

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

APR 15 1988

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
WILLIAM V. HOPKINS,	)	
	)	
Defendant.	)	CIVIL ACTION NO. 88-C-36-E

JACOB S. ... CLERK  
U.S. DISTRICT COURT

NOTICE OF DISMISSAL

COMES NOW the United States of America by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, Plaintiff herein, through Nancy Nesbitt Blevins, Assistant United States Attorney, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action without prejudice.

Dated this 15<sup>th</sup> day of April, 1988.

UNITED STATES OF AMERICA

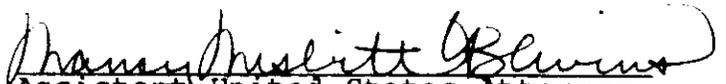
TONY M. GRAHAM  
United States Attorney



NANCY NESBITT BLEVINS  
Assistant United States Attorney  
3600 United States Courthouse  
Tulsa, Oklahoma 74103  
(918) 581-7463

CERTIFICATE OF SERVICE

This is to certify that on the 15<sup>th</sup> day of April, 1988, a true and correct copy of the foregoing was mailed, postage prepaid thereon, to: William V. Hopkins, 912 West Atlanta Court, Broken Arrow, Oklahoma 74012.

  
Assistant United States Attorney

*United States*  
IN THE DISTRICT COURT WITHIN AND FOR ~~THULSA COUNTY~~

*The Northern District of Oklahoma*

APR 15 1988

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

STATE OF OKLAHOMA

RHONDA LYNN HEATH, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
DAIRYLAND INSURANCE COMPANY, )  
 )  
Defendant. )

Case No.: 87-C-650-B

ORDER

ON THE 15 day of April, 1988, upon the joint application of the parties, the Court orders that this matter is hereby dismissed with prejudice to the filing of another cause of action.

s/ THOMAS R. BRETT  
THOMAS R. BRETT, District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**F I L E D**

EMERSON ELECTRIC COMPANY, )  
a Missouri corporation, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
ROGERS, HONN & ASSOCIATES, )  
an Oklahoma professional )  
association, and RICHARD C. )  
HONN, individually, )  
 )  
Defendants. )

**APR 15 1988**

**Jack C. Silver, Clerk  
U.S. DISTRICT COURT**

No. 87-C-434-B

AMENDED JUDGMENT

The Judgment filed herein on April 8, 1988, erroneously dated September 7, 1987, is amended to read as follows:

In accordance with the Order filed this date, IT IS HEREBY ORDERED AND ADJUDGED that judgment be entered in favor of the Defendants, Rogers, Honn & Associates, an Oklahoma professional association, and Richard C. Honn, individually, and against the Plaintiff, Emerson Electric Company, a Missouri corporation, and the Plaintiff is to take nothing on its claim herein. Each side is to pay its respective attorney fees.

DATED this 15th day of April, 1988.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE



1. That he was deprived of a fundamental right to be advised of a case made at public expense and appointment of counsel to represent him in perfecting his appeal on his guilty plea;
2. That he was denied due process when the trial court failed to introduce evidence of a certified copy of petitioner's judgment and sentence and failed to let the records reflect that he was represented by counsel on said prior conviction; and
3. He was denied effective assistance of counsel when his counsel allowed the trial court to enhance his punishment in violation of Oklahoma state laws.

It is clear that Ground 1 of the proposed amendment to the petition is but a restatement of a claim asserted in the original petition. By Petitioner's own admission in his Motion to Alter or Amend, that ground has not been exhausted in the state court and will therefore not be allowed. The Court therefore finds that the Petitioner's Motion to Alter or Amend the Court's Order of March 1, 1988, should be granted and the Petitioner should be allowed to amend his original habeas petition to include grounds 2 and 3 above. Grounds 2 and 3 represent claims that have been exhausted in the state courts. The Court allows such amendment pursuant to 28 U.S.C. §2242, Fed.R.Civ.P. 15, and the authority of Rose v. Lundy, 455 U.S. 509, 520 (1981).

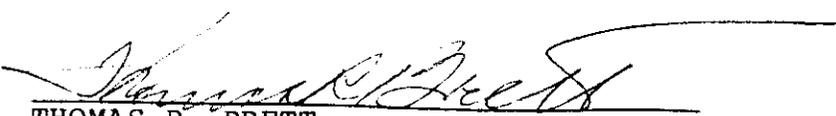
In so altering the Court's Order of March 1, 1988, and allowing the amendment to include only exhausted claims, the Court notes that the Petitioner risks forfeiting consideration of any unexhausted claims in federal court. See, 28 U.S.C. §2254, Rule 9(b) (abuse of the writ). The Court makes this

observation in light of the Petitioner's clear familiarity with, and reliance on the case of Rose v. Lundy. That case instructs that "a prisoner who decides to proceed only with his exhausted claims and deliberately sets aside his unexhausted claims risks dismissal of subsequent federal petitions." Rose v. Lundy at 521.

In light of the amended petition the Respondents are ordered to show cause why the writ should not issue and file a response to the amended petition for a writ of habeas corpus within twenty (20) days from the date of this order. In so responding the Respondents may rely on their response to the original petition or supplement the record in any manner deemed necessary for resolution of the issues raised.

IT IS THEREFORE ORDERED that the Court's Order of March 1, 1988, dismissing Petitioner's petition for a writ of habeas corpus is altered to allow the petition to proceed on the two grounds articulated above.

IT IS SO ORDERED this 15<sup>th</sup> day of April, 1988.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE NORTHERN DISTRICT OF OKLAHOMA

DYCO PETROLEUM CORPORATION, )  
a corporation, )  
 )  
Plaintiff, )  
v. )  
 )  
ARKLA ENERGY RESOURCES, )  
(Formerly Known As )  
Arkansas-Louisiana Gas Co.) )  
a Division of ARKLA, INC., )  
a Delaware corporation, )  
 )  
Defendant. )

Case No. 87-C-275-C

**F I L E D**

**APR 14 1988**

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

PARTIAL DISMISSAL OF CLAIMS

The Plaintiff, Dyco Petroleum Corporation ("Dyco") hereby dismisses that portion of its claim against Arkla that covers the interests acquired from Bracken in the Hazel-Craig #1-5 well, Gamble #1-14 well, Hooper #2-4 well, McClellan #1 well, South #1-8 well and Stout #1 well.

*Mary B. Lewis*  
\_\_\_\_\_  
Kenneth L. Brune  
Mary B. Lewis  
700 Sinclair Building  
Six East Fifth Street  
Tulsa, Oklahoma 74103  
(918) 584-0506

OF COUNSEL:

BRUNE, PEZOLD, RICHEY & LEWIS  
700 Sinclair Building  
Six East Fifth Street  
Tulsa, Oklahoma 74103  
(918) 584-0506

CERTIFICATE OF MAILING

I, Mary B. Lewis, hereby certify that on this 28<sup>th</sup> day of March, 1988, I placed in the U.S. mails at Tulsa, Oklahoma, a true and correct copy of the foregoing document with correct postage fully prepaid thereon addressed to the following:

Richard T. McGonigle, Esq.  
Hall, Estill, Hardwick, Gable,  
Golden & Nelson  
4100 Bank of Oklahoma Tower  
One Williams Center  
Tulsa, Oklahoma 74172

Mary B. Lewis  
Mary B. Lewis

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 22 1986

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

WILLIAM F. WATTS and  
ENE S. WATTS,

Plaintiffs

v.

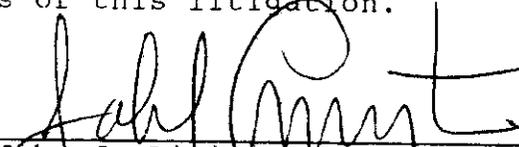
UNITED STATES OF AMERICA,

Defendant

CIVIL NO. 86-C-335-B

STIPULATION FOR DISMISSAL

It is hereby stipulated and agreed that the complaint in the above-entitled case be dismissed with prejudice, the parties to bear their respective costs, including any possible attorneys' fees or other expenses of this litigation.

  
\_\_\_\_\_  
John J. Livingston  
525 South Main, Suite 201  
Tulsa, Oklahoma

ATTORNEY FOR PLAINTIFF

  
\_\_\_\_\_  
STEVEN SHAPIRO  
Chief Civil Trial Section  
Southern Region  
Department of Justice  
Tax Division  
P. O. Box 14198  
Ben Franklin Station  
Washington, D. C. 20044

ATTORNEY FOR DEFENDANT

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 GARY J. WEMMER, )  
 )  
 Defendant. ) CIVIL ACTION NO. 88-C-314-B

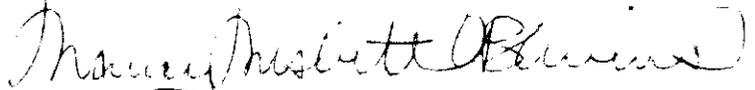
NOTICE OF DISMISSAL

COMES NOW the United States of America by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, Plaintiff herein, through Nancy Nesbitt Blevins, Assistant United States Attorney, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action without prejudice.

Dated this 14<sup>th</sup> day of April, 1988.

UNITED STATES OF AMERICA

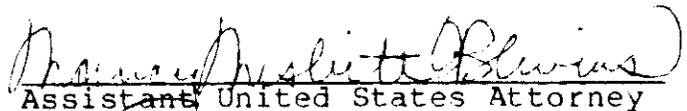
TONY M. GRAHAM  
United States Attorney



NANCY NESBITT BLEVINS  
Assistant United States Attorney  
3600 United States Courthouse  
Tulsa, Oklahoma 74103  
(918) 581-7463

CERTIFICATE OF SERVICE

This is to certify that on the 14<sup>th</sup> day of April, 1988, a true and correct copy of the foregoing was mailed, postage prepaid thereon, to: Gary J. Wemmer, 216 South Cherry, Commerce, OK 74339.



Assistant United States Attorney

NNB/cen

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**F I L E D**

APR 14 1988

LINDA NEWSOME, GARY NEAL, )  
RICHARD DICKEY, GEORGE DAVIS, )  
RICHARD NAUMAN, DOUG TATE and )  
WILLIAM BRENNER II, )

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

Plaintiffs, )

vs. )

Case No. 86-C-351-E

RTC TRANSPORTATION, INC., )  
and CITICORP INDUSTRIAL )  
CREDIT, INC., )

Defendants. )

ORDER OF DISMISSAL

The Plaintiffs, LINDA NEWSOME, GARY NEAL, RICHARD DICKEY, GEORGE DAVIS, RICHARD NAUMAN, DOUG TATE and WILLIAM BRENNER II, having heretofore entered their stipulation for dismissal pursuant to Rule 41(a)(1)(i), requesting the above matter should be dismissed as to the Defendant RTC TRANSPORTATION, INC. without prejudice to future filing, and, pursuant to said stipulation, IT IS THEREFORE ORDERED that the above styled cause asserted against Defendant TRC TRANSPORATION, INC., is hereby dismissed without prejudice.

Dated this 14<sup>th</sup> day of April, 1988.

S/ JAMES O. ELLISON

\_\_\_\_\_  
JUDGE OF THE DISTRICT COURT

**FILED**

APR 14 1988

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

DONALD E. WILLIAMS, et al., )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 METROPOLITAN PROPERTY AND )  
 LIABILITY INSURANCE COMPANY, )  
 )  
 Defendant. )

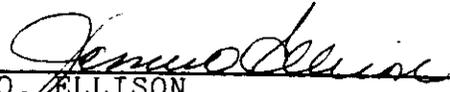
No. 86-C-432-E

JUDGMENT

This action came on for hearing before the Court, Honorable James O. Ellison, District Judge, presiding, and the issues having been duly heard and a decision having been duly rendered,

IT IS ORDERED AND ADJUDGED that the Plaintiffs Donald E. Williams and Lou Ellen Williams take nothing from the Defendant Metropolitan Property and Liability Insurance Company, that the action be dismissed on the merits, and that each side shall bear its own costs.

DATED at Tulsa, Oklahoma this 14<sup>th</sup> day of April, 1988.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

APR 14 1988

JAMES P. RICHARDSON and SANDRA )  
S. RICHARDSON, husband and wife, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
U-HAUL COMPANY OF COLORADO, )  
INC., )  
 )  
Defendants. )

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

Case No. 86-C-608-E

ORDER OF DISMISSAL

NOW ON THIS 14<sup>th</sup> day of April, 1988, the Court has for its consideration the Stipulation for Dismissal jointly filed in the above-styled and numbered cause by Plaintiffs and Defendant. Based upon the representations and requests of the parties, as set forth in the foregoing Stipulation, it is hereby

ORDERED that Plaintiffs' Complaint and claims for relief against the Defendant be and the same are hereby dismissed with prejudice.

The parties hereto shall each bear their respective costs and attorneys' fees.

**/s/ JAMES O. ELLISON**

JAMES O. ELLISON  
U. S. District Court Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 14 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

ROBERT LEE CONLEY, et al., )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 YAMAHA MOTOR CORPORATION, )  
 U.S.A., )  
 )  
 Defendant, )  
 )  
 VS. )  
 )  
 INDUSTRIAL INDEMNITY COMPANY, )  
 )  
 Intervenor. )

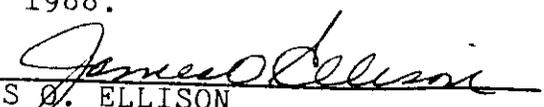
No. 86-C-850-E

ORDER

NOW on this 14<sup>th</sup> day of April, 1988 comes on for hearing the above styled case and the Court, being fully advised in the premises finds that the Motion to withdraw as Counsel of Record in this case should be and is hereby denied. However, based upon the representations made to the Court within the Motion to Withdraw and the later filed Motion to Compel regarding the status of the case, the Court, sua sponte, dismisses this case without prejudice to subsequent refiling.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff's Motion to Withdraw as Counsel of Record is denied, Defendant's Motion to Compel is rendered moot and this case is dismissed, sua sponte, without prejudice to subsequent refiling.

ORDERED this 14<sup>th</sup> day of April, 1988.

  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR **FILED**  
NORTHERN DISTRICT OF OKLAHOMA

APR 14 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

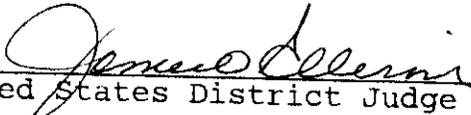
SERVICO MANAGEMENT CORP.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 86-C-996-E
	)	
EMMETT HAHN, et al.,	)	
	)	
Defendants,	)	
	)	
vs.	)	
	)	
WALLACE LEDFORD,	)	
	)	
Cross-Plaintiff,	)	
	)	
vs.	)	
	)	
EMMETT HAHN, et al.,	)	
	)	
Cross-Defendants.	)	

ORDER OF DISMISSAL WITHOUT PREJUDICE

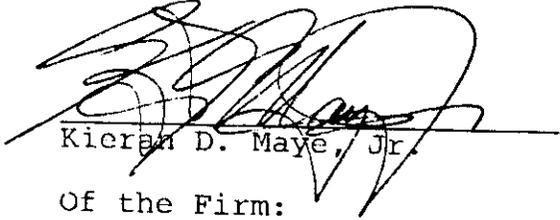
On the Motion of the Plaintiff, pursuant to Fed.R.Civ.P. 41(a)(2), to dismiss the above referenced action without prejudice to future filing, the Court being advised that all but one narrow issue involved in the subject action has been settled, the Court finds that the Plaintiff's Motion is well taken and should be granted.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the above referenced action be and same is hereby dismissed without prejudice to future filing.

DATED this 14<sup>th</sup> day of April, 1988.

  
United States District Judge

PREPARED BY:

  
Kieran D. Maye, Jr.

Of the Firm:  
HASTIE AND KIRSCHNER  
3000 First Oklahoma Tower  
210 West Park Avenue  
Oklahoma City, Oklahoma 73102  
(405) 239-6404

Attorneys for Plaintiff,  
Servico Management Corp.

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

APR 14 1988

SHEILA KAY COULTER, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 SAM FRIEDMAN, et al., )  
 )  
 Defendants. )

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

No. 86-C-1075-E

ORDER

NOW on this 14<sup>th</sup> day of April, 1988, there comes on for consideration the Joint Stipulation of Dismissal of the parties hereto, and for good cause shown,

IT IS HEREBY ORDERED that this matter be dismissed, with prejudice, with each party to bear its own attorney's fees and costs.

**S/ JAMES O. ELLISON**

United States District Judge

APR 14 1988

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

CHESTER LOGAN, a/k/a HUSSIEN )  
ALI, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
HERTZ CORPORATION and )  
JIM JALUFKA JR., )  
 )  
Defendants. )

87-C-483-E

ORDER

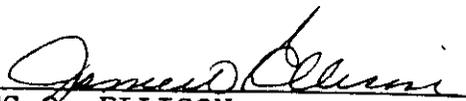
The Court has for consideration the Report and Recommendation of the Magistrate filed March 17, 1988 in which the Magistrate recommended that Defendant Jalufka be dismissed without prejudice from the action; that Defendant Hertz Corporation's Motion to Dismiss be denied; and that the case be transferred to the Western District of Texas, San Antonio Division.

No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the Court has concluded that the Report and Recommendation of the Magistrate should be and hereby is affirmed.

It is therefore Ordered that Defendant Jalufka is dismissed without prejudice from the action; that Hertz Corporation's Motion to Dismiss is denied; and that the case is transferred to the Western District of Texas, San Antonio Division.

Dated this 14<sup>th</sup> day of April, 1988.

  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

APR 14 1988

BUSINESS PRODUCTS AND SYSTEMS, )  
INC., )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
OLIVETTI, USA )  
 )  
Defendant. )

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

87-C-937-E

ORDER

The Court has before it for consideration the motion of Olivetti, USA ("Olivetti") to stay further proceedings pending arbitration on the grounds that the Federal Arbitration Act, 9 U.S.C. §3 and the written agreement between the parties provide for arbitration of the claims of Business Products Systems against Olivetti.

The only issue before the court is whether Business Product's antitrust claim is arbitrable. The parties agree that they entered a valid arbitration agreement, which was a part of the Dealer Agreement Business Products entered with Olivetti in 1982. They further agree that all of the claims should be stayed even if the court determines that the antitrust claim is nonarbitrable.

Business Products and Olivetti entered into a Dealer Agreement in 1982 in which Olivetti appointed Business Products as an authorized dealer for sale, leasing, rental, and servicing of Olivetti machines. The Agreement was subject to termination by either party upon thirty days notice. Olivetti terminated the Agreement in May 1987. Business Products now sues alleging inter

alia that Olivetti wrongfully terminated the agreement and made an agreement with a competitor, Electronic Dictation Systems, Inc., as part of a conspiracy to restrain trade in interstate commerce in violation of §1 of the Sherman Act. 15 U.S.C.A. §1 (West 1986). Business Products prays for treble damages in an unspecified amount as a result of this violation and for injunctive relief pursuant to §26.

The arbitration clause in the Dealer Agreement provides:

All disputes arising under this Agreement or pertaining in any manner to the dealership created by this Agreement shall be resolved by arbitration by an Appeal Board in accordance with the then-current Commercial Arbitration Rules of the American Arbitration Association.

Business Products does not dispute the validity of the arbitration clause. It does argue, however, that the antitrust claim arises outside the scope of the Dealer Agreement, and that the antitrust claim is nonarbitrable as a matter of law.

Questions of arbitrability require a two-step inquiry by the court. Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc., 473 U.S. 614, 105 S.Ct. 3346 (1985). First, the court must determine whether the scope of the arbitration agreement encompasses this statutory dispute, that is, whether the parties have agreed to arbitrate this antitrust claim. Second, if the court determines that the parties have agreed to arbitrate the antitrust claim, the court must determine whether any legal constraints outside the agreement preclude arbitration. Mitsubishi, 473 U.S. at \_\_\_, 105 S.Ct. at 3355. As the United States Supreme Court stated in Mitsubishi, "Having made the

bargain to arbitrate, the party should be held to it unless Congress itself has evinced an intention to preclude a waiver of judicial remedies for the statutory rights at issue." Id. For the following reasons the court concludes that the antitrust claim falls within the scope of the Dealer Agreement, and that the claim should be subject to arbitration.

In judging the scope of the Dealer Agreement the court must apply the "federal substantive law of arbitrability, applicable to any arbitration agreement within the coverage of the Act." Mitsubishi, 473 U.S. at \_\_\_, 105 S.Ct. at 3354 (quoting Moses H. Cone Memorial Hospital v. Mercury Construction Corp., 460 U.S. 1, 24, 103 S.Ct. 927, 941 (1983)). The arbitration Act establishes as a matter of federal law that any doubts concerning the scope of arbitrable issues should be resolved in favor of arbitration. Moses H. Cone Memorial Hospital, 460 U.S. at 24-25, 103 S.Ct. at 941-942. This applies with equal force to claims based upon statutory rights. Shearson American Express, Inc. v. McMahon, \_\_\_ U.S. \_\_\_, 107 S.Ct. 2332 (1987). With these guidelines in mind the court must conclude that the parties to this arbitration agreement have agreed to arbitrate this antitrust claim. The language of the agreement is clearly broad enough to encompass such a dispute. The arbitration agreement is stated to include disputes "which pertain in any manner to the dealership created by this Agreement." Inasmuch as the agreement between Olivetti and Electronic Data allegedly denies Business

Products its rights created by the Dealer Agreement the antitrust claim pertains to the Dealer Agreement.

The more difficult question is, as Olivetti points out, whether the antitrust claim is nonarbitrable even though the parties have agreed to arbitrate it. Antitrust claims traditionally have been held to be nonarbitrable. e.g., Hunt v. Mobil Oil Corp., 444 F.Supp. 68 (S.D.N.Y. 1977) but see, University Life Insurance Company of America v. Unimare, 699 F.2d 846 (7th Cir. 1983).

The United States Supreme Court recently has evinced a different attitude, as can be seen in Mitsubishi. Although the Mitsubishi holding is limited to agreements to arbitrate that involve international commerce, the Court rejected many of the traditional arguments against arbitration of antitrust claims. The Court recognized that: (1) arbitral tribunals are readily capable of handling the factual and legal complexities of antitrust claims, notwithstanding the absence of judicial instruction and supervision, 473 U.S. at 633-634, 105 S.Ct. at 3357-3358; (2) the streamlined procedures of arbitration do not entail any consequential restriction on substantive rights, Id., at 628, 105 S.Ct. at 3355; (3) there is no reason to assume at the outset that arbitrators will not follow the law, and should they not follow the law, judicial review is sufficient to ensure that arbitrators comply with the statute's requirements, Id., at 636-637, 105 S.Ct. at 3359-3360, and n. 19; (4) treble-damages suits for claims arising under §1 of the Sherman Act are

arbitrable even though such conduct may also give rise to claims of criminal liability; and (5) "notwithstanding its important incidental policing function, the treble-damages cause of action ... seeks primarily to enable an injured competitor to gain compensation for that injury." Id at 635, 105 S.Ct. at 3359.

Using the reasoning of Mitsubishi as a guide virtually no rationale remain for precluding arbitration in this case. Business Products has not pointed to anything in the Sherman Act itself or in its legislative history that would dictate a contrary result in this particular case; Business Products merely emphasizes the limited holding of Mitsubishi.

The Court recently has used the same reasoning to sanction the arbitrability of certain claims under the Securities Exchange Act of 1934 and RICO claims. Shearson/American Express, Inc. v. McMahon, 482 U.S. \_\_\_, 107 S.Ct. 2332 (1987). The reasoning of the Supreme Court in Mitsubishi and the reaffirmation of this reasoning in Shearson/American Express can be applied to this case, and the court feels constrained to follow it, notwithstanding the limited holding of Mitsubishi. Therefore, the court finds that the antitrust claim of Business Products is arbitrable as a matter of law.

IT IS THEREFORE ORDERED that the Motion of Olivetti USA to stay these proceedings pending arbitration is SUSTAINED, all further proceedings in this action are hereby STAYED, and the clerk is directed to administratively close this action until such time as the parties request that it be reopened.

Dated this 14<sup>th</sup> day of April, 1988.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

THE BOVAIRD SUPPLY COMPANY, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 PRIDE ENERGY CORPORATION, a )  
 Texas corporation, BILL A. )  
 SADLER, and THOMAS T. MANTZEL, )  
 )  
 Defendants. )

Case No. 87-C-902-C

**F I L E D**

**APR 14 1988**

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

JUDGMENT BY DEFAULT

The Court, upon application of Plaintiff for judgment by default hereby finds as follows:

1. That summons and complaint were served on Defendant Pride Energy Corporation on October 30, 1987; that Pride Energy Corporation filed no answer or responsive pleading to said Complaint; that default has been entered against Pride Energy Corporation pursuant to Application for Entry of Default filed March 4, 1988.

2. That Summons and Complaint were served on Defendants Bill A. Sadler and Thomas T. Mantzel by personal service on March 1, 1988; that Bill A. Sadler and Thomas T. Mantzel filed no answer or responsive pleading to said complaint; and that default has been entered against Bill A. Sadler and Thomas T. Mantzel pursuant to Application for Entry of Default filed April 12, 1988.

3. That allegations of Plaintiff's Complaint are true, and that Plaintiff is entitled to judgment as sought in its Application for Default Judgment.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff The Bovaird Supply Company have judgment against Defendants Pride Energy Corporation, Bill

A. Sadler, and Thomas T. Mantzel, jointly and severally, in the amount of \$3,294,156.76, plus interest thereon at the rate of 12% per annum from April 12, 1988 until paid.

Entered this 14 day of April, 1988.

(Signed) H. Dale Cook

---

United States District Judge

Submitted by,

Burk E. Bishop, OBA #813  
BOESCHE, McDERMOTT & ESKRIDGE  
800 ONEOK Plaza  
100 West Fifth Street  
Tulsa, OK 74103  
(918) 583-1777

IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF OKLAHOMA

WESLEY RAY HAMMONS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO.: 87-C-486-E
	)	
BURLINGTON NORTHERN RAILROAD	)	
COMPANY,	)	
	)	
Defendant and	)	
Third-Party Plaintiff,	)	
	)	
v.	)	
	)	
FORT HOWARD CORPORATION,	)	
	)	
Third-Party Defendant.	)	

NOTICE OF DISMISSAL

COMES NOW the Third-Party Defendant, Fort Howard Corporation, and dismisses without prejudice all causes of action against additional Third Party Defendants, Daniel International Corporation, J. E. Sirrine Company and Trac-Work, Inc.

---

John Howard Lieber OBA #005421  
 KNIGHT, WAGNER, STUART, WILKERSON & LIEBER  
 P. O. Box 1560  
 Tulsa, OK 74101-1560  
 (918) 584-6457

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing pleading has been mailed, with sufficient postage thereon, on this 14th day of April, 1988, to the following attorneys:

William C. Hopkins  
25th Floor  
Power & Light Building  
Kansas City, MO 64105

Dennis S. Boxeur  
Suite 600  
301 N.W. 63rd Street  
Oklahoma City, OK 73116

Gregory Frizzell  
3800 First National Tower  
Tulsa, OK 74103

---

John Howard Lieber

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

AVA REED, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 ST. JOHN MEDICAL CENTER, INC., )  
 )  
 Defendant. )

No. 87-C-14-C

**FILED**

**APR 14 1988**

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

O R D E R

Before the Court for consideration is the Motion for Judgment Pursuant to Local Rule 14(a) of Defendant, St. John Medical Center, Inc. Being advised in the premises, and for the reasons set forth below, the Court finds that the Motion should be sustained.

On January 21, 1988, Defendant filed its Motion to Tax Attorney's Fees. Plaintiff's response thereto was due on or before February 1, 1988. As of this date, Plaintiff has failed to respond. Pursuant to Local Rule 14(a), Defendant's Motion to Tax Attorney's Fees is deemed confessed.

IT IS THEREFORE ORDERED that Defendant's Motion for Judgment Pursuant to Local Rule 14(a) is sustained. By operation of Local Rule 14(a), Defendant's Motion to Tax Attorney's Fees is deemed confessed, and judgment is hereby entered in favor of Defendant and against Plaintiff in the amount of \$5,300.00.

ENTERED this 14<sup>th</sup> day of April, 1988.

(Signed) H. Dale Cook

\_\_\_\_\_  
H. DALE COOK  
UNITED STATES DISTRICT JUDGE

*Entered*

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JAMES C. VAN METER, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 CITIES SERVICE COMPANY, and )  
 OCCIDENTAL PETROLEUM CORP. )  
 )  
 Defendants. )

87-C-1046-C

**F I L E D**

**APR 14 1988**

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

ORDER

The Court has for consideration the Report and Recommendation of the Magistrate filed March 28, 1988 in which the Magistrate recommended that the Plaintiff's Motion to Disqualify (#6) be denied.

No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the Court has concluded that the Report and Recommendation of the Magistrate should be and hereby is affirmed.

It is therefore Ordered that the Plaintiff's Motion to disqualify (#6) is denied.

Dated this 14<sup>th</sup> day of April, 1988.

*H. Dale Cook*  
H. DALE COOK, CHIEF JUDGE  
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

KING DISTRIBUTING CO., )

Plaintiff, )

vs. )

PPG INDUSTRIES INC., )

Defendant. )

Case No. 87-C-440-C

**F I L E D**

APR 14 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

ORDER OF DISMISSAL

NOW, on this 14 day of April, 1988, there comes on before the Court Plaintiff's Motion for Order of Dismissal, and the Court, after having reviewed said Motion and being advised that Defendant has no objection to the granting of such Motion, it is ORDERED AND DECREED that Plaintiff's action against Defendant herein be and same is hereby dismissed, with prejudice.

(Signed) H. Dale Cook

H. Dale Cook, United States  
District Judge



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 13 1988 *hm*

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

MARSHA JOAN BLAIR, )  
 )  
Plaintiff, )  
vs. )  
 )  
BOB WHITFIELD, d/b/a BOB )  
WHITFIELD COMPANY and LLOYD )  
WAYNE PINKERTON, JR., )  
 )  
Defendants. )

Case No. 87-C-756-B ✓

ORDER OF DISMISSAL WITH PREJUDICE

NOW on this 13 day of April, 1988,  
pursuant to the Joint Stipulation of Dismissal filed by the  
parties herein, informing the Court that all issues raised  
herein have been fully settled between the parties, the  
Court hereby orders dismissal of this action with prejudice.

IT IS SO ORDERED this 13 day of April,  
1988.

*Thomas R. Best*  
U. S. DISTRICT COURT JUDGE

APPROVED AS TO FORM:

*Jefferson G. Greer*  
JEFFERSON G. GREER  
Attorney for Plaintiff  
*John A. Dunnery*  
JOHN A. DUNNERY  
Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 13 1988 *fm*

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

SAMUEL TRIMIAR, )  
 )  
 Plaintiff, )  
 )  
 -vs- )  
 )  
 PATRICK DUNLAP, BRADLEY EBY, )  
 and THE CITY OF TULSA, )  
 a Municipal corporation, )  
 )  
 Defendants. )

No. 87-C-665-B ✓

JOURNAL ENTRY OF JUDGMENT  
UPON AGREED SETTLEMENT

This cause comes before the undersigned judge upon the parties joint application that the Court approve an agreed settlement between the parties as required by 51 O.S. 1981 § 158(A). Plaintiff appears by his counsel, Walter Benjamin; the defendants appear by and through their attorney of record, Charles R. Fisher, Assistant City Attorney.

The Court has reviewed the file, heard the presentations of the parties and finds as follows:

(1) The defendants have submitted themselves to the jurisdiction of the Court; a jury trial has been held; a verdict and judgment has been rendered against the defendants, Patrick Dunlap and Bradley Eby; and both the plaintiff and the defendants are planning to file Motions for a Judgment Notwithstanding the Verdict.

The Court further finds the parties have concluded settlement negotiations, and the terms and conditions of this free and voluntary settlement are as follows:

(1) The City of Tulsa, Oklahoma, agrees to an entry of judgment in the total sum of Seven Thousand Five Hundred and 00/100 Dollars (\$7,500.00) against it and in favor of the plaintiff as a full, final and complete settlement of any and all claims for damages, pre- and post-judgment interest, costs and attorney's fees the plaintiff may have against the City of Tulsa, its employees or agents.

(2) The plaintiff (upon receipt of the above sum) agrees to dismiss his present request for attorney's fees.

(3) All parties agree not to file further Motions in this cause.

(4) The plaintiff agrees to waive any right to ask for or receive punitive damages as a result of this lawsuit or the judgment against defendants, Patrick Dunlap and Bradley Eby.

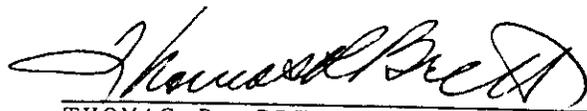
(5) The \$7,500.00 settlement figure does not include any amount as punitive damages or in lieu of punitive damages.

(6) The current judgment totaling \$4,000.00 will be dismissed.

In consideration of the above findings:

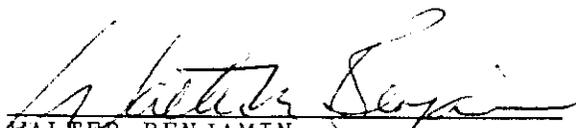
IT IS ORDERED that plaintiff have judgment against the defendant, City of Tulsa, Oklahoma, in the total sum of Seven Thousand Five Hundred and 00/100 Dollars (\$7,500.00).

IT IS FURTHER ORDERED that the judgment entered herein on the 25th of March, 1988, is hereby dismissed.

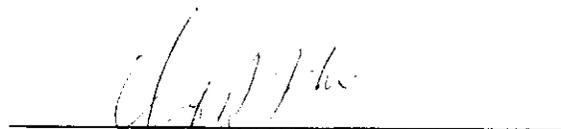


THOMAS R. BRETT  
Judge of the District Court

APPROVED AS TO FORM & CONTENT:

  
WALTER BENJAMIN  
Attorney for Plaintiff

  
SAMUEL TRIMLAR  
Plaintiff

  
CHARLES R. FISHER  
Attorney for Defendants,  
Patrick Dunlap & Bradley Eby

FILED

APR 13 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

NORTHBROOK PROPERTY AND CASUALTY  
INSURANCE COMPANY,  
Plaintiff,

v.

BARNETT-RANGE CORPORATION;  
WOODLAND HILLS/BOULDER RIDGE JOINT  
VENTURE; BARNETT-RANGE HOLDING  
COMPANY NO. 1; BARNETT-RANGE  
PROPERTY SERVICE CORPORATION;  
AETNA CASUALTY & SURETY  
COMPANY; and ALL OWNERS d/b/a  
BOULDER RIDGE APARTMENTS;  
LINDA HANES and FLOYD HANES,  
Defendants.

No. 86 C 709 B

ORDER

Upon Joint Application of the Plaintiff and Defendant, Aetna  
Casualty & Surety Company, this case is dismissed with prejudice.

Dated this 13<sup>th</sup> day of April, 1988.

\_\_\_\_\_  
U. S. DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE **F I L E D**  
NORTHERN DISTRICT OF OKLAHOMA

APR 13 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

DOUG ANDERSON,

Plaintiff(s),

vs.

BOB PICKARD, a/b/a Bob Pickard  
Painting

Defendant(s).

No. 87-C-789-B

JUDGMENT DISMISSING ACTION  
BY REASON OF SETTLEMENT

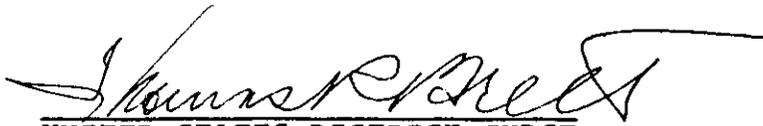
The Court has been advised by counsel that this action has been settled, or is in the process of being settled. Therefore, it is not necessary that the action remain upon the calendar of the Court.

IT IS ORDERED that the action is dismissed without prejudice. The Court retains complete jurisdiction to vacate this Order and to reopen the action upon cause shown that settlement has not been completed and further litigation is necessary, if filed by August 1, 1988.

IT IS FURTHER ORDERED that the Clerk forthwith serve copies of this Judgment by United States mail upon the attorneys for the parties appearing in this action.

Dated this 13<sup>th</sup> day of April, 1988.

IT IS FURTHER ORDERED that the dismissal will be with prejudice after August 1, 1988, unless the Parties have filed closing papers or the Plaintiffs have applied to the Court to reopen by that date.

  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

Alfred Burrows, d/b/a Burrows  
Construction Company, )

Plaintiff, )

vs. )

Trucker's Exchange, Inc., )

Defendant. )

vs. )

Forrest Transportation Service,  
Inc., )

Third Party Defendant. )

Case No. 87-C-60-C

**F I L E D**

APR 13 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

**DISMISSAL WITH PREJUDICE**

ON April 13, 1988 all parties appeared in Court for the trial of this case and upon commencement of trial Plaintiffs counsel announced that the case would be tried as though the rejection of the subject plums in Louisiana was a proper rejection. The issue for trial in this case was agreed by Plaintiff and Defendant to be who should bears the loss between them; which loss was occasioned by sale of the subject plums for a salvage value in Texas.

It was agreed by the parties that no issue remaining in the case bears upon claims against the Third Party Defendant Forrest Transportation Service, Inc. and that given the characterization of the case by Plaintiff, the Defendant Truckers Exchange, Inc. would have no claim against the Third Party Defendant.

Defendant Truckers Exchange, Inc. requested that the Third Party complaint against Forrest Transportation Service, Inc. be dismissed and the Court announced that the Third Party Complaint would be dismissed.

Given the characterization of the claim to be tried in the case, as set out and agreed to between Plaintiff and Defendant, the Third Party Complaint herein against Forrest Transportation Service, Inc. is therefore Dismissed with Prejudice.

*H. Dale Cook*

---

H. Dale Cook  
Judge of United States District Court

Approved as to Form:

*David B. Dykeman*  
Attorney for Plaintiff

*Steven K. Tev*  
Attorney for Defendant

*John B. Nich*  
Attorney for Third Party Defendant

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**F I L E D**

APR 13 1988 *hm*

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

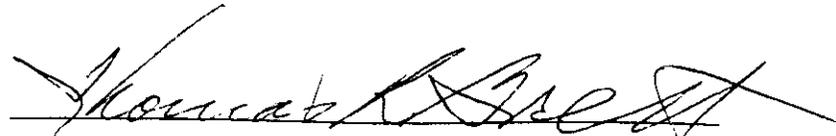
ITT COMMERCIAL FINANCE )  
CORPORATION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
TECH CENTER GROUP, INC., )  
LARRY SAND, LINDA SAND, )  
JIM HUNZEKER, MARY SUE )  
HUNZEKER, GERALDINE )  
WEATHERFORD, ROY FARROW and )  
NETTIE FARROW, )  
 )  
Defendants. )

No. 87-C-707-B ✓

J U D G M E N T

In accord with the order entered this date awarding attorney fees to the Plaintiff, Judgment is hereby entered in favor of the Plaintiff, ITT Commercial Finance Corporation, and against the Defendants, Tech Center Group, Inc., Roy Farrow and Nettie Farrow, in the amount of Two Thousand Thirteen and 71/100 Dollars (\$2,013.71), with postjudgment interest to run at 7.01%.

ENTERED this 13<sup>th</sup> day of April, 1988.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 LEE T. WELLS; NANCY WELLS; )  
 DRCC REALTORS; BANK OF OKLAHOMA )  
 LEWIS CENTER, formerly The )  
 Boulder Bank and Trust Company; )  
 COUNTY TREASURER, Tulsa County, )  
 Oklahoma; and BOARD OF COUNTY )  
 COMMISSIONERS, Tulsa County, )  
 Oklahoma, )  
 )  
 Defendants. )

FILED

APR 12 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

CIVIL ACTION NO. 87-C-959-E ✓

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 11<sup>th</sup> day  
of April, 1988. The Plaintiff appears by Tony M.  
Graham, United States Attorney for the Northern District of  
Oklahoma, through Nancy Nesbitt Blevins, Assistant United States  
Attorney; the Defendants, County Treasurer, Tulsa County,  
Oklahoma, and Board of County Commissioners, Tulsa County,  
Oklahoma, appear by Doris L. Fransein, Assistant District  
Attorney, Tulsa County, Oklahoma; the Defendant, Bank of Oklahoma  
Lewis Center, formerly The Boulder Bank and Trust Company,  
appears not, having previously filed its Disclaimer; and the  
Defendants, Lee T. Wells, Nancy Wells, and DRCC Realtors, appear  
not, but make default.

The Court being fully advised and having examined the  
file herein finds that the Defendant, Bank of Oklahoma Lewis  
Center, formerly The Boulder Bank and Trust Company, acknowledged

receipt of Summons and Complaint on November 16, 1987; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on November 18, 1987; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on November 16, 1987.

The Court further finds that the Defendants, Lee T. Wells, Nancy Wells, and DRCO Realtors, were served by publishing notice of this action in the Tulsa Daily Business Journal & Legal Record, a newspaper of general circulation in Tulsa County, Oklahoma, once a week for six (6) consecutive weeks beginning February 2, 1988, and continuing to March 8, 1988, as more fully appears from the verified proof of publication duly filed herein; and that this action is one in which service by publication is authorized by 12 O.S. Section 2004(C)(3)(c). Counsel for the Plaintiff does not know and with due diligence cannot ascertain the whereabouts of the Defendants, Lee T. Wells, Nancy Wells, and DRCO Realtors, and service cannot be made upon said Defendants within the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, or upon said Defendants without the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, as more fully appears from the evidentiary affidavit of a bonded abstracter filed herein with respect to the last known addresses of the Defendants, Lee T. Wells, Nancy Wells, and DRCO Realtors. The Court conducted an inquiry into the sufficiency of the service by publication to comply with due process of law and based upon the evidence presented together

with affidavit and documentary evidence finds that the Plaintiff, United States of America, acting on behalf of the Administrator of Veterans Affairs, and its attorneys, Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, fully exercised due diligence in ascertaining the true name and identity of the parties served by publication with respect to their present or last known places of residence and/or mailing addresses. The Court accordingly approves and confirms that the service by publication is sufficient to confer jurisdiction upon this Court to enter the relief sought by the Plaintiff, both as the subject matter and the Defendants served by publication.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers herein on December 4, 1987; that the Defendant, Bank of Oklahoma Lewis Center, formerly The Boulder Bank and Trust Company, filed its Disclaimer herein on November 24, 1987; and that the Defendants, Lee T. Wells, Nancy Wells, and DRCO Realtors, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Five (5), Block Five (5), Valley View Acres Addition to the City of Tulsa, County of Tulsa, State of Oklahoma, according to the recorded Plat thereof.

The Court further finds that on September 19, 1972, the Defendants, Lee T. Wells and Nancy Wells, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, their mortgage note in the amount of \$10,750.00, payable in monthly installments, with interest thereon at the rate of four and one-half percent (4.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Lee T. Wells and Nancy Wells, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, a mortgage dated September 19, 1972, covering the above-described property. Said mortgage was recorded on September 21, 1972, in Book 4035, Page 1024, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Lee T. Wells and Nancy Wells, made default under the terms of the aforesaid note and mortgage by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, Lee T. Wells and Nancy Wells, are indebted to the Plaintiff in the principal sum of \$7,800.72, plus interest at the rate of 4.5 percent per annum from May 1, 1986 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

The Court further finds that the Defendant, County Treasurer, Tulsa County, Oklahoma, has a lien on the property

which is the subject matter of this action by virtue of ad valorem taxes in the amount of \$171.00, plus penalties and interest, for the year of 1987. Said lien is superior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, County Treasurer, Tulsa County, Oklahoma, has a lien on the property which is the subject matter of this action by virtue of personal property taxes in the amount of \$3.00 which became a lien on the property as of 1987. Said lien is inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, claims no right, title, or interest in the subject real property.

The Court further finds that the Defendant, Bank of Oklahoma Lewis Center, formerly The Boulder Bank and Trust Company, disclaims any right, title, or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment in rem against Defendants, Lee T. Wells and Nancy Wells, in the principal sum of \$7,800.72, plus interest at the rate of 4.5 percent per annum from May 1, 1986 until judgment, plus interest thereafter at the current legal rate of 7.01 percent per annum until paid, plus the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, County Treasurer, Tulsa County, Oklahoma, have and recover judgment in the amount of \$171.00, plus penalties and interest, for ad valorem taxes for the year of 1987, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, County Treasurer, Tulsa County, Oklahoma, have and recover judgment in the amount of \$3.00 for personal property taxes for the year of 1987, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Bank of Oklahoma Lewis Center, formerly The Boulder Bank and Trust Company and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell without appraisalment the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the Defendant, County Treasurer, Tulsa County, Oklahoma, in the

amount of \$171.00, plus penalties and interest, for ad valorem taxes which are presently due and owing on said real property;

Third:

In payment of the judgment rendered herein in favor of the Plaintiff;

Fourth:

In payment of the Defendant, County Treasurer, Tulsa County, Oklahoma, in the amount of \$3.00, personal property taxes which are currently due and owing.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

S/ JAMES O. ELLISON

---

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM  
United States Attorney

  
NANCY NESBITT BLEVINS  
Assistant United States Attorney

  
DORIS L. FRANSEIN  
Assistant District Attorney  
Attorney for Defendants,  
County Treasurer and  
Board of County Commissioners,  
Tulsa County, Oklahoma

NNB/css

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
CHARLES M. BROOMHALL; )  
JUDY BROOMHALL a/k/a )  
JUDY K. BROOMHALL; COUNTY )  
TREASURER, Tulsa County, )  
Oklahoma; and BOARD OF COUNTY )  
COMMISSIONERS, Tulsa County, )  
Oklahoma, )  
 )  
Defendants. )

**FILED**

APR 12 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

CIVIL ACTION NO. 88-C-119-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 11<sup>th</sup> day  
of April, 1988. The Plaintiff appears by Tony M.  
Graham, United States Attorney for the Northern District of  
Oklahoma, through Phil Pinnell, Assistant United States Attorney;  
the Defendants, County Treasurer, Tulsa County, Oklahoma, and  
Board of County Commissioners, Tulsa County, Oklahoma, appear by  
Doris L. Fransein, Assistant District Attorney, Tulsa County,  
Oklahoma; and the Defendants, Charles M. Broomhall and Judy  
Broomhall a/k/a Judy K. Broomhall, appear not, but make default.

The Court being fully advised and having examined the  
file herein finds that the Defendant, Charles M. Broomhall,  
acknowledged receipt of Summons and Complaint on February 15,  
1988; that the Defendant, Judy Broomhall a/k/a Judy K. Broomhall,  
acknowledged receipt of Summons and Complaint on February 9,  
1988; that Defendant, County Treasurer, Tulsa County, Oklahoma,

acknowledged receipt of Summons and Complaint on February 17, 1988; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on February 8, 1988.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers herein on February 26, 1988; and that the Defendants, Charles M. Broomhall and Judy Broomhall a/k/a Judy K. Broomhall, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that on July 20, 1987, Charles Michael Broomhall and Judy Karen Broomhall, filed their voluntary petition in bankruptcy in Chapter 7. On January 14, 1988, the United States Bankruptcy Court in the Northern District of Oklahoma entered its order modifying the automatic stay afforded the debtors by 11 U.S.C. § 362. The order modified the stay by ordering the abandonment of the real property subject to this foreclosure action and which is described below.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Twenty (20) of the Revision of Block Seven (7), of the continuation of GLEN ACRES SUBDIVISION, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

The Court further finds that on April 1, 1985, Charles M. Broomhall and Judy Broomhall executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, their mortgage note in the amount of \$36,000.00, payable in monthly installments, with interest thereon at the rate of twelve and one-half percent (12.5%) per annum.

The Court further finds that as security for the payment of the above-described note, Charles M. Broomhall and Judy Broomhall executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, a mortgage dated April 1, 1985, covering the above-described property. Said mortgage was recorded on April 1, 1985, in Book 4853, Page 473, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Charles M. Broomhall and Judy Broomhall a/k/a Judy K. Broomhall, made default under the terms of the aforesaid note and mortgage by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, Charles M. Broomhall and Judy Broomhall a/k/a Judy K. Broomhall, are indebted to the Plaintiff in the principal sum of \$36,246.31, plus interest at the rate of 12.5 percent per annum from January 1, 1987 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

The Court further finds that the Defendant, County Treasurer, Tulsa County, Oklahoma, has a lien on the property which is the subject matter of this action by virtue of drainage taxes in the amount of \$25.00, plus penalties and interest, for the year of 1987. Said lien is superior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, claims no right, title, or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment in rem against Defendants, Charles M. Broomhall and Judy Broomhall a/k/a Judy K. Broomhall, in the principal sum of \$36,246.31, plus interest at the rate of 12.5 percent per annum from January 1, 1987 until judgment, plus interest thereafter at the current legal rate of 2.01 percent per annum until paid, plus the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, County Treasurer, Tulsa County, Oklahoma, have and recover judgment in the amount of \$25.00, plus penalties and interest, for drainage taxes for the year of 1987, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, has no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the Defendant, County Treasurer, Tulsa County, Oklahoma, in the amount of \$25.00, plus penalties and interest, for drainage taxes which are presently due and owing on said real property;

Third:

In payment of the judgment rendered herein in favor of the Plaintiff.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the

Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

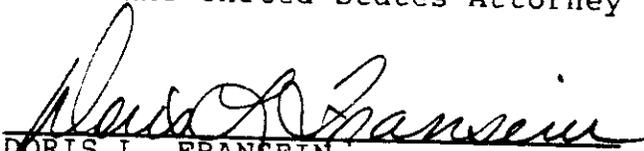
~~BY JAMES P. HILSON~~  
UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM  
United States Attorney



PHIL PINNELL  
Assistant United States Attorney



DORIS L. FRANSEIN  
Assistant District Attorney  
Attorney for Defendants,  
County Treasurer and  
Board of County Commissioners,  
Tulsa County, Oklahoma

PP/css



IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

SHELTER MUTUAL INSURANCE  
COMPANY, an Illinois  
insurance corporation,

Plaintiff,

vs.

LINDA SUE JONES and  
BRENT DOUGLAS TURNEY,

Defendants.

**FILED**

**APR 12 1988**

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

No. 87-C-750 B

STIPULATION OF DISMISSAL

Come now the parties to the above-entitled action and would hereby show this Honorable Court that this matter has been settled and that neither party will be seeking any type of post-dismissal relief. All proper parties have been consulted and agree to this Stipulation of Dismissal.

WHEREFORE, premises considered, the proper parties to the above-entitled do hereby agree to the dismissal of this action and all costs and attorney fees to be borne by individual respective parties.

Respectfully submitted,

  
\_\_\_\_\_  
JOSEPH H. PAULK,  
Attorney for Plaintiff

  
\_\_\_\_\_  
JEFFERSON D. SELLERS,  
Attorney for Defendant,  
Linda Sue Jones

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )

Plaintiff, )

vs. )

MELVIN C. PAYNE; DEBRA K. )  
PAYNE n/k/a DEBRA K. FISHER; )  
MASON LEON SINGLETON; )  
DOROTHY P. SINGLETON; AMERICAN )  
NATIONAL BANK AND TRUST )  
COMPANY OF SAPULPA, OKLAHOMA; )  
DEBBIE BALL, Tenant; COUNTY )  
TREASURER, Tulsa County, )  
Oklahoma; and BOARD OF COUNTY )  
COMMISSIONERS, Tulsa County, )  
Oklahoma, )

Defendants. )

CIVIL ACTION NO. 87-C-883-B

**FILED**  
APR 12 1988  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 12 day  
of April, 1988. The Plaintiff appears by Tony M.  
Graham, United States Attorney for the Northern District of  
Oklahoma, through Peter Bernhardt, Assistant United States  
Attorney; the Defendants, County Treasurer, Tulsa County,  
Oklahoma, and Board of County Commissioners, Tulsa County,  
Oklahoma, appear by Doris L. Fransein, Assistant District  
Attorney, Tulsa County, Oklahoma; the Defendant, American  
National Bank and Trust Company of Sapulpa, Oklahoma, appears by  
its attorney Sam T. Allen IV; and the Defendants, Melvin C.  
Payne, Debra K. Payne n/k/a Debra K. Fisher, Mason Leon  
Singleton, Dorothy P. Singleton, and Debbie Ball, Tenant, appear  
not, but make default.

The Court being fully advised and having examined the file herein finds that the Defendant, Melvin C. Payne, acknowledged receipt of Summons and Complaint on February 22, 1988; that Defendant, Debra K. Payne n/k/a Debra K. Fisher, was served with Summons and Complaint on February 2, 1988; that Defendants, Mason Leon Singleton and Dorothy P. Singleton, acknowledged receipt of Summons and Complaint on October 31, 1987; that Defendant, American National Bank and Trust Company of Sapulpa, Oklahoma, acknowledged receipt of Summons and Complaint on October 28, 1987; that Defendant, Debbie Ball, Tenant, acknowledged receipt of Summons and Complaint on November 2, 1987; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on October 30, 1987; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on October 28, 1987.

It appears that the Defendant, County Treasurer, Tulsa County, Oklahoma, filed its Answer herein on November 19, 1987, and its Disclaimer herein on February 8, 1988; that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, filed its Answer herein on November 19, 1987; that the Defendant, American National Bank and Trust Company of Sapulpa, Oklahoma, filed its Answer and Cross-Petition herein on November 10, 1987; that Defendants, Melvin C. Payne, Debra K. Payne n/k/a Debra K. Fisher, Mason Leon Singleton, Dorothy P. Singleton, and Debbie Ball, Tenant, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that Defendant, Debra K. Payne, has remarried and her name is now Debra K. Fisher. The Court finds that this is one and the same person.

The Court further finds that on February 20, 1987, Debra Kay Fisher filed her voluntary petition in bankruptcy in Chapter 7 in the United States Bankruptcy Court, Northern District of Oklahoma, Case No. 87-00429.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Fifteen (15) Block One (1) SKY VIEW 2ND  
ADDITION to the City of Sand Springs, Tulsa  
County, State of Oklahoma, according to the  
recorded plat thereof.

The Court further finds that on March 12, 1982, Melvin C. Payne and Debra K. Payne executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, their mortgage note in the amount of \$35,800.00, payable in monthly installments, with interest thereon at the rate of fifteen and one-half percent (15.5%) per annum.

The Court further finds that as security for the payment of the above-described note, Melvin C. Payne and Debra K. Payne executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, a

mortgage dated March 12, 1982, covering the above-described property. Said mortgage was recorded on March 12, 1982, in Book 4600, Page 1355, in the records of Tulsa County, Oklahoma.

The Court further finds that by Quit-Claim Deed dated July 17, 1985, and filed of record on July 23, 1985, in Book 4878, Page 1910, in the records of Tulsa County, Oklahoma, Debra K. Payne conveyed all her interest in the subject real property to Melvin C. Payne. By General Warranty Deed dated July 19, 1985, and filed of record on July 23, 1985, in Book 4878, Page 1911, in the records of Tulsa County, Oklahoma, Melvin C. Payne, conveyed the above-described real property to Mason Leon Singleton and Dorothy P. Singleton.

The Court further finds that the Defendants, Melvin C. Payne and Debra K. Payne n/k/a Debra K. Fisher, made default under the terms of the aforesaid note and mortgage by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, Melvin C. Payne and Debra K. Payne n/k/a Debra K. Fisher, are indebted to the Plaintiff in the principal sum of \$35,708.65, plus interest at the rate of 15.5 percent per annum from October 1, 1986 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

The Court further finds that the Defendant, County Treasurer, Tulsa County, Oklahoma, disclaims any right, title, or interest in the subject property.

The Court further finds that the Defendant, Board of County Commissioners, claims no right, title, or interest in the subject real property.

The Court further finds that the Defendant, American National Bank and Trust Company of Sapulpa, Oklahoma, has a lien on the property which is the subject matter of this action by virtue of mortgage from Mason Leon Singleton and Dorothy P. Singleton, dated February 20, 1986 and recorded on March 3, 1986, in Book 4927, Page 160, in the records of Tulsa County, Oklahoma. The unpaid balance on said mortgage is \$2,084.00 together with interest thereon as provided in said note from October 13, 1987 until judgment and at the rate of 12 percent per annum from and after judgment until paid and an attorney's fee of \$500.00.

The Court further finds that Defendants, Mason Leon Singleton, Dorothy P. Singleton, and Debbie Ball, Tenant, are in default and have no right, title, or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Melvin C. Payne in personam and Defendant, Debra K. Payne n/k/a Debra K. Fisher in rem, in the principal sum of \$35,708.65, plus interest at the rate of 15.5 percent per annum from October 1, 1986 until judgment, plus interest thereafter at the current legal rate of 7.01 percent per annum until paid, plus the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Mason Leon Singleton, Dorothy P. Singleton, Debbie Ball, Tenant, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, American National Bank and Trust Company of Sapulpa, Oklahoma, have and recover judgment against Defendants, Mason Leon Singleton and Dorothy P. Singleton, in the principal amount of \$2,084.00 together with interest thereon as provided in said note from October 13, 1987 until judgment and at the rate of 12 percent per annum from and after judgment until paid and an attorney's fee of \$500.00.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Plaintiff;

Third:

In payment of the Defendant, American National Bank and Trust Company of Sapulpa, Oklahoma in the amount of \$2,084.00 together with interest thereon as provided in said note from October 13, 1987 until judgment and at the rate of 12 percent per annum from and after judgment until paid and an attorney's fee of \$500.00.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

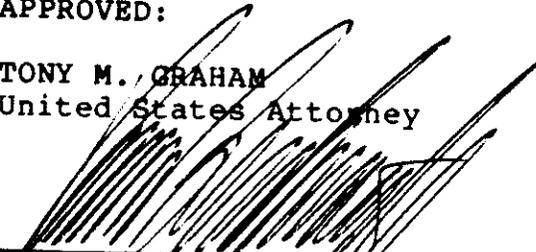
S/ THOMAS R. BRETT

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UNITED STATES DISTRICT JUDGE

APPROVED:

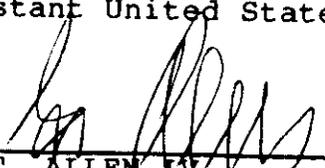
TONY M. GRAHAM  
United States Attorney



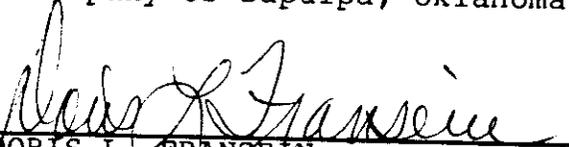
PETER BERNHARDT  
Assistant United States Attorney



SAM T. ALLEN IV  
Attorney for Defendant,  
American National Bank and Trust  
Company of Sapulpa, Oklahoma



DORIS L. FRANSEIN  
Assistant District Attorney  
Attorney for Defendants,  
County Treasurer and  
Board of County Commissioners,  
Tulsa County, Oklahoma



PB/css

UNITED STATES DISTRICT COURT,  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

BORG-WARNER ACCEPTANCE )  
CORPORATION, a Delaware )  
Corporation, )  
 )  
Plaintiff, )  
 )  
vs. ) Case No. 86-C-882-B  
 )  
CHARLES J. BAZARIAN, )  
ROBERT BYERS, PAMELA BYERS, )  
JAMES D. PAYNE and JUDY PAYNE, )  
and JIM PAYNE OLDS-PONTIAC, )  
INC., an Oklahoma Corporation, )  
 )  
Defendants. )  
 )

*4-12-88*

AMENDED  
JOURNAL ENTRY OF JUDGMENT NJNC PRO TUNC

This matter came before the Court this 12th day of April, 1988, upon the Joint Motion of the Plaintiff, Borg-Warner Acceptance Corporation, and the Defendants, James D. Payne, Judy Payne, and Jim Payne Olds-Pontiac, Inc., said party Defendants appearing specially, having heretofore been in default, and upon the Motion and Application of the parties for approval of certain stipulated facts and the entry of judgment as to fewer than all of the parties hereto. The Court, having reviewed the stipulation of the parties will consider the Motion as a Joint Motion for Summary Judgment, and admission by each of the parties that there is no genuine issue as to any material fact remaining to be tried between the stipulating parties.

The Court further finds that, upon filing of the Joint Motion as aforesaid, the parties have waived the right of response, and that judgment upon the stipulated facts is now appropriate.

The Court specifically finds that, upon the stipulated facts, Plaintiff's Second, Third, and Fourth Causes of Action have been rendered moot, and dismissal is appropriate.

The Court further finds that the Defendants James D. Payne, Judy Payne, and Jim Payne Olds-Pontiac, Inc., and each of them, are jointly and severally liable to the Plaintiff Borg-Warner Acceptance Corporation in the amount of \$4,511,000.00 as a deficiency remaining after application of the proceeds of collateral recovered from the Defendant Jim Payne Olds-Pontiac, Inc., and sold by the Plaintiff, and that Plaintiff is therefore entitled to a judgment against the Defendants James D. Payne, Judy Payne, and Jim Payne Olds-Pontiac, Inc., in the amount of \$4,511,000.00, together with attorney's fees in the amount of \$87,121.41, such costs of this action as may be certified by the clerk together with interest on said judgment at the rate of 10.03% per annum.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that the Plaintiff be and it is hereby awarded judgment against the Defendants James D. Payne, Judy Payne, and Jim Payne Olds-Pontiac, Inc., jointly and severally in the amount of \$4,511,000.00, together with attorney's fees in the amount of \$87,121.41, such costs as the clerk shall certify, together with

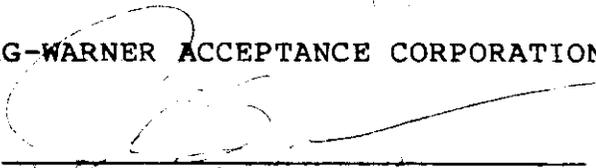
interest on the principal amount of said judgment in the amount of 10.03% per annum, until paid.

Judgment entered the \_\_\_\_ day of April, 1988, to be effective and to amend the previous Journal Entry of Judgment entered on the 17th day of March, 1988, nunc pro tunc.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

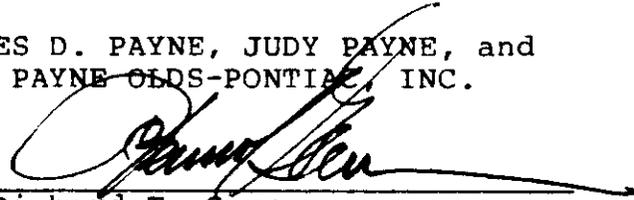
APPROVED:

BORG-WARNER ACCEPTANCE CORPORATION

By: 

John B. Jarboe  
Attorney for Plaintiff  
1810 Mid Continent Tower  
Tulsa, Oklahoma 74103  
(918) 582-6131

JAMES D. PAYNE, JUDY PAYNE, and  
JIM PAYNE OLDS-PONTIAC, INC.

By: 

Richard T. Garren  
Attorney for Defendants  
P.O. Box 52400  
Tulsa, Oklahoma 74152  
(918) 743-9633

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 vs. )  
 )  
 PHILLIP KEITH WRIGHT; LILLIE )  
 GALE WRIGHT; COUNTY TREASURER, )  
 Tulsa County, Oklahoma; and )  
 BOARD OF COUNTY COMMISSIONERS, )  
 Tulsa County, Oklahoma, )  
 )  
 Defendants. )

**FILED**

APR 12 1988

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

CIVIL ACTION NO. 88-C-185-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 12th day of April, 1988. The Plaintiff appears by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Phil Pinnell, Assistant United States Attorney; the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, appear by Doris L. Fransein, Assistant District Attorney, Tulsa County, Oklahoma; and the Defendants, Phillip Keith Wright and Lillie Gale Wright, appear not, but make default.

The Court being fully advised and having examined the file herein finds that the Defendants, Phillip Keith Wright and Lillie Gale Wright, acknowledged receipt of Summons and Complaint on March 9, 1988; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on February 25, 1988; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on February 25, 1988.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers herein on March 17, 1988; and that the Defendants, Phillip Keith Wright and Lillie Gale Wright, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Eighteen (18), Block Three (3), of the Amended Plat of Blocks 2, 3 and 5, MAPLEWOOD ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof (premises also known as 1419 N. Joplin, Tulsa, Oklahoma).

The Court further finds that on May 17, 1984, the Defendants, Phillip Keith Wright and Lillie Gale Wright, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, their mortgage note in the amount of \$44,000.00, payable in monthly installments, with interest thereon at the rate of thirteen percent (13%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Phillip Keith Wright and Lillie Gale Wright, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, a mortgage dated May 17, 1984, covering the above-described property. Said mortgage was

recorded on May 17, 1984, in Book 4790, Page 2350, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Phillip Keith Wright and Lillie Gale Wright, made default under the terms of the aforesaid note and mortgage by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, Phillip Keith Wright and Lillie Gale Wright, are indebted to the Plaintiff in the principal sum of \$43,884.70, plus interest at the rate of 13 percent per annum from February 1, 1987 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, claim no right, title, or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendants, Phillip Keith Wright and Lillie Gale Wright, in the principal sum of \$43,884.70, plus interest at the rate of 13 percent per annum from February 1, 1987 until judgment, plus interest thereafter at the current legal rate of 7.01 percent per annum until paid, plus the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Phillip Keith Wright and Lillie Gale Wright, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Plaintiff.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

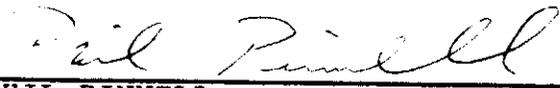
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

---

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM  
United States Attorney

---

PHIL PINNELL  
Assistant United States Attorney

---

DORIS L. FRANSEIN  
Assistant District Attorney  
Attorney for Defendants,  
County Treasurer and  
Board of County Commissioners,  
Tulsa County, Oklahoma

PP/css

*entire*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

TEXACO INC., a Delaware corporation, and BRIDGELINE GAS DISTRIBUTION COMPANY, a Delaware corporation,  
Plaintiffs,  
vs.  
CARL N. COOPER, an individual, et al.,  
Defendants.

Case No. 87-C-177-C **F I L E D**

**APR 12 1988** A

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

ORDER AWARDING ATTORNEYS' FEES AND EXPENSES  
AGAINST RECOVERY RESOURCES CORPORATION

NOW comes on before the Court Plaintiffs' Motion for Award of Attorneys' Fees and Expenses Against Recovery Resources Corporation (the "Motion"), filed herein by Texaco Inc. ("Texaco") and Bridgeline Gas Distribution Company ("Bridgeline"), pursuant to Local Rule 6(e), Local Rules of Practice and Procedure for the United States District Court, Northern District of Oklahoma, and Fed.R.Civ.Pro. 54, on February 23, 1988; and the Court having reviewed the record herein and noted that defendant, Recovery Resources Corporation ("Recovery"), has failed to file a timely objection or response to such Motion within the time allowed pursuant to Local Rule 14, FINDS, as follows:

1. The Court has previously entered Default Judgment against Recovery on February 9, 1988 therein entitling Texaco and Bridgeline to judgment against Recovery, including reasonable attorneys' fees and costs incurred in this action.

2. Sufficient grounds have been stated in the Motion and Brief in Support of Plaintiffs' Motion for Award of Attorneys' Fees and Expenses Against Recovery Resources Corporation entitling Texaco and Bridgeline to recovery of their reasonable attorneys' fees and expenses of prosecuting this action in the sum of \$21,112.25 of which amount \$1,028.50 has previously been taxed as costs by the Court Clerk on March 9,

1988. The attorney fees and costs herein awarded are reasonable based upon the time spent, results obtained and customary charges for similar litigation in Tulsa, Oklahoma.

3. The award of attorneys' fees and costs provided by this Order is made pursuant to Fed.R.Civ.Pro. 54(d), 28 U.S.C. §2202 and 12 Okla. Stat. (1981) §1580 upon consideration of the pleadings filed and grounds stated in support of the relief requested by Texaco and Bridgeline in their Motion.

IT IS THEREFORE ORDERED that Texaco and Bridgeline shall have judgment against Recovery in addition to the Default Judgment previously entered herein, in the sum of \$21,112.25, which sum includes reasonable attorneys' fees, expenses and costs of this litigation, \$1,028.50 of which has previously been taxed as costs against Recovery by the Court Clerk herein, for all of which execution shall issue.

  
HONORABLE H. DALE COOK  
CHIEF JUDGE, UNITED STATES  
DISTRICT COURT

**FILED**

APR 12 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ROOSEVELT FEDERAL SAVINGS AND )  
LOAN ASSOCIATION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
HERITAGE POINT ASSOCIATES, )  
et al., )  
 )  
Defendants. )

Case No. 87-C-83-E ✓

ORDER OF PARTIAL JUDGMENT

THIS MATTER comes on for consideration upon the Joint Stipulation and Application of Roosevelt Federal Savings and Loan Association and Heritage Point Associates for entry of partial judgment, pursuant to and as provided for in a Settlement Agreement and an Order of February 10, 1988, related thereto, which was entered by the Honorable Lee R. West in a companion case, No. CIV-86-1827-W in the United States District Court for the Western District of Oklahoma. The Court being fully advised in the premises finds and orders as follows:

1. These parties are correctly named and are properly before this Court.
2. This Court has jurisdiction of the subject matter of this matter pursuant to 28 U.S.C. § 1332(a)(1).
3. Venue is proper in the Northern District of Oklahoma in that the real property which is, in part, the subject of this action is situated here and in that the specific transaction

28

as to which this Judgment relates involves funds advanced in connection with construction on said real property.

4. The real property involved in this action (the "Real Property") is more particularly described on Exhibit A to this order.

5. The defendant Ken Close d/b/a Ken's Kabinets, a potential lien claimant, has been duly served but wholly failed to answer or otherwise plead although the time to do so has expired and therefore it should be adjudged to have no right, title or interest in the real property which is the subject of this action.

6. Defendant Standard Plastering Services, Inc., a potential lien claimant, has filed a disclaimer of any right, title or interest in and to the real property which is the subject of this action and therefore it should be adjudged to have no right, title or interest in said real property.

7. Resolution of the disputes between, at a minimum, these parties was the subject of the Settlement Agreement and Order in the companion case referenced above. The findings and conclusions of said Order, mandating that the Settlement Agreement shall be enforced as between these parties, are hereby adopted by this Court, providing that the Court makes no ruling at this time as to the effect of said Order upon the other parties to this action.

8. Based on the foregoing, the Court finds that relief should be and is hereby granted and judgment entered as follows:

(a) The counterclaim of defendant Heritage Point Associates and all defenses asserted by that defendant should be and are hereby dismissed with prejudice;

(b) Plaintiff Roosevelt Federal Savings and Loan Association should be and is hereby granted judgment on the Promissory Note which is the subject of its Amended Complaint against Heritage Point Associates in the amount of \$4,755,000, with interest from and after July 14, 1987 as provided by law.

(c) The value of the Real Property shall be determined at marshall's sale, but in no event shall the value of said property for the purposes of determining plaintiff's entitlement to a deficiency judgment be less than \$2,900,000.

(d) The mortgage herein sued upon provided that the mortgagor shall be entitled to have the Real Property sold, with or without appraisal, at the option of the mortgagee, which option may be exercised at the time judgment is rendered, and the Court finds that plaintiff has stated in open court its election under the terms of said mortgage to have said Real Property sold with appraisal.

(e) Plaintiff Roosevelt Federal Savings and Loan Association should be and is hereby granted the right to proceed in this action to obtain any and all other relief requested in its Amended Complaint, whether against defendant Heritage Point or any other defendant, and further should be and is hereby granted the right to seek additional enforcement of the Settlement Agreement and/or implementation of Judge West's Order,

whether against Heritage Point or any other defendant, upon proper application or motion to this Court.

(f) Plaintiff and Heritage Point Associates, Ltd. should each be and is hereby required, as between themselves only, to bear its own costs and attorneys' fees to date in this action, providing that the Court makes no ruling at this time as to the potential recovery of past and future costs and attorneys' fees as to or against any other party and further providing that this Order shall not preclude Roosevelt Federal Savings and Loan Association's application for an award of past and future costs and attorneys' fees from any other defendant, if and when the same may be appropriate in the action.

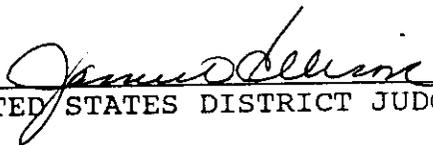
IT IS ORDERED:

1. that partial judgment shall be entered in this matter as set forth hereinabove.

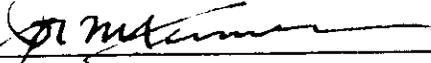
2. that the mortgage lien of the plaintiff be, and the same is hereby foreclosed and the Real Property and personal property, excluding the boat docks, are hereby ordered to be sold to satisfy the judgment herein; that a Special Execution and Order of Sale in Foreclosure shall issue, commanding the marshall or other authorized officer to levy upon the above-described real estate, and after having the same appraised as provided by law, and after notice of sale is properly advertised as provided by law, to sell the same as provided by law and apply the proceeds arising from said sale as directed by further order of the Court.

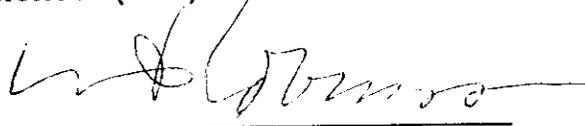
3. that from and after the sale of said Real Property under and by virtue of this judgment and decree, that the defendants, and each of them, and all persons claiming under them, are forever barred and foreclosed of and from any and all right, title or interest, estate or equity in and to said Real Property or any part thereof, except that the Court reserves ruling on the issues raised by the counterclaims of Port Duncan on Grand Lake, Ltd., Heritage Point Partnership, Ltd., Roger Laubach and Adeline Laubach, Port Duncan Realty Company and Port Duncan Resort Marina, Ltd., including the claim to priority of those parties' mortgage.

DATED this 11<sup>th</sup> day of April, 1988.

  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
John N. Hermes  
Elizabeth Scott Wood  
McAFEE & TAFT  
A Professional Corporation  
10th Floor, Two Leadership Square  
Oklahoma City, Oklahoma 73102  
Telephone: (405) 235-9621

  
William J. Robinson  
Shirk, Work, Robinson & Williams  
520 Colcord Drive  
Oklahoma City, Oklahoma 73102

Attorney for Defendants  
Heritage Point Associates, Ltd.

EXHIBIT A

LEGAL DESCRIPTION

A tract of land located in the SW $\frac{1}{4}$  of Section 4, Township 24 North, Range 23 East of the Indian Base and Meridian, Delaware County, Oklahoma, and in a part of Port Duncan of Monkey Island, Phase II, Revised Plat, a subdivision, and in a part of Port Duncan of Monkey Island, Phase III, a subdivision, according to the recorded plats thereof, ALL of which is more particularly described by metes and bounds, as follows, to-wit:

BEGINNING at the Northeast corner of Lot 18, Block 16, Port Duncan of Monkey Island, Phase 2, Revised Plat, a subdivision, according to the recorded plat thereof, thence S. 83° 48' E. 89.74 feet; thence S. 49° 12' 08" E. 32 feet; thence N. 66° 05' E. 49.50 feet; thence S. 69° 18' E. 98 feet; thence S. 29° 32' E. 95 feet; thence S. 10° 15' E. 110 feet; thence S. 19° 28' W. 138 feet; thence S. 49° 38' W. 201 feet; thence S. 60° 06' W. 214.50 feet; thence S. 69° 55' W. 124 feet; thence S. 43° 03' W. 82.20 feet; thence S. 64° 54' W. 88.50 feet; thence N. 77° 21' 00" W. 74.40 feet; thence S. 30° 19' W. 155 feet; thence S. 62° 34' W. 193 feet; thence N. 70° 57' W. 179.20 feet; thence S. 08° 52' W. 40 feet; thence S. 44° 47' W. 169 feet; thence N. 25° 32' 19" W. 154.66 feet; thence N. 36° 29' 27" E. 78.92 feet; thence N. 33° 51' 57" E. 71.19 feet; thence N. 00° 17' W. 234.56 feet; thence N. 89° 12' E. 130 feet; thence S. 00° 17' E. 45.82 feet; thence N. 89° 12' E. 80.89 feet; thence N. 50° 38' 17" E. 100.82 feet; thence N. 02° 59' 52" W. 236.48 feet; thence N. 06° 39' W. 49.9 feet; thence N. 00° 00' 00" E. 68.97 feet; thence N. 70° 06' 52" E. 349.98 feet; thence N. 08° 04' 44" E. 54.83 feet; thence S. 84° 25' E. 45 feet; thence S. 75° 17' 15" E. 112.28 feet; thence S. 81° 30' E. 116 feet; thence N. 17° 50' E. 163.38 feet to the point of beginning.

INCLUDING (in the above description) but not limited to, Lots 14, 16, 17, and the South Half of Lot 12, all in Block 16, Port Duncan of Monkey Island, Phase II, Revised Plat, a subdivision, according to the recorded plat thereof, and further including, but not limited to, Lots 6, 7, and 8, Block 19, and Lots 1, 2, 3, 4, 5, 6, and 7, Block 20, All in Port Duncan of Monkey Island, Phase III, a subdivision, according to the recorded plat thereof.

ALSO INCLUDING all of Lot 11, Block 16, PORT DUNCAN OF MONKEY ISLAND, PHASE II, a Subdivision, according to the recorded plat thereof.

GRANTEE herein is specifically granted access to and use of platted roads in Port Duncan of Monkey Island, Phase I, Phase II (Revised) and Phase III, Subdivisions, according to the recorded plats thereof.

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 11 1988

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

BPM INTERNATIONAL, LTD., )  
a corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
ROBERT A. ALEXANDER, JR., )  
 )  
Defendant. )

Case No. 87-C-833 B

AGREED TO JUDGMENT

This cause coming on to be heard this 11 day of April 1988, Plaintiff being present by its attorney, Anthony P. Sutton of Feldman, Hall, Franden, Woodard and Farris, and said Defendant being present by his attorneys, Savage, O'Donnell, Scott, McNulty & Affeldt, the Court duly finds as follows:

1. The Court has subject matter and personal jurisdiction over the parties and venue is proper;

2. The parties have agreed that Plaintiff take a judgment against Defendant in the above referenced matter in the amount of Two million dollars (\$2,000,000.00);

3. That Plaintiff shall be allowed to execute on said judgment only under the terms and conditions of the Settlement Agreement entered into by the parties effective the 16th day of March, 1988;

4. The Court finds that judgment should be entered in favor of Plaintiff for Two million dollars (\$2,000,000.00).

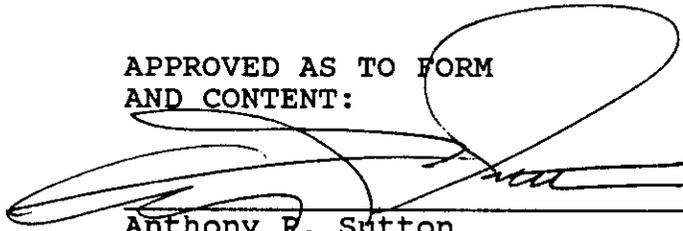
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Plaintiff have and recover from the Defendant the sum of

Two million dollars (\$2,000,000.00), to be satisfied by the terms and conditions of the Settlement Agreement between the parties.

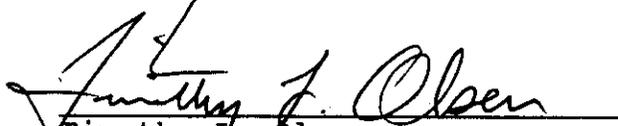
S/ THOMAS R. BRETT

Judge of the District Court

APPROVED AS TO FORM  
AND CONTENT:

  
Anthony P. Sutton  
Attorney for Plaintiff

4/6/88

  
Timothy L. Olsen  
Attorney for Defendant

SAVAGE, O'DONNELL, SCOTT,  
McNULTY & AFFELDT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

APR 11 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

VICTORY PETROLEUM, INC., an	)
Oklahoma corporation,	)
	)
Plaintiff,	)
	)
vs.	)
	)
AMERICAN DYNAMICS CORPORATION,	)
a Nevada corporation, MONTANA	)
PACIFIC OIL AND GAS CO., a	)
Montana corporation, and	)
JAMES L. DOUGLAS, an	)
individual,	)
	)
Defendants.	)

Case No. 86-C-724E

ORDER

The parties hereto stipulating that the above-entitled action should be dismissed with prejudice, and the stipulation being duly considered;

The Court does hereby ORDER that the above-captioned action be dismissed with prejudice. Further, costs shall be taxed against neither party.

S/ JAMES O. ELLISON

\_\_\_\_\_  
JUDGE OF THE UNITED STATES  
DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 11 1988

JACK C. SIMON, CLERK  
U.S. DISTRICT COURT

CLIFTON C. LEWIN and  
GLENDA F. LEWIN, husband  
and wife,

Plaintiffs,

vs.

MIMBRES MEMORIAL HOSPITAL  
AND NURSING HOME, DR. G.  
LAFON, DR. PATRICK E.  
SILVERTHORN, and DOES I  
through XX,

Defendants.

Case No. 88-C-143-B

NOTICE OF DISMISSAL

COME NOW the Plaintiffs, Clifton C. Lewin and Glenda F. Lewin, and pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, dismiss without prejudice the first and second causes of action in their complaint. Said dismissal is filed without prejudice since Defendants have not served an answer to any of these causes of action filed by Plaintiffs in their complaint.

Dated this 11<sup>th</sup> day of April, 1988.

MORRIS AND MORRIS

By:

Greg A. Morris  
Greg A. Morris  
Oklahoma Bar Number 10540  
201 West Fifth  
Suite 520  
Tulsa, Oklahoma 74103  
918-587-5514

Attorney for Plaintiffs

CERTIFICATE OF MAILING

I, Greg A. Morris, hereby certify that I mailed a true and correct copy of the above and foregoing Notice of Dismissal, with postage prepaid, to Pete Silva, Jr., of Barkley, Rodolf, Silva & McCarthy, 410 Oneok Plaza, 100 West 5th Street, Tulsa, Oklahoma 74103, on this 11<sup>th</sup> day of April, 1988.

  
\_\_\_\_\_

Greg A. Morris

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

APR 11 1988

PEGGY WATSON,

Plaintiff,

v.

FOURTH NATIONAL BANK OF TULSA,

Defendant.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

No. 87-C-451-E

ORDER OF DISMISSAL

This matter comes before the Court on the Joint Application for Dismissal of the parties. The parties represent to the Court that they have entered into an agreement for an Order of Dismissal in this matter. In furtherance of the agreement of dismissal between the parties, the obligations and requirements assumed by the parties in their General Release shall be entered and made part of the instant Order.

IT IS THEREFORE ORDERED that this matter is dismissed with prejudice. Each party shall bear its own attorney fees and costs.

*[Signature]*

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

LARRY REID

Plaintiff,

vs.

SAFEWAY STORES, INCORPORATED,  
a Maryland corporatin,

Defendant.

No. 87-C-641-B

**FILED**

APR 11 1988

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER OF DISMISSAL WITH PREJUDICE

Plaintiff and Defendant having compromised and settled all issues in the action and having stipulated that the Petition and the action may be dismissed with prejudice,

IT IS THEREFORE ORDERED that the Petition and this cause of action are, by the Court, dismissed with prejudice to the bringing of another action upon the same cause or causes of action.

Entered this 11 day of April, 1988.

S/ THOMAS R. BREIT

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 ANTHONY P. LAUCHNER; SUSAN )  
 SWINNEY LAUCHNER; PAUL A. )  
 LOPEZ; JEAN LOPEZ; COUNTY )  
 TREASURER, Tulsa County, )  
 Oklahoma; and BOARD OF COUNTY )  
 COMMISSIONERS, Tulsa County, )  
 Oklahoma, )  
 )  
 Defendants. )

**FILED**

APR 11 1988

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

CIVIL ACTION NO. 87-C-607-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 11 day  
of April, 1988. The Plaintiff appears by Tony M.  
Graham, United States Attorney for the Northern District of  
Oklahoma, through Nancy Nesbitt Blevins, Assistant United States  
Attorney; the Defendants, County Treasurer, Tulsa County,  
Oklahoma, and Board of County Commissioners, Tulsa County,  
Oklahoma, appear by Doris L. Fransein, Assistant District  
Attorney, Tulsa County, Oklahoma; and the Defendants, Anthony P.  
Lauchner, Susan Swinney Lauchner, Paul A. Lopez, and Jean  
Lopez, appear not, but make default.

The Court being fully advised and having examined the  
file herein finds that the Defendants, Anthony P. Lauchner and  
Susan Swinney Lauchner, were served with a Summons and Complaint  
on September 9, 1987; that Defendant, County Treasurer, Tulsa  
County, Oklahoma, acknowledged receipt of Summons and Complaint

on July 30, 1987; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on July 31, 1987.

The Court further finds that the Defendants, Paul A. Lopez and Jean Lopez, were served by publishing notice of this action in the Tulsa Daily Business Journal & Legal Record, a newspaper of general circulation in Tulsa County, Oklahoma, once a week for six (6) consecutive weeks beginning December 21, 1987, and continuing to January 25, 1988, as more fully appears from the verified proof of publication duly filed herein; and that this action is one in which service by publication is authorized by 12 O.S. Section 2004(C)(3)(c). Counsel for the Plaintiff does not know and with due diligence cannot ascertain the whereabouts of the Defendants, Paul A. Lopez and Jean Lopez, and service cannot be made upon said Defendants within the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, or upon said Defendants without the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, as more fully appears from the evidentiary affidavit of a bonded abstracter filed herein with respect to the last known addresses of the Defendants, Paul A. Lopez and Jean Lopez. The Court conducted an inquiry into the sufficiency of the service by publication to comply with due process of law and based upon the evidence presented together with affidavit and documentary evidence finds that the Plaintiff, United States of America, acting on behalf of the Administrator of Veterans Affairs, and its attorneys, Tony M. Graham, United States Attorney for the

Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, fully exercised due diligence in ascertaining the true name and identity of the parties served by publication with respect to their present or last known places of residence and/or mailing addresses. The Court accordingly approves and confirms that the service by publication is sufficient to confer jurisdiction upon this court to enter the relief sought by the Plaintiff, both as the subject matter and the Defendants served by publication.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers herein on August 21, 1987; that Roy Hinkle, attorney for Defendants, Anthony P. Lauchner and Susan Swinney Lauchner, filed an Entry of Appearance on their behalf, but failed to answer and default has been entered by the Clerk of this Court on March 8, 1988; that the Defendants, Paul A. Lopez and Jean Lopez, have failed to answer and default has been entered by the Clerk of this Court on March 8, 1988.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Eight (8), Block Three (3), THE MEADOWS AT INDIAN SPRINGS an Addition to the City of Broken Arrow, Tulsa County, State of Oklahoma, according to the recorded Plat thereof.

The Court further finds that on November 24, 1982, the Defendants, Anthony P. Lauchner and Susan Swinney Lauchner,

executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, their mortgage note in the amount of \$53,000.00, payable in monthly installments, with interest thereon at the rate of twelve percent (12%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Anthony P. Lauchner and Susan Swinney Lauchner, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, a mortgage dated November 24, 1982, covering the above-described property. Said mortgage was recorded on December 6, 1982, in Book 4654, Page 1277, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Anthony P. Lauchner and Susan Swinney Lauchner, made default under the terms of the aforesaid note and mortgage by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, Anthony P. Lauchner and Susan Swinney Lauchner, are indebted to the Plaintiff in the principal sum of \$54,284.82, plus interest at the rate of 12 percent per annum from January 1, 1986 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, claim no right, title, or interest in the subject real property.

The Court further finds that the Defendants, Paul A. Lopez and Jean Lopez, are in default and have no right, title, or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendants, Anthony P. Lauchner and Susan Swinney Lauchner, in the principal sum of \$54,284.82, plus interest at the rate of 12 percent per annum from January 1, 1986 until judgment, plus interest thereafter at the current legal rate of 7.01 percent per annum until paid, plus the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Paul A. Lopez, Jean Lopez, and County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Anthony P. Lauchner and Susan Swinney Lauchner, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the

Plaintiff, including the costs of sale of  
said real property;

Second:

In payment of the judgment rendered herein  
in favor of the Plaintiff.

The surplus from said sale, if any, shall be deposited with the  
Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from  
and after the sale of the above-described real property, under  
and by virtue of this judgment and decree, all of the Defendants  
and all persons claiming under them since the filing of the  
Complaint, be and they are forever barred and foreclosed of any  
right, title, interest or claim in or to the subject real  
property or any part thereof.

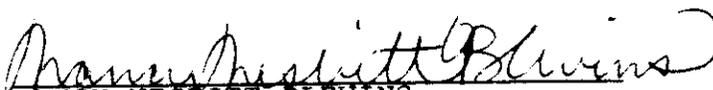
S/ THOMAS R. BRETT

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UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM  
United States Attorney

  
NANCY NESBITT BLEVINS  
Assistant United States Attorney

  
DORIS L. FRANSEIN  
Assistant District Attorney  
Attorney for Defendants,  
County Treasurer and  
Board of County Commissioners,  
Tulsa County, Oklahoma

NNB/css

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 ONE 1979 CADILLAC, )  
 VIN 6D47S99259527 and )  
 ONE 1981 LINCOLN )  
 VIN 1MRBP96F7BY603792, )  
 )  
 Defendants. )

**FILED**

APR 11 1988

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

CIVIL ACTION NO. 87-C-760-B

JUDGMENT OF FORFEITURE

The cause having come before this Court upon Plaintiff's Application and being otherwise fully apprised in the premises, it is hereby

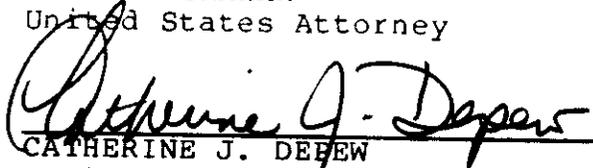
ORDERED, ADJUDGED, AND DECREED that judgment be entered against the Defendants, One 1979 Cadillac, VIN 6D47S99259527 and One 1981 Lincoln, VIN 1MRBP96F7BY603792, and against all persons interested in such property, and that the said property be and the same is hereby forfeited to the United States of America.

S/ THOMAS R. BRETT  
\_\_\_\_\_  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

TONY M. GRAHAM  
United States Attorney

  
\_\_\_\_\_  
CATHERINE J. DEEW  
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 vs. )  
 )  
 CHARLEY R. HENSLEY; TERESA A. )  
 HENSLEY; COUNTY TREASURER, )  
 Tulsa County, Oklahoma; and )  
 BOARD OF COUNTY COMMISSIONERS, )  
 Tulsa County, Oklahoma, )  
 )  
 Defendants. )

**E I L E D**

APR 11 1988

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

CIVIL ACTION NO. 88-C-116-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 11 day  
of April, 1988. The Plaintiff appears by Tony M.  
Graham, United States Attorney for the Northern District of  
Oklahoma, through Nancy Nesbitt Blevins, Assistant United States  
Attorney; the Defendants, County Treasurer, Tulsa County,  
Oklahoma, and Board of County Commissioners, Tulsa County,  
Oklahoma, appear by Doris L. Fransein, Assistant District  
Attorney, Tulsa County, Oklahoma; and the Defendants, Charley R.  
Hensley and Teresa A. Hensley, appear not, but make default.

The Court being fully advised and having examined the  
file herein finds that the Defendants, Charley R. Hensley and  
Teresa A. Hensley, acknowledged receipt of Summons and Complaint  
on February 22, 1988; that Defendant, County Treasurer, Tulsa  
County, Oklahoma, acknowledged receipt of Summons and Complaint  
on February 17, 1988; and that Defendant, Board of County  
Commissioners, Tulsa County, Oklahoma, acknowledged receipt of  
Summons and Complaint on February 5, 1988.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers herein on February 26, 1988; and that the Defendants, Charley R. Hensley and Teresa A. Hensley, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Twenty-Six (26), Block Five (5), AMENDED PLAT OF VAN ACRES ADDITION, a subdivision to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded amended Plat thereof.

The Court further finds that on January 24, 1986, the Defendants, Charley R. Hensley and Teresa A. Hensley, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, their mortgage note in the amount of \$39,000.00, payable in monthly installments, with interest thereon at the rate of eleven percent (11%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Charley R. Hensley and Teresa A. Hensley, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, a mortgage dated January 24, 1986, covering the above-described property. Said mortgage was recorded on January 27, 1986, in Book 4921, Page 634, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Charley R. Hensley and Teresa A. Hensley, made default under the terms of the aforesaid note and mortgage by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, Charley R. Hensley and Teresa A. Hensley, are indebted to the Plaintiff in the principal sum of \$38,926.65, plus interest at the rate of 11 percent per annum from April 1, 1987 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

The Court further finds that the Defendant, County Treasurer, Tulsa County, Oklahoma, has a lien on the property which is the subject matter of this action by virtue of personal property taxes in the amount of \$9.00 which became a lien on the property as of 1987. Said lien is inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, claims no right, title, or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendants, Charley R. Hensley and Teresa A. Hensley, in the principal sum of \$38,926.65, plus interest at the rate of 11 percent per annum from April 1, 1987 until judgment, plus interest thereafter at the current legal rate of 7.01 percent per annum until paid, plus the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during

this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, County Treasurer, Tulsa County, Oklahoma, have and recover judgment in the amount of \$9.00 for personal property taxes for the year of 1987, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, has no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Charley R. Hensley and Teresa A. Hensley, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisalment the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Plaintiff;

Third:

In payment of the Defendant, County Treasurer, Tulsa County, Oklahoma, in the amount of \$9.00, personal property taxes which are currently due and owing.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

---

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM  
United States Attorney

  
NANCY NESBITT BLEVINS  
Assistant United States Attorney

  
DORIS L. FRANSEIN  
Assistant District Attorney  
Attorney for Defendants,  
County Treasurer and  
Board of County Commissioners,  
Tulsa County, Oklahoma

NNB/css

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 DENVER LEE LEWIS; BILLY J. )  
 HERRING; HELEN L. HERRING; )  
 OSTEOPATHIC HOSPITAL FOUNDERS )  
 ASSOCIATION, a corporation d/b/a )  
 OKLAHOMA OSTEOPATHIC HOSPITAL; )  
 BECKHAM HEATING AND AIR )  
 CONDITIONING COMPANY, INC. )  
 COUNTY TREASURER, Tulsa County, )  
 Oklahoma; and BOARD OF COUNTY )  
 COMMISSIONERS, Tulsa County, )  
 Oklahoma, )  
 )  
 Defendants. )

**FILED**

APR 11 1988

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

CIVIL ACTION NO. 87-C-817-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 11 day  
of April, 1988. The Plaintiff appears by Tony M.  
Graham, United States Attorney for the Northern District of  
Oklahoma, through Nancy Nesbitt Blevins, Assistant United States  
Attorney; the Defendants, County Treasurer, Tulsa County,  
Oklahoma, and Board of County Commissioners, Tulsa County,  
Oklahoma, appear by Doris L. Fransein, Assistant District  
Attorney, Tulsa County, Oklahoma; the Defendant, Osteopathic  
Hospital Founders Association, a corporation d/b/a Oklahoma  
Osteopathic Hospital, appears not, having previously filed its  
Disclaimer; the Defendant, Beckham Heating and Air Conditioning  
Company, Inc., appears by its attorney Paul F. McTighe, Jr.; and  
the Defendants, Denver Lee Lewis, Billy J. Herring, and Helen L.  
Herring, appear not, but make default.

The Court being fully advised and having examined the file herein finds that Defendant, Denver Lee Lewis, was served with Summons and Complaint on November 19, 1987; that Defendant, Osteopathic Hospital Founders Association, a corporation d/b/a Oklahoma Osteopathic Hospital, acknowledged receipt of Summons and Complaint on October 5, 1987; that Defendant, Beckham Heating and Air Conditioning Company, Inc., acknowledged receipt of Summons and Complaint on October 8, 1987; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on October 8, 1987; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on October 6, 1987.

The Court further finds that the Defendants, Billy J. Herring and Helen L. Herring, were served by publishing notice of this action in the Tulsa Daily Business Journal & Legal Record, a newspaper of general circulation in Tulsa County, Oklahoma, once a week for six (6) consecutive weeks beginning December 21, 1987, and continuing to January 25, 1988, as more fully appears from the verified proof of publication duly filed herein; and that this action is one in which service by publication is authorized by 12 O.S. Section 2004(C)(3)(c). Counsel for the Plaintiff does not know and with due diligence cannot ascertain the whereabouts of the Defendants, Billy J. Herring and Helen L. Herring, and service cannot be made upon said Defendants within the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, or upon said Defendants without the Northern

Judicial District of Oklahoma or the State of Oklahoma by any other method, as more fully appears from the evidentiary affidavit of a bonded abstracter filed herein with respect to the last known addresses of the Defendants, Billy J. Herring and Helen L. Herring. The Court conducted an inquiry into the sufficiency of the service by publication to comply with due process of law and based upon the evidence presented together with affidavit and documentary evidence finds that the Plaintiff, United States of America, acting on behalf of the Administrator of Veterans Affairs, and its attorneys, Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, fully exercised due diligence in ascertaining the true name and identity of the parties served by publication with respect to their present or last known places of residence and/or mailing addresses. The Court accordingly approves and confirms that the service by publication is sufficient to confer jurisdiction upon this Court to enter the relief sought by the Plaintiff, both as the subject matter and the Defendants served by publication.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers herein on October 26, 1987; that the Defendant, Osteopathic Hospital Founders Association, a corporation d/b/a Oklahoma Osteopathic Hospital, filed its Disclaimer herein on October 15, 1987; that the Defendant, Beckham Heating and Air Conditioning Company, Inc., filed its Answer herein on October 19, 1987; and that the Defendants,

Denver Lee Lewis, Billy J. Herring and Helen L. Herring, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Five (5), Block One (1), LAWN RIDGE ADDITION to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof.

The Court further finds that on January 8, 1986, the Defendant, Denver Lee Lewis, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, his mortgage note in the amount of \$35,000.00, payable in monthly installments, with interest thereon at the rate of eleven percent (11%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendant, Denver Lee Lewis, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, a mortgage dated January 8, 1986, covering the above-described property. Said mortgage was recorded on January 9, 1986, in Book 4917, Page 2055, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendant, Denver Lee Lewis, made default under the terms of the aforesaid note and mortgage by reason of his failure to make the monthly installments due thereon, which default has continued, and that

by reason thereof the Defendant, Denver Lee Lewis, is indebted to the Plaintiff in the principal sum of \$35,058.42, plus interest at the rate of 11 percent per annum from August 1, 1986 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, claim no right, title, or interest in the subject real property.

The Court further finds that the Defendant, Osteopathic Hospital Founders Association, a corporation d/b/a Oklahoma Osteopathic Hospital, disclaims any right, title, or interest in the subject real property.

The Court further finds that the Defendant, Beckham Heating and Air Conditioning Company, Inc., has a lien on the property which is the subject matter of this action by virtue of a Mechanic's Lien in the amount of \$3,140.00.

The Court further finds that the Defendants, Billy J. Herring and Helen L. Herring, are in default and have no right, title, or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, Denver Lee Lewis, in the principal sum of \$35,058.42, plus interest at the rate of 11 percent per annum from August 1, 1986 until judgment, plus interest thereafter at the current legal rate of 7.01 percent per annum until paid, plus the costs of this action accrued and accruing, plus any additional sums advanced or

to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Osteopathic Hospital Founders Association, a corporation d/b/a Oklahoma Osteopathic Hospital, Billy J. Herring, Helen L. Herring, and County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, Beckham Heating and Air Conditioning Company, Inc., have and recover judgment in the amount of \$3,140.00 for the balance owed on a Mechanic's Lien.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant, Denver Lee Lewis, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Plaintiff;

Third:

In payment of the Defendant, Beckham Heating and Air Conditioning Company, Inc., in the amount of \$3,140.00.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM  
United States Attorney

  
NANCY NESBITT BLEVINS  
Assistant United States Attorney

  
DORIS L. FRANSEIN  
Assistant District Attorney  
Attorney for Defendants,  
County Treasurer and  
Board of County Commissioners,  
Tulsa County, Oklahoma

  
PAUL F. MCTIGHE, JR.  
Attorney for Defendant,  
Beckham Heating and Air  
Conditioning Company, Inc.

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

TRACY E. MANN, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
CHAD ALLEN COLE and )  
 )  
RANDELL C. COLE, )  
 )  
Defendants. )

No. 87-C-344-E

**FILED**

APR 8 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

and

JACKIE L. THOMPSON, JR., )  
 )  
CAROL SUE KNISLEY, and )  
 )  
BOYD ERNIE HERRIMAN, )  
 )  
Plaintiffs, )

No. 87-C-480-~~B~~E

vs. )  
 )  
CHAD ALLEN COLE, RANDALL L. )  
 )  
COLE and NINA COLE, )  
 )  
Defendants. )

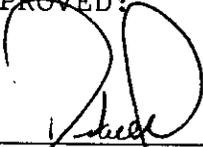
ORDER

Upon application of these parties, the claims of Jackie L. Thompson, Jr., Carol Sue Knisley, and Boyd Ernie Herriman vs. Chad Allen Cole, Randall L. Cole and Nina Cole are hereby dismissed with prejudice, each party to bear its own costs. That the claim of Tracy E. Mann vs. Chad Allen Cole and Randell C. Cole was hereby dismissed previously with prejudice on December 14, 1987, by this Court.

Dated this 7<sup>th</sup> day of April, 1988.

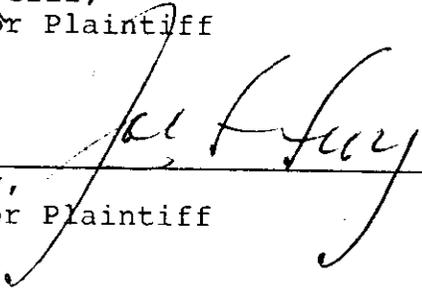
*James D. Allison*  
UNITED STATES DISTRICT JUDGE

APPROVED:



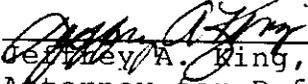
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Randall A. Gill,  
Attorney for Plaintiff



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Joe L. Levy,  
Attorney for Plaintiff



---

Jeffrey A. King,  
Attorney for Defendants,  
Chad Allen Cole, Randell L. Cole,  
and Nina Cole

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

RICHARD McCORKLE, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 ) No. 87-C-821-B  
 )  
 NORTHWESTERN NATIONAL LIFE )  
 INSURANCE COMPANY, LIFE )  
 INSURANCE COMPANY OF THE )  
 SOUTHWEST, BROWN & ROOT, INC., )  
 and HALLIBURTON COMPANY, )  
 )  
 Defendants.)

No. 87-C-821-B

**FILED**  
APR - 8 1988  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

J U D G M E N T

In keeping with the order sustaining the motion for summary judgment entered this date, Judgment is hereby entered in favor of the Defendants, Northwestern National Life Insurance Company, Life Insurance Company of the Southwest, Brown & Root, Inc., and Halliburton Company, and against the Plaintiff, Richard McCorkle, and the action is hereby dismissed; costs are assessed against the Plaintiff.

DATED this 8th day of April, 1988.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

EMERSON ELECTRIC COMPANY, )  
a Missouri corporation, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
ROGERS, HONN & ASSOCIATES, )  
an Oklahoma professional )  
association, and RICHARD C. )  
HONN, individually, )  
 )  
Defendants. )

No. 87-C-434-B

FILED  
APR - 8 1988  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

J U D G M E N T

In accordance with the Order entered this date, IT IS  
HEREBY ORDERED AND ADJUDGED that judgment be entered in favor  
of the Defendants, Rogers, Honn & Associates, an Oklahoma  
professional association, and Richard C. Honn, individually,  
and against the Plaintiff, Emerson Electric Company, a  
Missouri corporation, and the Plaintiff is to take nothing  
on its claim herein. Each side is to pay its respective  
attorney fees.

DATED this 7 day of September, 1987.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

TRACY E. MANN, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 CHAD ALLEN COLE and )  
 RANDELL C. COLE, )  
 )  
 Defendants. )

No. 87-C-344-E

**FILED**

APR 8 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

and  
JACKIE L. THOMPSON, JR., )  
 CAROL SUE KNISLEY, and )  
 BOYD ERNIE HERRIMAN, )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 CHAD ALLEN COLE, RANDALL L. )  
 COLE and NINA COLE, )  
 )  
 Defendants. )

No. 87-C-480-~~B~~E

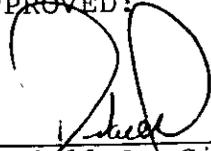
O R D E R

Upon application of these parties, the claims of Jackie L. Thompson, Jr., Carol Sue Knisley, and Boyd Ernie Herriman vs. Chad Allen Cole, Randall L. Cole and Nina Cole are hereby dismissed with prejudice, each party to bear its own costs. That the claim of Tracy E. Mann vs. Chad Allen Cole and Randell C. Cole was hereby dismissed previously with prejudice on December 14, 1987, by this Court.

Dated this 7<sup>th</sup> day of April, 1988.

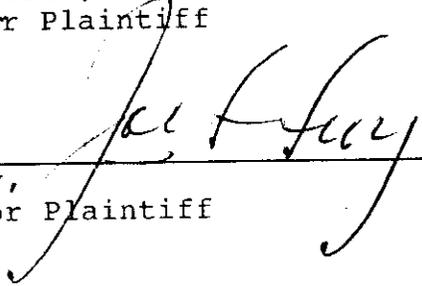
James D. Allison  
UNITED STATES DISTRICT JUDGE

APPROVED:



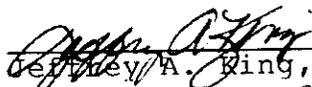
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Randall A. Gill,  
Attorney for Plaintiff



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Joe L. Levy,  
Attorney for Plaintiff



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Jeffrey A. King,  
Attorney for Defendants,  
Chad Allen Cole, Randell L. Cole,  
and Nina Cole



UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 vs. )  
 )  
 KEVIN R. JOHNSON; SHERYL )  
 JOHNSON; COUNTY TREASURER, )  
 Tulsa County, Oklahoma; and )  
 BOARD OF COUNTY COMMISSIONERS, )  
 Tulsa County, Oklahoma, )  
 )  
 Defendants. )

FILED

APR 8 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

CIVIL ACTION NO. 87-C-1081-C

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 8 day  
of April, 1988. The Plaintiff appears by Tony M.  
Graham, United States Attorney for the Northern District of  
Oklahoma, through Peter Bernhardt, Assistant United States  
Attorney; the Defendants, County Treasurer, Tulsa County,  
Oklahoma, and Board of County Commissioners, Tulsa County,  
Oklahoma, appear by Doris L. Fransein, Assistant District  
Attorney, Tulsa County, Oklahoma; and the Defendants, Kevin R.  
Johnson and Sheryl Johnson, appear not, but make default.

The Court being fully advised and having examined the  
file herein finds that the Defendants, Kevin R. Johnson and  
Sheryl Johnson, were served Summons and Complaint on February 19,  
1988; that Defendant, County Treasurer, Tulsa County, Oklahoma,  
acknowledged receipt of Summons and Complaint on December 31,  
1987; and that Defendant, Board of County Commissioners, Tulsa  
County, Oklahoma, acknowledged receipt of Summons and Complaint  
on December 31, 1987.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers herein on January 20, 1988; and that the Defendants, Kevin R. Johnson and Sheryl Johnson, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Eleven (11), Block Two (2), ELEVENTH STREET ACRES SECOND ADDITION to Tulsa, County of Tulsa, State of Oklahoma, according to the recorded Plat thereof.

The Court further finds that on November 29, 1985, the Defendants, Kevin R. Johnson and Sheryl Johnson, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, their mortgage note in the amount of \$36,000.00, payable in monthly installments, with interest thereon at the rate of eleven and one-half percent (11.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Kevin R. Johnson and Sheryl Johnson, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, a mortgage dated November 29, 1985, covering the above-described property. Said mortgage was recorded on

December 5, 1985, in Book 4910, Page 2065, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Kevin R. Johnson and Sheryl Johnson, made default under the terms of the aforesaid note and mortgage by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, Kevin R. Johnson and Sheryl Johnson, are indebted to the Plaintiff in the principal sum of \$36,160.76, plus interest at the rate of 11.5 percent per annum from October 1, 1986 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

The Court further finds that the Defendant, County Treasurer, Tulsa County, Oklahoma, has a lien on the property which is the subject matter of this action by virtue of ad valorem taxes in the amount of \$431.00, plus penalties and interest, for the year of 1987. Said lien is superior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, claims no right, title, or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendants, Kevin R. Johnson and Sheryl Johnson, in the principal sum of \$36,160.76, plus interest at the rate of 11.5 percent per annum from October 1, 1986 until judgment, plus interest thereafter at the current legal rate of 7.01 percent per annum until paid,

plus the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, County Treasurer, Tulsa County, Oklahoma, have and recover judgment in the amount of \$431.00, plus penalties and interest, for ad valorem taxes for the year of 1987, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, has no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Kevin R. Johnson and Sheryl Johnson, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the Defendant, County Treasurer, Tulsa County, Oklahoma, in the amount of \$431.00, plus penalties and interest, for ad valorem taxes which are presently due and owing on said real property;

Third:

In payment of the judgment rendered herein  
in favor of the Plaintiff.

The surplus from said sale, if any, shall be deposited with the  
Clerk of the Court to await further Order of the Court.

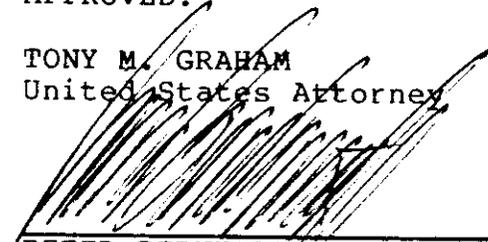
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from  
and after the sale of the above-described real property, under  
and by virtue of this judgment and decree, all of the Defendants  
and all persons claiming under them since the filing of the  
Complaint, be and they are forever barred and foreclosed of any  
right, title, interest or claim in or to the subject real  
property or any part thereof.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM  
United States Attorney

  
PETER BERNHARDT  
Assistant United States Attorney

  
DORIS L. FRANSEIN  
Assistant District Attorney  
Attorney for Defendants,  
County Treasurer and  
Board of County Commissioners,  
Tulsa County, Oklahoma

PB/css

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

APR 8 1988

AMERICAN CORROSION CONTROL )  
CORPORATION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
ANIXTER BROS., INC., et al., )  
 )  
Defendants. )

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

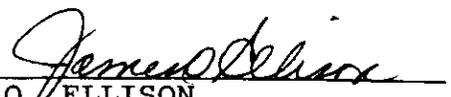
86-C-308-E

JUDGMENT

This action came on for trial before the Court, Honorable James O. Ellison, District Judge, presiding, and the issues having been duly tried and a decision having been duly rendered,

IT IS ORDERED AND ADJUDGED that the Plaintiff, American Corrosion Control Corporation, take nothing from the Defendant, Anixter Bros., Inc., that the action be dismissed on the merits, and that the Defendant, Anixter Bros., Inc., recover of the Plaintiff, American Corrosion Control Corporation, his costs of action. The parties are directed to file appropriate motions for costs and attorney fees in accordance with the direction of the findings of fact and conclusions of law filed simultaneously herewith.

DATED at Tulsa, Oklahoma this 7<sup>th</sup> day of April, 1988.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

EMERSON ELECTRIC COMPANY, )  
a Missouri corporation, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
ROGERS, HONN & ASSOCIATES, )  
an Oklahoma professional )  
association, and RICHARD C. )  
HONN, individually, )  
 )  
Defendants. )

No. 87-C-434-B

**FILED**

APR - 8 1988

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER

This matter comes before the Court on Defendants' motion for summary judgment pursuant to Fed.R.Civ.P. 56. For the reasons set out below, Defendants' motion for summary judgment due to the expiration of the statute of limitations is sustained.

Defendants represented Plaintiff as legal counsel in a products liability suit. At trial, the jury returned a verdict against Plaintiff for \$1,000,000 in actual damages and \$1,000,000 in punitive damages. Plaintiff obtained additional counsel who, together with Defendants, appealed the verdict.

On May 1, 1987, the appellate court upheld the trial court's verdict. Plaintiff now brings a legal malpractice suit against Defendants alleging that several acts and omissions<sup>1</sup> on the

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<sup>1</sup> Failure to move for a directed verdict at the close of all evidence, failure to file a third-party complaint, failure to call an independent expert witness, failure to timely depose opposing expert witness, failure to file a motion in limine, failure to file supplemental voir dire, failure to make proper objections, failure to offer evidence of warnings.

part of Defendants during the course of the trial constituted actionable negligence in the representation of Plaintiff.

The following facts are undisputed by the parties based upon the affidavits and record before the Court:

1. Emerson was a defendant in a products liability lawsuit filed in the Eastern District of Oklahoma, Karns v. Emerson Electric Company, No. 83-621-C.
2. Rogers, Honn was trial counsel for Emerson in the Karns products liability litigation.
3. On February 26, 1985, Rogers, Honn submitted a pre-trial report to Emerson, Attention: Mr. Kenneth Ross (assistant general counsel for Emerson), and stated their opinion that Karns had a 30% chance of prevailing, and the range of the verdict would be \$100,000 to \$150,000.
4. The Karns lawsuit was tried to a jury on March 4 and 5, 1985.
5. On March 5, 1985, a jury returned a verdict in favor of Karns and against Emerson for \$1,000,000 in compensatory damages, and \$1,000,000 in punitive damages.
6. Emerson company representative Mr. Bob Andrew attended the trial. Mr. Andrew is not an attorney.
7. Emerson was aware on March 5, 1985, of the \$2,000,000 verdict against it, both through its personal representative present at trial, and by reports directly to Mr. Ken Ross, assistant general counsel for Emerson.
8. On April 11, 1985, Mr. Ken Ross, assistant general counsel for Emerson, received a copy of the entire trial transcript in the Karns v. Emerson products liability litigation.
9. Ms. Barbara Wrubel, of the law firm of Skadden, Arps, Slate, Meagatr & Flom of New York City, was retained by Emerson to prepare and take responsibility for the appeal of the Karns v. Emerson products liability litigation to the Tenth Circuit Court of Appeals. Defendants also participated in the appeal.

10. Barbara Wrubel received a copy of the entire trial transcript of the Karns v. Emerson products liability lawsuit on April 11, 1985.
11. All claims for legal malpractice against Rogers, Honn were for acts of omission and/or commission occurring during trial on March 4 and 5, 1985.
12. On April 15, 1985, Emerson filed a Notice of Appeal in the Karns v. Emerson products liability litigation, to the Tenth Circuit Court of Appeals.
13. On April 24, 1985, the Court Clerk for the Eastern District of Oklahoma completed the record and it was forwarded to the Tenth Circuit Court of Appeals and all counsel of record.
14. On April 26, 1985, Emerson posted a supersedeas bond (surety) in the sum of \$2,300,000.
15. On May 1, 1987, the Tenth Circuit Court of Appeals issued its opinion, affirming the judgment in the matter of Karns v. Emerson Electric.
16. On June 4, 1987, Emerson filed this legal malpractice lawsuit against Rogers, Honn.

Defendants contend summary judgment should be granted because the two-year statute of limitations has expired. Defendants argue that all alleged negligent acts of malpractice occurred on or before March 5, 1985, the date the trial court rendered its verdict. They assert that on this date the statute of limitations began to run. (In the alternative, Defendants claim that if the statute was tolled to a later date due to concealment, the statute began to run on April 11, 1985, the date a trial court transcript was received by Kenneth Ross, in-house counsel for Plaintiff).

Plaintiff responds to Defendants' motion with a twofold argument. It first contends that the cause of action did not

accrue until the appellate court upheld the trial court's verdict on May 1, 1987. Plaintiff argues that until the \$2,000,000 verdict was affirmed no injury had occurred to the Plaintiff to make the legal malpractice claim proper. To support this argument, Plaintiff relies on Royal Crown Bottling Company of Oklahoma City, Inc. v. Aetna Casualty & Surety Co., 438 F.Supp. 39 (W.D.Okla. 1977). The court in Royal Crown held that because a cause of action could not be maintained until injury or damage occurred, the statute of limitations did not begin until that time. However, it also stated, "It appears that the Oklahoma court has not had occasion to decide the question when the statute of limitations begins to run in attorney malpractice cases." Id. at 42. Since Royal Crown, the Oklahoma Supreme Court has determined when the statute begins to run in legal malpractice cases. See, Funnell v. Jones, 737 P.2d 105, 107 (Okla. 1985).

Under Oklahoma law, the statute of limitations for a legal malpractice claim is two years. 12 O.S. §95 (1987); Funnell v. Jones, 737 P.2d 105, 107 (Okla. 1985). The period begins to run from the date the negligent act occurred or from the date the plaintiff should have known of the act complained of. Funnell, 737 P.2d at 107. However, the period may be tolled by concealment by the attorney of the negligent acts causing harm to the plaintiff. Id. The tolling, however, is not automatic and it should be noted that "one relying on fraudulent concealment to toll the statute of limitations must not only show that he did not know facts constituting a cause of action, but that he

exercised reasonable diligence to ascertain such fact." Id. quoting Kansas City Life Ins. Co. v. Nipper, 174 Okla. 634, 51 P.2d 741 (1935).

The preceding law involves a two-part application to the facts of a claim. First, the statute of limitations begins to run from the date of the negligent acts. Plaintiff has urged the Court to find that the statute of limitations did not begin to run until May 1, 1987, the date the trial court's verdict was affirmed by the Tenth Circuit Court of Appeals.

The Plaintiff argues that until the affirmance no damage occurred to the Plaintiff and therefore the action did not accrue until the Plaintiff could have maintained the action to a successful conclusion, citing Oklahoma Brick Corp. v. McCall, 497 P.2d 215, 217 (Okla. 1972).

The Plaintiff reasons that no damages would have been incurred had the case been reversed or remanded to the trial court. The Plaintiff attempts to distinguish the Royal Crown finding that damages in the form of attorneys fees and trial expenses began after the point at which the attorney could and should have raised the dispositive issue of the statute of limitations. The statute of limitations in Royal Crown therefore began to run on the day the answer or demurrer should have been filed raising the statute of limitations defense. The Court cannot adopt the Plaintiff's reasoning and the cited cases of Bonanno v. Potthoff, 527 F.Supp. 561 (N.D.Ill. 1981), and Diaz v. Piquette, 496 S.2d 239 (Fla.App. 1986), for the reasons that this

matter is analogous to the Royal Crown case. Like the facts of Royal Crown, the Plaintiff here would suffer immediate injury in the form of unnecessary attorney fees and expenses in appealing matters that were foreclosed by the failure to make a motion for directed verdict. See, Armstrong v. Federal National Mortgage Assn., 796 F.2d 366 (10th Cir. 1986). Plaintiff suffered such costs by appealing the whole case.<sup>2</sup>

Plaintiff's complaint alleges no negligent acts occurring after March 5, 1985 and therefore the Court concludes the statute of limitations would expire on March 5, 1987. The Court must now determine if the Plaintiff is entitled to toll the statute due to fraudulent concealment. It is the duty of the party relying on the tolling to assert the basis for doing so. Plaintiff alleges that it had no notice of negligence until sometime after June 4, 1985. Plaintiff offers the Defendant's post-trial report as evidence of concealment, alleging that the Defendant Honn did not reveal his failure to make a motion for directed verdict following all the evidence. The Court's review of the report does not indicate any concealment on the part of the Defendant Honn. Plaintiff urges that language in the report stating "The Court overruled my motions for a directed verdict both as to the basic claim because of a lack of proof of a defect and further because

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<sup>2</sup> Plaintiff asserts that it was not aware of the Defendant Honn's failure to make a motion for directed verdict until after it had received the appellee's brief filed August 19, 1985, in the Tenth Circuit Court of Appeals, pointing out the jurisdictional flaw. Plaintiff's lack of such knowledge resulted in the full briefing of the case by Emerson in its filing of July 22, 1985. (See Affidavit of Kenneth Ross, Ex. B to Plaintiff's Brief).

of lack of proof that a defect caused the accident in question" is confusing and meant to imply that a motion for directed verdict was made after all the evidence. (Exhibit B to Ross Affidavit). The Court does not find concealment in the quoted language. The quoted phrase from the report was included at the end of the chronology regarding the Plaintiff's evidence and not following the Defendant's description of the defense offered by Emerson's trial counsel. Even if the report is considered misleading or ambiguous, the statute could only be tolled to April 11, 1985, as discussed below.

Defendants, in response, claim that if a tolling due to concealment is to occur, it should end on or about April 11, 1985, the date on which a transcript of the trial was mailed to Plaintiff's in-house counsel. The Plaintiff does not refute the Defendant's affidavits that show that both the Plaintiff's in-house counsel and outside appellate counsel received the entire trial transcript on April 11, 1985. Further, Plaintiff had notice of the substantial jury verdict on March 5, 1985, by a report from Defendant Honn to Assistant General Counsel Ken Ross and from the presence of the company representative at trial. The Plaintiff seeks to focus on whether the time period from April 11, 1985 until June 4, 1985, was long enough to discover the alleged negligent acts of the Defendants. The Court considers the date of April 11, 1985, as the starting point for the limitations period, giving the Plaintiff two years or until April 11, 1987, in which to bring this suit.

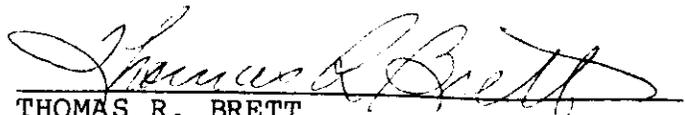
Because it is reasonable to believe that when Plaintiff's in-house counsel received the transcript it had constructive notice of any negligence on the part of Defendants and on this date should have known of the acts complained of, the Court finds Defendants' position persuasive.

The Court does not consider Plaintiff's action or lack thereof in investigating the Defendant's conduct as a question of fact for a jury. On these facts the Court can say as a matter of law that the Plaintiff had constructive notice of the negligent acts complained of or could have ascertained knowledge of the alleged acts by exercising reasonable diligence. The Plaintiff has failed its burden to show that it had no knowledge of the alleged negligent acts or that it exercised reasonable diligence in obtaining same. Kansas City v. Nipper, supra.

The statute of limitations which ordinarily would have begun to run on March 5, 1985, was tolled until April 11, 1985. As a result, the statute of limitations for the filing of this claim expired on April 11, 1987. Because the statute of limitations had expired when Plaintiff filed this suit on June 4, 1987, Defendants' motion for summary judgment is granted.

A Judgment in keeping with this Order is entered contemporaneously herewith.

IT IS SO ORDERED, this 7<sup>th</sup> day of April, 1988.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FOXMEYER DRUG COMPANY, )  
 )  
 ) Plaintiff, )  
 vs. )  
 )  
 GREEN COUNTRY DISCOUNT PHARMACY )  
 INC., d/b/a WAL-MART PHARMACY )  
 OF OWASSO, )  
 )  
 ) Defendant. )

Case No. 87-01084 C

FILED

APR 11 1988

Jack C. Silver, Jr.  
U.S. DISTRICT COURT

JOURNAL ENTRY OF JUDGMENT

Now on this \_\_\_\_ day of \_\_\_\_\_, 1988, the Court, being advised of the premises finds that on March 11, 1988, pursuant to Rule 68 of the Federal Rules of Civil Procedure, Defendant, Green Country Discount Pharmacy, Inc., d/b/a/ Wal-Mart Pharmacy of Owasso ("Green Country"), offered to allow judgment to be taken against it by Plaintiff Foxmeyer Drug Company for the sum of \$32,200.00 plus costs accrued as of that date. The Court further finds that Foxmeyer accepted Green Country's offer of judgment on March 25, 1988. The Court therefore finds that judgment should be entered pursuant to Rule 68 in favor of Foxmeyer in the amount of \$32,200.00 including costs accrued as of March 11, 1988.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that judgment be entered in favor of Plaintiff Foxmeyer Drug Company and against Defendant Green Country Discount Pharmacy, Inc., d/b/a Wal-Mart Pharmacy of Owasso in the sum of \$32,200.00 including costs accrued as of March 11, 1988.

CLERK, U.S. DISTRICT COURT

*By H. Miller, Chief Clerk*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

**APR 7 1988**

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

PETROMARK RESOURCES COMPANY, )  
a Delaware corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
CHARLES E. DAVIDSON, )  
 )  
 )  
Defendant. )

Case No.87-C-158 E

STIPULATION OF DISMISSAL WITH PREJUDICE

It is hereby stipulated by and among the parties that the above entitled cause of action be discontinued and dismissed with prejudice to the right of the plaintiff to bring any further action against this defendant. All parties are to bear their own costs incurred to date.

DATED this 23<sup>rd</sup> day of February, 1988.

Respectfully submitted,

James Craig Dodd  
James Craig Dodd  
David C. Vorward  
of  
Craig Dodd & Associates  
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Larry Evans  
McCormick, Andrew & Clark  
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(918) 583-1111  
Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

MARGARET WICK, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 HARRY RICH, OPAL MANUFACTURING, )  
 INC., 118677 ONTARIO LIMITED, )  
 ALOIS MULLER, TOM GRIGGS and )  
 JOHN COX, )  
 )  
 Defendants. )

86-C-638-E

**FILED**

APR 7 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

ORDER

The court upon reconsideration of its Order of July 2, 1987, sua sponte, finds that in connection with defendant Cox its prior reliance on Wegerer v. First Commodity Corp. of Boston, 744 F.2d 719 (10th Cir. 1984), was misplaced, and that the Motion to Dismiss of defendant Cox should be granted, on the grounds that there is no in personam jurisdiction over said defendant Cox.

Defendant Cox is a citizen of Maryland and a shareholder, but not an officer or director, in Opal Manufacturing, Inc. ("New Opal"), which is a Canadian corporation. (See Affidavit of John Cox (pleading #6)). Plaintiff alleges in this lawsuit that defendant Cox was part of a conspiracy to defraud her of commissions earned as a sales agent.

Due process requires that in order to subject a nonresident defendant to personal jurisdiction of a forum state, defendant must have "minimum contacts" with the forum state such that the exercise of jurisdiction over him does not offend traditional notions of fair play and substantial justice. Worldwide Volkswagen Corp. v. Woodson, 444 U.S. 286, 100 S.Ct. 559, 62

L.Ed.2d 490 (1980); International Shoe Co. v. Washington, 326 U.S. 310, 66 S.Ct. 154, 90 L.Ed. 95 (1945).

The Tenth Circuit in Baldrige v. McPike, Inc., 466 F.2d 65 (10th Cir. 1972), decided that mere allegations by plaintiff of a conspiracy without some sort of prima facie factual showing of a conspiracy could not be the basis of personal jurisdiction of non-resident co-conspirators, because of minimum contacts requirements. The court said that "the mere allegation of conspiracy was controverted by the affidavits presented by the alleged co-conspirators in support of their denial of the conspiracy", so no personal jurisdiction over the non-residents could be found.

Subsequently, in American Land v. Bonaventura Uitgevers Maatschappij, 710 F.2d 1449 (10th Cir. 1983), the court again examined the issue of jurisdiction over a non-resident conspirator. To sustain such jurisdiction requires "something more than the presence of a co-conspirator within the forum state, such as substantial acts performed there in furtherance of the conspiracy and of which the out-of-state co-conspirator was or should have been aware."<sup>1</sup> Id. at 1454. In that case the plaintiff alleged by unverified complaint that a conspiracy existed, and the court stated that, on a motion to dismiss for lack of personal jurisdiction, allegations in a complaint are taken as true to the extent they are not contradicted by

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<sup>1</sup> Emphasis supplied.

affidavits. However, defendants had countered by sworn affidavits that no conspiracy existed, and plaintiff did not controvert those affidavits except by conclusory allegations in its complaint and briefs.<sup>2</sup> Plaintiff did not assert by affidavit that an overt act in furtherance of the conspiracy had occurred in the state. The court found that plaintiff had failed to meet its threshold burden of establishing personal jurisdiction of the court over defendants:

'On a motion to dismiss for lack of personal jurisdiction, the plaintiff rather than the movant has the burden of proof... He need not, however, establish personal jurisdiction by a preponderance of the evidence; prima facie evidence of personal jurisdiction is sufficient.' ... 'Mere allegations of conspiracy, without some sort of prima facie factual showing of a conspiracy, cannot be the basis of personal jurisdiction of co-conspirators outside the territorial limits of the court.'

Id. at 1454.

Plaintiff alleges in her complaint the following:

That in 1984, the defendants, Rich, Muller, Griggs and Cox, began a series of negotiations to transfer and sell Opal Manufacturing Co., Ltd., a Canadian company, on paper, through a series of shell corporations to a company named Opal Manufacturing, Inc., to be owned by the defendants, Griggs and Cox. That agreement was made to stifle and defraud the plaintiff of some \$700,000.00 in fees and income. That during this transaction an agreement of sale was entered into and both physical, tangible and intangible assets were transferred from Opal Manufacturing Co., Ltd., a

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<sup>2</sup> Defendant Cox served as Vice President of Marketing for New Opal in 1985, and is a 50% shareholder. His only connection to this case is through New Opal, which has denied the existence of the alleged conspiracy by affidavit. See Supplemental Affidavit of Thomas L. Griggs, filed December 2, 1987 on behalf of New Opal and himself (pleading #101).

Canadian company, to Opal Manufacturing, Inc. That in the bill of sale dated December 4, 1984 ... all other property, assets and rights of the business save and except those on the foregoing documents ... were to be transferred to the new company. That by virtue of the fact that the plaintiff's employment contract was not itemized or set out ... her contract was transferred to Opal Manufacturing, Inc., the new corporation. Those employment contracts have remained in force and effect and have not been honored. The defendants each individually and as corporate officers have attempted to defraud the plaintiff...

That the defendants, Griggs, Cox, Muller, Rich, Opal Manufacturing Company, Ltd., and Opal Manufacturing, Inc. defrauded Plaintiff of commissions earned from sales in negotiating contracts for the sale of postal equipment to the United States [sic] Postal Service. The individual defendants conspired to defraud [sic] plaintiff of her lawfully earned commissions by creating a series of transactions allegedly showing the transfer of Opal Manufacturing Company, Ltd. to Opal Manufacturing, Inc. That in the process of attempting to transfer those assets, the intent of the parties, individually and collectively, was to defraud plaintiff of her sales commissions and contractual negotiations with the United States Postal Authorities to keep from paying her \$750,000 in sales commissions, which should have been due and owing [sic] to plaintiff had the transfer not occurred. Further evidence of the conspiracy and act to defraud is evidenced by the fact that defendants Griggs and Cox, after acquiring Opal Manufacturing Company, Ltd., executed employment contracts to re-employ defendant Muller to avoid payment of compensation earned by plaintiff through the sale of postal equipment under the Old Opal contract, as noted above. Defendants Griggs and Cox then executed a lease agreement with defendant Rich to use Old Opal's operating facilities at a premium price, never having to transfer, move or replace the physical assets of Old Opal with New Opal. Said contract was used for financial protection for defendant Rich and the furtherance of all defendants' actions to continue to conspire to defraud plaintiff...

Plaintiff does not mention defendant Cox in her Affidavit (pleading #36).

This court finds no evidence of any contacts which defendant Cox has had with the State of Oklahoma. He has never lived or worked in the state, has transacted no business and has not solicited business here, and he does not own property within the state.

This court finds that plaintiff has not met her burden of proof to show prima facie evidence of a conspiracy involving defendant Cox, but has merely alleged the existence of such a conspiracy.<sup>3</sup> Even if such a conspiracy existed, plaintiff has

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<sup>3</sup> The plaintiffs in Wegerer presented undisputed facts establishing prima facie evidence of a conspiracy:

The Wegerers presented evidence which established that: they responded to an FCCB [First Commodity Corporation of Boston] advertisement which stated that one of its clients had made a profit of 827% in one year; Donald and Richard Schleicher were the principal officers and only directors and shareholders of FCCB; Robert Jones, an FCCB account executive, made numerous phone calls to them within a relatively short period of time during which time he held himself out to be an expert; Jones stated that the Wegerers did not need to read the written material sent to them by FCCB since they would not be able to understand it and the information was being sent out merely to fulfill a legal requirement; Jones stated that copper prices were rising and that they were certain to make a profit; the Wegerers wired FCCB funds totaling \$10,775; FCCB accepted the wired funds and mailed out confirmations; FCCB did not send [sic] the Wegerers the contracts Jones said would be sent; the Wegerers were not knowledgeable, sophisticated investors; the Wegerers relied exclusively on Jones as an employee of FCCB in purchasing the option contracts; the Wegerers were unaware that the commission fees on their purchases would equal 100% of the purchase price of the option contracts; FCCB and the Schleichers had entered into a consent decree in 1976 in which FCCB and the Schleichers agreed to cease and desist from a variety of deceptive practices, many of which were identical to the practices utilized in defrauding the Wegerers.

wholly failed to show the defendant Cox was a part of that conspiracy or had any knowledge of it. In addition, no act in furtherance of that conspiracy has been shown to have taken place in the State of Oklahoma. On the basis of the cases requiring minimum contacts and the Baldrige and American Land cases, supra, the court must grant the Motion to Dismiss of Defendant Cox.

The Order of July 2, 1987 otherwise remains unchanged.

Dated this 7<sup>th</sup> day of April, 1988.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

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Under these circumstances, we hold that the Wegerers established a civil conspiracy to defraud.

Wegerer at 725-726.

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

APR 7 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

TURNER BROTHERS, INC., )  
 )  
 Plaintiff, )  
 )  
 v. ) 86-C-741-E  
 )  
 OFFICE OF SURFACE MINING )  
 RECLAMATION AND ENFORCEMENT )  
 )  
 Defendant. )

ORDER

This dispute concerns a notice of violation issued by the Secretary of Interior to Turner Brothers, Inc. (Turner), an Oklahoma-based coal mining operation. On administrative appeal the Interior Board of Land Appeals (IBLA) held that: (1) the Office of Surface Mining (OSM) properly exercised jurisdiction over Turner's operation in Rogers County, Oklahoma, and the Department of Interior thus had jurisdiction to hear the case; and (2) the OSM met its burden of proof to support the issuance of the Notice of Violation. The decision of the IBLA then became the final decision of the Secretary. 92 IBLA 381 (1986).

Turner appeals the Secretary's decision. After a hearing before the United States Magistrate, the Magistrate recommended that the Secretary's decision be upheld in part and reversed in part. This Court finds that the Secretary's decision should be upheld in its entirety, and therefore, declines to adopt that portion of the Magistrate's report and recommendation that would reverse the Secretary.

The starting point in the Court's analysis is the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C.A.

1201 et.seq (West. 1986). The Act provides for dual state and federal enforcement of the SMCRA: states with approved enforcement programs are given primary responsibility for enforcement and the OSM oversees state enforcement. When the OSM determines that lax state enforcement requires direct intervention and takeover of enforcement responsibilities, its function becomes primary. 30 U.S.C.A. §1271(b). In this case the OSM published notice of its intent to take over the Oklahoma program. Then, pursuant to its enforcement authority under §1271(b) it issued a notice of violation to Turner. The Magistrate correctly found that the OSM properly exercised its jurisdiction over Turner. Turner's contention that the OSM failed to comply with the provisions of the Administrative Procedures Act for promulgation of "rules" needs no further comment.

The Court now turns to the decisions of the Secretary concerning violation Nos. 1 and 2 of NOV 84-3-108-13. Review of this decision is strictly limited and the Secretary's decision must be upheld unless the court finds it was arbitrary, capricious, an abuse of discretion, unsupported by substantial evidence, or not in accord with the law. Richardson v. Perales, 402 U.S. 389, 390 (1971); Wilson v. Hodel, 758 F.2d 1369, 1372 (10th Cir. 1985). Upon review of the record this court finds that the Secretary's decision was supported by substantial evidence, was neither arbitrary nor capricious, and therefore, must be upheld. The court declines to adopt the Magistrate's

report and recommendation insofar as it recommends reversal of the Secretary on these points.

Violation 1 is supported by substantial evidence and must be upheld. The OSM issued Violation 1 of NOV 84-3-108-13 for a violation of the Oklahoma Permanent Regulatory Program Regulations (OPRPR). Turner was cited for violating OPRPR §778.15(a) which requires each application for a mining permit to include a description of the documents upon which the applicant bases its legal right to enter and begin surface mining operations. The essence of this requirement is that no one will be granted a permit to mine in areas without the legal right to enter the land to be mined. This requirement is consistent with the fundamental purposes of the SMRCA to protect the rights of surface landowners as well as the environment. 30 U.S.C.A. 1202 (West. 1986). The Oklahoma regulation was promulgated to implement the federal provisions and is consistent with not only the Act's fundamental purposes but also with its specific provisions. For example, §1257(b)(1)(B) of the SMCRA requires comprehensive information to be included within the permit application, including the names and addresses of every legal owner of record of the property -- surface and mineral -- to be mined. This court specifically rejects the Magistrate's conclusion that a "plain reading of [OPRPR §778.15(a)] does not admit the meaning that [a coal mining] operator may request a permit only for those areas where the operator has a right to mine." Reading OPRPR §778.15(a) together with the SMCRA's

fundamental goals and objectives, the regulation must be found to require a coal mining operator to document in any permit application its right to enter and conduct surface coal mining operations in the areas included in its permit application.

In light of this Court's conclusion, the Secretary did not err in citing Turner for a violation of OPRPR §778.15(a). Turner stipulated that it included certain property called the "Horner property" within its permit application, and that it never obtained any legal right to enter the Horner property either before or after the permit was granted. Turner argued before the Secretary that it orally alerted the Oklahoma Department of Mines of the status of the lands in its permit. The Secretary rejected the oral modification of the permit as both unsubstantiated and impermissible under the permit regulations. 92 IBLA at 388. The OSM is entitled to rely on the permit package as evidence of the conditions under which mining and reclamation have been approved. This Court cannot say that it is arbitrary or capricious to require any change from an approved permit, no matter how minor, to be documented. 92 IBLA at 388. The Secretary has shown by substantial evidence that NOV 84-03-108-13 violation No. 1 was properly issued.

Violation No. 2 is supported by substantial evidence and must be upheld. The OSM cited Turner for violating OPRPR §§816.65(k) and 816.67 which require that if the weight/distance formula is not used or followed in blasting, then an operator conducting surface mining activities on exploration over 250 tons

must obtain a seismographic record for each shot. The seismographic record keeping requirement is aimed at ensuring that blasting velocity does not exceed one-inch per second peak particle velocity. The Secretary found that the OSM met its burden of establishing the violation and that Turner failed to present any evidence to demonstrate compliance with the blasting regulations. Upon review of the entire record, the court finds that the Secretary's decision was supported by substantial evidence, and was neither arbitrary nor capricious.

IT IS THEREFORE ORDERED that the findings and recommendations of the Magistrate are adopted in part and rejected in part; and FURTHER ORDERED that the decision of the Interior Board of Land Appeals entered July 14, 1986, and identified as IBLA 85-529 are hereby AFFIRMED.

ENTERED this 7<sup>TH</sup> day of April, 1988.

  
\_\_\_\_\_  
JAMES/O. ELLISON  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

APR - 6 1988

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

VIRGINIA JENNER, an Individual, )  
and a Voter, on behalf of all )  
other Voters in the City of )  
Tulsa, Oklahoma, )

Plaintiff, )

v. )

No. 88-C-283-B

GENE PACE, Chairman, ROYSE PARR, )  
Vice-Chairman, and SCOTT ORBISON, )  
Secretary, in their capacity as )  
Members of the Tulsa County )  
Election Board, and the TULSA )  
COUNTY ELECTION BOARD, RON HOWELL, )  
as Auditor for the City of Tulsa, )  
and the CITY OF TULSA, OKLAHOMA, an )  
Oklahoma Municipal Corporation, )

Defendants. )

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law entered this date, Judgment is hereby entered in favor of the Defendants, Gene Pace, Chairman, Royse Parr, Vice-Chairman, and Scott Orbison, Secretary, in their capacity as Members of the Tulsa County Election Board, and the Tulsa County Election Board, Ron Howell, as Auditor for the City of Tulsa, and the City of Tulsa, Oklahoma, an Oklahoma municipal corporation, and each of them, and against the plaintiff, Virginia Jenner, and the action herein is dismissed with costs assessed against the Plaintiff.

DATED this 6th day of April, 1988.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

FILED

APR -6 1988

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA  
JACK C. PRYOR, CLERK  
U.S. DISTRICT COURT

MCKINLEY RATLIFF, JR., )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
JOHN F. HIDUK, )  
 )  
Defendant. )

Case No. 87-C-715 B

STIPULATION OF DISMISSAL WITH PREJUDICE

COMES NOW Plaintiff McKinley Ratliff, Jr., by and through his attorney of record, and Defendant John F. Hiduk, by and through his attorney of record, pursuant to Rule 41(a) of the Federal Rules of Civil Procedure and do herein stipulate that the above-styled and numbered cause, together with all claims asserted therein, be dismissed with prejudice to the refiling thereof.



Daniel E. Holeman, Esq.

ATTORNEY FOR PLAINTIFF  
MCKINLEY RATILEFF, JR.

Of Counsel:  
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HASKINS, NELLIS & BOUDREAUX  
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(918) 582-8877

  
\_\_\_\_\_  
John R. Caslavka, Esq.

ATTORNEY FOR DEFENDANT  
JOHN F. HIDUK

Of Counsel:  
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& SIEGEL  
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Suite 400  
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(918) 584-2583

**FILED**

APR 6 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

DWG/bt  
3/25/88

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

NINA WOFFORD and PHIL	)
ARNALL,	)
	)
Plaintiffs,	)
	)
vs.	)
	)
RICKEY WAYNE HOLLOWAY and	)
GREAT WEST CASUALTY COM-	)
PANY,	)
	)
Defendants.	)

Case no.: 87 C 117 E

ORDER OF DISMISSING CLAIM OF DEFENDANT WOFFORD

Comes on for hearing the Joint Application of plaintiff Nina Wofford and defendant Great West Casualty Company, requesting a dismissal of plaintiff's claim against this defendant that said claim has been compromised and settled. The Court finds that said Dismissal With Prejudice should be ordered.

IT IS THEREFORE ORDERED that the action of Nina Wofford against Great West Casualty Company is hereby dismissed with prejudice to the right of filing thereof.

*(Signature)*

JUDGE OF THE U.S. DISTRICT COURT,  
NORTHERN DIVISION

APPROVED AS TO FORM:

  
\_\_\_\_\_  
ANTHONY M. LAIZURE  
attorney for plaintiff  
Nina Wofford

  
\_\_\_\_\_  
DOUGLAS W. GOLDEN  
attorney for defendant  
Great West Casualty Company

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 6 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 MELVIN R. JOHNSON, )  
 )  
 Defendant. )

CIVIL ACTION NO. 87-C-926-C

DEFAULT JUDGMENT

This matter comes on for consideration this 5<sup>th</sup> day  
of April, 1988, the Plaintiff appearing by Tony M.  
Graham, United States Attorney for the Northern District of  
Oklahoma, through Phil Pinnell, Assistant United States  
Attorney, and the Defendant, Melvin R. Johnson, appearing not.

The Court being fully advised and having examined the  
file herein finds that Defendant, Melvin R. Johnson,  
acknowledged receipt of the Summons and Complaint, filed herein  
on November 30, 1987. The time within which the Defendant could  
have answered or otherwise moved as to the Complaint has expired  
and has not been extended. The Defendant has not answered or  
otherwise moved, and default has been entered by the Clerk of  
this Court. Plaintiff is entitled to Judgment as a matter of  
law.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the  
Plaintiff have and recover judgment against the Defendant,

Melvin R. Johnson, for the principal sum of \$708.90, plus interest at the rate of 9 percent per annum and administrative costs of \$.67 per month from December 6, 1985, until judgment, plus interest thereafter at the current legal rate of 6.59 percent per annum until paid, plus costs of this action.

(Signed) H. Dale Cook

---

UNITED STATES DISTRICT JUDGE

PEP/mp

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

MARTHA LASATER, AND UNIGARD )  
SECURITY INSURANCE COMPANY, )

Plaintiffs, )

vs. )

SALES FORCE COMPANIES, INC., )  
a foreign corporation, )

RAIR MID-COUNTRY, INC., )  
a foreign corporation, )

SOUTH BEND ESCAN, )  
a foreign corporation, )

N.S.F. TESTING LABORATORY, )  
DICKENSON MARINE CORPORATION, )

a foreign corporation, )  
and OMEGA AIR FLOW-21 LTD., )

a foreign corporation, )  
Defendants. )

No. 87-C-114-E

**FILED**

APR 6 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

ORDER

The parties have represented to the Court that they have reached a compromise settlement on all issues in the case. The Court finds that the Joint Application by the parties for an Order of Dismissal should be granted.

IT IS THEREFORE ORDERED that the claims of the Plaintiffs, Martha Lasater and Unigard Security Insurance Company, be and are hereby dismissed with prejudice as to all Defendants.

IT IS FURTHER ORDERED that the cross-claim of Omega Air Flow-21 Ltd. and Sales Force Companies, Inc. against the Defendant South Bend Escan be and are hereby dismissed with prejudice.

Dated this 5th day of April, 1988.

JAMES O. ELLISON  
James O. Ellison,  
United States District Judge

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 6 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 BOBBY D. MEDLOCK, )  
 )  
 Defendant. )

CIVIL ACTION NO. 87-C-991-C

DEFAULT JUDGMENT

This matter comes on for consideration this 5th day of April, 1988, the Plaintiff appearing by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Nancy Nesbitt Blevins, Assistant United States Attorney, and the Defendant, Bobby D. Medlock, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Bobby D. Medlock, acknowledged receipt of Summons and Complaint on November 27, 1987. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant,

Bobby D. Medlock, for the principal sum of \$610.02, plus interest at the rate of 12.25 percent per annum and administrative costs of \$.68 per month from March 23, 1984, \$.67 per month from February 1, 1985, \$.63 per month from February 1, 1986, and \$.70 per month from February 1, 1987, until judgment, plus interest thereafter at the current legal rate of 6.59 percent per annum until paid, plus costs of this action.

(Signed) H. Dale Cook

---

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**E I L E D**

APR - 6 1988

SOUTHPARK LINCOLN MERCURY, INC., )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
CHARLES HUGHES, )  
 )  
Defendant. )

**Jack C. Silver, Clerk  
U. S. DISTRICT COURT**

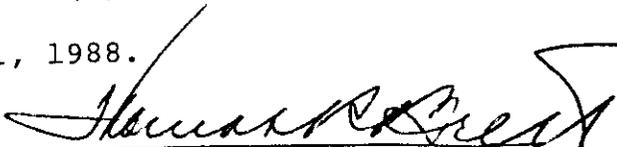
No. 87-C-1006-B

J U D G M E N T

This matter comes before the Court upon Application and Affidavit of the Plaintiff, Southpark Lincoln Mercury, Inc., duly made for judgment by default. It appears that the Defendant and Charles Hughes herein is in default and that the Clerk of the United States District Court for the Northern District of Oklahoma has previously searched the records and found that Defendant has defaulted. Plaintiff is entitled to judgment against Defendant in the sum of \$3,479.31 for violation of the odometer requirements of the Motor Vehicle Information and Cost Savings Act of the United States. The Court finds that judgment should be entered for the Plaintiff.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff recover from Defendant the sum of \$3,479.31, and post-judgment interest from this date at the coupon yield rate of 6.71% per annum until paid. Plaintiff is also entitled to an award of costs. An attorney fee will be considered upon proper application under Local Rule 6(f).

DATED this 6<sup>th</sup> day of April, 1988.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE



**E I L E D**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

APR - 6 1988

Jack C. Silver, Clerk  
**U. S. DISTRICT COURT**

IN RE: )  
 )  
LARRY PATRICK, d/b/a )  
PATRICK'S FOR THE OFFICE, )  
 )  
Debtor. )

Bankr. No. 87-0019  
(Chapter 7)  
Adv. Pro. No. 86-0071

LARRY PATRICK, d/b/a )  
PATRICK'S FOR THE OFFICE, )  
 )  
Appellant, )

v. )  
 )  
S. P. RICHARDS COMPANY, )  
 )  
Appellee. )

No. 87-C-414-B

O R D E R

This is a bankruptcy appeal from an order denying the dischargeability of Larry Patrick's debt to S. P. Richards Company. S. P. Richards Company is an unsecured creditor of Larry Patrick. S. P. Richards Company filed an adversary proceeding against Larry Patrick objecting to discharge on the grounds of alleged false pretenses, false representations or actual fraud. On May 15, 1987, Bankruptcy Judge James E. Ryan entered judgment in the adversary action denying Appellant the discharge of a \$49,652.55 debt owed Appellee. The Bankruptcy Court denied the discharge of the debt finding that the property, being inventory, was obtained with a fraudulent intent and by "false pretenses, a false representation or actual fraud" pursuant to 11 U.S.C. §523(a)(2)(A). This court has appellate jurisdiction of this action based upon 28 U.S.C. §158(a).

The standard of review in this case is governed by Bankruptcy Rule No. 8013, which provides in pertinent part:

"On an appeal the district court or bankruptcy appellate panel may affirm, modify, or reverse a bankruptcy judge's judgment, order, or decree or remand with instructions for further proceedings. Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the bankruptcy court to judge the credibility of the witnesses."

#### ISSUES ON APPEAL

1. Whether the Bankruptcy Court's factual finding, that the inventory ordered and received by Appellant in August and September of 1984 was obtained by Appellant with a fraudulent intent and ulterior motive, is clearly erroneous.

2. Whether the Bankruptcy Court's conclusion of law, that the Appellant's obtaining inventory without any intent to pay Appellee constitutes "false pretenses, a false representation, or actual fraud" as contemplated by 11 U.S.C. §523(a)(2)(A), is erroneous.

#### BACKGROUND FACTS

Appellee, S. P. Richards Company, is a distributor of office supply products. S. P. Richards did business as a supplier to the Larry Patrick's business known as Service Office Supply. In December 1981, Appellant incorporated his business as Patrick's For the Office, Inc. ("Patrick's"). Between 1982 and 1985, Patrick's ordered supplies from the Appellee on a regular basis. In doing business with S. P. Richards Company the Appellant ordered an average of \$19,000.00 worth of supplies per month up

until July 1984. From July through November 1984, Patrick's ordered the following amounts of inventory from S.P. Richards Company: \$19,672.00, \$32,187.00, \$43,349.00; \$153.25 and \$120.00. In addition, the Appellant placed increased orders with five other major suppliers, United Stationers, Stationer's, Grant Paper, Champion and Joplin Wholesale. Appellant made two payments to the Plaintiff after the increased orders and returned some inventory, leaving a balance of \$49,652.55. S.P. Richards Company received a default judgment against the Appellant in Tulsa County District Court for the balance on June 3, 1985.

After the large increase of inventory, the Plaintiff held liquidation sales and increased its advertising to promote business. During this period the Defendant paid down certain promissory notes held by Western National Bank, which were secured by a second mortgage on the Appellant's personal residence. Mr. Patrick terminated his business in June 1985 and filed for Chapter 7 bankruptcy in November 1985. Larry Patrick became personally liable for the corporate debt incurred for failure to pay Oklahoma corporate franchise tax. The corporate charter for Patrick's for the Office, Inc. was suspended February 13, 1984 (Stipulation No. 6, Pretrial Order).

The Bankruptcy Court, in its order denying the discharge of the Appellant's debt made five Findings of Fact. Only Findings of Fact 4 and 5 of the Bankruptcy Court's order of February 10, 1987, are challenged by the Appellant. Those Findings are as follows:

"4. DEFENDANT has wholly and completely failed to establish a justifiable explanation for his motive in placing the increased orders. DEFENDANT'S belief that his business would experience greater sales is unfounded and not documented. The better view of DEFENDANT'S situation was that he 'hoped' that sales would increase but had no reason to expect such a sales increase. The advertising campaign provides the only grounds for believing that increased activity might occur. The plans to add a store and convert to a 'cash and carry' operation were never consummated. In fact, DEFENDANT failed to even obtain a lease on a new facility. Therefore, an ulterior motive becomes self evident.

"5. Subsequent to the placement of the increased orders in the Fall of 1984, DEFENDANT made payments on debts in a manner not in the ordinary course of business. The payments include satisfaction of the Second Mortgage on his homestead, as well as reduction of the obligation owed on Notes with Western National Bank for which he was personally liable. Also, in the Fall of 1984, DEFENDANT made \$40,000 worth of payments to his Mother for back wages earned in the years 1979, 1980, 1981, 1982 and 1983."

In reviewing the Bankruptcy Court's Findings of Fact, Bankruptcy Rule 8013 binds the Court to accept the Findings of the Bankruptcy Judge unless they are clearly erroneous. In re Mullet, 817 F.2d 677 (10th Cir. 1987); In re Branding Iron Motel, Inc., 798 F.2d 396, 399 (10th Cir. 1986). Under such a standard the Bankruptcy Court's findings should not be disturbed absent "the most cogent reasons appearing in the record." In re Reid, 757 F.2d 230 (10th Cir. 1985), citing Kansas Federal Credit Union v. Niemeier, 227 F.2d 287, 291 (10th Cir. 1955).

The Court, after review of the entire documentary record and the transcript of the trial held before the Bankruptcy Court, finds that the Bankruptcy Court's Findings of Fact are fully supported by the record.

The following evidence in the record supports the Bankruptcy Court's Finding that the Appellant, Larry Patrick, failed to establish a justifiable explanation for his motive in placing the increased orders with the Appellee:

- 1) The Appellant testified that he never obtained a lease on the facility for the new store which he planned to open. (TR. 35-39).
- 2) Plaintiff amassed large inventories through purchases with the Appellee and other vendors. (Stipulations 1, 2, and 3, Pretrial Order; TR. 27-35).
- 3) The Appellant did not inform the vendors of his purported intention to open a new store. (TR. 33, line 25; TR. 44, lines 1-19).
- 4) Appellant made certain payments in his personal affairs after the increased orders from the Appellee including paying down the second mortgage on his house from \$125,000 to \$77,618.10. (Stipulation No. 5, Pretrial Order).
- 5) Payment of \$40,430.50 to the Appellant's mother for back wages. (Stipulation No. 15, Pretrial Order).
- 6) Repayment of loan to himself from the business in the amount of \$42,000. (Stipulation Nos. 15, 18, and 19, Pretrial Order; TR. 57).
- 7) Appellant's testimony that by the increased orders to all vendors he hoped to build up his inventory until his credit limit was cut off. (Tr. 32, lines 3-24).

In light fo the above-cited testimony and evidence, the Court finds the Bankruptcy Court's Findings of Fact are fully supported by the record and must be accepted as proper.

Turning to the Bankruptcy Court's legal determinations, the Court must review the Conclusions of Law de novo. In re Mullet,

817 F.2d 677 (10th Cir. 1987); Branding Iron, 798 F.2d at 399-400.

The Appellant takes exception to the following Conclusions of Law entered by the Bankruptcy Court:

"C. The narrow issue for purposes of this opinion is whether DEFENDANT had a fraudulent intent at the time of the increased purchases. DEFENDANT denies having such fraudulent intent. PLAINTIFF'S burden then is to present sufficient facts to infer fraudulent intent. In re Lyon, supra. The establishment of fraudulent intent may lead to a finding of false pretenses, false representation or actual fraud for purposes of 11 U.S.C. §523(a)(2)(A).

The issue of 'false pretenses of false representations' is a fact question which may be established through cumulative indicia of intent. A classic example involves a credit purchaser who has no present intent to pay. The Bankruptcy Court in the case of In The Matter of Borah, 36 B.R. 535 (Bankr. M.D. Fla. 1083) held that false pretenses exist when a credit buyer purchases an item lacking ability or intention to pay. Also a pre-bankruptcy buying spree is indicia of intent when determining dischargeability. In re Black, 373 F.Supp. 105 (Bankr. E.D.Wisc. 1974).

"D. DEFENDANT represented to PLAINTIFF that he could and would pay for all of the inventory supplied. PLAINTIFF justifiably relied on DEFENDANT'S assertions of repayment based upon the parties' past course of dealings. PLAINTIFF did not mitigate its position by filling DEFENDANT'S increased orders in August and September of 1984.

Conversely, DEFENDANT'S cumulative actions establish a fraudulent intent and inability to pay PLAINTIFF. The increased orders greatly exceeded what was normally necessary for DEFENDANT'S business operation. DEFENDANT has filed to establish a basis for believing that increased sales would occur. The 'hope' of opening a new store, the advertising campaign, and conversion to a cash and carry operation all reflect DEFENDANT'S OPTIMISM but do not establish acceptable grounds for placing inventory orders which greatly exceed DEFENDANT'S present ability to repay. DEFENDANT'S spending activities are

relevant only for the limited purpose of showing DEFENDANT'S lack of intent to continue in business. The culmination of these factors establishes DEFENDANT'S fraudulent intent. The inventory was thus acquired by false pretenses."

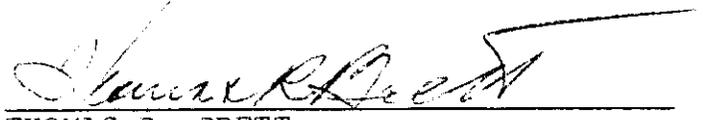
The Court has made an independent review of the authorities cited by the parties and that relied upon by the Bankruptcy Judge. The Court concludes that for the purposes of §523(a)(2)(A), false pretenses, false representations or actual fraud may be implied from the Defendant's conduct and no overt misrepresentation is necessary. 3 Collier on Bankruptcy, ¶523.08[4] 15th Ed. 1986; Montgomery Ward v. Borah, 36 B.R. 535 (Bankr. 1983). This Court agrees with the Bankruptcy Court's conclusion of law that false pretenses can be shown when a credit buyer purchases an item lacking ability or intention to pay. Central Bank v. Kramer, 39 B.R. 80 (Bankr. W.D.La. 1984).

The Court concludes, as did the Bankruptcy Court, that the Appellant's claims that he placed the orders to open a new store and convert his original business into a cash and carry operation are not convincing in light of the Defendant's spending activities and the manner in which he operated his business during the relevant time period. In addition, the numerous transfers of business proceeds by the Appellant for his personal use following the major increase in inventory establish a fraudulent intent and inability to pay the Appellee.

The Court concludes that the Bankruptcy Court's order of February 10, 1987, denying discharge of the judgment debt owed by Defendant, Larry Patrick d/b/a Patrick's for the Office, in the

amount of \$49,652.55, was properly rendered and is hereby affirmed.

IT IS SO ORDERED, this 10<sup>th</sup> day of April, 1988.

  
\_\_\_\_\_  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR -5 1988

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

CITYTRUST,  
a corporation,

Plaintiff,

v.

MAX A. HEIDENREICH and  
KATHLEEN HEIDENREICH,

Defendants.

No. 87-C-836-B ✓

DEFAULT JUDGMENT BY THE CLERK

The defendants Max A. Heidenreich and Kathleen Heidenreich having failed to plead or otherwise to defend this action and their default having been entered, upon application of the plaintiff and upon affidavit that defendants are indebted to plaintiff in the sum of \$40,810.09, and that defendants are not infants or incompetent persons and are not in the military service of the United States, it is hereby

ORDERED, ADJUDGED AND DECREED that plaintiff have and recover judgment against the defendants, and each of them jointly and severally, in the sum of \$40,810.09, with interest at the rate of 18% per annum from April 1, 1986, until paid in full, and for costs including a reasonable attorney's fee to be fixed by the Court.

DATED April 5, 1988.

*7-miles*

Jack C. Silver  
United States District Court Clerk

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, )

Plaintiff, )

vs. )

G. D. RUCKER a/k/a GERONE )  
RUCKER; JIMMIE S. RUCKER a/k/a )  
JIMMIE RUCKER; BENEFICIAL )  
OF OKLAHOMA f/k/a BENEFICIAL )  
FINANCE COMPANY OF OKLAHOMA; )  
GENERAL CREDIT COMPANY; )  
FIDELITY FINANCIAL SERVICES, )  
INC.; STATE OF OKLAHOMA ex rel. )  
OKLAHOMA TAX COMMISSION; )  
COUNTY TREASURER, Tulsa County, )  
Oklahoma; and BOARD OF COUNTY )  
COMMISSIONERS, Tulsa County, )  
Oklahoma, )

Defendants. )

CIVIL ACTION NO. 87-C-958-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 5th day  
of April, 1988. The Plaintiff appears by Tony M.  
Graham, United States Attorney for the Northern District of  
Oklahoma, through Nancy Nesbitt Blevins, Assistant United States  
Attorney; the Defendants, County Treasurer, Tulsa County,  
Oklahoma, and Board of County Commissioners, Tulsa County,  
Oklahoma, appear by Doris L. Fransein, Assistant District  
Attorney, Tulsa County, Oklahoma; the Defendant, State of  
Oklahoma ex rel. Oklahoma Tax Commission, appears not, having  
previously filed its Disclaimer; and Defendants, G. D. Rucker  
a/k/a Gerone Rucker, Jimmie S. Rucker a/k/a Jimmie Rucker,  
Beneficial of Oklahoma f/k/a Beneficial Finance Company of  
Oklahoma, General Credit Company, and Fidelity Financial  
Services, Inc., appear not, but make default.

The Court being fully advised and having examined the file herein finds that the Defendants, G. D. Rucker a/k/a Gerone Rucker and Jimmie S. Rucker a/k/a Jimmie Rucker, were served with Summons and Complaint on December 29, 1987; that the Defendant, Beneficial of Oklahoma f/k/a Beneficial Finance Company of Oklahoma, acknowledged receipt of Summons and Complaint on November 24, 1987; that the Defendant, General Credit Company, was served with Summons and Complaint on February 25, 1988; that the Defendant, Fidelity Financial Services, Inc., acknowledged receipt of Summons and Complaint on November 17, 1987; that the Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, acknowledged receipt of Summons and Complaint on November 17, 1987; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on November 18, 1987; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on November 16, 1987.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers herein on December 4, 1987; that the Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, filed its Disclaimer herein on January 25, 1988; and that the Defendants, G. D. Rucker a/k/a Gerone Rucker, Jimmie S. Rucker a/k/a Jimmie Rucker, Beneficial of Oklahoma f/k/a Beneficial Finance Company of Oklahoma, General Credit Company, and Fidelity Financial Services, Inc., have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Thirty-six (36), Block Six (6), NORTH-RIDGE, an Addition in Tulsa County, State of Oklahoma, according to the Recorded Plat thereof.

The Court further finds that on March 30, 1978, G. D. Rucker and Jimmie S. Rucker executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, their mortgage note in the amount of \$13,750.00, payable in monthly installments, with interest thereon at the rate of eight and one-half percent (8.5%) per annum.

The Court further finds that as security for the payment of the above-described note, G. D. Rucker and Jimmie S. Rucker executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, a mortgage dated March 30, 1978, covering the above-described property. Said mortgage was recorded on March 30, 1978, in Book 4318, Page 1817, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, G. D. Rucker a/k/a Gerone Rucker and Jimmie S. Rucker a/k/a Jimmie Rucker, made default under the terms of the aforesaid note and mortgage by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, G. D. Rucker a/k/a Gerone

Rucker and Jimmie S. Rucker a/k/a Jimmie Rucker, are indebted to the Plaintiff in the principal sum of \$12,206.78, plus interest at the rate of 8.5 percent per annum from September 1, 1986 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

The Court further finds that the Defendant, County Treasurer, Tulsa County, Oklahoma, has a lien on the property which is the subject matter of this action by virtue of ad valorem taxes in the amount of \$210.00, plus penalties and interest, for the year of 1987. Said lien is superior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, claims no right, title, or interest in the subject real property.

The Court further finds that the Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, disclaims any right, title, or interest in the subject real property.

The Court further finds that the Defendants, Beneficial of Oklahoma f/k/a Beneficial Finance Company of Oklahoma, General Credit Company, and Fidelity Financial Services, Inc., are in default and have no right, title, or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendants, G. D. Rucker a/k/a Gerone Rucker and Jimmie S. Rucker a/k/a Jimmie Rucker, in the principal sum of \$12,206.78, plus interest at the rate of 8.5 percent per annum from September 1, 1986 until

judgment, plus interest thereafter at the current legal rate of \_\_\_\_\_ percent per annum until paid, plus the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, County Treasurer, Tulsa County, Oklahoma, have and recover judgment in the amount of \$210.00, plus penalties and interest, for ad valorem taxes for the year of 1987, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Beneficial of Oklahoma f/k/a Beneficial Finance Company of Oklahoma, General Credit Company, and Fidelity Financial Services, Inc., State of Oklahoma ex rel. Oklahoma Tax Commission, and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, G. D. Rucker a/k/a Gerone Rucker and Jimmie S. Rucker a/k/a Jimmie Rucker, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the Defendant, County Treasurer, Tulsa County, Oklahoma, in the amount of \$210.00, plus penalties and interest, for ad valorem taxes which are presently due and owing on said real property;

Third:

In payment of the judgment rendered herein in favor of the Plaintiff.

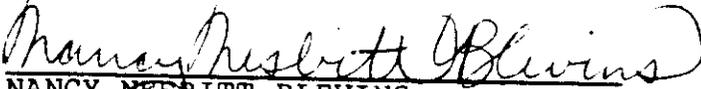
The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

S/ THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM  
United States Attorney

  
NANCY NESBITT BLEVINS  
Assistant United States Attorney

  
DORIS L. FRANSEIN  
Assistant District Attorney  
Attorney for Defendants,  
County Treasurer and  
Board of County Commissioners,  
Tulsa County, Oklahoma

NNB/css



Patricia M. Smith, for the principal sum of \$809.00, plus interest thereafter at the current legal rate of 6.71 percent per annum until paid, plus costs of this action.

S/ THOMAS R. BRETT  

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UNITED STATES DISTRICT JUDGE

NNB/mp

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

APR -5 1988

WILLIAM C. SLOCUM,  
Plaintiff,  
vs.  
BOB VALE PAINTING & TILE CO.,  
An Oklahoma Corporation and  
ROBERT VALE,  
Defendants.

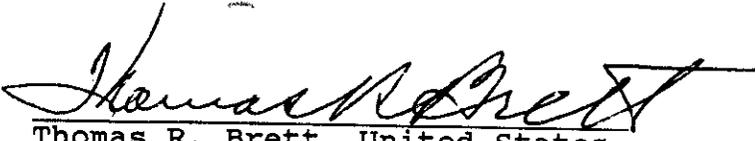
Case No. 88-C-79-B

COURT CLERK  
DISTRICT COURT

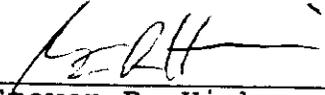
JOURNAL ENTRY

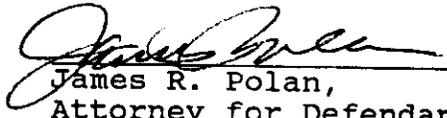
Now on this 5<sup>th</sup> day of April, 1988, comes on the above-styled and numbered cause before the undersigned Judge. The Court, upon a review of the Court file finds that Defendants made an offer of judgment on March 8, 1988, which was accepted on March, 17, 1988, and that judgment should be granted therein. The Court further finds that the parties have agreed that Plaintiff is entitled to an attorney's fee in this matter in the sum of THREE HUNDRED FIFTY DOLLARS (\$350), together with his costs of this action in the sum of ONE HUNDRED TWENTY DOLLARS (\$120).

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that Plaintiff, William C. Slocum, have and recover of Defendants Bob Vale Painting & Tile Co., An Oklahoma Corporation and Robert Vale, the sum of SEVEN HUNDRED TWENTY DOLLARS (\$720), with interest thereon at the rate of 6.71% per annum from and after this date until paid, an attorney's fee in the sum of THREE HUNDRED FIFTY DOLLARS (\$350), together with costs in the sum of ONE HUNDRED TWENTY DOLLARS (\$120).

  
Thomas R. Brett, United States  
District Judge

Approved:

  
\_\_\_\_\_  
Steven R. Hickman,  
Attorney for Plaintiff

  
\_\_\_\_\_  
James R. Polan,  
Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 4 1988

UTICA NATIONAL BANK & TRUST CO.,  
a National Banking Association,

Plaintiff,

vs.

F.W. PARTNERSHIP, a General  
Partnership, et al.,

Defendants.

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

Case No. 86-C-864-E

STIPULATION OF DISMISSAL

PURSUANT to the provisions of Rule 41(a)(1) of the Federal Rules of Civil Procedure, the parties hereto agree that Plaintiff's claims against Richard S. Nemelka, Trustee, asserted herein, are hereby dismissed with prejudice, each party to bear its/his own costs incurred herein.

This Dismissal shall have no effect on any other claims made against any other Defendant herein.

Dated this 31 day of March, 1988.



Charles V. Wheeler  
GABLE & GOTWALS  
2000 Fourth National Bank Bldg.  
Tulsa, Oklahoma 74119  
(918) 582-9201

ATTORNEYS FOR PLAINTIFF

  
Richard S. Nemelka, Trustee

APR 4 1988

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

\_\_\_\_\_  
LONNIE DALE VAUGHAN,  
Plaintiff,

vs.

ALLSTATE INSURANCE COMPANY,  
an Illinois insurance  
corporation,

Defendant.  
\_\_\_\_\_

Case No. 87-C-754-B

STIPULATION OF DISMISSAL WITHOUT PREJUDICE

COME NOW the parties in the above cause, Lonnie Dale Vaughan, by and through his attorney, Ernest A. Bedford for BEDFORD & ASSOCIATES, INC., and the defendant, Allstate Insurance Company, by and through its attorney, Leslie R. Earl, Jr., for WILLIAMS, CLARK, BAKER AND EARL, P.A., and stipulate and agree that the Plaintiff's petition, which seeks recovery by plaintiff as a result of the September 12, 1986, fire, be dismissed without prejudice to same and at the cost of the plaintiff.

It is so stipulated and agreed this 4th day of April, 1988.

LONNIE DALE VAUGHAN

BY:

\_\_\_\_\_  
Ernest A. Bedford for  
BEDFORD & ASSOCIATES, INC.  
Attorney for Plaintiff  
Oklahoma Bar Number 651  
407 Center Office Building  
707 South Houston Avenue  
Tulsa, Oklahoma 74127  
(918) 582-2889

**ALLSTATE INSURANCE COMPANY**

BY: \_\_\_\_\_

Leslie R. Earl, Jr. for  
WILLIAMS, CLARK, BAKER  
and EARL, P. A.  
Attorney for Defendant  
Oklahoma Bar Number  
1605 South Denver  
Tulsa, Oklahoma 74119  
(918) 583-1124

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 4th day of April, 1988, a true and correct copy of the foregoing was mailed, postage prepaid, to Leslie R. Earl, Jr., WILLIAMS, CLARK, BAKER AND EARL, P.A., 1605 South Denver, Tulsa, Oklahoma 74119.

\_\_\_\_\_  
Ernest A. Bedford

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

TULSA 23 LIMITED PARTNERSHIP, )  
an Oklahoma limited partnership, )  
d/b/a KOKI-TV, )

Plaintiff, )

vs. )

No. 86-C-1163-B

STAINLESS, INC., a )  
Pennsylvania corporation, )  
et al., )

Defendants. )

**FILED**

APR - 4 1988

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER OF DISMISSAL

On this 4th day of April, 1988, upon written application of the parties for an order of dismissal with prejudice of the complaint and all causes of action, the Court having examined said application finds that said parties have entered into a compromise settlement covering all claims involved in the complaint and have requested the Court to dismiss the complaint with prejudice to any future action, and the Court having been fully advised in the premises, finds that said complaint should be dismissed. It is, therefore,

ORDERED, ADJUDGED and DECREED by the Court that the complaint and all causes of action of the Plaintiff filed herein against the Defendants be and the same are hereby dismissed with prejudice to any further action.

S/ THOMAS R. BRETT

\_\_\_\_\_  
THOMAS R. BRETT, JUDGE  
UNITED STATES DISTRICT COURT



IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF OKLAHOMA  
TULSA DIVISION

MILLER/DALE-WALLENSTEIN, INC. )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
DAVID WILLIAMS )  
 )  
Defendant. )

Case No. 87-C-679-B

**FILED**

APR - 1 1988

J U D G M E N T

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

Upon the failure of David Williams to appear at a Show Cause hearing in the above styled and numbered cause on March 15, 1988, which was re-scheduled for said date at his request, the Court finds that he is in contempt of court and the plaintiff, Miller/Dale-Wallenstein, Inc., is entitled to judgment against him in the amount of attorney fees and costs incurred in connection with the prosecution of this action to require David Williams to honor a subpoena properly issued and served upon him in the above styled and numbered cause. After a review of the affidavit concerning costs and attorney fees filed by the plaintiff's attorney, Patrick H. Kernan, the court finds that Miller/Dale-Wallenstein is entitled to judgment against David Williams in the sum of \$1,796.14.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that judgment be entered in favor of Miller/Dale-Wallenstein, Inc. and against David Williams in the sum of \$1,796.14.

s/ THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE



the amount of attorney fees and costs incurred in the prosecution of this contempt action. The Court further finds that a bench warrant should be issued for the arrest of David Williams.

S/ THOMAS R. BRETT

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UNITED STATES DISTRICT JUDGE

Patrick H. Kernan, OBA #4983  
4500 So. Garnett, Suite 900  
Tulsa, Oklahoma 74146  
(918) 664-1403  
Attorney for Plaintiff

c:m.o

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR - 1 1988

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

TULSA 23 LIMITED PARTNERSHIP, )  
an Oklahoma limited partnership, )  
d/b/a KOKI-TV, )

Plaintiff, )

vs. )

No. 86-C-1163-B

STAINLESS, INC., a )  
Pennsylvania corporation, )  
et al., )

Defendants. )

ORDER OF DISMISSAL

On this 4th day of April, 1988, upon written application of the parties for an order of dismissal with prejudice of the complaint and all causes of action, the Court having examined said application finds that said parties have entered into a compromise settlement covering all claims involved in the complaint and have requested the Court to dismiss the complaint with prejudice to any future action, and the Court having been fully advised in the premises, finds that said complaint should be dismissed. It is, therefore,

ORDERED, ADJUDGED AND DECREED by the Court that the complaint and all causes of action of the Plaintiff filed herein against the Defendant, Sola Basic Industries, Inc., be and the same are hereby dismissed with prejudice to any further action.

S/ THOMAS R. BRETT

THOMAS R. BRETT, JUDGE  
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FEDERAL DEPOSIT INSURANCE CORPORATION,  
in its corporate capacity,

Plaintiff

vs.

Case No. 87-C-677-B

RELL SCHWAB, JR., an individual,  
et al.

**FILED**

Defendants

APR - 1 1988

**Jack C. Silver, Clerk**  
**U. S. DISTRICT COURT**

NOW ON THIS 1<sup>st</sup> day of <sup>April</sup>~~March~~, 1988, the above entitled  
matter comes on for hearing upon the Motion for Order of Dismissal  
of the Coffeyville State Bank, by and through M. Doug Bell of  
Becker, Hildreth, Gossard, Bell and Hassenplug, P.A., its attorney,  
to dismiss it as a party to the above entitled action as it has  
disclaimed any right, title, or interest in the real estate pursuant  
to a Disclaimer on file herein.

WHEREUPON, the Court examines the Motion and finds that the same  
should be sustained.

IT IS THEREFORE CONSIDERED, ORDERED, ADJUDGED, AND DECREED that  
the Motion for Order of Dismissal of the Coffeyville State Bank as a  
party to the above entitled lawsuit be and the same hereby is  
sustained.

SIGNED THIS    / <sup>April</sup> day of ~~March~~, 1988.

  /s/ Thomas R. Butt  
JUDGE

SUBMITTED BY:

  M. Doug Bell  
M. DOUG BELL  
OF BECKER, HILDRETH, GOSSARD,  
BELL AND HASSENPLUG, P.A.  
Attorney for defendant,  
Coffeyville State Bank

APPROVED BY:

  John B. Jarboe  
JOHN B. JARBOE  
JARBOE, SWINSON & STOERMER  
Attorneys for defendant,  
Rell Schwab, Jr.

  T. P. Howell  
T. P. HOWELL  
EDWARDS, ROBERTS & PROPESTER  
Attorneys for plaintiff,  
Federal Deposit Insurance  
Corporation in its corporate  
capacity