

Lawsuit: \$1.7M siphoned out of local bank

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By Carlos Galarza-Veve

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Editor's note: Links to the documents mentioned in this article are included below the article.

SENECA — A woman is accusing a former senior vice president at Community First Bank of bilking more than \$1.7 million from her trust account, a lawsuit filed at the Oconee County Courthouse alleges.

Debi Baker Brookshire of Hilton Head claims Benjamin Lee Hiott used his position at CFB and power of attorney she entrusted to him to transfer large and small sums to

other personal and business accounts from July 12, 2007, through June 15, 2010.

Brookshire is suing both Hiott and the bank. She claims to have been kept in the dark without ever getting bank statements during the time of the alleged illegal transactions, which led to her savings being depleted.

Brookshire is demanding a jury trial and seeks an award to compensate for the money “stolen” from her account, as well as punitive damages “sufficient to impress upon the defendants the seriousness of their conduct and to deter similar conduct in the future.”

Hiott, through his lead attorney Daryl G. Hawkins, of Columbia, will argue in court Monday that the lawsuit should be dismissed because Brookshire’s allegations fall outside of the statute of limitations. Circuit judge Lawton McIntosh is scheduled to hear arguments on the motion at 11 a.m.

Hiott served as senior vice president of Community First Bank until the end of 2013, according to the lawsuit.

Community First Bank released a statement this week saying it intends to vigorously defend itself.

“The Bank has reported the allegations of Mrs. Brookshire’s complaints to its insurers and regulators,” read a statement released to The Journal by Richard D. Burlison on behalf of CFB. “The Bank does not believe the (lawsuit) accurately describes the facts in many respects, but even many facts alleged in the complaint demonstrate that the claim lacks merit.

“The complaint acknowledges that before this customer had an account with the Bank, she executed a power of attorney granting (Hiott) broad authority in his individual capacity (as opposed to his capacity as a Bank employee) to handle her financial affairs.

“He exercised that authority for several years without objection by Mrs. Brookshire,” the statement continued. “Banks and other businesses have a right to transact business with people acting under a power of attorney, and customers have a duty to raise objections regarding unauthorized transactions in their accounts.”

Brookshire’s lead attorney, W.B. Giese of The Giese Law Firm in Columbia, names people and businesses in the lawsuit that received money from his client’s trust account from Hiott, who “by reason of his managerial position within the bank, could manipulate account balances electronically, and often altered account balances by transferring assets from one customer to another in order to avoid detection and to conceal his fraudulent actions.”

Of those who allegedly benefited at Brookshire’s expense, none cashed in more than Joseph Crosby Jr., who headed Coach’s Low Country Brands, LLC, headquartered in Seneca.

Crosby, a former head football coach at a couple of small colleges in Georgia, promoted and marketed his signature product, Coach’s Low Country Boil Seasoning, a special blend he came up with when he owned and operated T-60 Bar and Grill near Fair Play.

In 2007, before the economy tanked, Crosby and some business partners invested in a real estate venture near Westminster and Lake Hartwell called Low Country Retreat.

Brookshire’s lawsuit claims on July 12, 2007, Hiott withdrew \$500,000 from her trust at CFB and delivered the sum through a cashier’s check issued by Community First Bank to Joe Crosby.

Subsequently, “Hiott transferred an additional sum of at least \$300,000” to Crosby, the suit claims.

On Nov. 28, 2007, Hiott withdrew \$200,000 and delivered the sum by cashier's check issued by CFB to Crosby, Giese states in the lawsuit. On May 5, 2008, \$150,000 was allegedly taken from Brookshire and delivered to Crosby.

All told, more than \$1.1 million was transferred to Crosby from Brookshire's trust at CFB, including payments to satisfy Crosby's loan with Community First Bank, the lawsuit alleges.

The lawsuit also claims wire transfers were made to pay food distributors, and that Hiott allegedly tried to conceal the transactions by originally charging the debits to Coach's Low Country Brands. Later, it was discovered the funds were not charged to CLCB, but instead withdrawn from the Brookshire trust.

According to the lawsuit, legal counsel for Community First Bank wrote a letter to Brookshire's attorney indicating that she had knowledge and consented to the \$500,000 disbursement from her trust to Crosby, and had received in return a promissory note signed by Crosby.

"Plaintiff Brookshire does not and has never had this promissory note, nor had she ever heard of Joseph Crosby Jr. or was she ever aware of this transaction," the lawsuit points out.

Crosby was not the only beneficiary of Hiott's alleged raid of Brookshire's account. The lawsuit claims Hiott transferred thousands of dollars into his and his wife's account at CFB, put money into his brother-in-law's business account and his brother's account.

The lawsuit also notes the transfer of \$16,000 by wire transaction into the account of William Steele, identified by the lawsuit as a senior vice president of Community First Bank.

Hiott's attorney, Hawkins, filed a legal memorandum in court calling for the lawsuit to be thrown out on the grounds that Brookshire was late in filing her claim. The memorandum states:

"The complaint alleges that on June 26, 2007, the trust assets allegedly contained \$1,171,823.58 in cash and equivalents, and by (Aug.) 24, 2010, the trust balance at Community First Bank was at \$0.00. Plaintiff Debi Brookshire filed her complaint concerning the above-mentioned events on (Sept.) 8, 2014, roughly four years after the zero balance occurred, and more than three years after the plaintiff admits she knew the account was closed."

Hawkins argues that the damages sought by Brookshire, as well as her alleged causes of action, each have a three-year statute of limitations, according to Sections 15-3530 (1) and (5) of the South Carolina Code of Laws.

Stating case law in “Anonymous Taxpayer v. South Carolina Dept. of Revenue,” Hawkins claims that the clock on statute of limitations “begins to run on the date that the plaintiff knew, or by exercise of reasonable diligence should have known of the breach, not when the plaintiff develops a full-blown theory of recovery.”

A message left with Hawkins’ firm Friday seeking additional comment was not immediately returned.

Brookshire’s lawsuit claims that her account did not remain with a zero balance because Hiott allegedly used his “managerial position” at CFB to transfer \$285,233.34 from some other account in the bank into her trust.

The lawsuit goes on to say that Brookshire’s previous attorney closed the account and received from Community First Bank a check in the amount of \$285,233.34, which allegedly represented all of the assets in the trust.

Brookshire, the lawsuit claims, transferred a trust worth more than \$1.1 million from BB&T to Community First Bank at the behest of Hiott. Brookshire also deposited business income of \$5,000 per month into the CFB trust in her name from June 2007 to February 2011.

Community First Bank filed in court an answer to rebut the lawsuit, as well as a counterclaim, which seeks to have Brookshire return \$788,850 to the bank that was transferred into her account by Hiott. According to the court filing, CFB claims the \$788,850 belongs to Community First.

“Any assumption and exercise of the right of ownership over the funds by (Brookshire) was unauthorized by (Community First Bank),” the counterclaim states.

Giese, Brookshire’s attorney, responded to CFB’s demand to have the alleged transfer of \$788,850 returned by saying his client lacks sufficient information about the transaction and “demands strict proof.”

Robert Knowlton, an attorney with the Haynsworth, Sinkler and Boyd firm in Columbia, said he plans to attend Monday’s hearing on behalf of Community First Bank, but likely won’t be participating in the arguments because the bank is not a party to the motion to dismiss on behalf of Hiott.

“(CFB) has raised certain defenses in its answers that are similar to those that are the subject of Mr. Hiott’s motion to dismiss, but neither the claims against the Bank nor its

defenses are scheduled to be addressed at the hearing,” Knowlton told The Journal in an email.

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carlos@upstatetoday.com | (864) 973-6686

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Click [here](#) to read Brookshire’s complaint, [here](#) to read Community First Bank’s answer and counterclaim, [here](#) to read Hiott’s motion to dismiss and [here](#) to read Brookshire’s answer to the counterclaims.