

PUBLIC INFORMATION REQUEST

DATE: 9-10-07

TIME:

FROM: Robert Krutko

(ph) 614 851 0929

~~(fax)~~ wheezy9870@aol.com

RE:

2007-043289

*Needs:

copy of investigative Report
- attached. -

357 Old Ranch Court
Galloway, OH 43119



FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

INVESTIGATIVE REPORT

Office: Tallahassee	Date of Complaint: July 31, 2007	Case Number: 2007-043289
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Subject: ATTORNEY ALAN ECKSTEIN 3010 Flagler Ave. Key West, FL 33040 305 294 2247	Complainant: ROBERT KRUTKO 357 Old Ranch Court Galloway, OH 43119 614 851 0929
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Prefix: AU	License Number: Unlicensed	Profession: Auctioneer	Board: Board of Auctioneers	Report Date: September 5, 2007
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Period of Investigation: July 31, 2007 to September 5, 2007	Type of Report: Final
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ALLEGED VIOLATION: F.S. 468.385(2) (7) (B) NO PERSON SHALL AUCTION OR OFFER TO AUCTION ANY PROPERTY IN THIS STATE UNLESS HE OR SHE IS LICENSED BY THE DEPARTMENT OR IS EXEMPT FROM LICENSURE UNDER THIS ACT; NO BUSINESS SHALL AUCTION OR OFFER TO AUCTION ANY PROPERTY IN THIS STATE UNLESS IT IS LICENSED AS AN AUCTION BUSINESS BY THE BOARD OR IS EXEMPT FROM LICENSURE UNDER THIS ACT. EACH APPLICATION FOR LICENSURE SHALL INCLUDE THE NAMES OF THE OWNER AND THE BUSINESS, THE BUSINESS MAILING ADDRESS AND LOCATION, AND ANY OTHER INFORMATION WHICH THE BOARD MAY REQUIRE.

Synopsis: This investigation is predicated upon a complaint submitted by COMPLAINANT ROBERT KRUTKO alleging that SUBJECT ALAN ECKSTEIN conducted an illegal auction which resulted in the sale of a vessel that he owned. KRUTKO alleges that ECKSTEIN is not licensed as an auctioneer and had gained possession of the vessel illegally. **Exhibit 1**

SUBJECT ECKSTEIN was notified of this investigation by letter dated August 10, 2007. A copy of the UCF and supporting documents were given at this time. **Exhibit 2**

D.B.P.R Licensing Records indicate that ECKSTEIN is not licensed as an Auctioneer. **Exhibit 3**

On October 17, 2006, a public auction was conducted by ATTORNEY ALAN ECKSTEIN at the Ocean Key Resort, located at 1 Duval St. Key West, FL 33040. KRUTKO alleges that ATTORNEY ECKSTEIN auctioned "Sundancer" aka "Reef Cat", a 45' Catamaran Boat belonging to he and his wife. KRUTKO alleges that Ocean Key Resort illegally gained possession of his vessel which was then auctioned off. A copy of the article from The Key West Citizen dated October 1, 2006 advertising the public auction of the vessel is enclosed. **Exhibit 4**

As of the date of this report, ECKSTEIN has not responded to the Subject Notification Letter.

A Search of the Florida Division of Corporation website was conducted by this investigator in which a copy is enclosed. Results do not show that KRUTKO is an officer of the corporation. **Exhibit 12**

Related Case: NONE

Investigator/Date: <i>Erin Cameron</i> ERIN CAMERON, MANAGEMENT REVIEW SPECIALIST	Approved By/Date: <i>Jerry Wilson</i> JERRY WILSON, CHIEF OF INVESTIGATIONS
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Distribution:
 Division of Professions and Regulation – Headquarters: Monroe County State Attorney's Office

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CONTINUATION

ALAN ECKSTEIN sent via fax a copy of the Notice to Lien that was mailed to LAURA KRUTKO as well as a copy of the lien itself. **Exhibit 5**

ALAN ECKSTEIN also provided this investigator with a copy of the Dockage Agreement. According to ECKSTEIN, there was a written agreement in place when the KRUTKO'S purchased the corporation. ECKSTEIN further stated that when the KRUTKO'S purchased the vessel, the agreement was already in place and still was in affect. **Exhibit 6**

Numerous emails were sent to this investigator by KRUTKO in which copies are enclosed. **Exhibit 7**

A copy of the Certificate of Documentation and a copy of the Certified Copy of the Preamble and Resolution of the Board of Directors of Reef Snorkeling Adventures Inc. were provided by KRUTKO and are enclosed. **Exhibit 8**

A copy of the police report filed on May 31, 2006 with the Monroe Sheriff's Department which reports that "Sundancer" aka "Reef Cat" was stolen, is enclosed. According to KRUTKO, the police report was filed by Andrew Porter and employee of his who was asked to originally move the vessel from the resort. **Exhibit 9**

A copy of the report dated October 24, 2006 from Officer Seth Wingard from FWC is enclosed. **Exhibit 10**

Mr. Kevin McCarthy who purchased the vessel from the auction conducted on October 17, 2006, provided this investigator with a copy of the purchase agreement and a written statement dated June 27, 2007. **Exhibit 11**

A sworn statement was requested from KRUTKO but has not been received as of the date of this report. A sworn statement will be forwarded as a supplemental upon receipt.

INTERVIEW: ROBERT KRUTKO, COMPLAINANT

357 Old Ranch Court
Galloway, OH 43119
614 851 0929

On or about July 23, 2007 and numerous times thereafter, this investigator telephonically interviewed KRUTKO who states that on or about May 31, 2006, he had moved his vessel from the Ocean Key Resort located at 1 Duval St. Key West, FL 33040. According to KRUTKO, after the hurricanes, the Ocean Key Resort had agreed to allow him to dock his boat at the resort free of charge for a period of time but then due to the resort wanting him to start paying rent KRUTKO took his boat from the resort and relocated it at Cudjoe Key Bay mile marker 23. According to KRUTKO he never had a lease agreement with the resort. KRUTKO stated that his boat became missing approximately a day after he had anchored it. KRUTKO stated that his boat had set adrift and was discovered by a gentleman named Melvin Herlehy who found the boat against his dock at his home located in Codjoe Bay. According to KRUTKO, the Florida Wildlife Commission as well as the Monroe County Sherriff's Department was called out to the Herlehys'. According to KRUTKO, Officer Seth Wingards with the Florida Wildlife Commission stated in his report that that Mr. Herlehy new the owner of "Sundancer" aka "Reef Cat" and had contacted the owner to secure the vessel, which KRUTKO stated was a lie. KRUTKO went on to state that when Officer Wingards and Mr. Herlehy contacted the resort, they were told by a John Evans, who manages a jet ski rental business at the resort that a disgruntled employee ran off with his boat and that he had been looking for it. KRUTKO further stated that when John Evans arrived at Mr. Herlehy's residence, he hot wired the boat right in front of them. KRUTKO told this investigator that Officer Wingard did not do any research as to who actually owned the boat, but took Mr. Evans word. KRUTKO goes on to state that the resort had paid John Evans to go retrieve his boat and illegally gained possession of a boat that didn't belong to them. According to KRUTKO, the resort helped them to his property without court documentation. KRUTKO stated that according to Maritime Law, once a vessel leaves a marina, it loses its Possessory Lien. KRUTKO stated that John Evans had lied stating that he was the owner of the boat. According to KRUTKO, ECKSTEIN claims that a lien was placed yet there was no documentation from the court and there was no notice of lien found on the boat. KRUTKO stated that his boat was auctioned off by ALAN ECKSTEIN and Manager of Ocean Key Resort, Steven Boswell illegally. KRUTKO further stated that Kevin McCarthy purchased his boat through the auction under false pretenses. KRUTKO stated that the resort ended up refunded McCarthy's money back to him. KRUTKO told this investigator that ECKSTEIN several months later tried to get a lien placed on the boat through the Coast Guard documentation center and it was denied due to the fact that they already broke the law earlier and that without court documentation they would not allow it. According to KRUTKO, McCarthy was told by ECKSTEIN that there were no liens on the boat and that the boat belonged to the resort. KRUTKO continued by stating that his boat is now in the hands of the State Marshall.

INTERVIEW: ATTORNEY ALAN ECKSTEIN, SUBJECT

3010 Flagler Ave.
Key West, FL 33040
305 294 2247

On July 24, 2007, and several times thereafter, this investigator telephonically interviewed ECKSTEIN who previously represented the Ocean Key Resort at the time that the incident occurred. According to ECKSTEIN, the resort had a non judicial Possessory Lien filed against the vessel due to non-payment of dockage fees amounting to close to \$65,000.00. ECKSTEIN stated that when the KRUTKOS' had purchased the corporation, they also bought the assets and the lease that were associated. ECKSTEIN stated that the original lease was with the previous owner of the corporation. According to ECKSTEIN it is a corporation that owns the vessel and not ROBERT KRUTKO. According to ECKSTEIN a notice of lien was given to LAURA KRUTKO the actual owner of the vessel. ECKSTEIN stated that the resort had the right to lock up the boat due to non-payment of dockage fees. ECKSTEIN told this investigator that he had conducted the public auction which was held on October 17, 2006 at Ocean Key Resort. ECKSTEIN further stated that he called out the bids and that the people that were present included the broker representing Kevin McCarthy, Steven Boswell, John Evans and several others whom he believed might be staff of the resort. ECKSTEIN stated that the broker representing Kevin McCarthy, Lawrence Pirritino was the only person present that placed a bid.

INTERVIEW: JOHN EVANS, WITNESS

605 Dey St. Apt. 201
Key West, FL 33040
305 923 5484

On September 4, 2007, this investigator telephonically interviewed John Evans, who stated that KRUTKO stopped payment rent to the resort after hurricane Wilma. John Evans stated that KRUTKO believed that he was going to get ten months of free rent at the resort which was not the case. According to KRUTKO, a Notice of Lien was placed on the vessel itself and on the dock in front of the vessel. According to Mr. Evans, the vessel was taken from the resort and taken to Codjoe Bay about 22 miles east of Key West. John Evans stated that Mr. Herlehy recongnized the vessel from being at the Ocean Key Resort. Mr. Evans went on to state that he was asked by Steven Boswell, who was the General Manger of the resort at the time of the incident to go retrieve the vessel and bring it back to the resort. This investigator was told by Mr. Evans that he did not hot wire the boat but had purchased and installed two ignitions in order to bring the boat back to the resort. When asked about the auction that took place, Mr. Evans stated that there were four people present, which consisted of himself, Steven Boswell, Lawrence Pirritino and ALAN ECKSTEIN.

INTERVIEW: LAWRENCE PIRRITINO, WITNESS

5454 N. Dixie Hwy
Stuart, FL 34994
305 942 9043

On August 9, 2007, this investigator telephonically interviewed Lawrence Pirritino who stated that he represented Mr. Mc Carthy. According to Lawrence the auction was a public auction held on Oct. 17th. Lawrence stated that ECKSTEIN started the bidding at approx. \$65,000.00. Lawrence Pirritino stated that he placed the bid on behalf of his client for \$71,000.00. According to Lawrence, he was the only one that bid. Pirritino furthermore stated that there were approximately eight people total that were present which included himself, ECKSTEIN, Steven Boswell and several others who he thought might be hotel employees. Lawrence Pirritino stated that he knew that the boat had belonged to KRUTKO but that he was told by ECKSTEIN that the hotel now owned the boat due to dockage fees and a lien that had been placed. Pirritino told this investigator that there was no lien documentation on the vessel or that he had seen at the hotel.

INTERVIEW: KEVIN MCCARTHY, WITNESS

2206 Florida Ave.
Fernandina Beach, FL 32034
904 556 3223
904 261 6631

On or about July 23, 2007, this investigator telephonically interviewed Kevin McCarthy, who had purchased "Sundancer" aka "Reef Cat" that was auctioned on October 17, 2006. According to Mr. McCarthy he was told by ECKSTEIN that the resort owned the vessel and that there were no liens. Kevin McCarthy further stated that he was not present at the auction but that his broker, Lawrence Pirritino from Marathon Boats and Yachts was representing him. According to Kevin McCarthy, he had told Mr. Pirritino that he would be willing to pay between \$61,000.00 and \$71,000.00 for the vessel. Mr. McCarthy stated that the auction closed at \$71,000.00 and that he received a call from Mr. Pirritino that the vessel was his. According to McCarthy, when he was moving the vessel from the Key's up north of Ft. Lauderdale, he was boarded by the U.S. Coast Guard who asked him to show a bill of sale for the vessel. According to McCarthy, the U.S. Coast Guard stated that the bill of sale was not valid because the vessel was the property of Reef Snorkeling Adventures Inc. and that the Ocean Key Resort had not followed the proper procedures when they sold the vessel. Mr. McCarthy stated that he was told to leave the vessel at the marina in Ft. Lauderdale.

On August 4, 2007, this investigator telephonically made an unsuccessful attempt to contact Steven Boswell. Steven Boswell is no longer the General Manager of the Ocean Key Resort and has since then moved out of state.