

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Richland County
Joseph M. Strickland, Master-In-Equity
Case No.: 2009-CP-40-05911
Case No.: 2010-CP-40-02889

RECEIVED

SEP 02 2016

S.C. SUPREME COURT

Appellate Case No.: 2016-000341

1634 Main, L.P.

v.

Shirley Hammer, Respondent,

v.

Howard Hammer, Petitioner/Appellant,

and

Howard Hammer, Petitioner/Appellant,

v.

Shirley Hammer, Respondent.

**APPELLANT’S PETITION FOR COURT TO
RECONSIDER ORDER DISMISSING APPEAL**

INTRODUCTION

On August 18, 2016, this Court dismissed Appellant Howard Hammer’s appeal from supplementary proceedings in the lower court in which the Master-in-Equity for Richland County, the Honorable Joseph M. Strickland, had declined to take the necessary action to conclude the proceedings. Specifically, the lower court declined to rule on and

issue any orders regarding (1) Appellant's motion to reconsider an order approving accounting and (2) a final order approving distribution of escrowed sale's proceeds. This petition is filed contemporaneously with a Petition for Writ of Mandamus to Direct the Master-in-Equity of Richland County to Rule on Pending Motion, Conduct Post-Sale Accounting, and Issue Final Order of Distribution, and is only filed because of what Appellant and his counsel construe as a possible ambiguity in the basis for the order of dismissal.

In dismissing the appeal, this Court stated, ". . . there is no appealable order or decision in this matter from which a timely appeal has been taken," citing Rules 201(a) and 203(b)(1), SCACR. Specifically, if this Court was deciding only the obvious, that the Master has failed and/or refused to issue rulings which must be the basis of an appeal, then the Petitioner concurs that there must be orders issued, leaving as the only option that of asking this Court to intervene to require those rulings as requested in the contemporaneously filed Petition for Writ of Mandamus. If, on the other hand, this Court's dismissal contemplated lost appealability because the appeal was not timely taken, then that is a matter which the record clearly refutes and is the basis for this petition for rehearing.

ARGUMENT

The operative and controlling order as to the lower court's duties was issued on January 21, 2104, and, as relevant to this appeal, was affirmed by this Court in 2014-MO-045. The January 21 Order (**Exhibit A** hereto) required Respondent Shirley Hammer and the lower court to follow a specific procedure for the sale of property in order to pay

judgments owed to her of approximately \$335,000.¹ The required procedure of the January 21 Order was not followed by either Respondent or the Master-in-Equity, and Appellant's appeal was timely taken on February 24, 2016, less than 30 days from January 27, 2016, the date the lower court announced that it would not adhere to the procedure and announced that it was taking no further action in the cases.

The January 21 Order required upon the sale of the property that:

6. Mrs. Hammer shall pay 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 on the execution of this order.

Ex. A, p. 12, para. 6. The order also provided for payment of attorney's fees and costs, but that part of the order is not relevant to the appeal.²

The January 21 Order required that after the sale of the property all sums above payment of the costs of sale and judgment amounts were to be escrowed by Respondent, that an accounting would be conducted, and that the lower court issue an order of distribution. Ex. A, p.12, para. 7.

Instead of waiting to secure a contract of sale and actually sell the property, Respondent submitted to the Master a Motion to Approve Accounting dated April 29,

¹ For brevity in this motion, any additional exhibits which the Court deems necessary for a decision of this motion may be found in Appellant's Return to Respondent's Motion to Dismiss, the return having been filed on March 14, 2016.

² The lower court awarded Mrs. Hammer attorney's fees and costs in the supplementary proceedings of \$55,385.70 against Mr. Hammer. This Court reversed the award without prejudice. Thereafter, the lower court awarded attorney's fees and costs of \$88,088.81. Although strongly disagreeing with the lower court's findings and subsequent award, Mr. Hammer fully and timely paid it, thereby discharging this obligation.

2015. The Master conducted a hearing on May 12, and issued an Order Approving Accounting on May 29. Petitioner timely filed a motion for reconsideration of this order.

The Master conducted no further hearings until January 27, 2016 when he announced that he was declining to rule on Appellant's motion to reconsider the May 29, 2015 Order and that he would not issue an order of distribution. Petitioner treated the Master's pronouncement on the record on January 27, 2016 not to take any further action in these cases as a denial of the motion to reconsider, a refusal to issue an order disposing of the escrowed funds, and *ipso facto* a termination of the cases in the lower court. He therefore timely filed a notice of appeal on February 24, 2016.

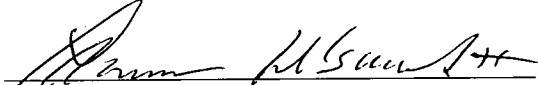
The May 2015 order was the last written order issued by the lower court. A motion to reconsider that order was filed. On January 27, 2016, the lower court declined to rule on the motion, effectively denying it on that date. Thus, either the order approving accounting was of sufficient finality such that the motion to reconsider tolled the time to appeal until the motion was denied (in accord with Rule 203, SCACR), or these cases ended on January 27, 2016, when the lower court declined to rule on the motion to reconsider and further declined to conduct an accounting and issue an order of distribution. Under either disposition, the notice of appeal was filed less than 30 days after January 27, 2016, and the appeal is timely filed.

The purpose of the January 21 Order was for the Master-in-Equity to control matters and decide after the sale who gets paid what amounts after Respondent paid herself the costs of sale and the judgments. Until January 27, 2016, the parties had no final decision from the lower court that it was not going to fulfill these obligations. Given the lower court's announcement to the parties on January 27, 2016, that it would

not issue any further rulings in the case, that was the operative date from which an appeal could arise and the earliest date from which this Court could intercede.

To the extent that this Court intended to find that the appeal was untimely, that finding is belied by the record and the clear chain of events. If that was this Court's finding, Appellant Howard Hammer respectfully requests this Court to reconsider the finding and either (1) proceed with this appeal, or (2) direct the Master-in-Equity to rule on the motion to reconsider filed in the lower court, conduct the accounting, and issue the final order of distribution required by the January 21, 2014 Order as affirmed by this Court (all as set forth in the contemporaneously filed Petition for Writ of Mandamus).

In sum, the motion for reconsideration of the lower court's last order was timely filed and it tolled the period for appeal, or, alternatively, the lower court's refusal to rule and thereby perform the required ministerial act of deciding the pending motion for reconsideration triggered the commencement of the 30 day appeal time, with which there was timely compliance. Either way, Appellant Hammer has not forfeited his right to appeal from 1) the Master's errors related to the calculation of the respective sums due the parties and 2) the incomplete final distribution of several hundred thousand dollars of net proceeds of sale.


Thomas W. Bunch, II [01011]
ROBINSON, MCFADDEN & MOORE, P.C.
Post Office Box 944
Columbia, SC 29202
(803) 779-8900
Attorneys for Appellant Howard Hammer

September 2, 2016

EXHIBIT A

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 DIRECTING TRANSFER
 OF REAL PROPERTY
 TO SATISFY JUDGMENTS**

2014 JAN 21 AM 9:05
 JEANETTE M. NORRIS
 C.C.P.
 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.

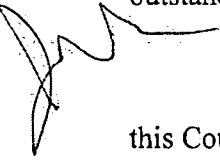
Neither Mr. Hammer nor 1634 Main LP has filed any responses to the written discovery served upon them, as they were required to do by this court's order dated June 10, 2013.

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.

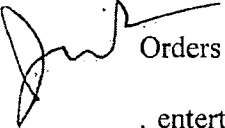
On September 9, 2013, the defendant debtors filed a motion for summary judgment alleging that transfer of the real property is beyond the power of this court, under S.C. Code §15-31-310, *et. seq.* A hearing was scheduled for January 9, 2014 for purposes of addressing all outstanding issues, and notice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

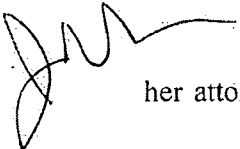
According to the evidence and documents of record, 1634 Main LP owns an unknown percentage of the real estate located at 1634 and 1632 Main Street, Columbia, SC, as described above.

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, SCRPC. 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, SCRPC.

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
IN THE SUPREME COURT

Appeal from Richland County
Joseph M. Strickland, Master-In-Equity
Case No.: 2009-CP-40-05911
Case No.: 2010-CP-40-02889

Appellate Case No.: 2016-000341

1634 Main, L.P.

v.

Shirley Hammer, Respondent,

v.

Howard Hammer, Appellant,

and

Howard Hammer, Appellant,

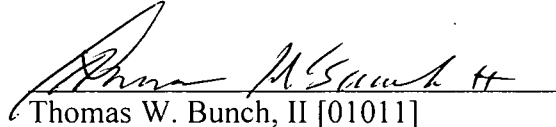
v.

Shirley Hammer, Respondent.

PROOF OF SERVICE

I certify that I have served Appellant's Petition for Court to Reconsider Order Dismissing Appeal upon opposing counsel by depositing a copy of it in the United States Mail, postage prepaid, on **September 2, 2016** addressed as follows:

Desa Ballard (for Shirley Hammer)
Law Offices of Desa Ballard
226 State Street
West Columbia, SC 29169

A handwritten signature in black ink, appearing to read "Thomas W. Bunch, II", written over a horizontal line.

Thomas W. Bunch, II [01011]
ROBINSON, MCFADDEN & MOORE, P.C.
Post Office Box 944
Columbia, SC 29202
(803) 779-8900

ATTORNEYS FOR APPELLANT