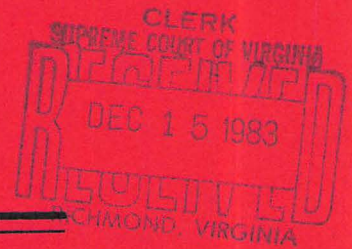


231VA320



IN THE
Supreme Court of Virginia
AT RICHMOND

RECORD NO. 822105

WENDELL W. WOOD and MARLENE C. WOOD,
Appellants,

v.

STUART F. CARWILE, DAVID KUDRAVETZ and
ROSS W. KRUMM,
t/a CARWILE, KUDRAVETZ & KRUMM,
Appellees.

SUPPLEMENTAL JOINT APPENDIX

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Richmond, Virginia 23223

Counsel for Appellants

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Counsel for Appellees

David C. Landin
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Richmond, Virginia 23230

Counsel for Appellees

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BILL OF PARTICULARS
At Law #2305

The Plaintiffs, by counsel, hereby submit their Bill of Particulars to their Motion for Judgment as follows:

1. Exhibit 1 attached hereto reflects a description of the services rendered by the Plaintiffs on behalf of the Defendants.

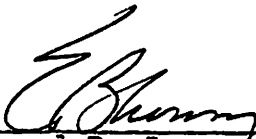
2. This description of services has been divided into separate numerical sections which designate the matters on which the services were rendered.

3. As to each matter for which services were rendered, Exhibit 1 reflects the beginning date of the representation and the date on which the last service was rendered by any one or more of the Plaintiffs. It should be noted, however, that the services described in Exhibit 1, and for which the Plaintiffs are seeking to recover fees in this action, were all performed prior to October 1, 1978.

Respectfully submitted,

Stuart F. Carwile, et al.,
t/a Carwile, Kudravetz & Krumm,

By Counsel



Edward B. Lowry
For MICHIE, HAMLETT, DONATO & LOWRY
500 Court Square, Suite 300
Charlottesville, Virginia 22901

Counsel for the Plaintiffs

FILED April 8, 1981
PAUL C. GARRETT, CLERK

1. Re: Bank of Virginia Loan and Westinghouse Credit Corp. Loan3/16/76-5/

in conferences with you with respect to loan at Bank of Virginia, in telephone conferences with Mr. Joynt regarding same;

in conferences with Messrs. Joynt and Campbell in Richmond with respect to your loan with Bank of Virginia;

in preparation of proposed deed of trust on James Craig and Lincoln Carr properties and examination of title of same, and preparation of application for title insurance on same;

in documentation of collateral on sale to Z & S Development Corporation; preparation of application for title insurance on deferred purchase money bonds on Z & S Development Corporation; preparation of draft of pledge agreement for Cavalier Country Bank stock;

in conferences with Messrs. Joynt, Pulley and Campbell in Richmond with respect to accepting as collateral the Rio Associates bonds and a subordinate interest in the property of the North Rivanna-Fifth Land Trust;

in conferences in Richmond with Mr. Pulley to review documentation with respect to Rio Associates bonds;

in preparation of application for title insurance on property of North Rivanna-Fifth Land Trust, in up-date of title;

in preparation of summary report to Bank of Virginia with respect to the Rio Associates property;

in conferences with Mr. Durham of First & Merchants National Bank with respect to subordinating their interest in the North Rivanna-Fifth Land Trust to Bank of Virginia;

in preparation of deed of subordination and review of same with Mr. Pulley, in review of amendment to note, pledge agreement on Cavalier Country Bank stock, deed of trust and assignment of Rio Associates bonds;

in preparation of revision to assignment of Rio Associates bonds with respect to retention of interest income prior to default;

in preparation of bond powers for Rio Associates bonds and stock power form for Cavalier Country Bank stock;

in update of title information on third party bonds previously pledged to Bank of Virginia;

in closing of transaction, securing issuance of title insurance policy and all other matters relating to documentation of transaction;

in telephone conferences with Mr. Pulley in April of 1977 regarding plans for payment of Bank of Virginia;

in subsequent conferences with Mr. Pulley regarding proposed sale of collateral by Bank of Virginia to Mr. Y. A. Plotkin;

in numerous telephone conferences with you and Mr. Pulley regarding Bank of Virginia loan;

in telephone conferences, correspondence and meeting with Mr. Matt Alexander of Fidelity American Mortgage Company;

in conferences with various mortgage banking representatives regarding possible financing sources including Tech-Mod Corporation, Ivor Clark & Company, Walker-Dunlop, Inc. and Bildner Capital Corporation;

in conferences with you and Mr. Bildner with respect to the Rio Associates Limited Partnership bonds, subsequent conferences with Mr. Pulley with respect to securing additional time to arrange for financing;

in conferences with you and Mr. Powe of Westinghouse Credit Corporation and review of Rio Associates Limited Partnership documentation with him;

in review of loan commitment letter from Westinghouse Credit Corporation, conferences with Mr. Bildner and Mr. Flowers regarding same;

in correspondence and telephone conferences with Holiday Inns with respect to securing the reissuance of the license in the name of United Inns of America, Inc.;

in preparation of Consent Minutes for United Inns of America, Inc., with respect to reissuance of the Holiday Inns license;

in examination of title to Rio Associates Limited Partnership property and certification of title to Lawyers Title Insurance Corporation in order to obtain mortgagee title insurance policy;

in update of title examination of Holiday Inn property and securing issuance of title insurance binder on same;

in preparation of various loan documents with respect to Westinghouse Credit Corporation, including stock power, bond power, financing statement, certificate of corporate secretary, consent of directors to accept loan commitment, securing certified copy of articles of incorporation from State Corporation Commission and preparation of legal opinion;

in preparation of deed of release on Fake deed of trust, deed of release on First & Merchants National Bank deed of trust and other related title documents;

in telephone conferences with Mr. Pulley with respect to specific performance filed by Rio Associates Limited Partnership against you, Bank of Virginia and Westinghouse Credit Corporation, and in review of pleadings;

in telephone conferences with counsel for Westinghouse Credit Corporation regarding same;

in review of promissory note, deed of trust, security and pledge agreement, assignment of rents agreement, security agreement and guarantee agreement;

in telephone conferences with Holiday Inns arranging for issuance of comfort letter, arranging for casualty insurance and other related matters;

in preparation of certificate of release for execution by Bank of Virginia;

in closing of loan, arranging for recordation of deed of trust, payment of real estate taxes and other matters incident to closing.

2. Re: \$400,000.00 Loan From United Virginia Bank of Charlottesville 2/78-3/24/78

in conferences with you regarding possible sources of financing and applying to United Virginia Bank of Charlottesville for a loan;

in conferences with you regarding UVB loan commitment, telephone conferences with Mr. West at First & Merchants National Bank regarding release of its lien;

in preparation of deeds of partial release for First & Merchants National Bank deed of trust, for Amato deed of trust and for commission bond deed of trust;

in update of examination of title to Amato and Kelsey tracts;

in preparation of application to Lawyers Title Insurance Corporation for title insurance;

in preparation of deed of trust and note for UVB loan and disbursement of funds.

3. Re: Contract for Expansion of Camelot Sewer Plant 11/21/77-6/8/78

in conferences with you with respect to the expansion of the Camelot Sewer Plant, conferences with Mr. E. E. Thompson, Jr., of the Albemarle County Service Authority with respect to same, secure copies of previous contractual agreements between Simco, Inc. and Camelot of Albemarle, Inc. with respect to the installation of the Camelot Sewer Treatment Plant, analysis of the position of Richard Nunley;

in telephone conferences with Fred S. Landess, Esq. counsel for the General Electric Corporation, with respect to the expansion of the plant, conferences with you with respect to GE's position, analysis of Nunley's position with you, draft letter for the signature of John B. Sims;

in conferences with James Bowling, Esq., counsel for the Albemarle County Service Authority, with respect to the expansion of the plant and format for the contract;

in preparation of the initial draft of the contract for the expansion of the Camelot Sewer Treatment Plant, in attendance at meeting of the Albemarle County Service Authority Board of Directors on November 9, 1977;

in further conferences with Messrs. Thompson, Landess, Bowling, and you regarding contract, and preparation of revised draft of contract;

in conferences with Mr. Thompson with respect to change of land use in the Airport area to an industrial park and possible effects on pending contract with Albemarle County Service Authority, in attendance at Albemarle County Service Authority Board of Directors meeting on June 8, 1978, and conferences with Messrs. Landess and Thompson following the meeting, in preparation of legal description for the various airport properties as an exhibit to the contract;

in correspondence from Mr. Bowling regarding contract, revision of contract, telephone conferences with Mr. Landess and you regarding same, telephone conferences with Mr. Thompson, furnish him with plats of the property;

in attendance at Board of Supervisors meeting on August 9, 1978, in conferences with Messrs. Thompson and Keeler following the meeting.

4. Re: Gerard Greims 12/76-10/24/77

in conference with you regarding motion for judgment filed by Gerard Greims;

in analysis of facts and legal issues, preparation of answer and counterclaims;

in preparation of motion for partial summary judgment as to Count II of motion for judgment;

in research regarding applicability of the doctrine of anticipatory repudiation to unilateral contracts and preparation of memorandum of law regarding same;

in appearance in Circuit Court of Albemarle County to argue motion for partial summary judgment, and preparation of order granting motion for partial summary judgment;

in review of interrogatories filed by Plaintiff and conferences with you and Mr. Swett regarding settlement;

in preparation of final order and appearance in Circuit Court of Albemarle County to secure dismissal of case.

5. Re: Luray Properties, Inc. and Repossession of Holiday Inn 3/10/76-3/31

in conferences with you concerning the default by Messrs. Muse and O'Brien in payment of the promissory note for purchase of the Holiday Inn of Luray, in attendance at several meetings of the Board of Directors of Luray Properties, Inc., in notification of credit card companies of the establishment of the escrow account at Albemarle Bank & Trust Company, preparation of minutes of August 13, 1975 meeting of the Board of Directors, preparation of letter to Holiday Inn regarding assignment of license, several conferences with you and Mr. Muse concerning issuance of stock and other matters related to Luray Properties, conferences with Mr. Wood regarding removal of Messrs. Muse and O'Brien as directors, preparation of minutes of telephonic meeting of the Board of Directors held April 7, 1976, preparation of agreement with the Valley National Bank, conferences with you regarding foreclosure proceedings, preparation of handbills and representation in all matters relating to repossession of the Holiday Inn, including operational take over pending foreclosure sale, conferences with you regarding liquidating the escrow account at Albemarle Bank & Trust Company and the attachment proceeding filed by Valley National Bank, preparation of deed to United Inns of America, Inc. and various conferences with Arthur Parrish regarding conveyance of the motel to United Inns.

6. Re: Windmill Point Matters 3/6/75-present

in legal services in connection with purchase of Windmill Point, work on letter to the appraisers to be designated for purposes of arriving at release values pursuant to the contractual agreement with Dr. Atwood, et al., conferences with you and research regarding effect of zoning ordinances on pre-existing non-conforming uses;

in legal services in connection with the obligation owed to Dr. Atwood, et al., including conferences with you concerning the payment due Dr. Atwood in February 1977, the acreage

deficiency and the need for abatement of the purchase price as a result thereof,

in conferences with you regarding obtaining partial releases of the Windmill Point property as a result of paydown on the obligation;

in extensive correspondence and conferences with Mr. Douglass, Dr. Atwood's counsel, concerning the mechanics for arriving at the required partial releases, negotiations with Dr. Atwood and his counsel concerning partial releases and abatement in the purchase price; review and analysis of the correspondence from Dr. Atwood accelerating the terms of the obligations on the grounds of waste, research of the applicable law concerning the waste issue, conferences with you as to the alternative approaches, conferences with Mr. McDonald concerning the waste issue, review of a bill of complaint filed by Mr. Douglass as trustee under the deed of trust upon which Dr. Atwood attempts to foreclose, associate Mr. McDonald for representation of you in the proceeding, assist Mr. McDonald in becoming familiar with the facts of the case, participation in settlement discussions involving Mr. McDonald, counsel to Dr. Atwood, and you, and related matters;

in conferences with you concerning the payment due Dr. Atwood, et al. in February 1978;

in conferences with you regarding loan commitment from United Virginia Bank of Charlottesville and methods of securing interim loan based on the commitment, draft a motion for injunction and payment into court of the required note payment pending resolution of the waste issue, the partial release issue, and the abatement in purchase price issue, conferences with Mr. McDonald, initial research of the applicable law for the motion for injunction, arrange for the payment of the required sum into court, and all related matters through September 30, 1978;

in conferences with you regarding proposed sale to Mr. Harold Richards, telephone conferences with Everett G. Allen, Esq.;

in preparation of contract of sale, wraparound deed of trust, land trust agreement, purchase money notes, and other closing documents, review of same with Mr. Allen.

in conferences with you regarding proposed sale to Jack Hanky, conferences with his counsel, Everett G. Allen, Esq.; forwarding of plats and telephone conference regarding right of first refusal;

in legal services in connection with the purchase of Windmill Point by Mr. J. Edward Seay, including conferences with you and Mr. Seay to negotiate an option for him to purchase Windmill Point, preparation of a draft of an option for purchase of Windmill Point by Mr. Seay, preparation of a draft of a letter agreement between you and Mr. Seay for the purchase of Windmill Point, in conference with you and Mr. Seay in Richmond in connection with the letter agreement and option, in preparation of contract of sale to Mr. Seay;

in conferences with Mr. Seay and Mr. James C. Breeden, his counsel, concerning changes requested by Mr. Seay in the contract for sale of Windmill Point to Mr. Seay, research concerning wraparound deeds of trust for use in the sale;

in conferences with you and Mr. Seay concerning syndication of limited partnership interests by Mr. Seay to raise capital, discussions with you and Mr. Seay concerning Mr. Seay's problem with the State Corporation Commission in connection with his offering of limited partnership interests, conference with Messrs. Breeden, Seay, and representatives of the State Corporation Commission Securities Division concerning the problem;

in conference call with you and Messrs. Breeden and Seay, concerning revision of the contract of sale for Windmill Point; final drafting of the contract of sale pursuant to the telephone conference call;

in telephone conference with Mr. Seay concerning his taking possession prior to closing of the sale and the \$100,000.00 note, telephone conference with Mr. Breeden and follow-up letter to him concerning the casualty insurance on Windmill Point;

in preparation of a depreciation schedule for Windmill Point in connection with the sale, further conferences with Messrs. Breeden and Seay concerning insurance information, information about the partnership Mr. Seay is to form and execution of a security agreement giving Mr. Wood a security interest in Mr. Seay's Soltero partnership interest, preparation of the required security agreement;

in telephone conference with Mr. Breeden concerning his withdrawal from representation of Mr. Seay; in telephone conferences with Mr. Smithers, counsel to Mr. Seay, concerning documentation required for closing of the transaction, preparation of powers of attorney and the required notes, deeds of trust, land trust, and all other documentation required for closing of the transaction, travel to Richmond, Virginia on July 29, 1977, to close the transaction with Mr. Seay, extended conference with Mr. Smithers and Mr. Seay concerning their refusal to close the transaction, numerous telephone conferences and office conferences with Mr. Wood, Mr. Smithers, and Mr. Seay concerning the effort to resolve the points raised by Mr. Seay and to close the transaction, extensive conferences and correspondence in an effort to get Mr. Seay to honor his obligation to Central Virginia Bank, negotiations with Mr. Seay for adjustments to the original contract of sale in order that closing could take place, and related matters;

in conferences with Mr. McDonald concerning the Seay matter, prepare a motion for judgment against Mr. and Mrs. Seay in view of the breakdown in efforts to close the sale, file the motion for judgment, conferences with Mr. Culler and the Circuit Court of Henrico County concerning a trial date and Mr. Culler's representation of Mr. Seay, preparation of a subpoena for the accounting records of Mr. Seay pertaining to Windmill Point;

in preparation of request for production of documents, interrogatories, and requests for admissions in the Seay litigation, review of Mr. Seay's pro se answer, travel to and from Richmond, Virginia on several occasions for depositions of Mr. Seay, extensive conferences with Mr. McDonald concerning the case, analysis of documents produced by Mr. Seay, including accounting records, research Virginia law concerning Mr. Seay's obligation on the \$100,000.00 note;

in preparation and filing of a motion for summary judgment on the note, preparation and filing of memorandum in support of the motion for partial summary judgment, representation of Mr. Wood at a pretrial conference, conferences with Mr. McDonald, Mr. Wood, and representation of Aqua Air concerning the lagoon system and Windmill Point;

in participation in taking both Mr. Seay's and Mr. Smithers' depositions, preparation and filing of an amended Motion for Judgment to allege fair rental value for use of the premises as an additional count, review the responsive pleading and

counterclaim of Mr. Seay, preparation and filing of a motion to dismiss the counterclaim;

in conference with you regarding liability exposure at Windmill Point, consideration of conveying Windmill Point to a corporation, analysis of tax consequences of such a conveyance, and effect of §357 of the Internal Revenue Code, review of research with you.

7. Re: Purchase of Airport Properties from Airport Associates Partnership, Airport Ventures Partnership, Airport Road Partnership, Airport Industries Partnership, and Airport Enterprises 3/10/75-12/2/79

in conferences with you regarding the feasibility of acquiring the various airport properties from the above partnerships, analysis of various methods for holding title to the property, conferences with you regarding utilization of a land trust, conferences with Richard Joynt, Esq. of Hunton & Williams regarding utilization of Bank of Virginia Trust Company as trustee for a land trust, conferences with Mr. McGrann of Bank of Virginia Trust Company, and further conferences with you regarding utilization of a land trust to hold title to the property;

in conferences with Miss Ethel Irwin and Stephen Amato, Esq. regarding the Airport Properties, the status of the lien indebtednesses on same, and further conferences with you and Mr. Zerkle regarding same;

in research in Clerk's Office in order to prepare deeds from each of the Airport partnerships to various land trusts,

preparation of land trust agreements, review of documents with you, and travel to and from Richmond for review of and execution of the land trust agreements by Bank of Virginia Trust Company;

in telephone conferences with New York counsel for Airport partnerships, preparation of powers of attorney with respect to execution of deeds by New York counsel as attorneys-in-fact for each of the partnerships, travel to New York City for conferences with counsel for the Airport partnerships to secure execution of deeds;

in conferences with Miss Irwin regarding escrow closing on the properties, review of each of the deeds with her, review of lien indebtednesses with her including negotiations with respect to indebtedness held by John B. Sims, conferences with Mr. Zerkle and you with respect to same;

in telephone conferences with Mr. Brady, New York counsel for Airport partnerships, conferences with Miss Irwin and Stephen Amato, Esq. with respect to payment of existing indebtednesses, further negotiations with Miss Irwin regarding whether the deed should be by assumption or by conveying the property subject to the lien indebtednesses and conferences with you to update you on various events;

in computation of accrued interest and principal due on each of the Airport properties as of March 13, 1975;

in conferences on March 17 and March 18, 1975 with Mr. Amato, Miss Irwin, and Mr. Brady's office in an effort to terminate escrow closing, extensive conference with Miss Irwin to complete closing, tax deeds, draft letter for Mr. Amato's signature, conference with you regarding various alternatives available to you in negotiating with existing lien holders, make payoff on Amato indebtedness;

in conferences with Mr. Trevillian regarding negotiation of new payment schedule, conferences with Paul Summers regarding same, prepare draft of modification agreement to modify principal payment schedule on the Birdsong and Trevillian indebtednesses, conferences with representatives of University of Virginia Medical School Foundation regarding bonds held by them, revision of modification agreement, further conferences with Messrs. Summers and Trevillian regarding execution of modification agreement, secure execution of modification agreement and recordation of deeds to North Rivanna Second and Third Land Trusts;

in conferences with Miss Irwin regarding possible foreclosure of deed of trust held by John B. Simms, conferences with you regarding effect thereof, in telephone conferences and correspondence with Mr. Brady, New York counsel for Airport Partnerships regarding changing grantee on the deed to the North Rivanna Fifth Land Trust to the 606 Land Trust, revision of deed, letter to Mr. Brady regarding same;

in conferences with you regarding Simms foreclosure, in conferences with Mr. Simms, Charles Wm. Hurt, M.D. and you regarding negotiating financing for you as purchaser at the foreclosure sale, in attendance at foreclosure sale and bidding in of the property, in conferences with Mr. Jason I. Eckford, Jr., President of Citizens Bank and Trust Company regarding securing financing for the Camelot tract, preparation of deed to the North Rivanna Fifth Land Trust, preparation of three deeds of trust, securing Citizens Bank and Trust Company, Charles Wm. Hurt, and John B. Simms, preparation of bonds evidencing the various indebtednesses, review of documentation with you, Charles Wm. Hurt, M.D., Miss Irwin, and Jason I. Eckford, Jr., secure previous appraisal on the property for Citizens Bank and Trust Company, travel to Richmond to have various deeds of trust and bonds executed by Bank of Virginia Trust Company in connection with the purchase of the Camelot tract, further correspondence and telephone conferences with Mr. Eckford regarding financing by Citizens Bank and Trust Company and closing of purchase from Ethel Irwin, trustee;

in conferences with William Massie Smith, Esq. regarding Fourth Land Trust property and indebtednesses held by Walter Cushman, telephone conferences and correspondence with representatives of the Federal Land Bank of Baltimore regarding their deed of trust on the North Rivanna Fourth Land Trust property, conferences with Mr. Edward Chapman of Insurance Management Corporation to secure the requisite casualty policies for the various tracts, telephone conferences and office conferences with Messrs. Walter Cushman and Caleb Stowe regarding North Rivanna Fourth Land Trust and payment of indebtednesses held by them;

in conferences with you and various other parties involved in the acquisition of the Airport properties concerning various problems in connection with the transaction, discussion of and resolution of those problems.

8. Re: Airport Condemnation 2/75-2/27/79

in preparation of 2 petitions and 2 orders for disbursement of the funds on the 2 certificates filed by the State Highway Commissioner on the Airport Property;

in conferences and correspondence with Bank of Virginia Trust Company concerning the funds to be received from the condemnation;

in conferences with Mr. Sutton and you concerning the payment of the funds and the possibility of settling the matter;

in preparation of deeds of partial release;

in preparation of answers to interrogatories and arranging for appraisal by Mr. Fleming;

in conferences with Shelby J. Marshall, Clerk, regarding disbursing funds;

in conferences with Mr. Sutton regarding appointment of commissioners.

9. Re: Reservoir Matters 12/75-8/79

in conferences with you and Mr. Zerkel regarding sale to Z & S Development Corporation;

in preparation of Articles of Incorporation for Z & S Development Corporation, by laws and organizational minutes;

in preparation of deed of bargain and sale with vendor's lien to Z & S Development Corporation, preparation of vendor's lien bond;

in closing of transaction and various conferences with you and Messrs. Zerkel and Sherman;

in conference with Mr. Ted Allen of your office regarding proposed Panorama development, review with him of documentation required by Albemarle County in connection with the development, conference with Mr. Zerkle regarding site plan, building

permit, financing, homeowners agreement and other related matters to proposed development, in preparation of a draft declaration of covenants, restrictions and conditions for Panorama, review and editing of declaration of covenants, restrictions and conditions, and conferences with Mr. Allen and you with respect to same;

in conferences with you and Mr. Allen regarding soil erosion and control law, research with respect to same, conferences with Mr. Hartwell Clarke regarding soil erosion and control ordinance and subdivision ordinance and their applicability to the Panorama development, further conferences with you with respect to soil erosion and control ordinance, in research of recent legislation regarding zoning and site plan law including recent Virginia judicial decisions;

in conferences with you and Mr. Allen regarding meeting held with the soil erosion advisory committee, telephone conferences with Mr. Hartwell Clarke, preparation of memo with respect to telephone conference with Mr. Clarke, telephone conferences with Mr. J. Harvey Bailey and various other county officials with respect to soil erosion permit;

in conferences with you with respect to soil erosion permit, conference with Mr. Fred Payne, Deputy County Attorney, regarding letter of credit, research regarding issuance of letter of credit by Albemarle Bank and Trust Company, conference with Bank officials with respect to same, drafting of proposed letter of credit for execution by Albemarle Bank and Trust Company, conference with Mr. Fred Payne regarding format of performance bond, secure form of bond from the County Planning Department, revise bond as necessary to apply to the Panorama situation, review of revision with Mr. Payne and Mr. Clarke, telephone conferences with you with respect to issuance of soil erosion permit, telephone conferences with Messrs. Tom Wyant and T. M. Batchelor, Jr. with respect to issuance of soil erosion permit;

in research and review of state statute on soil erosion control, review of Albemarle County ordinance for consistency with enabling legislation;

in revision of letter of credit, and further revision of performance bond, additional conferences with Mr. Payne, telephone conferences with Mr. Clarke regarding additional requirements for issuance of soil erosion permit, draft affidavit, telephone conferences with Mr. Roudabush, further conferences with Mr. Payne in attempts to secure soil erosion permit, try to locate Mr. Clarke, conference with

Patricia Fleshman, Deputy Zoning Administrator, letter to Miss Fleshman;

in conferences with you regarding various aspects of Panorama and proposed sale to Messrs. Douglas Zerkle and Bruce Sherman, telephone conferences with Mr. Zerkle regarding sale of Panorama to him and Mr. Sherman;

in additional attempts to reach Mr. Clarke prior to Board of Supervisors meeting on January 2, 1976, preparation of mandamus action with respect to soil erosion permit, in attendance at Board of Supervisors meeting on January 2, 1976, in conference with Mr. St. John following Board of Supervisors meeting, in conferences with Mr. St. John regarding his rejection of performance bond, conferences with you with respect to strategy and tactics in dealing with the matter, in preparation of various letters to Mr. Clarke and Mr. St. John regarding their continued refusal to issue the soil erosion permit, conferences and negotiations with Mr. St. John regarding revision of performance bond;

in preparation for mandamus hearing, and attendance at the hearing;

in conferences with you regarding continued efforts to secure soil erosion permit, conferences with you regarding efforts to secure issuance of building permit, securing final approval from Mr. Payne on restrictive covenants;

in conferences with you and County officials regarding proposed moratorium ordinance to be adopted by the County, review and analysis of moratorium ordinance, letters to Mr. St. John regarding moratorium ordinance and issuance of soil erosion permit;

in attendance at planning commission meeting on January 20, 1976;

in attendance at Board of Supervisors meeting on January 21, 1976;

in research of legality of moratorium law, research regarding land use law, soil erosion control law, and water quality law;

in conferences with Mrs. Nancy O'Brien regarding possible sale of Panorama property to the City of Charlottesville and Albemarle County;

in attendance at Planning commission meeting of January 27, 1976;

in telephone conferences and office conferences with Messrs. Daley Craig, Leigh B. Middleditch, Esq., Douglas L. Zerkle, T. M. Batchelor, Jr., and William S. Roudabush;

in telephone conferences and correspondence with Mr. St. John regarding depositions and mandamus action, correspondence with Mr. St. John regarding same, telephone conferences with you and Mr. Zerkle regarding same;

in research of technical aspects of point versus nonpoint pollution, conferences with Leigh B. Middleditch, Esq. regarding same, preparation of letter for your signature to the Albemarle County Board of Supervisors, in attendance at February 4, 1976 Board of Supervisors meeting and conferences with you with respect to same following the meeting;

in research at Virginia Supreme Court regarding land use legislation and judicial interpretations thereof, including analysis of briefs filed, in continued conferences and correspondence with County officials regarding Panorama in an effort to secure a compromise of the matter;

in attendance at planning commission meeting on March 29, 1976;

in attendance at Board of Supervisors meeting on May 5, 1976;

in attendance at various Board of Supervisors meetings regarding engaging a consultant to analyze the watershed, conferences with representatives performing the Betz study, review of Betz study, attendance at various meetings regarding enactment of permanent moratorium regarding development around the watershed, preparation of easements for sewer lines for Panorama, in analysis of control ordinance adopted by Albemarle County, conferences with you and Messrs. Gloeckner and Lincoln regarding preparation of an application under the runoff control ordinance, conferences with Messrs. Harvey Bailey and Robert Tucker regarding runoff control application, and all other related matters.

in conferences with you relating to filing suit under §1983 of the Civil Rights Act with respect to the refusal of the County of Albemarle to issue a soil erosion permit for Panorama;

in preparation and filing of a complaint in the United States District Court against Mr. St. John and Mr. Clarke for violation of §1983 of the Civil Rights Act, review of sale with you;

in various conferences with you concerning strategy, preparation and filing of initial interrogatories and requests for production of documents, receive and analyze a motion from Defendants for a protective order as to discovery and for a hearing on a motion to dismiss and certain legal defenses;

in preparation of a reply to the motion and a summary memorandum dealing with cases cited by Defendants;

in preparation for and attendance at a hearing held on August 18, 1976, on Defendants' motion;

in research of the law;

in research for and preparation of memorandum of law concerning the issue of the Plaintiff's rights, the issue of Federal Court abstention, the issue of immunity of the Defendants, and the issue of denial of discovery on the grounds of privilege and the work product doctrine;

in preparation for and attendance at a hearing on September 17, 1976;

in review of Judge Turk's Opinion and Order dismissing the §1983 action, research of the law to determine whether a §1983 action can be brought in state court, research as to the applicable statute of limitations for §1983 actions, review of the alternatives with you in view of the dismissal to show that it was without prejudice, analyze the alternatives of appeal of the dismissal to the Fourth Circuit Court of Appeals as opposed to filing of a new §1983 Action in Federal District Court, research the possibility of adding a Section 1985(3) claim in addition to the claim under Section 1983 of the Civil Rights Act;

in preparation of a new complaint for filing in Federal District Court and filing of same on December 30, 1976;

in review of correspondence and pleadings filed by Mr. St. John and Mr. Clarke moving to dismiss the §1985(3) complaint; in preparation for and attendance at an in-chambers conference with Judge Turk and opposing counsel on March 14, 1976;

in preparation for a hearing in the proceeding including outline of the essential allegations set forth in the complaint which state a claim upon which relief can be granted, research the case law as to the necessary elements needed in order to withstand a motion to dismiss;

in preparation for and attendance at a hearing held on March 31, 1977;

in preparation of a memorandum of law, in review of the memorandum filed by Mr. St. John's counsel, in research for and preparation of a reply memorandum, in preparation for and attendance at a hearing before Judge Turk to argue the memorandums of law filed in the case;

in review of opinion and order entered by Judge Turk dismissing the complaint, research of portions of the case law cited by Judge Turk, preparation and filing of a motion for reconsideration of the decision and to set aside same, preparation for and attendance at the hearing for Judge Turk to alter or amend his order;

in conferences with Judge Turk's clerk concerning the §1985(3) count of the complaint, research the conspiracy cases;

in preparation and filing of notice of appeal to the Fourth Circuit Court of Appeals of Judge Turk's opinion and order, arranging for the Appeal Bond, correspondence with the court reporter concerning designation of portions of the transcript requested by Mr. St. John's counsel, correspondence with the court reporter concerning error in the transcript prepared, correspondence with the Fourth Circuit Court of Appeals concerning the status of the case, and related matters.

10. Re: Rio Associates Limited Partnership -- \$1,495,000.00
Deed of Trust 11/75-6/13/78

in review of nondisturbance agreement for Safeway Food Stores lease, conferences with Mr. Russell and you with respect to same;

in conferences with you regarding splitting deed of trust, i.e., apportionment of lien;

in conferences with Fred Russell, Esq., B. B. Woodson, Esq. and William H. Grimm and you regarding easement for Charlottesville Savings & Loan Association;

in conference with you regarding lost \$497,500.00 bond, conferences with Bank of Virginia with respect to same, draft lost bond affidavit, draft duplicate bond, review of same with Mr. Russell;

in review of files to ascertain the amounts in payment of interest;

in conference with you regarding subordination request from Rio Associates and attending luncheon conference with you and Messrs. Heischman and Plotkin on March 12, 1976;

in review of preliminary Life of Virginia loan documents on March 17, 1976;

in review of original contract documents, analysis of problems with respect to subordination and telephone conference with Mr. Russell on March 23, 1976;

in conferences with you on March 31, 1976, regarding payment and performance bonding, and regarding satisfaction of Virginia National Bank requirements;

in conference with Mr. Russell on April 13, 1976 to review tentative documents;

in review of tentative subordination documents with you on April 14, 1976, and telephone conferences with Mr. Russell;

in preparation of letter to Mr. Plotkin for your signature regarding appraisal requirement;

in review of letter from Mr. Durham of First & Merchants National Bank regarding funding certificate of deposit, conferences with Mr. Russell regarding same, and telephone conference with Mr. Durham;

in telephone conferences with Messrs. Russell and Fishburne and correspondence to and from Mr. Russell regarding acceptable methods of securing the \$750,000.00 purchase price, and telephone conferences with Mr. Durham regarding same;

in conferences with Messrs. Russell, Fishburne, and Plotkin regarding pre-closing matters, telephone conferences with Mr. O. B. James of United Virginia Bank of Charlottesville, and with Mr. Ballentine of Virginia National Bank regarding issuance of certificate of deposits;

in conferences with you regarding provisions of Life of Virginia Subordination Agreement, status of restrictions, review of letter from Mr. Russell and telephone conference with Mr. James;

in correspondence to and from Fred Russell, Esq. with respect to subordination, telephone conference with Mr. Sterling Durham, First & Merchants National Bank with respect to issuance of letter of credit, in conferences and negotiations with Messrs. Fred Russell, Junius R. Fishburne, and Paul C. Smith regarding pledging certificate of deposit issued by First & Merchants National Bank which would be continuously rolled over until 1995, conferences with Mr. Durham and counsel for First & Merchants National Bank with respect to same, draft preliminary contract with First & Merchants National Bank with respect to roll over of certificate of deposit and pledge of same to Virginia National Bank, trustee, revisions to contract regarding certificate of deposit, review of same with Messrs. Fishburne and Smith, conferences with Messrs. Plotkin and Russell, review of matters with you, telephone conferences with representatives of First & Merchants National Bank, further revisions to contract, telephone conferences with Mr. Ronald Plotkin and Junius Fishburne regarding closing of initial subordination;

in attendance at closing of Life of Virginia loan and subordination of your \$1,495,000.00 deed of trust,

in correspondence and telephone conversations with Mr. Fred Russell and counsel for Safeway Food Stores, Inc. with respect to modification of their nondisturbance agreement, draft revisions to same, and secure its execution;

review second modification to Safeway lease, secure its execution;

in review of and revisions to various nondisturbance agreements in connection with the several tenants at Albemarle

Square Shopping Center and secure their execution;

in various conferences with you with respect to calculating the present value of the Rio Associates bonds and negotiations with Messrs. Heischman and Plotkin with respect to a sale of the Rio Associates bonds to them;

in extensive conferences with you and Mr. Russell, and other parties in interest concerning the dispute over the subordination provisions and the documents as they pertain to subsequent subordinations of the \$1,495,000.00 deed of trust;

in review of suit filed by Rio Associates Limited Partnership against you and Westinghouse Credit Corporation, extensive conferences with you with respect to the suit filed by Rio Associates Limited Partnership, including discussions with respect to possible settlement of the suit, review of old files for various drafts of the December 11, 1972 contract between you and Rio Associates Limited Partnership;

in preparation of a draft of an answer for both you and Westinghouse Credit Corporation;

in conferences with and engagement of Research Group, Inc. to research applicable law for possible counterclaims, telephone conference with you regarding same;

review and file answer on behalf of Westinghouse Credit Corporation;

conferences with John E. McDonald, Esq. and you with respect to the law suit, telephone conferences with Mr. McDonald in connection with preparation of the counterclaim, revise answer, further research regarding counterclaim, preparation of memorandum to file;

in review of final draft of answer and cross-bill, telephone conferences with Mr. McDonald, conferences with you prior to filing;

in review of the plea in bar filed by Bank of Virginia, telephone conferences with J. Waverly Pulley, III, Esq. with respect to same;

in preparation of initial draft of interrogatories and request for production of documents, in review of interrogatories;

in conferences with Mr. McDonald to arrange for depositions, letter to Archibald Wallace with respect to same;

in conferences with you with respect to whether or not to elect a jury trial, in attendance at docket call, in preparation for and in attendance at pre-trial conference on December 27, 1977;

in preparation of letter to Westinghouse Credit Corporation to advise them of the present status of the case, in intra-office conferences and preparation for depositions, conferences with you and Mr. McDonald in preparation for depositions;

in attendance at depositions on January 10 and 11, 1978, in attendance at depositions on January 25, 1978 in Richmond, Virginia, in preparation of subpoena for Frederick L. Russell, preparation of subpoena duces tecum for records of McGuire, Woods & Battle;

in preparation of subpoena duces tecum for records of Life Insurance Company of Virginia;

in conferences with the Honorable David F. Berry regarding motion filed by Rio Associates Limited Partnership claiming privilege, in research for and preparation of a memorandum of law concerning the interpretation of the language in the contract documents involving subsequent subordinations, review of memorandum of law filed by Rio Associates Limited Partnership, in research and preparation of reply memorandum;

in preparation of notice to take depositions of J.B. Campbell, preparation of subpoena to Mr. Campbell, preparation of subpoena duces tecum for records of Bank of Virginia Company, in preparation of subpoena duces tecum for records of Thompson Appraisal Company;

in conference with Mr. McDonald, in attendance at depositions in Richmond, Virginia, on February 16, 1978, in review of documents supplied by Bank of Virginia, in response to subpoena duces tecum;

in review and analysis of appraisal supplied by Thompson Appraisal Company and supporting information for same, correspondence with Mr. Russell and Mr. McDonald, conference with you with respect to current status of the matter;

in review of letter from the Honorable David F. Berry, forward copies to you and Westinghouse Credit Corporation,

in conferences with you in regard to selection of appraiser, conferences with Mr. Jared Lake, accumulate various documents necessary for Mr. Lake to make an appraisal of the property, conferences with him, research at County Building officials office regarding evaluation of building permits issued for Albemarle Square, telephone conferences with Mr. Lake and Mr. McDonald regarding appraisals;

in conferences with Mr. McDonald regarding motion to dismiss, in conferences with you and Messrs. Lake and McDonald in preparation for trial, securing issuance of witness subpoenas, and all other related matters in connection with trial preparation;

in attendance at trial of the matter on March 24, 1978;

in conferences with Mr. Lake and others regarding preparation of graphic analysis of appraisal information, conferences with Mr. Thomas Branham, appraiser for Albemarle County Real Estate Department;

in preparation for remainder of trial, conferences with you, Mr. Lake, Messrs. Lake and McDonald;

in attendance at trial on April 7, 1978;

in conferences with you following trial, preparation of motion to reconsider, securing hearing date and attendance at motion for reconsideration.

11. Re: Holiday Inn of Luray 4/77-10/26/77

in conferences with you regarding the proposed sale by United Inns of America, Inc. of the Holiday Inn of Luray to Mr. Charles Johnson and your purchase of Mr. Johnson's Harborage property in Fort Lauderdale, Florida;

in preparation of contract of sale to accomplish the sale of the Holiday Inn and purchase of the Harborage property;

in review of the contract of sale with you and preparation of revised contract based upon changes discussed;

in research into the tax consequences of a distribution of the Holiday Inn to you by United Inns of America, Inc., a Subchapter S corporation, to enable you to exchange it for the Harborage property;

in conferences with you, Mr. Johnson and his attorney, Mr. Meyer, concerning his proposed acquisition of the Holiday Inn and in preparation of extensive changes to the contract of sale prior to execution of the contract upon our return from Luray;

in preparation of a revised contract in the form of a contract for the exchange of like kind property pursuant to §1031 of the Internal Revenue Code, in review of the revised contract with you prior to mailing same to Mr. Johnson's attorney for his review and comment;

in preparation of lease agreement for the Harborage property to be used prior to the closing of the exchange contract;

in several conversations with Mr. Johnson's counsel concerning the status of the pending litigation in the Florida courts with Mrs. Johnson and the result of that litigation;

in correspondence with Mr. Johnson's counsel regarding the appraisal of the Holiday Inn and the legal description of the Harborage property;

in miscellaneous conferences with you relating to the transaction and the progress of the Florida litigation.

12. Re: Jenkin Foreclosure - Murphy's Exxon 8/76-2/22/78

in representation in all matters relating to the Jenkins foreclosure, including preparation of handbills and notices to Messrs. Sims and Jenkins, conferences with Mr. Jenkins' attorney and travel to Stanardsville to obtain payment of balance due on Sim's note.

13. Re: Estate Planning 6/76-12/76

in conferences with you about an estate plan, the tax consequences of various estate plan alternatives, the use of your existing life insurance in connection with the structuring of an estate plan, and research as to the desirability of establishing a life insurance trust for you;

in preparation of a draft of a trust for you.

14. Re: Indebtedness Owed to Savory E. Amato Estate 3/25/76-3/15/77

in conferences with Stephen Amato, Esq. with respect to 1976 payoff of bonds payable to the estate of Savory Amato, conferences with you with respect to payoff, telephone conferences with First & Merchants National Bank with respect to same, telephone conferences with William A. Perkins, Jr., Esq., escrow agent for second lien Amato bonds, telephone conferences with Messrs. Amato and Perkins, conference with you regarding payments, letter to Mr. Perkins regarding payoff;

in conference with you with respect to pending payoff of Amato loan in 1977, phone conference with Stephen Amato, Esq. with respect to same in an attempt to secure an extension to April 1, 1977, conferences with Messrs. Amato and Perkins, telephone conference with you and telephone conferences with Mr. Rizinko of First & Merchants National Bank, arranging for and making payoff of loan on March 15, 1977, letter to Messrs. Amato and Perkins regarding same.

15. Re: Sale to Milodon Engineering Co., Inc. 2/28/78-7/11/78

in conferences with you regarding proposed sale to Milodon Engineering Co., Inc., further conferences with Messrs. Alderson, Hogue and Reback;

in preparation of contract of sale;

in preparation of deed, conferences with parties regarding closing, preparation of three deeds of partial release, review of deferred purchase money note and deed of trust;

in conferences with Mr. Reback regarding closing, negotiations regarding paying real estate taxes at a later date;

in telephone conferences and negotiations with representatives of First & Merchants National Bank regarding securing a release of their deed of trust;

in closing of sale and preparation of closing statement and closing memorandum.

16. Re: Sale to Bede General Corporation 2/78-7/11/78

in conferences with you regarding proposed sale to Bede General Corporation, conferences with you and Messrs. Bede and Hogue;

in conferences with you regarding tax consequences of sale to you, and proposed step up of basis by sale to United Inns of America, Inc.;

in preparation of contract of sale.

17. Re: Purchase of Route 29 Property from Benton Patterson 6/76-4/4/78

in legal services including conferences with you concerning your proposed purchase from Mr. Patterson, and Mr. Patterson's refusal to close, associate Mr. Hess as counsel for you, prepare a memorandum of the facts for Mr. Hess's review, conferences with Mr. Hess and you concerning the facts of the case, review of the facts and results of depositions with you and Mr. Hess, review of the law governing the case, conferences with you concerning settlement, and related matters.

18. Re: 1977 Tax Return 4/15/78-10/15/78

in conferences with you regarding the preparation of your 1977 federal and Virginia income tax returns, conferences with Marlene and Nena to obtain information necessary to prepare the returns, preparation of returns and related matters.

19. Re: Financing 2/14/77-11/29/78

in conferences with you during February of 1977 regarding arranging for financing and possible sources, conferences with Mr. David Goodman regarding possible sources of financing, conferences with you regarding possible loan from the Equitable Life Assurance Society of the United States, further conferences with you regarding possible loan from the Equitable Life Assurance Society of the United States, conferences with Mr. Landon D. Birkhead, conferences with Mr. Birkhead and Mr. William H. Grimm of Charlottesville Savings & Loan, telephone conferences with Mr. Birkhead regarding possible loan, conferences with you regarding possible loan from Fidelity American Bank, conferences with Mr. M. M. Alexander, Jr. of Fidelity Mortgage Corporation;

in conferences with you with respect to obtaining possible HUD Title X loan, arrange for meetings with Walker and Dunlop and Reilly Mortgage Company with respect to financing, travel to Washington, D.C. with you to attend meetings with Reilly Mortgage Corporation, and Walker and Dunlop Company with respect to possible financing;

in conferences with you with respect to loan from Equico Lessors, Inc., telephone conferences with Mr. Flax of Equico Lessors, Inc.

20. Re: Loans from First & Merchants National Bank 3/76-3/6/80

in conferences with you with respect to securing additional loan commitment from First & Merchants National Bank, telephone conferences with Mr. Durham of First & Merchants National Bank, conferences with C. Coatsworth Pinkney, III, Esq., counsel for First & Merchants National Bank, preparation of \$900,000.00 deed of trust and \$900,000.00 note, in examination of title and title updates to various properties, preparation of title opinion letter to First & Merchants National Bank, review of same with counsel for the Bank;

in conferences with you with respect to \$2,450,000.00 line of credit from First & Merchants National Bank, conferences with representatives of First & Merchants National Bank with respect to same;

in examination of title to the North Rivanna First Land Trust properties;

in examination of title to the North Rivanna Second Land Trust properties;

in examination of title to the North Rivanna Third Land Trust properties;

in examination of title to the North Rivanna Fourth Land Trust properties;

in examination of title to the North Rivanna Fifth Land Trust properties;

in examination of title to Lot 1, Section E Carrsbrook;

in travel to Lancaster County, Virginia, and update of title to Marina Tract, Harwood Tract, and Hubbard Tracts in Lancaster County, Virginia;

in preparation of deed of trust and note for
\$2,450,000.00;

in conferences with counsel for and officers of First
& Merchants National Bank with respect to Title
Insurance requirement;

in preparation of title opinion letter covering
parcels of real estate;

in conferences with you with respect to pledging
Southern Ventures, Inc. vendor's lien bonds to First &
Merchants National Bank, preparation of bond powers
and other documentation with respect to same;

in conferences with you with respect to securing an
additional \$175,000.00 line of credit from First &
Merchants National Bank, conferences with Mr. William
G. McClure, III, Esq. with respect to same, prepara-
tion of \$175,000.00 supplemental deed of trust and
\$175,000.00 note, preparation of title opinion letter
with respect to same, conferences with First &
Merchants National Bank officers with respect to dis-
bursement of funds, preparation of estoppel letters
with respect to disbursement, and numerous and various
conferences with you with respect to your line of credit
with First & Merchants National Bank and their demands
for payment, conferences with counsel for and officers
of First & Merchants National Bank with respect to same.

21. Re: Heliport 10/1/77-10/4/77

in various conferences with you with respect to
heliport, including obligation for disclosure to
Albemarle Bank & Trust Company, and other related
matters.

22. Re: Research Regarding Laws Regulating Acquisition
of Bank Holding Companies 7/77-12/14/77

in conferences with you and research into various aspects of the Virginia Takeover Bid Disclosure Act, research into the various federal laws regulating takeover bids of banks, including the Williams Act, the Hart, Scott, Rodino Act and various statutes relating to regulation of banks and bank holder companies, secure copy of 10-K filing on NB Corporation for you.

Total			\$186,550.00
Less: Credits			
Unapplied balance of			
9/8/77 payment	\$1,815.32		
Payment received 6/30/78	6,300.00		
Payment received 6/14/79	<u>7,947.02</u>		<u>16,062.34</u>
BALANCE DUE			<u>\$170,487.66</u>

REQUEST FOR ADMISSIONS

Pursuant to Rule 4:11 of the Rules of the Supreme Court of the State of Virginia the Plaintiffs ask the Defendants, Wendell W. Wood and Marlene C. Wood, to admit or deny each of the requested admissions below in writing and under oath within 21 days of service upon him. As used in these requests for admissions, the term "Plaintiffs" refers to the law firm of Carwile, Kudravitz & Krumm or to Stuart Carwile, David Kudravitz or Ross W. Krumm, individually. As used in this request for admissions, the term "bill for services" refers to the bill which was attached as Exhibit 1 to Plaintiffs' Bill of Particulars filed herein (a copy of which is also attached to these requests or admissions).

These requests for admissions are deemed continuing in nature so as to require supplemental responses from the Defendants.

REQUEST FOR ADMISSIONS

1. That you requested representation by the Plaintiffs on the "Bank of Virginia loan and the Westinghouse Credit Corporation loan" as identified as Item 1 on the bill for services.

2. That you requested representation by the Plaintiffs on the "\$400,000.00 loan from United Virginia Bank of Charlottesville" identified as Item 2 on the bill for services.

3. That you requested representation by the Plaintiffs on the "contract for expansion of Camelot Sewer Plant" as identified as Item 3 on the bill for services.

4. That you requested representation by the Plaintiffs on the "Gerard Grimes" matter as identified as Item 4 on the bill for services.

5. That you requested representation by the Plaintiffs on the "Luray Properties, Inc. and repossession of the "Holiday Inn" matter as indentified as Item 5 on the bill for services.

6. That you requested representation by the Plaintiffs on the "Windmill Point" matter as identified as Item 6 on the bill for services.

7. That you requested representation by the Plaintiffs on the "purchase of airport properties from Airport Associates Partnership, Airport Ventures Partnership, Airport Road Partnership, Airport Industries Partnership, and Airport Enterprises" matters as identified as Item 7 on the bill for services.

8. That you requested representation by the Plaintiffs on the "Airport condemnation" matter as identified as Item 8 on the bill for services.

9. That you requested representation by the Plaintiffs on the "Reservoir" matters as identified as Item 9 on the bill for services.

10. That you requested representation by the Plaintiffs on the "Rio Associates Limited Partnership \$1,495,000.00 deed of trust" matter as identified as Item 10 on the bill for services.

11. That you requested representation by the Plaintiffs on the "Holiday Inn of Luray" matter as identified as Item 11 on the bill for services.

12. That you requested representation by the Plaintiffs on the "Jenkin foreclosure-Murphy's Exxon" matter as identified as Item 12 on the bill for services.

13. That you requested representation by the Plaintiffs on the "Estate Planning" matters as identified as Item 13 on the bill for services.

14. That you requested representation by the Plaintiffs on the "Indebtedness owed to Ivory E. Amato Estate" matter as identified as Item 14 on the bill for services.

15. That you requested representation by the Plaintiffs on the "sale of Milodon Engineering Company, Inc." matter as identified as Item 15 on the bill for services.

16. That you requested representation by the Plaintiffs on the "sale of Bede General Corporation" matter as identified as Item 16 on the bill for services.

17. That you requested representation by the Plaintiffs on the "purchase of Route 29 property from Benton Patterson" matter as identified as Item 17 on the bill for services.

18. That you requested representation by the Plaintiffs on his "1977 tax return" matter as identified as Item 18 on the bill for services.

19. That you requested representation by the Plaintiffs on the "financing" matters as identified as Item 19 on the bill for services.

20. That you requested representation by the Plaintiffs on the "loans from First & Merchants National Bank" matter as identified as Item 20 on the bill for services.

21. That you requested representation by the Plaintiffs on the "Heliport" matters as identified as Item 21 on the bill for services.

22. That you requested representation by the Plaintiffs on the "Research regarding laws regulating acquisition of bank holding companies" matters as identified as Item 22 on the bill for services.

23. That with respect to the Airport condemnation matter as alleged in paragraph 4 of Defendant's counterclaim, you did not want to pay the proceeds of a condemnation to creditors holding liens on the property and did not want the sum of \$10,000.00 held in escrow for that purpose to be released during the pendency of Chapter XII proceedings on behalf of S-V Associates in the United States Bankruptcy Court.

24. That you did on various occasions request the Plaintiffs to agree to defer payment of accrued legal services until such time as he had sufficient cash available to pay for said services.

25. That for the items identified in requests for admissions number 1-22 above, there was a continuing course of legal representation by the Plaintiffs on behalf of yourself.

26. That for the period of time covered by the bill for services, the Plaintiffs acted as primary counsel for legal work performed on your behalf.

27. That for the period of time covered by the bill for services, the Plaintiffs were primary counsel for you on: (a) all bank financing transactions; (b) all tax planning and tax preparation; and (c) all commercial real estate transactions.

28. That you employed the Plaintiffs in part because of their knowledge of your business affairs.

29. That you employed the Plaintiffs in part because he thought that they possessed expertise in areas of the law in which you required legal services.

30. That for the period of time covered by the bill for services, you routinely referred third parties to the Plaintiffs for information regarding his legal affairs.

31. That you relied upon the Plaintiffs to keep and maintain records of your various legal matters which they undertook on your behalf.

32. That in the course of rendering legal services to you the Plaintiffs frequently met with you and others after normal business hours (9 to 5 weekdays) and on weekends.

33. That in the course of rendering legal services to you, the Plaintiffs were required from time to time to travel and to spend time away from their office, both during and after normal working hours and on weekends.

34. That subsequent to October 1978 and prior to receiving the bill for services, you were made aware of the fact that accrued fees for unbilled legal services performed by the Plaintiffs on his behalf were in excess of \$100,000.00.

35. That subsequent to the summer of 1978, you had insufficient funds to meet your obligations to First & Merchants National Bank and that as a result thereof, said loans were declared in default by First & Merchants National Bank.

36. That in the fall of 1978 First & Merchants National Bank declared a default in the loan described in the preceeding request for admissions and you consulted Plaintiffs for the purpose of determining ways by which you could prevent foreclosure of property securing said loans.

37. That subsequent to October 1978, Stuart F. Carwile structured, and you consented to, a reorganization proceeding in the United States Bankruptcy Court for the Western District of Virginia which prevented foreclosure by First & Merchants National Bank and other secured creditors holding liens on Wendell W. Wood's assets.

38. That as a result of the reorganization proceeding described in the request for admissions immediately preceding, First & Merchants National Bank did not foreclose on the property securing loans to said bank.

39. That you had a \$900,000.00 loan from the Bank of Virginia that was declared in default by said Bank for nonpayment and that the Plaintiffs represented you in preventing foreclosure of assets of your assets securing said loan.

40. That the \$900,000.00 loan referred to in the request for admissions immediately preceding was not foreclosed upon by the Bank of Virginia.

41. That you executed a deferred purchase money note on the Windmill Point property which was declared in default and that the Plaintiffs along with the law firm of McDonald & Krump represented Wendell W. Wood in preventing foreclosure of the properties securing said loan.

42. That the loan described in the request for admissions immediately preceding was not foreclosed upon.

43. That you requested legal advice from the Plaintiffs concerning the requirements of a tender offer for the purpose of attempting a take over of NB corporation.

44. That subsequent to October 1978 and prior to the submission of the bill for services, you asked Stuart F. Carwile if he would take real estate in satisfaction of payment of accrued legal fees.

45. That during the course of Plaintiffs' representation of you, you, on more than one occasion, expressed satisfaction with Plaintiffs' legal services to the Plaintiffs and third parties.

46. That you have not paid the Plaintiffs for the legal services rendered on your behalf as identified in the request for admissions number 1-22 above.

47. That the legal matters for which you employed the Plaintiffs were of a complex and sophisticated nature.

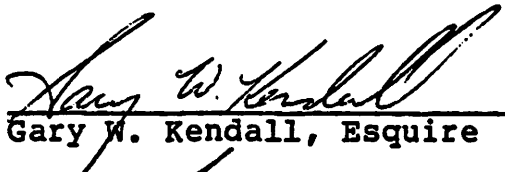
48. That you never requested the Plaintiffs to provide to you an itemized billing statement of account, or accounting for the application of fees paid between the date of January 1, 1975 and October 1, 1978.

49. That you periodically made payments of fees upon request without designating such payments to be applied toward fees on any specific transaction.


50. That you were aware that fees were taken from the proceeds of certain real estate closings for application to accrued fees without designating in advance that such fees would be applied to specific transactions.

STUART F. CARWILE, et al.

By Counsel



Gary W. Kendall, Esquire



Edward B. Lowry, Esquire
FOR Michie, Hamlett, Donato & Lowry
500 Court Square, Suite 300
Charlottesville, Virginia 22901

David Craig Landin, Esquire,
McGuire, Woods and Battle
Court Square Building
Post Office Box 1191
Charlottesville, Virginia 22902

William S. Smithers, Esquire,
5911 West Broad Street
Richmond, Virginia

ANSWER TO REQUEST FOR ADMISSIONS

COME NOW the Defendants and for Answer to the Request for Admissions by the Plaintiffs, respectfully represent as follows:

(1) That as to all of the Requests for Admissions in which items are identified by item number and heading in accordance with the bill for services rendered herein, the Defendants deny that all of the items contained in each item number or heading are interrelated such that a complete answer to the Request for Admissions would be possible. Therefore, to the extent possible, the Defendants herein have responded to the general item heading in the Request for Admissions.

(2) That the Defendant, Wendell W. Wood, admits the Requests contained in Paragraphs 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 20, 22, 26, 27, 28, 31, 35, 36, 37, 38, 39, 40, 41, 42, 48, 49 and 50.

(3) That the Defendant, Wendell W. Wood, deny the Requests contained in Paragraphs 3, 13, 14, 21, 23, 25, 34, 43, 44, 46 and 47.

(4) That the Defendants deny the allegations contained in Paragraph 24 of the Request for Admissions except that on one occasion, during the Chapter 12 bankruptcy proceeding, the Defendant, Wendell W. Wood, did agree to sign a Promissory Note for deferral of fees for legal services.

(5) In response to Request for Admission Paragraph 32 the Defendant, Wendell W. Wood, admits that during the course of rendering legal services, the Plaintiffs frequently met with him


after normal working hours, but aver that the reason for such meetings was because the Plaintiff, Stuart F. Carwile, was not available during normal business hours.

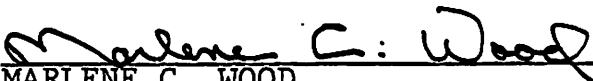
(6) That the Defendants admit that during the early stages of representation by the Plaintiffs, they expressed satisfaction of the Plaintiffs' legal services as requested in Paragraph 45 of the Request for Admissions, but deny that that satisfaction continued.

(7) In response to Request for Admission Paragraph 33, the Defendants admit that some limited amount of travel was necessary.

(8) That the Defendants are unable to answer Requests for Admissions contained in Paragraphs 29 and 30 because they are unintelligible, but to the extent an answer is necessary, they are hereby denied.

(9) That the Defendant, Marlene C. Wood, expressly denies all of the Requests for Admissions and denies that Plaintiffs performed any legal services for her, except that joint tax returns were prepared for her signature.


WENDELL W. WOOD


MARLENE C. WOOD

Haugh & Treakle, P.C.
435 Park Street
Charlottesville, Virginia

by: 

COMMONWEALTH OF VIRGINIA
AT LARGE, to-wit:

I, James E. Treakle Jr., a Notary Public in and for the State of Virginia at Large, certify that Wendell W. Wood and Marlene C. Wood have personally appeared before me in my State aforesaid and made oath that they are cognizant of the facts stated in the foregoing Answer to Request for Admissions and that they verily believe the matters and things alleged therein to be true to the best of their knowledge and belief.

GIVEN under my hand this 19th day of April, 1982.

My commission expires: 6 / 11 / 83


NOTARY PUBLIC, State at Large

CERTIFICATE

I hereby certify that a true copy of the foregoing Answer to Request for Admissions was this 19th day of April, 1982 mailed to William S. Smithers, Jr., Esq., Thompson, Savage & Smithers, 5911 West Broad Street, Richmond, Virginia 23230; Gary W. Kendall, Esq., Edward B. Lowry, Esq., Michie, Hamlett, Donato & Lowry, 500 Court Square, Suite 300, Charlottesville, Virginia 22901; and David Craig Landin, Esq., McGuire, Woods & Battle, Court Square Building, Charlottesville, Virginia 22901.


JAMES E. TREACLE, JR.

ITEMIZATION OF CLAIMS


The Plaintiffs, pursuant to the Court's opinion and Order of March 24 , 1982, submit the following list of items, as identified in Exhibit 1 to Plaintiffs' Bill of Particulars, which they allege are not barred by the statute of limitation. In submitting this list the Plaintiffs expressly reserve their objections to the Court's opinion and Order identified above.

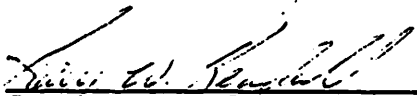
The items are as follows:

1. Item Number 1 - Bank of Virginia/Westinghouse Credit
2. Item Number 2 - United Virginia Bank Financing (\$400,000.)
3. Item Number 3 - Contract for Expansion of Camelot Sewer Plant.
4. Item Number 5 - Luray Properties, Inc. and Repossession of Holiday Inn.
5. Item Number 6 - Windmill Point Matters
6. Item Number 7 - Airport Purchase, etc.
7. Item Number 8 - Airport Condemnation
8. Item Number 9 - Reservoir Matters
9. Item Number 10 - Rio Associates Limited Partnership
10. Item Number 15 - Sale to Melodon Engineering Co., Inc.
11. Item Number 16 - Sale to Bebe General Corporation
12. Item Number 18 - 1977 Tax Return
13. Item Number 19 - Financing
14. Item Number 20 - Loans from First and Merchants National Bank

STUART F. CARWILE, et al.

BY COUNSEL

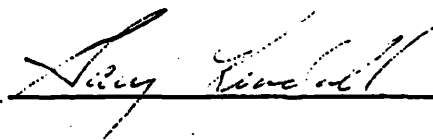

Edward B. Lowry, Esquire


Gary W. Kendall, Esquire
for MICHIE, HAMLETT, DONATO & LOWRY
500 Court Square, Suite 300
Charlottesville, Virginia 22901

Counsel for Plaintiffs

CERTIFICATE

I hereby certify that a true copy of the following
was hand delivered to Haugh & Treakle, P. C., 435 Park Street,
Charlottesville, Virginia 22901 and David C. Landin, Esquire,
McGuire, Woods & Battle, Court Square Building, Charlottesville,
Virginia 22901, and mailed to William S. Smithers, Esquire,
5911 West Broad Street, Richmond, Virginia, this 22nd day of
April, 1982.



We the jury hereby find for the:

(1) Plaintiffs, Stuart Carwile, David Kudravetz, and Whitt Krumm and award them damages against

a. Wendell W. Wood and Marlene C. Wood in the amount of \$ 95,250.00 together with interest at the statutory rate from June 15, 1981.

b. Wendell W. Wood in the amount of \$ 21,203.00 together with interest at the statutory rate from June 15, 1981.

Joanne M. Hawley
Foreman

(2) The Defendants Wendell W. Wood and Marlene C. Wood.

Foreman

TRIAL TRANSCRIPT

1 experience. He has been practicing now for ten(10) years.

2 I hope that the picture that I have given you, and the
3 background I have given you you can see that these are not
4 your typical lawyers, they are lawyers that have specialized
5 skills, they deal in matters other than simply trying cases
6 like I am doing here today, taxation, land development, finance,
7 commercial law, many of the things they deal in are highly
8 sophisticated, highly specialized. In the course of the trial
9 over the next two and a half days you are going to see how
10 their skills were brought to bear to the benefit of Marlene
11 and Wendell Wood.

12 Now, let's turn our attention for the moment to the
13 Woods. They don't make their living the way most folks do, I
14 guess that's the simplest way to say it. They are in the
15 business of land sales and development, land purchase, land
16 speculation. Now, in order to be in that business there is
17 one very fundamental concept you have got to understand; and
18 one that we are going to bring forward to you today, through
19 the next few days, in the course of this trial, and that's the
20 concept of leverage, to make money in the land development
21 business you have got to know how to work the leverage. Simply
22 stated leverage is buying property for as little money as
23 possible, using somebody else's money, borrowing money in
24 other words, taking that property putting it together with
25 other properties, or getting it rezoned to make it more

1 valuable and turning around and developing it or selling it,
2 and making more money from the sale than you had to pay on the
3 borrowed money. We are going to give you an example during
4 the course of this trial, probably one of the most classical
5 examples of the use of leverage that you will ever see. In
6 1975 Mr. Wood was able to purchase twelve hundred(1,200) acres
7 from the airport on 29 North all the way down to Route 29,
8 about a mile and a half of road frontage. For him to purchase
9 that out of pocket expense to him was five thousand dollars
10 (\$5,000.00). It cost him five thousand dollars(\$5,000.00).
11 Within nine(9) months, on his personal financial statements,
12 this five thousand(\$5,000.00) bucks, the property itself had
13 a Deed of Trust on it for a million six hundred thousand
14 dollars(\$1,600,000.00), all five(5) tracts. He paid five
15 thousand dollars(\$5,000.00) for the property out of his
16 pocket and within nine(9) months he was listing that property
17 over four million dollars(\$4,000,000.00) on his personal
18 financial statement. So you can see how you use this concept
19 of leverage to buy, sell, manipulate and develop property to
20 a great gain.

21 Now, in the case that we are going to be hearing today,
22 the property that we are going to be talking about, we are
23 going to be talking about millions of dollars. We are not
24 here talking about the purchase of a residential lot somewhere,
25 something like I would buy, a house, a lot to build a house on.

1 We are talking about things such as Windmill Point which is
2 down in Lancaster County, the Rappahannock River runs into the
3 Chesapeake Bay down there, Windmill Point sits right on the
4 edge of that, it's sort of a resort development. One point
5 eight million dollars(\$1,800,000.00) I believe was the purchase
6 price on that project that Mr. Wood bought back in the mid-
7 seventies. We are going to be talking about the Airport
8 Properties that I just explained to you. There was a debt on
9 that property of about a million six, a million six hundred
10 thousand dollars(\$1,600,000.00), it cost Mr. Wood five thous-
11 and bucks(\$5,000.00) to buy it and have it titled in his name.
12 We are talking about the property that Albemarle Square was
13 developed on. I am sure I don't have to tell you where that
14 is, or the significance of that property. We are also going
15 to be talking about millions of dollars in bank loans. To
16 give you some examples we are going to be talking about three
17 and a half million dollars from F&M, we are going to be talk-
18 ing about nine hundred thousand dollars from Bank of Virginia,
19 four hundred thousand from United Virginia Bank, we are going
20 to be talking about two million one hundred thousand dollars
21 from Westinghouse Credit Corporation plus we are going to be
22 talking about a number of loans that were made by the sellers
23 of the property to Mr. Wood, taking back their own personal
24 financing. Windmill Point - we will hear that there was a
25 tremendous amount of money involved in that.

1 Now, to make cashflow work, to make leverage work
2 there are two things that you have got to be able to keep
3 control of. Number one(1) - you have got to be able to move
4 the properties around, you have got to be able to buy them,
5 sell them, move them around; and number two(2) you have got to
6 keep a source of cash coming in. You are borrowing money here
7 to buy that property and you are taking that property to
8 develop some equity in it, you are using it to borrow more
9 money to buy property elsewhere or you are borrowing other
10 money to pay off the money that you originally borrowed to buy
11 the property in the first place. In this case you are going
12 to find that that is crucial because in the mid-seventies, as
13 you know, the real estate market started to take a downward
14 turn and Mr. Wood got himself in a bad cashflow situation and
15 these major loans to these banks that we are going to be
16 describing to you started declaring defaults in these loans,
17 you are going to hear that F&M declared a default, United
18 Virginia Bank declared a default, the Bank of Virginia declar-
19 ed a default and we are talking about defaults in the millions
20 of dollars. Why is that significant? For two reasons, number
21 one(1) it effected his business properties that he had pur-
22 chased. When he bought this property he had to give these
23 banks collateral and so not only was he giving them collateral
24 in his business properties he was also giving collateral in
25 his personal assets, that's the second reason for the

1 significance. The banks were foreclosing on his property, he
2 could lose those properties but he was on those notes person-
3 ally and he had a whole lot of personal property, a very
4 expensive home in Ednam Forest, stock in Albemarle Bank and
5 Trust, a yacht, helicopter, six hundred thousand dollars
6 (\$600,000.00) worth of art and oriental rugs in his home, all
7 of those things were subject to call in foreclosure by the
8 banks when he defaults on these loans. For that reason it
9 was very important that he had an attorney, or a group of
10 attorneys, that he could rely on when these defaults started
11 being declared to protect him, not only in his business but
12 his personal assets and much of the work that you will hear
13 about that Carwile, Kudravetz and Krumm performed for Mr. Wood
14 was done for just that, trying to protect Mr. Wood's assets,
15 protect Mr. Wood's position and continue to move and churn
16 these properties around, constantly trying to make a buck here
17 by mortgaging a property, selling it, or putting it together
18 and developing it.

19 Now, I think that gives you a general idea of the
20 parties and what they do. Let's talk about the relationship
21 of Carwile, Kudravetz and Krumm as a law firm for Mr. Wood.
22 What they want to get, right up front so you understand. The
23 amount that we are suing for in this case is one hundred and
24 twenty-three thousand dollars, one hundred twenty-three thous-
25 and two hundred and three dollars and forty cents exactly.

1 The bill for the services they are seeking today
2 cuts off in October 1988. We are not seeking any fees for any
3 period after that.

4 Now, the second thing that I want you to understand,
5 the bill that we are suing on today, you will get a copy of
6 it, we will introduce it into evidence, there are twelve(12)
7 items that are in dispute on that bill and you need to under-
8 stand that of the twelve(12) items that is twelve(12) liter-
9 ally hundreds of things Carwile, Kudrayetz and Krumm did for
10 Wendell Wood over the period of their representation. These
11 are the twelve(12) remaining that have not been paid, twelve
12 (12) for which we are suing.

13 Next, I need you to know and you will be told by the
14 judge, the defendant in this case has admitted that as to the
15 general heading, general items on the bill, requested that
16 they represent him on eleven(11) of the twelve. One of those
17 remains in dispute but of the eleven(11) he says yes I request-
18 ed that they do this work for me on this particular matter.

19 Finally, I think you need to understand that the kind
20 of work they were doing was not the kind of things to be done
21 in a day, it was something that went over a long period of
22 time, it was continuing in nature, it required an extensive
23 amount of travel, it required hours, after normal business
24 hours, nights and weekends and it involved dealing with banks
25 not here in Charlottesville, Windmill Point, as I explained to

1 you is down in Lancaster County. This litigation you are going
2 to hear about that occurred as a result of the property down
3 there, the litigation occurred in Richmond, you are going to
4 hear about banks all over the state, they were not just deal-
5 ing in one little small area, dealing all over the State of
6 Virginia and in some instances outside of the state as well.

7 Now, I referred earlier to the bad years for real
8 estate in the mid seventies and Mr. Wood's cashflow problem
9 and this is a major issue that's going to come up in this case
10 I believe. In the middle seventies Mr. Wood was having
11 problems and the banks were declaring default on his major
12 loans so he came to his attorneys and he said to them, look
13 fellows, times are tough right now for me, do me a favor - if
14 you will carry me, if you will help me through this period
15 when I get through it I'll take care of you, sort of a you
16 scratch my back I'll scratch yours or when my ship comes in
17 your ship will come in. So, for a period of approximately two
18 years they did exactly that while the firm of Carwile,
19 Kudravetz and Krumm was in existence. You are going to hear
20 evidence and you will also receive from the judge the admission
21 that Mr. Wood has already made that he did not receive bills
22 during this time. From time to time they would take money out
23 of closings of various transactions as they closed, he never
24 requested an itemized statement for a bill, he never asked for
25 an accounting on the bill, he was playing the float so to speak.

1 He was being carried by his lawyers who were not submitting
2 bills for their services, The other thing you are going to
3 hear about that is this put a tremendous strain on the law
4 firm of Carwile, Kudravetz and Krumm, these guys, approxi-
5 mately fifty(50) to sixty(60) percent of Stuart Carwile's
6 time was devoted exclusively to representing Wendell Wood and
7 there were months when Wendell wasn't paying because his cash-
8 flow problems were difficult and he couldn't pay, these guys
9 ended up going to the bank borrowing money to pay their
10 expenses...

11 MR. HAUGH: I object to this, Your Honor. That's not
12 a part of his case.

13 THE COURT: You don't have a claim for that do you?

14 MR. KENDALL: No sir, not for the interest, The issue
15 is going to be whether or not they were carrying him Your
16 Honor and why they were carrying him and the...

17 THE COURT: The question is whether or not the defend-
18 ant owes it, carrying him doesn't have much relevanc to it.

19 MR. KENDALL: All right, I'll move on. Now, we are
20 here today because we are claiming that there are twelve(12)
21 items in this bill that haven't been paid at all, twelve(12)
22 major transactions. Now, we expect the defendant to come in
23 here and make three or four claims, First, he is going to
24 tell you that there are time sheets involved here that the
25 attorneys filled out and that those time sheets reflect a

1 business that would involve purchasing and then waiting for
2 development to come in, is that basically what occurred with
3 the Rio Road-Route 29 North property now known as Albemarle
4 Square?

5 A Yes.

6 Q That had been purchased sometime before. Now,
7 during the existence of Carwile, Kudravetz and Krumm, can you
8 give us an estimate as to what percentage of the firm's work
9 was represented by work for Wendell and Marlene Wood?

10 A I would say that approximately - it varied - it's
11 varied over periods of time, but I would say in '76, '77
12 the time that Carwile, Kudravetz and Krumm was in existence
13 that it represented probably about seventy-five percent of my
14 time and about probably fifty percent of the firm's time.

15 Q All right, now, as your arrangement with Mr. Wood
16 that you've described whereby the firm would carry a portion
17 of his fees developed, did you receive some payments on work
18 that you were doing?

19 A Yes, we did.

20 Q Now, how was that set up?

21 A That was applied towards Mr. Wood's account.

22 Q On what type of basis?

23 A On a - on the basis of the items that had been
24 billed, on a first item to be - on a first in, first out type
25 basis.

1 Q Now, as you continued to carry the bulk of Mr.
2 Wood's fees during this period of time, did you and your
3 partners continue to remain content to handle it on this
4 open account basis where payments would come in periodically
5 as cash flow permitted?

6 A No, we had a number of discussions amongst the
7 three of us with respect to the problems it was creating for
8 us.

9 Q All right, and what was the nature of those dis-
10 cussions?

11 MR. HAUGH: I'm going to object to this, Your Honor.

12 THE COURT: Is it relevant?

13 Q Your Honor, I'm trying to establish the basis and
14 the extent to which these fees were being carried. As Your
15 Honor will recall, in our Bill of Particulars we've laid
16 out a number of considerations that went into the amount of
17 the bills when they were figured up. One of them was hours.
18 One was sophistication of the work done, time demanded, having
19 to carry the fees themselves was a factor involved in deter-
20 mining the amount of the fee that would ultimately be charged,
21 and I think it's necessary to develop the impact of that in
22 order to show how it affected the bill.

23 THE COURT: All right, that went into part of how
24 you made up the bill, we'll certainly have to consider it.
25 Go ahead.

1 Q All right, sir, what was the nature of the dis-
2 cussions between you and your partners about continuing to
3 carry the fees this long?

4 A We would discuss it from time to time and about
5 the problems that it was creating for the firm financially.
6 We also discussed, you know, the general understanding we
7 had with Mr. Wood, that we'd try and carry him through the
8 cash flow crunch that he was experiencing, that we would try
9 to work with him on that basis.

10 Q In your discussions with Mr. Wood about billings,
11 did - well, first did you and he ever have discussions about
12 how you would bill him on matters that you represented him
13 on?

14 A Yes.

15 Q And this would go back to the time you were with
16 the Musselman firm?

17 A Yes.

18 Q All right. What was the understanding that you
19 and Mr. Wood had as to how you would be billing himself and
20 Mrs. Wood?

21 A I think that the - I would characterize it as
22 billing him what in - on what's commonly referred to as a
23 quantum meruit type basis where you take into account a number
24 of factors involved in the type of work that you're doing.
25 Mr. Wood's requirement for legal services required a very in-

1 tensive commitment to doing his work because it was - it was
2 things that when he wanted something done, he wanted it done
3 right then. Things that he wanted done were seldom simple.
4 It was a very complex type - very complexed type transactions
5 that he was typically entering into and the billing for Mr.
6 Wood was based upon what he was requiring of us, the quality
7 of the services that we were rendering to him, the benefit
8 that he was deriving from - as a result of our doing the
9 services, the amount of money involved, the time involved, a
10 number of factors.

11 Q Did you have any discussions with him about what,
12 if any, effect on the bills his desire for you to carry the
13 bills would have?

14 A Yes. Mr. Wood knew - Mr. Wood's a very astute
15 individual and he well knew what's called the time value of
16 money; that money today is worth more than when somebody
17 tells you they're going to pay you or pays you two or three
18 years down the road, just because of inflation. And, you
19 know, in our discussions with respect to carrying him, he
20 understood that the payment, if we were having to carry him,
21 that had a cost to us. We were having to borrow money that
22 we weren't - weren't in a position to carry him and do that
23 work when we could be doing work for other people unless as
24 a factor in our ultimate compensation we were going to be
25 compensated for the fact that we were carrying him.

1 Q All right, sir, and did I understand you to say
2 that this was the typical way in which you billed him from
3 the time you were with the Musselman firm on through the end
4 of your representation of him?

5 A. Yes.

6 (Counsel confer here regarding exhibits.)

7 Q Your Honor, while Mr. Haugh is looking at those
8 I'm going to hand these, if I could, to the witness to begin
9 looking at them for identification purposes.

10 THE COURT: All right. I'd ask that Plaintiff's
11 Exhibit Number One be marked for identification and it is a
12 printed form with handwriting on it labelled, Wood, Wendell W.
13 v. Elva Wood, E L V A. I'd ask that Plaintiff's Exhibit
14 Number Two be marked for identification, which is a billing
15 dated July 9, 1976, addressed to Mr. Wendell W. Wood, RE
16 Wood v. Wood. Plaintiff's Number Three be marked for
17 identification, is a sheet with typewritten numbers and
18 handwritten numbers on it. The left column has the initials
19 S.F.C. appearing at the top, and Plaintiff's Exhibit Number
20 Four has been marked for identification, which is three cards,
21 at the top of the first of which says, Client Name, Wood,
22 Wendell W. versus Wood, Warren Wood.

23
24 Plaintiff's Exhibit Numbers One (1), Two (2), Three (3),
25 and Four (4) were duly marked for identification at this time.

1 A No, he did not.

2 Q Did he express to you why or do you know why he
3 transferred the bulk of his work to other lawyers? First,
4 let me ask you, when did that occur?

5 A That occurred in February, 1980.

6 Q All right.

7 A Late February or - in the transition between
8 February and March of 1980, in that time frame.

9 Q All right, do you know when that occurred?

10 A Yes. Mr. Wood had gone through in the fall summer
11 and fall of 1978, Mr. Wood....

12 Q I'm sorry, let me back up just a little now, my
13 question was why Mr. Wood moved the bulk of his business?

14 A In the summer and fall of 1978, First and Merchants
15 National Bank was putting tremendous pressure on Mr. Wood
16 to liquidate his line at First and Merchants, and called his
17 loans down there and declared them in default and threatened
18 foreclosure.

19 Q That was the total loans of how much?

20 A At that point in time the loans of probably in
21 excess of 2.6 million dollars.

22 Q All right.

23 A At that bank.. And the - the - as a result they
24 were - they gave a date certain by which they were going to
25 institute foreclosure proceedings, sell the collateral, sell

98
the property at a public auction. As a result of that, the -
in exploring with Mr. Wood ways to protect him and his proper-
ty and his collateral, the - it was necessary to put Wendell
- some of Wendell's property into a reorganization proceeding
in the Bankruptcy Court. In doing that, another entity was
set up called S-V Associates, which was a partnership composed
of Wendell, Marlene and a corporation called Southern Ventures.
Substantially...

Q Was Southern Ventures controlled by Mr. Wood?

A Yes. All of the property that Wendell and Marlene
owned on which F&M had lien rights and which Atwood had
security interests or deeds of trust, all...

Q Is that the former owner of Windmill Point, Mr.
Atwood?

A Yes. All of the property with which he was having
trouble with his creditors was put into this partnership and
the partnership filed for a Chapter Twelve Reorganization under
the auspices of the United States District Bankruptcy Court.
The - during the course of the Bankruptcy - during the course
of my representation of him in the bankruptcy proceedings
several things happened which I think affected - had a reason
or were the reason why once that proceeding terminated Wendell
and I parted ways in terms of future representation of him.

[REDACTED]

[REDACTED]

1 [REDACTED]

2 Q Did you discuss that payment with Mr. Wood?

3 A Yes, I did. At one of the prior hearings before
4 the date scheduled for confirmation of the plan and payment
5 of the deposit, which would represent payment of the legal
6 fees and any other - in the administrative expenses of the
7 Bankruptcy Court, the application for compensation was sub-
8 mitted to the Court. Judge Hickson announced in Court that
9 Mr. Wood would have to make arrangements for payment of it
10 prior to the confirmation of the plan or else the attorneys
11 would have waived their fee. I explained to Mr. Wood that we
12 were not willing to waive it. He told me that he didn't have
13 any cash at that point in time and I said, well, I don't want
14 to do it, Wendell, but if that's the way the cards fall, I
15 said I'll take your personal note for it because I don't want
16 to get in a situation where it's just - I don't - I'm not
17 going to waive - I'm not in a position to waive the fees. I
18 had another attorney that was working on the case with me and
19 we were running an office. We had to have payment for what we
20 were doing. This - we'd spent over 420 hours in getting up
21 to the point of the plan of arrangement. And so, Wendell
22 signed a note for \$27,820.00, which was the amount of our
23 application for compensation to the Bankruptcy Court, and I
24 wrote Wendell - and the note bore interest at 14 percent,
25 which was the rate of interest I was having to pay United

1 Virginia Bank for the money that I had borrowed from the
2 bank. And I wrote Wendell a letter that said - well, I con-
3 firmed our conversation of the day with respect to the
4 \$27,820.00 note - The \$27,820.00 note of your payable to this
5 firm, that the interest rate will be reduced in accordance
6 with any reductions of the rate which I pay to Virginia
7 National Bank and United Virginia Bank.

8 Q In other words, you had agreed that if the bank
9 gave you a better interest rate then you would give him a
10 better for carrying this...

11 A That's correct.

12 Q Besides personal borrowing of yours at the bank?

13 A I think - yes, it would have been personal borrow-
14 ings at that point and Carwile, Kudravetz and Krumm had had
15 a firm line of credit at the bank for borrowing, but at this
16 point it would have been personal borrowings.

17 Q All right, and now just very briefly the second
18 letter is a letter from you to Judge Hickson...

19 A Yes.

20 Qinforming him of your waiver of receiving any
21 fees at that point in time is that correct?

22 A Yes, that's correct.

23 Q And we've already been through the application.
24 The last document which is labeled Order Confirming Plan,
25 would you describe just very briefly what that Order is?

1 A Forty thousand dollars.

2 Q All right, then what's the last page in that...

3 A The last page represents my bill to S-V Associates
4 in connection with the matters in the Bankruptcy Court from
5 - in connection with the sale to Woodbrier Associates, working
6 with First and Merchants National Bank. They had attempted to
7 - they'd filed a motion to have the plan of arrangement re-
8 voked and in connection with the Virginia National Bank loan.

9 Q So, this would be all of your representation in the
10 Chapter Twelve after you received the note for twenty some
11 thousand?

12 A Yes.

13 Q The note was for work before that, this was for
14 work after that? Is that correct?

15 A That's correct.

16 Q All right, and do you itemize the services on the
17 bill?

18 A It speaks to the major topic areas that was - that
19 were worked on by our office in connection with that.

20 Q Do any of those topic areas relate in anyway to work
21 done during the time Carwile, Kudravetz and Krumm represented
22 Mr. and Mrs. Wood?

23 A No. They all related to S-V Associates and the
24 Bankruptcy Court work.

25 Q Did you at anytime in receiving payment for this

1 bill or in receiving the note from Mr. Wood at the Bankruptcy
2 proceeding, tell him that that would represent payment for
3 everything he owed you right on up to that point?

4 A Absolutely not.

5 Q Did you have discussions with him about what each
6 of those things was specifically to pay for?

7 A I gave Wendell the bill in my office. We discussed
8 the bill. At that time we discussed what it was referenced
9 to and as was not uncommon, he indicated that - well, any
10 bill you ever gave him was, you know, he always would
11 initially object to it. He'd see if you'd back down. If
12 you stuck to your guns and explained to him why you thought
13 it was reasonable, you know, he would be quiet and go away
14 because, you know, I think that Wendell perceived that the
15 bills were always reasonable in terms of what he got out of
16 my representations....

17 MR. TREAKLE: I object to that. This is solely
18 opinion.

19 THE COURT: All right, just state what you of your
20 own knowledge know.

21 Q Now, you were asking him for payment of current
22 services currently basically at this time were you not?

23 A Yes, almost all the services rendered in that period
24 of time related to the Bankruptcy Court proceeding.

25 Q Did he object in anyway to your not stopping to

1 carry his current work the way you had been?

2 A I'm sorry.

3 Q Did he in anyway object to your now starting to
4 demand current payment for current work rather than carrying
5 these bills as you had?

6 A He - he understood from the beginning that that
7 was a - we - we had a conversation from the beginning that
8 that's the way it was going to be in connection with the
9 Bankruptcy Court proceedings. I don't think that he liked
10 my...

11 MR. TREACLE: Objection, Your Honor...same objection.

12 A He told me...

13 THE COURT: Well, if he told you, go ahead.

14 Q Did he make any statements to you about this?

15 A I cannot repeat them verbatim, as to what he said.
16 I mean I have - I have - I know the gist of what he said,
17 but I cannot repeat it verbatim.

18 Q All right, would you give us the gist of what he
19 said?

20 A The gist of what he said was that - you know, can
21 you carry me - I'd like to get some money. He said, I need
22 - I need some money, can you carry this, can I pay it later
23 and I said, Wendell, I can't do it. I said I've got to run
24 an office and I've got a family to feed.

25 [REDACTED]

1 A Thirty thousand, two fifty (\$30,250.00) and -
2 every calculator has a different format - get another cal-
3 culator..

4 Q Would you like to do it by hand? I have a pad.

5 A Eight, fifty - on eight hundred and fifty thousand
6 it would be forty-six thousand, seven fifty (\$46,750.00).

7 Q That's the first year?

8 A Right.

9 Q Forty-six thousand, seven hundred and fifty dollars.

10 A And the next year, forty-one thousand, two fifty
11 (\$41,250.00).

12 MR. TREAKLE: Beg your pardon?

13 A Forty-one thousand...

14 Q Forty-one thousand, two hundred and fifty in the
15 second year. If I may be permitted, that's eighty thousand
16 dollars total. All right, now, once the Atwood litigation
17 was underway and the foreclosure had been enjoined by the
18 Court, what then occurred?

19 A During this period of time Wendell was attempting
20 to sell Windmill Point to get out from under the problem of
21 Atwood, management, operation of the Marina and the default.
22 And he entered into discussions with a gentleman named Ed
23 Seay from Richmond with respect - concerning the purchase of
24 the Marina and a contract was ultimately entered into between
25 Wendell and Ed Seay.

1 Q All right. And do you recall what purchase price
2 was...

3 A It's my recollection that the purchase price was
4 a million, seven hundred and ten thousand dollars...

5 Q Okay. Now, did you work in the preparation of the
6 contract?

7 A Yes.

8 Q The contract was entered into and the negotiations,
9 I think, started in March of that year, and the contract was
10 actually entered into, I believe, in late March, early April
11 of that year. The contract provided that Seay could take
12 possession of the property prior to closing. The closing
13 was scheduled for the mid-summer and there was a provision
14 that Seay could take possession of the Marina and operate it
15 during the spring and summer season until closing. One of the
16 reasons that this - well, this was something that Wendell was
17 interested in having Seay do because in order to open the
18 Marina back up for operations there was a substantial amount
19 of cash required, stocking the facility with inventory and
20 making a certain amount of minimal repairs that would have
21 had to been made on any basis to get the facility operational.
22 So, the contract had provisions like, that Seay, if he
23 exercised his option to take possession, would have to make
24 at least fifty thousand dollars of capital improvements to the
25 property and the - the contract was also complicated because

1 [REDACTED]
2 THE COURT: All right, received subject to the same
3 reservation.
4

5 Plaintiff's Exhibit Number Thirteen (13) was duly
6 marked and received into evidence at this time.
7

8 Q I now refer your attention to that item on the
9 bill under the caption of Airport Properties and which repre-
10 sents, \$10,500.00 of the total bill. And let me ask you again
11 to describe in narrative form an overview of the work re-
12 presented in this portion of the bill?

13 THE COURT: We'll make this one our last one then for
14 the evening.

15 Q Yes, sir, I think it should work out just about
16 right.

17 THE COURT: Okay, fine.

18 A There were five partnerships that owned - that had
19 common partners controlled by the same people that owned
20 about 1200 acres of land in the aggregate...

21 Q Would you speak just a little louder?

22 A Owned about 1200 acres of land between all five
23 different parcels between the Airport Road and going up to,
24 including the major portion of where the GE facility is
25 situated on Airport and going back to State Route 606, which

1 is the road that leads to Chris Green Lake. Wendell, in
2 1975, had the opportunity to acquire all of these properties
3 consisting of approximately 1200 acres for the out-of-pocket
4 cash payment to get title to the property of five thousand
5 dollars. And there were - the properties had various mort-
6 gages on them which aggregated approximately a million, six,
7 and he wanted to acquire the ownership rights to these
8 properties without becoming personally liable for payment of
9 the mortgage indebtedness because the previous owners had
10 allowed a number of the mortgages on the property to go into
11 default, and if a mortgage is in default an owner can say -
12 the holder of that mortgage can say pay me all of it right now,
13 and he didn't want to - he wasn't interested in doing that,
14 but he was interested in having the ownership rights and then
15 being able to negotiate with the various holders of the mort-
16 gage for extended terms to pay them off and basically re-
17 negotiate the payout provisions on some of the mortgages, and
18 to...

19 Q And what were...

20 A ...and to honor some of the others.

21 Q All right, well what would be the result if he then
22 started into negotiations with these mortgage holders and
23 couldn't reach a deal with any of them?

24 [REDACTED]

25 [REDACTED]

May 25, 1982

Court reconvened at 9:08 A.M.

THE JURY RETURNS TO THE BOX.

Continuing with Direct Examination of Mr. Carwile, by Mr. Lowry.

THE COURT: All right, if you'll proceed then, Mr. Lowry.

Q All right, Your Honor, I believe we had just completed the entry on the bill labeled Airport Properties yesterday. Mr. Carwile, with regard to that category on the bill listed as Airport Condemnation Matters, did you have the primary work responsibility in the firm on that or was that primarily done by one of your partners?

A That was primarily done by Mr. Kudravetz.

Q All right, we will save that then and ask him about the representation on those matters. With regard to the F&M Financing category on the bill, that's listed as being \$12,500.00 for that portion of the bill. Would you give the Court and Jury a general description of the work involved in that and the history of that matter?

A First and Merchants National Bank in Richmond or F&M, as they are commonly referred to, during this period of time was Mr. Wood's major lender. And the work that's en-

1 compassed in the bill - the - could I have a copy of the bill
2 in front of me to assist me? (Witness was given a copy of the
3 bill by counsel.) The work that's encompassed in - in the
4 bill with respect to this matter involved negotiations with
5 the First and Merchants National Bank and their counsel, which
6 was a law firm in Richmond, with respect to their making
7 additional loans to Wendell and Marlene. They already had
8 some existing loans and they were being increased from time
9 to time and as they were increased, First and Merchants would
10 require additional documentation, additional collateral in the
11 way of real estate being pledged to them by way of a deed of
12 trust to secure the loans. There was a nine hundred thousand
13 dollar loan that was done initially. It involved examination
14 of title to the properties that were serving as collateral
15 for this loan, involved examination of title to the Airport
16 Properties that Wendell had purchased and what we talked about
17 as the Airport purchase transaction.

18 Q All right, this was those five parcels of land
19 aggregating 1200 acres along Route 29?

20 A Yes, approximately 1200 acres. The title examination
21 to those were rather detailed and lengthy. The - the - it
22 involved preparation of title opinion letters to First and
23 Merchants National Bank. The - their normal practice was
24 that they required title insurance on loans of this magnitude
25 but I was able to convince them to accept our title opinion

1 letter. As a result of doing that, that saved Wendell the
2 cost of paying for title insurance premiums. The - it involved
3 ...

4 Q Are those generally of any magnitude in a trans-
5 action this size?

6 A Yes, the - on transactions - we were dealing with
7 a nine hundred thousand dollar deed of trust at one time, a
8 two million, four hundred and fifty thousand dollar deed of
9 trust at a later date. Title insurance premiums on those -
10 on loans of those magnitude run - the rates start off at about
11 two fifty per thousand and...

12 Q Two dollars and fifty cents per thousand?

13 A Two dollars and fifty cents per thousand and as
14 you go up in size of the loans, there are certain reductions
15 in the rate per thousand. I could not tell you right now
16 exactly what the premium would be, but it would have been in
17 the magnitude of thousands of dollars in the aggregate over
18 the life of the F&M financing. The - it involved examination
19 of title to property owned by Wendell that he had acquired
20 prior to the time that I represented him, such as a lot in
21 Carrsbrook that fronted on 29. It involved - they were taking
22 as collateral property that he owned not only in Charlottes-
23 ville and Albemarle County, but also the properties that he
24 had purchased in Lancaster County, Virginia, which is down on
25 the Chesapeake Bay...

1 Q That's the Windmill Point property?

2 A Yes. By that time Wendell had acquired three
3 different tracts of land at Windmill Point. What he acquired
4 from Atwood that we've talked about. He acquired some other
5 property from two gentlemen named Harwood and some other
6 property from a Mr. Hubbard and Mrs. Humphries.

7 Q Were Mr. and Mrs. Wood both obligated on these
8 loans to F&M?

9 A Yes, they were. And it involved updating the
10 title in the Lancaster County - for the Lancaster County
11 properties and get recordation down there. The - there came
12 a point in time when F&M agreed to - wanted to consolidate all
13 of their loans into one security instrument because prior to
14 this nine hundred thousand dollar loan they'd made other ex-
15 tensions of credit to Wendell and Marlene and there were other
16 deeds of trust, and so they wanted the nine hundred thousand
17 and a four hundred and seventy-five thousand and a five
18 hundred and twenty-five thousand consolidated into one
19 security interest - interest to secure his line of credit for
20 two million, four hundred and fifty thousand, and it involved
21 the preparation of documents in connection with that and the
22 - supplying F&M with information with respect to the - all
23 the plats that were involved on the property, negotiating
24 with them as to whether as to any of the properties - new
25 surveys would be required. And we ultimately got it so that

1 there were no new surveys required. It involved ascertaining
2 from the County and confirming to them the zoning on some of
3 the various tracts of land, and general review with First
4 and Merchants and their counsel as to all aspects of the title
5 exceptions which were included in the - my opinion letter, the
6 title exceptions because of their - the volume of the property
7 being conveyed were rather extensive. First and Merchants
8 also would make periodic advances to Wendell and Marlene under
9 this line of credit, sometimes cash advances for their use
10 as was needed, other times advances under the line of credit
11 to pay interest on the loans and as that was done, they
12 wanted estopple certificates prepared, confirming the amount
13 outstanding under the deed of trust and they'd want updates
14 to the title opinions as the advances were made.

15 Q Would those estopple certificates involve working
16 with holders of other deeds of trust?

17 A At times, but also it was primarily estopple
18 certificates with respect to confirming the balances that the
19 Woods owed to them, but they from time to time did want con-
20 firmation as to what the balances outstanding were under the
21 prior deeds of trust because F&M had what was called in real
22 estate jargon, a wrap around deed of trust and it covered
23 basically all of - essentially all of the property and in many
24 instances it was not a first lien but there would be other
25 deeds of trust that were prior to F&M's lien. There was also

1 some shifting of collateral that took place between F&M and
2 Bank of Virginia and it involved doing the necessary documents
3 and from the F&M prospective of the loan, for releases and
4 to get the collateral released from the F&M liens. There were
5 some vendor's lien bonds, which a vendor's lien is essentially
6 like a mortgage, but it's another mechanism of securing a loan
7 on a piece of real estate and it involved pledging some
8 pledge agreements to pledge the vendor's lien bonds to F&M in
9 the latter stages of the loan, and then after they had made
10 the loan at a million, two fifty and they had used up the -
11 that amount - borrowed that amount of money, there was - F&M
12 agreed to advance - to set up an - to increase the line of
13 credit by another hundred and seventy-five thousand dollars.
14 And...

15 Q And that brought the line of credit up to a total
16 of how much?

17 A Well, it was two million, fifty and a hundred and
18 seventy-five, so it would be two million, six twenty-five,
19 I believe, and the - had to prepare a supplemental deed of
20 trust which covered not only property in Charlottesville and
21 Albemarle County, but also property in Page County and Lancaster
22 County, update the titles in all of those jurisdictions, and
23 get the instruments prepared and do a supplemental title opinion
24 certificate to F&M with respect to that.

25 [REDACTED]

1 identification.

2 MR. LOWRY: We have no objection.

3 Q We would introduce it in evidence, Your Honor,
4 as defendant's exhibit two (2).

5
6 DEFENDANT'S EXHIBIT Number two (2) so marked at this
7 time by the Court Reporter and received by the Court.

8
9 Q I'll ask you to look that over and tell the jury
10 what that is.

11 A This is a Certificate of Title that was prepared
12 in our office.

13 Q What does it cover?

14 A It covers title to a forty-four acre portion of
15 the Airport Properties.

16 Q Under which land trust?

17 A North Rivanna Third Land Trust.

18 Q What is the date on that, sir?

19 A The date on this is July 1, 1975.

20 Q What period of years does this examination of title
21 purport to cover back in 1975?

22 A Not less than sixty years.

23 Q All right, sir. Now, would you tell - with that in
24 mind, would you tell the jury when you did the first title
25 examination for the nine hundred thousand dollar deed of trust

1 for First and Merchants, when you did it for the two point
2 four five million dollar deed of trust?

3 A That was probably done in 1976 and 1977.

4 Q So, you had the title?

5 A Let me explain that to you, Mr. Haugh. Mr. Wood
6 at the time that he was buying this property said that he did
7 not want the title examined in connection with the purchase
8 of it. Our office, I knew that notwithstanding the desire
9 that he did not want the title examined that at some point in
10 time we were going to be called upon to certify title to
11 various lenders as he used it as collateral. So, as time
12 permitted I had my office and myself do the title to these
13 properties, the title examination was not billed to Mr. Wood
14 in connection with the Airport Property purchases, it was
15 billed to Mr. Wood in connection with the F&M financing which
16 was the first time we had the necessity for using it.

17 Q Now, are you saying that you did this although Mr.
18 Wood didn't instruct you to do it?

19 A I knew that we would need it done and I knew that
20 when he wanted financing - when he had a need for financing
21 and the bank said we will make a loan, you have got a hard
22 time telling him it was going to take us about a month to get
23 the title for these twelve hundred acres examined, we examined
24 the title in the anticipation of the need which subsequently
25 materialized and did not bill him until the need did

1 materialize.

2 Q Do you know the time you did the title?

3 A The time I did the title.

4 Q Yes, these are dated July '75.

5 A It was done after the airport purchases were closed
6 and up until some point in time in July. So, it was done
7 between March and July of '75.

8 Q Do you have any time records?

9 A I don't think I have any time records for that.

10 Q And these were done simply for future use for F&M?

11 A Future use as ever how needed, subsequently it was
12 needed for F&M.

13 Q Did you ever need them before F&M?

14 A I think F&M was the first time it was called into
15 use in terms of when I had to certify title to property. It
16 was either F&M or Bank of Virginia, I think it was F&M. As
17 to one tract we probably did have to certify to Fidelity
18 American Bank, when the Airport Fifth property, they did have
19 a loan as to that and there were other creditors as to that
20 but as to the other four tracts we did not have to do that
21 because there was no new financing on that. But, as to the
22 Certificate of Title that you gave me, Mr. Haugh, on the
23 North Rixanna Third Tract there was no need for that until the
24 F&M financing.

25 Q But, you did title all of the property?

1 Plaintiff's twenty-one(21).

2
3 PLAINTIFF'S EXHIBIT Number twenty-one(21) so marked at
4 this time for Identification Purposes only.
5

6 Q I show you an exhibit marked as Plaintiff's Exhibit
7 number twenty-one(21) and ask you if you can identify that?

8 A This is the file that was set up for Mr. Wood
9 regarding the condemnation of some of the North Rivanna Land
10 Trust Properties that he purchased in the spring of 1975.

11 Q Can you briefly give us a description of what this
12 matter is about?

13 A When Mr. Wood purchased the North Rivanna Land Trust
14 Properties, 1,200 acres on Route 29 North he purchased it sub-
15 ject to two Certificates that had been filed by the State High-
16 way Commission for condemnation of portions of the property.
17 When the State Highway Department wants to condemn land for the
18 widening of a road or improving - in this case I think it was
19 the bridge there across the North Rivanna River, just south of
20 the entrance to Camelot, the Highway Commissioner will file a
21 certificate against the property owner and will basically say
22 I set this as being the fair value of the land I am taking and
23 I will pay you this amount for your property, the landowner
24 then has an opportunity to draw that money down and then to
25 contest the valuation that the Highway Department Commissioner

1 has set for the land.

2 Q With that general frame work as to what happens,
3 what happened in this case?

4 A In this case there were two certificates that had
5 been filed against the property that Mr. Wood was acquiring.

6 There was one certificate for, I believe, twenty-nine thousand
7 five hundred dollars(\$29,500.00) and another one for four
8 thousand dollars(\$4,000.00), for two different parcels of
9 property. We proceeded to file petitions with the court and
10 prepare orders for the court authorizing the distribution of
11 the funds to Mr. Wood. We corresponded and directed the trust
12 company in Richmond that was serving as a trustee of the land
13 trust to receive the money to pay to Mr. Wood since they were
14 the legal titleholders of the land trust, Mr. Wood was the
15 ultimate beneficiary.

16 Q Let me stop you for just a minute. This is part of
17 the property that you referred to earlier as the Airport
18 Properties?

19 A That's correct.

20 Q This is one piece, five land trusts?

21 A This actually involved two pieces, two of the parcels,
22 but just small portions of those parcels. A .7 acre parcel, I
23 believe, and a 1.2 acre parcel maybe.

24 Q When did this matter begin, when did you get
25 involved in it?

1 A We got involved with it simultaneously with Mr.
2 Wood's acquisition of the Airport Properties which was in March,
3 1975.

4 Q The time on this bill is not included under the time
5 for the bill for the Airport Properties as discussed earlier?

6 A That's correct.

7 Q It's treated as a separate matter?

8 A Yes.

9 Q In terms of the course of this particular matter
10 can you describe what you had to do other than what you have
11 already said and some of the obstacles you ran into?

12 A In the summer of 1975 Mr. Wood, we proceeded to
13 obtain the money for Mr. Wood on one of the certificates, the
14 twenty-nine thousand dollar(\$29,000.00) certificate. The money
15 was obtained, there was about a two(2) month delay in getting
16 the check issued from the Highway Department through their
17 attorney here, those funds were received by Mr. Wood. The
18 four thousand dollar(\$4,000.00) certificate - Mr. Wood did not
19 elect to draw down because he was unable to get the existing
20 mortgages on the property, where the four thousand dollars
21 (\$4,000.00) should have been filed, he was unable to get those
22 mortgages released. In other words, you had to be able to give
23 good title, title free of any liens or mortgages to the Highway
24 Department at the time you got your money and he was able to
25 do that on the larger parcel but not on the smaller parcel.

1 Q Who held those mortgages, do you recall?

2 A I think the mortgages were held, one mortgage was
3 held, four hundred and sixteen thousand dollars (\$416,000.00)
4 was held by Dr. Birdsong and William Trevillian; and there was
5 a second mortgage on the property and I don't know who the
6 bondholders were on that.

7 Q Did Mr. Wood contest the valuation that had been
8 put on the property by the Highway Department?

9 A Yes he did.

10 Q What did he feel was the proper valuation of the
11 property?

12 A I think at one point we made an offer to the Highway
13 Department that we would settle the cases for forty-six thous-
14 and dollars (\$46,000.00) which would have been basically twelve
15 thousand dollars (\$12,000.00) more than the value the Highway
16 Commissioner had placed on the property.

17 Q Did you ultimately come to an agreement with the
18 Highway Department?

19 A I believe an agreement was ultimately reached at a
20 price of forty thousand dollars (\$40,000.00).

21 Q What was your participation in terms of going
22 through to deal with the Highway Department in litigation that
23 resulted in the petition filed by Mr. Wood?

24 A After Mr. Wood received the twenty-nine thousand
25 five hundred dollars (\$29,500.00) suit was instituted in the

1 Albemarle County Circuit Court for determination as to what the
2 true value was of the property. Mr. Wood thought it was higher,
3 the Highway Commissioner obviously thought it was, the twenty-
4 nine five and the four thousand that he had filed certificates
5 for. The Highway Commissioner's attorney filed interrogatories
6 asking that we state who Mr. Wood's expert witnesses were going
7 to be to testify as to the value of the property and under the
8 Highway Commissioner's proceedings each side is entitled to
9 appoint commissioners and the commissioners on behalf of the
10 court review the argument of each party and they make the
11 decision as to what the value of the property should be. So,
12 we responded to Mr. Sutton, the attorney for the Highway Depart-
13 ment, advising him of who our commissioners, what commissioner
14 we wanted to serve and he told us what commissioners he wanted
15 to serve. We responded to interrogatories stating who our
16 witnesses would be. Mr. Wood, and I believe a business
17 associate of his, James Fleming. We had Mr. Fleming prepare an
18 appraisal of the property as to what he thought his value was.
19 Mr. Wood - there had been interrogatories submitted by Mr.
20 Sutton and on behalf of Mr. Wood I worked with Mr. Wood and we
21 responded to those interrogatories. The interrogatories are
22 questions that one side gives the other side asking what that
23 party is going to testify to.

24 [REDACTED]

25 [REDACTED]

1 Q Now, moving on to Milodon which is one of the items
2 in your bill for services. I'd like that marked as Plaintiff's
3 twenty-two(22),

4
5 PLAINTIFF'S EXHIBIT Number twenty-two(22) so marked
6 at this time by the Court Reporter.

7
8 Q I show you a file marked Plaintiff's Exhibit number
9 twenty-two(22) and ask you if you can identify that?

10 A Yes, this is our firm file that we set up for Mr.
11 Wood in connection with the Milodon transaction.

12 Q Have you had an opportunity to review that file?

13 A Yes.

14 Q In your opinion is the work reflected on the bill
15 work that you did on behalf of Mr. Wood in connection with the
16 Milodon transaction?

17 A Yes it is.

18 Q Have you been paid for that work?

19 A No.

20 Q Do you know how much of the bill you are charging
21 Mr. Wood for the Milodon transaction?

22 A I think it's a thousand dollars(\$1,000.00).

23 Q Now, when did you become involved in the Milodon
24 transaction, when did all of this come up?

25 A This came up in the early spring, February or March

1 of 1978,

2 Q Briefly describe what the transaction was.

3 A This involved the sale by Mr. Wood of one of his
4 land trusts on the Airport Properties. This was the North
5 Rivanna Second Land Trust to a company based in California
6 called Milodon Engineering, a wholesale distributor of bracing
7 parts I believe. I think it was a proposed sale of a two(2)
8 acre parcel to them at a price of fifteen thousand an acre for
9 a total contract of thirty thousand dollars(\$30,000.00).

10 Q Under the terms of your representation of Mr. Wood
11 what were you required to do as a part of this closing?

12 A The first thing we were required to do was to, I
13 believe Mr. Wood handled the negotiations with Milodon, we then
14 drafted a Contract of Sale with Milodon on behalf of Mr. Wood.
15 I recall that there were numerous contingencies in the contract
16 it was contingent upon the Milodon people being able to get
17 zoning, upon Mr. Wood agreeing to provide sewer and water to
18 the property; and there may have been one or two other con-
19 tingencies - oh, there were some contingencies about financing.
20 Milodon was in the process of applying for a six hundred thous-
21 and dollar Farmer's Home guaranteed loan through Albemarle Bank
22 and Trust Company and that was a contingency in the contract
23 that if they didn't get that loan the contract would not be
24 binding on them.

25 Q What other documents did you prepare in order to

1 make this transaction?

2 A We prepared the contract, then the next thing we had
3 to do was prepare the document to get ready for closing and
4 that involved first of all making sure that the property could
5 be conveyed to Milodon free and clear of the existing mortgages
6 on the property. As I previously testified on the North
7 Rivanna Second Parcel I believe there was a four hundred and
8 sixteen thousand dollar(\$416,000.00) mortgage and a second
9 mortgage. By this time Mr. Wood had also placed the 2.45
10 million dollar First & Merchants mortgage against the property
11 and a supplemental mortgage against the property for a hundred
12 and seventy-five thousand dollars(\$175,000.00) so we had to
13 make sure that we got all those properties, all of those liens
14 all of those mortgages released from this property prior to
15 closing which involved preparing letters to the bondholders,
16 actually letters for the bondholders to sign on the four
17 hundred sixteen thousand dollar mortgage and the second mort-
18 gage on that property and obtain their signatures. I can
19 recall going to Mr. Trevillian's office, one of the bondholders,
20 and getting his signature on the letter to the trustees, the
21 trustees of the mortgage authorizing them to make the release
22 of the property from the Deed of Trust, or the mortgage. It
23 involved correspondence and phone conferences with First and
24 Merchants Bank in Richmond to make sure that they would release
25 the property and a discussion of what amount of money they

1 wanted out of the sales proceeds in order to make that release.
2 So, that had to do with getting the property in a position
3 where it could be sold. Then we prepared the deed, we got to
4 closing and there was a dispute because Mr. Wood had not been
5 able to fulfill all of the contingencies called for in the
6 contract, by the time of closing he had not been able to pro-
7 vide water and sewer to the property. I don't think the re-
8 zoning had been obtained and there was a subdivision problem
9 that the two acre parcel could not be conveyed to Milodon be-
10 cause the county had not approved the subdivision plat. So,
11 there were some last minute changes in the contract and it was
12 closed as a sale of five(5) acres which was a larger parcel, it
13 did not require subdivision approval from the county. Five(5)
14 acres was conveyed with the agreement that Milodon's president,
15 Donald Alverson would reconvey three(3) acres to Mr. Wood.

16 Q Did the property ultimately close?

17 A Yes.

18 Q Now, in terms of the two transactions we have talk-
19 ed about, Airport Condemnation matter and the Milodon matter,
20 what was your relationship in terms of working with Mr. Wood
21 and Mr. Carwile?

22 A In the Airport Condemnation matter there were some
23 situations where I would work directly with Mr. Wood, there
24 were some cases where Mr. Carwile would do a lot of the work.
25 Mr. Carwile handled most of the negotiation with the Highway

1 Q I think that's all on the 1983. Why don't we shift
2 down to the Seay matters and touch on them briefly. Were you
3 present when Mr. Carwile testified about the Seay matter?

4 A I believe so, yes sir.

5 Q What was your involvement in that matter?

6 A I was first involved in the case by Mr. Carwile in
7 July of 1977. Mr. Seay's contract to purchase Windmill Point
8 had been entered into in April of 1977, he had taken poss-
9 session of the property pursuant to the terms of the contract.
10 We were getting closer and closer to the closing date which
11 was July 31, 1977. As we got closer and closer to that
12 closing date it became more and more apparent we were going
13 to have difficulty bringing Mr. Seay to closing. We antici-
14 pated at that point in time that we might have to go to
15 litigation on the contract. Mr. Carwile asked me to get
16 involved in connection with the closing, he had prepared all
17 of the voluminous documents necessary to close the transaction
18 and my first real contact with the Seay matter was on July
19 29th when Mr. Carwile and I went to Richmond to the offices
20 of Mr. Smithers, Mr. Seay's second or third attorney, to pre-
21 pare for the closing. We tendered the documents for closing
22 at that point in time, stated to Mr. Smithers we were prepared
23 to work on the 29th and 30th and 31st to close this transaction.
24 Mr. Carwile had special Power of Attorney for Mr. and Mrs.
25 Wood to act on their behalf at closing because they were out

1 of the country on vacation somewhere. That was my first
2 involvement with the case. We encountered difficulty from
3 that date forward. Mr. Seay threw up every block that he
4 could think of to defer, delay and ultimately not close the
5 transaction; and from July 29th on it was a constant process
6 of trying to first make Mr. Seay close the transaction, work
7 with Mr. Seay in anyway to accommodate his concerns so that
8 he could close the transaction, help Mr. Seay with the
9 financing by agreeing to modifications in the financing pack-
10 age so that he would close the transaction, none of which
11 worked.

12 Q Was Mr. Wood anxious to close with Mr. Seay?

13 A Yes sir.

14 Q Why?

15 A He was ready to be out of the marina business, it
16 was, I believe, a favorable price for the sale of the marina,
17 I believe it was a million seven ten and the financing
18 package that had been arranged by Mr. Carwile was favorable in
19 terms of the spread on the interest point.

20 Q Now, after the property didn't close, and you de-
21 scribed the negotiations that took place with Mr. Seay to try
22 and restructure the deal, where did those negotiations and
23 conversations take place?

24 A The major negotiations took place in Mr. Smither's
25 office in Richmond. There were a number of times when Mr.

1 Wood and I, I believe there were at least two times that
2 Mr. Wood and I went to Richmond to Mr. Smither's office to
3 meet with Mr. Seay and try to negotiate a closing. There
4 were other times when I had extensive conversations with Mr.
5 Smithers on the telephone, Mr. Carwile would go to Richmond
6 to negotiate the matter.

7 Q Now, you indicated that at the time of closing
8 Mr. Seay was on his third attorney, is that correct?

9 A It was either the second or the third, by the time
10 I got to it, yes sir.

11 Q What problems, if any, did that pose in terms of
12 handling this matter?

13 A Everytime he switched from one attorney to another
14 we had a situation where...

15 MR. TREACLE: ...Objection, Your Honor, he doesn't
16 have personal knowledge of this. He said when he got in the
17 man was on his third attorney. He has no knowledge of this.

18 THE COURT: All right, next question. Sustained.

19 Q When it became apparent that Mr. Seay wouldn't close
20 did you ultimately file suit?

21 A Yes sir, we did.

22 Q How long did that litigation go on?

23 A That litigation was still pending in October of
24 1978 when we split up the partnership.

1 [REDACTED]
2 [REDACTED]
3 A Well, I had in 77, after I had made the payment at
4 that point I'm like \$700,000.00 I had invested in this prop-
5 erty. I don't have any realese clauses at all and as I told
6 you cash was becoming crucial to me. I needed some cash. So
7 I went out to sell the property. I entered into a contract
8 with a fella named Ed Seay, who was a boater there. He owned,
9 he lived in Richmond, he was president of Richmond Homebuilders
10 Association and had a boat at Windmill Point and was there,
11 had a boat there when I purchased the property. I negotiated
12 a sale to him for \$1,710,000.00. Okay, there are a couple
13 of things in there but I will proceed through that one first
14 but I'll have to back up. I negotiated a sale with him. We
15 agreed on the terms, cash down. He was going to sell it in
16 condominiums. In other words, just like you buy a condo-
17 minium here, he was going to sell in the slip-rental condo-
18 minium, and he had an idea that, in fact, it was an idea that
19 I had in the back of my mind, I conveyed it to Stuart, but
20 now because of needing money, I didn't have time to carry that
21 idea forward. He had the idea he wanted to do it. He said
22 he was going to sell it off in condominiums, he had already
23 talked to a lot of people, no problems. So, doing a little
24 chekcing on him personally as you do when you go into a deal
25 of this nature, you like to know who you are dealing with, I

1 had, I did not think he was heavy enough, I did not think he
2 was financially strong enough that if he did not, if he was
3 not successful in this transaction that he would be able to
4 perform on the contract. So I confronted him with that, I
5 said, Ed, unless you can show me some other substantial net
6 worth, I can't enter into the contract and he acknowledged
7 that he could not. He said I'm betting on that I can do this
8 and I know I can put it together, I can do it. So, what we
9 negotiated was that if he could not do it, if he was unsec-
10 cessful, he had signed a note for \$150,000.00 that he said
11 I will risk a \$150,000.00. If I can't pull it off, I'll lose
12 \$150,000.00 and that was what we agreed on in the contract,
13 if he was not even close, I had a note for a \$150,000.00
14 signed by he and his wife personally.

15 Q Who negotiated that?

16 A I did.

17 Q Did he close?

18 A Did not close, but he took possession.

19 Q How long was he in possession?

20 A He was in possession for approximately ten months
21 of this, there again, this is a seasonal business, this is
22 boating season on the Chesapeake Bay which is May through
23 September.

24 Q What happened to the income at Windmill Point during
25 the period he was in possession?

1 A He took all the income. He enjoyed the, in essence
2 like ownership, he was there, he ran it, the employees were
3 his, they weren't mine. He took all the income in, he didn't
4 even have the liabilities of being a rentor. I ended up, when
5 I got the property back, he didn't even pay rent for the time
6 he was there. I had all the liabilities, I had to pay the
7 taxes on the property, I had all the liabilities of being
8 owner and none of the benefits. He turned the property back
9 over to me in January, he had taken it in April of 77, I got
10 it, he vacated the premises in January of 78. And...

11 Q ...Did you have a payment due in February of 78?

12 MR. LOWRY: Your Honor, I'm not sure I understand the
13 point of this testimony. I understood Mr. Wood to say that
14 he negotiated it all of this himself, not Mr. Carwile, and now
15 I think he is complaining that he negotiated a deal where the
16 other side got a chance to use the property and get all the
17 money from it. If that is what he is saying, I don't see what
18 it has to do...

19 A I'm getting to the reason for that.

20 THE COURT: Proceed, ask your question.

21 Q Go ahead, who directed the documents protecting that
22 transaction?

23 A Mr. Carwile.

24 Q Did you give him any instructions in that transaction
25 when it became apparent to you that it wouldn't close?

1 Q What are some of those?

2 A Another transaction that's been mentioned in this
3 case is known as the Rio Associates. It's involving
4 Albemarle Square, to you all would be known as Albemarle
5 Square Shopping Center. I'll leave some of the things off and
6 try to get to it as fast as I can that we entered into a
7 contract with a man in Richmond who had developed shopping
8 centers, a local man here, and we had put together a partner-
9 ship, I had sold them the property, they were going to develop
10 a shopping center on it, I had agreed to finance the purchase
11 for them, it was, on the sales contract, in other words, I
12 was going to finance it and did finance it. The, in part of
13 that negotiation I had to agree to let them put a first
14 mortgage on the property. Banks not going to, banks, insur-
15 ance companies who do the - this type of loan, Life of Virginia
16 was the lender and in this case they were going to loan them
17 \$6,000,000,00 to develop the shipping center. I agreed to,
18 okay, I'll be in a second position, I will subordinate to the
19 shopping center. I financed part of the negotiations, in
20 making the deal I financed it the first five years I financed
21 it for them it was 4% interest. Five years later it went to
22 6%, five years later it went to 8% and the remainder, it was a
23 30 year transaction, the remainder of the term it was 8 years
24 at 8% for the remaining 20 more years on the loan. I told
25 Stuart, I said, in doing this I don't want to do it but, I

1 only want to subordinate one time, knowing in most trans-
2 actions that you, the equity builds up in a transaction,
3 depreciation on an operation after about 7 or 8 years in a
4 business venture your depreciation gets to the point that you
5 have to, you don't have to, but it almost becomes burdensome
6 on you to, you have to refinance or sell it or do something
7 because your depreciation has reached the level that the taxes
8 start to become exorbitant so figuring it at that time they
9 would sell the project or refinance it and at that point they
10 would have to pay all the loans off, being my second mortgage
11 also, so I was not too concerned at the time about having to
12 negotiate the interest rate beyond ten years because I figured
13 within ten years I'll be paid off anyway to refinance it.
14 So he said fine, that's the way the document would be drawn.
15 A lot of things happened. They had Grants, if you all re-
16 member Grants, they started off they were going to develop it,
17 the people that I sold it to, Grants went bankrupt, closed,
18 and that was their lead tenant, they had to stop the develop-
19 ment of the center, they couldn't go forward. So they come
20 back in about, come to me and ask me for relief for the pay-
21 ments which I granted them.

22 Q Who were they?

23 A Yank Plock and Bill Heischman were the major two,
24 there were about six other people involved but they were the
25 major two. I granted that for a period of about 18 months,

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1 sheet that the plaintiff kept and under his pleadings he said
2 one of the things he considered is how much time was involved.

3 THE COURT: Well, it's certainly authenticated by
4 production and discovery procedures. Now, the question is are
5 they relevant? They certainly tie into the time frame which
6 is listed on this itemized statement which is attached to the
7 Bill of Particulars. It certainly appears to relate to this
8 item 13, the Estate Planning. I will receive it for what it
9 is worth, note your objection.

10
11 (Mr. Smithers came into the courtroom at this time
12 and sat at counsel table.)

13
14 THE COURT: Okay, proceed, Mr. Haugh.

15
16 Defendant's Exhibit Number Three (3) was duly
17 received into evidence at this time.

18
19 Q Mr. Wood, I ask you to turn to page 23 of that
20 Statement bearing the dates 4/77, 10/26/77...

21 THE COURT: What page are we on?

22 Q This is page 23...

23 THE COURT: Okay...

24 Q ... paragraph 11, Your Honor.

25 A Is that Holiday Inn...

1 Q Of Luray. Would you read that and state whether
2 you're familiar with the transactions mentioned?

3 A (Witness reads designated paragraph.) Yes.

4 Q Are you familiar with that?

5 A Yes.

6 Q Would you briefly describe to the Court what that
7 was?

8 A This was - I had advertised the Holiday Inn of
9 Luray for sale. A fellow by the name of Mr. Johnson had
10 contacted me in regards to it and after doing some negotiations
11 with him on price, we looked at the possibility of exchanging
12 property that he had in Florida and to the extent that we ended
13 up and entered into a contract with him concerning a trade and
14 exchange of properties.

15 Q All right, who represented you in that trans-
16 action?

17 A Mr. Carwile.

18 Q And how did it come about that he represented you?

19 A After my negotiations with Mr. Johnson, seemed
20 like there was a possibility of something happening, I asked
21 Mr. Carwile to assist in drawing a contract with Mr. Johnson's
22 counsel.

23 Q Did that go through?

24 A No.

25 Q And do the dates 4/77 to 10/26/77, is that

1 correct or do you know?

2 A I think - as far as I know.

3 Q All right.

4 THE COURT: Okay, this is number four and I take it
5 we have the same objection, continuing objection to this...

6 MR. LOWRY: Yes, sir.

7 THE COURT: Okay, this is Exhibit Four.

8
9 Defendant's Exhibit Number Four (4) was duly marked
10 and received into evidence at this time.

11
12 Q Mr. Wood, I ask you to turn to page 27, number
13 20, Loans from First and Merchants National Bank. Would you
14 read that and tell the Court what that includes as far as
15 professional services for you and your firm.

16 A (Witness reads the designated paragraph.) Yes,
17 the first paragraph involves the deed of trust that we - the
18 Holiday Inn of Luray was under construction and the financing
19 was through First and Merchants National Bank and that related
20 to a deed of trust on the Holiday Inn of Luray.

21 Q Do you know when that loan was obtained?

22 A I believe it was the first- first obtained
23 around '74 - sometime, '74, '75 ...

24 Q Is that the nine hundred thousand on this?

25 A Yes.

1 Q All right, and that's your first paragraph?

2 A Yes.

3 Q All right, sir, go ahead.

4 A Second paragraph, we - I had just started doing
5 - the first contact I had with First and Merchants was in
6 connection with the Holiday Inn. Went back to First and
7 Merchants sometime within a year after that and did some other
8 financing with them and I think that refers to the two million,
9 four hundred fifty thousand, which - where they received a
10 wrap around mortgage and I believe that was in the spring of
11 '76. I think the following examinations of titles, I think
12 were updates that had previously been done when I purchased
13 those properties, but to update to give F&M the collateral
14 under that.

15 MR. LOWRY: I'm sorry, could the witness speak just
16 a little louder.

17 A I'm sorry.

18 Q Did you hear his last answer?

19 MR. LOWRY: No, I'm sorry, if you could just summa-
20 rize for me.

21 Q It was collateral.

22 MR. LOWRY: Okay, right.

23 Q Go ahead, Mr. Wood, go through the rest of the
24 paragraphs and tell what they pertain to?

25 A I think the next, over to page 28, I believe is

1 - 1, 2, 3, - the first four paragraphs are still relating to
2 the two million, four hundred and fifty thousand dollar deed
3 of trust that was put on in the spring of '76, I believe.

4 Q All right, go ahead.

5 A Fifth paragraph would be an additional loan that
6 sometime later was added from the two million, four hundred
7 and fifty thousand, we at sometime - it seems to me like about
8 approximately a year later, nine to ten months later we had
9 an additional seventy-five hundred thousand dollars borrowed
10 and that was - the fifth paragraph refers to a hundred and
11 seventy-five thousand dollar supplemental deed of trust, which
12 I think took place in the fall of 1977.

13 Q Now, go back to the first paragraph, the nine
14 hundred thousand dollar deed of trust, was that completed prior
15 to the obtaining of the \$2,450,000.00 deed of trust?

16 A Yes.

17 Q Was there any connection between the two?

18 A Not at that time, no, sir.

19 Q Did Mr. Carwile or his firm represent you on
20 the nine hundred thousand dollar deed of trust closing?

21 A Yes.

22 Q How did that come about?

23 A I had - I went to school with a Mr. Durham who
24 was an officer. He'd lived in Charlottesville, in fact,
25 Connie Durham's son, Sterling Durham, who was an officer at

1 First and Merchants and they made a - he solicited my business
2 at that time and after negotiating with them a loan, that's
3 when I requested Mr. Carwile to draw the documents for the
4 bank.

5 Q All right, now, how did he come to represent you
6 on the \$2,450,000.00 deed of trust?

7 A We had additional financing needs at the time
8 and there again in representing - dealing with First and
9 Merchants, I asked Mr. Carwile to draw the additional deed of
10 trust for...

11 Q And what about the - going to the third thing,
12 the \$175,000.00 supplemental deed of trust, did Mr. Carwile
13 or his firm represent you on that?

14 A Yes, about- sometime, nine or ten months later
15 I asked him to expand it to - we borrowed an additional
16 \$175,000.00 and to reflect that in the deed of trust.

17 Q Give that to the Judge, I move for introduction.

18 THE COURT: Well, let's see, these are copies of
19 the instruments in question and any...

20 MR. LOWRY: Only to the time sheets at the end,
21 Your Honor, the rest are court record documents.

22 THE COURT: All right, noting that objection I
23 receive this exhibit.

24
25 Defendant's Exhibit Number Five (5) was duly marked

1 Q No, no...

2 THE COURT: Okay. We've already got the objection
3 to it when it is offered, okay.

4
5 Defendant's Exhibit Numbers Twelve (12) and
6 Thirteen (13) were duly received into evidence at this time.

7
8 Q Mr. Wood, have you read this number 10 now?

9 A Yes.

10 Q Rio Associates.

11 A Yes.

12 Q Are you familiar with the matters reported
13 therein?

14 A I believe so.

15 Q All right, would you start with the first para-
16 graph and tell us what those are?

17 A Well, it involves several - several different
18 transactions under this heading, so the first one is the -
19 the transaction was a sale that I had made to Rio Associates
20 Limited Partnership and took back a deed of trust in the
21 amount of a million, four ninety-five (\$1,495,000.00). The
22 first paragraph was a Safeway - in their lease, the standard
23 lease, they need nondisturbance agreement. That was requested
24 and done.

25 Q Now, who was the lessor?

1 A Let's see, that would have been Rio Associates.

2 Q Was that you?

3 A No, sir.

4 Q All right, and when did that take place?

5 A I - I'm not sure of the date but I believe
6 sometime in '75.

7 Q All right. Now, go to the next ...

8 A This was splitting - the bond at that time was
9 written as one million, four hundred and ninety-five thousand
10 dollars, and I wanted the bond split to make it read seven
11 hundred and forty-seven thousand, five hundred dollars each,
12 in order to place- have a small amount to place as collateral
13 as opposed to having to place ...

14 Q Was that separate from the nondisturbance agree-
15 ment?

16 A Yes.

17 Q And when did that take place?

18 A I believe that was in '75.

19 Q All right, the third paragraph.

20 A Sometime...

21 Q That easement for Charlottesville Savings and
22 Loan Association.

23 A Yes, at some other time Charlottesville Savings
24 and Loan needed a - when they put it in original - when they
25 built theirs, they had actually built it prior to my buying the

1 land and they wanted a septic tank and when sewer came, they
2 wanted to run a sewer line across and that's referring to it,
3 granting a sewer easement for them and I believe that was in
4 '75 or '76.

5 Q All right, did that have anything to do with
6 splitting the deed of trust...

7 A No, no, each one of these is a separate...

8 Q All right.

9 A ... separate transaction.

10 Q Now, go to the fourth paragraph, what is that?

11 A We had given a - we'd given a bond to Bank of
12 Virginia and apparently it was lost and needed to - when we
13 asked for it back - I thought we'd given it to Bank of
14 Virginia and apparently the bond was lost somewhere and we
15 needed to - to have another one issued. It was a separate
16 transaction.

17 Q Now, when did that occur?

18 A I believe '7 - either '74, '75.

19 Q All right now, are you familiar with the next
20 paragraph, in review of files to ascertain the amounts in
21 payment of interest? Do you know what that is?

22 A Yeah, that was - at some point around '75, '76,
23 '77, Rio Associates - the - if you remember '75 was pretty
24 down on the real estate market and they were not able to make
25 their payments and I waived - I gave them - granted them not

1 making payments for approximately two years, they did not have
2 to make their quarterly payment, and then going back we
3 ascertained how much money was actually owed when they started
4 making payments again, sometime I believe in '77.

5 Q All right, now, go on to the next paragraph.

6 A The next paragraph actually, I believe, starts
7 - the next paragraph runs all the following, rest of that page
8 down to one, two, three, four, including the fifth paragraph
9 on page 20 are involved in the same transaction, to the best
10 of my knowledge, and that was closing of - and subordinating
11 - they at this time had developed the - a shopping center on
12 the property and were getting ready to close the loan and we
13 we were - had agreed to subordinate our deed of trust and I
14 believe down to that involves that and that was closed in the
15 spring of '77.

16 Q All right, sir. Now, was that an independent
17 item as well?

18 A Yeah, that was one transaction.

19 Q All right.

20 A I think the next paragraph starts - they needed-
21 Safeway Stores again, same - they needed a modification to
22 their nondisturbance agreement, for whatever reason.

23 Q This is on page 20 you're talking about?

24 A This is at the bottom of page 20. Yes, this is
25 starting a separate transaction after it had been closed,

1 Safeway needed another nondisturbance agreement. Then...

2 Q When was that?

3 A I believe that was also in '77. That was shortly
4 after the - we had subordinated, which was in May, I believe,
5 of '77, shortly thereafter - as each tenant, they - they had
6 built the center and as each tenant would move in, various
7 provisions of these - like national companies, most of their
8 tenants would require various nondisturbance agreements. They
9 - that, like I said, that only provided to Best Products, I
10 believe, Safeway, and Drug Fair were the only ones that re-
11 quired those but in their national leases that was something
12 they had to have.

13 Q All right, now, the second paragraph from the
14 bottom on page 20.

15 A Second paragraph...

16 Q From the bottom, Safeway lease...

17 A Yes.

18 Q ...second modification to Safeway lease...

19 A Right, that was another - another transaction
20 to the Safeway lease.

21 Q All right, now the last paragraph on page 20.
22 When was that, by the way?

23 A '77.

24 Q All right.

25 A These would be like Best, I think after that it

1 was - seems to me like we did one more involving Best Products.

2 Q Are you talking about the various nondisturbance
3 agreements?

4 A Yes.

5 Q All right...

6 A That was also in '77.

7 Q All right, now, the first paragraph on page 21.

8 A This was another transaction where I had
9 approached Mr. Heischman and Plotkin, who were the ones who
10 had endorsed the bond - the million, four ninety-five bond
11 (\$1,495,000.00) to me, about the possibilities of them paying
12 - in fact, they actually approached me about paying the bond
13 off. So, that was a separate...

14 Q When was that, Mr. Wood?

15 A I believe that was sometime prior to the actual
16 subordination of the bond the first time in May of '77.

17 Q Was that a separate transaction or...

18 A Yes, that was a - that was strictly negotiated
19 with Heischman and Plotkin about purchasing the bond.

20 Q All right now, the next paragraph starting there?

21 A I believe the next couple paragraphs are involv-
22 ing the same transaction.

23 Q In review of suit filed by Rio Associates?

24 A Yes.

25 Q What was the nature of that suit? What was the

1 purpose of that suit, Mr. Wood?

2 A When I - Mr. Carwile originally drew the deed
3 of trust on the property, it was intended and the deed of
4 trust stated where we would make one subordination, we were
5 required - at the time I sold it to them there was no build-
6 ings on the property. We agreed to subordinate one time to
7 a mortgage to develop a shopping center. It came at a later
8 period of time, they wanted to develop the property in two
9 different stages and put a mortgage on the property in two
10 different stages. Mr. Carwile was of the opinion that we did
11 not have to subordinate but one time and a suit arose out of
12 that.

13 Q All right, now, do the rest of these paragraphs
14 apply to that suit?

15 A Yes, the only problems - they do involve the
16 same thing. We had hired, at that point in this we had hired
17 - I say we, I had hired John McDonald. Stuart Carwile had
18 said that he would - there again he was - since he was involved
19 in it, he was going to be called as a witness and I would have
20 to hire other counsel to represent us and this is referring
21 to John McDonald, a Richmond attorney, who we hired to repre-
22 sent myself in that case.

23 Q Do you know when you hired Mr. McDonald in place
24 of Mr. Carwile?

25 A I believe it was sometime in the early part of

1 '77.

2 Q And if I told you this suit was over 5/12/78,
3 would that ring a bell with you; did you know that date? Does
4 that sound right?

5 A Well, I think it was actually - that was - it
6 was actually over before that but they had filed a motion to
7 set aside the verdict which actually extended it to that time,
8 but I think the trial was actually over in February.

9 Q But as far as the legal matter itself it wasn't
10 over until 5/12/78?

11 A I believe that's correct.

12 Q Your Honor, I believe you have those exhibits
13 in front of you.

14 THE COURT: Unhuh.

15 Q All right, Mr. Wood, I'll ask you to turn to
16 page 6, at the bottom of the page, Re Windmill Point Matters,
17 3/6/75 to present date, several pages. Would you hurriedly
18 read that, please?

19 A (Witness reads designated pages.)

20 MR. LOWRY: I'm sorry, what page, Mr. Haugh?

21 Q Page 6.

22 MR. LOWRY: Thank you.

23 Q And it's also paragraph number 6. Ready?

24 A Yes.

25 Q Are you familiar with the matters set forth in

1 those paragraphs under numbered paragraph number six?

2 A This is the same thing. It's several different
3 items involved in this, several different transactions that
4 are referring to here, so...

5 Q All right, would you go through and point out
6 the separate things?

7 A The first one is - is actually purchasing of
8 the property, which I believe was in - contract was in late
9 '7 - signed the contract in late '74 and closed in February
10 of '75, I believe. Then the next paragraph jumps to - concern-
11 ing a payment due Dr. Atwood in '77. This was - at that time
12 it would the contract - the purchase price had - had a release
13 clause provision in the contract and that would be trying to
14 get Dr. Atwood to release the property that was - that he was
15 supposed to release to us as we made payments. That was a
16 separate transaction.

17 Q Now, go to page 7.

18 A The next paragraph, did the same thing, involving
19 releases.

20 Q Would that be with Dr. Atwood?

21 A Yes.

22 Q So, those two paragraphs would be the same thing?

23 A Yes.

24 Q All right.

25 A Actually the next paragraph also....

1 Q All right.

2 A ... would be the same, involving the - getting
3 releases made. Then it jumps to another year, February...

4 Q Now, was that all one separate thing?

5 A Yeah, most...

6 Q Your partial release matter with Dr. Atwood?

7 A Yes. Most of that was in the - we had a - that
8 was drawn in the original contract. The release provisions
9 were set out in the original closing statement, deed of trust.

10 Q There's a bill of complaint referred to in the
11 third paragraph, what was that?

12 A Okay, it - this was after - after we had made
13 the payment the following year, like in '76 we were due, we
14 had paid, I think, approximately three hundred thousand dollars
15 and we were due release clauses and I was - had requested Mr.
16 Carwile to see that we get the land released that was necessary.
17 It never was - never was done and I believe in 1977 is when
18 this item arose when we - I requested Stuart to, you know, I
19 needed the release. At that time we'd paid like half a million
20 dollars on the property and had not had any property - any of
21 the land released and I needed the land released to pledge as
22 collateral for another loan, and at that point they would not
23 - they came up with an issue, would not release it - would not
24 release it. Then another year it looks like transpired, the
25 next small paragraph is involving the payment due in '78. I

1 think at that time I told Stuart that, you know, we didn't -
2 I didn't want to pay anymore more until I got the releases
3 that were due me for the prior three years, and we actually
4 paid that money. Rather than being in default we made arrange-
5 ments and paid the money into Court and demanded that he re-
6 lease the property. At that point it became - this was, I
7 believe, in late '77. Stuart said that he, because of his in-
8 volvement in the contract he would not be able to represent
9 me and we hired John McDonald to handle the case. I think
10 that's what the next paragraph - that next paragraph brings
11 that up.

12 Q Did he give you any reasons why he would be -
13 he could not - did Mr. Carwile give you any reason why he
14 couldn't continue operating in the case?

15 A Because he'd be called as a witness, he'd have
16 to testify.

17 Q All right.

18 MR. LOWRY: Which paragraph did you say that comes
19 up in?

20 A I believe it's the third...

21 MR. LOWRY: The third from the bottom on page 7,
22 is that the paragraph you're referring to?

23 A I believe it was the third paragraph from - on
24 page 7.

25 MR. LOWRY: The one beginning, in conferences with

1 Q Did you have any agreement with Mr. Carwile
2 for payment of fees other than on an hourly basis?

3 A No.

4 MR. LOWRY: Same objection, in terms of how they're
5 computed...

6 THE COURT: Well...

7 MR. LOWRY: ...as to the relationship on how they
8 were paid, I have no objection at all, Your Honor...

9 THE COURT: Well, it matters doesn't it as to
10 whether he was paid per job. I mean we've got to know whether
11 he comes within the exception of the Beale case don't we? Does
12 this rate cover the entire relationship or was it a rate per
13 job that he did?

14 MR. LOWRY: To that extent, Your Honor, I believe
15 it would be relevant, but if it's just, you know, were you on
16 an hourly rate or something...

17 THE COURT: I mean I have to somehow dissect this
18 to see ...

19 MR. LOWRY: I understand, Your Honor.

20 THE COURT: ... we know what the case authority is,
21 but there is an exception that prevails.

22 MR. LOWRY: I'll withdraw the objection.

23 THE COURT: Okay. Go ahead.

24 Q Did Mr. Carwile ever explain to you how he was
25 going to compute the fees that you were charged as to each

1 item?

2 A Yes.

3 Q Go ahead, tell the Court what he said.

4 A Well, it started off at, I believe it was thirty-
5 five dollars an hour and it was raised over a period of a couple
6 years. I think it - the last figure that he quoted to me - in
7 one particular case that comes to mind, I'd asked him, you
8 know, it looked like that was - it was a high fee and he said,
9 well, that he had changed the rate to forty-five dollars an
10 hour and that was the - that was the basis. At that time -
11 was forty-five dollars an hour was the last.

12 Q And were you to pay him for each matter he
13 handled for you?

14 A Yes. It was an hourly - yes.

15 Q In other words, if he had a real estate closing
16 for you, he'd charge you...

17 MR. LOWRY: Object to the leading question.

18 Q ...is that correct?

19 THE COURT: All right, rephrase your question.

20 Q How did he charge you on a real estate closing?

21 A For the amount of hours that he spent in closing
22 that transaction, and it would be - he would usually - he would
23 take the fee out of the closing.