

STATE OF SOUTH CAROLINA
In The Court of Appeals

68807

APPEAL FROM YORK COUNTY
Court of Common Pleas

S. Jackson Kimball, Master-in-Equity

Case No. 2011-CP-46-01595

CRESCENT RESOURCES, LLC, Respondent,

vs.

J & J PROPERTIES OF LAKE WYLIE, LLC
and

JERROLD H. PETTUS, Sr., Appellants.

MOTION TO RECONSIDER
and TO REINSTATE APPEAL

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SC Court of Appeals

Pursuant to Rules 240 and 263(b), S.C.A.C.R., the Appellants, by their counsel herein, move this Court for an order withdrawing the dismissal of the Appeal by Order dated June 7, 2013, recalling the remittitur and allowing the Appellants a reasonable time in which to secure counsel.

1. This matter was filed by Notice of Appeal dated December 13, 2012.
2. Since this Appeal was filed, and after the illness of counsel for Appellants, the Appellants discharged counsel and indicated their intention to transfer the appeal to other counsel. A copy of the relevant e-mails is attached hereto and incorporated herein.'
3. The Appellants have not supplied the name of any other counsel, nor otherwise communicated with moving counsel, since the time of such e-mails. He is not aware of any attorney now representing the Appellants.
4. Due to his discharge by the Appellants, and his illness, moving counsel did not file an amended Proof of Service in this Appeal. (The original Proof bearing the wrong month in one location.) That amended Certificate is filed herewith.
5. It is the understanding of moving counsel that he has the responsibility to request both

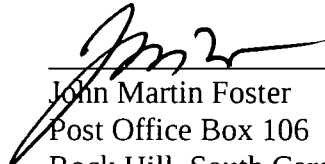
discharge as counsel of record, and a reasonable period for the Appellants to disclose their new counsel of record.

6. To this end, moving counsel requests that the Order of June 7, 2013 be set aside, that the Appeal be reinstated, that (as necessary) the remittitur be recalled and that the Appellants be granted a reasonable period in which to name their substitute counsel.

The basis of this Motion is the within-cited Rules, the records of this appeal, and any attached affidavit or stipulation of the undersigned, which items are hereby incorporated in this Motion.

WHEREFORE, counsel moves that the Order of June 7, 2013 be set aside, that the Appeal be reinstated, that (as necessary) the remittitur be recalled and that the Appellants be granted a reasonable period in which to name their substitute counsel.

February 3, 2012



John Martin Foster
Post Office Box 106
Rock Hill, South Carolina 29731
803 324-8100
Attorney for Appellants

Other Counsel of Record:

Wm. Mark White
Jeremy D. Melville
Spencer & Spencer, P.A.
Post Office Box 790
Rock Hill, S.C. 29731
803 327-7191

J & J Properties of Lake Wylie, Inc.
Mr. Jerrold H. Pettus
Post Office Box 5274
Lake Wylie, S.C. 29710

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PROOF OF SERVICE

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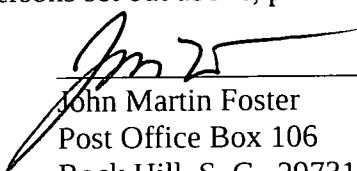
I certify that I have served the Motion to Reconsider and to Reinstate Appeal dated June 17, 2013, on the following counsel or persons of record:

Wm. Mark White
Jeremy D. Melville
Spencer & Spencer, P.A.
Post Office Box 790
Rock Hill, S.C. 29731

J & J Properties of Lake Wylie, Inc.
Mr. Jerrold H. Pettus
Post Office Box 5274
Lake Wylie, S.C. 29710

by depositing the same with the United States mail, with sufficient first class postage attached, properly addressed to the clerk of the Court, and with a copy also directed to the respective last known address(es) of those attorney(s) and/or persons set out above, pursuant to Rule 262, S.C.A.C.R.

June 17, 2013



John Martin Foster
Post Office Box 106
Rock Hill, S. C. 29731-6106
803 324-8100
Attorney for Appellants

RE: J&J Properties Foreclosure

Subject: RE: J&J Properties Foreclosure

From: JR Pettus <jr@3hughes.com>

Date: 05/14/2013 11:45 AM

To: John Martin Foster <jmfoster@comporium.net>

CC: "MICHAEL LUKSIE (michaellukse@aol.com)"
<michaellukse@aol.com>

Martin, We will have another attorney signed up by tomorrow, to hand off the files. Sorry it has come to this, but in this case blame is not assigned, but earned. We based our whole bankruptcy strategy on timing the bankruptcy filing one to two business days before the final foreclosure sale date, which you stated to Michael and I on multiple occasions to be the date of January 7th, 2013. Now we are worried there might be other errors in the foreclosure representation.

We working hard to settle this Crescent situation and clean everything up in a non-adversarial way, but we have to keep all options open at this point including the ability to bring suit. Stay tuned.

J.R. (Jerry) Pettus
Mobile 803-984-8184
Atomic Property Advisors
enjoi digital studios

From: John Martin Foster [mailto:jmfoster@comporium.net]

Sent: Tuesday, May 14, 2013 11:21 AM

To: JR Pettus

Subject: Re: J&J Properties Foreclosure

JR:

Fine. I assume, since you wish to assign blame to me on the dates, I am not to handle the appeal to the SC Court of Appeals. Please inform me who, if anyone, is to take over so that I may pass the documents to him.

On 05/13/2013 03:49 PM, JR Pettus wrote:

Martin,

Based on today's email from Reid Smith, the fact that you told us the wrong date to file the Chapter 11, the J&J Properties of Lake Wylie, SC bankruptcy case is now out the window. As you know we filed the bankruptcy case on January 4th 2013 based on the instructions from you that the final foreclosure sale of J&J property would not occur until January 7th, 2013. In fact the final foreclosure sale took place January 2nd 2013. The damages for this grievous error are well in excess of \$1,000,000 to Jerry Pettus Sr.

We need to know how you plan to remedy this situation. J&J Properties and Jerry Pettus Sr. reserve all it's and his rights allowed by law.

Sincerely

RE: J&J Properties Foreclosure

J.R. (Jerry) Pettus
Mobile 803-984-8184
Atomic Property Advisors
enjoy digital studios

--

John Martin Foster jmfoster@comporium.net

223 East Main Street Suite 520 Rock Hill SC 29730

Post Office Box 106 Rock Hill SC 29731-6106

803 324-8100 803 324-8109: Fax

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The Guardian Building 223 East Main Street Suite 520 Rock Hill South Carolina 29730	PO Box 106 Rock Hill SC 29731-6106	803 324 8100 803 324 8109 Fax jmfoster@comporium.net
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June 17, 2013

**The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals**

1015 Sumter Street
Post Office Box 11629
Columbia, SC 29211

**Re: Crescent Resources, LLC, Respondent
v. J&J Propertiew of Lake Wylie, LLC and Jerrold H. Pettus, Appellants
Civil Action No. 10-CP-13-0164**

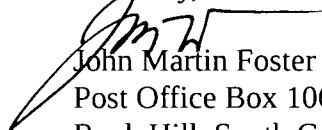
Dear Ms. Kitchings:

In accordance with Rules 240 and 263(a), S.C.A.C.R., enclosed herewith please find the original and seven (7) copies of the Motion by moving Counsel to Reconsider and to Reinstate Appeal, together with Certificate of Service for the same in the above referenced case. I also enclose our Amended Proof of Service and our check for the Motion fee of \$25.00.

By copy of this letter, I am serving the attorney for the Respondents, and Appellants, with copies of the said Motion, as evidenced by the Certificate of Service.

Please return the extra conformed copy to my office in the enclosed self-addressed, stamped envelope. As always, thank you, and your staff, for your assistance in these matters.

Sincerely,



John Martin Foster
Post Office Box 106
Rock Hill, South Carolina 297
803 324-8100
Attorney for Appellants

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jmf/
enclosures

Other counsel of record:

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