



JUDICIAL MERIT SELECTION COMMISSION)
)

In the Matter of: Edward Miller)
Candidate for 13th Judicial Circuit)

WITNESS AFFIDAVIT
FORM

I will appear to testify concerning the qualifications of the above-named candidate and will produce all documents in my possession, if any, which will further develop or corroborate my testimony.

I understand that this written statement and all supporting documentation, if any, must be completed and returned to the Judicial Merit Selection Commission by the deadline for complaints in order for the Commission to hear my testimony, and that the deadline for complaints is **12:00 Noon, Monday, November 2, 2020**. I understand I must be available to testify at the Public Hearing.

In regard to my intended testimony, I will offer information as to the following:

- (1) Set forth your full name, age, address, and both home and work telephone numbers.
Kathryn Taillon.; 5489 Atlantic Vw, St. Augustine, FL 32080
Cell: 864 419 2516

- (2) Set forth the names, addresses, and telephone numbers (if known) of other persons who have knowledge of the facts concerning your testimony.
Arthur Field, 5489 Atlantic Vw, St. Augustine, FL 864 419 2516
Hon. Bruce Bannister, 24 Cleveland St., Greenville, SC 864 523-7328
Luke Burke, Esq/ 24 Cleveland St., Greenville, SC 864 523 7328
Davyd Field, 7 Shadetree Court, Greer, SC 29651 562 505 4613
Allyson Field, 3100 S.E. 168th Ave, Vancouver, WA 843 259 7084
Bradford Martin, Esq., 201 W. McBee Ave #302, Greenville, SC 864-552-9990
Gwen Martin, Esq. 201 W. McBee Ave #302, Greenville, SC 864-552-9990
Kirsten White, 121 Emerywood Ln, Greenville, SC 29607 864 420 7775
Tom Stephenson, Esq., 207 Whitsett St., Greenville, SC 864 370 9400
Jeff Dunlaevy, Esq., 37 Villa Rd, Ste 440, Greenville, SC 864 208 9274

- (3) State the nature of your testimony regarding the qualifications of the above-named judicial candidate, including:
- (a) specific facts relating to the candidate's character, competency, or ethics, including any and all allegations of wrongdoing or misconduct on the part of the candidate;

See Complaint dated October 19, 2020 annexed, incorporated as if set forth
Right to supplement preserved.

- (b) specific dates, places, and times at which or during which such allegations took place;

Answer to part (a) repeated, dates include 2011—2018, see #4 for dates of hearings

- (c) names of any persons present during such alleged actions or possessing evidence of such alleged actions; and

See Answer to #2 and Complaint and Transcripts

- (d) how this information relates to the qualifications of the judicial candidate.

See answer to #3. See Complaint and Supplement detailing 9+ years of violations of the Canons of Judicial Conduct. The unethical conduct of Edward Miller was so egregious as to demand his immediate removal from the bench to preserve the judicial integrity of South Carolina. Misconduct was flagrant and repeated, including violations of Canons 3B(1)—3B(7), *et al.*

- (4) Set forth a list of and provide a copy of any and all documents to be produced at the hearing which relate to your testimony regarding the qualifications of the judicial candidate.

a) Transcript 'Exh. A: p. 29, 46, 53-- 12/14/2011

b) Transcript 'Exh. B': pp. 3-4, 18, 136 9/7/2013;

c) Transcript 'Exh. C' 9/29/2016 p.7, 8, 10, 13, 14. 99-101;

d) Affidavit of Stanley, p 176 of Record on Appeal

e) Order of Judge Miller 2/2/15, pp. 81-83 Record on Appeal

f) Motion to Compel filed in 2015-cp-23-01263 before Judge Gravely and

g) The Decision of Judge Miller effectively denying discovery

h) Field's Exhibits A—K and Affidavits of Orfanedes, Lackey

- (5) State any other facts you feel are pertinent to the screening of this judicial candidate.

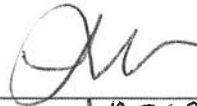
See Complaint incorporated as if set forth. Judge Miller is the worst judge I have ever seen in 35 years of working as a paralegal.

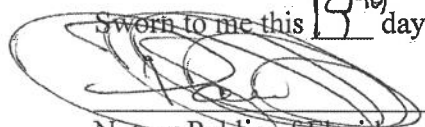
I understand that the information I have provided herein is confidential and is not to be disclosed to anyone except the Judicial Merit Selection Commission, the candidate, and counsel.

WAIVER

I further understand that my testimony before the Judicial Merit Selection Commission may require the disclosure of information that would otherwise be protected by the attorney-client privilege. Therefore, in order that my complaint may be fully investigated by the Commission,

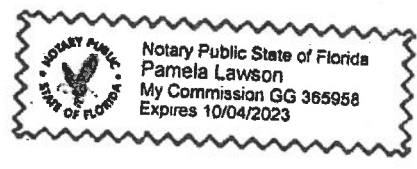
I hereby waive any right that I may have to raise the attorney-client privilege as that privilege may relate to the subject of my complaint. I further understand that by waiving the attorney-client privilege for this matter, I am authorizing the Commission to question other parties, including my attorney, concerning the facts and issues of my case.


Signature TATHRYN TALON

Sworn to me this 19th day of October, 2020


Notary Public of Florida

L.S.



To the Judicial Merit Selection Commission, P.O. Box 142, Columbia, SC 29202

COMPLAINT RE EDWARD MILLER
IN OPPOSITION TO RE-ELECTION
TO 13TH JUDICIAL CIRCUIT

OCT. 19, 2020

My name is Kathryn Taillon. I worked as a paralegal in Connecticut, South Carolina and Florida. I am fully familiar with the court system and have observed numerous judges.

In my 30+ year career associated with the legal system, I have never witnessed a judge as disgraceful to the bench as Edward Miller. I challenge his integrity and impartiality; his legal ability; his mental capacity and judicial temperament; his ethics; and his willingness to adhere to the Canons of Judicial Conduct. He has consistently demonstrated a total lack of fairness and respect for litigants he dislikes, lawyers, witnesses, and their Constitutional rights as complained of below.

THE DECEMBER, 2011 INFORMAL MEETING OF NOTEHOLDERS:

I first saw Judge Miller in December, 2011, when I attended an informal hearing relating to Capital Investment Funding, LLC. The Receiver Jerry Saad was there. I went to take notes for my spouse Arthur Field; Saad had asked him not to attend. To the best of my recollection, Judge Miller took every opportunity to denigrate Field. No other parties to the 2008-cp-23-3665 case were present. The meeting was to make the Noteholders feel as if something was being done, since they hadn't received any money from Saad in the 2+ years he had been receiver.

I heard Judge Miller indicate that Arthur Field was a criminal and stole money. His comments were not relevant to the purpose of the proceeding. Listening to Judge Miller, I got the definite impression he had fully investigated Field privately and had considerable interaction with the Attorney General prosecutors on several occasions. Judge Miller introduced a 'Creighton Waters' from the Attorney General's criminal division and called him his good friend and a phenomenal attorney. Judge Miller made it clear there was a formal [State Grand Jury] investigation going on concerning Arthur Field. He kept telling the Noteholders not to speak to their advisors, but just to rely on Jerry Saad and to talk to Creighton Waters to complain about Field.

Judge Miller said that Arthur Field had claimed the Fifth Amendment when the 3665 case was settled, and he didn't understand why Field would do that if he was innocent. He clearly implied Field was guilty of crimes. Given that the Asst. Attorney General was present, and no charges were pending against Arthur Field in 2011, and no civil case was pending against him, I was mortified by this statement. It was absolutely clear that Judge Miller was biased and had already made up his mind about Field. He made so many nasty comments that I filled an entire legal pad.

Judge Miller said he had investigated CIF and it was like peeling layers off an onion. (Exh. A, p.53) One year later, I heard Deputy Atty. General Creighton Waters use the exact same analogy when referring to Arthur Field in multiple hearings. (Waters had used the same metaphor in the Carolina Investors criminal trial in 2004.)

Given the 3665 case had settled in 2009 without any trial, and that Judge Miller only presided over the settlement Fairness hearing, I did not understand how Judge Miller knew anything at all about the business of Capital Investment Funding. No factual evidence was ever placed on the record before him, or any other judge. Anything he learned must have come from sources outside the court record.

Judge Miller's demeanor and attitude were clearly hostile towards Field. He kept calling CIF a 'shell game' and saying it was the worst he had ever seen (Exh. A, p.29). Then, Judge Miller said he had received a letter from Field explaining why he hadn't attended. The Judge refused to read it and make a snide remark about Field. (Exh. A, p. 46, ll.23-25). Since I had overheard the phone conversation when Saad asked Field not to attend, I was very disturbed at the Judge's characterization of the letter as 'self-serving' I called Field and related all that took place, referring to my extensive notes.

He was horrified. He had spent from May, 2009 to December, 2011 working closely with Jerry Saad to recover CIF's assets without any compensation for the many hours of work, including driving all over South Carolina, New York and New Jersey. I was so disturbed by the numerous insinuations that Field was guilty, I agreed that a grievance should be filed against Judge Miller. No judge should speak like that on the bench, especially when the person isn't there. I understand Field submitted the Transcript excerpts of that December, 2011 hearing, and I rely on that too in support of this Complaint. (See Field, Exhibit A).

I firmly believe Judge Miller played a significant part in causing Field to be indicted in 2012. A few months after the grievance was filed, Arthur Field was indicted.

THE RICO LAWSUITS AND THE SECRET EX PARTE MEETING:

In 2012, Jerry Saad, acting for CIF, sued me and my underage daughter and over 100 others in RICO in U.S. District Court, 6:12-cv-03401-BHH-JDA. I wasn't a member or officer of CIF. They sued us again in 2013, 6:13-cv-02326-BHH-JDA. Both cases were dismissed with prejudice by Judge Hendricks in January, 2015. Then, they got the Noteholders to sue us all again in RICO, 6:14-cv-02267-BHH. That case was dismissed with prejudice in 2017. Then CIF and Saad sued me and my daughter again in South Carolina state court, 2015-cp-23-01263. Judge Graveley presided over the case. In 8 years of litigation, not a single piece of evidence concerning CIF's business from 1999 to 2009 was produced in any of the 4 lawsuits.

My family incurred huge legal expenses defending these frivolous cases brought long after all statutes of limitations had expired.

It was only recently I learned that all of my troubles had been instigated by Judge Miller back in April, 2012. I understand he had a secret meeting with Jerry Saad and the Attorney General staff and they agreed to sue me and my family in RICO. They also agreed to bring several Rules to Show Cause against Arthur Field, which Saad did and Judge Miller conducted the hearings.

Ex parte contacts are forbidden for a judge. There is no exception for a Receiver or the Attorney General. But Judge Miller admitted hearing all about CIF in the 2011 informal meeting. He said, "Having heard that and I've heard it three or four times..." (Exh. A, p.29, ll.10-11). Since he never presided over any hearing about CIF's business between 2008 and 2011, he could only have learned about CIF from his own investigations, or from *ex parte* contacts. He confirmed *ex parte* contacts with Saad several times (e.g., Exh. C., p.10 "I am in regular communication with the receiver in this case."

THE FIRST RULE TO SHOW CAUSE HEARING:

JUDGE MILLER FINDS GOOD SERVICE WITHOUT ANY PROOF:

The pertinent Rule to Show Cause was only ultimately issued against Field on August 22, 2013. It was served on an unrelated third party—not Field. I was with Field,

and confirm he was never served. The person upon whom service was attempted submitted an Affidavit confirming the process server's misdeeds and the lack of actual service upon Field (see *Affidavit of Stanley*, 9/12/13 annexed). Judge Miller rejected the Affidavit and that defense. The process server couldn't even identify Field. She described Field as 5'6"—6' tall and 200 pounds, i.e. Carl Stanley. Field is 5'2", 120 pounds. Despite this, Judge Miller arbitrarily found 'good service'. (Exh. B, p, 18, l.1)

JUDGE MILLER CALLS FIELD A CRIMINAL SEVERAL TIMES:

That September 17, 2013, hearing was a kangaroo court. Judge Miller came out of chambers, sat down on the bench and started spewing invective at Field, calling him a criminal. I distinctly recall he said **"Mr. Field, we know why you are here. You're here because you stole \$40 Million and pled guilty to it."** Field didn't steal \$40 Million and certainly had not pled guilty to it. (He pled to omitting 3 sentences from a prospectus. No allegation of theft, larceny, embezzlement or other financial crime was ever levied.) Judge Miller continued in this manner for several minutes before permitting counsel to speak. Attorney Martin was distracted because his associate Laura Teer couldn't get inside the courtroom with the case files.

JUDGE MILLER DENIES CONTINUANCES:

Field hired attorney Bradford Martin September 10, 2013, when he learned of the impending hearing. The Rule concerned production of documents to CIF. No prior continuance had been sought and he had only been Field's attorney for about 1 week.

Saad's Rule *Affidavit* and exhibits were voluminous and Martin requested a reasonable continuance to allow him to become familiar with the evidence in the case and the allegations:

ATTORNEY MARTIN: ...I'm new to this case...I would like to get a continuance to take depositions, to get documents reviewed..involved thousands of pages of documents. And the only way to present my client's side of this is to have that discovery. There is he said, she said, they gave me this, he didn't give me that and all kinds of factual issues that need to be resolved. ...I just need that time to prepare in order for you to have a fair and impartial way of making a decision.

Judge Miller immediately denied the request and berated attorney Martin and indicated he already made his decision about the merits of the Rule:

THE COURT: That motion is denied. We been [sic] living with this case for four years, five years. All your client has to do is turn over what he agreed to turn over and that's all he's got to do.

(See, Field's Exh. B, p. 3, l. 23—p.4, l. 1)

A motion for recusal was then made by attorney Martin and summarily denied. I remember Judge Miller yelling at Field and attorney Martin repeatedly. Judge Miller simply ignored all of attorney Martin's objections; he didn't even deny them.

At one point Judge Miller allowed unidentified persons in the gallery to speak without being sworn as witnesses. Attorney Martin objected strenuously. Judge Miller started screaming at attorney Martin to sit down, or he would hold him in contempt for objecting. Attorney Martin was visibly shaken by this.¹

CIF produced a surprise witness, attorney Christopher Westrick from New Jersey. Westrick submitted a 'book' with hundreds of pages of documents into evidence related to the New Jersey case Saad brought against Field, BER-L-3790-12, which had been dismissed with prejudice in 2013 by Superior Court Judge Perez-Friscia, affirmed by the N.J. Appellate Division. It had no relevance to the Rule to Show Cause concerning allegedly 'missing documents' in South Carolina.

Attorney Martin again requested a continuance to review the evidence book before consenting or objecting to its admission into evidence. Judge Miller refused this request. Martin was shocked. Westrick proceeded to testify at length. Martin asked for an opportunity to review the documents and present rebuttal to the surprise 'off-topic' testimony to preserve Field's due process rights. Judge Miller refused.

The Transcript page 136, lines 4 to 17 [Field's Exhibit B, page annexed] shows:

¹ On cross-examination, Saad confirmed Field had delivered thousands of pages of documents, but claimed he didn't receive certain documents. However, Saad couldn't identify what documents he didn't receive. It was nonsense. Attorney Martin kept asking Saad what was missing; what did Field contemptuously fail to do?. Saad couldn't respond with any specifics other than a video and one check. Field testified Saad had told him to hold the original check in safekeeping and Saad confirmed Field had delivered a copy of the check immediately upon receipt.

Attorney Martin: Your Honor, we would like to present affidavits and an opportunity to respond to this witness that was a surprise witness to us, we did not know he was going to be here, so this Court can make a proper ruling.

The Court: No, sir, if you have something you want to put up, put it up now.

Mr. Martin: This is why normally in a proceeding I have an opportunity to defend my client, today I didn't have that opportunity and therefore flying in a witness from New Jersey, a lawyer, how in the world would I know that that would be part of this case and I'm asking the Court for an opportunity to supplement the record in order to have a fair hearing for my client..

Afterward Martin remarked to us he had never been treated with such disrespect by a judge. Judge Miller found Field in contempt for 'failing to deliver a video' that had only recently arrived from the videographer and had been given by Field to the State Grand Jury pursuant to his proffer, and was, therefore, a sealed document. He also said failing to deliver the original check was contempt. Nothing in the 2009 Settlement Agreement obligated Field to deliver either the video or the check. This was a ridiculous decision. Attorney Martin advised Field to appeal.

THE TRANSCRIPT IS TAMPERED WITH BY JUDGE MILLER:

Field ordered and paid for the Transcript. I went with Field to meet the court reporter in a parking lot. She handed over the Transcript and told us that Judge Miller had made her delete the first 5 pages of the Transcript. That was when Miller called Field a criminal the first time. The Transcript 'begins' with attorney Martin's remarks, which didn't occur for several minutes after the court session began. We reminded her to hold onto the tape recording, which she confirmed she possessed.

JUDGE MILLER DENIES REFORMING THE TRANSCRIPT AND IMPROPERLY STRIKES AFFIDAVITS OF LEADING CITIZENS FROM THE RECORD BECAUSE THEY ATTESTED TO HIS COMMENTS AND DEMEANOR:

Judge Miller denied every attempt by attorney Martin to reform the Transcript. Mysteriously, the original tapes of the hearing had been destroyed. Judge Miller then denied the Affidavits of three leading members of the Upstate community attesting to Judge Miller's improper comments. Henry vanDyke was a Senior Vice President of

Fluor, in charge of North American operations. Richard Lackey was president of Del-Tec packaging. They and Evangelos Orfanedes were pillars of the community. These were reliable, informed observers who attested to the missing language and that Judge Miller exhibited extreme bias. None of them had a business or social relationship with Field, other than as a neighborhood acquaintance. Judge Miller denied admission without legal grounds on Feb. 2, 2015. He said the three men came from the same neighborhood and were not impartial. He also recapped Field's guilty plea, which had nothing to do with the Motion to reconstruct the record.

The Order (Exhibit annexed) states:

Field contends that the Court made certain comments before the case was called for a hearing and that a description of the comments of the Court is necessary for the purpose of Appellate review..”

Then, ignoring the issue of the missing language, and the actual statements in the *Affidavits*, Judge Miller held :

It appears that the tendered *Affidavits* make reference to a question that is contained at page 7 of the Transcript of the September 17, 2013 hearing. The transcript indicates that, among other things, the Court asked Mr. Martin a question as follows: “So, let me get this straight, your client stole forty million dollars and now he’s the victim? It also appears that the tendered *Affidavits* contain personal commentary about the demeanor of the Court during the hearing. The proposed *Affidavits* do not claim that the trial transcript is in any way inaccurate or incomplete...It is the finding and determination of the Court that the proposed *Affidavits* should be disallowed. The *Affidavits* are self serving and include an attempt to introduce into the record things that were not part of the record.

This was arbitrary and capricious:

- a) The entire point of the *Affidavits* was to reconstruct the missing portion of the record.
- b) The judge’s demeanor was relevant. The standard for recusal is whether an informed, reasonable observer perceives a judge to be biased based upon comments and the judge’s demeanor.

- c) Any objection to the Affidavits would have gone to weight not admissibility.
- d) But even Judge Miller admits he accused Field of stealing \$40 Million despite a restitution order of \$2.87 Million based solely on securities fraud, not any financial crime.

THE 2016 SHOW CAUSE HEARING CONDUCTED IN FIELD'S ABSENCE AFTER HE HAD BEEN INVOLUNTARILY ADMITTED TO A HOSPITAL:

In September, 2016, another Rule to Show Cause hearing took place. Arthur Field had been attending out-patient clinic at the Carolina Center for Behavioral Health due to severe depression brought on by these never ending harassing law suits by Saad, and attorneys Pillsbury, Case and Brandt. In the course of one such, Field went outside into the parking lot and was found on the ground in a state of disoriented shock and was diagnosed with possible suicidal ideation. He was immediately admitted involuntarily to the in-patient program. The Carolina Center faxed the Court Clerk with proof of the admission immediately and it was delivered to Judge Miller the day before the hearing was to occur.

Despite advance notice, and confirmation of Field's condition, Judge Miller elected to conduct the hearing in Field's absence. (Exh. C, p.13) Attorney Martin, who represented Field on the appeal of the 2013 contempt citation discussed above, was not notified and was not present. (Judge Miller has not permitted Martin's withdrawal from the 3665 case even unto October, 2020, so knew attorney Martin should have been present in 2016.)

I was subpoenaed to attend. Attorney Tom Stephenson confirmed to the court Field was involuntarily hospitalized and read a letter to that effect from the Carolina Center (Exh. C, p.7, l. 11—p.8, l 10). Judge Miller disregarded this representation from a respected member of the Greenville Bar and called Field a liar. He said he didn't believe Field was involuntarily hospitalized. (Exh. C, pg.14, ll.3-10). I could not believe it when Judge Miller proceeded with the hearing.

He allowed CIF to call witnesses and reviewed and admitted evidence into the record without any opportunity for Field or his counsel to object. Once the exhibits were seen and the testimony heard by the judge, it couldn't be 'unseen' or 'unheard' if Field

objected at some later date. I understand Judge Miller admitted 29 exhibits at that hearing.

I was called to the stand, and Judge Miller did not warn me of my spousal privilege or about the Fifth Amendment. Instead, he let attorney Brandt browbeat me concerning matters that weren't even relevant to CIF, flashing exhibits in front of my face involving complex tax matters. I kept saying I didn't know what the individual exhibits meant and needed time to look at each to understand what he was asking and to refresh my recollection concerning tax documents I didn't prepare from several years prior to the hearing. He refused and Judge Miller allowed him to continue in this manner. I felt overwhelmed and abused. Then Judge Miller began harassing me. He kept helping Brandt question me and then began his own extensive line of questioning, which was clearly biased.

The 2016 Transcript (Exh. C) shows he did the same thing to witness Kirsten White after I testified; he even threatened her with perjury if she didn't change her answers to be what he wanted. Neither of us was a party to 3665.

JUDGE MILLER DEMEANED FIELD AND HIS FAMILY AND LET PEOPLE IN THE GALLERY DO SO:

In the 2016 contempt hearing in Field's absence, Judge Miller repeatedly demeaned Field and me. In the Transcript, pg. 99—100, another unidentified, unsworn speaker from the gallery stated: "And I think the family is equally manipulative." Judge Miller replied, and again confirmed *ex parte* contacts with Saad and obvious bias:

THE COURT: "All right. I agree with you completely..... I've been telling Mr. Saad all these years as we went through this, he will be held accountable in this life or the next. I want to tell you I honestly believe that these gentlemen have done everything they can to make him accountable in this life. We're—they don't have the evil genius that he has ..."

During one hearing before Judge Miller, I recall members of the gallery including Clara Brooks started swearing at me and my child during the proceedings. My daughter and I were distraught at a child being told to go "f**k' herself in an open courtroom. I

recall Judge Miller just laughed at the comments; he did nothing to stop them or to chastise the persons berating us.

In every hearing, Judge Miller's demeanor was horrid towards Field, his attorneys, me, my attorneys, and my daughter's lawyers. Every motion for recusal, and there were many, was denied without explanation.

JUDGE MILLER BLOCKED OR DIVERTED FIELD'S RECUSAL MOTION:

In 2012, Field had filed a Motion for Recusal and paid the motion fee. It never appeared on the calendar. He also submitted an Affidavit in support of such motion and renewed the motion. Neither were reflected in the court record.

Some years later, Field and I were examining the entire file in the Greenville Court Clerk's office. We came upon the motion and the affidavit with a note affixed to it telling the Clerk to put the documents in the file, but not to clock them. It appeared to have come from Judge Miller, and was done at his direction. My husband immediately brought this to the Clerk's attention and drafted a document to enter into the record showing that the motion and affidavit had been submitted years earlier.

Taken alone, this might be a doubtful occurrence or an accident. But combined with the deletion of portions of the record, including the statement "Field will be writing that book from prison" in March, 2017, one must conclude Judge Miller has conducted a vengeful campaign against Field and his entire family.

JUDGE MILLER INTERFERES IN THE 01263 CASE TO DENY LEGITIMATE DISCOVERY DEMANDS TO PROTECT THE RECEIVER:

CIF demanded volumes of discovery in federal court, which Field delivered and was left in attorney Martin's office as agreed in response to the 2013 contempt citation. Ironically it was only in 2016 when attorney Martin threatened to dispose of the several boxes of records taking up an entire corner of his conference room for years, that attorney Pillsbury finally arranged to have the records inspected.

In 2015 to 2017, my attorney Stephenson requested discovery of CIF and it was ignored. Similar requests by numerous defendants in federal court in 2014 to 2017 were also ignored by CIF/Saad. CIF never responded to any discovery.

Attorney Stephenson filed a Motion to Compel and for sanctions in 2015-cp-23-01263 where I was a defendant [copy annexed]. The motion was to be heard by Judge Graveley. To our surprise, Judge Miller issued a decision staying our discovery until after 'resolution of the restitution motion in 2008-cp-23-3665'. [Order annexed] I wasn't a party to 3665. There was no open case on that docket, which went to judgment in 2009. There was no 'restitution motion' pending in that matter. Field was held in contempt in 2013 for allegedly failing to produce one document out of thousands, but I was denied the right to see any discovery in the 01263 case where the pleadings were closed and trial was pending.

The entire purpose was to prevent me and my attorney from obtaining discovery of the Receiver to cover up his incompetence. I firmly believe Judge Miller is a party to such actions by the receiver. What other judge would let a receiver collect over \$5 Million and pay only a pittance to the creditors while continuing to pay himself and his attorneys millions of dollars over 11 years?

JUDGE MILLER HOLDS FIELD IN CONTEMPT AGAIN IN 2018 OVER A CHECK WHICH HAD BEEN DELIVERED BY ATTORNEY BANNISTER TO CIF 7 MONTHS PRIOR TO THE 'UNSCHEDULED' HEARING WITHOUT ANY FORMAL CHARGES OR RULE TO SHOW CAUSE. JUDGE MILLER INSTIGATED THE CHARGES, PROSECUTED THE HEARING AND TRIED THE MATTER IN VIOLATION OF FIELD'S RIGHTS TO AN IMPARTIAL COURT:

On July 2, 2018 Judge Miller held Field in contempt yet again without having served a Rule to Show Cause or other formal charge against him. Field and I were in North Carolina on business, for which Field had secured permission from DPPPS weeks in advance. We had no advance notice of the hearing.

We learned of the contempt citation the evening of July 2, 2018 from attorney Bannister, who told us over the phone that Judge Miller was first going to hold Field in civil contempt, but couldn't figure out what Field would have to do to purge such a contempt since the \$17,000 check in question had been in Bannister's possession as Allyson Field's attorney since it was issued to her in June, 2017, and had been delivered to CIF in December, 2017—7 months prior to the contempt 'hearing'.

Instead, Judge Miller told Bannister he would hold Field in criminal contempt and sentence him to 1 year "to make up for the shamefully short sentence Judge Maddox

gave Field in 2013". To the best of my recollection, Bannister told us he reminded Judge Miller that a 1 year sentence required a jury trial. According to Bannister: Miller stated he was aware no jury would ever convict Field since there was no evidence of real contempt. He asked Bannister what the maximum sentence could be without a jury. I recall attorney Bannister told us that he replied '6 months' to Judge Miller. So, Judge Miller issued an order fining Field the outrageous amount of \$1 Million or 6 months in prison. He told Bannister he did that because he believed Field had millions hidden away and would pay to stay out of prison.

Field has no money secreted in Luxembourg (as Judge Miller accused him of in one hearing) and Field spent 6 months in prison despite the immediate appeal that had been filed. When Field turned himself in, DPPPS served him with a violation of probation citation that had apparently been prepared in advance of the July 2 hearing. This was undoubtedly based on the conversations Judge Miller had with probation that prevented Field's transfer to our home in Florida in December, 2017 and January, 2018, many months prior to the July, 2018 impromptu contempt hearing. Field had served 4 years and 9 months of his probation without incident. The entire matter was apparently orchestrated by Judge Miller to cause the probation violation.

IN CONCLUSION, JUDGE MILLER IS UNFIT TO BE ON THE BENCH. HIS RE-ELECTION SHOULD BE DENIED TO PROTECT THE PEOPLE OF SOUTH CAROLINA:

Judge Miller routinely exhibited conduct that was disrespectful, arrogant, impatient and arbitrary as described above and at length in Arthur Field's Complaint and Supplement, which I support. To the best of my knowledge and belief, Field's allegations accurately reflect events complained of. Judge Miller's actions were court room tyranny over 9 long years. These were not isolated incidents. At every step, he ignored the rule of law. When all of this is taken into consideration, the only conclusion is that Judge Miller must be removed from the bench and not permitted re-election. He is an embarrassment to the judicial profession.

Kathryn Taillon



10/19/20

Capital Investment Funding Special Meeting

could just pick up and look and see. It took extensive amount of digging, looking through records, traveling to Georgia looking at opposing counsel records down there to understand how all this could have occurred. And this is not the only time -- I believe this is not the only time this type of thing has occurred in this case and that's why we are spending time to go search, seek, and recover whatever we can.

THE COURT: Having heard that and I've heard it three or four times and I still do not have a complete understanding of it. When I say shell game, a lot of these people are connected in other matters and it's moving around and it's hard to keep up with which cup has got the pea under it. And what they have done in the last two years -- this is what your receiver has done. He has discovered information, try and trace the funds and where they went, what happened to them and I just want to -- there is no way to sugar coat the thing. There is no pot of gold out there.

All the 38 million dollars we're trying to find it, but ladies and gentlemen, we don't know where it went. We know eighteen million is up in New Jersey. There are a lot of things we can not tell you because it might impair our ability to pursue some of this stuff, but I asked Jerry to give you an idea the flavor of what he's

EXH A

Capital Investment Funding Special Meeting

it was suggested we drop the price to three hundred thousand and we think it'll although there's not a lot hanging up there. So we think we'll get somewhere around one hundred for those properties. If we fire sold, we'd probably get a hundred. All those numbers added together immediate liquidation about seven hundred thousand and orderly liquidation about a million four. So combined we're looking at about a million four if we stopped, liquidated and got what we could and moved on. If we had got through and orderly liquidation, we think we could get three million dollars and that's without considering recovery of any lawsuits.

THE COURT: All right. I wasn't sure before now I know why they call them bean counters. A little attempt at humor.

MR. SAAD: I resemble that remark.

THE COURT: Thank you very much, Jerry.

I hope what he has recited to you gives you some notion of the effort that has been put in on your behalf in trying to marshal the assets and evaluate them and determine how best to dispose of them. We have set aside some time for Mr. Author Field to make some comments if he wanted to. He had declined to be present. He sent a letter and I'm not going to read it. It's self-serving and it's not worth going through. There is nothing of

complex.

As far as opting out, I don't know if anyone here wants to opt out but I will tell you this think about it and what has been done. I know you haven't heard all this until now and maybe you can understand why. How can you express this over the Internet? How could you understand the complexities of how the monies have been moved and shuffled and I promise you, ladies and gentlemen, you have not heard a tenth of it. It's like peeling the layers off an onion. So if you want to opt out consider whoever you go to get them to represent you 's going to get the whole onion and they're going to have to peel it away themselves because the rest of the class members are not giving away their work product. You all own this information.

We're guarding it for you and we're using it for your benefit and I hope you agree we've got the right people doing it. I am confident that that's what's going on.

Now, Mr. Case anything you want to say.

MR. CASE: No, sir, I would just like to have my original client stand up Mr. Troy Bridges. He is one of five families that came to me. Mr. Bridges and his group are one of the original investors and he has been to one of the hearings when we got a claim dismissed in

Tomz vs. Capital Funding

1 PROCEEDINGS

2 THE COURT: Okay.

3 MR. MARTIN: Good afternoon, Judge. I had
4 filed a motion for continuance. I don't know if you want
5 to hear that or not.

6 THE COURT: You can say what you'd like about
7 it.

8 MR. MARTIN: First of all I'd like to say
9 that I'm new to this case and this case is old. I would
10 like to get a continuance to take depositions, to get
11 documents reviewed. The allegations in this case for the
12 rule to cause covers as tremendous amount of time, in a
13 tremendous amount of cases from New Jersey to bankruptcy
14 courts and involves thousand and thousands of pages of
15 documents. And the only way to present my client's side
16 of this is to have that discovery.

17 There is he said, she said, they gave me
18 this, he didn't give me that and all kinds of factual
19 issues that need to be resolved. It shouldn't be resolved
20 on a rule to show cause and I just need that time to
21 prepare in order for you to have a fair and impartial way
22 of making a decision.

23 THE COURT: That motion is denied. We been
24 living with this case for four years, five years. All
25 your client has to do is turn over what he agreed to turn

Tomz vs. Capital Funding

1 over and that's all he's got to do.

2 MR. MARTIN: And, Judge, that's what he's
3 been doing for several years. My second motion is a
4 motion to dismiss based on jurisdiction and that motion is
5 based, number one, on the fact that he was never served
6 with the order and rule to show cause. Under the rules
7 you've got to be served and we have an affidavit to show
8 that an individual that doesn't live in his house was
9 served and he was never served. Personal service is
10 required and it has never been done under Rule 5 and
11 therefore on that ground alone, the order should be
12 dismissed for failure to properly serve Mr. Fields.

13 The second reason, Your Honor, is because
14 there is a lack of subject matter jurisdiction. Thanks to
15 your wisdom back in August of 2009 when you were faced
16 with the problem of how in the world do you get documents
17 reviewed and protect the constitutional rights of
18 Mr. Fields, you came up with a order that said his
19 constitutional rights will be preserved and I ordered that
20 and then the documents will be given in 10 days.

21 He was also dismissed in your order in August
22 of 2009. You clearly and unequivocally ordered that. You
23 even put in your order that they had a right to
24 re-institute a cause of action within the time allowed by
25 law which is three years which would have been August of

Murphy - Redirect

1 THE COURT: I'm going to find that he's been
2 duly served.

3 MR. CASE: If I may address the issues of
4 jurisdiction just briefly, Your Honor.

5 THE COURT: Yes.

6 MR. CASE: I'm Stan Case. I'm the attorney
7 for the class in the class actions, Your Honor. I was
8 appointed by Your Honor. The mediated global settlement
9 agreement and the order approving the settlement in itself
10 gives Your Honor jurisdiction and also the law in the
11 State of South Carolina gives Your Honor jurisdiction and
12 you retained jurisdiction in that order.

13 I would to save time point out a few salient
14 points about that order, Your Honor. I've got it in my
15 hand. On Page 4 of that order Arthur Field was "Required
16 to offer truthful testimony and shall agree to cooperate
17 in any proceeding in state or federal court to include
18 bankruptcy court and in such cooperation shall include
19 testimony and/or deposition which shall be without cost to
20 the receiver or to the note holder, however out of pocket
21 expenses will be reimbursed for travel more than 50 miles.
22 He shall provide copies of all records, emails and
23 reports, letters, documents, mortgages, notes and any
24 other materials which shall support the receivers right to
25 collect from any individual or corporation which has been

Westwick - Cross

1 you for being here.

2 Anything else?

3 MR. CASE: Not from this side.

4 MR. MARTIN: Your Honor, we would like to
5 present affidavits and an opportunity to respond to this
6 witness that was a surprise witness to us, we did not know
7 he was going to be here, so the Court can make a proper
8 ruling.

9 THE COURT: No, sir, if you have something
10 you want to put up, put it up now.

11 MR. MARTIN: This is why normally in a
12 proceeding I have an opportunity to defend my client,
13 today I didn't have that opportunity and therefore flying
14 in a witness from New Jersey, a lawyer, how in the world
15 would I know that that would be part of this case and I'm
16 asking the Court for an opportunity to supplement the
17 record in order to have a fair hearing for my client.

18 MR. BRANDT: If it please the Court, this is
19 to rule to show case hearing for his client to show why he
20 should not be held in contempt for violating the terms and
21 conditions of the orders of this Court. Who testifies at
22 the hearing ---

23 THE COURT: Point well-taken. When was it
24 served? I forgot the date.

25 MR. BRANDT: I believe it was August 22nd.

1 **MR. STEPHENSON:** Your Honor, may I speak?

2 **THE COURT:** Yes, sir, Mr. Stephenson.

3 **MR. STEPHENSON:** For the record, my name
4 is Tom Stephenson. I do not represent Arthur
5 Field. I have never represented Arthur Field.
6 I'm not here on behalf of Arthur Field. I'm
7 here because his wife, Kate Taillon, was
8 subpoenaed and she asked me to come.

9 **THE COURT:** Okay.

10 **MR. STEPHENSON:** So what I am going to
11 tell you is based on what I have been told. I
12 was informed, as were counsel for Mr. Saad,
13 that Mr. Field was in the Carolina Center for
14 Behavioral Health. I'm informed it's some sort
15 of mental hospital. He's been there for about a
16 week on a daily basis, from 9:00 to 3:00. I
17 furnished with a letter because it was
18 furnished to me and I didn't want to surprise
19 anybody.

20 A week or so ago, I sent that letter to
21 you. Several days ago.

22 And so he was there from 9:00 to 3:00.
23 Yesterday, I was informed that he was committed
24 by the Carolina Behavioral Health Center. I'm
25 going to read the letter. Today, Mr. Field's

1 treatment provider at the Carolina Center for
2 Behavioral Health deemed it necessary to
3 hospitalize Mr. Field for his own safety. Mr.
4 Field's discharge date is yet to be determined.
5 I did secure this letter. I talked to his
6 people. I believe it is genuine and I'm glad to
7 hand it up to the Court ---

8 **THE COURT:** Okay.

9 **MR. STEPHENSON:** --- if the Court wants to
10 see it. I am also informed that a global
11 settlement was entered into before mediator
12 Harry Goldberg, mediator from Columbia. I did
13 not participate in this mediation. My client
14 did not participate in this mediation. Others
15 did not participate in this mediation. But the
16 mediation settlement purports to settle
17 everything. I understand that Mr. Field was
18 there. This global settlement provides that my
19 client, his wife, will pay \$10,000 in cash --

20 **MR. BRANDT:** Please the Court, Your Honor.
21 I'm not sure we need to go into this.

22 **THE COURT:** Wait. Let him finish. Let him
23 finish.

24 **MR. BRANDT:** Excuse me.

25 **THE COURT:** Go ahead. Go ahead.

1 **MR. STEPHENSON:** Now, I attempted to
2 persuade these fine gentlemen to call you this
3 week and apprise you of all that and see where
4 you wanted to go. None of them wanted to do it.

5 **THE COURT:** Well, let me -- let's
6 straighten -- let me put some background on the
7 record. Mr. Saad was appointed as receiver in
8 this case, so he acts on my behalf. This case
9 has been assigned to me. It was assigned to me
10 in '08 or '09 when Judge Few had to recuse
11 himself. I've been involved in it ever since.
12 I'm in fairly regular communication with the
13 receiver in this case. Mr. Field has alleged
14 that that is improper ex parte communication,
15 which, in my mind, demonstrates a fundamental
16 lack of understanding of what a receivership
17 is.

18 But having said that, I am aware of the
19 mediation that you all have engaged in. Not
20 you, Mr. Stephenson, but the parties have
21 engaged in. I am aware that, uh, some of the
22 terms of that proposed global settlement are,
23 uh, -- which has not been executed and I
24 understand that -- let me just say this, this
25 case needs to be put to rest. It has caused

1 need to proceed with this -- the purpose of
2 this rule to show cause hearing with the
3 understanding that at some point this case
4 needs to be resolved if there's any way we can
5 get it resolved.

6 So does that sort of -- now, Mr.
7 Stephenson, what would you like to say?

8 **MR. STEPHENSON:** I'm sort of here
9 unwittingly.

10 **THE COURT:** Right.

11 **MR. STEPHENSON:** I don't represent Arthur
12 Field. I was trying to be of help to the court
13 and ---

14 **THE COURT:** And you are. You are.

15 **MR. STEPHENSON:** --- to everybody as to
16 what his situation is claiming to be. I'm not
17 representing him.

18 **THE COURT:** Right. Right. And I appreciate
19 you being here. But this is a matter -- what I
20 would propose to do is -- y'all intend to call
21 witnesses?

22 **MR. BRANDT:** Yes, sir.

23 **THE COURT:** Okay. Then I would propose to
24 go forward with whatever you're intending to
25 do. If we have to -- I intend to reconvene the

1 hearing when Mr. Field has been released and
2 certified that he's competent. And we'll come
3 back. Right now, we're just going to go forward
4 with collecting evidence with respect to the
5 issues that are presented in the rule to show
6 cause. I don't know that I can believe that Mr.
7 Field was involuntarily committed. I have --
8 based on his past, I would have to have medical
9 proof that that was the case. So with all due
10 respect, we will proceed with the hearing.
11 Okay.

12 All right. Mr. Brandt.

13 Thank you, Mr. Stephenson.

14 **MR. BRANDT:** Please the Court. Your Honor,
15 I would like for Ms. White, who is a witness in
16 this case, to be sequestered and I would like
17 to call Ms. Taillon to the witness stand.

18 **THE COURT:** Okay. Ms. White, if you will,
19 wait in one of the rooms right outside the
20 courtroom, thank you very much.

21 (WHEREUPON, Ms. White exits the courtroom.)

22 **THE COURT:** Come on around if you would.
23 Put your left hand on the Bible. Raise your
24 right hand.

25 I have to do it.

1 they faced. I wish I had better news for you. I
2 will tell you that you all have any sentiment
3 with respect to the settlement of the case --
4 are y'all --

5 **SPEAKER:** What do you mean?

6 **THE COURT:** Well, what we're talking about
7 doing is putting this -- putting an end to it,
8 all these lawsuits. We can't find where the pot
9 of gold is. I think I just -- at some point,
10 we've got to, for your piece of mind, put the
11 thing to rest.

12 **SPEAKER:** I agree with you. I do. Matter
13 of fact, he's still doing damage.

14 **THE COURT:** Okay. Yes, ma'am.

15 **SPEAKER:** I know the money is not coming.
16 I know the money is gone. He is very smart,
17 manipulative and narcissistic. He's an evil
18 person and a very good chameleon. I have seen
19 him -- judge, I have seen him interchange money
20 to people and then on the other side giving this
21 appearance of having no money, taking advantage
22 of people. He plays to whatever. He doesn't know
23 the difference between right and wrong.

24 **THE COURT:** Well, I agree with everything
25 you said except the last part about knowing the

CERTIFICATE

C

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville, South Carolina, on this 14th day of November, 2016.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

Teresa B. Johnson

Official Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Capital Investment Funding, LLC,
Plaintiff,

Case No: 2015-CP-23-01263

v.

**DEFENDANT KATHRYN TAILLON'S
MOTION TO COMPEL AND FOR
SANCTIONS**

Arthur Field; Kathryn Taillon, et al.,
Defendants.

Now Comes, Defendant, Kathryn Taillon ("Taillon") pursuant to S.C.R. Civ. P. 37 and moves for an Order to compel responses to her Interrogatories and Request for Production to Plaintiff. Taillon served discovery on December 28, 2016 and February 1, 2017. (Ex. A).

In support of this Motion, Taillon would show as follows:

1. Plaintiff has repeatedly been asked to respond and has ignored all such requests.
2. No extension has been granted.
3. Upon information and belief, the Plaintiff has collected millions of dollars and spent it on Jerry Saad and his attorneys.
4. Upon information and belief, no money has been distributed to the Noteholders.
5. Upon information and belief, Plaintiff has only benefited itself and its attorneys and should be required to answer.
6. Plaintiff has filed numerous complaints all designed not to benefit the Noteholders; rather mostly its actions were designed to gin up legal fees and benefit the Receiver.

Plaintiff should be required to pay Taillon's costs and reasonable attorney's fees.

Respectfully submitted this 9th day of June, 2017.

s/ Thomas L. Stephenson
Thomas L. Stephenson (S.C. Bar No. 5332)
Jeffrey P. Dunlaevy (S.C. Bar No. 16978)
Stephenson & Murphy, LLC
207 Whitsett St.
Greenville, SC 29601
Phone: (864) 370-9400;
Fax: (864) 240-9292
tom@stephensonmurphy.com
jeff@stephensonmurphy.com

FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF GREENVILLE
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2015CP2301263

Capital Investment Funding LLC	Arthur Field Anthony Edgar Bart Kelley Charles Pinion Eugene Hopper	Allyson Field Ashley Morey Brad Kelley Elizabeth Hopper
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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), 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;

This matter is before the Court on Defendant Taillon's Motion to Compel and for Sanctions. After hearing from counsel for each party, the current motion is continued and discovery in this matter is stayed pending the resolution of the restitution hearing involving these parties in Case No: 2008-CP-23-03665.

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:

ELECTRONICALLY FILED - 2017 Jul 28 1:54 PM - GREENVILLE - COMMON PLEAS - CASE#2015CP2301263

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.

ELECTRONICALLY FILED - 2017 Jul 28 1:54 PM - GREENVILLE - COMMON PLEAS - CASE#2015CP2301263

2130

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

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

Rodney F. Pillsbury 25 Mills Ave. Greenville, SC 29605

Bart Kelley 145 Bethel Church Rd Westminister, SC 29693
Keith G Denny Keith G. Denny, P.A. PO Box 101 Walhalla, SC 29691
Bruce Wyche Bannister PO Box 10007 Greenville, SC 29603
Luke Anthony Burke 401 Pettigru Street Greenville, SC 29601
Thomas L. Stephenson 207 Whitsett St Greenville, SC 29601
Arthur Field 310 Thornblade Blvd Greer, SC 29650
Kirsten M White 5 Aldgate Way Greer, SC 29650
Jeffrey P. Dunlaevy 207 Whitsett Street Greenville, SC 29601

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Paul B. Wickensimer Greenville County Clerk of Court - 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), 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.



Greenville Common Pleas

Case Caption: Capital Investment Funding LLC vs. Arthur Field , defendant, et al
Case Number: 2015CP2301263
Type: Order/Form 4

So Ordered

s/ Edward W. Miller

Electronically signed on 2017-07-28 10:07:50 page 3 of 3

IN THE STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF GREENVILLE)	FOR THE 13TH JUDICIAL CIRCUIT
)	
William F. Tomz,)	
)	C. A. No. 2008-CP-23-3665
Plaintiff,)	
)	
v.)	
)	AFFIDAVIT OF CARL STANLEY
Capital Funding, et al.,)	
)	
Defendants.)	
)	

PERSONALLY APPEARED BEFORE ME the undersigned who, after being duly sworn, ~~sworn~~

1. My name is Carl Stanley and I was a house guest of Arthur Field's on August 22, 2013.
2. I am 29 years old, I am 6' tall and weigh approximately 235 lbs.
3. I am not a resident of the household of Arthur Field, located at 310 Thomas Court, Greer, SC.
4. On August 22, 2013, I was approached by a woman who asked me if I was Arthur Field. I responded clearly to her that I was not and returned into the house.
5. The same woman asked me if Arthur Field was at the residence, and I told her no.
6. I was not handed any papers or documents.
7. I found several pages of a document later on the front lawn of the house.

THE AFFIANT FURTHER SAYETH NOT.

Carl William Stanley

 Carl Stanley

SWORN TO BEFORE ME this 12th
 day of September, 2013.

W. E. ...

 Notary Public for South Carolina
 My Commission Expires: 11-20-13

Comp
Miller

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL D. WICKENS, CLERK
COURT OF COMMON PLEAS
13TH JUDICIAL CIRCUIT

2015 FEB 3 PM 3 35

William F. Tomz and Francis W. Tomz,
Individually and as Class Representatives,

Plaintiffs,

vs.

Capital Investment Funding, LLC, and
Arthur M. Field,

Defendants.

ORDER

Civil Action No. 2008-CP-23-3665

On September 17, 2013, this Court held a hearing regarding a Rule to Show Cause requiring the Defendant, Arthur M. Field, to show why he should not be held in contempt. In an Order entered on October 1, 2013, this Court found Arthur M. Field in contempt.

The Defendant Field appealed the Order of October 1, 2013 to the South Carolina Court of Appeals.

Subsequently, Field filed with the Court of Appeals a Motion which the Court of Appeals construed as a Motion to Remand to reconstruct the record because Appellant Field contended the current transcript had rendered his appeal unreviewable.

By Order dated and filed July 19, 2014, the Court of Appeals remanded the case to the Greenville County Court of Common Pleas for a hearing to address the issues concerning Field's Motion to Remand to reconstruct the record.

The hearing on Field's Motion was held on October 27, 2014. Present at the hearing was Attorney Bradford N. Martin of the Greenville County Bar, who represented Arthur M. Field at the

ENTERED COMPUTER

hearing on the Rule to Show Cause on September 17, 2013 and is his attorney in connection with the appeal. Also present at the hearing were George Brandt, III of the Spartanburg County Bar, representing Jerry Saad, the Receiver for Capital Investment Funding, LLC, and Stanley T. Case of the Spartanburg County Bar, attorney for the Plaintiffs (the Class).

The Appellant Field contends that the Court made certain comments before the case was called for a hearing and that a description of the comments of the Court is necessary for the purpose of Appellate review. The Appellant has tendered four (4) Affidavits to the Court, which include the Affidavit of Arthur M. Field, the Affidavit of Angie Orfanedes, the Affidavit of Henry Van Dyke and the Affidavit of Richard Lackey. Orfanedes, Van Dyke and Lackey are neighbors of Defendant Field from the Thornblade neighborhood, and testified on behalf of Field at his sentencing hearing.

Prior to the September 17, 2013 hearing, Arthur M. Field had pled guilty to eleven (11) counts of securities fraud, two (2) counts of criminal conspiracy to commit securities fraud, and one (1) count of forgery. Subsequent to the September 17, 2013 hearing, Arthur M. Field was sentenced and ordered to pay the sum of \$2,877,711.72 as restitution.

It appears that the tendered Affidavits make reference to a question that is contained at page 7 of the Transcript of the September 17, 2013 hearing. The transcript indicates that, among other things, the Court asked Mr. Martin a question as follows: "So, let me get this straight, your client stole forty million dollars and now he's the victim?"

It also appears that the tendered Affidavits contain personal commentary about the demeanor of the Court during the hearing. The proposed Affidavits do not claim that the trial transcript is in any way inaccurate or incomplete. The proposed Affidavits do not state that the Affiants have read the transcript. Nor do they state that the transcript does not contain or include any particular

testimony or statements.

It is the finding and determination of the Court that the proposed Affidavits should be disallowed. The Affidavits are self serving and include an attempt to introduce into the record things that were not part of the record. No effort was made by the Appellant to provide testimony in keeping with the proposed Affidavits at the hearing. Accordingly, the proposed Affidavits are disallowed and will not be included as a part of the record.

An exhibit has been submitted to the Court that relates to the correction of certain scrivener's errors. The Court will allow the correction of the scrivener's errors as proposed, but will not allow any other changes to the transcript of the testimony or additions to the record.

Therefore, it is the finding of this Court that the transcripts of the aforementioned hearing held on September 18, 2013 shall be modified only to reflect the correction of the scrivener's errors that are stated in the exhibit attached to this order, and that no other changes or additions to the record shall be made to the record because no other changes are warranted or proper.

AND, IT IS, SO, ORDERED on this ____ day of ~~December~~, 2014.

2/2/15



Edward W. Miller
Judge for the Court of Common Pleas for
Greenville County

