

# 2019 Case Materials



NATIONAL HIGH SCHOOL

**MOCK TRIAL**

**CHAMPIONSHIP**

MAY 16-18, 2019



**ATHENS, GA**



NATIONAL HIGH SCHOOL  
Mock Trial Championship

Dear State Champion Teams,

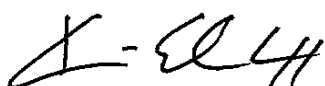
Congratulations on your advancement to the 2019 National High School Mock Trial Championship! We are excited that you have made it this far and look forward to welcoming you to Athens, Georgia soon. The 2019 National Championship is sponsored by the State Bar of Georgia and its Young Lawyers Division. The Georgia High School Mock Trial Competition has held the statewide mock trial competition for 31 seasons and we are proud to be hosting our third National Championship in Georgia.

The Georgia High School Mock Trial Competition's Subcommittee on the Problem has been authoring original cases for the Georgia competition for many years now and are proud to present to you another original case from this team. The effort was led by our longtime Problem Subcommittee Chair Hon. Michael Barker, Magistrate Court Judge in Chatham County (Savannah), Georgia. Each statement was written by an individual attorney author and the rest of the committee assisted with editing and guidance of the overall set of facts. You can find the list of the Committee on the opening page of the case.

For this year's setting, we wanted to bring together a couple bits of state history, albeit from different eras. First, Georgia was a key battleground late in the Civil War, especially with the Union's capture of Atlanta, a vital railroad junction. After a brutal military campaign and occupation of the city by Union forces, General William Sherman led his forces out of Atlanta to Savannah on his infamous "March to the Sea," burning Atlanta in the process in November, 1864. Our second bit of history comes from Athens itself. Athens has long been a home for musical innovation and inspiration, along with many famous venues, seeing many local bands and groups making a name for themselves, including R.E.M., The B-52s, Drive-By Truckers, and Pylon. The Georgia Theatre has an important place in Athens' musical history, along with other spots like the 40 Watt Club and the Morton Theater. In 2009, the Georgia Theatre suffered a catastrophic fire which gutted the famous venue. With the help of several fundraisers and donations from the music world, the Georgia Theatre was rebuilt and is back to hosting local and national groups several times a week.

The purpose of the Championship is to promote an understanding and appreciation of the American judicial system through academic competition. During your time in Athens, you will have the chance to meet many judges, attorneys, state coordinators and staff members who work tirelessly throughout the year to provide this experience in both their state competitions as well as this season's National Championship.

We hope you enjoy your time in Athens and wish you luck as you prepare the case at hand.



Kevin Epps

Chair, 2019 Planning Committee



Michael Nixon

2019 Host Director



Michael Barker

Chair, Problem Subcommittee

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# The 2019 National High School Mock Trial Championship Case

*authored by the*

**SUBCOMMITTEE ON THE PROBLEM | ATHENS2019 PLANNING COMMITTEE  
STATE BAR OF GEORGIA**

## **IN THE SUPERIOR COURT OF CLARKE COUNTY STATE OF GEORGIA**

**ATHENA GENERAL PROPERTY AND  
CASUALTY INSURANCE COMPANY,**

**Plaintiff,**

**v.**

**HAYDEN BEAUREGARD AND  
BILLY/BILLIE SHERMAN,**

**Defendants.**

**CIVIL ACTION NO: 2019-NHSMTC**

***NOTE: All characters, names, events, places and circumstances in this mock trial case are fictitious or are used fictitiously. Any resemblance to any person (living or dead), place, thing or event is purely coincidental.***

**The Subcommittee on the Problem gratefully acknowledges the team of writers and editors who produced this original case:**

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Michael Nixon, *Woodstock*

## INTRODUCTION

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*This introduction is of **no legal consequence** in terms of the trial and is **not admissible** for impeachment purposes or for any other purpose. While some parts are historically accurate, others have been embellished for literary purposes of the case.*

The Elite Theatre was a successful and popular vaudeville venue in Athens, Georgia that was owned by two friends, Big Bob Oakley and Henry Bascombe. Henry was never seen without his bowler hat, and Big Bob was well known for always having a unique Calabash pipe – the distinctive smell of cherry pipe tobacco would often precede him and also remain lingering in the air long after his departure. Everybody who was anybody played the Elite – W. C. Fields, Walter Brennan, Jelly Roll Morton, Ted Healy, and the Marx Brothers, just to name a few. They even featured such bizarre acts as The Boxing Gordon Sisters, Le Petomane and Cannonball Richards.

However, the two had a falling out when the popularity of vaudeville began to fade and motion pictures began to take the country by storm – Big Bob wanted to stay with live entertainment, and Henry wanted to renovate and modernize. The Athens business community always thought they would work out their differences as they had done many times in the past. What the business community did not know is that Henry suspected Big Bob of embezzling money for years. In a very public and embarrassing confrontation, Henry ended the partnership and banned Big Bob from setting foot in the Elite. He also hired an accountant to gather the incriminating information to have Big Bob arrested. Once Big Bob was out of the picture, Henry also started the process of modernizing the Elite Theatre.

On November 12, 1914, someone reported the sound of a gunshot coming from inside the theatre. When the police arrived, Henry's lifeless body was discovered sprawled on the stage right beside the ghost light, shot once in the head and his bowler hat at his side. Two other things stood out to the first responders. First, the murderer appeared to make a half-hearted and unsuccessful attempt to burn down the Elite Theatre by spreading paper on the stage around the ghost light and setting it on fire. What remained of the paper looked like the accountant's final report about the embezzlement. Second, there was the unmistakable aroma of cherry pipe tobacco on the stage.

Big Bob was an immediate suspect. But before the police could put out an APB for Big Bob, the crime was solved – Big Bob was found hanging from a rope in the theatre office, having kicked off of the partners' desk they had specially built just for them, the scuff marks fresh on the surface of the desk. The still-warm murder weapon was on the desk, as was Big Bob's pipe, the smoldering tobacco producing ribbons of sweet smoke.

The theatre fell into disrepair after that, and stories soon emerged about the building being haunted. Other than a small fire on November 12, 1964 that police attributed to vagrants, the Elite Theatre was a downtown eyesore. While walking by the building, some say they occasionally smell the fresh aroma of cherry pipe tobacco. Some say they see Henry's bowler hat through the dirty window, still resting upon the stage. Still others say they think they see the ghost light on, even though there is no electricity in the building.

Fast forward to the mid-2000s, when Billy/Billie Sherman and Hayden Beauregard, two life-long friends, dreamed about buying and cleaning up the old Theatre and reopening it as a new music venue in downtown Athens. Their dream became reality in February of 2012 when they opened the Georgia Theatre to rave reviews. Concerts were sell-outs and their dream of the next big thing in the historic Athens music scene was making an impact. With their friend Nolan Clarke helping with the books and Reagan Bewley doing a lot of the handiwork, success was guaranteed. That is until discrepancies were noticed in the books. Like Big Bob and Henry before them, the financial problems started taking their toll on the Theatre. Hayden suspected

Billy/Billie of mismanagement and finally was able to push Billy/Billie out of the partnership. Though both were bitter, both hoped that the Theatre could be saved and the dream live on.

Unfortunately, that never happened and Hayden was forced to file a lawsuit to gain control over the Theatre. Despite offers to settle, Billy/Billie never seemed to want to resolve the differences with Hayden, until, out of the blue, Billy/Billie agreed to an offer and make a clean cut with his/her former partner.

The night before the papers were to be signed, a catastrophic fire engulfs the Georgia Theatre, destroying everything but the brick shell of the building. Hayden immediately suspects Billy/Billie in the fire, acting on revenge. Supported by an investigation led by Elijah/Ellie Johnston, Hayden files a claim for the insurance proceeds, only to be told that Billy/Billie has filed a separate claim as well. E.J. Spengler, Billy/Billie's independent investigator, points the finger at Hayden as starting the fire to profit from the insurance to save the family home from foreclosure. Not knowing who the rightful claimant is, the insurance sends the policy to the courts for an interpleader, letting the court system decide which claim, if any, is the rightful one. Now, Billy/Billie and Hayden will have to settle their differences once and for all in front of a jury, to decide the latest fate of the old Elite Theatre.

## **INTERPLEADERS – AN EXPLAINER**

---

In a civil action, the plaintiff and defendant typically are able to resolve their differences through a settlement, arbitration, or a case heard in court. Cases involving a third party are more complicated, especially those dealing with insurance companies and multiple beneficiaries. When an insurance policy results in multiple, competing claims for benefits, the insurance company has to determine who the rightful claimant is for the policy. Typically, the insurance company will do its own investigation and make a determination, which may wind up in court by the parties not satisfied with the insurance company's decision. At the end of the day, the insurance company wants to make payment based on the provisions of the policy; it doesn't typically "care" which party is paid as long as everything is in line with policy and law.

When the policy payout is contested or complex, the insurance company may opt to push the execution of the policy to court in a bill of interpleader. When this happens, the insurance company is basically telling the jury to decide who, if anyone, gets paid. OCGA § 23-3-90 allows a holder of funds (Athena General) to place the proceeds into the registry of the court when there are multiple and conflicting claims for those funds. The insurance company will accept the court's answer and moved forward from there. Now, each claimant bears the burden of proof as to their claim to the funds.

In this case, Athena General is not able to make a decision as to which party is the rightful claimant to the insurance proceeds resulting from the fire at the Georgia Theatre. Therefore, Athena is letting the Superior Court of Clarke County settle the matter between Hayden Beauregard and Billy/Billie Sherman. In doing so, both Beauregard and Sherman are defendants in the case "against" Athena General. However, the fight is now between Beauregard and Sherman, each having to convince the jury that they deserve the proceeds and not the other.

In the court action, both Beauregard and Sherman will have the opportunity to present their case to the jury and the jury will make the ultimate decision as to where the proceeds go. The jury will have two options:

1. Decide for Beauregard – Beauregard gets the entire proceeds and Sherman gets none.
2. Decide for Sherman – Sherman gets the entire proceeds and Beauregard gets none.

Since Athena General filed the claim, both Beauregard and Sherman are defendants; there are no plaintiffs presenting evidence or testimony. Since Beauregard filed his/her response first, Beauregard will have the opportunity to present his/her case first before the court, in what typically is the plaintiff's spot, and will be identified as D1 on the competition scoresheets. Sherman will be identified as D2.

## STIPULATIONS

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1. All exhibits included in the problem are authentic in all respects, and no objections to the authenticity of the exhibits shall be entertained.
2. Stipulations cannot be contradicted or challenged.
3. The Charge of the Court is accurate in all respects; no objections to the charge shall be entertained.
4. Chain of custody for evidence is not in dispute.
5. The **Introduction** provided is of **no legal consequence** in terms of the trial and **is not admissible** for impeachment purposes or for any other purpose.
6. The signatures on the witness statements and all other documents are authentic.
7. All witnesses had the opportunity to review their statements the morning of trial and had nothing of significance to add.
8. Exhibits 1, 2, and 5 fairly and accurately depict the scene or view they purport to depict.
9. Exhibit 3 is a true and accurate copy of the applicable insurance policy and declarations page for the Georgia Theatre at the time of the fire.
10. Exhibit 4 is a true and accurate copy of the partnership dissolution agreement between the parties. The handwriting on the document is accurate.
11. Exhibit 6 is to be treated as the actual evidence found at the scene (not a photograph of it).
12. Exhibit 7 is admissible without further foundation.
13. Exhibit 8 is admissible without further foundation, and was attached to Beauregard's letter of June 15, 2015.
14. Exhibit 9 is a certified and accurate copy of the proceedings in *Beauregard v. Sherman*, CV13-082066.
15. Exhibit 10 is a true and accurate copy of a record kept by the Clarke County Superior Court Clerk's Office.
16. Exhibit 11 was attached to Sherman's letter of June 27, 2015, and was authored by E. J. Spengler.
17. Exhibit 12 was attached to Beauregard's letter of October 2, 2015, and was authored by Elijah/Ellie Johnston.

## WITNESSES

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*The following witnesses are available to be called by the parties. Beauregard witnesses may not testify or be called on behalf of the Sherman. Sherman witnesses may not testify or be called on behalf of the Beauregard. All witnesses may be female or male. See Rules 2.2, 2.3, 2.4, 3.4, and 4.11 for more details on witnesses.*

### **For the Defense (Beauregard)**

Hayden Beauregard (Defendant 1)

Nolan Clarke

Elijah/Ellie Johnston

### **For the Defense (Sherman)**

Billy/Billie Sherman (Defendant 2)

Reagan Bewley

E.J. Spengler

## EXHIBITS

---

*Teams in competition may use the following exhibits. They are pre-marked and are to be referred to by the assigned number, as follows:*

### **Exhibit Numbers and Title/Descriptions**

- 1..... Map of downtown Athens
- 2..... Floor plan of the Georgia Theatre
- 3..... Georgia Theatre insurance declaration page
- 4..... Settlement agreement between Beauregard and Sherman
- 5..... Photos of ghost light and hat found by Beauregard
- 6..... Charred remains of file found after fire
- 7..... Text messages from Sherman's phone
- 8..... ATF Origin and Cause Report
- 9..... Nisi hearing transcript
- 10..... Grand Jury "No Bill" for Billy/Billie Sherman
- 11..... Summary of cause report from E.J. Spengler
- 12..... Summary of cause report from Elijah/Ellie Johnston



**IN THE SUPERIOR COURT OF CLARKE COUNTY  
STATE OF GEORGIA**

ATHENA GENERAL PROPERTY )  
AND CASUALTY INSURANCE )  
COMPANY, )  
)  
Plaintiff, )  
)  
v. )  
)  
HAYDEN BEAUREGARD and BILLY/ )  
BILLIE SHERMAN, )  
)  
Defendants. )

CIVIL ACTION NO: 2019-NHSMTC

## COMPLAINT FOR INTERPLEADER

COMES NOW ATHENA GENERAL PROPERTY AND CASUALTY INSURANCE COMPANY, Plaintiff in the above-styled action, and files this Complaint showing the Court as follows:

1.

Plaintiff ATHENA GENERAL PROPERTY AND CASUALTY INSURANCE COMPANY is a corporation registered in and authorized to do business in the State of Georgia.

2.

Defendant, HAYDEN BEAUREGARD, is a resident of Clarke County and may be served with a copy of this Complaint within the confines of said county. Jurisdiction and venue are hereby appropriate in this Court.

3.

Defendant, BILLY/BILLIE SHERMAN, is a resident of Clarke County and may be served with a copy of this Complaint within the confines of said county. Jurisdiction and venue are hereby appropriate in this Court.

4.

On or about September 12, 2011, Plaintiff issued to Defendants a policy of insurance, No. 10112002NCB, whereby Plaintiff promised to pay to Defendants, as beneficiaries, the sum of \$1,000,000.00 in the event of a covered loss. The policy required the payment by Defendants of a stipulated premium on September 12, 2011, and renewed annual on 31 December thereafter as a condition precedent to its continuance in force.

5.

On or about September 2, 2014, Defendants increased the coverage to \$15,000,000.00 in the event of a covered loss.

6.

On or about November 12, 2014, Defendants suffered a covered loss, to wit: a fire.

7.

Each of the Defendants is claiming to be the only party entitled to receive payment of the amount of the policy and has made demand for payment thereof. A true and accurate copy of all correspondence is attached hereto as Composite Addendum A.

8.

An offer was made to resolve this matter, but that offer was tacitly rejected by the expiration of the deadline.

9.

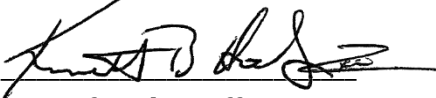
By reason of these conflicting claims of the Defendants, Plaintiff is in great doubt as to which defendant is entitled to be paid the amount of the policy if it was in force at the time of the covered loss.

WHEREFORE, Plaintiff demands the following relief:

- (1) That Plaintiff be allowed to pay the disputed sums into the Registry of the Court;
- (2) That each of the Defendants be restrained from instituting any action against Plaintiff for the recovery of the amount of said policy or any part thereof;
- (3) That the Defendants be required to interplead and/or settle between themselves their rights to the money due under said policy and that Plaintiff be discharged from all liability except to the person whom the court shall adjudge entitled to the amount of said policy; and
- (4) That Plaintiff be awarded such other and further relief as the Court deems just and proper under the circumstances.

This 11<sup>th</sup> day of July, 2016.

Ken Hodges,  
Hodges, Sutton, Jones & Fite, LLC

By:   
Attorney for Plaintiff  
Athens, Georgia

### VERIFICATION

Now comes Paul Cramer, President of Plaintiff ATHENA GENERAL PROPERTY AND CASUALTY INSURANCE COMPANY, and hereby verifies that the allegations in this complaint are true to the best of my knowledge and belief. Further, I hereby verify that the Plaintiff is not in collusion with any party claiming the property.

*Paul Cramer*

Paul Cramer,  
President and CEO

SIGNED at 11:25 AM, July 11, 2016.

*C.M. McCormack*

C.M. McCormack, Notary Public



Hayden Beauregard  
Beauregard Classic City Properties  
202 College Avenue  
Suite 201  
Athens, GA 30601

Addend. A(1.1)

June 15, 2015

Athena General Property and Casualty Insurance Company  
300 North Thomas Street  
Athens, GA 30601

ATTENTION: Claims Department

RE: Covered Fire Loss at 215 North Lumpkin Street

Dear Sir/Madam:

I am the co-owner of the insured building located at 215 North Lumpkin Street in Athens, Georgia, policy number 10112002NCB. We recently suffered a total loss due to a fire. The Origin and Cause Report from the ATF's investigation is attached to this letter for your reference.

I wish to begin the claim process. Practically speaking, this claim is the sole remaining asset of a partnership that is currently being dissolved through litigation. Once the claim is paid, I am confident the dissolution will conclude rapidly. Time is of the essence, since the resolution of this claim will also rescue my family's home from foreclosure.

Sincerely,

*Hayden Beauregard*

Hayden Beauregard

Enclosure

Billy/Billie Sherman  
543 Meigs Street  
Athens, GA 30601

Addend. A(1.2)

Athena General Property and Casualty Insurance Company  
Claims Department  
300 N. Thomas Street  
Athens, GA 30601

June 27, 2015

RE: Claim under Policy 10112002NCB

To Whom it May Concern:

Please allow this letter to serve as a superior claim for the insurance proceeds under Policy #10112002NCB. I understand a separate claim has been made by my soon-to-be former partner Hayden Beauregard. After underwriting an independent investigation of the cause of the fire, the facts indisputably point to arson by Hayden Beauregard. This should be enough for your decision to grant my claim for the proceeds. I've attached a report by E.J. Spengler, the investigator, for your review.

You may send the proceeds to the address listed above.

Warmly,

*Billy/Billie Sherman*

Billy/Billie Sherman

Enclosure



## Athena General Property and Casualty Insurance Company

300 North Thomas Street ♦ Athens, GA 30601

706/425-0642 ♦ [athenageneral.com](http://athenageneral.com)

Home ♦ Life ♦ Auto ♦ Commercial ♦ Flood

Addend. A(1.3)

September 15, 2015

Hayden Beauregard  
202 College Avenue  
Suite 201  
Athens, GA 30601

RE: Fire Loss at 215 North Lumpkin Street

Dear Claimant:

We have received your letter dated June 15, 2015, regarding the claim for loss for insurance policy number 10112002NCB. Please be advised that we have received a second claim for the proceeds of the insurance policy. A copy of that letter is attached. Given the adverse claims and serious allegations, we will investigate the situation and make a decision soon.

Very truly yours,

**MIKE FICA**

Mike Fica  
Claims Adjustor

Enclosure



## Athena General Property and Casualty Insurance Co.

300 North Thomas Street ♦ Athens, GA 30601

706/425-0642 ♦ [athenageneral.com](http://athenageneral.com)

Addend. A(1.4)

Home ♦ Life ♦ Auto ♦ Commercial ♦ Flood

September 15, 2015

Billy/Billie Sherman  
543 Meigs Street  
Athens, GA 30601

RE: Fire Loss at 215 North Lumpkin Street

Dear Claimant:

We have received your letter dated June 27, 2015, regarding the claim for loss for insurance policy number 10112002NCB. Please be advised that we have received a second claim for the proceeds of the insurance policy. A copy of that letter is attached. Given the adverse claims and serious allegations, we will investigate the situation and make a decision soon.

Very truly yours,

**MIKE FICA**

Mike Fica  
Claims Adjustor

Enclosure

Hayden Beauregard  
Beauregard Classic City Properties  
202 College Avenue  
Suite 201  
Athens, GA 30601

Addend. A(2.1)

October 2, 2015

Bob Smith  
Claims Department  
Athena General Property and Casualty Insurance Company  
300 North Thomas Street  
Athens, GA 30601

Dear Mr. Smith:

I received your recent letter informing me of Sherman's claim. I assure you that his claim is bogus and should not be considered. I cannot believe that s/he accused me of a crime! That claim is pure fabrication and bunk. But at this point, nothing surprises me with Sherman anymore.

You should know, in fact, that Sherman was a suspect early on in the fire investigation, but there was not enough evidence to indict. I testified before the grand jury in Clarke County, Georgia but they weren't smart enough to put Sherman on trial for burning down the Georgia Theatre. Now that I can't get what is rightfully mine from the insurance policy I paid for, I'm looking at losing a ton of money to go along with the years I put into this mess.

We dissolved the partnership. Why does Sherman get make a claim for the insurance when s/he's not a partner in the business anymore? Please explain that to me.

I've attached a report written by a former police officer who was involved in the original investigation. If anyone should be excluded from receiving any insurance proceeds, it should be Sherman, not me. Read the report and see that s/he is at fault and should be in jail, not getting a million dollars!

I beg you—unless you see the truth and pay this claim, I'll lose the family home and my mother will be evicted from the only place she has ever lived. You can't do this to me.

Please let me know what the next steps will be to fix this situation.

Sincerely,

*Hayden Beauregard*

Hayden Beauregard

Enclosure





## Athena General Property and Casualty Insurance Company

300 North Thomas Street ♦ Athens, GA 30601  
706/425-0642 ♦ [athenageneral.com](http://athenageneral.com)

Addend. A(2.2)

Home ♦ Life ♦ Auto ♦ Commercial ♦ Flood

December 21, 2015

Hayden Beauregard  
202 College Avenue  
Suite 201  
Athens, GA 30601

RE: Fire Loss at 215 North Lumpkin Street

Dear Claimant:

We have received your letter dated October 2, 2015, regarding the claim for loss for insurance policy number 10112002NCB. We also received your additional information pertaining to the origin of the fire. Given the adverse claims and serious allegations, we are still investigating the situation and will make a decision soon.

Very truly yours,

**MIKE FICA**

Mike Fica  
Claims Adjustor



## Athena General Property and Casualty Insurance Company

300 North Thomas Street ♦ Athens, GA 30601

706/425-0642 ♦ [athenageneral.com](http://athenageneral.com)

Home ♦ Life ♦ Auto ♦ Commercial ♦ Flood

Addend. A(3)

March 1, 2016

Hayden Beauregard  
202 College Avenue  
Suite 201  
Athens, GA 30601

Billy/Billie Sherman  
543 Meigs Street  
Athens, GA 30601

RE: Fire Loss at 215 North Lumpkin Street

Dear Claimants:

We have completed our review regarding the competing claims for loss for insurance policy number 10112002NCB, including the scientific opinions both of you provided. In order to avoid litigation, we hereby offer to settle your claim for \$7,500,000 per claimant. This offer will be valid for 10 days. If either of you decline the offer, or if you do not respond, Athena will interplead the funds into the registry of the court and allow a jury to resolve the dispute.

Very truly yours,

**MIKE FICA**

Mike Fica  
Claims Adjustor

**IN THE SUPERIOR COURT OF CLARKE COUNTY  
STATE OF GEORGIA**

ATHENA GENERAL PROPERTY )  
AND CASUALTY INSURANCE )  
COMPANY, )  
)  
Plaintiff, )  
)  
v. )  
)  
HAYDEN BEAUREGARD and BILLY/ )  
BILLIE SHERMAN, )  
)  
Defendants. )

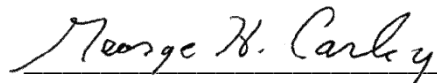
CIVIL ACTION NO: 2019-NHSMTC

**ORDER ALLOWING INTERPLEADER**

It appearing that Plaintiff ATHENA GENERAL PROPERTY AND CASUALTY INSURANCE COMPANY has filed an interpleader action against the above-named Defendants, and it further appearing that all prerequisites have been met:

IT IS HEREBY ORDERED that Plaintiff be allowed to interplead the disputed funds into the Registry of the Court. IT IS FURTHER ORDERED that Defendants shall be served with a copy of the complaint and summons along with this Order.

SO ORDERED this 11<sup>th</sup> day of July, 2016.

  
\_\_\_\_\_  
Hon. George Carley, Judge  
Superior Court of Clarke County

cc: All Parties

**IN THE SUPERIOR COURT OF CLARKE COUNTY  
STATE OF GEORGIA**

ATHENA GENERAL PROPERTY  
AND CASUALTY INSURANCE  
COMPANY,

Plaintiff,

V.

HAYDEN BEAUREGARD and BILLY/  
BILLIE SHERMAN,

Defendants.

CIVIL ACTION NO: 2019-NHSMTC

**DEFENDANT BEAUREGARD'S ANSWER TO INTERPLEADER**

COMES NOW HAYDEN BEAUREGARD, Defendant in the above-styled action, and files this Answer showing the Court as follows:

1.

The allegations in Paragraph 1 are admitted.

2.

The allegations in Paragraph 2 are admitted.

3.

Defendant does not have sufficient information to admit or deny the allegations in Paragraph 3, and therefore those allegations stand as denied.

4.

The allegations in Paragraph 4 are admitted.

5.

The allegations in Paragraph 5 are admitted.

6.

The allegations in Paragraph 6 are admitted.

7.

The allegations in Paragraph 7 are admitted. By way of further answer, Defendant Sherman is prohibited from recovery due to having intentionally set the fire that caused the loss in question.

8.

The allegations in Paragraph 8 are admitted.

9.

The allegations in Paragraph 9 are denied.

#### CLAIM FOR FUNDS

By way of further answer, Defendant HAYDEN BEAUREGARD states the following:

9.

Defendant Beauregard has satisfied all conditions precedent to recovery under the policy, and is entitled to the benefits thereof.

10.

Defendant Sherman is prohibited from taking under the terms of the policy due to his/her actions.

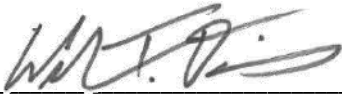
WHEREFORE, Defendant HAYDEN BEAUREGARD demands the following relief:

(1) That this Court conduct a trial by jury; and

(2) That Defendant HAYDEN BEAUREGARD be awarded the benefits of the policy in question.

This 15<sup>th</sup> day of July, 2016.

William T. Davis

By: 

Attorney for Defendant  
Athens, Georgia

**IN THE SUPERIOR COURT OF CLARKE COUNTY  
STATE OF GEORGIA**

ATHENA GENERAL PROPERTY	)	
AND CASUALTY INSURANCE	)	
COMPANY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO: 2019-NHSMTC
	)	
HAYDEN BEAUREGARD and BILLY/	)	
BILLIE SHERMAN,	)	
	)	
Defendants.	)	

**DEFENDANT SHERMAN’S ANSWER TO INTERPLEADER**

COMES NOW BILLY/BILLIE SHERMAN, Defendant in the above-styled action, and files this Answer showing the Court as follows:

1.  
The allegations in Paragraph 1 are admitted.
2.  
The allegations in Paragraph 2 are admitted.
3.  
Defendant does not have sufficient information to admit or deny the allegations in Paragraph 3, and therefore those allegations stand as denied.
4.  
The allegations in Paragraph 4 are admitted.
5.  
The allegations in Paragraph 5 are denied as pled. Defendant Beauregard was solely responsible for the suspiciously timed increased coverage.
6.  
The allegations in Paragraph 6 are admitted.
7.  
The allegations in Paragraph 7 are admitted. By way of further answer, Defendant Beauregard may not collect the insurance proceeds since Defendant Beauregard is the cause of the fire in the first place.

8.

The allegations in Paragraph 8 are admitted.

9.

The allegations in Paragraph 9 are denied.

#### CLAIM FOR FUNDS

By way of further answer, Defendant BILLY/BILLIE SHERMAN states the following:

9.

Defendant Sherman has satisfied all conditions precedent to recovery under the policy, and is entitled to the benefits thereof.

10.

Defendant Beauregard is prohibited from taking under the terms of the policy because s/he burned down our theatre.

WHEREFORE, Defendant BILLY/BILLIE SHERMAN demands the following relief:

- (1) That this Court conduct a trial by jury; and
- (2) That Defendant BILLY/BILLIE SHERMAN be awarded the benefits of the policy in question.

This 29<sup>th</sup> day of July, 2016.

Rizza O'Connor,  
O'Connor, Toombs, & Lyon

By: Rizza O'Connor  
Attorney for Defendant  
Athens, Georgia

## STATEMENT OF HAYDEN BEAUREGARD

1. My name is Hayden Beauregard, and I'm what the university kids probably would call a townie. I've lived in Athens my whole life. I grew up in the Rock Springs neighborhood on Dearing Street—near The Tree That Owns Itself—just four houses down from Billy/Billie “Cump” Sherman. Our house was known locally as The Contreras House and has been in my mother's side of the family since the beginning of the 20<sup>th</sup> century, long enough to be on the National Register of Historic Places. I was telling someone the other day that we'd been best friends since we started kindergarten at Barrow Elementary School, but my mom reminded me that Billy/Billie and I had actually been in the same day care program for years before kindergarten.

2. It was good to have a friend living so close. Even after we started attending Clarke Middle School, Billy/Billie and I stuck together. I was always over at his/her house, or vice versa. We listened to music on the University of Georgia radio station, WUOG, while reading Mad Magazine, or doing homework. We were “as thick as thieves,” as our parents would say.

3. Once we were at Clarke Central High School, we worked together on the school newsmagazine—*The Odyssey*. What was cool about living in Athens, then as now, was the music scene. Our tastes were somewhat more refined than your average teenager thanks to the creative playlists of the student disk jockeys at WUOG. And their on-air promotions giving away concert tickets or spots on a club guest list made us aware of what was going on in places that we were technically too young to enter.

4. We decided to break through the age barrier with a little help from the student press passes we created, documenting our affiliation with *The Odyssey*. Because those press passes didn't say it was just a high school news magazine, more often than not, we would be successful using them to get on the guest list for shows at The 40 Watt Club or the Koffee Klub. We got a free night of music just for the price of writing a review when it was over! And we'd self-promote to enhance our reputations—taking copies of *The Odyssey* down to Wuxtry Records, hoping that people would pick it up and check it out along with *Flagpole Magazine*, a free local weekly magazine that covers the music scene around Athens.

5. While Billy/Billie and I were writing for *The Odyssey*, Elijah/Ellie Johnston moved in next door to me. Elijah/Ellie was an only child and a few years younger—still attending Clarke Middle School. Billy/Billie thought Elijah/Ellie was just a little twerp, and had no patience when s/he wanted to pal around with us. Elijah/Ellie was definitely too young to be any help reviewing concerts, but I did let him/her tag along when I went to Wuxtry's to deliver copies of *The Odyssey*. Elijah/Ellie liked flipping through the bins full of vinyl and playing catch up on all the great bands s/he missed out on by having been born twenty years too late.

6. Back in those days, the old Elite Theatre at 215 North Lumpkin Street was just an abandoned building. It was only about half a mile from our homes, but sometimes, walking from our neighborhood



up the long hill on Broad Street to Lumpkin, it felt farther. Billy/Billie and I would sneak out after the 'rents were asleep to explore it at night. Sort of like spelunking in the darkness, the old ghost light having long ago burned out on the dusty stage.

7. Billy/Billie was always trying to convince me that the place was haunted, given what happened to the theater owners—Henry Bascombe and Big Bob Oakley—back in the days of vaudeville. Henry Bascombe was found shot right beside the ghost light with some burnt papers scattered about and his bowler hat at his side. Before Big Bob Oakley could be charged with the murder, his body was found hanging from a rope in the theater office in the basement. It looked like he had stood on his desk and kicked off from it. He probably did it just as authorities were closing in because his trademark pipe was lying on the desk with tobacco still smoldering in the bowl.

8. So Billy/Billie would always tease my superstitions, claiming to smell the tobacco smoke as we explored the old theater. S/He would even sing a little riff from Stevie Wonder: “When you believe in things that you don't understand, then you suffer.” And with just that little power of suggestion I swear I could smell the cherry smoke too.

9. It wasn't all just imagining dreams gone up in smoke. During our late night explorations of the Elite, Billy/Billie and I would fantasize about renovating the theater. For the longest time that seemed like a pipe dream. But as we slowly, but surely, slogged through our college careers and youthful employment, the idea of renovating the Elite Theatre became more and more of an obsession.

10. I'd think about it every day because I passed right by the Elite Theatre on my way to work at The Carley Group, the engineering firm that hired me after I graduated from UGA. Billy/Billie was still in school—or just finishing up school—having gone back to get an MBA to refine the plan for the Elite. S/He spent about a year going around the country, touring different music venues to get ideas. S/He was really dedicated to the plan.

11. After s/he got back from his/her tour, we would meet for lunch at least once a week, and one day over a meat and three at Weaver D's Delicious Fine Foods—Automatic for the people!—we solidified our plan for renovating the Elite Theatre. We shook hands on the deal which we then toasted with sweet tea.

12. With my engineering skills and Billy/Billie's business acumen, we figured we couldn't fail. Our friends were skeptical. Nobody could understand why we wanted to renovate a haunted, dilapidated building. And they warned us that we needed some sort of legal advice to memorialize the partnership. But we figured our friends just didn't get Hayden and Billy/Billie. Everything we'd ever done was based on a handshake—always a handshake.

13. We took out a general liability policy with Athena General, insuring the building for one million dollars with each of us as individual beneficiaries. I thought maybe we should have gone for more than a mil, but Billy/Billie said it was all we could afford. I trusted Billy/Billie's business sense, figuring what

could go wrong? And, at that point, nothing did. The renovations proceeded very quickly and efficiently. I was happy Billy/Billie agreed to keep the antique brass footlights at the front of the stage. They cost a bit to run and used some hard-to-find light bulbs, but they really dressed it up. To help keep the bulbs lasting longer, we put the light switch for the footlights in a locked box so no one would turn them on by accident and leave them burning overnight.

14. Just before the work was completed, Billy/Billie surprised me with a project that s/he had commissioned – the old partners’ desk had been fully restored. Beneath the smooth veneer were two odd markings – what appeared to be a set of scuff marks, as if made by a pair of boots, and a spot on the corner of the desk where it appeared something had been left burning. Billy/Billie said that those elements added character, but that desk gave me the creeps. It symbolized all the ghost stories s/he would tell when s/he was trying to scare me during our explorations of the abandoned building. After Billy/Billie unveiled the desk, I swear I could smell cherry pipe tobacco. I suggested that the new venue undergo an exorcism by any religious sect or denomination willing to do it. Billy/Billie just laughed and said keeping a light on would scare away the demons.

15. That’s why Billy/Billie insisted that we purchase a ghost light and incorporate it into a trademark of sorts – when last call had come and gone and it was time for the crowd to leave, someone would take the ghost light on stage. S/He wanted to leave it on all night long, with the idea that it would both give anyone coming in a little bit of light to see, and to ward off any spirits that may be “lurking around in the basement”. Whatever. If it made Billy/Billie happy, it was fine by me, though the whole idea of having to ward off the spirits was a bit creepy.

16. Instead of an exorcism, we settled on renaming the Elite as the Georgia Theatre. It opened with much fanfare and quickly became the hottest live music venue in Athens. To the public, it looked like the Georgia Theatre was a successful business – attracting national acts, but especially highlighting local and regional bands. But looks, and books, can be deceiving.

17. With the enormous popularity of the Georgia Theatre as a live venue, I could not understand why, after about eight months, the business was losing money. When asked, Billy/Billie would provide cryptic answers about the finances, and the books might as well have been written in Greek. I had also extended my finances to the hilt, going so far as to take a second mortgage on the family home to help fund the business. All I knew was that we needed to improve revenue flow, so I suggested installing movie equipment and becoming a draft house when the building was vacant between acts. Billy/Billie, always the purist, thought that was the worst idea ever. But I persisted with the idea of making the business as profitable as possible. Billy/Billie wanted to stick to the original mission of supporting live music.

18. Tensions became evident to the downtown community, when I told Reagan, my longtime maintenance manager, about my concerns for the financial health of the business and suggested that Billy/Billie was possibly embezzling. I kept an ongoing file of all of Billy/Billie’s accusations and his/her every attempt to sabotage the business. Finally, I decided to call Elijah/Ellie Johnston, who by this time

was a detective with the Clarke County Police Department. Elijah/Ellie really pushed to get an investigation off the ground—perhaps a little too hard, since s/he was not trained to investigate white collar crime—but higher-ups eventually decided it was a civil matter and declined to pursue the case.

19. I thought things may turn around a bit when we had a concert at the end of April in 2013 that pulled a rare full house. The next day, I found a couple of deposit slips from the bank in the office. I showed them to Nolan, our bookkeeper, in case s/he needed them for the books. S/He said that only one was for the Theatre's bank account, for about \$9,000. The other one, for about \$5,000, was an account s/he didn't recognize. With a full house the night before, we should have taken in around \$12,000 plus bar purchases of about \$2,000. I asked Nolan if s/he or Billy/Billie deposited the money at the bank that morning and s/he said Billy/Billie insisted on taking it. When I asked Billy/Billie about it, s/he said that s/he was surprised the gate was so low as well but thinks that a bunch of kids had snuck in the back door off Clayton since one of our bouncers had called in sick right before we opened. With where we were at that point in time, I was really disappointed we lost that much money. At the time, I wasn't sure what it really was or what to do with it, even though it didn't feel right, so I stuck it in the file, just in case. Now, I know that not all of the Theatre's money made it into the Theatre's account.

20. In the end, the police were both right and wrong – it was ultimately a civil dispute but there was absolutely nothing civil about it. The dissolution of the partnership wound up in the Superior Court of Clarke County where it was called the messiest divorce since Miranda and Blake. Billy/Billie's financial mismanagement came out in court at the first hearing.

21. Instead of appointing a receiver, the judge awarded me control of the Georgia Theatre pending resolution of the case. Billy/Billie was still a partner but had no say in the day-to-day operations. Billy/Billie exploded in court when the judge ruled, claiming the judge was biased and that the Georgia Theatre would "go up in smoke" if I was left in charge. Billy/Billie said: "If I can't have the Georgia Theatre, nobody can have her!"

22. The judge held Billy/Billie in contempt and Billy/Billie spent the night in jail as a result. Based on the outburst, the judge added that Billy/Billie was not to enter the premises unless it was at my specific invitation or as a patron. If entering the premises as a patron, Billy/Billie was restricted to only the public areas. Although Billy/Billie turned over the keys to the building in court, the judge still advised me to change the locks. Unfortunately, I never got around to it.

23. In the weeks and months that followed, the business started to flounder. Acts would cancel and other just would not book. I think this was due to the public acrimony and Billy/Billie's criticism. Billy/Billie claimed that I was intentionally damaging the theatre's reputation in order to hurt him/her by damaging something near and dear to his/her heart. Of course, that wasn't so. I had my heart and soul in the place too. I think people were staying away because of rumors that the Georgia Theatre was still haunted. Because of the interrupted cash flow, I could not pursue the draft house additions. No bank would loan any money, and who could blame them with Billy/Billie trash talking the business.

I kept getting notices from the bank about the second mortgage being in default, but I passed each letter to Nolan. There was too much on my plate to deal with that as well.

24. I kept sending Billy/Billie offers to settle. Every one of them involved simply selling the building, paying the debts, and dividing the remaining funds (if any) 50/50. Billy/Billie rejected every one of those offers. The Georgia Theatre's business was running into the ground so fast I figured it was soon to be worth more dead than alive.

25. As part of the civil case, the Georgia Theatre was appraised which revealed just how underinsured the place actually was. I was advised to increase the liability coverage, but, just like with the keys, I decided to put it off. I thought surely Billy/Billie would come to his/her senses, and this would all blow over.

26. A month and a half before the trial was to begin, the Georgia Theatre put on an increasingly rare show featuring Hornets Attack Victor Mature. After the crowd finally cleared, I was headed to the office to finish the paperwork and close for the night. As I was walking out, I noticed that the ghost light was back on stage and was on. This was unusual because I quit using it after Billy/Billie's blow up in court. I had Reagan put in a couple of can lights over the stage that would stay on all night and put that ghost light away. Even more worrisome was something else caught my eye sitting on the stage by the ghost light – a wool-felt bowler hat. This creeped me out. I knew something was fishy so I took a picture of the light and hat before putting the light in a closet in the basement and took the hat into the office.

27. I decided to see what I could find online about the hat, starting with the haberdashery label under the band. Turns out, the hat was quite old, dating back to the 1920's. Since I was already keeping the diary to document everything that could be used at trial, I decided to lock the bowler hat in the office file cabinet. I sent the websites and photo from my phone to Elijah/Ellie so s/he could look into it; I figured Billy/Billie had left the hat, just the way s/he tried to scare me back when we were exploring this place in high school. I'm pretty sure I saw Billy/Billie at the concert, though I'm not certain since the place was very crowded due to pent up demand for the Hornets show.

28. Because of this, it left me with a nagging feeling that Billy/Billie was up to his/her old tricks. This finally convinced me to increase the insurance on the building to fifteen million dollars—five times the appraised value but more in line with total replacement cost, including all of the equipment inside. But the way the policy was written, the new coverage wouldn't be effective until thirty days had passed. Because Billy/Billie and I were still co-owners and were still individual beneficiaries, the insurance company sent a new declarations page with the increased coverage to Billy/Billie as well.

29. Elijah/Ellie talked to Billy/Billie the next day, who denied attending the show, let alone turning on the ghost light and leaving the hat. As usual, Billy/Billie blamed me saying I was the one who didn't want to waste electricity and had a lock box built around the switch for the "stupid footlights", pointing

out that I had the only key and s/he wouldn't be able to plug it into that outlet. "Hayden's so paranoid, just like s/he is with the ghosts in the basement!" s/he said to Elijah/Ellie.

30. Then suddenly, out of the blue, Billy/Billie accepted my settlement offer a week before the trial was to begin. The lawyers advised the court of the settlement and the case was removed from the trial calendar. It was just in time, too. The hemorrhaging theatre had caused me to miss several payments on the second mortgage and the bank had just started foreclosure proceedings on Contreras the month before. The bank bought it the first Tuesday of November at the foreclosure sale, but they were still willing to work with me to keep the house in the family. The settlement paperwork was drafted and a meeting was scheduled to sign documents the afternoon of November 12, 2014; Billy/Billie chose the date. The night of November 11, I worked late and left the file of evidence that was going to use against Billy/Billie in the office. Once the settlement agreement was signed, my plan was to burn the file, which I left on the desk as I turned out the lights.

31. I awoke to the sound of sirens during the early hours of November 12, a little before 7:00. Looking out the window, I saw huge plumes of smoke rising from the direction of the Theatre above the street lights. Quickly dressing and running towards Lumpkin Street, I saw the building engulfed in flames. My first thought was to enter the Theatre from the door off Clayton into the back stairwell, but I could see smoke pouring out of it. So I ran down the alley and down the stairs to the basement side door, into Reagan's workshop. I wanted to get into the office, if possible, and salvage whatever could be saved. Despite the fire raging upstairs, a strange odor permeated the workshop when I entered, a sweet and oddly familiar smoky aroma. When I entered the office, my heart nearly leapt from my chest. There was a small noose hanging from the ceiling just off my side of the partners' desk. On the opposite side of the desk was a pipe, with warm ribbons of cherry tobacco smoke rising in the air. It sat on the burn mark left those many years ago. The file was missing; in its place was the bowler hat that should have been locked up in the file cabinet. At that point I heard debris hitting the stage above me as the roof start to give way, so I made a run for it back through the workshop, getting out the side door just as the ceiling and stage collapsed in an explosive blaze. After I got out of the alley and was running towards Horton's, I swear I thought I saw Billy/Billie's car further down, in the distance. As the fire trucks rolled up, I stared after the car as it silently drove away.

32. The fire department fought the fire valiantly, but the Georgia Theatre was reduced to a pile of smoldering rubble and the brick shell that once held so many dreams.

33. By this point, Elijah/Ellie had transferred to the Clarke County Fire Department's Investigative Division and was the arson investigator assigned to the case. Based on evidence found at the scene (precious little remained), Elijah/Ellie determined that the fire originated on the stage, most likely from igniting papers with some accelerant, which then ignited the curtains and quickly spread. I was able to identify what few scraps of paper that remained as my diary notes and other documents contained in the Sherman file. A badly charred Calabash pipe was somehow found in the office area. Elijah/Ellie concluded that the fire had been intentionally set.

249 34. Elijah/Ellie and I immediately suspected Billy/Billie and brought him/her in for questioning.  
250 Billy/Billie denied setting the fire or even being in the vicinity that morning. With the settlement on  
251 hold, Elijah/Ellie pushed the investigation forward despite being told the case was entirely  
252 circumstantial and there wasn't enough evidence to indict yet. Finally, the district attorney agreed to  
253 make a special presentment to the grand jury. Elijah/Ellie and I testified during the presentment. The  
254 grand jury returned a "no bill." This made Elijah/Ellie furious and very unpopular with the brass at the  
255 fire department. Elijah/Ellie quit and opened up a private investigation firm.

256  
257 35. With no other reason to delay, the civil case to dissolve the partnership was finally settled. We  
258 actually shook hands once it was signed. The only real asset was the insurance claim, which eclipsed  
259 the partnership debts. I sent in a claim for the insurance proceeds but was surprised to learn from the  
260 insurance company that Billy/Billie had filed a separate claim for the proceeds. Billy/Billie alleged that  
261 I had intentionally set the fire and should be prohibited from recovering. I responded, telling the  
262 insurance company that it was Billy/Billie who set the fire. I immediately hired Elijah/Ellie as an arson  
263 expert – Elijah/Ellie's only client – and offered him/her a contingency fee if successful with the claim.  
264 I really need Elijah/Ellie's help to win this case. I was able to delay being evicted from the family home  
265 but only by promising that the entire note would be paid off once the insurance claim is resolved. If I  
266 lose, I lose everything. Otherwise, it's bankruptcy for me.

*Hayden Beauregard*  
**Hayden Beauregard**

SIGNED AND SWORN to me, August 2, 2016.

*C.M. McCormack*  
C.M. McCormack, Notary Public



**WITNESS ADDENDUM**

I have reviewed this statement, given by me on the date above, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed,

*Hayden Beauregard*  
**Hayden Beauregard**

*Morning of trial*  
**Date**

# STATEMENT OF NOLAN CLARKE

1. My name is Nolan Clarke. I was born and raised in Athens, Georgia and have known Hayden Beauregard and Billy/Billie “Cump” Sherman all my life. I have roomed with Cump since I was an accounting major at The University of Georgia. Cump was finishing up his/her MBA as I was beginning my accounting major. I worked for Hayden part time while in undergrad, helping him/her with accounting and collecting rent from tenants. I made sure that rents were collected from Hayden’s tenants on time and that payments on his/her investment properties were timely made, including mortgage loan payments, property taxes, and insurance payments. I also made sure that payments for property repairs were timely made and kept up with Hayden’s profits/losses on the properties.

2. So when Cump and Hayden went into business together and opened The Georgia Theatre, naturally I was hired to handle all finances—at least that was what I was supposed to do. I did take care of accounts payable, receivables, bank deposits, employee payroll, employment taxes, business licenses, property taxes, sales taxes, and things like that. I also prepared monthly and yearly budget reports and regularly reviewed them with Cump and Hayden.

3. One of the main problems I encountered with The Georgia Theatre accounting was the lag time before I received the funds. Before the money from the box office was turned over to me, Cump always counted it first privately in the office. Then the money was turned over to me for counting and “double checking Cump’s math” as s/he liked to call it. Not that I don’t trust Crump’s math since s/he has been my roommate for years, but I could never understand why s/he didn’t just allow the two of us to count it together. Hayden didn’t really seem to mind because s/he and Cump had a handshake agreement and trusted each other, and Hayden just did not understand the financial side of the business. Typically, either Cump or I would take it to the bank to deposit it.

4. The business ran pretty smoothly for the first several months, but when profits began turning into losses and bills began piling up, Cump and Hayden’s friendship began to fizzle. I learned pretty quickly that musical acts can fall apart at a moment’s notice, bands cancel, musicians are divas, equipment breaks, events don’t sell out, etc. So I agreed with Hayden’s idea that they should invest in purchasing and installing movie equipment, getting a liquor license, and using the Theatre as a draft house in between musical acts. I tried to reason with Cump, but s/he would not even consider that on film nights local artists could be showcased before and after the film. We would not have even had to pay them—it could have been an open mic night format. Hayden thought it was a great idea and a great compromise to keep Cump happy, but Cump dismissed it immediately. I had to let Cump’s summary dismissal of my idea roll off my back since we are roommates and all. And, of course, Cump is the expert when it comes to the music scene.

5. As the losses piled up, Hayden began accusing Cump of mismanaging the Theatre funds. I was caught in the middle. When I checked Cump’s math, the funds always added up. Even I can’t explain why the profit/loss scenario was so volatile except that some acts are more profitable than others.

Hayden was getting suspicious of Cump and the financial numbers and started keeping a file of all the proof s/he could come up with against Cump. Hayden took the file home every night and was obsessed with gathering whatever s/he could to help win the lawsuit. One day in late April, 2013, Hayden showed me two deposit receipts from Classic City Bank and Trust. That is the bank where we have the Theatre's business account. One was for a deposit of \$5,000 into an account number I didn't know and the other was for almost \$9,000 into the Theatre's account. Hayden said that this was from the gate from the concert the night before. Cump counted the money after we closed and told me we took in about \$9,000, so it seemed fine by me. Hayden was convinced Cump was skimming money somehow and that the \$5,000 should have been from the gate as well. It was a busy night but I don't know how much we "should" have taken in or anything. \$9,000 is a little low for one of our bigger shows, but I'm not at the door counting heads. Hayden kept the two slips and put them in his/her file.

6. I could understand why Hayden was exceptionally nervous, with him/her taking the second mortgage on Contreras for business capital. I'm sure it felt like walking up to a roulette table and putting the keys to the house on number 17. I advised him/her against doing that with his/her mom's house, but Hayden said that with the plan s/he and Cump had for the Theatre, it wasn't that much of a risk. After Hayden and Cump's partnership went up in smoke and Hayden filed a lawsuit, a Superior Court Judge awarded Hayden full control of the Theatre. I had to testify about how the accounting was handled at the Theatre. And because Cump got mad and yelled in court, "If I can't have the Georgia Theatre, nobody can have it," the judge held Cump in contempt of court, and made him/her spend the night in jail. Cump also had to turn in his/her keys to the Theatre over to the judge right there in court. The judge ordered Cump not to enter the Theatre unless invited by Hayden or unless s/he bought a ticket to an event and entered the Theatre as a paying patron. After that court hearing, I was careful not to discuss any Theatre business with Cump because I didn't want to get thrown in jail, or even worse, lose my job. I was in a very precarious position since Hayden paid my salary and Cump and I roomed together and split expenses.

7. Cump vowed never to set foot in the theater again unless s/he was the sole owner. As far as I know, Cump never did go back to the Theatre. When Cump started complaining about Hayden at home, saying if "s/he could not have the Theatre, no one would," I would go outside and hang out in our backyard garden until the rant was over. Cump and I worked really hard together to plant our garden in the shape of a musical note so we could have a place to chill in the backyard on our days off. Cump liked to sit outside with his/her Calabash pipe full of cherry tobacco and enjoy the tranquility of the garden, even though s/he never lit the pipe, except in the Theatre when s/he like to smell up the stage or office to give Hayden a little scare. We planted Gingko trees, like those in downtown Athens, along with other beautiful local plants, bushes, and trees from the UGA Botanical Gardens, to provide a shady, pleasant place to hang out. We had a small koi pond installed with a running fountain, had outdoor speakers for our favorite tunes and so we could listen to demos while relaxing with a cold lemonade. We even built a fire pit for chilly days and nights. We made many trips to Home Depot to complete that garden and purchased everything from potting soil to rope. The rope we bought just before the fire because one of our Gingko trees had to be staked and tied to keep it from falling over after some strong winds blew through town.



82

83 8. Even though Cump was really angry at Hayden and vice versa, I don't believe s/he had anything  
84 to do with the musical acts cancelling. Cump did give an interview in which s/he expressed distaste at  
85 the thought of the Theatre becoming a film or event venue. Hayden didn't help matters by complaining  
86 to anyone who would listen that Cump wouldn't agree to settle the lawsuit, Cump wouldn't agree to  
87 help get a loan for the renovations and equipment needed for the draft house additions, that the  
88 business falling apart was Cump's fault, and on and on. I have to admit that some of the musical acts  
89 were probably afraid they would perform and not get paid because the Theatre's financial issues were  
90 public knowledge. I guess the whole situation was a perfect storm – just not at sea and no boat was  
91 involved; instead it was a failing business with a lot of insurance.  
92

93 9. Hayden also defaulted on the second mortgage, so s/he had the added pressure of losing the  
94 family home to the bank. The bank would send letter after letter, trying to get Hayden to respond and  
95 work something out before any foreclosure proceedings would be started. Hayden just passed the  
96 letters on to me and said, "Add this to the list." I could tell this really took a toll on Hayden, but the  
97 money just wasn't there until the Georgia Theatre became financially successful again. In for a penny,  
98 in for a pound. It must have embarrassed Hayden to no end when the foreclosure sale was advertised  
99 in the county newspaper for all to see. I could tell Hayden was desperate to find a solution to the  
100 foreclosure problem. Hayden hated him/herself for getting into the situation in the first place, hated  
101 Cump for sabotaging their partnership, and, strangely enough, I think Hayden hated the Georgia  
102 Theatre. Around this time, s/he would frequently comment how s/he would be better off without "this  
103 albatross" around his/her neck, gesturing towards the Theatre.  
104

105 10. Hayden never bothered to change the locks after Cump turned over his/her keys (just about every  
106 key to everything was kept on a nail just inside the door to his office) and, at first, did not increase the  
107 property insurance on the Theatre until right before the fire. I pointed out to Hayden and Cump, then  
108 just Hayden, during our monthly financial report reviews, that the property was underinsured. Even  
109 though it was an added expense, Hayden loved the old school footlights that were at the front of the  
110 stage. I think they may have been original to the Theatre from its days as the Elite Theatre. They sucked  
111 up a lot of electricity and took special bulbs, but Hayden insisted on keeping them when they bought  
112 the Theatre. To help keep costs down, I got Hayden to put the switch for them in a locked control  
113 panel. Hayden was the only one with the key; that's the only key that wasn't on the keyring on the  
114 nail. I didn't know s/he had added a timer to the system. Of course, Cump and I both knew that Hayden  
115 kept that key in the lower right desk drawer in the office underneath the hanging file folders in small  
116 glass bowl.  
117

118 11. Cump was the one that insisted on getting the ghost light. I guess s/he wanted his/her own mark  
119 on the stage with Hayden keeping those footlights. I don't know if Cump made the light or found it at  
120 an antique store, but it was only used overnight. Thankfully, it worked with an LED Ediston-style bulb,  
121 so it didn't cost us anything to run it all night long. Hayden insisted we install some floodlights over  
122 the stage for the overnight hours and get rid of Cump's ghost light. Hayden, ironically, thought the

ghost light was costing too much to keep on all night. I don't think Hayden liked that it was called a "ghost" light due to the needling Cump did to Hayden with the ghost stories and tobacco smoke.

12. Hayden worked late the night before the fire. I left the Theatre around 9:30 PM with Hayden still there, along with the Cump lawsuit file on his/her desk. I drove home to change clothes with plans to head out for my monthly poker game. When I got ready to leave, my car wouldn't start. Luckily, Cump was home with no plans to leave and let me borrow his/her car. I was able to pop my car in neutral and roll it out to the street and leave it at the curb in front of the house. When I left in Cump's car, s/he was already in his/her pajamas and was curled up on the couch watching the History Channel. Since we have a narrow driveway, I typically left my keys in my car, underneath the front driver's side mat so Cump could move it easily if I was blocking him/her in. Yeah, the Theatre keys are on my key ring, but I am sure s/he did not leave the house that night, and definitely did not burn the Theatre down.

13. In the end, it was not my night with the cards. I didn't get home until around 6:30 AM; I stayed all night in the game, just so I could break even. I have had a run on bad luck the last few times I played poker and just could not afford to lose again. When I got home, I checked my car to see if it would crank. The keys were under the mat where I left them. The car was in the same place in the street. Lucky for me, it turned over; go figure. And when I went inside, Cump was in his/her room with the lights off and door pulled almost shut. I could see the glow of the TV through the crack, muted, probably with the History Channel on showing reruns of "Ancient Aliens". I took my car by CarZones later that afternoon and they said the battery needed replacing because there was some corrosion on it and one of the cables looked to be loose. There went my poker money.

14. Shortly after I got in, we heard sirens and wondered what the fuss was about. It wasn't long until I got a phone call that the Theatre was on fire. I ran out in a panic so quick I'm not sure if I yelled anything at Cump as I left. I jumped back in Cump's car and took off. I parked a few blocks away due to the fire trucks and police blocking streets and ran up on foot, but there was nothing I could do when I got there. Hayden was standing across the street in front of the drug store watching the fire department pour water into the roof from a ladder truck. Of course, I was shocked and did my best to comfort Hayden that things would work out okay. Reagan was about halfway down the block on his/her cell phone, saying something like, "it's on fire" and, "where are you?" I reminded Hayden that s/he had upped the insurance policy amount and that this could turn into a blessing rather than a curse. Hayden mentioned that s/he ran into the office to grab the file before the fire got completely out of control and saw a rope hanging from the rafters and smelled cherry pipe tobacco throughout the office. Of course, I assumed it was Hayden's imagination out of control again, but when I looked in the trunk of my car later, I noticed that the leftover rope was gone along with the entire Home Depot bag. Hayden said the file wasn't on the desk and didn't have any time to look around for it before having to get out. After a bit, Hayden and Reagan went to get some coffee at The Grill on College Avenue, waiting and hoping to get inside with Johnston to see the damage. I didn't want to hang around, so I headed back home. There wasn't much I could do at that point. It has to humiliate

Hayden to be renting the family home instead of owning it, but hopefully thing will work out for him/her. If s/he is responsible for the Beauregard family losing Contreras...well...that scar never heals.

15. When I got back home and told Cump what happened, s/he had this distant look and said, "Things like this happen for a reason. Besides, Hayden increased the insurance on the property, didn't s/he? The Elite will rise again from the ashes." I wasn't sure what Cump meant and let it go. I guess with the settlement between Cump and Hayden, I thought things might work out—that Cump and Hayden might bury the hatchet and become friends, and maybe even business partners, again. But that dream was short-lived. Next thing I knew, Cump accused Hayden of burning the building down and Hayden accused Cump of burning the building down. The insurance company didn't want to try to sort through the mess and threw it all back in court. And here I am stuck in the middle again.

16. A few weeks after the fire, I received a call from some person named Spengler, who said s/he was investigating the origin of the fire. I asked if s/he was with ATF or the insurance company, but s/he abruptly changed the subject. Before I could tell him/her that I really didn't know much about it, s/he started asking about the footlight bulbs for the Georgia Theatre and where the spares were kept. When I told him/her where they were stored, s/he asked if I had ever noticed anything odd or suspicious about the bulbs at Hayden's garage. That was an odd question, and I really didn't have an answer for it. I mean, what is suspicious about a light bulb? S/He then asked if I had ever seen any broken bulb pieces at Hayden's. Sure, I said – who doesn't accidentally break a light bulb every now and then? S/He then said, "HA!" and thanked me for my time. It's never going to end and I really hate being dragged into the middle of all of this between Cump and Hayden.

*Nolan Clarke*

Nolan Clarke

SIGNED AND SWORN to me August 11, 2016.

*C.M. McCormack*

C.M. McCormack, Notary Public



#### WITNESS ADDENDUM

I have reviewed this statement, given by me on the date above, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed,

*Nolan Clarke*

Nolan Clarke

*Morning of trial*

Date

## STATEMENT OF ELIJAH/ELLIE JOHNSTON

1. My name is Elijah/Ellie Johnston, and I am the president and C.E.O. of I.C.U. Investigations. As a former detective with Athens-Clarke County Police Department, I rely on my vast and varied training to meet your private investigative needs. Despite the obvious familiarity I have with the criminal code, I received training in covert surveillance, general crime scene investigation and fingerprinting. Near the end of my tenure with Athens-Clarke County, I was also provided arson investigation training. I am very good at what I do. My one failing is advertising my talents and services, as business is quite dead at the moment. At the time I took the case, I'd only been open for 10 months, so I was hoping that things might turn around at any moment now that I had a bona fide client.

2. I have known Hayden Beauregard and Billy/Billie "Cump" Sherman since I was in middle school. We moved in next door to Hayden on Dearing Street, and as an only child I would invariably tag along on their many adventures. At least I would try—more often than not they would ditch me because I was three years younger. Three years difference in age isn't anything now, but when you are young, it is the Snake River Canyon. When I did catch up with them, Sherman would tease me and try to scare me into going home. One time they took me into the old abandoned Elite Theatre downtown on Lumpkin Street, and Sherman kept talking about how haunted the place was and how s/he smelled pipe smoke. I could tell that the Elite gave Hayden shivers as well. Every time I tried to follow them after that, Sherman would say something like, "Let's go to the Elite." That would usually send me packing. Hayden stood up for me as much as s/he could, but would usually acquiesce to Sherman's decision not to include me.

3. I graduated from the University of Georgia with a degree in Criminal Justice, and signed up with the Athens-Clarke County Police Department. I quickly rose to the rank of detective, and investigated just about every type of crime. Athens-Clarke County is somewhat small, so everybody has to be a Jack- or Jill-of-all-trades. I was pretty excited (and a little envious) when I heard that Hayden and Sherman were renovating the Elite Theatre in 2011, since the Athens music scene could always use another quality venue. They reopened it as the Georgia Theatre to great fanfare, and it was enormously successful—at least at first glance. Then, in early April, I heard from Hayden, who wanted a favor. Hayden told me that the business had been hemorrhaging money for several months (something I heard from the downtown community), and s/he suspected Sherman of embezzlement. Hayden asked if I could look into it. S/He told me about all of his/her suspicions and gave me this file full of handwritten notes and ledger statements. I really couldn't figure out what it was all about, with the scribbling and disconnected bits of information. I took Hayden's concerns to my superiors and asked if I could open an investigation. I didn't bring the file because I was afraid it would create more questions than answers. They quickly pointed out that I had no white collar crime experience and no way to know if something illegal was happening. I told them my instincts detected something fishy was going on, but they countered that my instincts were based on a one-sided conversation with an old friend and I had no other evidence aside from bare suspicion. They said they would consider it, but

the next day I was told to drop the issue. I kept in touch with Hayden over the summer but things didn't really change much. Hayden said s/he'd probably have to take it all to court to get it figured out.

4. Well, the whole thing did wind up in court, but it was more like divorce court. It was U-G-L-Y, and actually resulted in Sherman spending a night in jail for his/her courtroom shenanigans. And, as with many divorces, the child is the one who suffers—except, in this case, the child was the Georgia Theatre. Business plummeted, and rumors were flying about the Georgia Theatre actually closing as a result.

5. It was around that time I received my arson training, since the previous arson investigator, Smokey Flint, was retiring. I completed the State of Georgia Basic Firefighter Training course and finished my six months of job experience as the person responsible for investigating fires. I also took classes in Evidence Recovery, Fire Fatalities and Fire Pattern Recognition. Around the same time, I took a test to qualify as a Certified Fire Investigator (IAAI-CFI) and passed it with flying colors. All I needed to complete my certification was to accumulate 150 points through a combination of education, experience and training. I signed up for the December 2014 Arson Investigator Program with the Georgia Department of Public Safety Training Center, knowing that I would have enough points once I completed that course. Before I could make it to that training, though, it happened.

6. The call came in at 6:28 a.m. reporting a fire at the Georgia Theatre. By the time I arrived, units from Station 1 were fighting the blaze with the No. 7 ladder truck and a second and third alarm had gone out to Stations 4 and 3. However, the Theatre was reduced to a brick shell and pile of rubble before those units could get hooked up to the hydrants across Clayton Street. The roof collapsed inside the building, buried the floor in front of the stage, and the rear of the stage into the basement. ACFD spent the next several hours pouring water into the shell, putting out hot spots and knocking down the flames. While watching the blaze engulf the noble venue, Hayden told me about the condition of the office right before the ceiling caved in...the noose, the hat, the pipe, the aroma of cherry pipe tobacco. Hayden said the hat should have been locked in the file cabinet. The cabinet was badly smashed up from the stage collapse, so it's impossible to tell if it had been broken into or not to get the hat out. Hayden also told me s/he thought s/he saw Sherman's car leaving a spot on Clayton, down by Heery's, after the fire had reached the point of no return, and making a left on College Avenue. I took copious notes for my report.

7. The fire burned for several hours, which gave the ATF investigator an opportunity to arrive at the scene. After the fire was finally extinguished and we were sure the remaining structure was safe, we entered the building to begin the investigation. While the stage had some debris, it was scorched but largely intact. Most of the stage had fallen into the basement once the roof collapsed on it. The main floor was littered with roof debris. Thankfully, the stage fell down at one time, so it was relatively intact. The burn patterns indicated that the fire started on the stage. I surmised that the fire quickly spread to the curtains, then to the wooden rafters, then to the remainder of the building. The real culprit was the freshly surfaced heart of pine stage decking—you might as well have your acts perform on a huge match. The pine and polyurethane would burn very hot and very fast, and that constant

flame source would cause the normally retardant curtains to burn. Once the fire reached the rafters, it was all over. The stage did not burn all the way through, despite being the point of origin. The stage was also littered with scraps of burned paper, but luckily there were a few scraps that had not completely burned – this is common when paper is piled up and ignited. Those scraps appeared to be handwritten notes and other typewritten documents, but the remaining bits were largely unintelligible to me due to fire and water damage. Good thing Hayden was there—s/he identified the scraps as partial contents of the file s/he had compiled against Sherman to use in the civil litigation. We collected only three legible documents from the debris, which seemed to be bank records of some kind. S/He said that the file had been sitting on his/her desk in the office downstairs when s/he left a few hours earlier...the office that was completely destroyed by the roof collapse. S/He said that the file wasn't on the desk when s/he was in the office during the fire. Hayden made an odd comment as we were about to walk back to the front doors—s/he pointed out the remains of a “ghost light” laying on the stage. Hayden said that new ambient overnight lighting had been installed recently, and the ghost light had not been used for several months.

8. Hayden and I talked some more later that evening, and s/he told me about the insurance on the building. I was told about Sherman's threats (some veiled, some bold) and highly suspicious activity leading up to the morning of the fire. It was simple, really. Sherman busted in, ignited the papers on stage, and set off a chain reaction. It was obvious. I suspected arson, and I suspected Sherman.

9. We called Sherman in for questioning that afternoon, and s/he came willingly. Just to be safe, I read Sherman his/her Miranda rights, and Sherman agreed to talk to me. It was a complete and utter waste of time – Sherman denied everything, including even being in the vicinity at the time of the fire. Sherman was smug during the interview, barely concealing a smile when we talked about the fire. As the interview continued, cooped up in that small room, I could have sworn I smelled cherry pipe tobacco. However, I did not think to ask Sherman to allow me to keep any of his/her clothing for testing, so that evidence walked out the door when s/he left. Like the odor of pipe tobacco, my suspicions lingered.

10. Imagine my astonishment when the ATF investigator filed the “Origin and Cause Report” and concluded the cause of the fire was “suspicious but undetermined at this time.” The report agreed with my conclusion that the fire started on the stage, and the highly combustible pine caused the fire to spread up the curtains and into the rafters. The report even refers to the scraps of paper as a potential source of the fire. All the evidence was there, but the report didn't have what I had—my investigator's instinct. All good fire investigators try to put together a complete picture using fragments of evidence that you find here and there. Part of that investigation involves deductions made from what is found at the burn site. Those bits of evidence are empirical and equally useless when not put in context with the second part of any good investigation -- witness statements, suspicious actions, and the like. As an example, the O&C Report identifies a ghost light being on stage at the time of the fire. By itself, it is innocuous as these are common in theaters. However, put in context (it has special significance to both Hayden and Sherman; Hayden had not used the ghost light since Sherman was removed from the business; it mysteriously winds up on stage the night of the fire),

it points a finger at Sherman. The O&C Report lacks context. When you put together the fact that (1) Hayden's file was spread on the stage and set fire; (2) the ghost light was also set up on stage at that time; (3) the noose, pipe, hat, and cherry tobacco odor observed by Hayden when s/he tried to get into the office; (4) Sherman's continued access to the premises since the locks were never changed; (5) Sherman's mysterious acceptance of Hayden's offer to settle the civil case right before the fire; and (6) the overall contentious history between the parties, there is only one conclusion: Sherman is an arsonist.

11. Based on Hayden's version of the events, I thought we had enough evidence to indict Sherman for arson. Hayden did as well. My captain had a different opinion – she thought the case was entirely circumstantial and the fire had many plausible explanations, each one no stronger than the other. She would not let me swear out a warrant for Sherman's arrest and told me to retire the case. I think Hayden pulled a few strings and arranged for me to meet with the district attorney to push for an indictment. Hayden's influence must carry a great deal of weight, because the district attorney agreed to take the case to the grand jury despite telling me exactly what my captain had told me. Hayden and I testified at the special presentment, and the grand jury came back with a no bill. As if that weren't disappointing enough, my captain and the chief were furious with me going over their heads and offered me "early retirement". That's when I opened my own private investigation firm. I've done a few small things for folks here and there, but nothing that has brought in a lot of money until now.

12. The criminal case was over, but the insurance claim remained. Hayden asked me to consult on the claim filing (my first – and, so far, biggest client). It was an easy fee, which Hayden doubled out of sympathy for my lack of clients. It was basically a rehash of my arson investigation, but without my suspicions about Sherman being the culprit. Imagine my surprise when the insurance company told us that Sherman had filed a claim for the proceeds, alleging that *Hayden* had set the fire! Sherman hired some hack, E.J. Spengler, who briefly looked at things a week after the fact, cherry-picked facts from the O&C Report, and concluded that someone had put some accelerant into the footlights on stage and they exploded after being remotely turned on. And what a character! Did you know that Spengler's real name is I.C. Dahdpepal? Or was that his/her moniker at the Weirdo-Con conventions? Does Bruce Willis know about this rip-off? No wonder s/he changed it recently. That "investigation" was about as substantive as the ghosts that person used to chase. A rose by any other name, right?

13. Spengler's conclusion is based on three (really two) iffy and isolated elements in the O&C Report—the condition of the stage, the presence of accelerant, and exclusive control of the stage light panel by Hayden. The first and second points lean on each other like a house of cards, interdependent and fragile. Spengler saw the stage a week after the fact and surmised that the burn patterns definitively indicated that accelerant being thrown across the stage was used to start the fire. This conclusion is based on the condition of the stage and the O&C Report that indicated some accelerant residue was found in the debris on the stage. This alone demonstrates how easily Spengler jumps to conclusions. The marks can easily be explained by ventilation patterns. You see, fire needs oxygen. It will get oxygen from whatever source it can. Oxygen can actually seep up from the pine on the stage—through the tongue and groove connections between the planks as well as air pockets from inside the

wood itself. To the untrained eye, they can be mistaken for accelerant marks. As to the presence of accelerant? The fact that accelerant is present does not mean that accelerant was used to start the fire. There are a number of possibilities as to why it was there. The Report doesn't indicate when the accelerant got on the stage. Reagan Bewley said that s/he had just refinished the stage with polyurethane; paint thinner would be used to clean brushes and rollers. Maybe Bewley did that on the stage itself and spilled some? Or a rag that was used to clean everything was laid down in that spot? Or Sherman used that rag to help light the papers. Who knows? But again, just because it was there doesn't mean it was used to spread the fire across the stage. If it were, you'd think they would have found more accelerant than in the two spots that were more than five feet apart. The vent patterns are aligned with the wood where oxygen fed the flames and that's what explains the burn patterns, not spraying accelerant.

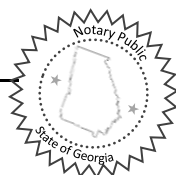
14. Finally, Spengler's stage light exploding bulb theory is so "Hollywood" it is laughable. I mean you could try to do that but it's extremely hard to perfect to make it reliable. There would be a hundred ways for it to go wrong. It's just not a practical way to start a fire, especially for people with no experience. Plus, there is no evidence of an explosion as the point of origin. The light bulbs would have exploded due to the intense heat of the overall fire anyways, so exploded lightbulbs aren't a smoking gun. However, it was enough to confuse the insurance company, who never did an independent investigation. They saw conflicting stories, interpleaded the money, and walked away.

15. Hayden is still my biggest client, but I am hoping the publicity from this case will put me on the map when it comes to private investigation. Hayden is so generous that s/he is giving me a large fee on this case. Hayden hasn't exactly told me how much that might work out to be, but I trust him/her. This is even more generous when you consider Hayden is in danger of losing the family home. I had no idea that Contreras was lost at foreclosure, let alone the circumstances leading to that courthouse sale. There is no way Hayden set that fire, and that should be enough for him/her to recover under the policy. I'm also certain Sherman is culpable in this case, and s/he should not recover. It isn't the first time a Sherman has burned something to the ground, but it will be the last.

Elijah/Ellie Johnston  
Elijah/Ellie Johnston

SIGNED AND SWORN to me August 5, 2016.

C.M. McCormack  
C.M. McCormack, Notary Public





### WITNESS ADDENDUM

I have reviewed this statement, given by me on the date above, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed,

Elijah/Ellie Johnston  
Elijah/Ellie Johnston

Morning of trial  
Date

# STATEMENT OF BILLY/BILLIE CUMPLETON SHERMAN

1. My name is Billy/Billie Cumpleton Sherman; people call me “Cump”. And when people have to call me by my full name I make them call me Billy/Billie Cump. When I was a kid, I went by Billy/Billie but now I prefer to be called Cump. It just makes more sense.

2. My family is from Ohio, but I was born in Athens. I grew up at Pope and Waddell in Athens – near the second generation of the Tree that Owns Itself. You know, it’s not actually a tree that owns itself; it’s not a thing that can own stuff. The original tree was an oak tree on the property across the street from where Col. Bill Jackson was raised. He grew up playing by the tree in that yard, and he loved the memories of playing in that tree. When he died, he deeded the tree to itself. Eventually the oak tree died, and some really nice ladies from the garden club took one of the saplings from the oak tree and planted it in the same spot. Now we’re on the second generation of that tree. That’s a lucky tree if you ask me; to be so famous and culturally important deep into the second generation.

3. Hayden and I grew up playing around that second generation oak tree. We’d meet by the Tree That Owns Itself and wait for the bus to Barrow Elementary every morning. Once we were in eighth grade, Hayden and I would ride our bikes around town on the weekends and during breaks. We loved going downtown and checking out all of the old buildings. It was crazy to us that some of these buildings have been here for over a hundred years. The history was cool. Once we got to high school at Clarke Central, we would walk to school. I’d get Hayden to walk around a little bit before heading to school. We’d walk around downtown, and we’d talk about all the old buildings. After school, we’d head back downtown, and we would sneak into some of the old buildings and poke around. Some of their basements were abandoned, and you could go between buildings through some of the old service tunnels. My favorite place to poke around was the old Elite Theatre. What a great building – lots of history and potential there. It’d been a huge success back in the vaudeville days, with the Marx Brothers, Jelly Roll Morton and W.C. Fields drawing huge crowds. But when it went bust, there was no one with the drive to recreate it. It was a fantastic bust, with one owner winding up dead on the stage and the other hanging himself in the basement office. It had been abandoned ever since. We’d go in there to explore and talk about how great it would be to revive it. But Hayden was always a little weirded out by it, with it being a murder scene and stories of it being haunted. Then, he started bringing around that Elijah/Ellie Johnston kid, and I got tired of having to wait around for Elijah/Ellie to keep up. S/He was always wanting to hang around that s/he became a drag.

4. Once we got into ninth grade, Hayden made some new friends and went on a music kick. S/He started to play music on his/her Discman while we walked to school – local music. We fell in love with the local music during those walks. Sometimes we’d take the long way just to walk up Baxter Avenue to school so we could listen to more music before we got to school. That’s when I started picking up the Red and Black and saw that people were writing about these local bands. We started spending more time (and money) in Wuxtry, checking out as many different bands as we could. They really liked featuring local music as much as possible and Dan, the owner, is a walking historian of Athens music.

5. It didn't take us long before Hayden and I got super into music and the arts and were obsessed with bands in Athens. I started working for *The Odyssey*, the Clarke Central school paper and got Hayden to join. By the time we were seniors, I was the publisher. During our senior year, our readership among students was huge. We even had people in the Five Points neighborhood reading our paper. It was awesome. Hayden kept trying to get Elijah/Ellie involved, but I thought s/he was too young for something as important as the paper business. I mean, s/he was just a freshman and didn't know much about anything. But Hayden was super-practical about stuff, and kept saying we needed to pass it down to someone who could take over. I figured, if it went under, it went under; if someone deserved to take it over, that person would take it over. The product was good, I made sure of that. We just needed to find a good person to manage it, but I didn't think that hanger-on was the one. But then we graduated from high school in May of 2004.

6. I went to UGA for college and studied business. I figured, "why not?" I read a bunch of other stuff at first: history, philosophy, and politics. I even took German. But I figured business was a good study of things in general that could help me in any situation. I'm just practical like that. I figure there are people who talk and people who do, and I am a person who does.

7. All throughout college, I felt like the one problem with Athens was that our local music scene wasn't exploding like I thought it should. Sure, there were some great concerts and a lot of up and coming local acts. I remember the Widespread Panic concert in April 1998 and REM was still recording on West Clayton Street and the Chase Park Transduction studios. AthFest attracted some big names. But all of that was one-off stuff; the day-in-day-out scene wasn't there. Local bands could get airtime on WUOG, but it was a college radio station and didn't have a really big footprint back then. There were awesome bands that were making it big. But, for the most part, they were having to move to Nashville and Atlanta to really make it. We just didn't have a top-tier venue for local artists to perform every weekend. I mean, sure, you can have a show on campus at the Tate Center, but with all the regulations and bureaucracy, you can't have a good start up scene. And startups really are where the money and fame start to come in. It wasn't like the old days when the Elite was there for people.

8. After we graduated in 2008, I'd walk by the Elite several times a day. Everybody else looked at the Elite and thought it was just an old, dilapidated, even haunted building. No one realized that it was perfect. Perfect to build a music empire. I came up with a plan to fix it up and really get the music scene pumping like it should. I decided to get my MBA at UGA's Terry College of Business and use the next two years to really give this plan a solid base. Hayden started working for an engineering company and then started a property management company.

9. During my final year in the MBA program, Nolan Clarke was starting his/her junior year at UGA and rented a room from me. Nolan was getting his/her accounting degree and I started bouncing ideas off of him/her about my plans for the Elite. Nolan was good with the numbers and really helped me get the plan in shape. But I knew that before I could revive the Elite, I had to do some real-world research, so I spent the next 14 months travelling around the country visiting local music halls. I went

everywhere, from the Crocodile Café in Seattle, the Mercury Lounge in New York, the Variety Playhouse over in Atlanta, Maxwell's in Hoboken, and the Cabaret Metro in Chicago. Once I had done my homework, I came back to Athens to put the plan in action. The first step was to get Hayden on board. It wasn't easy.

10. One day, Hayden and I were eating at Weaver D's and I started selling the plan to Hayden. I mean, it was tricky. Since the place had been empty so long and almost burned down, s/he was worried that nobody would invest with us, but I told him/her that we didn't need much investment. S/He thought it was haunted and wanted a priest to pray over it. I thought that was a little weird, but if we could get a free priest and get Hayden feeling right, then it was okay. I don't know if s/he ever got that done. Finally, s/he saw my vision and we were able to make a deal, handshake and all. I think what did it was our memories of walking to school listening to music together. Ultimately, we decided to rename the place the Georgia Theatre.

11. Before we could start anything, though, Hayden wanted to get an insurance policy, in case things went south. I told him/her that my business plan was perfect and we didn't really need much. But s/he insisted, so we took out a million-dollar policy, which I thought was ridiculously high. I would have been happy with \$250,000, just to save money. I mean, you can't imagine how much the premiums are for a policy like that! And for an abandoned building that wasn't worth much money to start. Besides, those were costs that didn't go into investing in the Georgia Theatre. It was a really big financial obstacle, but we were able to get past it and take it out.

12. Eventually we got some startup money (thanks to Hayden and the old homestead) and the construction went off without a hitch. It took a few months, but we were able to really make the place come alive. I was even able to use some of the startup money to refurbish the old partners' desk that Big Bob Oakley and Henry Bascombe used back when the old Elite Theatre was around. And I had it done perfect, even with the old scuff marks and everything. Sure, it was a bit creepy to have that physical reminder of where Henry killed himself, but I think it's important to keep the spirit of revived things in place when you revamp something. It adds so much character to the place and keeps a bit of its history intact. That's why I had the ghost light made as well, using some of the left over flooring from our remodel. I was hoping it would become one of our signature features.

13. Opening night was the best night of my life. I'll never forget it: Thursday, February 9, 2012. We had the Former Eggs and the Drive-By Truckers play the first show for the soft opening. Everyone had a blast. Early the next morning, when we closed the doors, let loose in celebration, and emptied the registers, I realized how much money we could make.

14. Being the practical one, Hayden wanted to move slow and not "get ahead of ourselves", but I was practically screaming that we needed more shows like that. Otherwise, we might as well burn the stage because it would be such a waste of the Georgia Theatre.

15. The next seven months were a blur. We had so many nights with great music on stage, and the mornings were proof that we were doing this right because we were usually making money. Basketball Team was always a great crowd pleaser. We even got a few bigger acts to play the Theatre on a regional tour, like 7 Foot Politic and the Side Effects. Now, it wasn't perfect. There were some potholes along the way. Sometimes we lost money. Sometimes equipment broke. Sometimes the musicians didn't show up. But when you are running a business on local acts you have to expect some nights are going to be in the red and that's okay. But as long as you break even over a longer average you're a success.

16. Hayden loved the ride at first as we were making money without interruption. Then, when things started to slow down, s/he thought different. S/He didn't realize that you have to edge things out a little bit. S/He wanted to start showing movies on the nights that we weren't making a lot of money and on nights when we didn't have a show booked. Like "Monday Movie Night". I tried to explain to him/her that those nights were investments. We needed the younger talent to play Mondays and Tuesdays while they were starting, so that when they got good, we could sell out Thursday and Fridays with them. I wanted to be the place where bands made their name and cut their teeth. I wanted the Theatre to be the church on Oconee Street where R.E.M. played their first gig. But Hayden never got that plan.

17. And before I knew what had happened, Hayden pushed me out of my business. Out of nowhere, I get served a notice and have to be in front of a judge for a hearing. When we started, I didn't think anything could go wrong and I trusted Hayden. Why wouldn't I? But s/he apparently lawyered up and when s/he decided to push me out, I was out.

18. The next thing I know, Hayden's filed a lawsuit to try to take the Georgia Theatre from me. S/He had some lawyer go through our financial records and make it look like I had been doing all this wacky stuff with the Theatre's money. S/He accused me of stealing money from the door after a show one time. It was a few months before the lawsuit. Hayden says s/he found a deposit receipt that showed that I didn't deposit all of the door money into the Theatre's account and put some in my own account. I looked at the books and remembered what s/he was talking about; a bouncer didn't show up that night and the back door got opened, letting a lot of kids sneak in for free. It was a full house, but not everyone paid. I deposited what I got from the door. I told Nolan how much was there and put it in the bank.

19. I don't know what Hayden said but I didn't make that second deposit. I had made a personal loan to a friend, Roger Stevens, and I gave him a deposit slip to repay me whenever he was able. I guess he repaid me on April 30, 2013 by making that deposit directly at the bank. That was right around the time he was moving to Esopus, New York or somewhere up that direction. But the amount seems right, so it must have come from Roger. I honestly didn't notice the extra money in the account until I looked at my bank statement after I got a text a few weeks later that must have been from him. I got a new phone around then but my contacts got lost. I think was him but I didn't know anyone's number since they were all in my phone with names. As for the deposit receipt? I guess Roger dropped it off

at the Theatre afterwards to show he had paid me back and someone put it on my desk? I never saw that deposit slip until Hayden asked me about it. I only made one deposit the morning after that concert and it was for the Theatre. Why would I steal from myself? I tried to get in touch with Roger a little bit ago to confirm it all but he's apparently dropped off the grid.

20. Hayden launched a scorched earth campaign against me. I honestly didn't think anything of it because I thought everybody knew that when you run a music company, you're dealing mostly in cash. I paid most of our bills in cash, especially to the food and drink suppliers, as well as the staff. Nolan and I kept solid books, and everything was there in red and black.

21. And then that stupid judge took the Theatre from me. I mean, he bought that lawyer's garbage hook, line, and sinker. He was either dumb or he had it out for me or both. I was so mad that I screamed. And then, on top of taking away my theatre from me, the judge had me arrested and jailed. Then, he said I couldn't go back to the Theatre for business purposes unless I had permission from Hayden. He said that I was welcome to buy a ticket for a show if I wanted to watch from the audience.

22. Well, let me tell you one thing: I had no interest in watching Hayden's movies at my Theatre. And I let people know what I thought about those movies. Of course nobody went to see the movies. And worse, people stopped thinking of it as a music venue. People would ask me what was wrong with the place, and I was honest. *The Flaggpole* interviewed me for an article about how the Theatre was transitioning from a music venue to an entertainment spot. I think Hayden was even planning to rent it out for weddings. He was going to let wedding singers play on that historic stage.

23. Over the next few months, Hayden kept sending me letters about how the place was failing because he couldn't take loans out without me co-signing. Well, I wasn't about to sign a sheet of paper that would let him turn the Georgia Theatre into a property that gets rented out for wedding singers. Besides, Hayden didn't need me when s/he borrowed money against Contreras, so why would s/he need me now?

24. Besides, we had an upcoming trial where I was confident the judge's initial decisions were going to get overturned and I was going to get my Theatre back. I didn't want Hayden making any changes that would cost time and money to fix.

25. And then a crazy thing started happening. People started reaching out to me to reopen old music venues all over the south. I mean, there are lots of old music venues that are just ripe for rebranding. And with my success recreating the Elite into the Georgia Theatre and making it so popular, I was getting calls from potential investors about coming up with new projects pretty quickly. So I got a lawyer to look into how I could start my business, and he suggested I open a consulting company. I told him that I wanted to do it all through the Georgia Theatre when I got it back, but he said I didn't have much of a chance. So I figured, "whatever", I don't want to work over there with Hayden anyway. It was a week before the trial was supposed to start, and I decided to take Hayden's last settlement

206 and let him/her run the Theatre into the ground. I figured maybe my new company could buy it for a  
207 lower price and rebrand it Georgia's Elite Theatre.

208  
209 26. Then, Wednesday morning, November 12, the Georgia Theatre burned down. I only found out  
210 because Reagan called me from the fire. S/He wanted to make sure I knew and that I was okay. I went  
211 to bed after Nolan left for his/her card game. I usually turn something like "Pawn Stars" or "UFO  
212 Hunters" on to fall asleep. I don't know what happened. Without me running things, I wasn't surprised  
213 that things would go wrong. But I couldn't believe that Hayden could let that place burn like that.  
214 Didn't s/he care about all of the time, energy and history we put in there? She was a grand place and  
215 should have been treated better. The Theatre didn't deserve to die like this.

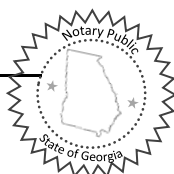
216  
217 27. Next thing I know, I'm getting called in for questioning by Elijah/Ellie Johnston. Apparently s/he  
218 grew up to be an investigator with the Clarke County Fire Department and told the cops that I burned  
219 the place down. Based on what? The district attorney brought charges against me. But it got dropped  
220 before trial when it was obvious they didn't have any evidence that showed I was involved.

221  
222 28. I didn't really understand why Hayden was trying to blame me for the fire, and then I  
223 remembered: right after s/he pushed me out of the company, s/he upped the insurance coverage on  
224 the Theatre by some astronomical number. I went through my papers and found the insurance  
225 addendum and saw that it was insured for \$15,000,000. I knew Hayden was facing foreclosure on The  
226 Contreras House (something that we both learned about right before the fire), and I knew that would  
227 be embarrassing to no end. I couldn't believe it! So I called up the insurance company, verified the  
228 policy and said, "I want my money." This would be great. I could use this money as the start-up money  
229 for my new company. And I'd be able to run it exactly how I wanted because I wouldn't have to deal  
230 with outside investors. Isn't it obvious? Hayden saw the business tanking and had a "going out of  
231 business fire. Everything must burn!"

*Billy/Billie Sherman*  
**Billy/Billie Sherman**

SIGNED AND SWORN to me August 9, 2016.

*C.M. McCormack*  
C.M. McCormack, Notary Public



### WITNESS ADDENDUM

I have reviewed this statement, given by me on the date above, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed,

Billy/Billie Sherman  
Billy/Billie Sherman

Morning of trial  
Date



## STATEMENT OF REAGAN BEWLEY

1. My name is Reagan Bewley, and I work for Elite Property Management, which is one of Hayden Beauregard's companies, here in the Athens area. I sort of grew up in these parts. After getting through Jackson County High School, I went to Lanier Technical College next door in Winder to study Building Automation Systems. I then had a wild hair to come back to Athens to begin a journalism degree. I've had ideas of writing the "local band" column for an underground newspaper like *The Flagpole* or something and where could be better than Athens to do that? For better or worse, however, I'm not the only person in Clarke County to have such an idea, so I suppose I'm lucky that the blue-collar "fallback" has continued to pay my bills; rather well, actually. I've done a lot of work around the Georgia Theatre over the years, seeing and hearing more than if I'd been a professional music critic. I've restarted my classes several times over the past fifteen or so years; perhaps one day, I'll actually finish. Maybe do it now, with the Theatre gone and EPM not doing so well.

2. I first met Hayden Beauregard in 2008, right after s/he bought his/her first building downtown on East Washington Street, where the Woodford is now. S/He had all of the business and real estate ideas but wouldn't reduce him/herself to change a light switch to save his/her life. I ran into him/her at Home Depot in the plumbing aisle staring at all of the faucets with a pained look on his/her face. I asked if s/he needed help and offered to help him/her switch out some plumbing fixtures that weekend. I became his/her maintenance manager not long after. That first weekend, as we were fixing the sinks on Washington Street, we got talking about the Athens music scene. After a while, I heard all about the adventures Hayden and Billy/Billie had growing up in Athens and their "dreams" for the Elite.

3. After Hayden and I got 120 Washington cleaned up and sold, we started doing more commercial flips throughout Athens. S/He bought one apartment building on South Milledge and tried to run that, but it was a huge headache. College kids don't really take great care of their apartments, and I spent more time fixing stuff and replacing drywall and carpet than doing anything else. Hayden sold that after a year, and we never tried to do anything residential again.

4. Then, in 2011, Billy/Billie came back in town and s/he and Hayden had the big meeting at Weaver D's. I got to know Billy/Billie pretty quickly, and was involved in the plans to renovate the Elite. They walked me through the place, and I was able to point out a lot of things to think about. Yeah, the Georgia Theatre was Hayden and Billy/Billie's grand plan, but I was key in making it work. No, it never bothered me that they did business on a handshake; I'm not a lawyer, so I wouldn't have known what to look for anyhow. It had been working all along, and Hayden managed to pay me on-time, mostly.

5. I guess one of the first obstacles to the conversion of the Georgia Theatre was the Elite's ghoulish reputation. Hayden was always superstitious—the ghosts, the tobacco smoke, what have you—although Billy/Billie thought it was fun. Billy/Billie was always trying to give Hayden a scare and thought the history of the Elite added to the feeling of the place. I think it was only because it was the two of

them—back when they got along on this—that allowed it to go forward; Hayden had the romantic desire to make something of the possibilities, but Billy had the practical insight that this could be done, and the story of the Elite making a grand comeback would make them a lot of money. Actually, I always thought Billy was a bit—a bit too—mischievous, at times.

6. Before much could be done with the Elite, Billy/Billie got Hayden so twisted up with the ghost stories that Hayden insisted on having an exorcism done. It piqued Billy/Billie's sense of humor, as well as his/her impatience, so seeing the funny side was a relief, I guess. I didn't attend the ceremony; they just told me we were going to have it done, and that Billy/Billie was going to have a "ghost light" in the new Georgia Theatre. Once we moved in, Billy/Billie presented Hayden with the desk in the office. Billy/Billie was proud of him/herself about having it made just right. Hayden didn't seem to appreciate the attention to detail, and even seemed to freak out over the burn-mark on top. Billy/Billie was biting his/her lip in the corner watching Hayden's reaction. Yes, by the way, I did smell a cherry tobacco smell in the office, but I can't swear it wasn't Billy/Billie's power of suggestion the first time. The morning of the fire, though, it was no question.

7. So I smirked, admittedly, but I understood why Hayden wouldn't often go inside alone.

8. As part of keeping the history of the Elite alive, Hayden insisted on keeping the brass footlights along the front of the stage. Billy/Billie didn't seem to care that much about it, which I thought was odd since s/he liked all of the other history of the Elite. However, since these lights were so old, they required special bulbs. And they sucked a lot of power to run. However, I have to admit, they did make a really great effect on the bands playing on stage. So, as part of the renovation, I removed them when we replaced the stage decking and then reinstalled them after the stage was refinished. We put down tongue and groove pine flooring salvaged from an old theatre in Miltonville for the stage. Ideally, we would have used new hardwood but the salvaged pine was cheaper and looked great after refinishing and getting stained. Plus, it had a lot of character with old scratches and dings. I put down several coats of polyurethane for the finish for a nice subtle shine. I was able to use some of the salvaged flooring and some old black iron pipe I found backstage to make the ghost light. I kept the rest of the leftover decking and poly from the remodel in the storage room in the basement, along with the brushes and paint thinner and rags.

9. Once we rewired everything, all of the stage lighting was routed to the back of the house to the light board, except for the switch for the footlights, which was kept on the left-side of the backstage area. Even though the footlights were originals, all of the wiring was new. Hayden always made sure to turn them off as soon as the place cleared out after a concert. One night, after a show, Hayden shut the stage down and headed out early for a rare weekend off. Apparently, someone from the band flipped them back on and they burned all weekend. When s/he found out, Hayden lost his/her mind and had me put the switch in a lock box with a padlock. S/He was livid with both me and Billy/Billie for not turning them off ourselves, but we never messed with them. Hayden had the only key. I don't know why or how the switch was replaced with a timer, but I guess Hayden wanted them to get turned off every night no matter what. I didn't change it out and it's not the easiest of jobs but it seemed to

be done right. After a box of the bulbs got broken from a band dropping a speaker on them, Hayden had me take all of the bulbs to his/her house for safekeeping. With these things costing \$15 a piece, it made sense.

10. After a few months being open, Hayden contacted me about putting in the movie equipment (would the structure accommodate it, what wiring needs to be redone, etc.), and I thought it was pretty smart to do it. Billy/Billie didn't, and things deteriorated pretty quick. This was the beginning of the end.

11. It wasn't really any of my business (well, directly), but I heard Hayden's suspicions about money going missing—only because I was there, and a shoulder to lean on, not because I have any reason to think ill of Billy/Billie and the till. Hayden must have been worried about the big picture; the Georgia Theatre became Hayden's focus and s/he didn't do as much investing in other properties. I still did work on our other EPM properties, but my main office and workshop were in the basement at the Georgia Theatre. After the Georgia Theatre opened, Hayden wasn't doing as much to grow the rest of the EPM properties. Hayden was in hock up to his/her ears with the Theatre after using the family home as collateral for a loan. I could see that caused a great deal of stress for Hayden. All of Hayden's eggs wound up in this one basket. So, when Hayden started worrying about the money from the Georgia Theatre, s/he eventually took it up with Elijah/Ellie Johnston; I was just relieved not to be squeezed in the middle. That didn't last long; I was in the middle again (after the blow-up in court, when I wasn't there) being asked to keep an eye out for Billy/Billie wandering around the Georgia Theater without permission. I'm not a "snitch" by nature, and both of them were—had been—my bosses. Later, I did see (or thought I did) Billy/Billie after slipping out of the crowd after the Hornets show, and I dutifully reported my suspicion to Hayden. I didn't like that one bit. That was the same night that Hayden found the ghost light back on-stage. S/He quizzed me pretty hard as to why it was back out again and how it could have been plugged into the box for the footlights. Naturally, I had no idea. I put it in the storage closet in the basement after Hayden had me put new lights over the stage for overnight light. It was a shame because I thought the ghost light was a neat tradition.

12. As for the plug and the footlights, I built the box around the switch. I wired it, and it was solid. Hayden was the only one to whom I gave the padlock keys. If Hayden didn't share the key, I dunno. Johnston showed me the lock after the fire and it was the same lock.

13. I know nothing (of my own knowledge) about insurance and business negotiations. I'm not that important—or, at least, not in that way. I cared, of course, about continuing to have a job, but I had to trust that they'd work it out and the Georgia Theatre would continue to have shows. In an effort to spruce up the place, and because there was so much down time between acts, I spent some time working on the stage and added a few additional coats of polyurethane to the surface. It probably didn't really need it, but I wanted the Theatre to look her best when we did have company. As to the insurance, I'd heard crazy numbers—there's always more gossip when they tell you not to spread any—but I couldn't believe tens of millions of dollars could be anything but fantasy. It's only a local venue, not the Fox or Apollo.

124

125 14. I was relieved when the news came that the case had been settled before dragging all of us in to  
126 court. Then, early on November 12<sup>th</sup>, I heard sirens and the noise of people—traffic—being really  
127 disrupted. I’ve got a top floor apartment on Broad Street, catty-corner to the Holiday Inn. I looked out  
128 my front window and there were flames being reflected in a plume of smoke over the rooftops from  
129 the direction of the Georgia Theatre. By the time I’d raced back, the fire was raging. I think Hayden  
130 was already there on the sidewalk, if indeed s/he’d left. I knew s/he had planned on working really  
131 late, with the meeting with Billy/Billie set for that day, so I was concerned that the firemen got him/her  
132 out. S/He looked shocked but otherwise unhurt or anything. S/He must not have been in the Theatre  
133 after all. I was glad s/he was safe.

134

135 15. Rags, though, wasn’t so lucky. He was a little white terrier stray street dog that hung around the  
136 alley behind the Theatre. I tended to work in my shop with the door open to the outside, to let some  
137 air in, and Rags would poke around outside. I’d feed him and give him some water. It didn’t take long  
138 where he would come in and take a nap under my workbench, kind of becoming the house dog. I never  
139 let him stay inside if I wasn’t there, but he was pretty quick to come in the door when I opened it each  
140 day, like he owned the place. When I got to the Theatre with the fire, I saw Rags dead on the sidewalk  
141 right just outside the front door. I knew it was a bad omen. A firefighter covered him with a blanket  
142 and then moved him while they worked the fire.

143

144 16. Once I met up with Hayden outside, I stayed with him/her and watched the firefighters do their  
145 job. It was awful, watching the building burn. The worst part was when the roof caved in at the back  
146 of the building and crashed through the backstage area into the basement. You could feel the ground  
147 shake. I’m glad Hayden had gotten out before that happened. Hayden wasn’t saying much. Nolan was  
148 there too, and talked to Hayden a little bit. I hated that Billy/Billie didn’t show up but I guess s/he was  
149 keeping his/her distance.

150

151 17. After the big flames were put out, it took a while for the fire department to put out the hot spots.  
152 Hayden, Nolan and I went down to The Grill to take a break from the action. Even though the power  
153 was out (they had to cut it to all of downtown so the firefighters could deal with the fire and not get  
154 shocked), Hayden was able to sip on a cup of coffee while Nolan and I sat in shock. At about noon,  
155 even though the firemen were still working, Johnston took Hayden and me inside through the front  
156 doors. Nolan headed home. We weren’t able to get down to the office but I, too, smelled a strange,  
157 fruity-tobacco odor beneath the smell of old beams burning. I stayed back by the front doors; I didn’t  
158 want to get too far inside in case something else came crashing down. Hayden and Johnston went  
159 down to the stage front and poked around a bit. They squatted down to look at some stuff on the floor  
160 in front of the stage. You could see the back half of the stage was cratered into the basement where  
161 the roof fell in.

162

163 18. I’m no expert, but I can’t see how papers on the stage could’ve started the fire. Besides, I’d  
164 cleaned-up before leaving, and I wouldn’t have missed that much paper, would I? In doing the  
165 maintenance, in helping with the original reconstruction, I’ve never seen anything that supports air

166 flow from the stage to the wings and on to the backstage, storage and office spaces being strong  
167 enough to move that much fire that quickly. Well, not without help. Hayden loved the place; s/he  
168 couldn't ever do anything to hurt such an institution. Yes, Billy cared too, but never loved it totally.

Reagan Bewley  
Reagan Bewley

SIGNED AND SWORN to me August 10, 2016

C.M. McCormack

C.M. McCormack, Notary Public



**WITNESS ADDENDUM**

I have reviewed this statement, given by me on the date above, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed,

Reagan Bewley

Reagan Bewley

Morning of trial

Date

## STATEMENT OF E. J. SPENGLER

1. My name is E. J. Spengler, and I am smarter than you are. It sounds conceited, but it is a simple fact. Otherwise, everybody wouldn't be asking my expert opinion about the origin of this fire.

2. After being home schooled in Tennessee, I attended Clemson University for three years where I had a double major in French and political science. Alas, the traditional university held no charm for me, and I moved to North Dakota, where I joined the local fire department in Nanook. In 2004, I decided to end one career of public service and start another, and offer my professional services to those who required a competent expert to assist in their investigations. Never one to give up, I continued my post-secondary education online. I received a bachelor's degree in chemistry in the cyber-class of 2012, from Central Iowa University.

3. While with the Nanook Fire Department, I was tapped to take courses in fire investigation. Over the ten years I worked for NNDFD, I completed several fire investigator courses offered by the Bureau of Alcohol, Tobacco and Firearms, as well as state agencies. I joined the National Association of Fire Investigators, and I have maintained that membership to this day. I received their basic certification in 2002. I also investigated scores of fires in Nanook, and occasionally testified in court about my findings. I've only testified once about a case I investigated since opening my professional services company, and that was back in 2006 in Parks County, Georgia. Don't get me wrong—I have worked several fires, but only one that wound up in court.

4. While I enjoyed all aspects of investigating, my chemistry degree opened the door to my current profession—I currently work at Siss-Boom-Baa, a nationally recognized firework design firm. Our home office is in Chicago, and I work in the Atlanta branch. As we like to joke around the workplace, this is also the sound made by an exploding sheep. I guess that explains the company logo...

5. In the interest of full disclosure, I did legally change my name in 2010. I was born I.C. Dahdpepal; Irish-Hungarian. The investigation business was bottoming out as a result of the financial crisis. Plus, I was getting really tired of all the jokes. It is pronounced /'dodd-peppl/, but thanks to Hayley Joel Osment, no one ever said it right for the next ten years. I did keep my investigation webpage up, and I will work the occasional case when it does not interfere with my day job.

6. I was first contacted about this fire by Billy/Billie Sherman, one of the owners of the Georgia Theatre, approximately one week after the fire. Apparently, the ATF had indicated the origin of the fire was likely arson and Billy/Billie had been questioned by a former fire investigator who was working the fire free-lance for Hayden Beauregard, Billy/Billie's business partner. Beauregard was pointing fingers at Billy/Billie as the arsonist, so Billy/Billie wanted to get his/her own independent look at everything to cover him/herself, so s/he called me. I was hesitant to take the case because even the passage of hours can jeopardize a quality investigation. After all, you never know what is left standing after the local investigation is completed and the elements have deteriorated the scene.

40  
41 7. When I investigate a fire, the NFPA 921 is my bible. It is a publication from the National Fire  
42 Protection Association, a private association. The official name of NFPA 921 is "Guide for Fire  
43 Investigation." A committee of the finest minds associated with arson and fire investigation created it.  
44 I know it isn't "official" or "binding" on investigators, but it is a wealth of information. Personally, I  
45 wouldn't even listen to anyone who wasn't intimately familiar with NFPA 921.

46  
47 8. In order to understand my investigation, I need to explain a few things. First, let's talk about fire  
48 itself. Fire is commonly defined as the rapid oxidation of a combustible substance based on an  
49 uninhibited chemical chain reaction, which is usually associated with the production of heat, light,  
50 smoke and exhaust gasses. So, the four elements of fire are heat, fuel, oxygen and the chain reaction.  
51 Take one away, and the fire goes out. This is the logic used by firefighters in combating a fire.

52  
53 9. There are several stages of fire development. During the Incipient Stage, the fire is just beginning,  
54 slowly producing more smoke, gasses and heat. This is the stage where a smoke detector is designed  
55 to sound an alarm. During the Growth Stage, the fire and temperatures grow exponentially.  
56 Temperatures in a room can exceed 1900 degrees Fahrenheit at this point. During the Fully Developed  
57 Stage, the temperature at the floor will equal, and then rise above the temperature at the ceiling. This  
58 is the most dangerous condition for firefighters because all the contents of the room will reach ignition  
59 temperature. Finally comes the Decay Stage, where the fuel in the room has been consumed and the  
60 fire dies down. This entire process can happen so fast that all these phases can be compressed into a  
61 matter of minutes.

62  
63 10. A fire will usually burn up and out from the place it starts, its point of origin. This burning usually  
64 occurs in three dimensions, like a cone, unless there is something that will cause a fire to behave  
65 differently. This could be an obstruction, odd ventilation or airflow, highly combustible building  
66 materials in the vicinity, or chemicals.

67  
68 11. NFPA 921 outlines that an investigator will generally try to work backwards: from the area of least  
69 damage to the area of the greatest damage. Then, the investigator must determine the point of origin  
70 of the fire. A point of origin is where the very first heat source and the very first fuel source came into  
71 contact with each other. Finally, the investigator must determine the cause of the fire, taking care to  
72 eliminate all reasonable accidental and natural causes are eliminated before attributing a fire to foul  
73 play.

74  
75 12. It just so happens that I am very familiar with the Georgia Theatre, having attended a number of  
76 concerts right after it opened. I am also very familiar with the consistent spectral presence, both from  
77 reputation among the paranormal community and from personal observation. I attended a Halloween  
78 party there one year, before it was bought and renovated, dressed as a Ghostbuster, and my P.K.E.  
79 Meter showed significant psychokinetic energy in the building, especially in the stage area. But that  
80 was years ago, in a former life (figuratively, in this instance), but when I was called to investigate this

fire, I brought along the P.K.E. Meter just for fun. Sadly, the readings were de minimus. Or it could have been the batteries.

13. Being called in so long after the actual fire, I came to this case with a significant handicap. The rule of thumb is that the sooner you can properly investigate a scene, the more likely you are to find all the clues and reach a reasoned, rational conclusion as to the origin and cause of the fire. I was not allowed to compromise the site by taking samples or conducting tests, but I was able to thoroughly inspect the scene (such as it was). The remainder of my investigation relied on reports and evidence collected at the time of the fire. Despite inspecting the scene so long after the fire, I found evidence that firmly disputes the findings of Elijah/Ellie Johnston.

14. This case was a peculiar one. Everybody agreed on the fire's general point of origin, but not how the fire actually started. The consensus is the fire started on the stage, igniting surrounding debris and the curtains. We all also agreed that pine was the absolute worst choice for a stage floor, because it burns so well. However, that is where our opinions differ. According to Johnston, the fire started by someone igniting paper on the stage, which then caused the stage to catch and set off the chain-reaction. I saw absolutely no evidence supporting that conclusion.

15. That sort of ignition would be localized at the pile of papers and then spread out across the stage as the polyurethane carried the flames, leaving roughly even burn marks radiating out from that point until those bits of fire ignited the curtains. My inspection of the damaged stage showed a deeper, hotter burn pattern originating at the front of the stage ("Point Zero") and radiating to the back in streaks. These marks on the stage were caused by the flames following an accelerant. But where did they come from? That's when I remembered the presence and location of the brass clam shell footlights from my previous visits to the Georgia Theatre. It appeared that the ignition resembled an explosion from those lights onto the stage, as accelerant spread into the surrounding area and nearly caused the fire to skip the Incipient Stage...several "Point Zeroes." Such an explosion would throw flaming accelerant across the stage and ignite any surrounding flammable debris (such as paper), so it is easy to see how Johnston would make a rookie mistake and may have been thrown off the trail. The Origin and Cause Report found accelerant between two footlights as well, probably from the exploding bulbs. I'm sure there was glass at the scene radiating out from that spot from the burst bulbs; however, with the stage collapsing, that sort of physical evidence would have been moved or destroyed. With the amount of fire retardant and water dumped on the scene, it is a miracle any trace of accelerant was found at all. With the hottest burn pattern at the center front of the stage, this meant that not all of the stage lights were rigged with the accelerant but just those at center stage.

16. It may sound far-fetched, but everybody inexplicably discounts the one element that proves my theory – the presence of the accelerant. Samples of debris showed the presence of acetone based paint thinner in the stage area! Acetone has a low ignition temperature of about 870° Fahrenheit and would be quick to ignite inside a hot light bulb, where the filament can reach over 2000° Fahrenheit. A simple inspection of the clam shell remains would have proven my theory – the incendiary blast would have done much more damage to the inside of the clam shell, and there would have been



accelerant present on the inside of each shell. The Origin and Cause Report showed no such inspection. Before I could undertake such an analysis myself, I was informed that the remains of the stage (including the clam shells) were destroyed along with all the other debris at Beauregard's direction, thus destroying the smoking gun.

17. Further interviews revealed a slightly more sinister picture. These were stage lights that require a very expensive bulb, and the system requires a great deal of electricity to power it. Apparently, the theater ownership liked the appearance of the more vaudevillian era and didn't mind using these less-efficient lights. To minimize the electrical use of the lights, the stage light system was on a dedicated circuit and was routed through a light switch encased in a key-controlled lockbox backstage. While not in use, the ownership could make sure the lights weren't burning and eating up electricity. The only person with access to that box was Hayden Beauregard—that way, Beauregard could keep an eye on the power bill by being the only one who could turn the lights on and off. Oddly enough, Reagan Bewley told me that the lights were also on a timer. Why would there be a timer for lights like that? I guess it makes it convenient to ensure that the lights are turned off for the night but it also can turn them on too.

18. So many loose ends, so many unanswered questions. I looked back at the investigation and suddenly saw it: the conspicuous absence of certain findings in Johnston's report, almost as if s/he was trying to consciously avoid casting any suspicion onto Beauregard. An investigation uses the two components of evidence and context. Johnston was light on evidence and it looked like the evidence s/he was using was made to fit the convenient conclusion rather than the conclusion flowing naturally from the evidence. A simple pile of papers lit on fire, fueled by air coming up through the floorboards, spread by polyurethane to the curtains? Would that work? Sure; Boy Scouts start campfires with newspaper all the time. But the evidence here shows that's not at all what happened. In Johnston's case, the context is easy to manipulate if you have an ending you want to support. If I can find such things so long after a fire, what else did s/he overlook or ignore? That's when I discovered the long, sycophantic history between Beauregard and Johnston. Johnston is way too close to the players in this case to provide an objective, unbiased opinion. To top all that off, Johnston took this case with a promise of a large fee? Johnston is too emotionally and economically invested in this case to be trusted with it.

19. It all came together when Bewley informed me that Beauregard had a case of these footlight bulbs at his/her house, and several were broken. Beauregard was practicing injecting paint thinner in the light bulbs...just enough, but not so much that the filament was completely covered. The bulbs are put in the footlights, and the timer was set. Once the timer went off, the filament would light up and ignite the paint thinner. The resulting explosions spewed accelerant in lines across the pine stage, which went up rapidly, engulfing the papers on the stage. That explains the accelerant that was found by the ATF. The evidence matches the actions. The rest, as they say, is history.

163 20. There is no way my client set that fire. There was no access to the premises, let alone the item  
164 that caused the fire and the timer that set it off. Only one person held the key—Hayden Beauregard.  
165 The smoke has finally cleared.

EJ Spengler  
E.J. Spengler

SIGNED AND SWORN to me August 23, 2016.

C.M. McCormack  
C.M. McCormack, Notary Public



**WITNESS ADDENDUM**

I have reviewed this statement, given by me on the date above, and I have nothing of significance to add at this time. The material facts are true and correct.

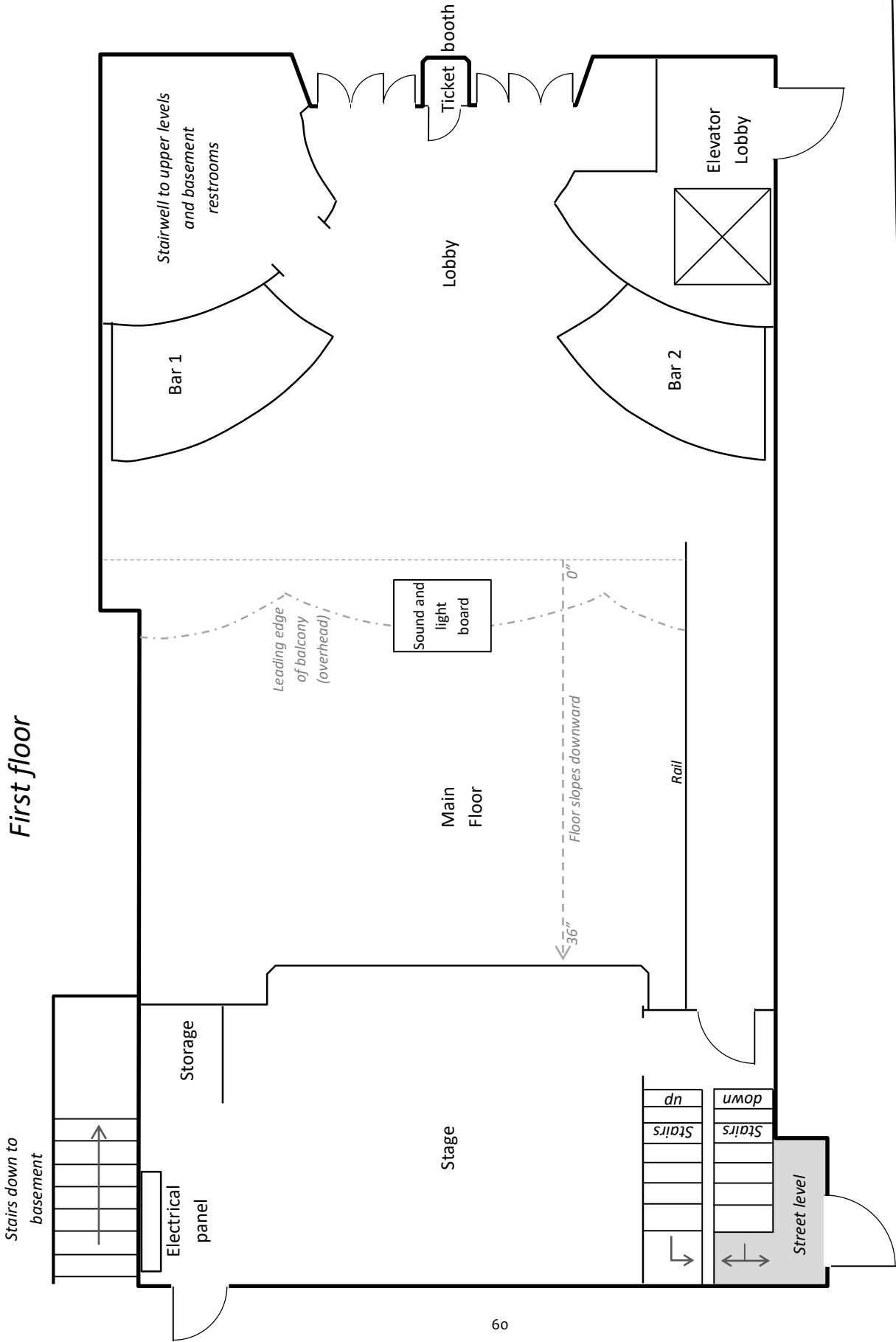
Signed,

EJ Spengler  
E.J. Spengler

Morning of trial  
Date

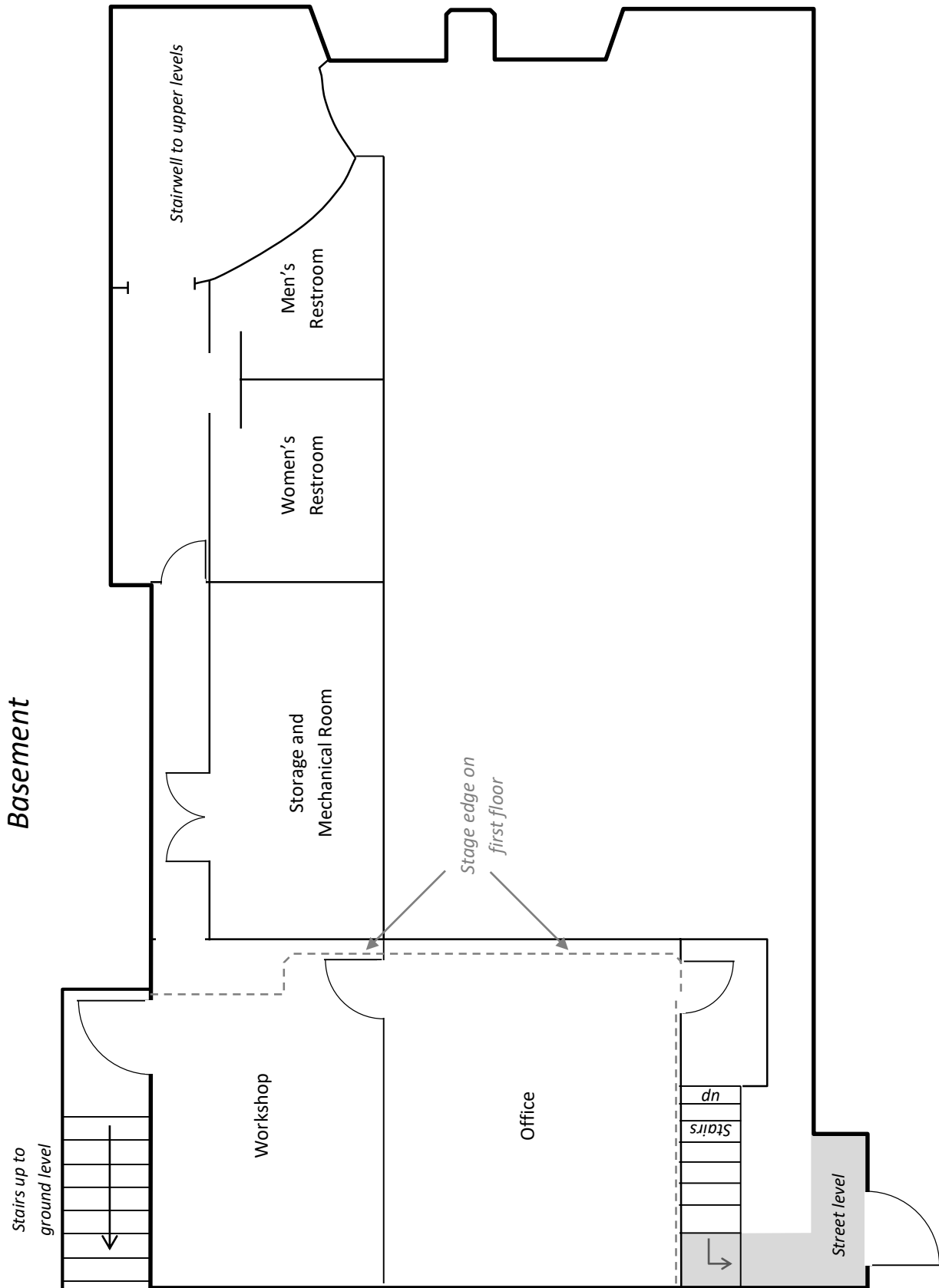
# EXHIBIT 1





W. Clayton St.

N. Lumpkin St.



W. Clayton St.


**Athena General Property and Casualty Insurance Company**

300 North Thomas Street

Athens, GA 30601

706/425-0642

**POLICY DECLARATIONS**

Named Insured: Georgia Theatre  
 Address: 215 N. Lumpkin Street  
 City, St., Zip: Athens, GA 30601

Policy Number: 10112002NCB  
 Policy Type: Renewal

Description of Operations: Entertainment Venue

*This policy consists of the following coverage parts for which a premium is indicated. This premium may be subject to adjustment.*

PREMIUM: <b>\$6,766.12</b>	Businessowners Policy	\$6,545.81	TERM OF COVERAGE	
Minimum/Retained: N/A	Burglary and Robbery	\$35.00	Effective Date	Expiration Date
	Terrorism	DECLINED		
Date Fully Earned: N/A	Liquor Liability	\$58.95	<b>12/31/13 9/2/14</b>	<b>12/31/14</b>
Adjustment Rate: N/A	FHCF + Stamping Fee	\$91.36		
	Filing Fee	\$35.00	12:01 AM Standard Time at your address shown above	

*In return for the payment of the premium, and subject to all terms of this policy, we agree with you to provide the insurance as stated in this policy.*

**LIMITS OF LIABILITY**
**SCHEDULE OF DEDUCTIBLES**

General Liability		CGL	\$500	Per occurrence
Aggregate	\$2,000,000	Property	\$500	Per occurrence
Each Occurrence	\$1,000,000	Bodily Injury	\$250	Per occurrence
Property	\$15,000,000			
Workers Compensation	\$40,000			

**SCHEDULE OF RIDERS AND ENDORSEMENT**

See attached Forms and Endorsements Schedule

**LIMIT REDUCTION BY DEFENSE COSTS**

Any liability limit set forth above or within this policy shall be reduced based upon the defense costs and fees incurred by the Insurer as set forth in the body of this policy.

Paul Cramer,  
 President & CEO  
 Athena General PCI

Hayden Beauregard  
 Georgia Theatre

The insured is requested to read this policy, and if incorrect, return it immediately for alteration.

**THIS POLICY CONTAINS A CLAUSE(S) WHICH MAY LIMIT THE AMOUNT PAYABLE.**

**THIS POLICY DOES NOT AUTOMATICALLY RENEW**

**AGREEMENT FOR DISSOLUTION AND WINDING UP OF THE GEORGIA THEATRE, A PARTNERSHIP**

This dissolution agreement is made on 21 April, 2015, between The Georgia Theatre, a partnership formed under an oral partnership agreement dated 15 September, 2011, with principal offices at 215 North Lumpkin Street, Athens, Georgia, and its general partners Hayden Beauregard and Billy/Billie Sherman, and hereinafter referred to as the "Partners," to provide for the dissolution and orderly winding up of the partnership business.

**Section 1. DISSOLUTION.** The Partners hereby agree that the Partnership shall be dissolved, effective as of 21 April, 2015 (the "date of dissolution"), and the Partners agree that the partnership shall be wound up and liquidated as of and following such date.

**Section 2. APPOINTMENT OF LIQUIDATING PARTNER.** Hayden Beauregard shall be the liquidating partner (the "liquidating partner") and shall have the exclusive right and obligation to wind up the partnership business. Following the date of dissolution, no other Partner may act on behalf of or bind the Partnership, to represent the Partnership in any official capacity, or to participate in management or control of the Partnership, for any purpose except winding up its business.

**Section 3. POWERS OF LIQUIDATING PARTNER.** The liquidating partner shall have authority to wind up the partnership business, including full power and authority to sell and transfer partnership assets, engage professional services, sign and submit tax matters, execute and record a statement of dissolution of partnership, pay and settle debts, and distribute partnership assets to the respective partners. The liquidating partner shall use his or her best efforts to complete liquidation of the partnership by 15 February, 2016 (the "termination date").

**Section 4. DUTIES OF LIQUIDATING PARTNER.** The liquidating partner shall devote such time as deemed necessary to liquidate the partnership in the manner provided herein and as required by law. The liquidating partner shall keep the remaining partner reasonably apprised of the status of the dissolution, shall conduct and provide the other partners with an inventory of partnership assets, shall prepare and file all required federal and state tax returns, shall pay all just partnership debts, shall provide a partnership accounting prior to any distribution, and shall distribute the remaining of partnership assets, if any, to the remaining partner.

**Section 5. DISTRIBUTIONS.** Proceeds from the disposition of partnership assets shall be applied first to the satisfaction of all partnership debts and liabilities. All parties acknowledge that the sole remaining asset of the partnership is the insurance claim for the total loss due to the partnership building being destroyed by fire. Proceeds and assets, if any, remaining after payment of creditors shall be distributed as follows:

The proceeds listed below to each Partner as follows:

- Hayden Beauregard shall receive fifty (50) percent of the partnership assets.
- Billy/Billie Sherman shall receive fifty (50) percent of the partnership assets.

**Section 6. RELEASE OF CLAIMS.** Each partner hereby releases each of the other partners and the partnership from all known claims arising under the partnership agreement, except as stated elsewhere in this agreement and/or any equalization payments set forth herein.

**Section 7. POWER OF ATTORNEY TO LIQUIDATING PARTNER.** Each partner, being fully informed and aware that this grant of authority is a special power of attorney coupled with an interest and is thus irrevocable, hereby constitutes and appoints the liquidating partner as that partner's attorney-in-fact, in his or her name and for his or her use and benefit to prepare, execute, acknowledge, verify, file, record, and publish any agreements, notices, tax returns, billings, payments, and other documents required to be prepared and filed to effect the dissolution, liquidation, or termination of the partnership pursuant to the terms of this agreement and under the laws of the State of Georgia.

**Section 8. SUCCESSORS.** This agreement shall benefit and be binding on the respective heirs, executors, administrators, legatees, distributees, devisees, representatives, assignees, and other successors of each partner.

This Agreement is executed in the State of Georgia, and is effective on the last date signed by the last Partner to sign hereunder.

Hayden Beauregard      April 22, 15  
Hayden Beauregard      Date

Billy/Billie Sherman      4/21/15  
Billy/Billie Sherman      Date

*Add to the end of Section 5:  
No partner shall be entitled to a share  
of the partnership assets if that partner  
would be excluded from recovery under  
any applicable insurance policy involving  
said assets.*

*BS 4/21*

*HB 4/22*









Date	Item	Details	Credit	Debit	Balance
4/28/2013	Sysco	Week of April 28 order		\$(558.56)	\$1,466.44
4/29/2013	Flemming	Outlet replacement in balcony		\$(89.50)	\$1,376.94
4/29/2013	Gate	Band of Horses	\$6,820.00		\$8,196.94
4/29/2013	Bar	Band of Horses	\$1,965.00		\$10,161.94
4/29/2013	Band of Horses	Show payment		\$500.00	\$9,661.94
4/30/2013	ACC PD	Security		\$(650.00)	\$9,011.94
4/30/2013	Aubie's Custodial Serv.	Custodian		\$(250.00)	\$8,761.94
4/30/2013	Georgia Power	Electric -		\$(365.95)	\$8,395.99
4/30/2013	ACC Water	Water -		\$(218.00)	\$8,177.99
4/30/2013	Levinson-Hebbard Wedding	Deposited	00.00		\$8,677.99



Photo taken by Athens-Clarke County Fire Department investigator, November 14, 2014  
Inv # 64452014



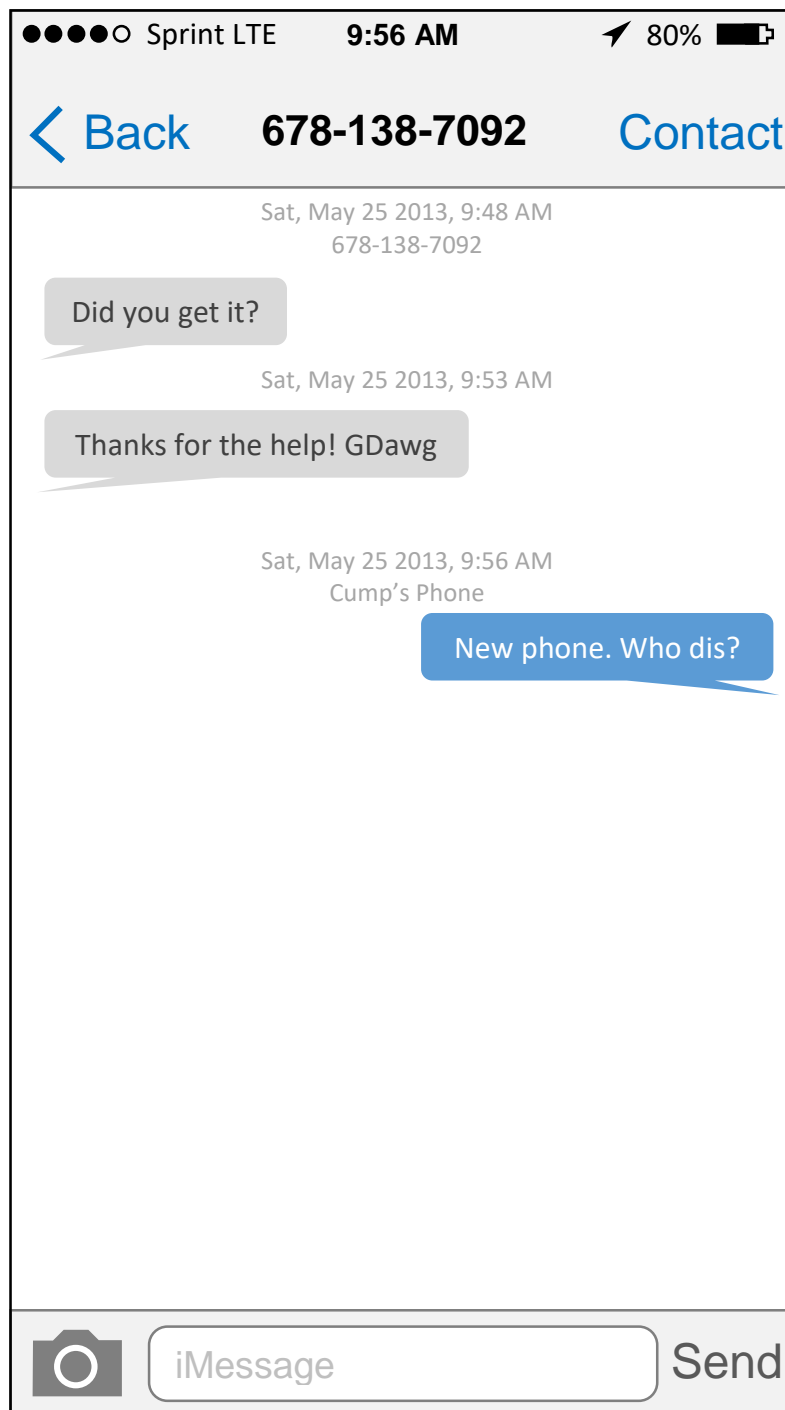


Photo taken by Athens-Clarke County Fire Department investigator, November 14, 2014  
Inv # 64452014





Photo taken by Athens-Clarke County Fire Department investigator, November 14, 2014  
Inv # 64452014





## ATF NATIONAL RESPONSE TEAM ORIGIN AND CAUSE REPORT

**SUMMARY OF EVENT:** IN 771350-14-0065

**ATF NATIONAL RESPONSE TEAM ORIGIN AND CAUSE DETERMINATION:**

1. From November 12, 2014, through November 13, 2014, members of ATF's National Response Team conducted an origin and cause investigation of a fire that destroyed a business known as the Georgia Theatre, a local music venue located at: 215 North Lumpkin Street, Athens, Georgia. The result of this investigation determined the fire to be classified as "**Arson – Undetermined Origin**" at this time.

**NARRATIVE:**

2. On November 12, 2014, at approximately 0655 hours, the Athens-Clarke Fire Department responded to a working fire at the Georgia Theatre, 215 North Lumpkin Street, Athens, GA 30601. This fire destroyed the interior and roof of the structure.
3. The Georgia Theatre is owned by Hayden Beauregard (202 College Avenue, Unit 405, Athens, GA, 30601; 706-165-5590) and Billy/Billie Sherman, (543 Meigs Street, Athens, GA 30601; 706-187-7878). The Georgia Theatre is insured through the Athena General Property and Casualty Insurance Company, Policy Number 10112002NCB. The building housing the Georgia Theatre was originally constructed circa the 1890s, and became a music venue in 2013.
4. ATF was contacted by the Athens-Clarke County Fire Department and was requested to assist in the origin and cause determination of this fire and to assist with any follow up investigation that is necessary.

**WITNESS STATEMENTS:**

5. **Fire Discovery:** The fire was discovered by Nicholas Barker. Barker stated that he was walking home from a party and decided to stop off at the Starbucks down the street from the theatre. He stated that he could smell smoke as he approached the Starbucks. He stated that he then left Starbucks and walked down Clayton Street and noticed smoke coming from under the front doors at the Theatre. He stated that there was no one else in the area and then called 911. The call was recorded by the ACC Central Communications Division at 0651 hours. He stated that he stood at the corner of Lumpkin and Clayton until emergency personnel arrived on the scene.
6. **Fire Suppression:** Upon arrival of the fire department shortly after 0700, fire fighters found the doors of the building were locked. The framing of the door located on the "C" side of the building had partially burned away, however the door was still locked and entry was forced by the fire department. The fire appeared to be concentrated in the rear of the building and appeared heavier on the "C" side of the building. Entry was also forced through the doors on the "A" and "B" sides. There was a brief attempt to fight the fire using attack lines through the doors on the "A" side and with hand lines through the doors located on the "B" side of the building. Due to the condition of the building the interior attack was abandoned and an exterior attack was initiated using aerial ladders. The roof was intact upon arrival of the fire department and heavy smoke could be observed coming from the roof vents. The roof began to fail toward the rear of the building and the failure progressed steadily toward the front of the building over the course of approximately 45 minutes. Additional details are contained in the firefighter report of interviews.

7. **Owner/Occupant:** The building and business are owned by Hayden Beauregard and his/her silent partner, Billy/Billie Sherman. The building had been open for business the night before the fire until approximately 9:00 p.m. for a private event. The last person leaving the building was Beauregard, who left at approximately 11:30 p.m. after checking to make sure that the building was locked. Nolan Clarke had left the building at 9:30 p.m. after locking the doors on the “A” side of the building. Clarke left the building by the door located on the southwest corner of the “B” side. Beauregard stated that the only lights left on were those over the stage which were dimmed and the A/C units.

#### **BUILDING CONSTRUCTION:**

8. The front (A side) of the structure faces east and occupies the southeast corner of the block, where N. Lumpkin and Clayton Streets intersect. N. Lumpkin Street runs north and south in front of the structure and Clayton Street runs east and west at the south (B) side of the structure. It is bordered on the north (D side) by an adjoining two-story structure. There is an apartment complex west (C side) of the structure, with a narrow alleyway between.
9. There were four entry/exit locations to the structure. The front (main entrance) contained two sets of three doors near the north-south center of the structure. There were two doors located at the south side (B) of the structure, at the southwest and southeast corners respectively, and there was another door located at the west side (C) of the structure, near its northwest corner, within the aforementioned alleyway.
10. The structure was built over a basement consisting of a poured concrete floor and cinderblock masonry walls up to grade. The ceiling height in the basement was approximately 8’ tall. The basement contained the main office space, which measured approximately 10’ x 12’, a workroom/storage room, which measured approximately 8’ x 10’ on the “C” wall. A hallway, containing a secondary storage room ran down the “D” wall to the staircase in the northeast corner. Restrooms were located along the hallway. Both entrances to the office had hollow core doors as well as the door of the hallway by the restrooms.
11. The interior of the structure was largely open space at its main level. There was a lobby that served as a bar and casual seating area that was located at the east end of the structure. A balcony containing sloping, theater style seating was at three levels located directly above the lobby. The balcony extended out over the main floor and sound/light board. Access to the balcony and upper areas was made via staircases that were located in the northeast corner of the lobby and the southwest corner of the building, adjacent to the stage. The entire lobby area was poured concrete. The walls had a wood panel type covering.
12. The main theater (concert/dance floor) area was located to the west of the lobby. This space was completely open from the south wall to the north wall and from the lobby to the stage that was located at the west end of the structure. At the point of the sound/light board, the floor sloped downward to the stage, ending at the stage front approximately 3’ beneath the front edge of the stage. A walkway ran along the “B” side of the main floor to the stairwell in the “B/C” corner, sloping upward towards the west. The end of the walkway was level with the stage and terminated at the stairwell that serviced the upper levels and basement. There was a poured concrete slab floor within this area and the ceiling height varied from approximately 25’ - 30’ (due to the slope of the floor). The south and north walls were exposed brick with theater style curtains that had hung from the ceiling. The ceiling was open to the mechanical systems and underside of the roof structure, with the roof joists exposed.
13. The stage consisted of wood frame construction sheathed in pine tongue-and-groove stripping and occupied the south-north center of the west end of the structure. The stage was elevated from the main theater floor, allowing storage to be used beneath the stage. The storage area was approximately 3 feet deep and extended



across the length of the stage. It was accessed through a locked door at the center of the front of the stage. There was an elevated drum platform near the center of the stage, near its west end. A door was located at the front (southern) corner of the stage, leading to the stairwell and out to Clayton Street. Another door at the north side of the stage on the "C" wall led directly out to the alley. The electrical service panel was located adjacent to this door. Towards the front of the stage was an open-faced storage closet that was used to store sound equipment, wires, microphones, and other stage gear. A theater curtain had covered the back of the storage closet, hiding it from the main floor. Another curtain covered the southern corner of the stage, blocking the view of the door to the stairwell from the main floor. Theater curtains had covered the back wall of the stage, along the entire exposed "C" wall.

#### **ELECTRICAL EXAMINATION:**

14. Recent renovations to the building introduced extensive rewiring to most of the building, consistent with current county building codes. The only exception were the footlights at the front edge of the stage, which consisted of vintage-era rolled brass and copper fixtures mounted to the surface of the stage. The wiring to the footlights was replaced with the renovation, adding grounded two-pole outlets to half of the footlight bases. The footlights and outlets were on a dedicated 125 Amp circuit in the main electrical box in the aforementioned electrical panel. The circuit was tripped, consistent with arc melting as a result of the conductors arcing through char, consistent with the energized circuit being attacked by fire. Beauregard stated that this circuit was turned off every night as part of the normal close-up procedure and therefore should not have been energized. In addition, a secondary single-pole switch was installed along the circuit next to the electric panel encased in a locked metal security box that gave the owners controlled access to that circuit. Despite significant damage from fire and being knocked off the wall by falling debris from above, the box was observed intact with a closed lock in place and no evidence of tampering or forced entry were noted. Due to high heat inside the closed metal box, the switch was significantly melted to make any useful determination of its use before the fire impossible. No evidence of electrical failure resulting in fire causation was observed in the circuit.

#### **SCENE PROCESSING:**

15. The scene was processed on November 12-14, 2014, through consent of Hayden Beauregard, one of the owners.
16. Extensive debris was discovered due to the roof collapsing. Examination showed that the origin of the fire was the pine stage, which had been previously resurfaced with polyurethane. The charred stage demonstrated light, medium and heavy burn patterns within the overall pattern perpendicular to the front of the stage. An ATF trained accelerant canine alerted to two locations on the stage. The first specifically at the center of the stage, 10 feet from the front edge, found in the debris in the basement. The second specifically at the center of the stage, along the front edge, between two footlights. Due to the extensive water used in firefighting efforts, it is impossible to determine the amount of accelerant at each spot as well as when each location was deposited. Samples were collected and sent to the ATF Laboratory for analysis. Results showed that the accelerant was acetone paint thinner.
17. The fire weakened the supports beneath the stage over the office/workroom. The section of the roof along the "C" wall collapsed first, mostly from fire weakening the supports of the roof trusses, combined with the weight of the building's A/C units. The collapse of this section collapsed the back portion of the stage into the basement and office/workshop. Subsequent failures of the remaining roof trusses caused the rest of the roof to collapse onto the main floor in a west-to-east direction.

18. Debris littered the surface of the charred stage, including roof material and the A/C units, as well as burned fragments of documents. Additional fragments were found on the main floor in front of the stage. The paper must have been on the stage when the roof first collapsed and blew some fragments onto the main floor. Only three fragments had any legible writing on it, and they were retained as evidence. Due to the material used in building and surfacing the stage, oxygen ventilation patterns are plausible explanations for the markings on the stage.
19. The remains of a floor lamp were also found in the stage wreckage in the basement. The lightbulb was missing. The male socket of the lightbulb was in the lamp socket. The type and wattage of the bulb is indeterminable. One receptacle attached to a footlight included the remnants of a hot blade from an ungrounded lamp cord. The blade was intact with no evidence of electrical failure. The cord for the lamp was not found in the debris.
20. All contents of the basement office were destroyed by combination of fire and water damage, as well as the force of the roof and stage collapse. The only discernible remnant was the remains of a large wooden desk, having survived being burned completely due to its size.
21. The body of a small dog was found on North Lumpkin Street, just north of West Clayton Street. Circumstantial evidence suggests it leapt from the marquee to avoid the fire and died from injuries sustained in the fall.

#### **EXPOSURES:**

22. The building attached to the side of the structure suffered minor smoke and water damage. The Law Office of Kevin Epps was located on the second floor of the attached building and sustained minor smoke and water damage. The first floor of this attached building was unoccupied and vacant at the time of the fire.

#### **FATALITIES/INJURIES:**

23. No fatalities or injuries were reported as a result of this fire.

#### **ESTIMATED VALUE OF LOSS:**

24. The estimated loss at this time is approximately \$3 million dollars.

#### **WEATHER:**

25. Weather Underground reported at 6:51am for Athens, GA: 52 degrees F; Humidity 93%; Visibility 5.0 miles; Wind direction: Calm; Wind Speed: Calm; No precipitation; Conditions: Clear. A strike fax report was requested for lightning strike determination in the immediate vicinity and was negative for lightning strikes. Based on the weather conditions at the time of the fire, the cause of the fire was NOT related to a weather phenomena.

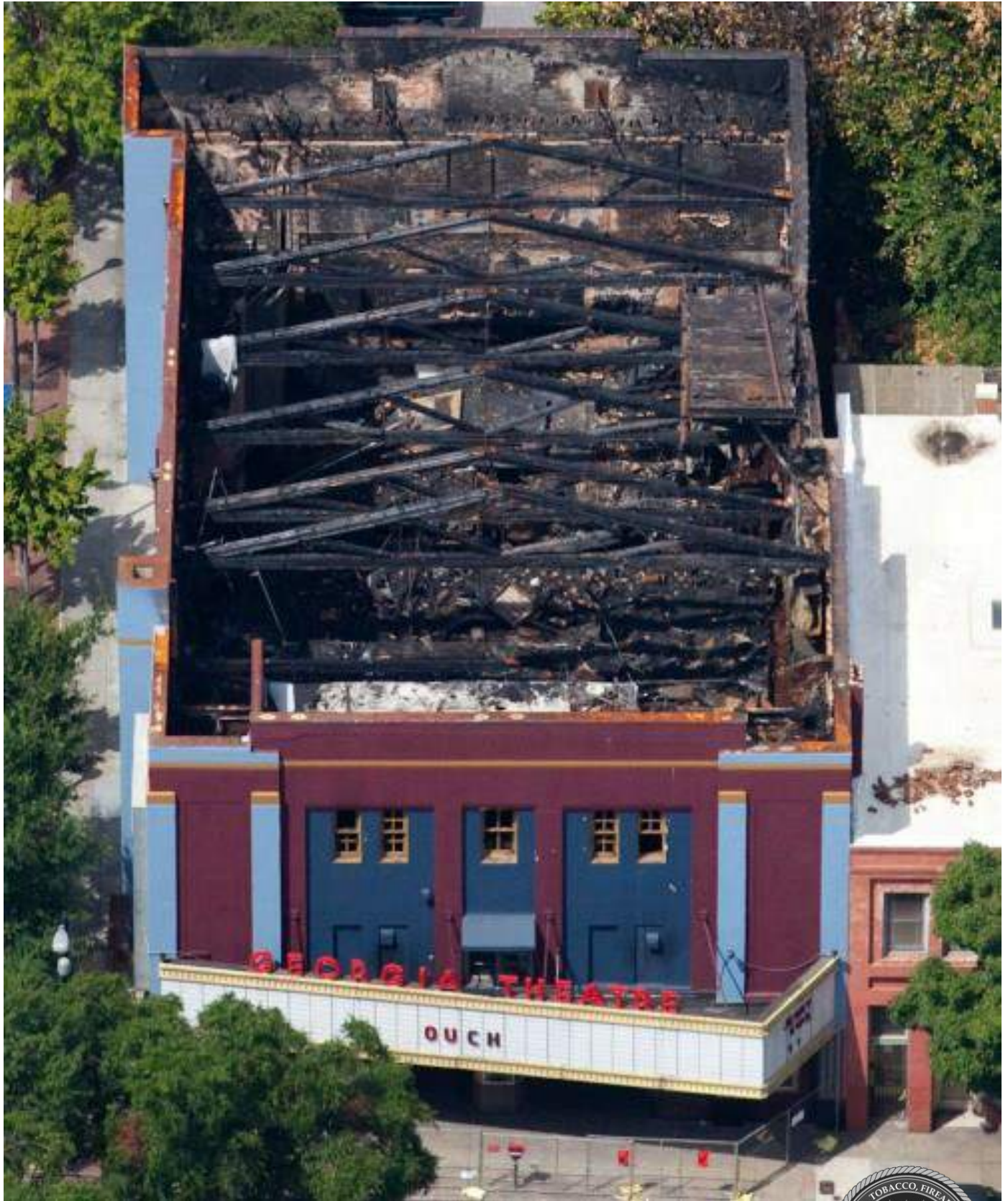
#### **CONCLUSION:**

26. After careful examination of this fire scene, along with any relevant reports and photographs available at this time, it is the opinion of all investigators that the area of origin of the fire is the center of the main stage. The cause of this fire is deemed to be arson – undetermined origin.

#### **DISPOSITION:**

This investigation is open and/or pending further investigation.

This report was prepared by an ATF Certified Fire Investigator and has been peer reviewed.



Aerial of roof post-collapse. 13 Nov 2014

ATF OCR: IN 771350-14-0065







Interior from southeast corner of lobby. 13 Nov 2014

ATF OCR: IN 771350-14-0065







Interior debris, from center of lobby. 13 Nov 2014

ATF OCR: IN 771350-14-0065



IN THE SUPERIOR COURT OF CLARKE COUNTY  
STATE OF GEORGIA

-----X

IN THE MATTER OF:

HAYDEN BEAUREGARD,

Plaintiff,

Docket No.:  
CV13-082066

- Vs.

BILLY/BILLIE SHERMAN,

Defendant.

-----X

September 25, 2013

HELD AT: 325 East Washington Street  
Athens, GA 30601

BEFORE: HONORABLE PATRICK HAGGARD  
SUPERIOR COURT OF CLARKE COUNTY

APPEARANCES: JoAnne Galloway  
Attorney for the Plaintiff  
1322 Patterson Ave., Suite 3000  
Washington, DC 20374  
202) 555-5240

Jake Brigance  
Attorney for the Respondent  
Wilbanks & Brigance, PC  
88 Sycamore Street  
Clanton, MS 38632  
662) 555-1996

1 THE COURT: We are back on the record in the case of  
2 Beauregard versus Sherman. Are the parties  
3 ready to proceed?

4 MS. GALLOWAY: Yes, your honor.

5 MR. BRIGANCE: We are, your honor.

6 THE COURT: Very well. I have carefully considered the  
7 evidence and the briefs filed by counsel.  
8 This case is most unusual, in that both  
9 parties are passionate about the success of  
10 the business venture. However, the  
11 allegations of mismanagement are certainly  
12 serious. That being said, I have to consider  
13 what is best to preserve the status quo while  
14 this litigation proceeds. Normally, that  
15 would involve appointing a receiver. The  
16 problem with a receiver is they would be a  
17 stranger to the business. The business model  
18 adopted by the parties is so intricate and  
19 unique that I'm afraid a receiver might do  
20 more harm than good. Therefore, I am going to  
21 award the Plaintiff the following temporary  
22 relief. First, I will place sole control in  
23 the partnership and all associated assets with  
24 the Plaintiff -

25 SHERMAN: What?

26 THE COURT: Excuse me?

1 MR. BRIGANCE: Shhhh -

2 THE COURT: Is there a problem, counselor?

3 MR. BRIGANCE: No, your honor. No problem at all.

4 THE COURT: As I was saying, the Plaintiff shall have sole  
5 control of the day-to-day operation of the  
6 business. Quarterly accounting reports will  
7 be filed with the court and distributed to  
8 Defendant.

9 SHERMAN: What did he just say?

10 THE COURT: Counselor, please caution your client that  
11 further outbursts will not be tolerated.

12 MR. BRIGANCE: Yes, your honor.

13 SHERMAN: You've got to be kidding me! I built that  
14 place!

15 MR. BRIGANCE: You need to be quiet.

16 SHERMAN: Like Hell I will! I won't have my life's work  
17 be taken away by this kangaroo court!

18 THE COURT: Counselor, your client's behavior is  
19 borderline contemptuous. If we need a recess  
20 -

21 SHERMAN: Is that what this is? Recess? It does feel a  
22 lot like a playground in here!

23 THE COURT: Defendant Sherman, your behavior has shown an  
24 utter lack of respect for this court as well  
25 as all parties involved. Your behavior has  
26 disrupted the orderly administration of



1 justice, and I find you in direct criminal  
2 contempt. Before I sentence you, I will give  
3 you an opportunity to explain yourself or  
4 apologize to everyone in this courtroom. You  
5 may confer with counsel if you wish.

6 SHERMAN: Apologize? OK - I'm sorry I ever voted for  
7 you. I can't believe you fell for their lies.  
8 Mark my words - that theatre will go up in  
9 smoke if Beauregard is left in charge. If I  
10 can't have the Georgia Theatre, nobody can  
11 have her!

12 THE COURT: I sentence you to one day in the county jail.  
13 Finally, in order to maintain the Plaintiff's  
14 independence in operating the business, the  
15 Defendant is hereby banned from the premises  
16 until further notice, unless specifically  
17 invited by the Plaintiff or as a patron. If  
18 Defendant enters the premises as a patron, the  
19 Defendant's access is restricted to only the  
20 public areas. Please go with the sheriff.  
21 [Defendant exits courtroom, escorted by  
22 sheriff] If you give me a moment, deputy, I  
23 will prepare the contempt order. Please  
24 pardon me for a few moments while I write  
25 this.

26 MS. GALLOWAY: Well, that was something.

1       BEAUREGARD:       I'm surprised Cump held on that long. I can  
2                           always count on that hot temper to flare up at  
3                           the right time.

4       THE COURT:       Did you two say something? I was busy writing  
5                           this order.

6       MS. GALLOWAY:   No, your honor. We were just chatting.

7       THE COURT:       Very well. We are in recess.

8  
9       END OF PROCEEDINGS

C E R T I F I C A T E

I, Natalie Barker, certify that the foregoing transcript of proceedings in the Superior Court of Clarke County of Hayden Beauregard v. Billy/Billie Sherman, Docket No. CV13-082066 is a true and accurate record of the proceedings.

Signature Natalie Barker

Date 10/11/13

# IN THE SUPERIOR COURT OF CLARKE COUNTY

## BILL OF INDICTMENT

**THE GRAND JURORS** selected, chosen and sworn for the County of Clarke, to wit:

- |                             |                      |
|-----------------------------|----------------------|
| 1. Norman Barnett           | 12. Chaundra Lewis   |
| 2. Kim Beatty               | 13. Alan Lightcap    |
| 3. Eric Brewton             | 14. Nathan Lock      |
| 4. Craig Call               | 15. Mercedes Logan   |
| 5. Sandra Carley            | 16. Adrienne Nash    |
| 6. Stephen Louis A. Dillard | 17. Megan Pearson    |
| 7. Kevin Epps               | 18. Steven Pruitt    |
| 8. Nicole Golden            | 19. Amanda Kay Seals |
| 9. Adam Hebbard             | 20. Byron Watson     |
| 10. Christina Jenkins       | 21. Sandy Wisenbaker |
| 11. Sherri Kelley           |                      |

### COUNT ONE: ARSON IN THE FIRST DEGREE (O.C.G.A. § 16-7-60)

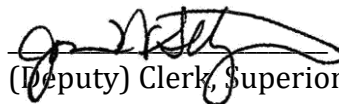
In the name and behalf of the citizens of Georgia, charge and accuse BILLY/BILLIE SHERMAN with having committed the offense of ARSON IN THE FIRST DEGREE, for that the said BILLY/BILLIE SHERMAN, in the County and State aforesaid, on or about 12 November, 2014, did unlawfully, by means of fire or explosive, knowingly damage a building located at 215 North Lumpkin Street, with the intent to defeat, prejudice, or defraud the rights of a co-owner, contrary to the laws of the State of Georgia, the good order, peace and dignity thereof.

We, the grand jury, return a      True Bill      No Bill.



Clerk

Filed in office this 14<sup>th</sup> day of April, 2015



(Deputy) Clerk, Superior Court of Clarke County, Georgia

SISS-BOOM-BAA  
1060 West Addison Street  
Chicago, IL 60613

To Whom It May Concern:

I was employed by Billy/Billie Sherman to investigate the November 12, 2014 fire that completely destroyed the structure located at 215 North Lumpkin Street, Athens, Georgia.

#### QUALIFICATIONS

- 10 years investigating fires with the Nanook Fire Department
- Completion of several ATF and state courses on fire investigation
- Bachelor's Degree in Chemistry, Central Iowa University

#### FINDINGS

After inspecting the scene, reviewing the ATF Origin and Cause Report, and interviewing witnesses, it is my conclusion to a reasonable degree of scientific certainty that the fire originated on the recently refinished pine stage of the Georgia Theatre. Based on the presence of accelerant and the burn patterns on stage, it appears that accelerant was placed in the light bulbs of the stage footlights and ignited when a timer allowed electricity to flow through those bulbs to ignite the accelerant. Interviews with persons with knowledge revealed that the only person with access to the light bulbs and timer was Hayden Beauregard.

It was also well known that the Georgia Theatre was in dire financial straits, and Beauregard was facing imminent foreclosure on the family home that was mortgaged to support the business. Beauregard had recently increased the insurance on the building fifteen fold. Finally, s/he was the last to leave the building before the fire. The empirical observations made by both myself and the ATF at the scene, witness statements and suspicious circumstantial evidence leads me to conclude that Beauregard intentionally set the fire.

*EJ Spengler*  
E.J. Spengler

#### SISS-BOOM-BAA

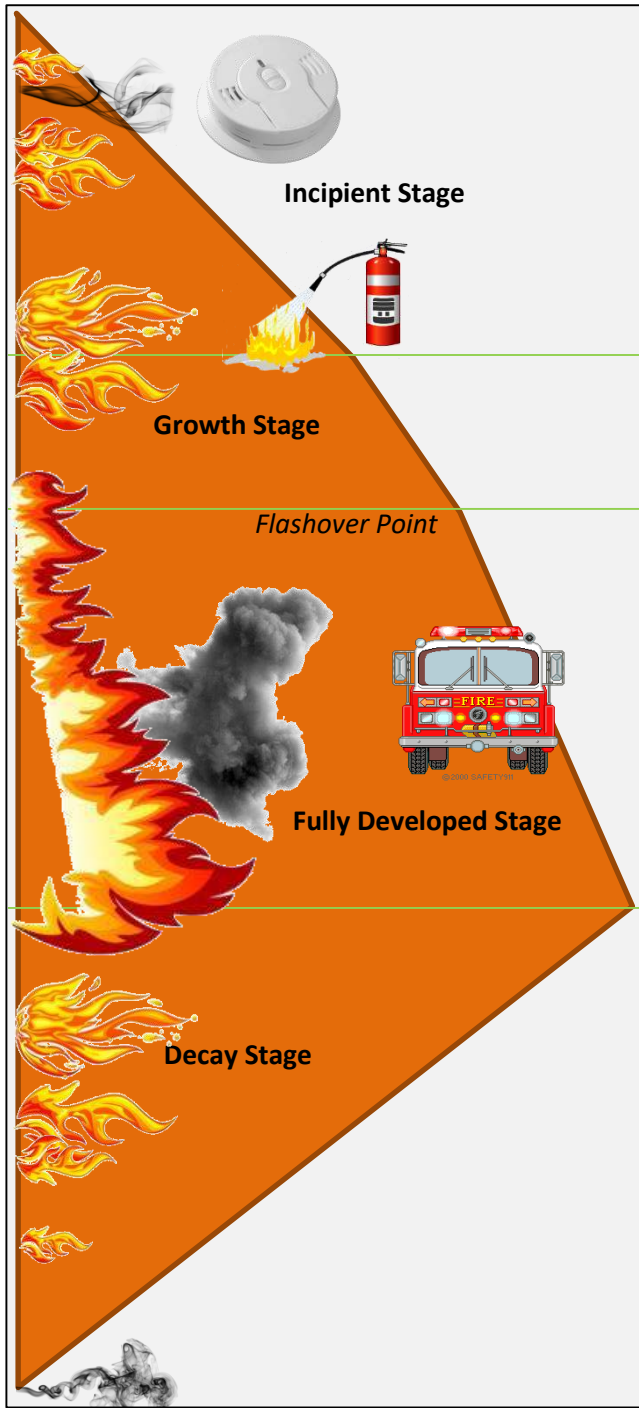


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# Stages of Fire Development



*Incipient Stage:* The fire is just beginning, slowly producing more smoke, gasses and heat. This is the stage where a smoke detector is designed to sound an alarm.

*Growth Stage:* The fire and temperatures grow exponentially. Temperatures in a room can exceed 1900 degrees Fahrenheit at this point, ending in the *Flashover Point*.

*Fully Developed Stage:* The temperature at the floor will equal, and then rise above the temperature at the ceiling. This is the most dangerous condition for firefighters because all the contents of the room will reach ignition temperature and temperatures will be the hottest.

*Decay Stage:* The fuel or oxygen in the room has been consumed and the fire dies down. Potential for a backdraft to occur if fresh oxygen is introduced into a confined space.

Elijah/Ellie Johnston  
Johnston Investigation Services  
250 Little St.  
Athens, GA 30605

Athena General Property and Casualty Insurance Company  
300 N. Thomas St.  
Athens, GA 30601

October 12, 2015

Dear Sir/Madam:

This summary is written on behalf of Hayden Beauregard concerning the origin and cause of the fire at 215 N. Lumpkin St. on November 12, 2014. My conclusions are based on my observation of the scene immediately after the fire, as well as witness interviews.

The point of origin was the stage. The cause of the fire was the intentional act of igniting a pile of papers on the stage. Those papers were later identified as evidence that would incriminate B. Sherman in an ongoing civil case involving the dissolution of the business's partnership. The burn patterns on the stage are easily explained by ventilation patterns caused when oxygen seeps up from between (and inside) the wood during the fire. This oxygen fuels the fire in the immediate area, creating a more intense burn pattern in this area, resulting in patterns resembling accelerant trails. The presence of accelerant was explained by the fact it was stored underneath the stage, but no evidence was found to indicate that this accelerant was purposefully used on the stage to start or spread the fire.

It is my conclusion that the fire was started intentionally by B. Sherman in an act of revenge against my client. Along with the intentional use of the evidence against him/her, other factors demonstrate Sherman's involvement in the fire, including previous threats and specific items left in the building at the time the fire was set.

This is all a ploy by Sherman to cheat my client out of a rightful claim. If anybody should be excluded from recovering, it is Sherman.

Please feel free to contact me if you need more information.

Sincerely,

*Elijah/Ellie Johnston*  
Elijah/Ellie Johnston

Enclosures

**IN THE SUPERIOR COURT OF CLARKE COUNTY  
STATE OF GEORGIA**

---

**ATHENA GENERAL PROPERTY AND  
CASUALTY INSURANCE COMPANY,**

**Plaintiff,**

**v.**

**HAYDEN BEAUREGARD and BILLY/BILLIE  
SHERMAN,**

**Defendants.**

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**CIVIL ACTION NO: 2019-NHSMTc**

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**VERDICT**

*[To be completed by the foreperson]*

*Select one:*

\_\_\_\_\_ We, the jury, find in favor of Hayden Beauregard and against Billy/Billie Sherman.

\_\_\_\_\_ We, the jury, find in favor of Billy/Billie Sherman and against Hayden Beauregard.

---

Foreperson



# Legal Authorities

## **Statutes**

### **OCGA § 9-11-22. Interpleader.**

- (a) Persons having claims against the plaintiff may be joined as defendants and required to interplead when their claims are such that the plaintiff is or may be exposed to double or multiple liability. It is not ground for objection to the joinder that the claims of the several claimants or the titles on which their claims depend do not have a common origin or are not identical but are adverse to and independent of one another or that the plaintiff avers that he is not liable in whole or in part to any or all of the claimants. A defendant exposed to similar liability may obtain such interpleader by way of cross-claim or counterclaim. This Code section supplements and does not in any way limit the joinder of parties permitted in Code Section 9-11-20.
- (b) The remedy provided in this Code section is in addition to and in no way supersedes or limits the remedy of equitable interpleader provided for in Code Sections 23-3-90 through 23-3-92.

### **OCGA § 23-3-90. Interpleader.**

- (a) Whenever a person is possessed of property or funds or owes a debt or duty, to which more than one person lays claim of such a character as to render it doubtful or dangerous for the holder to act, he may apply to equity to compel the claimants to interplead.

### **OCGA § 9-11-10. Form of pleadings.**

- (c) A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.

**IN THE SUPERIOR COURT OF CLARKE COUNTY  
STATE OF GEORGIA**

---

**ATHENA GENERAL PROPERTY AND  
CASUALTY INSURANCE COMPANY,**

**Plaintiff,**

**v.**

**HAYDEN BEAUREGARD and BILLY/BILLIE  
SHERMAN,**

**Defendants.**

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**CIVIL ACTION NO: 2019-NHSMTc**

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**THE CHARGE OF THE COURT**

[Not to be read in open court]

**Pleadings**

You have been considering the case of Athena General Property and Casualty Insurance Company v. Hayden Beauregard and Billy/Billie Sherman. You have heard the evidence and the allegations of the parties, and I will not repeat them here. It is now my duty to instruct you on the law which you will use to render a verdict in this case.

**Burden of Proof; Generally; Preponderance of Evidence, Defined**

Plaintiff is an insurance company that received conflicting claims on a policy issued to Defendants. Because of these conflicting claims, Plaintiff paid the contested proceeds into the registry of this court. This requires each party to prove their entitlement to those proceeds. Therefore, each party has the burden of proof on their own claim, which means that party must prove whatever it takes to make out his/her case, except for any admissions by the other party. Each party must prove his/her case by what is known as a preponderance of the evidence, that is, evidence upon the issues involved which, while not enough to wholly free the mind from a reasonable doubt, is yet sufficient to incline a reasonable and impartial mind to one side of the issue rather than the other. If you find that the evidence is evenly balanced on any issue in the case, it would then be your duty to resolve that issue against the party having the burden of proving that issue.

**Credibility of Witnesses**

The jury must determine the credibility of the witnesses. In deciding this, you may consider all of the facts and circumstances of the case, including the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts about which they testify, the nature of the facts about which they testify, the probability or improbability of their testimony, their interest or lack of interest in the outcome of the case, and their personal credibility as you observe it.

**Expert Witnesses**

Testimony has been given in this case by certain witnesses who are termed experts. Expert witnesses are those who because of their training and experience possess knowledge in a particular field that is not common knowledge or known to the average citizen. The law permits expert witnesses to give their opinions based upon that training and experience.

You are not required to accept the testimony of any witnesses, expert or otherwise. Testimony of an expert, like that of all witnesses, is to be given only such weight and credit as you think it is properly entitled to receive.

### **Conflicting Evidence; Reconciliation**

Any conflicts in the evidence are to be reconciled wherever possible. All witnesses are presumed to speak the truth and, if possible, you should not attribute a false statement to any of them. If you find that this cannot be done, then you should believe the evidence that is most reasonable and believable to you and decide the case by the preponderance of the evidence as you find it to be.

### **Circumstantial Evidence; Direct Evidence**

Direct evidence is evidence, which immediately points to the question at issue. Indirect or circumstantial evidence is evidence, which only tends to establish a fact; it must be such as to reasonably establish that fact rather than anything else. The comparative weight of circumstantial and direct evidence on any given issue is a question of fact for you to decide.

Stated differently, direct evidence is the testimony of a witness who has seen or heard the facts to which the witness testifies and which, if believed, is sufficient to prove or establish these facts.

Circumstantial evidence is the testimony of a witness who has seen or heard the facts to which the witness testifies where from such facts, if believed, you may find other facts to exist, which are reasonable and believable to you in the light of your experience.

Where circumstantial evidence is relied upon to establish a fact or theory, it must be such as to reasonably establish that fact or theory rather than anything else.

### **Admissions**

An admission is a statement by a party, which tends to aid the cause of the opposing party. All admissions shall be carefully considered.

### **Impeachment of Witnesses**

When witnesses appear and testify, they are presumed to speak the truth unless impeached in some manner provided by law.

To impeach a witness means to discredit the witness, or prove the witness unworthy of belief.

A witness may be impeached:

- a. By disproving the facts to which the witness testifies; or
- b. By proof of contradictory statements previously made by the witness about matters relevant to the testimony and to the case.

When a witness is successfully contradicted as to a material matter, the witness's credibility as to other matters shall be a question for the jury.

Since believability of witnesses is a matter to be determined by the jury under proper instructions from the court, if an effort is made to impeach a witness, it is the duty of the jury to determine whether the effort has been successful and whether the witness is to be believed.

### **Insurance Contract**

Each party claims the other is excluded from recovery under the insurance policy. To that end, the policy states that an insured is not entitled to recover when the insured fails to use all reasonable means to save and preserve the property at and after a loss. If the loss is the result of acts or omissions of one party that are not attributable to the other party, the other party may recover as an innocent co-insured.

**Form of Verdict**

If you believe from a preponderance of the evidence that the Hayden Beauregard is entitled to recover, you would find for the plaintiff and the form of your verdict would be: "We, the jury, find for Hayden Beauregard and against Billy/Billie Sherman."

If you believe from a preponderance of the evidence that the Billy/Billie Sherman is entitled to recover, you would find for the defendant and the form of your verdict would be: "We, the jury, find for Billy/Billie Sherman and against Hayden Beauregard."

**Verdict in Writing**

Whatever your verdict in the case, it must be agreed to by each juror, it must be in writing, dated and signed by your foreperson, and it must be returned and read in court. You may write your verdict on the back of plaintiff's petition.

**Verdict; Unanimity**

Your verdict must be unanimous. If you cannot unanimously agree on a verdict, the judge is required by law to declare a mistrial and retry the case before another jury. Jurors should carefully consider all the evidence in the case, consult with one another, and deliberate with a view toward reaching a unanimous verdict, consistent with your consciences and oaths as jurors.

Avoid premature fixed opinions. Do not hesitate to reexamine your views and change your opinions if, after fair and impartial discussions and deliberations with your fellow jurors, you are honestly convinced that your opinion should be changed. However, no juror is required to surrender an honest opinion differing from that of another juror merely for the purposes of reaching a unanimous verdict.

**Court Has No Interest in Case**

I want to emphasize that anything the court did or said during the trial of this case was not intended to, and did not intimate, hint, or suggest to you which of the parties should prevail in this case. Whichever of the parties is entitled to a verdict is a matter entirely for you to determine, and whatever your verdict, it must be agreed upon by all of you.

The court's interest in the matter is that the case be fairly presented according to law and that you — as honest, conscientious, impartial jurors — consider the case as the court has instructed you and return a verdict that speaks the truth as you find the truth of the case to be.

**Jury; Final Instructions**

One of your first duties in the jury room will be to select one of your number to act as foreperson, who will preside over your deliberations and who will sign the verdict to which all twelve of you freely and voluntarily agree.

You should start your deliberations with an open mind. Consult with one another and consider each other's view. Each of you must decide this case for yourself, but you should do so only after a discussion and consideration of the case with your fellow jurors. Do not hesitate to change an opinion if convinced that it is wrong. However, you should never surrender honest convictions or opinions in order to be congenial or to reach a verdict solely because of the opinions of the other jurors.

You may go now to the jury room, but do not begin your deliberations until I send you the pleadings and exhibits, which I will do shortly. Then you may begin your deliberations.

## BACKGROUND INFORMATION FROM ITEMS IN THE CASE

When writing the case, the Athens2019 Problem Subcommittee wanted to use the opportunity to bring some Georgia and local history into the case and to give students from across the country a chance to explore that history. This case meshes a number of parts of Georgia's and Athens' history to create the facts of the case. Below is some background to the people and places used in the case.

### Athens itself

---

All of the places used in the case are real places throughout Athens. We really have a tree that owns itself; it's an offspring now, but it inherited everything. Wuxtry Records is a long-established record store at the corner of Clayton Street and College Avenue in downtown Athens, across the street from Heery's Clothes Closet. If you're into vinyl, visit Wuxtry's and leaf through their collection. Next door to Heery's is The Grill, a 50's style diner which has been in Athens forever and is open 24 hours a day. Along with the Georgia Theatre, Athens has the 40 Watt Club and Morton's Theater hosting shows almost every night. *The Flagpole* is an ongoing publication, available for free in many places throughout downtown; pick one up while you're in town.

Weaver D's Delicious Fine Food is a great example of a traditional, old-school Southern meal. It's a few blocks down Broad Street on the eastern edge of downtown, so not too far of a walk if you are so inclined. Dexter Weaver's slogan of "Automatic for the People!" was used by R.E.M. for their 1992 studio album. Members of R.E.M. had been longtime customers of Weaver D's and wanted to give a touch of Athens history to their album.

Speaking of R.E.M., they performed their first concert together at St. Mary's Episcopal Church in Athens. The only thing left of the building is the steeple, which can be seen at the corner of Oconee St. and Williams St., southeast of downtown. In 1985, they performed at the Uptown Lounge under the pseudonym "Hornets Attack Victor Mature."

The University of Georgia has a great deal of history to it as well. It is the oldest land grant university in the country, making it the oldest public university in the United States. The most famous landmark of the University is the Arch, at the corner of Broad Street and College Avenue. The Arch was built in 1857 as a gate for a fence that separated the university's North Campus from downtown (cows were eating the university's grass). It became the "entrance" to the University from downtown Athens as both the city and university grew. In 1905, UGA freshman Daniel Redfearn vowed to not walk through the Arch until after he graduated. Other students followed suit and the tradition was born, with many of today's students keeping the tradition alive. The tradition holds that those students who do walk through the Arch will not graduate on time, or at all. When you are downtown, keep an eye on the Arch and you will see many students being mindful of the tradition and making it a point to go around the Arch.

### The Georgia Theatre

---

As stated in the introduction, the building at 215 N. Lumpkin Street went through many variations before becoming the Georgia Theatre in 1977. The history of the bands who played at the Theatre, including those who got their start, is outlined in Sherman's and Beauregard's statements.

The Theatre changed hands and was renovated a few times before the tragic fire the morning of June 19, 2009. The layout of the Theatre in Exhibit 2A is the current floorplan after the rebuild. (The basement layout in Exhibit 2B was created for the case.) The original Theatre had a small dressing room at the rear of stage right and that is where fire investigators believe the fire started from an extension cord. It was

deemed to be accidental in nature; no arson. The ATF Origin and Cause Report in Exhibit 8 was taken in large part from the actual ATF O&C Report from the fire. Some parts not pertinent to the case were removed and a few details were changed to fit the fact pattern. But the timing, discovery, and facts of the fire are all true to the real event. Before the fire, the Georgia Theatre's roof held the air conditioning units. It was those that caved the stage into the basement. After the fire was extinguished, all that remained were the outside walls and front marquee. The pictures in Exhibit 8 are from news coverage of the 2009 fire.

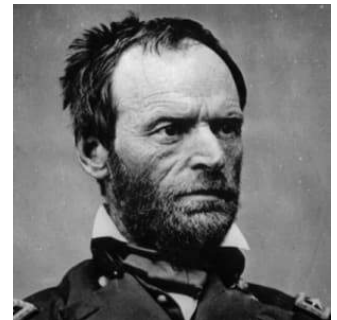
Many bands and supporters raised money for the rebirth of the Georgia Theatre. A large benefit concert, led by the Zac Brown Band, was held at the Fox Theatre in Atlanta. The owners took the opportunity of the gutted building to redesign the interior into a modern venue. As part of the rebuild, the owners added a rooftop restaurant/bar which can host acts in a smaller setting and provide some of the best views in downtown.

The host committee is excited to have the Georgia Theatre be a central part of the case and are doubly excited to host Friday evening's events at the Theatre. Teams will have the interior of the Theatre to themselves and a chance to sing on stage with a live karaoke band, in the spot where so many local and national acts have played before. Friday night's hospitality suite for judging panel members, coaches, and state coordinators will be hosted on the rooftop.

## William Tecumseh Sherman

---

William T. Sherman was the commander of the Union's western theater and led the Union's troops in attacking and laying siege to Atlanta beginning in September, 1864, disrupting a major supply hub for the Confederacy. (Atlanta was not yet a major city but a junction of two railroads.) In November, Sherman ordered all military installations in Atlanta burned and started marching 62,000 troops southeastward to Savannah, running roughly parallel to today's I-16, on the Georgia coast, capturing it on December 21, 1864. Sherman wrote a letter to President Lincoln offering the city to Lincoln as a Christmas gift. Sherman's "March to the Sea" broke the will of the Confederacy and hastened an end to the War Between the States. To this day, Sherman's total war campaign of his March to the Sea still resonates with Atlanta and Georgia natives. While Sherman's troops never came to Athens, the case's authors thought it be fitting that Billy Sherman be involved with yet one more fire in Georgia.



## Pierre Gustave Toutant-Beauregard

---



General PGT Beauregard was the first brigadier general of the Confederate States Army. He was commander of Confederate armies in the western theater, winning the First Battle of Bull Run (First Manassas) and defended the cities of Petersburg and Richmond, Virginia. After the Civil War, Beauregard returned to Louisiana, active with the Reform Party, advocating for black civil rights and suffrage.

## Ghost Light

---

As anyone who has been involved with theater productions knows, there are a lot of superstitions around the theater: *break a leg* instead of *good luck*, actors not whistling on or off stage, never mentioning the lead of Shakespeare's Scottish play (you know, the king undone by the hurlyburly), theaters remaining dark one day a week, and ghosts or spirits inhabiting theaters. One that is almost universally followed by theaters is the "ghost light". Some say that it chases away the mischievous spirits when the theater is empty overnight. Others say it gives the ghosts a chance to satisfy their itch of performing on stage and not disrupt a production.

Practically speaking, it's also a safety measure. The light is a single-bulb pole lamp set on stage and left burning overnight. It allows the last person leaving and the first arriving to not have to navigate a dark theater, risking tripping over something on stage or falling into the orchestra pit.



In our court case, Sherman wanted to keep up with the superstitions of the theater scene, especially with the history of the building. An attempt to rid the Theatre of ghosts with the exorcism was performed and Sherman wanted to add a ghost light on stage. The ghost light constructed by Bewley was made from the old stage flooring used in the remodel and iron pipe found in the basement when the building was purchased. The light pictured in Exhibit 5 was made to bring the idea of Bewley's light to life and will be on hand in Athens.

For more on the ghost light, see [www.playbill.com/article/ask-playbillcom-the-ghost-light-com-153440](http://www.playbill.com/article/ask-playbillcom-the-ghost-light-com-153440)



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