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**Oct 10 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

Appellate Case No. 2023-001147

APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

Marvin H. Dukes III, Master in  
Equity and Special Circuit Court Judge  
Case No. 2020-CP-07- 00977

BOKF Real Estate Holding, LLC

Respondent,

v.

T & S Management, Inc. and  
Turan Strange

Appellants.

\_\_\_\_\_

MOTION TO REINSTATE APPEAL

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Appellants T & S Management, Inc. and Turan Strange, through undersigned counsel, respectfully move the Honorable Court for an Order reinstating their appeal in response to the Order entered by the Clerk of Court on October 2, 2023 due to failure to order the transcript in this matter. In support of their Motion, Appellants submit the following to the Court:

1. Counsel for Appellants did not read the Clerk's instruction dated August 31, 2023 regarding the transcript and case scheduling until after Counsel received the Court's Order of October 2, 2023 by email. After receiving the Order on October 2, counsel searched his email server and discovered that the August 31 transmission from the Court had been routed into a spam folder instead of the regular inbox and thus was not seen timely. Counsel also uses a back up email

address with court administration—the August 31 instruction was located in that back up email inbox, however counsel did not locate it or read it until after the October 2 Order, likely due to the large volume of incoming email in that historical inbox and travel the week which included August 31. In sum, counsel inadvertently and unintentionally failed to respond to the Court’s instruction of August 31, which caused Appellants to miss the instructed transcript deadline. Counsel requests that the Court consider counsel’s omission, under the circumstances, to be excusable.

2. The appeal filed in this matter appealed the trial court’s denial of a Rule 59 Motion to Alter and Amend in this matter, which followed virtual hearings at which no court reporter was present. If the appeal is re-instated, counsel will obtain and file the trial Court’s documentation of the proceedings conducted via web and/or by phone, after obtaining a copy of same.
3. Counsel is filing with this Motion a separate Motion to Amend the appeal to include the appeal of the underlying order granting summary judgment. Counsel mistakenly understood that the appeal of the denial of the Rule 59 Motion encompassed the underlying Order entered under Rule 56, and now understands after communication with the Court that both Orders are to be referenced in the appeal. Counsel has learned that a court reporter was present at the initial summary judgment hearing, and that as of this date a transcript of the Rule 56 motion hearing has not been ordered by any party. Counsel has made contact with the court reporter for the March hearing. If the appeal is re-instated, counsel has been informed that a transcript can be produced. Counsel requests sufficient time to request the production of the transcript for filing.

4. Counsel's omission regarding the August 31 instruction(s) has not unduly prejudiced the Respondent.

5.

WHEREFORE, Appellants, through undersigned counsel, respectfully request that the Honorable Court re-instate their appeal for good cause shown, and for such other relief as the Court deems just and proper.

October 10, 2023

Respectfully Submitted,

Mogil Law Firm

A handwritten signature in black ink, appearing to read "Michael W. Mogil", is written over a horizontal line.

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