

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2025-CP-10-

Ryan Earhart, Cara Earhart, Kathryn Duke McGowan, Christian Burch Addison, Eleanor Margaret Haeg, Sally Peth, Graham Smith, Carper Family Revocable Trust, Christy Carper, Michael Carper, B and TF, LLC, Tony Fulton, Brigita Fulton, Julie Bell Lindsay, Ann Addlestone Apple, Joseph A. Novak, Shannon M. Novak, Stephen Murray, Carmelo Buccafurri, and Hall R. Easton,

Plaintiffs,

v.

City of Charleston

Defendant.

SUMMONS

(JURY TRIAL DEMANDED)

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer upon the subscribers, at Earhart Overstreet, LLC, Post Office Box 22528, Charleston, South Carolina 29413, within thirty (30) days after service thereof, exclusive of the day of such service. If you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

This 3rd day of June, 2025

Respectfully submitted,

EARHART OVERSTREET, LLC

By: /s/ Andrew S. Platte

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City of Charleston

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COMPLAINT

(JURY TRIAL DEMANDED)

INTRODUCTION

1. Plaintiffs were ordered to vacate their homes in the Townhouses at Dockside by the City of Charleston without a hearing, supported by little direct evidence their Townhouses were dangerous, and the City of Charleston is selectively requiring property owners to vacate while allowing others to remain in the area.

2. After being given 24 hours to vacate their homes, the residents of the Townhouses were forced to leave a majority of their Earthly possessions in the Townhouses, were forced to scramble to find places to live, suffer financial hardships, and experience extreme stress to their mental and physical health.

3. After exhausting their administrative remedies, the Townhouse owners are now seeking this Court to address the violation of their due process rights and unlawful taking by the City of Charleston.

4. Plaintiffs Ryan and Cara Earhart are owners of Townhouse #14 at Dockside, 330 Concord Street, Charleston, South Carolina, and that was their primary residence.

5. Kathryn McGowan is the owner of Townhouse #7 at Dockside, 330 Concord Street, Charleston, South Carolina, and that was her primary residence.

6. Christian Addison and Eleanor Haeg are the owners of Townhouse #12 at Dockside, 330 Concord Street, Charleston, South Carolina, and that was their primary residence.

7. Sally Peth and Graham Smith are the owners of Townhouse #4 at Dockside, 330 Concord Street, Charleston, South Carolina, and that was their primary residence.

8. The Carper Family Revocable Trust is the owner of Townhouse #15 at Dockside, 330 Concord Street, Charleston, South Carolina. Christy and Michael Carper are the beneficiaries of The Carper Family Revocable Trust.

9. B and TF, LLC is a South Carolina Limited Liability Company that owns Townhouse #19 at Dockside, 330 Concord Street, Charleston, South Carolina. Tony and Brigita Fulton own B and TF, LLC, and Townhouse #19 is their primary residence.

10. Julie Bell Lindsay is the owner of Townhouse #20 at Dockside, 330 Concord Street, Charleston, South Carolina, and that was her primary residence.

11. Ann Addlestone Apple is the owner of Townhouse #8 at Dockside, 330 Concord Street, Charleston, South Carolina, and that was her primary residence.

12. Joseph and Shannon Novak are the owners of Townhouse #16 at Dockside, 330 Concord Street, Charleston, South Carolina, and it was intended to be their primary residence once remodeling was completed, and Ms. And Mr. Novak had retired.

13. Stephen Murray and Carmelo Buccafurri are the owners of Townhouse #17 at Dockside, 330 Concord Street, Charleston, South Carolina, and that was their primary residence.

14. Hall R. Easton is the owner of Townhouse #22 at Dockside, 330 Concord Street, Charleston, South Carolina, and that was her primary residence.

15. Collectively, all the Plaintiffs are the owners of all the Townhouses at Dockside (“Townhouse Owners”).

16. Defendant City of Charleston (hereinafter “Defendant City” or “City”) is a body politic and corporate, municipal corporation organized and existing under the laws of the State of South Carolina, and is located in the County of Charleston, State of South Carolina. Defendant City is a political subdivision of the State of South Carolina.

17. The Townhouse Owners have standing to bring this action because their property rights have been negatively impacted by the action of the City.

18. The Townhouse Owners properties are located within the City of Charleston in the County of Charleston, South Carolina.

19. This Court has jurisdiction over the subject matter of this action, and Charleston County is the proper venue for this action.

The City Orders Townhouse Owners From Their Homes

20. Little did the Townhouse Owners realize their entire world would be turned upside down on February 27, 2025. That day, the City of Charleston ordered the owners of the Dockside Towers and Townhouses to vacate their homes by 5:00 pm the next day, Friday, February 28, 2025 (the owners in the Dockside Towers were provided 48 hours’ notice, being informed on Wednesday, February 26, 2025).

21. Without citing any authority to establish the Defendant City’s power to order the Townhouses to vacate, the City issued the February 27th Order forcing the Townhouse owners from their homes and property.

22. The aftermath of the City’s unconstitutional action was to displace twenty-one families from the use and enjoyment of their own homes, most of which are primary residences. The impact on these families was immediate, cruel, severe, and is continuing.

23. Christian Addison and his wife Eleanor own Townhouse #12. When the City ordered them out of their home, Chrisitan was serving in the United States Air Force Reserve across the country. His wife had 24 hours to pack up everything she, her one-year-old child, husband, and their dogs would need for an unknown time period and simultaneously find a place where their family would sleep Friday night. Christian was denied emergency leave to return home to help them for several weeks given he serves in what is deemed a critical position within the Air Force Reserve. Not having family in the area, the Addisons had to move down to Florida to stay with family while they remain in limbo. The uncertainty coming out of the city's order also forced the Addisons to decline placement they were offered for preschool in Charleston because they were forced to move hundreds of miles away to find an affordable place to live. The Order to Vacate also disrupted their livelihood and caused havoc in Ms. Haeg's current employment and his startup company.

24. Kathryn McGowan moved to Dockside Townhouse #7 four years ago as part of her retirement plan. She extensively renovated her home for almost a year before she truly settled into her new home. Now 77, she was planning on retiring from her interior design business that she owns and runs. Those plans changed after the City kicked her out of her home. In the 26 hours after she learned she would have to leave she was only able to take the bare necessities, a few outfits, a couple pots and pans. Not only did she have no time to pack her personal belongings, but she ran her business out of her house and had to pack what she was able to gather so she could continue with her livelihood. She was lucky to find a temporary place to stay but has had to continue to work with all of the uncertainty about the long-term viability of returning to live in her Townhouse. She barely remembers the week after the eviction and the Order to Vacate has negatively impacted her livelihood, retirement planning, and her mental health.

25. Sally Peth and Graham Smith moved to Dockside to retire and spend many happy years in their Townhouse. When the order to vacate the townhouses was communicated on February 27, 2025, that dream was shattered. Assuming they could return within a few days, they packed two suitcases and left as ordered. It was not until a few days later that they realized the reality of the situation: that they had been thrown out on the street. After arranging temporary accommodations until mid-April with the hope of returning, that hope evaporated. Frustrated by the lack of information and having to live in temporary housing, they moved to their current home for a long-term temporary solution but had to leave their belongings in the Townhouse until permitted to come back and retrieve what they can. The whole situation has been a financial disaster and inflicted significant mental anguish.

26. Tony and Brigita Fulton purchased their Dockside Townhouse two years ago as their retirement residence with a significant financial investment. After finally furnishing their unit, the City issued the Order to Vacate. Forced to go back to their home in Connecticut instead of moving to Charleston full time, the move has created severe financial hardship, including the continuing mortgage payments, taxes, and HOA fees on an uninhabitable property while maintaining the residence where they currently live.

27. Christy and Michael Carper purchased their Dockside Townhouse as a vacation home. They were one of the few families lucky to not be staying at Dockside when the Order was issued. While the impact to the Carper's is not as severe as some of the other unit owners, they have lost the use of their vacation home, cancelled family and friends' trips to Charleston, and cannot allow their child to stay at the townhouse while in town on business. Additionally, investments in new appliances and the rebuilding of the deck and new patio furniture has all been a waste of money since they are all unusable. Unable to know what is going to happen has caused great anxiety.

28. Julie Bell Lindsay purchased her townhouse in Dockside four years ago and moved in just two years ago after an extensive renovation. She was in New York City for work on February 25, 2025, when she first heard that the engineer the Association hired was going to issue a letter noting some severe structural concerns with the Dockside Tower. After reaching out to the Association's General Manager to see if it would impact the Townhouses, she was told the City had not clarified if the townhouses would be impacted by the letter. She learned about the impending Order to Vacate on Wednesday, February 26, 2025, on a flight to D.C. for work and again asked the Association's General Manager to clarify if the Order to Vacate would apply to the Townhouses without receiving an affirmative answer. It was not until she was waiting for her flight to Charleston on Thursday afternoon, February 27, 2025, that afternoon, which was repeatedly delayed, that she learned that the City included the Townhouses in the Order to Vacate. She arrived in Charleston after 10 pm on Thursday, February 27, 2025, to find that she had less than 24 hours to vacate her townhouse. The entire situation has wreaked havoc on her emotional well-being. She gathered 4 suitcases of things from her townhouse including important papers and her cat. That was all she was able to remove from her home before the City's deadline to leave. She has been able to find places to live in the subsequent months, but each place has been less than ideal until she was able to find a one-year rental. She worked hard to make her townhouse her forever house, investing in a renovation after purchasing it. Now, she has been ordered to vacate and must make payments for two properties, causing significant financial strain.

29. Carmelo Buccafurri and Stephen Murray purchased Townhome #17 to be their forever home as they retired, with the belief that it would provide security and stability in their retirement, investing a large sum of their retirement savings to purchase the residence. In January of 2025, they left for a trip abroad. On February 27, 2025, their vacation abroad was shattered by the news that they had to gather their personal possessions and vacate their home. They were

thousands of miles away at the time of the order to vacate and were left powerless to get the majority of their possessions. Friends of theirs were only able to gather a few important items, such as tax documents and personal papers. They returned to Charleston to no home of their own, but have managed to stay with friends while they assess the limited available options—they are financially unable to purchase another home.

30. Joseph and Shannon Novak purchased Townhouse #16 in June of 2024. Their plan was to remodel the townhouse while still working and move in once they retired. They were 85% done with the renovations when the Order to Vacate was issued at the end of February. At the time, their son was living in the Townhouse full time, and he was forced to find a new place to stay.

31. The City claims the basis of their February 27, 2025, Order to Vacate (“Order”) was a February 25, 2025, letter from Wiss, Janney, Elstner Associates, Inc. (“WJE”) an engineering firm hired by the Dockside Association, Inc. (“Association”) Board to evaluate the Dockside Tower.

32. The February 25, 2025, letter (“WJE Letter”) from WJE only addressed structural concerns with the Dockside Tower.

33. Dockside Townhouses are a separate structure from the Dockside Tower and is only attached to the Tower structure by ADA compliant ramps.

34. The WJE Letter did not mention the Dockside Townhouses.

35. Based on the WJE Letter, the City chose to unilaterally order the owners of Dockside Townhouses to vacate their homes within 24 hours.

36. The City chose not to follow its own Ordinances that establish procedures before the City can condemn a building and order citizens to vacate. Chapter 7 Building and Building Regulations Ordinances outline the due process the City is required to follow to determine if a

house is unfit for human habitation and the City ignored its own process and acted as judge, jury, and executioner issuing the order to vacate the Townhouses.

37. The Order lacks language to give Plaintiffs notice of what power or authority the City was asserting when it issued the Order forcing the Townhouse owners from their homes.

38. The Order and the WJE Letter failed to make any findings that described the Townhouse buildings as “dangerous” pursuant to the 2021 version of the International Building Code or as an “unsafe dwelling” or “unsafe for human habitation” pursuant to City Ordinances.

39. The WJE Letter did not assert that the Townhouses are structurally defective.

40. The WJE Letter did not establish or attempt to provide a delineated collapse impact zone.

41. The WJE Letter did not state a risk assessment or engineering conclusion for the Dockside Tower once unoccupied or with furniture and contents removed.

42. The WJE Letter found the Dockside Tower’s safety margins were insufficient under assumed interior occupancy and furnishing loads, but not under conditions where these loads have been eliminated.

43. After the evacuation of the Dockside Tower, there are no permanent residents remaining in the building.

44. There are other structures within the same radius of the Dockside Tower as the Dockside Townhouses. Those structures include the International African American Museum and the adjacent park, the City of Charleston Pump Station on Concord Street, and further away but potentially still within the radius, Liberty Square, public parking on Concord Street, and others.

45. The City of Charleston chose to order the Townhouse Owners to vacate their homes, but left those other buildings open to continue business, allow the public to visit, and host events.

46. The City has applied different standards to force citizens from their property within the same radius of impact of the Dockside Tower. Those properties that are economically beneficial to the City or necessary to City operations were allowed to remain open and occupied, but those properties that were residential were ordered to vacate.

Dockside Association Not Controlled by Townhouse Owners

47. Dockside Association, Inc. (“Association”) is the non-profit corporation established for the purpose of administering the Dockside horizontal property regime.

48. The Association paid for the work WJE conducted that resulted in the WJE Letter finding problems with the Dockside Tower.

49. WJE did not conduct any investigation regarding the Townhouses and did not issue a letter with any conclusions regarding the Townhouses.

50. To the day of the filing of this complaint, there are no facts or findings directed at the Townhouses in the WJE Letter or the City’s Order.

51. The Order instructed the Association to provide the City a response to a list of items:

- a. Evaluate the severity and nature of the threat to the townhouses and other neighboring properties and provide a report to the City providing clarity no later than 5:00 PM on March 7, 2025;
- b. Evaluate the likelihood for a progressive tower floor collapse and provide a report to the City no later than 5:00 PM on March 14, 2025;
- c. Once the tower is vacated, provide an updated Summary of Completed Corrective Action report by WJE to verify the “reduced live load considerations are still in place and conduct a visual interior condition survey of each unit to identify any visual signs of distress to be provided to the City no later than March 7, 2025.

52. Upon information and belief, the Association is not in a position to effectively respond to the City's request and provide the specified information from the engineer regarding the Townhomes or otherwise.

53. The Townhouse Owners are at the mercy of the Dockside Association, the homeowner's association that is dominated by owners of the apartments in the Dockside Tower. Without the Association complying with the City's request, the Townhouse Owners are deprived of the use of their property.

54. Upon information and belief, the Association will not be able to provide the necessary information from their engineers in a timely manner to permit the Townhouse Owners to return to their homes.

Dockside and City Sets Up Move Out Schedule

55. On March 12, 2025, the Association Board sent a letter to Tower and Townhouse owners. The letter announced a move out plan was being formulated. It also announced that security was to remain in place for the tower and townhouses and that the City has given permission for staff and association vendors to go on the property for basic maintenance.

56. On March 26, 2025, the Association Board announced a move out plan for the Tower that permits a maximum of four units in the Tower at a time with two packing units and two moving items out of the building and an estimate time of three months to fully move out the building. The Association required anyone on the premises to sign a waiver to enter the building.

57. The Townhouses were not part of this initial consideration.

58. Eventually, the Association scheduled the Townhouses to participate in moving out along with the 4 Tower units each day.

59. For the last two months the Dockside Tower has had up to 40 people inside the building packing and moving furniture and personal items out daily.

Townhouse Owners Appeal

60. The City allowed the Townhouse owners a chance to appeal the Order to Vacate to the Building Codes Board of Appeal (“BCBA”). The Association filed an appeal collectively for the Townhouses along with some individual Townhouse owners (Earhart, McGowan, and Fulton) who filed their own appeals.

61. The City held an Appeal hearing on May 5, 2025, for the Order.

62. At the May 5, 2025, BCBA hearing, an attorney representing the Association requested to be able to respond with additional information later. The Association’s attorney provided no support or information to the Dockside Townhouse owners who were forced to argue the appeal on their own before the Building Codes Board of Appeal.

63. The May 5, 2025, Appeal hearing was the first hearing the Townhouse Owners had to contest the Order.

64. The BCBA heard testimony from the Townhouse Owners that they were not given any due process before being ordered to vacate their homes, that the City was not applying the same standard for vacating to other similarly situated properties within the same radius of the Tower. Craig Rogers, P.E., on behalf of the Townhouse Owners (and at the cost of the Townhouse Owners), also provided testimony at the hearing. Mr. Rogers opined that the WJE findings did not extend to the Townhouses in any meaningful way – the live loads that were the basis of the City's Order were no longer relevant now that the Tower was unoccupied and personal belongings and furniture have been removed from the Tower.

65. The BCBA claimed their role and responsibility under the International Building Code was to hear applicants appeals based on a claim that the intent of the Building Codes and rules adopted under the Building Code do not fully adopt an equal, good, or better form of construction proposed.

66. The BCBA stated their review of the Order was limited by the International Building Code of 2021, and they could not address procedural arguments concerning how the City issued the Order.

67. The BCBA did not consider that the City of Charleston adopted Ordinances to address situations involving dwelling units with complaints that they are unfit for human habitation or dangerous. The City of Charleston adopted Ordinances to address these situations but were ignored by the City when it issued the Order.

68. The BCBA said that the appeal board could not consider the violations of the City's ordinances in an appeal by the Townhouse Owners.

69. The BCBA denied the Townhouse Owner's appeal to overturn the Order on May 5, 2025, regarding the Dockside Townhouses.

70. The BCBA issued a written resolution denying the appeal that was served on Plaintiffs on May 19, 2025.

71. The BCBA found that under the emergency measures of the International Existing Building Code for imminent danger and the related sections in that code that the City could issue the Order to Vacate.

72. The BCBA did not indicate if there was any evidence that the Townhouses had dangerous conditions or were unfit for human habitation.

73. BCBA also failed to address the lack of a report that the Townhouses had dangerous conditions or were unfit for human habitation.

74. The BCBA resolution stated that the Order be upheld based on the WJE Letter and instructed the Engineer of Record, WJE, to evaluate the severity and nature of the threat, evaluate the likelihood for progressive tower floor collapse, and once the tower is vacated update their summary and findings and corrective actions to what happened to the building.

75. The BCBA's instructions were issued to "allow a path for the occupants of the townhouses to present how they can safely stay in their structures and homes while meeting with the City's requirement to protect the public from imminent danger that was reported in WJE's report."

76. The BCBA failed to apply the City's Order equally to all buildings within the radius of impact of the Dockside Tower. In doing so, the BCBA favored the City's properties over those of the Townhouse owners.

77. This complaint follows the decision of the BCBA to affirm the Order to Vacate.

FOR A FIRST CAUSE OF ACTION
Declaratory Judgment

78. Plaintiffs reference and incorporate herein all preceding paragraphs as if each were fully repeated verbatim herein.

79. Plaintiffs seek a declaration that the City's Order was issued without authority against the Dockside Townhouse Owners and is null and void.

80. Plaintiffs seek a declaration that the City's Order violated Plaintiffs' due process rights when it was issued.

81. Plaintiffs seek a declaration that the City must produce sufficient evidence to show the Townhouses are dangerous or unfit for human habitation before issuing any additional orders against Dockside Townhouses to vacate their property and those orders must issue after notice and a right to be heard pursuant to the City's Ordinances.

82. Plaintiffs seek a declaration that the City's Order treated property owners in the same vicinity of the Dockside Tower unequally by allowing other property owners to remain when it ordered the Dockside Townhouses to vacate.

83. Plaintiffs seek a declaration that the City's Order was a taking of property by the City without the formal exercising of its power of eminent domain.

84. Plaintiffs seek a declaration that the City ordering Plaintiffs to vacate their Townhouses was an inverse condemnation by the City without formal process.

85. Plaintiffs seek a declaration that the City is financially liable to the Plaintiffs for damages that arise out of the issuing of the Order and the financial, physical, and emotional impact of the Order on the Plaintiffs.

86. Plaintiffs are also entitled to preliminary and permanent injunctive relief regarding the application of the Order to the Townhouse Owners.

FOR A SECOND CAUSE OF ACTION
Title 42, Section 1983
(Due Process and Equal Protection Violations)

87. Plaintiffs reference and incorporate herein all preceding paragraphs as if each were fully repeated verbatim herein.

88. The Defendant City has refused to treat the Plaintiffs equally to similarly situated property owners within the same radius as the Dockside Tower is an unlawful political act by which the Defendant City seek to single out the Plaintiffs for disparate and unequal treatment and constitutes a deprivation of civil rights under color of law.

89. The Defendant City issued an order depriving the Plaintiffs of the rights to their property without notice of the dangerous condition or how the building was unfit for human habitation, without a right to answer the complaint, or a hearing before issuing the order.

90. The Defendant's refusal to grant Plaintiffs a fair hearing on a complaint that their building is dangerous or unfit for human habitation, a right to answer that complaint, and a hearing on those issues is an active denial of any meaningful right to petition the government, which is the result of the City's discrimination against the Plaintiffs, which is a deprivation of civil rights under color of law, and entitles applicant to injunctive relief, damages, and attorney's fees.

FOR A THIRD CAUSE OF ACTION
Inverse Condemnation

91. Plaintiffs reference and incorporate herein all preceding paragraphs as if each were fully repeated verbatim herein.

92. An inverse condemnation occurs when a government agency commits a taking of private property without exercising a formal power of eminent domain.

93. Defendant issuing the Order was an affirmative, aggressive, and positive act by the government that caused damages to the Plaintiffs' property.

94. Defendant issued the Order to force the removal of residents in the Dockside Townhouses to allow the City to keep the property it owns open and other property it has an interest to keep open to the public for tourism or financial motivations.

95. As a direct and sole consequence of the actions of the City, Plaintiffs have incurred expenses for finding new housing, costs for replacing personal items and furniture that were left in the townhouses, the loss of insurance on their Townhouses, being required to pay regime fees for property that they are not permitted to occupy, paying taxes on property they cannot use and enjoy, and other related expenses related to being ordered to vacate their homes. Plaintiffs have had to endure substantial financial pain and suffering and are still experiencing losses of enjoyment for the property the City has deprived them access.

96. As a direct and sole consequence of the Defendant's inverse condemnation, Plaintiffs must maintain the financial commitments to their Townhouse property while being forced to pay for a second residence, in some cases, being forced to move out of the County which has resulted in substantial related costs.

97. Two months after the Order was issued the City has not offered any evidence or facts to show the Townhouses are dangerous or unfit for human habitation and will not provide that evidence. The actions of the City are permanent for the Townhouse Owners.

98. The Plaintiffs are entitled to such actual, incidental, and consequential damages as a trier of fact should determine is appropriate.

FOR A FOURTH CAUSE OF ACTION
Attorney's Fees and Costs Pursuant to S.C. Code Ann. § 15-77-300

99. Plaintiffs reference and incorporate herein all preceding paragraphs as if each were fully repeated verbatim herein.

100. Defendant City is a political subdivision of the State of South Carolina.

101. By virtue of this action, Plaintiffs have become involved in a civil action contesting a state action within the meaning of S.C. Code Ann. § 15-77-300.

102. The City issued the Order against the Plaintiffs without substantial justification when it acted issuing the Order without allowing Plaintiffs due process and without basing the Order on facts or evidence against the Dockside Townhouses.

103. There are no special circumstances that would make an award of attorney's fees to Plaintiffs unjust.

104. Plaintiffs are entitled to an award of reasonable attorney's fees and costs against Defendant City pursuant to S.C. Code Ann. § 15-77-300.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully requests a trial by jury and prays that this Honorable Court:

1. Declare the City violated Plaintiffs' Constitutional Rights;
2. Declare the City did not have authority to issue the Order against the Townhouse Owners;
3. Declare that the City violated Plaintiffs' Due Process rights when ordering them to vacate their homes;
4. Declare that the City violated Plaintiffs' Equal Protection rights when issuing the Order that the Townhouses vacate, but treated similarly situated property owners differently by allowing them to remain in possession of their property;

5. Grant an equitable order for preliminary and permanent injunction relief for the Order that was issued against the Townhouse Owners, allowing the Townhouse Owners to return to their homes;
6. Issue an order for attorney's fees;
7. Issue an order for interest as applicable; and
8. Grant Plaintiffs such other and further relief as this Honorable Court deems fair, just, necessary, and proper.

This 3rd day of June, 2025.

Respectfully submitted,

EARHART OVERSTREET, LLC

By: /s/ Andrew S. Platte

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