

IN THE CIRCUIT COURT OF THE 11th
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION

CASE NO. 15-013350 CA 25

FERNICH, INC. d/b/a THE PAINT SPOT,

Plaintiff,

v.

TRUMP ENDEAVOR 12, LLC,

Defendant.

FINAL JUDGMENT OF FORECLOSURE OF PLAINTIFF'S CONSTRUCTION LIEN

This matter came before the Court for non-jury trial on April 15, 2016. The Court, having considered the testimony given at trial and all written documentation entered into evidence, having heard argument of counsel, and being otherwise fully advised in the premises, it is hereby

ORDERED and ADJUDGED as follows:

On October 21, 2014, Plaintiff, Fernich, Inc. d/b/a The Paint Spot ("Paint Spot") recorded a Claim of Lien ("Claim of Lien") against real property located at 4400 NW 87th Avenue, Doral Florida 33178, commonly known as the Trump National Doral Miami (the "Property" or the "Project."). Defendant, Trump Endeavor, LLC ("Trump") is the record owner of the Property. Via its Claim of Lien, Paint Spot made a claim against the Property in the amount of \$32,612.26 for paint and related materials furnished thereto between November 8, 2013 and September 25, 2014 ("Materials."). On June 12, 2015, Paint Spot filed a Complaint to foreclose its Claim of Lien. The operative pleadings are Paint Spot's Second Amended Complaint and Trump's Answer and Affirmative Defenses thereto. Prior to trial, Paint Spot reduced the amount of its Claim of Lien to \$32,535.87 to account for a \$76.39 stepladder that Paint Spot erroneously included therein.

CASE NO. 15-013350 CA 25

For the following reasons, I find that Paint Spot is entitled to foreclose its Claim of Lien.

FACTUAL FINDINGS

I. Trump Project Renovation Work—Generally

In April 2013, Trump entered into a written contract with Straticon, LLC (“Straticon”), pursuant to which Straticon agreed to act as general contractor for roughly \$50–60 billion in renovation work at the Property’s ten (10) lodges. Simultaneously, Trump hired T&G Constructors (“T&G”) to act as general contractor at the Project for renovations to the Property’s clubhouse. The Project lodges and clubhouse are in close proximity to one another, all located at 4400 NW 87th Ave. While Straticon and T&G were Project general contractors, Trump directly negotiated pricing with subcontractors; Straticon and T&G collected Project management fees in exchange for signing subcontracts, processing payment applications, then passing the costs to Trump.

II. Notices of Commencement

Trump’s goal was to keep the Property operating and profitable during the renovations. Therefore, Trump and Straticon entered into a single contract with additional lodges to be added as change orders. Between April 2013 and July 2014, Trump caused at least six different Project Notices of Commencement to be recorded so that each phase of the Project could be opened upon completion while renovation at other parts of the Property remained ongoing. All of the Project Notices of Commencement disclosed the Project’s single postal address: 4400 NW 87th Avenue.

Pertinently, on April 18 and July 26, 2013, Trump recorded Notices of Commencement naming Straticon as the Project’s general contractor. On April 26, 2013, Trump recorded a Notice of Commencement that named T&G as the Project’s general contractor (“T&G NOC.”).

III. Paint Spot Agrees to Supply Paint and Related Materials to the Project

Pursuant to a written contract with Straticon, M&P Reynolds, Inc. (“M&P”) was to furnish paint and labor to the Project. In September 2013, Mr. Claudio Bravo, a Benjamin Moore

CASE NO. 15-013350 CA 25

paint representative, contacted Paint Spot's President, Mr. Juan Carlos Enriquez, about supplying paint to the Project under M&P. Paint Spot negotiated pricing with M&P, which M&P submitted to Straticon. Trump then approved of M&P's Project price quotations.

At trial, Paint Spot's Mr. Enriquez credibly testified that until November 2013, Paint Spot believed M&P was working directly for Trump and was unaware that Trump hired Straticon and T&G to act as Project general contractors. He also testified that at the outset, Paint Spot presumed it would be supplying paint "for Trump International Golf Course" under M&P.

IV. Paint Spot Relies on the T&G NOC when Preparing Its Notice to Owner

In late September or early October 2013, Mr. Enriquez visited the Project. The purpose of his visit was to obtain a copy of the Notice of Commencement Paint Spot should use when preparing its statutory Notice to Owner. When questioned why Paint Spot did not ask M&P to supply this document, Mr. Enriquez explained that his thirty-plus years in the paint-supplying business taught him that it is better to obtain notices of commencement directly from project owners to ensure that the statutory notice to owner contains the correct information. Specifically, Mr. Enriquez believes critical information necessary to protect Paint Spot's lien rights should come "straight from the horse's mouth." Here, that "horse" was Trump.

When Mr. Enriquez arrived at the Project, he stated that Paint Spot would be supplying paint to the Project and asked which Trump representative could provide him with copy of the Notice of Commencement. Mr. Enriquez was directed to Mr. Frank Sanzo, who was introduced as Trump's Director of Construction. When Mr. Enriquez told Mr. Sanzo that Paint Spot would be supplying Benjamin Moore paint, Mr. Sanzo argued that Sherwin Williams paint was being used—however, after Mr. Enriquez explained that Paint Spot was hired to supply Benjamin Moore paint, Mr. Sanzo handed him a copy of the T&G NOC.

Trump argues Paint Spot's exchange with Mr. Sanzo should have "tipped off" Mr. Enriquez that the Project had multiple general contractors, and therefore more than one active Notice of Commencement. Trump posits that Paint Spot should have searched the public records

CASE NO. 15-013350 CA 25

after Mr. Sanzo handed him the T&G NOC and discovered that multiple active Notices of Commencement were of record at the time. Trump also contends Paint Spot should have asked M&P which Project contractor it was working under after the exchange with Mr. Sanzo. Paint Spot testified that at the time, it had no reason to suspect Trump hired multiple Project general contractors and believed Mr. Sanzo was simply mistaken about which brand of paint would be used. I find Paint Spot's testimony credible. As Trump's Director of Construction, Mr. Sanzo was in the best position to inform Paint Spot that the Project had multiple general contractors.

Paint Spot presented evidence showing that on November 1, 2013, Paint Spot retained Builders Notice Corp. ("BNC") to prepare and serve Paint Spot's Notice to Owner ("NTO") upon Trump and T&G. Paint Spot relied upon the T&G NOC when filling out the related BNC form paperwork. Paint Spot also furnished a copy of the T&G NOC to BNC. BNC, in turn, prepared and served Paint Spot's NTO upon Trump and T&G via certified mail.

Trump stipulates to receiving Paint Spot's NTO in November 2013. Paint Spot's NTO contained the statutory "WARNING" that Trump's failure to secure a waiver from Paint Spot when paying for Project work could cause Trump to pay twice. The evidence showed that BNC served a copy of Paint Spot's NTO upon T&G in November 2013. Paint Spot began supplying Materials to the Project's lodges under M&P on November 8, 2013.¹

V. Straticon Receives Paint Spot's NTO and Learns that Paint Spot is a Potential Lienor Supplying Materials under M&P in November 2013

On November 21, 2013, Mr. Jamie Gram, Straticon's primary Project representative, sent an email to Benjamin Moore's Mr. Bravo. Mr. Gram attached a copy of Paint Spot's NTO to the message and asked Mr. Bravo to "forward [it] to the correct person." Mr. Gram noted that Paint Spot "filed the NTO under the T&G NOC which will make it not valid" and wrote "I am sure they will want to get this corrected." Mr. Bravo forwarded the message to Mr. Enriquez, but

¹ There was also undisputed evidence that Paint Spot supplied materials directly to Trump for roof work on the Project, for which Trump paid Paint Spot directly in full.

CASE NO. 15-013350 CA 25

Paint Spot did not prepare and serve a new NTO due to oversight. However, Straticon had actual notice of Paint Spot's NTO as of November 21, 2013 because Mr. Gram had received and analyzed it.

No one knows how Mr. Gram acquired Straticon's copy of Paint Spot's NTO. Mr. Gram insisted he did not know who sent it to him because he lost all Project emails pertaining to Paint Spot. When pushed about whether Straticon knew Paint Spot was supplying Materials to the Project under M&P as of November 2013, Mr. Gram contended Straticon was not aware that Paint Spot was supplying the Materials until mid-to-late 2014. Mr. Gram's serious lack of credibility on this issue and others permeated his testimony, and I therefore give it very little weight.

Paint Spot was M&P's only Project paint supplier. Paint Spot's Mr. Enriquez, Paint Spot's Mr. Willie Diaz, and M&P's Freddy Palacios credibly testified that Straticon knew Paint Spot was supplying Materials to the Project under M&P and treated Paint Spot as potential lienor at all times. The evidence supports their testimony. Paint Spot attended Project meetings with Straticon and submitted signed partial waivers of lien to M&P as a precondition to receiving payment for the Materials ("Partial Waivers."). Mr. Palacios testified that he and others physically picked up signed Paint Spot Partial Waivers from Paint Spot's store. It was undisputed that Straticon would not pay M&P without M&P submitting Partial Waivers from itself and its suppliers. Three unsigned Paint Spot Partial Waivers were admitted at trial bearing respective "pay through" dates of November 30, 2013, January 25, 2014, and March 31, 2014. Paint Spot's Mr. Diaz credibly testified that he signed these documents. Mr. Palacios confirmed Mr. Diaz' testimony and stated that M&P's practice was to submit signed Paint Spot Partial

CASE NO. 15-013350 CA 25

Waivers to Straticon in order to receive payment.² A signed Paint Spot Partial Waiver (the last one given by Paint Spot) bearing a “pay through” date of July 31, 2014 was also in evidence. There was evidence that Straticon submitted this signed Paint Spot Partial Waiver to Trump in support of a Straticon payment application.

I find that at all pertinent times, Trump and Straticon had actual knowledge of (1) Paint Spot’s NTO; and (2) the fact that Paint Spot was supplying Materials to the Straticon portion of the Project under M&P. Therefore, the purpose of Paint Spot’s NTO—alerting Trump and Straticon that Paint Spot was a potential lienor—was clearly and timely accomplished in this case.

VI. M&P Leaves the Project Prematurely without Paying Paint Spot in Full and All Remaining Paint Spot Materials are Used to Improve the Property

Between August 1, 2014 and September 25, 2014, M&P continued ordering—and Paint Spot continued delivering—Materials to the Project. All such Materials were used to improve Trump’s Property by either M&P or its replacement painting contractors, as confirmed by Trump and Straticon at trial. The evidence and testimony revealed that when M&P prematurely stopped work at the Project in late September or early October of 2014, Straticon still owed M&P roughly \$190,000.00, which Straticon never paid. M&P left Paint Spot Materials at the Project that M&P’s replacement painting subcontractors used to finish M&P’s work. However, no one ever paid Paint Spot for the Materials furnished to the Project between August 1 and September 25, 2014 and Paint Spot never issued a waiver of lien for that time period. Rather, Paint Spot submitted its last Partial Waiver to M&P on August 27, 2014, “in consideration of the sum of \$16,041.59” for Materials delivered “through” July 31, 2014.

² Uncontroverted trial evidence established that at the time, Paint Spot did not keep signed versions of the Partial Waivers; its business practice was to simply treat the check/payment as the “receipt.”

CASE NO. 15-013350 CA 25

On August 20, 2014, Straticon paid M&P \$73,125.00. There was undisputed evidence from M&P's Mr. Palacios, Trump's Mr. Pete Bertot, Straticon's Mr. Jamie Gram, and Trump's Robert Lackey that Trump never pays in advance and only pays for work performed. Mr. Palacios also testified that Straticon paid 30 to 45 days after an application for payment was submitted by M&P. Accordingly, there is ample evidence to conclude that the August 20, 2014 payment was for M&P work performed prior to the payment date. Next, on August 27, 2014, M&P submitted its last Partial Waiver to Straticon, given "in consideration of the sum of \$73,125.00." Subsequently, on September 30, 2014, with reference to an M&P bill dated August 29, 2014, Straticon paid M&P \$73,125.00. There is therefore ample evidence to conclude that the September 30, 2014 check was for M&P's work through July 31, 2014, as set forth in the August 27, 2014 Partial Waiver.

In sum, the evidence as to the two Straticon \$73,125.00 payments to M&P could support two conclusions: (1) the second \$73,125.00 payment was for M&P work through August 29, 2014 and Straticon failed to obtain Partial Waivers from M&P or Paint Spot; or (2) Straticon paid M&P for work performed in June 2014 via the first \$73,125.00 check and then paid M&P the second \$73,125.00 in September 2014 for work performed through July 31 2014 as set forth in the August 27, 2014 M&P Partial Waiver. Because there was undisputed evidence from former Trump construction executive Pete Bertot that Trump never pays without securing the required lien waivers, I find that the second \$73,125.00 payment to M&P was indeed for work through July 31, 2014. M&P and Paint Spot were therefore only paid for labor and Materials delivered through July 31, 2014. Alternatively, even if the second \$73,125.00 was paid to M&P for work performed after July 31, 2014, payments made without securing a Paint Spot waiver were not Paint Spot's fault. Paint Spot should not be penalized, as that is precisely what its NTO

CASE NO. 15-013350 CA 25

warned Trump not to do.

On September 30, 2014, M&P paid Paint Spot \$15,399.22, slightly over \$4,000.00 of which Paint Spot applied to its then-outstanding Trump Project balance of \$36,652.15. Paint Spot submitted uncontroverted evidence showing that per M&P's direction, it applied the remaining funds from the September 30, 2014 M&P check toward other unrelated M&P-Paint Spot projects.

Notably, when Paint Spot recorded its Claim of Lien on October 21, 2014 for Materials supplied between August 1, 2014 and September 25, 2014, Straticon's Mr. Gram tried to help Paint Spot receive payment. Trump also requested backup. However, Trump and/or Straticon eventually decided not to pay Paint Spot, resulting in this action. Throughout litigation and trial, Trump maintained that the nonpayment decision was due solely to Paint Spot naming T&G (not Straticon) on its NTO. Significantly, however, Mr. Gram testified that the decision not to pay Paint Spot had "nothing to do" with Paint Spot's NTO and instead was tied to Trump having "already paid enough" to M&P and to complete M&P's unfinished work. I find this to be the most credible testimony by Mr. Gram at trial. Importantly, when Mr. Gram made that admission, Trump's trial attorneys visibly winced, began breathing heavily, and attempted to make eye contact with him.

VII. Paint Spot's Inclusion of a \$76.39 Stepladder in its Claim of Lien

Mr. Enriquez credibly testified that he believed the \$76.39 stepladder was lienable because ladders are essential for painting surfaces that are difficult or impossible to reach. I find that Paint Spot's inclusion of the stepladder in its Claim of Lien was a minor mistake made in good faith.

CONCLUSIONS OF LAW

I. Trump is estopped from invalidating Paint Spot's Claim of Lien based on the NTO

CASE NO. 15-013350 CA 25

because Trump caused Paint Spot to rely on the T&G NOC.

As a general matter, Florida's construction lien law "is aimed at protecting laborers and materialmen." *Fidelity & Deposit Co. of Maryland v. Delta Painting Corp.*, 529 So. 2d 781, 782 (Fla. 4th DCA 1988). It is against Florida public policy to allow an owner to abuse nuances within the lien law to defeat an otherwise valid claim when the owner's conduct frustrates a lienor's ability to perfect its claim of lien despite the lienor's diligent attempt to comply with the statutes. *Cf. Fla. Wood Servs., Inc. v. Osprey Links Joint Venture*, 720 So. 2d 591, 593 (Fla. 5th DCA 1998).

When drafting the construction lien law, "the legislature contemplated that the Notice of Commencement would provide the lienor with the current names and addresses of the owner and contractor, so that the lienor could properly mail the Notice to Owner." *Symons Corp. v. Tartan-Lavers Delray Beach, Inc.*, 456 So. 2d 1254, 1259 (Fla. 4th DCA 1984). "[I]f a lienor detrimentally relied on the information contained in the Notice of Commencement in sending his Notice to Owner," then the owner is "estopped from denying receipt of a Notice to Owner." *Id.* Applying similar logic, Florida courts have treated owner-caused errors in notices to owner as a form of estoppel in that an owner may not contest the validity of a claim of lien when its own conduct caused detrimental reliance by the lienor. *See Suchman v. Nat'l Hauling, Inc.*, 549 So. 2d 200 (Fla. 3d DCA 1989); *Roof Structures, Inc. v. Picou*, 544 So. 2d 1138 (Fla. 4th DCA 1989); *cf. Sasso Air Cond'g, Inc. v. U. Cos. Lending Corp.*, 742 So. 2d 468, 469 (Fla. 4th DCA 1999) ("[W]here acts or omissions by the owner have caused detrimental reliance. . . . Reliance by the lienor on the imperfect notice of commencement filed by the owner constitutes detrimental reliance.").

Based on the evidence and testimony at trial, the Court concludes that the conduct of

CASE NO. 15-013350 CA 25

Trump's Mr. Frank Sanzo, holding himself out to Paint Spot as Trump's Director of Construction for the entire Project and personally handing Mr. Enriquez a copy of the T&G NOC instead of the Straticon NOC, caused Paint Spot to rely upon the T&G NOC to its detriment when preparing its NTO. Given the totality of the circumstances, Paint Spot's reliance on the then-valid T&G NTO was reasonable. Paint Spot demonstrated that it made diligent efforts to comply with the lien law that were frustrated by Trump providing Paint Spot with a copy of the T&G NOC. Therefore, the Court concludes that Trump is estopped from invalidating Paint Spot's Claim of Lien based solely on Paint Spot naming T&G in its NTO and initially serving a copy of the NTO on T&G.

II. Paint Spot complied and/or substantially complied with the Construction Lien Law.

As a prerequisite to perfecting a lien on a non-bonded construction project in Florida, either before commencing work or within 45 days thereafter, a supplier who is not in privity with the owner or general contractor "must serve a notice on the owner setting forth [1] the lienor's name and address, [2] a description sufficient for identification of the real property, and [3] the nature of the services or materials furnished or to be furnished." § 713.06(2)(a), Fla. Stat. The potential lienor's notice to owner must also include the name of the entity ordering the services or materials along with an all-caps warning that the owner's failure to obtain written releases from the potential lienor may result in double payment. *See* § 713.06(2)(c), Fla. Stat. If not in privity with the contractor, the potential lienor must also "serve a copy of the notice [to owner] on the contractor." *Id.* at § 713.06(2)(a). Service of the notice to owner may be by certified mail or "actual delivery to the person to be served," among other methods. § 713.18(1), Fla. Stat.

"[T]he purpose of the notice to owner requirement relevant to those not in privity with the owner is 'to protect an owner from the possibility of paying over to his contractor sums which ought to go to a subcontractor who remains unpaid.'" *Broward Atlantic Plumbing Co. v.*

CASE NO. 15-013350 CA 25

R.L.P., Inc., 402 So. 2d 464, 466 (Fla. 4th DCA 1981).³ Thus, as a matter of statutory law, “[i]f a lienor has substantially complied with the provisions of paragraphs [713.06](a) . . . and (c), errors or omissions do not prevent the enforcement of a claim against a person who has not been adversely affected by such omission or error.” § 713.06(2)(f), Fla. Stat. (emphasis added).

The Third District, by which this Court is bound, has found that trial courts may not invalidate a lien when: (1) the owner unquestionably received the notice to owner; and (2) the owner’s defense to enforcement is based solely on a “failure to serve notice on the general contractor” that is otherwise “completely negated on the record.” *Suchman*, 549 So. 2d at 201–202.⁴ The court in *Suchman* noted that a strong basis for validating a claim of lien exists when the general contractor—despite *not* having been directly served with a copy of the notice to owner—*was* “on actual notice of the materialman and its contributions to the job during the forty-five day period provided by section 713.06(2)(a).” 549 So. 2d at 202 n. 5.

Based on the evidence and testimony at trial, the Court concludes that Paint Spot substantially complied with the lien law. Paint Spot’s NTO contained Paint Spot’s name and address, a description sufficient to identify the Property, and the nature of the Materials. The NTO also identified M&P as the entity ordering the Materials and contained the statutory all-caps warning that Trump may end up paying twice for the Materials if it failed to obtain written releases from Paint Spot. The Court finds this case analogous to *Suchman*, in that any argument that Straticon was not aware of Paint Spot’s contributions to the Project within the statutory 45-day period is completely negated by the record. Mr. Jamie Gram—Straticon’s eyes and ears at the Project—had a copy of Paint Spot’s NTO and had analyzed it as of at least November 21, 2013. Straticon then treated Paint Spot as a potential Project lienor at all pertinent times. Based

³ (quoting *Boux v. East Hillsborough Apartments, Inc.*, 218 So. 3d 202 (Fla. 3d DCA 1969))

⁴ Other Florida courts have also found substantial compliance with the law when the party to be notified had actual notice of the lienor’s intent to lien the property in the event of nonpayment. See *Delta Painting*, 529 So. 2d at 782; *Bowen v. Merlo*, 353 So. 2d 668, 668 (Fla. 1st DCA 1978).

CASE NO. 15-013350 CA 25

on the foregoing, the Court concludes that Paint Spot's Claim of Lien is valid and enforceable.

III. Paint Spot did not willfully exaggerate its Claim of Lien.

"[N]ormal wastage" and "materials used for the construction and not remaining in the improvement" are lienable by a supplier. § 713.01(13), Fla. Stat. "A minor mistake or error in a claim of lien, or a good faith dispute as to the amount due does not constitute a willful exaggeration that operates to defeat an otherwise valid lien." § 713.31(2)(b), Fla. Stat. The party asserting willful exaggeration bears the burden of establishing a fraudulent lien. *See Sam Rodgers Properties, Inc. v. Chmura*, 61 So. 2d 432, 439 (Fla. 2d DCA 2011). "A lienor's good or bad faith must be based on competent, substantial record evidence." *Id.* at 439–440. Absent fraud, trial courts should omit erroneous items from a claim of lien and correspondingly reduce the amount of the lien when entering final judgment. *See Politano v. GPA Const. Group*, 9 So. 3d 15, 16 (Fla. 3d DCA 2008).

Given the evidence and credible testimony of Paint Spot's Mr. Enriquez and Mr. Diaz, Trump did not bear its burden to establish that Paint Spot's lien is invalid based on fraud or willful exaggeration. In fact, Trump presented zero evidence that the lien was fraudulent. The Court shall reduce the lien from \$32,612.25 to \$32,535.87 to account for the non-lienable \$76.39 stepladder.

CONCLUSION

For the reasons set forth herein, it is hereby **ORDERED and ADJUDGED** that:

1. Due to Paint Spot's foreclosure of its construction lien claim, due and legal service of process has been had upon Trump. This Court has jurisdiction of the parties in this cause and its subject matter. The allegations contained within Paint Spot's Second Amended Complaint have been proven by competent evidence, and the equities in this case are with Paint

CASE NO. 15-013350 CA 25

Spot.

2. The statutory claim of lien sued upon by Paint Spot was not fraudulent and constitutes a valid lien on the property hereafter described. The lien shall be effective as of October 21, 2014, the date on which it was recorded.

3. Plaintiff, Fernich, Inc. d/b/a The Paint Spot, whose address is 10445 SW 109 Street, Miami, Florida 33176, holds a lien and is entitled to a judgment of foreclosure on its construction lien claim in the principal amount of \$32,535.87, plus prejudgment interest in the amount of \$2,328.06,⁵ for a total of \$34,863.92 superior to all claims or estates of Defendant, Trump Endeavor 12, LLC, whose address is 725 Fifth Avenue, New York, New York 10022, on the following described property in Miami-Dade County, Florida: **4400 NW 87 Avenue, Doral, Florida 33178-1606 (see attached Composite Exhibit "A," reflecting both short and full legal descriptions)**. Post-judgment interest shall continue to accrue at the statutory rate pursuant to Section 55.03(1), Florida Statutes and all other applicable law.

4. Paint Spot is also the prevailing party in this action. As the prevailing party in this action, Paint Spot is also entitled to an award of reasonable attorneys' fees and costs from Trump pursuant to Section 713.29, Florida Statutes, the amount of which will be determined at a later date upon proper motion filed in accordance with Florida Rule of Civil Procedure 1.525. Paint Spot is also entitled to recover its costs from Trump pursuant to Sections 713.29 and 57.041, Florida Statutes.

5. If the total sum of \$32,535.87, plus interest, costs, and attorneys' fees accruing

⁵ This figure represents the following calculations based on the Florida Judgment Interest Rates set forth at <http://www.myfloridacfo.com/Division/AA/Vendors/>:

1. October 21, 2014–December 31, 2014 = 437 days*0.000130137*\$32,535.87;
2. January 1, 2016–March 31, 2016 = 91 days*0.000129781*\$32,535.87; and
3. April 1, 2016–April 22, 2016 = 22 days*0.000130624*\$32,535.87.

CASE NO. 15-013350 CA 25

subsequent to this Final Judgment is not paid, then the Clerk of Court shall sell the real property described in Paragraph 3 at public sale on the 28th day of June, 2016 at 9 a.m. to the highest bidder or bidders for cash, except as set forth hereinafter, at the courthouse located at 140 West Flagler Street in Miami-Dade County in Miami, Florida OR <http://www.miamidade.realforeclose.com>, the Clerk's website for online auctions, beginning at 9:00 a.m. after first notice given as required by Section 45.031, Florida Statutes. Paint Spot may cancel the sale on notice to the Clerk and without order of the Court.

6. On the filing of the Certificate of Sale of the real property described in Paragraph 3, Trump's right of redemption as prescribed by Section 45.031, Florida Statutes shall be terminated.

7. After confirmation of the sale of the parcel described in Paragraph 3, whether confirmation is by the Clerk's filing the certificate of title or by order of this Court ruling on objections to the sale, the Clerk shall distribute the proceeds of the sale in accordance with Form 1.996 of the Florida Rules of Civil Procedure, as much as they are sufficient, by paying: first, all of Paint Spot's costs; second, documentary stamps affixed to the certificate; third, Paint Spot's attorneys' fees; fourth, the total sum due to Paint Spot, less items paid, plus interest at the rate prescribed by law from this date to the date of the sale; and, last, by retaining any amount remaining pending the further order of this Court.

8. After confirmation of the sale of the parcel described in Paragraph 3, either by the Clerk's filing the certificate of sale or by order of this Court ruling on objections to the sale, Trump and all persons claiming by, through, under, or against it since the filing of the Second Amended Complaint herein, shall be forever foreclosed of all right, title, interest, estate, or claims in the property being sold, and the purchaser at the sale shall be let into possession

CASE NO. 15-013350 CA 25

thereof.

9. Immediately after the confirmation of the sale of the parcel described in Paragraph 3, either by the Clerk's issuance of the certificate of sale or by order to this Court ruling on any objections to the sale, the Clerk shall issue a writ of possession at the request of Trump pursuant to Rule 1.580 of the Florida Rules of Civil Procedure.

10. On the request of the purchaser at foreclosure sale, the Clerk shall issue a writ of possession of the property to accomplish possession by purchaser without further order of Court pursuant to Florida Rule of Civil Procedure 1.580.

11. This Final Judgment is an *in rem* judgment of foreclosure on the above-referenced construction lien only. Jurisdiction of this action is retained to enforce the terms of this Final Judgment and address all properly raised post-judgment claims or matters, including, without limitation, writs of possession, deficiency judgments and orders taxing attorneys' fees and costs.

12. The Court reserves jurisdiction to award Paint Spot attorney's fees and costs to be taxed against Trump upon proper motion filed in accordance with Florida Rule of Civil Procedure 1.525.

13. **NOTICE PURSUANT TO SECTION 45.031(1)(a), FLORIDA STATUTES:**
IF THE ABOVE-REFERENCED PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THIS FINAL JUDGMENT.

IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN 60 DAYS AFTER THE SALE. IF YOU FAIL TO FILE A

CASE NO. 15-013350 CA 25

CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, on 04/25/16.


JORGE E. CUETO
CIRCUIT COURT JUDGE

FINAL ORDERS AS TO ALL PARTIES
SRS DISPOSITION NUMBER 12
THE COURT DISMISSES THIS CASE AGAINST
ANY PARTY NOT LISTED IN THIS FINAL ORDER
OR PREVIOUS ORDER(S). THIS CASE IS CLOSED
AS TO ALL PARTIES.

Judge's Initials JEC

The parties served with this Order are indicated in the accompanying 11th Circuit email confirmation which includes all emails provided by the submitter. The movant shall IMMEDIATELY serve a true and correct copy of this Order, by mail, facsimile, email or hand-delivery, to all parties/counsel of record for whom service is not indicated by the accompanying 11th Circuit confirmation, and file proof of service with the Clerk of Court.

Signed original order sent electronically to the Clerk of Courts for filing in the Court file.

Copies furnished to:

Daniel R. Vega, Esq.

Vanessa A. Van Cleaf, Esq.

Charles B. Hernicz, Esq.

Bradley R. Weiss, Esq.

Herman J. Russomanno, III, Esq.