

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY

JOSEPH M. STRICKLAND, MASTER-IN-EQUITY

Appellate Case No. 2016-00341

RECEIVED

MAR 07 2016

1634 Main LP,

[role not designated]

S.C. SUPREME COURT

v.

Shirley Hammer,

Respondent.

v.

Howard Hammer

Appellant

And

Howard Hammer,

Appellant,

v.

Shirley Hammer,

Respondent.

MOTION TO DISMISS APPEAL

Respondent Shirley Hammer (hereafter "Shirley") moves to dismiss this appeal. In support of her motion, Shirley would show:

1. This appeal is (hopefully) the last one arising from this Court's order dated September 7, 2012, in which the Court undertook its "effort to curtail Howard Hammer's abuse of the judicial system."
2. Following this Court's order, Circuit Court Judge James Barber assigned the pending cases to Circuit Court Judge George James, who heard the cases and issued judgments in favor of Shirley against Howard Hammer (hereafter "Howard") and 1634 Main LP (hereafter "1634 Main").
3. This Court affirmed those judgments by its unpublished Memorandum Opinion No. 2014-MO-007, filed on March 19, 2014 (Appellate Case No. 2014-000965).
4. In the interim, Shirley had initiated supplemental proceedings against Howard and 1634 Main after being unable to collect the judgments awarded her. Those supplemental proceedings resulted in an order from Master-in-Equity Joseph M. Strickland dated January 21, 2014. The order transferred real and personal property owned by Howard to Shirley to sell to satisfy the judgments; it prescribed a detailed procedure by which the property was to be marketed and sold and the procedure to be followed after the sale. (Exhibit A).
5. Howard and 1634 Main appealed that order to this Court, which affirmed all portions of the procedure for marketing and sale of the property by opinion issued November 6, 2014¹. Memorandum Opinion No. 2014-MO-45.
6. Because of difficulties and delays in selling the real property, a decision was made to sell the property via auction. Since Shirley was required by the January 21, 2014 to sell the

¹ This Court reversed the award of sanctions and remanded that matter to Judge Strickland for further proceedings. *Id.*

real property using “commercially-reasonable” means, she filed a Motion to Approve Accounting which detailed the difficulties encountered in marketing the property and asked for the trial court’s approval of the proposed sales price. (Exhibit B). Her motion also detailed the accounting of funds that was anticipated after the sale, in accordance with the procedures in the affirmed order dated January 21, 2014. *Id.*

7. Judge Strickland held a hearing on May 12, 2015, since the real property was set to be auctioned the following day, May 13, 2015. By order filed May 29, 2015, Judge Strickland approved the accounting. (Exhibit C). Howard (through his attorney Mr. Bunch) filed a motion to reconsider the order.
8. The real property was auctioned, but the purchaser declined to close. (Exhibit D, ¶ 4). After a third² auction with no bidders, Shirley was able to complete a sale of the real property, at a slightly lower price, on September 23, 2015³. (Exhibit D, ¶ 7-8).
9. In accordance with the directives of the January 21, 2014 order, Shirley filed a Supplemental Accounting on October 2, 2015. (Exhibit D). The Supplemental Accounting set forth the actual disbursements from the sale and detailed the disbursements with specific reference to the paragraphs of the January 14, 2014 order. It also contained a detailed chart showing how the actual disbursements compared to the expected disbursements which were approved prior to the sale. (Exhibit D, ¶ 12). Shirley’s supplemental accounting also expressly stated that neither she nor any of her agents had received any income from the

² A second auction was held on July 21, 2015, but there were no bidders. (Exhibit D, ¶ 5).

³ Prior to the closing, Mr. Bunch met with Shirley’s real estate counsel, and advised that he would be filing another appeal to this Court. He did not, however, attempt to again interfere with the sale of the real property.

building during the marketing and sale, since the majority of income had been used to maintain and operate the building during the process. *Id.* ¶ 14.

10. Because this Court continued to monitor the progress of the litigation, Shirley (through counsel) notified this Court by letter dated November 19, 2015 that the matters has concluded⁴. (Exhibit E). As reflected by this Court's file, Howard, through attorney Bunch, disputed the finality of the matter by letter to the Court dated November 23, 2015.
11. Because this Court's order of September 7, 2012, which assigned Judge Barber to shepherd these matters to conclusion, Shirley wrote Judge Barber on December 8, 2015 and asked for his assistance. (Exhibit G). A second letter was sent on December 21, 2015. (Exhibit H).
12. The undersigned was contacted by Judge Barber by telephone on December 29, 2015. Judge Barber conducted a conference call with the undersigned and Howard's attorney Bunch that day, and followed up a few days later. Judge Barber reported that his retirement from the circuit bench was occurring on December 31, 2015, and he would thereafter lack authority under this Court's 2012 order to continue to shepherd these cases.
13. On January 13, 2016, the undersigned contacted Judge Strickland, with copy to Mr. Bunch, asking if Judge Strickland would "meet with Mr. Bunch and me." (Exhibit I). Mr. Bunch continued to assert that matters remained pending before Judge Strickland. *Id.*
14. Judge Strickland scheduled the matter for January 27, 2016. (Exhibit J). In transmitting the Notice, Judge Strickland's assistant related Judge Strickland's instructions that this

⁴ Shirley's letter also referenced the pending conclusion of Case No. 2013-CP-40-6898, in which she had obtained a charging order against Howard's distributional interest in multiple LLCs in which he owned an interest. Subsequent activities by Howard, however, derailed that settlement and it was not concluded until an order of dismissal was filed on February 22, 2016. (Exhibit F).

would “NOT” be a hearing on the merits, but simply a status conference. (emphasis in original) (Exhibit K).

15. As evidenced by the transcript of proceedings on January 27, 2016, Judge Strickland reiterated on the record that he was not conducting a hearing and stated “quite frankly, I thought we were done, everything is over.” (Exhibit C to Notice of Appeal, p. 4, lines 3-4)⁵.

16. Mr. Bunch stated that he needed confirmation that Judge Strickland was not going to issue any more orders. *Id.* p. 12, lines 5-13. Judge Strickland replied “my position is that the case is over.” *Id.* p. 18, lines 8-9. He declined to sign anything, stating he lacked jurisdiction over the matters. *Id.* at lines 19-20.

17. Nonetheless, Howard, through attorney Bunch, has yet again filed an appeal to this Court.

The appeal purports to address three (3) matters:

- A. Order Approving Accounting filed May 29, 2015⁶.
- B. “The bench rulings and pronouncements... on January 27, 2016...”
- C. “The failure of Respondent Shirley Hammer and the lower court to perform their obligations included in the January 21, 2014 order...”

⁵ Judge Strickland further observed “I thought the appeals and orders affirming the Court’s ruling in all those cases handled everything. Was I mistaken in that? I thought the case was over. I think they were done.” *Id.* At p. 7, lines 3-6).

⁶ The order approving accounting was granted verbally at the hearing on May 12, 2015, because the auction was scheduled to be held (and was held) the following day. The written order filed on May 29, 2015 merely confirmed the oral rulings made at the hearing in open court. The successful bidder later declined to close, leading to two (2) additional auctions.

DISCUSSION

Howard's attempt to appeal an order issued nearly one year ago is clearly inappropriate. He attempts to bridge the gap between the trial court's rulings in May, 2015 by relying on the pendency of a motion to reconsider filed in June, 2015.

The order approving accounting filed on May 29, 2015 was not a final order and was not appealable at the time it was issued, nor is it appealable now. S.C. Code Ann. § 14-3-330 provides the basis upon which appellate jurisdiction can be entertained, and none of the subsections permit an appeal of an interlocutory order under these circumstances.

The motion for reconsideration filed by Howard in June did not toll the time for appealing the order (even if it had been appealable under § 14-3-330)⁷. A motion under Rule 59(e), SCRPC, may only be made as to final orders "on the merits" or judgments. Pelican Building Centers v. Dutton, 311 S.C. 56, 427 S.E.2d 834, 842 (1993). The order at issue was not appealable because it contained only a preliminary accounting, and further proceedings were specifically contemplated. Howard cannot convert that order an appealable one simply by filing a motion under Rule 59(e).

The supplemental (final) accounting was filed on October 2, 2015. (Exhibit D). In the supplemental accounting, Shirley completed her obligations to account for the sales proceeds as set forth in the January 21, 2014 order. She noted that the funds generated by the sale were not sufficient to pay all funds due to her and a negative balance remained. Exhibit D, ¶ 12. She also expressly stated there were no funds remaining to be paid into the court. *Id.* ¶ 16. As a result, her obligations under the January 21, 2014 order were complete, and the supplemental accounting so

⁷ A timely and properly filed motion under Rule 59 (as to an order that could be appealed) would toll the time for filing an appeal. Hudson v. Hudson, 290 S.C. 215, 349 S.E.2d 341, 342 n.1 (1986).

stated. The January 21, 2014 order provided for a final order from Judge Strickland only if there were excess proceeds from the sale. Since there were none, and the sales proceeds did not even pay all amounts due to Shirley, no order was required.

Shirley did not notify this Court of the finality of the proceedings until more than thirty (30) days had passed from the filing of the supplemental accounting. In his letter to this Court disputing the finality of the matter, Mr. Bunch stated that supplemental accounting “did not invite any response from Mr. Hammer.” He further asserted that a final order must be issued by Judge Strickland in order to conclude the matter.

Shirley followed the January 21, 2014 order in every respect. Neither Howard nor Mr. Bunch have ever required an “invitation” to raise matters to any court in these proceedings. If they disagreed with the final accounting, they should have filed something seeking relief. It is not Shirley’s job to fashion a remedy or procedural path for Howard and Mr. Bunch to follow if they disputed the supplemental accounting. As postured by Howard and Mr. Bunch, nothing was required of them at all, ever, in order to finalize the case. Presumably the continued pendency of their Rule 59(e) motion gave them an indeterminate time to wait to raise any objections they had about the supplemental accounting.

If Howard or Mr. Bunch disagreed with the procedures spelled out in the January 21, 2014 order, they had an opportunity to raise those objections in their appeal in Appellate Case No. 2014-000965. Attached is the table of contents for Howard’s brief in that appeal. Numerous issues were raised (and ruled upon by this Court), but Howard took no issue with the procedure by which Shirley was ordered to account for the sales proceeds of an eventual sale. (Exhibit L). Shirley followed that accepted procedure to the letter. As a result, the supplemental proceedings were concluded with the filing and service of the supplemental accounting on October 2, 2015.

The failure to timely serve a notice of appeal deprives the appellate court of jurisdiction over the appeal. USAA v. Clegg, 377 S.C. 643, 661 S.E.2d 791 (2008). The appellate court has no authority or discretion to grant an extension of time to an appellant who fails to timely file and serve the notice of appeal. *Id.* Howard's attempt to appeal from an order issued in May, 2015 cannot be permitted.

Even disguised as an appeal of the May, 2015 order, Howard's appeal is improper. Howard's opportunity to challenge the procedure for accounting of sales proceeds came and went with this Court's Memorandum Opinion No. 2014-0045 (filed November 5, 2014).

Arguably, Howard might have sought a second bite at the apple to challenge the January 21, 2014 order by seeking review (under a legitimate theory, had there been one) under Rule 60(b), SCRPC. However, relief under Rule 60 would normally have to have been sought within a year after the order was issued, *i.e.*, on or before January 21, 2015. See Rule 60(b). At the outside, even if this Court were to determine that Rule 60(b) permitted a challenge to this Court's Memorandum Opinion No. 2014-MO-045 issued on November 6, 2014, Howard's time period for challenging the order still would have expired on November 6, 2015.

APPEAL FROM THE JANUARY 27, 2016 PROCEEDINGS

In the second "order" designated in the Notice of Appeal, Howard and Mr. Bunch purport to appeal from the conversation that occurred on the record on January 27, 2016. Judge Strickland made no rulings, issued no orders, and declined Shirley's offer of a proposed status conference report. (Transcript of proceedings January 27, 2016, Exhibit C to Notice of Appeal, p. 19, line 9 – p. 20, line 23). Judge Strickland repeatedly stated he did not believe he had any authority to enter any such orders. Judge Strickland made clear the events on that date were nothing more than

a status conference convened to allow Mr. Bunch to put on the record any arguments he wished to put on the record. Judge Strickland could not have been clearer. There is nothing from the January 27, 2016 status conference to appeal.

ISSUE THREE: HOWARD WANTS TO LITIGATE MORE

In the third “order” Howard purports to appeal, he doesn’t refer to an order at all. The third identified “rulings and orders” (Notice of Appeal, page 1) he is appealing is described as follows:

The failure of Respondent Shirley Hammer and the lower court to perform their obligations included in the January 21, 2014 order in these cases, which, inter alia, transferred real and personal property to Respondent Shirley Hammer to satisfy judgments; which order required Respondent to sell the transferred property in a commercially reasonable manner and account to the lower court for the income, assets, and sales proceeds; and which order then required the lower court to issue an order of distribution securing to each party his or her respective share of the proceeds of the sale. In September 2015 Respondent sold the transferred real property for \$825,000.00, from which she was authorized to pay herself the monetary judgments of \$335,168.765, plus the costs of sale of the property. After the sale, Respondent reported that after satisfying the judgment and paying the costs of sale the closing attorney was holding over \$300,000.00 in escrow. No proceeds of the sale have been distributed to Appellant Howard Hammer, the Respondent has not accounted for income, and the lower court will not hear and rule on any further matters in these cases...

(Notice of Appeal, page 2).

Howard then attaches the January 21, 2014 order, suggesting he is again attempting to appeal that order. However, his identification of the order or ruling on appeal as set forth above does not identify a “ruling[] [or] order” other than the order already appealed and affirmed.

It may be that this third issue is simply a restatement of the first issue, discussed above. Regardless, Howard’s attempt to raise an issue, rather than appeal an order, is fatal to his filing. Rule 201(a), SCACR, permits an appeal “as provided by law; from any final judgment, appealable order, or decision.” It does not permit an appeal from a circumstance that someone does not favor.

If the third issue is a new appeal of the January 21, 2014 order, Howard cannot appeal the same order for a second time.

CONCLUSION

The three cases that this Court has been attempting to shepherd to conclusion since 2012, despite stalling efforts by Howard, are finally over. The 2009 and 2010 cases ended with the filing (in the circuit court) of the supplemental accounting on October 2, 2015. The 2013 case ended with the dismissal of the charging order (in the circuit court), which was the only relief obtained in that case. (Exhibit F, *supra*.)

Now, Howard attempts to appeal once more, apparently from an interlocutory order issued in May, 2015, and a final order from January, 2014 that has already been affirmed by this Court. Accordingly, Shirley respectfully requests that this final appeal be dismissed, with prejudice, forever ended, stopped for all time, and that this Court tell Howard enough is enough.


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ATTORNEY FOR RESPONDENT
SHIRLEY HAMMER

March 4, 2016

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Shirley Hammer)
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 Plaintiff,)
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 vs.)
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 Howard Hammer)
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 Defendant,)
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 STATE OF SOUTH CAROLINA)
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 COUNTY OF RICHLAND)
)
 Shirley Hammer)
)
 Plaintiff,)
)
 vs.)
)
 1634 Main, LP)
)
 Defendant,)
 _____)

IN THE COURT OF COMMON PLEAS
 CA# 2009-CP-40-05911
 CA# 2010-CP-40-2889

**ORDER DIRECTING TRANSFER
 OF REAL PROPERTY
 TO SATISFY JUDGMENTS**

2014 JAN 21 AM 9:06
 JEANETTE W. HOSKINS
 C.C.P. & J.S.S.
 RICHLAND COUNTY
 FILED

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



STATEMENT OF THE CASE

These supplemental proceedings were initiated by verified petitions and Rules to Show Cause issued by Judge Casey Manning on April 22, 2013, based on executions against property issued dated January 29, 2013. On June 25, 2013, execution against property were issued for additional judgments, and returned by the Richland County Sheriff *nulla bona*. Throughout these proceedings, including hearings, Plaintiff has alleged her judgments are in the principle amount of \$317,777.17, as set forth below. The defendants made no objections to Plaintiff's assertion or this Court's consideration of the all judgments in these proceedings until oral arguments at the final merits hearing on January 9, 2014. Defendants' oral objections to this Court's consideration of the entirety of Plaintiff's judgments against Defendant's are untimely, and overruled.

Plaintiff holds judgments against the defendant debtors, as follows:

<u>Debtor/Date</u>	<u>Principal</u>	<u>Interest¹</u>	<u>Total</u>
1634 Main LP (01/29/2013 Judgment)	\$25,000.00	\$ 1,673.46	\$ 26,673.46
1634 Main LP (06/03/2013 Judgment)	\$102,032.87	\$ 4,397.90	\$106,430.77
	<u>\$127,032.87</u>	<u>\$ 071.36</u>	<u>\$133,104.23</u>
Howard Hammer (01/29/2013 Judgments)	\$130,000.00	\$ 701.99	\$138,701.99
Howard Hammer (06/03/2013 Judgments)	\$ 60,744.30	\$ 2,618.25	\$ 63,362.55
	<u>\$190,744.30</u>	<u>\$11,320.23</u>	<u>\$202,064.53</u>
Total due Shirley Hammer	<u>\$317,777.17</u>	<u>\$17,391.59</u>	<u>\$335,168.76</u>

These proceedings are conducted under Chapter 39 of Title 15 of the South Carolina Code, for the purpose of executing on property owned by debtor to satisfy judgments against them. The Rules to Show Cause and Order of Reference required defendants, Howard Hammer (Mr. Hammer) and 1634 Main LP (1634 Main), a limited partnership controlled by Mr. Hammer

¹ Post-judgment interest is calculated through January 9, 2014.

(via his ownership of the general partner, SH5, LLC, to appear before the Court on May 30, 2013, pursuant to S.C. Code Ann. Section 15-39-310 and bring records which would establish the existence of real and personal property so that the Master could execute against such discovered property for purposes of satisfying the judgments. Neither Mr. Hammer nor any representative of 1634 Main appeared as ordered by Judge Manning on May 30, 2013. Arthur Aiken appeared as counsel for Mr. Hammer and 1634 Main, but gave no explanation for Mr. Hammer's absence or his failure to appear. This Court continued the matter and ordered both defendants to appear at a hearing on June 4, 2013.

At the June 4, 2013 hearing, Mr. Hammer appeared, but brought no documents as had been ordered by Judge Manning; Mr. Aiken similarly produced no documents in response to the RTSC. Besides motions to dismiss, which were denied, no responsive pleadings were filed then, or since. At the June 4, 2013 hearing, Mr. Hammer was sworn in as a witness, but he was evasive, and did not provide substantive information about his assets. Additionally, he invoked the Fifth Amendment regarding questions related to 1634 Main LP and the real estate located at 1634 Main Street in Columbia.

The Court granted Mrs. Hammer's request to continue the examination by written discovery. By order dated June 10, 2013, this Court ordered both Mr. Hammer and 1634 Main LP to answer questions via written interrogatories and requests to produce to enable the Court to determine what assets exist against which the underlying judgments in these cases can be satisfied.

On or around June 11, 2013, Mrs. Hammer's counsel thereafter served written questions, consisting of interrogatories and requests to produce, on both Mr. Hammer and 1634 Main. The court's order also required Mr. Hammer and 1634 to file copies of their discovery responses with

this Court. This court also granted the Plaintiff's motion to consolidate these matters and all judgments awarded against these defendants in favor of plaintiff.

Neither Mr. Hammer nor 1634 Main LP served or filed any responses to the written discovery.

At a third hearing on August 12, 2013, Mr. Hammer again failed to appear. Mr. Aiken stated he was representing both Mr. Hammer and 1634, and reported that Mr. Hammer had gone to the Bahamas on a vacation with his children. At the hearing, Mr. Aiken presented to Mrs. Hammer's counsel answers to the interrogatories, but he did not provide any response to the requests to produce that were also due by that date. The court record reflects no responses to the written questions.

The written responses handed to Mrs. Hammer's counsel on August 12, 2013 were untimely and contained objections. The information was provided was non-substantive and provided no information useful to the Court in these proceedings. Neither Mr. Aiken on behalf of his client nor Howard Hammer, *pro se*, supplemented the responses prior to the hearing on January 9, 2014.

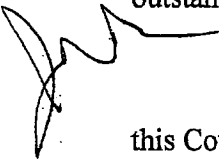
Neither Mr. Hammer nor 1634 Main LP has filed any responses to the written discovery served upon them, as they were required to do by this court's order dated June 10, 2013.

Mrs. Hammer's counsel subpoenaed documents from several witnesses with no response. She also subpoenaed several of those witnesses to appear at the August 12, 2013 hearing to give testimony and provide documentation about the assets of defendants Howard Hammer and 1634 Main, LP., only Alvin Hammer and Debra Covington appeared at the August 12, 2013 hearing. Ms. Covington provided the Court and Mrs. Hammer's counsel with documents responsive to the subpoena.

Alvin Hammer stated he had provided loans to Howard Hammer, but indicated he had no documentation responsive to the subpoenas that were served upon him. Alvin Hammer also volunteered he would be willing to discuss settlement options on behalf of Howard Hammer. Witness Bernard Ackerman did not appear and did not provide documents which were required to be provided.

The hearing on August 12, 2013 was concluded without resolution of the remaining motions, to give the parties time to try to work out a settlement. On September 9, 2013, the court was informed no settlement could be reached, and counsel for Plaintiff submitted a proposed order to the court for the transfer of certain real property located at 1634 Main Street to Plaintiff.

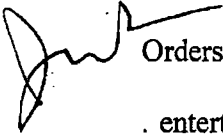
On September 9, 2013, the defendant debtors filed a motion for summary judgment alleging that transfer of the real property is beyond the power of this court, under S.C. Code §15-31-310, *et. seq.* A hearing was scheduled for January 9, 2014 for purposes of addressing all outstanding issues, and notice of the hearing was sent to all counsel of record October 14, 2013.



At the hearing on January 9, 2014, Counsel for Plaintiff renewed Plaintiff's request that this Court execute against property owned by Howard Hammer and 1634 Main, LP to satisfy the judgments. Mr. Hammer made an oral motion to dismiss Plaintiff's claim for execution against property on the basis that a separate action seeking foreclosure of judgments filed by Plaintiff on November 4, 2013 (Case No. 2013-CP-40-06898) divested this court of its jurisdiction over the supplemental proceedings. Counsel for 1634 Main, LP joined in the motion, and argued that only a foreclosure proceeding could divest his client of property for purposes of satisfying a judgment. Counsel for Plaintiff noted that the foreclosure matter would be rendered moot if these supplementary proceedings resulted in an execution against property owned by the judgment debtors, and that the foreclosure matter was filed in order to attach other property to the

judgment if it became necessary to do so. Both the oral Motion to Dismiss and Motion for Summary Judgment are denied.

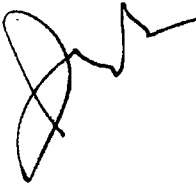
The powers of the Master in Equity are defined by State law and by an Order of Reference, and the South Carolina Rules of Civil Procedure. In this case, Judge Manning issued Orders of Reference after the Executions Against Property owned by the judgment debtors were returned by the sheriff *nulla bona* under S.C. Code Ann. 15-39-130. In South Carolina, upon proof to the satisfaction of the court is received that the judgment debtor has property which he unjustly refuses to apply towards the satisfaction of the judgment, then “such . . . proceedings may thereupon be had for the application of the property of the judgment debtor towards the satisfaction of the judgment as are provided upon the return of an execution.” S.C. Code §15-39-310.

 It was for this purpose the Orders of Reference were executed by Judge Manning. The Orders of Reference also specifically gave this court the “authority to enter into final judgment. . . entertain and rule upon all motions necessary to dispose of this matter, to include but not be limited to: motions to dismiss, motions to appoint a receiver, motions to continue the matter, and motions to sell all or certain property of judgment debtor in satisfaction of Plaintiff’s debt.” (emphasis added).

The judgment debtors own property which may be attributed to satisfy Plaintiff’s debt. S.C. Code §15-39-10 (c) specifically states one manner of execution includes “the delivery of the possession of real or personal property or such delivery with damages for withholding the property”. Such executions “may issue upon final judgments or decrees.” S.C. Code §15-39-30. Separate foreclosure proceedings and judicial sale are not required.

Mrs. Hammer has introduced into evidence exhibits that reflect the real property owned in part by Mr. Hammer personally and in part by 1634 Main LP, located at 1634 and 1632 Main Street in Columbia, South Carolina, has a fair market value of \$900,000.00. At the hearing on January 9, 2014, Mr. Hammer stipulated to the estimated value, and testified there is a tax lien against the property. The real property is more fully identified as:

Those certain parcels of land, with improvements thereon, situate in Richland County, South Carolina, being shown and designated as Parcel A and Parcel B, collectively containing 0.50 acre on plat prepared for Downtown Associates by Cox and Dinkins, Inc. dated February 5, 1996, recorded in the office of the RMC for Richland County in Plat book ___ at page ___ (the failure of record to said plat or to insert the recording data herein shall not affect the validity hereof) said plat being incorporated herein by reference, said parcels being collectively described as follows:



BEGINNING at a Bldg. Corner at the westernmost corner of Parcel B whereat said property corners with property now or formerly of Martha W. Fowler, et al, along the eastern margin of the right-of-way of Main Street a distance of 107.4 feet, more or less, from its intersection with Blanding Street, and running along property now or formerly Martha W. Fowler, et al N70°16'01"E - 209.01 feet to a ½" rod; thence turning and running along property now or formerly of Lexington State Bank, as follows: S19°27'00"E -17.80 feet to a point; N71°09'40"E -211.75 feet to an "X" on concrete; thence turning and running along the western margin of the right-of-way of Sumter Street S19°25'59"E -42.33 feet to an "X" on concrete; thence turning and running along property now or formerly of James L. Tapp Co., Inc., as follows: S71°06'28"W -211.73 feet to an "X" on concrete: S19°27'00"E -0.77 feet to an "X" on concrete thence turning and running along property now or formerly of Kimbrell's Investment, Co. S70°17'08"W -208.84 feet to an "X" on concrete; thence turning and running along the eastern margin of the right-of-way of Main Street N19°36'31"W -61.03 feet to the POINT OF BEGINNING.

This being a portion of the same property conveyed to Shirley Hammer by deed of 1634 Main, L.P., a South Carolina limited partnership dated February 11, 2002, and recorded in the office of the Register of Deeds for Richland County, South Carolina, in Deed Book 00627, at page 1909.

This being a portion of the same property conveyed to Howard Hammer by deed of Shirley Hammer dated February 27, 2013, which was not recorded. The deed was properly delivered to Howard Hammer via letter from Timothy E. Madden to Thomas H. Pope dated February 27, 2013, effecting delivery transfer of title.

Tax Map #09014-04-19

This conveyance is made subject to all easements, conditions, covenants, restrictions and rights-of-way which are a matter of public record and/or actually existing upon the grounds affecting the abovedescribed property.

Together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned unto the Grantee, and the Grantee's heirs or successors and assigns, forever.

According to evidence of record in these proceedings and the public records, Mr.

Hammer owns, among other assets:

- 52.75 % undivided interest in real property located at 1634 Main Street in Columbia, which was transferred to him as a result of a settlement of the family court action involving Mr. and Mrs. Hammer. The quit claim deed executed by Mrs. Hammer deeding the 52.75% interest in the real property to Mr. Hammer was executed on February 27, 2013 and delivered to Mr. Hammer via letter from Mrs. Hammer's attorney Timothy E. Madden dated February 27, 2013. That deed has not been recorded in Richland County.
- An unknown percentage of ownership in a limited partnership identified as 1634 Main LP. Some portion of this interest was transferred from Mrs. Hammer to Mr. Hammer by instrument dated February 27, 2013, and delivered to Mr. Hammer via letter from Mrs. Hammer's attorney Timothy E. Madden dated February 27, 2013. Mr. Hammer also owns some percentage interest in 1634 Main LP independent of and in addition to that which was transferred to him by Mrs. Hammer.

- Some portion or all of a limited liability corporation named SH5, LLC, a South Carolina limited partnership, which is the general partner of defendant 1634 Main, LP.

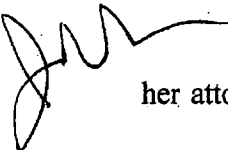
According to the evidence and documents of record, 1634 Main LP owns an unknown percentage of the real estate located at 1634 and 1632 Main Street, Columbia, SC, as described above.

As set forth below, all right, title and interest in these assets is transferred to Shirley Hammer. Transfers of real property are fee simple absolute. The transfer Mr. Hammer's interest in the identified entities is unconditional and permanent. These transfers are for the purpose of being applied to the unsatisfied judgments, the attorney's fees and costs awarded herein, and all costs related to the sale or transfer of these assets, as set forth below. Mrs. Hammer, as transferee, has no obligations of any kind to the transferors (Howard Hammer and 1634 Main LP) to account for the income or assets or the proceeds of sale, other than the accounting that is required as set forth below. Specifically, Mrs. Hammer is not a fiduciary to either Mr. Hammer or 1634 Main LP.

The Plaintiff moved that Howard Hammer be found in criminal contempt of court for his and 1634 Main, LP's failure to obey the orders of this court in numerous respects by not providing truthful or complete responses to the Plaintiff's questions and/or interrogatories and by not providing the documentation they were ordered to produce by the RTSC and this Court's order dated June 10, 2013. That motion is denied.

At the conclusion of these proceedings, plaintiff moved she be awarded attorney's fees and costs for these proceedings as sanctions against Howard Hammer and 1634 Main LP under the terms of the Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. Section 15-36-10 *et*

seq. and Rule 11, SCRCF. Plaintiff alleges that because of the defendant's actions in these proceedings, including interfering with her ability to obtain discovery, refusing to answer questions as required by statute and as ordered by this Court, she incurred unnecessary and extraordinary legal expense for the prosecution of these supplemental proceedings. These proceedings have been extraordinary and multiplied in complexity as a direct result of Howard Hammer's intentional actions to thwart these proceedings as well as the actions of 1634 Main LP, acting through Howard Hammer. The willful failure to cooperate in these proceedings unnecessarily complicated and delayed these proceedings, some positions advanced by the judgment debtors were frivolous and were intended to delay these proceedings. I find that the fees and costs incurred by Mrs. Hammer in prosecuting this action, in the amount of \$55,385.70, are reasonable and were necessarily incurred to conclude this matter.

 Therefore, pursuant to S.C. Code Ann. Section 15-36-10 *et seq.* plaintiff's request that her attorney's fees and cost in the amount of \$55,385.70 be assessed against judgment debtor Howard Hammer as sanctions is hereby GRANTED. Additionally, the fees shall be paid on or before February 28, 2014 at 5:00 p.m.

When the Court orally announced its intent to grant Plaintiff's request for execution against property, Defendant Howard Hammer orally moved for the undersigned's recusal. Mr. Hammer's Motion for Recusal is denied.

ORDERS

All subpoenas issued in this matter are hereby quashed, rule 45, SCRCF.

Howard Hammer's Motion to Dismiss, made at the January 9, 2014 hearing, is DENIED.

Defendants' Motion for Summary Judgment is DENIED.

Howard Hammer's Motion for Recusal is DENIED.

Plaintiff's Motion for Attorney's Fees and Costs pursuant to S.C. Code Ann. Section 15-39-10 is GRANTED and judgment is entered against the judgment debtors for an additional \$55,385.70.

Plaintiff's Motion to Hold Howard Hammer in Criminal Contempt is denied.

IT IS FURTHER ORDERED:

1. Any and all interest of Howard Hammer and 1634 Main, LP in real property located at 1634 Main Street in Columbia, SC, and as more fully identified hereinabove, shall be transferred to Shirley Hammer, her heirs, successors and assigns, in fee simple absolute, pursuant to a Master's Deed.
2. Any and all legal and equitable ownership interest of Howard Hammer in 1634 Main LP, a limited partnership under South Carolina law, including any and all income, bank accounts, and other assets, is transferred by this order to Shirley Hammer.
3. Any and all legal and equitable ownership interest of Howard Hammer in SH5, LLC, a limited liability corporation under South Carolina law, including any and all income, bank accounts, and other assets, is transferred by this order to Shirley Hammer.
4. Mrs. Hammer, as transferee, has no obligations of any kind to the transferors (Howard Hammer and 1634 Main LP) to account for the income or assets or the proceeds of sale, other than the accounting that is required as set forth in Paragraph 7 below. Specifically, Mrs. Hammer is not a fiduciary to either Mr. Hammer or 1634 Main LP.

5. Mrs. Hammer shall immediately take such action as she deems necessary or appropriate to market and sell the assets transferred to her in this order in a commercially-reasonable manner (including such treatment as is necessary of the limited partnership and corporate entity for purposes of selling the assets. Mrs. Hammer may use any income from the building for regular maintenance and operating expenses of the real property.

6. Mrs. Hammer shall pay to herself from the sales proceeds:

a. Any and all costs incurred in connection with the marketing and sale of the property;

b. The total amount of the judgments held by her against Howard Hammer and 1634 Main LP as set forth above. Post-judgment interest on the judgments shall stop on the judgments upon execution of this order.


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

7. Mrs. Hammer shall escrow any additional funds that remain after the above disbursements, until an accounting can be performed and distributions ordered by this Court.

8. Mrs. Hammer is and has all powers as an owner of the real and personal property conveyed to her in this order, and she may collect rents or other income and take such other actions as may be appropriate to manage, market and sell the real property located at 1634 and 1632 Main Street, Columbia, South Carolina.

9. While they may seek whatever legal remedies may be available to them by way of appeal, Howard Hammer and 1634 Main LP shall not interfere with the management or sale by Shirley Hammer of the assets transferred herein.

IT IS SO ORDERED.



Joseph Strickland,
Master In Equity
For Richland County

January 21 2014

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE MASTER-IN-EQUITY COURT
CA# 2009-CP-40-05911
CA# 2010-CP-40-2889

Shirley Hammer)
)
Plaintiff,)
)
vs.)

Howard Hammer)
)
Defendant,)

**MOTION TO APPROVE
ACCOUNTING BY
SHIRLEY HAMMER**

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Shirley Hammer)
)
Plaintiff,)

vs.)

1634 Main, LP)
)
Defendant,)

Shirley Hammer (hereafter "Shirley") moves for an order approving the within accounting to establish full compliance by her and her agents with this Court's order dated January 21, 2014, in which assets previously held by Howard Hammer were transferred to Shirley Hammer as part of collection of judgments held by her against Howard Hammer and against 1634 Main LP. In support of her accounting, Shirley submits the following:

1. Pursuant to this Court's order of January 21, 2014, Shirley and her agents have actively and aggressively marketed the real estate that was transferred to her for sale to satisfy the judgments she holds and have managed it during this period. In the absence of a contract of sale brought to conclusion, Shirley has listed the property for sale by way



of public auction through McGee Auction Company, LLC. The auction is currently being advertised and will take place on May 13, 2015 at 2:00 p.m. with a minimum bid of \$837,000.00.

2. The minimum bid was arrived at through consultation with the auctioneer and the listing agent, based on an appraisal, as well as activity on the property during the past 15 months since it was offered for sale and the offers that have been made (and in some cases, accepted). Shirley is informed and believes that the minimum bid of \$837,000.00 is a commercially-reasonable minimum bid for a sale of the building by auction.
3. Pursuant to Paragraph 6 of the Court's order, Shirley will receive the sum of \$794,527.27 from the sales proceeds¹. A breakdown of the judgments and other costs due to Shirley from the sales proceeds is attached hereto as Exhibit A.
4. Any remaining proceeds, after payment by the closing attorney of encumbrances (including tax liens), commissions and other costs of sale not yet known, will be held in escrow pending an order of distribution by this Court as required by Paragraph 7 of the Order dated January 21, 2014. A supplemental accounting of residual funds will be submitted following final closing after auction and disbursement, for further action by this Court.

¹ The order of payment of the amounts due as set forth in Exhibit A shall be payable from the sales proceeds as follows: (1) Payment of all amounts due from Howard Hammer to Shirley Hammer under applicable judgments and orders; (2) Next, payment of any and all remaining proceeds for all amounts due from 1634 Main LP to Shirley Hammer under applicable judgments and orders; (3) Next, payment of funds due from Howard Hammer to 1634 Main LP, including rent. Any residual funds from the sales proceeds will be set forth in the supplemental accounting provided to the Court pursuant to Paragraph 4.

5. The within is submitted for the Court's approval and determination that Shirley and her agents have complied with all obligations imposed by the January 21, 2015 including the accounting required therein.

Wherefore, Shirley moves for an order approving the accounting and confirming that she and her agents have fully complied with the obligations imposed by the January 21, 2014 order of the Court, in advance of sale of the real property by public auction, on May 13, 2015, and that the only remaining obligation is to provide a supplemental accounting of residual funds, if any, after the auction is concluded and all real estate, broker and auction fees are paid.



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

April 29, 2015

ATTORNEY FOR SHIRLEY HAMMER

I, an employee of Desa Ballard, P.A., do certify that I have this date served a copy of:

Motion to Approve Accounting by Shirley Hammer
on all opposing counsel by depositing a copy properly addressed with sufficient First Class Postage affixed to each, in the United States Mail.
Date: *4/29/15* Signed: *Desa Ballard*

**Judgments due to Shirley Hammer from Howard Hammer
(Incl interest as applicable):**

Order of Judge James dated 1/29/2013	\$ 139,011.85	
Order of Judge James dated 6/6/2013	63,513.57	
Bill of Costs as approved by the Supreme Court 06/12/2014	\$3,559.19	
Post Judgment Interest on Bill of Costs (04/30/2015)	\$227.64	
Bill of Costs as approved by the Supreme Court 03/10/2015	\$1,221.44	
Post Judgment Interest on Bill of Costs (04/30/2015)	\$12.37	
Sanctions awarded by MIE 04/24/2015	<u>\$88,088.81</u>	
Total due to Shirley Hammer from Howard Hammer		\$ 295,634.88

Judgments due from 1634 Main LP (Incl. interest as applicable):

Order of Judge James dated 1/29/2013	\$ 26,733.05	
Order of Judge James dated 6/6/2013	106,673.97	
		133,407.02

**Costs of Marketing and Sale of 1634 Main pursuant to paragraph
6A of Order dated 01/21/2014**

<u>Costs</u>	
B&W Attorney Fees through 04-27-2015	\$ 67,220.00
B&W Attorney Fees (Est. to close)	10,000.00
Aries Advisor's Lease Contract Buyout as of 04-30-2015	6,292.74
Appraisal	1,500.00
Survey	1,612.50
Lock Change (Key Shop)	2,959.50
Security for HH move (Barton)	443.75
Security for HH move (Middleton)	1,000.00
Removal of property left by HH (Got Junk)	1,434.00
New Bank Acct Check Chg	91.27
Insurance on Building (Expires 01/24/2016)	2,522.99
Umbrella Policy (Expires 04/28/2016)	1,196.80

EXHIBIT A

Weels Painting	1,400.00	
Sign A Rama	430.17	
Title Insurance	1,176.60	
Seal Maxx	625.00	
Frank Varn (Landscaping)	2,500.00	
LLC Set up charges	<u>110.00</u>	
Total Costs		\$ 102,515.32
 Operating Expenses Unpaid by 1634 Main LP upon transfer now due to Shirley Hammer		
Danville	\$ 907.15	
Central Midlands Cleaning	4,865.00	
Madison Fludd	135.00	
Crawford Electric	350.00	
City of Columbia	210.61	
AT&T	218.09	
ThyssenKrupp	3,068.06	
ADT Security	335.24	
Air Cond	1,368.00	
Gregory Pest	438.79	
SCE&G	4,057.62	
Total Operating Expenses		\$ 15,953.56
Total Cost of Marketing and Sale Due to Shirley Hammer		\$ 118,468.88
 Debts due from Howard Hammer to 1634 Main, LP		
Past Due Rent from Howard Hammer (2/2011 - 1/2014)	206,667.48	
Note 1 Due from Howard Hammer	30,059.92	
Note 2 Due from Howard Hammer	<u>10,289.10</u>	
Total Debts due from Howard Hammer to 1634 Main, LP		<u>247,016.50</u>
 Total amounts due to Shirley Hammer pursuant to Order of 01/21/2014		<u>\$ 794,527.27</u>

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
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 Shirley Hammer)
)
 Plaintiff,)
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 vs.)
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 Howard Hammer)
)
 Defendant,)
 _____)
 STATE OF SOUTH CAROLINA)
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 COUNTY OF RICHLAND)
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 Shirley Hammer)
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 Plaintiff,)
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 vs.)
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 1634 Main, LP)
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 Defendant,)
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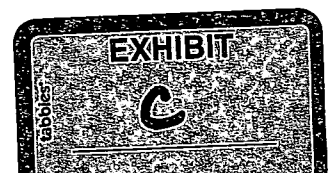
IN THE MASTER-IN-EQUITY COURT
 CA# 2009-CP-40-05911
 CA# 2010-CP-40-2889

ORDER APPROVING ACCOUNTING

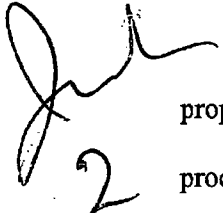
RICHLAND COUNTY
 FILED
 2015 MAY 29 PM 4:12
 JEANETTE W. McBRIDE
 C.C.P. & G.S.

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.

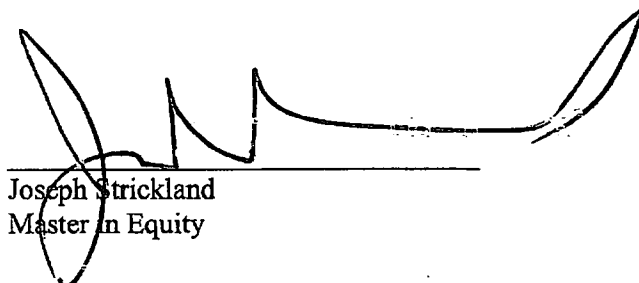
Shirley's accounting accurately sets forth the judgments noted in the January 21, 2014 order, the Supreme Court's judgments entered in both appeals, plus interest on those appeals at the post-judgment rate, expenses she has incurred in paying unpaid and overdue bills for 1634 Main LP that were found 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

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-40-02889

**SUPPLEMENTAL ACCOUNTING BY
SHIRLEY HAMMER (post sale)**
(Ends Case)

RICHLAND COUNTY
FILED
2015 OCT -2 PM 2:14
CLERK OF COURT
C.C.P. & C.S.

Shirley Hammer (hereafter "Shirley") submits this supplemental (and final) accounting, following closing, to confirm full compliance by her and her agents with this Court's order dated January 21, 2014, in which assets previously held by Howard Hammer were transferred to Shirley Hammer as part of collection of judgments held by her against Howard Hammer and against 1634 Main LP. In support of her accounting, Shirley submits the following:

1. Pursuant to this Court's order of January 21, 2014, Shirley and her agents actively and aggressively marketed the real estate that was transferred to her, for sale to satisfy the judgments she holds, and has managed it during this period. In the absence of a contract of sale brought to conclusion, Shirley engaged McGee Auction Company, LLC, which



auctioned the property at public auction, following extensive advertising, on May 13, 2015 at 2:00 p.m. with a minimum bid of \$837,000.00.

2. The minimum bid was arrived at through consultation with the auctioneer and the listing agent, based on an appraisal, as well as activity on the property during the past 18 months since it was initially offered for sale and the offers that were made. Shirley received approval by this Court's order dated May 23, 2015 to auction the property for \$837,000.00 and establishing that sales price at a commercially-reasonable price.
3. This Court approved the auction minimum bid of \$837,000.00 by order approving accounting dated May 23, 2015. The order approving accounting also approved other sums due to Shirley from the proceeds of sale. *See below.*
4. At the auction on May 23, 2015, there was one bidder, who bid \$837,000.00. A contract of sale was executed by Buyer 1, but Buyer 1 refused to close the transaction without indemnification from Shirley personally against any costs and damages resulting from suits or claims that may have been advanced against Buyer 1 by Howard Hammer¹.
5. A second public auction was held on July 21, 2015, again conducted by McGee Auction Company, again with advertising. The minimum bid at Auction #2 was \$847,000.00. There were no bidders. The minimum bid was increased by \$10,000.00 in an effort to sell the property for a sufficient sum to pay all funds due to Shirley pursuant to this Court's order dated January 21, 2014.

¹ Buyer 1 was released from his contract on July 29, 2015.

6. One judgment against Howard Hammer in favor of Shirley, entered on April 24, 2015 in the amount of \$88,088.81, was paid separately by or on behalf of Howard, and a separate satisfaction of judgment has been recorded for that judgment. (Exhibit A).
7. Thereafter, Shirley accepted an offer to purchase the property from Buyer 2, for a sales price of \$825,000.00. Buyer 2 was aware of the aborted sale at \$837,000.00 and the absence of any bids at the second auction. A contract with Buyer 2 for sale of the building at \$825,000.00 was executed on July 29, 2015.
8. The closing with Buyer 2 concluded on September 23, 2015. A copy of the HUD statement reflecting the transaction is attached hereto as Exhibit B.
9. The original judgments held by Shirley Hammer from the prior orders of Judge James were listed as line items on the HUD at lines 1308 through 1311.
10. Numerous debts of Howard Hammer which encumbered the property were paid from the sales proceeds, as shown on lines 1305 (IRS lien), 1306 (2013 Property Taxes), 1307 (2014 property taxes).
11. Certain costs of sale incurred by Shirley were reflected on line items of the HUD:
 - Lines 511 (pro rata taxes for January 1, 2015 through September 23, 2015 at \$11,369.27)),
 - Lines 513 - 515 (pro rata rent for September from tenants \$2,370.28),
 - Lines 703-706 (Sales commissions totaling \$82,500.00)
 - Lines 1105, 1007, and 1115 (closing attorney's fee and related costs \$7,850.00),
 - Lines 1203, 1206, 1209, and 1210 (recording fees \$3,077.50).

12. As indicated by Line 1312, the balance of sales proceeds, \$332,936.69, will be distributed as follows, in accordance with the order of this Court dated January 21, 2014² and the order of this Court approving accounting dated May 23, 2015.

Item	Approved by Order dated 5-23-2015	Actual Cost
Amounts due from Howard Hammer to Shirley Hammer under applicable judgments and orders.	\$3,559.19 Bill of Costs approved by Supreme Court 6-12-2014	\$3,559.19
Amount due from Howard Hammer to Shirley Hammer under applicable judgments and orders.	\$227.64 Interest on 6-12-14 bill of costs through 4-25-2015	\$336.14 Additional interest through 9-23-2015 (per diem until disbursement will be \$0.76 per day)
Amount due from Howard Hammer to Shirley Hammer under applicable judgments and orders	\$1,221.44 Bill of Costs approved by Supreme Court 3-10-3015 through 4-25-2015	\$1,221.44
Amount due from Howard Hammer to Shirley Hammer under applicable judgments and orders	\$12.37 Interest on 3-10-15 bill of costs through 4-25-2015	\$47.80 Additional interest through 9-23-2015 (per diem until disbursement will be \$0.24 per day)
Costs of Marketing and Sale pursuant to	\$67,220.00	\$101,070.00

² The order of payment of the amounts due as set forth in Exhibit A shall be payable from the sales proceeds as follows: (1) Payment of all amounts due from Howard Hammer to Shirley Hammer under applicable judgments and orders; (2) Next, payment of any and all remaining proceeds for all amounts due from 1634 Main LP to Shirley Hammer under applicable judgments and orders; (3) Next, payment of funds due from Howard Hammer to 1634 Main LP, including rent. Any residual funds from the sales proceeds will be set forth in the supplemental accounting provided to the Court pursuant to Paragraph 4.

Paragraph 6(a) of 1-21-2014 order	Attorney fees for marketing and sale of property	Additional fees for marketing and sale of property due Ballard & Watson (estimate of \$10,000 was included as approved in order dated 5-25-2015)
Costs of Marketing and Sale pursuant to Paragraph 6(a) of 1-21-2014 order	\$25,295.32 Hightower LLC payments for repairs and marketing to sell building	\$23,250.43 Contract buyout for leasing agent reduced by collected rents.
Unpaid expenses of 1634 Main LP upon transfer, paid by Shirley	\$15,953.56	\$15,953.56
Debts due to 1634 Main LP from Howard Hammer	\$247,016.50	\$247,016.50
Total due Shirley Hammer from Line 1312 of HUD		\$332,936.69
Overage / <shortage> from \$332,936.69		<\$59,518.37>

13. Additionally, there is one outstanding Bill of Costs submitted to the Supreme Court of South Carolina for fees due to Shirley Hammer pursuant to Rule 222, SCACR, in the amount of \$1,053.25 that remains pending.

14. During the period of time Shirley has performed her duties pursuant to the January 21, 2014 order, neither she nor any of her agents, other than monthly management fees to Aries Advisors, have received income from rental proceeds collected. Rather, funds collected from tenants have been used for maintenance and operation of the building as a commercially leased building (although the income has been minimal because the space previously occupied by Howard (a substantial part of the rental space) is unusable and cannot be rented until renovations are made.

15. 1634 Main LP will purchase the 8% interest in the LP owned by the parties' minor child, David Hammer, at a price determined by the sales price of the real estate and the debts and rent owed by Howard Hammer, the total of which constituted the assets of 1634 Main LP at the time of the order of January 21, 2014. The value of David's interest is \$50,946.32. David's funds will be held in trust by Shirley, who is David's custodial parent. Upon completion of purchase of the minority interest of David Hammer, Shirley will transfer ownership of 1634 Main LP to Howard to complete her duties under the January 21, 2014 order.

16. As set forth above, the sales proceeds from the sale of real property transferred to Shirley by order dated January 21, 2014 were not sufficient to pay all funds due to Shirley Hammer, so there are no excess funds to deliver to the Court pursuant to Paragraph 7 of the order.

WHEREFORE, having fully complied with the requirements of the January 21, 2014 order, Shirley submits this final accounting for purposes of concluding this action.



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

September 28, 2015

ATTORNEY FOR SHIRLEY HAMMER

EXHIBIT A

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

Howard Hammer,

Plaintiff,

vs.

Shirley Hammer a/k/a Shirley Grace Hightower,

Defendant.

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

**RECEIPT FOR PAYMENT OF
SANCTIONS AND
SATISFACTION OF ORDER
AWARDING SAME**

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

1634 Main, L.P.,

Plaintiff,

vs.

Shirley Hammer a/k/a Shirley Grace Hightower,

Defendant,

vs.

Howard Hammer,
Additional Defendant on Counterclaim

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

**RECEIPT FOR PAYMENT OF
SANCTIONS AND
SATISFACTION OF ORDER
AWARDING SAME**

The undersigned as counsel for Shirley Hammer a/k/a Shirley Grace Hightower acknowledges receipt of payment of \$88,088.81 from Howard Hammer as ordered by the Honorable Joseph M. Strickland by his order dated and filed April 24, 2015, in full satisfaction of the obligations imposed on Howard Hammer by said order. To the extent that the Clerk of

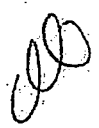


6.8.15

EXHIBIT A

Court has enrolled any judgment against Howard Hammer arising from the April 24, 2015 order, this document acts as a satisfaction thereof and Mr. Hammer's counsel may file it with the court.


Desa Ballard 6.8.2015
Ballard & Watson
Post Office Box 6338
West Columbia, SC 29171
(803) 796-9299
(803) 796-1066 (fax)
desab@desaballard.com

<p>Craig Law Firm, P.C. 2001 Assembly Street Suite 201 Columbia, South Carolina 29201 (803) 252-5178 fax: (803) 252-5283</p>	<p>B. TYPE OF LOAN</p> <hr/> <p>A. File Number: 15RE0855</p> <p>B. Mortgage Case No.:</p>
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C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked (pac) were paid outside the closing. They are shown here for informational purposes and are not included in the totals.

D. Buyer:	Belser Five, LLC 400 Saluda Avenue Columbia, South Carolina 29205
E. Seller:	Hightower, LLC 421 River Club Drive Lexington, South Carolina 29072
F. Lender:	First Palmetto Bank 407 Dekalb Street Camden, South Carolina 29020
G. Property:	1634 Main Street Columbia, Richland County, South Carolina 29201 Richland County, South Carolina
H. Settlement Agent:	Craig Law Firm, P.C.
Place of Settlement:	2001 Assembly Street, Suite 201, Columbia, South Carolina 29201 Richland County
I. Settlement Date:	September 23, 2015

J. Summary of Buyer's Transaction	K. Summary of Seller's Transaction
100. Gross Amount Due From Buyer:	400. Gross Amount Due To Seller:
101. Contract Sales Price 825,000.00	401. Contract Sales Price 825,000.00
102. Personal Property	402. Personal Property
103. Settlement Charges to Buyer (line 1400) 11,585.80	403.
Adjustments for Items Paid by Seller in Advance:	Adjustments for Items Paid by Seller in Advances:
106. City / Town Taxes	406. City / Town Taxes
107. County / Parish Taxes	407. County / Parish Taxes
108. Assessments	408. Assessments
120. Gross Amount Due from Buyer: 836,585.80	420. Gross Amount Due to Seller: 825,000.00
200. Amounts Paid by or in Behalf of Buyer:	500. Reductions in Amount Due to Seller:
201. Deposit / Earnest Money paid outside of Closing by Buyer and Held in trust by Colliers 20,000.00	501. Excess Deposit (see instructions)
202. Principal Amount of New Loan	502. Settlement Charges to Seller (Line 1400) 811,259.87
203. Existing Loan(s)	503. Existing Loan(s)
204. Principal Amount of Loan: \$1,226,000.00	504. Payoff of First Mortgage
205. Initial Advance at Closing 701,250.00	505. Payoff of Second Mortgage
206. Balance Available For Future Advances: \$524,750.00	506. Purchase Money Mortgage
Adjustments for Items Unpaid by Seller:	Adjustments for Items Unpaid by Seller:
210. City / Town Taxes	510. City / Town Taxes
211. County / Parish Taxes Jan 1, 2015 thru Sep 23, 2015 11,369.27	511. County / Parish Taxes Jan 1, 2015 thru Sep 23, 2015 11,369.27
212. Assessments	512. Assessments
213. Pro Rata Rent for September for Children's Trust of SC 1,725.85	513. Pro Rata Rent for September for Children's Trust of SC 1,725.85
214. Pro Rata Rent for September for Oliver Gospel Mission 318.42	514. Pro Rata Rent for September for Oliver Gospel Mission 318.42
215. Pro Rata Rent for September for Lipscomb Law Firm 326.59	515. Pro Rata Rent for September for Lipscomb Law Firm 326.59
220. Total Paid by / for Buyer: 734,990.13	520. Total Reductions in Amount Due Seller: 825,000.00
300. Cash at Settlement from / to Buyer:	600. Cnsh at Settlement to / from Seller:
301. Gross Amount due from Buyer (line 120) 836,585.80	601. Gross Amount due to Seller (line 420) 825,000.00
302. Less Amount Paid by/for Buyer (line 220) 734,990.13	602. Less Reductions Amount due Seller (line 520) 825,000.00
303. Cash From Buyer: \$101,595.67	603. Cash From Seller: \$0.00

Buyer Initials: H.F.B. H. Freeman Belser

Seller Initials: SH Shirley Hammer

Settlement Date: September 23, 2015

File Number: **EXHIBIT B**

L. Settlement Charges		Paid from Buyer's Funds at Settlement	Paid from Seller's Funds at Settlement
700. Total Sales / Broker's Commission:			
Based on Price \$825,000.00			
Division of Commission as follows			
701.			
702.			
703.	Commission Paid at Settlement		28,750.00
704.	Listing Broker's Commission 3.5% to McGee Real Estate		28,750.00
705.	Property Management Commission 3.5% to Aries Advisors		25,000.00
706.	Selling Broker's Commission 3.0% to Colliers		
800. Items Payable in Connection with Loan:			
801.	Loan Origination Fee		
802.	Loan Discount	3,200.00	
803.	Appraisal Fee to First Palmetto Savings Bank		
804.	Credit Report		
805.	Lender's Inspection Fee		
806.	Mortgage Insurance Application Fee		
807.	Assumption Fee	10.00	
808.	Flood Determination Fee to First Palmetto Savings Bank		
900. Items Required by Lender to be Paid in Advance:			
901.	Daily interest charge from Sep 23, 2015		
902.	Mortgage Insurance Premium	2,975.00	
903.	Hazard Insurance Premium for 12 months to Vista Insurance Group		
904.	Flood Insurance Premium		
1000. Reserves Deposited with Lender:			
1001.	Hazard Insurance 0 months @ 247.92 per month		
1002.	Mortgage Insurance		
1003.	City Property Taxes		
1004.	County Property Taxes		
1005.	Annual Assessments		
1100. Title Charges:			
1101.	Settlement or Closing Fee to Craig Law Firm, P.C.	2,500.00	
1102.	Update Abstract/Title Search Service and Review Fee to Craig Law Firm, P.C.	100.00	
1103.	Title Certification/Binder Fee to Craig Law Firm, P.C.	100.00	
1104.	Title Insurance Binder		250.00
1105.	Litigation Search, Update and Title Clearing Review to Craig Law Firm, P.C.		
1106.	Notary Fees		
1107.	Seller's Attorney Fees to Craig Law Firm, P.C. (includes above item numbers)		7,500.00
1108.	Title Insurance to First American Title Insurance Company (includes above item numbers)	2,576.80	
1109.	Lender's Coverage 1,226,000.00 Risk Rate Premium: \$100.00		
1110.	Owner's Coverage 1,226,000.00 Risk Rate Premium: \$2,476.80		
1111.	Courier Fee/Copy/Email/Long Distance Calls/Faxes/Misc. Cost to Craig Law Firm, P.C.	40.00	
1112.	Wire Fee for Loan Proceeds to Craig Law Firm, P.C.	15.00	
1113.	Mortgage Satisfaction/Clearing Fees	20.00	
1114.	Insured Closing Protection Letter to First American Title Insurance Company		100.00
1115.	Costs/copies/emails/overnight for lien payoffs to Craig Law Firm, P.C.		
1200. Government Recording and Transfer Charges:			
1201.	Recording Fees: Deed 10.00 Mortgage 15.00 Releases 0.00	25.00	
1202.	City/County Tax/Stamps: Deed 0.00 Mortgage 0.00		
1203.	State Tax/Stamps: Deed 3,052.50 Mortgage 0.00		3,052.50
1204.			
1205.			
1206.	Recording Fee for Corrective/Quit Claim from Hammer to Hightower, LLC to Richland County Register of Deeds		10.00
1207.	Assignment of Leases and Rents to Richland County Register of Deeds	14.00	
1208.	UCC Financing Statement to Richland County Register of Deeds	10.00	
1209.	Satisfaction Recording Fee for IRS Lien to Richland County Register of Deeds		5.00
1210.	Survey Recording Fee to Richland County Register of Deeds		10.00
1300. Additional Settlement Charges:			
1301.	Survey		
1302.	Pest Inspection		
1303.	Heating and Air Inspection		
1304.	Home Warranty		
1305.	Payoff for IRS Lien to United States Treasury		4,833.05
1306.	2013 Real Property Taxes to Richland County Treasurer		21,971.96
1307.	2014 Real Property Taxes to Richland County Treasurer		22,158.23
1308.	Judgment Payoff as to 1634 Main, LP to Ballard & Watson, Attorneys at Law, FBO Shirley Hammer		26,733.05
1309.	Judgment Payoff as to 1634 Main, LP to Ballard & Watson, Attorneys at Law, FBO Shirley Hammer		106,673.97
1310.	Judgment Payoff as to Howard Hammer to Ballard & Watson, Attorneys at Law, FBO Shirley Hammer		139,011.85
1311.	Judgment Payoff as to Howard Hammer to Ballard & Watson, Attorneys at Law, FBO Shirley Hammer		63,513.57
1312.	Balance of Seller Proceeds Held in Escrow by CLF pending filing of final accounting per Order of the Honorable Joseph M. Strickland Dated January 21, 2014 to Craig Law Firm, P.C.		332,936.69
1400. Total Settlement Charges (Enter on line 103, Section J and line 502, Section K)		\$11,585.80	\$811,259.87

Buyer Initials: **HFB** H. Freeman Belser
 Seller Initials: **SH** Shirley Hammer

Settlement Date: September 23, 2015

File Number: 18259355
EXHIBIT B

SETTLEMENT STATEMENT
Craig Law Firm, P.C.
2001 Assembly Street
Suite 201
Columbia, South Carolina 29201
(803) 252-5178 fax: (803) 252-5283

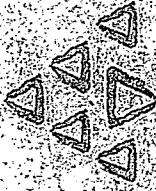
Buyer: Highover, LLC
W. Freeman Belfer, Sole Member and Authorized Agent

Seller: Highover, LLC
Shirley Hammer, Sole Member and Authorized Agent

Seller: _____

Settlement Agent: Craig Law Firm, P.C.

Date: September 23, 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

November 19, 2015

Via U.S. Mail Only

Honorable Daniel E. Shearouse
Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

Re: *Shirley Hammer vs. Howard Hammer and Shirley Hammer v. 1634 Main LP*
Case No. 2009-CP-40-05911, 2010-CP-40-2889 and 2013-CP-40-6898

Dear Dan:

Please advise the Court that the real property that was transferred to Mrs. Hammer for the purpose of satisfying the judgments was sold in September, 2015. On September 28, 2015, a final accounting was filed with the circuit court, as required by Judge Strickland's order of January 21, 2014. The final accounting concluded all issues that were pending in the 2009 and 2010 actions. More than thirty (30) days have passed since the filing and service of the final accounting, and no motions or objections have been filed by any parties, and both matters are now concluded.

We are resolving the issues which remain in the 2013 action by way of a settlement agreement, which is being circulated and a consent order will be filed dismissing all defendants, other than Mr. Hammer, from that action. After the consent order is filed, we intend to file a request for dismissal with prejudice of the remaining claims against Mr. Hammer, which will conclude that matter in full, as well.

I ask that you accept this letter as a final status report. Thank you for your assistance and attention with this matter.

With warm personal regards, I am,

Sincerely yours,

Desa Ballard

Desa Ballard
desab@desaballard.com

cc: *via U.S. Mail*
Thomas Bunch, Esquire
Keith Babcock, Esquire
Arthur Aiken, Esquire



FILE COPY

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Shirley Hammer,)
)
Plaintiff,)

Case Number: 2013-CP-40-6898

v.)
)

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

ORDER SATISFYING CHARGING ORDER

RICHLAND COUNTY
FILED
2016 FEB 22 PM 2:45
JEANETTE W. MCBRIDE
C.P. & C.S.

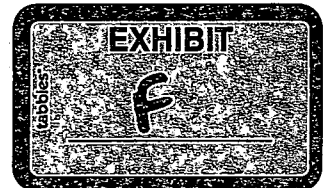
The Plaintiff above named having moved and for good cause shown,

IT IS HEREBY ORDERED that the order of this court Granting Charging Order filed
March 16, 2015 be and the same is hereby fully satisfied, discharged, extinguished and withdrawn,
with prejudice.

AND IT IS SO ORDERED.

Alison Renee Lee
Alison Renee Lee
Chief Administrative Judge
Fifth Judicial Circuit

2/8, 2016



WE SO MOVE:

Desa Ballard
Desa Ballard 0.5.2016
Ballard & Watson
PO Box 6338
West Columbia, SC 29171

Attorney for Plaintiff Shirley Hammer



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

December 8, 2015

Via U.S. Mail and Facsimile (803-576-1782)

Honorable James Barber III
Post Office Box 11330
Columbia, South Carolina 29211

Re: *Shirley Hammer vs. Howard Hammer and Shirley Hammer v. 1634 Main LP*
Case No. 2009-CP-40-0591-1, 2010-CP-40-2889 and 2013-CP-40-6898

Dear Judge Barber:

I had thought these cases were concluded, and as a result, I recently sent a letter to the Supreme Court advising that the matters were, in fact, concluded. Mr. Bunch, on behalf of Howard Hammer, responded, disagreeing that the cases were concluded. I have attached both letters for your information.

We contacted Judge Strickland's office and his office advised that he has ruled on all matters and returned the file to the Clerk of Court's office. As I am sure you know, when the Supreme Court took control of the multiple cases Mr. Hammer had filed against my client, Shirley Hammer, it designated you to oversee the conclusion of the cases. (Order dated September 7, 2012). In light of Mr. Bunch's letter to the Supreme Court, it appears there is a question as to whether the matters before have, in fact, been concluded.

May Mr. Bunch (on Mr. Hammer's behalf) and I (on Mrs. Hammer's behalf) appear before you, either in person or by way of memorandum, in order to determine whether these cases are, in fact, concluded? Please forgive what appears to be a resurrection of a long-concluded matter, but in light of Mr. Bunch's position, I believe your attention to the matter is required.

I will ask my office to call you later in the week for guidance. Thank you so much. With warm personal regards, I am,

Sincerely yours,

Desa Ballard
desab@desaballard.com

cc: *via U.S. Mail and Facsimile*
Honorable Chief Justice Jean Toal
Honorable Joseph Strickland
Thomas Bunch, Esquire
Shirley Lowman (via email)





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

November 19, 2015

Via U. S. Mail Only

Honorable Daniel E. Shearouse
Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

Re: Shirley Hammer vs. Howard Hammer and Shirley Hammer v. 1634 Main LP
Case No: 2009-CP-40-05911; 2010-CP-40-2889 and 2013-CP-40-6898

Dear Dan:

Please advise the Court that the real property that was transferred to Mrs. Hammer for the purpose of satisfying the judgments was sold in September, 2015. On September 28, 2015, a final accounting was filed with the circuit court, as required by Judge Strickland's order of January 21, 2014. The final accounting concluded all issues that were pending in the 2009 and 2010 actions. More than thirty (30) days have passed since the filing and service of the final accounting, and no motions or objections have been filed by any parties, and both matters are now concluded.

We are resolving the issues which remain in the 2013 action by way of a settlement agreement, which is being circulated and a consent order will be filed dismissing all defendants, other than Mr. Hammer, from that action. After the consent order is filed, we intend to file a request for dismissal with prejudice of the remaining claims against Mr. Hammer, which will conclude that matter in full, as well.

I ask that you accept this letter as a final status report. Thank you for your assistance and attention with this matter.

With warm personal regards, I am,

Sincerely yours,

Desa Ballard
desab@desaballard.com

cc: via U.S. Mail
Thomas Bunch, Esquire
Keith Babcock, Esquire
Arthur Aiken, Esquire



ROBINSON MCFADDEN
ATTORNEYS AND COUNSELORS AT LAW

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

November 23, 2015

Thomas W. Bunch, II
1801 MAIN STREET, SUITE 1200
POST OFFICE BOX 944
COLUMBIA, SOUTH CAROLINA 29202

Via Facsimile and First Class Mail

PH
(803) 778-8800 | (803) 227-1103 direct
FAX
(803) 744-1545

The Honorable Daniel E. Shearouse, Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

tbunch@RobinsonLaw.com

**Re: Shirley Hammer/Howard Hammer/1634 Main LLP Cases
Case No. 2009-CP-40-05911;
Case No. 2010-CP-40-02889; and
Case No. 2013-CP-40-6898**

Dear Mr. Shearouse:

I am writing in response to Ms. Ballard's letter dated November 19, 2015 which she has requested that the Court consider her letter as a final status report. In her letter, Ms. Ballard advised that a "final accounting" filed in the circuit court concluded all issues that were pending in the referenced 2009 and 2010 actions. Unfortunately, Ms. Ballard must have mistakenly overlooked the unresolved Motion to Reconsider Order Approving Accounting which was filed June 18, 2015. That motion is pending before the Honorable Joseph M. Strickland. It has not been heard or ruled upon.

Ms. Ballard's letter also attempts to infer that the so-called final accounting concluded all matters in the 2009 and 2010 cases because Mr. Hammer had not submitted any response. The purported final accounting did not invite any response from Mr. Hammer. Further, it was neither a motion nor a pleading to which any response would have been required by any statute or rule, and Judge Strickland has not issued any order or final judgment addressing this "accounting" so that the cases could be concluded.

As to the 2009 and 2010 cases, there remains in dispute somewhere between approximately \$250,000 and \$400,000 under the Order Approving Accounting which is the subject of the motion to reconsider. The purported final accounting adopts the order which is the subject of the motion to reconsider, and therefore, not final to conclude these cases.

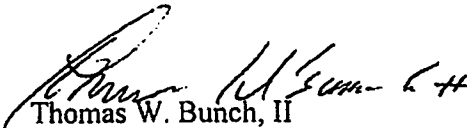
As to the 2013 case, there is pending a motion to dismiss for non-prosecution in accordance with a previous order of this Court. This motion was filed by Mr. Hammer on April 27, 2015. That motion has not been heard or ruled upon.

Daniel E. Shearouse, Clerk of Court
November 23, 2015
Page 2

In short, on Mr. Howard Hammer's behalf, these matters are not concluded, and like Ms. Ballard requested, I would ask that you consider this letter as a status report, and advise the Court accordingly. Thank you for your assistance.

Yours very truly,

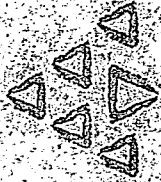
ROBINSON, MCFADDEN & MOORE, P.C.



Thomas W. Bunch, II

TWB:aclw

cc: Desa A. Ballard, Esquire ✓
Keith M. Babcock, Esquire
Arthur A. Aiken, Esquire
Howard Hammer



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

December 21, 2015

Via Hand-Delivery

Honorable James Barber III
1701 Main Street, Suite 223
Columbia, South Carolina 29201

Re: *Shirley Hammer vs. Howard Hammer and Shirley Hammer v. 1634 Main LP*
Case No. 2009-CP-40-05911, 2010-CP-40-2889

Dear Judge Barber:

As you know from my letter to you dated December 8, 2015, a copy of which is enclosed for your reference, Howard Hammer (through his counsel Tommy Bunch) has notified the Supreme Court that these two cases remain pending at the trial court. I asked in my letter of December 8, 2015 if you could determine whether there are any outstanding motions that remain to be heard, in light of Judge Strickland having reported that he has concluded his work on the cases. I believe the Supreme Court's order of September 7, 2012 vests you with continuing jurisdiction over the trial court proceedings.

After I sent you my letter of December 8, 2015, Mr. Bunch contacted Judge Strickland (without copy to you) asking that Judge Strickland again address motions that Mr. Bunch contends are pending. I forwarded that to you on December 11, 2015. Mr. Bunch's letter to Judge Strickland is also enclosed for your reference. I do not believe Judge Strickland has responded (nor do I think he should, because I believe the matters are concluded).

Since you are on vacation this week, and I am on vacation next week, I am asking if you would be willing to independently review the files and determine whether, or not, any motions remain pending. To assist you, I have attached as **Exhibit A** (my letter to the Supreme Court dated November 19, 2015), **Exhibit B** (Mr. Bunch's letter to the Supreme Court dated November 23, 2015), and **Exhibit C** (Mr. Bunch's letter to Judge Strickland dated December 11, 2015).

Also enclosed is a proposed order which I have prepared for your consideration after you review the files. I am copying Judge Strickland so that you and he are not working at cross purposes. Mr. Bunch has attempted to confuse the matters by contacting Judge Strickland after I contacted you, and I believe the only way to clear this up is to have you address it.

I will be back from vacation beginning Monday December 28, 2015 and will be happy to appear before you, in the event you want to have a hearing on this matter. However, I believe it will be apparent to you from a review of the file that these matters are, in fact,



The Honorable James Barber III
In re: Hammer v. Hammer and Hammer v. 1634 Main LP
December 21, 2015

Page 2 of 2

concluded. However, it appears something more is required of you convince Mr. Bunch and Mr. Hammer of that.

I am not filing a motion, because I believe these files are closed. I am, however, asking that under your authority from the Supreme Court as set forth in the 2012 order, you can issue whatever is necessary to say what I believe is already obvious to everyone except Mr. Bunch and Mr. Hammer.

I am extremely sorry to have to bother you with this yet again. By copy of this letter to Judge Strickland, I am apologizing to him as well. I have done everything I know how to do to conclude these matters, but my efforts are being thwarted.

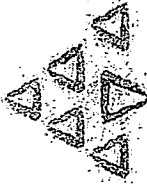
Thank you so much. With warm personal regards, I am,

Sincerely yours,



Desa Ballard
desab@desaballard.com

cc: via U.S. Mail and Facsimile
Honorable Daniel Shearouse
Honorable Joseph Strickland
Thomas Bunch, Esquire
Art Aiken, Esquire
Shirley Lowman (via email)



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

November 19, 2015

Via U.S. Mail Only

Honorable Daniel E. Shearouse
Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

Re: *Shirley Hammer vs. Howard Hammer and Shirley Hammer v. 1634 Main LP*
Case No: 2009-CP-40-05911; 2010-CP-40-2889 and 2013-CP-40-6898

Dear Dan:

Please advise the Court that the real property that was transferred to Mrs. Hammer for the purpose of satisfying the judgments was sold in September, 2015. On September 28, 2015, a final accounting was filed with the circuit court, as required by Judge Strickland's order of January 21, 2014. The final accounting concluded all issues that were pending in the 2009 and 2010 actions. More than thirty (30) days have passed since the filing and service of the final accounting, and no motions or objections have been filed by any parties, and both matters are now concluded.

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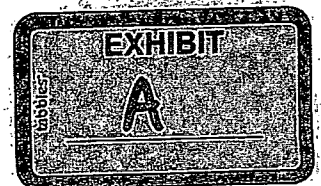
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With warm personal regards, I am,

Sincerely yours,

Desa Ballard
desab@desaballard.com

cc: via U.S. Mail
Thomas Bunch, Esquire
Keith Babcock, Esquire
Arthur Aiken, Esquire





ROBINSON MCFADDEN
ATTORNEYS AND COUNSELORS AT LAW

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

November 23, 2015

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

Via Facsimile and First Class Mail

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

The Honorable Daniel E. Shearouse, Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

FAX:
(803) 744-1545

tbunch@RobinsonLaw.com

Re: Shirley Hammer/Howard Hammer/1634 Main LLP Cases
Case No. 2009-CP-40-05911;
Case No. 2010-CP-40-02889; and
Case No. 2013-CP-40-6898

Dear Mr. Shearouse:

I am writing in response to Ms. Ballard's letter dated November 19, 2015 which she has requested that the Court consider her letter as a final status report. In her letter, Ms. Ballard advised that a "final accounting" filed in the circuit court concluded all issues that were pending in the referenced 2009 and 2010 actions. Unfortunately, Ms. Ballard must have mistakenly overlooked the unresolved Motion to Reconsider Order Approving Accounting which was filed June 18, 2015. That motion is pending before the Honorable Joseph M. Strickland. It has not been heard or ruled upon.

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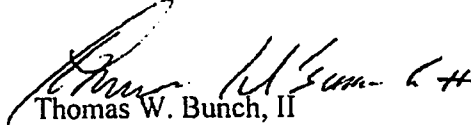


Daniel E. Shearouse, Clerk of Court
November 23, 2015
Page 2

In short, on Mr. Howard Hammer's behalf, these matters are not concluded, and like Ms. Ballard requested, I would ask that you consider this letter as a status report, and advise the Court accordingly. Thank you for your assistance.

Yours very truly,

ROBINSON, MCFADDEN & MOORE, P.C.



Thomas W. Bunch, II

TWB:aclw

cc: Desa A. Ballard, Esquire ✓
Keith M. Babcock, Esquire
Arthur A. Aiken, Esquire
Howard Hammer



ROBINSON MCFADDEN
ATTORNEYS AND COUNSELORS AT LAW

ROBINSON, MCFADDEN & MOORE, P.C.
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December 11, 2015

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VIA FACSIMILE AND FIRST CLASS MAIL

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

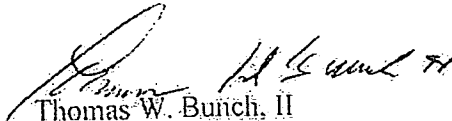
**Re: Shirley Hammer/Howard Hammer/1634 Main LLP Cases
Case No. 2009-CP-40-05911;
Case No. 2010-CP-40-02889; and
Case No. 2013-CP-40-6898.**

Dear Judge Strickland:

Opposing counsel in these cases (Ms. Desa Ballard) has reported to Judge Barber that you have ruled on all matters and returned the file to the Clerk of Court's office. This report was news to me. My records and the Richland County Public Index show that (1) a motion to reconsider order approving accounting was filed on June 18, 2015, and is pending in case numbers 09-5911 and 10-2889, and (2) a motion to dismiss was filed April 27, 2015 and is pending in case number 13-6898. Can you confirm for my file if you will be ruling, or not ruling, on these motions.

Yours very truly,

ROBINSON, MCFADDEN & MOORE, P.C.


Thomas W. Bunch, II

cc: (via e-mail)
Desa A. Ballard, Esquire
Keith M. Babcock, Esquire
Arthur K. Aiken, Esquire
Mr. Howard Hammer



TIT-MERITAS® LAW FIRMS WORLDWIDE

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Shirley Hammer)
)
 Plaintiff,)
)
 vs.)
)
 Howard Hammer)
)
 Defendant,)
 _____)
 STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Shirley Hammer)
)
 Plaintiff,)
)
 vs.)
)
 1634 Main, LP)
)
 Defendant,)
 _____)

IN THE COURT OF COMMON PLEAS
 CA# 2009-CP-40-05911
 CA# 2010-CP-40-2889

**ORDER DENYING
 ALL PENDING MOTIONS**
 (both actions)

By order of the South Carolina Supreme Court dated September 7, 2012, I was appointed to “oversee any actions involving . . . [Howard] Hammer or 1634 Main LP currently pending in the circuit court. . . and subsequent actions involving the parties that may be filed and expedite any such actions. . . until . . . resolved.”

The merits of the actions were tried before circuit Court judge George James, who entered judgment in favor of Shirley Hammer in both actions. Supplemental proceedings were initiated and those matters were assigned to Master in Equity Joseph Strickland, who concluded them by issuing an order transferring certain real and personal property to Shirley Hammer to sell for the purpose of satisfying judgments she received in the earlier proceedings before Judge James.

Both Judge James' orders and Judge Strickland's final order were appealed to the Supreme Court and affirmed¹. Howard Hammer v. Shirley Hammer, Memorandum Opinion No. 2014-MO-007 (filed March 19, 2014) (affirming Judge James' orders and judgments); 1634 Main LP v. Shirley Hammer, Memorandum Opinion No. 2014-MO-045 (November 6, 2014) (affirming in part Judge Strickland's order dated January 1, 2014, *see* footnote 1).

In accordance with the final order of Judge Strickland dated January 21, 2014, the real and personal property was sold by Shirley Hammer, and she filed a supplemental accounting of the sales proceeds on October 2, 2015 ending the case in accordance with the procedure established by Judge Strickland's order of January 21, 2014. That procedure was affirmed by the Supreme Court's order dated November 6, 2014.

Shirley Hammer provided a status report to the South Carolina Supreme Court, advising the matters were concluded, on November 19, 2015. Counsel for Howard Hammer, Thomas W. Bunch II, responded to Shirley Hammer's letter to the Supreme Court with his own letter dated November 23, 2015, disputing Mrs. Hammer's position that all matters at the trial level were concluded. On December 11, 2015, Mr. Bunch wrote a letter to Judge Strickland advising that there were additional motions that remained open and the trial court matters had not yet concluded. Copies of all three (3) letters have been provided to me.

Under the authority granted to me by the Supreme Court in its order dated September 7, 2012, I have reviewed the clerk's files in both matters. Howard Hammer asserts that there is still a pending motion to reconsider he filed on June 18, 2015 in the referenced cases². That motion

¹ The Supreme Court reversed one portion of Judge Strickland's order dated January 21, 2014 and remanded for further proceedings, which were conducted and concluded by order of Judge Strickland filed April 24, 2015 awarding Shirley Hammer sanctions against Howard Hammer. Those sanctions were paid and a satisfaction of judgment was filed on June 8, 2015.

² Mr. Hammer also asserts he has a pending motion in Case No. 2013-CP-40-6898. That will be addressed by separate order.

addressed an interlocutory order issued by Judge Strickland filed on May 29, 2015. That interlocutory order was rendered moot by the supplemental accounting filed by Shirley Hammer on October 2, 2015, which ended these cases. Howard Hammer has filed nothing challenging the supplemental accounting or seeking to set aside the final accounting, and these cases were concluded on October 2, 2015.

James R. Barber III
Circuit Court Judge by Designation
Fifth Judicial Circuit

December ____, 2015

From: Desa Ballard
To: "stricklandj@rcgov.us"; "[Thomas W. Bunch, II](#)"
Cc: [Beth Cogan](#); "rezbarber@sccourts.org"
Subject: Hammer v. Hammer (2009 & 2010 cases)
Date: Wednesday, January 13, 2016 2:50:00 PM

Judge Strickland:

Please let us know when you can meet with Mr. Bunch and me. Mr. Bunch seems to think there is an additional motion that remains pending for which he needs a ruling in order to appeal yet again. Mr. Bunch and I spoke with Judge Barber the last week of the year to try to resolve this and were unable to do so.

I have tried calling your office, but didn't want to leave a voice mail. I can set up a conference call or appear, your preference.

Thanks so much. Hope the New Year is good so far.

db

Desa Ballard
Ballard & Watson, Attorneys at Law
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Office facsimile: 803.796.1066
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Web: www.desaballard.com



STATE OF
SOUTH CAROLINA

NOTICE OF MOTION SCHEDULING

January 14, 2016



Motion "MOFREE - Status Conference" for Case: 2009CP4005911 - Howard Hammer vs Shirley Hammer, defendant, et al has been added to the following Motions Roster:

603 - MIE - Wednesday, January 27th, 2016

This hearing of this motion has been scheduled for 1/27/2016 at 10:00 AM.

The above referenced case is scheduled for a Hearing before Judge Strickland. All requests for continuances must be in writing with a \$25.00 filing fee and received by the Master In Equity prior to the hearing. A request for a continuance does not guarantee that a case will be continued. Please notify the Court in writing if the issues are resolved prior to the hearing. Please file any briefs or memorandum the Wednesday before the week of the hearing.

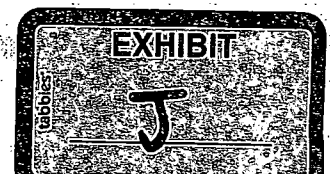
Mail Notice To:

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

Court Info:

Richland County Master In Equity
Richland County Judicial Center
1701 Main Street
Columbia, SC 29201-9201

Judge L. Casey Manning
Chief Administrative Judge
Fifth Judicial Circuit



From: JOHN SCOTT
To: Thomas W. Bunch, II (TBunch@robinsonlaw.com); Desa Ballard
Cc: Beth Cogan; Mara Ballard
Subject: FW: Message from KMBT_223
Date: Thursday, January 14, 2016 2:03:15 PM
Attachments: SKMBT_22316011415000.pdf

Attorney Bunch & Attorney Ballard – Attached with my correspondence are scanned copies of the Notices of Hearings pertaining to the scheduled Status Conference in reference to the Hammer versus Hammer case(s) . This will NOT be a Hearing on the Merits, I was only instructed to schedule a Status Conference and NOT an actual Hearing related to this matter. I will be mailing these Notices out today. There are a number of Attorneys listed as case parties in our system and I will be mailing the Notices to their respective offices as well. They may need to appear or they may not , that is not my call of course. I am just alerting them because they are attached to these case files within our system. And to reiterate the time and date – **WEDNESDAY, JANUARY 27th, 2016 starting at 10:00 a.m.** in courtroom 2-D. 803-576-1901 if you need to call me. Thank you both for your time, as well as Mrs. Beth Cogan for assisting me. Look forward to seeing you all there.

From: scan@rcgov.us [mailto:scan@rcgov.us]
Sent: Thursday, January 14, 2016 2:01 PM
To: JOHN SCOTT
Subject: Message from KMBT_223



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SC SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
JOSEPH M. STRICKLAND, MASTER-IN-EQUITY
Appellate Case No. 2016-00341

1634 Main LP, [role not designated]

v.

Shirley Hammer,

Respondent.

v.

Howard Hammer

Appellant

And

Howard Hammer,

Appellant,

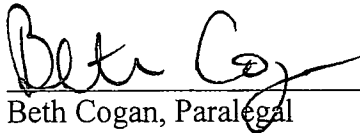
v.

Shirley Hammer,

Respondent.

I, Beth Cogan, an employee with Ballard & Watson, Attorneys at Law, do hereby certify that I served a copy of the **Motion to Dismiss** 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

March 4, 2016