

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY FLORIDA

CASE NO.: 2021 CA 000109
DIVISION: Christopher A. France

FLAGLER COUNTY,

Plaintiff,

v.

AJMAL M. ZULALI, ZUBAIR M.
ZULALI and 2251 S OLD DIXIE
HIGHWAY LLC,

Defendants.

PLAINTIFF'S MOTION FOR DISCOVERY IN AID OF EXECUTION

The Plaintiff, FLAGLER COUNTY, pursuant to Rule 1.560, of the Florida Rules of Civil Procedure, hereby moves this Court for an Order requiring the Defendant, 2251 S OLD DIXIE HIGHWAY LLC, to complete Form 1.977 (Fact Information Sheet), including all required attachments, in aid of compliance with the terms and conditions of this Court's Order entered June 19, 2024, which requires the Defendant to deposit a \$250,000.00 cash bond with the Flagler County Clerk of Court as security for the abatement of the public health and building code violations on the property, and states:

1. This action involves the enforcement of an Agreement between Plaintiff, FLAGLER COUNTY, and the Defendant, 2251 S OLD DIXIE HIGHWAY LLC, regarding property located in Flagler County at 2251 South Old Dixie Highway, Bunnell, Florida 32110, Parcel No.: 03-13-31-0650-000A0-0091 ("Property") and more particularly described in instrument number 2017043977 recorded in Book 2247, Pages 1598 to 1601, of the Public Records of Flagler County, Florida.

2. On June 19, 2024 the Court entered an Order Granting Plaintiff's Amended Motion for Partial Summary Judgment ("Judgment") (DKT #79) finding that the Agreement is valid and binding between the parties and that the County fully performed its obligations under the Agreement.

3. The Judgment further finds that the Defendant, 2251 S OLD DIXIE HIGHWAY LLC, failed to perform its obligations under sections 3(A)(i), 3(A)(ii) and 3(B) of the Agreement and ordered the Defendant to deposit a \$250,000.00 cash bond with the Flagler County Clerk of Court as security for the abatement of the public health and building code violations that exist on the property.

4. On July 17, 2024, the undersigned spoke with the Defendant's counsel and was advised that he would confer with his client and notify the undersigned by July 22, 2024 if the Defendant intended to comply with the Court's Judgment and deposit the \$250,000.00 cash bond with the Flagler County Clerk of Court.

5. Having not heard from Defendant's counsel on July 22, 2024, the undersigned sent the attached letter marked Exhibit A to Defendant's counsel confirming the Defendant's intent not to comply with the Court's Judgment requiring the Defendant to deposit a \$250,000.00 cash bond with the Flagler County Clerk of Court, and that the Plaintiff would be proceeding with all necessary efforts in aid of the Judgment.

6. As of the date of the filing of this motion, the Defendant has refused to comply with the Court's Judgment and deposit the cash bond. The Defendant's refusal to comply is consistent with a longstanding pattern of avoiding accountability and procedural maneuvering intended to delay these proceedings.

7. Rule 1.560, of the Florida Rules of Civil Procedure, states:

Discover in Aid of Execution:

(a) In General. In aid of a judgment, decree, or execution the judgment creditor or the successor in interest, when the interest appears of record, may obtain discovery from any person, including the judgment debtor, in the manner provided in these rules.

(b) Fact Information Sheet. In addition to any other discovery available to a judgment creditor under this rule, the court, at the request of the judgment creditor, shall order the judgment debtor or debtors to complete form 1.977, including all required attachments, within 45 days of the order or such other reasonable time as determined by the court. Failure to obey the order may be considered contempt of court.

8. Pursuant to Rule 1.560(b), of the Florida Rules of Civil Procedure, the Plaintiff moves the Court to order the Defendant to complete Form 1.977 attached hereto as Exhibit B, including all attachments, within 45 days of the order.

WHEREFORE, the Plaintiff, FLAGLER COUNTY, respectfully requests that this Court grant the Plaintiff's, FLAGLER COUNTY, Motion in Aid of Execution, and order:

A. That the Defendant, 2251 S OLD DIXIE HIGHWAY, LLC, complete form 1977, including all attachments, within 45 days.

B. That failure of the Defendant, 2251 S OLD DIXIE HIGHWAY, LLC, to complete form 1977, including all attachments, within such time may be considered contempt of court.

C. All other relief as this Court deems just and proper, including contempt of court.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 26, 2024, I electronically filed the foregoing with the Clerk of the Court by using the E-portal system which will send a notice of electronic filing to Theodore D'Apuzzo, Esquire at ted@dapuzzolaw.com and at service@dapuzzolaw.com and have

mailed a copy to Ajmal M. Zulali and Zubair M. Zulali, 10780 Foxwood Road, San Diego, CA 92126.

/s/ Abraham C. McKinnon
Abraham C. McKinnon, Esquire
Florida Bar No. 629081
Noah C. McKinnon, Jr., Esquire
Florida Bar No.: 108598
595 W. Granada Blvd., Suite A
Ormond Beach, Florida 32174
(386) 677-3431 – Telephone
(386) 673-0748 – Facsimile
Primary Email: lynn@mckinnonandmckinnonpa.com
Secondary: amckinnon@mckinnonandmckinnonpa.com

and

Albert J. Hadeed, Esquire
Florida Bar No. 180906
Primary Email: ahadeed@flaglercounty.org
Sean S. Moylan, Esquire
Florida Bar No. 76251
Primary Email: smoylan@flaglercounty.org
Flagler County Board of County Commissioners
1769 E. Moody Blvd., Bldg. 2
Bunnell, FL 32110
(386) 313-4056 - Telephone
(386) 313-4105 - Facsimile
Attorneys for the Plaintiff.

ABRAHAM C. McKINNON, ESQ.
of
McKINNON & McKINNON ATTORNEYS AT LAW, P.A.
Attorneys and Counselors at Law

Abraham C. McKinnon
Noah C. McKinnon, Jr.

Suite A, Granada Oaks Professional Building
595 West Granada Boulevard
Ormond Beach, Florida 32174
(386) 677-3431- Telephone
(386) 673-0748- Telefax

July 23, 2024

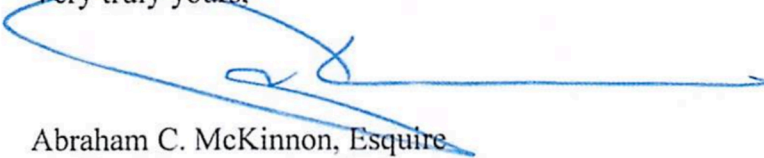
Theodore D'Apuzzo, Esquire
2755 East Oakland Park Blvd., Suite 303
Ft. Lauderdale, FL 33306

Re: Flagler County v. 2251 S Old Dixie Highway

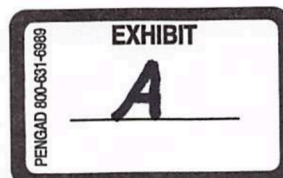
Dear Mr. D'Apuzzo:

I am writing to follow up our previous conversation last week regarding the Court's Judgment dated June 19, 2024 requiring your client to deposit a \$250,000.00 cash bond with the Flagler County Clerk of Court. At that time you informed me that if your client intended to make the deposit in accordance with the Judgment you would notify my office by Monday, July 22, 2024. Since I did not hear from you yesterday, I must therefore assume that your client does not intend on complying with the Court's Judgment and the County will proceed accordingly.

Very truly yours,



Abraham C. McKinnon, Esquire
ACMc/laf





Lynn Fahnestock <lynn@mckinnonandmckinnonpa.com>

Flagler County v. 251 S Old Dixie Highway

1 message

Lynn Fahnestock <lynn@mckinnonandmckinnonpa.com>

Tue, Jul 23, 2024 at 12:28 PM

To: "ted dapuzzolaw.com" <ted@dapuzzolaw.com>

Cc: "legal dapuzzolaw.com" <legal@dapuzzolaw.com>

Mr. D'Apuzzo:

Attached please find a copy of Mr. McKinnon's letter dated July 23, 2024.

Thank you.

Lynn Fahnestock, Legal Assistant to
Abraham C. McKinnon, Esquire
Noah C. McKinnon, Jr., Esquire
McKinnon & McKinnon Attorneys at Law, P.A.
595 W. Granada Blvd., Suite A
Ormond Beach, FL 32174
(386) 677-3431 ext. 239
(386) 676-5665 direct line
(386) 673-0748 facsimile



Letter to Theodore D'Apuzzo 07.23.24.pdf

192K

FACT INFORMATION SHEET

For Corporations and Other Business Entities.

Name of entity:

Name and title of person filling out this form:

Telephone number:

Place of business:

Mailing address (if different):

Gross/taxable income reported for federal income tax purposes last three years:

\$ _____ / _____ \$ _____ / _____ \$ _____ / _____

Taxpayer identification number:

Is this entity an S corporation for federal income tax purposes? _____ Yes _____ No

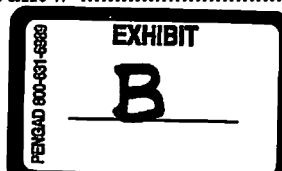
Average number of employees per month

Name of each shareholder, member, or partner owning 5% or more of the entity's common stock, preferred stock, or other equity interest:

Names of officers, directors, members, or partners:

Checking account at: _____ Account #

Savings account at: _____ Account #



Does the entity own any vehicles? Yes No

For each vehicle please state:

Year/Make/Model: _____ Color:

Vehicle ID No: _____ Tag No: _____ Mileage:

Names on Title: _____ Present Value: \$

Loan Owed to:

Balance on Loan: \$

Monthly Payment: \$

Does the entity own any real property? Yes No

For Real Estate (land) you own are are buying:

If yes, please state the address(es):

Please check if the entity owns the following:

Boat

Camper

Stocks/bonds

Other real property

Other personal property

Please attach copies of the following:

1. Copies of state and federal income tax returns for the past 3 years.
2. All bank, savings and loan, and other account books and statements for accounts in institutions in which the entity had any legal or equitable interest for the past 3 years.
3. All canceled checks for the 12 months immediately preceding the service date of this Fact Information Sheet for accounts in which the entity held any legal or equitable interest.
4. All deeds, leases, mortgages, or other written instruments evidencing any interest in or ownership of real property at any time within the 12 months immediately preceding the date this lawsuit was filed.
5. Bills of sale or other written evidence of the gift, sale, purchase, or other transfer of any personal or real property to or from the entity within the 12 months immediately preceding the date this lawsuit was filed.
6. Motor vehicle or vessel documents, including titles and registrations relating to any motor vehicles or vessels owned by the entity alone or with others.
7. Financial statements as to the entity's assets, liabilities, and owner's equity prepared within the 12 months immediately preceding the service date of this Fact Information Sheet.
8. Minutes of all meetings of the entity's members, partners, shareholders, or board of directors held within 2 years of the service date of this Fact Information Sheet.
9. Resolutions of the entity's members, partners, shareholders, or board of directors passed within 2 years of the service date of this Fact Information Sheet.

UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM THAT THE FOREGOING ANSWERS ARE TRUE AND COMPLETE.

.....
Judgment Debtor's Designated
Representative/Title

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, (year), by

who is personally known to me or has produced _____ as identification and who

_____ (did/did not) take an oath.

Witness my hand and official seal, this _____ day of _____ (year).

.....
Notary Public State of Florida

My Commission expires: _____

THIS JUDGMENT DEBTOR SHALL FILE WITH THE CLERK OF THE COURT A NOTICE OF COMPLIANCE AFTER THE ORIGINAL FACT INFORMATION SHEET, TOGETHER WITH ALL ATTACHMENTS, HAS BEEN DELIVERED TO THE JUDGMENT CREDITOR'S ATTORNEY, OR TO THE JUDGMENT CREDITOR IF THE JUDGMENT CREDITOR IS NOT REPRESENTED BY AN ATTORNEY.

Type of identification produced

YOU MUST MAIL OR DELIVER THIS COMPLETED FORM, WITH ALL ATTACHMENTS, TO THE PLAINTIFF JUDGMENT CREDITOR OR THE PLAINTIFF'S JUDGMENT CREDITOR'S ATTORNEY, BUT DO NOT FILE THIS FORM WITH THE CLERK OF THE COURT.