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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.

RETURN TO MOTION TO EXTEND

Pursuant to Rule 240(e), SCACR, Respondent Shah Investments, LLC (“Shah”), respectfully submits this Return in opposition to Appellant’s Motion to Extend. For the reasons set forth below, the Court should deny Appellant’s motion.

1. On May 16, 2022, Shah filed and served a Motion to Dismiss based on Appellant’s failure to comply with the Court’s previous Order regarding filing and service of a corrected and amended Record on Appeal.

2. Appellant has not filed a timely Return to Shah’s Motion to Dismiss. Instead, Shah has submitted a Motion to Extend. Although that document is dated May 26, 2022, the mailing envelope to Shah’s counsel (a copy of which is attached) indicates that the motion was actually

mailed on May 27, 2022. Assuming the information on the envelope is correct, the Motion to Extend would not constitute a timely response to Shah's motion under Rule 240(e), SCACR.

3. Even if the Motion to Extend is treated as an independent motion, or is deemed to be a timely response, it should nonetheless be denied. Appellant's motion is identical to a previous extension motion that Appellant filed on December 16, 2020. Indeed, the current motion seeks an extension for filing the Initial Appellant's Brief – something that happened almost a full year ago. It makes no mention at all of Shah's pending motion, let alone a response to it. Clearly, Appellant has just re-filed his previous motion.

4. Appellant's motion references unspecified "health-based reasons" for an extension being necessary. It also references an affidavit for details, although no affidavit was served or filed with this motion. An affidavit *was* included with the previous filing of this same motion back in December 2020, but even then, it did not provide any specific information. Rather, the affidavit stated only that Appellant's "health has not been the best recently." Without any further information or supporting materials, that vague statement from eighteen months ago should not be sufficient to warrant any extension of time for Appellant.

5. Appellant commenced this appeal on October 26, 2020. Over a year-and-a-half has passed since then, and there is still not even a Record on Appeal that complies with the applicable rules. This is true, despite a previous Order from the Court establishing a deadline for the filing and service of the Record on Appeal – a deadline that has long since passed.

6. This Court, mindful of Appellant's pro se status, has been lenient in terms of allowing Appellant additional time. In the past, Shah has not opposed Appellant's extension requests. Now, however, Shah must oppose the request for more time. Appellant has had more than enough time to comply with the applicable rules and submit a full, complete and correct

Record on Appeal. He has simply failed to do so. Therefore, this new request for an extension should be denied.

For these reasons, Shah requests that the Court deny Appellant's Motion for Extension and grant Shah's Motion to Dismiss the Appeal.

Respectfully submitted,

s/ R. Hawthorne Barrett

R. Hawthorne Barrett (SC Bar #16973)

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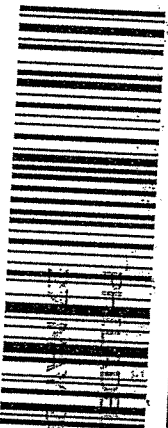
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Attorney for the Respondents Shah Investments, LLC

June 3, 2022

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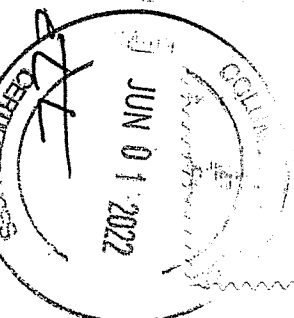


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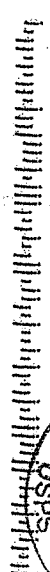
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PROOF OF SERVICE

The undersigned, attorney in this matter for Respondent Shah Investments, LLC, certifies that I have this **3rd day of June, 2022**, served a copy of Shah's **Return to Motion to Extend** 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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June 3, 2022