

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM MARION COUNTY
Court of Common Pleas

The Honorable W. Haigh Porter, Special Referee

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SEP 04 2018
SC Court of Appeals

Case No. 2015-CP-33-280
Appellate Case No. 2016-000956

PARTNERS 95, LLC and HSGCHG Investments, LLC Respondents,

v.

Riverdale Funding, LLC and Woodbridge Mortgage Investment Fund 3, LLC Appellants.

**RESPONDENTS' REPLY TO RESPONSE OF APPELLANTS TO RESPONDENTS'
MOTION TO PROCEED WITH APPEAL REGARDING
APPELLANT, RIVERDALE FUNDING, LLC**

Under SCACR, Rule 240(f), Respondents respectfully submit this Reply to Appellants' Response to Respondents' motion to proceed with this appeal regarding the non-bankruptcy filing Appellant, Riverdale Funding, LLC (Riverdale).

ARGUMENT IN REPLY

Respondents contest none of the facts in Appellants' Motion to Proceed. They do not dispute that the bankruptcy automatic stay does apply to Riverdale.

Appellants only argue the appeal cannot proceed without the bankruptcy filing Appellant, Woodbridge Mortgage Investment Fund 3, LLC, because Appellants are "inextricably linked...." Appellants' Response at 1.

Appellants are incorrect.

This is an appeal from a \$73,184.20 combined actual and punitive damage award rendered against Appellants, **jointly and severally**. See Order (ending action), attached as a portion of **Exhibit “A”** to Appellants’ Response, at page 16.

“A liability is said to be joint and several when the creditor may sue one or more of the parties to such liability separately, or all of them together at his option.” Black’s Law Dictionary at 751 (5th Ed. 1979). “In more simplistic terms, pure joint and several liability allows a plaintiff to decide from which defendant she would like to seek payment of her damages....” *Tiffany v. Mizzell*, 419 S.C. 458, 799 S.E.2d 479, 491 (2017), Pleicones, Acting J., dissenting.

Accordingly, this appeal can and should proceed against the jointly and severally liable party not in bankruptcy - Riverdale.


This is especially true given Appellants’ deposit under SCRCF, Rule 67, of the judgment amount, plus accrued interest to the date of deposit, halting the accrual of post-judgment interest. Attached as **Exhibit “A”** is a copy of the order entered granting leave for the deposit.

Appellants assert before this appeal can be concluded, Respondents, and this Court, must wait for an indeterminate period, which could be many months or years, for the completion of a bankruptcy proceeding affecting only one of the two jointly and severally liable Appellants; this without even the benefit to Respondents of the accrual of interest on the deposited judgment amount.

CONCLUSION

The automatic stay does not apply to Riverdale. Respondents respectfully request this appeal proceed against Riverdale.

CALLISON TIGHE & ROBINSON, LLC


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August 31, 2018

Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF MARION

) IN THE COURT OF COMMON PLEAS
) THE TWELFTH JUDICIAL CIRCUIT
)

PARTNERS 95, LLC and HSGCHG
Investments, LLC,

) C/A No. 2015-CP-33-280
)
)

Plaintiffs,

ORDER REGARDING DEPOSIT OF
FUNDS INTO COURT REGISTRY

v.

Riverdale Funding, LLC and Woodbridge
Mortgage Investment Fund 3, LLC


)
)
)

Defendants.

This matter came before me upon the revised motion of Defendants, Riverdale Funding, LLC and Woodbridge Mortgage Investment Fund 3, LLC (hereinafter "Defendants"), for an order pursuant to SCRPC 67 permitting Defendants to deposit with the Court the sum awarded by the Order of Default Judgment dated April 7, 2016 (the "April 7 Judgment") plus the amount of post-judgment interest accrued to date. Plaintiffs have no objection.

After careful consideration of the motion made, the memoranda submitted, arguments of counsel, and the record in this case, the Court finds that Defendants should be permitted to deposit the requested amount into the court registry, which stops the accrual of post-judgment interest. Accordingly, Defendants' Revised Motion to Deposit Funds Pursuant to SCRPC 67 is **GRANTED**, and the Clerk of Court is **ORDERED** to permit Defendants to deposit into the trust account of the court the amount of the April 7 Judgment (\$73,184.20) plus the amount of post-judgment interest accrued as the date of entry of this Order at the rate of 7.50% compounded annually (\$15.04 per diem).

AND IT IS SO ORDERED.


Haigh Porter, Special Referee for

Marion County

April 28, 2016
Florence, South Carolina

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM MARION COUNTY
Court of Common Pleas

The Honorable W. Haigh Porter, Special Referee

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Case No. 2015-CP-33-280
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PARTNERS 95, LLC and HSGCHG Investments, LLC Respondents,

v.

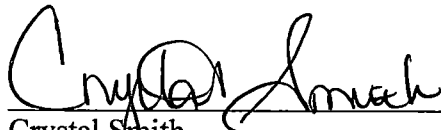
Riverdale Funding, LLC and Woodbridge Mortgage Investment Fund 3, LLC Appellants.

PROOF OF SERVICE

I certify that I have served a copy of the following as indicated hereinbelow, by mailing a copy of same on the date below by First Class United States Mail, postage prepaid, addressed to the following:

DOCUMENT SERVED: Respondents' Reply to Response of Appellants to Respondents' Motion to Proceed with Appeal Regarding Appellant, Riverdale Funding, LLC

PARTIES SERVED: Amy L.B. Hill, Esquire
Laura W. Jordan, Esquire
Gallivan White & Boyd, P.A.
P.O. Box 7368
Columbia, SC 29202-7368
Attorneys for Appellants


Crystal Smith

August 31, 2018
Columbia, South Carolina

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CALLISON  TIGHE

August 31, 2018

Hon. Jenny Abbott Kitchings
Clerk of Court
Court of Appeals
1220 Senate Street
Columbia, SC 29201

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SC Court of Appeals

**Re: Partners 95, LLC and HSGCHG Investments, LLC vs.
Riverdale Funding, LLC and Woodbridge Mortgage
Investment Fund 3, LLC
Appellate Case No: 2016-000956
Our Case No: 6151.003**

Dear Ms. Kitchings:

Enclosed for filing please find the original and two (2) copies of the Respondents' Reply to Response of Appellants to Respondents' Motion to Proceed With Appeal Regarding Appellant, Riverdale Funding, LLC, and Proof of Service, in connection with the above-referenced matter.

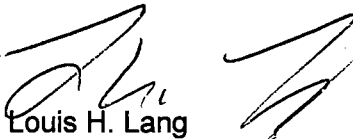
Please file the original and return one (1) clocked-in copy to me in the self-addressed, stamped envelope enclosed for your convenience.

Thank you for your assistance in this matter.

With warmest regards, I am

Sincerely yours,

CALLISON TIGHE & ROBINSON LLC


Louis H. Lang

LHL/cs

Enclosures

cc: (w/ encl.) Amy L.B. Hill, Esquire
Laura W. Jordan, Esquire

Louis H. Lang, Esq. - 6151.003

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Hon. Jenny Abbott Kitchings
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