

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
(WEST PALM BEACH DIVISION)

CASE NO.:09-20865-CIV-Hurley/Hopkins

JONATHAN E. PERLMAN, ESQ., AS
COURT APPOINTED RECEIVER OF CREATIVE
CAPITAL CONSORTIUM, LLC,

Plaintiff,

v.

GABRIELLE ALEXIS,

Defendant,

v.

WACHOVIA BANK, A DIVISION OF
WELLS FARGO BANK, N.A.,

Garnishee.

**ANSWER OF GARNISHEE
AND
DEMAND FOR GARNISHMENT DEPOSIT**

COME NOW Garnishee, Wachovia Bank, A Division of Wells Fargo Bank, N.A., by and through its undersigned attorneys, and answers the Writ of Garnishment served herein on it and says:

1. At the time of service of said Writ (plus sufficient time not to exceed one business day for Garnishee to act expeditiously on the Writ) and at the time of this Answer, and in between said times, the Garnishee may be indebted to Defendant(s), "Gabrielle Alexis, Law Offices of Gabrielle Alexis, P.A., and Mondesir & Alexis Title Services, Inc.":

A. in the amount of \$25,048.34 by virtue of an account(s) in the name of "Mondesir & Alexis Title Services Inc, Escrow Account"

B. in the amount of \$178.30 by virtue of an account(s) in the name of "Mondesir & Alexis Title Services Inc, Real Estate Escrow A/C"

at the address(es) shown on the Service list, and Garnishee in good faith has retained the sum of **\$25,226.64** in accordance with Chapter 77, and primarily Section 77.06(2) and (3), *Florida Statutes*.

2. Under Garnishee's Deposit Agreement with Garnishee's customer, Garnishee has a contractual right of setoff and security interest in its customer's accounts for Legal Process Affecting Accounts, including garnishments, and it hereby claims this right as an Affirmative Defense. Specifically, among its other rights, Garnishee is authorized to offset against its customer's account a Legal Processing fee in the amount of \$100.00. See *Baxter Healthcare Corp. v. Universal Medical Labs, Inc.*, 760 So. 2d 1126 (Fla. App. 5 Dist 2000). Said sum has been taken from an account enumerated in paragraph 1 above, and the amount shown in paragraph 1 reflects the sum held and available for garnishment after setoff. Garnishee's Legal Processing Fee is in addition to the statutory \$100.00 garnishment deposit payable to Garnishee's attorney for filing this Answer (Section 77.28 *Florida Statutes*).

3. The Garnishee has no other deposit, account or tangible or intangible personal property of Defendant(s) in its possession or control at the time of service of said Writ and at the time of this Answer, and in between said times, and knows of no other person indebted to the Defendant(s) or who may have any of the effects of the Defendant(s).

4. The Garnishee has no obligation to make, and has not made, a factual determination as to whether any property of the Defendant(s) in its possession or control is subject to any exemption provided to the Defendant(s) by State or Federal law.

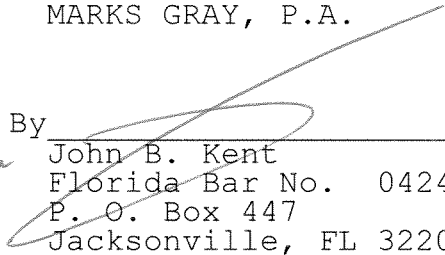
5. The Garnishee has retained the law firm of Marks Gray, P.A. to represent it in this matter and requests that it be paid its attorney's fees and costs as allowed by law.

DEMAND FOR GARNISHMENT DEPOSIT

The Clerk will please pay to the undersigned the \$100.00 garnishment deposit required by Section 77.28 *Florida Statutes*, in the above-styled cause.

MARKS GRAY, P.A.

By

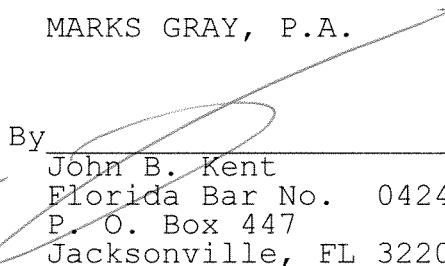

John B. Kent
Florida Bar No. 042442
P. O. Box 447
Jacksonville, FL 32201
Telephone: (904) 398-0900
Facsimile: (904) 399-8440
jkent@marksgray.com
Attorneys for Garnishee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY (1) that I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the first name on the attached Service List and (2) that a copy hereof has been furnished to those address(es) listed on the attached service list by U.S. mail on August 18, 2010.

MARKS GRAY, P.A.

By


John B. Kent
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jkent@marksgray.com
Attorneys for Garnishee

SERVICE LIST

Carmen Contreras-Martinez, Esq.
Miami Tower 44th Floor
100 SE Second St
Miami, FL 33131

Mondesir & Alexis Title Services Inc
1325 Congress Ave
Suite 100
Boynton Beach, FL 33426

WELLS FARGO BANK, N.A.

To all Clerks of the County Courts and Circuit Courts of the State of Florida
and United States District Courts:

Re: Payment of the \$100 Statutory Deposit
to Garnishee for its Attorneys Fee

Ladies / Gentlemen:

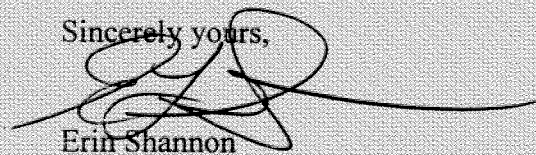
Please pay the \$100.00 garnishment deposit which, pursuant to Chapter 77,
Florida Statutes, is due to Wells Fargo Bank, N.A., as Garnishee, based on its demand
therefore, directly to our attorneys:

John B. Kent, Esquire
Marks Gray, P.A.
1200 Riverplace Boulevard, Suite 800
Jacksonville, Florida 32207

Taxpayer Identification Number: 59-1514046

We appreciate your cooperation.

Sincerely yours,



Erin Shannon
Legal Order Processing Department
Wells Fargo Bank, N.A.