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SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

**APPEAL FROM SIXTH JUDICIAL CIRCUIT
Court of Common Pleas
Fairfield County**

**The Honorable DeAndrea Gist Benjamin
Presiding Judge, South Carolina Business Court**

Case No. 2021-000944

**Blythewood Oil Co., Inc.
Appellant,**

vs.

**Shinda Singh, Five Rivers, Inc.,
and Singh, Inc.
Respondents.**

**RESPONDENTS' DESIGNATION OF MATTER TO
BE INCLUDED IN THE RECORD ON APPEAL**

Respondents propose the following be included in the Record on Appeal:

Document No.	Title of Document	Date Filed
1.	Shinda Singh 2019 Trial Testimony- pp. 60,61,62,64,65,66	
2.	October 02, 2008 Commercial Lease for the 2409 Percival Road Property between Five Rivers, Inc. and Gill and Gas, LLC (Effective 11/01/2008) (2019 Trial: Plaintiff's Exhibit 7)	09.23.2020

3.	October 02, 2008 Commercial Lease for the 4225 Hardscrabble Road Property between Singh, Inc. and Gill and Gas, No. 2, LLC (effective 11/01/2008) (2019 Trial: Plaintiff's Exhibit 8)	09.23.2020
4.	March 18, 2019 Confidential Commercial/Wholesale Credit Application (2409 Percival Road) (2019 Trial: Defendants' Exhibit 2)	09.23.2019
5.	March 18, 2009 Confidential Commercial/Wholesale Credit Application (4225 Hardscrabble Road) (2019 Trial: Defendants' Exhibit 1)	09.23.2019
6.	Third Amended Complaint-Caption	07.02.2014
7.	Judge Benjamin's Amended Order dated July 20, 2021	07.20.2021
8.	Singh, Inc.-September 25, 2007 Deed for 4225 Hardscrabble Road property (Richland County) (2019 Trial: Plaintiff's Exhibit 10)	09.23.2019
9.	Five Rivers, Inc.-September 25, 2007 Deed for 2409 Percival Road property (Richland County) (2019 Trial: Plaintiff's Exhibit 9)	09.23.2019
10.	Paramjit (Goldy) Singh 2019 Trial Testimony-pp. 103-104	
11.	Deposition of Vikrant Pathania (February 7, 2017) (2019 Trial: Plaintiff's Exhibit 5-Deposition, pp. 10,11,12)	09.23.2019
12.	Larry Sharpe, II 2019 Trial Testimony pp. 38-42	

I certify that this Designation contains no matter which is irrelevant to this appeal and further certify the same has been served on counsel for Appellant, Tony Megna, via email at tmegna@gmail.com.

s/Linda Z. Jackson
Jackson & Jackson
1415 Richland Street
Columbia, South Carolina 29201
SC Bar No. 2931
linbojack@aol.com
Attorney for Respondents

March _____, 2022.

Document 1-Shinda Singh 2019 Trial Testimony-pp. 60,61,62,64,65,66

TESTIMONY OF SHINDA SINGH

- 1 purchase property?
- 2 A Yes.
- 3 Q And what's the name of that corporation?
- 4 A That's Five Rivers, Inc.
- 5 Q And was that set up to purchase property where?
- 6 A 4309 Percival Road.
- 7 Q Percival Road?
- 8 A Yes.
- 9 Q Okay. And prior to that purchase of those properties,
10 prior to the purchase of those properties, did you have an
11 agreement with anybody about a business venture?
- 12 A No.
- 13 Q Did you have any agreement with anybody about -- did
14 you have a partnership?
- 15 A Not in any written.
- 16 Q Not any written?
- 17 A Written.
- 18 Q Did you have a verbal partnership?
- 19 A Verbal.
- 20 Q Okay. There we go. Now, this verbal partnership was
21 with whom?
- 22 A Mr. Kabal Singh.
- 23 Q Kabal Singh. Had Mr. Kabal Singh attempted to start a
24 business with anyone else besides you?
- 25 A No. Actually he wanted to start -- wanted to buy both

TESTIMONY OF SHINDA SINGH

1 stores with Mr. Dilbag Singh and Kabal Singh, they don't go
2 through by the bank.

3 THE INTERPRETER: They tried to buy those two stores,
4 Kabal Singh and Dilbag Singh but they couldn't get the loan
5 from the bank.

6 MS. JACKSON: We're trying here.

7 Q Okay. So did you offer to get the loans for the
8 purchase of those properties?

9 A Yeah.

10 THE INTERPRETER: Yes.

11 Q And did you go to a bank to get those loans?

12 A I go to First Citizens Bank to get the loan.

13 Q First Citizens bank?

14 A First Citizens.

15 Q And were you able to get the loans to purchase those
16 properties?

17 A On my name, on my corporation, yes.

18 Q And these corporations, who is a shareholder?

19 A No one.

20 Q Who's the shareholder?

21 A No one.

22 THE INTERPRETER: Shinda Singh.

23 A Shinda Singh. I'm sorry.

24 Q You are the sole -- are you the only shareholder?

25 A Yeah. Shinda Singh is the only shareholder.

TESTIMONY OF SHINDA SINGH

1 Q Now, when you got the loan, did you and Kabal have an
2 agreement about sharing expenses for buying these
3 properties?

4 THE INTERPRETER: Yeah, it was a verbal agreement.

5 Q A verbal agreement to share expenses. Okay. When you
6 purchased the properties, when was that?

7 A September of 2007, I think.

8 Q September of 2007. Did you and anyone else run the
9 stores?

10 A Both stores (inaudible.)

11 Q Just give the name, who helped you?

12 A One store was Kabal Singh and one store was Jesse
13 Singh.

14 Q And which store did Kabal Singh run?

15 A Hardscrabble Road.

16 Q And which store did Jesse run?

17 A Percival Road.

18 Q Between September of 2007 and October of 2008, did you
19 run the stores?

20 A No, I don't run the stores. But actually, you know, I
21 go sometimes to check it, so they are --

22 Q Let me ask you a question. I can ask you the question,
23 he can interpret it, you can answer and he can tell me what
24 you say if you can't say it yourself. Let's keep it simple
25 for the Judge here. All right. So between September of

TESTIMONY OF SHINDA SINGH

- 1 Q When did it begin?
- 2 A Beginning November 1, 2008.
- 3 Q And ending when?
- 4 A December 31, 2013.
- 5 Q All right. What was the rental per month?
- 6 A 6800 per month.
- 7 Q Now, who signed the lease agreement?
- 8 A I signed the landlord, Singh, Inc. And Gurpreet signed
- 9 the president of Gilland Gas Company.
- 10 Q Now, I will get to Percival Road in a minute. But this
- 11 lease for Hardscrabble, is this a customary lease that you
- 12 use in your business?
- 13 A Yes.
- 14 Q And in your business you -- do you have a convenience
- 15 store business?
- 16 A Yes.
- 17 Q In your business, do you give copies of leases to
- 18 vendors who supply services and gas and whatever to the
- 19 store? Do you give a copy of the lease to the vendor?
- 20 A No.
- 21 Q Have you ever done that?
- 22 A No.
- 23 Q Is that the custom?
- 24 A Yeah.
- 25 Q To not?

TESTIMONY OF SHINDA SINGH

- 1 A Yeah. Don't give it to anybody, you know.
- 2 Q I would ask you to look at this document and tell me
3 what it is.
- 4 A This is a agreement.
- 5 Q This has been identified as Plaintiff's Exhibit 7 and
6 is evidence in the court. Okay? Do you understand that?
- 7 A Yeah.
- 8 Q Now, who is the landlord?
- 9 A Five Rivers, Inc.
- 10 Q Who is the tenant?
- 11 A Gilland Gas, LLC.
- 12 Q And what is the term on the lease?
- 13 A November 1st of 2008 and December 31st of 2013.
- 14 Q How many years?
- 15 A Five years.
- 16 Q Five year lease. And what's the rent per month?
- 17 A 9800 per month.
- 18 Q All right. And who signed the lease?
- 19 A Landlord, Shinda Singh, President of Five Rivers, Inc.,
20 and tenant is Gurpreet Singh, President of Gilland Gas.
- 21 Q And what was the date on that lease?
- 22 A October 2, 2008.
- 23 Q Now, from the time that these leases were signed until
24 today actually, but really I guess you would say until March
25 of 2010, let's confine the period there just to make it

TESTIMONY OF SHINDA SINGH

1 simpler, from the time you signed those leases until March
2 of 2010. Okay? Did you ever receive any notice from
3 Blythewood Oil, Mr. Sharpe, Sr., Mr. Sharp, Jr., or anyone
4 from Blythewood Oil that you were responsible for Jesse or
5 Gurpreet Singh's debt?

6 A I don't get anything.

7 Q Okay. In March of 2010, did you go to a meeting --
8 first of all -- no. In March of 2010, what happened that
9 made you think that something was wrong with Jesse? What
10 happened in March of 2010? As clearly as you can now,
11 please.

12 A So suddenly Larry called me -- I mean, Gary called me.

13 Q Gary called you.

14 A Gary called me from the Loyalty, which I get my gas
15 always from there.

16 Q From where?

17 A Augusta.

18 Q And what's the name of the company?

19 A Is Loyalty.

20 THE INTERPRETER: What's the name of the company?

21 A Loyalty Petroleum.

22 THE INTERPRETER: Loyalty Petroleum out of Augusta.

23 Q Okay.

24 A I get always gas from there.

25 Q Okay.

Document 2-October 02, 2008 Commercial Lease for
the 2409 Percival Road Property between
Five Rivers, Inc. And Gill and Gas, LLC
(Effective 11/01/2008)

(2019 Trial: Plaintiff's Exhibit 7)

Percival

COMMERCIAL LEASE AGREEMENT

This Commercial Lease Agreement ("Lease") is made and effective November 1, 2008 [Date], by and between Five Rivers, Inc [Landlord] and Gill and Gas, LLC [Tenant].

Landlord is the owner of land and improvements commonly known and numbered as 2409 Percival Road, Columbia, SC 29223 [Address of Building] and legally described as follows (the "Building"): AM PM Foodmart 5.

Landlord desires to lease the Leased Premises to Tenant, and Tenant desires to lease the Leased Premises from Landlord for the term, at the rental and upon the covenants, conditions and provisions herein set forth.

THEREFORE, in consideration of the mutual promises herein, contained and other good and valuable consideration, it is agreed:

1. Term.

A. Landlord hereby leases the Leased Premises to Tenant, and Tenant hereby leases the same from Landlord, for an "Initial Term" beginning November 1, 2008 [Start Date] and ending December 31, 2013 [End Date]. Landlord shall use its best efforts to give Tenant possession as nearly as possible at the beginning of the Lease term. If Landlord is unable to timely provide the Leased Premises, rent shall abate for the period of delay. Tenant shall make no other claim against Landlord for any such delay.

B. Tenant may renew the Lease for one extended term of five years [Renewal Term]. Tenant shall exercise such renewal option, if at all, by giving written notice to Landlord not less than ninety (90) days prior to the expiration of the Initial Term. The renewal term shall be at the rental set forth below and otherwise upon the same covenants, conditions and provisions as provided in this Lease.

2. Rental.

The rent
9800
6800

10,000 (6600)
B7

A. Tenant shall pay to Landlord \$9,800.00 (Nine Thousand Eight Hundred Dollars) on the 1st day of each month. Each installment payment shall be due in advance on the first day of each calendar month during the lease term to Landlord at 37 Moonglo Circle, Columbia SC 29223 [Landlord's Designated Payment Address] or at such other place designated by written notice from Landlord or Tenant. The rental payment amount for any partial calendar months included in the lease term shall be prorated on a daily basis.

3. Use

Notwithstanding the forgoing, Tenant shall not use the Leased Premises for the purposes of storing, manufacturing or selling any explosives, flammables or other inherently dangerous substance, chemical, thing or device.

4. Sublease and Assignment.

Tenant shall not sublease all or any part of the Leased Premises, or assign this Lease in whole or in part without Landlord's consent, such consent not to be unreasonably withheld or delayed.

5. Repairs.

During the Lease term, Tenant shall make, at Tenant's expense, all necessary repairs to the Leased Premises. Repairs include but are not limited to such items as routine repairs of floors, walls, ceilings, and other parts of the Leased Premises damaged or worn through normal occupancy, this includes major mechanical systems or the roof.

6. Alterations and Improvements.

Tenant, at Tenant's expense, shall have the right following Landlord's consent to remodel, redecorate, and make additions, improvements and replacements of and to all or any part of the Leased Premises from time to



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time as Tenant may deem desirable, provided the same are made in a workmanlike manner and utilizing good quality materials. Tenant shall have the right to place and install personal property, trade fixtures, equipment and other temporary installations in and upon the Leased Premises, and fasten the same to the premises. All personal property, equipment, machinery, trade fixtures and temporary installations, whether acquired by Tenant at the commencement of the Lease term or placed or installed on the Leased Premises by Tenant thereafter, shall remain Tenant's property free and clear of any claim by Landlord. Tenant shall have the right to remove the same at any time during the term of this Lease provided that all damage to the Leased Premises caused by such removal shall be repaired by Tenant at Tenant's expense.

7. Property Taxes.

Landlord shall pay, prior to delinquency, all general real estate taxes and installments of special assessments coming due during the Lease term on the Leased Premises, and all personal property taxes with respect to Landlord's personal property, if any, on the Leased Premises. Tenant shall be responsible for paying all personal property taxes with respect to Tenant's personal property at the Leased Premises.

8. Insurance.

A. If the Leased Premises or any other party of the Building is damaged by fire or other casualty resulting from any act or negligence of Tenant or any of Tenant's agents, employees or invitees, rent shall not be diminished or abated while such damages are under repair, and Tenant shall be responsible for the costs of repair not covered by insurance.

B. Landlord shall maintain fire and extended coverage insurance on the Building and the Leased Premises in such amounts as Landlord shall deem appropriate. Tenant shall be responsible, at its expense, for fire and extended coverage insurance on all of its personal property, including removable trade fixtures, located in the Leased Premises.

C. Tenant and Landlord shall, each at its own expense, maintain a policy or policies of comprehensive general liability insurance with respect to the respective activities of each in the Building with the premiums thereon fully paid on or before due date, issued by and binding upon some insurance company approved by Landlord, such insurance to afford minimum protection of not less than \$1,000,000 combined single limit coverage of bodily injury, property damage or combination thereof. Landlord shall be listed as an additional insured on Tenant's policy or policies of comprehensive general liability insurance, and Tenant shall provide Landlord with current Certificates of Insurance evidencing Tenant's compliance with this Paragraph. Tenant shall obtain the agreement of Tenant's insurers to notify Landlord that a policy is due to expire at least (10) days prior to such expiration. Landlord shall not be required to maintain insurance against thefts within the Leased Premises or the Building.

9. Utilities.

Tenant shall pay 100% of the charges for water and sewer and 100% of the gas, electricity, telephone and other services and utilities used by Tenant on the Leased Premises during the term of this Lease unless otherwise expressly agreed in writing by Landlord

10. Signs.

Following Landlord's consent, Tenant shall have the right to place on the Leased Premises, at locations selected by Tenant, any signs which are permitted by applicable zoning ordinances and private restrictions. Landlord may refuse consent to any proposed signage that is in Landlord's opinion too large, deceptive, unattractive or otherwise inconsistent with or inappropriate to the Leased Premises or use of any other tenant. Landlord shall assist and cooperate with Tenant in obtaining any necessary permission from governmental authorities or adjoining owners and occupants for Tenant to place or construct the foregoing signs. Tenant shall repair all damage to the Leased Premises resulting from the removal of signs installed by Tenant.

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11. Entry.

Landlord shall have the right to enter upon the Leased Premises at reasonable hours to inspect the same, provided Landlord shall not thereby unreasonably interfere with Tenant's business on the Leased Premises.

12. Parking.

During the term of this Lease, Tenant exclusive use of the parking lot for customer and employee parking.

13. Building Rules.

Tenant will comply with the rules of the Building adopted and altered by Landlord from time to time and will cause all of its agents, employees, invitees and visitors to do so; all changes to such rules will be sent by Landlord to Tenant in writing. The initial rules for the Building are attached hereto as Exhibit "A" and incorporated herein for all purposes.

14. Damage and Destruction.

Subject to Section 8 A. above, if the Leased Premises or any part thereof or any appurtenance thereto is so damaged by fire, casualty or structural defects that the same cannot be used for Tenant's purposes, then Tenant shall have the right within ninety (90) days following damage to elect by notice to Landlord to terminate this Lease as of the date of such damage. In the event of minor damage to any part of the Leased Premises, and if such damage does not render the Leased Premises unusable for Tenant's purposes, Landlord shall promptly repair such damage at the cost of the Landlord. In making the repairs called for in this paragraph, Landlord shall not be liable for any delays resulting from strikes, governmental restrictions, inability to obtain necessary materials or labor or other matters which are beyond the reasonable control of Landlord. Tenant shall be relieved from paying rent and other charges during any portion of the Lease term that the Leased Premises are inoperable or unfit for occupancy, or use, in whole or in part, for Tenant's purposes. Rentals and other charges paid in advance for any such periods shall be credited on the next ensuing payments, if any, but if no further payments are to be made, any such advance payments shall be refunded to Tenant. The provisions of this paragraph extend not only to the matters aforesaid, but also to any occurrence which is beyond Tenant's reasonable control and which renders the Leased Premises, or any appurtenance thereto, inoperable or unfit for occupancy or use, in whole or in part, for Tenant's purposes.

15. Default.

If default shall at any time be made by Tenant in the payment of rent when due to Landlord as herein provided, and if said default shall continue for fifteen (15) days after written notice thereof shall have been given to Tenant by Landlord, or if default shall be made in any of the other covenants or conditions to be kept, observed and performed by Tenant, and such default shall continue for thirty (30) days after notice thereof in writing to Tenant by Landlord without correction thereof then having been commenced and thereafter diligently prosecuted, Landlord may declare the term of this Lease ended and terminated by giving Tenant written notice of such intention, and if possession of the Leased Premises is not surrendered, Landlord may reenter said premises. Landlord shall have, in addition to the remedy above provided, any other right or remedy available to Landlord on account of any Tenant default, either in law or equity. Landlord shall use reasonable efforts to mitigate its damages.

16. Quiet Possession.

Landlord covenants and warrants that upon performance by Tenant of its obligations hereunder, Landlord will keep and maintain Tenant in exclusive, quiet, peaceable and undisturbed and uninterrupted possession of the Leased Premises during the term of this Lease.

17. Condemnation.

If any legally, constituted authority condemns the Building or such part thereof which shall make the Leased Premises unsuitable for leasing, this Lease shall cease when the public authority takes possession, and

Landlord and Tenant shall account for rental as of that date. Such termination shall be without prejudice to the rights of either party to recover compensation from the condemning authority for any loss or damage caused by the condemnation. Neither party shall have any rights in or to any award made to the other by the condemning authority.

18. Subordination.

Tenant accepts this Lease subject and subordinate to any mortgage, deed of trust or other lien presently existing or hereafter arising upon the Leased Premises, or upon the Building and to any renewals, refinancing and extensions thereof, but Tenant agrees that any such mortgagee shall have the right at any time to subordinate such mortgage, deed of trust or other lien to this Lease on such terms and subject to such conditions as such mortgagee may deem appropriate in its discretion. Landlord is hereby irrevocably vested with full power and authority to subordinate this Lease to any mortgage, deed of trust or other lien now existing or hereafter placed upon the Leased Premises of the Building, and Tenant agrees upon demand to execute such further instruments subordinating this Lease or attorning to the holder of any such liens as Landlord may request. In the event that Tenant should fail to execute any instrument of subordination herein required to be executed by Tenant promptly as requested, Tenant hereby irrevocably constitutes Landlord as its attorney-in-fact to execute such instrument in Tenant's name, place and stead, it being agreed that such power is one coupled with an interest. Tenant agrees that it will from time to time upon request by Landlord execute and deliver to such persons as Landlord shall request a statement in recordable form certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as so modified), stating the dates to which rent and other charges payable under this Lease have been paid, stating that Landlord is not in default hereunder (or if Tenant alleges a default stating the nature of such alleged default) and further stating such other matters as Landlord shall reasonably require.

19. Notice.

Any notice required or permitted under this Lease shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, addressed as follows:

If to Tenant to:

Gill and Gas, LLC
[Tenant]

2409 Percival Road, Columbia, SC 29223
[Tenant's Address]

If to Landlord to:

Five Rivers, Inc
[Landlord]

37 Moonglo Circle, Columbia SC 29223
[Landlord's Address]

Landlord and Tenant shall each have the right from time to time to change the place notice is to be given under this paragraph by written notice thereof to the other party.

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20. Brokers.

Tenant represents that Tenant was not shown the Premises by any real estate broker or agent and that Tenant has not otherwise engaged in, any activity which could form the basis for a claim for real estate commission, brokerage fee, finder's fee or other similar charge, in connection with this Lease.

21. Waiver.

No waiver of any default of Landlord or Tenant hereunder shall be implied from any omission to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by Landlord or Tenant shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition.

22. Memorandum of Lease.

The parties hereto contemplate that this Lease should not and shall not be filed for record, but in lieu thereof, at the request of either party, Landlord and Tenant shall execute a Memorandum of Lease to be recorded for the purpose of giving record notice of the appropriate provisions of this Lease.

23. Headings.

The headings used in this Lease are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this Lease.

24. Successors.

The provisions of this Lease shall extend to and be binding upon Landlord and Tenant and their respective legal representatives, successors and assigns.

25. Consent.

Landlord shall not unreasonably withhold or delay its consent with respect to any matter for which Landlord's consent is required or desirable under this Lease.

26. Performance.

If there is a default with respect to any of Landlord's covenants, warranties or representations under this Lease, and if the default continues more than fifteen (15) days after notice in writing from Tenant to Landlord specifying the default, Tenant may, at its option and without affecting any other remedy hereunder, cure such default and deduct the cost thereof from the next accruing installment or installments of rent payable hereunder until Tenant shall have been fully reimbursed for such expenditures, together with interest thereon at a rate equal to the lesser of twelve percent (12%) per annum or the then highest lawful rate. If this Lease terminates prior to Tenant's receiving full reimbursement, Landlord shall pay the un reimbursed balance plus accrued interest to Tenant on demand.

27. Compliance with Law.

Tenant shall comply with all laws, orders, ordinances and other public requirements now or hereafter pertaining to Tenant's use of the Leased Premises. Landlord shall comply with all laws, orders, ordinances and other public requirements now or hereafter affecting the Leased Premises.

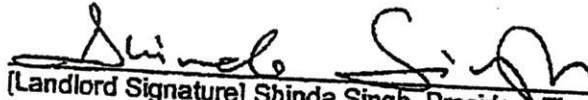
28. Final Agreement.


This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

29. Governing Law.

This Agreement shall be governed, construed and interpreted by, through and under the Laws of the State of South Carolina.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first above written.

 10.2.08
[Landlord Signature] Shinda Singh, President Five Rivers, Inc

 10/6/08
[Tenant Signature] Gurpreet Singh, President Gill and Gas


M. Soodan

Document 3-October 02, 2008 Commercial Lease for
the 4225 Hardscrabble Road Property
between Singh, Inc. and Gill and Gas,
No. 2, LLC (effective 11/01/2008)

(2019 Trial: Plaintiff's Exhibit 8)

Hardscrabble

COMMERCIAL LEASE AGREEMENT

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B. Tenant may renew the Lease for one extended term of five years [Renewal Term]. Tenant shall exercise such renewal option, if at all, by giving written notice to Landlord not less than ninety (90) days prior to the expiration of the Initial Term. The renewal term shall be at the rental set forth below and otherwise upon the same covenants, conditions and provisions as provided in this Lease.

2. Rental.

A. Tenant shall pay to Landlord \$6,800.00 (Six Thousand Eight Hundred Dollars) on the 1st day of each month. Each installment payment shall be due in advance on the first day of each calendar month during the lease term to Landlord at 37 Moonglo Circle, Columbia SC 29223 [Landlord's Designated Payment Address] or at such other place designated by written notice from Landlord or Tenant. The rental payment amount for any partial calendar months included in the lease term shall be prorated on a daily basis.

3. Use

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4. Sublease and Assignment.

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ELECTRONICALLY FILED - 2018 Sep 24 9:21 AM - FAIRFIELD - COMMON PLEAS - CASE#2012CP2000356

time as Tenant may deem desirable, provided the same are made in a workmanlike manner and utilizing good quality materials. Tenant shall have the right to place and install personal property, trade fixtures, equipment and other temporary installations in and upon the Leased Premises, and fasten the same to the premises. All personal property, equipment, machinery, trade fixtures and temporary installations, whether acquired by Tenant at the commencement of the Lease term or placed or installed on the Leased Premises by Tenant thereafter, shall remain Tenant's property free and clear of any claim by Landlord. Tenant shall have the right to remove the same at any time during the term of this Lease provided that all damage to the Leased Premises caused by such removal shall be repaired by Tenant at Tenant's expense.

7. Property Taxes.

Landlord shall pay, prior to delinquency, all general real estate taxes and installments of special assessments coming due during the Lease term on the Leased Premises, and all personal property taxes with respect to Landlord's personal property, if any, on the Leased Premises. Tenant shall be responsible for paying all personal property taxes with respect to Tenant's personal property at the Leased Premises.

8. Insurance.

A. If the Leased Premises or any other party of the Building is damaged by fire or other casualty resulting from any act or negligence of Tenant or any of Tenant's agents, employees or invitees, rent shall not be diminished or abated while such damages are under repair, and Tenant shall be responsible for the costs of repair not covered by insurance.

B. Landlord shall maintain fire and extended coverage insurance on the Building and the Leased Premises in such amounts as Landlord shall deem appropriate. Tenant shall be responsible, at its expense, for fire and extended coverage insurance on all of its personal property, including removable trade fixtures, located in the Leased Premises.

C. Tenant and Landlord shall, each at its own expense, maintain a policy or policies of comprehensive general liability insurance with respect to the respective activities of each in the Building with the premiums thereon fully paid on or before due date, issued by and binding upon some insurance company approved by Landlord, such insurance to afford minimum protection of not less than \$1,000,000 combined single limit coverage of bodily injury, property damage or combination thereof. Landlord shall be listed as an additional insured on Tenant's policy or policies of comprehensive general liability insurance, and Tenant shall provide Landlord with current Certificates of Insurance evidencing Tenant's compliance with this Paragraph. Tenant shall obtain the agreement of Tenant's insurers to notify Landlord that a policy is due to expire at least (10) days prior to such expiration. Landlord shall not be required to maintain insurance against thefts within the Leased Premises or the Building.

9. Utilities.

Tenant shall pay 100% of the charges for water and sewer and 100% of the gas, electricity, telephone and other services and utilities used by Tenant on the Leased Premises during the term of this Lease unless otherwise expressly agreed in writing by Landlord

10. Signs.

Following Landlord's consent, Tenant shall have the right to place on the Leased Premises, at locations selected by Tenant, any signs which are permitted by applicable zoning ordinances and private restrictions. Landlord may refuse consent to any proposed signage that is in Landlord's opinion too large, deceptive, unattractive or otherwise inconsistent with or inappropriate to the Leased Premises or use of any other tenant. Landlord shall assist and cooperate with Tenant in obtaining any necessary permission from governmental authorities or adjoining owners and occupants for Tenant to place or construct the foregoing signs. Tenant shall repair all damage to the Leased Premises resulting from the removal of signs installed by Tenant.

11. Entry.

Landlord shall have the right to enter upon the Leased Premises at reasonable hours to inspect the same, provided Landlord shall not thereby unreasonably interfere with Tenant's business on the Leased Premises.

12. Parking.

During the term of this Lease, Tenant exclusive use of the parking lot for customer and employee parking.

13. Building Rules.

Tenant will comply with the rules of the Building adopted and altered by Landlord from time to time and will cause all of its agents, employees, invitees and visitors to do so; all changes to such rules will be sent by Landlord to Tenant in writing. The initial rules for the Building are attached hereto as Exhibit "A" and incorporated herein for all purposes.

14. Damage and Destruction.

Subject to Section 8 A. above, if the Leased Premises or any part thereof or any appurtenance thereto is so damaged by fire, casualty or structural defects that the same cannot be used for Tenant's purposes, then Tenant shall have the right within ninety (90) days following damage to elect by notice to Landlord to terminate this Lease as of the date of such damage. In the event of minor damage to any part of the Leased Premises, and if such damage does not render the Leased Premises unusable for Tenant's purposes, Landlord shall promptly repair such damage at the cost of the Landlord. In making the repairs called for in this paragraph, Landlord shall not be liable for any delays resulting from strikes, governmental restrictions, inability to obtain necessary materials or labor or other matters which are beyond the reasonable control of Landlord. Tenant shall be relieved from paying rent and other charges during any portion of the Lease term that the Leased Premises are inoperable or unfit for occupancy, or use, in whole or in part, for Tenant's purposes. Rentals and other charges paid in advance for any such periods shall be credited on the next ensuing payments, if any, but if no further payments are to be made, any such advance payments shall be refunded to Tenant. The provisions of this paragraph extend not only to the matters aforesaid, but also to any occurrence which is beyond Tenant's reasonable control and which renders the Leased Premises, or any appurtenance thereto, inoperable or unfit for occupancy or use, in whole or in part, for Tenant's purposes.

15. Default.

If default shall at any time be made by Tenant in the payment of rent when due to Landlord as herein provided, and if said default shall continue for fifteen (15) days after written notice thereof shall have been given to Tenant by Landlord, or if default shall be made in any of the other covenants or conditions to be kept, observed and performed by Tenant, and such default shall continue for thirty (30) days after notice thereof in writing to Tenant by Landlord without correction thereof then having been commenced and thereafter diligently prosecuted, Landlord may declare the term of this Lease ended and terminated by giving Tenant written notice of such intention, and if possession of the Leased Premises is not surrendered, Landlord may reenter said premises. Landlord shall have, in addition to the remedy above provided, any other right or remedy available to Landlord on account of any Tenant default, either in law or equity. Landlord shall use reasonable efforts to mitigate its damages.

16. Quiet Possession.

Landlord covenants and warrants that upon performance by Tenant of its obligations hereunder, Landlord will keep and maintain Tenant in exclusive, quiet, peaceable and undisturbed and uninterrupted possession of the Leased Premises during the term of this Lease.

17. Condemnation.

If any legally, constituted authority condemns the Building or such part thereof which shall make the Leased Premises unsuitable for leasing, this Lease shall cease when the public authority takes possession, and

Landlord and Tenant shall account for rental as of that date. Such termination shall be without prejudice to the rights of either party to recover compensation from the condemning authority for any loss or damage caused by the condemnation. Neither party shall have any rights in or to any award made to the other by the condemning authority.

18. Subordination.

Tenant accepts this Lease subject and subordinate to any mortgage, deed of trust or other lien presently existing or hereafter arising upon the Leased Premises, or upon the Building and to any renewals, refinancing and extensions thereof, but Tenant agrees that any such mortgagee shall have the right at any time to subordinate such mortgage, deed of trust or other lien to this Lease on such terms and subject to such conditions as such mortgagee may deem appropriate in its discretion. Landlord is hereby irrevocably vested with full power and authority to subordinate this Lease to any mortgage, deed of trust or other lien now existing or hereafter placed upon the Leased Premises of the Building, and Tenant agrees upon demand to execute such further instruments subordinating this Lease or attorning to the holder of any such liens as Landlord may request. In the event that Tenant should fail to execute any instrument of subordination herein required to be executed by Tenant promptly as requested, Tenant hereby irrevocably constitutes Landlord as its attorney-in-fact to execute such instrument in Tenant's name, place and stead, it being agreed that such power is one coupled with an interest. Tenant agrees that it will from time to time upon request by Landlord execute and deliver to such persons as Landlord shall request a statement in recordable form certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as so modified), stating the dates to which rent and other charges payable under this Lease have been paid, stating that Landlord is not in default hereunder (or if Tenant alleges a default stating the nature of such alleged default) and further stating such other matters as Landlord shall reasonably require.

19. Notice.

Any notice required or permitted under this Lease shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, addressed as follows:

If to Tenant to:

Gill and Gas No. 2
[Tenant]

4225 Percival Road, Columbia, SC 29223
[Tenant's Address]

If to Landlord to:

Singh, Inc
[Landlord]

37 Moonglo Circle, Columbia SC 29223
[Landlord's Address]

Landlord and Tenant shall each have the right from time to time to change the place notice is to be given under this paragraph by written notice thereof to the other party.

20. Brokers.

Tenant represents that Tenant was not shown the Premises by any real estate broker or agent and that Tenant has not otherwise engaged in, any activity which could form the basis for a claim for real estate commission, brokerage fee, finder's fee or other similar charge, in connection with this Lease.

21. Waiver.

No waiver of any default of Landlord or Tenant hereunder shall be implied from any omission to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by Landlord or Tenant shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition.

22. Memorandum of Lease.

The parties hereto contemplate that this Lease should not and shall not be filed for record, but in lieu thereof, at the request of either party, Landlord and Tenant shall execute a Memorandum of Lease to be recorded for the purpose of giving record notice of the appropriate provisions of this Lease.

23. Headings.

The headings used in this Lease are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this Lease.

24. Successors.

The provisions of this Lease shall extend to and be binding upon Landlord and Tenant and their respective legal representatives, successors and assigns.

25. Consent.

Landlord shall not unreasonably withhold or delay its consent with respect to any matter for which Landlord's consent is required or desirable under this Lease.

26. Performance.

If there is a default with respect to any of Landlord's covenants, warranties or representations under this Lease, and if the default continues more than fifteen (15) days after notice in writing from Tenant to Landlord specifying the default, Tenant may, at its option and without affecting any other remedy hereunder, cure such default and deduct the cost thereof from the next accruing installment or installments of rent payable hereunder until Tenant shall have been fully reimbursed for such expenditures, together with interest thereon at a rate equal to the lesser of twelve percent (12%) per annum or the then highest lawful rate. If this Lease terminates prior to Tenant's receiving full reimbursement, Landlord shall pay the un reimbursed balance plus accrued interest to Tenant on demand.

27. Compliance with Law.

Tenant shall comply with all laws, orders, ordinances and other public requirements now or hereafter pertaining to Tenant's use of the Leased Premises. Landlord shall comply with all laws, orders, ordinances and other public requirements now or hereafter affecting the Leased Premises.

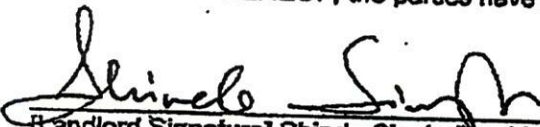
28. Final Agreement.

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.



29. Governing Law.

This Agreement shall be governed, construed and interpreted by, through and under the Laws of the State of South Carolina.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first above written.


[Landlord Signature] Shinda Singh, President Singh, Inc 10/2/08


[Tenant Signature] Gurpreet Singh, President Gill and Gas No.2, LLC 10/6/08

Document 4-March 18, 2019 Confidential
Commercial/Wholesale Credit Application
(2409 Percival Road)

(2019 Trial: Defendants' Exhibit 2)

Commercial/Wholesale Credit Application
Please Print or Type

Box 123
Newwood, SC 29016
(803) 754-3319
(803) 754-3346

Name: AM PM FOODMART 5

Parent Co. If Subsidiary: _____

Street Address: 2409 PERCIVAL ROAD
City: COLUMBIA State: SC Zip: 29223
Phone: 803-792-6207 Fax: _____

Billing Address (If Different):
Street: SAME
City: _____ State: _____ Zip: _____
Contact: _____

This Business is a: Corporation S Corp Partnership Individual LLC Non-Profit
Tax Identification Number: _____
Business Email: _____
County Business Located: RICHLAND

Business Information

Type of Business: Manufacturing _____ Agriculture _____ Construction _____ Retail Service Wholesale _____ Government _____ Trucking _____
Other (Please Specify) _____

If You Are Tax Exempt, Please Furnish Copy of the Tax Exemption or Resale I.D. Certificate (With This Application)

You Anticipate Purchasing (Check all that apply):
Gasoline Diesel _____ Fuel Oil _____ Kerosene _____ Packaged Lubes _____ Bulk Lubes _____
Is a Purchase Order Required? No Yes _____
Have you filed bankruptcy in the last 14 years? No Yes (If yes attach detail) _____
Are there any Judgments against you? No Yes (If yes attach detail) _____

Credit References

Name	Address	Phone Number	Account Number
1. JF JOHNSON	PO BOX 2499	Batesburg-Leesville, SC	939918
2. All Star Air	1143 Combs Feery Road	Lexington SC	
3. Samis Club	Forrest Drive	Columbia	

Bank References

Primary Bank Name & Address: First Citizens Bank & Trust Co Account #: 083125169901
Contact: _____ Phone #: 803-733-2067
Secondary Bank Name & Address: _____ Account #: _____
Contact: _____ Phone #: _____

DEFENDANT'S EXHIBIT
NO. 2

Ownership Information

Name & Title of Principal Officers, Partners or Owners (Show Home Address & Phone #)
 Name Gurpreet Singh Title President Address 117 Stoneheath Drive Phone 803-318-4444
 Name _____ Title _____ Address _____ Phone _____
 Name _____ Title _____ Address _____ Phone _____

Guaranty

For value received, the undersigned guarantor(s), jointly and severally, if more than one, unconditionally guarantees payment of all credit extended or to be extended by Blythewood Oil Company, to applicant if applicant defaults in it's payment of any such indebtedness. It is understood that this guaranty shall be a continuing and irrevocable guaranty of said indebtedness of the applicant. The undersigned guarantor(s) expressly waives payment for payment, notice of default, notice of non-payment, and protest and consents to any extension of time of payment granted Blythewood Oil Company. The undersigned also agrees to pay any and all collection legal expenses, and attorney's fees (including fees incurred in appeal), whether suit is brought or not should they become necessary to collect the indebtedness or to enforce this guaranty.

Signature of owner or officer _____ (Seal) President Title 03-18-09 Date of Guaranty
 Signature of owner or officer _____ (Seal) _____ Title _____ Date of Guaranty
 Signature of owner or officer _____ (Seal) _____ Title _____ Date of Guaranty

Signature of Witness [Signature]
 Signature of Witness _____
 Signature of Witness _____

EFT Authorization

The undersigned hereby authorizes Blythewood Oil Company, hereinafter called COMPANY, to from time to time initiate debit entries to the bank account indicated below and the depository named below to debit the same account for amounts rightfully due and payable to the COMPANY.

Depository Name _____ Branch Location _____
 ABA Routing Number _____ Account Number _____

**ATTACH VOIDED
CHECK OR
DEPOSIT SLIP**

This authorization is to remain in full force and effect until COMPANY has received written notification from the applicant of it's termination in such time and such manner as to afford a reasonable time to act on it. After the account has been changed, The undersigned has the right to have the amount of any erroneous debit credited to their account by the COMPANY, provided written notice of such error is timely sent to the COMPANY.

Signature of Authorized Representative _____ Title _____ Date _____

Customer Agreement and General Provisions

- 1) This application and the information contained herein is a request for the extension of credit. All representations and information provided by the applicant are accurate, complete and truthful.
- 2) Blythewood Oil Company is hereby given permission to check the applicants credit references and the information on this application, and to obtain consumer or commercial credit reports on our company, any guarantors or any owners listed herein. These credit reports may be obtained in connection with an update of our credit file, and before further credit is extended to us.
- 3) For value received, the undersigned agrees to pay all invoices within the terms and conditions of the sale and further agrees to pay any and all collection, legal expenses and attorney's fees (including fees incurred on appeal), whether suit be brought or not, should they become necessary to collect the monies due.
- 4) A finance charge of 1 1/2 percent per month (18% per annum) will be assessed on any past due balances.
- 5) If the applicant is a corporation, the undersigned states that he is authorized to make application on behalf of said corporation and to obligate same for any credit extended as a result of this application; and further that the corporation will continue to be bound and obligated for any credit advanced until written notice to the contrary is given to Blythewood Oil Company.
- 6) The applicant hereby agrees to give Blythewood Oil Company advanced notice of any changes in business structure or ownership.

Signature of Authorized Representative of Applicants _____ (Seal) President Title 03-18-09 Date

Document 5-March 18, 2019 Confidential
Commercial/Wholesale Credit Application
(4225 Hardscrabble Road)

(2019 Trial: Defendants' Exhibit 1)

Blythwood Oil Company
P.O. Box 123
Blythwood, SC 29016
Phone: (803) 754-3319
Fax: (803) 754-3346

**Confidential
Commercial/Wholesale
Credit Application**
Please Print or Type

Firm Name: AM PM FOOD MART Parent Co. If Subsidiary: _____
*RETURN TO ATTORNEY
CLERK OF COURT
JUDY M. BOND*

Street Address:
Street: 4225 HARDSCRABBLE ROAD
City: COLUMBIA State: SC Zip: 29223
Phone: 803-565-8626 Fax: _____

Billing Address (If Different):
Street: SAME
City: _____ State: _____ Zip: _____
Contact: _____

This Business is a: Corporation S Corp Partnership Individual LLC Non-Profit
Tax Identification Number: 26-3288654 County Business Located: _____
Business Email: _____

Business Information

Type of Business: Manufacturing _____ Agriculture _____ Construction _____ Retail Wholesale _____ Trucking _____
Service _____ Government _____
Other (Please Specify) _____

If You Are Tax Exempt, Please Furnish Copy of the Tax Exemption or Resale I.D. Certificate (With This Application)

You Anticipate Purchasing (Check all that apply):
Gasoline Diesel _____ Fuel Oil _____ Kerosene _____ Packaged Lubes _____ Bulk Lubes _____
Is a Purchase Order Required? No _____ Yes _____
Have you filed bankruptcy in the last 14 years? No _____ Yes (If yes attach detail) _____
Are there any judgments against you? No _____ Yes (If yes attach detail) _____

Credit References

Name	Address	Phone Number	Account Number
1. JF Johnson	P.O. Box 2499	Batesburg-leeville SC	
2. All Star Air	1143 Contr. Ferry Road	Lexington SC	
3. Sam's Club	Forest Drive	Columbia SC	

Bank References

Primary Bank Name & Address: First Citizens Bank & Trust Co Account #: 083125200201
Contact: _____ Phone #: 803-733-2067
Secondary Bank Name & Address: _____ Account #: _____
Contact: _____ Phone #: _____

DEFENDANT'S
EXHIBIT
NO. 1
ENGAD 800-831-6888

ELECTRONICALLY FILED | 2019 Sep 23 3:40 PM - FAIRFIELD - COMMON PLEAS - CASE#2012CP2000356

Name & Title of Principal Officers, Partners or Owners (Show Home Address & Phone #)

Name Gurpreet Singh Title President Address 117 Stoneheath Drive Phone 803-318-2000
Name _____ Title _____ Address _____ Phone _____
Name _____ Title _____ Address _____ Phone _____

Guaranty

For value received, the undersigned guarantor(s), jointly and severally, if more than one, unconditionally guarantees payment of all credit extended or to be extended by Blythewood Oil Company, to applicant if applicant defaults in it's payments of any such indebtedness. It is understood that this guaranty shall be a continuing and irrevocable guaranty of said indebtedness of the applicant. The undersigned guarantor(s) expressly waives presentment for payment, notice of default, notice of non-payment, and protests and consents to any extension of time of payment granted Blythewood Oil Company. The undersign also agrees to pay any and all collection legal expenses, and attorney's fees (including fees incurred in appeal), whether suit is brought or not should they become necessary in collecting the indebtedness or enforcing this guaranty.

[Signature] (Seal) President 03-18-09
Signature of owner or officer Title Date of Guaranty
[Signature] (Seal) _____ _____
Signature of owner or officer Title Date of Guaranty
[Signature] (Seal) _____ _____
Signature of owner or officer Title Date of Guaranty
[Signature] _____
Signature of Witness
[Signature] _____
Signature of Witness
[Signature] _____
Signature of Witness

EFT Authorization

The undersigned hereby authorizes Blythewood Oil Company, Hereinafter called COMPANY, to from time to time initiate debit entries to the bank account indicated below and the depository named below to debit the same account for amounts rightfully due and payable to the COMPANY.

Depository Name _____ Branch Location _____
ABA Routing Number _____ Account Number _____

**ATTACH VOIDED
CHECK OR
DEPOSIT SLIP**

This authorization is to remain in full force and effect until COMPANY has received written notification from the applicant of it's termination in such time and such manner as to afford a reasonable time to act on it. After the account has been charged, The undersigned has the right to have the amount of any erroneous debit credited to their account by the COMPANY, provided written notice of such error is timely sent to the COMPANY.

Signature of Authorized Representative _____ Title _____ Date _____

Customer Agreement and General Provisions

- 1) This application and the information contained here is a request for the extension of credit. All representations and information provided by the applicant are accurate, complete and truthful.
- 2) Blythewood Oil Company is hereby given permission to check the applicants credit references and the information on this application, and to obtain consumer or commercial credit reports on our company, any guarantors or any owners listed herein. These credit reports may be obtained in connection with an update of our credit file, and before further credit is extended to us.
- 3) For value received, the undersigned agrees to pay all invoices within the terms and conditions of the sale and further agrees to pay any and all collection, legal expenses and attorney's fees (including fees incurred on appeal), whether suit be brought or not, should they become necessary to collect the monies due.
- 4) A finance charge of 1 1/2 percent per month (18% per annum) will be accessed on any past due balances.
- 5) If the applicant is a corporation, the undersigned states that he is authorized to make application on behalf of said corporation and to obligate same for any credit extended as a result of this application; and further that the corporation will continue to be bound and obligated for any credit advanced until written notice to the contrary is given to Blythewood Oil Company.
- 6) The applicant hereby agrees to give Blythewood Oil Company advanced notice of any changes in business structure or ownership.

[Signature] (Seal) President 03-18-09
Signature of Authorized Representative of Applicants Title Date

Document 6-Third Amended Complaint-Caption

STATE OF SOUTH CAROLINA)
)
COUNTY OF FAIRFIELD)

IN THE COURT OF COMMON PLEAS

Civil Action No. 12-CP-20-356

Blythewood Oil Company, Inc.)
)
)

Plaintiff,)
)
)

v.
COMPLAINT)
)
)

THIRD
AMENDED
COMPLAINT

Gurpreet Singh, individually and doing business as Singh)
Incorporated, Inc. (also referred to as Singh, Inc.), Five)
Rivers, Inc., Gill and Gas, L.L.C, Gill and Gas No 2, L.L.C.,)
GS Gas and Foodmart, L.L.C., and Taman, L.L.C.; Shinda)
Singh, individually and doing business as Singh)
Incorporated, Inc. (also referred to as Singh, Inc.), Five)
Rivers, Inc., Restaurant 44 L.L.C., Benipal Brothers, Inc.,)
A.M. P.M. Foodmart, Inc., A.M. P.M. Foodmart, Inc. No. 2,)
A.M. P.M Truckstop, Inc., Moonglow Investments, Inc.,)
SGM-Moonglo, Inc., Singh Management, L.L.C., and)
SGM Investments, L.L.C.; Kabal Singh individually and)
doing business as Singh Incorporated, Inc. (also referred to)
as Singh, Inc.), and Five Rivers, Inc.; Rajneet Cheema)
individually and doing business as Tamanpreet Petroleum)
L.L.C., Tamanpreet Petroleum II, L.L.C., and College Mart,)
Inc.; Sahib Cheema individually and doing business as)
College Mart, Inc., and Cheema Enterprises, Inc. d/b/a)
Hillview Truck Stop; and Sandeep Singh, individually.)
)

Defendants.)
)

2014 JUL 2 PM 1 54
FAIRFIELD COUNTY
CLERK OF COURT
BETTY JO BECKHAM

INTRODUCTION

THIS AMENDED COMPLAINT IS NOT INTENDED TO CHANGE THE
SUBSTANTIVE ALLEGATIONS OF THE PREVIOUSLY FILED COMPLAINT BUT
TO FORMALLY NOTE THAT SEVERAL OF THE BUSINESS DEFENDANTS WERE
CORPORATE ENTITIES THAT HAD BEEN ADMINISTRATIVELY DISSOLVED BY
THE SECRETARY OF STATE, THUS BECOMING SOLE PROPRIETORSHIPS. THE
COURT ALLOWED THE PLAINTIFF TO FILE A THIRD AMENDED COMPLAINT
WHILE NOTING THAT FURTHER AMENDMENTS OF THE COMPLAINT MAY BE
NECESSARY.

Document 7-Judge Benjamin's Amended Order
dated July 20, 2021

**STATE OF SOUTH CAROLINA
COUNTY OF FAIRFIELD**

Blythewood Oil Co., Inc.

Plaintiff,

vs.

**Shinda Singh, Five Rivers, Inc.,
and Singh, Inc.**

Defendants.

**IN THE COURT OF COMMON PLEAS
FOR THE SIXTH JUDICIAL CIRCUIT**

Civil Action No. 12-CP-20-356

**AMENDED
ORDER**

This matter came before the Court for a non-jury trial, by consent of the parties, in the above-captioned matter. In a non-jury action, the Court's findings are equivalent to a jury's findings in an action at law. Rule 52(a), S.C.R. Civ. P. instructs a Court in an action tried without a jury to "find the facts specially and state separately its conclusions of law thereon..."

Plaintiff's Exhibits 1-12 as well as Defendants Exhibits 1-4 were entered into evidence without objection, and with the consent of the parties. The exhibits were electronically filed by the Clerk of Court on September 23, 2019. Both parties made Motions for a Directed Verdict at the close of the Plaintiff's case, which were denied by this Court. After the presentation of all evidence by the parties, both Plaintiff and Defendants renewed their motions for verdicts based on the evidence presented at the September 23, 2019 trial. The Court took all motions under advisement. This Court reviewed applicable law, arguments of counsel, and the evidence presented by both parties at the September 23, 2019 trial. See Rule 15(b), S.C.R. Civ.P. (issues not raised by the pleadings but tried by consent of the parties shall be treated as if they had been raised in the pleadings). By Order filed July 17, 2020, this Court found that the Plaintiff was not entitled to recovery from the Defendants pursuant to a claim of unjust enrichment based on

quantum meruit, quasi-contract, or implied by law contract. On July 27, 2020, counsel for the Plaintiff filed a Rule 59(e) Motion for Reconsideration to Alter or Amend Judgment on behalf of Blythewood Oil. However, counsel did not file the motion upon the court.

BACKGROUND

The case was tried in November 2017 before a jury on the following causes of action: (1) negligent misrepresentation; (2) unjust enrichment based on quantum merit, quasi contract, or implied by law contract; (3) breach of contract; (4) breach of contract accompanied by fraudulent act; and (5) fraud. On November 16, 2017, the jury found in favor of the Defendants on all causes except for one. There was a mistrial on the cause of action for unjust enrichment based on quantum merit, quasi contract, or implied by law contract. Subsequently, the parties requested, and the Court agreed to hear the case as a non-jury trial. The Court held the non-jury trial on September 23, 2019.

The dispute between the parties' centers around the complaint made by Plaintiff, Blythewood Oil, Inc., regarding nonpayment for gasoline it delivered to two convenience stores allegedly owned and operated by Defendants. The Plaintiff contends the partnership was composed of four parties: 1) Defendant Shinda Singh, 2) Defendants Five Rivers, Inc., 3) Singh, Inc., and 4) Kabal Singh (represented by separate counsel). Kabal Singh was dismissed as a party during the first trial in November 2017.

Present September 2019 non-jury trial were Tony R. Megna, attorney for Plaintiff, and Linda Jackson, attorney for the Defendants. Plaintiff's representative, Larry Sharpe, II, as corporate director of the company, and the Defendant, Shinda Singh, Individually, and as President of Singh, Inc. and Five Rivers, Inc were also present. Prior to trial, the parties agreed to

remove A.M. P.M. Foodmart, Inc. and A.M. P.M. Foodmart, Inc., No. 2 as Defendants. The Court thus modifies the caption to reflect the remaining parties to the lawsuit.

After hearing the testimony presented by the parties and the witness and reviewing all of the evidence in the case, this Court makes the following findings of fact:

FINDINGS OF FACT

- (1) In April 2007, Defendant Shinda Singh, Defendant Five Rivers, Inc., and Defendant Singh, Inc. together with Kabal Singh entered into a “verbal” partnership to operate two convenience stores in Columbia, S.C.;
- (2) Initially, Kabal Singh, a former Defendant in this case, and another individual were going to buy the stores but they could not get a bank loan;
- (3) Shinda Singh, in his corporate capacity, offered to and did obtain loans from First Citizens Bank to purchase the properties;
- (4) The first store (located at 4225 Hardscrabble Road), was purchased in September 2007 by Singh, Inc. (Plaintiff’s Exhibit 1, paragraph 22). The second store (located at 2409 Percival Road) was purchased in September 2007 by Five Rivers, Inc. (Plaintiff’s Exhibit 1, paragraph 20);
- (5) Due to Kabal Singh’s inability to secure a loan, Shinda Singh is the sole shareholder of Singh, Inc. and Five Rivers Inc.;
- (6) Blythewood Oil Co., Inc., delivered gasoline to the Hardscrabble Road and Percival Road convenience stores from the time the convenience stores opened in 2007 until the last delivery of gasoline to the stores occurring in January 2010;

- (7) From April 2007 until October 2008, Kabal Singh and his son Gurpreet Singh (hereafter Jessie), also a former Defendant in this case, ran the convenience store businesses at the two locations;
- (8) On October 2, 2008, Five Rivers, Inc. entered into a Commercial Lease Agreement, as the Landlord, with Gill and Gas, LLC, as the Tenant, for the lease of the real property located at 2409 Percival Road; Jessie Singh signed the Lease as President of Gill and Gas, LLC evidenced by Plaintiff exhibit 7;
- (9) On October 2, 2008, Singh, Inc. entered into a Commercial Lease Agreement, as the Landlord, with Gill and Gas No. 2, LLC, as the Tenant, for the lease of the real property located at 4225 Hardscrabble Road; Jessie Singh signed the Lease as President of Gill and Gas No. 2, LLC evidenced by Plaintiff exhibit 8;
- (10) The above-referenced leases (paragraphs 8 and 9) did not contain language regarding liability concerning the receipt of gasoline;
- (11) Defendant Shinda Singh did not provide Blythewood Oil with copies of, nor any notice, of the leases as evidenced by Plaintiff exhibit 6;
- (12) On March 18, 2009, Jessie Singh signed a Confidential Commercial/Wholesale Credit Application provided by the Plaintiff for the purchase of gasoline from the Plaintiff for delivery to 2409 Percival Road, Columbia, SC 29223; Jessie Singh guaranteed payment for the gasoline (Defendant's exhibit 2);
- (13) On March 18, 2009, Jessie Singh signed a Confidential Commercial/Wholesale Credit Application provided by Blythewood Oil for the purchase of gasoline from the Plaintiff for delivery to 4229 Hardscrabble Road, Columbia, SC 29223; with this application, Jessie Singh guaranteed payment for the gasoline (Defendant's exhibit 1);

- (14) All gasoline was paid for in a timely manner through October 2008, and June 2009.
- (15) The Plaintiff received multiple bad checks from Jessie Singh and encountered problems with Jessie Singh paying for the gasoline delivered beginning in July 2009. Plaintiff's exhibits 11 and 12 evidence the remaining invoices for delivery of the gasoline to the Hardscrabble Road and Percival Road convenience stores that were unpaid.
- (16) Plaintiff continued to deliver gasoline to the Percival Road and Hardscrabble locations through January of 2010 (Plaintiff's exhibits 11 and 12);
- (17) In March of 2010, the Plaintiff's representative contacted the S.C. Attorney General's Office about the bad checks from Jessie Singh and an investigation was done by Pete Logan;
- (18) The Blythewood Oil company representative informed Mr. Logan that Jessie Singh wrote the bad checks from his bank account;
- (19) The Company representative also admitted that the Plaintiff did not have¹ anything in writing stating that Shinda Singh, Five Rivers, Inc., Singh Incorporated, Inc., or the partnership were liable for the gas delivered to Jessie Singh and his businesses;
- (20) At no time prior to March 2010 did the Plaintiff notify Shinda Singh, either individually or as President of Singh Incorporated, Inc. (Singh, Inc.), Five Rivers, Inc., or any

¹ South Carolina appellate courts have long held that if there is a possibility of contract performance within a year, the contract is not barred by the Statute of Frauds. The record shows that the contract for the delivery and purchase of gasoline from Blythewood Oil, Inc. was performed within the one year period. Thus, the Court finds the Statute of Frauds is not applicable in the case at bar. *See generally Joseph v. Sears Roebuck & Co.* 224 S.C. 105, 111, 77 S.E.2d 583, 586 (1953). *Springob v. Univ. of S.C.*, 407 S.C. 490, 495, 757 S.E.2d 384, 387 (2014).

partnership that Jessie Singh and his businesses owed large sums of money to the Plaintiff for gasoline that was delivered.

CONCLUSIONS OF LAW

After hearing the testimony presented by the parties and the witness and reviewing all of the evidence in the case, this Court makes the following conclusions of law:

a) Partnership Law

a. Jessie Singh was not represented to be a partner in the existing 2007 partnership.

The Plaintiff has based the duty or obligation imposed by law in the case at bar on SC partnership law asserting that Jessie Singh was directly involved in the operation of the two convenience stores since the formation of the partnership in 2007, as an agent of the verbal partnership described above. The plaintiff relies on South Carolina Code Ann. § 33-41-380(2) which states:

“When a person has been thus represented to be a partner in an existing partnership or with one or more persons not actual partners, he is an agent of the persons consenting to such representation to bind them to the same extent and in the same manner as though he were a partner in fact with respect to persons who rely upon the representation. When all the members of the existing partnership consent to the representation, a partnership act or obligation results; but in all other cases it is the joint act or obligation of the person acting and the persons consenting to the representation.”

South Carolina case law has held that “[a] party asserting agency as a basis of liability must prove the existence of the agency, and the agency must be clearly established by the facts.” *McCall v. Finley*, 294 S.C. 1, 6, 362 S.E.2d 26, 29 (Ct. App. 1987). The existence of an agency relationship is “determined by the relation, the situation, the conduct, and the declarations of the party sought to be charged as principal.” *Langdale v. Carpets*, 395 S.C. 194, 201, 717 S.E.2d 80, 83 (Ct. App. 2011).

To assert agency as a basis of liability, the plaintiff leans on the *de bene esse* deposition, Plaintiff's Exhibit 5, of Vic Pathania, an employee at one of the convenience stores, as evidence that the Defendant Shinda Singh, Kabal Singh, *and* Kabal's son, Gurpreet Singh (hereafter Jessie Singh) were each part of the partnership to operate the two convenience stores. The plaintiff specifically points to the following statement by Mr. Pathania:

"It was basically just they both bought it, they said they owned the store and they are partner[s]. They both own the store, they are partners and they bought the new store and Jesse needed help...." and "[t]hey told me about that they are partners and wanted me to work at the store."

Plaintiff's Exhibit 5, page 11 lines 8-16 and page 12 lines 3-12 respectively.

"[A]n agency may not be established solely by the declarations and conduct of an alleged agent." *Hodge v. UniHealth Post-Acute Care of Bamberg, LLC*, 422 S.C. 544, 565-66, 813 S.E.2d 292, 304 (Ct. App. 2018). The statement by Mr. Pathania that Jesse worked at the store does not establish his agency. Moreover, the statement is a bit ambiguous when determining which parties are being described as owners. However, the following statement also made during the deposition seems to clarify that Mr. Pathania was referring to Shinda Singh and Kabal Singh as owners of the Hardscrabble and Percival stores at inception.

". . . So Shinda asked—they asked me to come to the Hardscrabble store and they were all there and then they discussed that, *Sindah and Kabal*, that they owned the store, they owned both store and they want me to take care of the Percival store."

Plaintiff's Exhibit 5, page 10 lines 9 -14 (*emphasis added*).

Therefore, the evidence in the record does not bind the Defendants based on a theory of agency under the statutory law of South Carolina.

- b. The record does not establish that Jessie Singh represented himself as a partner in an existing 2007 partnership.**

S.C. Code Ann. § 33-41-380(1) states, a “person who represents himself, or permits another to represent him, to anyone as a partner in an existing partnership or with others not actual partners, is liable to any such person to whom such a representation is made who has, on the faith of the representation, given credit to the actual or apparent partnership.” S.C. Code Ann. § 33-41-380(1). As a general rule, persons who are not partners as to each other are not partners as to third persons. S.C. Code Ann. § 33-41-220 (Law Co-op 1976). However, Section 33-41-380(1) is an exception to the general rule for liability by partners by estoppel. *Young v. Jones*, 816 F. Supp. 1070, 1075-76 (D.S.C. 1992), *aff'd sub nom. Young v. F.D.I.C.*, 103 F.3d 1180 (4th Cir. 1997).

The record does not establish that Jessie Singh represented himself as a partner in an existing 2007 partnership. S.C. Code Ann. § 33-41-380(1) only creates liability for third-persons who, in reliance upon representations as to the existence of a partnership, “[give] credit” to that partnership. S.C. Code Ann. § 33-41-380(1) (Law.Co-op 1976). In the present case, there is no evidence that the gas delivered by Blythewood Oil was extended on the basis of any representation of a partnership existing between Jessie Singh and the Defendants. There is also no evidence that the Plaintiff relied on any act or statement by Jessie Singh to indicate that he was an agent or a partner on behalf of the Defendants, Shinda Singh or Five Rivers, Inc. or Singh Incorporated, Inc. In fact, in March 2009, Jessie Singh completed a Commercial/Wholesale Credit Application provided by Blythewood Oil for the purchase of gasoline listing AM/PM Food Mart as the “Firm Name” and himself as the President. The application includes no mention of the Defendants in the present case. Thus, the facts and the evidence do not support a finding of liability on the basis of estoppel under the statutory law of South Carolina.

b) Unjust enrichment. Quantum meruit.

Plaintiff has failed to prove by a preponderance of the evidence all of the elements necessary to recover under quantum meruit a quantum meruit claim. “[Q]uantum meruit, quasi-contract, and implied by law contract are equivalent terms for an equitable remedy.” *Williams Carpet Contractors, Inc. v. Skelly*, 400 S.C. 320, 325, 734 S.E.2d 177, 180 (Ct. App. 2012). Quantum meruit is an equitable doctrine which allows recovery for unjust enrichment under a quasi-contract theory. *Columbia Wholesale Co. v. Scudder May N.V.*, 312 S.C. 259, 261, 440 S.E.2d 129, 130 (1994). “The elements of a quantum meruit claim are: (1) a benefit conferred upon the defendant by the plaintiff, (2) realization of that benefit by the defendant, and (3) retention by the defendant of the benefit under conditions that make it unjust for him to retain it without paying its value.” *Earthscapes Unlimited, Inc. v. Ulbrich*, 390 S.C. 609, 616–17, 703 S.E.2d 221, 225 (2010).

Plaintiff argues that Jessie Singh was a partner of the partnership formed April 2007 thereby making Defendants liable for the gasoline. This Court does not agree. In the present case, on October 3, 2008, Singh, Inc., as Landlord entered into two Commercial Lease Agreements for the lease of the real property. Jessie Singh signed the lease as Tenant and President of Gill and Gas, LLC and Gas and Gill, LLC No. 2 for the Percival and Hardscrabble Road convenience stores. On March 18, 2009, Jessie Singh signed a Commercial/Wholesale Credit Application provided by Blythewood Oil for the purchase of gasoline from the Plaintiff for delivery to Hardscrabble and Percival Road stores. According to Page 2 of the application, Jessie Singh guaranteed payment for the gasoline. At this time Plaintiff was put on notice that they were dealing with Jessie Singh. From this period forward, the record and testimony by the Plaintiff’s representative, Mr. Sharpe, reflect that the bad checks were signed by Jessie Singh and were

from his bank account with First Citizens Bank and Trust Company. There was no testimony presented indicating that Defendants were aware that Jessie Singh was writing these checks.

There is no evidence in the record to ascertain that Defendants, Shinda Singh, Five Rivers, Inc., or Singh Incorporated, Inc., 1) received the gasoline from Blythewood Oil Co. Inc., 2) realized any benefit from its receipt, or 3) retained the gasoline without paying its value.

From the testimony at trial, the Court recognizes that the Plaintiff's continued venture with Jessie Singh may have been in good faith and sympathizes with the Plaintiff's predicament. Furthermore, this Court understands how and why the jury may have been hung. However, after intense review of the record and testimony presented, this Court cannot find any legal reasoning that demonstrates that the named Defendants have been unjustly enriched at the expense of the Plaintiff entitling the Plaintiff to a monetary outcome in this case.

CONCLUSION

For the reasons noted herein, this Court finds as a matter of fact and law that based upon the evidence in this case and the applicable law the Plaintiff is not entitled to recovery from the Defendants pursuant to a claim of unjust enrichment based on quantum merit, quasi-contract or implied by law contract. This Court therefore, finds for the Defendants.

IT IS SO ORDERED.

The Honorable DeAndrea Gist Benjamin
Presiding Judge, South Carolina Business Court

July ____, 2020
Columbia, South Carolina

Document 8-Singh, Inc.-September 25, 2007
Deed for 4225 Hardscrabble Road property
(Richland County)

(2019 Trial: Plaintiff's Exhibit 10)

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

DEED BY CORPORATION

KNOW ALL MEN BY THESE PRESENTS, that **MY AMUSEMENTS, INC.**, hereinafter sometimes referred to as Grantor, in the State aforesaid, for and in consideration of the sum of Five Hundred Eighty Seven Thousand Five Hundred and no/100's (\$587,500.00) Dollars, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released and by these presents do grant, bargain, sell and release unto **SINGH INCORPORATED**, hereinafter sometimes referred to as Grantee, its successors and assigns forever.

All that certain piece, parcel or lot of land with improvements thereon, situate in Richland County on the Northwestern side of Hard Scrabble Road, shown as 0.46 acres on a plat prepared for My Amusements, Inc., by Ben Whetstone Associates, dated May 6, 1999, recorded in the ROD Office for Richland County in Record Book 313 at Page 2248. Also shown on a plat prepared for Singh Incorporated, by Cox & Dinkins, dated September 10, 2007, recorded in the ROD Office for Richland County in Record Book 1361 at Page 1133.

Derivation: This being the identical property conveyed to My Amusements, Inc. by deed of Hazel T. Gaskin and Raymond B. Jenkins, Sr., dated May 26, 1999, recorded in the ROD Office for Richland County in Record Book 313, at Page 2241.

TMS #: 20281-01-55

Grantee's Mailing Address: 37 Moenglo Circle
Columbia, South Carolina 29223

Book 1361-3591

2007088320 09/27/2007 16:38:46:397

Deed

Fee: \$16.00 County Tax: \$646.25 State Tax: \$1527.50



2007088320 Richard W. Rodden

Richland County ROD



ELECTRONICALLY FILED - 2019 Sep 24 9:20 AM - FAIRFIELD - COMMON PLEAS - CASE#2012CP2000356

Together with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in any wise incident or appertaining.

To have and to hold all and singular the premises before mentioned unto the said Grantee, its successors and assigns forever.

And the Grantor does hereby bind Grantor, its Successors and assigns, to warrant and forever defend all and singular the said premises unto the said Grantee, its successors assigns, against Grantor and Grantor's heirs and against every person whomsoever lawfully claiming, or to claim the same or any part thereof.

IN WITNESS WHEREOF, the within Deed has been executed by MY AMUSEMENTS, INC., by Randy Rudd, its President, this 26th day of September 2007.

Signed, Sealed and Delivered
in The Presence of:

MY AMUSEMENTS, INC.

Randy Rudd

[Signature]

By

Robert S. Jackson

Its President

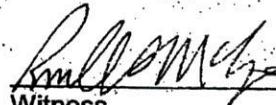
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STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

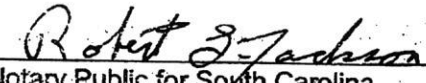
PROBATE

Before me, the undersigned Notary Public, personally appeared the undersigned witness who, being duly sworn, deposed and said that (s)he saw the within-named **MY AMUSEMENTS, INC.**, by Randy Rudd, its President, sign, seal and as its act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that (s)he with the other witness subscribed above witnessed the execution thereof.



Witness

SWORN to and subscribed before me
this 26th day of September, 2007.



Notary Public for South Carolina
My Commission Expires: 1/31/15

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Document 9-Five Rivers, Inc.-September 25, 2007
Deed for 2409 Percival Road property
(Richland County)

(2019 Trial: Plaintiff's Exhibit 9)

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

DEED BY CORPORATION

KNOW ALL MEN BY THESE PRESENTS, that **MY AMUSEMENTS, INC.**, hereinafter sometimes referred to as Grantor, in the State aforesaid, for and in consideration of the sum of Five Hundred Eighty Seven Thousand Five Hundred and no/100's (\$587,500.00) Dollars, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released and by these presents do grant, bargain, sell and release unto **FIVE RIVERS, INC.**, hereinafter sometimes referred to as Grantee, its successors and assigns forever.

All that certain piece, parcel or lot of land with improvements thereon, situate in Richland County on the Northwestern side of Percival Road, containing approximately 0.64 acres as shown on a plat prepared by Cox and Dinkins, Inc., for My Amusements, Inc., dated September 19, 2000, recorded in the ROD Office for Richland County in Record Book 450 at Page 1611. Also shown on a plat prepared by Cox and Dinkins, Inc., for Five Rivers, Inc., dated September 12, 2007, recorded in the ROD Office for Richland County in Record Book 1361 at Page 132

Derivation: This being the properties heretofore conveyed to the Grantor herein by deeds of Michael Orland, dated October 3, 2000, recorded in the ROD Office for Richland County in Record Book 456 at Page 1604, and of Charlie McNair and Donna Crook, dated October 25, 2000, recorded in the ROD Office for Richland County in Record Book 456 at Page 1624.

TMS #: 19711-05-03 & 04

Grantee's Mailing Address: 37 Moonglo Circle
Columbia, South Carolina 29223

Book 1361-3604
2007088324 09/27/2007 16:40:32:427 Deed
Fee: \$10.00 County Tax: \$646.25 State Tax: \$1521.50
2007088324 Richard W. Rodden Richland County ROD

PLAINTIFF'S
EXHIBIT
NO. 9

Together with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in any wise incident or appertaining.

To have and to hold all and singular the premises before mentioned unto the said Grantee, its successors and assigns forever.

And the Grantor does hereby bind Grantor, its Successors and assigns, to warrant and forever defend all and singular the said premises unto the said Grantee, its successors and assigns, against Grantor and Grantor's successors and assigns and against every person whomsoever lawfully claiming, or to claim the same or any part thereof.

IN WITNESS WHEREOF, the within Deed has been executed by MY AMUSEMENTS, INC., by Randy Rudd, its President, this 26 day of September 2007.

Signed, Sealed and Delivered
In The Presence of:

George E. Lafayette
Robert S. Jackson

MY AMUSEMENTS, INC.

By: [Signature]
Its President

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

PROBATE

Before me, the undersigned Notary Public, personally appeared the undersigned witness who, being duly sworn, deposed and said that (s)he saw the within-named MY AMUSEMENTS, INC., by Randy Rudd, its President, sign, seal and as its act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that (s)he with the other witness subscribed above witnessed the execution thereof.

[Handwritten Signature]
Witness

SWORN to and subscribed before me this 26th day of September, 2007.

[Handwritten Signature]
Notary Public for South Carolina
My Commission Expires: 1/31/15

Document 10-Paramjit (Goldy) Singh
2019 Trial Testimony-pp. 103-104

TESTIMONY OF PARAMJIT "GOLDY" SINGH

1 (inaudible.)

2 Q Would be something like what Blythewood Oil does?

3 A Similar.

4 Q What is the process you have for the delivery and then
5 the payment of gas?

6 A The customer orders the fuel, we send it to the stores
7 and we want to get paid within ten days.

8 Q If they don't pay in ten days what happens usually?

9 A You don't send them no more gas. If they're not paying
10 them something is wrong.

11 Q If they were to write you a bounced check?

12 A I would close their account and would not do business.

13 Q Okay. What do you know about this particular case
14 yourself?

15 A In terms of which case?

16 Q Well, let's put it this way, the case of Blythewood Oil
17 against your dad and Five Rivers and Singh Incorporated, how
18 much do you know about the case?

19 A Whatever is in the court documents and stuff.

20 Q Okay. Now, did you have a meeting with your dad and
21 with the Sharpes in March of 2010?

22 A I attended a meeting, I did not have a meeting. I went
23 with my father, and Dilbag was there, we went to Larry,
24 Senior and Junior's office, I was there.

25 Q And tell me about that meeting that you had at their

TESTIMONY OF PARAMJIT "GOLDY" SINGH

1 house.

2 A When we went to the office Larry, Sr. and dad had a
3 conversation about how could Jesse build up so much debt.
4 Senior proposed that he needs to pay out the Wilson
5 Boulevard Store, like payoff the mortgage or whatever, he
6 needs to be debt free and he needs to turn the title over to
7 Blythewood Oil (inaudible) it would eliminate Jesse's debt.

8 Q At any time during that meeting, did Larry Sharpe, Sr.
9 or Larry Sharpe, Jr. say that Shinda was liable for the
10 debt?

11 A No, ma'am.

12 Q Or that Singh Incorporated was liable for the debt?

13 A No, ma'am.

14 Q Or that Five Rivers, Inc. was responsible for the debt?

15 A No, ma'am.

16 Q Or any partnership was responsible for the debt?

17 A No, ma'am.

18 Q Tell me a little bit about your father's credit
19 worthiness. Has your father been in business a long time?

20 A A long time.

21 Q What's his credit like?

22 A His credit is really good.

23 Q Does he pay his bills?

24 A Absolutely.

25 MS. JACKSON: No further questions.

Document 11-Deposition of Vikrant Pathania
(February 7, 2017)

(2019 Trial: Plaintiff's Exhibit 5-Deposition, pp. 10,11,12)

1 Q Why don't you tell us how you came to be employed
2 at those stores?

3 A What happened is, that I was out of the job and
4 one of the other good friends is a mutual friend
5 of Shinda and me. So he went to Shinda and he
6 told Shinda that I'm out of job, so. And then he
7 told me that Shinda need somebody to work at a
8 store, so he say you should come and meet Shinda
9 and Shinda going to give you employment. So
10 Shinda asked -- they asked me to come to the
11 Hardscrabble store and they were all there and
12 then they discussed that, Shinda and Kabal, that
13 they owned the store, they owned both store and
14 they want me to take care of the Percival store.

15 Q When you say they were all there, who
16 specifically -- and you're talking about at the
17 Hardscrabble store, correct?

18 A Yes, at the Hardscrabble store. Shinda and Kabal
19 was there.

20 Q Both of them were there.

21 A Yes.

22 Q And do you know about the time period this was?

23 A It's long time ago, but I remember they just
24 bought the store like in two, three months ago,
25 something like that. It was fresh. Same year

1 **when they bought the store.**

2 **Q** So they had just purchased the stores, and this is
3 what they told you, correct?

4 **A** **Yes.**

5 **Q** Can you remember as precisely as possible exactly
6 what they told you and how that conversation went
7 and let us know, please?

8 **A** **It was basically just they were telling that they**
9 **both bought it, they said that they owned the**
10 **store and they are partner. They both own the**
11 **store, they are partners and they bought the new**
12 **store and Jesse needed help, so it's best I can**
13 **help Jesse to running the store since Kabal is**
14 **running the Hardscrabble store. Jesse is running**
15 **the Percival and he need help, so I should be**
16 **there at the Percival store helping them.**

17 **Q** Do you remember who -- who made these statements
18 to you? Mr. Singh or Mr. Kabal?

19 **A** **They both were. I'm not sure about like -- I**
20 **don't remember the who, but it's all talk, you**
21 **know, how they were talking.**

22 **Q** When you went there, what you were told is that
23 you were coming for an interview and they told you
24 that they owned the stores and they wanted you to
25 work at one store to help Jesse and Mr. Kabal was

1 at the other store, working at the other store?

2 **A Correct.**

3 **Q** And that they owned the stores together. Is that
4 correct? They were partners?

5 **A Correct, yes.**

6 **Q** I don't want to put words in your mouth, so you
7 tell me. Is that specifically what they said?
8 Did they use those words, or what words did they
9 use?

10 **A Yes, that's what they said. They told me about**
11 **that they are partners and they wanted me to work**
12 **at the store.**

13 **Q** If you can just hold on for a second.

14 Do you remember anything else they might have
15 told you?

16 **A I have no idea.**

17 **Q** During the time afterwards, did you actually
18 become employed with them?

19 **A Yes.**

20 **Q** And you helped at which store?

21 **A Percival store.**

22 **Q** Did you ever see Mr. Singh again?

23 **A Yeah, he used to come to the Percival store to**
24 **just check, you know, when he would swing by. And**
25 **he say how is the store doing? How are you doing?**

Document 12-Larry Sharpe, II
2019 Trial Testimony pp. 38-42

TESTIMONY OF LARRY SHARPE

- 1 Q Are you considered a jobber, a gas jobber?
- 2 A If that's what you want to call it, yes, ma'am.
- 3 Q You provide gasoline.
- 4 A Uh-huh.
- 5 Q So I'm going back a little bit since I just laid a
6 foundation here as was requested. From the time of those
7 credit applications being signed until March of 2010, did
8 Blythewood Oil ever call Shinda Singh about the problems
9 with the payment to those two stores?
- 10 A No, ma'am.
- 11 Q If you had thought he was obligated would you have
12 called him?
- 13 A He called me.
- 14 Q But he called you when?
- 15 A After he found out there was an issue.
- 16 Q Okay. But you didn't call him, your father didn't call
17 him, did you?
- 18 A No, ma'am.
- 19 Q I'm asking you this question, how could he ever agree
20 to pay for 500 and something thousands dollars of debt if he
21 didn't know about?
- 22 A Well, he knew about it.
- 23 Q Oh, he knew about it. But when?
- 24 A I don't know when he knew about it.
- 25 Q When you met with him in your office; is that correct?

TESTIMONY OF LARRY SHARPE

- 1 A After he called me, yes, ma'am.
- 2 Q That's right. He was concerned, right?
- 3 A He said he was going to take care of the debt.
- 4 Q Did he say that?
- 5 A Yes, ma'am, he did.
- 6 Q Did he give it in writing?
- 7 A No, ma'am, he did not.
- 8 Q The fact of the matter, he didn't tell you that he was
9 going to pay the debt, he said that he would take it to the
10 community to talk about it, right?
- 11 A He said he was going to take care of it.
- 12 Q Now, at some point you went to see, or somebody went to
13 see and talk to somebody at the Attorney General's Office,
14 is that correct, about bad checks?
- 15 A Certainly, yes, ma'am.
- 16 Q You did that. And do you know when that was?
- 17 A I don't recall the date, I have no idea.
- 18 Q Would it have been in March of 2010?
- 19 A Probably so.
- 20 Q Okay. Do you remember who you talked to at the
21 Attorney General's Office, an investigator?
- 22 A I talked to a bunch of people. Mr. Logan was the
23 investigator.
- 24 Q He was the investigator. So you remember Mr. Pete
25 Logan.

TESTIMONY OF LARRY SHARPE

- 1 A Uh-huh. I had to give a deposition, if I recall.
- 2 Q And the information that Mr. Logan had about the stores
3 that you provided gas to came from where?
- 4 A I don't understand.
- 5 Q Did you provide information to Mr. Logan about Gurpreet
6 Singh and the stores and how much Gurpreet owed?
- 7 A Oh, yes, ma'am. It was the same information you have
8 right there.
- 9 Q Well, the information you may refer is to the credit
10 apps. I'm talking about the information that you gave to
11 Mr. Logan about what Jesse owed. Did you tell Mr. Logan
12 what Jesse owed?
- 13 A I don't recall. I think at that time we were just
14 talking about the returned checks, so I don't know what all
15 information he had or didn't have.
- 16 Q But did you hear him in the courtroom the last time say
17 that he had done an investigation? Did you hear that?
- 18 A I believe so, yes, ma'am.
- 19 Q And my question to him was, and did you hear this,
20 "Based on your investigation who was liable for the debt?"
21 Do you remember his response being Gurpreet Singh?
- 22 A I don't recall what was said. That was a year and a
23 half ago so I don't recall who said what to be honest with
24 you.
- 25 Q As a result of the investigation, was there a hearing

TESTIMONY OF LARRY SHARPE

- 1 involving the bad checks?
- 2 A I don't recall.
- 3 Q Do you remember whether Gurpreet Singh was prosecuted
4 for the bad checks?
- 5 A I believe so, yes, ma'am. He's the one who wrote them.
- 6 Q Correct. Gurpreet Singh wrote the checks. Did Shinda
7 Singh write the checks?
- 8 A Not that I'm aware of.
- 9 Q Did Five Rivers, Inc. write the check?
- 10 A I don't recall that.
- 11 Q Did Singh Incorporated write the checks?
- 12 A I don't remember which name was on the check.
- 13 Q You don't know which name was on the checks?
- 14 A No.
- 15 Q Were any of the bounced checks on of Mr. Shinda Singh's
16 accounts?
- 17 A I don't recall.
- 18 Q But you never prosecuted him, did you?
- 19 A Not at the time we didn't.
- 20 Q Would you admit that all of the checks that came to you
21 were on Gurpreet Singh's corporate checks?
- 22 A As far as I know. I don't recall.
- 23 Q As far as you know they did or not?
- 24 A If he was prosecuted I would assume that his name was
25 on there.

TESTIMONY OF LARRY SHARPE

1 Q Did Blythewood Oil ever had a contract in writing to
2 sell gas, provide credit for gas to Shinda Singh?

3 A No, ma'am.

4 Q To Five Rivers, Inc.?

5 A No, ma'am.

6 Q To Singh, Inc. or Singh Incorporated?

7 A No, ma'am.

8 Q When you delivered gasoline to the Hardscrabble Road
9 and Percival Road stores but to Jesse, who was leasing them,
10 were you delivering the gas to Shinda?

11 A I didn't know that Jesse was leasing them.

12 Q Does it matter? Did you have Shinda on any documents
13 saying that he was paying for gas?

14 A We had the conversation when he started the business.

15 Q Did you have anything in writing from Shinda Singh?

16 A No, ma'am, I already said that.

17 Q Did you have anything from Five Rivers, Inc.?

18 A No, ma'am, I already stated that.

19 Q Did you have anything from Singh Incorporated?

20 A No, ma'am.

21 Q Did you have anything in the form of a partnership
22 saying, "We're a partnership and we're going to be liable
23 for the gas that you delivered." Did you have any of that?

24 A No.

25 MS. JACKSON: No further questions, Your Honor.