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July 11, 2014

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***** URGENT *****

The Honorable John C. Few, Chief Judge
South Carolina Court of Appeals
John C. Calhoun Building
P.O. Box 11629
Columbia, South Carolina 29211

**Re: Appellate Case No. 2014-000774
Newspapers Publishing Sealed Transcript**

RECEIVED
JUL 11 2014
SC Court of Appeals

Dear Chief Judge Few:

I am writing to notify you of an urgent matter that has come to my attention this afternoon. This matter concerns the subject matter of the above-referenced appeal before the Court of Appeals. The urgent matter is that a sealed, private transcript of administrative proceedings has been published by East Coast Newspapers, Inc. d/b/a the Island Packet, the Beaufort Gazette, the State Newspaper, and their related entities (the Newspapers). The PDF copy that the Newspapers have published is, in fact, appears to be a copy of the precise transcript that attorneys Naert and DuBois obtained through an unsanctioned release and sought to introduce in a hearing. The Honorable Carmen Mullen ordered it sealed at the circuit court level. This is the very same transcript of the hearing that the ALC ruled was private and sealed, which is the subject of the appeal in 2014-000774. We have contacted attorneys Naert and DuBois, and they have specifically denied releasing this copy to the Newspapers. Officials with the South Carolina Department of Labor, Licensing and Regulation and the South Carolina Real Estate Commission have confirmed they did not provide this transcript to the Newspapers. To our knowledge, no one else could have provided the copy of the transcript, with its unique markings.

The appeal in 2014-000774 involves Naert and DuBois' appeal of the ALC's order ruling the hearing before the Real Estate Commission is private and sealed. The ALC's order sealed all matters before it and the Real Estate Commission. This Court dismissed Naert and DuBois, LLC's appeal; however, there is a petition for rehearing and/or supersedeas and for sanctions presently before this Court. This petition addresses this Court sealing certain documents filed in this appeal.

In a separate appeal, the Newspapers filed a motion to intervene for the purpose of challenging the Respondents' Motion to seal. The Newspapers' motion to intervene demonstrates they have actual knowledge that the materials at issue in the appeal, which include the sealed transcript that



they have published, continue to be sealed. Additionally, because the Newspapers have a copy of the ALC's sealed order, which they obtained from C-Track; thus, they have actual knowledge that this transcript is sealed. The Newspapers' article is apparently written by a reporter by the name of Dan Burley, who also has actual knowledge of the sealed status of this transcript.

Letter to Chief Judge Few
July 11, 2014
Page 2

We will be filing appropriate motions this Monday; however, out of the utmost necessity, I am writing to ask for you to issue an order temporary enjoining the Newspapers, their agents, and affiliates from continuing to publish this sealed, private transcript until this Court rules on the matters currently before it. *See* section 14-8-290 of the South Carolina Code.

Thank you for your prompt attention to this urgent matter.

I have enclosed on check to cover the filing fee. Also, I am providing a Certificate of Service showing I am serving all counsel to this appeal with a copy of this letter/motion.

With kind regards, I remain

Very truly yours,

James E. Smith, Jr.



Cc: via U.S. Mail and email
Joseph DuBois
Zachary Steven Naert
Nekki Shutt
Kathleen McDaniel
Jacqueline Pavlicek
Darra Coleman
Jay Bender
The Honorable Ralph King Anderson, III
The Honorable J. Ernest Kinard, Jr.
The Honorable Carmen T. Mullen