

The State of South Carolina  
In the Court of Appeals

Appeal from Richland County Court of Common Pleas  
Tonya A. Gee, Circuit Court Judge

Appellate Case No. 2015-001845

RECEIVED

MAY 23 2016

SC Court of Appeals

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JOHN M. MCINTYRE AND SILVER OAK LAND, ..... Appellants,

v.

SECURITIES COMMISSIONER OF SOUTH CAROLINA, ..... Respondent.

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**RESPONDENT'S RETURN TO MOTION  
FOR AN EXTENSION OF TIME**

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Respondent, the Securities Commissioner of South Carolina, through his undersigned counsel, respectfully files this Return to Appellants' Motion for an Extension of Time to file their Initial Brief and Designation of Matter.

**I. Procedural Background and Facts**

A hearing was held on April 17, 2015, before Judge Tonya Gee of the Richland County Court of Common Pleas regarding the Appellants' appeal of an adverse decision of the Securities Commissioner. The court upheld the decision of the Securities Commissioner through an order dated May 7, 2015. On or around May 28, 2015, the Appellants filed a motion for reconsideration before Judge Gee. On July 21, 2015, Judge Gee denied the motion for reconsideration. On or about August 27, 2015, Appellant filed a notice of appeal with this Court initiating this proceeding. Appellants did not order a transcript of the hearing held on April 17, 2015, contemporaneously with the filing of their appeal. On

September 25, 2015, the Appellants requested an extension of thirty days to prepare the initial brief. No return was filed by the Respondent and the request was granted by notice dated October 12, 2015. The time for filing the Appellants' initial brief was thereby extended until November 9, 2015. On or around November 9, 2015, the Appellants filed a second request for an extension to file their brief and to request, out of time, the transcript of the appellate hearing held April 17, 2015. Again, the Respondent did not formally object to the request. By court notice dated December 2, 2015, the Clerk of the Court of Appeals granted the request and required the Appellants to notify the court of the date the transcript was received such that the schedule to file briefs may be set based on that date.

On January 21, 2016, the Clerk of the South Carolina Court of Appeals sent a letter to Appellants indicating that, per their records, all transcripts should have been delivered and that no extensions have been granted. Appellants responded by letter dated January 29, 2016, indicating that, nearly three months later, they had only recently obtained the name of the court reporter. By letter dated the same date, January 29, 2016, the Appellants requested that the court reporter produce the transcript. That transcript was ordered on February 12, 2016. The transcript was received by the Appellants on March 10, 2016.

On February 8, 2016, the Respondent filed a Motion to Dismiss the appeal due to Appellants' failure to meet deadlines and failure to prosecute the appeal and pursue obtaining the transcript with due diligence. On February 18, 2016, Respondent filed a Return to that motion. On April 26, 2016, this Court issued an

order denying the Respondent's Motion to Dismiss and scheduled the Appellants' Initial Brief and Designation of Matter due within twenty days of the date of the order. On May 12, 2016, five days prior to the brief being due, additional counsel made an appearance in this matter and requested the additional time at issue here.

## II. Conclusion

The Respondent believes that this Court has provided Appellants with ample opportunity to draft and file the Initial Brief and Designation of Matter in this case. The Appellants have continually delayed the filing of the Initial Brief and Designation of Matter. This would be a third extension granted Appellants to file their Initial Brief and Designation of Matter. At the present time, it has been approximately 270 days since the filing of the Notice of Appeal, 174 days since this Court granted permission to obtain the transcript, and 75 days since the transcript was received. It was nearly six months from the Appellants' filing of the Notice of Appeal until the transcript was ordered<sup>1</sup>. The Respondent posits that an additional extension of time is unnecessary and will cause further delay in the resolution of this matter.

WHEREFORE, Respondent respectfully prays that this Court deny the Appellants' Motion for an Extension of Time and reinstate the previous deadline and require Appellants' Initial Brief and Designation of Matter to be filed within five (5) days of the Order.

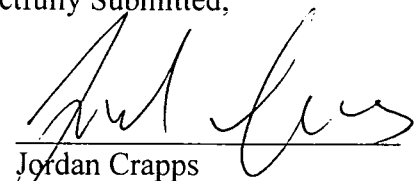
*(Signature next page)*

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<sup>1</sup> Respondent understands that additional counsel has been retained and that these previous delays were not caused by Appellants' new counsel, but the delays must necessarily be imposed on the Appellants.

Respectfully Submitted,

By:



Jordan Crapps  
S.C. Bar No. 100580

Assistant Attorney General  
Securities Division  
Office of the Attorney General  
State of South Carolina

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May 23, 2016  
Columbia, South Carolina

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**PROOF OF SERVICE**

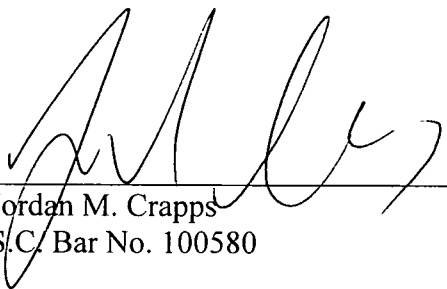
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I, Jordan Crapps, attorney for the Respondent, certify that I have served the Return to Motion for Extension of Time on Appellant by depositing a copy of it in the United States Mail postage prepaid on May 23, 2016, addressed to all attorneys of record for the Appellants at the following addresses:

Michael J. Anzelmo, Esq.  
Corey E. Manning, Esq.  
Kristen E. Horne, Esq.  
Nelson Mullins Riley and Scarborough, LLP  
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Robert V. Mathison, Jr., Esq.  
Mathison and Mathison  
44 New Orleans Road, Suite 203  
Post Office Box 5271  
Hilton Head Island, SC 29938

*(Signature next page)*



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Jordan M. Crapps  
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ALAN WILSON  
SECURITIES COMMISSIONER

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**Hand Delivered**

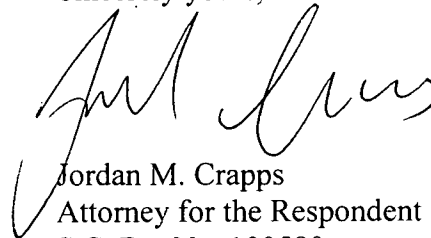
The Honorable Jenny Abbot Kitchings  
Clerk, South Carolina Court of Appeals  
1220 Senate Street  
Post Office Box 11629  
Columbia, South Carolina 29211

Re: John McIntyre v. Securities Commissioner of South Carolina  
Appellate Case No. 2015-001845

Dear Ms. Kitchings:

Enclosed, please find a Return to Appellants' Motion for Extension of Time the above referenced appeal and six (6) copies. If you have any questions, please contact me at the information below or by email at [JCrapps@scag.gov](mailto:JCrapps@scag.gov). Thank you for your assistance.

Sincerely yours,



Jordan M. Crapps  
Attorney for the Respondent  
S.C. Bar No. 100580

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Columbia, South Carolina 29211  
(803) 734-9916

Enclosures

Cc: Robert V. Mathison, Jr. Esq.  
Michael J. Anzelmo, Esq.  
Cory E. Manning, Esq.  
Kristen E. Horne, Esq.