

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Joseph M. Strickland, Master-in-Equity
Case No. 2013-CP-40-6898
Appellate Tracking No. 2015-001086

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S.C. Supreme Court

Shirley Hammer,

Respondent,

v.

Howard Hammer; 1634 Main LP; Alvin Hammer; SH5, LLC; SH4, LLC;
HASCI LLC; D&M Chateau, LLD; Heart of Columbia, LLC 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 DeVille Association, Inc. and/or
Chateau DeVille Horizontal Property Regime, and David H., a minor.

Defendants,

Of Whom

Howard Hammer is

Appellant.

**REPLY TO RETURN:
SUPPLEMENTAL MOTION TO DISMISS
IN WHOLE OR IN PART**

Respondent Shirley Hammer (hereafter "Shirley") reiterates her request to substantively dismiss Issue IV of the instant appeal, and replies to the arguments of Appellant Howard Hammer (hereafter "Howard") as follows:

1. The Return in this matter adds additional arguments to Issue VI presented in the initial brief of Howard's appeal (dated June 17, 2015)¹. While adding new arguments, however, Howard has ignored significant points raised in the Supplemental Motion to Dismiss:
 - A. Howard has no standing to seek to enforce a purported settlement with HASCI, LLC, an entity in which Howard has no management or controlling interest;
 - B. This argument was not made in this case in the trial court until the motion for reconsideration, when raised it for the first time, and thus is not preserved;
 - C. The settlement discussions which did take place (in the 2009 and 2010 cases²) were unsuccessful, and Howard's attorney Bunch has so conceded (See citations contained in Exhibit I to Supplemental Motion);
 - D. While this appeal arises in the 2013 foreclosure case (Case No. 2013-CP-40-06898)³, everything Howard cites to in support of his argument arose in the 2009 and 2010 cases.

¹ Howard now argues, in his return, that the monies approved in the accounting in the 2009 and 2010 cases are incorrect. Those issues are not yet before this Court because Howard has not yet filed an appeal from the approval of the accounting... See footnote 7 of the Supplemental Motion to Dismiss.

² The 2009 case, Howard Hammer v. Shirley Hammer, is Case No. 2009-CP-40-05911 filed on November 21, 2013. The 2010 case is 1634 Main LP v. Shirley Hammer v. Howard Hammer, 2010-CP-40-2889, filed April 30, 2010. These are the two cases that led to the entry of judgment in favor of Shirley by order of Circuit Court Judge George James, and via supplemental proceedings, effected the transfer to Shirley of the real and personal property with directions to sell the property to collect funds due to her.

³ Case numbers assigned to documents filed throughout these proceedings have mixed up the case numbers or stated them incorrectly. By way of example only, the Amended Notice of Appeal filed by Howard in this matter (dated May 7, 2015) cites the case number as 2003-CP-40-6898, just as Howard's Opposition to Motion to Certify dated May 28, 2015 also inexplicably does. Howard's Notice of Appeal to this Court dated April 24, 2014 erroneously cites the case number of the 2010 case as 2009-CP-40-0511 (which appears to be a foreclosure case unrelated to these parties). Howard's initial brief continues the confusion, citing the trial court case number as 2003-CP-40-6898.

settle if they would pay me by Friday.” (*Id.* Page 8, lines 17). After a recess, Shirley’s counsel and Bunch advised some progress had been made, but Bunch could not speak for HASCI and Shirley made clear that there was no settlement (even if the numbers were agreed on) without “an agreement from HASCI.” (*Id.* P. 16, lines 24 – p. 22, line 8).

The citations by Bunch in his return pick and choose from the statements made at the hearing to suggest an agreement was reached, when it clearly was not. The settlement discussions ended with Judge Strickland saying “Let me suggest this: leave the settlement on the table. If y’all can get together. . . in the future to work out a consent order, I’m willing to consider that.” (*Id.* Page 41, lines 21-24). Mrs. Hammer opposed leaving the settlement discussions open. (*Id.* P. 42, line 22 – p. 45, line 1), but Judge Strickland left the discussions open. (*Id.* P. 47, lines 4-11). Shirley asked for a deadline, but Judge Strickland declined.

5. Emails exchanged over the following several weeks reflect good faith efforts to reach an agreement based on the terms that had been discussed at the January 27, 2015 hearing. **Exhibit D** reflects emails beginning January 23, 2015 (before the hearing discussed above) through February 19, 2015, when Shirley’s counsel stated unequivocally “the negotiations are over.” **Exhibit D, page 41, 42, 43.** Bunch himself notified Judge Strickland by letter dated February 13, 2015 that the settlement discussions had ended, and requested a hearing on Shirley’s motion for sanctions be scheduled. **Exhibit D, page 39.**
6. Shirley’s motion for sanctions against Howard in the 2009 and 2010 cases convened on April 2 and 3, 2015. During the hearing, Shirley advised the court that she had again

- E. There was no motion to enforce a settlement made by anyone in the 2009 or 2010 cases (because there was no settlement).
2. Howard tried once before in a prior appeal to this Court (Appellate Case No. 2014-000965, an appeal in the 2009 and 2010 cases) to force Shirley to sell property on his terms. In his Petition for Writ of Supersedeas filed on August 4, 2014, Howard attempted to have this Court force Shirley to sell the real property to HASCI, LLC, who was not then a party to the case. This Court denied the Writ of Supersedeas by order dated October 24, 2014. **Exhibit A.**
 3. After this Court affirmed Judge Strickland's order of January 21, 2014 on November 6, 2014, Judge Strickland heard the motions to dismiss filed by Howard and others in the 2013 foreclosure action on January 15, 2015 (as well as Howard's latest motion to disqualify Judge Strickland). Howard's counsel, Bunch, argued during that hearing that Howard had trying "to pay this judgment in full." That was, of course, meaningless since the supplemental proceedings had already concluded and the satisfaction of judgments could only occur via a sale of the property. **Exhibit B, Transcript dated January 14, 2015, Page 26, line 20 – p. 28, line 21.**
 4. At the commencement of what was supposed to be a hearing on Shirley's motion for sanctions in the 2009 and 2010 cases on January 27, 2015, Bunch claimed there was an agreement to settle between Howard and Shirley. Shirley (through counsel) disputed a settlement had been reached. **Exhibit C, Transcript pages 1- p. 6, line 14.** She indicated she had sent a settlement proposal to Howard (via counsel Bunch) and gotten no response, other than to suggest no payment could be made until April, 2015. (*Id.* P. 6, lines 18-19; P. 7, line 25-page 8, line 9). Shirley's counsel stated "I told them I'd

attempted to resolve the matter by making an offer to sell the property to Alvin Hammer, who has acted as a principal of HASCI, LLC. **Exhibit E, lines 1-8.** Howard's counsel, Bunch, again misrepresented the earlier discussions. (*Id.* Lines 18-24).

7. Also included in the return is detailed argument on other issues that Howard has asserted on and off throughout these proceedings, but are not before the Court. These include arguments challenging the accuracy of the accounting approved by Judge Strickland (Return p.2 – 5), which follows an acknowledgement that no appeal has even been filed on that issue. (*Id.* p. 2). They also argue that Shirley's judgments are already satisfied (by virtue of the January 21, 2014 order). (*Id.* p. 6-8). Those arguments do not affect title to the property and do not form a basis for challenging Shirley's ability to convey clear title, which is the issue Shirley has brought to the Court. Shirley will not respond to speculative arguments which might be raised in an appeal that Howard might someday file in the future.
8. The remainder of the Return is a distorted and misleading attempt to substantiate a new claim made for the first time in a motion to reconsider the order approving charging lien in this 2013 case, not the 2009 and 2010 case where the discussions occurred. That new claim is that the January and February discussions constituted an agreement, despite overwhelming evidence to the contrary. That argument is refuted in detail above.
9. Bunch is correct that he was invited to a meeting by Shirley's real estate counsel, and that the summary of his efforts to drive the seller away were not authenticated by affidavit as part of the Supplemental Motion to Dismiss (although he does not dispute

his statements that Shirley is unable to convey clear title because of Issue IV in this appeal). The affidavit of Charlie M. "Bru" Pender, who hosted the meeting, is attached as **Exhibit F**. Bunch cannot earnestly contend that he is not trying to disrupt the sale. That is precisely what he is doing. Shirley's counsel, including Mr. Pender, is trying to conclude this matter.

10. Astonishingly, Bunch asserts that this Court should delay these proceedings, and consolidate this appeal with other pending appeals and with an appeal he has not yet even filed⁴.

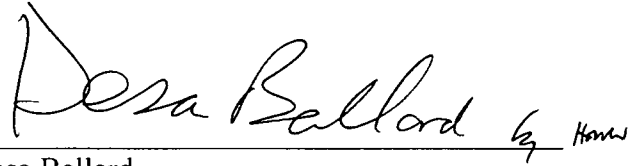
Shirley moves for an order dismissing Howard's Issue IV in the instant appeal so that all impediments to closing can finally be removed. In proceedings that have been expedited since this Court's order of September 7, 2012 (**Exhibit G**), a full three years, finality must be had (at least as to permitting the sale to conclude). Howard will apparently continue to appeal about who gets what from the sales proceeds in perpetuity if allowed.

Shirley has been defending against suits and motions filed against her by Howard since she first "settled" with Howard (in family court) in 2008. (Exhibit A to Supplemental Motion to Dismiss). Enough is enough. Closing is two weeks from today. Absent relief from this Court, Howard will delay matters again and further frustrate the ends of justice.

⁴ Bunch filed his motion to reconsider order approving accounting (which is a ruling in the 2009 and 2010 cases) on June 18, 2015. **Exhibit H**. Judge Strickland held a telephone conference with Bunch and Shirley's counsel on July 21, 2015 and asked if the parties could agree upon the order approving accounting with a compromise figure. Bunch advised no compromise was possible as long as Shirley was insisting that the terms of the 1-21-2014 order govern the accounting.

Judge Strickland has not issued a ruling on the motion to reconsider order approving accounting, but Bunch has taken no steps to pursue the matter, last contacting Judge Strickland's office on July 22, 2015. **Exhibit I**. The delay has likely been intentional, since Bunch will argue he cannot appeal that order until Judge Strickland rules on the motion to reconsider. This Court is well within its authority to conclude that Bunch has abandoned any right to pursue an appeal by taking no action to prompt Judge Strickland to issue a ruling on a motion to reconsider the order approving accounting. Filed June 18, 2015. See Joyner v. Glimcher Properties, 356 S.C. 460, 589 S.E.2d 762 (Ct. App. 2002). This is especially true since these matters have been expedited for THREE years.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Desa Ballard". To the right of the signature, there is a small handwritten mark that appears to be "6/ Hammer".

Desa Ballard

BALLARD & WATSON
Post Office Box 6338
West Columbia, South Carolina 29171
Telephone 803.796.9299
Facsimile 803.796.1066
Email: desab@desaballard.com

ATTORNEY FOR RESPONDENT
SHIRLEY HAMMER

September 3, 2015

The Supreme Court of South Carolina

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

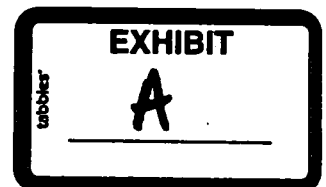
ORDER

Appellants have filed a petition for a writ of supersedeas. Respondent has filed a return in opposition to the petition. The petition is denied.

Garza C.J.
FOR THE COURT

Columbia, South Carolina

October 24, 2014



cc:

Howard Hammer

Arthur Kerr Aiken, Esquire

Desa Allen Ballard, Esquire

Thomas Whatley Bunch, II, Esquire

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) CASE #: 2013-CP-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; et al.,)
Defendants.)

MOTION HEARING

Wednesday, January 14, 2015
3:28 p.m. to 4:37 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 14th day of January, 2015, 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



1 written in connection with the supplemental
2 proceedings, the cases that bear the 2009 and 2010
3 case numbers. Mr. Hammer and 1634 Main, LP
4 appealed from the final judgment in that, did not
5 raise an appeal of Your Honor's denial of the motion
6 to recuse, so the law of the case as far as Mr.
7 Hammer and 1634 is concerned is that you've denied
8 that and it's final. I don't think he can raise it
9 again in another case involving him, specifically
10 when the Supreme Court has issued an order
11 indicating that all the cases are under Judge Barber
12 and whomever he may delegate the cases to.

13 **MR. BUNCH:** Your Honor, I've got one more point to make.

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

15 **MR. BUNCH:** I want to make sure the Court understands that
16 I'm not trying to delay this matter. I'm ready to
17 get it over with. I'm sure Ms. Ballard is too. She
18 told the Supreme Court that. But what I am trying
19 to do is to make sure it is in front of a judge that
20 might not have an issue with impartiality. We have
21 attempted on multiple occasions to pay this judgment
22 in full. The price went from, I believe it was May
23 or June of last year, 2014, from \$439,000 to
24 somewhere later in the summer of \$462,000, to
25 \$500,000-something, with an additional \$100,000 if

1 Mr. Hammer would not give Mrs. Hammer a release, up
2 to what I've now received within the last couple of
3 weeks, \$784,351. The original judgments in this
4 case at the time of your order, January 21, 2014,
5 and let me go back more specifically -- the original
6 judgments in this case, including interest, as of
7 the hearing on January 9th, 2014, were \$335,000.
8 So, I'm not trying to delay this. I want to get it
9 resolved. Mr. Hammer came to the court with his
10 brother Alvin to try to pay these judgments. And he
11 had the financial ability to do so. But every time
12 we tried to pay them the price increased or other
13 relief was required, such as this release. So I
14 want to make sure the Court understands -- I
15 actually would like to hand up a couple of exhibits
16 to that effect, to show how things have progressed.
17 So the ---

18 **MS. BALLARD:** And this -- I'm sorry, Your Honor, I would
19 object to exhibits in connection with the motion to
20 recuse. Is that what they are?

21 **MR. BUNCH:** We're not trying to delay this matter. I
22 haven't gotten to handing up the exhibits, and she
23 can note her objection when I present them to the
24 Court. But the price increased, the concessions
25 increased, and we'd like nothing further than to get

1 this behind us. And, in fact, not only was the
2 price we were offering to include full payment of
3 the judgments, it included the \$55,000 in sanctions
4 you ordered last summer. The only reason we're here
5 today is not to delay things, but to try to get this
6 matter before a judge that Mr. Hammer believes has
7 not shown a potential for impartiality. And the
8 exhibits I have to hand up, Your Honor ---

9 **MS. BALLARD:** I just want to clarify, these are relevant
10 to the motion to recuse; is that correct?

11 **MR. BUNCH:** They are.

12 **MS. BALLARD:** Okay.

13 **MR. BUNCH:** And they're showing -- the exhibits I have to
14 hand up, Your Honor, are a string of emails from me,
15 between me and Ms. Ballard, mostly in July of 2014.

16 **THE COURT:** Okay.

17 **MR. BUNCH:** As well as a most recent accounting of Ms.
18 Ballard, which now shows what she contends to be
19 over three-quarters of a million dollars owed on
20 these judgments that were at one time about
21 \$300,000.

22 **(Defendant's Exhibit Numbers One and Two were marked and**
23 **entered into the record.)**

24 **THE COURT:** One second, please.

25 **MS. BALLARD:** Your Honor, please let me know when I may

STATE OF SOUTH CAROLINA) 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.) **HEARING**
Shirley Hammer, et al.,) **Tuesday, January 27, 2015**
Defendant.)

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 27th day of January, 2015, before Robin K. Reibold, Court Reporter and Notary Public in and for the State of South Carolina.

APPEARANCES:

Thomas W. Bunch, II, Esquire
Robinson McFadden & Moore, PC
1901 Main Street, Suite 1200
Columbia, South Carolina 29201
Attorney for the Plaintiffs

Desa Ballard, Esquire
Ballard & Watson, Attorney at Law
226 State Street
West Columbia, South Carolina 29169
Attorney for the Defendants



1 **THE COURT:** Okay, go ahead, Mr. Bunch.

2 **MR. BUNCH:** Your Honor, since May of 2014, you know, eight
3 or nine months ago, we've been attempting to
4 negotiate with Ms. Ballard in trying to come to a
5 resolution of this case. Those negotiations center
6 on payment of money through Mr. Howard Hammer's
7 brother, Alvin Hammer, in order to satisfy judgments
8 and have the transactions and your order -- the
9 transactions effectuated by your January 21, 2014,
10 order of the transfer of property, as well as that
11 order being vacated in some respects. Okay. And so
12 we made several settlement offers back in, between
13 May and July of last year to that effect.

14 **THE COURT:** Uh-huh.

15 **MR. BUNCH:** We were not successful. Okay. And so what
16 we're -- we're here today because Friday, two
17 Fridays ago, maybe January 16th, I'm not sure of the
18 exact date, but two Fridays ago we came before you
19 for the sanctions hearing and you asked the parties
20 to see if they could negotiate a settlement. And in
21 connection with that, Ms. Ballard indicated to me
22 that she would accept a settlement of ---

23 **MS. BALLARD:** I don't want the settlement terms put on the
24 record, Your Honor.

25 **MR. BUNCH:** Your Honor, I ---

1 **THE COURT:** Hold on a minute. You want to say what was on
2 the table?

3 **MR. BUNCH:** I want to say what was on the table and ---

4 **MS. BALLARD:** Your Honor, I object.

5 **THE COURT:** Hold on a second, hold on a second. All
6 right, and you object to that being on the record?

7 **MS. BALLARD:** I object to anything about the settlement
8 proceedings being on the record, Your Honor. That's
9 inadmissible in any proceeding, trial or appellate.
10 If we want to go off the record and discuss this,
11 I'm fine with that. But I don't want a record made
12 of our settlement discussions, no, sir.

13 **MR. BUNCH:** Your Honor, Rule 408, I believe it's
14 inadmissible for purposes of determining liability.
15 We're not here trying to determine liability. I'm
16 updating the Court as to where we are on this, and I
17 want to make a record of it.

18 **THE COURT:** Okay, hold on. Now, let me, you know, all of
19 us remember, we're in supplemental proceedings so
20 we're not in a trial. Of course, we've already been
21 to the Supreme Court once, so. As far as ---

22 **MS. BALLARD:** Three times.

23 **THE COURT:** Yeah. Okay, I'm sorry.

24 **MS. BALLARD:** Three times.

25 **THE COURT:** Three times. Why don't you want the

1 settlement negotiations on the record?

2 **MS. BALLARD:** Your Honor, the settlement negotiations -- I
3 think Mrs. Hammer's entitled to have confidentiality
4 as to that, but also I think what they're going to
5 attempt to do is say that they've been reasonable
6 and we've been unreasonable. And there's
7 significant dispute about that. The matter before
8 you that is remaining to be heard is a sanctions
9 hearing. And if Your Honor hears what their version
10 of the settlement negotiations have been prior to
11 hearing the sanctions hearing, I don't think it
12 would be appropriate.

13 **THE COURT:** Okay.

14 **MS. BALLARD:** So I don't want a record made of any
15 settlement discussions that we may have had.

16 **THE COURT:** Also, I thought we were going to also hear a
17 motion for recusal as well?

18 **MR. BUNCH:** We ---

19 **MS. BALLARD:** We heard that last week, and you denied it.

20 **THE COURT:** I took it under advisement.

21 **MS. BALLARD:** And my proposed order to you is due
22 tomorrow.

23 **THE COURT:** That's right.

24 **MS. BALLARD:** Yes, sir.

25 **MR. BUNCH:** Your Honor, on that motion for recusal, if you

1 recall, we made it in the earlier case brought by
2 Ms. Ballard, the foreclosure case. That motion
3 still needs to be put on the record for purposes of
4 these proceedings so I'm not sure -- first of all,
5 there is no impediment or rule against putting into
6 the record today what our discussions have been.
7 The rule says you can't use Rule 408 for purposes of
8 determining liability, and we're not using it for
9 that purpose. So, you know, there's no reason ---
10 **MS. BALLARD:** The sanctions on the table ---
11 **MR. BUNCH:** --- why I should not be allowed to do that.
12 **MS. BALLARD:** Your Honor, I object.
13 **MR. BUNCH:** You asked the parties ---
14 **MS. BALLARD:** We came in for a status hearing ---
15 **MR. BUNCH:** --- to negotiate and I'm trying to bring you
16 up to date on where we are.
17 **MS. BALLARD:** We're unsuccessful in our negotiations.
18 That's where we are.
19 **THE COURT:** Okay. And you want to put the details on the
20 record?
21 **MR. BUNCH:** I do, Your Honor. And because we have
22 accepted her offer, and that's ---
23 **MS. BALLARD:** No, sir, they have not.
24 **MR. BUNCH:** We have accepted the terms of her offer, and I
25 want you to be aware of that. I want the Court to

1 be aware of that. I want the Court to be aware of
2 the fact that we have attempted on multiple
3 occasions to pay Ms. Ballard, and so if she comes in
4 here today and complains about Mr. Hammer delaying
5 these proceedings I want to be able to counter with
6 the fact that as long as the supplementary
7 proceedings took she's been rejecting offers of full
8 payment for the same amount of time. So don't be
9 complaining about Mr. Hammer delaying proceedings
10 when in fact he's offered on multiple occasions to
11 try to get this matter resolved.

12 **MS. BALLARD:** See? I told you they're here on sanctions.

13 **THE COURT:** Okay. Okay.

14 **MS. BALLARD:** Your Honor, we've not reached a settlement
15 agreement. We'd like to go forward.

16 **THE COURT:** Now, you don't want to spend any time today
17 trying to settle, spend any time this morning?

18 **MS. BALLARD:** I can give them until 10:00. I've sent them
19 my settlement documents, I got no response.

20 **THE COURT:** That's ten minutes, but I'm not going to ---

21 **MR. BUNCH:** See ---

22 **MS. BALLARD:** Your Honor, these are the same settlement
23 documents I provided them in April.

24 **THE COURT:** All right. I'm not going to be bound by a
25 lawyer-imposed deadline unless you have to be out of

1 here by 10:00. You have to be gone somewhere?

2 **MS. BALLARD:** No, sir, I don't.

3 **THE COURT:** Okay.

4 **MS. BALLARD:** But I want to have enough time to have our
5 sanctions hearing today.

6 **THE COURT:** Oh, yes. We have the whole day if we need to
7 have it. I would ask though that we maintain our
8 civility and our patience.

9 **MS. BALLARD:** I'd like a response to my settlement
10 documents, and I'll be happy to discuss that with
11 them if Your Honor would like to retire.

12 **THE COURT:** I'd like for y'all to -- yeah, take some time
13 to do that.

14 **MS. BALLARD:** Thank you, Your Honor.

15 **THE COURT:** Hold on, let me, you know, we're jumping the
16 gun a little bit, but. The only thing I remember
17 regarding the sanctions I guess was that, Mr. Bunch,
18 I think you and I think Mr. Babcock was here, Mr.
19 Aiken was here as well, indicated that y'all had
20 tendered the amount and that, Ms. Ballard, you had
21 imposed a condition that I hadn't imposed. And the
22 other side was claiming that that's why the case
23 wasn't settled. Now, is that still the situation we
24 have now?

25 **MS. BALLARD:** Your Honor, the number that we offered two

1 weeks ago to settle with a certain release has not
2 been accepted. The number has been accepted, but
3 the language of the release document has not been
4 commented on and the timing of payment, they're now
5 trying to tie the payment to the sale by HA -- by
6 another corporation, of another piece of property,
7 and this money's been due for over two years. So I
8 told them, no, I would not wait until April to be
9 paid.

10 **THE COURT:** All right. Now, what are y'all going to talk
11 about if I step out, what are you going to say?

12 **MS. BALLARD:** I told them I'd settle if they would pay me
13 by Friday.

14 **THE COURT:** But -- and the issue is how much, right?

15 **MS. BALLARD:** We've agreed on the number if they pay by
16 Friday. If they don't pay by Friday, we don't have
17 an agreement, no, sir.

18 **MR. BUNCH:** Your Honor, that's one of the issues holding
19 up settlement, is that Ms. Ballard -- and I
20 understand this case has been going on for a while,
21 and it dates back to some litigation going back to
22 2010 or something like that. Okay. I understand
23 that. But now we're in a situation where we are
24 agreeable to paying \$575,000 ---

25 **MS. BALLARD:** Your Honor ---

1 **THE COURT:** Hold on a second, hold on a second. She
2 didn't want ---

3 **MR. BUNCH:** But I --

4 **THE COURT:** Wait, no ---

5 **MR. BUNCH:** But you have to know that because it's such a
6 substantial number, and then Ms. Ballard wants to
7 push this and now, a frantic pace, to demand payment
8 by Friday, as well as give us ten minutes to reach
9 an agreement.

10 **THE COURT:** Now ---

11 **MR. BUNCH:** I mean, I don't understand -- if we're talking
12 about that kind of money, other than TV shows and
13 movies for ransom payments, I don't know anybody
14 that can come up with that kind of money within
15 three days.

16 **THE COURT:** Hold on, hold on. All right, Ms. Ballard,
17 you're upset ---

18 **MS. BALLARD:** Your Honor, they've been attempting to come
19 up with the money every time we've had settlement
20 discussions. Back to April and May of last year
21 they've said, okay, we can get it by this date, or
22 we can get it by this date. They've been attempting
23 to come up with this money all along. Nobody's
24 suggesting three days, okay. We reduced the number
25 that we were demanding by over \$200,000 when we were

1 here last week. And the idea was that we would
2 either settle it yesterday or we could be here today
3 to try the sanctions hearing. And the suggestion
4 that I've given them three days is just absurd. It
5 is offensive. I have been trying to get this money
6 out of them for -- since the time it was awarded.
7 And, in good faith, Your Honor asked us to sit down
8 and attempt to negotiate week before last, and I
9 did. I reduced the number that we were demanding.
10 I reduced the terms of the release that we were
11 demanding, and we had through yesterday for that to
12 get done and it didn't get done. And so now Mr.
13 Hammer is offering to pay us in April if a building
14 sells, and I told him no, sorry, not going to do
15 that.

16 **THE COURT:** All right. So are you saying negotiations to
17 this point would be futile, or do you need more time
18 or?

19 **MS. BALLARD:** I've brought the settlement documents to be
20 signed. If there's settlement today, settlement is
21 not futile.

22 **MR. BUNCH:** Your Honor, as I -- first of all, I want it
23 noted that Ms. Ballard's now interjecting elements
24 of good faith. She's also told the Court we would
25 not accept certain terms of the settlement that she

1 had proposed two weeks ago. Nevertheless, the
2 documents that she's bringing to court today, as I
3 understand it, are based on negotiations that took
4 place in May through July of last year. Okay, so
5 May, June, July, three months last year. They dealt
6 with a unwinding of the transactions in the order of
7 January 1, 2014. The offer we put on the table
8 yesterday, and I wouldn't call it an offer, I'd
9 actually say the acceptance of her offer that we put
10 on the table yesterday was for the property to be
11 conveyed to HASCI. And you've heard that limited
12 liability company, H-A-S-C-I, LLC. Okay. That's a
13 limited liability company that owns various
14 properties around town. Okay. Ms. Ballard made
15 three demands January 16th. She made a monetary
16 demand that was money due to -- that would come to
17 Mrs. Hammer. She said Mr. Hammer would be
18 responsible for payment of taxes and tax liens,
19 which we understood to be approximately \$50,000.
20 And she said she wanted a release to Shirley and her
21 agents regarding the building and contents. To
22 which, after Mr. Hammer consulted with his tax
23 folks, we went back to them yesterday and said we
24 will meet every one of those demands, we will
25 structure the deal with HASCI buying the property,

1 and HASCI is scheduled to close on some other
2 property in less than a month. That buyer has a 30-
3 day -- they can ask for 30 additional days before
4 they close. And if HASCI does not close, if that
5 HASCI sale does not close, Mr. Alvin Hammer will
6 fund the payment and we'll pay you by the end of
7 April. Okay. So what we're here on right now, Your
8 Honor, is -- where we stand right now is that Mrs.
9 Hammer owns the property by virtue of your transfer
10 of the property last January. She's obligated to
11 sell the property. So she's got to go out and find
12 a buyer. She has no contract at the present time
13 that I've been advised of. In fact, she's told the
14 Court that that sale fell through. So what we have
15 offered by way of this response yesterday is to pay
16 her in full, at the outside of 90 days, perhaps as
17 soon as three or four weeks from now. I think it's
18 February 22nd is the estimated closing date at the
19 present time. So we're less than four weeks away
20 from that now. And give her the release that she
21 asked for. And all she has to do is give us
22 marketable title to the property. So that's where
23 we stand, and yet we're having a gun held to our
24 head saying, no, we won't accept this, we want full
25 payment. In fact, the original demand was by today,

1 and then they extended it till Friday.

2 **THE COURT:** Okay. Let me -- Ms. Ballard, when were the
3 judgments entered?

4 **MS. BALLARD:** The judgments were entered in, let me see,
5 your judgment was entered January 21st, 2014. And
6 that was in satisfaction of, I'll tell you -- one
7 second and I'll tell you. Judgments that were
8 entered on January 29th, 2013, and June 3rd, 2013.
9 And the offer that was made to me yesterday was an
10 offer by HASCI. I have not been negotiating with
11 HASCI. My settlement proposal last week was with
12 Mr. Howard Hammer, and that has not been accepted.

13 **THE COURT:** Okay. But the judgments giving rise to these
14 supplemental proceedings were entered when?

15 **MS. BALLARD:** January 29th, 2013, and June 3rd, 2013.

16 **THE COURT:** Okay. Now, as I understand it, those
17 judgments operate as a lien against any real estate
18 owned by the person you have a judgment against; is
19 that ---

20 **MS. BALLARD:** Well, what happened was, Your Honor's order
21 dated January 21st conditionally satisfied those
22 judgments by transferring the property to Mrs.
23 Hammer with instructions to sell it, and that's what
24 we've been trying to do.

25 **THE COURT:** All right, January 21st, 2014?

1 **MS. BALLARD:** Yes.

2 **THE COURT:** Okay.

3 **MS. BALLARD:** Yes, that's what we've been trying to do.
4 And Mr. Bunch says they've accepted our offer. No.
5 We offered to settle with Howard Hammer. We have
6 not offered to settle with HASCI, with any
7 conditions of any kind. That's what our offer was,
8 and they're attempting to manipulate the offer and
9 amend it and add conditions to it, and I'm done.

10 **THE COURT:** All right. Now, again, I want to make it
11 clear, make sure everybody understood and make sure
12 I understand. Those judgments are liens against any
13 real estate that Mr. Hammer owns?

14 **MS. BALLARD:** Yes, sir. I think your January 21st order
15 constituted a lien against his real estate, yes,
16 sir.

17 **THE COURT:** All right. Now, Mr. Bunch, is Mr. Hammer the
18 sole member of the LLC HASCI?

19 **MR. BUNCH:** No, Your Honor, he's not. He's a minority
20 member, and he doesn't even have -- he doesn't
21 manage the company. He is a minority member.
22 Nevertheless, the management members, one of whom I
23 believe -- I'm not even sure of this, but one of
24 them is Alvin Hammer, has agreed to pay Mrs. Hammer
25 these judgments in full and structure the deal this

1 way -- and, in fact, my letter yesterday says
2 Howard's in a position to meet Mrs. Hammer's
3 settlement demands. It was accepted on behalf of
4 Mr. Hammer, with the consent of HASCI. And their
5 lawyer, Mr. Babcock, is copied on the letter. We
6 suggest -- or we said the deal would be structured
7 in the terms that, once this Assembly Street sale of
8 property is concluded we would pay the money. And
9 if that doesn't get concluded, we would pay it
10 within approximately 90 days, or the end of April
11 2015.

12 **MS. BALLARD:** So that'd be two years.

13 **MR. BUNCH:** Your Honor, it may be two years, but -- from
14 the entry of the judgments. It also includes all
15 the money that Mrs. Hammer contended she was owed
16 under all of the judgments, including legal fees and
17 expenses that she had with the building and the
18 like. So it really doesn't matter how long ago the
19 judgments were entered in terms of the fact that we
20 are making her whole. And, Your Honor, I would ask,
21 since we have -- and since she has, Ms. Ballard says
22 we have not accepted her offer, I would ask that we
23 put both of these documents in and make them a Court
24 exhibit. One is her offer, and Two is our
25 acceptance.

1 **THE COURT:** Okay. Let's hold that in abeyance for a few
2 minutes. I'm going to step out and let y'all talk.
3 Y'all are so close. You know, I think it's worth
4 investing a little time.

5 **MS. BALLARD:** Your Honor, I've got buyers looking at this
6 property. If they want me to wait until April, I
7 might sell it by then. I mean, I can't get into an
8 agreement now that doesn't consummate until April
9 because I might sell the building between now and
10 then. I've got buyers looking at it Thursday.

11 **THE COURT:** Let me come back in at 10:15.

12 **MS. BALLARD:** Okay.

13 **THE COURT:** All right. And see if y'all can make any
14 progress at all. So be it, but if not so be it as
15 well. All right, thank you. I'll come back in 15.

16 **MR. BUNCH:** Thank you, Your Honor.

17 (Off the record from 9:57 a.m. to 10:56 a.m.)

18 **MR. BUNCH:** Your Honor, getting back to kind of where we
19 left off, I appreciate your indulgence, Your Honor,
20 in allowing us a little bit of extra time, I think
21 about 45 -- almost 45 minutes after the time she
22 said.

23 **THE COURT:** Oh, no, that's fine.

24 **MR. BUNCH:** The problem is, I don't represent HASCI, so
25 I'm trying to -- and so I need to get in touch with

1 those folks to see what they're willing to do. Ms.
2 Ballard added an additional term this morning if we
3 want to wait to pay the money in April.
4 Nevertheless, as I understand -- and I don't have
5 full authority from HASCI, but I will say that based
6 on my understanding of the numbers, we're not
7 significantly far apart, even if interest is not
8 acceptable to HASCI. Okay. In other words, Ms.
9 Ballard said, here's the number, if you don't pay it
10 until April add 7.25 percent to it, I believe, which
11 is the judgment rate, I believe that's what she
12 said.

13 **MS. BALLARD:** It's the post-judgment rate.

14 **MR. BUNCH:** The post-judgment rate. So I don't have
15 HASCI's full authority. Nevertheless, I believe
16 what -- and she gave me her documents, which I've
17 gone through and there are some terms in there and
18 she asked me to mark them up. I've marked them up
19 while I was in back there. But to just cut to the
20 chase, Your Honor, HASCI is willing to buy the
21 building at \$575,000 in exchange for marketable or
22 insurable title. There would be no liens on the
23 property when it's conveyed. There's no conveyance,
24 we don't want the conveyance of 1634 Main, LLP or
25 SH5, LLC. That's owned by Ms. Hammer, and we don't

1 want that back. Assuming it's agreeable to HSCI, we
2 would allow interest on the purchase price to be
3 added to the purchase price at 7.25 percent until
4 closing, which would occur not later than April
5 30th. The leases in the building would need to be
6 assigned. And getting back to the request, when we
7 were here on January the 16th, Mr. Hammer's willing
8 to release Mrs. Hammer and her agents, servants and
9 employees from matters dealing with the building and
10 its contents. Okay. The release we've been given
11 is much broader than what was discussed back in --
12 two weeks ago approximately. But we're willing to
13 stick with what the offer was at that time, and
14 ready to move forward assuming -- if you add 7.25
15 percent for three months on the purchase price,
16 you're looking at something probably less than
17 \$10,000. That's HSCI's decision, it's not this
18 gentleman's decision, it's not Mr. Hammer's
19 decision. But I would assume if we're talking about
20 numbers over \$500,000 that \$10,000 would not be an
21 impediment to settlement.

22 **THE COURT:** Okay.

23 **MS. BALLARD:** Your Honor, I'm not going to leave here
24 without an agreement from HSCI. We'll either have
25 to go forward or HSCI will have to come in here and

1 -- what my requirement was for the interest was
2 Alvin Hammer personally guarantee this money, not
3 HASCI. And we're going to reduce it to a court
4 order. And so if they pay ---

5 **THE COURT:** Well, let's ---

6 **MR. BUNCH:** Well, Your Honor, in accordance with our offer
7 yesterday, Mr. Alvin Hammer has said if the HASCI
8 sale doesn't close, which is where they're going to
9 fund this payment from, that he in fact would fund
10 it by April the 30th, so. I certainly have the
11 authority to state that as well.

12 **THE COURT:** Okay. So y'all are very, very close.

13 **MS. BALLARD:** I'm sorry?

14 **THE COURT:** You're very, very close to settling.

15 **MS. BALLARD:** Okay. Now, the one thing he said is not
16 significantly apart on the numbers. What do you
17 mean by that?

18 **MR. BUNCH:** The 575 plus -- as compared to 575 plus 7.25
19 percent interest.

20 **MS. BALLARD:** The money to me is 525 and -- this is not on
21 the record. The money to me is XXX to Shirley. We
22 cannot give you marketable, insurable title. We can
23 only give you the title that we have, and that's
24 what we got in the deed. 7.25 percent interest will
25 run starting Friday.

1 **THE COURT:** Hold on a second. Didn't she want this off
2 the record -- just the numbers, not the whole ---
3 **MS. BALLARD:** Not the numbers. Yeah, just not the
4 numbers.
5 **THE COURT:** All right, thank you.
6 **COURT REPORTER:** Okay, thank you.
7 **MS. BALLARD:** Because you're talking about XXX, which
8 means the taxes. I'm not paying the taxes. Y'all
9 are paying the taxes, y'all are paying the tax lien
10 or assuming the tax lien. We're not going to have
11 any responsibility for the tax lien. It's going to
12 be an amount of money to Mrs. Hammer that does not
13 include the property taxes, does not include the tax
14 lien. I cannot guarantee marketable or insurable
15 title. And we're willing to release it in
16 accordance with the terms that we have provided in
17 the written release. If you've got suggested
18 changes to it, I'll be happy to look at them.
19 **THE COURT:** Okay. Now, this doesn't -- is this ---
20 **MS. BALLARD:** Yeah, we can't give you any more title than
21 what we have. And Mrs. Hammer has conveyed this
22 building to Mr. Hammer several times, Your Honor.
23 He never recorded those deeds. I can make no
24 representation or warranty as to the validity of
25 this deed. I cannot do it. It's a quit claim deed

1 or it's nothing.

2 **THE COURT:** Now, what's on the table, does that include
3 everything? Is this an omnibus settlement, takes
4 care of the judgments, takes care of the sanctions,
5 everything else?

6 **MS. BALLARD:** Everything else.

7 **THE COURT:** Everything's taken care of?

8 **MS. BALLARD:** Yes.

9 **THE COURT:** And let me cause a little trouble here.
10 Typically, and I do preside over supplemental
11 procedures all the time, and what normally happens
12 in this court is that if we can identify assets or
13 we have a debtor, a judgment debtor that can
14 actually pay the judgment, I don't spend much time
15 letting people try to settle. I just kind of on my
16 own order that the person, if he has the assets, to
17 pay it. Or has the means to pay it, to make them
18 pay. And sometimes the payer doesn't like it,
19 sometimes the debtor doesn't like it. And I just do
20 that. And I'm tempted to do that in this particular
21 case if y'all can't come to an agreement.

22 **MS. BALLARD:** Well, you did already when you gave us the
23 building.

24 **THE COURT:** Right. Right. But that was -- but we're
25 still here though.

1 **MS. BALLARD:** Well, we're still here. We still have
2 people looking at the building. I don't know if the
3 leases are assignable or not. That's a new term
4 that I hadn't heard until last night so, I mean, I
5 don't know.

6 **THE COURT:** And I'd certainly accommodate the wishes of
7 both parties by just vacating the previous order or
8 modifying it or whatever.

9 **MS. BALLARD:** I don't think that's what we're asking you
10 to do. I think what we're asking, assuming we agree
11 on the numbers, and the number is solid and
12 immoveable, except for the 7.25 percent, we pay no
13 taxes, we pay no liens, we pay nothing. We give you
14 the title we have, interest would start running on
15 the number that is not changing at 7.25 percent
16 starting Friday, and Alvin Hammer would guarantee
17 that the payment would occur no later than whatever
18 the date in April that is in your letter.

19 **THE COURT:** And you'd need an order. Sounds like -- to
20 me, y'all are so close. All that really needs to be
21 done ---

22 **MR. BUNCH:** We're close, Your Honor, but I do have one
23 issue.

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

25 **MR. BUNCH:** And that is, when we conveyed the property to

1 Mrs. Hammer, it was done -- I think you may have
2 suggested it, or they may have requested it,
3 regardless, it was represented to the Court that
4 this is how the deal had to be structured in order
5 for Mrs. Hammer to get true title. And that
6 included the transfer of the property from the
7 owner, 1634 Main, or any interest that Mr. Hammer
8 had in it, plus the transfer of 1634 Main, LP, plus
9 the transfer of SH5, LP. So based on what they told
10 the Court, they have full title to the building at
11 the present time. Now, if there are some things
12 that need to be done to clean that up, that's fine.
13 But HASCI is not going to commit itself to pay a
14 whole lot of money to buy this building back if they
15 don't have good title to it. And, in fact, I would
16 reference a letter of intent executed by Ms. Ballard
17 on behalf of Mr. Hammer in connection with the sale
18 of the property last year in which she said title
19 shall be conveyed by general warranty deed and be
20 good and marketable such as may be insured free and
21 clear of all defects and encumbrances. So all we're
22 asking her to do for us is what she already agreed
23 to do with another purchaser, Your Honor. So, I
24 mean, if we can't get marketable or, and I said or
25 insurable title, then I don't think HASCI wants the

1 property. It wouldn't do them any good.

2 **MS. BALLARD:** Then I think we start with our sanctions
3 hearing, Your Honor. I'm ready to proceed.

4 **THE COURT:** Okay. Where's Mr. Babcock today? Is he in
5 town?

6 **MR. BUNCH:** He is in town. He was at his office, however
7 he was meeting with a client when I -- we did
8 briefly speak with him.

9 **THE COURT:** Y'all are so close, I, I -- you know.

10 **MS. BALLARD:** Your Honor, we don't know what kind of title
11 we have. As I said, Mrs. Hammer gave it to him
12 repeatedly. He never recorded the deeds. We have
13 whatever you gave us, that's what we'll give back.
14 What they're trying to do by not taking 1634 Main,
15 LP or SH5 is they're trying to stick us with the
16 property taxes that 1634 is obligated to pay ---

17 **MR. BUNCH:** I would not try -- we're not, Your Honor.
18 We've offered to pay those as a component of the
19 sales price. We've offered to pay them 575.

20 **MS. BALLARD:** I don't want the money coming ---

21 **THE COURT:** Let him finish.

22 **MR. BUNCH:** Their demand was XXX with \$42,000 in real
23 estate taxes owed to Richland County and \$8000 which
24 they represented to us was the amount owed to the
25 IRS. Okay?

1 **MS. BALLARD:** No, that's not accurate.

2 **MR. BUNCH:** Maybe it was \$7000.

3 **MS. BALLARD:** \$9000.

4 **THE COURT:** Hold on a second.

5 **MR. BUNCH:** So we increased the purchase price from the
6 XXX, and said that's fine, you pay them and give us
7 clean title.

8 **MS. BALLARD:** Your Honor, we're not taking anything unless
9 they pay the taxes, they pay -- they satisfy the
10 taxes, whatever they are; they satisfy the tax lien,
11 whatever it is. It's not a settlement to us in that
12 amount because we're not assuming responsibility for
13 paying any taxes, we're not assuming responsibility
14 for paying any lien on the property. And if we
15 don't have the -- we can't give you marketable,
16 insurable title, and so I'm sorry.

17 **MR. BUNCH:** Your Honor, as customary in any transaction,
18 the taxes were due and payable last January 15th and
19 this January 15th, okay? So you told Mr. Hammer and
20 Mr. Aiken on January 9th last year that you were
21 going to convey the property. All right. The
22 actual conveyance was January 21st. But the
23 responsibility for those taxes lies with the owner
24 of the property, and the owner of the property is
25 not Mr. Hammer now.

1 **MS. BALLARD:** Right.

2 **THE COURT:** Talking about the ---.

3 **MR. BUNCH:** So we're willing to pay the owner of the
4 property the amount of money they want plus the
5 taxes. I mean, it's -- I don't understand what -- I
6 mean, it's a benefit to us to have them pay the
7 taxes, okay? It doesn't really -- I'm not trying to
8 hoodwink anybody, that's not the way I do business.

9 **THE COURT:** Well ---

10 **MR. BUNCH:** It's of benefit to us to have them pay the
11 taxes and for us to pay the 575. And I know that
12 sounds odd, but in the -- I mean, it all washes out
13 in the end; somebody's going to end up paying the
14 taxes.

15 **MS. BALLARD:** That's not our proposal, Your Honor, and we
16 are not going to assume responsibility for paying
17 the taxes, period.

18 **MR. BUNCH:** We're not asking them to assume that
19 responsibility, Your Honor. We're paying them so
20 that ---

21 **MS. BALLARD:** We're not going to pay the taxes.

22 **MR. BUNCH:** --- so that we would get clear title.

23 **MS. BALLARD:** We're not going to pay the taxes. If they
24 want to pay the taxes, they can pay the taxes.

25 **MR. BUNCH:** Your Honor, Mister ---

1 **MS. BALLARD:** We are not going to do that.

2 **MR. BUNCH:** --- Babcock calling in, if you'd like to ---

3 **THE COURT:** Okay, that's okay. We'll stand at ease for a
4 minute.

5 **(Off the record from 11:08 to 11:14 a.m.)**

6 **THE COURT:** Are y'all any closer?

7 **MR. BUNCH:** Your Honor, all I can do is report what Mr.
8 Babcock had to say, is that he's unable to get in
9 touch with Mr. Hammer, Mr. Alvin Hammer I'm
10 referring to. He's unable to get in touch with
11 Alvin Hammer. Alvin Hammer had some dental surgery
12 yesterday and he's been unavailable, apparently not
13 in his office and not otherwise within
14 communication. So, back to where we were, we are --
15 we really are I think quite close to getting this
16 matter resolved. I don't know why it makes a
17 difference to them as to the -- to us paying the
18 liens included with the purchase price. It was
19 represented to us that through January 30th, 2015,
20 that the liens on the property were -- the tax lien
21 for Richland County was \$21,971.96, that the tax
22 lien owed to the IRS was \$7142.33. So that puts you
23 up at about \$28,000, maybe 29 and some change. If
24 you add the current taxes that were due January 15th
25 to that, those are approximately -- I looked those

1 up and those are 19,000 and change, so just say
2 \$20,000.

3 **THE COURT:** Well, would it make you feel better if when
4 they paid they paid with separate checks, one ---

5 **MS. BALLARD:** No, sir, Your Honor.

6 **THE COURT:** --- check made payable to the Richland County
7 Treasurer, one ---

8 **MS. BALLARD:** Mrs. Hammer's not going to assume
9 responsibility to the IRS, to Richland County, to
10 anyone else.

11 **THE COURT:** Okay. You cut me off though. What I was
12 describing was, when you close, one check goes to
13 you, one check is made payable to Richland County
14 Treasurer which would pay the property taxes, one
15 check is made payable to the Internal Revenue
16 Service I guess -- or the US Treasury, however you
17 do it when you pay taxes, and that would avoid that
18 problem.

19 **MS. BALLARD:** The problem is taxes and penalties that may
20 have been added that I don't know anything about
21 that will get stuck to Mrs. Hammer because they're
22 not accepting ownership of 1634 Main or SH5. The
23 only way we are willing to do it is if they accept
24 responsibility for all taxes, all liens, all
25 anything on the property, I don't care how much they

1 are.

2 **THE COURT:** And take that out of your proposed -- the
3 amount of the proposed settlement, make it -- get an
4 offset.

5 **MS. BALLARD:** The number, as I've said before, is
6 immoveable, and that was -- I mean, it's that
7 simple.

8 **MR. BUNCH:** Your Honor, we don't know what encumbrances
9 Mrs. Hammer may have put on the property so it still
10 needs to come ---

11 **MS. BALLARD:** We have no encumbrances on the property.

12 **MR. BUNCH:** Excuse me, Your Honor.

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

14 **MR. BUNCH:** It still needs, whether it's by way of
15 granting a lien, whether it's by way of a water bill
16 or whatever, it still needs to come to us free and
17 clear of any types of issues.

18 **THE COURT:** But it needs to go to -- except if it's part
19 of the agreement that y'all just pay the taxes with
20 a separate check and make it clear that ---

21 **MR. BUNCH:** I think we'd be happy to pay the ---

22 **MS. BALLARD:** They would do that because their check would
23 not be a sufficient amount, Your Honor, and Mrs.
24 Hammer would get stuck paying the taxes and
25 penalties.

1 **THE COURT:** No ---

2 **MS. BALLARD:** They've got to assume responsibility for it.

3 No, we're not accepting any money for taxes.

4 **THE COURT:** Wait a minute, I don't understand. So, all
5 you want is -- I'm sorry, go ahead. She needs to
6 consult with you.

7 **MS. BALLARD:** That's all right. She wants to know what
8 the reason is that they want us to pay the taxes.

9 **THE COURT:** Well, that -- okay, we're hearing varying
10 things.

11 **MR. BUNCH:** Your Honor, there's no nefarious reason of
12 which I'm aware.

13 **THE COURT:** Let me, let me, let me explain what I thought
14 I heard. They would give you a lump sum, or the
15 purchaser, the LLC would give you a lump sum, and
16 the lump sum would contain money that would be
17 earmarked to pay liens and tax liability?

18 **MR. BUNCH:** Correct.

19 **THE COURT:** Okay. My suggestion was, instead of giving a
20 lump sum, giving you separate checks. In other
21 words, a check payable to the Richland County
22 Treasurer to take care of the property taxes, a
23 check payable to the US Treasury to take care of the
24 IRS lien, and so forth. That's what I was
25 suggesting, and I hope you understood that's what I

1 was suggesting.

2 **MS. BALLARD:** I do understand that, Your Honor.

3 **THE COURT:** To make it clear, and you're concerned about
4 liability you don't know about; is that ---

5 **MS. BALLARD:** Liability I don't know about, increased
6 penalties and taxes on these things. I'm not
7 willing to accept, to have Mrs. Hammer accept
8 responsibility for paying any of Mr. Hammer's debts
9 or taxes or liens or anything else.

10 **THE COURT:** All right, Mr. Bunch, can y'all deal with
11 that?

12 **MR. BUNCH:** Your Honor, what I would say to that is, if
13 anybody owns a piece of property -- first of all,
14 the only taxes that would come now are ones that
15 would have been incurred after January 21, 2014.
16 Because to the extent that Mr. Hammer's incurred
17 liability for taxes, they wouldn't attach to this
18 property since it's not in his name.

19 **MS. BALLARD:** See, they want you to pay the taxes.

20 **MR. BUNCH:** Okay? So any time a seller of a piece of
21 property sells a building, they need to convey it
22 with insurable or marketable title. And it's --
23 we're paying the money, and we're willing to say,
24 okay, if the taxes are more, if they're more than
25 the estimated \$50,000 we'll make sure you get paid

1 that so you'll get XXX.

2 **THE COURT:** Now, what we normally do in the foreclosure
3 context is I make an announcement before we even
4 have the auction that if you purchase the property,
5 you purchase it subject to taxes, subject to
6 property taxes. And that's what Ms. Ballard and her
7 client want.

8 **MS. BALLARD:** We'll convey it subject to, yes.

9 **THE COURT:** Yeah, that's what they want to do.

10 **MS. BALLARD:** We're not selling it to anybody. We're
11 conveying it in settlement of a civil lawsuit. And,
12 again, we -- I can't say it enough times, we are not
13 going to assume responsibility for paying any taxes
14 on the building, whether they were incurred while
15 they were in the name of Hightower, whether they
16 were incurred when they were in the name of 1634,
17 whether they were incurred when they were in the
18 name of anything else, we are not paying a dime in
19 taxes.

20 **THE COURT:** Okay.

21 **MS. BALLARD:** We've got a bottom-line number that we've
22 agreed to that has to be paid by Friday or run
23 interest at 7.25 percent until paid on April
24 whatever. But we will not assume responsibility for
25 paying anything.

1 **THE COURT:** Okay. Let's go ahead and suspend settlement
2 negotiations at this time, however that doesn't mean
3 that y'all can't still talk and work on it.

4 **MS. BALLARD:** Well, they're backing up, Your Honor.
5 They're backing up a lot from where they were when
6 we walked in here.

7 **THE COURT:** The original notes say we were going to talk
8 about the sanctions today. Now, do y'all want to go
9 ahead and talk about that, or do you want to hold
10 that in abeyance until you get this issue resolved?
11 I mean ---

12 **MS. BALLARD:** Your Honor, we'd like to move forward with
13 the sanctions hearing.

14 **THE COURT:** All right. Because a settlement proposal
15 would include the sanctions, right ---

16 **MS. BALLARD:** Yes.

17 **THE COURT:** --- Mr. Bunch?

18 **MR. BUNCH:** Your Honor, I actually have another call
19 coming to me from Mr. Babcock.

20 **THE COURT:** Oh, yes, sir. We'll stand at ease.

21 (Off the record from 11:21 a.m. to 11:27 a.m.)

22 **MR. BUNCH:** Your Honor, as you know, Mr. Babcock -- just
23 for the Court's information, Mr. Babcock has people
24 travelling in from all over the state, well I say
25 all over the state, I think he only mentioned

1 Charleston, and he and the rest of his law firm have
2 their initial partners meeting, which I believe he's
3 chairing. I would assume he is. Maybe Mr. Lewis
4 is, but I would assume Keith is. I believe he's
5 chairing that today. And that starts right now,
6 11:30. Prior to that he had deposition preparation
7 to do with a witness, which is why he is unavailable
8 today. Anyway, after speaking with Mr. Babcock,
9 HASCI is agreeable to the sales price at XXX; the
10 seller would not be responsible for paying the tax
11 liens on the property, but the -- but otherwise, you
12 know, the deal remains the same, the assignment of
13 leases, there would be no conveyance of 1634 or SH5,
14 that'd be 1634, LP or SH5, LLC. We're agreeing to
15 pay the interest on the purchase price at 7.5
16 percent up until the date of closing, the closing to
17 occur not later than April 30th. Okay. There would
18 be -- we still need to iron out the issue of
19 marketable or insurable title, which I understand
20 that Ms. Ballard offered a previous prospective
21 purchaser the property so they're the ones that kind
22 of had the deal structured the way they wanted to in
23 your order, so I would assume they can give good
24 title to the property. If it's not insurable, then
25 the deal's going to fall apart, okay. That's really

1 all I can -- I mean, we can't say it's insurable,
2 they can't say it's insurable, some title abstractor
3 and insurance company and title lawyer can make that
4 determination. In addition, Mr. Hammer would
5 release Shirley, her agents, servants and employees
6 from all matters dealing with the building and its
7 contents, which is what was conveyed to us on
8 January 16th. And if I've left out anything from my
9 previous recitation of where we were, I would
10 incorporate those as well.

11 **MS. BALLARD:** Your Honor, I can't agree to that. I can't
12 agree to marketable and insurable title, I'm sorry.
13 Can we proceed with our hearing?

14 **THE COURT:** Mr. Bunch indicated that's still open.

15 **MR. BUNCH:** She doesn't -- she doesn't have to agree to
16 it, Your Honor. That would be determined by whoever
17 does the closing work for the purchaser.

18 **MS. BALLARD:** I've offered a quit claim deed.

19 **MR. BUNCH:** If they can't get, Your Honor, if they can't
20 get insurance or marketable title, HASCI can't buy
21 the property.

22 **MS. BALLARD:** Sorry.

23 **THE COURT:** Or they wouldn't buy it.

24 **MR. BUNCH:** Right.

25 **THE COURT:** Not they couldn't, they wouldn't.

1 **MR. BUNCH:** Right. They wouldn't.

2 **MS. BALLARD:** It's with a quit claim deed or nothing.

3 **MR. BUNCH:** I'm not suggesting that a quit ---

4 **THE COURT:** No, it could be something less than a general
5 warranty deed, but it doesn't have to be -- I mean,
6 a quit claim deed is, you know.

7 **MS. BALLARD:** A quit claim deed is whatever I own, I'm
8 giving it to you.

9 **THE COURT:** That's right. Yeah.

10 **MS. BALLARD:** That's all we're going to do. I'm not
11 guaranteeing anything.

12 **MR. BUNCH:** Well, that's fine. But in order for the
13 closing to go forward, we would need the -- we would
14 need to know that. And according to what Ms.
15 Ballard has told me, the previous purchaser -- the
16 purchaser who had the property under contract and
17 then walked away from it, they were able to get
18 insurable title.

19 **THE COURT:** Let me suggest this. Why don't y'all get
20 together on a proposed order that hopefully would
21 hammer out any issues that are left, primarily the
22 issue of what kind of title you'd convey.

23 **MS. BALLARD:** I already know the answer to that, Your
24 Honor. All we're going to do is a quit claim deed,
25 that's all we're going to do. There's nothing to

1 negotiate.

2 **THE COURT:** Well, the problem is that, see, I'm sitting
3 here thinking whether I should just order y'all to
4 do that because, again, generally in supplement
5 proceedings if somebody has the assets ---

6 **MS. BALLARD:** I can't give them ---

7 **THE COURT:** Hold on a second ---

8 **MS. BALLARD:** --- any more than I received.

9 **THE COURT:** Let me finish, let me finish. --- have
10 assets, we make them pay. Now, I understand you
11 can't give any more than you got. So, but Mr. Bunch
12 I guess may be -- well, I was going to say, Ms.
13 Ballard has a client to protect and she's I guess
14 concerned about something -- being blindsided about
15 something else. Or the deal falling through because
16 of the type of title that they can convey. On the
17 other hand, HASCI is not looking to undermine the
18 agreement in this case. They want it resolved too,
19 right? I mean, I presume. Now, that's, you know,
20 an LLC's only a group of people, but they want it
21 resolved as well. So you're not going to do
22 anything on purpose just to sink the agreement, if
23 there is an agreement?

24 **MR. BUNCH:** I don't know what incentive or motive they
25 would have to do it, Your Honor.

1 **THE COURT:** Now, part of the problem is you may have ---
2 **MR. BUNCH:** I mean, the incentive here is that everything
3 ends.
4 **THE COURT:** Right.
5 **MR. BUNCH:** Okay?
6 **THE COURT:** But you may have exhausted my knowledge of
7 real estate. A quit claim deed is, you know, most
8 people I think would not get title insurance on a
9 quit claim deed. Now, tell me, Ms. Ballard, you may
10 know more. Tell me ---
11 **MS. BALLARD:** I don't know who the purchaser was using,
12 the potential purchaser was using. I'm happy to
13 give them that information. But my client is not
14 going to execute anything other than a quit claim
15 deed.
16 **THE COURT:** No ---
17 **MS. BALLARD:** Or unwind the Master's deed that we were
18 given.
19 **THE COURT:** Yeah. What I was going to ask is that between
20 the general warranty deed and a quit claim deed,
21 there are other intermediate type of ---
22 **MS. BALLARD:** It's going to be a completely unwarranted
23 deed, completely unwarranted. It's going to have no
24 warranties with it, because Mr. Hammer's going to
25 sue her tomorrow. I mean, I just see it. I know.

1 **MR. BUNCH:** Your Honor, you're the one that gave her the
2 deed to start with, so hopefully we can get
3 insurance on that.

4 **THE COURT:** Well, you know, only ---

5 **MS. BALLARD:** Well, somebody else was able to, so.

6 **THE COURT:** Yeah, what we do, and the most frequent cases
7 I see where someone's trying to quiet title is a tax
8 deed, you know, or a Master's deed or a quit claim
9 deed. And I guess in the agreement we could
10 actually, we could actually make part of the
11 agreement an order to quiet title, if that will
12 facilitate the settlement. If in fact there's no
13 real question about the title. I mean -- Mr. Bunch,
14 I see you frowning. I'm thinking about a situation,
15 what we do in our title, we explain how the
16 individual got the property, explain, you know, the
17 chain of title. And if there's no evidence to the
18 contrary, we actually sign an order saying, okay,
19 this is clear title even though all you have is a
20 tax deed, all you have is a Master's deed, or all
21 you have is a quit claim deed. Based on -- we could
22 include that in the order. We may need some
23 affidavits with it, but we can include that.

24 **MR. BUNCH:** Well, Your Honor, I know for a fact -- I don't
25 do much of this work. I don't think I do really any

1 of it. But I know for a fact that our office will
2 issue title policies or Master's deeds. So if the
3 only encumbrances on the property -- if it was
4 marketable based on your title, and the only thing
5 that's happened in the interim is that Mrs. Hammer
6 then conveyed it to Hightower, LLC and neither Mrs.
7 Hammer nor Hightower, LLC incurred any obligations
8 which would go against the property, then we ought
9 to be able to insure it. And Ms. Ballard has said
10 the prospective purchaser earlier had made
11 arrangements to get the insurance already, so. I
12 don't really see that as a big problem. I
13 understand they're not saying they're going to give
14 us anything more than a quit claim deed, but going
15 down the road if one purchaser had already been able
16 to figure it out -- you know, we can work with that
17 lawyer or that closing attorney and say, you know,
18 help us out here.

19 **THE COURT:** Who would be the closing attorney, Ms.
20 Ballard?

21 **MS. BALLARD:** Bill Higgins.

22 **THE COURT:** Bill?

23 **MS. BALLARD:** Bill Higgins was the closing attorney for
24 the purchaser. Whoever he got insurance through.

25 **THE COURT:** Okay.

1 **MS. BALLARD:** But we were not giving them a general
2 warranty deed either.

3 **THE COURT:** All right. Mr. Bunch, you say your firm will
4 issue a policy. Is your firm an agent for some
5 title insurance company?

6 **MR. BUNCH:** Yes, Your Honor.

7 **THE COURT:** Okay. What company is that, do you know?

8 **MR. BUNCH:** You know, I don't even know the name of the
9 company. Oh, you're talking about which title
10 company?

11 **THE COURT:** Right.

12 **MR. BUNCH:** I think we write for Chicago Title.

13 **THE COURT:** Okay.

14 **MR. BUNCH:** And when I say our firm, actually we have a
15 subsidiary that does that.

16 **THE COURT:** Okay.

17 **MR. BUNCH:** Or maybe -- I shouldn't say it's a subsidiary,
18 it's just a separately-owned business. In any
19 event, I believe they write Chicago Title, and I
20 don't know who else, if anybody else.

21 **THE COURT:** Okay. Let me suggest this: leave the
22 settlement on the table. If y'all can get together
23 later today or later in the future to work out a
24 consent order, I'm willing to consider that. In the
25 meantime, our notes indicate we're going to talk

1 about motions for sanctions. I think we should
2 probably go ahead and deal with that today. In
3 fact, do it right now if y'all have time to do it.

4 **MS. BALLARD:** Yes, sir.

5 **THE COURT:** Mr. Bunch, is that okay with you?

6 **MR. BUNCH:** Yes, Your Honor. And, you know, we really
7 spent a good bit of time dealing with the settlement
8 issues. I understand where your ruling would be on
9 the recusal issue, presumably you'd follow what you
10 did in the foreclosure case. I'd ---

11 **THE COURT:** No, no. Hold on a second.

12 **MR. BUNCH:** --- like to renew our motion on the record
13 here. And I would also add the comments that you
14 made in our January 12th status conference about Mr.
15 Hammer not being forthright with the Court and would
16 like to add those as a -- I could add it as an
17 exhibit or I can supplement it at a later time.

18 **THE COURT:** Well, it's a matter of record, so I don't have
19 any problem with that.

20 **MR. BUNCH:** Right.

21 **THE COURT:** You can do that.

22 **MS. BALLARD:** Your Honor, if we're going to go forward
23 with the sanctions hearing, our settlement
24 discussions have come to an end. So our amount
25 would go up.

1 **THE COURT:** So my suggestion that we leave this in
2 abeyance, leave it on the table and deal with
3 sanctions now, you're not accepting that?

4 **MS. BALLARD:** No, sir.

5 **THE COURT:** You don't accept my suggestion?

6 **MS. BALLARD:** No, sir.

7 **THE COURT:** Mr. Bunch, do you accept my suggestion?

8 **MR. BUNCH:** I would accept your suggestion to leave the
9 sanctions in abeyance. In fact, Your Honor ---

10 **THE COURT:** No, not the sanctions in abeyance. The
11 settlement talks in abeyance.

12 **MR. BUNCH:** I'm sorry.

13 **THE COURT:** Ms. Ballard just announced that settlement's
14 over and so the next time y'all have a talk it's
15 going to be a different number.

16 **MS. BALLARD:** Correct.

17 **THE COURT:** And ---

18 **MS. BALLARD:** If we're going forward with the sanctions
19 hearing at this point, yes, sir, those discussions
20 are over.

21 **MR. BUNCH:** Well, since we are so close on settlement,
22 Your Honor, and I think it would be appropriate to
23 hold it in abeyance, you know, I see no reason to go
24 forward with the sanctions hearing today. I think
25 that, in actuality, I think that injects another

1 level of potential acrimony in the case on both
2 sides. I'm not suggesting it's just on our side, or
3 on their side. And if they're saying costs will go
4 up to settle the case, then I would suggest that's
5 another reason not to go forward with the sanctions
6 today. I would, you know ---

7 **THE COURT:** Well, tell you what, what if I say I won't
8 rule today on the sanctions. I mean, I've already
9 ordered sanctions, and allegedly tendered -- there
10 was an offer to pay that that was tendered, but that
11 didn't work out because there were conditions
12 imposed that your client didn't want to do. Not
13 imposed by the Court, but imposed by Ms. Ballard and
14 her client. So I see no reason why we can't go
15 forward with the sanctions hearing and in fact leave
16 the settlement on the table. Now, Ms. Ballard, you
17 said you're not going to leave it on the table?

18 **MS. BALLARD:** No, sir.

19 **THE COURT:** All right. So it's gone?

20 **MS. BALLARD:** Yes, sir.

21 **THE COURT:** Any possibility of the settlement is gone?

22 **MS. BALLARD:** I'm sorry?

23 **THE COURT:** Any possibility of the settlement is gone?

24 **MS. BALLARD:** If we proceed with the sanctions hearing,
25 yes, sir. Because the amount of our settlement

1 offer, our demand, would go up.

2 **THE COURT:** All right. Mr. Bunch?

3 **MR. BUNCH:** I don't know what to say, Your Honor. I mean,
4 I think you control your courtroom. If you want to
5 move forward with sanctions, that's up to you. If
6 you don't, you don't have to.

7 **THE COURT:** I'm actually trying very hard not to let y'all
8 settle this because, again, normally in supplemental
9 proceedings if somebody has the means to satisfy the
10 judgment or has a deal or a plan to do it, we make
11 them do it, you know. And sometimes the judgment
12 creditor isn't happy because they didn't get
13 everything they want, sometimes the debtor isn't
14 happy because they're having to pay. However, y'all
15 are very, very close it seems. Everything's agreed
16 to except the issue of marketable title, is that --
17 I mean, is that correct?

18 **MS. BALLARD:** The last offer, when they last came back in
19 the courtroom -- yes.

20 **THE COURT:** That's the only issue left?

21 **MS. BALLARD:** Yes.

22 **THE COURT:** Okay.

23 **MR. BUNCH:** And, Your Honor, as I said, I don't think
24 that's an issue because all we're saying is in order
25 to -- for HASCI to buy the property, and I don't

1 represent HASCI, but in order for HASCI to buy the
2 property it would need good title to the property.
3 I'm not saying it has to be by general warranty
4 deed, it just has to be insurable and marketable,
5 and she's not representing that it is.

6 **THE COURT:** And my suggestion again was that we could
7 quiet title ---

8 **MS. BALLARD:** I like that idea, Your Honor.

9 **THE COURT:** --- you know, at the same time. It would have
10 to have evidence to support that though, you know.
11 You have to have a chain of title and all of that
12 information. But that's ---

13 **MS. BALLARD:** That would not be at Mrs. Hammer's expense
14 because the title is a mess.

15 **THE COURT:** Okay.

16 **MS. BALLARD:** And I don't want her to have to incur the
17 expense of producing a chain of title and all of
18 that. So if they want to do it that way, that will
19 be at their expense.

20 **MR. BUNCH:** Your Honor, we think we can get insurable,
21 marketable title based on our limited research,
22 going back to when the property was acquired I think
23 20 years ago from NAI 1634 or whatever the name of
24 the entity was.

25 **THE COURT:** And for clarity of the record, the proposed

1 settlement would in fact include any amount for
2 sanctions; is that correct?

3 **MS. BALLARD:** That is correct.

4 **THE COURT:** Okay. I really want the settlement to stay on
5 the table. The settlement offer to stay on the
6 table, I'm not saying that y'all have settled this
7 with his offer, because y'all are very close. So
8 what I'm persuaded now, Mr. Bunch, that it might be
9 the better part of valor to continue the motion for
10 sanctions hearing until y'all have decided one way
11 or the other whether or not you can settle this.

12 **MS. BALLARD:** And can we put a deadline on that, Your
13 Honor? I've been dealing -- every time I try to put
14 a deadline on it, it never gets met.

15 **THE COURT:** Okay.

16 **MS. BALLARD:** So.

17 **THE COURT:** Today is January 27th. I'll have to get my
18 scheduler to contact y'all both to make sure
19 everybody ---

20 **MS. BALLARD:** I have surgery on February 4th; I'll be out
21 from the 4th till the 9th.

22 **THE COURT:** Okay. We can work with you on that.

23 **MS. BALLARD:** But other than that, I'll be available.

24 **THE COURT:** I'll just have my scheduler, Mr. Scott,
25 contact y'all and reschedule this hearing.

1 **MS. BALLARD:** Thank you, Your Honor.

2 **THE COURT:** Okay. Mr. Bunch?

3 **MR. BUNCH:** All right. Thank you, Your Honor.

4 **(There being nothing further, the hearing was concluded.)**

5

CERTIFICATE

I certify that the foregoing transcript, consisting of 48 pages, is a true, accurate and complete transcript of the hearing taken before me, Robin K. Reibold, the undersigned Court Reporter. This hearing was held without a jury before The Honorable Joseph M. Strickland, Master in Equity for Richland County, on January 27, 2015, in the within-captioned case.

Said hearing was reported using the method of Stenomask with backup and was transcribed by me.

March 27, 2015

ROBIN K. REIBOLD

MY COMMISSION EXPIRES: 4-28-2021

From: Desa Ballard
To: Thomas W. Bunch, II
Cc: Mara Ballard
Subject: Re: Hammer Supplementary proceedings
Date: Friday, January 23, 2015 1:00:15 PM

I am revising the settlement documents that I have previously prepared several times. I will have those to you by Monday. Earlier if possible.

Yes I will accept a subpoena for her appearance.

Sent from my BlackBerry 10 smartphone.

From: Thomas W. Bunch, II
Sent: Friday, January 23, 2015 9:51 AM
To: Desa Ballard
Subject: Hammer Supplementary proceedings

Desa,

We are making good progress on settlement on our end, but won't be able to confirm anything until Howard meets with Mr. Ackerman as scheduled for Monday. However, in the event that we do not settle, will you accept service of a subpoena for Shirley to attend Tuesday's scheduled hearing?

Tommy



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

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From: Desa Ballard
To: "Thomas W Bunch (TBunch@robinsonlaw.com)"; "Keith Esquire M. Babcock (kmb@lbglegal.com)"; art@aikenandhightower.com
Cc: Mara Ballard; Beth Cogan; Mara Ballard
Subject: Proposed settlement docs
Date: Sunday, January 25, 2015 7:50:00 PM
Attachments: Exhibit A Quitclaim Deed 1-26-2015.pdf
Exhibit B IRREVOCABLE UNWARRANTED 1634 Main 1-26-2015.pdf
Exhibit B IRREVOCABLE UNWARRANTED SH5 LLC 1-26-2015.pdf
Exhibit C Settlement Agreement Release 1-26-2015.pdf
Settlement agreement 1-26-2015.pdf

Attached are the latest version of the settlement documents I have previously forwarded, all the other times we have tried to settle. These are updated to reflect the terms we discussed last week.

I will be out of the office tomorrow from 12:30 pm through the end of the day. I will be available in the morning.

db

Desa Ballard
Ballard & Watson
Attorneys at Law
Telephone 803.796.9299
Facsimile 803.796.1066
E-mail: desab@desaballard.com, copy to mara@desaballard.com

From: Amy Westbrook
To: Mara Ballard; Desa Ballard
Cc: Thomas W. Bunch, II; KMB@lewisbabcock.com
Subject: RE: Hammer v. Hammer
Date: Monday, January 26, 2015 3:41:38 PM

Mara, thank you. Tommy is in meetings this afternoon, but will respond as soon as he can.



Amy L. Westbrook
Legal Assistant to
Thomas W. Bunch, II
Rebecca A. Roser
Paul H. Hoefer
P: 803-227-1135
F: 803-744-1565
awestbrook@robinsonlaw.com
[v-card](#)

Post Office Box 944
Columbia, South Carolina 29202

P: (803) 779-8900

MERITAS LAW FIRMS WORLDWIDE

From: Mara Ballard [mailto:Mara@desaballard.com]
Sent: Monday, January 26, 2015 3:19 PM
To: Amy Westbrook; Desa Ballard
Cc: Thomas W. Bunch, II; KMB@lewisbabcock.com; Mara Ballard
Subject: RE: Hammer v. Hammer

Dear all,

Ms. Ballard is out of the office, she requested that I ask you to review and make suggested changes to the settlement she sent you yesterday. Payment of funds must be received no later than Noon on Friday, January 30, 2015 (the documents sent to you yesterday required payment on Tuesday, January 27th, we are willing to extend that until Friday).

Please also provide comments and suggested changes if any to the release documents Ms. Ballard sent yesterday. As I stated, she is out this afternoon, so she will see you at the courthouse at 9:30 am to either have the hearing or work out the final details of the documents.

Mara T. Ballard, CMA, CFE
Forensic Accountant (not a lawyer)

Ballard & Watson, Attorneys at Law
226 State Street (29169)
Post Office Box 6338
West Columbia, South Carolina 29171
803.796.9299
803.796.1066 Facsimile
www.desaballard.com



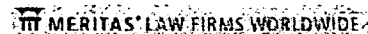
From: Amy Westbrook [<mailto:awestbrook@robinsonlaw.com>]
Sent: Monday, January 26, 2015 3:03 PM
To: Desa Ballard
Cc: Thomas W. Bunch, II; KMB@lewisbabcock.com
Subject: Hammer v. Hammer

Ms. Ballard, attached please find correspondence from Tommy regarding the referenced matter. Thank you.



Amy L. Westbrook
Legal Assistant to
Thomas W. Bunch, II
Rebecca A. Roser
Paul H. Hoefer
P: 803-227-1135
F: 803-744-1565
awestbrook@robinsonlaw.com
[v-card](#)

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



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ROBINSON MCFADDEN
ATTORNEYS AND COUNSELORS AT LAW

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

Thomas W. Bunch, II
1901 MAIN STREET, SUITE 1200
POST OFFICE BOX 944
COLUMBIA, SOUTH CAROLINA 29202

PH
(803) 779-8900 | (803) 227-1103 direct
FAX
(803) 744-1545

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

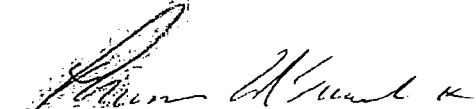
Desa Ballard, Esquire
January 26, 2015
Page 2

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)

From: Desa Ballard
To: "Thomas W Bunch (TBunch@robinsonlaw.com)"; "Keith Esquire M. Babcock (kmb@lbglegal.com)"; Art Jayroe (ajayroe@jayroecpa.com)
Cc: Mara Ballard; Beth Cogan; Mara Ballard
Subject: Since I have not heard from you
Date: Tuesday, January 27, 2015 8:01:30 AM
Attachments: Settlement agreement 1-26-2015 HASCI.pdf

I have modified the settlement agreement and am working on the other documents now. See you at the courthouse at 9:30 to have the settlement documents executed.

The terms of this offer expire at close of business today.

db

From: Desa Ballard
To: Thomas W. Bunch, II
Cc: art@aikenandhightower.com; Keith M. Babcock; Beth Cogan; Mara Ballard
Subject: RE: Since I have not heard from you
Date: Tuesday, January 27, 2015 8:18:03 AM

I am amending the documents now. It is not 3 days. It has been months. Howard, and HASCI, LLC has had more than enough time.

We will not tie settlement of this case to any other occurrence other than payment of money by this Friday.

We do not accept a settlement proposal that is tied to a sale by HASCI LLC.

See you at 9:30.

db

From: Thomas W. Bunch, II [mailto:TBunch@robinsonlaw.com]
Sent: Tuesday, January 27, 2015 8:15 AM
To: Desa Ballard
Cc: art@aikenandhightower.com; Keith M. Babcock
Subject: RE: Since I have not heard from you

Desa,

I could not modify the pdf you sent over. HASCI needs marketable title. I am checking on the timing of payment to see if we can do any better, but other than movies and TV, I don't know anyone who can raise a half million dollars plus in three days. The acceptance we sent was to pay the money as soon as HASCI closed or not later than April 30 – anywhere from less than four weeks to about 90 days – which is probably sooner than Shirley would get with a buyer other than HASCI.

Tommy



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 LAW FIRMS WORLDWIDE

From: Desa Ballard [mailto:desab@desaballard.com]
Sent: Tuesday, January 27, 2015 8:01 AM
To: Thomas W. Bunch, II; 'Keith Esquire M. Babcock (kmb@lbglegal.com)'; Art Jayroe

(ajayroe@jayroecpa.com)

Cc: Mara Ballard; Beth Cogan; Mara Ballard

Subject: Since I have not heard from you

I have modified the settlement agreement and am working on the other documents now. See you at the courthouse at 9:30 to have the settlement documents executed.

The terms of this offer expire at close of business today.

db

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From: [Desa Ballard](#)
To: [Thomas W. Bunch, II](#)
Cc: [Keith M. Babcock](#); [Beth Cogan](#); [Mara Ballard](#); [Beth Cogan](#); [Mara Ballard](#)
Subject: RE: Hammer settlement docs
Date: Monday, February 02, 2015 10:16:17 AM

I'm sorry, no. I'm out this week too (starting Wednesday, when I have some surgery scheduled). We will give you until 2-9-2015 at noon. And by that I don't mean for you to get the documents back to me. I mean for us to AGREE ON AND SIGN DOCUMENTS. Sorry for CAPS but I have tried to make that clear before. If we are not signed, sealed and delivered, I believe my client will instruct me to withdraw the offer (which she has already extended twice).

Remember, interest began running on 1-30-2015.

db

From: Thomas W. Bunch, II [<mailto:TBunch@robinsonlaw.com>]
Sent: Monday, February 02, 2015 9:35 AM
To: Desa Ballard
Cc: Keith M. Babcock
Subject: RE: Hammer settlement docs

I would suggest February 13 (Keith has told me he is out of the office the latter part of this week).



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MERITAS LAW FIRMS WORLDWIDE

From: Desa Ballard [<mailto:desab@desaballard.com>]
Sent: Monday, February 2, 2015 9:17 AM
To: Thomas W. Bunch, II
Cc: Keith M. Babcock; Beth Cogan; Beth Cogan; Mara Ballard
Subject: RE: Hammer settlement docs

I already wrote the Court last week asking them not to defer the sanctions any longer. My theory was that we needed the pressure of that to get this done. So I have already objected.

The settlement was supposed to conclude before the hearing on 1-27-2015.

Then Friday was the deadline.

Now we don't have a deadline because Judge Strickland has not rescheduled the sanctions hearing. I was going to email him this morning to ask for a new date.

I do not have authority to extend the offer any longer (past Friday, when I was expecting revisions to my documents) but I can probably get it. But not indefinitely.

db

From: Thomas W. Bunch, II [<mailto:TBunch@robinsonlaw.com>]
Sent: Monday, February 02, 2015 9:07 AM
To: Desa Ballard
Cc: Keith M. Babcock
Subject: RE: Hammer settlement docs

Correct. I worked on the documents Friday, Saturday and Sunday. I have a hearing this morning. I will finalize them today, and get them to Keith for coordination with his client(s). I am also writing the Supreme Court and asking it to continue deferring on your sanctions motion there. Any objection to that?

Tommy



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THE MERITAS LAW FIRMS WORLDWIDE

From: Desa Ballard [<mailto:desab@desaballard.com>]
Sent: Monday, February 2, 2015 9:03 AM
To: Thomas W. Bunch, II
Cc: Keith M. Babcock; Beth Cogan; Beth Cogan; Mara Ballard
Subject: RE: Hammer settlement docs

So I'm clear: You have not sent me anything to review yet?

From: Thomas W. Bunch, II [<mailto:TBunch@robinsonlaw.com>]
Sent: Friday, January 30, 2015 4:48 PM

To: Desa Ballard
Cc: Keith M. Babcock
Subject: Hammer settlement docs

Desa,

I've working on the settlement documents you sent over. I've been through them and redlined them. I need to coordinate them with Keith. That being said, it might be more productive for me to just put together a new agreement from scratch. I'll get back on these over the weekend and have them to Keith either this weekend or the first of next week.

Tommy



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From: Desa Ballard
To: Thomas W. Bunch, II
Cc: Keith M. Babcock; Beth Cogan; Beth Cogan; Mara Ballard
Subject: RE: Hammer settlement docs
Date: Monday, February 02, 2015 9:16:44 AM

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The logo for Meritas Law Firms Worldwide, featuring a stylized 'M' icon followed by the text "MERITAS LAW FIRMS WORLDWIDE".

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From: Thomas W. Bunch, II
To: Desa Ballard
Cc: art@aikenandhightower.com; Keith M. Babcock
Subject: RE: Since I have not heard from you
Date: Tuesday, January 27, 2015 8:15:36 AM

Desa,

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MERITAS LAW FIRMS WORLDWIDE

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Sent: Tuesday, January 27, 2015 8:01 AM
To: Thomas W. Bunch, II; 'Keith Esquire M: Babcock (kmb@lbglegal.com)'; Art Jayroe (ajayroe@jayroecpa.com)
Cc: Mara Ballard; Beth Cogan; Mara Ballard
Subject: Since I have not heard from you

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From: Desa Ballard
To: Thomas W. Bunch, II
Cc: Keith M. Babcock; Beth Cogan; Mara Ballard; Beth Cogan; Mara Ballard
Subject: RE: Status
Date: Tuesday, February 03, 2015 10:54:00 AM

Ok, I'll go with the 13th, by noon but by that I mean documents executed and money paid. I don't mean to be unsympathetic, but Mrs. Hammer has waited a long time to get this matter concluded, with no cooperation until you and Keith got involved and we started making SOME progress (but still not enough to be considered cooperative). These judgments are OLD. The only reason I'm in a hurry is because Mrs. Hammer has waited so long with NOTHING to show for it.

I didn't appreciate your letter to Judge Strickland suggesting I had lied to the court, but I let it pass. Lawyers who fuss with each other are every judge's nightmare. If you represented a normal person, I have no doubt we would not have had the difficulty we have had. Keith and I have no such issues; he's a good lawyer and I always heard that you were too, but your positions in this case have been extreme and have added to the harsh feelings.

Let's please get this done. I will request a hearing with Judge Strickland for the week of 2-16-2015 for the sanctions hearing in case we don't finish.

db

From: Thomas W. Bunch, II [mailto:TBunch@robinsonlaw.com]
Sent: Tuesday, February 03, 2015 10:44 AM
To: Desa Ballard
Cc: Keith M. Babcock
Subject: RE: Status

Desa,

I was just drafting another email to you to give you an update. I worked off of the documents you sent over last week until it just became too confusing to revise them and put our offer and discussions at the January 27 hearing into a revised document. Thus, I drafted a new settlement agreement in accordance with the offer we made. I finished a draft on Sunday, coordinated with my client yesterday, and sent the documents to Keith after that. Once I have his clients' comments and approvals, I'll send them to you.

Also, as you know, the offer was for transfer of the property to HASCI. I believe HASCI either has or will engage its own real estate counsel to review a contract for the sale of the property as part of the offer we have made.

We all have issues outside of this case. You have surgery scheduled and a teaching gig. I am dealing with a medical matter and other issues with my mother that took me out some last week, and may take me out later this week. Keith has a speaking engagement across the country that takes him out after today for the rest of the week. We are working as hard as we can to get something done. The settlement includes not just Shirley and Howard, but two other parties, HASCI and Alvin. Our schedules (yours included) will not always coincide to get something accomplished as quickly as Shirley wants. I hope your medical procedure goes well.

Tommy



ROBINSON MCFADDEN
ATTORNEYS AND COUNSELORS AT LAW

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P: 803-227-1103
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[v-card](#)

Post Office Box 944
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MERITAS LAW FIRMS WORLDWIDE

From: Desa Ballard [<mailto:desab@desaballard.com>]
Sent: Tuesday, February 3, 2015 10:16 AM
To: Thomas W. Bunch, II; KMB@lewisbabcock.com
Cc: Beth Cogan; Mara Ballard; Beth Cogan; Mara Ballard
Subject: Status

Today is my last day in the office this week, since I have surgery tomorrow. If we are going to finish the documents and have everything signed by the 9th, I need to have your suggested changes today. Earlier rather than later, since I teach my class tonight at the law school.

db

Desa Ballard
Ballard & Watson
Attorneys at Law
Telephone 803.796.9299
Facsimile 803.796.1066
E-mail: desab@desaballard.com, copy to mara@desaballard.com

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From: Thomas W. Bunch, II
To: Desa Ballard
Cc: Keith M. Babcock; Allan Fulmer Jr
Subject: Hammer settlement docs
Date: Monday, February 09, 2015 3:36:05 PM
Attachments: QCDeed-ShirleyH to HighTowerLLC-2015-TQ SIGN.pdf
QCDeed-1634MainLP to HighTowerLLC-2015-TQ SIGN.pdf
Contract of Sale to HASCI.pdf
Settlement Agr. signed by Howard, Alvin & HASCI.pdf
[1516419] QCDeed-HowardHammer to HighTowerLLC-2015-TQ SIGN.pdf

Desa,

Hope you are well. Attached are the following:

1. A Settlement Agreement signed by Howard Hammer, Alvin Hammer and HASCI, LLC.
2. A Contract of Sale to sell the property to HASCI. This was just finalized a short while ago, so it does not yet have signatures.
3. Quitclaim Deed from Shirley.
4. Quitclaim Deed from 1634.
5. Quitclaim Deed from Howard.

We are working on a title policy and hope to have that finalized today. Unless something comes up that I am not aware of, I hope issuing a commitment will not be a problem. Allan Fulmer, Jr. was retained by HASCI to handle the real estate aspects of this transaction so he is copied on the email. He asked that I convey to you that the deeds might need to be worked on some, but I am forwarding to you so you will see where we are going with the structure of the closing.

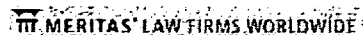
Tommy



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From: Desa Ballard
To: Thomas W. Bunch, II
Cc: Keith M. Babcock; Allan Fulmer Jr; Beth Cogan; Mara Ballard
Subject: RE: Hammer settlement docs
Date: Tuesday, February 10, 2015 10:38:37 AM

If you will send me the Word documents I will make necessary changes. Let's not get off track.

From: Thomas W. Bunch, II [mailto:TBunch@robinsonlaw.com]
Sent: Tuesday, February 10, 2015 10:37 AM
To: Desa Ballard
Cc: Keith M. Babcock; Allan Fulmer Jr
Subject: RE: Hammer settlement docs

Desa,

I understood your email about the February 13th deadline for documentation and payment. I did not know why you changed your mind from the January 27th hearing at which we had discussed a payment deadline of 4/30 with accruing interest. Then, I assumed you had realized your change of position when you told Judge Strickland that the matter needed to be finalized (all documents executed) by 2/13. Thank you for clarifying. I certainly would not have spent a good bit of time drafting a settlement agreement and coordinating on a contract of sale with a 4/30 closing deadline had I understood there was a deadline of 2/13.

Keith and Allen are now aware of the 2/13 deadline and they can advise if their clients are in position to pay anything by 2/13.

Tommy



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MERITAS LAW FIRMS WORLDWIDE

From: Desa Ballard [mailto:desab@desaballard.com]
Sent: Tuesday, February 10, 2015 10:04 AM
To: Thomas W. Bunch, II
Cc: Keith M. Babcock; Allan Fulmer Jr; Beth Cogan; Mara Ballard
Subject: RE: Hammer settlement docs

Attached is my email. Interest will run until money paid on 2-13. "Closing" if you will on 2-13.

I was very clear. Send me the Word docs so we can get this done.

From: Thomas W. Bunch, II [<mailto:TBunch@robinsonlaw.com>]

Sent: Tuesday, February 10, 2015 9:37 AM

To: Desa Ballard

Cc: Keith M. Babcock; Allan Fulmer Jr

Subject: RE: Hammer settlement docs

Desa,

I don't understand the request for payment by this Friday. At the January 27 hearing, when we mentioned a payment deadline of 4/30/15, you said if we could not pay by January 30th that interest would accrue on the payment. We agreed to that request. The settlement documents are drafted to cover accruing interest. Since then you have twice mentioned a payment deadline earlier than 4/30. At the same time, you are advising Judge Strickland that only settlement documents need to be signed by 2/13. ("Mr. Bunch and I have been trying to finalize the settlement we discussed at our last appearance and we (Mrs. Hammer and I) have asked that the matter be finalized (all documents executed) by 2-13-2015." Ballard email dtd. 2/3/15.).

What's the deal?

Tommy



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From: Desa Ballard [<mailto:desab@desaballard.com>]

Sent: Tuesday, February 10, 2015 6:19 AM

To: Thomas W. Bunch, II

Cc: Keith M. Babcock; Allan Fulmer Jr; Beth Cogan; Mara Ballard

Subject: RE: Hammer settlement docs

Tommy: We are on the right track, but we will not warrant that we convey marketable title, the release is too narrow, we are not leaving Shirley obligated for the real estate taxes for any year, and we are not selling the property to HASCI, we are conveying it in exchange for settlement. There are a few other small things. If you want to send me the Word documents, I'll fix them (using track changes, so you can see what changes I make) and I'll send a signed copy back to you. We don't need a contract of sale.

Send the Word documents and I'll get the changes back to you today. What time did schedule delivery of funds on Friday?

db

From: Thomas W. Bunch, II [<mailto:TBunch@robinsonlaw.com>]
Sent: Monday, February 09, 2015 3:36 PM
To: Desa Ballard
Cc: Keith M. Babcock; Allan Fulmer Jr
Subject: Hammer settlement docs

Desa,

Hope you are well. Attached are the following:

1. A Settlement Agreement signed by Howard Hammer, Alvin Hammer and HASCI, LLC.
2. A Contract of Sale to sell the property to HASCI. This was just finalized a short while ago, so it does not yet have signatures.
3. Quitclaim Deed from Shirley.
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5. Quitclaim Deed from Howard.

We are working on a title policy and hope to have that finalized today. Unless something comes up that I am not aware of, I hope issuing a commitment will not be a problem. Allan Fulmer, Jr. was retained by HASCI to handle the real estate aspects of this transaction so he is copied on the email. He asked that I convey to you that the deeds might need to be worked on some, but I am forwarding to you so you will see where we are going with the structure of the closing.

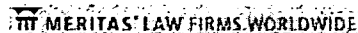
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From: Desa Ballard
To: Thomas W. Bunch, II
Cc: Keith M. Babcock; Allan Fulmer Jr; Beth Cogan; Mara Ballard
Subject: RE: Hammer settlement docs
Date: Tuesday, February 10, 2015 6:18:38 AM

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To: [Desa Ballard](#)
Cc: [Keith M. Babcock](#); [Allan Fulmer Jr](#)
Subject: RE: Hammer settlement docs
Date: Tuesday, February 10, 2015 11:20:48 AM
Attachments: [Contract of Sale to HASCI.docx](#)
[Settlement Agreement.docx](#)

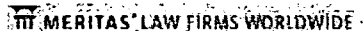
Per your request attached are the Settlement Agreement and Contract of Sale. I don't have word copies of the deeds.



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Tommy



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P: (803) 779-8900



From: Desa Ballard [<mailto:desab@desaballard.com>]
Sent: Tuesday, February 10, 2015 6:19 AM
To: Thomas W. Bunch, II
Cc: Keith M. Babcock; Allan Fulmer Jr; Beth Cogan; Mara Ballard
Subject: RE: Hammer settlement docs

Tommy: We are on the right track, but we will not warrant that we convey marketable title, the release is too narrow, we are not leaving Shirley obligated for the real estate taxes for any year, and we are not selling the property to HASCI, we are conveying it in exchange for settlement. There are a few other small things. If you want to send me the Word documents, I'll fix them (using track changes, so you can see what changes I make) and I'll send a signed copy back to you. We don't need a contract of sale.

Send the Word documents and I'll get the changes back to you today. What time did schedule delivery of funds on Friday?

db

From: Thomas W. Bunch, II [<mailto:TBunch@robinsonlaw.com>]
Sent: Monday, February 09, 2015 3:36 PM
To: Desa Ballard
Cc: Keith M. Babcock; Allan Fulmer Jr
Subject: Hammer settlement docs

Desa,

Hope you are well. Attached are the following:

1. A Settlement Agreement signed by Howard Hammer, Alvin Hammer and HASCI, LLC.
2. A Contract of Sale to sell the property to HASCI. This was just finalized a short while ago, so it does not yet have signatures.
3. Quitclaim Deed from Shirley.
4. Quitclaim Deed from 1634.
5. Quitclaim Deed from Howard.

We are working on a title policy and hope to have that finalized today. Unless something comes up that I am not aware of, I hope issuing a commitment will not be a problem. Allan Fulmer, Jr. was retained by HASCI to handle the real estate aspects of this transaction so he is copied on the email. He asked that I convey to you that the deeds might need to be worked on some, but I am forwarding to you so you will see where we are going with the structure of the closing.

Tommy



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

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From: Desa Ballard
To: "Thomas W Bunch (TBunch@robinsonlaw.com)"; "Keith Esquire M. Babcock (kmb@lbglegal.com)"
Cc: Allan Fulmer Jr; Beth Cogan; Beth Cogan; Mara Ballard
Subject: a few more changes to settlement agreement
Date: Wednesday, February 11, 2015 9:08:43 PM

Since I have not heard back from you, I didn't want to include these changes in the body of the draft agreement I sent you because I didn't want it to be confusing. Tomorrow I can PDF and send you these changes on the face of the PDF which already shows the track changes, but I wanted to send these to you as soon as I could:

55

1. First Paragraph: change "... she may own" to "she may hold .."
2. On Page 2, the WHEREAS clause that used to read "after the January 21 order. . ." : The part that says "... owned by Howard and any interest he may have..." should read "... any interest owned by Howard AND/OR any interest in the..."
3. The last four (4) WHEREAS clauses should be moved from recitals into the numbered paragraphs, so there is no argument that they are merely recitals and not part of the agreement itself.
4. In Paragraph 2 that used to be Paragraph 3: Take out the last sentence about the closing on 4-30. Tommy and I emailed about this earlier today.
5. In Paragraph 4 that used to be Paragraph 5: add a requirement that the deeds and consideration be held in trust until the accounting required by Paragraph – of the January 21, 2014 order has been approved by the Court. (I will prepare a consent order so recording and disbursement will not be delayed – obviously that may not get signed by Friday, but the documents and cash can be signed and exchanged, but held by the respective attorneys until Judge Strickland approves the accounting.
6. In Paragraph 5 (b) that used to be 6(b) should include only cases to which Shirley is a party. She cannot affect any cases in which she is not the moving party and we don't know what other cases may be pending against Howard brought by 3d parties.
7. In Paragraph 5(c) that used to be 6(C), take out "any and all entities..." and limit the paragraph to agreements "with Marion Turbeville and [the other companies named or referred to him – the ones he is associated with]
8. In Paragraph 6 that used to be 7: HASCI should also release Shirley

There is one other change, but I can't find my note on that at the moment; I must have left it at the office. I'll email it first thing tomorrow.

Allen, I got your message about your conversation with Ivy, thank you. It occurred to me that the quit claim deeds should be from Shirley to HASCI and from Hightower LLC to HASCI. Why does there need to be another deed?

I'm in all day tomorrow (after dropping my car for service in the morning)

Please advise.

db

From: Desa Ballard
To: "Thomas W Bunch (TBunch@robinsonlaw.com)"; "Keith Esquire M. Babcock (kmb@lbqlegal.com)"
Cc: Beth Cogan; Mara Ballard; Beth Cogan; Mara Ballard
Subject: Settlement Agreement with db changes 2-11-2015
Date: Wednesday, February 11, 2015 9:51:44 AM
Attachments: Settlement Agreement with db changes 2-11-2015.docx

Please see the attached, which incorporates the changes (via track changes and comments function in Word) we are agreeable to in order to conclude this settlement. There is no need for a contract of sale, because we are not selling the property, we are transferring it to Howard's designee in exchange for payment of an agreed-upon sum by way of settlement. I have not yet reviewed the proposed quit claim deeds that Alan Fulmer sent, but I'm moving to that next.

We had set several prior deadline dates, none of which was met, and we have been forced to keep this settlement offer alive despite it supposedly having deadlines. I tried to have it done by 2-9, but you pointed out that everyone was busy, etc. so I agreed to your suggested deadline of 2-13-2015, and specifically pointed out that extending the time yet again required consummation and payment of money by 2-13-2015.

I am not trying to be difficult, but I have dealt with Howard long enough that I know he has something up his sleeve and I'm trying to protect Shirley as best I can.

You will note that this version requires HASCI to pay all property taxes for all years; your draft and what you said at the last hearing was trying to force Shirley to pay the property taxes that came due during her ownership of the property and that was not agreeable. The discount settlement price of \$525K, which is far too little and was supposed to be a "today only" offer more than a month ago, cannot require Shirley to have any financial obligation other than Turbeville.

Please review this and I'll review the proposed quit claim deeds and get them back to Alan right away so we can get this matter concluded on Friday.

db

From: Desa Ballard
To: Thomas W. Bunch, II
Cc: Keith M. Babcock; Allan Fulmer Jr; Beth Cogan; Mara Ballard
Subject: RE: Hammer update
Date: Friday, February 13, 2015 4:46:40 PM

You can make a new offer, but the \$525K is off the table. I do want to settle this but we simply can't deal with the continuous delays. That has been a problem from the beginning. That's why we have had deadlines on the \$525. It was supposed to be a one-day only offer when we were at the courthouse on 1-24-2015, and somehow it got stretched to a month. We're done with that offer.

If you want to make an offer I'll take it to Shirley. However, we have to move forward.

Have a good weekend.

db

From: Thomas W. Bunch, II [mailto:TBunch@robinsonlaw.com]
Sent: Friday, February 13, 2015 4:39 PM
To: Desa Ballard
Cc: Keith M. Babcock; Allan Fulmer Jr
Subject: Hammer update

Desa,

I wanted to give you an update on where we are regarding settlement. First, right after we spoke yesterday, I had to leave for the day. I started reviewing and revising the settlement agreement when I got back in today, but had other matters on my calendar today, including a mediation and meeting with a client for the last 2.5 hours in a Chapter 11 bankruptcy case of some importance. Thus, despite my best intentions as of yesterday's conversations of getting something to you today, I am not at that point. Second, although I understand that Alvin is willing to pay the \$25,000 we discussed yesterday, he is only willing to do that when we have a signed agreement and real estate contract.

As I was writing this, I see that you notified Judge Strickland that we have been unresponsive in meeting your deadlines and that your offers are withdrawn. I had planned on continuing to revise the documents over the weekend. If settlement is a dead issue, please advise so I do not further spend time on it.

Tommy



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

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From: Desa Ballard
To: Allan Fulmer Jr; "Thomas W. Bunch, II"
Cc: "Keith M. Babcock"; Beth Cogan; Mara Ballard
Subject: RE: Hammer settlement docs
Date: Wednesday, February 11, 2015 10:46:17 AM
Attachments: QCDeed-1634MainLP to HighTowerLLC-2015 with db changes.doc
DeedQC-HTowerLLC to HASCI - 2015 with db changes.doc
QCDeed-ShirleyH to HighTowerLLC-2015 with db changes and comments.doc

Attached please see my suggested changes and questions (not sure how Shirley can execute a deed on behalf of 1634 LP – I assume the title company is asking for this?) I'm sure we can figure out how to make this work. It must be clear that Shirley warrants nothing to anyone. She has no idea what ownership interest she has in the property. There were multiple deeds and documents executed from the divorce where Shirley attempted to transfer her interest in the property, but those deeds were never recorded. They were delivered to various lawyers representing Howard during the domestic case - (the latest of which was, I believe, Tom Pope) – neither I nor any of the present lawyers involved in this matter were involved in the domestic action. Title was clear once upon a time, I think, but Howard's failure to record multiple deeds executed by Shirley from the domestic case make the whole matter unclear, at least to me.

From: Allan Fulmer Jr [mailto:jrfulmer@bellsouth.net]
Sent: Tuesday, February 10, 2015 12:44 PM
To: 'Thomas W. Bunch, II'; Desa Ballard
Cc: 'Keith M. Babcock'
Subject: RE: Hammer settlement docs

Desa:

Attached find in Word Format the proposed corrective **Quit-Claim Deeds** by Ms. Hightower to HighTower, LLC and by 1634 Main, L.P. to HighTower, LLC. Also, attached find in Word Format the proposed **Quit-claim Deed** from HighTower, LLC to HASCI, LLC as part of the settlement.

Allan E. Fulmer, Jr.
Allan E. Fulmer, Attorney, P.A.
Mail: PO Box 1548, Columbia, SC 29202
Location: 1812 Bull Street, Columbia, SC 29201
Phone: 803-256-6289 Fax: 803-254-6579
Email: jrfulmer@bellsouth.net

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From: Thomas W. Bunch, II [mailto:TBunch@robinsonlaw.com]
Sent: Tuesday, February 10, 2015 11:20 AM
To: Desa Ballard

Cc: Keith M. Babcock; Allan Fulmer Jr
Subject: RE: Hammer settlement docs

Per your request attached are the Settlement Agreement and Contract of Sale. I don't have word copies of the deeds.



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

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From: Desa Ballard [<mailto:desab@desaballard.com>]
Sent: Tuesday, February 10, 2015 10:39 AM
To: Thomas W. Bunch, II
Cc: Keith M. Babcock; Allan Fulmer Jr; Beth Cogan; Mara Ballard
Subject: RE: Hammer settlement docs

If you will send me the Word documents I will make necessary changes. Let's not get off track.

From: Thomas W. Bunch, II [<mailto:TBunch@robinsonlaw.com>]
Sent: Tuesday, February 10, 2015 10:37 AM
To: Desa Ballard
Cc: Keith M. Babcock; Allan Fulmer Jr
Subject: RE: Hammer settlement docs

Desa,

I understood your email about the February 13th deadline for documentation and payment. I did not know why you changed your mind from the January 27th hearing at which we had discussed a payment deadline of 4/30 with accruing interest. Then, I assumed you had realized your change of position when you told Judge Strickland that the matter needed to be finalized (all documents executed) by 2/13. Thank you for clarifying. I certainly would not have spent a good bit of time drafting a settlement agreement and coordinating on a contract of sale with a 4/30 closing deadline had I understood there was a deadline of 2/13.

Keith and Allen are now aware of the 2/13 deadline and they can advise if their clients are in position to pay anything by 2/13.

Tommy



Thomas W. Bunch, II
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[v-card](#)

Post Office Box 944
Columbia, South Carolina 29202

P: (803) 779-8900

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From: Desa Ballard [<mailto:desab@desaballard.com>]
Sent: Tuesday, February 10, 2015 10:04 AM
To: Thomas W. Bunch, II
Cc: Keith M. Babcock; Allan Fulmer Jr; Beth Cogan; Mara Ballard
Subject: RE: Hammer settlement docs

Attached is my email. Interest will run until money paid on 2-13. "Closing" if you will on 2-13.

I was very clear. Send me the Word docs so we can get this done.

From: Thomas W. Bunch, II [<mailto:TBunch@robinsonlaw.com>]
Sent: Tuesday, February 10, 2015 9:37 AM
To: Desa Ballard
Cc: Keith M. Babcock; Allan Fulmer Jr
Subject: RE: Hammer settlement docs

Desa,

I don't understand the request for payment by this Friday. At the January 27 hearing, when we mentioned a payment deadline of 4/30/15, you said if we could not pay by January 30th that interest would accrue on the payment. We agreed to that request. The settlement documents are drafted to cover accruing interest. Since then you have twice mentioned a payment deadline earlier than 4/30. At the same time, you are advising Judge Strickland that only settlement documents need to be signed by 2/13. ("Mr. Bunch and I have been trying to finalize the settlement we discussed at our last appearance and we (Mrs. Hammer and I) have asked that the matter be finalized (all documents executed) by 2-13-2015." Ballard email dtd. 2/3/15.).

What's the deal?

Tommy



Thomas W. Bunch, II
P: 803-227-1103

Post Office Box 944
Columbia, South Carolina 29202

F: 803-744-1545
TBunch@robinsonlaw.com
v-card

P: (803) 779-8900

TIT MERITAS LAW FIRMS WORLDWIDE

From: Desa Ballard [<mailto:desab@desaballard.com>]
Sent: Tuesday, February 10, 2015 6:19 AM
To: Thomas W. Bunch, II
Cc: Keith M. Babcock; Allan Fulmer Jr; Beth Cogan; Mara Ballard
Subject: RE: Hammer settlement docs

Tommy: We are on the right track, but we will not warrant that we convey marketable title, the release is too narrow, we are not leaving Shirley obligated for the real estate taxes for any year, and we are not selling the property to HASCI, we are conveying it in exchange for settlement. There are a few other small things. If you want to send me the Word documents, I'll fix them (using track changes, so you can see what changes I make) and I'll send a signed copy back to you. We don't need a contract of sale.

Send the Word documents and I'll get the changes back to you today. What time did schedule delivery of funds on Friday?

db

From: Thomas W. Bunch, II [<mailto:TBunch@robinsonlaw.com>]
Sent: Monday, February 09, 2015 3:36 PM
To: Desa Ballard
Cc: Keith M. Babcock; Allan Fulmer Jr
Subject: Hammer settlement docs

Desa,

Hope you are well. Attached are the following:

1. A Settlement Agreement signed by Howard Hammer, Alvin Hammer and HASCI, LLC.
2. A Contract of Sale to sell the property to HASCI. This was just finalized a short while ago, so it does not yet have signatures.
3. Quitclaim Deed from Shirley.
4. Quitclaim Deed from 1634.
5. Quitclaim Deed from Howard.

We are working on a title policy and hope to have that finalized today. Unless something comes up that I am not aware of, I hope issuing a commitment will not be a problem. Allan Fulmer, Jr. was retained by HASCI to handle the real estate aspects of this transaction so he is copied on the email. He asked that I convey to you that the deeds might need to be worked on some, but I am forwarding to you so you will see where we are going with the structure of the closing.

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[v-card](#)

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ROBINSON MCFADDEN
ATTORNEYS AND COUNSELORS AT LAW

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

February 13, 2015

VIA EMAIL ONLY

The Honorable Joseph M. Strickland, Master in Equity
Richland County Master In Equity
Post Office Box 192
1701 Main Street
Columbia, SC 29202

Thomas W. Bunch, II
1901 MAIN STREET, SUITE 1200
POST OFFICE BOX 944
COLUMBIA, SOUTH CAROLINA 29202

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

FAX
(803) 744-1545

tbunch@RobinsonLaw.com

Re: Howard Hammer v. Shirley Hammer a/k/a Shirley Grace
Hightower, Case No.: 2009-CP-40-05911;

1634 Main, L.P. v. Shirley Hammer a/k/a Shirley Grace Hightower v.
Howard Hammer, Case No.: 2010-CP-40-2889

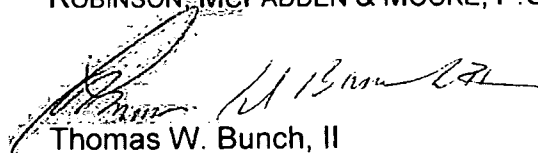
Dear Judge Strickland:

Despite our best efforts to pay Mrs. Hammer without dispute the full amount she claims to be owed including interest, expenses, and alleged sanctions/legal fees, we have not been able to resolve these cases, and I just received an e-mail from Ms. Ballard that she has withdrawn her demand. There is pending before you Mrs. Hammer's Motion for Sanctions which will be contested as to both liability and the amount claimed. We would anticipate a hearing on this motion lasting a full day, and perhaps longer. If you could have your office contact counsel, we can attempt to schedule around existing conflicts.

Thank you for your consideration in this matter.

Yours very truly,

ROBINSON, MCFADDEN & MOORE, P.C.



Thomas W. Bunch, II

cc: The Honorable James R. Barber, III (via email)
Desa A. Ballard (via email)
Arthur K. Aiken (via email)

From: Thomas W. Bunch, II
To: Desa Ballard
Cc: Keith M. Babcock; Allan Fulmer Jr
Subject: Hammer updated settlement documents
Date: Tuesday, February 17, 2015 5:49:43 PM
Attachments: Settlement Agr. V. 3 DB changes; TWB revisions.docx
Settlement Agr. V. 3 clean w comments.docx

Desa,

Per our discussions last Thursday and our Friday emails, please see updated settlement documents which have been coordinated with Keith Babcock and Allen Fulmer. There is a track changes version, and a clean version with comments.

Tommy



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

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From: Desa Ballard
To: Thomas W. Bunch, II
Cc: Keith M. Babcock; Allan Fulmer Jr; Mara Ballard; Beth Cogan; Mara Ballard
Subject: RE: Hammer updated settlement documents
Date: Thursday, February 19, 2015 10:51:02 AM

I called you on Thursday (2-12) because you had failed to send back any response to the suggested changes I had made to your settlement documents on Wednesday (2-11) morning and the Friday (2-13) deadline was looming. You told me you had not even bothered to look at the suggested changes I made and were too busy with other things and there was no way to get the deal done by Friday. I suggested if you wanted to keep the offer alive, Shirley would require a \$25K good faith payment by Friday, and you said you were not comfortable (nor did I blame you) with a \$25K payment without paperwork signed, and I said "then review the documents and let's sign them tomorrow." I said, and I quote "let's keep this momentum going." You sighed, and said it would be Friday morning before you could get your response to my revisions back to me. Friday morning comes, and I waited, and waited, and waited and received nothing. Friday afternoon I emailed Judge Strickland and told him (and you) that the negotiations had ended. You emailed back and said you were working on the documents THEN, making clear you had no intention of trying to get the deal done by Friday. I told you THEN that the negotiations were over.

The negotiations are over. The \$525K number was a bargain basement settlement for THAT DAY, and you stretched it to 1-28-2015 because Howard's accountant was on vacation and Howard was going to meet with him on 1-26-2015, so we reluctantly left the offer alive until 1-27. That date came and went with nothing (other than us arguing in Judge Strickland's presence) why I was insisting on certain terms and why I could not guarantee marketable title as part of a settlement. We suggested another deadline of 2-9 and you talked me into 2-13 because I had to be out for surgery and other things were going on. So the deadline was 2-13. It came and went.

Sorry. Maybe HASCI wants to make an offer to purchase the building through Mr. Turbeville, at a commercially reasonable price. But settlement discussions are over.

Is that clear?

From: Thomas W. Bunch, II [mailto:TBunch@robinsonlaw.com]
Sent: Thursday, February 19, 2015 9:19 AM
To: Desa Ballard
Cc: Keith M. Babcock; Allan Fulmer Jr
Subject: RE: Hammer updated settlement documents

Desa,

Neither I nor anyone else ignored the deadline you set. You called me just before 5:00 p.m. on Thursday, just as I was leaving the office for a previously scheduled matter, and changed the terms your client was

willing to accept. I tried to revise the settlement agreement and get it to you on Friday, but I mediated a case that morning and had a client meeting that afternoon which concluded after 4:00 p.m. I spent parts of Monday and Tuesday coordinating changes to the agreement with my client, with Keith Babcock (who needed to consult with his clients), and with Allan Fulmer. After that was completed I sent the updated settlement agreement to you Tuesday afternoon, which, I might add was after your Friday email which stated in part, "I do want to settle this, but can't deal with the continuous delays." Aside from frustration with me needing to coordinate with several parties and not being able to move at a pace of dealing with one party, Shirley has not suffered any harm or detrimentally changed her position by me sending the updated agreement on Tuesday, which accepted the new terms conveyed on Thursday. Your call on whether Shirley really wants to settle.

I'll be leaving for court in a little while for hearings that will take an undetermined amount of time.

Tommy



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

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From: Desa Ballard [<mailto:desab@desaballard.com>]
Sent: Wednesday, February 18, 2015 9:56 PM
To: Thomas W. Bunch, II
Cc: Keith M. Babcock; Allan Fulmer Jr; Beth Cogan; Mara Ballard
Subject: RE: Hammer updated settlement documents

I'm really tired of hearing about artificial deadlines. That must be why you never even considered the deadlines to be real and you ignored them.

Our offer was withdrawn on Friday, 2-13-2015. There was nothing artificial about that.

We are not interested in the settlement that you could not pull together in a full month. We will proceed with Judge Strickland's order, however long that takes.

db

From: Thomas W. Bunch, II [<mailto:TBunch@robinsonlaw.com>]
Sent: Wednesday, February 18, 2015 12:11 PM
To: Desa Ballard
Cc: Keith M. Babcock; Allan Fulmer Jr
Subject: RE: Hammer updated settlement documents

Desa,

The total payment of \$525k plus accruing interest did not change. That is a lot of guaranteed money your client is walking away from if you won't review the documents. She will have the money in less than 90 days. If you don't wish to review the documents, that is also a ton of protection as to your client's obligation to conduct a commercially reasonable sale which she would be walking away from, and she gets to deal with leasing and selling the building. If you and/or Shirley wish to be dismissive of settlement and the attached documents because we (Shirley and the other parties) could not meet an imposed artificial deadline, even when she is protected by our agreement to pay interest past the deadline, that is your call. I do not have any authority to increase the money offer, nor have you made a different demand. If you increase your demand, I'll notify my client. However, I will recommend to my client not to entertain an increased demand if you won't review the documents in good faith. If we can't agree on the structure of a settlement, the money is irrelevant. We are agreeable to paying the \$25k "deposit" (for lack of a better term) that Shirley demanded Thursday (2/12/15) afternoon.

Tommy



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F: 803-744-1545
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[v-card](#)

Post Office Box 944
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 MERITAS LAW FIRMS WORLDWIDE

From: Desa Ballard [<mailto:desab@desaballard.com>]
Sent: Wednesday, February 18, 2015 10:23 AM
To: Thomas W. Bunch, II
Cc: Keith M. Babcock; Allan Fulmer Jr; Mara Ballard; Beth Cogan; Mara Ballard
Subject: RE: Hammer updated settlement documents

As we discussed via email on Friday, our settlement offer was withdrawn on Friday 2-13-2015. Is this a new proposal with a higher payout? If so, I'll take a look at it.

db

From: Thomas W. Bunch, II [<mailto:TBunch@robinsonlaw.com>]
Sent: Tuesday, February 17, 2015 5:49 PM
To: Desa Ballard
Cc: Keith M. Babcock; Allan Fulmer Jr
Subject: Hammer updated settlement documents

Desa,

Per our discussions last Thursday and our Friday emails, please see updated settlement documents which have been coordinated with Keith Babcock and Allen Fulmer. There is a track changes version, and a clean version with comments.

Tommy



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[v-card](#)

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Columbia, South Carolina 29202

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From: [Keith M. Babcock](#)
To: [Desa Ballard](#)
Cc: [Thomas W. Bunch, II](#)
Subject: satisfaction amount
Date: Monday, March 30, 2015 1:35:47 PM
Attachments: [image001.png](#)

Desa,
Can you please send me the amount and calculations to satisfy the judgments? I know you still have the sanctions hearing coming up, but let's see if we can get agreement on the rest of it. Thanks.
Keith

Keith M. Babcock
Attorney



Lewis, Babcock & Griffin, L.L.P.
1513 Hampton Street
Columbia, SC 29201
o 803.771.8000 f 803.733.3534
KMB@LBGLegal.com

www.LBGLegal.com

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From: [Thomas W. Bunch, II](#)
To: stricklandj@rcgov.us
Cc: art@aikenandhightower.com; Keith M. Babcock; Desa Ballard
Subject: RE: Hammer v. Hammer status conference - June 15, 2015 at 3:00 pm
Date: Monday, June 15, 2015 10:23:34 AM
Attachments: [Motion to Reconsider Sanctions.pdf](#)

Dear Judge Strickland,

In addition to any matters already on your agenda for this afternoon, I would mention to you that there has been no ruling on the attached motion to reconsider the sanctions' order against Mr. Hammer. The motion is attached for your ease of reference. I look forward to seeing you this afternoon.

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

MERITAS LAW FIRMS WORLDWIDE

From: Desa Ballard [<mailto:desab@desaballard.com>]
Sent: Sunday, June 14, 2015 2:32 PM
To: stricklandj@rcgov.us
Cc: Thomas W. Bunch, II; art@aikenandhightower.com; Mara Ballard; Beth Cogan; Mara Ballard
Subject: Hammer v. Hammer status conference - June 15, 2015 at 3:00 pm

Dear Judge Strickland:

In advance of tomorrow's status conference, I wanted to give you an update on the sale of the real property at 1634 Main Street. As you know, the property was auctioned on May 13, 2015. The closing was postponed by the purchaser several times, but we finally met to close last Friday (June 12th) at 3:00 pm. The purchaser declined to close, citing concerns that Howard Hammer might sue him. I won't go into detail because there could be litigation about the aborted sale (there was a court reporter present), but Mrs. Hammer was prepared to convey insurable title, and the purchaser declined to close. Since the auction sales contract was signed on May 13, 2015, the buyer technically has through close of business tomorrow to close. However, on the assumption that this sale, too, is lost, we have instructed the auctioneer to re-list the property for auction next month. We are, therefore, unable to file the final accounting at this time.

On June 9, 2015, Mr. Hammer paid, through Mr. Bunch, the sanctions of \$88,088.81 that Your Honor awarded to Mrs. Hammer in the order filed on April 24, 2015. We provided Mr. Bunch with a satisfaction of that judgment and believe it has been recorded.

In the foreclosure action (the 2013 action) two appeals have been filed (one by Mr. Bunch on behalf of Mr. Hammer, one by Mr. Babcock on behalf of his clients). We have filed motions to dismiss and/or to certify those appeals to the Supreme Court. We are not aware of any rulings having been issued at this time.

I look forward to seeing you tomorrow. My knee surgery was postponed because my MD became ill so I am not on crutches.

db

Desa Ballard
Ballard & Watson
Attorneys at Law
Telephone 803.796.9299
Facsimile 803.796.1066
E-mail: desab@desaballard.com, copy to mara@desaballard.com

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

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

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

HEARING

Thursday, April 2, 2015

9:58 a.m. to 4:27 p.m.

Friday, April 3, 2105

9:27 a.m. to 2:55 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, commencing on the 2nd day of April, 2015, and concluding on the 3rd day of April, 2015, before Robin K. Reibold, Curt 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



1 **MS. BALLARD:** The only thing I would add, Your Honor, to
2 the discussions about what we've attempted to do, is
3 after our last efforts with Mr. Hammer and HASCI
4 fell apart, I called, I think it was the third week
5 of February, I called Mr. Babcock and told him that
6 we would sell the building straight out to Alvin
7 Hammer for a sum of \$800,000. And he said I'll get
8 back to you, and he never did.

9 **THE COURT:** Okay.

10 **MS. BALLARD:** So we proceeded with the other purchasers
11 that we'd been dealing with. So we've done
12 everything in our power, Your Honor, to try to do
13 something to resolve this before we got here. But
14 it's just not going to happen. And I feel obligated
15 to this purchaser, who has indicated a willingness
16 to close in time to satisfy the Supreme Court's
17 order.

18 **MR. BUNCH:** Your Honor, I don't have any obligation to
19 that purchaser. And I would point out that two
20 months ago, Ms. Ballard, on the record in this
21 court, agreed to a structured contract selling it to
22 HASCI for 4\$25,000. And for whatever reason, in
23 that two months the price apparently has now gone up
24 \$275,000.

25 **MS. BALLARD:** Your Honor, we were discussing ---

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

)
)
)

AFFIDAVIT OF BRU PENDER

Personally appeared before me, Charlie M. "Bru" Pender, who being duly sworn, deposes and says that:

1. I am over the age of eighteen (18) years and am competent to state the matters set forth herein. I have personal knowledge of the matters stated, except those stated on information and belief, and as to those, I have a good faith basis for believing them to be true.
2. I am a member of the South Carolina Bar in good standing, having been admitted to practice in 1999. The primary focus of my practice is real estate, both commercial and residential, including transactional work and litigation.
3. I have been retained by Shirley Hammer, sole member of Hightower LLC, to represent Hightower LLC in connection with the sale of real property located at 1634 Main Street in Columbia. The property is currently under contract for sale dated July 29, 2015, with closing scheduled to occur in mid-September, 2015.
4. I was advised by the purchaser in early August, 2015, that attorney Tommy Bunch had informed the purchaser that Hightower LLC was unable to convey clear title to 1634 Main Street because of an appeal he had filed on behalf of Howard Hammer.
5. In an effort to assist the parties to the contract of sale to close the transaction, I invited Mr. Bunch to a meeting on August 12, 2015 to discuss title issues. At that meeting, Mr. Bunch advised me and the prospective purchaser that he had filed an appeal on behalf of Howard Hammer in which he was trying to enforce a purported settlement to force a sale of the real property at 1634 Main Street to HASCI, LLC. He indicated



A handwritten signature in black ink, consisting of a series of loops and strokes, located to the right of the exhibit stamp.

to me that it was his opinion that Hightower LLC's was unable to convey clear title to the purchaser as required by the contract of sale, which I agreed, until the claims asserted by Mr. Bunch in his appeal had been heard and disposed of by the court¹.

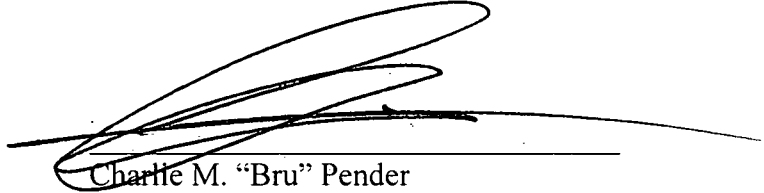
6. I related the substance of this meeting and Mr. Bunch's position to Desa Ballard, counsel for Shirley Hammer.
7. The purchaser has inquired if the contract of sale can be extended if Mrs. Hammer is unable to convey clear title to the property under the existing contract because of the existing appeal.
8. The only impediment to closing, in my opinion, is the pending appeal filed by Mr. Bunch which asserts the alleged agreement between Respondent and his client to sell the subject property to HASCI, LLC as noted hereinabove. Mr. Bunch communicated to me and the prospective purchaser that he believes that his appeal has merit and encumbers title to the property. I advised Mr. Bunch at the within meeting that I believed the January 21, 2014 Order of the Honorable Joseph M. Strickland was controlling relative to disposition of the subject property and the Order sets forth the clear process and procedure for closing the sale of the property and disbursement and disposition of the proceeds derived therefrom . The only closing issue, which is contemplated by the Court's Order, is the disposition of the excess funds after disbursement of all closing and transaction costs and the disbursement of funds to fully satisfy the judgments filed of record in favor of the Respondent. I advised Mr. Bunch and the prospective purchaser that all excess funds above and beyond the

¹ Mr. Bunch advised that he believed the appeal could be disposed of if Shirley Hammer reduced the amount of funds she claimed were due to her from the anticipated excess funds from and the sale of the real property. He also advised he intended to appeal on Mr. Hammer's behalf Judge Strickland ruling on his motion to reconsider once issued by the court.

disbursements authorized by Judge Strickland's 2014 Order would be held in escrow/trust pending the filing of a final accounting and further Order or direction from the Court.

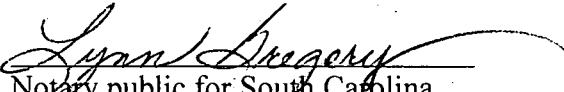
9. I am informed and believe that both the purchaser and Respondent have incurred expenses related to the proposed transaction and in particular, the purchaser has incurred expenses for architectural and engineering costs for renovation of the building based on its expectation of purchasing the building.

Further, deponent sayeth not.



Charlie M. "Bru" Pender

Sworn to before me this
3rd day of September, 2015..



Notary public for South Carolina
My commission expires: 4-22-19

The Supreme Court of South Carolina

Ex Parte: Shirley Hammer, Petitioner.

In re: Shirley Hammer,

v.

Howard Hammer.

Case No. 2005-DR-40-2871

In Re: Howard Hammer,

v.

Shirley Hammer.

Case No. 2009-CP-40-05911

In re: 1634 Main LP,

v.

Shirley Hammer.

Case No. 2010-CP-40-2889

In Re: Howard Hammer,

v.

Shirley Hammer.

Case No. 2010-DR-40-3712

In re: Howard Hammer,

v.

Shirley Hammer and Richard Whiting.

Case No. 2011-DR-40-1094

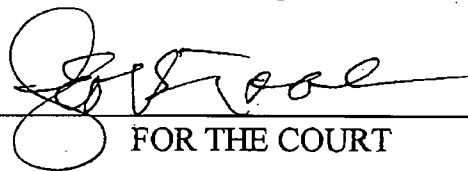


ORDER

Petitioner has filed a document with this Court entitled "Petition and Complaint for Consolidation and Assignment for Full and Final Adjudication" in which she asks this Court to consolidate the above referenced matters for adjudication, assign them to one judge for adjudication in a single proceeding, subject to the jurisdiction of this Court, for a full and final resolution of all issues. While we cannot grant the relief petitioner seeks, we can take other measures in an effort to curtail Howard Hammer's abuse of the judicial system.

First, all appeals currently pending before the Court of Appeals involving petitioner, Mr. Hammer or 1634 Main LP shall be transferred to this Court. Rule 204(b), SCACR. After the appeals are transferred to this Court and their status assessed, instructions will be given to the parties for expediting the appeals.

Second, the Honorable James R. Barber, III, and the Honorable Dana A. Morris are hereby assigned to oversee any actions involving petitioner, Mr. Hammer or 1634 Main LP currently pending in the circuit court and family court respectively, and any subsequent actions involving the parties that may be filed, and shall expedite any such actions and provide status reports to the Chief Justice every thirty days from the date of this order until all litigation between the parties has been resolved.



C.J.

FOR THE COURT

Columbia, South Carolina

September 7, 2012

cc:

Robert T. Bockman

Arthur Kerr Aiken

Desa Allen Ballard

Pope D. Johnson, III

Susan Batten Lipscomb

Timothy E. Madden

Howard Hammer, Esq

Richard Giles Whiting

The Honorable Jenny Abbott Kitchings

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Howard Hammer,
Plaintiff/Petitioner,
vs.
Shirley Hammer a/k/a Shirley Grace Hightower,
Defendant/Respondent,

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

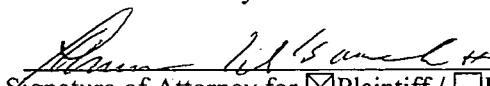
MOTION AND ORDER
INFORMATION FORM

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

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

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

MOTION AND ORDER
INFORMATION FORM

Plaintiff's Attorney: Thomas W. Bunch, II, Bar No. 1011 Address: PO Box 944 Columbia, SC 29202 phone: (803) 779-8900 fax: (803) 771-9411 e-mail: tbunch@RobinsonLaw.com other:	Defendant's Attorney: Desa Ballard, Bar No. Address: 226 State Street West Columbia, SC 29169 phone: (803) 796-9299 fax: (803) 796-1066 e-mail: desa@desaballard.com other:
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information Nature of Motion: Motion to Reconsider Order Approving Accounting Estimated Time Needed: 30 minutes Court Reporter Needed: ☒ YES / ☐ NO	
SECTION II: Motion Type ☒ Written motion attached ☐ Form Motion/Order -- I hereby move for relief or action by the court as set forth in the attached proposed order.  Signature of Attorney for ☒ Plaintiff / ☐ Defendant June 18, 2015 Date submitted	
SECTION III: Motion Fee ☒ PAID - AMOUNT: \$25.00 ☐ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support (check reason) ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: ☐ Other:	

JUDGE'S SECTION	
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	_____ JUDGE CODE: _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____	Date Filed: _____
☐ MOTION FEE COLLECTED: _____ ☐ CONTESTED – AMOUNT DUE: _____	

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

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**MOTION TO RECONSIDER
ORDER APPROVING
ACCOUNTING**

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

**MOTION TO RECONSIDER
ORDER APPROVING
ACCOUNTING**

1

1. As part of the accounting, Movant Shirley Hammer claimed \$247,016.50 in new, previously unasserted, claims against Howard Hammer. The Court lacked subject matter jurisdiction over these claims.

This Court acquired jurisdiction of these cases on April 22, 2013 under S.C. Code Ann. § 15-39-310 for the purpose of (1) discovering assets of the judgment debtors (one of whom was Howard Hammer) which could be applied toward satisfaction of the judgment creditor's (Shirley Hammer's) judgments, and (2) entertaining matters necessary to dispose of enforcement of the judgments. See the Rule to Show Cause filed April 22, 2015, and attached hereto as **Exhibit B**. Section 15-39-310 provides for supplementary proceedings and permits that "...such proceedings may thereupon be had for the application of the property of the judgment debtor **towards the satisfaction of the judgment**" There was no judgment for the new claims of \$274,016.50, and there still is not. These new claims have not been adjudicated before any court in order to become a judgment subject to this court's jurisdiction in supplementary proceedings. These new claims have never been referred to this court for any disposition since no civil action has ever been filed on the claims.

Section 15-39-310 is not a means to allow new suits, claims, or causes of action to be asserted. It is not permitted by the statute and there was no reference for supplementary proceedings to this Court to adjudicate any suits, causes of action or claims other than the judgments arising out of these captioned cases. Supplementary proceedings are just that – supplementary to the case already adjudicated. They are not a new case to assert new claims. However, the Motion to Approve Accounting effectively did just that – i.e., impermissibly attempted to commence a suit on new claims. It asserted new claims not within the jurisdiction of this Court for \$247,016.50.

To the extent the parties might have other claims among themselves, those need to be commenced by the filing of a summons and complaint (Rule 3, SCRCP), not handled by this Court which lacked jurisdiction.

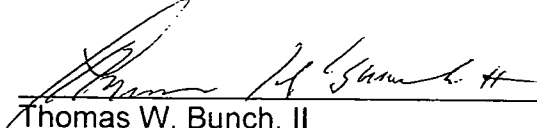
2. Allowing the recovery of new claims by way of motion is contrary to and a denial of due process under state and federal constitutions. No summons and complaint for these claims was filed. No complaint setting forth the basis of the claims was filed. It is improper to grant relief where a complaint does not assert a cause of action or theory of recovery. *Blackburn v. Dudley*, 289 S.C. 415, 338 S.E.2d 151 (1985). No discovery was allowed. No evidence as to the validity of the new claim was presented before the court ruled. No opportunity to defend these claims was allowed. The impact of the inability to present a defense is demonstrated by the limited documents improperly placed in the record by Mrs. Hammer's counsel and relied upon by the Court. These documents show that the statute of limitations had already lapsed on substantially all of Mrs. Hammer's new claims. These documents fail to establish that Mrs. Hammer is even the holder of the new claims she asserted. A demand for a jury trial was denied, although there is no question that the new claims seeking money damages are claims at law and would be subject to a demand for a jury trial. In total, Mr. Hammer was denied any process, much less due process to defend these new claims.

3. Movant, Shirley Hammer, did not present any evidence by way of affidavit, deposition or testimony to substantiate the assertions made by her motion – either as to monetary claims or factual matters. After the Court ruled, Mrs. Hammer's counsel asked the Court without any authentication to admit three documents into the record. The Court erroneously granted the request.

4. The Movant did not have standing to assert the new claims. Based on two of the documents the Court improperly received in the record, the claims belonged to 1634 Main, L.P., not Mrs. Hammer. Further, no documentation whatsoever concerning the rent claim was produced, not even a lease agreement, but that also would have been a claim of 1634 Main, L.P.

5. In further support of this motion, Mr. Hammer reasserts all arguments and defenses previously submitted to this Court orally and in writing.

From the sale of the 1634 Main St. property, Mrs. Hammer is entitled only to payment of her judgment amounts, and the costs and sale and marketing of property. January 21, 2014 Order. The judgments were set at \$335,168.74 in the January 21, 2014 Order. Since then, Mrs. Hammer has been granted court costs of \$5,784.35 bringing the total amount of the judgments and court costs to \$340,953.09. However, in light of Mrs. Hammer's failure to present any admissible evidence in support of her accounting motion, she is not entitled to deduct from the sale's proceeds of 1634 Main St. any amount over \$340,953.09. Moreover, she is not entitled to deduct additional monies (damages) for the new claims she has improperly attempted to assert. The Order Approving Accounting should be vacated and the motion should be approved in the amount of \$340,953.09.


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

June 18, 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 MASTER-IN-EQUITY COURT

CA# 2009-CP-40-05911

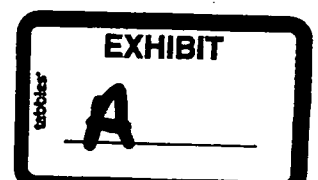
CA# 2010-CP-40-2889

ORDER APPROVING ACCOUNTING

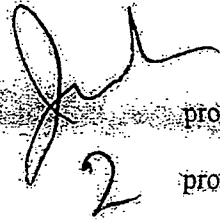
RICHLAND COUNTY
FILED
2015 MAY 29 PM 4:12
JEANETTE W. McBRIDE
C.C.P. & G.S.

Shirley Hammer (hereafter "Shirley") moves for an order approving an accounting filed and served on April 29, 2015 (filed May 5, 2015) determining she has fully complied with this Court's order dated January 21, 2014, in connection with marketing of real property located at 1634 Main Street in Columbia. The order also transferred interests held by Howard Hammer in two (2) entities related to ownership of the building as part of collection of judgments held by her against Howard Hammer and against 1634 Main LP.

The parties appeared before me with counsel on May 12, 2015 at a properly noticed hearing. An auction of the real property is scheduled to be held on May 13, 2015 beginning at 2:00 pm.



Through counsel, Mr. Hammer objected to the hearing on numerous grounds. He argued that Shirley had brought witnesses to testify regarding the issues before the Court and that he did not have notice that witnesses were going to be called, and he was not prepared as a result. He objected to the introduction of any evidence by Shirley on the issues to be decided by the Court. He also filed a demand for jury trial on issues related to the accounting. Pursuant to Rule 38 and 53, SCRCP, he argued he was entitled to a jury trial to determine whether Shirley's marketing of the real property had been commercially-reasonable, and whether certain costs Shirley seeks to recover in connection with the marketing and sale were proper. Lastly, he argued he should be entitled to an offset against the judgments he owed to Shirley for rents she may have collected from tenants at 1634 Main Street during the time she was marketing the property for sale.

 Mr. Hammer is not entitled to a jury trial. This is an accounting following a transfer of property which concluded supplemental proceedings. The Supreme Court expressly approved the process of this court dealing with the accounting in connection with the sale in its November, 2014 opinion. Mr. Hammer waived a jury trial prior to the trial of these actions in 2012 before Judge James, and he cannot resurrect the request at this time.

Similarly, he is not entitled to an offset of any kind. This Court's order of January 21, 2014 specifically provided that Shirley was not required to account to Mr. Hammer for "the income or assets or the proceeds of sale, other than the accounting that is required [after the sale]." (Order Page 11, Paragraph 4). If Mr. Hammer objected to this provision of this order he could have raised in on appeal.

Mr. Hammer proffered, including a copy of prior correspondence with this Court dated May 8, 2014 and an appraisal done during the marketing of the property. Shirley introduced two

(2) notes executed by Mr. Hammer in favor of 1634 Main LP, and a copy of a letter from Mr. Hammer to the Richland County Tax Assessor's Office dated November 8, 2013.

After a full review of the files and prior orders in this matter, and considering the arguments of council, I determined that no additional evidence was necessary to address the orders before the Court.

I conclude that Shirley's marketing of the property has been aggressive and consistent, and specifically that she has engaged in commercially-reasonable efforts to sell the property. It is undisputed that she has had the property listed and marketed ever since the property was transferred to her, and that continues through the hearing and up to the auction on May 13, 2015. She is not responsible for market forces that influence the market, and the determination of the minimum bid was done through consultation with professionals with experience in the area and based on offers received while the property was on the market. While Mr. Hammer disputes that the minimum auction price of \$837,000.00 is a commercially-reasonable price, he does not dispute the efforts to market the property have been deficient in any way. In fact, he has previously offered to stipulate to the court that a price of approximately \$540,000 was a commercially-reasonable price if Shirley would sell the property to him.

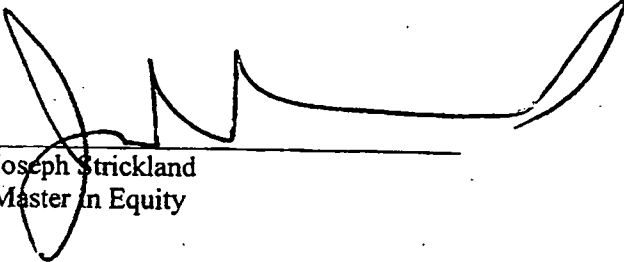
Shirley's accounting accurately sets forth the judgments noted in the January 21, 2014 order, the Supreme Court's judgments entered in both appeals, plus interest on those appeals at the post-judgment rate, expenses she has incurred in paying unpaid and overdue bills for 1634 Main LP that were found to exist when the property and Mr. Hammer's interests in the entities were conveyed to her. She has detailed the expenses incurred in marketing the property. In prior litigation in this case, Judge James determined that Mr. Hammer had not paid rent for many years while he occupied the building, and Mr. Hammer conceded rent was due. Mr. Hammer does not

dispute that the two (2) notes he executed in favor of 1634 Main LP are unpaid, although he argued after my ruling that some limitations period may apply to prevent recovery of those notes. However, no pleading has been filed raising that objection, despite more than ten (10) days having passed since the accounting was served.

The accounting appears proper in all respects, and provides sufficient detail for any objections to individual items to have been raised. No objections were filed, and all oral objections raised at the hearing have been addressed above.

For the reasons set forth above, I find and conclude that Shirley Hammer has satisfied all obligations imposed upon her by the January 21, 2014 order, save the final accounting after sales proceeds are collected. Her accounting is approved. She is instructed to file a final accounting of the sales proceeds within ten (10) days after disbursement of the sales proceeds.

IT IS SO ORDERED.



Joseph Strickland
Master in Equity

May 13, 2015



Ballard & Watson
Attorneys at Law
PERSISTENT. UNWAVERING.

Desa Ballard
Harvey M. Watson III

Post Office Box 6338 | West Columbia, SC 29171
226 State Street | West Columbia, SC 29169
ph 803.796.9299 | fx 803.796.1066 | desaballard.com

June 12, 2015

Via U.S. Mail Only
Jeanette W. McBride
Richland County Clerk of Court
Post Office Box 2766
Columbia, South Carolina 29202

Re: *Shirley Hammer vs. Howard Hammer and Shirley Hammer vs. 1634 Main, LP*
Case Nos.: 2009-CP-40-05911 and 2010-CP-40-2889

Dear Ms. McBride:

Please find enclosed for filing an original and one (1) copy of a Certificate of Service for the Order Approving Accounting in the above-referenced matter. Please file the original and return the filed stamped copy to me in the enclosed self-addressed, stamped envelope.

If you should have any questions, please do not hesitate to contact me. With warm personal regards, I am,

Sincerely yours,

Beth Cogan, Paralegal
beth@desaballard.com

Enclosure

cc: via U.S. Mail
Arthur K. Aiken, Esquire
Tommy Bunch, Esquire
Shirley Hammer (via email)

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 MASTER-IN-EQUITY COURT

CA# 2009-CP-40-05911

CA# 2010-CP-40-2889

**CERTIFICATE OF SERVICE
ORDER APPROVING
ACCOUNTING**

The undersigned certifies that she, on June 12, 2015, caused to be served the Order Approving Accounting on Counsel of Record by electronic mail and by placing it in the US Mail, first class delivery, with sufficient postage to the following addresses:

**Arthur K. Aiken Esquire
art@aikenandhightower.com
Aiken & Hightower
2231 Devine Street, Suite 201
Columbia, South Carolina 29205**

**Thomas W. Bunch, II, Esquire
tbunch@robinsonlaw.com
Robinson McFadden & Moore, PC
Post Office Box 944
Columbia, South Carolina 29202**

June 12, 2015

Beth Cogan
Beth Cogan, Paralegal

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Shirley Hammer

Plaintiff,

vs.

Howard Hammer

Defendants

IN THE COURT OF COMMON PLEAS

J.R. 2009-CP-40-05911

2010-CP-40-02889

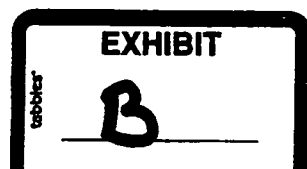
**RULE TO SHOW CAUSE AND
ORDER OF REFERENCE AS TO
HOWARD HAMMER**

Judgments having been rendered, and executions issued, with *nulla bona* returned made to said executions, the Plaintiff having moved for an examination of the Defendant Howard Hammer pursuant to the provisions of S.C. Code Ann., Section 15-39-310, et seq. (S.C. Code 1976), as amended, and an Order of Reference having been issued, it is therefore,

ORDERED that the within matter is hereby referred with finality to the Honorable Joseph M. Strickland, Master-in-Equity for Richland County. It is further

ORDERED that the Defendant Howard Hammer, DO APPEAR before the Master in Equity for Richland County at the Richland County Judicial Center, Courtroom 2D, located at 212 Judicial Center, 1701 Main Street, Columbia, South Carolina, on the 30 day of May, 2013 at 2:00 o'clock in the P.m. to answer under oath questions concerning your assets; TO SHOW CAUSE why your property should not be applied toward satisfaction of the judgments set out in the Petition; and TO SHOW CAUSE why a Receiver of your property should not be appointed, pursuant to the provisions of S.C. Code Ann., Section 15-39-430 (S. C. Code 1976).

The Master-in-Equity shall have the authority to enter final judgment, and an appeal, if



any, must be made directly to the South Carolina Supreme Court. Pursuant to S.C. Rules of Civil Procedure, Sections 14-11-90 and 15-39-390 (1976, as amended) and to Rule 53, S.C. Rules of Civil Procedure, the Master shall entertain and rule upon all motions necessary to dispose of this matter, to include but be not 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 the Plaintiff's debt.

IT IS FURTHER ORDERED that you are hereby **restrained** of disposing of any assets which are the subject of this Judgment.

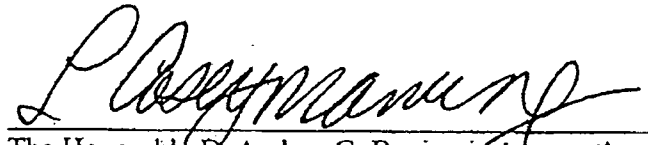
YOU ARE FURTHER ORDERED TO BRING WITH YOU TO THE HEARING THE FOLLOWING:

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

been made to you within the past five years; and

- j. Such other and further records as may disclose your assets and liabilities, or of any corporations, partnerships or business in which you own an interest.

IF YOU DO NOT APPEAR AS ORDERED, YOU MAY BE HELD IN CONTEMPT OF COURT WHICH COULD RESULT IN A FINE and/or JAIL SENTENCE.


The Honorable ~~DeAndrea G. Benjamin~~ *L. Casey Manning*
Chief Administrative Judge for
Court of Common Pleas, Fifth Judicial Circuit

April 18, 2013
Columbia, South Carolina

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

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

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This is to certify that I, Amy L. Westbrook, a paralegal with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **Motion to Reconsider Order Approving Accounting** in the foregoing matters by depositing a copy of same in the United States Mail, postage prepaid, to the following address:

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

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

Dated at Columbia, South Carolina this 18th day of June, 2015


Amy L. Westbrook

Beth Cogan

From: Thomas W. Bunch, II <TBunch@robinsonlaw.com>
Sent: Wednesday, July 22, 2015 9:48 AM
To: JOHN SCOTT
Cc: JOSEPH STRICKLAND; Desa Ballard; Amy Westbrook
Subject: Hammer cases; Order re accounting and motion to reconsider
Attachments: Motion to Reconsider Order Approving Accounting.pdf; Order Approving Accounting.pdf

John,

Thank you for the email and sending the filed order denying Mr. Hammer's Motion to Reconsider Sanctions. There is one additional motion which the Judge needs to address.

Judge Strickland mentioned in a teleconference with counsel yesterday that he had executed an order denying a motion by Mr. Hammer to reconsider. I thought he was referring to his most recent order approving accounting and Mr. Hammer's most recent motion to reconsider that order. The motion to reconsider was filed and delivered to chambers on June 18. For your reference the order and motion are attached. Please let Judge Strickland know that there remains one unresolved motion which needs to be addressed. For scheduling purposes, I will be out of town Thursday and Friday of this week.

Thank you for your assistance in this matter.

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

MERITAS LAW FIRMS WORLDWIDE

From: JOHN SCOTT [mailto:SCOTTJ3@rcgov.us]
Sent: Wednesday, July 22, 2015 9:05 AM
To: Desa Ballard <desab@desaballard.com>
Cc: Thomas W. Bunch, II <TBunch@robinsonlaw.com>
Subject: FW: Message from KMBT_223

Attached is the scanned copy of the Order Denying Motion to Reconsider. 803-576-1901 John Scott, III if there are any questions.

From: scan@rcgov.us [mailto:scan@rcgov.us]
Sent: Wednesday, July 22, 2015 9:07 AM
To: JOHN SCOTT
Subject: Message from KMBT_223



THE 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. 2015-001086

RECEIVED

SEP 03 2015

S.C. Supreme Court

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, LLC 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 De Ville Association, Inc. and/or Chateau De Ville Horizontal Property Regime and David H., a minor under the age of 14,

Defendants,

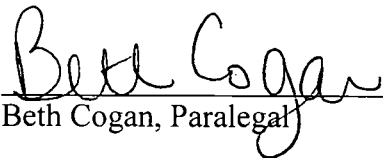
Of Whom,

Howard Hammer is

Appellant.

I, Beth Cogan, an employee with Ballard & Watson, Attorneys at Law, do hereby certify that I served a copy of the **Reply to Return to Supplemental Motion to Dismiss in Whole or in Part** in the above-captioned case on the following individuals by electronic mail and by placing same in United States Mail, with sufficient first-class postage affixed, addressed as follows:

Thomas W. Bunch, II, Esquire
TBunch@robinsonlaw.com
Robinson McFadden & Moore, PC
Post Office Box 944
Columbia South Carolina 29202


Beth Cogan, Paralegal

September 3, 2015