STATE OF SOUTH CAROLINA
IN THE
SUPREME COURT

Appeal from the Court of Common Pleas
For Charleston County
Honorable J. C. Nicholson, Jr., Circuit Judge
Civil Action Nos.: 2010-CP-10-9096
And 2011-CP-10-8840
Appellate Case Tracking No. 2017-00640

Frank Gordon, Jr., Individually and as Trustee
of the Dorothy S. Gordon (Deceased) Trust,

Respondent.

v.

Donald W. Lancaster,

Petitioner.

Respondent's Return to the Petition for a Writ of Certiorari

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TABLE OF CONTENTS

STATEMENT OF THE FACTS 1

I. The Underlying Judgments 1

II. Drews' $100,000 Payment to Lancaster and Related Conveyances 3

A. Drews' $100,000 Transfer to Lancaster 3

B. Lancaster's Purchase of Bainbridge Property for the Drewses 3

C. Lancaster's $40,000 to Drews from Bainbridge Equity Line of Credit 4

D. Bainbridge Property Is Exchanged for Nuffield Property 5

E. Lancaster Sells Nuffield Property after Mr. and Mrs. Drews' Deaths 6

III. Conveyances Relating to Mortgages on Drews' Meeting Street Property 6

A. The $40,000 Meeting Street Mortgage 6

B. In 1996, Respondent's Cause of Action Accrued against Drews 7

C. The $100,000 Meeting Street Mortgage 7

D. The $20,000 Meeting Street Mortgage 7

IV. The Assignment of a $190,000 Meeting Street Mortgage to Lancaster 8

V. Expert Testimony of Richard Livingston, C.P.A. 9

VI. The Trial Court Found that Lancaster was Not a Credible Witness 10

VII. Drews Similarly Parked Assets with Dorsey Biller 11

ARGUMENT 12

I. Lancaster's Petition Should be Denied on the First Two Questions Presented as the Court of Appeals Correctly Applied *Linda Mc Company* and *Hardee* by Affirming the Circuit Court's Decision that Gordon's Action within Ten Years of the Judgments and Pursuit of Satisfaction of Judgments Extended the Judgments' Active Periods. 13

A. The Court of Appeals' Holding that the Circuit Court Correctly Ruled that Gordon Could Still Obtain Satisfaction of his Judgment Because he Filed within the Ten-Year Period is Consistent with and Supported by *Linda Mc Company*. . 13

B. Lancaster's Petition Should be Denied because Lancaster Misinterprets the Court of Appeals' Opinion by Failing to Take into Account the Opinion's Cites to Gordon's Actions to Collect on the Judgments During their Active Period. 14

C. Lancaster's Petition Should be Denied Because the Court Correctly Took into Account the Reasoning Expressed in the *Linda Mc Company* that a Party Should Not be at the Mercy of a Court to Collect on his Judgment During the Active Period. 15

D. Lancaster's Petition also Should be Denied as the Court of Appeal's Decision is Consistent with *Hardee*. 16

II. Gordon was Entitled to Bring the Action Underlying this Appeal as Assignee of the Drewses' Estates. 17

III. Petitioner has Failed to Show any Special or Important Reasons why Writ of Certiorari Should be Granted as to the Court of Appeals' Holdings Relating to the Fraudulent Conveyances, and therefore, his Petition Should be Denied. 18

A. Petitioner has not Shown why he Should be Granted Certiorari as to the Court Of Appeals' Decision to Affirm the Circuit Court's Decision that Drews' $100,000 Payment to Lancaster Constituted a Fraudulent Conveyance. 19

B. Lancaster's Challenge to the Holding that Lancaster's $40,000 in Payments to Drews were Part of a Scheme to Hide Assets Should be Denied as There Was Ample Evidence Supporting the Decision. 21

C. Lancaster's Petition Relating to the Court of Appeal's Decision to Uphold the Circuit Court's Ruling that the $20,000 Meeting Street Mortgage Drews Gave Lancaster was a Fraudulent Conveyance Should be Denied as it was Supported by Evidence and the Circuit Court's Credibility Determinations which Should Not be Disturbed. 22

IV. The Court of Appeals Correctly Affirmed the Circuit Court Holding that Gordon is Entitled to Recovery Because Lancaster Failed to Appeal the Findings of a Fraudulent Scheme and Several Individual Transactions, which Established his Fraudulent Intent. 23

CONCLUSION 25

Pursuant to South Carolina Appellate Court Rule 242(f), Respondent Frank Gordon, Jr., Individually and as Trustee of the Dorothy S. Gordon (Deceased) Trust ("Gordon") submits his Return to the Petition for a Writ of Certiorari filed by Petitioner/Appellant Lancaster ("Lancaster") on March 15, 2017. Gordon respectfully requests the Court deny the petition as the Court of Appeals' affirming opinions are well-supported by the record and sound legal precedent, *and* Lancaster has failed to show any special and important circumstances that warrant the Court's exercise of discretionary review.

STATEMENT OF THE FACTS[1]

I. The Underlying Judgments

The underlying Judgments that give rise to this case stem from Drews' promotion of a new enterprise known as Builders Station, a hardware store. In 1996, Drews marketed and sold stock in this company to the Respondent. (R. pp 1044-1048). In 1997, the company failed. On April 16, 1999, Respondent filed suit against Drews in the Charleston County Court of Common Pleas for the illegal sale of stock under S.C. Code Section 35-1-1490, alleging violation of the South Carolina securities laws. *Gordon v. Drews, et al.* (Case No. 1999-CP-1001407). In December 2001, a three-day non-jury trial was held in *Gordon v. Drews,* which culminated in a $50,000 Judgment against Drews, plus $15,782.12 in interest. By Order dated *March 15, 2002*, Respondent was also awarded $42,693.50 in attorney fees, for a total Judgment of $108,482.62.

From April 2002 until September 2005, Drews appealed the Judgment. The Court of Appeals affirmed the Judgment, and the Supreme Court ultimately denied Drews' Petition for Writ of Certiorari. On *September 28, 2005,* Respondent was additionally awarded $1,467.21 in appellate

[1] Respondent hereby incorporates by reference all findings of fact made by the Circuit Court in its Order & Judgment dated August 19, 2013. (R. pp. 10-27)

fees and expenses. (R. pp. 38-40).

In August 2006, the Circuit Court entered an Order for Supplemental Proceedings to be opened to aid Respondent in satisfaction of the Judgments. On September 26, 2006, a hearing was held in the supplemental proceedings, which were left open due to Drews' failure to produce financial records, in contravention of the Order for Supplemental Proceedings. (R. pp. 34-37).

On September 25, 2007, Drews died, and his Estate was opened on October 26, 2007, Case No. 2007-ES-10-1518. On February 8, 2010, the Estate's inventory and appraisement was filed, indicating no assets. (R. pp. 732-739). Gordon filed a claim with Drews' Estate. Contested proceedings took place over who would serve as Administrator of the Estate.[2]

On February 26, 2010, Lancaster (Drews' nephew) was deposed in the supplemental proceedings. During his deposition, Gordon became aware of fraudulent transfers between Drews and Lancaster that rendered Drews insolvent and allowed Lancaster to financially benefit to Gordon's detriment.

On February 27, 2010, Mrs. Drews died. On March 30, 2010, her Estate was opened. In Re: Estate of Effie D. Drews, Case No. 2010-ES-00-00494. On June 29, 2010, the Estate's inventory and appraisement was filed, indicating a net worth of $55,460.04. (R. pp. 745-749). On December 10, 2010, Gordon filed a Statement of Creditor's Claim in Mrs. Drews' Estate.

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[2] On May 1, 2008, Gordon filed a Petition for Appointment of Special Administrator for Drews' estate. On June 16, 2008, the Court issued a Notice of Hearing on Gordon's Petition. On July 31, 2008, Drews' wife, ("Mrs. Drews") filed a Request for Correction and Application to have herself appointed as Personal Representative of Drews' Estate. On August 6, 2008, a hearing was held, resulting in an Order Appointing Third-Party Beatrice Whitten as Special Administrator. On October 22, 2008, a Notice of Hearing was again set due to Mrs. Drews' withdrawal of consent to Whitten's appointment. On December 10, 2008, a hearing was held, resulting in a December 17, 2008 Order denying Mrs. Drews' Motion to Reconsider her Consent of Appointment of Whitten. On June 9, 2009, Mrs. Drews filed a Motion for Order of Recusal of Whitten. On October 14, 2009, an Order for Substitution of Shirrese Brockington as Special Administrator was filed.

On November 11, 2011, Gordon received a Confession of Judgment, Assignment and Settlement Agreement from Drews' Estate, and a Settlement and Assignment from Mrs. Drews' Estate. (R. pp. 162-169). The Assignment by Drews' Estate included a Confession of Judgment in the amount of $293,703.43 (R. pp.751-754). Both Estates assigned to Gordon any and all rights they may have to assets which should have or could have been included in the Drewses' Estates. Gordon's pursuit of these additional claims was reflected in the Second Amended Complaint (R. pp.150-151, para.3; 152, para 12). Ultimately, on June 13, 2013, the Trial Court took judicial notice of Plaintiffs' Judgment and Assignments (R. p. 12).

II. Drews' $100,000 Payment to Lancaster and Related Conveyances

A. Drews' $100,000 Transfer to Lancaster

In the early 1990s, Mr. and Mrs. Drews were in financial trouble. Mr. Drews had a failed business, was suffering from creditor claims, and was living off of his credit cards – which he could not pay. (R. p. 764, para. 4 -765, para. 6). By early 1992, the IRS was closing in on collecting tax debt from Mr. Drews. (R. p. 764, para. 4). Despite these debts that Drews could not pay, in early 1992, Drews transferred $100,000 to Lancaster. (R. p. 322, lines 17-19; 956). In 2010, Lancaster testified in his pre-suit deposition that the $100,000 was a gift with which he could do anything he wanted, including buy stocks. (R. p. 418, lines 6-19). After Lancaster conferred with his new counsel in defense of this suit, he claimed *for the first time at trial* that the $100,000 was not a gift (R. p. 338, lines 10-24), but rather was given to him on the condition that he purchase a house in which the Drewses could live for the remainder of their lives. (R. p. 323, lines 5-8). The $100,000 transfer was substantially all of Drews' assets at the time. (R. p. 764, para. 5).

B. Lancaster's Purchase of Bainbridge Property for the Drewses

On May 22, 1992, Lancaster invested Drews' $100,000 and $60,000 of his own money in the purchase of 17 Bainbridge Drive in Charleston, South Carolina ("Bainbridge Property"). (R.

pp. 765, para. 6; 709-712). Soon thereafter, Lancaster executed an agreement whereby he purportedly gave the Drewses a life estate in the Bainbridge Property. (R. pp. 665-666). Lancaster did not create the alleged life estate by deed, and neither the life estate nor the $100,000 transfer was recorded in public records to give proper notice. (R. pp. 665-666; 508, line 22 – 509, line 3). The "Agreement" conveying the life estate stated that the consideration for the transaction was "the sum of TEN ($10.00) AND NO/100S DOLLARS and love and affection for my uncle." (R. pp. 665-666). Notably, the "agreement" does not mention the $100,000 conveyance that Lancaster alleged was the consideration for this conveyance.

C. Lancaster's $40,000 to Drews from Bainbridge Equity Line of Credit

On June 12, 1992, Lancaster obtained a $40,000 open-end mortgage on the Bainbridge Property from South Carolina National Bank ("SC National Equity Line of Credit"). (R. pp. 696-699). From 1993 to 1995, Lancaster gave the Drewses several checks totaling $40,000, which were drawn from South Carolina National Bank. (R. pp. 324, lines 20-23; 692). This $40,000 was allegedly paid to Drews so that he could pay his living expenses. (R. p. 328, lines 9-10). Lancaster did not have Drews sign notes of indebtedness, or even "IOUs" for any of these payments. (R. p. 325, lines 5-11). Lancaster was using the equity line of credit on the house, largely paid for by Drews, to return to the Drewses part of the $100,000 transfer from the Drewses to Lancaster. (R. p. 344, lines 18-21). The Drewses, and not Lancaster, paid the interest incurred on the SC National Equity Line of Credit. (R. p. 344, line 22 – 345, line 3). Lancaster did not charge Drews for any additional interest for these alleged loans. (R. pp. 450, line 19 – 451, line 18).

Lancaster testified that he tracked all the activities relating to the $40,000 of "loans" in a spreadsheet, including any interest Drews paid. He further testified that the spreadsheet entries were made contemporaneously. (R. p. 388, lines 9-22). However, at trial, two versions of the

spreadsheet, both dated "February 3, 1997," were admitted which contained material differences.[3] (R. pp. 467, line 4 - 468, line 20; 692-695; 1066-1071). One of the principal differences is that the one produced at trial showed Lancaster being owed approximately $6,000 more than the one that had been produced at his deposition. (R. p. 468, lines 16-20). Lancaster was unable to explain this discrepancy. The discrepancy in these two identically-dated documents indicated that the accounting records were not contemporaneously kept, contrary to Lancaster's testimony.

D. Bainbridge Property Is Exchanged for Nuffield Property

In 1995, Drews and Lancaster allegedly agreed that they would substitute a one-story house of the Drewses' choice for the two-story Bainbridge house because Drews was having medical issues with his knees. (R. p. 360, lines 13-15; 379, line 18 - 380, line 6). Although Lancaster claims he gave Drews power of attorney to find and buy a house, Lancaster was unable to produce for the Trial Court a Power of Attorney evidencing the same. (R. p. 360, line 13 - 361, line 11). On April 27, 1995, Drews, allegedly acting as Lancaster's Power of Attorney, signed an agreement to purchase the replacement residence located at 2 Nuffield Road in Charleston, South Carolina ("Nuffield Property"). (R. pp. 672-76). Mrs. Drews (not Lancaster) made a $1,000 down payment on the house. (R. p. 362, lines 3-11). On May 15, 1995, Lancaster increased the $40,000 SC National Equity Line of Credit to $79,250 (further drawing out Drew's original transfer). (R. pp. 696-699; 701-704). The very next day, on May 16, 1995, Lancaster purchased the Nuffield property for $125,000. (R. pp. 667-671).

On May 17, 1995, Lancaster executed a "Memorandum of Lease and Subordination

[3] One version of Lancaster's amortization schedule indicated a balance forward of $44,211.20 and the other indicated a balance forward of $50,292.80, resulting in a 1996 balance-forward discrepancy of $6,081.60. (R. pp. 692-695; 1066-1071). Lancaster's amortization schedules also contained contradictory information regarding interest paid in 1995.

Agreement" for the Nuffield Property. (R. pp. 677-681). However, this document was not a "lease" as entitled, but rather a document that purported to give the Drewses a life estate in the Nuffield Property, allegedly in substitution for the purported Bainbridge Property Life Estate. (*Id.*). This document was recorded but did not give meaningful notice of Drews' interest in the property since it was mistitled a "Lease." The Memorandum cites the consideration for the life estate as "Ten and No/Hundreds Dollars ($10.00) and other good and valuable consideration." (*Id.*). Lancaster again did not create and record a deed for this life estate.

E. Lancaster Sells Nuffield Property after Mr. and Mrs. Drews' Deaths

From 1992 until Mr. and Mrs. Drews' deaths in 2007 and 2010 respectively, Lancaster held their alleged residence(s) in his name while allowing them full use, control, and enjoyment of the residence(s). After their deaths, on April 29, 2010, Lancaster sold the Nuffield Property for $246,000 (R. p. 359, lines 21-23; 741-744), and received $121,000 in profit.[4]

III. Conveyances Relating to Mortgages on Drews' Meeting Street Property

A. The $40,000 Meeting Street Mortgage

In March 1995, Drews granted Lancaster a $40,000 mortgage on Drews' property located at 1705 Meeting Street in Charleston, South Carolina ("$40,000 Meeting Street Mortgage"). (R. pp. 629-630). Lancaster did not provide Drews any contemporaneous consideration for the $40,000 Meeting Street Mortgage. (R. p. 454, lines 4-10). No note was ever executed on this mortgage, and this mortgage was not recorded until November 1995, approximately eight (8) months after it was executed. (R. pp. 333, lines 9-22; 346, line 25 – 347, line 6; 629-630). Drews allegedly paid the interest Lancaster incurred for this line of equity. (R. p. 344, line 22 - 345, line

[4] Respondent also presented the Trial Court the present value of the monies Drews transferred to Lancaster that were used to purchase the property. (R. pp. 478, line 17 - 479, line 5; 1098-1102).

3). Drews did not pay any additional amounts to Lancaster for allegedly loaning him the money. (R. p. 451, lines 9-18).

B. In 1996, Respondent's Cause of Action Accrued against Drews

In 1996, Drews marketed and sold stock in Builders Station hardware to many investors, including the Respondent (R. pp. 1044-1048). In 1997, the company failed, and on April 16, 1999, Respondent filed suit against Drews in the Charleston County Court of Common Pleas for the illegal sale of stock under S.C. Code § 35-1-1490, alleging violation of the South Carolina securities laws. *Gordon v. Drews, et al.* (Case No. 1999-CP-1001407).

C. The $100,000 Meeting Street Mortgage

On April 15, 1998, after Respondent's cause of action had accrued, Drews granted Lancaster an additional $100,000 Mortgage on Drews' 1705 Meeting Street property ("$100,000 Meeting Street Mortgage"). (R. p. 633-637). Once again, Lancaster did not give Drews any contemporaneous consideration for the $100,000 Meeting Street Mortgage (R. pp. 349, line 25 – 350, line 8; 454, lines 4-10), and no note was ever executed on this mortgage (R. p. 333, lines 9-22; 324, line 20 – 325, line 11). Even though Lancaster testified that the $100,000 mortgage was to replace the $40,000 mortgage, the $40,000 mortgage was not contemporaneously satisfied when the $100,000 mortgage was executed. (R. p. 350, lines 9-14; 350 line 25 - 351, line 13). Therefore, the public record showed $140,000 of debt on this property.

D. The $20,000 Meeting Street Mortgage

In July 1999, three months after Respondent filed suit against Drews, Drews granted Lancaster a third mortgage on the property for $20,000 ("$20,000 Meeting Street Mortgage"). (R. pp. 638-642). Drews gave Lancaster this mortgage even though Lancaster already had at least $60,000 to $100,000 in unused security provided by the $100,000 mortgage. (R. p. 331, lines 15-

18). Again, Lancaster did not give Drews any contemporaneous consideration for the $20,000 Meeting Street Mortgage. (R. pp. 339, line 19 – p. 340, line 3). As with the prior two mortgages, no note was executed on this mortgage. (R. p. 324, line 20 - 325, line 11; 333, lines 9-22). And no prior mortgages were contemporaneously satisfied.

IV. The Assignment of a $190,000 Meeting Street Mortgage to Lancaster

In November, 2001, *one month* before commencement of the trial in the *first* action, the following transactions occurred:

- On November 5 and 6, 2001, Lancaster executed satisfactions for the three existing Meeting Street Mortgages ($40,000, $100,000, $20,000) (R. pp. 20, para. 50; 627-628; 631-632; 638-642);
- The next day, Drews sold the Meeting Street Property and received a $190,000 Note and Mortgage from a third-party purchaser (Charleston Antiques) as consideration for the purchase (R. pp. 20, para. 51; 719-720);
- Simultaneously, Drews allegedly assigned the $190,000 Meeting Street Note and Mortgage to Mrs. Drews (R. pp. 20, para. 52; 364, lines 8-17; 643-650);
- Mrs. Drews then allegedly gave Lancaster a $50,912 Note on the Proceeds of the Sale of Meeting Street Property (R. p. 20, para. 53; 658); and,
- Mrs. Drews then purportedly assigned the $190,000 Meeting Street Mortgage to Lancaster ("$190,000 Meeting Street Assignment") in full, allegedly as security for the $50,912 Meeting Street Note (R. pp. 651-652).

Lancaster was not assigned the $190,000 Meeting Street Note. (R. p. 21, para. 58). Moreover, no evidence was presented that Lancaster gave any contemporaneous consideration for either the $50,912 Meeting Street Note, or the $190,000 Meeting Street Assignment. (R. p. 21, paras. 54 & 57). Further, Lancaster testified that he was not contemporaneously aware of the $190,000 Meeting Street Assignment at the time it was executed on his behalf. (R. p. 21, para. 56).

In 2001 and 2002 (and 2005), Gordon obtained Judgments against Drews.

From 2001 to 2005, Drews (by way of Mrs. Drews) received payments on the $190,000

Meeting Street Note and Mortgage for the benefit of the Drewses, and passed a portion of these payments on to Lancaster for the alleged $50,912 Meeting Street Note. (R. p. 21, para. 61).

In August, 2005, the South Carolina Supreme Court denied Drews' petition for writ of certiorari. On September 28, 2005, Respondent was awarded $1,467.21 in fees and expenses.

In September 2005, the Drewses received approximately $130,000 as final payment on the $190,000 Meeting Street Note (R. pp. 721-725) and paid to Lancaster the remaining amount on his $50,912 Meeting Street Note.[5] (R. p. 21, paras. 62-63). In 2005, Lancaster received more than $40,000 related to this transaction. (R. p. 22, paras. 64-65). Notably, the Trial Court found Lancaster and Drews failed to report the alleged $50,912 Meeting Street Note's interest as income or interest expense on their respective tax returns (R. pp. 812-912); and that failure evidences that they did not actually treat this Note as a legitimate loan and continued to hide evidence of the transaction from the public, creditors included. (R. p. 22, paras. 65-67) As Lancaster has not challenged this or other findings related to the $190,000 Meeting Street transaction, the Trial Court's rulings related to these transactions are the law of this case. *S.C. Coastal Conserv. League v. S.C. Dep't of Health & Envt'l Control*, 363 S.C. 67, 610 S.E.2d 482 (2005).

V. Expert Testimony of Richard Livingston, C.P.A.

At trial, Respondent presented testimony of certified public accountant Richard Livingston, who was duly qualified as an expert in forensic accounting. (R. p. 446, lines 24-25). Based on his detailed review of extensive financial records relating to all the above transactions, Livingston testified to a reasonable degree of certainty in his expertise, that in looking at the transactions in their entirety between Lancaster and Drews, they did not make economic or financial sense. (R.

[5] Lancaster issues a satisfaction for the $50,912 Meeting Street Note (R. p. 658) and assigned back to Mrs. Drews the $190,000 Meeting Street Property Mortgage (R. pp. 653-654).

pp. 447, line 24 - 448, line 2) Livingston explained that not only did Lancaster's and Drews' transactions deviate from normal business and accounting principles, but they also did not make family or favor sense either, as the parties had consistently chosen to accomplish the transactions in multiple, convoluted steps instead of in one or two simple steps. (R. p. 25, para. 78) He further testified that the transactions created a situation whereby Drews maintained control over and benefit from his assets while keeping them in someone else's name. (R. p. 448, lines 3-5). Based upon his analysis, Livingston further opined that the only purpose of these transactions was to shelter and hide them from creditors. (R. p. 25, para. 79; 448, lines 7-9). The Trial Court found Livingston to be both knowledgeable and credible. (R. p. 25, para 80)

VI. The Trial Court Found that Lancaster was Not a Credible Witness

The Trial Court found that Lancaster's:

> [T]estimony at trial regarding these transfers lacked credibility and evidenced that the transfers in question were indeed interfamily transfers for no consideration that were made in furtherance of Drews' scheme to conceal his assets from present and subsequent creditors.

(R. p. 24, para 74). The Trial Court based its assessment of Lancaster, in part, on his evasiveness in answering Respondent's counsel's questions (as compared to his very direct and knowledgeable answers to his own counsel), his contradictory testimony regarding his transactions with Mr. and Mrs. Drews, and his claimed lack of knowledge regarding these transactions as well as typical business practices. (R. p. 24-25, para. 74). The trial judge made the following observations on the record at the end of the trial before entering its Order:

> And the court does not find it believable on direct examination[6] the defendant appeared to not understand anything about notes and mortgages or anything else. However, on direct he was very knowledgeable about basis about any question that his defense counsel asked him and even knew the cap on the gift tax at the time of

[6] The Trial Court refers to his "direct examination" as Plaintiff called Mr. Lancaster as an adverse witness in Plaintiff's case in chief.

> the transfer of the 100,000 dollars, I believe 1.2 million dollars; he was very knowledgeable.

(R. p. 582, lines 11-18)

Lancaster's feigned lack of knowledge is in stark contrast to his testimony that he is a very experienced corporate internal auditor who worked for two and a half decades auditing businesses (R. pp. 24- 25, para 74; 320, lines 2-15); and his testimony that he understands financial investments and handled them all his life. (R. p. 320, lines 18-21). Lancaster's detailed records and amortization schedules (R. pp. 1066-1071), and his complicated, self-prepared tax returns (R. pp. 889-912), also show he is a very knowledgeable and sophisticated businessman when it comes to financial matters.

The Trial Court also made specific findings as to Lancaster's credibility when it came to testifying about his role in assisting Drews in defrauding creditors by hiding assets:

> The court finds that his failure to testify that he was not aware of any of this and didn't know anything about notes and mortgages and how this functions, the court does not find believable. The issue about ….neither party showing any payment of interest by the Drews on the tax return, the '05 tax return, the defendant didn't show any return of interest. The court finds it was a concerted effort by both parties to hide all these transactions from any view of the public either by recording in the Register Mesne Conveyance, tax return, or any other methods to avoid any finding those assets by any creditor.

(R. p. 582, line 19 - 583, line 5)

VII. Drews Similarly Parked Assets with Dorsey Biller

In 2007, Drews gave Mr. Dorsey Biller (a former business associate) a check for $50,000. (R. 435, lines 4-17) Although purportedly to pay back money he owed to Biller, Drews told Biller that he was not doing really well financially and that Drews may need some of the money back. Drews then asked Biller, beginning the very next month, to return money back to him. (*Id*) At Drews' request, Biller made several payments back to Drews, and then once Drews died, Biller made payments to Drews' wife, Effie Drews. (R. pp. 435, line 18 - 436, line 13). Once Effie Drews

died, the remaining amount of the $50,000 was paid to her estate. (R. p. 436, lines 14-24). The evidence also showed that the $50,000 check was originally endorsed by Drews' sister, Jesse Atkinson. Atkinson testified that the Drewses gave her money to open a bank account, and that the money was to be used for the Drewses. (R. p. 1007, line 3 - 1008, line 6) Biller explained in his testimony that Drews tried to give the money to Atkinson first, "but she would not do the deal with him." (R. p. 441, lines 9 - 442, line 4)

ARGUMENT

Pursuant to South Carolina Appellate Court Rule 242(b), "a writ of certiorari is not a matter of right, but of sound judicial discretion, and *will be granted only where there are special and important reasons*." SCACR 242(b) (emphasis added). Rule 242(b) sets forth some of the reasons which may support a review. One such reason is where there is a dissent in the Court of Appeal's opinion. Although Justice Thomas wrote a dissent, he dissented only on the issue of whether the judgments are enforceable, which relates to the first two questions Lancaster presents for review. Petition, p. 1. The last three questions Lancaster presents for writ of certiorari are related to the Court of Appeals' holdings that Lancaster engaged in fraudulent conveyances. Justice Thomas's dissent did not address these findings. *Gordon v. Lancaster,* 419 S.C. 48, 63-64, 795 S.E.2d 857, 865-866 (Ct. App. 2016), reh'g denied (Feb. 16, 2017). Lancaster failed to identify any of the considerations set forth in Rule 242(b) or to show any other reason why these last three issues are special and important to merit granting certiorari to review the Court of Appeals' final decision.

The substance of Lancaster's Petition for Writ of Certiorari fails to address why this case is worthy of granting certiorari pursuant to Rule 242, but instead reargues the merits. Lancaster's issues and brief are nearly identical to the ones contained in his Petition for Rehearing. Lancaster continues to attempt to have the appellate courts retry the case, make new findings of fact, and

reject the Circuit Court's credibility determinations. This Court has long recognized that it will not review the lower court's findings of facts on a writ of certiorari. *Jacoby v. S.C. State Bd. of Naturopathic Examiners,* 219 S.C. 66, 88, 64 S.E.2d 138, 148 (1951) ("This Court will not review the findings of fact of an inferior court or body on a writ of certiorari unless they are wholly unsupported by the evidence.") *S.C. Bd. of Examiners in Optometry v. Cohen,* 256 S.C. 13, 18, 180 S.E.2d 650, 652 (1971) (citations omitted) ("We have held in numerous cases that this Court on writ of certiorari will confine its review to the correction of errors of law only, and will not review the findings of fact of an inferior court or body except when such findings are wholly unsupported by the evidence.")

I. Lancaster's Petition Should be Denied on the First Two Questions Presented as the Court of Appeals Correctly Applied *Linda Mc Company* and *Hardee* by Affirming the Circuit Court's Decision that Gordon's Action within Ten Years of the Judgments and Pursuit of Satisfaction of Judgments Extended the Judgments' Active Periods.

In Issues I and II of his Petition, Lancaster argues that the Court of Appeals "unreasonably and unnecessarily" expanded the Supreme Court's decision in *Linda Mc Company, Inc. v. Shore*, 390 S.C. 543, 703 S.E.2d 499 (2010), by holding that Gordon had timely initiated his enforcement action. This is incorrect.

A. The Court of Appeals' Holding that the Circuit Court Correctly Ruled that Gordon Could Still Obtain Satisfaction of his Judgment Because he Filed within the Ten-Year Period is Consistent with and Supported by *Linda Mc Company*.

Lancaster argues that the *Linda Mc Co.* holding should be extremely limited to its exact facts and that this Court should allow a judgment's active period to be extended only when the hearing has been completed, and the creditor is waiting for a court's order regarding execution and levy. (Petition, pp. 11-12). Lancaster would have this Court rule that even if a judgment creditor has been diligent throughout the ten-year period, and has suffered many delays due to the debtor's

and opposing party's actions, he should be severely penalized, and lose his right to collect his judgments. Lancaster's interpretation of the *Linda Mc Co.* holding is inconsistent with both that opinion's language and with sound public policy. The Supreme Court set forth its specific holding in the *Linda Mc Co.* opinion's conclusory paragraph to be broader than Lancaster's restrictive and unfair interpretation:

> . . . if a party ***takes action to enforce*** a judgment within the ten-year statutory period of active energy, the resulting order will be effective even if issued after the ten-year period has expired.

Linda Mc Co., 390 S.C. at 555, 703 S.E.2d at 505 (*emphasis added*). This language focuses on the Judgment Creditor's actions to enforce the judgment during the judgment's active period. If the Supreme Court intended it's holding to be restricted to only those exact circumstances where the party was merely waiting for a court's decision, as Lancaster contends, then the Court could have written its conclusion in that manner; but instead the Court focused on the creditor's actions in attempting to enforce the judgment.

B. Lancaster's Petition Should be Denied because Lancaster Misinterprets the Court of Appeals' Opinion by Failing to Take into Account the Opinion's Cites to Gordon's Actions to Collect on the Judgments During their Active Period.

Justice Thomas's Dissent and Lancaster suggest the Court of Appeals' opinion is erroneous because a party merely must file within the ten-year period to collect on his judgment. Justice Thomas opines:

> …because the majority concludes Respondent's action was active simply because he filed it prior to the expiration of the ten-year period, the majority's interpretation could effectively allow any judgment holder to extend automatically the ten-year period by merely filing a new action to execute prior to the expiration of the ten-year period."

Gordon v. Lancaster, 419 S.C. 48, 64, 795 S.E.2d 857, 865 (Ct. App. 2016), reh'g denied (Feb. 16, 2017). The majority opinion, however, did not conclude that the judgment was active simply

because Gordon filed in court:

> Like the court in *Linda Mc*, we find the action was active because it was filed before the ten-year period expired ***and Gordon continued to pursue*** satisfaction of his judgment.

Id., 419 S.C. at 58, 795 S.E.2d at 862 (emphasis added). The Court of Appeals recognized that this is not a case in which the judgment creditor sat on his rights and did nothing throughout the ten-year period, but a case in which the judgment creditor filed supplemental proceedings and, when those ultimately proved fruitless because of the judgment debtor's failure to produce documents, filed a law suit citing his previous efforts, and then actively pursued his rights to recovery. *Gordon* at 58, 795 S.E.2d at 862. Therefore, the Court of Appeal's opinion does not support the situation that both Justice Thomas and Lancaster raise of allowing a party to do nothing until right before the ten years expire.

C. Lancaster's Petition Should be Denied Because the Court Correctly Took into Account the Reasoning Expressed in the *Linda Mc Company* that a Party Should Not be at the Mercy of a Court to Collect on his Judgment During the Active Period.

Both Lancaster, and Justice Thomas in his dissent, fail to address the Supreme Court's language in *Linda Mc Co* .that emphasizes a party should not be "at the mercy of the court system to conclude the matter within the ten-year period" when a party has complied with applicable statutes to collect on his judgment. 390 S.C. at 555, 703 S.E.2d at 505. There were many instances where Gordon was at the mercy of the court system to collect on his judgments. For example, even though the judgments were awarded in December 2001, and March 2002, Gordon was unable to begin execution on them until the end of September 2005, when Lancaster lost his appeal and Gordon received the final award and modification of the judgments.

Gordon also lost over two years after Drews died in September 25, 2007. Gordon was diligent in pursuing collection on his judgments during this time by bringing claims against Drews'

estate. Gordon lost additional time after Effie Drews died. He once again filed an estate claim to diligently pursue his judgment, and had to wait for the estate proceedings to progress. It was not until November 2011 that the Drews estate confessed judgment and both Drews' estate and Mrs. Drews' estate assigned their claims to Gordon. The Drewses' deaths during his judgments' ten-year active period and the necessary resulting estate proceedings, were completely outside of Gordon's control and thwarted his timely efforts to enforce his judgments.

The problematic nature of Lancaster's overly-narrow construction of the *Linda Mc Co* .holding is illustrated by this very case, as Gordon acted even earlier to enforce his judgments than the *Linda Mc Co.* plaintiff, and should not lose his right to recover because this litigation took longer. This is especially true when this case took much longer to litigate due to the discovery efforts required to uncover the complicated, convoluted, and dishonest transactions in which Lancaster and Drews engaged. Lancaster should not be able to benefit from those dishonest acts by arguing that Gordon should be treated differently from the *Linda Mc Co.* plaintiff because Gordon was not merely waiting a decision. For these reasons, the Court of Appeal's opinion is consistent with the mandates set out in *Linda Mc Company*, and Lancaster's Petition for Writ of Certiorari should be denied.

D. Lancaster's Petition also Should be Denied as the Court of Appeal's Decision is Consistent with *Hardee.*

Lancaster argues that the Court of Appeal's reliance on *Hardee v. Lynch,* 212 S.C. 6, 46 S.E.2d 179 (1948), is "misplaced" in that the ten-year period can no longer be extended to twenty years, rendering the *Hardee* approach inapplicable. (Petition, p. 13) Gordon disagrees: the Court of Appeal's acknowledgement of *Hardee's* proposition that allows creditors to proceed if they have been diligent and have taken action to enforce their judgments before the expiration of the ten years is not misplaced, but even more appropriate under current law where the creditors cannot

request an extension, and have only half the time to attempt to collect the money rightfully due them. The *Hardee* and *Mc Company* approach, rather than Lancaster's unforgiving and stringent one, is especially appropriate under the facts of this case where Gordon attempted to enforce his judgments, but his efforts were frustrated due to factors outside of his control. Moreover, Lancaster is not the original debtor creditor, and his involvement and fraud in helping Drews hide his assets were not discovered until years later, so he should not be able to avail himself of a ten-year rule on his liability for fraudulent conveyances. Lancaster would have this Court issue an unduly restrictive holding which would encourage debtors and their accomplices to engage in unscrupulous behavior, and employ any delay tactics possible to run out the clock on a judgment's ten-year active period while the case is being litigated.[7] The Court of Appeals affirmance of the Circuit Court's holding is in keeping with South Carolina's and other states' legal precedent, and sound public policy, and therefore, Lancaster's petition for writ of certiorari should be denied.

II. Gordon was Entitled to Bring the Action Underlying this Appeal as Assignee of the Drewses' Estates.

Lancaster fails to recognize that Gordon also should prevail against Lancaster given the fact that Gordon was assigned the Drewses' estate claims. (R. pp. 152, para 12; 751-761).The Estates' rights accrued sometime after the Drewses' deaths in 2007 and 2010 respectively, as assets at issue in this matter should have been included in those Estates.[8] As of November 2011, Gordon had a renewed right to bring suit against Lancaster as a de facto, "executor de son tort" of the

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[7] As more fully explained in Return to Petition for Rehearing on pages 6 & 7, other jurisdictions such as Kentucky, Georgia, and North Carolina also have recognized that a judgment's enforceability should be extended where the judgment creditor has brought action to enforce the judgment. *See Wade v. Poma Glass & Specialty Windows Inc.*, 394 S.W.3d 886, 893-95 (Ky. 2012); *A.B. Farquhar Co. v. Myers*, 194 Ga. 220, 225, 21 S.E.2d 432, 436 (1942); N.C. Gen. Stat. Sec. 1-47(1) (2013); *Magazian v. Creagh*, 234 N.C. App. 511, 512 n.2, 759 S.E.2d 130, 131 n.2 (2014); *Raccoon Val. Inv. Co. v. Toler,* 32 N.C. App. 461, 463, 232 S.E.2d 717, 718-19 (1977).

[8] See Respondent's Final Brief, Section VIII, at p. 48.

monies that rightfully belonged in Mr. and Mrs. Drews' Estates.[9] There is no issue as to whether the Estates' claims brought by Gordon were timely. Gordon's assignee status serves as an additional, sustaining ground for this Court to affirm the Circuit Court's Order irrespective of Lancaster's argument that Respondent's Judgment had expired and was unenforceable.

III. Petitioner has Failed to Show any Special or Important Reasons why Writ of Certiorari Should be Granted as to the Court of Appeals' Holdings Relating to the Fraudulent Conveyances, and therefore, his Petition Should be Denied.

Lancaster has requested a writ of certiorari to the Court of Appeals' holdings that Lancaster and Drews engaged in fraudulent conveyances to hide assets from creditors. Lancaster has failed to show any special or important reasons why he should be granted certiorari on these holdings, and none of the reasons set forth in Rule 242(b) support a review of the Court of Appeals' holdings relating to these fraudulent conveyances.[10] Rather than show why under Rule 242(b) these questions are worthy of certiorari, Lancaster states summarily that "the Court of Appeals was incorrect on both the facts and law." (Petition, p. 14) He then goes on to argue the facts of the case in an attempt to have this Court retry the case, make new findings of fact, and reject the Circuit Court's credibility determinations.[11] The Circuit Court found that Lancaster's:

> Testimony at trial regarding these transfers lacked credibility and evidenced that the transfers in question were indeed interfamily transfers for no consideration that were made in furtherance of Drews' scheme to conceal his assets from present and subsequent creditors.

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[9] S.C. Code Ann. § 62-3-619 provides that an "executor de son tort" is "[a]ny person who obtains, receives, or possesses property of whatever kind, belonging to the decedent, by means of fraud or without paying valuable consideration equivalent to the value of the property, shall be charged and chargeable as executor of his own wrong (executor de son tort) with respect to the goods and debts. The value of the property is charged to the executor de son tort..."

[10] Even though there is a dissent in the Court of Appeals' opinion, the dissent only addresses the issue of the judgments' enforceability, and does not reach the issues of whether the conveyances were fraudulent. *Gordon v. Lancaster,* 419 S.C. 48, 64-65, 795 S.E.2d 857, 865-866 (Ct. App. 2016), reh'g denied (Feb. 16, 2017).

[11] See Respondent's Final Brief, pp. 12-13, pp. 33-34 and pp. 41-42 for a full discussion of Lancaster's credibility issues.

(R. p. 24, para. 74)

A. Petitioner has not Shown why he Should be Granted Certiorari as to the Court Of Appeals' Decision to Affirm the Circuit Court's Decision that Drews' $100,000 Payment to Lancaster Constituted a Fraudulent Conveyance.

Lancaster has failed to show any of the considerations listed in Rule 242(b) as supporting his petition. Instead, he summarily states that "the Court of Appeals was incorrect in both the facts and the law." (Petition, p. 14) Lancaster fails to address subsequent creditor law, and ignores the multiple badges of fraud which both the Circuit Court and the Court of Appeals found supporting the inference of fraud. In holding that the $100,000 was a fraudulent conveyance, the Court of Appeals sets forth a well-reasoned opinion beginning with the Statute of Elizabeth and it's protection of subsequent creditors as set forth in *Judy v. Judy*, 403 S.C. 203, 208-09, 742 S.E.2d 672, 675 (Ct. App. 2013). *Gordon*, 419 S.C. at 60, 795 S.E.2d at 863. The Court of Appeals then conducts an analysis under *Coleman v. Daniel*, 261 S.C. 198, 209, 199 S.E.2d 74, 79 (1973), to establish whether Lancaster met his burden in this interfamilial transfer to show the bona fides of the conveyance, or whether an inference of fraud is warranted. The Court of Appeals finds pursuant to *Coleman* that the record has evidence of multiple badges of fraud and concludes:

> Considering the badges of fraud, including Drews's insolvency, the failure to follow the usual formalities in granting a life estate and Drews's retention of benefits in the funds conveyed, we affirm the circuit court's finding that the 1992 transfer of funds involved actual moral fraud and could be set aside even though it occurred before Gordon became a creditor.

Gordon, 419 S.C. at 61, 795 S.E.2d 864. Lancaster does not point to any errors in law that the Court of Appeals made in rendering this opinion, and therefore, has failed to support his petition.

Lancaster's focus instead is on findings of facts, and insists there is no "credible" evidence supporting these findings. Lancaster spends a substantial portion of his brief on this question arguing that there is no evidence of indebtedness. This argument, however, fails to show why this

question is deserving of certiorari. Lancaster is unable to show that this finding is "wholly unsupported" by the record as required to make it appropriate for review by this Court on writ of certiorari, and instead attempts to have this Court re-review the facts and make new findings. Lancaster ignores that Gordon presented evidence of Drews' indebtedness from the early' 90s throughout his death in 2007.[12]

Lancaster's argument also must fail in that even if there were no evidence of indebtedness, indebtedness is only one of the many badges of fraud that support an inference of actual moral fraud. *Coleman v. Daniel,* 261 S.C. 198, 209, 199 S.E.2d 74, 79 (1973) (when there is a concurrence of several badges of fraud, an inference of fraud may be warranted). The Court of Appeals found there was a concurrence of badges of fraud, including "Drews' insolvency, the failure to follow the usual formalities in granting a life estate, and Drews's retention of benefits in the funds conveyed." 419 S.C. at 61, 795 S.E.2d at 864. Gordon also showed there was lack of consideration for the conveyance, and that Drews and Lancaster were related and shared a close relationship, all of which are badges of fraud supporting the Court of Appeals' decision to affirm the Circuit's Court finding that the $100,000 conveyance involved actual moral fraud.

Furthermore, the Court of Appeal's affirmance of the Circuit Court's finding that the $100,000 paid to Lancaster constituted a fraudulent conveyance is consistent with the Supreme Court's opinion in *Windsor Props., Inc. v. Dolphin Head Constr. Co., Inc.*, 331 S.C. 466, 498 S.E.2d 858 (1998). According to *Windsor Properties*, as Lancaster offered contradictory testimony about whether valuable consideration was given for an interfamilial transfer and only nominal consideration was cited to in the life estate document (R. pp. 665-666), he failed to demonstrate

[12] Gordon has addressed the evidence of Drews' indebtedness in the Return to Petition for Rehearing at pp. 11-15 and Respondent's Final Brief at pp. 25-29.

by clear and convincing evidence that the transfer was for consideration and bona fide. *Windsor Props.*, 331 S.C. at 472-73, 498 S.E.2d at 861-62. Therefore, the Court of Appeals properly affirmed the Circuit Court's decision that the $100,000 transfer violated the Statute of Elizabeth.

B. Lancaster's Challenge to the Holding that Lancaster's $40,000 in Payments to Drews were Part of a Scheme to Hide Assets Should be Denied as There Was Ample Evidence Supporting the Decision.

Lancaster again improperly seeks to have this Court review findings of facts and credibility determinations on a writ for certiorari. In upholding the Circuit Court's decision finding that the $40,000 payments to Drews were fraudulent conveyances, the Court of Appeals opined:

> We find ample evidence in the record indicating the payments were not loans to the Drewses, but rather the payments constituted a surreptitious scheme to return to Drews a portion of the $100,000 Drews provided Lancaster in 1992.

Gordon at 61, 419 S.C. at 864. The ample evidence on which the Court of Appeals relies is a far cry from having findings of facts wholly unsupported by evidence as required for this Court to review the findings on writ of certiorari. *Jacoby v. S.C. State Bd. of Naturopathic Examiners,* 219 S.C. 66, 88, 64 S.E.2d 138, 148 (1951); *S.C. Bd. of Examiners in Optometry v. Cohen,* 256 S.C. 13, 18, 180 S.E.2d 650, 652 (1971)(citations omitted).

Lancaster also tries to attack the Circuit Court's finding that Lancaster assisted Drews in defrauding his creditors by stating that Lancaster had nothing to do with how these transactions were formed. The Circuit Court, however, specifically rejected this position largely due to Lancaster's inconsistent trial testimony:

> The court finds that his failure to testify that he was not aware of any of this and didn't know anything about notes and mortgages and how this functions, the court does not find believable. The issue about .... neither party showing any payment of interest by the Drews on the tax return, the '05 tax return, the defendant didn't show any return of interest. The court finds it was a concerted effort by both parties to hide all these transactions from any view of the public either by recording in the Register Mesne Conveyance, tax return, or any other methods to avoid any finding those assets by any creditor.

(R. pp. 582, line 19 - 583, line 5) The Court of Appeals was correct in affirming the Circuit Court's finding, as it was based on the Circuit Court's determination that Lancaster's testimony was not credible on these issues, and also based on evidence that demonstrated the parties' complete failure to follow customary business practices.[13]

C. Lancaster's Petition Relating to the Court of Appeal's Decision to Uphold the Circuit Court's Ruling that the $20,000 Meeting Street Mortgage Drews Gave Lancaster was a Fraudulent Conveyance Should be Denied as it was Supported by Evidence and the Circuit Court's Credibility Determinations which Should Not be Disturbed.

The Court of Appeals upheld the Circuit Court's determination that the $20,000 mortgage between Lancaster and Gordon involved actual moral fraud.[14] In arguing that the Court of Appeals erred, Lancaster writes that "it seems particularly disingenuous for the Court of Appeals to hold Mr. Lancaster, who admittedly paid the banks $20,000.00, failed to give the Drewses contemporaneous consideration for the mortgage." (Petition, p. 23) Among the evidence presented was Lancaster's testimony that he was initially unaware of the $20,000 mortgage (R. p. 352, lines 1-6), and that he did not receive any money from Drews at the same time he was given the mortgage (R. p. 339, line 19 – 340, line 3; R. p. 354, lines 10-13). Although Lancaster cites to a few cases relating to consideration, he does not explain how the Court of Appeals misapplied these cases, and does not address how the findings are wholly unsupported by the facts.[15]

Lancaster also seeks to have this Court ignore and disregard the Circuit Court's credibility

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[13] Gordon also showed that Drews engaged in a pattern of hiding assets with others. See supra at pp. 11-12 for Dorsey Biller Facts.

[14] Gordon was an existing creditor at the time of this transaction, and did not have to show actual moral fraud where no consideration was given. *Windsor Props.*, 331 S.C. at 471, 498 S.E.2d at 860 (citations omitted).

[15] For a full discussion of the law and evidence relating to this consideration issues, Gordon incorporates by reference Respondent's Final Brief to the Court of Appeals at pp. 38-40.

determinations relating to Lancaster's testimony concerning this transaction. As the Court of Appeals points out, the Circuit Court found Lancaster's testimony contradictory in that he testified he was not aware of the $20,000 mortgage and then changed his story and testified that he participated in its genesis. (R. p. 19, para. 44). The Court of Appeals held:

> We agree with the circuit court's findings that the $20,000 mortgage was not supported by either contemporaneous or past valuable consideration and constituted actual moral fraud which were based on credibility determinations. *See Clardy v. Bodolosky,* 383 S.C. 418, 424, 679 S.E.2d 527, 530 (Ct. App. 2009).
>
> *Gordon,* 419 S.C. at 62, 795 S.E.2d at 864.

Lancaster not only asks this Court to disregard the Circuit Court's credibility determinations, but he also wants this Court to ignore the facts and findings supporting that the $20,000 mortgage was only one transaction out of several that formed a pattern and scheme to defraud Drews' creditors. Lancaster attempts to have this Court isolate the $20,000 mortgage and his argument as to whether there was consideration, without acknowledging or addressing that this $20,000 mortgage was the third mortgage granted to him, far in excess of any money due to him.[16] As none of these mortgages was satisfied, and the total far exceeded any real debt, creditors were left with the impression that this property was encumbered in excess of its actual debt by at least $100,000. (R. p. 19, para. 45) Lancaster's Petition should be denied as he has failed to point to any errors of law, or any special and important reasons supporting his petition.

IV. The Court of Appeals Correctly Affirmed the Circuit Court Holding that Gordon is Entitled to Recovery Because Lancaster Failed to Appeal the Findings of a Fraudulent Scheme and Several Individual Transactions, which Established his Fraudulent Intent.

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[16] See Respondent's Final Brief pp. 7-9 and 41-42 for the facts and arguments relating to these three mortgages. Lancaster failed to appeal the findings related to the first two mortgages so the findings related to them, including that they are fraudulent conveyances and part of a scheme to defraud creditors, are now the law of this case.

Lancaster failed to appeal the Circuit Court's finding that these transactions were part of a fifteen-year scheme to defraud his creditors:

> Drews and Lancaster structured the life estates, mortgages, assignments, and transfers as convoluted, multi-step transactions in contravention of typical business practices in order to defraud Drews' creditors.

(R. p. 26, para. (i)). As fully set forth in Respondent's Final Brief, Issue II at pages 17 and 18, Lancaster appealed only three of the transactions in this scheme, and did not appeal all the transactions, or the finding related to the scheme itself. Therefore, the findings regarding the other transactions'[17] being fraudulent, and the finding of the fraudulent, multi-step transactions between Drews and Lancaster, are the law of this case. *Ex parte Morris*, 367 S.C. 56, 65, 624 S.E.2d 649, 653-654 (2006) (as a general rule, an unchallenged ruling, right or wrong, is the law of the case).

One of the transactions Lancaster failed to appeal was the $190,000 note and mortgage which Drews received for his Meeting Street Property. This note and mortgage were immediately assigned to Drews' wife, who then in turn assigned the mortgage (but not the note) to Lancaster, purportedly in substitution for the excessive $40,000, $100,000 and $20,000 mortgages. Now Lancaster was secured in the amount of $190,000, *three times greater* than the amount Lancaster was allegedly due. The Trial Court found:

> Importantly, at the time the Second and Third Mortgages were granted, Gordon's cause of action had already accrued. It was in large part the satisfaction of these fraudulent mortgages that was used to justify the later Assignment that occurred a month before the Gordon trial.

(R. p. 20, para. 48). The excessive nature and the timing of this last assignment demonstrate the fraudulent nature of these transactions. The Circuit Court correctly found that Lancaster actively

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[17] Other transactions that Lancaster did not appeal, and that the Circuit Court found to be fraudulent conveyances include: the substitution of the Nuffield property for the Bainbridge property, the first mortgage of $40,000 on Meeting Street property, the second mortgage of $100,000 on the Meeting Street property, and the assignment of $190,000 mortgage on the Meeting Street property.

participated with Drews in this scheme to create the impression that Drews' property was encumbered in excess of the actual debt so as to avoid creditors. (R. pp. 19-20, para. 47). Since there was no appeal of the findings related to this transaction, it has become the law of the case, and provides additional support for this Court to uphold the Court of Appeals' decision to affirm the Circuit Court's rulings relating to the fraudulent nature of the three isolated transactions Lancaster appealed.

CONCLUSION

Lancaster's Petition for Writ of Certiorari should be denied as he failed to show this Court any special and important reasons that would necessitate a writ of certiorari.[18] Moreover, the Court of Appeals' opinion affirming the Circuit Court's decisions is well-supported by the record and based on sound reasoning that is consistent with legal precedent.

Based upon the foregoing arguments and citation of evidence and authority, Respondent respectfully requests this Court deny Lancaster's Petition for Writ of Certiorari.

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April 13, 2017
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[18] This Court recently denied certiorari in the similar case of *McMasters v. Charpia*, Op. No. 002522 (S.C. Sup. Ct. filed Feb. 8, 2017). In *McMasters v. Charpia*, the Court of Appeals upheld a judgment after expiration of the ten-year statutory period based *Linda Mc Co.* because the judgment creditor sought enforcement within the ten-year period. Op. No. 2016-UP-423 (Unpublished, S.C. Ct. App. filed Oct. 5, 2016). Notably, the judgment creditor was represented by the firm of Cisa & Dodds who argued in favor of applying *Linda Mc Co.* for an extension of the ten-year period. *McMasters,* Op. No. 2016-UP-423. Here, the opposite position is advanced by the same law firm, Cisa & Dodds.

STATE OF SOUTH CAROLINA
IN THE
SUPREME COURT

Appeal from the Court of Common Pleas
For Charleston County
Honorable J. C. Nicholson, Jr., Circuit Judge
Civil Action Nos.: 2010-CP-10-9096
And 2011-CP-10-8840
Appellate Case Tracking No. 2017-00640

Frank Gordon, Jr., Individually and as Trustee of the Dorothy S. Gordon (Deceased) Trust,
Respondent.

v.

Donald W. Lancaster,
Petitioner.

Proof of Service for Respondent's Return to the Petition for a Writ of Certiorari

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I, Justin O'Toole Lucey, Esquire, hereby certify that on April 13, 2017 I served a copy of the ***Respondent's Return to the Petition for a Writ of Certiorari*** submitted by the Respondent, Frank Gordon, Jr., Individually and as Trustee of the Dorothy S. Gordon (Deceased) Trust, on counsel for Petitioner Donald W. Lancaster, via the United States Mail, postage pre-paid, and addressed as follows:

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April 13, 2017