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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM WILLIAMSBURG COUNTY
Court of Common Pleas, 3RD Circuit

R. Ferrell Cothran, Jr., Circuit Court Judge

COMMON PLEAS CASE NOS.: 2018-CP-45-00258 and 2019-CP-45-00193

Appellate Case No. 2023-001087

Bank of Newington, Appellant-Respondent,

v.

LHSC, Inc., Williamsburg County Development Corporation,
Viking Fire Protection, Inc. of the Southeast, and HBC, Inc.,
Defendants,

of which Williamsburg County Development Corporation and
HBC, Inc. are the Respondents-Appellants,

AND

HBC, Inc., Cross-Claimant, Respondent-Appellant,

v.

LHSC, Inc., Cross-Claim Defendant,

AND

HBC, Inc., 3rd Party Plaintiff, Respondent-Appellant,

v.

Louis Hornick, II, Bank of Newington, and Blake Fickling,
3rd Party Defendants,

AND

Williamsburg County Development Corporation, Cross- Claimant, Respondent-

Appellant,

v.

LHSC, Inc., Cross-Claim Defendant,

AND

Williamsburg County Development Corporation, 3rd Party Plaintiff,
Respondent-Appellant,

v.

Louis Hornick, II, and Blake Fickling, 3rd Party Defendants.

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Attorney for Respondent-Appellant HBC, Inc.

December 6, 2023

Greenville, South Carolina

**RESPONDENT-APPELLANT HBC INC.'S DESIGNATION OF
MATTER TO BE INCLUDED ON THE RECORD OF APPEAL**

Respondent-Appellant HBC Inc. designate the following documents to be included in the
Record on Appeal:

- 1) 2022-08-17 FILED Order Granting Viking SJ v HBC;
- 2) 2022-08-22 FILED Transcript of Judgment Viking v HBC - 257,538;
- 3) 2022-11-21 FILED WCDC proposed Amended Ans and CC v BON;

- 4) 2022-12-02 FILED Viking Motion to Amend add CC v BON;
- 5) 2022-03-10 FILED Foreclosure Decree;
- 6) 2022-07-07 FILED HBC Rule 59 Motion re Discovery from BON;
- 7) 2022-12-21 FILED Notice of Assignment of Judgment - WMSBG CTY;
- 8) 2022-12-02 FILED Viking proposed Amended Answer and CC v BON;
- 9) 2023-02-07 Judge Cothran Email Instructions - Bank of Newington v. LHSC, Inc. et al, 2019CP4500193;
- 10) 2023-01-30 HBC Post-Trial Memo to Judge Cothran re Damages;
- 11) 2023-03-13 FILED Order - Prioritize Liens, Disb of Funds 2019-Cp-45-00193;
- 12) 2023-01-17 FILED HBC Offer of Settlement 262,496.50;
- 13) 2023-03-22 FILED BON Motion for New Trial and to Reconsider;
- 14) 2023-06-12 FILED WCDC Rule 59;
- 15) 2023-06-02 FILED Amended Order;
- 16) 2023-06-29 FILED BON Notice of Appeal 3-13 and 6-2-23 orders;
- 17) 2023-07-25 FILED Order Denying WCDC Rule 59 and Bank Stay;
- 18) 2023-08-02 FILED HBC Rule 59 re July 25 2023 order;
- 19) 2023-07-26 FILED HBC Notice of Cross Appeal;
- 20) BON Trial Exhibit 9, Assignment of Construction Contract (LHSC_0351 to 0353) ;
- 21) HBC Trial Ex. 1 – USDA Conditional Commitment, BON_467b to 479;
- 22) HBC Trial Ex. 2 – AIA Contract w LHSC, Feb. 2, 2017;
- 23) HBC Trial Ex. 3 – BON Loan Disbursement Records, 11 pages;
- 24) HBC Trial Ex. 4, 2017-03-08, BON_0007 to 0131 - Coastal Settlement Statements;
- 25) HBC Trial Ex. 5, 2017-03-08, Coastal Securities Confirm Wire, BON_005673;

- 26) HBC Trial Ex. 6, 2017-03-06, BON contract w USDA Facilitator, 1 page;
- 27) HBC Trial Ex. 7 - BON 480 to 482 BON Loan Disbursements;
- 28) HBC Trial Ex. 8, 2017-03-12, LHSC 91786 Control Acc't Statements (80 pages);
- 29) HBC Trial Ex. 9, March 2017 LHSC 91786 Control Acc't Statement (3 pages);
- 30) HBC Trial Ex. 10 - Ex_33_Disbursements for 30(b)(6), rec'd 12-1-2022;
- 31) HBC Trial Ex. 10A, BON disbursements after 2017-12-07 to Capital & Contingencies, and Inventory, totaling \$401,841.12;
- 32) HBC Trial Ex. 11, BON revenue / profits \$509,485.22 from USDA Loan;
- 33) HBC Trial Ex. 12, 2017-03-02, email to Fickling, wire / Check fr closing (3 pages);
- 34) HBC Trial Ex. 14, 2017-12-22, Partner Report, BON_937 to 972;
- 35) HBC Trial Ex. 15, 2017-12-08, Fickling Hornick, Viking Discount, BON_929 to 933;
- 36) HBC Trial Ex. 16, 2017-12-14, Fickling to Hornick, Final Payment, BON_934 to 936;
- 37) HBC Trial Ex. 17, LHSC and BON Privilege Logs, 6 pages;
- 38) HBC Trial Ex. 18, 2018-03-27, Blake Fickling - proposed LTR for Jeff to fwd to Viking, LHSC-0088 to 0089;
- 39) HBC Trial Ex. 19, 2018-03-27, HBC email resp. to Fickling, LHSC-0086 to 87;
- 40) HBC Trial Ex. 20, 2017-03-02, equipment invoice emails, \$603,787 wire to LHSC;
- 41) HBC Trial Ex. 21, 2017-11-15, partial C.O., need equipment, 1 page;
- 42) HBC Trial Ex. 22, 2017-12-01, Fickling to USDA (equipment) BON_3379 to 3380;
- 43) HBC Trial Ex. 23, HBC counsel, Aff. Attorneys Fees, Costs, Jan. 22, 2023, 6 pages;
- 44) HBC Trial Ex. 24, 2018-04-30, BON to USDA, LHSC Sales, BON_5592 to 5594;
- 45) HBC Trial Ex. 25, 2017-01-27, BON email, \$300,000 profit, BON_1213 to 1214;

- 46) HBC Trial Ex. 26, Feb. 20, 2017, BON to USDA
- 47) HBC Trial Ex. 27, Mar. 1, 2017, USDA to BON, 200k Contingencies and Reserves;
- 48) HBC Trial Ex. 28, Mar. 1, 2017, BON to USDA re Capital & Contingencies;
- 49) HBC Trial Ex. 29, June 8, 2017, change order for sprinklers, signed by Hornick;
- 50) HBC Trial Ex. 30, July 17, 2017, Hornick signs to authorize payment to HBC;
- 51) HBC Trial Ex. 31, July 27, 2017 WCDC to BON, \$350,000.00 grant funds, 1 page;
- 52) HBC Trial Ex. 32, Nov. 21, 2017, Hornick alleges HBC breach, 4 pages (redacted);
- 53) HBC Trial Ex. 33, Nov. 27, 2017, Hornick email re: sue Viking;
- 54) HBC Trial Ex. 34, HBC Pay App No. 8, Nov. 28, 2017;
- 55) HBC Trial Ex. 35, HBC Kingtree Payments Report, \$1,347,300.00, 1 page;
- 56) HBC Trial Ex. 36, Banknet, net worth / assets of BON, 3 pages;
- 57) HBC Trial Ex. 37, 2020-02-17, equipment mfr. emails to BON, 2 pages;
- 58) HBC Trial Ex. 38, April 9, 2018, dumpster removal email, 1 page;
- 59) HBC Trial Ex. 39, May 4, 2018, HBC Mechanics Lien Notice, filed June 6, 2018;
- 60) HBC Trial Ex. 40, HBC Amended Mechanics Lien Notice, filed July 2, 2018;
- 61) HBC Trial Ex. 41, June 8, 2018, service letter to LHSC;
- 62) HBC Trial Ex. 42, 2017-12-13, Viking discount negotiations, 3 pages (redacted);
- 63) HBC Trial Ex. 43, 2017-12-04 USDA Category Track Spreadsheet, LHSC-0452;
- 64) Aug. 8-9, 2023, Escrow Acct. Disbursement Instructions, 6 pages;

I certify that this designation contains no matter which is irrelevant to this appeal.

[signature on next page]

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT-
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