

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

MAY - 2 2014

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

S.C. Supreme Court

Joseph M. Strickland, Jr.
Master-in-Equity

Case No. 2009-CP-40-0511

1634 Main, LP.....Plaintiff/Appellant

v.

Shirley Hammer.....Defendant/Respondent

v.

Howard Hammer.....Additional Defendant on Counterclaim/Appellant

And

Case No. 2009-CP-40-05911

Howard Hammer.....Plaintiff/Appellant

v.

Shirley Hammer.....Defendant/Respondent


NOTICE OF APPEAL

Appellant, 1634 Main, LP (1634 Main), appeals the interlocutory Order signed by The Honorable Joseph M. Strickland on June 10, 2013. Appellant also appeals the Order of the Honorable Joseph M. Strickland signed on January 21, 2014. 1634 Main timely filed and served a Motion to Alter or Amend the Order signed on January 21, 2014. By Order signed March 21, 2014, The Honorable Joseph M. Strickland denied 1634 Main's Motion to Alter or Amend.

1634 Main received written notice of the entry of the Order signed on March 21, 2014 on March 25, 2014. 1634 Main also appeals the Order signed on March 21, 2014. Copies of all three Orders appealed from are attached.

April 24, 2014

AIKEN & HIGHTOWER, PA



ARTHUR K. AIKEN

2231 Devine Street, Suite 201

Columbia, SC 29205

Telephone: 803-799-5205

Fax: 803-799-5206

Email: art@aikenandhightower.com

ATTORNEYS FOR APPELLANT

1634 MAIN, L.P.

OTHER COUNSEL OF RECORD:

Desa Ballard

Ballard Watson Weissenstein

226 State Street

West Columbia, SC 29171

ATTORNEYS FOR RESPONDENT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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PROOF OF SERVICE-NOTICE OF APPEAL OF APPELLANT 1634 MAIN LP

I hereby certify that I served 1634 Main, LP's Notice of Appeal on Respondent by depositing a copy of it in the U.S. Mail, postage prepaid, on April 24, 2014, addressed to her attorney of record, Desa A. Ballard, PO Box 6338, West Columbia, SC 29171-6338.

(SIGNATURE ON THE FOLLOWING PAGE)

AIKEN & HIGHTOWER, PA



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ATTORNEYS FOR APPELLANT

1634 MAIN, L.P.

Columbia, SC
April 24, 2014

Prior to the hearing, Mr. Hammer filed motions to dismiss the proceedings against him and against 1634 Main, LP on the basis that this court lacks personal jurisdiction. Counsel for Mr. Hammer and Ms. Hammer appeared for the hearing, but Mr. Hammer did not. I instructed counsels for both parties to appear, with their clients, for hearing on these matters, including the motion to dismiss, on June 4, 2013.

At the hearing on June 4, Mr. Hammer asserted that by appearing he was not waiving his assertions that this court failed to obtain personal jurisdiction over him, individually or as an agent for 1634 Main, LP. Mr. Hammer claims that because the Rule to Show Cause was personally served upon him by a private detective, rather than by the sheriff or his deputy, the service is faulty and to go forward with the proceedings would violate his Constitutional Rights.

Counsel for Ms. Hammer argued this court has continuing jurisdiction over the debtors. Ms. Hammer also argued that the primary concern by the courts in reviewing procedural due process is the question of whether or not the defendant, or debtor in this case, had reasonable notice. Because Mr. Hammer was personally served with the Orders of Reference/RTSC and verified petition, he filed the motions to dismiss in advance of the hearing, had counsel attend the first hearing, and attended this hearing, Mr. Hammer clearly had notice. Service on Mr. Hammer, individually and as the registered agent for debtor 1634 Main LP, was proper under Rule 6(b), SCRCF because in these matters the RTSC is related to an ongoing action in which the debtors have already appeared.

This court has personal jurisdiction over Mr. Hammer and 1634 Main LLC for purposes

of supplemental proceedings. Further, Mr. Hammer's due process rights have not been violated.

Mr. Hammer's motion and 1634 Main LP's motion to dismiss pursuant to Rule 12(b)(2), SCRPC, are DENIED.

Mr. Hammer also made a motion to dismiss the supplemental proceedings for lack of subject matter jurisdiction. I entertained oral arguments on the matter, reviewed the order issued by the Supreme Court of South Carolina on September 7, 2012 that assigned oversight of the circuit court cases to Judge Barber, and reviewed the Rules to Show Cause and the Orders of Reference. The Court does have subject matter jurisdiction over these supplemental proceedings. Mr. Hammer's motions to dismiss these proceedings pursuant to Rule 12(b)(1), SCRPC, are DENIED.

The Rule to Show Cause and Order of Reference required Mr. Hammer, as an individual debtor, to bring with him to the hearing the following materials:

- a. All records, titles, etc., concerning any and all real estate, automobiles, trucks, trailers and other vehicles owned or being purchased by you or any corporations, partnerships or business in which you own an interest, or did so own, in the last year;
- b. All records concerning bank accounts owned by you, including checking account checkbooks and savings account passbooks;
- c. Any written financial statements that have been prepared by or for you within the past five years.
- d. A list of current assets and their approximate market value;
- e. A list of any property owned by you that is in the hands of a third party;
- f. Transfers by you of any property, owned by you as business assets or personal

assets within the past five years;

- g. Withdrawals, in any form (including compensation, bonuses and loans) that have been made to you within the past five years; and
- j. Such other and further records as may disclose your assets and liabilities, or of any corporations, partnerships or business in which you own an interest.

Mr. Hammer did not bring to the hearing any of the above listed documents.

The Rule to Show Cause and Order of Reference required Mr. Hammer or other knowledgeable person as the agent of 1634 Main LP, debtor, to bring with him to the hearing the following materials:

- a. All records, titles, etc., concerning any and all real estate, contracts, leases, office equipment, furniture, or other property owned or being purchased by or for defendant, as well as any corporations, partnerships or business in which defendant holds an interest, or did so own in the last year;
- b. All records concerning bank accounts owned by, or used by, defendant, including checking account checkbooks and savings account passbooks;
- c. Any written financial statements that have been prepared by or for defendant within the past five years.
- d. ~~A list of current assets and their approximate market value;~~
- e. State and Federal Income Tax Returns for the years 2009, 2010, 2011 and 2012;
- f. A list of any property owned by defendant that is in the hands of a third party, including defendant's partners, managers, officers and/or agents;

- g. Copies of leases of any real or personal property leased by you, including the following information: name and address of landlord, amount of rental payments and date through which rent is paid;
- h. Transfers by defendant of any property, owned as business assets within the past five years;
- i. Withdrawals or disbursements, in any form, that have been made to any of defendant's officers, agents, directors, partners, or/and managers within the past five years; and
- j. Such other and further records as may disclose the assets and liabilities of the defendant partnership.

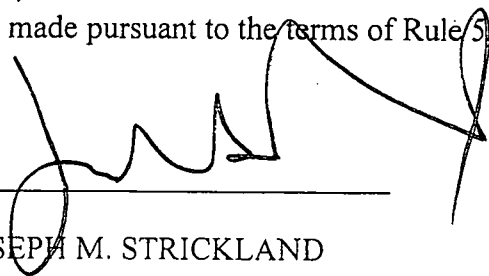
Mr. Hammer did not present to the Court any of the materials demanded and he was not prepared to answer questions related to his accounts, business relationships, assets, liabilities, and other related matters in detail sufficient to allow Ms. Hammer and this Court to discover an asset, or assets, by which Ms. Hammer's judgments could be satisfied. Therefore, it is hereby ORDERED that Mr. Hammer and 1634 Main, LP answer Interrogatories and Request for Production submitted to them, or their counsel, by Ms. Hammer pursuant to this order. Answers must be filed with this court and served on Ms. Hammer's counsel on July 8, 2013. In submitting the Interrogatories, Ms. Hammer shall not be limited by the terms of S.C.R.C.P. Rule 33(b)(9).

Service of the discovery and its answers shall be made pursuant to the terms of Rule 5, SCRC.P.

IT IS SO ORDERED.

June 10, 2013

Columbia, South Carolina



JOSEPH M. STRICKLAND

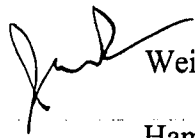
Richland County Master-In-Equity

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Shirley Hammer)
)
 Plaintiff,)
)
 vs.)
)
 Howard Hammer)
)
 Defendant,)
 _____)
 STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Shirley Hammer)
)
 Plaintiff,)
)
 vs.)
)
 1634 Main, LP)
)
 Defendant,)
 _____)

IN THE COURT OF COMMON PLEAS
 CA# 2009-CP-40-05911
 CA# 2010-CP-40-2889

**ORDER DIRECTING TRANSFER
 OF REAL PROPERTY
 TO SATISFY JUDGMENTS**

JENNIFER M. McBRIDE
 P. & G.S.
 2014 JAN 21 AM 9:05
 RICHLAND COUNTY
 FILED



The matter before the court is a hearing in the nature of supplemental proceedings. Present at the hearing on January 9, 2014 were the Plaintiff and her counsel, Stephanie Weissenstein. Also present was Howard Hammer, who appeared *pro se* in the Hammer v. Hammer matter, and as agent for 1634 Main, LP. Art Aiken appeared as counsel for 1634 Main, LP and as counsel for Howard Hammer for the 1634 Main matter.

STATEMENT OF THE CASE

These supplemental proceedings were initiated by verified petitions and Rules to Show Cause issued by Judge Casey Manning on April 22, 2013, based on executions against property issued dated January 29, 2013. On June 25, 2013, execution against property were issued for additional judgments, and returned by the Richland County Sheriff *nulla bona*. Throughout these proceedings, including hearings, Plaintiff has alleged her judgments are in the principle amount of \$317,777.17, as set forth below. The defendants made no objections to Plaintiff's assertion or this Court's consideration of the all judgments in these proceedings until oral arguments at the final merits hearing on January 9, 2014. Defendants' oral objections to this Court's consideration of the entirety of Plaintiff's judgments against Defendant's are untimely, and overruled.

Plaintiff holds judgments against the defendant debtors, as follows:

<u>Debtor/Date</u>	<u>Principal</u>	<u>Interest¹</u>	<u>Total</u>
1634 Main LP (01/29/2013 Judgment)	\$25,000.00	\$ 1,673.46	\$ 26,673.46
1634 Main LP (06/03/2013 Judgment)	\$102,032.87	\$ 4,397.90	\$106,430.77
	<u>\$127,032.87</u>	<u>\$ 071.36</u>	<u>\$133,104.23</u>
Howard Hammer (01/29/2013 Judgments)	\$130,000.00	\$ 701.99	\$138,701.99
Howard Hammer (06/03/2013 Judgments)	\$ 60,744.30	\$ 2,618.25	\$ 63,362.55
	<u>\$190,744.30</u>	<u>\$11,320.23</u>	<u>\$202,064.53</u>
Total due Shirley Hammer	<u>\$317,777.17</u>	<u>\$17,391.59</u>	<u>\$335,168.76</u>

These proceedings are conducted under Chapter 39 of Title 15 of the South Carolina Code, for the purpose of executing on property owned by debtor to satisfy judgments against them. The Rules to Show Cause and Order of Reference required defendants, Howard Hammer (Mr. Hammer) and 1634 Main LP (1634 Main), a limited partnership controlled by Mr. Hammer

¹ Post-judgment interest is calculated through January 9, 2014.

(via his ownership of the general partner, SH5, LLC, to appear before the Court on May 30, 2013, pursuant to S.C. Code Ann. Section 15-39-310 and bring records which would establish the existence of real and personal property so that the Master could execute against such discovered property for purposes of satisfying the judgments. Neither Mr. Hammer nor any representative of 1634 Main appeared as ordered by Judge Manning on May 30, 2013. Arthur Aiken appeared as counsel for Mr. Hammer and 1634 Main, but gave no explanation for Mr. Hammer's absence or his failure to appear. This Court continued the matter and ordered both defendants to appear at a hearing on June 4, 2013.

At the June 4, 2013 hearing, Mr. Hammer appeared, but brought no documents as had been ordered by Judge Manning; Mr. Aiken similarly produced no documents in response to the RTSC. Besides motions to dismiss, which were denied, no responsive pleadings were filed then, or since. At the June 4, 2013 hearing, Mr. Hammer was sworn in as a witness, but he was evasive, and did not provide substantive information about his assets. Additionally, he invoked the Fifth Amendment regarding questions related to 1634 Main LP and the real estate located at 1634 Main Street in Columbia.

The Court granted Mrs. Hammer's request to continue the examination by written discovery. By order dated June 10, 2013, this Court ordered both Mr. Hammer and 1634 Main LP to answer questions via written interrogatories and requests to produce to enable the Court to determine what assets exist against which the underlying judgments in these cases can be satisfied.

On or around June 11, 2013, Mrs. Hammer's counsel thereafter served written questions, consisting of interrogatories and requests to produce, on both Mr. Hammer and 1634 Main. The court's order also required Mr. Hammer and 1634 to file copies of their discovery responses with

this Court. This court also granted the Plaintiff's motion to consolidate these matters and all judgments awarded against these defendants in favor of plaintiff.

Neither Mr. Hammer nor 1634 Main LP served or filed any responses to the written discovery.

At a third hearing on August 12, 2013, Mr. Hammer again failed to appear. Mr. Aiken stated he was representing both Mr. Hammer and 1634, and reported that Mr. Hammer had gone to the Bahamas on a vacation with his children. At the hearing, Mr. Aiken presented to Mrs. Hammer's counsel answers to the interrogatories, but he did not provide any response to the requests to produce that were also due by that date. The court record reflects no responses to the written questions.

The written responses handed to Mrs. Hammer's counsel on August 12, 2013 were untimely and contained objections. The information was provided was non-substantive and provided no information useful to the Court in these proceedings. Neither Mr. Aiken on behalf of his client nor Howard Hammer, *pro se*, supplemented the responses prior to the hearing on January 9, 2014.

Neither Mr. Hammer nor 1634 Main LP has filed any responses to the written discovery served upon them, as they were required to do by this court's order dated June 10, 2013.

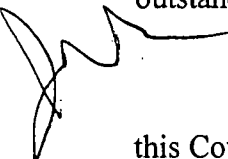
Mrs. Hammer's counsel subpoenaed documents from several witnesses with no response.

She also subpoenaed several of those witnesses to appear at the August 12, 2013 hearing to give testimony and provide documentation about the assets of defendants Howard Hammer and 1634 Main, LP., only Alvin Hammer and Debra Covington appeared at the August 12, 2013 hearing. Ms. Covington provided the Court and Mrs. Hammer's counsel with documents responsive to the subpoena.

Alvin Hammer stated he had provided loans to Howard Hammer, but indicated he had no documentation responsive to the subpoenas that were served upon him. Alvin Hammer also volunteered he would be willing to discuss settlement options on behalf of Howard Hammer. Witness Bernard Ackerman did not appear and did not provide documents which were required to be provided.

The hearing on August 12, 2013 was concluded without resolution of the remaining motions, to give the parties time to try to work out a settlement. On September 9, 2013, the court was informed no settlement could be reached, and counsel for Plaintiff submitted a proposed order to the court for the transfer of certain real property located at 1634 Main Street to Plaintiff.

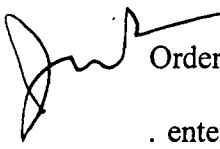
On September 9, 2013, the defendant debtors filed a motion for summary judgment alleging that transfer of the real property is beyond the power of this court, under S.C. Code §15-31-310, *et. seq.* A hearing was scheduled for January 9, 2014 for purposes of addressing all outstanding issues, and notice of the hearing was sent to all counsel of record October 14, 2013.



At the hearing on January 9, 2014, Counsel for Plaintiff renewed Plaintiff's request that this Court execute against property owned by Howard Hammer and 1634 Main, LP to satisfy the judgments. Mr. Hammer made an oral motion to dismiss Plaintiff's claim for execution against property on the basis that a separate action seeking foreclosure of judgments filed by Plaintiff on November 4, 2013 (Case No. 2013-CP-40-06898) divested this court of its jurisdiction over the supplemental proceedings. Counsel for 1634 Main, LP joined in the motion, and argued that only a foreclosure proceeding could divest his client of property for purposes of satisfying a judgment. Counsel for Plaintiff noted that the foreclosure matter would be rendered moot if these supplementary proceedings resulted in an execution against property owned by the judgment debtors, and that the foreclosure matter was filed in order to attach other property to the

judgment if it became necessary to do so. Both the oral Motion to Dismiss and Motion for Summary Judgment are denied.

The powers of the Master in Equity are defined by State law and by an Order of Reference, and the South Carolina Rules of Civil Procedure. In this case, Judge Manning issued Orders of Reference after the Executions Against Property owned by the judgment debtors were returned by the sheriff *nulla bona* under S.C. Code Ann. 15-39-130. In South Carolina, upon proof to the satisfaction of the court is received that the judgment debtor has property which he unjustly refuses to apply towards the satisfaction of the judgment, then “such . . . *proceedings may thereupon be had for the application of the property of the judgment debtor towards the satisfaction of the judgment as are provided upon the return of an execution.*” S.C. Code §15-39-310.


 It was for this purpose the Orders of Reference were executed by Judge Manning. The Orders of Reference also specifically gave this court the “authority to enter into final judgment. . . entertain and *rule upon all motions necessary to dispose of this matter, to include but not be limited to: motions to dismiss, motions to appoint a receiver, motions to continue the matter, and motions to sell all or certain property of judgment debtor in satisfaction of Plaintiff’s debt.*” (emphasis added).

The judgment debtors own property which may be attributed to satisfy Plaintiff’s debt.

S.C. Code §15-39-10 (c) specifically states one manner of execution includes “the delivery of the possession of real or personal property or such delivery with damages for withholding the property”. Such executions “may issue upon final judgments or decrees.” S.C. Code §15-39-30. Separate foreclosure proceedings and judicial sale are not required.

Mrs. Hammer has introduced into evidence exhibits that reflect the real property owned in part by Mr. Hammer personally and in part by 1634 Main LP, located at 1634 and 1632 Main Street in Columbia, South Carolina, has a fair market value of \$900,000.00. At the hearing on January 9, 2014, Mr. Hammer stipulated to the estimated value, and testified there is a tax lien against the property. The real property is more fully identified as:

Those certain parcels of land, with improvements thereon, situate in Richland County, South Carolina, being shown and designated as Parcel A and Parcel B, collectively containing 0.50 acre on plat prepared for Downtown Associates by Cox and Dinkins, Inc. dated February 5, 1996, recorded in the office of the RMC for Richland County in Plat book ___ at page ____ (the failure of record to said plat or to insert the recording data herein shall not affect the validity hereof) said plat being incorporated herein by reference, said parcels being collectively described as follows:



BEGINNING at a Bldg. Corner at the westernmost corner of Parcel B whereat said property corners with property now or formerly of Martha W. Fowler, et al, along the eastern margin of the right-of-way of Main Street a distance of 107.4 feet, more or less, from its intersection with Blanding Street, and running along property now or formerly Martha W. Fowler, et al N70°16'01"E - 209.01 feet to a ½" rod; thence turning and running along property now or formerly of Lexington State Bank, as follows: S19°27'00" E -17.80 feet to a point; N71°09'40"E -211.75 feet to an "X" on concrete; thence turning and running along the western margin of the right-of-way of Sumter Street S19°25'59"E -42.33 feet to an "X" on concrete; thence turning and running along property now or formerly of James L. Tapp Co., Inc., as follows: S71°06'28"W -211.73 feet to an "X" on concrete; S19°27'00"E -0.77 feet to an "X" on concrete thence turning and running along property now or formerly of Kimbrell's Investment, Co. S70°17'08"W -208.84 feet to an "X" on concrete; thence turning and running along the eastern margin of the right-of-way of Main Street N19°36'31"W -61.03 feet to the POINT OF BEGINNING.

~~This being a portion of the same property conveyed to Shirley Hammer by deed of 1634 Main, L.P., a South Carolina limited partnership dated February 11, 2002, and recorded in the office of the Register of Deeds for Richland County, South Carolina, in Deed Book 00627, at page 1909.~~

This being a portion of the same property conveyed to Howard Hammer by deed of Shirley Hammer dated February 27, 2013, which was not recorded. The deed was properly delivered to Howard Hammer via letter from Timothy E. Madden to Thomas H. Pope dated February 27, 2013, effecting delivery transfer of title.

Tax Map #09014-04-19

This conveyance is made subject to all easements, conditions, covenants, restrictions and rights-of-way which are a matter of public record and/or actually existing upon the grounds affecting the abovedescribed property.

Together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned unto the Grantee, and the Grantee's heirs or successors and assigns, forever.

According to evidence of record in these proceedings and the public records, Mr.

Hammer owns, among other assets:

- 52.75 % undivided interest in real property located at 1634 Main Street in Columbia, which was transferred to him as a result of a settlement of the family court action involving Mr. and Mrs. Hammer. The quit claim deed executed by Mrs. Hammer deeding the 52.75% interest in the real property to Mr. Hammer was executed on February 27, 2013 and delivered to Mr. Hammer via letter from Mrs. Hammer's attorney Timothy E. Madden dated February 27, 2013. That deed has not been recorded in Richland County.
- An unknown percentage of ownership in a limited partnership identified as 1634 Main LP. Some portion of this interest was transferred from Mrs. Hammer to Mr. Hammer by instrument dated February 27, 2013, and delivered to Mr. Hammer via letter from Mrs. Hammer's attorney Timothy E. Madden dated February 27, 2013. Mr. Hammer also owns some percentage interest in 1634 Main LP independent of and in addition to that which was transferred to him by Mrs. Hammer.

- Some portion or all of a limited liability corporation named SH5, LLC, a South Carolina limited partnership, which is the general partner of defendant 1634 Main, LP.

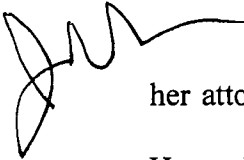
According to the evidence and documents of record, 1634 Main LP owns an unknown percentage of the real estate located at 1634 and 1632 Main Street, Columbia, SC, as described above.

As set forth below, all right, title and interest in these assets is transferred to Shirley Hammer. Transfers of real property are fee simple absolute. The transfer Mr. Hammer's interest in the identified entities is unconditional and permanent. These transfers are for the purpose of being applied to the unsatisfied judgments, the attorney's fees and costs awarded herein, and all costs related to the sale or transfer of these assets, as set forth below. Mrs. Hammer, as transferee, has no obligations of any kind to the transferors (Howard Hammer and 1634 Main LP) to account for the income or assets or the proceeds of sale, other than the accounting that is required as set forth below. Specifically, Mrs. Hammer is not a fiduciary to either Mr. Hammer or 1634 Main LP.

The Plaintiff moved that Howard Hammer be found in criminal contempt of court for his and 1634 Main, LP's failure to obey the orders of this court in numerous respects by not providing truthful or complete responses to the Plaintiff's questions and/or interrogatories and by not providing the documentation they were ordered to produce by the RTSC and this Court's order dated June 10, 2013. That motion is denied.

At the conclusion of these proceedings, plaintiff moved she be awarded attorney's fees and costs for these proceedings as sanctions against Howard Hammer and 1634 Main LP under the terms of the Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. Section 15-36-10 *et*

7:2
seq. and Rule 11, SCRC. Plaintiff alleges that because of the defendant's actions in these proceedings, including interfering with her ability to obtain discovery, refusing to answer questions as required by statute and as ordered by this Court, she incurred unnecessary and extraordinary legal expense for the prosecution of these supplemental proceedings. These proceedings have been extraordinary and multiplied in complexity as a direct result of Howard Hammer's intentional actions to thwart these proceedings as well as the actions of 1634 Main LP, acting through Howard Hammer. The willful failure to cooperate in these proceedings unnecessarily complicated and delayed these proceedings, some positions advanced by the judgment debtors were frivolous and were intended to delay these proceedings. I find that the fees and costs incurred by Mrs. Hammer in prosecuting this action, in the amount of \$55,385.70, are reasonable and were necessarily incurred to conclude this matter.

 Therefore, pursuant to S.C. Code Ann. Section 15-36-10 *et seq.* plaintiff's request that her attorney's fees and cost in the amount of \$55,385.70 be assessed against judgment debtor Howard Hammer as sanctions is hereby GRANTED. Additionally, the fees shall be paid on or before February 28, 2014 at 5:00 p.m.

When the Court orally announced its intent to grant Plaintiff's request for execution against property, Defendant Howard Hammer orally moved for the undersigned's recusal. Mr. Hammer's Motion for Recusal is denied.

ORDERS

All subpoenas issued in this matter are hereby quashed, rule 45, SCRC.

Howard Hammer's Motion to Dismiss, made at the January 9, 2014 hearing, is DENIED.

Defendants' Motion for Summary Judgment is DENIED.

Howard Hammer's Motion for Recusal is DENIED.

Plaintiff's Motion for Attorney's Fees and Costs pursuant to S.C. Code Ann. Section 15-39-10 is GRANTED and judgment is entered against the judgment debtors for an additional \$55,385.70.

Plaintiff's Motion to Hold Howard Hammer in Criminal Contempt is denied.

IT IS FURTHER ORDERED:

1. Any and all interest of Howard Hammer and 1634 Main, LP in real property located at 1634 Main Street in Columbia, SC, and as more fully identified hereinabove, shall be transferred to Shirley Hammer, her heirs, successors and assigns, in fee simple absolute, pursuant to a Master's Deed.
2. Any and all legal and equitable ownership interest of Howard Hammer in 1634 Main LP, a limited partnership under South Carolina law, including any and all income, bank accounts, and other assets, is transferred by this order to Shirley Hammer.
3. Any and all legal and equitable ownership interest of Howard Hammer in SH5, LLC, a limited liability corporation under South Carolina law, including any and all income, bank accounts, and other assets, is transferred by this order to Shirley Hammer.

4. Mrs. Hammer, as transferee, has no obligations of any kind to the transferors (Howard Hammer and 1634 Main LP) to account for the income or assets or the proceeds of sale, other than the accounting that is required as set forth in Paragraph 7 below. Specifically, Mrs. Hammer is not a fiduciary to either Mr. Hammer or 1634 Main LP.

5. Mrs. Hammer shall immediately take such action as she deems necessary or appropriate to market and sell the assets transferred to her in this order in a commercially-reasonable manner (including such treatment as is necessary of the limited partnership and corporate entity for purposes of selling the assets. Mrs. Hammer may use any income from the building for regular maintenance and operating expenses of the real property.

6. Mrs. Hammer shall pay to herself from the sales proceeds:

a. Any and all costs incurred in connection with the marketing and sale of the property;

b. The total amount of the judgments held by her against Howard Hammer and 1634 Main LP as set forth above. Post-judgment interest on the judgments shall stop on the judgments upon execution of this order.


c. The attorney fees and costs awarded herein plus post-judgment interest at the rate established by Order of the Supreme Court dated January 3, 2014.

7. Mrs. Hammer shall escrow any additional funds that remain after the above disbursements, until an accounting can be performed and distributions ordered by this Court.

8. Mrs. Hammer is and has all powers as an owner of the real and personal property conveyed to her in this order, and she may collect rents or other income and take such other actions as may be appropriate to manage, market and sell the real property located at 1634 and 1632 Main Street, Columbia, South Carolina.

9. While they may seek whatever legal remedies may be available to them by way of appeal, Howard Hammer and 1634 Main LP shall not interfere with the management or sale by Shirley Hammer of the assets transferred herein.

IT IS SO ORDERED.



Joseph Strickland,
Master In Equity
For Richland County

January 21, 2014

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
CASE NO.: 2009-CP-40-5911

Howard Hammer,)
)
)
Plaintiff,)
)
vs.)
)
Shirley Hammer a/k/a Shirley)
Grace Hightower,)
)
)
Defendant(s))

ORDER DENYING MOTION
OF HOWARD HAMMER TO
ALTER OR AMEND JUDGMENT

1634 Main, L.P.,)
)
Plaintiff,)
)
vs.)
)
Shirley Hammer a/k/a Shirley)
Grace Hightower,)
)
Defendant,)
)
vs.)
)
Howard Hammer,)
Additional Defendant on)
Counterclaim)

CASE NO: 2010-CP-40-02889

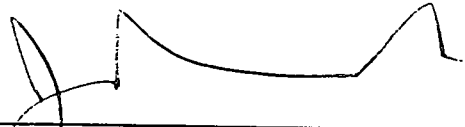
ORDER DENYING MOTION OF
HOWARD HAMMER AND 1634
MAIN, LP TO ALTER OR AMEND
JUDGMENT

RECEIVED
COURT OF COMMON PLEAS
RICHLAND COUNTY
SOUTH CAROLINA
FEB 12 2014
12:45 PM

The matter before the Court is the Motion of Howard Hammer to Alter or Amend Judgment and the Motion of Howard Hammer and 1634 Main, L.P. to Alter or Amend Judgment.

The motions are denied.

It is so Ordered.



Joseph M. Strickland, as
Master in Equity for Richland County

Columbia, South Carolina
March 2, 2014.