

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Gordon G. Cooper, Master-in-Equity

Appellate Case No.: 2013-001508

RECEIVED

OCT 29 2013

SC Court of Appeals

Wells Fargo Bank, N.A. as Trustee
For Option One Mortgage Loan
Trust 2000-D, Asset Backed
Certificate, Series 200-D,.....Appellant,

v.

Mooring Secured Liquidity; Randy S.
Rutherford; Tara P. Rutherford;
Spartanburg County Tax Collector;
Sherman Acquisitions, LP,.....Respondents.

**INITIAL BRIEF OF RESPONDENT
MOORING SECURED LIQUIDITY**

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QUESTIONS PRESENTED

1. Whether the trial court erred in properly determining that the inequities presented from Appellant's conduct prevented Appellant from being afforded the protections of the bankruptcy court's automatic stay.
2. Whether the trial court erred in holding that laches barred Appellant's action to overturn the tax sale because the other parties were prejudiced by Appellant's unreasonable delay.
3. Whether the trial court erred in holding that Appellant was barred from relief because it acted with unclean hands.

STATEMENT OF THE CASE

This is an appeal from the Master-in-Equity's final Order denying Appellant's Rule 59(e) Motion for Reconsideration, and affirming an earlier Order of the Master-in-Equity dated March 6, 2013. The instant action was commenced by Appellant, Wells Fargo Bank, N.A. as Trustee for Option One Mortgage Loan Trust (hereinafter "Wells Fargo"), against Respondents, Mooring Secured Liquidity (hereafter "Mooring") and Randy S. and Tara P. Rutherford (hereafter "the Rutherfords"), on November 1, 2010, just two days prior to the expiration of the applicable Statute of Limitations. The Rutherfords filed and served their Answer and Counterclaim on December 6, 2010. In their Answer the Rutherfords raised the affirmative defenses of laches and unclean hands. *See* Answer of Rutherfords at ¶¶ 6, 10. Thereafter, on February 11, 2010, Mooring filed and served its Answer and Counterclaim seeking to quiet title following a tax sale. Wells Fargo issued a reply on March 14, 2011.

Following a Motion by Counsel for Wells Fargo the case was referred to the Master on September 29, 2011. *See* Order of Reference September 29, 2011. Wells Fargo moved for Summary Judgment on November 3, 2011, and a hearing was held on January 12, 2012. By Order dated April 20, 2012, Wells Fargo's Summary Judgment Motion was denied as untimely, and Spartanburg County Tax Collector (hereafter "Tax Collector") was joined in the action as an indispensable party following disclosure to the Court that the Rutherfords had been paid the overage amount that had been held by Spartanburg County. *See* Order April 20, 2012 at ¶¶ 3,4.

A final hearing on the merits of the case came before the lower court on February 12, 2013. At that hearing the Court determined that Plaintiff's action to set aside the tax sale was improper based on the doctrine of laches, and unclean hands. The Court also granted Defendant Mooring relief under its Counterclaim to Quiet Title of the Subject Property following the tax

sale. The Court set out all of its findings in an Order dated March 6, 2013. Appellant filed a timely Rule 59(e) Motion to Reconsider on March 20, 2013. A hearing was held on Appellant's motion on May 29, 2013, and an Order denying Appellant's Motion was entered on June 11, 2013. Thereafter, Counsel for Appellant filed and served its Notice of Intent to Appeal on all parties and the lower court on July 12, 2013.

STATEMENT OF FACTS

By deed dated June 16, 1998, and recorded on June 18, 1998, in the office of the Register of Deeds for Spartanburg County, South Carolina, in Deed Book 68A, Page 961, Durham Construction Company, Inc. conveyed to the Rutherfords the following described property, to-wit:

All that certain piece, parcel or lot of land with all improvements located thereon, situate, lying and being in the County of Spartanburg, State of South Carolina, and being shown and designated as Lot No. 25 on original plat of Palmetto Estates, prepared by Farley-Collins & Associates, dated August 7, 1968, and recorded in Plat Book 57, Page 518, RMC Office for Spartanburg County, S.C. For a more complete and particular description, reference is hereby made to the above referred to plat and record thereof. This being the same property conveyed to Randy S. Rutherford and Tara P. Rutherford by deed from Durham Construction Company, Inc., dated June 16, 1998 and recorded on June 18, 1998 in Deed Book 68A Page 961 R.M.C. Office for Spartanburg County, S. C.

Address: 327 Palmetto Circle, Greer, South Carolina 29651

TMS # 5 13-08 039.00

(hereinafter "the Subject Property"). See Order March 6, 2013 at p. 2.

On January 4, 2007, Wells Fargo instituted an action for foreclosure of the Subject Property bearing Civil Action Number 2007-CP-42-0039. *Id.* An Order awarding judgment for Wells Fargo in that action was entered on February 28, 2007. See Pls. Trial Ex. 3. Following the issuance of the aforementioned Order, the Subject Property was set to be sold by way of a foreclosure sale on April 2, 2007. *Id.* The Master-in-Equity received a letter from Counsel for Wells Fargo on March 29, 2007, advising the Court that the Rutherfords had declared Bankruptcy, and requesting that the Subject Property be removed from the sale roster. See Final Hr'g. Tr. at 29:13-16, Feb. 12, 2013; See also Pls. Trial Ex. 4. Pursuant to the request of counsel for Wells Fargo the trial Court issued a Form 4 Order placing the case on the SCRCF Rule 40(j) roster with leave to restore when the issues of bankruptcy were resolved. See Final Hr'g Tr. at

29:17. The Bankruptcy Court granted Appellant, by way of their servicer, relief from the automatic stay of 11 U.S.C. § 362 in an Order of May 9, 2008. *See* Pls. Trial Ex. 12.

Following the case being placed on the 40(j) roster, the Rutherfords neglected to pay their duly owed property taxes to Spartanburg County for the 2007 tax year. On November 3, 2008, following a tax execution to levy by distress and sell said property, and upon all required notices of delinquent taxes to the Rutherfords and due advertisement, Tax Collector, during the usual hours of sale, did sell and received payment for the Subject Property and gave receipt therefore to Mooring, the highest bidder at such sale for the sum of Thirty Thousand and 00/100 Dollars (\$30,000.00), in accordance with Section 12-51-60, code of Laws of South Carolina, 1976, as amended. *See* Pls. Ex. 7. Spartanburg County issued a Tax Deed to Mooring on January 15, 2010, and that deed was recorded on March 23, 2010, in Deed Book 95-V at Page 404 in the Office of the Register of Deeds for Spartanburg County, South Carolina.

After the sale of the Subject Property, Tax Collector properly notified Wells Fargo of their right to redeem the property. *See* Pls. Ex. 7 The notice of the right to redeem was signed by Wells Fargo on October 9, 2009. *Id.* On December 3, 2009, almost two months after receiving notice that the property had been sold and the notice of the right to redemption, Wells Fargo made a motion to restore their prior Foreclosure Action to the docket. *See* Final Hr'g. Tr. at 29:20-1. An Order of the trial court granting such relief was entered on March 19, 2010. *Id.* Prior to the trial court entering its March 19, 2010, Order the Rutherfords' Bankruptcy case was dismissed on January 19, 2010. *See* Pls. Trial Ex. 9.

The trial court held a supplemental hearing on April 7, 2010, and the judgment numbers from the earlier foreclosure judgment were augmented to reflect the laps of time since the initial Order. *Id.* at 30:11-20; *See also* Pls. Trial Ex. 11. Additionally, the Subject Property was placed

on the foreclosure sale roster for May 3, 2010, despite the fact that Wells Fargo knew at that point in time that the property had been sold at the tax sale. *Id.* Just prior to the sale date, counsel for Wells Fargo informed the Court that the sale should be canceled, and the Court granted that request. *Id.* The instant action followed.

ARGUMENT

THE TRIAL COURT PROPERLY APPLIED THE EQUITIES PRESENTED AT TRIAL TO DETERMINE THAT APPELLANT WAS NOT ENTITLED TO THE PROTECTIONS OF THE AUTOMATIC STAY.

It is undisputed that upon the filing of the Rutherford's March 29, 2007, bankruptcy petition that the Subject Property became a part of the Bankruptcy Estate. Traditionally, the initiation of a bankruptcy petition operates as an automatic stay of any act to create, perfect, or enforce any lien against property of the bankruptcy estate. See *In re Howard*, 391 B.R. 511, 514 (Bankr. N.D.Ga 2008). Ordinarily, orders issued in violation of the stay are void. *Kalb v. Feuerstein*, 308 U.S. 433 (1940). Some courts however have noted that equitable and due process considerations apply in the exercise of bankruptcy jurisdiction, and in accessing the protections of the automatic stay. See *In re Smith Corset Shops, Inc.*, 696 F.2d 971, 976 (1st Cir. 1982)¹; *Mathews v. Rosene*, 739 F.2d 249 (7th Cir. 1984)²; *In re Calder*, 907 F.2d 953, 956-7 (10th Cir. 1990)³; *In re Howard*, 391 B.R. 511.

The *Calder* Court stated that "equitable principles, may in some circumstances, be applicable to claimed violations of the stay...courts will apply equitable considerations at least where the creditor was without actual knowledge of a bankruptcy petition and the bankrupt's unreasonable behavior contributed to the creditor's plight." *In re Calder*, 907 F.2d at 956. Importantly, where a party claiming the protections of the automatic stay has acted inequitably the *Calder* Court found that to "permit the automatic stay provision to be used as a trump card

¹ Finding that a debtor who acts in an inequitable manner should not be able to find shelter under the automatic stay against a creditor who acted equitably and without knowledge of the bankruptcy filing.

² Holding that laches barred a debtor's attempt to void a 33-month-old state court judgment on the basis of the automatic stay.

³ Finding that the party seeking to assert the protection of the automatic stay must bear some responsibility for his unreasonable delay in asserting his rights under section 362(a).

played after an unfavorable result was reached in state court, would be inconsistent with the underlying purpose of the automatic stay. . . ." *Id.* at 956-7. When presented with a similar factual situation the Court in *Howard, supra.*, determined that while a tax sale may have occurred in violation of the bankruptcy stay, a mortgage creditor could still be denied the protections of the bankruptcy stay where that creditor failed to take such timely steps to protect its financial interests. *See In re Howard*, 391 B.R. at 519.⁴ The *Howard* Court stated in pertinent part that the creditor "may not have engaged in inequitable or unreasonable conduct in the sense that it acted in bad faith, analysis of its conduct from an equitable standpoint clearly requires consideration of its failure to protect its legal and financial stake in the Property." *Id.*⁵

While the automatic stay was in effect at the time the Subject Property was sold at tax sale, that violation of the stay ultimately should be allowed based upon the inequities presented from Appellant's conduct in failing to properly protect its legal and financial stake in the property. Admittedly, the Tax Collector properly notified Wells Fargo on October 9, 2009, of the tax sale, and the applicable redemption period. *See* Brief of Appellant at Page 13. Upon receipt of this notice, Wells Fargo could have exercised their rights in the property through either redemption, or an action to immediately void the tax sale. Further, at the time that Wells Fargo became aware that the automatic stay had been violated, the bankruptcy action was still pending and Wells Fargo could easily have asked the Bankruptcy Court, the court tasked with

⁴ The *Howard* case was brought by a mortgage creditor against Rockdale County Georgia and a third party purchaser at a tax sale to set aside the tax sale which occurred during the pendency of the automatic stay protections for the debtor. Critically, the Bankruptcy Court noted that neither the County nor the tax sale purchaser were under a general duty to search the bankruptcy records for a particular piece of property to determine if a stay was in place. *See In re Howard*, 391 B.R. at 517.

⁵ Interestingly, Counsel for Appellant stated at the final hearing that he was relying on the opinion in *Howard* for the proposition that the mortgage company had a right to attack a tax sale for violating the automatic stay; however, Counsel for Appellant failed to indicate that the mortgage company's conduct resulted in their challenge to the tax sale being denied.

administering core functions of bankruptcy administration, to take such steps as were necessary to protect their rights in the property.

The conscious decision not to take such steps as to protect their legal and financial stake in the Subject Property evidences that Wells Fargo' conduct is analogous to the mortgage creditor in *Howard, supra.*, and should prevent Wells Fargo from enjoying the protections of the automatic stay in a proceeding which it instituted in a South Carolina state court some thirteen (13) months after it became aware that the Subject Property was sold in violation of the stay. In fact as the Lower Court properly observed "Wells Fargo did *nothing from the period of March 29, 2007, until the beginning of November of 2010*, despite notifications both actual and implied: (1) That that the tax sale had occurred; (2) That Wells Fargo had a right to redeem the Subject Property; (3) That Mooring's tax deed had been recorded; and, (4) That the overage had been paid to the Rutherfords." See Order March 6, 2013 (emphasis added). Clearly such conduct evidences a lack of care as to Wells Fargo's legal and financial rights regarding the Subject Property; and, should prevent Wells Fargo from using the automatic stay as a "trump card" to alleviate their own self-inflicted injuries.

Wells Fargo should not be allowed to benefit from the protections of the automatic stay when their conduct evidences a lack of diligence and care in protecting its interest in the Subject Property. Therefore, the decision of the Master-in-Equity should be affirmed because the equities presented justified validating the tax sale despite the automatic stay of the bankruptcy court.

**THE TRIAL COURT PROPERLY APPLIED THE
EQUITABLE DOCTRINE OF LACHES BASED UPON THE
PREJUDICE TO RESPONDENTS FLOWING FROM
APPELLANT'S UNREASONABLE CONDUCT.**

The trial court properly determined that Appellant's conduct created or would create prejudice to Respondents and therefore barred Appellant's challenge to the tax sale under the equitable doctrine of laches. It has been stated in pertinent part that: "[U]nder the doctrine of laches, if a party, knowing his rights, does not seasonably assert them, but by unreasonable delay causes his adversary to incur expenses or enter into obligations or otherwise detrimentally change his position then equity will ordinarily refuse to enforce those rights." See *King v. James*, 388 S.C. 16 (2010). Further, the party seeking to establish laches must show: (1) a delay; (2) that was unreasonable under the circumstances; and, (3) prejudice. *Id.*

Appellant contends that because this action was instituted prior to the running of the two year Statute of Limitations that the Court should be held to a heightened standard in applying the doctrine of laches. Under such a heightened standard:

"[I]n order to constitute laches, there must be shown, not merely neglect for a time to enforce a legal or equitable right, where such neglect is for a period short of that which is a bar under the statute of limitations, but it must further be made to appear that such delay was accompanied by some act on the part of the person so negligent, which operated to mislead the person pleading such neglect, to his prejudice to such an extent that it would be unjust and inequitable thereafter to permit such negligent party to enforce such right.

See *Edwards v. Johnson*, 90 S.C. 90, 103-4 (1911)⁶.

In the case at bar the evidence presented shows that not only did Wells Fargo make a *conscious decision to do nothing* regarding the subject property, but the evidence also shows

⁶ While somewhat instructive, it should be noted that the *Edwards* case is entirely different from the case at bar, in that the *Edwards* case dealt with a business agreement between partners, and when one partner attempted to engage in terms that were inconsistent with the partnership agreement the others immediately insisted that he comply, thus muting any claims that the other partners were barred by laches. Clearly, in the present case Wells Fargo did nothing when faced with documentation and knowledge that their rights in the Subject Property could be affected through action or inaction.

that Mooring and the Tax Collector would suffer prejudice should Wells Fargo be allowed to have the remedy that they seek. Therefore, this Court should affirm the findings of the trial court as being supported by the evidence presented at trial.

I. Respondents have met their burden in establishing the existence of laches.

Appellant posits that the violation of stay effectively moots any finding of laches; however, as aforementioned the violation of stay did not destroy the result of the tax sale because of the Appellant's inequitable conduct in failing to protect its legal and financial rights in the subject property; therefore, the trial court's determination that the equitable doctrine of laches bars the Appellant's action to invalidate the tax sale was proper.

Counsel for Wells Fargo at the final hearing on this matter stated that during the period of the automatic stay, Wells Fargo had been provided with notice of the right to redeem the Subject Property. *See* Final Hr'g. Tr. At 15:25-16:6, Feb. 12, 2013. The right to redeem was sent certified mail, return receipt requested as required by S.C. Code §12-51-120. *Id.* Therefore, Wells Fargo made the conscious choice to do nothing about the redemption notice, or take any step to protect their potential rights in the Subject Property, on this very critical issue until a period of over a year later. It is outrageous that Wells Fargo took no steps to effectively preserve any rights they knew existed in the property, to the detriment of the Respondents, and for Wells Fargo's Counsel to assert that "[I]t would be inequitable to hold Wells Fargo responsible for not responding to a redemption notice. . ." is disingenuous. *See* Pl.'s Mot. Recon. ¶ 2(c).⁷

As aforementioned, the trial court properly pointed out in its Final Order, "Wells Fargo did nothing from the period of March 29, 2007, until the beginning of November of 2010,

⁷ Appellant's Counsel has made numerous references to the issue of the violation of the bankruptcy stay creating an inequitable result for Wells Fargo; however this point of view clearly overlooks the inequities that would be suffered by all other parties including Mooring who by all accounts has taken no unreasonable action. Certainly Wells Fargo should have raised some issue to the inequities which it would befall prior to the overage being paid out pursuant to South Carolina Statute.

despite notifications both actual and implied: (1) That the tax sale had occurred; (2) That Wells Fargo had a right to redeem the Subject Property; (3) That Mooring's tax deed had been recorded; and, (4) That the overage had been paid to the Rutherfords." See Order March 6, 2013. Each of the aforementioned actions occurred while Wells Fargo saw fit to sit idly by appearing to willingly abandon their rights. However only at the eleventh hour, two days prior to the expiration of the statute of limitations, did Wells Fargo seek to assert that the inequities created by their own actions were outweighed by the actions of the Tax Collector, despite the Tax Collector giving all the proper notices to Wells Fargo, and giving Wells Fargo a proper time in which to respond.

Wells Fargo was on notice that the property had been sold at a tax sale in October of 2009. Following notice that the Subject Property had been sold Wells Fargo admits it took the seemingly unusual steps of:

- (1) Making a motion to restore their earlier foreclosure case to the active trial roster;
- (2) Having a supplemental hearing before this Court to raise the earlier judgment amounts; and,
- (3) Setting the property for a date certain on the foreclosure sale roster.

See Final Hr'g. Tr. at 29:19-20, 30:11-20. Counsel for Wells Fargo knew that none of the aforementioned steps would in any way be effective in acquiring the property or protecting their interests therein. It makes no sense that Wells Fargo would waste the trial court's time and energy to move to sell a piece of property that it already knew to be sold, and which it had relief from the stay to move forward with as early as May of 2008. Additionally, Wells Fargo failed to file a judicial action within ninety days after execution of the deed, which it had notice of, to

prevent the payment of the overage by the County to the defaulting taxpayers. See S.C. Code § 12-51-130.⁸

Wells Fargo's conduct clearly did not evidence a party who was in any way interested in protecting a property that they now profess to be highly interested in; therefore, Wells Fargo's delay can be said to be unreasonable. Had Wells Fargo been interested in protecting whatever rights they may have had in the property, they would have exercised their right to redeem the property, a right that they had proper notice thereof as required by the South Carolina Code, or they would have filed a motion with the bankruptcy court to challenge the violation of the automatic stay. Wells Fargo could even have gone so far as to prevent this entire mess by following through with their foreclosure action once they obtained their relief from the stay in May of 2008. It was only when confronted with the realization that the Statute of Limitations to challenge the tax sale was about to run that Wells Fargo suddenly decided that they would act. This Court should affirm the trial court's finding that the aforementioned facts demonstrate that Wells Fargo undertook a course of conduct that was unreasonable, as required under the standard espoused in *King, supra.*, given the situation and the facts known to Wells Fargo.

A. The Tax Collector would suffer prejudice.

The trial court properly found that if Appellant's position were adopted the Tax Collector would suffer prejudice. Based upon the Appellant's inaction the Tax Collector changed its position. Namely, because an action was not filed challenging the tax sale, the Tax Collector paid out the overage, pursuant to statute, on June 21, 2010, based upon a petition for the same of

⁸ Mooring certainly acknowledges that there is no requirement that an action must be brought within the ninety day time frame; however, it certainly would seem that where, as here, no steps are taken to assert any right in the property that it could result in prejudice and/or reliance by other interested parties.

May 8, 2010, submitted by Counsel for the Rutherfords. See Final Hr'g. Tr. at 6:13-17, 19:19-21.⁹

The Tax Collector does not have the overage funds to return to Mooring should the tax sale be set aside. Had Appellant acted reasonably and taken some action upon either their relief from the bankruptcy stay or the receipt of the notice of redemption, the Tax Collector would not have disbursed the overage, and the potential resulting prejudice would not exist.

Appellant has asserted that under the Court of Appeals holding in *King, supra.*, that the Tax Collector would suffer no prejudice due to the Tax Collector's violation of the automatic stay; however, the case at bar is distinguishable from that of *King*. Unlike *King*, the overage funds did not escheat to the general county fund, those funds were paid out; therefore, the funds are not able to be paid out by any portion of Spartanburg County. Thus, to determine that the tax sale is invalid would result in significant prejudice to the Tax Collector and to Spartanburg County as the funds are no longer available to be paid out as a result of Appellant sitting on its rights in the Subject Property.

B. Mooring would suffer prejudice.

The trial court properly determined that if the tax sale was overturned Mooring would suffer prejudice. As aforementioned, should the trial court have set aside the tax sale, the Tax Collector had already properly disbursed the overage of approximately \$28,440.88 to the Rutherfords; therefore, Mooring might be unable to recoup the funds it expended in the purchase of the property. See Final Hr'g. Tr. at 6:13-17, 17:22, 19:13-21. Additionally, since the time of purchase Mooring has changed its financial position by expending monies, like any other

⁹ Counsel for Appellant has stated that there is no finding that the overage has been paid out; however the testimony of Counsel for all parties at the Final Hearing clearly establishes that the Rutherfords were paid the overage. Further, Counsel for Appellant admits that there would be a dispute as to who should repay the overage if the tax sale is overturned, thus evidencing that the overage had been paid out and making his statements to the contrary disingenuous.

landowner, for the payment of taxes, insurance, and routine maintenance on the property. Thus, Appellant's assertion that Mooring has failed to change its position or suffer any damage as a result of Appellant's unreasonable delay in asserting its rights is incorrect. Finally, while Mooring did not plead laches as an affirmative defense, the Tax Collector and the Rutherfords did; therefore, the issue was properly before the trial court. See Answer of Tax Collector ¶¶ 38-40; See also Answer of Rutherfords ¶ 6.

For the foregoing reasons this Court should affirm the ruling of the trial court: that based upon the Appellant's unreasonable inaction and the resulting prejudice to both Mooring and the Tax Collector, the equitable doctrine of laches bars the Appellant's action to set aside the tax sale.

**THE TRIAL COURT PROPERLY DETERMINED THAT
THE APPELLANT'S ACTION TO VOID THE TAX SALE
WAS BARRED BY THE DOCTRINE OF UNCLEAN
HANDS.**

The trial court properly found Wells Fargo's conduct rose to such a level that the instant action should be barred by the doctrine of unclean hands. In order to establish the equitable defense of unclean hands a litigant must establish (1) the plaintiff acted unfairly, (2) in a matter that is the subject of the litigation, (3) to the prejudice of the Defendant. *Wilson v. Landstram*, 281 S.C. 260, 266, 315 S.E.2d 130 (Ct. App. 1984). Wells Fargo clearly acted in an unfair manner when it knowingly decided to sit on its rights and fail to raise any issue with the tax sale as it pertains to the automatic bankruptcy stay. Instead, Wells Fargo proceeded on taking several steps in furtherance of their foreclosure action, despite the fact they knew the property had been sold.


Such behavior was on its face unfair because had Wells Fargo decided to inform the trial court, the bankruptcy court, or the Tax Collector, of the Rutherford's bankruptcy action this

entire litigation could have been avoided. If this Court allows Wells Fargo to have the result they seek their unfair conduct will result in the aforementioned prejudices to Mooring and the Tax Collector. Finally, while neither Mooring nor the Tax Collector pled unclean hands as an affirmative defense, the Rutherfords did, and therefore the issue was properly before the trial court for determination. See Answer of Rutherfords at ¶ 10. For the foregoing reasons this Court should affirm the ruling of the trial court: that based upon the Appellant's unfair conduct and the prejudice that would result to both Mooring and the Tax Collector, the equitable doctrine of unclean hands bars the Appellant's action to set aside the tax sale.

CONCLUSION

For the foregoing reasons, Respondent Mooring Secured Liquidity would respectfully submit that this Court should affirm the judgment of the Master-in-Equity for Spartanburg County in the instant litigation, and should hold that the tax sale was valid; Mooring Secured Liquidity is the proper owner of the subject property by way of their Counterclaim to Quiet Title following a tax sale; and, that Appellants conduct created such an equity that no other result could be proper.

RESPECTFULLY SUBMITTED,



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October 28, 2013
Spartanburg, South Carolina

THE STATE OF SOUTH CAROLINA
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v.

Mooring Secured Liquidity; Randy S.
Rutherford; Tara P. Rutherford;
Spartanburg County Tax Collector;
Sherman Acquisitions, LP,.....Respondents.

PROOF OF SERVICE

I HEREBY CERTIFY that I have served the Respondent Mooring Secured Liquidity's Initial Brief by depositing a copy of it in the United States Mail, postage prepaid, on October 28, 2013, addressed to:


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