

RECEIVED
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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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

SUPPLEMENT TO AMENDED RECORD ON APPEAL PURSUANT ORDER OF JULY 12, 2017

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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APPEAL FROM HORRY COUNTY

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R. Lawton McIntosh, Circuit Court Judge

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

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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

SUPPLEMENT TO AMENDED RECORD ON APPEAL PURSUANT ORDER OF JULY 12, 2017

TABLE OF CONTENTS

SUPPLEMENT TO AMENDED RECORD ON APPEAL PURSUANT ORDER OF JULY 12, 2017

In order to supplement the Amended Record on Appeal pursuant the Order of the Honorable Court and to accommodate the requested changes of the parties the following Supplement to Amended Record on Appeal is submitted.

1. Certificate of Service for Order Signed by Judge William H. Seals, Jr. 9/8/15	0001
<i>Supplements Item No.7 p.23</i>	
2. Certificate of Service for Answer to Counterclaim 8/2/13	0003
<i>Supplements Item No. 15 p.92</i>	
3. Certificate of Service by F. Miles Adler 10/28/13	0004
<i>Supplements Item No. 17 p. 97</i>	
4. Certificate of Service for Motion and Motion to Compel 1/9/14	0005
<i>Supplements Item No. 18 p. 112</i>	
5. Certificate of Service for Notice of Motion to Consolidate 2/3/15	0007
<i>Supplements Item No. 28 p. 333</i>	
6. Plaintiff's Motion for Sanctions November 4, 2013	0008
<i>Replaces Amended Record on Appeal No. 17 at page 99</i>	
7. Motion For Sanctions June 27, 2014	0016
<i>Supplements Original Motion by adding COS and Coversheet Item 21 P. 132</i>	

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.)

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.)

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

CERTIFICATE OF SERVICE

CASE NO. 2014-CP-26-3362

HORRY COUNTY
2015 SEP 10 PM 1:00
MELBA B. HARRIS, CLERK OF COURT

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

September 8, 2015 I did serve a copy of the "Order" signed by Judge William H. Seals, Jr.

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

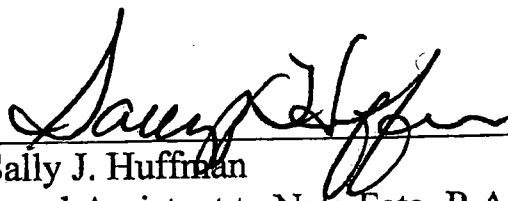
Sage Private Equity Group and Secured Asset Factoring Exchange, Inc.

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.

000002

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
CASE NO. 2013-CP-26-2816

Gabriel Barnhill and GSB Enterprises,)
LLC,)
Plaintiffs,)

vs.)

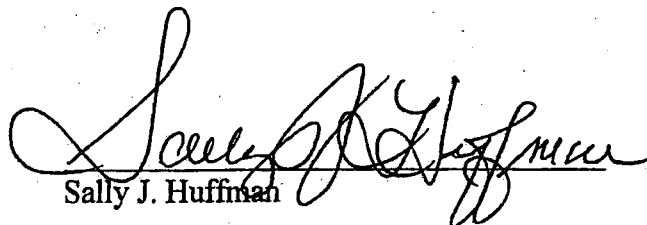
J. Floyd Swilley, J. Floyd Swilley)
Investment Advisors, Laurel K. Swilley,)
SMG Partners, LLC, SMS Services, LP,)
William C. Piner, WCP Limited, LLC,)
809 Holdings, LP, QC Financing, LLC,)
Heath Causey, and Sage Financial)
Group, LLC,)
Defendants.)

CERTIFICATE OF SERVICE

FILED
HORRY COUNTY
2013 AUG -5 PM 2:23
MELANIE HUGGINS-WARD
CLERK OF COURT

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 August 2, 2013 I did serve a copy of Plaintiffs' Answer To Counterclaim by mailing a copy of the same postage prepaid to:

F. Miles Adler, Esq.
The Adler Law Firm
P.O. Box 4743
Pawleys Island, SC 29484
Counsel for Defendants


Sally J. Huffman

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
FOR THE FIFTEENTH JUDICIAL CIRCUIT
Case No.: 2013-CP- 26 – 2816

CERTIFICATE OF SERVICE


CLERK OF COURT
13 OCT 28
CLOCK IN TIME CANCELLED
MELANIE HUGGINS-WARD
PM 1:43

This is to certify that I, F. Miles Adler have caused to be served on counsel of record by causing copies of same to be deposited in the United States Mail, proper postage prepaid, this 28th day of October, 2013 addressed as follows:

FATA LAW FIRM
1500 Hwy 17 North – Suite 215
Surfside Beach, SC 29575

FILED
HORRY COUNTY
13 DEC 11 AM 11:38
MELANIE HUGGINS-WARD
CLERK OF COURT

October 28, 2013
Pawleys Island, South Carolina


F. Miles Adler

000004

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. 2013-CP-26-2816

CERTIFICATE OF SERVICE

HORRY COUNTY
14 JAN 10 PM 2:04
KELLY HUBBINS-WARD
CLERK OF COURT

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 January 9th, 2014 I did serve a copy of 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 by mailing a copy of the same postage prepaid to:

J. Floyd Swilley
350 Hilton Road, Suite 100
Myrtle Beach, SC 29572

Laurel K. Swilley
1317 3rd Avenue, Suite B
Conway, SC 29526

William C. Piner
606 Calhoun Road
Myrtle Beach, SC 29577

Heath Causey
350 Hilton Road, Suite 100
Myrtle Beach, SC 29572

J. Floyd Swilley Investment Advisors
350 Hilton Road, Suite 100
Myrtle Beach, SC 29572
Attn: J. Floyd Swilley

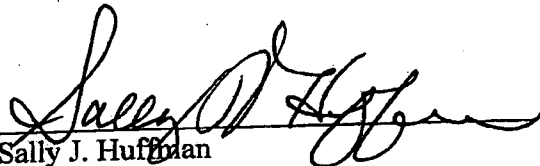
SMG Partners, LLC
350 Hilton Road, Suite 100
Myrtle Beach, SC 29577

Sage Financial Group, LLC
350 Hilton Road, Suite 100
Myrtle Beach, SC 29572
Attn: J. Floyd Swilley

SMS Services, LP
350 Hilton Road, Suite 100
Myrtle Beach, SC 29572
Attn: Heath Causey

WCP Limited, LLC
606 Calhoun Road
Myrtle Beach, SC 29577
Attn: William C. Piner

809 Holdings, LP
1317 3rd Avenue, Suite B
Conway, SC 29526
Attn: Laurel K. Swilley


Sally J. Huffman

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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)

CERTIFICATE OF SERVICE

FILED HORRY COUNTY 15 APR 27 PM 12:24 MELANIE HOGGINS-WARD CLERK OF COURT

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 February 17, 2015 I did serve a copy of Plaintiffs Notice of Motion and Motion to Consolidate 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 Defendants

Jarrett S. Calder, Esq. Grand Strand Law Group, LLC P.O. Box 3237 Myrtle Beach, SC 29578 Counsel for 9-1-1 Plumbing, LLC

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

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. 2013-CP-26-2816

PLAINTIFFS' NOTICE OF
MOTION AND MOTION FOR
SANCTIONS FOR DEFENDANTS'
FAILURE TO COMPLY WITH
DISCOVERY ORDER

HURRY
13 NOV - 4 PM 1:50
MELANIE HUGGINS - WARD
CLERK OF COURT

TO: Defendants J. Floyd Swilley, J. Floyd Swilley Investment Advisors, Laurel K. Swilley, SMG Partners, LLC, SMS Services, L.P., William C. Piner, WCP Limited, LLC, 809 Holdings, LP, Heath Causey and Sage Financial Group, LLC, and their Counsel:

YOU WILL PLEASE TAKE NOTICE that Plaintiffs, Gabriel Barnhill and GSB Enterprise, LLC, by and through their attorney, Nate Fata, will move this Honorable Court within ten (10) days after service hereof or as soon thereafter as counsel may be heard for an Order entering the appropriate relief against Defendants J. Floyd Swilley, J. Floyd Swilley Investment Advisors, Laurel K. Swilley, SMG Partners, LLC, William C. Piner, WCP Limited, LLC, 809 Holdings, LP, SMS Services, LP, Heath Causey and Sage Financial Group, LLC for failure to comply with the Court's Order filed on September 20, 2013.

The Plaintiffs by and through their attorney, Nate Fata, pursuant to South Carolina Rule of Civil Procedure 37, in support of their Motion, state as follows:

1. The Court ordered full and complete responses to the Plaintiffs' discovery requests by Order filed on September 20, 2013. The discovery requests were served in April, 2013.

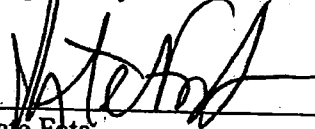
2. The Defendants have not provided full and complete responses, as outlined in counsel's letter dated October 21, 2013, a copy of which is attached as Exhibit "A".

3. Defendants' responses do not comply with the Court's Order filed on September 20, 2013. The responses are incomplete. Clearly relevant, responsive materials such as tax returns have not been provided.

4. The Court should strike the Answer of Defendants, award attorney fees and costs and enter all other appropriate relief.

WHEREFORE, Plaintiffs, Gabriel Barnhill and GSB Enterprises, LLC, request that this Court enter an Order striking the Answer of Defendants J. Floyd Swilley, J. Floyd Swilley Investment Advisors, Laurel K. Swilley, SMG Partners, LLC, William C. Piner, WCP Limited, LLC, SMS Services, LP, and Heath Causey, enforcing the September 20, 2013 Order, awarding reasonable attorney fees in connection with this Motion and hearing, and granting all other appropriate relief pursuant to Rule 37, SCRPC.

Respectfully submitted,



Nate Fata

NATE FATA, P.A.

Attorney for Plaintiffs

P. O. Box 16620

1500 U.S. Hwy. 17 N., Suite 215

Surfside Beach, SC 29587

Tel. (843) 238-2676

Fax (843) 238-0240

Surfside Beach, South Carolina
October 31, 2013

EXHIBIT

A

000010

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

October 21, 2013

F. Miles Adler, Esq.
The Adler Law Firm
P.O. Box 4743
Pawleys Island, SC 29484
miles@theadlerlawfirm.com

Re: Gabriel Barnhill and GSB Enterprises, LLC vs. J. Floyd Swilley, et al.
Civil Action No. 2013-CP-26-2816

Dear Miles:

I am in receipt of the Defendants' Responses to Interrogatories and Requests For Production. The responses do not comply with the Court's Order filed on September 20, 2013. Under the Order, the Defendants were to provide responsive documents and complete responses to all Interrogatories and Request For Production of Documents which are the subject of the Motion to Compel no later than October 15, 2013. Instead, I received incomplete answers and a myriad of objections. The time to object to any of the Interrogatories was prior to the hearing. I am addressing some of the incomplete and inadequate responses below.

Interrogatories

Interrogatory 1. Addresses have not been provided. Please provide a complete address so that subpoenas may be sent.

Interrogatory 5. No summary sufficient to inform the Plaintiffs of the important facts known or observed by the witnesses have been provided. The phrase "actions of Plaintiffs relative to QC Pawn" or "inventory issues relative to QC Pawn" do not provide any important facts known or observed by the witness. Please provide complete answers to the Interrogatory.

Interrogatory 6. No disclosure of any amounts provided to 809 Holdings, LLP by Defendants Piner, Atkinson, Swilley have been disclosed. If any Defendants made any

000011

F. Miles Adler, Esq.
October 21, 2013
Page 2

"investments" into 809 Holdings or QC Financing, please disclose the same in accordance with the Interrogatory.

Interrogatory 7. A complete answer has not been provided. Please review the Interrogatory and provide the amount of compensation and responsibilities for each Defendant relating to QC Financing or 809 Holdings. For example, and not by way of limitation, what was Sage Tax's arrangement and how much was it paid?

Interrogatory 11. (Second Number 11). The number of persons who invested in 809 Holdings and their investment amounts are all included in response to Interrogatory 9. However, Interrogatory 11 asks for the total amount of investor money that was lost or not repaid to these investors. Please state the amount of money that has not been repaid to the investors. My clients do not have access to 809 Holdings' information and do not know the amount of money invested in 809 Holdings. Again, full and complete answers are required to be provided under the Order. This information is readily available to your client.

Interrogatory 15. Please set forth all facts that support your contention that Gabriel Barnhill and/or Dave Wilkinson's actions caused the failure of 809 Holdings or any losses realized by 809 Holdings.

Interrogatory 16. Please provide the identity of any company in which any of the Defendants share common interests. For example, Secured Asset Factoring Exchange, Inc. might be owned by both Bill Piner and Floyd Swilley. If that is the case, during the relevant time period requested, please disclose those ownership interests.

Interrogatory 18. Please identify the terms of any loan any of the Defendants contend were made to 809 Holdings or QC Financing and identify all loan documents. No loan documents have been provided based on my review.

Interrogatory 19. Please set forth the mathematical formula used to assign ownership interest to Gabriel Barnhill. If no mathematical formula was used, please state the same.

Supplemental Interrogatories

With respect to responses to Supplemental Interrogatories you have not provided full and complete answers.

Supplemental Interrogatory 1. Documents submitted to the State of South Carolina are not subject to the attorney client privilege. Please immediately provide all such documents.

000012

F. Miles Adler, Esq.
October 21, 2013
Page 3

Supplemental Interrogatory 2. Please identify all lien papers and provide a copy of the same.

Supplemental Interrogatory 3. Please answer Interrogatory 3. You have not stated whether a conflict of interest existed.

Request For Production of Documents

Request for Production 3. You have not supplied responsive documents to this request.

Request for Production 6. Please respond to this Request.

Request for Production 7. Please respond to this Request.

Request for Production 10. Request for Production number 10 is not confidential and proprietary. My client is entitled to 809 Holdings tax returns and QC Financing tax returns. Please produce the same.

Request for Production 11. Please produce financial statements related to 809 Holdings and QC Financing, including the recent years of 2012 and 2013.

Request for Production 12. Please ensure all bank statements of 809 Holdings LLP to present have been provided, including the recent years of 2012 and 2013.

Request for Production 13. Please ensure all software registers or accounting statements to present have been provided. I do not see recent years in the documents produced, including the recent years of 2012 and 2013.

Request for Production 16. Please produce any and all documents bearing Gabriel Barnhill's signature or initials. The response that Plaintiff already has possession of the same is inadequate.

Request for Production 18. Please produce documents responsive to this Request.

Request for Production 19. Please produce any and all loan documents to the extent you are claiming loans were made.

Request for Production 20. Please produce documents relating to the Plaintiff. Your response that Plaintiff has these documents is inadequate.

000013

F. Miles Adler, Esq.
October 21, 2013
Page 4

Request for Production 21. Please produce documents relating to the Plaintiff. Your response that Plaintiff has these documents is inadequate.

Request for Production 22. Please produce all the corporate records of any of the Defendants.

Please provide the requested documents and information no later than October 28, 2013. If we do not receive the same by then, we will file the appropriate motion asking the Court to enter the appropriate relief including striking the answer and counterclaim for failure to provide discovery under the Order, attorney fees and costs.

With best regards, I remain

Very truly yours,
NATE FATA, P.A.



Nate Fata

NF/sh

000014

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.

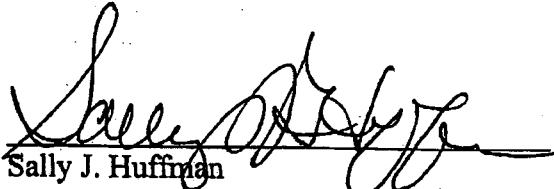
IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
CASE NO. 2013-CP-26-2816

CERTIFICATE OF SERVICE

HORRY COUNTY
13 NOV - 8 AM 3:50
MELANIE HUGHES-WARD
CLERK OF COURT

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 November 1, 2013 I did serve a copy of Plaintiff's Notice of Motion and Motion For Sanctions For Defendants' Failure To Comply With Discovery Order by mailing a copy of the same postage prepaid to:

F. Miles Adler, Esq.
The Adler Law Firm
P.O. Box 4743
Pawleys Island, SC 29484
Counsel for Defendants


Sally J. Huffman

Gabriel Barnhill and GSB Enterprises, LLC
 Plaintiff

CASE NO.
2013--CP-26-2816

v.

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

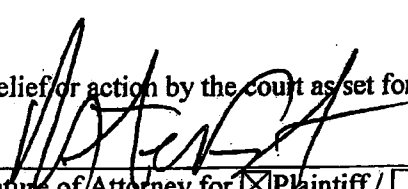
J. Floyd Swilley, Et Al.
 Defendant.

Plaintiff's Attorney: Nate Fata, Esq., Bar No. 09866 Address: P.O. Box 16620 Surfside Beach, SC 29587 phone: 843-238-2676 fax: 843-238-0240 e-mail: nfata@fatalaw.com other:	Defendant's Attorney: John M. Leiter, Bar No. Address: 1203 48 th Avenue, N., Suite 109 Myrtle Beach, SC 29577 phone: 843-449-1451 fax: 843-449-4888 e-mail: jleiter@48th.com other:
---	--

Horry County
16 JUN 27 2014
MELANIE HUGGINS
CLERK OF COURT


MOTION HEARING REQUESTED (attach written motion and complete SECTIONS II and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information
Nature of Motion: Plaintiffs' Notice of Motion and Motion for Sanctions
Estimated Time Needed: 15 minutes Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type
 Written motion attached
 Form Motion/Order
I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for Plaintiff / Defendant
Date submitted: June 24, 2014

SECTION III: Motion Fee
 PAID - AMOUNT: 25.00
 EXEMPT: Rule to Show Cause in Child or Spousal Support
(check reason) Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRPC)
 Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter:
 Other:

JUDGE'S SECTION
 Motion Fee to be paid upon filing of the attached order.
 Other:
JUDGE: _____
CODE: _____ Date: _____

CLERK'S VERIFICATION
Collected by: 
Date Filed: 6/27/14
 MOTION FEE COLLECTED: 25
 CONTESTED - AMOUNT DUE: _____

SCCA/233 (11-03)

000016

Scanned by CamScanner

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

Gabriel Barnhill and GSB Enterprises, LLC,)

Plaintiffs,)

vs.)

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. 2013-CP-26-2816

PAID

PLAINTIFFS' NOTICE OF
MOTION AND MOTION FOR
SANCTIONS AS TO DEFENDANTS

HORRY COUNTY
JAN 27 2014
CLERK OF COURT
KELANIE HUGGINS-WARD

TO: Defendants J. Floyd Swilley, J. Floyd Swilley Investment Advisors, Laurel K. Swilley, SMG Partners, LLC, SMS Services, L.P., William C. Piner, WCP Limited, LLC, 809 Holdings, LP, Heath Causey and Sage Financial Group, LLC, and their Counsel:

YOU WILL PLEASE TAKE NOTICE that Plaintiffs, Gabriel Barnhill and GSB Enterprise, LLC, by and through their attorney, Nate Fata, will move this Honorable Court within ten (10) days after service hereof or as soon thereafter as counsel may be heard for an Order awarding sanctions and striking the Answer and Counterclaim of Defendants.

Despite Court Orders concerning discovery entered on September 20, 2013 and January 16, 2014, Defendants continue to engage in discovery abuse. Truthful answers to discovery requests are required to ferret out the misdeeds of a fairly complex Ponzi scheme. Discovery abuse is just another leg of the scheme in which Defendants further misrepresent and defraud not only the Court, but its litigants of the truth.

A. False Denial of Request to Admit

In its January 16, 2014 Order, the Court ordered Defendants to comply with the discovery rules, provide responses and produce documents, and awarded attorney fees to Plaintiffs. The Court should now grant sanctions and award fees and costs due to Defendants' continuing disregard of the Court's Orders and discovery rules. In their response to Plaintiffs' Request to Admit, Defendants falsely denied that any payments were made to investors, such as Joyce Kaufman, after 2011.

Plaintiff Request to Admit Dated April 22, 2014:

1. Since January 1, 2012, at least one person disclosed in your response to Plaintiffs' Interrogatory Number 9 to be an 809 Holdings' investor, including but not limited to a note purchaser or limited partner, received a payment in connection with the 809 Holdings investment.

Defendants' Response: Denied.

Joyce Kaufman, an investor, testified in her deposition on May 22, 2014 and June 9, 2014 that she received payments from her account on multiple occasions, including a payment just before her deposition. Defendants refuse to produce a copy of the checks to Joyce Kaufman. At least one investor has received a payment after 2011. The Court should find the Plaintiffs have proven the Request to Admit, strike the Answer and Counterclaim of Defendants, award attorney fees and costs and enter all other appropriate relief.

B. Failure to disclose payments

In their Supplemental Response to Interrogatories dated January 12, 2014, Defendants failed to disclose various payments to themselves or their companies.

Plaintiffs' Interrogatories dated April 29, 2013:

Interrogatory 6. For the period August 2010 to the present, set forth each and every amount you provided to or received from 809 Holdings, or QC Financing and for each amount state:

- a. The date of the remittance;
- b. The form of remittance (cash, money order, check, etc.); and
- c. The reason for remittance (investment, loan, repayment, dividend, etc.)

Defendants' Response dated January 12, 2014:

1. Sage Financial Group – No payments disclosed by Defendants.

However per bank records, Sage Financial received:

12/01/2010	Check #1031	\$2,000.00
04/13/2011	Check #1041	\$5,000.00
06/08/2011	Check #1087	\$10,000.00

2. Sage Private Equity Group – No payments disclosed by Defendants.

However per bank records, Sage Private Equity Group received:

05/01/2012	Checking W/D	\$10,000.00
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3. Swilley Financial – No payments disclosed by Defendants.

However per bank records, Swilley Financial received:

01/11/2011	Check #1019	\$2,000.00
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4. William C. Piner – No payments disclosed by Defendants.

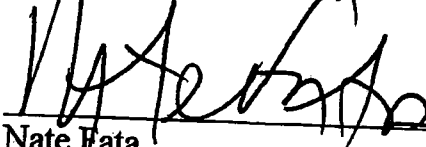
However per bank records, William C. Piner received:

01/11/2011	Check #1017	\$4,000.00
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The undersigned certifies further consultation would serve no useful purpose.

WHEREFORE, Plaintiffs, Gabriel Barnhill and GSB Enterprises, LLC, request that the Court enter an Order deeming the Request to Admit admitted, striking the Answer and Counterclaim of Defendants, awarding reasonable attorney fees and costs in connection with the Motion and hearing, and granting all other appropriate relief pursuant to Rule 37, SCRPC. The Motion will be based on the discovery, the record and all other matters to be presented at the hearing.

Respectfully submitted,



Nate Fata

NATE FATA, P.A.

Attorney for Plaintiffs

P. O. Box 16620

1500 U.S. Hwy. 17 N., Suite 215

Surfside Beach, SC 29587

Tel. (843) 238-2676

Fax (843) 238-0240

Surfside Beach, South Carolina
June 25, 2014

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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.)

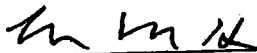
IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
CASE NO. 2013-CP-26-2816

CERTIFICATE OF SERVICE

HORRY COUNTY
18 JUN 23 2014
MELANIE HUGGINS-WARD
CLERK OF COURT

I, Claudia M. Heaton, 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 June 25, 2014 I did serve a copy of Plaintiff Notice of Motion and Motion For Sanctions on 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



Claudia M. Heaton
Legal Assistant to Nate Fata, P.A.

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STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

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

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.)

CERTIFICATE OF SERVICE

2016 MAY 16 PM 2:08
CLERK OF COURT

Gabriel Barnhill and GSB Enterprises,)
LLC,)
Plaintiffs,)

CASE NO. 2014-CP-26-3362

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.)

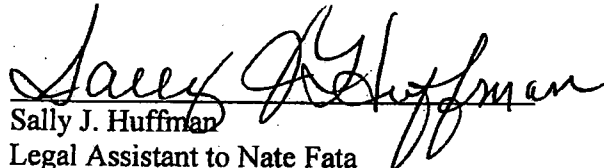
I, Sally J. Huffman, Legal Assistant, do hereby certify that I am an employee of Nate Fata, P.A., Counsel for Plaintiffs Gabriel Barnhill and GSB Enterprises, LLC and that on May 13, 2016 did serve a copy of the Affidavit of Sally J. Huffman via U.S. Mail as follows:

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

Heath Causey
1035 Pinwheel Loop
Myrtle Beach, SC 29577
Pro Se


F. Miles Adler, Esq.
ADLER LAW FIRM, LLC
P.O. Box 4743
Pawleys Island, SC 29585
*Counsel for J. Floyd Swilley, Laurel K. Swilley,
SMG Partners, LLC, SMS Services, LP,
Sage Financial Group, LLC and Sage Private Equity Group, LLC*


Sally J. Huffman
Legal Assistant to Nate Fata

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The documents contained herein are submitted as a supplement to the Amended Record of Appeal submitted this the 27th day of July, 2017.

Respectfully Submitted



F. Miles Adler
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RECEIVED

JUL 28 2017

SC Court of Appeals

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