

WILLIAM B. CHANDLER III  
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Submitted: August 17, 2004  
Decided: September 28, 2004

Barry W. Meekins  
Brown, Shiels, Beauregard & Chasanov  
P.O. Drawer F  
Dover, DE 19903

Re: *Allen v. Lee*  
C.A. No. 1295-K

Dear Mr. Meekins:

The “Lost Revenue” affidavit is not adequate proof of the damages or losses actually incurred by Mr. Allen as a result of Mr. Lee’s breach of contract. The affidavit does not identify the actual market value of items, many of which had certainly depreciated in value since their original purchase (*e.g.*, house trailer, bike, washer, stove). The money put into the farm (\$6,000+) is obviously a guess or estimate. In addition, it fails to differentiate between items that may be recoverable (*e.g.*, well permit) and those that are not recoverable (*e.g.*, tune-up kit for Lee’s truck). Furthermore, the affidavit lists \$4,000 in attorney fees, with no explanation of how these fees are recoverable. For these reasons (among others), I find that Mr. Allen has failed to meet his burden of proof on the claim to recover his out-of-pocket costs. That claim is, therefore, rejected.

Finally, as the Master indicated in his Final Report, an appraisal of the subject property is necessary in order to assist the Court in deciding whether the equitable remedy of specific performance is appropriate here. To that end, I ask that you retain an independent, qualified real estate appraiser, familiar with the market value of farmland in Kent County, to prepare an appraisal of the fair market value of the disputed 58-acre farm. The cost of the appraisal report will be taxed as a court cost against Mr. Lee. That report should be forwarded to the Court, together with any written submission you

wish to make regarding the appropriate remedy. The Court will then rule on this issue.

IT IS SO ORDERED.

Very truly yours,

*/s/ William B. Chandler III*

William B. Chandler III

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