

P.O. BOX 2285, CAMDEN, SC 29020 THEREALCAMDENHUNT@GMAIL.COM

#### **MASTERS OF FOXHOUNDS**

MS. SUSAN SENSOR MRS. AMY CANTEY MS. JANET BUTCHER MR. RICHARD OSWORTH

#### **Dear Fellow Subscribers and Friends of Camden Hunt:**

We are pleased to report to you news of two very exciting developments within your Hunt which we believe insure the Hunt's future and honor the vision and the legacy of Dale and Judy Thiel. We will then address a misinformed and regrettable letter written to Sue in November by a member of this community. Sue did not participate in the writing of this report to you.

#### Five-Year Lease of 1535 Acres

First, Bob Sheheen, attorney for Firestone-Thiel Land Foundation, has just delivered to us its new five (5)-year Camden Hunt lease of 1535 acres for \$10 in annual rent which means, combined with the Lloyd Family property and that of General Julian Burns, your Camden Hunt has the extraordinary privilege of continued fox hunting on the vast and sacred lands we love and know as *Camden Hunt Country*.

#### Gift of 25 Acres

Second, our Hunt Chairman Sue Sensor has this month completed a land transaction in which she personally gifted to the Firestone-Thiel Foundation 17.75 acres - valued at \$337,300 - which constitutes a veritable "gateway" to Camden Hunt Country. Please see the photographs in **Attachment 1.** 

In combination with Sue's gift is a second one by Sue, her husband George and two other families of the adjacent 7.90 - acre parcel (valued at \$150,100) which includes the **Dale Thiel Riding Ring.** Pictures in **Attachment 2.** 

The above properties are included in the 5-year lease delivered by Mr. Sheheen on behalf of the Foundation, and therefore will directly benefit our Camden Hunt.

#### **Facts You Need to Know**

1. Dale and Judy Thiel created *The Camden Hunt, Ltd.* in September 2012 through their lawyer Mr. Sheheen, with specific instructions to him that it be incorporated as a Non-Membership, Subscription Hunt with five self-perpetuating directors designated Masters of the Hunt. The five individuals entrusted by Dale and Judy with this purpose as directors and Masters were Judy herself, Joanne Schwartz, Nancy Tans, Dan Floyd and Sue.

Relying on these five individuals to operate the corporation as Bob Sheheen had precisely structured it as requested by Dale, the Thiels (i) contributed multiple and significant fox hunting properties to the corporation and (ii) leased the 1,500 acres to Camden Hunt for \$10 a year, all as explained in the Sheheen Affidavit attached to this letter for your review. **See Affidavit of Robert Sheheen, Attachment 3.** 

- 2. In December 2019, Ned Towell, Lea Edwards, Joanne Schwartz, Dan Floyd, and Nancy Tans (the "Towell/Edwards group") claimed that Floyd and Tans were still directors notwithstanding their resignations in 2013 and 2017 and therefore, they argued, that Floyd and Tans, together with Schwartz, (i) controlled the corporation, (ii) could remove Sue from the board and (iii) could convert the corporation from a Subscription to a Membership Hunt, with members electing a new board. See Paragraphs 18 20 of Order of Circuit Court filed October 12, 2020, Attachment 4.
- 3. Subsequently in January and February 2020, Fred Berry, district director of the **MFHA**, conducted mediation sessions with legal counsel for the Towell/Edwards group and with counsel for the Hunt in an effort to resolve this matter without litigation. He suggested (i) appointment of two additional highly qualified Masters and (ii) binding arbitration through MFHA procedures to resolve composition of the board. The Towell/Edwards group rejected all proposals by Mr. Berry to resolve the matter.
- 4. Instead, on February 28, 2020, Floyd, Tans and Schwartz, acting in concert with and guided by Towell and Edwards, wrote a letter to every Camden Hunt Subscriber in which they purported to act as directors of the corporation, stating they were amending the bylaws to convert the corporation to a Membership Hunt, and would elect a new board to manage the corporation. This left Sue no option, legally, other than to file Camden Hunt's lawsuit against the Towell/Edwards group to request that the Circuit Court determine the correct composition of the board. See Paragraphs 21-23 of Order of the Circuit Court, Attachment 4.
- 5. The Circuit Court Order we have attached ruled that Floyd and Tans were not directors and that the claims and actions of the Towell/Edwards group were "devoid of legal authority." **See Attachment 4, Paragraphs 29-30 of the Order.**

#### **November Letter to Sue**

It is regrettable that a member of the community has written, and possibly circulated, an accusatory and misinformed letter addressed to Sue claiming, among other things: (1) Sue's motive in filing the lawsuit was to seize control of the Hunt and (2) if Sue were a "prudent steward," she should have adopted the membership model of corporate governance, so that members could elect the board who would then appoint the Masters.

We can only conclude the writer did not know or investigate the facts which are set forth above and in Mr. Sheheen's affidavit regarding the clear intentions of Dale and Judy when they organized the corporation. Any fair minded, reasonable, thoughtful person, if knowing those facts, would have concluded that Sue Sensor - rather than seeking control of a corporation or failing to act as a good steward of the Hunt in not altering corporate governance - was the one Master remaining of the original five Masters selected by Dale and Judy who has respected their wishes and their trust regarding the corporate structure of *The Camden Hunt, Ltd.* Further, and as evidence of that respect, she was willing to bear the expense and personal burden of litigation to protect and safeguard that trust.

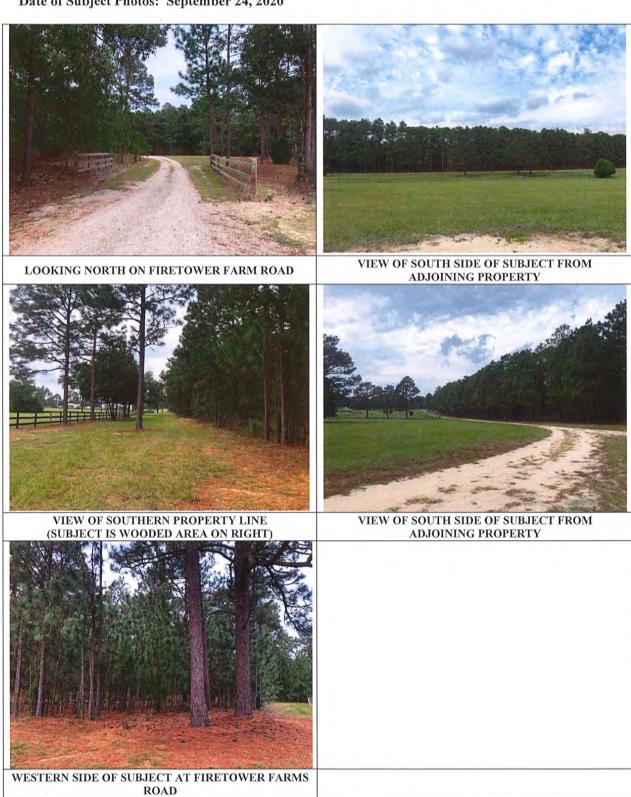
Had the writer read the Judge's Order (**Attachment 4**) adjudicating the actions of the Towell/Edwards group to have been "devoid of legal authority" - instead of relying on what we can only assume were the self-serving characterizations likely communicated to the writer by the Towell/Edwards group - the writer might have realized Sue had no option other than seeking appropriate legal action in Circuit Court. We believe Sue's actions described throughout this message to you reflect her dedication to honoring the legacy of Dale and Judy.

In closing, we know the writer of the November Letter to be a fair minded, reasonable and thoughtful person - of a revered and historic family – who cares deeply about this community. Had she known all the facts referenced above including, without limitation, those set forth in the Sheheen Affidavit, we believe she would have either written an entirely different letter, or perhaps not have written it.

Respectfully Submitted for your Information and Wishing you all a Wonderful Holiday.

# **Subject Photographs and Exhibits**

Date of Subject Photos: September 24, 2020



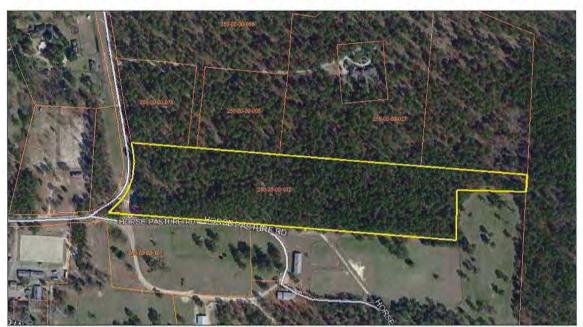
# **Description of Site**

### Location/Description

The subject property is located along the east side of Firetower Farm Road in Camden, within Kershaw County, South Carolina. Full access to the site is available from Firetower Farm Road. This site adjoins Camden Hunt which is a multi-thousand acre site with yearly memberships available. This site is improved with miles of bridle trails that are open year round to members and guest, with club hunting beginning in early October. The area surrounding and adjoining the Camden Hunt is especially desirable to the large equestrian community within this area.

### Size and Shape

The subject property, comprised of one (1) parcel, containing a total of approximately 17.75 acres of land, irregular in shape is located along the east side of Firetower Farm Road. A copy of the Aerial GIS map of the property is shown below to provide a better understanding of the size, shape, and location of the property.



Source: Kershaw County GIS (for demonstration purposes only, not to scale)

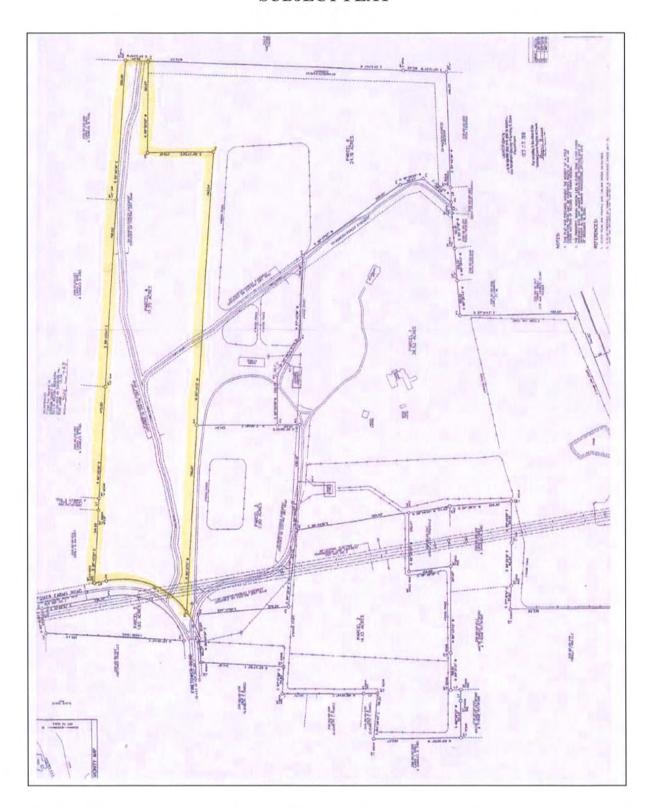
### Road Frontage/Access

The subject site has road frontage along Firetower Farm Road. Access to the property is from Firetower Farm Road.

### Topography, Drainage and Soils

The topography of the land is gently rolling and at grade with Firetower Road and Firetower Farm Road. The drainage appears to be adequate and the soils on the site are suitable for development as indicated by the improvements which have been developed on nearby and adjoining properties. Overall, the soil and site conditions do appear adequate and suitable for development and equestrian uses and evidenced by the long-term use of the subject site and the surrounding properties for equestrian uses and the improvements with which the equestrian uses require.

# SUBJECT PLAT

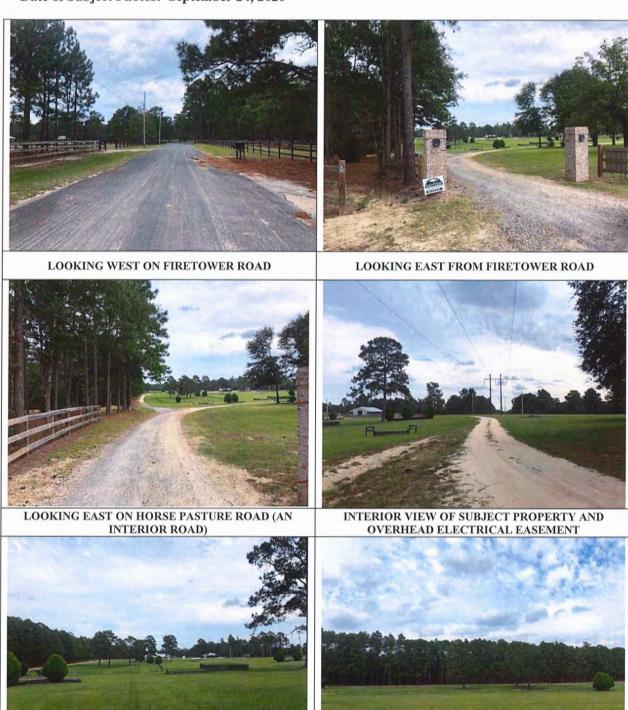


# **Subject Photographs and Exhibits**

Date of Subject Photos: September 24, 2020

INTERIOR VIEW OF SUBJECT PROPERTY AND

RIDING RING



INTERIOR VIEW OF SUBJECT PROPERTY



# **Description of Site**

### Location/Description

The subject property is located along the east side of Firetower Road in Camden, within Kershaw County, South Carolina. Full access to the site is available from Firetower Road. This site has direct access, via the overhead electrical right of way that crosses the subject, to Camden Hunt which is a multithousand acre site with yearly memberships available. This site is improved with miles of bridle trails that are open year round to members and guest, with club hunting beginning in early October. The area surrounding and adjoining the Camden Hunt is especially desirable to the large equestrian community within this area.

### Size and Shape

The subject property, comprised of one (1) parcel, containing a total of approximately 7.90 acres of land, irregular in shape is located along the east side of Firetower Road. A copy of the Aerial GIS map of the property is shown below to provide a better understanding of the size, shape, and location of the property.



Source: Kershaw County GIS (for demonstration purposes only, not to scale)

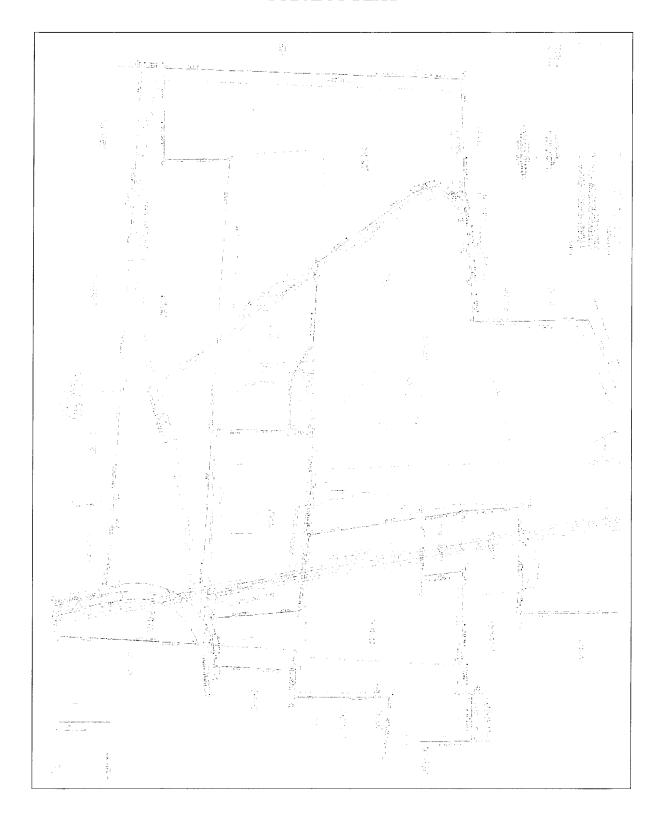
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# **SUBJECT PLAT**



## Attachment 3

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2020-CP-2800187
AFFIDAVIT OF
ROBERT J. SHEHEEN

Personally appeared before me Robert J. Sheheen who, being duly sworn, deposes and says:

- I am an attorney licensed to practice law in South Carolina and make this affidavit of my own personal knowledge.
- 2. In and prior to September, 2012, I represented Judith Firestone Thiel and her husband Dale Thiel regarding their family's business and financial interests, which included *The Firestone-Thiel Land Foundation, Inc.*, a nonprofit foundation managed and directed by the Thiel family which owns, among other properties, approximately 1,500 acres in Kershaw County, near Camden, South Carolina constituting a significant portion of the land known as *Camden Hunt Country*.
- 3. Camden Hunt Country is where *The Camden Hunt*, *Ltd.*, since the date of its creation on September 19, 2012, has conducted the equine sport of British fox hunting on and within Camden Hunt Country lands, and where for 25 years prior thereto Judith and Dale Thiel through its predecessor entity Camden Hunters and Hounds, Inc. conducted this historic sport.

- 4. When the Thiels engaged me in 2012 to incorporate The Camden Hunt, Ltd., their specific instructions to me included that it be for the purpose of conducting a fox hunting operation as a "Subscription Hunt" to be managed by five "Masters of the Hunt" as a self-perpetuating board of directors.
- 5. The Masters of Foxhounds Association of America in its publication Forming A Hunt: Considerations and Structure, an excerpt of which is attached as Exhibit 1, provides at Page 6 the following description of Subscription Hunt:

Subscription packs are similar to private Hunts. The Masters can be elected or appointed by committee or they can be self-perpetuated by the Masters themselves with no approval necessary. The foxhunters in a subscription pack are called subscribers. These subscribers have no input in the decision making process of the Hunt. In a subscription pack the subscribers are charged a fee. This fee allows them to hunt, Masters make all the decisions and are liable for all financial requirements. Most subscription packs incorporate for tax purposes. The structure of the bylaws is essential for the smooth operation of a subscription pack unless it is a private subscription pack and the Master owns the hounds and kennels. (Emphasis Supplied)

- 6. To that end, I was requested by the Thiels to structure The Camden Hunt, Ltd. as a nonprofit, non-member corporation for the purpose of operating subscription fox hunts, consisting of five Masters to manage the corporation as a self-perpetuating board of directors.
- 7. The five individuals designated by the Thiels were Judith Thiel, Dan Floyd, Joanne Schwartz, Susan Sensor and Nancy Tans, each of whom signed the Articles of Incorporation and Bylaws prepared by me, attached as Exhibit 2.
- 8. In reliance on its structure as a non-member corporation with a self-perpetuating board of Masters, the Thiels transferred to The Camden Hunt, Ltd. significant fox hunting assets and property, including (1) the Clubhouse, (2) the Kennels and (3) the Huntsman's House, which conveyances are evidenced by the deeds attached hereto, collectively, as Exhibit 3. Since its incorporation in 2012, the Thiels through their Firestone-Thiel Land Foundation, Inc. have leased to the corporation, for \$10 annually, the 1,500 acres of Camden Hunt Country lands referenced in Paragraph 2 above.

- 9. The articles of incorporation provide the above-described assets would be distributed to The Firestone-Thiel Land Foundation should the corporation be dissolved.
- 10. In order to comply with the request by the Thiels that the corporation be organized and structured legally and correctly under the Act so as to possess the specific attributes referenced in Paragraphs 4 and 6 above, I included in the Articles of Incorporation under Sect. 33-31-202(a) that it will have no members. All provisions pertaining to management of the corporation are set forth in the Bylaws.
- 11. As permitted by Sect. 202(b) of the Act, I included in the Articles the names of the corporation's initial directors. Pursuant to Section 206 of the Act, the Bylaws provide for the management and regulation of the affairs of the corporation by Judith Thiel, Dan Floyd, Joanne Schwartz, Susan Sensor and Nancy Tans, who are designated as Masters of the Hunt for the Corporation, who shall conduct its operations. See Article III of the Bylaws.
- 12. Statutory authority for designating and naming the five directors as "Masters of the Hunt" (rather than the label "Board of Directors") is found in Section 33-31-140(3) providing:

"Board" or "board of directors" means the individual or individuals vested with overall management of the affairs of the domestic or foreign corporation, irrespective of the name by which the individual or individuals are designated... (Emphasis added)

13. Further to this point, the *Official Comment* to Sect. 33-31-801 captioned Requirement for and duties of board states:

Boards of nonprofit corporations are sometimes called boards of trustees, regents, overseers, or by some other name. Section 8.01 applies to the person or group under whose authority corporate powers are exercised and under whose direction the affairs of the corporation are managed, regardless of the name of the person or group. (Emphasis added)

- 14. Having expressly provided in Para. #4 of the Articles of Incorporation that the corporation will not have members, my use of the word *members* in the Bylaws is synonymous with "members of" and "membership in" the Masters of the Hunt and does not constitute the corporation as a membership entity. Specifically, in Articles III and IV, they are designated Masters of the Hunt and may never be less than three nor more than five. Sect. 33-31-149 captioned **Definitions** provides a person is not a *member* by virtue of any rights it has as a director or any right to designate or appoint a director.
- 15. Consistent with Sect. 33-31-804 and the *Official Comment* thereto, Article IV of the Bylaws specifically provides for the self-perpetuating board in that the existing members of the Masters of the Hunt "shall elect replacement members thereof."
- 16. In summary, under Sect. 33-31-206 (a), it is the function of the incorporators or board of directors to adopt bylaws for the corporation. Having the five individuals named in the articles of incorporation as initial directors execute the bylaws as Masters of the Hunt established them as directors with the title of Masters. This did not create two separate boards.

Robert J. Sheheen

Sworn to before me this

13 day of August, 2020.

Notary Public for South Carolina

My Commission expires: July 1, 2021

SHERWOOD M. CLEVELAND Notary Public-State of South Carolina My Commission Expires July 01, 2021

STATE OF SOUTH CAROLINA )	IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT
COUNTY OF KERSHAW	
)	CIVIL ACTION NO. 2020-CP-28-00187
The Camden Hunt, Ltd.,	
)	
Plaintiff, )	
vs.	ORDER GRANTING PLAINTIFF'S
)	MOTION FOR PARTIAL SUMMARY
Joanne Schwartz; Lea Edwards; )	JUDGMENT
Ned Towell: Dan Floyd; and Nancy Tans, )	
)	
)	
Defendants. )	

This matter came to be heard before me on September 16, 2020, pursuant to Plaintiff's Motion for Partial Summary Judgment filed on August 14, 2020 pertaining to its First Cause of Action seeking declaratory judgment under the South Carolina Declaratory Judgments Act, SC Code §§ 15-53-10 et seq. Plaintiff asserts there is no genuine issue of fact under the pleadings, depositions, answers to interrogatories and affidavits and that, pursuant to the South Carolina Non-profit Corporation Act of 1994 (the "Act"), (1) the management and control of the Plaintiff corporation is vested exclusively in the Masters of the Hunt, (2) the Masters of the Hunt constitute the board of directors of Plaintiff corporation (3) the Masters of the Hunt are Susan Sensor, Joanne Schwartz and Amy Cantey, (4) there is no governing body of the Plaintiff corporation other than Susan Sensor, Joanne Schwartz and Amy Cantey, and (5) the Masters of the Hunt, as the board of directors of the Plaintiff corporation have the exclusive right to use the name *The Camden Hunt*, and its logos, letterhead, mailing address and list of subscribers.

In support of its motion, Plaintiff filed a memorandum and affidavits of Robert J. Sheheen, Susan Sensor and Amy Cantey. Subsequently, Defendants filed a Memorandum in Opposition to Plaintiff's Motions for (1) Summary Judgment, (2) Temporary Injunction, (3) Motion to Strike and (4) Susan Sensor and Amy Cantey's Motion to Dismiss.

I have read Plaintiff's Motion, its Memorandum in support thereof and the affidavits of Mr. Sheheen, Ms. Sensor and Ms. Cantey and the included exhibits. I have also read Defendants' memoranda in opposition to the various motions and the affidavits and other exhibits included therewith. I have also read Defendants' Supplemental and Consolidated Memorandum in Opposition to Plaintiff's Motion for Partial Summary Judgment, including all exhibits and affidavits submitted therewith, as well as Plaintiff's Reply Memoranda thereto.

Finally, at the summary judgment hearing on September 16, 2020, I heard the arguments of Plaintiff's co-counsel (Sherwood M. Cleveland) and Defendants' counsel (Elizabeth H. Black) in support of their respective positions in this matter.

Based upon the pleadings, the various memoranda, affidavits and exhibits submitted by Plaintiff and Defendants and the arguments and presentations of said counsel, I note the following uncontested facts and make and issue the following conclusions of law and Order and Judgment:

## **Undisputed Facts**

- 1. Plaintiff's Complaint asserts seven causes of action against the five Defendants. It is the first cause of action seeking declaratory judgment regarding the formation and management structure of Plaintiff, *The Camden Hunt, Ltd.*, by its Articles of Incorporation and Bylaws and the composition of its board that are the subjects of Plaintiff's motion for partial summary judgment.
- 2. On September 19, 2012, Plaintiff was incorporated as a nonprofit corporation under the Act by filing with the Secretary of State its articles of incorporation executed by Judith Thiel, Susan Sensor, Nancy Tans, Joanne Schwartz and Dan Floyd as its incorporators and initial

directors, and their execution of by-laws in their capacity as incorporators, stating therein, *inter alia*, that they are all "designated as Masters of the Hunt for the Corporation, who shall conduct its operations."

- 3. In and prior to September, 2012, Camden attorney Robert J. Sheheen represented Judith Firestone Thiel and her husband, Dale Thiel, regarding their family's business and financial interests, which included *The Firestone-Thiel Land Foundation*, *Inc.*, a nonprofit foundation managed and directed by the Thiel family. The Thiel Family owns, among other properties, approximately 1,500 acres in Kershaw County, near Camden, South Carolina and constituting a significant portion of the land known as *Camden Hunt Country*.
- 4. Camden Hunt Country is where *The Camden Hunt, Ltd.*, since the date of its creation on September 19, 2012, has conducted the equine sport of English fox hunting. This is the same property where, for 25 years prior thereto, Judith and Dale Thiel, through Plaintiff's predecessor entity, *Camden Hunters and Hounds, Inc.*, conducted this historic sport.
- 5. When the Thiels engaged Mr. Sheheen in 2012 to incorporate The Camden Hunt, Ltd., their specific instructions to him included that it be for the purpose of conducting a fox hunting operation as a "Subscription Hunt" to be managed by five "Masters of the Hunt" as a self-perpetuating board of directors.
- 6. The Masters of Foxhounds Association of America in its publication Forming A Hunt:

  Considerations and Structure (the "MFHA Document") provides at Page 6 the following description of Subscription Hunt:

Subscription Hunt: There are various forms of subscription packs. Subscription packs are similar to private Hunts. The Masters can be elected or appointed by committee or they can be self-perpetuated by the Masters themselves with no approval necessary. The foxhunters in a subscription pack are called subscribers.

These subscribers have no input in the decision making process of the Hunt. In a subscription pack the subscribers are charged a fee. This fee allows them to hunt. **Masters make all the decisions and are liable for all financial requirements.** Most subscription packs incorporate for tax purposes. The structure of the by-laws is essential for the smooth operation of a subscription pack unless it is a private subscription pack and the Master owns the hounds and kennels. (Emphasis Supplied)

- 7. To that end, the Thiels requested Mr. Sheheen structure The Camden Hunt, Ltd. as a nonprofit, non-member corporation for the purpose of operating subscription fox hunts, consisting of five Masters to manage the corporation as a self-perpetuating board of directors.
- 8. Each of the five named individuals signed the Articles of Incorporation and Bylaws prepared by Mr. Sheheen.
- 9. In reliance on its structure as a non-member corporation with a self-perpetuating board of Masters, the Thiels transferred to The Camden Hunt, Ltd. significant fox hunting assets and property, including (1) its Clubhouse, (2) its Kennels and (3) the Huntsman's House. Since its incorporation in 2012, the Thiels, through their foundation, have leased to the corporation, for the nominal sum of \$10 annually, the 1,500 acres of Camden Hunt Country lands referenced in Paragraph 4 above.
- 10. Dan Floyd resigned as Master of the Hunt in March, 2013.
- 11. Judith Thiel died on August 2, 2013.
- 12. For a period exceeding six (6) years (from March, 2013, when he publicly announced his retirement as a Master of the Hunt at a meeting attended by 50 *Camden Hunt* subscribers, until December, 2019), Defendant Floyd never stated to anyone associated with The Camden Hunt, Ltd. or acted in any way consistent with his present claim that he continued to serve as a director of the corporation.

- 13. Amy Cantey was elected as a Master of the Hunt on August 21, 2016.
- 14. On May 19, 2017, Defendant Tans, while still a Master of the Hunt and Treasurer of Plaintiff, completed the 2017 Questionnaire by the Masters of Foxhounds Association of America, in which she stated in part:

"25. TYPE OF ORGANIZATION: (<u>Incorporated</u>, <u>Non-incorporated</u>, <u>Private pack</u>) <u>I</u>" (indicating the type of organization was "Incorporated")

In Item 29 of the same document, she declared the Hunt was governed not by a committee or board elected by members but rather "by self-perpetuating Hunt Masters." She further stated therein that Amy Cantey had been designated a Master of the Hunt.

- 15. On June 24, 2017, Defendant Tans wrote a letter to the other Masters of the Hunt resigning from her position as a Master of the Hunt. In her letter, she neither stated nor implied that she was continuing, or that she considered she was continuing, in any official capacity as a director or otherwise with The Camden Hunt, Ltd. following her resignation.
- 16. Subsequently, on June 28, 2017, four days after her retirement and resignation as Master of the Hunt of the corporation, Defendant Tans emailed to Susan Sensor a list and description of responsibilities and matters which she (Nancy Tans) had handled as a Master. Those matters included handling such office duties as subscription-renewal reminders, Thank You letters, databases for new seasons, membership rolls, leases, contracts, insurance, and legal papers.
- 17. Subsequent to Tans's resignation as a Master by her letter of June 24, 2017, she never asserted, or acted like, she was still a director until December, 2019, when she joined with the other four defendants (Floyd, Towell, Edwards and Schwartz) to make their claim that Floyd and Tans were directors.

- 18. In December, 2019, Defendants Towell, Edwards, Schwartz, Floyd and Tans organized as a group and began claiming that (i) when *The Camden Hunt, Ltd.* was incorporated in September, 2012, Thiel, Sensor, Tans, Schwartz and Floyd each held two separate and divisible relationships with the corporation, each one as a corporate director, and each one as a Master of the Hunt; (ii) when Floyd and Tans resigned as Masters of the Hunt, respectively in 2013 and 2017, they resigned only as Masters of the Hunt and continued as corporate directors; and (iii) when Cantey became a Master in 2016, she became a Master only, not a director.
- 19. Therefore, they claimed that with the death of Thiel, the directors of the corporation were Floyd, Tans, Schwartz and Sensor, so that Floyd, Tans and Schwartz then held majority control of *The Camden Hunt, Ltd.*, with the power and authority to (i) designate Towell as "Manager" of the corporation; (ii) "oust" Sensor from the Board of Directors; (iii) adopt new Bylaws; and (iv) elect new directors.
- 20. Defendants made a record of the foregoing by adopting Minutes of their "Special Meeting of Directors" held December 16, 2019, in which they planned the above actions.
- Defendants later met, again claiming Floyd and Tans together with Schwartz were the majority, controlling directors of the corporation, and purported to and undertook to (i) re-write the bylaws of *The Camden Hunt, Ltd.* to convert the corporation from a subscription hunt to a membership hunt by providing that certain "voting members" would elect the board of directors; (ii) communicate with the subscribers of the Hunt of their majority board control of the corporation; and (iii) schedule a meeting at the Camden Hunt Clubhouse on March 22 with all hunt subscribers.

- 22. Defendants wrote a letter signed by Defendants Dan Floyd, Joanne Schwartz and Nancy Tans, to all Camden Hunt subscribers, purporting to act as *The Directors of The Camden Hunt, Ltd.* The letter is dated February 28, 2020, and states that (i) the Bylaws are revised *to better align with "best-practice" guidelines by the Master of Foxhounds Association*; (ii) *they have also further defined the relationship between the Board of Directors and the Masters*; and (iii) *voting members of the Hunt (as defined in the revised By-Laws) shall elect new directors going forward.*
- 23. These events led to the filing of the above-captioned lawsuit by Plaintiff corporation on March 5, 2020 and to the entry of the Temporary Injunction by Judge Alison Lee on March 13 enjoining Defendants from any further action in the name of the Camden Hunt. Judge Lee's Order stated: "Defendants' interpretation of the documents and their subsequent actions appear to conflict with the language of the original Articles of Incorporation."

### **Conclusions of Law**

- 24. Based upon the undisputed facts, I conclude as a matter of law that Dale and Judith Thiel founders, organizers and financial benefactors of The Camden Hunt, Ltd. intended that the corporation operate as a Subscription Fox Hunt as described in the MFHA Document by the five designated Masters of the Hunt, and their successors, as the self-perpetuating governing board of directors of the corporation.
- 25. I find and conclude as a matter of law that the words of the Bylaws designating those persons *Masters of the Hunt for the Corporation who shall conduct its operations* unequivocally equate with Section 33-31-140(3) of the Act defining *Board of directors* as the *individuals vested* with overall management of the affairs of the ..... corporation, irrespective of the name by which the individual or individuals are designated.

- 26. I further find and conclude as a matter of law that the Bylaws of the corporation are clear, unambiguous and subject to no other meaning or interpretation than that the five named individuals *designated Masters of the Hunt for* the Corporation, *who shall conduct its operations* are the board of directors of the corporation and are named in that capacity "Masters of the Hunt."
- 27. I find and conclude therefore, as a matter of law, that the Articles of Incorporation and Bylaws prepared by Mr. Sheheen and executed by the five individuals named therein (which included Defendants Schwartz, Floyd and Tans) comply with the Act and legally accomplished the purposes and intentions of Dale and Judith Thiel as set forth in the preceding paragraph.
- 28. I find and conclude as a matter of law that Nancy Tans and Dan Floyd, as original incorporators of the Camden Hunt, Ltd., are deemed to have read and understood the unambiguous language contained within the Articles of Incorporation and the Bylaws. *See York v. Dodgeland of Columbia, Inc.*, 406 S.C. 67, 81, 749 S.E.2d 139, 146 (Ct. App. 2013) ("[A] party who signed a contract is deemed to have read and understood 'the effect' of the contract.").
- 29. I find and conclude, as a matter of law, that, since Plaintiff's board of directors was not comprised of Schwartz, Tans, Floyd, and Sensor, the actions of Defendants culminating in their purported "Special Meeting of Directors" of December 16, 2019, were devoid of legal authority.
- 30. I further find and conclude, as a matter of law, that the letter of February 28, 2020, and the actions announced in that letter whereby they were purportedly acting on behalf of The Camden Hunt, Ltd., were devoid of any legal authority and violated and interfered with the rights of the Masters of the Hunt as the lawful board of directors of the corporation to the exclusive use

of the name The Camden Hunt, Ltd. and its logos, letterhead, mailing address and list of subscribers.

31. Defendants in their Memoranda opposing summary judgment have cited and quoted passages from pages 5, 9, and 14 of the 2003 document published by the **Masters of Foxhounds Association of America** (the "MFHA") entitled *Forming a Hunt - Considerations and Structure* in support of their argument that Masters of the Hunt are responsible for operating "the sporting activities of the hunt, maintaining the kennels, working with the huntsman, and matters in the field" as distinguished from responsibilities of the "corporate directors" who elect or appoint Masters.

This Court finds and concludes as a matter of law that Defendants' use of the quoted passages from the MFHA-referenced publication apply and relate to **Membership Hunts** as described therein, and not to **Subscription Hunts** described on Page 6 of the MFHA publication, which on the contrary provides that in Subscription Hunts Masters "can be self perpetuated by the Masters themselves" and further that "Masters make all decisions and are liable for all financial requirements."

32. Defendants have also argued in their memoranda that the use of the word "members" in the Bylaws of the corporation constitutes an irreconcilable conflict with the Articles of Incorporation, which provides the corporation will have no members. Section 33-31-140(23) of the Act defining the word *member* provides "a person is not a **member** by virtue of .... any rights the person has to designate or appoint a director or directors" or "any rights the person has as a director." Because the only reference to "member" or "members" in the Bylaws is limited to those

functions, I find and conclude as a matter of law that the Bylaws are not in conflict with the Articles and are not therefore void as Defendants argue.

Directors and the Bylaws never refer to directors but only refer to Masters, the Bylaws are in conflict with the Articles and therefore void so that the corporation has only directors as the governing body.

This Court finds and concludes as a matter of law that the Articles and Bylaws are not in conflict with each other, but rather and on the contrary they are consistent with each other and establish that the **Directors** and **Masters** are the same by reason of Sections 33-31-140(3) and (10) of the Act providing:

**Board** or **boards** of **directors** means the individual or individuals vested with overall management of the affairs of the domestic or foreign corporation, irrespective of the name by which the individual or individuals are designated... (Emphasis added)

**Directors** means natural persons, designated in the charter or bylaws or elected by the incorporators, and their successors and natural persons elected or appointed to act as members of the board, **irrespective of the names or titles by which these persons are described.** (Emphasis added)

34. Defendants argue that Floyd and Tans are still directors because they were never replaced, citing Sections 33-31-202 and 33-31-805 of the Act. I find and conclude this argument is without merit or validity as a matter of law by reason of the resignations of Defendants Floyd and Tans pursuant to Section 33-31-807(a) of the Act providing: *A director may resign at any time by delivering written notice to the board of directors* .... Tans delivered such written notice and Floyd, by announcing his retirement at a breakfast meeting of the Plaintiff corporation in the presence of fifty or more Camden Hunt subscriber/participants, published his notice of retirement

in a legally equivalent way to "delivering written notice." Any technical argument to the contrary is met by the Official Comment to this section of the Act stating: "Under appropriate circumstances a court may find that an oral resignation combined with acts or omissions evidencing an intent to resign results in an effective resignation."

### ORDER AND JUDGMENT

Based on the foregoing Findings of Fact and Conclusions of Law, the Court issues its Order and Judgment that:

- 1. The management and control of the Plaintiff corporation is vested exclusively in the Masters of the Hunt;
- 2. The Masters of the Hunt constitute the board of directors of Plaintiff corporation, whose sole Masters of the Hunt are Susan Sensor, Joanne Schwartz and Amy Cantey;
- 3. There is no governing body of the Plaintiff corporation other than Susan Sensor, Joanne Schwartz and Amy Cantey; and
- 4. The Masters of the Hunt, as the board of directors of the Plaintiff corporation, have the exclusive right to use the name *The Camden Hunt* and its logos, letterhead, mailing address and list of subscribers.

IT IS SO ORDERED.

	R. Lawton McIntosh
Anderson, South Carolina	Presiding Judge
	South Carolina Business Court
, 2020	



## Kershaw Common Pleas

Case Caption: Camden Hunt, Ltd. VS Joanne Schwartz, defendant, et al

**Case Number:** 2020CP2800187

**Type:** Order/Summary Judgment

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