

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**ALYSSON MILLS, IN HER CAPACITY
AS RECEIVER FOR ARTHUR LAMAR
ADAMS AND MADISON TIMBER
PROPERTIES, LLC**

PLAINTIFF

vs.

CASE NO. 3:19-cv-941-CWR-FKB

**TRUSTMARK NATIONAL BANK;
BENNIE BUTTS; JUD WATKINS;
SOUTHERN BANCORP BANK; and
RIVERHILLS BANK**

DEFENDANTS

**ANSWER AND AFFIRMATIVE DEFENSES OF BENNIE BUTTS
TO RECEIVER’S COMPLAINT**

Defendant Bennie Butts (“Butts”) files this Answer and Affirmative Defenses in response to the Complaint (the “Complaint”) filed against him by Plaintiff Alysson Mills, in her capacity as Receiver for Arthur Lamar Adams (“Adams”) and Madison Timber Properties, LLC (“Madison Timber”).

ANSWER

Subject to and without waiving any of his affirmative defenses, Butts answers the specific allegations of the Complaint, paragraph by paragraph, each of the following numbered and unnumbered paragraphs corresponding to those in the Complaint. For convenience, Butts may answer several consecutive paragraphs of the Complaint with a single response, identifying the paragraphs to which the response is directed. All allegations of the Complaint that are not expressly admitted in this Answer are hereby denied. Butts’ admissions are confined to the exact language in this Answer, and to the extent that any response varies from the wording of the

allegations of the Complaint, those allegations are denied. Butts denies all allegations and inferences contained in the headings and subheadings used in the Complaint.

INTRODUCTION

The Receiver's allegations in her Introduction are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he is without sufficient knowledge and information to respond to all of the allegations in the Introduction and therefore denies the same, except as follows. Butts admits it is now apparent that Adams and Madison Timber operated a Ponzi scheme that defrauded hundreds of people, and Butts believed that Madison Timber purchased timber from landowners, harvested the timber, and sold the timber to lumber mills at a higher price. Butts denies all remaining allegations in the Introduction. All allegations not expressly admitted are denied. Butts affirmatively states that he had no knowledge of Adams' fraudulent conduct or Adams' intent to operate Madison Timber as a Ponzi scheme.

JURISDICTION AND VENUE

1. The allegations in Paragraph 1 attempt to state legal conclusions to which no response is required from Butts. To the extent a response is required from Butts, he denies that the Receiver has standing to bring any suit or claim against him. If the Court finds the Receiver has standing, Butts otherwise admits that this Court has jurisdiction over this action and the parties and that venue is proper in this Court. All allegations not expressly admitted are denied.

2. The allegations in Paragraph 2 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits that this action is related to a civil action pending before the Court styled *Securities and Exchange Commission v. Arthur Lamar Adams and Madison Timber Properties, LLC*, No. 3:18-cv-252-

CWR-FKB. The pleadings in that action speak for themselves. All allegations not expressly admitted are denied.

3. The allegations in Paragraph 3 are not directed to Butts and therefore do not require a response from him. Further, the allegations in Paragraph 3 attempt to state legal conclusions to which no response is required from Butts. To the extent a response is required from Butts, he denies that the Receiver is entitled to bring any suit or claim against him. All allegations not expressly admitted are denied.

4. The allegations in Paragraph 4 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he states that the pleadings filed in *Securities and Exchange Commission v. Arthur Lamar Adams and Madison Timber Properties, LLC*, No. 3:18-cv-252-CWR-FKB, speak for themselves. All allegations not expressly admitted are denied.

PARTIES

The Receiver

5. The allegations in Paragraph 5 are not directed to Butts and therefore do not require a response from him. Further, the allegations in Paragraph 5 attempt to state legal conclusions to which no response is required by Butts. To the extent a response is required from Butts, he admits that Plaintiff Alysson Mills has been appointed by the Court as Receiver for the estates of Adams and Madison Timber. Butts denies the remaining allegations of Paragraph 5 to the extent they are inconsistent with the Court's order, which speaks for itself. Butts denies that the Receiver has standing to pursue claims against him. All allegations not expressly admitted are denied.

6. The allegations in Paragraph 6 are not directed to Butts and therefore do not require a response from him. Further, the allegations in Paragraph 6 attempt to state legal conclusions to which no response is required by Butts. To the extent a response is required from Butts, he admits that Plaintiff Alysson Mills has been appointed by the Court as Receiver for the estates of Adams and Madison Timber. Butts denies the remaining allegations of Paragraph 6 to the extent they are inconsistent with the Court's order, which speaks for itself. Butts denies that the Receiver has standing to pursue claims against him. All allegations not expressly admitted are denied.

7. The allegations in Paragraph 7 attempt to state legal conclusions to which no response is required by Butts. To the extent a response is required from Butts, he denies that he assisted Adams or Madison Timber in furthering any fraudulent conduct or Ponzi scheme. Butts denies that the Receiver has standing to pursue claims against him. All allegations not expressly admitted are denied.

8. Butts is without sufficient knowledge and information to admit or deny the allegations in the first sentence of Paragraph 8 and therefore denies the same. Notably, the Receiver did not attach any of the alleged assignments to the Complaint, nor has she produced them to Butts. The allegations in the second sentence of Paragraph 8 attempt to state legal conclusions to which no response is required by Butts. To the extent a response is required from Butts, he denies that the Receiver has standing to pursue claims against him. All allegations not expressly admitted are denied

Defendants

9. The allegations in Paragraph 9 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits upon

information and belief that Trustmark Corporation is a Mississippi corporation doing business in Mississippi. All allegations not expressly admitted are denied.

10. Admitted.

11. The allegations in Paragraph 11 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he is without sufficient knowledge and information to admit or deny the allegations in Paragraph 11 and therefore denies the same. All allegations not expressly admitted are denied.

12. The allegations in Paragraph 12 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits upon information and belief that Southern Bancorp Bank is a Mississippi corporation doing business in Mississippi. All allegations not expressly admitted are denied.

13. The allegations in Paragraph 13 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits upon information and belief that RiverHills Bank is a Mississippi corporation doing business in Mississippi. All allegations not expressly admitted are denied.

MADISON TIMBER

14. The allegations in Paragraph 14 are not directed to the Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits that it is now apparent that Adams, through Madison Timber, operated a Ponzi scheme that purported to purchase timber from landowners and resell it to lumber mills at higher prices. All allegations not expressly admitted are denied.

15. The allegations in Paragraph 15 are not directed to the Butts and therefore do not require a response from him. To the extent a response is required from Butts, he is without

sufficient knowledge and information to admit or deny the allegations in Paragraph 15 and therefore denies the same. All allegations not expressly admitted are denied.

16. The allegations in Paragraph 16 are not directed to the Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits that he believed that Madison Timber acquired timber deeds and cutting agreements, sold the timber to lumber mills at a higher price, and used proceeds of those sales to repay investors their principal plus interest. All allegations not expressly admitted are denied.

17. The allegations in Paragraph 17 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he is without sufficient knowledge and information to admit or deny the allegations in Paragraph 17 and therefore denies the same. All allegations not expressly admitted are denied.

18. The allegations in Paragraph 18 are not directed to the Butts and therefore do not require a response from him. To the extent a response is required from Butts, he is without sufficient knowledge and information to admit or deny the allegations in Paragraph 18 and therefore denies the same. All allegations not expressly admitted are denied.

19. The allegations in Paragraph 19 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he is without sufficient knowledge and information to admit or deny the allegations in Paragraph 19 and therefore denies the same. All allegations not expressly admitted are denied.

20. The allegations in Paragraph 20 are not directed Butts and therefore do not require a response from him. To the extent a response is required from Butts, he is without sufficient knowledge and information to admit or deny the allegations in Paragraph 20 and therefore denies the same. All allegations not expressly admitted are denied.

21. The allegations in Paragraph 21 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits that Adams turned himself into authorities on or about April 19, 2018. Butts is without sufficient knowledge and information to admit or deny the remaining allegations in Paragraph 21 and therefore denies the same. All allegations not expressly admitted are denied.

22. The allegations in Paragraph 22 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits the allegations in Paragraph 22, upon information and belief.

23. The allegations in Paragraph 23 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits the allegations in Paragraph 23, upon information and belief.

24. The allegations in Paragraph 24 attempt to state legal conclusions to which no response is required by Butts. To the extent a response is required from Butts, he is without sufficient knowledge and information to admit or deny the allegations in Paragraph 24 and therefore denies the same.

25. The allegations in Paragraph 25 are not directed to Butts and therefore do not require a response from him. Further, the allegations in Paragraph 25 attempt to state legal conclusions to which no response is required by Butts. To the extent a response is required from Butts, he denies all of the allegations in Paragraph 25.

26. The allegations in Paragraph 26 are not directed to Butts and therefore do not require a response from him. Further, the allegations in Paragraph 26 attempt to state legal conclusions to which no response is required by Butts. To the extent a response is required from Butts, he denies all of the allegations in Paragraph 26.

TRUSTMARK

27. The allegations in Paragraph 27 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits that Adams held accounts at Trustmark during the time periods in question. Butt is without sufficient knowledge and information to identify the exact dates that the accounts were opened or to admit or deny the allegation that Trustmark was Adams' primary bank through which he conducted Madison Timber's business, and Butts therefore denies those allegations. All allegations not expressly admitted are denied.

28. The allegations in Paragraph 28 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he denies the allegations in Paragraph 28.

29. The allegations in Paragraph 29 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he denies the allegations in Paragraph 29.

Bankers and friends

30. Some of the allegations in Paragraph 30 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits that he was one of Adams' bankers at Trustmark. All allegations not expressly admitted are denied.

31. Some of the allegations in Paragraph 31 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits that he had a professional relationship with Adams and that as part of that professional relationship he occasionally met with Adams for lunch, drinks, and other events at which they discussed

business and social interests. Butts admits that at times he gave Adams tickets to sporting events, which were provided by Trustmark. All allegations not expressly admitted are denied.

32. Some of the allegations in Paragraph 32 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits that Adams engaged Trustmark to assist with banking needs for entities in which Adams and other persons owned real estate interests and which were unrelated to Madison Timber. Butts admits, upon information and belief, that some of the entities in which Adams held ownership and for which Trustmark provided banking services included: Confederate Dline, LLC; 747, LLC; Wolf Lake, LLC; KAB, LLC; Swede Camp, LLC; MASH Farms, LLC; and Delta Farm Land Investments, LLC. Butts is without sufficient knowledge and information to admit or deny the allegations regarding corporate formation and legal services for those entities and therefore denies the same. All allegations not expressly admitted are denied.

33. Some of the allegations in Paragraph 33 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits that Trustmark provided financing for entities in which Adams held ownership. Butts is without sufficient knowledge and information to admit or deny the allegations regarding Adams' communications with his business partners and therefore denies the same. Butts denies the allegedly quoted language set forth in Paragraph 33 to the extent the same is inconsistent with the documents and emails produced to the Receiver by Trustmark. All allegations not expressly admitted are denied.

34. Some of the allegations in Paragraph 34 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he denies the allegedly quoted language set forth in Paragraph 34 to the extent the same is inconsistent with

the documents and emails produced to the Receiver by Trustmark. All allegations not expressly admitted are denied.

35. The allegations in Paragraph 35 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits that Adams complimented Trustmark employees for their services. Butts denies the allegedly quoted language set forth in Paragraph 35 to the extent the same is inconsistent with the documents and emails produced to the Receiver by Trustmark. All allegations not expressly admitted are denied.

Madison Timber, suspicions and cover

36. Some of the allegations in Paragraph 36 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he denies the allegations in Paragraph 36.

37. Some of the allegations in Paragraph 37 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits that Trustmark collected standard fees related to its provision of banking services as would be collected from any of its customers. Butts denies that he accepted any fees or payments whatsoever from Adams or Madison Timber. Butts denies the remaining allegations in Paragraph 37. All allegations not expressly admitted are denied.

38. Butts is without sufficient knowledge and information to admit or deny the allegations in Paragraph 38 and therefore denies the same.

39. Butts is without sufficient knowledge and information to admit or deny the allegations in Paragraph 39 regarding what Adams' financial statements reflected and therefore denies the same. The financial statements and emails referenced in Paragraph 39 speak for

themselves, and Butts denies the allegations in Paragraph 39 to the extent they are inconsistent with the financial statements and cited emails. All allegations not expressly admitted are denied.

40. Some of the allegations in Paragraph 40 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits that Adams made cash deposits in Madison Timber's accounts at Trustmark. Butts is without sufficient knowledge and information to admit or deny the remaining allegations in Paragraph 40 and therefore denies the same. All allegations not expressly admitted are denied.

41. Some of the allegations in Paragraph 41 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he denies the allegations regarding Madison Timber's account being overdrawn by large amounts to the extent the same are inconsistent with the documents produced to the Receiver by Trustmark, including the relevant account statements which speak for themselves. Butts admits upon information and belief that Trustmark occasionally waived some fees for Madison Timber, but Butts denies that such fees would not have been waived for "any other customer." Butts denies the allegations regarding the alleged email from Jud Watkins to Trustmark to the extent the same are inconsistent with the documents and emails produced to the Receiver by Trustmark. All allegations not expressly admitted are denied.

42. Some of the allegations in Paragraph 42 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he denies the allegations in Paragraph 42 to the extent the same are inconsistent with the documents and emails produced to the Receiver by Trustmark. Butts is without sufficient knowledge and information to admit or deny the allegation that he "allayed the employee's concerns" and therefore denies the same. All allegations not expressly admitted are denied.

43. Some of the allegations in Paragraph 43 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he is without sufficient knowledge and information to admit or deny the allegations in the first five sentences of Paragraph 43 and therefore denies the same. Butts denies the allegations in the final sentence of Paragraph 43 to the extent the same are inconsistent with the documents and emails produced to the Receiver by Trustmark. All allegations not expressly admitted are denied.

44. Some of the allegations in Paragraph 44 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits that he told Wanda Moncrief he would discuss Moncrief's concerns with Adams and that he shared Moncrief's contact information with Adams. Butts denies the allegations in the final sentence of Paragraph 44 to the extent the same are inconsistent with the documents and emails produced to the Receiver by Trustmark. All allegations not expressly admitted are denied.

45. The allegations in Paragraph 45 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he denies the allegations in Paragraph 45 to the extent the same are inconsistent with the documents and emails produced to the Receiver by Trustmark. All allegations not expressly admitted are denied.

46. Some of the allegations in Paragraph 46 are not directed to Butts and do not require a response from him. To the extent a response is required from Butts, he denies the allegations in Paragraph 46 to the extent the same are inconsistent with the documents and emails produced to the Receiver by Trustmark. Butts admits he relayed Moncrief's concerns to Adams and asked Adams to respond to Moncrief's concerns. Butts admits that he has met Adams for lunch, but he is without sufficient knowledge and information to admit or deny whether he met Adams for lunch on the day in question. All allegations not expressly admitted are denied.

47. Some of the allegations in Paragraph 47 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he denies the allegations in Paragraph 47 to the extent the same are inconsistent with the documents and emails produced to the Receiver by Trustmark. All allegations not expressly admitted are denied.

2016

48. Some of the allegations in Paragraph 48 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he is without sufficient knowledge and information to admit or deny the allegations in the first two sentences of Paragraph 48 and therefore denies the same. Butts denies the allegations in the final two sentences of Paragraph 48 to the extent the same are inconsistent with the documents and emails produced to the Receiver by Trustmark. All allegations not expressly admitted are denied.

49. The allegations in Paragraph 49 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he is without sufficient knowledge and information to admit or deny the allegations in Paragraph 49 and therefore denies the same. Butts denies the allegations in Paragraph 49 to the extent the same are inconsistent with the documents and emails produced to the Receiver by Trustmark. All allegations not expressly admitted are denied.

50. The allegations in Paragraph 50 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he is without sufficient knowledge and information to admit or deny the allegations in Paragraph 50 and therefore denies the same. All allegations not expressly admitted are denied.

51. Butts denies the allegedly quoted language in the first sentence of Paragraph 51 to the extent the same is inconsistent with the documents and emails produced to the Receiver by

Trustmark. Butts admits he asked Channel to give Adams a chance to explain himself. All allegations not expressly admitted are denied.

52. The allegations in Paragraph 52 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits that Trustmark asked Adams to move Madison Timber's business to another bank. Butts is without sufficient knowledge and information to admit or deny the remaining allegations in Paragraph 52 and therefore denies the same. All allegations not expressly admitted are denied.

53. The allegations in Paragraph 53 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he is without sufficient knowledge and information to admit or deny the allegations in Paragraph 53 and therefore denies the same. All allegations not expressly admitted are denied.

54. The allegations in Paragraph 54 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he is without sufficient knowledge and information to admit or deny the allegations in Paragraph 54 and therefore denies the same. All allegations not expressly admitted are denied.

Indicia of fraud

55. The allegations in Paragraph 55 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he is without sufficient knowledge and information to admit or deny the allegations in Paragraph 55 and therefore denies the same. All allegations not expressly admitted are denied.

56. Some of the allegations in Paragraph 56 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he denies the allegations in Paragraph 56.

57. Some of the allegations in Paragraph 57 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he denies the allegations in Paragraph 57.

58. Some of the allegations in Paragraph 58 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he denies the allegations in Paragraph 58.

59. Some of the allegations in Paragraph 59 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he admits that he believed Madison Timber legitimately purchased timber, had timber deeds and cutting agreements, and had contracts with mills. All allegations not expressly admitted are denied.

60. Some of the allegations in Paragraph 60 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he denies the allegations in Paragraph 60.

61. Some of the allegations in Paragraph 61 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he denies the allegation that he knew that Adams and Madison Timber guaranteed a 13% return or that such return was “better than any return for any other asset-backed investment.” Butts admits he believed Madison Timber sold timber to lumber mills. All allegations not expressly admitted are denied.

62. Some of the allegations in Paragraph 62 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he denies the allegations in Paragraph 62.

63. Some of the allegations in Paragraph 63 are not directed to Butts and therefore do not require a response from him. Further, the allegations in the first sentence of Paragraph 63 attempt to state legal conclusions to which no response is required from Butts. To the extent a response is required from Butts, he denies the allegations in the first sentence of Paragraph 63 to the extent the same are inconsistent with applicable law. Butts denies the remaining allegations in Paragraph 63.

64. Some of the allegations in Paragraph 64 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he denies the allegations in Paragraph 64.

65. Some of the allegations in Paragraph 65 are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he denies the allegations in Paragraph 65.

AFTER TRUSTMARK

66. – 96. Paragraphs 66 through 96 of the Complaint are not directed to Butts and therefore do not require a response from him. To the extent a response is required from Butts, he is without sufficient knowledge and information to admit or deny the allegations in Paragraphs 66 through 96 and therefore denies the same. All allegations not expressly admitted are denied.

CAUSES OF ACTION

COUNT I

FOR CIVIL CONSPIRACY

AGAINST ALL DEFENDANTS

97. Butts incorporates herein by reference each of his responses to the above discussed allegations of the Receiver's Complaint.

98. The allegations in Paragraph 98 attempt to state legal conclusions to which no response is required by Butts. To the extent a response is required by Butts to the allegations in Paragraph 98, he denies the same.

99. Denied.

100. Butts admits that Madison Timber has been determined to be a Ponzi scheme. Butts affirmatively states that he never knew Adams was a fraud, he never knew Madison Timber was a Ponzi scheme, and he never acted with an unlawful purpose. All allegations not expressly admitted are denied.

101. Denied.

102. Denied.

103. Denied.

104. The second sentence of Paragraph 104 attempts to state legal conclusions to which no response is required of Butts. To the extent a response is required of Butts to those allegations, he denies the same. Butts denies the remaining allegations in Paragraph 104.

105. Denied.

106. Denied.

107. Denied.

COUNT II

FOR AIDING AND ABETTING

AGAINST ALL DEFENDANTS

108. Butts incorporates herein by reference each of his responses to the above discussed allegations of the Receiver's Complaint.

109. The allegations in the first sentence of Paragraph 109 attempt to state legal conclusions to which no response is required by Butts. To the extent a response is required by Butts to the allegations in the first sentence of Paragraph 109, he denies the same. Butts denies the remaining allegations in Paragraph 109. All allegations not expressly admitted are denied.

110. Denied.

111. The allegations in the second sentence of Paragraph 111 attempt to state legal conclusions to which no response is required by Butts. To the extent a response is required by Butts to the allegations in the second sentence of Paragraph 111, he denies the same. Butts denies the remaining allegations in Paragraph 111. All allegations not expressly admitted are denied.

112. Denied.

113. Denied.

114. Denied.

115. The second sentence of Paragraph 115 attempts to state legal conclusions to which no response is required of Butts. To the extent a response is required of Butts to those allegations, he denies the same. Butts denies the remaining allegations in Paragraph 115.

116. Denied.

117. Denied.

118. Denied.

COUNT III

FOR RECKLESSNESS, GROSS NEGLIGENCE, AND AT A MINIMUM NEGLIGENCE

AGAINST ALL DEFENDANTS

119. Butts incorporates herein by reference each of his responses to the above discussed allegations of the Receiver's Complaint.

120. The allegations in Paragraph 120 attempt to state legal conclusions to which no response is required by Butts. To the extent a response is required by Butts to the allegations in Paragraph 120, he denies the same.

121. The allegations in Paragraph 121 attempt to state legal conclusions to which no response is required by Butts. To the extent a response is required by Butts to the allegations in Paragraph 121, he denies the same.

122. Denied.

123. Denied.

124. Denied.

125. Denied.

126. The allegations in the second sentence of Paragraph 126 attempt to state legal conclusions to which no response is required by Butts. To the extent a response is required by Butts to the allegations in the second sentence of Paragraph 126, he denies the same. Butts denies the remaining allegations in Paragraph 126. All allegations not expressly admitted are denied.

127. Denied.

128. Denied.

129. Denied.

COUNT IV

FOR NEGLIGENT RETENTION AND SUPERVISION

AGAINST TRUSTMARK, SOUTHERN BANCORP, AND RIVERHILLS

130. Butts incorporates herein by reference each of his responses to the above discussed allegations of the Receiver's Complaint.

131. – 139. The allegations in Count IV and Paragraphs 131 through 139 are not directed to Butts and therefore do not require a response from Butts. To the extent a response is required from Butts, he denies the allegations in Paragraphs 131 through 139.

COUNT V

**FOR VIOLATIONS OF MISSISSIPPI'S FRAUDULENT TRANSFER ACT
AGAINST ALL DEFENDANTS**

140. Butts incorporates herein by reference each of his responses to the above discussed allegations of the Receiver's Complaint.

141. – 145. Paragraphs 141 through 145 of the Complaint relate to a cause of action against Butts that has been dismissed by the Court pursuant to the Court's March 1, 2021 Order. [Doc. 67] at 16. Thus, Paragraphs 141 through 145 do not require a response from Butts. To the extent a response is required from Butts, he denies the allegations in Paragraphs 141 through 145.

COUNT VI

**FOR VIOLATIONS OF MISSISSIPPI'S RACKETEER INFLUENCED
AND CORRUPT ORGANIZATION ACT
AGAINST ALL DEFENDANTS**

146. Butts incorporates herein by reference each of his responses to the above discussed allegations of the Receiver's Complaint.

147. – 154. Paragraphs 147 through 154 of the Complaint relate to a cause of action against Butts that has been dismissed by the Court pursuant to the Court's March 1, 2021 Order. [Doc. 67] at 17. Thus, Paragraphs 147 through 154 do not require a response from Butts. To the extent a response is required from Butts, he denies the allegations in those paragraphs.

**TRUSTMARK AND RIVERHILLS'S
VICARIOUS LIABILITY**

155. The allegations in Paragraph 155 are not directed to Butts and therefore do not require a response from Butts. To the extent a response is required from Butts, he denies the allegations in Paragraph 155.

Butts denies the allegations contained in the unnumbered paragraph on page 35 of the Complaint beginning “WHEREFORE” and in each of its numbered subparagraphs. Butts denies that the Receiver is entitled to the relief requested or to any relief whatsoever from Butts.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Receiver’s Complaint fails to state a claim against Butts for which relief can be granted. Therefore, the Receiver’s claims against Butts should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6).

SECOND AFFIRMATIVE DEFENSE

The Receiver’s claims against Butts are barred by the doctrine of *in pari delicto*. The Receiver stands in the shoes of Adams and Madison Timber, the primary wrongdoers who controlled the Ponzi scheme that duped hundreds of people, including Butts. Accordingly, the Receiver cannot seek damages or contribution from Butts.

THIRD AFFIRMATIVE DEFENSE

The Receiver’s claims against Butts are barred because the Receiver lacks standing to pursue claims on behalf of anyone other than Adams and Madison Timber.

FOURTH AFFIRMATIVE DEFENSE

The Receiver's Complaint against Butts is barred because, during all relevant times referenced in the Complaint, Butts was acting only within the scope of his employment with Trustmark and on Trustmark's behalf.

FIFTH AFFIRMATIVE DEFENSE

The Receiver's claims against Butts are barred because Butts never actively participated in any tortious act.

SIXTH AFFIRMATIVE DEFENSE

The Receiver's claims against Butts are barred because he did not owe any legal duty to Adams or Madison Timber, and he did not breach any legal duty owing to Adams or Madison Timber.

SEVENTH AFFIRMATIVE DEFENSE

The Receiver's claims against Butts are barred because he did not owe any legal duty to the investors of Adams or Madison Timber, and he did not breach any legal duty owing to the investors of Adams or Madison Timber.

EIGHTH AFFIRMATIVE DEFENSE

The Receiver's claims against Butts are barred because he did not accept any commissions, fees, or other payments from Adams or Madison Timber.

NINTH AFFIRMATIVE DEFENSE

The Receiver's claims against Butts are barred by the good faith value defense. Butts operated at all times in good faith and under a belief that he was doing business on Trustmark's behalf with a legitimate, legal business and not a fraudulent scheme.

TENTH AFFIRMATIVE DEFENSE

The Receiver's claims against Butts are barred by the acts and omissions of Adams and Madison Timber; the acts and omissions of the representatives and agents of Adams and Madison Timber; and the acts and omissions of others for whom Butts is not responsible. Butts is not directly or proximately responsible for any damages that Adams and Madison Timber might have allegedly suffered. The Receiver's claims against Butts are barred because Butts complied at all times with all applicable standards of care.

ELEVENTH AFFIRMATIVE DEFENSE

The Receiver's claims against Butts are barred by the doctrines of contributory negligence, comparative fault, waiver, estoppel, failure of consideration, fraud, illegality, release, payment, accord and satisfaction, assumption of the risk, unclean hands, and by the failure of Adams and Madison Timber to mitigate their damages.

TWELFTH AFFIRMATIVE DEFENSE

The Receiver's claims against Butts are barred because the Receiver failed to plead items of special damage and alleged fraud with sufficient particularity.

THIRTEENTH AFFIRMATIVE DEFENSE

The Receiver's claims against Butts for punitive damages are barred: (a) By the Eighth Amendment to the United States Constitution and Section 28 of the Mississippi Constitution; (b) By the Fifth and Fourteenth Amendments to the United States Constitution prohibiting substantive and procedural due process violations; as well as by Section 14 of the Mississippi Constitution; (c) By the Fourteenth Amendment to the United States Constitution guaranteeing equal protection under the laws; (d) By the Fourth, Fifth, Sixth and Eighth Amendments to the United States Constitution and Sections 14, 17, 26, and 28 of the Mississippi Constitution to the

extent such sanctions are attempted to be imposed without requiring the burden of proof to be beyond a reasonable doubt; (e) By the provisions of Miss. Code Ann. § 11-1-65; and (f) By the holdings of United States Supreme Court in *BMW v. Gore*, 517 U.S. 559 (1996), *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 532 U.S. 424 (2001), and *State Farm v. Campbell*, 538 U.S. 408 (2003). Moreover, the Receiver's Complaint fails to state a claim against Butts upon which relief can be granted for punitive damages, the Receiver cannot prove the facts necessary under applicable law to substantiate an award of punitive damages, and therefore Butts affirmatively denies that he is liable to the Receiver, Adams, or Madison Timber for punitive damages.

FOURTEENTH AFFIRMATIVE DEFENSE

The Receiver's Complaint fails to state a claim against Butts for attorney's fees, the Receiver cannot prove the facts necessary under applicable law to substantiate an award of attorney's fees, and therefore Butts affirmatively denies that he is liable to the Receiver, Adams, or Madison Timber for attorney's fees.

FIFTEENTH AFFIRMATIVE DEFENSE

The Receiver's claims against Butts are barred because the Receiver has not alleged, and the Receiver cannot show, that Butts knew of Adams's fraud or that Madison Timber was a fraudulent scheme.

SIXTEENTH AFFIRMATIVE DEFENSE

The Receiver's claims against Butts are barred for the reasons set forth in Butts' Motion to Dismiss [Doc. 33] and Memorandum in Support of the same [Doc. 34], which were filed on April 30, 2020, and which are incorporated herein by reference as if set forth in full.

SEVENTEENTH AFFIRMATIVE DEFENSE

The Receiver's claims against Butts are barred for the reasons set forth in Trustmark's answer and defenses filed in response to the Receiver's complaint, which are incorporated herein by reference as if set forth in full.

EIGHTEENTH AFFIRMATIVE DEFENSE

The Receiver's claims against Butts are barred by Mississippi's wrongful conduct rule.

NINETEENTH AFFIRMATIVE DEFENSE

As discovery has not been completed in this matter, Butts affirmatively pleads all applicable defenses available under Rules 12(b) and 8(c) of the Federal Rules of Civil Procedure, including but not limited to: insufficiency of process, insufficiency of service of process, failure to join a party under Rule 19, arbitration and award, assumption of the risk, coercion, duress, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, res judicata, collateral estoppel, business judgment rule, statute of frauds, statute of limitations, offset, contribution, waiver, indemnity, failure to give full and proper notice, release, payment, willful concealment of facts, unconscionability, unconstitutionality of punitive damages, and any other matter constituting an avoidance or affirmative defense.

TWENTIETH AFFIRMATIVE DEFENSE

Butts reserves the right to assert, and hereby give notice that he intends to rely upon, any other defense that may become available or appear during discovery proceedings or otherwise in this action and reserves the right to amend this responsive pleading to assert such defenses.

AND NOW, having fully answered each and every allegation of the Receiver's Complaint filed against him, Defendant Bennie Butts respectfully requests that this Court dismiss the Receiver's claims against him with prejudice, taxing all costs against the Receiver

and awarding Butts his reasonable attorneys' fees and expenses incurred in defending this lawsuit. Butts also requests such other and further relief as this Court deems just and proper.

Date: March 31, 2021.

Respectfully submitted,

BENNIE BUTTS

By: /s/ Cody C. Bailey
Cody C. Bailey
One of His Attorneys

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CERTIFICATE OF SERVICE

I, Cody C. Bailey, hereby certify that on March 31, 2021, I caused the foregoing pleading to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record and registered participants.

/s/ Cody C. Bailey
Cody C. Bailey