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May 16 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

Courtney Clyburn-Pope, Circuit Court Judge

Appellate Case No.: 2020-001453

Stephan Shugart,.....Appellant,

v.

Historic Hospitality, LLC, Shah Investments, LLC,
and Southern Hotel Properties, LLC,.....Respondents.

MOTION TO DISMISS APPEAL

Pursuant to Rules 240 and 260 of the South Carolina Appellate Court Rules, Respondent Shah Investments, LLC (“Shah”), hereby notices its motion and moves for an order dismissing this appeal. The grounds for this motion are as follows:

1. The pro se Appellant filed a purported Record on Appeal on December 6, 2021. He served a copy of the purported Record on Appeal on December 1, 2021, although counsel for Shah did not receive that copy until more than a week later.

2. The purported Record on Appeal consisted of only seven pages. Although it contained an index listing various materials from the proceedings in the Circuit Court, the purported Record on Appeal did not include copies of those materials. Therefore, it did not comply

with Rule 210(c), SCACR, and it did not provide a sufficient basis for Shah to prepare its Final Respondent's Brief.

3. On December 20, 2021, counsel for Shah sent Appellant a letter notifying him that the purported Record on Appeal did not comply with the applicable rules.

4. Appellant responded to the letter with a telephone call to counsel for Shah on December 29, 2021. During that conversation, Appellant expressed his intention to seek the Court's permission to file and serve an Amended Record on Appeal.

5. Appellant filed a Motion to Amend the Record on Appeal on January 13, 2022. Shah did not oppose that motion.

6. The Court granted Appellant's motion in an Order filed on March 15, 2022 ("the Order").

7. In the Order, the Court gave Appellant thirty days to serve and file an Amended Record on Appeal that complied with Rules 210 and 267 of the South Carolina Appellate Court Rules.

8. Around the date that the Court filed the Order, Appellant mailed counsel for Shah a large set of documents that consisted of copies of materials from the Circuit Court proceedings, as well as copies of various legal authorities. The materials sent by Appellant did not contain a cover, an index, or any page numbering. Therefore, even if Appellant's mailing could be construed as satisfying the requirements of Rule 210, SCACR (which Shah disputes), it did not in any way comply with Rule 267, SCACR. Preparing a final brief based on that mailing was still not possible for Shah.

9. Furthermore, Appellant never filed the materials that he mailed to counsel for Shah.

10. Under the terms of the Order, Appellant's deadline for filing and serving an Amended Record on Appeal that complies with Rules 210 and 267, SCACR, was April 14, 2022. Appellant failed to meet that deadline. Appellant also did not submit any request for an extension of the deadline.

11. As of the date of this motion (more than 30 days past the deadline set by the Court), Appellant still has not filed or served an Amended Record on Appeal that complies with the applicable rules.

12. For these reasons, Shah respectfully requests that the Court dismiss the appeal for failure to prosecute and/or failure to comply with the terms of the Order.

Respectfully submitted,

s/ R. Hawthorne Barrett

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Attorney for the Respondents Shah Investments, LLC

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PROOF OF SERVICE

The undersigned, attorney in this matter for Respondent Shah Investments, LLC, certifies that I have this **16th day of May, 2022**, served a copy of Shah’s **Motion to Dismiss Appeal** upon the pro se Appellant by causing it to be deposited in the United States mail with sufficient postage attached, addressed to: Stephan Shugart; 546 Gates Court; Philadelphia, PA 19128.

s/ R. Hawthorne Barrett
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