THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
The Honorable Marvin H. Dukes, III, Circuit Court Judge

Appellate Case No. 2025-002327
Case No. 2025-CP-10-02139

Boris Van Dyck and Boris Van Dyck, LLC, ... Respondents,

v.

Woodlock Capital, LLC, ...Appellant.

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUES ON APPEAL

1. Did the trial court err in denying the Appellant's Motion to Dismiss to compel arbitration?

STANDARD OF REVIEW

The standard of review for questions of law is *de novo*. The appellate court "may reverse where the decision is affected by any error of law." *Murphy v. Owens Corning*, 393 S.C. 77, 710 S.E.2d 454 (Ct. App. 2011). The appellate courts are "free to decide matters of law with no particular deference to the fact finder." *Id*.

STATEMENT OF THE CASE / STATEMENT OF THE FACTS

On January 17, 2022, Appellant Woodlock Capital, LLC and Respondents Boris Van Dyck and Voris Van Dyck, LLC entered into a Real Estate Consulting Fee Agreement ("Agreement") whereby Appellant agreed to provide real estate consulting services to Respondents for the sale of Respondents' property in Goose Creek, SC. [Ex. A to Motion to Dismiss, Apr. 28, 2025]. Respondents agreed to pay Appellant $200,000.00 upon the sale of the property. The Agreement contains a binding arbitration provision to deal with any dispute.

Appellant provided extensive real estate consulting services to Respondents. As a direct result of these efforts, several Letters of Intent and Sales Purchase Agreements were submitted on the Property, including one by the eventual purchaser. Despite the Agreement and Appellant's compliance with the terms of the Agreement, Respondents have refused to pay the $200,000.00 consulting fee. As a result of Respondents' breach of contract, Appellant served a notice and demand for arbitration on Respondents on March 20, 2025. [Ex. B to Motion to Dismiss, Apr. 28, 2025]. Respondents refused to arbitrate and instead filed this lawsuit.

On April 28, 2025, Appellant filed a Motion to Dismiss, or in the alternative to stay the case, arguing the Circuit Court lacked subject matter jurisdiction to adjudicate the matter, and it

should be dismissed (or stayed) and arbitrated pursuant to the Agreement. [Motion to Dismiss, Apr. 28, 2025]. Attached to the Motion to Dismiss and incorporated therein was the Affidavit of Andrew Batkins, an owner of Woodlock Capital, LLC. [Ex. C to Motion to Dismiss, Apr. 28, 2025]. No objection was made to the introduction of the Affidavit and its numerous exhibits and the information was considered by the Court. Additionally, Respondents offered no affidavit or any information to rebut the Appellant's Affidavit and its multiple exhibits showing the ways interstate commerce was impacted.

The Affidavit and its numerous attachments showed Appellant's efforts to market and sell the Property, and how those efforts impacted interstate commerce.

Specifically, the Affidavit showed:

1. The Property is a multifamily site, meaning the residents would be from (and marketed to) locations other than South Carolina. [Ex. C to Motion to Dismiss, Apr. 28, 2025, para. 3].
2. As a result of Appellant's marketing efforts, Mr. Batkins received multiple Letters of Intent for the Property, including one from Georgia and one from Alabama. [Ex. C to Motion to Dismiss, Apr. 28, 2025, paras. 4 and 8].
3. Appellant negotiated with potential buyers of the Property on behalf of Respondents with parties (buyers, buyers' representatives, and buyers' attorneys) located in Georgia, Alabama, Florida, and Illinois. [Ex. C to Motion to Dismiss, Apr. 28, 2025, paras. 10, 15, 16, 18].
4. Appellant participated in negotiating Purchase Sales Agreements for the Property with buyers from Georgia and Alabama. [Ex. C to Motion to Dismiss, Apr. 28, 2025, paras. 11 and 15].

5. Appellant was involved in multiple communications related to financing and private equity loans with at least two separate Illinois companies. [Ex. C to Motion to Dismiss, Apr. 28, 2025, paras. 16 and 18].

6. In July 2024, Respondents closed on the Property with Southern Waters Capital, a Florida company. [Ex. C to Motion to Dismiss, Apr. 28, 2025, para. 20].

A hearing was conducted before the Honorable Marvin H. Dukes, III, on June 27, 2025. On November 12, 2025, Judge Dukes issued an Order denying the Motion to Dismiss stating, in part:

> "A local transaction of undeveloped acreage has no substantial or direct connection to interstate commerce that would be sufficient to trigger the application of the FAA. It is inherently "intrastate" commerce to which the FAA does not apply."
>
> …the Court has determined that the transaction at issue does not involve interstate commerce, such that the FAA is inapplicable." [Order Denying Defendant's Motion to Dismiss, Nov. 12, 2025].

This appeal followed.

ARGUMENT

As stated, this is an appeal of the Circuit Court's denial of a Motion to Dismiss to compel arbitration. Respondents' underlying Complaint correctly stated that the arbitration provision in the Agreement fails to meet the requirements of S.C. Code Ann. §15-48-10. Instead, Appellant asserts that the arbitration provision is enforceable under the Federal Arbitration Act, 9 U.S.C.S. § 1 et seq. (FAA), because the contract involves interstate commerce. Therefore, in this instance,

the federal substantive law supplants state law regarding arbitration. *Osteen v. T.E. Cuttino Constr. Co.*, 315 S.C. 422, 434 S.E.2d 281 (1993).

The Federal Arbitration Act supplants state arbitration laws when the contract at issue involves interstate commerce. In *Zabinski v. Bright Acres Assocs.,* 553 S.E.2d 110, 346 S.C. 580 (2001), the South Carolina Supreme Court stated that, "[w]hile the parties may agree to enforce arbitration agreements under state rules rather than FAA rules, the FAA will preempt any state law that completely invalidates the parties' agreement to arbitrate."

The FAA states: "An appeal may be taken from . . . an order . . . denying an application under section 206 of this title to compel arbitration." *Towles v. United Healthcare Corp*., 338 S.C. 29, 524 S.E.2d 839 (Ct. App. 1999) (citing 9 U.S.C.S. § 16(a)(1)(C)(1999)). "For the FAA to apply, an agreement must 'evidence a transaction involving commerce,' specifically interstate commerce." *Id*. "To ascertain whether a transaction involves commerce within the meaning of the FAA, the court must examine the agreement, the complaint, and the surrounding facts." *Id*.

The phrase "involving commerce" is the same as "affecting commerce," which has been broadly interpreted to mean Congress intended to utilize its powers to regulate interstate commerce to its full extent. *Allied-Bruce Terminix Cos. v. Dobson*, 513 U.S. 265, 115 S. Ct. 834, 130 L. Ed. 2d 753 (1995).

Similar to the facts of the case before this Court, in *Blanton v. Stathos*, 351 S.C. 534, 570 S.E.2d 565 (Ct. App. 2002), the FAA applied to mandate arbitration of a dispute over a contract between an architect and a client, which violated the notice provision of S.C. Code Ann. § 15-48-10(a), where the architect submitted an undisputed affidavit demonstrating that the transaction involved interstate commerce in the nature of the project. The *Blanton* Court stated: "Stathos argues, because construction had not yet begun, and all work was done by individuals residing in

South Carolina, the contract did not evidence interstate commerce. Yet, Blanton submitted an affidavit in which she asserted the contract affected interstate commerce. She stated that, in performing her duties of drafting and designing the plans for the restaurant, she communicated with various technicians outside of South Carolina." *Id*. The *Blanton* Court ruled "the nature of the project and the affidavit by Blanton are sufficient to uphold the decision of the Circuit Court that the contract evidences a transaction involving interstate commerce." *Id*. This is the precise situation that occurred in this matter. The Agreement and Appellant's work in marketing the Property and advising the Respondents in the process, directly impacted interstate commerce, as evidenced by the Affidavit of Mr. Batkins.

"Our courts consistently look to the essential character of the contract when applying the FAA." *Thornton v. Trident Med. Ctr., LLC*, 357 S.C. 91, 96, 592 S.E.2d 50, 52 (Ct. App. 2003) (finding it was proper to "focus upon what the terms of the contract specifically require for performance in determining whether interstate commerce [was] involved"). "There is a strong presumption in favor of the validity of arbitration agreements because of the strong policy favoring arbitration." *Towles*, 338 S.C. at 37, 524 S.E.2d at 844. To ascertain whether a transaction involves commerce within the meaning of the FAA, the court must examine the agreement, the complaint, and the surrounding facts. *Id.* at 29, 524 S.E.2d at 839.

In their Memorandum in Opposition to the Motion to Dismiss, Respondents relied upon the case of *Bradley v. Brentwood Homes, Inc*., 398 S.C.447, 730 S.E.2d 312 (2012) in support of their position that the Agreement in this case does not impact interstate commerce. The *Bradley* decision held that a single residential real estate sales contract does not involve interstate commerce. *Id*. The Order cited the *Bradley* decision as the primary basis for denying the Motion to Dismiss. [Order Denying Defendant's Motion to Dismiss, Nov. 12, 2025]. The circumstances

in this case (as shown in the Affidavit) are far different than in the *Bradley* case. Appellant's efforts pursuant to the Agreement were intended to, and did in fact, involve aggressive marketing efforts and widespread development support on a national level – far beyond the circumstances in *Bradley*.

Turning to the facts of this matter, the Agreement at issue relates to Respondents hiring Appellant to perform real estate consulting services for the sale of Respondents' property. Andrew Batkins' Affidavit clearly establishes the fact that the Agreement impacted interstate commerce in multiple ways. The property was being permitted for multi-family units, which would be marketed and sold / rented to people from beyond South Carolina's borders. The marketing / consulting efforts would be focused on buyers outside of South Carolina's borders. Multiple Letters of Intent were received by buyers from outside of South Carolina. Financing efforts were being negotiated by entities outside of South Carolina. The ultimate purchaser of the property is a business located outside of South Carolina. In summary, individuals and companies from multiple States other than South Carolina were directly involved / impacted by Appellant's work arising out of the Agreement. As such, the Agreement involves interstate commerce, meaning the Agreement is governed by the FAA, and the lower court erred in denying Appellant's Motion to Dismiss.

Finally, Respondents' failure to provide any factual counter to the Affidavit and its multiple exhibits shows the Court erred as a matter of law. The only evidence before the Court established the multiple ways the Agreement impacted interstate commerce.

CONCLUSION

Based on the foregoing discussion and analysis, Appellant Woodlock Capital, LLC respectfully requests that the Court reverse the order entered by Circuit Court Judge Marvin H. Dukes, III, denying Appellant's Motion to Dismiss.

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February 2, 2026
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