

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

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APPEAL FROM HORRY COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Case No. 2014-CP-26-8367
(Formerly 2013-CP-26-2816)

Appellate Case No. 2016-001328

Gabriel Barnhill & GSB Enterprises LLC..... Respondents

v.

J. Floyd Swilley, J. Floyd Swilley Investment Advisors, Laurel K. Swilley, SMG Partners, LLC, SMS Services, LP, William C. Piner, WCP Limited, LLC, 809 Holdings, LP, QC Financing, LLC, Heath Causey, and Sage Financial Group, LLC, J. Floyd Swilley SMG Partners, LLC, Alicia A. Piner, Heath Causey, Sage Advisory Group, L.P., Sage Private Equity Group, Secured Asset Factoring Exchange, Inc., SAFE, Inc., Digics, LLC, 9-1-1, Plumbing, LLC, and Sage Funding, L.P., Christopher Pitcock, Defendants,

Of Whom J. Floyd Swilley and Laurel K. Swilley and Heath Wendell Causey are the Appellants

RESPONDENTS' REPLY TO APPELLANTS' RESPONSE TO RESPONDENTS'
MOTION TO STRIKE MATERIAL NOT IN RECORD

In their response, the Swilley Appellants admit that the "subject email referenced in attorney Fata's Motion dated April 18, 2016 [sic] was not filed of record in the lower Court". Appellants Reply, Page 2. After ignoring two letters from the undersigned, Appellants' admit they have violated Rule 210(c), SCACR. Yet, Appellants persist in

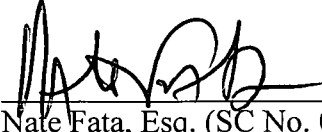
their attempt to smear the undersigned with bizarre and patently false allegations. Their attempts to turn this Court into an evidence receiving tribunal is completely contrary to SCACR and precedent.

By and through their counsel, Appellants have falsely accused the undersigned of not being a notary at the time of his notarizing the April 2016 Huffman Affidavit. Attached as Exhibit "A" is a copy of the certificate that verifies that the undersigned's notary public commission was renewed on January 12, 2016. Yet, Appellants continue to falsely assert that the undersigned made misrepresentations to the tribunal. Swilley Response, Page 2. ("As indicated by the enclosed, the expiration was actually 2015.") Nothing in "the enclosed" indicates Fata's notary public commission was expired. To the contrary, Swilley's attachment shows the notary public commission was renewed, consistent with Exhibit "A" hereto.

Appellants have admitted that the subject email and the references in their brief were not included in the record on appeal. They have violated Rule 210, SCACR. Judicial notice of an email or notary application cannot be taken by this Court. If any judicial notice is taken, it should be that Nate Fata was a notary public at all relevant times with the commission to notarize documents. Any Appellant arguments to the contrary are frivolous, made in bad faith and with the intent to mislead this Court and smear or besmirch the reputation of Nate Fata without basis.

Respondents' Motion to strike should be granted in full and attorney's fees should be awarded to Respondent Barnhill and GSB Enterprises, LLC, along with any such further relief that this Court deems just.

NATE FATA, P.A.



Nate Fata, Esq. (SC No. 009866)

Post Office Box 16620

Surfside Beach, SC 29587

843-238-2676

October 6, 2016

Attorney for Respondents

EXHIBIT

A

The State of South Carolina



Office of Secretary of State Mark Hammond

Reposing special trust and confidence in the ability, care, and prudence,
has commissioned, constituted, and recorded

NATE FATA

Notary Public

for the State aforesaid, to have, hold, exercise, and administer the said office of Notary Public, together with all rights, privileges, and powers useful and necessary to the just and proper discharge of the duties of your appointment.

This commission and appointment to expire **January 12th, 2026**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of South Carolina, this 12th day of January, in the year of our Lord, 2016.

Handwritten signature of Nikki R. Haley in cursive script.

Nikki R. Haley, Governor

Handwritten signature of Mark Hammond in cursive script.

Mark Hammond, Secretary of State

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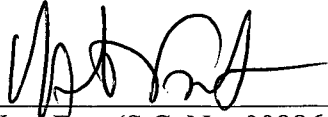
J. Floyd Swilley, J. Floyd Swilley Investment Advisors, Laurel K. Swilley, SMG Partners, LLC, SMS Services, LP, William C. Piner, WCP Limited, LLC, 809 Holdings, LP, QC Financing, LLC, Heath Causey, and Sage Financial Group, LLC, J. Floyd Swilley SMG Partners, LLC, Alicia A. Piner, Heath Causey, Sage Advisory Group, L.P., Sage Private Equity Group, Secured Asset Factoring Exchange, Inc., SAFE, Inc., Digics, LLC, 9-1-1, Plumbing, LLC, and Sage Funding, L.P., Christopher Pitcock, Defendants,

Of Whom J. Floyd Swilley and Laurel K. Swilley and Heath Wendell Causey are the Appellants

PROOF OF SERVICE

I certify that I have served the Respondents' Reply To Appellants' Response to Respondents' Motion To Strike Material Not in Record on F. Miles Adler, Esquire and Heath Wendell Causey, Pro Se by depositing a copy of same in the United States Mail, postage prepaid, on October ___, 2016, addressed to F. Miles Adler, Esquire, Adler Law Firm, LLC, P.O. Box 4743, Pawleys Island, SC 29585 and Heath Wendell Causey, 1705 N. Oak Street, Suite 2, Myrtle Beach, SC 29577.

October 6, 2016



Nate Fata (S.C. No. 009866)

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Attorney for Respondents

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VIA U.S. MAIL

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The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

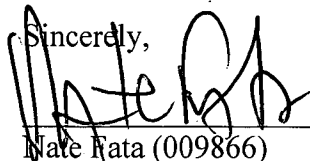
Re: Gabriel Barnhill and GSB Enterprises, LLC vs. J. Floyd Swilley, et al.
Appellate Case No. 2016-001328

Dear Ms. Kitchings:

Enclosed for filing are an original and six copies of Respondents' Reply To Appellants' Response To Respondents' Motion To Strike Material Not in Record and Proof of Service of same.

We appreciate the Court's consideration.

Sincerely,



Nate Fata (009866)
Nate Fata, P.A.
Post Office Box 16620
Surfside Beach, SC 29587
(843) 238-2676
Attorney for Respondents

cc:

F. Miles Adler, Esquire
Adler Law Firm, LLC
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Pawleys Island, SC 29585
Attorney for Appellants

Heath Wendell Causey
1705 N. Oak Street, Suite 2
Myrtle Beach, SC 29577
Appellant, Pro Se

neopost
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