

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

Jan 25 2021

APPEAL FROM HORRY COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Karl A. Folkens, Special Referee

Appellate Case No.: 2017-001646
Supreme Court Case No: 2020-001478

Jericho State Capital Corp. of Florida.....Plaintiff

v.

Chicago Title Insurance Company.....Defendant

AND

Lynx Jericho Partners, LLC.....Plaintiff

v.

Chicago Title Insurance Company.....Defendant

Of whom Jericho State Capital Corp. of Florida and Lynx Jericho Partners, LLC
are theRespondents,

And Chicago Title Insurance Company is thePetitioner.

AFFIDAVIT OF GLENN CHWATT

The Affiant, Glenn Chwatt, who being duly sworn, deposes and says as follows:

1. I am the President of Respondent Jericho State Capital Corp. of Florida (“Jericho State Capital”).
2. On Friday, January 8, 2021, our lawyers in this case forwarded to me a copy of the Amicus Curiae brief conditionally filed that same day by Palmetto Land Title Association

("PLTA"). I noticed PLTA's lawyer works for Womble Bond Dickinson, U.S., LLP ("Law Firm").

3. This greatly disturbed me, as the Law Firm (previously known as Womble Carlyle Sandridge & Rice) has represented Jericho State Capital and other related companies on many matters in South Carolina and North Carolina, including the property that is the subject of this lawsuit. For years, we considered the Law Firm as our "go to" lawyers for complex matters in the Carolinas and routinely sought their advice on many matters. As President of Jericho State Capital, I have directly worked with several Law Firm partners and numerous associate lawyers over the years beginning in or around 2006.
4. Because PLTA's interests, as argued in their brief, are directly adverse to our interests in this case, the Law Firm should not and cannot participate in this case, nor should their work product or brief be used against us. As such, I directed our lawyers in this case to file a motion to disqualify the Law Firm and to strike PLTA's brief in this matter. I understand that motion is still pending.
5. I have reviewed the Law Firm's letter to the Supreme Court of South Carolina dated January 12, 2021, in which PLTA withdraws its original Motion for Leave to File Amicus Curiae Brief and conditional brief. This was proper. However, Jericho State Capital strongly believes the Law Firm's information, documents, work product, legal research and brief related to this matter should not be provided to, or used by, Chicago Title, the PLTA, or their attorneys, or any other party.
6. I have reviewed PLTA's new Motion for Leave to File Amicus Curiae Brief. I see that their conditional brief is essentially the very same brief as previously written by the Law Firm, our former lawyers. I have also reviewed PLTA's response to our motion to strike,

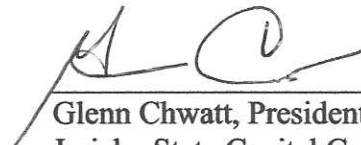
and I believe PLTA understates the role of the Law Firm in matters directly relating to this case.

7. This matter is particularly important and concerning to our company because the Law Firm represented us on the property that is the subject of this case. By way of background, in 2006, Jericho State Capital loaned \$4,263,888.00 to the purchaser of the subject property, secured by a second mortgage and protected by a lender's title insurance policy issued by Petitioner Chicago Title Insurance Company. This was also related to a loan transaction that involved similar parties and property located in North Carolina.
8. It is my recollection the Law Firm worked directly with our New York lawyers on this loan closing transaction and the NC loan transaction to confirm the closing documents were in accordance with South and North Carolina law. I further recall we paid them a fee for these services. This is consistent with my deposition testimony in this case given in response to questions from Petitioner Chicago Title.
9. Shortly after the closing, the purchaser defaulted on the loan. The Law Firm represented us to address the default and to attempt to negotiate a resolution with the borrower. The Law Firm advised us as to making cure payments on the first mortgage, which ultimately totaled over \$2.5 million, and several million more on the NC property. The Law Firm represented us on the foreclosure of this property, as well as the property in North Carolina.
10. Our dispute with the purchaser/borrower was complicated and the impact to our business was substantial. As such, the foreclosure action involved much more than a standard residential foreclosure, and the legal ramifications to Jericho State Capital were discussed in great detail with the Law Firm and involved ongoing legal advice as to our best course

of action at the time with regard to the subject property. Based on the Law Firm's advice, we made a foreclosure sale bid and ultimately took ownership of the subject property.

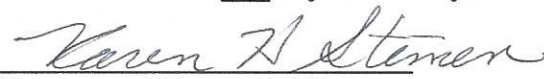
11. Chicago Title now asserts the Law Firm's testimony at the foreclosure hearing supports their position that the property was not encumbered, and I also understand that Chicago Title contends the foreclosure affects our company's claim for damages in this matter.
12. In the following years, the Law Firm provided legal counsel and guidance to us regarding the subject property on matters that also directly relate to this case on appeal, including the proposed road and SCDOT condemnation action. I recall the Law Firm recommended we hire the Bellamy Law Firm to litigate the condemnation case. Also, I recall several conversations between us, Bellamy and the Law Firm regarding the litigation strategy of that case. It should be noted that Chicago Title also takes the position on appeal that the condemnation proceeding relates to whether there was an encumbrance.
13. During this time, the Law Firm also represented Jericho State Capital and its related companies on other matters, including the N.C. companion loan transaction, the borrower's default and securing title to that land by foreclosure.
14. I also recall that in around 2008 and thereafter, the Law Firm provided legal counsel and guidance as to our potential insurance claim against Chicago Title, which is the subject of this case. I believe the Law Firm periodically provided advice and counsel on this and other matters until around 2011. Throughout this entire time period, the Law Firm gained intimate knowledge of our business as it relates to the subject property and of the property itself, including matters are currently present on appeal. We believe this is protected confidential and privileged information.

15. I do not believe the Law Firm should participate in this case, even if that participation is limited to sharing their work product, research and brief with Chicago Title, PLTA, or their lawyers. We believe this remains a conflict of interest to which we did not consent.
16. Jericho State Capital believes that in addition to withdrawing from this case, the Law Firm should not be allowed to provide PLTA information to be used against us, specifically anything in their file related to the Property or this appeal, including but not limited to work product, legal research and its Amicus Curiae Brief. Law Firm members were our lawyers related to this property and we believe they should not, in any way, assist PLTA in opposition to our case. Disturbingly, we feel the Law Firm is effectively still assisting an adversary by doing all the research and writing for the benefit of PLTA and in support of Chicago Title's position in this appeal. The brief, written by the Law Firm, and as again recently resubmitted by the PLTA with only very minor revisions, should be stricken from the record, and we request that all information provided by the Law Firm to Chicago Title, PLTA or their attorneys be returned or destroyed and that no additional information on this matter be provided by the Law Firm to Chicago Title, PLTA or their attorneys.



Glenn Chwatt, President
Jericho State Capital Corp. of Florida

Sworn to me this 22 day of January, 2021



Signature of Notary Public

Print Name: Karen H. Stemen
Notary Public for the State of: Florida

My Commission expires: 6.24.24

