

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Richland County
Joseph M. Strickland, Master-In-Equity
Case No.: 2013-CP-40-6898

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SC Court of Appeals

Shirley Hammer,

Respondent,

v.

Howard Hammer; 1634 Main, LP; Alvin Hammer; SH5, LLC; SH4, LLC; SH3, LLC;
HASCI, LLC; D&M Chateau, LLC; Heart of Columbia, a/k/a Heart of Columbia, Inc.;
Alvin J. Hammer, as Personal Representative of the Estate of Eleanor Bernstein Hammer;
Joye Elizabeth Life Estate; Stanley Hammer; Department of the Treasury-IRS; Chateau
DeVile Association, Inc. and/or Chateau DeVile Horizontal Property Regime; David H.,
a minor under the age of 14,

Defendants,

Of Whom,

Howard Hammer is

Appellant.

MEMORANDUM OF HOWARD HAMMER
ON ISSUE RAISED BY COURT
REGARDING APPEALABLE ORDERS

Thomas W. Bunch, II
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July 20, 2015

Pursuant to this Court's request, counsel for Appellant Howard Hammer submits this memorandum on whether the orders challenged on appeal are appealable under Section 14-3-330(4) of the South Carolina Code of Laws. In addition to responding to the direct inquiry of this Court, Mr. Hammer also addresses other subdivisions of § 14-3-440.

PROCEDURAL AND FACTUAL BACKGROUND

This case commenced by the filing of a Summons and Complaint on November 13, 2013. **Exhibit A.** Respondent Shirley Hammer brought the case (1) to foreclose judgment liens against certain real and personal property interests of Howard Hammer and 1634 Main, L.P. who were judgment debtors of Respondent, and (2) to foreclose against property owned by other defendants in the case even though Respondent holds no judgments against those parties. This case will be referred to as the "Foreclosure Case," as distinguished from two other cases in supplementary proceedings described herein. The Complaint in the Foreclosure Case alleged judgments in the original amounts of \$190,744.30 against Howard Hammer and \$127,032.87 against 1634 Main, L.P. from case numbers 2009-CP-40-05911 and 2010-CP-40-02889 (the "Supplementary Proceedings Cases"). In December 2014, after the Foreclosure Case had been pending for over a year, Respondent moved for a charging lien against Howard Hammer only. **Exhibit B** (Amended Motion dated December 23, 2014).

Prior to filing the Foreclosure Case, Respondent had initiated supplementary proceedings to enforce her judgments in the Supplementary Proceedings cases. On January 21, 2014, while this Foreclosure Case was pending, the Honorable Joseph M. Strickland issued an "**ORDER DIRECTING TRANSFER OF PROPERTY TO SATISFY JUDGMENTS**" (emphasis in original) in the Supplementary Proceedings Cases. **Exhibit C.** Prior to entry of the January 21

Order, Appellant Howard Hammer had answered the complaint in the Foreclosure Case. **Exhibit D.**

The order transferring property to satisfy judgments executed on and directly transferred to Respondent real property located at 1634 Main St. in Columbia and also executed on and transferred the entity 1634 Main, L.P., including all of Mr. Hammer's ownership interest in the transferred property. The order arose out of a January 9, 2014 hearing at which the lower court stated it was transferring the property in satisfaction of all amounts owed and directed Respondent to satisfy her judgments. Respondent's counsel affirmed to the lower court that the Foreclosure Case would be dismissed upon entry of an order transferring the property to satisfy the judgments. **Exhibit E.** The South Carolina Supreme Court affirmed the execution against the property to satisfy the judgments under S. C. Code Ann. 15-39-10(c) (Rev. 2005) ("Kinds of Execution") in opinion number 2014-MO-045, filed November 6, 2014. **Exhibit F.**

Despite Respondent's counsel's affirmation at the January 9, 2014 hearing and the Supreme Court opinion affirming the property transfer in satisfaction of the judgments, Respondent moved for a charging lien against the interests of Howard Hammer in the Foreclosure Case (motion filed December 18, 2014 and amended on December 23, 2014). After the Supreme Court affirmed the transfer of property to satisfy judgments, on January 2, 2015, Howard Hammer moved to dismiss the Foreclosure Complaint on the ground that the judgments had been satisfied. **Exhibit G.** On January 14, 2015, Howard Hammer responded to the motion for charging lien. **Exhibit H.**

Judge Strickland did not dismiss the Foreclosure Case and granted the motion for charging lien against Mr. Hammer by Order dated March 16, 2015. **Exhibit I.** Howard Hammer moved for reconsideration of this order on March 26, 2015, and also moved to compel the sale of

1634 Main St. property to HASCI, LLC in accordance with an agreement placed on the record at hearings on January 16 and 27, 2015, held before Judge Strickland in the Supplementary Proceedings Cases. **Exhibit J.** The lower court denied both motions on March 31, 2015. **Exhibit K.** On April 30, 2015, Mr. Hammer appealed the orders of March 16 and 31.

After the appeal was filed, Respondent moved to certify this appeal to the Supreme Court and she moved to dismiss the appeal on the basis, *inter alia*, that the orders were interlocutory. Mr. Hammer filed his return to that motion and incorporates the return herein. As of the drafting of this memorandum, Mr. Hammer is unaware if any action has been taken on the motion pending at the Supreme Court. Mr. Hammer has filed his initial appellant's brief with this Court, and he incorporates the contents thereof in this memorandum. Thereafter, this Court requested memoranda on the issue of appealability.

ARGUMENT

- 1. The orders are appealable because, even if interlocutory, they grant an injunction which is an appealable order under Section 14-3-330(4) of the Code of Laws of South Carolina.**

Section 14-3-330(4) of the Code of Laws of South Carolina provides: "The Supreme Court shall have appellate jurisdiction for correction of errors of law in law cases, and shall review upon appeal: (4) An interlocutory order or decree in a court of common pleas granting . . . an injunction" Therefore, even if the appealed orders can be classified as interlocutory, the referenced statute specifically provides for an appeal of an injunction granted by the lower court.

Respondent states, "At this point, the efficacy of the charging order simply prevents distribution of the funds that represent Howard's distributional share of HASCI, LLC (if any)

until the foreclosure action is finalized.” Respondent’s memorandum, p. 3.¹ An order which **prevents** an act is a prohibitory injunction. *See, Sanford v. South Carolina State Ethics Com’n.*, 385 S.C. 483, 685 S.E.2d 600 (2009). Respondent acknowledges and argues that the orders on appeal **prevent** Mr. Hammer from taking distributions from the limited liability company. Because the orders prevent Mr. Hammer from receiving distributions, the lower court granted an injunction, and the orders are appealable under § 14-3-330(4).

2. The orders are appealable because they determine the merits of the action.

The orders on appeal are appealable orders under Section 14-3-330(1) of the South Carolina Code of Laws, which states, in part, “The Supreme Court shall have appellate jurisdiction for correction of errors of law in law cases, and shall review upon appeal: (1) Any intermediate judgment, order or decree in a law case involving the merits”

Over Appellant’s objection and his own motion for summary judgment that the judgments against him had been satisfied, the Court summarily granted to Respondent the charging lien order. The lower court’s orders directly addressed the merits of the case by deciding that the judgments had not been satisfied by the January 21, 2014 Order.² Despite its own order as affirmed by the Supreme Court, the lower court held that the “Transfer of title of real property to her, with specific instructions regarding sale, did not fully satisfy the judgments in full” The lower courts orders granted summary relief to Respondent by determining that Respondent’s judgments had not been fully satisfied, leaving the amount of the judgment undetermined.

¹ Respondent makes a virtually identical statement on page 2 of her memorandum.

² The Supreme Court directly addressed this issue when it affirmed the January 21 Order: “Howard Hammer and 1634 Main, LP (collectively, Appellants) appeal the order of the master-in-equity transferring various properties to Shirley Hammer in satisfaction of the judgments she has against Appellants.” Memorandum Opinion No. 2014-M)-045 filed November 6, 2014.

In *Nauful v. Milligan*, 258 S.C. 139, 187 S.E.2d 511 (1972), the lower court granted plaintiff summary judgment as to liability, leaving for a later determination at trial the amount of damages. The Supreme Court determined this order to be immediately appealable under the predecessor statute, Section 15-123(1) of the 1962 Code of Laws, but same statute as Section 14-3-440(1) of the 1976 Code of Laws. In the case now before this court, the lower court granted judgment to Respondent for a charging lien, leaving the amount of the lien undetermined. The lower court's orders are substantively the same as the Order faced by the Supreme Court in *Nauful*, and the lower court's orders are appealable in this case under § 14-3-440(1).³

3. The orders on appeal affect a substantial right made in a special proceeding and upon summary application.

The action brought by Respondent is one that is post-judgment, one to enforce her rights as a judgment creditor of Howard Hammer and 1634 Main, L.P. Therefore, the appeal is permitted by Section 14-3-330(3) of the South Carolina Code of Laws. Subdivision 3 provides, "The Supreme Court shall have appellate jurisdiction for correction of errors of law in law cases, and shall review upon appeal: (3) A final order affecting a substantial right made in any special proceeding or upon a summary application in any action after judgment." The orders on appeal granted on Respondent's motion by summary application a charging lien on the interests of Howard Hammer. As such, the orders are subject to appeal under subdivision 3 of § 14-3-330.

In *Kennedy v. City of Greenville*, 78 S.C. 124, 58 S.E. 989, 990 (1907), the Supreme Court stated, "... this subdivision was intended to provide a remedy where matters, either of an independent nature or collateral to an action, arise upon a special proceeding, and where matters

³ The Supreme Court cited and followed *Nauful* in *Link v. School Dist. Of Pickens County*, 302 S.C. 1, 393 S.E.2d 176 (1990). In *Link*, the Supreme Court found that the grant of summary judgment as to one of four causes of action was appealable under both subdivisions 1 and 2 of § 14-3-440.

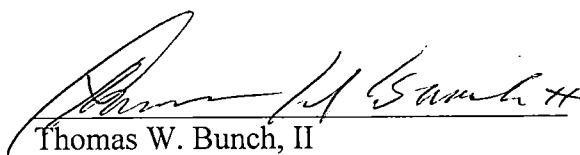
arise upon a summary proceeding in an action after judgment.” Respondent brought the Foreclosure Case as a collateral action to collect on her judgments, collateral to the already commenced supplementary proceedings. Like the Supplementary Proceedings Cases, the Foreclosure Case was referred to the master-in-equity for Respondent to collect her judgments. Further, the relief was granted through motion seeking summary application after judgment.

In addition to the legal analysis cited in *Kennedy*, the Supreme Court held in *Johnstone v. Manigault*, 13 S.C. 403 (1880), that an appeal will lie from the seizure of one’s crop to satisfy a landlord’s agricultural lien. Like this appeal arising from a special statute related to a charging lien to satisfy a judgment (S.C. Code Ann. § 33-44-504 (Rev. 2006), *Johnstone* arose from a special proceeding to enforce an agricultural lien. There is no practical difference between the two proceedings as both interfere with a substantial right of the respective appellants, to be paid from a business venture.

Therefore, the appeal is permitted by subdivision 3 of the statute as interpreted in *Kennedy* and *Johnstone*.

CONCLUSION

Appellant Howard Hammer respectfully submits that the orders on appeal are appealable orders under Section 14-3-440 of the Code of Laws of South Carolina.



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July 20, 2015

EXHIBIT A

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Shirley Hammer,

Plaintiff,

vs.

Howard Hammer, 1634 Main, LP, Alvin
Hammer, SH5, LLC; SH4,
LLC; SH3, LLC; HASCI, LLC; D&M Chateau,
LLC; Heart of Columbia, LLC; Eleanor
Hammer; Joye Elizabeth Life Estate; Stanley
Hammer; Department of the Treasury-IRS;
Chateau DeVille Association, Inc. and/or
Chateau DeVille Horizontal Property Regime;
David Hammer, a minor under the age of 14;
Defendants.

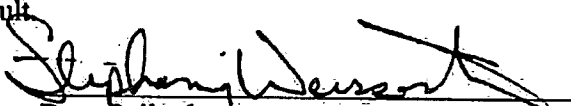
IN THE MASTER IN EQUITY COURT

CASE NO.: 2013-CP-40-

SUMMONS
(Non-Jury)

TO: DEFENDANTS NAMED ABOVE:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to said complaint upon the subscriber, at her address as 226 State Street, West Columbia, South Carolina 29169, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the complaint within the time aforesaid, plaintiff will apply to the Court for the relief demanded in the complaint, by judgment by default.


Desa Ballard
Stephanie Weissenstein
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11/8/2013

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE MASTER IN EQUITY COURT
Case No. 2013-CP-40-_____

Shirley Hammer,

Plaintiff,

v.

Howard Hammer, 1634 Main, LP, Alvin
Hammer; SH5, LLC; SH4, LLC; SH3, LLC;
HASCI, LLC; D&M Chateau, LLC; Heart
Of Columbia, LLC; Eleanor Hammer; Joye
Elizabeth Life Estate; Stanley Hammer;
Department of the Treasury- IRS; Chateau
DeVile Association, Inc. and/or Chateau
DeVile Horizontal Property Regime; David
Hammer, a minor under the age of 14,
Defendants.

VERIFIED COMPLAINT FOR
ATTACHMENT, AND
FORECLOSURE OF JUDGMENT

Plaintiff would respectfully show:

1. That heretofore Plaintiff recovered and recorded judgments against Defendant Howard Hammer and against Defendant 1634 Main, LP as hereinafter set forth; and that there is still due and owing on said judgments the sum indicated herein, below, Defendants having failed and refused to satisfy same:

Date Entered	Roll No.	Amount Due:	Defendant
February 6, 2013	2009CP4005911	\$80,000.00	H. Hammer
February 6, 2013	2010CP4002889	\$50,000.00	H. Hammer
February 6, 2013	2010CP4002889	\$25,000.00	1634 Main
June 3, 2013	2009CP4005911	\$60,744.30	H. Hammer
June 3, 2013	2010CP4002889	\$102,032.87	1634 Main
Total Due:		<u>\$317,777.17, plus interest¹</u>	

2. That executions thereafter duly issued to the Sheriff of the County of Richland against Defendant and said Sheriff has returned the same Nulla Bona.

3. That upon information and belief, the Defendant 1634 Main LP and Howard Hammer have assets in the County and in the State not exempt from levy which they unjustly refuse to apply toward satisfaction of said judgments; Plaintiff would show, in particular, that Howard Hammer owns substantial assets by and through his ownership interest in various limited liability companies and limited partnerships, as set forth herein.
4. On information and belief, Defendant Howard Hammer is the sole member of a South Carolina limited liability company called SH5, LLC; and, Howard Hammer, his minor son David Hammer and SH5, LLC are the members in the limited partnership 1634 Main, LP.
5. On information and belief, these parties own, unencumbered, the real property located at 1634 Main Street in Columbia, South Carolina, which bears Tax Map #09014-04-19, and is more aptly 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 of 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 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

¹ Interest owed from the dates of filing, to be calculated at the judicially ordered post-judgment rate.

in the office of the Register of Deeds for Richland County, South Carolina, in Deed Book 00627, at page 1909.

6. That Plaintiff is informed and believes her judgments against Howard Hammer and 1634 Main, LP are the only judgment enforceable against the property at 1634 Main Street, and are therefore a first lien on the property
7. Furthermore, Howard Hammer, SH5, LLC and 1634 Main, LP own, unencumbered, the real property located at 1632 Main Street in Columbia, South Carolina, which bears Tax Map #R09014-04-19, a lot adjacent to 1634 Main Street.
8. That Plaintiff is informed and believes her judgments against Howard Hammer and 1634 Main, LP are the only judgments enforceable against this property at 1632 Main Street, and are therefore a first lien on the property.
9. On information and belief, Defendant Howard Hammer is the sole member of a South Carolina limited liability company called SH3, LLC, which owns property for or with defendant Joye Elizabeth Life Estate, which property is located at 2109 Sumter Street, in Columbia, South Carolina, and is more accurately described as follows:

All that certain piece, parcel, or lot of land, together with improvements thereon, situate, lying or being on the western side of Sumter street, between Elmwood Avenue and Scott Street, in the city of Columbia, County of Richland, State of South Carolina, being shown and delineated on a plat prepared for SH3, LLC by Anderson & Associates Land surveying, Inc. dated April 4, 2000. Said lot is more particularly described as follows, to wit: commencing at an iron pin on the western edge of the right of way of Sumter Street located Two hundred twenty-three and three-hundredths (223 . 03') feet south of the center line of Scott Street at its intersection with Sumter Street, which iron pin is the common corner of the subject property, property now or formerly of Gretchen G. Dawson and the western edge of the right of way of Sumter Street, and from such Point of Commencement running S 14 degrees 36' 25" E minutes along the western edge of the right of way of Sumter Street for a distance: of Sixty-five and three-tenths

(65.3') feet to an iron pin; thence turning and running S 75 degrees 55' 36" W along property now or formerly of J. Marvin Mullis, Jr. for a distance of Ninety seven and ninety two-hundredths (97.92') feet to an iron pin; thence turning and running S 76 degrees 10' 46" W along property now or formerly of Johnson and King Engineers, Inc. and property now or formerly of Allen J. Horn for a distance of One hundred ten and seven-tenths (110.70') feet to an iron pin; thence turning and running S 76 degrees 3' 39" W along property now or formerly, of Allen J. Horn for a distance of Ten and eight-hundredths (10.08') feet to an iron pin; thence turning and running 13 degrees 39' 55" W along property now or formerly of Isadore S. Bernstein and Henry Hammer for a distance of One hundred five and nine-hundredths (105 . 09') feet to an iron pin; thence turning and running N 76 degrees 5' 56" E along property now : or formerly of Isadore S. Bernstein and Henry Hammer for a distance of One hundred seventeen and four-hundredths (117.04') feet to an iron pin; thence turning and running S 14 degrees 23' 25:" E along property now or formerly of Gretchen . G. Dawson for a distance of Forty (40.00') feet to an iron pin; thence turning and running N 75 degrees 53' .57" E minutes along property now or formerly of Gretchen G. Dawson for a distance of One hundred and eight-hundredths (100.08') feet to the Point of Commencement.

10. That Plaintiff is informed and believes her judgments against Howard Hammer are the only judgments enforceable against this property at 2109 Sumter Street, and are therefore a first lien on the property.
11. On information and belief, Howard Hammer owns certain real property located at 3600 Chateau Drive, Apt. 125. Defendant Chateau DeVille Association, Inc. may claim an interest in the subject property by virtue of Notice of Lien in the amount of \$1,211, which Notice is recorded on November 10, 2009 in the Office of the ROD for Richland County, in Book 1568 at page 2545. On information, Defendant Chateau DeVille Association, Inc. may claim an additional interest in the amount of \$7,718, which Notice is recorded on February 7, 2012 in the Office of the ROD for Richland County, in Book 1740 at page 1488. On information and belief Howard's mother, defendant Eleanor Hammer may claim an interest in the subject property by virtue of a mortgage in the amount of \$65,000, recorded on November 1, 2012 in the Office of the ROD for Richland County in Book 1812,

Page 3020. On information and belief, this mortgage may have been issued for purposes of encumbering the subject property in an attempt to insulate it from plaintiff's anticipated judgment(s), which would constitute a fraudulent conveyance.

12. On information and belief, Howard Hammer owns certain real property located at 3600 Chateau Drive, Apt. 202. On information, Defendant Chateau DeVille Horizontal Property Regime may claim an interest in the amount of \$1,211, which Notice is recorded on November 10, 2009 in the Office of the ROD for Richland County, in Book 1568 at page 2546. On information and belief Howard's brother, Alvin Hammer issued a mortgage in the amount of \$60,000, which was recorded on November 1, 2012 in the in the Office of the ROD for Richland County in Book 1812, Page 3017. On information and belief, this mortgage may have been issued for purposes of encumbering the subject property in an attempt to insulate it from plaintiff's anticipated judgment(s), which would constitute a fraudulent conveyance.
13. On information and belief, Howard Hammer is the sole member of a limited liability company called D&M Chateau, LLC, which owns certain real property located at 3600 Chateau Drive, Apt. V-236. On information, Defendant Chateau DeVille Horizontal Property Regime may claim an interest in the amount of \$1,667, which Notice of Lien is recorded on November 10, 2009 in the Office of the ROD for Richland County, in Book 1568 at page 2547.

14. On information and belief, Defendant Howard Hammer is 20 % owner of HASCI, LLC, which owns certain unencumbered real property located at 1011 Assembly Street in Columbia, South Carolina, bearing TMS #R08916-09-08, and being more fully described as follows:

All that certain piece, parcel or tract of land, together with the improvements thereon, situate, lying and being on the Western side of Assembly Street between Senate and Pendleton Street in the City of Columbia County of Richland, State of South Carolina, being shown and designated as 1011 Assembly Street and 1013 Pendleton Street on a plat prepared for Bessie Bernstein and Jane Gibbes Edens by William Wingfield, Registered Surveyor, dated October 25, 1957, revised January 3, 1958, and later revised February 24, 1959, and having the following metes and bounds: commencing at a point on said Assembly Street Two Hundred Nine and 75/100 (209.75') feet North of the Northwest corner of Pendleton Street and Assembly Street and running along said Assembly Street South 18 degrees 50 minutes East for a distance of One Hundred Forty (140') feet; thence turning and running South 70 degrees 59 minutes West for a distance of Two Hundred Eight and 25/100 (208.25') feet; and being bounded on the South along said line by property now or formerly of Leventis; thence turning and running South 19 degrees no minutes East for a distance of Sixty-nine and 75/100 (69.75') feet; thence turning and running along Pendleton Street South 71 degrees seven (7) minutes West for a distance of One Hundred Twelve and 64/100 (112.64') feet; thence turning and running North 18 degrees 52 minutes West for a distance of Twenty-nine (29') feet, and being bounded on the West along said line by property now or formerly of Rivkin; thence turning and running South 71 degrees 7 minutes West for a distance of Ninety-six (96') feet to Park Street and being bounded on the South along said line by property now or formerly of Rivkin; thence turning and running North 18 degrees 52 minutes West for a distance of One Hundred Seventy-nine and Eight-tenths (179.8') feet along said Park Street; thence turning and running North 70 degrees 56 minutes East for a distance of Four Hundred Sixteen and Nine-tenths (416.9') feet to the point of commencement, be all measurements a little more or less and being bounded on the North along said line by property of Bookman, Caughman and Sebastian, all of which is shown on said plat.

This being the identical property conveyed to Alvin L. Hammer, Howard Hammer and Stanley F. Hammer by deed recorded December 30, 1961 in Book 316 Page 288, in the Office of the Register of Deeds for Richland County; and deed recorded January 3, 1985, in Book 724 Page 408, in the Office of the Register of Deeds for Richland County; and deed recorded December 18, 2007, in Book 1385 Page 1719, in the Office of the Register of Deeds for Richland County.

15. That Plaintiff is informed and believes her judgments against Howard Hammer

are the only judgments enforceable against this property at 1011 Assembly Street, and is therefore a first lien on the property.

16. On information and belief, Defendant Howard Hammer is 20% owner of HASCI, LLC, which owns certain unencumbered real property located at 1017 Assembly Street in Columbia, South Carolina, bearing TMS #R08916-09-06, and being more fully described as follows:

All the Grantor's interest in that certain piece, parcel or lot of land, together with the improvements thereon; situate, lying and being on the western side of Assembly Street between Pendleton Street and Senate Street in the City of Columbia, County of Richland and State of South Carolina, and being more particularly shown on a certain plat of property surveyed for Winchester Graham, Inc., by William Wingfield, Reg. Surveyor, dated August 8th, 1958, and recorded in the Office of the Clerk of Court for Richland County, South Carolina, in Plat Book 11 at Page 284 and being described as follows: on the north by property now or formerly of Caughman and measuring thereon one hundred and sixty-seven and eight tenths (167.8') feet; on the east by Assembly Street, whereon the same fronts for a distance of forty-four and five-tenths (44.5') feet; on the south by property now or formerly of Bernstein and Edens and measuring thereon one hundred and sixty-six (166') feet; and on the west by lands now or formerly of Caughman and measuring thereon forty-three and five tenths (43.5') feet. This being the identical property conveyed to Alvin J. Hammer, Howard Hammer and Stanley F. Hammer by deed recorded December 18, 2007, in Book 1385 Page 1715, in the Office of the Register of Deeds for Richland County.

The subject property may also be identified as follows:

All the decedent's interest in that certain piece, parcel or lot of land, together with the improvements thereon, situate, lying and being on the western side of Assembly Street between Pendleton Street and Senate Street in the City of Columbia, County of Richland and State of South Carolina, and being more particularly shown on a certain plat of property surveyed for Winchester Graham, Inc., by William Wingfield, Reg. Surveyor, dated August 8, 1958, and recorded in the Office of the Clerk of Court for Richland County, South Carolina, in Plat Book 11 at Page 284 and being described as follows: on the north by property now or formerly of Caughman and measuring thereon one hundred and sixty-seven and eight tenths (167.8') feet; on the east by Assembly Street, whereon the same fronts for a distance of forty-four and five-tenths (44.5') feet; on the south by property now or formerly of Bernstein and Edens and measuring thereon one hundred and sixty-six (166') feet; and on the west by lands now or formerly of Caughman and measuring thereon forty-three and five tenths (43.5') feet. This

being the identical property conveyed to Alvin J. Hammer, Trustee of the Residuary Trust under the Last Will and Testament of Henry Hammer by Deed of Distribution of the Estate of Henry Hammer, Richland County, South Carolina Probate Case No. 2005-ES40-01493 dated October 30, 2007, and recorded November 2, 2007 in Book 1372 Page 3536, in the Office of the Register of Deeds for Richland County.

17. That Plaintiff is informed and believes her judgments against Howard Hammer are the only judgments enforceable against this property at 1017 Assembly Street, and are therefore a first lien on the property.
18. On information and belief, Defendant Howard Hammer is 20% owner of HASCI, LLC, which owns certain unencumbered real property located at 2120 Sumter Street, in Columbia, South Carolina, bearing TMS #R09016-12-17, and being more fully described as follows:

All of Grantor's interest in that certain piece, parcel or lot of land, together with any improvements thereon, situate, lying and being in the City of Columbia, and the County of Richland, State of South Carolina, on the east side of Main Street, being more particularly shown on a plat prepared for Isadore S. Bernstein by William Wingfield, Reg. Surveyor, dated August 16, 1963, and revised February 3, 1964; the land hereby conveyed, as shown on said plat, commencing at an iron marker in the right-of-way line of Main Street; thence running North seventy-five degrees twenty-eight minutes East (N 75° 28' E) for a distance of two hundred seven and six-tenths (207.6') feet to an iron marker; thence turning and running South fifteen degrees twenty-seven minutes East (S 15° 27' E) for a distance of forty-eight and two-tenths (48.2') feet to an iron marker; thence turning and running South fourteen degrees fifteen minutes East (S 14° 15' E) for a distance of one hundred nine (109.0') feet to an iron marker; thence turning and running South seventy-five degrees fifty-eight minutes West (S 75° 58' W) for a distance of fifty-two and five-tenths (52.5') feet to an iron marker; thence turning and running South seventy-seven degrees forty-seven minutes West (S 77° 47' W) for a distance of one hundred fifty-five and four-tenths (155.4') feet to an iron marker in the right-of-way line of Main Street; thence turning and running along the right-of-way line of Main Street North fourteen degrees seventeen minutes West (N 14° 17' W) for a distance of one hundred fifty and seven-tenths (150.7') feet to the point of commencement. The land hereby conveyed is bounded on the West by Main Street; on the North by property now or formerly of Gulf Oil Company and property now or formerly of Nix, Fox and Rice; on the East by property now or formerly of Nichols and by property now or formerly of Yeoman; and on the South by property now or formerly of Michas and property now or formerly of

Howard. This being the identical property conveyed to Alvin L. Hammer, Howard Hammer and Stanley F. Hammer by deed recorded December 18, 2007, in Book 1385 Page 1727, in the Office of the Register of Deeds for Richland County.

19. That Plaintiff is informed and believes her judgments against Howard Hammer are the only judgments enforceable against this property at 2120 Sumter Street, and are therefore a first lien on the property
20. On information and belief, Defendant Howard Hammer is 20% owner of HASCI, LLC, which owns certain unencumbered real property located at 2121 Sumter Street, in Columbia, South Carolina, bearing TMS #R09016-12-04, and being more fully described as follows:

All of Grantor's interest in that certain piece, parcel or lot of land with the improvements thereon, situate, lying and being on the west side of the 2100 block of Sumter Street, in the City of Columbia, County of Richland, State of South Carolina (formerly designated as 2121-23 Sumter Street), being more particularly shown and delineated on a plat prepared for Isadore S. Bernstein by William Wingfield, Registered Surveyor, dated May 26, 1964, said lot being bounded and measuring as follows: on the north by property now or formerly of Wheeler, whereon it measures two hundred seventeen and 4/10ths (217.4) feet as shown on said plat; on the east by Sumter Street whereon it fronts fifty-one (51) feet as shown on said plat; on the south by lot now or formerly of Yeoman whereon it measures two hundred seventeen (217) feet as shown on said plat; and on the west by lot now or formerly of Isadore S. Bernstein and Henry Hammer, whereon it measures fifty-one and 9/10ths (51.9) feet as shown on said plat. This being the identical property conveyed to Alvin L. Hammer, Howard Hammer and Stanley F. Hammer by deed recorded December 18, 2007, in Book 1385 Page 1723, in the Office of the Register of Deeds for Richland County.

21. That Plaintiff is informed and believes her judgments against Howard Hammer are the only judgments enforceable against this property at 2121 Sumter Street, and are therefore a first lien on the property.
22. On information and belief, Defendant Howard Hammer is 20% owner of HASCI, LLC, which owns certain unencumbered real property located at 3018 Main Street, in Columbia, South Carolina, bearing TMS #09111-06-03 and 04, and

being more fully described as follows:

All of Grantor's interest in and to all that certain piece, parcel or lot of land, with the improvements thereon, situate, lying and being on the east side of Main Street, in the City of Columbia, County of Richland, State of South Carolina, and being shown and delineated on a plat made for Gladys S. Varn by Barber Keels and Associates, . Engineers, dated May 14, 1950 and recorded in the Office of the Register of Deeds for Richland County in Plat Book I at page 214, and being bounded and measuring as follows: on the north by lands formerly of Burnside, measuring thereon 273.6 feet; on the northeast by lands now or formerly of John C.B.Smith, measuring thereon 92.7 feet; on the south by lands formerly of Frank E. Quinn and Newman (now or formerly Bernstein, Stern and Hammer), measuring thereon 321.6 feet; and on the west by Main Street, as shown on said plat, measuring thereon 80 feet.

And

All of Grantor's interest in and to all that certain piece, parcel or lot of land, with improvements thereon, known as 3018 Main Street (formerly 2910 Main Street), situate, lying and being in the City of Columbia, County of Richland, State of South Carolina, at the northeastern intersection of the said Main Street and Grace Street, and more fully shown and described on a plat prepared for Claude A. Yarborough by William Wingfield, Registered Surveyor, dated June 9, 1958, and recorded in the Office of the Register of Deeds for Richland County in Plat Book 14 at page 55, said lot being irregular in shape and having the following metes and bounds: beginning at an iron along the right of way at the northeastern intersection of said streets and running N 00°30' E for a distance of 271.2' along the right of way of said Main Street to an iron; thence turning and running S 89°32' E for a distance of 321.2' to an iron; thence turning and running S 29°57' E for a distance of 60.7' to an iron; thence turning and running S 89°03' W for a distance of 37.3' to an iron; thence turning and running S 00°06' E for a distance of 117.3' to an iron; thence turning and running N 83°27' W for a distance of 24.0' to an iron; thence turning and running S 06°34' W for a distance of 4.5' to an iron; thence turning and running N 88°16' for a distance of 82.8' to a 2-inch steel post; thence turning and running S 01°00' W for a distance of 9.6' to a 4-inch steel post; thence turning and running S87°01' W for a distance of 19.3' to a 4-inch steel post; thence turning and running S 00°33' W for a distance of 9.3' to a 2 1/2 inch post; thence turning and running S 85° 55' W for a distance of 105.3' to a 2 inch post; thence turning and running S 01° 53' W for a distance of 81. 0' to an iron along the right of way of the said Grace Street; thence turning and running N 83°35' W along the right of way of the said Grace Street for a distance of 81.3' to the point of beginning. These being the identical properties conveyed to Alvin L Hammer, Howard Hammer and Stanley F. Hammer by deed recorded December 18, 2007, in Book 1385 Page 1731, in the Office of the Register of Deeds for Richland County.

23. That Plaintiff is informed and believes her judgments against Howard Hammer

are the only judgments enforceable against this property at 3108 Main Street, and are therefore a first lien on the property.

24. On information and belief, Howard Hammer owns real property located at 1609 Catawba Street in Columbia, South Carolina, bearing TMS#11304-19-10, and being more fully described as.

All that certain piece, parcel, lot or tract of land, with any improvements thereon, situate, lying and being in the City of Columbia, County of Richland, State of South Carolina, being shown and delineated as Lot 2 on a plat prepared for Andre Bauer by Benjamin H. Whetstone, dated September 23, 2003, to be recorded; said property being more particularly shown and delineated on plat prepared for Laura A. Voight by Inman Land Surveying Company, Inc., dated June 1, 2006 and recorded June 7, 2006 in Record Book 1191 at Page 3070, Office of the Register of Deeds for Richland County. Reference is made to said plat for a more complete and accurate description to said lot, all measurements being a little more or less. The conveyance is made subject to easements, conditions and restrictions of record affecting subject property. This being the same property conveyed to Laura A. Voight by deed of Bauer and Joye Investments, LLC, dated June 5, 2006 and recorded June 7, 2006 in Record Book 1191 at Page 3052, Office of the Register of Deeds for Richland County.

25. That Plaintiff is informed and believes her judgments against Howard Hammer are the only judgments enforceable against this property at 1609 Catawba Street, and are therefore a first lien on the property, subject only to any homestead exemption that may exist if this property constitutes defendant Howard Hammer's sole residence.
26. On information and belief, there is a federal tax lien against Howard Hammer in the amount of \$53,783.00, which was recorded by Defendant Department of Treasury-Internal Revenue Service on February 15, 2011 in the Office of the ROD for Richland County at Book 1668 and page 200. Plaintiff lacks sufficient knowledge or information from which to determine the viability of this lien.

27. Plaintiff is informed and believes that the property sought to be attached is not exempt from execution, attachment, or sale to satisfy a judgment or order. See S.C. Code Ann. §15-41-30.
28. Plaintiff is informed and believes that pursuant to SC Code §15-19-10, her judgments set forth herein may be attached and become liens to the properties owned in whole or in part by defendants Howard Hammer and/or 1634 Main, LP.
29. Plaintiff is informed and believes these properties owned by an entity in which Howard Hammer holds an interest may be used to satisfy any judgment awarded to Plaintiff, pursuant to section 15-19- 220, S.C. Code Ann. **"The rights or shares which any defendant may have in any vessel or in the stock of any association or corporation, together with the interest and profits thereon, and all other property of such defendant in this State, except that exempt from attachment by the Constitution, shall be liable to be attached and levied upon and sold to satisfy the judgment and execution."**
30. Plaintiff is informed and believes that she is entitled to have her aforesaid judgment liens foreclosed against the interests of Howard Hammer and 1634 Main, LP, in the above-described real properties, or in such portions of the real property as necessary to satisfy Plaintiff's judgment liens after first satisfying any priority lienholders, and to have such real property sold at public auction under the direction of the Court, and that any equity of redemption therein be barred, and that the proceeds of the sale be applied toward the payment of judgment indebtedness to Plaintiff.

WHEREFORE Plaintiff having fully set forth her complaint herein, prays as follows:

- a) That the amount due upon the judgments in favor of Plaintiff against defendants Howard Hammer and 1634 Main, LP be ascertained and determined under the direction of the Court, together with interest and costs of this action; and
- b) That the judgment liens of the Plaintiff be declared a first lien on the real properties as hereinabove described as 1634 Main Street, 1632 Main Street, 1609 Catawba Street, 2109 Sumter Street, 1011 Assembly Street, 1017 Assembly Street, 2120 Sumter Street, 2121 Sumter Street, and 3018 Main Street, and third lien on the real properties at Chateau DeVille insofar as the judgment creditors' interest in said properties is concerned and deemed valid; and
- c) That the Plaintiff have judgment of foreclosure for the amount so found to be due and owing thereon, together with the costs of this action; and
- d) That 1634 Main, LP's interest and Howard Hammer's interest, individually and vis a vis his ownership interest in limited liability company holding the deed thereto, in the real properties described herein be sold under the direction of this Court, and subject only the liens and mortgages set forth herein, the equity of redemption of the Defendant Howard Hammer in the properties be forever barred, and the proceeds of sale applied as follows:

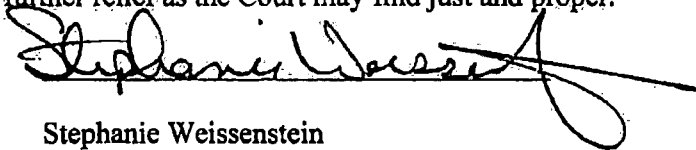
First: To the cost and expense of the within action and sale;

Second: Toward the amount due on the Federal Tax Lien, set forth herein if not previously satisfied;

Third Toward the amount due on the Plaintiff's judgment against the Defendants Hammer and 1634 Main, LP; and

Fourth: The surplus may be hold by the Court and distributed in accordance with its further Order; and,

- e) For such other and further relief as the Court may find just and proper.



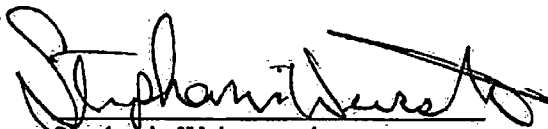
Stephanie Weissenstein
Desa Ballard
Ballard Watson Weissenstein
Post Office Box 6338
West Columbia, South Carolina 29171
Telephone 803.796.9299
Facsimile 803.796.1066
E-mail: stephanie@desaballard.com

Attorney for the Plaintiff

November 8, 2013

VERIFICATION

Personally appears Stephanie Weissenstein, who first being duly sworn, deposes and says that she is the attorney for the Petitioning judgment creditor and that she has read the foregoing Petition and knows the contents thereof and the same are true of her own knowledge except to matters alleged therein on information and belief, and as to these, she believes it to be true that she is the attorney for the Plaintiff and authorized to make this oath on her / its behalf.



Stephanie Weissenstein
Ballard Watson Weissenstein
Post Office Box 6338
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Telephone 803.796.9299
Facsimile 803.796.1066
E-mail: stephanie@desaballard.com

Attorney for Plaintiff

SWORN AND SUBSCRIBED BEFORE ME
THIS 8th DAY OF NOVEMBER, 2013

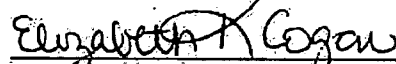

Notary Public for South Carolina
My Commission Expires 11/1/23

EXHIBIT B

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE MASTER IN EQUITY COURT
Case No. 2013-CP-40-40-6898

Shirley Hammer,

Plaintiff,

v.

Howard Hammer, 1634 Main, LP, Alvin
Hammer; SH5, LLC; SH4, LLC; SH3, LLC;
HASCI, LLC; D&M Chateau, LLC; Heart
Of Columbia, LLC; Eleanor Hammer; Joye
Elizabeth Life Estate; Stanley Hammer;
Department of the Treasury- IRS; Chateau
DeVille Association, Inc. and/or Chateau
DeVille Horizontal Property Regime; David
Hammer, a minor under the age of 14,

Defendants.

AMENDED¹
**MOTION FOR CHARGING LIEN
AGAINST CORPORATE DEFENDANTS
AND APPOINTMENT OF A RECEIVER**

Plaintiff moves for an order establishing a charging lien against any interest owned by Howard Hammer and/or 1634 Main LP in any of corporate defendants named herein, including but not limited to HASCI LLC and/or Heart of Columbia, LLC, for satisfactions of judgments she holds against Howard Hammer and 1634 Main LP. In addition, she seeks an order appointing a receiver to take control of any distributions that are being made or will be made in the future to Howard Hammer as a result of his percentage ownership in the corporate defendants named herein, if any. In support of her motion, Plaintiff will show:

¹ This motion replaces the motion in this matter dated December 18, 2014

1. Plaintiff currently holds a judgment that remain unsatisfied² against defendants Howard Hammer and 1634 Main Street LP³; there is also a pending motion for sanctions against Howard Hammer which is scheduled to be heard on January 14, 2015 by virtue of an order of remand from the South Carolina Supreme Court in Case No. 2009-CP-40-05911 and 2010-CP-40-2889. Any sanctions awarded will be an additional judgment in favor of plaintiff against Howard Hammer, and perhaps others.
2. Howard Hammer's continued filings with the Supreme Court, after its order affirming Judge Strickland's order of January 21, 2014 have prevented Plaintiff from consummating a sale of the real property that was ordered by Judge Strickland. Plaintiff obtained a purchaser and a contract of sale for the building, but Howard Hammer has, to date, prevented the closing, leaving the judgment held by Plaintiff unsatisfied. As a result of the delays caused by Howard Hammer, the proposed purchaser has terminated the contract of sale.
3. On information and belief, Defendant Howard Hammer is 20 % owner of HASCI, LLC, or he owns some other fractional interest therein, which owns certain unencumbered real property located at 1011 Assembly Street in Columbia, South Carolina, bearing TMS #R08916-09-08, and being more fully described as

² The original judgments obtained by Plaintiff were satisfied by order of this Court dated January 21, 2014 in *Hammer v. Hammer et al*, Case Nos. 2009-CP-40-05911 and 2010-CP-40-2889, which awarded Plaintiff ownership of certain real and personal property and directed Plaintiff to sell certain real property formerly owned by the judgment debtors. In addition, the order awarded Plaintiff certain other costs funds by way of judgment, which continue to accrue at present. The current amount of the judgment is approximately \$500,000, but fees and costs continue to be incurred.

³ Howard Hammer managed 1634 Main LP by virtue of being the sole member of SH5, LLC, the general partner of the limited partnership. Mr. Hammer's interests in 1634 Main LP and SH5, LLC were transferred to Plaintiff by Judge Strickland's order dated January 21, 2014 in Case No. . That order has been affirmed by the

follows:

All that certain piece, parcel or tract of land, together with the improvements thereon, situate, lying and being on the Western side of Assembly Street between Senate and Pendleton Street in the City of Columbia County of Richland, State of South Carolina, being shown and designated as 1011 Assembly Street and 1013 Pendleton Street on a plat prepared for Bessie Bernstein and Jane Gibbes Edens by William Wingfield, Registered Surveyor, dated October 25, 1957, revised January 3, 1958, and later revised February 24, 1959, and having the following metes and bounds: commencing at a point on said Assembly Street Two Hundred Nine and 75/100 (209.75') feet North of the Northwest corner of Pendleton Street and Assembly Street and running along said Assembly Street South 18 degrees 50 minutes East for a distance of One Hundred Forty (140') feet; thence turning and running South 70 degrees 59 minutes West for a distance of Two Hundred Eight and 25/100 (208.25') feet; and being bounded on the South along said line by property now or formerly of Leventis; thence turning and running South 19 degrees no minutes East for a distance of Sixty-nine and 75/100 (69.75') feet; thence turning and running along Pendleton Street South 71 degrees seven (7) minutes West for a distance of One Hundred Twelve and 64/100 (112.64') feet; thence turning and running North 18 degrees 52 minutes West for a distance of Twenty-nine (29') feet, and being bounded on the West along said line by property now or formerly of Rivkin; thence turning and running South 71 degrees 7 minutes West for a distance of Ninety-six (96') feet to Park Street and being bounded on the South along said line by property now or formerly of Rivkin; thence turning and running North 18 degrees 52 minutes West for a distance of One Hundred Seventy-nine and Eight-tenths (179.8') feet along said Park Street; thence turning and running North 70 degrees 56 minutes East for a distance of Four Hundred Sixteen and Nine-tenths (416.9') feet to the point of commencement, be all measurements a little more or less and being bounded on the North along said line by property of Bookman, Caughman and Sebastian, all of which is shown on said plat.

This being the identical property conveyed to Alvin L. Hammer, Howard Hammer and Stanley F. Hammer by deed recorded December 30, 1961 in Book 316 Page 288, in the Office of the Register of Deeds for Richland County; and deed recorded January 3, 1985, in Book 724 Page 408, in the Office of the Register of Deeds for Richland County; and deed recorded December 18, 2007, in Book 1385 Page 1719, in the Office of the Register of Deeds for Richland County.

4. Pursuant to S.C. Code Ann. Section 33-44-504, Plaintiff is informed and believes her judgments against Howard Hammer entitle her to a charging order against any

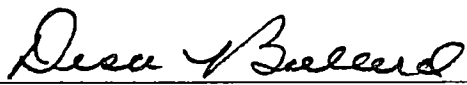
interest that Howard Hammer has in any of the corporate defendants which are limited liability corporations.

5. Additionally, Plaintiff is informed and believes that her judgments against Howard Hammer entitle her to obtain the appointment of a receiver over Howard Hammer's interest in any corporate defendants which are limited liability corporations for purposes of using any distributions that may be due to Howard Hammer be paid to her in satisfaction of the judgment(s) she holds and will obtain against Howard Hammer in proceedings currently pending.
6. In the alternative, Plaintiff is informed and believes that her judgment attaches to Howard Hammer's interest in any of the corporate defendants named herein.
7. On information and belief, the judgment(s) held by Plaintiff against Howard Hammer is a judgment(s) enforceable against the distributional interest of Howard Hammer of HASCI, LLC, and against any distributional share due Howard Hammer from a sale of any real or personal property owned by HASCI, LLC, including real property located at 1011 Assembly Street. Plaintiff is informed and believes that a charging order should be issued for the purposes of encumbering Howard Hammer's distributional share of any real or personal property owned by HASCI, LLC and a receiver appointed for purposes of examining the sales documents and taking possession of any distributional share to which Howard Hammer may entitled.
8. On information and belief, HASCI, LLC has entered into a contract of sale for the property located at 1011 Assembly Street, TMS No. 08916-09-08, which contract of sale is scheduled to close at an undetermined date in the future.

9. Plaintiff is informed and believes that the property subject to the order sought herein is not exempt from execution, attachment, or sale to satisfy a judgment or order. See S.C. Code Ann. §15-41-30.
10. Plaintiff is informed and believes that the issuance of a charging order and appointment of a receiver are necessary to protect her interests in distributions that are being made or may be made to Howard Hammer in connection with his interest in HASCI, LLC and any other corporate defendant named herein.

WHEREFORE, Plaintiff moves for:

- a) A charging order pursuant to Section 33-44-504 entitling her to receive any distributional interest that may be paid to Howard Hammer as a result of his interest, whatever percentage that interest may be, in real property owned by HASCI, LLC or any other corporate defendant named herein.
- b) An order appointing a receiver to take control of any distributions that are being made or will be made in the future to Howard Hammer as a result of his percentage ownership in HASCI, LLC or any other corporate defendants named herein, if any, and compensating the receiver from the distributional interest that would otherwise be paid to Howard Hammer.
- c) For the costs incurred by Plaintiff in bringing this motion; and
- d) For such other relief as the Court deems necessary to protect the rights of the plaintiff herein.


12.23.2014

Desa Ballard
Ballard & Watson
Post Office Box 6338
West Columbia, South Carolina 29171

Telephone 803.796.9299
Facsimile 803.796.1066
desab@desaballard.com

Attorney for the Plaintiff

December 23, 2014

Handwritten signature or initials in cursive script.

EXHIBIT C

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2009- CP-40-05911&
2010-CP-40-2889

Shirley Hammer,

Howard Hammer,

Shirley Hammer
PLAINTIFF(S)

1634 Main, LP,
DEFENDANT(S)

Submitted by: Stephanie Weissenstein, Esquire

Attorney for : ☒ Plaintiff or ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk :

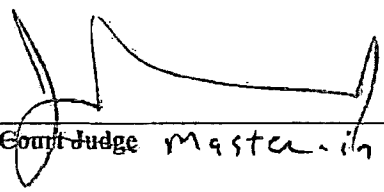
INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order: TAX Map No: 09014-04-19		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest

or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.


Circuit Court Judge Master in Equity Judge Code 2097 Date 1-21-14

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

Stephanie Weissenstein, Esquire

Howard Hammer, Pro se

Art Aiken, Esquire

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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**

RICHLAND COUNTY
FILED
2014 JAN 21 AM 9:05
JEANETTE M. MCENDE
C.C.P.

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:

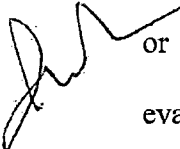


<u>Debtor/Date</u>	<u>Principal</u>	<u>Interest¹</u>	<u>Total</u>
1634 Main LP (01/29/2013 Judgment)	\$25,000.00	\$ 1,673.46	\$ 26,673.46
1634 Main LP (06/03/2013 Judgment)	\$102,032.87	\$ 4,397.90	\$106,430.77
	<u>\$127,032.87</u>	<u>\$ 071.36</u>	<u>\$133,104.23</u>
Howard Hammer (01/29/2013 Judgments)	\$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.

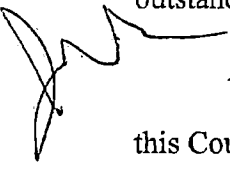
Neither Mr. Hammer nor 1634 Main LP has filed any responses to the written discovery served upon them, as they were required to do by this court's order dated June 10, 2013.

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.

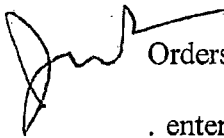
On September 9, 2013, the defendant debtors filed a motion for summary judgment alleging that transfer of the real property is beyond the power of this court, under S.C. Code §15-31-310, *et. seq.* A hearing was scheduled for January 9, 2014 for purposes of addressing all outstanding issues, and notice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

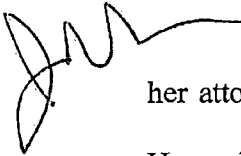
According to the evidence and documents of record, 1634 Main LP owns an unknown percentage of the real estate located at 1634 and 1632 Main Street, Columbia, SC, as described above.

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*

seq. and Rule 11, SCRCP. 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, SCRCP.

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

EXHIBIT D

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Shirley Hammer,

Plaintiff,

v.

Howard Hammer, 1634 Main, LP; Alvin
Hammer; SH5, LLC; SH4, LLC; SH3,
LLC; HASCI, LLC; D&M Chateau, LLC;
Heart of Columbia, LLC Eleanor
Hammer; Joye Elizabeth Life Estate;
Stanley Hammer; Department of
Treasury - IRS; Chateau DeVille
Association, Inc. and/or Chateau
DeVile Horizontal Property Regime;
David Hammer, a minor under the age
of 14,

Defendants.

IN THE COURT OF COMMON PLEAS

Case No.: 2013-CP-40-06898

**Answer of Howard Hammer, 1634
Main, LP, SH5, LLC, SH4, LLC, and
SH3, LLC**

Howard Hammer, 1634 Main, LP, SH5, LLC, SH4, LLC, and SH3, LLC
(collectively "Defendants"), by and through their undersigned counsel, answer Plaintiff's
Complaint as follows:

1. Without waiving their rights to contest the that the Court has acquired
jurisdiction over them in this case, these Defendants Answer the Complaint, but
preserve all rights under their previously served Motion to Dismiss made pursuant to
SCRCP 12(b)(5).

2. These Defendants deny each and every allegation made in the Complaint
that is not hereinafter expressly, admitted, modified or explained.

3. These Defendants generally deny all allegations in Plaintiff's Complaint.

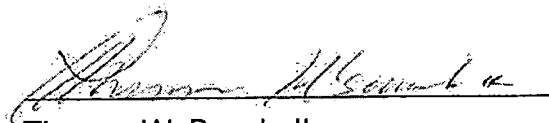
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JH

4. The Plaintiff may not proceed with this action or sell any property without an undertaking or bond to the Defendant, with two good sureties, in double the appraised value of the property or double the amount of the judgments. See, S.C. Code Ann. § 18-9-130(A)(2).

5. These Defendants preserve the right to assert any and all other applicable legal, contractual, or equitable defenses that may be asserted by any other defendant in this action, or which may become evident during its investigation and through discovery.

WHEREFORE, having fully answered the Amended Complaint, these Defendants pray that this Court award it the following relief:

1. Dismiss the Complaint with prejudice to these Defendants;
2. Declare that the Plaintiff is entitled to no recovery from these Defendants;
3. Tax the costs of this action against Plaintiff;
4. Award these Defendants their attorneys' fees;
5. Award these Defendants a trial by jury on all issues so triable, and;
6. Grant such other relief in favor of these Defendants, as the Court may deem just and appropriate.



Thomas W. Bunch, II
ROBINSON, MCFADDEN & MOORE, P.C.
Post Office Box 944
Columbia, SC 29202
(803) 779-8900

January 2, 2014

EXHIBIT E

STATE OF SOUTH CAROLINA)² IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND)

Howard Hammer,) CASE #: 2009-CP-40-5911
Plaintiff,)
v.)
Shirley Hammer, et al.,)
Defendant.)

1634 Main, LP,) CASE #: 2010-CP-40-2889
Plaintiff,)
v.)
Shirley Hammer, et al.,)
Defendant.)

HEARING

Thursday, January 9, 2014
9:58 a.m. to 12:15 p.m.

The hearing before the Honorable Joseph M. Strickland, Master in Equity for Richland County, was taken in Courtroom 2D of the Richland County Judicial Center, 1701 Main Street, Columbia, South Carolina, on the 9th day of January, 2014, before Robin K. Reibold, Court Reporter and Notary Public in and for the State of South Carolina.

Official Court Reporter
Master in Equity, Richland County
1701 Main Street – Post Office Box 192 (29202)
Columbia, South Carolina 29201

APPEARANCES

Arthur K. Aiken, Esquire

Reeves, Aiken & Hightower, LLP
2231 Devine Street, Suite 201
Columbia, South Carolina 29205
Attorney for the Plaintiffs

Howard Hammer

1609 Catawba Street
Columbia, South Carolina 29205
Pro Se Plaintiff

Stephanie Weissenstein, Esquire

Ballard Watson Weissenstein
226 State Street
West Columbia, South Carolina 29169
Attorney for the Defendants

EXHIBITS

Court's Exhibit Number One.....	81
(Ballard Ltr re: Conversation with Judge)	
Exhibit One Withdrawn.....	91
Exhibit One Re-entered.....	93
Court's Exhibit Number Two.....	88
(Weissenstein Ltr re: 1/9/14 Hearing)	
Exhibit Two Withdrawn.....	91
Exhibit Two Re-entered.....	92
Court's Exhibit Number Three.....	106
(Ackerman Affidavit)	
Certificate.....	107

1 claiming essentially that such a, just a transfer
2 like that could not happen under the South Carolina
3 Code. And so essentially in that regard, settlement
4 discussions failed. Of course, we are still willing
5 to discuss with them the transfer of that real
6 property, but if it's ... if that's not possible,
7 then we'll need to proceed with this ...

8 **THE COURT:** Let's make the record clear as well. The
9 transfer of the property would satisfy the judgment
10 ...

11 **MS. WEISSENSTEIN:** It would.

12 **THE COURT:** ... in the case and this would all be over.

13 **MR. AIKEN:** Almost nine times over, Judge.

14 **THE COURT:** Okay. Nine times over?

15 **MR. AIKEN:** Just about.

16 **MS. WEISSENSTEIN:** Yes. The ...

17 **THE COURT:** How much is the property worth?

18 **MR. AIKEN:** I've heard various numbers. Howard can
19 probably ...

20 **MR. HAMMER:** This ...

21 **THE COURT:** Yes, sir, Mr. Hammer?

22 **MR. HAMMER:** Mrs. Ballard represented to you that the
23 property was worth somewhere between \$900,000 and \$1
24 million. Mrs. Weissenstein has represented to you
25 that we're here on \$150,000. In that regard, Your

1 need to prepare an order in that regard. And, also
2 go ahead and prepare a deed, a master's deed
3 however, which ...

4 **MS. WEISSENSTEIN:** I'm sorry, could you repeat that last
5 part, sir?

6 **THE COURT:** As master's deed. I certainly don't have the
7 power to give you a general warranty deed or
8 anything like that, but. And also point out that
9 once this transfer is complete or consummated, all
10 the judgments will be satisfied, the judgments that
11 were cited here today. Of course, that's ... your
12 clients need to go ahead and have them marked
13 satisfied after the transfer is consummated. Now, I
14 don't know what's going to happen after I sign the
15 order. You're going to see it before it gets
16 signed, you'll see it before it gets signed.

17 **MR. HAMMER:** I have another matter to take up, Your Honor.

18 **THE COURT:** Yes, sir.

19 **MR. HAMMER:** We would move they put up a bond in double
20 the amount of the value of the property. They have
21 indicated that the property is worth 900 to \$1
22 million; we'd ask that they put up a bond, since
23 it's on appeal, in the amount of \$1,950,000.

24 **THE COURT:** Now, this particular matter isn't on appeal.
25 I suspect it may be one day, but ...

1 MS. WEISSENSTEIN: These are the statutes that address
2 executions against property. And under 15-39-10,
3 when a judgment holder can, through the court,
4 execute against any property, and that includes,
5 subsection C, delivery of possession of real
6 property, which is where my original claim of
7 transfer the deed over and then we can market and
8 sell the property, deposit the funds into the court,
9 if there's any surplus after the judgments have been
10 satisfied then that can be litigated. Under 15-39-
11 310, in a rule to show cause hearing, the
12 application of the property towards satisfaction of
13 the judgment may be had. And 15-39-410, any
14 property may be applied. So what we would show Your
15 Honor is right now, today, you can order that either
16 they transfer the title to that property to the
17 judgment holder, Mrs. Hammer, or you can order that
18 that property be executed for judicial sale by the
19 sheriff's department. And we're okay with either
20 one of those options, Your Honor. The ... if that
21 were the case, then the foreclosure matter that has
22 been filed, but the answer period has not even
23 lapsed at this point yet, can be dismissed because
24 we don't need anything else. We won't need any
25 other property because we're informed and believe,

1 based on our own investigation, without any
2 participation from Mr. Hammer in these supplemental
3 proceedings, that the property located at 1634 Main
4 Street will satisfy Mrs. Hammer's judgments. You
5 know, we would also ... again, as I pointed out,
6 Your Honor, we believe that these proceedings and
7 some of the activities that we've heard today, Mr.
8 Hammer's failure to participate in these proceedings
9 and answer to the orders by this Court, dated April
10 22nd, May 30th, and June 10th, we believe that he
11 can be found in criminal contempt. We believe that
12 the case of Miller versus Miller, a copy of which
13 I'm handing up to you, supports our request that
14 this Court find Mr. Hammer in criminal contempt.
15 And we would also show that under the statute 16-9-
16 330, that Mr. Hammer's refusal or willful failure to
17 obey the subpoenas, refusal to take oath, and
18 refusal to answer questions by being present before
19 the Court, and he refuses to answer questions
20 required, he could be found guilty of a misdemeanor.
21 And, you know, Your Honor, we would show that he
22 hasn't answered the questions. He hasn't produced
23 the information required of him by the Court orders
24 regarding his various assets and liabilities. His
25 answers to everything was, I don't know, or, I plead

EXHIBIT F

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

1634 Main, LP, Appellant,

v.

Shirley Hammer, Respondent,

v.

Howard Hammer, Appellant,

and

Howard Hammer, Appellant,

v.

Shirley Hammer, Respondent.

Appellate Case No. 2014-000965

Appeal from Richland County
The Honorable Joseph M. Strickland, Master-in-Equity,

Memorandum Opinion No. 2014-MO-045
Heard October 22, 2014 – Filed November 6, 2014

AFFIRMED IN PART AND REVERSED IN PART

Thomas W. Bunch, II, of Robinson McFadden & Moore,
PC, of Columbia, and Arthur K. Aiken, of Aiken &
Hightower, P.A., of Columbia, for Appellants.

Desa A. Ballard, of Ballard & Watson, Attorneys at Law,
of West Columbia, for Respondent.

PER CURIAM: Howard Hammer and 1634 Main, LP (collectively, Appellants) appeal the order of the master-in-equity transferring various properties to Shirley Hammer in satisfaction of the judgments she has against Appellants. Specifically, Appellants argue the master lacked personal jurisdiction due to improper service and lacked the authority to require the transfer title to real property to Shirley and Howard also contends the imposition of sanctions against him was improper because the master failed to comply with the provisions of the South Carolina Frivolous Civil Proceedings Sanctions Act (FCPSA). We affirm in part pursuant to Rule 220(b)(1), SCACR, and the following authorities:

1. Personal Jurisdiction: Rule 5, SCRCPP (providing that service of "all (1) written orders; (2) pleadings subsequent to the original summons and complaint . . . ; and (11) other similar papers" shall be served "upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address . . .").
2. Authority to Transfer Title to Real Property: S.C. Code Ann. § 15-39-10 (2005) ("There shall be three kinds of executions, (a) against the property of the judgment debtor, (b) against his person and (c) for the delivery of the possession of real or personal property or such delivery with damages for withholding the property. They shall be deemed the process of the court."); *Lynn v. Int'l Bhd. of Firemen & Oilers*, 228 S.C. 357, 362, 90 S.E.2d 204, 206 (1955) ("Proceedings supplementary to execution, in addition to providing for examination of the judgment debtor for the purpose of discovering property out of which the judgment against him may be satisfied, furnish a means of reaching, in aid of the judgment, property beyond the reach of an ordinary execution . . ."); *see also* 30 Am. Jur. 2d Executions, Etc. §

12 ("A court of equity will always find the means of enforcing its decree against a delinquent defendant and its power in this respect is as extensive as the exigencies of the case.").

Additionally, we reverse the award of sanctions pursuant to Rule 220(b)(1), SCACR, and the following authorities: S.C. Code Ann. § 15-36-10(D) (Supp. 2013) ("A person is entitled to notice and an opportunity to respond before the imposition of sanctions pursuant to the provisions of [the FCPSA]."; *Burns v. Universal Health Servs. Inc.*, 340 S.C. 509, 514, 532 S.E.2d 6, 9 (Ct. App. 2000) ("We hold that a signing party or attorney is entitled to notice and an opportunity to respond prior to imposition of sanctions under Rule 11, SCRCF."). However, we note our reversal is without prejudice as to allow Shirley to raise this issue before the master in the subsequent accounting proceeding. Furthermore, we order Howard to file a financial disclosure of all his assets and income with the master within fifteen days of the filing of this opinion.

**TOAL, C.J., PLEICONES, BEATTY, KITTREDGE and HEARN, JJ.,
concur.**

EXHIBIT G

At the time the Judgment Creditor, Mrs. Hammer, filed the Foreclosure Case, she had already commenced supplementary proceedings in the cases in which she had secured her judgments against the Judgment Debtors. See Case Nos. 2009-CP-40-5911 and 2010-CP-40-2889 (the "Supplementary Proceedings Cases").

At a January 9, 2014 hearing in the Supplementary Proceedings Cases, the Judgment Creditor requested that the Court transfer certain property to her to satisfy the judgments owed by the Judgment Debtors. On January 21, 2014, the Honorable Joseph M. Strickland issued an order (the January 21 Order") transferring the property interests and satisfying the judgments. See **Exhibit A** attached hereto ("**ORDER DIRECTING TRANSFER OF REAL PROPERTY TO SATISFY JUDGMENTS**") (emphasis in original). "Counsel for the Plaintiff renewed Plaintiff's request that this court execute against property owned by Howard Hammer and 1634 Main, LP to satisfy the judgments." Exhibit A, p. 5.

In addition to specifically requesting the transfer of property "to satisfy the judgments," Plaintiff's counsel acknowledged that "the foreclosure matter would be rendered moot if these supplementary proceedings resulted in an execution against property owned by the judgment debtors." *Id.*

Based on Plaintiff's request and her acknowledgment that the Foreclosure Case would be rendered moot, the court issued the January 21 Order transferring to the Judgment Creditor fee simple interest of the real property at 1634 Main St and all ownership of Mr. Hammer in 1634 Main, L.P. and SH5, LLC including "all income, bank accounts, and other assets" of the LP and LLC.

Making certain that the Judgment Creditor's counsel fully understood what she was requesting and the effect of it satisfying the judgments, the following is quoted from the transcript of the January 9 hearing in the Supplementary Proceedings Cases:

THE COURT: Let's make the record clear as well. The transfer of the property would satisfy the judgment ...

MS. WEISSENSTEIN: It would.

THE COURT: ... in the case and this would all be over.

P. 11, ll. 8-12. (**Exhibit B**)

The Court further instructed the Judgment Creditor's counsel to satisfy the judgments once the Master's Deed was issued and recorded:

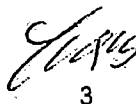
And also point out that once this transfer is complete or consummated, all the judgments will be satisfied, the judgments that were cited here today. Of course, that's ... your clients need to go ahead and have them marked satisfied after the transfer is consummated.

P. 96, ll. 8-13. (**Exhibit C**)

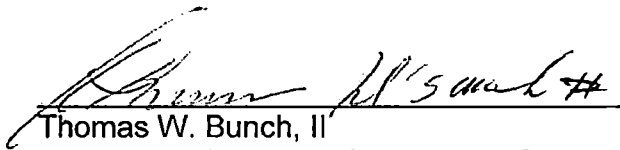
Likewise, further evidencing this Court's order and intent that the judgments were satisfied, the January 21 Order provided that no further interest would accrue on the judgments (Exhibit A, p. 12, ¶ 6.b).

On or about January 27, 2014, the Judgment Creditor took possession of 1634 Main St. She changed the locks to 1634 Main St. and barred Mr. Hammer from access to the building (including his own offices) except to consult with an attorney, Susan Lipscomb, who had assisted him in a legal matter. See **Exhibit D** attached hereto ("[H]e must vacate the building immediately and no (sic) go anywhere in the building other than Susan's office."

Because the January 21 Order satisfied the judgments upon which the


3

Foreclosure Case is based, and based upon the acknowledgment of the same by counsel for the Judgment Creditor, the Foreclosure case should be dismissed with prejudice.



Thomas W. Bunch, II
ROBINSON, MCFADDEN & MOORE, P.C.
Post Office Box 944
Columbia, SC 29202
(803) 779-8900

January 2, 2015

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**

2014 JAN 21 AM 9:05
JEANETTE
C.C.P.
RICHLAND COUNTY
FILED

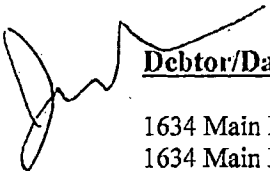
The matter before the court is a hearing in the nature of supplemental proceedings. Present at the hearing on January 9, 2014 were the Plaintiff and her counsel, Stephanie Weissenstein. Also present was Howard Hammer, who appeared *pro se* in the Hammer v. Hammer matter, and as agent for 1634 Main, LP.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

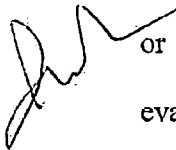


<u>Debtor/Date</u>	<u>Principal</u>	<u>Interest¹</u>	<u>Total</u>
1634 Main LP (01/29/2013 Judgment)	\$25,000.00	\$ 1,673.46	\$ 26,673.46
1634 Main LP (06/03/2013 Judgment)	\$102,032.87	\$ 4,397.90	\$106,430.77
	<u>\$127,032.87</u>	<u>\$ 071.36</u>	<u>\$133,104.23</u>
Howard Hammer (01/29/2013 Judgments)	\$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.

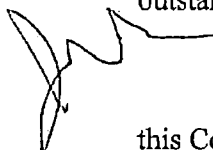
Neither Mr. Hammer nor 1634 Main LP has filed any responses to the written discovery served upon them, as they were required to do by this court's order dated June 10, 2013.

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.

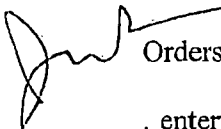
On September 9, 2013, the defendant debtors filed a motion for summary judgment alleging that transfer of the real property is beyond the power of this court, under S.C. Code §15-31-310, *et. seq.* A hearing was scheduled for January 9, 2014 for purposes of addressing all outstanding issues, and notice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

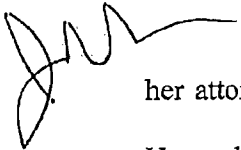
According to the evidence and documents of record, 1634 Main LP owns an unknown percentage of the real estate located at 1634 and 1632 Main Street, Columbia, SC, as described above.

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*

seq. and Rule 11, SCRCP. 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, SCRCP.

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.

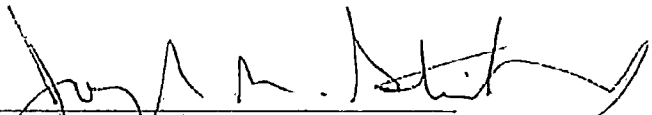
c. The attorney fees and costs awarded herein plus post-judgment interest at the rate established by Order of the Supreme Court dated January 3, 2014.

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

1 claiming essentially that such a, just a transfer
2 like that could not happen under the South Carolina
3 Code. And so essentially in that regard, settlement
4 discussions failed. Of course, we are still willing
5 to discuss with them the transfer of that real
6 property, but if it's ... if that's not possible,
7 then we'll need to proceed with this ...

8 **THE COURT:** Let's make the record clear as well. The
9 transfer of the property would satisfy the judgment
10 ...

11 **MS. WEISSENSTEIN:** It would.

12 **THE COURT:** ... in the case and this would all be over.

13 **MR. AIKEN:** Almost nine times over, Judge.

14 **THE COURT:** Okay. Nine times over?

15 **MR. AIKEN:** Just about.

16 **MS. WEISSENSTEIN:** Yes. The ...

17 **THE COURT:** How much is the property worth?

18 **MR. AIKEN:** I've heard various numbers. Howard can
19 probably ...

20 **MR. HAMMER:** This ...

21 **THE COURT:** Yes, sir, Mr. Hammer?

22 **MR. HAMMER:** Mrs. Ballard represented to you that the
23 property was worth somewhere between \$900,000 and \$1
24 million. Mrs. Weissenstein has represented to you
25 that we're here on \$150,000. In that regard, Your

1 it doesn't cure it. It's saying, Mrs. Ballard, you
2 shouldn't have brought that up with me, write it
3 about it. But that doesn't cure the fact that she's
4 had that conversation, because there's no way to
5 reconstruct what went on in that conversation, nor
6 is there any way to know what impact that that
7 conversation may have had, consciously or
8 subconsciously, on any ruling that you may have.
9 And so in the interest of fairness and erring on the
10 side of caution, we ask that you recuse yourself on
11 that issue.

12 **THE COURT:** Okay, your motion's denied. I'm going to
13 grant Mrs. Hammer's motion to transfer this
14 particular building. I'd ask that counsel prepare a
15 proposed order and share it with Mr. Hammer and Mr.
16 Aiken. The issue of attorneys' fees, now as we all
17 know, you can get attorneys' fees pursuant to a
18 statute or a contract. And less common is
19 attorneys' fees being awarded as a sanction, and I
20 guess that's what you're looking for here, as a
21 sanction for having to come back so many times.
22 Include that in your order. I don't know what I'm
23 going to do on that part of it.

24 **MS. WEISSENSTEIN:** Okay.

25 **THE COURT:** But as far as transferring the building, you

1 need to prepare an order in that regard. And also
2 go ahead and prepare a deed, a master's deed
3 however, which ...

4 **MS. WEISSENSTEIN:** I'm sorry, could you repeat that last
5 part, sir?

6 **THE COURT:** As master's deed. I certainly don't have the
7 power to give you a general warranty deed or
8 anything like that, but. And also point out that
9 once this transfer is complete or consummated, all
10 the judgments will be satisfied, the judgments that
11 were cited here today. Of course, that's ... your
12 clients need to go ahead and have them marked
13 satisfied after the transfer is consummated. Now, I
14 don't know what's going to happen after I sign the
15 order. You're going to see it before it gets
16 signed, you'll see it before it gets signed.

17 **MR. HAMMER:** I have another matter to take up, Your Honor.

18 **THE COURT:** Yes, sir.

19 **MR. HAMMER:** We would move they put up a bond in double
20 the amount of the value of the property. They have
21 indicated that the property is worth 900 to \$1
22 million; we'd ask that they put up a bond, since
23 it's on appeal, in the amount of \$1,950,000.

24 **THE COURT:** Now, this particular matter isn't on appeal.
25 I suspect it may be one day, but ...

Susan Lipscomb

From: Desa Ballard <desab@desaballard.com>
Sent: Monday, January 27, 2014 2:57 PM
To: art@aikenandhightower.com; howham1945@gmail.com
Cc: Mara@desaballard.com; Stephanie Weissenstein; lipscomblaw@gmail.com; Terrie Stafford
Subject: 1634 Main
Importance: High

As you know from Judge Strickland's order last week, and his master's deed to Shirley, Howard's interest in 1634 Main LP, in the building itself, and SH5, LLC have been transferred to Shirley. We have changed the locks on the building and all the suites.

I understand Howard is either in the building or is approaching the building. I supposed he may be visiting with Susan, but I would point out that he no longer owns any interest in 1634 Main LP and is therefore not authorized to speak on its behalf. If he has other business with Susan, that's fine, but he must vacate the building immediately and no go anywhere in the building other than Susan's office. He specifically must not interfere with our possession of the building.

The police were put on notice last week and are on their way to the building now.

db



EXHIBIT H

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
Shirley Hammer,	)	Case No.: 2013-CP-40-6898
	)	
Plaintiff,	)	
	)	
v.	)	Response of Defendants Howard
	)	Hammer, 1634 Main, LP, SH5, LLC,
Howard Hammer, 1634 Main, LP;	)	SH4, LLC, and SH3,LLC
Alvin Hammer; SH5, LLC; SH4,	)	("the Hammer Defendants")
LLC; SH3, LLC; HASCI, LLC; D&M	)	to
Chateau, LLC; Heart of Columbia,	)	Plaintiff's Amended Motion for
LLC Eleanor Hammer; Joye	)	Charging Lien and Appointment of
Elizabeth Life Estate; Stanley	)	Receiver¹
Hammer; Department of Treasury -	)	
IRS; Chateau DeVille Association,	)	
Inc. and/or Chateau DeVille	)	
Horizontal Property Regime; David	)	
Hammer, a minor under the age of	)	
14,	)	
	)	
Defendants.	)	

Subject to their previously filed Motion to Dismiss, the Hammer Defendants (to the extent that the undersigned has standing to represent 1634 Main, L.P. and SH5, LLC) submit this response to Plaintiff's Motion for a charging lien and appointment of a receiver.

The Hammer Defendants assert that the Order of The Honorable Joseph M. Strickland entered January 21, 2014 ("the January 21 Order") transferred fee simple ownership to property with a stipulated value of approximately \$1,000,000.00 to the plaintiff in satisfaction of judgments totaling \$335,168.76 against Howard Hammer and

¹ Plaintiff's original motion was served December 18, 2014 and amended on December 23.

1634 Main, LP. After January 21, 2014, according to Plaintiff's counsel, the transferred property appraised for \$1,475,000.00. Plaintiff was directed to sell the property and account for the proceeds. Now, by her motion for a charging lien and appointment of a receiver, and after her judgments have been satisfied many times over, Plaintiff seeks excessive execution against Mr. Hammer only, whose judgments were \$202,064.53. Without reference to any of Plaintiff's allegations in her motion (which are addressed below), the motion for a charging lien should be denied. To request a charging lien is excessive, frivolous, harassing, injurious and no more than an obvious attempt to bankrupt Mr. Hammer. He owed the judgments, they have been more than satisfied in full by the transfer of property, and PLAINTIFF IS ENTITLED TO NO MORE RELIEF.

Having copied Plaintiff's numbered paragraphs in her amended motion, the Hammer Defendants respond to each paragraph thereof:

1. Plaintiff currently holds a judgment that remains unsatisfied² against defendants Howard Hammer and 1634 Main Street LP³; there is also a pending motion for sanctions against Howard Hammer which is scheduled to be heard on January 14,

² The original judgments obtained by Plaintiff were satisfied by order of this Court dated January 21, 2014 in Hammer v. Hammer et al, Case Nos. 2009-CP-40-05911 and 2010-CP-40-2889, which awarded Plaintiff ownership of certain real and personal property and directed Plaintiff to sell certain real property formerly owned by the judgment debtors. In addition, the order awarded Plaintiff certain other costs funds by way of judgment, which continue to accrue at present. The current amount of the judgment is approximately \$500,000, but fees and costs continue to be incurred.

³ Howard Hammer managed 1634 Main LP by virtue of being the sole member of SH5, LLC, the general partner of the limited partnership. Mr. Hammer's interests in 1634 Main LP and SH5, LLC were transferred to Plaintiff by Judge Strickland's order, dated January 21, 2014 in Case No. . That order has been affirmed by the Supreme Court of South Carolina (order dated November 6, 2014), but is currently subject to a Petition for Rehearing filed by Mr. Hammer which remains pending.

2015 by virtue of an order of remand from the South Carolina Supreme Court in Case No. 2009-CP-40-05911 and 2010-CP-40-2889. Any sanctions awarded will be an additional judgment in favor of plaintiff against Howard Hammer, and perhaps others.

Response: Plaintiff no longer has any judgment. The judgments have been satisfied as acknowledged by Plaintiff in footnote 2 of her amended motion and as copied to this response:

The original judgments obtained by Plaintiff were satisfied by order of this Court dated January 21, 2014 in Hammer v. Hammer et al, Case Nos. 2009-CP-40-05911 and 2010-CP-40-2889.

The January 21 Order states that it is issued in satisfaction of the judgments, a fact which Plaintiff acknowledges in her motion. The January 21 Order provided that interest on the judgments would cease accruing. This order, other than the sanctions, has been affirmed, the remittitur has been issued, and this order is now the law of the case. The Hammer Defendants deny that the amount owed on the judgments is \$500,000 as they have been satisfied by the transfer of property. Further, they are informed and believe that Plaintiff is seeking costs to which she is not entitled.

2. Howard Hammer's continued filings with the Supreme Court, after its order affirming Judge Strickland's order of January 21, 2014 have prevented Plaintiff from consummating a sale of the real property that was ordered by Judge Strickland. Plaintiff obtained a purchaser and a contract of sale for the building, but Howard Hammer has, to date, prevented the closing, leaving the judgment held by Plaintiff unsatisfied. As a result of the delays caused by Howard Hammer, the proposed purchaser has terminated the contract of sale.

Response: Howard Hammer has done nothing to prevent the sale of the building. He exercised his rights to appeal as sanctioned by the January 21 Order at page 13. ("[T]hey may seek whatever remedies may be available to them by way of an appeal.") Inexplicably, Plaintiff acted in a commercially unreasonable manner by possibly tying a closing date to her estimate of when the appeal would be completed. As stated in yet another motion for costs and sanctions filed with the Supreme Court on December 29, 2014, Plaintiff stated:

During the appeal, Shirley entered into a contract to sell the real property; the contract included a provision which tied the date of the sale to this Court's anticipated ruling on the then-pending appeals by Howard.

The Hammer Defendants further state that any reason proffered for the sale of the building falling through is nothing but Plaintiff's counsel's assertions as to the state of mind of the proposed buyer of the property, a party she does not represent, and it is also hearsay.

3. On information and belief, Defendant Howard Hammer is 20% owner of HASCI, LLC, or he owns some other fractional interest therein, which owns certain unencumbered real property located at 1011 Assembly Street in Columbia, South Carolina, bearing TMS #R08916-09-08, and being more fully described as follows: [property description omitted].

Response: Mr. Hammer has a minority membership interest in the referenced limited liability company. Whether the referenced real property is encumbered is irrelevant since Plaintiff has no judgment or claim against the limited liability company.

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Ⓐ

4. Pursuant to S.C. Code Ann. Section 33-44-504, Plaintiff is informed and believes her judgments against Howard Hammer entitle her to a charging order against any interest that Howard Hammer has in any of the corporate defendants which are limited liability corporations.

Response: Plaintiff's judgments against not only Mr. Hammer, but also 1634 Main, LP have been satisfied and she is not entitled to a charging order. Even if the judgments are not satisfied, the Court deeded fee simple ownership to Plaintiff of property valued at \$1,475,000, therefore, any further execution on the judgments would be excessive.

5. Additionally, Plaintiff is informed and believes that her judgments against Howard Hammer entitles her to obtain the appointment of a receiver over Howard Hammer's interest in any corporate defendants which are limited liability corporations for purposes of using any distributions that may be due to Howard Hammer be paid to her in satisfaction of the judgment(s) she holds and will obtain against Howard Hammer in proceedings currently pending.

Response: Plaintiff's judgments against not only Mr. Hammer, but also 1634 Main, LP have been satisfied and she is not entitled to a charging order. Even if the judgments are not satisfied, the Court deeded fee simple ownership to Plaintiff of property valued at \$1,475,000, therefore, any further execution on the judgments would be excessive.

6. In the alternative, Plaintiff is informed and believes that her judgment attaches to Howard Hammer's interest in any of the corporate defendants named herein.

Response: Plaintiff's judgments have never attached to Mr. Hammer's personal property interests, except as provided in the January 21 Order. Further, Plaintiff's judgments against not only Mr. Hammer, but also 1634 Main, LP have been satisfied and she is not entitled to a charging order. Even if the judgments are not satisfied, the Court deeded fee simple ownership to Plaintiff of property valued at \$1,475,000, therefore, any further execution on the judgments would be excessive.

7. On information and belief, the judgment(s) held by Plaintiff against Howard Hammer is the only judgment(s) enforceable against the distributional interest of Howard Hammer of HASCI, LLC, and against any distributional share due Howard Hammer from a sale of any real or personal property owned by HASCI, LLC, including real property located at 1011 Assembly Street. Plaintiff is informed and believes that a charging order should be issued for the purposes of encumbering Howard Hammer's distributional share of any real or personal property owned by HASCI, LLC and a receiver appointed for purposes of examining the sales documents and taking possession of any distributional share to which Howard Hammer may entitled.

Response: Plaintiff's judgments against not only Mr. Hammer, but also 1634 Main, LP have been satisfied and she is not entitled to a charging order. Even if the judgments are not satisfied, the Court deeded fee simple ownership to Plaintiff of property valued at \$1,475,000, therefore, any further execution on the judgments would be excessive.

8. On information and belief, HASCI, LLC has entered into a contract of sale for the property located at 1011 Assembly Street, TMS No. 08916-09-08, which contract of sale is scheduled to close at an undetermined date in the future.

Response: Based on information provided to him by third parties, Mr. Hammer understands that some property owned by HASCI is subject to a contract of sale.

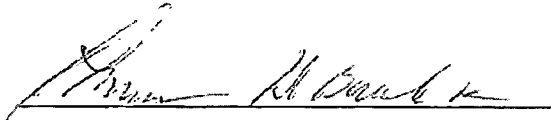
9. Plaintiff is informed and believes that the property subject to the order sought herein is not exempt from execution, attachment, or sale to satisfy a judgment or order. See S.C. Code Ann. §15-41-30.

Response: Mr. Hammer's distributional interest may be subject to an exemption.

10. Plaintiff is informed and believes that the issuance of a charging order and appointment of a receiver are necessary to protect her interest in distributions that are being made or may be made to Howard Hammer in connection with his interest in HASCI, LLC and any other corporate defendant named herein.

Response: Plaintiff's judgments against not only Mr. Hammer, but also 1634 Main, LP have been satisfied and she is not entitled to a charging order. Even if the judgments are not satisfied, the Court deeded fee simple ownership to Plaintiff of property valued at \$1,475,000, therefore, any further execution on the judgments would be excessive. Plaintiff has no interest in the distributions being made or which may be made, and the relief she seeks is unnecessary in light of the January 21 Order and the transfer of more than enough property to satisfy her judgments.

WHEREFORE, Howard Hammer and the entities over which he still retains an interest therein pray that the Plaintiff's motion be denied, and that he be awarded his costs and attorney's fees in defending this motion.

A handwritten signature in black ink, appearing to read "Thomas W. Bunch, II", is written over a horizontal line.

Thomas W. Bunch, II
ROBINSON, MCFADDEN & MOORE, P.C.
Post Office Box 944
Columbia, SC 29202
(803) 779-8900

January 14, 2015

EXHIBIT I

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Shirley Hammer,

Plaintiff,

v.

Howard Hammer, 1634 Main, LP, Alvin
Hammer; SH5, LLC; SH4, LLC; SH3, LLC;
HASCI, LLC; D&M Chateau, LLC; Heart
Of Columbia, LLC a/k/a Heart of Columbia
Inc., Alvin Hammer, personal representative
Of the Estate of Eleanor Hammer; Joye
Elizabeth Life Estate; Stanley Hammer;
Department of the Treasury- IRS; Chateau
DeVille Association, Inc. and/or Chateau
DeVille Horizontal Property Regime; David
Hammer, a minor under the age of 14,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
Case Number: 2013-CP-40-6898

**ORDER GRANTING
CHARGING ORDER**

FILED
2015 MAR 16 AM 10:01
CLERK OF COURT
C.C.P. & G.S.

Shirley Hammer moves for an order pursuant to S.C. Code Ann. Section 33-44-504 establishing a charging order on Howard Hammer's distributional interest in the defendant limited liability corporations, *i.e.*, HASCI, LLC, SH5, LLC, SH4, LLC, SH3, LLC, D&M Chateau, LLC, and Heart of Columbia, LLC (which is now known to be improperly named and is, instead, a regular corporation). The motion is granted.

In two (2) prior cases, Mrs. Hammer obtained judgments against Howard Hammer and 1634, LP, a limited partnership in which Mr. Hammer was the general partner by virtue of his sole ownership of SH5, LLC. Those judgments were conditionally satisfied by this Court's order of January 21, 2014 in the collection proceedings, in which this Court transferred the only known non-exempt assets of Mr. Hammer to Mrs. Hammer, with directives to sell the real property, pay

herself the amount of the judgments, as well as certain other funds to which the Court determined she was entitled. That order was appealed and affirmed (other than vacating and remanding for a new sanctions hearing) by the Supreme Court on November 14, 2014. Despite Mrs. Hammer's diligent efforts, a sale has not yet been concluded, so she has not yet received any funds to satisfy either the earlier judgments or the judgment entered on January 21, 2014.

Mrs. Hammer was notified by counsel for Alvin Hammer and HASCI, LLC, that a pending sale of real property was scheduled to occur in January, 2015. This action had not yet been heard on the merits because it was anticipated that the sale of the real property awarded to Mrs. Hammer in the earlier cases would have operated to satisfy her judgments. Several defendants had filed motions to dismiss, and hearings on those motions had been delayed by consent, anticipating they would become moot.

In the Supreme Court's order dated November 14, 2014, Mr. Hammer was ordered to provide this Court with a complete financial statement of his income and assets. For the first time, this Court learned Mr. Hammer's financial disclosure dated November 20, 2014 that Mr. Hammer owned significant assets that he had not previously divulged to the Court, despite earlier orders that required him to disclose that information to the court and the parties in the collection proceedings. Among the assets listed in his financial disclosure of November 20, 2014, Mr. Hammer now acknowledges he owns a membership interest in HASCI, LLC, HOC, LLC, and other real property and interests he had not previously disclosed. Mr. Hammer's financial disclosure also contained a letter dated November 17, 2014 which confirmed Mr. Hammer's "approximately 12%" interest in HASCI, LLC, and that a sale of real property owned by that LLC was anticipated to occur in 2015. It is upon that basis that Mrs. Hammer seeks to obtain a

charging order against Mr. Hammer's distributional interest in HASCI, LLC and the other defendant LLCs.

Mr. Hammer asserts that Mrs. Hammer no longer holds any judgments against him, asserting that the earlier judgments were satisfied by the Court's order of January 21, 2014 in the collection action. Mrs. Hammer asserts that the transfer of real property to her for sale purposes only partially satisfied the judgments, since the real property has not yet been sold and she has not received any payment on the judgments.

This Court's order of January 21, 2014, which was made necessary by Mr. Hammer's intentional withholding of information regarding his other assets, specifically anticipated that additional steps would be taken before Mrs. Hammer's judgments would be fully satisfied. Transfer of title of real property to her, with specific instructions regarding sale, did not fully satisfy the judgments in full, but simply set in place a mechanism by which the earlier judgments, and the additional judgments of January 21, 2014, would be satisfied. Neither Mr. Hammer nor any other party asserts that Mrs. Hammer has received any money toward her judgments against Mr. Hammer and 1634 Main LP.

Mr. Hammer asserts the January 21, 2014 order provided for a termination of post-judgment interest on the earlier judgments, thus establishing full satisfaction of the earlier judgments. The post-judgment interest was terminated by the January 21, 2014 order, but it was specifically anticipated by that order that Mrs. Hammer would incur additional costs related to the marketing and sale of the building and the order specifically provided for her recovery of those funds as a part of any "satisfaction" of the judgments she was owed.

Since the real property transferred to Mrs. Hammer has not yet sold, Mrs. Hammer retains

the right to recover against other assets owned by Mr. Hammer. Should she recover all funds to which she is entitled from other assets, the proceeds from the sale required by the January 21, 2014 order will be held in escrow pending further order of the Court, as set forth in Paragraph 7 of that order.

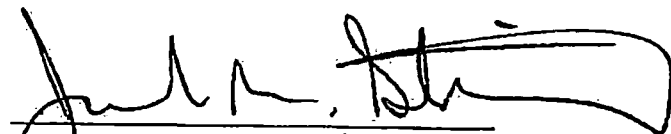
Mrs. Hammer is entitled to a charging order against Mr. Hammer's distributional interest in any of the defendant LLCs in which he has an ownership, membership, or distributional interest. He acknowledges a distributional interest in HASCI, LLC and Chateau Deville LLC, as well as HOC, LLC, which is not a named defendant in this action¹.

Pursuant to S.C. Code Ann. Section 33-44-504, Mrs. Hammer's request for a charging order against Mr. Hammer's distributional interest in HASCI, LLC and Chateau DeVille LLC is granted. The court does not find it necessary, at least at this time, to appoint a receiver; three (3) lawyers who represented themselves to have some interest in HASCI, LLC, as well as Keith Babcock, attorney for HASCI, LLC attended the hearing and are aware of the request for a charging order.

Mrs. Hammer's motion for a charging order against Mr. Hammer's distributional interest in the LLC defendants is:

GRANTED.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Joseph M. Strickland", written over a horizontal line.

Joseph M. Strickland
Master in Equity
Richland County

EXHIBIT J

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Shirley Hammer,)

Plaintiff,)

v.)

Howard Hammer, 1634 Main, LP;)
Alvin Hammer; SH5, LLC; SH4,)
LLC; SH3, LLC; HASCI, LLC; D&M)
Chateau, LLC; Heart of Columbia,)
LLC Eleanor Hammer; Joye)
Elizabeth Life Estate; Stanley)
Hammer; Department of Treasury -)
IRS; Chateau DeVille Association,)
Inc. and/or Chateau DeVille)
Horizontal Property Regime; David)
Hammer, a minor under the age of)
14,)

Defendants.)

Case No.: 2013-CP-40-6898

**MOTION FOR COURT TO
RECONSIDER
ORDER GRANTING CHARGING
ORDER AND TO
ALTER OR AMEND SAME**

AND

**MOTION FOR SALE
OF 1634 MAIN ST. PROPERTY**

RICHLAND COUNTY
FILED
2015 MAR 26 PM 4:03
JENNIFER L. HARRIS
CLERK OF COURT

Pursuant to Rules 59 and 60, SCRCP, Defendant Howard Hammer moves that the Court reconsider, vacate, or alter its Order Granting Charging Order ("Order") filed March 16, 2015. In addition, Mr. Hammer moves that given the Court's authority to convey the real property to Mrs. Hammer under the now-affirmed January 21, 2014, Order, that the Court has similar authority to either (1) order that the property be sold to HASCI, LLC under terms similar to the attached documents (Exhibits A, B and C) (assuming HASCI still wishes to proceed), or (2) simply order a public sale of the property after making an updated determination of amounts due Mrs. Hammer. These determinations and a sale will bring finality to this case and case nos. 2009-CP-40-05911 and 2010-CP-40-02889. This motion is made on the following grounds:

a. It was an error of law to grant a charging order since the court had executed

on the 1634 Main Street property it its January 21, 2014 Order in case nos. 2009-CP-40-05911 and 2010-CP-40-02889. See, e.g. *National Bank of Newberry v. Kinard*, 28 S.C. 101 (1888) (holding that it is a presumption of law that a levy is a satisfaction of judgment, unless it be shown that it was insufficient, or the proceeds were applied to some other lien, or was otherwise unproductive, without fault of the judgment creditor).

Under the January 21, 2014 Order the judgments against both 1634 Main, L.P. and Mr. Hammer upon which the charging order issued total \$335,168.76, with Mr. Hammer's judgment being only \$202,064.53. Plaintiff's counsel stipulated at the hearing on this motion that the 1634 Main St. property recently appraised for \$1,475,000.00.

- i. The Plaintiff has not presented any evidence that the execution by this Court on 1634 Main was insufficient. To the contrary, the execution was clearly sufficient, over four times the amount of the aggregate judgments.
- ii. The Plaintiff has not presented any evidence to show that any proceeds, rents, or profits from the property have been applied to some other lien.
- iii. The Plaintiff did not present any evidence that the levy was unproductive, and if it was, that she was without fault. To the contrary, this court has been made well aware of Mr. Hammer's multiple attempts to fully satisfy Mrs. Hammer's judgments only to be stymied by Mrs. Hammer's additional demands or refusal to

negotiate. In fact, Mrs. Hammer recently refused an offer by HASCI, LLC to buy the property at a price that would make Mrs. Hammer whole. See, e.g., letter to Mrs. Hammer's counsel dated January 26, 2015 attached hereto as Exhibit A, after which a signed agreement and contract of sale (Exhibits B and C) were presented to, but rejected by Mrs. Hammer.

The Court erred when it held that Mrs. Hammer "retains the right to recover against other assets of Mr. Hammer." Order at pp. 3, 4. Mrs. Hammer has no such right unless and until she presents evidence that the Court's execution in its January 21 Order was ineffective. *National Bank of Newberry v. Kinard*.

- b. By Order entered on March 16, 2015, this Court dismissed Alvin Hammer and four other Defendants from this case because Mrs. Hammer did not have a judgment against them. Likewise, other than the judgments which are deemed satisfied in the law (point "a" above), Mrs. Hammer does not hold any judgment against Mr. Howard Hammer at the present time. Although the January 21 Order provides for the recovery of additional costs, these amounts are unspecified and cannot constitute a judgment because "a final money judgment must be certain and definite as to the amount thereof." *Squires v. Nat'l Grange Mut. Ins. Co.*, 247 S.C. 58, 71, 145 S.E.2d 673, 679 (1965). Because Mrs. Hammer does not have a judgment, only the right to potentially recover some uncertain and indefinite amount in the future, the Order should be vacated.

- c. The Order relies upon Mrs. Hammer's ability to potentially recover additional costs against Mr. Hammer for the sale of the building as set forth in the January 21 Order. Although the January 21 Order provides for the recovery of additional costs by Mrs. Hammer, that Order specifically provided that they should be recovered from the sale of the proceeds of the property. "6. Mrs. Hammer shall pay herself from the sales proceeds: a. Any and all costs incurred in connection with the sale of the building." January 21 Order, p. 12. Other than sanctions, this order has been affirmed on appeal, is the law of the case, and is *res judicata*; therefore, it is inappropriate for the Court to grant a charging order based on the potential recovery of additional costs when the method for that recovery has already been ordered and affirmed by the Supreme Court. To the extent that Mrs. Hammer recovers any amount under a pending sanctions motion, there is no reason that such sanctions cannot also be recovered from Mrs. Hammer's court-ordered sale of the property. In point of fact, that is what the Court already provided in the January 21 Order.
- d. The Order overlooked stating a proper amount, and in fact any amount, of the lien granted by the Order. The Order provides that Mr. Hammer's distributional interests in HASCI, LLC, and Chateau DeVille, LLC (and perhaps other LLCs) are charged with a lien. Although Mr. Hammer contends that Mrs. Hammer's judgments against him have been satisfied or do not exist because amounts are not yet determined (arguments a, b, and c above), the Order fails to specify the amount of the lien against his distributional interests. The January 21 Order set his liability on the judgments at \$202,064.53 (p. 2)

and stopped the running of interest thereon (p. 12, para. 6.b). Therefore, even if the Court is unwilling to vacate the Order, it should be modified to set the charging lien to the amount of \$202,064.53.

- e. The Order overlooked and did not consider this Court's bench order of January 9, 2014 that Mrs. Hammer judgments would be satisfied by the transfers in the January 21, Order. This ruling is *res judicata* as to the fact that the Plaintiff should have satisfied the judgment. See, e.g., *Catawba Indian Nation v. State*, 407 S.C. 526, 756 S.E.2d 900 (2014). To the extent that the issue was not addressed on appeal, it is the law of the case. See, e.g., *ML-Lee Acquisition Fund, L.P. v. Deloitte & Touche*, 327 S.C. 238, 489 S.E.2d 470 (1997).

THE COURT: Let's make the record clear as well. The transfer of the property would satisfy the judgment ...

MS. WEISSENSTEIN: It would.

THE COURT: ... in the case and this would all be over.
Tr., p. 11, ll. 8-12.

THE COURT: And also point out that once this transfer is complete or consummated, all the judgments will be satisfied, the judgments that were cited here today. Of course, that's ... **your clients need to go ahead and have them marked satisfied after the transfer is consummated.**

Tr. p. 96, ll. 8-13. (emphasis added)

- f. The Order overlooked and did not consider Mrs. Hammer's previous assertions to this Court that the judgments had been satisfied. Mrs. Hammer acknowledges that the judgments have been satisfied; therefore, the Order mistakenly granted a charging lien.

The original judgments obtained by Plaintiff **were satisfied** by order of this Court dated January 21, 2014 in **Hammer v. Hammer et al**, Case Nos. 2009-CP-40-

05911 and 2010-CP-40-2889, which awarded Plaintiff ownership of certain real and personal property and directed Plaintiff to sell certain real property formerly owned by the judgment debtors. (Emphasis added) (Plaintiff's motions dated 12/18/14 and 12/23/14)

- g. The Order overlooked and did not consider the on-record stipulation by Mrs. Hammer's counsel on January 9, 2014 that this case was rendered moot and would be dismissed.

So what we would show Your Honor is right now, today, you can order that either they transfer the title to that property to the judgment holder, Mrs. Hammer, or you can order that that property be executed for judicial sale by the sheriff's department. And we're okay with either one of those options, Your Honor. The ... if that were the case, then the foreclosure matter that has been filed, but the answer period has not even lapsed at this point yet, can be dismissed because we don't need anything else. Tr. 29, ll. 14-24. (emphasis added)

... we've taken the step to go ahead and try to foreclose against other properties. In order to do that we had to file a foreclosure matter because there are other judgment creditors out there against these other properties and we needed to protect them. Now, again, all that would be rendered moot and dismissed if we can satisfy the judgments in this action Tr. 49, ll. 2-10. (emphasis added)

... these matters [the Supplementary Proceedings Cases] were filed first, that the rule to show cause was for purposes of finding property upon which there can be execution and that if these matters are resolved then that foreclosure matter will be rendered moot and dismissed by the plaintiff. Tr. 73, ll. 1-6. (emphasis added)

The Order also overlooked the finding in the January 21 Order that this case would be rendered moot and be dismissed. January 21 Order, p. 5, 6. There, the Court reiterated Mrs. Hammer's counsel's stipulation that this case was moot. This ruling is *res judicata* as to the fact that this suit is moot. See,

e.g., *Catawba Indian Nation, supra*. To the extent that the issue was not addressed on appeal, it is the law of the case. See, e.g., *ML-Lee Acquisition Fund, L.P.*

- h. The court overlooked and did not consider that Plaintiff is estopped from asserting a charging lien in light of the stipulations on the record, the orders of this court, the reliance of this Court and the parties on her stipulations and this Court's orders, and the fact that the Supreme Court affirmed the January 21 Order providing that this case was moot.
- i. The Order inaccurately states that neither Mr. Hammer nor any other party asserts that Mrs. Hammer has received any money toward her judgments. Mr. Hammer asserts that Mrs. Hammer has, in fact, accumulated approximately \$150,000 in rental income from the 1634 Main St. since she took ownership thereof.¹ There has been no accounting of this income to the Court or Mr. Hammer, but it is simply inaccurate to state that Mr. Hammer does not assert that Mrs. Hammer has not received money toward the satisfaction of Mrs. Hammer's judgments. Further, Mrs. Hammer is currently seeking additional tenants for the property and the monthly income may increase. Shortly, Mrs. Hammer will have accumulated enough income to pay the judgments against Mr. Hammer in full.
- j. Without the presentation of any evidence whatsoever, the Order erroneously

¹ Presumably, Mrs. Hammer has incurred operating expenses as well, but since there is no accounting there is no ability for this court to find or opine that she has not received money to be applied to her judgments. One expense that Mrs. Hammer has not paid are property taxes to Richland County for the past two years, thus, putting in jeopardy the very asset the Court transferred to her for satisfaction of her judgments.

found that Mrs. Hammer has made diligent efforts to sell the property. In fact, Mrs. Hammer has refused to provide any details to Mr. Hammer or his counsel about efforts to sell the building. She has withheld that information and did not provide any such evidence, or at least any admissible evidence, to the Court that would allow the Court to make such a finding. Further, the order is in direct conflict with the efforts of Mr. Hammer to acquire the property and pay the judgment lien in full (plus all other amounts claimed to be owed). The Court is well aware of these efforts going back to May of 2014. Further, the finding is in direct conflict with Exhibits A, B and C where HASCI, LLC offered to buy the property, and Mr. Hammer agreed that such a conveyance was commercially reasonable.

- k. At page 3 the Order makes an inappropriate finding that the January 21 Order was made necessary by Mr. Hammer intentionally withholding information regarding his assets, a matter which will presumably be addressed in a sanctions hearing scheduled for April 2. This finding was irrelevant to the determination of granting a charging lien. Further, there was no evidence related to this finding which was presented to the Court. As there is currently pending a motion for sanctions in the supplementary proceedings cases in which this issue is to be addressed, the comment should be removed from the Order. Effectively, the Court is making findings in a collateral proceeding, findings about which Mr. Hammer has been denied an opportunity to address. Such findings are the exact reason why the Supreme Court reversed the sanctions awarded in the January 21 Order in supplementary proceedings

because findings and sanctions were made against Mr. Hammer without giving him an opportunity to defend the accusations.² The finding should be stricken from the Order.

- I. The Order makes findings without evidentiary support, makes findings on matters not presented to the court, makes findings on issues without giving Mr. Hammer an opportunity to respond and ultimately issues a charging lien on assets of Mr. Hammer despite the fact that Mrs. Hammer has already been conveyed an asset valued at almost five times the amount of her judgment. The inappropriate findings deny Mr. Hammer an opportunity to defend, and deny due process of law under the South Carolina and United States Constitutions. The charging lien is an excessive seizure of property and an unlawful taking.

The March 16, 2015 Order Granting Charging Order should be vacated in its entirety. To the extent that the Court is unwilling to vacate the Order, all inappropriate findings and findings on which no admissible evidence was presented should be removed from the Order.

In addition, Mr. Hammer moves that given the Court's authority to convey the real property to Mrs. Hammer under the now-affirmed January 21 Order, that the Court has the authority to either (1) order that the property be conveyed to HASCI under the terms

² The proposed order which Mrs. Hammer's counsel submitted and from which this finding came reminds the undersigned of Mrs. Hammer's counsel's unfounded accusation in an earlier email to the Court: "Mr. Bunch wants an order denying the motion for contempt so he can argue at the new sanctions hearing that there is issue preclusion (which we disagree with, but I've been at this a long time)." (See Exhibit D). Here, there is no doubt that opposing counsel will seek to use this finding, irrelevant to the issue before the court of whether to grant a charging lien, against Mr. Hammer in other proceedings.

of the attached documents, or (2) order a public sale of the property after making an updated determination of amounts due Mrs. Hammer.

A handwritten signature in dark ink, appearing to read "Thomas W. Bunch, II", is written over a horizontal line.

Thomas W. Bunch, II
ROBINSON, MCFADDEN & MOORE, P.C.
Post Office Box 944
Columbia, SC 29202
(803) 779-8900

March 26, 2015



ROBINSON MCFADDEN
ATTORNEYS AND COUNSELORS AT LAW

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tbunch@RobinsonLaw.com

January 26, 2015

VIA E-MAIL

Desa Ballard, Esquire
Law Offices of Desa Ballard
226 State Street
West Columbia, SC 29169

Re: Shirley Hammer v. Howard Hammer, 1634 Main, LP, Alvin Hammer, et al
Case No. 2009-CP-40-5911 and 2010-CP-40-2889
File No. 31141-0001

Dear Desa:

After much coordination with multiple parties, Howard is in a position to meet Mrs. Hammer's settlement demands set forth Friday, January 16. The monetary demands were payment of \$525,000, payment of the property taxes for 2013 and 2014 (represented to be approximately \$42,000), and payment of the IRS tax lien (represented to be approximately \$8,000) which total \$575,000.00. In addition, Shirley requested and Howard will give a release to Shirley and her agents for matters dealing with the building at 1634 Main St. and its contents. In accepting Shirley's demands, reliance is placed on the following representations: approximately two year's remaining on the Children's Trust lease at \$6,900/month, approximately 1 year remaining on the Oliver Gospel Mission lease at \$1,300/month, a lease with Susan Lipscomb at \$1,400/month, and that the leases are assignable.

Payment of \$575,000 would be structured by the sale of the building by its owner(s) to HASCI, LLC by warranty deed with marketable title, free of all liens and encumbrances, including mechanic's lien claims and any other claims for payments by third parties. The leases would also be assigned to HASCI, also free of encumbrances. We would deem the sale to be commercially reasonable under the January 21, 2014 Order of Judge Strickland. Closing and payment would follow the sale of HASCI's Assembly Street property. This is scheduled in less than a month, but I understand that the purchaser may request one additional 30 day contract extension. In any event, if the Assembly Street sale does not close by April 25, 2013, Alvin Hammer is agreeable



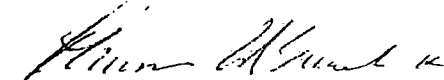
Desa Ballard, Esquire
January 26, 2015
Page 2

to funding the purchase price for HASCI by April 30, 2015.. Shirley would satisfy the outstanding judgments against Howard and 1634 Main, LP, and would withdraw, drop and dismiss with prejudice any and all claims of any kind or nature including, but not limited to, claims for costs, legal fees, and/or sanctions in all circuit and appellate courts of South Carolina.

This acceptance meets all of Shirley's demands and puts a workable structure to the transaction. We are prepared to make this transaction work.

Yours very truly,

ROBINSON, MCFADDEN & MOORE, P.C.


Thomas W. Bunch, II

TWB:aelw

Cc: Keith M. Babcock, Esquire (via e-mail)

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

Howard Hammer,

Plaintiff,

vs.

Shirley Hammer a/k/a Shirley Grace Hightower,

Defendant.

) **COURT OF COMMON PLEAS**
) **FIFTH JUDICIAL CIRCUIT**
) Case No.: 2009-CP-40-05911
)
)
)

Settlement Agreement

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

1634 Main, L.P.,

Plaintiff,

vs.

Shirley Hammer a/k/a Shirley Grace Hightower,

Defendant,

vs.

Howard Hammer,

Additional Defendant on Counterclaim

) **COURT OF COMMON PLEAS**
) **FIFTH JUDICIAL CIRCUIT**
) Case No.: 2010-CP-40-2889
)
)
)

Settlement Agreement

SETTLEMENT AGREEMENT ("Agreement") effective January 31, 2015 by and between Howard Hammer as Party of the First Part, Shirley Hammer a/k/a Shirley Grace Hightower, 1634 Main, L.P., SH5, LLC, and Hightower, LLC as Parties of the Second Part, HASCI, LLC as Party of the Third Part, and Alvin Hammer as Party of the Fourth Part:



WHEREAS, upon request of Shirley Hammer a/k/a Shirley Grace Hightower the January 21, 2014 Order of the Honorable Joseph M. Strickland (the "January 21 Order") and Master's Deed of that date transferred all of Howard Hammer's interest in 1634 Main L.P. and SH5, LLC and any interest Howard Hammer, 1634 Main, L.P. and SH5, LLC had in the real property located at 1634 Main Street, identified by TMS #09014-04-19 ("the Real Property") to Shirley Hammer.

WHEREAS, the January 21 Order arose out of supplementary proceedings instituted by Shirley Hammer to collect judgments against Howard Hammer and 1634 Main, L.P. entered in the above captioned cases.

WHEREAS, the January 21 Order directed Shirley Hammer to sell the Real Property in a commercially reasonable manner and account to the Court for the proceeds and expenses of sale.

WHEREAS, after the January 21 Order was entered and a Master's Deed recorded to convey to Shirley Hammer the Real Property, Shirley Hammer deeded the Real Property to Hightower, LLC (an LLC controlled by Shirley Hammer a/k/a Shirley Grace Hightower), and Hightower, LLC is now the record owner of the Real Property.

WHEREAS, the parties of the Second Part have represented that there are currently three tenants at the Real Property, those being Children's Trust of South Carolina with approximately two years remaining on its lease at a monthly rent of \$6,900, Oliver Gospel Mission with approximately one year remaining on its lease at a monthly rent of \$1,300, and Susan Lipscomb at a monthly rent of \$1,400.

WHEREAS, it is acknowledged and agreed that Shirley Hammer may exercise the powers of 1634 Main LP and SH5, LLC for purposes of this Agreement and the

documents identified herein, and the parties expressly and irrevocably stipulate to her authority to sign this Agreement, the documents identified herein, and any other documents necessary to complete the obligations created hereunder.

WHEREAS, no party to this Agreement shall appeal, seek to amend or vacate this Agreement on any basis, except lack of authority or capacity to enter into this Agreement or the documents executed pursuant thereto.

WHEREAS, each party whose signature appears below affirms that he, she or it is competent and fully able in all respects to enter into this agreement, and has had the advice of counsel and any other persons or entities upon whose advice the party relies for any purpose prior to entering into this agreement.

WHEREAS, each party to this agreement affirms and acknowledges the accuracy and truth of the foregoing recitals in this Agreement.

NOW, THEREFORE, for and in consideration of the undertakings and obligations created by this agreement, the adequacy of consideration being fully acknowledged, all of the undersigned, agree as follows:

1. For the payment of the principal amount of Five Hundred Twenty-Five Thousand (\$525,000.00) Dollars plus interest (the "Contract Price"), the Parties of the Second Part agree to (1) sell to and convey by quitclaim deed to HASCI, LLC the Real Property, and (2) assign to HASCI, LLC the three leases referenced in the recitals, all pursuant to the Contract of Sale attached hereto and which terms are incorporated herein.
2. The sale, conveyance, and payment for the Real Property is conditioned upon title to the Real Property being marketable and/or insurable. If it is not, then

this agreement, and all obligations of each party hereto, shall be null and void. As a limited exception to this condition, the grantee of the Real Property agrees to assume any and all responsibility for liens against the property which arose prior to January 21, 2014 plus Richland County property taxes for 2014 that were due and payable January 15, 2015 and said taxes accruing thereafter. Except as provided in the foregoing sentence regarding property taxes assessed by Richland County, nothing herein shall be construed to obligate or require purchaser to be obligated for any liens and encumbrances against the Real Property arising on or after January 22, 2014.

3. Payment by HASCI, LLC shall be made upon closing of certain property fronting on Assembly Street in Columbia, S.C. on which HASCI has a contract for sale and which is scheduled to close on or about February 22, 2015. The buyer under the HASCI contract may request a 30 day extension to close the sale after February 22. If for any reason the HASCI contract of sale fails to close by April 30, 2015, the Party of the Fourth Part, Alvin Hammer, agrees to guarantee the Contract Price. At any time before April 30, 2015, the undersigned parties to this Agreement agree that that HASCI and/or Alvin Hammer may fund the Contract Price and close the transaction.
4. For each day after January 30, 2015, the principal purchase price of \$525,000.00 shall increase at a per diem amount of \$104.28 based on an annual interest rate of 7.25% on the principal purchase price. The principal amount of \$525,000.00 plus the per diem interest are the "Contract Price."

5. The parties to the cases captioned above stipulate that the sale of the Real Property under the terms of this Agreement shall constitute a commercially reasonable sale of the Real Property for purposes of the January 21 Order and that upon full compliance with this Agreement that Shirley Hammer has fully discharged all obligations imposed upon her under that order.
6. Upon payment of the Contract Price, the closing of the sale of the Real Property, and the assignment of leases, the undersigned parties agree that the Parties of the Second Part shall:
 - a. File satisfactions of judgment in Richland County and any other jurisdictions and Courts in which Shirley Hammer has filed or obtained any evidence of judgment to fully discharge and release any and all judgments she holds against Howard Hammer and/or 1634 Main LP as a result of prior orders of Judge George James and Judge Joseph P. Strickland in the captioned actions.
 - b. Dismiss with prejudice any matters and all claims which remain pending in the captioned cases and any other cases in which Howard Hammer is a Defendant in any and all courts (including the South Carolina Supreme Court) as well as in Case No. 2013-CP-40-6898, including but not limited to any pending motions in any legal matter in either the Circuit Court or the South Carolina Supreme Court.
 - c. Assume any and all responsibility for financial obligations arising out of any agreements with any person or entity with whom they entered into agreements or incurred obligations which relate to the Real Property,

and specifically including Marion Turbeville, Danville Business Advisors LLC, Aries Advisors, LLC, and any entity with which Marion Turbeville has an interest or claim related to the Real Property.

- d. Notify all tenants at 1634 Main Street that the ownership of the property has transferred and that rents including any past due rents are due and payable to the new owner as of the date of transfer. Rents and utilities shall be pro-rated as of the day of closing, and the Parties of the Second Part are responsible for payment of any utility expenses incurred, but not paid as of the date of closing.
 - e. Authorize and direct Danville Business Advisors LLC to release to HASCI, LLC any and all keys and alarm codes to the building located at 1634 Main Street and all suites therein.
7. Subject to closing and conveyance of the Real Property and Leases, and compliance with all other terms of this Agreement by the Parties of the Second Part, Howard Hammer releases Shirley Hammer a/k/a Shirley Grace Hightower and her agents, servants, employees, personal representatives, and assigns from any and all claims, demands, actions, and damages of any nature, at law or in equity, arising out of the conveyance of the Real Property, their taking of the Real Property, their management of the Real Property, and their disposal of the contents therein.
8. Howard Hammer waives any and all rights he may have had at any time in the past or will have at any time in the future, to seek reconsideration, appeal,

challenge, invalidate, modify or vacate this agreement or any orders of dismissal referenced in this agreement, or any judgments or orders previously issued in the above captioned cases by any judge(s) in any court, including but not limited to, any arguments concerning public policy grounds or any other basis whatsoever.

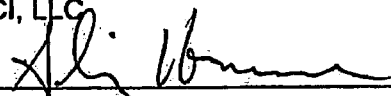
9. This document shall not be construed as having been authored by any party over the other and shall at all times be construed as the product of the parties jointly, and no ambiguities regarding construction of the terms of this agreement shall be construed against any party to this agreement.
10. Should any provision of this agreement be found to be unenforceable for any reason at any time, it is the express intent of the parties that the remaining portion of this agreement shall continue in full force and effect.
11. Time is of the essence in this agreement.
12. This document may be executed separately by the parties and combined into a final and complete agreement.
13. Should any provision of this agreement be deemed invalid or unenforceable by a court of competent jurisdiction, all other provisions shall remain in full force and effect.
14. This is the entire agreement of the parties, and there are no oral or written agreements other than as set forth herein which govern the rights of the parties or modify the terms of this agreement in any way.

15. No party has been promised anything in connection with his/her execution of this agreement other than the terms set forth herein.

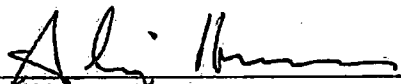
16. The signatures of the undersigned reflect that this agreement is entered into voluntarily by the parties, that all parties understand the effect of this agreement, and each has had the opportunity to consult with any counsel or other person or entity with whom that party may wish to consult prior to executing this agreement.

17. Nothing herein shall affect matters which are exclusively within the jurisdiction of the Family Court.


Howard Hammer

HASCI, LLC
By: 

Its: _____


Alvin Hammer

Shirley Hammer a/k/a
Shirley Grace Hightower

1634 Main, L.P.

By: _____

Its: _____

SH5, LLC

By: _____

Its: _____

Hightower, LLC

By: _____

Its: _____

CONTRACT OF SALE

THIS CONTRACT OF SALE (the "Contract") is made this ____ day of February, 2015 (the "Effective Date") between **Shirley Hammer a/k/a Shirley Grace Hightower, Hightower, LLC, and 1634 Main, L.P.** ("Seller") and **HASCI, LLC** ("Buyer").

RECITALS

A. Buyer is interested in purchasing that certain tract or parcel of land with all improvements thereon located in the City of Columbia, County of Richland, State of South Carolina, known as 1634 Main St. and having TMS No. 09014-04-19 (the "Property"), which is more particularly shown and described on **EXHIBIT A** attached hereto.

B. Seller has agreed to sell the Property to Buyer and Buyer has agreed to purchase the same, subject to, and upon the terms and conditions as set forth in this Contract.

NOW, THEREFORE, in consideration of the mutual covenants of the parties herein contained, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. Property. Seller agrees to sell and convey the Property to Buyer and Buyer agrees to purchase and accept the same from the Seller in an "as-is, where-is" condition subject to the terms and conditions of this Contract herein. Such conveyance shall include all rights, privileges, easements and appurtenances appertaining to the Property including, but not limited to, all of Seller's rights, title and interests in any timber, mineral rights, adjacent streets, roads, parking lots, alleys, rights of way and condemnation awards, any utility allocations and any governmental permits or approvals. Subject to the following:

(a) all easements, restrictions, covenants and conditions of record (provided they do not make the title unmarketable);

(b) all licenses, rights of way and easements, if any, for public utilities;

(c) all governmental statutes, ordinances, rules and regulations, including those involving proper zoning;

(d) any state of facts which an accurate survey and/or physical inspection of the Property might reveal.

2. Purchase Price and Deposit. The purchase price is **FIVE HUNDRED AND TWENTY-FIVE and no/100 (\$525,000.00) DOLLARS** plus interest accruing at \$104.28 per diem after January 30, 2015 until the date of closing ("Purchase Price"), payable upon the closing of this transaction and delivery of a deed.

EXHIBIT

C

3. **Buyer's Rights Prior to Closing.** Although the property is being purchased AS IS – WHERE IS, Buyer shall have the following rights of inspections:

(a) Commencing as of the Effective Date (as defined herein) of this Contract, Buyer, its authorized agents and employees, as well as others authorized by the Buyer, shall have full and complete access to the Property for thirty (30) days to conduct due diligence ("Inspection Period"). Buyer shall be entitled to enter upon the Property and make such structural, operational, legal, surveying, architectural, engineering, topographical, geological, soil, subsurface, environmental, water drainage, and other investigations, inspection, evaluations, studies, tests and measurements as the Buyer deems reasonably necessary or advisable so long as same does not result in any material adverse change to the physical characteristics of the Property (collectively, the Buyer's rights set forth herein are referred to as the "Investigations"). Buyer agrees to indemnify and hold Seller harmless from and against any and all claims, costs, expenses and liabilities including reasonable attorneys' fees arising from or by reason of the Investigations. Buyer shall restore any disturbance of the Property caused by the Investigations into the same condition that existed prior to the Effective Date in the event Buyer fails to close or terminates this Contract.

(b) Within five (5) business days of the Effective Date of this Contract, Seller shall provide Buyer or Buyer's legal counsel with copies of any existing title insurance policies, surveys, plats, geotechnical, engineering, environmental documents, or other title-related or construction documents (such as restrictive covenants and easements (whether finalized or in draft form), construction and signage requirements, etc.) and other information affecting the Property which are in Seller's actual possession or reasonably obtainable by Seller.

(c) As part of the Investigations, Buyer may, at his sole cost and expense, choose to obtain a survey of the Real Property by a licensed surveyor or engineer selected and engaged by Buyer (the "Survey") showing and certifying to the effect that (i) the boundary lines of the Real Property close; (ii) no improvements to the Real Property materially encroach upon adjoining property and no improvements to adjoining property materially encroach upon the Real Property; (iii) the boundaries of the Real Property, as shown on such survey, are consistent with its boundaries as indicated by any existing surveys of record; and (iv) the Real Property has access to a public right of way, either directly or by means of a recorded easement;

(d) As part of the Investigations, Buyer may also perform an examination of title and obtain a commitment for title insurance for the Property from a national title insurance company ("Title Commitment") committing to insure that fee simple title is vested in Seller (or will be by the time of Closing); that title is good and marketable of record; title is free and clear of all liens, encumbrances, easements, restrictions, claims of title, leases, adverse possession, condemnation and other matters that will make title to the property unmarketable other than those exceptions set forth in Exhibit B hereto ("Permitted Exceptions") and that the Property has access to a public right of way, either directly or indirectly or by means of a recorded easement;

(e) At any time prior to the expiration of the Inspection Period, the Buyer shall have the sole and exclusive right to terminate this Contract if the Buyer cannot obtain a Title Commitment insuring good and marketable title to the Property, as determined by Buyer's legal counsel. If the Buyer elects to terminate this Contract pursuant to this paragraph, it shall give written notice of such termination to the Seller prior to the expiration of the Inspection Period. Upon such termination neither party shall have any further rights or obligations hereunder.

4. **Conditions to Closing.** It is further understood and agreed that the obligation of Seller and Buyer under this Contract is contingent solely upon, and subject to, the following:

(a) **Title.** Buyer shall provide to Seller a commitment for an ALTA owner's title policy covering the Property issued by a national title insurance company (the "Title Commitment") within thirty (30) days of execution of this Contract, together with a copy of all documents referenced therein ("Title Documents"). On or before 5:00 p.m. EST on the tenth (10th) day after receipt of the Title Commitment and Title Documents (the "Title Review Period"), Buyer shall deliver to Seller and Title Company a written notice (the "Buyer's Title Notice"), which shall specify any matter disclosed by the Title Commitment, the Title Documents or any Survey that are not acceptable to Buyer in its sole discretion (the "Objections"). On or before 5:00 p.m. EST on the tenth (10th) day after receiving Buyer's Title Notice, Seller shall notify Buyer in writing of the Objections (if any) that Seller will satisfy or cure at or before Closing (the "Seller's Title Notice"). In the event that Seller does not provide Seller's Title Notice within the time period specified above, Seller shall be deemed to have elected not to cure any of the Objections. If Seller elects (or is deemed to have elected) not to cure or satisfy any one or more of the Objections, then Buyer shall have the right, by written notice delivered to Seller on or before the expiration of the Inspection Period to either (i) waive its prior notice as to the Objections and therefore proceed to Closing or (ii) terminate this Contract. Buyer's failure to deliver such written notice shall be a conclusive presumption that Buyer has elected to waive those Objections which Seller has elected not to cure or satisfy. For purposes of this Contract, the "Permitted Exceptions" are and shall be limited to (a) those Schedule B exceptions set forth in the Title Commitment (including the standard printed exceptions included in the standard South Carolina Land Title Association owner's title policy) other than the Objections (unless any such Objections are waived by Buyer or cured by Seller pursuant to this Section 4(a), (b) municipal or other governmental laws, ordinances and regulations, if any, affecting the herein-described Property and (c) the lien of non-delinquent taxes, assessments and other usual and customary charges assessed against owners of real property in the State of South Carolina (subject to proration as provided in Section 10 hereof). Seller shall cure and remove at or prior to Closing (and Buyer shall not be required to object thereto) all monetary liens and encumbrances (such as mortgages and deeds of trust, mechanics' liens, income tax liens, judgment liens, tax liens assessed for delinquent taxes and other similar liens) affecting the Property or any part thereof which arose during the period January 21, 2014 until closing, and in no event shall any such monetary liens and encumbrances constitute Permitted Exceptions, except the Richland County real property taxes for which Buyer agrees to assume responsibility.

(b) **Other Documents.** All of the documents and other items required to be delivered by Seller to Buyer at the Closing as provided by this Contract shall have been delivered in form and substance reasonably satisfactory to Buyer.

5. **No Other Contingencies.** Except as specifically provided in this Section 4 of this Contract, this contract constitutes Buyer's firm offer, with no contingencies as to the validity, effectiveness, or binding nature of the offer, including without limitation, contingencies for financing, due diligence, or inspection. This contract does not depend upon Buyer receiving prior approval of its intended use for the property.

6. **Intended Use.** Not Applicable.

7. **Closing.** The Closing shall take place at the offices of the closing attorney for the Buyer or at such other place designated by the Buyer

(a) Seller shall deliver at the Closing the following with respect to the Property, all in form satisfactory to Buyer:

(1) A quitclaim deed or deeds, executed and acknowledged by the Seller as of the Closing Date;

(2) A certificate and affidavit of non-foreign status (the "FIRPTA Affidavit"), executed by Seller as of the Closing Date;

(3) Appropriate resolutions and other evidence of the Seller's authority to execute and deliver the deed;

(4) All other documents reasonably necessary to effectuate the transaction under the terms of this Contract.

(b) At the Closing, Buyer shall deliver, the following with respect to the Property:

(1) On or prior to 10:00 a.m. on the Closing Date, Buyer shall have deposited in escrow with the closing agent the Purchase Price by wire transfer via the Federal Reserve System (plus or minus any net adjustments computed hereunder).

(2) All other documents reasonably necessary to effectuate the transaction under the terms of this Contract.

8. **Title.** Seller agrees to convey to Buyer good and marketable, fee simple title to the Real Property and deliver a proper quitclaim deed, with all recording transfer fees and documentary stamps/taxes paid, free of encumbrances, subject only to the Permitted Exceptions.

9. **Closing Costs.** Seller agrees to pay for its share of past due amounts owed for utilities and services due on the property, and pro-rata utility costs, all documentary and transfer taxes, deed preparation fees, real estate commissions, if any, and Seller's attorney's fees. Buyer shall pay for its normal closing costs, including its attorney fees, title insurance premiums, fees to record the deed, the cost of a survey, and expenses of Inspections of the Property described herein. All other charges will be divided between the parties in accordance with practices customary in the jurisdiction in which the Property is located.

10. **Pro-rations.** Except Permitted Exceptions, all rents (as and when collected), water rents, sewer charges, lights and other utilities and other legal assessments shall be adjusted as of the Closing Date. Buyer shall be solely responsible for all roll back taxes assessed, charged or levied against the Property (if any).

11. **Seller's Representations and Warranties.** As a material inducement to Buyer's execution and performance of this Contract, Seller makes the following representations and warranties, all of which are true and complete as of the date of this Contract, shall be true and complete as of the settlement, and shall survive the Closing:

(a) **Condemnation.** To the actual knowledge of Seller, there are no pending or threatened condemnation or similar proceedings or special assessments or tax reassessments affecting the Property or any part thereof, nor to the knowledge of Seller are any such proceedings or assessments contemplated by any "Governmental Authorities" (as used herein, "Governmental Authorities" shall mean the United States, the State of South Carolina, the County of Richland, the City of Columbia, or any agency, department, commission, board, bureau or instrumentality of any of them), or other entity having condemnation authority, and that Seller shall promptly notify and deliver to Buyer copies of all such notices received by Seller prior to Closing, if any; and

(c) **Materialman's Liens.** To the actual knowledge of Seller, there are no unpaid charges, debts, liabilities, claims or obligations arising from the construction, ownership or operation of the Property by Seller which could give rise to any mechanic's or materialmen's or other statutory lien against the property, or any part thereof, or for which buyer will be responsible.

13. **Buyer's Representations and Warranties.** As an inducement to Seller to enter into this Agreement and to consummate the transactions contemplated herein, Buyer hereby represents and warrants to Seller:

(a) **Organization.** Buyer is a limited liability company, duly organized, validly existing and in good standing under the Laws of the State of South Carolina, and has power required to carry on its business as is now conducted. Buyer has all requisite power and authority to own, lease, and use the Property.

(b) **Authority.** The execution, delivery and performance of this Agreement by Buyer and the consummation of the transactions evidenced hereby are within the power and authority of Buyer and have been duly authorized by all necessary action on the part of Buyer. Buyer has all necessary legal capacity to enter into this Agreement. This Agreement has been duly and validly executed and delivered by Buyer and this Agreement and the other transaction documents required hereby to be executed and delivered by Buyer at Closing constitute or, when executed and delivered, will constitute valid and binding obligations of Buyer, enforceable against Buyer in accordance with their respective terms.

(c) **As-Is Purchase.** THE PROPERTY IS PURCHASED, ON AN AS-IS-WHERE-IS BASIS AND SELLER MAKES NO REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW OR OTHERWISE, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, COMPLIANCE WITH LAWS, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE AS TO THE INFORMATION OR THE PROPERTY.

(d) **Reliance by Buyer on Due Diligence.** Buyer acknowledges and agrees that, except as otherwise expressly set forth in this contract and/or in the closing documents to the contrary:

(1) Buyer shall have had the opportunity to conduct all due diligence inspections of the property as of the expiration of the due diligence period, including reviewing all due diligence documents and materials and obtaining all information which it deems necessary to make an informed decision as to whether it should proceed with the purchase of the property;

(2) Buyer shall be deemed to be satisfied with the results of its due diligence review of the property upon the expiration of the due diligence period;

(3) Buyer will be relying only on its due diligence inspections of the property, its review of the seller due diligence materials and the representations and warranties expressly made by seller in this contract and/or in the closing documents in purchasing the property; and

(4) Buyer will not be relying on any statement made or information provided to buyer by Seller (except for the representations and warranties expressly made by seller in this contract and/or in the closing documents) or any of its affiliates, or any of their respective shareholders, members, partners, trustees, beneficiaries, directors, managers, officers, employees, attorneys, accountants, contractors, consultants, agents or representatives, or any person purporting to represent any of the foregoing.

14. **Default.**

(a) **By Buyer.** It is expressly agreed that if the Buyer fails or refuses to comply with the conditions assumed by Buyer, or to perform all of Buyer's obligations hereunder, Seller's shall have no remedy except to rescind this contract and Shirley Hammer may seek the remedies available to her as of the date of entering into this contract against Howard Hammer in case numbers 2009-CP-40-5911, 2010-CP-40-2889, and 2013-CP-40-6809. ⁵

Except as provided in this paragraph, Seller specifically waives all other claims, damages or remedies at law or in equity.

(b) **By Seller.** It is expressly agreed that if Seller fails or refuses to perform Seller's obligations hereunder, including the furnishing of marketable title as herein defined and transfer of possession as agreed, Buyer's sole right and exclusive remedy shall be to have all claims, judgments and awards of costs and sanctions against Howard Hammer, whether determined or to be determined, in case numbers 2009-CP-40-5911, 2010-CP-40-2889, and 2013-CP-40-6809, including any appeals of those cases and costs/sanctions awarded in such appeals dismissed with prejudice, provided that Shirley Hammer must comply with all directives set forth in the Order of the Honorable Joseph Strickland dated January 14, 2014 in case numbers 2009-CP-40-5911, 2010-CP-40-2889.

15. **Possession.** Seller shall give Buyer possession of the Property as of the Closing Date.

16. **Notices.** Whenever notices shall or may be given to either of the parties by the other, each such notice shall be in writing and be either hand-delivered or sent by certified mail, adequate and proper postage prepaid and affixed, addressed to the party at the address set forth hereinbelow (unless changed in the manner hereinafter set forth) and deposited in the United States Mail:

If to the Buyer, to:

HASCI, LLC
c/o Alvin Hammer
68 Lenwood Blvd.
Charleston, SC 29401

With copy to:

Alan Fulmer, Jr.
1812 Bull Street
Columbia, SC 29202

Keith Babcock
Lewis Babcock & Griffin, LLP
PO Box 11208
Columbia, SC 29211

Thomas W. Bunch, II
Robinson McFadden & Moore, PC
PO Box 944
Columbia, SC 29202

If to the Seller, to:

Shirley Hammer
412 River Club Drive
Lexington, SC 29072

With copy to:

Desa A. Ballard
Law Offices of Desa Ballard
226 State Street
West Columbia, SC 29169

The foregoing addresses may be changed by notice given in the above-listed manner. Any such notice shall be deemed to have been given at the time it was placed in the United States Mail with proper postage affixed.

17. **Time of the Essence.** Time is of the essence; however, if the transaction cannot close within the stipulated time limits of this Contract, then Buyer and Seller may agree to extend this contract for a reasonable period of time.

18. **Real Estate Commissions.** To the extent that there is any real estate commission owed to anyone as a result of entering into or closing on this contract, they are the sole responsibility of the Seller, and they shall be disbursed by the closing agent. Buyer represents that it has not engaged a broker or assumed any responsibility to pay such a person. Seller and Buyer each agree to hold each other harmless and indemnify the other from any claim for commission from any brokers claims arising from the conduct of the other party related to this sale or by virtue of any act or omission of the other party.

19. **Assignment.** Prior to or at closing, the Buyer shall have the right to assign any right or interest hereunder to a third party including any entity to-be-formed by the Buyer or its agents.

20. **Modification/Further Assurances.** No modification of this Contract shall be valid or binding unless such modification is in writing, duly dated and signed by all parties hereto. The parties agree to sign, execute and deliver, or cause to be signed, executed and delivered, and to do or make, or cause to be done and made, upon the written request of the other party, any and all agreements, instruments, papers, deeds, acts or things, confirming or otherwise, as may be reasonably required to effect the purpose and intent of this Contract.

21. **Entire Agreement.** This instrument constitutes the entire and complete agreement between the parties and supersedes any prior oral or written agreement between the parties with respect to the sale of the Property. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants and/or conditions set forth in this Contract and that no party shall be bound by any terms, conditions, statements or representations, oral or written, not herein contained. Each party hereby acknowledges that in executing this Contract he or she has not been induced, persuaded, or motivated by any promise or representation made by the other party, unless expressly set forth herein. All negotiations, statements and preliminary instruments by the parties or their representatives are merged in this instrument.

22. **Binding Contract/Survival.** This Contract shall be binding upon and shall inure to the benefit of all parties, their respective heirs, successors, assigns, principals, and representatives. All of the representations, warranties and indemnification provided in this Contract shall survive closing.

23. **Risk of Loss.** The Property shall be held at the risk of the Seller until legal title has passed and possession has been given to the Buyer. The Seller shall immediately have all insurance policies on the Property endorsed to protect all parties hereto as their interests may appear and shall continue the insurance in full force during the term of this Contract.

24. **Tax-Free Exchange.** The parties acknowledge and agree that either party may desire to structure this transaction as a tax-free exchange (to include a reverse exchange) pursuant to Internal Revenue Code Section 1031. The parties agree to cooperate with each other and execute and deliver all documents and perform such acts as are reasonably necessary to enable the transactions contemplated by this Contract to qualify as a like kind exchange of real property under §1031 of the Internal Revenue Code of 1986. The parties shall each bear the cost of their own, additional expenses arising out of the exchange process which would not otherwise have been attendant to this transaction.

25. **OFAC Compliance.** Seller and Buyer each represent as to itself and its own members that neither Seller nor Purchaser nor any shareholders, partners or members of Seller or Purchaser is listed in Executive Order 13224-Blocking Property and Prohibiting Transaction with Persons Who Commit, Threaten to Commit or Support Terrorism, as amended ("Executive Order 13224"), and neither Seller nor Purchaser has present, actual knowledge that any other persons or entities holding any legal or beneficial interest whatsoever in Seller or Purchase are included in, owned by, controlled by, knowingly acting for or on behalf of, knowingly providing assistance, support, sponsorship, or services of any kind to, or otherwise knowingly associated with any of the persons or entities referred to or described in Executive Order 13224, or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control.

26. **Dates and Times.** If the final day of any period or the deadline for performance of any obligation under this Contract falls on a Saturday, Sunday or legal holiday as defined by Title 53, Chapter 5 of the South Carolina Code of Laws, as amended, then the final day of the period or the deadline for performance shall be deemed to fall on the next day which is not a Saturday, Sunday, or legal holidays. Any reference in this Contract to any time period of less than six (6) days shall, in the computation thereof, exclude Saturdays, Sundays, or legal holidays.

27. **Governing Law and Venue.** The laws of the State of South Carolina, shall govern the validity, enforcement and interpretation of this Contract.

28. **Time of Acceptance.** This offer shall remain open for a period of Three (3) business days from the delivery of this Contract from Buyer to Seller. If Buyer has not accepted this offer by 5:00 p.m. on February ____, 2015, then this Contract shall be considered null and void and of no further force and effect. The term "acceptance" shall mean when the original of this Contract has been fully executed by Seller, properly witnessed, and delivered to Buyer.

29. **Execution of the Contract.** The effective date of this Contract shall be deemed to be the date of execution by the last party to sign this Contract ("Effective Date"). This Contract may be executed in counterparts by the parties. It shall not be necessary to have all of the signatures on behalf the parties appear on each counterpart. All such counterparts shall constitute a single Contract.

[SIGNATURE PAGE TO FOLLOW.]

IN WITNESS WHEREOF, the parties have executed this Contract as of the dates set forth below.

**SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:**

SELLER:

**Shirley Hammer a/k/a Shirley Grace
Hightower**

Date: _____

1634 Main, L.P.

By: _____ (L.S.)

Date: _____

BUYER:

HASCI, LLC

By: _____ (L.S.)

Its: _____

Date: _____

EXHIBIT A

PROPERTY DESCRIPTION

Those certain parcels of land, with improvements thereon, situate in Richland County, South Carolina, **generally known as 1634 Main Street**, 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 to record 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 1/2" 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.

Derivation - This being the same property conveyed by 1634 Main (E&A) L.L.C. unto 1634 Main, L.P. by that certain *Deed* dated December 19, 2000 and recorded in the Office of the Register of Deeds for Richland County on December 22, 2000 in Record Book 469, at Page 1543; thereafter, a 52.75% interest therein was conveyed by 1634 Main L.P. unto Shirley Hammer by that certain *Deed* dated February 11, 2002 and recorded in the Office of the Register of Deeds for Richland County on February 15, 2002 in Record Book 627, at Page 1909; thereafter, pursuant to Master's Deed all right, title and interest of Howard Hammer, if any, and 1634 Main, L.P. was conveyed by the Master unto Shirley Hammer, the same dated January 21, 2014 and recorded in the Office of the Register of Deeds for Richland County on January 22, 2014 in Record Book 1922 at Page 1520; and thereafter conveyed by Shirley Hammer unto HighTower, LLC by that certain *Deed* dated January 23, 2014 and recorded in the Office of the Register of Deeds for Richland County on January 24, 2014 in Record Book 1922, at Page 3825.

Tax Map # 09014-04-19

EXHIBIT B

PERMITTED EXCEPTIONS

1. Ad valorem real property taxes and assessments for the year 2015 and subsequent years, not yet due and payable.
2. Ad valorem real property taxes and assessments for the year 2013 estimated to be in the amount of \$21,971.96 as of February 2, 2015 pursuant to the Richland County Government website, together with all penalties and interest thereon.
3. Ad valorem real property taxes and assessments for the year 2014 estimated to be in the amount of \$19,919.03 as of February 2, 2015 pursuant to the Richland County Government website, together with all penalties and interest thereon.
4. Such state of facts as would be disclosed by an accurate survey or physical inspection of property.
5. All rights-of-way, easements and restrictive covenants of record.
6. All governmental statutes, ordinances, rules and regulations.
5. Tax liens against Howard Hammer

Thomas W. Bunch, II

From: Thomas W. Bunch, II
Sent: Thursday, November 13, 2014 9:04 AM
To: stricklandj@rcgov.us
Cc: Robin Reibold; Art Aiken; 'Desa Ballard'
Subject: RE: Hammer cases; 09-5911 and 10-2889

Judge Strickland,

The only issue preclusion I have considered would be the denial of Mrs. Hammer's contempt motion, which is the only issue addressed in the proposed order you requested from me. In Ms. Ballard's email altering the proposed order we submitted, not only is Ms. Ballard "putting words in my mouth" as to a motion she has not yet filed, she suggests that I have some ulterior purpose in presenting the proposed order denying the contempt motion. I do not practice law that way.

As to the order presented by Ms. Ballard, it is erroneous when it states that the award of sanctions was remanded for a new hearing. There was nothing for the court to remand since no motion was previously filed. As Ms. Ballard acknowledged at Monday's hearing, a motion needs to be filed if Mrs. Hammer intends to pursue sanctions.

Thank you for your consideration of the order I have presented on behalf of Mr. Hammer.

Tommy Bunch



ROBINSON MCFADDEN
ATTORNEYS AND COUNSELLORS AT LAW

Thomas W. Bunch, II
P: 803-227-1103
F: 803-744-1545
TBunch@robinsonlaw.com
v-card

Post Office Box 944
Columbia, South Carolina 29202

P: (803) 779-8900



MERITAS

From: Desa Ballard [mailto:desab@desaballard.com]
Sent: Monday, November 10, 2014 4:47 PM
To: stricklandj@rcgov.us
Cc: Robin Reibold; Art Aiken; Thomas W. Bunch, II; Beth Cogan; Mara Ballard
Subject: RE: Hammer cases; 09-5911 and 10-2889

I have made some changes to the order to more properly address the dismissal as based on mootness. As I told you, Mr. Bunch wants an order denying the motion for contempt so he can argue at the new sanctions hearing that there is issue preclusion (which we disagree with, but I've been at this a long time).

db

From: Thomas W. Bunch, II [mailto:TBunch@robinsonlaw.com]
Sent: Monday, November 10, 2014 4:38 PM
To: stricklandj@rcgov.us



Cc: Robin Reibold; Desa Ballard; Art Aiken
Subject: Hammer cases; 09-5911 and 10-2889

Dear Judge Strickland,

Attached is the proposed order you requested at today's hearing denying Mrs. Hammer's Motion for Contempt.

Tommy Bunch

Thomas W. Bunch, II
P: 803-227-1103
F: 803-744-1545
TBunch@robinsonlaw.com
v-card

Post Office Box 944
Columbia, South Carolina 29202
P: (803) 779-8900

EXHIBIT K

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
CASE NO. 2013-CP-40-6898

Shirley Hammer,)
Plaintiff,)

vs.)

Howard Hammer, 1634 Main, LP,)
Alvin Hammer; SH5, LLC;)
SH4, LLC; SH3, LLC; HASCI, LLC;))
D&M Chateau, LLC; Heart of)
Columbia, LLC; Alvin J. Hammer,)
as Personal Representative of the)
Estate of Eleanor Bernstein Hammer;))
Joye Elizabeth Life Estate;)
Stanley Hammer; Department of the)
Treasury-IRS; Chateau DeVille)
Association, Inc. and/or Chateau)
DeVille Horizontal Property Regime;))
David Hammer, a minor under the)
age of 14,)
Defendants.)

ORDER DENYING MOTION
TO RECONSIDER GRANTING
CHARGING ORDER AGAINST
HOWARD HAMMER AND TO
ORDER SALE OF 1634
MAIN STREET PROPERTY

JEANETTE M. MCBRIDE
C.C.P. & G.S.

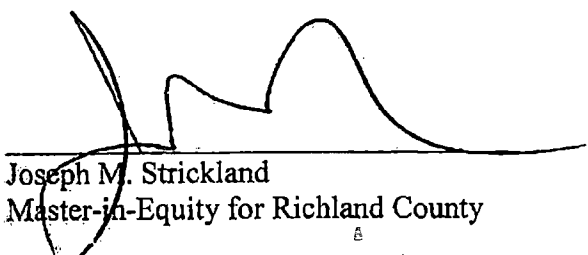
2015 MAR 31 PM 12:08

RICHLAND COUNTY
FILED

Defendant Howard Hammer, pursuant to Rules 59 and 60 SCRPC, asked the Court to reconsider, vacate, or alter its Order Granting Charging Order ("Order") filed March 16, 2015. Additionally, he asked that I order sale of the 1634 Main Street property.

These motions are denied.

IT IS SO ORDERED this 30th day of March, 2015.


Joseph M. Strickland
Master-in-Equity for Richland County

Columbia, South Carolina

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Richland County
Joseph M. Strickland, Master-In-Equity
Case No.: 2013-CP-40-6898
Appellate Case No. 2015-000945

RECEIVED
JUL 20 2015
SC Court of Appeals

Shirley Hammer,

Respondent,

v.

Howard Hammer; 1634 Main, LP; Alvin Hammer; SH5, LLC; SH4, LLC; SH3, LLC;
HASCI, LLC; D&M Chateau, LLC; Heart of Columbia, a/k/a Heart of Columbia, Inc.;
Alvin J. Hammer, as Personal Representative of the Estate of Eleanor Bernstein Hammer;
Joye Elizabeth Life Estate; Stanley Hammer; Department of the Treasury-IRS; Chateau
DeVile Association, Inc. and/or Chateau DeVile Horizontal Property Regime; David H.,
a minor under the age of 14,

Defendants,

Of Whom,

Howard Hammer is

Appellant.

PROOF OF SERVICE

I certify that I have served Memorandum of Howard Hammer on Issue Raised By
Court Regarding Appealable Orders upon counsel of record by depositing a copy of it in
the United States Mail, postage prepaid, on **July 20, 2015** addressed as follows:

Desa Ballard (for Plaintiff)
Law Offices of Desa Ballard
Post Office Box 6338
West Columbia, SC 29171

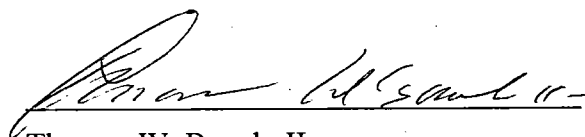
Keith M. Babcock, Esquire (for Alvin Hammer, Stanley Hammer, HASCI, LLC, Heart of Columbia, Eleanor Hammer)
Lewis, Babcock & Griffin, LLP
Post Office Box 11208
Columbia, SC 29211

Arthur K. Aiken, Esquire
Aiken & Hightower
2231 Devine Street, Suite 201
Columbia, SC 29205

Matthew Modica, Esquire (for Department of Treasury – IRS)
Assistant United States Attorney
151 Meeting Street, Suite 200
Charleston, SC 29402

Stephanie Trotter, Esquire (for Chateau DeVille Association and Chateau DeVille Horizontal Property Regime)
McCabe Trotter & Beverly, PC
PO Box 212069
Columbia, SC 29221

John D. Elliott, Esquire (for David H.)
PO Box 607
Columbia, SC 29202



Thomas W. Bunch, II
ROBINSON, MCFADDEN & MOORE, P.C.
Post Office Box 944
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(803) 779-8900

July 20, 2015



ROBINSON MCFADDEN
ATTORNEYS AND COUNSELORS AT LAW

ROBINSON, MCFADDEN & MOORE, P.C.
COLUMBIA, SOUTH CAROLINA

Thomas W. Bunch, II

1901 MAIN STREET, SUITE 1200

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COLUMBIA, SOUTH CAROLINA 29202

July 20, 2015

PH
(803) 779-8900 | (803) 227-1103 *direct*

FAX
(803) 744-1545

tbunch@RobinsonLaw.com

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings, Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

RECEIVED

JUL 20 2015

SC Court of Appeals

Re: Hammer v. Howard Hammer, et al
Appeal No. 2015-000945

Dear Ms. Kitchings:

Please find enclosed for filing an original and six (6) copies of the Memorandum of Howard Hammer on Issue Raised by Court Regarding Appealable Orders as requested by the Court of Appeals in a letter dated July 10, 2015. Please return the extra copy file stamped with our courier.

Thank you for your attention to this matter.

Yours very truly,

ROBINSON, MCFADDEN & MOORE, P.C.


Thomas W. Bunch, II

TWB:aelw

Enclosures

cc: (w/enclosures)
Desa Ballard, Esquire
Keith M. Babcock, Esquire
Arthur K. Aiken, Esquire
Matthew Modica, Esquire
Stephanie Trotter, Esquire
John D. Elliott, Esquire

1901 MAIN STREET, SUITE 1200 | PO BOX 944 | COLUMBIA, SOUTH CAROLINA 29202

AMW



ROBINSON MCFADDEN
ATTORNEYS AND COUNSELORS AT LAW

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29211

RECEIVED

JUL 20 2015

SC Court of Appeals