

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

August 18, 2016

Via U.S. Mail

Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RECEIVED

AUG 19 2016

SC Court of Appeals

Re: *Rakowsky v Falgione, LLC; Spencer, Holt, et al.*
Case No. 2014-002029

Dear Ms. Kitchings:

We have received Mr. Spencer's letters of July 25, 2016 and July 29, 2016. The latter, received on August 2, 2016, included the most recent Amended Record on Appeal (ROA)¹ and we have attempted to determine whether this version of the ROA is complete.

Mr. Spencer's July 25, 2016 letter encloses a copy of a May 19, 2016 letter purportedly delivered to us. We never received this letter.² Moreover, neither Mr. Spencer nor Mr. Sribnick have ever requested our assistance in assembling the Record on Appeal, so I feel certain we would have remembered an inquiry seeking assistance, which we would have been happy to provide. Nonetheless, we have reviewed our entire file and confirm that this letter was never delivered to us.

The most recent ROA has included some of the missing items, but remains deficient in that it omits the following:

¹ We have received four (4) versions of the Record on Appeal. The first includes a Certificate of Service dated February 25, 2016 and was received by us on February 29, 2016. The second includes a Certificate of Service dated March 11, 2016 (referencing service of a Corrected Joint Appendix); we received an Amended Record on Appeal by hand delivery on that date. The third Record on Appeal contains a Certificate of Service dated June 17, 2016, and we received it on June 23, 2016. The most recent Record on Appeal contains a Certificate of Service dated July 29, 2016 and was received in our office on August 2, 2016.

² We had previously provided to Mr. Spencer and Mr. Sribnick the documents that were omitted from the February, 2016 (first) ROA. These were provided to Mr. Spencer and Mr. Sribnick as exhibits in our Reply to Response: Motion to Dismiss dated March 21, 2016. We also complied with the Court's order dated May 26, 2016 on May 27, 2016 and enclosed the letter designated by us as Item 19.

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Omissions not noticed earlier

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The most recent ROA contains the following pages that are illegible, in part, or have writing/markings on them that we do not believe appear on the original documents: Pages 20-22, 24, 56, 85-89, 100, 104, 107, 118, 162-163, 177, 180, 184-185, 196-198, 201-207, 219-

Honorable Jenny Abbott Kitchings
Re: Letter from Spencer dated 07-25-2016
August 18, 2016

Page 3 of 3

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427, 429, 435-436, 443, 504-506, 508, 514, 525.

As previously noted, I have not attempted to determine whether the ROA includes matters that were not designated by Appellants. Further, I have not attempted to determine whether the "cut and paste" document remains in the ROA. We do not feel it is a good use of our time or the Court's time to check behind Appellants as to their designations. A great many of the documents filed at the trial court level were irrelevant to the issues before the trial court, and remain irrelevant before this Court.

I believe this fully answers the allegations made by Mr. Spencer in his July 25, 2016 letter and addresses our concerns about the most recent (and still non-compliant) version of the ROA.

With warm personal regards, I am,

Sincerely yours,



Desa Ballard
Desab@desaballard.com

cc: Via U.S. Mail
Michael Sribnick, Esquire
James Spencer (*Pro Se*)
John Rakowsky, Esquire (via email)

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2008CP4006656

John R Rakowsky

Southern Holdings Inc

Law Max Legal Finance

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
---------------------	--

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol Nonsuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		S
		S
		S

If applicable, describe the property, including tax map information and address, referenced in the order: _____

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge _____ Judge Code _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 18 September 2014 to attorneys of record or to parties (when appearing pro se) as follows:

Desa Ballard

Ernest H Morton Jr
Andrew F. Lindemann
James Brian Spencer
Irene Santacroce

Linda Wilamson Lawrence
Adrian Lee Falgione
Rodney Keith Lail
James Brian Spencer

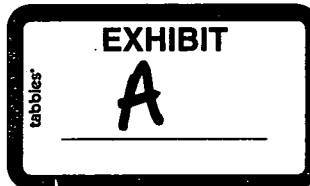
ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court


Jeanette W. McBride



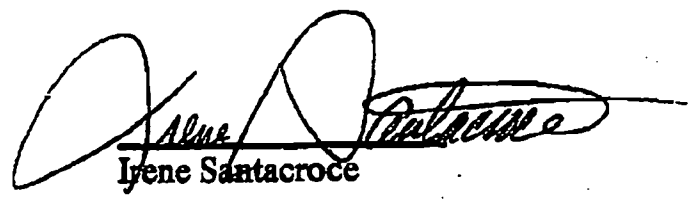
SCANNED

This Addendum is mutually agreed to by the Law Firm, Irene Santacroce and Adrian Falgione.

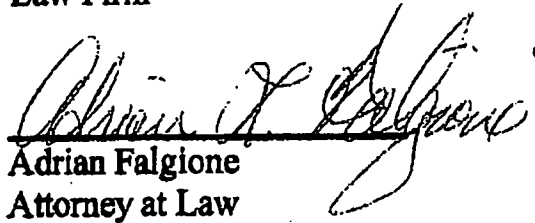
This 1st day of February, 2007




John R. Rakowsky as
Lead counsel, for the
Law Firm

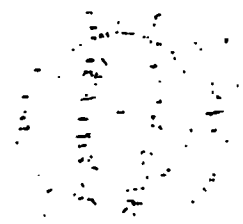


Irene Santacroce



Adrian Falgione
Attorney at Law


My Commission Expires
February 8, 2012



Appendix II.ATTORNEY ACKNOWLEDGMENT AND UNDERTAKING

1. The undersigned hereby acknowledges to Buyer that he is the attorney-in-fact and attorney of record for Seller. Seller's Claim is still pending against a viable defendant.
2. The undersigned hereby informs Buyer that liability, causation, and damages are contested in this Claim. There are no assurances that Seller will prevail, and there is substantial uncertainty as to the amount, if any, Seller may recover.
3. The undersigned hereby acknowledges notice of the provisions of the foregoing Agreement, including without limitation, the Irrevocable Power of Attorney and Instructions to Attorney in Appendix I to the Agreement, and agrees to disburse in compliance therewith the Proceeds, if any, recovered on behalf of Seller with respect to the Claim within five (5) business days of receiving cleared Proceeds.
4. The undersigned acknowledges that he is the custodian of Buyer's funds upon obtaining a recovery on behalf of Seller with respect to the Claim. The undersigned shall not distribute any funds to Seller prior to satisfying Buyer's lien in full, including in the event of any dispute between Seller and Buyer regarding this Agreement.
5. At Buyer's request, the undersigned hereby agrees to keep Buyer updated regarding any changes affecting this Claim and to provide written updates regarding the case status, including any new contact information for Seller.
6. The undersigned hereby agrees to notify Buyer in writing immediately upon any material change in the status of the Claim, including but not limited to settlement of the Claim, judgment, arbitration, dismissal of the Claim, disappearance, imprisonment or death of Seller, or lack of cooperation on the part of Seller. The undersigned further agrees to submit documentary proof, if any, with respect to any significant change in the status of the Claim, e.g., signed settlement release, judgment, arbitration decision, etc.
7. The undersigned hereby confirms that he has reviewed the Agreement and explained to Seller its terms, including the rate of return applied to calculate the amount to be paid by Seller to Buyer.
8. In the event the undersigned is terminated as Seller's attorney of record with respect to the Claim, the undersigned shall give Buyer immediate written notice thereof by certified mail, return receipt requested, and state the name, address and telephone number of Seller's new attorney of record.
9. The undersigned agrees not to approve, sign or acknowledge any funding (investment) agreement, lien, promissory note or other instrument between Seller and another individual or entity with respect to the Claim without the express written consent of Buyer.
10. The undersigned hereby represents to Buyer that he shall take no steps to circumvent the rights and obligations set forth in this Agreement in any way whatsoever. Any circumvention in violation of the provisions hereof shall increase Seller's obligation to Buyer by FIFTY PERCENT (50 %) in accordance with Article 36 of this Agreement.
11. This Attorney Acknowledgment and Undertaking shall be governed by, and construed in accordance with, the internal laws (as opposed to conflict of laws provisions) of the state of New York. Subject to Article 12 of this Appendix II, Buyer and the undersigned hereby submit to the exclusive jurisdiction of the courts of the state of New York and the United States district court located in the borough of Manhattan in New York City, and each waives personal service of any and all process upon it and consents that all such service of process be made by registered mail directed to the address set forth in the first paragraph of this agreement and service so made shall be deemed to be completed upon receipt thereof. Buyer and the undersigned hereby waive any objection based on forum non conveniens, and any objection to venue of any action instituted hereunder and consents to the granting of such legal or equitable relief as is deemed appropriate by the court. Buyer and the undersigned each hereby waives any right to have a jury participate in resolving any dispute, sounding in contract, tort, or otherwise arising out of, connected with, related to, or in connection with this agreement. Instead, any dispute resolved in court will be resolved by a bench trial without a jury.



 ATTORNEY'S INITIALS

12. Any controversy or claim arising out of or relating to this Attorney Acknowledgement, including without limitation the interpretation, validity, enforceability or breach thereof, shall be settled by final, binding arbitration administered by the American Arbitration Association (hereinafter referred to as "AAA") in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitrator shall be a practicing attorney or a retired judge licensed to practice in the State of New York. The parties also agree that the AAA Optional Rules for Emergency Measures of Protection shall apply to the proceedings. The arbitrator shall award to the prevailing party, if any, as determined by the arbitrator, all of its costs and fees. "Costs and fees" mean all pre-award expenses of the arbitration, including the arbitrator's fees, administrative fees, travel expenses, out-of-pocket expenses such as copying and telephone, court costs, witness fees, and attorneys' fees. The award shall be in writing, shall be signed by the arbitrator, and shall include a statement regarding the reasons for the disposition of any claim.

13. To the best of the undersigned's information, knowledge and belief, Seller is of sound mind and memory at the time of reading and signing this Agreement, and is mentally and psychologically capable of fully understanding the nature, meaning and terms of this Agreement.

14. The undersigned shall not negotiate Buyer's lien with anyone other than Buyer. All reductions of Buyer's lien are void unless they are expressly authorized in writing by Buyer.

15. The undersigned hereby acknowledges that Seller unconditionally and irrevocably granted, assigned, transferred and conveyed the LawMax Ownership Stake set forth in Article 2 of the Agreement to Buyer. Said LawMax Ownership Stake is the exclusive property of Buyer, shall be held in trust by the undersigned for the benefit of Buyer, and shall not be subject to any liens, assignments, transfers, conveyances, deductions or setoffs of any kind whatsoever. The undersigned hereby further acknowledges that he has not been given any notice of liens, assignments, transfers or conveyances of any portion of the Proceeds of the Claim except as set forth herein.

Please list all known liens below. If none, so state. This section must be completed by the client's attorney only.

NAME	AMOUNT	DATE	
Lit Funding USA	50,000 Principal	150,000 Int	6/05
Resolution Services Corp	25,000 Principal	100,000 Int	6/05

at 2/10/07
↓

Corporate Law Center
 BY: [Signature] Date: 2/23/07
 Ronald N. Serota, Esq.

LIEN IS CONTINGENT UPON PROCEEDS
 of 35,000 MADE payable to
 Corporate Law Center TRUST ACCOUNT

[Signature]

0770172005

This is a LEGAL COPY of your check. You can use it the same way you would use the original check.

RESOLUTION SETTLEMENT CORP 127
 1000 W PLAZA RD SUITE 110-217
 LAS VEGAS, NV 89102

DATE Jan 30 05

PAY TO THE ORDER OF John Ratausky and J.G. [unclear]

Tenacity for thousands and no/100 DOLLARS

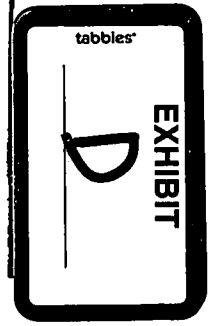
COLONIAL BANK, N.A.
 1st Floor, [unclear]
 P.O. Box 1000, Las Vegas, NV 89102

FOR [unclear]

⑈0002500000⑈

Attachment "Three"
2 of 3

MTB0030



**JOHN R. RAKOWSKY
ATTORNEY AT LAW**

ESCROW ACCOUNT
100 13TH ST., PO BOX 3033
WEST COLUMBIA, SC 29171

277

DATE 12-06-06 O-FIELD 11

PAY
TO THE
ORDER OF

John Rakowsky

\$ 500.00

Five Hundred & no/100

DOLLARS & CENTS



WEST COLUMBIA, SC 29171

FOR

John Rakowsky

⑆000277⑆

⑆0000050000⑆

Check 277 Amount \$500.00 Date 12/6/2006

ATB0090

JOHN R. RAKOWSKY
ATTORNEY AT LAW

ESCHEW ACCOUNT
903 EITH ST., PO BOX 3333
WEST COLUMBIA, SC 29171

341

DATE 4/13/07

ORDER #

PAY TO THE ORDER OF

Adrian Falgione

\$ 600.00

Six hundred & no/100

DOLLARS



WEST COLUMBIA, SC 29109

FOR

expense - ~~retirement~~ Holdings

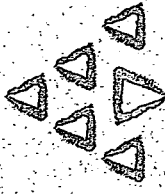
John Rakowsky

⑆000341⑆

⑆0000060000⑆

Check 341 Amount \$600.00 Date 4/18/2007

ATB0101



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PERSISTENT. UNWAVERING.

Desa Ballard
Harvey M. Watson III

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I believe this fully answers the allegations made by Mr. Spencer in his July 25, 2016 letter and addresses our concerns about the most recent (and still non-compliant) version of the ROA.

With warm personal regards, I am,

Sincerely yours,

A handwritten signature in cursive script that reads "Desa Ballard" followed by a date "8/18/16".

Desa Ballard
Desab@desaballard.com

cc: Via U.S. Mail
Michael Sribnick, Esquire
James Spencer (*Pro Se*)
John Rakowsky, Esquire (via email)

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: **2008CP4006656**

John R Rakowsky

Southern Holdings Inc

Law Max Legal Finance

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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 Affirmed; Reversed; Remanded; Other _____

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		\$

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James Brian Spencer
Irene Santacroce

Linda Wilamson Lawrence
Adrian Lee Falgione
Rodney Keith Lail
James Brian Spencer

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

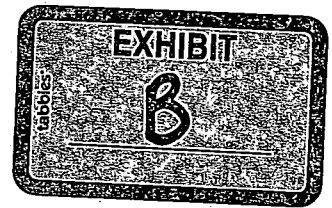
Court Reporter _____

Clerk of Court

Janette W. McBride



SCANNED



This Addendum is mutually agreed to by the Law Firm, Irene Santacroce and Adrian Falgione.

This 1st day of February, 2007

A handwritten signature in cursive script, appearing to read "John R. Rakowsky".

John R. Rakowsky as
Lead counsel, for the
Law Firm

A handwritten signature in cursive script, appearing to read "Irene Santacroce".

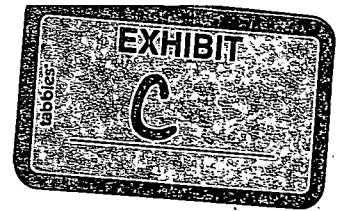
Irene Santacroce

A handwritten signature in cursive script, appearing to read "Adrian Falgione".

Adrian Falgione
Attorney at Law

A handwritten signature in cursive script, appearing to read "Marguerite S. Stephens".

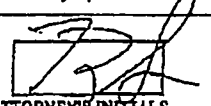
My Commission Expires
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4. The undersigned acknowledges that he is the custodian of Buyer's funds upon obtaining a recovery on behalf of Seller with respect to the Claim. The undersigned shall not distribute any funds to Seller prior to satisfying Buyer's lien in full, including in the event of any dispute between Seller and Buyer regarding this Agreement.
5. At Buyer's request, the undersigned hereby agrees to keep Buyer updated regarding any changes affecting this Claim and to provide written updates regarding the case status, including any new contact information for Seller.
6. The undersigned hereby agrees to notify Buyer in writing immediately upon any material change in the status of the Claim, including but not limited to settlement of the Claim, judgment, arbitration, dismissal of the Claim, disappearance, imprisonment or death of Seller, or lack of cooperation on the part of Seller. The undersigned further agrees to submit documentary proof, if any, with respect to any significant change in the status of the Claim, e.g., signed settlement release, judgment, arbitration decision, etc.
7. The undersigned hereby confirms that he has reviewed the Agreement and explained to Seller its terms, including the rate of return applied to calculate the amount to be paid by Seller to Buyer.
8. In the event the undersigned is terminated as Seller's attorney of record with respect to the Claim, the undersigned shall give Buyer immediate written notice thereof by certified mail, return receipt requested, and state the name, address and telephone number of Seller's new attorney of record.
9. The undersigned agrees not to approve, sign or acknowledge any funding (investment) agreement, lien, promissory note or other instrument between Seller and another individual or entity with respect to the Claim without the express written consent of Buyer.
10. The undersigned hereby represents to Buyer that he shall take no steps to circumvent the rights and obligations set forth in this Agreement in any way whatsoever. Any circumvention in violation of the provisions hereof shall increase Seller's obligation to Buyer by FIFTY PERCENT (50 %) in accordance with Article 36 of this Agreement.
11. This Attorney Acknowledgment and Undertaking shall be governed by, and construed in accordance with, the internal laws (as opposed to conflict of laws provisions) of the state of New York. Subject to Article 12 of this Appendix II, Buyer and the undersigned hereby submit to the exclusive jurisdiction of the courts of the state of New York and the United States district court located in the borough of Manhattan in New York City, and each waives personal service of any and all process upon it and consents that all such service of process be made by registered mail directed to the address set forth in the first paragraph of this agreement and service so made shall be deemed to be completed upon receipt thereof. Buyer and the undersigned hereby waive any objection based on forum non conveniens, and any objection to venue of any action instituted hereunder and consents to the granting of such legal or equitable relief as is deemed appropriate by the court. Buyer and the undersigned each hereby waives any right to have a jury participate in resolving any dispute, sounding in contract, tort, or otherwise arising out of, connected with, related to, or in connection with this agreement. Instead, any dispute resolved in court will be resolved by a bench trial without a jury.


ATTORNEY'S INITIALS

12. Any controversy or claim arising out of or relating to this Attorney Acknowledgment, including without limitation the interpretation, validity, enforceability or breach thereof, shall be settled by final, binding arbitration administered by the American Arbitration Association (hereinafter referred to as "AAA") in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitrator shall be a practicing attorney or a retired judge licensed to practice in the State of New York. The parties also agree that the AAA Optional Rules for Emergency Measures of Protection shall apply to the proceedings. The arbitrator shall award to the prevailing party, if any, as determined by the arbitrator, all of its costs and fees. "Costs and fees" mean all pre-award expenses of the arbitration, including the arbitrator's fees, administrative fees, travel expenses, out-of-pocket expenses such as copying and telephone, court costs, witness fees, and attorneys' fees. The award shall be in writing, shall be signed by the arbitrator, and shall include a statement regarding the reasons for the disposition of any claim.

13. To the best of the undersigned's information, knowledge and belief, Seller is of sound mind and memory at the time of reading and signing this Agreement, and is mentally and psychologically capable of fully understanding the nature, meaning and terms of this Agreement.

14. The undersigned shall not negotiate Buyer's lien with anyone other than Buyer. All reductions of Buyer's lien are void unless they are expressly authorized in writing by Buyer.

15. The undersigned hereby acknowledges that Seller unconditionally and irrevocably granted, assigned, transferred and conveyed the LawMax Ownership Stake set forth in Article 2 of the Agreement to Buyer. Said LawMax Ownership Stake is the exclusive property of Buyer, shall be held in trust by the undersigned for the benefit of Buyer, and shall not be subject to any liens, assignments, transfers, conveyances, deductions or setoffs of any kind whatsoever. The undersigned hereby further acknowledges that he has not been given any notice of liens, assignments, transfers or conveyances of any portion of the Proceeds of the Claim except as set forth herein.

Please list all known liens below. If none, so state. This section must be completed by the client's attorney only.

NAME	AMOUNT	DATE	
Lit Funding USA	50,000 Principal	150,000 Int	6/05
Resolution Settlement Corp	25,000 Principal	100,000 Int	6/05

AT 2/10/07

Corporate Law Center

BY: [Signature]
 Ronald N. Serota, Esq.

Date: 2/23/07

L.IEN IS CONTINGENT UPON PROCEEDS
 of 35,000 MADE payable to
 Corporate Law Center Trust Account

0770172805

This is a LEGAL COPY of your check. You can use it the same way you would use the original check.

RESOLUTION SETTLEMENT CORP

RESOLUTION SETTLEMENT CORP
 1000 W HARRISON RD SUITE 110-517
 LAS VEGAS, NV 89107

127

DATE: Jan 30 2011

PAY TO THE ORDER OF: John Rakawsky and J. G. ...

Twenty four thousand and no/100

DOLLARS

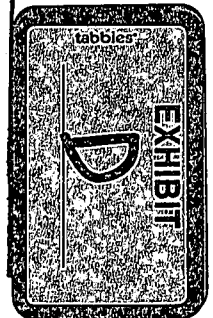
COLONIAL BANK

FOR: [Redacted]

000025000000

Attachment "Three"
2 of 3

MTB0030



**JOHN R. RAKOWSKY
ATTORNEY AT LAW**

ESCROW ACCOUNT
908 13TH ST., PO BOX 3893
WEST COLUMBIA, SC 29171

277

DATE 12-06-06 0-PERIOD

PAY
TO THE
ORDER OF

John Rakowsky

\$ 500.00

Five Hundred and no/100

DOLLARS



WEST COLUMBIA, SC 29171

John Rakowsky

FOR

⑈000277⑈

⑈0000050000⑈

Check 277 Amount \$500.00 Date 12/6/2006

ATB0090

JOHN R. RAKOWSKY
ATTORNEY AT LAW

ESROW ACCOUNT
800 15TH ST., PO BOX 3333
WEST COLUMBIA, SC 29171

341

DATE 4/13/07

ST-1002B
12

PAY
TO THE
ORDER OF

Adrian Falgione

\$ 600.00

Six hundred & no/100

DOLLARS & 



WEST COLUMBIA, SC 29170

FOR

expenses - William Holdings

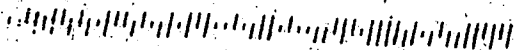
John Rakowsky

⑆000341⑆

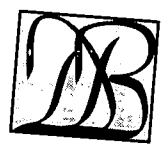
⑆000060000⑆

Check 341 Amount \$600.00 Date 4/18/2007

ATB0101



RECEIVED
AUG 19 2016
SC Court of Appeals



Law Offices of Desa Ballard

226 State Street
West Columbia, SC 29169

To:
Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211