

April 7th, 2022

Lewis Realty, LLC

Third-Party Bidder

Case No 21-CC-12711

**AMENDED MOTION WITH EXHIBIT OF SUPPORTING DOCUMENTS TO
THIRD-PARTY BIDDER MOTION TO RETURN THIRD PARTY'S 5% DEPOSIT**

Lewis Realty, LLC, a Third-Party Bidder in the present case ("**Lewis Realty**"), files this motion "pro se" on its own behalf. We request that the Court return its earnest money of \$19,726.00 (less appropriate administrative fees, if any), for the following reasons:

1. Lewis Realty understands that Florida law places a burden on the buyer to conduct its own lien searches prior to purchasing property in a foreclosure sale. We must acknowledge that prior to placing our bid, we failed to identify a very significant senior mortgage on the property that is the subject of this foreclosure. We were not aware until after paying our earnest money that a prior senior mortgage totaling over \$300,000 is currently being litigated before the 4th Circuit of Duval County (see Bank of New York Mellon v. ABPAYMAR et. al, Case No: 16-2018-CA-006119) (the "**Senior Mortgage**"). But it was not just our discovery of the Senior Mortgage that caused us to walk away from our bid. There were other oddities about this foreclosure about which we would like the Court to be aware.
2. Immediately upon placing our bid and paying our earnest money, Lewis Realty received an anonymous tip via phone and e-mail saying that this foreclosure action is part of a junior lien foreclosure scam designed to lure innocent bidders into purchasing encumbered properties. In fact, the tipper told us that the first bidder in this matter, who also walked away from their earnest money, was likewise discouraged from purchasing this property after discovering a previously unknown senior mortgage. While we cannot vouch for the credibility of the tipper, and while do not know whether this present case is indeed a scam, after checking with a real estate attorney with whom we are acquainted, we were told that junior-lien foreclosure scams have been on the rise in Florida. That same attorney was able to help us discover the Senior Mortgage, but by then we had already paid our earnest money.
3. Given the fact that Lewis Realty is the second bidder to have "missed" the existence of the Senior Mortgage, Lewis Realty asks the Court to consider the possibility that parties to this foreclosure may have acted in a manner that served to lure innocent bidders into the presumption that there are no senior liens or mortgages in play, when in fact the defendant is well aware, and upon information and belief the plaintiff may also be aware, that the property is encumbered by the Senior Mortgage.

4. In defense of our failure (and perhaps the prior bidder's failure) to identify the senior mortgage prior to placing our bid:
 - a. The Senior Mortgage does not seem to be readily available by conducting a standard lien search using publicly available on-line property records. Even after we received the anonymous tip, we could only locate it only with the help of an attorney-friend. It was found as an attachment to a complaint in the separate foreclosure matter mentioned above. However, before our bid, we had no cause to search for related litigation matters because in the Cover Sheet for this case, Plaintiff's counsel indicated that no known related cases have been filed.
 - b. Similarly, even though the separate action involving the Senior Mortgage is currently being litigated in the same judicial circuit, no mention of it can be found in the entire public record of this case.
 - c. In the Agreed Final Judgment of Foreclosure, not only is there no mention of the Senior Mortgage or the other related foreclosure action, there are indications that the property would be sold at auction free and clear of encumbrances other than those regarding condo and homeowner's association liens (see Section 4 of the Order), of which there are none; and in Section 7 of the Order regarding Distribution of Proceeds, there is no mention of the use of any proceeds for purposes of satisfying any senior liens or mortgages.

5. After receiving the anonymous tip mentioned above and discovering the Senior Mortgage and the pre-existing foreclosure action, we also learned that:
 - a. One of the founding members of defendant ABPAYMAR, LLC was a Florida attorney who was disbarred in 2019 for matters involving real estate foreclosure and title irregularities.
 - b. Corporate records of the FL Department of State (on Sunbiz.org) seem to indicate that principals of the plaintiff and the defendant have been business associates for some time, having formed corporate entities together for various business purposes going back to 2012 and continuing to the present.

6. Also after receiving the anonymous tip, the founding member of ABPAYMAR (the disbarred attorney) contacted us and offered to assist us in recovering some of our earnest money if we would help him identify the anonymous tipper.

7. So, in closing, we trust that the Court will agree that the circumstances surrounding this case are unusual. It was not just our late discovery of the Senior Mortgage that caused us to walk away, but the fact of the anonymous tip itself and our discovery of the other facts and occurrences mentioned above that led us to believe there is more to this foreclosure proceeding than meets the eye. While we cannot say for sure, we could not escape the feeling that we had been lured into a situation that was more complex than it appeared. And so, at a minimum, we wanted the Court to be aware of the reasons for our decision to walk away from our bid. Additionally, we believe that justice requires the Court to consider a return of our earnest money, and we respectfully ask the Court to do so.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via the electronic mail to Lee Segal, Esq., Jill Schuh, Esq., and to Jake Blanchard, Esq. on this 6th day of April 2022 at:

Jake C. Blanchard, Esq.

Blanchard Law, PA

1501 Belcher Rd. S., Unit 6B

Largo, FL 33771

jake@jakeblanchardlaw.com

Tel: 727-531-7068

Fla. Bar No.: 0055438

Counsel for Plaintiff

Lee Segal, Esq.

18167 US Hwy 19 N. Ste 100

Clearwater, FL 33764

lee@segalschuh.com

Tel: 727-824-5775

Fla. Bar No.: 0037837

Counsel for Plaintiff

Jill Schuh, Esq.

18167 U.S. Highway 19 N. Ste 100

Clearwater, FL 33764

jill@segalschuh.com

Tel: 727-824-5775

Fla. Bar No.: 0036453

Counsel for Plaintiff

Third-Party Bidder

Lewis Realty, LLC

Brandon Lewis, Manager.

wirebrandon@yahoo.com

Tel: 904.728.8444

830 A1A N Suite 620

Ponte Vedra Beach, FL 32082