

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2014-000091

James Spencer, individually and on
behalf of the Estate of Doris Holt
and on behalf of Southern Holdings,
Inc.; and Irene Santacroce, Plaintiffs,

of whom James Spencer is the,

Appellant,

v.

John R. Rakowsky, Adrian L.
Falgione, and the Law Offices of
Adrian Falgione, LLC, Defendants,

of whom John R. Rakowsky
and Adrian L. Falgione are the,

Respondents.

AFFIDAVIT OF COUNSEL

PERSONALLY APPEARED BEFORE ME, Michael B. McCall, who being duly
sworn, deposes and says as follows:

1. David W. Overstreet and I are the attorneys for Respondent John R. Rakowsky in the above-captioned appeal.
2. I am submitting this affidavit to supplement Respondent Rakowsky's opposition to Appellant Spencer's motion to reinstate this appeal, which was dismissed on

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SC Court of Appeals

March 4, 2016 for failure to serve and file a record on appeal that included all matters designated by the parties.

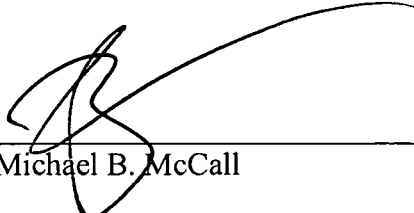
3. On May 26, 2016, the Court issued an order requiring Respondents Rakowsky and Falgione to provide copies of certain documents in their possession to Appellant Spencer within ten days, and requiring Appellant Spencer to serve and file an amended record within twenty days of receipt of the documents. The May 26, 2016 order further stated that the Court will consider Appellant Spencer's motion to reinstate upon receipt of the amended record or the expiration of thirty (30) days.

4. I am informed and believe that on June 3, 2016, Appellant Spencer received all of the documents necessary to prepare an amended record on appeal.

5. On June 27, 2016, I received an envelope from Appellant Spencer that contained nothing more than another empty envelope. The envelope and the empty envelope contained therein were sent on June 24, 2016, and are attached as Exhibit 1.

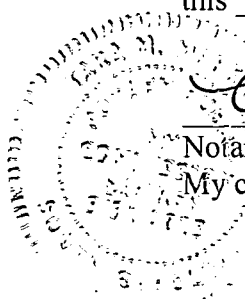

6. In the thirty-three (33) days that have elapsed since the Court's May 26, 2016 order, I have not received any correspondence, communications, or documents from Appellant Spencer other than the empty envelope received on June 27, 2016.

FURTHER AFFIANT SAYETH NOT.



Michael B. McCall

SWORN to and subscribed before me
this 28th day of June, 2016.

Notary Public for South Carolina
My commission expires: 3/31/2025



Earhart Overstreet

ATTORNEYS AT LAW

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Mike@earhartoverstreet.com
Direct: 843.628.3780

June 28, 2016

VIA FAX AND U.S. MAIL

Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

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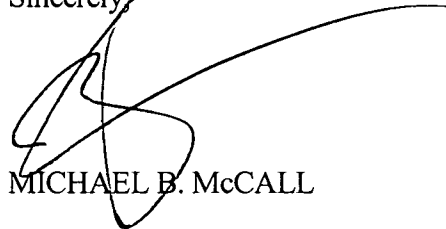
SC Court of Appeals

Re: James Spencer v. John R. Rakowsky, et al.
Case No.: 2014-000091
EO File No.: 110-0159

Dear Ms. Kitchings:

Enclosed for filing to supplement Respondent John R. Rakowsky's Return to Appellant's Motion to Reinstate, please find the original and 6 copies of the *Affidavit of Counsel* and *Proof of Service* in this case. By copy of this correspondence, I am serving a copy of the same upon Appellant and all counsel of record. If you have any questions, please do not hesitate to contact me. With kind regards, I am

Sincerely,



MICHAEL B. McCALL

MBM/cmg

Enclosures

cc: Benjamin Bruner, Esq.
Warren C. Powell, Esq.
James Spencer



Earhart Overstreet

ATTORNEYS AT LAW

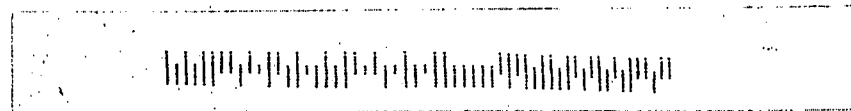
PO Box 22528
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of whom John R. Rakowsky
and Adrian L. Falgione are the,

Respondents.

PROOF OF SERVICE

I, Camille M. Gardner, an employee of Earhart Overstreet LLC, attorneys for Respondent John Rakowsky, certify that I served a copy of the Affidavit of Counsel by depositing a copy of it in the U.S. Mail, postage prepaid, on June 28, 2016, addressed to the *pro se* Appellant, James B. Spencer, 7001 Saint Andrews Road, Suite 183, Columbia, South Carolina 29212, and to Respondent Adrian Falgione's attorneys of record, Benjamin C. Bruner, Esquire and Warren C. Powell, Jr., Esquire, at Bruner, Powell, Wall & Mullins, LLC, P.O. Box 61110, Columbia, South Carolina 29260.

June 28, 2016



Camille M. Gardner

P

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EXHIBIT

1

Box 183
7001 Saint Andrews Road
Columbia, SC 29212

David W. Overstreet
PO Box 22528
Charleston, SC 29413