Michael J. Farrar, P.A.

3508 NW 114th Ave. Suite 201 – Doral FL 33178
Tel.: (305) 463-9446 – Fax (305) 513-5887
michaelfarrar@atlanticbb.net

August 29, 2022

VIA FIRST-CLASS MAIL
Brevard County Clerk of Circuit Court
Tax Deed Clerk
P.O. Box 219
Titusville FL 32781-0219

RACHEL M. SADOFF
2022 SEP -2 AM 9:32
FILED IN TVL-03
CLERK OF CIR. CT.
BREVARD CO FL.

Re: Claim for excess proceeds by Asset Recovery Inc. ("**claimant**")
Tax Deed File # 211372
Address: 1918 Sago Palm St NE, Palm Bay
Date of sale: 07-21-22

Dear Tax Deed Clerk:

I represent the claimant, who is the assignee of the former owner of record of the property sold at tax deed sale under the above-referenced tax deed file number. The claimant is requesting the excess proceeds / overbid from the tax deed sale. In support of the claim, the claimant is submitting the following:

1. Original Statement of Claim (Brevard County form)
2. Copy of claimant's I.D.
3. Limited Power of Attorney from Don Devitt to claimant
4. Copy of I.D. of former owner
5. Affidavit of former owner regarding homestead status of the property that was sold.
6. IRS Form W-9

The homestead affidavit shows that the claim by Palm Bay is not well founded. *See Orange Brevard Plumbing & Heating Co. v. La Croix*, 137 So.2d 201, 206 (Fla. 1962) (proceeds from sale of homestead are exempt from liens if money reinvested in a reasonable period of time) and *Town of Lake Park v. Grimes*, 963 So.2d 940, 944 (Fla. 4th DCA 2007), where the appellate court stated: "Although La Croix involved a voluntary sale, rather than a forced sale, we see no reason why this should make a difference in our analysis." In that case, the appellate court stated that the money from the forced sale would be exempt from liens if the homeowners had an 'abiding good faith intention prior to and at the time of the sale of the homestead to reinvest the proceeds thereof in another homestead within a reasonable time.'" *Id.* (*quoting in part La Croix* at 206).

Please send the check payable to Asset Recovery Inc., to the following address:

c/o Michael J. Farrar, P.A.
3508 NW 114th Ave. Suite 201
Doral FL 33178

Very truly yours,

Michael Farrar, Esq.

Clerk of the Circuit Court, Brevard County, Florida
Tax Deed Department, P.O. Box 219, Titusville, Florida 32781-0219
Telephone: (321) 637-2007 • www.brevardclerk.us

Rachel M. Sadoff, Clerk

RACHEL M. SADOFF
2022 SEP -2 AM 9:32
FILED - TVL-03
CLERK OF CIR. CT.
BREVARD CO. FL.

Complete and return to:
Brevard County Clerk of the Circuit Court
Tax Deed Department
P.O. Box 219, Titusville, Florida 32781-0219
taxdeedclerks@brevardclerk.us

CLAIM TO RECEIVE SURPLUS PROCEEDS OF A TAX DEED SALE

Note: The Clerk of the Court must pay all valid liens before distributing surplus funds to a titleholder.

Claimaint's name: Asset Recovery Inc
Contact name, if applicable: John Fox (Managing Director)
Address: 910 16th St. Suite 624 Denver, CO 80202
Telephone No: (303) 454-3707
Email Address: JohnFox@assetrecoveryinc.com
Tax Deed No.: 211372 Date of Sale (if known): 7/21/2022

☐ I am not making a claim and waive any claim I might have to the surplus funds on this tax deed sale.	☑ I claim surplus proceeds resulting from the above tax deed sale.	I am a (check one): ☐ Lienholder ☑ Titleholder (assignee)

LIENHOLDER INFORMATION

(Complete if claim is based on a lien against the sold property)

Type: ☐ Mortgage ☐ Court Judgment ☐ Other (describe) _____

If your lien is recorded in the County's Official Records, list the following, if known:

Recording Date: _____ Instrument #: _____ Book: _____ Page: _____

Original Amount of Lien: $_____ Amounts Due: $_____

Principal remaining due: $_____ Interest Due: $_____

Fees and costs due, including late fees: $_____ Attorney Fees: $_____

TITLEHOLDER INFORMATION

(Complete if claim is based on title held on sold property)

Nature of title: ☐ Deed ☐ Court Judgment ☐ Other (describe) Assignment of Interest from titleholder

If your former title is recorded in the County's Official Records, list the following, if known:

Recording Date: _____ Instrument #: _____ Book: _____ Page: _____

Amount of surplus tax deed sale proceeds claimed: $_____

Does the titleholder claim the subject property was homestead property? ☑ Yes ☐ No

VERIFICATION OF CLAIM TO RECEIVE SURPLUS PROCEEDS OF A TAX DEED SALE

I hereby swear or affirm that all of the above information is true and correct.

8/8/2022
Date

Signature of Claimant

STATE OF Colorado

COUNTY OF Denver

Sworn to or affirmed and signed before me on the 8th day of August, 2022 by JOHN FOX, who is ☑ personally known ☐ produced _____ as identification.

JEROD BURTON
NOTARY PUBLIC - STATE OF COLORADO
NOTARY ID 20224017682
MY COMMISSION EXPIRES MAY 2, 2025

Signature of Notary Public/Deputy Clerk

Jerod Burton
Printed Name of Notary Public/Deputy Clerk

This instrument prepared by
and when recorded return to:

_____

_____

_____

LIMITED POWER OF ATTORNEY
(recordable under § 28.222(3)(a), Fla. Stat.)

STATE OF FLORIDA
COUNTY OF BREVARD

NOW ALL MEN BY THESE PRESENT which are intended to constitute a LIMITED POWER OF ATTORNEY:

That I, Don Devitt, ("Principal") do hereby appoint Asset Recovery Inc. ("Agent") and Agent's employees and agents acting on its behalf as my attorney-in-fact TO ACT in my place and stead in any way which I myself could do, if I were personally present, with respect to the following matters as each of them is defined to the extent that I am permitted by law to act through an agent:

(A) Claim, collect, demand, deposit, pursue, receive, recover, settle and sue in my name or in Agent's name, monies arising from the tax deed sale of real property sold under tax deed file no. 211372.

(B) To receive, endorse, collect and deposit checks, monies or other property payable to my order, and to disburse these monies or other property to me within 10 working days of receipt.

This Power of Attorney is authority to any third party receiving a duly executed copy or facsimile of this Power of Attorney to act thereunder, and I, my heirs, executors, legal representatives and assigns hereby agree to indemnify and hold harmless such third parties against any and all claims that may arise against such third parties by reason of such third parties having relied or acted upon the provisions of this Power of Attorney.

This Power of Attorney shall be IRREVOCABLE as to me, and this Power of Attorney shall automatically TERMINATE upon collecting and paying to me the monies or other property listed in this Power of Attorney and referred to in Paragraph (A).

(Don Devitt)

8/27/2022
(date)

Sworn to and subscribed before me by means of ☑ physical presence or ☐ online notarization on AUGUST 27, 2022, by Don Devitt, who ☐ is personally known to me or ☑ has produced identification. Type of identification produced: DRIVER LICENSE.

Notary Public
State of FLORIDA
My commission expires: 8/2/2024

Notary Public State of Florida
Leah Ann McPherson
My Commission HH 026518
Expires 08/02/2024


Florida
The Sunshine State
DRIVER LICENSE CLASS E
D130-199-42-372-0
DONALD WHITNEY
DEVITT
1918 SAGO PALM ST NE
PALM BAY, FL 32905-3352
DOB: 10-12-1942 SEX: M
ISSUED: 10-06-2010 HGT: 5-10
EXPIRES: 10-12-2018
RESTR
ENDORSE
Operation of a motor vehicle constitutes consent to any sobriety test required by law.


We the People
Of the United States,
SIGNATURE OF BEARER / SIGNATURE DU TITULAIRE / FIRMA DEL TITULAR
PASSPORT
PASSEPORT
PASAPORTE
USA
UNITED STATES OF AMERICA
Type / Type / Tipo
P
USA
488303284
Surname / Nom / Apellido
FOX
Given Names / Prénoms / Nombres
JOHNEARL
Nationality / Nationalité / Nacionalidad
UNITED STATES OF AMERICA
Date of birth / Date de naissance / Fecha de nacimiento
11 Apr 1980
Place of birth / Lieu de naissance / Lugar de nacimiento
ALASKA, U.S.A.
Sex / Sexe / Sexo
M
Date of issue / Date de délivrance / Fecha de expedición
15 Feb 2013
Authority / Autorité / Autoridad
United States
Department of State
Date of expiration / Date d'expiration / Fecha de caducidad
14 Feb 2023
Endorsements / Mentions Spéciales / Anotaciones
SEE PAGE 51
USA
P<USAFOX<<JOHNEARL<<<<<<<<<<<<<<<<<<<<<<<<<<
4883032846USA8004118M2302144172246706<519480

AFFIDAVIT OF HOMESTEAD

STATE OF FLORIDA
COUNTY OF BREVARD

DON D.W.D

BEFORE ME, the undersigned authority, personally appeared ~~Dan~~ Devitt, who on oath deposes and states as follows:

1. I am 18 years old or older and I have personal knowledge of the facts stated herein.

2. At the time of the tax deed sale held on July 21, 2022 under tax deed file # 211372, I was the owner of record of 1918 Sago Palm St. NE Palm Bay FL 32905 ("Property"). The Property was my homestead at the time of the tax deed sale. I lived there. I had a Florida identification designating the Property as my residence. A copy of the I.D. is attached.

3. I had an intention prior to and at the time of the sale of the Property at tax deed sale I had an intention, to reinvest the proceeds from the sale of the Property in another homestead within three months after receipt of the excess proceeds.

4. Immediately before and after the tax deed sale I researched properties online to see the prices and make a purchase decision for a new homestead.

5. I was informed by Asset Recovery Inc. that the Property Appraiser filed a lien against the Property claiming it was not my homestead. I first learned of this only in the past few days. The lien is incorrect. The Property was my homestead.

FURTHER AFFIANT SAYETH NOT

By: _____

Sworn to and subscribed before me by means of ☑ physical presence or ☐ online notarization on AUGUST 27, 2022 by DON DEVITT, who ☐ is personally known to me or ☑ has produced identification. Type of identification produced: DRIVER LICENSE

Print name: LEAH ANN MCPHERSON
Notary Public
My commission expires: 8/2/2024

Notary Public State of Florida
Leah Ann McPherson
My Commission HH 026518
Expires 08/02/2024