THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

T.W. McGee, III, Circuit Court Judge

Appellate Case No. 2025-000104

Great Deal Investing LLC, of Wyoming, Appellant,

v.

Jared Burnett, Brett Buras, Damian Bergamaschi, Steve Decker, J&B Holdings Group, LLC, and Hatchery Hill MHC, LLC, Respondents.

PETITION FOR REHEARING *EN BANC*

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Appellant respectfully petitions the Court for a rehearing or rehearing *en banc* in accordance with Rules 219 and 221, SCACR. Rehearing *en banc* is necessary to secure or maintain uniformity of its decisions and is further appropriate because this case involves a question of exceptional importance.

ARGUMENT

In footnote 4 to this Court's opinion, the Court writes, "To the extent Great Deal asserts that applying section 40-57-20 to the instant transaction would be improper and a violation of the commerce clause because all of Johns's actions occurred in Indiana, we find this argument is unpersuasive as his actions **arranged** and **dealt with** a real estate transaction of a South Carolina property." [emphasis added].

The Court's framing is unusual.

Great Deal's role in the eventual transaction between Trishann Couvillion of Pecan Grove Digs LLC and Respondents was, as the Court noted, limited to "arrang[ing] the initial communications between J&B [Holdings Group, LLC] and Couvillion." Arranging initial communications between interested parties is hardly coterminous with arranging an eventual transaction between those parties – once in contact, a potential buyer and potential seller must still choose to proceed with negotiation and arrive at a mutually satisfactory agreement. Unless this Court adopts the position that a person who introduces two single acquaintances that eventually choose to wed "arranged" a marriage, it cannot reasonably claim Great Deal "arranged... a real estate transaction of South Carolina property" by the same act.

To the extent the Court believes that Great Deal's actions "*dealt with* a real estate transaction of a South Carolina property," however, the statutory law cited by the Court fails to support the Court's conclusion that Great Deal acted in an unlawful manner.

As this Court notes, S.C. Code Ann. § 40-57-20 provides, "It is unlawful for an individual *to act* as a real estate *broker*, real estate salesperson, or real estate property manager or to advertise *or provide services as such* without an active, valid license issued by the commission." [italics in original]. A broker, as this Court then notes, is an associated license who, "*for a fee, salary, commission, referral fee, or other valuable consideration...* (a) *negotiates or attempts to negotiate* the listing, *sale, purchase*, exchange, lease or other disposition of *real estate* or the improvements to the real estate." [italics in original]. Combining its reading of these sections, this Court concludes "it is clear Great Deal's actions fall within the contemplated scope of acting as a broker."

In moving from statute to conclusion, however, the Court skipped a crucial step –it never identified **any** instance in which Great Deal negotiated or attempted to negotiate the sale of real estate.

To "negotiate" in the context of a real estate sale means "to communicate with another party for the purpose of reaching an understanding" or "to bring about by discussion or bargaining." Black's Law Dictionary (12th ed. 2024), *negotiate*. The only parties who communicated with one another for the purpose of reaching an understanding regarding the sale of real estate – the only parties who brought about that sale by discussion and bargaining – were Couvillion and J&B. Great Deal played no role in their negotiations. All Great Deal does, and all Great Deal contracted with J&B to do, is introduce parties so those parties can attempt to negotiate a purchase on their own. A plain language reading of the statutes, then, demonstrates that Great Deal's actions fall outside "the contemplated scope of acting as a broker."

Further, to the extent this Court declines to interpret these statutes according to their plain language, the Commerce Clause is clearly implicated by the lower court's decision. The contract at the heart of this case was entered into outside of South Carolina, contained no references

specifically to South Carolina, and Great Deal "wholly performed outside South Carolina." *Roberston v. Bumper Man Franchising, Co., Inc.*, 364 S.C. 155, 157, 612 S.E.2d 451, 452 (2005). Great Deal's obligations under the contract were fulfilled at the moment it introduced the potential seller in North Carolina to the potential buyer in Florida, and by attempting to exercise control over commerce conducted wholly outside of the State's borders, "whether or not the commerce has effects within the State," the lower court's construction of S.C. Code Ann. § 40-57-10 *et seq.* violates the Commerce Clause.

CONCLUSION

By adopting the lower court's projection of an "unlicensed broker" theory beyond South Carolina's borders into the State of Indiana, this Court has unwittingly assisted an unregistered Florida trailer park operator in the commission of a fraud. There are no less than three (3) South Carolina statutes[1], four (4) decisions of the South Carolina Supreme Court[2], the Commerce Clause

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[1] S.C. Code Ann. Section 1-1-10 (The sovereignty and jurisdiction of this State extends to all places **within its bounds**, . . .); S.C. Code Ann. Section 40-1-200 (A person who practices or offers to practice a regulated profession or occupation **in this State** . . .); and S.C. Code Ann. Section 40-57-30(7) ("Commission" means the South Carolina Real Estate Commission and its members, who are charged by law with the responsibility of licensing or otherwise regulating the practice of real estate **in the State of South Carolina**.)

[2] *Ex parte First Pennsylvania Banking & Trust Company*, 247 S.C. 506, 148 S.E.2d 373 (1966) (. . . , the general rule is that no state . . . can, by its laws, directly affect, bind, or operate upon . . . persons beyond its territorial jurisdiction.); *Robertson v. Bumper Man Franchising Company, Inc.*, 364 S.C. 155, 612 S.E.2d 451 (2005) (state statutes have no extraterritorial effect); *State v. Dudley*, 364 S.C. 578, 614 S.E.2d 623 (2005) (State's extraterritorial jurisdiction extends only to those who have performed acts "intended to produce and producing detrimental effects within" our boundaries.).

of the U.S. Constitution, three (3) decisions of the U.S. Supreme Court[3], and five (5) decisions of sister jurisdictions that are directly on point.[4]

Based upon the foregoing, Appellant submits that this Court should reconsider whether South Carolina's real estate licensing laws apply to activities conducted solely in the State of Indiana to bar the Appellant from the courts of this State.

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[3] *Pennoyer v. Neff*, 95 U.S. 714, 24 L.Ed. 565 (The several States are of equal dignity and authority, and the independence of one implies the exclusion of power from all others. And so it is laid down by jurists, as an elementary principle, that The laws of one State have no operation outside of its territory, except so far as is allowed by comity; and that no tribunal established by it can extend its process beyond that territory so as to subject either persons or property to its decisions.); *Baldwin v. G.A.F. Seelig, Inc.*, 294 U.S. 511, 55 S.Ct. 497, 79 L.Ed. 1032 (1935) (One state may not "project its legislation" into another.) *Healy v. Beer Inst.*, 491 U.S. 324, 336, 109 S.Ct. 2491, 105 L.Ed.2d 275 (1989) (the Commerce Clause "precludes the application of a state statute to commerce that takes place wholly outside of the State's borders, whether or not the commerce has effects within the State.)

[4] *Keenan Co. v. Pamlico, Inc.*, 245 Ga. 842, 268 S.E.2d 334 (1980) (South Carolina plaintiffs were not barred from access to the courts of Georgia for failure to obtain Georgia real estate licenses since the plaintiffs' sole contacts with the state of Georgia had been in furtherance of an isolated interstate real estate sales transaction, and no public interest of the state was served by regulating such activities.); *Consul Limited v. Solide Enterprises, Inc.*, 802 F.2d 1143 (Ninth Cir.1986) (All relevant authority suggests that licensing schemes like California's do not apply to out-of-state activities regarding in-state land.); *Bennett v. MV Investors*, 799 S.W.2d (1990) (South Carolina plaintiff was not barred from maintaining an action for a commission in Tennessee without a Tennessee real estate license since all of his activities took place in the state of South Carolina.); *AFC Realty Capital, Inc. v. Dale*, 2022 WL 2193377 (New York citizen not barred from pursuing an action for a commission in California notwithstanding the fact that the plaintiff was not licensed as a real estate broker in California.); *Freedom Factory, LLC v. Smee Homes, Inc.*, 2024 WL 3252153 (2024) (the long arm of California's real estate regulatory scheme does not extend to activities conducted solely outside of the state, "particularly to void otherwise valid contracts.").

Respectfully submitted,

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February 26, 2026

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PROOF OF SERVICE

I certify that I have served the Petition for Rehearing *En Banc* on Jared Burnett, Brett Buras, Damian Bergamaschi, Steve Decker, J&B Holdings Group, LLC, and Hatchery Hill MHC, LLC by depositing a copy of it in the United States Mail, postage prepaid, on February 26, 2026, addressed to their attorney of record, Joey R. Floyd, Esq., Post Office Box 61110, Columbia, South Carolina 29260-1100.

February 26, 2026

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