

Supreme Court of Florida

TUESDAY, SEPTEMBER 11, 2018

CASE NO.: SC18-627

Lower Tribunal No(s):

3D17-1474;

132011CA025288000001

KENTON G. FINDLAY

vs. AMERIPORT, LTD., ET AL.

Petitioner(s)

Respondent(s)

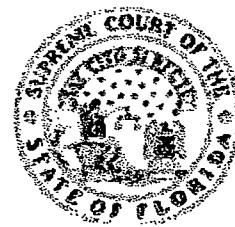
Petitioner's "Motion for Clarification" has been treated as a motion for rehearing, and pursuant to this Court's order dated August 24, 2018, said motion is hereby stricken as unauthorized.

A True Copy

Test:



John A. Tomasino
Clerk, Supreme Court



db

Served:

GEORGE A. MINSKI
KENTON G. FINDLAY
HON. MARY CAY BLANKS, CLERK
HON. HARVEY RUVIN, CLERK

Exhibit C

Supreme Court of Florida

FRIDAY, AUGUST 24, 2018

CASE NO.: SC18-627

Lower Tribunal No(s).:

3D17-1474;
132011CA025288000001

KENTON G. FINDLAY

vs. AMERIPORT, LTD., ET AL.

Petitioner(s)

Respondent(s)

Because petitioner has failed to show a clear legal right to the relief requested, he is not entitled to mandamus relief. Accordingly, the petition for writ of mandamus is hereby denied. *See Huffman v. State*, 813 So. 2d 10, 11 (Fla. 2000). No motion for rehearing or reinstatement will be entertained by this Court.

PARIENTE, LEWIS, POLSTON, LABARGA, and LAWSON, JJ., concur.

A True Copy

Test:


John A. Tomasino
Clerk, Supreme Court



db

Served:

GEORGE A. MINSKI
KENTON G. FINDLAY
HON. MARY CAY BLANKS, CLERK
HON. HARVEY RUVIN, CLERK

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT

APRIL 13, 2018

KENTON G. FINDLAY,
Appellant(s)/Petitioner(s),
vs.
AMERIPORT LTD, et al.,
Appellee(s)/Respondent(s),

CASE NO.: 3D17-1474

L.T. NO.: 11-25288

Upon consideration, appellant's motion for rehearing is hereby
stricken as unauthorized. ROTHENBERG, C.J., and FERNANDEZ and
LINDSEY, JJ., concur.



cc: George A. Minski Kenton G. Findlay

la

Third District Court of Appeal

State of Florida

Opinion filed December 20, 2017.
Not final until disposition of timely filed motion for rehearing.

No. 3D17-1474
Lower Tribunal No. 11-25288

Kenton G. Findlay,
Appellant,

vs.

Ameriport LTD, et al.,
Appellees.

An Appeal from the Circuit Court for Miami-Dade County, Jose M. Rodriguez, Judge.

Kenton G. Findlay, in proper person.

George A. Minski (Hollywood), for appellees.

Before ROTHENBERG, C.J., and FERNANDEZ, and LINDSEY, JJ.

PER CURIAM.

Affirmed.

4
MJD

1-2

\$ 1496,962.50

IN THE CIRCUIT COURT OF THE ELEVENTH
JUDICIAL CIRCUIT IN AND FOR MIAMI-
DADE COUNTY FLORIDA

GENERAL JURISDICTION
Case No. 11-25288 CA 15

Ameriport, LTD, Lorena Blonsky as Personal
Representative of the Estate of Robert J.
Lewison, et al.,

Plaintiffs,
vs.

Kenton George Findlay, and Fiserv ISS & Co.,
a Foreign for profit corporation,

Defendants.

CORRECTED FINAL JUDGMENT OF FORECLOSURE

THIS ACTION was heard before the Court on Plaintiffs' Motion for Entry of Corrected Final Judgment of Foreclosure by Agreement of the Parties. Based on the evidence presented and being otherwise fully informed in the premises,

IT IS ADJUDGED that:

1. Plaintiffs' Motion for Entry of Corrected Final Judgment of Foreclosure by Agreement of the Parties is GRANTED. Service of process has been duly and regularly obtained over Defendants KENTON GEORGE FINDLAY and FISERV ISS & CO.

2. **Amounts Due.** There is due and owing to the Plaintiff the following:

Principal due on the note secured by the mortgage foreclosed: \$ 843,802.13

Interest on the note and mortgage from 01/01/2008 to 06/07/2013: \$ 593,217.25
(Per Diem \$298.85)

Title search expenses \$ 300.00

Taxes due for years 2007-2011 \$ 38,198.43

Court Costs:

Filing fee \$ 1,906.00

Summons	\$ 30.00
Lis Pendens	\$ 9.00
Service of Process	\$ 45.00
Publication for sale of property	\$ 150.00
SUBTOTAL	\$ 1,477,657.81
<u>Additional Costs:</u>	
Copy Costs	\$ 468.40
Postage	\$ 83.85
Clerk's sale fee	\$ 70.00
SUBTOTAL	\$ 622.25
Attorneys' fees based upon 67.70 hours at \$275.00 per hour	\$ 18,682.50
Less: Undisbursed escrow funds	\$ 0.00
Less: unearned insurance premiums	\$ 0.00
GRAND TOTAL	\$ 1,496,962.56

3. **Interest.** The grand total amount referenced in Paragraph 2 shall bear interest from this date forward at the prevailing legal rate of interest.

4. **Lien on Property.** Plaintiffs, whose address is c/o Law Offices of George A. Minski, P.A., 20818 West Dixie Highway, Aventura, Florida 33180, holds a lien for the grand total sum specified in Paragraph 2 herein. This is an *in rem* judgment against KENTON GEORGE FINDLAY to the real property described herein. The lien of the Plaintiffs are superior in dignity to any right, title, interest or claim of the defendants and all persons, corporations, or other entities claiming by, through, or under the defendants or any of them and the property will be sold free and clear of all claims of the defendants, with the exception of any assessments that are superior pursuant to Florida Statutes, Section 718.116. The Plaintiff's lien encumbers the subject property located in Miami-Dade County, Florida and described as:

LOTS 5, 6, 15 AND 16, BLOCK 1, LESS THE NORTH 15 FEET FOR RIGHT OF WAY OF CAROLINA PARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 48, PAGE 14, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

a/k/a 2230 NW 95 Street, Miami, FL 33147

5. **Sale of Property.** If the grand total amount with interest at the rate described in Paragraph 3 and all costs accrued subsequent to this judgment are not paid, the Clerk of court

DFU

shall sell the subject property at the public sale on 9-23-, 2013, to the highest bidder for cash, except as prescribed in Paragraph 6, at: www.miamidade.realforeclose.com, the Clerk's website for on-line auctions at 9:00 a.m. after having first given notice as required by Section 45.031, Florida Statutes.

6. Costs. Plaintiff shall advance all subsequent costs of this action and shall be reimbursed for them by the clerk if Plaintiff is not the purchaser of the property for sale. If Plaintiff is the purchaser, the Clerk shall credit Plaintiff's bid with the total sum with interest and costs accruing subsequent to this judgment, or such part of it, as is necessary to pay the bid in full. The Clerk shall receive the service charge imposed in Section 45.031, Florida Statutes, for services in making, recording, and certifying the sale and title that shall be assessed as costs.

7. Right of Redemption. On filing of the Certificate of Sale, defendants' right of redemption as proscribed by Florida Statutes, Section 45.0315 shall be terminated.

8. Distribution of Proceeds. On filing the Certificate of Title, the Clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of the plaintiff's costs; second, documentary stamps affixed to the Certificate; third, Plaintiff's attorneys' fees; fourth, the total sum due to the Plaintiff, less the items paid, plus interest at the rate prescribed in Paragraph 2 from this date to the date of the sale. During the sixty (60) days after the Clerk issues the certificate of disbursements, the Clerk shall hold the surplus pending further Order of this Court.

9. Right of Possession. Upon filing of the Certificate of Title, defendants and all persons claiming under or against defendants since the filing of the Notice of Lis Pendens shall be foreclosed of all estate or claim in the property and the purchaser at sale shall be let into possession of the property, subject to the provisions of the "Protecting Tenant At Foreclosure Act of 2009."

10. Attorney Fees. The Court finds, based upon the affidavits presented and upon inquiry of counsel for the plaintiff, that 67.70 hours were reasonably expended by Plaintiff's counsel and that an hourly rate of \$275.00 is appropriate. PLAINTIFF'S COUNSEL REPRESENTS THAT THE ATTORNEY FEE AWARDED DOES NOT EXCEED ITS CONTRACT FEE WITH THE PLAINTIFF. The court finds that there are no reduction or enhancement factors for consideration by the Court pursuant to *Florida Patient's Compensation Fund v. Rowe*, 472 So.2d. 1145 (Fla. 1985).

11. NOTICE PURSUANT TO AMENDMENT TO SECTION 45.031, FLA. ST. (2006)

IF THIS 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 THE FINAL JUDGMENT.

IF YOU ARE A SUBORDINATE LIEN HOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN SIXTY (60) DAYS AFTER THE SALE. IF YOU FAIL TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO

ANY REMAINING FUNDS.

IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH THE CLERK OF THE COURT, 140 WEST FLAGLER STREET, ROOM 908, MIAMI, FLORIDA (TELEPHONE: (305) 375-5943), WITHIN (10) DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN THE REGISTRY OF THE COURT.

IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT THE LEGAL AID SOCIETY AT THE DADE COUNTY BAR ASSOCIATION, 123 N.W. FIRST AVENUE, SUITE 214, MIAMI, FLORIDA, (TELEPHONE: (305) 579-5733), TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT THE DADE COUNTY BAR ASSOCIATION LEGAL AID SOCIETY, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

12. **Jurisdiction.** The Court retains jurisdiction of this action to enter further orders that are proper, including, without limitation, writs of possession and deficiency judgments.

13. The Court finds that Plaintiffs have reestablished the terms of the lost note and its rights to enforce the instrument as required by Section 673.3091, Florida Statutes. Since adequate protection is provided as required by Section 673.3091, Florida Statutes, judgment is hereby entered in favor of Plaintiffs as to its request to enforce the lost note.

DONE AND ORDERED in Chambers in Miami-Dade County, Florida, this 14th day of August, 2013.


CIRCUIT COURT JUDGE

ORIGINAL

Copies furnished to all parties.

JUDGE JOSE M. RODRIGUEZ

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

GENERAL JURISDICTION DIVISION

CASE NO.: 11-25288 (CA 15)

AMERIPORT, LTD., ETC., ET AL.,

PLAINTIFFS,

VS.

**KENTON GEORGE FINDLAY,
ETC., ET AL.,**

DEFENDANTS.

**DEFENDANT KENTON FINDLAY'S AMENDED
SUGGESTION OF BANKRUPTCY**

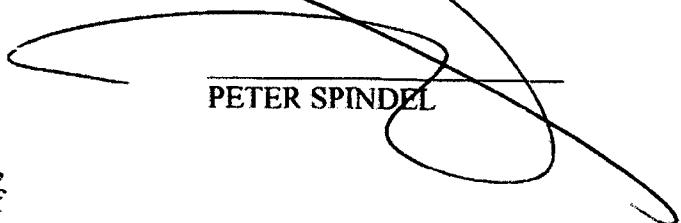
KENTON FINDLAY ("Defendant"), states that on August 13, 2013, said Defendant filed a Petition for Relief in Bankruptcy pursuant to Chapter 11, Title 11, United States Code, in the United States Bankruptcy Court for the Southern District of Florida, Miami Division, under Bankruptcy Case No. 13-29223-AJC, and hereby gives notice to the Court and all interested parties, pursuant to the provisions of the Automatic Stay of the Bankruptcy Code, 11 U.S.C. § 362(a), that certain acts and proceedings against the said Defendant and property of the estate in the above captioned case are stayed until the final disposition of the aforementioned bankruptcy case.

The foregoing is intended by the undersigned as a limited appearance on behalf of Defendant solely for the purpose of advising the Court of the aforementioned circumstances and not as a general appearance as Defendant's attorney of record in the case *sub judice*.


PETER SPINDEL
Florida Bar No. 0816183
Peter Spindel, Esq.
P.O. Box 166245
Miami, Florida 33116-6245
Telephone: (786) 517-4229
email: peterspindel@gmail.com

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of the foregoing was served by first class United States mail, postage prepaid, to all interested parties on the attached service list this August 14, 2013.


PETER SPINDEL

George Minski, Esq.,
Attorney for Plaintiff
20818 W. Dixie Hwy
Aventura, FL 33180

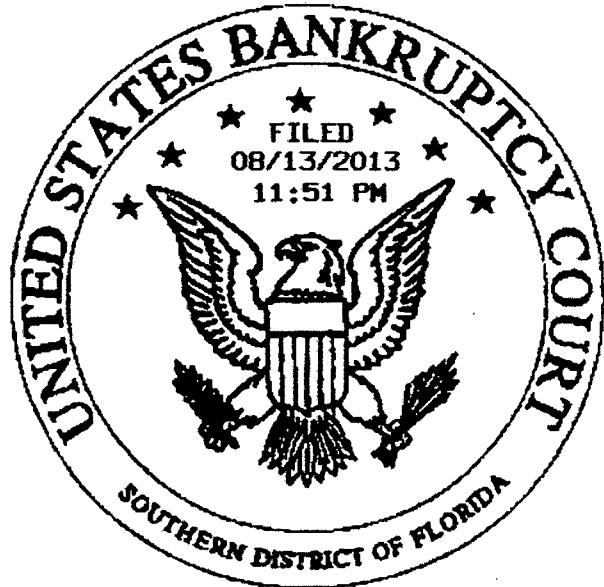
3616.1301
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**Peter Spindel, Esq.,PA
P.O. Box 186245
Miami, FL 33116-6245**

United States Bankruptcy Court
Southern District of Florida**Notice of Bankruptcy Case Filing**

A bankruptcy case concerning the debtor(s) listed below was filed under Chapter 11 of the United States Bankruptcy Code, entered on 08/13/2013 at 11:51 PM and filed on 08/13/2013.

Kenton Findlay
1270 NW 178 Ter
Miami, FL 33169
SSN / ITIN: xxx-xx-1808



The case was filed by the debtor's attorney:

Peter D Spindel
POB. 166245
Miami, FL 33116
305-279-2126

The case was assigned case number 13-29223-AJC to Judge A. Jay Cristol.

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

If you would like to view the bankruptcy petition and other documents filed by the debtor, they are available at our *Internet* home page www.flsb.uscourts.gov or at the Clerk's Office, . . .

You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.

Katherine Gould Feldman
Clerk, U.S. Bankruptcy Court

PACER Service Center
Transaction Receipt

Peter Spindel, Esq.,PA
P.O. Box 166245
Miami, FL 33116-6245

LAW OFFICES
PETER SPINDEL, ESQ., PA
ATTORNEY AT LAW
Kendall Summit Office Park
11440 N. Kendall Dr. Suite 209
Miami, Florida 33176-1024
P.O. Box 166245
Miami, Florida 33116-6245
Telephone: (305) 279-2126
Facsimile: (305) 279-2127
peterspindel@gmail.com

FAX COVER SHEET

DATE: 8/21/13

TIME: 8:45 AM

Please deliver the following pages -

To: **LAND SALES UNIT / FORECLOSURES**

From: **PETER SPINDEL, ESQ.**

Re: Foreclosure Case No. 11-25288 (CA 15)

Foreclosure Sale Date: September 23, 2013

Foreclosure sale canceled. / Bankruptcy Filed Staying Sale

Bankruptcy Case No. 13-29223-ATC

Fax No. Called: 305.375.2866

This transmission is 4 pages including this cover sheet. If you do not receive all pages legibly, please call (305) 279-2126.

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Thank you,

Peter Spindel, Esq.

Transmission Log

Peter Spindel, Esq.,

Wednesday, 2013-08-21 09:54

3052792127

Date	Time	Type	Job #	Length	Speed	Fax Name/Number	Pages	Status
2013-08-21	09:52	SCAN	255	1:24	9600		4	OK -- V.29 AO31

LAW OFFICES
PETER SPINDEL, ESQ., PA
 ATTORNEY AT LAW
 Kendall Summit Office Park
 11440 N. Kendall Dr. Suite 209
 Miami, Florida 33176-1924
 P.O. Box 166245
 Miami, Florida 33116-6245
 Telephone: (305) 279-2126
 Facsimile: (305) 279-2127
 peter.spindel@qwest.com

FAX COVERSHEET

DATE: 8/21/13
 TIME: 8:45 AM

Please deliver the following pages:-

To: *LAND SALES UNIT / FORECLOSURES*

From: *PETER SPINDEL, ESQ.*

Re: Foreclosure Case No. 11-25288 (CA 15)

Foreclosure Sale Date: September 23, 2013

Foreclosure sale canceled / Bankruptcy Filed Staying Sale

Bankruptcy Case No. 13-28223-ATC

Fax No. Called: 305.375.2866

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Thank you,

Peter Spindel, Esq.