

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge

Case No. 2017-002517

Fine Housing, Inc.,

Appellant,

v.

William H. Sloan, Jr.,

Respondent.

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SC Court of Appeals

RECORD ON APPEAL

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FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER
IN THE COURT OF COMMON PLEASJUDGMENT IN A CIVIL CASE
CASE NUMBER 2016CP1800340

Fine Housing Inc

William H Sloan Jr

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit);
☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.Carmen T. Mullen
Circuit Court Judge2142
Judge Code6/26/2017
Date

For Clerk of Court Office Use Only

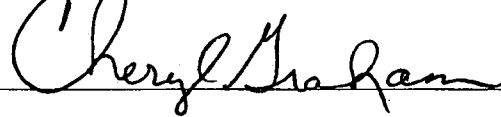
This judgment was entered on 6/26/2017, and a copy mailed first class or placed in the appropriate attorney's box on 6/26/2017, to attorneys of record or to parties (when appearing pro se) as follows:

Charles S. Altman
Meredith L. Coker 575 King Street, Suite A Charleston, SC
29403

Stephanie Holmes Burton 308 E. St. John St. Spartanburg,
SC 29302

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Court Reporter

Cheryl Graham - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

Fine Housing, Inc.,

Plaintiff,

v.

William H. Sloan, Jr.,

Defendant.

FILED - RECORD IN THE COURT OF COMMON PLEAS
2017 JUN 28 AM 10:15 C.A. No.: 2016-CP-18-0340
CHERYL J. GLENN
CLERK OF COURT
DORCHESTER COUNTY

**ORDER GRANTING DEFENDANT'S
MOTION TO DISQUALIFY CHARLES S.
ALTMAN AS ATTORNEY FOR
PLAINTIFF**

This matter came before the Court on Defendant William H. Sloan, Jr.'s Motion to Disqualify Charles S. Altman as attorney for Plaintiff. A hearing was held in this matter on June 1, 2017. Charles S. Altman appeared on behalf of Plaintiff. Stephanie H. Burton appeared on behalf of Defendant Sloan.

FACTUAL BACKGROUND

The Closing

This is a legal malpractice action arising from the sale of two parcels of property by Robin M. Robinson and RRJR, LLC (collectively "Robinson") to Fine Housing, Inc. for a combined price of \$850,000.00. The parcels sold by Robinson included a gentlemen's club located at 2028 Pittsburg Avenue in North Charleston, South Carolina and a residence located at 2470 Sol Legare Road in Charleston, South Carolina. As part of the purchase agreement, Robinson agreed to lease both properties from Plaintiff with an option to repurchase the properties. The closing occurred on December 2, 2013. Defendant Sloan represented Plaintiff in connection with the closing.

The closing for the transaction was expedited, primarily because the Sol Legare parcel was scheduled to be sold at a foreclosure sale on December 3, 2013. At that time, Mr. Altman represented the Sherman Agency, the mortgage holder.

Lease Dispute

By January 2014, Robinson had defaulted on the lease for both properties. On January 9, 2014, Robinson filed a lawsuit against Plaintiff captioned "*Robinson v. Fine Housing, Inc., C.A. No. 2014-CP-10-1035*" in the Charleston County Court of Common Pleas alleging that the December 2, 2013 transaction was a loan secured by the properties as opposed to a purchase of the properties by Plaintiff with an associated lease. Because Defendant Sloan is not a litigator, he referred Plaintiff to Mr. Altman. Plaintiff retained Mr. Altman for representation in the *Robinson* lawsuit and in connection with the lease default. Mr. Altman eventually settled the lawsuit with Robinson.

Tax Liens

Mr. Altman also previously represented Plaintiff in connection with various other issues relating to the sale of the two parcels. In its Complaint, Plaintiff acknowledges that it retained Mr. Altman to obtain payoffs for state and federal tax liens. Plaintiff further acknowledges that Mr. Altman negotiated a compromised amount with the taxing authorities for both parcels to be released from certain tax liens. On deposition, Plaintiff testified to not knowing the details of the negotiations involving Mr. Altman and the taxing authorities. In this case, Plaintiff alleges Defendant Sloan did not adequately determine the existence and application of tax liens and seeks damages as a result.

Title Policies

Title insurance policies were issued by Defendant Sloan in March 2014. By that time, Mr. Altman already represented Plaintiff. Moreover, Mr. Altman had direct involvement with the issuance of the title policies, as he wrote to Defendant Sloan to request issuance of the title policies after discovery of Clarke's right of first refusal and wrote to Defendant Sloan concerning the terms

of the title insurance commitments and policies. Plaintiff asserts claims in this lawsuit that such policies were not properly issued by Defendant Sloan.

Crabtree/Foster Lawsuits

In March 2014, Michael Foster and Chandler Crabtree filed lawsuits against Robinson, RRJR, LLC and Plaintiff asserting that the conveyance of the two parcels to Plaintiff violated South Carolina's Statute of Elizabeth. *Foster v. Robinson, et. al.*, C.A. No. 2014-CP-10-1757 and *Crabtree v. Robinson, et. al.*, C.A. No. 2014-CP-10-1758. The Statute of Elizabeth lawsuits stemmed from two actions filed by Crabtree and Foster against Robinson and Bank of America in the Charleston County Court of Common Pleas in July 2013. *Crabtree v. Bank of America, N.A.*, C.A. No. 2012-CP-10-4505 and *Foster v. Bank of America, N.A.*, C.A. No. 2012-CP-10-4503. On March 3, 2014, the Court issued judgments against Robinson in both the original *Crabtree* and *Foster* actions.

Mr. Altman represented Plaintiff in the *Crabtree* and *Foster* Statute of Elizabeth actions. Again, he negotiated a settlement, although Plaintiff cannot testify about the details of that settlement. In this case, Plaintiff contends that Defendant Sloan should have known about the prior pending actions against Robinson before they were reduced to judgment and included those pending actions in the title search. Damages relating to settlement of the *Foster* and *Crabtree* actions are claimed as damages against Defendant Sloan in this case.

Clarke Lease

Plaintiff also alleges that Defendant Sloan was negligent by failing to identify prior to the closing the existence of a lease relating to the Pittsburg Avenue parcel in favor of Barry Clarke that is alleged to grant Mr. Clarke a right of first refusal for a portion of the Pittsburg Avenue parcel. On May 28, 2015, Mr. Clarke filed a lis pendens against the Pittsburg Avenue parcel and

a Complaint against Plaintiff and RRJR, LLC in the Charleston County Court of Common Pleas. *Clarke v. Fine Housing, Inc. and RRJR, Inc.*, C.A. No., 15-CP-10-3038. The *Clarke* lawsuit is currently pending. Plaintiff seeks damages against Defendant Sloan in connection with that action. Mr. Altman is one of the attorneys representing Plaintiff in that case.

CONCLUSIONS OF LAW

Rule 3.7 of the South Carolina Rules of Professional Conduct prohibits an attorney from acting as an advocate at trial in which the attorney will be a necessary witness unless: (1) the lawyer's testimony relates to an uncontested issue; (2) the testimony relates to the nature and value of legal services rendered; or (3) disqualification of the lawyer would work a substantial hardship on the client. Rules of Professional Conduct: Rule 3.7, RCP, Rule 407, SCACR. In addition, Comment 2 to Rule 3.7 of the South Carolina Rules of Professional Conduct describes when a party has an objection to an attorney's dual role:

The opposing party has proper objection whe[n] the combination of roles may prejudice the party's rights in the litigation. A witness is required to testify on the basis of personal knowledge, while an advocate is expected to explain and comment on evidence given by others. It may not be clear whether a statement by an advocate witness should be taken as proof or as an analysis of the proof.

Rules of Professional Conduct: Rule 3.7, RCP, Rule 407, SCACR.

The South Carolina Court of Appeals has noted: "The roles of an advocate and of a witness are inconsistent; the function of an advocate is to advance or argue the cause of another while that of a witness is to state facts objectively." Collins Entm't, Inc. v. White, 363 S.C. 546, 564, 611 S.E.2d 262, 271 (Ct. App. 2005). In Brooks v. S.C. Comm'n on Indigent Def., the South Carolina Court of Appeals observed that a necessary witness is a person who has material information that no other person can provide. Brooks v. S.C. Comm'n on Indigent Def., Op. No. 23083 (S.C. Ct. App. Filed Feb. 15, 2017) (Shearhouse Adv. Sh. No. 7 at 52) ("A necessary witness is not just

someone with relevant information, however, but someone who has material information that no one else can provide.") (quoting Mettler v. Mettler, 928 A.2d 631, 633 (Conn. Sup. Ct. 2007). However, in Brooks, the South Carolina Court of Appeals explained that an attorney may be a necessary witness even when there are other witnesses to events if "no other witness would be able to provide evidence regarding the full extent of [witness's] involvement" with the relevant issues. Id. at 58.

It appears that Mr. Altman is a necessary witness who can offer material testimony about several issues on which no other witness is available to offer complete testimony. First, Mr. Altman is a necessary witness concerning the settlement of the Statute of Elizabeth lawsuits filed against Plaintiff by Foster and Crabtree, the terms of the settlements and the necessity of settling these actions. The deposition testimony of Plaintiff's 30(b)(6) representative, Vincent Destaso, reveals that Plaintiff is uncertain regarding the terms of the settlement of these actions. Specifically, Mr. Destaso testified: "I think the total settlement was like \$102,000.00. It was like \$100,000 plus some fee or something, 2 or \$4,000." Mr. Destaso did not offer any testimony concerning the necessity of settling such actions. Even if Mr. Destaso could rely on the settlement agreements to testify regarding settlement terms for these actions (as is argued by Plaintiff), he would still be unable to testify why it was necessary to settle such actions. Plaintiff has not identified any other witness to testify regarding the settlement of the Foster and Crabtree matters. Moreover, Mr. Altman's testimony on such issues would be contested, since Defendant Sloan may argue that that these claims had no legal validity and he has not responsibility to Plaintiff for damages that it incurred in settling those claims.

Second, Mr. Altman is a necessary witness concerning the title insurance policies issued for both properties as he corresponded with Defendant Sloan regarding the content of the policies at the time of issuance.

Third, Mr. Altman is a necessary witness concerning tax liens affecting to both parcels and their eventual discharge. Specifically, Mr. Altman is a necessary witness regarding: (1) disputes concerning which tax liens actually applied to the parcels; (2) disputes concerning why Mr. Altman advised Plaintiff to pay a tax lien that was in John Robinson's name (the deceased husband of Ms. Robinson); (3) the settlement with Robin Robinson which allowed Mr. Altman to talk to the South Carolina Department Revenue about Robinson's tax liabilities; and (4) Mr. Altman's negotiations with the South Carolina Department of Revenue concerning satisfaction of a tax lien of \$81,953.76 on the Sol Legare parcel. Based upon the deposition testimony, Plaintiff apparently lacks knowledge concerning the disposition of the tax liens. For example, during Plaintiff's 30(b)(6) deposition, Mr. Destaso evinced uncertainty as to whether all tax liens had been satisfied or payoffs obtained for such liens. When asked if "all the liens, tax liens encumbering the properties [were] released and resolved," Mr. Destaso answered: "I hope so." Moreover, Mr. Destaso testified that he had "not really" looked at the various tax liens that may have encumbered the two parcels and was not familiar with such liens.

Mr. Destaso's deposition testimony also demonstrates uncertainty regarding Mr. Altman's resolution of tax liens with the South Carolina Department of Revenue. During Plaintiff's deposition, Mr. Destaso was asked whether Mr. Altman was given a power of attorney to obtain payoffs on the tax liens from the South Carolina Department of Revenue and IRS as a result of a settlement with Robinson. Mr. Destaso answered: "I think so." Similarly, when asked whether Mr. Altman directed Defendant Sloan to issue a \$60,000.00 check to the South Carolina

Department of Revenue, Mr. Destaso responded: "I don't remember now, but I remember it got resolved." Given that Mr. Destaso is unable to provide complete factual testimony concerning the existence of tax liens on the parcels, whether the tax liens attached to both parcels have been paid, whether payoffs on all tax liens had been acquired, and whether \$60,000.00 had been paid to the South Carolina Department of Revenue to resolve a tax lien, it is apparent that Mr. Altman is a necessary witness concerning these issues. In addition, Mr. Altman's testimony will be contested to the extent that Plaintiff contends that any tax liens remain unpaid or that Defendant Sloan failed to escrow sufficient funds to satisfy all tax liens that actually encumbered the land

Mr. Altman is also a necessary witness concerning the necessity of paying the certain tax liens on the parcels. Mr. Altman and Defendant Sloan communicated on numerous occasions between April and November 2014 regarding the necessity of paying an \$81,953.76 state tax lien on the Sol Legare parcel. In an email dated November 6, 2014, Mr. Altman wrote: "not paying the liens would be an ethical violation.....The liens must be paid and there are sufficient funds to do so." On November 10, 2014, Sloan wrote to Destaso that he disagreed with Mr. Altman's opinion concerning the state tax liens, because the South Carolina Department of Revenue affirmatively denied holding any lien on the properties. Plaintiff has not suggested that Mr. Destaso or any other witness has personal knowledge concerning the necessity of paying these liens. Moreover, the nature of this testimony is specialized and requires an explanation of legal opinions that a layman – such as Mr. Destaso – is not qualified to provide. Accordingly, Mr. Altman's testimony is necessary because no other individual is available to testify as to Mr. Altman's opinion concerning the necessity of paying such tax liens. In addition, Mr. Altman's testimony may be contested to the extent that he testifies that Plaintiff had to satisfy the lien for \$81,953.76 against the Sol Legare parcel.

Fourth, Mr. Altman is a necessary witness concerning damages suffered by Plaintiff including: (1) the diminution of Plaintiff's title insurance coverage; (2) Plaintiff's settlement with Robinson; (3) Plaintiff's mitigation of its damages through rents received for the Pittsburg Avenue parcel subsequent to closing; and (4) Plaintiff's failure to mitigate damages by refusing an offer by Barry Clarke to purchase the Pittsburg Avenue parcel. First, with regard to diminution of insurance coverage, Mr. Destaso, Plaintiff's 30(b)(6) designee, testified that he did not understand the \$50,000 lost title coverage, but "was advised by counsel that I had suffered a \$50,000 insurance loss." Plaintiff has not identified any other individual has knowledge regarding the title insurance loss. Second, Mr. Altman is also a necessary witness concerning Plaintiff's settlement of the Robinson lawsuit. At Plaintiff's 30(b)(6) deposition, Mr. Destaso could only testify that the matter settled. When asked for certain details on the settlement, Mr. Destaso simply testified: "I'm aware that Charlie settled the matter." Mr. Destaso was also not able to testify that Robinson executed releases to allow Mr. Altman to obtain lien payoffs. Given Mr. Destaso's lack of knowledge on the subject and Plaintiff's failure to identify another witness with knowledge of the settlement, it is apparent that Mr. Altman is a necessary witness on this issue.

In addition, Mr. Altman is a necessary witness concerning offer by Barry Clarke to purchase the Pittsburg Avenue parcel for \$650,000.00. Plainly, Defendant Sloan may introduce such testimony as part of his defense relating to Plaintiff's failure to mitigate his damages.

The Court further finds that Defendant Sloan has proper objection to Mr. Altman's testimony pursuant to Rule 3.7 of the South Carolina Rules of Professional Conduct because Mr. Altman's dual role as fact witness and advocate would prejudice Defendant Sloan. Specifically, the Court finds that Mr. Altman's dual role would inevitably confuse and mislead the jury, since it would be unclear to the jury whether Mr. Altman's testimony and arguments are proof or analysis

of his testimony. This dual role is particularly concerning in this case, since Mr. Altman's testimony would cover a broad range of contested issues that may be determinative of Defendant's Sloan's liability.

The Court further finds that Mr. Altman's disqualification would not work a substantial hardship on Plaintiff because Plaintiff has long known that Mr. Altman would likely testify at the trial of this case. Defendant Sloan identified Mr. Altman as a witness with knowledge of the facts of the case in his June 2016 discovery response. Thus, it is no surprise that Mr. Altman's testimony will likely be required at trial.

Accordingly, the Court finds that Mr. Altman must be disqualified as counsel for Plaintiff pursuant to Rule 3.7 of the South Carolina Rules of Professional Conduct. The Court specifically finds that Rule 3.7 of the South Carolina Rules of Professional Conduct does not preclude another attorney from Mr. Altman's firm representing Plaintiff at the trial of this case. Therefore, the disqualification applies solely to Mr. Altman and not to his firm or any attorneys therein.

It is the Court's understanding that the parties in this case along with those involved in the aforementioned case filed by Barry Clarke have agreed to mediate both cases in July 2017. Given that this mediation is scheduled soon and with the consent of Defendant Sloan, this Court finds that Mr. Altman may participate in such mediation in July 2017.

Accordingly, Defendant Sloan's motion to disqualify Mr. Altman as counsel for Plaintiff is granted consistent with this opinion.

AND IT IS SO ORDERED.



Carmen T. Mullen, Presiding Judge
First Judicial Circuit

June 23, 2017
St. George, South Carolina

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF DORCHESTER

CASE NO. 2016-CP-18-00340

Fine Housing, Inc.
PLAINTIFF(S)William H. Sloan, Jr.
DEFENDANT(S)

Submitted by: Crystal H. Swinford

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: Plaintiff's Motion for Reconsideration of this Court's Order, dated June 23, 2017, granting Defendant's Motion to Disqualify Charles Altman is respectfully denied without rehearing.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

2142

Judge Code

Date

For Clerk of Court Office Use Only

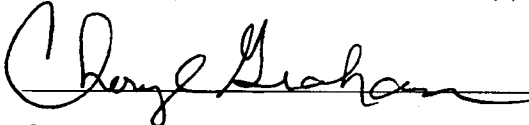
This judgment was entered on 11/20/2017, and a copy mailed first class or placed in the appropriate attorney's box on 11/20/2017, to attorneys of record or to parties (when appearing pro se) as follows:

Meredith L. Coker
Patrick John Norton 575 King Street, Ste A Charleston, SC
29403

Stephanie Holmes Burton 308 E. St. John St. Spartanburg,
SC 29302

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)


Cheryl Graham - Clerk of Court

Court Reporter

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

Fine Housing, Inc.,

Plaintiffs,

vs.

William H. Sloan, Jr.,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL DISTRICT

Civil Action No. 2016-CP-18- 340

SUMMONS

FILED & RECORDED

2-16-2016

Charles Graham
Clerk of Court
Dorchester County

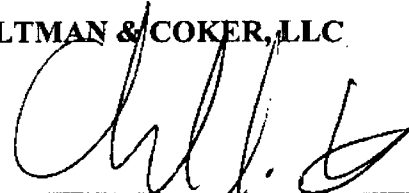
TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this Complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint, judgment by default will be rendered against you for the relief demanded in the Complaint.

Charleston, South Carolina

Dated: Feb 12, 2016

ALTMAN & COKER, LLC



Charles S. Altman, Esq.

caltman@altmancoker.com

Meredith L. Coker, Esq.

mcoker@altmancoker.com

575 King St., Ste. A

Charleston, SC 29403

Tel: (843) 853-9907

Fax: (843) 722-5702

Attorneys for Plaintiff

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

FINE HOUSING, INC.,)
)
Plaintiff,)
)
v.)
)
WILLIAM H. SLOAN, JR.,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS

CASE NO. 2015 -CP-18- 340

COMPLAINT
(Jury Trial Demanded)

FILED-RECORDED

2-16-2016
Cheryl Graham
Clerk of Court
Dorchester County

Plaintiff Fine Housing, Inc., (hereinafter "Plaintiff"), complaining of Defendant William H. Sloan, Jr., (hereinafter "Defendant"), alleges as follows:

JURISDICTION AND VENUE

1. Plaintiff is a corporation organized and existing under the laws of the State of New York and registered to do business in the State of South Carolina.
2. Upon information and belief, Defendant is a resident of Dorchester County, South Carolina.
3. The actions described herein occurred in Dorchester and Charleston Counties, South Carolina.
4. Jurisdiction and venue are proper before this Court based on S.C. Code Ann. § 15-7-30 and the laws of the United States and the State of South Carolina.

FACTUAL BACKGROUND

5. Defendant is an attorney licensed to practice law in the State of South Carolina, with his place of business located in Summerville, Dorchester County, South Carolina.

6. In or about October or November 2013, Defendant agreed to represent Plaintiff in closing of a real estate transaction whereby Plaintiff was to purchase two parcels of real property located in Charleston County: (a) from RRJR, LLC, ("RRJR"), a parcel of commercial property located at 2028 Pittsburgh Avenue, North Charleston, South Carolina; and, (b) from Robin Robinson, ("Robinson"), a parcel of residential property located at 2470 Sol Legare Road, Charleston, South Carolina. RRJR and Robinson hereafter are sometimes referred to jointly as the "Sellers." The two tracts were then to be leased back to RRJR and Robinson, respectively.

7. Defendant agreed to undertake the representation of Plaintiff in order to properly close the purchase of the two (2) properties from the Sellers and lease of the properties back to the Sellers.

8. Defendant did not limit the scope of his representation Plaintiff with regard to the contemplated transactions.

9. As part of the transaction, Defendant was to examine the title to both properties, insure the titles were free and clear of all liens and encumbrances so that Plaintiff obtained fee simple title to both properties without any other person or entity having any rights to the properties.

10. Defendant did not inform Plaintiff he would be relying on William Swope, Sellers' attorney, to examine the title to the properties being purchased.

11. Defendant did not inform Plaintiff he would be relying on William Swope's opinion of title in preparing the closing documents, including the title insurance commitment and the title insurance policy. Plaintiff did not learn of this reliance until several months after closing.

12. Defendant did not inform Plaintiff that Defendant's reliance on the Seller's attorney as described in Paragraphs 12 and 13 above would constitute a conflict of interest.

13. Prior to closing, Defendant informed Plaintiff it would have fee simple title to the property not subject to any liens or encumbrances which gave anyone other Plaintiff rights in the properties, exclusive of certain tax liens for which monies would be placed in escrow to pay after Seller's attorney obtained the necessary written payoffs and provide the same to Defendant.

14. Defendant advised Plaintiff at closing it would be necessary for the Sellers' attorney to obtain the payoffs for the tax liens filed by the Internal Revenue Service and the South Carolina Department of Revenue and, upon receipt of the payoffs, the amounts would be paid from the monies escrowed by Defendant.

15. Defendant assured Plaintiff he would escrow sufficient proceeds from the purchase price to pay all tax liens in full.

16. After several months without the payoffs being obtained, Defendant informed Plaintiff he had learned the true intention of the Sellers and their attorney was to allow the tax liens to expire by their terms and then the Sellers would demand the escrowed funds be turned over to them claiming the liens were barred by the applicable statute of limitations.

17. Defendant informed Plaintiff that it was his opinion that once the statute of limitations on the tax liens expired, the Sellers would be entitled to the funds.

18. Upon information and belief, upon the sale of the real properties to Plaintiff the tax liens attached to the funds being held in escrow by Defendant and the failure to determine the payoffs and then pay the monies over to the Sellers would leave the property purchased by Plaintiff subject to the tax liens.

19. When Plaintiff learned of the plans of the Sellers to allow the tax liens to expire, it was required to seek the services of another attorney to obtain the payoffs from the taxing authorities.

Plaintiff retained Charles S. Altman for this purposes, as well as additional representation as set forth more fully below. Hereinafter, Charles S. Altman shall be referred to as "Plaintiff's current counsel."

20. Upon obtaining the payoffs, Plaintiff learned that Defendant had failed to retain sufficient funds in escrow to pay the tax liens in full. Plaintiff's current counsel was required to negotiate a compromised amount in order for the properties to be released from the tax liens.

21. Had Defendant performed his services properly, he would have obtained the amounts necessary to pay the tax liens at closing and Plaintiff would not have incurred the additional expense of having to retain the services of Plaintiff's current counsel to protect its interest.

22. Upon information and belief, Defendant was relying on William Swope, Sellers attorney to obtain the payoff amounts for the tax liens and to provide him with a certification with regard to all matters of title.

23. At the time of closing, Defendant provided Plaintiff with a commitment for title insurance which stated the title to the properties were subject only to easements of record and the tax liens listed in the commitment.

24. Subsequent to the closing and after the issuance of the title insurance commitment, Defendant informed Plaintiff the commercial property was subject to a lease which was recorded in the RMC Office for Charleston County and gave a neighboring property owner certain rights to allow his customers to park on the commercial property (the "Lease"). Defendant failed to notify Plaintiff, in the title insurance commitment or otherwise, of the Lease prior to the closing. There was no mention of any additional rights contained in the Lease.

25. Thereafter, Defendant issued a title insurance policy which included exceptions to coverage of not only the tax liens, but also the recorded Lease on commercial property with Barry Clarke, ("Clarke"), as tenant. There was no mention to Plaintiff or in the title insurance policy of the terms of the Lease, including that the Lease contained a right of first refusal which purported to give Clarke a right of first refusal upon conveyance of the commercial tract.

26. At closing, Defendant prepared the deeds transferring the properties to Plaintiff. In preparing the deeds the Defendants arbitrarily assigned consideration to each of the parcels being transferred without consulting with Plaintiff or taking into consideration the best valuation for each property.

27. Subsequent to the closing of the transaction, Plaintiff was sued by the Sellers claiming the transactions closed by the Defendant were in the form of a loan and not in the form of a purchase and lease. That suit was settled with Sellers with Sellers' admission that the transactions were in fact a sale.

28. Plaintiff was required to seek the services of Plaintiff's current counsel to defend the suit commenced by the Sellers and incur substantial costs as a result.

29. Subsequent to the closing, Plaintiff was sued by Chandler Ryan Crabtree, ("Crabtree"), and William Foster, ("Foster"), each claiming a lien on the properties based on their allegations set forth in lawsuits pending against Sellers in the Court of Common Pleas for Charleston County at the time the transaction closed. Defendant did not inform Plaintiff of the potential claims by Crabtree and Foster and did not list them in the title insurance commitment or policy.

30. Plaintiff has been required to obtain the services of Plaintiff's current counsel to represent it to protect its interests as a result of Defendant's failure to, among other things:

- a. advise Plaintiff of the lease on the commercial property with the right of first refusal.
- b. advise Plaintiff of the potential for claims that could be made by Crabtree and Foster.
- c. obtain the pay offs for the tax liens as part of the closing.
- d. escrow sufficient Sellers' proceeds to satisfy the tax liens.
- e. properly examine the title to the properties being purchased.
- f. properly assign the correct consideration to each property being purchased and allocate the proceeds accordingly.
- g. advise Plaintiff he was relying on the Sellers' attorney to provide certification of title.
- h. advise Plaintiff as to the potential for conflict of interest based upon his reliance on Sellers' attorney.

FOR A FIRST CAUSE OF ACTION
(Negligence)

Plaintiff restates the above allegations as fully and completely as if set forth herein.

31. As the closing attorney, Defendant had the duty of care and obligation to Plaintiff, among other obligations as more fully set forth above, to verify and ensure all aspects of the title to the properties being purchased by Plaintiff were free and clear of all liens and encumbrances and, if not, to fully inform Plaintiff of the nature of any liens or encumbrances affecting the properties in order to allow Plaintiff to make an informed decision on whether to proceed with the transaction.

32. Defendant breached his duty of care and was negligent in the closing of the real estate transaction, and more particularly:

- a. In failing to properly investigate and review the chain of title for each property to ensure Plaintiff was receiving clear, marketable, and insurable title;
- b. In failing to locate and notify Plaintiff as to the existence of the Clarke Lease and whether it constituted an encumbrance on the commercial property.
- c. In failing to investigate the claims by Crabtree and Foster.
- d. In failing to fully identify all tax liens which could effect the properties and making adequate provisions for the release of the properties from the tax liens.

- e. In failing to notify Plaintiff that he was relying on Sellers' attorney to certify title, which reliance constituted a conflict of interest.

33. As a direct and proximate result of Defendant's negligence, Plaintiff has incurred damages, to include legal fees and expenses, in an amount to be determined by the Court. Furthermore, as a direct and proximate result of Defendant's negligence, Plaintiff is at risk of potential liability to be determined by the judgments in the above-referenced cases pending in the Charleston County Court of Common Pleas, to wit: CA No. 2015-CP-10-03038; CA No. 2014-CP-10-01757; and CA No. 2014-CP-10-01758.

34. Pursuant to S.C. Code Ann. § 15-36-100, attached hereto as Exhibit A is the Affidavit and Opinion of C. Joseph Roof, an attorney licensed to practice law in the State of South Carolina, setting forth his expert opinion with regard to Defendant's professional negligence.

FOR A SECOND CAUSE OF ACTION
(Breach of Duty / Equitable Indemnification)

Plaintiff restates the above allegations as fully and completely as if set forth herein.

35. As the closing attorney, Defendant had the obligation and duty to verify and ensure the Plaintiff received title to the properties free and clear of all liens and encumbrances.

36. Plaintiff did not agree to accept the title to the properties subject to any liens or subject to any leases or rights of third parties other than the leases back to the Sellers.

37. Defendant's representation of Plaintiff with regard to the real estate transactions described herein created a special relationship between Defendant and Plaintiff.

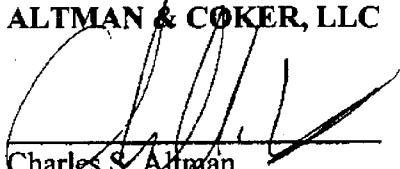
38. In the event Plaintiff is found liable with regard to any of the pending aforementioned lawsuits, any fault of Plaintiff will have been the direct and proximate result of Defendant's tortious acts and omissions complained of herein.

39. As a result, Plaintiff is entitled to equitable indemnification to the extent any relief is awarded as against Plaintiff in favor of any Defendant in the above-referenced cases pending in the Charleston County Court of Common Pleas, to wit: CA No. 2015-CP-10-03038; CA No. 2014-CP-10-01757; and CA No. 2014-CP-10-01758.

WHEREFORE, for the reasons stated herein, Plaintiff is entitled to and respectfully requests a trial by jury as to the claims set forth herein, and for the Court to issue its order for the following:

1. A judgment declaring the rights and obligations of the parties.
2. A judgment against Defendant for his negligence.
3. A judgment against Defendant for equitable indemnification of Plaintiff due to Defendant's acts and omissions.
4. A judgment against the Defendant in the amount of actual, consequential, special and punitive damages to be determined at trial, to include attorneys fees and costs.
5. For such other and further relief as the Court may deem just and proper.

ALTMAN & COKER, LLC



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Attorneys for Plaintiff

Dated: February 12, 2016

FILED-RECORDED

2-16-16

Cheryl Graham
Clark of Court
Dorchester County

EXHIBIT A

STATE OF SOUTH CAROLINA)

ACTION TO BE FILED

COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS

Fine Housing, Inc.,)

Plaintiff,)

AFFIDAVIT AND OPINION

OF

v.)

C. JOSEPH ROOF

William H. Sloan, Jr.)

Defendant.)

FILED-RECORDED

2-16-16

Cheryl G. Gantt

Clerk of Court

Berkeley County

PERSONALLY APPEARED before me C. Joseph Roof, who, first being duly

sworn, deposes and says:

1. I am an attorney licensed to practice in the State of South Carolina and have been a solo practitioner since February 15, 2011, having most recently been a partner in the firm of Sherrill Roof Millender, LLP, in Columbia. I was born in Columbia on January 10, 1938; educated in the Columbia public schools; graduated from the University of South Carolina in 1960 with a Bachelor of Science in Business Administration (major - marketing); and from the University of South Carolina School of Law in January of 1963. Admission to the South Carolina Bar occurred April 8, 1963. I am also admitted to practice in the United States District Courts of South Carolina and the Supreme Court of the United States. I have served on a number of committees of the South Carolina Bar, serving as chairman of the Public Relations and the Ethics Advisory Opinions Committees. I also served as a member of the South Carolina Bar House of Delegates from 1986 to 1988. As a contributor to the South Carolina Lawyer, I have had articles published on a number of subjects, most relating to residential real estate closings and the role of the closing attorney in those transactions. I also served as a regular columnist to the South Carolina Bar News and its predecessor, The Transcript, with an article entitled "Notes from the Yellow Pad" and have been a faculty participant and a moderator of South Carolina Bar sponsored and approved Continuing Legal Education programs. I have served as an adjunct professor of law at the University of South Carolina, teaching a course on real estate transactions. I have served as a mediator and was a certified circuit court mediator but am not now certified.

2. My other activities include the presidency of the Richland County Bar Association in 1987, past chairman of the Richland County March of Dimes, past president of Carolina Land Title Association (a two-state organization of title attorneys and underwriters), and past director of the Palmetto Land Title Association. I am past Chairman of the Board of Directors of the Columbia Action Council and past Chairman of the Board of Directors of the Carolina Carillon. I have served as Justice of District

#1

XXV (North and South Carolina) of Phi Alpha Delta Law Fraternity, International. In the Spring of 2007, under the auspices of the Center for International Legal Studies ("CILS"), I served as visiting professor at Warsaw School of Law in Warsaw, Poland, teaching a course in American Business Law after a one-week orientation in Salzburg, Austria. In October, 2008, I served in Salzburg as a guest lecturer during the CILS orientation of United States senior attorneys.

3. My local activities include community theater, serving as president of the Irmo High School Choral Booster Club and on the Lexington County School District Number Five Parents Advisory Council. I previously served as Chairman of the Greater Columbia Chamber of Commerce Transportation Committee and served on a joint transportation committee of the Greater Columbia Chamber of Commerce and the Columbia County (Georgia) Chamber. I am an active member of the National Association of Rail Passengers and past South Carolina Vice President of The Carolinas Association for Passenger Trains.

4. As a practicing attorney since April 8, 1963, the emphasis of my professional effort has been in the areas of real property, real property litigation, business and banking matters, conservatorships, and frequently ethical issues. This experience has included prosecuting foreclosure proceedings and Department of Veterans Affairs conservatorships on a statewide basis for more than fifty years. I have defended cases and successfully prosecuted a case involving disciplinary proceedings of South Carolina attorneys. My practice has been concentrated in banking, business, and related real estate and transactional law. This practice includes the review and interpretation of documents affecting real property and public records pertaining thereto. Since February 15, 2011, I have attempted to scale my practice back by only accepting VA conservatorship issues and serving as an expert witness.

5. In the case of McNair v. Rainsford, et al., 330 S.C. 332, 499 S.E.2d 488 (Ct. App. 1998), the South Carolina Court of Appeals recognized my qualifications as "a real estate closing expert" witness and as of the date of this affidavit, I have served as a consulting or testifying expert witness in more than 150 matters.

6. The opinions contained in this affidavit are based upon a narrative summary provided to me by Charles S. Altman of the Charleston County Bar, setting forth a scenario of actions and inactions by the defendant, William H. Sloan, Jr., and the materials and information provided to me to date, which would form a part of the pleadings, exhibits and documents in the captioned proposed proceeding. These are among the material and matters I would usually review and consider as an expert in reviewing conduct of a lawyer in the setting and environment of a real estate transaction and to determine the duties and standard of care which should be exhibited by an attorney representing one or more of the parties therein and to form an opinion as to where duties existed and whether a breach of duty might have occurred. My review of these materials varied in degree, depending upon my perception of necessity.

Handwritten signature and initials, possibly "JZ" or "JL", in dark ink.

7. In submitting this affidavit, I have assumed the accuracy and completeness of the narrative and documents identified above. As to incomplete items, if any, I have assumed they were ultimately properly completed and executed in the form presented.

8. The South Carolina Rules of Professional Conduct ("the Rules") succinctly summarize an attorney's minimal ethical duties, and our Supreme Court has adopted the standards of these Rules as a measure of lawyer conduct. Smith v. Haynesworth, Marion, McKay & Guerard, 322 S.C. 433, 472 S.E.2d 612 (1996). While failure of an attorney to comply with the Rules is not evidence of negligence *per se*, it is a circumstance (along with other facts and circumstances) to be considered in determining whether an attorney acted with reasonable care in fulfilling duties to a client. The Rules were amended effective October 1, 2005, and the opinions expressed herein are predicated upon the Rules applicable at the time of the "Transaction" as hereinafter defined.

9. While a lawyer is obligated to provide competent representation to a client (Rule 1.1), this does not require that a lawyer have special training or prior experience to handle unfamiliar problems. Some important skills, such as drafting, are required in all legal problems. The most fundamental legal skill consists of determining the character of a legal problem. Competent representation includes inquiry into and analysis of the factual and legal elements. The required attention and preparation are determined by what is at stake. Complex transactions require more attention, preparation and communication.

10. While a lawyer must abide by a client's decisions concerning the objectives of representation and may limit the objectives of the representation, if the client consents after consultation, the lawyer must discuss with a client the legal consequences of any proposed course of conduct (Rule 1.2). A matter must be explained to the extent reasonably necessary to permit the client to make informed decisions (Rule 1.4). The adequacy of communication depends in part upon the kind of advice and assistance which the client can reasonably expect.

11. As to limitations upon a lawyer's duties of representation, our South Carolina Supreme Court has expressed:

While in many situations an attorney's representation of both a buyer and seller in a real estate transaction may create a conflict of interest . . . if the parties have already agreed on the basic terms of the agreement and the attorney acts primarily as a 'scrivener' the attorney may normally represent both parties after obtaining their consent. Beal v. Mars Larsen Ranch Corp., 586 P.2d 1378 (Idaho 1978). Cited in McNair v. Rainsford, *supra*.

I have often opined that communication of this nature could not be considered adequate unless it is in writing. The case of Darby v. The Furman Co., Inc., 334 S.C. 343, 513 S.E.2d 848 (1999) supports and Rule 1.7 (b) (4), confirms that opinion.

12. The duties of a closing attorney were generally summarized in the 1987 case of State v. Buyers Service Co., Inc., 292 S.C. 426, 357 S.E.2d 15 (1987). These obligations were re-enforced in Doe v. Condon, 341 S.C. 22, 532 S.E.2d 879 (2000); Doe v. Condon, 351 S.C. 158, 568 S.E.2d 356 (2002); Doe v. McMaster, 355 S.C. 306, 585 S. E.2d 773 (2003) and Doe Law Firm v. Richardson, 371 S.C. 14, 636 S.E.2d 866 (2006).

13. On September 23, 2009, the South Carolina Supreme Court reported on the findings of the South Carolina Bar Task Force on Closing Responsibilities and published a "Best Practices Model" for those who practice most frequently in the area of real estate, listing acts which should be accomplished only by lawyers licensed to practice in South Carolina.

14. As a counselor, an attorney must exercise independent (of the client and others) judgement and render candid advice and refer not only to the law, but also to other considerations. These other considerations include moral, economic, social and political factors relevant to the client's situation (Rule 2.1).

15. I have been asked to render an expert opinion upon the conduct of attorney William H. Sloan, Jr. ("Sloan") in his representation of Fine Housing, Inc. ("Plaintiff" or "Fine"). The representation occurred in connection with a transaction under the terms of which Fine retained Sloan to represent it in the purchase of two parcels of real property in Charleston County ("the Transaction"). One parcel was a commercial tract owned by RRJR, LLC and the other was a residential tract owned by Robin Robinson, individually. Robin Robinson is the "RR" of RRJR, LLC. At the time leading up to the Transaction, there was a foreclosure action pending against Robin Robinson on the residential parcel and Robin Robinson was represented in that proceeding by Charleston attorney William Swope ("Swope").

16. The attorney who was prosecuting the foreclosure was in the process of closing his practice and requested that Altman take over the foreclosure proceeding representing the plaintiff. Altman assumed representation of the plaintiff in the summer of 2012 and a sale was set for December 3, 2013. On the morning of the scheduled sale, Sloan delivered a check to Altman to pay the mortgage on the residential property in full. The court was notified and the sale cancelled.

17. Around February, 2013, Altman received a call from Sloan giving him details of the transaction he had closed for Fine. He advised Altman that Robinson and RRJR had defaulted on their obligations under the lease and Fine needed representation. Since he did not get involved in litigation he wanted to refer Fine to Altman. Altman agreed to accept the representation. When Altman received the file he found one New York form commercial lease for both the commercial and residential properties.

18. After receiving the initial file, Sloan provided Altman with a title insurance commitment issued by Stewart Title which did not mention the recorded lease to Barry

Clarke on the commercial property. The lease to Clarke was not mentioned in the title certification Sloan had received from Swope. When Sloan issued the title policy through Stewart Title, it mentioned the lease but did not include the fact the lease contained a right of first refusal. Clarke has filed suit to enforce the right of first refusal.

19. In the course of representing Fine, it was determined there were several outstanding tax liens filed by the IRS and South Carolina Department of Revenue affecting the properties. The liens were not paid at closing nor were payoffs of the liens obtained by Sloan. An amount estimated to be sufficient to pay off the liens was escrowed by Sloan and he agreed to rely on Swope to obtain the payoffs. After some time passed, Swope advised Sloan he was waiting for the liens to expire and then would make a claim for his clients, Robinson and RRJR, and would make a demand for the escrowed funds claiming there were no tax liens on the properties. Sloan advised Fine he believed that was a correct procedure. Altman advised Sloan that the liens attached to the funds he held in escrow and the money had to be paid to the lienholders.

20. The purchase price paid for both parcels by Fine was \$850,000. Without input from Fine, the parcels were given values by Sloan acting alone, of \$150,000 for the commercial tract and \$700,000 for the residential parcel.

21. At the time of closing, two suits were pending which resulted in judgments against Robin Robinson. Three months after the closing, judgments were entered against Robin Robinson. Altman filed for summary judgment taking the position that "no lien" existed at time of closing. The court denied the motion, saying it was the obligation of the closing attorney to determine whether any suits were pending against sellers and the suits put purchaser on notice of "potential liens".

22. I understand and am of the opinion that Sloan was retained by and had duties to Plaintiff in the Transaction.

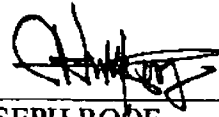
23. After reviewing the information and applicable law, it is my opinion that Sloan breached the duty and standard of care generally required of a reasonably competent South Carolina attorney in the following particulars:

- a) Failing, in general, to provide competent representation in the protection of the interest of Plaintiff (Rule 1.1);
- b) Failing to give independent, candid advice, referring not only to the law, but also to other considerations, particularly economic considerations, specifically in relying upon legal work of another attorney without advising and obtaining permission from Plaintiff (Rule 2.1);
- c) Failing to fulfill his duty to provide a clear title to real property being purchased by Plaintiff and closed by Sloan;

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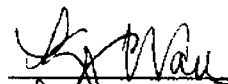
- d) Failing to recognize his duties to Plaintiff in the Transaction;
- e) Failing to reasonably inform Plaintiff about his reliance upon work by another attorney and to explain the matter to the extent necessary to permit Plaintiff to make informed decisions (Rule 1.4);
- f) Failing to recognize duties to explain to Plaintiff and advise Plaintiff of the consequences of pending litigation and address the issues presented so as to the quality of Plaintiff's title; and
- g) Failing to recognize a duty to conduct the Transaction in a manner that would assure Plaintiff had sufficient information to understand the Transaction.

24. If additional relevant information should become available, I reserve the right to revise, amend, or supplement my opinions.



C. JOSEPH ROOF

SWORN TO before me this
4th day of January, 2016.



(L.S.)

Notary Public for South Carolina
My Commission Expires: January 22, 2018

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

Fine Housing, Inc.,

Plaintiff,

v.

William H. Sloan, Jr.,

Defendant.

2016 APR 18 PM 1:16

CHESTER
CLERK OF COURT
DORCHESTER COUNTY

THE COURT OF COMMON PLEAS

ANSWER

C.A. No.: 2016-CP-18-0340

Jury Trial Demanded

SLOAN
#1

Defendant William H. Sloan, Jr., answering the Complaint of Plaintiff, would respectfully allege and show unto the Court as follows:

FOR A FIRST DEFENSE

1. Defendant lacks sufficient information to form a belief concerning the truth of the allegations contained in paragraph 1 of the Complaint and, therefore, denies same.
2. Defendant admits the allegations contained in paragraph 2 of the Complaint.
3. In response to the allegations contained in paragraph 3 of the Complaint, Defendant admits that certain events described by the Complaint occurred in Dorchester and Charleston Counties, South Carolina. Defendant denies the remaining allegations contained in paragraph 3 of the Complaint.
4. Defendant admits the allegations contained in paragraph 4 of the Complaint.
5. Defendant admits the allegations contained in paragraph 5 of the Complaint.
6. In response to the allegations contained in paragraph 6 of the Complaint, Defendant admits that he was retained to represent Plaintiff in connection with a real estate transaction concerning 2028 Pittsburgh Avenue, North Charleston, South Carolina and 2470 Sol Legare Road,

Charleston, South Carolina. Defendant denies the remaining allegations contained in paragraph 6 of the Complaint.

7. In response to the allegations contained in paragraph 7 of the Complaint, Defendant admits that he was retained to represent Plaintiff in connection with the two properties. Defendant denies the remaining allegations contained in paragraph 7 of the Complaint.

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#2

8. Defendant denies the allegations contained in paragraph 8 of the Complaint.

9. In response to the allegations contained in paragraph 9 of the Complaint, Defendant admits that he agreed to perform certain services in connection with the two properties. Defendant denies the remaining allegations contained in paragraph 9 of the Complaint.

10. Defendant denies the allegations contained in paragraph 10 of the Complaint.

11. Defendant denies the allegations contained in paragraph 11 of the Complaint.

12. Defendant denies the allegations contained in paragraph 12 of the Complaint.

13. Defendant denies the allegations contained in paragraph 13 of the Complaint.

14. In response to the allegations contained in paragraph 14 of the Complaint, Defendant admits that Plaintiff was aware that it would be necessary for Sellers' attorney to obtain payoff amounts regarding certain tax liens filed by the Internal Revenue Service and South Carolina Department of Revenue. Defendant denies the remaining allegations contained in paragraph 14 of the Complaint.

15. Defendant denies the allegations contained in paragraph 15 of the Complaint.

16. Defendant denies the allegations contained in paragraph 16 of the Complaint.

17. Defendant denies the allegations contained in paragraph 17 of the Complaint.

18. Defendant denies the allegations contained in paragraph 18 of the Complaint.

19. Defendant denies the allegations contained in paragraph 19 of the Complaint.

20. Defendant denies the allegations contained in paragraph 20 of the Complaint.
21. Defendant denies the allegations contained in paragraph 21 of the Complaint.
22. Defendant denies the allegations contained in paragraph 22 of the Complaint.
23. Defendant denies the allegations contained in paragraph 23 of the Complaint. SHB #2
24. In response to the allegations contained in paragraph 24 of the Complaint, Defendant admits that subsequent to closing he informed Plaintiff that 2028 Pittsburgh Avenue was subject to a lease in favor of Barry Clarke that contained a right of first refusal to sell. Defendant denies the remaining allegations contained in paragraph 24 of the Complaint.
25. Defendant denies the allegations contained in paragraph 25 of the Complaint.
26. Defendant denies the allegations contained in paragraph 26 of the Complaint.
27. Defendant lacks sufficient information to form a belief regarding the allegations contained in paragraph 27 of the Complaint, therefore Defendant denies same.
28. Defendant denies the allegations contained in paragraph 28 of the Complaint.
29. In response to the allegations contained in paragraph 29 of the Complaint, Defendant admits that he did not inform Plaintiff of the lawsuits filed by Chandler Crabtree and William Foster against Robin M. Robinson and did not list these lawsuits in the title insurance commitment or policy. Defendant denies the remaining allegations contained in paragraph 29 of the Complaint.
30. Defendant denies the allegations contained in paragraph 30 of the Complaint.
31. In response to the allegations contained in paragraph 31 of the Complaint, Defendant admits that he owed certain duties to Plaintiff. Defendant denies the remaining allegations contained in paragraph 31 of the Complaint.
32. Defendant denies the allegations contained in paragraph 32 of the Complaint.

33. Defendant denies the allegations contained in paragraph 33 of the Complaint.

34. To the extent that the allegations contained in paragraph 34 require a response, they are denied.

35. In response to the allegations contained in paragraph 35 of the Complaint, Defendant admits that he owed certain duties to Plaintiff. Defendant denies the remaining allegations contained in paragraph 35 of the Complaint.

36. Defendant denies the allegations contained in paragraph 36 of the Complaint.

37. In response to the allegations contained in paragraph 37 of the Complaint, Defendant admits that an attorney-client relationship existed between Defendant and Plaintiff. Defendant denies the remaining allegations contained in paragraph 37 of the Complaint.

38. Defendant denies the allegations contained in paragraph 38 of the Complaint.

39. Defendant denies the allegations contained in paragraph 39 of the Complaint.

40. Except as specifically admitted heretofore, Defendant denies each and every allegation contained in Plaintiff's Complaint.

FOR A SECOND DEFENSE

41. Defendant incorporates herein the allegations contained in his first defense that are consistent with this defense.

42. Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action against Defendant and must be dismissed.

FOR A THIRD DEFENSE

43. Defendant incorporates herein the allegations contained in his first defense that are consistent with this defense.

44. Plaintiff's tort claim is barred by the economic loss rule and must be dismissed.

FOR A FOURTH DEFENSE

45. Defendant incorporates herein the allegations contained in his first defense that are consistent with this defense.

46. The injuries and damages of Plaintiff, if any, were caused by the intervening and superseding acts of others, and Defendant pleads such intervening and superseding acts as a complete defense.

SHB
#5

FOR A FIFTH DEFENSE

47. Defendant incorporates herein the allegations contained in his first defense that are consistent with this defense.

48. The injuries and damages of Plaintiff, if any, were the direct and proximate result of the careless, negligent, grossly negligent, reckless, willful and wanton conduct or other fault on the part of Plaintiff in failing to exercise a degree of care and caution to be used by a reasonable and prudent entity under the circumstances then and there existing.

49. Defendant is entitled to a determination as to the percentage of their careless, negligent, grossly negligent, reckless, willful or wanton conduct or other fault of Plaintiff that contributed to Plaintiff's alleged damages and to a reduction of any award to Plaintiff by an amount equal to such percentage which the careless, negligent, grossly negligent, reckless, willful or wanton conduct or other fault of Plaintiff contributed to Plaintiff's injuries and damages.

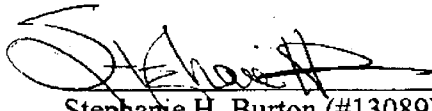
50. Furthermore, if the careless, negligent, grossly negligent, reckless, willful and wanton conduct and other fault of Plaintiff as may be demonstrated in and through discovery, contributed more than fifty percent (50%) to the cause of damages allegedly sustained by Plaintiff, then Plaintiff's claims are barred regardless of any fault by Defendant, which is specifically denied.

FOR A SIXTH DEFENSE

51. Defendant incorporates herein the allegations contained in his first defense that are consistent with this defense.

52. Plaintiff has failed to mitigate its damages and Defendant pleads failure to mitigate as a defense.

WHEREFORE, having fully answered the Complaint of Plaintiff Fine Housing, Inc., Defendant William H. Sloan, Jr., prays that the same be dismissed with costs and for such further and other relief as this Court shall deem just and proper.



Stephanie H. Burton (#13089)
GIBBES BURTON, LLC
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Spartanburg, South Carolina 29302
sburton@gibbesburton.com
Telephone: (864) 327-5000
Facsimile: (864) 327-5001

Attorneys for William H. Sloan, Jr.

April 14, 2016
Spartanburg, South Carolina

Defendant demands a trial by jury.

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

Fine Housing, Inc.,

Plaintiff,

vs.

William H. Sloan, Jr.,

Defendants.

FILED - RECORDED
2017 MAR 20 PM 1:38
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

IN THE COURT OF COMMON PLEAS

C.A. NO. 2016-CP-18-340

**DEFENDANT'S MOTION TO
DISQUALIFY CHARLES S. ALTMAN AS
ATTORNEY FOR PLAINTIFF**

TO: FINE HOUSING, INC. AND CHARLES S. ALTMAN, ATTORNEY FOR PLAINTIFF:

PLEASE TAKE NOTICE that Defendant William H. Sloan, Jr. will move the Court, at such date and time as shall be set by the Court, for an order disqualifying Charles S. Altman from representing Plaintiff at the trial of this case. This motion is made upon the following grounds:

1. Plaintiff asserts a claim for professional negligence against Defendant Sloan relating to the closing of Plaintiff's purchase of two parcels of real property located in Charleston County.
2. At the time of closing, Plaintiff's counsel represented the mortgagee of a mortgage on one parcel that was set for a foreclosure sale the day after the closing and which occasioned the purchase by Plaintiff.
3. After the sale, Mr. Altman represented Plaintiff concerning a number of issues relating to the parcels, including three lawsuits in the Charleston County Court of Common Pleas, multiple eviction actions, obtaining payoffs for multiple tax liens and negotiating the satisfaction of state tax lien with the South Carolina Department of Revenue.
4. In this action, Plaintiff alleges that Defendant Sloan was negligent by failing to advise Plaintiff that a lease on 2028 Pittsburg Avenue was recorded in Charleston County and

contained a right of first refusal in favor of Barry Clarke. Plaintiff further alleges that Defendant Sloan was negligent by not informing Plaintiff of lawsuits filed by Chandler Ryan Crabtree and William Foster against the Seller. Plaintiff also alleges that Defendant Sloan was negligent by failing to identify all tax liens affecting the two parcels or escrow sufficient funds at closing to pay all tax liens.

5. Rule 3.7 of the South Carolina Rules of Professional Conduct prohibits an attorney from acting as an advocate at a trial in which the attorney will be a necessary witness unless: (1) the lawyer's testimony relates to an uncontested issue; (2) the testimony relates to the nature and value of legal services rendered; or (3) disqualification of the lawyer would work a substantial hardship on the client.
6. The recent depositions of Plaintiff and of William H. Sloan, Jr. have made clear that Mr. Altman is a necessary fact witness concerning the following issues:
 - a. The urgency of the payoff of the Sherman mortgage and Sherman's refusal to postpone the foreclosure sale, leading to a rushed closing;
 - b. Obtaining payoffs for tax liens associated with both parcels of property, including attempts to deal with the seller's counsel regarding payoffs;
 - c. Assertions by Mr. Altman concerning which liens had to be paid and a subsequent negotiation of a payoff of a state tax lien;
 - d. Discussions and negotiations relating to the title insurance commitments and title policy;
 - e. The settlement of the action brought by Robin Robinson and RRJR, since Mr. DeStaso, the 30(b)(6) representative of his client, Fine Housing, Inc., testified at his deposition that he did not read the settlement agreement and was not familiar

with its terms, but claims amounts paid in settlement as damages in this case;

(Exhibit A – Plaintiff's Answers to Defendant's First Set of Interrogatories).

f. The settlements Fine Housing has entered into with the current tenant of the Pittsburgh Avenue property;

g. The settlement of the prior *Foster* and *Crabtree* actions; and

h. The nature of legal services provided to Fine Housing, Inc. for which Fine Housing is seeking damages. **(Exhibit B – Transcript of Deposition of Plaintiff).**

7. At Plaintiff's deposition, it became evident that Mr. Destaso lacked personal knowledge regarding certain issues, including Mr. Altman's negotiation and payment of certain tax liens, the settlement of RRJR and Robin M. Robinson's lawsuit against Plaintiff, and the reduction in Plaintiff's available title insurance coverage.

8. Defendant Sloan anticipates that Mr. Altman's testimony concerning a number of the issues identified above will be contested.

9. During the deposition of William H. Sloan, Jr., Mr. Altman posed numerous questions to Mr. Sloan concerning whether Mr. Sloan remembered certain communications that Mr. Altman had with Mr. Sloan and concerning Mr. Altman's involvement in certain events. **(Exhibit C – Transcript of Deposition of William H. Sloan, Jr.).**

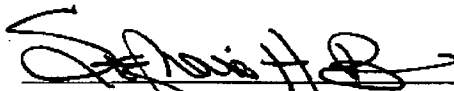
10. As trial counsel for Fine Housing, Inc., Mr. Altman would be entitled to cross-examine Mr. Sloan concerning issues on which Mr. Altman would also testify. Mr. Altman would also be entitled to comment and compare this testimony during closing argument.

11. As a result, Mr. Altman's dual role at any trial would inevitably confuse and mislead the jury. The resulting confusion would prejudice Defendant.

12. The disqualification of Mr. Altman would not cause substantial hardship to Plaintiff because this case is not set for trial in the near future.

13. Accordingly, Defendant Sloan is entitled to an order disqualifying Mr. Altman as trial counsel for Plaintiff

This motion is based upon the discovery depositions of Plaintiff and Defendant Sloan, the Plaintiff's Answers to Defendant's First Set of Interrogatories, the pleadings filed in this Action and upon applicable common and statutory law.



Stephanie H. Burton (#13089)

GIBBES BURTON, LLC

308 East Saint John Street

Spartanburg, SC 29302

Telephone: (864) 327-5000

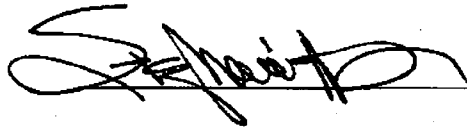
Facsimile: (864) 327-5001

sburton@gibbesburton.com

Attorneys for Defendant William H. Sloan, Jr.

March 15, 2017

Counsel for Defendant consulted with Plaintiff's counsel but was unable to resolve the matters contained in this motion.



STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

FINE HOUSING, INC.)

Plaintiff,)

vs.)

WILLIAM H. SLOAN, JR.)

Defendant.)

FILED - RECORDED

2017 JUN -1 AM 10:58

CHERYL CRANAM
CLERK OF COURT
DORCHESTER COUNTY

IN THE COURT OF COMMON PLEAS

CASE NO. 2016-CP-18-00340

**PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION TO
DISQUALIFY CHARLES S. ALTMAN AS ATTORNEY FOR PLAINTIFF**

In opposition to Defendant's Motion to Disqualify Charles S. Altman, Plaintiff submits the following:

In Defendant's Motion to Disqualify Charles S. Altman as Attorney for Plaintiff, Defendant argues Charles S. Altman (hereinafter, "Altman") is a necessary fact witness concerning allegedly contested issues. Defendant cites to Rule 3.7 of the South Carolina Rules of Professional Conduct, which prohibits an attorney from acting as an advocate at a trial in which the attorney will be a necessary witness unless: (1) the lawyer's testimony relates to an uncontested issue; (2) the testimony relates to the nature and value of legal services rendered; or (3) disqualification of the lawyer would work a substantial hardship to the client.

Paragraph 6 of Defendant's Motion lists a number of issues for which Defendant claims Altman is a necessary fact witness, however, Altman is not a *necessary* fact witness as there are other individuals who can testify, the issues are uncontested, and one relates specifically to the nature of legal services rendered.

As to paragraph 6(a), the Order of foreclosure had already been entered and the foreclosure sale had been previously postponed, rescheduled, and the judge denied to postpone the sale any further. These facts are uncontested and are irrelevant to Defendant's negligence, therefore, Altman is not a necessary fact witness.

As to paragraph 6(b) and 6(c), any issues relating to the tax liens are uncontested. At the time of the closing, the Defendant knew he did not have payoffs of all of the tax liens as was necessary and required. It is uncontested Defendant merely estimated, with the help of the seller's attorney, the amount needed to pay the liens. Further, as admitted by Defendant in his deposition and confirmed by seller's attorney in his deposition, a tax lien in the amount of approximately \$78,000.00 was not taken into consideration in estimating the amount to be escrowed. The tax liens were recorded in the public records and had to be dealt with to provide Plaintiff with the clear title it was entitled to. The information is contained in the public records.

Similarly, as to paragraph 6(d), the issues relating to title insurance commitments and title insurance policies are uncontested. All information regarding what is contained in the various versions of the title insurance commitments and policies came from the Defendant and not from Altman.

As to paragraph 6(e), the settlement of the action brought by Robin Robinson and RRJR, which is an uncontested issue, is a document that speaks for itself and has been or can be obtained via discovery, therefore, Altman is not a necessary fact witness.

As to paragraph 6(f), the settlement with the tenant of the Pittsburgh Avenue property, which is an uncontested issue, is a document that speaks for itself and has been or can be obtained via discovery, therefore, Altman is not a necessary fact witness.

As to paragraph 6(g), the settlements of the prior *Foster* and *Crabtree* actions, which are uncontested issues, are documents which speak for themselves and have been or can be obtained via discovery, therefore, Altman is not a necessary fact witness.

As to paragraph 6(h), testimony of the nature of legal services rendered is clearly an exception of Rule 3.7(2) of the South Carolina Rules of Professional Conduct.

Defendant, rather, seeks the testimony of Altman in an effort to gain an unfair strategic advantage by disqualifying Altman from representing Plaintiff in the captioned-matter. The South Carolina Court of Appeals, in a recent opinion, recognized “the countervailing rationale that a party could call opposing counsel as a necessary witness, requiring his or her disqualification, *purely for tactical or strategic reasons*,” which is an abuse of Rule 3.7 of the South Carolina Rules of Professional Conduct. Brooks v. South Carolina Commission on Indigent Defense, Opinion No. Op. 5468, Heard November 9, 2016 and Filed February 15, 2017 (emphasis added). Here, the disqualification of Altman would provide Defendant with an unfair strategic advantage and would work a substantial hardship to the Plaintiff (See the Affidavit of Vincent Destaso, attached hereto as **Exhibit A**). Not only are the issues for which Defendant claims Altman is a necessary fact witness clearly uncontested or relate to legal services rendered, Altman is intimately familiar with the issues of this case and has spent nearly 100 hours working on the present matter. Further, Defendant’s counsel engaged in discovery with Altman after filing the present Motion to Disqualify, requiring additional work on the present matter.

The facts stated in Defendant's Motion are not at issue and Defendant has no legitimate reason for the necessity of Altman's testimony. It is clear, Defendant's only purpose for moving for the disqualification of Altman is to gain an unfair strategic advantage and to cause a substantial hardship to Plaintiff. Therefore, for the reasons stated herein, Defendant's Motion to Disqualify Charles S. Altman as Attorney for Plaintiff should be denied.

Respectfully Submitted,

ALTMAN & COKER, LLC

A handwritten signature in black ink, appearing to read "Patrick J. Norton", written over a horizontal line.

Charles S. Altman
caltman@altmancoker.com
Meredith L. Coker
Patrick J. Norton
575 King Street, Suite A
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T: 843-853-9907
F: 843-722-5702
Attorneys for Plaintiff

May 31, 2017

FILED - RECORD

2017 JUN -1 AM 10: 58

CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

EXHIBIT A

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL DISTRICT

FILED - RECORDED

2017 JUN -1 AM 10:58

Fine Housing, Inc.,

Civil Action No. 2016-CP-18-00340

Plaintiffs,

CHERYL ABRAHAM
CLERK OF COURT
DORCHESTER COUNTY

vs.

William H. Sloan, Jr.,

Defendant.

AFFIDAVIT OF VINCENT DESTASO

PERSONALLY APPEARED BEFORE ME, the undersigned, who first being duly sworn,
deposes and states:

1. I am the sole shareholder of Fine Housing, Inc., the Plaintiff in the captioned-matter.
2. Charles S. Altman has been counsel for Fine Housing, Inc. in a number of matters arising from the closing in which Fine Housing, Inc. was represented by the Defendant, William H. Sloan, Jr.
3. Charles S. Altman has become very familiar with the facts of the captioned-matter, and replacing him with another attorney who would be required to become familiar with the same facts of this case would cause a substantial and undue hardship to Fine Housing, Inc. and myself as sole shareholder.

Further Affiant Sayeth Naught.



Vincent Destaso

SWORN TO and SUBSCRIBED before me
this 25 day of May, 2017.


Printed Name: Michael Feldman
Notary Public for the State of New York
My Commission Expires: 5.1.21

Michael A Feldman
Notary Public of New York
ID# 01FE6358067
Commission Expires 05/01/2021

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

FINE HOUSING, INC.

Plaintiff,

vs.

WILLIAM H. SLOAN, JR.

Defendant.

RECORDED
2017 JUL -7 AM 10:05
CHERYL KAGAN
CLERK OF COURT
DORCHESTER COUNTY

IN THE COURT OF COMMON PLEAS

CASE NO. 2016-CP-18-00340

**PLAINTIFF'S MOTION TO RECONSIDER THE ORDER GRANTING DEFENDANT'S
MOTION TO DISQUALIFY CHARLES S. ALTMAN AS ATTORNEY FOR PLAINTIFF**

Plaintiff, by and through the undersigned counsel, hereby moves this Honorable Court to reconsider the Order Granting Defendant's Motion to Disqualify Charles S. Altman as Attorney for Plaintiff and, in support of its Motion, states the following:

In the Order Granting Defendant's Motion to Disqualify Charles S. Altman as Attorney for Plaintiff (the "Order"), the Court refers to Rule 3.7 of the South Carolina Rules of Professional Conduct as well as case law in support of the ruling. Specifically, Rule 3.7 SCRPC prohibits an attorney from acting as an advocate at a trial in which the attorney will be a necessary witness unless: (1) the lawyer's testimony relates to an uncontested issue; (2) the testimony relates to the nature and value of legal services rendered; or (3) disqualification of the lawyer would work a substantial hardship to the client. The Order also specifically cites to Brooks v. S.C. Comm'n on Indigent Def., holding a necessary witness is a person who has material information that no other person can provide.

Defendant's Motion to Disqualify listed a number of issues for which Defendant claims Altman is a necessary fact witness, however, pursuant to the exceptions of Rule 3.7 SCRPC, Altman is not a necessary fact witness as there are other individuals who can testify, the issues are uncontested or relate specifically to the nature of legal services rendered. Similarly, as discussed in Brooks v. S.C. Comm'n on Indigent Def., the material information sought by Defendant can be provided by other individuals and/or via other methods such as discovery, and Brooks goes further, recognizing "a party could call opposing counsel as a necessary witness, requiring his or her disqualification, purely for tactical or strategic reasons," which is the strategy used by Defendant in the present matter. The Order fails to point out any issues which are actually contested, and incorrectly states Plaintiff has failed to identify witnesses other than Altman who have knowledge of the issues. None of the issues are contested and Plaintiff, in its Memorandum in Opposition to Defendant's Motion to Disqualify, identified witnesses other than Altman who have knowledge of the issues, as reiterated herein.

First, the Order states Altman is a necessary witness concerning the settlements of the prior *Foster* and *Crabtree* actions because of the uncertain testimony of Vincent Destaso in a 30(b)(6) deposition. The settlements in the prior *Foster* and *Crabtree* actions are uncontested issues, are documents which speak for themselves and can be obtained via discovery, and John Romanosky, Esq., attorney of record in said actions, can provide information on these issues, therefore, Altman is not a necessary fact witness and the Order should be reconsidered.

Second, the Order states Altman is a necessary witness concerning issues relating to title insurance commitments and title policies. These issues are uncontested and lie between the Defendant and Will Swope, and the Order specifically states the Defendant knew of the contents of

the policies at the time they were issued. The title insurance commitments and title policies are documents which speak for themselves, and the Defendant and Will Swope can provide material information on these issues, therefore, Altman is not a necessary fact witness and the Order should be reconsidered.

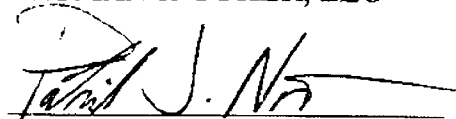
Third, the Order states Altman is a necessary witness concerning tax liens affecting two parcels of property and their eventual discharge. Any issues involving the tax liens are uncontested and lie between the Defendant and Will Swope, and the Order specifically mentions Altman corresponded and negotiated with the South Carolina Department of Revenue and the IRS concerning satisfaction of the tax liens, therefore, the Defendant, Will Swope and/or a representative of the South Carolina Department of Revenue or the IRS can provide material information on this issue. Further, the tax payoffs affect only legal services rendered an attorney's fees, which is an exception to disqualification under Rule 3.7(2) of the South Carolina Rules of Professional Conduct. Altman is not a necessary fact witness and the Order should be reconsidered.

Fourth, the Order states Altman is a necessary witness concerning damages suffered by Plaintiff in regards to Plaintiff's title insurance coverage, Plaintiff's settlement with Robinson, Plaintiff's mitigation of damages through rents received for the Pittsburgh Avenue parcel and Plaintiff's refusal of an offer by Barry Clarke to purchase the Pittsburgh Avenue parcel. All of the above are uncontested issues. Information can be provided via discovery, or from Robinson or Vincent Destaso, therefore, Altman is not a necessary fact witness and the Order should be reconsidered.

WHEREFORE, for the reasons contained herein, Plaintiff respectfully requests this Honorable Court grant an Order reconsidering and vacating the previous Order Granting Defendant's Motion to Disqualify Charles S. Altman as Attorney for Plaintiff; and for any other relief as this Court deems just and proper.

Respectfully Submitted,

ALTMAN & COKER, LLC

A handwritten signature in black ink, appearing to read "Patrick J. Norton", is written over a horizontal line.

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caltman@altmancoker.com
Meredith L. Coker
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575 King Street, Suite A
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T: 843-853-9907
F: 843-722-5702
Attorneys for Plaintiff

July 6, 2017

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
COUNTY OF DORCHESTER) CASE NO.: 2016-CP-18-0340
FINE HOUSING, INC.,

Plaintiff,

-vs-

WILLIAM H. SLOAN, JR.,
Defendant.

Volume I

30(b)(6) Deposition of Fine Housing, Vince Destaso

Date Taken: Thursday, February 9, 2017

Time Taken: 10:00 a.m.

Location: Altman & Coker

575 King Street, Suite A

Charleston, South Carolina 29403

Reported By: Judy W. Galuppo, Court Reporter

Job No.: 299712

MAGNA LEGAL SERVICES

WWW.MAGNALS.COM

866.624.6221

1 Q So I guess he was asking whether you
2 were interested?

3 A Yes.

4 Q Did you tell him you were?

5 A Yes.

6 Q Okay. How did it progress from there?

7 A He had William Swope call me.

8 Q During the initial call with
9 Mr. Alfredo, other than saying, hey, there's an
10 opportunity in Charleston, are you interested, did
11 he give you any details? What the opportunity was,
12 how much would be involved?

13 A I don't recall.

14 Q So the next thing was Mr. Swope called
15 you?

16 A Yes.

17 Q All right. Tell me about that call.

18 A Mr. Swope called, and he provided a lot
19 of details, seemed like a bit of a narrative,
20 pre-rehearsed speech.

21 Q Okay.

22 A And I listened to him. And then I told
23 him what I would be interested or willing to do and
24 he got mad and hung up the phone.

25 Q Okay. So I understand you had kind of

1 a, what appeared to be a canned speech to you. What
2 details did he provide?

3 A He said he had a client that had
4 problems and her husband died and she fell behind on
5 her payments and she wanted a loan.

6 Q And did he tell you how much money she
7 needed to borrow?

8 A He told me approximately, I believe,
9 yeah.

10 Q What was the number, approximately?

11 A Somewhere between eight and \$900,000.

12 Q Okay. Help me. I gather that you said
13 you might be interested, but the terms were -- but
14 expressed some terms?

15 A Yes.

16 Q Tell me what your terms were.

17 A I said I would not lend money in South
18 Carolina, but I would possibly be interested in
19 buying the properties.

20 Q Okay. What else did you say?

21 A He hung up the phone.

22 Q Okay. So he was looking on behalf of
23 his client for a loan, and you indicated, I'm not
24 interested in loaning money, but I might buy some
25 land; is that accurate?

1 A Yes.

2 Q Had you -- because you told me earlier
3 that you'd been involved in real estate investment
4 in the past. Had you been involved in making loans
5 in the past?

6 A I have made loans in the past, yes.

7 Q Was that through a particular business
8 that you made loans?

9 A Yes, through a business, or directly
10 through myself.

11 Q And you'll have to help me a little bit.
12 I mean, it's one thing to make a loan to a family
13 member, something like that. Had you made loans to
14 people that you didn't know and obtain security for
15 the loans in the past?

16 A Yes.

17 Q And did you work with brokers in
18 connection with that business?

19 A The majority, myself.

20 Q So the people would approach you
21 directly and ask for a loan?

22 A Yes.

23 Q Can you give me a feel, Mr. Destaso,
24 prior to becoming involved at all with Robin
25 Robinson and RRJR, how many times you made loans to

1 I didn't think she would pay me.

2 Q So she wasn't a good risk?

3 A For a loan, I didn't want to be in a
4 foreclosure in South Carolina.

5 Q All right. So he hung up the phone.
6 And at that point I guess you're thinking maybe this
7 is not going anywhere. How did it resurface?

8 A The guy, Mark, called me back a couple
9 hours later and said that I pissed off the attorney.
10 And I said, well, I'm sorry. I told him what I was
11 willing to do, and that I felt that they would be
12 coming back to us because of the problem they had.

13 Q Did Mr. Swope indicate to you during the
14 initial phone call that there was a pending
15 foreclosure action against Ms. Robinson and/or RRJR?

16 A I believe, yes.

17 Q So there was some deadline by which she
18 needed money?

19 A He said that.

20 Q So Mr. Alfredo calls you back and says,
21 you made Swope unhappy. And you said, I think
22 they'll be coming back around; is that true?

23 A Yes.

24 Q Do you remember approximately when the
25 phone call was with Mr. Swope?

1 A Absolutely.

2 Q Okay. That's fair. If you also look
3 at, please, sir, in Exhibit No. 2, turn to
4 page 1347.

5 A Yes.

6 Q And it says that it's a hard money
7 request executive summary, and has two pages of
8 information about the property and Thee Southern
9 Belle Gentleman's Club. Did you review that summary
10 when you got it?

11 A I had received this previously as well.

12 Q Oh, well help me with that. When did
13 you get it earlier?

14 A In the summer when I spoke to Will
15 Swope.

16 Q Who sent it to you?

17 A I don't recall.

18 Q But you'd seen this exact same document
19 in the summer?

20 A I believe so.

21 Q Okay. And had you reviewed it at that
22 time?

23 A Again, I didn't rely on what was being
24 sent to me. And I told them I wasn't interested in
25 what they were proposing.

1 A Yes.

2 Q So you got them and ignored them,
3 essentially?

4 A Let me put it this way, they don't
5 understand the word no.

6 Q Okay, that's fine.

7 So when you said it came back up in
8 November, and we've got November 19 emails on both
9 Exhibits 2 and 3.

10 A Yeah.

11 Q So is Liatsis resending you attachments
12 related to the potential transaction now because
13 they're interested in selling the property as
14 opposed to just getting a loan?

15 A I'm assuming yes, and the timeframe is
16 approximate.

17 Q Okay. In Exhibit No. 3, if you'd turn
18 to page 1793, there is -- actually, it starts on the
19 prior page, Carolina One 1792, there's discussion
20 about the value, potential value of the Pittsburgh
21 property.

22 A Okay.

23 Q Of 685,325, if I read it right, the land
24 and building price, a good way down on the second
25 page.

1 A I'm sorry?

2 Q Turn over one page, one more page, the
3 second page of the appraisal, see about midway down,
4 373 land, 312,325 for the building?

5 A Yeah.

6 Q And the reason I'm pointing this out is
7 I think in the first packet, Exhibit 2, there was
8 the appraisal for the house. And then in this
9 packet, if this is an appraisal, there's this value
10 attributed to the commercial property. Do you see
11 that?

12 A Yes.

13 Q Tell me, before you decided to proceed
14 with the transaction, what due diligence you
15 conducted to determine the value of either the house
16 or the commercial property separate from receiving
17 these documents?

18 A Well, again, I didn't use this for my
19 due diligence at all. I came down here to
20 Charleston and I visited the properties.

21 Q So you went and looked at them
22 personally?

23 A Yes.

24 Q Did you visit them on your own?

25 A I met Tony Fogle. And then the next day

1 A Again, mid to end of November.

2 Q When he says, thanks for coming to meet
3 with myself and Robin, is that meaning you were just
4 talking to me about when you went to look at the
5 houses, the house and the property?

6 A I'm sorry. Say that again.

7 Q The meeting he's referring to, do you
8 think it's the meeting when you came and looked at
9 the property?

10 A Oh, there's only one meeting.

11 Q Okay. That's what I didn't know. So
12 there, you helped me. So sometime prior to November
13 25th you had come here?

14 A Yeah.

15 Q He wrote you on Monday. Does that help
16 you at all with when you came? Do you remember what
17 day of the week you came, or anything that would
18 help us pin that down?

19 A The exact day?

20 Q Yes.

21 A No, I don't know.

22 Q You must have paid for a plane ticket?

23 A Sure.

24 Q So would you have some sort of record
25 that we could find perhaps that would tell us when

1 A Okay.

2 Q And I'm just trying to orient you a
3 little bit, because people sometimes remember stuff
4 in connection with holidays. Do you think you made
5 an offer before Thanksgiving?

6 A I don't recall.

7 Q So sometime around this November 25th,
8 26th date you made an initial offer through a
9 broker?

10 A It wasn't really much of an offer going
11 on. It was my impression that they were asking for
12 \$800,000, at least in my mind that was the price I'd
13 be willing to pay.

14 Q So is that what you said to the broker,
15 hey, I'd be willing to pay the 800?

16 A I don't remember.

17 Q How did the leases come about?

18 A Well, I negotiated them with Robin, the
19 seller.

20 Q Was that always going to be part of the
21 deal, that you were going to buy the properties and
22 they wanted to lease them back?

23 A Yeah.

24 Q Okay. We hadn't discussed that. So you
25 told me initially they wanted just a straight-up

1 Q Okay. But you don't remember having a
2 specific discussion with Mr. Swope from the time you
3 hung up to the time of these e-mails?

4 A I don't recall, no.

5 Q Okay. And I gather from your testimony
6 that most of your discussions were through the
7 brokers, tell them I'll do this, and then they'd
8 come back and say, no, they want that or...?

9 A Yes, that would be accurate, yeah.

10 Q And when you're talking about through
11 the brokers, was it ultimately Liatsis or Alfredo,
12 or did one of them pick up the reins and become the
13 main broker?

14 A I don't remember.

15 Q Okay. So you've told me that sometime
16 during the week of November 25th you said, I will
17 buy the properties for 800,000; they can lease the
18 properties from me for \$12,000 a month for two
19 years; and they can repurchase the properties from
20 me for 1,100,000 or 1,150,000; is that accurate?

21 A Yes.

22 Q And on the buyback, was there a
23 timeframe, they have to do it within two years, or
24 they can't do it before two years?

25 A I think they had to do it within two

1 the titles to any of the vehicles?

2 A No.

3 Q What were the -- were the vehicles
4 pledged as collateral for any of the leases?

5 A No.

6 Q What happened with that?

7 A Never came about.

8 Q Why?

9 A The closing was rushed and they stalled
10 me and I didn't get the collateral I was asking for.

11 Q Okay. So there just wasn't time to
12 ferret out the title on every car and get it pledged
13 and all that kind of stuff; is that true?

14 A I don't know if it was a time issue or
15 they were bluffing on their end, I'm not sure.

16 Q But you ultimately were willing to lease
17 the property without that collateral?

18 A Oh, absolutely.

19 Q Okay. Was there any collateral securing
20 the leases?

21 A Collateral, no.

22 Q So there were personal guarantees by
23 Dehaven, Fogle and Robinson on the leases?

24 A I believe so, yeah.

25 Q But you gave collateral to support the

1 point.

2 Q Swope?

3 A Yes.

4 Q So the brokers are out of the picture on
5 the negotiations?

6 A They were probably still incessantly
7 calling.

8 Q I'm sure.

9 A But I do my best to ignore them.

10 Q Mr. Destaso, let me give you some
11 documents that I've marked as Exhibit No. 6 to your
12 deposition.

13 (Deposition Exhibit No. 6 is marked for
14 identification.)

15 A Okay.

16 Q And I'll apologize. Everybody replied
17 to every email, so we have these long email strings
18 because they just go on forever.

19 A So it's not chronological, starting from
20 the back?

21 Q It starts, they appear to start from the
22 oldest email and work to most current forward. The
23 emails don't always reply, you know. Somebody just
24 might pick up an email and just talk about a
25 different topic. But take a minute to look at those

1 MR. ALTMAN: I want to make everybody
2 aware that if something comes up after I began
3 representing him, there will be a privilege issue.

4 MS. BURTON: I think we'll get there.
5 We're just not quite there yet.

6 MR. ALTMAN: I understand, but I wanted
7 to put that on the table now because I am mentioned
8 here, and it's a time when I am not Fine Housing or
9 Mr. Destaso's attorney.

10 Q Okay. All right. Mr. Destaso, tell
11 me -- obviously you had some conversation with
12 Mr. Sloan about Mr. Altman and it looks like you
13 were planning on talking to him.

14 A (Nodding head.)

15 Q Tell me about that, please, sir.

16 A There was a deadline because the
17 residential house was being sold at a foreclosure
18 auction.

19 Q How did you know that there was such a
20 foreclosure coming up?

21 A The brokers told me.

22 Q So the brokers said, hey, we got to do
23 this deal because there's a foreclosure coming down
24 the road?

25 A Yeah.

1 Q Right? And you know that, I think we
2 saw early on there was this discussion by the
3 brokers about a September foreclosure sale that was
4 maybe going to get put off, et cetera, right?

5 A Yeah.

6 Q Did you have an understanding then that
7 Mr. Altman represented the party or parties that
8 were getting ready to foreclose?

9 A Did I understand it then, in September?

10 Q Yes. No, I'm sorry, in November.

11 A Apparently someone -- I asked who the
12 attorney was, and they gave me Charlie Altman's
13 name.

14 Q So somehow you found out that Mr. Altman
15 represented the parties who were seeking to
16 foreclose on the property?

17 A Yes.

18 Q And you apparently were going to contact
19 Mr. Altman for some purpose. Can you tell me about
20 that?

21 A I contacted him to see if there was a
22 possibility of delaying the sale.

23 Q Why?

24 A To give more time for the closing.

25 Q Why?

1 A Because it was only a few days away.

2 Q Why did you feel like you needed more
3 time for the closing?

4 A I just thought it would have been easier
5 for everybody involved.

6 Q Okay. So one purpose of calling
7 Mr. Altman was to see if you could get the
8 foreclosure sale postponed and try and allow more
9 time to consummate the transaction?

10 A Correct.

11 Q Were there any other reasons that you
12 wanted to talk to Mr. Altman?

13 A To actually verify when the sale was.
14 And I believe I asked if he would -- if he could
15 check with his client to see if they were willing to
16 assign their claim.

17 Q To you?

18 A Yes.

19 Q So you were interested in potentially
20 taking an assignment of whatever debt there was and
21 paying them money presumably for the assignment?

22 A Correct.

23 Q Did you have an understanding from any
24 source before you contacted Mr. Altman about who his
25 clients were and what the amount of the debt was

1 that was the subject of the foreclosure?

2 A I did not know the -- who the client
3 was, no. I probably knew approximately how much was
4 owed.

5 Q How did you get that information?

6 A From the brokers. I was probably told.

7 Q Okay. All right. So you contact
8 Mr. Altman. And what did he tell you?

9 A He said he would check with his client
10 and get back to me.

11 Q Did he get back to you?

12 A Yes.

13 Q Tell me what he said.

14 A They were not interested in delaying the
15 sale and they were not interested in selling me the
16 debt.

17 Q And did he confirm the debt amount?

18 A I don't think so, no.

19 Q Did he confirm the sale date?

20 A Yes.

21 Q So you knew it was coming?

22 A Yeah.

23 Q All right. But you didn't know
24 precisely how much the foreclosing debt was?

25 A Precisely? I don't think so. I'm sure

1 Mr. Altman's clients?

2 A Yes.

3 Q And let's confirm with Bill that we even
4 have a deal.

5 Do you see that?

6 A Yes.

7 Q And if you look at the first page of the
8 exhibit on page 2202 of Exhibit 6, at the very
9 bottom, Mr. Sloan has an email to you, and it says:
10 Will, Vince wanted to reduce the basics of the
11 agreement to writing. The two parcels, 2028
12 Pittsburgh Avenue, NC, and 2470 Sol Legare Road for
13 800,000.

14 Do you see that?

15 A Yeah.

16 Q Buyer to pay no closing costs, only
17 paying 800K for the purchase price. RRJR and
18 Ms. Robinson have until November 30, 2015 to buy the
19 property back for 1.2-million, 12,000 a month rent
20 for both, none of this to purchase price.

21 Do you see that?

22 A I do.

23 Q Was that the very basic terms of what
24 you were proposing as of Wednesday, November 27th,
25 2013?

1 A Yes.

2 Q Okay. And it looks like Mr. Sloan is
3 sending that to your email address?

4 A I'm under the belief it was cc'd to Will
5 because it's addressed to him.

6 Q Well, do you think it was a draft for
7 your review before it went out to Mr. Swope so you
8 could confirm this is what you wanted to do?

9 A I don't think so.

10 Q So you think this was cc'd, or blind
11 copied or whatever, to Mr. Swope at that time?

12 A I think so, yeah.

13 Q Okay. So obviously the negotiations
14 over the 850 hadn't occurred yet as of Wednesday
15 November 27; do would you agree with me about that?

16 A No.

17 Q They had not? You hadn't offered 850
18 yet?

19 A I had not offered 850 yet. But you
20 mentioned the negotiations hadn't started.

21 Q No. That was a poor question on my
22 part. You were still at 800?

23 A I was still at 800.

24 Q Let me hand you a document that I marked
25 as Exhibit No. 7 to your deposition. Did you ask

1 Q Do you know what the 519, 2012 and '13
2 taxes were?

3 A Property tax?

4 Q Okay. So you did know property taxes
5 were owed?

6 A I'm guessing right now.

7 Q Okay.

8 A I didn't know at the time.

9 Q Okay. Well, did you ever take the time,
10 when you're getting this HUD statement -- it's got
11 all these deductions, they're not all small -- did
12 you ever take the time to go back to the documents
13 you had gotten from Mr. Liatsis where there are
14 debts listed in them and try and figure out, hey, is
15 \$800,000 even going to cover all these payoffs of
16 mortgages and liens and taxes?

17 A I don't see why I would.

18 Q Well, if they weren't, then how were
19 they going to be paid to get you clear title?

20 A I don't consider that my problem.

21 Q Okay. So did you ever have any concern
22 that Robin Robinson and RRJR owed more money than
23 \$800,000 and therefore could not clear up all these
24 liens and mortgages and debts?

25 A Again, I didn't consider it to be my

1 could come off the proceeds.

2 Q So the conversation about taking Swope's
3 fee off the HUD was with you and the broker?

4 A Yeah.

5 Q Which broker?

6 A John or Mark.

7 Q You don't know, Mark or John?

8 A I've never met either -- well, I've met
9 one of them now, Mark. But at the time I had not
10 seen or met either one.

11 Q Then there's an email above that on
12 page 1 of Exhibit No. 9, that on November 30
13 Mr. Sloan's writing to you saying: How are the
14 negotiations coming?

15 Do you see that?

16 A Yes.

17 Q So obviously you must be negotiating.
18 He sent the email, we looked at earlier with the
19 terms, the \$800,000 terms, on Wednesday the 27th.
20 So this is now, by my calculation, Saturday, and
21 he's asking you how's it going. So you, I gather,
22 are negotiating through the brokers with the seller,
23 true?

24 A Yes.

25 Q Okay. And Mr. -- earlier you told me

1 Q Did he tell you they were tax liens?

2 A Well, we knew that there were tax liens,
3 yes.

4 Q Did he tell you that payoffs were trying
5 to figure out how much was owed on the tax liens?

6 A We had those conversations, yeah.

7 Q So you knew that there was some amount
8 owed on tax liens and that the amount was unknown?

9 A No.

10 Q So you knew some amount was owed and you
11 thought it was known?

12 A I didn't say that.

13 Q What did you know about tax liens?

14 A I'm just trying to answer accurately,
15 that's all.

16 Q Go ahead. What did you understand about
17 the tax liens other than some existed?

18 A It was my impression that they needed
19 updated payoffs.

20 Q Updated payoffs, okay.

21 A Per diem or something of that nature.

22 Q And that was going to come from what
23 source?

24 A I have no idea.

25 Q Okay. I'm going to hand you a document

1 Q Would you have known, hey, we're trying
2 to close at X time?

3 A No, I wasn't going to be at the closing,
4 and Mr. Sloan had advised me in the morning to be
5 available by phone.

6 Q You just knew it was going to be some
7 time that day, right?

8 A Actually, I thought it was earlier in
9 the day.

10 Q But you knew the foreclosure sale that
11 everybody was trying to work against the clock for
12 was the next morning?

13 A I did know that, yeah.

14 Q So it had to close that day or it was
15 going to be sold to satisfy Mr. Altman's clients?

16 A That has nothing to do with me.

17 Q But you knew that there was a deadline
18 to get it done?

19 A Wasn't a deadline to me.

20 Q Well, it was because you tried to get it
21 postponed so that you could have more time to close?

22 A I did, but that doesn't mean it's a
23 deadline for me that day for that closing.

24 Q We understood that Robin Robinson wasn't
25 going to be able to sell the property if it got

1 foreclosed the next day at a foreclosure sale,
2 right?

3 A Of course not.

4 Q So either the deal was going to go down
5 on the 2nd or it wasn't going down at all?

6 A I can't say that for sure.

7 Q That was your impression at the time,
8 though, wasn't it?

9 A That it was either going to happen on
10 the 2nd or it wasn't going to happen at all?

11 Q Yeah.

12 A In these real estate deals I don't think
13 like that, a lot of times sales get postponed,
14 people file for bankruptcy and they get delayed.

15 Q Okay.

16 MR. ALTMAN: Stephanie, can we go off
17 for a second?

18 MS. BURTON: Yes.

19 (At this time there is an off-the-record
20 conversation.)

21 BY MS. BURTON

22 Q Let me hand you Exhibit No. 24. Have
23 you seen that document before, Mr. Destaso?

24 (Deposition Exhibit No. 24 is marked for
25 identification.)

1 gather, was in response to finding out about a tax
2 lien. Or are you writing about something else?

3 A Well, simply saying: Please see
4 attached tax lien.

5 The paragraph below: Looks like a
6 problem.

7 Q Okay. What did you do, if anything
8 about receiving that email and finding out there was
9 potentially an additional tax lien?

10 A I wasn't sure or clear that it was an
11 additional tax lien.

12 Q Okay.

13 A Bill Sloan and I had over 100
14 conversations, telephone calls after this, to try to
15 resolve these issues that were there.

16 Q Well, let me ask you this. You knew
17 that Bill Sloan was going to bring funds by
18 10 o'clock a.m. to Charlie at his office on Tuesday,
19 December 3rd, right, from the emails?

20 A I did know that, yeah.

21 Q So you know a check, and you knew that
22 it was a substantial amount of money, right?

23 A Yes.

24 Q Was it going to be taken -- it had to be
25 a bank check, actually, was going to be taken by

1 could actually get the information from the
2 government?

3 A Sometime later that was explained to me.

4 Q You don't have any reason to understand
5 that's not true, that it actually has to be the
6 taxpayer, or somebody they've authorized?

7 A At this point I don't know if it's true
8 or not.

9 Q Okay. Well, in your settlement with
10 Robin Robinson, you settled a dispute with Robin
11 Robinson, did you not?

12 A Yeah.

13 Q In your settlement, one of the things I
14 noticed was that she gave Mr. Altman authority and
15 she signed some forms the government has to actually
16 get some payoff information. Were you aware of
17 that?

18 A I'm aware that Charlie settled the
19 matter.

20 Q Were you aware that she executed some
21 forms to authorize him to contact these governmental
22 entities to get payoffs on liens?

23 A No.

24 Q Okay. That's fine. I'm going to hand
25 you Exhibit No. 32, please. Let me know when you've

1 A I can't speak for what they were doing,
2 but it appeared Mr. Swope, along with Mr. Berger,
3 were very clear by this point that Robinson was
4 going kaput.

5 Q Right.

6 A Our option was void to repurchase the
7 properties.

8 Q Right.

9 A And they were going to flip them and
10 make a buck.

11 Q So they were trying to find a willing
12 buyer and broker a deal?

13 A They wanted to find a willing buyer
14 here, torture me here, get me to sell them the
15 property and make the money in between.

16 Q Well, that would be okay for you,
17 wouldn't it, if you got paid enough money?

18 A Well, in the meanwhile, they were
19 torturing me.

20 Q What does that mean? I don't know what
21 that means.

22 A They filed a lawsuit against me.

23 Q You mean Robin did?

24 A Through Swope.

25 Q Right. Okay. You're talking about the

1 lawsuit where she said, hey, it really wasn't a sale
2 of property, it was a loan, that lawsuit?

3 A Yes.

4 Q Okay. Well, did they try and leverage
5 that lawsuit and say, hey, we'll dismiss the lawsuit
6 if you do X, Y or Z?

7 A Well, the way that they phrased it was
8 they would take care of the lawsuit, they would take
9 it over.

10 Q Oh, we'll take care of the lawsuit if we
11 can get some deal?

12 A We'll buy it and take the lawsuit, warts
13 and all; we'll buy it and, you know, with all the
14 problems.

15 Q Did you ever ascertain whether there was
16 any legitimate money to pay you \$2 million? I mean,
17 they've got all this stuff here, these checks, and I
18 haven't added them up to see how much they really
19 total, and a letter that allegedly somebody's got
20 1.8 million in a bank account, did you run any of
21 this to ground and find that payment amount is not
22 legitimate at all?

23 A I think we played it out and it didn't
24 go anywhere.

25 Q Okay. Let me hand you a document I've

1 I hadn't seen the actual document, but I was told
2 about it and also received an email about it. So I
3 called him and I asked him, and he did a lot of the
4 talking, big talker. And again, he told me history
5 and this and that about the lease. And he seemed to
6 be focusing on this \$1,000 a year fee, which wasn't
7 really important to me in the conversation,
8 especially if he had this right of refusal to buy
9 the property.

10 So he told me that he had mailed the
11 check to Robin.

12 Q The rent?

13 A Yeah. And that he found out that I was
14 the new owner and he wanted to contact me to mail me
15 the rent check. And at the time I believed
16 everything he said, and I actually liked the guy the
17 way he was talking, he sounded likeable. And he
18 mailed me a check. And I think at this point, I
19 consulted with Charlie about it.

20 Q Well, and I don't want to know about
21 that conversation, obviously, with your lawyer.
22 When is the first time Mr. Clarke said to you,
23 either directly or indirectly through his lawyer, I
24 want to exercise a right of refusal on all or any
25 part of the Pittsburgh property?

1 A About a week before he filed his suit.

2 Q Okay. So up until then he never said
3 anything to you about the right of first refusal, he
4 simply talked to you about purchasing the entire
5 parcel?

6 A I think that's pretty clear through his
7 attorney, yes. Never. I mean, he actually
8 started -- a couple weeks after that he started
9 negotiating with me about the price and offering
10 help, and then he started offering to buy the
11 property. And we got so far as to get attorneys
12 involved and send a proposed contract. And then a
13 year later -- a year passed and he sent another rent
14 check. Still never mentioned the first right of
15 refusal.

16 Q Okay. Until right before he sued you?

17 A Yeah.

18 Q Okay.

19 MS. BURTON: Did you keep any of the
20 copies you made?

21 MR. ALTMAN: I gave them back to you.

22 MS. BURTON: Do you have that over
23 there?

24 MR. ALTMAN: What number is that, 1400?
25 Yes, I have that.

1 Q Mr. Destaso, I've handed you a document
2 I've marked as Exhibit No. 41 to your deposition.
3 Let me know when you've had a chance to read that
4 document, please.

5 (Deposition Exhibit No. 41 is marked for
6 identification.)

7 A Okay.

8 Q Who is Ken Tatarow?

9 A Don't know.

10 Q He's writes to you -- appears to write
11 to you on May 15, 2014, and says: After careful
12 consideration in regards to the purchase of your
13 position and your properties, we have decided not to
14 move forward at this time. If you would entertain a
15 cash offer for Thee Southern Belle property alone,
16 once your litigation is complete, we would be
17 interested in that property only.

18 Had you been talking to this guy, Ken
19 Tatarow, about selling one or both of the
20 properties?

21 A Yes.

22 Q And I gather this was notification to
23 you that he was not interested at that time?

24 A Yes.

25 Q Let me hand you Exhibit No. 42.

1 (Deposition Exhibit No. 42 is marked for
2 identification.)

3 A Okay.

4 Q Did you receive this email from Anthony
5 Campanale?

6 A Yes.

7 Q In May of 2014?

8 A Yes.

9 Q Now, this is the same guy, I guess, who
10 is working with Berger, Swope, yes?

11 A I don't think I knew that at this time,
12 but yes.

13 Q Well, when you looked at the prior
14 documents, there were checks with his name on it.

15 A I know that now.

16 Q Okay.

17 A But at the time I don't think I knew
18 that.

19 Q Okay. So did you talk with this Tony
20 Campanale guy?

21 A Yes.

22 Q He's a lawyer, apparently, right? Looks
23 like it, I assume.

24 A Yes.

25 Q Was he acting on behalf of somebody?

1 A Yes.

2 Q Can you tell me, please, Mr. Destaso,
3 what happened with the Crabtree and Foster lawsuits?

4 A We settled it.

5 Q Okay. What did you pay them?

6 A I think the total settlement was like
7 \$102,000. It was 100,000 plus some fee or
8 something, 2 or \$4,000.

9 Q Are there documents that reflect that
10 settlement? Did you sign a settlement agreement?

11 A I believe so.

12 Q When did you settle with Crabtree and
13 Foster?

14 A It's a bit of a blur at this point. A
15 year ago, maybe a little bit less.

16 Q Last year, '16?

17 A Yeah, I think so.

18 Q Okay. And you said I believe at the
19 outset of the deposition, you gave a deposition in
20 one or the other of those cases, or both?

21 A Crabtree and Foster, yeah.

22 Q Okay. Did Crabtree and Foster cases
23 come up for trial?

24 A We had a mandatory mediation.

25 Q Okay.

1 A And I think it was coming up for trial.

2 Q Okay. Did it settle at the mediation?

3 A No.

4 Q Settled after that?

5 A Yeah.

6 Q A long time after that, a short time
7 after that?

8 A It was sometime after that.

9 Q Okay. It's my understanding,
10 Mr. Destaso, that the Clarke lawsuit is ongoing?

11 A Yes.

12 Q Okay. And that you actually went to a
13 mediation in that?

14 A Yes.

15 Q But you've been unable to resolve it
16 with Mr. Clarke?

17 A Oh, yeah.

18 Q Have you tried -- I know you talked
19 about, you know, that he had offered \$650,000 at
20 some point. Have you subsequently talked to him
21 about selling him the Pittsburgh property?

22 A At the mediation.

23 Q Okay. But other than that, you have not
24 talked to him about selling it?

25 A I have not spoken to him, no.

1 Q Okay. Currently he's not interested in
2 purchasing it?

3 A I think the question has come up, not
4 directly through me, that he's interested, but
5 it's -- there's only value to that property with
6 that license.

7 Q Is the license in existence now, to your
8 knowledge?

9 A It is.

10 Q Is there some reason the license is in
11 danger currently?

12 A Always.

13 Q Always. And I don't know anything about
14 this license and how one gets it or doesn't get it.
15 But I gather the license makes that property more
16 valuable because you can sell alcohol when everybody
17 else cannot, right?

18 A No. It's because it's a strip club.

19 Q Help me.

20 A You can't just open up a strip club.

21 Q Oh, because it's a -- it's operating as
22 a strip club and therefore --

23 A It's licensed as a -- I don't know what
24 you call it, cabaret license, or a strip club,
25 whatever.

1 about the Robin Robinson lawsuit that she filed
2 against you.

3 A Right.

4 Q And ultimately you joined in, it appears
5 to me, Fogle, Dehaven, the United States of America
6 and the South Carolina Department of Revenue; are
7 you familiar with that lawsuit?

8 A Yes.

9 Q I'm going to hand you a document I've
10 marked as Exhibit 47 to your deposition which is
11 labeled: Settlement Agreement. Let me know when
12 you've had a chance to review that document, please,
13 sir.

14 (Deposition Exhibit No. 47 is marked for
15 identification.)

16 A I have.

17 Q Okay. Is this a settlement agreement
18 that resolved the lawsuit that was initially filed
19 by Robin Robinson against Fine Housing?

20 A Yes.

21 Q And I don't know when it was signed.
22 Can you help me at all? Because it's entered into
23 this blank day of September 2014. There's no dates
24 next to the signatures. And of course that date
25 wasn't filled in, at least on the copy I have here.

1 Got any idea?

2 A September 2014.

3 Q Is that when it was resolved?

4 A I think so, yeah.

5 Q You'll have to help me a little bit.

6 Under the settlement agreement with RRJR and Robin
7 Robinson, and it's my understanding that what, Paul
8 Dolittle represented Robin?

9 A Yes.

10 Q Because Mr. Swope ultimately withdrew as
11 her lawyer?

12 A Yes.

13 Q You actually negotiated new leases for
14 the -- for both parcels?

15 A Yes.

16 Q Why were you interested in doing that?

17 A Because it would have been faster to get
18 her out that way than to continue on with the
19 litigation.

20 Q What do you mean, if you entered into a
21 lease and she defaulted, you could evict her again,
22 try and evict her?

23 A Well, she acknowledged that it was a
24 sale --

25 Q Right, she did.

1 A So we got past all that nonsense.

2 Q Right.

3 A We gave them a fresh, clean start, which
4 we anticipated they would default and we would evict
5 them, and that's what we did.

6 Q Okay. So they did sign amended leases,
7 right?

8 A Yeah, we cleaned up the leases. We got
9 acknowledgments and --

10 Q Let me hand you Exhibit 48. Can you
11 tell me if that's the amended lease for Sol Legare
12 property?

13 (Deposition Exhibit No. 48 is marked for
14 identification.)

15 A Yes.

16 Q And let me hand you Exhibit No. 49 and
17 ask if that is the amended lease agreement for the
18 Pittsburgh property?

19 (Deposition Exhibit No. 49 is marked for
20 identification.)

21 A Yes.

22 Q So you entered into new leases as part
23 of the settlement, correct?

24 A Correct.

25 Q And I think -- let me hand you Exhibit

1 50. I think that also as part of the settlement
2 agreement Robin Robinson filled out, signed the
3 paperwork letting Mr. Altman have the ability to
4 contact the taxing authorities to give payoffs?

5 (Deposition Exhibit No. 50 is marked for
6 identification.)

7 A Yes.

8 Q To your knowledge, did Mr. Altman
9 acquire the payoffs for the liens?

10 A I believe so.

11 Q And give direction to Mr. Sloan to issue
12 a check to the South Carolina Department of Revenue
13 for 60,000; does that sound right to you?

14 A I don't remember now, but I remember it
15 got resolved.

16 Q Okay. And whatever -- as I understand
17 it, you tell me if I'm right, and I'll turn your
18 attention to page 3 of 8 in the Settlement Agreement
19 Exhibit 47.

20 A Okay.

21 Q I want to ask you to look at paragraph
22 numbered 6.

23 A Okay.

24 Q The way I understand this, and I want
25 you to confirm, is that Mr. Altman was given the

1 power of attorney forms to get the payoffs from the
2 IRS and the Department of Revenue, and then,
3 depending on what the amounts were, would get money
4 from Will Sloan out of the money being held in trust
5 to pay those, and if there was money left over it
6 would go to Fine Housing, and if there was not
7 enough money Robin Robinson and RRJR would have to
8 come up with it?

9 A I think so.

10 Q Was that your understanding?

11 A Yeah.

12 Q And did that, in fact, occur, Mr. Altman
13 got the payoffs?

14 A Yes.

15 Q Money was paid, liens were released?

16 A I believe so.

17 Q And to your knowledge, were all the
18 liens, tax liens encumbering the properties released
19 and resolved?

20 A I hope so.

21 Q Are you aware of any tax lien, mortgage,
22 judgment that remains on the properties?

23 A I'm not aware of anything.

24 Q Is the only thing keeping you currently
25 from being able to sell Pittsburgh the Clarke

1 the people in.

2 Q Right.

3 A And then at one point he contacted me by
4 phone, and I've spoken to him several times. So he
5 knows about -- he knows a lot.

6 Q Is he somehow affiliated with Robin
7 Robinson?

8 A No, no. He's friends with Swope.

9 Q So he's affiliated with Swope?

10 A Yeah.

11 Q And he's just trying to do a deal of
12 some sort, broker a deal?

13 A He's a hustler.

14 Q Okay. I'm going to turn your attention
15 to page 4 of 5 of Exhibit No. 52, it's answers to
16 interrogatories.

17 A Okay.

18 Q Question 5, I want to ask you about
19 this. You were asked: Excluding funds deposited or
20 paid into Defendant's, that being Mr. Sloan's trust
21 account, identify all funds paid by Fine Housing for
22 the satisfaction of any lien, mortgage or other
23 encumbrance relating to Sol Legare.

24 Do you see that?

25 A Yeah.

1 Q So it says that you were required to pay
2 \$50,000 to satisfy the claims of Crabtree and
3 Foster, and lost \$50,000 of title coverage. Can you
4 help me with the 50,000 lost title coverage?

5 A I don't understand it. I was advised by
6 counsel that I had suffered a \$50,000 insurance
7 loss.

8 Q Okay. But you personally don't have any
9 knowledge to answer me about that?

10 A No.

11 Q That's fine. It says you were required
12 to pay additional funds for legal representation and
13 costs as a result of Mr. Sloan's failure to provide
14 proper representation? Do you see that?

15 A Yeah.

16 Q And it says to date the total amount
17 paid is 159,626.61?

18 A Okay.

19 Q Can you tell me what that relates to,
20 that figure?

21 A Legal fees.

22 Q Oh, okay. For what?

23 A For representation in the Crabtree and
24 Foster matter, Barry Clarke, Robinson, resolving
25 some of the liens on the property and title.

1 Q Do you get detailed bills from
2 Mr. Altman?

3 A Yes.

4 Q Do you get bills monthly?

5 A Sometimes monthly, sometimes every other
6 month.

7 Q Okay. Monthly or bimonthly you're
8 getting bills?

9 A Yeah.

10 Q Are you paying Mr. Altman by the hour?

11 A Yes.

12 Q And are the bills detailed about what
13 the tasks are?

14 A Yes.

15 Q I mean, there's a line item. I do line
16 item entries. But I don't know what everybody else
17 does, so that's why I'm was asking. I mean, are
18 there items so that you can tell what task is being
19 performed.

20 A Yes, and they're also separated.

21 Q Separated by case?

22 A Yes.

23 Q So you get a bill for Crabtree and
24 Foster, you get a bill for Clarke?

25 A Unfortunately.

1 Q How many matters do you have open or
2 have you had opened with Mr. Altman?

3 A How many? I don't know. Robinson, the
4 eviction. I wouldn't even know how to add them up,
5 Crabtree and Foster, Barry Clarke, the closing on
6 the property, things that popped up around the
7 properties.

8 Q What's the 159 number relate to? I
9 mean, is it all invoices you've gotten? Is it a
10 segregated portion of invoices?

11 A I think that's all of them, I would say.

12 Q So would that include -- I mean, there's
13 correspondence between Mr. Altman and some of these
14 potential purchasers, for instance. Would it
15 include that?

16 A I don't know for sure. I don't think
17 so.

18 Q Okay. If I wanted to know how that's
19 broken down, since it is a damage you're asking my
20 client to pay, could I tell from the invoices what
21 it relates to?

22 A Certainly, certainly.

23 Q Okay. And it also says that you paid
24 \$3,500 to C. Joseph Roof?

25 A Yes.

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
COUNTY OF DORCHESTER) CASE NO.: 2016-CP-18-0340
FINE HOUSING, INC.,

Plaintiff,

-vs-

WILLIAM H. SLOAN, JR.,
Defendant.

Discovery Deposition of William H. Sloan, Jr.

Date Taken: Friday, February 10, 2017

Time Taken: 10:30 a.m.

Location: Altman & Coker

575 King Street, Suite A

Charleston, South Carolina 29403

Reported By: Judy W. Galuppo, Court Reporter

Job No.: 292196

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1 Q Did you and Mr. Swope refer business
2 back and forth?

3 A I don't remember referring anything to
4 him. I may have.

5 Q How about him referring anything to you?

6 A He referred me, obviously this closing.
7 And he referred me a tiny number of real estate
8 closings.

9 Q And you stated, I believe, that
10 November 26th, 2013 is when you were retained by
11 Fine Housing in this matter in the closing, correct?

12 A Yes.

13 Q Prior to November 26th, 2013, had
14 Mr. Swope contacted you concerning a possible
15 closing with regard to the Pittsburgh Avenue
16 property, 2028 Pittsburgh, or the Sol Legare
17 property, which I think is 2370 Sol Legare?

18 A Yes.

19 Q Tell me about that.

20 A My first contact with him about these
21 issues, was sometime in the summer. My recollection
22 of the conversations during the summer is even
23 poorer than the ones during late November, early
24 December. But he was talking about having me do
25 this closing for him, a refinance. He was

1 Will Swope, contact you about a transaction with
2 Fine Housing?

3 A I did not even know who Fine Housing
4 was. I don't recall knowing who Fine Housing was
5 until November 22nd, 2013.

6 Q How did you find out who Fine Housing
7 was?

8 A Near as I remember, Mr. Destaso called
9 me sometime that afternoon.

10 Q Okay. You stated earlier that Mr. Swope
11 referred this transaction to you. How did he do
12 that?

13 A He called me about it.

14 Q Prior to November 26th?

15 A Oh, yes, yes.

16 Q What did he tell you?

17 A Near as I recall, he was -- he wanted me
18 to do this refinance transaction; that's how he
19 described it to me.

20 Q I understand. Did he tell you that
21 somebody would be contacting you about it?

22 A I don't remember him specifically saying
23 that.

24 Q Okay. In the transaction, who did you
25 consider yourself to be representing?

1 A Until the -- until I understood that
2 this was a purchase instead of a refinance, I
3 initially thought I was going to be representing
4 Ms. Robinson and the titleholders of that. And then
5 when I realized it was going to be a purchase, then
6 that would be the buyer.

7 Q So that's when you became the attorney
8 for Fine Housing, correct?

9 A Yes.

10 Q And you understood that you were
11 representing the buyer, Fine Housing, and not
12 Ms. Robinson or RRJR, correct?

13 A Yes.

14 Q Did you have a retainer agreement with
15 Fine Housing?

16 A No, I did not.

17 Q At any point in time did you have a
18 retainer agreement with Robin Robinson or RRJR?

19 A No, I did not.

20 Q In any way did you limit the scope of
21 your representation of Fine Housing? Did you send
22 them a letter and say, I'm not going to do A, B or
23 C, all I'm going to do is C or D?

24 A I don't remember if this was -- it
25 certainly was verbal, I think it was written as well

1 in the form of email. But I told Mr. Destaso that I
2 was not going to be handling the preparation of the
3 lease that was -- of any lease, including the one
4 that was signed at the date of the closing.

5 Q Did you review the lease that was signed
6 the day of the closing?

7 A I don't remember if I did or not.

8 Q Did you understand that the lease, that
9 there were two properties involved?

10 A Yes.

11 Q Did you understand that there was one
12 commercial property and one residential property?

13 A Yes.

14 Q Did you understand or do you understand
15 that there are different requirements with regard to
16 residential leases versus commercial leases?

17 A Oh, yes.

18 Q Are you familiar with the South Carolina
19 Residential Lease Act?

20 A Are you speaking about the Landlord
21 Tenant Act?

22 Q Yes.

23 A Oh, yes, yes.

24 Q But you didn't look at the lease at all,
25 is that what you're telling us?

1 Carolina Landlord Tenant Act for residential leases?

2 A I saw the lease, I obviously saw the
3 lease, but I did not review the lease.

4 Q Was the lease actually executed on the
5 day of closing on December 2nd, 2013?

6 A It was signed by Ms. Robinson. And
7 there were three parties to the lease, Ms. Robinson
8 and two males; one of the males did attend the
9 closing at my office and did sign it that day.

10 Q Did everyone sign it December 2nd, 2013?

11 A I do not believe so, and certainly not
12 at my office.

13 Q Who normally does your title abstracts,
14 or who did at the time?

15 A Oh, who normally --

16 Q Who would have done your title abstract?

17 A In 2013?

18 Q Yes.

19 A Okay. It either would have been Janice
20 Lambert, who was my in-office assistant, she does
21 some of them. At the time I was doing -- three
22 answers: One would have been Janice Lambert; two,
23 it would have been Charles Feeley, Esquire; and
24 three, there was an out-of-state, a statewide
25 company who would do title searches for me in the 43

1 counties outside of the Tricounty area, I don't
2 remember the name.

3 Q Was it F. Thomas?

4 A It probably was, since I was doing
5 closings at the time outside of the Tricounty area.

6 Q And you realize -- I understand your
7 testimony already -- strike that.

8 Well, did you rely on Will Swope to do
9 the title work in this closing, the one we're here
10 about?

11 A Yes.

12 Q Had you ever relied on him to do title
13 work before?

14 A I don't recall either way.

15 Q Were you aware that Mr. Swope had --
16 Mr. Swope's title agency agreement with Stewart
17 Title had been previously terminated?

18 A I did not know that personally.

19 Q When you say "personally," did you know
20 it some other way?

21 A I was guessing, but I didn't know that
22 for sure.

23 Q Why were you guessing that?

24 A Because he had referred other closings
25 to me, which I might have thought he would have done

1 preparing the title commitment, correct?

2 A Yes.

3 Q I want you to look -- I'm going to back
4 up a minute and I want you to look at Exhibits 58
5 and 59 and tell me what the differences are between
6 those two, why we have those two?

7 A Your question is?

8 Q What's the difference between those two
9 documents?

10 A Well, on the first page of 59, I signed
11 my name three times, as opposed to two times. I
12 don't see any differences between the two.

13 Q Other than the signatures?

14 A Yes. Are you just asking about page 1?

15 Q I'm asking about the entire document.

16 A Oh, okay.

17 Q The entire document.

18 A Okay. I'm only on page 2 so far. There
19 does not appear to be any differences in 58 and 59,
20 with the exception three of my signatures on No. 3,
21 and two on No. 2, appears to be.

22 Q Did you send either Exhibit 58 or 59 to
23 Fine Housing?

24 A To the best of my memory, I believe I
25 sent those directly to you, Mr. Altman, as Fine

1 A Well, okay, 57 has 21 requirements, and
2 five exceptions. 58 has 22 requirements, and the
3 exceptions are numbered differently and may be
4 different.

5 Q Well, what's the difference? Well,
6 let's do this. Let me be specific. Let's look at
7 the requirements in both 57. Are you looking at 58
8 or 59?

9 A I'm looking at 58.

10 Q Okay. The exception No. 11, which is on
11 page, at the bottom STGC 11; do you see that?

12 A Requirement No. 11?

13 Q Correct.

14 A Okay.

15 Q It's payoff and satisfaction of SC tax
16 lien in the amount of \$81,953.76 against Robin M.
17 Robinson plus interest and penalties. Do you see
18 that?

19 A I do.

20 Q Is that on 57?

21 A Does not appear to be.

22 Q In fact, if you look at Exhibit 60,
23 which is the title opinions of Mr. Swope, that tax
24 lien does not show, does it?

25 A It does not.

1 Q So as of November 5, 2013, you would
2 have had no knowledge of that tax lien; is that
3 correct, no actual knowledge?

4 A No actual knowledge.

5 Q So how did it get included on a title
6 opinion that is dated as of November 5, 2013?

7 A I don't recall.

8 Q You say that you believe you sent 58 and
9 59 to me. Do you remember when you did that?

10 A I don't recall. I just recall you
11 asking me to send those to you.

12 Q Did you send me the originals?

13 A I believe I sent you the originals, but
14 I don't remember for sure.

15 Q On 58, look at the exceptions?

16 A On No. 58?

17 Q Yes.

18 A I have it in front of me.

19 Q You see, that's a different format than
20 is on 57, correct?

21 A Yes.

22 Q Why is that?

23 A I don't recall.

24 Q On 58, exception No. 4: Lease to Barry
25 Clarke filed in Book C-319 at page 791, Charleston

1 Q You could issue the commitment that
2 was -- had a requirement that the tax liens be paid,
3 couldn't you, whatever the amount was?

4 A I could have done that, but I did not do
5 that. And I let Mr. Destaso know that.

6 Q Did you have that in writing somewhere?

7 A I believe I emailed that to him, but I'm
8 uncertain. I believe that I did, but I'm uncertain
9 of it right here right now.

10 Q Have you given your attorney a copy of
11 all of your emails related to the transaction?

12 A Of all of the emails that I believe that
13 I have.

14 Q And all of the correspondence you have
15 related to the transaction?

16 A I've withheld nothing from her.

17 Q So you've given her every document you
18 have related to the Robinson RRJR transaction with
19 Fine Housing, correct?

20 A Every document that I'm aware of.

21 Q So if there is no correspondence that
22 we've received related to those notices, there is
23 none, correct?

24 A I believe so, yes.

25 Q But the -- okay. Am I -- is it my

1 understanding, or are you telling us -- not my
2 understanding, but the fact that as of
3 November 5th -- or excuse me -- December 2nd, the
4 only reason you could not issue a title commitment
5 is because you didn't know the amount of the tax
6 liens, correct?

7 A That is the reason I explained to
8 Mr. Destaso. Maybe I didn't email that to him, but
9 I remember letting him know that.

10 Q If you issue a title commitment with
11 certain exceptions and you have a closing and a day,
12 a week, a month, two months later, you find out that
13 there was a judgment against the seller or a tax
14 lien, or something else, and it's of record, what do
15 you do? What can you do?

16 MS. BURTON: Object to the form of your
17 question.

18 Q Please answer it.

19 A I'm sorry. Please repeat.

20 Q You issue a title commitment as of a
21 certain date.

22 A Uh-huh.

23 Q Subsequent to the closing you become
24 aware that this a buy/sell transaction, okay, it's
25 not a refinance, it's a sale, you become aware that

1 creates a problem to me, I can't use my property
2 like I expected to, and you told me I had a clean
3 title, what do you do then?

4 MS. BURTON: Object to the form of your
5 question.

6 A Are you asking about this particular
7 situation?

8 Q Sure.

9 A Okay. I let you know because -- you,
10 Mr. Altman, because at that point you were
11 Mr. Destaso's, Fine Housing's attorney, and I let
12 Mr. Destaso know myself.

13 Q Whose responsibility was it to fix it or
14 fix the problem or remedy the problem? I didn't do
15 the closing, did I?

16 A No, no, sir.

17 Q I wasn't involved in that at all,
18 correct? Other than to pay off that one mortgage?

19 A Yes, that is correct.

20 Q Okay. Mr. Destaso, Fine Housing, relied
21 on you to make sure it was done right, correct?

22 A Yes.

23 Q How do you remedy it, the lease, what do
24 you do? Whose responsibility is it to get it taken
25 care of?

1 Mr. Crabtree and Mr. Foster, correct?

2 A Oh, your question is, did Mr. Swope
3 represent Robin Robinson in the Crabtree & Foster
4 lawsuits?

5 Q Correct.

6 A You're asking if I knew that?

7 Q Do you know it now?

8 A Oh, do I know it now? Yes.

9 Q And I'm asking again this question as of
10 now. Are you aware that the hearing for the damage
11 judgment against Ms. Robinson in the Crabtree and
12 Foster cases took place prior to the closing?

13 A On one of the two, yes.

14 Q So Mr. Swope had been at the hearing,
15 correct, at the damage hearing?

16 A One of the two, yes.

17 Q At least one of the two?

18 A At least one of the two. I had personal
19 knowledge of one of the two.

20 Q Okay. So Mr. Swope knew what happened
21 at that hearing?

22 A Oh, of course he would.

23 Q But he didn't tell you anything about
24 that hearing, did he?

25 A He told me that there was not going to

1 be a concern about the Fine Housing closing which
2 was scheduled.

3 Q What was -- do you know why he told you
4 that?

5 A Near as I remember the conversation, he
6 assured me that neither of those would be reduced to
7 a judgment prior to the closing taking place, and at
8 the time I thought it was mortgages, mortgages being
9 recorded.

10 Q Did Mr. Destaso ever tell you he was
11 lending the money to Ms. Robinson?

12 A I don't remember for certain. I don't
13 remember for certain either way.

14 Q You don't remember if he told you he was
15 only going to be buying the property from her and
16 leasing it back?

17 A I don't remember -- I don't remember for
18 sure.

19 Q Was it your understanding -- when did
20 you have that conversation with Mr. Swope about the
21 Crabtree and Foster, or Crabtree or Foster hearings,
22 or trials?

23 A I believe those -- that court date was
24 on a Tuesday. I believe that was the Tuesday nine
25 days before Thanksgiving. I had to go to Aiken

1 right after that hearing, so that probably was the
2 next day. But between -- between November 20th,
3 2013, and November 26th, 2013, probably
4 November 20th.

5 Q Do you know if Mr. Swope knew what the
6 Judge's decision was going to be?

7 A I don't recall.

8 Q Okay. Is it correct that you at some
9 point hired Charles Feeley to do title examination
10 on these properties for the closing for 2028
11 Pittsburgh and 2470 Sol Legare?

12 A Yes.

13 Q When did you do that?

14 A That was sometime around noon on
15 December 2nd, 2013.

16 Q Why did you decide to do that?

17 A Near as I recall, I may or may not have
18 had a conversation with Mr. Destaso on that issue,
19 but I was concerned that Mr. Swope may have missed
20 some tax liens, and that's why we did -- I asked
21 Charles to do a rush search of the two properties.

22 Q It turned out he, in fact, had -- "he"
23 being Mr. Swope -- had missed a tax lien? Go ahead.

24 A I'm sorry. I believe he did, or there
25 was one tax lien disputed, whether that was against

1 the property or not against the property.

2 Q That's the tax lien -- there was a tax
3 lien that was not mentioned on Exhibit 57 but was
4 mentioned on 58 and 59, correct?

5 A That is correct.

6 Q And Mr. Feeley did, in fact, find that
7 tax lien, the one that was missing for Mr. Swope?

8 A Yes, I believe that is correct.

9 Q And Mr. Feeley also found the Clarke
10 lease, correct?

11 A Yes, he did.

12 Q Did you ever ask Mr. Swope about the
13 Clarke lease?

14 A I don't recall speaking to Mr. Swope
15 about the Clarke lease.

16 Q Why not?

17 A I'm not sure.

18 Q Were you upset with Mr. Swope about this
19 transaction?

20 A Yes. Yes.

21 Q Did Mr. Swope tell you about the tax
22 lien that Mr. Feeley said was on the property but
23 Mr. Swope left out?

24 A I'm sorry. Please repeat.

25 Q The tax lien that is left off I think

1 was requirement 11 on the 58 and 59, not on 57,
2 Exhibits.

3 A Okay.

4 Q Did you have conversations specifically
5 with Mr. Swope about that tax lien?

6 A Yes, I did.

7 Q What did he tell you about that?

8 A He told me that that tax lien was only
9 against the late Mr. Robinson and not against the
10 living, breathing Mrs. Robinson.

11 Q Did you ever look at the tax lien?

12 A Yes.

13 Q Do you agree with Mr. Swope's analysis?

14 A Yes, I did.

15 Q You did?

16 A I did.

17 Q I'm going to show you a document I'm
18 marking as Exhibit 61.

19 MR. ALTMAN: Stephanie, I don't have a
20 Bates number on this. I know I think I got it off
21 the Internet.

22 (Deposition Exhibit No. 61 is marked for
23 identification.)

24 MS. BURTON: Okay. I've got the tax
25 liens. It's in one of the exhibits.

1 Q Have you ever seen this document before?

2 A I probably have, but I'm not absolutely
3 certain.

4 Q If you will look at Exhibit 58 and look
5 on page 5 which is the requirement section, and look
6 at No. 11. And you have put in payoff and
7 satisfaction of SC tax lien in the amount of
8 81,953.76 against Robin M. Robinson plus interest
9 and penalties. Do you see that?

10 A I do.

11 Q And Exhibit 61, the amount showing on
12 the right is the same amount, 81,953.76?

13 A Yes.

14 Q I'm trying not to throw too many things
15 at you at one time, but I'm going to submit to you
16 that, and I'm going to show it to you in a minute,
17 Mr. Feeley's title work has this same 2013 03804,
18 which is in the middle of the page. And if you
19 look, it says -- it's got the names of the people
20 who the tax lien's against on there, correct? It
21 says last name, first name, and it was Robinson,
22 John under that.

23 A It lists Robinson, John. And down below
24 it says, Robinson, Robin.

25 Q And if we go to the right, you have SSN

1 number, and it has the last four digits, 1700,
2 correct. Do you see that?

3 A Yes.

4 Q And then it says: Spouse SSN number,
5 and the digits 3601.

6 A I see that.

7 Q Okay. Does that indicate to you that
8 this tax lien is filed against both John Robinson
9 and Robin Robinson?

10 A I was uncertain as to whether it was
11 against just Mr. Robinson or against Ms. Robinson,
12 as well.

13 Q You were uncertain. But you weren't
14 sure -- you weren't sure one way or the other?

15 A When are you asking?

16 Q Well, at any point in time.

17 A I was uncertain as to whether it was
18 against Ms. Robinson as well as Mr. Robinson.

19 Q Have you ever known -- have you ever run
20 across a tax lien that had two people's names on it
21 that the lien was not written that way?

22 A I don't recall.

23 Q Do you see where it says this tax lien
24 was filed on February 13th, 2013?

25 A Yes.

1 Q So if, in fact, it was a lien against
2 Ms. Robinson as well, it was on the property she
3 individually owned as of December 2nd, 2013; would
4 you agree with that?

5 A Assuming that it's against Ms. Robinson
6 as well as Mr. Robinson, then yes.

7 Q Why don't you think it was against
8 Ms. Robinson? What about this document tells you it
9 was not against her?

10 A Because it has Mr. Robinson's name on
11 the top right under last name, first name. And it
12 says, spouse, SSN, which refers to the social
13 security number of the spouse of the person who the
14 lean is against.

15 Q It also has Robin Robinson's name on the
16 document, doesn't it?

17 A It does have her name on the document,
18 yes.

19 Q And then underneath that is the address,
20 and it says, 2347 Sol Legare Road?

21 A Yes, of course.

22 Q And you still don't believe this was
23 definitely against her?

24 A I was uncertain as to whether this was
25 against Ms. Robinson or not against Ms. Robinson.

1 the title reports or abstracts done by Mr. Feeley
2 that is different than what you thought the state of
3 the title was based on what you'd been given by
4 Mr. Swope?

5 A Are you asking me that as I'm sitting
6 here now, or...?

7 Q You had this before the closing was
8 completed because you had not disbursed yet,
9 correct?

10 MS. BURTON: I object to the form of
11 your question.

12 Q "This" being Mr. Feeley's title
13 abstracts?

14 A I reviewed -- I reviewed it after the
15 closing had taken place and before the disbursement
16 of funds.

17 Q Isn't the disbursement of funds part of
18 the closing?

19 A Sure. After the signing of the
20 documents, I reviewed it after the signing of the
21 documents.

22 Q Okay. With regard to the Sol Legare
23 property, Mr. Feeley has the tax lien, which is
24 Exhibit 61, correct? If you look at the bottom on
25 the right, it has tax liens. And the second tax

1 lien is the tax lien that's Exhibit 61, correct?

2 A I see two SC tax liens, 13-3804 and
3 13-3803.

4 Q 3804 is what you're holding in your
5 hand, is that the 61?

6 A Oh, I'm sorry. Yes, I'm looking at
7 3804.

8 Q And now let's look at the last page of
9 Exhibit 62, bottom of the page, Other Matters. You
10 see that?

11 A I see it.

12 Q There is a lease between Group
13 Investment Co. Inc, INV Co., Inc., and Barry Clarke
14 at C319-791. The stated expiration date of this
15 lease is in, "6 years after Mr. Clarke's death."
16 There is no estate or other evidence that Mr. Clarke
17 is deceased. Do you see that?

18 A I see it.

19 Q That was not in Mr. Swope's report,
20 correct?

21 A It was not.

22 Q And you had not discussed it with
23 Mr. Destaso, correct?

24 A I had not discussed this lease with
25 Mr. Destaso prior to Mr. Clarke calling me on or

1 near March 2nd, 2014.

2 Q Did you see the lease as a problem when
3 you realized it was there?

4 A I don't recall.

5 Q You don't recall if you saw it a problem
6 that there was a lease on the property your client
7 had purchased supposedly free and clear of liens and
8 encumbrances?

9 A I'm sorry. Please repeat the question.

10 Q You didn't see it was a problem that
11 there was a lease on the property that you had told
12 your client who was buying free and clear of liens
13 and encumbrances?

14 MS. BURTON: Object to the form of your
15 question.

16 Q Even though you got a lease on the
17 property, you don't think that's a problem?

18 MS. BURTON: Object to the form of your
19 question.

20 A I don't -- I don't recall.

21 Q But you reviewed Mr. Feeley's work prior
22 to disbursement, in other words, prior to completing
23 the closing?

24 A I did review. I did review the title
25 work on the night -- around 5:30, 5:45 on the

1 evening of December 2nd, 2013.

2 Q Did you call Mr. Destaso and say, we've
3 got a problem, there's a lease on the property on
4 Pittsburgh Avenue?

5 A Again, I did not discuss this, the
6 Clarke lease, with Mr. Destaso.

7 Q You didn't make him aware of it until
8 March of 2014, four months after -- over four months
9 after closing?

10 A Very shortly after receiving
11 Mr. Clarke's phone call.

12 Q Why didn't you call Mr. Destaso or call
13 Mr. Swope or call Ms. Robinson and say, what about
14 this lease? You were aware of it on December 2nd,
15 correct?

16 A I don't recall being -- I don't recall
17 being aware of the lease on December 2nd, 2013.

18 Q Well, you said you reviewed Mr. Feeley's
19 title abstract, or abstracts?

20 A I had a few minutes, a few minutes to
21 review them.

22 Q And there's no question this lease is
23 mentioned?

24 A Yes.

25 Q Do you remember when you -- and I may

1 Charleston Capital One, or to Charleston Capital?

2 A I don't recall without copies of the
3 checks in front of me.

4 Q Was the payoff to -- what's shown on
5 line 505, was that, in fact -- well, let me back up.

6 Were the payoffs for the two mortgages,
7 were they both on the same property?

8 A I know that the big one was on Sol
9 Legare. I don't recall which one the little one was
10 on.

11 Q Look at line 517.

12 A Okay.

13 Q State tax lien to IRS. Why would you
14 pay a state tax lien to the IRS?

15 A That's obviously a typographical error.

16 Q When you held money back for these tax
17 liens, you escrowed money for tax liens, right?

18 A Yes.

19 Q And did you believe that you had held
20 enough money back to pay all the tax liens 100-cents
21 on the dollar?

22 A I did not know.

23 Q You didn't know?

24 A I did not know since -- I did not know.

25 Q Hadn't you assured your client that he

1 was going to have this property free and clear of
2 liens, right, he was going to have his property free
3 and clear of liens?

4 A Yes.

5 Q But you don't know -- we all knew that
6 there was some issue getting the payoffs.

7 A Of course.

8 Q In fact, it turned out that we all
9 believed that Mr. Swope was trying to get the liens
10 to expire, right?

11 A I did not think that to be the case at
12 the time.

13 Q But you believe that to be the case now?

14 A You're asking me to speculate, but
15 that's probably true.

16 Q So if it turned out that there was not
17 enough money to pay all the tax liens at 100-cents
18 on the dollar, what was going to happen?

19 A I'm not sure.

20 Q That was going to be a problem for your
21 client, right?

22 A Yes.

23 Q Because your client was going to end up
24 having tax liens affecting the property and
25 potentially costing your client more money, right?

1 Mr. Feeley told you there was a lease, right?

2 A I'm sorry. Please repeat.

3 Q Didn't Mr. Feeley tell you in his title
4 report dated December 2013 that there was a lease on
5 the Pittsburgh Avenue property?

6 A Yes.

7 Q You really didn't see it, but it's
8 there?

9 A It is there.

10 Q But you really didn't see it?

11 A I was more focused on the tax lien that
12 I called Mr. Swope about that night immediately
13 after the closing.

14 Q So when we came to March 23rd, 2014, you
15 sent an email to Mr. Destaso about the lease, right?

16 A Yes.

17 Q And you say, sent to me and Mr. Destaso,
18 correct?

19 A That's correct.

20 Q March 21st, 2013, 12:43 p.m., it was
21 Friday.

22 A Correct.

23 Q Charlie and Vince, enclosed please find
24 a copy of the lease for the Sol Legare property in
25 favor of Barry Clarkee. It's the lease with regard

1 A Yes.

2 Q Big problem?

3 A It was a problem, for sure.

4 Q How was it supposed to be dealt with?

5 MS. BURTON: I'm going to object to the
6 form of your question.

7 A I didn't realize how to deal with the
8 problem on March 21st, 2014. I just needed to let
9 you, as his attorney, and Mr. Destaso know as soon
10 as possible.

11 Q Well, you were the closing attorney,
12 correct?

13 A Yes.

14 Q I was not the closing attorney, was I?

15 A No, you were not.

16 Q In your opinion, who is responsibility
17 was it to do something to fix this problem?

18 MS. BURTON: Object to the form of your
19 question.

20 A I'm -- I'm not certain what you're
21 asking.

22 Q Who was responsible to protect your
23 client with regard to this problem with the property
24 he bought, the encumbrance on the property, whose
25 responsibility was it? Was it his responsibility to

1 to us obtaining the payoff information on the lien.

2 Q He wanted the policy to show he didn't
3 have any liens on the property, any tax liens or any
4 mortgages or judgments on the property to affect the
5 property, correct?

6 A Correct.

7 Q He didn't get that, did he?

8 A I could not give him what he wanted when
9 he wanted it.

10 Q How did the tax liens get removed?

11 A Near as I remember, you, Mr. Altman,
12 obtained the payoff on these liens and sent me a
13 transmittal letter saying, pay this, write me this
14 check made payable to Department of Treasury, in the
15 fall, I believe, in November of 2014.

16 Q And didn't I also obtain a compromised
17 settlement with the South Carolina Department of
18 Revenue?

19 A Yes.

20 Q Didn't we have some discussion about
21 whether or not the -- if the tax liens expired by
22 their terms after the closing, whether or not the
23 money you should have been paid over to
24 Ms. Robinson, wasn't that Mr. Swope's claim?

25 A Oh, it was certainly Mr. Swope's claim,

1 yes.

2 Q And do you think that was an appropriate
3 thing to do?

4 A I'm -- I'm sorry. Could you repeat or
5 rephrase?

6 Q If the tax lien had expired by its term,
7 do you think it appropriate to pay the money that
8 was being held to pay the tax liens, to pay it over
9 to Ms. Robinson?

10 A Possibly.

11 Q Possibly?

12 A Possibly.

13 Q Why do you think possibly?

14 A Since Mr. Destaso wanted a clear title
15 and enough -- had enough to pay off all the -- had
16 enough to pay off all the liens. But in your
17 question, I'm not certain who that money would go
18 to.

19 Q Is it your belief that the governmental
20 entity, Department of Treasury, IRS and Department
21 of Revenue would not have a claim to that money?

22 A If the liens -- if the liens -- if the
23 lien time expired and the liens were not renewed,
24 then maybe they wouldn't go to SCDOR or Department
25 of Treasury.

1 Q Are you aware that under statute both
2 from the federal standpoint and the state standpoint
3 that a tax lien attaches to real and personal
4 property?

5 A Yes.

6 Q Okay. So now you had a fund sitting in
7 your trust account?

8 A Yes.

9 Q That was meant to pay off liens?

10 A Yes.

11 Q Do you think that the liens attached to
12 those funds?

13 A Not if the liens had expired and they
14 were not timely renewed.

15 Q Even though at the time the money went
16 into your trust account the lien had not expired?

17 A I'm not sure about that either way.

18 Q I'm going to hand you a document I've
19 marked as Exhibit 66, which I believe I provided to
20 you during the course of our discussions. Do you
21 remember seeing that?

22 (Deposition Exhibit No. 66 is marked for
23 identification.)

24 A Yes, I do.

25 Q Ethics Advisory Opinions, 8/7/11, do you

1 remember seeing that?

2 A Yes, I do recall you sending it to me.

3 Q Did you read it?

4 A Yes.

5 Q Talks about a judgment, correct, not a
6 tax lien?

7 A It's unethical for an attorney to either
8 recommend that or assist a client in the avoidance
9 of several judgments against that client through the
10 sale of the client's home with a subsequent deposit
11 of the proceeds in the attorney's escrow account to
12 be paid out to the client after judgments expire.

13 I'm sorry. What's your --

14 Q Do you remember reading it?

15 A Oh, yes, yes, yes, I do.

16 Q What was your conclusion in the ethics
17 opinion about judgment?

18 A To engage in an action intended to
19 prevent a lawful creditor from collecting their
20 judgment would erode the public's confidence and
21 trust in attorneys and the legal profession as a
22 whole.

23 I'm sorry, what's the pending question?

24 Q The question is, once the money was in
25 your account, was it appropriate for you to hold it

1 pending the expiration of the lien and then paying
2 it over to Ms. Robinson?

3 A I certainly don't think it was
4 ethical -- I certainly don't think it's ethical to
5 "run out the clock," as Mr. Swope apparently did.
6 But after the judgments expired, I'm not sure. I
7 certainly diligently prompted Mr. Swope to get
8 those -- to get those payoffs, because I wanted to
9 get them -- wanted to get this entire transaction
10 timely disbursed.

11 Q You previously testified that you used
12 Mr. Swope to provide you with an opinion of title,
13 correct?

14 A Yes.

15 Q And you relied on that opinion of title?

16 A Yes.

17 Q He, therefore, was your agent in doing
18 that, right?

19 MS. BURTON: Object to the form of your
20 question.

21 A Yeah, he was -- he did the title search,
22 yes.

23 Q He was your agent, right?

24 MS. BURTON: Object to the form of your
25 question.

1 A I'm not sure exactly what you mean by
2 "agent."

3 Q You used Mr. Swope -- Mr. Swope handled
4 doing something you were responsible for, right?

5 MS. BURTON: Object to the form of your
6 question.

7 A Yes.

8 Q You were responsible to check the title,
9 correct?

10 A Yes.

11 Q He did it for you, correct?

12 A Yes.

13 Q He was your agent in accomplishing that
14 task, right?

15 MS. BURTON: Object to the form of your
16 question.

17 A He did -- he did the title search.

18 Q You already testified he was your agent.
19 That okay. He was trying to -- we believe that he
20 was trying to let the time run out, right? I think
21 we've already agreed to that, right or wrong?

22 A Again, I answered that question
23 previously. I am speculating, but it appears that
24 he was trying to run the clock out on the tax liens,
25 something that I obviously was not doing because I

1 prompted him on an almost daily basis to get me
2 those tax lien payoffs.

3 Q And I believe I told you on behalf of
4 Fine Housing you could not release the money to
5 Ms. Robinson; is that correct?

6 A I don't remember that specifically, but
7 that sounds correct.

8 Q And I did it based on this opinion,
9 correct?

10 MS. BURTON: Object to the form of your
11 question.

12 A I remember -- I certainly remember you
13 sending me that ethics opinion. I don't remember
14 that specific discussion/email exchange you and I
15 had.

16 Q I have nothing further.

17 MS. BURTON: I don't have any questions
18 for Mr. Sloan.

19 MR. ALTMAN: Great. We're done.

20 (Whereupon, the deposition is concluded at 1:50
21 p.m.)

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1 December 29, 2017

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4 IN RE: Fine Housing Inc. v. William H. Sloan
5 Your file 01 293
6 2016 CP 18 0340

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9 Transcript of June 1, 2017

10 hearing, 23 pages @\$3 25 \$74.75

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JAN 11 REC'D

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF DORCHESTER) COURT OF COMMON PLEAS
3) No. 2016 CP 18 0340

4 FINE HOUSING, INC.)

5 Plaintiff)

6 versus)

TRANSCRIPT OF RECORD

7)
8 WILLIAM H. SLOAN, JR.)

9 Defendant)

10 St. George, South Carolina

11 June 1, 2017

12

13 B E F O R E :

14 HONORABLE CARMEN T. MULLEN, Judge Presiding

15 A P P E A R A N C E S :

16 For the Plaintiff: C. ALTMAN, Esq.
M. COKER, Esq.

17 For the Defendant: S. BURTON, Esq.

18 Reporter Present: HEATHER LANDRY

19
20

21 HARRIET P. BENNETT
22 Reporter, S. C. Court Administration
46 Regency Oaks Drive
23 Summerville, S.C. 29485
24
25

I N D E X

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4 Ms. Burton Pages 4, 18, 20

5 Mr. Altman Pages 13, 19, 21

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EXHIBITS

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3 TRANSCRIPTION NOTE: No Exhibits were proffered or marked
4 in evidence.

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1 (The within matter came before the Court for hearing on
2 June 1, 2017)

3 THE COURT: Would you give me a little bit of back-
4 ground? I have been working on this trial and just for
5 everybody I am not reviewing any of the motions during
6 the trial which is pretty unusual for me, but I am going
7 to need a little bit of help.

8 So if . . .

9 MS. BURTON: I'll be glad to.

10 THE COURT: Thank you.

11 MS. BURTON: This is unfortunately a fairly complex
12 background.

13 I am Stephanie Burton, and I represent Attorney Bill
14 Sloan in this legal malpractice action. This case has
15 arisen, Your Honor, relating to the sale of two parcels
16 of property owned by a lady named Robin Robinson and her
17 company, R R J R.

18 Ms. Robinson owned a strip club at Pittsburgh Avenue
19 in North Charleston, and she owned a home on Sol Legare
20 as well.

21 Ms. Robinson had some financial difficulties after
22 her husband, John Robinson, passed away, and so she,
23 through her attorney, Will Sloan, were fishing for some-
24 one who would loan her money.

25 Ultimately they got hooked up with a man named Vince

1 Destaso out of New York, who ultimately purchased those
2 parcels of property.

3 My client, Bill Sloan, was hired eventually to re-
4 present Fine Housing, which was Mr. Destaso's company,
5 for this transaction in connection with the closing.

6 The closing was somewhat complicated because there
7 was a family who had a judgment against Ms. Robinson and
8 they were getting ready to foreclose and go to a fore-
9 closure sale. They were represented by Mr. Altman.

10 So there was a foreclosure sale scheduled for Decem-
11 ber third of 2013, and thus there was an immediate need to
12 get the transaction closed so that Ms. Robinson could
13 pay off this judgment debtor.

14 The -- as far as the transaction, there was going to
15 be a lease of the properties back to Ms. Robinson and
16 her company, R R J R, and there was a buy-back provision
17 that after two years she could in theory buy the property
18 back from Mr. Destaso.

19 The transaction went through on December second at
20 four o'clock in the afternoon, so that Mr. Sloan could
21 courier the money to Mr. Altman who demanded it be in his
22 office by ten the next morning.

23 The foreclosure was satisfied. Ms. Robinson immedi-
24 ately defaulted on the leases which might have been anti-
25 cipated, and Mr. Sloan actually referred Mr. Destaso and

1 Fine Housing to Mr. Altman so that he could end eviction
2 proceedings against Ms. Robinson.

3 In the lawsuit -- in this lawsuit -- there are the
4 other related lawsuits, but in this lawsuit Fine Housing
5 contends a couple of different things of malpractice.

6 Number one, Fine Housing contends that a gentleman
7 named Barry Clark had a lease on part of the Pittsburgh
8 property, potentially on part of the parking lot. Mr.
9 Clark owns a strip club across the street, and they said
10 there was a lease for part of the parking lot and that
11 there was a right of first refusal of an unknown variety
12 contained in that lease, and that Mr. Sloan through the
13 use of Bill Swope's title search missed the lease.

14 Okay, so that is one of the allegations of malpractice.
15 ice.

16 There is a pending action, Barry Clark versus Fine
17 Housing and R R J R, which is pending in Charleston
18 County currently, in which Mr. Clark says I should have
19 been able to exercise my right of first refusal.

20 So that action is not resolved yet. We have no idea
21 whether Mr. Clark is in a win, lose or draw in that parti-
22 cular action, but that is an allegation in the case.

23 Another allegation in this case is Ms. Robinson owed
24 various people money. Two of the folks, Crabtree and
25 Foster, in individual actions, had obtained a judgment --

1 initially they got summary judgment against her, and they
2 subsequently brought two Statute of Elizabeth cases as
3 against Robin Robinson basically saying that she and Fine
4 Housing had colluded to try to defraud them because they
5 were judgment creditors.

6 So there's two Statute of Elizabeth cases. The al-
7 legations against Mr. Sloan in this case is that when
8 he was doing the title work or closing the transaction
9 that he should have researched whether there were pend-
10 ing actions against Robin Robinson that had not yet been
11 reduced to judgment.

12 There is no issue there were judgments at the time
13 of closing but there were certainly pending actions as
14 against Robin Robinson. So that is yet another allega-
15 tion in the case, that he should have found the pending
16 actions against Ms. Robinson.

17 The third claim in this case relates to tax liens.
18 Ms. Robinson, because she needed a lot of money obviously
19 from Mr. Destaso -- she owed everybody money. She owed
20 the Department of Revenue money, the IRS money, Charleston
21 County money.

22 She owed a variety of people money, and at the time
23 of the closing it is clear that nobody knew payoffs on all
24 these loans. Mr. Sloan, as her attorney, was supposed to
25 be getting all of these payoffs.

1 In this lawsuit, Fine Housing contends that Mr. Sloan
2 didn't find the right tax liens, didn't keep enough money
3 in the escrow account for the tax liens, and there is the
4 huge issue about which tax liens apply to the property,
5 which do not apply to the property, whether they should
6 have been paid, whether they shouldn't have been paid off.
7 so that is a substantial issue in this particular case.

8 Lastly, in this case there is an issue about title
9 insurance policies that were issued by Mr. Sloan.

10 Fine Housing contends that the policies were not is-
11 sued properly. It didn't have proper exceptions in the
12 policies. The Clark lease shouldn't have been an excep-
13 tion in the policy, and so there are allegations that Mr.
14 Sloan did not properly issue the title insurance policies.

15 An issue before Your Honor today is a motion to dis-
16 qualify Mr. Altman -- not his firm but Mr. Altman as the
17 lawyer for Fine Housing.

18 That is based on Rule 3.7 of the Rules of Professional
19 Conduct which say that a lawyer cannot be an advocate if
20 the lawyer is also a necessary witness in the case, and in
21 fact Mr. Altman cited an attorney-client case which is the
22 Brooks versus Commission on Indigent Defense case, which
23 is a Court of Appeals 2017 case in which the Court has ad-
24 dressed the issue about the lawyers being disqualified.

25 It said that a necessary witness does not mean the

1 sole witness to the events but that they are a witness.

2 In this case, we listed Mr. Altman as a witness with
3 knowledge concerning the facts of the case in our Answers
4 to Interrogatories last June, so this is no surprise to
5 either Mr. Altman or to Mr. Destaso.

6 Mr. Altman is a witness for a number of reasons, Your
7 Honor. First, with respect to the Statute of Elizabeth
8 cases. As I told Your Honor, there were two cases filed.
9 There is a contention that Fine Housing and Robin Robinson
10 colluded to defraud these two creditors.

11 Those cases were settled by Mr. Altman. Amounts paid
12 are clients' damage claims against my client, Mr. Sloan,
13 and there are issues in the case about the validity of the
14 settlement, why were the claims settlement, the amounts
15 paid, was the settlement a fair and reasonable settlement.

16 Mr. Destaso we deposed, and I have handed up to the
17 Court a part of his deposition.

18 THE COURT: Yes,

19 MS. BURTON: Mr. Destaso doesn't -- he just says that
20 Charlie settled the cases; I don't know anything about all
21 of that.

22 And so the only person that knows about claims that
23 are against my client with respect to these two Statute of
24 Elizabeth cases and why they settled and why my client
25 should pay that money is Mr. Altman.

1 The second issue, the title policies -- Mr. Altman
2 was brought on board in January of 2014, about a month af-
3 ter the closing, because Robin Robinson had already de-
4 faulted and eventually in March the title policies were
5 issued.

6 There is a lot of correspondence between Mr. Altman
7 and my client, Mr. Sloan, about policies, and I have in-
8 cluded that in the packet I handed to the Court.

9 There's a lot of Emails, should it include this; why
10 are you including that; modify this paragraph in the title
11 policy this way, and the like.

12 It is clear that Mr. Altman was intimately involved
13 in the issuance of the title policies, which is one of the
14 claims against Mr. Sloan. He has knowledge about that.

15 Mr. Destaso doesn't know the first thing, frankly,
16 about title policies.

17 The third issue relates to these tax liens, of which
18 there were a number. Fine Housing contends that Mr. Sloan
19 didn't identify the right tax liens to be paid off, and
20 somehow should have known that Mr. Sloan, who was repre-
21 senting Robin Robinson, was really trying to stall and de-
22 lay any payoffs because he wanted a couple of the liens to
23 expire. They were nearly ten years old.

24 There are lots of factual disputes about these liens.
25 There are liens -- there was a big dispute going on between

1 Mr. Altman and Mr. Sloan throughout this about Eighty-one
2 Thousand Dollar tax lien and whether it even applied to
3 Robin Robinson. Ultimately, Mr. Altman then negotiated
4 directly with the Department of Revenue for some payoff.
5 Nobody else was involved except the Department of Revenue
6 and Mr. Altman. Mr. Destaso said he didn't know about any
7 of that. All he knew was that Charlie had negotiated some
8 sort of payoff.

9 Again, Mr. Altman is a witness in connection with the
10 liens, what liens were paid off, why were they paid off,
11 what were the amounts paid off, should they really have
12 been paid off, and the like.

13 Lastly, with respect to damages, Mr. Altman is clearly
14 a witness with respect to damages. He is a witness on the
15 damages relating to the Statute of Elizabeth, two Statute
16 of Elizabeth cases.

17 There is a claim related to diminution of title insur-
18 ance coverage in the answers to interrogatories. There is
19 a claim that somehow the title insurance policies were di-
20 minished. Mr. Destaso said that he did not understand
21 that; Mr. Altman told him that; he doesn't know.

22 So again, Mr. Altman is the witness, not Mr. Destaso.
23 There is no way Mr. Destaso is going to be able to testify
24 about that and the rest of these issues.

25 There was a lawsuit -- Robin Robinson sued Fine Housing

1 after default and saying that it wasn't really a transac-
2 tion to sell land; that it was really a loan, and that
3 lawsuit went on for months and months and months.

4 Mr. Altman represented Fine Housing. It was then ul-
5 timately settled. Part of the damages being claimed as
6 against my client had to do with the settlement and the
7 expenses associated with that.

8 Again, I asked Mr. Destaso about that settlement. He
9 didn't know anything about the settlement. All he knew was
10 that it settled. Mr. Altman made it go away.

11 Part of what happened was that Mr. Altman actually got
12 the ability signed by Robin Robinson to get the payoff in-
13 formation from the Department of Revenue, which allowed Ms.
14 Robinson or her agent to get that. Part of the settlement
15 was for Mr. Altman to get that.

16 So he knows about the negotiations with the Department
17 of Revenue, he knows about the settlement interaction of Mr.
18 Destaso and Fine Housing. The only witness is Mr. Altman.

19 And lastly there is a mitigation of damages issue in
20 this case. Mr. Destaso paid Eight Hundred Fifteen Thousand
21 Dollars for the two properties.

22 He has sold one of the properties for Five Hundred
23 Thousand. He still has one and there have been multiple
24 offers we believe by Mr. Clark to sell the property. Mr.
25 Altman has been involved certainly with respect to the Clark

1 offers and with respect to some offers made by Chris Burger,
2 but we have the mitigation of damages, the Eight Fifty back
3 plus, and I would suggest there is a lot plus.

4 In order to mitigate damages Mr. Altman is a witness
5 with respect to those issues and that mitigation.

6 So I would submit to the Court that Mr. Altman is a
7 necessary witness. I don't see how we can try the case with-
8 out, frankly, him being called as a witness, For that rea-
9 son he cannot continue to serve as Fine Housing's counsel in
10 this case.

11 THE COURT: Mr. Altman.

12 MR. ALTMAN: May it please the Court?

13 THE COURT: Yes, sir.

14 MR. ALTMAN: Your Honor, I represented the Shermans
15 in regard to a foreclosure action when it was commenced in
16 2011. There were various promises for payment made during
17 the following interval but in March of 2013 we finally ob-
18 tained a foreclosure Order in favor of the Shermans.
19 Sherma foreclosure sale was scheduled and cancelled because
20 of the Defendant; then rescheduled and cancelled again be-
21 cause they were going to pay it off tomorrow. Then she
22 filed for bankruptcy which shocked us.

23 Finally, in December we had a date that wasn't going to
24 change and we couldn't change it. It has nothing to do with
25 this case actually. I didn't know who Mr. Destaso and Fine

1 Housing were. I didn't know what was going on. All I knew
2 was that I was getting my clients, the Shermans, out of the
3 thing.

4 THE COURT: Okay.

5 MR. ALTMAN: Mr. Sloan turned up in my office on Decem-
6 ber third of 2013, gave me a check, and I called the Master
7 in Equity's office. We cancelled the sale because we had
8 been paid.

9 Several weeks go by, probably three or four, and I re-
10 ceive a phone call from Mr. Sloan -- I don't do litigation;
11 there is a lease on this; would you represent Fine Housing
12 and Mr. Destaso?

13 I said, I will be happy to talk to them. I spoke to
14 them and accepted the representation.

15 I didn't know anything about any of this stuff at the
16 time.

17 We started the eviction proceeding and they filed this
18 suit that had no basis, that it was not a purchase but it
19 was a loan.

20 Well, I then found out through investigation that there
21 were tax liens that weren't paid off; that there was money
22 escrowed. I'm just doing an investigation to find out what
23 is going on because of allegations in the suit and what Mr.
24 Destaso was telling me.

25 So it was all investigational on my part that I found

1 the lease on there but Mr. Sloan didn't do anything. He had
2 it I think by four o'clock that afternoon and he didn't stop
3 it. He let it go forward.

4 Now, on that case we filed a Motion for summary judg-
5 ment, on the Clark case, and we went before Judge Dennis who
6 denied the Motion because he said that the closing attorney
7 had an obligation to check to see if there were any pending
8 suits.

9 You know, I've got a Judge telling me that that should
10 have happened, which caught me by surprise, but that is where
11 I was.

12 So we had to deal with the case. Again, there was a
13 settlement agreement or two settlement agreements which speak
14 for themselves.

15 Tax liens -- I've done a lot of real estate closings in
16 my practice. I will not close a transaction unless I have --
17 without a written payoff. I believe Mr. Sloan closed this
18 transaction without a number of written payoffs on tax liens
19 and -- and admitted in Mr. Sloan's deposition and in Mr.
20 Swope's deposition that there was a tax lien that was missed
21 and there was not enough money to cover it.

22 The tax lien from the South Carolina Department of Reve-
23 nue says that John Robinson, deceased -- the husband of Robin
24 Robinson -- the last four digits of his Social Security Num-
25 ber, and Mr. Swope says that the other information contained

1 out some of the information. It had nothing to do with any-
2 thing that I learned on my own, and when I say on my own it
3 was something unique to me.

4 THE COURT: Okay.

5 MR. ALTMAN: There were several settlements involved.
6 All of the written documents speak for themselves. They say
7 what the issues are.

8 There is no question that Mr. Sloan did not tell Mr.
9 Destaso, Fine Housing, about the Clark lease. There is no
10 question about that. It was a recorded lease.

11 Through investigation I found out and from discovery
12 of Mr. Sloan that he had another -- well, let me back up a
13 little bit.

14 He was relying on Mr. Sloan, Ms. Robinson's attorney,
15 when he closed this transaction. Mr. Swope's title opinion,
16 which we received from Mr. Sloan, does not mention the lease
17 of Mr. Clark or the fact that it had -- I will tell you in
18 my opinion -- not enforceable right of first refusal. All
19 it says is you'll have a right of first refusal, no terms
20 for how it is supposed to be exercised.

21 THE COURT: Okay.

22 MR. ALTMAN: But there is no question that Mr. Sloan
23 did not tell Mr. Destaso about this. Now, the afternoon of
24 the closing -- again through documents I received Mr. Sloan
25 had allowed someone else to do a title examination and had

1 on this tax lien -- I have a copy of it here -- didn't indi-
2 cate Robin Robinson was subject to a lien. However, Robin
3 Robinson is named here and the last four digits of her Social
4 Security Number.

5 Both Mr. Sloan and Mr. Swope admit that that was a lien
6 that was not taken care of at the time of the closing. Some-
7 body had to take care of it.

8 I was representing Mr. Destaso and Fine Housing. I nego-
9 tiated and took care of it. We got the property released and
10 that in fact protected Mr. Sloan. We did him a favor. We
11 benefitted him because had we not been able to get it reduced
12 Mr. Sloan would have been responsible for paying it.

13 So we benefitted him, and there was some discussion about
14 the title insurance policies. Mr. Destaso and Fine Housing
15 never received it, didn't ask for it. They were wrong.

16 But there were problems with them and so I asked that
17 they be corrected. I later found out there were other poli-
18 cies issued and it was the wrong form. That was through my
19 investigation. There is nothing unusual for title insurance
20 companies to provide that information.

21 There is somebody else who can provide all this inform-
22 ation and the Court documents provide all of the information.
23 It is not something unique to read.

24 Yes, I do have one thing about what the Rule says. The
25 fact that I have to testify as to my attorney's fee does not

1 disqualify me. I think the rule is pretty clear on that.

2 Your Honor, again, the issue of the diminution of the
3 title insurance -- get that information from the title com-
4 pany. It is not unique to me.

5 There is nothing about any of the information in this
6 case that is unique to me that cannot be produced by the
7 depositions or the title insurance company. There are written
8 documents that are sitting out there. So I should not be
9 disqualified.

10 There is also an affidavit which has been filed with
11 the Court from Mr. Destaso. Again, we are at 2017. I've
12 been involved in this since 2014, so we are three years into
13 this and while I do have a partner in my office, an associate,
14 they have not been intimately involved in this.

15 So I have got to be able to deal with it and it will
16 prove a hardship if I am not allowed to proceed.

17 THE COURT: Do you want to respond?

18 MS. BURTON: Your Honor, I would only ask that the Court
19 look at the deposition testimony because I will tell you that
20 we had depositions of Vince Destaso on February 9 and 10, of
21 Mr. Sloan on February 10 of this year, and what was striking
22 in the depositions -- I've included some of it in the packet
23 I handed up -- was the questioning of why Mr. Altman of my
24 client, Mr. Sloan, in which he essentially pitted himself
25 against him.

1 Did I tell you this? Didn't you send this to me? Did-
2 n't we agree to this?

3 It is clear that if Mr. Sloan testifies to something
4 at a trial that Mr. Altman is going to offer the Cross by
5 way of his testimony.

6 No, you didn't tell me this. No, you didn't send this
7 to me. No, we didn't discuss that title policy.

8 He's a witness, and it became very clear in the depo-
9 sitions that he's a witness. Mr. Destaso did not tell me
10 anything coherent about the sale, the Statute of Elizabeth
11 cases, the settlement with Robin Robinson, the loan, what
12 Mr. Altman negotiated with the DOR. He didn't know any of
13 that stuff. He just said the lawyer did it.

14 Mr. Altman is a witness. I don't see any way around
15 that, frankly.

16 MR. ALTMAN: Your Honor, if I may . . .

17 THE COURT: Yes.

18 MR. ALTMAN: Subsequent to this Motion being filed, . .

19 THE COURT: Yes, sir.

20 MR. ALTMAN: . . Ms. Burton noticed the deposition of
21 our expert witness, and she has proceeded with this case
22 even after filing her Motion that I should not be allowed
23 to participate. I anticipated that at that deposition, and
24 so we kept moving forward with this, and the fact that I've
25 asked a question in a deposition doesn't mean I'm going

1 to ask it the same way at trial.

2 The fact is that I'm going to ask questions and he will
3 answer them or he won't answer them. I am not going to get
4 up there and start challenging him.

5 It would be is there correspondence or did you receive
6 this letter. Did you receive this letter? Did you receive
7 this letter from the attorneys and see whether he got it or
8 not.

9 Did he receive an Email from us or was there communica-
10 tion?

11 But all of that is documented. It either did or it
12 didn't happen. It's not something specific to me.

13 Thank you.

14 THE COURT: Well, I'm going to have to look at the
15 deposition testimony. Obviously, you all have given me a
16 good bit to consider.

17 So I would just take that under advisement.

18 What is the Motion to stay?

19 MS. BURTON: The Motion to stay is fairly simple. I
20 have a Scheduling Order in this case covering deadline, and
21 it has run because of the Barry Clark litigation.

22 Some portion of damages or alleged damages against Mr.
23 Sloan have to do with the Clark case. Is Mr. Clark going
24 to win and get a right of first refusal on the Pittsburgh
25 property? Is he not going to win? Where does that leave

20

1 everyone? We have no idea because the case has not yet been
2 tried.

3 I actually propose that we stay our case until we can
4 get the Clark matter resolved because we really don't -- we
5 can't mediate this case if we don't know anything about
6 Clark or what's happening with Clark.

7 Mr. Altman is not willing to agree to that, which is
8 why we proceeded forward with Mr. Ruff's deposition, but I
9 would submit to the Court that this case needs to be stayed
10 until the Clark case can be resolved in Charleston County,
11 because the damages flowing from Clark directly impact our
12 case.

13 THE COURT: Yes, Sir.

14 MR. ALTMAN: Your Honor, I agreed to stay the trial.
15 I thought . .

16 THE COURT: All right.

17 MR. ALTMAN: I understood that we needed to settle the
18 Clark case before this trial should be held.

19 THE COURT: Okay.

20 MR. ALTMAN: And also the mediation -- I saw no reason
21 to stay any discovery.

22 THE COURT: Okay.

23 MR. ALTMAN: That's the position we are taking.

24 THE COURT: All right. Well, let me look at these
25 two depositions or the excerpts you have given me.

1 MS. BURTON: Okay.

2 THE COURT: Let me look at them and go from there.

3 MS. BURTON: Okay.

4 -- --END OF REQUESTED TRANSCRIPT OF RECORD-----

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CERTIFICATE

I, HARRIET P. BENNETT, Court Reporter for South Carolina Court Administration, hereby certify that the foregoing Transcript was prepared from the records of Heather Landry the best of my ability, having been heard in the Court of Common Pleas for Dorchester County on June 1, 2017.

FURTHER, I certify that I am neither of kin nor counsel to any party to this matter, nor do I have any interest in the same.

Harriet P. Bennett

December 30, 2017

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

Fine Housing, Inc.,

Plaintiff,

v.

William H. Sloan, Jr.,

Defendant.

IN THE COURT OF COMMON PLEAS

**DEFENDANT'S ANSWERS AND
OBJECTIONS TO PLAINTIFF'S FIRST
SET OF INTERROGATORIES**

C.A. No.: 2016-CP-18-0340

SHB
#1

Defendant William H. Sloan, Jr., submits the following answers and objections to Plaintiff's First Set of Interrogatories pursuant to Rules 26 and 33 of the South Carolina Rules of Civil Procedure.

GENERAL OBJECTION

To the extent that Plaintiff's Instructions and Definitions purport to instruct Defendant how to answer, such Instructions and Definitions are contrary to the South Carolina Rules of Civil Procedure. Unless otherwise indicated, Defendant has employed the ordinary meaning of the words used.

SPECIFIC ANSWERS AND OBJECTIONS

1. Gives the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

ANSWER:

a. Vincent Destaso
102 Lake Rd
Congers, NY 10920

Mr. Destaso has knowledge concerning the negotiation of the transaction with Robin M. Robinson and RRJR, LLC, the closing that occurred on December 2, 2013, and the claims that Plaintiff is asserting in this lawsuit.

- b. William H. Sloan, Jr.
Sloan Law Firm, P.A.
1055 N. Main Street
Summerville, SC 29483

Mr. Sloan has knowledge concerning his involvement in connection with the closing that occurred on December 2, 2013.

- c. Janice Lambert
Sloan Law Firm, P.A.
1055 N. Main Street
Summerville, SC 29483

Ms. Lambert works for the Sloan Law Firm, P.A. and prepared some of the documents relating to the closing that occurred on December 2, 2013.

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- d. William K. Swope
Swope Law Firm, P.A.
1525 Sam Rittenberg Blvd
Suite 208
Charleston, SC 29407

Mr. Swope has knowledge concerning the negotiation of the transaction with Vincent Destaso, his representation of Robin M. Robinson and RRJR, LLC, his title search in connection with the properties that were conveyed to Plaintiff, and the satisfaction of liens and other encumbrances relating to such properties.

- e. Robin M. Robinson
111 Charleston Boulevard
Isle of Palms, SC 29451

Ms. Robinson has knowledge concerning the negotiation of the transaction regarding the properties conveyed to Plaintiff, the closing that occurred on December 2, 2013, the lease relating to 2028 Pittsburgh Avenue, and the lawsuits initiated by Chandler Crabtree and William Foster against Plaintiff, RRJR, LLC, and Robinson.

- f. Daniel DeHaven
22 Gordon Street
Charleston, SC 29403

Mr. DeHaven has knowledge concerning the lease agreement with Plaintiff that he signed on December 2, 2013.

- g. Anthony Fogler
827 McIrose Drive
Charleston, SC 29412

Mr. Fogler has knowledge concerning the lease agreement with Plaintiff that he signed on December 2, 2013.

- h. Charles M. Feeley
792 Folly Road, Suite 5
Charleston, SC 29412

Mr. Feeley has knowledge regarding his title search involving the properties conveyed to Plaintiff by Robin M. Robinson and RRJR, LLC.

- i. Barry Clarke
2162 Westriver Road
Charleston, SC 29412

Mr. Clarke has knowledge regarding the lease for the parking lot of 2028 Pittsburgh Avenue and his claims against Plaintiff.

- j. Chandler Crabtree
Address Unknown

Mr. Crabtree has knowledge regarding the claims he asserted against Plaintiff, Robin M. Robinson, and RRJR, LLC.

- k. William Foster
Address Unknown

Mr. Foster has knowledge regarding the claims he asserted against Plaintiff, Robin M. Robinson, and RRJR, LLC.

- l. Barry S. Sloop
Address Unknown

Mr. Sloop was employed by Stewart Title Guaranty Company and has knowledge concerning the commitment and issuance of a title insurance policy regarding the properties conveyed to Plaintiff by Robin M. Robinson and RRJR, LLC.

- m. Charles S. Altman
Altman & Coker, LLC
575 King Street
Suite A

Charleston, SC 29403

Mr. Altman has knowledge regarding his representation of the Sherman Agency relating to its claims against Robin M. Robinson and his representation of Plaintiff regarding certain liens and with respect to the lawsuits involving Clarke, Chandler Crabtree and William Foster.

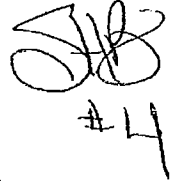
2. Set forth a list of photographs, plats, sketches, or other prepared documents in possession of the party that relate to the claim or defense in the case.

ANSWER: None.

3. Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.

ANSWER:

- a. **AXIS Surplus Insurance Company**
11680 Great Oaks Way
Suite 500
Alpharetta, GA 30022
Policy Number: 003869-0115
Coverage: \$1,000,000 limit (per claim and in the aggregate)

Handwritten signature and initials, possibly 'JH' and 'AL'.

4. List the names and addresses of any expert witnesses whom the party proposes to use as a witness at the trial of the case.

ANSWER: Defendant has not retained any expert witnesses at this time, but he reserves the right to do so in the future.

5. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

ANSWER: Please see Defendant's response to Interrogatory Number 1. Defendant is not aware of any written or recorded statements taken from any witness.

6. State the percentage of the Defendant's law practice devoted to handling real estate closings.

ANSWER: Defendant objects to Interrogatory Number 6 on the grounds that it seeks information that is not relevant or reasonably calculated to lead to discovery of relevant or admissible evidence. Defendant further objects to Interrogatory Number 6 on the grounds that the request is overly broad as it is not limited to any time period.

Subject to those objections and limiting the response from January 1, 2013 to December 31, 2013, approximately sixty percent of Defendant's practice involved real estate closings.

7. State the number of residential real estate closings Defendant handled during the calendar years 2012 and 2013.

ANSWER: Defendant objects to Interrogatory Number 7 on the grounds that the request is vague and ambiguous because the term "residential real estate" is not defined by Plaintiff and could refer to multitude of types of properties and transactions.

Subject to that objection and defining "residential real estate" to mean property that is used or rented as a single-family or multi-family dwelling, Defendant handled approximately 480 closings involving resident real estate during 2012 and 2013.

8. State the number of commercial real estate closings Defendant handled during the calendar years 2012 and 2013.

ANSWER: Defendant objects to Interrogatory Number 8 on the grounds that the request is vague and ambiguous because the term "commercial real estate" is not defined by Plaintiff and could refer to a multitude of types of properties and transactions.

Subject to that objection and defining "commercial real estate" to mean property that is not a dwelling and is used or rented to generate profit, Defendant handled approximately 10 closings involving commercial real estate during 2012 and 2013.

9. State the number of residential leases for real estate prepared by Defendant during the calendar years 2012 and 2013.

ANSWER: Defendant objects to Interrogatory Number 9 on the grounds that it seeks information that is not relevant or reasonably calculated to lead to discovery of relevant or admissible evidence.

10. State the number of commercial leases for real property prepared by the Defendant during the calendar years 2012 and 2013.

ANSWER: Defendant objects to Interrogatory Number 10 on the grounds that it seeks information that is not relevant or reasonably calculated to lead to discovery of relevant or admissible evidence.

11. Provide the names and contact information for all title abstractors contracted with or employed by the Defendant during the calendar years 2012 and 2013.

ANSWER: Defendant objects to Interrogatory Number 11 on the grounds that it seeks information that is not relevant or reasonably calculated to lead to discovery of relevant or admissible evidence.

Subject to that objection and limiting the response to title abstractors that Defendant contracted with regarding the title of the properties conveyed to Plaintiff on December 2, 2013, Defendant contracted with Charles M. Feeley, 792 Folly Road, Suite 5, Charleston, SC 29412.

12. Provide the name(s) and contact information for the title abstractor or abstractors or others who the Defendant relied upon to provide title abstracts or opinions for the closing of the transaction between Fine Housing, Inc., and Robin Robinson and RRJR, LLC, which closed on or about December 2, 2013, and the title insurance commitment and title insurance policy issued by the Defendant.

ANSWER:

- a. William K. Swope
1525 Sam Rittenberg Blvd, Suite 208
Charleston, SC 29407
- b. Charles M. Feeley
792 Folly Road, Suite 5
Charleston, SC 29412


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13. State the number of title examinations which were performed personally by the Defendant in the years 2012 and 2013.

ANSWER: Defendant objects to Interrogatory Number 13 on the grounds that it seeks information that is not relevant or reasonably calculated to lead to discovery of relevant or admissible evidence. Defendant further objects to Interrogatory Number 13 on the grounds that the request is vague and ambiguous as the term "title examination" is undefined and could refer to the activity of performing a title search, reviewing the results of a title search performed by another, or issuing an opinion as to the marketability of title.

14. Provide the names of all title insurance companies Defendant has been an agent for, or been authorized to certify title for, during the calendar years 2003 through the present. In the event the agency relationship with any of the identified title insurance companies has been terminated, provide the date of the termination, identify the party who terminated the relationship, and state the reason for the termination.

ANSWER: Defendant objects to Interrogatory Number 14 on the grounds that it seeks information that is not relevant or reasonably calculated to lead to discovery of relevant or admissible evidence.

15. For each company listed in the response to interrogatory number 14, state the dollar limit of title insurance defendant was authorized to issue without being required to obtain specific authority to issue the policy.

ANSWER: On December 2, 2013, Defendant was authorized to issue title insurance up to \$1,000,000.00 without requiring prior authorization.

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16. State the number of times during the calendar years 2012 and 2013 Defendant represented clients referred to him by William Swope. If any such referral(s) was/were received, generally describe the matter for which the referral(s) was/were made.

ANSWER: Other than Defendant's representation of Plaintiff, no other such matters were referred to Defendant.

17. State the number of times during the calendar years 2012 and 2013 Defendant referred clients or potential clients to William Swope. If any such referral(s) was/were made, generally describe the matter for which the referral(s) was/were made.

ANSWER: None.

18. State if, at any time, William Swope contacted Defendant to represent Robin Robinson and/or RRJR, LLC. If such contact was made, provide the date of the contact and state generally the nature of the matter the referral was made for.

ANSWER: None.

19. State whether, at any time, Defendant was requested to or represented Robin Robinson. If the answer is yes, state the nature of the representation or request.

ANSWER: None.

20. State whether, at any time, Defendant was requested to or represented RRJR, LLC. If the answer is yes, state the nature of the representation or request.

ANSWER: None.

21. Provide the name of the Real Estate Closing Software utilized by the Defendant to prepare closings between 2013 and the current date. If the software changed at any time during said dates, provide the date(s) of the change and the reason for the change.

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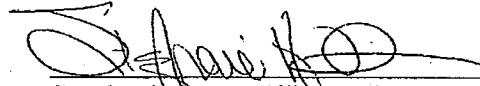
ANSWER: Defendant objects to Interrogatory Number 21 on the grounds that it seeks information that is not relevant or reasonably calculated to lead to discovery of relevant or admissible evidence. Defendant further objects to Interrogatory Number 21 on the grounds that the request is overly broad as it is not limited to the time relative to any claim or defense asserted in this action.

Subject to those objections and limiting the response to the computer software used in connection with the transaction that is the subject of this lawsuit, SoftPro was utilized by Defendant.

22. Provide the name of the computer reporting system used by Stewart Title and Guaranty Company for its agents to report the issuance of title insurance commitments and/or title insurance policies.

ANSWER: Defendant objects to Interrogatory Number 22 on the grounds that it seeks information that is not relevant or reasonably calculated to lead to discovery of relevant or admissible evidence. Defendant further objects to Interrogatory Number 22 on the grounds that the request is vague and ambiguous as the phrase "computer reporting system" is undefined and could refer to any number of communications transmitted electronically. Defendant further objects to Interrogatory Number 22 on the grounds that the request is overly broad as it is not limited to the time relative to any claim or defense asserted in this action.

Subject to those objections and limiting the response to the computer software utilized by Defendant to transmit information to Stewart Title Guaranty Company regarding the insurance commitment and policy regarding the properties conveyed to Plaintiff on December 2, 2013, the Stewart Title Electronic Policy System was utilized by Defendant.



Stephanie Burton (#13089)
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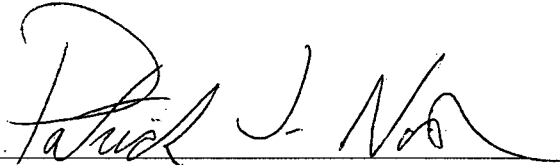
Attorneys for William H. Sloan, Jr.

June 9, 2016
Spartanburg, South Carolina

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

July 18, 2018



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