THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Ralph P. Stroman
Special Referee

Case No.: 2008-CP-26-6169

Joseph E. Mason, Jr., ... Appellant

v.

Catherine L. Mason, Joseph E. Mason, Sr., Kathy St. Blanchard, Mason Holding Company, Inc., and Irwin Levine, ... Respondents

---

INITIAL BRIEF OF RESPONDENTS CATHERINE L. MASON, JOSEPH E. MASON, SR., KATHY ST. BLANCHARD AND MASON HOLDING COMPANY, INC.

J. Jackson Thomas, Esquire
Emma Ruth Brittain, Esquire
THOMAS & BRITTAIN, P.A.
Post Office Box 1290
Myrtle Beach, South Carolina 29578
(843) 692-2628
ATTORNEYS FOR RESPONDENTS CATHERINE L. MASON, JOSEPH E. MASON, SR., KATHY ST. BLANCHARD AND MASON HOLDING COMPANY, INC.

May 6, 2013

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

STATUTES BY POPULAR NAME

OTHER AUTHORITIES

STATEMENT OF ISSUES ON APPEAL

I. THE SPECIAL REFEREE CORRECTLY HELD THAT SON IS NOT ENTITLED TO AN ORDER REQUIRING THE FAMILY RESPONDENTS TO PURCHASE HIS SHARES IN MASON HOLDING COMPANY, INC. BECAUSE SUCH EXTRAORDINARY RELIEF IS NOT WARRANTED BY THE RECORD EVIDENCE IN LIGHT OF SON'S MISCONDUCT.

II. THE SPECIAL REFEREE CORRECTLY DETERMINED THAT SON HAD MADE NO CLAIM TO, AND WAS NOT ENTITLED TO, AN ADDITIONAL 20% INTEREST IN COMPANY FROM MOTHER AND FATHER BECAUSE SUCH CLAIM WAS NOT PLEAD AND HAS NO MERIT.

III. THE ISSUE OF THE VALUATION OF SON'S STOCK IN COMPANY WAS NOT REACHED BY THE LOWER COURT AND THEREFORE IS NOT PROPERLY BEFORE THIS COURT.

IV. THE RECORD EVIDENCE SUPPORTS THE SPECIAL REFEREE'S FINDING THAT THE FAMILY RESPONDENTS DID NOT BREACH ANY DUTY OWED TO SON BY VIRTUE OF THE STATUS AS OFFICERS, DIRECTORS OR MAJORITY SHAREHOLDERS.

V. THE RECORD EVIDENCE SUPPORTS THE SPECIAL REFEREE'S FINDING THAT ACCOUNTANT LEVINE NEITHER AIDED NOR ABETTED ANY BREACH OF FIDUCIARY DUTY BECAUSE THERE WAS NO BREACH OF DUTY BY THE FAMILY RESPONDENTS.

VI. THE RECORD EVIDENCE SUPPORTS THE SPECIAL REFEREE'S FINDING THAT THE FAMILY RESPONDENTS DID NOT CONSPIRE TO WRONGFULLY DISCHARGE SON AND DEPRIVE HIM OF THE VALUE OF HIS STOCK OWNERSHIP IN COMPANY.

VII. BECAUSE THE RECORD EVIDENCE ESTABLISHES THAT SON VOLUNTARILY QUIT HIS EMPLOYMENT, THE SPECIAL REFEREE PROPERLY HELD THAT SON HAD FAILED TO ESTABLISH THAT HE WAS CONSTRUCTIVELY DISCHARGED IN VIOLATION OF PUBLIC POLICY.

VIII. THE SPECIAL REFEREE PROPERLY HELD THAT SON IS LIABLE TO COMPANY FOR CONVERTING $11,716.32 IN COMPANY FUNDS VIA THE CASINGS SCHEME.

IX. THE RECORD EVIDENCE SUPPORTS THE SPECIAL REFEREE'S HOLDING THAT SON IS LIABLE TO COMPANY FOR REIMBURSEMENT OF MONEY TAKEN BY SON AND PAID TO THE TURNER PADGET LAW FIRM.

X. THE SPECIAL REFEREE PROPERLY DETERMINED THAT COMPANY'S CLAIM AGAINST SON FOR DAMAGES RESULTING FROM HIS FILING OF FALSE AND INACCURATE STATE AND FEDERAL TAX RETURNS COULD BE BROUGHT AT A LATER DATE WHEN THE AMOUNT OF SUCH DAMAGES IS KNOWN.

STATEMENT OF THE CASE

This action was commenced by the filing of a Summons and Complaint by Appellant Joseph E. Mason, Jr. ("Son") in the Horry County Court of Common Pleas on August 5, 2008. Son named as Defendants his mother, Catherine L. Mason ("Mother"), his father, Joseph E. Mason, Sr. ("Father"), his sister Kathy St. Blanchard ("Sister") and Mason Holding Company, Inc., ("Company"). Company is a tire and automotive services business wholly owned by Son, Mother, Father and Sister.

Son asserted six causes of action in his Complaint: (1) breach of express and implied contracts for permanent employment by constructive termination of Son's employment with Company; (2) breach of officer's/director's duties owing to Company and its shareholders; (3) civil conspiracy by Mother, Father and Sister ("Family Respondents") to deprive Son of his employment with Company and cause him harm; (4) for relief pursuant to S.C. Code Ann. §33-14-300 et seq. requiring Family Respondents to purchase Son's interest in the Company; (5) constructive termination of Son's employment in violation of Company employee handbook; and (6) constructive termination of Son's employment in violation of public policy. Defendants filed their Answer and Counterclaims on August 28, 2008, asserting defenses including the affirmative defense of "unclean hands". Additionally, Defendants asserted counterclaims against Son for damages resulting to Company and its shareholders from Son's actions while employed by Company as its President and for the conversion of Company funds. Son filed his Answer to the Defendant's Counterclaims dated September 23, 2008, alleging multiple defenses.

On September 23, 2009, Son filed an Amended Complaint reasserting his initial

claims against Mother, Father Sister and Company, and adding a claim against Irwin Levine, the Company's accountant ("Accountant"), of aiding and abetting the Family Respondents in breaching fiduciary duties as Company officers and directors. On October 13, 2009, the Company and Family Respondents filed their Answer and Counterclaims to Son's Amended Complaint. Son filed no Reply to the Counterclaims asserted in the Answer and Counterclaim to Son's Amended Complaint. Accountant filed his Answer to Son's Amended Complaint dated November 23, 2009.

The case was referred, with finality and by consent, to Ralph Stroman, Esquire, as Special Referee by Consent Orders filed February 11, 2011, and April 13, 2011. The case was tried without a jury over five (5) days during the week of November 14-18, 2011. At the conclusion of Son's case, a directed verdict was granted as to Son's claim of constructive termination in violation of Company's employee handbook alleged in his fifth cause of action.

The Special Referee filed separate Final Orders disposing of (1) Son's claims against Company and the Family Respondents (the "Mason Order"), and (2) Son's claim against Accountant (the "Levine Order"); both Final Orders were filed on January 20, 2012. The Mason Order granted judgment in favor of the Family Respondents and Company as to all remaining causes of action asserted by Son and granted judgment against Son on the counterclaims in the total amount of Twenty-nine Thousand Seventeen and 98/100 ($29,017.98) Dollars. The Mason Order also held that the Company could later pursue its claim against Son for damages resulting from his filing, while Company President, of false and inaccurate Company State and federal tax returns once the amount of damages and

additional tax liabilities to the Internal Revenue Service and the South Carolina Department of Revenue were determined. The Levine Order granted judgment in Levine's favor.

Plaintiff filed a motion dated January 27, 2012, to Alter or Amend the Mason Order pursuant to Rule 59(e) S.C.R.C.P. solely as to that portion of the Mason Order allowing Company to pursue its claim against Son for damages relating to his filing of false Company tax returns at a later date. After oral argument, the Special Referee denied Son's motion by Order filed May 4, 2012.

Son filed a Notice of Appeal dated June 4, 2012. Son thereafter filed an Amended Notice of Appeal dated June 8, 2012, and a Second Amended Notice of Appeal dated July 19, 2012.

STATEMENT OF THE FACTS

This case involves the ownership and operation of Mason Holding Company, Inc., by members of the Joseph E. Mason, Sr. family. Company operates five stores in Horry and Georgetown counties under the trade name "Mason Tire & Auto Service" ("Mason Tire"). Mason Tire is in the business of selling automobile and truck tires and automotive maintenance of personally owned and commercial vehicles. All store locations except one are operated on land leased by separate corporations wholly owned by Company. The store location on South Carolina Highway 544 (the "Conway Store") is owned by Company and is operated by BCJ Tires, Inc., which is owned 52% by Accountant and 48% by Company.[1]

The Company's stock is owned 30% by Son, 30% by Sister, 20% by Father and 20% by Mother. (Amended Complaint, Par. 13; R. _____; Transcript 11/15, pgs. 213, lines 16 - p.

[1] Son consented to the acquisition of BCJ Tires, Inc. stock by Accountant. (Transcript 11/15, pgs. 76, line 14 -

215, line 3; R. _____; Transcript 11/17, p. 231, lines 17-20; R. _____). Son was employed as a principal manager of Company until July 30, 2008 when he voluntarily quit his job. (Transcript 11/15, pgs. 81, line 13 - p. 83, line 22; R. ____). He filed this lawsuit six days later.

In or around 1984, Father decided to open a tire and auto service business in coastal South Carolina. Father had considerable experience in the tire business in the Miami, Florida, area where he lived at the time. Father had operated eight retail stores for Goodyear Tire & Rubber and was a partner in a truck tire center in the Miami area. (Deposition of Joe Mason, Sr., pgs. 9, line 7 - p. 11, line 17; R. _____). When Son and Sister learned of Father's proposed South Carolina venture, both asked to be involved. Father, who would be funding the venture, required Sister and Son to pay $10,000.00 each for a ten percent (10%) interest in the new entity. Son has never paid anything for his interest in Company other than the initial $10,000.00 payment. (Transcript 11/15, pgs. 8, line 18 - p. 9, line 21; R. _____). Subsequently, Father acquired a location in Surfside Beach, South Carolina, and opened Mason Tire & Auto Service, Inc. (the "Surfside Store"). Initial shareholders were Father, Mother, Son, Sister, and related family members Mr. and Mrs. Sanderson and their daughter. Later, Mother and Father acquired the Sandersons' interest in the Surfside Store leaving Son and the Family Respondents as the only shareholders. (Transcript 11/18, p. 187, lines 7-25; R. _____). The Surfside store is located on leased land owned by Mother, Father and Mother's sister, Mrs. Sanderson.

After graduating from the University of Alabama with a Business Administration

---

p. 77, line 18; R.____).

degree, Son worked for Ryder Truck rentals in the Miami area. After Father acquired a location for the Surfside store, Son moved to Surfside Beach to become the store manager. Father and Mother provided the start-up capital for the Surfside Store (with the exception of the $10,000.00 investment each by Son and Sister). Father initially held the title of President of the Company.[2] Until Father and Mother moved to the Surfside area in 1989, Father monitored the Surfside Store operations through frequent telephone calls and site visits. (Transcript 11/17, pgs. 234, line 13 - p. 285, line 14; R. _____; Transcript 11/18, pgs. 188, line 1 - p. 189, line 22; R. _____; Deposition of Joe Mason, Sr., p. 14, lines 3-24; R. _____). Sister also moved to the Surfside Beach area and worked in the business in bookkeeping/accounting and sales. Sister's husband Oswald St. Blanchard ("Ozzie") went to work at Mason Tire in 1984. (Transcript 11/17, pgs. 232, line 2 - p. 234, line 1; R. _____).

In or around 1989, the family decided to expand the Mason Tire business by opening a store in North Myrtle Beach, South Carolina ("North Myrtle Beach Store"). A separate entity, J&O Tire and Auto Service, Inc., was formed for the new store and was operated on leased land owned by Son and Ozzie individually.

In 1989, Father and Mother moved to the Surfside Beach area and Father began working in the business on a daily basis with plans to expand the Company's business into the commercial accounts area. Son remained in charge of general business operations serving as its general manager. Father, Sister, and Ozzie were active in the business as full time employees. Mother was likewise involved, but to a lesser degree.

Continued success led the Company to expand again in or about 1995 with the

[2] The record is unclear as to precisely when Son was elected President, but the testimony and records

opening of a Mason Tire location in Pawley's Island, South Carolina (the "Pawley's Island Store"). The Pawley's Island Store is operated by an entity formed and named M&S Tire Company, Inc., operated on leased land owned by a separate company (Catson, LLC) owned by Father and Mother. (Transcript 11/14, pgs. 32, line 21 - p. 34, line 22; R. _____).

In 1988, Company was formed. All Mason Tire & Auto Service, Inc., J&O Tire & Auto Service, Inc. and M&S Tire Company, Inc. stock has been transferred to Company.

In 1999, Company opened an additional location in Myrtle Beach, South Carolina (the "Myrtle Beach Store"), which is operated by K&J Tire Company, Inc., on land leased from Goodyear Tire & Rubber Company. Company owned all of the stock in the four Mason Tire locations. (Transcript 11/14, pgs. 36, line 16 - p. 37, line 21; R. _____). Company's stock was owned by Mason family members, with Father and Mother owning 40% each and Son and Sister owning 10% each.

Son's relationship with the other family members was troubled and the trouble bled over into their business relationship. (Transcript 11/17, p. 23, lines 10-20; R._____; Transcript 11/18, pgs. 18, line 4 – p. 24, line 14; R. _____; 11/18 pgs. 214, line 5 - p. 218, line 4; R. ____;). From time to time Son left the business unattended for extended periods of time without notice or justification. (Transcript 11/17 p. 237, line 6 – p. 238, line 10; R. _____; 11/17 p. 254, lines 20 – p. 255, line 18; R. _____; Transcript 11/18, pgs. 192, line 6 – p. 195, line 24; R. _____;). In April 2001, Son left without notice resulting in an emergency meeting of the shareholders to provide for the continued operation of the business during his absence. Son ultimately returned to the business at Father's urging. At a meeting

---

indicate that by 2001 Son was operating as Company President.

on May 21, 2001, (Plaintiff's Exhibit 4; R. _____) the family's personal problems and the effect on the Company were discussed. All family members except Son agreed that family counseling was appropriate. Although ultimately, the family underwent counseling, Son's periodic absences from the business continued without notice. In each instance, primarily as a result of the Father's intervention, Son ultimately returned and resumed his position as President and general manager. (Transcript 11/17, p. 236, lines 20 – p. 237, line 4; R. _____).

During a June, 2001 stockholders' meeting, Father expressed a desire to become less involved in the daily business operations, with an eye toward retirement. He also expressed concern that, although the business was doing well, there was a great deal of "negativity" within the family and that the family members should be able to work together. Father warned the family members that if they were unable to work together, he could and would replace any one of them. (Plaintiff's Ex. 5; R. _____).

Over the next two years, and in view of Father's desire for retirement, Father and Son and Accountant, assisted by Company's attorney Edward Kelaher, ("Attorney Kelaher"), developed a strategy for Mother and Father's exit from the business. Accountant, a public accountant from Miami, Florida, was a long time accountant and tax preparer for the Company and the family members, including Son. Additionally, Accountant was a friend and trusted advisor to all family members, including Son, on accounting business matters. In fact, he prepared Son's personal tax returns through and ending the 2007 tax year.

On November 8, 2002, following meetings with Father, Son, and Accountant, Attorney Kelaher forwarded documents to the Company shareholders which he had prepared

in accordance with Father, Son and Accountant's instructions. (Plaintiff's Exhibit 15; R. _____). Attorney Kelaher termed the documents "unusual", expressing concern with some aspects of the documents. While the specific documents enclosed with Attorney Kelaher's letter were not introduced, the letter references three documents: (1) Gift letter; (2) Employment Agreement; and (3) A Pawley's Island property lease.

Executed documents fitting that description, dated as of the end of 2002, were introduced (the "Retirement Documents").[3] (Exhibits 16, 17, and 18; R._____). The Retirement Documents, had they been fully performed, would have accomplished Father and Mother's goal at that time of exiting from the Company, with the Company equally owned by Son and Sister.

The Retirement Documents essentially called for Company to provide Father and Mother with certain Company employee benefits for "consulting services," and for Company to pay additional rent on the Pawley's Island Store to Catson, LLC, owned by Father and Mother in return for "gifts" of Company stock to Son and Sister. The gift letter (Plaintiff's Exhibit 17; R. ____) calls for Mother and Father over time to give their Company stock to Son and Sister in equal amounts, anticipating, at that time, that ultimately, Mother and Father would have effected their exit from the Company with Son and Sister as equal co-owners.

Commencing in 2003, benefits and rents were paid and received under the Retirement Documents. Mother and Father "gave" an additional 20% each in the Company's stock to Son and Sister, and by the end of 2007 Son and Sister each owned 30% in Company stock

3 Father was 79 years of age at the time of trial. (Transcript 11/18, p. 86; R._____).

and Father and Mother each owned 20% in Company stock. Rental payments under the Retirement Documents were terminated after Son left the Company, however, and Father resumed his status as a full time paid employee. (Transcript 11/18; p. 218, lines 5 – p. 219, line 5; R. _____; Transcript 11/17, p. 4, lines 6 – p. 5, line 6; R._____).

Since its formation and through 2006, the Company generally grew and prospered in sync with the economy in general in coastal Horry and Georgetown counties. While Son managed the Company with input from the other family members during this period of time; Son caused periodic family discord and acted irresponsibly by abruptly leaving his job with periods of unexpected and unexplained absences, returning after his Father's urging. (Transcript 11/18, pgs. 190, line 10 - p. 193, line 20; R. _____).

Unknown to the Father, Mother and Sister, Son was engaged in actions, as President, seriously detrimental to the Company's and Shareholders' best interests. In 2003 and 2006, Son made significant fraudulent alterations to the inventory shown on Company's books. The 2003 inventory adjustment was approximately $440,000.00 and in 2006 it was approximately $300,000.00. These increases in inventory amounts filtered down to increases in the costs of goods sold expenses. These fraudulent entries affected the Company's 2003 and 2006 income tax returns by significantly decreasing the Company's federal and State income tax liabilities. (Transcript 11/16, p. 142, lines 2 – p. 147, line 25; R. _____; Defendants' Exhibit 49; R. _____). In order to offset the inventory reduction for 2003 on the Company's books, Son prepared two promissory notes for $220,000.00 each, made payable to himself and his Sister. (Plaintiff's Exhibits 19 and 20; R. _____). (Transcript 11/15, p. 53, lines 3 – p. 59, line 7; R. _____; Transcript 11/17, p. 15, lines 21 – p. 17, line

22; R. _____). Son signed the notes as President and Ozzie signed as Vice President of Mason Tire; the notes were witnessed by Mother and Father. In 2006, Son caused a standard journal ticket to be issued reflecting notes payable to Son and Sister totaling $300,000.00 (the same amount as the 2006 inventory journal adjustment). (Plaintiff's Exhibit 23; R. _____) (Transcript 11/17, pgs. 17, lines 23 – p. 20, line 8; R. _____; 11/17 pgs. 25, lines 11- p. 27, line 14; R. _____). (Defendant's Exhibit 50; R. _____). Son proffered promissory notes supporting the 2006 journal ticket to Sister for execution, but she refused. (Transcript 11/17, pgs. 238, lines 11- p. 240, lines 24; R. ____;).

All parties (including Son) testified that Father, Mother and Sister were unaware that the fictitious notes and inventory adjustments resulted in an understatement of taxable income, and therefore the filed 2003 and 2006 Company tax returns were false and inaccurate. (Transcript 11/15, p. 4, lines 4-24; R. _____; p. 57, lines 7-11; R. _____; Transcript 11/17, p. 17, lines 4-22; R. _____; Transcript 11/18, pgs. 190, line 10 – p. 191, line 3; R. _____). Son, through the filing of the 2006 return, was fully in charge of all affairs, including the financial affairs, of Company. (Transcript 11/17, pgs. 6, lines 17 – p. 7, lines 19; R. ____; 11/17 pgs. 17, lines 4 – p. 20, line 13; R. _____; 11/17 pgs. 236, lines 20 – p. 237, line 4; R. _____). The inventory adjustments and corroborative fictitious notes were part of a plan and scheme Son put in place to limit Company income to levels Son deemed "acceptable". (Transcript 11/15, pgs. 107, lines 18 – p. 109, line 5; R. _____;). Accountant presented Son with the "option" to either the pay the taxes accurately reflected by the Company's books and records or to limit the taxes paid by way of these accounting and reporting artifices. (Transcript 11/16, pgs. 231, lines 5-p. 232, line 8; 11/17, pgs. 8, lines 5 –

p. 17, lines 22; R. _____). Son opted to pay less taxes by manipulating the parts inventory accounts and reports. (Transcript 11/16, pgs. 243, lines 12- p. 244, line 17; R. _____; 11/16 pgs. 229, lines 13- p. 232, line 13;). Accountant candidly testified he turned "a blind eye" to these practices. (Transcript 11/16, pgs. 251, lines 2- p. 253, line 15; R. _____).

In December, 2004, Ozzie suffered serious injuries in a motorcycle accident during a motorcycle "Event" in support of the Toys for Tots program that rendered him a quadriplegic. Ozzie retained a local attorney, Gene M. Connell, Jr. ("Attorney Connell"), to file a worker's compensation claim against Company because Ozzie was participating in the event as a marketing activity on behalf of Company. Son contends that Father directed him to testify that Ozzie's participation in the event was within the scope of his employment so that Ozzie would receive workers compensation benefits; Son also contends that such testimony would have constituted perjury. Father denies this allegation. (Transcript 11/18, p. 211, lines 9 – 22; R. _____). Both Father and Sister testified that Ozzie was acting within the scope of his employment at the time of the injury because he was participating in the event as a marketing activity on Company's behalf. (Transcript 11/18, p. 211, lines 9-22; R. ____). Documentary evidence corroborated that Ozzie's participation on behalf of the business in the same event in years past and Son signed minutes of the stockholders' meeting in November, 2005, reflecting a discussion of Ozzie's participation in the event (Plaintiff's Exhibit 21; R. _____). Attorney Connell testified at trial that in his representation of Ozzie, it appeared that Ozzie was acting within the scope of his employment at the time of the accident; that the claim was vigorously contested; that his client prevailed at the initial level but the decision was reversed 2 to 1 at the Commission level; that the Commission's decision

was appealed to the Circuit Court; and that a favorable settlement was reached before a Circuit Court decision was rendered. Attorney Connell further testified that he was unaware of any fraud in connection with the claim. (Transcript 11/17, pgs. 104, lines 12 – p. 109, line 14; R. _____).

In 2006, Son determined that Company would be well served by opening an additional location between Myrtle Beach and Conway. The other family members were agreeable, so in the Fall of 2006 Company purchased property adjacent to S.C. Highway 544 between Myrtle Beach and Conway for the purpose of constructing a Mason Tire Conway location (the "Conway Store"). (Transcript 11/15, pgs. 24, lines 18 – p. 27, line 21; R. _____). The Conway Store was leased for operation to BCJ Tires, LLC, ("BCJ Tires") an entity Son formed, with initial members consisting of Son, Sister and Son's friend Brian Stout. Although the Company had no ownership interest in BCJ Tires, it was operated under the name of Mason Tire & Auto Service. On August 3, 2007, without the knowledge or consent of any Respondent Family member, Son transferred $93,500.00 of Company funds to BCJ Tires to fund its operation. (Defendant's Exhibit 55; R. _____). When Father learned of the circumstances of ownership and operational funding of BCJ Tires, he required Son to transfer Son and Sister's interests in BCJ Tires to Company. (Transcript 11/18, pgs. 200, line 16 – p. 202, line 21; R. ____). The BCJ Tires location has operated at a loss since its inception, which loss has been sustained by Company. Company subsequently acquired Brian Stout's interest and sold a 52% interest in BCJ Tires to Accountant. BCJ Tires, currently owned 52% by Accountant and 48% by Company, continues to operate at a loss. The Conway Store location is the only real estate owned by Company.

The timing of the acquisition and construction of the Conway Store unfortunately occurred when the price of real estate was at its zenith. Son admitted that 2007 was a bad time to be opening BCJ Tires or any business and acknowledged it was one of the worst times to be operating a business in the United States of America since 1929. (Transcript 11/15, p. 31, lines 9-18; R. ____). Company continues to struggle not only with the operating loss for BCJ Tires, but also with the mortgage debt for the land and building, while the store's value has declined precipitously in the down market. (Transcript 11/16, pgs. 93, lines 5 – p. 95, line 22; Transcript 11/17, pgs. 27, lines 15 – p. 30, line 3; R. _____).

In August, 2007, Son left the business abruptly and without justification or notice, remaining absent for virtually the entire month. (Transcript 11/17, pgs. 254, line ____ - p. 255, line 18; R. _____; Transcript 11/18, p. 41, lines 6-24; R. _____). On August 31, 2007, Attorney Wayne Byrd wrote to Mother, Father, and Sister on behalf of Son advising he had been retained by Son to represent his interests "....as an officer, director and minority shareholder of Mason Holding Company, Inc., and its wholly owned subsidiaries." Based upon the information provided to him by Son, Attorney Byrd alleged that Mother, Father and Sister had "....committed illegal fraudulent and oppressive acts and have unduly prejudiced the corporations and [Son's interest therein]." Threatening litigation on behalf of Son, Attorney Byrd demanded the alleged unacceptable conduct and practices be stopped. (Plaintiff's Exhibit 29; R. _____). The letter makes no reference to or acknowledgement of the fact that the acts complained of were taken while Son was, by all accounts, President of Company since 2001 and fully in charge of Company operations.

On September 27, 2007, Attorney Byrd, again on behalf of Son, wrote Accountant

outlining various alleged financial and tax accounting irregularities which Accountant was accused of having "devised and fashioned." While the alleged activities were substantially accurate, Attorney Byrd's letter failed to recognize that the delineated activities that formed the basis of Son's complaints were taken at Son's direction and with his full knowledge and consent. (Plaintiff's Exhibit 31; R. ____). While Accountant may have indeed participated in the questioned tax practices, it is beyond dispute that Son was aware of, actively engaged in and furthered the very practices about which his attorney's September 17, 2007, letter complains and which form the basis of certain claims in this action. (Transcript 11/18, pgs. 85, lines 4 – p. 86, line 8; R. _____).

Following receipt of the Byrd letter, Accountant advised Sister, by email, that certain tax accounting and practices complained of in the Byrd letter (including the payment of certain personal expenses by Company) should be terminated. (Plaintiff's Exhibit 33; R. _____). Accountant also requested each of the shareholders to agree to repay Company for personal expenses paid by Company. (Plaintiff's Exhibit 38; R. _____). All stockholders agreed to repay the personal expenses and signed the agreement except Son who refused. (Transcript 11/15, pgs. 136, lines 4 – p. 137, line 21; R. _____; Transcript 11/18, p. 79, lines 1 – 25; R. _____;). (Plaintiff's Exhibit 38; R____).

Attorney Byrd's firm refunded Company the amount of $10,000.00 which Son had paid Byrd's law firm using a Company check (and Company funds) given for Son's attorneys' fees; Byrd's letter acknowledges the firm represented Son's interest and not the Company. (Defendant's Exhibits 19 and 20; R. _____). Son, however, immediately transferred Company funds from Company's corporate checking account to Son's own

personal bank account to reimburse himself for the attorney's fees he paid to Byrd to represent him personally, in the amount of $17,301.66. (Transcript 11/15, pgs. 109-111, R. _____; Defendant's Exhibits 22 and 23; R. _____).

On October 24, 2007, a shareholders meeting of the Mason family companies was held at Attorney Cliff Tall's law office, pursuant to notice, for the following purposes:

1. Selection of registered agent for Mason Tire and Auto, Inc., to be listed with the South Carolina Secretary of State.

2. Review and ratification of corporate records which have been kept regarding past business.

3. Selection of new accounting firm to assist the business, generally, and to supervise correction of past tax reporting.

4. Election of Officers and Directors

(Plaintiff's Exhibit 40; R. _____)

Prior to the October 24 meeting, Son had returned from his August 2007 hiatus and resumed his role as President and Company General Manager. At the meeting the Company shareholders voted to retain local certified public accountant Timothy Duncan ("Duncan") to supervise the correction of the Company's past tax reporting. Father was elected President and Son was elected Vice President. The only change in Son's duties was that he was relieved of cash handling procedures; otherwise, Son continued to be in charge of the Company's operations and retained the same salary and perquisites including car, cell phone, credit card and insurance. (Transcript 11/15, pgs. 33, lines 12 – p. 34, line 15; R. _____; Transcript 11/18, pgs. 204, lines 9 – p. 207, line 7; R. _____).

Subsequent to the corporate meeting, Duncan undertook to assist Accountant in preparation of amended State and Federal tax returns for filing to correct the prior defects in filing. Amended returns were prepared for tax years for 2003 through 2006, including revisions requested by Duncan. Duncan was unwilling to sign the amended returns as Company's accountant, preferring that they be signed by Accountant since Accountant had filed the returns being amended. A shareholders' meeting was scheduled for December 7, 2007, for the purpose, *inter alia*, of mailing the amended returns. (Plaintiff's Exhibit 48; R. _____).

By letter dated November 22, 2007, Father informed CPA Duncan that Company would be using Accountant's firm to prepare its 2007 corporate and shareholders individual income tax returns. Prior to that date, Son had visited Duncan and requested Duncan's assistance in making inventory adjustments similar to those adjustments Son had made in Company's 2003 and 2006 financial statements which had resulted in incorrect returns being filed. Duncan, amazed that Son was attempting to continue that practice, determined that he did not want to be involved in preparing or filing Company returns in any event. (Transcript 11/15, pgs. 71, line 8 – p. 72, line 4; R. _____; Transcript 11/17, pgs. 142, lines 2 – p. 145, line 9; R. _____).

While Company President and General Manager, Son repeatedly created fabricated invoices for commercial tire "casings" from fictitious companies[4]. Son created fake invoices that indicated that the fictitious company had sold (and that the Company had received) tire casings. Son would then remove cash from the Company's cash register in an amount equal

4 A "casing" is a used commercial truck tire suitable for "recapping" and resale. (Transcript 11/14, pgs. 28, lines 8 – p. 29, line 9; R._____).

to the sum of the casing invoice prices for his personal use. The Company's records would reflect non-existent tire casing inventory and the books would be in balance because of Son's removal of cash from the Company register in an amount equivalent to the fictitious casing sum. Company employees testified that they personally observed Son remove money from the cash register drawer and place it in his pocket, and that the casing invoices in question contained names of nonexistent companies. (Transcript 11/17, pgs. 197, line 18 – p. 201, line 5; R. _____; Transcript 11/18, pgs. 180, lines 7 – p. 183, line 14; R. _____). Son admitted engaging in this practice, but contended Accountant said it was acceptable so long as he split the cash equally with Sister (and which Accountant denied). Sister denied Son's testimony that he split the cash with her. (Transcript 11/15, pgs. 115, lines 17 – p. 118, line 21; R. _____) (Transcript 11/18, p. 35, lines 12-18; R. _____). The other Mason family members were unaware of Son's tire casing scheme until the Fall of 2007. (Transcript 11/18, pgs. 260, line 4 – p. 261, line 21; pgs. 203, line 10 – p. 204, line 12; R. _____).

Upon returning to the family business after the August 2007 hiatus, Son continued to experience relationship problems with Father, Mother and Sister, prompting Father to give him a written reprimand on or about November 29, 2007. (Plaintiff's Exhibit 49; R. _____). By that time, Father had been made aware of the tire casing scheme, the unauthorized distribution of $93,500.00 of Company money to BCJ Tires, and the tax return improprieties as a result of Attorney Byrd's letters. (Transcript 11/18, pgs. 200, line 16 – p. 204, line 20; R. _____). In a separate letter dated November 29, 2007, Father advised Son as follows:

> As Vice-President your job duties will remain the same as they have for the past twenty five years. The only exception will be check signing and transferring of funds, you are no longer responsible for those duties. Any journal tickets created by you must have the President's signature on them.

> You will perform your job duties with accountability and quality job performance in a professional matter to all officers and employees of Mason Tire. This is a quality I expect from all officers of Mason Tire, nothing less will be tolerated.
>
> Again, if you feel you cannot conduct yourself in such a matter as stated before in the letter you received from your mother and myself you will go on a permanent leave of absence until you can prove otherwise.

(Plaintiff's Exhibit 47; R. _____)

In December of 2007, all shareholders and Accountant attended a meeting at the Surfside Store, held for the express purpose of signing and mailing the amended returns. The proposed amended returns for 2003, 2004, 2005, and 2006 were presented and discussed at the meeting (Plaintiff's Exhibits 65-68; R. _____). After considerable discussion (principally centered around the considerable cost to the Company of filing the amended returns and payment of the taxes required with such filing) Son, with the shareholders' consent, determined that the Company would not file the amended returns but would follow Accountant's suggestion that the prior underpayment of taxes by the Company be handled "another way". (Transcript 11/16, p. 272, lines 2–12; R. _____; Transcript 11/17, pgs. 22, line 9 – p. 23, line 20; R. _____; 11/17, pgs. 251, lines 20 – p. 252, line 21; R. _____; Transcript 11/18, pgs. 197, line 14 – p. 200, line 6; R. _____). The "other way" devised by Accountant involved filing returns that overstated taxable income for future years, thereby essentially "reversing" the fictitious inventory adjustments made in previous years. Following the meeting, Company filed State and federal tax returns for subsequent years which overstated income for those years and paid taxes on the overstated income for those years. (Defendants' Exhibit No. 49; R. _____).

In July, 2008, Son informed Father that he planned to terminate Sandra Adams, Company bookkeeper, for allegedly stealing because she had failed to deduct the correct insurance premium amount from her paycheck. Father testified that his initial response was whether Sister should be allowed time to find someone to fill the position. Son, however, proceeded to immediately terminate Ms. Adams in Father's presence, although Ms. Adams denied stealing.

Father looked into the matter further and realized the value and volume of work that Ms. Adams performed for Company and that the stealing allegation was not proven. Based on his review of the matter and its impact on Company, Father determined it would be more appropriate to place Ms. Adams on probation pending investigating of the allegation of stealing, with termination to follow if the allegation was found to be meritorious. When Father informed Son of his decision to reinstate Ms. Adams, Son responded: "If you do, I will bury you." (Transcript 11/18, pgs. 207, lines 12 – p. 210, line 7, R. _____).

Son continued to act as general manager for the Company and as Vice President until July 30, 2008, when he sent Father a letter (authored by Attorney Byrd) alleging he (Son) had been constructively discharged and providing two weeks notice of his departure from the Company. (Plaintiff's Exhibit 55; R. _____). Neither Father, nor anyone else with the Company, has solicited or caused Son's departure. Six days later, Son filed this action. When queried at trial about his departure, Son testified as follows:

Q. And you said in terms of what you call wrongful termination, I think you testified yesterday that nobody fired you. Is that right?
A. That's correct.
Q. Nobody told you not to come back. Is that right?
A. That's correct.
Q. Nobody cut your pay?

A. We established that, correct.
Q. And you just simply didn't want to go back to work.
A. I found it intolerable at that point.
Q. You found it intolerable. So you didn't want to go back then, and you wouldn't go back today if they offered you your job back?
A. That's correct.

(Transcript 11/15, pgs. 82, lines 24 – p. 83, line 14; R. _____).

Between October of 2007 and Son's quitting of his employment on July 30, 2008, Son continued to act as the Company's General Manager and Vice President. Other than the financial restrictions imposed on Son as outlined in Father's November 29, 2007, letter, Son's management authority and management practices continued unabated. (Plaintiff's Exhibit 47; R. _____) (Transcript 11/7, pgs. 256, line 2 – p. 257, line 22; R. _____; Transcript 11/18, pgs. 204, lines 21 – p. 207, line 7; R. _____). Numerous Company employees testified they were unaware of any changes in Son's management authority prior to his quitting of his job and, further, that Son continued to principally supervise and direct all aspects of Company's business. (Transcript 11/17, p. 92, lines 9-21; R. _____; 11/17 pgs. 154, lines 16 – p. 155, lines 15; R. _____; 11/17 p. 183, lines 6-14; R. _____; p. 203, lines 4 – 15; R. _____; Transcript 11/18, p. 99, lines 3 – 19; R. _____). For example, Son retained the bulk of Company's records in his private office under lock and key until his departure. Son reluctantly gave Father an office key after Father's third request, but directed Father that Sister (the Company's Secretary/Treasurer) was not to be given admittance. (Transcript 11/15, pgs. 36, line 2 – p. 38, line 17; R. _____; Transcript 11/18, pgs. 210, line 8 – p. 211, line 6; R. _____).

Following Son's departure, Father and Sister assumed Son's management responsibilities for Company. (Transcript 11/17, pgs. 230, line 14 – p. 231, line 20; R.

_____; 11/18 Transcript p. 218, line 20 – p. 221, line 19; R. ____). Since Son's departure, Company has been operated largely in the normal course and scope of business. Just prior to trial, Son voluntarily tendered a written resignation as officer and/or director of Company and any of its subsidiary companies.

During the course of litigation, the shareholders, including Son, determined that Company would retain Laura DuRant, certified public accountant, to review the actions taken by Company to determine if Company's liability for the 2003 and 2006 tax returns had been properly resolved. Ms. DuRant determined that, in fact, the Company's tax liability for the returns filed in 2003 and 2006 had not been adequately resolved and that Company faced a potential tax liability, including potential fraud and other penalties approaching three-quarters of a million dollars. (Transcript 11/16, pgs. 138, line 23 – p. 147, line 25; R. _____;). (Defendants' Exhibit 49; R. _____). As a result of Ms. DuRant's opinion, Company engaged tax attorney Edward S. Bowers, Jr., to represent it. Mr. Bowers testified, on behalf of the Company, that he has made voluntary disclosure to the State and federal tax authorities regarding the Company's past tax practices and that the Company's total loss exposure as a result of its past tax practices is, as yet, undetermined. (Transcript 11/16, pgs. 164, line 2 – p. 167, line 17; R. ____). Attorney Bowers suggested that Company continue to engage Accountant, at least on a limited and temporary basis, pending a resolution of Company's tax liability with the taxing authorities. (Transcript 11/18, pgs. 215, lines 14 – p. 216, line 6; R. ____).

After Son quit his employment, Mr. and Mrs. Mason made no payments pursuant to the Retirement Documents and gifted no stock to Son or Sister. (Transcript 11/18, pgs. 218,

line 5 – p. 219, line 5; R. _____). Father and Sister have undertaken all of Son's job responsibilities and have increased their compensation commensurately with their increased work and responsibility.

Son's inability to work harmoniously with the other family members prompted or coincided with his periodic episodes of abandoning Company's business without notice. (Transcript 11/18, pgs. 192, lines 24 – p. 193, line 20; R. _____; pgs. 214, line 5 – p. 215, line 14; R. _____; Transcript 11/17, p. 23, lines 10-20; R. _____). Son repeatedly belittled and minimized the talents and efforts of other family members in Company's success. Alise Taylor, sales representative for Company's supplier, convincingly testified as to her discomfort when, in her presence, Son attempted to embarrass and humiliate Father concerning his lack of computer skills. Son accused his Farther, in her presence, of wanting to "stick your nose in everything." (Transcript 11/18, pgs. 106, lines 15 – p. 108, line 25; R. _____).

Son consistently complained that Sister was overpaid in light of her level of experience and lack of a college education. Son was quite generously rewarded with employee benefits and during perquisites his employment. Other family members received benefits and perquisites in a much lesser degree. The compensation and benefits paid to Father, Sister and Mother were not excessive either before or after Son's departure from the business. (Transcript 11/18, pgs. 170, line 23 – p. 171, line 14; R. _____). By comparison, Son was quite handsomely rewarded for his efforts even without taking into consideration any of the non-taxed cash he removed from the cash register through the casing scheme. In fact, Son's own expert opined that Company's President (Son) was over paid in 2004-2007

but that Father as President was significantly underpaid in 2008 after Son quit. (Transcript 11/16, pgs. 109, line 22 – p. 111, line 6; R. _____).

STANDARD OF REVIEW

In Townes Associates, Ltd. v. City of Greenville, 266 S.C. 81, 221 S.E.2d 773 (1976) the South Carolina Supreme Court provided the general framework for the appellate court's scope of review in civil cases as follows:

(1) In an action at law, referred to a master or special referee for final judgment, the appellate court will correct any error of law, but must affirm the master's or referee's factual findings unless there is no evidence that reasonably supports those findings.

(2) In an action in equity, tried by a judge alone, the appellate court has jurisdiction to find facts in accordance with its own view of the preponderance of the evidence.

Son's only action in equity is his claim seeking to require Family Respondents to purchase his shares in Company. His remaining five causes of action are all actions at law.

ARGUMENT

1. THE SPECIAL REFEREE CORRECTLY HELD THAT SON IS NOT ENTITTLED TO AN ORDER REQUIRING THE FAMILY RESPONDENTS TO PURCHASE HIS SHARES IN MASON HOLDING COMPANY, INC.[5] BECAUSE SUCH EXTRAORDINARY RELIEF IS NOT WARRANTED BY THE RECORD EVIDENCE IN LIGHT OF SON'S MISCONDUCT.

[5] Son's Fourth Cause of Action (Amended Complaint, R. ___); cites S.C. Code Ann. §33-14-400 in requesting the Court order a purchase of his shares in Company. Because Company is a statutory close corporation (See Brief of Appellant, p. 3; Plaintiff's Ex. 25, R. _____), his request for relief is actually governed by S.C. Code Ann. §33-18-420, which Code section provides that the extraordinary relief of a Court awarded share purchase is appropriate only if (1) the Court finds court action to protect shareholders is needed under §33-18-400; and, (2) the ordinary relief provided by §33-18-410 is inadequate or inappropriate. Such a showing has not been made in the instant action. The purchase of his shares in Company is the only relief requested by Son for the alleged shareholder abuse. Son did not amend his Complaint to seek relief under the appropriate code section (S.C. Code Ann. § 33-18-420).

Facts do matter. That is the Son's threshold problem with his case and the reason why he is not entitled to the relief he seeks. Son's multiple claims of mistreatment by his Father, Mother and Sister simply are unsupported by the facts and record before the Court. What the record actually reflects is a profound tolerance of Father, Mother and Sister for Son's actions. Son was in virtually complete control of Company's operations until he quit in July of 2008. Between October of 2007 (when he was elected Vice-President instead of President) and 2008 when he quit, he remained in virtually complete control of Company, subject to a limited (and well justified) control of his money handling authority. Multiple company employees testified to their observations of Son's control and management of Company until he quit. Not a single one testified to any retaliation, humiliation or embarrassment visited on Son by the Family Respondents.

Significantly, a close review of Son's eighteen (18) item laundry list of matters which he asserts should persuade this Court to grant his request for extraordinary relief requiring the Mason Defendant to purchase his shares in Mason Holding Company, Inc. reveals each item to be either: (1) without material support in the record, (2) instigated, orchestrated, or participated in by Son, or (3) not germane to his request for relief. (See Appellant's Brief pp. 23-24). Moreover, even if any of Son's claims of mistreatment were found to have any record support, the extraordinary relief afforded by §33-18-420 is only appropriate if the Court determines ordinary relief provided by §33-18-410 is inadequate or inappropriate. Because the conduct alleged is central to Son's claim, each item on his list is addressed seriatim as follows:

Son's claims:

- Asking Joe to commit perjury to support a fraudulent worker's compensation claim regarding a significant injury to Ozzie St. Blanchard, perjury by Joe Sr. in support of the claim, and acts and displays of retaliation and hostility toward Joe when he refused to cooperate with the scheme.

Family Respondents Response: The claim has no support with the exception of Son's self-serving testimony in this action many years after the claim was made. Son's assertion that the claim was fraudulent is controverted by the testimony of Attorney Gene Connell, Father, Mother and Sister. Attorney Connell testified that Ozzie's worker's compensation claim was supported by Father's testimony, by documents showing that St. Blanchard was acting within the scope of his employment, and by the testimony of past and present employees of the Company. (Transcript 11/17, pgs. 106, line 3 – p. 109, line 14; R. _____).

- Preparation and execution of documents that mischaracterize the nature of the redemption or sale of Joe's parents' shares of the Company.

Family Respondents Response: Son was an active participant and he signed all of the Retirement Documents. (See Plaintiff's Exhibits 16, 17, and 18; R. _____). Son has received and accepted the benefit of the Retirement Documents in obtaining an additional 20% of Company stock (increasing his interest from 10% to 30%). He has now asks the Court to award him the benefits of additional stock ownership under the Retirement Documents even though: (1) payment under these documents to Father and Mother stopped after Son quit his employment; (2) Father, at age 79, is still employed full time because Son quit; and (3) CPA Durant testified it is unlawful to mischaracterize the nature of payments to avoid income taxes. (Transcript 11/16, pgs. 159, line 9- p. 160, line 7; R. _____).

- Refusing to acknowledge Joe's proper share ownership in the Company and to deliver the remaining share for 20% of the Company due to him.

Family Respondents Response: See preceding response. Also, Son is admittedly the owner of only a thirty percent (30%) interest and nothing contained in his original Complaint or his Amended Complaint can fairly be construed to ask the Court to determine he is entitled to an additional twenty percent (20%) interest in Company. Son's Brief on Appeal does not address this omission.

- The inclusion of consideration for the purchase of Joe's parents' shares in the form of a provision allowing them to select the Company's accountant (Levine) and then their exercising that provision to hire an incompetent accountant for the Company and to retain that accountant for years after Joe discovered and brought to the attention of the Company and the other Respondents the fact that Levine's accounting and tax services were incompetent and inappropriate.

Family Respondents Response: See preceding two responses. Moreover, Son was the Company's President until October of 2007 and handled all accounting and financial matters during that time. Accountant Levine had served both the Company and the individuals, including Son, as personal accountant for years. Son knowingly signed false and incorrect Company tax returns as its President in 2003 and 2006. Son prepared false journal tickets and a promissory note to himself and Sister (which Sister would not sign) as a cover-up for the tax fraud. Son even suggested a similar scheme to CPA Duncan for the 2007 tax year which Duncan refused. Son would not agree to file the corrected 2003 and 2006 tax returns at the December 2007 meeting and supported retaining Accountant Levine's services to correct the problems "another way". Father, Mother and Sister, not Son, are responsible for reporting the improper tax practices to the taxing authorities. Significantly, Son is the only shareholder to refuse to repay Company for the inappropriate practice of payment of personal expenses pointed out in attorney Byrd's letter. The practices complained of by Son after voluntarily quitting his employment were instituted and carried out by Son while he was

Company's President. Finally, attorney Bowers advised Company to continue to retain Levine on a limited basis until the issues with the Internal Revenue Service ("IRS") and the South Carolina Department of Revenue ("SCDOR") have been resolved in light of his knowledge of what had taken place over the years.

- Retaliating against Joe for demanding that the Company amend its tax returns, terminate Levine, and adopt appropriate accounting and tax practices by, among other things, wrongfully refusing those demands, immediately terminating Joe's role as President of the Company, prohibiting Joe from further roles in certain banking and financial matters of the Company, limiting Joe's access to information about the Company's tax and accounting practices, and other acts of retaliation and public and private displays of hostility towards Joe.

Family Respondents Response: See preceding response. Son was at the helm of the Company and very much involved with the tax improprieties and with the Company's continued reliance on Accountant in filing its return and "corrective returns." Son is the one who refused to reimburse the Company for improper Company's payment of personal expenses. Son would not agree to the filing of amended tax returns (reviewed and recommended by CPA Duncan) in December of 2007. Any evidence of retaliation against Son is not found in the record. Son kept his job even in light of the discovery of the tax problems, the casings scheme, the BCJ Tire money diversion and improperly reimbursing himself for his attorney fees with Company funds (even after attorney Byrd's firm returned the Company check for fees as inappropriate). Defendant's Exhibits 22 and 23; R. ____). Except for limitations on his access to check writing, Son maintained control of the business until he quit.

- Asking Joe for offers to purchase the other shares of the Company and negotiating and declining those offers in bad faith.

Family Respondents Response: Son had made it clear since 2001 that it is his desire to either

be bought out or to be the sole owner of Company. This lawsuit is simply another means to try to get what he has wanted all along. Father, Mother and Sister had no obligation to buy or to sell and did not solicit any offers. The record is void of any evidence of bad faith. For that matter, there is no credible evidence of a good faith offer to purchase. See next response.

- Asking Joe to pursue third party offers to buy the Company but then, in bad faith, unreasonably rejecting and refusing to negotiate or pursue an offer to purchase the Company for $3 Million.

Family Respondents Response: The alleged "offer" to purchase the Company for $3 Million dollars was nothing more than an e-mail solicited by Son without any investigation by the putative purchaser. (See testimony of Steve Allison, Transcript 11/14, pgs. 139, line 4 - p. 142, line 12; R. _____). Even assuming the offer had any real basis, there is no bad faith resulting from lack of interest in the offer.

- Submitting a low-ball valuation based on inaccurate information and based on improper methods.

Family Respondents Response: The Family Respondents, the Appellant's Brief and the Record are unclear what this refers to. There is no record evidence to support this allegation.

- Making a low-ball offer to purchase Joe's shares

Family Respondents Response: See preceding response.

- Refusing to acknowledge the annual values of the Company computed by Levine.

Family Respondents Response: The Family Respondents are unclear as to what this refers to and why it would be germane to the issues. Son contends Levine is incompetent and his services inappropriate.

- Failing to conduct a shareholder meeting since the termination of Joe's employment with the Company in 2008.

Family Respondents Response: During this period after Son quit and until trial, the case was in litigation and the normal business of the Company was conducted, Son was an officer and a 30% shareholder and could have called a meeting at any time if so inclined. Company, a statutory close corporation, is not required to hold an annual meeting unless requested by a shareholder (See S.C. Code Ann. §33-18-230(b)). Moreover, a meeting of the shareholders was held during this period for the purpose of considering the retention of CPA Laura DuRant in regard to the Company's tax issues.

- Failing to pay any dividends whatsoever since terminating Joe as President in 2007.

Family Respondents Response: Dividends were not paid while Son was President. Since starting the BCJ Tire business in 2007 and buying the land for the Conway store, Company funds have been committed to pay for BCJ related losses, tax liabilities, and the expenses and defense of this litigation. Business has experienced a decline since 2007 due to the Great Recession. Even Son has acknowledged that this period was a difficult period for business. Moreover, Son was a willing participant and architect of many of the decisions that have impacted the Company's bottom line.

- Mismanaging the Company since Joe's wrongful discharge and allowing sales and profits to decline during a period when other similar businesses have enjoyed increasing sales and profits.

Family Respondents Response: There is no credible record evidence of Company mismanagement by the Family Respondents or that similar businesses have enjoyed increasing sales and profits; moreover Joe was not wrongfully discharged but voluntarily quit. Significantly, virtually every business in America has been affected by the Great Recession commencing in 2007. Moreover, Son's Complaint alleging mismanagement was

filed only a few days after he quit.

- Paying significant amounts of Company funds to lawyers and experts to defend allegations of serious wrongdoing committed by the individual Family Respondents.

Family Respondents Response: Family Respondents agree the Company has incurred significant expense in defending Son's claims and assert and that such expenses have been and are appropriate Company expenses. See response above as to allegations of wrong-doing.

- Siphoning off and wasting Company assets by paying bonuses, excessive compensation, and grating substantial pay increases to the individual Family Respondents despite the fact that the market value of their skills and services do not warrant that compensation and despite their mismanagement of the Company, the Company's declining revenues and profits, and the fact that no dividends have been paid during the same multi-year period.

Family Respondents Response: This contention is controverted by the record testimony of both Son's expert and the Family Respondents' expert. Significantly, Son's expert testified that Son was overpaid in 2004-2007 and that officer compensation (including Father and Sister) was significantly below market commencing in 2008 when Son quit. (Transcript 11/16, pgs. 109, line 6 – p. 111, line 10; R. _____). Father and Sister had to step up and take over all management duties after Son quit. Management compensation has, in fact, been below 2007 levels since Son quit.

- Buying Kathy a new Cadillac despite their mismanagement of the Company and the Company's declining revenues and profits.

Family Respondents Response: Supplying a vehicle to officers as part of their compensation package was a program started by Son years previously while he was President and officers would receive replacement vehicles periodically on a rotating basis. The Cadillac was bought for Father as a part of this program. Father did not like the car, so he had Sister

exchange vehicles with him. (Transcript 11/17, pgs. 264, line 7 – p. 265, line 5; R. ____).

- Repeated acts of hostility and retaliation against Joe as a result of his actions and efforts to refuse to act wrongfully and to attempt to resolve serious problems with the Company's tax and accounting practices.

Family Respondents Response: Son is the one who refused to reimburse the Company for personal expenses paid by the Company. Son refused to have Company file the amended 2003 and 2006 returns as reviewed by Tim Duncan. Son asked Tim Duncan to continue the previous tax filing scheme. Son is the one who instituted and participated in the problematic tax and accounting procedures. No witness other than Son testified to any act of hostility or retaliation toward Son.

- Depriving Joe of all financial value of his ownership of shares in the Company – and the value in the Company that he devoted almost 25 years of his life building – by wrongfully discharging him from the Company by constant humiliation and acts of retaliation and failing to pay him any compensation or dividends since then.

Family Respondents Response: Joe quit. The value of his interest in the Company remains. The extraordinary tax liabilities (caused by Son), the Great Recession, the BCJ Tire expense (caused by Son) and lawsuit expenses (caused by Son) have seriously impacted the Company's finances. Son is the one who must accept the responsibility for quitting his job and leaving a Company which had been very generous to him. The Family Respondents are the ones who retained CPA Durant and Attorney Bowers to remedy the false tax return filed by Son in 2003 and 2006. There is no credible evidence in this record of acts of humiliation or retaliation against Son by Father, Mother or Sister.

Son's Brief on Appeal cites Kiriakides v. Atlas Food Systems & Services, Inc., 343 S.C. 587, 541 S.E.2d 257 (S.Ct. 2001) and Ballard v. Roberson, 399 S.C. 588, 733 S.E.2d 107 (S.C. 2012) in its discussion of the circumstances under which shareholder relief of some

form might be appropriate. In both Kiriakides and Ballard, our Supreme Court affirmed trial court determination that shareholder relief was appropriate. The Ballard Court, while noting that an action for stockholder oppression is equitable in nature, also pointed out that the equitable standard for review neither relieves an appellant of the burden to establish error on the part of the trial court in its findings nor does it require the appellate court to disregard the findings of the trial judge. In fact, the Supreme Court specifically recognized that the trial judge is the one "...who was in a better position to determine the credibility of the witness." (Ballard, supra, at 593, 733 S.E.2d at 109).

The Special Referee in the instant action heard witness testimony and received evidence over a five day period. He had an opportunity to hear the testimony and observe the demeanor of eighteen witnesses, including family members and co-workers of Appellant, CPA's, attorneys and expert witnesses. His Order, in so many words, noted his opinion as to the credibility of the witness on certain matters. The facts as found by the Special Referee in this case are amply supported by the record evidence. These facts fall far short of entitling Son to any relief, much less the extraordinary relief which he seeks.

Finally, the Court in Straight v. Goss, 383 S.C. 180, 678 S.E.2d 443, 449 (Ct. App. 2009) made it clear that the equitable defense of unclean hands is available in a shareholder oppression action in equity. In the case at bar, Son is the person by far most responsible for the matters about which he now complains.

2. THE SPECIAL REFEREE CORRECTLY DETERMINED THAT SON HAD MADE NO CLAIM TO, AND WAS NOT ENTITLED TO, AN ADDITIONAL 20% INTEREST IN COMPANY FROM MOTHER AND FATHER BECAUSE SUCH CLAIM WAS NOT PLEAD AND HAS NO MERIT.

The Trial Court found as follows regarding Son's claim of entitlement to an

additional 20% interest in Company from Mother and Father.

> During trial, Son asserted the position that while he was the record owner of a 30% interest in Company, he was entitled to an award of an additional 20% interest in the Company (a total ownership of 50%) under the terms of the Retirement Documents. Aside from the fact that such a claim is completely absent from Plaintiff's Amended Complaint, it is clear that the provisions of the Retirement Documents were not complied with, i.e., Father was not able to retire in light of Son's conduct, and additional rent payments to Father for the Pawley's Island Store were ceased. Moreover, under no circumstance could this Court engage in the enforcement of a series of agreements which clearly, on their face, were illegal and unenforceable.

(Final Order, p. 25; R. _____).

Son's Amended Complaint makes no reference to a claim of entitlement to an additional 20% of Company's stock from Mother and Father. (Amended Complaint; R. ____). Son's Brief on Appeal does not address this signification omission. Assuming, arguendo, the issue is properly before this Court, the Trial Court's finding that the Retirement Documents were not complied with after Son quit (i.e., Father is not retired and the additional rental payments on the Pawleys Island store were stopped) is amply supported by the record. Son received the benefit of the Retirement Documents from 2002 (when he signed the Retirement Documents) until he quit. His interest in the Company was increased during that period from 10% to 30%. Son now is asking this Court to enforce the terms of the Retirement Documents even though they have not been fully executed and they are undoubtedly questionable (if not unlawful) from a tax standpoint, and his pleading seeks no such relief.

3. THE ISSUE OF THE VALUATION OF SON'S STOCK IN COMPANY WAS NOT REACHED BY THE LOWER COURT AND THEREFORE IS NOT PROPERLY BEFORE THIS COURT.

The Trial Court did not reach the valuation issue because it determined Son was not

entitled to any shareholder protection relief, much less the specific extraordinary share purchase remedy provided by South Carolina Code Ann. §33-18-420.

Having failed on his claims below, Son now asks this Court to determine not only that the Trial Court's decision that shareholder relief was not appropriate under these facts is in error, but also to: (1) determine the ordinary relief afforded statutory close corporation shareholders by South Carolina Code Ann. §33-18-410 is inadequate or inappropriate; (2) determine the extraordinary relief afforded by §33-18-420 should be provided; and (3) determine the fair value of Son's shares under §33-14-420(b)(1) and the terms for any Court mandated purchase thereunder.

The Family Respondents submit, for the reasons expressed herein, the Trial Court correctly determined that the requested shareholder relief was not justified or appropriate under the facts. They further respectfully submit that even should this Court disagree with the Trial Court's ruling, the Trial Court should have the first opportunity to decide whether ordinary relief under §33-18-410 is adequate and appropriate. If the Trial Court should determine that only the relief afforded by §33-18-420 is adequate and appropriate it would then have the opportunity to pass on the valuation issue as well as the issue of terms of sale as provided in §33-18-420(b)(2). As posited, Son is asking this Court to overturn the Trial Court's decision and then to "bypass" the Trial Court and rule upon multiple issues not considered or passed upon by the Trial Court.

In apparent recognition of the weakness of his claim that he has been the victim of shareholder oppression, Son argues (for the first time) that a forced buyout of his share might be appropriate even where there is no breach of fiduciary duty, fraud or oppression (Brief of

Appellant, p. 21; R. _____). The case law cited in support of this argument is an unpublished opinion which does not even mention §33-18-420. Son's claim is not supported either by the facts in the record or by South Carolina law applicable to statutory close corporations.[6]. A stock interest in a close corporation is inherently of more limited marketability than other forms of investment. To require the remaining shareholders to purchase Son's interest simply because he has become disaffected and in the absence of any showing of oppression by his parents or Sister is totally inconsistent with Son's pleadings, the facts and established statutory law.

Not only does Son now argue for relief absent any showing of oppression, he incredibly asserts that such relief shall be granted without consideration of any applicable minority discount. (Brief of Appellant, P. 28; R. ____). Son asserts the mandated purchase of his interest shall be at "fair value" (i.e., without discount) as opposed to "fair market value". Son is not entitled to be rewarded for his misconduct and damage he has caused the Company.

If this Appellate Court disagrees with the Trial Court on the entitlement of Son to some form of shareholder relief, it should remand the matter to the Trial Court for its determination as to remedy.

4. THE RECORD EVIDENCE SUPPORTS THE SPECIAL REFEREE'S FINDING THAT THE FAMILY RESPONDENTS DID NOT BREACH ANY DUTY OWED TO SON BY VIRTUE OF THE STATUS AS OFFICERS, DIRECTORS OR MAJORITY SHAREHOLDERS.

---

[6] The Official Comment to §33-18-400. Court Action to Protect Shareholders, states as follows: "Relief available under sections 40 through 43 (Sections 33-18-400 through 33-18-430) is circumscribed to minimize the danger of abuse by shareholders. No relief of any kind may be ordered unless the court affirmatively finds that one or more of the specific conditions listed in section 40(a) (Section 33-18-400(a)) – fraud, oppression, unfairly prejudicial conduct, deadlock, or grounds for involuntary dissolution – exist. The petitioner has the burden of proof on this issue."

Appellant's brief correctly characterizes an action for breach of fiduciary duty as an action at law (Brief of Appellant, P. 17; R. _____); accordingly, the standard of review is that the trial judge's findings will be upheld unless without evidentiary support." Jordan v. Holt, 362 S.C. 205, 608 S.E.2d 131.

The duty owed shareholders by officers and directors is set forth in S.C. Code Ann. §33-8-300 (as to directors) and §33-8-420 (as to officers). The statutes provide in pertinent part:

> "(a) A director shall discharge his duties as a director ... (1) in good faith; (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (3) in a manner he reasonably believes to be in the best interests of the corporation and its shareholders."

S.C. Code Ann. §33-8-300(a).

> "(a) An officer with discretionary authority shall discharge his duties under that authority: (1) in good faith; (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (3) in a manner he reasonably believes to be in the best interests of the corporation and its shareholders."

S.C. Code Ann. §33-8-420(a).

The Special Referee held that: (1) Son had failed to establish a breach of any duty owing of owing by Father, Mother or Sister by reason of their shares as officers, directors, or (collectively) majority shareholders; and (2) the gravamen of Son's cause of action alleging breach of duty was for injury to the Company and not to Son individually (Final Order, p. 23-24, R. ____). See Brown v. Stewart, 348 S.C. 33, 49, 557 S.E.2d 676, 684 (Ct. App. 2001) for the general rule that any actions against officers and directors for losses suffered by a corporation shall be brought as a shareholder derivative action.

The only specific instances of breach of fiduciary duty mentioned in Son's brief are: (1) Son is no longer employed by the Company; (2) the Family Respondents have given themselves raises and bonuses; (3) a Cadillac was provided for Sister and (4) a dividend has not been paid. (Brief of Appellant, p. 40; R. ____). For the reasons previously expressed in this brief in response to Son's 18 item laundry list, none of the issues evidence or constitute a breach of the Family Respondents' statutory duties to Company or to its shareholders. Son is not receiving employment benefits because he voluntarily quit; the Family Respondents have stepped up to the plate and assumed the duties Son previously performed and are compensating themselves appropriately. The car complained of was actually purchased for Father as part of an officer compensation and benefit program instituted by Son. Sister ended up with the car because Father did not like it. Dividends have never been paid and are particularly inappropriate at this time given the Company's financial issues relating to (1) IRS and SCDOR liability; (2) the Great Recession; (3) operating losses and expenses related to the BCJ Tire store and the Conway store land mortgage; and (4) the time and expense associated with the defense of the lawsuit. Except for Item 2, Son was a participant or promoter of these financial obstacles facing the Company.

5. THE RECORD EVIDENCE SUPPORTS THE SPECIAL REFEREE'S FINDING THAT ACCOUNTANT LEVINE NEITHER AIDED NOR ABETTED ANY BREACH OF FIDUCIARY DUTY BECAUSE THERE WAS NO BREACH OF DUTY BY THE FAMILY RESPONDENTS.

The record evidence supports Special Referee's finding that Son failed to establish that the Family Respondents breached any fiduciary duty owed to him. See pages 36-37 of Family Respondent's Brief, which are incorporated herein. See Vortex Sports Entertainment, Inc. v. Ware, 378 S.C. 197, 204, 662 S.E.2d 444 (2008).

6. THE RECORD EVIDENCE SUPPORTS THE SPECIAL REFEREE'S FINDING THAT THE FAMILY RESPONDENTS DID NOT CONSPIRE TO WRONGFULLY DISCHARGE SON AND DEPRIVE HIM OF THE VALUE OF HIS STOCK OWNERSHIP IN COMPANY.

Plaintiff's action alleging conspiracy is an action at law and the standard of review is whether there is any competent evidence to support the Special Referee's findings thereabout. The Special Referee held that Son's actions alleging civil conspiracy against the Family Respondents failed for a complete lack of proof either of liability or of damages (Final Order, pgs. 20, 22-23; R. _____). To prove a claim for civil conspiracy, a Plaintiff must show a combination of two or more persons for the purpose of injuring plaintiff and causing plaintiff special damages. Hubbard & Felix, South Carolina Law of Torts, 404-408 (3d. ed. 2004). Gordon v. Busbee, 397 S.C. 119, 723 S.E.2d 822 (Ct.App. 2012).

The record evidence establishes that Son bears the primary responsibility for all of his present complaints. Son is the one who decided to file false and inaccurate Company tax returns in 2003 and 2006. Son decided to cover his tracks with fictitious promissory notes and false inventory adjustments. Son was President of Company until October, 2007 and responsible for the tax practices complained of in Attorney Byrd's September 17, 2007 letter to Accountant (Plaintiff's Exhibit 31; R_____). Son is the only family member who refused to repay the personal expenses paid by Company for the shareholders as addressed in the October 18, 2007, letter (Plaintiff's Exhibit 38; R_____). Son used Company funds without shareholder authorization to fund BCJ Tires. Son instituted and personally profited from the casings scheme. Son abandoned Company without notice for extended periods on several occasions, returning only when Father pleaded with him. Son instituted the policy of providing automobile use to Company management. Son never paid a dividend while

President. Son was overpaid as his own expert testified. Son was instrumental in the decision not to file amended tax returns in December of 2007. Son voluntarily quit his job. Because Son quit, the Family Respondents had to step in and take over management of the Company.

The Family Respondents, through it all, tolerated Son's behavior. In October 2007, Son was elected Vice-President and his ability to access Company funds was limited because of the discovery of the casings scheme, the BCJ money, and the tax issues. This action was reasonable and prudent to protect Company given Son's past course of conduct. Not only does the record lack any credible evidence of effort to injure Son, actually the reverse is true. If the Family Respondents are to be faulted for their conduct toward Son, it should be for their excessive tolerance.

7. BECAUSE THE RECORD EVIDENCE ESTABLISHES THAT SON VOLUNTARILY QUIT HIS EMPLOYMENT, THE SPECIAL REFEREE PROPERLY HELD THAT SON HAD FAILED TO ESTABLISH THAT HE WAS CONSTRUCTIVELY DISCHARGED IN VIOLATION OF PUBLIC POLICY.

Son is no longer employed by Company because he voluntarily quit. Son, having no contract of employment, was employed at the will of Company. Son could (and in fact) did quit at any time. Ludwick v. This Minute of Carolina, Inc., 287 S.C. 219, 225, 337 S.E.2d 213, 216 (1985) See also Lawson v. South Carolina Dep't of Corr., 340 S.C. 346, 350, 532 S.E.2d 259 (2000) (public policy exception applicable in cases when employer requires employee to violate the law or the reason for the employee's termination is a violation of a criminal law). While South Carolina recognizes a "public policy" exception to its employment at-will doctrine, Son has failed to make the requisite showing – that Son's termination violated a clear mandate of public policy. Id. Such an exception may be

established, for example, when an employer requires an at-will employee, as a condition of retaining employment, to violate the law.

There is no basis in the record for the Son's claims that his employment by the Company was wrongfully terminated or that he was constructively discharged. While the record establishes a number of bases for which Son's employment could have justifiably been terminated (i.e., unexplained absences from the job without notice, utilization of Company funds to fund BCJ Tires without consent, exposing Company to significant tax liability, the casings scheme and utilization of Company funds to fund personal expenses such as attorneys fees, to name a few), the simple fact is that Son was neither terminated nor wrongfully discharged. He quit. Son's unequivocal testimony on this point was that he quit and would not return. (Transcript 11/15, pgs. 82, lines 24-p. 83, line 14; R.____). Prior to his leaving, Son's compensation was not reduced or diminished in any respect. The limitations placed on Son's access to Company money prior to his quitting were amply justified given his course of conduct in misusing those funds. Any damage which the Son may have sustained as a result of leaving his employment with Company is solely the result of Son's voluntary decision to quit his job. The record evidence overwhelmingly establishes the love and patience of a Mother and Father for their Son, both by their testimony and by their actions in tolerating Son's dysfunctional, dishonest and abusive behavior (Transcript 11/18, p. 220, line 7 – p. 221, line 19; R. ____; Transcript 11/18, pgs. 260, line 10 – p. 261, line 21; R. _____).

Accordingly, the trial judge's finding that no basis exists for Son's claims that his employment with Company was wrongfully terminated or constructively discharged should

be affirmed.

The record evidence in the instant action is devoid of any such testimony or other evidence from Son, or any other witnesses, that Son was required to violate a statute or other public policy mandate as a condition of employment.

The credible record testimony establishes that Son's claim of workers compensation fraud by the Family Respondents is without basis. Witness testimony, including the testimony of Attorney Connell, and the Company's records refutes Son's claim that the workman's compensation claim was fraudulent.

8. THE SPECIAL REFEREE PROPERLY HELD THAT SON IS LIABLE TO COMPANY FOR CONVERTING $11,716.32 IN COMPANY FUNDS VIA THE CASINGS SCHEME.

The record evidence is uncontroverted that Son implemented a scheme involving fictitious invoices whereby he personally pocketed Company funds. Son admits he removed cash from the Company money drawer and pocketed it after preparing fictitious invoices for tire casings to cover his tracks with the tax authorities. (Transcript 11/15, pgs. 115, lines 17 – p. 118, line 6; R. _____). Son does not know the amount he took, but Company provided proof of at least $11,716.32 taken by Son through this scheme. (Defendant's Exhibits 1, 2, 3, 5, 7, 8, 9, 12, 13, 14, 15, 16; R. _____). Incredibly, Son now claims this tax fraud was appropriate so long as he split the proceeds with Sister. Sister denies participating in the scheme. Mother and Father deny any knowledge of the scheme prior to investigation by Mother after being placed on notice by an email from a former employee in August of 2007. (Transcript 11/18, pgs. 203-204, R. _____; Transcript 11/18, pgs. 260-261; R. _____). Moreover, Son filed no reply to the Company's Amended Answer and Counterclaim seeking

reimbursement for Company funds converted by Son.

9. THE RECORD EVIDENCE SUPPORTS THE SPECIAL REFEREE'S HOLDING THAT SON IS LIABLE TO COMPANY FOR REIMBURSEMENT OF MONEY TAKEN BY SON AND PAID TO THE TURNER PADGET LAW FIRM.

On September 21, 2007, Son obtained a Company check and used it to pay for his personal representation by the Turner Padget Law Firm (Defendant's Exhibit 18; R. ____)). The Turner Padget firm returned the check to Son along with a letter advising Son that because the firm was representing him individually, it was inappropriate for the Company to pay his fees. (Defendant's Exhibit 20; R. _____). Son then transferred Company funds amounting to $17,306.66 to his personal account to reimburse himself for the fees he paid to Turner Padgett for personal representation. (Defendant's Exhibit 22, 23; R._____; Transcript 11/15, pgs. 109, line 20 – p. 111, line 15; R. _____).

Son's Amended Complaint (R. _____) seeks no relief on Company's behalf. This is understandable given that in August or September of 2007, when the three Attorney Byrd letters were written, Son was Company's President and managing officer and had been so since at least 2001. (Plaintiff's Exhibit 29, 30, and 31; R. _____). Moreover, Son filed no reply to the Company's Amended Answer and Counterclaim seeking reimbursement of Son's improper transfer of Company funds for payment of his personal attorney's fees.

10. THE SPECIAL REFEREE PROPERLY DETERMINED THAT COMPANY'S CLAIM AGAINST SON FOR DAMAGES RESULTING FROM HIS FILING OF FALSE AND INACCURATE STATE AND FEDERAL TAX RETURNS COULD BE BROUGHT AT A LATER DATE WHEN THE AMOUNT OF SUCH DAMAGES IS KNOWN.

Company's Amended Answer and Counterclaim includes a claim against Son for damages resulting to Company from Son's filing of false and inaccurate tax returns.

(Respondent's Amended Answer and Counterclaim; R._____). Son did not file a Reply to this pleading.

The Special Referee properly held that this claim was not ripe for adjudication on the date of trial because the amount of damages had not been determined and that Company could pursue its claim when the damages were determined. (Final Order, p. 26; R. _____).

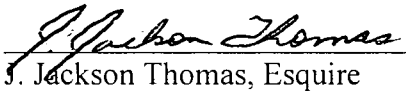
Abundant record evidence establishes that Son knowingly filed false and inaccurate tax returns in 2003 and 2006. At the time of trial the tax authorities had been placed on notice of the inaccurate filings, but final determination of Company's tax bill resulting had not been made. CPA DuRant prepared a report and testified that amount would be significant. The Court properly held that Son should be held accountable for any damages to Company proximately resulting from his actions. In such an action, Son can assert any defenses as to the amount of damages as he may see fit. The burden remains on Company to establish the amount of damages attributable to Son's actions.

Son's Brief on Appeal asserts error by the Trial Court in failing to find the defenses of statute of limitations, waiver, estoppel, laches, and the doctrine of in pari delicto precluded judgment on Company's counterclaims. We note initially that Son did not file an Answer or Reply to Company's Amended Answer and Counterclaims. We further note that Son's Answer to Company's original Answer and Counterclaims did include the defense of waiver, estoppel and laches, but did not include any reference to a statute of limitations defense or the doctrine of in pari delicto.

CONCLUSION

For the reasons set forth herein, it is respectfully submitted that the Special Referee's Orders in this case should be affirmed on appeal in all respects.

Respectfully submitted,



J. Jackson Thomas, Esquire
Emma Ruth Brittain, Esquire
THOMAS & BRITTAIN, P.A.
Post Office Box 1290
Myrtle Beach, South Carolina 29578
(843) 692-2628
ATTORNEYS FOR RESPONDENTS CATHERINE L. MASON, JOSEPH E. MASON, SR., KATHY ST. BLANCHARD AND MASON HOLDING COMPANY, INC.

May 6, 2013