the Small	)	
Business Association, Still & Williams, Inc.	)	
SC Electric & Gas Co., Edisto Farm Credit,	)	
ACA Successor in Interest to Federal Land,	)	
Bank of Columbia, David Payton,	)	
	)	
Defendants,	)	
	)	

In this foreclosure action Plaintiff, United States of America, moves to strike Defendants' demand for a jury trial. Plaintiff asserts that the counterclaims brought by the Defendants are permissive, and they have waived their rights to a jury trial. Defendants on the other hand argue that the counterclaims are compulsory. After hearing arguments from both parties, Plaintiff's motion to strike is denied.

BACKGROUND

Plaintiff's foreclosure action stems from four mortgages given by Defendant Edgar to the Farmers Home Administration (FHA), an agency of the Plaintiff, in 1979, 1981 and 1982. The mortgages secure loans made by FHA to Edgar to operate his farm. Plaintiff asserts Edgar is in default, and he admits he has not made payments on the debt since the early 1980's. Edgar's Mortgages to Plaintiff's lists eight (8) separate tracts of land totaling four hundred eighty-five (485) acres. One of the tracts include his family home.

Edgar Payton Counterclaims

As part of his defense to the foreclosure, Edgar asserts he was treated differently than white farmers who obtained loans from FHA/SBA and were able to refinance the indebtedness, or whom Plaintiff allowed to at least keep their home/homestead in the foreclosure process. For example, one of the notes given by Edgar carries interest at the rate of 16% interest. (Paragraph 6 (a) Complaint) According to the Complaint, as of September 18, 2018, Edgar owed \$585,607.90 in Principle and \$1,808,049.17 in interest. (Complaint para. 7.) Edgar asserts modification of the debt would have substantially reduced the total amount of interest owed and would have made the prospect of paying down the debt easier or created viable alternatives other than losing his home and property to foreclosure. Moreover, if a foreclosure did occur, reduced indebtedness could have allowed him to keep a portion of his property, since there may have been more than enough assets to satisfy the indebtedness to Plaintiff.

Willie, Hattie, and David Payton Counterclaims

Defendants Willie Payton, Hattie Payton, and David Payton siblings claim an interest in a 44-acre tract of land included in the mortgage. These Defendants assert they inherited an interest in this tract from their grandfather Angus Payton, and Edgar was without authority to mortgage their interest. In addition, they assert they have been in actual possession of the property since before the mortgages were given and have asserted a counterclaim for adverse possession.

LAW/ANALYSIS

“The South Carolina Constitution provides that the right to a jury trial shall be preserved inviolate.... Whether a party is entitled to a trial by jury depends on whether the right to a jury was secured at the time of the adoption of our state constitution.... Generally, the relevant question in

determining the right to a trial by jury is whether the action is legal or equitable.” Carolina First Bank V. BADD, LLC., 414 S.C. 289, 293, 779 S.E. 2d 106, 108 (2014). (int. cit. omitted)

Since a foreclosure action sounds in equity, a party is not automatically entitled to a jury trial. South Carolina Community Bank v. Salon Prox, LLC., 420 S.E.2d 488 (Ct. App. 2015) (int. cit. omitted) The Defendants in this case are only entitled to a jury trial if the counterclaims are legal and compulsory. *Id.* at 420 S.C. 96, A counterclaim is compulsory if it arises out of the same transaction or occurrence as the party’s claim. *Id.* “In a foreclosure action, a claim arises out of the same transaction or occurrence when there is a ‘logical relationship’ between the counterclaim and the enforceability of the guaranty agreement.” *Id.* at 420 S.C. 97. Citing Carolina First Bank, *id.*

As to the Edgar counterclaims, Plaintiff takes the position that he has admitted he is in default in his payments to the Plaintiff. Therefore, his counterclaims do not affect the enforceability of the mortgage and are not logically related to the foreclosure action. Edgar asserts the claims are logically related since the counterclaims may affect the amount owed under the notes secured by the mortgage which could save at least a portion of his land. Further, Edgar asserts if he were treated as other white farmers a portion of the mortgaged premises which contains his home would be released from foreclosure.

I find, Edgar’s counterclaims, if true, affect the amount of the lien and the enforceability of the mortgage as to the amounts to be foreclosed upon. Further, a release of Payton’s home from the mortgage would affect its enforceability as to that portion of property.

Moreover, Willie, Hattie, and David Payton, have asserted counterclaims/crossclaims of adverse possession. Adverse possession is an action at law and triable by a jury as a matter of right. Brock v. Kirkpatrick, 69 S.C.231, 48 S.E.72 (1904). See also Jones v. Leagan, 384 S.C.

1,681 S.E.2d. 6 (Ct. App. 2009). Siblings have also asserted that this action is impermissible as to their interest inherited from Angus Payton. These claims are compulsory because plaintiff's foreclosure and possible sale of the property as listed in the complaint would have a direct impact upon Siblings' interest. It would be illogical to have these claims brought in a separate action. If the defendants prevail, the plaintiff would be barred from enforcing its equitable lien and/or judgement against the Siblings' interest.

CONCLUSION

For the reasons above, I find the Plaintiff's motion to strike this case from the Jury Roster and Refer to this matter is Denied.

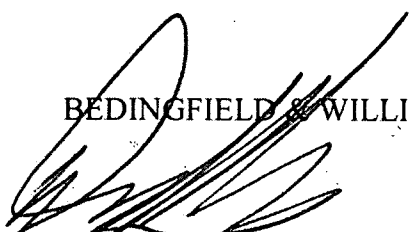
And it is so ORDERED.

Honorable Clifton Newman, Judge.
Chief Administrative Judge for the
Second Judicial Circuit

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

June 25, 2020


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