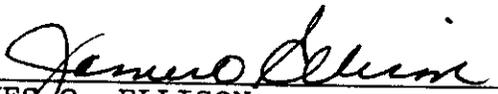


Dated this 3RD day of April, 1988.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

IRVING LOVE,

Plaintiff,

v.

ATLANTIC RICHFIELD and
CHEMLINK,

Defendants.

86-C-1139-E

FILED

APR 29 1988

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

ORDER

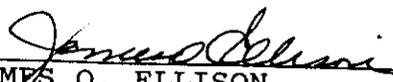
The court has for consideration the Report and Recommendation of the Magistrate filed March 31, 1988, in which the Magistrate recommended that defendants' Motion to Dismiss (pleading #17) be granted. No exceptions or objections have been filed and the time for filing such exceptions or objections has 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 defendants' Motion to Dismiss (pleading #17) is granted and the claims of the plaintiff against defendants Atlantic Richfield Company and Chemlink, Inc. are dismissed.

It is further Ordered that Chemlink Petroleum, Inc.'s Motion to Dismiss is granted, and the action of plaintiff against Chemlink Petroleum, Inc. is dismissed.

Dated this 29TH day of April, 1988.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

27

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 29 1988

Ann McLaughlin, Secretary
of Labor, United States
Department of Labor,

Plaintiff,

v.

Hardee's Food Systems, Inc.,

Defendant-
Counterclaimant.

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

Civil Action
No. 86-C-960-E

JOINT STIPULATION OF SETTLEMENT

Whereas, the plaintiff, Secretary of Labor, United States Department of Labor (hereinafter "Secretary"), commenced this action on October 23, 1986; and

Whereas, the defendant, Hardee's Food Systems, Inc. (hereinafter "Hardee's"), filed an answer and counterclaim in this action on December 2, 1986, and

Whereas, the Secretary and Hardee's have agreed to settle this entire action without trial or adjudication of any issue of fact or law arising from the complaint and counterclaim filed herein, and without this Stipulation constituting evidence or an admission with respect to any such issues; and

Whereas, the Secretary and Hardee's hereby consent to the jurisdiction of this Court with respect to the subject matter of the complaint and counterclaim filed herein, and of the persons which are parties hereto, and each of them enters a general appearance, respectively;

LAW OFFICES
POWER & COLEMAN
1818 PENNSYLVANIA AVE., NW
WASHINGTON, DC 20006
(202) 658-9081

Now, Therefore, without trial or adjudication of any issue of fact or law raised by the complaint and counterclaim filed herein, the parties hereby agree as follows:

1. The Secretary and Hardee's hereby waive entry of findings of fact and conclusions of law under Rule 52 of the Federal Rules of Civil Procedure and consent to the entry by this Court of this Stipulation as a judgment herein, as soon as the Court may practicably consider these premises, and without further notice or further proceedings;

2. Hardee's withdraws its answer and defenses filed in response to the Secretary's complaint.

3. The Secretary withdraws her answer and defenses filed in response to Hardee's counterclaim.

4. The Secretary waives her right to recovery of the \$5,650.00 sued for in her complaint filed herein.

5. This agreement expressly excludes those establishments doing business as Hardee's restaurants which are not owned or operated by Hardee's Food Systems, Inc. during the relevant period.

6. The Secretary agrees that for so long as this Stipulation shall remain in effect neither she, nor the United States Department of Labor, its agents, servants, employees, attorneys, and all persons acting in concert or participation with any of the foregoing, and with any future successors in office, will take any further action related to enforcement, or attempted enforcement, of Hazardous-Occupations Order No. 10 (29 CFR §570.61) against Hardee's restaurants. The Secretary agrees that this enforcement prohibition includes all investigative activities, administrative enforcement through the imposition of civil money penalties, and suits for injunctive relief under the Fair Labor Standards Act.

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1010 PENNSYLVANIA AVE., NW
WASHINGTON, DC 20006

(202) 659-9081

The Secretary further agrees that there will be no further allegations of child labor violations and/or the assessment of civil money penalties filed against Hardee's restaurants premised upon Hazardous-Occupations Order No. 10.

7. The Secretary agrees to take all necessary and appropriate steps within thirty days of the signing of this Stipulation, to effectuate the dismissal with prejudice of all claims of child labor violations and civil money penalties assessed thereon premised upon Hazardous-Occupations Order No. 10 in two administrative cases presently assigned to U.S. Department of Labor Administrative Law Judge G. Marvin Bober, identified as Case Nos. 84-CLA-9 and 87-CLA-2. The Secretary further agrees to take similar steps to effectuate the dismissal of any other pending claims of alleged violations of Hazardous-Occupations Order No. 10 against Hardee's restaurants, or any such claims that may be improperly brought against Hardee's restaurants in the future in violation of paragraph 6 supra.

8. The Secretary agrees to promptly advise in writing all Assistant Regional Administrators of the Wage and Hour Division, all field officers charged with enforcement of child labor laws under the Fair Labor Standards Act, and all Regional Solicitor's Offices of this Stipulation wherein the Secretary has agreed to cease any further attempts to enforce Hazardous-Occupations Order No. 10 against Hardee's restaurants, and the Secretary further agrees to provide Hardee's with copies of said memoranda.

9. Neither this Stipulation nor the Magistrate's Report and Recommendation, nor anything contained herein or therein, shall constitute evidence or an admission or adjudication with respect to

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1619 PENNSYLVANIA AVE., NW
WASHINGTON, DC 20006

(202) 659-9081

any allegation of the complaint and counterclaim filed herein, or any fact or conclusion of law with respect to any matters alleged therein, with the exception of the respective parties' consent to jurisdiction contained herein.

10. The parties hereto mutually agree that the Secretary's agreement to cease any further enforcement of Hazardous-Occupations Order No. 10 against Hardee's restaurants shall be effective from the date hereof until such time as said Hazardous Order is amended through notice and comment rulemaking proceedings pursuant to the Administrative Procedures Act, in a manner which applies Hazardous-Occupations Order No. 10 to the retail restaurant industry, and in a manner which includes within the prohibited occupations thereunder, the operation of an electric food slicer. This paragraph does not constitute an admission by the Secretary that Hazardous-Occupations No. 10, as currently written, does not apply to the retail restaurant industry or to operation of an electric food slicer, but is an acknowledgement that Administrative

LAW OFFICER

POWER & COLEMAN
1010 PENNSYLVANIA AVE., NW
WASHINGTON, DC 20006

(202) 650-8081

Law Judges have so held in proceedings against Hardee's and that the Secretary agrees to follow these decisions with respect to Hardee's.

SIGNED, SEALED AND AGREED TO, this 20th day of April, 1988.

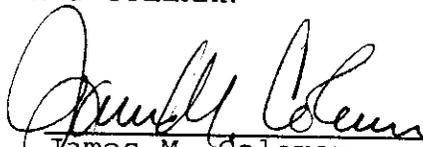
ANN McLAUGHLIN,
Secretary of Labor,
U.S. Department of Labor
By Counsel

HARDEE'S FOOD SYSTEMS, INC.
By Counsel

GEORGE R. SALEM
Solicitor of Labor

POWER & COLEMAN

JAMES E. WHITE
Regional Solicitor

By: 
James M. Coleman
1919 Pennsylvania Ave., NW
Suite 504
Washington, D.C. 20006
(202) 659-9061

HERIBERTO DeLEON
Counsel for Employment Standards

JAMES A. WIRZ
Attorney

By: 
Gail V. Coleman
Deputy Associate Solicitor

By: 
Claire Brady White
Attorney


Richard C. Ford
Crowe & Dunlevy
1800 Mid America Tower
20 North Broadway
Oklahoma City, OK 73102
(405) 235-7749

Attorneys for Ann McLaughlin
Secretary of Labor
United States Department
of Labor,

Plaintiff

Attorneys for Hardee's Food
Systems, Inc.,

Defendant/Counterclaimant

Address:
Fair Labor Standards Division
United States Department of Labor
Office of the Solicitor
200 Constitution Avenue, NW
Room N2716
Washington, D.C. 20210
(202) 523-7600

SO ORDERED, this 28th day of April, 1988.


James O. Ellison
U.S. District Judge

HAP:bmc

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

BRANDY CHASE CONDOMINIUMS
ASSOCIATION, INC.; TOM PURSATOR
and TERRY PURSATOR, husband and
wife,

Plaintiffs,

vs.

U. S. HOME CORPORATION,

Defendant,

vs.

RICHARD HORN, individually;
and CIRCLE H ELECTRIC, INC.,
an Oklahoma corporation,

Third Party Defendants,

and

GULF INSURANCE COMPANY,

Garnishee.

FILED

APR 29 1988

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

Case No.: 87-C-146 E

ORDER OF DISMISSAL

On this 29th day of April, 1986, upon the written application of Plaintiff, Brandy Chase Condominums Association, Inc.; Tom Pursator and Terry Pursator, husband and wife, and Gulf Insurance Company, Garnishee, for a Dismissal Without Prejudice of the Complaint herein and all causes of action therein, the Court having examined said Application, finds that said parties desire to dismiss without prejudice all claims involved in the Complaint and the declaratory action herein and have requested the Court to Dismiss said Complaint without prejudice to any future action.

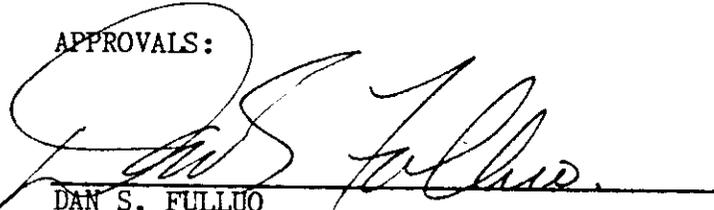
The Court being fully advised in the premises finds that said Complaint and declaratory action herein should be dismissed pursuant to said application.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Court that the Complaint and all causes of action of the Plaintiff, Brandy Chase Condominiums Association, Inc.; Tom Pursator and Terry Pursator, husband and wife, against the Garnishee, Gulf Insurance Company, be and the same hereby are dismissed without prejudice to any future action.

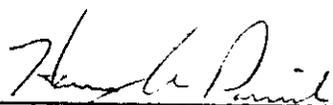
S/ JAMES O. ELLISON

JUDGE OF THE UNITED STATES DISTRICT
COURT, NORTHERN DISTRICT OF OKLAHOMA

APPROVALS:



DAN S. FULLUO
Attorney for Plaintiff



HARRY A. PARRISH
Attorney for Garnishee

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

UNITED STATES OF AMERICA)
)
Plaintiff,)
)
vs.)
)
Undetermined quantities of Lacer)
Therapy Units, a veterinary medical)
device, complete or in-process,)
labeled in part:)
)
"CEFCO INC. LACER TM THERAPY ***)
LACER TM STIMULATORY MODEL: SSB-83)
***")
)
"PROGRAMMABLE LACER TM STIMULATOR)
MODEL: PLS-4A *** CEFCO ***")
)
"LACER R THERAPY CEFCO Inc. *** LACER)
STIMULATORY MODEL: SSB-83A")
)
"CEFCO INC. LACER TM STIMULATOR MODEL:)
BPL-2")
)
and all accessories used with the)
above units, and)
)
undetermined quantities of accompany-)
ing literature, namely instruction)
sheets, entitled "LACER STIMULATOR)
MODEL SSB-83"; and operations manuals)
entitled "Lacer TM Stimulator CEFCO)
Model SSB-83," "LACER THERAPY," "LACER)
THERAPY APPLICATIONS HANDBOOK," "LACER)
THERAPY A Revolutionary Heating)
Concept," "THE USERS OF LACER THERAPY)
ARE ITS BEST TESTIMONIAL," and)
operations manuals for models SSB-83A)
or SSB-83",)
)
Defendants.)

CIVIL ACTION NO. 87-C-1055

FILED

APR 20 1988

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

DEFAULT DECREE OF CONDEMNATION

On December 17, 1987, a Complaint for Forfeiture against the above described articles was filed on behalf of the United States of America. The Complaint alleges that the articles are misbranded within the meaning of 21

U.S.C. as follows:

1. 352(a) in that the labeling is false and misleading since it represents and suggests that the devices are adequate and effective in the treatment of various disease conditions in animals including, but not limited to, reproductive and non-union fractures, acute injuries, cannon bone, edema, bowed tendon, pastern, ankle fetlock, splints, muscular problems, reproductive (male or female) problems, and post-operative wounds and lesions, which representations and suggestions are false and misleading or otherwise contrary to fact because the devices are ineffective for such conditions.

352(f)(1) in that the labeling fails to bear adequate directions for use, because adequate directions cannot be written for the purposes for which the devices are intended and the articles fail to bear the prescription legend "Caution: Federal law restricts this device to sale by or on the order of a veterinarian."

2. Pursuant to warrant for arrest in rem issued by this Court, the United States Marshal for this District seized the articles on February 2, 1988.

3. It appearing that process was duly issued herein and returned according to law; that notice of the seizure of the above described articles was given according to law; and that no persons have appeared or interposed a claim before the return day named in the process;

4. Now, Therefore, on motion of Tony M. Graham, United States Attorney for the Northern District of Oklahoma, by Katheran De Peu, Assistant United States Attorney, for a Default Decree of Condemnation and Destruction, the Court being fully advised of the premises, it is

ORDERED, ADJUDGED AND DECREED that the default of all persons he and the same are entered herein; and it is further:

ORDERED, ADJUDGED AND DECREED that the seized articles are devices which are misbranded within the meaning of 21 U.S.C. 352(a) and 352(f)(1) in that the devices are promoted for a variety of disease conditions in animals, for which the devices are ineffective and the labeling for the devices fails to bear adequate directions for use, because adequate directions cannot be written for the purposes for which the devices are intended and the label fails to bear the prescription legend "Caution: Federal law restricts this device to sale by or on the order of a veterinarian."

ORDERED, ADJUDGED AND DECREED, pursuant to 21 U.S.C. 334(d), that the United States Marshal in and for the Northern District of Oklahoma destroy the condemned articles and make return to this Court.

Dated this 29 day of April, 1988.

ST. JAMES O. BULLOCK

United States District Judge

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
 vs.)
)
 WILLIAM LORANCE LANDRUM, JR.;)
 a/k/a WILLIAM LANDRUM; WANDA L.)
 LANDRUM; DIAL FINANCE COMPANY)
 OF OKLAHOMA, INC. n/k/a NORWEST)
 FINANCIAL OF OKLAHOMA, INC.;)
 DAVCO CONSTRUCTION, INC.;)
 COUNTY TREASURER, Tulsa County,)
 Oklahoma; and BOARD OF COUNTY)
 COMMISSIONERS, Tulsa County,)
 Oklahoma,)
 Defendants.)

FILED

APR 29 1988

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

CIVIL ACTION NO. 88-C-0042-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 29 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, Dial Finance
Company of Oklahoma, Inc. n/k/a Norwest Financial of Oklahoma,
Inc., appears not, having previously filed its Disclaimer; and
the Defendants, William Lorance Landrum, Jr., Wanda L. Landrum,
and Davco Construction, Inc., appear not, but make default.

The Court being fully advised and having examined the
file herein finds that the Defendants, William Lorance Landrum,
Jr. and Wanda L. Landrum, acknowledged receipt of Summons and

Complaint on February 8, 1988; that Defendant, Dial Finance Company of Oklahoma, Inc. n/k/a Norwest Financial of Oklahoma, Inc., acknowledged receipt of Summons and Complaint on January 20, 1988; that Defendant, Davco Construction, Inc., acknowledged receipt of Summons and Complaint on January 22, 1988; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on January 21, 1988; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on January 20, 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 11, 1988; that the Defendant, Dial Finance Company of Oklahoma, Inc. n/k/a Norwest Financial of Oklahoma, Inc., filed its Disclaimer herein on February 10, 1988; and that the Defendants, William Lorance Landrum, Jr., Wanda L. Landrum, and Davco Construction, 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 ONE (1), BLOCK SIX (6), SOUTHTOWN ESTATES
EXTENDED ADDITION, AN ADDITION IN TULSA
COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE
RECORDED PLAT THEREOF.

The Court further finds that on July 24, 1978, the Defendants, William Lorance Landrum, Jr. and Wanda L. Landrum, executed and delivered to First Continental Mortgage Co. their mortgage note in the amount of \$40,000.00, payable in monthly installments, with interest thereon at the rate of nine and one-half percent (9.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, William Lorance Landrum, Jr. and Wanda L. Landrum, executed and delivered to First Continental Mortgage Co. a mortgage dated July 24, 1978, covering the above-described property. Said mortgage was recorded on July 26, 1978, in Book 4342, Page 2089, in the records of Tulsa County, Oklahoma.

The Court further finds that on August 28, 1986, First Continental Mortgage Co. assigned the above-described mortgage to the Administrator of Veterans Affairs. Said Assignment was recorded on January 23, 1987, in Book 4997, Page 49, in the records of Tulsa County, Oklahoma.

The Court further finds that on July 29, 1982, William Lorraine Landrum a/k/a William Lorraine Landrum, Jr. a/k/a William Lorraine Landison and Wanda Lititia Landrum filed a petition for bankruptcy, Case No. 82-B-866, Northern District of Oklahoma. On November 22, 1982, the debtors were discharged in bankruptcy. Said subject real property was part of the bankruptcy estate.

The Court further finds that the Defendants, William Lorance Landrum, Jr. and Wanda L. Landrum, 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, William Lorance Landrum, Jr. and Wanda L. Landrum, are indebted to the Plaintiff in the principal sum of \$42,283.16, plus interest at the rate of 9.5 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, claim no right, title, or interest in the subject real property.

The Court further finds that the Defendant, Dial Finance Company of Oklahoma, Inc. n/k/a Norwest Financial of Oklahoma, Inc., disclaims any right, title, or interest in the subject real property.

The Court further finds that the Defendant, Davco Construction, Inc., is in default and has 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, William Lorance Landrum, Jr. and Wanda L. Landrum, in the principal sum of \$42,823.16, plus interest at the rate of 9.5 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, Dial Finance Company of Oklahoma, Inc. n/k/a Norwest Financial of Oklahoma, Inc.; Davco Construction, Inc.; 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 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.

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

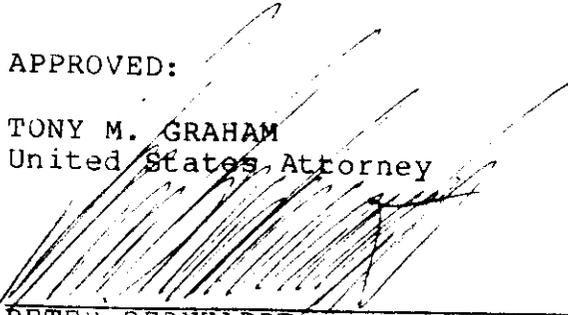
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants

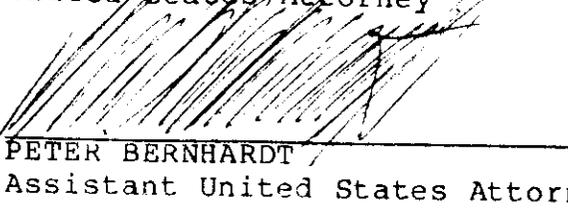
and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

57 JAMES O. ELLISON

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

GERALD DEE ROLAND,

Plaintiff,

vs.

Case No. 88-C-319-E

INDEPENDENT SCHOOL DISTRICT NO.
I-1 OF TULSA COUNTY, OKLAHOMA,
a/k/a Tulsa Public Schools; JUDY
EASON McINTYRE, VERNON HOBBS,
WALTER HUSHBECK, RAY CONRAD,
MARJORIE DOUGHERTY, MARY WINDSOR
HANEY, JIMMY REEDER, in their
official capacity as members of
the Board of Education of
Independent School District
No. I-1 of Tulsa County,
Oklahoma; MIKE POUNDS, Director
of Personnel; JERRY CARTER,
Plumber Foreman, BOBBY JONES,
Director of Maintenance, in both
their individual and official
capacity as employees of
Independent School District
No. I-1 of Tulsa County,
Oklahoma,

Defendants.

FILED

APR 29 1988

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

ORDER OF DISMISSAL

Based upon the joint stipulation of dismissal filed by the plaintiff, Gerald Roland, and the defendants, Independent School District No. I-1 of Tulsa County, Oklahoma, a/k/a Tulsa Public Schools; Judy Eason McIntyre, Vernon Hobbs, Walter Hushbeck, Ray Conrad, Marjorie Dougherty, Mary Windsor Haney, Jimmy Reeder, in their official capacity as members of the Board of Education of Independent School District No. I-1 of Tulsa County, Oklahoma; Mike Pounds, Director of Personnel; Jerry Carter, Plumber Foreman, Bobby Jones, Director of Maintenance, in both their

individual and official capacity as employees of Independent School District No. I-1 of Tulsa County, Oklahoma, the Court finds that the captioned case shall be dismissed, without prejudice, with each side to bear their respective costs and attorney fees.

IT IS THEREFORE ORDERED that the captioned case is dismissed with prejudice, with each side to bear their respective costs and attorney fees.

Dated this 28 day of April, 1988.

S/ JAMES O. ELLISON

James O. Ellison
United States District Court
Judge

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

APR 19 1988

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 EVA J. BALES,)
)
 Defendant.)

CIVIL ACTION NO. 87-C-893-E

DEFAULT JUDGMENT

This matter comes on for consideration this 29 day of ^{April} ~~March~~, 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, Eva J. Bales, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Eva J. Bales, acknowledged receipt of Summons and Complaint on October 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,

Eva J. Bales, for the principal sum of \$926.50, less amended award of \$358.90, reducing the balance to \$567.60, plus interest in the amount of \$47.84, and administrative costs of \$8.34 as of March 15, 1988, plus interest thereafter at the rate of 9 percent per annum and administrative costs of \$.63 per month until judgment, plus interest thereafter at the current legal rate of 7.01 percent per annum until paid, plus costs of this action.

S/ JAMES D. ELISON

UNITED STATES DISTRICT JUDGE

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

FILED

SOUTHWEST SECURITIES, INC.,)
a Texas corporation,)
Plaintiff,)

APR 29 1988

vs.)

No. 87-C-935-E)

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

CHESTER L. MAINARD and)
TERRY L. MAINARD,)
Defendant.)

DEFAULT JUDGMENT

THIS cause comes on this 29th day of April,
1988, before the undersigned Judge for entry of judgment
against the Defendant Chester L. Mainard. Having reviewed
the file and being fully advised in the premises, the Court
finds that judgment should be rendered as against Chester L.
Mainard, in favor of the Plaintiff, for the amount prayed
for.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the
Court that judgment is granted in favor of the Plaintiff,
Southwest Securities, Inc., against the Defendant Chester L.
Mainard, in the amount of \$15,034.50, plus interest
thereafter as provided in the Customer Agreement which forms
the basis of the transaction. Plaintiff's attorney may make
application for attorney fees and costs in connection with
this matter.

JAMES O. ELLISON

UNITED STATES DISTRICT COURT JUDGE

James R. Gotwals, OBA#3499
JAMES R. GOTWALS & ASSOCIATES, INC.
Attorneys for the Plaintiff,
Southwest Securities, Inc.
525 South Main, Suite 1130
Tulsa, OK 74103
(918) 599-7088

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 29 1988

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

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

KATIE ROBERSON; COUNTY)
TREASURER, Tulsa County,)
Oklahoma; and BOARD OF COUNTY)
COMMISSIONERS, Tulsa County,)
Oklahoma,)

Defendants.)

CIVIL ACTION NO. 87-C-971-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 29 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 Defendant, Katie
Roberson, appears not, but makes default.

The Court being fully advised and having examined the
file herein finds that Defendant, County Treasurer, Tulsa County,
Oklahoma, acknowledged receipt of Summons and Complaint on
November 20, 1987; and that Defendant, Board of County
Commissioners, Tulsa County, Oklahoma, acknowledged receipt of
Summons and Complaint on November 19, 1987.

The Court further finds that the Defendant, Katie Roberson, was 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 Defendant, Katie Roberson, and service cannot be made upon said Defendant within the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, or upon said Defendant 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 address of the Defendant, Katie Roberson. 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 party served by publication with respect to her

present or last known place of residence and/or mailing address. 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 Defendant 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 11, 1987; and that the Defendant, Katie Roberson, has failed to answer and her 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 Twelve (12), Block Two (2), in DEVONSHIRE PLACE NUMBER THREE, an Addition to the City of Tulsa, County of Tulsa, State of Oklahoma, according to the recorded plat thereof.

The Court further finds that on August 1, 1973, the Defendant, Katie Roberson, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, her mortgage note in the amount of \$9,750.00, 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 Defendant, Katie Roberson, executed and delivered to the United States of America,

acting on behalf of the Administrator of Veterans Affairs, a mortgage dated August 1, 1973, covering the above-described property. Said mortgage was recorded on July 30, 1973, in Book 4080, Page 1788, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendant, Katie Roberson, made default under the terms of the aforesaid note and mortgage by reason of her failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, Katie Roberson, is indebted to the Plaintiff in the principal sum of \$7,180.77, plus interest at the rate of 4.5 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 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 \$244.00, 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 the Defendant, Katie Roberson, in the principal sum of \$7,180.77, plus interest at the rate of 4.5 percent per annum from August 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 \$244.00, 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 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 \$244.00, 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.

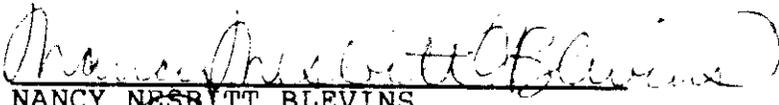
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of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

By JAMES G. HILMAN

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

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

GARY EDWARD PADGETT, et al.,

Plaintiffs,

vs.

JANE PHILLIPS EPISCOPAL
HOSPITAL, INC.,

Defendant.

No. 86-C-499-E

FILED

APR 29 1988

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

O R D E R

NOW on this 29th day of April, 1988 comes on for hearing the above styled case and the Court, being fully advised in the premises finds that the action brought by the parent, Lynn Celeste Padgett and Gary W. Padgett individually, should be and is hereby dismissed with prejudice. The action of Gary Edward Padgett, a minor by and through his parents and next friends, Lynn Celeste Padget and Gary W. Padgett, should be and is hereby dismissed without prejudice to subsequent refileing.

It is so ORDERED.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

HONORABLE JAMES O. ELLISON, JUDGE

SUSAN ADELMAN,)
)
 Plaintiff,)
)
 vs.)
)
 LOEW'S THEATER AND REALTY)
 CORPORATION,)
)
 Defendant.)

No. 86-C-825-E

FILED

APR 29 1988

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

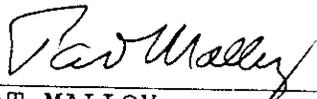
STIPULATED ORDER OF DISMISSAL

IT IS HEREBY STIPULATED, by and between counsel for all parties hereto subject to the approval of the Court, as follows:

1. All claims presented by the complaint herein shall be dismissed with prejudice as to the Defendant pursuant to Rule 41(a) of the Federal Rules of Civil Procedure.

2. Each party shall bear his or its own costs and attorneys' fees.

Dated: April 25, 1988.



PAT MALLOY
Attorney for Plaintiff



BARRY G. WEST
Attorney for Defendant

So Ordered:

S/ JAMES O. ELLISON

United States District Judge

Dated: April 29, 1988

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

MARK FREEMAN, III,)
)
 Plaintiff,)
)
 vs.)
)
 ADRIAN LAMBERT,)

86-C-880-E

FILED

APR 29 1988

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

JOURNAL ENTRY OF JUDGMENT

NOW ON this 29th day of April, 1988 this Court having granted judgment for Plaintiff by Court Order dated March 23, 1988, pursuant to Rule 16(f), Federal Rules of Civil Prodedure, and further ordering sanctions against Defendant and Defendant's counsel, does hereby enter this Journal Entry of Judgment.

IT IS THEREFORE ORDERED Plaintiff is awarded judgment against the Defendant in the amount of \$300,000.00 actual damages and punitive damages in the amount of \$150,000.00, for a total judgment against Defendant in the amount of \$450,000.00.

IT IS FURTHER ORDERED Defendant and counsel Richard K. Houtchens jointly pay to Plaintiff's counsel the amount of \$150.00 for sanctions imposed by this Court.

IT IS SO ORDERED.



JUDGE OF THE UNITED STATES
DISTRICT COURT

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

FILED

APR 29 1988

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

LIBERTY MUTUAL FIRE INSURANCE
COMPANY,
Plaintiff,

VS.

ALEX BREITBART, YURI & EKATERINA
BREITBART, WALLACE EUGENE LEDFORD,
Individually and as Administrator of
the Estate of MARK EUGENE LEDFORD,
Deceased, and COETA LEDFORD,
Defendants.

No. 86-C-974-E

ORDER OF DISMISSAL WITH PREJUDICE

Upon Application by the parties, and for good cause shown, the Court finds that the above styled and numbered cause of action should be dismissed with prejudice to refiling in the future.

It is so Ordered this 29th day of April, 1988.

S/ JAMES O. ELLISON

JAMES O. ELLISON
United States District Judge

FILED

APR 20 1988

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

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

ELITE GOODS, INC., et al.,)
)
 Plaintiffs,)
)
 vs.)
)
 CITY OF TULSA,)
)
 Defendant.)

No. 87-C-383-E

ORDER

NOW on this 29th day of April, 1988 the Court being presented with Plaintiffs' Application for Voluntary Dismissal, the Court finds for good cause shown that said action should be dismissed.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above-styled action is hereby dismissed with prejudice only as to the issues raised herein. This Court specifically retains jurisdiction to adjudicate the issue of Defendant's right to attorney fees and costs. Defendant is hereby ordered to file a motion for such fees and costs with supporting authority by May 16, 1988 with Plaintiffs' response to be filed by May 30, 1988.

ORDERED this 29th day of April, 1988.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

F I L E D

APR 29 1988

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

CAROLYN A. ALFRED,)
)
 Plaintiff,)
)
 vs.)
)
 FRONTIER FEDERAL SAVINGS)
 AND LOAN ASSOCIATION,)
)
 Defendant.)

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

No. 85-C-619-E

JUDGMENT

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

IT IS ORDERED AND ADJUDGED that the Plaintiff Carolyn A. Alfred take nothing from the Defendant Frontier Federal Savings and Loan Association, that the action be dismissed on the merits, and that the Defendant Frontier Federal Savings and Loan Association recover of the Plaintiff Carolyn A. Alfred its costs of action.

DATED at Tulsa, Oklahoma this 28th 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 29 1988

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

87-C-350-E

BILL J. HALL,)
)
 Plaintiff,)
)
 v.)
)
 DOWELL SCHLUMBERGER, INC.,)
)
 Defendant.)

ORDER

The court has for consideration the Report and Recommendation of the Magistrate filed March 15, 1988, in which the Magistrate recommended that defendant's Motion to Dismiss (pleading #4) be denied as to plaintiff's First and Fourth Causes of Action, and granted as to plaintiff's Second and Third Causes of Action. 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's Motion to Dismiss is denied as to plaintiff's First Cause of Action, pending additional consideration of the validity of the release at an evidentiary hearing to be held before Magistrate John Leo Wagner on April 15, 1988, at 9:30 a.m.

It is further Ordered that defendant's Motion to Dismiss is granted as to plaintiff's Second and Third Causes of Action.

It is further Ordered that defendant's Motion to Dismiss is denied as to plaintiff's Fourth Cause of Action.

Dated this 29th day of April, 1988.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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

MICHAEL A. S. MAKRIS,)
)
 Plaintiff,)
)
 v.)
)
 DAN LAIRD, KEN LAIRD, JAY)
 WRIGHT, and R.J. § D. L.)
 ENTERPRISES, INC.,)
)
 Defendants.)

No. 87-C-751-B

FILED

APR 23 1988

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

ORDER

This matter comes before the Court on Plaintiff's Motion for Non Suit and Plaintiff's Motion to Dismiss the Defendants' Counter-claims filed March 25, 1988. For the reasons set forth below, both motions are granted.

Plaintiff Michael A. S. Makris brought this action pro se seeking damages against the Defendants for alleged fraud, misrepresentation and the illegal use of counterfeit documents in connection with the Plaintiff's business of securing financing for certain business ventures. Plaintiff complains that he was hired by the Defendants to raise funds for the purchase and renovation of a hotel located in Houston, Texas, and that the Defendants provided him with false documentation in regard to securing such loans. The Plaintiff seeks in excess of \$2,000,000 on his claim. Defendants Dan Laird, Ken Laird and R.J. & D.L. Enterprises, Inc. answered the complaint and filed a counter-claim against the Plaintiff Michael A.S. Makris and a cross-claim against Defendant Jay Wright seeking to recover the sum of

\$35,000.00, representing a deposit which they allege the Plaintiff and Defendant Jay Wright misappropriated. Defendant Jay Wright has not yet appeared in this matter.

On March 15, 1988, the Court held a Status/Scheduling Conference in this matter at which time the Plaintiff was represented by attorney Gary O. Brockway, Houston, Texas.

The Plaintiff has now moved for a non suit and for dismissal of the Defendants' counterclaims on the basis that this court lacks jurisdiction for lack of diversity of citizenship. Plaintiff asserts that the case does not involve any federal question, that the face of the original complaint makes clear that both the Plaintiff and Defendant Jay Wright are citizens of Texas and therefore no diversity of citizenship exists. Defendants have responded to the motion to dismiss and argue that Plaintiff's motion for non suit has no effect on Defendants' cross-counterclaims urging the Defendants' counterclaim has independent grounds of jurisdiction (diversity) to support it and that the Court may retain and adjudicate the counterclaim if the original complaint is dismissed.

It is well settled that diversity jurisdiction is determined as of the commencement of the action. See, Louisville, N.A. & C.R. Co. v. Louisville Trust Co., 174 U.S. 552 (1899); Hoeffferle Truck Sales, Inc. v. Divco-Wayne Corp., 523 F.2d 543 (7th Cir. 1975); and Butler v. Pollard, 482 F.Supp. 847 (E.D. Okla. 1979). It is also clear that a diversity action should be dismissed if at any time it becomes apparent that there is a lack of diversity. Bradbury v. Dennis, 310 F.2d 73 (10th Cir. 1962), cert. denied, 372 U.S.

928 (1964). A review of the Plaintiff's original complaint shows that this action lacked the diversity of citizenship necessary for this court to exercise its jurisdiction pursuant to 28 U.S.C. §1332. The Court will therefore and does hereby dismiss this action as well as the Defendants' counterclaim and cross-claims for the reasons that the Court was without jurisdiction from the inception of this case and cannot ignore the initial lack of diversity and allow the Defendants to continue with their cross/counterclaims.

IT IS SO ORDERED, this 21 day of April, 1988, and costs are assessed against the Plaintiff.

A handwritten signature in cursive script, appearing to read "Thomas R. Brett", written over a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

FILED

APR 28 1988

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

DOUG BINGAMON,)
)
 Plaintiff,)
)
 vs.)
)
 MICKEY HURT, TERRY RUSSELL,)
 RON SIERER, and THE CITY OF)
 SAPULPA, OKLAHOMA, a)
 municipal corporation,)
)
 Defendants.)

No. 87-C-696-B

ORDER OF DISMISSAL

NOW on this 27 day of April, 1988, upon the written application of the Plaintiff, Doug Bingamon, and the Defendants, Mickey Hurt, Terry Russell, and The City of Sapulpa, Oklahoma, for a Dismissal With Prejudice of the Complaint of Bingamon v. Hurt, et al., and all causes of action therein, 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 said Complaint with prejudice to any future action. The court being fully advised in the premises finds that said settlement is in the best interest of the Plaintiff, and that said Complaint should be dismissed pursuant to said Application.

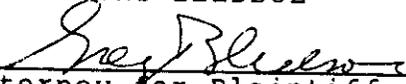
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the court that the Complaint and all causes of action of the Plaintiff, Doug Bingamon, against the Defendants, Mickey Hurt, Terry Russell, and The City of Sapulpa, Oklahoma, be and the same hereby are dismissed with prejudice to any future action.

S/ THOMAS R. BRETT

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

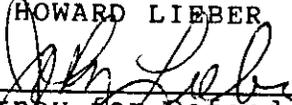
APPROVALS:

D. GREGORY BLEDSOE



Attorney for Plaintiff

JOHN HOWARD LIEBER



Attorney for Defendant
The City of Sapulpa, Oklahoma

JON B. COMSTOCK



Attorney for Defendants
Mickey Hurt and Terry Russell

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

F I L E D

APR 27 1988

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

EDWARD V. QUATRINI,)
)
Plaintiff,)
)
v.)
)
OTIS R. BOWEN, M.D.,)
Secretary of Health and)
Human Services,)
)
Defendant.)

No. 86-C-819-B

O R D E R

This matter comes before the Court on Plaintiff's Application For Final Order Affirming Decision of Secretary filed April 13, 1988. On May 27, 1987, this Court remanded Plaintiff's action to recover disability insurance benefits under 42 U.S.C. §§416(i) and 423 to the Secretary of Health and Human Services for further review. A review of the decision of the Appeals Council for the Social Security Administration attached to the Plaintiff's application indicates that the Plaintiff was awarded the disability benefits which he sought by his complaint in this Court. The Defendant, Otis R. Bowen, M.D., Secretary of Health and Human Services, has not appealed Plaintiff's favorable decision.

Plaintiff's application for order affirming the administrative decision of the Secretary is improper and unnecessary as this file was closed pursuant to the Court's Order of May 27, 1987, remanding the case to the Secretary for further proceedings.

Plaintiff's application for a final order is denied.

IT IS SO ORDERED, this 27 day of April, 1988.

A handwritten signature in cursive script, appearing to read "Thomas R. Brett", written over a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 PERCY L. JACKSON,)
)
 Defendant.) CIVIL ACTION NO. 87-C-747-C

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 Phil Pinnell, 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 27 day of April, 1988.

UNITED STATES OF AMERICA

TONY M. GRAHAM
United States Attorney



PHIL PINNELL
Assistant United States Attorney
3600 United States Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

CERTIFICATE OF SERVICE

This is to certify that on the 27 day of April, 1988, a true and correct copy of the foregoing was mailed, postage prepaid thereon, to: Percy L. Jackson, Post Office Box 1474, Bartlesville, Oklahoma 74003.


Assistant United States Attorney

PEP/mp

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

MORTGAGE CLEARING CORPORATION,)
)
 Plaintiff,)
)
 v.)
)
 TERRITORY SAVINGS AND LOAN)
 ASSOCIATION and the FEDERAL)
 SAVINGS AND LOAN INSURANCE)
 CORPORATION,)
)
 Defendants.)

No. 88-C-157-B

FILED
APR 26 1988
Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

This matter comes before the Court on Defendant Federal Savings and Loan Insurance Corporation's ("FSLIC") motion to dismiss for lack of subject matter jurisdiction. The FSLIC claims that federal law and regulations require the Plaintiff to pursue its claims through an administrative process established by the Federal Home Loan Board ("Bank Board").

Plaintiff has alleged in the complaint that Defendant Territory Savings and Loan Association breached a mortgage loan servicing contract between the parties causing actual damages of \$58,562.00, and entitling Plaintiff to \$250,000.00 in exemplary damages.

On January 29, 1988, the Federal Home Loan Bank Board found and declared that Territory Savings and Loan Association was insolvent and in an unsafe and unsound condition to transact business. Accordingly, the Bank Board appointed the FSLIC as receiver for Territory Savings and Loan Association for purposes of

liquidation. Pursuant to 12 U.S.C. §1730(k)(1)(c), the FSLIC removed this action to this court.

The FSLIC's assertion of adjudicatory power rests first on 12 U.S.C. §1464(d)(6)(c) which states:

"Except as otherwise provided in this subsection, no court may take any action for or toward the removal of any conservator or receiver, or, except at the instance of the Board, restrain or affect the exercise of powers or functions of a conservator or receiver."

The FSLIC asserts that judicial adjudication of creditors claims would restrain or affect the exercise of its receivership powers in violation of the statute. The FSLIC cites North Mississippi Savings and Loan Association v. Hudspeth, 756 F.2d 1096 (5th Cir. 1985), which held that no court can adjudicate or enforce any right against the receiver or its assets, or delay or otherwise effect any allocation or distribution of receivership assets in satisfaction of a claim. The court reasoned that "resolution of even the facial merits of claims outside the statutory reorganization process would delay the receivership function of distribution of assets..." Given the overriding Congressional purpose of expediting the FSLIC's task as receiver, such a delay is a restraint within the scope of the statute. Hudspeth at 1102.

Several courts have construed the §1464 statute provisions to require the dismissal for lack of subject matter jurisdiction of any claims asserted by any party against the closed association, the receiver, or the receivership assets. E.g., Lyons Savings and Loan Association v. Westside Bancorporation, Inc., 828 F.2d 387 (7th Cir. 1987) (affirming 636 F.Supp. 576 (N.D.

Ill. 1986); First Financial Savings and Loan Association of El Dorado v. FSLIC, 651 F.Supp. 1289 (E.D. Ark. 1987); Kohlbeek v. Kis, 651 F.Supp. 1233 (D.Mont. 1987); Sunrise Savings and Loan Association v. LIR Development Co., 641 F.Supp. 744 (S.D. Fla. 1986).

The FSLIC also relies on 12 U.S.C. §1729(d), which states:

"In connection with the liquidation of insured institutions in default, (FSLIC) shall have the power to carry on the business of and to collect all obligations to the insured institutions, to settle, compromise, or release claims in favor of or against the insured institutions, and to do all other things necessary in connection therewith, subject only to the regulation of the court or other public authority having jurisdiction over this matter."

This provision, argues FSLIC, demonstrates Congress' intent that the FSLIC have plenary power in connection with the liquidation of insolvent institutions. See also, §1729(a) (grant of authority to facilitate the liquidation of insured institutions), §1729(b)(1)(A)(v) (FSLIC authorized to liquidate assets in an orderly manner), §1729(c)(3)(B) (authority to liquidate granted).

Plaintiff cites the alternate construction of §1464 as held by the Ninth Circuit in Morrison-Knudsen Co. v. CHG International, Inc., 811 F.2d 1209 (9th Cir. 1987). The Morrison-Knudsen court held that a receiver's ordinary functions do not include adjudication. Common law receivers have never in ordinary practice had the power to adjudicate claims: that power remains vested in the courts. Id. at 1219. After a review of FSLIC's statutes and legislative history, the Ninth Circuit found that it was unable to locate a single explicit indication in the legislative history

or the language of its governing statutes that Congress intended or expected the FSLIC to adjudicate claims as part of its receiver-ship functions. Id.

The Ninth Circuit's holding in Morrison-Knudsen seems to stand alone in its interpretation of §1464. Several courts have taken the posture of the Fifth Circuit's holding in Hudspeth, including the District Court for the Northern District of Florida, which stated:

"The primary purpose of this entire statutory scheme was to protect the average depositor from financial ruin resulting from the failure of a savings institution. This purpose would be defeated by the denial of even one valid depositor claim. This legislation was not designed to protect creditors.... Under Hudspeth, all claims of Fairfax are switched to the administrative process by §1464(d)(6)(c). Fairfax can challenge the FSLIC's actions before the FHLBB and, if dissatisfied, can seek judicial review under the Administrative Procedure Act. Until such time, the statute prevents Fairfax from going forward in any court before seeking review before the FHLBB.

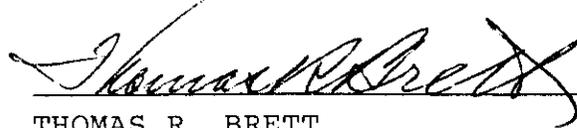
"This Court concludes that 12 U.S.C. §1464, 1729(d), preclude courts from adjudicating creditor claims and thus dismissal due to lack of subject matter jurisdiction."

FSLIC v. Urquhardt, No. 86-04294 (N.D.Fla. April 7, 1987); FSLIC v. Oldenburg, No. 85-C-1481W (D.Utah April 18, 1987); Acquisition Corp. of America v. Sunrise Savings and Loan Association, No. 86-2144-CIV (S.D.Fla. April 14, 1987).

The great weight of authority leads to the conclusion that this Court has no power to affect the functions of the receiver, as would the adjudication of the present claims. The FSLIC should

be subject to the regulation of the FHLBB and the motion to dismiss for lack of subject matter jurisdiction is hereby granted.

IT IS SO ORDERED, this 26 day of April, 1988.

A handwritten signature in cursive script, appearing to read "Thomas R. Brett", is written over a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

ARMSTRONG WORLD INDUSTRIES,
INC., a Pennsylvania corpora-
tion,

Plaintiff,

vs.

CLINTON MILLS, INC., a South
Carolina corporation;
MID-AMERICA YARN MILLS,
INC., an Oklahoma corporation;
SUNTEK INDUSTRIES, INC., an
Oklahoma corporation; and
VENTURE ASSOCIATES, a Tennessee
partnership,

Defendants.

No. 87-C-562-B

FILED
APR 25 1988
Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL

Pursuant to the Stipulation for Dismissal entered herein, it is hereby

ORDERED that plaintiff's Complaint and claims against all remaining defendants be dismissed with prejudice. It is further

ORDERED that all counterclaims against plaintiff be dismissed with prejudice. It is further

ORDERED that each party shall bear its own costs and fees.

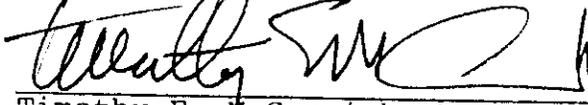
Dated this 25 day of April, 1988.

S/ THOMAS R. BRETT

THOMAS R. BRETT,
UNITED STATES DISTRICT JUDGE

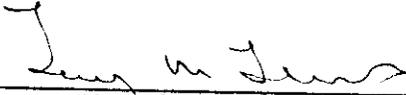
APPROVED:

C. William Denton, Esq.
Borod & Huggins
80 Monroe Ave., 7th Floor
Memphis, Tenn. 38103



Timothy E. McCormick, Esq.
1516 South Boston
Suite 205
Tulsa, Oklahoma 74119

Attorneys for Defendants



Terry M. Thomas
NORMAN, WOHLGEMUTH & THOMPSON
909 Kennedy Building
Tulsa, OK 74103

Attorney for Plaintiff,
Armstrong World Industries, Inc.

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 25 1988

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 JACK T. NICHOLSON,)
)
 Defendant.)

CIVIL ACTION NO. 87-C-917-B

DEFAULT JUDGMENT

This matter comes on for consideration this 25th day of March, 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, Jack T. Nicholson, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Jack T. Nicholson, was served with Summons and Complaint on February 9, 1988. 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,

Jack T. Nisholson, for the principal sum of \$436.50 plus interest at the rate of 12.25 percent per annum and administrative costs of \$.61 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 7.01 percent per annum until paid, plus costs of this action.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

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

FILED
APR 25 1988
Jack C. Silver, Clerk
U. S. DISTRICT COURT

FIDELITY & DEPOSIT COMPANY)
OF MARYLAND,)
)
Plaintiff,)
)
v.)
)
GARY D. ROBBINS,)
)
Defendant.)

No. 87-C-690 B

JUDGMENT

On this 25 day of April, 1988 this cause came on for hearing upon plaintiff's application for the entry of default judgment. The Court makes the following findings:

1. The complaint was filed on August 20, 1987.
2. The defendant, Gary D. Robbins, was served on March 21, 1988, at 3:48 p.m. by leaving at copy of the summons and complaint with his wife, Teresa Robbins, at their place of residence, 407 Osage Drive, Skiatook, Oklahoma.
3. The summons directed the defendant to answer or otherwise respond to the complaint within 20 days after service. Defendant has not done so.
4. Defendant is in default and plaintiff is entitled to judgment as requested in the complaint. The requested judgment is adequately supported by affidavit.

Therefore, the Court enters judgment in favor of plaintiff, Fidelity & Deposit Company of Maryland, against the defendant, Gary D. Robbins, in the principal amount of \$225,135.76, together with

interest thereon at the rate of 7.01% per annum from and after the date hereof until the same is fully paid. Plaintiff is also granted its court costs and service fees in the amount of \$170.00.

The Court further finds that the defendant, while serving as the assistant vice president and loan officer of a bank, embezzled funds in excess of \$225,135.76. Plaintiff, as the bank's insurer, was required to pay the bank \$225,135.76 under the term of its Bankers Blanket Bond.

Entered on this 25 day of April, 1988.

S/ THOMAS R. BRETT

THOMAS R. BRETT
U. S. DISTRICT JUDGE

/plh

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
 vs.)
)
 SENNIE MAE SEYMOUR, Individually,)
 and SENNIE SEYMOUR as Executrix)
 of the Estate of Beace Seymour;)
 COUNTY TREASURER, Tulsa County,)
 Oklahoma; and BOARD OF COUNTY)
 COMMISSIONERS, Tulsa County,)
 Oklahoma,)
)
 Defendants.)

FILED
APR 26 1988
Jack C. Silver, Clerk
U. S. DISTRICT COURT

CIVIL ACTION NO. 87-C-956-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 26th 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, Sennie Mae Seymour, Individually, and Sennie Seymour as Executrix of the Estate of Beace Seymour, appear not, but make default.

The Court being fully advised and having examined the file herein finds that the Defendants, Sennie Mae Seymour, Individually, and Sennie Seymour as Executrix of the Estate of Beace Seymour, acknowledged receipt of Summons and Complaint on or about December 10, 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, filed its Answer herein on December 4, 1987, and its Disclaimer herein on March 31, 1988; the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, filed its Answer herein on December 4, 1987; and that the Defendants, Sennie Mae Seymour, Individually, and Sennie Seymour as Executrix of the Estate of Beace Seymour, 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 One (1) Block Ten (10) Suburban Acres Second Addition, to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof.

The Court further finds that on May 25, 1972, Beace Seymour and Sennie Mae Seymour 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 \$10,250.00, 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, Beach Seymour and Sennie Mae Seymour executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, a mortgage dated May 25, 1972, covering the above-described property. Said mortgage was recorded on May 30, 1972, in Book 4018, Page 387, in the records of Tulsa County, Oklahoma.

The Court further finds that on or about the 16th day of May, 1981, Beace Seymour died testate at Tulsa, Oklahoma. Said Deceased left a Will bearing the date of the 9th day of April, 1981, naming Sennie Seymour as Executrix of said Will. Sennie Seymour as Executrix of the Estate of Beace Seymour was appointed Personal Representative by Letters Testamentary filed in District Court, Tulsa County, Oklahoma, on March 12, 1982.

The Court further finds that the Defendants, Sennie Mae Seymour, Individually, and Sennie Seymour as Executrix of the Estate of Beace Seymour, 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, Sennie Mae Seymour, Individually, and Sennie Seymour as Executrix of the Estate of Beace Seymour, are indebted to the Plaintiff in the principal sum of \$7,244.92, plus interest at the rate of 4.5 percent per annum from March 25, 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, disclaims any right, title, or interest in the subject real property by virtue of any delinquent ad valorem taxes and claims no lien against the property for any unpaid personal property taxes.

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 the Defendants, Sennie Mae Seymour, Individually, and Sennie Seymour as Executrix of the Estate of Beace Seymour, in the principal sum of \$7,244.92, plus interest at the rate of 4.5 percent per annum from March 25, 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 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.

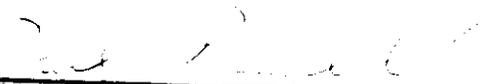
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of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

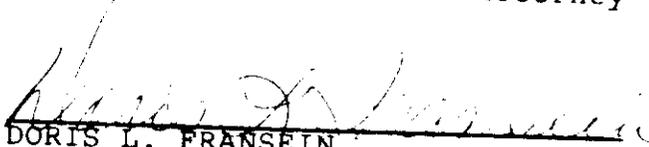
S/ THOMAS R. BRETT

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

DORIS A. JAGGERS,)
)
 Plaintiff,)
)
 vs.)
)
 CITY OF CLAREMORE, OKLAHOMA,)
 a municipal corporation,)
 POLICE CHIEF TUBBY WILLIAMS,)
 POLICE OFFICER RICHARD SMITH,)
 POLICE OFFICER LARRY GARRETT,)
)
 CITY OF TULSA, OKLAHOMA, a)
 municipal corporation, POLICE)
 CHIEF R.N. DICK, POLICE OFFICER)
 DAVID BROCKMAN, POLICE OFFICER)
 JOHN JAKUBOWSKI,)
)
 Defendants.)

Case No. 87-C-1032B

FILED

APR 25 1988

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

ORDER

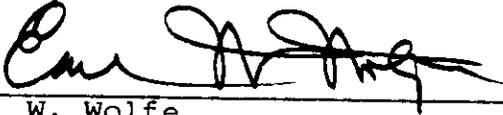
Now on this 25 day of April, 1988, upon the Stipulation for Dismissal filed by the plaintiff and the defendants, City of Tulsa, Oklahoma, a municipal corporation, Police Chief R.N. Dick, Police Officer David Brockman, and Police Officer John Jakubowski, and the Court having reviewed the Stipulation and having found that the same should be granted,

IT IS HEREBY ORDERED by the Court pursuant to Rule 41(a)(1)(ii) Fed. R. Civ. P., that the plaintiff's causes of action against the defendants, City of Tulsa, a municipal corporation, Police Chief R.N. Dick, Police Officer

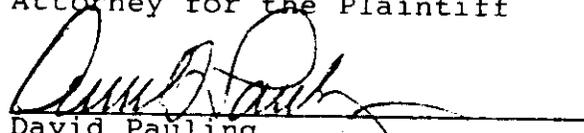
David Brockman, and Police Officer John Jakubowski, be and the same are hereby dismissed and the parties are to pay their own costs, attorneys fees and expenses herein.

S/ THOMAS R. BRETT
U.S. District Judge

Approved as to form:



Earl W. Wolfe
Attorney for the Plaintiff



David Pauling
Attorney for the Defendants,
City of Tulsa, et al.

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

FILED

APR 25 1988

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

HABIB HOCHLAF,)
)
 Plaintiff,)
)
 -vs-)
)
 LABAT-ANDERSON, INC., a)
 Virginia Corporation)
)
 Defendant.)

No. 86-C-277B

ORDER

It appearing to the Court that the above-captioned action has been fully settled, adjusted and compromised, and based on stipulation,

It is hereby ORDERED and ADJUDGED, this 25th day of April, 1988, that the above-captioned action, including all counterclaims, be and the same is hereby DISMISSED, without cost to either party and WITH PREJUDICE to the plaintiff and to the defendant/counterplaintiff.

S/ THOMAS R. BRETT

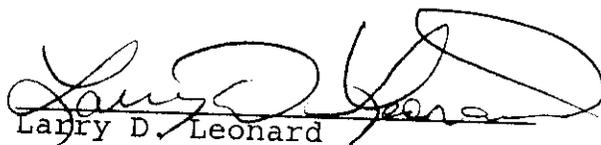
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the foregoing Order was mailed on this 22nd day of April, 1988, with proper postage fully paid hereon, to the following:

Kathleen Heenan McGuan
Manatt, Phelps, Rothenberg
& Evans
1200 New Hampshire Avenue N.W.
Suite 200
Washington, DC 20036

B. Hayden Crawford
Marilyn Modin Wagner
Crawford, Crowe & Bainbridge
1714 First National Building
Tulsa, Oklahoma 74103


Larry D. Leonard

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ROBERT M. HANNIGAN; LUZ MARIA)
 HANNIGAN; CHARLES E. SAMS;)
 DEBORAH L. SAMS; COUNTY)
 TREASURER, Creek County,)
 Oklahoma; and BOARD OF COUNTY)
 COMMISSIONERS, Creek County,)
 Oklahoma,)
)
 Defendants.)

FILED
APR 22 1988
Jack C. Silver, Clerk
U. S. DISTRICT COURT

CIVIL ACTION NO. 87-C-798-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 22 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, Creek County, Oklahoma, and
Board of County Commissioners, Creek County, Oklahoma, appear
not, having previously filed its Disclaimer; and the Defendants,
Robert M. Hannigan, Luz Maria Hannigan, Charles E. Sams, and
Deborah L. Sams, appear not, but make default.

The Court being fully advised and having examined the
file herein finds that the Defendants, Charles E. Sams and
Deborah L. Sams, were served with Summons and Complaint on
December 22, 1987; that Defendant, County Treasurer, Creek
County, Oklahoma, acknowledged receipt of Summons and Complaint
on September 30, 1987; and that Defendant, Board of County

Commissioners, Creek County, Oklahoma, acknowledged receipt of Summons and Complaint on September 30, 1987.

The Court further finds that the Defendants, Robert M. Hannigan and Luz Maria Hannigan, were served by publishing notice of this action in the Sapulpa Legal News, a newspaper of general circulation in Creek County, Oklahoma, once a week for six (6) consecutive weeks beginning February 11, 1988, and continuing to March 17, 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, Robert M. Hannigan and Luz Maria Hannigan, 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, Robert M. Hannigan and Luz Maria Hannigan. 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 Phil

Pinnell, 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, Creek County, Oklahoma, and Board of County Commissioners, Creek County, Oklahoma, filed their Disclaimer herein on October 9, 1987; and that the Defendants, Robert M. Hannigan, Luz Maria Hannigan, Charles E. Sams, and Deborah L. Sams, 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 Creek County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Eight (8) COTTONWOOD SUBDIVISION, to Creek County, State of Oklahoma, according to the recorded plat thereof.

The Court further finds that on September 16, 1981, the Defendants, Robert M. Hannigan and Luz Maria Hannigan, 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 \$28,500.00, 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, the Defendants, Robert M. Hannigan and Luz Maria Hannigan, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, a mortgage dated September 16, 1981, covering the above-described property. Said mortgage was recorded on September 21, 1981, in Book 106, Page 1907, in the records of Creek County, Oklahoma.

The Court further finds that the Defendants, Robert M. Hannigan and Luz Maria Hannigan, 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, Robert M. Hannigan and Luz Maria Hannigan, are indebted to the Plaintiff in the principal sum of \$28,473.81, plus interest at the rate of 15.5 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, Creek County, Oklahoma, disclaim any right, title, or interest in the subject real property.

The Court further finds that the Defendants, Charles E. Sams and Deborah L. Sams, 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 in rem against Defendants, Robert M. Hannigan and Luz Maria Hannigan, in the principal sum of \$28,473.81, plus interest at the rate of 15.5 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, Charles E. Sams, Deborah L. Sams, and County Treasurer and Board of County Commissioners, Creek 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 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.

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

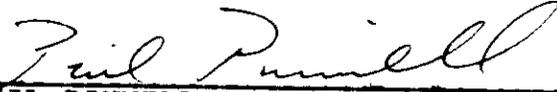
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of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


PHIL PINNELL
Assistant United States Attorney

PP/css

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

LARRY G. LINEBARGER,)
)
 Plaintiff,)
)
 v.)
)
 JUDGE SHARRON BUBENIK)
 and JACK KEARNEY,)
)
 Defendants.)

87-C-724-B **FILED**

APR 22 1988

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

ORDER

Now before the court are defendant Judge Sharron Bubenik's Motion to Dismiss (pleading #3) and defendant Jack Kearney's Motion to Dismiss (#11). The Tulsa County District Attorney, David Moss, by M. Denise Graham, Assistant District Attorney, appears on behalf of defendant Bubenik and moves to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Title 28 U.S.C. for failure to state a claim for which relief can be granted, and pursuant to 28 U.S.C. §1915(d) for frivolous action. The Attorney General of the State of Oklahoma, Robert H. Henry, appears on behalf of defendant Kearney and moves to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim for which relief may be granted and pursuant to 28 U.S.C. §1915(d) for frivolous action.

As of this date, plaintiff has not responded to this court's Order entered January 12, 1988, allowing additional time to respond to defendant Kearney's Motion to Dismiss. However, because plaintiff in this action is a pro se litigant and in light of the fact that plaintiff's response to defendant

Bubenik's motion, filed November 2, 1987, addresses the same issues raised in the defendant Kearney's Motion, plaintiff's earlier response will be treated by this court as a response to such subsequent motion as well.

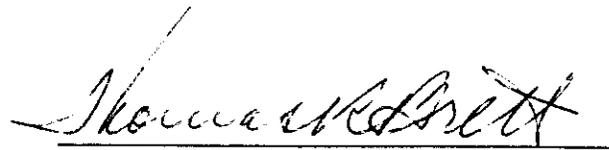
Defendant Bubenik asserts absolute immunity from liability under the Civil Rights Act. The United States Supreme Court has held that a judge is absolutely immune from liability under §1983 for all judicial acts performed by her over which she has jurisdiction. See Stump v. Sparkman, 435 U.S. 349, 355-357, 98 S.Ct. 1099, 1104-1105, 55 L.Ed.2d 331, 338-339 (1978), reh. denied, 436 U.S. 951, 98 S.Ct. 2862, 56 L.Ed.2d 795 (1978); Wiggins v. New Mexico State Sup. Ct. Clerk, 664 F.2d 812, 815 (10th Cir. 1982). Since defendant Bubenik's act was judicial in nature and was one over which she had jurisdiction, she is immune from suit under §1983. Defendant Bubenik's Motion to Dismiss is therefore granted on the ground that plaintiff has failed to state a claim for which relief may be granted.

Defendant Kearney asserts that, as a public defender, he did not act under the color of state law within the meaning of §1983. An attorney does not act under color of state law simply because he has accepted employment as a public defender. See Espinoza v. Rogers, 470 F.2d 1174, 1175 (10th Cir. 1972). "Although the employment relationship is certainly a relevant factor, we find it insufficient to establish that a public defender acts under color of state law within the meaning of § 1983." Polk County v. Dodson, 454 U.S. 312, 321-322, 102 S.Ct. 445, 451, 70 L.Ed.2d

509, 518 (1981).

A public defender is not subject to administrative direction in the same sense as other employees of the state. He is held to the same standard of competence and integrity as a private lawyer. A public defender works under canons of professional responsibility that mandate his exercise of independent judgment on behalf of the client. It is the constitutional obligation of the state to respect the professional independence of the public defenders whom it engages. Id. Accordingly, plaintiff's action against defendant Kearney is dismissed under Federal Rules of Civil Procedure 12(b)(6) for failure to state a claim for which relief can be granted.

Accordingly, it is ordered that the Motions to Dismiss of defendants Bubenik and Kearney are granted this 22nd day of April, 1988.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

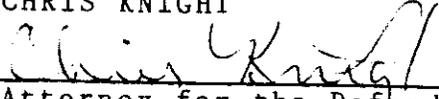
APPROVALS:

SCOTT D. CANNON



Attorney for the Plaintiff

CHRIS KNIGHT



Attorney for the Defendant

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Entered

FILED

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 LARRY G. JAMES,)
)
 Defendant.)

APR 21 1988

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

CIVIL ACTION NO. 87-C-894-C

ORDER OF DISMISSAL

Now on this 21st day of April, 1988, it appears that the Defendant in the captioned case has not been located within the Northern District of Oklahoma, and therefore attempts to serve Larry G. James have been unsuccessful.

IT IS THEREFORE ORDERED that the Complaint against Defendant, Larry G. James, be and is dismissed without prejudice.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

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

MELVIN EDWARDS,
Plaintiff,
v.
FRANK THURMAN, Tulsa County
Sheriff and DAVID MOSS,
Tulsa County Prosecuting
Attorney,
Defendants.

87-C-537-B

FILED
APR 21 1988
Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

Now before the court is defendants' Motion to Dismiss plaintiff's civil rights complaint (pleading #3). Although plaintiff failed to respond to defendants' motion in a timely manner as required by the Federal Rules of Civil Procedure and the Local Rules of the Northern District of Oklahoma, on January 12, 1988, the court, sua sponte, gave plaintiff an extension of time in which to respond to this motion. However, no such response was ever filed by plaintiff.

As the court previously advised plaintiff, all litigants, including those appearing pro se, are obligated to follow the procedural rules of court. See, Joplin v. Southwestern Bell Telephone Co., 671 F.2d 1274 (10th Cir. 1982). Plaintiff having been given every opportunity to comply with the pleading requirements of this court, the court concludes that plaintiff's failure to respond to the pending motion constitutes a waiver of objection to the motion. Rule 14(a) of the Local Rules for the Northern District of Oklahoma.

It is, therefore, ordered that defendants' Motion to Dismiss is granted, and plaintiff's civil rights complaint pursuant to 42 U.S.C. §1983 is hereby dismissed.

Dated this 20 day of April, 1988.

A handwritten signature in cursive script, appearing to read "Thomas R. Brett".

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

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

ADAM WAYNE STERLING,)
)
 Petitioner,)
)
 v.)
)
 TOM C. MARTIN, Warden, FCI,)
 El Reno, OK, SHERIFF FRANK)
 THURMAN, Sheriff of Tulsa)
 County, OK, et al,)
)
 Respondents.)

88-C-182-B

FILED
APR 21 1988
Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

The application of petitioner, Adam Wayne Sterling, a/k/a James Regan Darrell, for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 is now before the court for initial consideration. The court, being fully advised in the premises, finds that petitioner's application should be dismissed for lack of jurisdiction.

"A § 2241 petition for a writ of habeas corpus must be addressed to the federal district court in the district where the prisoner is confined." United States v. Scott, 803 F.2d 1095, 1096 (10th Cir. 1986), citing United States v. Giddings, 740 F.2d 770, 772 (9th Cir. 1984); United States v. Ford, 627 F.2d 807, 813 (7th Cir.), cert. denied, 449 U.S. 923, 101 S.Ct. 324, 66 L.Ed.2d 151 (1980).

Since petitioner is presently incarcerated at the Federal Prison Camp in El Reno, Oklahoma, a properly filed §2241 action should be commenced in the Western District of Oklahoma. Therefore, the United States District Court for the Northern

District of Oklahoma lacks jurisdiction to consider petitioner's claim.

Petitioner's § 2241 petition is dismissed without prejudice to asserting the action in a proper forum.

It is so Ordered this 20 day of April, 1988.

A handwritten signature in cursive script, reading "Thomas R. Brett".

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

Entered

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

EQUAL EMPLOYMENT OPPORTUNITY)
 COMMISSION,)
)
 Plaintiff,)
)
 v.)
)
 LOCAL 798 OF THE UNITED)
 ASSOCIATION OF JOURNEYMEN)
 AND APPRENTICES OF THE)
 PLUMBING AND PIPE FITTING)
 INDUSTRY OF THE U.S. AND)
 CANADA, AFL-CIO,)
)
 Defendant.)
 _____)

CASE NO. 84-C-730-C

FILED

APR 21 1988

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

CONSENT DECREE

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Law entered September 5, 1986, this Court held that Local 798 has engaged in unlawfully discriminatory membership and referral practices against blacks and females. Although entering a preliminary Order on Injunctive Relief,^{1/} this Court reserved ruling on other remedy issues pending additional briefing, arguments and/or hearings. Both the Commission and the Union desire to resolve these additional remedial issues and conclude this action without the expense and disruption of further contested litigation at the trial and appellate levels. Plaintiff and Defendant therefore have agreed to the entry of this proposed Consent Decree ("the Decree") subject to its final approval and entry by this Court after reasonable notice to all persons affected by it and a fairness hearing at which any objections may be heard.

The purposes of this Decree are to resolve all claims of unlawful membership, training and/or referral discrimination by Local 798 on the basis of race and/or sex, or retaliation of any kind by Local 798 in violation of Section 704(a) of Title VII related in any way to such claims,^{2/} which occurred at any time prior to the entry of this Decree; to

^{1/} This preliminary injunctive order is substantially incorporated into this Decree in Section III(A), below.

^{2/} Throughout this Decree "retaliation" is used as thus defined.

increase the black and female membership of Local 798; and to ensure non-discrimination in Local 798's membership, training and referral practices on the basis of race or sex. While Local 798 denies the existence of any violations of Title VII, the Union recognizes that this Court in certain respects has held to the contrary as set forth in its Order of September 5, 1986.

In the event of final approval and entry of this Decree by this Court, Local 798 and the EEOC shall be deemed to have withdrawn with prejudice all of their other respective pending motions and requests in this action, including but not limited to those for contempt, costs and other sanctions. Except as may be necessary to enforce the provisions of this Decree, the parties agree to refrain from seeking or prosecuting further or pending proceedings against the opposing party or its counsel in this action or otherwise, and from seeking appellate review of this Court's various orders herein for any act or omission through the date of entry of this Decree. The parties have agreed to bear their own respective costs of this action.

This Decree, being issued with the consent of Local 798, shall not constitute an adjudication or finding on the merits of this action and shall in no manner be construed as an admission by Local 798 or evidence of any violation of

Title VII, or of any other federal, state or local statute, executive order, ordinance, rule or regulation relating to or concerning in any way equal opportunity or affirmative action in employment, membership, training or referral. Local 798 has consented to the entry of this Decree in order to avoid the burdens of further litigation and to ensure the accomplishment of the Union's commitment and obligation to fair membership, training and referral practices in an atmosphere free from contested litigation. This Decree does not supplant this Court's September 5, 1986 Findings of Fact and Conclusions of Law.

This Decree is final and binding among the parties signatory hereto and their successors as to the issues which have or might have been raised in this action, as well as, to the extent permitted by law, upon all persons who seek, accept and/or fail to object successfully to the relief provided herein. This Decree is intended to resolve all of Plaintiff's claims of membership, training and/or referral discrimination by Local 798 against blacks and/or females, as aggrieved groups, and retaliation related in any way to such claims against anyone, for all events, acts, omissions, practices, policies, and procedures up to and including the date of its entry and through its life except as may arise through enforcement proceedings under this Decree. Compliance with

this Consent Decree constitutes compliance with the requirements of Title VII as to any ground of discrimination addressed in this Decree.

This Court has reviewed the terms of the proposed Decree in light of its findings and conclusions, as well as all of the evidence, the pleadings, and the applicable laws and regulations, and has approved this Decree as one which will promote and effectuate the purposes of Title VII. Moreover, this Court has carefully considered the record and all objections to this Decree that have been raised pursuant to the notice, objection and fairness hearing provisions prescribed in the Court's October 13, 1987 Order provisionally approving this Decree, and has concluded that these objections are without merit.

NOW, THEREFORE, this Court being fully advised in the premises, it is hereby ORDERED, ADJUDGED AND DECREED:

I. SCOPE OF DECREE

The provisions of this Decree resolve all allegations which were raised, or which could have been raised, in Civil Action Number 84-C-730-C, United States District Court, Northern District of Oklahoma, and in the underlying EEOC Charge Number 94-082-0101, which Charge was filed September 29, 1981 and amended August 31, 1982.

II. TERM OF DECREE

A. This Decree is effective as of the date finally approved and entered by this Court, which shall retain jurisdiction of this action throughout the duration of the Decree. The Decree shall continue to be effective and binding upon the parties and their agents and successors until dissolved by the Court pursuant to Section II(C), below. The Decree shall not be dissolved before: (a) five (5) years after its effective date, or (b) such time as Local 798 has met each of the black and female membership requirements set forth in Section II(B), below, whichever is later.

B. During the pendency of this Decree and prior to its dissolution, Local 798's membership roster shall have included (as of one six-month report date) not less than fifty (50) black welder members, twenty (20) female welder members, two hundred twenty-five (225) black welder helper members, and one hundred seventy-five (175) female welder helper members.^{3/} The minimum membership requirements for these four classifications need not be met concurrently, and once met for one six-month report date shall be deemed established for purposes of the minimum membership requirement for the given

^{3/} Black females count as both blacks and females for all purposes under this Decree.

classification. Once the female or black membership requirement for a category has been reached and maintained until the end of a six-month reporting period, Local 798 shall continue to be required to meet the annual new membership goals for that category described in Sections III(E)(2) and III(E)(3), below, only until the earlier of: (a) one year after the end of the six-month reporting period in which that black or female membership requirement for that category is met, but in no event less than five (5) years after the effective date of this Decree or (b) the date that this Decree is dissolved pursuant to Section II(C), below.

C. Once the temporal and membership requirements set forth in Sections II(A) and II(B), above, have both been met, Defendant may file a motion with the Court to dissolve the Decree. Upon the Union's motion the Decree shall be dissolved by the Court unless Plaintiff shows good cause why the Decree should be extended by demonstrating material noncompliance by the Union with the Decree's terms. The Commission shall have forty-five (45) days from its receipt of the Union's motion to mail a response to Defendant's motion if it so desires, setting forth with particularity all reasons why it claims that the Decree should be extended, and attaching as exhibits all admissible evidence it wishes the Court to consider in this regard. Defendant shall have forty-five (45) days from

its receipt of the EEOC's response to mail a reply to the Commission's response, attaching as exhibits all evidence upon which it relies to support dissolution of the Decree. Each side shall have an additional fifteen (15) day sequential period to submit any additional evidence, such evidence being strictly limited to response to that contained in the other party's immediately preceding filing. Thus, Plaintiff will have fifteen (15) days after receipt of Defendant's reply, and Defendant will have fifteen days after receipt of Plaintiff's response, if any, to Defendant's reply. No further pleadings or evidence on the matter shall be filed or considered. The Court will conduct a non-evidentiary hearing on the dissolution issue within twenty (20) days after Defendant files its reply, and issue its decision as soon thereafter as possible. If the Commission does not file a timely response to Defendant's motion, the Court will dissolve the Decree without the necessity of further pleadings or hearings. Continued operation of the Downhill Welder Training Program pursuant to Section III(C)(9), below, shall neither require nor have the effect of extending the term of this Decree as to other provisions if dissolution of all other provisions hereof is otherwise appropriate pursuant to this Section II(C).

III. REMEDIAL PROVISIONS

A. General Injunctive Relief.

1. Local 798 is enjoined from discriminating against blacks and females in any aspect of membership, training, referral/dispatch or other treatment mandated or proscribed by Title VII.

2. The Union is enjoined from retaliating against any person because that person is a beneficiary of this Decree or has provided information or assistance, or participated in any other manner in any investigation or proceeding, including trial or any other court hearing, in or relating to this action.

3. The Union is enjoined from instituting enforcement of any policy or practice requiring recommendation by a present member or by a relative for admission to the Union or for referral for work.

4. The Union shall extend the time for payment of initiation fees by blacks and females until such individuals receive income from pipeline employment, except for that portion of the initiation fees that is required by the United Association ("International Union") when a new member is initiated. Alternatively, such individuals may elect to defer

the entire initiation fee and thereby delay their Union membership date until receipt of income from pipeline employment. Such individuals, however, shall not be required to pay more than 10% of his or her gross earnings each month for initiation fees.^{4/} No member is relieved from his or her obligation to pay dues from the date of membership.

B. Membership Requirements

1. The Business Manager of Local 798 shall within the life of this Decree propose an amendment to the Local 798 Constitution and By-laws deleting any reference therein to a requirement for recommendation of an applicant for admission by a present member or by a relative. The passage of such an amendment shall be a precondition for dissolution of this Decree unless Defendant shows good cause for its retention.

2. Blacks and women taking the test for downhill welder status shall not be required to pay more than the fee charged to similarly situated white males. If a welder applicant or helper member passes the downhill welding test, the amount the individual paid for the test shall be applied to

^{4/} Any remaining initiation fee balance for a successful back pay claimant (pursuant to Section III(J), below) shall be paid to Local 798 by the Trustee as a deduction from that claimant's back pay award.

that individual's welder initiation or reclassification fee. Testing fees shall not be refunded to individuals failing the test, regardless of race or sex.

3. Successful black and female claimants shall be given a constructive membership date with Defendant for all purposes. Defendant shall not enforce any length of membership requirement differentially between blacks, females and white males.

C. Affirmative Action Downhill Welder Training Program

1. In conjunction with the National Pipeline Welding School, Local 798 shall conduct an Affirmative Action Downhill Welder Training Program ("the Program") to train blacks and females in the downhill welding trade.

2. The Program shall be conducted for one session each year beginning on or about November 1 in years 1987 through 1991.^{5/}

3. In order to be eligible for the Program, helper member applicants must have been members of Local 798 for at

^{5/} If required due to delays in final entry of this Decree, the first session of the Program may be conducted in the Spring of 1988, but subsequent sessions shall be begun on or about November 1, as specified. Alternatively, in the event of such delays, the parties may agree to conduct the Program in sessions beginning on or about November 1 in years 1988 through 1992.

least six months and must have worked on at least two thirty-day jobs (or combinations of jobs) in the field. However, for admission to the 1987 session of the Program only, helper members shall be eligible for the Program after completing only one thirty-day job (or combinations of jobs) in the field; such individuals with only one thirty-day job experience shall be selected for the 1987 session of the Program only if there is not an adequate number of applicants meeting the aforesaid two-job requirement to fill the Program.

4. Each year's session of the Program shall consist of not more than one hundred twenty (120) total weeks of training. Up to ten (10) trainees may participate in the Program at one time. Each trainee shall receive training reasonably calculated to prepare him or her to pass the downhill welding test, but not to exceed a total of twelve (12) weeks of training. To the extent that up to five of the ten (10) trainees selected for each year's session of the Program fail to complete the Program and the downhill welding test successfully, that trainee's slot in the Program shall be filled from a list of alternate trainees. Any selected alternate trainee may receive up to twelve (12) weeks of training, provided that such a number of weeks remains available from the Program's total annual allocation of one hundred twenty (120) weeks (or more if weeks have been carried forward pursuant to Section

III(C)(5), below).^{6/} Not more than five (5) alternate trainees shall be provided training in any year's session of the Program, unless alternate trainee slots have been carried forward pursuant to Section III(C)(5)(b), below. Any alternate not selected for training shall be given priority consideration for the next year's session of the Program.

5. (a) If in any year there are insufficient eligible applicants to fill the ten (10) available original trainee slots (or more if original trainee slots have previously been carried forward) in that year's session of the Program, the remaining original trainee slots shall be carried forward to the following year's session. Twelve weeks of training shall be carried forward to the next year's session of the Program for each original trainee slot carried forward pursuant to this section.

(b) In any year in which there are insufficient eligible applicants to fill the five (5) available alternate trainee slots (or more if alternate trainee slots have previously been carried forward) in that year's session of the

^{6/} The proviso notwithstanding, if a session of the Program is scheduled to last at least two more weeks, an alternate trainee at an Instructor's discretion may be furnished with up to two additional training weeks (not exceeding a trainee total of 12 weeks), to be subtracted from the following year's allocation.

Program and in which the number of trainees who have successfully passed the welding test is less than the number of original trainee slots in that year's session and in which there are unused training weeks from that year's allocation of one hundred twenty (120) training weeks (as adjusted by any weeks carried forward under Section III(C)(5)(a), above), the unfilled alternate trainee slots and unused training weeks each shall be carried forward to the following year's session of the Program. In this regard, no alternate trainee shall begin the Program after the conclusion of a Program's fourth week unless an Instructor reasonably believes that alternate trainee can successfully complete the Program within eight weeks.

(c) In any year in which either: (i) the number of trainees passing the welding test equals the number of original trainee slots^{7/} in that year's session of the Program, or (ii) all available original trainee slots and alternate trainee slots have been filled, then under no circumstances shall any original trainee slots, alternate trainee slots or training weeks be carried forward to any succeeding year's session of the Program.

^{7/} In sessions of the Program beginning in years 1987 through 1991 the number of original trainee slots will be not less than ten (10).

6. Local 798 shall offer to welder member Edward Buggage an Assistant Welding Instructor position to instruct in the Program for up to sixteen (16) weeks each year of this Downhill Welder Training Program. If he accepts the Assistant Instructor position, Mr. Buggage will receive the same weekly salary as the Instructors at the National Pipeline Welding School during those weeks that he serves as an Assistant Instructor. Local 798 will provide Mr. Buggage with any necessary instructor training. In the event that Mr. Buggage declines to accept the Assistant Welding Instructor position, accepts the position and subsequently resigns, or is removed from the position by agreement of the parties, the parties shall agree upon a successor to fill this position at the earliest reasonable opportunity, who shall be a black and/or female welder member of Local 798.

7. To the extent that any of the money in the trust account provided for in Section III(I)(1), below, remains unused after all claims against that account have been finally resolved and paid, all remaining funds in that account shall be used for paying expenses to augment the Program. Additional original trainee slots will be added to the next year's session of the Program, at the rate of one slot for each full forty thousand dollars (\$40,000.00). Any funds still remaining shall be used to provide additional weeks of training to

the next year's session of the Program, at the rate of one week for each full three thousand three hundred thirty-three dollars (\$3,333.00). Any remaining balance shall be used to support affirmative action for females and/or blacks approved by the EEOC or the Court.

8. Notwithstanding the requirements of Section III(C)(3), above, not more than one original trainee slot and one alternate trainee slot in each year's Program may be filled by helper members with significant outside welding experience but who fail to meet some of the other trainee qualifications set forth in Section III(C)(3). Such outside welding experience must be verified by not less than one favorable letter of reference from previous welding employers of the applicant, as well as such other verification as Local 798 may reasonably require and the Auditor approve.

9. If, pursuant to the provisions of Sections III(C)(5) and/or III(C)(7), there are additional trainee slots to be carried forward or added after the conclusion of the session of the Program beginning on or about November 1, 1991, then the provisions of Section III(C) of this Decree shall continue in operation for such additional period as is necessary, even if the Decree has been dissolved for all other purposes. This paragraph shall not have the effect of delaying the dissolution of all other terms of this Decree if

dissolution is otherwise appropriate under Section II(C), above.

10. The Auditor may review the welder testing results and determine if trainees are subject to any unfair treatment. The Auditor may require retesting in the presence of the Assistant Welding Instructor described in Section III(C)(6), above. If the trainee passes the retest, the retest cost shall be borne by the Program. If the trainee fails the retest, then the cost shall be at the trainee's expense. Trainees shall have the right to complete up to a full twelve (12) weeks of training before being tested, if the trainee so desires.

11. Local 798 will make reasonable efforts to locate economical lodging in the Tulsa area for interested participants in the Program.

12. The estimated value of the Program, during the term of the Decree, is Two Million Dollars (\$2,000,000.00).

D. Affirmative Action Recruitment Program

1. Local 798 shall continue and increase its affirmative efforts to recruit blacks and females for membership in the Union as both welders and welder helpers.

2. In this regard, within thirty (30) days after final entry of this Decree, Local 798 shall prepare: (a) a form

letter soliciting new black and female members, containing a reasonably detailed description of the cross-country pipeline industry and the Union's equal opportunity policies regarding membership and referral ("the recruitment letter"); and (b) a comprehensive list of recruitment sources for black and female welder and welder helper members ("the source list"), indicating for each source the name, address, telephone number, and contact person (with title). The source list shall include, without limitation, (i) welding schools with black and/or female students, (ii) military welding schools, (iii) vocational schools at the post-secondary level known or reasonably knowable to Defendant and any secondary school sources whose name and address are provided to Defendant by the EEOC within ten (10) days after entry of this Decree, the combined number of mailings under this subparagraph (iii) not to exceed one thousand (1,000), (iv) the Veteran's Administration, (v) up to one hundred (100) designated Laborer's Union locals agreed to by the parties, (vi) the national office of the National Association for the Advancement of Colored People for distribution to its local chapters, (vii) the National Urban League for distribution to its local chapters, (viii) the Bureau of Apprenticeship and Training of the Department of Labor, (ix) the national office of the National Organization for Women for distribution to its local chapters, (x) state

employment service offices, and (xi) other organizations whose purpose is to increase black and female participation in the construction industry, with the cumulative total mailing addresses not to exceed one hundred (100).

3. Upon completion of the recruitment letter and the source list specified in Section III(D)(2), above, the Union shall submit these documents to the Commission for comment and reasonable, necessary and cost-effective suggested modifications and additions, if any. The EEOC shall have twenty (20) days from receipt to submit its suggested changes, if any, to the Union.

4. The Union shall submit to the Commission a final recruitment letter and source list within ten (10) days after receiving the EEOC's suggested modifications. The Union's final recruitment letter and source list shall incorporate the EEOC's suggested changes where feasible. The EEOC shall have the right to petition the Court within ten (10) days to require Local 798 to adopt any of its suggested modifications not voluntarily incorporated, for good cause shown by the Commission.

5. Within twenty (20) days after the recruitment letter and source list specified in Section III(D)(2) have become final, whether by agreement of the parties, Court order, or expiration of objection periods, the Union shall

mail in EEOC-franked envelopes one copy of the recruitment letter addressed to each recruitment source. A copy of this recruitment letter shall also be provided by the Union to each person inquiring about membership or referral, and any other person or organization so requesting.

6. Local 798 shall make and document follow-up contacts with each recruitment source by letter, telephone call or personal visit at least once prior to December 31, 1988, and at least once during each remaining year of the Decree. At the end of 1988 and each calendar year thereafter during the life of this Decree the Union shall submit to the EEOC any proposed material modifications of the recruitment letter and/or source list. The EEOC may object to such modifications and/or submit its own reasonable, necessary and cost-effective proposed modifications, if any, within twenty (20) days of receipt of Defendant's proposed modifications. If the parties cannot amicably reach agreement on appropriate modifications, the pertinent clause(s) shall not be changed except by Court order upon good cause shown by the party seeking the particular modification. The net result of any such modifications shall not increase the total cost in time or expense to Local 798.

7. The recruitment letter shall be posted at all union contractors' hiring offices, provided that the contractors' anticipated permission and cooperation is received.

8. As soon as possible after Local 798 becomes reasonably certain that a major pipeline construction job (job(s) where the Union is entitled to dispatch at least 50% of the workers) will occur, the Union shall contact by letter or telephone each recruitment source listed on the "Source List" provided for in Section III(D)(2), above, that is located within a 50-mile radius of the work site. This contact shall provide information to the recruitment source that a pipeline construction job is expected to commence at [specific work site] and will be performed by [specific contractor] beginning on [expected start date]. The recruitment source shall also be advised that the job is under the jurisdiction of Local 798 and that Local 798 is an equal opportunity union especially interested in increasing its black and female membership and referral and there may be work available for downhill welders or welder helpers. Interested persons may apply for Union membership at the construction site through the Union steward or through Union headquarters in Tulsa.

E. Goals and Timetables

1. Local 798 shall adopt and seek to achieve annual new membership goals for blacks and females as both welders and welder helpers. These goals shall apply during each year until the Decree is dissolved. All annual new membership goals herein shall be subject to the availability of qualified black and female applicants. Any qualification standards utilized by Local 798 shall be applied in a nondiscriminatory manner, consistent with Title VII, towards black and/or female candidates.

2. Subject to the availability of qualified black and female applicants, the Union shall adopt and seek to achieve annual new membership goals for welder members of four percent (4%) females and ten percent (10%) blacks, provided, however, that the Union shall be expressly permitted to admit into membership all qualified downhill welders who pass the downhill welding test, entirely without regard to the impact of such admissions on the attainment of these annual new membership goals for welder members. No compliance proceeding shall be brought by the Commission regarding the Union's failure, if any, to meet its annual new membership goals for welders so long as the Union has not excluded without good cause any black or female applicants for welder membership who pass the downhill welding test.

3. Subject to the availability of qualified black and female applicants, the Union shall adopt and seek to achieve an annual new membership goal for female welder helper members of fifteen percent (15%) and for black welder helper members of twenty-two and one-quarter percent (22.25%).

4. Compliance with these annual new membership goals shall be reported on quarterly and measured on an annual basis as of calendar year end.^{8/} Compliance shall not be measured with regard to any race or sex and membership category in which there are fewer than twenty-five (25) new members admitted during the year. Instead, the information in each such data cell of new membership admissions shall be cumulated with the equivalent information in the following year(s) until that data cell contains at least twenty-five (25) new members.

5. Regardless of its measured compliance with the aforementioned annual new membership goals, Local 798 shall endeavor to ensure that neither blacks nor females suffer any adverse impact in new membership admissions into the Union, based upon applicant flow statistics. Local 798 shall admit black and female applicants to membership as welder helpers in at least as large a proportion as

^{8/} 1988 will be a partial year, with compliance measured from the date of final entry of the Decree through December 31, 1988.

qualified blacks and females, respectively, are of the applicant flow rate for welder helpers during that year.

F. Referrals

1. Local 798 shall continue to operate its job referral system neutrally, without regard to race or sex, with the sole exception of the one-time affirmative referral program expressly provided herein.

2. The Union shall establish a separate welder referral wheel and a separate welder helper referral wheel (the "special welder wheel" and "special helper wheel," respectively) for blacks and females. Within thirty (30) days after the effective date of this Decree the names of all blacks and females currently appearing on the Union's standard dispatch wheel will be removed from the standard wheel and placed instead on the appropriate special wheel, in the order in which they appear on the standard wheel. Blacks and females subsequently first seeking placement on the referral wheel during the term of this Decree initially shall be placed on the appropriate special wheel. Except as expressly provided herein, the special wheels shall operate in a fashion identical to the Union's standard dispatch wheel procedures.

3. For every ten (10) welder members dispatched from the standard wheel one (1) welder member shall be dispatched from the special welder wheel, if anyone is available thereon.

4. For every ten (10) welder helper members dispatched from the regular wheel one (1) welder helper shall be dispatched from the special helper wheel, if anyone is available thereon.

5. Once a member has completed a job (or consecutive jobs), lasting at least thirty (30) days cumulatively, to which he or she is dispatched from the appropriate special wheel and is again available for work, the member's name shall be placed at the bottom of the appropriate standard referral wheel. Until the member completes such thirty (30) days of job(s), he or she remains on the special wheel.

6. A black or female welder helper member who passes the downhill welding test, pays the appropriate fee, and becomes reclassified to a welder member initially shall be placed at the bottom of the special welder wheel.

7. Any black or female on one of the special dispatch wheels who declines three separate good faith referrals pursuant to this Section III(F) shall be removed from the special wheel and shall be eligible for referral only from the appropriate standard referral wheel.

8. During the first twenty-four (24) months of the Decree only, blacks and females requesting to have their names placed on the special or regular wheels may request in writing that they be paired for purposes of that referral with another named individual of the same race and/or sex on the same wheel. Both parties to

such a pairing must submit timely written requests designating the other individual as the partner to the pairing. Upon receipt of both written requests, the dispatcher shall date-stamp and time-stamp them and shall clip together and relocate the two partners' cards on the respective wheel to a point midway between their respective original positions. (E.g., if Partner A is sixth on the regular helper wheel and Partner B is sixty-sixth on the regular helper wheel, upon submission of written pairing requests by both Partner A and Partner B the dispatcher will clip their cards together and place them in slots thirty-six and thirty-seven on the regular helper wheel.) Timely written pairing requests must be made for each time an individual's name is placed on one of the dispatch wheels. Paired individuals on the Union's standard wheel will be eligible for dispatch only to jobs involving eight (8) or more total referrals by the Union in the category in question.^{9/} At the end of the first twenty-four (24) months of the Decree, the EEOC may move to continue this pairing program from year to year of the Decree by showing good cause to the Court demonstrating the necessity for such continuation. For purposes of this Section III(F)(8) "timely" shall mean as soon as

^{9/} In conjunction with the provisions of Sections III(F)(3) and III(F)(4), above, paired individuals on a special referral wheel will be eligible for dispatch only to jobs involving twenty (20) or more total referrals by the Union in the category in question.

possible and in no event later than forty-eight hours prior to the referral call for the first referred individual. Local 798 shall publish in the Blue Light Report on at least a semi-annual basis a written form that members may use to submit a pairing request.

G. Notice of Nondiscrimination and Affirmative Action Recruitment

1. Within sixty (60) days after the effective date of this Decree, Local 798 shall publish a Notice of Nondiscrimination and Affirmative Action Recruitment.

2. The Notice of Nondiscrimination and Affirmative Action Recruitment will provide the following information:

(a). A description of the pipeline construction industry and the type of work performed by Local 798 members;

(b). The Union is committed to equal opportunity in regard to Local 798 membership and referral for pipeline employment;

(c). The Union is actively seeking to recruit blacks and females for membership and referral;

(d). Local 798 has adopted an affirmative program designed to help it to increase its black and female membership;

(e). Special arrangements have been made for deferred payment of membership initiation fees for blacks and females;

(f). A Downhill Welder Training Program has been established to train blacks and females who join Local 798 as welder helpers to become highly skilled downhill welders;

(g). Local 798 is committed to nondiscriminatory treatment of blacks and females on the job;

(h). No person or entity is permitted to interfere with Local 798's compliance with its obligations under the Decree;

(i). Members interfering with the Union's efforts to achieve equal opportunity for black and female members will be subject to appropriate discipline, up to and including expulsion;

(j). Black or female members and applicants may bring any complaints concerning the Union's compliance with this Decree to the Decree Coordinator or to the EEOC, either orally or in writing; and

(k). Individuals interested in joining the Union or learning more about the Decree may contact the Union or the Commission in writing at the appropriate address, or orally by collect telephone calls to the Commission.

3. The Union shall publish this Notice of Nondiscrimination and Affirmative Action Recruitment through the following methods:

(a). A written press release, accompanied by a publication response form, to nine hundred sixty-seven (967)

television stations, eight thousand four hundred twenty-one (8,421) radio stations, and three thousand one hundred thirty-four (3,134) newspapers and periodicals, in language to be negotiated by, and mutually agreeable to, the Union and the Commission. The EEOC shall provide the letterhead and franked envelopes. Local 798 shall provide mailing labels and printing facilities, and shall prepare and mail these press releases. The Commission shall be responsible for mailing press releases to selected black and female-oriented media and organizations. Local 798 shall absorb all other costs of mailing and distributing the press releases to other targeted sources, such as state employment service agencies and military training schools;

(b). A videotaped public service announcement, scripted in a fashion mutually agreeable to the Union and the EEOC, with copies distributed to three hundred (300) television stations selected by the EEOC in major metropolitan areas;

(c). A written notice, in language mutually agreeable to the parties, in each issue of Local 798's magazine, The Blue Light Reports, that is published during the twelve months following the effective date of the Decree;

(d). A written advertisement, in language mutually agreeable to the parties, in two (2) issues of the trade magazines Pipeline Digest and Pipeline and Utilities Construction

during the first twenty-four months following the effective date of the Decree; and

(e). A letter, in language mutually agreeable to the parties, directed to all immediate family female relatives residing at the last known home address of individuals who are currently, or have been since 1979, a member of Local 798.

H. Notice of Claims Procedure

1. Within sixty (60) days after the effective date of this Decree, Local 798 shall publish a Notice of Claims Procedure.

2. The Notice of Claims Procedure will provide the information that:

(a). The United States District Court for the Northern District of Oklahoma held a trial and found that Local 798 had discriminated against blacks and females in regard to membership and job referrals;

(b). The Court held that this discrimination had prevented females and blacks from performing Local 798 work in the pipeline construction industry as welders or welder helpers;

(c). Local 798 has agreed to provide equal opportunities to blacks and females in membership and work referrals, without adverse regard to their sex or race;

(d). Local 798 has agreed to provide a back pay fund for blacks and females who file a claim and can prove that

they were discriminated against by the Union in this time period, and that this discrimination caused them to lose earnings they would otherwise have received. The sixteen persons found at trial to have been discriminated against by the Union will need to prove only monetary entitlement, liability having already been established;

(e). Local 798 and the Commission have established a claims procedure to identify those black and female individuals who were in fact discriminated against and are entitled to a back pay award in an amount to be determined;

(f). A claimant can receive a back pay award only by completing, verifying under oath and filing with the Court a timely claim form, a copy of which shall be attached to the notice, to be either cancelled by the Post Office (and not by a postage meter) as mailed or actually received by the Court on or before a specified date ninety (90) days after the publication date of the Notice of Claims Procedure. A copy of the blank claim form is attached and incorporated as Exhibit "A" to this Decree.

(g). Additional copies of the claim form, as well as advice or assistance in completing the form may be obtained through the EEOC at a specified address and collect telephone number;

(h). An individual is eligible to file a claim only if he or she either: (i) completed and submitted a written application for Union membership and was denied admission between September 29, 1979 and the effective date of this Decree, or (ii) contacted a Steward, Business Agent or Officer of the Union and requested admission into membership with Local 798 or referral for pipeline welder or welder helper employment between September 29, 1979 and the effective date of this Decree, or (iii) was deterred from applying for membership in Local 798 or referral for pipeline welder or welder helper employment between September 29, 1979 and the effective date of this Decree by his or her specific knowledge or reasonably-held belief of Local 798's unlawful discriminatory practices, or (iv) contacted a Union member regarding Local 798 membership or referral and was given discriminatory information for reasons of race or sex;

(i). The claimant must submit on or with the claim form all available information which establishes that he or she is eligible for relief under Section III(H)(2)(h) above; and

(j). Any claimant receiving relief will be required to execute and deliver to Local 798 within forty-five (45) days after the offer of relief is received, and prior to payment thereof, the agreed-upon full and final general release of all race, sex and retaliation claims against Local 798 arising in any way out of the Union's allegedly discriminatory

membership, training and referral practices between September 29, 1979 and the effective date of this Decree. A copy of the blank release form is attached and incorporated as Exhibit "B" to this Decree.

3. The Union shall publish the Notice of Claims Procedure separately from, but in the same fashion as, the Notice of Nondiscrimination and Affirmative Action Recruitment, except that the videotape of the Notice of Claims Procedure shall consist of a rolling printed script read by an announcer, rather than any narrated visual production. The language of the Notice of Claims Procedure shall be negotiated between the EEOC and Local 798. The costs of publishing the Notice of Claims Procedure shall be borne in the same fashion as those associated with publishing the Notice of Nondiscrimination and Affirmative Action Recruitment as stated in Section III(G)(3)(a).

4. Except as may be mutually agreed by the Commission and Local 798, or as may be required pursuant to the terms of this Decree, no other notices or press releases regarding this legal action, this Decree, or the issues relevant hereto other than the aforementioned Notice of Nondiscrimination and Affirmative Action Recruitment and Notice of Claims Procedure shall be produced, distributed or published by either of the parties during the duration of this Decree. Notwithstanding this provision, each party may release information to the media regarding any

compliance proceedings that may be conducted under this Decree. Upon entry of the Decree the EEOC may issue an initial press release mutually agreeable to the parties.

I. Monetary Relief.

1. Local 798 shall within sixty (60) days after final entry of this Decree pay into an interest-bearing trust account held by a Trustee agreed to by the parties the sum of two hundred thousand dollars (\$200,000.00). Local 798 shall pay an additional two hundred thousand dollars (\$200,000.00), plus interest accruing at the federal money judgment interest rate (see 28 U.S.C. § 1961) beginning on the date sixty (60) days after final entry of this Decree, into the trust account on or before the date one year following the date of the original two hundred thousand dollar (\$200,000.00) payment. Local 798 may apply to the Court for further deferral of the second payment, which shall be granted by the Court only upon a showing by the Union that payment at that time would significantly imperil the Union's financial viability, and that the Union has not made any unreasonable expenditures during the one-year period to have caused such imperilment.^{10/} Except as otherwise expressly set forth

^{10/} Local 798 shall provide the EEOC with sixty (60) days notice of its intent to file any such application for further deferral of the second payment. Such notice shall include all reasons supporting the application, all then-existing documentation relied upon, and copies of the Union's quarterly financial statements for the previous two years. The Union shall provide the EEOC with copies of any additional supporting documentation to be submitted to the Court at least fourteen (14) days prior to any hearing on the motion or the expiration of the deferral period, whichever is earlier.

elsewhere herein, the payment of these sums shall fully, finally, and forever satisfy any and all claims for monetary relief, costs, fees and expenses against Local 798 arising out of any matters that were litigated, or could have been litigated in this action.

2. The total of all expenses allocated to the Union in connection with publication of the Notice of Proposed Consent Decree, the Notice of Nondiscrimination and Affirmative Action Recruitment, the Notice of Claims Procedure, and the first twelve months' affirmative action recruitment letters, as required pursuant to the Court's Order provisionally approving this Decree, and Sections III(G)(3), III(H)(3), and III(D), above, respectively, shall not exceed Thirty Thousand Dollars (\$30,000.00). Local 798 will pay these expenses out of its general account, as they become due, and will submit a quarterly accounting of these expenses to the Decree Auditor, with a copy to the EEOC. The interest that has accrued or will accrue on the trust account established pursuant to Section III(I)(1) shall be used to reimburse Local 798 promptly (within fifteen (15) days) for these expenses, and no funds shall be disbursed from that trust account until all such expenditures have been fully reimbursed.

3. A sum not to exceed twenty-five thousand dollars (\$25,000.00) per year for a period of two years for payment of approved compensation and reimbursement of expenses to the Decree

Auditor established pursuant to Section III(K), below, shall be paid by Local 798 from its general account through a trustee agreed to by the parties.

4. One hundred thousand dollars (\$100,000.00) of the amount in the trust account established pursuant to Section III(I)(1), above, along with all interest accruing to that amount after the full reimbursement of Local 798's notice expenses pursuant to Section III(I)(2), above, shall be held in escrow by the Trustee for the payment of all costs, expenses, fees, settlements and judgments ("litigation expenditures") incurred or entered into by or against Local 798 as a result of any claims, charges or lawsuits alleging unlawful race and/or sex discrimination by Local 798 in its membership, referral or training practices ("additional actions") that may be filed against Local 798 before the expiration of the escrow period by any individual(s) who filed a claim under the claims procedure established pursuant to Section III(J), below, but who failed or refused to execute and deliver the release required pursuant to Section III(H)(2)(j), above ("non-release claimants").^{11/} In

^{11/} The escrowed funds to be held pursuant to this Section III(I)(4) shall not be placed in escrow until after Local 798 has paid the second two hundred thousand dollar (\$200,000.00) installment into the trust account, as required pursuant to Section III(I)(1), above. Interest on these amounts, however, shall begin accruing as described in this Section, notwithstanding that the funds have not yet been placed in escrow.

addition, any amounts tendered to such "non-release claimants" under the claims procedure herein, along with all interest accruing to those amounts after the reimbursement of Local 798's notice expenses pursuant to Section III(I)(2), above, shall be added to this escrow amount. Also, to the extent, if any, that the total amount of the final monetary claim awards established under the claims procedure described in Section III(J), below, is less than three hundred thousand dollars (\$300,000.00), the amount of that difference, along with all interest accruing to that amount after the reimbursement of Local 798's notice expenses pursuant to Section III(I)(2), above, shall also be held in escrow by the Trustee for the same purpose. Except as disbursements to Local 798 are authorized as set forth below, the amount held in escrow pursuant to this Section shall be held by the Trustee until not earlier than one (1) year following the date of the payment Order described in Section III(J)(14), below. If no "additional actions" by "non-release claimants" have been filed against Local 798 before the expiration of that one-year period, the escrow period shall end and the funds held in escrow shall be released by the Trustee for further payment of prorated-payment claims, if any, pursuant to Section III(I)(5), below. If any "additional actions" by "non-release claimants" have been filed against Local 798 before the expiration of that one-year period, the escrowed funds shall continue to be held by the

Trustee until final resolution or settlement of the "additional actions," which resolution shall end the escrow period. Local 798 shall be entitled to quarterly disbursements from the funds held in escrow for reimbursement of all "litigation expenditures" incurred or entered into by or against the Union before the expiration of the escrow period as a result of "additional actions" by "non-release claimants," upon presentation of a Court order approving such disbursements.

5. The amount remaining in the trust account established pursuant to Section III(I)(1), above, after the reimbursement of notice expenses described in Section III(I)(2), above, other than amounts held in escrow pursuant to Section III(I)(4), above, shall be available for the payment of claims established through the claims procedure described in Section III(J), below.

6. After the termination of the escrow period described in Section III(I)(4), above, any amount remaining in the trust account established pursuant to Section III(I)(1), above, after reimbursement of notice expenses pursuant to Section III(I)(2), above, payment in full of the claims established pursuant to Section III(J), below, and payment of Local 798's "litigation expenditures" pursuant to Section III(I)(4), above, shall be set aside for further reimbursement of "litigation expenditures" incurred or entered into by or against Local 798 as a result of any "additional actions" that may be filed against Local 798 by

any "non-release claimants" subsequent to the termination of the escrow period but prior to the date six years and thirty days following the publication of the Notice of Proposed Consent Decree. Local 798 shall be entitled to quarterly disbursements from the funds held in escrow for all such "litigation expenditures," upon presentation of a Court order approving such disbursements, until final resolution of all such "additional actions."

7. Any amount still remaining in the trust account established pursuant to Section III(I)(1), above, after the completion of the procedures set forth in Sections III(I)(2), (4), (5) and (6), above, shall be used for further training of blacks and females as downhill welders pursuant to the procedure set forth in Section III(C)(7), above, or, if the Downhill Welder Training Program has been completed, in a similar fashion or for other affirmative action purposes, as agreed upon by the parties or ordered by the Court. The Union shall report on the disposition of any such funds.

8. No other expenditures made or expenses incurred by Local 798 as a result of this Decree except those expressly mentioned in this Section III(I) shall be paid or reimbursed from the trust account established pursuant to Section III(I)(1), above. All expenditures from the trust account shall be authorized by both parties or by one party and the Court.

J. Claims Procedure

1. Any individual wishing to assert a claim for monetary relief under this Decree must submit a claims form either (a) actually received by the Decree Auditor or (b) cancelled by the Post Office (and not a postage meter) as mailed on or before the date ninety (90) days following the required publication date of the Notice of Claims Procedure, as prescribed in Section III(H)(1), supra. Individuals who fail to file a timely claims form shall be forever barred from seeking monetary or other relief under this Decree.

2. An individual filing a claim under this Decree must have established individual status as a rejected or deterred applicant by Local 798 as defined in Section III(J)(4), below, ability to have performed the relevant job tasks, as defined in Section III(J)(5), below, and monetary loss, if any, as defined in Section III(J)(6), below, in order to qualify for possible payment hereunder. Monetary loss will be computed by methodology either agreed to by the parties or ordered by the Court.

3. The following sixteen individuals who testified at the trial of this action have established liability and need not further establish status as a rejected or deterred applicant: Pamela Layton, Sharon Sue Statts, Joy Lee Swafford, George Walker, Dora Jeanette Teague, Rae Jean Dowe, Wilbert Brown, Jeanine Adams, Alma Faye Adams, Alecia Branson, Sylvester

Washington, Wilma Jean Fleming, Dorothy Savage, Cheryl Laroque Todd, Shenette Davis, and Dwight Jordan. These sixteen individuals, however, must still comply with the remaining portions of the claims procedure set forth in Sections III(J)(5) through III(J)(7), below.

4. A claimant may establish status as a rejected or deterred applicant by Local 798 by proving by a preponderance of the evidence that he or she either: (a) submitted a written application for Union membership and was denied admission during the period between September 29, 1979 and the effective date of this Decree; (b) contacted a Steward, Business Agent, or Officer of the Union and requested and was denied admission into membership with Local 798 or referral for pipeline welder or welder helper employment on a Union contract during the period from September 29, 1979 through the effective date of this Decree; (c) would have applied for membership in Local 798 or referral for pipeline welder or welder helper employment on a Union contract between September 29, 1979 and the effective date of this Decree but for his or her specific knowledge or reasonably-held belief at that time of Local 798's unlawful discriminatory practices and deterrence from applying based upon such knowledge or belief; or (d) contacted a Union member regarding Local 798 membership or referral and was given discriminatory information

for reasons of race or sex between September 29, 1979 and the effective date of this Decree.

5. In addition, each claimant must prove by a preponderance of the evidence his or her ability to have performed the relevant job tasks during the relevant time period. A claimant establishes his or her ability to have performed the relevant job tasks for the welder position by: (a) passing the downhill welding test required for welder membership in Local 798; (b) producing test papers verifying that the claimant passed a federally-required API 1104 downhill welding test during the period he or she claims to have been a rejected or deterred welder applicant; or (c) carries the burden of proving by a preponderance of the evidence that he or she could have passed the Local 798 downhill welding test at the earliest time for which the claimant is seeking monetary relief, subject to Local 798 retaining the right to demonstrate by a preponderance of the evidence that the claimant could not pass the test at a later time for which monetary relief is claimed, provided that any claimant asserting welding ability under this subsection III(J)(5)(c) may, at Local 798's option, first be required to take the downhill welding test, with not more than one week of "brushing up" at the facilities of the National Pipeline Welding School pursuant to Section III(M)(2), below, and the results of that test shall be admissible evidence regarding claimant's burden of

proving ability to have performed the relevant job tasks.^{12/} A

^{12/} As to claimants under this subsection whom Local 798 elects to have take the downhill welding test and whose welder claims ultimately have been categorized by the EEOC as either "meritorious" or "questionable" pursuant to Section III(J)(11), below, Local 798 will furnish a roundtrip ticket by the least expensive public transportation, or its cash value upon arrival at the National Pipeline Welding School, as the claimant elects, from his or her city of residence to Tulsa, Oklahoma. Local 798 will also furnish reasonable inexpensive lodging to such claimant during the time required for taking the test and, if requested, for the up to one week's "brush-up" training permitted hereinunder at the National Pipeline Welding School in Tulsa. Local 798 will make the test available without advance charge to the claimant. Meals, incidentals and any other expenses will be borne by the claimant.

As to welder claimants whose claims are successful under subsection III(J)(5)(c), no reimbursement of Local 798 will be required unless they pass the downhill welding test given in Tulsa and elect to become welder members of Local 798 within twelve (12) months of taking that test. In such event, all advanced expenses and the then applicable testing fee will be paid by the Trustee to Local 798 from that successful claimant's back pay award.

Welder claimants whose claims are unsuccessful under subsection III(J)(5)(c) are required to reimburse Local 798 the advanced expenses and waived testing fee out of their monetary award, if any, as a welder helper claimant in this action. Any such reimbursement shall be paid directly by the Trustee to Local 798 from that successful welder helper claimant's back pay award.

Any welder claimant whose welder claim was ultimately categorized by the EEOC as "unmeritorious" and who appeals this determination may also take the downhill welding test after up to one week's "brush-up" training at the National Pipeline Welding School, but Local 798 need not furnish any travel tickets or lodging as prescribed above to such claimant. However, if such a welder claimant is successful, Local 798 will reimburse the expenses to the extent described above for successful welder claimants under subsection III(J)(5)(c).

Local 798 shall have the right after notice to the EEOC to interview fully any welder claimant under subsection III(J)(5)(c) prior to making its election as to whether or not to require such claimant to take the downhill welding test.

claimant establishes his or her ability to have performed the relevant job tasks for the welder helper position by demonstrating that he or she was physically capable of performing the job. Sworn testimony of the claimant shall be admissible evidence for such demonstration. A claimant's ability to have performed such job tasks may not be challenged for any reason prohibited by Title VII. Each claimant must submit on or with the claims form all information and documentation available describing with as much specificity as possible all factual details supporting his or her claim to be a victim of Local 798 discrimination.

6. A claimant who has established rejected or deterred applicant status may establish monetary loss, if any, by proving by a preponderance of the evidence: (a) the date of his or her application or deterred application for membership in Local 798 or referral for pipeline welder or welder helper employment (the "application date"); and (b) the dates of his or her availability for pipeline employment since the application date.

7. Each claimant must submit on or with the claims form all available information and documentation describing with specificity the factual details supporting his or her monetary loss, if any, and all mitigation data available, including:

(a) dates, location, name and address of employer for all employment since the application date; (b) to the extent known, all pipeline employment for which it is claimed he or she would have been hired but for Local 798's alleged unlawfully discriminatory practices, specifying whether welder or helper, the employer, job location and duration of employment; (c) his or her residence address(es) and dates thereof since the application date; (d) all gross income he or she earned and monetary payments he or she received or had credited to his or her benefit, of any variety, since the application date; (e) the inclusive dates of each period out of the active civilian labor force; and (f) a listing of all of his or her efforts to obtain alternative employment, in as much detail as possible.

8. It is the claimant's burden to demonstrate by a preponderance of the evidence that he or she is presumptively entitled to relief. Once this is established, Defendant has a clear and convincing burden of proof to defeat such entitlement. Defendant has the burden of proof on a claimant's failure to mitigate by a preponderance of the evidence.

9. Claims forms shall be submitted directly to the Decree Auditor, at a post office box address specified on the claims form. The Decree Auditor shall prepare a docket list stating the

claimant's name, certified mailing date, and receipt date.^{13/}
Copies of all claims forms and any supporting documentation must be promptly sent by the Decree Auditor to counsel for Local 798 and the Commission, respectively, at the following addresses:

C. Geoffrey Weirich, Esq.
Lisa E. Thompson, Esq.
Paul, Hastings, Janofsky & Walker
Georgia-Pacific Center
Forty-Second Floor
133 Peachtree Street, N.E.
Atlanta, Georgia 30303

Gerald D. Letwin, Esq., Trial Attorney
Ada Blount, Paralegal Specialist
Equal Employment Opportunity Commission
2401 "E" Street, N.W.
Washington, D.C. 20507

10. The EEOC shall preliminarily review, solely on the basis of the written record, each timely filed claims form and all supporting information to determine whether the claimant appears to have established rejected or deterred applicant status and monetary loss. The Commission shall initially categorize each claim as either "meritorious," "questionable" or "unmeritorious," and shall serve on Local 798 counsel a list so

^{13/} With respect to claims forms received in the post office box at least two days prior to the claims filing deadline, the Decree Auditor need only state that the claim was received on or before that date. Claims forms received within two days preceding the claims filing deadline should be entered on the docket list with the actual date of receipt in the post office box.

identifying all claims within sixty (60) days, or a longer period for good cause shown, after the close of the claim-filing period. Local 798 shall have sixty (60) days, or a longer period for good cause shown, after receipt of the EEOC's preliminary list in which to supply any additional data it may elect to supply concerning claims categorized by the EEOC as either "questionable" or "meritorious." The EEOC shall reevaluate its preliminary listing in light of such data and complete a subsequent version with any appropriate changes. Such subsequent version shall be filed with the Court and served on Local 798 within thirty (30) days after the EEOC's receipt of Local 798's comments as set forth above. The EEOC shall within fifteen (15) days of the filing of this list send a notice by certified mail, return receipt requested, and by first class mail, to all claimants whose claim has been identified as "unmeritorious," notifying them that the Commission has determined that they are not entitled to back pay or other individual relief pursuant to this Decree, but that they have a right to appeal this determination within forty-five (45) days of the date of the mailing by the EEOC of such notice by filing a notice of appeal with the Clerk of the Court. The EEOC shall serve the Union with a copy of its notices to these claimants, including dates of mailing, within five days of the mailing thereof.

11. Within thirty (30) days after filing the list of "meritorious," "questionable" and "unmeritorious" claims with the

Court, counsel for the Commission shall meet and confer with counsel for the Union in an attempt to resolve all "meritorious" and "questionable" claims. The parties shall submit their proposed settlements of these disputed claims to the Court for approval after reasonable notice to the claimant, including an opportunity to appear and object.

12. With respect to any "meritorious" or "questionable" claims not resolved pursuant to Section III(J)(11), the parties shall have one hundred twenty (120) days after the final settlement conference thereon to conduct expedited discovery through not more than twenty interrogatories (including subparts), ten requests for production, ten requests for admission, and depositions. Time and other discovery limits may be expanded for good cause shown, but diligent efforts shall be made to work within the stated limitations. Depositions, if any, shall be taken in the city of residence of the claimant or deponent, where feasible. Within thirty (30) days after the close of this discovery period, counsel for the EEOC and the Union shall again meet and confer in an attempt to resolve all remaining claims. Any unresolved claims shall thereafter be set for evidentiary hearing by the Court.

13. The decision of the Court on any claim shall be final and binding, with no right of appeal. Accordingly, no extensive or detailed written opinions need be prepared. Proposed findings

and conclusions may be submitted but shall not be required of the parties.

14. Once all claims have been finally resolved, the EEOC and the Union shall jointly apply to the Court for an Order directing payment of the claims. The joint application shall state the name of each claimant, the amount of each final monetary award and the prorated (if necessary) amount to be paid to each claimant from the trust account established pursuant to Section III(I)(1), above. In calculating prorated awards, if necessary, the parties shall use all available interest to be credited to the trust account as of the projected payment date that is not otherwise committed for the reimbursement of Local 798's expenses pursuant to Section III(I)(2), above. After verifying the amounts in the application, the Court shall approve the awards and Order payment of the designated amounts, less appropriate withholding amounts for FICA and applicable federal, state and local taxes. Within ten (10) days after receipt of the payment Order, the Trustee shall send each successful claimant by certified mail, return receipt requested, notification of his or her payment amount under the Decree, along with the release form (Exhibit "B") with the appropriate information inserted, with instructions that the claimant must execute the release, have it notarized by a notary public, and return it to the Trustee within forty-five (45) days. Within ten (10) days after timely receipt of the properly executed release form for each claimant the

Trustee shall prepare that successful claimant's check and mail it to the claimant. The Trustee shall promptly prepare and send to the parties a list of all successful claimants who do not timely return properly executed release forms.

K. Coordinator, Auditor and Compliance Monitoring

1. Day-to-day responsibility for assuring compliance with this Decree shall be vested in the Decree Coordinator ("the Coordinator"). The Decree Auditor^{14/} ("the Auditor") shall, during his or her tenure, be responsible for ascertaining whether or not the Union has complied with the Decree and shall regularly monitor the Union's compliance with its requirements by reviewing the Coordinator's reports, personally reviewing Union records, interviewing Union members as necessary, and reporting to the Court. The parties have advised the Court that they do not believe that the appointment of a Special Master under Rule 53 of the Federal Rules of Civil Procedure is either necessary or appropriate under the Decree, and the Court has determined that a Special Master will not be appointed at this time to resolve any questions, issues or claims under this Decree. In the event that this Court later determines that the appointment of a Special

^{14/} By the use of the term "Decree Auditor" herein, the parties and the Court do not intend that this individual be considered a "special master" within the definition thereof set forth in Fed. R. Civ. P. 53.

Master is necessary, the parties consent to the appointment of a United States Magistrate as a Special Master pursuant to Rule 53(b) of the Federal Rules of Civil Procedure.

2. The Commission and the Union have proposed the appointment of R. Dobie Langenkamp as Auditor and Clifton Throneberry as Coordinator. This Court hereby appoints each to serve until they resign or are removed for good cause shown.^{15/} The EEOC shall review the Coordinator's and Auditor's performance at least once each year during the term of the Decree. Any successor Coordinator shall be an official of Local 798. In the event that it is necessary for the Court to appoint a successor Coordinator, Local 798 shall recommend appropriate candidates to the Court. In the event that it is necessary for the Court to appoint a successor Auditor, the parties shall jointly recommend appropriate candidates to the Court.

3. Upon reasonable notice of not less than one full business day the Auditor shall have unrestricted access to all Union membership applicant and referral records and any other relevant Union records during normal business hours for purposes of auditing compliance with this Decree. The Auditor may also contact Union membership applicants and members at reasonable

^{15/} "Good cause" for removal of the Coordinator shall include, inter alia, any failure of reelection of Mr. Throneberry as Business Manager of Local 798.

times and may, where reasonably necessary in order to fulfill his duties under this Decree, visit job sites, but shall not interfere with pipeline construction activity in any way.

4. The Auditor shall be compensated at a rate of pay not to exceed seventy-five dollars (\$75.00) per hour in 1987, eighty dollars (\$80.00) per hour in 1988, eighty-five dollars (\$85.00) per hour in 1989, and ninety dollars (\$90.00) per hour in 1990, with total compensation and reimbursable expenses not to exceed twenty-five thousand dollars (\$25,000.00) in any twelve-month period. The Auditor shall keep time records in one-tenth (.1) of hour increments, shall travel (if necessary) in the least expensive available tourist class mode, and shall otherwise economize to the extent possible. The Auditor shall submit his monthly statements of account and supporting documentation to the parties for a fifteen (15) day comment period and thereafter to the Court for review (and revision if necessary) and approval. After the Court has approved the Auditor's bill the Union shall promptly transmit the requisite funds to the Trustee, who shall pay the approved bill within fifteen (15) days.

5. The Auditor shall serve for a period of two years, after which, if so moved by the EEOC, the Court shall determine whether good cause exists to extend the appointment of the Auditor for an additional period not to exceed one year. Such cause shall exist only if there has been repeated proven material noncompliance by the Union with the terms of this Decree. If the

Auditor's appointment is extended by the Court for an additional period of time not to exceed one year, then payments for his compensation and expenses, not to exceed an annualized amount of twenty-five thousand dollars (\$25,000.00) (prorated if necessary) shall be made by the Union through the Trustee (see Section III(I)(3), above). If the appointment of a new Auditor is required, the parties shall agree on a person within fifteen (15) days and submit that person's name to the Court for appointment. If the parties are unable to agree they shall submit the names of proposed Auditors to the Court within that fifteen (15) day period. The Court shall appoint the new Auditor within ten (10) days from any such submission. Should the Auditor position be vacant for a period exceeding sixty (60) consecutive days, the term of the Auditor's appointment shall be extended for a period of time equal to the length of the vacancy, unless the extended vacancy is attributable to delays or extensions caused or requested by the EEOC.

6. Within thirty (30) days after the effective date of this Decree, the Coordinator shall prepare and submit to the Auditor and the Commission a report (the "Coordinator's Report"). The purpose of the Coordinator's Report is to advise the Auditor and the EEOC of the methods by which Local 798 is taking steps to continue the integration of the Union and comply with this Decree. The EEOC shall mail to the Auditor written comments on the Coordinator's Report within fifteen (15) days

after receipt thereof. The Auditor shall evaluate and modify as necessary the Coordinator's Report and submit his modified draft to the parties for written comments. The written comments of the parties must be mailed to the Auditor and simultaneously served on opposing counsel within fifteen (15) days after receipt of the Auditor's modified draft. After considering and incorporating the parties' aforesaid written comments, as appropriate, the Auditor shall file with the Court the Auditor's Report within thirty (30) days, with copies to counsel for Local 798 and the Commission.

7. The Coordinator's Report shall review the Union's plans with regard to carrying out each requirement of this Decree, including, but not limited to, its requirements for notice, recruitment, establishment and functioning of a Downhill Welder Training Program, establishment of a referral program consistent with this Decree, maintenance of required records, and the development of recordkeeping systems which ensure accurate, complete, and timely reports as required by this Decree. The Coordinator's Report shall identify each Union official responsible for implementing and administering each portion of Local 798's plans for compliance with this Decree.

8. The Auditor's Report shall review each aspect of the Coordinator's Report and the Union's actions taken to comply with and achieve the requirements of the Decree to date. It shall also contain cost-effective recommendations for improving any

aspect of the Union's plans for achieving compliance. Such recommendations may cover any aspect of Local 798's plans, including modifications in the source list or the nature or amount of recruitment undertaken or to be undertaken by Local 798 to comply with this Decree. The Auditor's recommendations, however, may not be inconsistent in any way with any items of relief expressly provided for in this Decree, and shall not increase the scope or cumulative cost of any form of relief expressly described herein.

9. The Auditor's Report shall also review Local 798's progress to date in meeting the goals set forth in this Decree; the operation of the referral system (including the wheels); recruitment and hiring of blacks and females; the complaints, if any, of blacks and females regarding their treatment in the Union and on the job by Union officials and members; and any other matters which relate to the progress of Local 798 in complying with this Decree.

10. The Coordinator shall submit subsequent reports to the Auditor and parties within thirty (30) days following each six-month period^{16/} following the effective date of this Decree. Additional reports solely regarding membership applicant flow and admissions shall be submitted by the Coordinator within thirty

^{16/} The first report shall cover the period from the beginning of the Decree through June 30, 1988, regardless of its duration.

(30) days following the conclusion of each three-month period not coinciding with the semi-annual reporting dates.^{17/} The Auditor shall evaluate and revise these reports of the Coordinator as appropriate, and submit the revised reports to the parties for a fifteen-day written comment period. After considering and incorporating these comments, as appropriate, the Auditor shall file these reports with the Court within thirty (30) days, serving copies on the parties. These reports shall review and evaluate the Union's compliance with this Decree and cover the matters described in Sections III(K)(7), (8) and (9), above, to the extent applicable. The Auditor's assessments of the Union's compliance with its annual new membership goals shall be fully consistent with the guidelines established in Section III(E), above.

11. (a). Any complaints by black or female members or applicants concerning the operation of the Decree or the Union's compliance therewith shall be brought to the attention of the Coordinator, either orally or in writing, as soon as possible

^{17/} The first such applicant flow and admissions report shall cover the period from the beginning of the Decree through March 31, 1988, regardless of its duration.

after the matter being complained of has occurred.^{18/} Upon receipt of a complaint the Coordinator shall notify the complainant in writing that copies of the complaint will be provided to the Auditor and the EEOC within ten (10) days. The Coordinator shall keep a daily log of all complaints received, and shall arrange to have complaints received in his absence logged-in. The Coordinator shall send a copy (or, if oral, a written description) of the complaint to the Commission and to the Auditor within ten (10) days after receipt thereof. At the time such individual submits his or her complaint, the Coordinator shall inform the complaining party in writing of the right to file a charge of discrimination with the Commission. The Coordinator will investigate, make a record of investigation, and attempt to resolve the complaint.

(b). If the Coordinator has found the complaint to have possible merit and has not successfully resolved the complaint within not more than sixty (60) days (and more quickly if feasible) after receipt, he shall refer it to the Auditor for review and attempted resolution. The Auditor shall have thirty (30)

^{18/} Alternatively, black or female members or applicants may file any such complaints directly with the Auditor or the EEOC (the Auditor shall forward to the EEOC any such complaints received) for processing pursuant to Section III(K)(12), below. The Union shall publish in two issues of the Blue Light Report each year a statement advising black and female members and applicants of their right to bring any such complaints to the attention of either the Coordinator, the Auditor or the EEOC. This statement shall include the name, address and telephone number of the appropriate EEOC contact person(s) and the Auditor.

days to attempt to resolve the matter. If the Auditor fails to resolve the matter within the prescribed thirty (30) days, he or she shall forward a copy of the entire record of investigation, including a statement that the complaint has not been resolved, to counsel for both the EEOC and Local 798 within ten (10) days. If the complaint is resolved by the Coordinator or Auditor to the satisfaction of the Complainant and the EEOC the Commission shall promptly dismiss any charge based upon it.

(c). If the Complaint is found by the Coordinator to lack merit, he shall refer it within ten (10) days to the Auditor for review.

(i). If the Auditor does not agree with the Coordinator that the complaint lacks merit, the Auditor shall attempt to resolve the complaint within thirty (30) days. If the Auditor fails to resolve the matter within the prescribed thirty (30) days, he or she shall forward a copy of the entire record of investigation, including a statement that the complaint has not been resolved, to counsel for both the EEOC and Local 798 within ten (10) days. If the complaint is resolved by the Auditor to the satisfaction of the Complainant and the EEOC the Commission shall promptly dismiss any charge based upon it.

(ii). If the Auditor agrees with the Coordinator on lack of merit, the complaining party shall be so informed and reminded of his or her rights to file a charge and/or appeal this

"no merit" determination to the Court, whose conclusion shall be final.

(iii). The Auditor's recommended resolution of disputes under this Decree shall be accorded great weight by the Coordinator, the Union and the EEOC.

(d). Any complaint that is neither resolved by the Coordinator or Auditor nor found by the Auditor to lack merit shall be deemed to be a charge of discrimination filed with the EEOC. The date of filing of the charge with the Commission shall be deemed to be the date of receipt of the complaint by the Coordinator. Alternatively, the EEOC may elect to proceed under the provisions of Section III(N)(2), below.

(e). The Coordinator shall file a report with respect to every complaint with the Auditor and the EEOC within sixty (60) days after its receipt.

12. Black or female members or applicants may also file complaints concerning the operation of the Decree or the Union's compliance therewith with the EEOC. The EEOC shall contact Local 798's counsel whenever its counsel of record herein receives a complaint or otherwise receives information that blacks and/or females claim to be receiving unfair treatment, harassment or intimidation, or otherwise to believe that they are being denied certain opportunities or job assignments because of their race and/or sex. The EEOC will provide to Local 798's counsel as specific information as possible regarding any such complaints.

The Coordinator will either telephone, or, as necessary, visit the job site and interview the complaining parties, the Union Steward and the Business Agent in whose jurisdiction the job is located to determine whether the allegations are true and to ensure that any improper conduct is stopped. If a meritorious complaint is based on improper actions of a Union member, the Coordinator will either himself or through the Union Steward direct the member to discontinue that conduct and inform that member that he or she is subject to potential discipline, up to and including expulsion, if found to have been interfering with the Union's compliance with this Decree. The Coordinator will respond to and attempt to resolve each complaint as quickly as possible. No later than ten (10) business days following receipt of the complaint, the Coordinator will report to the EEOC about what he has discovered with respect to the complaint, and what he has done to attempt to resolve it. The Coordinator will record relevant details regarding the complaint, the date and time received, the manner of receipt, the nature of the complaint, the actions he took, the people he interviewed, and the resolution of the matter in a short memorandum which shall be provided to the Auditor and the EEOC. If the EEOC believes that the matter has not been satisfactorily handled or resolved, it shall so state in a letter sent to the Coordinator, with a copy to the Auditor.

L. Reporting and Recordkeeping

1. The Union shall maintain such membership applicant, membership, recruitment, training and referral records as are necessary to demonstrate its compliance with the provisions of this Order and to verify the reports to be submitted by the Coordinator pursuant to this Order.

2. Within thirty (30) days after the effective date of this Decree, the Union shall implement a system for recording on a continuing basis all dispatch/referral activity, including the name, race, sex, and social security number for each person referred, the date of placement on the out-of-work wheel, the name and location of the job referred to, the location of the referral candidate's domicile, the type of job, the expected duration of the job, and the results of the referral, including whether the referral was declined and the reasons given, if any, for the declination. The Union shall maintain a date-stamp and time-stamp clock to record all dispatch and referral activity. The Auditor shall regularly review the dispatch and referral process of the Union and shall conduct an audit of this activity once each Decree year, a report on which shall be included in the following Auditor's report. Any complaints by blacks or females regarding the dispatch and referral process shall be processed pursuant to Sections III(K)(11) or III(K)(12), above.

3. The Coordinator's semi-annual report shall provide information on: (a) all recruitment efforts undertaken by the Union during the period, including each follow-up contact with a recruitment source, indicating the name of the source, date of contact, person contacted, and method of contact; (b) all major pipeline construction jobs, as defined in Section III(D)(8), above, including the name of the contractor and location of the job; (c) all recruitment sources contacted pursuant to Section III(D)(8), above, including the name of the recruitment source contacted and the method and date of contact; (d) logs of all applicants in alphabetical order, distinguishing between applicants for membership and applicants for referral, and recording the name, address, race, sex, skill category, recruitment source for new black and female members, and, if known, for membership applicants, and the dated disposition of each person's application, including the reasons for any denial of membership or referral; (e) the number and percentage of black and female membership applicants for each skill category; (f) the number and percentage of black and female new members for each skill category; (g) all Union contractor pipeline work performed by its members, including the names of all such members, their race, sex, social security number, contractor, location or job site, regular hours worked, overtime hours worked, rate of pay, and number of days worked on each job through referral; (h) a log by name, race and sex of all persons selected as original or

alternate trainees (indicating which) in the Program, listing the number of weeks of training each trainee has completed in the Program, the progress of each trainee towards completion of the Program, and the number of original and alternate trainee slots and training weeks used and carried over in the most recent session of the Program, as well as cumulatively; (i) the Union Stewards' reports; (j) a log of all complaints filed pursuant to Sections III(K)(11) and III(K)(12), above, and their status; (k) a log of all jobs for which referrals are requested, including the date the dispatcher receives the request, the location of the job, and the number of referrals requested; (l) a log of all requests for pairings under Section III(F)(8), including the name of each person requesting pairing and the date of his/her written request; and (m) a statement of compliance with the publication requirements in Sections III(G)(3)(c) and (d), and III(M)(4), indicating for Section III(G)(3)(d) the date of publication in each trade magazine identified, and for Section III(M)(4) the issue of the Blue Light in which each year's required publication occurs.

4. The Coordinator's quarterly report on compliance with annual new membership goals shall include the information set out in Sections III(L)(3)(d) - (f).

5. The Union shall add to its weekly Steward's report a notation as to the race and sex of each person reported upon. These reports shall be maintained for the duration of this

Decree. The Union shall comply with all EEOC regulations at 29 C.F.R. § 1602 when filing its EEO-3 Reports.

6. All membership application materials, including initial inquiries, application forms and other materials used in the decision making process shall be maintained in the following manner:

(a). Applications from those accepted for membership or referral, including supporting materials, shall be placed in a folder marked "Accepted Applicants" and shall be identified by race and sex.

(b). Copies of all rejected applications for membership and referral along with supporting materials shall be maintained in a separate file titled "Rejected Applicants," identified by race and sex, to be maintained alphabetically by name of applicant or person inquiring, in separate files for each reporting period.

(c). All documents are to be maintained at the Union's headquarters in Tulsa, Oklahoma for the duration of this Decree. These documents shall be available for EEOC inspection and/or copying (at the Commission's expense) upon request, with reasonable notice of not less than two business days and during normal business hours. Local 798 shall not destroy any Decree-related documents during the life of this Decree without prior written approval from the EEOC's representatives designated in Section IV(A), below, which approval shall not be unreasonably withheld or delayed.

7. The Union shall account to the EEOC for the use of franked envelopes under this Decree.

M. Skill Improvement and Training.

1. The Union shall use its best efforts to ensure that the welding skill improvement facilities of the National Pipeline Welding School ("NPWS") are available to all similarly situated Union members on the same basis, without regard to race or sex. Black and female Union members making use of the NPWS facilities shall not be required to pay any greater costs and fees than any similarly-situated white male members of Local 798.

2. The Union shall use its best efforts to ensure that black and female applicants for Union membership as welders shall be provided the opportunity for minor "brush-up" training for a period of up to one week prior to taking the downhill welding test or such longer period as is made available to white male members. The Union (directly or through NPWS) shall absorb the reasonable cost of such "brush-up" training, not to exceed two hundred dollars (\$200) per applicant or such higher amount spent per white male member.

3. The Union shall use its best efforts to ensure that members provide a reasonable amount of informal training and assistance to black and female welder helpers to familiarize them with skills, procedures, practices and safety precautions that employees new to the industry need to learn. The Union shall

regularly advise its members that it is Local 798's policy for members to assist new members where feasible, without regard to race or sex. The Union Steward at the beginning of each job shall advise the members of this policy and shall make it known that the welder to whom each helper is assigned is available to answer any questions that black or female helper may have regarding methods of performing his or her job duties.

4. At the April, September and December national and each regional Union meeting within the first twelve months of this Decree, at one national and one regional meeting annually thereafter, and in one copy of the Blue Light Report each year throughout the duration of this Decree, the Business Manager of Local 798 shall present to the membership a Report on Equal Opportunity. Topics to be covered in this report include, without limitation:

(a). the Union's policy of nondiscrimination and its commitment to becoming a sexually and racially integrated union;

(b). the Union's numerical progress to date in achieving its annual new membership goals and becoming an integrated union;

(c). the importance of referrals of black and female candidates by current members in achieving the Union's goals under this Decree;

(d). the Union's policy of assisting new members in becoming familiar with the skills, procedures, practices and safety precautions necessary to be a good pipeliner, without regard to race or sex; and

(e). the Union's policy of disciplining any member who interferes with Local 798's compliance with its obligations under this Decree, up to and including expulsion, with particular reference to the following manners of interference: (i) harassing, intimidating, or refusing to assist black and/or female members on the job; (ii) making derogatory sexual or racial remarks on the job or in the presence of black and/or female members; (iii) "greasing" of new members; and (iv) refusal to work with black and/or female members.

5. Prior to each meeting at which a Report on Equal Opportunity is given, as described in Section III(M)(4), above, the Business Manager and Auditor (if attending the meeting) shall conduct a separate meeting with all Union officers, Business Agents and Stewards who are present to discuss the role each should play in fully achieving equal opportunity and integration in the Union.

6. The Auditor and the EEOC shall be permitted (but not required) to attend and observe all meetings held pursuant to Sections III(M)(4), III(M)(5), and III(M)(7). The Auditor shall attend at least one national and one regional meeting during the first twelve months of this Decree. The Auditor shall be

introduced at any meeting if he or she so requests. Local 798 shall give the EEOC and the Auditor at least thirty (30) days notice, if feasible, of the location, date and time of all meetings held pursuant to Sections III(M)(4), III(M)5), and III(M)(7).

7. At each Steward Training School held during the term of this Decree Local 798 shall conduct an equal opportunity and affirmative action awareness session of approximately two hours in duration. The topics to be covered shall be timely submitted to and approved by the EEOC (within ten (10) days of receipt of submission) or, if not so approved, submitted to the Court at least 15 days prior to the beginning of the Steward Training School in question.

N. Compliance Review by the Commission.

1. The Commission shall have the right to raise any Decree compliance matters with Local 798 and to obtain reasonable and relevant additional information pursuant to this Decree at any time until the Decree is dissolved.

2. The Commission may reasonably review compliance with any provision of this Decree. Review may include an examination of the reports filed under Section (III)(L) of this Decree, any complaints forwarded by the Coordinator, and any issues raised by the Auditor. At any time that it comes to the attention of the Commission that the Union may be failing to comply with any term

of this Decree, the Commission shall notify counsel for the Union of the EEOC's specific contentions of the Union's noncompliance. The Union shall have the opportunity within a period of thirty (30) days after receipt of such notice to investigate, correct, or refute such contentions. Thereafter the Commission may participate in further discussion or institute a compliance proceeding with the Court.

3. Should either the Commission or the Union determine that modifications, additions or deletions to this Decree are necessary to carry out its intent, counsel for the Commission and the Union will meet to discuss said changes and to determine any changes to be made. If the parties cannot reach an agreement, the matter may be submitted to the Court for resolution. The burden of showing good cause for the change shall be upon the party seeking the change. In no event shall any such change increase the overall costs or administrative burdens for Local 798 under this Decree.

4. If during the term of this Decree the EEOC learns that Local 798 has fraudulently concealed substantial assets in its possession or ownership as of the date of submission by the parties of this Decree to the Court for provisional approval, then the EEOC may move the Court to reopen the monetary relief provisions of this Decree and seek additional monetary relief up to the value of the fraudulently concealed assets or the deficit of claims paid pro rata rather than in the full agreed-upon or

judicially set amount, whichever is less. The EEOC shall have the right to conduct an independent audit at its sole expense of Local 798's finances on or before December 31, 1987.

5. The parties are the only persons or entities entitled to institute or prosecute compliance proceedings under this Decree. No other individual or entity shall have such a right.

IV. MAILINGS AND NOTICES

A. All mailings or notices required to be served upon the Plaintiff under this Decree shall be served upon the Plaintiff addressed as follows:

Gerald D. Letwin, Esq., Trial Attorney
Ada Blount, Paralegal Specialist
Equal Employment Opportunity Commission
2401 "E" Street, N.W.
Washington, D.C. 20507

B. All mailings or notices required to be served upon the Defendant under this Decree shall be served upon the Defendant addressed as follows:

C. Geoffrey Weirich, Esq.
Lisa E. Thompson, Esq.
Paul, Hastings, Janofsky & Walker
Georgia-Pacific Center, 42nd Floor
133 Peachtree Street, N.E.
Atlanta, Georgia 30303

C. All mailings or notices required to be served upon the Coordinator under this Decree shall be served upon the Coordinator addressed as follows:

Clifton Throneberry
Business Manager
Pipeliners Local 798
P.O. Box 470798
Tulsa, Oklahoma 74147

D. All mailings or notices required to be served upon the Auditor under this Decree shall be served upon the Auditor addressed as follows:

R. Dobie Langenkamp, Esq.
400 South Boston Building
Suite 1200
Tulsa, Oklahoma 74103

E. If at any time either party shall desire to change the above addresses for mailings and notices, that party shall file a notice of address correction with this Court, the Auditor, the Coordinator, and the opposing party.

V. COSTS OF COURT

Each party shall bear its own costs, including attorneys' fees and expenses, incurred in this action. Neither an individual claimant, the EEOC, nor Local 798 shall seek or be authorized to obtain costs or fees of any type related to the processing of claims hereunder.

VI. FULL AND FINAL SETTLEMENT

A. This Decree shall constitute full and final settlement of all issues raised, or which could have been raised, between the parties to Civil Action Number 84-C-730-C, as well as of all issues contained in EEOC Charge Number 94-082-0101. By the

execution and Court approval of this Decree, Local 798 is released and discharged from any further claim by or through the EEOC for liability based upon race or sex discrimination or retaliation relating in any way to its membership, training and referral practices between September 29, 1979 and the effective date of this Decree.

B. The terms and conditions set forth in this Decree are in compromise settlement of disputed claims, including but not limited to those allegations of unlawful membership, training and/or referral discrimination based upon race or sex, or upon retaliation in violation of Section 704(a) of Title VII, which were claimed or might have been claimed under Title VII. The EEOC has neither the authority nor the ability to advise claimants with respect to any areas of law other than Title VII. To the extent permitted by law, the final entry of this Decree shall be fully binding and effective for purposes of res judicata and collateral estoppel upon the EEOC and all persons filing claims under this Decree with respect to Title VII^{19/} allegations of unlawful membership, training and/or referral discrimination based upon race or sex, or retaliation, for acts or omissions occurring on or before the effective date of this Decree. All parties to this Decree acknowledge that

^{19/} This Court makes no determination as to the res judicata or collateral estoppel effect of this Decree upon claims under any other law.

except as expressly set forth in Section III hereof, this Decree is final and binding in all respects.

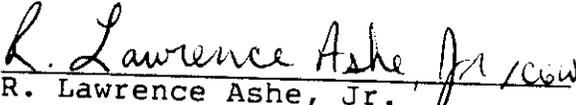
C. Upon entry of this Decree, this Court shall have dismissed with prejudice the above-styled Civil Action Number 84-C-730-C, subject to the provisions of Section III of this Decree.

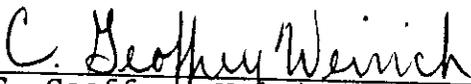
ENTERED, this 21st day of April, 1987, in Tulsa, Oklahoma.


H. Dale Cook
United States Chief District Judge

AGREED AND CONSENTED TO BY:

FOR THE DEFENDANT

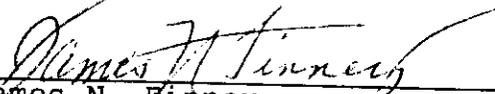

R. Lawrence Ashe, Jr.

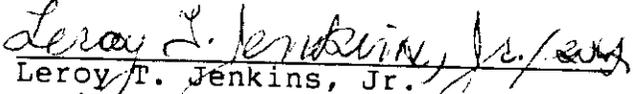

C. Geoffrey Weirich
PAUL, HASTINGS, JANOFSKY
& WALKER
Georgia-Pacific Center
42nd Floor
133 Peachtree Street, N.E.
Atlanta, Georgia 30303
(404) 588-9900

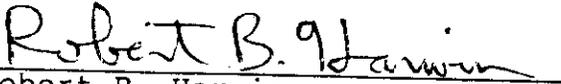

Tom L. Armstrong

FOR THE PLAINTIFF

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Assistant General Counsel


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Ronald L. Oleson

Ronald L. Oleson
Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
2401 "E" Street, N.W.
Washington, D.C. 20507
(202) 634-6879

Dated: August 13, 1987

EXHIBIT A

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

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

LOCAL 798 OF THE UNITED
ASSOCIATION OF JOURNEYMEN AND
APPRENTICES OF THE PLUMBING AND
PIPE FITTING INDUSTRY OF THE
UNITED STATES AND CANADA,
AFL-CIO,

Defendant.

CIVIL ACTION
NO. 84-C-730-C

CLAIMS FORM

IMPORTANT: In order to be eligible for a potential award of monetary or other relief under the claims procedure established in the Consent Decree entered into between the Equal Employment Opportunity Commission ("EEOC") and Local 798 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO ("Local 798"), you must answer as completely as possible all questions on this claims form and then sign it before a notary public under penalty of perjury. If you have questions or desire assistance from the EEOC in completing this form, call collect to Gerald Letwin or Ada Blount at (202) 634-6855. Use the other side or additional sheets of paper if and where needed.

1. Full name, including any nicknames or maiden names: _____
Address: _____
Telephone Number: (____) _____
Sex: Male/Female Race: White/Black (Circle the correct categories)
2. Social Security Number: _____
3. (a) All date(s), if any, on which you submitted a written application for Local 798 membership or job referral: _____
(b) To whom submitted? _____

Claimant's
Initials:

(c) What response did you receive? _____

(d) When? _____

4. (a) All dates, if any, on which you contacted a Steward, Business Agent, or Officer of Local 798 and requested Local 798 membership or job referral: _____

(b) All dates, if any, on which you contacted a member of Local 798 and requested Local 798 membership or job referral: _____

(c) With regard to either, whom did you contact and how? (e.g. letter, phone, in person, etc.) _____

(d) What response did you receive? _____

5. (a) All dates, if any, on which you would have applied for Local 798 membership or job referral but for your specific knowledge or reasonably-held belief of Local 798's membership and referral practices (after September 29, 1979): _____

(b) What specifically did you actually know at that time about Local 798's membership and referral practices that kept you from applying? _____

(c) How did you know of this at that time? _____

(d) What specifically did you actually believe at that time about Local 798's membership and referral practices that kept you from applying? _____

(e) What was the specific basis for this belief? _____

6. Please state separately for each time you applied or would have applied the membership category in which you were interested? _____ Downhill Welder _____ Welder Helper

Claimant's
Initials:

(Note: you may be required to establish your ability to have performed relevant job tasks at that time; if seeking relief based on Welder membership, you will be required to prove either that you did pass an API 1104 downhill welder test or that you could have taken and passed the Local 798 downhill welding test at the time of application).

7. (a) Since the earliest date you listed in response to Questions 3 through 5 above, state for every job you have had the name and address of your employer, dates of employment, and job location: _____

- (b) State your total earnings each year:

1979: _____; 1980: _____; 1981: _____; 1982: _____;
1983: _____; 1984: _____; 1985: _____; 1986: _____.

8. Since the earliest date you listed in response to Questions 3 through 5 above, list all other income or payments of any kind you received that are not described in response to Question 7 above, giving the year, the amount, and the source of each payment: _____

9. (a) Since the earliest date you listed in response to Questions 3 through 5 above, list all your residence addresses and the dates you lived there: _____

- (b) State each period that you were not in the active civilian labor force (e.g. in military, in school, childbearing and/or care, etc.) and what you were doing: _____

10. Since the earliest date you listed in response to Questions 3 through 5 above, list all pipeline employment of which you are aware for which you claim you would have been hired but for Local 798's membership and referral practices, stating for

Claimant's
Initials:

each job the employer, the job location, the duration of the job, and whether as welder or helper: _____

11. Since the earliest date you listed in response to Questions 3 through 5 above, list by name, address and dates all employers with whom you applied for or sought employment and the results of your attempts (attach extra sheets if necessary): _____

12. The full names and addresses of any persons advising or assisting me in completing this document are: _____

I DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT.

I also understand that I must submit on or with this claim form all available information and documents of which I am aware supporting my claim for relief under the Consent Decree.

Date: _____

Claimant's Signature

Notary Public

Claimant's Typed or Printed Name

Subscribed to and sworn before me, this _____ day of _____, 198__.

My commission expires:

State: _____

IMPORTANT: THIS CLAIM FORM MUST BE RECEIVED BY R. DOBIE LANGENKAMP, DECREE AUDITOR, POST OFFICE BOX 3093, TULSA, OKLAHOMA 74101-3093, ON OR BEFORE _____, 1988.

Entered

FILED

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

APR 21 1988

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

SHEARSON LEHMAN MORTGAGE CORPORATION, a Delaware corporation,)	
)	
)	
Plaintiff,)	
)	
vs.)	
)	
VEREX ASSURANCE, INC., a Wisconsin corporation,)	
)	
Defendant.)	

No. 87-C-48-C

O R D E R

Now before the Court for its consideration is the motion of the defendant to reconsider. On March 9, 1988, this Court entered its Order denying the motion of the defendant for partial summary judgment. Defendant now seeks reconsideration of that Order.

The motion for partial summary judgment sought judgment as to the plaintiff's first cause of action, for bad faith failure to pay upon an insurance claim.

In its motion to reconsider, the defendant accepts the distinction drawn by the Court in its prior Order between the instant case on the one hand and Duckett v. Allstate Ins. Co., 606 F.Supp. 728 (W.D.Okla. 1985) and Harris v. Farmers Ins. Co., 607 F.Supp. 92 (W.D.Okla. 1985) on the other. This Court noted that the case at bar involves an additional aspect -- whether the

investigation conducted by defendant was reasonable or adequate. It has been held that it is appropriate, regarding a bad faith claim, to determine whether a claim was properly investigated and whether the results of the investigation were subjected to a reasonable evaluation and review. Anderson v. Continental Ins. Co., 271 N.W.2d 368 (Wis. 1978). The factual issues mentioned by the Court in its prior Order -- which are not necessarily the only remaining factual issues -- prevent the Court from finding as a matter of law that the defendant did not act in bad faith. This ruling is consistent with the statement in Duckett, supra, that "the issue of bad faith will most often be a question for the jury." 606 F.Supp. at 731.

The defendant's citation of Norman's Heritage Real Estate Co. v. Aetna Casualty & Surety Co., 727 F.2d 911 (10th Cir. 1984) is not to be contrary. The appellate court in Norman's was not reviewing a grant of summary judgment, but rather the grant of a motion for judgment notwithstanding the verdict. Moreover, the appellate court was specifically discussing the issue of punitive damages for breach of contract, which is distinct from the tort of bad faith failure to pay. It appears that under Oklahoma law, these two causes of action may be pled in the alternative, as they are in the case at bar, and as they apparently were in Norman's, supra. It was in connection with the general issue of punitive damages for breach of contract that the appellate used the "exceptional circumstances" language referred to by the defendant. In sum, the Court is not persuaded that its prior Order was erroneous.

It is the Order of the Court that the motion of the defendant, Verex Assurance, Inc., to reconsider is hereby DENIED.

IT IS SO ORDERED this 21st day of April, 1988.


H. DALE COOK
Chief Judge, U. S. District Court

JDS/jh

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

VONA JEAN EVANS and
 VIRGIL EVANS,
 Plaintiffs,
 v.
 ABC CORPORATION;
 DEF CORPORATION;
 JOHN DOE;
 TIFCO, INC., a Maryland
 corporation;
 SIMPLIMATIC ENGINEERING COMPANY,
 a Delaware corporation;
 J&S CONVEYORS, INC., a New York
 corporation;
 GARVEY CORPORATION, a New Jersey
 corporation;
 CONTRAN CONVEYORS AND SYSTEMS,
 INC., a New Jersey corporation;
 RAPISTAN CORP., a Delaware
 corporation;
 ALVEY, INC., a Missouri
 corporation;
 UNEX CONVEYING SYSTEMS, INC.,
 a New Jersey corporation;
 UNIFLO CONVEYOR, INC., a Kansas
 corporation; and
 MATHEWS CONVEYORS COMPANY, a
 Delaware corporation,
 Defendants.

FILED

APR 21 1988

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

88-C-287-E

Case No. ~~GJ~~ 88-1097

Notice of DISMISSAL WITHOUT PREJUDICE

To: Brian G. Appelt
Tifco, Inc.
658 Kenilworth Drive
Towson, Maryland 21204-2374

R. Hayden Downie
Main & Downie Law Offices
810 S. Cincinnati
Tulsa, OK 74119

ATTORNEY FOR TIFCO, INC.

ATTORNEY FOR J&S CONVEYORS, INC.

Notice is hereby given that Vona Jean Evans and Virgil Evans,
the above-named plaintiffs, hereby dismiss the above-entitled action

without prejudice as against defendants Tifco, Inc., and J&S Conveyors, Inc., pursuant to Rule 41(a)(1)(i) of the Federal Rules of Civil Procedure, and hereby file this Notice of Dismissal with the clerk of the court before service by defendants Tifco, Inc., and J&S Conveyors, Inc., of either an answer or a motion for summary judgment.

Dated April 20, 1988.


Jefferson D. Sellers, OBA #8068
JACK B. SELLERS LAW ASSOCIATES, INC.
P.O. Box 730
Sapulpa, Oklahoma 74067
(918) 224-9070

ATTORNEYS FOR PLAINTIFF

CERTIFICATE

I hereby certify that on this 20th day of April, 1988, a copy of the foregoing was mailed to:

Daniel J. Hoehner, OBA #10852
Tom L. King, OBA #5040
Jeff R. Beeler, OBA #658
KING, ROBERTS & BEELER
15 N. Robinson, Suite 600
Oklahoma City, OK 73102

JoAnne Deaton, OBA #5938
RHODES, HIERONYMUS, JONES, TUCKER
AND GABLE
2800 Fourth National Bank Building
Tulsa, OK 74119

Ronald D. Wood
1346 East 19th Street
Tulsa, OK 74120

Mark Finnerty, OBA #2924
GOREE, KING, RUCKER & FINNERTY
Southern Oaks Office Park
7335 S. Lewis, Suite 306
Tulsa, OK 74136

Joseph A. Sharp, OBA #8124
Jerry D. Stritzke, OBA #11535
BEST, SHARP, SHERIDAN & STRITZKE
The Kennedy Building, Suite 700
321 S. Boston
Tulsa, OK 74103

Elsie Draper, OBA #2482
GABLE & GOTWALS
2000 Fourth Nat. Bank Building
Tulsa, OK 74119

James E. Green, Jr.
COMFORT, LIPE & GREEN, P.C.
2100 Mid-Continent Tower
401 South Boston Avenue
Tulsa, OK 74103

Michael J. Gibbens, OBA #3339
JONES, GIVENS, GOTCHER, BOGAN &
HILBORNE
3800 First National Tower
Tulsa, OK 74103

R. Hayden Downie
MAIN & DOWNIE LAW OFFICES
810 S. Cincinnati
Tulsa, OK 74119

Brian G. Appelt
658 Kenilworth Drive
Towson, MD 21204-2374

Jefferson D. Tillis jr

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

JOHN EDWARD BEEKS,)
)
 Plaintiff,)
)
 v.)
)
 CITY OF TULSA, et al,)
)
 CITY POLICE DEPT., DENNIS)
)
 LARSEN, and DOUGLAS BROWN,)
)
 Defendants.)

87-C-759-B

FILED

APR 21 1988

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

ORDER

Now before the court is the Motion to Dismiss of defendant Tulsa Police Department (pleading #7). Although plaintiff failed to respond to the motion in a timely manner as required by the Federal Rules of Civil Procedure and the Local Rules of the Northern District of Oklahoma, on January 12, 1988, the court, sua sponte, gave plaintiff an extension of time in which to respond to this motion. However, no such response was ever filed by plaintiff.

As the court previously advised plaintiff, all litigants, including those appearing pro se, are obligated to follow the procedural rules of court. See, Joplin v. Southwestern Bell Telephone Co., 671 F.2d 1274 (10th Cir. 1982). Plaintiff having been given every opportunity to comply with the pleading requirements of this court, the court concludes that plaintiff's failure to respond to the pending motion constitutes a waiver of objection to the motion. Rule 14(a) of the Local Rules for the Northern District of Oklahoma.

It is, therefore, ordered that the Motion to Dismiss of defendant Tulsa Police Department is granted, and plaintiff's civil rights complaint pursuant to 42 U.S.C. §1983 is hereby dismissed as to defendant Tulsa Police Department.

Dated this 20 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 20 1988

JACK O. DIVER, CLERK
U.S. DISTRICT COURT

CUTLERY WORLD CORPORATION, an)
Illinois corporation,)
)
Plaintiff,)
)
vs.)
)
BRYAN PATZKOWSKI and SOONER)
CUTLERY, INC., an Oklahoma)
corporation,)
)
)
Defendants.)

No. 87-C-293-B

STIPULATION FOR DISMISSAL WITH PREJUDICE

Plaintiff and Defendants, by and through their respective counsel of record, hereby stipulate and agree as follows:

1. This Court may enter an order, without further notice to the parties, dismissing Plaintiff's Complaint, together with all claims and causes of action therein contained, with prejudice as against Defendants.

2. This agreement is made by Plaintiff and Defendants solely and for the purpose of compromising and settling the claims and causes of action involved in this action, without the expense and inconvenience of trial.

3. It is expressly understood and agreed, as a condition hereof, that neither this Stipulation nor the Order of Dismissal to be entered thereon, shall constitute or be construed as an admission or estoppel against Plaintiff or Defendants, or as evidencing or indicating to any extent an admission of the

truth or correctness of the allegations in Plaintiff's Complaint or Defendants' answers thereto in whole or in part.

4. Plaintiff and Defendants shall each bear their respective costs in this action.

Respectfully submitted,

OF COUNSEL:

William A. Gillis
2213 Mendocino Avenue
Santa Rose, CA 95401

Joel L. Wohlgemuth
Lloyd S. Markind
NORMAN, WOHLGEMUTH & THOMPSON
909 Kennedy Building
Tulsa, Oklahoma 74103
(918) 583-7571

Attorneys for Plaintiff,
Cutlery World Corporation

Jesse J. Worten, III
John C. Holden
BREWER, WORTEN, ROBINETT,
JOHNSON, WORTEN & KING
400 Professional Building
P.O. Box 1066
Bartlesville, OK 74005-1066

Attorneys for Defendants,
Bryan Patzkowski and Sooner
Cutlery, Inc.

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

APR 20 1988

UNITED STATES OF AMERICA)
)
)
 Plaintiff(s),)
)
 vs.)
)
 EDGAR P. JAMES; PETER JAMES)
 ENTERPRISES, INC. d/b/a JAMES)
 OIL & SUPPLY COMPANY,)
)
 Defendant(s).)

JACK C. GILBERT, CLERK
DISTRICT COURT

No. 87-C-462-C

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.

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 19th day of April, 19 88.

H. Dale Cook
UNITED STATES DISTRICT JUDGE
H. DALE COOK

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

CHRISTINE TUCKER,)
)
Plaintiff,)
)
vs.)
)
OTIS R. BOWEN, M.D.,)
Secretary of Health and)
Human Services,)
)
Defendant.) CIVIL ACTION NO. 87-C-693-C

O R D E R

For good cause shown, pursuant to 42 U.S.C. § 405(g),
this cause is remanded for further administrative action.

Dated this 20th day of April, 1988.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

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

ANTHONY RAY ROWLAND,)
)
 Petitioner,)
)
 v.)
)
 STATE OF OKLAHOMA and)
 DISTRICT COURT JUDGE)
 CLIFFORD E. HOPPER, et al,)
)
 Respondents.)

87-C-741-C

APR 20 1988
FBI

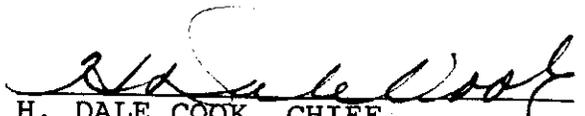
ORDER

The court has for consideration the Report and Recommendation of the Magistrate filed March 25, 1988, in which the Magistrate recommended that respondent Clifford E. Hopper's Motion to Dismiss be granted and that petitioner Anthony Ray Rowland's application for a writ of mandamus 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 respondent Clifford E. Hopper's Motion to Dismiss is granted and petitioner Anthony Ray Rowland's application for a writ of mandamus is denied.

Dated this 19th day of April, 1988.


H. DALE COOK, CHIEF
UNITED STATES DISTRICT JUDGE

FILED

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

APR 20 1988

INDUSTRIAL ELECTRIC ENGINEERING)
& TESTING COMPANY,)
)
Plaintiff,)
)
v.)
)
HONEYWELL INC.,)
)
Defendant.)

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

87-C-906-E

ORDER

The court has for consideration the Findings and Recommendations of the Magistrate filed March 3, 1988, in which the Magistrate recommended that defendant's Motion to Dismiss plaintiff's claims for breach of contract, for breach of the duty of good faith, of fraud, and for punitive damages be granted. 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 Findings and Recommendations of the Magistrate should be and hereby are affirmed.

It is therefore Ordered that defendant's Motion to Dismiss is granted as to plaintiff's claim for breach of contract, Count II of plaintiff's complaint, as to the cause of action for breach of the duty to deal in good faith, Count III, as to the cause of action for fraud and misrepresentation, Count IV, and as to plaintiff's claim for punitive damages.

Dated this 20th day of April, 1988.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

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2840-010

APR 20 1987

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

JACOB S. HAYES, CLERK
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 445.20 ACRES OF LAND, More)
 or Less, Situated in Osage)
 County, State of Oklahoma;)
 DONALD F. LESTER, et al., and)
 Unknown Owners,)
)
 Defendants.)

Civil Action No. 84-C-826-B

REPORT OF COMMISSIONERS

Pursuant to the Order of the Court made on April 2, 1987, appointing the undersigned as Commissioners to hear evidence and to do all things necessary to determine the just compensation for the estate taken in the subject property and report their findings to the Court, the undersigned Commissioners do hereby make their findings.

The Commissioners executed the OATH OF OFFICE OF COMMISSIONERS on the 23rd day of April, 1987, and filed the same with the Clerk of the Court on the 23rd day of April, 1987.

On the 14th day of October, 1987, the Commissioners, Mr. Donald F. Lester, a party to this action, and Mr. Don Warnken, a

petroleum engineer with the Corps of Engineers, conducted a view of the subject property. Counsel for all parties waived their right to be present and stipulated that Messrs. Lester and Warnken could be present with the Commissioners for the view.

The Commissioners caused the Clerk of the Court to give due and proper notice to all interested parties that a hearing before the Commission would commence at 9:30 a.m. on Monday, October 26, 1987, in Courtroom No. 3, United States Courthouse, Tulsa, Oklahoma.

On Monday, October 26, 1987, the Commissioners commenced the hearing in the above captioned matter; evidence as to just compensation was received by the Commissioners in said matter for seven days, on the 26th, 27th, 28th, 29th, and 30th days of October, and on the 2nd and 3rd days of November, 1987, at which time the hearing was continued to Thursday, December 10, 1987, as a result of the illness of Mr. Ellis, a witness for the Plaintiff. Two days of additional evidence was received by the Commissioners on December 10 and 11, 1987. At approximately 5:30 p.m. on Friday, December 11, 1987, all parties rested, having presented all evidence they desired to present on all relevant matters, except an affidavit of John W. Maupin, to be submitted by Phillips Petroleum Company in support of Phillips' Exhibit

"N." Subsequently, on February 25, 1988, the Affidavit of Mr. Maupin was received by the Commissioners.

In arriving at their findings and preparing this report, each Commissioner reviewed the instructions of the Court, reviewed his notes which he took during the hearing on these matters, and reviewed the exhibits introduced by the parties herein.

The parties were represented at the hearing as follows:

United States of America by Donald F. Rosendorf, Attorney, Land and Natural Resources Division, U.S. Department of Justice, and Nancy Blevins, Assistant U.S. Attorney;

Roger Morrison, Richard Morrison, Milton L. Morrison, Kenneth Morrison and Marjorie Morrison, as Trustees of the Kenneth Morrison Trust No. 1; Milton L. Morrison and Rebecca Ann Morrison as Trustees of the Milton L. Morrison Trust No. 1; Roger Morrison and Milton L. Morrison as Trustees of the Kenneth Morrison Trust No. 2; Roger Morrison, Sidney A. Reitz, and Richard Morrison, as Trustee of the Milton L. Morrison Trust No. 3; and Donald F. Lester, the Defendants/property owners (herein "Morrison/Lester"), by James E. Poe, Esq.;

Phillips Petroleum Company, by Gaylen E. Ward,
Esq.

The following witnesses were duly sworn, and their testimony heard:

United States of America: Henry Blackburn
Charles A. Ellis
Gene Jones
Donald E. Warnken
Kenneth A. Weikel

Morrison/Lester Robert E. Dowden
Leroy R. England
Donald F. Lester
Roger Morrison
Jay Robertson
Marvin Smith

Phillips Petroleum
Company: A. P. Lowrey, Jr.
John Maupin

All witnesses were duly sworn, their testimony heard, exhibits received and each party rested.

The Commissioners herewith respectfully submit their Report setting forth herein the market value of the subject property (both before and after taking) and the amount of the award, together with findings of fact and conclusions of law supporting said award.

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

1. The date of taking is October 30, 1984.

2. The taking of the Morrison/Lester interests involves oil and gas leases on five 160 acre tracts leased to Morrison/Lester for production of oil and gas.

3. The description of the Morrison/Lester properties which were subject to the taking and subordination are as follows:

A. Boy Scout Lease:

Legal Description:	NE/4, Sec. 30, T.22N, R.11E
Corps of Engineers Tract Nos.:	1129ME-1 1129ME-2
Total Acres in Lease	160
Number of Mineral Acres Subordinated:	18.15
Type of Interest:	100% Working Interest
Net Revenue Interest:	76%
Ownership of Lease- hold Interest:	Don Lester Roger Morrison Richard Morrison Kenneth Morrison

B. Turkey Creek Lease:

Legal Description:	NW/4, Sec. 30, T.22N, R.11E
Corps of Engineers Tract No.:	1131ME
Total Acres in Lease:	160
Number of Mineral Acres Subordinated:	117
Type of Interest:	100% Working Interest
Net Revenue Interest:	78%

Ownership of Lease-
hold Interest: Don Lester
Milton L. Morrison
Kenneth Morrison

C. Hominy Creek Lease (SE/4):

Legal Description: SE/4, Sec. 13, T.22N, R.10E
Corps of Engineers Tract Nos.: 1223ME-1 (public use area)
1223ME-2
Total Acres in Lease: 160
Number of Mineral Acres Subordinated: 159.10
Type of Interest: 100% Working Interest
Net Revenue Interest: 78%
Ownership of Lease-
hold Interest: Don Lester
Milton L. Morrison Trust #3
Kenneth Morrison Trust #2

D. Hominy Creek Lease (NE/4):

Legal Description: NE/4, Sec. 13, T.22N, R.10E
Corps of Engineers Tract Nos.: 1224ME-1 (public use area)
1224ME-2
Total Acres in Lease: 160
Number of Mineral Acres Subordinated: 135.30
Type of Interest: 100% Working Interest
Net Revenue Interest: 78%
Ownership of Lease-
hold Interest: Don Lester
Milton L. Morrison Trust #3
Kenneth Morrison Trust #2

E. Harrah Lease:

Legal Description: NE/4 Sec. 9, T.22N, R.10E
Corps of Engineers Tract No.: 1414ME
Total Acres in Lease: 160
Number of Mineral Acres Subordinated: 15.65
Type of Interest: 100% Working Interest
Net Revenue Interest: 77%
Ownership of Leasehold Interest: Don Lester
Kenneth Morrison and
Marjorie Morrison, Trustees
Of the Kenneth Morrison
Trust #1
Milton L. Morrison and
Rebecca Ann Morrison,
Trustees of the Milton L.
Morrison Trust #1

4. Defendant Phillips Petroleum Company claims that it is entitled to compensation by reason of the United States of America's condemnation and subordination of certain oil and gas properties, thereby destroying the value of its gas purchase contracts. These gas contracts and properties are described as follows:

A. Boy Scout Lease:

Legal Description: NE/4 Sec. 30, T.22N, R.11E
Corps of Engineers Tract No.: 1129ME-1
Date of Gas Purchase Agreement between parties: November 13, 1980

Number of gas wells One (1)
subject to subordin-
ation and gas contract:

B. Dark No. 5 Jack
 Zink Lease:

Legal Description: SE/4 Sec. 28, T.22N, R.11 E,
Osage County, Oklahoma

Corps of Engineers
Tract No.:

Date of Gas Purchase July 25, 1980
Agreement between
parties:

Number of gas wells One (1)
subject to subordin-
ation and gas contract:

C. Harrah/Revco Lease:

Legal Description: SW/4 Sec. 10, T.22N, R.10E
Osage County, Oklahoma

Corps of Engineers
Tract No.:

Date of Gas Purchase June 19, 1975
Agreement between
parties:

Number of gas wells One (1)
subject to subordin-
ation and gas contract:

5. The type of taking by the Plaintiff, United States of America, of the Morrison/Lester leasehold interest, was a subordination of the oil, gas, coal or other minerals to the prior right of the United States to flood and submerge the subject

property as may be necessary in connection with the construction, operation and maintenance of the Skiatook Lake, Hominy Creek, Oklahoma; reserving to the owners, their successors and assigns, all oil, gas, coal and other mineral rights which may be used and enjoyed without interfering with the aforesaid right of the United States and all appurtenant rights for exploration, development, production and removal of said oil, gas, coal or other minerals. Such taking and subordination is subject to the provisions and conditions more particularly set forth in Plaintiff's Complaint and other pleadings filed herein.

6. The Skiatook Lake is designed to have a permanent pool elevation of 714 ft. above sea level and a flood level of 729 ft. above sea level.

7. Since approximately 1980, the construction of the Skiatook Lake interfered with Lester's ability, as operator of the subject leases, to operate and produce the subject properties in an efficient and economical manner. Therefore, the past production during the construction period of Skiatook Lake is not necessarily indicative of the production capabilities of the subject properties.

8. Defendants Morrison/Lester introduced evidence to show there were other sales of similar oil and gas leasehold interests in the approximate time of the date of taking, October 30, 1984,

which would serve as a comparable sale for determining the values of the leasehold interests being taken as a part of these proceedings. Defendants Morrison/Lester failed to meet their burden of proof in establishing that the Red Eagle Lease was a comparable sale to the subject property. Specifically, the Red Eagle Lease is too far removed from the Hominy Creek Leases to be comparable (12 miles north of the subject property, according to the testimony of Mr. Jay Robertson); further, Mr. Kenneth Weikel testified that that the Red Eagle Lease consisted of formations with much larger sand bodies and better thicknesses, better porosities and better qualities of sand. Such facts make it doubtful that a reasonable buyer would have considered the purchase of the Red Eagle Leases as a comparable property to the subject property.

9. The highest and best use of the subject properties at the date of taking was for oil and gas production.

10. The determination of value by the capitalization of income method is a very inexact science, with variances of opinion by the well qualified experts differing by hundreds of thousands of dollars on some leases. Therefore, in most cases the Commissioners were unable to adopt one expert's or witness' opinion, assumptions, or values in determining the just compensation for

the subordination. But, the Commissioners relied on the testimony of the various witnesses to establish fair criteria and assumptions for the determination of value on each lease of the subject property.

11. Another issue of considerable disparity is the projected costs of operations of the projected wells on the subject property. The testimonies from Messrs. Weikel and Ellis were that ordinary and customary operating costs in the area were in a range of \$500.00 to \$750.00 per well per month. However, many of the opinions of the experts as to value were influenced by the fact that Mr. Lester, as the operator and part owner of the leases, was being paid only approximately \$120.00 per well, per month. The Commissioners find that the operating costs paid to Mr. Lester is not persuasive or determinative of what a purchaser would have to pay to an independent operator to operate the subject wells. The average operating costs (including direct and indirect expenses) for determining the projected cash flows from the subject property is found to be \$250.00 to \$550.00 per well, per month, depending on the specific lease and the type of operation (primary vs. secondary).

BOY SCOUT LEASE

12. The Boy Scout Lease consists of an oil and gas leasehold estate of 160 acres with a net revenue interest of 76%. The

taking on this particular property amounted to 18.15 mineral acres, leaving the owners with 141.85 mineral acres after the date of taking.

13. At the time of the taking there were three wells on the property, Well 2-A, which produced oil and gas, Well 1-A, which produced gas, and a disposal well.

14. The construction and development of the Skiatook Lake caused the taking of Well 2-A. The construction and development of the Skiatook Lake destroyed the existing access to Well 1-A prior to the date of taking.

15. The Commissioners found the testimony and exhibits of Jay Robertson and A.P. Lowrey, Jr. to be the most credible evidence of the value of this subject property. Specifically, the Commissioners found Morrison/Lester Exhibit "18," Phillips' Exhibit "N," Phillips' Exhibit "C," Phillips' Exhibit "M," and Phillips' Exhibit "Rebuttal #1" to be persuasive evidence of the remaining reserves lost as a result of the subordination of the subject property and a basis for determining value before and after the subordination.

16. As a result of the Corps of Engineers' action in destroying the direct access to the subject property, Defendant Morrison/Lester was left with a circuitous and impractical access to the subject property which made daily operations economically

- impossible. This problem was compounded by the surface owners' resistance in providing adequate access to the subject property.
17. As a result of the interruption in operations, the production from the property ceased and the lease was terminated by the Osage Agency, cutting off any remaining benefits to Morrison/Lester and Phillips Petroleum. Therefore, the subordination constituted a complete taking of the subject property.
 18. The value to Morrison/Lester of the subject tract before the taking was \$33,802.00. (see Exhibit "A")
 19. The value to Morrison/Lester of the subject tract after taking was \$20,000.00, that being the approximate salvage value of the equipment on such oil and gas lease.
 20. The cost of plugging the two wells as a result of the activities of the United States of America was \$12,000.00.
 21. The value of the Phillips Petroleum gas contract on the subject tract before the taking was \$12,675.00, i.e., value of projected profits from the gas contract discounted @12% with a 25% risk factor.
 22. The value of the Phillips Petroleum contract on the subject tract after the taking was \$0.
 23. The value of the Phillips Petroleum Company's pipeline to the subject property before the taking was \$16,952.00.

24. The value of the Phillips Petroleum Company's pipeline to the subject property after the taking was \$0.

TURKEY CREEK LEASE

25. The Turkey Creek Lease consisted of 160 acres before the taking. After the taking of 117 acres, there remained 43 acres above the Subordination Guideline. The Commissioners found the analysis and opinions of Mr. Ellis to be persuasive as to the value of the Turkey Creek Lease. The subject property would not warrant additional capital infusion and the production from such property after deducting operating expenses would not make such development economically feasible. Although Mr. Ellis determined that the subject property had some value for potential farm-out, the quality of the subject property is less than the normal property within Osage County, and in his opinion, he believed that one-half (1/2) of the average county-wide lease bonus should be paid for the acres in question. His calculations established that value at \$30.83 per acre. Since three wells have been drilled on the property in the past, there remained 130 acres for potential development before the taking. Mr. Ellis, however, calculated that the 33 acres remaining above the Subordination Guideline should be included in the value remaining after the taking. The Commissioners find that the taking amounted to an

inundation of part of the property and a destruction of economical access to the balance of the property. Therefore, the value of the entire 130 acres was determined to be lost in the taking.

26. The value of the Lester/Morrison interest of the subject tract before taking was \$4,008.00.

27. The value of the subject property after the taking was \$0.

HOMINY CREEK LEASE (SE/4)

28. The lease consisted of 160 acres, 159.10 of which were subject to subordination. Eight wells had been drilled, with two producing at the date of taking. As in determining the values for the other properties, the Commissioners took into consideration a number of facts and opinions offered by the witnesses in the trial of this matter. The approach for the development of the lease recommended by Leroy R. England seemed to be the best method. Although the qualities of the subject property appeared to make it favorable for water flooding, especially in the Bartlesville C zone, the opinions as to the potential for secondary recovery varied substantially between the experts. The testimonies concerning the ratios for the recovery of secondary oil to primary oil, which ranged from general rule of thumb ratios of 1:1 for Osage County, to 1.68:1 for the Pringle Lease according to testimony from Mr. Jay Robertson, to the .42:1 ratio

for the ECC Wyrick "B" Lease, as testified to by Mr. Ellis, or the .254 ratio for the Ceja Turkey Creek Water Flood Unit, as testified to by Mr. Ellis, were too broad to be scientifically conclusive as to what this lease would produce in secondary oil. The Commissioners found that a ratio of .50:1 appeared to be a fair ratio for both the NE/4 and SE/4 Hominy Creek Leases, which is supported by ratios for similar properties in the vicinity to the subject property and in all probability would have been the approximate ratio used by a buyer and seller of the subject property in projecting its potential recovery from secondary development.

29. Based on the testimony from other witnesses, however, the Commissioners found that many of the variables used by Mr. England in calculating the discounted present worth of the subject property should be modified in accordance with other testimony offered at the trial. Specifically, the Commissioners found: (i) the capital costs projected for development of the west side of the subject property should be \$17,857.00 per well, or a total of \$53,571.00; (ii) operating cost per well should be \$550.00 per month, per well; (iii) the discount rate for calculating the present worth should be 12%; (iv) the risk factor for the wells on the west side should be 50%; and (v) the risk factor for the wells on the east side should be 35%.

30. The value of the west side of the subject tract before the taking was \$45,213.00, i.e. \$90,425.00 less a 50% risk factor. (see Exhibit "B")

31. The value of the west side of the subject tract after the taking was \$0.

32. The value of the Morrison/Lester interest on the east side of the subject tract before the taking was \$159,175.00, i.e. \$244,885.00 less a 35% risk factor. (see Exhibit "C")

33. The value of the east side of the subject tract after the taking was \$0.

34. The cost to plug and abandon the wells subject to the subordination is offset by the value of the equipment on such wells.

HOMINY CREEK (NE/4)

35. The Hominy Creek Lease for the NE/4 consisted of 160 acres, 135.3 of which were subject to the subordination, leaving a balance of 24.7 acres after taking. There were 13 wells on the property, with five producing wells as of the date of taking.

36. In addition to the inundation of the subject property below the Subordination Guideline, the balance of the subject property on the west side of the lease has been designated as a public use

area. The operation of oil and gas wells within the public access area increases the risk of loss due to theft and vandalism, while at the same time substantially increasing the owner/operator's liability for accidents which may occur on the property. The access to the portion of the subject property within the public use area has been substantially curtailed and made economically infeasible.

37. The Commissioners found that the computation of the discounted present worth of the subject property should be determined based upon the following criteria: (i) capital costs projected for the development of the west side of the subject property should be \$17,857.00 per well, or a total of \$71,429.00; (ii) operating costs should be \$550.00 per month, per well; (iii) the discount rate should be 12%; (iv) the risk factor for the wells on the west side should be 50%; and (v) the risk factor for the wells on the east side should be 35%.

38. The value of the west side of the subject tract before the taking was \$94,025.00, i.e. \$188,050.00 less a 50% risk factor. (see Exhibit "D")

39. The value of the west side of the subject tract after taking was \$0.

40. The value of the east side of the subject tract before the taking was \$96,572.00, i.e. \$148,573.00 less a 35% risk factor. (see Exhibit "E")

41. The value of the east side of the subject tract after the taking was \$0.

42. The cost to plug and abandon the wells subject to the subordination is offset by the salvage value of the equipment on such wells.

HARRAH LEASE

43. The Harrah Lease consists of 160 acres on which five wells have been drilled, with one producing well on the Lease at the time of taking. After the subordination of 15.65 acres, there remains 144.35 acres.

44. Although there was a substantial conflict in the testimony as to whether or not the sole producing well on the subject property had an initial test production of three barrels per day or thirty barrels per day, the Commissioners found that Mr. Lester's testimony was credible that the subject well did in fact produce 30 barrels of oil per day in its initial production.

45. The operator's ability to operate this well has been substantially hampered since 1980 as a result of the Corps' activities with regard to the Skiatook Lake. As a result of such activity, the operator has had neither adequate access to the property to reasonably and economically operate it, nor the ability to sell the oil produced from the well because of the

inability of the purchaser's to have access to the oil in the tanks.

46. The subject well (No. 5) (also referred to as 1-A by Lester) is at an elevation of 739 feet and above the Subordination Guidelines. Since the 15.65 acres, which fall within the Subordination Guidelines, had two wells drilled upon said acreage, one which was completed and one which was a dry hole, and since the evidence suggests that earlier drilling has condemned the potential for economic production below the Bartlesville on this lease, the subject property of 15.65 acres is believed to have a value of \$30.83 per acre (one-half (1/2) of the lease bonus rate of \$61.66 per acre established by the Osage Agency Lease sales as of February 17, 1984, June 22, 1984, and October 18, 1984).

47. The remaining acres which are above the Subordination Guidelines should not be affected by the operation of the lake, except as hereinafter noted.

48. The value of the subject tract before the taking was \$482.00.

49. The value of the subject tract after the taking was \$0.

50. As a result of the taking, the owners incurred certain special damages, for which they should be compensated as follows:

Cost of new access road to lease (.6 mi.)	-	\$6,000.00
Right-of-way expense	-	<u>\$2,500.00</u>
Total Special Damages to Owner	-	\$8,500.00

PHILLIPS' GAS CONTRACT (Dark No. 5 John Zink Lease)

51. Defendant Phillips Petroleum Company claims loss of certain rights to gas pertaining to the Dark No. 5 John Zink Lease and the Harrah/Revco Lease, by reason of the Corps of Engineers' development of the Skiatook Lake. Such leases do not fall within the 445.2 acres of land subject to the action filed by the United States of America in this case. However, the Commissioners took evidence with regard to such claims and, subject to the objections of the Plaintiff herein, makes their report to this Honorable Court to use as it deems appropriate.

52. Defendant Phillips Petroleum Company claims damages for the loss of profits which it would have received by reason of its Gas Purchase Contract dated July 25, 1980, between William E. Dark, Steve Reyburn, et al., and Phillips Petroleum Company, as the same applies to the purchase of gas produced from the SE/4 of Sec. 28, T.22N, R.11E, Osage County, State of Oklahoma.

53. Defendant Phillips Petroleum Company's right to such profits to be earned under such Gas Purchase Contract were interfered with by the Plaintiff's development of the Skiatook Lake.

54. The value of Phillips' interest in the subject contract before the taking was \$16,650.00 (discounted present value of Gas Purchase Contract at 12%, less a 25% risk factor).

55. The value of the subject Gas Purchase Contract after the taking was \$0.

PHILLIPS GAS CONTRACT (HARRAH/REVCO LEASE)

56. Defendant Phillips Petroleum Company claims loss of certain rights to gas pertaining to the Harrah/Revco Lease, by reason of the Corps of Engineers' development of the Skiatook Lake. Defendant Phillips Petroleum Company claims damages for the loss of profits which it would have received by reason of its Gas Purchase Contract dated June 19, 1975, between Kewanee Oil Company and Phillips Petroleum Company, as the same applies to the purchase of gas more particularly described on Exhibit "A" to the Gas Purchase Contract (Phillips' Exhibit "G-3"). Defendant Phillips Petroleum Company's right to such profits to be earned under such Gas Purchase Contract were interfered with by the Plaintiff's development of the Skiatook Lake.

57. The value of the subject Gas Contract before the taking was \$3,000.00 (present value of Phillips' interest in the subject Gas Contract, discounted at 12%, less a 25% risk factor).

58. The value of the subject Gas Contract after the taking was \$0.

SUMMARY OF COMPENSATION DUE DEFENDANTS

59. Compensation due Morrison/Lester interests as a result of the taking:

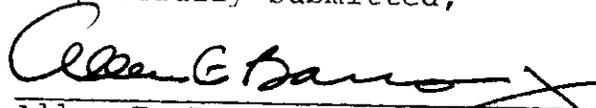
A. Boy Scout Lease:	\$ 25,952
B. Turkey Creek Lease:	\$ 4,008
C. Hominy Creek Lease (SE/4)	\$204,388
D. Hominy Creek Lease (NE/4)	\$190,597
E. Harrah Lease	\$ 8,982
TOTAL TO MORRISON/LESTER	\$433,927

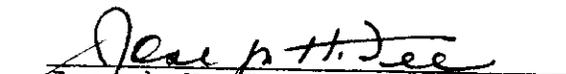
60. Compensation due Defendant Phillips Petroleum Company as follows:

A. Boy Scout Lease:	\$29,627
B. Dark No. 5 Jack Zink Lease	\$16,650
C. Harrah/Revco Lease	\$ 3,000
TOTAL TO PHILLIPS	\$49,277

DATED this 20th day of April, 1988.

Respectfully submitted,


Allen E. Barrow, Jr., ~~Chairman~~


Joseph H. Fee, Commissioner


John Robertson, Commissioner

AEB6/jlh:USAR

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the [redacted] was served on each of the [redacted] who came to them at [redacted] on the [redacted], 19__.

SCHEDULE OF EXHIBITS
TO COMMISSIONERS' REPORT

- Exhibit A - Boy Scout Computation of
 Present Value
- Exhibit B - Hominy Creek SE/4 - West Side
 Dan Hensley Computation of
 Present Value
- Exhibit C - Hominy Creek SE/4 - East Side
 Dan Hensley Computation of
 Present Value
- Exhibit D - Hominy Creek NE/4 - West Side
 Dan Hensley Computation of
 Present Value
- Exhibit E - Hominy Creek NE/4 - East Side
 Dan Hensley Computation of
 Present Value

EXHIBIT "A"

Boy Scout Lease - Computation of Value

Value of reserves (J. Robertson decline curve per Morrison/Lester Exhibit 18 less \$250/well/month operating cost discounted at 12%)	\$38,603
Less 25% risk	<u>[9,651]</u>
	28,952
Plus estimated value of undeveloped acreage	+5,000
TOTAL VALUE BEFORE TAKING	<u>33,952</u>
TOTAL VALUE AFTER TAKING (SALVAGE VALUE)	<u>20,000</u>
PLUGGING COSTS (2 WELLS @ 6,000 ea.)	12,000
TOTAL DUE MORRISON/LESTER	25,952

Present Worth of Oil and Gas Reserves Discounted @12%

1st Yr.:	\$21,350 - \$6,000 = \$15,350 @12% = \$14,540
2nd Yr.:	\$18,113 - \$6,000 = \$12,113 @12% = \$10,182
3rd Yr.:	\$15,070 - \$6,000 = \$9,070 @12% = \$6,767
4th Yr.:	\$12,425 - \$6,000 = \$6,425 @12% = \$4,254
5th Yr.:	\$10,867 - \$6,000 = \$4,867 @12% = \$2,860
	<u>\$38,603</u>

TOTAL: \$38,603 - 25% = \$25,952

EXHIBIT "A"

EXHIBIT "B"

BARROW GADDIS GRIFFITH & GRIMM INC. - CASE II
 EVALUATION OF DON LESTER/MORRISON ENTERPRISES' OIL PROPERTIES - WEST SIDE
 PRODUCTION RATE FORECAST AND EVALUATION

YEAR	WELL CNT	GROSS PRODUCTION		NET PRODUCTION		PRICE		SALES INCOME		
		BBL OIL	MCF GAS	BBL OIL	MCF GAS	OIL	GAS	OIL \$	GAS \$	TOT
1984	0	0	0	0	0	0.00	0.000	0	0	0
1985	0	0	0	0	0	0.00	0.000	0	0	0
1986	3	2,497	0	1,951	0	33.52	0.000	65,387	0	65,387
1987	3	2,295	0	1,733	0	35.19	0.000	63,093	0	63,093
1988	3	2,109	0	1,647	0	36.95	0.000	60,880	0	60,880
1989	3	1,938	0	1,514	0	38.80	0.000	58,745	0	58,745
1990	3	1,781	0	1,391	0	40.74	0.000	56,685	0	56,685
1991	3	1,637	0	1,279	0	42.78	0.000	54,696	0	54,696
1992	3	1,504	0	1,175	0	44.92	0.000	52,778	0	52,778
1993	3	1,382	0	1,080	0	47.16	0.000	50,927	0	50,927
1994	3	1,270	0	992	0	49.41	0.000	49,030	0	49,030
1995	3	1,167	0	912	0	50.00	0.000	45,536	0	45,536
1996	3	900	0	703	0	50.00	0.000	35,161	0	35,161
TOT		18,480	0	14,437	0	41.07	0.000	532,978	0	532,978

YEAR	EXPENSES				NET OPER INCOME	OTHER COSTS	NET CASH FLOW		
	TAXES	WFP-TAX	OPER	TOTAL			ANNUAL	CUMULATIVE	12.00 PCNT DISCOUNTED
1984	0	0	0	0	0	0	0	0	0
1985	0	0	0	0	0	0	0	0	0
1986	4,633	0	22,365	26,998	38,369	53,600 C	-15,211	-15,211	-14,819
1987	4,470	0	23,484	27,954	35,139	0	35,139	19,928	25,468
1988	4,313	0	24,658	28,971	31,909	0	31,909	51,837	20,526
1989	4,162	0	25,891	30,053	28,632	0	28,632	80,529	16,381
1990	4,016	0	27,185	31,201	25,483	0	25,483	106,012	12,913
1991	3,875	0	28,545	32,420	22,276	0	22,276	128,289	10,020
1992	3,739	0	29,972	33,711	19,067	0	19,067	147,355	7,613
1993	3,608	0	31,470	35,079	15,848	0	15,848	163,204	5,617
1994	3,474	0	33,044	36,518	12,512	0	12,512	175,716	3,939
1995	3,230	0	34,636	37,866	7,663	0	7,663	183,385	2,151
1996	2,491	0	30,235	32,726	2,435	0	2,435	185,820	615
TOT	42,012	0	311,546	353,558	239,420	53,600	185,820	185,820	90,425

PRESENT WORTH PROFILE

PCNT DSCNT	\$ VALUE	ULTIMATE GROSS	OIL (EBL)	GAS (MCF)
0.00	185,820	CUM PROD GROSS	18,480	0
10.00	101,648	FUTURE RES GROSS	18,480	0
15.00	75,987	FUTURE RES NET	14,437	0
20.00	57,015	GROSS WELL COUNT	0.000	0.000
25.00	42,809	NET WELL COUNT	0.000	0.000
30.00	32,050	INTERESTS		
ROR:	63.50	YR MO WORKINT	OIL REV INT	GAS REV INT
IRRI:	3.47	84 11 1.000000	0.731250	0.781250
EROI:	4.47			
PAYOUT:	2.67			

PREPARED BY: D. R. HENSLEY

EFFECTIVE DATE: OCTOBER 30, 1984

LEASE ID: 42

LEASE NAME: HEMINY CREEK SE -CASE II

WELL NAME:

STATE: OKLAHOMA

COUNTY: OSAGE

FIELD: TURKEY CREEK

OPERATOR: DON LESTER

RES CAT: PROVED UNDEVELOPED SECONDARY

REMAINING SECONDARY - WEST SIDE - SEC./PRIM. RATIOS - .50

EXHIBIT "B"

EXHIBIT "D"

BARROW GADDIS GRIFFITH & GRIMM INC. - CASE II
 EVALUATION OF DON LESTER/MORRISON ENTERPRISES' OIL PROPERTIES - WEST SIDE
 PRODUCTION RATE FORECAST AND EVALUATION

YEAR	WELL CNT	GROSS PRODUCTION		NET PRODUCTION		PRICE		SALES INCOME		
		BBL OIL	MCF GAS	BBL OIL	MCF GAS	OIL	GAS	OIL \$	GAS \$	TOT
1984	0	0	0	0	0	0.00	0.000	0	0	0
1985	0	0	0	0	0	0.00	0.000	0	0	0
1986	4	4,014	0	0	0	33.52	0.000	105,115	0	105,115
1987	4	3,665	0	3,136	0	35.19	0.000	100,756	0	100,756
1988	4	3,345	0	2,863	0	36.95	0.000	96,579	0	96,579
1989	4	3,054	0	2,614	0	40.74	0.000	88,736	0	88,736
1990	4	2,788	0	2,386	0	44.92	0.000	81,530	0	81,530
1991	4	2,545	0	2,178	0	47.16	0.000	78,149	0	78,149
1992	4	2,323	0	1,988	0	49.41	0.000	74,740	0	74,740
1993	4	2,121	0	1,815	0	50.00	0.000	69,046	0	69,046
1994	4	1,936	0	1,657	0	50.00	0.000	63,032	0	63,032
1995	4	1,768	0	1,513	0	50.00	0.000	38,941	0	38,941
1996	4	1,614	0	1,381	0	41.33	0.000	74,254	0	74,254
1997	4	997	0	1,261	0					
TOT		30,170	0	23,570	0					

YEAR	EXPENSES				NET OPER INCOME	OTHER COSTS	NET CASH FLOW			
	TAXES	WFP-TAX	OPER	TOTAL			ANNUAL	CUMULATIVE	12.00 PCNT DISCOUNT	
1984	0	0	0	0	0	0	0	0	0	0
1985	0	0	0	0	0	0	0	0	0	0
1986	7,447	0	29,821	37,268	67,847	71,400 C	-3,553	-3,553	-6,095	-6,095
1987	7,139	0	31,312	38,450	62,306	0	62,306	58,753	45,157	39,062
1988	6,843	0	32,877	39,720	56,859	0	56,859	115,612	36,573	73,635
1989	6,559	0	34,521	41,080	51,494	0	51,494	167,106	29,397	105,031
1990	6,287	0	36,247	42,534	46,202	0	46,202	213,308	23,409	128,441
1991	6,026	0	38,060	44,086	40,971	0	40,971	254,278	18,425	146,865
1992	5,776	0	39,963	45,739	35,791	0	35,791	290,069	14,286	161,152
1993	5,537	0	41,961	47,497	30,652	0	30,652	320,721	10,860	172,012
1994	5,295	0	44,059	49,354	25,386	0	25,386	346,107	7,987	179,999
1995	4,892	0	46,262	51,154	17,893	0	17,893	364,000	5,007	185,006
1996	4,466	0	48,575	53,040	9,951	0	9,951	373,991	2,489	187,495
1997	2,759	0	33,725	36,484	2,457	0	2,457	376,448	554	188,050
TOT	69,026	0	457,380	526,406	447,848	71,400	376,448	376,448	188,050	188,050

PRESENT WORTH PROFILE

PCNT DSCNT	\$ VALUE	ULTIMATE GROSS	OIL (BBL)	GAS (MCF)
0.00	376,448	CLM PROD GROSS	30,170	0
10.00	209,977	FUTURE RES GROSS	0	0
15.00	159,928	FUTURE RES NET	30,170	0
20.00	123,088	GROSS WELL COUNT	23,570	0
25.00	95,537	NET WELL COUNT	0.000	0.000
30.00	74,632	INTERESTS	0.000	0.000
ROR:	98.14	YR MO WORKINT	OIL REV INT	GAS REV INT
IROI:	5.27	84 11 1.000000	0.781250	0.781250
EROI:	6.27			
PAYOUT:	2.25			

PREPARED BY: D. R. HENSLEY

EFFECTIVE DATE: OCTOBER 30, 1984
 LEASE ID: 43
 LEASE NAME: HOKINY CREEK NE -CASE II
 WELL NAME:
 STATE: OKLAHOMA
 COUNTY: OSAGE
 FIELD: TURKEY CREEK
 OPERATOR: DON LESTER
 RES CAT: PROVED UNDEVELOPED SECONDARY

REMAINING SECONDARY - WEST SIDE - SEC./PRIM. RATIO - .50

EXHIBIT "D"

EXHIBIT "E"

BARRON GADDIS GRIFFITH & GRIMM INC. - CASE II
 EVALUATION OF DON LESTER/MORRISON ENTERPRISES' OIL PROPERTIES - EAST SIDE
 PRODUCTION RATE FORECAST AND EVALUATION

YEAR	WELL CNT	GROSS PRODUCTION		NET PRODUCTION		PRICE		SALES INCOME		
		BBL OIL	MCF GAS	BBL OIL	MCF GAS	OIL	GAS	OIL \$	GAS \$	TOT
1984	3	472	0	369	0	29.92	0.000	11,027	0	11,027
1985	3	2,658	0	2,077	0	31.24	0.000	64,878	0	64,878
1986	3	2,385	0	1,863	0	33.51	0.000	62,449	0	62,449
1987	3	2,140	0	1,672	0	35.19	0.000	58,835	0	58,835
1988	3	1,920	0	1,346	0	38.80	0.000	53,430	0	53,430
1989	3	1,723	0	1,208	0	40.74	0.000	52,222	0	52,222
1990	3	1,546	0	1,094	0	42.77	0.000	46,352	0	46,352
1991	3	1,387	0	972	0	44.91	0.000	43,670	0	43,670
1992	3	1,245	0	872	0	47.16	0.000	41,142	0	41,142
1993	3	1,117	0	783	0	49.41	0.000	38,675	0	38,675
1994	3	1,002	0	783	0	38.11	0.000	523,879	0	523,879
TOT		17,594	0	13,746	0					

YEAR	EXPENSES				NET OPER INCOME	OTHER COSTS	NET CASH FLOW			
	TAXES	WFP-TAX	OPER	TOTAL			ANNUAL	CUMULATIVE	12.00 PCNT DISCOUNT	
1984	781	0	3,300	4,081	6,945	0	6,945	6,945	6,843	6,843
1985	4,597	0	20,857	25,454	39,425	0	39,425	46,370	36,274	43,111
1986	4,425	0	22,365	26,790	35,659	0	35,659	82,029	29,133	72,250
1987	4,168	0	23,484	27,652	31,183	0	31,183	113,212	22,612	94,866
1988	3,927	0	24,658	28,585	26,845	0	26,845	140,057	17,278	112,140
1989	3,700	0	25,891	29,591	18,528	0	18,528	162,688	12,930	125,070
1990	3,486	0	27,185	30,671	14,523	0	14,523	181,217	9,398	134,467
1991	3,284	0	28,545	31,829	10,604	0	10,604	195,740	6,541	141,008
1992	3,094	0	29,972	33,066	6,757	0	6,757	206,344	4,242	145,250
1993	2,915	0	31,470	34,385	2,891	0	2,891	213,101	2,403	147,653
1994	2,740	0	33,044	35,784	0	0	0	215,991	920	148,573
TOT	37,117	0	270,771	307,888	215,991	0	215,991	215,991	148,573	148,573

PRESENT WORTH PROFILE

PCNT DSCNT	\$ VALUE	ULTIMATE GROSS	OIL (BBL)	GAS (MCF)
0.00	215,991	CUM PROD GROSS	17,594	0
10.00	157,272	FUTURE RES GROSS	0	0
15.00	136,326	FUTURE RES NET	17,594	0
20.00	120,611	GROSS WELL COUNT	13,746	0
25.00	107,353	NET WELL COUNT	3,000	0.000
30.00	96,448	INTERESTS	3,000	0.000
		YR MO WORKINT	OIL REV INT	GAS REV INT
		84 11 1.000000	0.781250	0.781250

PREPARED BY: D. R. HENSLEY
 EFFECTIVE DATE: OCTOBER 30, 1984
 LEASE ID: 41
 LEASE NAME: HORNBY CREEK NE -CASE II
 WELL NAME:
 STATE: OKLAHOMA
 COUNTY: OSAGE
 FIELD: TURKEY CREEK
 OPERATOR: DON LESTER
 RES CAT: PROVED DEVELOPED SECONDARY

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

HOMART DEVELOPMENT CO.,)
)
Plaintiff,)
)
vs.)
)
JERRY LEE FREY,)
)
Defendants.)

Case No. ⁸⁸87-C-257-E

FILED

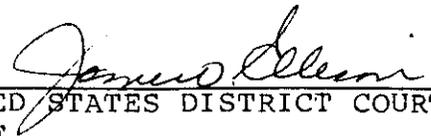
APR 19 1988

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

DEFAULT JUDGMENT

THIS CAUSE comes on this 18th day of April, 1988,
before the undersigned Judge for entry of judgment against the
Defendant, JERRY LEE FREY. Having reviewed the file and being
fully advised in the premises, the Court finds that judgment
should be rendered as against JERRY LEE FREY in favor of the
Plaintiff, for the amount prayed for.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court
that judgment is granted in favor of the Plaintiff, HOMART
DEVELOPMENT CO., against JERRY LEE FREY, in the amount of
\$38,000, plus interest thereafter as provided by law.
Plaintiff's attorney may make application for attorney fees and
costs in connection with this matter.


UNITED STATES DISTRICT COURT
JUDGE

John J. Livingston OBA #5477
Attorney for Plaintiff
525 South Main, Suite 1130
Tulsa, Oklahoma 74103
(918) 592-1812

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

FILED

APR 19 1988

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

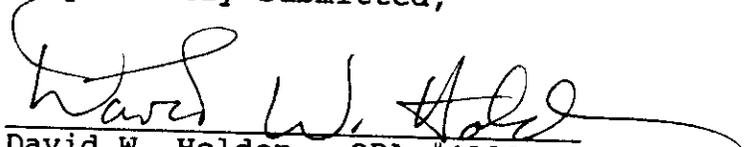
ROBERT S. BOSWELL, and)
RHONDA T. BOSWELL,)
)
Plaintiffs,)
)
vs.)
)
DONWAY, LTD. PARTNERSHIP, a)
limited partnership, and)
W.R. SPENCE, M.D., General)
Partner,)
)
Defendants.)

Case No. 88-C-197-B

STIPULATION OF DISMISSAL WITH
PREJUDICE PURSUANT TO RULE 4(a)(1)

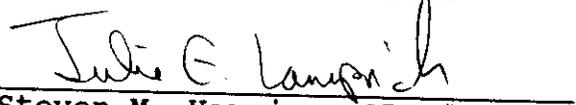
COMES NOW the plaintiffs and defendants and hereby stipulate pursuant to Fed.R.Civ.P. 4(a)(1) to dismissal of the above captioned action with prejudice.

Respectfully submitted,



David W. Holden, OBA #4288
Keith F. Sellers, OBA #8069
Suite 700 Holarud Building
Ten East Third Street
Tulsa, Oklahoma 74103
(918) 584-1471

Attorneys for Plaintiffs



Steven M. Harris, OBA #3913
Julie E. Lamprich, OBA #5191
1414 South Galveston
Tulsa, Oklahoma 74127
(918) 582-0090

Attorneys for Defendants

FILED

APR 19 1988

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

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

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 not be taxed against any of the parties.

S/ JAMES O. ELLISON

JUDGE OF THE UNITED STATES
DISTRICT COURT

FILED

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

APR 19 1988

STANLEY J. NUCKLES and)
 SIDNEY M. CARROLL,)
)
 Plaintiffs,)
)
 v.)
)
 EARTH SEARCH, INC., et al.,)
)
 Defendants and)
 Third Party Plaintiff,)
)
 v.)
)
 HOLDEN ENERGY CORPORATION, an)
 Oklahoma corporation,)
)
 Third Party Defendant.)

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

No. 86-C-940E

ORDER

NOW on this 18th day of April, 1988, the Plaintiffs' Application for Order Dismissing Plaintiffs' Action with Prejudice comes on before the Court. The Court being fully advised in the premises, and for good cause shown, finds that the Application should be granted.

IT IS THEREFORE ORDERED that the Plaintiff's action herein is dismissed with prejudice.

[Signature]

JUDGE OF THE DISTRICT COURT

CERTIFICATE OF MAILING

I, Mary B. Lewis, hereby certify that on this 10th day of April, 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:

Steven L. Sessinghaus, Esq.
P.O. Box 200
Tulsa, Oklahoma 74101-0200

Mary B Lewis
Mary B. Lewis

By:


Richard A. Paschal
Thomas M. Ladner
J. Clayton LaGrone
HALL, ESTILL, HARDWICK, GABLE,
GOLDEN & NELSON
4100 Bank of Oklahoma Tower
One Williams Center
Tulsa, Oklahoma 74172

and

Ernest L. Edwards
W. L. West
LEMLE, KELLEHER, KOHLMAYER, DENNERY,
HUNLEY, MOSS & FRILOT
21st Floor, Pan-American Life Center
601 Poydras Street
New Orleans, Louisiana 70130-6097

Attorneys for Defendant,
Arkla, Inc.

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
vs.)
)
JOHNNY DEWAYNE CODAY; COUNTY)
TREASURER, Tulsa County,)
Oklahoma; and BOARD OF COUNTY)
COMMISSIONERS, Tulsa County,)
Oklahoma,)
)
Defendants.)

FILED

APR 19 1988

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

CIVIL ACTION NO. 87-C-1037-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 18th 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 Defendant, Johnny DeWayne Coday, appears by his attorney Frank R. Hickman.

The Court being fully advised and having examined the file herein finds that the Defendant, Johnny DeWayne Coday, was served Summons and Complaint on February 12, 1988; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on December 17, 1987; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on December 15, 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 31, 1987; and that the Defendant, Johnny DeWayne Coday, filed his Answer herein on March 1, 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:

Lots 1, 2 and 3 of Block 6, and Lots 4, 5 and 6 of Block 5, McNEIL-CARTER ADDITION to the Town of Sperry, Tulsa County, State of Oklahoma, according to the Recorded Plat thereof, and a Tract of land described as: Beginning at the Southeast corner of Lot 3, Block 6, McNEIL-CARTER ADDITION to the Town of Sperry, Tulsa County, State of Oklahoma, according to the Recorded Plat thereof, the point of beginning; thence North along the East line of Lots 3, 2 and 1 of Block 6, a distance of 160 feet; thence East 40 feet to the Northwest corner of Lot 6 of Block 5 of said Addition, thence South along the West line of Lots 6, 5 and 4, of Block 5 to the Southwest corner of Lot 4, Block 5, of said Addition a distance of 160 feet; thence due West a distance of 40 feet to the point of beginning.

The Court further finds that on November 30, 1983, the Defendant, Johnny DeWayne Coday, 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 \$34,000.00, 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, the Defendant, Johnny DeWayne Coday, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, a mortgage dated November 30, 1983, covering the above-described property. Said mortgage was recorded on November 30, 1983, in Book 4747, Page 2147, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendant, Johnny DeWayne Coday, 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, Johnny DeWayne Coday, is indebted in rem to the Plaintiff in the principal sum of \$33,691.23, plus interest at the rate of 12.5 percent per annum from November 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 \$60.00, plus penalties and interest, for the years 1984-1987. 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 Defendant, Johnny DeWayne Coday, in the principal sum of \$33,691.23, plus interest at the rate of 12.5 percent per annum from November 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 \$60.00, plus penalties and interest, for ad valorem taxes for the years 1984-1987, 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 appraisal 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 \$60.00, 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.

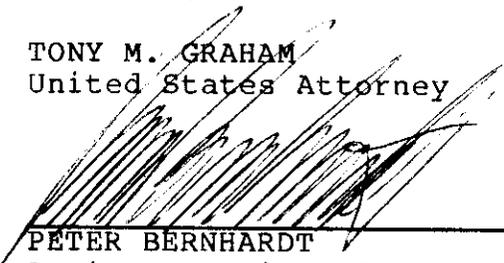
The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

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.

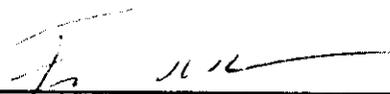

UNITED STATES DISTRICT JUDGE

APPROVED:

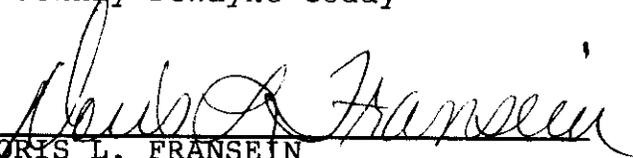
TONY M. GRAHAM
United States Attorney



PETER BERNHARDT
Assistant United States Attorney



FRANK R. HICKMAN
Attorney for Defendant,
Johnny DeWayne Coday



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

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 KATHLEEN D. YOUNG,)
)
 Defendant.)

APR 19 1988

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

CIVIL ACTION NO. 88-C-150-E

DEFAULT JUDGMENT

This matter comes on for consideration this 18th day of April, 1988, the Plaintiff appearing by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendant, Kathleen D. Young, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Kathleen D. Young, acknowledged receipt of the Summons and Complaint on March 1, 1988. 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,

Kathleen D. Young, for the principal sum of \$1,197.90, plus interest at the rate of 8.25 percent per annum and administrative costs of \$.70 per month from March 2, 1987, until judgment, plus interest thereafter at the current legal rate of 7.01 percent per annum until paid, plus costs of this action.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

PB:do

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

FILED

APR 18 1993

U.S. District Court
Northern District of Oklahoma

UTICA NATIONAL BANK & TRUST CO.,
a national banking association,

Plaintiff,

vs.

SUITE 12 CONSULTANTS, a general
partnership composed of Dean
DeSmet, David J. Gnarra, M.D.,
Dean R. Jenkins, Charles A.
Karowsky, Martin Lohff,
Bernard E. Morrissey, Richard
Macaluso, and others,

Defendants.

No. 86-C-968-B

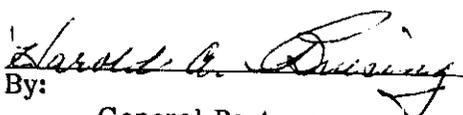
STIPULATION OF DISMISSAL WITHOUT PREJUDICE

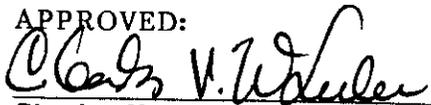
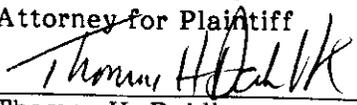
Pursuant to Rule 41, Federal Rules of Civil Procedure, each of the parties herein
hereby stipulate its the claims against the other is dismissed without prejudice.

UTICA NATIONAL BANK & TRUST CO.


By: T. Coy Gallatin
Vice President

SUITE 12 CONSULTANTS,
a general partnership


By: Harold C. Prussing
General Partner

APPROVED:

Charles V. Wheeler
Attorney for Plaintiff

Thomas H. Dahlk
Attorney for Defendants

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

HILDA D. SMITH, Individually)
and as Personal Representative)
of the Heirs and Estate of)
Alan Reed Smith, Deceased,)
)
Plaintiffs,)
)
vs.)
)
THE CELOTEX CORPORATION,)
et al.,)

F I L E D

APR 18 1988

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

No. 84-C-774-C

ORDER OF DISMISSAL WITH PREJUDICE

The Court being advised of the parties' Joint Stipulation of Dismissal With Prejudice of defendant Combustion Engineering, Inc., finds and

ORDERS that plaintiffs' cause against defendant Combustion Engineering, Inc., be and the same is hereby dismissed with prejudice and the parties to bear their respective costs.

Done and dated this 18th day of April, 1988.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE