

THE STATE OF SOUTH CAROLINA
In the 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

RECEIVED

AUG 14 2017

SC Court of Appeals

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' MOTION TO STRIKE SWILLEY APPELLANTS' APPEAL FOR FAILURE TO COMPLY WITH SCACR REGARDING THE RECORD ON APPEAL

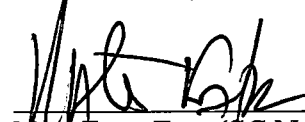
Respondents Gabriel Barnhill & GSB Enterprises, LLC move this Honorable Court to strike Swilley Appellants' Appeal because the Record on Appeal is still incomplete despite numerous written requests to include Respondents' matters.

The Certificate of Service for Respondents' December 16, 2015 Notice of Motion and Motion for Summary Judgment and for Judgment on the Pleadings has again been omitted from the Record on Appeal. Respondents' counsel received the Supplemental Record on Appeal on August 2, 2017. Via June 26, 2017 correspondence to Appellants' counsel, attached hereto as Exhibit "A", Respondents' counsel specifically requested the inclusion of this Certificate of Service. See Number 7. Such Certificate of Service is referenced in Respondents' Initial Brief. See, e.g., p. 19 of Respondents' Initial Brief. Respondents' Final Brief cannot be filed until the Record on Appeal is complete.

Respondents hereby request that Appellants be required to supplement the Record on Appeal and that the Court grant Respondents thirty days from their receipt of the supplemental Record on Appeal to file a Final Brief. In the alternative, the Court should strike Swilley Appellants' Appeal for their repeated failure to follow SCACR with regard to the Record on Appeal.

Respondents appreciate the Court's consideration.

NATE FATA, P.A.



Nate Fata, Esq. (SC No. 009866)
Post Office Box 16620
Surfside Beach, SC 29587
843-238-2676

August 8, 2017

Attorney for Respondents

EXHIBIT

“A”

NATE FATA, P.A.
ATTORNEY AT LAW

P.O. Box 16620
THE COURTYARD, SUITE 215
SURFSIDE BEACH, SOUTH CAROLINA 29587
TELEPHONE (843) 238-2676
TELECOPIER (843) 238-0240
NFATA@FATALAW.COM

VIA EMAIL

June 26, 2017

F. Miles Adler, Esq.
ADLER LAW FIRM, LLC
P.O. Box 4743
Pawleys Island, SC 29585
miles@adlerlaw.partners

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

Dear Miles:

In our review of the revised Record on Appeal we are sending you some of the omitted Certificates of Service ("COS") as follows:

1. COS serving Order signed by Judge William H. Seals, Jr. 9/8/15;
2. COS Notice of Motion and Motion to Compel Discovery 7/2/13;
3. COS Plaintiffs' Answer to Counterclaim 8/2/13;
4. COS by Miles Adler dated 10/28/13
5. COS Plaintiff's Notice of Motion and Motion to Compel J. Floyd Swilley Investment Advisors, SMG Partners, LLC, WCP Limited, LLC, 809 Holdings, LP, SMS Services, LP, and Sage Financial Group, LLC 1/9/14;
6. COS Plaintiff's Notice of Motion and Motion to Consolidate 2/17/15;
7. COS Plaintiffs' Notice of Motion and Motion for Summary Judgment and For Judgment on the Pleadings 12/16/15;
8. COS Plaintiff's Notice of Hearing upon counsel and Pro Se Defendants 2/3/16; and
9. COS Affidavit of Sally J. Huffman 5/13/16.

F. Miles Adler, Esq.
June 26, 2017
Page 2

We have not completed our review of the Record on Appeal. Please ensure all items requested by Respondents in their Designation of Matter and in my follow up letters to you are included in the Amended Record on Appeal. If any requested items are being omitted, please identify each omitted item in writing.

Very truly yours,
NATE FATA, P.A.



Nate Fata

NF/sh

Attachments

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
Gabriel Barnhill and GSB Enterprises,)
LLC,)
Plaintiffs,)
vs.)
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,)
Defendants.)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
CASE NO. 2014-CP-26-08367
(formerly 2013-CP-26-02816)

HORRY COUNTY
2015 DEC 21 PM 3:16
MELANIE HUBBARD
CLERK OF COURT

CERTIFICATE OF SERVICE

Gabriel Barnhill and GSB Enterprises,)
LLC,)
Plaintiffs,)
vs.)
J. Floyd Swilley, J. Floyd Swilley)
SMG Partners, LLC, SMS Services, LP,)
William C. Piner, WCP Limited, LLC,)
Alicia A. Piner, 809 Holdings, LP,)
Heath Causey, Sage Financial Group,)
LLC, 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.)

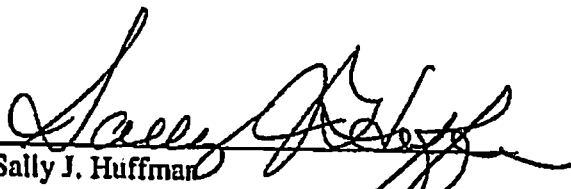
CASE NO. 2014-CP-26-3362

I, Sally J. Huffman, Legal Assistant, do hereby certify that I am an employee of Nate Fata, P.A., Counsel for Plaintiffs Gabriel Barnhill and GSB Enterprises, LLC and that on

December 16, 2015 I did serve a copy of Plaintiffs' Notice of Motion and Motion for Summary Judgment and For Judgment on the Pleadings upon Counsel for Defendants by mailing a copy of the same postage prepaid to:

John M. Leiter, Esq.
Law Offices of John M. Leiter, PA
1203 48th Avenue, North, Ste. 109
Myrtle Beach, SC 29577
*Counsel for J. Floyd Swilley, J. Floyd Swilley Investment Advisors,
Laurel K. Swilley, SMG Partners, LLC, SMS Services, LP,
William C. Piner, WCP Limited, LLC, Alicia A. Piner,
Heath Causey, Sage Financial Group, LLC, Sage Advisory Group, LP
Sage Private Equity Group and Secured Asset Factoring Exchange, Inc.*

Mark D. Neill, Esq.
P.O. Box 2810
Murrells Inlet, SC 29576
Counsel for 809 Holdings, LP


Sally J. Huffman
Legal Assistant to Nate Fata, P.A.

THE STATE OF SOUTH CAROLINA
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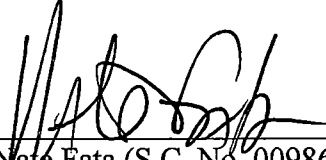
J. Floyd Swilley, J. Floyd Swilley Investment Advisors, Laurel K. Swilley, SMG Partners, LLC, SMS Services, LP, William C. Piner, WCP Limited, LLC, 809 Holdings, LP, QC Financing, LLC, Heath Causey, and Sage Financial Group, LLC, J. Floyd Swilley SMG Partners, LLC, Alicia A. Piner, Heath Causey, Sage 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' Motion to Strike Appellants' Appeal for Failure To Comply with SCACR Regarding the Record on Appeal 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 **August 8, 2017**, 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.

August 8, 2017



Nate Fata (S.C. No. 009866)
Nate Fata, P.A.
Post Office Box 16620
Surfside Beach, SC 29587
(843) 238-2676
Attorney for Respondents

NATE FATA, P.A.
ATTORNEY AT LAW

P.O. Box 16620
THE COURTYARD, SUITE 215
SURFSIDE BEACH, SOUTH CAROLINA 29587
TELEPHONE (843) 238-2676
TELECOPIER (843) 238-0240
NFATA@FATALAW.COM

VIA U.S. MAIL

August 8, 2017

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

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AUG 14 2017

SC Court of Appeals

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

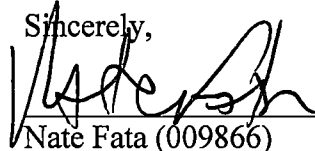
Dear Ms. Kitchings:

Enclosed for filing are an original and six copies of Respondents' Motion To Strike Appellants' Appeal For Failure to Comply with SCACR Regarding The Record on Appeal and Proof of Service.

I enclose a check in the amount of \$25 for the filing fee.

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
P.O. Box 4743
Pawleys Island, SC 29585
Attorney for Appellants

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

neopostTM
08/08/2017

FIRST-CLASS MAIL

US POSTAGE \$003.29⁰



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First Class Mail
First Class Mail

Nate Fata, P.A.
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Surfside Beach, SC 29587

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SC Court of Appeals

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

