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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY

Court of Common Pleas  
Carmen T. Mullen, Circuit Court Judge

RECEIVED

OCT 30 2017

SC Court of Appeals

Appeal No. 2016-001840  
Case No. 2013-CP-07-1807

William Loflin and Leslie Loflin, Appellants,

v.

BMP Development LP, Balsam Mountain Group, LLC,  
Coward, Hicks & Siler, P.A., J.K. Coward, Jr., Chicago Title  
Insurance Company, and Counsellor Title Agency, Inc., Defendants,

Of which  
Chicago Title Insurance Company is the Respondent.

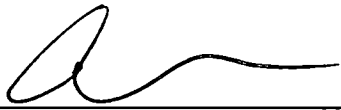
APPELLANTS' MOTION TO SUPPLEMENT

Appellants, pursuant to Appellate Court Rule 212, hereby moves this Court to supplement the Record on Appeal in this matter to add the Order of the lower court dated July 8, 2017, and filed July 10, 2017, which granted judgment in favor of Appellants against Defendant BMP Development LP in the sum of \$1,045,257.66, a copy of which is attached hereto to this Motion.

The basis for the Motion to Supplement is that the matter on appeal involves the trial court's granting of summary judgment, finding that there exists no issues of material

fact as to whether any event that triggers coverage under the applicable policy is present. The attached Order is a default judgment finding explicitly that all allegations against BMP Development LP, the seller of the property, are legally established. This includes the establishment of fraud, which is specifically listed as a covered event in the policy at issue. For this reason, the record should include the attached Order.

Respectfully submitted,  
Daniel A. Speights (SC Bar # 5027)  
A.G. Solomons, III (SC Bar # 68291)  
SPEIGHTS & SOLOMONS, LLC  
100 Oak Street, East  
Post Office Box 685  
Hampton, South Carolina 29924

By:   
A.G. Solomons, III

October 27, 2017  
Hampton, South Carolina

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF BEAUFORT )  
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 William Loflin and Leslie Loflin )  
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 )  
 Plaintiffs, )  
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 v. )  
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 )  
 BMP Development LP, Balsam Mountain )  
 Group, LLC. COWARD HICKS & )  
 SILER, PA, J.K. Coward, Jr., Chicago Title )  
 Insurance Co. and Counsellor Title )  
 Agency, Inc. )  
 )  
 Defendants. )  
 )  
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COURT OF COMMON PLEAS  
 CASE. NO.: 2013-CP-07-01807

**ORDER**

**RECEIVED**  
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 SC Court of Appeals

The Plaintiffs, William and Leslie Loflin, requested this Court to hold a damages hearing pursuant to S.C. Civ. Proc. Rule 55 and pursuant to an Order of Default entered by this Court against Defendant, BMP Development LP (“BMP”). Notice of the Hearing was served and filed by the Plaintiffs and the filed Notice as well as an affidavit of service were made a part of the record. Present at the hearing were the Plaintiff, Mr. Loflin, his counsel A.Gibson Solomons III, as well as counsel for Defendant, Chicago Title Insurance Co., Hamlin O’ Kelly.

The Plaintiffs entered the Amended Complaint dated April 14, 2014 into the record. “Entry of an order of default is an admission by the defaulting party of the well-pleaded allegations of the complaint: The defendant, admits the truth of the allegations, set out in... the complaint.... Hence the default authorizes the entry of any judgment warranted by the facts alleged.” *State ex rel. Medlock v. Love Shop, Ltd.*, 286 S.C. 486, 488–89, 334 S.E.2d 528, 530 (Ct. App. 1985) citing *Gadsden v. Home Fertilizer & Chemical Co.*, 89 S.C. 483, 487-88, 72 S.E. 15, 17 (1911) quoting *Gillian v. Gillian*, 65 S.C. 129, 132, 43 S.E. 386, 387 (1903).

At the hearing, Mr. Loflin provided detailed testimony concerning the damages suffered by the Plaintiffs that have flowed proximately, both directly and consequentially, as a result of the Defendant's egregious conduct established by the facts in the Amended Complaint including fraud by BMP in the marketing and sale of real property to the Plaintiffs. This included testimony of out of pocket costs as well as improperly withheld proceeds which should have and would have been provided to the Plaintiffs in their role as Founding Members but for the conflict caused by the pre-sale fraud (see ¶ 5 of Amended Complaint). Mr. Loflin supplemented this testimony with documentary evidence prepared by him after careful review and analysis of his bank records and financial statements. The document(s) placed in the record included a line by line detail of most out of pocket damages suffered. The unrefuted evidence supports an award of actual damages against the seller BMP Development LP in the amount of \$1,045,257.66.

In accordance with the foregoing, the Court finds that the Plaintiffs are entitled to a judgment against BMP Development LP in the total sum of One Million, Forty-Five Thousand Two Hundred Fifty-seven Dollars and sixty-six cents (\$1,045,257.66). Plaintiffs' request for punitive damages is respectfully denied.

**AND IT IS SO ORDERED.**

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Carmen T. Mullen, Presiding Judge

Beaufort, South Carolina  
July \_\_\_\_\_, 2017







Beaufort Common Pleas

**Case Caption:** William Loflin , plaintiff, et al VS Balsam Mountain Preserve  
Community Association , defendant, et al  
**Case Number:** 2013CP0701807  
**Type:** Order/Judgment and Form 4

So Ordered

s/Carmen T Mullen 2142

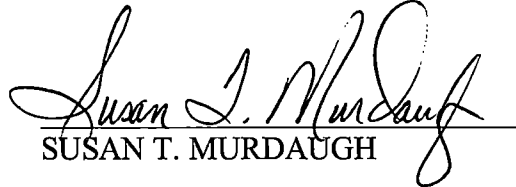
STATE OF SOUTH CAROLINA )  
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COUNTY OF HAMPTON )

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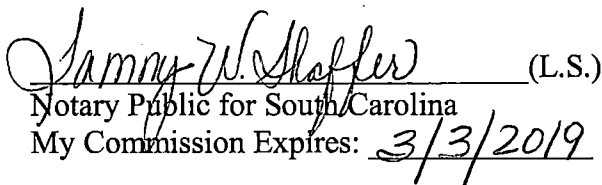
Re: William Loflin v. BMP Development, LP  
Appellate Case No. 2016-001840

PERSONALLY APPEARED before me, Susan T. Murdaugh, who being duly sworn, deposes and says: that she is employed in the office of Speights & Solomons, LLC, attorneys for the Appellants in the above-referenced action; that she served the foregoing Plaintiffs' Motion to Supplement the Record on Appeal this 27<sup>th</sup> day of October, 2017, by personally depositing in a United States Postal Service mail box a copy of the same, postage prepaid, addressed to the attorney listed below:

G. Hamlin O'Kelley, III, Esquire  
BUIST, BYARS & TAYLOR, LLC  
652 Coleman Blvd., Suite 200  
Mt. Pleasant, SC 29464  
Attorney for Chicago Title Insurance  
Company

  
SUSAN T. MURDAUGH

SWORN TO before me this  
27<sup>th</sup> day of October, 2017

 (L.S.)  
Notary Public for South Carolina  
My Commission Expires: 3/3/2019

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OCT 30 2017  
SC Court of Appeals

**SPEIGHTS & SOLOMONS, LLC**  
ATTORNEYS AT LAW  
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October 27, 2017

**RECEIVED**  
OCT 30 2017  
SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

Re: William Loflin v. BMP Development, LP  
Appellate Case No. 2016-001840

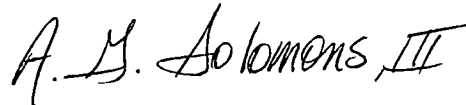
Dear Ms. Kitchings:

Enclosed herewith please find Appellants' Motion to Supplement in the above-referenced matter together with a check for the \$25.00 filing fee.

Please note that counsel for Appellants firm name has changed from Speights & Runyan to Speights & Solomons, LLC. All other information (address, phone nos.) remains the same. Counsel's information has been updated in the AIS.

With kind regards, I am

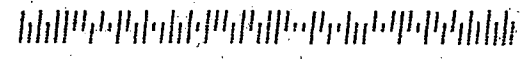
Sincerely yours,



A.G. Solomons, III

AGS/stm  
Enclosures  
cc: G. Hamlin O'Kelley, III, Esquire

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Speights & Solomons, LLC  
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100 Oak Street East  
Post Office Box 685  
Hampton, South Carolina 29924

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211