

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

G. Thomas Cooper, Jr., Circuit Court Judge

Case No. 2014-CP-40-3389
Appellate Case No. 2014-001652

Alan Wilson, Securities Commissioner
of South Carolina,

Respondent,

v.

Integrated Capital Strategies, LLC,

Appellant.

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APPELLANT'S REPLY BRIEF

James M. Griffin
Margaret N. Fox
LEWIS, BABCOCK & GRIFFIN, L.L.P.
1513 Hampton Street
Columbia, South Carolina 29201
T: (803) 771.8000
F: (803) 733.3541

Alan Wilson, Securities Commissioner
Tracy Meyers, Deputy Securities Commissioner
Ian P. Weschler, Assistant Attorney General
SECURITIES DIVISION
1000 Assembly Street
Columbia, South Carolina 29201
T: (803) 734-9916

Attorney for Appellant

Attorney for Respondent

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ARGUMENT

- I. BECAUSE ICS WAS NOT ALLOWED TO EXAMINE A HIGHLY RELEVANT DOCUMENT THE COURT INSPECTED IN CAMERA AND FILED UNDER SEAL, THE COURT VIOLATED ICS DUE PROCESS RIGHTS.

The South Carolina Securities Act (“Securities Act”) applies when there is an “offer, sale or purchase of a security” in South Carolina. *See* S.C. Code Ann. § 35-1-501(2). Thus, when any action is taken pursuant to the Securities Act,¹ the threshold question is whether there was an offer or sale of securities in South Carolina. Here, there was not.

At the hearing on this matter, the Attorney General presented to the trial court a list of alleged CertusBank stockholders residing in the State of South Carolina. This was done to demonstrate there are stockholders living in South Carolina, and therefore, there was an offer or sale of securities in the State.² Without establishing sales of securities to South Carolina residents, the Attorney General could not have validly issued the subpoena and sought enforcement of the same. The Attorney General presented no other evidence to demonstrate an offer or sale of securities in South Carolina. Thus, the accuracy of the list is central to whether the Securities Act applies and, therefore, whether ICS must comply with the subpoena.

¹ In its Initial Brief, Respondent states: “Pursuant to the South Carolina Uniform Securities Act of 2005, the Respondent sought enforcement of the Subpoena in the Richland County Court of Common Pleas.” Respondent’s Initial Brief at 2.

² The Attorney General proffers that it presented the list to “show that the Bank was cooperating with the investigation.” The characterization, even if partly true, is not comprehensive. The Attorney General also offered the list to the Court in an attempt to show a nexus between the activities and South Carolina. Respondent’s Initial Brief at 16.

There are no CertusBank stockholders who reside in South Carolina. Given that fact, it is of no surprise ICS required opportunity to view the document presented by the Attorney General. ICS was in fact supposed to have this opportunity. However, the Attorney General, while first agreeing to provide a copy of the list to ICS, later refused to do so. The Attorney General now wants to argue ICS was not prejudiced by a list it was supposed to show ICS that goes to the heart of the enforcement issue. The Attorney General contends even if there were error, it was harmless error. Respondent's Initial Brief at 17. However, again, the accuracy of the list was central to the threshold question of whether the Securities Act applies and whether the subpoena can be issued and enforced pursuant to the Securities Act. Thus, error concerning the list cannot reasonably be deemed harmless.

Notwithstanding broad authority in administrative subpoena proceedings, the Attorney General is immersing itself in affairs over which it has no jurisdiction nor reasonable relation. The actions purported to be investigated do not reasonably involve or relate to South Carolina.

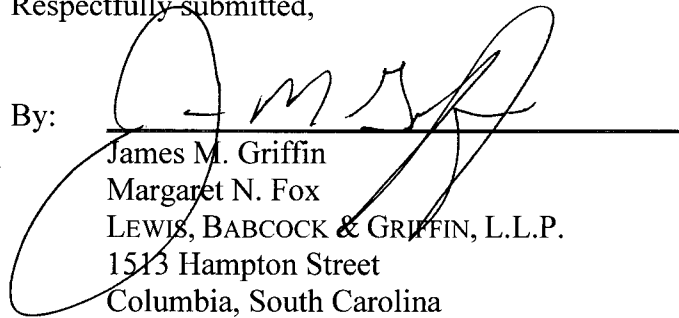
CONCLUSION

For the reasons stated, this Court should reverse the Order of the lower court.

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Respectfully submitted,

By:

A large, stylized handwritten signature in black ink, appearing to be 'JMG', is written over a horizontal line. The signature is written in a cursive style with large loops.

James M. Griffin
Margaret N. Fox
LEWIS, BABCOCK & GRIFFIN, L.L.P.
1513 Hampton Street
Columbia, South Carolina
T: (803) 771.8000
F: (803) 733.3541
jmg@lblegal.com
mnf@lblegal.com

Attorneys for ICS

March 2, 2015
Columbia, South Carolina

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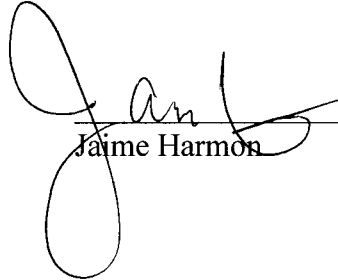
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I, Jaime Harmon, the undersigned employee of Lewis, Babcock & Griffin L.L.P, attorney for Appellant Integrated Capital Strategies, LLC, do hereby certify that I have served a copy of the foregoing Appellant's Initial Reply Brief, by mailing a copy of the same by U.S. Mail to the following address on March 2, 2015:

Alan Wilson, Securities Commissioner
Tracy Meyers, Deputy Securities Commissioner
Ian P. Weschler, Assistant Attorney General
Securities Division
1000 Assembly Street, Room 519
Columbia, SC 29201



Jaime Harmon

Columbia, South Carolina
March 2, 2015



March 2, 2015

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk of Court, South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

**Re: Alan Wilson, Securities Commissioner of South Carolina v.
Integrated Capital Strategies, LLC
Case No. 2014-CP-40-03389
Appellant Case No. 2014-001652**

Dear Ms. Abbott Kitchings:

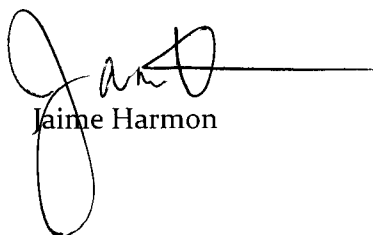
Enclosed please find the original and one copy of the Appellant's Initial Reply.

Please file these documents and return the clocked in copy to the courier.

If you have any questions, please do not hesitate to contact this office.

With best regards, I am

Very truly yours,



Jaime Harmon

/jh
Enclosure

cc: Ian P. Weschler (Via U.S. Mail)
Tracy Meyers (Via U.S. Mail)
Alan Wilson, (Via U.S. Mail)

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