

IN THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

PEOPLES BANK, NATIONAL ASSOCIATION,
a national banking association,

Plaintiff,

v.

CIVIL ACTION NO.: 15-C-807
(Judge Christopher D. Chiles)

APPALACHIAN MINING AND RECLAMATION,
LLC, a Kentucky limited liability company;
DJWV2, LLC, a West Virginia limited liability
company; GREEN COAL, LLC, a Kentucky
limited liability company; JOINT VENTURE
DEVELOPMENT, LLC, a Kentucky limited liability
company; PRODUCER'S COAL, INC., a Kentucky
corporation formerly known as Producer's Dock, Inc.;
PRODUCER'S LAND, LLC, a Kentucky limited liability
company; REDBUD DOCK, LLC, a Kentucky limited
liability company; SOUTHERN MARINE SERVICES
LIMITED LIABILITY COMPANY, a Kentucky limited
liability company; SOUTHERN MARINE TERMINAL, LLC,
a Kentucky limited liability company; DENISE DAWN
JOHNSON, Trustee of the Denise Johnson Real Estate
Trust; DENNIS JOHNSON, a West Virginia resident; and,
MARK PINSON, a West Virginia resident,

Defendants.

DEFENDANTS' ANSWER TO COMPLAINT AND COUNTERCLAIM

COME NOW the Defendants, Appalachian Mining and Reclamation,
LLC, a Kentucky limited liability company (hereinafter referred to as "AMR"), DJWV2,
LLC, a West Virginia limited liability company (hereinafter referred to as "DJWV2"), Green
Coal, LLC, a Kentucky limited liability company (hereinafter referred to as "GC"), Joint
Venture Development, LLC, a Kentucky limited liability company (hereinafter referred to as
"JVD"), Producer's Coal, INC., a Kentucky corporation formerly known as Producer's
Dock, Inc. (hereinafter referred to as "PC"), Producer's Land, LLC, a Kentucky limited
liability company (hereinafter referred to as "PL"), Redbud Dock, LLC, a Kentucky limited
liability company (hereinafter referred to as "RD"), Southern Marine Services Limited
Liability Company, a Kentucky limited liability company (hereinafter referred to as "SMS"),

Southern Marine Terminal, LLC, a Kentucky limited liability company (hereinafter referred to as "SMT"), Denise Dawn Johnson, Trustee of the Denise Johnson Real Estate Trust (hereinafter referred to as "DDJ"), Dennis Johnson, a West Virginia resident (hereinafter referred to as "Johnson"), and, Mark Pinson (hereinafter referred to as "Pinson") (hereinafter collectively referred to as "Defendants") by counsel, James R. Bailes, Melissa Eakle Leasure and the law firm of Bailes, Craig and Yon, PLLC, and for their Answer to Plaintiff's Complaint against it states as follows:

FIRST DEFENSE

The Plaintiff's Complaint filed herein fails to state a claim against the Defendants upon which relief can be granted and should, therefore, be dismissed pursuant to Rule 12(b)(6) of the West Virginia Rules of Civil Procedure.

SECOND DEFENSE

1. Answering Paragraph 1 of the Complaint, Defendants, upon information and belief, admit the allegations contained therein.
2. Answering Paragraph 2 of the Complaint, Defendants admit the allegations contained therein.
3. Answering Paragraph 3 of the Complaint, Defendants admit the allegations contained therein.
4. Answering Paragraph 4 of the Complaint, Defendants admit the allegations contained therein.
5. Answering Paragraph 5 of the Complaint, Defendants admit the allegations contained therein.
6. Answering Paragraph 6 of the Complaint, Defendants admit the allegations contained therein.
7. Answering Paragraph 7 of the Complaint, Defendants admit the allegations contained therein.

8. Answering Paragraph 8 of the Complaint, Defendants admit the allegations contained therein.

9. Answering Paragraph 9 of the Complaint, Defendants admit the allegations contained therein.

10. Answering Paragraph 10 of the Complaint, Defendants admit the allegations contained therein.

11. Answering Paragraph 11 of the Complaint, Defendants admit the allegations contained therein.

12. Answering Paragraph 12 of the Complaint, Defendants admit the allegations contained therein.

13. Answering Paragraph 13 of the Complaint, Defendants deny the allegations contained therein and demands strict proof thereof.

14. Answering Paragraph 14 of the Complaint, Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against the Defendants, expressly or impliedly, they hereby deny the same and demands strict proof thereof.

15. Answering Paragraph 15 of the Complaint, Defendants deny the allegations contained therein and demands strict proof thereof.

16. Answering Paragraph 16 of the Complaint, Defendants deny the allegations contained therein and demands strict proof thereof.

17. Answering Paragraph 17 of the Complaint, Defendants deny the allegations contained therein and demands strict proof thereof.

18. Answering Paragraph 18 of the Complaint, Defendants admit the allegations contained therein.

19. Answering Paragraph 19 of the Complaint, Defendants RD, GC, PC, Johnson and Pinson admit that RD entered into a Term Note with Peoples Bank, National Association (hereinafter referred to as "Plaintiff" or "Bank"). Further, Defendants RD, GC, PC, Johnson and Pinson state that the Term Note speaks for itself. Defendants RD, GC, PC, Johnson and Pinson hereby deny the remaining allegations and demand strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

20. Answering Paragraph 20 of the Complaint, Defendant RD admits it entered into a security agreement with Bank. Further, RD states that the security agreement speaks for itself. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

21. Answering Paragraph 21 of the Complaint, Defendant RD admits it entered into a security agreement with Bank. Further, RD states that the security agreement speaks for itself. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

22. Answering Paragraph 22 of the Complaint, Defendant GC admits that it executed and delivered a guaranty agreement. Further, GC states the guaranty agreement speaks for itself. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be

interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

23. Answering Paragraph 23 of the Complaint, Defendant PC admits that it executed and delivered a guaranty agreement. Further, PC states the guaranty agreement speaks for itself. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

24. Answering Paragraph 24 of the Complaint, Defendant Johnson admits that he executed and delivered a guaranty agreement. Further, Johnson states the guaranty agreement speaks for itself. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

25. Answering Paragraph 25 of the Complaint, Defendant Pinson admits that he executed and delivered a guaranty agreement. Further, Pinson states the guaranty agreement speaks for itself. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

26. Answering Paragraph 26 of the Complaint, Defendants JVD and Johnson admit that Bank made a loan to JVD evidenced by a promissory note. Further, Defendants JVD and Johnson state that the promissory note speaks for itself. Defendants JVD and Johnson hereby deny the remaining allegations and demand strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an

allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

27. Answering Paragraph 27 of the Complaint, Defendant Johnson admits that he executed and delivered a guaranty agreement with the Bank. Further, Defendant Johnson states that the guaranty agreement speaks for itself. Defendant Johnson hereby denies the remaining allegations and demand strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

28. Answering Paragraph 28 of the Complaint, Defendants PC, Johnson and Pinson admit that Bank made a loan to PC evidenced by a promissory note in the amount of Ten Million Dollars (\$10,000,000.00). Defendants PC, Johnson and Pinson admit that they executed a promissory note in the amount of Twelve Million Five Hundred Thousand Dollars (\$12,500,000.00). Further, Defendants PC, Johnson and Pinson state that the promissory notes speak for themselves. Defendants PC, Johnson and Pinson hereby deny the remaining allegations and demand strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

29. Answering Paragraph 29 of the Complaint, Defendants PC, Johnson and Pinson admit that PC executed and delivered to the Bank two commercial security agreements. Further, Defendants PC, Johnson and Pinson state that the security agreements speak for themselves. Defendants PC, Johnson and Pinson hereby deny the remaining allegations and demand strict proof thereof. The remaining Defendants state that this

paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

30. Answering Paragraph 30 of the Complaint, Defendant AMR admits that it executed a guaranty agreement for a PC loan in the amount of Ten Million Dollars (\$10,000,000.00). Defendant AMR states that the guaranty agreement speaks for itself. Defendant AMR hereby denies the remaining allegations and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

31. Answering Paragraph 31 of the Complaint, Defendant GC admits that it executed a guaranty agreement for a PC loan in the amount of Ten Million Dollars (\$10,000,000.00). Defendant GC states that the guaranty agreement speaks for itself. Defendant GC hereby denies the remaining allegations and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

32. Answering Paragraph 32 of the Complaint, Defendant PL admits that it executed a guaranty agreement for a PC loan in the amount of Ten Million Dollars (\$10,000,000.00). Defendant PL states that the guaranty agreement speaks for itself. Defendant PL hereby denies the remaining allegations and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an

allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

33. Answering Paragraph 33 of the Complaint, Defendant RD admits that it executed a guaranty agreement for a PC loan in the amount of Ten Million Dollars (\$10,000,000.00). Defendant RB states that the guaranty agreement speaks for itself. Defendant RB hereby denies the remaining allegations and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

34. Answering Paragraph 34 of the Complaint, Defendant SMS admits that it executed a guaranty agreement for a PC loan in the amount of Ten Million Dollars (\$10,000,000.00). Defendant SMS states that the guaranty agreement speaks for itself. Defendant SMS hereby denies the remaining allegations and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

35. Answering Paragraph 35 of the Complaint, Defendant SMT admits that it executed a guaranty agreement for a PC loan in the amount of Ten Million Dollars (\$10,000,000.00). Defendant SMT states that the guaranty agreement speaks for itself. Defendant SMT hereby denies the remaining allegations and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

36. Answering Paragraph 36 of the Complaint, Defendant Johnson admits that he executed a guaranty agreement for a PC loan in the amount of Ten Million Dollars (\$10,000,000.00). Defendant Johnson states that the guaranty agreement speaks for itself. Defendant Johnson hereby denies the remaining allegations and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

37. Answering Paragraph 37 of the Complaint, Defendant Pinson admits that he executed a guaranty agreement for a PC loan in the amount of Ten Million Dollars (\$10,000,000.00). Defendant Pinson states that the guaranty agreement speaks for itself. Defendant Pinson hereby denies the remaining allegations and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

38. Answering Paragraph 38 of the Complaint, Defendants RD and Pinson admit that RD entered into a promissory note with the Bank. Further, Defendants RD and Pinson state that the promissory note speaks for itself. Defendants RD and Pinson hereby deny the remaining allegations and demand strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

39. Answering Paragraph 39 of the Complaint, Defendants RD and Pinson admit that Defendant RD executed and delivered to the Bank a commercial security

agreement. Defendants RD and Pinson state that the security agreement speaks for itself. Defendants RD and Pinson hereby deny the remaining allegations and demand strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

40. Answering Paragraph 40 of the Complaint, Defendants PL and Johnson admit that PL entered into a term note with the Bank. Defendants PL and Johnson state that the term note speaks for itself. Defendants PL and Johnson hereby deny the remaining allegations and demand strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

41. Answering Paragraph 41 of the Complaint, Defendants PL and Johnson admit that Defendant PL executed and delivered to the Bank a security agreement. Defendants PL and Johnson state that the security agreement speaks for itself. Defendants PL and Johnson hereby deny the remaining allegations and demand strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

42. Answering Paragraph 42 of the Complaint, Defendants Johnson, PC and DJWV2 admits that Defendants Johnson, PC and DJWV2 executed and delivered to the Bank a guaranty agreement. Further, Defendants Johnson, PC and DJWV2 state that the guaranty agreement speaks for itself. Defendants Johnson, PC and DJWV2 hereby deny the

remaining allegations and demand strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

43. Answering Paragraph 43 of the Complaint, Defendants Pinson, Johnson, SMT, SMS, RD, PL, PC, JVD, GC, DJWV2 and AMR deny the allegations contained therein and demand strict proof thereof.

44. Answering Paragraph 44 of the Complaint, Defendants are without sufficient information to either admit or deny the maturity date of the PC Note and, therefore, Defendants deny the allegations contained therein and demand strict proof thereof. Defendants further state that the determination that all of the indebtedness under the PC Note is due and payable makes a legal conclusion and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against Defendants, expressly or impliedly, it hereby denies the same and demands strict proof thereof.

45. Answering Paragraph 45 of the Complaint, Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations contained therein and, therefore, deny the same and demand strict proof thereof.

46. Answering Paragraph 46 of the Complaint, Defendants deny the allegations contained therein and demand strict proof thereof.

47. Answering Paragraph 47 of the Complaint, Defendants deny the allegations contained therein and demand strict proof thereof.

48. Answering Paragraph 48 of the Complaint, Defendants Pinson, Johnson, SMT, SMS, RD, PL, PC, JVD, GC, DJWV2 and AMR admit that they executed a forbearance agreement and amendment thereto. Defendants Pinson, Johnson, SMT, SMS, RD, PL, PC, JVD, GC, DJWV2 and AMR state that the forbearance agreement speaks for

itself. Defendants Pinson, Johnson, SMT, SMS, RD, PL, PC, JVD, GC, DJWV2 and AMR hereby deny the remaining allegations and demand strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

49. Answering Paragraph 49 of the Complaint, Defendants state that the forbearance agreement speaks for itself. To the extent any statement may be interpreted as an allegation against any of the Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

50. Answering Paragraph 50 of the Complaint, Defendants Pinson, Johnson, SMT, SMS, RD, PL, PC, JVD, GC, DJWV2 and AMR deny the allegations contained therein and demand strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

51. Answering Paragraph 51 of the Complaint, Defendants deny the allegations contained therein and demand strict proof thereof.

52. Answering Paragraph 52 of the Complaint, Defendants Johnson and DDJ admit that Johnson conveyed his interest in Sabbatical, Inc. to DDJ. Johnson and DDJ hereby deny the remaining allegations and demand strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

53. Answering Paragraph 53 of the Complaint, Defendants deny the allegations contained therein and demand strict proof thereof.

54. Answering Paragraph 54 of the Complaint, Defendants deny the allegations contained therein and demand strict proof thereof.

55. Answering Paragraph 55, Count I of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 54 as contained within this Answer.

56. Answering Paragraph 56, Count I of the Complaint, Defendants RD, GC, PC, Johnson and Pinson deny the allegations contained therein and demand strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

57. Answering Paragraph 57, Count I of the Complaint, Defendants RD, GC, PC, Johnson and Pinson deny the allegations contained therein and demand strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

58. Answering Paragraph 58, Count I of the Complaint, Defendants RD, GC, PC, Johnson and Pinson deny the allegations contained therein and demand strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

59. Answering Paragraph 59, Count II of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 58 as contained within this Answer.

60. Answering Paragraph 60, Count II of the Complaint, Defendant GC states that this paragraph contains no allegations against it and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against GC, expressly or impliedly, it hereby denies the same and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

61. Answering Paragraph 61, Count II of the Complaint, Defendant GC denies the allegations contained therein and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

62. Answering Paragraph 62, Count III of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 61 as contained within this Answer.

63. Answering Paragraph 63, Count III of the Complaint, Defendant PC states that this paragraph contains no allegations against it and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against Defendant PC, expressly or impliedly, it hereby denies the same and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the

extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

64. Answering Paragraph 64, Count III of the Complaint, Defendant PC denies the allegations contained therein and therefore denies the same. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

65. Answering Paragraph 65, Count IV of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 64 as contained within this Answer.

66. Answering Paragraph 66, Count IV of the Complaint, Defendant Johnson states that this paragraph contains no allegations against him and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against Defendant Johnson, expressly or impliedly, he hereby denies the same and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

67. Answering Paragraph 67, Count IV of the Complaint, Defendant Johnson denies the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an

allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

68. Answering Paragraph 68, Count V of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 67 as contained within this Answer.

69. Answering Paragraph 69, Count V of the Complaint, Defendant Pinson states that this paragraph contains no allegations against him, and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against Defendant Pinson, expressly or impliedly, he hereby denies the same and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

70. Answering Paragraph 70, Count V of the Complaint, Defendant Pinson denies the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

71. Answering Paragraph 71, Count VI of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 70 as contained within this Answer.

72. Answering Paragraph 72, Count VI of the Complaint, Defendant JVD denies the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants are without sufficient information or knowledge to form a belief as to

the truth or falsity of the allegations contained therein and, therefore, deny the same and demands strict proof thereof. Further, the remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

73. Answering Paragraph 73, Count VI of the Complaint, Defendants deny the allegations contained therein and demand strict proof thereof.

74. Answering Paragraph 74, Count VI of the Complaint, Defendant JVD denies the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

75. Answering Paragraph 75, Count VII of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 74 as contained within this Answer.

76. Answering Paragraph 76, Count VII of the Complaint, Defendant Johnson states that this paragraph contains no allegations against him and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against Defendant Johnson, expressly or impliedly, it hereby denies the same and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

77. Answering Paragraph 77, Count VII of the Complaint, Defendant Johnson denies the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

78. Answering Paragraph 78, Count VIII of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 77 as contained within this Answer.

79. Answering Paragraph 79, Count VIII of the Complaint, Defendant PC states that this paragraph contains no allegations against it and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against Defendant PC, expressly or impliedly, it hereby denies the same and demands strict proof thereof. denies the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

80. Answering Paragraph 80, Count VIII of the Complaint, Defendants deny the allegations contained therein and demands strict proof thereof.

81. Answering Paragraph 81, Count VIII of the Complaint, Defendant PC denies the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an

allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

82. Answering Paragraph 82, Count IX of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 81 as contained within this Answer.

83. Answering Paragraph 83, Count IX of the Complaint, Defendant AMR states that this paragraph contains no allegations against it and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against Defendant AMR, expressly or impliedly, it hereby denies the same and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

84. Answering Paragraph 84, Count IX of the Complaint, Defendant AMR denies the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

85. Answering Paragraph 85, Count X of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 84 as contained within this Answer.

86. Answering Paragraph 86, Count X of the Complaint, Defendant GC states that this paragraph contains no allegations against it and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement

may be interpreted as an allegation against Defendant GC, expressly or impliedly, it hereby denies the same and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

87. Answering Paragraph 87, Count X of the Complaint, Defendant GC denies the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

88. Answering Paragraph 88, Count XI of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 87 as contained within this Answer.

89. Answering Paragraph 89, Count XI of the Complaint, Defendant PL states that this paragraph contains no allegations against it and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against Defendant PL, expressly or impliedly, it hereby denies the same and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

90. Answering Paragraph 90, Count XI of the Complaint, Defendant PL denies the allegations contained therein and therefore demands strict proof thereof. The

remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

91. Answering Paragraph 91, Count XII of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 90 as contained within this Answer.

92. Answering Paragraph 92, Count XII of the Complaint, Defendant RD states that this paragraph contains no allegations against it and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against Defendant RD, expressly or impliedly, it hereby denies the same and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

93. Answering Paragraph 93, Count XII of the Complaint, Defendant RD denies the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

94. Answering Paragraph 94, Count XIII of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 93 as contained within this Answer.

95. Answering Paragraph 95, Count XIII of the Complaint, Defendant SMS states that this paragraph contains no allegations against it and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against Defendant SMS, expressly or impliedly, it hereby denies the same and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

96. Answering Paragraph 96, Count XIII of the Complaint, Defendant SMS denies the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

97. Answering Paragraph 97, Count XIV of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 96 as contained within this Answer.

98. Answering Paragraph 98, Count XIV of the Complaint, Defendant SMT states that this paragraph contains no allegations against it and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against Defendant SMT, expressly or impliedly, it hereby denies the same and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining

Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

99. Answering Paragraph 99, Count XIV of the Complaint, Defendant SMT denies the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

100. Answering Paragraph 100, Count XV of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 99 as contained within this Answer.

101. Answering Paragraph 101, Count XV of the Complaint, Defendant Johnson states that this paragraph contains no allegations against him and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against Defendant Johnson, expressly or impliedly, it hereby denies the same and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

102. Answering Paragraph 102, Count XV of the Complaint, Defendant Johnson denies the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

103. Answering Paragraph 103, Count XVI of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 102 as contained within this Answer.

104. Answering Paragraph 104, Count XVI of the Complaint, Defendant Pinson states that this paragraph contains no allegations against him and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against Defendant Pinson, expressly or impliedly, it hereby denies the same and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

105. Answering Paragraph 105, Count XVI of the Complaint, Defendant Pinson denies the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

106. Answering Paragraph 106, Count XVII of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 105 as contained within this Answer.

107. Answering Paragraph 107, Count XVII of the Complaint, Defendant RD states that this paragraph contains no allegations against it and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against Defendant RD, expressly or impliedly, it hereby denies the same and demands strict proof thereof. The remaining Defendants state that this

paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

108. Answering Paragraph 108, Count XVII of the Complaint, Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

109. Answering Paragraph 109, Count XVII of the Complaint, Defendant RD denies the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

110. Answering Paragraph 110, Count XVIII of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 109 as contained within this Answer.

111. Answering Paragraph 111, Count XVIII of the Complaint, Defendant PL states that this paragraph contains no allegations against it and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against Defendant PL, expressly or impliedly, it hereby denies the same and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining

Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

112. Answering Paragraph 112, Count XVIII of the Complaint, Defendants states that this paragraph contains no allegations against them and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

113. Answering Paragraph 113, Count XVIII of the Complaint, Defendant PL denies the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

114. Answering Paragraph 114, Count XIX of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 113 as contained within this Answer.

115. Answering Paragraph 115, Count XIX of the Complaint, Defendants Johnson, PC and DJWV2 state that this paragraph contains no allegations against them and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against Defendant Johnson, PC or DJWV2, expressly or impliedly, they hereby deny the same and demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

116. Answering Paragraph 116, Count XIX of the Complaint, Defendants deny the allegations contained therein and demands strict proof thereof.

117. Answering Paragraph 117, Count XIX of the Complaint, Defendant PL denies the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

118. Answering Paragraph 118, Count XIX of the Complaint, Defendants Johns, PC and DJWV2 deny the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

119. Answering Paragraph 119, Count XX of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 118 as contained within this Answer.

120. Answering Paragraph 120, Count XX of the Complaint, Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. Defendants further state that West Virginia Code §53-6-1 speaks for itself. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

121. Answering Paragraph 121, Count XX of the Complaint, Defendants deny the allegations contained therein and demands strict proof thereof.

122. Answering Paragraph 122, Count XX of the Complaint, Defendants deny the allegations contained therein and demands strict proof thereof.

123. Answering Paragraph 123, Count XXI - Recovery of Personal Property, of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 122 as contained within this Answer.

124. Answering Paragraph 124, Count XXI - Recovery of Personal Property, of the Complaint, Defendants states that this paragraph contains no allegations against it and, therefore, warrants no response, but rather makes legal conclusions and suppositions. To the extent any statement may be interpreted as an allegation against Defendants, expressly or impliedly, it hereby denies the same and demands strict proof thereof.

125. Answering Paragraph 125, Count XXI - Setting Aside Fraudulent Transfer, of the Complaint, Defendants reallege and incorporate by reference, those responses to paragraphs 1 through 124 as contained within this Answer.

126. Answering Paragraph 126, Count XXI - Setting Aside Fraudulent Transfer, of the Complaint, Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. Defendants further state that West Virginia Code §40-1A-1 speaks for itself. To the extent any statement may be interpreted as an allegation against any of the remaining Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

127. Answering Paragraph 127, Count XXI - Setting Aside Fraudulent Transfer, of the Complaint, Defendants Johnson and DDJ deny the allegations contained therein and therefore demands strict proof thereof. The remaining Defendants state that this paragraph contains no allegations against them and, therefore, warrants no response. To the extent any statement may be interpreted as an allegation against any of the remaining

Defendants, expressly or impliedly, they hereby deny the same and demand strict proof thereof.

128. Answering Paragraph 128, Count XXI - Setting Aside Fraudulent Transfer, of the Complaint, Defendants deny the allegations contained therein and demands strict proof thereof.

THIRD DEFENSE

The Complaint, and each cause of action set forth therein, may be barred by the doctrines unclean hands, fraud, waiver, estoppel and/or release by reason of Plaintiff's conduct, actions and omissions.

FOURTH DEFENSE

The Defendants invoke the doctrine of mitigation of damages and allege that Plaintiff has failed to take reasonable measures to mitigate and minimize its damages, if any, and recovery against the Defendants must be reduced to the extent Plaintiff has so failed to mitigate its damages.

FIFTH DEFENSE

Part or all of Plaintiff's claims are barred by the applicable statute of limitations and/or the doctrine of laches.

SIXTH DEFENSE

Defendants are immune from liability for any and all acts, omissions, statements or other tortious conduct which occurred within the context of this or other litigation pursuant to the litigation privilege.

SEVENTH DEFENSE

The Defendants have not yet had an opportunity to investigate fully Plaintiff's allegations and to complete discovery. Because of the possibility that facts and circumstances may hereafter be discovered that may substantiate one or more additional

separate defenses, in accordance with Rule 12 of the West Virginia Rules of Civil Procedure, the Defendants reserves the right to amend their Answer to Plaintiff's Complaint and to allege those further defenses and other amendments, if and when they are discovered.

EIGHTH DEFENSE

The Defendants reserves the right to raise any other affirmative defense or defenses that become known to them during the investigation or discovery of this matter.

NINTH DEFENSE

Any and all allegations in Plaintiff's Complaint not expressly admitted herein are denied, and strict proof is called for thereon.

WHEREFORE, Defendants states that Plaintiff is not entitled to the relief prayed for and that they, having fully answered, request this suit against them be dismissed, that they be awarded their costs and fees in defending this action, and that they be granted such other and further relief as the Court may deem just and appropriate.-

COUNTERCLAIM

NOW COME Defendants/Counterclaim Plaintiffs, AMR, DJWV2, GC, JVD, PC, PL, RD, SMS, SMT, DDJ, Johnson, and, Pinson (hereinafter collectively referred to as "Defendants/Counterclaim Plaintiffs"), by counsel, and for their Counterclaim against Plaintiff (hereinafter referred to as "Plaintiff/Counterclaim Defendant") hereby state the following:

COUNT I

Collateral Assignment of Membership Interest Void for Want of Consideration

1. Upon information and belief in April 2015, Plaintiff/Counterclaim Defendant contacted Defendant, Dennis Johnson, and requested Defendant, Dennis Johnson

to execute a document which granted Plaintiff/Counterclaim Defendant a security interest in two limited liability companies owned by Defendant, Dennis Johnson.

2. The Collateral Assignment of Membership Interest was not supported by valid consideration.

3. The Collateral Assignment of Membership interest is void and unenforceable.

COUNT III

Joint Breach of Duty of Good Faith

4. Defendants/Counterclaim Plaintiffs re-allege each and every allegation contained in paragraphs 1 through 3 of the Counterclaim as though said allegations were fully set forth herein.

5. Plaintiff/Counterclaim Defendant, as a financial institution authorized to do business in the State of West Virginia, was required under laws, regulations and public policies of the State, to conduct itself in good faith and to deal fairly and honestly with the Defendants/Counterclaim Plaintiffs in all matters relating to the subject loans and the enforcement of its rights thereunder.

6. The Plaintiff/Counterclaim Defendant breached that duty by enticing Defendants/Counterclaim Plaintiffs into executing certain loan documents by misrepresenting to the Defendants/Counterclaim Plaintiffs, and/or concealing material information from the Defendants/Counterclaim Plaintiffs.

7. The Plaintiff/Counterclaim Defendant did so with willful and malicious intent in an effort to secure the Plaintiff/Counterclaim Defendant's own economic interest to the detriment of the Defendants/Counterclaim Plaintiffs.

8. As a direct and proximate result of the Plaintiff/Counterclaim Defendant's misrepresentations to the Defendants/Counterclaim Plaintiffs and as a result of

intentional and/or reckless conduct, as hereinbefore alleged, the Defendants/Counterclaim Plaintiffs suffered injuries, damages, and losses.

COUNT III

Breach of Contract

9. Defendants/Counterclaim Plaintiffs re-allege each and every allegation contained in paragraphs 1 through 8 of the Counterclaim as though said allegations were fully set forth herein.

10. Plaintiff/Counterclaim Defendant has breached its duties or obligations under the loan documents and agreements with Defendants/Counterclaim Plaintiffs, the Defendants/Counterclaim Plaintiffs have been injured as a result of said breach and Defendants/Counterclaim Plaintiffs have incurred damages and is entitled to recover damages from and against Plaintiff/Counterclaim Defendant.

COUNT III

Violation of the Uniform Fraudulent Transfers Act

11. Defendants/Counterclaim Plaintiffs re-allege each and every allegation contained in paragraphs 1 through 10 of the Counterclaim as though said allegations were fully set forth herein.

12. On or about June 30, 2015, certain Defendants/Counterclaim Plaintiffs entered into a Forbearance Agreement

13. The Forbearance Agreement contained terms that were both onerous and likely to result in the imminent default of the Defendants/Counterclaim Plaintiffs.

14. The Forbearance Agreement required the Defendants/Counterclaim Plaintiffs to encumber certain assets that were then unencumbered.

15. At the time of the Forbearance Agreement the Defendants/Counterclaim Plaintiffs were insolvent and/or the transfer of interests resulting from the Forbearance Agreement rendered the Defendants/Counterclaim Plaintiffs insolvent.

16. The effect of the Forbearance Agreement was to leave an unreasonably amount of assets in relation to the transaction effectuated therein.

17. The Forbearance Agreement was prepared by Plaintiff/Counterclaim Defendant in part to cure deficiencies that then-existed in the Plaintiff/Counterclaim Defendant's collateral package.

18. The Forbearance Agreement was created by Plaintiff/Counterclaim Defendant in part to enhance the collateral package of the Plaintiff/Counterclaim Defendant to the detriment of other then-existing creditors and future creditors.

19. Upon information and belief, the Forbearance Agreement was prepared by the Plaintiff/Counterclaim Defendant with the intent to hinder the collection efforts of other creditors or otherwise impair their rights and interests.

20. The transfers effectuated and obligations incurred by the Defendants/Counterclaim Plaintiffs via the Forbearance Agreement were not in exchange for adequate consideration or a reasonably equivalent value nor was it contemplated to be a contemporaneous exchange of value.

21. The Forbearance Agreement and all rights obtained by the Plaintiff/Counterclaim Defendant therein violated the Uniform Fraudulent Transfers Act.

22. The Plaintiff/Counterclaim Defendant should be enjoined from exercising its rights under the Forbearance Agreement.

23. The Plaintiff/Counterclaim Defendant should be enjoined from exercising other rights it has or may have as it has "unclean hands" attributable to its efforts to defraud other creditors and/or otherwise impair their rights in connection with the subterfuge that is the Forbearance Agreement.

24. The Forbearance Agreement included other parties (the "Non-Debtor Parties") who were neither obligated to Plaintiff/Counterclaim Defendant under any then-existing loan indebtedness (the "Indebtedness") or otherwise.

25. The Forbearance Agreement required Non-Debtor Parties to guaranty the Indebtedness or pledge assets to secure such guaranty in exchange for no consideration or less than a reasonably equivalent value for the same.

26. The exchange of value by and between the Non-Debtor Parties on the one hand and the Plaintiff/Counter Defendant on the other hand was not intended to be a contemporaneous exchange of value.

27. With respect to the Non-Debtor Parties, the Forbearance Agreements and the rights transferred therein left them insolvent and/or with an unreasonably amount of assets in relation to the transaction effectuated therein.

28. With respect to the Non-Debtor Parties, upon information and belief, the Forbearance Agreement was prepared by the Plaintiff/Counterclaim Defendant with the intent to hinder the collection efforts of other creditors or otherwise impair their rights and interests.

29. The Forbearance Agreement and all rights obtained by the Plaintiff/Counterclaim Defendant therein violated the Uniform Fraudulent Transfers Act.

30. The Plaintiff/Counterclaim Defendant should be enjoined from exercising its rights under the Forbearance Agreement.

31. The Plaintiff/Counterclaim Defendant should be enjoined from exercising other rights it has or may have as it has "unclean hands" attributable to its efforts to defraud other creditors and/or otherwise impair their rights in connection with the subterfuge that is the Forbearance Agreement.

COUNT IV

Unlawful Setoff/Conversion

32. Defendants/Counterclaim Plaintiffs re-allege each and every allegation contained in paragraphs 1 through 31 of the Counterclaim as though said allegations were fully set forth herein.

33. On or about May 18, 2015, Defendants/Counterclaim Plaintiffs SMT and Johnson suffered a loss as a result of an occurrence that was covered by hazard insurance at its coal processing facilities located in Ivel, Kentucky.

34. On or about September 28, 2015, Defendants/Counterclaim Plaintiffs SMT and Johnson deposited the proceeds of said insurance policy in an account with Plaintiff/Counterclaim Defendant. Said account was jointly owned by Defendants/Counterclaim Plaintiffs SMT and Johnson and John Harris, the mortgage holder on the asset which suffered said loss.

35. John Harris is not a party to any loan which is due to Plaintiff/Counterclaim Defendant.

36. On or about November 25, 2015, Plaintiff/Counterclaim Defendant converted to its own use funds belonging to Defendants/Counterclaim Plaintiffs SMT and Johnson and John Harris.

37. On or about November 28, 2015, Plaintiff/Counterclaim Defendant withdrew the funds held in the joint account.

38. Plaintiff/Counterclaim Defendant's actions constitute wrongful setoff.

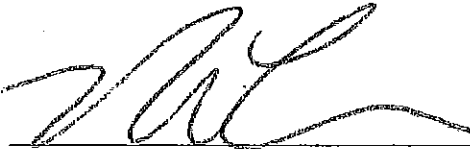
39. As a result of Plaintiff/Counterclaim Defendant's conduct, Defendants/Counterclaim Plaintiffs SMT and Johnson have suffered damages.

WHEREFORE, Defendants/Counterclaim Plaintiffs respectfully request the following relief:

- a. a declaration that the Collateral Assignment of Membership Units is void and unenforceable;
- b. a declaration that Plaintiff/Counterclaim Defendant has breached its duty of good faith and fair dealing with respect to Defendants/Counterclaim Plaintiffs;
- c. a declaration that the Forbearance Agreement constitutes a fraudulent transfer and is void and unenforceable;
- d. actual damages;
- e. punitive damages;
- f. all other relief allowed by law; and,
- g. such other relief that this Honorable Court may deem equitable and just.

A TRIAL BY JURY IS DEMANDED.

APPALACHIAN MINING AND RECLAMATION, LLC;
DJWV2, LLC; GREEN COAL, LLC; JOINT VENTURE
DEVELOPMENT, LLC; PRODUCER'S COAL, INC;
PRODUCER'S LAND, LLC; REDBUD DOCK, LLC;
SOUTHERN MARINE SERVICES LIMITED LIABILITY
COMPANY; SOUTHERN MARINE TERMINAL, LLC;
DENISE DAWN JOHNSON; DENNIS JOHNSON; and,
MARK PINSON



Of Counsel

James R. Bailes, Esquire (WV 198)
Melissa Eakle Leasure, Esquire (10327)
BAILES, CRAIG & YON, PLLC
Post Office Box 1926
Huntington, West Virginia 25720-1926
(304) 607-4700
Counsel for Defendants

IN THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

PEOPLES BANK, NATIONAL ASSOCIATION,
a national banking association,

Plaintiff,

v.

CIVIL ACTION NO.: 15-C-807
(Judge Christopher D. Chiles)

APPALACHIAN MINING AND RECLAMATION,
LLC, a Kentucky limited liability company;
DJWV2, LLC, a West Virginia limited liability
company; GREEN COAL, LLC, a Kentucky
limited liability company; JOINT VENTURE
DEVELOPMENT, LLC, a Kentucky limited liability
company; PRODUCER'S COAL, INC., a Kentucky
corporation formerly known as Producer's Dock, Inc.;
PRODUCER'S LAND, LLC, a Kentucky limited liability
company; REDBUD DOCK, LLC, a Kentucky limited
liability company; SOUTHERN MARINE SERVICES
LIMITED LIABILITY COMPANY, a Kentucky limited
liability company; SOUTHERN MARINE TERMINAL, LLC,
a Kentucky limited liability company; DENISE DAWN
JOHNSON, Trustee of the Denise Johnson Real Estate
Trust; DENNIS JOHNSON, a West Virginia resident; and,
MARK PINSON, a West Virginia resident,

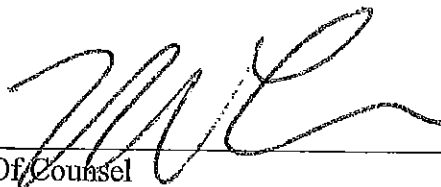
Defendants.

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that he/she served the foregoing
"Defendants' Answer to Complaint and Counterclaim" upon counsel named below by
depositing the same in the United States mail, postage prepaid at Huntington, West Virginia
on the 22 day of December, 2015, addressed as follows:

Julia A. Chincheck, Esq
Stuart McMillan, Esq.
Daniel J. Cohn, Esq.
BOWLES RICE LLP
P.O. Box 1386
Charleston, WV 25325-1386

APPALACHIAN MINING AND RECLAMATION, LLC;
DJWV2, LLC; GREEN COAL, LLC; JOINT VENTURE
DEVELOPMENT, LLC; PRODUCER'S COAL, INC;
PRODUCER'S LAND, LLC; REDBUD DOCK, LLC;
SOUTHERN MARINE SERVICES LIMITED LIABILITY
COMPANY; SOUTHERN MARINE TERMINAL, LLC;
DENISE DAWN JOHNSON; DENNIS JOHNSON; and,
MARK PINSON



Of Counsel

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