

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

**RECEIVED**

APR 06 2016

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

**S.C. SUPREME COURT**

1634 Main LP, [role not designated]

v.

Shirley Hammer,

Respondent.

v.

Howard Hammer

Appellant

And

Howard Hammer,

Appellant,

v.

Shirley Hammer,

Respondent.

**RESPONSE TO:**

**REQUEST FOR LEAVE OF COURT TO FILE SURREPLY AND REPLY  
TO RESPONDENT'S MOTION TO DISMISS**

Respondent Shirley Hammer (hereafter "Shirley") responds to Appellant's Request and Surreply as follows:

1. Shirley reiterates her arguments regarding the lack of jurisdiction of this appeal as set forth in her Motion to Dismiss. The essence of Howard's argument on this issue is "there must be something else I can appeal" without ever identifying what it is. In short, there is nothing he can appeal.
2. No Surreply is necessary; Shirley filed a Reply which addressed the substance of the arguments which were raised by Howard in his Response. By way of Response to the Motion to Dismiss, Howard argues again that Shirley has not complied with the January 21, 2014 order. Shirley's Response simply sets forth the error in his conclusion. Shirley has done exactly what was required of her in the January 21, 2014 order, and she spelled that out in detail in her reply<sup>1</sup>. There are no remaining sales proceeds, so no further action was required by the trial court after the Supplemental Accounting was filed.
3. To the extent Howard expresses surprise that a "paltry" sum remains which Shirley intends to return to him, Shirley would point out that she was absolutely exempted from any obligation to account to Howard for any funds received by her during her management and marketing of the real property, a fact which Howard repeatedly overlooks. (Order 1-21-2014 p. 11, ¶ 4<sup>2</sup>.) As recited by Shirley in the Supplemental Accounting, she took no funds from the income generated by rental payments of the tenants during the marketing of the property, and only paid operating expenses as necessary. There are some funds left, which Shirley had no obligation to even reveal

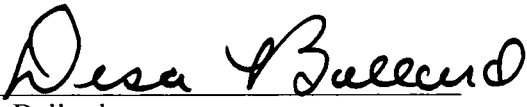
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<sup>1</sup> It is helpful that Howard asserts these are the merits of the appeal he is seeking to pursue. By doing so, he confirms that he is again seeking to challenge rulings of the January 21, 2014 order, and it is far too late to do that. He cannot now argue that the January 21, 2014 order should have prescribed a different procedure than it did.

<sup>2</sup> "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 of 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."

to Howard; she would have been perfectly within her rights to pay those funds for herself after selling the building. However, Shirley has made every effort to be scrupulously meticulous and honest in handing the obligations entrusted to her by the January 21, 2014 order. There are, in fact, some funds remaining from the rental income that were not expended on maintenance of the building. If Howard will ever stop litigating, those funds can be paid to him. Continued litigation simply puts those funds at risk, should it be found necessary to spend them to continue to defend against the filings he continues to make.

Since Howard filed his Surreply with his Request to Accept the Surreply (without waiting for the Court's ruling on his request to file a Surreply), this Response may appear to be moot. However, Shirley cannot remain silent in the face of continued allegations of wrongdoing by her. This case is over. Only Howard seems to be unable to grasp that.

  
Desa Ballard

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ATTORNEY FOR RESPONDENT  
SHIRLEY HAMMER

April 4, 2016

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I, Beth Cogan, an employee with Ballard & Watson, Attorneys at Law, do hereby certify that on April 4, 2016, I served a copy of the **Response to: Request for Leave of Court to File Surreply and Reply to Respondent's Motion to Dismiss Appeal** 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  
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Beth Cogan, Paralegal

April 4, 2016