

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Larry B. Hyman, Jr., Circuit Court Judge

Case No. 10-CP-26-9113
Appellate Case No.: 2012-213156

Scott Lemons and Gold Coast Resorts, LLC.....Appellant

v.

The McNair Law Firm, P.A.....Respondents

SUPPLEMENT RECORD ON APPEAL

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1 property, don't you?

2 A: And I believe I did that.

3 Q: You told your realtor that.

4 A: That's, that's correct.

5 Q: And you expected him to disclose that on your

6 behalf to Mr. Hyatt: is that correct?

7 A: That's correct.

8 Q: And you would consider wetlands to be a material

9 defect in the property: wouldn't you?

10 A: I would consider that to be an issue.

11 Q: A material issue?

12 A: Okay.

13 Q: Is that right? Yes?

14 A: It depends on what you call material, but yeah, I

15 would ---

16 Q: Significant.

17 A: Significant? It's an issue on a lot of

18 properties. I'd consider it an issue.

19 Q: Now, did you ever tell Kenny Hyatt that you were

20 wanting to close on this transaction?

21 A: I've never talked to Mr. Hyatt.

22 Q: And did you ever tell Mr. Haam that you were

23 ready to close on the transaction?

24 A: I believe I did.

25 Q: What lawyer was going to help you with this

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1 Q: Have you terminated your contract with Mr.

2 Delduca?

3 A: The contract has expired to my knowledge.

4 Q: And your ten thousand dollars was nonrefundable?

5 A: That is correct.

6 Q: Did you ever ask for the money back?

7 A: No, I did not.

8 Q: Did you speak with Mr. Delduca at any time

9 during, say, November of '06?

10 A: Did I speak with him?

11 Q: Yes.

12 A: I'm, I'm sure I did.

13 Q: What were y'all talking about?

14 A: What's the status?

15 Q: Did you tell him you weren't going to buy the

16 property?

17 A: I told him I had another opportunity on it.

18 Q: What does that mean?

19 A: It means that I had another opportunity to sell.

20 Q: I'm talking about buying it. Did you tell him,

21 "I'm going to buy it regardless of whether I sell

22 it," or "I'm not going to buy it now 'cause this

23 guy's not going to buy it from me."

24 A: I don't recall any conversation like that.

25 Again, we're getting back into two-year-old

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1 transition?

2 A: At first, it was going to be Dickie Lester. Then

3 it was going to be Shep Guyton. I wasn't too

4 sure on that, yet.

5 Q: Is Shep in private practice?

6 A: Shep is in private practice.

7 Q: He is?

8 A: (Indicates affirmatively.)

9 Q: And had you ever performed any kind of title work

10 on the property?

11 A: I believe title work had been pulled through

12 Dickie Lester's office but I think it was

13 supposed to have been transferred, if I remember

14 correctly, to Guyton Law Firm, and I don't

15 remember. I don't know if it had ever gone that

16 far.

17 Q: Were you aware of any mortgages or other liens

18 that Mr. Delduca had against the property?

19 A: ~~I, I don't. No, I don't.~~

20 Q: Any other title defects that Mr. Lester or Mr.

21 Guyton discovered from doing this title search?

22 A: No, not that I'm aware of. I don't.

23 Q: And Mr. Delduca has not returned your ten

24 thousand dollar deposit?

25 A: No.

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1 conversations. I don't remember specifically any

2 real conversations, other than the contract.

3 there was some wetlands, I was ready to close.

4 I'm still ready to close but I do not recall any

5 two-year-old conversations. I've had a lot of

6 conversations since then.

7 Q: How about with Mr. Delduca since then?

8 A: Not many, no.

9 Q: Did you have the money available on November 21st

10 to purchase this property?

11 A: Yes.

12 Q: Now, when you were answering Mr. Thompson's

13 questions, you said, "I diverted monies other

14 places, 'cause I didn't have it." Did you ---

15 A: No, you're incorrect.

16 Q: Okay.

17 A: I'm sorry to cut you off, but I didn't say that.

18 I said that I did put some money somewhere else.

19 ~~but I did not say I did not have it.~~

20 Q: Okay. You could've paid cash for it on November

21 ---

22 A: I could've closed on it multiple different ways.

23 Closing a real estate deal is fairly, it's not

24 that complicated.

25 Q: Did you have the money either through a bank or

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1 in your bank account?

2 A: I have the availability to close on it.

3 Q: I'm talking about on November 21st.

4 A: I had the availability to close on it.

5 Q: On November 21st, 2006.

6 A: On November 21st, November 22nd, January 5th and

7 today, yes.

8 Q: But the only reason you did not or have not

9 bought this property is because you can't turn

10 around and sell it to Kenny Hyatt?

11 A: Well, no, that's not the only reason, but, yes,

12 that is the main reason, yes.

13 Q: The main reason, okay. What are some of the

14 other reasons you haven't bought it?

15 A: Well, I mean, because we've been in litigations

16 for two years, or a year and a half.

17 Q: Has that kept you from buying it from Mr.

18 Delduca?

19 A: I mean, that would be a very good reason in my

20 opinion.

21 Q: Why?

22 A: Why? I don't know. I mean, you mentioned me

23 being a realtor. I see a clean contract here

24 with no contingencies, cash purchase to offer. I

25 mean, I know I'm not supposed to ask you

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1 A: I, I felt like that, yeah, there was some

2 wetlands on the property. Of course, I'm not an

3 expert by any means in that field, but it was

4 obvious that there was some wet.

5 Q: Prior to the expiration of your contract in

6 [Exhibit], you never made any effort with Mr.

7 Delduca to tell him that I was not interested in

8 buying it?

9 A: No.

10 Q: Why is that?

11 A: I didn't feel the need to.

12 Q: You didn't want your ten thousand dollars back?

13 A: I feel like a deal is a deal when I make a deal

14 with somebody, I believe in doing the right

15 thing.

16 Q: Even though you haven't bought it from him.

17 A: I made a deal.

18 Q: But you've never bought it from him.

19 A: I made a deal. When I wrote a hard money

20 contract, right then and there I had the option

21 to back out.

22 Q: So, the deal was a deal to buy this property

23 within 45 days from November 21st of '06 is when

24 this thing would've terminated, is that correct?

25 A: That's correct.

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1 questions so I won't, but I believe I'm going to

2 wait and see what the outcome of this is first,

3 from a financial position.

4 Q: So, you say that's -- I mean, is the only reason

5 that you haven't bought this property because you

6 can't sell it to Kenny Hyatt: is that the only

7 reason?

8 A: No. The only reason I haven't purchased it yet

9 is because I want to see the outcome.

10 Q: Once this is over, you still might buy it from

11 Mr. Delduca.

12 A: I might.

13 Q: Like anybody else might.

14 A: Yeah.

15 Q: Hasn't Exhibit 4 expired as well?

16 A: That's correct.

17 Q: Now, you told me there were wetlands on this

18 property. How did you learn that? From Mr.

19 Delduca and just your own personal knowledge: is

20 that your answer?

21 A: That's correct.

22 Q: And your personal knowledge was just from when

23 you went out there and looked at it and you

24 thought that was something, in your experience,

25 that you noticed?

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1 Q: And you never bought it within that time. That's

2 correct?

3 A: That's correct.

4 Q: But still, a deal was a deal and you were going

5 to live up to your deal?

6 A: That's correct.

7 Q: Even though you didn't buy it

8 A: That's correct.

9 Q: How do you live up to the deal when you don't buy

10 this property?

11 A: I lost my money.

12 Q: The ten thousand was your deal.

13 A: I lived up to that deal and I still will buy it,

14 as long as we can keep a good deal together.

15 Q: You will buy it, if you can turn around and sell

16 it for two times what you bought it for.

17 A: Ten times, a deal is a deal in my book.

18 Q: Give me one second, Mr. Lemons.

19 A: Take your time.

20 ***** OFF THE RECORD *****

21 (ON THE RECORD)

22 MR. PAYNE CONTINUES:

23 Q: Mr. Lemons, when's the last time you and Mr.

24 Naomi have spoken?

25 A: The last time me and Mr. Naomi have spoken?

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1 A: Not that I recall.
 2 Q: Just sued you out of the blue?
 3 A: I don't know. How, how do you sue people?
 4 Q: I was just wondering about any kind of warning.
 5 We talked about a letter. There was no phone
 6 call. You had no ---
 7 A: There could've been a letter. I mean, I can go
 8 back and bring all my files from the office, if
 9 you'd like, but I don't think that would be
 10 relevant. I get ten thousand letters a day, over
 11 fax, email, mail. I've got assistants that sift
 12 through all my stuff.
 13 Q: After the lawsuit was filed, I know y'all talked
 14 recently. How many times have you and Mr. Naomi
 15 spoken about other business deals or this lawsuit
 16 or anything?
 17 A: I don't recall, not many.
 18 Q: What was the gist when he would call you or you
 19 would call him?
 20 A: Let's get a deal done.
 21 Q: And was it more about your property, having him
 22 sell your property for you or find you a buyer
 23 for it?
 24 A: Or vice versa.
 25 Q: You were going to find a buyer for him on some

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1 estate, larger parcels, they normally require
 2 that you have open areas or green areas; do they
 3 not?
 4 A: That is correct.
 5 Q: Okay. Can't you use wetlands as those open or
 6 green areas?
 7 A: That is correct.
 8 Q: So a wetland isn't necessarily a defect, is it?
 9 A: Not necessarily. That's why I was having a hard
 10 time understanding his question.
 11 Q: Okay. As a matter of fact, it can be an asset.
 12 A: It very well could be an asset.
 13 Q: Okay. Do you know if Mr. Delduca will still sell
 14 you that property today for 1.4 million?
 15 A: Yes, I do.
 16 Q: And would you still sell that property today to
 17 Mr. Hyatt for 2.9 million?
 18 A: Yes, I will.
 19 Q: You didn't buy this property to take a loss on
 20 it, did you?
 21 A: No, I did not.
 22 Q: Nothing wrong with making a little money on it;
 23 is there?
 24 A: That's what it's all about.
 25 Q: As far as not having legal title to it, have you

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1 property that he had listed?
 2 A: I could be the buyer for him.
 3 Q: Okay. And did you initiate calls to Mr. Naomi
 4 since this lawsuit's been filed or did he call
 5 you?
 6 A: I'm sure it's been a little bit of both.
 7 Q: I'm going to show you Exhibit 7 here, Mr. Lemons.
 8 Is that your signature, you say?
 9 A: Yep.
 10 Q: The top line is your signature, seller?
 11 A: Yes.
 12 Q: And you signed that at the same Cracker Barrel by
 13 the Coastal Grande Mall?
 14 A: I believe so.
 15 Q: At the same time?
 16 A: Yes.
 17 Q: Okay, that's all I have.
 18 RE-EXAMINATION
 19 BY MR. THOMPSON:
 20 Q: Mr. Lemons?
 21 A: Yes.
 22 Q: You've been involved in the development of real
 23 estate; correct?
 24 A: That is correct.
 25 Q: And in Horry County whenever you develop real

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1 ever participated or have you ever seen anyone
 2 participate in simultaneous closing?
 3 A: All the time.
 4 Q: So, if Mr. Hyatt came to you and said, "Let's
 5 close," then you could close simultaneously with
 6 Mr. Delduca; correct?
 7 A: Yes, sir.
 8 Q: Is that what you'd planned on doing whenever ---
 9 A: Yes, sir.
 10 Q: And as far as not closing on the property, and
 11 selling it to someone else, have you had anybody
 12 come to you and offer you 2.9 million dollars
 13 since Mr. Hyatt's contract?
 14 A: No.
 15 Q: Thank you. That's all I have.
 16 RE-EXAMINATION
 17 BY MR. PAYNE:
 18 Q: You said you have used Dr. Beam for some other
 19 issues, is that right, not so much wetland issues
 20 but ---
 21 A: Yes.
 22 Q: He's very respected in the industry, don't you
 23 think?
 24 A: I feel like Dr. Beam is a respected guy, yes.
 25 Q: And if he told you that over 90 percent of this

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1 A. Because there was a breach of contract. It
2 was my understanding, and I went to go talk to my lawyer
3 and I relied upon my lawyer.

4 Q. Did your lawyer tell you not to buy the
5 property?

6 A. I don't remember all the communications
7 verbatim, but there was -- I didn't do anything without
8 the instruction of Mark McAdams and McNair Law Firm from
9 then on.

10 Q. But you understood that you still had the
11 option yourself to purchase this piece of property?

12 A. That's correct.

13 Q. That you had a contract, a purchase option
14 that you had paid for to purchase the property from the
15 original seller?

16 A. That's correct.

17 Q. And are you telling me that you rely on your
18 attorneys to advise you whether or not to invest in real
19 property?

20 A. I'm not a lawyer, but when a situation arises
21 like this, yes, I rely almost 100 percent solely on the
22 ~~advice of my lawyer and McNair Law Firm.~~

23 Q. Do you believe that Mr. Hyatt had the
24 financial ability to purchase the property from you?

25 A. I did.

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1 Q. Do you now believe that he actually had the
2 financial ability to purchase the property from you?

3 A. Yeah, I do believe that.

4 Q. Why do you believe that it didn't go through?

5 A. I believe that he had other intentions or
6 motives, but I really don't know what his thought
7 process was. I never met the man really outside of
8 deposition.

9 Q. Did you have any information about what he
10 intended to do with the property once he acquired it
11 from you?

12 A. Prior to depositions, no.

13 Q. Do you have an understanding now of what his
14 intent was?

15 A. I have an understanding.

16 Q. What is your understanding?

17 A. My understanding now, it looks like he was
18 trying to flip the property or something else, but I
19 don't remember what his intentions were.

20 Q. When C.S.E. and Tom Naomi brought a lawsuit
21 against you for the commission, did you consider suing
22 them for telling you that Kenny Hyatt was able and
23 really and willing to purchase the property?

24 A. I did, and I relied on Mark McAdams and McNair
25 Law Firm.

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1 A. I don't recall him telling me where it was to
2 get resolved; I don't remember that conversation.

3 Q. Prior to that deposition on March 11, had you
4 attended any other depositions?

5 A. In this case?

6 Q. Yes.

7 A. I attended other depositions, but I don't
8 recall the dates on them, Mr. Hyatt's.

9 Q. You attended Mr. Hyatt's deposition?

10 A. Yes.

11 Q. Had you attended any hearings in front of a
12 Judge that may have taken place?

13 A. No.

14 Q. Had you and Mark had any discussions about any
15 settlement of that case?

16 A. The best of my memory, he kept reassuring me
17 that it would settle, not go to trial.

18 Q. Did you have any discussions with him about
19 what you would be willing to settle the case for?

20 A. Actually, I remember a conversation saying
21 that I would be a fool to settle for anything less than
22 a million and-a-half, him telling me that. Yes.

23 Q. He told you that you would be a fool to settle
24 for less than \$1.5 million?

25 A. There was a conversation directly around that,

1 A. I did not.

2 Q. You mentioned that you had some concerns about
3 McAdams possibly cutting you out of this investment
4 deal, and that you contacted individuals at McNair Law
5 Firm in Columbia at that time; who did you contact?

6 A. Spoke with a gentleman named Michael at
7 McNair, I don't know his last name, on a few occasions,
8 quite a few occasions. And as it got more into it, I
9 got transferred to Jane Trinkley.

10 Q. Your first contacts, this is you contacting
11 the Columbia office of McNair, correct?

12 A. That's correct.

13 Q. And to the best of your recollection the first
14 contact that you had at McNair office in Columbia was
15 somebody named Michael?

16 A. That's correct.

17 Q. Was he an attorney?

18 A. That's my understanding, yes.

19 Q. I think you just testified that it was around
20 the same time frame, March of 2008, when all of this was
21 going on, but is that about the time that you remember
22 contacting Michael at McNair for the first time?

23 A. No, I believe I contacted him either late
24 December of '07 and into January of '08.

25 Q. How was Michael the individual that you ended

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1 up talking with?

2 A. I don't know to be honest with you.

3 Q. Did you ask Mark who at the Columbia office
4 you should call?

5 A. No, I just called the Columbia office, told
6 them that I needed to speak to someone, that I was a
7 previous client and I had some concerns.

8 Q. And you were directed to an individual named
9 Michael?

10 A. That's correct.

11 Q. Do you recall what you talked with him about
12 the first time you spoke with him?

13 A. I don't recall what we spoke about but I
14 recall letting him know that I just wanted to open a
15 line of communication with somebody, I didn't want to
16 hurt myself. Things were very edgy and I didn't want to
17 hurt myself, I wanted an open line of communication to
18 the firm.

19 Q. Was this contact with McNair in the Columbia
20 office arising out of your concern that Mark was cutting
21 you out of this business deal that we've talked about?

22 A. Yes.

23 Q. Did you explain that to Michael at McNair?

24 A. I didn't explain, from what I recall,
25 especially on the first few calls I didn't explain any

1 specifics other than I was under the impression that a
2 lot of money was at stake and I didn't want to risk my
3 own personal security divulging too much but wanted an
4 open line of communication to my firm.

5 Q. Did you explain that your concern was with
6 Mark McAdams?

7 A. I did.

8 Q. Did you initially?

9 A. I didn't on the first call. I'm pretty sure I
10 didn't on the first call, maybe not even the second.

11 Q. Do you recall what this individual named
12 Michael at McNair told you when you contacted him?

13 A. From what I remember he was very nice and
14 listened pretty close, and I had direct contact to him
15 for the other occasions that I called. I let him know
16 that I would be calling some more.

17 Q. Did you call him some more?

18 A. I called him numerous times.

19 Q. Were all the calls that you made to Michael
20 related to your concern than Mark McAdams was going to
21 cut you out of a business deal?

22 A. ~~At first, yes.~~

23 Q. You said at first, at some point did you make
24 other concerns known?

25 A. No, I made some other concerns known about the

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1 \$300,000 that was owed and I finally had to let my
2 credit go, I couldn't hold on anymore. And about that
3 time is when I got transferred to Jane Trinkley somehow,
4 it was around that time.

5 Q. Can you tell me how many times you talked to
6 Michael?

7 A. I can't tell you -- four, five, six seven,
8 eight, nine.

9 Q. What about Jane?

10 A. I spoke to Jane, I believe, it was three times
11 if my memory serves me, it may have been four; it was a
12 few times.

13 Q. You've testified that you talked to them about
14 your concern about being cut out of the business deal,
15 and the issue with your outstanding balance owed by
16 Colovin and Freeman. Did you raise any other concerns
17 with anyone in Columbia at McNair?

18 A. By the time I got to Jane, to the best of my
19 recollection, I was very stressed out. I was losing it
20 at this point. Didn't know what really to say, didn't
21 know what to say or what not to say.

22 I did ask her on numerous occasions on the
23 second or third call, I wanted to make sure that I was a
24 client of their firm. She was like, yes, but I can't
25 tell you what's going on here and was very astute to

1 that.

2 I don't remember which call it was to her but
3 I did express all my concerns and if I remember
4 correctly I was assured there was action being taken and
5 I remember I was concerned about my financial and
6 personal well-being at the time.

7 Q. Do you recall what time frame it was that you
8 called and made all your concerns known to Jane?

9 A. I don't remember exactly; early 2008.

10 Q. Would it have been before your deposition?

11 A. I have to think so, or right shortly there
12 after. But I have to think so.

13 Q. You mentioned at one point you made known your
14 concern about the loan you had made to Freeman and
15 Colovin, and that you were going to have to let your
16 credit go. Did you, at that point, had you sought the
17 advice of Counsel other than McNair to help you with
18 that?

19 A. At that point, no. Things were going very,
20 very, very quickly, very fast. And by the time -- I was
21 actually -- it took me -- I had stopped everything that
22 I was doing, everything in my life to figure out because
23 there was -- what I was told, millions of dollars on
24 this other stuff at stake.

25 So I devoted almost my entire being to

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1 figuring out what happened and what was going on.

2 Q. What would you say the time frame was that
3 this concern over the international investment and what
4 was going on with it was consuming your life?

5 A. From December, late December 2007 until I
6 started making good contact with Mark McAdams again. I
7 don't remember when that was, February maybe, early
8 February 2008, maybe.

9 Q. We just saw in the documents that we looked
10 at, we looked at the arrest records and your
11 interrogatory responses where you said you were in
12 rehabilitation in Florida from March 21, 2008 through
13 April 10th, 2008; is that accurate to the best of your
14 recollection?

15 A. Seems to be.

16 Q. Do you have any documents that show when you
17 were there and when you left?

18 A. I don't have any, I'm sure they can be gotten.

19 Q. Are the dates that you provided us that you
20 were there based on your memory, or did you look at
21 something to recall you were there?

22 A. I don't recall how I came up with that. I may
23 have looked at something or called down there and found
24 out.

25 Q. I believe your responses say that you were in

1 didn't even want to tell me what it was until I asked
2 him several times and when he told me it was a release
3 of escrow for RE/MAX, now sign it and I'll be in touch
4 with you, Scott, don't contact me, I'll be in touch with
5 you.

6 Q. Did you ask Mark McAdams if you could read the
7 document before you signed it?

8 A. I don't recall. I don't remember asking him
9 that specific question.

10 Q. Did Mark say anything to you about what would
11 happen if you didn't sign that document?

12 A. I don't recall.

13 Q. Tell me what Mark told you you were signing
14 this document for?

15 A. To release the earnest money, the \$10,000
16 Hyatt put up for escrow.

17 Q. The \$10,000?

18 A. That's correct, release 50 percent of it and
19 that was going to be whatever. Release of escrow for
20 Tom Naomi.

21 Q. It was going to be a partial release of
22 escrow?

23 A. I don't remember the term "partial", it was
24 partial payment for release of escrow.

25 Q. In your dealings in the real estate industry,

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1 had you ever heard of that before?

2 A. In my dealings in the real estate industry it
3 is standard. They do try to free up the real estate
4 company's trust accounts as quickly as possible.

5 Q. Even in the form of a partial release of that
6 money?

7 A. I was under the assumption -- again, this
8 conversation took literally three minutes, and I
9 believe -- my understanding, and don't ask me how I
10 understood this, I believed Tom Naomi was going to get
11 the other \$5,000 from Hyatt and we were commencing all
12 the other litigation.

13 Q. It was your understanding that by signing this
14 document you would be receiving \$5,000 that was being
15 held as earnest money?

16 A. That's correct.

17 Q. And as far as the claims between Tom Naomi and
18 you, and you and Kenny Hyatt, nothing was changing?

19 A. That was my understanding.

20 Q. So if you had refused to sign this, it isn't
21 the case that you wouldn't have gotten the money out of
22 your lawsuit, correct?

23 A. Ask the question again.

24 Q. You didn't understand that if you refused to
25 sign this document, you weren't going to get any of your

1 A. Karen Hartley being one of them.

2 Q. Okay. Anyone else?

3 A. No, Karen Hartley.

4 Q. Did you ask Mr. McAdams why he was taking
5 half of your earnest money?

6 A. No. I just wanted to make sure that the case
7 was still going on and that I had my money to look
8 forward to. He acknowledged that, so I felt pretty
9 confident.

10 Q. Tell me when you first learned that this
11 document, which is Exhibit Number 17 entitled Mutual
12 Release, was a release of your claims against
13 Mr. Hyatt?

14 A. I don't recall. I believe it was when I
15 showed up. It was either the day I showed up at court
16 or after I showed up at court or somewhere thereafter
17 where I was getting a judgment entered against me,
18 against the real estate agent. But it was somewhere in
19 that time frame. I can't honestly tell you. Again, it
20 was 2008. I'm sorry. Four years ago.

21 Q. Can you tell me how you came to understand
22 that the mutual release was actually a release of your
23 claims against Hyatt?

24 A. My memory serves me correctly, which it -- I
25 believe it was McAdams that told me after the fact.

1 Way after the fact, I think. But, again, I'm pretty
2 sure it was -- I think it was McAdams.

3 Q. Was that a telephone conversation or was it
4 in person, do you remember?

5 A. Well, there was many, many telephone
6 conversations, and I did not get to see him very much
7 thereafter. So I would assume it would be a telephone
8 conversation.

9 Q. To the best of your recollection, Mr. McAdams
10 told you that the claims against Mr. Hyatt had been
11 settled; is that correct?

12 A. I don't remember the nature of how the phone
13 call went down, but it was sometime -- and I don't even
14 remember how the conversation went, to be honest with
15 you, when he told me that. I remember being in shock
16 when I found out.

17 Q. Do you recall what you said to him?

18 A. I don't. I was just begging at the time for
19 him to take my calls. I was begging for him to answer
20 my calls. So I don't recall. I'm sorry.

21 Q. When you learned that this document was a
22 release of your claims against Hyatt, what steps did
23 you take?

24 A. Well, again, I don't know. It was there
25 about that time where when the judgment was entered

1 was to flip the property and sell it to someone else?

2 A. No. I don't remember ever even having a
3 conversation with Mr. Hyatt.

4 Q. Okay. Did you have any individuals who were
5 backup plans to Mr. Hyatt if Mr. Hyatt couldn't
6 perform?

7 A. Not that I can remember. I mean, I had a
8 clean contract, no contingencies, cash. I didn't feel
9 like I -- I pursued other things.

10 Q. Okay. Do you recall the amount of earnest
11 money that Mr. Hyatt put up in connection with his
12 contract to purchase the property from you?

13 A. I believe it was \$10,000.

14 Q. Okay. Why would you accept such a small
15 amount of earnest money on a contract of that size?

16 A. Well, it was a cash deal, no contingencies,
17 from a guy who I was being represented as a developer,
18 successful, and -- as well as another person that makes
19 pretty good income. And \$10,000 earnest money just --
20 if I remember -- I don't remember exactly what my
21 thought process was, but it seemed like an okay deal
22 considering the contract. Very clean contract. The
23 ~~cleaner the contract, the lower, you know, you can~~
24 negotiate on certain things.

25 Q. Had you ever dealt with Mr. Hyatt before?

1 A. No.

2 Q. Part of your claim in this case is that you
3 lost the value of a judgment against Mr. Hyatt,
4 correct?

5 A. Explain that question, please.

6 Q. Okay. Is it your claim that because of
7 McAdams settling this lawsuit for \$5,000, you did not
8 obtain the big judgment you believe you would have
9 obtained against Mr. Hyatt in connection with that
10 lawsuit?

11 A. Yeah. I mean, it's my belief that because of
12 McNair settling a transaction without me even being
13 present, I lost a substantial sum of money, yes.
14 That's my belief.

15 Q. If you got -- if you had obtained a judgment
16 against Mr. Hyatt in connection with your lawsuit, do
17 you know how much money you would have been able to
18 collect from him?

19 A. What I can recall, if -- coming out of Mark
20 McAdams was there were several assets that could have
21 been obtained. One of them that stands out in my mind
22 being a mini warehouse and some acreage and some lots
23 of ~~land on the intercoastal.~~ That's what I can recall
24 out of a conversation with Mark McAdams.

25 Q. Do you have any knowledge other than from

1 to sell it to Mr. Hyatt for 2.9?

2 A. That's correct.

3 Q. Okay. You testified a few minutes ago, I
4 believe, that even if Mr. Hyatt hadn't participated,
5 even if he had backed out, you were still able to go
6 ahead and purchase the waterway tract for \$1.4 million,
7 correct?

8 A. Okay. Yes. I could have still purchased the
9 waterway tract at \$1.4 million.

10 Q. Why didn't you use that money to get involved
11 in the St. Lucia deal if you needed a million dollars
12 to put up?

13 A. Immediately following -- immediately
14 following the breach of contract, there around
15 November, December, when I went in to see McDowell and
16 McAdams, McAdams salivating over the lawsuit, I stopped
17 pursuing this. And I did not have the means
18 necessarily to jump into what could have turned out to
19 be a -- I think it was about a hundred, I don't know,
20 hundred-and-some-odd-million-dollar deal. I just
21 couldn't take the risk.

22 Q. When were you approached with the opportunity
23 to get involved in this St. Lucia deal?

24 A. I don't recall. It was a lingering project
25 that had been around for some time, but I don't recall

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Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



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STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)
)
Scott Lemons and Gold Coast Resorts)
LLC,,)
)
Appellants,)
)
vs.)
)
The McNair Law)
Firm, P.A.,)
)
Respondents.)
_____)

IN THE COURT OF APPEALS
IN THE FIFTEEN JUDICIAL CIRCUIT
Case No. 2012-213156

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of October, 2013, I served, via first class mail, at the address below, a copy of the Appellant's Supplement Record on Appeal pertaining to the above-referenced action.

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Vicky McCarter
Legal Assistant

Columbia, South Carolina

Date: 10-2-13