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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL D. WICKENS
COURT OF COMMON PLEAS
13TH JUDICIAL CIRCUIT
2015 FEB 3 PM 3 35

William F. Tomz and Francis W. Tomz,)
Individually and as Class Representatives,)
)
Plaintiffs,)
)
vs.)
)
Capital Investment Funding, LLC, and)
Arthur M. Field,)
)
Defendants.)

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FEB 23 2015
SC Court of Appeals

ORDER

Civil Action No. 2008-CP-23-3665

On September 17, 2013, this Court held a hearing regarding a Rule to Show Cause requiring the Defendant, Arthur M. Field, to show why he should not be held in contempt. In an Order entered on October 1, 2013, this Court found Arthur M. Field in contempt.

The Defendant Field appealed the Order of October 1, 2013 to the South Carolina Court of Appeals.

Subsequently, Field filed with the Court of Appeals a Motion which the Court of Appeals construed as a Motion to Remand to reconstruct the record because Appellant Field contended the current transcript had rendered his appeal unreviewable.

By Order dated and filed July 19, 2014, the Court of Appeals remanded the case to the Greenville County Court of Common Pleas for a hearing to address the issues concerning Field's Motion to Remand to reconstruct the record.

The hearing on Field's Motion was held on October 27, 2014. Present at the hearing was Attorney Bradford N. Martin of the Greenville County Bar, who represented Arthur M. Field at the

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hearing on the Rule to Show Cause on September 17, 2013 and is his attorney in connection with the appeal. Also present at the hearing were George Brandt, III of the Spartanburg County Bar, representing Jerry Saad, the Receiver for Capital Investment Funding, LLC, and Stanley T. Case of the Spartanburg County Bar, attorney for the Plaintiffs (the Class).

The Appellant Field contends that the Court made certain comments before the case was called for a hearing and that a description of the comments of the Court is necessary for the purpose of Appellate review. The Appellant has tendered four (4) Affidavits to the Court, which include the Affidavit of Arthur M. Field, the Affidavit of Angie Orfanedes, the Affidavit of Henry Van Dyke and the Affidavit of Richard Lackey. Orfanedes, Van Dyke and Lackey are neighbors of Defendant Field from the Thornblade neighborhood, and testified on behalf of Field at his sentencing hearing.

Prior to the September 17, 2013 hearing, Arthur M. Field had pled guilty to eleven (11) counts of securities fraud, two (2) counts of criminal conspiracy to commit securities fraud, and one (1) count of forgery. Subsequent to the September 17, 2013 hearing, Arthur M. Field was sentenced and ordered to pay the sum of \$2,877,711.72 as restitution.

It appears that the tendered Affidavits make reference to a question that is contained at page 7 of the Transcript of the September 17, 2013 hearing. The transcript indicates that, among other things, the Court asked Mr. Martin a question as follows: "So, let me get this straight, your client stole forty million dollars and now he's the victim?"

It also appears that the tendered Affidavits contain personal commentary about the demeanor of the Court during the hearing. The proposed Affidavits do not claim that the trial transcript is in any way inaccurate or incomplete. The proposed Affidavits do not state that the Affiants have read the transcript. Nor do they state that the transcript does not contain or include any particular

testimony or statements.

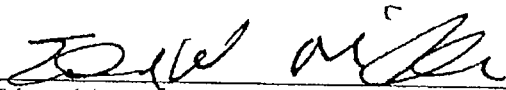
It is the finding and determination of the Court that the proposed Affidavits should be disallowed. The Affidavits are self serving and include an attempt to introduce into the record things that were not part of the record. No effort was made by the Appellant to provide testimony in keeping with the proposed Affidavits at the hearing. Accordingly, the proposed Affidavits are disallowed and will not be included as a part of the record.

An exhibit has been submitted to the Court that relates to the correction of certain scrivener's errors. The Court will allow the correction of the scrivener's errors as proposed, but will not allow any other changes to the transcript of the testimony or additions to the record.

Therefore, it is the finding of this Court that the transcripts of the aforementioned hearing held on September 18, 2013 shall be modified only to reflect the correction of the scrivener's errors that are stated in the exhibit attached to this order, and that no other changes or additions to the record shall be made to the record because no other changes are warranted or proper.

AND, IT IS, SO, ORDERED on this ____ day of ~~December~~, 2014.

2/2/15



Edward W. Miller
Judge for the Court of Common Pleas for
Greenville County

BRADFORD NEAL MARTIN & ASSOCIATES, PA

ATTORNEYS AT LAW

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February 20, 2015

Ms. Caroline Hiskell
32 Duxbury Lane
Easley, SC 29642

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SC Court of Appeals

Re: *William F. Tomz v. Capital Funding, et al*
C/A No.: 2008-CP-23-3665

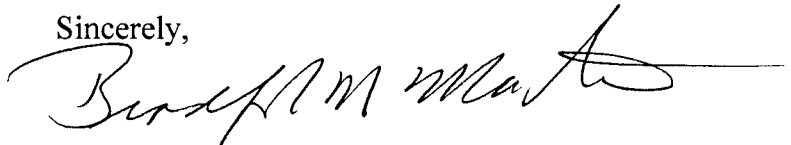
Dear Ms. Hiskell:

Enclosed please find a copy of the Order of Judge Miller of February 2, 2015, as well as our previous letter to you of October 18, 2013, requesting corrections to the transcript of the hearing held on September 17, 2013. The order grants our request for these changes to be made. In making the ordered changes, please note the changes referred to in our October 18, 2013, letter refer to the first transcript we received from you. On your final transcript, delivered to our offices on October 25, 2013, and filed with the Court, the numbered lines are off by one line. For example, the first correction, "Page 17, line 6 – The objection made was by Mr. Martin, not Mr. Brandt," noted in our letter is now "Page 17, line 7" on the final transcript, and so on throughout the scrivener's errors noted.

Please correct these errors to the transcript, referring to the corrected line, and forward a final copy to our office at your earliest convenience.

Thank you for your attention to this matter.

Sincerely,



Bradford N. Martin

BNM/pm
enclosures

cc: ✓ The Hon. Jenny Abbott Kitchings, South Carolina Court of Appeals
Ms. Desiree Allen, Manager, Court Reporting and Court Interpreters
George Brandt, Esq.
Stan Case, Esq.



First Class Mail

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TO:

The Hon. Jenny Abbott Kitchings
 South Carolina Court of Appeals
 P.O. Box 11629
 Columbia, SC 29211

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