

Joseph M. Goldstein

From: Joseph M. Goldstein <JGoldstein@shutts.com>
Sent: Thursday, April 16, 2020 2:13 PM
To: Douglas (Doug) Ralph Gonzales (dgonzales@hollywoodfl.org)
Cc: Paul Bassar (PBASSAR@hollywoodfl.org); 'Wishmael@hollywoodfl.org'; 'GZambrano@hollywoodfl.org'; 'ALinares@hollywoodfl.org'; Andrew E. Schwartz
Subject: McCumber-Wright Venture LLC - Mark McCumber and Associates
Attachments: 7932335_1_(FTLDOCS)_McCumber Wright Venture LLC - 2019 Annual Report.PDF; 7932017_1_(FTLDOCS)_Bank of Am., N.A. v. Nash, 200 So. 3d 131 (Fla. 5th DCA 2016).DOCX; 7932008_1_(FTLDOCS)_Wormd World, Inc. v. Ironwood Productions, Inc., 917 So. 2d 274 (Fla. 1st DCA 2005).DOCX

Importance: High

Doug –

Thank you so much for chatting with me about the McCumber issue. I hope you and your client will agree to a video call to discuss.

I wanted to supplement my letter to address the issue you elaborated on during our call regarding the non-registration of McCumber & Associates as a fictitious name owned by McCumber-Wright Venture, LLC at the time of the submission of the proposal. I do not believe that presents any legal impediment to moving forward with our client.

At the time of the submission, Mark McCumber & Associates was considered a division of the limited liability company McCumber Wright Venture LLC. See copy of the website below and mentioned several times in the proposal.

MCCUMBER WRIG



In the transmittal letter, our client made clear that the contact persons were as follows (signature block of transmittal letter below)

The contact person(s) for the Mark McCumber & Asso

James L. McCumber
Managing Member
1600 Johnson St
Hollywood, FL 33021
954.927.1751

Email: james.mccumber@MMAgolf.com

Jos
Pro
160
Hol
954
Em

Further, after submitting our proposal, our client promptly advised the City that its e-mail addresses were @MWVgolf.com, not MMAgolf, which was a typographical error made in the proposal. The indication of James L. McCumber as a "Managing Member," which is a term of art, demonstrates that the submitting entity is a Limited Liability Company or LLC. In the first group of resumes, it shows that James L. McCumber's firm is McCumber-Wright Venture, LLC/Mark McCumber Associates, indicating the "incorporated" entity and its division. (And, in the next three resumes, it consistently identifies the firm as "McCumber-Wright Venture LLC/Mark McCumber Associates") (a copy is produced below)

(Complete one Section)

12. NAME

James L. McCumber

13. ROLE IN THIS PROJECT

Senior Project Manager

15. FIRM NAME AND LOCATION *(City and State)*

McCumber-Wright Venture, LLC, Hollywood, FL /Mark McCumber Associates, LLC

16. EDUCATION *(Degree and Specialization)*

Brooklyn Bethel

The 2019 annual report for McCumber-Wright Venture, LLC, confirms that Mr. James McCumber is the Managing Member, i.e., MGRM. (attached)

The fact that as of the date of submittal Mark McCumber and Associates was not registered as a fictitious name does not in any way nullify the legal authority of such division of McCumber-Wright Venture, LLC to legally bind the incorporated entity.

Section 865.09(9), Florida Statutes states that “the failure of a business to comply with section [requiring registration of a fictitious name] **does not impair the validity of any contract . . . or act of such business. . . .**”

Also, I am attaching two cases that support such an interpretation of the statute.

Thus, Mark McCumber and Associates had the binding legal authority to submit a proposal on behalf of McCumber-Wright Venture, LLC.

We look forward to “seeing” you to discuss this issue further.



Joseph M. Goldstein

Partner, Board Certified in Business Litigation

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