

Nicholas C. Williamson, PhD
8005 White Ash Court
Oak Ridge, NC 27310
(336) 210-0672
Email: NCWillia@UNCG.edu

April 1, 2013

Honorable Chief Justice Jean Hofer Toal
South Carolina Supreme Court
Office of Disciplinary Counsel
P.O. Box 12159
Columbia, SC 29211

Re: Ethics Violations and related cover-up by Mr. John Rakowsky

Dear Chief Justice Toal:

This is an open letter to the South Carolina Supreme Court, Office of South Carolina Disciplinary Counsel ("ODC") in an attempt to light the lamp of truth as to how John Rakowsky, a member of the South Carolina Bar and the Chief Magistrate Judge of Lexington City Court, was allowed to commit serious ethics violations with the defacto endorsement of the ODC. Enclosed please find attached documents (**Exhibits D & E**) concerning two independent prior complaints on ethics violations involving the commingling of client funds with Mr. Rakowsky's personal funds, filed against John Rakowsky. The first report, dated September 13, 2007, was by a former co-counsel. The second report, dated February 19, 2011, was filed by a client regarding the same case. I, another client, hereby allege that attorney/judge John Rakowsky's violations include, but are not limited to, the following South Carolina Rules of Professional Conduct:

"Safe Keeping of Property 1.15:

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of six years after termination of the representation. A lawyer shall comply with Rule 417, SCACR. (Financial Recordkeeping).

(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(e) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute."**(Emphasis added.)**

BACKGROUND

John Rakowsky was an attorney for both me and a corporation in South Carolina Federal District Court litigation. Funds were raised for our litigation costs and John Rakowsky was required to keep these funds in a trust account. These funds were for non-attorney related legal case and client expenses and were not intended for Mr. Rakowsky's personal use in any form or manner. During the pendency of the case John Rakowsky was continually seeking additional funds for "legal case expenses" that totaled amounts that far exceeded the actual case legal expenses and client expenses. Subsequently, John Rakowsky has both refused to provide a proper accounting required for the client funds he received and has lied about both the receipt of and the handling of thousands of dollars of funds now missing as documented below.

On September 18, 2007, Ron Serota, a co-counsel working with John Rakowsky, unknown to his former clients, filed a complaint with the South Carolina ODC, alleging that John Rakowsky had misappropriated funds he received from his clients. See attached Ron Serota complaint, **Exhibit D**.

On February 19, 2011, former client James Spencer filed a complaint, **Exhibit E**, with the South Carolina ODC, alleging that John Rakowsky had misappropriated funds he received from and for his clients including James Spencer. Note **Exhibit A**, a check that bears the hand written endorsement of John Rakowsky. The check, for \$25,000.00, is from Resolution Settlement Corporation ("RSC") for the clients. The complaint filed on February 19, 2011, included a copy of this check. John Rakowsky denied receiving these funds from RSC in filings and on the Court record in Richland County Circuit Court Case No: **2008-CP-40-6656 (See Exhibit H)** irrespective of the complaints and documented evidence presented to the ODC.

John Rakowsky knowingly lied when he stated in pleadings and in open court in South Carolina Circuit Court that he never received funds from RSC. Conclusive evidence of this is documented in **Exhibit H** where John Rakowsky claimed he accounted for all the sources he received money from in his complaint. Yet, the complaint caption shows he did not account for or include any funds provided by RSC. This denial therefore does not account for the \$25,000.00 from RSC that he deposited into his personal account as documented in **Exhibit A** and **Exhibit C**. This \$25,000 is part of the funds that had purportedly been investigated by the ODC when attorney and co-counsel Ron Serota reported the funds as funds misappropriated by John Rakowsky in his September 18, 2007, complaint filed with the ODC (**Exhibit D**).

On June 24, 2011, the ODC's investigative counsel reported the results of its purported investigation of the February 19, 2011, complaint (**Exhibit E**) to the ODC. The ODC stated in its final report that it had reviewed the report of its investigative counsel and found no ethical violations by Mr. Rakowsky. See **Exhibit F**.

Twice the ODC has received reports on the same ethics violations involving Mr. Rakowsky. The February 19, 2011, complaint included specific documentary evidence on the violations, including a check Mr. Rakowsky denied receiving on the Court record. In both instances the ODC reported investigating the complaints and concluding that there were no findings by the ODC of ethical violations by John Rakowsky.

On January 23, 2013, John Rakowsky reversed his position in a non-South Carolina Court and admitted in Nevada Federal District Court that he did receive funds from RSC including the attached check number 127 for \$25,000.00. However, in the same pleadings in Nevada Federal District Court he lied about putting the RSC funds, as required, into a trust account, see attached document **Exhibit G**. Also, through his pleadings in Nevada Federal District Court, John Rakowsky has acknowledged his lying in South Carolina Circuit Court about not receiving funds from RSC. In that regard, Rakowsky has additionally and unethically confirmed he did not account for clients' funds he received, as he is required to do under the South Carolina Rules of Professional Conduct (See above 1.15 d.)

Please note, the attached notarized document from John Rakowsky's bank **Exhibit C**. The bank verifies that Mr. Rakowsky lied to the South Carolina court about not receiving clients' funds from RSC and lied to the Nevada Federal District

Court (See **Exhibit G**) about putting the RSC funds, as required, into a trust account. **Exhibit C** documents that the funds were deposited by John Rakowsky into a "Sole Proprietorship Checking Account" in John Rakowsky's name, not a trust account.

The bank further confirms in **Exhibit C** that several years later Mr. Rakowsky tried to cover-up the co-mingling of client funds by changing the status of the account to a trust account. Mr. Rakowsky made the change in the account on July 19, 2010, after questions were raised in South Carolina Circuit court about what happened to an estimated \$100,000 he was provided solely and specifically for the benefit of his clients for non-lawyer related legal expenses. Mr. Rakowsky was unable or refused to account for the \$100,000 in South Carolina Circuit court Case No: **2008-CP-40-6656**.

It is clear to me, based on the facts presented herein, that the Chief Magistrate Judge of Lexington, South Carolina, John Rakowsky, has no problem with (1) lying in any legal forum that suits his needs, as well as (2) openly misappropriating funds without fear of the ODC acting against him.

Therefore, the below signatory asks the highest offices of the South Carolina Supreme Court (a) to bring charges against John Rakowsky for ethics violations including, but not necessarily limited to, the mishandling of client funds, lying to federal and state tribunals, and (b) as the state legislature holds open hearings into the public corruption problems in South Carolina, the South Carolina Supreme Court should investigate and explain why the ODC failed in its judicial responsibility in the case of John Rakowsky, despite the fact the resources of the South Carolina Supreme Court were at its disposal. In contrast, a single letter (**Exhibit C**) was able to obtain irrefutable evidence of ethics violations that the South Carolina Supreme Court has long held are of the most serious nature, and yet the ODC did nothing about these violations in Chief Magistrate Judge John Rakowsky's case. The South Carolina Supreme Court policy in this regard is long established:

"We have heretofore emphasized that commingling of trust funds is in itself a serious offense. In *Re Benjamin Mixson*, 258 S.C. 408, 189 S.E. (2d) 12 (1972). Here, the respondent has not only breached his fiduciary duty by improper financial dealing with his naive clients, but has also concocted highly suspect transactions within the attorney-client relationship for personal profit. Such misconduct warrants an imposition of indefinite

suspension. Accordingly, we order that respondent be indefinitely suspended from the practice of law in this State and that he within five (5) days surrender his certificate of admission to practice to the Clerk [***3] of this Court."

In re Kirven, 267 S.C. 669, 671 (S.C. 1976)

Because of the pattern of failures of the system in this particular case, I am forced to report this matter to your honor under the forum of public scrutiny. I look forward to hearing the results of a proper investigation into the failures of the ODC, in this particular case, including applying the appropriate penalties to Mr. Rakowsky along with others responsible for facilitating the cover-up of his actions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nicholas C. Williamson".

Nicholas C. Williamson, PhD

CC: Office of Disciplinary Counsel

Attachments

053000206 07/01/2005
0635388848
053000206 07/01/2005
6231718933
122000166 07/01/2005
6125518787

Do not endorse or write below this line.

ENDORSE HERE
x *[Signature]*
[Signature]

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
EXCEPT FOR FEDERAL RESERVE USE

3535 96601

SECURITY FEDERAL

M-510

255 371 322-4

JUL 30 05

053000206
0635388848
07/01/2005
PK=02

Security Federal
122000166
07/01/2005
PK=04

053000206
0635388848
07/01/2005
PK=04
ENC 2442 TRC-8442
U.S. PATENT & TRADEMARK OFFICE
U.S. PATENT NO. 5,918,951

122000166
07/01/2005
6125516767

This is a LEGAL COPY of
your check. You can use
it the same way you
would use the original
check.

[053000206] 07/01/2005
635388848

127

RESOLUTION SETTLEMENT CORP
9360 W FLAMINGO RD SUITE 110-427
LAS VEGAS, NV 89147

DATE Jan 30 05

ST-178/1224
48095

PAY TO THE ORDER OF John Rakowsky and J. B. [unclear]

Twenty five thousand no/100 DOLLARS 0

FOR [Signature]

COLONIAL BANK, n.a.
Las Vegas, Nevada
24 hr Colonial Connection 1-877-502-2265

⑆000127⑆ ⑆1224078⑆ ⑆8035935199⑆ ⑆0002500000⑆

⑆000127⑆

⑆1224078⑆

⑆8035935199⑆

⑆0002500000⑆


Questions about your account, call
 Colonial Connection: 877-502-2265
 www.colonialbank.com

Business Edge Checking

ACCOUNT NUMBER 8035935199
 STATEMENT PERIOD July 1, 2005 – July 31, 2005

00010 E00

EXHIBIT "B"

 Colonial Bank appreciates your business. Thank you for being our Customer.

**RESOLUTION SETTLEMENT CORPORATION
 9360 W FLAMINGO RD SUITE 110-527
 LAS VEGAS NV 89147**

Account Summary

| | | | |
|-----------------------|---------------------|---------------------------|--------------|
| Previous Balance | \$ 54,790.73 | Average Collected Balance | \$ 18,812.91 |
| Total Credit(s) | + 54,000.00 | | |
| Total Debit(s) | - 44,907.30 | | |
| Service Charge | - 0.00 | | |
| Ending Balance | \$ 63,883.43 | | |

Account Details

Deposits and Other Credits

| DATE | DESCRIPTION | AMOUNT |
|------|-------------|-----------|
| 7/8 | DEPOSIT | 7,500.00 |
| 7/28 | DEPOSIT | 46,500.00 |

Checks Paid ▲ indicates check missing in sequence

| CHECK | DATE | AMOUNT | CHECK | DATE | AMOUNT |
|-------|------|-----------|-------|------|-----------|
| 127 | 7/1 | 25,000.00 | 134 ▲ | 7/7 | 17,000.00 |
| 129 ▲ | 7/11 | 1,000.00 | 135 | 7/21 | 45.00 |
| 130 | 7/8 | 500.00 | 136 | 7/27 | 43.28 |
| 131 | 7/7 | 478.02 | 137 | 7/18 | 425.00 |
| 132 | 7/7 | 216.00 | 138 | 7/21 | 200.00 |

Daily Balance Summary

| DATE | BALANCE | DATE | BALANCE | DATE | BALANCE |
|------|-----------|------|-----------|------|-----------|
| 6/30 | 54,790.73 | 7/8 | 19,096.71 | 7/21 | 17,426.71 |
| 7/1 | 29,790.73 | 7/11 | 18,096.71 | 7/27 | 17,383.43 |
| 7/7 | 12,096.71 | 7/18 | 17,671.71 | 7/28 | 63,883.43 |



January 5, 2012

EXHIBIT C

James Spencer
Suite 183
7001 Saint Andrews Road
Columbia, SC 29212

Reference: John Rakowsky v. James Spencer, et al.
Case # 2008-CP-40-6656

Below please find the information subpoenaed for check #127 in the amount of \$25,000.00.

Check Date: June 30, 2005
Payable to: John Rakowsky and J B Spencer
Deposit Date: June 30, 2005
Deposit to: Security Federal Bank
Checking Account #xxxxxx1313

- a) The check was deposited into a Sole Proprietorship Checking Account on June 30, 2005.
- b) The account holder was John R. Rakowsky.
- c) The account was changed from a Proprietorship Checking to an IOLTA account on July 7, 2010.

If I can be of any further assistance please contact me at 803-641-3084.

Sincerely,

A handwritten signature in cursive script that reads "Annette Hagen".

Annette Hagen
Security Federal Bank
Deposit Operations Manager/AVP
803-641-3084
ahagen@securityfederalbank.com

Margaret A Hunt
Notary Public for SC
Commission expires 3-15-2021

Privileged

Letter to Supreme Court of S.C. dated 9/13/2007 – Page No. 1

Corporate Law Center
2620 Regatta Dr., Ste. 102
Las Vegas, NV 89128
(702) 869-0099

RECEIVED

SEP 13 2007

September 13, 2007

OFFICE OF
DISCIPLINARY COUNSEL

The Supreme Court of South Carolina
Office of the Disciplinary Counsel
Attn: Ms. Barbara W. Hinson
P.O. Box 12159
Columbia, SC 29211

RECEIVED

Re: John Rakowsky
File No.

SEP 13 2007

COMMISSION ON
LAWYER CONDUCT

Dear Ms. Hinson:

The purpose of this letter is to submit a bar complaint as to John R. Rakowsky. I served as co-counsel with John Rakowsky on behalf of the Plaintiffs in the federal district court case Southern Holdings, Inc., James Spencer, et al. v. Horry County, SC et. al. This complaint surrounds the lack of accounting for trust account funds. There appears to be instances of wrongful conduct in the handling of trust account monies.

On or about May 9, 2007, the U.S. District Court has issued an order dismissing the case. There are motions pending with the court to reconsider the order. A check in the amount of \$55,000 was disbursed to the Plaintiffs by the Defendants, and it is believed that such funds remain in the client trust account maintained by Mr. Rakowsky. The case is on appeal with the U.S. Court of Appeals for the 4th Circuit. I represent all individual plaintiffs and the corporate plaintiff in that 4th Circuit action.

First, Mr. Rakowsky received numerous written communications from the clients as well as the under-signed in reference to obtaining an accounting of trust account funds. Mr. Rakowsky has failed to provide an accounting for such fees. Mr. Rakowsky received funds from James Spencer, Plaintiff on or about May, 2005 and again on or about April, 2007. Based on information and belief, the total funds under Mr. Rakowsky's control totals between \$75,000 and \$105,000. A portion of such funds was to be spent on expert witness fees and out of pocket costs. In 2005, Mr. Rakowsky provided very late reimbursement (approximately 3 to 4 months past due) of expert witness fees owed to three economic experts despite having control over trust fund money that was designated for such costs. Mr. Rakowsky owes the undersigned an accounting of such funds as well as a reasonable reimbursement for expert witness fees incurred by this law firm plus out of pocket costs for copying, printing, shipping and similar fees. Contrary to the agreement among the lawyers, the expert and the client, James Spencer, Mr. Rakowsky failed to reimburse \$1600 of expert witness fees owed to one economic damages expert



causing the under-signed counsel to pay such funds out of his own law firm's account, contrary to the agreement among co-counsel.

Second, it is alleged that Mr. Rakowsky wrongfully placed his own out of pocket expenses as reimbursable from the lawyer's trust account prior to that of other co-counsel. He was paid for a substantial portion, if not all, of such expenses incurred by his firm. Further, based on information and belief, Mr. Rakowsky purchased business computer equipment in the nature of a laser printer for his office using client trust funds and has refused to return the equipment to the clients. It is alleged that capital assets for his law firm are not a allowable use of client trust money. To make matters worse, Mr. Rakowsky refuses to return such equipment to present counsel on behalf of the clients.

The undersigned attorney reserves the opportunity to submit additional allegations as to further complaints, which now exist, against Mr. Rakowsky.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Ron Serota". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Corporate Law Center
By, Ronald N. Serota, Esq.

James B. Spencer
Suite 183
7001 Saint Andrews Road
Columbia, SC 29212
(803) 414-0889
Email: JamesBSpencer@sc.rr.com

EXHIBIT E
1 of 2

February 19, 2011

Office of Disciplinary Counsel
P.O. Box 12159
Columbia, SC 29211

Re: Ethics Violations of John Rakowsky and Adrian Falgione, both members of the South Carolina Bar.

Dear Sir/Madam:

Enclosed, for filing with the Disciplinary Counsel, are documents detailing ethical violations by Attorneys John Rakowsky and Adrian Falgione (**See Attachment "One"**). These actions undermined the case of their clients. (Case No. 4-02-1859-12-RBH, South Carolina Federal District Court, Florence Division. The violations described in **Attachment "One"** and the body of this letter include violations of rules 1.1, 1.2, 1.3, 1.15, 3.3, 3.5, 8.2, 8.3, 8.4.

After John Rakowsky and Adrian Falgione resigned from the case during the summer of 2007, they refused to return the remaining funds of \$9,855.85 in the former clients' trust account and to provide any accounting of the funds used from such account. Multiple requests by James Spencer and Resolution Settlement Corporation ("RSC"), which provided all remaining funds held in the account, went unanswered and Mr. Rakowsky has refused to acknowledge having received such funds from RSC and his responsibility to turn over all remaining funds forthwith. (**See Attachment "Two"**) Mr. Rakowsky also has refused to provide an accounting of all funds used in the litigation of this case out of the clients' trust account (**See Attachment "Three"**).

James Spencer also learned that John Rakowsky has wrongly used funds from the trust account to buy personal property for himself including but not limited to a four in one fax, scanner, copier, answering machine.

The damage caused by Mr. Rakowsky's misuse of client funds and his failure to account for such funds continues today, nearly five years after RSC deposited the funds with Mr. Rakowsky that were to be disbursed only on authorization by James Spencer. Mr. Rakowsky former client James Spencer have lost the right to earn interest on the funds in question and to use the funds for other litigation expenses.

If I can provide any additional information to validate this complaint against Mr. Rakowsky and Mr. Falgione please call and/or write me at the above letterhead address. It is my hope that we can resolve this situation at the earliest possible date. Attorney misconduct that is allowed to occur for over half a decade tarnishes the legal system in this state.

Thank you for your consideration. I look forward to hearing from you at your earliest convenience.

Yours truly,


James Spencer

Enclosures

Cc:

Irene Santacroce
Nick Williamson
Ricky Stephens
Dan Green
Ricky Stephens
Doris Holt
Rodney Lail



The Supreme Court of South Carolina
COMMISSION ON LAWYER CONDUCT

Deborah S. McKeown
Commission Counsel

1015 Sumter Street, Suite 305
Columbia, South Carolina 29201
Telephone: (803) 734-2037
Fax: (803) 734-0363

June 24, 2011

PERSONAL AND CONFIDENTIAL

James B. Spencer
7001 St. Andrews Road, Suite 183
Columbia, SC 29212

RE: Lawyer: John R. Rakowsky, Esquire
Matter Number: 11-DE-L-0222
NOTICE OF FINAL DISPOSITION

Dear Mr. Spencer:

You previously filed a complaint with the Commission on Lawyer Conduct about John R. Rakowsky, Esquire in connection with the above-referenced matter. The Commission instructed the Office of Disciplinary Counsel to conduct an investigation into your allegations.

On June 17, 2011, an investigative panel of the Commission convened to consider the recommendation of Disciplinary Counsel for disposition of this matter based on the information gathered in the investigation. As required by the Rules for Lawyer Disciplinary Enforcement, Rule 413, SCACR, the inquiries of the panel were limited to whether or not there was evidence of ethical misconduct on the part of Mr. Rakowsky that would warrant further investigation or the filing of formal charges. After considering the information received from you, Mr. Rakowsky's response, and the report of Disciplinary Counsel setting forth the results of the investigation, the panel voted to dismiss your complaint.

At the direction of the Commission, I am notifying you of the action taken on this matter. This dismissal constitutes a final disposition of your complaint. As required by

James B. Spencer
June 24, 2011
Page Two

the rules, Mr. Rakowsky is being notified of the action taken by the investigative panel by copy of this letter.

Sincerely,



Barbara W. Hinson
Administrative Assistant

BWH/

cc: Desa A. Ballard, Esquire
Counsel for Mr. Rakowsky

Joseph P. Turner Jr., Esquire
Assistant Disciplinary Counsel

EXHIBIT G

1 clearly shows that Spencer entered into the Agreement in South Carolina, not Nevada. *Id.* at
2 page 5. Moreover, Rakowsky was never a party to the contract- the significance of which is
3 described in further detail below- nor did he ever intend to be. See Exhibit B generally, and
4 Exhibit A at ¶19. To the limited extent he acknowledged the Agreement between his clients
5 and Resolution Settlement Corporation, said acknowledgment was also executed in South
6 Carolina. See Exhibit B at page 5. Plaintiff's allegations otherwise are simply belied by the
7 record.

8 Second, the funds in question were transferred to South Carolina to fund pending
9 litigation in South Carolina. See Complaint, generally. Specifically, the funds were placed in
10 a South Carolina trust account for purposes of litigating the *Southern Holdings* matter. *Id.*
11 Additionally, Plaintiff's concerns all directly revolve around how the funds were spent in South
12 Carolina. See Plaintiff's Complaint, generally.

13 Furthermore, the overwhelming majority of Plaintiff's allegations against Rakowsky,
14 which he unequivocally denies, involve purported acts which allegedly occurred in South
15 Carolina. These alleged acts include:

- 16 • failing to provide an accounting of how the funds were used in the South
17 Carolina action; *Id.* at ¶23.
- 18 • settling the South Carolina action case without the client's consent and
19 withdrawing from the case; *Id.* at ¶25.
- 20 • during discovery of the interpleader action, denying knowledge of any and all
21 funds provided by Resolution Settlement Corporation; *Id.* at ¶26
- 22 • changing the legal designation of accounts in which the transferred funds were
23 held; *Id.* at ¶27.
- 24 • misappropriating funds for non-lawyer expenses in South Carolina; *Id.* at ¶28.
and
- 25 • improperly interpleading the remaining funds and settlement in South Carolina.
26 *Id.* at ¶29.

27 Finally, and most importantly, "a substantial part of property that is the subject of the
28 action" is situated and remains in South Carolina. Notably, the remaining funds in dispute,
along with the settlement proceeds from the underlying action, are currently subject to an
interpleader action with the State of South Carolina, Court of Common Pleas, Fifth Judicial

EXHIBIT H
1 of 3

1 is is an action to pay the money in. That's not a
2 contested action about who gets the money or who, whether
3 that's the right money or not the right money.

4 MR. SPENCER: In order for us to resolve this we need
5 to see what, who has claims on the money and where the
6 money was spent.

7 THE COURT: Well, I can't answer that. You'll never
8 resolve it through this, through an interpleader action,
9 until somebody starts making claims. How do y'all intend
10 to proceed with once the money is paid into the Court? I
11 assume your clients are going to make some claims for some
12 of these funds?

13 MS. WEISSENSTEIN: Your Honor, it is our belief that
14 he does have claims that could be made.

15 THE COURT: And who else has claims? How many people
16 do you think have claims for this money?

17 MS. WEISSENSTEIN: Well, that's actually, you'll
18 notice in a footnote, we identified every possible person
19 we can think of to have claims.

20 THE COURT: Just give me a number.

21 MR. RAKOWSKY: Your Honor, it's our opinion basically
22 with the two attorneys representing the Plaintiffs have a
23 potential claim. All the co-Defendants have a claim
24 towards a portion of the funds that were paid in by the
25 settlement. And then there's a couple other institutions

NOTE ON THE FOLLOWING PAGE RESOLUTION SETTLEMENT CORPORATION WAS NOT NAMED AND LIKE THE MONEY IT PROVIDED IT REMAINS UNACCOUNTED FOR BY JOHN RAKOWSKY DESPITE THE BELOW

STATEMENT.

1 that's were lending institutions that paid funds into the
2 case prior to the settlement. And our position was that
3 they might or might not have a claim. So that's why we
4 named them all.

5 THE COURT: Who was that now?

6 MR. RAKOWSKY: There were a couple funding
7 organizations that Mr. Spencer contacted that they paid
8 money in advance of the trial to help fund the procedure
9 of the case or the forwarding of the case.

10 THE COURT: All right.

11 MR. RAKOWSKY: And they're all named in that action,
12 Your Honor.

13 THE COURT: Here's the deal. I'm going to deny the
14 motion to compel. I can't go behind Judge Seals' order.
15 He's already determined that you're not entitled to this
16 information. I don't have the authority to overturn --
17 one Circuit Judge can't go and say another Circuit Judge
18 was wrong. I'd spent my whole life doing that because if
19 they disagree with me, they're wrong.

20 MR. SPENCER: Okay.

21 THE COURT: So I don't have the authority to do that.
22 I don't know what you all have that might satisfy these
23 people, but you might sit down and try to see if there's
24 some verification that, I don't know, where is that, that
25 you spent \$175, \$170 with the Court of Appeals. So I

NOTE RESOLUTION SETTLEMEN Plaintiff
CORP. IS NOT LISTED BY J. RAKOWSKY

2008-CP -40-6056

Southern Holdings, Inc., Adrian L. Falgione, Law Max Legal Finance, Litfunding USA, James Spencer, Doris Holt, Rodney Keith Lail, Linda Williamson Lawrence, Ernest H. Morton, Jr., Irene Santacroce, Ronald N. Serota, David Smith, Marguerite Stephens and Ricky Stephens, Michael Steven Hartness, Harold Steve Hartness, and Horry County, South Carolina,

Defendants

(Please Print)

Submitted By: Hailey Powers

Address: 226 State Street, West Columbia, SC 29169

SC Bar #: 76365

Telephone #: 803.796.9299

Fax #: 803.796.1066

Other:

E-mail: hailey@desaballard.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.
NON-JURY TRIAL demanded in complaint.
This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts: Constructions (100), Debt Collection (110), Employment (120), General (130), Breach of Contract (140), Other (199)
Torts - Professional Malpractice: Dental Malpractice (200), Legal Malpractice (210), Medical Malpractice (220), Notice/ File Med Mal (230), Other (299)
Torts - Personal Injury: Assault/Slander/Libel (300), Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Other (399)
Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Inmate Petitions: PCR (500), Mandamus (520), Habeas Corpus (530), Other (599)
Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Other (799), Declaratory Judgment
Administrative Law/Relief: Reinstate Driver's License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture-Consent Order (850), Other (899)
Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOT (950), Worker's Comp (960), Zoning Board (970), Administrative Law Judge (980), Public Service Commission (990), Employment Security Comm (991), Other (999)
Special/Complex /Other: Environmental (600), Automobile Arb. (610), Medical (620), Other (699), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of State Depositions (650), Sexual Predator (510)