

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No.: 8:19-cv-908-WFJ-AEP

ASSETS IDENTIFIED IN  
PARAGRAPH ONE OF  
VERIFIED COMPLAINT,

Defendant.

\_\_\_\_\_ /

**ANSWER TO AMENDED VERIFIED COMPLAINT FOR FORFEITURE  
IN REM, AND AFFIRMATIVE DEFENSES**

COME NOW, Claimants, Nathan Perry and Heather Perry (collectively referred to "Perry"), by and through their undersigned counsel, and hereby file their answer to the Amended Verified Complaint for Forfeiture *In Rem* (the "Complaint"), and state as follows:

1-112. Perry lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraphs 1 through 112 of the Complaint and the same are therefore denied.

113. Perry lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 113 of the Complaint and the same is therefore denied.

114. Perry admits that on or about March 18, 2016, Michael DaCorta ("DaCorta") purchased a residence at 13318 Lost Key Place from Perry for One Million Dollars (\$1,000,000), and that the approximately 5,000 square foot residence is located in Lakewood Ranch Country Club, which is a gated community; otherwise Perry lacks

knowledge or information sufficient to form a belief about the truth of the remaining allegation and the same is therefore denied.

115. Perry knowledge or information sufficient to form a belief about the truth of the first three sentences in Paragraph 115 of the Complaint and they are therefore denied. Perry denies the last sentence since Perry is the mortgagee, and 13318 Lost Key Place, LLC, as mortgagor, gave Perry a mortgage to secure payment of the balance due.

116. Perry lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 116 of the Complaint and the same is therefore denied.

117. Perry lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 117 of the Complaint and the same is therefore denied, except that Perry admits receiving monthly checks starting in April of 2016 from the mortgagor.

118. Perry admits that a Satisfaction and Release of Mortgage was filed with the Clerk of the Circuit Court, Manatee County. Perry lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations about how and with whom the payoff transaction took place in Paragraph 118. Therefore, except as admitted above, the balance of Paragraph 118 is denied.

119. Perry lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 119 of the Complaint and the same is therefore denied.

120. Perry lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 120 of the Complaint and the same is therefore denied.

121. Admitted.

122. Perry lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 122 of the Complaint and the same is therefore denied, except that Perry admits that a Warranty Deed was recorded with Manatee County.

123. Admitted.

124. Perry lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 124 of the Complaint and the same is therefore denied.

125. Perry admits to receiving monthly payments on the mortgage starting in October 2018, but states that the mortgagor is now in default; otherwise, Perry lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 125 of the Complaint and the same is therefore denied.

126. Perry lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 126 of the Complaint and the same is therefore denied.

127-62. Perry lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraphs 127 through 162 of the Complaint and the same are therefore denied.

## AFFIRMATIVE DEFENSES

### FIRST AFFIRMATIVE DEFENSE – INNOCENT PARTIES TO ACTION.

1. Perry is an innocent party to this matter. The only relationship between Perry and the alleged wrongdoers is that on two occasions Perry innocently sold two residential properties to limited liability companies formed by DaCorta, and took back purchase money mortgages to secure payment of the balances due.

2. Perry had no knowledge of the source of the funds or of DaCorta, or other co-conspirators' activities.

3. Perry did not receive anything of value from Michael DaCorta or any of the other named co-conspirators other than as stated in the Complaint for and in consideration of the purchases and sales of real properties located at 13318 Lost Key Place and later at 6922 LaCantera Circle, both in Lakewood Ranch, Florida.

### SECOND AFFIRMATIVE DEFENSE – PROTECTED SECURED STATUS.

1. Perry is entitled to protection of their secured collateral by virtue of a mortgage entered into by and between 6922 LaCantera Circle, LLC as Mortgagor and Nathan and Heather Perry as Mortgagee, said Mortgage being recorded at Instrument number 201841100370 of the Public Records of Manatee County, Florida on October 2, 2018.

2. Such security extends to the principal balance owed, \$1,500,000.00, together with accrued but unpaid interest, attorney's fees and costs, and any other expenses required to be paid by the mortgagor under the terms and conditions of the mortgage. *See U.S. v. Six Parcels*, 920 F.2d 798 (11th Cir. 1991).

3. Such security is superior to the interests of the Plaintiff.

WHEREFORE, Perry demands that their posture as secured creditors be maintained throughout the forfeiture proceedings in order to protect their interests under the mortgage.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 25<sup>TH</sup> day of June, 2019, the undersigned electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

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**SERVICE LIST**

United States of America v. Assets Identified in Paragraph One of Verified Complaint /  
Case No.: 8:19-cv-908-T-02AEP

Electronically by CM/ECF System

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