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May 04 2026

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM GEORGETOWN COUNTY

The Honorable Joe M. Crosby, Master-in-Equity

Appellate Case No. 2025-001557

South Carolina Board of Financial Institutions,..... Respondent,

v.

CDM Corporation, Inc. and Guardian Fiduciary Services, LLC..... Petitioners.

**RESPONDENT’S MOTION FOR
JUDICIAL NOTICE AND TO SUPPLEMENT RECORD**

Respondent South Carolina Board of Financial Institutions (“Board”) respectfully moves this Court, in accordance with Rule 240, SCACR, to take judicial notice of certain legislative facts regarding the interpretation of the statutes at issue in this case under Rule 201 SCRE, and to supplement the record under Rule 212(b), SCACR, with a recently obtained affidavit which contradicts statements made by Petitioners.

In support of this motion, the Board states as follows:

1. While an appellate court will not ordinarily consider any fact which does not appear in the record on appeal under Rule 210(h), SCACR, the courts of this State have authority to take judicial notice of legislative facts. *Cf. Davenport v. City of Rock Hill*, 315 S.C. 114, 432 S.E.2d 451 (1993) (history of tax anticipation notes considered). Legislative facts are the factual grounds on

which judges base their opinions “when . . . interpreting a statute.” C. McCormick, McCormick on Evidence 328 and 331 (4th ed. 1992).

2. This authority has long extended to matters on appeal before this Court. *See, e.g., State v. Broad River Power Co.*, 177 S.C. 240, 181 S.E. 41, 48 (1930) (“The legislative journals of both houses of the General Assembly are judicially noticed”); *see also State v. Life Ins. Co. of Georgia*, 254 S.C. 286, 297, 175 S.E.2d 203, 208 (1970) (“We take judicial notice of the official reports of the Comptroller General”).

3. During the current legislative session, a proposed bill, S. 818, was filed to redefine the term “trust business,” a term which is at issue in this case. The bill has not been voted out of subcommittee and likely will not become law.

4. On March 26, 2026, the Senate Judiciary Subcommittee took testimony on S. 818. *See* <https://www.scstatehouse.gov/video/archives.php> (video discussion of S. 818 begins at 2:25). Stephen Mantell, the incorporator of Petitioner CDM Corporation, Inc. and the organizer of Petitioner Guardian Fiduciary Services, LLC, testified during the subcommittee hearing. His testimony begins at the 51 minute mark of the official Senate video.

5. While S. 818 itself should have no bearing on the outcome of this case as it has not become law, Mantell’s voluntary testimony before the Subcommittee contained statements about the nature of the services Petitioners provide to the citizens of South Carolina, of which this Court should take judicial notice.

6. Mantell stated that his companies are responsible for managing about \$6 million involving 89 “active cases,” not all of which are appointments through the Probate Court. Video at 50:02–51:38. He explained that he at times gets clients when a family member “doesn’t want to

be financially responsible” for taking care of the individual. *Id.* at 52:12–52:26. Some of his clients have little to no assets, while others have upwards of \$1 million with properties across the country. *Id.* at 52:40–53:13. Mantell will “manage their health, wealth, and well-being.” *Id.* at 53:11–53:13. His scope of work is necessarily financial in nature, as he devotes much of his time to generating accountings and using his clients’ funds to pay for services, including his own. *Id.* at 53:33–53:58. Mantell even confirmed that family members “quite often” object to how he spends the money of his fiduciary principals and have filed lawsuits against him. *Id.* at 55:33–55:50. But he “do[es]n’t have millions of dollars in reserves.” *Id.* at 55:50–56:00. On the non-financial side of his services, he described himself as “the bugger who pulls life support.” *Id.* at 53:22.

7. Mantell also is not just representing individuals in South Carolina—his businesses are “also [acting under] power of attorney [in the corporate name] for upward of 100 people up and down the East Coast of the United States, mostly in the United States.” Video at 57:32–57:41. He intends that his “company will live way beyond when [he is] dead.” *Id.* at 56:40–56:41.

8. The Board requests that the Court take judicial notice of this hearing testimony which Petitioners submitted to the Senate in connection with an attempt to redefine a “trust business.”

9. In addition, the Board recently learned that Petitioners are attempting to enforce unrecorded durable powers of attorney with South Carolina banks and only recording them at the bank’s insistence. *See* Exhibit A (April 20, 2026 Affidavit of Dearlyn Grier of The Citizens Bank with attached Durable Power of Attorney). The power of attorney form used by Petitioners is extremely broad and grants to CDM Corporation the “[f]ull power to do and perform all and every

act that [the principal] may legally do through an agent, specifically including the power to perform all and every act specified in SC Code Ann. § 62-8-204 through § 62-8-217.” *Id.*

10. “[T]he holder of [the] power of attorney steps into the shoes of the grantor and is basically the alter ego of the grantor.” *Stott v. White Oak Manor, Inc.*, 426 S.C. 568, 573, 828 S.E.2d 82, 85 (Ct. App. 2019). Once a power of attorney is recorded as required by S.C. Code Ann. §§ 62-8-105(C) and 30-5-30, an agent acting pursuant to a recorded power of attorney can exercise it without judicial oversight. Even if judicial oversight is required, as with conservatorships, South Carolina courts have dealt with problems caused when banks released fiduciary funds relying solely on representations from faithless fiduciaries. *See, e.g., Cody P. v. Bank of America, N.A.*, 395 S.C. 611, 720 S.E.2d 473 (Ct. App. 2011) (affirming a large punitive damage award against bank that released funds to conservator without court approval). As allowed by the broad delegation of authority which Petitioners use, their submission of powers of attorney to banks confirms that they in fact exercise authority over their principals’ finances.

11. So this case does not involve businesses which only make “decisions about where [individuals] should live, where [they] can travel, medical care, driving, voting, employment, and so forth” or which care for the “health and wellbeing” of others. Pet’r’s Br. at 20. As Mantell’s testimony before the Senate subcommittee and the attached affidavit demonstrate, this case is about entities which exercise control over their principals’ finances.

12. The Board requests that the record in this appeal be supplemented to include the affidavit demonstrating how Petitioners are exercising their fiduciary authority over the assets of their principals.

Counsel for Respondent therefore respectfully request that the Court grant this motion and take judicial notice of the hearing testimony submitted in connection with the proposed amendment of S.C. Code Ann. § 62-1-113 and supplement the record with the affidavit from The Citizens Bank.

Respectfully submitted,

/s/ R. Walker Humphrey, II

R. Walker Humphrey, II
WILLOUGHBY HUMPHREY & D'ANTONI, P.A.
133 River Landing Drive, Suite 200
Charleston, South Carolina 29492
(843) 619-4426

Elizabeth Zeck
WILLOUGHBY HUMPHREY & D'ANTONI, P.A.
930 Richland Street (29201)
Post Office Box 8416
Columbia, South Carolina 29202
(803) 252-3300

Shawn D. Eubanks
1200 Senate Street, Suite 214
Wade Hampton Office Building
Columbia, South Carolina 29201
(803) 734-2623

*Attorneys for Respondent South Carolina Board of
Financial Institutions*

Charleston, South Carolina
May 4, 2026